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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 7, 1988*

The Senate met at 10 a.m., and was called to order by the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful. But his delight is in the law of the Lord; and in his law doth he meditate day and night. And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.—Psalm 1:1-3.

Gracious God, our loving Father in heaven, thank Thee for the profound assurance of Psalm 1. In the fleeting hope upon which human optimism feeds at election time—and in the inevitable disappointment by which human failure stokes the fires of discontent—help us to apprehend the transcendent, unfailing reality which the psalmist guarantees the one who takes seriously the absolute and immutable law and love of God.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 7, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I am grateful for the Chaplain's prayer, coming on this morning of our return from the August recess. It reminds us of the need to maintain touch with the spiritual side of life.

The Scriptures he quoted were beautiful, and it was one of the most inspiring prayers that I have heard, telling us to keep in mind that in all of the mad rush of life we can draw strength from the great God of the Universe if we walk in spirit with Him and are obedient to His will.

Edwin Markham penned some lines which I think, perhaps, are somewhat the same in thought as that of the beautiful prayer by the Chaplain.

The builder who first bridged Niagara's gorge,
Before he swung his cable, shore to shore,
Sent out across the gulf his venturing kite
Bearing a slender cord for unseen hands
To grasp upon the further cliff and draw
A greater cord, and then a greater yet;
Till at the last across the chasm swung
The cable—then the mighty bridge in air!
So we may send our little timid thought
Across the void, out to God's reaching hands—
Send out our love and faith to thread the deep—
Thought after thought until the little cord
Has greatened to a chain no chance can break,
And—we are anchored to the Infinite!

Mr. President, I am delighted to see, again, my good friend the Republican leader, fresh from the convention, fresh from the recess. I look forward to working with him during these remaining days as we mold and put together the schedule of work that must be done before the sine die adjournment. And I want to say that I am pleased to see him in such good health and smiling as always, and I look forward to our working together.

I also look forward to working with our friend BILL PROXMIRE. He is going to voluntarily retire at the end of the session. I shall miss him when he does retire, but during these remaining 4 or 5 weeks we have much work to do and I shall cherish the moments in which we may be able to meet together and talk together and work together as always, here on the floor when the Senate opens each day. If I am not here to open the Senate, he is here to open the Senate for me. And if I am here to open the Senate, he is here to be recognized and to speak.

I think it is time now that I yield the floor and let the Republican leader make his comments and then Senator PROXMIRE will seek recognition.

Mr. DOLE. I will yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I want to thank my good friend the majority leader for his very, very gracious and generous statement. He is a wonderful leader and it is a great pleasure to work with him and that outstanding Republican leader, Senator DOLE.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. DOLE. Mr. President, I yield briefly to the distinguished Senator from Wisconsin.

A SURPRISINGLY NONPOLITICAL FEDERAL RESERVE BOARD

Mr. PROXMIRE. Mr. President, last month the Federal Reserve Board increased the discount rate from 6 to 6½

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

percent. Many persons viewed that as a signal that interest rates would rise across the board. Would the higher discount rate mean higher interest rates on housing loans and auto loans? Would that slow down activity and increase unemployment in those two critical industries? Could this begin to trigger a recession? Or would it simply slow an economy that might be beginning to overheat? Would the Federal Reserve action ease inflation? In view of the timing of the Federal Reserve's action, the political community was specially concerned with the prospect that higher interest rates less than 3 months before the Presidential election might shift a few million votes from Republican BUSH to Democratic Dukakis. Since the coming election is expected to be very close and since bread-and-butter economic issues could be a critical factor, was this discount rate shift a political coup for the Democratic Party?

After all, the last increase in the discount rate was September 1987, a month after Chairman Alan Greenspan took office. At that time, the Fed raised the discount rate from 5½ to 6 percent. Why should a board consisting of six members all appointed for the first time in memory by the same President, the incumbent Republican President Ronald Reagan, take an action that could conceivably in a close election defeat the Reagan Vice President, the very man whom President Reagan is so anxious to have succeed him?

The answer is that the increase in the discount rate was necessary and logical, No. 1. No. 2, the effect of this discount rate increase—in the judgment of most professional economists—would not affect the economy for between 6 and 18 months. So the political fallout from the action will be nil.

Why was the increase in the discount rate necessary and logical? In the nearly 1 year since the Fed last raised the discount rate by one-half of 1 percent, interest rates generally have risen. The 3-month Treasury bill rate was 5.9 percent last January. By the time the discount rate was raised, the 3 month T-bill rate had risen to 6.89 percent. Longer term interest rates had also risen. The 10-year Treasury bond rate, for example, climbed from 8.67 to 9.12 percent since last January. The prime rate climbed even faster. In September of 1987 when the Fed lifted the discount rate from 5½ to 6 percent, the prime was 8¼ percent. By last July, it had climbed to 9½ percent. It is now 10 percent.

Many economists contend that the Fed simply adjusts the discount rate to keep it in rough relation to other market interest rates. Based on this theory, the Fed action in raising the discount rate was overdue and was simply a reaction to the pace already established by the market. If the Fed had failed to raise the discount rate, the Fed would be providing the banking system with a substantial subsidized profit. The discount rate is the rate paid by banks to the Federal Reserve Board when they borrow from the Fed to comply with Reserve requirements. At the level of the discount rate before the Fed raised it last August, the banks were enjoying an unearned windfall.

What evidence is there that the increase in the discount rate will not increase interest rates generally? First, there is the general conviction on the part of those who have observed the course of interest rates over the years that both open market operations, that is the Federal Reserve's trading in Treasury securities, and changes in the discount rate take time to work their way through the market. One striking example is in the performance of the interest rate changes on adjustable rate mortgages. An article in the New York Times on August 11 reports that nearly 60 percent of new home mortgages made by our financial institutions have mortgages with adjustable rates. And about 95 percent of all home equity loans have variable rates. In view of the colossal size of the mortgage market and the fact that home mortgages constitute far and away the lion's share of household borrowing, a rise in this mortgage rate would obviously have a profound effect on literally millions of American families.

So what effect could the rise in the discount rate have on the interest rate paid by millions of Americans? The answer is in two parts. First, because the discount rate increase is primarily a catch-up with the rise in market interest rates generally, the effect would be slight. Second, adjustable mortgage rates are only changed between once a year and once every 3 years. So it is obvious that the effect of the increase in the discount rate on home mortgages will come, if at all, long after the November election.

Nevertheless, in spite of the fact that the Fed's action will have little or no effect on interest rates and even less on the economy between the time the action was taken in early August and the election, it is reassuring to see a Federal Reserve Board entirely appointed by President Reagan taking action on interest rates that may help in the long run to stem inflation. It is just possible that the psychological effect of this Fed action on the stock market which fell more than 100 points on the Dow Jones index in the week following the Fed's move might have had some very minor political effect.

AIR FORCE WINS GOLDEN FLEECE FOR AUGUST

Mr. PROXMIRE. Mr. President, due to the length of the recent recess, I rise today to award my Golden Fleece of the Month Award for August to the Department of the Air Force for taking off with over $22,000 in taxpayer money, the cost of ferrying two Air Force officials to and from a quail breakfast in Washington, DC. By using this military aircraft for a social engagement, the Air Force has played the American taxpayer for a pigeon.

According to the Air Force, a KC-135 air refueling jet was authorized to fly the round trip from Oklahoma to Washington because it was scheduled to conduct two refueling training missions during the flight. Neither of these refueling events took place. However, the flight was not canceled. This is the classic example of military officials feathering their own nest and then expecting the American public to be too chicken to squawk about it.

This plane can carry 60 troops, but on this flight it contained only two officers. It costs $2,334 per hour to fly the KC-135 and the round trip was nearly 6 hours long. Even in this era of rising airfares, it would have been considerably cheaper for these officials to fly on a commercial airline. Twenty-two thousand dollars may seem like bird feed to the Air Force, but the huge Federal deficit continues to soar because some officials like to fly high. I do not think that the taxpayer should have to swallow such ridiculous expenditures.

To make matters worse, after the plane returned to its base, most of the crew were then sent out on a refueling mission on another plane. This resulted in further flight and crew costs. The Air Force would like us to believe that this flight of fancy was beneficial because the crew was allowed to land at an unfamiliar airfield, but I think that the taxpayers realize that they have been winged in the pocketbook by this bird-brained flight.

How can we expect to navigate through the present economic turbulence if efforts to reduce the budget overruns are shot out of the sky like clay pigeons? I hope that the officials who traveled on this flight were just odd ducks, but I fear that others are preying on the U.S. Treasury.

I will continue to bird-dog these types of abuses, but this situation does prove one thing—"the dodo is not yet extinct."

SENATOR JOHN WILLIAMS, A MONUMENT TO INTEGRITY

Mr. PROXMIRE. Mr. President, Senator John Williams, of Delaware, served in this body from 1946 through 1970. He was a Senator of absolute, unquestioned honesty. He was more.

John Williams took on the most powerful people in our Government, including three Presidents of the United States, two in his own party. With monumental persistence, he succeeded in exposing and eliminating top officials in two administrations. If ever there was a scourge of corruption, it was John Williams. John Barron has written an extraordinarily moving article in the Readers Digest about this modest, self-effacing fighter for good government.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNFORGETTABLE JOHN WILLIAMS

(By John Barron)

When John J. Williams first ran for the U.S. Senate in 1946, political experts regarded his candidacy as a joke.

At 42, he looked presentable enough—tall and lanky, with thinning brown hair, steel-gray eyes and a pleasant face brightened by a hesitant smile. But outside Millsboro, Del. (pop. 470), where he sold chicken feed, few had heard of him. Williams had no political experience, no organization, and he refused campaign contributions.

Yet the obscure Republican unseated popular Democratic Senator James Tunnell. During the next 24 years Williams saved taxpayers billions of dollars, drove hundreds of dishonest people from government and inspired enduring reforms. Said Sen. Sam Ervin (D., N.C.), who later directed the Watergate investigation, "John Williams did more to expose mismanagement and corruption in government than any other Senator in history."

I was a young Washington newspaper reporter when I first met Williams in 1963. Professional contacts evolved into a lifelong personal friendship. The longer I knew him, the more I saw personified in him the true spirit of America.

John Williams was born in 1904, the ninth of 11 children. His father was a farmer, and life on Delaware's Eastern Shore was austere. Though chores took up much of his time, John was an outstanding student. He solved complicated math problems in his head, and could race through a Zane Grey novel in two hours. Given his family's finances, however, he never thought about college.

After 11th grade, he dropped out of high school to work as a grocery clerk. Later he opened a tiny feed dealership with borrowed money. At 19, Williams married Elsie Steele and built a house. Elsie took care of their daughter and raised chickens. Williams devoted himself to business and, despite the Great Depression, attained financial independence by the late 1930s.

World War II brought wage and price controls, rationing and a labyrinth of regulations dictating what farmers and small businessmen could and could not do. When Washington proposed to perpetuate these controls after the war, Williams rebelled. "The government is meddling in our business," he told voters as he announced his candidacy for the Senate. "It's time *we* got into the business of government."

Williams spoke not one unkind word about the incumbent; indeed, he and Tunnell became friends as they traveled the state, debating issues. Though a colorless orator, Williams proved exceptional in face-to-face talk with voters.

After the election, Williams hired Eleanor Lenhart, his daughter's good friend, as his secretary. He wanted someone he trusted totally, and he'd known her all her life. Williams laid down strict rules for himself and his staff: Accept no gifts. Befriend any constituent unjustly treated by government, but never try to intercede to procure preferential treatment for anyone.

Williams often shunned Washington social life. Instead, he sequestered himself in his office or small apartment, reading legislation and arcane government reports.

One afternoon Lenhart saw the Senator turn ashen. The Wilmington office of the Federal Internal Revenue Bureau had listed him among income-tax delinquents. "Could I really have forgotten to mail the money?" he asked. When canceled checks proved he hadn't, Williams smelled corruption.

He ferreted out the complete list of citizens the Wilmington office alleged were delinquent. On it were people Williams knew *always* paid their taxes. He pressed for an investigation, and a solitary Wilmington tax collector was convicted of embezzlement. Still, Williams wondered, *Could such fraud occur without Washington's knowledge?*

For two years Williams carried on a tireless investigation, aided by honest revenue workers who slipped him secret documents. On February 5, 1951, he rose on the Senate floor. "Our tax system is shot full of cheap political manipulation," he declared. In the following months Williams exposed case after case of bribery, extortion and tax fixing. Grand juries investigated, and 125 government employees were convicted, including the chief of the Justice Department's Tax Division and President Truman's appointments secretary.

As a result of the Williams disclosures, Congress created the modern Internal Revenue Service, staffed by civil servants instead of political appointees.

LOSING SIDE

Williams always emphasized that neither party had a monopoly on corruption. In 1958 it was learned that President Eisenhower's chief-of-staff, Sherman Adams, had accepted lavish entertainment and expensive gifts from businessman Bernard Goldfine. Adams had then permitted Goldfine to use his name and office in attempts to obtain favorable treatment from government agencies.

On the Senate floor Williams pointed out that his party had won the Presidency in part by pledging to restore integrity to government. "There can be but one code for public officials," Williams said. "Mr. Adams's resignation is in order." Adams soon resigned.

Williams documented numerous cases of bungling and fraud in the foreign-aid program. In 1966 he denounced the shipment of subsidized tobacco to poor nations under the Food for Peace program, saying it was hypocritical to peddle an injurious substance under the guise of alleviating hunger. But in the vote to exclude tobacco from the program, Williams lost 60 to 15. Conscience frequently put him on the losing side.

SHOWDOWN IN THE SENATE

Williams's loneliest case began in 1963. Ralph Hill, owner of a vending-machine company, filed suit against Bobby Baker, the Senate's majority secretary. Hill claimed he had paid Baker to secure government contracts for him. When Hill refused to increase his payments, the suit charged, Baker established his own vending-machine company to take over the contracts. Confidentially interviewed by Williams, Hill also provided leads to other illegal schemes and large sums of cash winding up in Baker's office.

The implications were far-reaching. Baker, a former Senate page, was a protégé of Senate Majority Leader Lyndon B. Johnson. LBJ publicly termed Baker "my strong right arm, the last man I see at night, the first one I see in the morning." In 1956 Baker listed his net worth as $11,000. Seven years later it was $2.1 million. How did he amass such a fortune so quickly?

Williams offered Baker a private opportunity to explain. Instead, Baker resigned. The Senate unanimously ordered its Rules Committee to investigate him.

Within weeks after the assassination of John F. Kennedy and the elevation of Johnson to the Presidency, Administration sources warned Williams that his mail was being monitored and his telephones were being tapped. Williams did not believe it, until one evening when he was engaged in a lengthy telephone conversation about the commodities market. He had cradled the phone on his shoulder in order to take some notes. Continuing to write for a few seconds after the other party hung up, Williams heard another voice on the line say, "We don't give a (obscenity) about any (obscenity) wheat."

When the Democrat-controlled Rules Committee called Baker as a witness, he invoked the Fifth Amendment more than 100 times. In July 1964, with a Presidential election approaching, the committee issued a report chastising Baker and congratulating itself on a job well done. Leads pointing to the White House and Senate were buried.

Still Johnson was furious. "I want to get Williams for what he did to Baker," he told an aide. Williams was campaigning for a fourth term, and three days before the election, Johnson went to Delaware to call for Williams's ouster. But despite a Johnson landslide, Williams was narrowly re-elected.

After a second investigation by the Rules Committee, the majority counsel drafted a report implying that Williams had obstructed the committee by withholding evidence. In a showdown on the Senate floor, Williams demanded that committee Democrats either substantiate or repudiate their report. Only Sen. Claiborne Pell (D., R.I.) disavowed it. Williams accused the others of lacking the "guts" to face him "man to man." Then he warned: "I shall not be intimidated. There are more interesting developments to follow."

Williams had long struggled to verify a rumor that Baker had received a $100,000 bribe. By 1967 he finally proved it: the cash flowed to Baker after passage of a 1962 tax bill that greatly profited three large West Coast savings-and-loan associations. Williams delivered the evidence to a federal grand jury, and eventually Baker was sentenced to one to three years in prison.

WE COUNTRY BOYS

Williams was as tough on Nixon as on LBJ. He contributed decisively to defeating Nixon's proposed "Family Assistance Plan," an audacious scheme for a guaranteed annual income. Williams showed that the plan would add 14 million people to welfare and provide incentives not to work.

In 1970 Williams announced his decision to retire. Back in Millsboro, he devoted himself to his family, which now included great-grandchildren. Mornings, he enjoyed coffee at Floyd's Restaurant where he traded jokes with townspeople.

Once, my family spent a weekend at his ocean-front house in Rehoboth. He took my two small daughters crabbing, delighted them on Sunday by flipping pancakes and told them about the Baker case. "Whitewash won't stick on dirt," he said. "We country boys know that."

After publication of each book I wrote, the Senator extended kind and encouraging words. I last spoke with him in early 1987. "You know, I've never been one to tell another man how to live his life," he said. "But if you quit smoking, I'll bet you could write a lot more books."

Last January John Williams died peacefully at 83. Elsie, his wife of 64 years, wrote to me: "I cannot believe John is no longer with us." But, as former Senate Majority Leader Mike Mansfield said, he leaves "a monument to integrity."

I yield the floor. I thank my good friend, the Republican leader, for being so gracious in letting me go ahead.

ONE MONTH OR LESS TO GO

Mr. DOLE. First, I welcome back the Presiding Officer. He looks great. Good to see Senator BURDICK back.

Let me also welcome back all my other colleagues. The distinguished majority leader has indicated we have all had a recess. Some of us have had a lot of excitement. We are ready to go back to work, and I understand the majority leader, in what we call the dugout, in visiting with some of the news people, indicated maybe mid-October adjournment. I am hopeful at least we might beat that by a few days.

I think the 100th Congress is really in an enviable position. For the first time in many years, both Chambers have approved all of the appropriations bills. So there is every expectation we can begin the fiscal year without the kind of trauma that has faced us in the recent past.

The budget is in good shape, and it appears to me we might be able to wrap up the must list of legislation very quickly. I indicate to the majority leader at this point, I think I can speak for my colleagues—as far as I know I can—we are ready to cooperate in every possible way, and we hope we might even complete our work by September 30.

I know there are a number of issues, including the omnibus drug legislation, the Canada free trade agreement, conference reports, maybe the Defense authorization bill, technical corrections, the tax bill that has not yet been reported, and others that the majority leader may have on a must list.

I find myself agreeing with the Washington Post editorial of I believe yesterday where they indicated that we ought to do the appropriations bills and a few others and maybe some of these issues, like child care, environmental issues, and maybe some of those ought to await the outcome of the national debate now taking place between the Presidential candidates, and we can prepare to move to that legislation some time next year.

So I just say that we are back, and we are ready to go to work. We are hitting the ground running. There will be a number of important votes today. I believe that under the leadership of the majority leader, we are going to have an outstanding wrapup here in the next, hopefully, 30 days or less.

Mr. BYRD. Mr. President, will the distinguished Republican leader yield at that point?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, the Republican leader, as has been the case throughout the 100th Congress, strikes a good note, an optimistic note, and a very much appreciated note of cooperation. I share the feeling with him that there is considerable work to be done, but that we ought to be able to do it within a reasonable length of time.

The appropriations bills remain in conference; 11 of them. I think that three of them are ready to go in the House and should be over here shortly. Welfare reform is in conference. The Endangered Species Act is in conference. There are other important measures in conference. The work having been done on them—long weeks and months of hard work—it seems to me that it is important that the final work be completed before the Congress adjourns.

The drug bill will be coming along. That will be a bipartisan bill, I hope and believe. That is an extremely important measure.

The United States-Canada trade agreement is covered by a statute, insofar as time for debate and action is concerned. No amendments are in order. But that will be brought up.

I do not know what to expect by way of Presidential vetos. I do not know what to expect by way of Presidential veto in particular on the defense appropriations bill and authorization bill.

There are unforeseen events that could occur that we cannot speculate right now. I do not know how many filibuster situations the Senate will face. We have the textile bill up today. We will have a cloture vote on that bill. Retail maintenance is still around, and there was something that appeared to be a filibuster on that bill.

I do not know what will happen on clean air. The pressure is very great on clean air legislation. From what I have read in the newspapers, both Presidential aspirants are making some pretty strong statements with reference to how they will deal with that situation next year.

So I do not know just precisely what the absolute, well-defined, clearly delineated picture is, but it would seem to me, may I say to the distinguished Republican leader, considering the fact these measures go to conference, conferences can be long and drawn out. There can be filibuster situations. Senators may call up amendments to a bill, which will be filibustered. There are certain bills that some Senators want to call up. I am not supposed to call them up because I know they will run into filibuster. And yet those same Senators under the Senate rules can call up those bills as amendments to other measures, and the filibuster can result.

So I would say, having said all that, there it seems to me that a realistic picture of when the Senate and House may adjourn sine die will be somewhere between October 8 and October 15.

Let me just add this. I touched upon the Defense authorization bill and the appropriations bill a moment ago. If that is vetoed, then we could have a CR situation, continuing resolution situation. That would not mean that we would have the omnibus continuing resolution as we have had the last 2 years because appropriations bills are already going to the President's desk. Others will soon be on their way. So most, if not all, of the appropriations bills will be sent to the President's desk separately and individually. I join with the Republican leader; we have said many times we both want to see all the appropriations bills, the 13 appropriations bills go to the President's desk individually and separately, and we are moving toward that end. But there could be a situation, if we run into a problem on the defense appropriations bill, in which there would have to be a CR in the final analysis which would at least deal with defense, if nothing else. And there might be one or two other bills wrapped into that. I am not for that at this point. But if that arises and we get down to, say, October 1 when the new fiscal year begins and have to have at least a short-term continuing resolution—say that is a week and you get to the end of that week and you have the long-term continuing resolution—then we are looking at something like October 10, 12, or 15.

So I think our colleagues ought to share these feelings of ours as we attempt to look down the road at the future and try to be as realistic as we can about this.

I would still like very much to finish by September 30. I do not think that will happen. I would like to finish by October 8. That is possible. But I think we ought to be prepared, considering the conferences, possible filibusters, possible vetoes, unforeseen eventualities, for a possible mid-October windup.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes. Mr. President, I ask unanimous consent that the time of the minority leader not be consumed by my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. If I may pose one question. I think that is a realistic assessment. We always hope for the earliest departure but sometimes it does not happen. One thing that would be helpful I think to all Members—and I think probably the majority leader has already thought about it—if it may be necessary to have a Saturday session between now and that time, if there could be some advance warning. I think probably every Senator is making plans—we are in the reelection stage now for many Senators plus the Presidential election—and if we did have some advance warning on Saturday sessions, it would be very helpful in making our schedules.

Mr. BYRD. Mr. President, the leader is correct, and I will talk with him and advise with him as to the scheduling of any Saturday sessions well in advance.

Mr. President, will the distinguished Republican leader yield to me for comment on another subject?

Mr. DOLE. I am pleased to yield.

Mr. BYRD. I thank the Republican leader.

JOE BIDEN'S RETURN

Mr. BYRD. I know that I speak on behalf of all of my colleagues on both sides of the aisle, Mr. President, in welcoming back to the Senate today our distinguished colleague, Senator JOE BIDEN. As Senator ROTH has indicated, Senator BIDEN has been fighting a very serious health condition for the past 6 months and as we all know we have greatly missed his leadership, counsel, and warm sense of humor over these past months. But you can always depend on Senator BIDEN to overcome any adversity with his usual perseverance, good humor, and equanimity. We are delighted to have him with us, back in the saddle managing the important work of the Senate Committee on the Judiciary.

I will close by bending, ever so slightly, the procedures of the Senate by saying "welcome back, JOE."

I thank the distinguished Republican leader for his yielding to me for this purpose.

WELCOME BACK, JOE BIDEN

Mr. DOLE. Mr. President, I join with the distinguished majority leader in welcoming back our friend and our colleague, JOE BIDEN. He has been gone far too long, but he had had some serious health problems. He has had a tough time the past 7 months, but as the majority leader has indicated, no one is surprised because he is tough, he has the spirit, he has the tenacity, he has triumphed, and he is going to be back with us. In fact, all of us hope to see him, I assume, on the first vote or shortly thereafter.

As the majority leader has already indicated, we are all Senators; we are Republicans and we are Democrats, but we are also friends in this body. We go out and do our best trying to become the majority or others try to keep us in the minority, but that is the way the system works. When it is all over and we are on this floor representing our States, sometimes representing our party views, above all we are friends. We have one thing on which we base our credibility, and that is our word. Once we give our word, that is it. I can say for JOE BIDEN, that is the way he has operated. He is tough. He is very able and very articulate. I know he is anxious to get back to work. As chairman of the Judiciary Committee, he is going to have the drug bill to manage, maybe some judicial nominations, at least on this side we hope he will have some, and he is already in hearings as a member of the Foreign Relations Committee on the War Powers Act.

It seems to me that JOE BIDEN comes back at a very auspicious time to help us in this homestretch. As his friend, I speak for all Republicans and welcome him back to the Senate.

ANOTHER VICE PRESIDENTIAL CANDIDATE FROM THE SENATE: DAN QUAYLE

Mr. DOLE. Mr. President, more than a few things have happened since we went into recess on August 11. One event that seemed to make some news came from our little Republican gathering down in New Orleans.

And guess what. Another Member of this distinguished body has been picked to be a Vice Presidential candidate.

I am speaking about my good friend from Indiana, DAN QUAYLE, who was asked by GEORGE BUSH to join him on my party's 1988 ticket.

It is, of course, one of the highest honors a public servant will ever receive and it speaks volumes about not only the credentials of the junior Senator from Indiana, but also the kind of talent you will find in this Chamber—on both sides of the aisle.

The Senate is justifiably proud of LLOYD BENTSEN and DAN QUAYLE. As Vice Presidential candidates, they have demonstrated, not only to their parties but to all of America, that even though they may have broad policy disagreements—and they do—they are both quality individuals.

I have known DAN QUAYLE for a long time. I have been his leader here for 4 years. And I was honored to nominate him at the Republican Convention in New Orleans on the night of August 18.

No doubt about it, he is a bright, young talent who has a very promising future. Indeed, it might even take from this Chamber to new surroundings come November.

Whatever the case, I want to publicly congratulate him and his family, his wife Marilyn and his three children, and wish him all the best.

I have a little experience myself on the Vice Presidential campaign trail: DAN, let me tell you, there are some pretty big potholes out there, as you may have already discovered.

But I know you are up to it. Whether it was fighting for Indiana concerns, debating the INF Treaty, pushing for aid to freedom fighters, or insisting again and again on a stronger America, you have been a forceful and respected voice in this Chamber.

As I told our convention 3 weeks ago, "whenever I needed him, DAN was always there, ready and willing to make the tough choices." So I say to my good friend, Senator QUAYLE, thanks for your past support and good luck in the future.

I think we will have an opportunity to welcome him sometime later today in this Chamber as he casts his first vote since being nominated on our ticket as Vice President.

Mr. President, I reserve the remainder of my time.

LEAVE OF ABSENCE

Mr. DIXON. Mr. President, I regret to inform the Senate that my lovely wife Jody's mother, Ann Elizabeth Fox, recently died, after a long illness, in Kansas City.

She was a wonderful and fine lady who was a kind to me and as decent to me as my own mother, from the time of the marriage of my wife and me in a little town called Barry, MO, on January 17, 1954, until her death on Labor Day.

So, Mr. President, I regret to inform the Senate that it will be necessary for me to be absent, effective this afternoon, approximately 3:45 p.m., to attend the wake at the funeral parlor in a little town near Kansas City. The funeral, and so forth, will require me to be absent tomorrow, September 8, and Friday, September 9.

I ask unanimous consent that my absence from the Senate be excused through this coming Friday, September 9, due to the wake and the funeral of my mother-in-law, Ann Elizabeth Fox.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Under the previous order, the following morning business was transacted.

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. GRAHAM). The majority leader.

Mr. BYRD. Mr. President, I think some of our colleagues wish to delay the vote that was otherwise scheduled to occur at 11 o'clock. Some of them are returning from overseas.

Let me inquire of staff if it was the request that the vote be delayed by an hour or longer.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that there be 1 hour and 30 minutes of debate on the motion to invoke cloture on the textile bill; that the time be equally divided and controlled by the two leaders or their designees; that at 12:30 the Senate return to executive session; and that the vote occur on the three treaties. That will be one rollcall vote. It will last 30 minutes. It will count for three rollcall votes. Following which, Mr. President, I ask unanimous consent that the Senate return to legislative session; and, that the vote then immediately begin on the motion to invoke cloture on the textile bill which vote will be a 15-minute rollcall.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE SESSION

CONVENTIONS ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT AND ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY, WITH DECLARATIONS ON THE PART OF THE UNITED STATES—TREATY DOCUMENT NO. 100-4

AMENDMENT TO THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY—TREATY DOCUMENT NO. 99-7

INTERNATIONAL NATURAL RUBBER AGREEMENT—TREATY DOCUMENT NO. 100-9

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session at this time; that debate on the treaties to be equally divided between the two leaders or their designees begin running; and that it expire at 11 a.m., at which time the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate will now go into executive session to consider Executive Calendar Nos. 11, 12, and 13, on which there shall be not to exceed 20 minutes of debate, equally divided and controlled between the two leaders or their designees .

Mr. BYRD. Mr. President, I designate Mr. PELL as my designee to control the time.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island controls half the time from now until 11 o'clock, or 10 minutes.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, the Conventions on Early Notification of a Nuclear Accident and on Assistance in the Case of a Nuclear Accident or Radiological Emergency are positive international achievements. In the event of a nuclear accident, they could be invaluable in limiting the damage and in assuring that assistance is provided in a timely and effective way.

The Committee on Foreign Relations held a hearing on the two conventions on June 28 and reported them favorably, by unanimous voice vote, on July 28.

The conventions were developed under the auspices of the International Atomic Energy Agency [IAEA]. In the aftermath of the Chernobyl accident, participants in the May 1986, Tokyo economic summit agreed that it was urgent to draft a convention dealing with notification of nuclear accidents with potential transboundary consequences. The IAEA convened a meeting in Vienna to draft the conventions. From July 21 to August 15, 1986, representatives from 62 countries negotiated the conventions. The U.S. delegation, which was headed by the Department of State and included participants from the Departments of Energy and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, played a central role in the drafting work.

The conventions were adopted by consensus at a special session of the general conference held by the IAEA in Vienna from September 24-26, 1986, attended by 94 member states. On September 26, the conventions were opened for signature, at which time the United States and 50 other countries signed both conventions.

As a prompt response by the international community to the Chernobyl accident, the conventions are politically important in themselves. They also contain important legal commitments. By creating obligations requiring notification and the provision of information relevant to minimizing radiological consequences of an accident, the notification convention provides a means of ensuring accountability of state parties with regard to nuclear accidents involving a wide range of civil and military facilities and activities; these obligations do not, however, relate to nuclear weapons-related activities. As a party to this convention, the United States will have the legal status to seek compliance of other states parties with this accountability regime.

The assistance convention encourages assistance by establishing in advance a legal framework under which assistance in the event of a nuclear accident or radiological emergency can be obtained and conducted. It does not obligate a country to provide assistance. The assisting party is provided appropriate legal protection. When the United States is an assisting party, the convention will thus protect U.S. interests by providing for functional privileges and immunities, certain immunities from claims and legal proceedings, and assistance on a reimbursable basis.

Also on July 28, the committee reported favorably, by unanimous voice vote, an amendment to the statute of the IAEA relating to the composition of the Board of Governors. The amendment will increase, from 9 to 10, the members of the IAEA designated for a seat on its Board of Governors by virtue of their status as most advanced in the technology of atomic energy without regard to geographical distribution. This amendment will ensure that another country represented on the Board will not lose its seat in view of the People's Republic of China's occupancy of its seat.

Mr. President, I urge the Senate to advise and consent to acceptance of the two conventions and the amendment.

INTERNATIONAL RUBBER AGREEMENT

Mr. CHILES. Mr. President, in 1980, the Senate ratified a 5-year International Natural Rubber Agreement of 1979. The agreement, put together under U.N. auspices, created an International Natural Rubber Organization, which operates a buffer stock in natural rubber.

Under the agreement, the United States committed to purchase some 12.5 percent of a 550,000 metric ton buffer stock which could be used to dampen price fluctuations in the international rubber market.

Immediately following ratification of the treaty, implementing legislation, Public Law 96-271, was enacted and $88 million was appropriated in order to fulfill our obligations under the treaty.

Since 1981, $53 million has been disbursed to purchase natural rubber for use by the buffer stock manager. Under the terms of the 1979 treaty, the United States is entitled to a refund of its share of the buffer stock or it can carry its investment into a buffer stock created by a new agreement.

The original treaty covered 5 years, was extended for an additional 2 years, and expired in October 1987.

The new International Rubber Agreement, covering the next 5 years, with an optional 2-year extension, has just been ratified by the Senate. The U.S. financial obligation under the new agreement is estimated to run $65 million. However, implementing legislation and a budget request has not been transmitted.

The new treaty calls for transferring the $53 million existing buffer stock asset to partially satisfy the financial liabilities which exist under the new agreement. Since the 1979 agreement specifically contemplated transfer of buffer stock already accumulated under the 1979 agreement to subsequent agreements, I see no problem with this course of action and the Budget Committee will not score such a transfer against any implementing legislation.

However, it should be clear that without additional authorizing legislation and an additional appropriation, the administration does not have the legal authority to satisfy the full liability of the United States under the new treaty.

Mr. President, the administration should seek such legislation immediately and be warned that ratification of this treaty does not carry with it any kind of implicit appropriation.

THE INTERNATIONAL NATURAL RUBBER AGREEMENT, 1987

Mr. PELL. Mr. President, I am pleased that the Senate will vote on the International Natural Rubber Agreement today. The previous agreement played an important role in stabilizing world natural rubber prices to the benefit of both producer and consumer nations. Many of our allies, including members of the Association of South East Asian Nations as well as our friends in Europe, have been awaiting U.S. action on the new agreement. Favorable Senate action today will help pave the way for the new agreement to take effect.

For the Senate's information, I am submitting a statement from the administration regarding funding for U.S. obligations under the International Natural Rubber Agreement, 1987. I would reiterate that according to the administration's calculations, this agreement will not require additional funding.

Mr. President, the International Natural Rubber Agreement enjoys broad support, from the administration, from my colleagues on the Foreign Relations and from industry. I would urge my colleagues to vote in favor of granting the Senate's advice and consent to the ratifications of this agreement and ask that the administration's statement, be inserted in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FUNDING FOR U.S. OBLIGATIONS UNDER INRA-1987

The Administration has concluded that if the Senate recommends affirmatively that this treaty be ratified and the President acts on that advice and consent, the funds contributed by the United States Government to the Buffer Stock established under INRA 1979 (or the assets obtained by INRO with the funds and which are currently with and which shall remain in its custody) remain available without further legislation to meet the United States' INRA II obligations to the buffer stock account.

For the Committee's information, of the $88,000,000 authorized and appropriated, approximately $53,000,000 were disbursed between 1981 and October 23, 1987 and, combined with other members' funds, were used to purchase 369,000 MT of rubber and to pay related storage and incidental costs. The undisbursed portion of the $88,000,000 has been returned to the Treasury. Since September 1987 the price of natural rubber has been above the "may sell" level. As of early June 1988 an estimated 300,000 MT has either been sold or is under a commitment to purchase, with the balance expected to be sold within the next 30-90 days. The value of the U.S. share of the income from these sales is estimated at $57,000,000, an amount currently estimated (due in large part to the recent sharp rise in the price of rubber) as sufficient to meet foreseeable U.S. obligations for INRA-II. Should estimates of the U.S. obligations change and should additional U.S. funds be required to meet our obligations to INRA II, additional authorization and appropriations will be sought through the normal budget process.

BACKGROUND

PL 96-271 authorized the appropriation of $88,000,000 during FY 1981 for the payment of contributions by the United States to the buffer stock account established by INRA 1979. Funds appropriated were to remain available during the period in which the agreement remains in effect with respect to the United States.

The funds authorized by PL 96-271 were appropriated by PL 96-536 which reads in part "for the United States Contribution pursuant to the International Natural Rubber Agreement, 1979, for the acquisition of natural rubber for the buffer stock, $88,000,000 remain available until expended."

The terms of the International Natural Rubber Agreement, 1979, as ratified by the President upon affirmative, unqualified, advice and consent of the Senate of the U.S. state: (Article 41(3)) "if this agreement is to be immediately replaced with a new international natural rubber agreement, the Council shall, by special vote, adopt procedures to ensure efficient transfer to the new agreement, as required by that agreement, of shares in the Buffer Stock Account of members which intend to participate in the new agreement."

Article 27(1) of INRA-1987 states: " . . . it being understood that shares in the Buffer Stock Account of the International Natural Rubber Agreement, 1979, of those members of the International Natural Rubber Agreement, 1979, which become members of this agreement shall, with the consent of each member, be carried over to the Buffer Stock Account under this Agreement in accordance with Paragraph 3 of Article 41 of the International Natural Rubber Agreement, 1979."

Article 3 of the International Natural Rubber Agreement, 1987, states: "The International Natural Rubber Organization, established by the International Natural Rubber Agreement, 1979 shall continue in being for the purpose of administering the provisions and supervising operations of this Agreement."

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL 11 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11 a.m.

There being no objection, the Senate, at 10:55 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAHAM].

TEXTILE AND APPAREL TRADE ACT

CLOTURE MOTION

The **PRESIDING OFFICER.** Under the previous order, the hour of 11 a.m. having arrived, the Senate will proceed to consider the motion to invoke cloture on S. 2662, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill S. 2662.

Senators Ernest F. Hollings, Harry Reid, J. Bennett Johnston, Paul Simon, J.J. Exon, Daniel P. Moynihan, Claiborne Pell, Wendell Ford, Carl Levin, Bill Proxmire, Strom Thurmond, John J. Rockefeller, Terry Sanford, David Pryor, John C. Stennis, Richard Shelby, Quentin Burdick, George Mitchell, Jesse Helms, and Tom Daschle.

The **PRESIDING OFFICER** Under the previous order, there will now be a period of 1 hour and 30 minutes of debate, with the time to be equally divided and controlled by the two leaders or their designees.

Mr. **BYRD**. Mr. President, I yield the time on this side to Mr. HOLLINGS for his control. I suggest the absence of a quorum. I ask unanimous consent that the time be equally charged to both sides.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The **PRESIDING OFFICER** (Mr. WIRTH). The Senator from South Carolina.

Mr. **HOLLINGS**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HOLLINGS**. Mr. President, what is the pending business?

The **PRESIDING OFFICER**. There are 80 minutes of debate evenly divided on the question of invoking cloture on the textile measure.

Mr. **HOLLINGS**. Mr. President, in resuming our debate on textiles, the word to emphasize, Mr. President, is "resuming."

This debate, in earnest, was initiated practically 30 years ago during the Eisenhower administration. At that time, we heard persuasive testimony to the fact that textiles were a crucial, basic industry that was being subjected to a deluge of low-cost imports.

In the 1950's, there was no question that our standard of living was the highest in the world, as, according to most measures, it continues to be the highest today. And you and I as legislators add to that standard of living, whether through laws requiring notification of plant-closing, whether through parental leave requirements, whether through clean air standards and clean water standards. Most of us support these advances, but there is no denying that they add to the cost of production.

In the 1950's, we received President Eisenhower's endorsement of our findings of injury to the textile industry. However, in June of 1960 the International Trade Commission found against us. The ITC declined to find injury. Today, the U.S. textile industry continues to disappear, yet the ITC still finds no injury.

So we appealed in 1960 to President Kennedy. We got his seven-point program. We later got the multifiber arrangement. Along with Senator Norris Cotton of New Hampshire, I passed in the Senate, a textile bill in 1968; we passed another one in 1970. It was vetoed. We passed another one in 1985; it, too, was vetoed.

So here we are, Mr. President, once again joining debate on textiles. Once again, they tell us the industry is going great guns. But, in truth, we just continue to go out of business. I have just come home from a trip to the Far East, and I learned that the Edisto plant in Orangeburg, SC, employing 1,000 workers, is closed as of September 1, just a few days ago.

Recently, I circulated a "dear colleague" letter to bring my colleagues up to date on the textile crisis. Yes, accounting-book profits from mergers and asset sell-offs obscured the true depth of the crisis. Even so, profits last year were less than profits for manufacturing overall. Again this year, textile profits are down some 12 percent.

Now I find that, since I returned from Asia, in a month's time we have lost another 10,000 jobs: a total of 31,000 jobs so far in 1988. Yet still, there are those Senators who rise and claim that everything is fine, that textiles are doing well.

It is the same story they gave the shoe manufacturers some 10 years ago. The footwear industry went to the International Trade Commission. It was confirmed that 50 percent of the domestic consumption of shoes in this country was represented in imports.

Nonetheless, the White House overruled the ITC. The White House said the footwear industry was doing fine. Ten years later, 84 percent of the shoes on the floor of this U.S. Senate are imported. The U.S. footwear industry has been devastated.

So we are down to the bottom-line question: Are we Americans going to maintain our standard of living? Of course, we can go backward. We can reduce our standard of living like Great Britain has. I remember at the outset of World War II, Mr. President, Great Britain was the great British Empire. Yet consider that in 1988 the per capita income of Japan is at $19,000; in the United States of America it is $18,600; West Germany is $18,400; and in once-great Britain, it is $9,800.

We can go backward. We can go the way of Britain. We can dismantle our domestic industries. But surely that is folly. Mr. President, this bill is about our survival as a great power.

This bill is not protectionist. We will hear that old shibboleth. They do not know what protectionism is, on the floor of Congress. We spin grand theories of free trade, but our rivals practice a bare-knuckles brand of controlled capitalism. They subsidize R&D. They encourage savings. They do not give any interest deductions on consumer credit. There are no deductions for dividends paid by a corporation. Everything is geared to encourage savings in order to finance R&D and capital investment.

It is not that we Americans are immoral. I hear Senators saying we have got to save more, as though we are a nation of moral degenerates. The truth of the matter is that we have opted for a credit-card economy and a credit-card government. In contrast, our rivals have the savings; they have the capital; they pay for the research; they have got the Government bank; they provide the Government leasing; they protect their domestic markets; they make sure businesses do not go broke. Instead of opposing mergers and trusts, our rivals propose mergers and trusts. They monopolize markets and then, obviously, they end up with a quality product. Market share is the objective, controlled capitalism is the name of the game, and Government support is the sine qua non of success.

Japan developed the model for government-orchestrated controlled capitalism, and it is emulated in Taiwan, Korea, Hong Kong, Thailand, Indonesia. And it is winning. It succeeds. It works.

That is why we have introduced this bill, not to roll back anything, Mr. President, but on the contrary, to hold the line to make it worthwhile for our domestic producers to invest.

The textile industry has invested over $18 billion since 1980, over $2 billion a year. Their productivity rate has increased annually at 4.6 percent, compared to the national average of only 2.7 percent for all manufacturing.

Textiles are one of the most productive of American industries. My distinguished colleague on the other side of the aisle has always championed the cause of minorities and women. The textile industry is the largest employer of women and minorities in America. When I started back 30 years ago under Eisenhower, textiles accounted for 4 million jobs. When I started under our current President, Reagan, textile employment was down to 2.2 million or 2.3 million. Now, we are down to 1.9 million. We have lost 350,000 to 400,000 jobs.

So we are at water's edge. We must hold the line for a textile industry that is critical not only to our economy but, more importantly, to our national security. Under President Kennedy, we held formal hearings by the Departments of Labor, Commerce, State, Treasury, and others. We held those hearings back in the spring of 1961. The formal conclusion was that textiles were, next to steel, the second most important industry to our national security. You cannot send American GI's to war in Japanese-made uniforms.

Our task, today, is to globalize our quotas and use the resulting economic leverage to the interest of the United States of America. Enough of the diversioning rhetoric about "protectionism" and "free trade" and "trade war." The war has been raging now for a good 30 years. All the Pacific rim countries, Mr. President, have joined the fray. And they are winning.

By the year 2000, the GNP of the Pacific rim countries will exceed the GNP of the United States and Europe combined. That is only 12 years away.

This Congress and this Government have been leading us down the road of Great Britain. We are dismantling our industries and destroying our best jobs. As in Great Britain the middle class is disappearing and, ultimately, free government is threatened.

That is why this bill is introduced. I am proud as a principal sponsor to stand in behalf of the textile industry because I have watched it over these years. It was not productive back in the early days. I saw the underpaid labor and the unhealthy conditions. Yet, today, U.S. textiles are on the cutting edge of innovation. In a weave room, instead of 115 employees, they have less than 15. They are electronically controlled and computerized. Where they would have 30 dies, they have 630 dies and they have the best of machinery.

Mr. President, let me at this time thank my colleagues for their attention. We debated this issue in 1985. The distinguished Senator from Washington and myself and the Members have heard our points on both sides. I appreciate their indulgence in hearing us again prior to cloture vote. I yield the floor.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time does the Senator want?

Mr. EVANS. Approximately 15 minutes.

Mr. PACKWOOD. I will yield 20 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 20 minutes.

Mr. EVANS. Mr. President, indeed we are back at the same old stand debating not the same old bill, however, a bill that has several changes and circumstances which are different than they were 2 years ago, circumstances which, in no respect, make this any better a bill or any more necessary a bill than it was 2 years ago when fortunately it was vetoed by the President whose veto was upheld by the House of Representatives.

But let me begin, Mr. President, by saying this vote coming up today on cloture is a bad procedural precedent. We have not yet begun to debate this bill. We have not yet begun to amend this bill. We have not yet begun to give, as we do any legislation that comes before us, or any proposed legislation, an opportunity to sort of give it its own head for a time until cloture is voted.

If this becomes a precedent, any majority leader under any majority at any time in the future may just choose to shortcut the normal procedures of the Senate by moving to cloture, filing cloture, proceeding on to some other bill for a couple of days, coming back, invoking cloture, or attempting to, before any debate at all has occurred on the bill.

Procedurally, this is a bad, a terrible precedent for this Senate to undertake at this point. But procedure is only one thing; substance is much more important.

The distinguished Senator from South Carolina has mentioned the way of Britain. I cannot think of a better example of a country which did try protectionism, which did try nationalization, which did lurch back and forth in the post-World War II days between the Labor Party, which nationalized their major industries, and a Tory government, which would denationalize them, but always seeking some kind of protection for British products.

Of course, they went downhill until recently when Margaret Thatcher, in her extended term as Prime Minister, has turned the country around in terms of its economy, in terms of its future, in terms of its hopes, and all by reducing that kind of protectionist attitude rather than increasing it.

I thank the Senator from South Carolina for producing such a good example of another country recognizing that protectionism did not work and turning around now, especially in their joining with the European Economic Community to reduce, not increase, the tariff and protectionist barriers between them.

Mr. President, we need add no protection for the textile and apparel industry. It is already one of the most protected industries in the United States today; 18 percent average tariffs, while at the same time we here in the Senate are attempting to reduce and even eliminate tariffs with those countries we call free trade partners. We have done it with Israel. I am confident we will do it with Canada.

We are looking ahead to a future which encourages interrelationships rather than discourages them; looking ahead to a future which reduces tariffs, not keep them; looking ahead to a future which hopefully will mean broader and bigger international markets rather than smaller and more protected international markets.

There were nearly 2,000 quotas established in this industry. We have 43 bilateral agreements. We have a multifiber agreement. In all of these, we have in the past attempted to put limitations on those who would import to the United States.

Well, I do not think we need more protectionism. Production has increased 6 percent this last year. Import volume is almost flat. For the first 5 months of 1988, imports have fallen by more than 8 percent. Capacity utilization is 92 percent in the textile industry, higher than almost any other industry in the United States. They could hardly do more. Employment rose 3 percent, for an increase of 21,000 jobs during this last year. The unemployment rate fell. Merchandise exports in the industry increased by over 14 percent. And what is more important, Mr. President, when you talk about jobs and you talk about efficiency and you talk about production and you talk about competitiveness, we ought to take a look at how able any industry in the United States is to produce per employee hour. The Senator from South Carolina has talked about a flat, maybe even a declining employment in the overall textile industry. U.S. mill consumption of cotton, wool, and man-made fibers during this last year reached a record 12.8 billion pounds, an increase of nearly a billion pounds over the previous high in 1986.

Mr. President, it is too bad that charts cannot be placed easily in the RECORD, but if they could, they would show a steady, almost uninterrupted increase in fiber consumption by U.S. textile mills with today being at an all-time high. That does not sound like an industry that needs more protection. Rather, it sould like an industry that has had an opportunity during its profitable last few years to invest, to become more competitive, and I hope they will continue to be more competitive.

Why now, Mr. President, why now are we coming back to this bill? In November 1985, we did pass the textile bill. The industry was considerably less profitable, had considerably less consumption, considerably less efficiency. There is hardly a reason I can find to believe that this bill is more necessary or as necessary as it was in November 1985. Too often we in Congress act on this and other proposals after the fact, trying to remedy something that is already being remedied, trying to protect something that is already being protected. Well, what are the costs, Mr. President, of doing something like this? Presumably the sponsors of the bill and its supporters would like to see some protection and some help for one industry but at what cost? At what cost? Seven billion dollars in increased shoe and clothing costs to American consumers; $25 to $37 billion in the first 5 years. If—and I think the question is really if—any jobs are saved with this bill, who is going to pay? The American consumer is going to pay, and most especially the American consumer at the bottom end of the income scale. The poor, the elderly, those who do enjoy the benefits of low-cost clothing and low-cost shoes, will see those prices rise. They will be the ones hurt. Are we going to pit one group of Americans against another and put on the one side the protection of an industry already protected beyond compare and on the other side of the scale put the poor and the elderly as the ones who will pay the bill? I cannot think of anything more unfair than that.

Mr. President, not only will it hurt U.S. consumers but it clearly will provoke retaliation against U.S. exports. The compensation provisions of this bill are far from adequate to remedy the damage it would cause. And what are we doing, Mr. President? We are saying, on the one hand, here is an industry that believes it is not protected enough yet, an industry that believes it needs to have even more protection. Well, the other countries of the world are not quiescent. They are not going to roll over and say, "Yes, sir" to the United States any more. They have their own interests, their own people, their own jobs, and their own imports—imports from the United States. Their only action against us can be retaliation against those imports.

So what are we going to do? We are going to take one industry and not only pit it against the consumer but pit it against our most competitive industries, those that already are exporting to other nations, those industries which are going to ensure the future well being of the United States. These are the industries which would be retaliated against and hurt with the passage of this bill.

What in the world are we doing to ourselves? To attempt to protect one industry already protected to a far greater degree then probably necessary, we are going to hamper the competitive opportunities of our most competitive industries.

Interestingly enough, the European Economic Community and Canada, two of the largest recipients of our exports, are not now subject to textile quotas. They would be especially likely to retaliate.

The bill violates United States international obligations. I cannot understand, Mr. President, how we can blithely in this Senate, having taken the oath of office, and oath of office that says in essence we uphold the Constitution, we live up to our obligations when we have signed with other nations international obligations which we expect to be lived up to by others, we have traditionally for the 200 years of our history lived up to ours, with the passage of this bill throw away 43 bilateral agreements; we blithely ignore a multifiber agreement. No nation in peacetime has ever disregarded so many international agreements as would be disregarded with the passage of this bill.

The bill would be contrary to bills we have already passed—the Israel Free Trade Agreement, and hopefully soon the Canadian Free Trade Agreement. It would impose unilateral quotas on trade from these nations.

Mr. President, we are already seeing what is happening with the current protection in this industry. Textile companies posted record profits of almost $2 billion last year, a 54-percent increase from 2 years ago. Mr. Presient, if anybody wanted to make a darned good stock investment 5 years ago, they should have invested in the textile industry. Textile stocks have gone up 838 percent during this 5-year bull market. But in parallel with this protection and the resulting profit margins of the textile industry, we are seeing the costs of that. The average family already pays $238 a year more for clothing than it would if there were no textile protection. Textile makers used to complain about low-priced subsidized imports. Last year the value of those imports increased 15 percent, rising even more rapidly this year. And the high cost and increasing cost of clothing is fueling inflation, inflation which is the one thing, the one thing, that would deter our unparalleled economic advance.

Clothing is up 8 percent, far higher than the average cost of living. It is pulling the cost of other things, and if inflation rises and appears to be rising faster than currently, then we put the economic brakes on through higher interest rates. People are less able to buy homes, industries all over the country will have greater problems in borrowing for expansion, and we will see a slowing, a staggering, and maybe even a halt of economic advance.

Mr. President, beyond all of these elements, this bill pits one geographic region against another: one region of a country which seeks more protection, another region of a country which seeks more opportunity, one region of the country that fears it does not have both the belt and the suspenders it already enjoys but needs even more, while other regions of the country and other industries are rolling up their sleeves and going to work to learn how to be more competitive in an increasingly competitive world.

It would be easy for this Senator to join with the Senator from South Carolina if he believed that the only measure of an industry's health was the number of employees it had. The real measure, as I said earlier, of an industry's health, is the productivity of that industry.

Let me use as an example one of the fine companies in our part of the world. I was Governor in 1969 when the Boeing Co. at that time during a period of rapid expansion and large sales had 118,000 employees in the Seattle area. Today they are going through another period of increasing sales with their capacity to produce far, far greater than it was in 1969. Yet, they have 85,000 employees. It would be easy to wring our hands and say, "My goodness, we have lost 33,000 employees." And, "What kinds of protection must we impose in order to prevent that job loss?"

Instead, we have a company that has become that much more efficient and as a result is that much more competitive in a worldwide market, and was responsible last year for over $20 billion of commercial aircraft sales, $15 billion of which was to foreign nations, the greatest export surge of any company or of any industry in this Nation, I am confident.

Yet, on the surface, if you measure this against 1969 you would say, my goodness, we have lost 33,000 employees.

Mr. President, we not only pit one geographic region against another but we pit one industry against another. Chemicals, computers, aerospace, forest products, even agriculture are our important export industries. And I think if anyone believes that the addition of this so-called barter system on agricultural products is going to help us in opening foreign markets they are sadly mistaken, sadly mistaken because it would not reduce retaliation against U.S. farm exports.

There are countries who will be affected and will have their access to U.S. textile and apparel markets greatly reduced under any circumstance. The barter provision by establishing a direct linkage between textiles and agriculture is going to increase, not decrease, the opportunities for retaliation especially by those countries in the European Economic Community and Canada whose textile and apparel exports are not now subject to quotas.

Again, Mr. President, this would do serious damage, most serious damage, to the poorest countries on Earth. Bangladesh cannot afford to pay more for American export agricultural products even though they may need them. The country is one-third under water today with one of the most serious floods in its history, and yet under this proposal we would lay it to them in terms of their opportunity as a poor and developing country to even provide the simplest of apparel imports to the United States.

It will encourage other countries to tie their purchases of U.S. agricultural, and other products to our purchases from their country. I cannot think of anything more detrimental to the opportunity for this country to become more competitive in international markets of all kinds than the bill itself and the agricultural barter provision which is attached to it.

Mr. President, this is such an important element, such an important principle that we are dealing with and debating today that it is my intent—and I am sure the intent of others—that this will be an extended debate, and that it will go on until this bill finally is laid to rest, as I am confident it will be.

Mr. President, I would like to ask unanimous consent that several articles be entered into the RECORD at this time, one by Clayton Yeutter in the Washington Post; an editorial in the Wall Street Journal called "Textile Workship." And then I might just say in passing that I am an avid reader, as we all are, of the local newspapers. Seldom do I find the Washington Times and the Washington Post on the same side of any issue. I would like to introduce an article by Warren Brookes in the Washington Times, Tuesday, September 6, and a Washington Post editorial of Wednesday, September 7. Both of those papers, and I would suggest overwhelmingly nationaly editorial opinion, and the opinion of those who understand and know the international economics of today and tomorrow would be opposed to this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

(By Clayton Yeutter)

A BILL TO RAISE THE COST OF YOUR CLOTHING

With clothing costs soaring and textile industry profits at record levels, this would seem to be a terrible time to take money away from people who buy clothes and give it to the companies that make them. Yet that is precisely what Congress is on the verge of doing in the textile bill.

This legislation, by dramatically reducing textile and apparel imports, would assuredly raise the price of clothes. This burden would fall most heavily on lower- and middle-income families, who spend a greater portion of their incomes on clothing than the wealthy. And the benefits would go to some of the nation's most profitable companies.

The justification usually offered for passing the textile bill is that competition from imports threatens the survival of the domestic industry. In fact, textile stockholders have never seen better days. Textile companies posted record profits of one point nine billion last year—a fifty four percent increase from just two years ago. More impressively textile stocks rocketed up eight hundred thirty eight percent during the 1982-87 bull market. Notwithstanding that, Congress seems determined to ask working families to pay more for winter coats and children's pajamas so that stock portfolios can grow even fatter.

But what about textile workers? What about their jobs? It's true that over the past decade, employment in the textile and apparel industries has declined (although it increased slightly from 1985 to 1987). But nearly all these jobs were eliminated through industry efforts to improve productivity. Consolidating operations and modernizing plants are necessary steps for any industry, but textile companies shouldn't blame imports when their own business decisions result in job losses. We expect these kinds of adjustments in a dynamic free enterprise society.

Not everybody realizes it, but the textile industry is already one of the most protected sectors of the U.S. economy. There are import restrictions on well over a thousand textile products from 42 countries, and the average textile and apparel tariff of 18 percent is about three times the average tariff on other manufactured products.

As a result, the average family already pays $238 per year more for clothing than it would if there were no textile protection. U.S. textile makers used to complain about "low-priced, subsidized" imports. No more. Last year the value of textile and apparel imports increased 15 percent, and they are rising even more rapidly this year. The high cost of clothing is fueling inflation. In the first half of 1988, apparel prices rose at an annual rate of 8 percent.

Consumers wouldn't be the only losers under the textile bill. Exporters, particularly farmers, would be exposed to retaliation from foreign buyers if the United States illegally cut off textile imports. Over 85 percent of U.S. agricultural exports go to the more than 40 countries that would be most affected by this bill. Last year U.S. agricultural exports totaled almost $29 billion, compared with U.S. textile and apparel imports of about $23 billion, U.S. farmers have more to lose than textile makers have to gain from this bill. Anyone who votes for it is no friend of the American farmer.

Textile bill supporters are seeking farm-state votes with a proposal that would give textile quota preferences to countries that increase purchases of U.S. farm products. There is far less of this than meets the eye, because the supposed "benefit" for textile-producing countries is nonexistent. Even with this bonus, countries that increase their purchases of American agricultural products would still have their access to the U.S. textile and apparel market cut. Our trading partners are hardly likely to feel rewarded if we tell them that they will be able to ship us a little less instead of a lot less if they buy American farm products. This meager attempt to bribe them out of retaliating against us is bound to fail. They will almost certainly still retaliate against U.S. exports—if not against our farmers then against our industrial products.

There is little question that the textile bill would raise clothing costs and spark countless trade wars. The only real question is why this is still an active issue. There is no textile "problem," there is only a desire by a politically powerful special interest to increase its profitability at the expense of lower- and middle-income consumers. Not too long ago, taxing the poor to benefit the rich was called "regressive." If that concept is still valid, then this textile bill is a classic regressive solution to a nonexistent problem.

And by the way, textile and apparel imports are *down* more than 9 percent so far this year. Why this bill is even under consideration is beyond comprehension.

[From the Wall Street Journal]

TEXTILE WORSHIP

Who was it who said passing the trade bill would kill protectionism as a political issue? We recall it was the same Reagan administration that is this week scrambling to find enough votes in the Senate to derail a new textile-protection bill. Maybe former Treasury Secretary James Baker and trade rep Clayton Yeutter now will agree that the special-interest gods are never satisfied with merely one sacrifice.

Indeed, the textile and apparel industries and their unions demand regular care and feeding. As the most protected U.S. industries, they already benefit from tariffs averaging close to 18%, not to mention more than 1,500 quotas. Naturally, this government cosseting has been good for business. Factories are running flat out while profits soared by 8.6% last year, after a 67% leap in 1986. This is what economists call "monopoly profits."

Which means consumers are paying monopoly subsidies. Consumer apparel prices rose at about double the rate of inflation in the first half of 1988, which even Mikhail Gorbachev now understands is what happens when demand exceeds a government-controlled supply.

William Kline of the Institute for International Economics has estimated that textile protection costs the average U.S. household $238 a year for apparel—a total of some $20 billion. The poor get hit the worst, with the poorest one-fifth of U.S. households paying an estimated 3.6% of their income to subsidize fat-cat textile shareholders and unionists. The Reagan administration figures the new bill—which would impose even stiffer quotas—would cost consumers an additional $7 billion a year.

The textile lobby nonetheless wants more, and its doting politicians are only too happy to serve. The House already passed its own protectionist bill 263 to 156, and the Reagan administration frets it may not get 34 vote-sustaining votes when the Senate weighs in as early as today. GOP statesmen such as William Cohen (Maine shoemakers), Jess Helms (protectionist on principle) and Orrin Hatch (who knows what in Utah) are standing tall behind the bill lest they be considered soft on Sri Lankan seamstresses. If the world trading system, the GATT and U.S. exporters (who will suffer from retaliation) get creamed as well, that's all right, because Sri Lankans don't vote.

As for the national—as opposed to the special—interest, here's surely an opportunity for the presidential candidates. Michael Dukakis claims he wants a competitive America, and nothing is more uncompetitive than an American rag trade that is so coddled it has no incentive to modernize. Alas, Mr. Dukakis will have to shun the advice of his running mate, Lloyd Bentsen, who keeps saying he's not a protectionist even as he wraps both of his mercantilist arms around this textile bill. No wonder Big Business lobbyists were willing to pay Mr. Bentsen $10,000 for bacon and eggs.

For his part, George Bush could find the textile issue looks a lot like it did in South Carolina in March. That's when he blew away protectionism's Big Mo—and Bob Dole—by opposing the textile interests even in the heart of textile country. He also might find that defending consumers against business interests turns the tables on which candidate is the real economic populist. We suspect American voters care much less about making offerings to the textile lobby than do the parochial inhabitants of Congress hunting for PAC money on Capitol Hill.

[From the Washington Times, Sept. 6, 1988]

TUGGING FOR MORE TEXTILE PROTECTION—WILL BUSH FACE DOWN THE BARONS?

(By Warren Brookes)

Today, Democratic Sen. Ernest "Fritz" Hollings of South Carolina, chairman of the Commerce Committee, will try to move the Textile and Apparel Trade Act (S. 2662) to the floor for a vote.

In an election year, with the House already on board with its own completed quota legislation (supported by Michael Dukakis), the only question is: Are there enough nay votes to sustain a veto?

With George Bush struggling out from the Quayle-quake, Republican senators could be protecting their own flanks—and the temptation in the White House might be to go for a compromise sell-out to put the issue behind them, although U.S. Trade Representative Clayton Yeutter assured us recently the president would stand firm against them, as Mr. Bush did in the southern primaries last March.

Otherwise a totally undeserving industry will get still another $7-10 billion bailout at the expense of the American consumers, who are already paying an average of 18 percent on tariffs in place, not to mention some 2,000 quota agreements with 42 countries negotiated by this administration alone.

In fact, the U.S. textile and apparel industries are now the most protected in America, with a cost to the average family of more than $240 a year, or more than $21 billion total.

Already, the textile quotas the Reagan administration worked out with the Asian Rim countries in the summer of 1986 have hit the cash register in the form of 15 percent annualized inflation rates on apparel and textiles this past spring.

Small wonder that during the Reagan bull market run-up the textile group of stocks produced an average return of more than 838 percent from 1982-1987, and industry profits rose a total of more than 54 percent over the 1986 and 1987 period, and were up again in the second quarter of 1988 by 61 percent over 1987.

Yet, there is no evidence that the industry is using these suddenly strong profits to catch up with enormous productivity gains being made throughout the rest of the world.

In his new book, "The American Jobs Machine," Clemson University economist Richard MacKenzie warns: "The effects of quotas are not necessarily positive for the textile and apparel industries. Increased prices for domestic and imported textiles increase the cost of textile and apparel production in the United States. The main long-run effect of curbs on textile and apparel imports seems to be some retardation of productivity improvements, the result of reduced competitive pressures.

He then quotes Wilburn Newcombe, the courageous editor of American Textiles International, who warned his own industry, last year, "Now is the time to buy and build. Sales and profits are high. Stock values are higher. We can't keep crying 'imports!' to cover up large pockets of inefficiency remaining. Instead we need to make ours one of the most modern manufacturing industries in the nation—modern throughout."

Yet, the two most recent international textile equipment expositions, the U.S. textile industry was the weakest purchaser of new high speed equipment of any major textile country.

Instead, it was up on Capitol Hill calling for still more help. As U.S. Trade Representative Clayton Yeutter told this column, "There is probably no American industry that less deserves protection than this one. Unfortunately, they have a history of using presidential-election politics to their advantage." Textile and apparel executives have been especially heavy contributors to the Dukakis campaign.

But even as they make their case for slapping a 1 percent annual growth quota on all textile-exporting countries selling to the United States (not just Asian Rim nations) the latest trade numbers show how unnecessary and self-defeating this would be (See table.)

Through the first six months of 1988, textile imports have risen less than 1 percent, while textile exports have soared 22 percent. June imports were down 1 percent, exports up 20 percent, and the textile merchandise trade deficit is falling by 15 percent a year. Increasing trade sanctions against all textile exporting countries would almost certainly slow this progress.

As Mr. MacKenzie argues, "On balance, protectionism can be expected to reduce American jobs." Anyone who doubts this need only look at the U.S. steel industry, where both labor and industry used 15 years of protectionism to drive up wages and drive down total productivity, killing sales and cutting jobs more than 50 percent.

Mr. MacKenzie reminds us of Will Rogers' wisdom, "If a business thrives under a protective tariff, that doesn't mean it has been a good thing. It may have thrived because it made the people of America pay more for the objects than they should have, so a few got rich at the expense of the many."

Will Rogers' description exactly fits the textile industry, whose buddy Mr. Hollings plaintively cried out: "We are losing our shirts. We are losing our shoes. While the United States sits in the grandstand shouting, 'We may start a trade war,' down on the field the trade war is in the fourth quarter."

It now remains to be seen whether George Bush has the guts to continue to risk Southern backlash and back a Reagan goal-line stand against these crocodile-cryers and win one for the consumer.

[From the Washington Post, Sept. 7, 1988]

THE TEXTILE GIVEAWAY

Protectionist trade bills are usually bad news, but the Senate's textile legislation is flagrantly, recklessly,. almost comically wrongheaded. Since half the Senate has signed on as cosponsors, it will certainly be passed. Equally certainly, President Reagan will veto it. One question is whether there are enough votes to override a veto. Another is why the Senate is seized with this passion to pass another squalid giveaway to the textile producers.

The bill would allow imports of textiles and clothing to increase 1 percent a year, on grounds that the market is expanding only that fast. No matter how attractive the imports might be, or how competitive, Americans would be forbidden by law to buy more than the current proportion of them. The bill also freezes shoe imports at the present level. The American producers lost most of the market for women's shoes because they didn't keep up with the fashions as deftly as shoemakers in Italy and Brazil did. But in fashion or out, the American producers would be guaranteed their present share of the market under this law. No matter how poorly they performed, they would be protected.

The textile industry is already one of the most heavily protected industries in this country, and has been for more than 30 years. It is profitable and even does some exporting. But it likes having a captive market, and no amount of protection is ever enough.

The purpose of the bill is to preserve jobs. Sen. Ernest F. Hollings, the chief sponsor, says that 350,000 jobs have been lost in textile and clothing production since 1980. True, some were lost to imports. Equally true but not mentioned by the senator, many of those jobs were lost to rising productivity. The same thing is happening throughout American industry.

You can probably think of a good many senators who are urgent and forceful in arguing that the United States must make itself more competitive in world markets. That means pushing steadily for higher productivity. You would be astonished to see that many of those same senators are cosponsors of this bill, the central purpose of which is to take the competitive pressure off this favored industry.

But in the end this bill won't save jobs. Protectionist bills never do. They only shift the impact of change from one industry to another. While legislation can save some jobs in textiles, clothing and shoe production, it will cost jobs in importing and retailing. On balance, the losses to the country will be greater than the gains. If the Senate is trying to make the American economy less efficient and less competitive, this textile bill is the way to go.

Mr. EVANS. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from South Carolina has remaining 25 minutes and the Senator from Oregon has 17 minutes.

Mr. HOLLINGS. Mr. President, momentarily I yield myself several minutes.

Mr. President, I ask my distinguished colleague not only to read the Washington Times but to read the Washington Post of yesterday, specifically the article entitled, "China Initiative Is Paying Off For Washington—State, That Is—Persistent Effort Bringing Billions in Trade."

It is wonderful to read that article because it reveals one of the secrets to the success of Washington State's aircraft industry.

The Senator from Washington has said that the textiles are the most protected industry he has ever seen. We have multifiber arrangements, bilaterals, tariffs, and quotas. One thing we don't have that Senator EVANS' aircraft industry has is subsidies.

I remind my colleagues that we have never asked to roll back quotas on Bangladesh or any other country. In fact, with the discretion granted the administration, I would hope they would reallocate more generous quotas to the less developed countries and quit making the rich countries richer. I would allocate some from Korea, which is doing so well, and some from Taiwan, and some from Japan. They are richer than you and I.

I agree with Senator EVANS. Let us look out for Bangladesh. You can do that under this bill. There is no rollback. More to the point, there is no subsidy. I have not tried to do for textiles what the Senator from Washington has learned to do for his principal industry. Mine happens to be a national industry; his is not. He says his is important to national security. I have proved that mine is important to national security. We have proved as much in formal hearings.

The aircraft industry is subsidized to the tune of $6 billion by the Export-Import Bank, through credit and loan guarantees, and what have you.

So the Senator from Washington has brought us to the crux of the matter. Am I to tell those workers of mine—$6 an hour in the apparel industry, $7 an hour in the textile industry—"What we have is a policy for those getting $14.74 in the aircraft industry to give them subsidies, but we can't give you a chance to survive because you are already allegedly protected?"

Protected? Let us look to the facts.

We had a pledge of protection—namely a pledge to enforce our Nation's trade laws. That is all we have asked for. In a letter to my distinguished senior colleague, Senator THURMOND, and to the distinguished former Representative from the Fourth District of South Carolina, Representative Campbell, now Governor Campbell, President Reagan pledged that he would enforce the law and link the rate of growth in imports to the rate of growth in domestic consumption.

Does the Senator from Washington know why we put that provision in this bill? I will read part of the Reagan letter, which is dated January 18, 1980.

I ask unanimous consent to have the letter printed in the RECORD, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 18, 1980.

Congressman CARROLL A. CAMPBELL JR.,
Longworth House Office Building, Washington, DC.

DEAR CARROLL: I share your concern for the well-being and continued viability of the American textile-apparel-fiber industry, and its more than two million workers. I want to pledge my strong support for renewal of the Multifiber Arrangement, and for such other actions which will enhance the international competitive position of the industry.

The MFA has brought a vital measure of order to textile trade by setting a framework for bilateral agreements establishing quotas for imports from developing, low-wage nations. The instrument is not perfect, but its renewal is imperative. My administration would seek MPA renewal, hopefully in a strengthened form. We would consider, for instance, keying import growth to the growth of the American market. We should explore the possibility of setting global quotas or guidelines. We would bargain for the tightest possible bilateral agreements, particularly with the Peoples Republic of China. With developing countries relying on textile exports to help them cover rising oil costs, this MFA renegotiation will be even more difficult than it was in 1977. We need a strong President, who looks to the needs of this country, to handle negotiations.

The textile industry, of course, would also benefit from incentive-oriented business initiatives which I support, such as accelerated depreciation and new tax deductions designed to encourage job-creating capital formation. Business productivity and modernization must be stimulated, and we should look to our tax laws to provide incentives for growth.

The textile industry is an integral part of South Carolina's and the nation's economy. I look forward to working with you to keep the industry sound.

Sincerely,

RONALD REAGAN.

Mr. HOLLINGS. Mr. President, I read from the letter:

> We would consider, for instance, keying import growth to the growth of the American market. We should explore the possibility of setting global quotas or guidelines.

So now we have introduced the bill, pursuant to the wishes of the gentleman who asked that it be done, and who vetoed the bill. That is why we changed the bill, to satisfy the President and follow his policy. What do we find? We find in the Wolff report, for example, a description of the EEC quota system, and I quote:

> Under MFA III, the EEC, unlike the United States, reduced the quota levels of its "dominant" suppliers in the most sensitive product areas beginning in January 1983.
>
> The EEC quotas in sensitive categories were established pursuant to "global ceilings"—overall limits on the quota levels from all suppliers combined. The United States does not use such aggregate limits in establishing its quotas.
>
> The U.S. annual growth rate on most quotas is six percent or more; EEC growth rates are generally less than six percent.

So now we propose to do what the Europeans are doing. One comment by my distinguished colleague was that the Europeans are doing fine and do not have any quotas. The fact, to the contrary is that the Europeans have global quotas and, as a result, have reduced their textile trade deficit from $5 billion in 1980 down to $1 billion last year.

In 1980, we had a textile trade deficit of $4.7 billion. If we had done what President Reagan pledged, if we had linked import growth to domestic consumption, that deficit would have risen to $7.8 billion. Instead, the U.S. textile trade deficit in 1987 skyrocketed to $22 billion.

Mr. President, I know that my senior colleague is coming to the floor in a moment, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, how much time does the Senator from Washington wish?

Mr. ADAMS. Two minutes.

Mr. PACKWOOD. I yield 2 minutes to the Senator.

Mr. ADAMS. Mr. President, I am opposed to the textile bill. But the issue before us now is not the bill itself; rather, the issue is whether or not we want to invoke cloture on it, even before debate has started.

I have a very substantive amendment to this bill, one that is very important both in terms of the revenues of the bill and the whole practice and operating procedure.

I ask my friends—and this is a bipartisan opposition to this motion for cloture—that if they have to vote for cloture, they not vote for it at this time; that we have an opportunity to debate these amendments; that we have an opportunity to present them; because we have just finished a very important trade bill. That trade bill took us weeks and months. This bill that is proposed today moves in a completely opposite direction. It moves in the opposite direction, and we will not have the time, if a cloture motion is adopted, to either try to reconcile this bill, to correct it, or to take the protectionism portions out of it. This bill is a protectionist bill. I think the proponents and opponents all agree to that. Having just passed a trade bill, I do not think we should immediately vote cloture at this time, having just returned from recess.

If we are under cloture rules, those of us who have very substantive amendments—they are very complicated amendments that involve such things as quota options and whether or not you can raise money or this will violate the Gramm-Rudman-Hollings Act, as well as other provisions of this bill—we will not have an opportunity to fully explain them to our colleagues.

This could change the whole trading system which we have used under the multifiber agreements.

I understand the concern of the Senator from South Carolina about the whole textile regime. But this is not the time, in the waning moments of this session, to pass this bill, under very limited rules of debate, because I know that Senator HOLLINGS and many of his colleagues have spent years and months—years overall, months in this session—working on this bill.

But even at the last moment as the Senator from Oregon will point out and this Senator from Washington and the other Senator from Washington will point out, this bill is undergoing change. We have three bills pending, and on those three bills there are great differences. How do we take a trade bill that we have just passed with great difficulty, add this to it, and have any kind of a trade philosophy, trade strategy, trade plan for this great Nation that the other nations of the world will understand and will move us forward?

We have tried very hard to craft a trade bill that will give us the strategy in a global economy where we can manage the U.S. economy in a fashion so that all of our businesses have an opportunity to compete.

Senator HOLLINGS fears that if we do not adopt cloture, a filibuster will develop—and he is right. But we are being asked to adopt cloture now before a filibuster has started and before debate has begun. I do not challenge the decision to file cloture; I would not seek to prevent my colleagues for voting for it at an appropriate time. But this is not that time.

Mr. President, if cloture is invoked now, a number of amendments, important amendments, will not be debated and considered as completely as they should be. Debate will be limited and those of us who seek to either defeat or improve the bill will have the opportunity for debate reduced. I would ask my colleagues to give us some time to debate this bill: If they plan to vote for cloture, I would ask them to vote for it the second time a cloture petition is offered. Give us a few days to make our case and get our amendments—amendments which are relevant but perhaps not germane—before this body where they can be considered on their merits and not just on their technical conformity to postcloture rules.

Mr. President, earlier this year we spent weeks debating the trade bill. All we are asking for is a few days to debate this bill—a bill which radically reverses the progress we made in the Trade Act. This bill would put us on the path of protectionism, a bill which invites a trade war, a bill which will violate several of our international agreements, a bill which will not help the textile workers but will harm other valuable and productive sectors of our economy.

Mr. President, this is a major bill. Senator HOLLINGS and his colleagues have worked on it long and hard, they have spent years on it. We ought to have a few days to debate it before cloture—and all its associated constraints—is adopted. Mr. President, at least on this first go around, I ask my colleagues to reject this cloture petition.

Mr. President, I would hope my colleagues who are listening to me would oppose this cloture motion. It will soon be up for a vote. We have not had an opportunity to debate it. We are prepared to debate it and to debate it substantively and on specific issues.

I thank the Senator from Oregon for yielding me time, and I yield back to the Senator from Oregon.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield to the other distinguished colleague from Tennessee for 4 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. I thank the distinguished Senator from South Carolina.

Mr. President, I rise today in support of S. 2662, the Textile and Apparel Trade Act of 1988.

This bill, I submit, is a reasonable solution to the devastating problem facing the domestic shoe, textile, and apparel industries, and that problem is one of increasing foreign imports that are driving our workers away from their jobs and driving American businesses under water. Since 1981, 400 domestic shoe plants have been closed resulting in a loss of 60,000 jobs in that industry alone. Statistics for the textile and apparel industries are equally as grim, if not grimmer. During these same years, 1,000 textile and apparel plants have been closed with a loss of 300,000 jobs.

S. 2662 is a carefully crafted bill designed to address this import problem by limiting the impact of foreign imports. The bill does not roll back these imports. Nonrubber shoes, for example, imports would be set at the level of imports in 1987, which is 81.6 percent.

I would submit, Mr. President, that giving foreign exporters or foreign shoe manufacturers 81.6 percent of the American market is very, very generous. This would be a global quota established on nonrubber shoe imports. Quotas for textile and apparel imports are allowed a 1-percent growth each year, and the President is provided maximum flexibility in the allocation of these quotas.

As all of us here are well aware, the domestic shoe industry has been especially hard hit by foreign imports of nonrubber shoes. Import penetrations currently stand at 82.5 percent. Nationwide, the shoe industry has lost 60,000 jobs, which is over 40 percent of its work force. Unless Congress acts, the situation will not improve. This year alone, 1,800 shoe jobs have already been lost.

My own State of Tennessee, for example, is the sixth most important shoe producing State in the country and ranks fourth in total people employed in the shoe industry. Almost 8,000 Tennesseans work in the shoe industry; another 400 work in leather tanning to supply the shoe industry. These are real jobs and they involve real people. Many shoe workers are women who live in small, rural communities where there are few alternative jobs available. Often, they are single parents and the sole support of their families.

I have discussed their plight with them. They come to me and they say: "Senator, I am 45 years old. All I know is work in the shoe industry. They are closing the plants. I have two children to support. What do I do?"

Import penetration in the shoe industry has increased from 22 percent in 1968 to its current 82.5 percent in 1987. In this same period, shoe employment in the State of Tennessee has gone from 14,531 in 1968 down to 8,000. This loss of jobs has had a devastating effect on many of the small towns where shoe plants were located. In many areas, these manufacturers were the largest employers and entire towns and counties have felt the negative economic impact of shoe plant closings.

The domestic shoe industry has already attempted to use our current trade laws to address the injury the industry has suffered due to imports. Most recently in 1985, the International Trade Commission unanimously agreed that injury had occurred to the domestic shoe industry and recommended a plan for relief consisting of 5 years of import limitation.

In a very short-sighted action the President of the United States, Mr. Reagan, denied this relief for the shoe industry that would have protected thousands of jobs that was recommended by his own International Trade Commission. As a result, hundreds of additional jobs have been lost in the State of Tennessee.

The domestic shoe industry continues to be injured irreparably by imports coming in from abroad, and it is clear, given the action of this administration, that the only recourse left to this industry is that of legislation.

Import penetration for shoes has reached a level higher than any other major industry—82.5 percent. As those of us who have been working on this issue predicted, the same problems are occurring in other industries as well. Shoe import penetration in 1981 was 51 percent, just below where apparel is now. Shoe imports grew to over 80 percent of our domestic shoe market in only 5 years. Apparel imports have risen from 32 to 54 percent in those same 5 years. At current rates, the apparel industry will lose thousands of additional jobs just as the shoe industry has lost them.

We should pass this legislation and pass it quickly. It will allow our domestic shoe, textile, and apparel industries to compete with the high levels of foreign imports flooding our country. Our domestic industries need and deserve our help. Thousands of American jobs depend on our prompt action on this legislation.

We cannot let those hard-working Americans down. We cannot stand idly by and allow these American industries to disappear. I urge my colleagues to join us in passing this much-needed legislation.

The PRESIDING OFFICER (Mr. KERRY). Who yields time?

Mr. PACKWOOD. Mr. President, I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, we normally pride ourselves in most industries if there is a reduction in employment because we attribute it to productivity. In no place is this better true than in the agricultural industry. How often we have bragged in this country that in 1900 there were 20 million farmers and now there are 3 or 4 million, and we feed 50 or 60 people for each farmer in comparison to Hungary, Russia, or China?

That is productivity. There is declining employment in agriculture and we bragged about it. We say that is good.

And the Senator from South Carolina, and he is one of the most articulate spokesmen for this industry, all but admitted that the bulk of the employment decline in the textile industry has not come because of imports; it has come because of productivity. He cited, and I cannot remember if it was the dining room or not—they used to have 115 workers; now they have 15.

We ought to be doing everything we can in this country to invest capital and to reduce employment in industries by increasing productivity. That is the way we will increase our standard of living. That is the way we will increase total employment in this country.

Because of the fact you reduce employment in agriculture does not mean you have more unemployment in the country. Because you reduce employment in textiles does not mean you have more unemployment in the country, although, as a matter of fact, last year employment in the textile industry in this country increased, and if you look at the three principal textile States in the country, North Carolina, South Carolina, and Georgia, in Georgia last year, while the textile industry has lost 10,000 jobs over the last 6 years, they have gained 565,000 jobs in other industries in Georgia. In North Carolina the textile and apparel industry has had rising employment in the last 2 years, and while over the 6-year period of 1981 to 1987 they lost 17,000 jobs, other nonagricultural employment in the State of North Carolina alone rose 465,000.

South Carolina the same. They lost 27,000 jobs in the textile industry from 1981 to 1987, although in both North and South Carolina the employment went up last year, but in South Carolina they had an increase of 196,000 in other industries.

This is nothing, Mr. President, but the normal cyclical growth of this country and as we become more and more productive and as we squeeze and squeeze and become more efficient you have fewer employees able to turn out more goods and increase the wealth of this country.

So I do not think we should worry, per se, about do we have more or fewer employees in the textile industry. If we want to have more employees it is simple enough to do. Let us not just have quotas, not have a limit, we will put up a barrier on the imports of textiles. We will adopt a Luddite philosophy and destroy the machinery and I will bet you we can have 20 million people employed in the textile industry alone, maybe another 10 million in the apparel industry if the standard solely is employment. But the normal standard we have used in this country is how much more can we produce with fewer and fewer people in that industry. And those people who are squeezed out of one industry go into another, usually into another industry with better paying jobs because, as the Senator from South Carolina has indicated, usually jobs in the textile industry and the apparel industry are not on the higher end of the manufacturing jobs in this country.

Now, let us see who gets hurt if we have quotas, limitations, call it what you want. Who gets hurt is normally the poor.

A good example are the restraints we put on the Japanese automobiles. We have had them in effect since 1981. And what has happened? You have seen the lower priced and the moderate priced Datsuns, Nissans, Toyotas, and Hondas stop. Because if you can only send so many cars to this country, you make more money off of selling a high-priced car than a low-priced car. If you are a domestic manufacturer, you are making more money selling a $25,000 Cadillac than a $13,000 Chevrolet.

So, naturally, when we put the restrictions on imported cars, what did the Japanese do? They cut out their low-priced cars and they sold us their high-priced cars. And that is exactly what you are going to get if you put a limitation on imported textiles. Then the countries that have any quotas at all are going to say, "All right. Let's sell the highest priced textiles, the ones we can make the most profit on, and we will leave to the American manufacturers the manufacture of the textiles for the middle-income and lower-income people." And it will cause the prices to go up, and they are the ones that will get hurt.

Very frankly, in this country, the companies that make high-priced products seldom are asking for protection. I have a very significant textile and apparel manufacturer in the State of Oregon, Pendleton Woolen. I do not want to mislead anybody, but Pendleton would like to have this bill, also. They sell a very high quality, frankly, very expensive product. And their sales have continued up and they are doing quite well in this country. As a matter of fact, they are doing reasonably well in sales overseas. But it is a unique product and a high-priced product that the average $10,000, $12,000, $14,000 a year employee does not buy.

Lastly—and clearly we are going to have lots of other debate—lastly, let us take a look at the profits of the textile industry, whether you measure it on shareholders' equity or whether you measure it on return of assets and compare it with the rest of the manufacturing. In 1986, all other manufacturing had a 4.3-percent return on assets; 4.3 percent in 1986. Textiles had 6.1 percent.

In 1987, all other manufacturing had a 5.6-percent return; textile had 6.4 percent.

In terms of plant capacity, how much of your capacity are you using, in textiles, it is close to 90 percent. The rest of the manufacturing capacity of this country is around 83 percent.

By any standard, whether it is increasing the employment in the last year—and it has gone up in textiles—whether it is return on investment—it is higher in textiles than other manufacturing—whether it is on increased productivity—and textiles have done a wonderful job. In the last 5 years, they have invested and they have been very productive and they ought to be proud of it. But part of the reason they have been driven to the productivity is the competition on imports.

By any standard, if we are going to go toward protectionism in this country, there are other industries that could lay greater claim than textiles to the demand for protection. I would not support those other industries either. But of all the industries that have a difficult time at this stage in our industrial restructuring—and we have seen tremendous restructuring in the last 7 years—the textile industry is the one that is doing almost better than any other industry.

I say "textiles," I do not say "apparel"; textiles being the cloth, apparel being the cloak, for a lack of a better description.

On apparel, we have not yet learned to fully automate, as we have in textiles. It is still difficult to make a man's suit with automation. There is still a lot of handwork involved in it.

Interestingly, Japan, which is often cited as an example, has faced this situation 20 years ago, 25 years ago, actually, Japan was in the top five of exporters of both apparel and textiles.

Today, they are still in the top five on the export of textiles. They are not in the top 20 on the export of apparel.

When you go to buy a blouse, when you go to buy a suit, take a look in the jacket—we require labeling—and see how many things you find made in Japan.

The PRESIDING OFFICER. The Senator from Oregon has used the 8 minutes allotted to him.

Mr. PACKWOOD. Mr. President, I will use 30 more seconds and then I will yield the remaining time to the Senator from Texas.

You will find them made in Bangladesh, the Philippines, Indonesia, India, Brazil—not Japan. Japan learned to do the things they can do very well, which was invest capital, move into areas that are highly automated, and compete in the rest of the world.

The textile industry in this country has learned to do that. They do not need protection. They do not deserve protection. I would hope that this Senate would not give them protection.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Oregon controls 4 minutes and 22 seconds.

Mr. PACKWOOD. Mr. President, I yield whatever time is remaining to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think it is fair to say that our distinguished colleagues from South Carolina, who are leaders in this effort, are among my most favorite Members in the Senate. In fact, my dear colleague from South Carolina, the junior Senator—and he would be a senior Senator in any other delegation, virtually, in the Senate were he not serving with STROM THURMOND—is one of my dearest friends. I have been on this floor on many occasions doing the Lord's work with him in trying to balance the Federal budget. So, as you can imagine, when I found that my two dear friends and colleagues were trying to help out the textile industry, I assumed they needed help.

In fact, I started looking into it, because I had a meeting this morning with a fellow from the pipefitters union in Beaumont, TX. In Beaumont, TX, our unemployment rate is somewhere between 15 and 20 percent. People move in and out. It is hard to get a good measure. Our pipefitters have taken a 25-percent cut in wages to try to stabilize their deteriorating economic circumstances.

And so I tried it out on him as to whether he thought that we ought to pass a textile bill. I explained to him that virtually every study I had seen indicated that to save a job in the textile industry through more protection costs about a quarter of a million dollars a job.

Now, there is some dispute about that, but I do not think anybody has argued that it costs less than $100,000. Most of the arguments I have seen have said, "Well, it costs about $220,000 a job in terms of higher costs to the consumer."

So his question was: Well, maybe they need help worse then we do. He said: "Is unemployment in textile areas of the country worse than it is here?"

So I looked up in the statistics, looking at the top five textile States in the country. I found that, if you take your unemployment levels, they averaged, in June, 4.8 percent, which is a level 15 percent below the national average. In the shoe producing States it must be great to be out of the shoe business, because if you take the five largest shoe-producing States in the Union, their unemployment rate in June was 4.38 percent, about half of the rate of unemployment in my State.

Then we started talking about: "Well, maybe the industry is being destroyed. Maybe people in the textile business are just going broke and they are fortunate enough in these States to have other good things happening, and maybe they need our help. Maybe these guys that have been laid off in other industries ought to pay higher prices for shoes for their children to go back to school this fall; going back to school today. Maybe they ought to pay higher prices for diapers and for the children's clothing they have to buy, so that they can help out the textile industry."

The only problem, Mr. President, is when I went back and tried to get this statistic on what has happened to, say, output in textiles, I found that it is up by 13.5 percent over the last 3 years. That is twice the rate of increase for manufacturing as a whole.

Then I thought, well, maybe they are trying to produce more, as in some cases we are with natural gas in Texas, with all of our foreclosures, with all of our financial problems. Maybe they are just producing more, just trying to stay above water. I mean, we are losing money in natural gas, in some cases, just trying to keep companies from closing.

Then I go back, Mr. President, and I look at the rate of return in textiles over the last 3 years and find that it has grown by 69.1 percent, as compared to 25.4 percent for the economy as a whole. In fact, the before-tax rate of return on equity is 26 percent in the textile business.

The PRESIDING OFFICER. The time remaining to the Senator from Texas has expired.

Mr. GRAMM. Well, Mr. President, after I went through all those statistics I figured there is no way in the world I could say to the guy who is out of work in Beaumont: Your children ought to pay more for shoes and textiles so that people can make more money and prosper in other parts of the country while we suffer and sacrifice in Texas.

The PRESIDING OFFICER. All time controlled by the Senator from Oregon has expired.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield 5 minutes to our distinguished senior colleague.

The PRESIDING OFFICER. The senior Senator from South Carolina.

Mr. THURMOND. Mr. President, I urge my colleagues to support this cloture vote. The domestic textile and apparel industry is facing a major crisis. If the current trend in job losses persists due to import penetration, massive economic hardship will continue to impact harshly upon those who depend on this industry for their livelihoods. As more than 300,000 textile and apparel jobs have been lost in the past several years, the time for action is now. I repeat, now. This body cannot delay any longer.

This legislation will promote the orderly, nondisruptive growth of world trade in fibers, textiles, and apparel products. It is the result of a cooperative, bipartisan effort on the part of textile and apparel management and labor, Members of Congress, and others concerned with saving this vital industry. This bill is a sound measure that will ensure strict enforcement of our existing trade laws and agreement.

In addition to its economic importance, the textile and apparel industry is critical to the defense of this Nation. We must not allow ourselves to become dependent upon foreign nations for the basic defense requirements of our Armed Forces. Textile employees have spent millions of hours manufacturing textile and apparel items so essential to our military forces. Unless we invoke cloture on this legislation and ultimately pass it, our national security could be threatened.

In my opening statement, I will be discussing, in detail, a report recently released by the Office of Technology Assessment. Its conclusions are extremely disturbing. This report states that "despite the optimism made possible by technical progress, U.S. textile and apparel firms are in danger * * * in spite of these remarkable advances, the industry is gravely threatened." In essence, the ultimate finding of the OTA report is that the domestic textile and apparel industry will be extinct in a few years unless the flooding of our domestic market with foreign textile and apparel imports is halted.

Before closing, I will briefly mention a disturbing situation. The Soviet Union is exporting cotton sheeting and print cloth to the United States. To allow our greatest adversary to profit from our domestic textile and apparel market simply undermines this Nation's commitment to freedom, especially when this industry is so essential to our national defense. We must take action on this vital legislation so that American workers will not lose their jobs to workers in the Soviet Union.

In closing, I urge my colleagues to vote for cloture. The critical importance of the textile and apparel industry to this Nation demands it.

Mr. President, I want to remind the Senate that textile ranks second to steel as a matter of national importance in defense. That has been testified to by the Defense Department. Textile ranks second to steel. If we get dependent on imports, what in the world will happen here if we get into a war?

I say it is extremely important that we pass this bill. It is fair to our workers. It is fair to our country. It is fair to our competitive enterprise to do this and I hope the Senate will see fit to pass this bill and pass it without delay.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, in the closing minutes we have, let me respond to the distinguished Senator from Texas. Let us go from Beaumont to San Antonio. I go to Beaumont, too, and several places in South Carolina—Marlboro County has 11 percent unemployment. But go down to San Antonio, Senator, and you will find out about the health of your textile industry. It is no different there than in South Carolina, Massachusetts, or anywhere else. This bill is for the survivors of that industry. It is not going to make anybody rich.

Responding to the Senator from Oregon, let me say that I never heard in my life such an argument that we ought to be delighted to see employment fall. I have been here 22 years. The Senator from Oregon said that we ought to be happy that there are fewer jobs in the textile industry. Certainly, we never heard such an argument when the issue was farmers. Only a few farmers are now producing enough to feed 15 countries and ourselves. We concluded that we had to save the family farm so that the big corporate combines would not take over. We have subsidized farmers to keep them employed. I never heard the argument that the fewer farmers the better.

Yet the Senator from Oregon comes around and says, in effect, we are all delighted to see the farmers go broke and go out of business because they are producing more and are more efficient. Likewise, we ought to be delighted to let the textile workers all go broke and let them produce more. I say that is nonsense.

I have been to Dae Woo, the largest textile producer in Pusan, Korea. They showed me exactly what they were doing. They have thousands of women, in row after row, all under one roof. In the first three rows they manufacture Bill Blass, in the next three rows they manufacture Liz Claiborne, in the next three rows they manufacture another brand name, all down the line.

They are all young, attractive ladies, and in Korean culture, they come into the textile industry at age 18, work there until they are 20, 21, or 22; 10 hours a day, 6 days a week, $1.35 an hour. And they save up their dowry. Here is my friend, the champion of women's rights. Go back to Oregon and tell the women they all ought to save up a dowry, save up for 4 years, and go back to the village in Oregon and get married. The average age in that Dae Woo plant is 24 or 25 years.

We hear the argument that American textiles need to be more productive. But the fact is that we are already on the cutting edge. Go down to Stonewear in Greenville, SC.

They have a stamp that puts on the button, another stamp that puts on the collar, another machine that puts the pocket on the shirt. It is mechanized.

There used to be 3,700 workers at Stonewear. They now are down to 1,700. They have increased their productivity. But they cannot go any further. Dae Woo plant is not nearly as efficient nor as mechanized and productive as Stonewear in Greenville.

So do not give me that canard that we have got to get more productive. We have reached a critical mass of investment and we cannot keep putting billions in and not getting any profit back when 55 percent of all textiles consumed in this country are represented by imports. Meanwhile, the economic studies, not only the Office of Technology Assessment but also the London Economist conclude that by 1995, 83 percent of all textiles consumed in the United States will be imported.

That is the road we are on at the present trend. We are talking about the survival of the U.S. textile industry.

I do not want to demean the high purpose of this bill by talking bold politics. I would be delighted to debate this bill for a month. I could get reelected doing it. But the truth of the matter is we must respect the time constraints imposed by the leadership of the Senate.

The leadership has got a lot of business and less than a month to do it in. The Senate has heard the arguments on this textile bill. This bill passed the House a year ago by a vote of 263 to 156, and it has been debated and we have amended it with the agriculture and the tie amendments. All the colleagues have had the chance to debate. They have heard the pros and cons, and they are willing to have cloture, 30 more hours of debate.

Thirty hours is more than adequate to air the issues. I would love to debate at greater length, because I can see some Senators are not as informed as they should be about the nature of the worldwide competition, about the standard of living, and about the industrial backbone of this country. We know military competition. We know space competition. But, Senator, we do not know anything about industrial competition.

I yield back the remainder of my time.

WE MUST OPPOSE THE TEXTILE QUOTA BILL BECAUSE IT WILL TRIGGER A SEQUESTER

Mr. SYMMS. Mr. President, I rise to oppose the textile quota bill. I think this bill has many features, but there is one that I believe has not been debated here yet.

This argument is so persuasive to me, however, that I want my colleagues to understand that if the Congress passes this bill and it becomes law, there is a very serious risk of a sequester next month under the Gramm-Rudman-Hollings process.

The preliminary estimates by the Office of Management and Budget and the Congressional Budget Office for this bill are a loss in revenue from customs duties of $1.1 billion. There is an estimated gain from the auction of import quotas of $1.2 billion. These numbers are already published, and superficially they make the textile quota bill seem revenue neutral.

However, Mr. President, the United States has many obligations under the General Agreement on Tariffs and Trade and other treaties with non-GATT nations. Under these treaties, the United States would be obligated to pay compensation to those trading nations who will be hurt by this legislation.

Mr. President, preliminary estimates by the Office of Management and Budget are that approximately $6.1 billion in compensatory trade payments could have to be made to textile exporting nations under our international treaty obligations if this bill becomes law. The President will certainly carry out his duty and send up a request that we make these payments.

My colleagues are aware that at the present time, the initial OMB sequester report, issued on August 25, shows a deficit estimate of $144 billion—just under the mandatory sequester trigger of $146 billion. To the $144 billion, however, must be added $400 million for the omnibus trade bill, $300 million for the Hunger Prevention Act,

$600 million for the HUD and independent agencies appropriations.

In addition to that total, which comes to $145.3 billion, we are looking at perhaps another $400 million for the welfare reform bill, $100 million for the United States-Canada Free Trade Agreement. We may pick up $50 million by taking the Postal Service off budget, and we may pick up $200 million by adopting the technical corrections tax bill, but, Mr. President, that will still leave us with less than $1 billion of leeway under the Gramm-Rudman-Hollings sequester target of $146 billion.

I would ask my colleagues if they think this election-year issue of textile quota legislation is worth a sequester? I would remind my colleagues that if a sequester is implemented, it would cut the deficit back to $136 billion—in other words, to spend a small extra amount of money on textile protection, we will have to suffer a $16-billion cut in everything else.

Remember, it is OMB which will decide if a sequestration is imposed on the fiscal year 1989 budget. It is OMB which has told us about the $6.1 billion compensation cost. This is something I believe all of us should think about now as we begin this rollcall vote.

Mr. CHAFEE. Mr. President, I would like to take a few minutes to discuss the cloture vote we are going to make today on S. 2662, the Textile and Apparel Trade Act of 1988.

Regardless of the merits of this bill, I believe we must look at the effect this type of cloture vote has on the procedures and rules of the U.S. Senate. The Senate is designed to be a deliberative body, in which each piece of legislation on the Senate Calendar is to be given adequate time for debate on its merits.

Although cloture petitions are often necessary to insure that debate will not be endlessly delayed by a filibuster or other dilatory tactics, that is not the situation we are in now. I am troubled about the use of cloture petitions to place a time limit on floor debate prior to the beginning of discussions on a piece of legislation.

This bill, S. 2662, is a serious piece of legislation that deserves to be given the full consideration of all the Members of this body. It poses important questions for our trade policy and for American industries and consumers. In light of my position on the use of cloture petitions, I do not believe we should be voting to cut off the debate on this bill, before it has even begun.

Therefore, I must vote against this cloture motion, to allow the Members of the Senate to have the time necessary to more fully debate and consider this bill.

Mr. DOLE addresed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I ask unanimous consent I may proceed for 2 minutes.

Mr. HOLLINGS. If I can retain it, sure.

The PRESIDING OFFICER. The Senator from South Carolina has 35 seconds. Is there a unanimous-consent request for additional time? Is there objection to that request? If not, it is so ordered.

Mr. DOLE. Mr. President, I take the 2 minutes to determine whether or not amendments filed by Senator Evans—I think he filed a two-page amendment, which is really 17 amendments, but the Parliamentarian has held it constitutes 1 amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I just indicate to the managers of the bill, I support the bill. I would like to support cloture. I cannot do that unless we resolve this question of Senator Evans, a very real question. He offered 17 amendments. The Parliamentarian ruled it is only one amendment. I hope we can resolve that issue before the vote on cloture. I would be constrained and encourage my colleagues to vote against cloture. I would like to vote for cloture. I think we are taking advantage of the situation. It can probably be resolved before that vote.

Mr. BYRD. Mr. President, will the distinguished Republican leader yield?

Mr. DOLE. I will be happy to yield.

Mr. BYRD. Mr. President, I discussed this with Senator Hollings, and there would be no objection to having those amendments numbering 17 offered as separate amendments and having it qualify with the rule. But could we also agree that there would be no second-degree amendments?

Mr. DOLE. I think those are second degree.

Mr. BYRD. Really there should be no amendments to those amendments or are there second-degree amendments filed?

Mr. DOLE. Second-degree amendments have been filed.

Mr. BYRD. Those are timely filed. I have no objection, Mr. President, if the distinguished Senator wishes to make that request.

Mr. DOLE. Mr. President, I need the attention of the Senator from Washington before I make the request. The request would be that amendment No. 2860 will be 17 amendments rather than 1.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. No objection on this side.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

There being no objection, Amendment No. 2860 was renumbered Amendment No. 2860-A through Amendment No. 2860-Q.

EXECUTIVE SESSION

CONVENTIONS ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT AND ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY, WITH DECLARATIONS ON THE PART OF THE UNITED STATES—TREATY DOCUMENT NO. 100-4

AMENDMENT TO THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY—TREATY DOCUMENT NO. 99-7

INTERNATIONAL NATURAL RUBBER AGREEMENT—TREATY DOCUMENT NO. 100-9

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now go into executive session to consider Executive Calendar Nos. 11, 12, and 13.

All time having expired, the question is on agreeing to the resolutions of ratification. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DeConcini] is necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DeConcini] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. Hatfield] and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 97, nays 0, as follows:

[Rollcall Vote Nos. 311, 312, 313 Ex.]

YEAS—97

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford

Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—3

DeConcini
Hatfield
Stafford

The PRESIDING OFFICER. Two-thirds of the Senators voting having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

CONVENTIONS ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT AND ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY, WITH DECLARATIONS ON THE PART OF THE UNITED STATES—TREATY DOCUMENT NO. 100-4 [ROLLCALL VOTE NO. 311]

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, done at Vienna on September 26, 1986, subject to the following declarations on the part of the United States of America: "With respect to the Convention on Early Notification of a Nuclear Accident."

As provided for in paragraph 3 of article 11, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article. "With respect to the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency."

In accordance with paragraphs 3 and 4 of article 2 and paragraph 2 of article 7, the United States declares that reimbursement of costs is among the terms of assistance it may provide unless the United States explicitly specifies otherwise or waives reimbursements.

With respect to any other state party that has declared pursuant to paragraph 9 of article 8 that it does not consider itself bound in whole or in part by paragraph 2 or 3, the United States declares pursuant to paragraph 9 that in its treaty relations with that state the United States does not consider itself bound by paragraphs 2 and 3 to the same extent provided in the declaration of that other state party.

With respect to any other state party that has declared pursuant to paragraph 5 of article 10 that it does not consider itself bound in whole or in part by paragraph 2 or that it will not apply paragraph 2 in whole or in part in cases of gross negligence, the United States declares pursuant to paragraph 5 that in its treaty relations with that state the United States does not consider itself bound by paragraph 2 to the same extent as provided in the declaration of that other state party.

As provided for in paragraph 3 of article 13, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article.

AMENDMENT TO THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY—TREATY DOCUMENT NO. 99-7 [ROLLCALL VOTE NO. 312]

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to acceptance of an amendment to paragraph A.1 of Article VI of the Statute of the International Atomic Energy Agency, as amended, relating to the composition of the Board of Governors, which was approved by the Agency's General Conference on September 27, 1984.

INTERNATIONAL NATURAL RUBBER AGREEMENT—TREATY DOCUMENT NO. 100-9 (ROLLCALL VOTE NO. 313)

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Natural Rubber Agreement, 1987, done at Geneva, March 20, 1987, and signed on behalf of the United States on August 28, 1987.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolutions of ratification were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of legislative business.

TEXTILE AND APPAREL TRADE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on the motion to invoke cloture, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill S. 2662.

Senators Ernest F. Hollings, Harry Reid, J. Bennett Johnston, Paul Simon, J.J. Exon, Daniel P. Moynihan, Claiborne Pell, Wendell Ford, Carl Levin, Bill Proxmire, Strom Thurmond, John J. Rockefeller, Terry Sanford, David Pryor, John C. Stennis, Richard Shelby, Quentin Burdick, George Mitchell, Jesse Helms, and Tom Daschle.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 2662, a bill to remedy injury to the U.S. textile and apparel industries caused by increased imports, shall be brought to a close? The yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted: yeas 68, nays 29, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—68

Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Gore
Graham
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—29

Adams
Armstrong
Boschwitz
Chafee
Danforth
Durenberger
Evans
Garn
Glenn
Gramm
Grassley
Hecht
Humphrey
Karnes
Kassebaum
Lugar
Matsunaga
McCain
McClure
Murkowski
Nickles
Packwood
Pressler
Quayle
Simpson
Stevens
Symms
Wallop
Wilson

NOT VOTING—3

DeConcini
Hatfield
Stafford

The PRESIDING OFFICER. On this vote, the yeas are 68, the nays are 29, three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 465

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the majority leader is recognized.

Mr. BYRD. Mr. President, I think it is agreed between the two leaders and Members on both sides that the following request be agreed to. I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 465, a resolution welcoming back our distinguished colleague, Mr. BIDEN; that there be 20 minutes of debate thereon, 10 minutes under the control of Mr. ROTH and 10 minutes under the control of Mr. KENNEDY on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RETURN OF SENATOR JOE BIDEN TO THE SENATE

The PRESIDING OFFICER. The Senate will now consider Senate Resolution 465, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 465) concerning the return of Senator Joe Biden.

Mr. ROTH. Mr. President, I am delighted to stand today and to address my resolution to officially welcome back my good friend and distinguished colleague, Senator Joe Biden. As we all know, Senator Biden has boldly recovered from two life-threatening aneurysms, following successful surgery at Walter Reed Medical Center. We are all pleased that he has been given a clean bill of health by his medical doctors.

As a Member of the Senate, I am pleased that my distinguished friend and colleague has returned. His influence, intellect, and activity on this floor has been sorely missed. And as a Delawarean, I am also pleased to add my voice to the throng of others among my fellow citizens in saying: We're happy you're back, Joe. I know that despite party politics, or ideological affiliation, since February of this year when the night lights burned in thousands of homes across Delaware, our wonderful families were praying for the speedy recovery of their Senator.

Though Joe and I agree on many things, we also disagree on others, but on one thing we stand inseparable—that is in our desire to serve the people of the first State. From Sussex to Kent to New Castle, Joe's energy and dedication to the people is well known and appreciated.

Most recently, his desire to serve thrust him onto the world stage and under the spotlight scrutiny of the press. Through it all, his poise and courage reflected a man called to serve. As Ernest Hemingway would say, it reflected grace under pressure. And Delaware was proud.

On December 1, 1783, the famed English statesman, Edmund Burke paid tribute to Charles James Fox for his attack on the East India Co. His words, though more than 200 years old, can also be used to pay tribute to the man we honor with this sense of the Senate resolution. He said:

> He well knows what snares are spread about his path, from personal animosity and possibly from popular delusion. But he has put to hazard his ease, his security, his interest, his power, even his popularity.
>
> He is traduced and abused for his supposed motives. He will remember that obloquy is a necessary ingredient in the composition of all true glory; he will remember that calumny and abuse are essential parts of triumph. He may live long, he may do much. But here is the summit.

Mr. President, because of the dynamic personality Senator Joe Biden demonstrates on the floor of this hallowed Chamber; because of his long service to the great people of Delaware—and to the people of the United States; because of the strength of his character to doggedly pursue the course of public service that he set for himself, despite the opposition along the way; because of the strength of his mind and body to overcome the threats these aneurysms represented to family, life, and service; and because I am just plain happy to have Joe back, I have submitted this sense of the Senate resolution and asked for its immediate consideration.

Mr. BYRD. Mr. President, on behalf of my colleagues on this side, I join with Senator Roth and others on the other side of the aisle in welcoming back our distinguished colleague, Joe Biden. He has been missed and we are all delighted that he is back with us. He is the chairman of the Judiciary Committee and he does an excellent job there, as we have seen, in his fairness, his integrity, and his dedication to duty many, many times over repeatedly.

Mr. President, as the leader on this side of the aisle, I have truly missed Joe Biden. We only have 54 Democrats, as we know. With Joe's absence, we were left with 53, and 2 of our colleagues were running for President for quite a while, so that left us with 51. And the majority cannot get much thinner than that. But I know that Joe Biden was with us in spirit.

There is one thing about Joe. When he was running for President he always said to me: "When you need me, Leader, let me know and I will be there." That was the kind of spirit that he displayed in those days and that is typical of Joe Biden.

So I am going to bend the procedures just a little bit here and say: Welcome back, Joe. We are all delighted to see you and see you looking so well, so hale and hardy and strong. We look forward to your being back at the helm of the committee which has been ably run by Senator Kennedy, Senator Metzenbaum, and others in your absence. But, just as there is no place like home, there is no hand on the helm like the chairman's hand, Joe Biden.

Mr. President, I yield as much time as he may require to the distinguished President pro tempore, Senator Stennis.

Mr. STENNIS. Mr. President, I have just been downstairs. I got the wrong information. I thought you were down there and you were up here. I am delighted to get here and have a chance to say a few words.

If I may refer to the first days that you were here, I was correct when I said he is a comer. I felt like he enjoyed his work, and that is one of the first essentials. You cannot stay here long unless you enjoy your work to some degree. But you enjoy yourself to an unusual degree, and it is a great asset in public life.

I commend you highly for your attitude and for your ability and for your willingness to use that ability, generously and graciously.

I love the concept of the U.S. Senate, and I am proud of the purposes that it served all these, over 200, years. It takes men like you, with purposes like you have, a willingness to work, sacrifice, and then do it all over again, if necessary. That is what makes our system go.

I am one of your constituents to a degree. You came down to my home State, once. I remember our people received you with open arms, and received the attitude, what you said, the fine spirits that you had. And I bring you greetings from them. They always ask about you whenever I go home. I am pleased with that.

So, again, I appreciate you very much as a fellow Member of this body and you have meant something to me. Helpful, but the big story is that you have done things that will help our great Nation and our people and our system, our system of government.

May God bless you and continue to watch over you and give you strength for your work.

Mr. BIDEN. Thank you.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, when both Joe Biden and I were much younger in this Senate we shared hallway space on the sixth floor of the Dirksen Building. When you are on the same hallway you are frequently riding to votes, walking to votes, with whoever your hallmate is, and Joe and I got to know each other quite well in a short period of time.

I well remember in the summer, of 1973, it must have been, I would say, Joe, when my staff went up to the Senator's place in Wilmington for a Saturday afternoon staff party, joint staff party, with the two staffs, in which the afternoon centered around tough, fair, what was called touch football. It was "touch" in name only. But it was tough and it was fair. And Joe and his brothers and Joe and his sister, Valerie, were as decent a competitor as you could have; tough competitor.

But, without question, they intended to win. And without question we intended to win. I cannot remember, I have not got the foggiest idea now which of us won. We both won, probably. But the hallmark of what I saw that afternoon with Joe is what I have seen on the Senate floor in the ensuing 15 years, tough, fair, intending to win.

I would sooner debate one Joe Biden, and know that I will be pushed to the wall and have to defend every thought, have to put up with his absolutely unsurpassable humor in the midst of a serious debate, when humor can do more to defeat you than all of the arguments that an opponent might muster—I would sooner deal with that and debate with him and fight with him and on many occasions join with him than with a dozen lesser lights. And the Senate has been a lesser place in the last 9 months while he has been gone. It will be a much greater place when he is now back and I welcome him with open arms and look forward to some of that continued tough, fair, competition.

The PRESIDING OFFICER. The Senator from Delaware, Mr. Roth.

Mr. ROTH. Mr. President, I yield to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts, Senator Kennedy.

Mr. KENNEDY. Mr. President, just a few moments ago I think we saw one of the rare moments in this institution, ones which I think all of us who have the opportunity to share them, value very highly. That was a real outpouring of affection and respect and care for one of our very fine Members who has been absent too long, my very good friend and our chairman of our Judiciary Committee, Joe Biden.

I said down there, when we were with our colleagues from both sides of the aisle, that on both sides of the aisle all of our colleagues have been asking: Where is Joe? Because all of us have missed him. We know where he has been. He has been recuperating. But we are all a better institution because of his return here to the U.S. Senate. He is back where he belongs, as the chairman of the Judiciary Committee, where he presides with such effectiveness and fairness and devotion to duty and protecting and advancing the rights and liberties of all the people of this country. I know this is a great day for the institution of the Senate. I know it is shared by his wife Jill and his wonderful family, who were such sources of strength and courage during these very difficult times, and I join with those saying: Welcome back, Joe. You are where you belong. Thank you.

Mr. HOLLINGS. Mr. President, I was momentarily off the floor, but I understand we are welcoming back my good seatmate and very close friend, our distinguished Senator, Joe Biden, of Delaware. I really have missed him because we argue and then we concur and I learn. He has got the best balanced, measured judgment of perhaps anyone in this body.

We are all talking about a balanced budget. I think we need more balanced Senators. The distinguished friend from Delaware has really made a tremendous contribution. I prayed for his recovery and will continue to do so. I had a member of my own staff subjected to the same threat that very fortunately got up to London, Ontario, where they have the classes on this particular kind of surgery. So I followed with those doctors there and everything else, our doctors out at Walter Reed, and I was delighted to hear of the tremendous progress. A miracle has occurred. I know Joe Biden would be the first to recognize that. I know the body is blessed to have him back. I know I will start having a better time. I am tired of sitting back there and now that they have the rail, I will not have anybody to talk to unless Joe comes back.

I welcome him back to this body. He is a friend and great Senator, and we are delighted, Joe, to get you back.

The PRESIDING OFFICER. The Senator from Delaware [Mr. Biden].

Mr. BIDEN. Mr. President, parliamentary inquiry. I look for guidance from the Chair and leader. I have never been in this position before and I do not know whether it is appropriate for me to make a brief response now. Is it appropriate?

Mr. BYRD. Yes, it is.

The PRESIDING OFFICER. The Chair would state that we all welcome you back with warm and open hearts and the Chair would be very pleased to recognize the Senator from Delaware [Mr. Biden]. Welcome back, Joe.

Mr. BYRD. Mr. President, I ask unanimous consent the Senator from Delaware may have as much time as he needs and wishes in which to respond.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Delaware.

Mr. BIDEN. I thank the Chair and I thank my colleagues. I will not take much time because there is too much important business of the Nation beyond my expressing my gratitude and warm feeling I have about coming home. It is hard for me to believe that I have been in the Senate for 15 years already and without going through and responding to each of my colleagues and what they said, very briefly when I was in the hospital the only one of my colleagues I saw, because he was also in the hospital, was Senator Stennis. And to think that I would be, one day, on the floor of the U.S. Senate being paid such accolades by such a man of character and courage as John Stennis is beyond any expectation that I ever had in my wildest dreams. I mean that sincerely.

Out at Walter Reed, which is an incredible institution, I do not mean to sound melodramatic, but there is no question that the doctors and their skill and the grace of God are the two things that saved my life. When you go into Walter Reed, ward 72, they speak almost in hushed tones of John Stennis. There are more stories from the nurses, the orderlies, and the doctors about what incredible courage and stature and character that man has. So, I say to you, Senator Stennis, for you to say the things you said to me in front of my mother and father is something that I will never forget.

Also, for the warmth and affection, genuine affection that was shown by my senior colleague, Senator Kennedy, who came to see me, who—as a matter of fact, I am a little worried. The Judiciary Committee ran a heck of a lot better in my absence. And we disagreed less in my absence.

But I want to thank him for not only the affection he has shown but for literally looking out for my interests, as he has in my absence. And to Senator Bob Packwood. Bob, I do not remember who won that game, but I do know that I, also, learned something and that is that this place is one, notwithstanding our busy, diverse schedules, that can, in the most unusual circumstances, foster genuine friendships. And we do not often get an opportunity because of our mutual schedules. We spend a lot of time with one another. The fact of the matter is that those friendships formed are ones that last. I appreciate your kind words, and coming from one of the most skilled debaters in the entire U.S. Congress in the 15 years I have been here, it is a high compliment for you to say what you said.

Fritz Hollings took care of me for a long time. He took care of me in 1973 literally under similar circumstances, and he is always looking out for me. I am continuing to count on him. The reason I sit in this seat is because I have to have someone to lean on who is big enough to take the shots. He has taken the shots and has taken them for me and with me, and I appreciate his comments also.

And, leader, you have been extremely generous in, again, protecting my interests and looking out for my concerns, both in my absence previous to last September and my absence since February. You are a man of your word who has always gone out of his way to come to my aid and assistance when I have been in need.

Lastly, let me say to Bill Roth—it will probably get us both in trouble—Bill Roth has become a close personal friend. Bill Roth and I, in a sense, made an unwritten agreement years ago that we would both work for the interest of our State and neither would do anything that would in any way attempt to undercut the other's efforts in that regard. Little did I know many years ago that it would turn into a genuine friendship. Bill Roth has been generous to me beyond what I can express here on the floor, and the resolution and the contents of the resolution, Bill, are, in fact, unwarranted and unneeded, but much appreciated.

What is appreciated most of all is your close friendship. It is rare, I guess—I think it is not rare, but the idea of coming to the U.S. Senate and serving with a man of very different philosophic points of view on many subjects and of a different political party and never once in our entire relationship ever has a crossword passed either of our lips relative to one another is something I feel particularly fortunate in being blessed with a colleague from my State who feels that way about me as I do about him.

I do not want to say more because if I say more, it may be the Irish in me will creep out and maybe become a little too sentimental. But the fact of the matter is I remember a comment that was made a long time ago in another context. It was a comment made in a speech by DANIEL PATRICK MOYNIHAN. I do not remember the exact quote, Senator MOYNIHAN. It went something like this: "To fail to understand that life is going to knock you down is to fail to understand the Irishness of life." It was said more eloquently than that.

In the last 18 months, I learned that. One of the things I also learned is that friends make a difference. Having a place where you want to be makes a great difference and having the feeling that if you come back to the place that you want to be that you are going to be welcomed makes even more of a difference. You, my colleagues, in several difficult times in my life over the last year have stood up for me and with me on both sides of the aisle. It is much appreciated. It will never be forgotten. I still probably will not vote with half of you as we go down the line here, but I will not forget the sentiments expressed and support given over the last year for me. It means a lot. Thank you very much.

(Applause.)

The **PRESIDING OFFICER**. The question occurs on agreeing to the resolution, Senate Resolution 465.

The resolution (S. Res. 465) was unanimously agreed to.

The resolution reads as follows:

S. RES. 465

Resolved that as Joseph Biden returns to the United States Senate, after a six month absence to recuperate from surgery, his fellow members in the Senate of the United States extend their warmest welcome and personal happiness as well as their very best wishes for his continued good health.

TEXTILE AND APPAREL TRADE ACT

The **PRESIDING OFFICER**. The clerk will report the bill, S. 2662.

The legislative clerk read as follows:

A bill (S. 2662) to remedy injury to the United States textile and apparel industries caused by increased imports.

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The Senator from Texas.

Mr. GRAMM. Mr. President, I make a point of order that the pending bill violates the U.S. Constitution in that it is a revenue-raising bill originating in the Senate. The Senate has upheld such points of order in the past, and I hope that they will do it now. Article I, section VIII of the Constitution states, "All bills for raising revenue shall originate in the House of Representatives."

On March 28, 1935, the RECORD contains a precedent involving this question. On pages 4584 through 4613, for another example, on January 16, 1924, the Senate voted that S. 120 to provide a tax on motor vehicle fuels in the District of Columbia was a violation of the constitutional provision on revenue.

Just as in the prior examples, this bill also should be ruled out of order by the Senate. I urge my colleagues to uphold the Constitution, which prohibits revenues bills from originating in the Senate, and to vote to rule this bill out of order.

Mr. HOLLINGS addressed the Chair.

The **PRESIDING OFFICER**. Under the precedents of the Senate, points of order involving constitutional points of order are submitted to the Senate for debate and for decision.

The Senator from South Carolina seeks recognition.

Mr. HOLLINGS. Mr. President, I appreciate the distinguished Presiding Officer for his ruling and, of course, for recognizing me. The point of order is premature. Everyone knows in this body—and we have now had 68 votes—we have been debating this matter for a full year since the House bill came over. They understand the mechanics of what has just occurred. We had a bill in the Finance Committee, and we had the delightful opportunity of putting it on a revenue raising bill in the Finance Committee, namely the trade bill.

It was agreed at that time to keep textiles off the trade bill because it could have caused a veto; a similar measure had been vetoed in 1985 by the President of the United States. The agreement was that we would have the textile bill reported separately without recommendation. Thereafter, in order to forego a lot of the amendments and the various motions to proceed to the bill, which has already now been answered by our colleagues with the overwhelmingly majority 68 votes for cloture, we put the bill under rule XIV to have it voted upon and then substituted for the House bill.

The House bill passed in September of last year. It is at the desk. This is just like a second reading. If we do give it a third reading, then it would be the intent of the managers of the bill to move that it be substituted for the House bill. That would be the appropriate time. Really it is an appropriate point, of course, for the other body to make because if we start making that point and upholding it, then we almost get gridlocked within our Finance Committee. They find themselves many, many times in the position of having now to raise the revenue in the consequence of our Budget Act.

As the former chairman of a Budget Committee would understand, any time you effect revenue, then under another rule this is not in violation of the Constitution, this is not in violation of the rules but, rather, in order to comply with those rules we find ourselves in this position. So the point is made in appealing to the Chair and our colleagues of the body that on constitutionality, if the question is put by the Chair, we vote aye, because it is the intent and there are no monkeyshines about handling the bill and all to substitute it for the House-passed measure, on the point that the distinguished Senator from Texas is now making about all revenue measures under the Constitution derive from the House of Representatives.

Mr. SANFORD. Mr. President, I rise in strong support of S. 2662, the Textile and Apparel Trade Act and thank my colleagues for their overwhelming vote to bring this bill to the floor, 68 votes indicate we can override the President's expected veto. It is high time that the Senate pass this bill. Indeed, 8 years ago, when he was running for the office of the President, Ronald Reagan promised the 2.2 million textile and apparel workers of this country that if elected, he would relate the amount of growth in textile and apparel imports to the amount of growth in the domestic market for these products. The day has finally come for the Senate to make good on the promise that this administration has utterly failed to keep. If President Reagan had kept that promise, imports would have grown about 1 percent per year. Instead, they have doubled since 1980.

The unrestricted flow of imported textiles, apparel and footwear into the United States must be curtailed immediately, or one of this country's largest and most important manufacturing industries will be fatally damaged. Indeed, this bill is crucial to the lives and long-term economic stability of the over 350,000 fiber, textile and apparel workers in my homestate of North Carolina.

Most foreign producers of textiles face labor costs so far below those of American manufacturers that they would be expected to sell their goods at prices well under those that U.S. companies must charge. But the U.S. textile and apparel industry has not sat back and watched this tide of imports from low-wage countries simply wash over them. Rather, they invested over $18.9 billion in new capital spending to modernize their plants and have the lowest work/time per product of any country in the world.

But despite these heroic efforts of our domestic workers, imports have captured huge portions of both the apparel and footwear markets in the United States. We cannot let an uninhibited invasion of foreign textiles continue, as this industry is far too vital to the American economy.

IMPORTS HAVE TAKEN CONTROL OF OUR DOMESTIC TEXTILE MARKET

In the last 7 years, imports have taken unprecedented shares of the American textile market. Since 1980, imports have nearly doubled their stake in the apparel and apparel fabric market, as they hold 55 percent of a market in which they controlled only 28 percent just 7 years ago. Equally alarming is the fact that foreign-produced shoes account for 82 percent of the American footwear market, up from 50 percent in 1980. If these trends continue without restrictions, in just 5 years imports will control 90 percent of the apparel market, while American footwear manufacturers will be on the verge of extinction.

Mr. President, the American textile, apparel, and footwear workers have waited far too long for this legislation. They have done their part in addressing the trade deficit by consistently improving their productivity, efficiency and the level of their exports. Now it is time for the Congress to do its part to preserve this essential domestic industry. I strongly urge my colleagues not to turn their backs on the 2.2 million textile and apparel workers in this country. It is time to stand up for American workers and time to pass the Textile and Apparel Trade Act.

Mr. **GRAMM** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Texas.

Mr. **GRAMM**. Mr. President, it was my understanding that points of order under cloture were not debatable. Since the distinguished Senator from South Carolina spoke at length, I would like to state very simply one thing and then relinquish the floor.

Mr. President, the Constitution is very clear on this issue. The Constitution says all bills for raising revenue shall originate in the House of Representatives.

We are already operating under extreme circumstances on this bill. Not one amendment has been offered, no real debate has occurred, and yet we have already imposed cloture. Now we are in the process of violating article I, section 7 of the Constitution of the United States.

I am going to insist that we have a rollcall vote. I hope my colleagues will not let politics override our obligation to uphold the Constitution of the United States. There is no doubt about the fact that unless this were later fixed, the courts would strike this bill down. But this violates the fundamental rule of the U.S. Senate, and the fundamental rule of the U.S. Senate is that no other rule of the Senate overrides the Constitution. So I urge my colleagues to uphold the point of order.

Mr. **HOLLINGS** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from South Carolina.

Mr. **HOLLINGS**. I move to table the point of order and I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on agreeing to the motion of the Senator from South Carolina to table the point of order raised by the Senator from Texas. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. **CRANSTON**. I announce that the Senator from Arizona [Mr. DeConcini] and the Senator from Hawaii [Mr. Matsunaga] are necessarily absent.

Mr. **SIMPSON**. I announce that the Senator from Oregon [Mr. Hatfield], the Senator from Indiana [Mr. Lugar], and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The **PRESIDING OFFICER** (Mr. Conrad). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 24.

[Rollcall Vote No. 315 Leg.]

YEAS—71

Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Domenici
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—24

Adams
Armstrong
Boschwitz
Chafee
Dole
Durenberger
Evans
Garn
Gramm
Grassley
Hecht
Humphrey
Karnes
Kassebaum
McCain
McClure
Nickles
Packwood
Pressler
Quayle
Simpson
Symms
Wallop
Wilson

NOT VOTING—5

DeConcini
Hatfield
Lugar
Matsunaga
Stafford

So the motion to lay on the table the point of order was agreed to.

Mr. **HOLLINGS**. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. **BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **DIXON**. Mr. President, I yield one-half hour of my time to the distinguished Senator from South Carolina.

Mr. **HOLLINGS**. I thank my distinguished colleague.

Mr. **CHILES**. Mr. President, I yield one-half of my time to the Senator from South Carolina.

Mr. **HOLLINGS**. I thank the Senator from Florida.

AMENDMENT NO. 2881

(Purpose: To provide that the textile quota shall not apply in any year in which the domestic industry has an above-average return on its assets)

Mr. **PACKWOOD**. Mr. President, I have an amendment at the desk, No. 2881, which I call up.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. Packwood] proposes an amendment numbered 2881.

Mr. **PACKWOOD**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 5 and 6, insert the following:

(3) Notwithstanding any other provision of this Act, the limitations imposed by this Act on the aggregate quantity of textiles and textile products that may be entered in any calendar year shall not apply if the Secretary of Commerce determines that the average return on assets of firms in the United States that manufacture textiles, or of firms in the United States that manufacture textile products, for the calendar year preceding such calendar year exceeds the national average return on assets of all manufacturing industries in the United States for the calendar year preceding such calendar year.

Mr. **SARBANES**. Mr. President, will the distinguished Senator from Oregon yield?

Mr. PACKWOOD. I yield, and then I will yield to the Senator from Georgia.

Mr. SARBANES. Mr. President, I yield a half hour of my time to the manager of the bill, Senator HOLLINGS.

Mr. NUNN. Mr. President, I yield a half hour of my time to the Senator from South Carolina on this bill.

Mr. HOLLINGS. I thank the Senators.

Mr. SANFORD. Mr. President, I yield 30 minutes to the Senator from South Carolina.

Mr. BYRD. By unanimous consent.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

Mr. PACKWOOD. Mr. President, my amendment is a relatively straightforward and simple amendment.

The argument has been made that the textile industry has been devastated, that it is losing its profits, that it is going to go out of business. My amendment provides that the proposed quotas and limitations in the bill will not go into effect if the textile industry is more profitable than the average of other manufacturing industries in the United States.

Most industries in the United States do not get protection from the Government with respect to quotas, regardless of whether profitable or not. If indeed I am correct—and I think I am correct—that the textile industry has been immensely more profitable by any standard——

The **PRESIDING OFFICER.** Will the Senator suspend?

Let us restore order in the Chamber so that the Senator can be heard.

Mr. PACKWOOD. If I am correct—and I am quite sure the facts stand reasonably, starkly admitted—that the textile and apparel industries collectively have been significantly more profitable than other U.S. manufacturing industries over the past number of years, they have no need for protection.

My amendment says that if the Secretary of Commerce determines that the average profitability of firms in the U.S. textile and apparel industry exceeds the national average return on assets of all manufacturing industries in the United States for the preceding year, then the limitations of the textile and apparel bill would not apply.

Mr. President, I have indicated that there are a number of ways you can determine profitability. One is profitability on stockholders' equity. In 1986 in the textile industry, that profitability was 13.1 percent. In 1986 for all other manufacturing industries, it was 9.5 percent. In 1987 for the textile industry, it was 15 percent. For all other manufacturing industries, it was 13 percent. That is one way of determining profitability.

The more common way is called return on total assets, and that is the method my amendment uses. On a return on total assets, it shows the same thing as the profit on stockholders' equity. In 1986 for the textile industry, it was 6.1 percent. In 1986 for all other manufacturing industries, it was 4.3 percent. In 1987 for the textile industry, it was 6.4 percent. For all other manufacturing industries in 1987, it was 5.6 percent.

Mr. President, every one of us has industries—mine happens to be the timber industry—that we would like to protect, I suppose, against foreign competition. We think: If we can just protect the industry in our State, which is an exception to the normal concept of attempting to open markets worldwide, if we can protect our industry and leave the rest wide open to competition. Of course, we all come from different States, whether it is North Dakota, South Carolina, or Oregon, and naturally we defend our constitutents and put blinders on. We do not think that the protection of our industry violates any kind of normal philosophical concept of wider markets.

I cannot go home and say to my burgeoning electronics industry—and it is burgeoning, although it has to compete with Japan and Singapore—or to my timber industry, which is gradually beginning to expand into more foreign exports on finished lumber but is having a tough time in competition with Canada and others—I cannot say that we gave protection to the textile industry, and their employment has gone up 30,000 and their profitability and productivity are greater than my industry, and we have given protection to the textile industry.

I do not want to mislead anybody. I think this is a bad bill, with or without this amendment. All I am trying to do with this amendment is to say that if the textile industry is more profitable than the average of the rest of the U.S. manufacturing industries, then the quotas and limitations in this bill would not apply. That, to me, at a minimum, would seem to be what we ought to require, or else we are saying to the textile industry: "You are an exception; you are exclusive. You will get protection regardless of your profitability, regardless of your increase in employment, regardless of your dramatically increasing exports." You will get protection, even though industries doing worse, suffering greater unemployment in States with greater unemployment, industries with lower profitability get nothing.

So I think from a standpoint of fairness, Mr. President, this amendment should be adopted.

The **PRESIDING OFFICER.** Is there further debate?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let us get right to the point on this issue of the increase in jobs and the loss of jobs.

My figures are from the Bureau of Labor Statistics, and they are impeccable.

As I stated, Senator THURMOND and I in our "Dear Colleague" letter in early August, just 1 month ago, before we left town, quoted the figure of the Bureau of Labor Statistics at 21,000 textile jobs lost in 1988.

Since early August, however, the Edisto plant that employs 1,000 in Orangeburg has closed, as has the Greenwood Mill and several others across the country.

So let us not have misinformation passed off as accepted fact. U.S. textiles are going out of business, and jobs are the name of the game.

I have stood here in the Senate until 1 o'clock in the morning debating a $5 billion bill to create jobs for minorities and women. We are ready to pay for those jobs, just dole out from the public till. Of course, there was no money in the public till. We went down and borrowed it because the Finance Committee has not passed any taxes recently.

So what we do is go and borrow the money and just pay people to get work.

In contrast, textiles are a basic industry, critical to our national security, the greatest employer of women and minorities, and we are cavalierly kissing off the jobs and, unbelievably, we are told by my distinguished colleague that we are actually increasing jobs. Jobs, not profits. Such a claim, frankly, shows an unawareness of the cyclical nature of textiles.

I can tell you categorically that this is a cyclical industry. It operates between peaks and valleys, you go up and you go down. Indeed, that has been our trouble. As a Governor 25 years ago I went with our colleague, Senator HATFIELD, soliciting jobs for what we call the underemployed. The underemployed include textile workers who may work 6 days a week and then get layed off in a plant closedown. Right now, we are going back down into the valley. We were at a peak last year. We are going back into the valley now for the next 2 or 3 years and they are laying off many thousands.

I ask unanimous consent that the following list of textile plant closings and layoffs thus far in 1988 be included in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

1988 TEXTILE PLANT CLOSINGS AND PERMANENT LAYOFFS

Company	City or plant	Number of employees
United Merchants & Manufacturers.	Clearwater, SC	500
American	Orange, VA	45

1988 TEXTILE PLANT CLOSINGS AND PERMANENT LAYOFFS—Continued

Company	City or plant	Number of employees
SCT Yarns	Chattanooga, TN	280
Division of Mount Vernon Mills	Fries, VA	[1] 164
Burlington	Batesburg, SC	325
Coats & Clark	Ashburn, GA	150
Emple Knitting Mills	Brewer, ME	250
Ware Shoals	Ware Shoals, SC	155
Wiltex	Orangeburg, SC	43
Burlington Industries	Mountain City, TN	[2] 350
Do	Caroleen, NC	[2] 250
Dartmouth Woolen Mills, Inc.	Claremont, NH	[2] 35
Doran Textiles Inc	Shelby, NC	[2] 6
Graniteville Co	Graniteville, SC	[2] 4
Mount Hope Finishing Co	Butner, NC	[2] 12
Grunwood Mills	Orangeburg, SC	[2] 300
APPAREL PLANT CLOSINGS		
Londontown Manufacturer	Powell, TN	[4] 113
Healthtex	Central Falls, RI	325
Farah Manufacturing	El Paso, TX	365
Healthtex	Cumberland, RI	250
Do	Central Falls, RI	350
Bayly Corp	Visalia, CA	496
Lee Apparel	Broadway, VA	367
Coward Manufacturers	Coward, SC	16
Starlight Textile Co	McColl, SC	60
Clinton Garment	Clinton, IA	110
Omni Sport	Woonsocket, RI	40
FOOTWEAR PLANT CLOSINGS		
Bates Shoes	Webster, MA	220
Viva Shoe Co	New York, NY	
Kenney Shoes (J.B. Stewart)	Glenville, WV	200
International Shoe Co	Marshall, MO	[5] 324

[1] Effective October 1988.

[2] Layoffs.

[3] [December] announced August.

[4] 53 more gone by October.

[5] Closing in September.

What this bill offers the U.S. textile industry is a vital degree of certainty and predictability as to our Government's policy toward textile imports. Without that confidence in our Government's policy, the industry is reluctant to continue its investment and plant modernization. If the prospect is that a flood of imports will sweep away domestic U.S. textiles, there is no incentive to invest further in a doomed industry.

If you have a bill that says you must wait for some auditor to come around and say, "Well, you made a profit, and, therefore, the bill does not apply," you cannot tell what is going to happen. Always you are seeking a profit.

So what do you do? You try to make a profit or you try to continue the particular policy because if you do not continue the particular policy, you lose your plant. You are on the horns of a dilemma.

This is another in a line of spurious amendments about constitutionality. Let no Member be misled into thinking that he or she is going to vote for big profits unless you vote for the Packwood amendment. Not at all.

I am prepared to yield to my senior colleague or, at the appropriate time, move to table this particular measure.

But what we have here is a cyclical industry, and we are down in that valley now and we would certainly qualify. I would not worry in the next year or 2 years or 3 years, and, in fact, if we do not pass this bill I would not worry at all in the next 2 or 3 years because I know, as the London Economist has stated, by 1995, 83 percent of all textiles consumed in America will be imported, just like shoes are now in Oregon. That is where Nike is. They do not make a shoe in Oregon. They import shoes and they bring them in over the docks.

I have a dock. I live on one. My address for years is 2 Boyce's Wharf, Charleston, SC.

I know about trade. But we built up the economic backbone of this country on exports, not imports. You are turning us into a colony. You want to export, yes, your raw materials, your lumber, your wheat, your corn, your soybeans and your coal, and we are going to import all the finished products.

The only trouble is this is the first colony that had to pay for its own defense. The Japanese have colonized us. It seems like they would pay for their defense. We are stupid enough not only to be colonized but to want to pay for it and when we try to save a basic industry along comes an amendment like a minute ago that says you ought to be tickled to death when you get unemployment; now it says you ought to be tickled to death under this measure when you do not make a profit.

I am ready to move to table the amendment, but I will yield time.

Mr. PACKWOOD. Mr. President, will the Senator from South Carolina yield for just one question so we can get our facts at least right?

The PRESIDING OFFICER. Does the Senator from South Carolina yield for a question?

Mr. HOLLINGS. Yes.

Mr. PACKWOOD. On my time. I am citing U.S. Department of Commerce statistics that textile and apparel industry employment in 1987 increased by 32,000 jobs. I am only talking about 1 year.

Does the Senator have a different figure from the Department of Commerce or the Department of Labor?

Mr. HOLLINGS. We have the latest figure. I am reading from the Daily News Record September 6. I am talking about jobs this year; employment in the apparel industry, dated September 6, 1988. Employment in the apparel industry in August totaled 1,091,000, a decline of 1,000 positions from July and 7,000 from August; jobs total of 1,098,000 employment in the textile industry last month amounted to a seasonably adjusted 721,000 jobs. This is from the Bureau of Labor Statistics.

Mr. PACKWOOD. I am talking about 1987 for the full year, and I am talking about textile apparel.

Mr. HOLLINGS. Textile and apparel is the figures we use when we said textile; that is right. We use them both. We agree on that.

Mr. PACKWOOD. I have a 32,000 job increase figure in 1987.

Mr. HOLLINGS. I have a 31,000 decrease in 1988, and we are not through the year.

Mr. PACKWOOD. All right. I just want to make sure we are not talking apples and oranges.

Mr. HOLLINGS. That is right, do not talk apples and oranges. That is what I mean.

Mr. PACKWOOD. When my good friend from South Carolina said what they have to have is certainty, that is indeed what this bill is, and that is what this is designed for.

You know, the market system is not about certainty. The market system is about uncertainty and competition and taking a chance and if you do not do well you sometimes go bankrupt and if you do very well you make great profits, and the companies that are best managed and the most competitive and the most productive are the ones that do well, but if what you want is certainty, what you want to do is go back to the Coal Baron and mercantile system. The Government will give one franchise out for textiles and protect it, one franchise out for lumber and protect it, and you will get certainty and you will be guaranteed a profit year after year after year.

We used to have that, Mr. President, in the trucking industry in this country until deregulation of the trucking industry. It did not matter what their costs were and, of course, there was no international competition. It did not matter what their costs were so long as they all paid the same costs. And then you went to the Interstate Commerce Commission, and the Interstate Commerce Commission was required by law to guarantee them a profit. That was certainty, and the very badly managed companies made some profit and the very well managed companies made a great profit. And you know who paid for it? The consumers in this country, every one of them.

Jimmy Hoffa discovered the trick. It did not matter the teamster drivers made $20 or $25 or $30 an hour so long as all of the major trucking companies paid $20 or $25 or $30 an hour and so long as the Interstate Commerce Commission when faced with the tucking industry that said "Our labor costs have gone up 20 percent last year" was required by law to say "Oh, my goodness, your labor costs have gone up. We have to give you 20 percent plus 6 percent profit" and charge every Safeway store and Giant store and every dry goods store and department store in this country more to ship the goods and they pass it on to the consumers.

That is what this textile bill is. It is basically a gigantic Interstate Commerce Commission for the textile industry. It is certainty. It is a guarantee. You will make a profit, and the consumers will pay for it and the poorest consumers will pay the most, will pay the most because it is the goods that they buy that will be the most affected by this bill and because they have relatively small amounts of money, it will be at a much higher percent of their income of $12,000 or $13,000 or $14,000 or $15,000 a year than it will someone who is making $25,000 or $50,000 or $100,000 or $1 million a year.

I do not need to say to this Senate the other repercussions of this bill because there is no question but what this violates all of our so-called multifiber agreements, it violates the General Agreement on Trade and Tariffs, and the other countries of the world will have a legal right to take action against us in the form of compensation or recrimination against our exports, frankly, and some of those in the form of wheat and other grains and lumber are probably going to come out of the hides of my State.

If I was any agricultural State Senator I would have grave reservations about this bill which guarantees profits regardless of ability or management competence to the textile industry at the expense of consumers, especially poor consumers, at the expense of the agricultural States of this country.

Mr. GRAMM. Mr. President, lest somebody come to the conclusion that the textile industry is standing before us naked, lacking protection, threatening to lose the next war because our soldiers are unclothed, let me just state a few facts that I think are relevant to this amendment.

First of all, every time Americans buy a textile product produced overseas, they are paying an average tax of 18 percent in the form of a tariff. That is the highest tariff imposed on any major industry in America. In fact, it is six times higher than the average tariff imposed on all other manufacturing goods combined.

There are 1,500 quotas on textiles in force today—1,500 quotas. Do you want to know what a quota is? A quota is where the Government says that it is illegal for free American consumers to buy textile products that they choose beyond a certain limit. The combination of an 18-percent tax and 1,500 quotas means that the American consumer today is paying almost $30 billion for clothing above what would be paid in any kind of relatively free market.

When we last debated textiles, it appeared that the textile lobby had lost the debate. In reality, they did not lose. The Reagan administration, through the Multi-Fiber Arrangement, imposed more restrictions on textiles. The cost of textiles to the consumer is now rising at twice the rate of inflation. And, much to its shame, although everyone knows it has had every pressure in Congress to do the wrong thing, the Reagan administration is going down on textiles as one of the most protectionist administrations in the postwar period, a situation that historians are going to have to leaven by the fact that we have had runaway protectionism in the Congress. And the reason for the protectionism was made very clear by my dear friend from South Carolina when he talked about how he would like to debate this issue right up to the election.

The problem is the guy I am worried about here is not up for election. He is a guy who is trying to buy clothes for his children, trying to buy shoes for his children. He is producing a product that does not have 1,500 quotas. He is producing a product that does not have an 18-percent tax on foreign produced goods. And we are going to force him to spend almost another $10 billion to buy those shoes, to buy those clothes for his children.

Mr. President, no matter how you figure it, the facts in this case are totally clear. No one has argued that Americans are not paying at least $300 per family and maybe as much as $700 per family more for clothing than they would pay if we did not have all these restrictions. Now, for a U.S. Senator making $89,000 a year, or whatever they are making, maybe that is not a big deal. But I can tell you, to an unemployed pipefitter in Beaumont, TX, that is a big deal. And it is not right.

Now, the facts in this case are pretty clear. We can mess around with how we want to define things, but let me give you some facts that are clear.

First of all, according to the U.S. Department of Commerce, textile manufacturers have seen profits, pretax profits, rise by 69.1 percent since we last voted on the textile bill, more than twice as fast as the growth in profits for all manufacturing, which have gone up by 25.4 percent.

Last year, the pretax return on equity—that is not a debating figure, that is a fact—the pretax return on equity in textiles was 26 percent. Now, my mama sure does not get 26 percent from the savings and loan. My uncles that are in the used car business, they are not getting a 26-percent return on their investment in some old Chevrolet.

Do you know why these returns are 26 percent? It is because we mandated it right here on the floor of the U.S. Senate. We mandated that the working men and women of America were going to be ripped off by a conscious policy of the Federal Government.

Now, Mr. President, I promised myself that I am not going to get all excited and self-righteous on this bill, and I intend to work to see that I do not. But this amendment before us is a very simple amendment. It does not say you cannot rob the working men and women of America. It says go ahead and steal from them, but—but—you can only make that unemployed pipefitter pay more for his children's clothing if the before-tax rate of return on equity in textiles is no greater than average for all manufacturing in America.

No other industry in America has those kinds of protections. But we are saying, all right, let that happen, but do not make the working people pay more money for the gown their mama is wearing at the nursing home, or for the shoes their children are buying to try to go to school, when the before-tax rate of return on equity in the textile industry is 26 percent.

I want to say to my friends in the textile industry, when you come up here and lobby for this bill when your before-tax rate of return last year was 26 percent, you are absolutely shameless. Now there is nothing unusual about being absolutely shameless. It happens here every single day. But nobody who supports this bill ought to stand up and say, "You know, I am not a protectionist. I just want fair trade."

Where is fair trade here? Do you know where the fair trade is? The last time we went down this road we got in a dispute with Communist China about 50 million dollars' worth of textiles. We were going to show them. We were not going to let them sell those $50 million here and sell cheaper clothes that somebody might want to buy. We were going to stomp out that freedom; just, boom, gone.

Do you know what happened? The Chinese said, "All right, we don't sell the $50 million textiles, but we don't buy 699 million dollars' worth of cotton"—699 million dollars' worth of cotton. Well, maybe that made somebody feel good in the textile business, but that cost America one awful lot of jobs.

Mr. President, the amendment before us is about as simple as it can be. If the distinguished Senator from South Carolina is right and things are going to hell in a handbasket in the textile industry, then this amendment will not go into effect. Even though the level of capacity utilization in the textile industry—that is the percentage of plant and equipment that are being used today in the textile industry—is 92 percent, which is the highest of any major industry in America, if the Senator from South Carolina is right that things are going to go to hell, then this amendment is not going to have any effect at all.

But if you vote against this amendment, what you are saying is that no matter how profitable this industry is, we are going to make the working men and women of America pay more for their children's shoes, more for their children's clothes, in order to make it even higher. And I do not think that is right.

So I do not see how anybody, even if he is the most protectionist person you could imagine, could oppose this amendment. This just says, be protectionist when you are not making a normal rate of return. But when you are making a higher rate of return than manufacturing in general, do not pass a law that forces the working men and women of America to lower their living standard and send their children to school without being adequately clothed.

There is a further point I want to make, and I never tire of making it, because it addresses one thing I cannot understand in arguments made for this bill. It is not as if the textile manufacturing States are having tough economic times.

If you take the top five States in America that produce textiles, their average unemployment rate today, as of June 1988, was 4.8 percent. That is 15-percent below the national average. If you take shoes, it is 4.38 percent, which is 25-percent below the national average. In fact, most of the States that are big producers of textiles and shoes have unemployment rates that are half the unemployment rate in my State.

Why should I force the people of my State to pay more for shoes and more for clothes to benefit people in parts of the country that are experiencing unparalleled prosperity? And I congratulate them on that prosperity. I hope it will spread. I would like to see that before-tax rate of return 75 percent. I love to see industry in America improve its profits. But I do not love passing laws that guarantee birds' nests on the ground when the bird nest on the ground means that the eggs get eaten by some fox or bobcat. That is the problem here. So this is an important amendment, and I hope my colleagues will not walk through that door, close their eyes, and say, "Which way am I supposed to vote to help the textile industry?" This amendment helps 240 million Americans who have to buy clothes.

Finally, I hear this argument, that you cannot defend the Nation unless we have got enough drawers for our troops. We have an absolute prohibition, an absolute prohibition in every defense bill we passed, that you have got to buy American textiles for national defense. We pay billions of dollars of the taxpayers' money, unnecessarily, by preventing competition on defense. So, no matter what happens, we will always have a domestic textile industry for defense, because this Congress will not allow the taxpayer to compete in buying textiles—will not allow it, would not hear of it.

If the taxpayer could save money, they will not allow it to happen. So I hope nobody will be confused by that. I yield the floor.

The **PRESIDING OFFICER.** The Senator from South Carolina.

Mr. **HOLLINGS.** I yield such time as necessary.

Mr. **THURMOND.** Mr. President, I have a letter here that answers the Senator to a great extent. This is addressed to me.

> DEAR SENATOR THURMOND: Once again there is to be a vote on the future of the U.S. Textile and Apparel Industries. As in the past, spurious arguments are being heard from those who decry any action by the Government. The arguments are:
>
> Profits are up.
>
> The figures for the first quarter of 1988 compared to the first quarter of 1987 show profits.[1]
>
> | | *Percent* |
> |---|---|
> | All manufacturing | +49 |
> | Automotive | +1 |
> | Electronics | +7 |
> | Textiles | −12 |
>
> [1] Source: Quarterly Financial Report, U.S. Department of Commerce, released June 13, 1988.
>
> Plant Activity is high.
>
> Orders for Textiles have fallen 9 percent in the first four months of 1988. Currently, plant activity is declining.
>
> Quotas have been established to control imports.
>
> This is true only for certain products from certain countries. New sources are being developed faster than new quotas can be implemented.
>
> Overall, the rate of increase of Textiles and Apparel imports has declined. However, this is due as much to the decline in the market as any action taken by the Government. The facts remain clear imports of Textiles and Apparel continue, inexorably, to seize an ever-increasing share of the U.S. market.

Then he goes on to say:

> In Congress, there is debate on the need to reduce the number of people on welfare, yet the Textile and Apparel Industries who can and do provide employment at the entry level for so many are denied the opportunity of doing more. Are we as a country really interested in having the lowest cost (not price) merchandise for the benefit of importers, and then pass the charges for welfare to another account.
>
> Gradually, but surely, foreign suppliers are taking over the U.S. Textile and Apparel Industries just as surely as they have taken 82% of our footwear manufacturing.

Senators know what has happened to the shoe business. The same thing now is happening to the textile business.

> The decision before the Senate is whether these industries are to have a future in the U.S.A., or whether they are to be gradually but surely sacrificed.

Mr. President, I want to say this. The textile industry gives more jobs to the people who are not skilled and more jobs to women than any industry in the United States. It is helping these low-income people. They could not get jobs elsewhere. It is helping these women who could not get jobs elsewhere.

The figures show clearly, as I just stated here for 1987, that all manufacturing is up 49 percent; textiles is down 12 percent.

I yield the floor.

The **PRESIDING OFFICER.** The Senator from Oregon.

Mr. **PACKWOOD.** Based on pretax profits, the textile industry is over twice as profitable as the national average for all of the other manufacturers. Is that not enough, to be twice as profitable as any other industry? And you still want help? How on Earth can you ask for that, and say for our industry alone?

If, indeed, your profits are going down, then my amendment is not going to hurt. If you fall below the national average, this bill is going to be in full effect. If you are above the national average, all we are saying is that you are not going to get special help that agriculture or timbering or electronics or the automobile industry or anybody else does not get.

Mr. **HOLLINGS.** Mr. President, my timber industry profits are up.

Let me say how we do agree. The Senator from Oregon and I agree on the issue of uncertainty in the market. When I talked about certainty, I wasn't talking about the certainty of profits. I was talking about certainty of policy. I was talking about the stability of our Government's policy. Under this bill you are going to have another element of certainty, and that is the certainty of competition. Because what this bill says is those several thousand U.S. textile producers who are still in business will have to compete with all the foreign importers, despite those foreign producers' low standards of living, lack of restrictions on child labor, absence of environmental protection laws, and so on, and so on. Imports will grow along with domestic consumption. So we have got the certainty of competition. This bill does not protect anybody from competition. But it gives certainty—maybe that is a badly-used word—stability of policy.

The Senator from Oregon tells us again and again that an industry must have long-range planning. How are we going to expect a manufacturer to make a long-term investment unless we have some stability of U.S. Government policy.

I agree with the Senator from Texas that, yes, we have had arrangements, all these so-called bilaterals and all the other so-called quotas, and they have not worked. We continue to go down, down, from when President Reagan said he would stabilize U.S. policy, from a $4.7 billion textile trade deficit in 1981 to a $24.8 billion deficit in 1987. And let us not get led down the primrose path about the pipefitter and the poor fellow as compared to the rich Senator. The true figures are those produced by that most eminent of market researchers, the Market Research Corp.

The Market Research Corp. determined in 1985 that the price of domestic-produced apparel was $17.61 compared to the import price of $17.67. The assumption of the argument is that when you bring in an imported article, even though it is produced with cheap labor, you get a cheap article.

You are not saving money for consumers. Back in 1985, we filled up the Senate floor with apparel. I went to Garfinckel's, I went to Herman's Sporting Goods, I went all over town to purchase garments manufactured in the United States and similar garments manufactured abroad. And we proved that there is virtually no price difference. I repeat, according to Market Research Corp., the 1985 retail price was $17.61 for domestic-produced apparel compared to $17.67 for imported.

In 1986, the domestic price of all apparel, $17.30; import price, $17.44.

In 1987, the domestic price, $17.87; the import price of all apparel, $18.09.

It is a retail ripoff for the old pipefitter in Beaumont TX. And you want to continue the rip-off of the pipefitter.

Here, we found a shirt. I knew I had some left in the closet. I was giving them away. This is made in Hong Kong. Is that Lord and Taylor? Beautiful; $36 for that blouse. This one here is made in the U.S.A., crafted with pride in the U.S.A. There we go; $26.99. The U.S.A. is giving a bargain, You picked the right one out of the closet. They were taking them from me. We went around buying them. We can get more in downtown Portland, OR. I will be glad to bring them back and show them to you.

Mr. PACKWOOD. Mr. President, my good friend has it exactly right. You sell it for $26, make it in the United States or make it overseas, somebody is going to buy that instead of the $36 one. What the domestic manufacturers have discovered is this. If you can sell an imported product for $35, if you are going to compete with it in this country, you are going to have to sell a domestic product for $35 or less.

The consumer in this country may be a lot of things, but the consumer is not dumb. When mama, as my good friend refers to his mother, when mama goes down to the store and has to put shoes on her kid, normally tennis shoes that you go through two, three, four, five pair a year if you have active 6-, 8-, 10-year-old kids, she understands quality and she understands price. She understands junior is going to outgrow the shoes. If they are tennis shoes, he will probably outwear them, so if she can buy them for $15, $16, $18.

If we did not have any foreign competition, do you think the American manufacturer would be happy to sell that shirt for $26, $36? Not if they can sell it for $46. And I am not complaining. I understand the market system. The market system is designed for the manufacturer, the retailer, the wholesaler, and the trucking company who delivers it, to make the most profit they can make, and the better managed they are, the more they will make. But the key to keeping their profits down and their costs down is competition. In this case, foreign competition.

But despite that, employment in the textile industry is going up. You want an industry where it is going down? It is going down in our lumber industry. Last year was the biggest year we had since 1978, almost equaled that year, just above 1 percent or so with about two-thirds of the employees that we had in 1978 because we have become more productive. Your textile industry has become infinitely more productive and, in addition, employment is up year by year over the last 2 years. What this country needs is more, not less, competition and what it needs is less, not more, protection. This bill is a step toward a guaranteed profit. It is a step toward guaranteed less competition. It is a step toward a knockout blow for those people who are making $12,000, $14,000, $16,000, $18,000, $20,000 a year and trying to put two kids through high school, let alone put them through college and trying to clothe them with some kind of decency at a price they can afford.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I do not want to use up all my time on this one issue, but there is one point brought up every time we have had this debate, and I want to address it. That is this issue: Is it not amazing that these foreign goods sell for the same price domestic goods do if they are of the same quality? By that logic, I always wondered, Mr. President, how come that foreign oil from Saudi Arabia that costs 50 cents a barrel to produce sells at the same price that west Texas intermediate sells at, when you adjust for difference in quality and refining, when it costs us probably more to produce it than we are getting for it?

Why do they do it that way? Well, they do it that way because that is how markets work. Price is set by supply and demand, and where the quality of shirts people are trying to buy at various prices is equal, both domestic and imported, they will be sold at the point where market prices settle.

What the distinguished Senators arguing for this bill and against this amendment are saying is they do not like that price. They want to limit imports to make that price higher. That is what this whole debate is about.

The distinguished Senator from Oregon has said, "All right, go ahead and do it, but don't do it if the rate of return on investment in textiles is higher than the average for the rest of manufacturing in America."

To me, Mr. President, that is a very clearcut kind of issue, and I hope my colleagues will look at this amendment closely.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, let me not add very much to what has been so eloquently said by the Senator from Oregon and the Senator from Texas, but we are dealing here with some pretty fundamental economics. It is amazing how the Senator from South Carolina can twist those economics around that could not pass the first year, Economics 101, at any college or university in this country. How in the world he can hold those two shirts up and say that the domestic one is cheaper for the consumer and then somehow suggest that that thinking consumer would go out and deliberately buy the import at a higher price just to support some other nation? That does not make any sense at all.

If, in fact, the retailers are selling equal goods at the same price or the domestic-made goods at a somewhat lower price, then a positive buy American program ought to succeed overwhelmingly. It would not be legislation that is necessary. It is just the education of the American consumer as to what is in their own best interest—quality, cheaper price, availability, that is what the consumer wants. If we provide it, we have no fear and need have no fear of imports.

But when you start to put limitations on the market, when you start to put these bilateral agreements that control imports and a multifiber agreement which is an overarching agreement that limits imports, we are doing exactly the same thing that we did in the supposedly voluntary restraint agreement in the automobile industry.

We got the Japanese under pressure to agree to limit their exports to the United States. What happened when we limited that market? Prices went up. The Japanese, as was said earlier this morning by the Senator from Oregon, just shipped in more expensive cars, and the American automobile industry then found it was profitable for them, at least in the short term, to raise prices.

I think that was a bad business decision because it was a splendid opportunity to add to the market share, to get people accustomed to buying American automobiles once again. But instead they chose to raise prices and missed out on the opportunity to have people buy American. The very same thing can happen in the textile industry. You put in artificial restraints, you affect the market artificially, you distort what retailers, wholesalers, manufacturers, and everyone else can do and the consumer loses, the consumer pays more just as they have in the case of the automobile industry.

The balance sheet over the last several years, the last time I looked was a $5 billion, as I remember, increase in prices to the American consumer, and who got the $5 billion? As I remember, $2 billion of that went to the Japanese automobile industry because they could raise their prices on the limited number of automobiles they sent to the United States. The other $3 billion went to the American automobile industry. And at whose expense? The consumer. Every consumer who bought an automobile, whether foreign or domestic, paid more than they otherwise would have.

You simply cannot artificially control markets without artificially affecting price, without artificially affecting competition, without artificially affecting opportunity, and ultimately without artificially affecting the future of the very industries in the United States we would like to encourage.

Mr. President, I think it is important to understand that even the apparel industry in the United States, supposedly as eager for this bill as the textile industry, has had extraordinary problems with the American textile industry in recent months.

Let me read an article, and I will then ask that it be placed in the Record, in the Women's Wear Daily of Monday, April 18, 1988, entitled "AAMA Lashes Out at U.S. Mill."

Now, who are the AAMA? That is the American Apparel Manufacturers Association. It starts out by saying:

> Antitextile sentiment within the AAMA is running at a high, according to the new Association chairman. He said that apparel manufacturers were angry that at the same time the textile industry was enjoying healthy profits, making it hard to put the case to Congress for harsher import protection, U.S. apparel firms were facing shortages of cotton yarn and specialty yarn dyed fabrics which were protected by import quotas.
>
> "I have never heard stronger resentment of the textile industry on the part of the apparel industry than I have here at this meeting."

Mr. President, in order to preserve opportunity for the apparel industry, we should give some chance for them to gather the raw materials for their value added here in the United States by buying from domestic mills if they can and buying from foreign mills if they get better value. By restricting that, we end up making it tougher for the American apparel industry to survive.

It gets back to a fundamental question. Today those who buy clothing in the United States and those who sell clothing do so in a different fashion than even a few years ago. Style is important. Changing style is even more important for many consumers. The retailers and the distributors and even the manufacturers of clothing simply have to respond faster to those changing styles. And when one after another of the apparel manufacturers and apparel importers in the United States say, as they have to me, if, if the textile industry would produce materials in small enough runs and fast enough and get them to us soon enough so that we could manufacture in time to meet these changing styles, we would buy domestic goods; there is a refusal. It is easier to make big runs. It is easier to have long lead times. It is easier not to respond to the changing needs of the market. That is the fundamental question, whether this industry, already as protected as it is, already at profit margins higher than other industries in the United States, refuses to understand and respond to the market needs of the very apparel manufacturers they are supplying. No wonder, no wonder they look overseas as they must. And of course to make it even more difficult for our apparel manufacturers, the textile industry seeks to make it even tougher, even tougher for our apparel manufacturers to get the goods they need to keep in business.

Just another reason, Mr. President, why this bill should be defeated but why this amendment certainly should be passed and respected, an amendment that does nothing more than say as long as you are doing better than the vast majority of American companies and American workers, you do not need additional protection.

Mr. **HOLLINGS** addressed the Chair.

The **PRESIDING OFFICER** (Mr. Fowler). The Senator from South Carolina.

Mr. **HOLLINGS**. In 1978 we passed the windfall profits provision as we decontrolled oil and gas, and in 1988 this Congress changed it. Congress can change anything. And I am confident if we saw an industry making exorbitant profits and was overprotected, we would be falling over each other trying to get out on this Senate floor to change that and introduce bills which would whip right on through. The Congress is going to meet next year. We will have an election and we will be back in January.

But what they are trying to do is institute instability. I have guaranteed 55 percent under this bill. There is no rollback. I do not know of any politician that will guarantee his opponent 55 percent. This particular industry would be glad, because they have tried every other way in the world through all the Presidents and all the administrations and continued to go down, down, down, to say, "All right, at the highest level of imports in the United States, namely, at that 55 percent saturation, we will not have any rollback. And when there is an increase in consumption, we will give that to the importer. But give us some kind of stability." And the way they put stability is to say let the President measure profits. And they know it is a cyclical operation which goes back to the very point that is continually misquoted. My colleague from Oregon time and again picks out the 1987 figures. Let us just go back a few years now. We could go back—I will put it in—to 1975, but starting in 1982—I am proving the point of the cyclical operation—we had lost 157,000 jobs. We went down to 1,911,000. In 1983, we lost only 5,000 jobs; 1,906,000. In 1984, we picked up 26,000; 1,932,000. And that is what they quoted, using the same game plan they used in 1985. It did not get anywhere. "Oh, the industry is up."

In 1985, we dropped 102,000, for a total of 1,830,000 workers. In 1986, we dropped only 5,000, again down to 1,825,000. But in 1987—this convenient figure—we are back up to 18. Two years ago we lost 102. Now when we pick up 18, he says, "Oh, man, you are doing great." Already in this year, 1988, we have lost 31,000 jobs. So there we are. Those are Bureau of Labor Statistics.

I ask unanimous consent to have them printed in the Record.

There being no objection, the statistics were ordered to be printed in the Record, as follows:

U.S. EMPLOYMENT

Year	Textile and apparel employment	Job loss that year
1973	2,488,000	
1974	2,328,000	−160,000
1975	2,111,000	−217,000
1976	2,237,000	+126,000
1977	2,226,000	−11,000
1978	2,231,000	+5,000
1979	2,189,000	−42,000
1980	2,112,000	−77,000
1981	2,068,000	−44,000
1982	1,911,000	−157,000
1983	1,906,000	−5,000
1984	1,932,000	+26,000
1985	1,830,000	−102,000
1986	1,825,000	−5,000
1987	1,843,000	+18,000
January to August 1988	1,812,000	−31,000

Note.—1979 to mid-1988, we've lost 367,000 jobs. 1980 to mid-1988, we've lost 290,000 jobs. 1981 to mid-1988, we've lost 246,000 jobs. In the last 10 yr, we've lost 383,000 jobs. In the last 5 yr, we've lost 63,000 jobs (1983–87).

Source: Bureau of Labor Statistics.

Mr. **HOLLINGS**. Finally, the Senator from Texas has come full circle. He said he always wondered why that oil overseas that was gotten out of the ground for 50 cents a barrel was charged the same thing as we did in Texas. He disregards, of course, back in 1955 we passed the oil import quotas. He favored that. He is the economist. I can tell you right now, he was 100 percent right for that. But he ignores the OPEC cartel. And that is why it pays the same amount. But when the OPEC cartel broke apart and Nigeria and Indonesia and Mexico started shipping in oil at the cheaper price when the cartel broke, Beaumont, TX, went to 15 percent unemployment. It did not pay to produce any oil at all. He did not have to wonder about the price. The Senator has answered his own question why they got 15 percent in the refrain he continues to quote because now the cartel is busting and the market forces are taking operations. And we say let the market forces take the operation here but let us do it like the Europeans—globalize. They have come down from a $5 billion to a $1 billion deficit since 1981. We have gone from the $5 billion, $4.7 billion to be exact, to a $25 billion deficit under all of this protection and they are sneaking in this kind of profit measure to give instability where it just will not pay to invest in the industry and we will continue to go out of business as the London Economist is quoted.

Mr. President, unless there is further debate, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina to lay on the table the amendment of the Senator from Oregon. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DeConcini] and the Senator from Hawaii [Mr. Matsunaga] are necessarily absent.

I further announce that if present and voting, the Senator from Arizona [Mr. DeConcini] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. Hatfield] and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 34, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—62

Bentsen
Biden
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Cranston
D'Amato
Daschle
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker

NAYS—34

Adams
Armstrong
Baucus
Bingaman
Boschwitz
Chafee
Conrad
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Graham
Gramm
Grassley
Hecht
Humphrey
Karnes
Kassebaum
Lugar
McCain
McClure
Murkowski
Nickles
Packwood
Pressler
Quayle
Simpson
Stevens
Symms
Wallop
Wilson
Wirth

NOT VOTING—4

DeConcini
Hatfield
Matsunaga
Stafford

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Mr. PACKWOOD. Mr. President, the Senator from Kansas [Mrs. Kassebaum] and the Senator from Oklahoma [Mr. Nickles] have said they would give me the hour they have on the bill. So I ask unanimous consent that the time that would otherwise be allocated to those two Senators be allocated to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2862

(Purpose: To suspend the provisions of the bill in the event that they would impose a disproportionate burden on the poor)

Mr. GRAMM. Mr. President, I call up amendment No. 2862.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Texas [Mr. Gramm] proposes an amendment numbered 2862:
>
> On page 20, strike line 24 and insert in lieu thereof the following:
>
> "enactment of this Act, except that the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would impose an economic burden on the poor proportionately greater than that imposed on the population of the United States as a whole.".

Mr. GRAMM. Mr. President, this amendment is virtually identical to an amendment that was adopted by the Senate to the trade bill, but I think it is even more important on the textile bill than it was on the trade bill.

Obviously, a great concern about this bill should be its impact on the poor.

The cost of textile protectionism per family of four, at least in terms of current textile protectionism, is currently ranging between $300 and $700. The imposition of additional restrictions as proposed in this bill would further raise the cost of clothing American families.

Mr. President, for high-income families that would basically be a nuisance, but it would be a burden that they could readily bear. They might not like it, they might feel it was unfair, but they could probably live with it. The problem is that there are a lot of people in this country who would have a great deal of difficulty in buying shoes for their children and in buying clothing for their children if we impose additional restrictions that further drive up costs.

Since we adopted the Bradley amendment, which did in essence the same thing on the trade bill that we are doing here, I thought that this was an important issue. I think it is especially important because all over the country last week and this week Americans are sending their children to school. I think we ought to have a provision in here that simply says that if the impact of this provision is found to produce a disproportionate burden on the poor, then the President has the ability to intervene on their behalf.

I hope my colleagues will see the wisdom of this amendment, and I remind my colleagues that the wisdom is doubly amplified when you look at the level of profitability of the industry, when you look at growth in employment, when you look at plant usage, when you look at the fact that we already have an 18-percent tax on average on all textiles that are being bought that are produced abroad, when there are already 1,500 quotas. If we are going to add more costs on the backs of the poor, then we ought to have some ability for the President, whoever our new President may be, to intervene on their behalf.

I urge my colleagues to adopt the amendment.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. Hollings.

Mr. HOLLINGS. Mr. President, the assumption again is that the imported article is cheaper. It is more cheaply made. There is no question about that. You can go to the 25 cents an hour. I tried my best on my last trip to the People's Republic a couple years ago and the best I could determine was around 25 cents an hour. There are a billion Chinese ready to go to work for 25 cents an hour, if that is the poor he is talking about, because the poor of America has not gotten any break with even the majority—you would think that the prices would have come down—with the majority 55 percent as represented in imports and you can see how they are transshipping through all these countries and now we have to compete, as I say, with the billion in China under a controlled economy, and talk about that is productivity and we have to compete with it. I think not. I think that the Senate sees through this one here about the poor. The poor are those who are ready, willing, and able to work and doing their best and perform, if you please, in the most productive of fashions, the most productive industry in America.

I want to find anybody who can tell me for the last 10 years each year that has had an increase of 4.6 percent GNP. The textile industry has been able to do that with tremendous output, tremendous investment, and high productivity. That is not a rich industry. It is not the poorest. Unfortunately, these fuzzyheads that are coming around this country hollering we are going to a service economy, yes, there are those in the laundries and the hamburger shops that are making the $3.35 or $3.50. We are making $6 and $7, $6 for apparel and $7 for textiles, but the average industrial wage in America is $9.97. So we are below manufacturing. We are not overpaid. We are highly productive, and we are not saying roll back anything and give us an increase. We are giving the majority of the industry to the Chinas and the Russias and all the rest of them.

I have a chart in here: Yugoslavia, Romania, Hungary, Poland, U.S.S.R., Czechoslovakia, Bulgaria, East Germany, Afghanistan, Cambodia, Laos, Mongolia, right on down, their increase in imports during the last 12 months, going up some 116.9 million yards. They are going up, up, and away.

The point of this bill is not protectionism. It is survival. That is the kind of thing on which we need a policy out of this Government. It is like the policy that saved the basic industry in Europe with the globalization of its quotas.

On that basis, Mr. President, when my colleagues finish their debate, I would be prepared again to move to table.

Oh, excuse me. I yield to my distinguished colleague, the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina, [Mr. THURMOND], is recognized.

Mr. THURMOND. Mr. President, the National Consumers League which is a pioneer consumer organization in the country was formed to promote high standards of safety and fairness at the workplace and the marketplace. Their membership spans the country, and the executive director wrote, and here is what he says.

"I'm writing to you to express our support for the Textile and Apparel Trade Act."

It goes on to say, "The United States textile and apparel industry is the most productive in the world. Due to the huge U.S. trade deficit, however, 350,000 American workers have lost their jobs in the textile and apparel industry. This is a particularly troublesome statistic in an industry which supports the livelihood of many small American towns and pays its workers an average $6 an hour."

According to a special report of the Office of Technology Assessment, the U.S. Textile and Apparel Industry, a Revolution in Progress, another American worker also loses a job for every textile job lost. Now remember that. Every time we lose a textile job, another worker loses a job. Who is this saying this? The National Consumers League. Who are they interested in? They are interested in the consumers. They are interested in the public.

Now, Mr. President, the American consumer does not benefit from the products of low-wage overseas labor. These products are bought from factories who have workers, some of whom are children, who are earning as little as 20 cents an hour, often under intolerable labor conditions. They are marked up and sold in this country for exactly the same price as an equivalent American product.

In other words, they sell for just as much over here. Who makes the profit? The consumer does not get the benefit of it.

The last time we had the textile bill up here we had shirts bought here in this town. Some were made in America; some abroad. There were not 3 or 4 cents difference between them.

It is the shippers who come in here, the middlemen, the retailers making the profit and not the American consumer. Otherwise, this National Consumers League would not be supporting this bill. They are supporting this bill because they know it is best for the public.

The letter goes on to say:

> The health of the American textile and apparel industry is crucial to the livelihood of hundreds of thousands of American workers. We urge your support of this bill.

Mr. President, there are 2 million people engaged in textiles in this country. There are 2 million more who are supported indirectly by textiles. There are more people engaged in textiles than in automobiles and steel combined. It is a big industry, but it is going out of existence unless we do something. It cannot stay in existence.

Yet, as I stated, the Defense Department says it ranks second only to steel—second only to steel—in the matter of national defense. Now, what is going to happen if we have a war? Who is going to make the parachutes? Who is going to make the uniforms? Who is going to make the other products that textiles make? Can we take the chance?

I hope this Senate will think over this matter and pass this bill regardless of how the administration feels. They are just free traders, those who are taking this position. And some in the Senate are free traders. They have a right to be. But you have to use common sense. You have to use balance. What is best for America? What is best for the public of America?

And here is the National Consumers League saying that this is best for the public of America. I ask the Senate to think this over.

Mr. PACKWOOD. Mr. President, let me read the amendment. It is very simple.

> * * * the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would impose an economic burden on the poor proportionately greater than that imposed on the population of the United States as a whole.

This is not a new amendment to the Senate, Mr. President. We adopted this in the trade bill. It was offered by the Senator from New Jersey, Senator BRADLEY. The Senate adopted it.

All we are saying—and, by and large, it is the bulk of the consumers who are the poor—is that if this bill disproportionately burdens the poor, then the President can say the quotas will not be in effect. Now, how on Earth can you argue against this amendment, which we have already adopted on the trade bill where it was offered by the Senator from New Jersey. If the poor are not the consumers, then I do not know who the poor are. They are the ones that spend the bulk of their money on clothing, food, housing. They do not get any vacations in France. They do not get any vacations in a town 50 miles from where they live. They are lucky if they can get 2 weeks a year off and can afford to go to the local amusement park.

How anyone can oppose an amendment that says if it disproportionately affects those people, then these quotas will not go into effect, I do not know.

Mr. GRAMM. Mr. President, let me respond to the issues that have been raised, and I will try to do it very briefly.

First of all, Mr. President, this amendment goes to the heart of the problem with this bill. The truth is that our colleagues know that this bill disproportionately affects the poor people of this country because this bill will raise the cost of clothing to the American consumer. And since clothing is something that every family has to buy, it is a staple, you are going to end up affecting poor people more than you are the population as a whole.

I hear my colleagues talking about people that are earning $6 and $7 an hour in the textile industry. Well, Mr. President, I am not in any way callous toward people in the textile industry. I have a lot of kinfolks that work in the textile industry. My mama worked in the cotton mills when I was a child. The textile industry is a vitally important industry to America. But what I am trying to do in this amendment is protect the people who do not make $6 or $7 an hour.

Now I hear my colleague from South Carolina quote this so-called consumer group, the National Consumers League. I do not know who they are. But, Mr. President, what saddens me in this debate, as in so many other debates, is that there is in our political system often no voice whatsoever for the American consumer.

My colleague is not correct when he says there are 2 million people involved in the textile industry. There are 240 million people in America involved in the textile industry. What I am trying to see here is that the other 238 million people that are involved have a voice, as well.

I do not think it will do any good to go back over all these profit figures and all these employment figures, but the plain, unvarnished truth is that the textile industry is not dying. The textile industry has experienced a rebirth. It is a great credit to the people that work in that industry, both in labor and management, that they have reached down and pulled themselves up by the bootstraps and that today American textiles are competitive; that exports are up by 15 percent. I am proud of that.

But, Mr. President, had we adopted bills like this, is there anybody here who really believes that American textiles would have gone through the painful process of becoming competitive? Is there anybody here who really believes that people will do the hard thing unless the discipline of the marketplace, in having to face real, honest-to-goodness competition, is present? I do not think they will. In fact, the genius of the American system is that competition produces extraordinary results from plain old ordinary people like you and like me.

The reason I oppose this bill is that this bill strikes at the very heart of what makes America work. Mr. President, this amendment simply is trying to help the people that are not lucky enough to make $6 or $7 an hour, people who will see their living standards decline.

I urge my colleagues, as they did on the trade bill, to assure that there is a provision where we take into account what the impact of this new restriction will be on the poor. If there is no impact, if it cannot be demonstrated, as I am sure my colleagues will contend, that really poor people are not hurt by 1,500 quotas and by an 18-percent tax, that it does not have any impact on the poor or the consumer—I do not think anybody that is the least bit objective is convinced by that—but if they are right, this amendment is not going to have any impact at all.

But if they are wrong in the week that all over America millions of children are going to school, let us set out a provision that says that if this bill turns out to have a big impact on poor people, disproportionately speaking, that we have got some remedy to try to do something about it. On the trade bill, we made that decision. I hope my colleagues will make it here. I yield the floor.

Mr. EVANS. Mr. President, let me add only a few words to those of my colleagues from Oregon and Texas. You know, it is interesting that, both in this Chamber and on the political trail, it has become almost an article of faith that we protect and preserve the Social Security System of the United States with all of its cost-of-living increases because we want to protect the elderly against inflation, against increased costs. And there is not hardly a Senator in this Chamber who at this point in time would vote against a cost-of-living increase in Social Security, against the kind of help for the low-income citizens of this country that we have protected on so many occasions.

And yet, are we going to, if we vote against this amendment, turn right around and take from them with one hand what we have just given to them with the other hand? We say, "Here is the money. Here is that cost-of-living increase. But, oh, by the way, you are going to pay more for the clothing which is needed. You are going to pay more for some of the most fundamental of the needs of your existence." And we refuse to even give any recognition to the fact that this might affect them adversely.

I find it hard to believe that any Senator in this Chamber would vote against this amendment any more than they would vote against an amendment to give a cost-of-living increase to a Social Security recipient. They are virtually the same thing. One is to provide adequate income. The other one is to limit unusual expense.

But as far as the consumer is concerned, especially as far as that low-income consumer is concerned, it all comes out the same. Either you do not have enough income, on the one side, or if you provide the income and say it is going to cost you more to live, on the other, what in the world have you gained?

I think this is a modest effort to provide for those who are clearly least able to take care of themselves and I find it hard to believe my colleagues in this Senate would—in fact, I would hope that the opposition on this bill would accept this amendment; we would not even have to go through a rollcall vote because it would make this bill more compassionate to those who need help the most.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. With respect to the Department of Labor and its study, textiles and apparel increased in price by 5.6 percent, according to the PPI. With the same index, for consumer nondurables, it rose by 22.3 percent. This mild price increase is partly the result of a 2.8-percent rise in labor productivity in synthetic fibers and it contributed to the 19.2-percent decline in general imports of cotton, wool and manmade fiber textiles. And in the case of specialty steel the competitive position of the industry has improved with little apparent inflationary impact. That is the Department of Labor.

With respect to the National Consumers League as quoted by my senior colleague, "The American consumer does not benefit from the products of low-wage overseas labor."

Mr. President, if the President looks at this bill and determines it is a burden on the poor he can veto it. For that I offer many other reasons. But what you have is bad legislation. You should never pass a bill saying any President at any time might determine a measure is in particular a burden on any segment of society. How do you determine it? willy-nilly, you suspend the legislation. I do not think that is good form. That is why it was dropped from the conference.

My distinguished colleague from Oregon on the Finance Committee knows why in the trade bill it was passed here in the rush of things just to get on with it. When it got over to the House they all agreed, including the administration, and said get that kind of provision out of this bill. So let us not put it in now about a burden on the poor and play monkeyshines at this time.

It does not raise the cost of clothing and my distinguished colleague from Texas, I am confident he knows Robert Nathan, he is the honorary chairman—he is the honorary chairman, Esther Peterson is the honorary chairman, Jack Blum is the president. They have quite a bit that has been in Government. I know my colleagues have been in Government.

The National Consumers League, they are outstanding citizens. Ms. Peterson—probably if I had to pick one consumer representative best known in all America, it would be Esther Peterson. So do not say, "I never heard of that kind of crowd, I do not know what they are talking about." They know exactly. They are trying to gut the bill about a burden on the poor.

I move to table the amendment and ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **LEVIN**. Mr. President, I agree that we ought to be concerned about the effect of this bill on the poorer members of our society, just as we ought to look at the impact of any legislation on the poor. However, this amendment is so loosely worded that it would open an enormous loophole in the textile bill, and render the bill ineffective in the hands of any administration that does not want to enforce it.

The amendment says the provisions of the bill do not apply if its effect would be to disproportionately burden the poor. But it does not define what would constitute a disproportionate burden, or even what is meant by "the poor." It would be left up to the President to decide how to interpret this standard. Any President determined not to implement the requirements of this legislation would find the vague wording of this amendment extremely useful.

Because I want to see the underlying bill not only passed into law but also enforced by the executive branch, I cannot support this amendment.

The **PRESIDING OFFICER**. Is there further debate?

There being no further debate, the question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **CRANSTON**. I announce that the Senator from Arizona [Mr. DeConcini], the Senator from Tennessee [Mr. Gore] and the Senator from Hawaii [Mr. Matsunaga], are necessarily absent.

Mr. **SIMPSON**. I announce that the Senator from Oregon [Mr. Hatfield], the Senator from Pennsylvania [Mr. Heinz], and the Senator from Vermont [Mr. Stafford], are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Heinz] would vote "yea."

The **PRESIDING OFFICER** (Ms. Mikulski). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—60

Baucus
Bentsen
Biden
Bond
Boren
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Helms
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—34

Adams
Armstrong
Bingaman
Boschwitz
Bradley
Chafee
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
Murkowski
Nickles
Packwood
Pressler
Quayle
Simpson
Stevens
Symms
Wallop
Wilson

NOT VOTING—6

DeConcini
Gore
Hatfield
Heinz
Matsunaga
Stafford

So the motion to lay on the table amendment No. 2862 was agreed to.

Mr. **HOLLINGS**. I move to reconsider the vote by which the motion was agreed to.

Mr. **EXON**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **HOLLINGS** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from South Carolina.

Mr. **HOLLINGS**. I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **ROCKEFELLER** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from West Virginia.

Mr. **ROCKEFELLER**. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ROCKEFELLER**. Madam President, I rise today in very strong support of the textile and apparel trade bill of 1988. I was an original cosponsor of the bill when it was first introduced last year, and I am very glad to see it is now on the floor. The purpose of this bill is to help the textile, apparel, and footwear industries in our Nation. These industries have been battered mercilessly by imports over the past 10 years. We must give them the help that this legislation provides or these industries are simply not going to survive. In West Virginia, these industries are barely holding on, Madam President, and this bill would make the difference between life and death for them. When I talk about the survival of these industries, I am not talking about some kind of vague impersonal corporation. I am talking about jobs, jobs that are held in the United States predominantly by women, by minorities, by immigrants, by those at the entry level of our work force. I am also talking about West Virginians who have been working in the apparel or footwear industries for decades, West Virginians who are in danger of losing their jobs in a factory that may be the only manufacturing employer in an entire county.

Our State is not a large one, Madam President. Many of our counties are extremely rural and depend on a single industry. Often those are footwear or apparel industries. These counties are suffering terribly in West Virginia. These are counties that have been totally untouched by the so-called economic recovery of the Reagan years. The loss of jobs in textiles, apparel, and footwear has been devastating in my State, and I am just not willing to watch these industries decline further.

Madam President, let me try to put this in personal terms—the devastating impact that cheap imported shoes have had on West Virginians. I refer to the Kinney Shoe Factory in Glenville, WV, in Gilmer County. It is a small county of 8,000 people with 2,000 of them employed. In this factory, there were about 250 people working. Overnight, when the factory was closed because of the pressure of imports, one out of every eight jobs in the county disappeared.

Many of these Kinney workers had been employed at the factory for years, for decades. Some, obviously, are no longer young, and, frankly, a new career is not something that presents itself very easily to somebody who has been working in a shoe factory and is in their 50's or 60's. It has been a terrible struggle for these people.

Younger workers were forced to leave home in search of work because the Kinney Shoe Factory was closed down. Some had to leave West Virginia entirely. The result was that you have family separations. They cannot afford to take their families with them because they were not sure they were going to find that job, and if they did find that job maybe it did not pay that much.

So you have family separations, you have an increase in the number of divorces, an increase in family problems, an increase in drinking, and you know the syndrome of which I talk.

People lost their homes in Gilmer County as a result of the closing of this shoe factory. Banks were forced to foreclose, cars and furniture were repossessed. This happened. This is not academic. It happened. Little by little people's lives have crumbled away.

I do not want to preside over the destruction of Glenville, WV. I want to help Gilmer County and other counties like it throughout Appalachia.

We have an American dream, and the American dream is that if you work and if you work hard, you will succeed and improve your standard of living. Instead, now, with the closing of this one shoe factory—and there have been many other examples—we have a community which has been devastated. Twelve and a half percent of the jobs in the county are gone overnight. The standard of living is declining.

I recognize that we are talking about the textile, apparel, and footwear bill. But I must say, Madam President, that the law about plant closing notification sure would have been useful in this case where the people at the factory had 1 week's notice. With 1 week notice they were given their pink slip, and then gone after working for decades.

You know the nature of traditional rural counties. People get a job they stay there, they work hard, then their children come along, and they get into those same jobs. That is what they are trained for. Then you get the pink slip, 1 week later you are gone, no jobs in the county, a few jobs in the State, what do you do? I am pleased that we have now plant closing notification legislation.

Let me give you another example, Madam President, of what I am talking about in West Virginia. In 1978, 5,800 West Virginians were employed in the apparel industry; 5,800. Last year that figure was down to 3,800. That means over 2,000 jobs disappeared over 9 years. This Senator does not want to see that continue.

In 1980 there were over 2,100 people working in the nonrubber footwear industry in West Virginia. In 1986 one factory closed down. In 1986 another factory closed down. By 1986, 2,100 jobs had turned into 1,200 jobs; in other words, a 40-percent decline in only a few years. This is intolerable and cannot be allowed to continue. I stand shoulder to shoulder with the chairman of the Commerce Committee, the distinguished Senator from South Carolina, Senator HOLLINGS, in his efforts in respect to all of this.

Overall, Madam President, in West Virginia 7,400 people are working in the textile and apparel complex of industries. Those are good jobs in rural counties where other work is not available. Adding the 1,250 people working in the nonrubber footwear sector, plus another 300 folks in other parts of the shoe industry, that means 9,000 West Virginians need the help that this law will bring to save their jobs. These jobs are critical to our State, not to speak of the workers, the families, the neighborhoods, and the communities.

I will do everything in my power to preserve those jobs. That is why I so strongly support what the Senator from South Carolina, Senator HOLLINGS, is doing.

I urge my colleagues to vote for passage of the Textile and Apparel Trade Act of 1988. It is going to help West Virginia, and I know it is going to help our Nation. And I urge the President to think of the working men and women of this country and sign this bill.

I thank the Chair. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, it is particularly warming to this Senator that right at 29 years ago as a young southern Governor I joined with the distinguished northern Governor, Nelson Rockefeller. I realized the national import of this particular industry, and the importance it had to all sections of our country, and as some just about 30 years later to join with the distinguished Senator from West Virginia and hear his eloquent remarks on behalf of those who are working hard, who are the most productive, who are really creating the jobs for us in the United States, I want to thank the Senator from West Virginia just like his senior colleague, the majority leader.

That is why we are here today, because he has fashioned the operation of this bill so we could bring it up and be able to bring it to close with 30 hours by a vote on a cloture motion. So the majority leader has been in the forefront as a cosponsor leading the way, and Senator ROCKEFELLER has given his leadership.

There is nobody having a better understanding when I hear Senators presenting these amendments about the poor than to come from a State such as West Virginia, where the industries there have been and are exceeding kind of an economic mold now for several years as hardworking, and the finest people in the entire world. And to have them represented by Senator ROCKEFELLER in this particular presentation he has made, I want to thank him in behalf of all of us who have been working on this measure.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2860, DIVISION L

Mr. EVANS. Madam President, I call up amendment No. 2860, Division L.

The PRESIDING OFFICER. The clerk will report that amendment.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] proposes an amendment numbered 2860, Division L.

On page 12, line 10, insert a new subsection (f):

"The limitations on the importation on the aggregate quantity of textiles and textile products proscribed under subsections (a) through (f) shall not apply to any country that, in calendar 1987, purchased more textiles and textile products produced in the United States than it exported such products to the United States."

Mr. EVANS. Madam President, this amendment which I had read in its entirety because it is short and straightforward I believe speaks to what this country I hope has been all about; that is, competition, the opportunity to export, to sell our products overseas, to enjoy the benefits of that with our neighboring countries and our friends. And, of course, our worry is about those countries who are exporting too much to us. It is the Hong Kongs and the Taiwans, and it used to be Japan and some of the other nations that have created the imbalance in textile trade and the apparel trade which is causing so much difficulty and which has created this bill.

This amendment would really focus then on those countries.

Madam President, there are 52 nations to whom we export substantially more in terms of apparel and textiles than export to us. Those countries represent nations on every continent, some are very small in terms of their exports to us, and some have never had any exports to us at all. And, of course, we would be preventing any of those nations from beginning any kind of textile industry, and the potential export of textiles or apparel to the United States; because this bill says that we are limited to no more than 101 percent—in other words, a 1-percent increase—over the base year. If, in the base year, these countries exported nothing to the United States, 101 percent of nothing is nothing. It gives these nations no hope whatsoever of even building a modest trading relationship with the United States. Some are close friends of ours. Some are undeveloped countries just struggling with the very beginnings of development. As I said, they represent all continents. But, collectively, this is not a significant effect on the bill itself.

If, in fact, it is true—and I have some question about the figures—but in the bill, on page 4, section 3(e), the textile and clothing trade deficit of the United States exceeded $21 billion in 1986, an increase of 18 per centum over 1985, and accounted for 20 percent of the Nation's overall merchandise trade deficit.

Madam President, the figures of the Department of Commerce which we have before us show that the textile and clothing trade deficit in 1986 was $18 billion, not $21 billion. But, more important, as we have finally begun to get hold of our own individual and internal budget deficit, as the dollar has shifted in value compared to other nations' currencies, as we have become more competitive, we see that without any further legislation—without any further legislation in this or any other field, for that matter—the trade imbalances are slowly and now more rapidly correcting themselves. That is why I said this morning that this is a case of legislation, if ever needed, that is no longer needed. The circumstances which brought it about 2 years ago no longer hold, and in fact we are finding that the competition, coupled with the change in American currency, is making us that much more competitive and reducing even the textile and apparel trade imbalances.

Let me be more specific as to just where we are going. The bill talked about the increases in textile and clothing trade defict, but let us look at the most recent figures. What has happened in 1988? Let us go down through the countries of the world with whom we have the largest textile and clothing trade relationships.

The People's Republic of China has the largest single trade relationship with us in textiles and apparel. Their trade in the first half of 1988 is down by almost 25 percent. Taiwan, down 17 percent. The Republic of Korea, down 22 percent. Hong Kong, down 17 percent. Canada, our neighbor to the north, and one with which we are attempting to build a closer free trade relationship, is up 38 percent.

However, is that what his bill is aimed at primarily, countries like our closest friend and closest neighbor and biggest trading partner, Canada?

Our other closest neighbor is Mexico, which is next on the list in terms of volume, but they are down by 6 percent. They face the great difficulty of trying to stabilize an economy and provide jobs, in that we might have political stability on our southern border, and it is having greater and greater problems in one of their fundamental industries.

Japan is down 36 percent. India and Pakistan are up, and I think with good reason. Pakistan especially, which is up almost 70 percent—a recognition, if you will, of the extraordinary job Pakistan has done in supporting the interests not only of Pakistan but also of the United States and the free world in the fight in Afghanistan.

The Republic of the Philippines: We all cheered when Corazon Aquino took office as President. We pledged to provide help and assistance to the Philippines, and we are, at least to some degree. We have upped textile and apparel imports, one of their major industries, by a little over 6 percent during the first half of this year.

We go on from there, to Italy, down 24 percent; the Federal Republic of Germany, down 21 percent; Indonesia, down 13.5 percent. But, more important, let us look at the world as a whole.

Imports to the United States in the first 5 months of this year are down over 9 percent. Imports from the countries which are signatory to the multifiber agreement are down 9 percent. The three big exporting nations to the United States, ones about which we have been very concerned—Hong Kong, Korea, and Taiwan—are down by 19 percent. The OECD countries are down by 4 percent. Those which have not joined the multifiber agreement are down by 9 percent. On and on. Only the Caribbean nations with which we have very close relationships are up by 16 percent.

That is where we are. That is the true picture. It does not show an industry that is being flooded by imports. It shows an industry that is competitive, an industry that, by its own modernization, coupled with the better economic position of the United States vis-a-vis its trading neighbors, is doing very well.

The entire focus of this bill seems to be aimed at those with whom we have these awful imbalances, somehow to make all our trading balances zero. Madam President, that is a faulty notion. There never has been a time when this Nation has been able to so balance its trade relationships that in every business and in every enterprise there is an even balance in export and import trade, not just with the whole world but with each individual country. We cannot work toward that goal, nor should we.

This amendment is simply one of fairness. It is one that says:

> All right, if the bill worries and is aimed at those with whom we have an imbalance, with those nations which are somehow more competitive than the United States, those nations which export floods of apparel and textiles into the United States, let us take a quite different look at those nations which have a different balance, many of them which have exported nothing to the United States, some which have exported a very small amount, some which have exported a fairly significant amount, but which buy several times that much from the United States.

These 52 nations are not all large; many of them are quite small. They are not all developed. Many are quite undeveloped. In many of them, we are sending American aid year after year, American tax dollars, to avert starvation, in order to build the most fundamental of their economies, so that they might be more independent. We do that on the one hand and then turn around and say:

> For the business or industry that you are most likely to start with, and that is to make textiles and to make apparel, don't come to us. We would prefer to give you taxpayers' money to support you, rather than allow you to build your own economy and trade with us.

That, it seems to me, is a foolish direction indeed.

Some of these nations are not even necessarily friends of ours. It is interesting that amount, the 52 countries, the Soviet Union is one to whom we sell more textiles than we buy.

There are several countries, however, where there is a significant amount of textiles being purchased and apparel being purchased from the United States.

Do we suggest that it is in America's best interest for those countries in turn to say:

> Well, if you are attempting to limit our exports to the United States, I guess we better move toward trade balances, we better limit our imports from the United States as well.

It is easy enough for us to buy clothing and to buy textiles from other nations because that is clearly a concern of the sponsors of this bill. There are too many countries who are efficient, who are productive, and who are in the business.

So we cannot expect those who buy more from us than they import from us to not be able to look elsewhere. They clearly can.

So why, why should we penalize them for being good trading partners? Why should we penalize them for buying more from us than they sell to us?

It is inconceivable to me, Madam President, that we would so penalize so many nations.

If this amendment were adopted, does it have a huge effect on the bill or on our trading relationships? Not at all. The two-way import and export trade is something like $24 billion and the entire list of 52 nations has exports from the United States to all of those nations of only $84 million, a fraction of that of about $24 billion two-way trade, and U.S. exports to those same nations adds up to $458 million. The net positive trade balance for the United States is $375 million; not large, but important.

It seems to be in our best interest to try to encourage those nations to continue to do what they have been doing, and that is buying more from us than they sell to us. But if I were the leader of any one of those nations and I found that my trading partner, the United States said, "Sorry, sorry, wherever you are now is wherever you are going to be from now on. You might have a tiny little increase each year, but, of course, if you have not sold anything to us up to now, forget it, you cannot get in the business." I think if I were one of those countries I would be very much inclined to say, "I will look elsewhere for my products; I will look elsewhere for my apparel; I will look elsewhere for my textiles."

And what have we done for the textiles and the apparel manufacturers of the United States in this kind of bill?

Madam President, I suggest that this is a modest amendment in terms of its total impact but an amendment that would be the epitome of fair play when we are talking about good trading partners.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, it goes without saying that my distinguished colleague from Washington, having been a Governor, knows how to administer a law. Under this law, if it were indeed to become law, we would immediately give discretion to the President and the Secretary of Commerce, the administration itself, under the globalization of quotas, to do exactly as they please. They do not have to cut off anybody. I am confident no administration, Republican or Democratic, would be arbitrary. I am confident that they, as good business judgment would dictate, would work to the best interest of the United States. But there is a good measure of foreign policy that goes right to the heart and thrust of the amendment of the Senator from Washington, and that is to give the poor nations, the undeveloped nations, a chance. Do you think they have a chance now? The opportunity they now have is by way of transshipment. They are competing with the government-controlled industry of Taiwan, Hong Kong, Korea, Japan, Thailand, and Indonesia.

I had a discussion the week before last with the commerce minister of Indonesia. He had been charged up by the retailers. He wanted to speak with me. We had a meeting, had a news conference.

I said, "Mr. Minister, you had the Japanese come in here and, as a quid pro quo, they have financed and they built the industry and they are making all the profits. You have no chance of developing your own industry except under my textile bill. You have been purchasing our soybeans and our wheat down here in Indonesia. You are consumers of our agricultural products, and we hope to favor you, the developing country." Incidentally, Indonesia is the fifth largest nation in the world at present. Its population will grow to 175 million by the year 2110; Indonesia will be the third largest country in the world.

We can help that Nation's development through the globalization of quotas. We can favor the less developed nations.

Really, the proposed amendment is mischief. They know better because we have guaranteed 55 percent of the market to importers. This bill guarantees 55 percent of the market to the offshore producer. There is no penalization there. I am trying to encourage the industrial backbone of the United States of America. That is the intent of this bill, to encourage the survival of a basic American industry. This is not any fuzzy foreign policy where we live in a dream. We are looking at reality, where the best of economists, the Economist's Intelligence Unit in London, says that by 1995, 83 percent of U.S.-sold textiles and apparel will be imported. The domestic industry will be virtually extinct.

But look at these exporting nations. There are 30-some nations, and they find places of transshipment like Benin. Or take, for instance, Malawi. Last year, they went from 100,000 square yards to 4.2 million square yards, an increase of 3,600 percent due to transshipments. That is the kind of competition that the distinguished Senator from Washington ought to be referring to. The bottom line, here are the countries he would favor:

Ethiopia, which has a deficit in textile and apparel trade with the United States; French Guiana; Lebanon—we tell them, fine, take some more hostages over there, we want to increase our trade; Paraguay; Republic of South Africa; Soviet Union; South Yemen. Vietnam has a surplus. So tell all of the Vietnam veterans we now have the Vietnam amendment, or better yet Cuba. The Castro amendment—that is what this is. We are going to favor Fidel all of a sudden. Opponents of the textile bill have tried every kind of shenanigan that you can possibly think of, and now they have gone with the Castro amendment and said, "If you've got a surplus, as you have, Fidel, we want to favor you." Of course, we have an embargo down there but now the Senator from Washington wants to favor and, of course, the people in Ethiopia and, of course, the Republic of South Africa where in one breath we say, "Let's override the President, let's have sanctions against South Africa," but under the Evans amendment we will favor South Africa.

Come on. They are playing games and they know it.

I am prepared to move to table the amendment when the debate is completed.

I thank the Chair, and I yield the floor.

Mr. EVANS. Madam President, the Senator, of course, is selective in his reading of the list. It includes such friends as Australia, as one of the largest ones. It includes some of our people in the Middle East who have been friends and supporters—Saudi Arabia, United Arab Emirates; it includes Venezuela in South America.

At least Malawi is not on my list. Mali is, which is a quite different country.

Most of them are undeveloped; many of them African nations to whom we have provided help and assistance over a good many years.

It seems to me that to now deny them the chance to grow in their trading relationships is just to ensure that they will always be dependent and we will always be asked to provide support in order that they might avoid starvation rather than offer the opportunity for them to build a basic economy to eliminate the need for American taxpayer support and, instead, to build a responsible trading relationship.

All nations of the Earth have to have some opportunity to sell to others if they are going to make enough money to buy from others. That is a fundamental element of economics, whether you are talking about an individual in the United States; they cannot buy from others unless they can earn enough to purchase from others. In others words, they sell their labor and they sell their intellect in order to earn enough to buy products and services from others. And it is the same thing in international trade.

Now, this is not a huge amendment. This is one that it seems to me, is simple and straightforward and responsible, to say, let us focus on the problems. And the problems are those nations with whom we have a textile and apparel trade imbalance unfavorable to the United States.

Why are we painting with such a broad brush that we say all nations have to be covered? All nations, regardless of whether they have a positive or negative trade balance; all nations, regardless of how close they are as friends and trading partners; all nations, regardless of whether they have strategic importance to the United States. All nations. All nations are going to be covered. And for what purpose? For what purpose? To further protect, beyond the extraordinary protections already proffered to an industry, to further protect an industry which it has been clearly shown earlier today is enjoying record-making profits, recording-making volumes, an industry that is far more competitive, thank heavens, today than it was a few years ago and given good management and the opportunity to be more competitive—which they are—can continue to be productive, profitable, and an important part of our economy.

But are we going to shrink and say the only place we want to sell, the only place we believe we can be competitive in terms of textiles and apparel is within the borders of the United States; that there is no place we can sell on Earth where we can be competitive?

Madam President, we have already shown that there are at least 52 nations where we can be competitive, where we can sell a lot more than we purchase, and somehow for those nations we are even competitive today with our competitors.

We worry a lot about the ability of South Korea and Taiwan and Singapore and others in their growing ability to produce textiles and to produce apparel. Well, they do not look at the United States as the sole market. They are looking at a world market. Somehow and in some way the American textile and apparel industry has been successful in these nations. And are we going to encourage them to still look to us as a supplier when they have been good customers and the end result of being good customers is to get kicked in the teeth?

Well, I would not have to get kicked in the teeth more than once to decide that there might be a better supplier; there might be another more favorable nation; there might be another person or company or country who would be friendlier, could work more closely with us, and one on whom we could depend.

It is dependability that is exceptionally important in trade, whether it is internal or international. And if we are forever undependable by continuing to change laws and change regulations and zigzag from one place to another because of the exigencies of current politics or current activities economically in this country, we will never be viewed as a dependable trading partner. That could do more harm to us in terms of our future not only in the textile industry or the apparel industry but in all of our export industries, in all of the things in which we would like to be competitive internationally.

Madam President, the bill itself is ill-conceived but it is particularly ill-conceived to attack those who have been our best customers.

Mr. HOLLINGS. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina [Mr. HOLLINGS] to table the amendment of the Senator from Washington [Mr. EVANS].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennesssee [Mr. GORE], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Vermont [Mr. STAFFORD] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. HEINZ] would vote "yea."

The PRESIDING OFFICER (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 31, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—59

Biden
Bond
Boren
Bradley
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatch
Heflin
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner

NAYS—31

Adams
Armstrong
Baucus
Bingaman
Boschwitz
Chafee
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hecht
Humphrey
Karnes
Kassebaum
Lugar
McCain
Murkowski
Nickles
Packwood
Pressler
Quayle
Simpson
Stevens
Symms
Wallop
Wilson
Wirth

NOT VOTING—10

Bentsen
Breaux
Dixon
Dodd
Gore
Hatfield
Heinz
Matsunaga
Stafford
Weicker

So the motion to lay on the table amendment No. 2860, Division L was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, it is anticipated there will be one more amendment and one more rollcall vote. I would urge Senators to not delay too long in starting for the floor on the rollcall votes. I am finding that by the time the 15 minutes are up, today in at least one instance, not more than 60 Senators voted and then they all came in, 30 or 40 of them. One day 30 or 40 of them will miss the vote. It will not be this Senator's fault. I hope they will start earlier when the first bell rings, and we can complete the vote in 15 minutes. It is getting to be 18 minutes now on rollcall votes because of Senators late in arriving. I thank all Senators for their consideration.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, earlier today we had a letter that was read from extensively, a letter from the National Consumers League. It is my understanding from our Trade Representative that they have checked it out and found that that organization is virtually totally funded by the labor movement. I hope if that is not right that the National Consumers League will provide us with information about where their funding comes from, its source, and I will be happy to put that into the RECORD if this turns out not to be correct.

AMENDMENT NO. 2871

(Purpose: To exempt workers' coveralls, uniforms, workshoes, work boots from the provisions of the bill)

Mr. GRAMM. Mr. President, I have an amendment at the desk No. 2871, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas (Mr. GRAMM) proposes an amendment numbered 2871.

On page 20, line 24, insert before the period the following: ", except that no provision of this Act shall apply to workers' coveralls, uniforms, workshoes, or workboots".

Mr. GRAMM. Mr. President, I know it has been a long day. It is our first day back. I am not trying to drag another dead cat across the table here by going over all of the information that has been covered in the earlier debate.

This is a working person's amendment. This amendment simply says, in addition to the 1,500 quotas we already see, in addition to the 18-percent average tax we already impose upon the consumer, in addition to the $300 to $700 per American family that is already paid by existing legislation related to textiles, that we would go ahead and impose the restrictions, that this bill would impose on the consumer another roughly $7 to $10 billion of cost, except that we would exempt workers' coveralls, uniforms, workshoes, and work boots.

Mr. President, this amendment simply is trying to give some degree of protection to the working men and women of America who do not have a before tax rate of return of 26 percent on equity, which the textile industry had last year, people who are not fortunate enough to live in the textile-producing States that have an average unemployment rate of 15 percent below the national average, or in shoe-producing States with 25 percent below the national average. Those are the top five textile States and the top five shoe States.

This basically is an amendment that tries to afford some degree of protection to the people who are out there on hot days sweating, on cold days getting cold, doing the work, pulling the wagon, paying the taxes, making America work.

It seems to me that this is an eminently reasonable amendment. Let me remind my colleagues again that work coveralls and work boots would still be subject to 1,500 quotas; they would still be subject to an 18-percent tax on the back of the working people of the country. We would merely not make the situation worse.

I could review all the data about employment, profits, and exports, but I think we have gone through all that data. I hope my colleagues will decide that this is a reasonable amendment. In fact, I hope that our dear colleague from South Carolina will decide that this is worthy and will simply accept the amendment, and we can all then go home.

Mr. HOLLINGS. Mr. President, this amendment is ludicrous. The only similarity is the word "work"—work boots, work shoes, work coveralls. Without a job the worker will not need any boots or coveralls or shoes. And going right to the heart of this particular bill, this is simply more shenanigans. Opponents of this bill tried to use the buzzword "poor." They tried to use the buzzword "undeveloped." Now they hope that the Members will not even stop to think and listen and see work boots, work shoes—whoopy, like he says, accept the amendment and gut the purpose of the bill.

We are trying to look out for those who need work shoes and work boots. And if he had any intent really of helping, he should have moved long ago to support this bill. Fifty percent of this bill is to save the remaining 16 percent of production that we have for work shoes and work boots. I have seen it. I have been to New Hampshire and seen Timberland. I have seen Dexter. I have seen Bass and the others that are still making shoes, and Johnson and Murphy in Tennessee. We have very few left. But the reasons we have very few left is we followed the rationale of my distinguished colleague, and he really demeans our intellect by coming along just with the descriptive word "work"—work shoe, work boot, work coverall, work this, work that, and hope that will cover for him and gut the globalizaton of the particular bill.

Yes, there are 1,500 categories, I can tell you, Mr. President. Here is a book with more than 15,000 restrictions. These are the restrictions on that so-called protected industry, textiles. These are "Foreign Regulations Affecting U.S. Textile and Apparel Exports," published by the Department of Commerce in April of a year ago.

Now, there it is. Try in Korea to sell anything like work boots, work shoes. You have to get a license from the textile industry and the shoe industry in that country, and they will not give you a license.

Go to Indonesia where I met with the Minister of Commerce. He started calling me a protectionist. I said, "Mr. Minister, why don't I just put into U.S. law your own licensing system. You will not give us a license." Well, all his colleagues around the table kept nodding and he just looked and blinked. They knew exactly what I was talking about.

We are facing the most restricted, protected market, and the best bet for bringing orderly marketing and to continue the competition was to go the proven European Economic Community way of a globalization of quotas; not cutbacks, not rollbacks. We will guarantee over half the U.S. market, guaranteeing the increases in consumption to the foreign importer into the United States, and now they come here and try to gut the globalization with the buzzword "work"—work shoes, work boots, work something, whatever else it is.

I am prepared to go ahead and vote anytime the Senator is ready.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this is simply a giant loophole. I want to mention this. The Communists are now sending goods into the United States. During the 12 months ending in May 1988, textile and apparel imports entering the U.S. markets from Communist countries amounted to over 1.75 billion square yards. That is the equivalent of 170,000 lost job opportunities for Americans. There are 170,000 jobs lost by imports coming in from Communist countries. I want to emphasize that.

When these statistics are compared to the 12-month period ending May 1985, imports from Communist countries have increased 67 percent.

Now, in my opinion this loophole should not be allowed. It is trying to play up the fact you are going to help some poor people or something of that sort. We want to help poor people all we can. But workers' coveralls, uniforms, work shoes, and work boots, they could be made in this country just as well. We have found that the ones who make the profit are the retailers and importers. The cost to the consumer is about the same. The amendment should not pass. It is just another effort to kill this bill.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me respond and I will try to be brief.

First of all, there are a lot of people working in this country. I do not know if my colleague from South Carolina saw the number today, but there are 115 million Americans at work as of yesterday. That is the largest number of Americans ever at work in the history of the country. They are also working at the highest wages they have ever earned. I know that Michael Dukakis and others would like America to believe that suddenly everybody is poor and wages are down, but the truth is that in the 1970's real wages fell by 6 percent. They have risen by almost 8 percent—that is, when you adjust for inflation—since 1981.

Also, we keep hearing all this stuff about people getting poorer. If you break out the income and wealth distribution of America into five equal parts, all five categories got poorer when Jimmy Carter was President. All five categories have gotten better off in the last 8 years. So I hear all this stuff about where these jobs are being exported, but the truth is that in the last 8 years we have created more jobs than all the developed nations of the world combined, more than Japan and Germany have created in the aggregate in the last 10 years. So this idea that America has no jobs is just pure old baloney.

Now, what this amendment is trying to do is recognize that there are costs involved in all these political favors that are being granted by this bill. Nobody disputes the fact that the average American family is paying between $300 and $700 a year more for shoes and textiles as a result of the restrictions that are already in place. What this amendment says is that we do not allow additional restrictions to apply for workers' coveralls and uniforms and work shoes and work boots.

It seems to me, Mr. President, that that is an effort to try to protect the people who are going to get hurt the worst by this bill.

Now, with regard to the economic horrors that are occurring in New Hampshire, forgive me if I do not burst into tears when I hear my dear colleague from New Hampshire, who is fond of saying their economy is doing so well in New Hampshire that they have people at work who ought to be on welfare. In fact, their unemployment rate is below the national average, half of what the unemployment rate is in my State.

When I am trying to offer an amendment to try to prevent the price of work boots from being jacked up and somebody says to me, "Well, look, there are people in New Hampshire that are making work boots." When their unemployment rate is below the national average, half of what it is in my State, I just cannot understand the opposition. Why should people working in my State pay more for work boots to help New Hampshire when their unemployment rate is half the unemployment rate of Texas.

I love New Hampshire. My dear colleague who joined our Senator from South Carolina and me in trying to stop deficit spending is from New Hampshire. I want the people of New Hampshire to make money. I want them to be employed, but again it is hard for me to take these arguments seriously when the parts of the country that are going to benefit the most are the parts of the country that are already doing the best.

The truth is that New Hampshire benefited from competition. If they were back in the textile business as they were in the 1950's on a dominant basis, they would not be as prosperous as they are today. What they have done is bring new industries in that they are now producing high technology items. Their wages have skyrocketed.

Do you know what is going to happen if this bill passes? What is going to happen if this bill passes is every one of these countries that are going to be feted by this new protectionism will have a right under GATT to have compensation. Every one of them will be able to go to GATT and say, "The United States has violated the GATT agreement, and we want compensation." Guess where they are going to take it? They are going to take it against petrochemicals and the chemical industry, they are going to take it against high tech areas, and they are going to take it against agriculture. And we are going to lose more jobs in those areas than we are possibly going to create by granting more protectionism in the textile business.

So, Mr. President, there are some who would call it frivolous to try to grant a little bit of relief from robbery to people that are buying coveralls, buying uniforms, buying work shoes, and buying work boots. But when the average family is already paying $300 to $700 a year because we are granting all of these gifts to industries that have a 26-percent rate of return on equity, I do not think it is frivolous. The truth is we ought to be granting it to children, we ought to be granting it to senior citizens, and we ought to be granting it to America, but I am not so foolish as to think that is going to happen.

So what I tried to do is focus here on things where nobody can say that these are items that are bought by rich folks. Nobody can say we are trying to hurt the textile and shoe industry at the expense of the well-to-do. I am just talking about not imposing more cost on the people that are buying coveralls, that are buying uniforms, that are buying work shoes, and that are buying work boots.

When they are already paying about twice what they would pay if we did not have 1,500 quotas and an 18-percent tax, I cannot see this as frivolous.

So I do not know whether it is going to pass or not, given the vote early in the day. I suspect it is not. But I want it on record that I do not think it is right to impose more costs on the working men and women of America who are doing the tough jobs, who are out sweating in the summer and cold in the winter, to give more money to one privileged industry, great as that industry may be, important as it may be. It is not right. This little degree of protection from protectionism is warranted, and I hope my colleagues will adopt the amendment.

Mr. HOLLINGS. Mr. President, as I said, we have about 16 percent of our footwear consumption left. This amendment will get rid of the remaining 140,000 footwear and supply employees. I am looking at the letter from Fawn Evenson and the Footwear Industries of America, who make the work boots and work shoes. And they endorse it. They ask us to oppose these kind of amendments. I cannot understand the logic of my colleague from Texas.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina to lay on the table the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], and the Senator from Hawaii [Mr. MATSUNAGA], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. KARNES], the Senator from Utah [Mr. STAFFORD], and the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. HEINZ] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 28, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—62

Baucus
Biden
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dole
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatch
Heflin
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Wirth

NAYS—28

Adams
Armstrong
Bingaman
Boschwitz
Chafee
Danforth
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hecht
Humphrey
Kassebaum
Lugar
McCain
McClure
Murkowski
Nickles
Packwood
Pressler
Quayle
Simpson
Stevens
Symms
Wallop
Wilson

NOT VOTING—10

Bentsen
Dixon
Dodd
Gore
Hatfield
Heinz
Karnes
Matsunaga
Stafford
Weicker

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, we have heard a lot of numbers thrown around over the past 2 days of debate, but one number really stands out—370,000.

That is the number of textile, apparel, and footwear jobs that have been lost to foreign competition during the 1980's. Another 47,000 U.S. workers will lose their jobs if we don't approve this legislation.

Here is another number: 88 cents.

That is the hourly wage received by Korean shoe workers. Can U.S. workers compete against that wage? Of course not. Should they have to? No way.

One last number: 12,490.

That is the number of Maryland workers who remain in these industries and who stand to lose their jobs to further import penetration—workers in Carroll County, Frederick County, Allegany County, and Washington County.

Fighting the battle against the trade deficit is a frustrating exercise, and it often seems that there is very little we can do to make a quick, decisive difference. Today we have that opportunity. A vote for this bill is a vote that will have an immediate payoff in U.S. jobs.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of S. 2662, the Textile and Apparel Trade Act of 1988.

We are now importing over three times as many textile and apparel products as we were a decade ago. Many would question the importance of this. Why do we need to save the textile, apparel and footwear industries in America? Isn't this an industry we can afford to lose? I would strongly disagree.

The Pentagon ranks textiles as the most vital sector after steel, to our national defense. Both Caspar Weinberger when he was Secretary of Defense and the then U.S. Trade Representative, William Brock, have emphasized the need to maintain a strong textile and footwear industry for reasons of national security.

The nonrubber footwear industry above all others reveals the extent of our current vulnerability. In 1985, a Department of Defense report stated that the domestic footwear industry would be unable to accommodate military requirements in time of war. In that year, footwear import penetration was at 71 percent. That figure is now at 82 percent. A Defense Logistics Agency study conducted in April of this year found that U.S. factories could only produce 2.9 million of the 6.9 million pairs of boots needed in a mobilization.

Unemployment in this sector is now double the U.S. average and in Michigan alone, 30 percent of jobs have been lost since 1980.

But defense is not the only consideration.

A full 6 percent of all textiles produced in this country are used in the automotive industry. Without adequate domestic capacity, the industry would be forced to look elsewhere for upholstery fabric for seats and carpets.

Since 1980, the textile and apparel industry has endured a 19-percent annual rise in imports. Over 1,000 plants have closed resulting in a loss of over 350,000 U.S. jobs in direct manufacturing and related services and suppliers to this sector. In 1987, the Office of Technology Assessment found that 40 percent of the jobs created by this industry are indirect jobs outside of textile and apparel plants. There are 2 million people—more workers than the auto and steel industries combined—directly employed in the textile, apparel and footwear industries.

Taking a closer look at that work force, we find the largest proportion of women and minorities in any manufacturing sector—65 percent of those employed in textiles and footwear and 85 percent in the apparel industry, according to last year's figures from the U.S. Bureau of Labor Statistics. Unfair foreign trade practices are not only laying off American workers, they are costing the poorest, most vulnerable workers in this Nation jobs which assure them of productive, self-supporting lives.

The State of Michigan currently has 1,300 textile workers, 20,100 apparel workers and 2,300 footwear workers.

The effect of these continuing plant closures on the cost of unemployment related benefits cannot therefore be underestimated. In fact, ICF Inc., a nationally recognized economic consulting firm, has forecast savings of $500 million in Federal programs only the second year after the enactment of this bill. Within that same time span it also forecasts the creation of tens of thousands of American jobs.

The footwear industry tried to seek relief through existing statute, but was denied a meaningful remedy even after the case was successfully made.

Section 201 cases have been initiated five times by the industry since 1970 and have provoked little effective response. Indeed, the United States has not even utilized the limited GATT and Multi-Fiber Arrangement provisions guaranteeing relief to threatened industries, as Europe and Canada have. It is yet another case of our trading partners showing a greater willingness than we do to utilize existing authority to protect workers in sensitive industries.

Foreign exporters frequently use a combination of subsidies, import restrictions and unregulated salary and factory conditions in order to undercut U.S. manufacturers. Average wages for textile workers in developing Asian countries are 80-percent below those in the United States, and this is not a highly paid U.S. industry. Average hourly compensation for textile workers in May of this year was $7.32. For apparel workers it was $6.06—considerably below the $10.14 average for U.S. manufacturing as a whole.

Horror stories of Third World working conditions abound while developed countries use more subtle techniques of government aid to support their industries. A recent example was the Canadian duty remission program which, although modified due to great United States opposition, still imposes preferential treatment in the wake of a United States-Canada Free Trade Agreement.

Of course many would argue that, in the final analysis, the prerogative must lie with the American consumer. He or she must be able to buy the best product at the best price, be that item imported or domestic.

But the idea that it is the consumer who benefits from cheap imports is not necessarily the case. The report produced by the Office of Technology Assessment in April 1987 revealed that retailers typically mark up imported textiles and apparel 200 to 400 percent, compared with a 100-percent markup on similar U.S. made goods. In fact the consumer will typically pay exactly the same for these goods with, and I quote, "much of the difference ending up in the hands of foreign and domestic shippers, wholesalers and retailers."

This bill provides a wholly sensible approach to the textile, apparel and footwear industries. It allows for a 1-percent increase in imports—a figure notably larger than market growth in textiles and apparel over the last 10 years. It offers some respite to an industry which spends over $2 billion a year in modernization and automation programs and which, from 1975 to 1985, boasted twice the productivity growth of U.S. manufacturing as a whole.

We must give a healthy and vital industry a fair chance to compete in the international market. America needs its textile industry. I urge my colleagues to support the Textile and Apparel Trade Act of 1988.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. SIMON. I yield to the majority leader.

Mr. BYRD. Mr. President, I thank my friend.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business for not to extend beyond 7 p.m. today and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO HERMAN J. WARNEKE, JR.

Mr. THURMOND. Mr. President, it was with deep regret that I learned of the death of Mr. Herman J. Warneke, Jr., of Aiken, SC. Mr. Warneke's family came to South Carolina in the 1880's, and since that time, have been an important part of the Aiken community. Warneke's Cleaners, established in 1934 by Herman Warneke, Sr., and later operated by Herman Warneke, Jr., is one of Aiken's oldest family-owned businesses.

As a young man, Mr. Warneke began his career with Pan American Airlines in Miami, FL, and later served in the Navy during World War II. After completing his education at the University of South Carolina, he returned to Aiken to enter the family business. Mr. Warneke and his company represent the best in American small business. The entrepreneurial efforts pursued by Mr. Warneke and by other small businessmen in the United States are vital to our Nation's economy.

Herman Warneke, Jr., a friendly and soft-spoken man, exhibited a dedication to his work which resulted in the excellent service that has become a hallmark of the Warneke business. Active in the American Legion and a member of the Church Council of St. Paul's Lutheran Church, his gifts to Aiken were many.

The loss of Mr. Warneke will be felt by the business community as well as by his many friends in Aiken, but I am confident that he will be remembered with admiration and respect. My wife Nancy joins me in extending our sincere sympathies to the family and friends of Mr. Herman J. Warneke, Jr.

TRIBUTE TO JACK BONE

Mr. BURDICK. Mr. President, today the community of Minot, ND, honors veteran newspaperman Jack C. Bone.

Jack Bone has been associated with the Minot Daily News for more than 40 years as a reporter, editor, personnel director, and columnist. He now serves on the editorial board of the newspaper.

I consider Jack Bone a personal friend, and respect him for his talent and his many vital contributions to our State and the Minot community. Throughout the years, he has volunteered a tremendous amount of time and effort to water resource planning and development and other issues of vital importance to our State.

Jack Bone's many accomplishments have never received much attention because of his low-key approach. I am very pleased that his efforts are being recognized and that his fellow citizens are honoring him this evening at an appreciation dinner sponsored by the Citizens Committee of Minot.

I ask unanimous consent that an article about this outstanding North Dakotan be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Jack Bone

Maybe his golf game is the key to what Jack Bone is all about, this neighborly guy who has been bringing home The News for more than 40 years.

It's a game he both loves and hates, he says. He hasn't won any tournaments in the 40-plus years he has played ("got my handicap down to 13 once"), and he doesn't swing his clubs on courses where the fees are flights of fancy just for standing there.

Where he beat the averages though is in having shot the first hole in one at Souris Valley Golf Course in Minot when it opened in 1968.

Few can lay claim to making a hole in one. It's absolutely fitting and somehow hilarious that Jack did it—a kind of unannounced, unarranged claim to fame that brings him into the fun and funny situation that is his stock in trade.

When you have a name like Bone, maybe you make it a funny Bone. In a 1948 series about Daily News employees, Bone was credited for his quick way with a pun. Who knows when persons met the punster, and they became one.

Perhaps it was when he was still a boy in Biwabik, Minn., already as a high school lad writing a column for the Biwabik Times. Or later, when he was a junior college student in Virginia, Minn., and his column was called "The Funny Bone." He went on from there to the University of Minnesota, to the Range Facts, a weekly published in Virginia where he both wrote and was business manager, to the Army and a writing stint for the Iwo Jima Inquirer, and finally to The News in 1946 following World War II.

His punster penchant has been threaded through the After Deadline column he has written since 1951, a column started at the suggestion of Hal Davies, former owner and board chairman of The News.

It was Davies who, not long after Bone hired on as city editor, waived at a map in his office of the Missouri Souris Project and said, "I hope you're going to feel strongly about this project and see to it that it gets the attention of Daily News readers . . ."

Thus began what Bone himself has described as "an outpouring of words and water," which accompanied the project unfolding and all its related developments, particularly those having to do with the Garrison Diversion Unit. He also recorded, accurately and with a great deal of sensitivity for the thousands of people involved, the persistent flood problems of the Souris River Valley when they erupted in 1969.

He continued to write about water resources, water use and water management up to and through his retirement as a full-time staff member at The News in 1978. His immersion in water works and water words included his writing up to half a dozen statements for as many individuals to present in Washington in support of the project, each statement, by Jack, still another reason to defend it.

"I never calculated the volume over the years. And it was a kind of an unusual position for a newsman to be in. I'd go to Washington both as an advocate for the project and as a newsman attempting to be in a neutral position. But of course I wasn't, everything was written with a slant in favor of North Dakota." (Punster becomes prolific wordsmith.) Bone developed into a specialist in writing in a field where there were none before him at The News, and in the process, became one of the most knowledgeable, articulate and influential people in North Dakota in water resource development.

His work brought him the distinguished Service Award in 1977 from the Upper Missouri Water Users Association, a four-state organization. That same year he also was named a recipient of the Alumni Golden Award from Minot State University for his services as a journalist writing in the interest of MSU and the Minot community.

He did everything at The News. City editors in the 1940s—and for a lot of years that followed—routinely also covered city hall, the fire station, the city council, the Chamber of Commerce. There was no library at The News in those days. Jack persuaded Aloysia Brainard, then a veteran newswoman, to start one. Nor was there a photography department. He was instrumental in getting that going, too. Later, when he was named an assistant to Ray Dobson, who was publisher and editor-in-chief, he also became personnel director in the newsroom. After that, his intake of Tums stepped up and he got out to golf a little more.

Small wonder. Reporters were starting to clamor for more bylines. The '60s and their turbulence arrived, Jack riding the crest of high and low water, the start of the feminist movement, argumentative reporters, the now-and-again angry publisher and irate reader. His Tums consumption kept up the pace. He still writes his weekly column and occasional editorials, and is a member of The News Editorial Board created a year ago by Editor Stephen Trosley.

Over the years, he was a member of the Exchange and Lions clubs, the Jaycees and the Chamber of Commerce, the North Dakota Water Users, the N.D. Associated Press, the YMCA, Minot Vocational Workshop Board and the Souris Flood Control Committee. (Good guy on the golf course becomes adept aid at the negotiating table, helping to bring about the signing of a truce pact in the troubled Souris River flood control project.)

He and his wife, Evelyn, built the house they live in at 209-19th Ave. SE, and moved into it in 1946. He gardens there when he isn't golfing. And he has done his share of bowling and bridge-playing.

Their two children, Jack Roger Bone and Nancy Alice Armstrong, live in Canyonville, Ore., and Elkhart, Ind. Young Jack is taking a respite from 22 years in the field of education and Nancy is operating a drugstore with her husband, Gary.

CONGRESSIONAL BUDGET OFFICE ESTIMATE—S. 2436

Mr. JOHNSTON. Mr. President, on August 10, 1988, the Committee on Energy and Natural Resources filed the report to accompany S. 2436, a bill to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission.

At the time the report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the report was ordered to be printed in the Record, as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 11, 1988.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2436, a bill to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission, as ordered reported by the Senate Committee on Energy and Natural Resources, August 3, 1988.

Based on information provided by the National Park Service, CBO estimates that enacting S. 2436 would not result in any significant costs to the federal government, or to state or local governments. The bill would extend, for 10 additional years, the authorization for the Sleeping Bear Dunes National Lakeshore Advisory Commission.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Michael Sieverts, who can be reached at 226-2860.

Sincerely,

James L. Blum,
Acting Director.

REPRESSION IN SINGAPORE

Mr. KENNEDY. Mr. President, on July 11, 1988, Senators Simon and Cranston submitted Senate Concurrent Resolution 132 calling on the Government of Singapore to respect the human rights of all the people of Singapore and to release all persons imprisoned without trial for the peaceful expression of their political views. I support that legislation and urge the other Members of the Senate to add their support to this concurrent resolution.

The specific case of K.C. Chew, a citizen of Singapore currently detained for issuing a statement in response to charges brought against him, highlights the deplorable situation in Singapore.

On June 21, 1987, at 2:30 a.m., Singapore's secret police arrived at the home of Chew Kheng Chuan, known by his American friends as "K.C.," and arrested him under the Internal Security Act for his involvement in a so-called Marxist conspiracy to overthrow the Government. Under the act, persons can be arrested and detained indefinitely without trial.

It is my understanding that for 5 days, K.C. was forced to stand, beaten frequently, and deprived of sleep. It is not surprising that in the following months of inhumane treatment, confessions to charges of conspiracy were extracted from him. Subsequently, a 1-year detention order was issued against him.

K.C. graduated from Harvard in 1982. He returned to Singapore after graduation, but he maintained ties to the United States and to Harvard as an editor of the Harvard Newsline. The allegations of K.C.'s Marxist involvement are extremely weak. His undergraduate thesis on development, for example, which contained a brief quote from Karl Marx, was confiscated as evidence.

K.C. Chew rejects the charges against him, saying, "I am a democrat, a believer in an open and democratic polity and in the virtues of an open and an accountable government * * *. A citizen of a democracy, to be worthy of that society, has not just the right, but indeed the duty to participate in the political life of his or her society."

On May 18, 1988, K.C. was rearrested under the Internal Security Act for his role in drafting a statement that described the treatment he and other prisoners received in prison. To date, K.C. is still in detention.

I urge Prime Minister Lee Kuan Yew to release K.C. and all other prisoners who have been imprisoned for their political views, and I encourage all who are concerned about cases such as K.C.'s to support Senate Concurrent Resolution 132.

SENATOR ROBERT C. BYRD

Mr. LUGAR. Mr. President, our colleague, Senator Robert C. Byrd, has enjoyed a public life so filled with important events and personal achievements that his biographers will need to work diligently to distill the essential characteristics of his remarkable life. At the time that he leaves his role as majority leader of the Senate, I am convinced that three areas are worthy of especial commendation and attention.

First of all, Senator Robert C. Byrd is a master legislator and parliamentarian. Much has been written, deservedly, about his mastery of the rules of the Senate, but this is only a part of the reason he will be remembered as a remarkable legislator. Senator Byrd deeply cares about legislative results and the consequences of effective and constructive governmental action. Early on, he learned that mastery of the rules and of the techniques which can lead to effective floor leadership make an enormous difference in one's ability to project ideas and visions and to change the course of history, even if in only modest ways, day by day. I admire, as do all Senators, his comprehensive knowledge of parliamentary procedures, precedents of the Senate, and general institutional memory which helps to refine all legislation including his own. These talents have made him an especially effective majority leader.

Second, Senator Robert C. Byrd reveres history. He has written extensively about the history of the U.S. Senate but this has led him into a general reverence for history and very sound background for his legislative proposals. In the same methodical way in which he has learned the rules of the Senate, he has learned the history of the Senate and this has given him additional power in knowing of the strength and weaknesses of those who have preceded us on the floor of the Senate and the opportunities which they might have taken and which are now available to us.

Third, and most important, Senator Robert C. Byrd is a patriot. He understands the Constitution of the United States of America and the broad range of responsibilities and obligations which each citizen freely acknowledges and a few citizens attempt to incorporate into their daily lives. During important foreign policy and defense debates, Senator Byrd has always tried to find that course of action which would best secure the future of our country. His diligence and often, his passion, on these occasions have made a significant difference.

Fortunately, for the U.S. Senate and for our country, Senator Robert C. Byrd will continue to serve with us for many years to come. During that time, we shall probably discover additional strengths which we will want to celebrate from time to time. For the moment, I simply want to affirm that I deeply appreciate the leadership which Senator Byrd has given to the U.S. Senate. He is clearly an important person in the history of the U.S. Senate and his reputation and achievements continue to grow.

BICENTENNIAL MINUTE

SEPTEMBER 7, 1969: EVERETT DIRKSEN DIES

Mr. DOLE. Mr. President, 19 years ago today, on September 7, 1969, Senate Republican Leader Everett McKinley Dirksen died in Washington at the age of 73. The following day, Congress honored the Illinois statesman by arranging for his body to lie in state in the Capitol's rotunda, an honor accorded to only five other Americans on the basis of their service as U.S. Senators.

Everett Dirksen began his long congressional career in 1933, representing central Illinois for eight terms in the House of Representatives. In 1950 he moved to the Senate by defeating Scott Lucas, who was then the Senate's Democratic majority leader. In 1957, Senate Republicans selected Dirksen as their party whip and in 1959 he became Republican leader.

Dirksen excelled at both tough bargaining and at compromise, equally essential components of our legislative system. His ability to change a strongly held position was legendary. A resolute isolationist in the 1930's, Dirksen was actively supporting United States aid to Great Britain in the weeks before the attack on Pearl Harbor. In the 1960's, after first opposing the Nuclear Test Ban Treaty, he worked to ensure its ratification. In a memorable address, he recalled the bombing of Hiroshima. "For the first time the whole bosom of God's Earth was ruptured by a man-made contrivance that we call a nuclear weapon." He determined that he would not go to his grave without doing what he could to end the threat of nuclear holocaust. Similarly, in 1964, he persuaded other opponents to support the Civil Rights Act, providing the votes essential for its passage. Explaining his change of heart, Dirksen quoted Victor Hugo: "Stronger than all the armies is an idea whose time has come."

In his last decade, Everett Dirksen became, in the eyes of many Americans, almost the personification of the Senate. His golden oratory, his theatrical presence, his campaign to make the marigold the national flower endeared him to millions. In 1972, the Senate paid him a high tribute by naming one of its office buildings in his honor.

RELIGIOUS FREEDOM WEEK

Mr. PELL. Mr. President, immediately prior to the August congressional recess, I along with 32 of my colleagues in the Senate, introduced Senate Joint Resolution 361, to designate the week of September 25, 1988, as "Religious Freedom Week."

At a time on a national level when we are celebrating the bicentennial of the ratification of the Constitution, I thought it most appropriate to also commemorate our national commitment to religious freedom, specifically freedom from religious persecution, intolerance, and indoctrination. No more clearly was the importance of religious freedom emphasized in our country's history than in a letter from President George Washington in 1790 to the congregation at Touro Synagogue in Newport, RI, stating "to bigotry no sanction, to persecution no assistance."

Without question, Touro Synagogue and President George Washington's letter on religious tolerance, have become important national symbols of our commitment as a nation to religious freedom.

During the recent congressional recess, Mr. President, Touro Synagogue celebrated its 225th anniversary. On the occasion of this anniversary in Newport, my distinguished colleague in the House of Representatives, Congresswoman Helen Delich Bentley of the Second Congressional District in Maryland, commented on religious freedom as an integral part of our national heritage. Congresswoman Bentley also payed tribute to our rich heritage of religious freedom in Rhode Island, and the important role that Touro Synagogue played in symbolizing this protection from religious persecution in the colonial states.

Mr. President, Congresswoman Bentley's remarks to the congregation at Touro Synagogue on August 21, 1988, are most thoughtful, and ideas which I believe we should clearly reflect upon today as we celebrate our bicentennial of the Constitution. They are comments which also underscore the importance of religious freedom throughout our heritage, as well as reminding us of our continuing need to guarantee to all citizens protection against religious intoleration and persecution.

I strongly commend my distinguished colleague Congresswoman Bentley for taking the leadership in focusing attention on the importance of religious freedom, and for introducing House Joint Resolution 518, with 145 cosponsors, which also designates the week of September 25, 1988, as "Religious Freedom Week."

I ask unanimous consent that the recent remarks of Congresswoman Bentley before the congregation of Touro Synagogue in Newport, RI, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Speech by Congresswoman Bentley at Touro Synagogue, August 21, 1988

When I entered this sacred edifice today, goose bumps ran up and down my spine and over my whole body—as I realized that I had entered Jewry's own Statue of Liberty—and I am honored to have been invited here today to celebrate with your Congregation the 225th anniversary of the completion and dedication of the Touro Synagogue and the 198th anniversary of George Washington's immortal words addressed first to your ancestors, "To bigotry no sanction, to persecution no assistance."

What a wonderful promise for the future of America! And standing in this sacred hall, we all must be moved thinking of the impact of that sentence on the listeners that long ago morning. What a thrill must have swept through the audience and there would have been a rustling in this sanctuary—a sound—as if a new wind has just picked up to sweep across the young nation—bringing hope to all its citizens that they were truly free to worship without fear of the tyranny of a state religion. That was the promise to them by the new President. How excited you must feel whenever you visit this hallowed hall! I told you how thrilled I felt when I entered here this morning.

It is difficult for us as Americans today to realize just how much that must have meant to those people, at that time. Few of our history books—after the period of the Puritan landings in Massachusetts—feature the impact that religious persecutions in Europe had to do with the flood of immigrants which came to this country before 1800. And yet, if you thnk about it, many of our colonial states were founded by settlers who came to the New World seeking religious freedom.

Certainly your own state, Rhode Island, was a haven in the very earliest years, not only from those fleeing persecution in Europe, but from those seeking escape from the harsh Puritan regime to the north in neighboring Massachusetts. Your own congregation had followed the route of the Puritans through Holland to these shores. And Rhode Island also had attracted many of the "separests"—Baptists, Quakers, Catholics—and in doing so began building a model for the pluralist society that has guided constitutional interpretation since the founding of the government.

My own state of Maryland was started as a Catholic colony—Lord Baltimore representing one of the most powerful Catholic families in England. Neighboring Pennsylvania was granted to William Penn, a Quaker. And in later years attracted German Moravians and Lutherans and the Amish and Mennonites who still, after two hundred years, are free to live daily—purely for religious reasons—as they lived then.

And behind the respect of their neighbors for their unique life style—fostered in this country by our long tradition of "live and let live"—stands the power of the central government and the constitution protecting their belief and their right to even be protected from serving in the Armed forces of the United States, because they are pacifists.

This "Marvelous experiment" in self government which the Republic was labeled in its early years has been never more marvelous than in its protection of the free exercise of religion. In the history of nations, we are not very old. But, in the history of democratic governments, we are the oldest. And in the history of religious freedom, our "Bill of Rights"—our written contract with every American—is unprecedented in age and law.

And I believe—it started here! The promise of Touro given a year before the Bill of Rights became part of the Constitution!

How fitting it is that the preamble to my resolution, H.J. Res. 518, calling on the Congress to designate the week of September 25th, 1988, as "Religious Freedom Week" cites the promise of Touro and I must give all the credit there is to Rep. James Scheuer for not only being one of the earliest supporters of my resolution, but for calling my attention to your historic contribution to the annals of religious freedom in this country.

When we go back into session, after Labor Day, this is what will be read on the floor of the House:

Whereas, the principle of religious liberty was an essential part of the founding of our Nation, and must be safeguarded with eternal vigilance by all men and women of good will;

Whereas, religious liberty has been endangered throughout history by bigotry and indifference;

Whereas, the first amendment to the Constitution of the United States guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas the Constitution of the United States ensures religious freedom to all of the people of the United States;

Whereas the bicentennial of the ratification of the Constitution occurs in 1988;

Whereas, at Touro Synagogue a letter advocating the doctrine of mutual respect and understanding was issued more than a year before the adoption of the Bill of Rights?

Whereas the letter of President Washington and the Touro Synagogue have become national symbols of the commitment of the United States to religious freedom;

Whereas, throughout our Nation's history, religion has contributed to the welfare of believers and of society in general, and has been a force for maintaining high standards for morality, ethics, and justice;

Whereas, religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas, religious liberty can be protected only through the efforts of all persons of good will in a united commitment: Now therefore, be it

Resolved by the Senate and the House of Representatives assembled: That the week of September 25, 1988, is hereby declared to be "Religious Freedom Week", wherein members of all faiths or of none, may join together in support of religious tolerance and religious liberty for all.

In the House we now have 100 co-sponsors. Your own Senator Claiborne Pell is sponsoring the resolution in the Senate where there are 35 co-sponsors.

There may be some of you in the audience who wonder at my original sponsorship of this resolution. Of why I have done it. If maybe I am particularly pious.

I think that the answer to my strong awareness of religious freedom and my appreciation of freedom of worship is because my own religion is in such a minority—not only in this country—but in Europe also. I am Eastern Orthodox. I am also a first generation of American-Serbian ancestry. The history of oppression of my church and my people by the Ottomans is among the saddest and most tragic in the world's history.

Like many of you here today, I was raised on the blessings of the freedom in America by people who knew for centuries what oppression is. My mother and father's native country—Yugoslavia—is still not free. And quarrels among its various ethnic groups and religions going back for hundreds of years are still alive there . . . still stir hatred and animosity, still fester causing it to remain a poor, torn country—despite its standing as one nation.

Because of this, my love for America and its guarantees of the freedom we share this afternoon, in this sacred place, is unashamed. My patriotism, literally translated—"love of country"—exists and grows because from the very first this nation was dedicated by men and women who loved their God and their religion enough to leave all in order for them—to their own minds—to save all.

We—and the world—are forever in debt to their courage and their commitment to a spiritual life—to spiritual values. Without them, there would have been no "America." There may have been a collection of states on this continent, but there would have been no "united." Every value which built this country was brought with them in their various faiths. At every turning point in this nation's history, the values and verities of the Ten Commandments have not only determined our actions, but—I believe—the upholding of those values—have saved us in the darkest hours.

In my District there is a Catholic Church that is a permanent reminder of the time when there was no religious freedom in this country. The cornerstone for St. Ignatius Catholic Church in Bel Air, Md., was laid in 1791, immediately after the Bill of Rights, including the Right of Freedom to Worship, was added to the Constitution, completed in 1792.

In the burial grounds of St. Ignatius are bodies of military heroes from every war in which this country fought for freedom for all. These include heroes from the Revolutionary War, the War of 1812, the Civil War, the Spanish-American War, World War I, World War II, the Korean War, and the Vietnam War—all of whom laid down their lives that you and I, our forefathers, and our future generations would be free to hold meetings such as this in institutions like Touro Synagogue.

Yes indeed, the darkest hours frequented our horizon on many occasions:

It was nothing short of a miracle that we won the Revolutionary War against Great Britain—a nation much more powerful in all ways. In the War of 1812, the second time a King reached out for us, it was the seapower of this country—which saved this country and offered the opportunity indirectly for Francis Scott Key to write the immortal Star Spangled Banner as he saw the Stars and Stripes still flying over Fort McHenry in the early morning hours after a fierce all-night battle! I'm very proud that it was the battle fought in Baltimore Harbor that sealed the fate of the British once and for all.

Those dark hours hovered overhead again in the late 1850's and early 1860's when Lincoln's great courage came from his religious faith. And the terrible trial of the tearing apart of this country in a great Civil War for a principal—freedom for all men—no matter their color—was looked upon by a more cynical world as being rather foolish.

When we review the history of our marvelous country, the great United States of America, and the past battles for freedom, we can say that our people were being driven by the promise of Touro.

And so it has been down through the history of this nation.

Proud of my country? Indeed I am!

Proud to be here today to join with you in your wonderful celebration? Indeed I am.

And from the bottom of my heart, I thank you so much for asking me to come . . . It is not only a great commemorative day in the history of Touro Synagogue, it is also a great day in my life that I could give the first reading of my resolution to you—before it is read on the floor of the House of Representatives. It is most fitting and in its way, historic too. Thank you for the opportunity.

DEATH OF COACH ROBERT LEE DODD

Mr. NUNN. Mr. President, when the Georgia Institute of Technology begins its 1988 football season on Saturday, it will be the first time in 57 years that Coach Bobby Dodd has not been on the sidelines or in the stands.

Named for the Confederate general, Robert Lee "Bobby" Dodd was born November 11, 1908, in Galax, VA. He served for 14 years at Georgia Tech as an assistant football coach—1931-45; for 22 years as head football coach—1945-66; and for 26 years as the Georgia Tech athletic director—1950-76. During his coaching career he compiled an impressive record of 165 wins, 64 losses, and 8 ties. In 13 bowl game appearances, Bobby Dodd led Georgia Tech to 9 wins. He was selected "Coach of the Year" in 1952 by the New York Daily News, the same year he coached Georgia Tech to a national championship.

These impressive statistics do not tell the whole story, nor do they tell the most important story. Atlanta Mayor Andrew Young said it best:

> Bobby Dodd was a winner because he understood that winning is a matter of character and intelligence, as well as physical ability. He pioneered in the development of leadership for our Nation. His athletes have gone on to be successful in almost every other area of life. That is coaching at its best.

These are the qualities the American Sportsmanship Council recognized and sought to set as a standard in naming their annual "Coach of the Year" award for Bobby Dodd. For these reasons he was also inducted into the National Football Hall of Fame, the Helms Football Hall of Fame, the Tennessee Sports Hall of Fame, and the Georgia Sports Hall of Fame.

Ned West, sports information director at Georgia Tech under Coach Dodd, said that Coach Dodd was blessed with the reputation for what became known as Dodd's luck. And Coach Dodd believed in it more than anyone. "If you believe you are lucky, you will be," Coach Dodd would say.

Ned West said that all of the Georgia Tech players were believers.

> They knew that if the team had a bad break on the playing field that "Dodd's luck" would even things up. So, they worked even harder for the "break" they knew would come, and were ready to capitalize on it when it did. Usually it did, and they did.

Former Georgia Tech football star Frank Broyles said:

> There was no doubt in anyone's mind that off the field Bobby Dodd was like a second father. And he treated every person as he would treat his own son, or would want to be treated himself * * * He taught us to care, because he cared. He taught us to be concerned, because he was concerned. He taught us that honesty is sacred, is absolute, and is eternal.

The Bobby Dodd legend lives on and off the football field. The Bobby Dodd Center, a sheltered workshop for retarded citizens in Atlanta which celebrated its 25th anniversary in 1985, was named after him in recognition of his support of job training for the handicapped.

In 1978, Dodd became the first recipient of the "Big Heart Award" for his work with retarded children. He was also a member of the advisory board and honorary fund drive chairman of the Atlanta Association for Retarded Citizens, Inc., and a board of trustee of the Scottish Rite Hospital for Crippled Children.

Dodd was an honorary coach for Special Olympics, a member of the Atlanta Rotary Club, the Northwest Presbyterian Church, the Capital City Club, the Ansley Golf Club, Omicrom Delta Kappa, ANAK and Sigma Nu. He also served as a trustee of Westminster Schools, chairman of the board of trustees and the Mt. Vernon Christian Academy, director of the Atlanta Boys Club and a trustee for the Big Brothers of Atlanta.

University of Georgia football coach and athletic director Vince Dooley said, "Bobby Dodd was not only a great football coach, but also a great human being. He always represented the highest standards of Georgia Tech and of college football." We will miss him on and off the football field.

JTPA

Mr. QUAYLE. Mr. President, I am proud to be the author of the Job Training Partnership Act. It has provided the road to economic opportunity for millions of our disadvantaged citizens.

I am also proud of the fact that JTPA was a bipartisan bill. The Senate bill was developed through intense negotiations between myself and Senator KENNEDY and that bipartisan product, with additional contributions from many other Senators of both parties, was unanimously adopted by the Senate. The Senate bill was further modified in conference with the House of Representatives led by Representative PERKINS—the former chairman of the House Education and Labor Committee; Representative HAWKINS—the present chairman; and Representative JEFFORDS—the ranking minority member.

No major piece of legislation is written by any single Senator. It is the product of negotiation and compromise both among Senators and interest groups—but that does not contradict the fact that someone has to take the lead in that process. Senator BENTSEN, rightly, puts authorship of the Medicare catastrophic bill amongst his accomplishments; but that does not mean that Secretary Bowen and many Senators, both Republican and Democratic, did not play key roles in its development—not to speak of the major impact from Members of the House of Representatives.

The fact that a piece of legislation was the product of bipartisan negotiation should not put it beyond the realm of criticism. If instances of fraud, waste, or corruption are found they should be corrected and, if appropriate, prosecuted. If the legislation has flaws, it should be amended. The Senate Labor Committee has in fact held oversight hearings under Republican and Democratic chairmen and proposals for constructive change have been made by members of both parties. A bipartisan Quayle-Kennedy bill was enacted in 1986 and a bipartisan Kennedy-Quayle bill passed the Senate unanimously last year. Senator SIMON, the chairman of the Subcommittee on Employment and Productivity, is developing additional legislation at the present time and I am sure it will receive careful, bipartisan scrutiny.

When a national candidate is associated with a national program, it is only natural that the press should do its best to examine and publicize any flaws that that program may have. I welcome such inquiry and I hope and trust that any flaws will be corrected administratively or legislatively.

But in the heat of partisan battle, let us not lose sight of sound public policy. We all want an effective job training program and no party will gain if we turn legitimate criticism into wanton destruction. No party will gain—but the disadvantaged will lose. If we destroy the system with irresponsible attacks, a new administration will have to labor long and hard to build a new one instead of adjusting the existing system to its own priorities.

The JTPA system serves the disadvantaged in Indiana and Massachusetts under the leadership of Republican and Democratic Governors, just as it serves them in all the States. I hope that those in both parties who have worked so hard to build and maintain a job training system will work together to ensure that the pressures of electoral partisanship do not destroy a sound bipartisan structure.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bills and joint resolutions:

On August 1, 1988:

S.J. Res. 338. Joint resolution to designate August 1, 1988, as "Helsinki Human Rights Day."

On August 4, 1988:

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute.

On August 10, 1988:

S. 2385. An act to amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers.

On August 11, 1988:

S.J. Res. 40. Joint resolution to give special recognition to the birth and achievements of Aldo Leopold.

S.J. Res. 40. Joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week."

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week."

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day."

On August 16, 1988:

S.J. Res. 294. Joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

S.J. Res. 350. Joint resolution designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend."

On August 17, 1988:

S. 892. An act to remove the right of reversion to the United States in lands owned by the Shriners Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake County, Utah.

S. 2200. An act to amend Public Law 90-498 to provide for the designation of National Hispanic Heritage Month.

On August 19, 1988:

S. 1979. An act to establish the Grays Harbor National Wildlife Refuge.

S. 2561. An act to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on August 12, 1988, during the adjournment of the Senate received a message from the House of Representatives announcing that the House agrees to the amendment of the Senate to the bill (H.R. 5141) to delay temporarily certain regulations relating to sea turtle conservation.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had signed the following enrolled bills and joint resolutions:

H.R. 3617. An act for the relief of the Coushatta Tribe of Louisiana;

H.R. 4458. An act to simplify the process of obtaining licensing by States for participation in parimutual wagering by allowing consolidated requests to be made to the Federal Government for identification and criminal history records relating to the applicants for such licensing;

H.R. 4694. An act to amend the Perishable Commodities Act to increase the statutory ceilings on license fees;

H.R. 5026. An act making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 5141. An act to delay temporarily certain regulations relating to sea turtle conservation; and

H.J. Res. 140. Joint resolution designating August 12, 1988, as "National Civil Rights Day."

Under the authority of the order of the Senate of February 3, 1988, the enrolled bills and joint resolution were signed on August 12, 1988, during the adjournment of the Senate by the President pro tempore (Mr. STENNIS).

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of February 3, 1988, the Secretary of the Senate, on August 18, 1988, during the adjournment of the Senate received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bills and joint resolutions:

H.R. 1841. An act to provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes;

H.R. 2370. An act to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes;

H.R. 3679. An act to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes;

H.R. 3960. An act to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes;

H.R. 4143. An act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.R. 4318. An act to improve the administration of the personnel systems of the General Accounting Office;

H.R. 5174. An act to make clarifying, corrective and conforming amendments to laws relating to Indian education, and for other purposes;

H.J. Res. 539. Joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week"; and

H.J. Res. 583. Joint resolution designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week."

Under the authority of the order of the Senate of August 11, 1988, the enrolled bills and joint resolutions were signed on August 25, 1988, during the adjournment of the Senate, by the Acting President pro tempore (Mr. BYRD).

MESSAGES FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1580. An act to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes; and

H.R. 4478. An act to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 1158. An act to amend title VIII of the act commonly called the Civil Rights Act of 1986, to revise the procedures for the enforcement of fair housing, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 3763. An act to amend title 28, United States Code, relating to foreign sovereign immunity, with respect to certain activities of foreign governments, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1580. An act to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on August 12, 1988 he had presented to the President of the United States the following enrolled bills:

S. 1979. An act to establish the Grays Harbor National Wildlife Refuge; and

S. 2561. An act to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3749. A communication from the Secretary of Agriculture transmitting a draft of proposed legislation to amend the National School Lunch Act, the Child Nutrition Act, and other statutes; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3750. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a listing of contract award dates for the period September 1, 1988 to October 31, 1988; to the Committee on Armed Services.

EC-3751. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a proposed Letter of Offer to Denmark for Defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3752. A communication from the Director, Defense Security Assistance Agency, transmitting, pursuant to law, a proposed Letter to Offer to Greece for Defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3753. A communication from the Comptroller General of the United States, transmitting, pursuant to law, an audit of the Financing Corporation's financial statements for the period August 28, 1987 through December 31, 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-3754. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation to correct widely recognized shortcomings in the way that credit is treated in the budget; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC-3755. A communication from the Secretary of Energy, transmitting, pursuant to law, energy information requirements; to the Committee on Energy and Natural Resources.

EC-3756. A communication from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting a draft of proposed legislation to amend the Water Resources Development Act of 1986 to facilitate cost-shared, collaborative research and development between the Secretary of the Army and non-federal entities; to the Committee on Environment and Public Works.

EC-3757. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to reduce costs in the Medicare program, and for other purposes; to the Committee on Finance.

EC-3758 A communication from the Director, Management and Budget, Office of the Secretary of Defense, transmitting, pursuant to law, notice of a proposed computer matching program; to the Committee on Governmental Affairs.

EC-3759 A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the scientific and clinical status of organ transplantation; to the Committee on Labor and Human Resources.

EC-3760 A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice of the President's intent to exempt all military personnel accounts from sequestration; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on Armed Services, and the Committee on the Budget.

EC-3761 A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the initial OMB Sequestration Report for fiscal year 1989; pursuant to the order of January 30, 1975, as modified, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Intelligence, the Select Committee on Indian Affairs, and the Special Committee on Aging.

EC-3762. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's fourth special impoundment message for fiscal year 1988; pursuant to the order of January 30, 1975, as modified, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Energy and Natural Resources.

EC-3763. A communication from the Acting Director of the Congressional Budget Office, transmitting, pursuant to law, the initial sequestration report for fiscal year 1989; pursuant to the order of January 30, 1975, as modified, referred jointly to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Intelligence, the Select Committee on Indian Affairs, and the Special Committee on Aging.

EC-3764. A communication from the Secretary of Defense, transmitting, pursuant to law, a summary of a violation the overobligation of certain appropriations in the Department of the Army; to the Committee on Appropriations.

EC-3765. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a study on the Public Works Department Naval Station, Mayport, FL; to the Committee on Armed Services.

EC-3766. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting, a draft of proposed legislation to authorize the transportation of motor vehicles owned by Federal employees on Jonston Island to their families in Hawaii; to the Committee on Armed Services.

EC-3767. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on possible conversions of commercial activities to performance by contract; to the Committee on Armed Services.

EC-3768. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the financial status of the Federal Home Loan Bank Board for the years 1986 and 1987; to the Committee on Banking, Housing and Urban Affairs.

EC-3769. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on Federal actions taken to assist the homeless; to the Committee on Banking, Housing, and Urban Affairs.

EC-3770. A communication from the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report examining the feasibility of a nationwide electronic clearinghouse system; to the Committee on Banking, Housing and Urban Affairs.

EC-3771. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on collision avoidance systems; to the Committee on Commerce, Science, and Transportation.

EC-3772. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the June progress report on rulemaking proceedings; to the Committee on Commerce, Science, and Transportation.

EC-3773. A communication from the Secretary of Energy, transmitting, pursuant to law, the Quarterly Report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-3774. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3775. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3776. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the Commission's report concerning the impact on competition and on small business of the development and implementation of voluntary plans and agreements of the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3777. A communication from the Secretary of Energy, transmitting, pursuant to law, the Ninth Annual Report on the Use of Alcohol in Fuels; to the Committee on Energy and Natural Resources.

EC-3778. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3779. A communication from the Deputy Assistant Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3780. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report addressing conflicts between oil and gas rights and the Prado Flood Control Basin Project; to the Committee on Environment and Public Works.

EC-3781. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities; to the Committee on Environment and Public Works.

EC-3782. A communication from the Secretary of Commerce, transmitting, a draft of proposed legislation to amend the Public Works and Economic Development Act; to the Committee on Environment and Public Works.

EC-3783. A communication from the Administrator of General Services, transmitting, pursuant to law, a copy of a lease prospectus; to the Committee on Environment and Public Works.

EC-3784. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Evaluation of the Social/Health Maintenance Organization Demonstration"; to the Committee on Finance.

EC-3785. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the impact of the Physician Assistant Reimbursement change under Medicare; to the Committee on Finance.

EC-3786. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, semiannual reports for the period October 1987–March 1988 listing voluntary contributions made by the United States Government to International Organizations; to the Committee on Foreign Relations.

EC-3787. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report on the international status of Liberia; to the Committee on Foreign Relations.

EC-3788. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice for offer for lease of several naval vessels to the Government of Pakistan; to the Committee on Foreign Relations.

EC-3789. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 day period prior to August 18, 1988; to the Committee on Foreign Relations.

EC-3790. A communication from the Headquarters United States Marine Corps, Department of the Navy, transmitting, pursuant to law, the annual report for the Retirement Plan for Civilian Employees; to the Committee on Governmental Affairs.

EC-3791. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a copy of a report entitled "Washington Convention Center's Posting and Depositing of Daily Receipts"; to the Committee on Governmental Affairs.

EC-3792. A communication from the Vice President (Human Resources), Western Farm Credit Bank, transmitting, pursuant to law, audited financial statements for the Sacramento Farm Credit Employee's Retirement Plan; to the Committee on Governmental Affairs.

EC-3793. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report for fiscal year 1987 on the Office's competition advocacy program; to the Committee on Governmental Affairs.

EC-3794. A communication from the Director of Personnel, Farm Credit Banks of St. Louis, a pension plan report for Sixth Farm Credit District; to the Committee on Governmental Affairs.

EC-3795. A communication from the Assistant Secretary of Transportation (Administration), transmitting, pursuant to law, a report on a system of records called the Child Care Program Records System; to the Committee on Governmental Affairs.

EC-3796. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-237 adopted by the Council on July 12, 1988; to the Committee on Governmental Affairs.

EC-3797. A communication from the Assistant Secretary for Health, Department of Health and Human Services, transmitting, pursuant to law, copies of a report of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3798. A communication from the Director, Office of Management Improvement, Department of Interior, transmitting, pursuant to law, a report on a new system of records as required by Section 3 of the Privacy Act; to the Committee on Governmental Affairs.

EC-3799. A communication from the President of the United States, transmitting, pursuant to law, budget supplemental for the District of Columbia for the fiscal year 1988; to the Committee on Governmental Affairs.

EC-3800. A communication from the Assistant Secretary for Health, Department of Health and Human Services, transmitting, pursuant to law, copies of a report on a new

Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3801. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, the eighth annual report of cases decided by the Board; to the Committee on Governmental Affairs.

EC-3802. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Nuclear Regulatory Commission Drug-Free Workplace Program; to the Committee on Governmental Affairs.

EC-3803. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a draft of proposed legislation concerning railway worker's benefits; to the Committee on Labor and Human Resources.

EC-3804. A communication from the Chairman of the Intergovernmental Advisory Council on Education, transmitting, pursuant to law, a report on latchkey children and child care; to the Committee on Labor and Human Resources.

EC-3805. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1985-86 report on the Federal efforts to ensure communication among those groups working to combat child abuse in the United States; to the Committee on Labor and Human Resources.

EC-3806. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on employment and training programs; to the Committee on Labor and Human Resources.

EC-3807. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Regional Educational Laboratories and Research Development Centers Programs"; to the Committee on Labor and Human Resources.

EC-3808. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled "Final Regulations for the College Work-Study Program"; to the Committee on Labor and Human Resources.

EC-3809. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on Department of Defense Procurement from Small and Other Business Firms for October 1987 through June 1988; to the Committee on Small Business.

EC-3810. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, notification of a contract to establish and operate a clearinghouse to provide for the dissemination and exchange of information between small business development centers; to the Committee on Small Business.

EC-3811. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, a copy of the final report on U.S. Small Business Week 1988; to the Committee on Small Business.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of August 11, 1988, the following reports of committees were submitted on August 25, 1988:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1613: A bill to authorize the Secretary of the Interior to construct, operate and maintain the Umatilla Basin Project, Oregon, and for other purposes (Rept. No. 100-488).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 2108: A bill to authorize the Secretary of the Interior to conduct the Reclamation Groundwater Management and Technical Assistance Study (Rept. No. 100-489).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 2772: A bill to authorize the Lyman-Jones, West River and Oglala Sioux Rural Water Development Projects (Rept. No. 100-490).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2858: A bill to provide for refunds pursuant to rate decreases under the Federal Power Act (Rept. No. 100-491).

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 438: A bill to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property (Rept. No. 100-492).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2382: A bill to delay the implementation of a certain rule affecting the provision of health services by the Indian Health Service (Rept. No. 100-493).

By Mr. INOUYE, from the Select Committee on Indian Affairs and the Committee on Rules and Administration, jointly, with an amendment in the nature of a substitute and an amendment to the title:

S. 1722: A bill to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a Memorial to the American Indian, and for other purposes (Rept. No. 100-494).

By Mr. INOUYE, from the Select Committee on Indian Affairs:

Report to accompany the bill (S. 2153) to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, and for other purposes (Rept. No. 100-495).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Special Report entitled "Monetary Policy Report for 1988" (Rept. No. 100-496).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. 182: A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections (Rept. No. 100-497).

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 2753: An original bill to extend the requirements of the National Environmental Policy Act to recommendations for the United States vote in international financial institutions (Rept. No. 100-498).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

S. 2478: A bill to provide for, a two-year Federal budget cycle, and for other purposes (Rept. No. 100-499).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2757: An original bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, to make supplemental authorizations of appropriations for the Board for International Broadcasting, to prevent the abuse of diplomatic immunity, and for other purposes (Rept. No. 100-500).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORE (for himself and Mr. Sasser):

S. 2754. A bill to designate the Federal Building in Jackson, Tennessee, as the "Ed Jones Federal Building"; to the Committee on Environment and Public Works.

By Mr. RIEGLE:

S. 2755. A bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the old-age, survivors, and disability insurance program and the supplemental security income program; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. Kennedy, Mr. Weicker, Mr. Simon, Mr. Dodd, and Mr. Adams):

S. 2756. A bill entitled the "Anti-Apartheid Act Amendments of 1988"; to the Committee on Foreign Relations.

By Mr. PELL:

S. 2757. An original bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, to make supplemental authorizations of appropriations for the Board for International Broadcasting, to prevent the abuse of diplomatic immunity, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. PROXMIRE (for himself and Mr. Conrad):

S. 2758. A bill to provide to employees of Government contractors protection against reprisal for disclosure to an appropriate Government official of information which the employee reasonably believes evidences misconduct relating to the contract with the Government; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. Humphrey, Mr. Matsunaga, Mr. Stafford, Mr. DeConcini, Mr. Bentsen, Mr. Dole, Mr. Stennis, Mr. Cochran, Mr. Stevens, Mr. Fowler, and Mr. Cranston):

S.J. Res. 372. A joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week"; to the Committee on the Judiciary.

By Mr. BYRD:

S.J. Res. 373. A joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORE (for himself and Mr. Sasser):

S. 2754. A bill to designate the Federal Building in Jackson, TN, as the "Ed Jones Federal Building"; to the Committee on Environment and Public Works.

ED JONES FEDERAL BUILDING

● Mr. GORE. Mr. President, I would like to join my fellow Tennesseans and colleagues in the U.S. Congress in expressing the deepest gratitude to and highest praise for Congressman Ed Jones for his admirable 20 years of service in the U.S. House of Representatives. Earlier this year, Representative Jones announced that he would retire at the close of the 100th Congress. In commemoration of his outstanding service to the State of Tennessee and 8th Congressional District, I am introducing legislation, along with my esteemed colleague, the senior Senator from the State of Tennessee, [Mr. Sasser], to designate the Federal building in Jackson, TN as the "Ed Jones Federal Building."

This recognition is a very modest token of appreciation to a man who has always served his district and State with his constituents' best interests in mind. Ed Jones has been on the front line of promoting the interests of our Nation's farmers and other residents of rural America since he was elected to Congress in 1969. The Federal building named in honor of this extraordinary public servant in the district which he has represented diligently for many years will serve as an appropriate reminder of his work for future generations.

Ed Jones' announcement of his retirement at the end of the 100th Congress was received by me, and I know all of my colleagues, with a great sense of sadness. His leadership on the House Committee on Agriculture and as chairman of the prestigous Agriculture Subcommittee on Conservation, Credit and Rural Development will be sorely missed by all who have had the privilege to work with him. Additionally, his absence will be hard-felt in the Tennessee Democratic Delegation, for which he has served as dean for many years.

Although Mr. Jones' retirement will leave a void in Tennessee, his accomplishments and decades of service to the State, particularly in the area of Agriculture, will endure. He can reflect on a unique lifelong career as a farmer, family man and distinguished statesman who has always had a strong sense of pride for Tennessee.

Ed Jones was born in Yorkville, TN, where he continues to live with his wife, Llewellyn. After attending college at the University of Tennessee, he accepted a position with the Tennessee Department of Agriculture. He continued to gain notoriety in the field of agriculture in his positions as a supervisor for the Tennessee Dairy Products Association, an agriculture representative of the Illinois Central Railroad, and as Commissioner of the Tennessee Department of Agriculture.

Since his election to Congress in 1969, Mr. Jones has achieved the delicate balance of being a strong legislative voice in Washington and an attentive Congressman who maintains close ties with the people he represents. His various positions on the Agriculture Committee and its subcommittees have enabled him to have a strong role in the shaping of the country's long-term agriculture policy.

Mr. Jones' distinguished legislative achievements include participation in the writing of four omnibus farm bills. As chairman of the Conservation, Credit and Rural Development Subcommittee, he has presided over the restructuring of the Farm Credit System and written the landmark conservation provisions included in the 1985 farm bill. He has also championed the causes of rural electric and rural telephone cooperatives. But perhaps Ed Jones' greatest attribute is his willingness to listen to opposing views from different interests and write legislation that reflects a fair consideration of each party's concerns.

Congressman Ed Jones' selfless presence in the U.S. Congress has enriched the lives of his constituents. His career serves as a luminous example to all of us who follow him in mutual pursuits. I urge my distinguished colleagues to join me in supporting this legislation to name the Jackson Federal Building for Ed Jones, and I ask unanimous consent that the text of the bill be printed in the Record.

S. 2754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ED JONES FEDERAL BUILDING.

The Federal Building located at 109 South Highland, Jackson, Tennessee is designated, and shall be known as, the "Ed Jones Federal Building". Any law, regulation, map, document, record, or other paper of the United States in which such building is designated or referred to shall be held to refer to such building under and by the name of the "Ed Jones Federal Building".●

By Mr. RIEGLE:

S. 2755. A bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the Old-age, Survivors, and Disability Insurance Program and the Supplemental Security Income Program; referred to the Committee on Finance.

SOCIAL SECURITY BENEFICIARIES PROTECTION ACT

● Mr. RIEGLE. Mr. President, today I am introducing a bill to ensure that individuals participating in the Social Security system are treated with respect, dignity, and fairness.

My friend and colleague from Michigan, Congressman Sandy Levin, is introducing an identical bill in the other body today. I understand that Congressman Levin has worked closely with the distinguished chairman of the Ways and Means Social Security Subcommittee in developing this bill, and the subcommittee will hold hearings on the bill this month.

The Social Security Beneficiaries Protection Act, S. 2755, would place into law a statement of American' rights to fair, courteous, and responsive treatment from the Social Security Administration. The bill encompasses a series of procedural changes designed to protect the rights of beneficiaries in dealing with the Social Security Administration [SSA].

Problems with the SSA generate the largest number of constituent complaints in my seven Michigan offices. We currently have over 300 individual cases pending, and we're opening new cases at the rate of 75 more per month. These figures strongly indicate that people are having problems with the current system, and I think this bill will help solve some of their problems.

I realize that Social Security is one of our largest and most complex Government programs, but it is also one of our most critically needed programs. Because Social Security provides the sole income to so many people, we must make sure the program is working efficiently and fairly. People must have faith that when they call or write on their personal situation, they are going to get the right answer right away.

SSA is taking modest steps to improve the administration of its program in some areas addressed by this bill, and I support those efforts. Nevertheless, we have seen significant deterioration in the responsiveness and quality of service provided by SSA over the past 8 years.

The Social Security Administration, which is often seen as one of our finest agencies, is now beset with morale problems and staffing shortages in the wake of neglect and budget cuts under the current administration. I have expressed dismay in the past about some of the practices of this administration, most notably their treatment of disability beneficiaries. Recently, I have been troubled by SSA's inconsistent treatment of attorneys' fees, the failure to credit billions of dollars to individuals' accounts, and persistent staffing cuts despite the failure of the new computer systems to perform as expected.

I am concerned that SSA is moving toward the use of new technology without considering the implications for many of the low-income individuals who are served. These individuals have traditionally needed more personalized services. A telephone call is often not an adequate substitute for personal contact.

We must assure that individuals receive proper guidance so that they receive the benefits to which they are entitled. S. 2755 contains a modest set of provisions that would restore the quality of services to which the public had become accustomed. We must act now to firmly establish in law a set of procedures that are in place for every beneficiary, in any circumstance that may arise.

S. 2755 has eight main provisions, which are as follows:

First, requires SSA to collect overpayments on a schedule which does not cause financial hardship for the beneficiary.

Second, requires SSA to notify all applicants for benefits that there have been problems with SSA's wage credit records. SSA furnishes an applicant with a summary of the wage history for applicant to verify; statute of limitations would be waived to correct any mistakes.

Third, requires SSA to establish a program to help homeless people qualify for benefits to which they are entitled.

Fourth, requires SSA to write all notices and correspondence in plain, understandable English.

Fifth, requires SSA to take into account any limitations that an individual might have when determining whether that person acted in good faith; including physical, mental, educational, vocational, or linguistic limitations.

Sixth, establishes demonstration projects to examine how SSA can create a system to automatically generate a letter to telephone callers regarding the outcome of the conversation; provides record and receipt of contact.

Seventh, SSA records name of any authorized attorney on computer files to facilitate their access to files.

Eighth, protects right of claimants to benefits to which they would otherwise be eligible but for an earlier, inappropriate, denial of benefits. Protects claimant from losing the right to past benefits due up to the time of the original denial.

I hope this package of beneficiary protections will be supported by my colleagues. While they are designed to be clear and absolute in principle, the details of how the principles are to be implemented are largely left to the discretion of SSA.

We've put Social Security on solid financial ground, we've kept it from being raided by other Government programs—now we have to make it work and see that people who are entitled to the benefits of the program get their fair share.

I urge my colleagues to join with me as a cosponsor of S. 2755.

By Mr. CRANSTON (for himself, Mr. Kennedy, Mr. Weicker, Mr. Simon, Mr. Levin, Mr. Dodd, and Mr. Adams):

S. 2756. A bill entitled the "Anti-Apartheid Act Amendments of 1988"; to the Committee on Foreign Relations.

(The remarks of Mr. Cranston and Mr. Weicker, and the text of the legislation appear elsewhere in today's Record.)

By Mr. PROXMIRE (for himself and Mr. Conrad):

S. 2756. A bill to provide to employees of Government contractors protection against reprisal for disclosure to an appropriate Government official of information which the employee reasonably believes evidences misconduct relating to the contract with the Government; to the Committee on Labor and Human Resources.

GOVERNMENT CONTRACTOR WHISTLEBLOWER PROTECTION ACT

Mr. PROXMIRE. Mr. President, I rise today to introduce the Government Contract Whistleblower Protection Act of 1988.

In light of the recent Pentagon procurement debacle, the terms "Government contractor" and "Government procurement" have become synonymous with the word "scandal."

I think it's fair to say that most Government contractors conduct themselves in an honorable fashion. Still, as more details of the Pentagon procurement scandal are revealed in the press, public trust in the procurement process, indeed in the Federal Government itself, is further eroded.

But Mr. President, many cases of corruption in the Government procurement process would go unnoticed and undetected were it not for a few brave souls who have come to be known as "whistleblowers."

Being a whistleblower is tough. It takes honesty, guts, and more than a little patriotism to risk your job, your standing in the community, maybe even your economic life to reveal abuses in the Government procurement system. But whistleblowers take these risks in spite of the many dangers to themselves and their careers in order to maintain the integrity of the Federal procurement system.

Right now, Federal employees who blow the whistle on corruption have certain protections under Federal law. But whistleblowers in the private sector have no such protections. Consequently, stories abound in which whistleblowers who work for Government contractors suffer harassment because they refused to idly stand by when they saw wrongdoing.

For example, there is the story of two Morton Thiokol engineers who testified before the Rogers Commission regarding defective "O" rings on the space shuttle and were reassigned for their troubles. Then there is the tale of Westinghouse Hanford employees who were assigned to find safety problems at the Department of Energy's Hanford, WA facility, only to suffer intimidation and reprimands after they testified about their findings to a congressional committee. These are only two examples; you need merely to open a newspaper to find more.

Mr. President, we need to protect whistleblowers who work for the Federal Government, but we also need to protect whistleblowers who work for companies that do business with the Federal Government.

My bill will expand protection to employees of Government contractors. Here's how:

The bill makes it unlawful to discriminate against or discharge any employee if the employee discloses information to appropriate Government officials regarding violation of laws, rules and regulations or mismanagement, gross waste of funds, abuse of authority of a danger to public safety.

Employees who believe they have suffered for "blowing the whistle" may file a complaint with the Secretary of Labor who will then complete an investigation within 30 days.

Within 90 days after the Secretary has received a complaint, he will issue an order providing relief to the employee if the investigation shows such relief is warranted. This order can include reinstatement and compensation for damages. The Secretary may also order the contractor to pay the costs and expenses of bringing the complaint.

Employees may bring a civil suit against the person who was the source of the complaint to enforce compliance with the Secretary's order.

Mr. President, this bill will help restore integrity to the Government procurement process and assure that those who want to protect the United States against fraud, abuse, waste and public safety hazards, and I ask my colleagues to support the measure so that we can bring public trust back to the procurement process.

A similar bill has already been introduced in the other body, and it is my hope that this Congress will pass the bill without delay.

By Mr. HATCH (for himself, Mr. Humphrey, Mr. Matsunaga, Mr. Stafford, Mr. DeConcini, Mr. Bentsen, Mr. Dole, Mr. Stennis, Mr. Cochran, Mr. Stevens, Mr. Fowler, and Mr. Cranston:

S.J. Res. 372. Joint resolution to designate the week beginning November 21 through 27, 1988, as "National Adoption Week"; to the Committee on the Judiciary.

NATIONAL ADOPTION WEEK

Mr. HATCH. Mr. President. Over the past 12 years, the week of November 20 has been known as "National Adoption Week." It is again my privilege to sponsor the joint resolution proclaiming Thanksgiving week, November 20-27, 1988, as "National Adoption Week" along with Senators Humphrey, Matsunaga, Stafford, DeConcini, Bentsen, Dole, Stennis, Cochran, Stevens, Fowler, and Cranston.

Adoption is an important part of the lives of millions of couples and children wanting to have a family of their own. In America today, there are an estimated 36,000 adoptable children who remain in foster care or institutions because of various public and private barriers. The majority of these children have special needs. They may have physical, emotional, or mental handicaps, or they may be children who have already reached school age. They are children of various ethnic backgrounds and children with brothers and sisters. There also remains a lack of awareness among prospective parents who don't know that these children need a home.

"National Adoption Week" acknowledges the benefits of adoption. During the week, the media, Government agencies, adoptive parent and advocacy groups, civic and church groups, and businesses will sponsor special events and provide information to heighten awareness of adoption opportunities.

Joann Jacobsen-Wells, a reporter for the Deseret News in Salt Lake City, UT, tells the following story in a recent article.

> Brad Woolley and his wife, Deedo, adopted three children—two boys, now ages 5 and 2, through a private attorney, and 9-month Mikko Yun from Korea.
>
> Although physically able to have children, they elected to adopt because too many children needed homes. That's not to say they didn't go through the same labor pains as do biological parents.
>
> "Adoption is misunderstood. People tell us that we got our children the easy way," Mrs. Woolley said. "But one of our first pregnancies lasted five years instead of nine months."
>
> Mrs. Woolley painfully remembers being notified of a child they could adopt. She quit her job, set up a nursery and prepared herself for becoming a mom.
>
> But the adoption fell through. The couple refers to that child as their "still-born baby."
>
> Woolley, who has never been given a baby shower, said few people understood their pain. One of the hardest aspects of adopting is the lack of emotional support from family and friends who can't relate to the fears and anticipations of adoptive couples—not to mention the bureaucratic red tape they must cut through.

"National Adoption Week" is during a time when we celebrate the traditions of the family. And, we in Congress must remember that those wanting a family, both parents and children, share one basic need, the right for a permanent, secure and loving home and family.

So let us join in the celebration for families who are united through adoption. Let us celebrate the increased attention to adoption and commend the institutions working to find permanent homes for all adoptable children. I urge you to join me in cosponsoring "National Adoption Week."

I ask unanimous consent that the complete text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 372

Whereas the week of November 21 has been commemorated as National Adoption Week for the past ten years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continue happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 21, 1988, through November 27, 1988, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

By Mr. BYRD:

S.J. Res. 373. Joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week;" to the Committee on the Judiciary.

NATIONAL CRANIOFACIAL DEFORMITY AWARENESS WEEK

Mr. BYRD. Mr. President, the joint resolution I am introducing today will designate the week of November 13-19, 1988, as "National Craniofacial Deformity Awareness Week."

There are estimated to be as many as 200,000 victims of craniofacial deformities under 5 years of age. This deformity is caused by many different factors—such as medications taken by the mother in early pregnancy, or abnormal genes or chromosomes. However, in many instances, the reason for malformation is unknown.

Many families are unaware that effective treatment is available for these children. I hope that, with the introduction of this joint resolution we can focus the public's attention on the thousands of children who suffer from the physical and emotional trauma brought on by craniofacial deformities.

The designation of the week of November 13, 1988, as "National Craniofacial Deformity Awareness Week" will aid the efforts of organizations, such as the National Craniofacial Deformities Foundation, to help individuals, many of whom have believed they were outcasts of society, to live normal and productive lives.

I ask my colleagues to join me in cosponsoring this joint resolution, and I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 373

Whereas as many as 200,000 children of less than 5 years of age suffer from severe craniofacial deformity;

Whereas individuals who suffer from craniofacial deformity, including children and adults, are too often forced to live secluded lives, hidden from society;

Whereas individuals who suffer from craniofacial deformity and their families experience severe emotional and behavioral difficulties;

Whereas the National Craniofacial Foundation was created in 1982 to fund programs for research and education regarding craniofacial deformity and treatment of individuals who suffer from craniofacial deformity;

Whereas the National Craniofacial Foundation has funded surgical and nonsurgical treatment for more than 2,000 patients from 30 States and 12 countries; and

Whereas the National Craniofacial Foundation has begun to aggressively seek out individuals who can be aided by the services of the Foundation; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 13, 1988, is designated as "National Craniofacial Deformity Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 702

At the request of Mr. Simon, the names of the Senator from Connecticut [Mr. Weicker], the Senator from Maryland [Ms. Mikulski], and the Senator from Rhode Island [Mr. Chafee] were added as cosponsors of S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

S. 840

At the request of Mr. Thurmond, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 1429

At the request of Mr. Lautenberg, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1567

At the request of Mr. Bumpers, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 1567, a bill to provide for refunds pursuant to rate decreases under the Federal Power Act.

S. 1662

At the request of Mr. Dole, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of S. 1662, a bill to provide for the issuance of educational savings bonds a portion of the interest on which is exempt from taxation, and for other purposes.

S. 1733

At the request of Mr. Hatch, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 1733, a bill to amend the Internal Revenue Code to allow for deduction of qualified adoption expenses, and for other purposes.

S. 1817

At the request of Mr. Kennedy, the name of the Senator from Vermont [Mr. Leahy] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1877

At the request of Mr. Bradley, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of S. 1877, a bill to restore balance among sources of supply for the Nation's sweetener needs, and for other purposes.

S. 1897

At the request of Mr. Thurmond, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc.

S. 1955

At the request of Mr. Glenn, the name of the Senator from Wisconsin [Mr. Proxmire] was added as a cosponsor of S. 1955, a bill to study the expansion of the coastal barrier resources system to include undeveloped, unprotected areas along the Great Lakes shoreline.

S. 2033

At the request of Mr. Thurmond, the name of the Senator from Wyoming [Mr. Wallop] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2075

At the request of Mr. Daschle, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 2075, a bill to amend the Internal Revenue Code of 1986 to permit tax free purchases of certain fuels, including purchases by farmers.

S. 2187

At the request of Mr. Wallop, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2187, a bill to amend the Internal Revenue Code of 1986 to allow refundable credit against tax to taxpayers for dependents who have not attained the age of compulsory school attendance as prescribed by the law of the State in which the taxpayer resides, and to repeal the credit for expenses for child care services necessary for gainful employment for expenses with respect to such dependents.

S. 2199

At the request of Mr. Chafee, the names of the Senator from Illinois [Mr. Dixon], the Senator from Hawaii [Mr. Matsunaga], the Senator from West Virginia [Mr. Rockefeller], and the Senator from Delaware [Mr. Biden] were added as cosponsors of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the America Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2246

At the request of Mr. Bumpers, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 2246, a bill to establish the Lower Mississippi Delta Development Commission.

S. 2326

At the request of Mr. McCain, the name of the Senator from Pennsylvania [Mr. Heinz] was added as a cosponsor of S. 2326, a bill to enhance the Federal Trade Commission's ability to prevent consumer fraud.

S. 2383

At the request of Mr. Cranston, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 2383, a bill to amend title 38, United States Code, to extend eligibility for education benefits under the Vietnam-era GI bill to certain service academy and Senior Reserve Officer Training Corps graduates, to permit students using Veterans' Administration education assistance one instance of course withdrawal without a requirement to repay benefits, and to provide tutorial assistance for Post-Vietnam Era Educational Assistance Program and Montgomery GI bill participants; and for other purposes.

S. 2395

At the request of Mr. Wirth, the names of the Senator from Tennessee [Mr. Gore], and the Senator from Hawaii [Mr. Matsunaga] were added as cosponsors of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2626

At the request of Mr. Moynihan, the names of the Senator from North Dakota [Mr. Conrad], and the Senator from California [Mr. Cranston] were added as cosponsors of S. 2626, a bill to amend section 530 of the Revenue Act of 1978 to clarify the Federal income and employment tax treatment of providers of technical services through third party arrangements, and for other purposes.

S. 2662

At the request of Mr. Hollings, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 2662, a bill to remedy injury to the U.S. textile and apparel industries caused by increased imports.

S. 2664

At the request of Mr. Moynihan, the names of the Senator from West Virginia [Mr. Rockefeller], the Senator from Idaho [Mr. Symms], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of S. 2664, a bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property.

S. 2675

At the request of Mr. Daschle, the name of the Senator from New Jersey [Mr. Lautenberg] was added as a cosponsor of S. 2675, a bill to amend title 38, United States Code, to provide certain service-connected presumptions in the case of veterans who performed active service in Vietnam during the

Vietnam era; to make improvements in the composition of the advisory committee on special studies relating to the possible long-term health effects on phenoxy herbicides and contaminants and the procedures used by such advisory committee, and for other purposes.

S. 2682

At the request of Mr. PRESSLER, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2682, a bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress.

S. 2698

At the request of Mr. DODD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2698, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 2705

At the request of Mr. BRADLEY, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2705, a bill to temporarily suspend the duty on 2', 4'-difluoro-4-hydroxy-3-biphenylcarboxylic acid.

S. 2707

At the request of Mr. SYMMS, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2707, a bill to provide for the transfer of certain monkeys to the animal sanctuary known as Primarily Primates, Inc.

S. 2709

At the request of Mr. SANFORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added to as a cosponsor of S. 2709, a bill to clarify the United States' obligation to observe occupational safety and health standards and to clarify the United States' responsibility for harm caused by negligence at any workplace owned by, operated by, or under contract with the United States.

SENATE JOINT RESOLUTION 280

At the request of Mr. HATCH, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. SIMON], the Senator from North Dakota [Mr. CONRAD], the Senator from Wyoming [Mr. SIMPSON], the Senator from Kansas [Mr. DOLE], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from North Carolina [Mr. SANFORD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988, as "National Home Care Week."

SENATE JOINT RESOLUTION 343

At the request of Mr. ADAMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 343, a joint resolution to designate the period commencing November 13, 1988, and ending on November 19, 1988, as "Filipino-American National History Week."

SENATE JOINT RESOLUTION 350

At the request of Mr. SIMON, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Florida [Mr. CHILES], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 350, a joint resolution designating Labor Day weekend, September 3-5, 1988, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 355

At the request of Mr. HEFLIN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. BENTSEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Dakota [Mr. CONRAD], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mr. DOLE], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Georgia [Mr. FOWLER], the Senator from North Carolina [Mr. SANFORD], the Senator from South Carolina [Mr. THURMOND], the Senator from Indiana [Mr. LUGAR], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 357

At the request of Mr. CRANSTON, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Michigan [Mr. LEVIN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. WARNER], the Senator from Nevada [Mr. REID], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from North Dakota [Mr. CONRAD], the Senator from Michigan [Mr. RIEGLE], the Senator from Ohio [Mr. GLENN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Maryland [Mr. SARBANES], the Senator from Iowa [Mr. GRASSLEY], the Senator from Texas [Mr. GRAMM], the Senator from Georgia [Mr. NUNN], the Senator from Mississippi [Mr. STENNIS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Alaska [Mr. STEVENS], the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 357, a joint resolution designating the week beginning November 6, 1988, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 360

At the request of Mr. BOND, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 360, a joint resolution to designate February 12, 1989, as "World Marriage Day."

SENATE JOINT RESOLUTION 361

At the request of Mr. PELL, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Wyoming [Mr. SIMPSON], the Senator from Colorado [Mr. WIRTH], the Senator from Arizona [Mr. MCCAIN], the Senator from Kansas [Mr. DOLE], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 361, a joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

SENATE JOINT RESOLUTION 363

At the request of Mr. SARBANES, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Vermont [Mr. STAFFORD], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. CONRAD], the Senator from Illinois [Mr. SIMON], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. INOUYE], the Senator from Kansas [Mr. DOLE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from Alabama [Mr. SHELBY], the Senator from Idaho [Mr. SYMMS], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. HELMS, the names of the Senator from Connecticut [Mr. DODD], the Senator from Delaware [Mr. ROTH], the Senator from California [Mr. CRANSTON], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New York [Mr. D'AMATO], the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Minnesota [Mr. Boschwitz], the Senator from Wisconsin [Mr. Kasten], the Senator from Virginia [Mr. Warner], and the Senator from Utah [Mr. Hatch] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

SENATE JOINT RESOLUTION 369

At the request of Mr. Kerry, the names of the Senator from Texas [Mr. Bentsen], the Senator from Rhode Island [Mr. Pell], the Senator from California [Mr. Wilson], the Senator from Rhode Island [Mr. Chafee], the Senator from Delaware [Mr. Biden], the Senator from Florida [Mr. Graham], the Senator from Georgia [Mr. Nunn], and the Senator from New York [Mr. D'Amato] were added as cosponsors of Senate Joint Resolution 369, a joint resolution to designate the period of September 17 through October 10, 1988, as "Coastweeks '88."

SENATE JOINT RESOLUTION 371

At the request of Mr. Specter, the names of the Senator from Rhode Island [Mr. Chafee], the Senator from Missouri [Mr. Bond], the Senator from Georgia [Mr. Nunn], the Senator from Hawaii [Mr. Inouye], the Senator from Nebraska [Mr. Exon], the Senator from Alaska [Mr. Stevens], the Senator from Tennessee [Mr. Gore], the Senator from Maryland [Mr. Sarbanes], and the Senator from Indiana [Mr. Lugar] were added as cosponsors of Senate Joint Resolution 371, a joint resolution designating October 1988 as "National Domestic Violence Awareness Month."

SENATE CONCURRENT RESOLUTION 132

At the request of Mr. Simon, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of Senate Concurrent Resolution 132, a concurrent resolution regarding the protection and promotion of human rights in the Republic of Singapore.

SENATE RESOLUTION 460

At the request of Mr. Pell, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of Senate Resolution 460, a resolution in support of a peaceful, negotiated settlement to the Cyprus dispute.

AMENDMENTS SUBMITTED

TEXTILE AND APPAREL TRADE ACT OF 1988

ADAMS AMENDMENT NOS. 2889 AND 2990

(Ordered to lie on the table.)

Mr. ADAMS submitted two amendments intended to be proposed by him to the bill (S. 2662) to remedy injury to the U.S. textile and apparel industries caused by increased imports; as follows:

Amendment No. 2889

At the end insert the following: Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

Amendment No. 2890

At the end insert the following: Notwithstanding any provision of this Act, no system of quota auctions related to the textile or apparel industries herein authorized shall take effect.

PACKWOOD AMENDMENT NOS. 2891 THROUGH 2894

(Ordered to lie on the table.)

Mr. PACKWOOD submitted four amendments intended to be proposed by him to the bill S. 2662, supra; as follows:

Amendment No. 2891

At the appropriate place add the following: Notwithstanding any other provision of this Act, the limitations imposed by this Act on the aggregate quantity of textiles and textile products that may be entered in any calendar year shall not apply if the Secretary of Commerce, under this existing authority, determines, based on information that the Secretary may require to be submitted (on a confidential basis and in such form and at such time as the Secretary may prescribe) by firms that manufacture in the United States, that the average return on assets of firms in the United States that manufacture textiles, or of firms in the United States that manufacture textile products, for the calendar year preceding such calendar year exceeds the national average return on assets of all manufacturing industries in the United States for the calendar year preceding such calendar year.

Amendment No. 2892

At the appropriate place add the following: Notwithstanding any other provision of this Act, the provisions of this Act (other than this section) shall not apply if the President, under his existing authority, determines that the provisions of this Act violate the international obligations of the United States.

Amendment No. 2893

At the appropriate place add the following: Notwithstanding any other provision of this Act, any provision of this Act (other than an amendment made by this Act to another Act) which imposes a limitation on the quantity of footwear that may be entered, shall not apply with respect to athletic footwear.

Amendment No. 2894

At the appropriate place add the following: (4) The Secretary of Commerce, under his existing authority, may require firms that manufacture in the United States to submit to the Secretary of Commerce, on a confidential basis and in such form and at such time as the Secretary of Commerce may prescribe, such information as may be necessary to enable the Secretary of Commerce to make determinations under paragraph (3).

BOSCHWITZ AMENDMENT NO. 2895

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill S. 2662, supra; as follows:

At the end of the matter proposed to be inserted, add the following:

Sec. . (a) Notwithstanding any other provision of this Act, any limitation imposed by this Act on the quantity of any article that may be entered, or withdrawn from warehouse for consumption, in the customs territory of the United States shall apply only if the President, within the existing authority of the President, certifies to the Congress under subsection (b)(2) that—

(1) the aggregate quantity of worldwide agricultural exports of the United States would not be reduced by any amount as a result of such limitation, and

(2) the aggregate quantity of agricultural exports of the United States to each foreign country or territory whose products are subject to such limitation would not be reduced by any amount as a result of such limitation.

(b) The President shall—

(1) determine—

(A) whether the aggregate quantity of worldwide agricultural exports of the United States would be reduced by any amount as a result of the limitation described in subsection (a), and

(B) whether the aggregate quantity of agricultural exports of the United States to each foreign country or territory whose products are subject to such limitation would be reduced by any amount as a result of such limitation, and

(2) certify such determination to the Congress, by no later than the date that is 90 days after the date of enactment of this Act.

GRAHAM AMENDMENT NO. 2896

(Ordered to lie on the table.)

Mr. GRAHAM submitted the following amendment intended to be proposed by him to the bill, S. 2662, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Sec. . (a) The Senate finds that—

(1) the Caribbean and Central American countries historically have had close economic, political, and cultural ties to the United States;

(2) promoting Caribbean and Central American prosperity is in the economic and security interests of the United States;

(3) the Congress and the President proposed and enacted the Caribbean Basin Initiative as a key means of promoting regional prosperity;

(4) the Caribbean and Central American countries view the Caribbean Basin Initiative as a test of the long-term commitment of the United States to the economic prosperity of the region;

(5) the Caribbean Basin Initiative is not expected to have any significant effect on the overall United States economy, according to the United States International Trade Commission; and

(6) the Caribbean Basin Initiative represents an important opportunity for mutual economic benefit for the United States and the Caribbean and Central American countries.

(b) It is the sense of the Senate that—

(1) the integrity of the Caribbean Basin Economic Recovery Act should be preserved,

(2) to the extent that Congress imposes worldwide quotas on textiles and footwear items to protect industry in the United States, the President should encourage and promote the economic prosperity of the Caribbean and Central American countries by ensuring that the allocation of the quotas is favorable to Caribbean and Central American countries and is not unduly restrictive or punitive,

(3) the quotas imposed by this Act should not discriminate against imports from Caribbean and Central American countries in relation to imports from other trading partners of the United States,

(4) the United States should maintain the commitment made by the Caribbean Basin Economic Recovery Act to the countries of the Western Hemisphere, which is in the economic and security interests of the United States, and

(5) the Congress and the President, should cooperate to act in an expeditious manner in their deliberations on the enactment of the reauthorization of the Caribbean Basin Economic Recovery Act, reaffirming our commitment to the economic development and prosperity of the Caribbean and Central American countries.

GRAMM AMENDMENT NOS. 2897-2915

(Ordered to lie on the table.)

Mr. **GRAMM** submitted 19 amendments intended to be proposed by him to the bill, S. 2662, supra; as follows:

AMENDMENT No. 2897

Insert immediately after "except" in the text of the amendment the following: "that no provision of this Act shall apply to children's or infants' clothing or footwear, and further".

AMENDMENT No. 2898

Insert immediately after "Act," in the text of the amendment the following: "except that the provisions of this Act shall not apply to items imported from Israel, and".

AMENDMENT No. 2899

Insert immediately after "as a whole" in the text of the amendment the following: ", and in no case shall the provisions of this Act apply to bandages, medical dressings, surgical gowns, or any other item intended for medical use".

AMENDMENT No. 2900

Insert immediately after "as a whole" in the text of the amendment the following: ", and in no case shall the provisions of this Act apply to diapers".

AMENDMENT No. 2901

Insert immediately after "as whole" in the text of the amendment the following: ", and in no case shall the provisions of this Act apply to items intended for use in nursing homes".

AMENDMENT No. 2902

Insert immediately after "Israel" in the text of the amendment the following: ", or to children's or infants' clothing or footwear".

AMENDMENT No. 2903

Insert immediately after "Israel" in the text of the amendment the following: ", or to workers' coveralls, uniforms, workshoes, or workboots".

AMENDMENT No. 2904

Insert immediately after "Israel" in the text of the amendment the following: ", and, further, that the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would impose an economic burden on the poor proportionately greater than that imposed on the population of the United States as a whole".

AMENDMENT No. 2905

Insert immediately after "Israel" in the text of the amendment the following: ", and, further, that the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would result in an economic burden on United States agriculture with regard to exports, employment, or income proportionately greater than that imposed on the population of the United States as a whole".

AMENDMENT No. 2906

Insert immediately after "Israel" in the text of the amendment the following: ", or to clothing or footwear for persons 65 years of age or older".

AMENDMENT No. 2907

Strike "footware" and insert in lieu thereof "footwear".

AMENDMENT No. 2908

Insert immediately after "or older" in the text of the amendment the following: ", and in no case shall the provisions of this Act apply to shoes the wholesale price of which is less than $20.00 per pair".

AMENDMENT No. 2909

Insert immediately after "or older" in the text of the amendment the following: ", and in no case shall the provisions of this Act apply to children's shoes".

AMENDMENT No. 2910

Insert immediately after "or older" in the text of the amendment the following: ", and the President may suspend the application of any quotas under the provisions of this Act for any year following a year in which the pre-tax rate of return on assets for the textile and footwear industries exceeds the pre-tax rate of return on assets for all manufacturing industries in the United States".

AMENDMENT No. 2911

Insert immediately after "or older" in the text of the amendment the following: ", and the President may suspend the application of any quotas under the provisions of this Act for any year following a year in which the capacity utilization rate for the textile and footwear industries exceeds the capacity utilization rate for all manufacturing industries in the United States".

AMENDMENT No. 2912

Strike "footware" and insert in lieu thereof "footwear".

AMENDMENT No. 2913

In the language of amendment number 2872, insert immediately before "110 per centum" the words "more than".

AMENDMENT No. 2914

In the language of amendment number 2874, strike "15" and insert in lieu thereof "13".

AMENDMENT No. 2915

The text of amendment number 2875 is changed to read as follows: "Beginning on page 4, line 17, strike all through page 5, line 2.".

PACKWOOD AMENDMENT NO. 2916

(Ordered to lie on the table.)

Mr. **PACKWOOD** submitted an amendment intended to be proposed by him to the bill, S. 2662, supra; as follows:

At the end of the bill, insert the following new subsection:

EXEMPTION FOR FREE TRADE AGREEMENTS

This Act shall not apply to products from countries with which the United States has entered into a free trade agreement.

GRAHAM AMENDMENT NO. 2917

(Ordered to lie on the table.)

Mr. **GRAHAM** submitted an amendment intended to be proposed by him to amendment No. 2885 intended to be proposed by him to the bill S. 2662, supra; as follows:

On line 6 of the first degree amendment number 2885 offered by Senator Graham to S. 2662: "year shall not apply to the products of any beneficiary country of the Caribbean Basin Economic Recovery Act to which Item 807 of the tariff schedules of the United States apply."

EVANS AMENDMENT NOS. 2918 THROUGH 2938

(Ordered to lie on the table.)

Mr. **EVANS** submitted 21 amendments intended to be proposed by him to the bill S. 2662, supra; as follows:

AMENDMENT No. 2918

At the end of the pending amendment add the following:

"Notwithstanding any other provision of law, the term 'category' defined in section 9 shall not include a category consisting of the products not covered by a category described in subparagraph A and classified under TSUSA items 373.0530, 373.2030, and 373.2230."

AMENDMENT No. 2919

At the end of the pending amendment add the following:

"The term 'category' defined in section 9 shall not include a category described in subparagraph (B) of section 9."

AMENDMENT No. 2920

At the end of the pending amendment add the following:

"The term 'category' defined in section 9 shall not include any category described in subsection (c) consisting of the man made fibers products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the tariff schedules of the United States."

AMENDMENT No. 2921

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, the quantitative limitation on the aggregate import quantity of textiles and textile products and nonrubber footwear prescribed in Section 4 shall not apply to those countries that are signatories to the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, and as extended by the Protocol of July 31, 1986, and any such succeeding international arrangement after July 31, 1991."

AMENDMENT No. 2922

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, the quantitative limitation on the aggregate import quantity of textiles and textile products and nonrubber footwear prescribed in Section 4 shall not apply to any country during any calendar year which has signed an agreement with the United States Government, or the American Institute in Taiwan, that limits the importation of categories of textile and textile products, as long as such agreement remains in effect and both countries adhere to its provisions."

AMENDMENT No. 2923

Add at the end of the pending amendment:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof 'six per centum'."

AMENDMENT No. 2924

Add at the end of the pending amendment:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof 'seven per centum'."

AMENDMENT No. 2925

Add at the end of the pending amendment:

"At the place in the bill where the growth adjustment factor is listed at 1 per centum, strike '1 per centum' and insert in lieu thereof '8 per centum'."

AMENDMENT No. 2926

Add at the end of the pending amendment:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof '9 per centum'."

AMENDMENT No. 2927

Add at the end of the pending amendment:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof '10 per centum'."

AMENDMENT No. 2928

Add the following at the appropriate place in the pending amendment:

"Notwithstanding any other provision of this Act, the quantitative limitation on the aggregate import quantity of textiles and textile products and nonrubber footwear prescribed in section 4 shall not apply to any country that has signed an agreement with the United States to establish a Free Trade Area after January 1, 1988."

AMENDMENT No. 2929

Add the following at the appropriate place in the pending amendment:

"Notwithstanding any other provision of this Act, the quantitative limitation on the aggregate import quantity of textiles and textile products and nonrubber footwear prescribed in section 4 shall not apply to any country that has either signed an agreement to establish a Free Trade Area with the United States that has not yet been implemented, or to any country that has signed such an agreement with the United States for a Free Trade Area that is being implemented."

AMENDMENT No. 2930

Add the following at the appropriate place in the pending amendment:

"Notwithstanding any other provision of this Act, the limitation on the importation of the aggregate quantity of textiles and textile products prescribed in section 4 shall not apply to any country that, in calendar 1987, purchased more textiles and textile products produced in the United States than it exported such products to the United States."

AMENDMENT No. 2931

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, the limitation on the aggregate quantity of the importation of textiles and textile products set forth in section 4 shall not apply to any such product that incorporates at least 50 per centum by weight of materials of fiber produced or grown in the United States and exported to such country."

AMENDMENT No. 2932

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, in addition to the amount of the limitation allocated to products of any country under subsection 4(e)(1), the Secretary may prescribe such regulations only to the extent that an amount of the limitation set forth under such section is allocated to each country to which the exportation of aircraft, spacecraft, and aircraft parts produced in the United States during the calendar year preceding the applicable year exceeds the amount of exportation of such products during the calendar year before the calendar year preceding the applicable year, on either a unit basis or a value basis in United States currency."

AMENDMENT No. 2933

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, in addition to the amount of the limitation allocated to products of any country under subsection 4(e)(1), the Secretary may prescribe such regulations only to extent that an amount of the limitation as set forth under such section is allocated to each country to which the exports of mineral fuels, lubricants, and related material, including bituminous, anthracite, and lignite coal mined or extracted in the United States during the calendar year preceding the applicable year, on either a volume basis or a value basis in United States currency."

AMENDMENT No. 2934

Add at the end of the pending amendment:

"Notwithstanding any other provision of law, the provisions of the Textile and Apparel Trade Act of 1988 setting forth increased textile quota allocations described in subsection 4(e) shall not be effective."

AMENDMENT No. 2935

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, in addition to the amount of the limitation allocated to products of any country under subsection 4(e)(1), the Secretary may prescribe such regulations only to the extent that an amount of the limitation under such section is allocated to each country that produces machinery imported into the United States for the purpose of fabricating textiles and textile products in a more efficient manner."

AMENDMENT No. 2936

Add the following at the appropriate place in the pending amendment:

"Notwithstanding any other provision of this Act, the term "category" described in section 9(3) shall not include any textiles or textile products which is not produced, or is in short supply, in the United States market; further, that the International Trade Commission shall make a determination of whether or not such products is in short supply in the U.S. market."

AMENDMENT No. 2937

Add the following at the appropriate place in the pending amendment:

Notwithstanding any other provision of this Act, the term "textiles and textile products" shall not include "textiles" as set forth in the Tariff Schedules of the United States and other U.S. Government publications.

AMENDMENT No. 2938

Add the following at the end of the pending amendment:

"The provisions of the Textile and Apparel Trade Act of 1988 shall not go into effect until the following provisions have been enacted into law."

"In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of each corporation described in section 532, an accumulated earnings tax equal to 28 percent of the accumulated taxable income."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code.

(3) The last sentence of section 1(g)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "and subparagraph (B) shall be applied as if a deduction for a personal exemption were allowable under section 151 to such individual for such individual's spouse."

(b) AMENDMENTS RELATED TO SECTION 102 OF THE REFORM ACT.—

(1) Paragraph (5) of section 63(c) of the 1986 Code is amended—

(A) by striking out "the standard deduction applicable" and inserting in lieu thereof "the basic standard deduction applicable", and

(B) by striking out "STANDARD DEDUCTION" in the paragraph heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION".

(2) Subclause (I) of section 6012(a)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or".

(3)(A) Subparagraph (A) of section 62(a)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies."

(B) Paragraph (2) of section 527(e) of the 1986 Code (defining exempt function) is amended by adding at the end thereof the following new sentence: "Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

(c) AMENDMENT RELATED TO SECTION 111 OF THE REFORM ACT.—Paragraph (3) of section 32(i) of the 1986 Code is amended to read as follows:

"(3) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) AMENDMENTS RELATED TO SECTION 123 OF THE REFORM ACT.—

(1)(A) Clause (ii) of section 4941(d)(2)(G) of the 1986 Code is amended to read as follows:

"(ii) scholarships and fellowship grants which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and are to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(B) Paragraph (1) of section 4945(g) of the 1986 Code is amended to read as follows:

"(1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(2)(A) The second sentence of section 1441(b) of the 1986 Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act and which are—

"(1) incident to a qualified scholarship to which section 117(a) applies, but only to the extent includible in gross income; or

"(2) in the case of an individual who is not a candidate for a degree at an educational organization described in 170(b)(1)(A)(ii), granted by—

"(A) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(B) a foreign government,

"(C) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(D) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia,

as a scholarship or fellowship for study, training, or research in the United States."

(B) Subsection (c) of section 871 of the 1986 Code is amended—

(i) by striking out "section 1441(b)(1) or (2)" and inserting in lieu thereof "the second sentence of section 1441(b)"; and

(ii) by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(C) The following provisions of the 1986 Code are each amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)":

(i) Section 3121(b)(19).

(ii) Section 3231(e)(1).

(iii) Section 3306(c)(19).

(D) Clause (i)(I) of section 7701(b)(5)(D) of the 1986 Code is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (F) or (M)".

(E) Section 210(a)(19) of the Social Security Act is amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(e) AMENDMENT RELATED TO SECTION 131 OF THE REFORM ACT.—Subsection (f) of section 86 of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(f) AMENDMENTS RELATED TO SECTION 132 OF THE REFORM ACT.—

(1) Section 67 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH OTHER LIMITATION.—This section shall be applied before the application of the dollar limitation of the last sentence of section 162(a) (relating to trade or business expenses)."

(2) Paragraph (4) of section 67(b) of the 1986 Code is amended—

(A) by striking out "deduction" and inserting in lieu thereof "deductions", and

(B) by inserting before the comma at the end thereof "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose)".

(3) Subsection (e) of section 67 of the 1986 Code is amended to read as follows:

"(e) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(1) the deductions for costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such trust or estate, and

"(2) the deductions allowable under sections 642(b), 651, and 661,

shall be treated as allowable in arriving at adjusted gross income. Under regulations, appropriate adjustments shall be made in the application of part I of subchapter J of this chapter to take into account the provisions of this section."

(4) Subsection (c) of section 67 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply—

"(1) with respect to cooperatives and real estate investment trusts, and

"(2) except as provided in regulations, with respect to estates and trusts."

(g) AMENDMENTS RELATED TO SECTION 142 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 274(n)(2) of the 1986 Code is amended to read as follows:

"(A) such expense is described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),".

(2) Paragraph (2) of section 274(k) of the 1986 Code is amended to read as follows:

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e), and

"(B) any other expense to the extent provided in regulations."

(3) Clause (ii) of section 274(m)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).".

(4)(A) Paragraph (2) of section 274(n) of the 1986 Code is amended—

(i) by striking "or" at the end of subparagraph (C),

(ii) by striking the period at the end of subparagraph (D) and inserting ", or", and

(iii) by adding at the end thereof the following:

"(E) in the case of an employer who pays or reimburses moving expenses of an employee, such expenses are includible in the income of the employee under section 82.

In the case of the employee, the exception of subparagraph (A) shall not apply to expenses described in subparagraph (E)."

(B) The following provisions of the 1986 Code are each amended by striking out "section 217" and inserting in lieu thereof "section 217 (determined without regard to section 274(n))":

(i) Section 3121(a)(11).

(ii) Section 3306(b)(9).

(iii) Section 3401(a)(15).

(C) Section 209(k) of the Social Security Act is amended by striking out "section 217 of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 217 of the Internal Revenue Code of 1986 (determined without regard to section 274(n) of such Code)".

(5) Paragraphs (1) and (2) of section 274(h) of the 1986 Code are each amended by striking out "trade or business that" and inserting in lieu thereof "trade or business and that".

(h) AMENDMENTS RELATED TO SECTION 143 OF THE REFORM ACT.—

(1) Paragraph (5) of section 280A(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any amount taken into account for any taxable year under the preceding sentence shall be subject to the limitation of the 1st sentence of this paragraph whether or not the dwelling unit is used as a residence during such taxable year."

(2) Clause (ii) of section 280A(c)(5)(B) of the 1986 Code is amended by striking out "trade or business" and inserting in lieu thereof "trade or business (or rental activity)".

SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE REFORM ACT.—

(1) Subsection (d) of section 1250 of the 1986 Code is amended by striking out paragraph (11).

(2) Subparagraph (B) of section 201(d)(14) of the Reform Act is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "within the meaning of section 168(c)(2)(F)".

(3) Paragraph (4) of section 312(k) of the 1986 Code is amended by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)".

(4) Paragraph (4) of section 46(e) of the 1986 Code is amended—

(A) by striking out "168(j)(6)" in subparagraph (B) and inserting in lieu thereof "168(i)(3)",

(B) by striking out "paragraphs (8) and (9) of section 168(j)" in subparagraph (D) and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)",

(C) by striking out "168(j)" in subparagraph (E) and inserting in lieu thereof "168(h)", and

(D) by striking out "168(j)(4)" in subparagraph (E) and inserting in lieu thereof "168(h)(2)".

(5) Clause (i) of section 168(d)(3)(A) of the 1986 Code is amended by striking out "and which are".

(6)(A) Subparagraph (B) of section 168(f)(5) of the 1986 Code is amended—

(i) by striking out "1st full taxable year" in clause (ii) and inserting in lieu thereof "1st taxable year", and

(ii) by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor."

(B) Paragraph (5) of section 168(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986."

(7)(A) Subparagraph (A) of section 168(i)(7) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In any case where this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect."

(B) Subparagraph (B) of section 168(i)(7) of the 1986 Code is amended to read as follows:

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B)."

(C) Subparagraph (D) of section 168(i)(7) of the 1986 Code is hereby repealed.

(8) Subparagraph (B) of section 168(h)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter."

(9) Subsection (a) of section 178 of the 1986 Code is amended by striking out "the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194" and inserting in lieu thereof "the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization".

(10) Subparagraph (A) of section 280F(d)(3) of the 1986 Code is amended by striking out "any recovery deduction" and inserting in lieu thereof "any depreciation deduction".

(11)(A) Paragraph (2) of section 168(b) of the 1986 Code is amended to read as follows:

"(2) 150 PERCENT DECLINING BALANCE METHOD IN CERTAIN CASES.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(A) any 15-year or 20-year property, or

"(B) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply."

(B) Paragraph (5) of section 168(b) of the 1986 Code is amended by striking out "under paragraph (3)(C)" and inserting in lieu thereof "under paragraph (2)(B) or (3)(C)".

(C) Subsection (c) of section 168 of the 1986 Code is amended to read as follows:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Residential rental property	27.5 years
Nonresidential real property	31.5 years.

"(2) PROPERTY FOR WHICH 150 PERCENT METHOD ELECTED.—In the case of property to which an election under subsection (b)(2)(B) applies, the applicable recovery period shall be determined under the table contained in subsection (g)(2)(C)."

(12) Clause (i) of section 56(a)(1)(C) of the 1986 Code is amended by striking out "do not apply" and inserting in lieu thereof "do not apply by reason of section 203, 204, or 251(d) of such Act".

(13) The heading of paragraph (24) of section 381(c) of the 1986 Code is amended by striking out "RECOVERY ALLOWANCE FOR RECOVERY PROPERTY" and inserting in lieu thereof "DEPRECIATION DEDUCTION".

(14) Paragraph (5) of section 48(a) of the 1986 Code is amended—

(A) by striking out "168(j)(4)(C)" and inserting in lieu thereof "168(h)(2)(C)",

(B) by striking out "168(j)(4)(A)(iii)" and inserting in lieu thereof "168(h)(2)(A)(iii)",

(C) by striking out "168(j)(4)(B)" and inserting in lieu thereof "168(h)(2)(B)",

(D) by striking out "168(j)(6)" and inserting in lieu thereof "168(i)(3)",

(E) by striking out "168(j)(3)(C)(ii)" and inserting in lieu thereof "168(h)(1)(C)(ii)",

(F) by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)", and

(G) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) CROSS REFERENCE.—

"For provision providing special rules for the application of this paragraph and paragraph (4), see section 168(h)."

(15) The last sentence of section 46(e)(3) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "present class life" and inserting in lieu thereof "class life", and

(C) by striking out "168(g)(2)" and inserting in lieu thereof "168(i)(1)".

(16)(A) Subsection (s) of section 48 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) TERMINATION.—This subsection shall not apply to any property placed in service after December 31, 1985, unless such property is transition property (as defined in section 49(e)(1))."

(B) Paragraph (4) of section 168(f) of the 1986 Code is amended to read as follows:

"(4) SOUND RECORDINGS.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied."

(17) Paragraph (7) of section 46(c) of the 1986 Code is amended—

(A) by striking out "recovery property" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "168(c)" each place it appears and inserting in lieu thereof "168(e)",

(C) by striking out "168(f)(3)(B)" and inserting in lieu thereof "168(f)(3)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)", and

(D) by striking out "RECOVERY PROPERTY" in the paragraph heading and inserting in lieu thereof "PROPERTY TO WHICH SECTION 168 APPLIES".

(18) Paragraph (1) of section 47(d) of the 1986 Code is amended by striking out "section 48(c)(8)(C)"

and inserting in lieu thereof "section 46(c)(8)(C)".

(19) Paragraph (1) of section 179(d) of the 1986 Code is amended by striking out "recovery property" and inserting in lieu thereof "tangible property (to which section 168 applies)".

(20) Section 48 of the 1986 Code is amended by redesignating the subsection (s) relating to cross references as subsection (t).

(21) Clause (v) of section 168(e)(3)(B) of the 1986 Code is amended by striking out

"any property" and inserting in lieu thereof "any section 1245 property".

(22) The last sentence of section 167(l)(3)(G) of the 1986 Code is amended by striking out "section 168(e)(3)(C)" and inserting in lieu thereof "section 168(i)(9)(B)".

(23) Subparagraph (B) of section 168(d)(3) of the 1986 Code is amended to read as follows:

"(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any nonresidential real property and residential rental property, and

"(ii) any other property placed in service and disposed of during the same taxable year."

(24) Subsection (a) of section 167 of the 1986 Code is amended by striking out the last sentence.

(25) Subparagraph (B) of section 46(d)(1) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" in clause (i) and inserting in lieu thereof "property to which section 168 applies", and

(B) by striking out "which is not recovery property (within the meaning of section 168)" in clause (ii) and inserting in lieu thereof "to which section 168 does not apply".

(26)(A) Subparagraph (E) of section 47(a)(5) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) TREATMENT AS RECOVERY PROPERTY.—Any reference in this paragraph to recovery property shall be treated as including a reference to any property to which section 168 (as amended by the Tax Reform Act of 1986) applies."

(B) Subparagraph (D) of section 47(a)(5) of the 1986 Code is amended by striking out the last sentence.

(C) Clause (iii) of section 47(a)(5)(E) of the 1986 Code is amended by striking out "section 168(c)" and inserting in lieu thereof "section 168(e)".

(27) Subparagraph (A) of section 47(a)(9) of the 1986 Code is amended by striking out "section 168(j)(4)(C)" and inserting in lieu thereof "section 168(h)(2)".

(28) Clause (i) of section 47(d)(3)(C) of the 1986 Code is amended—

(A) by striking out "present class life (as defined in section 168(g)(2))" and inserting in lieu thereof "class life (as defined in section 168(i)(1))", and

(B) by striking out "no present class life" and inserting in lieu thereof "no class life".

(29) Paragraph (1) of section 48(a) of the 1986 Code is amended by striking out "recovery property (within the meaning of section 168)" in the material following subparagraph (G) and inserting in lieu thereof "property to which section 168 applies".

(30) Subparagraph (C) of section 48(1)(2) of the 1986 Code is amended by striking out "which is recovery property (within the meaning of section 168)" and inserting in lieu thereof "to which section 168 applies".

(31) Subsection (d) of section 167 of the 1986 Code is amended by striking out "recovery property defined in section 168" and inserting in lieu thereof "property to which section 168 applies".

(b) AMENDMENTS RELATED TO SECTION 202 OF THE REFORM ACT.—

(1) Paragraph (3) of section 179(b) of the 1986 Code is amended to read as follows:

"(3) LIMITATION BASED ON INCOME FROM TRADE OR BUSINESS.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year (determined after the application of paragraphs (1) and (2)) shall not exceed the aggregate amount of taxable income of the taxpayer for such taxable year which is derived from the active conduct by the taxpayer of any trade or business during such taxable year.

"(B) CARRYOVER OF DISALLOWED DEDUCTION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be increased by the lesser of—

"(i) the aggregate amount disallowed under subparagraph (A) for all prior taxable years (to the extent not previously allowed as a deduction by reason of this subparagraph), or

"(ii) the excess (if any) of—

"(I) the limitation of paragraphs (1) and (2) (or if lesser, the aggregate amount of taxable income referred to in subparagraph (A)), over

"(II) the amount allowable as a deduction under subsection (a) for such taxable year without regard to this subparagraph.

"(C) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph, taxable income derived from the conduct of a trade or business shall be computed without regard to the deduction allowable under this section."

(2) Paragraph (1) of section 280F(d) of the 1986 Code is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a) and (b), and the limitation of paragraph (3) of this subsection,".

(c) AMENDMENTS RELATED TO SECTION 203 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 203(a)(1) of the Reform Act is amended by adding at the end thereof the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 would not apply by reason of section 168(f)(5) of such Code if such property were placed in service after December 31, 1986."

(2) Subsection (d) of section 203 of the Reform Act is amended—

(A) by striking out "the case of any taxable year" and inserting in lieu thereof "the case of any taxable year beginning before October 1, 1987", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

(3) Notwithstanding section 203 of the Reform Act, the amendments made by section 201 of the Reform Act shall apply to any real property which was acquired before January 1, 1987, and was converted on or after such date from personal use to a use for which depreciation is allowable.

(4) Paragraph (1) of section 203(b) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of this paragraph, all members of the same affiliated group of corporations (within the meaning of section 1504 of the Internal Revenue Code of 1986) filing a consolidated return shall be treated as one taxpayer."

(5) Paragraph (1) of section 203(c) of the Reform Act is amended by striking out "Subparagraph" and inserting in lieu thereof "Except as otherwise provided in this subsection or section 204, subparagraph".

(6) Clause (i) of section 203(b)(2)(C) of the Reform Act is amended by striking out "shall be the class life" and inserting in lieu thereof "applies shall be the class life".

(7) Paragraph (3) of section 203(b) of the Reform Act is amended—

(A) by inserting before the comma at the end of subparagraph (A) "(or would have met such requirements if placed in service by such person)", and

(B) by inserting ", or is leased to such person," before "not later than".

(8) Paragraph (2) of section 203(a) of the Reform Act is amended to read as follows:

"(2) SECTION 202.—

"(A) IN GENERAL.—The amendments made by section 202 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

"(B) SPECIAL RULE FOR FISCAL YEARS INCLUDING JANUARY 1, 1987.—In the case of any taxable year (other than a calendar year) which includes January 1, 1987, for purposes of applying the amendments made by section 202 to property placed in service during such taxable year and after December 31, 1986—

"(i) the limitation of section 179(b)(1) of the Internal Revenue Code of 1986 (as amended by section 202) shall be reduced by the aggregate deduction under section 179 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for section 179 property placed in service during such taxable year and before January 1, 1987,

"(ii) the limitation of section 179(b)(2) of such Code (as so amended) shall be applied by taking into account the cost of all section 179 property placed in service during such taxable year, and

"(iii) the limitation of section 179(b)(3) of such Code shall be applied by taking into account the taxable income for the entire taxable year reduced by the amount of any deduction under section 179 of such Code for property placed in service during such taxable year and before January 1, 1987."

(d) AMENDMENTS RELATED TO SECTION 204 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 204(a)(1) of the Reform Act is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) described in subparagraph (F) or (H)."

(2) Subparagraph (C) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1994' for 'January 1, 1991' each place it appears."

(3) Subparagraph (E) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1998' for 'January 1, 1991' each place it appears."

(4) Subparagraph (F) of section 204(a)(1) of the Reform Act is amended—

(A) by striking out "paragraph" and inserting in lieu thereof "subparagraph",

(B) by striking out ", or" at the end of clause (iii) and inserting in lieu thereof a period, and

(C) by striking out so much of clause (iv) as precedes subclause (I) thereof and inserting in lieu thereof the following:

"A project is also described in this subparagraph if it is a mixed-use development which is—".

(5) The last sentence of section 204(a)(1)(F) of the Reform Act is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "section 203(b)(2)", and

(B) by striking out "1993" and inserting in lieu thereof "1998".

(6) Subparagraph (H) of section 204(a)(1) of the Reform Act is amended by striking out "July 1, 1986" and inserting in lieu thereof "June 30, 1986".

(7)(A) Paragraph (4) of section 204(a) of the Reform Act is amended to read as follows:Z¡019060-A07SE6-020-6****-*****-
Payroll No.: 67142 -Name: MURRIEL - Folios: L10/753-L10/800 [PICKUP AND REVISE] -Date: 09-07-88 -Subformat:

"(4) PROPERTY TREATED UNDER PRIOR TAX ACTS.—The amendments made by section 201 shall not apply—

"(A) to property described in section 12(c)(2) (as amended by the Technical Corrections Act of 1988), 31(g)(5), or 31(g)(17)(J) of the Tax Reform Act of 1984,

"(B) to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984, and

"(C) to property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982."

(B) Paragraph (2) of section 12(c) of the Tax Reform Act of 1984 is amended by striking out "which is placed in service before January 1, 1988".

(8) Subparagraph (K) of section 204(a)(5) of the Reform Act is amended—

(A) by striking out "either" in the matter preceding clause (i),

(B) by striking out "super calendar" in clause (i) and inserting in lieu thereof "supercalendered",

(C) by striking out "were incurred" in clause (i) and inserting in lieu thereof "was incurred", and

(D) by inserting "the project" before "involves" in clause (v).

(9) Paragraph (5) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A project is described in this subparagraph if—

"(i) such project involves a fiber optic network of at least 475 miles, passing through Minnesota and Wisconsin; and

"(ii) before January 1, 1986, at least $15,000,000 was expended or committed for electronic equipment or fiber optic cable to be used in constructing the network."

(10)(A) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) a bond volume carryforward election was made for the facility and the facility is for Chattanooga, Knoxville, or Kingsport, Tennessee, or

"(E) such facility is to serve Haverhill, Massachusetts."

(B) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out ", and section 203(c),".

(11) Paragraph (10) of section 204(a) of the Reform Act is amended—

(A) by striking out "either" in the material preceding subparagraph (A),

(B) by striking out "wastewater treatment facility" in subparagraph (C) and inserting in lieu thereof "wastewater treatment facility serving Greenville, South Carolina", and

(C) by striking out "the letter of intent and service agreement described in subparagraph (A)(2) of this paragraph" in subparagraph (D) and inserting in lieu thereof "such letter of intent and service agreement".

(12) Paragraph (11) of section 204(a) of the Reform Act is amended—

(A) by striking out "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and inserting in lieu thereof "the United States",

(B) by striking out "the purchase" in subparagraph (C) and inserting in lieu thereof "the purchaser", and

(C) by striking out the last sentence.

(13) Paragraph (14) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by inserting after subparagraph (E) the following:

"(F) the project has a planned scheduled capacity of approximately 38,000 kilowatts, the project property is placed in service before January 1, 1991, and the project is operated, established, or constructed pursuant to certain agreements, the negotiation of which began before 1986, with public or municipal utilities conducting business in Massachusetts, or

"(G) the Board of Regents of Oklahoma State University took official action on July 25, 1986, with respect to the project.

In the case of the project described in subparagraph (F), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1991' for 'January 1, 1989'."

(14) Paragraph (15) of section 204(a) of the Reform Act is amended—

(A) by adding "located in New Mexico" after "to a project",

(B) by striking out "$72,000" and inserting in lieu thereof "$72,000,000", and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this paragraph, section 203(b)(2) shall be applied by substituting 'January 1, 1996' for 'January 1, 1991' each place it appears."

(15) Paragraph (24) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(E) The amendments made by section 201 shall not apply to the Muskegon, Michigan, Cross-Lake Ferry project having a projected cost of approximately $7,200,000.

"(F) The amendments made by section 201 shall not apply to a new automobile carrier vessel, the contract price for which is no greater than $28,000,000, and which will be constructed for and placed in service by OSG Car Carriers, Inc., to transport, under the United States flag and with an American crew, foreign automobiles to North America in a case where negotiations for such transportation arrangements commenced in 1985, and definitive transportation contracts were awarded before June 1986."

(16) Paragraph (25) of section 204(a) of the Reform Act is amended by striking out "wood energy products" and inserting in lieu thereof "wood energy projects".

(17) Paragraph (27) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "$400,000,000" and inserting in lieu thereof "$500,000,000", and

(ii) by striking out "letter of intent" and inserting in lieu thereof "memorandum of terms",

(B) in subparagraph (B), by striking out "525,000" and inserting in lieu thereof "540,000",

(C) in subparagraph (C)—

(i) by striking out "$32,000,000" and inserting in lieu thereof "$22,000,000", and

(ii) by striking out "before" and inserting in lieu thereof "on",

(D) in subparagraph (D), by striking out "and 7th Avenue", and

(E) in subparagraph (H), by striking out "$62,000" and inserting in lieu thereof "$62,600,000".

(18) Paragraph (27) of section 204(a) of the Reform Act is amended by adding at the end thereof the following:

"(I) A 600,000 square foot mixed use building known as Flushing Center with respect to which a letter of intent was executed on March 26, 1986.

In the case of the building described in subparagraph (I), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1993' for the applicable date which would otherwise apply."

(19) Paragraph (31) of section 204(a) of the Reform Act is amended by striking out "$10,200,000" and inserting in lieu thereof "$10,500,000".

(20) Paragraph (32) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "July 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "February 28, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on June 17, 1985" and inserting in lieu thereof "in May 1985",

(B) in subparagraph (B)—

(i) by striking out "August 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "May 4, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on July 3, 1985" and inserting in lieu thereof "in July 1985",

(C) in subparagraph (E)—

(i) by striking out "$2,200,000" and inserting in lieu thereof "$5,000,000",

(ii) by striking out "on January 27, 1986" and inserting "in 1986", and

(iii) by inserting "in Masontown, Pennsylvania," after "plant",

(D) by amending subparagraph (K) to read as follows:

"(K) A 250 megawatt coal-fired electric plant in northeastern Nevada estimated to cost $600,000,000 and known as the Thousand Springs project, on which the Sierra Pacific Power Company, a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate (and section 203(b)(2) shall be applied with respect to such plant by substituting 'January 1, 1995' for 'January 1, 1991'),",

(E) in subparagraph (L), by inserting "in connection with" after "housing",

(F) by amending subparagraph (M) to read as follows:

"(M) property which is part of the Kenosha Downtown Redevelopment Project and which is financed with the proceeds of bonds issued pursuant to section 1317(6)(W),",

(G) in subparagraph (O), by striking out "New Orleans, Louisiana" and inserting in lieu thereof "Pensacola, Florida", and

(H) in subparagraph (S)—

(i) by inserting "to be" before "placed",

(ii) by inserting "Coal" before "Company",

(iii) by inserting "(or any subsidiary thereof)" after "Company", and

(iv) by striking out "on December 31, 1985" and inserting in lieu thereof "by December 31, 1985".

(21) Subparagraph (T) of section 204(a)(32) of the Reform Act is amended to read as follows:

"(T) a portion of a fiber optics network placed in service by LDX NET after December 31, 1988, but only to the extent the cost of such portion does not exceed $25,000,000,".

(22) Subparagraph (U) of section 204(a)(32) of the Reform Act is amended by striking out "placed in service" and inserting in lieu thereof "constructed".

(23) Subparagraph (X) of section 204(a)(32) of the Reform Act is amended by striking out "the home rule city and the State housing finance agency adopted inducement resolutions on December 20, 1985" and inserting in lieu thereof "the home rule city on December 4, 1985, and the State housing finance agency on December 20, 1985, adopted inducement resolutions".

(24) Subparagraph (C) of paragraph (33) of section 204(a) of the Reform Act is amended to read as follows:

"(C)(i) a waste-to-energy project in Derry, New Hampshire, costing approximately $60,000,000, and

"(ii) a waste-to-energy project in Manchester, New Hampshire, costing approximately $60,000,000,".

(25) Paragraph (33) of section 204(a) of the Reform Act is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof "; and", and by inserting after subparagraph (K) the following:

"(L) a cogeneration facility to be built at a paper company in Turners Falls, Massachusetts, with respect to which a letter of intent was executed on behalf of the paper company on September 26, 1985."

(26) Subsection (a) of section 204 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(34) The amendments made by section 201 shall not apply to an approximately 240,000 square foot beverage container manufacturing plant located in Batesville, Mississippi, or plant equipment used exclusively on the plant premises if—

"(A) a 2-year supply contract was signed by the taxpayer and a customer on November 1, 1985,

"(B) such contract further obligated the customer to purchase beverage containers for an additional 5-year period if physical signs of construction of the plant are present before September 1986,

"(C) ground clearing for such plant began before August 1986, and

"(D) construction is completed, the equipment is installed, and operations are commenced before July 1, 1987.

"(35) The amendments made by section 201 shall not apply to any property which is part of the multifamily housing at the Columbia Point Project in Boston, Massachusetts. A project shall be treated as not described in the preceding sentence and as not described in section 252(f)(1)(D) unless such project includes a nonprofit community health center—

(A) which receives funds under section 330 of the Public Health Service Act (42 U.S.C. 254(c)),

(B) which covers at least 12,000 (but not more than 18,000) square feet, and

(C) which is granted a lease for a period not ending before the close of the 20th year after the project is placed in service and the rent under which per square foot cannot exceed the average rent per square foot payable for rent-restricted units in the project.

"(36) The amendments made by section 201 shall not apply to any ethanol facility located in Blair, Nebraska, if—

"(A) in July of 1984 an initial binding construction contract was entered into for such facility,

"(B) in June of 1986, certain Department of Energy recommended contract changes required a change of contractor, and

"(C) in September of 1986, a new contract to construct such facility, consistent with such recommended changes, was entered into.

"(37) The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if, prior to January 1, 1986, the City of Conyers, Georgia, selected a privatizer to construct such facility, received a guaranteed maximum price bid for the construction of such facility, signed a letter of intent and began substantial negotiations of a service agreement with respect to such facility.

"(38) The amendments made by section 201 shall not apply to—

"(A) a $28,000,000 wood resource complex for which construction was authorized by the Board of Directors on August 9, 1985,

"(B) an electrical cogeneration plant in Bethel, Maine which is to generate 2 megawatts of electricity from the burning of wood residues, with respect to which a contract was entered into on July 10, 1984, and with respect to which $200,000 of the expected $2,000,000 cost had been committed before June 15, 1986,

"(C) a mixed income housing project in Portland, Maine which is known as the Back Bay Tower and which is expected to cost $17,300,000,

"(D) the Eastman Place project and office building in Rochester, New York, which is projected to cost $20,000,000, with respect to which an inducement resolution was adopted in December 1986, and for which a binding contract of $500,000 was entered into on April 30, 1986,

"(E) the Marquis Two project in Atlanta, Georgia which has a total budget of $72,000,000 and the construction phase of which began under a contract entered into on March 26, 1986,

"(F) a 166-unit continuing care retirement center in New Orleans, Louisiana, the construction contract for which was signed on February 12, 1986, and is for a maximum amount not to exceed $8,500,000,

"(G) the expansion of the capacity of an oil refining facility in Rosemont, Minnesota from 137,000 to 207,000 barrels per day which is expected to be completed by December 31, 1990, and

"(H) a project in Ransom, Pennsylvania which will burn coal waste (known as 'culm') with an approximate cost of $64,000,000 and for which a certification from the Federal Energy Regulatory Commission was received on March 11, 1986.

"(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina."

(27) Subsection (b) of section 204 of the Reform Act is amended by inserting "(as amended by the Tax Reform Act of 1984)" immediately before the period at the end thereof.

(28) Subparagraph (A) of section 204(c)(1) of the Reform Act is amended by inserting "located in Pennsylvania and" before "constructed pursuant".

(29) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by striking out "for the applicable date" and inserting in lieu thereof "(or, in the case of a project described in subparagraph (B), by substituting 'April 1, 1992') for the applicable date",

(B) by striking out "before April 1, 1986" in subparagraph (A) and inserting in lieu thereof "on or before April 1, 1986", and

(C) by adding at the end thereof the following:

"In the case of an aircraft described in subparagraph (A), section 203(b)(1)(A) shall be applied by substituting 'April 1, 1986' for 'March 1, 1986' and section 49(e)(1)(B) of the Internal Revenue Code of 1986 shall not apply."

(30)(A) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that precedes subparagraph (L) and inserting in lieu thereof the following:

"(4) The amendments made by section 201 shall not apply to a limited amount of the following property or a limited amount of property set forth in a submission before September 16, 1986, by the following taxpayers:

"(A) Arena project, Michigan, but only with respect to $78,000,000 of investments.

"(B) Campbell Soup Company, Pennsylvania, California, North Carolina, Ohio, Maryland, Florida, Nebraska, Michigan, South Carolina, Texas, New Jersey, and Delaware, but only with respect to $9,329,000 of regular investment tax credits.

"(C) The Southeast Overtown/Park West development, Florida, but only with respect to $9,000,000 of investments.

"(D) Equipment placed in service and operated by Leggett and Platt before July 1, 1987, but only with respect to $2,000,000 of regular investment tax credits, and subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to such equipment.

"(E) East Bank Housing Project.

"(F) $1,561,215 of investments by Standard Telephone Company.

"(G) Five aircraft placed in service before January 1, 1987, by Presidential Air.

"(H) A rehabilitation project by Ann Arbor Railroad, but only with respect to $2,900,000 of investments.

"(I) Property that is part of a cogeneration project located in Ada, Michigan, but only with respect to $30,000,000 of investments.

"(J) Anchor Store Project, Michigan, but only with respect to $21,000,000 of investments.

"(K) A waste-fired electrical generating facility of Biogen Power, but only with respect to $34,000,000 of investments."

(B) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that follows subparagraph (L) and inserting in lieu thereof the following:

"(M) Interests of Samuel A. Hardage (whether owned individually or in partnership form).

"(N) Two aircraft of Mesa Airlines with an aggregate cost of $5,723,484.

"(O) Yarn-spinning equipment used at Spray Cotton Mills, but only with respect to $3,000,000 of investments.

"(P) 328 units of low-income housing at Angelus Plaza, but only with respect to $20,500,000 of investments.

"(Q) One aircraft of Continental Aviation Services with a cost of approximately $15,000,000 that was purchased pursuant to a contract entered into during March of

1983 and that is placed in service by December 31, 1988."

(31) Paragraph (29) of section 204(a) of the Reform Act is amended—

(A) by striking out "January 18" in subparagraph (A) and inserting in lieu thereof "January 25", and

(B) by striking out "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and inserting in lieu thereof "a law suit filed on October 25, 1985".

(32) Subparagraph (J) of section 204(a)(33) of the Reform Act, as amended by paragraph (25), is amended to read as follows:

"(J) A 25.85 megawatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986,".

(33) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by inserting "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(34) Subclause (II) of section 204(a)(5)(J)(ii) of the Reform Act is amended to read as follows:

"(II) the Board of Directors of an automobile manufacturer approved a written plan for the conversion of existing facilities to produce new models of a vehicle not currently produced in the United States, such facilities will be placed in service by July 1, 1987, and such Board action occurred in July 1985 with respect to a $602,000,000 expenditure, a $438,000,000 expenditure, and a $321,000,000 expenditure."

(35) Subparagraph (T) of section 204(a)(5) of the Reform Act is amended to read as follows:

"(T) A project is described in this subparagraph if it is a plant facility on Alaska's North Slope which is placed in service before January 1, 1988, and—

"(i) the approximate cost of which is $675,000,000, of which approximately $400,000,000 was spent on off-site construction,

"(ii) the approximate cost of which is $445,000,000, of which approximately $400,000,000 was spent on off-site construction and more than 50 percent of the project cost was spent prior to December 31, 1985, or

"(iii) the approximate cost of which is $375,000,000, of which approximately $260,000,000 was spent on off-site construction."

(e) AMENDMENTS RELATING TO SECTION 211 OF THE REFORM ACT.—

(1) Paragraph (1) of section 49(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of periods after December 31, 1985, with respect to so much of the credit determined under section 46(a) with respect to transition property as is attributable to the regular investment credit (as defined in subsection (c)(5)(B))—

"(A) paragraphs (1), (2), and (7) of section 48(q) and section 48(d)(5) shall be applied by substituting '100 percent' for '50 percent' each place it appears, and

"(B) sections 48(q)(4) and 196(d) shall not apply."

(2) Subparagraph (B) of section 49(c)(4) of the 1986 Code is amended to read as follows:

"(B) NO CARRYBACK FOR YEARS STRADDLING JULY 1, 1987; GROSS UP OF CARRYFORWARDS.—In any case to which paragraph (3) applies—

"(i) the amount of the reduction under paragraph (3) may not be carried back to any taxable year, but

"(ii) there shall be added to the carryforwards from the taxable year (before applying paragraph (2)) an amount equal to the amount which bears the same ratio to the carryforwards from such taxable year (determined without regard to this clause) as—

"(I) the applicable percentage, bears to

"(II) 1 minus the applicable percentage."

(3) Clause (i) of section 49(c)(5)(B) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—The term 'regular investment credit' means the credit determined under section 46(a) to the extent attributable to the regular percentage."

(4) Paragraph (1) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new sentence: "Section 49(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to taxable years ending after June 30, 1987, and to amounts carried to such taxable years."

(5) Paragraph (4)(A) of section 211(e) of the Reform Act is amended—

(A) by striking out "Paragraphs (c) and (d) of section 49 of the Internal Revenue Code of 1954" and inserting in lieu thereof "Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986", and

(B) by striking out "1935" and inserting in lieu thereof "1985".

(6) Paragraph (4)(B) of section 211(e) of the Reform Act is amended by striking out "shall be treated as transition property" and inserting in lieu thereof "shall be treated as transition property and subsections (c) and (d) of section 49 of such Code shall not apply to such property".

(7) Paragraph (4) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(C) Any solid waste disposal facility which will process and incinerate solid waste of one or more public or private entities including Dakota County, Minnesota, and with respect to which a bond carryforward from 1985 was elected in an amount equal to $12,500,000 shall be treated as transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986.

"(D) For purposes of section 49 of such Code, the following property shall be treated as transition property:

"(i) 2 catamarans built by a shipbuilder incorporated in the State of Washington in 1964, the contracts for which were signed on April 22, 1986 and November 12, 1985, and 1 barge built by such shipbuilder the contract for which was signed on August 7, 1985.

"(ii) 2 large passenger ocean-going United States flag cruise ships with a passenger rated capacity of up to 250 which are built by the shipbuilder described in clause (i), which are the first such ships built in the United States since 1952, and which were designed at the request of a Pacific Coast cruise line pursuant to a contract entered into in October 1985. This clause shall apply only to that portion of the cost of each ship which does not exceed $40,000,000.

"(iii) Property placed in service during 1986 by Satellite Industries, Inc., with headquarters in Minneapolis, Minnesota, to the extent that the cost of such property does not exceed $1,950,000.

"(E) Subsections (c) and (d) of section 49 of such Code shall not apply to property described in section 204(a)(4) of this Act."

(8)(A) Subsection (d) of section 38 is amended to read as follows:

"(d) ORDERING RULES.—For purposes of sections 46(f), 47(a), 196(a), and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under any section referred to in subsection (b) are used in a taxable year or as a carryback or carryforward—

"(1) IN GENERAL.—The order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b) as of the close of the taxable year in which the credit is used.

"(2) COMPONENTS OF INVESTMENT CREDIT.—The order in which credits attributable to a percentage referred to in section 46(a) are used shall be determined on the basis of the order in which such percentages are listed in section 46(a) as of the close of the taxable year in which the credit is used.

"(3) CREDITS NO LONGER LISTED.—For purposes of this subsection—

"(A) the credit allowable by section 40, as in effect on the day before the date of the enactment of the Tax Reform Act of 1984, (relating to expenses of work incentive programs) and the credit allowable by section 41(a), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, (relating to employee stock ownership credit) shall be treated as referred to in that order after the last paragraph of subsection (b), and

"(B) the employee plan percentage (as defined in section 46(a)(2)(E), as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as referred to after section 46(a)(2)."

(B) Subparagraph (C) of section 49(c)(5) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(f) AMENDMENTS RELATED TO SECTION 212 OF THE REFORM ACT.—

(1) Paragraph (2) of section 212(f) of the Reform Act is amended by striking out so much of such paragraph as precedes subparagraph (A) and insert in lieu thereof the following:

"(2) SPECIAL RULE.—In the case of the LTV Corporation, in lieu of the requirements of paragraph (1)—".

(2) Subclause (I) of section 212(f)(2)(B)(i) of the Reform Act is amended by striking out "such involvement begins" and inserting in lieu thereof "when the corporation receives the refund".

(3) Subsection (g) of section 212 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR RESTRUCTURING.—In the case of any corporation, any restructuring shall not limit, increase, or otherwise affect the benefits which would have been available under this section but for such restructuring."

(4) Section 212 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(h) TENTATIVE REFUNDS.—Rules similar to the rules of section 6425 of the Internal Revenue Code of 1986 shall apply to any overpayment resulting from the application of this section."

(5) Subparagraph (B) of section 212(g)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(6) Paragraph (2) of section 212(f) of the Reform Act is amended by adding at the end thereof the following new sentence:

"In the case of the corporation referred to in the preceding sentence, no offset to any refund under this section may be made by

reason of any tax imposed by section 4971 of the Internal Revenue Code of 1986 (or any interest or penalty attributable to any such tax), and the date on which any such refund is to be paid shall be determined without regard to such corporation's status under title 11, United States Code."

(g) Amendment Related to Section 213 of the Reform Act.—Subparagraph (B) of section 213(e)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(h) Amendments Related to Section 231 of the Reform Act.—

(1) Subsection (g) of section 41 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the amount determined under subsection (a) for any taxable year exceeds the limitation of the preceding sentence, such amount may be carried to other taxable years under the rules of section 39; except that the limitation of the preceding sentence shall be taken into account in lieu of the limitation of section 38(c) in applying section 39."

(2) Subsection (c) of section 6411 of the 1986 Code is amended by striking out "unused research credit,".

(3) Section 936(h)(5)(C)(i)(IV)(c) of the 1986 Code is amended—

(A) by striking out "section 30" and inserting in lieu thereof "section 41", and

(B) by striking out "section 30(f)" and inserting in lieu thereof "section 41(f)".

(i) Amendment Related to Sections 241 and 242 of the Reform Act.—Section 167 of the 1986 Code is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) Certain Property Not Treated as Depreciable.—

"(1) In general.—No depreciation deduction shall be allowable under this section (and no depreciation or amortization deduction shall be allowable under any other provision of this subtitle) with respect to—

"(A) any trademark or trade name expenditure, or

"(B) any railroad grading or tunnel bore.

"(2) Definitions.—For purposes of this subsection—

"(A) Trademark or trade name expenditure.—The term 'trademark or trade name expenditure' means any expenditure which is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name.

"(B) Railroad grading or tunnel bores.—The term 'railroad grading or tunnel bore' means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track."

(j) Amendments Related to Section 243 of the Reform Act.—

(1) Section 243 of the Reform Act (related to deduction of bus and freight forwarder operating authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Application of Section 334(b)(2).—For purposes of subsections (a) and (b), the reference to section 334(b)(2) in section 266(c)(2)(A)(ii) of the Economic Recovery Tax Act of 1981 shall be a reference to such section as in effect before its repeal."

(2) The heading of subparagraph (A) of section 243(b)(2) of the Reform Act is amended by striking out "to begin in 1987".

(k) Amendments Related to Section 251 of the Reform Act.—

(1) Paragraph (2)(B) of section 251(d) of the Reform Act is amended by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(2) Subparagraph (P) of section 251(d)(3) of the Reform Act is amended by striking out "San Francisco" and inserting in lieu thereof "San Jose, California".

(3) Paragraph (4) of section 251(d) of the Reform Act is amended—

(A) by striking out "Lakeland marble Arcade" in subparagraph (K) and inserting in lieu thereof "Marble Arcade office building",

(B) by striking out "and" at the end of subparagraph (Y), and

(C) by striking out subparagraph (Z) and inserting in lieu thereof the following:

"(Z) the Bigelow-Hartford Carpet Mill in Enfield, Connecticut,

"(AA) properties abutting 125th street in New York County from 7th Avenue west to Morningside and the pier area on the Hudson River at the end of such 125th Street,

"(BB) the Bristol Carpet Mill project rehabilitating 2 buildings for approximately 156 apartment units and accompanying commercial and office use,

"(CC) the City of Los Angeles Central Library project pursuant to an agreement dated December 28, 1983,

"(DD) the Warehouse Row project in Chattanooga, Tennessee,

"(EE) any project described in section 204(a)(1)(F) of this Act,

"(FF) the Wood Street Commons project in Pittsburgh, Pennsylvania,

"(GG) the John Fitch Court in Windsor, Connecticut,

"(HH) any project described in section 803(d)(6) of this Act,

"(II) Union Station, Indianapolis, Indiana,

"(JJ) the Mattress Factory project in Pittsburgh, Pennsylvania,

"(KK) Union Station in Providence, Rhode Island,

"(LL) South Pack Plaza, Asheville, North Carolina,

"(MM) Old Louisville Trust Project, Louisville, Kentucky,

"(NN) Stewarts Rehabilitation Project, Louisville, Kentucky,

"(OO) Bernheim Officenter, Louisville, Kentucky,

"(PP) Springville Mill Project, Rockville, Connecticut, and

"(QQ) the D.J. Stewart Company Building, State and Main Streets, Rockford, Illinois."

(4) Subsection (d) of section 251 of the Reform Act is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Expensing of rehabilitation expenses for the Frankford Arsenal.—In the case of any expenditures paid or incurred in connection with improvements (including repairs and maintenance) of the Frankford Arsenal pursuant to a contract and partnership agreement during the 8-year period specified in the contract or agreement, all such expenditures to be made during the period 1986 through and including 1993 shall—

"(A) be treated as made (and allowable as a deduction) during 1986,

"(B) be treated as qualified rehabilitation expenditures made during 1986, and

"(C) be allocated in accordance with the partnership agreement regardless of when the interest in the partnership was acquired, except that—

"(i) if the taxpayer is not the original holder of such interest, no person (other than the taxpayer) had claimed any benefits by reason of this paragraph,

"(ii) no interest under section 6611 of the 1986 Code on any refund of income taxes which is solely attributable to this paragraph shall be paid for the period—

"(I) beginning on the date which is 45 days after the later of April 15, 1987, or the date on which the return for such taxes was filed, and

"(II) ending on the date the taxpayer acquired the interest in the partnership, and

"(iii) if the expenditures to be made under this provision are not paid or incurred before January 1, 1994, then the tax imposed by chapter 1 of such Code for the taxpayer's last taxable year beginning in 1993 shall be increased by the amount of the tax benefits by reason of this paragraph which are attributable to the expenditures not so paid or incurred.

"(7) Special rule.—In the case of the rehabilitation of the Willard Hotel in Washington, D.C., section 205(c)(1)(B)(ii) of the Tax Equity and Fiscal Responsibility Act of 1982 shall be applied by substituting '1987' for '1986'."

(5) Subparagraph (B) of section 251(d)(3) of the Reform Act is amended by striking out "Pontabla" and inserting in lieu thereof "Pontalba".

(6) Subparagraph (T) of section 251(d)(4) of the Reform Act is amended by striking out "Louisville" and inserting in lieu thereof "Covington".

(l) Amendments Related to Section 252 of the Reform Act.—

(1)(A) Subparagraph (A) of section 42(b)(2) of the 1986 Code is amended by striking out "for the month" and all that follows and inserting in lieu thereof "for the earlier of—

"(i) the month in which such building is placed in service, or

"(ii) at the election of the taxpayer—

"(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

"(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable."

(B) Clause (ii) of section 42(b)(2)(C) of the 1986 Code is amended by striking out "the month in which the building was placed in service" and inserting in lieu thereof "the month applicable under clause (i) or (ii) of subparagraph (A)".

(2)(A) Subparagraph (A) of section 42(c)(2) of the 1986 Code (defining qualified low-income building) is amended to read as follows:

"(A) which is part of a qualified low-income housing project at all times during the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and "(ii) ending on the last day of the compliance period with respect to such building, and".

(B) Paragraph (1) of section 42(f) of the 1986 Code (defining credit period) is amended by striking out "beginning with" and all that follows and inserting in lieu thereof "beginning with—

"(A) the taxable year in which the building is placed in service, or

"(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable."

(3) Clause (ii) of section 42(d)(2)(D) of the 1986 Code is amended to read as follows:

"(ii) SPECIAL RULES FOR CERTAIN TRANSFERS.—For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

"(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

"(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

"(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation, or

"(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure."

(4) Paragraph (3) of section 42(d) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE BASIS REDUCED WHERE DISPROPORTIONATE STANDARDS FOR UNITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

"(B) EXCEPTION WHERE TAXPAYER ELECTS TO EXCLUDE EXCESS COSTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

"(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

"(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

"(ii) EXCESS.—The excess described in this clause with respect to any unit is the excess of—

"(I) the cost of such unit, over

"(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs."

(5) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by inserting before the period "(increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II))".

(6)(A) Paragraph (5) of section 42(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELIGIBLE BASIS NOT TO INCLUDE EXPENDITURES WHERE 167(k) ELECTED.—The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k)."

(B) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(7) Subparagraph (A) of section 42(d)(6) of the 1986 Code is amended by inserting "or" at the end of clause (i), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period, and by striking out clause (iii).

(8) Clause (ii) of section 42(d)(6)(B) of the 1986 Code (defining federally assisted building) is amended by striking out "of 1934".

(9)(A) Paragraph (3) of section 42(f) of the 1986 Code is amended to read as follows:

"(3) DETERMINATION OF APPLICABLE PERCENTAGE WITH RESPECT TO INCREASES IN QUALIFIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if—

"(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

"(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to ⅔ of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

"(B) 1ST YEAR COMPUTATION APPLIES.—A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase."

(B) Paragraph (3) of section 42(b) of the 1986 Code is amended to read as follows:

"(3) CROSS REFERENCES.—

"(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

"(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

"(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(6)."

(10) Subparagraph (B) of section 42(g)(2) of the 1986 Code (defining gross rent) is amended by striking out "Federal rental assistance" and inserting in lieu thereof "rental assistance".

(11) Paragraph (2) of section 42(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

"(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

"(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

"(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

"(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made."

(12) Paragraph (3) of section 42(g) of the 1986 Code is amended to read as follows:

"(3) DATE FOR MEETING REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 12-month period beginning on the date the building is placed in service.

"(B) BUILDINGS WHICH RELY ON LATER BUILDINGS FOR QUALIFICATION.—

"(i) IN GENERAL.—In determining whether a building (hereinafter in this subparagraph referred to as the 'prior building') is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

"(ii) TREATMENT OF ELECTED BUILDINGS.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

"(iii) DATE PRIOR BUILDING IS TREATED AS PLACED IN SERVICE.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

"(C) SPECIAL RULE.—A building—

"(i) other than the 1st building placed in service as part of a project, and

"(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service."

(13) Paragraph (4) of section 42(g) of the 1986 Code is amended by inserting before the period "; except that, in applying such provisions (other than section 142(d)(4)(B)(iii)) for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection".

(14)(A) Paragraph (1) of section 42(h) of the 1986 Code is amended to read as follows:

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—

"(A) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

"(B) TIME FOR MAKING ALLOCATION.—Except in the case of an allocation which meets the requirements of subparagraph (C) or (D), an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

"(C) EXCEPTION WHERE BINDING COMMITMENT.—An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

"(D) EXCEPTION WHERE INCREASE IN QUALIFIED BASIS.—

"(i) IN GENERAL.—An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

"(ii) LIMITATION.—The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

"(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

"(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

"(iii) HOUSING CREDIT DOLLAR AMOUNT REDUCED BY FULL ALLOCATION.—Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2)."

(B) Clause (ii) of section 42(h)(6)(B) of the 1986 Code is hereby repealed.

(15) Subparagraph (A) of section 42(h)(4) of the 1986 Code is amended by striking out "financed" and all that follows and inserting in lieu thereof "financed by any obligation the interest on which is exempt from tax under section 103 if—

"(i) such obligation is taken into account under section 146, and

"(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing."

(16) Paragraph (5) of section 42(h) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (ii), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence."

(17)(A) Subparagraph (B) of section 42(h)(6) of the 1986 Code is amended by adding after clause (i) the following new clause:

"(ii) CARRYFORWARD WHERE SECRETARY DETERMINES UNFORESEEN DELAY IN PLACING BUILDING IN SERVICE.—A housing credit dollar amount which was allocated to a building for a calendar year after 1987 may be carried forward to the succeeding calendar year for such building if—

"(I) it was reasonable to believe that such building would be placed in service during the earlier calendar year but was not solely because of unforeseen conditions which, as determined by the Secretary, were not within the control of the taxpayer, and

"(II) such building is placed in service during such succeeding calendar year."

(B) Clause (i) of section 42(h)(6)(B) of the 1986 Code is amended by striking out "The portion" and inserting in lieu thereof "Except as provided in clause (ii), the portion".

(18) Subparagraph (D) of section 42(h)(6) of the 1986 Code is amended to read as follows:

"(D) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO PLACED IN SERVICE CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the housing credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

"(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

"(II) subsection (f)(3)(A) were applied without regard to 'the percentage equal to ⅔ of'."

(19) Paragraph (6) of section 42(h) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) HOUSING CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM QUALIFIED BASIS.—In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection."

(20)(A) Subparagraph (A) of section 42(i)(2) of the 1986 Code is amended—

(i) by inserting "or any prior taxable year" after "such taxable year",

(ii) by striking out "there is outstanding" and inserting in lieu thereof "there is or was outstanding", and

(iii) by striking out "are used" and inserting in lieu thereof "are or were used".

(B) Subparagraph (B) of section 42(i)(2) of the 1986 Code is amended to read as follows:

"(B) ELECTION TO REDUCE ELIGIBLE BASIS BY BALANCE OF LOAN OR PROCEEDS OF OBLIGATIONS.—A loan or tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d)—

"(i) in the case of a loan, the principal amount of such loan, and

"(ii) in the case of a tax-exempt obligation, the proceeds of such obligation."

(C) Paragraph (2) of section 42(i) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR SUBSIDIZED CONSTRUCTION FINANCING.—Subparagraph (A) shall not apply to any tax-exempt obligation or below market Federal loan used to provide construction financing for any building if—

"(i) such obligation or loan (when issued or made) identified the building for which the proceeds of such obligation or loan would be used, and

"(ii) such obligation is redeemed, and such loan is repaid, before such building is placed in service."

(D) Subparagraph (D) of section 42(i)(2) of the 1986 Code is amended by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph".

(21) Paragraph (4) of section 42(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) NO RECAPTURE WHERE DE MINIMIS CHANGES IN FLOOR SPACE.—The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if—

"(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1), and

"(ii) the building is a qualified low-income building after such change."

(22) Clause (i) of section 42(j)(5)(B) of the 1986 Code is amended to read as follows:

"(i) more than ½ the capital interests, and more than ½ the profit interests, in which are owned by a group of 35 or more partners each of whom is a natural person or an estate, and".

(23) Paragraph (6) of section 42(j) of the 1986 Code is amended—

(A) by inserting "(OR INTEREST THEREIN)" after "BUILDING" in the heading, and

(B) by inserting "or an interest therein" after "disposition of a building" in the text.

(24) Subparagraph (B) of section 42(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", except that this subparagraph shall not apply in the case of a federally as-

sisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

(25)(A) Subsection (l) of section 42 of the 1986 Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor."

(B) The subsection heading of subsection (l) of section 42 is amended to read as follows:

"(l) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—".

(26) Paragraph (1) of section 42(n) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", and, except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989".

(27) Subsection (d) of section 39 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF LOW-INCOME HOUSING CREDIT BEFORE 1987.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 42 (relating to low-income housing credit) may be carried back to a taxable year ending before January 1, 1987."

(28) Paragraph (1) of section 55(c) of the 1986 Code (defining regular tax) is amended by striking out "section 42(j)" and inserting in lieu thereof "subsection (j) or (k) of section 42".

(29) Subparagraph (A) of section 252(f)(1) of the Reform Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma, and by inserting after clause (ii) the following new clauses:

"(iii) the eligible basis of such building shall be treated, for purposes of section 42(h)(4)(A) of such Code, as if it were financed by an obligation the interest on which is exempt from tax under section 103 of such Code and which is taken into account under section 146 of such Code, and

"(iv) the amendments made by section 803 shall not apply."

(30) Subparagraph (E) of section 252(f)(1) of the Reform Act is amended by striking out "maximum annual additional credit" and inserting in lieu thereof "maximum present value of additional credits".

(31) Subparagraph (E) of section 252(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building."

(32) Subsection (f) of section 252 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE.—In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana—

"(A) the amendments made by this section shall not apply, and

"(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150."

(33) Subsection (g) of section 42 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

"(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

"(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted."

(m) AMENDMENTS RELATED TO SECTION 261 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 7518(g)(6) of the 1986 Code, is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

(2) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 172(d)(4) of the 1986 Code is amended by striking out ", (2)(B),".

(2) Paragraph (1) of section 3402(m) of the 1986 Code is amended by striking out "section 62) (other than paragraph (13) thereof)" and inserting in lieu thereof "section 62(a) (other than paragraph (10) thereof))".

(b) AMENDMENTS RELATED TO SECTION 302 OF THE REFORM ACT.—

(1) Section 302 of the Reform Act is amended by striking out subsection (c).

(2)(A) Paragraph (2) of section 904(b) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) IN GENERAL.—Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

"(B) SPECIAL RULES WHERE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of any taxable year for which there is a capital gain rate differential—

"(i) in lieu of applying subparagraph (A), the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

"(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

"(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain."

(B) Paragraph (3) of section 904(b) of the 1986 Code is amended by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year if—

"(i) in the case of a taxpayer other than a corporation, subsection (j) of section 1 applies to such taxable year, or

"(ii) in the case of a corporation, any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)).

"(E) RATE DIFFERENTIAL PORTION.—

"(i) IN GENERAL.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as—

"(I) the excess of the highest applicable tax rate over the alternative tax rate, bears to

"(II) the highest applicable tax rate.

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) of section 1 (whichever applies), or

"(II) in the case of a corporation, the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the alternative rate of tax determined under section 1(j), or

"(II) in the case of a corporation, the alternative rate of tax under section 1201(a)."

(3) Effective for taxable years beginning after December 31, 1987, paragraph (1) of section 1445(e) of the 1986 Code is amended by striking out "34 percent" and inserting in lieu thereof "34 percent (or, to the extent provided in regulations, 28 percent)".

(c) AMENDMENTS RELATED TO SECTION 311 OF THE REFORM ACT.—

(1) Subsection (a) of section 1201 of the 1986 Code is amended by striking out "831(a)" and inserting in lieu thereof "831 (a) or (b)".

(2) Subsection (c) of section 311 of the Reform Act is amended by inserting before the period at the end thereof the following: "; except that the amendment made by subsec-

tion (b)(4) shall apply to payments made after December 31, 1986".

(3) Subparagraph (D) of section 593(b)(2) of the 1986 Code is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year, by excluding from gross income the rate differential portion (within the meaning of section 904(b)(3)(E)) of the lesser of—

"(I) the net long-term capital gain for the taxable year, or

"(II) the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii)."

(d) Amendment Related to Section 321 of the Reform Act.—

(1)(A) Subsection (b) of section 422A of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term shall not include any option if (as of the time the option is granted) the terms of such option provide that it will not be treated as an incentive stock option."

(B) In the case of an option granted after December 31, 1986, and on or before the date of the enactment of this Act, such option shall not be treated as an incentive stock option if the terms of such option are amended before the date 90 days after such date of enactment to provide that such option will not be treated as an incentive stock option.

(2)(A) Section 422A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) $100,000 Per Year Limitation.—

"(1) In general.—To the extent that the aggregate fair market value of stock with respect to which incentive stock options (determined without regard to this subsection) are exercisable for the 1st time by any individual during any calendar year (under all plans of the individual's employer corporation and its parent and subsidiary corporations) exceeds $100,000, such options shall be treated as options which are not incentive stock options.

"(2) Ordering rule.—Paragraph (1) shall be applied by taking options into account in the order in which they were granted.

"(3) Determination of fair market value.—For purposes of paragraph (1), the fair market value of any stock shall be determined as of the time the option with respect to such stock is granted."

(B) Subsection (b) of section 422A of the 1986 Code is amended by adding "and" at the end of paragraph (5), by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period, and by striking out paragraph (7).

(C) Paragraph (1) of section 422A(c) of the 1986 Code is amended by striking out "paragraph (7) of subsection (b)" and inserting in lieu thereof "subsection (d)".

SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE REFORM ACT.

(a) Amendments Related to Section 405 of the Reform Act.—

(1) Paragraph (1) of section 108(a) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or" and by adding at the end thereof the following new subparagraph:

"(C) the indebtedness discharged is qualified farm indebtedness."

(2) Paragraph (2) of section 108(a) of the 1986 Code is amended to read as follows:

"(2) Coordination of exclusions.—

"(A) Title 11 exclusion takes precedence.—Subparagraphs (B) and (C) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

"(B) Insolvency exclusion takes precedence over qualified farm exclusion.—Subparagraph (C) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (b) of section 108 of the 1986 Code is amended—

(A) by striking out "subparagraph (A) or (B)" in paragraph (1) and inserting in lieu thereof "subparagraph (A), (B), or (C)", and

(B) by striking out "In Title 11 Case or Insolvency" in the subsection heading.

(4) Subsection (g) of section 108 of the 1986 Code is amended to read as follows:

"(g) Special Rules for Discharge of Qualified Farm Indebtedness.—

"(1) Discharge must be by qualified person.—

"(A) In general.—Subparagraph (C) of subsection (a)(1) shall apply only if the discharge is by a qualified person.

"(B) Qualified person.—For purposes of subparagraph (A), the term 'qualified person' has the meaning given to such term by section 46(c)(8)(D)(iv); except that such term shall include any Federal, State, or local government or agency or instrumentality thereof.

"(2) Qualified farm indebtedness.—For purposes of this section, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

"(B) 50 percent or more of the aggregate gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) Amount excluded cannot exceed sum of tax attributes and business and investment assets.—

"(A) In general.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the sum of—

"(i) the adjusted tax attributes of the taxpayer, and

"(ii) the aggregate adjusted bases of qualified property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

"(B) Adjusted tax attributes.—For purposes of subparagraph (A), the term 'adjusted tax attributes' means the sum of the tax attributes described in subparagraphs (A), (B), (C), and (E) of subsection (b)(2) determined by taking into account $3 for each $1 of the attributes described in subparagraphs (B) and (E) of subsection (b)(2).

"(C) Qualified property.—For purposes of this paragraph, the term 'qualified property' means any property which is used or is held for use in a trade or business or for the production of income.

"(D) Coordination with insolvency exclusion.—For purposes of this paragraph, the adjusted basis of any qualified property and the amount of the adjusted tax attributes shall be determined after any reduction under subsection (b) by reason of amounts excluded from gross income under subsection (a)(1)(B)."

(5) Paragraph (4) of section 1017(b) of the 1986 Code is amended to read as follows:

"(4) Special rules for qualified farm indebtedness.—

"(A) In general.—Any amount which under subsection (b)(2)(D) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

"(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

"(ii) shall be applied to reduce the basis of qualified property in the following order:

"(I) First the basis of qualified property which is depreciable property.

"(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

"(III) Then the basis of other qualified property.

"(B) Qualified property.—For purposes of this paragraph, the term 'qualified property' has the meaning given to such term by section 108(g)(3)(C).

"(C) Certain rules made applicable.—Rules similar to the rules of subparagraph (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g)."

(6)(A) Paragraphs (6) and (7) of section 108(d) of the 1986 Code are each amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a), (b), and (g)".

(B) The subsection heading for section 108(d) of the 1986 Code is amended by striking out "Subsections (a), and (b)" and inserting in lieu thereof "Subsections (a), (b), and (g)".

(C) The headings for paragraphs (6) and (7)(A) of section 108(d) of the 1986 Code are each amended by striking out "Subsections (a) and (b)" and inserting in lieu thereof "Subsections (a), (b), and (g)".

(b) Amendment Related to Section 406 of the Reform Act.—Section 406 of the Reform Act is amended—

(1) by inserting "before October 1, 1987," after "from the sale", and

(2) by striking out "to the extent such gain" and all that follows down through the period at the end thereof and inserting in lieu thereof "to the extent such gain is properly taken into account under the taxpayer's method of accounting during 1987.".

(c) Amendment Related to Section 413 of the Reform Act.—Subsection (a) of section 1254 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Adjustment for amounts included in gross income under section 617(b)(1)(A).—The amount of the expenditures referred to in paragraph (1)(A)(i) shall be properly adjusted for amounts included in gross income under section 617(b)(1)(A)."

SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE REFORM ACT.

(a) Amendments Related to Section 501 of the Reform Act.—

(1) Clause (ii) of section 469(e)(1)(A) of the 1986 Code (relating to certain income not treated as income from passive activity) is amended by inserting "not derived in the ordinary course of a trade or business which is" after "gain or loss".

(2)(A) Subparagraph (A) of section 469(g)(1) of the 1986 Code (relating to disposition of interests in passive activities in fully taxable transactions) is amended to read as follows:

"(A) In general.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) the sum of—

"(I) any loss from such activity for such taxable year (determined after application of subsection (b)), plus

"(II) any loss realized on such disposition, over

"(ii) net income or gain for such taxable year from all passive activities (determined without regard to losses described in clause (i)),

shall be treated as a loss which is not from a passive activity."

(B) Subparagraph (C) of section 469(g)(1) of the 1986 Code is amended to read as follows:

"(C) INCOME FROM PRIOR YEARS.—To the extent provided in regulations, income or gain from the activity for preceding taxable years shall be taken into account under subparagraph (A)(ii) for the taxable year to the extent necessary to prevent the avoidance of this section."

(3) Subparagraph (A) of section 469(g)(2) of the 1986 Code is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "such losses" the first place it appears and inserting in lieu thereof "losses described in paragraph (1)(A)".

(4) Section 469(g)(3) of the 1986 Code is amended—

(A) by striking out "realized (or to be realized)" and inserting in lieu thereof "(realized or to be realized", and

(B) by inserting a closing parenthesis after "completed".

(5) Paragraph (4) of section 469(h) of the 1986 Code (relating to certain closely held C corporations and personal service corporations) is amended by inserting "only" before "if".

(6) Paragraph (1) of section 469(i) of the 1986 Code (relating to $25,000 offset for rental real estate activities) is amended by striking out "in the taxable year in which such portion of such loss or credit arose" and inserting in lieu thereof "in such taxable year (and if any portion of such loss or credit arose in another taxable year, in such other taxable year)".

(7) Subparagraph (C) of section 469(i)(6) of the 1986 Code (relating to interest as a limited partner) is amended by striking out "No" and inserting in lieu thereof "Except as provided in regulations, no".

(8) Subparagraph (A) of section 469(j)(6) of the 1986 Code (relating to special rule for gifts) is amended by inserting "with respect to which a deduction has not been allowed by reason of subsection (a)" before ", and".

(9) Section 469(j) of the 1986 Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(10) COORDINATION WITH SECTION 280A.—If a passive activity involves the use of a dwelling unit to which section 280A(c)(5) applies for any taxable year, any income, deduction, gain, or loss allocable to such use shall not be taken into account for purposes of this section for such taxable year.

"(11) AGGREGATION OF MEMBERS OF AFFILIATED GROUPS.—Except as provided in regulations, all members of an affiliated group which files a consolidated return shall be treated as 1 corporation."

(10) Section 501(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) INCOME FROM SALES OF PASSIVE ACTIVITIES IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987.—If—

"(A) gain is recognized in a taxable year beginning after December 31, 1986, from a sale or exchange of an interest in an activity in a taxable year beginning before January 1, 1987, and

"(B) such gain would have been treated as gain from a passive activity had section 469 of the Internal Revenue Code of 1986 (as added by this section) been in effect for the taxable year in which the sale or exchange occurred and for all succeeding taxable years,

then such gain shall be treated as gain from a passive activity for purposes of such section."

(11) Subsection (j) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(12) SPECIAL RULE FOR DISTRIBUTIONS BY ESTATES OR TRUSTS.—If any interest in a passive activity is distributed by an estate or trust—

"(A) the basis of such interest immediately before such distribution shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year."

(12) Subsection (m) of section 469 of the 1986 Code, as redesignated by section 10211 of the Revenue Act of 1987, is amended by striking all that precedes subparagraph (B) of paragraph (3) thereof and inserting in lieu thereof the following:

"(m) PHASE-IN OF DISALLOWANCE OF LOSSES AND CREDITS FOR INTEREST HELD BEFORE DATE OF ENACTMENT.—

"(1) IN GENERAL.—In the case of any passive activity loss or passive activity credit for any taxable year beginning in calendar years 1987 through 1990, subsection (a) shall not apply to the applicable percentage of that portion of such loss (or such credit) which is attributable to pre-enactment interests.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	65
1988	40
1989	20
1990	10.

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-ENACTMENT INTERESTS.—For purposes of this subsection—

"(A) IN GENERAL.—The portion of the passive activity loss (or passive activity credit) for any taxable year which is attributable to preenactment interests is the lesser of—

"(i) the amount of the passive activity loss (or passive activity credit) which is disallowed for the taxable year under subsection (a) (without regard to this subsection), or

"(ii) the amount of the passive activity loss (or passive activity credit) which would be disallowed for the taxable year (without regard to this subsection and without regard to any amount allocable to an activity for the taxable year under subsection (b)) taking into account only pre-enactment interests."

(b) AMENDMENTS RELATED TO SECTION 502 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 502(d)(1) of the Reform Act (defining qualified investor) is amended to read as follows:

"(A) if—

"(i) in the case of a project placed in service on or before August 16, 1986, such person held an interest in such project on August 16, 1986, and such person made his initial investment after December 31, 1983, or

"(ii) in the case of a project placed in service after August 16, 1986, such person made his initial investment after December 31, 1983, and such person held an interest in such project on December 31, 1986, and".

(2) Subsection (d) of section 502 of the Reform Act (defining qualified investor) is amended by adding after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—In the case of any property which is held by a partnership—

"(A) which placed such property in service on or after December 31, 1985, and before August 17, 1986, and continuously held such property through the close of the taxable year for which the determination is being made, and

"(B) which was not treated as a new partnership or as terminated at any time on or after the date on which such property was placed in service and through the close of the taxable year for which the determination is being made,

paragraph (1)(A)(i) shall be applied by substituting 'December 31, 1988' for 'August 16, 1986' the 2nd place it appears."

(3) The subsection (d) of section 502 of the Reform Act which relates to special rules is redesignated as subsection (e).

(c) AMENDMENTS RELATED TO SECTION 511 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 163(d)(3) of the 1986 Code (defining investment interest) is amended by striking out "incurred or continued to purchase or carry" and inserting in lieu thereof "properly allocable to".

(2) Subparagraph (B) of section 163(d)(4) of the 1986 Code is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income (other than gain taken into account under clause (ii)) from property held for investment, and

"(ii) any net gain attributable to the disposition of property held for investment."

(3) Subparagraph (A) of section 163(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—The amount of interest paid or accrued during any such taxable year which is disallowed under this subsection shall not exceed the sum of—

"(i) the amount which would be disallowed under this subsection if—

"(I) paragraph (1) were applied by substituting 'the sum of the ceiling amount and the net investment income' for 'the net investment income', and

"(II) paragraphs (4)(E) and (5)(A)(ii) did not apply, and

"(ii) the applicable percentage of the excess of—

"(I) the amount which (without regard to this paragraph) is not allowable as a deduction under this subsection for the taxable year, over

"(II) the amount described in clause (i).

The preceding sentence shall not apply to any interest treated as paid or accrued during the taxable year under paragraph (2)."

(4) Subparagraph (A) of section 163(h)(2) of the 1986 Code is amended by striking out "incurred or continued in connection with the conduct of" and inserting in lieu thereof "properly allocable to".

(5) Subparagraph (C) of section 163(h)(3) of the 1986 Code (defining qualified residence interest) is amended to read as follows:

"(C) COST NOT LESS THAN BALANCE OF INDEBTEDNESS INCURRED ON OR BEFORE AUGUST 16, 1986.—

"(i) IN GENERAL.—The amount under subparagraph (B)(ii)(I) at any time after August 16, 1986, shall not be less than the outstanding principal amount (as of such time) of indebtedness—

"(I) which was incurred on or before August 16, 1986, and which was secured by the qualified residence on August 16, 1986, or

"(II) which is secured by the qualified residence and was incurred after August 16, 1986, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(ii) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (i) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (i)(I), or

"(II) if the principal of the indebtedness described in clause (i)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such refinancing)."

(6)(A) The heading for section 163(h)(5) of the 1986 Code is amended to read as follows:

"(5) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—".

(B) Paragraph (5) of section 163(h) of the 1986 Code is amended—

(i) by striking out "For purposes of this subsection—" in subparagraph (A), and

(ii) by striking out "For purposes of this paragraph, any" in subparagraph (B) and inserting in lieu thereof "Any".

(7) Clause (iii) of section 163(h)(5)(A) of the 1986 Code is amended by striking out "USED OR" in the heading thereof and by striking out "or use".

(8) Section 163(h)(5) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(C) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(D) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust."

(9) Paragraph (6) of section 163(h) of the 1986 Code is amended by striking out "subsection" the 3rd place it appears and inserting in lieu thereof "paragraph".

(10) Paragraph (2)(A) of section 511(d) of the Reform Act is amended to read as follows:

"(2)(A) Sections 467(c)(5) and 1255(b)(2) are each amended by striking out '163(d),'."

(11) If—

(A) any amount was disallowed as a deduction under section 163(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Reform Act),

(B) such amount would (but for this paragraph) be treated as investment interest paid or accrued by the taxpayer in the taxpayer's first taxable year beginning after December 31, 1986, and

(C) the taxpayer makes an election under this paragraph at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe,

to the extent such amount is attributable to an activity subject to the limitations of section 469 of the 1986 Code, such amount shall not be treated as investment interest but shall be treated as a deduction allocable to such activity for such first taxable year. Subsection (m) of section 469 of the 1986 Code and section 501(c)(2) of the Reform Act shall not apply to any amount so treated.

(12) Subparagraph (E) of section 163(h)(2) of the 1986 Code is amended by inserting before the period "or under section 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981)".

(13) For purposes of applying the amendments made by this subsection and the amendments made by section 10102 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(14)(A) For purposes of applying section 163(h) of the 1986 Code to any taxable year beginning during 1987, if, incident to a divorce or legal separation—

(i) an individual acquires the interest of a spouse or former spouse in a qualified residence in a transfer to which section 1041 of the 1986 Code applies, and

(ii) such individual incurs indebtedness which is secured by such qualified residence,

the amount determined under paragraph (3)(B)(ii)(I) of section 163(h) of the 1986 Code (as in effect before the amendments made by the Revenue Act of 1987) with respect to such qualified residence shall be increased by the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph shall be equal to the excess (if any) of—

(i) the lesser of the amount of the indebtedness described in subparagraph (A)(ii), or the fair market value of the spouse's or former spouse's interest in the qualified residence as of the time of the transfer, over

(ii) the basis of the spouse or former spouse in such interest in such residence (adjusted only by the cost of any improvements to such residence).

(15) Clause (i) of section 7872(d)(1)(E) of the 1986 Code is amended by striking out "section 163(d)(3)" and inserting in lieu thereof "section 163(d)(4)".

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 601 OF THE REFORM ACT.—Section 15 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REFERENCES TO HIGHEST RATE.—If the change referred to in subsection (a) involves a change in the highest rate of tax imposed by section 1 or 11(b), any reference in this chapter to such highest rate (other than in a provision imposing a tax by reference to such rate) shall be treated as a reference to the weighted average of the highest rates before and after the change determined on the basis of the respective portions of the taxable year before the date of the change and on or after the date of the change."

(b) AMENDMENTS RELATED TO SECTIONS 611 AND 612 OF THE REFORM ACT.—

(1) In the case of dividends received or accrued during 1987—

(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting "80 percent" for the percentage specified therein, and

(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting "$^{100}/_{80}$ths" for the fraction specified therein.

(2) Paragraph (3) of section 854(b) of the 1986 Code is amended to read as follows:

"(3) AGGREGATE DIVIDENDS.—For purposes of this subsection—

"(A) IN GENERAL.—In computing the amount of aggregate dividends received, there shall only be taken into account dividends received from domestic corporations.

"(B) DIVIDENDS.—For purposes of subparagraph (A), the term 'dividend' shall not include any distribution from—

"(i) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(ii) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(C) LIMITATIONS ON DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—In determining the amount of any dividend for purposes of this paragraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(c) AMENDMENTS RELATED TO SECTION 614 OF THE REFORM ACT.—

(1) Section 1059(d) of the 1986 Code (relating to extension to certain property distributions) is amended by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Section 1059(d)(5) of the 1986 Code (defining dividend announcement date), as redesignated by paragraph (1), is amended by inserting "amount or" before "payment".

(3) Section 1059(d)(6) of the 1986 Code (relating to exception where stock held during entire existence of corporation), as redesignated by paragraph (1), is amended to read as follows:

"(6) EXCEPTION WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any extraordinary dividend with respect to any share of stock of a corporation if—

"(i) such stock was held by the taxpayer during the entire period such corporation was in existence, and

"(ii) except as provided in regulations, no earnings and profits of such corporation were attributable to transfers of property from (or earnings and profits of) a corporation which is not a qualified corporation.

"(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term 'qualified corporation' means any corporation (including a predecessor corporation)—

"(i) with respect to which the taxpayer holds directly or indirectly during the entire period of such corporation's existence at least the same ownership interest as the taxpayer holds in the corporation distributing the extraordinary dividend, and

"(ii) which has no earnings and profits—

"(I) which were earned by, or

"(II) which are attributable to gain on property which accrued during a period the corporation holding the property was,

a corporation not described in clause (i).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply to any extraordinary dividend to the extent such application is inconsistent with the purposes of this section."

(4) Paragraph (1) of section 1059(e) of the 1986 Code (relating to treatment of partial liquidation) is amended by striking out "for purposes of this section (without regard to the holding period of the stock)" and inserting in lieu thereof: "to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock".

(5) Paragraph (2) of section 1059(e) of the 1986 Code (relating to qualifying dividends) is amended to read as follows:

"(2) QUALIFYING DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in regulations, the term 'extraordinary dividend' does not include any qualifying dividend (within the meaning of section 243).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any portion of a dividend which is attributable to earnings and profits which—

"(i) were earned by a corporation during a period it was not a member of the affiliated group, or

"(ii) are attributable to gain on property which accrued during a period the corporation holding the property was not a member of the affiliated group."

(6) Subparagraph (A) of section 1059(e)(3) of the 1986 Code (relating to qualified preferred dividends) is amended to read as follows:

"(A) IN GENERAL.—In the case of 1 or more qualified preferred dividends with respect to any share of stock—

"(i) this section shall not apply to such dividends if the taxpayer holds such stock for more than 5 years, and

"(ii) if the taxpayer disposes of such stock before it has been held for more than 5 years, the aggregate reduction under subsection (a)(1) with respect to such dividends shall not be greater than the excess (if any) of—

"(I) the qualified preferred dividends paid with respect to such stock during the period the taxpayer held such stock, over

"(II) the qualified preferred dividends which would have been paid during such period on the basis of the stated rate of return."

(7) Clause (i) of section 1059(e)(3)(C) of the 1986 Code is amended—

(A) by striking out "any dividend payable" and inserting in lieu thereof "any fixed dividend payable", and

(B) by adding at the end thereof the following new sentence:

"Such term shall not include any dividend payable with respect to any share of stock if the actual rate of return on such stock exceeds 15 percent."

(8) Subparagraph (B) of section 1059(e)(3) of the 1986 Code is amended—

(A) by striking out "subparagraph (A)" and the material preceding clause (i) and inserting in lieu thereof "this paragraph", and

(B) by striking out "subparagraph (B)(i)(II)" in clause (ii) and inserting in lieu thereof "clause (i)(II)".

(9) Subsection (f) of section 1059 of the 1986 Code is amended by inserting before the period at the end thereof the following: "and in the case of stock held by pass-thru entities".

(d) AMENDMENTS RELATED TO SECTION 621 OF THE REFORM ACT.—

(1)(A) Section 382(e)(2) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTION" after "REDEMPTION" in the heading thereof.

(B) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTIONS" after "REDEMPTIONS" in the heading thereof.

(C) Section 382(m) of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(D) The amendments made by this paragraph shall apply with respect to ownership changes after June 10, 1987.

(2) Section 382(g)(4)(C) of the 1986 Code is amended by inserting "rules similar to" before "the rules".

(3)(A) Section 382(h)(1)(C) of the 1986 Code is amended to read as follows:

"(C) SPECIAL RULES FOR CERTAIN SECTION 338 GAINS.—If an election under section 338 is made in connection with an ownership change and the net unrealized built-in gain is zero by reason of paragraph (3)(B), then, with respect to such change, the section 382 limitation for the post-change year in which gain is recognized by reason of such election shall be increased by the lesser of—

"(i) the recognized built-in gains by reason of such election, or

"(ii) the net unrealized built-in gain (determined without regard to paragraph (3)(B))."

(B) Paragraph (5) of section 382(h) of the 1986 Code is amended by striking out "recognized built-in gains and losses" and inserting in lieu thereof "recognized built-in gains to the extent such gains increased the section 382 limitation for the year (or recognized built-in losses to the extent such losses are treated as pre-change losses)".

(4) Section 382(i)(3) of the 1986 Code is amended—

(A) by inserting "the earlier of" before "the 1st day", and

(B) by inserting "or the taxable year in which the transaction being tested occurs" after "1st post-change year".

(5)(A) Section 382(k)(1) of the 1986 Code is amended by inserting "or having a net operating loss for the taxable year in which the ownership change occurs" after "carryover".

(B) Section 382(k)(2) of the 1986 Code is amended to read as follows:

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation—

"(A) with respect to which there is an ownership change, and

"(B) which (before the ownership change) was a loss corporation."

(6) Section 382(l)(3)(A) of the 1986 Code is amended by striking out "and" at the end of clause (iii), and by striking out clause (iv) and inserting in lieu thereof the following new clauses:

"(iv) except to the extent provided in regulations, an option to acquire stock shall be treated as exercised if such exercise results in an ownership change, and

"(v) in attributing stock from an entity under paragraph (2) of section 318(a), there shall not be taken into account—

"(I) in the case of attribution from a corporation, stock which is not treated as stock for purposes of this section, or

"(II) in the case of attribution from another entity, an interest in such entity similar to stock described in subclause (I)."

(7) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "immediately after such ownership change" and inserting in lieu thereof "after such ownership change and as a result of being shareholders or creditors immediately before such change".

(8) Section 382(l)(5)(F) of the 1986 Code is amended—

(A) by inserting "'1504(a)(2)(B)' for '1504(a)(2)' and" after "substituting" in clause (i)(I), and

(B) by striking out "deposits described in subclause (II)" in clause (ii)(III) and inserting in lieu thereof "the amount of deposits in the new loss corporation immediately after the change".

(9) Paragraph (6) of section 382(l) of the 1986 Code is amended by striking out "shall be the value of the new loss corporation immediately after the ownership change" and inserting in lieu thereof "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditors' claims in the transaction".

(10) Section 382(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) PREDECESSOR AND SUCCESSOR ENTITIES.—Except as provided in regulations, any entity and any predecessor or successor entities of such entity shall be treated as 1 entity."

(11) Paragraph (1) of section 621(f) of the Reform Act is amended to read as follows:

"(1) AMENDMENTS MADE BY SUBSECTIONS (a), (b), and (c).—

"(A) IN GENERAL.—

"(i) CHANGES AFTER 1986.—The amendments made by subsections (a), (b), and (c) shall apply to any ownership change after December 31, 1986.

"(ii) PLANS OF REORGANIZATION ADOPTED BEFORE 1987.—For purposes of clause (i), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted.

"(B) TERMINATION OF OLD SECTION 382.—Except in a case described in any of the following paragraphs—

"(i) section 382(a) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a) and the amendments made by section 806 of the Tax Reform Act of 1976) shall not apply to any increase in percentage points occurring after December 31, 1988, and

"(ii) section 382(b) of such Code (as so in effect) shall not apply to any reorganization occurring pursuant to a plan of reorganization adopted after December 31, 1986.

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

"(C) COORDINATION WITH SECTION 382(i).—For purposes of section 382(i) of the Internal Revenue Code of 1986 (as added by this section), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted."

(12)(A) Section 621(f)(2)(C) of the Reform Act is amended by inserting "and reincorporated in Delaware in 1987," after "1924,".

(B) Clause (ii) of section 621(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 shall not apply to such debt restructuring, except that the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984 (relating to qualified workouts) shall apply to such debt restructuring."

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended by striking out "or reorganization".

(14) Section 621(f)(3) of the Reform Act is amended by striking out "after December 31, 1986".

(15) Paragraph (4) of section 621(f) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"Any regulations prescribed under section 382 of the Internal Revenue Code of 1986 (as added by subsection (a)) which have the effect of treating a group of shareholders as a separate 5-percent shareholder by reason of a public offering shall not apply to any public offering before January 1, 1989, for the benefit of institutions described in section 591 of such Code. Unless the corporation otherwise elects, an underwriter of any offering of stock in a corporation before September 19, 1986 (January 1, 1989, in the case of an offering for the benefit of an institution described in the preceding sentence), shall not be treated as acquiring any stock of such corporation by reason of a firm commitment underwriting to the extent the stock is disposed of pursuant to the offering (but in no event later than 60 days after the initial offering)."

(16) Subparagraph (A) of section 621(f)(7) of the Reform Act is amended by striking out "the parent corporation referred to in section 203(d)(13)(B)" and inserting in lieu thereof "a parent corporation incorporated in March 1980 under the laws of Delaware".

(17)(A) Subsection (e) of section 382 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF FOREIGN CORPORATIONS.—Except as otherwise provided in regulations, in determining the value of any old loss corporation which is a foreign corporation, there shall be taken into account only items treated as connected with the conduct of a trade or business in the United States."

(B) The amendment made by subparagraph (A) shall apply to any ownership change after June 10, 1987. For purposes of the preceding sentence, any equity structure shift pursuant to a plan of reorganization adopted on or before June 10, 1987, shall be treated as occurring when such plan was adopted.

(18) Subparagraph (C) of section 382(l)(5) of the 1986 Code is amended to read as follows:

"(C) REDUCTION OF TAX ATTRIBUTES WHERE DISCHARGE OF INDEBTEDNESS.—

"(i) IN GENERAL.—In any case to which subparagraph (A) applies, 50 percent of the amount which, but for the application of section 108(e)(10)(B), would have been applied to reduce tax attributes under section 108(b) shall be so applied.

"(ii) CLARIFICATION WITH SUBPARAGRAPH (B).—In applying clause (i), there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(19) Subparagraph (E) of section 382(l)(5) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(E) ONLY CERTAIN STOCK TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock transferred to a creditor shall be taken into account only to the extent such stock is transferred in satisfaction of indebtedness and only if such indebtedness—".

(20) Paragraph (4) of section 382(h) of the 1986 Code is amended—

(A) by inserting before the comma at the end of subparagraph (A) the following: "(or to the extent the amount so disallowed is attributable to capital losses, under rules similar to the rules for the carrying forward of net capital losses)", and

(B) by striking out "TREATED AS A NET OPERATING LOSS" in the paragraph heading and inserting in lieu thereof "ALLOWED AS A CARRYFORWARD".

(21) Paragraph (1) of section 382(g) of the 1986 Code is amended—

(A) by striking out "new loss corporation" and inserting in lieu thereof "loss corporation", and

(B) by striking out "old loss corporation" and inserting in lieu thereof "loss corporation".

(22) Paragraph (6) of section 382(h) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENTS.—The amount of the net unrealized built-in gain or loss shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph."

(23) Paragraph (9) of section 382(h) of the 1986 Code is amended by striking out "is transferred" and inserting in lieu thereof "was acquired (or is subsequently transferred)".

(24) Subsection (m) of section 382 of the 1986 Code (as amended by paragraph (1)) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(5) providing, in the case of any group of corporations described in section 1563(a) (determined by substituting '50 percent' for '80 percent' each place it appears and determined without regard to paragraph (4) thereof), appropriate adjustments to value, built-in gain or loss, and other items so that items are not omitted or taken into account more than once."

(25) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "stock of controlling corporation" and inserting in lieu thereof "stock of a controlling corporation".

(26) Clause (ii) of section 382(h)(3)(B) of the 1986 Code is amended by striking out "there shall not" and inserting in lieu thereof "except as provided in regulations, there shall not".

(27) Subparagraph (B) of section 382(1)(5) of the 1986 Code is amended by striking out "the net operating loss deduction under section 172(a) for any post-change year shall be determined" and inserting in lieu thereof "the pre-change losses and excess credits (within the meaning of section 383(a)(2)) which may be carried to a post-change year shall be computed".

(28)(A) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended by striking out "determinations under clause (i)" and inserting in lieu thereof "to the extent provided in regulations, determinations under clause (i)".

(B) The amendment made by subparagraph (A) shall apply in the case of ownership changes on or after June 21, 1988.

(29) Subclause (I) of section 382(1)(5)(F)(iii) of the 1986 Code is amended by striking out "section 368(a)(D)(ii)" and inserting in lieu thereof "section 368(a)(3)(D)(ii)".

(e) AMENDMENTS RELATED TO SECTION 631 OF THE REFORM ACT.—

(1) Clause (ii) of section 336(d)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) CERTAIN ACQUISITIONS TREATED AS PART OF PLAN.—For purposes of clause (i), any property described in clause (i)(I) acquired by the liquidated corporation after the date 2 years before the date of the adoption of the plan of complete liquidation shall, except as provided in regulations, be treated as acquired as part of a plan described in clause (i)(II)."

(2) Paragraph (3) of section 336(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any distribution to the 80-percent distributee only if subsection (a) or (b)(1) of section 337 applies to such distribution."

(3) Subsection (e) of section 336 of the 1986 Code is amended by striking out "such corporation may elect" and inserting in lieu thereof "an election may be made".

(4) Subparagraph (B) of section 337(b)(2) of the 1986 Code is amended—

(A) by striking out "or 511(b)(2)" in clause (i),

(B) by striking out "in an unrelated trade or business (as defined in section 513)" in clause (i) and inserting in lieu thereof "in an activity the income from which is subject to tax under section 511(a)", and

(C) by striking out "an unrelated trade or business of such organization" in clause (ii) and inserting in lieu thereof "an activity referred to in clause (i)".

(5) Subsection (d) of section 337 of the 1986 Code is amended—

(A) by striking out "made to this subpart by the Tax Reform Act of 1986" and inserting in lieu thereof "made by subtitle D of title VI of the Tax Reform Act of 1986", and

(B) by inserting "or through the use of a regulated investment company, real estate investment trust, or tax-exempt entity" after "subchapter)" in paragraph (1).

(6) Subsection (b) of section 334 of the 1986 Code is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332(a) applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that, in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, the basis of such property in the hands of such distributee shall be the fair market

value of the property at the time of the distribution.

"(2) CORPORATE DISTRIBUTEE.—For purposes of this subsection, the term 'corporate distributee' means only the corporation which meets the stock ownership requirements specified in section 332(b)."

(7)(A) Subparagraph (B) of section 453(h)(1) of the 1986 Code is amended by striking out "to one person" and inserting in lieu thereof "to 1 person in 1 transaction".

(B) Subparagraph (E) of section 453(h)(1) of the 1986 Code is amended by striking out "section 368(c)(1)" and inserting in lieu thereof "section 368(c)".

(8)(A) Part VII of subchapter C of chapter 1 of the 1986 Code is hereby repealed.

(B) Subsection (b) of section 311 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF PARTNERSHIP OR TRUST INTERESTS.—If the property distributed consists of an interest in a partnership or trust, the Secretary may by regulations provide that the amount of the gain recognized under paragraph (1) shall be computed without regard to any loss attributable to property contributed to the partnership or trust for the principal purpose of recognizing such loss on the distribution."

(C) The table of parts for subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to part VII.

(9) Paragraph (1) of section 267(a) of the 1986 Code is amended—

(A) by striking out "(other than a loss in case of a distribution in corporate liquidation)", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any loss of the distributing corporation (or the distributee) in the case of a distribution in complete liquidation."

(10) Paragraph (1) of section 301(b) of the 1986 Code is amended to read as follows:

"(1) GENERAL RULE.—For purposes of this section, the amount of any distribution shall be the amount of money received, plus the fair market value of the other property received."

(11) Subsection (d) of section 301 of the 1986 Code is amended to read as follows:

"(d) BASIS.—The basis of property received in a distribution to which subsection (a) applies shall be the fair market value of such property."

(12) Section 301 of the 1986 Code is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(13)(A) Subsection (a) of section 367 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) PARAGRAPHS (2) AND (3) NOT TO APPLY TO CERTAIN SECTION 361 TRANSACTIONS.—Paragraphs (2) and (3) shall not apply in the case of an exchange described in section 361. Subject to such basis adjustments and such other conditions as shall be provided in regulations, the preceding sentence shall not apply if the transferor corporation is controlled (within the meaning of section 368(c)) by 5 or fewer domestic corporations. For purposes of the preceding sentence, all members of the same affiliated group (within the meaning of section 1504) shall be treated as 1 corporation."

(B) The amendment made by subparagraph (A) shall apply to exchanges on or after June 11, 1987.

(C) Section 367(e)(2) of the 1986 Code (as amended by the Reform Act) shall not apply in the case of any corporation completely liquidated before June 10, 1987, into a corporation organized in a country which has an income tax treaty with the United States.

(14)(A) Subsection (d) of section 1248 of the 1986 Code is amended by striking out paragraph (2).

(B) Subparagraph (B) of section 1248(f)(1) of the 1986 Code is amended to read as follows:

"(B) such domestic corporation distributes stock of such foreign corporation in a distribution to which section 311(a), 337, or 361(c)(1) applies,".

(C) Paragraph (1) of section 1248(f) of the 1986 Code is amended by striking out "distribution, sale, or exchange" in the last sentence and inserting in lieu thereof "distribution".

(D) Subsection (f) of section 1248 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(E) The subsection heading for section 1248(f) of the 1986 Code is amended by striking out "SECTION 311, 336, OR 337 TRANSACTIONS" and inserting in lieu thereof "NONRECOGNITION TRANSACTIONS".

(15) Paragraph (1) of section 995(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C) and the sentence following subparagraph (C).

(16) Subsection (d) of section 245 of the 1986 Code is hereby repealed.

(17) Paragraph (14) of section 1223 of the 1986 Code is amended to read as follows:

"(14) CROSS REFERENCE.—

"For special holding period provision relating to certain partnership distributions, see section 735(b)."

(18) Clause (ii) of section 341(e)(1)(C) of the 1986 Code is amended—

(A) by striking out "sale or exchange" the first place it appears and inserting in lieu thereof "liquidating sale or exchange", and

(B) by striking out ", gain or loss on which was not recognized to such other corporation under section 337(a),".

(19) Subsection (l) of section 897 of the 1986 Code is hereby repealed.

(20) Paragraph (7) of section 338(h) of the 1986 Code is hereby repealed.

(21)(A) The heading of subsection (b) of section 336 of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(B) The heading of paragraph (2) of section 311(b) of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(22) Section 453B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN LIQUIDATING DISTRIBUTIONS BY S CORPORATIONS.—If—

"(1) an installment obligation is distributed by an S corporation in a complete liquidation, and

"(2) receipt of the obligation is not treated as payment for the stock by reason of section 453(h)(1),

then, except for purposes of any tax imposed by subchapter S, no gain or loss with respect to the distribution of the obligation shall be recognized by the distributing corporation. Under regulations prescribed by the Secretary, the character of the gain or loss to the shareholder shall be determined in accordance with the principles of section 1366(b)."

(f) AMENDMENTS RELATED TO SECTION 632 OF THE REFORM ACT.—

(1) Subsection (a) of section 1374 of the 1986 Code is amended by striking out "a recognized built-in gain" and inserting in lieu thereof "a net recognized built-in gain".

(2) Subsection (b) of section 1374 of the 1986 Code is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be computed by applying the highest rate of tax specified in section 11(b) to the net recognized built-in gain of the S corporation for the taxable year.

"(2) NET OPERATING LOSS CARRYFORWARDS FROM C YEARS ALLOWED.—Notwithstanding section 1371(b)(1), any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed for purposes of this section as a deduction against the net recognized built-in gain of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the amount of the net recognized built-in gain shall be treated as taxable income. Rules similar to the rules of the preceding sentences of this paragraph shall apply in the case of a capital loss carryforward arising in a taxable year for which the corporation was a C corporation."

(3) Subparagraph (B) of section 1374(b)(4) of the 1986 Code is amended to read as follows:

"(B) the amount of the net recognized built-in gain shall be treated as the taxable income."

(4) Paragraph (2) of section 1374(c) of the 1986 Code is amended by striking out "recognized built-in gains" each place it appears and inserting in lieu thereof "net recognized built-in gain".

(5)(A) Section 1374 of the 1986 Code is amended by striking out all that follows paragraph (1) of subsection (d) and inserting in lieu thereof the following:

"(2) NET RECOGNIZED BUILT-IN GAIN.—The term 'net recognized built-in gain' means, with respect to any taxable year in the recognition period, the amount which would be the taxable income of the S corporation for such taxable year if (except as provided in subsection (b)(2)) only recognized built-in gains and recognized built-in losses were taken into account. If the S corporation is treated as an S corporation by reason of an election made before March 31, 1988, the net recognized built-in gain for any taxable year shall not exceed such corporation's taxable income for such taxable year (determined as provided in section 1375(b)(1)(B)).

"(3) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent that the S corporation establishes that—

"(A) such asset was not held by the S corporation as of the beginning of the 1st taxable year for which it was an S corporation, or

"(B) such gain exceeds the excess (if any) of—

"(i) the fair market value of such asset as of the beginning of such 1st taxable year, over

"(ii) the adjusted basis of the asset as of such time.

"(4) RECOGNIZED BUILT-IN LOSSES.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset to the

extent that the S corporation establishes that—

"(A) such asset was held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3), and

"(B) such loss does not exceed the excess of—

"(i) the adjusted basis of such asset as of the beginning of such 1st taxable year, over

"(ii) the fair market value of such asset as of such time.

"(5) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the 1st taxable year for which the corporation was an S corporation shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the 1st taxable year referred to in subparagraph (A) shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENT TO NET UNREALIZED BUILT-IN GAIN.—The amount of the net unrealized built-in gain shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph.

"(6) TREATMENT OF CERTAIN PROPERTY.—If the adjusted basis of any asset is determined (in whole or in part) by reference to the adjusted basis of any other asset held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3)—

"(A) such asset shall be treated as held by the S corporation as of the beginning of such 1st taxable year, and

"(B) any determination under paragraph (3)(B) or (4)(B) with respect to such asset shall be made by reference to the fair market value and adjusted basis of such other asset as of the beginning of such 1st taxable year.

"(7) RECOGNITION PERIOD.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(8) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any asset, and

"(ii) the S corporation's basis in such asset is determined (in whole or in part) by reference to the basis of such asset (or any other property) in the hands of a C corporation,

then a tax is hereby imposed on any net recognized built-in gain attributable to any such assets for any taxable year beginning in the recognition period. The amount of such tax shall be determined under the rules of this section as modified by subparagraph (B).

"(B) MODIFICATIONS.—For purposes of this paragraph, the modifications of this subparagraph are as follows:

"(i) IN GENERAL.—The preceding paragraphs of this subsection shall be applied by taking into account the day on which the assets were acquired by the S corporation in lieu of the beginning of the 1st taxable year for which the corporation was an S corporation.

"(ii) SUBSECTION (C)(1) NOT TO APPLY.—Subsection (c)(1) shall not apply.

"(9) REFERENCE TO 1ST TAXABLE YEAR.—Any reference in this section to the 1st taxable year for which the corporation was an S corporation shall be treated as a reference to the 1st taxable year for which the corporation was an S corporation pursuant to its most recent election under section 1362.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the appropriate treatment of successor corporations."

(B) Subparagraph (B) of section 1375(b)(1) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—The amount of the excess net passive income for any taxable year shall not exceed the amount of the corporation's taxable income for such taxable year as determined under section 63(a)—

"(i) without regard to the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures), and

"(ii) without regard to the deduction under section 172."

(C) Subsection (b) of section 1375 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SECTION 1374.—Notwithstanding paragraph (3), the amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374."

(D) Subsection (c) of section 1375 of the 1986 Code is amended to read as follows:

"(c) CREDITS NOT ALLOWABLE.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 34) against the tax imposed by subsection (a)."

(E) Paragraph (2) of section 1366(f) of the 1986 Code is amended by striking out "as defined in section 1374(d)(2)" and inserting in lieu thereof "within the meaning of section 1374".

(6) Paragraph (3) of section 1362(d) of the 1986 Code is amended—

(A) by striking out clause (v) of subparagraph (D), and

(B) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR OPTIONS AND COMMODITY DEALINGS.—

"(i) IN GENERAL.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b)."

(7) The subsection (d) of section 1363 of the 1986 Code which relates to distributions of appreciated property, and subsection (e) of section 1363 of the 1986 Code, are hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 633 OF THE REFORM ACT.—

(1) Subsection (b) of section 633 of the Reform Act is amended to read as follows:

"(b) BUILT-IN GAINS OF S CORPORATIONS.—

"(1) IN GENERAL.—The amendments made by section 632 (other than subsection (b) thereof) shall apply to taxable years beginning after December 31, 1986, but only in cases where the return for the taxable year is filed pursuant to an S election made after December 31, 1986.

"(2) APPLICATION OF PRIOR LAW.—In the case of any taxable year of an S corporation which begins after December 31, 1986, and to which the amendments made by section 632 (other than subsection (b) thereof) do not apply, paragraph (1) of section 1374(b) of the Internal Revenue Code of 1954 (as in effect on the date before the date of the enactment of this Act) shall be applied as if it read as follows:

" '(1) an amount equal to 34 percent of the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or' ".

(2) Subparagraph (B) of section 633(c)(1) of the Reform Act is amended by striking out "50 percent or more" and inserting in lieu thereof "more than 50 percent".

(3) Paragraph (1) of section 633(d) of the Reform Act is amended—

(A) by striking out "this section" and inserting in lieu thereof "this subtitle",

(B) by striking out "would be recognized and inserting in lieu thereof "would be recognized by the liquidating corporation", and

(C) by adding at the end thereof the following new sentence: "Section 333 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall continue to apply to any complete liquidation described in the preceding sentence.".

(4) Subparagraph (C) of section 633(d)(2) of the Reform Act is amended to read as follows:

"(C) any gain on an asset acquired by the qualified corporation if—

"(i) the basis of such asset in the hands of the qualified corporation is determined (in whole or in part) by reference to the basis of such asset in the hands of the person from whom acquired, and

"(ii) a principal purpose for the transfer of such asset to the qualified corporation was to secure the benefits of this subsection."

(5)(A) Subparagraph (A) of section 633(d)(5) of the Reform Act is amended by striking out "10 or fewer qualified persons" and inserting in lieu thereof "a qualified group".

(B) Paragraph (6) of section 633(d) of the Reform Act is amended to read as follows:

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED GROUP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified group' means any group of 10 or fewer qualified persons who at all times during the 5-year period ending on the date of the adoption of the plan of complete liquidation (or, if shorter, the period during which the corporation or any predecessor was in existence) owned (or was treated as owning under the rules of subparagraph (C)) more than 50 percent (by value) of the stock in such corporation.

"(ii) 5-YEAR OWNERSHIP REQUIREMENT NOT TO APPLY IN CERTAIN CASES.—In the case of—

"(I) any complete liquidation pursuant to a plan of liquidation adopted before March 31, 1988,

"(II) any distribution not in liquidation made before March 31, 1988,

"(III) an election to be an S corporation filed before March 31, 1988, or

"(IV) a transaction described in section 338 of the Internal Revenue Code of 1986 where the acquisition date (within the meaning of such section 338) is before March 31, 1988,

the term 'qualified group' means any group of 10 or fewer qualified persons.

"(B) QUALIFIED PERSON.—The term 'qualified person' means—

"(i) an individual,

"(ii) an estate, or

"(iii) any trust described in clause (ii) or clause (iii) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986.

"(C) ATTRIBUTION RULES.—

"(i) IN GENERAL.—Any stock owned by a corporation, trust (other than a trust referred to in subparagraph (B)(iii), or partnership shall be treated as owned proportionately by its shareholders, beneficiaries, or partners, and shall not be treated as owned by such corporation, trust, or partnership. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(ii) FAMILY MEMBERS.—Stock owned (or treated as owned) by members of the same family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) shall be treated as owned by 1 person, and shall be treated as owned by such 1 person for any period during which it was owned (or treated as owned) by any such member.

"(iii) TREATMENT OF CERTAIN TRUSTS.—Stock owned (or treated as owned) by the estate of any decedent or by any trust referred to in subparagraph (B)(iii) with respect to such decedent shall be treated as owned by 1 person and shall be treated as owned by such 1 person for the period during which it was owned (or treated as owned) by such estate or any such trust or by the decedent.

"(D) SPECIAL HOLDING PERIOD RULES.—Any property acquired by reason of the death of an individual shall be treated as owned at all times during which such property was owned (or treated as owned) by the decedent.

"(E) CONTROLLED GROUP OF CORPORATIONS.—All members of the same controlled group (as defined in section 267(f)(1) of such Code) shall be treated as 1 corporation for purposes of determining whether any of such corporations met the requirement of paragraph (5)(B) and for purposes of determining the applicable percentage with respect to any of such corporations. For purposes of the preceding sentence, an S corporation shall not be treated as a member of a controlled group unless such corporation was a C corporation for its taxable year which includes August 1, 1986, or it was not described for such taxable year in paragraph (1) or (2) of section 1374(c) of such Code (as in effect on the day before the date of the enactment of this Act)."

(6) Subsection (d) of section 633 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) APPLICATION TO NONLIQUIDATING DISTRIBUTIONS.—The provisions of this subsection shall also apply in the case of any distribution (not in complete liquidation) made by a qualified corporation before January 1, 1989, without regard to whether such corporation is completely liquidated."

(7) Paragraph (8) of the section 633(d) of the Reform Act is amended by striking out "becomes an S corporation for a taxable year beginning before January 1, 1989" and inserting in lieu thereof "makes an election to be an S corporation under section 1362 of such Code before January 1, 1989, without regard to whether such corporation is completely liquidated".

(8) Section 633 of the Reform Act is amended by redesignating the subsections following the first subsection (d) as subsections (e), (f), and (g), respectively.

(9) Subsection (f)(2) of section 633 of the Reform Act (as so redesignated) is amended by striking out "May 9, 1929" and inserting in lieu thereof "May 9, 1929 (or any direct or indirect subsidiary of such corporation)".

(10) Paragraph (3) of section 633(f) of the Reform Act (as so redesignated) is amended by striking out "of such Code)" in the last sentence thereof and inserting in lieu thereof "of such Code".

(11) Subclause (I) of section 633(f)(4)(A)(i) of the Reform Act (as so redesignated) is amended by striking out "binding on the selling corporation to sell substantially all its assets" and inserting in lieu thereof "to sell substantially all of the assets of a selling corporation organized under the laws of Massachusetts on October 20, 1976,".

(12) Subparagraph (A) of section 633(f)(5) of the Reform Act (as so redesignated) is amended to read as follows:

"(A) a voting trust established not later than December 31, 1987, shall qualify as a trust permitted as a shareholder of an S corporation and shall be treated as only 1 shareholder if the holders of beneficial interests in such voting trust are—

"(i) employees or retirees of such corporation, or

"(ii) in the case of stock or voting trust certificates acquired from an employee or retiree of such corporation, the spouse, child, or estate of such employee or retiree or a trust created by such employee or retiree which is described in section 1361(c)(2) of the Internal Revenue Code of 1986 (or treated as described in such section by reason of section 1361(d) of such Code), and".

(h) AMENDMENTS RELATED TO SECTION 641 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1060(b) of the 1986 Code is amended by striking out "the Secretary may find necessary" and inserting in lieu thereof "the Secretary deems necessary".

(2) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF CERTAIN PARTNERSHIP TRANSACTIONS.—In the case of a distribution of partnership property or a transfer of an interest in a partnership—

"(1) the rules of subsection (a) shall apply but only for purposes of determining the value of goodwill or going concern value (or similar items) for purposes of applying section 755, and

"(2) if section 755 applies, such distribution or transfer (as the case may be) shall be treated as an applicable asset acquisition for purposes of subsection (b)."

(3)(A) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions)."

(B) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6721."

(i) AMENDMENTS RELATED TO SECTION 642 OF THE REFORM ACT.—

(1) Paragraph (1) of section 453(g) of the 1986 Code is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) subsection (a) shall not apply,

"(B) for purposes of this title—

"(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

"(ii) in the case of any payments which are contingent as to the amount but with respect to which the fair market value may not be reasonably ascertained, the basis shall be recovered ratably, and

"(C) the purchaser may not increase the basis of any property acquired in such sale by any amount before the time such amount is includible in the gross income of the seller."

(2)(A) Section 453(g) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) RELATED PERSONS.—For purposes of this subsection, the term 'related persons' has the meaning given to such term by section 1239(b), except that such term shall include 2 or more partnerships having a relationship to each other described in section 707(b)(1)(B)."

(B) Section 453(g)(1) of the 1986 Code is amended by striking out "(within the meaning of section 1239(b))".

(3) The heading of paragraph (2) of section 642(c) of the Reform Act is amended by striking out "TRADITIONAL" and inserting in lieu thereof "TRANSITIONAL".

(j) AMENDMENTS RELATED TO SECTION 643 OF THE REFORM ACT.—

(1)(A) Subsection (e) of section 171 of the 1986 Code is amended to read as follows:

"(e) TREATMENT AS OFFSET TO INTEREST PAYMENTS.—Except as provided in regulations, in the case of any taxable bond—

"(1) the amount of any bond premium shall be allocated among the interest payments on the bond under rules similar to the rules of subsection (b)(3), and

"(2) in lieu of any deduction under subsection (a), the amount of any premium so allocated to any interest payment shall be applied against (and operate to reduce) the amount of such interest payment.

For purposes of the preceding sentence, the term 'taxable bond' means any bond the interest of which is not excludable from gross income."

(B) Paragraph (5) of section 1016(a) of the 1986 Code is amended by striking out "allowable pursuant to section 171(a)(1)" and inserting in lieu thereof "allowable pursuant to section 171(a)(1) (or the amount applied to reduce interest payments under section 171(e)(2))".

(C) The amendments made by this paragraph shall apply in the case of obligations acquired after December 31, 1987; except that the taxpayer may elect to have such amendment apply to obligations acquired after October 22, 1986.

(2) Paragraph (2) of section 643(b) of the Reform Act is amended by striking out

"issued after" and inserting in lieu thereof "acquired after".

(k) AMENDMENTS RELATED TO SECTION 646 OF THE REFORM ACT.—

(1) Paragraph (2) of section 646(b) of the Reform Act is amended to read as follows:

"(2) such entity is exclusively engaged in the leasing of mineral property and activities incidental thereto, and".

(2) Paragraph (3) of section 646(b) of the Reform Act is amended by inserting "as of October 22, 1986," after "publicly traded".

(3) Subparagraph (A) of section 646(c)(1) of the Reform Act is amended by inserting "before January 1, 1991" after "entity".

(4) Paragraph (2) of section 646(c) of the Reform Act is amended to read as follows:

"(2) AGREEMENT.—

"(A) IN GENERAL.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not acquire any additional property other than property described in subparagraph (B).

"(B) PERMISSIBLE ACQUISITIONS.—Property is described in this paragraph if it is—

"(i) surface rights to property the acquisition of which—

"(I) is necessary to mine mineral rights held on October 22, 1986, and

"(II) is required by a written binding agreement between the entity and an unrelated person entered into on or before October 22, 1986,

"(ii) surface rights to property which are not described in clause (i) and which—

"(I) are acquired in an exchange to which section 1031 applies, and

"(II) are necessary to mine mineral rights held on October 22, 1986,

"(iii) tangible personal property incidental to the leasing of mineral property and activities incidental thereto, or

"(iv) part of any required reserves of the entity."

(5) Paragraph (1) of section 646(d) of the Reform Act is amended by striking out subparagraph (B) and inserting in lieu thereof:

"(B) for purposes of section 333 of such Code (as so in effect)—

"(i) any person holding an income interest in such entity as of such time shall be treated as a qualified electing shareholder, and

"(ii) the earnings and profits, and the value of money or stock or securities, of such entity shall be apportioned ratably among persons described in clause (i).

The amendments made by subtitle D of this title and section 1804 of this Act shall not apply to any liquidation under this paragraph."

(6)(A) Paragraph (2) of section 646(d) of the Reform Act is amended to read as follows:

"(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), the entity shall, for purposes of the Internal Revenue Code of 1986, be treated as a corporation for the taxable year in which such cessation or violation occurs and for all subsequent taxable years."

(B) Paragraph (3) of section 646(c) of the Reform Act is amended to read as follows:

"(3) BEGINNING OF PERIOD FOR WHICH ELECTION IS IN EFFECT.—The period during which an election is in effect under this subsection shall begin on the 1st day of the 1st taxable year beginning after the date of the enactment of this Act and following the taxable year in which the election is made."

(7)(A) Subsection (e) of section 646 of the Reform Act is amended to read as follows:

"(e) SPECIAL RULE FOR PERSONS HOLDING INCOME INTERESTS.—In applying subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986 to any entity to which this section applies—

"(1) a reversionary interest shall not be taken into account until it comes into possession, and

"(2) all items of income, gain, loss, deduction, and credit shall be allocated to persons holding income interests for the period of the allocation."

(B) Section 646(d)(3) of the Reform Act is amended by striking out "or by reason of subsection (e)".

(l) AMENDMENTS RELATED TO SECTION 651 OF THE REFORM ACT.—

(1)(A) Paragraph (6) of section 852(b) of the 1986 Code (as added by section 651(b)(1)(A) of the Reform Act) is redesignated as paragraph (7).

(B) Subsection (b) of section 855 of the 1986 Code is amended by striking out "section 852(b)(6)" and inserting in lieu thereof "section 852(b)(7)".

(2) Paragraph (2) of section 4982(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company's taxable year).

"(B) REDUCTION BY NET ORDINARY LOSS FOR CALENDAR YEAR.—The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company's net ordinary loss for the calendar year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) NET CAPITAL GAIN.—The term 'net capital gain' has the meaning given such term by section 1222(11) (determined by treating the 1-year period ending on October 31 of the calendar year as the company's taxable year).

"(ii) NET ORDINARY LOSS.—The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(3) Paragraph (2) of section 852(c) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH TAX ON UNDISTRIBUTED INCOME.—For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss (or net foreign currency loss) attributable to transactions after October 31 of such year and with such other adjustments as the Secretary may by regulations prescribe. The preceding sentence shall apply—

"(A) only to the extent that the amount distributed by the company with respect to the calendar year does not exceed the required distribution for such calendar year (as determined under section 4982 by substituting '100 percent' for each percentage set forth in section 4982(b)(1)), and

"(B) except as provided in regulations, only if an election under section 4982(e)(4) is not in effect with respect to such company."

(4) Subparagraph (C) of section 852(b)(3) of the 1986 Code is amended—

(A) by striking out "net capital loss" each place it appears in the 3rd sentence and inserting in lieu thereof "net capital loss or net long-term capital loss", and

(B) by striking out "regulated investment company taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the regulated investment company".

(5) Subsection (e) of section 4982 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF FOREIGN CURRENCY GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—Any foreign currency gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the amount of the ordinary income of the regulated investment company for such calendar year but shall be taken into account in determining the ordinary income of the investment company for the following calendar year. In the case of any company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(6) Section 4982 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES.—This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was either—

"(1) a trust described in section 401(a) and exempt from tax under section 501(a), or

"(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)).

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding $250,000) made in connection with the organization of such company shall not be taken into account."

(7) Subsection (b) of section 852 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR TREATMENT OF CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net foreign currency loss attributable to transactions after October 31 of such year, and any such net foreign currency loss shall be treated as arising on the 1st day of the following taxable year."

(8) Subsection (a) of section 852 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982."

(9) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (7) of section 852(b) of the 1986 Code (as redesignated by paragraph (1)) is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(10) Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(m) AMENDMENTS RELATED TO SECTION 652 OF THE REFORM ACT.—

(1) Paragraph (1) of section 851(a) of the 1986 Code is amended to read as follows:

"(1) which, at all times during the taxable year—

"(A) is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2) as a management company or unit investment trust, or

"(B) has in effect an election under such Act to be treated as a business development company, or".

(2) Paragraph (1) of section 851(e) of the 1986 Code is amended by striking out "a registered management company or registered business development company" and inserting in lieu thereof "a management company or a business development company described in subsection (a)(1)".

(n) AMENDMENTS RELATED TO SECTION 653 OF THE REFORM ACT.—

(1) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Income derived from a partnership or trust shall be treated as described in paragraph (2) only to the extent such income is attributable to items of income of the partnership or trust (as the case may be) which would be described in paragraph (2) if realized by the regulated investment company in the same manner as realized by the partnership or trust."

(2)(A) Paragraph (3) of section 851(b) of the 1986 Code is amended to read as follows:

"(3) less than 30 percent of its gross income is derived from the sale or disposition of any of the following which was held for less than 3 months:

"(A) stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) options, futures, or forward contracts (other than options, futures, or forward contracts on foreign currencies), or

"(C) foreign currencies (or options, futures, or forward contracts on foreign currencies) but only if such currencies (or options, futures, or forward contracts) are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stocks or securities), and".

(B) Subsection (b) of section 851 of the 1986 Code is amended by striking out "which are not ancillary" in the material following paragraph (4), and inserting in lieu thereof "which are not directly related".

(C) Subparagraph (C) of section 851(b)(3) of the 1986 Code (as amended by subparagraph (A)), and the amendment made by subparagraph (B), shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Clause (i) of section 851(g)(2)(A) of the 1986 Code (defining designated hedge) is amended by striking out "contractual option" and inserting in lieu thereof "contractual obligation".

(5) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of the taxable year in which a regulated investment company is completely liquidated, there shall not be taken into account under paragraph (3) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(o) AMENDMENTS RELATED TO SECTION 654 OF THE REFORM ACT.—Subsection (q) of section 851 of the 1986 Code (as added by section 654 of the Reform Act)—

(1) is redesignated as subsection (h), and

(2) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR ABNORMAL REDEMPTIONS.—

"(A) IN GENERAL.—Any fund treated as a separate corporation under paragraph (1) shall not be disqualified under subsection (b)(3) for any taxable year by reason of sales resulting from abnormal redemptions on any day and occurring before the close of the 5th business day after such day if—

"(i) the sum of the percentages determined under subparagraph (B) for the abnormal redemptions on such day and for abnormal redemptions on prior days during such taxable year exceeds 30 percent; and

"(ii) the regulated investment company of which such fund is a part would meet the requirements of subsection (b)(3) for such taxable year if all the funds which are part of such company were treated as a single company.

"(B) ABNORMAL REDEMPTIONS.—For purposes of subparagraph (A), the term 'abnormal redemptions' means redemptions occurring on any day if the net redemptions on such day exceed 1 percent of the fund's net asset value.

"(C) DETERMINATION OF NET ASSET VALUE.—For purposes of this paragraph, net asset value for any day shall be determined as of the close of the preceding day.

"(D) LIMITATION.—For purposes of subparagraph (A), any sale or other disposition of stock or securities held less than 3 months occurring during any day shall be deemed to result from abnormal redemptions until the cumulative proceeds from such sales or dispositions occurring during such day, plus the cumulative net positive cash flow of the fund for preceding business days (if any) following the day with abnormal redemptions, exceed the amount of net redemptions on the day with abnormal redemptions."

(p) AMENDMENTS RELATED TO SECTION 662 OF THE REFORM ACT.—

(1) Subclause (I) of section 856(c)(6)(D)(i) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "debt instrument" and inserting in lieu thereof "debt instrument (within the meaning of section 1275(a)(1))".

(2) Notwithstanding section 669 of the Reform Act, the amendment made by section 662(c) of the Reform Act shall apply to taxable years beginning after December 31, 1986, but only in the case of obligations acquired after October 22, 1986.

(3) Subsection (c) of section 856 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF LIQUIDATING GAINS.—In the case of the taxable year in which a real estate investment trust is completely liquidated, there shall not be taken into account under paragraph (4) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(4)(A) Paragraph (6) of section 856(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF INCOME RECEIVED UNDER CERTAIN AGREEMENTS LIMITING INTEREST RATE RISK.—

"(i) IN GENERAL.—In the case of any agreement described in clause (ii)—

"(I) any payment to the real estate investment trust under such agreement (and any gain from the sale or other disposition of such agreement) shall be treated as income qualifying under paragraph (2), and

"(II) such agreement shall be treated as a security for purposes of paragraph (4)(A).

"(ii) DESCRIPTION OF AGREEMENT.—An agreement is described in this clause if such agreement is a bona fide interest rate swap or interest rate cap agreement which protects the real estate investment trust from interest rate fluctuations under any variable rate indebtedness of such trust incurred to acquire (or carry) real property or interests in real property or committed to such an acquisition."

(B) The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(5) Subclause (I) of section 856(c)(6)(D)(ii) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "stock in" and inserting in lieu thereof "stock (or certificates of beneficial interests) in".

(q) AMENDMENTS RELATED TO SECTION 663 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 856(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) a portion of the amount such tenant receives or accrues, directly or indirectly, from subtenants consists of qualified rents,

then the amounts which the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' by reason of being based on the income or profits of such tenant to the extent the amounts so received or accrued are attributable to qualified rents received or accrued by such tenant."

(2) Subsection (f) of section 856 of the 1986 Code is amended to read as follows:

"(f) INTEREST.—

"(1) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) where a real estate investment trust receives any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from the debtor will be excluded from the term 'interest'.

"(2) SPECIAL RULE.—If—

"(A) a real estate investment trust receives or accrues with respect to an obligation secured by a mortgage on real property or an interest in real property amounts from a debtor which derives substantially all of its gross income with respect to such property (not taking into account any gain on any disposition) from the leasing of substantially all of its interests in such property to tenants, and

"(B) a portion of the amount which such debtor receives or accrues, directly or indirectly, from tenants consists of qualified rents (as defined in subsection (d)(6)(B)),

then the amounts which the trust receives or accrues from such debtor shall not be excluded from the term 'interest' by reason of being based on the income or profits of such debtor to the extent the amounts so received are attributable to qualified rents received or accrued by such debtor."

(r) AMENDMENT RELATED TO SECTION 664 OF THE REFORM ACT.—Clause (i) of section 857(e)(2)(B) of the 1986 Code is amended by striking out "as original issue discount on instruments" and inserting "with respect to instruments".

(s) AMENDMENTS RELATED TO SECTION 668 OF THE REFORM ACT.—

(1) Paragraph (2) of section 4981(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—The term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust's taxable year).

"(B) REDUCTION FOR NET ORDINARY LOSS.—The amount determined under subparagraph (A) shall be reduced by the amount of the trust's net ordinary loss for the taxable year.

"(C) NET ORDINARY LOSS.—For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(2) Subparagraph (C) of section 857(b)(3) of the 1986 Code is amended by striking out "real estate investment trust taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the real estate investment trust".

(3) Subparagraph (A) of section 4981(c)(1) of the 1986 Code is amended by striking out "such calendar year" and inserting in lieu thereof "such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))".

(4) Subsection (a) of section 857 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the real estate investment trust establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4981."

(5) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (8) of section 857(b) of the 1986 Code is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(t) AMENDMENTS RELATED TO SECTION 671 OF THE REFORM ACT.—

(1) Paragraph (1) of section 860C(e) of the 1986 Code is amended to read as follows:

"(1) AMOUNTS TREATED AS ORDINARY.—Any amount taken into account under subsection (a) by any holder of a residual interest in a REMIC shall be treated as ordinary income or ordinary loss, as the case may be."

(2)(A) Paragraph (4) of section 860D(a) of the 1986 Code is amended—

(i) by striking out "4th month ending after" and inserting in lieu thereof "3rd month beginning after", and

(ii) by striking out "and each quarter ending thereafter" and inserting in lieu thereof "and at all times thereafter".

(B) The amendment made by subparagraph (A)(ii) shall take effect on January 1, 1988.

(3)(A) Clause (i) of section 860F(a)(2)(A) of the 1986 Code is amended to read as follows:

"(i) the substitution of a qualified replacement mortgage for a qualified mortgage (or the repurchase in lieu of substitution of a defective obligation),".

(B)(i) Paragraph (2) of section 860F(a) of the 1986 Code is amended by striking out the last sentence of subparagraph (A).

(ii) Subsection (a) of section 860F of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTIONS.—Notwithstanding subparagraphs (A) and (D) of paragraph (1), the term 'prohibited transaction' shall not include any disposition—

"(A) required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages, or

"(B) to facilitate a clean-up call (as defined in regulations)."

(C) Subparagraph (D) of section 860F(a)(2) of the 1986 Code is amended by striking out "described in subsection (b)".

(4) Subparagraph (A) of section 860F(b)(1) of the 1986 Code is amended by striking out "the transfer of any property to a REMIC" and inserting in lieu thereof "the transfer of any property to a REMIC in exchange for regular or residual interests in such REMIC".

(5)(A) Paragraph (1) of section 860G(a) of the 1986 Code is amended to read as follows:

"(1) REGULAR INTEREST.—The term 'regular interest' means any interest in a REMIC which is issued on the startup day with fixed terms and which is designated as a regular interest if—

"(A) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount), and

"(B) interest payments (or other similar amount), if any, with respect to such interest at or before maturity—

"(i) are payable based on a fixed rate (or to the extent provided in regulations, at a variable rate), or

"(ii) consist of a specified portion of the interest payments on qualified mortgages and such portion does not vary during the period such interest is outstanding.

The interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments."

(B) Paragraph (2) of section 860G(a) of the 1986 Code is amended to read as follows:

"(2) RESIDUAL INTEREST.—The term 'residual interest' means an interest in a REMIC which is issued on the startup day, which is not a regular interest, and which is designated as a residual interest."

(C) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "on or before the startup day" in subparagraph (A)(i) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC",

(ii) by inserting "if, except as provided in regulations, such purchase is pursuant to a fixed-price contract in effect on the startup day" before the comma at the end of subparagraph (A)(ii), and

(iii) by striking out "on or before the startup day" in subparagraph (C) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC".

(D) Subparagraph (A) of section 860G(a)(4) of the 1986 Code is amended to read as follows:

"(A) which would be a qualified mortgage if transferred on the startup day in exchange for regular or residual interests in the REMIC, and".

(E) Paragraph (9) of section 860G(a) of the 1986 Code is amended to read as follows:

"(9) STARTUP DAY.—The term 'startup day' means the day on which the REMIC issues all of its regular and residual interests. To the extent provided in regulations, all interests issued (and all transfers to the REMIC) during any period (not exceeding 10 days) permitted in such regulations shall be treated as occurring on the day during such period selected by the REMIC for purposes of this paragraph."

(F) The amendments made by this paragraph shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(6) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(A) by striking out "directly or indirectly," in subparagraph (A), and

(B) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property."

(7) Subparagraph (B) of section 860G(a)(7) of the 1986 Code is amended by inserting before the period at the end of the 1st sentence the following: "or lower than expected returns on cash flow investments".

(8)(A) Paragraph (8) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "section 856(e)" in subparagraph (A) and inserting in lieu thereof "section 856(e) (without regard to paragraph (5) thereof)", and

(ii) by striking out the last sentence and inserting in lieu thereof the following:

"Solely for purposes of section 860D(a), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4)."

(B) Section 860G of the 1986 Code is amended by redesignating subsection (c) as

subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each REMIC. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the REMIC's net income from foreclosure property under section 857(b)(4)(B) if the REMIC were a real estate investment trust."

(C) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the amount of the net income from foreclosure property (if any) shall be reduced by the amount of the tax imposed by section 860G(c)."

(9)(A) Section 860G of the 1986 Code (as amended by paragraph (8)) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TAX ON CONTRIBUTIONS AFTER STARTUP DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any amount is contributed to a REMIC after the startup day, there is hereby imposed a tax for the taxable year of the REMIC in which the contribution is received equal to 100 percent of the amount of such contribution.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any contribution which is made in cash and is described in any of the following subparagraphs:

"(A) Any contribution to facilitate a clean-up call (as defined in regulations) or a qualified liquidation.

"(B) Any payment in the nature of a guarantee.

"(C) Any contribution during the 3-month period beginning on the startup day.

"(D) Any contribution to a qualified reserve fund by any holder of a residual interest in the REMIC.

"(E) Any other contribution permitted in regulations."

(B) The amendment made by subparagraph (A) shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(10) Subsection (e) of section 860G of the 1986 Code (as redesignated by paragraph (9)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma, and by adding at the end thereof the following new paragraphs:

"(4) providing appropriate rules for treatment of transfers of qualified replacement mortgages to the REMIC where the transferor holds any interest in the REMIC, and

"(5) providing that a mortgage will be treated as a qualified replacement mortgage only if it is part of a bona fide replacement (and not part of a swap of mortgages)."

(11) Paragraph (6) of section 856(c) of the 1986 Code is amended by redesignating the last subparagraph as subparagraph (F) and by striking out the subparagraph (D) added by section 671(b)(1) of the Reform Act and inserting in lieu thereof the following:

"(E) A regular or residual interest in a REMIC shall be treated as a real estate asset, and any amount includible in gross income with respect to such an interest shall be treated as interest on an obligation secured by a mortgage on real property; except that, if less than 95 percent of the assets of such REMIC are real estate assets (determined as if the real estate investment trust held such assets), such real estate investment trust shall be treated as holding directly (and as receiving directly) its proportionate share of the assets and income of the REMIC. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest held by such REMIC in another REMIC shall be treated as a real estate asset under principles similar to the principles of the preceding sentence, except that, if such REMIC's are part of a tiered structure, they shall be treated as one REMIC for purposes of this subparagraph."

(12) Clause (xi) of section 7701(a)(19)(C) of the 1986 Code is amended by striking out "are loans described" and inserting in lieu thereof "are assets described".

(13) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended by striking out "issue price of residual interest" and inserting in lieu thereof "issue price of the residual interest".

(14) Clause (ii) of section 860F(b)(1)(D) of the 1986 Code is amended by striking out "the real estate mortgage pool" and inserting in lieu thereof "the REMIC".

(15) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this subsection, except that paragraph (2) shall be applied separately with respect to each corporation which is a member of such group and to which section 593 applies.

"(4) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, a corporation to which section 593 applies and each qualified subsidiary of such corporation shall be treated as a single corporation to which section 593 applies.

"(B) QUALIFIED SUBSIDIARY.—For purposes of this subsection, the term 'qualified subsidiary' means any corporation—

"(i) all the stock of which, and substantially all the indebtedness of which, is held directly by the corporation to which section 593 applies, and

"(ii) which is organized and operated exclusively in connection with the organization and operation of 1 or more REMIC's."

(16)(A) Subsection (a) of section 860D of the 1986 Code is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) with respect to which there are reasonable arrangements designed to ensure that—

"(A) residual interests in such entity are not held by disqualified organizations (as defined in section 860E(e)(5)), and

"(B) information necessary for the application of section 860E(e) will be made available by the entity."

(B) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) TAX ON TRANSFERS OF RESIDUAL INTERESTS TO CERTAIN ORGANIZATIONS, ETC.—

"(1) IN GENERAL.—A tax is hereby imposed on any transfer of a residual interest in a REMIC to a disqualified organization.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any transfer of a residual interest shall be equal to the product of—

"(A) the amount (determined under regulations) equal to the present value of the total anticipated excess inclusions with respect to such interest for periods after such transfer, multiplied by

"(B) the highest rate of tax specified in section 11(b)(1).

"(3) LIABILITY.—The tax imposed by paragraph (1) on any transfer shall be paid by the transferor; except that, where such transfer is through an agent for a disqualified organization, such tax shall be paid by such agent.

"(4) TRANSFEREE FURNISHES AFFIDAVIT.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1) with respect to any transfer if—

"(A) the transferee furnishes to such person an affidavit that the transferee is not a disqualified organization, and

"(B) as of the time of the transfer, such person does not have actual knowledge that such affidavit is false.

"(5) DISQUALIFIED ORGANIZATION.—For purposes of this section, the term 'disqualified organization' means—

"(A) the United States, any State or political subdivision thereof, any foreign government, any international organization, or any agency or instrumentality of any of the foregoing,

"(B) any organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter unless such organization is subject to the tax imposed by section 511, and

"(C) any organization described in section 1381(a)(2)(C).

For purposes of subparagraph (A), the rules of section 168(h)(2)(D) (relating to treatment of certain taxable instrumentalities) shall apply; except that, in the case of the Federal Home Loan Mortgage Corporation, clause (ii) of such section shall not apply.

"(6) TREATMENT OF PASS-THRU ENTITIES.—

"(A) IMPOSITION OF TAX.—If, at any time during any taxable year of a pass-thru entity, a disqualified organization is the record holder of an interest in such entity, there is hereby imposed on such entity for such taxable year a tax equal to the product of—

"(i) the amount of excess inclusions for such taxable year allocable to the interest held by such disqualified organization, multiplied by

"(ii) the highest rate of tax specified in section 11(b)(1).

"(B) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any regulated investment company, real estate investment trust, or common trust fund,

"(ii) any partnership, trust, or estate, and

"(iii) any organization to which part I of subchapter T applies.

Except as provided in regulations, a person holding an interest in a pass-thru entity as a nominee for another person shall, with respect to such interest, be treated as a pass-thru entity.

"(C) TAX TO BE DEDUCTIBLE.—Any tax imposed by this paragraph with respect to any excess inclusion of any pass-thru entity for any taxable year shall, for purposes of this title (other than this subsection), be applied against (and operate to reduce) the amount included in gross income with respect to the residual interest involved.

"(D) EXCEPTION WHERE HOLDER FURNISHES AFFIDAVIT.—No tax shall be imposed by subparagraph (A) with respect to any interest in a pass-thru entity for any period if—

"(i) the record holder of such interest furnishes to such pass-thru entity an affidavit that such record holder is not a disqualified organization, and

"(ii) during such period, the pass-thru entity does not have actual knowledge that such affidavit is false.

"(7) WAIVER.—The Secretary may waive the tax imposed by paragraph (1) on any transfer if—

"(A) within a reasonable time after discovery that the transfer was subject to tax under paragraph (1), steps are taken so that the interest is no longer held by the disqualified organization, and

"(B) there is paid to the Secretary such amounts as the Secretary may require."

(C) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 860E(e) (relating to taxes with respect to certain residual interests)."

(D)(i) The amendments made by subparagraph (A) shall apply in the case of any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code, as in effect on the day before the date of the enactment of this Act) is after March 31, 1988; except that such amendments shall not apply in the case of a REMIC formed pursuant to a binding written contract in effect on such date.

(ii) The amendments made by subparagraphs (B) and (C) (except to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as added by such amendments) shall apply to transfers after March 31, 1988; except that such amendments shall not apply to any transfer pursuant to a binding written contract in effect on such date.

(iii) Except as provided in clause (iv), the amendments made by subparagraphs (B) and (C) (to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as so added) shall apply to excess inclusions for periods after March 31, 1988 but only to the extent such inclusions are—

(I) allocable to an interest in a pass-thru entity acquired after March 31, 1988, or

(II) allocable to an interest in a pass-thru entity acquired on or before March 31, 1988, but attributable to a residual interest acquired by the pass-thru entity after March 31, 1988.

For purposes of the preceding sentence, any interest in a pass-thru entity (or residual interest) acquired after March 31, 1988, pursuant to a binding written contract in effect on such date shall be treated as acquired before such date.

(iv) In the case of any real estate investment trust, regulated investment company, common trust fund, or publicly traded partnership, no tax shall be imposed under section 860E(e)(6) of the 1986 Code (as added by the amendment made by subparagraph (B)) for any taxable year beginning before January 1, 1989.

(17) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended—

(A) by inserting "(adjusted for contributions)" after "residual interest" the second place it appears, and

(B) by striking "decreased by" in clause (ii) and inserting in lieu thereof "decreased (but not below zero) by".

(18)(A) Subsection (e) of section 860F of the 1986 Code is amended by adding at the end thereof the following new sentences: "Such return shall be filed by the REMIC. The determination of who may sign such return shall be made without regard to the first sentence of this subsection."

(B) Unless the REMIC otherwise elects, the amendment made by subparagraph (A) shall not apply to any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before the date of the enactment of this Act.

(19) Subsection (a) of section 860D of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a qualified liquidation (as defined in section 860F(a)(4)(A)), paragraph (4) shall not apply during the liquidation period (as defined in section 860F(a)(4)(B)."

(20) Subsection (a) of section 860A of the 1986 Code is amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subtitle".

(21) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and in the same manner" and inserting in lieu thereof "and, except as provided in regulations, in the same manner".

(22) The following sections of the 1986 Code are each amended by striking out "real estate mortgage pool" and inserting in lieu thereof "REMIC":

(A) Section 382(l)(4)(B)(ii).
(B) Section 860F(a)(2)(A)(iii).
(C) Section 860F(a)(2)(C).
(D) Section 860F(b)(1)(C)(ii).
(E) Section 860F(b)(1)(D)(ii).

(23) Subsection (d) of section 860E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Rules similar to the rules of the preceding sentence shall apply also in the case of regulated investment companies, common trust funds, and organizations to which part I of subchapter T applies."

(24) Subparagraph (C) of section 6049(d)(7) of the 1986 Code is amended by striking out "the issue price" and inserting in lieu thereof "the adjusted issue price".

(25)(A) Paragraph (19) of section 7701(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi)."

(B) Paragraph (4) of section 593(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph."

(26) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF VARIABLE INSURANCE CONTRACTS.—Except as provided in regulations, with respect to any variable contract (as defined in section 817), there shall be no adjustment in the reserve to the extent of any excess inclusion."

(27) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH SECTION 172.—Any excess inclusion for any taxable year shall not be taken into account—

"(A) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(B) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2)."

(u) AMENDMENTS RELATED TO SECTION 672 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 163(e)(2) of the 1986 Code is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(2) Subparagraph (B) of section 1278(a)(4) of the 1986 Code is amended by striking out "section 1272(a)(6)" and inserting in lieu thereof "section 1272(a)(7)".

(3) Section 1288(a) of the 1986 Code is amended by striking out "paragraph (6)" each place it appears and inserting in lieu thereof "paragraph (7)".

(4) Sections 1271(a)(2)(A)(ii) and 1275(a)(4)(B)(ii)(I) of the 1986 Code are each amended by striking out "subsection (a)(6)" and inserting in lieu thereof "subsection (a)(7)".

(v) AMENDMENT RELATED TO SECTION 674 OF THE REFORM ACT.—Subparagraph (A) of section 6049(d)(7) of the 1986 Code is amended by inserting "(and such amounts shall be treated as paid when includible in gross income under section 860B(b))" before the period at the end thereof.

(w) AMENDMENTS RELATED TO SECTION 675 OF THE REFORM ACT.—

(1) Subsection (a) of section 675 of the Reform Act is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on January 1, 1987."

(2) Section 675 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the operation of the amendments made by this part and their competitive impact on savings and loan institutions and similar financial institutions. Not later than January 1, 1990, the Secretary shall submit a report of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (together with such recommendations as he may deem advisable)."

SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE REFORM ACT.

(a) AMENDMENTS TO SECTION 55 OF THE 1986 CODE.—

(1) Paragraph (1) of section 55(c) of the 1986 Code is amended by inserting before the period at the end of the first sentence the following: "and the section 936 credit allowable under section 27(b)".

(2) Paragraph (2) of section 55(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

(3) Effective with respect to taxable years ending after the date of the enactment of this Act, paragraph (3) of section 55(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer described in paragraph (1)(C)(i), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over $155,000, or (ii) $20,000.".

(b) AMENDMENTS TO SECTION 56 OF THE 1986 CODE.—

(1) Paragraph (3) of section 56(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

(2) Subparagraph (E) of section 56(b)(1) of the 1986 Code is amended to read as follows:

"(E) STANDARD DEDUCTION AND DEDUCTION FOR PERSONAL EXEMPTIONS NOT ALLOWED.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed."

(3) Subparagraph (C) of section 56(b)(1) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clauses:

"(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term 'investment interest' shall not include any qualified housing interest (as defined in subsection (e)), and

"(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d)."

(4) Clause (iii) of section 56(b)(1)(C) of the 1986 Code is amended—

(A) by striking out "specified activity bond" and inserting in lieu thereof "specified private activity bond", and

(B) by striking out "section 56(a)(5)(B)" and inserting in lieu thereof "section 57(a)(5)(B)".

(5) Subparagraph (A) of section 56(d)(2) of the 1986 Code is amended—

(A) by striking out "(other than subsection (a)(6) thereof)", and

(B) by adding at the end thereof the following new sentence:

"An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c)."

(6)(A) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(i) by striking out "interest which is" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is", and

(ii) by striking out "section 163(h)(3)" in subparagraph (B) and inserting in lieu thereof "section 163(h)(4)".

(B) Paragraph (3) of section 56(e) of the 1986 Code is amended by striking out "interest paid or accrued" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued".

(7) The last sentence of section 56(f)(2)(B) of the 1986 Code is amended by striking out "any such taxes" and inserting in lieu thereof "any such taxes (otherwise eligible for the credit provided by section 901 without regard to section 901(j))".

(8) Clause (iii) of section 56(f)(3)(A) of the 1986 Code is amended by striking out "an income statement" and inserting in lieu thereof "an income statement for a substantial nontax purpose".

(9) Subparagraph (B) of section 56(f)(3) of the 1986 Code is amended by striking out "paragraph (3)(A)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (C) of section 56(f)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations."

(11)(A) Subparagraph (F) of section 56(f)(2) of the 1986 Code is amended to read as follows:

"(F) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

"(i) IN GENERAL.—For purposes of determining the alternative minimum tax foreign tax credit, 50 percent of any withholding tax or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

"(ii) LIMITATION.—If the aggregate amount of the dividends referred to in clause (i) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as a tax paid to a foreign country under clause (i) shall not exceed the amount which would be so treated without regard to this clause multiplied by a fraction—

"(I) the numerator of which is the excess referred to in paragraph (1), and

"(II) the denominator of which is the aggregate amount of such dividends.

"(iii) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated)."

(B) Clause (iii) of section 56(g)(4)(C) of the 1986 Code is amended by striking out "clause (ii)(I)" and inserting in lieu thereof "clause (i)".

(12) Clause (iii) of section 56(g)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a)."

(13) Paragraph (1) of section 56(c) of the 1986 Code is amended—

(A) by striking out "ADJUSTED EARNINGS AND PROFITS" in the paragraph heading and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS", and

(B) by striking out "ADJUSTED EARNINGS AND PROFITS" in the heading of subparagraph (B) and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS".

(14)(A) Subsection (b) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired (in a taxable year beginning after December 31, 1986) pursuant to the exercise of an incentive stock option (as defined in section 422A). The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by the preceding sentence."

(B) Paragraph (3) of section 57(a) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply with respect to options exercised after October 16, 1987.

(15) Clause (i) of section 56(a)(1)(A) of the 1986 Code is amended by striking out "REAL" in the heading and inserting in lieu thereof "PERSONAL".

(16) The heading of paragraph (1) of section 56(b) of the 1986 Code is amended by striking out "ITEMIZED".

(17) Subparagraph (A) of section 56(g)(4) of the 1986 Code is amended by adding at the end thereof the following new clauses:

"(vi) ELECTION TO HAVE CUMULATIVE LIMITATION.—

"(I) IN GENERAL.—In the case of any property placed in service during a taxable year to which an election under this clause applies, in lieu of applying clause (i), the depreciation deduction for such property for any taxable year shall be the lesser of the accumulated 168(g) depreciation or the accumulated book depreciation; reduced by the aggregate amount of the depreciation deductions determined under this subclause with respect to such property for prior taxable years.

"(II) ACCUMULATED 168(g) DEPRECIATION.—For purposes of this clause, the term 'accumulated section 168(g) depreciation' means the aggregate amount of the depreciation deductions determined under the alternative system of section 168(g) with respect to the property for all periods before the close of the taxable year.

"(III) ACCUMULATED BOOK DEPRECIATION.—For purposes of this clause, the term 'accumulated book depreciation' means the aggregate amount of the depreciation deductions determined under the method used for book purposes with respect to the property for all periods before the close of the taxable year.

"(IV) ELECTION.—The taxpayer may make an election under this clause for any taxable year beginning after 1989. Such an election, once made with respect to any such taxable year, shall apply to all property placed in service during such taxable year, and shall be irrevocable.

"(V) SIMILAR RULES FOR PROPERTY DESCRIBED IN CLAUSE (i), (iii), OR (iv).—Rules similar to the rules of the preceding provisions of this clause shall also apply in the case of property to which clause (ii), (iii), or (iv) applies.

"(vii) SPECIAL RULE FOR CERTAIN LEASED PROPERTY.—In the case of any property subject to a lease where the income of the taxpayer for book purposes with respect to such property is determined without an allowance for depreciation, the excess of—

"(I) the alternative minimum taxable income from the lease (determined without regard to this subsection and any allowance for depreciation), over

"(II) the income from such lease reported for book purposes, *shall be treated as the depreciation deduction determined with respect to such property determined for book purposes. In the case of property described in the preceding sentence, the rules of clause (vi) shall apply whether or not the taxpayer makes an election under such clause.*

"(viii) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g)."

(18) Paragraph (4) of section 56(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph."

(19) Subsection (a) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply."

(c) AMENDMENTS TO SECTION 57 OF THE 1986 CODE.—

(1) Clause (iii) of section 57(a)(5)(C) of the 1986 Code is amended by inserting "(whether a current or advance refunding)" after "any refunding bond".

(2) Clause (i) of section 57(a)(5)(C) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—For purposes of this part, the term 'specified private activity bond' means any private activity bond (as defined in section 141) which is issued after August 7, 1986, and the interest on which is not includible in gross income under section 103."

(3) Subparagraph (A) of section 57(a)(6) of the 1986 Code is amended by inserting "or 642(c)" after "section 170".

(d) AMENDMENTS TO SECTION 58 OF THE 1986 CODE.—

(1) Paragraph (2) of section 58(a) of the 1986 Code is amended—

(A) by striking out "(as modified by section 461(i)(4)(A))", and

(B) by striking out "section 469(d), without regard to paragraph (1)(B) thereof" and inserting in lieu thereof "section 469(c)".

(2) Paragraph (3) of section 58(a) of the 1986 Code is amended by striking out "section 469(g)(1)(C)" and inserting in lieu thereof "section 469(j)(2)".

(3) Subsection (a) of section 58 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) DETERMINATION OF LOSS.—In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply."

(4) Subsection (b) of section 58 of the 1986 Code is amended by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) the adjustments of sections 56 and 57 shall apply,

"(2) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and

"(3) in lieu of applying section 469(j)(7), the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e))."

(e) AMENDMENTS TO SECTION 59 OF THE 1986 CODE.—

(1) Paragraph (2) of section 59(e) of the 1986 Code is amended by striking out "would have been allowable as a deduction" and inserting in lieu thereof "would have been allowable as a deduction (determined without regard to section 291)".

(2) Subsection (h) of section 59 of the 1986 Code is amended by striking out "taxable year—" and all that follows and inserting in lieu thereof "taxable year with the adjustments of sections 56, 57, and 58."

(3) Paragraph (1) of section 59(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1)(A) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies)."

(4) Subsection (i) of section 59 of the 1986 Code is amended—

(A) by striking out "of this subtitle" and inserting in lieu thereof "of this subtitle (other than this part)", and

(B) by striking out "by this title" and inserting in lieu thereof "by this subtitle".

(f) TRANSITIONAL PROVISIONS.—

(1) In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform Act of 1986) on such beneficiary for such beneficiary's taxable year in which such taxable year of the estate or trust ends.

(2) The last sentence of subparagraph (B) of section 701(f)(6) of the Reform Act is amended to read as follows: "The aggregate amount of investment tax credits with respect to the unit in Mississippi allowed solely by reason of being described in this subparagraph shall not exceed $141,000,000."

(3) Subsection (f) of section 701 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) AGREEMENT VESSEL DEPRECIATION ADJUSTMENT.—

"(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

"(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936, as amended, and if depreciation with respect to such vessel had been computed using the 25-year straight-line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed $100,000,000.

"(C) For purposes of this paragraph, the term 'qualified taxpayer' means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991."

(4)(A) If any property to which this paragraph applies is placed in service in a taxable year which begins before January 1, 1987, and ends on or after August 1, 1986, the item of tax preference determined under section 57(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) with respect to such property shall be the excess of—

(i) the amount allowable as a deduction for depreciation or amortization for such taxable year, over

(ii) the amount which would be determined for such taxable year under the rules of paragraph (1) or (5) (whichever is appropriate) of section 56(a) of the Internal Revenue Code of 1954 (as amended by the Tax Reform Act of 1986).

(B) This paragraph shall apply to any property—

(i) which is described in paragraph (4) or (12) of section 57(a) of the Internal Revenue Code of 1954 (as so in effect), and

(ii) to which paragraph (1) or (5) of section 56(a) of the Internal Revenue Code of 1986 would apply if the taxable year referred to in subparagraph (A) began after December 31, 1986.

(5) In determining the amount of the alternative minimum tax foreign tax credit under section 59 of the 1986 Code, there shall not be taken into account any taxes paid or accrued in a taxable year beginning after December 31, 1986, which are treated under section 904(c) of the 1986 Code as paid or accrued in a taxable year beginning on or before December 31, 1986.

(g) MISCELLANEOUS AMENDMENTS.—

(1) Subparagraph (K) of section 26(b)(2) of the 1986 Code is amended by striking out the comma at the end thereof and inserting in lieu thereof ").".

(2)(A) So much of section 38(c) as precedes paragraph (4) thereof is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of the taxpayer's net income tax over the greater of—

"(A) the tentative minimum tax for the taxable year, or

"(B) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000.

For purposes of the preceding sentence, the term 'net income tax' means the sum of the regular tax liability and the tax imposed by section 55, reduced by the credits allowable under subparts A and B of this part, and the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(2) REGULAR INVESTMENT TAX CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular investment tax credit not used against the normal limitation, or

"(ii) 25 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF REGULAR INVESTMENT TAX CREDIT NOT USED AGAINST NORMAL LIMIT.—For purposes of subparagraph (A), the portion of the regular investment tax credit for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the application of the regular percentage under section 46, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) LIMITATION.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(B) Subsection (c) of section 38 of the 1986 Code is amended—

(i) by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out "subparagraphs (A) and (B) of paragraph (1)" each place it appears in such paragraph and inserting in lieu thereof "subparagraph (B) of paragraph (1).

(3)(A) Subsection (c) of section 47 of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(B) Subparagraph (D) of section 42(j)(4) of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(4) The last sentence of clause (ii) of section 53(d)(1)(B) of the 1986 Code is amended by striking out "earnings and profits" and inserting in lieu thereof "current earnings".

(5) Sections 173(b), 174(e)(2), and 263(c) of the 1986 Code are each amended by striking out "section 59(d)" and inserting in lieu thereof "section 59(e)".

(6) Section 511 of the 1986 Code is amended by striking out subsection (d).

(7) Sections 616(e) and 617(j) of the 1986 Code are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(e)".

(8) Paragraph (4) of section 701(c) of the Reform Act is amended by striking out "section 631(a)" and inserting in lieu thereof "section 221(a)".

(9) Subparagraph (B) of section 1362(e)(5) of the 1986 Code is amended by striking out "Subsection (d)(2)" and inserting in lieu thereof "Subsection (d)".

(10) Subsection (a) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended by striking out "11, 59A" and inserting in lieu thereof "11, 55, 59A".

(11) Paragraph (1) of section 962(a) of the 1986 Code is amended—

(A) by striking out "section 1" and inserting in lieu thereof "sections 1 and 55", and

(B) by striking out "section 11" and inserting in lieu thereof "sections 11 and 55".

(12) Subsection (h) of section 32 of the 1986 Code is amended by striking out "for taxpayers other than corporations".

(13)(A) Subsection (d) of section 2 of the 1986 Code is amended by striking out "the tax imposed by section 1" and inserting in lieu thereof "the taxes imposed by sections 1 and 55".

(B) Subsection (d) of section 11 of the 1986 Code is amended by striking out "the tax imposed by subsection (a)" and inserting in lieu thereof "the taxes imposed by subsection (a) and section 55".

SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 801 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 448(d)(2) of the 1986 Code (defining qualified personal service corporation) is amended by striking out "or indirectly" and inserting in lieu thereof "(or indirectly through 1 or more partnerships, S corporations, or qualified personal service corporations not described in paragraph (2) or (3) of subsection (a))".

(B) Section 448(d) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) USE OF RELATED PARTIES, ETC.—The Secretary shall prescribe such regulations as may be necessary to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section."

(2) Subparagraph (C) of section 448(d)(4) of the 1986 Code (relating to special rules for application of paragraph (2)) is amended by striking out "all such members" and inserting in lieu thereof "such group".

(3) Paragraph (2) of section 461(i) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULE FOR SPUDDING OF OIL OR GAS WELLS.—

"(A) IN GENERAL.—In the case of a tax shelter, economic performance with respect to amounts paid during the taxable year for drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

"(B) DEDUCTION LIMITED TO CASH BASIS.—

"(i) TAX SHELTER PARTNERSHIPS.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term 'cash basis' shall be substituted for the term 'adjusted basis'.

"(ii) OTHER TAX SHELTERS.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

"(C) CASH BASIS DEFINED.—For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 465(b)(3)(C)), or

"(II) was secured by any asset of the partnership."

(4) Section 464 of the 1986 Code (relating to limitations on deductions for certain farming expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (f), subsections (a) and (b) shall not apply to any taxable year beginning after December 31, 1986."

(5) Paragraph (4) of section 801(d) of the Reform Act is amended by striking out "the completed contract method" and inserting in lieu thereof "a method of accounting for long-term contracts".

(6) Section 801(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR PARAGRAPHS (2) AND (3).—If any loan, lease, contract, or evidence of any transaction to which paragraph (2) or (3) applies is transferred after June 10, 1987, to a person other than a related party (within the meaning of paragraph (2)), paragraph (2) or (3) shall cease to apply on and after the date of such transfer."

(7) Paragraph (3) of section 448(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "An S corporation shall not be treated as a tax shelter for purposes of this section merely by reason of being required to file a notice of exemption from registration with a State agency described in section 461(i)(3)(A), but only if there is a requirement applicable to all corporations offering securities for sale in the State that to be exempt from such registration the corporation must file such a notice."

(8) Subparagraph (C) of section 448(d)(4) of the 1986 Code is amended by striking out "substantially all of" and inserting in lieu thereof "90 percent or more of".

(9) Paragraph (3) of section 448(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF PREDECESSORS.—Any reference in this subsection to an entity shall include a reference to any predecessor of such entity."

(b) AMENDMENTS RELATED TO SECTION 803 OF THE REFORM ACT.—

(1) Paragraph (2) of section 263A(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph."

(2) Section 263A(c) of the 1986 Code (relating to general exceptions) is amended—

(A) by striking out "263(c), 616(a), or 617(a)" and inserting in lieu thereof "263(c), 263(i), 291(b)(2), 616, or 617", and

(B) by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH SECTION 59(e).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof."

(3) Subparagraph (B) of section 263A(d)(2) of the 1986 Code (relating to special rule for person with minority interest who materially participates) is amended—

(A) by striking out "such grove, orchard, or vineyard" in clause (i) and inserting in lieu thereof "the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred", and

(B) by striking out "such grove, orchard, or vineyard during the 4-taxable year period beginning with the taxable year in which the grove, orchard, or vineyard was lost or damaged" and inserting in lieu thereof "the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred".

(4) Paragraph (3) of section 263A(f) of the 1986 Code (relating to interest relating to property used to produce property) is amended—

(A) by striking out "incurred or continued in connection with" and inserting in lieu thereof "allocable (as determined under paragraph (2)) to", and

(B) by inserting "(as so determined)" after "allocable".

(5) Section 447(b) of the 1986 Code is amended—

(A) by striking out "of" before "expenses", and

(B) by striking out "OF" before "EXPENSES" in the heading thereof.

(6) Section 447(g)(1) of the 1986 Code is amended by striking out "trade or business of farming" each place it appears and inserting in lieu thereof "qualified farming trade or business".

(7) Paragraph (4)(A)(i) of section 803(d) of the Reform Act is amended by striking out "203" each place it appears and inserting in lieu thereof "204".

(8) The allocation used in the regulations prescribed under section 263A(h)(2) of the Internal Revenue Code of 1986 for apportioning storage costs and related handling costs shall be determined by dividing the amount of such costs by the beginning inventory balances and the purchases during the year.

(c) AMENDMENTS RELATED TO SECTION 804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 460(b) of the 1986 Code is amended—

(A) by striking out "subparagraph" and inserting in lieu thereof "paragraph",

(B) by striking out "paragraph (1)" each place it appears in subparagraph (B) and inserting in lieu thereof "subparagraph (A)", and

(C) by striking out "paragraph (1)" in subparagraph (C) and inserting in lieu thereof "subparagraph (B)".

(2)(A) Section 460(b) of the 1986 Code (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES.—

"(A) SIMPLIFIED METHOD OF COST ALLOCATION.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

"(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (2)(B) and subsection (a)(2) shall not apply to any contract—

"(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

"(I) $1,000,000, or

"(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

"(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply."

(B) Section 460(b)(2) of the 1986 Code is amended by striking out "In" and inserting in lieu thereof "Except as provided in paragraph (4), in".

(3) Subparagraph (B) of section 804(d)(2) of the Reform Act is amended by striking out "section 263A(c)(5)" and inserting in lieu thereof "section 460(c)(5)".

(4)(A) Paragraph (3) of section 460(b) of the 1986 Code is amended by adding at the end thereof the following new sentences:

"For purposes of the preceding sentence, any amount received or accrued after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was received or accrued) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract."

(B) Subparagraph (B) of section 460(b)(2) of the 1986 Code is amended by striking out "completion of the contract" and inserting in lieu thereof "completion of the contract (or, with respect to any amount received or accrued after completion of the contract, when such amount is so received or accrued)".

(d) AMENDMENT RELATED TO SECTION 805 OF THE REFORM ACT.—

(1) Section 166(d)(1)(A) of the 1986 Code is amended by striking out "subsections (a) and (c)" and inserting in lieu thereof "subsection (a)".

(2) Subsection (b) of section 805 of the Reform Act is amended by inserting ", as amended by section 901(d)(4)," after "Section 166".

(3) Subsection (a) of section 582 of the 1986 Code is amended by striking out "subsections (a), (b), and (c) of section 166" and inserting in lieu thereof "subsections (a) and (b) of section 166".

(e) AMENDMENTS RELATED TO SECTION 806 OF THE REFORM ACT.—

(1)(A) Clause (i) of section 706(b)(1)(B) of the 1986 Code is amended to read as follows:

"(i) the majority interest taxable year (as defined in paragraph (4)),".

(B) Paragraph (4) of section 706(b) of the 1986 Code is amended to read as follows:

"(4) MAJORITY INTEREST TAXABLE YEAR; LIMITATION ON REQUIRED CHANGES.—

"(A) MAJORITY INTEREST TAXABLE YEAR DEFINED.—For purposes of paragraph (1)(B)(i)—

"(i) IN GENERAL.—The term 'majority interest taxable year' means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more partners having (on such day) an aggregate interest in partnership profits and capital of more than 50 percent.

"(ii) TESTING DAYS.—The testing days shall be—

"(I) the 1st day of the partnership taxable year (determined without regard to clause (i)), or

"(II) the days during such representative period as the Secretary may prescribe.

"(B) FURTHER CHANGE NOT REQUIRED FOR 3 YEARS.—Except as provided in regulations necessary to prevent the avoidance of this section, if, by reason of paragraph (1)(B)(i), the taxable year of a partnership is changed, such partnership shall not be required to change to another taxable year for either of the 2 taxable years following the year of change."

(2) Clause (iii) of section 706(b)(1)(B) of the 1986 Code is amended by striking out "or such other period as the Secretary may prescribe in regulations" and inserting in lieu thereof "unless the Secretary by regulations prescribes another period".

(3) Section 706(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) APPLICATION WITH OTHER SECTIONS.—Except as provided in regulations, for purposes of determining the taxable year to which a partnership is required to change by reason of this subsection, changes in taxable years of other persons required by this subsection, section 441(i), section 584(h), section 645, or section 1378(a) shall be taken into account."

(4) Paragraph (2) of section 441(i) of the 1986 Code (defining personal service corporation) is amended by adding at the end thereof the following:

"A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation."

(5)(A) Section 584 of the 1986 Code (relating to common trust funds) is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF COMMON TRUST FUND.—For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year."

(B) The amendment made by subparagraph (A) shall apply only to taxable years beginning after December 31, 1987. For purposes of section 806(e)(2) of the Reform Act—

(i) a participant in a common trust fund shall be treated in the same manner as a partner, and

(ii) subparagraph (C) thereof shall be applied by substituting "December 31, 1987" for "December 31, 1986".

(6) Section 806(c)(2) of the Reform Act is amended by striking out "Section 267(a)" and inserting in lieu thereof "Section 267(a)(2)".

(7) Subparagraph (C) of section 806(e)(2) of the Reform Act is amended—

(A) by striking out "(including such short taxable year)", and

(B) by striking out "short taxable year" the second place it appears and inserting in lieu thereof "the partner's or shareholder's taxable year with or within which the partnership's or S corporation's short taxable year ends".

(8) Section 806(e)(2) of the Reform Act is amended—

(A) by striking out "any taxable year" and inserting in lieu thereof "the taxpayer's first taxable year beginning after December 31, 1986", and

(B) by striking out "taxpayer" each place it appears and inserting in lieu thereof "partnership, S corporation, or personal service corporation".

(9) Nothing in section 806 of the Reform Act or in any legislative history relating thereto shall be construed as requiring the Secretary to permit an automatic change of a taxable year.

(10) Subsection (e) of section 806 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) BASIS, ETC. RULES.—

"(A) BASIS RULE.—The adjusted basis of any partner's interest in a partnership or shareholder's stock in an S corporation shall be determined as if all of the income to be taken into account ratably in the 4 taxable years referred to in paragraph (2)(C) were included in gross income for the 1st of such taxable years.

"(B) TREATMENT OF DISPOSITIONS.—If any interest in a partnership or stock in an S corporation is disposed of before the last taxable year in the spread period, all amounts which would be included in the gross income of the partner or shareholder for subsequent taxable years in the spread period under paragraph (2)(C) and attributable to the interest or stock disposed of shall be included in gross income for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'spread period' means the period consisting of the 4 taxable years referred to in paragraph (2)(C)."

(f) AMENDMENTS RELATED TO SECTION 811 OF THE REFORM ACT.—

(1) Paragraph (4) of section 453C(b) of the 1986 Code is amended—

(A) by striking out "at any time during" and inserting in lieu thereof "as of the close of", and

(B) by striking out "as of the close of such taxable year in lieu" and inserting in lieu thereof "as of the close of such taxable year (determined by not taking into account any indebtedness described in paragraph (3)(B)) in lieu".

(2) So much of paragraph (2) of section 453C(d) of the 1986 Code as precedes subparagraph (A) is amended to read as follows:

"(2) EXCESS ALLOCABLE INSTALLMENT INDEBTEDNESS.—If the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated under paragraph (1) to applicable installment obligations arising in (and outstanding as of the close of) such taxable year, such excess shall—".

(3) Subparagraph (A) of section 453C(e)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term also includes any obligation held by any person if the basis of such obligation in the hands of such person is determined (in whole or in part) by reference to the basis of such obligation in the hands of another person and such obligation was an applicable installment obligation in the hands of such other person."

(4) Paragraph (2) of section 453C(e) of the 1986 Code (relating to aggregation rules) is amended by striking out "For" and inserting in lieu thereof "Except as provided in regulations, for".

(5) Subparagraph (B) of section 453C(e)(4) of the 1986 Code is amended by striking out "or (3)".

(6) Paragraph (4) of section 811(c) of the Reform Act is amended by striking out the second subparagraphs (D) and (E).

(7) Paragraph (5) of section 811(c) of the Reform Act is amended by striking out "October 23, 1985" each place it appears and inserting in lieu thereof "October 23, 1984".

(8) Section 811(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES.—For purposes of section 453C of the 1986 Code (as added by subsection (a))—

"(A) REVOLVING CREDIT PLANS, ETC.—The term 'applicable installment obligation' shall not include any obligation arising out of any disposition or sale described in paragraph (1) or (2) of section 453(k) of such Code (as added by section 812(a)).

"(B) CERTAIN DISPOSITIONS DEEMED MADE ON FIRST DAY OF TAXABLE YEAR.—In the case of a taxpayer's 1st taxable year ending after December 31, 1986, dispositions after February 28, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day."

(9) For purposes of applying the amendments made by this subsection and the amendments made by section 10202 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(g) AMENDMENTS RELATED TO SECTION 812 OF THE REFORM ACT.—

(1) Section 453 of the 1986 Code is amended by redesignating the subsection (j) added by section 812 of the Reform Act as subsection (k).

(2) Subsection (c) of section 453A of the 1986 Code (as in effect on the date before the date of the enactment of the Revenue Act of 1987) is amended by striking out "453(j)" and inserting in lieu thereof "453(k)".

(3) Paragraph (1) of section 812(c) of the Reform Act is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(4) Subsection (c) of section 812 of the Reform Act is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) SALES OF STOCK, ETC.—Section 453(k)(2) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to sales after December 31, 1986, in taxable years ending after such date."

(5) Paragraph (3) of section 812(c) of the Reform Act (as so redesignated) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such change shall be treated as having been made with the consent of the Secretary,

"(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall be equal to 4 years, and

"(D) except as provided in paragraph (4), the amount taken into account in each of such 4 years shall be the applicable percentage (determined in accordance with the following table) of the net adjustment:

"In the case of the:	The applicable percentage is:
1st taxable year.......	15
2nd taxable year.....	25
3rd taxable year......	30
4th taxable year......	30.

If the taxpayer's last taxable year beginning before January 1, 1987, was the taxpayer's 1st taxable year in which sales were made under a revolving credit plan, all adjustments under section 481 of such Code shall be taken into account in the taxpayer's 1st taxable year beginning after December 31, 1986."

(6) Subsection (c) of section 812 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(4) ACCELERATION OF ADJUSTMENTS WHERE CONTRACTION IN AMOUNT OF INSTALLMENT OBLIGATIONS.—

"(A) IN GENERAL.—If the percentage determined under subparagraph (B) for any taxable year in the adjustment period exceeds the percentage which would otherwise apply under paragraph (3)(D) for such taxable year (determined after the application of this paragraph for prior taxable years in the adjustment period)—

"(i) the percentage determined under subparagraph (B) shall be substituted for the applicable percentage which would otherwise apply under paragraph (3)(D), and

"(ii) any increase in the applicable percentage by reason of clause (i) shall be applied to reduce the applicable percentage determined under paragraph (3)(D) for subsequent taxable years in the adjustment period (beginning with the 1st of such subsequent taxable years).

"(B) DETERMINATION OF PERCENTAGE.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any taxable year in the adjustment period is the excess (if any) of—

"(i) the percentage determined by dividing the aggregate contraction in revolving installment obligations by the aggregate face amount of such obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, over

"(ii) the sum of the applicable percentages under paragraph (3)(D) (as modified by this paragraph) for prior taxable years in the adjustment period.

"(C) AGGREGATE CONTRACTION IN REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of subparagraph (B), the aggregate contraction in revolving installment obligations is the amount by which—

"(i) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, exceeds

"(ii) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxable year involved.

"(D) REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of this paragraph, the term 'revolving installment obligations' means installment obligations arising under a revolving credit plan.

"(E) TREATMENT OF CERTAIN OBLIGATIONS DISPOSED OF ON OR BEFORE OCTOBER 26, 1987.—For purposes of subparagraphs (B)(i) and (C)(i), in determining the aggregate face amount of revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, there shall not be taken into account any obligation—

"(i) which was disposed of to an unrelated person on or before October 26, 1987, or

"(ii) was disposed of to an unrelated person on or after such date pursuant to a binding written contract in effect on October 26, 1987, and at all times thereafter before such disposition.

For purposes of the preceding sentence, the term 'unrelated person' means any person who is not a related person (as defined in section 453(g) of the Internal Revenue Code of 1986).

"(5) LIMITATION ON LOSSES FROM SALES OF OBLIGATIONS UNDER REVOLVING CREDIT PLANS.—If 1 or more obligations arising under a revolving credit plan and taken into account under paragraph (3) are disposed of during the adjustment period, then, notwithstanding any other provision of law—

"(A) no losses from such dispositions shall be recognized, and

"(B) the aggregate amount of the adjustment for taxable years in the adjustment period (in reverse order of time) shall be reduced by the amount of such losses.

"(6) ADJUSTMENT PERIOD.—For purposes of paragraphs (4) and (5), the adjustment period is the 4-year period under paragraph (3)."

(h) AMENDMENT RELATED TO SECTION 821 OF THE REFORM ACT.—Section 821(b)(3) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to any taxable year beginning after August 16, 1986, and before January 1, 1987, if the taxpayer treated such income in the same manner for the taxable year preceding such taxable year."

(i) AMENDMENT RELATED TO SECTION 822 OF THE REFORM ACT.—Paragraph (1) of section

703(b) of the 1986 Code is amended by striking out "or (d)(4)".

(j) AMENDMENTS RELATED TO SECTION 824 OF THE REFORM ACT.—

(1) Section 6501(o) of the 1986 Code which relates to cross references is amended by striking out paragraph (3).

(2) Paragraph (4) of section 824(c) of the Reform Act is amended by striking out "an indemnity agreement" and inserting in lieu thereof "an underwriting agreement".

SEC. 109. AMENDMENTS RELATED TO TITLE IX OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 901 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 46(e)(4) of the 1986 Code is amended by adding at the end thereof the following new sentences: "Notwithstanding the preceding provisions of this subparagraph, any such election shall terminate effective with respect to the 1st taxable year of the organization making such election which begins after 1986 and during which such organization (or any successor organization) was not at any time the lessee under any lease of regular investment tax credit property. For purposes of the preceding sentence, the term 'regular investment tax credit property' means any section 38 property if the regular percentage applied to such property and the amount of qualified investment with respect to such property would have been reduced under paragraph (1) but for an election under this subparagraph."

(2)(A) Paragraph (5) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION BINDING ON ALL MEMBERS OF GROUP.—Any election under this subsection made by a member of a parent-subsidiary controlled group shall be binding on all banks which are members of such group for the taxable year of the election."

(B) Subclause (I) of section 585(c)(3)(A)(iii) of the 1986 Code is amended by striking out "or such greater amount as the taxpayer may designate" and inserting in lieu thereof "or such higher percentage of such net amount as the taxpayer may elect".

(C) Clause (ii) of section 585(c)(3)(B) of the 1986 Code is amended by striking out "designates an amount" and inserting in lieu thereof "elects a higher percentage".

(3) Paragraph (4) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year."

(b) AMENDMENTS RELATED TO SECTION 902 OF THE REFORM ACT.—

(1) Paragraph (3) of section 902(f) of the Reform Act is amended—

(A) in subparagraph (F), by striking out "distribution company" and inserting in lieu thereof "distribution facility",

(B) in subparagraph (L), by striking out "waterfront project" and inserting in lieu thereof "2 Festival Market Place projects at Union Pier Terminal and 1 project at the Remount Road Container Yard, State Pier No. 15 at North Charleston Terminal",

(C) in subparagraph (M), by striking out "Pontabla" and inserting in lieu thereof "Pontalba",

(D) in subparagraph (P), by striking out "Birmingham, Alabama," and inserting in lieu thereof "Homewood, Alabama, the", and

(E) by adding at the end thereof the following new subparagraphs:

"(T) Bellows Falls, Vermont—building project.

"(U) East Broadway Project, Louisville, Kentucky.

"(V) O.K. Industries, Oklahoma."

(2) Paragraph (4) of section 902(f) of the Reform Act is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(3)(A) Paragraph (3) of section 265(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) IN GENERAL.—Any qualified tax-exempt obligation acquired after August 7, 1986, shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(B) QUALIFIED TAX-EXEMPT OBLIGATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation—

"(I) which is issued after August 7, 1986, by a qualified small issuer,

"(II) which is not a private activity bond (as defined in section 141), and

"(III) which is designated by the issuer for purposes of this paragraph.

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond—

"(I) any qualified 501(c)(3) bond (as defined in section 145), or

"(II) any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).

"(C) QUALIFIED SMALL ISSUER.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'qualified small issuer' means, with respect to obligations issued during any calendar year, any issuer if the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii)) which will be issued by such issuer during such calendar year does not exceed $10,000,000.

"(ii) OBLIGATIONS NOT TAKEN INTO ACCOUNT IN DETERMINING STATUS AS QUALIFIED SMALL ISSUER.—For purposes of clause (i), an obligation is described in this clause if such obligation is—

"(I) a private activity bond (other than a qualified 501(c)(3) bond, as defined in section 145),

"(II) an obligation to which section 141(a) does not apply by reason of section 1312, 1313, 1316(g), or 1317 of the Tax Reform Act of 1986 and which would (if issued on August 15, 1986) have been an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of such Act) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exception from such definition other than section 103(o)(2)(A)), or

"(III) an obligation issued to refund (other than to advance refund within the meaning of section 149(d)(5)) any obligation to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation.

"(iii) ALLOCATION OF AMOUNT OF ISSUE IN CERTAIN CASES.—In the case of an issue under which more than 1 governmental entity receives benefits, if—

"(I) all governmental entities receiving benefits from such issue irrevocably agree (before the date of issuance of the issue) on an allocation of the amount of such issue for purposes of this subparagraph, and

"(II) such allocation bears a reasonable relationship to the respective benefits received by such entities,

then the amount of such issue so allocated to an entity (and only such amount with respect to such issue) shall be taken into account under clause (i) with respect to such entity.

"(D) LIMITATION ON AMOUNT OF OBLIGATIONS WHICH MAY BE DESIGNATED.—

"(i) IN GENERAL.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

"(ii) CERTAIN REFUNDINGS OF DESIGNATED OBLIGATIONS DEEMED DESIGNATED.—Except as provided in clause (iii), in the case of a refunding (or series of refundings) of a qualified tax-exempt obligation, the refunding obligation shall be treated as a qualified tax-exempt obligation (and shall not be taken into account under clause (i)) if—

"(I) the refunding obligation was not taken into account under subparagraph (C) by reason of clause (ii)(III) thereof,

"(II) the average maturity date of the refunding obligations issued as part of the issue of which such refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue, and

"(III) the refunding obligation has a maturity date which is not later than the date which is 30 years after the date the original qualified tax-exempt obligation was issued.

Subclause (II) shall not apply if the average maturity of the issue of which the original qualified tax-exempt obligation was a part (and of the issue of which the obligations to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(iii) CERTAIN OBLIGATIONS MAY NOT BE DESIGNATED OR DEEMED DESIGNATED.—No obligation issued as part of an issue may be designated under this paragraph (or may be treated as designated under clause (ii)) if—

"(I) any obligation issued as part of such issue is issued to refund another obligation, and

"(II) the aggregate face amount of such issue exceeds $10,000,000.

"(E) AGGREGATION OF ISSUERS.—For purposes of subparagraphs (C) and (D)—

"(i) an issuer and all entities which issue obligations on behalf of such issuer shall be treated as 1 issuer,

"(ii) all obligations issued by a subordinate entity shall, for purposes of applying subparagraphs (C) and (D) to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(iii) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of subparagraph (C) or (D) and all entities benefiting thereby shall be treated as 1 issuer.

"(F) TREATMENT OF COMPOSITE ISSUES.—In the case of an obligation which is issued as part of a direct or indirect composite issue, such obligation shall not be treated as a qualified tax-exempt obligation unless—

"(i) the requirements of this paragraph are met with respect to such composite issue

(determined by treating such composite issue as a single issue), and

"(ii) the requirements of this paragraph are met with respect to each separate lot of obligations which are part of the issue (determined by treating each such separate lot as a separate issue)."

(B) In the case of any obligation issued after August 7, 1986, and before January 1, 1987, the time for making a designation with respect to such obligation under section 265(b)(3)(B)(iii) of the 1986 Code shall not expire before January 1, 1989.

(C) If—

(i) an obligation is issued on or after January 1, 1986, and on or before August 7, 1986,

(ii) when such obligation was issued, the issuer made a designation that it intended to qualify under section 802(e)(3) of H.R. 3838 of the 99th Congress as passed by the House of Representatives, and

(iii) the issuer makes an election under this subparagraph with respect to such obligation,

for purposes of section 265(b)(3) of the 1986 Code, such obligation shall be treated as issued on August 8, 1986.

(D)(i) Except as provided in clause (ii), the following provisions of section 265(b)(3) of the 1986 Code (as amended by this subparagraph (A)) shall apply to obligations issued after June 30, 1987:

(I) subparagraph (C)(ii)(III),

(II) clauses (ii) and (iii) of subparagraph (D), and

(III) subparagraphs (E) and (F).

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the provisions referred to in clause (i) shall apply to such issuer as if included in the amendments made by section 902(a) of the Tax Reform Act of 1986.

(4) Subparagraph (B) of section 291(e)(1) of the 1986 Code is amended by redesignating the clause (iv) added by section 902(c)(2) of the Reform Act as clause (v).

(5) Clause (i) of section 291(e)(1)(B) of the 1986 Code is amended by striking out "section 582(a)(2)" and inserting in lieu thereof "section 585(a)(2)".

(6) Paragraph (1) of section 902(e) of the Reform Act is amended by striking out "Section 163(h)(12)" and inserting in lieu thereof "Section 163(i)(2) (as redesignated by section 511(b) of this Act)".

(7) Paragraph (4) of section 902(f) of the Reform Act is amended—

(A) by inserting "and qualified 501(c)(3) bonds designated by such Governor for purposes of this paragraph," after "1987),", and

(B) by striking out "subparagraph" in the last sentence and inserting in lieu thereof "paragraph".

(c) AMENDMENTS RELATED TO SECTION 903 OF THE REFORM ACT.—

(1) Paragraph (1) of section 172(b) of the 1986 Code is amended by redesignating subparagraphs (L) and (M) as subparagraphs (K) and (L), respectively.

(2) Subparagraph (A) of section 172(b)(1) of the 1986 Code is amended by striking out "Except" and all that follows down through "a net operating loss" and inserting in lieu thereof "Except as otherwise provided in this paragraph, a net operating loss".

(3) Subparagraph (B) of section 172(b)(1) of the 1986 Code is amended to read as follows:

"(B) Except as otherwise provided in this paragraph, a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss."

(d) AMENDMENTS RELATED TO SECTION 905 OF THE REFORM ACT.—

(1) Subsection (l) of section 165 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) ELECTION TO TREAT AS ORDINARY LOSS.—

"(A) IN GENERAL.—In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

"(B) LIMITATIONS.—

"(i) DEPOSIT MAY NOT BE FEDERALLY INSURED.—No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

"(ii) DOLLAR LIMITATION.—With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

"(6) ELECTION.—Any election by the taxpayer under this subsection for any taxable year—

"(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and

"(B) may be revoked only with the consent of the Secretary."

(2) Paragraph (1) of section 905(c) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981, and, except as provided in paragraph (2), the amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1982."

(3) The subsection (f) of section 451 of the 1986 Code which was added by section 905(b) of the 1986 Reform Act is redesignated as subsection (g).

(4) If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment) credit or refund of any overpayment of tax attributable to amendments made by section 905 of the Reform Act or by this subsection (or the assessment of any underpayment of tax so attributable) is barred by any law or rule of law—

(A) credit or refund of any such overpayment may nevertheless be made if claim therefore is filed before the date 1 year after such date of enactment, and

(B) assessment of any such underpayment may nevertheless be made if made before the date 1 year after such date of enactment.

SEC. 110. AMENDMENTS RELATED TO TITLE X OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1011 OF THE REFORM ACT.—

(1) Paragraph (1) of section 813(a) of the 1986 Code (relating to foreign life insurance companies) is amended by striking out "the special life insurance company deduction and".

(2) Paragraph (1) of section 1011(d) of the Reform Act is amended—

(A) by striking out "any bond" and inserting in lieu thereof "any market discount bond (as defined in section 1278 of the Internal Revenue Code of 1986)",

(B) by striking out "28 percent" and inserting in lieu thereof "31.6 percent", and

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall apply only if the tax determined under the preceding sentence is less than the tax which would otherwise be imposed."

(3) Paragraph (2) of section 1011(d) of the Reform Act is amended to read as follows:

"(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term 'qualified life insurance company' means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986."

(b) AMENDMENTS RELATED TO SECTION 1012 OF THE REFORM ACT.—

(1) Clause (iv) of section 1012(c)(4)(C) of the Reform Act is amended to read as follows:

"(iv) dental benefit coverage provided by a Delta Dental Plans Association organization through contracts with independent professional service providers so long as the provision of such coverage is the principal activity of such organization."

(2) Clause (ii) of section 1012(c)(4)(C) of the Reform Act is amended by striking out "Association" and inserting in lieu thereof "Plan".

(3) The Secretary of the Treasury or his delegate may prescribe rules providing proper adjustments for taxpayers which become subject to subchapter L of chapter 1 of the 1986 Code by reason of the amendments made by section 1012 of the Reform Act with respect to short taxable years which begin during 1987 by reason of section 843 of such Code.

(4)(A) Paragraph (3) of section 501(m) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) charitable gift annuities."

(B) Subsection (m) of section 501 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) CHARITABLE GIFT ANNUITY.—For purposes of paragraph (3)(E), the term 'charitable gift annuity' means an annuity if—

"(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

"(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property)."

(C) Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall revise the tables used in determining the amount of the charitable contribution in the case of annuity contracts so that such determination will reflect the value of such contribution based on market interest rates at the time such contract was issued and more recent mortality experience.

(c) AMENDMENTS RELATED TO SECTION 1021 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 832(b)(7) of the 1986 Code (relating to special rules for determining premiums earned) is amended by striking out "this part" and inserting in lieu thereof "section 831(a)".

(B) The subparagraph heading for such subparagraph is amended by striking out "NONLIFE INSURANCE COMPANY" and inserting in lieu thereof "INSURANCE COMPANY TAXABLE UNDER SECTION 831(a)".

(2) Paragraph (7) of section 832(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(D) TREATMENT OF COMPANIES WHICH BECOME TAXABLE UNDER SECTION 831(a).—

"(i) EXCEPTION TO PHASE-IN FOR COMPANIES WHICH WERE NOT TAXABLE, ETC., BEFORE 1987.—Subparagraph (C) of paragraph (4) shall not apply to any insurance company which, for each taxable year beginning before January 1, 1987, was not subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) by reason of being—

"(I) subject to tax under section 821(c) (as so in effect), or

"(II) described in section 501(c) (as so in effect) and exempt from tax under section 501(a).

"(ii) PHASE-IN BEGINNING AT LATER DATE FOR COMPANIES NOT 1ST TAXABLE UNDER SECTION 831(a) IN 1987.—In the case of an insurance company—

"(I) which was not subject to the tax imposed by section 831(a) for its 1st taxable year beginning after December 31, 1986, by reason of being subject to tax under section 831(b), or described in section 501(c) and exempt from tax under section 501(a), and

"(II) which, for any taxable year beginning before January 1, 1987, was subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986),

subparagraph (C) of paragraph (4) shall apply beginning with the 1st taxable year beginning after December 31, 1986, for which such company is subject to the tax imposed by section 831(a) and shall be applied by substituting the last day of the preceding taxable year for 'December 31, 1986' and the 1st day of the 7th succeeding taxable year for 'January 1, 1993'.

"(E) TREATMENT OF CERTAIN RECIPROCAL INSURERS.—In the case of a reciprocal (within the meaning of section 835(a)) which reports (as required by State law) on its annual statement reserves on unearned premiums net of premium acquisition expenses, subparagraphs (B) and (C) of paragraph (4) shall be applied by treating unearned premiums as including an amount equal to such expenses."

(3) Paragraph (5) of section 832(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A) and by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma.

(d) AMENDMENTS RELATED TO SECTION 1022 OF THE REFORM ACT.—

(1) Section 832 of the 1986 Code (defining insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(g) DIVIDENDS WITHIN GROUP.—In the case of an insurance company subject to tax under section 831(a) filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group were not filing a consolidated return."

(2) Subclause (II) of section 832(b)(5)(B)(ii) of the 1986 Code (relating to losses incurred) is amended by inserting "(directly or indirectly)" after "attributable".

(3) For purposes of section 832(b)(5)(C)(i) of the 1986 Code, any stock or obligation acquired on or after August 8, 1986, by an insurance company subject to the tax imposed by section 831 of the 1986 Code (hereinafter in this paragraph referred to as the "acquiring company") from another insurance company so subject (hereinafter in this paragraph referred to as the "transferor company") shall be treated as acquired on the date on which such stock or obligation was acquired by the transferor company if—

(A) the transferor company acquired such stock or obligation before August 8, 1986, and

(B) at all times after the date on which such stock or obligation was acquired by the transferor company and before the date of the acquisition by the acquiring company, the transferor company and the acquiring company were members of the same affiliated group filing a consolidated return.

For purposes of the preceding sentence, the date on which the stock or obligation was acquired by the transferor company shall be determined with regard to any prior application of the preceding sentence. For purposes of this paragraph, if the acquiring corporation or transferor corporation was a party to a reorganization described in section 368(a)(1)(F) of the 1986 Code, any reference to such corporation shall include a reference to any predecessor thereof involved in such reorganization.

(e) AMENDMENTS RELATED TO SECTION 1023 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 846(f)(6) of the 1986 Code (relating to special rule for certain accident and health insurance lines of business) is amended by striking out "paid during the year" and inserting in lieu thereof "paid in the middle of the year".

(2) Subsection (g) of section 846 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing appropriate adjustments in the application of this section to a taxpayer having a taxable year which is not the calendar year."

(3) Subsection (e) of section 1023 of the Reform Act (relating to discounting of unpaid losses and certain unpaid expenses) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF FRESH START TO COMPANIES WHICH BECOME SUBJECT TO SECTION 831(a) TAX IN LATER TAXABLE YEAR.—If—

"(A) an insurance company was not subject to tax under section 831(a) of the Internal Revenue Code of 1986 for its 1st taxable year beginning after December 31, 1986, by reason of being—

"(i) subject to tax under section 831(b) of such Code, or

"(ii) described in section 501(c) of such Code and exempt from tax under section 501(a) of such Code, and

"(B) such company becomes subject to tax under such section 831(a) for any later taxable year,

paragraph (2) and subparagraphs (A) and (C) of paragraph (3) shall be applied by treating such later taxable year as its 1st taxable year beginning after December 31, 1986, and by treating the calendar year in which such later taxable year begins as 1987; and paragraph (3)(B) shall not apply."

(f) AMENDMENTS RELATED TO SECTION 1024 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 831(b)(2) of the 1986 Code (relating to companies to which alternative tax applies) is amended by adding at the end thereof the following new sentence:

"The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) Subsection (a) of section 835 of the 1986 Code (relating to election by reciprocal) is amended by striking out "section 821(a)" and inserting in lieu thereof "section 831(a)".

(3) Subsection (f) of section 835 of the 1986 Code is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(4) Paragraph (6) of section 243(b) of the 1986 Code (relating to special rules for insurance companies) is amended by striking out "or 821".

(5) Subsection (c) of section 543 of the 1986 Code (relating to gross income of insurance companies other than life or mutual) is amended—

(A) by striking out "OR MUTUAL" in the heading and inserting in lieu thereof "INSURANCE COMPANIES", and

(B) by striking out "life or mutual" in the text and inserting in lieu thereof "a life insurance company".

(6) Subsection (g) of section 816 of the 1986 Code (relating to burial and funeral benefit insurance companies) is amended by striking out "section 821 or".

(7) The table of sections for part II of subchapter L of chapter 1 of the 1986 Code (relating to other insurance companies) is amended by striking out the item relating to section 831 and inserting in lieu thereof the following new item:

"Sec. 831. Tax on insurance companies other than life insurance companies."

(8) Paragraph (1) of section 1024(d) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a company taxable under section 831(b) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any amount included in gross income under this paragraph shall be treated as gross investment income."

(g) AMENDMENTS RELATED TO SECTION 1031 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1031(a) of the Reform Act is amended by inserting "(whether made in a lump sum or a series of substantially equal payments over a period of not more than 6 years)" after "any initial payment".

(2) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "initial payment" each place it appears and inserting in lieu thereof "initial payment referred to in paragraph (1)".

(3) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "this title" each place it appears and inserting in lieu thereof "the Internal Revenue Code of 1986".

(h) SPECIAL RULE FOR MUTUAL LIFE INSURANCE COMPANY.—

(1) IN GENERAL.—Paragraph (2) of section 217(i) of the Tax Reform Act of 1984 is amended to read as follows:

"(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—For purposes of determin-

ing the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phaseout of small life insurance company deduction)."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

(3) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by this subsection shall not exceed $300,000 per taxable year.

(i) DELAY IN EFFECTIVE DATE FOR DIVERSIFICATION REQUIREMENTS WITH RESPECT TO ACCOUNTS FOR CERTAIN IMMEDIATE ANNUITIES.—Section 817(h) of the 1986 Code shall not apply until January 1, 1989, with respect to a variable contract (as defined in section 817(d) of the 1986 Code) if—

(1) such contract provides for the payment of an immediate annuity (as defined in section 72(u)(4) of the 1986 Code),

(2) such contract was outstanding on September 12, 1986, and

(3) the segregated asset account on which such contract is based was, on September 12, 1986, wholly invested in deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(j) TREATMENT OF ALTERNATIVE MINIMUM TAX WITH RESPECT TO SHAREHOLDERS SURPLUS ACCOUNT.—

(1) Paragraph (2) of section 815(c) of the 1986 Code (relating to shareholders surplus account) is amended by adding at the end thereof the following new sentence:

"If for any taxable year a tax is imposed by section 55, under regulations proper adjustments shall be made for such year and all subsequent taxable years in the amounts taken into account under subparagraphs (A) and (B) of this paragraph and subparagraph (B) of subsection (d)(3)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(k) TREATMENT OF CERTAIN ITEMS AS NOT INTEREST FOR SOURCE RULES, ETC.—Subsection (f) of section 818 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) ITEMS DESCRIBED IN SECTION 807(C) TREATED AS NOT INTEREST FOR SOURCE RULES, ETC.—For purposes of part I of subchapter N, items described in any paragraph of section 807(c) shall be treated as amounts which are not interest."

SEC. 111. AMENDMENTS RELATED TO PARTS I AND II OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1101 OF THE REFORM ACT.—

(1) Paragraph (4) of section 219(g) of the 1986 Code (relating to special rule for married individuals filing separately) is amended to read as follows:

"(4) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATELY AND LIVING APART.—A husband and wife who—

"(A) file separate returns for any taxable year, and

"(B) live apart at all times during such taxable year,

shall not be treated as married individuals for purposes of this subsection."

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1987.

(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987.

(b) AMENDMENTS RELATED TO SECTION 1102 OF THE REFORM ACT.—

(1) Sections 408(d)(2)(C) and 408(o)(4)(B)(iv) of the 1986 Code are each amended by striking out "with or within which the taxable year ends" and inserting in lieu thereof "in which the taxable year begins".

(2)(A) Section 408(d)(4) of the 1986 Code (relating to excess contributions returned before due date of return) is amended by striking out "to the extent that such contribution exceeds the amount allowable as a deduction under section 219".

(B) Section 408(d)(4) of the 1986 Code is amended—

(i) by striking out "excess" each place it appears, and

(ii) by striking out "EXCESS CONTRIBUTIONS" in the heading and inserting in lieu thereof "CONTRIBUTIONS".

(3) Sections 408(d)(5) and 4973(b) of the 1986 Code are each amended by striking out all that follows "section 219" in the last sentence thereof and inserting in lieu thereof "shall be computed without regard to section 219(g).".

(4)(A) Section 6693(b) of the 1986 Code (relating to overstatement of designated nondeductible contributions) is amended to read as follows:

"(b) PENALTIES RELATING TO NONDEDUCTIBLE CONTRIBUTIONS.—

"(1) OVERSTATEMENT OF DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—Any individual who—

"(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

"(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

"(2) FAILURE TO FILE FORM.—Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of $50 for each such failure unless it is shown that such failure is due to reasonable cause."

(B)(i) The heading for section 6693 of the 1986 Code is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(ii) The item relating to section 6693 in the table of sections for subchapter B of chapter 68 is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(c) AMENDMENTS RELATED TO SECTION 1105 OF THE REFORM ACT.—

(1) Section 402(g)(2)(C) of the 1986 Code (relating to taxation of distribution) is amended—

(A) by striking out "(and no tax shall be imposed under section 72(t))" in clause (i),

(B) by striking out "such excess deferral is made" in clause (ii) and inserting in lieu thereof "such income is distributed", and

(C) by inserting at the end thereof the following new flush sentence:

"No tax shall be imposed under section 72(t) on any distribution described in the preceding sentence."

(2) Section 402(g)(2) is amended by striking out "REQUIRED DISTRIBUTION" in the heading thereof and inserting in lieu thereof "DISTRIBUTION".

(3) Section 402(g)(2) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL DISTRIBUTIONS.—If a plan distributes only a portion of any excess deferral and income allocable thereto, such portion shall be treated as having been distributed ratably from the excess deferral and the income."

(4) Section 402(g)(3) of the 1986 Code (defining elective deferral) is amended by striking out "paragraph" and inserting in lieu thereof "subsection".

(5)(A) Clause (iii) of section 402(g)(8)(A) of the 1986 Code (relating to special rule for certain organizations) is amended by inserting "(determined in the manner prescribed by the Secretary)" after "taxable years".

(B) Section 402(g)(8) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) YEARS OF SERVICE.—For purposes of this paragraph, the term 'years of service' has the meaning given such term by section 403(b)."

(6)(A) Section 402(g) of the 1986 Code, as added by section 1852(b)(3)(A) of the Reform Act, is redesignated as subsection (i).

(B) Section 402(g) of the 1986 Code, as added by section 1854(f)(2) of the Reform Act, is redesignated as subsection (j).

(C) Section 1854(f)(4)(C) of the Reform Act is amended by striking out "section 402(g)" and inserting in lieu thereof "section 402(j)".

(7)(A) Section 401(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(30) LIMITATIONS ON ELECTIVE DEFERRALS.—In the case of a trust which is part of a plan under which elective deferrals (within the meaning of section 402(g)(3)) may be made with respect to any individual during a calendar year, such trust shall not constitute a qualified trust under this subsection unless the plan provides that the amount of such deferrals under such plan and all other plans, contracts, or arrangements of an employer maintaining such plan may not exceed the amount of the limitation in effect under section 402(g)(1) for taxable years beginning in such calendar year."

(B) Section 403(b)(1) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a contract purchased under a plan which provides a salary reduction agreement, the plan meets the requirements of section 401(a)(30),".

(C) Subparagraph (A) of section 408(k)(6) of the 1986 Code, as amended by subsection (f)(1), is amended by adding at the end thereof the following new clause:

"(iv) LIMITATIONS ON ELECTIVE DEFERRALS.—Clause (i) shall not apply to a simplified employee pension unless the requirements of section 401(a)(30) are met."

(D) Subparagraph (D) of section 501(c)(18) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) the requirements of section 401(a)(30) are met."

(E)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to plan years beginning after December 31, 1987.

(ii) In the case of a plan described in section 1105(c)(2) of the Reform Act, the amendments made by this paragraph shall not apply to contributions made pursuant to an agreement described in such section for plan years beginning before the earlier of—

(I) the later of January 1, 1988, or the date on which the last of such agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(II) January 1, 1989.

(8) Section 1105(c)(2)(A) of the Reform Act is amended by striking out "the last of such collective bargaining agreements" and inserting in lieu thereof "such agreement".

(9) Section 1105(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) REPORTING REQUIREMENTS.—The amendments made by subsection (b) shall apply to calendar years beginning after December 31, 1986."

(10) Notwithstanding any other provision of law, a plan may incorporate by reference the dollar limitations under section 402(g) of the Internal Revenue Code of 1986.

(11) Section 402(g)(3) of the 1986 Code is amended by inserting at the end thereof the following new sentence: "An employer contribution shall not be treated as an elective deferral described in subparagraph (C) if under the salary reduction agreement such contribution is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(12) Subparagraph (A) of section 403(b)(12) of the 1986 Code is amended by inserting after clause (ii) the following new sentence:

"For purposes of clause (i), a contribution shall be treated as not made pursuant to a salary reduction agreement if under the agreement it is made pursuant to a 1-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(d) AMENDMENTS RELATED TO SECTION 1106 OF THE REFORM ACT.—

(1) Section 404(l) of the 1986 Code (relating to limitation on amount of compensation which may be taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of clause (i), (ii), or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, any adjustment under the preceding sentence shall not be taken into account for any year before the year for which such adjustment first takes effect.".

(2) Section 415(b)(5)(D) of the 1986 Code (relating to application to changes in benefit structures) is amended by striking out "this paragraph" and inserting in lieu thereof "subparagraph (A)".

(3) Paragraph (2) of section 415(k) of the 1986 Code (relating to contributions to provide cost-of-living protection under defined benefit plans), as added by section 1106(c) of the Reform Act, is amended—

(A) by striking out "to the arrangement" in subparagraph (C)(ii) and inserting in lieu thereof "to such increase", and

(B) by striking out subparagraph (D) and inserting in lieu thereof:

"(D) ARRANGEMENT ELECTIVE; TIME FOR ELECTION.—An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may at least be made in the year in which the participant—

"(i) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

"(ii) separates from service."

(4) Sections 401(a)(17) and 404(l) of the 1986 Code are each amended by adding at the end thereof the following new sentence: "In determining the compensation of an employee, the rules of section 414(q)(6) shall apply, except that in applying such rules, the term 'family' shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the year."

(5) Paragraph (4) of section 1106(i) of the Reform Act is amended by striking the period at the end thereof and inserting in lieu thereof "(determined as if the amendments made by this section were in effect for such year).".

(6) Section 415(b)(5)(B) of the 1986 Code is amended by inserting "and subsection (e)" after "paragraphs (1)(B) and (4)".

(7) Subparagraph (A) of section 415(c)(6) of the 1986 Code is amended—

(A) by striking out "paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1))", and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "paragraph (c)(1)(A) (as so adjusted)" and inserting in lieu thereof "paragraph (1)(A)".

(8) Sections 414(q)(1)(D) and 416(i)(1)(A)(i) of the 1986 Code are each amended by striking out "150 percent of the amount in effect under section 415(c)(1)(A)" and inserting in lieu thereof "50 percent of the amount in effect under section 415(b)(1)(A)".

(e) AMENDMENTS RELATED TO SECTION 1107 OF THE REFORM ACT.—

(1) Section 457(c)(2) of the 1986 Code is amended by striking out "and paragraphs (2) and (3) of subsection (b)".

(2) Section 457(d)(1)(A) of the 1986 Code (relating to distribution requirements) is amended to read as follows:

"(A) under the plan amounts will not be made available to participants or beneficiaries earlier than—

"(i) the calendar year in which the participant attains age 70½,

"(ii) when the participant is separated from service with the employer, or

"(iii) when the participant is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary in regulations)."

(3) Paragraph (7) of section 401(k) of the 1986 Code (defining rural electric cooperative plan) is amended to read as follows:

"(7) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural electric cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural electric cooperative.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i), and

"(iii) an organization which is a national association of organizations described in clause (i) or (ii)."

(4) Section 414(o) of the 1986 Code is amended by inserting "or any requirement under section 457" after "(n)(3)".

(5)(A) Paragraph (6) of section 818(a) of the 1986 Code (defining pension plan contracts) is amended—

(i) by striking out "State" in subparagraph (A),

(ii) by inserting "or any organization (other than a governmental unit) exempt from tax under this subtitle," after "foregoing," in subparagraph (B),

(iii) by striking out "or" before "agency" in subparagraph (B), and

(iv) by inserting ", or organization" after "instrumentality" the second place it appears in subparagraph (B).

(B) The amendments made by this paragraph shall apply to contracts issued after December 31, 1986.

(6) Section 1107(c)(3) of the Reform Act is amended—

(A) by striking out "eligible" each place it appears, and

(B) by inserting at the end of subparagraph (B) the following new sentence: "This subparagraph shall only apply to individuals who were covered under the plan and agreement on August 16, 1986."

(7) Paragraph (5) of section 1107(c) of the Reform Act is amended—

(A) by striking out "to employees on August 1, 1986, of",

(B) by striking out "a deferred compensation plan" in subparagraph (A) and inserting in lieu thereof "to employees on August 16, 1986,",

(C) by inserting "maintaining a deferred compensation plan" after "Alabama" in subparagraph (A), and

(D) by striking out "a deferred compensation plan" in subparagraph (B) and inserting in lieu thereof "to individuals eligible to participate on August 16, 1986, in a deferred compensation plan".

(8) Section 3121(v)(3)(A) of the 1986 Code is amended by striking out "457(e)(1)" and inserting in lieu thereof "457(f)(1)".

(9) Effective for years beginning after December 31, 1988, paragraph (9) of section 457(e) of the 1986 Code is amended by inserting "after separation from service and" before "within 60 days".

(10) Subclause (I) of section 457(d)(2)(B)(i) of the 1986 Code is amended to read as follows:

"(I) the amounts payable with respect to the participant will be paid at times specified by the Secretary which are not later than the time determined under section 401(a)(9)(G) (relating to incidental death benefits),".

(11)(A) Subsection (e) of section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(B)(i) Subsection (d) of section 457 of the 1986 Code (as in effect on the day before the date of the enactment of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(10) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(ii) The amendments made by this subparagraph shall apply to fiscal years beginning after December 31, 1978.

(f) AMENDMENTS RELATED TO SECTION 1108 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 408(k)(6) of the 1986 Code (relating to salary reduction arrangements under simplified employee pensions) is amended to read as follows:

"(A) ARRANGEMENTS WHICH QUALIFY.—

"(i) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash.

"(ii) 50 PERCENT OF ELIGIBLE EMPLOYEES MUST ELECT.—Clause (i) shall not apply to a simplified employee pension unless an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer eligible to participate.

"(iii) REQUIREMENTS RELATING TO DEFERRAL PERCENTAGE.—Clause (i) shall not apply to a simplified employee pension for any year unless the deferral percentage for such year of each highly compensated employee eligible to participate is not more than the product of—

"(I) the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate, multiplied by

"(II) 1.25."

(2) Section 408(k)(6)(B) of the 1986 Code (relating to exception where more than 25 employees) is amended by inserting "who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained)" after "25 employees".

(3)(A) Section 408(k)(6)(D)(ii) of the 1986 Code (defining deferral percentage) is amended by striking out "(within the meaning of section 414(s))" and inserting in lieu thereof "(not in excess of the first $200,000)".

(B) Subparagraph (B) of section 408(k)(7) of the 1986 Code (defining compensation) is amended to read as follows:

"(B) COMPENSATION.—Except as provided in paragraph (2)(C), the term 'compensation' has the meaning given such term by section 414(s)."

(C) Subparagraph (C) of section 408(k)(3) of the 1986 Code is amended by striking out "total" before "compensation".

(D) Section 408(k)(8) of the 1986 Code is amended by striking out "paragraph (3)(C)" and inserting in lieu thereof "paragraphs (3)(C) and (6)(D)(ii)".

(4) Section 408(k)(6) of the 1986 Code (relating to employee may elect salary reduction arrangement) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

"(F) EXCEPTION WHERE PENSION DOES NOT MEET REQUIREMENTS NECESSARY TO INSURE DISTRIBUTION OF EXCESS CONTRIBUTIONS.—This paragraph shall not apply with respect to any year for which the simplified employee pension does not meet such requirements as the Secretary may prescribe as are necessary to insure that excess contributions are distributed in accordance with subparagraph (C), including—

"(i) reporting requirements, and

"(ii) requirements which, notwithstanding paragraph (4), provide that contributions (and any income allocable thereto) may not be withdrawn from a simplified employee pension until a determination has been made that the requirements of subparagraph (A)(iii) have been met with respect to such contributions."

(5) Section 408(d) of the 1986 Code (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TRANSFER OR ROLLOVER OF CONTRIBUTIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.

"(B) CERTAIN EXCLUSIONS TREATED AS DEDUCTIONS.—For purposes of paragraphs (4) and (5) and section 4973, any amount excludable or excluded from gross income under section 402(h) shall be treated as an amount allowable or allowed as a deduction under section 219."

(6) Subparagraph (C) of section 404(h)(1) of the 1986 Code is amended by inserting "(or during the taxable year in the case of a taxable year described in subparagraph (A)(ii))" after "taxable year" the second place it appears.

(7) Section 1108(h) of the Reform Act is amended to read as follows:

"(h) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

"(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs."

(8) Section 209(e)(8) of the Social Security Act is amended to read as follows:

"(8) under a simplified employee pension (as defined in section 408(k)(1) of such Code), other than any contributions described in section 408(k)(6) of such Code,".

(9) Section 3401(a)(12)(C) of the 1986 Code is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 402(h) (1) and (2)", and

(B) by striking out "a deduction" and inserting in lieu thereof "an exclusion".

(10) Section 408(k)(8) of the 1986 Code is amended by inserting ", except that in the case of years beginning after 1988, the $200,000 amount (as so adjusted) shall not exceed the amount in effect under section 401(a)(17)" after "section 415(d)".

(g) AMENDMENTS RELATED TO SECTION 1111 OF THE REFORM ACT.—

(1)(A) Section 401(l)(2)(B) of the 1986 Code (defining contribution percentages) is amended by inserting "by the employer" after "contributed" each place it appears.

(B) Clause (ii) of section 401(l)(3)(A) of the 1986 Code is amended by inserting "attributable to employer contributions" after "benefits".

(2) Section 401(l)(5)(C) of the 1986 Code (defining average annual compensation) is amended to read as follows:

"(C) AVERAGE ANNUAL COMPENSATION.—The term 'average annual compensation' means the participant's highest average annual compensation for—

"(i) any period of at least 3 consecutive years, or

"(ii) if shorter, the participant's full period of service."

(3) Section 401(l)(5)(E) of the 1986 Code (defining covered compensation) is amended—

(A) by striking out "age 65" each place it appears" and inserting in lieu thereof "the social security retirement age", and

(B) by adding at the end thereof the following new clause:

"(iii) SOCIAL SECURITY RETIREMENT AGE.—For purposes of this subparagraph, the term 'social security retirement age' has the meaning given such term by section 415(b)(8)."

(4) Section 1111(c)(3) of the Reform Act is amended by striking out "benefits pursuant to, and individuals covered by, any such agreement in".

(h) AMENDMENTS RELATED TO SECTION 1112 OF THE REFORM ACT.—

(1) Section 410(b)(4)(B) of the 1986 Code (relating to exclusion of employees not meeting age and service requirements) is amended—

(A) by striking out "do not meet" and inserting in lieu thereof "not meeting", and

(B) by striking out "and".

(2) Section 410(b)(6) of the 1986 Code (relating to definitions and special rules) is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—A plan maintained by an employer which has no employees other than highly compensated employees for any year shall be treated as meeting the requirements of this subsection for such year."

(3) Section 401(a)(26) of the 1986 Code (relating to additional participation requirements) is amended by redesignating subparagraph (F) as subparagraph (H) and by adding after subparagraph (E) the following new subparagraphs:

"(F) SPECIAL RULE FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—Rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this paragraph."

"(G) SEPARATE LINES OF BUSINESS.—At the election of the employer and with the consent of the Secretary, this paragraph may be applied separately with respect to each separate line of business of the employer. For purposes of this paragraph, the term 'separate line of business' has the meaning given such term by section 414(r) (without regard to paragraph (7) thereof)."

(4) Section 402(b)(2) of the 1986 Code (relating to failure to meet requirements of section 410(b)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b),

then a highly compensated employee shall, in lieu of the amount determined under paragraph (1), include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraph (1) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan."

(5) Subsections (m)(4)(A) and (n)(3)(A) of section 414 of the 1986 Code are each amended by striking out "and (16)" and inserting in lieu thereof "(16), (17), and (26)".

(6) Clause (iii) of section 1112(e)(3)(A) of the Reform Act is amended by striking out "a plan or merger" and inserting in lieu thereof "the plan".

(7) Section 1112(e)(2) of the Reform Act is amended by striking out "employees covered by such agreement in".

(8) Subsection (e) of section 1112 of the Reform Act is amended by striking out paragraph (3)(C) and by adding at the end of such subsection the following new paragraph:

"(4) SPECIAL RULE FOR PLANS WHICH MAY NOT TERMINATE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a plan is prohibited from terminating under title IV of the Employee Retirement Income Security Act of 1974 before the 1st year to which the amendment made by subsection (b) would apply, the amendment made by subsection (b) shall only apply to years after the 1st year in which the plan is able to terminate."

(9) Subparagraph (B) of section 1112(e)(3) of the Reform Act is amended to read as follows:

"(B) INTEREST RATE FOR DETERMINING ACCRUED BENEFIT OF HIGHLY COMPENSATED EMPLOYEES FOR CERTAIN PURPOSES.—In the case of a termination, transfer, or distribution of assets of a plan described in subparagraph (A)(ii) before the 1st year to which the amendment made by subsection (b) applies—

"(i) AMOUNT ELIGIBLE FOR ROLLOVER, INCOME AVERAGING, OR TAX-FREE TRANSFER.—For purposes of determining any eligible amount, the present value of the accrued benefit of any highly compensated employee shall be determined by using an interest rate not less than the highest of—

"(I) the applicable rate under the plan's method in effect under the plan on August 16, 1986,

"(II) the highest rate (as of the date of the termination, transfer, or distribution) determined under any of the methods applicable under the plan at any time after August 15, 1986, and before the termination, transfer, or distribution in calculating the present value of the accrued benefit of an employee who is not a highly compensated employee under the plan (or any other plan used in determining whether the plan meets the requirements of section 401 of the Internal Revenue Code of 1986), or

"(III) 5 percent.

"(ii) ELIGIBLE AMOUNT.—For purposes of clause (i), the term 'eligible amount' means any amount with respect to a highly compensated employee which—

"(I) may be rolled over under section 402(a)(5) of such Code,

"(II) is eligible for income averaging under section 402(e)(1) of such Code, or capital gains treatment under section 402(a)(2) or 403(a)(2) of such Code (as in effect before this Act), or

"(III) may be transferred to another plan without inclusion in gross income.

"(iii) AMOUNTS SUBJECT TO EARLY WITHDRAWAL OR EXCESS DISTRIBUTION TAX.—For purposes of sections 72(t) and 4980A of such Code, there shall not be taken into account the excess (if any) of—

"(I) the amount distributed to a highly compensated employee by reason of such termination or distribution, over

"(II) the amount determined by using the interest rate applicable under clause (i).

"(iv) DISTRIBUTIONS OF ANNUITY CONTRACTS.—If an annuity contract purchased after August 16, 1986, is distributed to a highly compensated employee in connection with such termination or distribution, there shall be included in gross income for the taxable year of such distribution an amount equal to the excess of—

"(I) the purchase price of such contract, over

"(II) the present value of the benefits payable under such contract determined by using the interest rate applicable under clause (i).

Such excess shall not be taken into account for purposes of sections 72(t) and 4980A of such Code.

"(v) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subparagraph, the term 'highly compensated employee' has the meaning given such term by section 414(q) of such Code."

(10) Section 413(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) PLANS COVERING A PROFESSIONAL EMPLOYEE.—Notwithstanding subsection (a), in the case of a plan (and trust forming part thereof) which covers any professional employee, paragraph (1) shall be applied by substituting 'section 410(a)' for 'section 410', and paragraph (2) shall not apply."

(11) Section 410(b)(4) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) REQUIREMENTS NOT TREATED AS BEING MET BEFORE ENTRY DATE.—An employee shall not be treated as meeting the age and service requirements described in this paragraph until the first date on which, under the plan, any employee with the same age and service would be eligible to commence participation in the plan.

(i) AMENDMENTS RELATED TO SECTION 1114 OF THE REFORM ACT.—

(1) Paragraph (1) of section 414(q) of the 1986 Code (defining highly compensated employee) is amended by adding at the end thereof the following new flush sentence:

"The Secretary shall adjust the $75,000 and $50,000 amounts under this paragraph at the same time and in the same manner as under section 415(d)."

(2) Section 414(q)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) RULES TO APPLY TO OTHER PROVISIONS.—

"(i) IN GENERAL.—Except as provided in regulations and in clause (ii), the rules of subparagraph (A) shall be applied in determining the compensation of (or any contributions or benefits on behalf of) any employee for purposes of any section with respect to which a highly compensated employee is defined by reference to this subsection.

"(ii) EXCEPTION FOR DETERMINING INTEGRATION LEVELS.—Clause (i) shall not apply in determining the portion of the compensation of a participant which is under the integration level for purposes of section 401(l)."

(3)(A) Section 414(q)(8) of the 1986 Code (relating to excluded employees) is amended—

(i) by inserting "and" at the end of subparagraph (D), by striking ", and" at the end of subparagraph (E) and inserting in lieu thereof a period, and by striking out subparagraph (F), and

(ii) by striking out "The" in the last sentence thereof and inserting in lieu thereof "Except as provided by the Secretary, the".

(B) Section 414(q) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection and subsection (r), employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)) shall not be treated as employees."

(4)(A) Paragraph (8) of section 414(q) of the 1986 Code is amended by inserting "or the number of officers taken into account under paragraph (5)" after "paragraph (4)".

(B) Section 416(i)(1)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining the number of officers taken into account under clause (i), employees described in section 414(q)(8) shall be excluded."

(5) Subparagraph (B) of section 408(k)(3) of the 1986 Code is amended to read as follows:

"(B) SPECIAL RULES.—For purposes of subparagraph (A), there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3)."

(j) AMENDMENTS RELATED TO SECTION 1115 OF THE REFORM ACT.—

(1) So much of section 414(s) of the 1986 Code as precedes paragraph (2) is amended to read as follows:

"(s) COMPENSATION.—For purposes of any applicable provision—

"(1) IN GENERAL.—Except as provided in this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s) of the 1986 Code is amended by striking out paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and by adding at the end thereof the following new paragraph:

"(4) APPLICABLE PROVISION.—For purposes of this subsection, the term 'applicable provision' means any provision which specifically refers to this subsection."

(3)(A) Section 416(i)(1) of the 1986 Code (defining key employee) is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of this paragraph, the term 'compensation' has the meaning given such term by section 414(q)(7)."

(B) The amendment made by this paragraph shall apply to years beginning after December 31, 1988.

(k) AMENDMENTS RELATED TO SECTION 1116 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 401(k)(2) of the 1986 Code (relating to distributions from a cash or deferred arrangement) is amended—

(i) by striking out subclauses (II), (III), and (IV) of clause (i) and inserting in lieu thereof:

"(II) an event described in paragraph (10),", and

(ii) by redesignating subclauses (V) and (VI) as subclauses (III) and (IV), respectively.

(B) Section 401(k) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTIONS UPON TERMINATION OF PLAN OR DISPOSITION OF ASSETS OR SUBSIDIARY.—

"(A) IN GENERAL.—The following events are described in this paragraph:

"(i) TERMINATION.—The termination of the plan without establishment or maintenance of another defined contribution plan.

"(ii) DISPOSITION OF ASSETS.—The disposition by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in a trade or business of such corporation, but only with respect to an employee who continues employment with the corporation acquiring such assets.

"(iii) DISPOSITION OF SUBSIDIARY.—The disposition by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)), but only with respect to an employee who continues employment with such subsidiary.

"(B) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

"(i) IN GENERAL.—An event shall not be treated as described in subparagraph (A) with respect to any employee unless the employee receives a lump sum distribution by reason of the event.

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4), without regard to clauses (i), (ii), (iii), and (iv) of subparagraph (A), subparagraph (B), or subparagraph (H) thereof.

"(C) TRANSFEROR CORPORATION MUST MAINTAIN PLAN.—An event shall not be treated as described in clause (ii) or (iii) of subparagraph (A) unless the transferor corporation continues to maintain the plan after the disposition."

(C)(i) Subparagraph (A)(i) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after October 16, 1987.

(ii) Subparagraph (B) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after March 31, 1988.

(2) Subparagraph (B) of section 401(k)(2) of the 1986 Code is amended—

(A) by inserting "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" after "under which",

(B) by striking out "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" in clause (i), and

(C) by striking out "amounts" in clause (ii).

(3)(A) Clause (ii) of section 401(k)(3)(A) of the 1986 Code is amended by inserting "eligible" before "highly compensated employees" each place it appears.

(B) Section 1116(b)(4) of the Reform Act is amended by striking out "any" the first place it appears and inserting in lieu thereof "an".

(4) Subparagraph (C) of section 401(k)(3) of the 1986 Code, as added by section 1116(e) of the Reform Act, is redesignated as subparagraph (D).

(5) Subclause (I) of section 401(k)(3)(D)(ii) of the 1986 Code, as redesignated by paragraph (4), is amended by striking out "meets" and inserting in lieu thereof "meet".

(6) Section 401(k)(4)(A) of the 1986 Code is amended by striking out "provided by such employer".

(7) Section 401(k)(8) of the 1986 Code (relating to arrangement not disqualified if excess contributions distributed) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of paragraph (2)(C), a matching contribution (within the meaning of subsection (m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under subparagraph (B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(8) Subparagraph (B) of section 1116(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "If clause (i) or (ii) applies to any arrangement adopted by a governmental unit, then any cash or deferred arrangement adopted by such unit on or after the date referred to in the applicable clause shall be treated as adopted before such date."

(9) Section 401(k)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"This subparagraph shall not apply to a rural electric cooperative plan."

(10) Clause (i) of section 1116(f)(2)(B) of the Reform Act is amended by striking out "(or political subdivision thereof)" and inserting in lieu thereof "or political subdivision thereof, or any agency or instrumentality thereof,".

(l) AMENDMENTS RELATED TO SECTION 1117 OF THE REFORM ACT.—

(1) Paragraph (1) of section 401(m) of the 1986 Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by striking out "A plan" and inserting in lieu thereof "A defined contribution plan".

(2) Paragraph (3) of section 401(m) of the 1986 Code (relating to requirements) is amended by adding at the end thereof the following new sentence: "If matching contributions are taken into account for purposes of subsection (k)(3)(A)(ii) for any plan year, such contributions shall not be taken into account under subparagraph (A) for such year."

(3) The last sentence of section 401(m)(2)(B) of the 1986 Code is amended by striking out "such contributions" the first place it appears and inserting in lieu thereof "contributions to which this subsection applies".

(4) Section 401(m)(4)(A) of the 1986 Code (defining matching contribution) is amended by striking out "the plan" each place it appears and inserting in lieu thereof "a defined contribution plan".

(5)(A) Section 401(m)(4)(B) of the 1986 Code (defining elective deferral) is amended by striking out "section 402(g)(3)(A)" and inserting in lieu thereof "section 402(g)(3)".

(B) The amendment made by this paragraph shall take effect as if included in the amendments made by section 1120 of the Reform Act.

(6) Subparagraph (C) of section 401(m)(6) of the 1986 Code is amended by striking out "EXCESS" in the subparagraph heading and inserting in lieu thereof "EXCESS AGGREGATE".

(7) Section 401(m)(7)(A) of the 1986 Code (relating to additional tax of section 72(t) not applicable) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(8) Section 4979(a)(1) of the 1986 Code (relating to tax on certain excess contributions) is amended by striking out "a cash or deferred arrangement which is part of".

(9) Section 4979(c) of the 1986 Code (defining excess contributions) is amended—

(A) by striking out "403(b),", and

(B) by striking out "408(k)(8)(B)" and inserting in lieu thereof "408(k)(6)(C)".

(10) Section 4979(d) of the 1986 Code (defining excess aggregate contribution) is amended by adding at the end thereof the following new sentence: "For purposes of determining excess aggregate contributions under an annuity contract described in section 403(b), such contract shall be treated as a plan described in subsection (e)(1)."

(11) Paragraph (2) of section 4979(f) of the 1986 Code (relating to inclusion in prior year) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year for which such contribution was made.

"(B) DE MINIMIS DISTRIBUTIONS.—If the total excess contributions and excess aggregate contributions distributed to a recipient under a plan for any plan year are less than $100, such distributions (and any income allocable thereto) shall be treated as earned and received by the recipient in his taxable year in which such distributions were made."

(12) Subsection (d) of section 1117 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) DISTRIBUTIONS BEFORE PLAN AMENDMENT.—

"(A) IN GENERAL.—If a plan amendment is required to allow a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140 shall be treated as made in accordance with the provisions of the plan.

"(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

"(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986.

"(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan."

(m) AMENDMENTS RELATED TO SECTION 1120 OF THE REFORM ACT.—

(1)(A) Section 403(b)(10) of the 1986 Code (relating to nondiscrimination requirements), as added by section 1120(b) of the

Reform Act, is redesignated as paragraph (12).

(B) Subparagraph (D) of section 403(b)(1) of the 1986 Code is amended by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (12)".

(2) Clause (i) of section 403(b)(12)(A), as redesignated by paragraph (1), is amended—

(A) by inserting "(17)," after "(5),", and

(B) by inserting ", section 401(m)," after "section 401(a)" the first place it appears.

(3) Section 1120(c) of the Reform Act is amended to read as follows:

"(c) Effective Dates.—

"(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1988.

"(2) Collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

"(A) January 1, 1991, or

"(B) the later of—

"(i) January 1, 1989, or

"(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

SEC. 111A. AMENDMENTS RELATED TO PARTS III AND IV OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) Amendments Related to Section 1121 of the Reform Act.—

(1) Subparagraph (F) of section 402(a)(5) of the 1986 Code (relating to transfer treated as rollover contribution under section 408) is amended by striking out "described in subparagraph (A)" and inserting in lieu thereof "resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(2)(A) Section 408(d)(3)(A) is amended by striking out the last sentence thereof.

(B) The amendment made by subparagraph (A) shall apply to rollover contributions made in taxable years beginning after December 31, 1986.

(3) Section 1121(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Plans may incorporate section 401(a)(9) requirements by reference.—Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the requirements of section 401(a)(9) of the Internal Revenue Code of 1986."

(4) Section 1121(d)(3) of the Reform Act is amended by striking out "plan years" and inserting in lieu thereof "years".

(5) Section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 shall not apply to distributions after October 22, 1986, and before the 1st taxable year beginning after 1986 which are attributable to benefits which accrued before January 1, 1985.

(b) Amendments Related to Section 1122 of the Reform Act.—

(1)(A) Section 72(f) of the 1986 Code (relating to special rules for computing employees' contributions) is amended by striking out "for purposes of subsections (d)(1) and (e)(7), the consideration for the contract contributed by the employee,".

(B) Section 72(n) of the 1986 Code (relating to annuities under retired serviceman's family protection plan or survivor benefit plan) is amended by striking out "Subsections (b) and (d)" and inserting in lieu thereof "Subsection (b)".

(C) Sections 406(e) and 407(e) of the 1986 Code are each amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 72 of the 1986 Code (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by adding after subsection (c) the following new subsection:

"(d) Treatment of Employee Contributions Under Defined Contribution Plans as Separate Contracts.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(B) Section 72(e) of the 1986 Code is amended by striking out paragraph (9).

(3) Section 414(k)(2) of the 1986 Code (relating to certain plans treated as defined contribution plans) is amended by inserting "72(d) (relating to treatment of employee contributions as separate contract)," before "411(a)(7)(A)".

(4)(A) The amendment made by section 1122(e)(1) of the Reform Act is repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such amendment had not been enacted.

(B) Subclause (I) of section 402(a)(5)(D)(i) of the 1986 Code is amended by inserting "is payable as provided in clause (i), (iii), or (iv) of subsection (e)(4)(A) (without regard to the second sentence thereof) and" after "such distribution" the first place it appears.

(C) Section 402(a)(5)(D)(i) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any distribution described in section 401(a)(28)(B)(ii) shall be treated as meeting the requirements of subclauses (I) and (II)."

(D) Section 402(a)(5)(D)(iii) is amended by striking out "10-YEAR" in the heading.

(E) Section 402(a)(5)(D)(i)(II) of the 1986 Code (as in effect after the amendment made by subparagraph (A)) shall not apply to distributions after December 31, 1986, and before March 31, 1988.

(5) Clause (ii) of section 402(a)(6)(H) of the 1986 Code (relating to special rule for frozen deposits) is amended by adding at the end thereof the following new flush sentence:

"A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (5)(C) (without regard to this subparagraph) such deposit is described in the preceding sentence."

(6) Clause (i) of section 402(e)(4)(B) of the 1986 Code is amended by striking out "taxpayer" and inserting in lieu thereof "employee".

(7) The last sentence of section 402(e)(4)(J) of the 1986 Code (relating to unrealized appreciation on employer securities) is amended to read as follows: "In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a distribution is required to be included, not to have this subparagraph apply with respect to such distribution."

(8) Section 402 of the 1986 Code (relating to taxability of beneficiary of employees' trust) is amended as follows:

(A) Subsection (a)(1) is amended by striking out "paragraphs (2) and (4)" and inserting in lieu thereof "paragraph (4)".

(B) Subsection (a)(4) is amended by striking out "or (2)".

(C) Subsection (a)(6)(C) is amended by striking out "paragraph (2) of subsection (a), and".

(D) Subsection (a)(6)(E)(ii) is amended by striking out "paragraph (2) of subsection (a), and" and by striking out the comma after "subsection (e)".

(E) Subsection (e)(1)(A) is amended by striking out "ordinary income portion of a".

(F) Subsection (e)(4)(A) is amended—

(i) by striking out "Except for purposes of subsection (a)(2) and section 403(a)(2), a" and inserting in lieu thereof "A", and

(ii) by striking out "subsection (a)(2) of this section, and subsection (a)(2) of section 403,".

(G) Subparagraph (L) of subsection (e)(4) is hereby repealed.

(H) Subsection (e)(4)(M) is amended by striking out ", subsection (a)(2) of this section, and section 403(a)(2)".

(I) Subsection (e)(5) is amended by striking out "and paragraph (2) of subsection (a)".

(J) Subsection (e)(6)(C) is amended to read as follows:

"(C) Special lump-sum treatment.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under this subsection by reason of an election under paragraph (4)(B)."

(9)(A) Section 72(e)(7) of the 1986 Code is hereby repealed.

(B) Section 72(e)(5)(D) is amended by striking out "paragraphs (7) and (8)" and inserting in lieu thereof "paragraph (8)".

(C) Section 72(e)(8)(A) is amended by striking out "(other than paragraph (7))".

(D) Section 72(q)(2)(E) of the 1986 Code is amended by striking out "(determined without regard to subsection (e)(7))".

(10) Section 402(e)(1)(B) of the 1986 Code (relating to amount of tax on lump-sum distributions) is amended by adding at the end thereof the following new flush sentence:

"For purposes of the preceding sentence, in determining the amount of tax under section 1(c), section 1(g) shall be applied without regard to paragraph (2)(B) thereof."

(11) Section 1122(h) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) Special rule for state plans.—In the case of a plan maintained by a State which on May 5, 1986, permitted withdrawal by the employee of employee contributions (other than as an annuity), section 72(e) of the Internal Revenue Code of 1986 shall be applied—

"(A) without regard to the phrase 'before separation from service' in paragraph (8)(D), and

"(B) by treating any amount received (other than as an annuity) before or with the 1st annuity payment as having been received before the annuity starting date."

(12) Subparagraph (B) of section 1122(h)(2) of the Reform Act is amended by inserting ", except that section 72(b)(3) of the Internal Revenue Code of 1986 (as added by such subsection) shall apply to individuals whose annuity starting date is after July 1, 1986" after "1986".

(13) Sections 1122 (h)(3)(C) and (h)(4)(C) of the Reform Act are each amended by striking out "with respect to any other lump sum distribution" and inserting in lieu thereof "for purposes of such Code".

(14) Clause (i) of section 1122(h)(3)(C) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee", and

(B) by inserting "or by an individual, estate, or trust with respect to such an employee" after "1986".

(15) Section 1122(h)(5) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee",

(B) by inserting "and by including in gross income the zero bracket amount in effect under section 63(d) of such Code for such years" after "1986" in the last sentence, and

(C) by adding at the end thereof the following new sentence: "This paragraph shall also apply to an individual, estate, or trust which receives a distribution with respect to an employee described in this paragraph."

(c) AMENDMENTS RELATED TO SECTION 1123 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(t)(2) of the 1986 Code (relating to subsection not to apply to certain distributions) is amended by striking out "on account of early retirement under the plan" in clause (v).

(2) Subparagraph (C) of section 72(t)(2) of the 1986 Code (relating to certain plans) is amended to read as follows:

"(C) EXCEPTIONS FOR DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Any distribution made before January 1, 1990, to an employee from an employee stock ownership plan (as defined in section 4975(e)(7)) or a tax credit employee stock ownership plan (as defined in section 409) if—

"(i) such distribution is attributable to assets which have been invested in employer securities (within the meaning of section 409(l)) at all times during the 5-year-plan period preceding the plan year in which the distribution is made, and

"(ii) at all times during such period the requirements of sections 401(a)(28) and 409 (as in effect at such times) are met with respect to such employer securities."

(3) Subparagraph (A) of section 72(t)(3) of the 1986 Code (relating to certain exceptions not to apply to individual retirement plans) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(4) Subparagraphs (D) and (G) of section 72(q)(2) of the 1986 Code are each amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

(5) Subparagraph (B) of section 72(q)(3) of the 1986 Code (relating to change in substantially equal payments) is amended by striking out "employee" each place it appears and inserting in lieu thereof "taxpayer".

(6) Section 72(q)(2) of the 1986 Code (relating to subsection not to apply to certain dispositions) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) to which subsection (t) applies (without regard to paragraph (2) thereof),".

(7) Subparagraph (D) of section 72(q)(2) and clause (iv) of section 72(t)(2)(A) of the 1986 Code are each amended by inserting "designated" before "beneficiary".

(8) Paragraph (2) of section 72(o) of the 1986 Code (relating to additional tax if amount received before age 59½) is hereby repealed.

(9) Subparagraph (I) of section 402(e)(4) of the 1986 Code is amended by striking out "clause (ii) of".

(10) Section 26(b)(2) of the 1986 Code is amended—

(A) by striking out ", (o)(2)," in subparagraph (C), and

(B) by striking out "408(f) (relating to additional tax on income from certain retirement accounts)" in subparagraph (D) and inserting in lieu thereof "72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans)".

(11) Section 1123(e)(2) of the Reform Act is amended—

(A) by striking out "taxable", and

(B) by inserting ", but only with respect to distributions from contracts described in section 403(b) of the Internal Revenue Code of 1986 which are attributable to assets other than assets held as of the close of the last year beginning before January 1, 1989" after "1988".

(12) Section 1123(e) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR DISTRIBUTIONS UNDER AN ANNUITY CONTRACT.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall not apply to any distribution under an annuity contract if—

"(A) as of March 1, 1986, payments were being made under such contract pursuant to a written election providing a specific schedule for the distribution of the taxpayer's interest in such contract, and

"(B) such distribution is made pursuant to such written election."

(13) Section 72(t) of the 1986 Code shall apply to any distribution without regard to whether such distribution is made without the consent of the participant pursuant to section 411(a)(11) or section 417(e) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1124 OF THE REFORM ACT.—

(1) Section 1124(a) of the Reform Act is amended to read as follows:

"(a) IN GENERAL.—If an employee dies, separates from service, or becomes disabled before 1987 and an individual, trust, or estate receives a lump-sum distribution with respect to such employee after December 31, 1986, and before March 16, 1987, on account of such death, separation from service, or disability, then, for purposes of the Internal Revenue Code of 1986, such individual, estate, or trust may treat such distribution as if it were received in 1986."

(2) Section 1124(b) of the Reform Act is amended—

(A) by striking out "employee" each place it appears and inserting in lieu thereof "individual, estate, or trust", and

(B) by inserting "with respect to an employee" after "receives".

(3) Section 1124 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(c) LUMP SUM DISTRIBUTION.—For purposes of this section, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4)(A) of the Internal Revenue Code of 1986, without regard to subparagraph (B) or (H) of section 402(e)(4) of such Code."

(e) AMENDMENTS RELATED TO SECTION 1131 OF THE REFORM ACT.—

(1) Subsection (c) of section 4972 of the 1986 Code (defining nondeductible contributions) is amended to read as follows:

"(c) NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'nondeductible contributions' means, with respect to any qualified employer plan, the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year by the employer to or under such plan, over

"(ii) the amount allowable as a deduction under section 404 for such contributions (determined without regard to subsection (e) thereof), and

"(B) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(i) the portion of the amount so determined returned to the employer during the taxable year, and

"(ii) the portion of the amount so determined deductible under section 404 for the taxable year (determined without regard to subsection (e) thereof).

"(2) ORDERING RULE FOR SECTION 404.—For purposes of paragraph (1), the amount allowable as a deduction under section 404 for any taxable year shall be treated as—

"(A) first from carryforwards to such taxable year from preceding taxable years (in order of time), and

"(B) then from contributions made during such taxable year.

"(3) CONTRIBUTIONS WHICH MAY BE RETURNED TO EMPLOYER.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account any contribution for such taxable year which is distributed to the employer in a distribution described in section 4980(c)(2)(B)(ii) if such distribution is made on or before the last day on which a contribution may be made for such taxable year under section 404(a)(6).

"(4) PRE-1987 CONTRIBUTIONS.—The term 'nondeductible contribution' shall not include any contribution made for a taxable year beginning before January 1, 1987."

(2) Paragraph (1) of section 4972(d) of the 1986 Code (defining qualified employer plan) is amended to read as follows:

"(1) QUALIFIED EMPLOYER PLAN.—

"(A) IN GENERAL.—The term 'qualified employer plan' means—

"(i) any plan meeting the requirements of section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), and

"(iii) any simplified employee pension (within the meaning of section 408(k)).

"(B) EXEMPTION FOR GOVERNMENTAL AND TAX EXEMPT PLANS.—The term 'qualified employer plan' does not include a plan described in subparagraph (A) or (B) of section 4980(c)(1)."

(3) Section 1131(d) of the Reform Act is amended to read as follows:

"(d) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

"(2) SPECIAL RULES FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to contributions pursuant to any such agreement for taxable years beginning before the earlier of—

"(A) January 1, 1989, or

"(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

(4)(A) Subparagraph (A) of section 404(a)(7) of the 1986 Code is amended—

(i) by striking out "provisions" and inserting in lieu thereof "paragraphs", and

(ii) by inserting "or in connection with trusts or plans described in 2 or more of such paragraphs" after "1 or more defined benefit plans".

(B) Paragraph (3) of section 404(h) of the 1986 Code is amended to read as follows:

"(3) Coordination with subsection (a)(7).—For purposes of subsection (a)(7), a simplified employee pension shall be treated as if it were a separate stock bonus or profit-sharing trust."

(5) In the case of any taxable year beginning in 1987, the amount under section 4972(c)(1)(A)(ii) of the 1986 Code for a plan to which title IV of the Employee Retirement Income Security Act of 1974 applies shall be increased by the amount (if any) by which, as of the close of the plan year with or within which such taxable year begins—

(A) the liabilities of such plan (determined as if the plan had terminated as of such time), exceed

(B) the assets of such plan.

(f) Amendments Related to Section 1132 of the Reform Act.—

(1) Section 4980(c)(1)(A) of the 1986 Code (defining qualified plan) is amended by striking out "this subtitle" and inserting in lieu thereof "subtitle A".

(2) Section 4980(c)(3)(A) of the 1986 Code (relating to exception for employee stock ownership plans) is amended—

(A) by inserting "or a tax credit employee stock ownership plan (as described in section 409)" after "section 4975(e)(7)", and

(B) by inserting ", except to the extent necessary to meet the requirements of section 401(a)(28)," after "must".

(3) Subparagraph (C) of section 4980(c)(3) of the 1986 Code is amended—

(A) by striking out "(by reason of the limitations of section 415)", and

(B) by adding at the end thereof the following new sentence:

"The amount allocated in the year of transfer shall not be less than the lesser of the maximum amount allowable under section 415 or ⅛ of the amount attributable to the securities acquired."

(4) Subparagraph (B) of section 1132(c)(2) of the Reform Act is amended by striking out "November 19, 1978" and inserting in lieu thereof "September 19, 1978".

(5) Section 1132(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for employee stock ownership plans.—Section 4980(c)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to reversions occurring after March 31, 1985."

(6) Section 4980(c)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(F) No credit or deduction allowed.—No credit or deduction shall be allowed under chapter 1 for any amount transferred to an employee stock ownership plan in a transfer to which this paragraph applies.

"(G) Amount transferred to include income thereon, etc.—The amount transferred shall not be treated as meeting the requirements of subparagraphs (B) and (C) unless amounts attributable to such amount also meet such requirements."

(7) Section 4980(c)(3)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of dividends on securities held in the suspense account, the requirements of this subparagraph are met only if the dividends are allocated to accounts of participants or paid to participants in proportion to their accounts, or used to repay loans used to purchase employer securities."

(g) Amendments Related to Section 1133 of the Reform Act.—

(1)(A) Section 4981A of the 1986 Code (as added by section 1133 of the Reform Act) is redesignated as section 4980A.

(B) The table of sections for chapter 43 of the 1986 Code is amended by redesignating section 4981A as section 4980A.

(2) Paragraph (1) of section 4980A(c) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking out "$112,500 (adjusted at the same time and in the same manner as under section 415(d))" and inserting in lieu thereof "the greater of—

"(A) $150,000, or

"(B) $112,500 (adjusted at the same time and in the same manner as under section 415(d))."

(3) Section 4980A(c)(2) of the 1986 Code (relating to exclusion of certain distributions), as redesignated by paragraph (1), is amended—

(A) by striking out "employee's" in subparagraph (C) and inserting in lieu thereof "individual's", and

(B) by adding after subparagraph (D) the following new subparagraphs:

"(E) Any retirement distribution with respect to an individual of an annuity contract the value of which is not includible in gross income at the time of the distribution (other than distributions under, or proceeds from the sale or exchange of, such contract).

"(F) Any retirement distribution with respect to an individual of—

"(i) excess deferrals (and income allocable thereto) under section 402(g)(2)(A)(ii), or

"(ii) excess contributions (and income allocable thereto) under section 401(k)(8) or 408(d)(4) or excess aggregate contributions (and income allocable thereto) under section 401(m)(6)."

(4)(A) Section 4980A of the 1986 Code, as redesignated by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) Exemption of Accrued Benefits in Excess of $562,500 on August 1, 1986.—For purposes of this section—

"(1) In general.—If an election is made with respect to an eligible individual to have this subsection apply, the individual's excess distributions and excess retirement accumulation shall be computed without regard to any distributions or interests attributable to the accrued benefit of the individual as of August 1, 1986.

"(2) Reduction in amounts which may be received without tax.—If this subsection applies to any individual—

"(A) Excess distributions.—Subsection (c)(1) shall be applied—

"(i) without regard to subparagraph (A), and

"(ii) by reducing (but not below zero) the amount determined under subparagraph (B) thereof by retirement distributions attributable (as determined under rules prescribed by the Secretary) to the individual's accrued benefit as of August 1, 1986.

"(B) Excess retirement accumulation.—The amount determined under subsection (d)(3)(B) (without regard to subsection (c)(1)(A)) with respect to such individual shall be reduced (but not below zero) by the present value of the individual's accrued benefit as of August 1, 1986, which has not been distributed as of the date of death.

"(3) Eligible individual.—For purposes of this subsection, the term 'eligible individual' means any individual if, on August 1, 1986, the present value of such individual's interests in qualified employer plans and individual retirement plans exceeded $562,500.

"(4) Certain amounts excluded.—In determining an individual's accrued benefit for purposes of this subsection, there shall not be taken into account any portion of the accrued benefit—

"(A) payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, or

"(B) attributable to the individual's investment in the contract (as defined in section 72(f)).

"(5) Election.—An election under paragraph (1) shall be made on an individual's return of tax imposed by chapter 1 or 11 for a taxable year beginning before January 1, 1989."

(B) Section 4980A(c) of the 1986 Code, as redesignated by paragraph (1), is amended by striking out paragraph (5).

(5) Section 4980A(d) of the 1986 Code (relating to increase in estate tax if individual dies with excess accumulation), as redesignated by paragraph (1), is amended—

(A) by striking out "section 2010" in paragraph (2) and inserting in lieu thereof "chapter 11", and

(B) by adding at the end thereof the following new paragraphs:

"(4) Rules for computing excess retirement accumulation.—The excess retirement accumulation of an individual shall be computed without regard to—

"(A) any community property law,

"(B) the value of—

"(i) amounts payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, and

"(ii) the individual's investment in the contract (as defined in section 72(f)), and

"(C) the excess (if any) of—

"(i) any interests which are payable immediately after death, over

"(ii) the value of such interests immediately before death.

"(5) Election by spouse to have excess distribution rule apply.—

"(A) In general.—If the spouse of an individual is the beneficiary of all of the interests described in paragraph (3)(A), the spouse may elect—

"(i) not to have this subsection apply, and

"(ii) to have this section apply to such interests and any retirement distribution attributable to such interests as if such interests were the spouse's.

"(B) De minimis exception.—If 1 or more persons other than the spouse are beneficiaries of a de minimis portion of the interests described in paragraph (3)(A)—

"(i) the spouse shall not be treated as failing to meet the requirements of subparagraph (A), and

"(ii) if the spouse makes the election under subparagraph (A), this section shall not apply to such portion or any retirement distribution attributable to such portion."

(6) Subparagraph (B) of section 4980A(d)(3) of the 1986 Code, as redesignated by paragraph (1), is amended to read as follows:

"(B) the present value (as determined under rules prescribed by the Secretary as of the valuation date prescribed in subparagraph (A)) of a single life annuity with annual payments equal to the limitation of subsection (c) (as in effect for the year in which death occurs and as if the individual had not died)."

(7) Section 2013 of the 1986 Code (relating to credit for tax on prior transfer) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Additional Tax Under Section 4980A.—For purposes of this section, the estate tax paid shall not include *any portion of such tax attributable to section 4980A(d)."*

(8) Paragraph (1) of section 1133(c) of the Reform Act is amended by inserting ", other than a distribution with respect to a decedent dying before January 1, 1987" after "1986".

(9) Section 4980A(d)(3)(A) of the 1986 Code is amended by inserting "(other than as a beneficiary, determined after application of paragraph (5))" after "the individual's interests".

(10) Section 691(c)(1) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) EXCESS RETIREMENT ACCUMULATION TAX.—For purposes of this subsection, no deduction shall be allowed for the portion of the estate tax attributable to the increase in such tax under section 4980A(d)."

(11) Section 2053(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any increase in the tax imposed by this chapter by reason of section 4980A(d)."

(12) Section 6018(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) RETURN REQUIRED IF EXCESS RETIREMENT ACCUMULATION TAX.—The executor shall make a return with respect to the estate tax imposed by subtitle B in any case where such tax is increased by reason of section 4980A(d)."

(h) AMENDMENTS RELATED TO SECTION 1134 OF THE REFORM ACT.—

(1) Section 72(p)(3)(A) of the 1986 Code (relating to denial of interest deductions in certain cases) is amended by inserting "to which paragraph (1) does not apply by reason of paragraph (2) during the period" after "loan".

(2) Subparagraph (B) of section 72(p)(3) of the 1986 Code is amended to read as follows:

"(B) PERIOD TO WHICH SUBPARAGRAPH (A) APPLIES.—For purposes of subparagraph (A), the period described in this subparagraph is the period—

"(i) on or after the 1st day on which the individual to whom the loan is made is a key employee (as defined in section 416(i)), or

"(ii) such loan is secured by amounts attributable to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3)."

(i) AMENDMENTS RELATED TO SECTION 1135 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(u)(1) of the 1986 Code (relating to annuity contracts not held by natural persons) is amended by inserting "(other than subchapter L)" after "subtitle".

(2) Subparagraph (D) of section 72(u)(3) of the 1986 Code (relating to exceptions) is amended by striking out "until such time as the employee separates from service" and inserting in lieu thereof "until all amounts under such contract are distributed to the employee for whom such contract was purchased or the employee's beneficiary".

(3) Subparagraphs (D) and (E) of section 72(u)(3) of the 1986 Code (relating to exceptions) are each amended by striking out "which".

(4) Paragraph (4) of section 72(u) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) which provides for a series of substantially equal periodic payments (to be made not less frequently than annually) during the annuity period."

(j) AMENDMENTS RELATED TO SECTION 1136 OF THE REFORM ACT.—

(1) Section 401(a)(27) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(B) PLAN MUST DESIGNATE TYPE.—In the case of a plan which is intended to be a money purchase pension plan or a profit-sharing plan, a trust forming part of such plan shall not constitute a qualified trust under this subsection unless the plan designates such intent at such time and in such manner as the Secretary may prescribe."

(2) Section 401(a)(27) of the 1986 Code is amended by striking out "(27)" and inserting in lieu thereof:

"(27) DETERMINATIONS AS TO PROFIT-SHARING PLANS.—

"(A) CONTRIBUTIONS NEED NOT BE BASED ON PROFITS.—".

(k) AMENDMENT RELATED TO SECTION 1139 OF THE REFORM ACT.—Clause (i) of section 1139(d)(2)(A) of the Reform Act is amended by striking out "before January" and inserting in lieu thereof "after January".

(l) AMENDMENT RELATED TO SECTION 1145 OF THE REFORM ACT.—Subparagraph (E) of section 401(a)(11) of the 1986 Code (relating to cross reference) is redesignated as subparagraph (F).

(m) AMENDMENTS RELATED TO SECTION 1147 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 7701(j)(1) of the 1986 Code (relating to tax treatment of Federal Thrift Savings Fund) is amended by inserting ", section 401(k)(4)(B)," after "paragraph (2)".

(2) Section 8440(a)(3) of title 5, United States Code, is amended by inserting ", 401(k)(4)(B) of such Code," after "subsection (b)".

SEC. 111B. AMENDMENTS RELATED TO SUBTITLES B AND C OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1151 OF THE REFORM ACT.—

(1) Paragraph (2) of section 89(a) of the 1986 Code (relating to year of inclusion) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the plan year ends.

"(B) ELECTION TO DELAY INCLUSION FOR 1 YEAR.—If an employer maintaining a plan with a plan year ending after September 30 and on or before December 31 of a calendar year elects the application of this subparagraph—

"(i) amounts included in gross income under paragraph (1) with respect to employees of such employer shall be taken into account for the taxable year of the employee following the taxable year determined under subparagraph (A), but

"(ii) any deduction of the employer which is attributable to such amounts shall be allowable for the taxable year with or within which the plan year following the plan year in which the excess benefits occurred ends."

(2) Paragraph (4) of section 89(b) of the 1986 Code (defining nontaxable benefits) is amended by adding at the end thereof the following new sentence: "Such term includes any group-term life insurance the cost of which is includible in gross income under section 79."

(3) Paragraph (1) of section 89(g) of the 1986 Code (relating to the aggregation of comparable health plans) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYEES COVERED BY MORE THAN 1 PLAN.—The Secretary may provide that 2 or more plans providing benefits to the same participant shall be treated as 1 plan for purposes of applying subsections (d)(1)(B), (d)(2), and (f)."

(4) Subparagraph (B) of section 89(g)(2) of the 1986 Code (relating to sworn statements) is amended by adding at the end thereof the following new sentence: "No statement shall be required under clause (ii) with respect to any individual eligible for coverage at no cost under a health plan which provides core health benefits and with respect to whom the employee does not elect any core health coverage from the employer."

(5) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by striking out "under such plan" and inserting in lieu thereof "under such plans".

(6) Section 89(g) of the 1986 Code is amended by striking out paragraph (6).

(7) Subparagraph (A) of section 89(h)(1) of the 1986 Code (relating to excluded employees) is amended by inserting "(or 1st day of a period of less than 31 days specified by the plan)" after "month".

(8) Section 89(j) of the 1986 Code (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—The requirements of subsections (d) and (e) shall not apply to any statutory employee benefit plan for any year for which the only employees of the employer maintaining the plan are highly compensated employees."

(9) Section 89(k) of the 1986 Code (relating to requirement that plan be in writing) is amended by adding at the end thereof the following new paragraph:

"(5) LOSS OF EXEMPTION FOR CERTAIN PLANS.—If a plan described in paragraph (2)(E) fails to meet the requirements of paragraph (1), the organization which is part of such plan shall not be exempt from tax under section 501(a)."

(10) Section 6652(l)(2)(B) of the 1986 Code (relating to amount of additional tax) is amended by striking out "subsection (g)(3)" and inserting in lieu thereof "subsection (g)(3)(C)(i)".

(11)(A) Subsection (a) of section 125 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan."

(B) Paragraph (1) of section 125(b) of the 1986 Code is amended by striking out "A plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "In the case of a highly compensated employee, subsection (a) shall not apply to any benefit attributable to a plan year".

(C) Paragraph (2) of section 125(b) of the 1986 Code is amended by striking out "a plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "subsection (a) shall not apply to any plan year".

(12) Subparagraph (B) of section 125(c)(1) of the 1986 Code (defining cafeteria plans) is amended to read as follows:

"(B) the participant may choose among 2 or more benefits consisting of cash and qualified benefits."

(13)(A) Paragraph (1) of section 125(e) of the 1986 Code (defining qualified benefits) is amended by inserting "and without regard to section 89(a)" after "subsection (a)".

(B) The last sentence of section 125(b)(2) of the 1986 Code is amended to read as follows: "For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income."

(14) Subsection (d) of section 129 of the 1986 Code is amended by redesignating paragraph (8) as paragraph (7).

(15) Paragraph (7) of section 129(d) of the 1986 Code (as so redesignated) is amended—

(A) by inserting "under all plans of the employer" after "employees" the 2nd and 3rd time it appears in subparagraph (A),

(B) by striking out "there shall be disregarded" in subparagraph (B) and inserting in lieu thereof "a plan may disregard", and

(C) by striking out "415(q)(7)" in subparagraph (B) and inserting in lieu thereof "414(q)(7)".

(16) Section 414(m)(4) of the 1986 Code is amended by inserting "and" at the end of subparagraph (A), by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraphs (C) and (D).

(17) Paragraph (2) of section 414(t) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(18) Paragraph (6) of section 129(e) of the 1986 Code is amended by striking out "of subsection (d)" and inserting in lieu thereof "of subsection (d) (other than paragraphs (4) and (7) thereof)".

(19) Subparagraph (C) of section 414(n)(3) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(20) Section 414(t)(1) of the 1986 Code (relating to application of controlled group rules to certain employees) is amended by striking out "of section 414" each place it appears.

(21) Section 89(j)(6) of the 1986 Code is amended by striking out "described in subparagraph (A), (B), or (C) of subsection (i)(2)".

(22)(A) Section 3121 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(x) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(B) Section 3231(e) of the 1986 Code (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(8) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any other paragraph of this subsection (other than paragraph (2)), the term 'compensation' shall include any amount which is includible in gross income by reason of section 89."

(C) Section 3306 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (b) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(D) Section 3401 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(g) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(E) The third to last sentence of section 209 of the Social Security Act is amended—

(i) by striking out the period at the end of clause (2) and inserting in lieu thereof ", or", and

(ii) by inserting after clause (2) the following new clause:

"(3) Any amount required to be included in gross income under section 89 of the Internal Revenue Code of 1986."

(F) The amendments made by this paragraph shall not apply to any individual who separated from service with the employer before January 1, 1989.

(23)(A) Sections 3121(a)(5)(G) and 3306(b)(5)(G) of the 1986 Code are each amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "section 125)".

(B) Section 209(e)(9) of the Social Security Act is amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "1986)".

(24) Section 1151(h)(3) of the Reform Act is amended by striking out "Section 6039B(c)" and inserting in lieu thereof "Section 6039D(c)".

(25) Paragraph (1) of section 1151(k) of the Reform Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the amendments made by subsections (e)(1) and (i)(3)(C) shall, to the extent they relate to sections 106, 162(i)(2), and 162(k) of the Internal Revenue Code of 1986, apply to years beginning after 1986."

(26) Section 1151(k) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act."

(27)(A) Section 4976 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON FUNDED WELFARE BENEFIT FUNDS WHICH INCLUDE DISCRIMINATORY EMPLOYEE BENEFIT PLAN.—

"(1) IN GENERAL.—If—

"(A) an employer maintains a welfare benefit fund, and

"(B) a discriminatory employee benefit plan (within the meaning of section 89) is part of such fund for any plan year,

there is hereby imposed on such employer for the taxable year with or within which the plan year ends a tax in the amount determined under paragraph (2).

"(2) AMOUNT OF TAX.—The amount of the tax under paragraph (1) shall be equal to the excess (if any) of—

"(A) the product of the highest rate of tax imposed by section 11, multiplied by the lesser of—

"(i) the aggregate excess benefits (as defined in section 89) for such plan year, or

"(ii) the taxable income of the fund for such plan year, over

"(B) the amount of tax imposed by chapter 1 on such fund for such plan year."

(B) Section 4976(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION IN CASE OF BENEFITS TO WHICH SECTION 89 APPLIES.—If section 89 applies to any post-retirement medical benefit or life insurance benefit provided by a fund, the amount of the disqualified benefit under paragraph (1)(B) with respect to such benefit shall not exceed the aggregate excess benefits provided by the plan (as determined under section 89)."

(C) Section 505(a)(1) of the 1986 Code is amended by adding at the end thereof the following new subsection: "This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies."

(28) Section 89(h)(4) of the 1986 Code is amended by striking out "subsection (h)(5)" and inserting in lieu thereof "subsection (g)(5)".

(29) Section 89(k)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentences:

"Such inclusion shall be coordinated (under regulations prescribed by the Secretary) with any inclusion under subsection (a) with respect to such plan. In the case of a statutory employee benefit plan described in subsection (i)(1)(B), any amount required to be included in gross income under this subsection shall be included in the gross income of the beneficiary."

(30) Section 129(d)(1)(B) of the 1986 Code is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(31)(A) Section 129(d) of the 1986 Code is amended—

(i) by striking out the last sentence of paragraph (3), and

(ii) by inserting at the end thereof the following new paragraph:

"(8) EXCLUDED EMPLOYEES.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees who are excluded from consideration under section 89(h)."

(B) Sections 117(d)(4), 120(c)(2), 127(b)(2), 132(h)(1), and 505(b)(2) of the 1986 Code are each amended—

(i) by striking out "may" the first place it appears and inserting in lieu thereof "shall", and

(ii) by striking out "may be" the second place it appears and inserting in lieu thereof "are".

(32) Section 505(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) $200,000 COMPENSATION LIMIT.—A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(33) Section 3401(a) of the 1986 Code is amended by inserting "or" at the end of paragraph (18), by striking out paragraph

(19), and by redesignating paragraph (20) as paragraph (19).

(34)(A) Section 89(g)(3)(B) of the 1986 Code shall not apply to years beginning before the date which is 6 months after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans. The Secretary may provide in such rules a date which is later than the date determined under the preceding sentence.

(B) In the case of years beginning after December 31, 1988, and before the 1st year to which the rules described in subparagraph (A) apply—

(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 162(k)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, such value under clause (i) may be determined under any other reasonable method selected by the employer maintaining the plan.

(b) AMENDMENTS RELATED TO SECTION 1161 OF THE REFORM ACT.—

(1) Section 162(m) of the 1986 Code (relating to special rules for health insurance costs of self-employed individuals) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2."

(2) Section 162(m) of the 1986 Code (relating to cross reference) as redesignated by section 1161(a) of the Reform Act, is redesignated as subsection (n).

(3) Section 162(m)(2)(A) of the 1986 Code is amended by inserting: "derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established" after "401(c))".

(4) Section 211(a) of the Social Security Act is amended by inserting after paragraph (13) the following new paragraph:

"(14) The deduction under section 162(m) (relating to health insurance costs of self-employed individuals) shall not be allowed."

(c) AMENDMENTS RELATED TO SECTION 1163 OF THE REFORM ACT.—

(1) Paragraph (8) of section 129(e) of the 1986 Code (relating to treatment of onsite facilities) is amended—

(A) by inserting "maintained by an employer" after "onsite facility",

(B) by inserting "of dependent care assistance provided to an employee" after "the amount",

(C) by inserting "of the facility by a dependent of the employee" after "utilization" in subparagraph (A), and

(D) by inserting "with respect to such dependent" after "provided" in subparagraph (B).

(2)(A) Paragraph (2) of section 129(a) of the 1986 Code is amended to read as follows:

"(2) LIMITATION OF EXCLUSION.—

"(A) IN GENERAL.—The amount which may be excluded under paragraph (1) for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

"(B) YEAR OF INCLUSION.—The amount of any excess under subparagraph (A) shall be included in gross income in the taxable year in which the dependent care services were provided (even if payment of dependent care assistance for such services occurs in a subsequent taxable year).

"(C) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(B) Section 6051(a) of the 1986 Code is amended by striking out the period at the end of paragraph (8) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129(d)."

(C)(i) Except as provided in this subparagraph, the amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987.

(ii) A taxpayer may elect to have the amendment made by subparagraph (A) apply to taxable years beginning in 1987.

(iii) In the case of a taxpayer not making an election under clause (ii), any dependent care assistance provided in a taxable year beginning in 1987 with respect to which reimbursement was not received in such taxable year shall be treated as provided in the taxpayer's first taxable year beginning after December 31, 1987.

(d) AMENDMENT RELATED TO SECTION 1164 OF THE REFORM ACT.—Section 119(d)(2) of the 1986 Code is amended—

(1) by striking out "(as of the close of the calendar year in which the taxable year begins)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following:

"The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins."

(e) AMENDMENTS RELATED TO SECTION 1166 OF THE REFORM ACT.—Section 7701(a)(20) of the 1986 Code (defining employee) is amended—

(1) by striking out "106, and 125" and inserting in lieu thereof "and 106", and

(2) by inserting "and for purposes of applying section 125 with respect to cafeteria plans," before "the term".

(f) AMENDMENTS RELATED TO SECTION 1168 OF THE REFORM ACT.—

(1) Paragraph (1) of section 134(b) of the 1986 Code is amended by striking out "or regulation thereunder" and inserting in lieu thereof ", regulation, or administrative practice".

(2)(A) Section 134(b)(1) of the 1986 Code is amended by inserting "(other than personal use of a vehicle)" after "in-kind benefit".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1986.

(3) Section 134(b)(3)(A) of the 1986 Code is amended by striking out "under any provision of law or regulation described in paragraph (1)".

(4) Section 1168(c) of the Reform Act is amended by striking out "1986" and inserting in lieu thereof "1984".

(g) AMENDMENTS RELATED TO SECTION 1172 OF THE REFORM ACT.—

(1) Section 1172(b)(1)(A) of the Reform Act is amended by inserting "each place it appears" before the comma.

(2) Paragraphs (2) and (3) of section 409(n) of the 1986 Code (relating to securities received in certain transactions) is amended by inserting "or section 2057" after "section 1042" each place it appears.

(3) Paragraph (1) of section 2057(b) of the 1986 Code (relating to qualified sale) is amended by striking out "is".

(h) AMENDMENTS RELATED TO SECTION 1173 OF THE REFORM ACT.—

(1) Section 133 of the 1986 Code (relating to exclusion of interest on securities acquisition loans) is amended by adding at the end thereof the following new subsection:

"(e) PERIOD TO WHICH INTEREST EXCLUSION APPLIES.—

"(1) IN GENERAL.—In the case of—

"(A) an original securities acquisition loan, and

"(B) any securities acquisition loan (or series of such loans) used to refinance the original securities acquisition loan,

subsection (a) shall apply only to interest accruing during the excludable period with respect to the original securities acquisition loan.

"(2) EXCLUDABLE PERIOD.—For purposes of this subsection, the term 'excludable period' means, with respect to any original securities acquisition loan—

"(A) IN GENERAL.—The 7-year period beginning on the date of such loan.

"(B) LOANS DESCRIBED IN SUBSECTION (b)(1)(A).—If the term of an original securities acquisition loan described in subsection (b)(1)(A) is greater than 7 years, the term of such loan. This subparagraph shall not apply to a loan described in subsection (b)(3)(B).

"(3) ORIGINAL SECURITIES ACQUISITION LOAN.—For the purposes of this subsection, the term 'original securities acquisition loan' means a securities acquisition loan described in subparagraph (A) or (B) of subsection (b)(1)."

(2)(A) Section 133(b) of the 1986 Code (defining securities acquisition loan) is amended—

(i) by striking out "or are used to refinance such a loan," in paragraph (1)(A),

(ii) by striking out ", except that this subparagraph shall not apply to any loan the commitment period of which exceeds 7 years" in paragraph (1)(B), and

(iii) by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF REFINANCINGS.—The term 'securities acquisition loan' shall include any loan which—

"(A) is (or is part of a series of loans) used to refinance a loan described in subparagraph (A) or (B) of paragraph (1), and

"(B) meets the requirements of paragraphs (2) and (3)."

(B) Subparagraph (B) of section 133(b)(3) of the 1986 Code is amended to read as follows:

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan, but only if allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of section 414(q))."

(3) Section 404(k) of the 1986 Code is amended—

(A) by inserting "(whether or not allocated to participants)" after "employer securities" in paragraph (2)(C), and

(B) by adding at the end thereof the following new sentence: "Paragraph (2)(C) shall not apply to dividends from employer securities which are allocated to any participant unless the plan provides that employer securities with a fair market value not less than the amount of such dividends are allocated to such participant for the year which (but for paragraph (2)(C)) such dividends would have been allocated to such participant."

(4) Subparagraph (C) of section 852(b)(5) of the 1986 Code (relating to interest on certain loans used to acquire employer securities) is amended by striking out "paragraph" and inserting in lieu thereof "section".

(5)(A) The amendments made by paragraphs (1) and (2) shall apply to—

(i) any loan used to acquire employer securities after July 18, 1984, and

(ii) loans made after July 18, 1984, which were used (or were part of a series of loans used) to refinance any loan which—

(I) was used to acquire employer securities after May 23, 1984 (July 18, 1984, in the case of a loan described in section 133(b)(3)(B) of the Internal Revenue Code of 1986), and

(II) met the requirements of section 133 (other than subsection (b)(2) thereof) of such Code as in effect as of the later of the date on which the loan was made, or July 19, 1984.

In no event shall such amendments apply to any loan described in section 133(b)(1)(B) of such Code which is made before October 22, 1986 (or loan used, or part of a series of loans used, to refinance such a loan).

(B) Subparagraph (B) of section 1173(c)(2) of the Reform Act is amended to read as follows:

"(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), shall apply to any loan used (or part of a series of loans used) to refinance a loan which—

"(i) was used to acquire employer securities after May 23, 1984, and

"(ii) met the requirements of section 133 of the Internal Revenue Code of 1986 as in effect as of the later of—

"(I) the date on which the loan was made, or

"(II) July 19, 1984."

(6) Section 404(k) of the 1986 Code is amended by striking out "merely by reason of any distribution" in the third sentence and inserting in lieu thereof "or as engaging in a prohibited transaction for purposes of section 4975(d)(3) merely by reason of any distribution or payment".

(i) AMENDMENTS RELATED TO SECTION 1174 OF THE REFORM ACT.—

(1) Clause (ii) of section 409(o)(1)(A) of the 1986 Code (relating to distribution requirement) is amended by striking out "such year" and inserting in lieu thereof "distribution is required to begin under this clause".

(2) Section 1174(a)(2) of the Reform Act is amended by striking out "plan terminations" and inserting in lieu thereof "distributions".

(3) Section 409(o)(1)(A) of the 1986 Code is amended by striking out "unless the participant otherwise elects" and inserting in lieu thereof "if the participant and, if applicable pursuant to sections 401 (a)(11) and 417, with the consent of the participant's spouse elects".

(j) AMENDMENTS RELATED TO SECTION 1175 OF THE REFORM ACT.—

(1) Subclause (II) of section 401(a)(28)(B) of the 1986 Code (relating to method of meeting requirements) is amended by inserting "and within 90 days after the period during which the election may be made, the plan invests the portion of the participant's account covered by the election in accordance with such election" after "clause (i)".

(2) Clause (iv) of section 401(a)(28)(B) of the 1986 Code is amended to read as follows:

"(iv) QUALIFIED ELECTION PERIOD.—For purposes of this subparagraph, the term 'qualified election period' means the 6-plan-year period beginning with the later of—

"(I) the 1st plan year in which the individual first became a qualified participant, or

"(II) the 1st plan year beginning after December 31, 1986.

"For purposes of the preceding sentence, an employer may elect to treat an individual first becoming a qualified participant in the 1st plan year beginning in 1987 as having become a participant in the 1st plan year beginning in 1988."

(3) The last sentence of section 409(d) of the 1986 Code (relating to employer securities must stay in the plan) is amended by inserting "or to any distribution or reinvestment required under section 401(a)(28)" after "section 401(a)(9)".

(4) Section 4978(d) of the 1986 Code (relating to section not to apply to certain dispositions) is amended by adding at the end thereof the following new paragraph:

"(4) DISPOSITIONS TO MEET DIVERSIFICATION REQUIREMENTS.—This section shall not apply to any disposition of qualified securities which is required under section 401(a)(28)."

(5) Section 409(h) of the 1986 Code (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraph:

"(7) EXCEPTION WHERE EMPLOYEE ELECTED DIVERSIFICATION.—Paragraph (1)(A) shall not apply with respect to the portion of the participant's account which the employee elected to have reinvested under section 401(a)(28)(B)."

(6) Section 401(a)(28)(B) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether—

"(I) a subsequent distribution is a lump-sum distribution under section 402(e)(4)(A), or

"(II) section 402(a)(5)(D)(iii) applies to a subsequent distribution."

(k) AMENDMENTS RELATED TO SECTION 1176 OF THE REFORM ACT.—

(1) Section 401(a)(22) of the 1986 Code is amended by striking out "is not publicly traded" each place it appears and inserting in lieu thereof "is not readily tradable on an established market".

(2) Section 401(a)(22) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, subsections (b), (c), (m), and (o) of section 414 shall not apply except for determining whether stock of the employer is not readily tradable on an established market."

(3) Section 409(l)(4) of the 1986 Code (relating to nonvoting common stock may be acquired in certain cases), as added by section 1176(b) of the Reform Act, is redesignated as paragraph (5).

(l) AMENDMENTS RELATED TO SECTION 1177 OF THE REFORM ACT.—

(1) Paragraph (2) of section 1177(b) of the Reform Act is amended by striking out "section 143(d)(3)(C)" and inserting in lieu thereof "section 146(d)(3)(C)".

(2) Subsection (b) of section 1177 of the Reform Act is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by section 1175".

(3) If any newspaper corporation described in section 1177(b) of the Reform Act, as amended by this subsection, pays in cash a dividend within 60 days after the date of the enactment of this Act to the corporation's employee stock ownership plans and if a corporate resolution declaring such dividend was adopted before November 30, 1987, and such resolution specifies that such dividend shall be contingent upon passage by the Congress of technical corrections, then such dividend (to the extent the aggregate amount so paid does not exceed $3,500,000) shall be treated as if it had been declared and paid in 1987 for all purposes of the Internal Revenue Code of 1986.

SEC. 112. AMENDMENTS RELATED TO TITLE XII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1201 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 904(d)(2) of the 1986 Code is amended to read as follows:

"(C) FINANCIAL SERVICES INCOME.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'financial services income' means any income which is received or accrued by any person predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, and which is—

"(I) described in clause (ii),

"(II) passive income (determined without regard to subclause (I) of subparagraph (A)(iii)), or

"(III) export financing interest which (but for subparagraph (B)(ii)) would be high withholding tax interest.

"(ii) GENERAL DESCRIPTION OF FINANCIAL SERVICES INCOME.—Income is described in this clause if such income is—

"(I) derived in the active conduct of a banking, financing, or similar business,

"(II) derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(III) of a kind which would be insurance income as defined in section 953(a) determined without regard to those provisions of paragraph (1)(A) of such section which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(iii) EXCEPTIONS.—The term 'financial services income' does not include—

"(I) any high withholding tax interest,

"(II) any dividend from a noncontrolled section 902 corporation, and

"(III) any export financing interest not described in clause (i)(III)."

(B) Clause (i) of section 864(d)(5)(A) of the 1986 Code is amended by striking out "(C)(iii)" and inserting in lieu thereof "(C)(iii)(III)".

(2) Subparagraph (D) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Such term does not include any dividend from a noncontrolled section 902 corporation and does not include any financial services income."

(3) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(H) EXCEPTION FOR CERTAIN HIGH WITHHOLDING TAX INTEREST.—This paragraph shall not apply to any amount which—

"(i) without regard to this paragraph, is high withholding tax interest (including

any amount treated as high withholding tax interest under paragraph (2)(B)(iii)), and

"(ii) would (but for this subparagraph) be treated as financial services income under this paragraph.

The amount to which this paragraph does not apply by reason of the preceding sentence shall not exceed the interest or equivalent income of the controlled foreign corporation taken into account in determining financial services income without regard to this subparagraph."

(4) Subparagraph (E) of section 904(d)(3) of the 1986 Code is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following: "If a controlled foreign corporation meets the requirements of section 954(b)(3)(A) (relating to de minimis rule) for any taxable year, for purposes of this paragraph, none of its foreign base company income (as defined in section 954(a) without regard to section 954(b)(5)) and none of its gross insurance income (as defined in section 954(b)(3)(C)) for such taxable year shall be treated as income in a separate category, except that this sentence shall not apply to any income which (without regard to this sentence) would be treated as financial services income.", and

(B) by striking out "income (other than high withholding tax interest and dividends from a noncontrolled section 902 corporation)" and inserting in lieu thereof "passive income".

(5) Paragraph (2) of section 1201(e) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF AFFILIATED GROUP FILING CONSOLIDATED RETURN.—For purposes of this paragraph, all members of an affiliated group of corporations filing a consolidated return shall be treated as 1 corporation."

(6) Subparagraph (A) of section 904(d)(2) of the 1986 Code is amended—

(A) by striking out "The term" in clause (ii) and inserting in lieu thereof "Except as provided in clause (iii), the term", and

(B) by adding at the end thereof the following new clause:

"(iv) CLARIFICATION OF APPLICATION OF SECTION 864(d)(6).—In determining whether any income is of a kind which would be foreign personal holding company income, the rules of section 864(d)(6) shall apply only in the case of income of a controlled foreign corporation."

(7) Subparagraph (F) of section 904(d)(3) of the 1986 Code is amended to read as follows:

"(F) SEPARATE CATEGORY.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'separate category' means any category of income described in subparagraph (A), (B), (C), (D), or (E) of paragraph (1).

"(ii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—

"(I) In determining whether any income of a controlled foreign corporation is in a separate category, subclause (III) of paragraph (2)(A)(iii) shall not apply.

"(II) Any income of the taxpayer which is treated as income in a separate category under this paragraph shall be so treated notwithstanding any provision of paragraph (2); except that the determination of whether any amount is high-taxed income shall be made after the application of this paragraph."

(8) Clause (iii) of section 904(d)(2)(B) of the 1986 Code is amended to read as follows:

"(iii) REGULATIONS.—The Secretary may by regulations provide that—

"(I) amounts (not otherwise high withholding tax interest) shall be treated as high withholding tax interest where necessary to prevent avoidance of the purposes of this subparagraph, and

"(II) a tax shall not be treated as a withholding tax or other tax imposed on a gross basis if such tax is in the nature of a prepayment of a tax imposed on a net basis."

(9) Clause (ii) of section 904(d)(2)(I) of the 1986 Code is amended by striking out "except to the extent that" and all that follows down through "and" at the end thereof and inserting in lieu thereof the following:

"except that—

"(I) such taxes shall be treated as paid or accrued with respect to shipping income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income,

"(II) in the case of a person described in subparagraph (C)(i), such taxes shall be treated as paid or accrued with respect to financial services income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and

"(III) such taxes shall be treated as paid or accrued with respect to high withholding tax interest to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and".

(10) Clause (i) of section 904(d)(2)(E) of the 1986 Code is amended—

(A) by striking out "during which it was a controlled foreign corporation" and inserting in lieu thereof "during which it was a controlled foreign corporation and the taxpayer was a related person to such corporation", and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, the term 'related person' has the meaning given such term by section 954(d)(3), except that the Secretary may by regulation provide that such section be applied by substituting '10 percent' for '50 percent' each place it appears."

(11) Subparagraph (E) of section 904(d)(1) of the 1986 Code is amended by striking out "dividends" and inserting in lieu thereof "in the case of a corporation, dividends".

(b) AMENDMENT RELATED TO SECTION 1202 OF THE REFORM ACT.—

(1) Paragraph (7) of section 902(c) of the 1986 Code is amended—

(A) by striking out "secton 960" and inserting in lieu thereof "section 960", and

(B) by striking out "this section" the second place it appears and inserting in lieu thereof "this section and section 960".

(2) Paragraph (1) of section 902(c) of the 1986 Code is amended by striking out "sections 964 and 986" and inserting in lieu thereof "sections 964(a) and 986".

(3) For purposes of sections 902 and 960 of the 1986 Code, the increase in earnings and profits of any foreign corporation under section 1023(e)(3)(C) of the Reform Act shall be taken into account ratably over the 10-year period beginning with the corporation's first taxable year beginning after December 31, 1986.

(4) Paragraph (3) of section 404A(d) of the 1986 Code is amended by striking out "the amount determined" and inserting in lieu thereof "except as provided in regulations, the amount determined".

(c) AMENDMENT RELATED TO SECTION 1203 OF THE REFORM ACT.—Paragraph (5) of section 904(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) DISPOSITIONS.—If any separate limitation loss for any taxable year is allocated against any separate limitation income for such taxable year, except to the extent provided in regulations, rules similar to the rules of paragraph (3) shall apply to any disposition of property if gain from such disposition would be in the income category with respect to which there was such separate limitation loss."

(d) AMENDMENTS RELATED TO SECTION 1211 OF THE REFORM ACT.—

(1) Subsection (d) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (C).—

"(A) GAIN NOT IN EXCESS OF DEPRECIATION ADJUSTMENTS SOURCED UNDER SUBSECTION (C).—Notwithstanding paragraph (1), any gain from the sale of an intangible shall be sourced under subsection (c) to the extent such gain does not exceed the depreciation adjustments with respect to such intangible.

"(B) SUBSECTION (C)(2) NOT TO APPLY TO INTANGIBLES.—Paragraph (2) of subsection (c) shall not apply to any gain from the sale of an intangible."

(2) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "(d), or (f)" and inserting in lieu thereof "(d)(1)(B) or (3), or (f)".

(3)(A) Clause (ii) of section 865(g)(1)(A) of the 1986 Code is amended by striking out "partnership,".

(B) Subsection (h) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF PARTNERSHIPS.—In the case of a partnership, except as provided in regulations, this section shall be applied at the partner level."

(4) Subsection (f) of section 865 of the 1986 Code is amended to read as follows:

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate which is a foreign corporation,

"(2) such sale occurs in a foreign country in which such affiliate is engaged in the active conduct of a trade or business, and

"(3) more than 50 percent of the gross income of such affiliate for the 3-year period ending with the close of such affiliate's taxable year immediately preceding the year in which the sale occurred was derived from the active conduct of a trade or business in such foreign country,

any gain from such sale shall be sourced outside the United States. For purposes of paragraphs (2) and (3), the United States resident may elect to treat an affiliate and all other corporations which are wholly owned (directly or indirectly) by the affiliate as one corporation."

(5) Effective with respect to taxable years beginning after December 31, 1987, subparagraph (B) of section 865(e)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office or other fixed place of business of the taxpayer in a foreign country materially participated in the sale."

(6)(A) Subsection (g) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN STOCK SALES BY RESIDENTS OF PUERTO RICO.—Paragraph (2) shall not apply to the sale by an individual who was a bona fide resident of Puerto Rico during the entire taxable year of stock in a corporation if—

"(A) such corporation is engaged in the active conduct of a trade or business in Puerto Rico, and

"(B) more than 50 percent of its gross income for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year in which such sale occurred was derived from the active conduct of a trade or business in Puerto Rico.

For purposes of the preceding sentence, the taxpayer may elect to treat a corporation and all other corporations which are wholly owned (directly or indirectly) by such corporation as one corporation."

(B) Subsection (i) of section 865 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) providing that, subject to such conditions (which may include provisions comparable to section 877) as may be provided in such regulations, subsections (e)(1)(B) and (g)(2) shall not apply for purposes of sections 931, 933, and 936."

(7) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii) is derived from the sale or exchange (outside the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country participated materially in such sale."

(8) Section 865 of the 1986 Code is amended by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF GAINS FROM SALE OF CERTAIN STOCK OR INTANGIBLES AND FROM CERTAIN LIQUIDATIONS.—

"(1) IN GENERAL.—In the case of gain to which this subsection applies—

"(A) such gain shall be sourced outside the United States, but

"(B) subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such gain.

"(2) GAIN TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) GAIN FROM SALE OF CERTAIN STOCK OR INTANGIBLES.—Any gain—

"(i) which is from the sale of stock in a foreign corporation or an intangible (as defined in subsection (d)(2)) and which would otherwise be sourced in the United States under this section,

"(ii) which, under a treaty obligation of the United States (applied without regard to this section), would be sourced outside the United States, and

"(iii) with respect to which the taxpayer chooses the benefits of this subsection.

"(B) GAIN FROM LIQUIDATION IN POSSESSION.—Any gain which is derived from the liquidation of a corporation—

"(i) which is organized in a possession of the United States, and

"(ii) more than 50 percent of the gross income of which during the 3-taxable year period ending with the close of the taxable year immediately preceding the taxable year in which the liquidation occurs is from the active conduct of a trade or business in such possession."

(9) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "outside the United States" the first place it appears and inserting in lieu thereof "in a foreign country".

(10) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended—

(A) by striking out "(including any gain or loss realized on the sale or exchange of such property)" in clause (i), and

(B) by striking out ", or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness" in clause (ii).

(11) Clause (i) of section 865(g)(1)(A) of the 1986 Code is amended to read as follows—

"(i) any individual who—

"(I) is a United States citizen or a resident alien and does not have a tax home (as defined in section 911(d)(3)) in a foreign country, or

"(II) is a nonresident alien and has a tax home (as so defined) in the United States, and".

(12) Paragraph (2) of section 865(d) of the 1986 Code is amended by inserting "franchise," after "trade brand,".

(e) AMENDMENTS RELATED TO SECTION 1212 OF THE REFORM ACT.—

(1)(A) Paragraph (3) of section 883(c) of the 1986 Code is amended to read as follows:

"(3) SPECIAL RULES FOR PUBLICLY TRADED CORPORATIONS.—

"(A) EXCEPTION.—Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the requirements of such paragraph, or the United States.

"(B) TREATMENT OF STOCK OWNED BY PUBLICLY TRADED CORPORATION.—Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized."

(B) Paragraph (1) of section 883(c) of the 1986 Code is amended—

(i) by striking out "Paragraphs (1) and (2) of subsection (a)" and inserting in lieu thereof "Paragraph (1) or (2) of subsection (a) (as the case may be)", and

(ii) by striking out "such paragraphs (1) and (2)" and inserting in lieu thereof "such paragraph".

(2)(A) Paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "to citizens of the United States and".

(B) Paragraphs (1) and (2) of section 872(b) of the 1986 Code are each amended by striking out "to citizens of the United States and to corporations organized in the United States" and inserting in lieu thereof "to individual residents of the United States".

(3)(A) The section heading for section 863 of the 1986 Code is amended to read as follows:

"SEC. 863. SPECIAL RULES FOR DETERMINING SOURCE."

(B) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to section 863 and inserting in lieu thereof the following:

"Sec. 863. Special rules for determining source."

(4) Subsection (c) of section 862 is hereby repealed.

(5) Paragraphs (1) and (2) of section 872(b) of the 1986 Code and paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "operation" and inserting in lieu thereof "international operation".

(6) Paragraph (1) of section 887(b) of the 1986 Code is amended—

(A) by striking out "under section 863(c)" and inserting in lieu thereof "under section 863(c)(2)", and

(B) by adding at the end thereof the following new sentence: "To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply."

(f) AMENDMENT RELATED TO SECTION 1213 OF THE REFORM ACT.—Paragraph (2) of section 863(e) of the 1986 Code is amended by striking out "foreign country" each place it appears and inserting in lieu thereof "foreign country (or possession of the United States)".

(g) AMENDMENTS RELATED TO SECTION 1214 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1214(d) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendments made by this section shall apply to payments made in a taxable year of the payor beginning after December 31, 1986."

(2) Subparagraph (B) of section 1214(d)(2) of the Reform Act is amended by striking out "section 904(d)(2)(G)" and inserting in lieu thereof "section 904(d)(2)(H)".

(3) Subparagraph (B) of section 861(c)(1) of the 1986 Code is amended—

(A) by striking out "subchapter)" in clause (i) and inserting in lieu thereof "subchapter) or, in the case of a corporation, is attributable to income so derived by a subsidiary of such corporation",

(B) by striking out "or chain of subsidiaries of such corporation" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'subsidiary' means any corporation in which the corporation referred to in this subparagraph owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears)."

(4) Paragraph (1) of section 2105(b) of the 1986 Code is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1)".

(5) Paragraph (2) of section 864(c) of the 1986 Code is amended by striking out the last sentence.

(6) Paragraph (3) of section 907(c) of the 1986 Code is amended:

(A) by striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(B) by striking out "and dividends described in subparagraph (B)".

(7) Subsection (a) of section 1442 of the 1986 Code is amended—

(A) by striking out "and the references in" and inserting in lieu thereof "the references in", and

(B) by inserting before the period at the end thereof the following: ", and the reference in section 1441(c)(10) to section 871(i)(2) shall be treated as referring to section 881(d)".

(h) Amendments Related to Section 1215 of the Reform Act.—

(1) Paragraph (4) of section 864(e) of the 1986 Code is amended to read as follows:

"(4) Basis of stock in nonaffiliated 10-percent owned corporations adjusted for earnings and profits changes.—

"(A) In general.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any stock in a nonaffiliated 10-percent owned corporation shall be—

"(i) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(ii) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(B) Nonaffiliated 10-percent owned corporation.—For purposes of this paragraph, the term 'nonaffiliated 10-percent owned corporation' means any corporation if—

"(i) such corporation is not included in the taxpayer's affiliated group, and

"(ii) members of such affiliated group own 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(C) Earnings and profits of lower tier corporations taken into account.—

"(i) In general.—If, by reason of holding stock in a nonaffiliated 10-percent owned corporation, the taxpayer is treated under clause (iii) as owning stock in another corporation with respect to which the stock ownership requirements of clause (ii) are met, the adjustment under subparagraph (A) shall include an adjustment for the amount of the earnings and profits (or deficit therein) of such other corporation which are attributable to the stock the taxpayer is so treated as owning and to the period during which the taxpayer is treated as owning such stock.

"(ii) Stock ownership requirements.—The stock ownership requirements of this clause are met with respect to any corporation if members of the taxpayer's affiliated group own (directly or through the application of clause (iii)) 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(iii) Stock owned through entities.—For purposes of this subparagraph, stock owned (directly or indirectly) by a corporation, partnership, or trust shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence, shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(D) Coordination with subpart F, etc.—For purposes of this paragraph, proper adjustment shall be made to the earnings and profits of any corporation to take into account any earnings and profits included in gross income under section 951 or under any other provision of this title and reflected in the adjusted basis of the stock."

(2)(A) Paragraph (1) of section 864(e) of the 1986 Code is amended by striking out "from sources outside the United States".

(B) Subsection (h) of section 936 of the 1986 Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) Section 864(e)(1) not to apply.—This subsection shall be applied as if section 864(e)(1) (relating to treatment of affiliated groups) had not been enacted."

(C) The heading for part I of subchapter N of chapter 1 of the 1986 Code is amended to read as follows:

"PART I—SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME".

(D) The table of parts for subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Source rules and other general rules relating to foreign income."

(3) Paragraph (3) of section 864(e) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "A similar rule shall apply in the case of the portion of any dividend (other than a qualifying dividend as defined in section 243(b)) equal to the deduction allowable under section 243 or 245(a) with respect to such dividend and in the case of a like portion of any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined)."

(4)(A) Paragraph (5) of section 864(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Treatment of bank holding companies.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956), and

"(ii) any subsidiary of a financial institution described in section 581 or 591 or of any bank holding company if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (C)."

(B) Subparagraph (B) of section 864(e)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of paragraph (6)."

(5) Paragraph (6) of section 864(e) of the 1986 Code is amended by striking out "directly allocable and apportioned" and inserting in lieu thereof "directly allocable or apportioned".

(6)(A) Paragraph (7) of section 864(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) for direct allocation of interest expense in the case of indebtedness resulting in a disallowance under section 246A,

"(E) for appropriate adjustments in the application of paragraph (3) in the case of an insurance company, and

"(F) that this subsection shall not apply for purposes of any provision of this subchapter to the extent the Secretary determines that the application of this subsection for such purposes would not be appropriate."

(B) Subsection (e) of section 864 of the 1986 Code is amended by striking out "(except as provided in regulations)" in the material preceding paragraph (1).

(7) Paragraph (2) of section 1215(c) of the Reform Act is amended to read as follows:

"(2) Transitional rules.—

"(A) General phase-in.—

"(i) In general.—In the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the general phase-in amount.

"(ii) General phase-in amount.—Except as provided in clause (iii), the general phase-in amount for purposes of clause (i) is the applicable percentage (determined under the following table) of the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985:

"In the case of the:	*The applicable percentage is:*
1st taxable year ...	*75*
2nd taxable year..	*50*
3rd taxable year...	*25.*

"(iii) Lower limit where taxpayer reduces indebtedness.—For purposes of applying this subparagraph to interest expenses attributable to any month, the general phase-in amount shall in no event exceed the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985. To the extent provided in regulations, the average amount of indebtedness outstanding during any month shall be used (in lieu of the amount outstanding as of the close of such month) for purposes of the preceding sentence.

"(B) Consolidation rule not to apply to certain interest.—

"(i) In general.—In the case of the 1st 5 taxable years of the taxpayer beginning after December 31, 1986—

"(I) subparagraph (A) shall not apply for purposes of paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section), but

"(II) such paragraph (1) shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the special phase-in amount.

"(ii) Special phase-in amount.—The special phase-in amount for purposes of clause (i) is the sum of—

"(I) the general phase-in amount as determined for purposes of subparagraph (A),

"(II) the 5-year phase-in amount, and

"(III) the 4-year phase-in amount.

For purposes of applying this subparagraph to interest expense attributable to any month, the special phase-in amount shall in no event exceed the limitation determined under subparagraph (A)(iii).

"(iii) 5-year phase-in amount.—The 5-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount reduced by paydowns:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year	8⅓	10
2nd taxable year	16⅔	25
3rd taxable year	25	50
4th taxable year	33⅓	100
5th taxable year	16⅔	100.

"(iv) 4-YEAR PHASE-IN AMOUNT.—The 4-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount reduced by paydowns to the extent such paydowns exceed the 5-year debt amount:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year	5	6¼
2nd taxable year	10	16⅔
3rd taxable year	15	37½
4th taxable year	20	100
5th taxable year	0	0.

"(v) 5-YEAR DEBT AMOUNT.—The term '5-year debt amount' means the excess (if any) of—

"(I) the amount of the outstanding indebtedness of the taxpayer on May 29, 1985, over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1983.

The 5-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985.

"(vi) 4-YEAR DEBT AMOUNT.—The term '4-year debt amount' means the excess (if any) of—

"(I) the amount referred to in clause (v)(II), over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1982.

The 4-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, reduced by the 5-year debt amount.

"(vii) PAYDOWNS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the term 'paydowns' means the excess (if any) of—

"(I) the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, over

"(II) the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985 (or, to the extent provided in regulations under subparagraph (A)(iii), the average amount of indebtedness outstanding during any such month).

"(C) COORDINATION OF SUBPARAGRAPHS (A) AND (B).—In applying subparagraph (B), there shall first be taken into account indebtedness to which subparagraph (A) applies.

"(D) SPECIAL RULES.—

"(i) In the case of the 1st 9 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the applicable percentage (determined under the following table) of the indebtedness described in clause (iii) or (iv):

"In the case of the:	The applicable percentage is:
1st taxable year	90
2nd taxable year	80
3rd taxable year	70
4th taxable year	60
5th taxable year	50
6th taxable year	40
7th taxable year	30
8th taxable year	20
9th taxable year	10.

"(ii) The provisions of this subparagraph shall apply in lieu of the provisions of subparagraphs (A) and (B).

"(iii) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

"(iv) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

"(E) TREATMENT OF AFFILIATED GROUP.—For purposes of this paragraph, all members of the same affiliated group of corporations (as defined in section 864(e)(5)(A) of the Internal Revenue Code of 1986, as added by this section) shall be treated as 1 taxpayer whether or not such members filed a consolidated return."

"(F) ELECTION TO HAVE PARAGRAPH NOT APPLY.—A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph not apply. In the case of members of the same affiliated group (as so defined), such an election may be made only if each member consents to such election."

(i) AMENDMENTS RELATED TO SECTION 1221 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 953(c)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a disqualified corporation for the taxable year for which the election was made or for any prior taxable year beginning after 1986."

(B) Clause (i) of section 953(c)(3)(D) of the 1986 Code is amended to read as follows:

"(i) PERIOD DURING WHICH ELECTION IN EFFECT.—

"(I) IN GENERAL.—Except as provided in subclause (II), any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(II) TERMINATION.—If a foreign corporation which made an election under subparagraph (C) for any taxable year is a disqualified corporation for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year."

(C) Paragraph (3) of section 953(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) DISQUALIFIED CORPORATION.—For purposes of this paragraph the term 'disqualified corporation' means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation for an uninterrupted period of 30 days or more during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such corporation at some time during such taxable year."

(2)(A) Paragraph (1) of section 953(c) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection."

(B) Subsection (c) of section 953 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DETERMINATION OF PRO RATA SHARE.—

"(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

"(i) the amount which would be determined under paragraph (2) of section 951(a) if—

"(I) only related person insurance income were taken into account,

"(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

"(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

"(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

"(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A)."

(3)(A) Paragraph (2) of section 953(c) of 1986 Code is amended by striking out "with respect to which the primary insured is" and inserting in lieu thereof "with respect to which the person (directly or indirectly) insured is".

(B) Subparagraph (A) of section 953(c)(3) of the 1986 Code is amended—

(i) by striking out "persons who are the primary insured" and inserting in lieu thereof "persons who are (directly or indirectly) insured", and

(ii) by striking out "to any such primary insured" and inserting in lieu thereof "to any such person".

(C) The amendments made by this paragraph to the extent such amendments add the phrase "(directly or indirectly)" shall apply only to taxable years beginning after December 31, 1987.

(4)(A) Subsection (c) of section 953 of the 1986 Code (as amended by paragraph (2)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by section 954(d)(3).

"(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons."

(B) Paragraphs (2) and (3)(A) of section 953(c) of the 1986 Code are each amended by striking out "(within the meaning of section 954(d)(3))".

(5) Paragraph (2) of section 953(c) of the 1986 Code is amended by striking out "insurance income attributable" and inserting in lieu thereof "insurance income (within the meaning of subsection (a)) attributable".

(6) For purposes of applying section 952(c)(1)(A) of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under section 1023(e)(3)(C) of the Reform Act.

(7) Subsection (b) of section 953 of the 1986 Code is amended—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subparagraph (A) of paragraph (1) (as so redesignated) and inserting in lieu thereof the following:

"(A) The small life insurance company deduction.", and

(C) by striking out "(other than those taken into account under paragraph (3))" in paragraph (3) (as so redesignated).

(8) Subparagraph (B) of section 953(c)(3) of the 1986 Code is amended—

(A) by striking out "related person insurance income" and inserting in lieu thereof "related person insurance income (determined on a gross basis)", and

(B) by striking out "its insurance income" and inserting in lieu thereof "its insurance income (as so determined)".

(9) Subclause (II) of section 953(c)(3)(C)(i) of the 1986 Code is amended—

(A) by striking out "all benefits" and inserting in lieu thereof "all benefits (other than with respect to section 884)", and

(B) by striking out "under any income tax treaty" and inserting in lieu thereof "granted by the United States under any treaty".

(10) Paragraph (7) of section 861(a) of the 1986 Code is amended to read as follows:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of, the United States, or

"(B) in connection with risks not described in subparagraph (A) as a result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to issuing (or reinsuring) any insurance or annuity contract in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, the United States."

(11) Subparagraph (A) of section 955(a)(2) of the 1986 Code is amended by striking out "beginning before 1987" and inserting in lieu thereof "beginning before 1987 (to the extent such amount exceeds the sum of the decreases in qualified investments determined under this paragraph for prior taxable years beginning after 1986)".

(12) Paragraphs (6) and (7) of section 954(b) of the 1986 Code are each amended by striking out "(determined without regard to the exclusion under paragraph (2) of this subsection)".

(13)(A) Subparagraph (C) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "July 9" and inserting in lieu thereof "June 9", and

(ii) by striking out "March 31, 1982" and inserting in lieu thereof "November 3, 1981".

(B) Subparagraph (D) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "as of August 16, 1986, under a reinsurance contract in effect on such date" and inserting in lieu thereof "under a reinsurance contract",

(ii) by striking out "the preceding sentence" and inserting in lieu thereof "this subparagraph", and

(iii) by adding at the end thereof the following: "For purposes of this paragraph, the amount of qualified reinsurance income shall not exceed the amount of insurance income from reinsurance contracts for calendar year 1985. In the case of controlled foreign corporations described in subparagraph (C)(ii), the preceding sentence shall not apply and the qualified reinsurance income of any such corporation shall not exceed such corporation's proportionate share of $27,000,000 (determined on the basis of respective amounts of qualified reinsurance income determined without regard to this subparagraph)."

(14)(A) Paragraph (3) of section 954(d) of the 1986 Code is amended by striking out "50 percent or more" each place it appears and inserting in lieu thereof "more than 50 percent".

(B) Clause (ii) of section 861(c)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) such section shall be applied by substituting '10 percent or more' for 'more than 50 percent' each place it appears."

(15) Subsection (b) of section 951 of the 1986 Code is amended by striking out "section 957(d)" and inserting in lieu thereof "section 957(c)".

(16) Subsection (c) of section 952 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation."

(17) Subparagraph (A) of section 881(c)(4) of the 1986 code is amended by striking out clauses (ii), (iii), (iv), and (v) and inserting in lieu thereof the following:

"(ii) Paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes).

"(iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons)."

(18) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) which is an interest in a trust, partnership, or REMIC, or".

(19)(A) Subsection (a) of section 6046 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and".

(B) Subsection (b) of section 6046 of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of subsection (a)".

(C) Subsection (a) of section 6046 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation."

(20) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In the case of any regular dealer in property, gains and losses from the sale or exchange of any such property or arising out of bona fide hedging transactions reasonably necessary to the conduct of the business of being a dealer in such property shall not be taken into account under this subparagraph. Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(1) also shall not be taken into account under this subparagraph."

(21) Subsection (c) of section 953 (as amended by this subsection) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) COORDINATION WITH SECTION 1248.—If any person is treated under paragraph (1) as a United States shareholder with respect to any foreign corporation, for purposes of section 1248, such person shall be treated as meeting the stock ownership requirements of section 1248(a)(2) with respect to such foreign corporation.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

"(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

"(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation."

(22) Subclause (III) of section 952(c)(1)(B)(iii) of the 1986 Code is amended by striking out "insurance income" and inserting in lieu thereof "insurance income

or foreign personal holding company income,".

(23) Clause (iii) of section 952(c)(1)(B) of the 1986 Code is amended by redesignating subclauses (III) and (IV) as subclauses (V) and (VI), respectively, and by inserting after subclause (II) the following new subclauses:

"(III) foreign base company sales income,

"(IV) foreign base company services income,".

(24) Clause (ii) of section 952(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In determining the deficit attributable to qualified activities described in clause (iii)(III) or (IV), deficits in earnings and profits (to the extent not previously taken into account under this section) for taxable years beginning after 1962 and before 1987 also shall be taken into account. In the case of the qualified activity described in clause (iii)(II), the rule of the preceding sentence shall apply, except that '1982' shall be substituted for '1962'."

(25)(A) Paragraph (1) of section 952(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year which is attributable to any qualified activity by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation to the extent such deficit is attributable to such activity. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under subparagraph (B).

"(ii) QUALIFIED CHAIN MEMBER.—For purposes of this subparagraph, the term 'qualified chain member' means, with respect to any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—

"(I) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

"(II) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.

"(iii) COORDINATION.—This subparagraph shall be applied after subparagraphs (A) and (B)."

(B) Subparagraph (B) of section 954(c)(3) of the 1986 Code is amended by inserting before the period at the end thereof the following: "or creates (or increases) a deficit which under section 952(c) may reduce the subpart F income of the payor or another controlled foreign corporation".

(j) AMENDMENT RELATED TO SECTION 1224 OF THE REFORM ACT.—Paragraph (2) of section 901(g) of the 1986 Code and section 936(d)(3)(B) of the 1986 Code are each amended by striking out "section 957(c)" and inserting in lieu thereof "section 957(c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(k) AMENDMENT RELATED TO SECTION 1225 OF THE REFORM ACT.—Subsection (c) of section 1225 of the Reform Act is amended by striking out "March 1, 1986" and inserting in lieu thereof "January 1, 1986".

(l) AMENDMENTS RELATED TO SECTION 1226 OF THE REFORM ACT.—

(1) Subsection (a) of section 246A of the 1986 Code is amended by striking out the last sentence.

(2)(A) Paragraph (8) of section 245 of the 1986 Code is amended to read as follows:

"(8) DISALLOWANCE OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation."

(B) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) COORDINATION WITH TREATIES.—If—

"(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

"(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

"(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend)."

(3) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) COORDINATION WITH SECTION 1248.—For purposes of this subsection, the term 'dividend' does not include any amount treated as a dividend under section 1248."

(m) AMENDMENTS RELATED TO SECTION 1228 OF THE REFORM ACT.—

(1) Subsection (a) of section 1228 of the Reform Act is amended by striking out "and" at the end of paragraph (3), and by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) the transfer, sale, exchange, or other disposition is part of a single integrated plan, whereby the stock of the corporation described in paragraph (1) becomes owned directly by the 2 corporations specifically referred to in subsection (b) or by such 2 corporations and by 1 or both of their jointly owned direct subsidiaries,

"(5) within 20 days after each transfer, sale, exchange, or other disposition, the person making such transfer, sale, exchange, or other disposition notifies the Internal Revenue Service of the transaction, the date of the transaction, the basis of the stock involved, the holding period for such stock, and such other information as the Internal Revenue Service may require, and

"(6) the integrated plan is completed before the date 4 years after the date of the enactment of the Technical Corrections Act of 1988.

In the case of any underpayment attributable to a failure to meet any requirement of this subsection, the period during which such underpayment may be assessed shall in no event expire before the date 5 years after the date of the enactment of the Technical Corrections Act of 1988."

(2) Subsection (c) of section 1228 of the Reform Act is hereby repealed.

(n) AMENDMENTS RELATED TO SECTION 1231 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1231(g)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of any transfer (or license) which is not to a foreign person, the preceding sentence shall be applied by substituting 'August 16, 1986' for 'November 16, 1985'."

(2) Subparagraph (B) of section 1231(g)(2) of the Reform Act is amended by striking out "was made" and inserting in lieu thereof ", if any, was made".

(3) Subsection (g) of section 1231 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE FOR INCREASE IN GROSS INCOME TEST.—

"(A) IN GENERAL.—If—

"(i) a corporation fails to meet the requirements of subparagraph (B) of section 936(a)(2) of the Internal Revenue Code of 1986 (as amended by subsection (d)(1)) for any taxable year beginning in 1987 or 1988,

"(ii) such corporation would have met the requirements of such subparagraph (B) if such subparagraph had been applied without regard to the amendment made by subsection (d)(1), and

"(iii) 75 percent or more of the gross income of such corporation for such taxable year (or, in the case of a taxable year beginning in 1988, for the period consisting of such taxable year and the preceding taxable year) was derived from the active conduct of a trade or business within a possession of the United States, such corporation shall nevertheless be treated as meeting the requirements of such subparagraph (B) for such taxable year if it elects to reduce the amount of the qualified possession source investment income for the taxable year by the amount of the shortfall determined under subparagraph (B) of this paragraph.

"(B) DETERMINATION OF SHORTFALL.—The shortfall determined under this subparagraph for any taxable year is an amount equal to the excess of—

"(i) 75 percent of the gross income of the corporation for the 3-year period (or part thereof) referred to in section 936(a)(2)(A) of such Code, over

"(ii) the amount of the gross income of such corporation for such period (or part thereof) which was derived from the active conduct of a trade or business within a possession of the United States.

"(C) SPECIAL RULE.—Any income attributable to the investment of the amount not treated as qualified possession source investment income under subparagraph (A) shall not be treated as qualified possession source investment income for any taxable year."

(4) Subparagraph (B) of section 1231(a)(1) of the Reform Act is amended by striking out "at the end thereof" and inserting in lieu thereof "at the end of the material relating to payment of cost sharing".

(5)(A) Clause (ii) of section 936(d)(4)(A) of the 1986 Code is amended to read as follows:

"(ii) in accordance with a specific authorization granted by the Commissioner of Financial Institutions of Puerto Rico pursuant to regulations issued by such Commissioner."

(B) Clauses (i) and (ii) of section 936(d)(4)(C) of the 1986 Code are each amended by striking out "the Secretary of the Treasury of Puerto Rico" and inserting in lieu thereof "the Commissioner of Financial Institutions of Puerto Rico".

(o) AMENDMENT RELATED TO SECTION 1234 OF THE REFORM ACT.—Subsection (d) of section 6039E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence)."

(p) AMENDMENTS RELATED TO SECTION 1235 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—This section shall not apply with respect to any distribution paid by a passive foreign investment company, or any disposition of stock in a passive foreign investment company, if such company is a qualified electing fund for each of its taxable years—

"(A) which begins after December 31, 1986, and for which such company is a passive foreign investment company, and

"(B) which includes any portion of the taxpayer's holding period."

(2) Subsection (c) of section 1296 of the 1986 Code is amended by striking out "owns at least" and inserting in lieu thereof "owns (directly or indirectly) at least".

(3) Paragraph (3) of section 1291(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 551(d), 959(a), or 1293(c)."

(4) Paragraph (2) of section 1294(c) of the 1986 Code is amended—

(A) by striking out "is disposed of" in subparagraph (A) and inserting in lieu thereof "is transferred",

(B) by striking out "such disposition or cessation" each place it appears and inserting in lieu thereof "such transfer or cessation", and

(C) by striking out "DISPOSITIONS" in the paragraph heading and inserting in lieu thereof "TRANSFERS".

(5) Paragraph (1) of section 1296(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c)."

(6)(A) Subsection (f) of section 1291 of the 1986 Code is amended to read as follows:

"(f) RECOGNITION OF GAIN.—To the extent provided in regulations, in the case of any transfer of stock in a passive foreign investment company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of any such stock for gain recognized under the preceding sentence."

(B) Subsection (e) of section 1291 of the 1986 Code is amended by striking out "Rules similar" and inserting in lieu thereof "Except to the extent inconsistent with the regulations prescribed under subsection (f), rules similar".

(7)(A) Paragraphs (4) and (5) of section 1291(a) of the 1986 Code are hereby repealed.

(B) Section 1291 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign investment company—

"(A) the amount of such distribution shall be determined for purposes of this section with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in subsection (a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904(d) and not below zero) the increase in tax determined under subsection (c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248."

(8) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this section, see section 6601."

(9) Paragraph (2) of section 1291(e) of the 1986 Code is amended by striking out "not" the second place it appears.

(10)(A) Subsection (a) of section 1297 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock."

(B) Paragraph (5) of section 1297(a) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)".

(11) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) LOOK-THRU APPLIES TO PASSIVE FOREIGN INVESTMENT COMPANY INCLUSION.—If—

"(i) a passive foreign investment company is a controlled foreign corporation, and

"(ii) the taxpayer is a United States shareholder in such controlled foreign corporation,

any amount included in gross income under section 1293 shall be treated as income in a separate category to the extent such amount is attributable to income in such category."

(12) Clause (ii) of section 1291(a)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any period in the taxpayer's holding period before the 1st day of the 1st taxable year of the company which begins after December 31, 1986, and for which it was a passive foreign investment company, and".

(13) Subparagraph (A) of section 1291(b)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B)."

(14) Subparagraph (A) of section 1291(a)(3) of the 1986 Code is amended by striking out "in the case of an excess distribution" and inserting in lieu thereof "for purposes of applying this section to an excess distribution".

(15) Subsection (b) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, if the fund establishes to the satisfaction of the Secretary that it uses a shorter period than the taxable year to determine shareholders' interests in the earnings of such fund, pro rata shares may be determined by using such shorter period."

(16) Subparagraph (B) of section 1296(b)(2) of the 1986 Code is amended by striking out "by a corporation which" and inserting in lieu thereof "by a corporation which is predominantly engaged in an insurance business and which".

(17) Paragraph (5) of section 1297(b) of the 1986 Code is amended to read as follows:

"(5) APPLICATION OF PART WHERE STOCK HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—Under regulations, in any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of subsection (a)—

"(i) any disposition by the United States person or the person owning such stock which results in the United States person being treated as no longer owning such stock, or

"(ii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign investment company.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) and to any amount included in gross income under section 1293(a) (or which would have been so included but for section 951(f)) in respect of stock which the taxpayer is treated as owning under subsection (a)."

(18) Subsection (e) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF EARNINGS AND PROFITS.—The earnings and profits of any qualified electing fund shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the qualified electing fund."

(19) Subsection (d) of section 1248 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 1293.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 1293 with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount under section 1293(c)."

(20) Paragraph (6) of section 1297(b) of the 1986 Code is amended by striking out "If a" and inserting in lieu thereof "Except as provided in regulations, if a".

(21) Section 1246 of the 1986 Code is amended by redesignating the subsection relating to information with respect to certain foreign investment companies as subsection (f), by redesignating the subsection relating to coordination with section 1248 as subsection (g), and by redesignating the subsection relating to cross reference as subsection (h).

(22) Subparagraph (A) of section 1297(b)(3) of the 1986 Code is amended to read as follows:

"(A) neither such corporation (nor any predecessor) was a passive foreign investment company for any prior taxable year,".

(23) Subsection (c) of section 1293 of the 1986 Code is amended by striking out "shall be treated as a distribution which is not a dividend" and inserting in lieu thereof "shall be treated, for purposes of this chapter, as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits".

(24) Subsection (b) of section 1297 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If—

"(i) a foreign corporation is subject to the tax imposed by section 531 (or waives any benefit under any treaty which would otherwise prevent the imposition of such tax), and

"(ii) such foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation,

for purposes of determining whether such foreign corporation is a passive foreign investment company, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust."

(25) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this section and section 1293, any loan by a qualified electing fund (directly or indirectly) to a shareholder of such fund shall be treated as a distribution to such shareholder.

(26)(A) Paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3)."

(B) The paragraph heading for paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "EXCEPTION FOR CERTAIN BANKS AND INSURANCE COMPANIES" and inserting in lieu thereof "EXCEPTIONS".

(27) Subsection (a) of section 1296 of the 1986 Code is amended by adding at the end thereof the following new sentences:

"A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(28) Paragraph (2) of section 1291(d) of the 1986 Code is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign investment company becomes a qualified electing fund for a taxable year which begins after December 31, 1986,

"(II) the taxpayer holds stock in such company on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation (as defined in section 957(a)),

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such company attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under subsection (a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of such company beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the company was a passive foreign investment company.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph."

(29)(A) Clause (ii) of section 904(d)(2)(A) of the 1986 Code is amended by striking out "or section 1293" and inserting in lieu thereof "or, except as provided in subparagraph (E)(iii) or paragraph (3)(I), section 1293".

(B) Subparagraph (E) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF INCLUSIONS UNDER SECTION 1293.—If any foreign corporation is a non-controlled section 902 corporation with respect to the taxpayer, any inclusion under section 1293 with respect to such corporation shall be treated as a dividend from such corporation."

(30) Clause (ii) of section 864(b)(2)(A) of the 1986 Code is amended by striking out "section 542(c)(7)" and inserting in lieu thereof "section 542(c)(7), 542(c)(10),".

(31) Paragraph (1) of section 1291(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year."

(32) Section 1293 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) OTHER SPECIAL RULES.—

"(1) EXCEPTION FOR CERTAIN INCOME.—For purposes of determining the amount included in the gross income of any person under this section, the ordinary earnings and net capital gain of a qualified electing fund shall not include any item of income received by such fund if—

"(A) such fund is a controlled foreign corporation (as defined in section 957(a)) and such person is a United States shareholder (as defined in section 951(b)) in such fund, and

"(B) such person establishes to the satisfaction of the Secretary that—

"(i) such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11, or

"(ii) such income is—

"(I) from sources within the United States,

"(II) effectively connected with the conduct by the qualified electing fund of a trade or business in the United States, and

"(III) not exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

"(2) PREVENTION OF DOUBLE INCLUSION.—The Secretary shall prescribe such adjustment to the provisions of this section as may be necessary to prevent the same item of income of a qualified electing fund from being included in the gross income of a United States person more than once."

(33) Paragraph (3) of section 1291(b) of the 1986 Code (as amended by paragraph (3)) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign investment company."

(34) Paragraph (2) of section 1294(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, the preceding sentence shall not apply in the case of a transfer in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the transferee in such transaction shall succeed to the treatment under this section of the transferor."

(35) Section 1297 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign investment company is owned (or treated as owned under subsection (a)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(1) section 1291 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1291) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(2) section 1293 shall not apply with respect to such stock, and

"(3) in determining whether section 1291 applies to any distribution in respect of such stock, subsection (d) of section 1291 shall not apply."

(36) Paragraph (1) of section 1297(b) of the 1986 Code is amended by striking out "passive foreign investment corporation" and inserting in lieu thereof "passive foreign investment company".

(q) AMENDMENTS RELATED TO SECTION 1241 OF THE ACT.—

(1)(A) Subparagraph (B) of section 884(b)(2) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—

"(i) IN GENERAL.—The increase under subparagraph (A) for any taxable year shall not exceed the accumulated effectively connected earnings and profits as of the close of the preceding taxable year.

"(ii) ACCUMULATED EFFECTIVELY CONNECTED EARNINGS AND PROFITS.—For purposes of clause (i), the term 'accumulated effectively connected earnings and profits' means the excess of—

"(I) the aggregate effectively connected earnings and profits for preceding taxable years beginning after December 31, 1986, over

"(II) the aggregate dividend equivalent amounts determined for such preceding taxable years."

(B) For purposes of applying section 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) and 1021(e)(2)(C) of the Reform Act or arising from section 823(b)(4)(C) of the 1986 Code.

(2)(A) Paragraph (1) of section 884(e) is amended to read as follows:

"(1) LIMITATION ON TREATY EXEMPTION.—No treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless—

"(A) such treaty is an income tax treaty, and

"(B) such foreign corporation is a qualified resident of such foreign country."

(B) Paragraph (3) of section 884(e) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH WITHHOLDING TAX.—

"(A) IN GENERAL.—If a foreign corporation is subject to the tax imposed by subsection (a) for any taxable year (determined after the application of any treaty), no tax shall be imposed by section 871(a), 881(a), 1441, or 1442 on any dividends paid by such corporation out of its earnings and profits for such taxable year.

"(B) LIMITATION ON CERTAIN TREATY BENEFITS.—If—

"(i) any dividend described in section 861(a)(2)(B) is received by a foreign corporation, and

"(ii) subparagraph (A) does not apply to such dividend,

rules similar to the rules of subparagraphs (A) and (B) of subsection (f)(3) shall apply to such dividend."

(C) Subsection (f) of section 884 of the 1986 Code is amended—

(i) by striking out the 2nd sentence of paragraph (1), and

(ii) by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TREATIES.—

"(A) PAYOR MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is paid or accrued by a foreign corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country.

"(B) RECIPIENT MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is received or accrued by any corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country."

(3) Paragraph (1) of section 884(f) of the 1986 Code is amended—

(A) by striking out "sections 871, 881, 1441, and 1442" and inserting in lieu thereof "this subtitle", and

(B) by adding at the end thereof the following new sentence:

"To the extent provided in regulations, subparagraph (A) shall not apply to interest in excess of the amounts reasonably expected to be deductible under section 882 in computing the effectively connected taxable income of such foreign corporation."

(4) Paragraph (4) of section 884(e) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CORPORATIONS OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such corporation is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) the stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States."

(5) Subparagraph (A) of section 884(e)(4) of the 1986 Code is amended—

(A) by striking out "more than 50 percent" in clause (i) and inserting in lieu thereof "50 percent or more", and

(B) by striking out "or the United States" in clause (ii) and inserting in lieu thereof "or citizens or residents of the United States".

(6) Subsection (e) of section 884 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR INTERNATIONAL ORGANIZATIONS.—This section shall not apply to an international organization (as defined in section 7701(a)(18))."

(7) Subparagraph (B) of section 861(a)(2) of the 1986 Code is amended by striking out "other than under section 884(d)(2)" each place it appears and inserting in lieu thereof "other than income described in section 884(d)(2)".

(8) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 884 (relating to branch profits tax)."

(9) Section 861 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCE.—

"For treatment of interest paid by the branch of a foreign corporation, see section 884(f)."

(10) The paragraph (6) of section 906(b) of the 1986 Code which was added by section 1241(c) of the Reform Act is redesignated as paragraph (7).

(11) Subsection (c) of section 2104 of the 1986 Code is amended by striking out "section 861(a)(1)(B), section 861(a)(1)(G), or section 861(a)(1)(H)" and inserting in lieu thereof "subparagraph (A), (C), or (D) of section 861(a)(1)".

(12) Subparagraph (A) of section 904(g)(9) of the 1986 Code is amended by striking out "861(a)(1)(B)" and inserting in lieu thereof "861(a)(1)(A)".

(13)(A) Paragraph (1) of section 4373 of the 1986 Code is amended to read as follows:

"(1) EFFECTIVELY CONNECTED ITEMS.—Any amount which is effectively connected with the conduct of a trade or business within the United States unless such amount is exempt from the application of section 882(a) pursuant to a treaty obligation of the United States."

(B) The amendment made by subparagraph (A) shall apply with respect to premiums paid after the date 30 days after the date of the enactment of this Act.

(14) Paragraph (1) of section 884(f) of the 1986 Code is amended by inserting "(or having gross income treated as effectively connected with the conduct of a trade or business in the United States)" after "United States" in the material preceding subparagraph (A) thereof.

(r) AMENDMENTS RELATED TO SECTION 1242 OF THE REFORM ACT.—

(1) Paragraph (7) of section 864(c) of the 1986 Code is amended to read as follows:

"(7) TREATMENT OF CERTAIN PROPERTY TRANSACTIONS.—For purposes of this title, if—

"(A) any property ceases to be used or held for use in connection with the conduct of a trade or business within the United States, and

"(B) such property is disposed of within 10 years after such cessation,

the determination of whether any income or gain attributable to such disposition is taxable under section 871(b) or 882 (as the case may be) shall be made as if such sale or exchange occurred immediately before such cessation and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year for which such income or gain is taken into account."

(2) Paragraph (6) of section 864(c) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN DEFERRED PAYMENTS, ETC.—For purposes of this title, in the case of any income or gain of a nonresident alien individual or a foreign corporation which—

"(A) is taken into account for any taxable year, but

"(B) is attributable to a sale or exchange of property or the performance of services (or any other transaction) in any other taxable year,

the determination of whether such income or gain is taxable under section 871(b) or 882 (as the case may be) shall be made as if such income or gain were taken into account in such other taxable year and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year referred to in subparagraph (A)."

(s) AMENDMENTS RELATED TO SECTION 1246 OF THE REFORM ACT.—

(1)(A) Section 1446 of the 1986 Code is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME.

"(a) GENERAL RULE.—If—

"(1) a partnership has effectively connected taxable income for any taxable year, and

"(2) any portion of such income is allocatable under section 704 to a foreign partner,

such partnership shall pay a withholding tax under this section at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) AMOUNT OF WITHHOLDING TAX.—

"(1) IN GENERAL.—The amount of the withholding tax payable by any partnership under subsection (a) shall be equal to the applicable percentage of the effectively connected taxable income of the partnership which is allocable under section 704 to foreign partners.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) the highest rate of tax specified in section 1 in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners who are not corporations, and

"(B) the highest rate of tax specified in section 11(b) in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners which are corporations.

"(c) EFFECTIVELY CONNECTED TAXABLE INCOME.—For purposes of this section, the term 'effectively connected taxable income' means the taxable income of the partnership which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States computed with the following adjustments:

"(1) Paragraph (1) of section 703(a) shall not apply.

"(2) The partnership shall be allowed a deduction for depletion with respect to oil and gas wells but the amount of such deduction shall be determined without regard to sections 613 and 613A.

"(3) There shall not be taken into account any item of income, gain, loss, or deduction to the extent allocable under section 704 to any partner who is not a foreign partner.

"(d) TREATMENT OF FOREIGN PARTNERS.—

"(1) ALLOWANCE OF CREDIT.—Each foreign partner of a partnership shall be allowed a credit under section 33 for such partner's share of the withholding tax paid by the partnership under this section. Such credit shall be allowed for the partner's taxable year in which (or with which) the partnership taxable year (for which such tax was paid) ends.

"(2) CREDIT TREATED AS DISTRIBUTED TO PARTNER.—A foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the last day of the partnership's taxable year (for which such tax was paid).

"(e) FOREIGN PARTNER.—For purposes of this section, the term 'foreign partner' means any partner who is not a United States person.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for the application of this section in the case of publicly traded partnerships."

(B) Paragraph (2) of section 6401(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any credit so allowed by reason of section 1446."

(C) The table of sections for subchapter A of chapter 3 of the 1986 Code is amended by striking out the item relating to section 1446 and inserting in lieu thereof the following:

"Sec. 1446. Withholding of tax on foreign partners' share of effectively connected income."

(D) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987. No amount shall be required to be deducted and withheld under section 1446 of the 1986 Code (as in effect before the amendment made by subparagraph (A)).

(2)(A) Subsection (a) of section 872 of the 1986 Code is amended by striking out "the case of a nonresident alien individual" and inserting in lieu thereof "the case of a nonresident alien individual, except where the context clearly indicates otherwise".

(B) Subsection (b) of section 882 of the 1986 Code is amended by striking out the "the case of a foreign corporation" and inserting in lieu thereof "the case of a foreign corporation, except where the context clearly indicates otherwise".

(t) AMENDMENTS RELATED TO SECTION 1247 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 892(a)(2) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) derived from the disposition of any interest in a controlled commercial entity."

(2) Clause (ii) of section 892(a)(2)(A) of the 1986 Code is amended to read as follows:

"(ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity."

(3) Subsection (a) of section 892 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS RESIDENT.—For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligation of the United States if such government grants equivalent treatment to the Government of the United States."

(4) Section 893 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) LIMITATION ON EXCLUSION.—Subsection (a) shall not apply to—

"(1) any employee of a controlled commercial entity (as defined in section 892(a)(2)(B)), or

"(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government."

(u) AMENDMENT RELATED TO SECTION 1249 OF THE REFORM ACT.—Subsection (d) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) TREATMENT OF LOSSES OF SEPARATE BUSINESS UNITS.—To the extent provided in regulations, any loss of a separate unit of a domestic corporation shall be subject to the limitations of this subsection in the same manner as if such unit were a wholly owned subsidiary of such corporation.

"(4) INCOME ON ASSETS ACQUIRED AFTER THE LOSS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection by contributing assets to the corporation with the dual consolidated loss after such loss was sustained."

(v) AMENDMENTS RELATED TO SECTION 1261 OF THE REFORM ACT.—

(1)(A) So much of section 986 of the 1986 Code as precedes subsection (c) thereof is amended to read as follows:

"SEC. 986. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS.

"(a) FOREIGN TAXES.—

"(1) IN GENERAL.—For purposes of determining the amount of the foreign tax credit—

"(A) any foreign income taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

"(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.

"(b) EARNINGS AND PROFITS AND DISTRIBUTIONS.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate."

(B) Section 987 of the 1986 Code is amended by inserting "and" at the end of paragraph (2), by striking out ", and" at the end of paragraph (3) and inserting in lieu thereof a period, and by striking out paragraph (4).

(C) The table of sections for subpart J of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 986 and inserting in lieu thereof the following:

"Sec. 986. Determination of foreign taxes and foreign corporation's earnings and profits."

(2)(A) Subsection (c) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES WHERE TAXPAYER TAKES OR MAKES DELIVERY.—If the taxpayer takes or makes delivery in connection with any section 988 transaction described in paragraph (1)(B)(iii), any gain or loss (determined as if the taxpayer sold the contract, option, or instrument on the date on which he took or made delivery for its fair market value on such date) shall be recognized in the same manner as if such contract, option, or instrument were so sold."

(B) The amendment made by subparagraph (A) shall not apply in any case in which the taxpayer takes or makes delivery before June 11, 1987.

(3)(A) Subsection (b) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRACTS, ETC.—In the case of any section 988 transaction described in subsection (c)(1)(B)(iii), any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(B) Subclause (II) of section 988(c)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(II) any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(C) Paragraph (2) of section 988(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(D) Paragraph (3) of section 988(c) of the 1986 Code is amended to read as follows:

"(3) PAYMENT DATE.—The term 'payment date' means the date on which the payment is made or received."

(4) The first sentence of paragraph (1) of section 988(d) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

(5) Subsection (b) of section 989 of the 1986 Code is amended—

(A) by striking out "951(a)" in paragraph (3) and inserting in lieu thereof "951(a)(1)(A)", and

(B) by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, any amount included in income under section 951(a)(1)(B) shall be treated as an actual distribution made on the last day of the taxable year for which such amount was so included."

(6) Clause (iii) of section 988(c)(1)(B) of the 1986 Code is amended to read as follows:

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year."

(7) Subparagraph (B) of section 988(a)(3) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR PARTNERSHIPS.—To the extent provided in regulations, in the case of a partnership, the determination of residence shall be made at the partner level."

(8) Clause (i) of section 988(a)(3)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If an individual does not have a tax home (as so defined), the residence of such individual shall be the United States if such individual is a United States citizen or a resident alien and shall be a country other than the United States if such individual is not a United States citizen or a resident alien."

(9) Section 903 of the 1986 Code is amended by striking out "this subpart" and inserting in lieu thereof "this part".

(w) AMENDMENTS RELATED TO SECTION 1274 OF THE REFORM ACT.—

(1) Subsection (e) of section 932 of the 1986 Code is amended to read as follows:

"(e) SPECIAL RULE FOR APPLYING SECTION TO TAX IMPOSED IN VIRGIN ISLANDS.—In applying this section for purposes of determining income tax liability incurred to the Virgin Islands, the provisions of this section shall not be affected by the provisions of Federal law referred to in section 934(a)."

(2) Paragraph (4) of section 932(c) of the 1986 Code is amended to read as follows:

"(4) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual—

"(A) who is a bona fide resident of the Virgin Islands at the close of the taxable year,

"(B) who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, and

"(C) who fully pays his tax liability referred to in section 934(a) to the Virgin Islands with respect to such income,

for purposes of calculating income tax liability to the United States, gross income shall not include any amount included in gross income on such return, and allocable deductions and credits shall not be taken into account."

(3) Paragraph (2) of section 932(c) of the 1986 Code is amended by striking out "his income tax return" and inserting in lieu thereof "an income tax return".

(4) Subsection (c) of section 1274 of the Reform Act is amended by striking out "this title" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(x) AMENDMENT RELATED TO SECTION 1275 OF THE REFORM ACT.—Section 1444 of the 1986 Code is amended by striking out "(as modified by section 934A)".

(y) AMENDMENT RELATED TO SECTION 1276 OF THE REFORM ACT.—Subsection (a) of section 7654 of the 1986 Code is amended by striking out "an individual to which" and inserting in lieu thereof "an individual to whom".

(z) AMENDMENT RELATED TO SECTION 1277 OF THE REFORM ACT.—

(1) Section 1277 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsection (b), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986."

(2) Subsection (e) of section 1277 of the Act is amended by striking out "The preceding sentence" and inserting in lieu thereof "Notwithstanding subsection (b), the preceding sentence".

(aa) COORDINATION WITH TREATIES.—

(1) TREATY OBLIGATIONS.—(A) Subsection (d) of section 7852 of the 1986 Code is amended to read as follows:

"(d) TREATY OBLIGATIONS—

"(1) IN GENERAL.—For purposes of determining the relationship between a provision of a treaty and any law of the United States affecting revenue, neither the treaty nor the law shall have preferential status by reason of its being a treaty or law.

"(2) SAVINGS CLAUSE.—No provision of this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 16, 1954."

(B) Section 7852(d)(1) of the 1986 Code, as added by subparagraph (A), shall apply to any taxable period with respect to which the time for assessment of any deficiency has not expired by reason of any law or rule of law before the date of the enactment of this Act.

(2) CERTAIN AMENDMENTS TO APPLY NOTWITHSTANDING TREATIES.—The following amendments made by the Reform Act shall apply notwithstanding any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1201 of the Reform Act.

(B) The amendments made by title VII of the Reform Act to the extent such amendments relate to the alternative minimum tax foreign tax credit.

(3) CERTAIN AMENDMENTS NOT TO APPLY TO THE EXTENT INCONSISTENT WITH TREATIES.—The following amendments made by the Reform Act shall not apply to the extent the application of such amendments would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1211 of the Reform Act to the extent—

(i) such amendments apply in the case of an individual treated as a resident of a foreign country under a treaty obligation of the United States as so in effect, or

(ii) such amendments relate to income of a nonresident from the sale or exchange of inventory property which would otherwise be sourced under section 865(e)(2) of the 1986 Code.

(B) The amendments made by section 1212(a) of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(C) The amendments made by subsections (b) and (c) of section 1212 of the Reform Act.

(D) The amendments made by section 1214 of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(E) The amendment made by section 1241(a) of the Reform Act to the extent that, under a treaty obligation of the United States, interest described in section 884(f)(1)(A) of the 1986 Code (as added by such amendment) which is in excess of amounts deducted would be treated as other than United States source.

(F) The amendment made by section 1241(b)(2)(A) of the Reform Act.

(G) The amendment made by section 1241(a) of the Reform Act to the extent such amendment relates to section 884(f)(1)(B) of the 1986 Code.

(H) The amendments made by section 1242 of the Reform Act to the extent they relate to paragraph (7) of section 864(c) of the 1986 Code.

(I) The amendment made by section 1247(a) of the Reform Act.

(J) The amendments made by section 123 of the Reform Act.

(4) TREATMENT OF TECHNICAL CORRECTIONS.—For purposes of paragraphs (2) and (3), any amendment made by this title shall be treated as if it had been included in the provision of the Reform Act to which such amendment relates.

(5) REPORTING OF CERTAIN TREATY-BASED RETURN POSITIONS.—

(A) Subchapter B of chapter 61 of the 1986 Code is amended by redesignating section 6114 as section 6115 and by inserting after section 6113 the following new section:

"SEC. 6114. TREATY-BASED RETURN POSITIONS.

"(a) IN GENERAL.—Each taxpayer who, with respect to any tax imposed by this title, takes the position that a treaty of the United States overrules (or otherwise modifies) a law of the United States affecting revenue which was enacted after the provision of such treaty entered into force shall disclose (in such manner as the Secretary may prescribe) such position—

"(1) on the return of tax for such tax (or any statement attached to such return), or

"(2) if no return of tax is required to be filed, in such form as the Secretary may prescribe.

"(b) WAIVER AUTHORITY.—The Secretary may waive the requirement under subsection (a) in cases in which the Secretary finds that the disclosure is not necessary for the administration of the internal revenue laws."

(B) Part I of subchapter B of chapter 68 of the 1986 Code is amended by adding at the end thereof the following new section:

"SEC. 6712. FAILURE TO DISCLOSE TREATY-BASED RETURN POSITIONS.

"(a) GENERAL RULE.—If a taxpayer fails to meet the requirements of section 6114, there is hereby imposed a penalty equal to $500 ($5,000 in the case of a C corporation) on each such failure.

"(b) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by this section on a showing by the taxpayer that there was reasonable cause for the failure and that the taxpayer acted in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty imposed by law."

(C)(i) The table of sections for subchapter B of chapter 61 of the 1986 Code is amended by striking out the item relating to section 6114 and inserting in lieu thereof the following:

"Sec. 6114. Treaty-based return positions.

"Sec. 6115. Cross reference.

(ii) The table of sections for part I of subchapter B of chapter 68 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 6712. Failure to disclose treaty-based return positions."

(D) The amendments made by this paragraph shall apply to taxable periods the due date for filing returns for which (without extension) occurs after December 31, 1988.

(bb) MISCELLANEOUS FOREIGN TECHNICAL CORRECTIONS.—

(1) PROVISIONS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—

(A) Subsection (f) of section 551 of the 1986 Code is amended—

(i) by amending paragraph (1) to read as follows:

"(1) a foreign partnership or an estate or trust which is a foreign estate or trust, or", and

(ii) by striking out the last sentence and inserting in lieu thereof the following: "In any case to which the preceding sentence applies, the Secretary may by regulations provide that rules similar to the rules of section 1297(b)(5) shall apply, and provide for such other adjustments in the application of this subchapter as may be necessary to carry out the purposes of this subsection."

(B) Subsection (a) of section 551 of the 1986 Code is amended by striking out "(other than estates or trusts the gross income of which under this subtitle includes only income from sources within the United States)" and inserting in lieu thereof "(other than foreign estates or trusts)".

(C) Subsection (c) of section 552 of the 1986 Code is amended to read as follows:

"(c) LOOK-THRU FOR CERTAIN DIVIDENDS AND INTEREST.—

"(1) IN GENERAL.—For purposes of this part, any related person dividend or interest shall be treated as foreign personal holding company income only to the extent such dividend or interest is attributable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which would be foreign personal holding company income.

"(2) RELATED PERSON DIVIDEND OR INTEREST.—For purposes of paragraph (1), the term 'related person dividend or interest' means any dividend or interest which—

"(A) is described in subparagraph (A) of section 954(c)(3), and

"(B) is received from a related person which is not a foreign personal holding company (determined without regard to this subsection).

For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(D) The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TREATMENT OF CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

(A) Subparagraph (A) of section 3405(d)(13) of the 1986 Code is amended by striking out "the United States" and inserting in lieu thereof "the United States and any possession of the United States".

(B) Clause (i) of section 3405(d)(13)(B) of the 1986 Code is amended to read as follows:

"(i) a United States citizen or a resident alien of the United States, or".

(C) The heading of paragraph (13) of section 3405(d) of the 1986 Code is amended by striking out "UNITED STATES" and inserting in lieu thereof "UNITED STATES OR ITS POSSESSIONS".

(D) The amendments made by this paragraph shall apply to distributions made after the date of the enactment of this Act.

(3) CLARIFICATION OF DISCLOSURE UNDER CERTAIN AGREEMENTS.—

(A) Paragraph (4) of section 6103(k) of the 1986 Code is amended—

(i) by striking out "or other convention" and inserting in lieu thereof "or other convention or bilateral agreement", and

(ii) by striking out "such convention" and inserting in lieu thereof "such convention or bilateral agreement".

(B) Subparagraph (A) of section 6103(b)(5) of the 1986 Code is amended by striking out "the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau" and inserting in lieu thereof "and the Commonwealth of the Northern Mariana Islands".

(C) The amendments made by this paragraph shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(4) COORDINATION OF TREATIES WITH SECTION 904(G).—

(A) Subsection (g) of section 904 of the 1986 Code is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) COORDINATION WITH TREATIES.—

"(A) IN GENERAL.—If—

"(i) any amount derived from a United States-owned foreign corporation would be treated as derived from sources within the United States under this subsection by reason of an item of income of such United States-owned foreign corporation,

"(ii) under a treaty obligation of the United States (applied without regard to this subsection and by treating any amount included in gross income under section 951(a)(1) as a dividend), such amount would be treated as arising from sources outside the United States, and

"(iii) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such amount to the extent attributable to such item of income (but subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to such amount to the extent so attributable).

"(B) SPECIAL RULE.—Amounts included in gross income under section 951(a)(1) shall be treated as a dividend under subparagraph (A)(ii) only if dividends paid by each corporation (the stock in which is taken into account in determining whether the shareholder is a United States shareholder in the United States-owned foreign corporation), if paid to the United States shareholder, would be treated under a treaty obligation of the United States as arising from sources outside the United States (applied without regard to this subsection)."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 121 of the Tax Reform Act of 1984.

(5) TREATMENT OF ELECTION UNDER SECTION 338.—

(A) IN GENERAL.—Subsection (h) of section 338 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(16) COORDINATION WITH FOREIGN TAX CREDIT PROVISIONS.—Except as provided in regulations, this section shall not apply for purposes of determining the source or character of any item for purposes of subpart A of part III of subchapter N of this chapter (relating to foreign tax credit). The preceding sentence shall not apply to any gain to the extent such gain is includible in gross income as a dividend under section 1248 (determined without regard to any deemed sale under this section by a foreign corporation)."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to qualified stock purchases (as defined in section 338(d)(3) of the 1986 Code) after March 31, 1988, except that, in the case of an election under section 338(h)(10) of the 1986 Code, such amendment shall apply to qualified stock purchases (as so defined) after June 10, 1987.

(6) TREATMENT OF TAX-EXEMPT SHAREHOLDERS OF A DISC.—

(A) Section 995 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF TAX-EXEMPT SHAREHOLDERS.—If any organization described in subsection (a)(2) or (b)(2) of section 511 is a shareholder in a DISC—

"(1) any amount deemed distributed to such shareholder under subsection (b),

"(2) any actual distribution to such shareholder which under section 996 is treated as out of accumulated DISC income, and

"(3) any gain which is treated as a dividend under subsection (c),

shall be treated as derived from the conduct of an unrelated trade or business (and the modifications of section 512(b) shall not apply). The rules of the preceding sentence shall apply also for purposes of determing any such shareholder's DISC-related deferred tax liability under subsection (f)."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987.

(7) TREATMENT OF CERTAIN AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.—

(A) IN GENERAL.—Subsection (e) of section 959 of the 1986 Code is amended by striking out "such person under" and inserting in lieu thereof "such person (or, in any case to which section 1248(e) applies, of the domestic corporation referred to in section 1248(e)(2)) under".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in the case of transactions to which section 1248(e) of the 1986 Code applies and which occur after December 31, 1986.

(8) TREATMENT OF SHARED FSC'S.—

(A) IN GENERAL.—Section 927 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF SHARED FSC'S.—

"(1) IN GENERAL.—Except as provided in paragraph (2) , each separate account referred to in paragraph (3) maintained by a shared FSC shall be treated as a separate corporation for purposes of this subpart.

"(2) CERTAIN REQUIREMENTS APPLIED AT SHARED FSC LEVEL.—Paragraph (1) shall not apply—

"(A) for purposes of—

"(i) subparagraphs (A), (B), (D), and (E) of section 922(a)(1),

"(ii) paragraph (2) of section 922(a),

"(iii) subsections (b), (c), and (e) of section 924, and

"(iv) subsection (f) of this section, and

"(B) for such other purposes as the Secretary may by regulations prescribed.

"(3) SHARED FSC.—For purposes of this subsection, the term 'shared FSC' means any corporation if—

"(A) such corporation maintains a separate account for transactions with each shareholder (and persons related to such shareholder),

"(B) distributions to each shareholder are based on the amounts in the separate account maintained with respect to such shareholder, and

"(C) such corporation meets such other requirements as the Secretry may by regulations prescribe."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

(9) CLARIFICATION OF DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM A FSC.—

(A) Subsection (c) of section 245 of the 1986 Code is amended to read as follows:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

"(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

"(3) NO DEDUCTION UNDER SUBSECTION (a) OR (b).—No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) FOREIGN TRADE INCOME; EXEMPT FOREIGN TRADE INCOME.—The terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923.

"(B) EFFECTIVELY CONNECTED INCOME.—The term 'effectively connected income' means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

SEC. 113. AMENDMENTS RELATED TO TITLE XIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1301 OF THE REFORM ACT.—

(1) Clause (iii) of section 142(d)(4)(B) of the 1986 Code is amended by striking out "average rent" and inserting in lieu thereof "average gross rent".

(2) Clause (iii) of section 143(a)(2)(A) of the 1986 Code is amended by striking out "no bond which is part of such issue meets" and inserting in lieu thereof "such issue does not meet".

(3) Paragraph (4) of section 143(b) of the 1986 Code is amended by inserting "is part of an issue which" after "which".

(4)(A) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by inserting "(or series of bonds)" before "issued to refund".

(B)(i) Subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(ii) Subparagraph (A) of section 144(a)(12) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(iii) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code if such bond met the requirement of such subclause as in effect before the amendments made by this subparagraph.

(C) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

(5) Subparagraph (B) of section 144(b)(1) of the 1986 Code is amended—

(A) by striking out "to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply", and

(B) by striking out "of such Act" and inserting in lieu thereof "of the Higher Education Act of 1965", and

(C) by striking out "eligible" and all that follows in such subparagraph and inserting in lieu thereof the following: "eligible. A program shall not be treated as described in this subparagraph if such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is a part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a))."

(6) Subclause (I) of section 145(b)(2)(B)(ii) of the 1986 Code is amended by striking out "103(b)" and inserting in lieu thereof "103(b)(2)".

(7) Clause (i) of section 145(b)(2)(C) of the 1986 Code is amended by striking out "subparagraph (B)(ii)" and inserting in lieu thereof "subparagraph (B)".

(8) Paragraph (4) of section 145(b) of the 1986 Code is amended by striking out "subparagraphs (C) and (D)" and inserting in lieu thereof "subparagraphs (C), (D), and (E)".

(9) Subparagraph (A) of section 146(f)(5) of the 1986 Code (as in effect before the amendments made by section 10631 of the Revenue Act of 1987) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(10)(A) Paragraph (1) of section 146(k) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(B) Subsection (k) of section 146 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)—

"(A) for an output facility, or

"(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(11) Subsection (e) of section 147 of the 1986 Code is amended by striking out "treated as".

(12) Subsection (f) of section 147 of the 1986 Code (relating to public approval requirement for private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR SCHOLARSHIP FUNDING BOND ISSUES AND VOLUNTEER FIRE DEPARTMENT BOND ISSUES.—

"(A) SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond, any governmental unit which made a request described in section 150(d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150(d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

"(B) VOLUNTEER FIRE DEPARTMENT BONDS.—In the case of a bond of a volunteer fire department which meets the requirements of section 150(e), the political subdivision described in section 150(e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued."

(13)(A) Paragraph (1) of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue) is amended by striking out "aggregate face amount of the issue" and inserting in lieu thereof "proceeds of the issue".

(B) Paragraph (2) of section 147(g) of the 1986 Code is amended by striking out "aggregate authorized face amount of the issue does not" and inserting in lieu thereof "proceeds of the issue do not".

(C) The amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(14) Paragraph (2) of section 148(d) of the 1986 Code (relating to special rules for reasonably required reserve or replacement fund) is amended by striking out "any fund described in paragraph (1)" and inserting in lieu thereof "any reserve or replacement fund".

(15) Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence: "A series of issues which are redeemed during a 6-month period (or such longer period as the Secretary may prescribe) shall be treated (at the election of the issuer) as 1 issue for purposes of the preceding sentence if no bond which is part of any issue in such series has a maturity of more than 270 days or is a private activity bond."

(16)(A) Subclause (I) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax or revenue anticipation bonds are expended) is amended by striking out "aggregate face amount of such issue" and inserting in lieu thereof "proceeds of such issue".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(17)(A) Subparagraph (C) of section 148(f)(4) of the 1986 Code is amended—

(i) by striking out the heading and inserting in lieu thereof:

"(C) EXCEPTION FOR GOVERNMENTAL UNITS ISSUING $5,000,000 OR LESS OF BONDS.—

"(i) IN GENERAL.—",

(ii) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and moving the margins of such subclauses 2 ems to the right, and

(iii) by striking out the last sentence and inserting in lieu thereof the following new clauses:

"(ii) AGGREGATION OF ISSUERS.—For purposes of subclause (IV) of clause (i)—

"(I) an issuer and all entities which issue bonds on behalf of such issuer shall be treated as 1 issuer,

"(II) all bonds issued by a subordinate entity shall, for purposes of applying such subclause to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(III) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of such subclause (IV) and all other entities benefiting thereby shall be treated as 1 issuer.

"(iii) CERTAIN REFUNDING BONDS NOT TAKEN INTO ACCOUNT IN DETERMINING SMALL ISSUER STATUS.—There shall not be taken into account under subclause (IV) of clause (i) any bond issued to refund (other than to advance refund) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(iv) CERTAIN ISSUES ISSUED BY SUBORDINATE GOVERNMENTAL UNITS, ETC., EXEMPT FROM REBATE REQUIREMENT.—An issue issued by a subordinate entity of a governmental unit with general taxing powers shall be treated as described in clause (i)(I) if the aggregate face amount of such issue does not exceed the lesser of—

"(I) $5,000,000, or

"(II) the amount which, when added to the aggregate face amount of other issues issued by such entity, does not exceed the portion of the $5,000,000 limitation under clause (i)(IV) which such governmental unit allocates to such entity.

For purposes of the preceding sentence, an entity which issues bonds on behalf of a governmental unit with general taxing powers shall be treated as a subordinate entity of such unit. An allocation shall be taken into account under subclause (II) only if it is irrevocable and made before the issuance date of such issue and only to the extent that the limitation so allocated bears a reasonable relationship to the benefits received by such governmental unit from issues issued by such entity.

"(v) DETERMINATION OF WHETHER REFUNDING BONDS ELIGIBLE FOR EXCEPTION FROM REBATE REQUIREMENT.—If any portion of an issue is issued to refund other bonds, such portion shall be treated as a separate issue which does not meet the requirements of paragraphs (2) and (3) by reason of this subparagraph unless—

"(I) the aggregate face amount of such issue does not exceed $5,000,000,

"(II) each refunded bond was issued as part of an issue which was treated as meeting the requirements of paragraphs (2) and (3) by reason of this subparagraph,

"(III) the average maturity date of the refunding bonds issued as part of such issue is not later than the average maturity date of the bonds to be refunded by such issue, and

"(IV) no refunding bond has a maturity date which is later than the date which is 30 years after the date the original bond was issued.

Subclause (III) shall not apply if the average maturity of the issue of which the original bond was a part (and of the issue of which the bonds to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(vi) REFUNDINGS OF BONDS ISSUED UNDER LAW PRIOR TO TAX REFORM ACT OF 1986.—If section 141(a) did not apply to any refunded bond, the issue of which such refunded bond was a part shall be treated as meeting the requirements of subclause (II) of clause (v) if—

"(I) such issue was issued by a governmental unit with general taxing powers,

"(II) no bond issued as part of such issue was an industrial development bond (as defined in section 103(b)(2), but without regard to subparagraph (B) of section 103(b)(3)) or a private loan bond (as defined in section 103(o)(2)(A), but without regard to any exception from such definition other than section 103(o)(2)(C)), and

"(III) the aggregate face amount of all tax-exempt bonds (other than bonds described in subclause (II)) issued by such unit during the calendar year in which such issue was issued did not exceed $5,000,000.

References in subclause (II) to section 103 shall be to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986. Rules similar to the rules of clauses (ii) and (iii) shall apply for purposes of subclause (III). For purposes of subclause (II) of clause (i), bonds described in subclause (II) of this clause to which section 141(a) does not apply shall not be treated as private activity bonds."

(B) Subclause (IV) of section 148(f)(4)(C)(i) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "(and all subordinate entities thereof)".

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the amendments made by this paragraph shall apply to such issuer as if included in the amendments made by section 1301(a) of the Tax Reform Act of 1986.

(18) Clause (i) of section 148(f)(4)(D) of the 1986 Code is amended—

(A) by inserting "for a program" before "described in section 144(b)(1)(A)",

(B) by striking out "such a program" and inserting in lieu thereof "such program", and

(C) by adding at the end thereof the following: "Amounts designated as interest on student loans shall not be taken into account in determining whether the issuer is reimbursed for such costs. Except as otherwise hereafter provided in regulations prescribed by the Secretary, costs described in subclause (I) paid from amounts earned as described in the first sentence of this clause may also be taken into account in determining the yield on the student loans under a program described in section 144(b)(1)(A)."

(19) Subparagraph (B) of section 148(f)(7) of the 1986 Code is amended by striking out "due to reasonable cause and not" and inserting in lieu thereof "not due".

(20) Clause (iii) of section 149(b)(3)(A) of the 1986 Code is amended by striking out "with respect to any bond issued before July 1, 1989".

(21) Subparagraph (A) of section 149(b)(4) of the 1986 Code is amended by striking out "a qualified student loan bond, and a qualified redevelopment bond" and inserting in lieu thereof "and a qualified student loan bond".

(22) Paragraph (3) of section 149(e) of the 1986 Code (relating to information reporting) is amended by striking out "there is

reasonable cause for the failure to file such statement in a timely fashion" and inserting in lieu thereof "the failure to file in a timely fashion is not due to willful neglect".

(23)(A) Subparagraph (B) of section 150(b)(4) of the 1986 Code (relating to change in use of facilities financed with tax-exempt private activity bonds) is amended by inserting before the period "or a qualified small issue bond".

(B) The heading for paragraph (4) of section 150(b) of the 1986 Code is amended by inserting "AND SMALL ISSUE BONDS" after "EXEMPT FACILITY BONDS".

(C) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting "tax-exempt" before "qualified mortgage bond".

(24)(A) Subsection (e) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS PRIVATE ACTIVITY BONDS ONLY FOR CERTAIN PURPOSES.—Bonds which are part of an issue which meets the requirements of paragraph (1) shall not be treated as private activity bonds except for purposes of sections 147(f) and 149(d)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(25) Clause (ii) of section 1301(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) Clause (ii) of section 25(c)(2)(A) is amended by striking out all that follows 'an amount of' and inserting in lieu thereof 'private activity bonds which it may otherwise issue during such calendar year under section 146,'."

(26) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages) is amended by striking out "1987" and inserting in lieu thereof "1988".

(27) The date contained in section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such 103A(c)(1) applies.

(28)(A) Subparagraph (A) of section 146(i)(2) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or".

(B) Subparagraph (A) of section 146(i)(3) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or".

(C) Subsection (i) of section 146 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) AVERAGE MATURITY.—For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(29) Subparagraph (D) of section 147(f)(2) of the 1986 Code is amended by striking out "the maturity date" and all that follows and inserting in lieu thereof "the average maturity date of the issue of which the refunded bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A)."

(30) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting before the period "and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing".

(31) Subparagraph (A) of section 150(b)(2) of the 1986 Code is amended by striking out "described paragraph" and inserting in lieu thereof "described in paragraph".

(32) Paragraph (2) of section 150(b) of the 1986 Code is amended by adding at the end thereof the following: "If the provisions of prior law corresponding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond."

(33) Subsection (b) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SMALL ISSUE BONDS WHICH EXCEED CAPITAL EXPENDITURE LIMITATION.—In the case of any financing provided from the proceeds of any bond which, when issued, purported to be a qualified small issue bond, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period such bond is not a qualified small issue bond."

(34)(A) Paragraph (7) of section 103(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking out "necessary" and inserting in lieu thereof "necessary".

(B) Subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which Treasury regulation section 1.103-13 (1979) was provided to apply.

(35) VALIDATION OF SINKING FUND REGULATIONS.—

(A) Treasury Regulation section 1.103-13(g) (1979) is hereby enacted into positive law.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply.

(ii) Treasury Regulation section 1.103-13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.

(36) Clause (i) of section 147(f)(2)(E) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term."

(37) The table of sections for part III of subchapter B of chapter 1 of the 1986 Code is amended by striking out the items relating to sections 103 and 103A and inserting in lieu thereof the following new item:

"Sec. 103. Interest on State and local bonds."

(38) Subparagraph (B) of section 141(b)(5) of the 1986 Code is amended by striking out "which would cause bond" and inserting in lieu thereof "which would cause a bond".

(39) Clause (ii) of section 142(b)(1)(B) of the 1986 Code is amended by striking out "(as defined in 168(i)(3))" and inserting in lieu thereof "(as defined in section 168(i)(3))".

(40) Subparagraph (B) of section 146(d)(4) of the 1986 Code is amended by striking out "with respect a possession" and inserting in lieu thereof "with respect to a possession".

(41) Clause (ii) of section 48(l)(11)(A) of the 1986 Code is amended by striking out "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(42) Subsection (a) of section 7478 of the 1986 Code is amended—

(A) by striking out "whether prospective obligations are described in section 103(a)" in paragraph (1) and inserting in lieu thereof "whether interest on prospective obligations will be excludable from gross income under section 103(a)", and

(B) by striking out "whether such prospective obligations are described in section 103(a)" and inserting in lieu thereof "whether interest on such prospective obligations will be excludable from gross income under section 103(a)".

(43)(A) Subsection (b) of section 148 of the 1986 Code (defining higher yielding investments) is amended by adding at the end thereof the following new paragraph:

"(3) ALTERNATIVE MINIMUM TAX BONDS TREATED AS INVESTMENT PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'investment property' does not include any tax-exempt bond.

"(B) EXCEPTION.—With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C)), the term 'investment property' includes a specified private activity bond (as so defined)."

(B) Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking the last sentence.

(C) The amendments made by this paragraph shall apply to obligations issued after March 31, 1988.

(44) Subparagraph (B) of section 46(c)(5) of the 1986 Code is amended—

(A) by striking out "INDUSTRIAL DEVELOPMENT BONDS" in the heading and inserting in lieu thereof "PRIVATE ACTIVITY BONDS", and

(B) by striking "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(b) AMENDMENTS RELATED TO SECTION 1311 OF THE REFORM ACT.—

(1) Section 1311 of the Reform Act is amended by redesignating subsection (d) as subsection (f), and by inserting after subsection (c) the following new subsections:

"(d) PUBLIC APPROVAL AND INFORMATION REPORTING.—Sections 147(f) and 149(e) of the 1986 Code shall apply to bonds issued after December 31, 1986.

"(e) REBATE REQUIREMENT FOR QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 150(d) of the 1986 Code shall apply to payments made after August 15, 1986."

(2) Paragraph (2) of section 1311(b) of the Reform Act (relating to effective date for section 1301(f)) is amended by inserting "with respect to non-issued bond amounts elected" after "issued".

(c) AMENDMENTS RELATED TO SECTION 1313 OF THE REFORM ACT.—

(1) Clause (i) of section 1313(a)(1)(B) of the Reform Act is amended by striking out "the proceeds" and inserting in lieu thereof "the net proceeds".

(2)(A) Subparagraph (C) of section 1313(a)(3) of the Reform Act is amended by *striking out "section 148" and inserting in lieu thereof "sections 143(g) and 148".*

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(3) Subparagraph (E) of section 1313(a)(3) of the Reform Act is amended by striking out "of such Code".

(4) Paragraph (3) of section 1313(a) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a refunding bond described in paragraph (1) with respect to a qualified bond described in paragraph (2)(B), the requirements of section 1312(b)(1) which applied to such qualified bond shall be treated as specified in this paragraph with respect to such refunding bond."

(5) Subparagraph (A) of section 1313(a)(4) of the Reform Act is amended by inserting "and by substituting 'September 1, 1986' for 'August 16, 1986'" before the comma at the end thereof.

(6) Paragraph (2) of section 1313(b) of the Reform Act is amended by adding at the end thereof "For purposes of the preceding sentence, the determination of whether a bond is described in such subsection (o)(2)(A) shall be made without regard to any exception other than section 103(o)(2)(C) of such Code."

(7) Subparagraph (F) of section 1313(b)(3) of the Reform Act is amended by striking out "of such Code".

(8) Paragraph (3) of section 1313(b) of the Reform Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds)."

(9) Paragraph (5) of section 1313(b) of the Reform Act is amended by striking out "are to be" and inserting in lieu thereof "are or will be".

(10)(A) The heading for subsection (c) of section 1313 of the Reform Act is amended by striking out "CURRENT" and inserting in lieu thereof "CERTAIN".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended—

(i) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)", and

(ii) by striking out "law do not" and inserting in lieu thereof "law did not".

(11)(A) Subparagraph (A) of section 1313(c)(1) of the Reform Act is amended to read as follows:

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code."

(C) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(D) Subparagraph (B) of section 1313(c)(2) of the Reform Act is amended by striking out "and (D)" and inserting in lieu thereof "and (C)".

(E) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subparagraph (A) of section 1313(c)(1) of the Reform Act if such bond met the requirement of such subparagraph as in effect before the amendments made by this paragraph.

(12)(A) Subparagraph (N) of section 103(b)(6) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act (relating to termination dates), is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by striking out clause (i) and inserting in lieu thereof the following new clauses:

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall not apply to any obligation issued after December 31, 1986.

"(ii) CERTAIN REFUNDINGS.—This paragraph shall apply to any obligation (or series of obligations) issued to refund an obligation issued on or before December 31, 1986, if—

"(I) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(II) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(III) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of subclause (I), average maturity shall be determined in accordance with subsection (b)(14)(B)(i)."

(B) The date applicable under section 144(a)(12)(B) of the 1986 Code shall be treated as contained in section 103(b)(6)(N)(iii) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such section 103(b)(6)(N)(iii) applies.

(13) Paragraph (2) of section 1313(c) of the Reform Act is amended—

(A) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)",

(B) by striking out "subsection does not" and inserting in lieu thereof "subsection did not", and

(C) by striking out "the proceeds" in subparagraph (A)(i) and inserting in lieu thereof "the net proceeds".

(14)(A) Section 1313 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) MORTGAGE AND STUDENT LOAN TARGETING RULES TO APPLY TO LOANS MADE MORE THAN 3 YEARS AFTER THE DATE OF THE ORIGINAL ISSUE.—Subsections (a)(3) and (b)(3) shall be treated as including the requirements of subsections (e) and (f) of section 143 and paragraphs (3) and (4) of section 144(b) of the 1986 Code with respect to bonds the proceeds of which are used to finance loans made more than 3 years after the date of the issuance of the original bond."

(B) The amendment made by subparagraph (A) shall apply with respect to refunding bonds issued after October 16, 1987.

(15) A bond issued to refund an obligation described in section 103(o)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall not be treated as described in section 144(b) of the 1986 Code unless it is described in section 144(b)(1)(A) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1314 OF THE REFORM ACT.—

(1) Subsection (a) of section 1314 of the Reform Act is amended by adding at the end thereof the following: "The treatment under the preceding sentence shall also apply to a bond issued before September 26, 1985, but only for purposes of determining whether any bond issued after June 10, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(2) Subsection (f) of section 1314 of the Reform Act is amended by striking out "December" and inserting in lieu thereof "August".

(3) Section 1314 of the Reform Act is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) TERMINATION OF MORTGAGE BOND POLICY STATEMENT REQUIREMENT.—Paragraph (5) of section 103A(j) of the 1954 Code (relating to policy statement) shall not apply to any bond issued after August 15, 1986, and shall not apply to nonissued bond amounts elected under section 25 of the 1986 Code after such date.

"(h) ARBITRAGE RESTRICTION ON INVESTMENTS IN INVESTMENT-TYPE PROPERTY.—In the case of a bond issued before August 16, 1986 (September 1, 1986 in the case of a bond described in section 1312(c)(2)), section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to investment-type property but only for purposes of determining whether any bond issued after October 16, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(e) AMENDMENTS RELATED TO SECTION 1315 OF THE REFORM ACT.—

(1) Subsection (c) of section 1315 of the Reform Act is amended—

(A) by inserting "for calendar year 1986" after "1954 Code" each place it appears,

(B) by striking out "before August 16" each place it appears and inserting in lieu thereof "on August 15", and

(C) by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to the extent section 1313(b)(5) treats any bond as a private activity bond for purposes of section 146 of the 1986 Code."

(2)(A) Subsection (e) of section 1315 of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any bond which (if issued on August 15, 1986) would have been an industrial development bond (as defined in section 103(b)(2) of the 1954 Code)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 10, 1987.

(f) AMENDMENTS RELATED TO SECTION 1316 OF THE REFORM ACT.—

(1)(A) Subsections (a)(1), (b)(1), (c)(1), and (f)(1) of section 1316 of the Reform Act are each amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(2) Subsection (c) of section 1316 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION 147(b).—A bond to which this subsection applies (other than

a refunding bond) shall be treated as meeting the requirements of section 147(b) of the 1986 Code if the average maturity (determined in accordance with section 147(b)(2)(A) of such Code) of the issue of which such bond is a part does not exceed 20 years. A bond issued to refund (or which is part of a series of bonds issued to refund) a bond described in the preceding sentence shall be treated as meeting the requirements of such section if the refunding bond has a maturity date not later than the date which is 20 years after the date on which the original bond was issued."

(3) Paragraph (1) of section 1316(e) of the Reform Act is amended—

(A) by inserting "(and section 103(h)(2)(B)(ii) of the 1954 Code)" after "1986 Code" the first place it appears, and

(B) by inserting "(and section 103(b)(16) of the 1954 Code)" after "1986 Code" in the last sentence.

(4) Paragraph (2) of section 1316(g) of the Reform Act is amended—

(A) by striking out "described in the paragraph (3)" in subparagraph (A) and inserting in lieu thereof "issued to provide a facility described in paragraph (3)", and

(B) by striking out "which paragraph (3)" in subparagraph (C) and inserting in lieu thereof "which such paragraph (3)".

(5) Paragraph (6) of section 1316(g) of the Reform Act is amended by inserting "(and the provisions of section 1314)" after "section 1301".

(6) Paragraph (7) of section 1316(g) of the Reform Act is amended to read as follows:

"(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984—

"(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and paragraphs (4) and (5) of subsection (b),

"(B) paragraphs (1) and (2) of section 141(b) of the 1986 Code shall be applied by substituting '25 percent' for '10 percent' each place it appears, and

"(C) section 149(b) of the 1986 Code shall not apply.

This paragraph shall not apply to any bond issued after December 31, 1990."

(7)(A) Subparagraph (A) of section 1316(g)(8) of the Reform Act is amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(8) Paragraph (2) of section 1316(j) of the Reform Act is amended to read as follows:

"(2) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not to exceed $100,000,000 issued after October 21, 1986, by Dade County, Florida, for the purpose of advance refunding its Aviation Revenue Bonds (Series J), the first sentence of this paragraph shall be applied by substituting "the date which is 1 year after the date of the enactment of the Technical Corrections Act of 1988" for "December 31, 1984" and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply.' "

(9) Paragraph (2) of section 1316(k) of the Reform Act is amended by striking out "$55,000,000 must be redeemed no later than November 1, 1987" and inserting in lieu thereof "no more than $55,000,000 shall be outstanding later than November 1, 1987".

(10) Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end of subsection (r) the following new sentence:

"Section 148(f) of the Internal Revenue Code of 1986 and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply to any bonds described in paragraph (1) which may be issued as a result of the amendments made by the Tax Reform Act of 1986."

(11) Subsection (l) of section 1316 of the Reform Act is hereby repealed.

(g) Amendments Related to Section 1317 of the Reform Act.—

(1) Subparagraph (J) of section 1317(2) of the Reform Act is amended by striking out "began construction in 1980" and inserting in lieu thereof ", a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate".

(2) Subparagraph (C) of section 1317(3) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if—

"(i) it is one or more stadiums to be used either by an American League baseball team or a National Football League team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code,

"(ii) the bonds to be used to provide financing for one or more such stadiums are issued by a political subdivision or a State agency pursuant to a resolution approving an inducement resolution adopted by a State agency on November 20, 1985, as it may be amended (whether or not the beneficiaries of such issue or issues are the beneficiaries (if any) specified in such inducement resolution and whether or not the number of such stadiums and the locations thereof are as specified in such inducement resolution) or pursuant to P.A. 84-1470 of the State in which such city is located (and by an agency created thereby), and

"(iii) such stadium or stadiums are located in the city described in (i).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of any carryforward of volume cap for one or more stadiums described in the first sentence of this subparagraph, such carryforward shall be valid with respect to bonds issued for such stadiums notwithstanding any other provision of the 1986 Code or the 1954 Code, and whether or not (i) there is a change in the number of stadiums or the beneficiaries or sites of the stadium or stadiums and (ii) the bonds are issued by either of the state agencies described in the first sentence of this subparagraph."

(3)(A) Subparagraph (P) of section 1317(3) of the Reform Act is amended—

(i) by striking out "approved" and inserting in lieu thereof "authorized", and

(ii) by striking out "December 9, 1985" and inserting in lieu thereof "December 2, 1985".

(B) Section 1317(3)(A) of the Reform Act is amended by striking out "domed".

(C) Section 1317(3)(U) of the Reform Act is amended by deleting "coliseum complex." and inserting in lieu thereof "coliseum complex, or is a renovation of an existing stadium located in Oakland, California, and used by an American League baseball team."

(D) Section 1317(3)(W) of the Reform Act is amended by striking out "$225,000,000" and inserting "$25,000,000".

(4) Paragraph (3) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A facility is described in this subparagraph if—

"(i) such facility was a redevelopment project that was approved in concept by the city council sitting as the redevelopment agency in October 1984, and

"(ii) $20,000,000 in funds for such facility was identified in a 5-year budget approved by the city redevelopment agency on October 25, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000."

(5) Paragraph (4) of section 1317 of the Reform Act is amended—

(A) by striking out "1986. The bonds" and inserting in lieu thereof "1986, and the bonds",

(B) by striking out "and" at the end the subparagraph (A), and

(C) by adding "and" at the end of subparagraph (B).

(6) Subparagraph (W) of section 1317(6) of the Reform Act is amended to read as follows:

"(W) A project is described in this subparagraph if such project is—

"(i) a part of the Kenosha Downtown Redevelopment project, and

"(ii) located in an area bounded—

"(I) on the east by the east wall of the Army Corps of Engineers Confined Disposal Facility (extended),

"(II) on the north by 48th Street (extended),

"(III) on the west by the present Chicago & Northwestern Railroad tracks, and

"(IV) on the south by the north line of Eichelman Park (60th Street) (extended).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000."

(7) Paragraph (6) of section 1317 of the Reform Act is amended by redesignating subparagraph (X) as subparagraph (Z) and by inserting after subparagraph (W) the following new subparagraphs:

"(X) A project is described in this subparagraph if a redevelopment plan for such project was approved by the city council of Bell Gardens, California, on June 12, 1979. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(Y) Nothing in this paragraph shall be construed as having the effect of exempting from tax interest on any bond issued after June 10, 1987, if such interest would not have been exempt from tax were such bond issued on August 15, 1986."

(8) The last sentence of subparagraph (A) of section 1317(7) of the Reform Act is amended by inserting before the period "and section 149(d)(2) of the 1986 Code shall not apply to bonds so treated".

(9) Subparagraph (D) of section 1317(7) of the Reform Act is amended to read as follows:

"(D) A facility is described in this subparagraph if—

"(i) it is a convention, trade, or spectator facility,

"(ii) a regional convention, trade, and spectator facilities study committee was created before March 19, 1985, with respect to such facility, and

"(iii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed the excess of $175,000,000 over the amount of bonds to which paragraph (48)(B) applies."

(10) Clause (ii) of section 1317(7)(G) of the Reform Act is amended to read as follows:

"(ii) such facility's location was approved in December 1985 by a task force created jointly by the Governor of the State within which such facility will be located and the mayor of the capital city of such State, and".

(11) Subparagraph (J) of section 1317(7) of the Reform Act is amended—

(A) by striking out "civic festival" in clause (i) and inserting in lieu thereof "aquafestival",

(B) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) a referendum was held on April 6, 1985, in which voters permitted the city council to lease 130 acres of dedicated parkland for the purpose of constructing such facility, and", and

(C) by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

(12) Subparagraph (E) of section 1317(9) of the Reform Act is amended by striking out "March 5, 1985" and inserting in lieu thereof "March 6, 1985".

(13) Clause (iii) of section 1317(9)(J) of the Reform Act is amended by striking out all that precedes "by the governor" and inserting in lieu thereof the following:

"(iii) such facility's location was approved in December 1985 by a task force created jointly".

(14) Subparagraph (A) of section 1317(11) of the Reform Act is amended by striking out "and section 142(a)" and inserting in lieu thereof "in section 142(a)".

(15) Subparagraph (C) of section 1317(11) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if it is described in section 1865(c)(2)(C) of this Act."

(16) Subparagraph (X) of section 1317(13) of the Reform Act is amended by striking out the last sentence.

(17) Paragraph (13) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(AA) A residential rental property project is described in this subparagraph if it is the Carriage Trace residential rental project in Clinton, Tennessee. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(BB) A residential rental property project is described in this subparagraph if—

"(i) a contract to purchase such property was dated as of August 9, 1985,

"(ii) there was an inducement resolution adopted on September 27, 1985, for the issuance of obligations to finance such property,

"(iii) there was a State court final validation of such financing on November 15, 1985, and

"(iv) the certificate of nonappeal from such validation was available on December 15, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $27,750,000."

(18) Paragraph (14) of section 1317 of the Reform Act is amended by striking out "$90,000,000" and inserting in lieu thereof "$130,000,000" and by inserting "incorporated on February 20, 1985" before the period at the end of the 1st sentence.

(19) Subparagraph (B) of section 1317(15) of the Reform Act is amended—

(A) by striking out all that follows "agreement with" in clause (i) and inserting in lieu thereof "an underwriter to provide planning and financial guidance for a possible bond issue, and", and

(B) by striking out "certificates" in clause (ii) and inserting in lieu thereof "bond issue"

(20) Paragraph (16) of section 1317 of the Reform Act is amended by striking out the last sentence.

(21) Clause (i) of section 1317(19)(D) of the Reform Act is amended by striking out "light rail transitway" and inserting in lieu thereof "fixed guideway".

(22) Paragraph (20) of section 1317 of the Reform Act is amended by striking out "Section 148(f)" and inserting in lieu thereof "Subsections (c)(2) and (f) of section 148".

(23) Subparagraph (B) of section 1317(21) of the Reform Act is amended—

(A) by striking out "Subsection (c)" and inserting in lieu thereof "Subsections (c)(2)", and

(B) by striking out "103A(g)(5)(C)l" and inserting in lieu thereof "103A(g)(5)(C)".

(24) Paragraph (22) of section 1317 of the Reform Act is amended to read as follows:

"(22) DOWNTOWN REDEVELOPMENT PROJECT.—Subsection (b) of section 626 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

" '(7) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

" '(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

" '(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

" '(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992.' "

(25) Subparagraph (A) of section 1317(24) of the Reform Act is amended by adding at the end thereof the following: "The last paragraph of this section shall not apply to the treatment under the preceding sentence."

(26)(A) Clause (i) of section 1317(25)(A) of the Reform Act is amended by striking out "3 counties" and inserting in lieu thereof "1 or more of 3 counties".

(B) Clause (i) of section 1317(25)(B) of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of applying section 146(k) of the 1986 Code, the public utility facility described in subparagraph (A) shall be treated as described in paragraph (2) of such section and such paragraph shall be applied without regard to the requirement that the issuer establish that a State's share of the use of a facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(27) Subparagraph (I) of section 1317(27) of the Reform Act is amended by adding at the end thereof the following: "For purposes of determining whether any bond to which this subparagraph applies is a qualified small issue bond, there shall not be taken into account under section 144(a) of the 1986 Code capital expenditures with respect to any facility of the United States Government and there shall not be taken into account any bond allocable to the United States Government."

(28) Clause (i) of section 1317(29)(B) of the Reform Act is amended by striking out all that follows "1993" and inserting in lieu thereof ", by the State of Connecticut, and".

(29) Subparagraph (D) of section 1317(29) of the Reform Act is amended by striking out "the net proceeds" and inserting in lieu thereof "the proceeds".

(30) Section 1317(33)(A)(ii) of the Reform Act is amended—

(A) by striking out "on" and inserting in lieu thereof "dated" each place it appears, and

(B) by inserting "dated on December 1, 1985" after "(Series 1985A and 1985B)" in subclause (III).

(31) Subparagraph (B) of section 1317(33) of the Reform Act is amended—

(A) by striking out "and before August 7, 1988,", and

(B) by adding at the end thereof the following new sentence: "The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000."

(32) Subparagraph (G) of section 1317(33) of the Reform Act is amended by striking out "subparagraph (H)" and inserting in lieu thereof "subparagraph (F)".

(33) Subparagraph (H) of section 1317(33) of the Reform Act is amended—

(A) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) the proceeds of the issue are to be used to finance projects (to be determined by such university and the issuer) which are similar to those projects intended to be financed by bonds that were the subject of a request transmitted to Congress on November 7, 1985", and

(B) by adding at the end thereof the following: "Bonds to which this subparagraph applies shall be treated as qualified 501(c)(3) bonds if such bonds would not (if issued on August 15, 1986) be industrial development bonds (as defined in section 103(b)(2) of the 1954 Code), and section 147(f) of the 1986 Code shall not apply to the issue of which such bonds are a part. Bonds issued to finance facilities described in this subparagraph shall be treated as issued to finance such facilities notwithstanding the fact that a period in excess of 1 year has expired since the facilities were placed in service."

(34) Subparagraph (K) of section 1317(33) of the Reform Act is amended—

(A) by striking out "the issue is" in clause (i) and inserting in lieu thereof "the issue or issues are",

(B) by inserting "at least" before "900 units",

(C) by striking out "2,000 square feet" and inserting in lieu thereof "245,000 square feet", and

(D) by striking out "$150,000,000" and inserting in lieu thereof "$112,000,000".

(35) Paragraph (33) of section 1317 of the Reform Act is amended by striking out subparagraphs (M), (N), and (O) and inserting in lieu thereof the following new subparagraphs:

"(M) Proceeds of an issue are described in this subparagraph if such issue is issued on behalf of the Society of the New York Hospital to finance completion of a project commenced by such hospital in 1981 for construction of a diagnostic and treatment center or to refund bonds issued on behalf of such hospital in connection with the construction of such diagnostic and treatment center or to finance construction and renovation projects associated with an inpatient psychiatric care facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

"(N) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this paragraph (other than subparagraph (A) thereof) shall be taken into account in

determining whether such section applies to any later issue.

"(O) In the case of any refunding bond—

"(i) to which any subparagraph of this paragraph applies, and

"(ii) to which the last sentence of section 1313(c)(2) applies,

such bond shall be treated as having such subparagraph apply (and the refunding bond shall be treated for purposes of such section as issued before January 1, 1986, and as not being an advance refunding) unless the issuer elects the opposite result."

(36) Paragraph (36) of section 1317 of the Reform Act is amended by striking out "$80,000,000" and inserting in lieu thereof "$400,000,000".

(37) Paragraph (38) of section 1317 of the Reform Act is amended by striking out "and sections 148 and 149".

(38) Paragraphs (39) and (40) of section 1317 of the Reform Act are amended to read as follows:

"(39) Certain bonds treated as qualified 501(c)(3) bonds.—A bond issued as part of an issue shall be treated for purposes of part IV of subchapter B of chapter 1 of the 1986 Code as a qualified 501(c)(3) bond if—

"(A) such bond would not (if issued on August 15, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

"(B) such issue was approved by city voters on January 19, 1985, for construction or renovation of facilities for the cultural and performing arts.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $5,000,000.

"(40) Certain library bonds.—In the case of a bond issued before January 1, 1986, by the City of Los Angeles Community Redevelopment Agency to provide the library and related structures associated with the City of Los Angeles Central Library Project, the ownership and use of the land and facilities associated with such project by persons which are not governmental units (or payments from such persons) shall not adversely affect the exclusion from gross income under section 103 of the 1954 Code of interest on such bonds."

(39) Paragraph (41) of section 1317 of the Reform Act is amended to read as follows:

"(41) Certain refunding obligations for certain power facilities.—With respect to 2 net billed nuclear power facilities located in the State of Washington on which construction has been suspended, the requirements of section 147(b) of the 1986 Code shall be treated as satisfied with respect to refunding bonds issued before 1992 if—

"(A) each refunding bond has a maturity date not later than the maturity date of the refunded bond, and

"(B) the facilities have not been placed in service as of the date of issuance of the refunding bond.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000. Section 146 of the 1986 Code and the last paragraph of this section shall not apply to bonds to which this paragraph applies."

(40) Paragraph (43) of section 1317 of the Reform Act is amended by inserting before the period "and the Internal Revenue Code of 1986 shall be applied without regard to section 149(d)(2)."

(41) Paragraph (44) of section 1317 of the Reform Act is amended—

(A) by inserting after "1986 Code" the following: "and the temporary period limitation of section 148(c)(2) of the 1986 Code",

(B) by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000", and

(C) by striking out "Hospitals Bond Pool" in the second item in the table and inserting in lieu thereof "Hospital Equipment Loan Council".

(42) Paragraph (48) of section 1317 of the Reform Act is amended by striking out "either" in the material preceding subparagraph (A) and inserting in lieu thereof "any".

(43) Subparagraph (B) of section 1317(48) of the Reform Act is amended by striking out "subparagraph (O)" and inserting in lieu thereof "paragraph (6)(U)".

(44) Paragraph (48) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) A facility which is part of a project described in paragraph (6)(O). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000."

(45) Paragraph (49) of section 1317 of the Reform Act is amended—

(A) by striking out "149(d)" and inserting in lieu thereof "149(d)(2)", and

(B) by inserting "United States" before "Housing Act of 1937".

(46) Paragraph (50) of section 1317 of the Reform Act is amended to read as follows:

"(50) Transitioned bonds subject to certain rules.—In the case of any bond to which any provision of this section applies, except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of sections 147(g), 148, and 149(d) of the 1986 Code were included in each such section."

(47) Paragraph (51) of section 1317 of the Reform Act is amended—

(A) by striking out "Section 141(a)" and inserting in lieu thereof "Section 141(b)", and

(B) by striking out "141(a)(3)" and inserting in lieu thereof "141(b)(3)".

(48) Paragraph (52) of section 1317 of the Reform Act is amended by striking out "This section" and inserting in lieu thereof "Except as otherwise provided in this section, this section".

(49) The material preceding subparagraph (A) of section 1317(2) of the Reform Act is amended by striking out "section 103(b)(4)(C)" and inserting in lieu thereof "section 103(b)(4)(F)".

(50) Clause (ii) of section 1317(27)(H) of the Reform Act is amended by striking out "November 14, 1985" and inserting in lieu thereof "November 13, 1985".

(51) Subparagraph (I) of section 1317(33) of the Reform Act is amended by striking out "November 11, 1985" and inserting in lieu thereof "November 1, 1985".

(52) Subparagraph (J) of section 1317(3) of the Reform Act is amended by striking out "October 29" in clause (iv) and inserting in lieu thereof "November 5".

(h) Amendments Related to Section 1318 of the Reform Act.—Section 1318 of the Reform Act (relating to definitions, etc., relating to effective dates and transitional rules) is amended—

(1) by inserting "(a) Definitions.—" before "For purposes of this subtitle—", and

(2) by adding at the end thereof the following new subsections:

"(b) Minimum Tax Treatment.—

"(1) In general.—Any bond described in paragraph (2) shall not be treated as a private activity bond for purposes of section 57 of the 1986 Code unless such bond would (if issued on August 7, 1986) be—

"(A) an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), or

"(B) a private loan bond (as defined in section 103(o)(2)(A) of the 1954 Code, without regard to any exception from such definition other than section 103(o)(2)(C) of such Code).

"(2) Bonds described.—For purposes of paragraph (1), a bond is described in this paragraph if—

"(A) the amendments made by section 1301 do not apply to such bond by reason of section 1312 or 1316(g),

"(B) any provision of section 1317 applies to such bond, or

"(C) the proceeds of such bond are used to refund any bond referred to in subparagraph (A) or (B) (or any bond which is part of a series of refundings of such a bond) if the requirements of paragraphs (1), (2), and (3) of subsection (c) are met with respect to the refunding bond.

"(c) Current Refundings Not Taken Into Account in Applying Aggregate Limit on Bonds to Which Transitional Rules Apply.—The limitation on the aggregate face amount of bonds to which any provision of section 1316(g) or 1317 applies shall not be reduced by the face amount of any bond the proceeds of which are to be used exclusively to refund any bond to which such provision applies (or any bond which is part of a series of refundings of such bond) if—

"(1) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(3) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of paragraph (1), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code. Sections 1316(g)(5) and 1317(52) shall not apply to any refunding bond which meets the requirements of this subsection.

"(d) Special Rule Permitting Carryforward of Volume Cap for Certain Transitioned Projects.—A bond to which section 1312 or 1317 applies shall be treated as having a carryforward purpose described in section 146(f)(5) of the 1986 Code, and the requirement of section 146(f)(2)(A) of the 1986 Code shall be treated as met if such project is identified with reasonable specificity. The preceding sentence shall not apply so as to permit a carryforward with respect to any qualified small issue bond."

SEC. 114. AMENDMENTS RELATED TO TITLE XIV OF THE REFORM ACT.

(a) Amendments Related to Section 1401 of the Reform Act.—

(1) Subsection (e) of section 672 of the 1986 Code is amended to read as follows:

"(e) Grantor Treated as Holding Any Power or Interest of Grantor's Spouse.—

"(1) In general.—For purposes of this subpart, a grantor shall be treated as holding any power or interest held by—

"(A) any individual who was the spouse of the grantor at the time of the creation of such power or interest, or

"(B) any individual who became the spouse of the grantor after the creation of such power or interest, but only with respect to periods after such individual became the spouse of the grantor.

"(2) MARITAL STATUS.—For purposes of paragraph (1)(A), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married."

(2) Paragraph (3) of section 675 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this paragraph to the grantor shall be treated as including a reference to such individual."

(3) Subsection (c) of section 674 of the 1986 Code is amended by adding at the end thereof the following new sentence: "For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this subsection to the grantor shall be treated as including a reference to such individual."

(b) AMENDMENT RELATED TO SECTION 1402 OF THE REFORM ACT.—Section 673 of the 1986 Code is amended by adding at the end thereof the following new subsections:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion in favor of the grantor.

"(d) POSTPONEMENT OF DATE SPECIFIED FOR REACQUISITION.—Any postponement of the date specified for the reacquisition of possession or enjoyment of the reversionary interest shall be treated as a new transfer in trust commencing with the date on which the postponement is effective and terminating with the date prescribed by the postponement. However, income for any period shall not be included in the income of the grantor by reason of the preceding sentence if such income would not be so includible in the absence of such postponement."

(c) AMENDMENTS RELATED TO SECTION 1403 OF THE REFORM ACT.—

(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act.

(B) For purposes of subparagraph (A), the term "pass-thru entity" means any trust, partnership, S corporation, or common trust fund.

(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act, such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.

(d) AMENDMENTS RELATED TO SECTION 1404 OF THE REFORM ACT.—

(1) Subsection (a) of section 1404 of the Reform Act is amended—

(A) by striking out "Subsection (k) of section 6654" and inserting in lieu thereof "Subsection (l) of section 6654, as amended by section 1841 of this Act", and

(B) by striking out " '(k) TRUSTS" and inserting in lieu thereof " '(l) TRUSTS".

(2) Subsection (l) of section 6654 of the 1986 Code is amended to read as follows:

"(l) ESTATES AND TRUSTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this subsection shall apply to any estate or trust.

"(2) EXCEPTION FOR ESTATES AND CERTAIN TRUSTS.—With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

"(A) the estate of such decedent, or

"(B) any trust—

"(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will.

"(3) EXCEPTION FOR CHARITABLE TRUSTS AND PRIVATE FOUNDATIONS.—This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

"(4) SPECIAL RULE FOR ANNUALIZATIONS.—In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting 'ending before the date 1 month before the due date for the installment' for 'ending before the due date for the installment'."

(3) Subsection (g) of section 643 of the 1986 Code is amended—

(A) by striking out the last sentence of paragraph (1), and

(B) by amending paragraph (2) to read as follows:

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe."

(4) Subsection (g) of section 643 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION TO LAST YEAR OF ESTATE.—In the case of a taxable year reasonably expected to be the last taxable year of an estate—

"(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

"(B) the fiduciary of the estate shall be treated as the trustee."

(e) AMENDMENTS RELATED TO SECTION 1411 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH SECTION 644.—If tax is imposed under section 644(a)(1) with respect to the sale or exchange of any property of which the parent was the transferor, for purposes of applying subparagraph (A) to the taxable year of the parent in which such sale or exchange occurs—

"(i) taxable income of the parent shall be increased by the amount treated as included in gross income under section 644(a)(2)(A)(i), and

"(ii) the amount described in subparagraph (A)(ii) shall be increased by the amount of the excess referred to in section 644(a)(2)(A)."

(2) The last sentence of subparagraph (A) of section 1(i)(3) of the 1986 Code is amended by striking out "any deduction or credit" and inserting in lieu thereof "any exclusion, deduction, or credit".

(3) Subparagraph (A) of section 1(i)(4) of the 1986 Code is amended—

(A) by striking out "gross income for the taxable year which is not earned income" in clause (i) and inserting in lieu thereof "adjusted gross income for the taxable year which is not attributable to earned income",

(B) by striking out "his deduction" in clause (ii)(II) and inserting in lieu thereof "his deductions",

(C) by striking out "the deductions allowed" in clause (ii)(II) and inserting in lieu thereof "the itemized deductions allowed", and

(D) by striking out "gross income" in clause (ii)(II) and inserting in lieu thereof "adjusted gross income".

(4) Clause (iv) of section 6103(e)(1)(A) of the 1986 Code is amended by striking out "section 1(j)" and inserting in lieu thereof "section 1(i) or 59(j)".

(5) Section 59 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) CERTAIN UNEARNED INCOME OF MINOR CHILDREN TAXED AS IF PARENT'S INCOME.—

"(1) IN GENERAL.—In the case of any child to whom section 1(i) applies, the tax imposed by section 55 shall be equal to the greater of—

"(A) the tax imposed by section 55 without regard to this subsection, or

"(B) the sum of—

"(i) the tax which would be imposed by section 55 if—

"(I) the alternative minimum taxable income of such child for the taxable year were reduced by the net unearned minimum taxable income of such child, and

"(II) the regular tax of such child for the taxable year were reduced by the portion of such tax attributable to net unearned income (as defined in section 1(i)(4)), plus

"(ii) such child's share of the allocable parental minimum tax.

"(2) ALLOCABLE PARENTAL MINIMUM TAX.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'allocable parental minimum tax' means the excess of—

"(i) the tax which would be imposed by section 55 on the parent's alternative minimum taxable income if—

"(I) such income included the net unearned minimum taxable income of all children of the parent to whom section 1(i) applies, and

"(II) the amount of the parent's regular tax were increased by the amount of the aggregate of the regular taxes of all children of the parent to whom section 1(i) applies to the extent such taxes are attributable to net unearned income (as defined in section 1(i)(4)) of such children, over

"(ii) the tax imposed by section 55 on the parent without regard to this subsection.

For purposes of clause (i), the net unearned minimum taxable income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

"(B) CHILD'S SHARE.—A child's share of any allocable parental minimum tax shall be determined under rules similar to the rules of section 1(i)(3)(B).

"(C) COORDINATION WITH SECTION 644.—Rules similar to the rules of subparagraph (C) of section 1(i)(3) shall apply.

"(3) NET UNEARNED MINIMUM TAXABLE INCOME.—For purposes of this subsection, the term 'net unearned minimum taxable income' means net unearned income (as defined in section 1(i)(4) computed with the adjustments provided in sections 56, 57, and

58; except that, notwithstanding section 56(b)(1)(E), the deduction under section 63(c) shall be allowed.

"(4) OTHER RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of paragraphs (5) and (6) of section 1(i) shall apply."

(6) Subparagraph (A) of section 1(i)(5) of the 1986 Code is amended by striking out "custodial parent" and inserting in lieu thereof "custodial parent (within the meaning of section 152(e))".

(7) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE WHERE PARENT HAS DIFFERENT TAXABLE YEAR.—Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year."

(f) AMENDMENT RELATED TO SECTION 1421 OF THE REFORM ACT.—Subsection (a) of section 1421 of the Reform Act is amended by striking out "within the time prescribed for filing such return (including extensions thereof)".

(g) AMENDMENTS RELATED TO SECTION 1431 OF THE REFORM ACT.—

(1) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "generation-skipping transfers" and inserting in lieu thereof "generation-skipping transfer".

(2) Subsection (b) of section 2611 of the 1986 Code is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES FOR CHARITABLE LEAD ANNUITY TRUSTS.—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio for any charitable lead annuity trust, the applicable fraction shall be a fraction—

"(A) the numerator of which is the adjusted GST exemption, and

"(B) the denominator of which is the value of all of the property in such trust immediately after the termination of the charitable lead annuity.

"(2) ADJUSTED GST EXEMPTION.—For purposes of paragraph (1), the adjusted GST exemption is an amount equal to the GST exemption allocated to the trust increased by interest determined—

"(A) at the interest rate used in determining the amount of the deduction under section 2055 or 2522 (as the case may be) for the charitable lead annuity, and

"(B) for the actual period of the charitable lead annuity.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE LEAD ANNUITY TRUST.—The term 'charitable lead annuity trust' means any trust in which there is a charitable lead annuity.

"(B) CHARITABLE LEAD ANNUITY.—The term 'charitable lead annuity' means any interest in the form of a guaranteed annuity with respect to which a deduction was allowed under section 2055 or 2522 (as the case may be).

"(4) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) The amendment made by subparagraph (A) shall apply for purposes of determining the inclusion ratio with respect to property transferred after October 13, 1987.

(4)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR CERTAIN INTER VIVOS TRANSFERS.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio, if—

"(A) an individual makes an inter vivos transfer of property, and

"(B) the value of such property would be includible in the gross estate of such individual under chapter 11 if such individual died immediately after making such transfer (other than by reason of section 2035),

any allocation of GST exemption to such property shall not be made before the close of the estate tax inclusion period (and the value of such property shall be determined under paragraph (2)). If such transfer is a direct skip, such skip shall be treated as occurring as of the close of the estate tax inclusion period.

"(2) VALUATION.—In the case of any property to which paragraph (1) applies, the value of such property shall be—

"(A) if such property is includible in the gross estate of the transferor (other than by reason of section 2035), its value for purposes of chapter 11, or

"(B) if subparagraph (A) does not apply, its value as of the close of the estate tax inclusion period (or, if any allocation of GST exemption to such property is not made on a timely filed gift tax return for the calendar year in which such period ends, its value as of the time such allocation is filed with the Secretary).

"(3) ESTATE TAX INCLUSION PERIOD.—For purposes of this subsection, the term 'estate tax inclusion period' means any period after the transfer described in paragraph (1) during which the value of the property involved in such transfer would be includible in the gross estate of the transferor under chapter 11 if he died. Such period shall in no event extend beyond the earlier of—

"(A) the date on which there is a generation-skipping transfer with respect to such property, or

"(B) the date of the death of the transferor.

"(4) TREATMENT OF SPOUSE.—Except as provided in regulations, any reference in this subsection to an individual or transferor shall be treated as including a reference to the spouse of such individual or transferor.

"(5) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) Paragraph (2) of section 2642(a) of the 1986 Code is amended by striking out the last sentence.

(C) Subparagraph (A) of section 2642(b)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the distribution concerned."

(D) Subsection (b) of section 2642 of the 1986 Code is amended by inserting "Except as provided in subsection (f)—" immediately after the subsection heading.

(E) Subparagraph (B) of section 2642(b)(2) of the 1986 Code is amended—

(i) by striking out "at or after the death of the transferor" and inserting in lieu thereof "to property transferred as a result of the death of the transferor"; and

(ii) by striking out "AT OR AFTER DEATH" in the subparagraph heading and inserting in lieu thereof "TO PROPERTY TRANSFERRED AT DEATH".

(F) Paragraph (3) of section 2642(b) of the 1986 Code is amended—

(i) by striking out "to any property is made during the life of the transferor but is" and inserting in lieu thereof "to any property not transferred as a result of the death of the transferor is"; and

(ii) by striking out "INTER VIVOS ALLOCATIONS" in the subparagraph heading and inserting in lieu thereof "ALLOCATIONS TO INTER VIVOS TRANSFERS".

(5)(A) Paragraph (1) of section 2613(a) of the 1986 Code is amended by striking out "a person assigned" and inserting in lieu thereof "a natural person assigned".

(B) Subsection (c) of section 2612 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) LOOK-THRU RULES NOT TO APPLY.—Solely for purposes of determining whether any transfer to a trust is a direct skip, the rules of section 2651(e)(2) shall not apply."

(6) Subsection (c) of section 2652 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN SUPPORT OBLIGATIONS DISREGARDED.—The fact that income or corpus of the trust may be used to satisfy an obligation of support arising under State law shall be disregarded in determining whether a person has an interest in the trust, if—

"(A) such use is discretionary, or

"(B) such use is pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act."

(7) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property."

(8) Paragraph (2) of section 2652(c) of the 1986 Code is amended—

(A) by striking out "NOMINAL INTERESTS" in the paragraph heading and inserting in lieu thereof "INTERESTS", and

(B) by striking out "the tax" and inserting in lieu thereof "any tax".

(9) Paragraph (1) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "a transfer of a kind" each place it appears and inserting in lieu thereof "any property", and

(B) by adding at the end thereof the following new sentence:

"An individual shall be treated as transferring any property with respect to which such individual is the transferor."

(10) Section 2663 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing for such adjustments as may be necessary to the application of this chapter in the case of any arrangement which, although not a trust, is treated as a trust under section 2652(b)."

(11) Paragraph (3) of section 2651(e) of the 1986 Code is amended to read as follows:

"(3) TREATMENT OF CERTAIN CHARITABLE ORGANIZATIONS AND GOVERNMENTAL ENTITIES.—Any—

"(A) organization described in section 511(a)(2),

"(B) charitable trust described in section 511(b)(2), and

"(C) governmental entity,

shall be assigned to the transferor's generation."

(12) Paragraph (2) of section 2654(a) of the 1986 Code is amended—

(A) by striking out "any increase" and inserting in lieu thereof "any increase or decrease", and

(B) by striking out "such increase" and inserting in lieu thereof "such increase or decrease (as the case may be)".

(13) Subsection (b) of section 2654 of the 1986 Code is amended to read as follows:

"(b) Certain Trusts Treated as Separate Trusts.—For purposes of this chapter—

"(1) the portions of a trust attributable to transfers from different transferors shall be treated as separate trusts, and

"(2) substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

Except as provided in the preceding sentence, nothing in this chapter shall be construed as authorizing a single trust to be treated as 2 or more trusts."

(14) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for the preceding sentence."

(15) Paragraph (3) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "any property" in subparagraphs (A) and (B) and inserting in lieu thereof "any trust", and

(B) by striking out "may elect to treat such property" and inserting in lieu thereof "may elect to treat all of the property in such trust".

(16) Paragraph (2) of section 2612(a) of the 1986 Code is amended to read as follows:

"(2) Certain partial terminations treated as taxable.—If, upon the termination of an interest in property held in trust by reason of the death of a lineal descendant of the transferor, a specified portion of the trust's assets are distributed to 1 or more skip persons (or 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property."

(17) Paragraph (2) of section 2632(b) of the 1986 Code is amended by striking out "paragraph (1)) with respect to a prior direct skip" and inserting in lieu thereof "paragraph (1) with respect to a prior direct skip)".

(18)(A) Subsection (c) of section 2642 of the 1986 Code is amended to read as follows:

"(c) Treatment of Certain Direct Skips Which Are Nontaxable Gifts.—

"(1) In general.—In the case of a direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) Exception for certain transfers in trust.—Paragraph (1) shall not apply to any transfer to a trust for the benefit of an individual unless—

"(A) during the life of such individual, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such individual, and

"(B) if such individual dies before the trust is terminated, the assets of such trust will be includible in the gross estate of such individual.

"(3) Nontaxable gift.—For purposes of this subsection, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e)."

(B) Paragraph (1) of section 2642(d) of the 1986 Code is amended by striking out "(other than a nontaxable gift)".

(C) The amendments made by this paragraph shall apply to transfers after March 31, 1988.

(19) Clause (i) of section 2642(d)(2)(B) of the 1986 Code is amended to read as follows:

"(i) the value of the property involved in such transfer reduced by the sum of—

"(I) any Federal estate tax or state death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property, and".

(20) Paragraph (2) of section 2651(b) of the 1986 Code is amended by striking out "a spouse of the transferor" and inserting in lieu thereof "a spouse (or former spouse) of the transferor".

(h) Amendments Related to Section 1433 of the Reform Act.—

(1) Subsection (a) of section 1433 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(2) Paragraph (2) of section 1433(b) of the Reform Act is amended—

(A) by striking out "this part" in the material preceding subparagraph (A) and inserting in lieu thereof "this subtitle",

(B) by inserting before the comma at the end of subparagraph (A) the following: "(or out of income attributable to corpus so added)", and

(C) by inserting "or revocable trust" after "a will" in subparagraph (B).

(3)(A) Subsection (b) of section 1433 of the Reform Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) Treatment of certain transfers to grandchildren.—

"(A) In general.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the term 'direct skip' shall not include any transfer before January 1, 1990, from a transferor to a grandchild of the transferor to the extent the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

"(B) Treatment of transfers in trust.—For purposes of subparagraph (A), a transfer in trust for the benefit of a grandchild shall be treated as a transfer to such grandchild if (and only if)—

"(i) during the life of the grandchild, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such grandchild,

"(ii) the assets of the trust will be includible in the gross estate of the grandchild if the grandchild dies before the trust is terminated, and

"(iii) all of the income of the trust for periods after the grandchild has attained age 21 will be distributed to (or for the benefit of) such grandchild not less frequently than annually.

"(C) Coordination with section 2653(a) of the 1986 code.—In the case of any transfer which would be a generation-skipping transfer but for subparagraph (A), the rules of section 2653(a) of the Internal Revenue Code of 1986 shall apply as if such transfer were a generation-skipping transfer.

"(D) Coordination with taxable terminations and taxable distributions.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for subparagraph (A).

"(4) Definitions.—Terms used in this section shall have the same respective meanings as when used in chapter 13 of the Internal Revenue Code of 1986; except that section 2612(c)(2) of such Code shall not apply in determining whether an individual is a grandchild of the transferor."

(B) Clause (iii) of section 1443(b)(3)(B) of the Reform Act (as amended by subparagraph (A)) shall apply only to transfers after June 10, 1987.

(4) Subsection (d) of section 1433 of the Reform Act is amended—

(A) by striking out "shall be treated as a direct skip" and inserting in lieu thereof "shall be treated as a direct skip to such grandchild",

(B) by striking out "would be a direct skip" in subparagraph (B) and inserting in lieu thereof "would be a direct skip to a grandchild", and

(C) by adding at the end thereof the following new sentence: "Unless the grandchild otherwise directs by will, the estate of such grandchild shall be entitled to recover from the person receiving the property on the death of the grandchild any increase in Federal estate tax on the estate of the grandchild by reason of the preceding sentence."

SEC. 115. AMENDMENTS RELATED TO TITLE XV OF THE REFORM ACT.

(a) Amendment Related to Section 1501 of the Reform Act.—Subparagraph (B) of section 6724(d)(2) of the 1986 Code is amended by striking out "6031(b)" and inserting in lieu thereof "6031(b) or (c)".

(b) Amendments Related to Section 1503 of the Reform Act.—

(1) Subparagraph (A) of section 6013(b)(5) of the 1986 Code is amended to read as follows:

"(A) Coordination with section 6653.—For purposes of section 6653, where the sum of the amounts shown as tax on the separate returns of each spouse is less than the amount shown as tax on the joint return made under this subsection—

"(i) such sum shall be treated as the amount shown on the joint return,

"(ii) any negligence (or disregard of rules or regulations) on either separate return shall be treated as negligence (or such disregard) on the joint return, and

"(iii) any fraud on either separate return shall be treated as fraud on the joint return."

(2)(A) Paragraph (1) of section 6653(a) of the 1986 Code is amended to read as follows:

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to negligence (or disregard of rules or regulations), there shall be added to the tax an amount equal to 5 percent of the underpayment."

(B) Paragraph (1) of section 6653(b) of the 1986 Code is amended to read as follows:

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud."

(C) Paragraph (2) of section 6601(e) of the 1986 Code is amended by striking out "6659" each place it appears and inserting in lieu thereof "6653, 6659".

(3) Subsection (g) of section 6653 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a)."

(4) The amendments made by this subsection (other than paragraph (3)) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988.

(c) Amendment Related to Section 1504 of the Reform Act.—The repeal made by section 8002(c) of the Omnibus Budget Reconciliation Act of 1986 shall take effect as if the Tax Reform Act of 1986 had been enacted on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(d) Amendments Related to Section 1511 of the Reform Act.—Section 6621 of the 1986 Code is amended—

(1) by striking out "short-term Federal rate" each place it appears in subsections (a) and (b)(1) and inserting in lieu thereof "Federal short-term rate", and

(2) by striking out "Short-Term Federal Rate" in the heading of subsection (b) and inserting in lieu thereof "Federal Short-Term Rate".

(e) Amendments Related to Section 1521 of the Reform Act.—

(1)(A) Paragraph (1) of section 6045(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

(2)(A) Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Prohibition of separate charge for filing return.—It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1)."

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(3) Subsection (e) of section 6045 of the 1986 Code is amended—

(A) by striking out "real estate broker" each place it appears in the text and inserting in lieu thereof "real estate reporting person", and

(B) by striking out "Real estate broker" in the heading of paragraph (2) and inserting in lieu thereof "Real estate reporting person".

(f) Amendment Related to Section 1522 of the Reform Act.—Section 6050M of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Exception for Certain Classified or Confidential Contracts.—

"(1) In general.—Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

"(2) Reporting requirement.—Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

"(A) the information required under this section with respect to such person, and

"(B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

"(3) Description of contract.—For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

"(A) the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

"(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(g) Amendments Related to Section 1523 of the Reform Act.—Section 6676 of the 1986 Code is amended—

(1) by striking out "6049, or 6050N" in subsection (a)(3) and inserting in lieu thereof "or 6049",

(2) by striking out "6049, or 6050N" in subsection (b)(1)(A) and inserting in lieu thereof "or 6049", and

(3) by striking out ", Dividends, and Royalties" in the heading for subsection (b) and inserting in lieu thereof "and Dividend".

(h) Amendments Related to Section 1542 of the Reform Act.—Subsection (h) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended—

(1) by striking out "subject to the tax imposed by section 4940" in paragraph (1),

(2) by amending paragraph (2) to read as follows:

"(2) any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11, and", and

(3) by adding at the end thereof the following new sentence:

"In the case of an organization described in paragraph (1), subsection (c) of section 6655 shall be applied by substituting '5th month' for 'third month' and subsection (d)(3)(A) of section 6655 shall be applied by substituting '2 months' for '3 months' in clause (i), by substituting '4 months' for '5 months, in clause (ii), by substituting '7 months' for '8 months' in clause (iii), and by substituting '10 months' for '11 months' in clause (iv)."

(i) Amendment Related to Section 1551 of the Reform Act.—Clause (iii) of section 7430(c)(2)(A) of the 1986 Code is amended to read as follows:

"(iii) meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect)."

(j) Provision Related to Section 1556 of the Reform Act.—To the extent the salary recommendations submitted by the President on January 5, 1987, are inconsistent with the provisions of section 7443A(d)(1) of the 1986 Code, such recommendations shall not be effective for any period.

(k) Amendment Related to Section 1557 of the Reform Act.—

(1) Subsection (d) of section 7447 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge."

(2) The amendment made by paragraph (1) shall apply for purposes of determining the amount of retired pay for months beginning after the date of the enactment of this Act regardless of when the services under section 7447(c) of the 1986 Code were performed.

(l) Amendments Related to Section 1561 of the Reform Act.—

(1) Subsection (e)(2) of section 7609 of the 1986 Code is amended—

(A) by inserting "or the summoned party's response to a summons described in subsection (f)," after "the summons described in subsection (c),", and

(B) by striking out "the summons is issued other" and inserting in lieu thereof "the summons is issued".

(2) Subsection (i) of section 7609 of the 1986 Code is amended—

(A) by striking out "the third-party recordkeeper" in paragraph (4) and inserting in lieu thereof "the summoned party", and

(B) by inserting "and Summoned Party" after "Recordkeeper" in the subsection heading.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(m) Amendment Related to Section 1562 of the Reform Act.—Subsection (d) of section 6212 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding."

(n) Amendment Related to Section 1563 of the Reform Act.—Subparagraph (B) of section 6404(e)(1) of the 1986 Code is amended—

(1) by inserting "error or" before "delay", and

(2) by inserting "erroneous or" before "dilatory".

(o) Amendment Related to Section 1565 of the Reform Act.—Effective with respect to levies made after December 31, 1988, paragraph (10) of section 6334(a) of the 1986 Code is amended—

(1) in subparagraph (A)—

(A) by striking out "IV" and inserting in lieu thereof "III, IV, V,", and

(B) by adding "or" at the end thereof,

(2) in subparagraph (C) by striking out "21," and inserting in lieu thereof "13, 21, 23," and

(3) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(p) Amendment Related to Section 1581 of the Reform Act.—Subsection (c) of section 1581 of the Reform Act is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply if its application would result in an increase in the number of withholding allowances for the employee."

(q) General Requirement of Return, Statement, or List.—

(1) Subsection (a) of section 6011 of the 1986 Code is amended by striking out "for the collection thereof" and inserting in lieu thereof "with respect to the collection thereof".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(r) Certain Refundable Credits To Be Assessed Under Deficiency Procedures.—

(1) Subsection (a) of section 6203 of the 1986 Code is amended by striking out paragraph (4).

(2) Paragraph (4) of section 6211(b) is amended to read as follows:

"(4) For purposes of subsection (a)—

"(A) any excess of the sum of the credits allowable under sections 32 and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

"(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax."

(3) Subsection (h) of section 6213 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) The amendments made by this subsection shall apply to notices of deficiencies mailed after the date of the enactment of this Act.

SEC. 116. AMENDMENTS RELATED TO TITLE XVI OF THE REFORM ACT.

(a) Amendments Related to Section 1603 of the Reform Act.—

(1)(A) Subparagraph (A) of section 501(c)(25) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (iii), the term 'real property' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest."

(B) The amendment made by subparagraph (A) shall apply with respect to property acquired by the organization after June 10, 1987, except that such amendment shall not apply to any property acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(2) Subparagraph (D) of section 501(c)(25) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) and inserting in lieu thereof the following:

"(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—"

(3)(A) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E)(i) For purposes of this title—

"(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

"(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

"(ii) For purposes of this subparagraph, the term 'qualified subsidiary' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

"(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock."

(B) Subparagraph (C) of section 501(c)(25) of the 1986 Code is amended by inserting "or" at the end of clause (iii), by striking out ", or" at the end of clause (iv) and inserting in lieu thereof a period, and by striking out clause (v).

(4) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of subparagraph (A), the term 'real property' includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease."

(5)(A) Paragraph (9) of section 514(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) Special rules for organizations described in section 501(c)(25).—

"(i) In general.—In computing under section 512 the unrelated business taxable income of a disqualified holder of an interest in an organization described in section 501(c)(25), there shall be taken into account—

"(I) as gross income derived from an unrelated trade or business, such holder's pro rata share of the items of income described in clause (ii)(I) of such organization, and

"(II) as deductions allowable in computing unrelated business taxable income, such holder's pro rata share of the items of deduction described in clause (ii)(II) of such organization.

Such amounts shall be taken into account for the taxable year of the holder in which (or with which) the taxable year of such organization ends.

"(ii) Description of amounts.—For purposes of clause (i)—

"(I) gross income is described in this clause to the extent such income would (but for this paragraph) be treated under subsection (a) as derived from an unrelated trade or business, and

"(II) any deduction is described in this clause to the extent it would (but for this paragraph) be allowable under subsection (a)(2) in computing unrelated business taxable income.

"(iii) Disqualified holder.—For purposes of this subparagraph, the term 'disqualified holder' means any shareholder (or beneficiary) which is not described in clause (i) or (ii) of subparagraph (C)."

(B) The amendment made by subparagraph (A) shall apply with respect to interests in the organization acquired after June 10, 1987, except that such amendment shall not apply to any such interest acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(6) The last sentence of section 514(c)(9)(B) of the 1986 Code is amended by striking out "clause (vi)" and inserting in lieu thereof "this paragraph".

(b) Repeal of Section 1608 of the Reform Act.—Section 1608 of the Reform Act is hereby repealed.

SEC. 117. AMENDMENTS RELATED TO TITLE XVII OF THE REFORM ACT.

(a) Amendments Related to Section 1701 of the Reform Act.—Clause (i) of section 51(d)(12)(B) of the 1986 Code is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(b) Amendment Related to Section 1702 of the Reform Act.—Subsection (j) of section 6652 of the 1986 Code, as added by section 1702(b) of the Reform Act and as in effect before its repeal by the Revenue Act of 1987, is amended by inserting "(and the corresponding provision of section 4041(d)(1))" after "section 4041(a)(1)".

(c) Amendments Related to Section 1703 of the Reform Act.—

(1)(A) Subsection (a) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by redesignating paragraph (2) as paragraph (3) and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) In general.—There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

"(A) the removal, or

"(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.

"(2) Rates of tax.—

"(A) In general.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate.

"(B) Rates.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent a gallon."

(B) Subsections (b) and (c) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (a)".

(C) Subsection (e) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended—

(i) by striking out "subsection (d)(2)(A)" in paragraph (1) and inserting in lieu thereof "subsection (a)(2)", and

(ii) by striking out "subsection (d)(2)(B)" each place it appears in paragraph (2) and inserting in lieu thereof "subsection (a)(2)".

(D) Section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking out "section 6421(i) or 6427(j)" and inserting in lieu thereof "section 6421(j) or 6427(k)".

(3) Sections 4041(b)(1)(C) and 6427(m)(3) of the 1986 Code are each amended by striking out "section 6421(d)(2)" and inserting in lieu thereof "section 6421(e)(2)".

(4) Paragraph (3) of section 4041(f) of the 1986 Code is amended to read as follows:

"(3) Termination.—Except with respect to the taxes imposed by subsection (d), paragraph (1) shall not apply on and after October 1, 1993."

(5) The amendment made by section 10502(d)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that the reference to section 4091 of

the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(6) Section 6421 of the 1986 Code is amended by redesignating subsection (i) (relating to income tax credit in lieu of payment) and subsection (j) (relating to cross references) as subsections (j) and (k), respectively.

(7) Subsections (a) and (b)(1) of section 6421 of the 1986 Code are each amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(8) Paragraph (2) of section 6421(j) of the 1986 Code (as redesignated by paragraph (6)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)(2)".

(9) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) of the 1986 Code are each amended by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

(10) Paragraph (2) of section 6427(k) of the 1986 Code is amended by striking out "subsection" and all that follows and inserting in lieu thereof "paragraph (2) or (3) of subsection (i)."

(11) Paragraph (6) of section 6511(i) of the 1986 Code is amended by striking out "section 6421(c)" and inserting in lieu thereof "section 6421(d)".

(12) Subparagraph (G) of section 1703(e)(2) of the Reform Act is amended by striking out all that follows "are amended" and inserting in lieu thereof "by striking out '6427(i)(2)' and inserting in lieu thereof '6427(j)(2)'."

(13) Paragraph (2) of section 1703(f) of the Reform Act is amended by adding at the end thereof the following new sentence: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 shall apply to the floor stocks taxes imposed by this section."

(14) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out "3 cents" and inserting in lieu thereof "3⅓ cents".

(15) Subsection (d) of section 6421 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) APPLICATION TO SALES UNDER SUBSECTION (c).—For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose."

SEC. 118. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1801 OF THE REFORM ACT.—Clause (iii) of section 1801(a)(2)(A) of the Reform Act is amended to read as follows:

"(iii) a person became a partner in such partnership (or a beneficiary in such trust) after its formation but before September 26, 1985,".

(b) AMENDMENTS RELATED TO SECTION 1802 OF THE REFORM ACT.—

(1) The last sentence of section 31(g)(17)(L) of the Tax Reform Act of 1984, as added by section 1802(a)(10)(G) of the Reform Act, is amended—

(A) by striking out "Registry of Deeds" each place it appears and inserting in lieu thereof "Register of Deed", and

(B) by striking out "May 7, 1985" and inserting in lieu thereof "May 7, 1984".

(2) Subparagraph (E) of section 168(j)(9) of the 1986 Code (as amended by section 1802(a)(2) of the Reform Act and as in effect before the amendments made by section 201 of the Reform Act) is amended—

(A) by striking out "this paragraph" in clauses (i) and (ii)(I) and inserting in lieu thereof "this paragraph and paragraph (8)", and

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—

"(I) IN GENERAL.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

"(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (7)) shall be treated as 1 entity.

"(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof)."

(c) AMENDMENT RELATED TO SECTION 1803 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1803(a)(8) of the Reform Act is amended by striking out "September 27, 1985" and inserting in lieu thereof "December 31, 1985".

(2) Subsection (c) of section 1278 of the 1986 Code is amended by inserting before the period ", including regulations providing proper adjustments in the case of a bond the principal of which may be paid in 2 or more payments".

(d) AMENDMENTS RELATED TO SECTION 1804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1804(b) of the Reform Act is amended by striking out "Paragraph (3) of section 54" and inserting "Paragraph (3) of section 54(d)".

(2) Clause (i) of section 54(d)(3)(D) of the Tax Reform Act of 1984 is amended by striking out "subtitle D of title VI" and inserting "subtitle D of title VI of the Tax Reform Act of 1986".

(3) Clause (ii) of section 54(d)(3)(D) of the Tax Reform Act of 1984 (as added by section 1804(b)(3) of the Tax Reform Act of 1986) is amended—

(A) by striking out "December 9, 1968," each place it appears and inserting in lieu thereof "December 10, 1968,", and

(B) by striking out "October 5, 1981" and inserting in lieu thereof "March 2, 1978,".

(4) Subsection (b) of section 312 of the 1986 Code is amended by striking out "of any property" and inserting in lieu thereof "of any property (other than an obligation of such corporation)".

(5)(A) Section 361 of the 1986 Code is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO CORPORATIONS; TREATMENT OF DISTRIBUTIONS.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a corporation if such corporation is a party to a reorganization and exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

"(b) EXCHANGES NOT SOLELY IN KIND.—

"(1) GAIN.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of stock or securities permitted by subsection (a) to be received without the recognition of gain, but also of other property or money, then—

"(A) PROPERTY DISTRIBUTED.—If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

"(B) PROPERTY NOT DISTRIBUTED.—If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized.

The amount of gain recognized under subparagraph (B) shall not exceed the sum of the money and the fair market value of the other property so received which is not so distributed.

"(2) LOSS.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of property permitted by subsection (a) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

"(3) TREATMENT OF TRANSFERS TO CREDITORS.—For purposes of paragraph (1), any transfer of the other property or money received in the exchange by the corporation to its creditors in connection with the reorganization shall be treated as a distribution in pursuance of the plan of reorganization. The Secretary may prescribe such regulations as may be necessary to prevent avoidance of tax through abuse of the preceding sentence or subsection (c)(3).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation a party to a reorganization on the distribution to its shareholders of property in pursuance of the plan of reorganization.

"(2) DISTRIBUTIONS OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of this subsection, the term 'qualified property' means—

"(i) any stock in (or right to acquire stock in) the distributing corporation or obligation of the distributing corporation, or

"(ii) any stock in (or right to acquire stock in) another corporation which is a party to the reorganization or obligation of another corporation which is such a party if such stock (or right) or obligation is received by the distributing corporation in the exchange.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market

value of such property shall be treated as not less than the amount of such liability.

"(3) Treatment of certain transfers to creditors.—For purposes of this subsection, any transfer of qualified property by the corporation to its creditors in connection with the reorganization shall be treated as a distribution to its shareholders pursuant to the plan of reorganization.

"(4) Coordination with other provisions.—Section 311 and subpart B of part II of this subchapter shall not apply to any distribution referred to in paragraph (1)."

(B) Section 358 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Definition of Nonrecognition Property in Case of Section 361 Exchange.—For purposes of this section, the property permitted to be received under section 361 without the recognition of gain or loss shall be treated as consisting only of stock or securities in another corporation a party to the reorganization."

(C) Section 355 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) Taxability of Corporation on Distribution.—Section 311 shall apply to any distribution—

"(1) to which this section (or so much of section 356 as relates to this section) applies, and

"(2) which is not in pursuance of a plan of reorganization,

in the same manner as if such distribution were a distribution to which subpart A of part I applies; except that subsection (b) of section 311 shall not apply to any distribution of stock or securities in the controlled corporation."

(D) Subsection (c) of section 336 of the 1986 Code (as amended by section 631 of the Reform Act) is amended to read as follows:

"(c) Exception for Liquidations Which Are Part of a Reorganization.—

"For provision providing that this subpart does not apply to distributions in pursuance of a plan of reorganization, see section 361(c)(4)."

(E) Subsection (a) of section 311 of the 1986 Code is amended by striking out "distribution, with respect to its stock," and inserting in lieu thereof "distribution (not in complete liquidation) with respect to its stock".

(F) The table of sections for subpart C of part III of subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to section 361 and inserting in lieu thereof the following new item:

"Sec. 361. Nonrecognition of gain or loss to corporations; treatment of distributions."

(G) Effective with respect to transfers on or after June 21, 1988, section 351 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Controlled Corporation.—If—

"(1) property is transferred to a corporation (hereinafter in this subsection referred to as the 'controlled corporation') in an exchange with respect to which gain or loss is not recognized (in whole or in part) to the transferor under this section, and

"(2) such exchange is not in pursuance of a plan of reorganization,

section 311 shall apply to any transfer in such exchange by the controlled corporation in the same manner as if such transfer were a distribution to which subpart A of part I applies."

(6) Subparagraph (A) of section 280G(b)(5) of the 1986 Code is amended—

(A) in clause (i) by striking out "section 1361(b))" and inserting in lieu thereof "section 1361(b) but without regard to paragraph (1)(C) thereof)", and

(B) by adding at the end thereof the following: "Stock described in section 1504(a)(4) shall not be taken into account under clause (ii)(I) if the payment does not adversely affect the shareholder's redemption and liquidation rights."

(7) Subparagraph (B) of section 280G(b)(5) of the 1986 Code (relating to shareholder approval requirements) is amended by adding at the end thereof the following new sentence:

"The regulations prescribed under subsection (e) shall include regulations providing for the application of this subparagraph in the case of shareholders which are not individuals (including the treatment of nonvoting interests in an entity which is a shareholder) and where an entity holds a de minimis amount of stock in the corporation."

(8) Paragraph (5) of section 280G(d) of the 1986 Code is amended by striking out "officer or any member" and inserting in lieu thereof "officer of any member".

(9) Paragraph (3) of section 338(e) of the 1986 Code is amended by striking out "which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3)" and inserting in lieu thereof "which meet the requirements of section 1504(a)(2)".

(10)(A) Paragraph (7) of section 1504(b) of the 1986 Code is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1))."

(B) Section 1504 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Special Rule for Certain Amounts Derived From a Corporation Previously Treated as a DISC.—In determining the consolidated taxable income of an affiliated group for any taxable year beginning after December 31, 1984, a corporation which had been a DISC and which would otherwise be a member of such group shall not be treated as such a member with respect to—

"(1) any distribution (or deemed distribution) of accumulated DISC income which was not treated as previously taxed income under section 805(b)(2)(A) of the Tax Reform Act of 1984, and

"(2) any amount treated as received under section 805(b)(3) of such Act."

(e) Provision Related to Section 1806 of the Reform Act.—If—

(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954,

(2) such trusts would have been required to be so treated but for the amendment made by section 1806(b) of the Reform Act, and

(3) such trusts did not accumulate any income during such taxable year and did not make any accumulation distributions during such taxable year,

then, notwithstanding the amendment made by section 1806(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.

(f) Amendments Related to Section 1807 of the Reform Act.—

(1) Paragraphs (1)(A) and (2)(E) of section 468B(d) of the 1986 Code are each amended by striking out "the taxpayer" and inserting in lieu thereof "the taxpayer (or any related person)".

(2) Subparagraph (A) of section 468B(d)(2) of the 1986 Code is amended to read as follows:

"(A) which is established pursuant to a court order and which extinguishes completely the taxpayer's tort liability with respect to claims described in subparagraph (D),".

(3) Clause (i) of section 1807(a)(7)(C) of the Reform Act is amended to read as follows:

"(i) any portion of such fund which is established pursuant to a court order and with qualified payments, which meets the requirements of subparagraphs (C) and (D) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph), and with respect to which an election is made under subparagraph (F) thereof, shall be treated as a designated settlement fund for purposes of section 468B of such Code,"

(4) Paragraph (2) of section 468B(b) of the 1986 Code is amended—

(A) by striking out "the corporation," and inserting in lieu thereof "a corporation.", and

(B) by striking out "no other" and inserting in lieu thereof "No other".

(5)(A) Section 468B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Clarification of Taxation of Certain Funds.—Nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise."

(B) Subparagraph (D) of section 1807(a)(7) of the Reform Act is hereby repealed.

(g) Amendments Related to Section 1810 of the Reform Act.—

(1) Paragraph (5) of section 1810(a) of the Reform Act is amended by striking out "section 125(b)(5)" each place it appears and inserting in lieu thereof "section 121(b)(5)".

(2) Section 133(d)(3)(B)(iii) of the Tax Reform Act of 1984, as amended by section 1810(i)(2) of the Reform Act, is amended by striking out "Tax Reform Act of 1985" and inserting in lieu thereof "Tax Reform Act of 1986".

(3) Clause (iv) of section 7701(b)(5)(A) of the 1986 Code is amended by striking out "section 274(k)(2)" and inserting in lieu thereof "section 274(l)(1)(B)".

(h) Amendment Related to Section 1821 of the Reform Act.—

(1) Subsection (e) of section 812 of the 1986 Code (relating to dividends from certain subsidiaries not included in gross investment income) is amended to read as follows:

"(e) Dividends From Certain Subsidiaries Not Included in Gross Investment Income.—

"(1) In general.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100 percent dividend.

"(2) 100 percent dividend defined.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(B) Certain dividends out of tax-exempt interest, etc.—The term '100 percent dividend' does not include any distribution by a

corporation to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this subparagraph).

"(C) Certain dividends received by foreign corporations.—The term '100 percent dividends' does not include any dividend described in section 805(a)(4)(E) (relating to certain dividends in the case of foreign corporations)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 211 of the Tax Reform Act of 1984.

(i) Amendment Related to Section 1822 of the Reform Act.—Clause (i) of section 216(b)(4)(C) of the Tax Reform Act of 1984 (relating to section 818(c) elections made by certain acquired companies) is amended by striking out "clause (i)" and inserting in lieu thereof "subclause (I)".

(j) Amendment Related to Section 1825 of the Reform Act.—Paragraph (4) of section 1825(a) of the Reform Act (relating to amendments related to section 221 of the Tax Reform Act of 1984) is amended by striking out "Section 7702(e)(2)" and inserting in lieu thereof "Effective with respect to contracts entered into after October 22, 1986, section 7702(e)(2)".

(k) Amendments Related to Section 1826 of the Reform Act.—

(1) Paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(D) which is a qualified funding asset (as defined in section 130(d), but without regard to whether there is a qualified assignment)."

(2) The paragraph heading of paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS" and inserting in lieu thereof "CERTAIN ANNUITY CONTRACTS".

(l) Amendments Related to Section 1842 of the Reform Act.—

(1) Subsection (c) of section 425 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Transfers between spouses or incident to divorce.—In the case of any transfer described in subsection (a) of section 1041—

"(A) such transfer shall not be treated as a disposition for purposes of this part, and

"(B) the same tax treatment under this part with respect to the transferred property shall apply to the transferee as would have applied to the transferor."

(2) Paragraph (1) of section 425(c) of the 1986 Code is amended by striking out "paragraph (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(3) Effective with respect to transfers after June 21, 1988, subsection (d) of section 1041 of the 1986 Code is amended—

(A) by striking out "Paragraph (1) of subsection (a)" and inserting in lieu thereof "Subsection (a)", and

(B) by striking out "the spouse" and inserting in lieu thereof "the spouse (or former spouse)".

(m) Amendments Related to Section 1866 of the Reform Act.—

(1) Section 1866 of the Reform Act is amended by striking out "obligation issued to refund" and inserting in lieu thereof "obligation (or series of obligations) issued to refund".

(2)(A) Paragraph (1) of section 1866 of the Reform Act is amended to read as follows:

"(1) the average maturity of the issue of which the refunding obligation is a part does not exceed the average maturity of the obligations to be refunded by such issue,".

(B) Section 1866 of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), average maturity shall be determined in accordance with subsection (b)(14)(B)(i) of such Code."

(3) Paragraph (4) of section 1866 of the Reform Act is amended by striking out "30 days" and inserting in lieu thereof "90 days".

(4) Section 1866 of the Reform Act is amended by adding "and" at the end of paragraph (2), by striking out paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(5) A refunding obligation issued before July 1, 1987, shall be treated as meeting the requirement of paragraph (1) of section 1866 of the Reform Act if such obligation met the requirement of such paragraph as enacted by the Reform Act.

(n) Amendments Related to Section 1869 of the Reform Act.—

(1) Clause (ii) of section 1869(c)(3)(A) of the Reform Act is amended by striking out "pursuant to the exercise of eminent domain" and inserting in lieu thereof "(by a governmental unit having the power to exercise eminent domain)".

(2) Subparagraph (C) of section 1869(c)(3) of the Reform Act is amended by inserting "(or similar issues)" after "resulting from the issue".

(o) Amendments Related to Section 1875 of the Reform Act.—

(1) Clause (ii) of section 6230(a)(2)(A) of the 1986 Code is amended by striking out "nonpartnership items" and inserting in lieu thereof "nonpartnership items (other than by reason of section 6231(b)(1)(C))".

(2) Subsection (g) of section 1246 of the 1986 Code (as redesignated by this Act) is amended by striking out "1248(g)(3)" and inserting in lieu thereof "1248(g)(2)".

(3) Subsection (f) of section 6229 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner."

(p) Amendment Related to Section 1878 of the Reform Act.—Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(q) Amendments Related to Section 1879 of the Reform Act.—

(1) Subclause (II) of section 28(b)(2)(A)(ii) of the 1986 Code is amended to read as follows:

"(II) before the date on which an application with respect to such drug is approved under section 505(b) or 507 of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act; and".

(2) The last sentence of section 1361(d)(3) of the 1986 Code is amended by striking out "treated as a separate trust under section 663(c)" and inserting in lieu thereof "within the meaning of section 663(c)".

(3) Subsection (p) of section 1879 of the Reform Act is amended—

(A) by striking out "Subsection (a)" in paragraph (2) and inserting "Paragraph (1)", and

(B) by striking out "subsection (a)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "paragraph (1)".

(4)(A) Subsection (d) of section 1286 of the 1986 Code is amended to read as follows:

"(d) Special Rules for Tax-Exempt Obligations.—

"(1) In general.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

"(A) the amount of the original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon—

"(i) shall be treated as original issue discount on a tax-exempt obligation to the extent such discount does not exceed the tax-exempt portion of such discount, and

"(ii) shall be treated as original issue discount on an obligation which is not a tax-exempt obligation to the extent such discount exceeds the tax-exempt portion of such discount,

"(B) subsection (b)(1)(A) shall not apply, and

"(C) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the sum of—

"(i) the interest accrued but not paid before such bond or coupon was disposed of (and not previously reflected in basis), plus

"(ii) the amount included in gross income under subsection (b)(1)(B).

"(2) Tax-exempt portion.—For purposes of paragraph (1), the tax-exempt portion of the original issue discount determined under subsection (a) is the excess of—

"(A) the amount referred to in subsection (a)(1), over

"(B) an issue price which would produce a yield to maturity as of the purchase date equal to the lower of—

"(i) the coupon rate of interest on the obligation from which the coupons were separated, or

"(ii) the yield to maturity (on the basis of the purchase price) of the stripped obligation or coupon.

The purchaser of any stripped obligation or coupon may elect to apply clause (i) by substituting 'original yield to maturity of' for 'coupon rate of interest on'."

(B)(i) Except as provided in clause (ii), the amendment made by subparagraph (A) shall apply to any purchase or sale after June 10, 1987, of any stripped tax-exempt obligation or stripped coupon from such an obligation.

(ii) If—

(I) any person held any obligation or coupon in stripped form on June 10, 1987, and

(II) such obligation or coupon was held by such person on such date for sale in the ordinary course of such person's trade or business,

the amendment made by subparagraph (A) shall not apply to any sale of such obligation or coupon by such person and shall not apply to any such obligation or coupon while held by another person who purchased such obligation or coupon from the person referred to in subclause (I).

(5) Clause (ii) of section 368(a)(2)(F) of the 1986 Code is amended—

(A) by striking out the two parenthetical phrases in the first sentence, and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, a person holding stock in a regulated investment company, a real estate invest-

ment trust, or an investment company which meets the requirements of this clause shall, except as provided in regulations, be treated as holding its proportionate share of the assets held by such company or trust."

(6)(A) Subparagraph (A) of section 126(b)(1) of the 1986 Code is amended by inserting "or the Secretary of the Interior (whoever is appropriate)" after "Agriculture".

(B) For purposes of applying section 126(a)(10) of the 1986 Code to grants made after September 30, 1979, a State surface mining reclamation program which is primarily for 1 or more purposes specified in such section shall be treated as such a program primarily for such purposes whether or not such program is denoted as a program for public health and safety.

(r) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(1) Subsection (b) of section 1895 of the Reform Act is amended by striking out paragraphs (1) and (2).

(2)(A) Clause (ii) of section 3121(u)(2)(B) of the 1986 Code is amended by striking out "or" at the end of subclause (IV), by striking out the period at the end of subclause (V) and inserting in lieu thereof ", or", and by inserting after subclause (V) the following new subclause:

"(VI) by an individual in a position described in section 1402(c)(2)(E)."

(B) The amendment made by subparagraph (A) shall apply to services performed after March 31, 1986.

(s) MISCELLANEOUS PROVISIONS.—

(1) Subsection (a) of section 8021 of the 1986 Code is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(2)(A) Section 2503 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOANS OF ARTWORKS.—

"(1) IN GENERAL.—For purposes of this subtitle, any loan of a qualified work of art shall not be treated as a transfer (and the value of such qualified work of art shall be determined as if such loan had not been made) if—

"(A) such loan is to an organization described in section 501(c)(3) and exempt from tax under section 501(c) (other than a private foundation), and

"(B) the use of such work by such organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(2) DEFINITIONS.—For purposes of this section—

"(A) QUALIFIED WORK OF ART.—The term 'qualified work of art' means any archaeological, historic, or creative tangible personal property.

"(B) PRIVATE FOUNDATION.—The term 'private foundation' has the meaning given such term by section 509, except that such term shall not include any private operating foundation (as defined in section 4942(j)(3))."

(B) The amendment made by subparagraph (A) shall apply to loans after July 31, 1969.

(3)(A) Subparagraph (B) of section 1563(d)(1) of the 1986 Code is amended by striking out "subsection (e)(1)" and inserting in lieu thereof "paragraphs (1), (2), and (3) of subsection (e)".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after the date of the enactment of this Act.

(t) ADDITIONAL AMENDMENTS RELATED TO PENSION PLANS.—

(1) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(A) Section 72(s)(7) of the 1986 Code is amended by striking out "primary annuity" and inserting in lieu thereof "primary annuitant".

(B) Section 72(q)(2)(B) of the 1986 Code is amended by striking out the last parenthesis.

(C) Section 419A(f)(5) of the 1986 Code is amended by striking out "accounts" and inserting in lieu thereof "account".

(D) Section 1826(c) of the Reform Act is amended by striking out "made" and inserting in lieu thereof "commencing".

(2) AMENDMENTS RELATED TO SECTION 1851 OF THE REFORM ACT.—

(A) Section 1851(a) of the Reform Act is amended by striking out paragraph (4) thereof.

(B) Subclause (II) of section 512(a)(3)(E)(ii) of the 1986 Code is amended, (i) by striking out "subclause (II)" and inserting in lieu thereof "subclause (I)", and (ii) by striking out the comma at the end thereof and inserting in lieu thereof a period.

(C) Section 419(a)(1) of the 1986 Code is amended by striking out "subchapter" and inserting in lieu thereof "chapter".

(D) Subparagraph (B) of section 1851(a)(3) of the Reform Act is amended by inserting ", section 505, and section 4976(b)(1)(B)" after "section 419A".

(3) AMENDMENTS RELATED TO SECTION 1852 OF THE REFORM ACT.—

(A) Paragraph (4) of section 1852(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) An individual whose required beginning date would, but for the amendment made by subparagraph (A), occur after December 31, 1986, but whose required beginning date after such amendment occurs before January 1, 1987, shall be treated as if such individual had become a 5-percent owner during the plan year ending in 1986."

(B) Section 1852(h)(2) of the Reform Act is amended by striking out "section 416(l)" and inserting in lieu thereof "section 415(l)".

(C) Section 1852(h)(1) of the Reform Act is amended by striking out "Subsection" and inserting in lieu thereof "Effective for years beginning after December 31, 1985, subsection".

(D) Subparagraph (E) of section 408(d)(3) of the 1986 Code is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(4) AMENDMENTS RELATED TO SECTION 1854 OF THE REFORM ACT.—

(A) Section 404(k) of the 1986 Code is amended by striking out "avoidance" in the 4th sentence and inserting in lieu thereof "evasion".

(B) Section 409(h)(2) of the 1986 Code (relating to plan may distribute cash) is amended by striking out "section 409(o)" and inserting in lieu thereof "paragraph (1)(B)".

(C) Subparagraph (C) of section 409(n)(3) of the 1986 Code (defining nonallocation period) is amended to read as follows:

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the period beginning on the date of the sale of the qualified securities and ending on the later of—

"(i) the date which is 10 years after the date of sale, or

"(ii) the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(D) Subparagraph (A) of section 1042(c)(4) of the 1986 Code (defining qualified replacement property) is amended by inserting "(as in effect immediately before the Tax Reform Act of 1986)" after "section 954(c)(3)".

(E) Clause (i) of section 1042(c)(4)(B) of the 1986 Code (relating to operating corporation) is amended by striking out "placement period" and inserting in lieu thereof "replacement period".

(F) Section 1854(a)(3)(B) of the Reform Act is amended by striking out "1042(b)(3)" and inserting in lieu thereof "1042(b)".

(G) Subparagraph (C) of section 1854(a)(3) of the Reform Act is amended to read as follows:

"(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

"(ii) A taxpayer or executor may elect to have section 1042(b)(3) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subparagraph (B)) apply to sales before the date of the enactment of this Act as if such section included the last sentence of section 409(n)(1) of the Internal Revenue Code of 1986 (as added by subparagraph (A))."

(H) Section 409(e)(5) of the 1986 Code is amended by striking out "(2) or".

(5) AMENDMENT RELATED TO SECTION 1875 OF THE REFORM ACT.—Section 1875(c)(7)(B) of the Reform Act is amended by striking out "and section 405(c)".

(6) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subparagraph (B) of section 125(c)(2) of the 1986 Code (relating to exception for cash and deferred arrangements) is amended by inserting "or rural electric cooperative plan (within the meaning of section 401(k)(7))" after "stock bonus plan".

(7) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(A) Section 106(b)(1) of the 1986 Code (relating to exception for highly compensated individuals where plan fails to provide certain continuation coverage) is amended—

(i) by striking out "any amount contributed by an employer" and inserting in lieu thereof "any employer-provided coverage", and

(ii) by striking out "to a group" and inserting in lieu thereof "under a group".

(B) Section 1895(d)(5)(A) of the Reform Act is amended by striking out "section 162(k)(2)" and inserting in lieu thereof "section 162(k)(5)".

(8) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(A) Subparagraph (G) of section 402(a)(6) of the 1986 Code (relating to treatment of potential future vesting), as added by section 1898(a)(3) of the Reform Act, is redesignated as subparagraph (I).

(B) Subparagraph (A) of section 411(a)(11) of the 1986 Code is amended by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(C) Section 402(f)(1) of the 1986 Code is amended by striking out "a eligible" and inserting in lieu thereof "an eligible".

(D) Section 1899A of the Reform Act is amended by striking out paragraph (13).

(E) Subparagraph (B) of section 414(p)(4) of the 1986 Code is amended—

(i) by striking out "means earlier of" and inserting in lieu thereof "means the earlier of", and

(ii) by striking out "in" each place it appears.

(F) Section 414(p)(10) of the 1986 Code (relating to waiver of certain distribution requirements) is amended by inserting ", 403(b)," after "section 401".

(G) Section 414(p)(9) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of this title, except as provided in regulations, any distribution from an annuity contract under section 403(b) pursuant to a qualified domestic relations order shall be treated in the same manner as a distribution from a plan to which section 401(a)(13) applies."

(u) ADDITIONAL CLERICAL AMENDMENTS.—

(1) Paragraph (5) of section 104(b) of the Reform Act is amended by striking out "1222(b)" and inserting in lieu thereof "1122(b)".

(2) The amendment made by section 122(c)(2) of the Reform Act shall be applied as if it also struck out the comma at the end of section 274(b)(1)(B) of the 1986 Code.

(3) Clause (i) of section 280F(b)(3)(B) of the 1986 Code is amended by striking out "recovery deductions" and inserting in lieu thereof "depreciation deductions".

(4) Subparagraph (A) of section 803(b)(3) of the Reform Act is amended by inserting closing quotation marks after "section 189)" and by striking out the closing quotation marks following "subparagraph (B)".

(5) Paragraph (1) of section 823(b) of the Reform Act is amended to read as follows:

"(1) Paragraph (5) of section 461(h), as amended by section 805(c)(5), is amended by striking out subparagraph (B) and by redesignating subpargraph (C) as subparagraph (B)."

(6) The amendment made by section 1122(b)(2)(B)(iii) of the Reform Act shall be applied as if it struck out "Initial separate tax".

(7) The amendment made by section 1122(b)(2)(C) of the Reform Act shall be applied as if it did not strike out "the".

(8) Paragraph (2) of section 72(q)(2) of the 1986 Code is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a comma.

(9) Subparagraph (A) of section 417(e)(3) of the 1986 Code is amended by striking out "subclause (II)" and inserting in lieu thereof "clause (ii)".

(10) Subparagraph (A) of section 246(c)(1) of the 1986 Code is amended by striking out "Which" and inserting in lieu thereof "which".

(11) Subsection (a) of section 164 of the 1986 Code is amended by striking out "the GST tax" and inserting in lieu thereof "The GST tax".

(12) Subparagraph (B) of section 1851(a)(6) of the Reform Act is amended by striking out "Subsection (b)" and inserting in lieu thereof "Subsection (a)".

(13)(A) Paragraph (1) of section 1878(e) of the Reform Act is amended by striking out "last sentence of section 514(c)(9)(B) (relating to exceptions)" and inserting in lieu thereof "second to the last sentence of section 514(c)(9)(B) (as amended by paragraph (3))".

(B) Paragraph (3) of section 1878(e) of the Reform Act is amended by striking out "is amended" and inserting in lieu thereof ", and the last sentence of such section, are amended".

(14) Paragraph (23) of section 501(c) of the 1986 Code is amended by striking out "any association" and inserting in lieu thereof "Any association".

(15) Paragraph (1) of section 501(c) of the 1986 Code is amended by striking out "any corporation organized" and inserting in lieu thereof "Any corporation organized".

(16) The table of chapters for subtitle E of the 1986 Code is amended by inserting "smokeless tobacco," after "cigarettes," in the item relating to chapter 52.

(17) Paragraph (4) of section 3321(c) of the 1986 Code is amended by adding a period at the end thereof.

(18) Paragraph (3) of section 521(b) of the Superfund Revenue Act of 1986 is amended by striking out "Paragraph (1) of section 9506(b)" and inserting in lieu thereof "Subsection (b) of section 9506".

(19) Paragraph (2) of section 5054(a) of the 1986 Code is amended by adding a period at the end thereof.

(20) Paragraph (3) of section 9507(b) of the 1986 Code is amended by striking out "Deep Water" each place it appears and inserting in lieu thereof "Deepwater".

(21) Subparagraph (I) of section 231(d)(3) of the Reform Act is amended by striking out "section 6511(d)(6)" and inserting in lieu thereof "section 6511(d)(4)".

(22) Subsection (a) of section 1016 of the 1986 Code is amended by striking out all that follows paragraph (20) and inserting in lieu thereof the following:

"(21) to the extent provided in section 48(q), in the case of expenditures with respect to which a credit has been allowed under section 38;

"(22) for amounts allowed as deductions under section 59(e) (relating to optional 10-year writeoff of certain tax preferences);

"(23) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends); and

"(24) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d)."

(23) Paragraph (1) of section 7518(g) of the 1986 Code is amended by striking out "not qualified withdrawal" and inserting in lieu thereof "not a qualified withdrawal".

(24) The table of sections for part IV of subchapter P of chapter 1 of the 1986 Code is amended by striking out the item relating to section 1254 and inserting in lieu thereof the following:

"Sec. 1254. Gain from disposition of interest in oil, gas, geothermal, or other mineral properties."

(25) Paragraph (1) of section 453(f) of the 1986 Code is amended by striking out "subsection (g)" and inserting in lieu thereof "subsections (g)".

(26) Paragraph (8) of section 453(f) of the 1986 Code is amended by striking out "payment to be" and inserting in lieu thereof "payments to be".

(27) Subparagraph (B) of section 668(b)(1) of the Reform Act is amended by striking out "section 856" and inserting in lieu thereof "section 858".

(28) The second to the last sentence of section 857(b)(3)(C) of the 1986 Code is amended by striking out "such capital loss such" and inserting in lieu thereof "such capital loss shall".

(29) Subsection (a) of section 669 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(30) The table of parts for subchapter M of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Part IV. Real estate mortgage investment conduits."

(31) Subsection (c) of section 1277 of the 1986 Code is amended by inserting a closing parenthesis after "section 585(a)(2)".

(32) The table of parts for subchapter L of chapter 1 of the 1986 Code is amended by striking out the items relating to parts II, III, and IV and inserting in lieu thereof the following:

"Part II. Other insurance companies.

"Part III. Provisions of general application."

(33) Paragraph (7) of section 6051(a) of the 1986 Code is amended by adding a comma at the end thereof.

(34) Paragraph (14) of section 1114(b) of the Reform Act is amended—

(A) by striking out "section 501(c)(17)" and inserting in lieu thereof "section 501(c)(17)(A)", and

(B) by striking out "duties consists" and inserting in lieu thereof "duties consist".

(35) Subparagraph (C) of section 3121(v)(3) of the 1986 Code is amended by striking out "Saving" and inserting in lieu thereof "Savings".

(36) Paragraph (4) of section 6652(k) of the 1986 Code is amended by striking out "or section 6678" and inserting in lieu thereof "or part II of subchapter B of this chapter".

(37) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 865. Source rules for personal property sales."

(38) The amendment made by section 1221(b)(3)(B) of the Reform Act shall be construed as striking out paragraph (3) of section 954(e) of the 1986 Code.

(39) The heading of section 861(a)(6) of the 1986 Code is amended by striking out "personal property" and inserting in lieu thereof "inventory property".

(40) Subsection (a) of section 1296 of the 1986 Code is amended by inserting a comma after "this subpart".

(41) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(42) Paragraph (3) of section 1404(c) of the Reform Act is amended by striking out "section 6601" and inserting in lieu thereof "section 6601(b)".

(43) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "mean" and inserting in lieu thereof "means".

(44) Subparagraph (D) of section 3406(h)(5) of the 1986 Code is amended by adding a period at the end thereof.

(45) The table of sections for part III of subchapter C of chapter 76 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7475. Practice fee."

(46) The paragraph added to section 1276(b) of the 1986 Code by section 1803(a)(13)(A)(iii) of the Reform Act is amended—

(A) by inserting "(3)" before "SPECIAL" in the paragraph heading,

(B) by inserting a 1 em dash after "PAYMENTS." in the heading, and

(C) by adding a period at the end thereof.

(47) Subparagraph (C) of section 809(d)(4) of the 1986 Code is amended by striking out "the Secretary—" and inserting in lieu thereof "The Secretary—".

(48) Subsection (f) of section 7872 of the 1986 Code is amended by redesignating the paragraph (11) added by section 1854 of the Reform Act as paragraph (12).

(49) Paragraph (5) of section 7611(i) of the 1986 Code is amended by striking out "the title" and inserting in lieu thereof "this title".

(50) Section 13303(a) of Public Law 99-272 is amended (in the matter proposed to be inserted in section 3306(c) of the Internal Revenue Code of 1954), effective as of the date of its enactment, by inserting a comma immediately after "1988".

(51) Subsection (f) of section 6511 of the 1986 Code is amended—

(A) by striking out "chapter 42" in the text and inserting in lieu thereof "section 4912, chapter 42,", and

(B) by striking out "CERTAIN CHAPTER 43 TAXES" in the subsection heading and inserting in lieu thereof "SIMILAR TAXES".

(52) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(53) Section 2503(e)(2)(B) of the 1986 Code is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)".

SEC. 119. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if included in the provision of the Reform Act to which such amendment relates.

TITLE II—AMENDMENTS RELATED TO TAX PROVISIONS IN OTHER LEGISLATION

SEC. 201. AMENDMENTS RELATED TO SUPERFUND REVENUE ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Subsection (e) of section 4662 of the 1986 Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) REFUNDS DIRECTLY TO EXPORTER.—The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under section 4661 shall be allowed or made to the person who exported the taxable chemical or taxable substance, where—

"(A) the person who paid the tax waives his claim to the amount of such credit or refund, and

"(B) the person exporting the taxable chemical or taxable substance provides such information as the Secretary may require in such regulations."

(2) Subparagraph (A) of section 4662(b)(10) of the 1986 Code is amended by striking out "a mixture of" and inserting in lieu thereof "one or more".

(b) AMENDMENTS RELATED TO SECTION 515 OF THE ACT.—

(1) Subparagraph (B) of section 4672(a)(2) of the 1986 Code is amended by inserting "(or more than 50 percent of the value)" after "more than 50 percent of the weight".

(2) Paragraph (2) of section 4672(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed."

(3) Paragraph (4) of section 4672(a) of such Code is amended to read as follows:

"(4) MODIFICATIONS TO LIST.—The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B) and may remove from such list only substances which meet neither of such tests."

(c) AMENDMENTS RELATED TO SECTION 516 OF THE ACT.—

(1) Section 59A of the 1986 Code (relating to environmental tax) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION FOR RIC'S AND REIT'S.—The tax imposed by subsection (a) shall not apply to—

"(1) a regulated investment company to which part I of subchapter M applies, and

"(2) a real estate investment trust to which part II of subchapter M applies."

(2) Paragraph (1) of section 882(a) of the 1986 Code is amended by inserting "59A," after "55,".

(3)(A) Paragraph (2) of section 59A(b) of the 1986 Code (defining modified alternative minimum taxable income) is amended by striking out "section 164(a)(5)" and inserting in lieu thereof "section 164(a)(6)".

(B) The paragraph (5) of section 164(a) of the 1986 Code added by section 516(b) of the Superfund Revenue Act of 1986 is redesignated as paragraph (6).

(d) AMENDMENTS RELATED TO SECTION 521 OF THE ACT.—

(1)(A) The amendments made by subsections (b)(3) and (d)(17) of section 10502 of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 521 of the Superfund Revenue Act of 1986 except that the last sentence of paragraphs (2) and (3) of section 4041(d) of the Internal Revenue Code of 1986 (as amended by such subsection (b)(3)) and the reference to section 4091 of such Code in section 9508(c)(2)(A) of such Code (as amended by such subsection (d)(1)) shall not apply to sales before April 1, 1988.

(B) Paragraph (2) of section 6416(b) of the 1986 Code is amended by striking out "(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)" and inserting in lieu thereof "(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)".

(2) Paragraph (3) of section 4041(c) of the 1986 Code is amended by striking out "the rate at which" and inserting in lieu thereof "the Highway Trust Fund financing rate at which".

(3)(A) Subparagraph (A) of section 4041(b)(1) of the 1986 Code is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (d)(1)".

(B) Subparagraph (B) of section 4041(b)(1) of the 1986 Code is amended by inserting before the period "and by the corresponding provision of subsection (d)(1)".

(C) Subsection (b) of section 4041 of the 1986 Code is amended by striking out paragraph (3).

(D) Subparagraph (A) of section 4041(b)(2) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(i) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(ii) subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to the sales and uses to which clause (i) applies."

(E) Subsection (f) of section 6421 of the 1986 Code is amended by striking out all that follows paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(2) GASOLINE USED IN AVIATION.—This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

"(A) in noncommercial aviation (as defined in section 4041(c)(4)), or

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAX ON GASOLINE USED IN TRAINS.—This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used as a fuel in a train."

(F) The second sentence of section 6421(a) of the 1986 Code is amended by striking out "paragraph (3) of subsection (e)" and inserting in lieu thereof "paragraph (2) of subsection (f)".

(4)(A) Paragraph (1) of section 1703(f) of the Reform Act (relating to floor stock taxes) is amended by striking out "9 cents" and inserting in lieu thereof "9.1 cents".

(B) Paragraph (4) of section 1703(f) of the Reform Act is amended to read as follows:

"(4) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this section shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

"(A) at the Highway Trust Fund financing rate under such section to the extent of 9 cents per gallon, and

"(B) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cent per gallon."

(5)(A) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by inserting "and by substituting ⅑ cent' for '0.1 cent'" before "in the case of the removal".

(B) The last sentence of section 4081(c)(2) of the 1986 Code, as amended by such section 1703, is amended by striking out "5⅔ cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel".

(6)(A) Paragraph (1) of section 4091(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅑ cent per gallon."

(B) Paragraph (4) of section 4091(b) of the 1986 Code is amended by inserting "except as provided in subsection (c)," after "paragraph (1),".

(C) The last sentence of section 4091(c)(2) of the 1986 Code is amended by striking out "5 cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel".

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(7)(A) The amendment made by section 10502(c)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(B) Subparagraph (A) of section 6427(f)(1) of the 1986 Code is amended—

(i) by striking out "regular Highway Trust Fund financing rate" each place it appears and inserting in lieu thereof "regular tax rate", and

(ii) by striking out "incentive Highway Trust Fund financing rate" and inserting in lieu thereof "incentive tax rate".

(C) Subparagraph (B) of section 6427(g)(1) of the 1986 Code is amended to read as follows:

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof.

"(ii) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(D) Paragraph (2) of section 6427(l) of the 1986 Code is amended by inserting "under section 4041" after "exempt".

(E) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(e) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the provision of the Superfund Revenue Act of 1986 to which it relates.

SEC. 202. AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) ORDER OF ENACTMENTS.—

(1) For purposes of section 4042 of the 1986 Code, the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 shall be treated as enacted after the amendment made by section 1404(a) of the Harbor Maintenance Revenue Act of 1986.

(2) Paragraph (2) of section 4042(b) of the 1986 Code is amended to read as follows:

"(2) RATES.—For purposes of paragraph (1)—

"(A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

If the use occurs:	The tax per gallon is:
Before 1990	10 cents
During 1990	11 cents
During 1991	13 cents
During 1992	15 cents
During 1993	17 cents
During 1994	19 cents
After 1994	20 cents

"(B) The Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon."

(b) CARGO TRANSPORTED BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) of the 1986 Code is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(c) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSION.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "October 1, 1988".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

SEC. 203. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 1011 OF THE ACT.—

(1) Subparagraph (B) of section 501(c)(12) of the 1986 Code is amended by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(2) Subparagraph (C) of section 501(c)(12) of the 1986 Code is amended to read as follows:

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from qualified pole rentals, or

"(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(3) The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) AMENDMENTS RELATED TO SECTION 8011 OF THE ACT.—

(1) The following provisions of the 1986 Code are each amended by striking out "the 14th day after the date on which" and inserting in lieu thereof "the 14th day after the last day of the semimonthly period during which":

(A) Subparagraphs (A) and (B) of section 5061(d)(2).

(B) Paragraph (3) of section 5061(d).

(C) Clauses (i) and (ii) of section 5703(b)(2)(B).

(D) Subparagraph (C) of section 5703(b)(2).

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986.

(c) AMENDMENT RELATED TO SECTION 8041 OF THE ACT.—

(1) IN GENERAL.—Paragraph (3) of section 901(j) of the 1986 Code is amended—

(A) by striking out "Section 275" and inserting in lieu thereof "Sections 275 and 78", and

(B) by inserting ", ETC." after "DEDUCTION" in the paragraph heading.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 1987.

(d) AMENDMENT RELATED TO SECTION 9002 OF THE ACT.—Paragraph (3) of section 3509(d) of the 1986 Code is amended by striking out "subsection (d)(3)" and inserting in lieu thereof "subsection (d)(4)".

SEC. 204. AMENDMENTS RELATED TO THE REVENUE ACT OF 1987.

(a) AMENDMENT RELATED TO SECTION 10101 OF THE ACT.—Section 10101(b) of the Revenue Act of 1987 is amended to read as follows:

"(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

"(2) SPECIAL RULE FOR CAFETERIA PLANS.—For purposes of section 125 of the Internal Revenue Code of 1986, a plan shall not be treated as failing to be a cafeteria plan solely because under the plan a participant elected before January 1, 1988, to receive reimbursement under the plan for dependent care assistance for periods after December 31, 1987, and such assistance included reimbursement for expenses at a camp where the dependent stays overnight."

(b) AMENDMENTS RELATED TO SECTION 10102 OF THE ACT.—

(1) Subsection (h) of section 163 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (5).

(2) Clause (ii) of section 56(b)(1)(C) of the 1986 Code is amended by striking out "163(h)(6)" and inserting in lieu thereof "163(h)(5)".

(3) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(A) by striking out "substantially rehabilitating" and inserting in lieu thereof "substantially improving", and

(B) by striking out "or is paid" in subparagraph (A).

(c) AMENDMENT RELATED TO SECTION 10103.—Paragraph (1) of section 10103(a) of the Revenue Act of 1987 is amended by inserting "in a plan established for its employees by the United States" after "participant".

(d) AMENDMENTS RELATED TO SECTION 10202 OF THE ACT.—

(1) Subparagraph (A) of section 453(l)(1) of the 1986 Code, is amended by striking out "disposes of personal property" and inserting in lieu thereof "disposes of personal property of the same type".

(2) Section 453A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(1) disallowing the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related persons, pass-thru entities, or intermediaries, and

"(2) providing that the sale of an interest in a partnership or other pass-thru entity will be treated as a sale of the proportionate share of the assets of the partnership or other entity."

(3) Paragraph (3) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DISPOSITIONS DEEMED MADE ON 1ST DAY OF TAXABLE YEAR.—If the taxpayer makes an election under subparagraph (A), in the case of the taxpayer's 1st taxable year ending after December 31, 1986—

"(i) dispositions after August 16, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day, and

"(ii) subsections (b)(2)(B) and (c)(4) of section 453A of such Code shall be applied separately with respect to such dispositions by substituting for '$5,000,000' the amount which bears the same ratio to $5,000,000 as the number of days after August 16, 1986, and before such 1st day bears to 365."

(4) Paragraph (2) of section 10202(e) of the Revenue Act of 1987 is amended by adding

at the end thereof the following new subparagraph:

"(C) CERTAIN RULES MADE APPLICABLE.—For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (5) of section 812(c) of the Tax Reform Act of 1986 (as added by the Technical Corrections Act of 1988) shall apply."

(5) Subsection (k) of section 453 of the 1986 Code is amended by striking out "and section 453A".

(6) Subparagraph (A) of section 10202(e)(2) of the Revenue Act of 1987 is amended by striking out "section 453A of the Internal Revenue Code of 1986" and inserting in lieu thereof "section 453(l)(1) of the Internal Revenue Code of 1986 as added by this section".

(7) Paragraph (2) of section 453A(b) of the 1986 Code is amended by striking out "for purposes of this paragraph" and inserting in lieu thereof "for purposes of this paragraph and subsection (c)(4)".

(8) Paragraph (3) of section 453A(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)."

(e) AMENDMENTS RELATED TO SECTION 10206 OF THE ACT.—

(1)(A) Subsection (a) of section 444 of the 1986 Code is amended by striking out "as provided in subsections (b) and (c)" and inserting in lieu thereof "as otherwise provided in this section".

(B) Paragraph (3) of section 444(d) of the 1986 Code is amended to read as follows:

"(3) TIERED STRUCTURES, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) no election may be under subsection (a) with respect to any entity which is part of a tiered structure, and

"(ii) an election under subsection (a) with respect to any entity shall be terminated if such entity becomes part of a tiered structure.

"(B) EXCEPTIONS FOR STRUCTURES CONSISTING OF CERTAIN ENTITIES WITH SAME TAXABLE YEAR.—Subparagraph (A) shall not apply to any tiered structure which consists only of partnerships or S corporations (or both) all of which have the same taxable year."

(C) Subparagraph (B) of section 444(d)(2) of the 1986 Code is amended by striking out "under subparagraph (A)" and inserting in lieu thereof "under subparagraph (A) or paragraph (3)(A)".

(2)(A) Section 444 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) PERSONAL SERVICE CORPORATION.—For purposes of this section, the term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(B) Subsection (f) of section 280H of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(3) Paragraph (2) of section 280H(f) of the 1986 Code is amended by striking out "section 296A(b)(2)" and inserting in lieu thereof "section 269A(b)(2) (as modified by section 441(i)(2))".

(4)(A) Paragraph (2) of section 7519(b) of the 1986 Code is amended to read as follows:

"(2) the net required payment balance."

(B) Subsection (e) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years, over

"(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years."

(5) Subsection (c) of section 7519 of the 1986 Code is amended to read as follows:

"(c) REFUND OF PAYMENTS.—

"(1) IN GENERAL.—If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

"(2) TERMINATION OF ELECTIONS, ETC.—If—

"(A) an election under section 444 is terminated effective with respect to any year, or

"(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

"(3) DATE ON WHICH REFUND PAYABLE.—Any refund under this subsection shall be payable on later of—

"(A) April 15 of the calendar year following—

"(i) in the case of the year referred to in paragraph (1), the calendar year in which it begins,

"(ii) in the case of the year referred to in paragraph (2), the calendar year in which it ends, or".

"(B) the day 90 days after the day on which claim therefor is filed with the Secretary."

(6) Subsection (g) of section 7519 of the 1986 Code is amended by striking out "including regulations" and all that follows down through the period at the end thereof and inserting in lieu thereof

"including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

"(1) 2 or more applicable election years begin in the same calendar year, or

"(2) the base year is a taxable year of less than 12 months."

(7) Subparagraph (B) of section 7519(d)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))".

(8) Subsection (d) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF GUARANTEED PAYMENTS.—

"(A) IN GENERAL.—Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

"(B) GUARANTEED PAYMENT.—For purposes of subparagraph (A), the term 'guaranteed payment' means any payment referred to in section 707(c)."

(9) Paragraph (4) of section 7519(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income."

(10) Subparagraphs (A) and (B) of section 7519(d)(2) of the 1986 Code are each amended by striking out "(other than credits)" and inserting in lieu thereof "(other than credits and tax-exempt income)".

(11) Paragraph (4) of section 10206(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only in the case of an election under section 444 of such Code made for a taxable year beginning before 1989."

(12) Subparagraph (A) of section 444(d)(2) of the 1986 Code is amended by inserting "or otherwise terminates such election" before the period at the end of the first sentence thereof.

(13) Paragraph (4) of section 444(b) of the 1986 Code is amended by striking out "the term" and inserting in lieu thereof "except as provided in regulations, the term".

(14)(A) Paragraph (4) of section 280H(f) of the 1986 Code is amended to read as follows:

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income determined without regard to—

"(A) any amount paid to an employee-owner which is includible in the gross income of such employee-owner, and

"(B) any net operating loss carryover to the extent such carryover is attributable to amounts described in subparagraph (A)."

(B) Subparagraph (A) of section 7519(d)(3) of the 1986 Code is amended by striking out "or incurred".

(C) Subsections (c)(1)(A)(i) and (d)(1) of section 280H of the 1986 Code are each amended by striking out "or incurred".

(f) AMENDMENTS RELATED TO SECTION 10211 OF THE ACT.—

(1) Paragraph (4) of section 7704(e) of the 1986 Code is amended by striking out "as may be required" and inserting in lieu thereof "or to pay such amounts as may be required".

(2) Paragraph (2) of section 10211(c) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH PASSIVE-TYPE INCOME REQUIREMENTS.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for 'December 31, 1987' the earlier of—

"(i) December 31, 1997, or

"(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B)."

(3) Paragraph (1) of section 7704(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership."

(4) Paragraph (1) of section 7704(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'mineral or natural resource' means any product of a character with respect to which

a deduction for depletion in allowable under section 611."

(5) Paragraph (3) of section 7704(d) of the 1986 Code is amended to read as follows:

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if—

"(A) such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements), and

"(B) stock owned, directly or indirectly, by or for a partner would not be considered as owned under section 318(a)(3)(A) by the partnership unless 5 percent or more (by value) of the interests in such partnership are owned, directly or indirectly, by or for such partner."

(g) AMENDMENT RELATED TO SECTION 10212 OF THE ACT.—Subsection (k) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (g).—For purposes of subsection (g), a taxpayer shall not be treated as having disposed of his entire interest in an activity of a publicly traded partnership until he disposes of his entire interest in such partnership."

(h) AMENDMENTS RELATED TO SECTION 10214 OF THE ACT.—

(1) Subparagraph (E) of section 514(c)(9) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations which may provide for exclusion or segregation of items."

(2) Clause (i) of section 514(c)(9)(E) of the 1986 Code is amended by striking out subclause (I) and by redesignating subclauses (II) and (III) as subclauses (I) and (II), respectively.

(i) AMENDMENTS RELATED TO SECTION 10221 OF THE ACT.—

(1) Paragraph (2) of section 10221(e) of the Revenue Act of 1987 is amended by striking out "amendments made by subsection (b)" and inserting in lieu thereof "amendments made by subsection (c)".

(2) Subsection (b) of section 244 of the 1986 Code is amended by striking out "section 243(c)(4)" and inserting in lieu thereof "section 243(d)(4)".

(j) AMENDMENTS RELATED TO SECTION 10222 OF THE ACT.—

(1)(A) Paragraph (1) of section 1503(e) of the 1986 Code is amended by striking out so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof the following:

"(1) IN GENERAL.—Solely for purposes of determining gain or loss on the disposition of intragroup stock and the amount of any inclusion by reason of an excess loss account, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year (and in determining the amount in such account)—"

(B) Paragraph (2) of section 10222(a) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF CERTAIN EXCESS LOSS ACCOUNTS.—

"(i) IN GENERAL.—If—

"(I) any disposition on or before December 15, 1987, of stock resulted in an inclusion of an excess loss account (or would have so resulted if the amendments made by paragraph (1) had applied to such disposition), and

"(II) there is an unrecaptured amount with respect to such disposition,

the portion of such unrecaptured amount allocable to stock disposed of in a disposition to which the amendment made by paragraph (1) applies shall be taken into account as negative basis. To the extent permitted by the Secretary of the Treasury or his delegate, the preceding sentence shall not apply to the extent the taxpayer elects to reduce its basis in indebtedness of the corporation with respect to which there would have been an excess loss account.

"(ii) SPECIAL RULES.—For purposes of this subparagraph—

"(I) UNRECAPTURED AMOUNT.—The term 'unrecaptured amount' means the amount by which the inclusion referred to in clause (i)(I) would have been increased if the amendment made by paragraph (1) and applied to the disposition.

"(II) COORDINATION WITH BINDING CONTRACT EXCEPTION.—A disposition shall be treated as occurring on or before December 15, 1987, if the amendment made by paragraph (1) does not apply to such disposition by reason of subparagraph (B)."

(2) Subsection (e) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of paragraph (1)—

"(A) in the case of any property acquired by the corporation before consolidation, for the difference between the adjusted basis of such property for purposes of computing taxable income and its adjusted basis for purposes of computing earnings and profits, and

"(B) in the case of any property, for any basis adjustment under section 48(q)."

(3)(A) Paragraph (2) of section 1503(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICATION OF SECTION 312(n)(7) NOT AFFECTED.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(B) Subsection (e) of section 301 of the 1986 Code (as redesignated by section 106(e)(12) of this Act) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) APPLICATION OF SECTION 312(n)(7) NOT AFFECTED.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(4) Subparagraph (B) of section 10222(b)(2) of the Revenue Act of 1987 is amended to read as follows:

"(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition of stock after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contact, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987."

(k) AMENDMENTS RELATED TO SECTION 10223 OF THE ACT.—

(1) Subparagraph (D) of section 355(b)(2) of the 1986 Code is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B) and was not acquired by the distributing corporation directly (or through 1 or more corporations) within such period, or

"(ii) was so acquired by any such corporation within such period, but, in each case in which such control was so acquired, it was so acquired, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of such period."

(2) Subparagraph (A) of section 304(b)(4) of the 1986 Code is amended by striking out "stock of 1 member" and inserting in lieu thereof "stock from 1 member".

(3) Paragraph (2) of section 10223(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF CERTAIN MEMBERS OF AFFILIATED GROUP.—

"(i) IN GENERAL.—For purposes of subparagraph (A), all distributees which were in existence on the designated date and were members of the same affiliated group on such date shall be treated as 1 distributee.

"(ii) LIMITATION TO STOCK HELD ON DESIGNATED DATE.—Clause (i) shall not exempt any distribution from the amendments made by this section if such distribution is with respect to stock not held by the distributee (determined without regard to clause (i)) on the designated date, directly or indirectly, through a corporation which goes out of existence in the transaction.

"(iii) DESIGNATED DATE.—For purposes of this subparagraph, the term 'designated date' means the later of—

"(I) December 15, 1987, or

"(II) the date on which the acquisition meeting the requirements of subparagraph (A) occurred."

(4) Subparagraph (B) of section 10223(d)(2) of the Revenue Act of 1987 is amended—

(A) by striking out "before January 1, 1993" and inserting in lieu thereof "on or before March 31, 1988", and

(B) by striking out "before January 1, 1989,".

(l) AMENDMENT RELATED TO SECTION 10224 OF THE ACT.—Sections 1201(a) and 1561(a) of the 1986 Code, and section 904(b)(3)(D)(ii) of the 1986 Code (as amended by section 106(b)(2) of this Act), are each amended by striking out "section 11(b)" and inserting in lieu thereof "section 11(b)(1)".

(m) AMENDMENTS RELATED TO SECTION 10226 OF THE ACT.—

(1)(A) Subsection (a) of section 384 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—If—

"(1)(A) a corporation acquires directly (or through 1 or more other corporations) control of another corporation, or

"(B) the assets of a corporation are acquired by another corporation in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(2) either of such corporations is a gain corporation,

income for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss (other than a preacquisition loss of the gain corporation)."

(B) Subsection (c) of section 384 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (8) and by inserting after paragraph (3) the following new paragraphs:

"(4) GAIN CORPORATION.—The term 'gain corporation' means any corporation with a net unrealized built-in gain.

"(5) CONTROL.—The term 'control' means ownership of stock in a corporation which meets the requirements of section 1504(a)(2).

"(6) TREATMENT OF MEMBERS OF SAME GROUP.—Except as provided in regulations and except for purposes of subsection (b), all corporations which are members of the same affiliated group immediately before the acquisition date shall be treated as 1 corporation. To the extent provided in regulations, section 1504 shall be applied without regard to subsection (b) thereof for purposes of the preceding sentence.

"(7) TREATMENT OF PREDECESSORS AND SUCCESSORS.—Any reference in this section to a corporation shall include a reference to any predecessor or successor thereof."

(C) Paragraph (2) of section 384(c) of the 1986 Code is amended to read as follows:

"(2) ACQUISITION DATE.—The term 'acquisition date' means—

"(A) in any case described in subsection (a)(1)(A), the date on which the acquisition of control occurs, or

"(B) in any case described in subsection (a)(1)(B), the date of the transfer in the reorganization."

(D) Paragraph (1) of section 384(c) of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(1)(B)".

(2) Paragraph (2) of section 384(e) of the 1986 Code is amended by striking out "the gain corporation" and inserting in lieu thereof "a corporation".

(3) Subsection (b) of section 384 of the 1986 Code is amended to read as follows:

"(b) EXCEPTION WHERE CORPORATIONS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the preacquisition loss of any corporation if such corporation and the gain corporation were members of the same controlled group at all times during the 5-year period ending on the acquisition date.

"(2) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means a controlled group of corporations (as defined in section 1563(a)); except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears,

"(B) the ownership requirements of section 1563(a) must be met both with respect to voting power and value, and

"(C) the determination shall be made without regard to subsection (a)(4) of section 1563.

"(3) SHORTER PERIOD WHERE GAIN CORPORATION NOT IN EXISTENCE FOR 5 YEARS.—If the gain corporation was not in existence throughout the 5-year period referred to in paragraph (1), the period during which the gain corporation was in existence shall be substituted for such 5-year period."

(4) Section 384 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ORDERING RULES FOR NET OPERATING LOSSES, ETC.—

"(1) CARRYOVER RULES.—If any preacquisition loss may not offset a recognized buildin gain by reason of this section, such gain shall not be taken into account in determining under section 172(b)(2) the amount of such loss which may be carried to other taxable years. A similar rule shall apply in the case of any excess credit or net capital loss limited by reason of subsection (d).

"(2) ORDERING RULE FOR LOSSES CARRIED FROM SAME TAXABLE YEAR.—In any case in which—

"(A) a preacquisition loss for any taxable year is subject to limitation under subsection (a), and

"(B) a net operating loss from such taxable year is not subject to such limitation,

taxable income shall be treated as having been offset 1st by the loss subject to such limitation."

(5) In any case where the acquisition date (as defined in section 384(c)(2) of the 1986 Code as amended by this subsection) is before March 31, 1988, the acquiring corporation may elect to have the amendments made by this subsection not apply. Such an election shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe and shall be made not later than the later of the due date (including extensions) for filing the return for the taxable year of the acquiring corporation in which the acquisition date occurs or the date 120 days after the date of the enactment of this Act. Such an election, once made, shall be irrevocable.

(n) AMENDMENTS RELATED TO SECTION 10227 OF THE ACT.—Paragraph (4) of section 1363(d) of the 1986 Code (relating to recapture of LIFO benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as provided in regulations, the corporation referred to in paragraph (1) shall not be treated as a member of an affiliated group with respect to the amount included in gross income under paragraph (1)."

(o) AMENDMENTS RELATED TO SECTION 10228 OF THE ACT.—

(1)(A) Subsection (a) of section 5881 of the 1986 Code is amended by striking out "gain realized by such person on such receipt" and inserting in lieu thereof "gain or other income of such person by reason of such receipt".

(B)(i) Subsection (b) of section 5881 of the 1986 Code is amended by striking out "a corporation to directly or indirectly acquire its stock" and inserting in lieu thereof "a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation".

(ii) The amendment made by clause (i) shall apply to transactions occurring on or after March 31, 1988.

(C) Subsection (d) of section 5881 of the 1986 Code is amended—

(i) by striking out "the gain" and inserting in lieu thereof "the gain or other income", and

(ii) by striking out "GAIN RECOGNIZED" in the subsection heading and inserting in lieu thereof "AMOUNT RECOGNIZED".

(2) Section 5881 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(p) AMENDMENTS RELATED TO SECTION 10241 OF THE ACT.—

(1) Paragraph (1) of section 811(d) of the 1986 Code is amended by striking out "the prevailing State assumed interest rate for the contract" and inserting in lieu thereof "the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract".

(2) Paragraph (2) of section 812(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A)."

(q) AMENDMENTS RELATED TO SECTION 10242 OF THE ACT.—

(1) Subsection (h) of section 816 of the 1986 Code is amended by striking out "section 842(c)(1)(A)" and inserting in lieu thereof "section 842(b)(2)(B)(i)".

(2)(A) Subparagraph (B) of section 842(b)(3) of the 1986 Code is amended by striking out "held for the production of such income".

(B) Subparagraph (B) of section 842(b)(4) of the 1986 Code is amended by striking out "held for the production of investment income".

(3) Subparagraph (d) of section 842 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) which may provide that, in the case of companies taxable under part II of this subchapter, determinations under subsection (b) will be made separately for categories of such companies established in such regulations."

(r) AMENDMENT RELATED TO SECTION 10301 OF THE ACT.—Paragraph (3) of section 6655(g) of the 1986 Code is amended by striking the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month', and subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' and in clause (i)(I), by substituting '4 months' for '5 months' in clause (i)(II), by substituting '7 months' for '8 months' in clause (i)(III), and by substituting '10 months' for '11 months' in clause (i)(IV)".

(s) AMENDMENTS RELATED TO SECTION 10512 OF THE ACT.—

(1) Section 5276 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR UNITED STATES.—Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States."

(2) Subsection (a) of section 5113 of the 1986 Code is amended—

(A) by inserting "taxpaid wine bottling house," after "bonded wine cellar," each place it appears, and

(B) by striking out "DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, OR BREWERIES" in the heading and inserting in lieu thereof "CONTROLLED PREMISES".

(3) Section 5123 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) COORDINATION OF TAXES UNDER SECTION 5121.—No tax shall be imposed by section 5121(a) with respect to a person's activities at any place during a year if such person has paid the tax imposed by section 5121(b) with respect to such place for such year."

(t) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

SEC. 205. AMENDMENTS RELATED TO PENSION PROTECTION ACT AND FULL FUNDING LIMITATIONS.

(a) AMENDMENT RELATED TO SECTION 9303.—

(1) Section 4972(c) of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), if—

"(A) the amount which is required to be contributed to a plan under section 412 on behalf of an individual who is an employee (within the meaning of section 401(c)(1)), exceeds

"(B) the earned income (within the meaning of section 404(a)(8)) of such individual derived from the trade or business with respect to which such plan is established,

such excess shall be treated as an amount allowable as a deduction under section 404."

(2)(A) Subparagraph (C) of section 412(1)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (C) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(b) AMENDMENTS RELATED TO SECTION 9307.—

(1) The last sentence of section 404(a)(1)(D) of the 1986 Code is amended by striking out "For purposes of this subparagraph" and inserting in lieu thereof "For purposes of determining whether a plan has more than 100 participants".

(2) Section 404(a)(7)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if paragraph (1)(D) applies to a defined benefit plan for any plan year, the amount necessary to satisfy the minimum funding standard provided by section 412 with respect to such plan for such plan year shall not be less than the unfunded current liability of such plan under section 412(l).".

(3) Section 404(a)(1)(D) of the 1986 Code is amended by striking out "(without regard to any reduction by the credit balance in the funding standard account)".

(c) AMENDMENTS RELATED TO SECTION 9301.—

(1) Section 414(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(2) ALLOCATION OF ASSETS IN PLAN SPIN-OFFS, ETC.—

"(A) IN GENERAL.—In the case of a plan spin-off of a defined benefit plan, a trust which forms part of—

"(i) the original plan, or

"(ii) any plan spun off from such plan,

shall not constitute a qualified trust under this section unless the applicable percentage of excess assets are allocated to each of such plans.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means, with respect to each of the plans described in clauses (i) and (ii) of subparagraph (A), the percentage determined by dividing—

"(i) the excess (if any) of—

"(I) the full funding limitation applicable to the plan under section 412(c)(7), over

"(II) the amount of the assets required to be allocated to the plan after the spin-off (without regard to this paragraph), by

"(ii) the sum of the excess amounts determined separately under clause (i) for all such plans.

"(C) EXCESS ASSETS.—For purposes of subparagraph (A), the term 'excess assets' means an amount equal to the excess (if any) of—

"(i) the fair market value of the assets of the original plan immediately before the spin-off, over

"(ii) the amount of assets required to be allocated after the spin-off to all plans (determined without regard to this paragraph).

"(D) PLANS OUTSIDE CONTROLLED GROUPS.—

"(i) IN GENERAL.—This paragraph shall not apply to any plan involved in a spin-off if, after such spin-off, such plan is maintained by an employer who is not a member of the same controlled group as the employer maintaining the original plan. The amount determined under subparagraph (C)(ii) shall be increased by the amount of any assets allocated to a plan described in the preceding sentence in excess of the amount described in subparagraph (C)(ii).

"(ii) CONTROLLED GROUP.—For purposes of this subparagraph, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(E) PARAGRAPH NOT TO APPLY TO MULTIEMPLOYER PLANS.—This paragraph does not apply to any multiemployer plan with respect to any spin-off to the extent that participants either before or after the spin-off are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.

"(F) APPLICATION TO SIMILAR TRANSACTION.—Except as provided by the Secretary, rules similar to the rules of this paragraph shall apply to transactions similar to spin-offs."

(2) Section 414(l) of the 1986 Code is amended by striking out the heading and inserting in lieu thereof:

"(l) MERGER AND CONSOLIDATIONS OF PLANS OR TRANSFERS OF PLAN ASSETS.—

"(1) IN GENERAL.—".

(3)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to transactions occurring after July 26, 1988.

(B) The amendments made by this subsection shall not apply to any transaction occurring after July 26, 1988, if on or before such date the board of directors of the employer, approves such transaction or the employer took similar binding action.

SEC. 206. AMENDMENTS RELATED TO SECTION 9201 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) Subsection (c) of section 4132 of the 1986 Code (relating to imposition of tax on certain vaccines) is amended by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (as so redesignated) the following new paragraphs:

"(1) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a vaccine which uses such vaccine before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

"(2) TREATMENT OF VACCINES SHIPPED TO UNITED STATES POSSESSIONS.—Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States."

(b) Subsection (a) of section 9510 of the 1986 Code is amended—

(1) by inserting "appropriated or" before "credited", and

(2) by inserting "this section or" before "section 9602(b)".

(c) The amendments made by this section shall take effect as if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987.

SEC. 207. ADDITIONAL PENSION TECHNICAL CORRECTIONS.

(a) AMENDMENT OF ERISA.—For purposes of this section, the term "ERISA" means the Employee Retirement Income Security Act of 1974.

(b) AMENDMENTS RELATED TO TAX REFORM ACT OF 1986.—

(1) AMENDMENTS RELATED TO TITLE XI OF THE REFORM ACT.—

(A) AMENDMENTS RELATED TO SECTION 1113 OF THE REFORM ACT.—

(i) Section 203(a)(2) of ERISA is amended—

(I) by striking out "following" the first place it appears, and

(II) by striking out "414(f)(1)(B)" in subparagraph (C)(ii)(I) and inserting in lieu thereof "3(37)(A)(ii)".

(ii) Section 1113(e)(3) of the Reform Act is amended by striking out "Section 202(B)(i)" and inserting in lieu thereof "Section 202(a)(1)(B)(i)".

(iii) The second subsection (e) of section 1113 of the Reform Act is redesignated as subsection (f).

(iv) Section 1113(f) of the Reform Act, as redesignated by clause (iii), is amended by adding at the end thereof the following new paragraph:

"(4) REPEAL OF CLASS YEAR VESTING.—If a plan amendment repealing class year vesting is adopted after October 22, 1986, such amendment shall not apply to any employee for the 1st plan year to which the amendments made by subsections (b) and (e)(2) apply (and any subsequent plan year) if—

"(A) such plan amendment would reduce the nonforfeitable right of such employee for such year, and

"(B) such employee has at least 1 hour of service before the adoption of such plan amendment and after the beginning of such 1st plan year.

This paragraph shall not apply to an employee who has 5 consecutive 1-year breaks in service (as defined in section 411(a)(6)(A) of the Internal Revenue Code of 1986, which include the 1st day of the 1st plan year to which the amendments made by subsections (b) and (e)(2) apply."

(v)(I) Section 411(a)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—A matching contribution (within the meaning of section 401(m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(II) Paragraph (3) of section 203(a) of ERISA is amended by adding at the end thereof the following new subparagraph:

"(F) A matching contribution (within the meaning of section 401(m) of the Internal

Revenue Code of 1986) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B) of such Code, an excess deferral under section 402(g)(2)(A) of such Code, or an excess aggregate contribution under section 401(m)(6)(B) of such Code."

(vi)(I) Section 411(a)(4)(A) of the 1986 Code is amended to read as follows:

"(A) years of service before age 18,".

(II) Subparagraph (A) of section 203(b)(1) of ERISA is amended to read as follows:

"(A) years of service before age 18,".

(B) AMENDMENTS RELATED TO SECTION 1140 OF THE REFORM ACT.—

(i) Subsection (a) of section 1140 of the Reform Act is amended by striking out "or subtitle C" and inserting in lieu thereof ", subtitle C, or title XVIII of this Act".

(ii) Section 1140(c) of the Reform Act is amended by inserting "on or" after "beginning" the second place it appears.

(iii) Section 1140(c) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (1)(B) and any other provision of this title, an agreement shall not be treated as terminated merely because the plan is amended pursuant to such agreement to meet the requirements of any amendment made by this title or title XVIII of this Act."

(C) AMENDMENTS RELATED TO SECTION 1145 OF THE REFORM ACT.—

(i) Subsection (f) of section 303 of the Retirement Equity Act of 1984 is amended by striking out "July 24, 1984" and inserting in lieu thereof "July 17, 1984".

(ii) Paragraph (3) of section 205(b) of ERISA, as added by section 1145(b) of the Reform Act, is redesignated as paragraph (4).

(2) AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.—

(A) AMENDMENT RELATED TO SECTION 1852 OF THE REFORM ACT.—Paragraph (1) of section 4402(h) of ERISA is amended by striking out "January 12, 1982" the second place it appears and inserting in lieu thereof "January 16, 1982".

(B) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subsection (u) of section 1879 of the Reform Act is amended—

(i) by striking "206(h)" each place it appears in paragraphs (1) and (4)(B) and inserting in lieu thereof "204(h)";

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting after paragraph (3) the following:

"(4) CORRECTION OF CROSS REFERENCE.—Section 4218(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1398(1)(A)) is amended by striking out 'section 4062(d)' and inserting in lieu thereof 'section 4069(b)'."

(C) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(i)(I) Section 106(b)(2) of the 1986 Code (relating to exception to certain plans) is amended by striking out the last sentence thereof.

(II) Sections 601(b) of ERISA and 2201(b) of the Public Health Service Act are each amended by striking out the last sentence thereof.

(III) The amendments made by this clause shall apply to years beginning after December 31, 1986.

(ii)(I) Section 162(k)(7)(A) of the 1986 Code is amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))."

(II) Sections 607(2) of ERISA and 2208(2) of the Public Health Service Act are each amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986)."

(III) Section 4980B(f)(7) of the 1986 Code, as added by this Act, is amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))."

(IV) The amendments made by this clause shall apply to plan years beginning after December 31, 1988.

(iii)(I) Clause (iv) of section 162(k)(2)(B) of the 1986 Code is amended to read as follows:

"(iv) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(II) Sections 602(2)(D) of ERISA and 2202(2)(D) of the Public Health Service Act are each amended to read as follows:

"(D) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in section 607(3)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(III) Clause (iv) of section 4980B(f)(2)(B) of the 1986 Code, as added by this Act, is amended to read as follows:

"(iv) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in subsection (g)(1)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(IV) The amendments made by this clause shall apply to events occurring after December 31, 1988, in plan years ending after such date.

(iv)(I) The last sentence of section 162(k)(2)(C) of the 1986 Code is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(II) The last sentence of sections 602(3) of ERISA and 2202(3) of the Public Health Service Act are each amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(III) The last sentence of section 4980B(f)(2)(C) of the 1986 Code, as added by this Act, is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(IV) The amendment made by subclause (III) shall take effect as if included in the amendments made by section 431 of this Act.

(v)(I) Subclause (II) of sections 162(k)(2)(B)(i) and 4980B(f)(2)(B)(i) of the 1986 Code are each amended by striking out "paragraph (3)(F)" and inserting in lieu thereof "paragraph (3)(B) or (3)(F)".

(II) Clause (ii) of section 602(2)(A) of ERISA is amended by striking out "section 603(6)" and inserting in lieu thereof "section 603(2) or 603(6)".

(III) Clause (ii) of section 2202(2)(A) of the Public Health Service Act is amended by striking out "section 2303(6)" and inserting in lieu thereof "section 2303(2) or 2303(6)".

(IV) The amendments made by this clause shall apply to plan years beginning after December 31, 1988.

(D) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(i)(I) Clause (ii) of section 417(a)(3)(B) of the 1986 Code (defining applicable period) is amended by striking out subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(II) Clause (ii) of section 205(c)(3)(B) of ERISA is amended by striking out subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(ii) Section 1898(b)(8) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to distributions after the date of the enactment of this Act."

(iii) Paragraph (12) of section 1898(b) of the Reform Act is amended by striking out all of subparagraph (B) from "(B) AMENDMENT" through "follows:" and inserting the following:

"(B) AMENDMENT TO ERISA.—Section 205(h) of the Employee Retirement Income Security Act of 1974 is amended—

"(i) by striking out 'the term' in paragraphs (1) and (3) and inserting in lieu thereof 'The term';

"(ii) by striking out the comma in paragraph (1) and inserting in lieu thereof a period; and

"(iii) by striking out paragraph (2) and inserting in lieu thereof the following:".

(iv) Subparagraph (B) of section 1898(d)(1) of the Reform Act is amended by striking out "Paragraph (1)" and inserting in lieu thereof "Subsection (e)(1)".

(v) Subsection (e)(1) of section 203 of ERISA is amended—

(I) by inserting "(e)" before "(1)", and

(II) by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(vi) Subclause (IV) of section 205(c)(3)(B)(ii) of ERISA is amended by striking out "401(a)(11)" and inserting in lieu thereof "205".

(vii) Subparagraph (B) of section 1898(b)(7) of the Reform Act is amended by striking out "Subparagraph (C) of section 205(b)(1)" and inserting in lieu thereof "Clause (i) of section 205(b)(1)(C)".

(viii) Section 205(e)(2) of ERISA is amended by striking out "nonforfeitable accrued benefit" and inserting in lieu thereof

"nonforfeitable right (within the meaning of section 203)".

(3) EFFECTIVE DATE.—Except as otherwise provided in this subsection, any amendment made by this subsection shall take effect as if included in the provision of the Reform Act to which such amendment relates.

(c) AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.—

(1) AMENDMENTS RELATED TO SECTION 9202 OF THE ACT.—

(A) Section 411(b)(2) of the 1986 Code and section 204(b)(2) of ERISA are each amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) Section 411(b)(2)(C) of the 1986 Code, as redesignated by subparagraph (A), is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(C) Section 204(b)(2)(C) of ERISA, as redesignated by subparagraph (A), is amended by striking out "(C) and (D)" and inserting in lieu thereof "(B) and (C)".

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 9202 of the Omnibus Budget Reconciliation Act of 1986.

(2) AMENDMENTS RELATED TO SECTION 9203 OF THE ACT.—

(A) Sections 411(a)(8)(B) of the 1986 Code and 3(24)(B) of ERISA are each amended to read as follows:

"(B) the later of—

"(i) the time a plan participant attains age 65, or

"(ii) the 5th anniversary of the time a plan participant commenced participation in the plan."

(B) The amendments made by this paragraph shall take effect as if included in the amendments made by section 9203 of the Omnibus Budget Reconciliation Act of 1986.

(d) AMENDMENTS RELATED TO PENSION PROTECTION ACT.—

(1) AMENDMENTS RELATED TO SECTION 9303.—

(A)(i) Subclause (II) of section 412(l)(3)(C)(ii) of the 1986 Code is amended by inserting "(but not below zero)" after "reducing".

(ii) Subclause (II) of section 302(d)(3)(C)(ii) of ERISA is amended by inserting "(but not below zero)" after "reducing".

(B)(i) Clause (i) of section 412(l)(4)(B) of the 1986 Code is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(ii) Clause (i) of section 302(d)(4)(B) of ERISA is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(C)(i) Section 412(l)(5)(C) of the 1986 Code is amended by striking out "October 17, 1987" and inserting in lieu thereof "the first plan year beginning after December 31, 1988".

(ii) Section 302(d)(5)(C) of ERISA is amended by striking out "October 17, 1987" and inserting in lieu thereof "the first plan year beginning after December 31, 1988".

(D)(i) Section 412(l)(7)(D) of the 1986 Code is amended—

(I) by striking out "and" at the end of clause (iii)(I), by striking out the period at the end of clause (iii)(II) and inserting in lieu thereof ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(II) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary."

(ii) Section 302(d)(7)(D) of ERISA is amended—

(I) by striking out "and" at the end of clause (iii)(I), by striking out the period at the end of clause (iii)(II) and inserting in lieu thereof ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(II) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary of the Treasury."

(E)(i) Section 412(l)(8) of the 1986 Code is amended—

(I) by striking out "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(II) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary may provide for such reduction for purposes of any other provision which references this subsection."

(ii) Section 302(d)(8) of ERISA is amended—

(I) by striking out "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(II) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary of the Treasury may provide for such reduction for purposes of any other provision which references this subsection."

(F)(i) Section 412(c)(9) of the 1986 Code is amended—

(I) by striking out "3 years" and inserting in lieu thereof "year", and

(II) by striking out "3-YEAR" in the heading and inserting in lieu thereof "ANNUAL".

(ii) Section 302(c)(9) of ERISA is amended by striking out "3 years" and inserting in lieu thereof "year".

(G) Subclause (II) of section 9303(e)(3)(C)(ii) of the Pension Protection Act is amended by inserting "(and any income allocable to such amount)" after "clause (i)".

(H)(i) Subparagraph (C) of section 412(1)(3) of the 1986 Code is amended—

(I) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(II) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(ii) Subparagraph (C) of section 302(d)(3) of ERISA is amended—

(I) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(II) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(2) AMENDMENTS RELATED TO SECTION 9304.—

(A)(i) Subparagraph (A) of section 412(c)(10) of the 1986 Code is amended—

(I) by inserting "defined benefit" before "plan other", and

(II) by striking out "PLANS" in the heading and inserting in lieu thereof "DEFINED BENEFIT PLANS".

(ii) Subparagraph (A) of section 302(c)(10) of ERISA is amended by inserting "defined benefit" before "plan other".

(B)(i) Subparagraph (B) of section 412(c)(10) of the 1986 Code is amended—

(I) by striking out "multiemployer plan" and inserting in lieu thereof "plan not described in subparagraph (A)", and

(II) by striking out "MULTIEMPLOYER" in the heading and inserting in lieu thereof "OTHER".

(ii) Subparagraph (B) of section 302(c)(10) of ERISA is amended by striking out "multiemployer plan" and inserting in lieu thereof "plan not described in subparagraph (A)".

(C)(i) Section 412(m)(1) of the 1986 Code is amended by inserting "defined benefit" before "plan (other".

(ii) Section 302(e)(1) of the 1986 Code is amended by inserting "defined benefit" before "plan (other".

(D)(i) Subparagraph (D) of section 412(m)(4) of the 1986 Code is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (l) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (l)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (l)(8)(B)) for the plan year to 100 percent."

(ii) Subparagraph (D) of section 302(e)(4) of ERISA is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (d) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded

percentage' means the percentage determined under subsection (d)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (d)(8)(B)) for the plan year to 100 percent."

(E)(i) Section 101(d)(1) of ERISA is amended by striking out "an employer of a plan" and inserting in lieu thereof "an employer maintaining a plan".

(ii) Section 502(c) of ERISA is amended by adding at the end thereof the following new paragraph:

"(3) Any employer maintaining a plan who fails to meet the notice requirement of section 101(d) with respect to any participant or beneficiary may in the court's discretion be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure, and the court may in its discretion order such other relief as it deems proper."

(iii) Section 9304(d) of the Pension Protection Act is amended by striking out "Section" and inserting in lieu thereof "Effective with respect to plan years beginning after December 31, 1987, section".

(F)(i)(I) Subparagraph (B) of section 412(m)(1) of the 1986 Code is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(II) Clause (ii) of section 412(d)(1)(A) of the 1986 Code is amended by inserting "(including adjustments under subsection (b)(5)(B))" after "costs".

(ii)(I) Subparagraph (B) of section 302(e)(1) of ERISA is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(II) Section 303(d) of ERISA is amended by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), and by inserting "(including adjustments under section 302(b)(5)(B))" after "costs" in paragraph (1)(B) (as so redesignated).

(3) AMENDMENTS RELATED TO SECTION 9306.—

(A) The last sentence of section 412(f)(4)(A) of the 1986 Code is amended by striking out "the benefit liabilities" and inserting in lieu thereof "for benefit liabilities".

(B) The last sentence of section 303(e)(1) of ERISA is amended by striking out "the benefit liabilities" and inserting in lieu thereof "for benefit liabilities".

(C) Section 9306(f)(3) of the Pension Protection Act is amended to read as follows:

"(3) SUBSECTION (b).—The amendments made by subsection (b) shall apply to waivers for plan years beginning after December 31, 1987. For purposes of applying such amendments, the number of waivers which may be granted for plan years after December 31, 1987, shall be determined without regard to any waivers granted for plan years beginning before January 1, 1988."

(4) AMENDMENTS RELATED TO SECTION 9307.—

(A)(i) Clause (iii) of section 412(b)(5)(B) of the 1986 Code is amended by striking out "for purposes of this section and for purposes of determining current liability,".

(ii) Clause (iii) of section 302(b)(5)(B) of ERISA is amended by striking out "for purposes of this section and for purposes of determining current liability,".

(B)(i) Section 302(b)(5)(B) of ERISA is amended by inserting the following matter after the heading and before clause (i): "For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 302(d) for any plan year—".

(ii) Section 302(b)(5) of ERISA is amended by striking out the matter following the heading thereof and preceding subparagraph (A).

(iii) Subclause (I) of section 302(b)(5)(B)(ii) of ERISA is amended by striking out "average rate" and inserting in lieu thereof "the weighted average of the rates".

(C) Section 9307(f) of the Pension Protection Act is amended to read as follows:

"(f) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1987.

"(2) AMORTIZATION OF GAINS AND LOSSES.—Sections 412(b)(2)(B)(iv) and 412(b)(3)(B)(ii) of the Internal Revenue Code of 1986 and sections 302(b)(2)(B)(iv) and 302(b)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by paragraphs (1)(A) and (2)(A) of subsection (a)) shall apply to gains and losses established in years beginning after December 31, 1987. For purposes of the preceding sentence, any gain or loss determined by a valuation occurring as of January 1, 1988, shall be treated as established in years beginning before 1988."

(5) AMENDMENTS RELATED TO SECTION 9311.—

(A) Section 9311(a)(2) of the Pension Protection Act is amended by striking out "plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "residual plan assets upon termination".

(B) Section 9311(d) of the Pension Protection Act is amended—

(i) by striking out "section 4041(c)" and inserting in lieu thereof "section 4041" in paragraph (1), and

(ii) by adding at the end thereof the following new flush sentence:

"Except as provided in subsection (a)(2), the amendments made by subsection (a) shall apply to any provision of the plan or plan amendment adopted after December 17, 1987."

(C) Section 9311(a)(2) of the Pension Protection Act is amended by striking out the last sentence.

(6) AMENDMENTS RELATED TO SECTION 9312.—

(A) Section 9312(b)(3)(B)(i) of the Pension Protection Act is amended—

(i) by striking out "section 4022(c)(1)" in subclause (I) and inserting in lieu thereof "section 4022(c)(3)", and

(ii) by striking out "subparagraph (B) of section 4022(c)(1)" and inserting in lieu thereof "subparagraph (C) of section 4022(c)(3)".

(B) Section 9312(b)(3)(B)(ii) of such Act is amended by striking out "section 4022(c)(1)(B)" and inserting in lieu thereof "section 4022(c)(3)(C)".

(C) Section 4062(a) of ERISA is amended—

(i) by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2), and

(ii) by striking out "subsection (d)" in paragraph (2) (as so redesignated) and by inserting in lieu thereof "subsection (c)".

(D)(i) Section 4064(b) of ERISA is amended by striking out "and clauses (i)(II) and (ii) of section 4062(b)(1)(A)" and inserting in lieu thereof "and section 4068(a)".

(ii) Section 4068(a) of ERISA is amended by striking out the last sentence.

(E) Section 4022(c)(1) of ERISA is amended by striking out "(or in the case of a deceased participant)".

(F) Section 4022(c)(3)(B)(ii) of ERISA is amended by inserting ", and during the 5-Federal fiscal year period ending with the fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate with respect to the plan termination for which the recovery ratio is being determined" after "1987".

(G) Section 9312(b)(3)(B) of the Pension Protection Act is amended by striking out clause (ii).

(H) Section 4041(c) of ERISA is amended—

(i) by striking out "(or its designee under section 4049(b))" in paragraph (2)(A)(iii)(II),

(ii) by striking out "section 4049" in paragraph (2)(A)(iii)(II) and inserting in lieu thereof "section 4022(c)", and

(iii) by striking out the last sentence of paragraph (3)(C)(i).

(I) Section 4070(a) of ERISA is amended by striking out "4049,".

(J) Section 9312(d)(1) of the Pension Reform Act is amended by striking out "section 4041(c)" and inserting in lieu thereof "section 4041".

(7) AMENDMENTS RELATED TO SECTION 9313.—

(A) Section 4041(d)(1) of ERISA is amended by striking out "sufficient for benefit commitments" and inserting in lieu thereof "sufficient for benefit liabilities".

(B) Section 4041(c)(2)(B) of ERISA is amended by inserting "proposed" before "termination" in the parenthetical in the second sentence.

(C) Clause (ii) of section 4041(c)(2)(A) of ERISA is amended—

(i) by inserting "unless the corporation determines the information is not necessary for purposes of paragraph (3)(A) or section 4062," before "certification",

(ii) by inserting "and, if applicable, the proposed distribution date" after "termination date" in subclause (I), and

(iii) by striking out "date" and inserting in lieu thereof "dates" in subclauses (II) through (V).

(8) AMENDMENT RELATED TO SECTION 9331.—Subparagraph (E) of section 4006(a)(3) of ERISA is amended by adding at the end thereof the following new clause:

"(v) No premium shall be determined under this subparagraph for any plan year if, as of the close of the preceding plan year, contributions to the plan for the preceding plan year were not less than the full funding limitation for the preceding plan year under section 412(c)(7) of the Internal Revenue Code of 1986."

(9) AMENDMENTS RELATED TO SECTION 9341.—

(A)(i) Section 401(a)(29)(C)(i)(II) of the 1986 Code is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment" after "amendment".

(ii) Section 307(c)(1)(B) of ERISA is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment".

(B) Section 307(d) of ERISA is amended by inserting "of the Treasury" after "Secretary".

(C)(i) Section 307 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE.—A contributing sponsor which is required to provide security under

subsection (a) shall notify the Corporation within 30 days after the amendment requiring such security takes effect. Such notice shall contain such information as the Corporation may require."

(ii) Section 4071 of ERISA is amended—

(I) by striking out "or subtitle A, B, or C" and inserting in lieu thereof ", subtitle A, B, or C, as section 302(f)(4) or 307(e)", and

(II) by inserting "or such section" after "such subtitle".

(D)(i) Clause (i) of section 401(a)(29)(A) of the 1986 Code is amended by inserting "to which the requirements of section 412 apply" after "multiemployer plan)".

(ii) Section 307(a)(1) of ERISA is amended by inserting "to which the requirements of section 302 apply" after "multiemployer plan)".

(E) Section 9341(c) of the Pension Protection Act is amended by inserting "(without regard to any extension, amendment, or modification of such agreements on or after such date of enactment)" after "ratified before the date of enactment".

(10) AMENDMENTS RELATED TO SECTION 9342.—

(A) Paragraph (11) of section 103(d) of ERISA is amended—

(i) by striking out "60 percent" and inserting in lieu thereof "70 percent", and

(ii) by striking out "such percentage" and inserting in lieu thereof "the percentage which such value is of such liability.".

(B) Section 502(a)(6) of ERISA is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (c)(2) or (i)".

(C) Section 502(c)(2) of ERISA is amended—

(i) by inserting "against any plan administrator" after "civil penalty", and

(ii) by striking out "a plan administrator's" and inserting in lieu thereof "such plan administrator's".

(11) AMENDMENT RELATED TO SECTION 9343.—Section 403(c) of ERISA is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(12) AMENDMENTS RELATED TO SECTION 9345.—

(A) Section 407(d)(9) of ERISA is amended by striking out "such arrangement" and inserting in lieu thereof "such individual account plan".

(B) Section 407(f) of ERISA is amended by striking out paragraph (3).

(13) AMENDMENTS RELATED TO SECTION 9346.—

(A)(i) Clause (iii) of section 411(c)(2)(C) of the 1986 Code is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year) for the period beginning with the 1st plan year to which subsection (a)(2) applies (by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 417(e)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age."

(ii) Subparagraph (B) of section 411(c)(2) of the 1986 Code is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 417(e)(3) (as of the determination date)."

(iii) Section 411(c)(2) of the 1986 Code is amended by striking out subparagraph (E).

(iv) Section 411(a)(7) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) ACCRUED BENEFIT ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—The accrued benefit of an employee shall not be less than the amount determined under subsection (c)(2)(B) with respect to the employee's accumulated contributions."

(B)(i) Clause (iii) of section 204(c)(2)(C) of ERISA is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of a plan year for the period beginning with the 1st plan year to which subsection (a)(2) applies by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 205(g)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age."

(ii) Subparagraph (B) of section 204(c)(2) of ERISA is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 205(g)(3) (as of the determination date)."

(iii) Section 204(c)(2) of ERISA is amended by striking out subparagraph (E).

(iv) Paragraph (23) of section 3 of ERISA is amended by adding at the end thereof the following new flush sentence: "The accrued benefit of an employee shall not be less than the amount determined under section 204(c)(2)(B) with respect to the employee's accumulated contribution."

(C) If—

(i) during the period beginning December 22, 1987, and ending June 21, 1988, a plan was amended to reflect the amendments made by section 9346 of the Pension Protection Act, and

(ii) such plan is amended to reflect the amendments made by this paragraph,

any plan amendment described in clause (ii) shall not be treated as reducing accrued benefits for purposes of section 411(d)(6) of the 1986 Code or section 204(g) of ERISA.

(14) EFFECTIVE DATE.—Except as otherwise provided in this subsection, any amendment made by this subsection shall take effect as if included in the provision of the Pension Protection Act to which such amendment relates.

TITLE III—CORRECTIONS TO DIESEL FUEL EXCISE TAX COLLECTION AND EXEMPTION PROCEDURES

SEC. 301. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) IN GENERAL.—Subsection (c) of section 4093 of the 1986 Code (relating to exceptions; special rule) is amended to read as follows:

"(c) EXEMPTION FOR NONTAXABLE USES AND BUS USES.—

"(1) IN GENERAL.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)) or a use described in section 6427(b)(1).

"(2) EXCEPTIONS.—

"(A) CERTAIN LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—In the case of fuel sold for use in—

"(i) a diesel-powered train, and

"(ii) an aircraft,

paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.

"(B) CERTAIN BUS USES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is not refundable by reason of the application of section 6427(b)(2)(A).

"(3) REGISTRATION REQUIRED.—Except to the extent provided by the Secretary, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) INFORMATION REPORTING.—

"(A) RETURNS BY PRODUCERS AND IMPORTERS.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) STATEMENTS TO PURCHASERS.—Every person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return, the registration number under section 4101 of such person, and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) RETURNS BY PURCHASERS.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)(2)) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

"(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) REDUCED-TAX SALE.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1) (other than sales described in subsections (a) and (b) of this section)."

(b) PENALTY FOR FAILING TO PROVIDE INFORMATION.—

(1) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) of the 1986 Code (defining payee statement) is amended by striking out "or" at the end of subparagraph (S), by striking out the period at the end of subparagraph (T) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1988.

(2) REFUNDS WITH INTEREST FOR PRE-EFFECTIVE DATE PURCHASES.—

(A) IN GENERAL.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on September 30, 1988, and

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l)(2) of the 1986 Code),

the Secretary of the Treasury or the Secretary's delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than December 31, 1988. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of the 1986 Code.

(B) INTEREST.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that—

(i) the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month, and

(ii) the rate of such interest shall be the underpayment rate determined under section 6621(a)(2) of the 1986 Code.

No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

(C) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED BEFORE EFFECTIVE DATE.—Not later than October 1, 1988, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).

SEC. 302. EXPEDITED REFUND OR INCOME TAX CREDIT ALLOWED FOR RETAIL SALES OF CERTAIN FUELS USED IN NONTAXABLE USES.

(a) EXPEDITED REFUND.—Section 6427(i) of the 1986 Code (relating to time for filing claims; period covered) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4091.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a claim may be filed under subsection (l) by any person with respect to fuel used for any period for which $750 or more is payable under such subsection (l) (disregarding any amount for which a claim has been previously filed under this subsection).

"(B) EXCEPTION FOR CERTAIN USES.—Subparagraph (A) shall not apply with respect to any use of fuel—

"(i) by any agency of the United States,

"(ii) described in subsection (b),

"(iii) described in subsection (e), or

"(iv) described in section 4093(c).

"(C) TIME FOR FILING CLAIM.—A claim may be filed under this paragraph on or after the last day of the quarter during which a period described in subparagraph (A) occurs."

(b) CLAIM PAID WITH INTEREST.—

(1) IN GENERAL.—Section 6427(l) of the 1986 Code (relating to refunds for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091) is amended by adding at the end thereof the following new paragraph:

"(4) INTEREST.—The amount of interest payable under paragraph (1) shall be determined under section 6611 except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 6427(l) of the 1986 Code is amended by striking out "(without interest)" and inserting in lieu thereof "(with interest)".

(c) ALLOWANCE OF INCOME TAX CREDIT.—Paragraph (2) of section 6427(k) of the 1986 Code (relating to income tax credit in lieu of payment) is amended by striking out "subsection (i)(2) or (h)(3)" and inserting in lieu thereof "subsection (i)(2), (i)(3), or (i)(4)".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6427(i) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(2) Paragraph (2)(A) of section 6427(i) of the 1986 Code is amended by striking out "(l),".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel purchased for use in a nontaxable use (as defined in section 6427(l)(2) of the 1986 Code) after September 30, 1988.

SEC. 303. MARINE RETAILERS TREATED AS PRODUCERS.

(a) IN GENERAL.—Subparagraph (B) of section 4092(b)(1) of the 1986 Code (relating to certain persons treated as producers) is amended by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or" and by adding at the end thereof the following new clause:

"(iii) a retailer selling diesel fuel exclusively to purchasers as supplies for commercial and noncommercial vessels."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 1988.

TITLE IV—OTHER CORRECTIONS AND MODIFICATIONS

Subtitle A—Corporate Estimated Tax Payments

SEC. 401. AMOUNT OF CORPORATE ESTIMATED TAX INSTALLMENT REDUCTION RECAPTURE INCREASED.

(a) IN GENERAL.—Section 6655(e)(1) of the 1986 Code (relating to lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)) is amended—

(1) by striking out "90 percent" and inserting in lieu thereof "the applicable percentage", and

(2) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

"In the case of any required installment in:	The applicable percentage is:
1989, 1990, or 1991	94.25
1992	95.00
1993 or thereafter	95.50."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to installments required to be made after December 31, 1988.

Subtitle B—Indian Fishing Rights

SEC. 411. FEDERAL TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY TREATY, ETC.

(a) GENERAL RULES.—Subchapter C of chapter 80 of the 1986 Code (relating to provisions affecting more than one subtitle) is amended by adding at the end thereof the following new section:

"SEC. 7873. INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.

"(a) IN GENERAL.—

"(1) INCOME AND SELF-EMPLOYMENT TAXES.—No tax shall be imposed by subtitle A on income derived—

"(A) by a member of an Indian tribe directly or through a qualified Indian entity, or

"(B) by a qualified Indian entity,

from a fishing rights-related activity of such tribe.

"(2) EMPLOYMENT TAXES.—No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

"(b) DEFINITIONS.—For purposes of this section—

"(1) FISHING RIGHTS-RELATED ACTIVITY.—The term 'fishing rights-related activity' means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.

"(2) RECOGNIZED FISHING RIGHTS.—The term 'recognized fishing rights' means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.

"(3) QUALIFIED INDIAN ENTITY.—

"(A) IN GENERAL.—The term 'qualified Indian entity' means, with respect to an Indian tribe, any entity if—

"(i) such entity is engaged in a fishing rights-related activity of such tribe,

"(ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,

"(iii) except as provided in regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and

"(iv) substantially all of the management functions of the entity are performed by members of qualified Indian tribes.

For purposes of clause (iii), equity interests owned by a member (or the spouse of a member) of a qualified Indian tribe shall be treated as owned by the tribe.

"(B) QUALIFIED INDIAN TRIBE.—For purposes of subparagraph (A), an Indian tribe is a qualified Indian tribe with respect to an entity if such entity is engaged in a fishing rights-related activity of such tribe.

"(c) SPECIAL RULES.—

"(1) DISTRIBUTIONS FROM QUALIFIED INDIAN ENTITY.—For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of an Indian tribe to a member of such tribe shall be treated as derived by such member from a fishing rights-related activity of such tribe to the extent such distribution is attributable to income derived by such entity from a fishing rights-related activity of such tribe.

"(2) DE MINIMIS UNRELATED AMOUNTS MAY BE EXCLUDED.—If, but for this paragraph, all but a de minimis amount—

"(A) derived by a qualified Indian tribal entity, or by an individual through such an entity, is entitled to the benefits of paragraph (1) of subsection (a), or

"(B) paid to an individual for services is entitled to the benefits of paragraph (2) of subsection (a),

then the entire amount shall be entitled to the benefits of such paragraph."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter C is amended by adding at the end thereof the following new item:

"Sec. 7873. Income derived by Indians from exercise of fishing rights."

SEC. 412. STATE TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY TREATY, ETC.

Section 2079 of the Revised Statutes (25 U.S.C. 71) is amended by adding at the end thereof the following new sentence: "Such treaties, and any Executive orders and Acts of Congress under which the rights of any Indian tribe to fish are secured, shall be construed to prohibit (in addition to any other prohibition) the imposition under any law of a State or political subdivision thereof of any tax on any income derived from the exercise of rights to fish secured by such treaty, Executive order, or Act of Congress if section 7873 of the Internal Revenue Code of 1986 does not permit a like Federal tax to be imposed on such income."

SEC. 413. CONFORMING AMENDMENTS RELATING TO COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) EXCLUSION FROM WAGES OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended—

(1) in subsection (r), by striking out "or" at the end;

(2) in subsection (s), by striking out the period and inserting in lieu thereof "; or"; and

(3) by inserting after subsection (s) the following new subsection:

"(t) Remuneration consisting of income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(b) EXCLUSION FROM NET EARNINGS FROM SELF-EMPLOYMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(1) in paragraph (12), by striking out "and" at the end;

(2) in paragraph (13), by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) There shall be excluded income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(c) CROSS-REFERENCES IN SECA AND FICA TO APPLICABLE INDIAN FISHING RIGHTS PROVISIONS.—

(1) SECA.—Subsection (a) of section 1402 of the 1986 Code (relating to net earnings from self-employment) is amended by striking out "and" at the end of paragraph (13), by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and", and by inserting after paragraph (14) the following new paragraph:

"(15) in the case of a member of an Indian tribe, the special rules of section 7873 (relating to income derived by Indians from exercise of fishing rights) shall apply."

(2) FICA.—Subsection (a) of section 3121 of the 1986 Code (relating to wages) is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) in the case of a member of an Indian tribe, any remuneration on which no tax is imposed by this chapter by reason of section 7873 (relating to income derived by Indians from exercise of fishing rights)."

SEC. 414. EFFECTIVE DATE; NO INFERENCE CREATED.

(a) EFFECTIVE DATE.—The amendments made by this subtitle shall apply to all periods beginning before, on, or after the date of the enactment of this Act.

(b) NO INFERENCE CREATED.—Nothing in the amendments made by this subtitle shall create any inference as to the existence or non-existence or scope of any exemption from tax for income derived from fishing rights secured as of March 17, 1988, by any treaty, law, or Executive Order."

Subtitle C—Repeal of Limitation on Treasury Long-Term Bond Authority

SEC. 421. REPEAL OF LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is hereby repealed.

Subtitle D—Simplification and Clarification Provisions

SEC. 431. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

(a) IN GENERAL.—Chapter 43 of the 1986 Code (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980B. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a qualified beneficiary shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure 1st occurs, and

"(B) ending on the earlier of—

"(i) the date such failure is corrected, or

"(ii) the last day in the period applicable to the qualified beneficiary under subsection (f)(2)(B) (determined without regard to clause (iii) thereof).

"(3) MINIMUM TAX FOR NONCOMPLIANCE PERIOD WHERE FAILURE DISCOVERED AFTER NOTICE OF EXAMINATION.—Notwithstanding paragraphs (1) and (2) of subsection (c)—

"(A) IN GENERAL.—In the case of 1 or more failures with respect to a qualified beneficiary—

"(i) which are not corrected before the date a notice of examination of income tax liability is sent to the employer, and

"(ii) which occurred or continued during the period under examination,

the amount of tax imposed by subsection (a) by reason of such failures with respect to such beneficiary shall not be less than the lesser of $2,500 or the amount of tax which would be imposed by subsection (a) without regard to such paragraphs.

"(B) HIGHER MINIMUM TAX WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—

"(i) IN GENERAL.—To the extent violations by the employer (or the plan in the case of a multiemployer plan) for any year are more than de minimis, subparagraph (A) shall be applied by substituting '$15,000' for '$2,500' with respect to the employer (or such plan).

"(ii) PERSONS OTHER THAN EMPLOYER OR PLAN.—In any case where the tax under subsection (a) is imposed on a person described in subsection (e)(2), only violations by such person shall be taken into account under clause (i) in determining the amount of tax to be imposed on such person.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) $100 LIMIT ON AMOUNT OF TAX FOR FAILURES ON ANY DAY WITH RESPECT TO A QUALIFIED BENEFICIARY.—The maximum amount of tax imposed by subsection (a) on failures on any day during the noncompliance period with respect to a qualified beneficiary shall be $100.

"(4) SPECIAL RULE WHERE MORE THAN 1 QUALIFIED BENEFICIARY.—For purposes of determining the amount of tax imposed by this section, if there is more than 1 qualified beneficiary with respect to a qualifying event for an employee, all failures with respect to such qualified beneficiaries shall be treated as occurring with respect to 1 beneficiary.

"(5) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are *due to reasonable cause and not to willful neglect—*

"(A) SINGLE EMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to plans other than multiemployer plans, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

"(II) $500,000.

"(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(B) MULTIEMPLOYER PLANS.—In the case of failures with respect to a multiemployer plan, the tax imposed by subsection (a) for failures during the taxable year of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

"(i) 10 percent of the amount paid or incurred by such trust during such taxable year to provide medical care (as defined in section 213(d)) directly or through insurance, reimbursement, or otherwise, or

"(ii) $500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as 1 plan.

"(6) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) TAX NOT TO APPLY TO CERTAIN PLANS.—This section shall not apply to—

"(1) any failure of a group health plan to meet the requirements of subsection (f) if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(2) any governmental plan (within the meaning of section 414(d)), or

"(3) any church plan (within the meaning of section 414(e)).

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(2) FAILURE TO COVER QUALIFIED BENEFICIARIES WHERE CURRENT EMPLOYEES ARE COVERED.—A person shall be liable for the tax imposed by subsection (a) on a failure with respect to a qualified beneficiary if—

"(A) such person provides coverage under a group health plan for any similarly situated beneficiary under the plan with respect to whom a qualifying event has not occurred, and

"(B) the employer, plan administrator, or such qualified beneficiary submits to such person a written request that such person provide to such qualified beneficiary the same coverage which such person provides to the beneficiary referred to in subparagraph (A).

"(f) CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—A group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) CONTINUATION COVERAGE.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.

"(B) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) MAXIMUM REQUIRED PERIOD.—

"(I) GENERAL RULE FOR TERMINATIONS AND REDUCED HOURS.—In the case of a qualifying event described in paragraph (3)(B), except as provided in subclause (II), the date which is 18 months after the date of the qualifying event.

"(II) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event (other than a qualifying event described in paragraph (3)(F)) occurs during the 18 months after the date of a qualifying event described in paragraph (3)(B), the date which is 36 months after the date of the qualifying event described in paragraph (3)(B).

"(III) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in paragraph (3)(F) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in subsection (g)(1)(D)(iii)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee.

"(IV) GENERAL RULE FOR OTHER QUALIFYING EVENTS.—In the case of a qualifying event not described in paragraph (3)(B) or (3)(F), the date which is 36 months after the date of the qualifying event.

"(ii) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. The payment of any premium (other than any payment referred to in the last sentence of subparagraph (C)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.

"(iv) GROUP HEALTH PLAN COVERAGE OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(I) covered under any group health plan (as an employee or otherwise), or

"(II) in the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv) entitled to benefits under title XVIII of the Social Security Act.

"(C) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) QUALIFYING EVENT.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary—

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(F) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

In the case of an event described in subparagraph (F), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in subsection (g)(1)(D) within one year before or after the date of commencement of the proceeding.

"(4) APPLICABLE PREMIUM.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) CLAUSE (ii) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) ELECTION.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of subsection (g)(1) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

"(6) NOTICE REQUIREMENT.—In accordance with regulations prescribed by the Secretary—

"(A) The group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection.

"(B) The employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event.

"(C) Each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3) within 60 days after the date of the qualifying event.

"(D) The plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(g) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in subsection (f)(3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) EXCEPTION FOR NONRESIDENT ALIENS.—Notwithstanding subparagraphs (A) and (B), the term 'qualified beneficiary' does not include an individual whose status as a covered employee is attributable to a period in which such individual was a nonresident alien who received no earned income (within the meaning of section 911(d)(2)) from the employer which constituted income from sources within the United States (within the meaning of section 861(a)(3)). If an individual is not a qualified beneficiary pursuant to the previous sentence, a spouse or dependent child of such individual shall not be considered a qualified beneficiary by virtue of the relationship of the individual.

"(D) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in subsection (f)(3)(F), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(i) as the spouse of the covered employee,

"(ii) as the dependent child of the covered employee, or

"(iii) as the surviving spouse of the covered employee.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 162(i)."

"(3) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

"(4) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the qualified beneficiary is placed in a financial position which is as good as such beneficiary would have been if such failure had not occurred.

For purposes of applying subparagraph (B), the qualified beneficiary shall be treated as if he had elected the most favorable coverage in light of the expenses he incurred since the failure 1st occurred.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 of the 1986 Code (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"Gross income of an employee does not include employer-provided coverage under an accident or health plan."

(2) Subsection (i) of section 162 of the 1986 Code (relating to group health plans) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 162 of the 1986 Code is amended by striking out subsection (k) and by redesignating—

(A) the subsection relating to stock redemption expenses as subsection (k),

(B) the subsection relating to special rules for health insurance costs of self-employed individuals as subsection (l), and

(C) the subsection relating to cross references as subsection (m).

(4) Subparagraph (C) of section 414(n)(3) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "and 505" and inserting in lieu thereof "505, and 4980B".

(5) Paragraph (2) of section 414(t) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "or 505" and inserting in lieu thereof "505, or 4980B".

(6) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(7) Paragraph (1) of section 2208 of the Public Health Service Act is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 4980B. Failure to satisfy continuation coverage requirements of group health plans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988, but shall not apply to any plan for any plan year to which section 162(k) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) did not apply by reason of section 10001(e)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 432. MODIFICATIONS TO DISCRIMINATION RULES APPLICABLE TO CERTAIN EMPLOYEE BENEFIT PLANS.

(a) MODIFICATIONS TO SECTION 89.—

(1) DETERMINATIONS BASED ON TESTING YEAR.—

(A) Section 89 of the 1986 Code (as amended by title I) is amended by striking out "plan year" each place it appears and inserting in lieu thereof "testing year".

(B) Subsection (j) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(13) TESTING YEAR.—The term 'testing year' means—

"(A) any 12-month period beginning with the calendar month designated in the plan for purposes of this section, or

"(B) if there is no such designation, the plan year.

Any designation under subparagraph (A) may be changed only with the consent of the Secretary."

(C) Subsection (c) of section 4976 of the 1986 Code (as added by title I) is amended—

(i) by striking out "any plan year" in paragraph (1) and inserting in lieu thereof "any testing year (as defined in section 89(j)(13))"; and

(ii) by striking out "such plan year" each place it appears in paragraph (2)(A) and inserting in lieu thereof "such testing year".

(2) TIME FOR TESTING.—

(A) IN GENERAL.—Subsection (g) of section 89 is amended by adding at the end thereof the following new paragraph:

"(6) TIME FOR TESTING.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the determination of whether any plan is a discriminatory employee benefit plan for any testing year shall be made on the basis of the facts as of the testing day.

"(B) ADJUSTMENT WHERE BENEFIT OF HIGHLY COMPENSATED EMPLOYEE CHANGES.—If the employer-provided benefit (actually provided or available) of a highly compensated employee changes during the testing year by reason of any change in the terms of the plan or the making of an election by such employee, the amount taken into account as such employee's employer-provided benefit shall be adjusted to take into account such change and the portion of the testing year during which the changed benefit is provided (or made available).

"(C) TREATMENT OF NON-HIGHLY COMPENSATED EMPLOYEES WHERE CHANGE IN PLAN.—Rules similar to the rules of subparagraph (B) shall apply in the case of employees who are not highly compensated employees and who are affected by any change in the terms of the plan, except that the determination of such employees' employer-provided benefits (actually provided or made available) shall be determined as of the date after such change selected by the employer and permitted under regulations prescribed by the Secretary.

"(D) TESTING DAY.—For purposes of this paragraph, the term 'testing day' means—

"(i) the day designated in the plan as the testing day for purposes of this paragraph, or

"(ii) if there is no day so designated, the last day of the testing year.

"(E) LIMITATIONS.—

"(i) DESIGNATION MUST BE CONSISTENT FOR ALL PLANS OF SAME TYPE.—No day may be designated under subparagraph (D)(i) with respect to any plan unless the same day is so designated with respect to all other plans of the employer of the same type.

"(ii) DESIGNATION BINDING.—Any designation under subparagraph (D)(i) shall apply to the testing year for which made and all subsequent years unless revoked with the consent of the Secretary.".

(B) DESIGNATIONS FOR 1989 NOT BINDING.—Any designation of a testing day for a year beginning in 1989 shall be disregarded in determining the day which may be designated as the testing day for years beginning after 1989.

(3) SAMPLING.—Subsection (g) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) SAMPLING.—For purposes of determining whether a plan is a discriminatory employee benefit plan (but not for purposes of identifying the highly compensated employees who have a discriminatory excess or the amount of any such excess), determinations under this section may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if—

"(A) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

"(B) the statistical method and sample size result in a 95 percent probability that the results will have a margin of error not greater than 3 percent."

(4) SPECIAL VALUATION RULE FOR MULTIEMPLOYER PLANS.—Paragraph (3) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—Except as provided in regulations and clause (ii), an employer may treat the contribution such employer makes to a multiemployer plan on behalf of an employee as the employer-provided benefit of such employee under such plan.

"(ii) ADJUSTMENT.—If the allocation of plan benefits between highly compensated employees and other employees under a multiemployer plan varies materially from the allocation of employer contributions to such plan, the employer-provided benefit determined under clause (i) shall be appropriately adjusted to take into account such material variation."

(5) SPECIAL RULE FOR MULTIEMPLOYER PLANS UNDER EXCLUDED EMPLOYEE REQUIREMENTS.—Subsection (h) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR MULTIEMPLOYER PLAN.—Except as provided in regulations, any multiemployer plan shall not be taken into account in applying subparagraph (A), (B), (C), or (D) of paragraph (1) with respect to other plans of the employer.".

(6) COMPARABILITY RULES.—Paragraph (1) of section 89(g) of the 1986 Code, as amended by section 111B(a)(3), is amended by adding at the end thereof the following new subparagraphs:

"(D) SPECIAL RULES FOR APPLYING SUBSECTION (f).—

"(i) IN GENERAL.—For purposes of applying subsection (f)—

"(I) except as provided in clause (ii), subparagraph (B) shall be applied by substituting '90 percent' for '95 percent', and

"(II) a group of plans of the same type shall be treated as comparable plans if the requirements of subparagraph (E) are met.

"(ii) ELECTION TO USE LOWER PERCENTAGE IN DETERMINING COMPARABILITY.—If an election by the employer under this clause applies for the testing year—

"(I) subclause (I) of clause (i) shall not apply,

"(II) for purposes of applying subsection (f), subparagraph (B) of this paragraph shall be applied by substituting '80 percent' for '95 percent', and

"(III) subsection (f) shall be applied with respect to all health plans maintained by the employer by substituting '90 percent' for '80 percent'.

"(E) PLANS TREATED AS COMPARABLE IF EMPLOYEE COST DIFFERENCE IS $100 OR LESS.—

"(i) IN GENERAL.—A group of plans of the same type shall be treated as comparable with respect to a group of employees if—

"(I) such plans are available to all employees in the group on the same terms, and

"(II) the difference in annual cost to employees between the plans with the lowest and highest annual employee cost is not greater than $100.

"(ii) COORDINATION WITH SUBPARAGRAPH (B).—A plan not in the group of plans described in clause (i) shall be treated as part of such group if, under subparagraph (B) (without regard to clause (iii) of this subparagraph), such plan is comparable to the plan in such group with the largest employer-provided benefit.

"(iii) OTHER PLANS.—A plan not in the group of plans described in clause (i) shall be treated as part of such group with respect to an employee if—

"(I) in the case of an employee who is not a highly compensated employee, such employee is eligible to participate in the plan in such group with the largest employer-provided benefit (without regard to clause (ii)),

"(II) in the case of an employee who is not a highly compensated employee, the annual cost to such employee under such plan is not lower or higher than the lowest and highest costs within such group.

"(III) the employer-provided benefit under such plan is less than the employer-provided benefit under the plan in such group with the largest such benefit (without regard to clause (ii)).

"(iv) SEPARATE APPLICATION OF REQUIREMENTS.—If an employer elects the application of paragraph (2)(A)(ii), the amount under clause (i) shall be allocated among plans covering spouses and dependents and plans covering employees in such manner as the employer specifies.

"(v) COST-OF-LIVING ADJUSTMENT.—In the case of testing years beginning after 1989, the $100 amount under clause (i) shall be increased by the percentage (if any) by which—

"(I) the CPI for the calendar year preceding the year in which the testing year begins, exceeds

"(II) the CPI for 1988.

For purposes of this clause, the CPI for any calendar year shall be determined under section 1(f).".

(7) OTHER COVERAGE.—

(A) Subparagraph (A) of section 89(g)(2) of the 1986 Code is amended—

(i) by striking out "subsection (e)" each place it appears and inserting in lieu thereof "subsection (e) or (f)", and

(ii) by adding at the end thereof the following new sentence: "The provisions of the preceding sentence shall not apply for purposes of applying subsection (f) unless the requirements of subsection (f) would be met if such subsection were applied without regard to the preceding sentence and on the basis of eligibility to participate rather than coverage."

(B) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by adding at the end thereof the following sentence: "The Secretary shall make such adjustments as are necessary in applying the rules of the preceding sentence to subsection (f)."

(8) SWORN STATEMENTS.—Paragraph (2) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE.—No employee who is not a highly compensated employee may be disregarded under subparagraph (A)(i) with respect to any health plan of the employer unless under such plan such employee is entitled, when the coverage under the other health plan referred to in subparagraph (A)(i) ceases, to elect coverage under the plan of the employer (whether or not an election is otherwise available). Such election is to be on the same terms as if such employee was making such election during a subsequent open season. Rules similar to the rules of the preceding sentences of this subparagraph shall apply in the case of an employee treated as not having a spouse or dependents or having a spouse or dependents covered by a health plan of another employer providing core benefits.".

(9) DEFINITION OF PLAN.—Paragraph (11) of section 89(j) of the 1986 Code is amended by striking out "Each option" and inserting in lieu thereof "Except as provided in subsection (g)(1), each option".

(10) MODIFICATION OF PENALTY.—Subparagraph (B) of section 6652(k)(2) of the 1986 Code is amended to read as follows:

"(B) the amount which bears the same ratio to the employer-provided benefit (within the meaning of section 89 without regard to subsection (g)(3)(C)(i) thereof) with respect to the employee to whom such failure relates as the amount of such benefit required to be but not shown on timely statements under sections 6051(a) and 6051(d) bears to the amount required to be shown.".

(11) CAFETERIA PLANS.—Subparagraph (D) of section 89(g)(3) of the 1986 Code is amended to read as follows:

"(D) SALARY REDUCTIONS.—

"(i) IN GENERAL.—Except for purposes of subsections (d)(1)(A)(ii) and (j)(5), any salary reduction shall be treated as an employer-provided benefit.

"(ii) SPECIAL RULE FOR SUBSECTION (d)(1)(A)(ii).—Notwithstanding clause (i), any salary reduction under a cafeteria plan shall be treated as an employer-provided benefit for purposes of subsection (d)(1)(A)(ii) if—

"(I) the percentage of employees who are not highly compensated employees eligible to participate in the plan is not greater than the percentage of highly compensated employees so eligible,

"(II) all employees eligible to participate in the plan are eligible under the same terms and conditions, and

"(III) no highly compensated employee eligible under the plan is eligible to participate in any other plan maintained by the employer for any benefit of the same type under terms and conditions different from the terms and conditions available under the plan to employees who are not highly compensated employees.".

(12) TESTING OF PLANS OF DIFFERENT TYPES.—Paragraph (4) of section 89(g) of the 1986 Code is amended to read as follows:

"(4) ELECTION TO TEST PLANS OF DIFFERENT TYPES TOGETHER.—The employer may elect to treat all plans of the types specified in such election as plans of the same type for purposes of applying subsection (e).".

(13) PART-TIME EMPLOYEES.—Paragraph (5) of section 89(j) of the 1986 Code is amended by striking out the last sentence thereof.

(14) ACQUISITIONS AND DISPOSITIONS.—

(A) Clause (ii) of section 89(j)(8)(A) of the 1986 Code is amended to read as follows:

"(ii) either—

"(I) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members in such group), or

"(II) such plan meets such other requirements as the Secretary may prescribe by regulation.".

(B) Subclause (II) of section 410(b)(6)(C)(i) of the 1986 Code is amended by inserting "or such plan meets such other requirements as the Secretary may prescribe by regulation" before the end period.

(15) DEPENDENT CARE ASSISTANCE.—Subparagraph (B) of section 129(d)(7) of the 1986 Code (as redesignated and amended by section 111B of this Act) is amended—

(A) by striking out "(within the meaning of section 414(q)(7))", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'compensation' has the meaning given such term by section 414(q)(7), except that, under rules prescribed by the Secretary, an employer may elect to determine compensation on any other basis which does not discriminate in favor of highly compensated employees.".

(16) REPORTING REQUIREMENTS.—

(A) Section 6039D(d) of the 1986 Code is amended—

(i) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, the plan shall be required to provide any information required by this section which the Secretary determines, on the basis of the agreement between the plan and employer, is held by the plan (and not the employer)", and

(ii) by inserting "AND SPECIAL RULES" after "DEFINITIONS" in the heading thereof.

(B) The amendments made by this paragraph shall apply to years beginning after 1984.

(b) MODIFICATION TO DEFINITIONS OF HIGHLY COMPENSATED AND COMPENSATION AND TO SEPARATE LINE OF BUSINESS RULES.—

(1) DEFINITION OF HIGHLY COMPENSATED.—Subsection (q) of section 414 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SIMPLIFIED METHOD FOR DETERMINING HIGHLY COMPENSATED EMPLOYEES.—If an election by the employer under this paragraph applies to any year, in determining whether an employee is a highly compensated employee for such year—

"(A) subparagraph (B) of paragraph (1) shall be applied by substituting '$50,000' for '$75,000', and

"(B) subparagraph (C) of paragraph (1) shall not apply.".

(2) LINE OF BUSINESS REQUIREMENTS.—

(A) SAFE HARBOR RULE.—Paragraph (3) of section 414(r) of the 1986 Code is amended to read as follows:

"(3) SAFE HARBOR RULE.—

"(A) IN GENERAL.—The requirements of subparagraph (C) of paragraph (2) shall not apply to any line of business if the highly compensated employee percentage with respect to such line of business is—

"(i) not less than one-half, and

"(ii) not more than twice,

the percentage which highly compensated employees are of all employees of the employer. An employer shall be treated as meeting the requirements of clause (i) if at least 10 percent of all highly compensated employees of the employer perform services solely for such line of business.

"(B) DETERMINATION MAY BE BASED ON PRECEDING YEAR.—The requirements of subparagraph (A) shall be treated as met with respect to any line of business if such requirements were met with respect to such line of business for the preceding year and if—

"(i) no more than a de minimis number of employees were shifted to or from the line of business after the close of the preceding year, and

"(ii) the employees shifted to or from the line of business after the close of the preceding year contained a substantially proportional number of highly compensated employees.".

(B) SEPARATE OPERATING UNITS.—Section 89(g)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In applying section 414(r)(7) for purposes of this section, an operating unit shall be treated as in a separate geographic area from another unit if such units are at least 35 miles apart.".

(3) COMPENSATION FOR GROUP-LIFE INSURANCE PLANS.—

(A) Paragraph (4) of section 89(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of applying this paragraph—

"(i) 1989 AND 1990.—In the case of testing years beginning in 1989 or 1990, the term 'compensation' means, at the election of the employer, base compensation or compensation defined in 414(s).

"(ii) 1991 AND THEREAFTER.—In the case of testing years beginning after 1990, compensation shall be determined on any basis determined by the employer which does not discriminate in favor of highly compensated employees.".

(B) Subparagraph (A) of section 89(j)(4) of the 1986 Code is amended by striking out "(within the meaning of section 414(s))".

(c) TRANSITIONAL PROVISIONS FOR PURPOSES OF SECTION 89.—

(1) TEMPORARY VALUATION RULES.—In the case of testing years beginning before the later of January 1, 1991, or the date 1 year after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans—

(A) Section 89(g)(3)(B) of the 1986 Code shall not apply.

(B)(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, value under clause (i) may be determined under any other reasonable method selected by the employer.

(2) FORMER EMPLOYEES.—The amendments made by section 1151 of the Reform Act shall not apply to former employees who separated from service with the employer before January 1, 1989 (and were not reemployed on or after such date), and such former employees shall not be taken into account in determining whether the requirements of section 89 of the 1986 Code are met with respect to other former employees. The preceding sentence shall not apply to the extent that the value of employer-provided benefits provided to any such former employee exceeds the value of such benefits which were provided under the terms of the plan as in effect on December 31, 1988. Any excess

value under the preceding sentence shall be determined without regard to any increase required by Federal law, regulation or rule or any increase which is the same for employees separating on or before December 31, 1988, and employees separating after such date and which does not discriminate in favor of highly compensated employees who separated from service after December 31, 1988.

(3) WRITTEN PLAN REQUIREMENT.—The requirements of section 89(k)(1)(A) of the 1986 Code shall be treated as met with respect to any testing year beginning in 1989, if—

(A) the plan is in writing before the close of such year,

(B) the employees had reasonable notice of the plan's essential features on or before the beginning of such year, and

(C) the provisions of the written plan apply for the entire year.

(4) RULES TO BE PRESCRIBED BEFORE OCTOBER 1, 1988.—Not later than October 1, 1988, the Secretary of the Treasury or his delegate shall issue such rules as may be necessary to carry out the provisions of section 89 of the 1986 Code.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986; except that the amendment made by subsection (a)(8) shall apply to testing years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1986.

SEC. 433. ESTATE TAX VALUATION FREEZES.

(a) DEEMED GIFT.—

(1) IN GENERAL.—Paragraph (4) of section 2036(c) of the 1986 Code is amended to read as follows:

"(4) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—For purposes of this subtitle, if, before the death of the original transferor—

"(i) the original transferor transfers all (or any portion of) the retained interest referred to in paragraph (1), or

"(ii) the original transferee transfers all (or any portion of) the transferred property referred to in paragraph (1) to a person who is not a member of the original transferor's family,

the original transferor shall be treated as having made a transfer by gift of property to the original transferee equal to the paragraph (1) inclusion (or proportionate amount thereof). Proper adjustments shall be made in the amount treated as a gift by reason of the preceding sentence to take into account prior transfers to which this subparagraph applied.

"(B) COORDINATION WITH PARAGRAPH (1).—In any case to which subparagraph (A) applies, nothing in paragraph (1) or section 2035(d)(2) shall require the inclusion of the transferred property (or proportionate amount thereof).

"(C) SPECIAL RULE WHERE PROPERTY RETRANSFERRED.—In the case of a transfer described in subparagraph (A)(ii) from the original transferee to the original transferor, the paragraph (1) inclusion (or proportion thereof) shall be reduced by the excess (if any) of—

"(i) the fair market value of the property so transferred, over

"(ii) the amount of the consideration paid by the original transferor in exchange for such property.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) ORIGINAL TRANSFEROR.—The term 'original transferor' means the person making the transfer referred to in paragraph (1).

"(ii) ORIGINAL TRANSFEREE.—The term 'original transferee' means the person to whom the transfer referred to in paragraph (1) is made. Such term includes any member of the original transferor's family to whom the property is subsequently transferred.

"(iii) PARAGRAPH (1) INCLUSION.—The term 'paragraph (1) inclusion' means the amount which would have been included in the gross estate of the original transferor under subsection (a) by reason of paragraph (1) (determined without regard to sections 2032 and 2032A) if the original transferor died immediately before the transfer referred to in subparagraph (A). The amount determined under the preceding sentence shall be reduced by the amount (if any) of the taxable gift resulting from the transfer referred to in paragraph (1)(B).

"(E) CONTINUING INTEREST IN TRANSFERRED PROPERTY MAY NOT BE RETAINED.—A transfer (to which subparagraph (A) would otherwise apply) shall not be taken into account under subparagraph (A) if the original transferor or the original transferee (as the case may be) retains a direct or indirect continuing interest in the property transferred in such transfer."

(2) CROSS REFERENCE.—Subsection (d) of section 2501 of the 1986 Code is amended by adding at the end thereof the following:

"(3) For treatment of certain transfers related to estate tax valuation freezes as gifts to which this chapter applies, see section 2036(c)(4)."

(b) EXCEPTIONS.—Subsection (c) of section 2036 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(6) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to a transaction solely by reason of 1 or more of the following:

"(i) The receipt (or retention) of qualified debt.

"(ii) Except as provided in regulations, the existence of an agreement for the sale or lease of goods or other property to be used in the enterprise or the providing of services and—

"(I) the agreement is an arm's length agreement for fair market value, and

"(II) the agreement does not otherwise involve any change in interests in the enterprise.

"(iii) An option or other agreement to buy or sell property at the fair market value of such property as of the time the option is (or the rights under the agreement are) exercised.

"(B) LIMITATIONS.—

"(i) SERVICES PERFORMED AFTER TRANSFER.—In the case of compensation for services performed after the transfer referred to in paragraph (1)(B), clause (ii) of subparagraph (A) shall not apply if such services were performed under an agreement providing for the performance of services over a period greater than 3 years after the date of the transfer. For purposes of the preceding sentence, the term of any agreement includes any period for which the agreement may be extended at the option of the service provider.

"(ii) AMOUNTS MUST NOT BE CONTINGENT ON PROFITS, ETC.—Clause (ii) of subparagraph (A) shall not apply to any amount determined (in whole or in part) by reference to gross receipts, income, profits, or similar items of the enterprise.

"(C) QUALIFIED DEBT.—For purposes of this paragraph, except as provided in subparagraph (D), the term 'qualified debt' means any indebtedness if—

"(i) such indebtedness—

"(I) unconditionally requires the payment of a sum certain in money in 1 or more fixed payments on specified dates, and

"(II) has a fixed maturity date not more than 15 years from the date of issue,

"(ii) the only other amount payable under such indebtedness is interest determined at—

"(I) a fixed rate, or

"(II) a rate which bears a fixed relationship to a specified market interest rate,

"(iii) the interest payment dates are fixed,

"(iv) such indebtedness does not grant voting rights to the person to whom the debt is owed or place any limitation (other than in a case where the indebtedness is in default as to interest or principal) on the exercise of voting rights by others, and

"(v) such indebtedness—

"(I) is not (directly or indirectly) convertible into an interest in the enterprise which would not be qualified debt, and

"(II) does not otherwise grant any right to acquire such an interest.

The requirement of clause (i)(I) that the principal be payable on 1 or more specified dates and the requirement of clause (i)(II) shall not apply to indebtedness payable on demand if such indebtedness is issued in return for cash to be used to meet normal business needs of the enterprise.

"(D) SPECIAL RULE FOR STARTUP DEBT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified debt' includes any qualified startup debt.

"(ii) QUALIFIED STARTUP DEBT.—For purposes of clause (i), the term 'qualified startup debt' means any indebtedness if—

"(I) such indebtedness unconditionally requires the payment of a sum certain in money,

"(II) such indebtedness was received in exchange for cash to be used in any enterprise involving the active conduct of a trade or business,

"(III) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) transferred any property (including goodwill) which was not cash to the enterprise or transferred customers or other business opportunities to the enterprise,

"(IV) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) held any interest in the enterprise (including an interest as an officer, director, or employee) which was not qualified startup debt,

"(V) any person who (but for subparagraph (A)(i)) would have been an original transferee (as defined in paragraph (4)(C)) participates in the active management (as defined in section 2032A(e)(12)) of the enterprise, and

"(VI) such indebtedness meets the requirements of clauses (iv) and (v) of subparagraph (C).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including such regulations as may be necessary or appropriate to prevent avoidance of the purposes of this subsection through distributions or otherwise."

(c) TREATMENT OF SPOUSE.—Subparagraph (C) of section 2036(c)(3) of the 1986 Code is

amended by striking out "An individual" and inserting in lieu thereof "Except as provided in regulations, an individual".

(d) Right of Recovery.—

(1) In general.—Subchapter C of chapter 11 of the 1986 Code is amended by inserting after section 2207A the following new section:

"SEC. 2207B. RIGHT OF RECOVERY WHERE DECEDENT RETAINED INTEREST.

"(a) Estate Tax.—

"(1) In general.—If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

"(A) the value of such property, bears to

"(B) the taxable estate.

"(2) Decedent may otherwise direct by will.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will specifically referring to this section.

"(b) Gift Tax.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

"(1) the value of such property for purposes of chapter 12, bears to

"(2) the total amount of the taxable gifts for such year.

"(c) More Than One Recipient.—For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

"(d) Penalties and Interest.—In the case of penalties and interest attributable to the additional taxes described in subsections (a) and (b), rules similar to the rules of subsections (a), (b), and (c) shall apply."

(2) Conforming amendment.—The table of sections for subchapter C of chapter 11 of the 1986 Code is amended by inserting after the item relating to section 2207A the following new item:

"Sec. 2207B. Right of recovery where decedent retained interest."

(e) Effective Date.—

(1) In general.—Except as provided in this subsection, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

(2) Subsection (a).—The amendments made by subsection (a) shall apply in cases where the transfer referred to in section 2036(c)(1)(B) of the 1986 Code is on or after June 21, 1988.

(3) Subsection (d).—If an amount is included in the gross estate of a decedent under section 2036 of the 1986 Code other than solely by reason of section 2036(c) of the 1986 Code, the amendments made by subsection (d) shall apply to such amount only with respect to property transferred after the date of the enactment of this Act.

TITLE V—RAILROAD UNEMPLOYMENT AND RETIREMENT PROGRAMS

SEC. 501. SHORT TITLE.

This title may be cited as the "Railroad Unemployment Insurance and Retirement Improvement Act of 1988".

SEC. 502. REFERENCES TO RAILROAD UNEMPLOYMENT INSURANCE ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Railroad Unemployment Insurance Act.

Subtitle A—Financing Provisions

SEC. 511. AMENDMENTS RELATING TO DEFINITION OF "COMPENSATION".

(a) In General.—Section 1(i) is amended—

(1) by inserting "(1) In General.—" after "(i)";

(2) by striking out ": Provided, however, That in computing" and all that follows through "1983, shall be recognized." and inserting in lieu thereof ", except that in computing the compensation paid to any employee, no part of any month's compensation in excess of the monthly compensation base (as defined in subdivision (2)) for any month shall be recognized."; and

(3) by adding at the end thereof the following new subdivision:

"(2) Monthly Compensation Base.—

"(A) In general.—For purposes of subdivision (1), the term 'monthly compensation base' means the amount—

"(i) of $400 for calendar months before January 1, 1984;

"(ii) of $600 for calendar months after December 31, 1983 and before January 1, 1989; and

"(iii) computed under subparagraph (B) for months after December 31, 1988.

"(B) Computation.—

"(i) In general.—The amount of the monthly compensation base for each calendar year beginning after December 31, 1988, is the greater of—

"(I) $600; or

"(II) the amount, as rounded under clause (iii) if applicable, computed under the formula:

$$B=600\left(1+\frac{A-37{,}800}{56{,}700}\right)$$

"(ii) Meaning of symbols.—For the purposes of the formula in clause (i)—

"(I) 'B' is the dollar amount of the monthly compensation base; and

"(II) 'A' is the amount of the applicable base with respect to tier 1 taxes, for the calendar year for which the monthly compensation base is being computed, as determined under section 3231(e)(2) of the Internal Revenue Code of 1986.

"(iii) Rounding rule.—If the monthly compensation base computed under this formula is not a multiple of $5, it shall be rounded to the nearest multiple of $5, with such rounding being upward in the event the amount computed is equidistant between two multiples of $5.".

(b) Conforming Amendment With Respect to Subsidiary Remuneration Rule.—Section 1(k) is amended by striking out "$1,500" and inserting in lieu thereof "an amount that is equal to 2.5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act".

(c) Conforming Amendment With Respect to Limitation on Taking Account of Money Remuneration.—Section 2(c) is amended by striking out "not in excess of $775 in any month shall be taken into account:" and inserting in lieu thereof "shall be taken into account that is not in excess of $775 in any month before 1989 and, in any month in a base year after 1988, is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600:".

(d) Conforming Amendments With Respect To Required Compensation Amount.—Section 4(a-2)(i)(A) is amended by striking out the semicolon at the end and inserting in lieu thereof "and before 1989 or, if any part of such compensation is paid in a calendar year after 1988, not less than an amount that is equal to 2.5 times the monthly compensation base for months in such calendar year, as computed under section 1(i) of this Act;".

(e) Duty of Board To Make Certain Computations.—Section 12 is amended by adding at the end the following new subsection:

"(r) Duty of Board To Make Certain Computations.—

"(1) Compensation base.—On or before December 1, 1988, and on or before December 1 of each year thereafter, the Board shall compute—

"(A) in accordance with section 1(i), the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

"(B) the amounts described in section 1(k), section 2(c), section 3, and section 4(a-2)(i)(A) that are related to changes in the monthly compensation base.

"(2) Maximum daily benefit rate.—On or before June 1, 1989, and on or before June 1 of each year thereafter, the Board shall compute in accordance with section 2(a)(3) the maximum daily benefit rate which shall be applicable with respect to days of unemployment and days of sickness in registration periods beginning after June 30 of that year.

"(3) Notice in federal register and to employers.—Not later than 10 days after each computation made under this subsection, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.".

(f) Effective Date.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 512. CONTRIBUTION ADJUSTMENTS.

(a)(1) Employer Contributions and Experience Rating.—Section 8 is amended by striking out "(a) Every employer" and all that follows through the end of subsection (a) and inserting in lieu thereof the following:

"(a) Employer Contribution.—

"(1) In general.—

"(A) General rule.—

"(i) Contribution rate generally.—Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined under subparagraph (B), (C), or (D), whichever is applicable, of so much of the compensation paid in any calendar month by such employer to any employee as is not in excess of the monthly compensation base for that month as computed under section 1(i).

"(ii) Multiple employer limitation.— If compensation is paid to an employee by more than one employer in any calendar month—

"(I) the contributions required by this subsection shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calen-

dar month which is in excess of such monthly compensation base; and

"(II) each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee bears to the total compensation paid in such month by all such employers to such employee.

In the event that the compensation paid by such employers to the employee in such month is less than such monthly compensation base, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

"(B) TRANSITIONAL RULE.—

"(i) 1ST, 2D, AND 3D CALENDAR YEARS.—Except as provided in clause (vi), with respect to compensation paid in calendar years 1988, 1989, and 1990, the contribution rate shall be 8 percent.

"(ii) 4TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1991, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R=\frac{2A+B.}{3}$$

"(iii) 5TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1992, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R=\frac{A+2C.}{3}$$

"(iv) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A' is the contribution rate determined under clause (i);

"(III) 'B' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1991; and

"(IV) 'C' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1992.

"(v) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), if more than the maximum contribution limit computed under paragraph (20) shall not be reduced to that limit; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or a 12-quarter period ending on a given June 30 shall be made on the basis of a period beginning on January 1, 1990, and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

"(vi) SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS.—With respect to each of calendar years 1989 and 1990, the contribution of an employer which on the date of the enactment of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 is a publicly funded and publicly operated carrier providing rail commuter service shall be equal to the amount of benefits attributable to such carrier, plus an amount equal to 0.65 percent of the total compensation paid by that employer in that year on which that employer's contribution would be based under clause (i) if such employer's contribution were determined under that clause.

"(C) EXPERIENCE-RATED CONTRIBUTIONS.—With respect to compensation paid in a calendar year that begins after December 31, 1992, the contribution rate for each employer shall be determined as follows:

"(i) STEP 1.—Compute the employer's benefit ratio as of the preceding June 30 to 4 decimal points in accordance with paragraph (2).

"(ii) STEP 2.—Subtract the employer's reserve ratio as of the preceding June 30 as computed to 4 decimal points in accordance with paragraph (4).

"(iii) STEP 3.—Subtract the pooled credit ratio for the calendar year, if any, as computed to 4 decimal points in accordance with paragraph (12).

"(iv) STEP 4.—Multiply by 100 the total arrived at under the steps set forth in clauses (i) through (iii) so as to obtain a percentage rate, which shall be rounded to the nearest 100th of 1 percent. If the total arrived at under such steps is 0 or less than 0, the percentage rate as so computed shall be 0.

"(v) STEP 5.—Add 0.65 to the percentage rate arrived at under clause (iv), representing the portion of the employer's contribution which is to be deposited to the credit of the fund under subsection (i).

"(vi) STEP 6.—Add the surcharge rate for the calendar year, if any, as computed under paragraph (14).

"(vii) STEP 7.—Add the pooled charge ratio for the calendar year, if any, as computed to 4 decimal points under paragraph (13) and multiplied by 100.

"(viii) STEP 8.—Reduce the percentage rate computed in accordance with the preceding steps to the maximum contribution limit computed under paragraph (20), if such rate is higher than such limit. The rate computed in accordance with the preceding steps, after any reduction under this clause, is the contribution rate.

"(D) NEW-EMPLOYER CONTRIBUTION RATES.—Notwithstanding subparagraphs (B) and (C), the contribution rate applicable to a new employer who does not become subject to this Act until after December 31, 1989, shall be determined as follows:

"(i) 1ST CALENDAR YEAR.—With respect to compensation paid in calendar months before the end of the first full calendar year in which the employer is subject to this Act, the contribution rate shall be the average contribution rate paid by all employers during the 3 calendar years preceding the calendar year before the calendar year in which the compensation is paid. The average contribution rate shall be determined—

"(I) by dividing the aggregate contributions paid by all employers under this subsection in those 3 calendar years by the aggregate compensation with respect to which such contributions were paid; and

"(II) by multiplying the resulting ratio as computed to 4 decimal points by 100.

"(ii) 2D CALENDAR YEAR.—With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R=\frac{2(A2)+B}{3}$$

"(iii) 3D CALENDAR YEAR.—With respect to compensation paid in calendar months in the third full calendar year in which the employer is subject to the coverage of this Act, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R=\frac{A3+2C}{3}$$

"(iv) SUBSEQUENT CALENDAR YEARS.—With respect to all calendar months in calendar years subsequent to that calendar year, the contribution rate shall be determined under subparagraph (C).

"(v) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A1' is the contribution rate determined under clause (i) for such employer's first full calendar year;

"(III) 'A2' is the contribution rate which would have been determined under clause (i) if the employer's second calendar year had been its first full calendar year;

"(IV) 'A3' is the contribution rate which would have been determined under clause (i) if the employer's third calendar year had been such employer's first full calendar year;

"(V) 'B' is the contribution rate for the employer as determined under subparagraph (C) for the employer's second full calendar year; and

"(VI) 'C' is the contribution rate for the employer as determined under subparagraph (C) for the employer's third full calendar year.

"(vi) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), shall not be reduced under clause (viii) of that subparagraph; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the *first calendar quarter that begins after the date on which the employer first commenced paying compensation subject to this Act and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.*

"(2) Benefit ratio.—An employer's benefit ratio as of any given June 30 shall be determined by dividing all benefits charged to the employer under paragraph (15) during the 12 calendar quarters ending on such June 30 by the employer's 3-year compensation base as of such June 30 as computed under paragraph (3).

"(3) 3-year compensation base.—An employer's 3-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 12 calendar quarters ending on such June 30.

"(4) Reserve ratio.—An employer's reserve ratio as of any given June 30 shall be computed by dividing the employer's reserve balance as of such June 30, as computed under paragraph (6), by that employer's 1-year compensation base as of such June 30, as computed under paragraph (5). The employer's reserve ratio may be either a positive or a negative figure, depending upon whether the employer's reserve balance is a positive or negative figure.

"(5) 1-year compensation base.—An employer's 1-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 4 calendar quarters ending on such June 30.

"(6) Reserve balance.—An employer's reserve balance as of any given June 30 shall be determined by subtracting the employer's cumulative benefit balance as of such June 30, computed under paragraph (7), from the employer's net cumulative contribution balance as of such June 30, computed under paragraph (8). An employer's reserve balance may be either positive or negative, depending upon whether or not that employer's net cumulative contribution balance exceeds the employer's cumulative benefit balance.

"(7) Cumulative benefit balance.—An employer's cumulative benefit balance as of any given June 30 shall be determined by adding—

"(A) the net amount of the benefits charged to the employer under paragraph (15) on or after January 1, 1990; and

"(B) the cumulative amount of the employer's unallocated charges for the same period, if any, as computed under paragraph (9).

"(8) Net cumulative contribution balance.—An employer's net cumulative contribution balance as of any given June 30 shall be determined as follows:

"(A) Step 1.—Compute the sum of

"(i) all contributions paid by the employer pursuant to this subsection;

"(ii) that portion of the tax imposed under section 3321(a) of the Internal Revenue Code of 1986 that is attributable to the surtax rate under section 516(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988; and

"(iii) any taxes paid by the employer pursuant to section 3321(a) of the Internal Revenue Code of 1986 (after the outstanding balance of loans made under section 10(d) before October 1, 1985, plus interest, have been paid); on or after January 1, 1990.

"(B) Step 2.—Subtract an amount equal to the amount of such contributions deposited to the credit of the fund under subsection (i).

"(C) Step 3.—Add an amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under paragraph (1)(C)(iii).

"(9) Unallocated charge.—An employer's unallocated charge as of any given June 30 is the amount that as of such June 30 bears the same ratio to the system unallocated charge balance, computed under paragraph (10), as the employer's 1-year compensation base, computed under paragraph (5), bears to the system compensation base computed under paragraph (11).

"(10) System unallocated charge balance.—The system unallocated charge balance as of any given June 30 shall be determined as follows:

"(A) Step 1.—Compute the aggregate amount of all interest paid by the account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to section 10(d), during the 4 calendar quarters ending on that June 30.

"(B) Step 2.—Add the aggregate amount of any additions to the system unallocated charge balance specified in paragraphs (15) and (16), during that period.

"(C) Step 3.—Add the aggregate amount of any other expenditures by the account during that period not chargeable to any individual employer under paragraph (15) or to the fund under section 11.

"(D) Step 4.—Subtract the aggregate amount of all income to the account, under section 10(a)(iv) or section 10(a)(vii), during that period.

"(E) Step 5.—Subtract the aggregate amount of all transfers to the account, pursuant to section 11(d), during that period.

"(F) Step 6.—Subtract the aggregate amount of all other income and receipts of the account, during that period, which are not assigned to individual employer balances.

"(G) Step 7.—Subtract the net cumulative contribution balance of each employer whose balance has been cancelled pursuant to paragraph (16), during that period, calculated as of the date of such cancellation.

"(11) System compensation base.—The system compensation base as of any given June 30 shall be determined by adding together the amounts of the 1-year compensation bases of all employers and employee representatives subject to this Act, computed in accordance with paragraph (5), as of such June 30.

"(12) Pooled credit ratio.—The pooled credit ratio, if any, for a calendar year shall be determined as follows:

"(A) Step 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. In determining such balance as of June 30 of any year, so much of the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date as is in excess of $6,000,000 shall be deemed to be part of the balance to the credit of such account. There will be a pooled credit ratio for the calendar year only if that balance is in excess of the greater of $250,000,000 or of the amount that bears the same ratio to $250,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (11).

"(B) Step 2.—If there is such an excess amount, divide that excess amount by the system compensation base as of the June 30 preceding the calendar year. The result is the pooled credit ratio for the calendar year.

"(13) Pooled charge ratio.—The pooled charge ratio, if any, for a calendar year shall be determined as follows:

"(A) Step 1.—With respect to each employer whose contribution rate for that calendar year as computed through step 6 under paragraph (1)(C) was greater than the maximum contribution limit computed under paragraph (20), multiply the employer's 1-year compensation base as of the preceding June 30, as computed in accordance with paragraph (5), by the difference between—

"(i) the percentage rate determined under subparagraph (B), (C), or (D) of paragraph (1) before the reduction to the maximum contribution limit; and

"(ii) the maximum contribution limit.

"(B) Step 2.—Add the amounts arrived at under step 1 so as to obtain an aggregate amount for all such employers.

"(C) Step 3.—For each employer whose contribution rate as computed through step 3 under paragraph (1)(C) was less than 0, the percentage rate by which such employer's rate was raised in order to bring that rate to 0 shall be multiplied by that employer's 1-year compensation base as of the preceding June 30. Subtract the total of the amounts computed under the preceding sentence for all employers from the amount arrived at in step 2.

"(D) Step 4.—Divide the aggregate amount arrived at under step 3 by the system compensation base as of the preceding June 30 as computed under paragraph (11) minus the one-year compensation base of those employers whose rates computed through step 6 of paragraph (1)(C) exceeded the maximum contribution rate computed under paragraph (20). The result is the pooled charge ratio for the calendar year.

"(14) Surcharge rate.—The surcharge rate for a calendar year, if any, shall be determined as follows:

"(A) Step 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. In determining such balance as of June 30 of any year, so much of the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date as is in excess of $6,000,000 shall be deemed to be part of the balance to the credit of such account. There will be a surcharge rate for the calendar year only if that balance is less than the greater of $100,000,000 or of the amount that bears the same ratio to $100,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (11).

"(B) Step 2.—(i) If the balance to the credit of the account is less than the greater of the amounts referred to in the 2nd sentence of step 1 but is equal to or more than the greater of $50,000,000 or of the amount that bears the same ratio to $50,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, then the surcharge

rate for the calendar year shall be 1.5 percent.

"(ii) If the balance to the credit of the account is less than the greater of the amounts referred to in the clause (i), but greater than or equal to zero, then the surcharge rate for the calendar year shall be 2.5 percent.

"(iii) If the balance to the credit of the account is less than zero, the surcharge rate for the calendar year shall be 3.5 percent.

"(15) CHARGEABLE BENEFITS.—

"(A) IN GENERAL.—Beginning January 1, 1990, all benefits paid to an employee for days of unemployment or days of sickness shall be charged to that employee's base year employer by adding amounts equal to the amounts of such benefits to the employer's cumulative benefit balance except that benefits paid by reason of strikes or work stoppages growing out of labor disputes shall not be added to the employer's cumulative benefit balance but instead shall be added to the system unallocated charge balance.

"(B) ADJUSTMENTS.—A sum equal to each amount realized in recovery for overpayment, erroneous payment, or reimbursement of benefits and credited to the account pursuant to section 10(a)(v) or 10(a)(viii) shall be subtracted from the cumulative benefit balances of the employers of the employees to whom such an amount was paid as a benefit in the proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit.

"(C) MULTIPLE EMPLOYERS.—

"(i) IN GENERAL.—All benefits paid to an employee who had more than 1 base-year employer shall be charged to the cumulative benefit balances of the employee's base year employers—

"(I) in reverse chronological order of the employee's employment with each such employer in the base year if the employer at the time of the claim was the last base year employer, and the amount charged to each employer shall not exceed the compensation paid by that employer to the employee in the base year; and

"(II) in all other cases, in the same ratio as the compensation paid to such employee by the employer bears to the total of such compensation paid to such employee by all such employers in the base year.

"(ii) SPECIAL RULE FOR EMPLOYER WITH CANCELLED BALANCES.—All benefits chargeable under this subparagraph to an employer for which the Board has cancelled balances under paragraph (16) shall be added to the system unallocated charge balance.

"(16) DEFUNCT EMPLOYER.—Whenever the Board determines, pursuant to such regulations as the Board may prescribe, that an employer has permanently ceased to pay compensation with respect to which contributions are payable pursuant to this subsection, the Board shall, effective on the date of the Board's determination, transfer the employer's net cumulative contribution balance as a subtraction from, and cumulative benefit balance as an addition to, the system unallocated charge balance and cancel all other accumulations of the employer.

"(17) INDIVIDUAL EMPLOYER RECORD.—

"(A) IN GENERAL.—As of January 1, 1990, the Board shall commence maintaining an individual employer record with respect to each employer, and the records necessary to determine pooled charges, pooled credits and unallocated charge balances for the system. Whenever a new employer begins paying compensation with respect to which contributions are payable pursuant to this subsection, the Board shall establish and maintain an individual employer record for such employer.

"(B) DEFINITION.—As used in this paragraph, the term 'individual employer record' means a record of an individual employer's benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, reserve balance, net cumulative contribution balance, and cumulative benefit balance.

"(18) JOINT EMPLOYER RECORDS.—Pursuant to regulations prescribed by the Board, the Board may allow 2 or more employers, upon application, to establish and maintain, or to discontinue, a joint individual employer record for such employers as though such joint record constituted a single employer's individual employer record.

"(19) MERGERS, CONSOLIDATIONS, OR OTHER CHANGES IN EMPLOYER IDENTITY.—

"(A) WITH OTHER EMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another employer and the combination entails no partitioning of the property of the employer, the individual employer records of the 2 employers shall be combined into a joint individual employer record if the parties request such joint treatment pursuant to paragraph (18) or if the Board otherwise determines, pursuant to regulations prescribed by the Board, that such joint treatment is desirable.

"(B) WITH NONEMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another entity that is not an employer, the employer's individual employer record shall attach to the combined entity.

"(C) SALE OF ASSETS.—In the event property of an employer is sold or transferred to another employer or other entity, or is partitioned among 2 or more employers or entities, the cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of the employer shall be prorated among the employers which receive the property, including any entities which become employers by virtue of such transfer or partition, in such equitable manner as the Board by regulation shall prescribe.

"(D) REINCORPORATION.—The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification shall attach to the reincorporated or altered entity.

"(E) ABANDONMENT.—If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subsection without retroactive adjustment.

"(20) MAXIMUM CONTRIBUTION LIMIT.—The maximum contribution limit with respect to a calendar year is 12 percent, unless a 3.5 percent surcharge under paragraph (14) is in effect with respect to that calendar year. If such a surcharge is in effect the maximum contribution limit with respect to that calendar year is 12.5 percent.

"(21) SPECIAL RULES FOR CERTAIN COMPUTATIONS UNDER PARAGRAPH (1)(C).—(A) Any computation that is to be made under paragraph (1)(C) on the basis of a 12-quarter period ending on a given June 30 shall be made on the basis of a period—

"(i) beginning on the later of—

"(I) January 1, 1990;

"(II) the first day of the first calendar quarter that begins after the date on which the employer first began to pay compensation subject to this Act; or

"(III) July 1 of the third calendar year preceding that June 30; and

"(ii) ending on that June 30.

"(B) The amount computed under subparagraph (A) shall be increased to an amount that bears the same ratio to the amount so computed as 12 bears to the number of calendar quarters on which the computation is based.".

(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Subsection (b) of section 8 is amended to read as follows:

"(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative as is not in excess of the monthly compensation base computed in accordance with section 1(i), at a rate which shall be determined under subsection (a) in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.".

(c) EXTENSION OF REMEDIES.—Section 8(h) is amended by adding at the end the following: "The remedies available under the first sentence of this subsection for an employer or employee representative who contests the amount of contributions payable by him shall also apply with respect to a contention that the contribution rate determined by the Board under subsection (a) or (b) to be applicable to such employer or employee representative is inaccurate or otherwise improper.".

(d) BOARD PROCLAMATION OF BALANCE.—Section 8 is amended—

(1) by redesignating subsections (c) through (h) as subsections (f) through (k), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c) BOARD PROCLAMATION OF BALANCE.—

"(1) IN GENERAL.—Not later than October 15, 1990, and October 15 of each year thereafter the Board shall proclaim—

"(A) the balance to the credit of the account as of the preceding June 30 for purposes of paragraphs (12) and (14) of subsection (a);

"(B) the balance of any advances to the account under section 10(d) after September 30, 1985, that has not been repaid with interest as provided in such section as of September 30 of that year;

"(C) the system compensation base as of that June 30 as computed in accordance with paragraph (11) of that subsection;

"(D) the system unallocated charge balance as of that June 30, as computed in accordance with paragraph (10) of that subsection; and

"(E) the pooled credit ratio, the pooled charge ratio, and the surcharge rate, if any, as determined under paragraph (12), (13), or (14) of that subsection and applicable in the following calendar year.

"(2) PUBLICATION OF NOTICE.—As soon as is practicable after such proclamation, the Board shall publish notice in the Federal Register of the amounts so determined and proclaimed.

"(d) NOTIFICATIONS BY BOARD.—(1) Not later than the last day of any calendar quarter that begins after March 31, 1990, the Board shall notify each employer and employee representative of its net cumulative contribution balance and cumulative benefit balance as of the end of the preceding calendar quarter, as computed in accordance

with paragraphs (7) and (8) of subsection (a) as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30.

"(2) Not later than October 15, 1990, and October 15 of each year thereafter, the Board shall notify each employer and employee representative of its benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, and reserve balance as of the preceding June 30 as computed in accordance with paragraphs (2), (3), (4), (5), (6), and (9) of subsection (a), and of the contribution rate applicable to the employer or employee representative in the following calendar year as computed under paragraphs (1) (B), (C), or (D) of that subsection.

"(e) INFORMATION TO VERIFY ACCURACY TO BE MADE AVAILABLE.—Notwithstanding any other provision of law, upon request by an employer or employee representative, the Board shall make available to such employer or employee representative any information available to the Board which may be necessary to verify the accuracy of a contribution rate determined by the Board to be applicable to such employer or employee representative, or of any component of that contribution rate including the accuracy of the employer's individual employer record, upon payment by such employer or employee representative to the Board of the cost incurred by the Board in making such information available. The amounts so paid to the Board shall be credited to and deposited in the fund.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 513. ADMINISTRATIVE EXPENSES.

(a) CHANGE IN PERCENTAGE TO BE DEPOSITED IN FUND.—Section 8(i), as so redesignated by section 512(d), is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(b) CONFORMING AMENDMENTS.—(1) Section 10(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(2) Section 11(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid in months beginning after September 30, 1988.

SEC. 514. NOTIFICATION TO EMPLOYER.

(a) IN CONNECTION WITH CLAIM.—Section 5(b) is amended by adding at the end thereof the following: "When a claim for benefits is filed with the Board, the Board shall provide notice of such claim to the claimant's base-year employer or employers and afford such employer or employers an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the Board initially determines to pay benefits to a claimant under this Act, the Board shall provide notice of such determination to the claimant's base-year employer or employers.".

(b) IN CONNECTION WITH ADMINISTRATIVE REVIEW.—Section 5(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting at the end of the first paragraph the following: "In any such case the Board or the person or reviewing body so established or assigned shall, by publication or otherwise, notify all parties properly interested of their right to participate in the hearing and of the time and place of the hearing.";

(3) by inserting "(2)" at the beginning of the second paragraph;

(4) by inserting after the second paragraph the following:

"(3) Any base-year employer of a claimant whose claim for benefits has been granted in whole or in part, either in an initial determination with respect thereto or in a determination after a hearing pursuant to paragraph (1), and who contends that the determination is erroneous for a reason or reasons other than a reason that is reviewable under paragraph (4), may appeal to the Board for review of such determination. Despite such an appeal, the benefits awarded shall be paid to such claimant, subject to recovery by the Board if and to the extent found on the appeal to have been erroneously awarded. The Board shall take such action as is appropriate to recover the amount of such benefits including if feasible adjustment in subsequent payments pursuant to the first two paragraphs of section 2(d) of this Act. Upon an appeal, the Board shall review the determination appealed from and for such review may designate one of its officers or employees to receive evidence and report to the Board thereof together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.";

(5) by inserting "(4)" at the beginning of the third paragraph;

(6) by inserting "(5)" at the beginning of the fourth paragraph;

(7) by striking out "two" in the first sentence of the fourth paragraph and inserting in lieu thereof "three";

(8) by inserting before the final paragraph the following:

"(6) For purposes of this subsection and subsections (d) and (f), any base-year employer of the claimant is a properly interested party."; and

(9) by inserting "(7)" at the beginning of the final paragraph.

(c) IN CONNECTION WITH JUDICIAL REVIEW.—Section 5(f) is amended—

(1) by inserting after "member," in the first sentence "or any base-year employer of the claimant,"; and

(2) by inserting after the second sentence the following: "A copy of such petition also shall forthwith be served upon any other properly interested party, and such party shall be a party to the review proceeding.".

(d) CONFORMING AMENDMENTS WITH RESPECT TO LIMITATION ON ADMINISTRATIVE DISCLOSURE.—Section 12(d) is amended—

(1) by striking out "and" where it appears before "(iii)"; and

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 5 of this Act.".

(e) CONFORMING AMENDMENT WITH RESPECT TO COURT PROCEEDINGS LIMITATION.—Section 12(n) is amended by striking out "court" in the proviso to the second paragraph.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 515. ANNUAL REPORT.

On or before July 1 of 1989, and of each calendar year thereafter, the Railroad Retirement Board shall submit to the Congress a report on the financial status of the railroad unemployment insurance system under various economic and employment assumptions. Such report shall include any recommendation for financing changes which might be advisable, including any adjustment the Railroad Retirement Board recommends regarding the rates of employer contributions.

SEC. 516. AMENDMENTS RELATING TO RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) IN GENERAL.—Chapter 23A of the 1986 Code (relating to railroad unemployment repayment tax) is amended to read as follows:

"CHAPTER 23A. RAILROAD UNEMPLOYMENT REPAYMENT TAX

"Sec. 3321. Imposition of tax.
"Sec. 3322. Definitions.

"SEC. 3321. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

"(b) TAX ON EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

"(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

"(c) TERMINATION IF LOANS TO RAILROAD UNEMPLOYMENT FUND REPAID.—The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

"(1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(2) no unpaid interest on such transfers.

"SEC. 3322. DEFINITIONS.

"(a) RAIL EMPLOYER.—For purposes of this chapter, the term 'rail employer' means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.

"(b) RAIL WAGES.—For purposes of this chapter, the term 'rail wages' means, with respect to any calendar month, so much of the remuneration paid during such month which is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act.

"(c) EMPLOYEE REPRESENTATIVE.—For purposes of this chapter, the term 'employee representative' has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

"(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of section 3307 and 3308 shall apply."

(b) CONTINUATION OF SURTAX RATE THROUGH 1990.—

(1) In general.—In the case of any calendar month beginning before January 1, 1991—

(A) there shall be substituted for "4 percent" in subsections (a) and (b) of section 3321 of the 1986 Code the percentage equal to the sum of—

(i) 4 percent, plus

(ii) the surtax rate (if any) for such calendar month, and

(B) subsection (c) of such section shall not apply to so much of the tax imposed by such section as is attributable to the surtax rate.

(2) Surtax rate.—For purposes of paragraph (1), the surtax rate shall be—

(A) 3.5 percent for each month during a calendar year if, as of September 30, of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

(B) zero for any other calendar month.

(c) Technical and Conforming Amendments.—

(1) Subsection (d) of section 6157 of the 1986 Code (relating to quarterly payment of railroad unemployment repayment tax) is hereby repealed.

(2) Paragraph (2) of section 6201(b) of the 1986 Code (relating to amount not to be assessed) is amended by striking out "or tax imposed by section 3321".

(3) Section 6317 of the 1986 Code (relating to payments of Federal unemployment tax for calendar quarter) is amended—

(A) by striking out "or tax imposed by section 3321", and

(B) by striking out "and 23A, as the case may be,".

(4) Subsection (e) of section 6513 of the 1986 Code (relating to payments of Federal unemployment tax) is amended by striking out the last sentence.

(5) Subsection (i) of section 6601 of the 1986 Code (relating to exception as to Federal unemployment tax) is amended by striking out "or 3321".

(6) Subparagraph (A) of section 232(a)(2) of the Railroad Retirement Revenue Act of 1983 is amended by striking out "is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954" and inserting in lieu thereof "is not attributable to the surtax rate under section 516(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988".

(7) Subparagraph (B) of section 232(a)(2) of such Act is amended by striking out "section 3321(c)(1)(B) of such Code" and inserting in lieu thereof "section 516(b) of such Act".

(d) Effective Date.—The amendments made by this section, and the provisions of subsection (b), shall apply to remuneration paid after December 31, 1988.

SEC. 517. GAO STUDY OF FRAUD AND PAYMENT ERRORS.

The Comptroller General shall study the frequency of fraud and payment errors in the railroad unemployment compensation program. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to Congress the results of such study. Such report shall include—

(1) estimates of rates and amounts of annual losses due to fraud and overpayment;

(2) comparisons of such rates with the rates of losses in other Federal programs which experience such losses;

(3) recommendations for legislative measures that could be taken to reduce the losses in the railroad unemployment compensation program arising from fraud and payment errors; and

(4) such other matters relating to such fraud and payment errors as the Comptroller General determines are appropriate.

Subtitle B—Benefit and Other Adjustments

SEC. 521. WAITING PERIOD FOR BENEFITS AND BENEFIT INCREASES.

(a) In General.—Section 2(a) is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out the first paragraph and inserting in lieu thereof:

"Benefits shall be payable to any qualified employee for each day of unemployment in excess of four during any registration period: Provided, however, That no benefits shall be payable for days of unemployment during the first registration period within a benefit year in which the employee has more than four days of unemployment: Provided further, That in any case in which the Board finds that an employee's unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work, however, for subsequent days of unemployment due to such stoppage of work benefits shall be payable for days in excess of four during any registration period. Benefits shall be payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness, but excluding four days of sickness in any registration period: Provided, however, That no benefits shall be payable for days of sickness in the first registration period within a benefit year in which the employee has both four consecutive days of sickness and more than four days of sickness. A period of continuing sickness means (i) a period of consecutive days of sickness, whether from one or more causes, or (ii) a period of successive days of sickness due to a single cause without interruption of more than ninety consecutive days which are not days of sickness.".

(3) by inserting "(2)" at the beginning of the second paragraph;

(4) by striking out "and" after "shall not exceed $24 per day of such unemployment or sickness" in the second paragraph and inserting in lieu thereof a comma;

(5) by inserting "but before July 1, 1988," after "June 30, 1976," in the second paragraph;

(6) by striking out the period at the end of the first sentence of the second paragraph and inserting in lieu thereof ", that for registration periods beginning after June 30, 1988, but before July 1, 1989, such amount shall not exceed $30 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1989, such amount shall not exceed the maximum daily benefit rate provided in paragraph (3) of this subsection.";

(7) by inserting after the second paragraph the following new paragraph:

"(3)(A) The maximum daily benefit rate which the Board is required to compute under section 12(r)(2) shall be the amount computed pursuant to the following formula, but shall be not less than $30:

$$BR=25\left(1+\frac{A-600}{900}\right)$$

"(B) For purposes of such formula—

"(i) 'BR' represents the maximum daily benefit rate; and

"(ii) 'A' represents the amount obtained by dividing the amount of the 'applicable base' with respect to tier 1 taxes as determined under section 3231(e)(2) of the Internal Revenue Code of 1986 for the calendar year in which the benefit year begins by 60, with this quotient being rounded down to the nearest multiple of $100.

"(C) If the maximum daily benefit rate computed under such formula is not a multiple of $1, it shall be rounded to the nearest multiple of $1, with such rounding being upward in the event the amount computed is equidistant between two multiples of $1."; and

(8) by inserting "(4)" at the beginning of the last paragraph.

(b) Effective Dates.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendments made by paragraph (2) of subsection (a) shall apply with respect to registration periods beginning after June 30, 1988.

SEC. 522. QUALIFYING CONDITION.

(a) In General.—Section 3 is amended—

(1) by inserting "with respect to the base year" after "his compensation"; and

(2) by striking "$1,500 with respect to the base year" and inserting in lieu thereof "2.5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 523. INCREASE IN MAXIMUM PERMITTED SUBSIDIARY REMUNERATION.

(a) In General.—The second paragraph of section 1(k) is amended by striking out "$10" and inserting "$15" in lieu thereof.

(b) Effective Date.—The amendment made by this section shall take effect on July 1, 1988.

Subtitle C—Retirement Act Amendments

SEC. 531. ADDITIONAL LUMP SUM PAYMENT IN CERTAIN CASES.

Section 6 of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subsection:

"(e)(1) Every individual who will have completed ten years of service at the time of his retirement or death, who will have received compensation in the nature of separation or severance pay on or after January 1, 1985, and who would have been credited with additional months of service pursuant to section 3(i)(4) of this Act except for the fact that such individual was not in an employment relation to one or more employers nor an employee representative in such months, shall, at the time his annuity under section 2(a)(1) of this Act begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If the full amount of a lump sum under this subsection cannot be determined at the time an individual's annuity under section 2(a)(1) begins to accrue, such lump sum shall be payable at such time thereafter as such amount can be determined. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1), or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

"(2) The lump sum provided under subdivision (l) of this subsection shall be in an amount equal to the product of (A) the compensation attributable to the additional months of service which would have been credited to the individual due to the receipt of payments in the nature of separation or severance pay pursuant to section 3(i)(4) of this Act if such individual had remained in an employment relation to one or more employers or had continued to be an employee representative and (B) the rate of tax, or rates of tax, imposed on the compensation described in clause (A) of this subdivision by section 3201(b) of the Internal Revenue Code of 1986.".

SEC. 532. DELETION OF LAST PERSON SERVICE AS A DISQUALIFICATION.

(a) In General.—Section 2(e) of the Railroad Retirement Act of 1974 is amended—

(1)(A) in subdivision (1), by striking out "any person, whether or not"; and

(B) by striking out "(but with the" and all that follows through "political subdivision of a State";

(2) in subdivision (2), by striking out "and of the person, or persons, by whom he was last employed"; and

(3) in subdivision (3), by striking out "or to the last person, or persons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue".

(b) Deduction for Work.—Section 2(f) of such Act is amended by adding at the end thereof the following new subdivision:

"(6)(A) Except as provided in subparagraph (B)—

"(i) that portion of the annuity for any month of an individual as is computed under section 3(b) and as adjusted under section 3(g), plus any supplemental amount for such month under section 3(e), and that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d), shall each be subject to a deduction of $1 for each $2 of compensation received by such individual from compensated service rendered in such month to the last person, or persons, by whom such individual was employed before the date on which the annuity of such individual under subsection (a)(1) began to accrue; and

"(ii) that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d) shall be subject to a deduction of $1 for each $2 of compensation received by such spouse from compensated service rendered in such month to the last person, or persons, by whom such spouse was employed before the date on which the annuity of such spouse under subsection (c)(1) began to accrue.

"(B) Any deductions imposed by this subdivision for any month shall not exceed 50 percent of the annuity amount for such month to which such deductions apply.".

(c) Effective Date.—The amendments made by this section shall apply to annuities payable under the Railroad Retirement Act of 1974 for months beginning after the date of enactment of this Act.

SEC. 533. EARNINGS OF DISABILITY ANNUITANTS.

(a) In General.—Section 2(e)(4) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "$200 in earnings" and inserting in lieu thereof "$400 in earnings (after deduction of disability related work expenses)";

(2) by striking out "$2,400" each place it appears and inserting in lieu thereof "$4,800 (after deduction of disability related work expenses)";

(3) by striking out "$200" each place it appears and inserting in lieu thereof "$400"; and

(4) by striking out "$100" and inserting in lieu thereof "$200".

(b) Effective Date.—The amendments made by this section shall apply with respect to months in calendar years beginning after December 31, 1987.

SEC. 534. ALLOWANCE OF CREDIT FOR MILITARY SERVICE.

(a) In General.—Section 1(g)(2) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following: "For purposes of section 3(i)(2) of this Act, the period beginning on June 15, 1948, and ending on December 15, 1950, shall be deemed to be a war service period with respect to any individual who without intervening employment not covered by this Act rendered service as an employee to an employer under this Act in the year such individual was released from active military service or in the year immediately following such year.".

(b) Effective Date.—The amendment made by this section shall apply with respect to annuities accruing in months after the date of enactment of this Act.

TITLE VI—AMENDMENTS RELATING TO SOCIAL SECURITY ACT PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance and Related Provisions

SEC. 601. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(iii), by striking "June 1989" and inserting "June 1990"; and

(2) in paragraph (3)(B), by striking "January 1, 1989" and inserting "January 1, 1990".

SEC. 602. CONSOLIDATION OF REPORTS ON CONTINUING DISABILITY REVIEWS.

(a) In General.—Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)) is amended by striking "semiannually" and inserting "annually".

(b) Effective Date.—The amendment made by this section shall apply to reports required to be submitted after the date of the enactment of this Act.

SEC. 603. DENIAL OF BENEFITS TO INDIVIDUALS DEPORTED OR ORDERED DEPORTED ON THE BASIS OF ASSOCIATIONS WITH THE NAZI GOVERNMENT OF GERMANY DURING WORLD WAR II.

(a) In General.—Section 202(n)(1) of the Social Security Act (42 U.S.C. 402(n)(1)) is amended by striking "or (18)" in the matter preceding subparagraph (A) and inserting "(18), or (19)".

(b) Time of Deportation.—Section 202(n) of such Act is further amended by adding at the end the following new paragraph:

"(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of deportation has been issued under paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19) as of the date on which such order became final.".

(c) Effective Date.—The amendments made by this section shall apply only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment of this Act, and only to benefits for months beginning (and deaths occurring) on or after such date.

SEC. 604. REQUIREMENT OF SOCIAL SECURITY ACCOUNT NUMBER AS A CONDITION FOR RECEIPT OF SOCIAL SECURITY BENEFITS.

(a) In General.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i) in the matter preceding subclause (I), by inserting "and subparagraph (E)" after "subparagraph (A)"; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) The Secretary shall require, as a condition for receipt of benefits under this title, that an individual furnish satisfactory proof of a social security account number assigned to such individual by the Secretary or, in the case of an individual to whom no such number has been assigned, that such individual make proper application for assignment of such a number.".

(b) Effective Date.—The amendments made by this section shall apply to benefits entitlement to which commences after the sixth month following the month in which this Act is enacted.

SEC. 605. SUBSTITUTION OF CERTIFICATE OF ELECTION FOR APPLICATION TO ESTABLISH ENTITLEMENT FOR CERTAIN REDUCED WIDOW'S AND WIDOWER'S BENEFITS.

(a) Widow's Insurance Benefits.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widow's insurance benefits,

"(ii) was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by her with the Secretary, in accordance with regulations prescribed by the Secretary, in which she elects to receive widow's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceed-

ing 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62.".

(b) Widower's Insurance Benefits.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widower's insurance benefits,

"(ii) was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by him with the Secretary, in accordance with regulations prescribed by the Secretary, in which he elects to receive widower's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which he attains age 62.".

(c) Effective Date.—The amendments made by this section shall apply to benefits payable under section 202(e) or section 202(f) of the Social Security Act on the basis of the wages and self-employment income of an individual who dies after the month in which this Act is enacted.

SEC. 606. TECHNICAL CORRECTIONS IN OASDI PROVISIONS.

(a) Technical Corrections.—(1) Section 205(c)(2)(C)(iii) of the Social Security Act is amended by striking "the Social Security Act" and inserting "this Act".

(2) Section 211(a)(7) of such Act (as amended by section 9023(b)(1) of Public Law 100-203) is amended by inserting "of the Internal Revenue Code of 1986" before the semicolon at the end.

(3) The last sentence of section 226(b) of such Act (as added by section 9010(e)(3) of Public Law 100-203) is amended to read as follows: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term '36 months' in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section 202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read '15 months'.".

(4)(A) Subsection (d) of section 3121 of the Internal Revenue Code of 1986 (as amended by section 9002(b)(2) of Public Law 99-509) is amended—

(i) by redesignating paragraph (3) as paragraph (4), by striking "; or" at the end of such paragraph and inserting a period, and by moving such paragraph (as so redesignated and amended) to the end of the subsection; and

(ii) by redesignating paragraph (4) as paragraph (3), and by striking the period at the end and inserting "; or".

(B) Section 3306(i) of such Code (as amended by section 9002(b)(2) of Public Law 99-509) is amended by striking "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)" and inserting "paragraph (4) and subparagraphs (B) and (C) of paragraph (3)".

(5) Section 13303(c)(2) of Public Law 99-272 is amended—

(A) by striking "312(b)" and inserting "3121(b)";

(B) by striking "is amended" and inserting ", and paragraph (20) of section 210(a) of the Social Security Act, are each amended"; and

(C) by striking "after 'service' " and inserting "before 'performed' ".

(6) Section 9006(b)(1) of Public Law 100-203 is amended by striking "3111(a)" and inserting "3111".

(b) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.

Subtitle B—Public Assistance and Unemployment Compensation

SEC. 611. IMPLEMENTATION OF PROPOSED REGULATION RELATING TO ASSISTANCE TO HOMELESS AFDC FAMILIES DELAYED.

Section 9118 of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "October 1, 1988" and inserting "October 1, 1989".

SEC. 612. DISREGARD OF CERTAIN HOUSING ASSISTANCE PAYMENTS IN DETERMINING INCOME AND RESOURCES UNDER SSI PROGRAM.

(a) Income.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) assistance paid, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959.".

(b) Resources.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) the value of assistance referred to in section 1612(b)(14), paid with respect to the dwelling unit occupied by such individual (or such individual and spouse).".

(c) Effective Date.—The amendments made by this section shall be effective as though they had been included in section 162 of the Housing and Community Development Act of 1987 at the time of its enactment.

Subtitle C—National Commission on Children

SEC. 621. DELAY IN REPORTING DATE FOR NATIONAL COMMISSION ON CHILDREN.

Section 1139 of the Social Security Act (42 U.S.C. 1320b-9) is amended—

(1) by striking "September 30, 1988" in subsection (d) and inserting "September 30, 1989";

(2) by striking "March 31, 1989" in subsection (d) and inserting "March 31, 1990";

(3) by striking "March 31, 1989" in subsection (e)(1)(A) and inserting "April 30, 1990";

(4) by striking "March 31, 1989" in subsection (e)(4)(B) and inserting "March 31, 1990"; and

(5) by inserting "for each of fiscal years 1989 and 1990" after "section" in subsection (j).

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON, Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of the hearing is to receive comments on the pending sale of the Great Plains Coal Gasification project near Beulah, ND.

The hearing will take place on Monday, September 12, 1988, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Cheryl Moss at (202) 224-7569.

Mr. President, I would like to announce for the public that the Committee on Energy and Natural Resources has scheduled a hearing on Cosmos 1900 and the Future of Space Nuclear Power.

The hearing will take place on Tuesday, September 13, 1988, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to examine the anticipated fate of Cosmos 1900, a Soviet satellite reportedly containing a nuclear reactor that is anticipated to fall to Earth between late August and early October; the plans of the United States for use of nuclear power sources in space, and strategies for minimizing any risks associated with launching and using nuclear power sources in space.

For further information, please contact Jim Bruce, senior counsel, at (202) 224-5052.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National

Parks and Forests of the Senate be authorized to meet during the Energy Committee session of the Senate on September 8, 1988, to receive testimony on H.R. 4526, a bill to provide for the addition of approximately 600 acres to the Manassas National Battlefield Park.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, September 8, 1988, the committee will hold a hearing on the problems confronting the domestic manufacturer in the ball- and roller-bearing industry.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, September 7, 1988, to hold a hearing on the Winding Stair Mountain, OK wilderness bill.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON WAR POWERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Subcommittee on War Powers of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 7, 1988, to hold a hearing on the War Powers Resolution.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

THE JUVENILE DIABETES FOUNDATION INTERNATIONAL

● Mr. MOYNIHAN. Mr. President, the Juvenile Diabetes Foundation International is in its 18th year providing funding for further research into the study, treatment, and eventual cure of diabetes particularly as it disabled children. Their efforts have been tremendously successful and I would hope that my colleagues would join me in celebrating their remarkable accomplishments. May I ask that a more detailed summary of the JDF's activities be included in the CONGRESSIONAL RECORD.

The summary follows:

THE JUVENILE DIABETES FOUNDATION [JDF] INTERNATIONAL

The Juvenile Diabetes Foundation (JDF) International was founded in 1970 by a group of parents with diabetic children who were convinced that a better future for their children could only be found through expanded diabetes research. The JDF is an international not-for-profit, voluntary agency. The objective of JDF is to raise funds to find the cause, cure, treatment and prevention of diabetes and its complications.

The Juvenile Diabetes Foundation International funds medical research projects in three main categories: research grants, career development awards, and postdoctoral fellowships. As a result of funds raised to date significant progress has already been achieved toward improving the treatment of diabetics and conquering the many complications of the disease.

Diabetes is a chronic metabolic order which adversely affects the body's ability to manufacture and utilize insulin, a hormone necessary for the conversion of food into energy. In children, the onset of diabetes can be particularly swift and severe, the course of the disease unstable, and the problems acute.

Approximately 12 million Americans and one million Canadians suffer from diabetes. The number of diabetics is increasing at a rate of six percent each year. Diabetes with its complications is the third leading cause of death by disease in America, after heart disease and cancer. An estimated 450,000 people will die this year from diabetes and its complications.

Diabetes often leads to heart disease, stroke, kidney disease, gangrene and nerve damage. It is also the leading cause of adult blindness. There are 5,000 new cases of blindness resulting from diabetes each year. Federal and state aid for these people alone amounts to $60 million annually. The care of diabetic patients suffering from kidney disease is approximately $200 million per year and is increasing rapidly. And hospital costs for diabetes-related amputations amount to $350 million annually.

In its short history, JDF has funded over $30 million in new and exciting diabetes research projects. Except for the United States government, JDF has awarded more dollars directly to diabetes research than any other organization in the world.

JDF Chapters and affiliates worldwide energetically pursue a common goal to cure diabetes and courageously seek the dollars urgently needed to reach that goal. In addition to fund-raising, JDF chapters perform innovative and invaluable work in the community, providing information, counseling and support to newly diagnosed diabetics and their families; offering volunteer services to hospitals service groups and schools and educating the public to the seriousness of diabetes and the pressing need for research.

"More has been accomplished toward achieving a cure for diabetes in the last decade than in the previous 60 years. With increased levels of support for research, we know diabetes can be put in its place on the list of diseases conquered in this century," said Eileen Gelick, JDF International president.●

PARTNERSHIP FOR A DRUG-FREE AMERICA

● Mr. DANFORTH. Mr. President, the real battle against drugs is not on the borders, nor in streets and courtrooms. It is a battle in the hearts and minds of people.

It is a battle we can win because, in order to win, what we must do is tell the truth about drugs. We must provide for the teenager on the street, as for people everywhere in jeopardy of falling victim to illegal drugs, a voice against the deceit of drug pushers and drug abusers.

Such a voice already is coming from the Partnership for a Drug-Free America, a group of top advertising agencies and media people who have donated ads and media time to spread the antidrug message.

In 1987, the media donated more than $150 million in air time and newspaper space to antidrug messages. Eventually, the partnership hopes to marshal $1.5 billion over 3 years in donated creative efforts, broadcast time and newspaper space. So far, these efforts have been successful. According to a survey after the first year of advertising, which I will submit for the RECORD, attitudes have begun to move in the right direction.

I cannot stress strongly enough the importance of mobilizing public opinion against illegal drugs. At the turn of the century, America had a serious drug abuse problem. Cocaine was legal at that time. The problem was overcome not by interdiction, nor by stricter penalties. The drug epidemic of the early 20th century was overcome by public revulsion against drug use. America became disgusted, and the epidemic was beaten. But people have forgotten how terrible drugs are. We must remind them. We must rekindle public revulsion against drug abuse.

The Partnership for a Drug-Free America is playing a role in turning opinion against drugs. In areas that have received the most advertising, the survey found a greater improvement in attitudes than elsewhere. People are listening. People are becoming angry and disgusted with illegal drug use. We owe a great deal of thanks to the Partnership for a Drug-Free America.

We have not exhausted this avenue. I believe we have only begun the journey. We need to go to States and communities to build up local commitment to a campaign against illegal drugs. Broadcasters and publishers in every community need to be involved in drug education. I ask each of you to lend support and influence to the cause.

Let us take the fight to where it counts: To people all across the land who are in danger, and to their families and friends. Let us tell the truth about drug abuse. Border patrols and criminal prosecutions are vital fronts in the battle. But interdiction and jail terms do not make people free. It is the truth that will make America free of drugs.

I ask that the material to which I referred be printed in the RECORD.

The material follows:

CONCLUSIONS AND IMPLICATIONS

Over the course of the first twelve months of the Partnership's advertising effort, there has been encouraging improvement in people's attitudes toward drugs. Among all age groups, our research measured greater fear of the social, psychological and physical risks of drug use as well as more negative image of drug users and a correspondingly improved positive image of non-users.

The changes are most noticeable among college students, who even reported a drop in cocaine use. This may be due to the fact that students tend to live in a more closed society where attitudinal changes become widespread faster. Think back to the 60's and 70's when drug abuse (particularly grass) spread outward from college campuses to the general population, both older and younger. We can only hope we are seeing the reverse trend spreading out from campuses now.

Because different network affiliates, independent stations and other media donated different levels of time/space to the Partnership advertising, we are able to identify eleven markets that received significantly higher advertising levels—at least 50 percent heavier weight. While we recognize that this greater cooperation may have been in response to greater community attention to drug problems that was expressed in other activities as well, we can nevertheless compare attitudinal changes in heavy weight markets versus low weight markets.

The differences are encouraging. Children, teens and college students living in the heavy weight markets show far greater progress in their attitudes toward drugs than in the Balance U.S. Among adults, the pattern is inconsistent, with the heavy-up markets outperforming Balance U.S. in some cases and the reverse on other items.

There is one disappointing finding seen among the subsample of parents. They are still quite unrealistic about their children's exposure to and use of drugs and their myopia has gotten worse over the past year. Unfortunately, parental blindness is even more marked among blacks and Hispanics than among whites, despite the fact that black and Hispanic children and teens have greater exposure to and experience with drugs.

YEAR I FINDINGS

[NOTE.—All numbers reported are statistically significant at the 95% confidence level. A blank in the tables indicates that that particular item was not statistically significant at this level.]

1. Many attitudes toward drug abuse have changed—in the right direction.

Virtually none has moved in the wrong direction—any significant movement was favorable.

Attitudinal improvement is strongest among college students, followed by adults, children 9-12 and teens.

College students even report declines in cocaine use.

Evidenced by:

Greater fear of risks.

Less susceptibility to peer pressure to use (critical factor in pre-teen use).

Drugs seen as less glamorous.

Poorer image of users and better image of non-users.

2. There is very strong evidence that the advertising is playing a major role in these changes.

Varying levels of local support gave us a "natural experiment." Opportunity for exposure to the advertising ranged from very high to very low.

Eleven ADI's (13.73% U.S. population) received, on average, 50 percent more exposures than Balance U.S. (There was variation in weight within the high level markets as well as in the Balance U.S.)

People residing in the high level markets did report greater awareness and frequency of seeing the advertising. (This is important because the weight levels reported by the media services are subject to approximately 25% margin of error.)

In most instances of different levels of change between the heavy-up markets and the Balance U.S., the high level markets showed greater improvement.

	Total		By media weight	
	1987	P.P. change	High	Low
CHILDREN 9 TO 12				
Kids show greater fear of drugs:				
It's easy to get hooked	73	+4		
Crack or cocaine can kill you	88	+3		
I'm scared of taking drugs	84	+3		
Disagree smoking pot is OK sometimes			+14	−1
They evince less susceptibility to peer pressure: Disagree that I'd try drugs if my friends did [1]	86	+5	+13	+4
Drugs are less "glamorous":				
Disagree that using drugs makes you feel grown-up	69	+5	+14	+4
Disagree that parties are more fun with drugs	83	+3	+14	+1
They have a poorer image of drug users:				
Users are popular [1]	37	−4		
Users have many friends [1]	32	−5	−14	−2
Users are older	51	−9	−10	−8
Users are friendly	−13	±0		
Users are people I would probably like			−6	±0
N—1987		(881)	(169)	(712)
N—1988		(1,190)	(238)	(952)
TEENS				
Teens show greater fear of risks:				
It's risky to do crack regularly	88	+8		
Marijuana is a stepping stone to harder drugs	67	+7	+20	+3
It's risky to do cocaine regularly	86	+5		
It's risky to smoke pot regularly [1]	80	+5		
I'm afraid of psychological damage from marijuana	68	+5		
Taking drugs scares me	66	+5	+10	+4
I'm afraid of physical damage from marijuana [1]	65	+5		
Disagree that cigarettes are more harmful than pot [1]	53	+5		
It's risky to do coke occasionally	82	+4		
Drugs make you do worse at work, school or sports [1]	72	+3	+13	+1
They have a poorer image of users and a better image of nonusers:				
Nonusers are leaders	43	+7		
I don't want to hang around with drug users	53	+7	+13	+5
Disagree that people who try drugs are adventurous	49	+7	+11	+6
People on drugs act stupid and foolish [1]	64	+6	+11	+3
Nonusers are attractive	32	+4		
Pot users are lazy			+14	−3
Coke users are nervous			+16	±0
Coke users have no future			+13	−2
Coke users are loners			+12	+1
Coke users are lazy			+12	−1
Coke users are agressive			+11	±0
Pot users are loners			+10	+2
Teens in heavy ad markets are less tolerant of adults' use/selling to friends:				
Disagree it's OK for adults to sell an ounce of pot to friends			+14	±0
Disagree it's OK for adults to smoke pot in private			+13	±0
Disagree it's OK for adults to sell a gram of coke to friends			+12	±0
Disagree it's OK for adults to use coke in private			+11	−1
N—1987		(798)	(158)	(640)
N—1988		(1,031)	(219)	(812)
COLLEGE STUDENTS				
College students in fact reported a marked decrease in coke use:				
I've used cocaine occasionally in the past 12 mo	11	−5		
I have friends who occasionally do coke at parties	36	−5		
They show a greater fear of all drugs:				
I'm afraid of spouse's/lover's reaction if learned I used coke or crack	71	+10		
I'm afraid of the guilt I'd feel if I used coke or crack [1]	66	+10		
It's risky to try coke once or twice [1]	56	+10		
I'm afraid of damage to my reputation if others learned I did coke or crack	74	+9	+17	+11
Taking drugs scares me	72	+9		
I'm afraid of reaction of employer/school authorities if discovered I use pot	71	+9	+30	+8
I'm afraid of my influence on younger siblings if I used marijuana	63	+9		
I'm afraid of damage to my reputation if others learned I smoked marijuana	56	+9		
I'm afraid of my influence on younger siblings if I used cocaine	77	+8		
Disagree to pot "high" isn't as harmful as an alcohol "high"	54	+8		
It's risky to try crack once or twice	82	+7		
Disagree cigarettes are more harmful than marijuana	51	+7		
I'm afraid of physical damage from coke [1]	87	+5		
Disagree doing coke occasionally isn't risky [1]	85	+5		
I'm afraid motivation or ability to perform at work, school or sports would suffer if I smoked marijuana [1]	84	+5		
I'm afraid I'd become addicted to coke or crack [1]	83	+5		
Pot is a stepping stone to harder drugs [1]	63	+4		
It's risky to do coke occasionally [1]	89	+3		
I'm afraid of dying from cocaine use			+30	+4
I'm afraid of getting caught with enough pot to get into trouble with the law [1]			+25	+5
I'm afraid of psychological damage from marijuana			+25	+1
I'm afraid of parents' reaction if they learned I used marijuana [1]			+20	+5
I'm afraid of parents' reaction if they learned I used cocaine [1]			+19	+5
They have a poorer image of users and a better image of nonusers:				
Nonusers are leaders	39	+13		
Nonusers are people I'd probably like	58	+12		
Nonusers are in control	58	+11		
Nonusers are reliable	43	+11		
Nonusers have many friends	34	+11		
Pot users are loners	32	+11		
Coke users have no future	48	+9		
Coke users are self-centered	39	+9		
Disagree the more popular people seem to use pot	64	+8		
Coke users are nervous	51	+8		
Coke users are losers	41	+8		
Pot users are losers	36	+8		
Coke users are loners	33	+8		
Disagree people who try drugs are adventurous	57	+6		
Pot users are lazy	50	+6		
Pot users are self-centered	27	+6		
I don't want to hang around with people who use drugs	59	+4		
College students are less accepting of drug use and selling:				
Disagree it's OK for adults to sell a gram or less of coke to friends	87	+6		
Disagree it's OK for adults to use coke in private	83	+5		
Disagree it's OK for adults to sell an ounce or less of grass to friends	76	+4		
N—1987		(947)	(64)	(883)
N—1988		(1,491)	(88)	(1,403)
ADULTS				
Adults, too, show greater fear of drugs:				
I'm afraid of influence on my children/younger siblings if I used cocaine	74	+6		
Disagree cigarettes are more harmful than marijuana	50	+6		
I'm afraid of the guilt I'd feel if I smoked pot	67	+4		
I'm afraid of physical damage from pot [1]	66	+4		
I'm afraid of influence on my children/younger siblings if I used marijuana	77	+4		
Disagree marijuana isn't harmful if used only occasionally [1]			+6	+2
Drugs make you do worse at school, work or sports			+4	−1
They have a poorer image of users and a better image of nonusers:				
Coke users are losers	50	+9		

	Total		By media weight	
	1987	P.P. change	High	Low
I don't want to hang around with drug users	73	+8		
Coke users have no future	56	+8		
Pot users are losers	46	+8		
Coke users are loners	39	+8		
Disagree people who try drugs are adventurous	61	+7	+13	+5
Pot users are boring			+6	+1
Pot users are depressed			+7	+3
Pot users have no future	49	+7		
Coke users are lazy	46	+7		
Pot users are loners	41	+7		
Nonusers are intelligent	65	+6		
Nonusers are in control	58	+5		
Good students do not use drugs	41	+5		
Nonusers are people I'd probably like	64	+4		
People who use drugs are boring	45	+4	+9	+2
People on drugs act stupid/foolish			+5	±0
Nonusers are attractive			+8	±0
Nonusers are leaders			+8	+2
Drugs are less "glamourous":				
Disagree taking drugs helps one relax in social situation			+6	+2
Disagree using coke is a status symbol			+5	−1
Disagree pot increases your creativity			+5	−2
Adults in high media ADI's took more action against drug use:				
In past year, I've discouraged a friend from using marijuana			+8	±0
In past year, I've discouraged a friend from using crack			+5	−3
In past year, I've discouraged a friend from taking cocaine			+5	−2
Parents in high media ADI's have also been more likely to take a stand on drugs:				
In past year, I've complained to school officials about students' drug use at school			+9	±0
In past year, I've removed drugs from my kids			+5	±0
N—1987 [2]	(4,749)		(916)	(3,833)
N—1988 [2]	(4,665)		(837)	(3,829)

[1] Item determined to be highly correlated with drug use.

[2] Includes college students.

Note.—All changes are statistically significant at the 95-percent confidence level.

3. The unfortunate thing is many parents continue to have an unrealistic view of their children's exposure to, let alone use of, drugs. Worse still, they have become even less realistic over the past year.

PARENTS' ATTITUDES

[In percent]

	1988
Parents are ignorant of their childen's exposure to drugs:	
My children have never been exposed to drugs	32
But:	
Children 9 to 12 approached to buy/use drugs	18
Teens with friends who use pot	
Occasionally	59
Once a week or more	49
College students with friends who use pot	
Occasionally	76
Once a week or more	48
Teens think pot is easy to get	47
College students think pot is easy to get	71
There awareness of their children's use is off the mark:	
My children have never tried drugs	42
My kids are likely to try drugs	29
But:	
Children 9 to 12 ever tried pot	4
Teens ever tried pot	35
College students ever tried pot	56
N—1988	(640)

Note.—All changes are statistically significant at the 95-percent confidence level.

PARENTS' ATTITUDES

	1987	P.P. Change
Parents have become even less realistic over the past year:		
Most children will try drugs some time	56	−10
My children have never tried drugs	51	−9
My children are likely to try drugs	34	−5
It's not true my children don't have the money to buy drugs	42	−5
N—1987		(1,910)
N—1988		(1,661)

Note.—All changes are statistically significant at the 95-percent confidence level.

4. Parental myopia is even more marked among black and Hispanic parents.

And, it's getting worse.

PARENTAL ATTITUDES BY RACE

[In percent]

	1988		
	White	Black	Hispanic
My children have never been exposed to drugs	32	31	49
But:			
Kids 9 to 12 approached to buy/use	17	19	49
Teens with friends who use pot:			
Occasionally	59	54	77
Once a week or more	48	50	62
Teens with friends who do coke:			
Occasionally	28	30	38
Once a week or more	12	27	31
My children have never tried drugs	42	47	69
My children are likely to try drugs	30	20	31
I'm scared my kids might try drugs	62	41	62
But:			
Children 9 to 12 ever tried pot	3	9	23
Children's older siblings use pot	9	9	25
Teens ever tried pot	36	33	42
Teens ever used coke	7	18	12
Teens ever used crack	7	15	11
Teens used pot past 30 days	21	30	33
Teens used coke past 30 days	7	18	12
Teens likely to use crack next year	6	13	7
N—1988	(1,375)	(192)	(94)

Note.—All changes are statistically significant at the 95-percent confidence level.

CHANGES IN PARENTAL ATTITUDES BY RACE

[In percent]

	White	Black	Hispanic
I'm scared my children might use drugs	±0	−25	
My children are likely to try drugs	−4	−11	
My children have never tried drugs	−10		+27
It's untrue my children are likely to try drugs	+4		+23
N—1987	(1,627)	(169)	(114)
N—1988	(1,375)	(192)	(94)

Note.—All changes are statistically significant at the 95-percent confidence level.●

REV. J. ISAIAH GOODMAN, D.D., PASTOR OF FIRST BAPTIST CHURCH OF ENGLEWOOD, NJ, CELEBRATES 40TH YEAR

● Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Rev. J. Isaiah Goodman, D.D., pastor of the First Baptist Church of Englewood, NJ. On September 25, the reverend's congregation, family, and friends will gather to honor him.

For 40 years, Reverend Goodman has devoted his life to his church and service to others. Through his ministry he has touched the lives of many and contributed in an outstanding way to the community of Englewood, to Bergen County, and to the State of New Jersey.

Mr. President, I am pleased to honor Reverend Goodman. I extend my warmest wishes to recognition of his 40th anniversary, and wish him continued success and happiness for many years to come.●

MAYOR FRED LAGER

● Mr. D'AMATO. Mr. President, I rise to honor a neighbor from Long Island, NY. Fred Lager has been mayor of Atlantic Beach, NY, for the past 26 years. I congratulate him today upon his recent retirement from this post.

Atlantic Beach is a small, peaceful town on the shores of Long Island. Largely a seasonal resort area, this beautiful community consists of a winter population of 1,900 and a summer population of 4,500.

A resident of Atlantic Beach for 35 years, Mayor Lager had been active in community affairs before becoming mayor. Much of his 26-year term he spent fighting to preserve the residential flavor of Atlantic Beach: The town consists mostly of one-family homes or condominiums; its few businesses have small, inobtrusive signs. In 1987, Mayor Lager led a fight which preserved the beach's natural serenity. Because of his hard work, Atlantic Beach is now zoned as a "marine recreation" area. The beaches will now remain the peaceful, quiet haven of Mayor Lager's dreams.

I offer my heartfelt congratulations to Fred Lager on his superb job as mayor of this delightful small town. Now he can relax and enjoy the natural beauty of the community he fought so hard to preserve.●

REGULATION OF GAMING ACTIVITIES ON INDIAN LANDS

● Mr. INOUYE. Mr. President, the regulation of gaming activities on Indian lands has been the subject of much controversy. Representatives of States with experience in regulating some forms of gaming activities, such as Nevada and California, have expressed concern over the potential for the infiltration of organized crime or criminal elements in Indian Gaming Activities. The Criminal Division of the U.S. Department of Justice has expressed similar concerns, although as stated in Senator McCAIN's additional views to the committee's report on S. 555, in 15 years of gaming activity on Indian reservations, there has never been one clearly proven case of organized criminal activity.

Recognizing that the extension of State jurisdiction on Indian lands has traditionally been inimical to Indian interests, some have suggested the creation of a Federal regulatory agency to regulate class II and class III gaming activities on Indian lands. Justice Department officials were opposed to this approach, arguing that the expertise to regulate gaming activities and to enforce laws related to gaming could be found in State agencies, and thus that there was no need to duplicate those mechanisms on a Federal level.

It is a long- and well-established principle of Federal-Indian law as expressed in the U.S. Constitution, reflected in Federal statutes, and articulated in decisions of the Supreme Court, that unless authorized by an act of Congress, the jurisdiction of State governments and the application of State laws do not extend to Indian lands. In modern times, even when Congress has enacted laws to allow a limited application of State law on Indian lands, the Congress has required the consent of tribal governments before State jurisdiction can be extended to tribal lands.

In determining what patterns of jurisdiction and regulation should govern the conduct of gaming activities on Indian lands, the committee has sought to preserve the principles which have guided the evolution of Federal-Indian law for over 150 years. In so doing, the committee has attempted to balance the need for sound enforcement of gaming laws and regulations, with the strong Federal interest in preserving the sovereign rights of tribal governments to regulate activities and enforce laws on Indian lands. The committee recognizes and affirms the principle that by virtue of their original tribal sovereignty, tribes reserved certain rights when entering into treaties with the United States, and that today, tribal governments retain all rights that were not expressly relinquished.

Consistent with these principles, the committee has developed a framework for the regulation of gaming activities on Indian lands which provides that in the exercise of its sovereign rights, unless a tribe affirmatively elects to have State laws and State jurisdiction extend to tribal lands, the Congress will not unilaterally impose or allow State jurisdiction on Indian lands for the regulation of Indian gaming activities.

The mechanism for facilitating the unusual relationship in which a tribe might affirmatively seek the extension of State jurisdiction and the application of State laws to activities conducted on Indian land is a tribal-State compact. In no instance, does S. 555 contemplate the extension of State jurisdiction or the application of State laws for any other purpose. Further, it is the committee's intention that to the extent tribal governments elect to relinquish rights in a tribal-State compact that they might have otherwise reserved, the relinquishment of such rights shall be specific to the tribe so making the election, and shall not be construed to extend to other tribes, or as a general abrogation of other reserved rights or of tribal sovereignty.

It is also true that S. 555 does not contemplate and does not provide for the conduct of class III gaming activities on Indian lands in the absence of a tribal-State compact. In adopting this position, the committee has carefully considered the law enforcement concerns of tribal and State governments, as well as those of the Federal Government, and the need to fashion a means by which differing public policies of these respective governmental entities can be accommodated and reconciled. This legislation is intended to provide a means by which tribal and State governments can realize their unique and individual governmental objectives, while at the same time, work together to develop a regulatory and jurisdictional pattern that will foster a consistency and uniformity in the manner in which laws regulating the conduct of gaming activities are applied. S. 555 is intended to expressly preempt the field in the governance of gaming activities on Indian lands.

I urge my colleagues to adopt this important legislation, so that we may bring a final resolution to the much-debated issue of the regulation of the conduct of gaming activities on Indian lands.

ADDITIONAL VIEWS OF SENATOR JOHN MC CAIN

Mr. McCAIN. Mr. President, this is the fourth consecutive year that I have been involved in the debate regarding the issue of Federal standards and regulations for the conduct of gaming on Indian reservations and lands. It is with great reluctance that I am supporting S. 555 as reported by the committee.

I characterize my support as reluctant because I believe a different and more favorable result for tribes could have been achieved. Unfortunately, tribes never banded together and offered their own gaming proposal. They also never found a consensus for supporting any particular legislative solution. Some would say that tribes were united in calling for no gaming legislation, but such a position ignores the whole debate, and, more importantly, it provides no support to those Members of Congress who have attempted to craft legislation which would be sensitive to tribal concerns. The issue has never been: should there be Federal-regulation of Indian gaming? Four years of continuous debate on Indian gaming should lead even the most casual observer of the legislative process to realize that legislation was inevitable. The focus of debate has always been on what standards and regulations should govern the conduct of gaming on Indian reservations and lands.

As a participant in the debate, I offered S. 1303 the companion to H.R. 2507 as introduced by Congressman UDALL. This bill would have allowed tribes to continue gaming activities that are consistent with current law under Federal regulations and standards, without State intrusion, while ensuring that adequate safeguards and careful monitoring are maintained to prevent criminal activity as called for by States. Unfortunately, I received no more than a handful of letters supporting this measure; only more calls for no legislation. I believe tribes and tribal organizations share part of the burden for the direction that Indian gaming legislation has taken.

As the debate unfolded, it became clear that the interests of the States and of the gaming industry extended far beyond their expressed concern about organized crime. Their true interest was protection of their own games from a new source of economic competition. Never mind the fact that tribes have used gaming revenues, and S. 1303 would have restricted their use, to support tribal governmental functions as well as addressing the health, education, social, and economic needs of their members. Never mind the fact that in 15 years of gaming activity on Indian reservations there has never been one clearly proven case of organized criminal activity. In spite of these and other reasons, the State and gaming industry have always come to the table with the position that what is theirs is theirs and what the tribes have is negotiable.

The debate now focuses on S. 555, as amended. The committe report is clear as to the purpose of tribal/State compacts as called for in section 11(d). I understand Senator EVANS' concerns regarding the potential overextension of the intended scope of the tribal/State compact approach. Toward this end, I believe it is important to again underscore the statement that appears on page 10 of the report: "The Committee does not intend to authorize any wholesale transfer of jurisdiction from a tribe to a state." From time immemorial, tribes have been and will continue to be permanent governmental bodies exercising those basic powers of Government, as do Federal and State governments, to fulfill the needs of their members. Under our constitutional system of Government, the right of tribes to be self-governing and to share in our Federal system must not be diminished.

Finally, some Members of Congress, including myself, have stated that they would rather see tribes involved in other revenue-raising activities. We must ask ourselves, however, if we have provided tribes with sufficient opportunities to generate nongaming revenues and thereby allow tribes to increase their economic self-sufficiency. The answer is a resounding no. We have not done enough. Once this gaming debate is over, I challenge those involved in this debate to devote their energies toward increasing long-term economic development opportunities for Indian tribes.●

CONSUMER FRAUD PROTECTION ACT—S. 2326

● Mr. McCAIN. Mr. President, I ask unanimous consent that my distinguished colleague from Pennsylvania, Senator HEINZ, be added as a cosponsor of S. 2326, the Consumer Fraud Prevention Act.

Senator HEINZ gave an eloquent and insightful statement regarding the problem of consumer fraud on June 28 of this year. At that time, he was to have been added as a cosponsor of my bill. However, due to an oversight on my part, he was not.

I commend the distinguished Senator for his desire to see perpetrators of consumer fraud put out of business, and welcome him as a cosponsor of the Consumer Fraud Prevention Act.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. INOUYE. Mr. President, today I am submitting a report from the Select Committee on Indian Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974. This report provides the allocation of budget authority and outlays for fiscal year 1989 assigned to the Select Committee on Indian Affairs.

Report of the Senate Select Committee on Indian Affairs pursuant to section 302(b) of the Congressional Budget Act.

Fiscal year 1989 full committee allocation

	Millions
Budget authority	$398
Budget outlay	392
Credit	0●

COASTWEEKS '88

● Mr. D'AMATO. Mr. President, I rise today as a consponsor of Senate Joint Resolution 369 which designates the 3 weeks of September 17 through October 10, 1988, as "Coastweeks '88."

Long Islanders have long prided themselves on the beauty of their beaches. This summer that pride was replaced by dismay and disgust over the tides of garbage washing ashore.

This summer many of New York's beaches were forced to close as waves of medical waste washed ashore leaving the beaches littered with syringes, needles, vials containing contaminated blood, and surgical tubing. Parents bringing their children to the beach no longer fear that their child may step on a shell or sharp stone, instead they fear contamination if their child steps on a syringe or blood vial.

Last month the Senate passed legisation dealing with ocean pollution. But more needs to be done. The purpose of Coastweeks '88 is to bring together all those interested in preserving our oceans and beaches to devise strategies to combat the problem of coastal pollution. Participants expected this year included scientists, fishermen, environmental groups, and interested citizens.

This resolution recognizes the efforts of those brought together at Coastweeks '88 and helps to educate the public in what they can do to clean up our oceans and beaches. I urge my colleagues to support this resolution.●

NATT: AMERICA'S TOWN MEETING

● Mr. LEVIN. Mr. President, town and township government is the earliest form of government in these United States. New England towns of the 17th century were the first real local governments on the American continent. We owe many of our present ideas of local self-government to these colonial communities, including the town meeting and election of citizens to individual offices. Township government moved west as the country grew, and today this system of local self-government serves nearly 55 million Americans.

As the Nation prepares to elect a new President and other new national leaders this fall, it seems particularly appropriate to salute this early form of local government, and to welcome the dedicated men and women who meet here in the Nation's Capital to attend "America's Town Meeting," the annual educational conference sponsored by the National Association of Towns and Townships [NATT].

As Members of Congress, we owe a great deal to these local leaders for it is through their efforts that the Federal programs we authorize become reality. They are on the front lines, implementing the programs we create and often bearing the brunt of criticism when things go wrong.

All too often we forget the important role local officials play in effectuating federal policies. As a one-time local official myself, I know how hard they work and how difficult their job can be. I also know that their job is not getting any easier.

Quite the contrary, with fewer dollars and more Federal mandates, the job grows more difficult every year. These local officials, partners of the Federal government, are often volunteers who donate their time and their expertise to help their friends and neighbors. I rise to acknowledge them today and to let them know that we appreciate their dedication and hard work. I want to thank them for their perseverance and for the example they set of democracy in action.

We all have a small town somewhere in our past, somewhere in our hearts. My mother grew up in a small town in Michigan and I recall the many occasions on which she would talk about the beauty, warmth, and camaraderie of small town life. I urge my colleagues to remember the small town in their background and the hard work of its leaders, and to support the efforts of these dedicated Americans as we draft legislation for the future.●

CZECHOSLOVAKIA'S ECOSYSTEM

● Mr. KASTEN. Mr. President, a free economy is essential to the preservation of a healthy environment. Only a society which allows its citizens the right to create and to compete freely can possibly anticipate—and provide for—the needs of the environment into the distant future.

This is made especially clear by the case of Czechoslovakia's ecosystems. Economic stagnation—the result of a repressive, state-directed Communist economy—forced the Government of Czechoslovakia to allow widespread environmental devastation in an attempt to wring subsistence out of the environment.

This attempt is one of many aspects of today's East European political-economic scene described in a three-part series in the Washington Post entitled "Prague '68 to Moscow '88." I ask that the text of these articles be included in the RECORD, and I recommend them to any of my colleagues concerned about the future of reform in the East bloc.

The articles follow:

TWO DECADES LATER, ROLES ARE REVERSED—CRUSHERS OF CHANGE NOW LEAD THE WAY

(By Michael Dobbs)

PRAGUE.—Strolling around this beautiful but melancholy city 20 years after the Soviet invasion, a visitor is struck by an inescapable irony: invaders and invaded have swapped political roles.

When Soviet tanks rumbled through the streets of Prague on the night of Aug. 20-21, 1968, the cause of reform in Eastern Europe was set back for a generation. Two decades later, the economic forces and political ideas that gave birth to the "Prague Spring" are bubbling to the surface once again—not in Prague, but in Moscow.

The People who came to crush Alexander Dubcek's eight-month experiment in "communism with a human face" have now embarked on reforms of their own. The people whose hopes were dashed on that dramatic August night have become politically apathetic and conservative.

The invasion of Czechoslovakia was a watershed for the Soviet Bloc, leading to what Soviet leader Mikhail Gorbachev refers to derisively as "the era of stagnation." A four-week journey through Eastern Europe two decades after the invasion suggests that another important threshold now looms as a new generation of communist leaders grapples with the poisoned legacy of its predecessors.

Signs of economic failure abound. In Warsaw, lines snake around buildings for basic consumer goods, and black marketeers offer to buy dollars from tourists at four times the official rate. In Prague, the crumbling facades of beautiful baroque palaces are sooty from air pollution, In Budapest, economists worry about how to pay off one of the highest per capita debts in Europe.

Economic strains have undermined the unspoken social contract that kept Eastern Europe politically quiescent through the 1970s. After the invasion of Czechoslovakia, communist regimes sought to boost the living standards of their populations. The quid pro quo was political obedience and no discussion about economic reform.

Conversations with dozens of communist officials, dissidents and ordinary citizens across Eastern Europe reveal a surprising measure of agreement on the need for radical change. The region is entering a period of transition as governments and the public try out new political formulas and wait to see which way the wind is blowing from Moscow.

"The most interesting characteristic of the present situation is that real, unprecedented changes are taking place in the Soviet Union. This could alter the whole framework of Eastern European politics," said Peter Hardi, director of the Hungarian Institute of International Affairs in Budapest.

"For the first time, something is happening at the altar [of communism]. Before, it was just at the back of the church," said Aleksander Paszynski, a Polish journalist who lost his job when martial law was imposed in December 1981 and who now runs a private consulting business.

Paszynski is typical of a generation of East Europeans who have witnessed the blossoming and withering of successive reform movements. In 1956, when Paszynski was 28, Wladyslaw Gomulka proclaimed "the Polish path to socialism." In 1970, Edward Gierek urged Poles to "help me" bring living standards up to Western European levels. In 1980, Stanislaw Kania promised Poles *odnowa*—renewal.

Today, at the age of 60, Paszynski, the former deputy editor of the influential Polish weekly Polityka, can be forgiven for listening somewhat skeptically to Army Gen. Wojciech Jaruzelski's calls for a radical "restructuring" of Poland's state-run economy. The only solution now, he and many other East Europeans believe, is to accent that the socialist economic system has failed.

"Reforms of this system have been going on for 32 years—and the system has only been in operation [in Poland] for 40 years. It has been trying to reform itself—unsuccessfully—for the greater part of its existence," Paszynski said.

A similar description of the cycle of reform and counterreform came from Miroslav Pavel, official spokesman for the Czechoslovak government. Attempting to put the Prague Spring into a historical context, he listed the dates of past attempts at economic reform in Czechoslovakia: 1958, 1966-68, 1980-81. All, he noted, had failed.

He insisted that "1968 was not exceptional. It was only exceptional in the way it ended."

There are, indeed, some remarkable similarities between the years leading up to the 1968 Prague Spring in Czechoslovakia and the present period of *perestroika*, Gorbachev's program of restructuring, in the Soviet Union. Both reform efforts originated in the perception of economic decline by the communist elite. Attempts to liberalize the system of economic management led inexorably to demands for political reform.

By the mid-1960's, many Czechoslovak communists had concluded that their country was falling behind its natural, western competitors. Czechoslovakia, once considered one of the world's 10 leading industrialized countries, was no longer able to compete in western export markets. Blame was placed on a totalitarian system that stifled individual initiative and distorted economic development.

The liberal reforms of 1966-67—a belated response by Czechoslovakia to the 1958-62 thaw initiated by premier Nikita Khrushchev in the Soviet Union—ushered in the 1968 Prague Spring. In neighboring Hungary, a similar process was taking place, Janos Kadar, who helped the Soviets suppress the 1956 Hungarian uprising, coined the conciliatory slogan, "Those who are not against us are with us," and launched his "new economic mechanism" in 1966.0

THE LIMITS OF SOVIET TOLERANCE

The invasion of Czechoslovakia provided a dramatic reminder of the limits of Soviet tolerance. "Reform" became a dirty word in the communist lexicon. In Moscow's view, events had gotten out of control in Czechoslovakia. Measures such as the abolition of press censorship and the formation of independent political clubs threatened the primacy of Communist Party rule.

Something, however, had to be done to keep restive populations quiet. In December 1970, Polish workers rioted along the Baltic coast, causing the demise of the increasingly autocratic Gomulka. Since economic reform had become too risky, the solution communist governments adopted was to buy off the workers.

"They exploited the future," said Vaclav Havel, Czechoslovakia's leading playwright and dissident, arguing that communist governments had looked for quick, short-term solutions instead of reforming an unworkable system.

This exploitation of the future took different forms in different countries, Poland and Hungary racked up huge foreign debts that now have to be paid back. In Czechoslovakia, the country's historically sound technological infrastructure became dilapidated. The Soviet Union exploited its vast natural assets to pay for necessary imports of grain and western technology.

Throughout Eastern Europe, nature was also exploited recklessly, creating the conditions for an ecological crisis today. Factories were allowed to pollute the air and despoil the landscape with few governmental controls.

The only Soviet bloc leader who managed to preserve elements of economic reform during the 1970s was Hungary's Kadar, one of the most skillful politicians in Eastern Europe. Yet even he was forced to retreat in 1973 as a result of Soviet suspicion and domestic political opposition.

"The Czechoslovak events encouraged the conservatives in Hungary," acknowledged Gyorgy Aczel, Hungary's veteran ideologist who was dropped from the ruling Politburo earlier this year. "If you were the manager of a large factory being kept going by government subsidies, you were naturally not very enthusiastic about reforms."

The counterreform period was a time of intellectual conformity, disturbed only by a handful of stubborn dissidents. In Poland, Gierek proclaimed the "ideological and moral unity of the nation." In Romania, Nicolae Ceausescu disguised economic failure behind a facade of jingoistic nationalism. But the political repression was most severe in Czechoslovakia, where half a million reformers were expelled from the Communist Party.

"People in the West think that repression is a matter of bloodshed or going to jail. But it's more complicated than that. You die alive here. In these conditions, it needs almost a heroic endeavour to stay true to yourself and keep freedom alive in your mind," said Zdenek Urbanek, a well-known writer who was one of the original signers of the human rights document, Charter 77.

A POTENTIALLY EXPLOSIVE SITUATION

Twenty years after the invasion of Czechoslovakia, the government of Eastern Europe faces a potentially explosive situation. Living standards have risen sharply over the past two decades, as have popular aspirations to a freer and more abundant life. But the ability of communist regimes to meet these aspirations has declined.

The same factors that enabled communist leaders to postpone reform for a generation are now making it the only way out of an economic impasse. Western credits have been transformed into debts. Raw materials and labor are in short supply across the Soviet bloc, making extensive development impossible. Even nature is beginning to revolt against its predators.

"The Russian soil was able to support the communists for 50 years. It can't put up with them much longer," said Adam Michnik, one of Poland's leading dissident intellectuals. "In Poland in August 1980, it was human beings who went on strike. In the Soviet Union, we are witnessing a strike of inanimate objects."

Concerned about the rape of the environment, the Czechoslovak government last month allocated $1 billion to air-pollution controls in northern Bohemia along the East German border. When some ministers objected to spending so much money on unproductive investments, Prime Minister Lubomir Strougal suggested that they take a helicopter to see for themselves how entire forests were dying.

The mistakes of the 1970s are now openly acknowledged by communist leaders. Hungary's new Communist Party chief, Karoly Grosz, said in an interview in Budapest that too much attention was paid to "finding solutions to everyday problems" and not enough to "analyzing long-term trends."

In an interview in Warsaw, Polish government spokesman Jerzy Urban accused the Gierek government of "concealing the true condition of the economy" at a time when it was already in decline. In Prague, Czechoslovak government spokesman Pavel spoke of the "stagnation in the technical level" of the country's staple exports of machinery and equipment.

Asked why Czechoslovakia could not survive by continuing to export to the relatively unsophisticated Soviet market, he replied, "Even our Soviet customers are insisting on higher quality. The same gas or oil they sell to us, they can also sell to West Germany and Austria. These countries pay them back with goods of higher quality."

The Soviet Union, which once relied on Czechoslovakia for sophisticated technology, recently concluded an agreement with Canada for nuclear reactors. This in turn forced the huge Skoda works at Plzen, which had been supplying reactors to the Soviet Union, to look for new, frequently uneconomic markets in countries such as Syria.

Economic constraints are forcing Soviet bloc countries to get serious about reform. But they also have had the paradoxical effect of making reform more difficult.

"Reforms can mean disruption, pain," said Aczel, Hungary's ideologist, noting that things are likely to get worse before they get better. "But there is no other solution. Either we totally restructure our economies, or we sink to the level of Third World countries."

"There is a certain syndrome at work," said Jerzy Malkowski, spokesman for Polands' Economic Reform Ministry. "When the authorities are strong, they do not see the point of reforming anything. When they are weak, they see the need for reforms, but they are too weak to implement them."

LENIN'S "REVOLUTIONARY SITUATION"

Sitting in the lavish surroundings of a newly opened private restaurant near Warsaw, Polish dissident Michnik pondered Vladimir Lenin's definition of a "revolutionary situation."

"For a revolution to take place," wrote Lenin, the founder of the Soviet state, "it is not enough for the exploited and oppressed masses to realize the impossibility of living in the old way. . . . It is essential that the exploiters should not be able to live and rule in the old way."

"That seems to apply to us," said Michnik, whose calls in the 1970s for the development of a "civil society" provided the ideological inspiration for the now-banned independent trade union Solidarity. "But there's been no revolution. Why?"

The answer, according to Michnik and others, seems to be that both the rulers and the ruled have learned lessons from the past. Once-rigid bureaucracies are devising new strategies for absorbing and defusing popular protest. Revolutionary ardor has been dampened by the failure of past revolts.

"During the '70s, we thought of the communist system as a wall. We tried to remove some bricks in the hope that the entire wall would collapse. Now we discover it's not so much a brick wall as a rubber wall. It keeps moving about," said Jan Litynski who, together with Michnik, was one of the founders of the Polish Workers Defense Committee, known as KOR.

In Poland's case, the new governing formula has included the development of a private sector, massive emigration and a more extensive party and security presence in factories. An estimated half-million Poles have emigrated since the 1981 military crackdown, depriving the country of much of its young talent but effectively decapitating the opposition.

In Czechoslovakia, where living standards are still relatively high, social aspirations have been channeled into private life. Every weekend provides a demonstration of the prevailing national mood as Czechoslovaks desert the cities en masse to head for their private weekend cottages in the countryside.

In Hungary, still the most politically advanced country in Eastern Europe, the Communist Party is about to give up its organizational monopoly. This fall the National Assembly is likely to pass a new law of associations that will allow a limited role for opposition groups within the existing political system.

The era of counterreform that began with the Soviet invasion of Czechoslovakia has not yet been closed definitively by a similar, epoch-making event. But everywhere in Eastern Europe, there is a palpable sense of change and uncertainty in the air.

"We are in a sort of political no man's land," said Malkowski of Poland's Economic Reform Ministry. "For years, we have been trekking around this area [of reform] without really going inside. We've lived through war, communism, economic centralism, the age of stagnation. Now we are entering a new land, the shape of which is unknown—for governments as well as for society."

THE BIRTH OF A MOVEMENT—CZECH SUPPRESSION SPURRED MOSCOW DISSENT

(By David Remnick)

Moscow, Aug. 21.—At dawn on Aug. 21, 1968, Larisa Bogaraz awoke in her cramped Moscow apartment and tuned in to an underground Czech radio station.

For months, she and human rights activists like her had been listening to the broadcasts from Prague, trying to get the latest word on the great changes happening there. But now the voice was saying that the Prague Spring had been crushed.

Even 20 years later, Bogaraz can still remember that brittle voice on the radio, a woman speaking accented Russian "soft and sad, saying, 'Russian brothers, go away, we haven't asked you to come.' "

Sitting now in her kitchen in Moscow, her face weathered by years of prison, exile and trials, Bogaraz said the invasion by Soviet-led Warsaw Pact troops seemed to end all hopes for change from above. But it also led to an opportunity a spark, for another sort of reformer the Soviet dissident.

"The invasion told us that what we needed was bravery," Bogaraz said. "We needed a bold act, a movement."

For veteran dissidents like Bogaraz, this 20th anniversary of the invasion of Czechoslovakia is a reminder of how far they have come in the Soviet Union. The irony is lost on none of them: Mikhail Gorbachev's comprehensive program to "de-Stalinize" the Soviet Union—his loosening of censorship, his amnesty for hundreds of political and religious prisoners, his reform of the Communist Party, his introduction of market mechanisms into the economy—is reminiscent of nothing less than the programs of both the Prague Spring and Soviet dissidents.

But had it not been for a single "bold act" 20 years ago, the dissident movement may have been slower to start.

For several days after tanks rolled into Prague, there were no outward signs in Moscow of unrest. To the contrary, recalls dissident leader Andrei Sakharov, workers in factories were made to gather at meetings to show their "support" of the invasion. In an interview at his home in Moscow, Sakharov said the invasion was "clearly a shameful act," but the way most Soviets rallied around it was a sadly "typical picture of the way people embraced any action of the Soviet government."

The first sign the Soviet authorities had that not all citizens here would endorse or ignore what had happened in Prague came on Aug. 25, when Bogarez, physicist Pavel Litvinov, art critic Viktor Fainberg and five others headed toward the historic "executioner's place" on Red Square. Leading the way was a young poet, Natalya Gorbanevskaya, pushing her 3-month-old son in a baby carriage. At noon precisely, she reached into the pram and pulled out a Czechoslovak flag and banners reading, "For Your Freedom and Ours" and "Hands Off Czechoslovakia."

According to Gorbanevskaya, who now lives in Paris, plainclothed KGB agents immediately closed in on the demonstration. "As they ran up to us they shouted, 'These are all dirty Jews!' and "Beat the anti-Soviets!' " she said. "We sat quietly and offered no resistance. They tore the banners from our hands and beat Viktor Fainberg in the face until the blood flowed, breaking some of his teeth. Pavel Litvinov was beaten on the face."

Just after the KGB packed the demonstrators into cars and rode off to a police station, a line of black cars sped out of the Kremlin's Spassky Gate. Among the passengers was the deposed Czechoslovak leader and reformer Alexander Dubcek, who had been flown to Moscow in handcuffs on the night of the invasion.

"It would have been wonderful if [Dubcek and the other Czechoslovaks] had seen that demonstration of support for what they had been doing," Sakharov said. "But they didn't. But most important was that somewhere in this country there were some people who were willing to uphold its dignity."

BREZHNEV SQUELCHED HOPE

Ever since the death of Joseph Stalin in 1953, there have been voices of reform in the Soviet Union which have denounced the horrors of that era and have fought—in the words of the Prague Spring—for "socialism with a human face." Nikita Khrushchev's "secret speech" in 1956, which exposed Stalin's crimes, kept alive the idea for many Soviets that real change—somehow, somewhere—was possible.

Vasily Aksyonov, who now lives in Washington, was the leader of the "Young Prose" movement in the 1960s. He and such artists as poet Bella Akhmadulina, novelist Andrei Bitov and sculptor Ernst Neizvestny flourished during the Soviet Union's first attempt at de-Stalinization. "We were still at the time kind of idealistic people," Aksyonov said. "We still believed in socialism."

It was a period when the editor of the literary journal Novy Mir, Alexander Tvardovsky, was able to publish a prison camp novella, "One Day in the Life of Ivan Denisovich," by a relatively unknown writer named Alexander Solzhenitsyn.

But after Khrushchev hardened his stance and finally lost power to the ultimate apparatchik, Leonid Brezhnev, hope withered. Under Brezhnev, said Aksyonov, "winter was in full swing."

Only the reform movement in Czechoslovakia provided a glimmer of possibility for Soviets who dreamed of a different Soviet Union than that of Stalin and Brezhnev. Litvinov, a dissident whose grandfather had been foreign minister to Stalin, said from his home in New York: "What was going on in Prague was hope that in the Soviet Union some similar changes would take place, that there would be some kind of more enlightened leadership."

But when Warsaw Pact troops crushed the Prague Spring, Aksyonov said, it was a "nervous breakdown for the whole generation" of intellectuals who had waited and worked for a new Soviet Union. "It was absolutely clear that the climate had changed overnight," he said. "The Prague invasion was the end of the Soviet sixties."

Sakharov said that because the reform movement in Czechoslovakia had been so popular, "it disturbed the people in power in the Soviet Union at the time." Brezhnev would not tolerate popular opposition, neither in Moscow nor in Prague.

Only the small, brief protest outside the Kremlin by members of the nascent human rights movement in Moscow prevented reform-minded Soviets from feeling despair. Word of it spread around the capital and beyond within hours.

"The demonstration on Red Square hit us all like a bomb," said Alexander Podrabinek, editor of the year-old underground journal, Express-Khronika, "I was only 15 at the time, but in this country, politics starts early, and I was bowled over. It was the first time that dissidents had agreed to come together and face off against the government. I wanted to meet these people as soon as I could."

While Bogaraz, Litvinov, Gorbanevskaya and the others awaited trial, more voices, petitions, articles in the underground press and telegrams to the leadership protested the use of Soviet force in Czechoslovakia.

The poet Yevgeny Yevtushenko sent Brezhnev a telegram: "I can't sleep. I do not know how to live my life after this. . . . I have many friends in Czechoslovakia and I do not know how I will be able to look them in the eye." Bogaraz's husband, the dissident writer Anatoli Marchenko, sent a message of protest from a prison cell.

In his underground journal, "Political Diary," historian Roy Medvedev quickly published his own essay debunking the Soviet government's contention that the Prague Spring was a western conspiracy. In praising the architects of the Prague Spring, Medvedev wrote: "Today there is only one road that we can take. And that is to try to attain the level of the Czechoslovaks' initiative, to carry on what they began."

Young dissidents read Sakharov's early work, "Progress, Peaceful Coexistence and Intellectual Freedom," and Gorbanevskaya's human rights journal, "The Chronicle of Current Events." Sakharov and two other physicists—Andrei Tverdokhlebov and Valery Chalidze—eventually formed the Moscow Human Rights Committee. Solzhenitsyn, who had said he felt "ashamed" to be Russian when the troops rolled into Prague, became increasingly and directly involved in protest movements.

Activists like Chalidze knew that, as he put it, "We had to expect more cruel authority" because of what had happened in Prague. The Red Square protesters felt such cruel authority almost immediately.

Tatyana Baeva was expelled from her institute. Fainberg and Gorbanevskya were confined in psychiatric hospitals. Vladimir Dremlyuga and Vadim Delone were sentenced to labor camps. Litvinov, Bogaraz and Konstantin Babitsky were given terms of internal exile.

"Now when we think about those days in August, we have to think of them as a hope for the future," Sakharov said the other day. "What happened to the demonstrators was unfortunate. But often what happens is that those who begin a movement are unfortunate, while for history it is a necessary step, a stage that makes it easier to make the next step."

Georgi Smirnov, director of the Marxism-Leninism Institute, caused a sensation here last year when he said that the Kremlin's decision to send troops into Prague "could be one of the subjects we might look at again."

SAME SOVIET RATIONALE

No such reconsideration has taken place. In practice, Gorbachev has said during trips both to Belgrade and Warsaw that the Soviet Union intends, in essence, to avoid a repetition of 1968. While the Kremlin has waged a full-scale attack on Stalin's crimes and Brezhnev's corruption, the rationale for rendering "fraternal assistance" to Czechoslovakia has not changed at all.

On one level, there is a slight willingness to acknowledge a parallel between the reforms under Dubcek and those under Gorbachev. Last year, when Gorbachev was visiting Czechoslovakia, a reporter asked Foreign Ministry spokesman Gennadi Gerasimov what the difference was between Prague Spring and Soviet *perestroika*, as the current effort at restructuring here is called.

"Nineteen years," Gerasimov said. Asked the same question at a press briefing last week, Gerasimov said: "I will now amend that. The difference is 20 years."

But Gerasimov's remark and other officially sanctioned statements in the press reveal only a slight change from what was published in Pravda 20 years ago.

A commentator for the official news agency Tass blamed western newspapers last week for waging a "propaganda harvest" about the events of 1968. Tass denounced the western press for using such "terrifying terms" as "invasion," "occupation" and "suppression" to describe the "entry" of Warsaw Pact troops into Prague.

While Tass said the Soviet Union is now "reappraising" the Stalin and Brezhnev eras, the "current jubilee" propaganda campaign in the West" ignores the "fact" that the Prague Spring was merely a "coordinated action of antisocialist forces within the country and of western centers of subversion. "Had troops not rescued Prague. Tass said, western forces might have succeeded in tearing "Czechoslovakia away from the socialist camp."

An article in the party weekly, Arguments and Facts, said the Prague Spring was "a situation out of control" and "a real threat to socialism." Therefore, wrote U.S. Yagodsky, assistant director of the Institute of the Economy of the World Socialist System, the other Warsaw Pact countries decided to provide "external aid."

Like others interviewed for this article. Sakharov was outraged when he heard about the current reports in the Soviet press.

"How can they defend it? How?" he said.

Referring to a notorious neo-Stalinist article published in the press here last March, Sakharov said: "This is the sort of thinking that was involved in that article by Nina Andreyeva. [The invasion] was a great shame, and it is too bad these commentators are taking this approach. It's a sign that the Soviet leaders are defending this event, and I think it means we are now living through a very difficult period in perestroika and we find ourselves in danger."

Indeed, Soviet officialdom appeared more than defensive as police and soldiers today shut down a 20th anniversary demonstration in support of the Prague Spring before it ever started. After announcing to the crowd that the rally staged by the "Democratic Union" near Pushkin Square was "illegal," police, KGB officers and Army reservists wearing bulletproof vests began carting a few dozen protesters to police buses.

Police handled the demonstrators forcefully, employing hammerlocks and an occasional blow to the neck. One protester who shouted "Glasnost and perestroika!" from one of the police bus windows was immediately seized and beaten. One police tried to stuff a curtain in his mouth.

The crowd, which had been shouting "Prague! Prague!" suddenly began chanting "Fascists!" at the police.

Why the Soviet leadership finds it necessary to repeat the old formulas about 1968—and even drown out those who see it otherwise—remains a question. Nevertheless, the dissidents from that period see the rise of Gorbachev as a remarkable triumph, one barely imaginable 20 years ago.

"I'm not sure Mr. Gorbachev would appreciate the comparison," Litvinov said. "But he is basically what we had hoped against hope would happen.

Gorbachev is now the dominant figure on the stage of Soviet politics, while the dissidents find themselves in the curious position of having to reevaluate their role. Some, like Sakharov, seem to sense that Gorbachev has enough difficulties from conservative opponents and needs all the support he can get if the "Moscow Spring" is to continue. "Perestroika is already facing a coordinated resistance, and this makes for a very tense situation," he said.

Others, like Alexander Podrabinek, worry that Sakharov is "too close" to the leadership. "We will always need opposition in this country," Podrabinek said. "We should always keep our distance from the government and represent the constant chance for the state to improve."

Dissident or not, there are demonstrations in Moscow and other Soviet cities nearly every week. And for Larissa Bogaraz at least, who spent years in prisons and labor camps so that a "Moscow Spring" might come, the feeling is strange. A few weeks ago, on a day quieter than this one, she said: "I was out on Pushkin Square. There were seven or eight different groups, all demonstrating for one thing or another."

It all struck her as reminiscent of Prague Spring. But she was grateful for one difference: "I don't expect anyone to invade the Soviet Union and stop it all."

Bloc Tests Limits on Another "Spring"—Gorbachev's Plans, Recalling Dubcek's, Put Old Bounds in Doubt

(By Jackson Diehl)

WARSAW.—As the impact of a more reform-minded Kremlin leader ripples across Eastern Europe, the 1968 invasion of Czechoslovakia is beginning to be recognized as the most disastrous blunder by the postwar Soviet leadership.

The move divided the world communist movement, set back the Soviet Bloc's internal development by a generation and left a legacy of orthodoxy that is helping to thwart Mikhail Gorbachev's present, belated drive for modernization.

As Gorbachev pursues reforms similar to those the tanks suppressed in 1968, he is coming under pressure from Soviets and East Europeans to address two key issues that are, to a large extent, the Praque Spring's legacy.

The first is whether the Soviet leadership is now prepared to accept the landmark steps of political democratization included in the canceled program of Alexander Dubcek, or whether such moves are still regarded as "counterrevolutionary."

The second issue is whether Moscow still reserves the right to use force against an ally perceived to be drifting outside its orbit—or whether the "Brezhnev Doctrine" is dead. Gorbachev has allowed East European countries unprecedented freedom to pursue their own policies. Yet neither he nor any other Soviet authority has condemned the 1968 invasion.

If the Praque Spring haunts East European capitals, it is because the resolution of these questions can determine the fate of the bloc under Gorbachev. Although communist leaders in Poland and Hungary have already adopted much of Dubcek's program, they are stalled on the question of pluralism. And while a full embrace of Dubcek's democratic agenda is seen by liberals as a necessary step, no one is sure whether such radical change would fall within the new, post-Brezhnev boundaries of East European sovereignty.

When Gorbachev visited Poland last month, one independent intellectual was permitted to ask him an uncensored question on television. Significantly, the questioner, Catholic editor Marcin Krol, chose to bring up not Poland's Solidarity union movement or another national issue but instead asked Gorbachev to take a position on the Praque Spring and Soviet invasion.

It was equally telling that Gorbachev, the champion of *glasnost*, or openness, elected not to answer.

A DEBATE RAGES

As the anniversary of the invasion approached, a shrill debate raged in Prague over the relationship between Gorbachev's policies of *perestroika*—economic and social restructuring—and glasnost and those of the Prague Spring. Dubcek, who for many years has lived quietly in retirement in his home near Bratislava, has insisted in several interviews that Gorbachev's program replicates and vindicates his own.

In contrast, the Czechoslovak Communist Party, controlled by the same conservations that the Soviets installed in 1969, has harshly attacked Dubcek as a "megalomaniac" and stuck to its position that his program, in contrast to that of Gorbachev, was "counterrevolutionary."

In fact, a comparison of Dubcek's chief platform, the "action program" of April 1968, with Gorbachev's "theses" for this summer's Soviet Communist Party conference, published in May, reveals a point-by-point similarity, as well as several crucial differences.

The parallels are so close that it is sometimes difficult to believe that the two documents were written in such different places and times. Still, the seeming departures of Dubcek's program compared to Gorbachev's can be seen as the very factors that made the invasion inevitable.

Both programs aim at dismantling the Stalinist system of central control of the economy and totalitarian domination of political and social life. Using similar language, Dubcek's and Gorbachev's programs condemn bureaucratic, authoritarian practices of the Communist Party and call for a curtailment of its economic and political power.

The economic reform passed by Gorbachev's government last year and that drawn up by the Czechoslovaks in 1968 are virtually indistinguishable, although the Czech measure gave more power to democratically elected workers' councils in factories.

At the same time, both programs call for the reorganization of the party, with democratic procedures, separation of the party from the government and recognition of the legislature as the "supreme" authority in the state. Expansion of public debate and guarantee of individual freedoms are stressed in both platforms.

In several aspects, however, the Dubcek program appears to go further than that of Gorbachev. While the Soviet policy stresses the need for open debate of issues in the press, the Czechoslovak action program also abolished prior censorship and declared that no views, including those of "bourgeois ideology," should be banned.

SECURITY FORCES TARGETED

While the Czechoslovak and Soviet programs contain similar plans to strengthen the independence of courts and public prosecutors and enforce citizens' rights to privacy, the Dubcek plan went on to outline a radical reorganization of state security forces, drastically reducing their resources and responsibility and banning them from domestic spying. It also guaranteed citizens the right to foreign travel.

To some extent, these differences can be seen as ones of degree rather than principle, reflecting Gorbachev's careful political calculation. Some former aides to Dubcek who support the Soviet leader believe that he has learned from the failure to the Prague Spring not to plunge headlong into reform, ignoring the potential opposition. In time, they say, Gorbachev will come to embrace the more radical variants of Dubcek's plan.

Yet in one central aspect, Gorbachev and Dubcek seem to part ways. The Gorbachev plan envisions the party returning to its "Leninist norm," yielding day-to-day authority to the government and legislature but retaining its political monopoly.

In contrast, the underlying idea of Dubcek's program was that the party's rule depends on "the voluntary support of the people."

"The party,'" said the program, "cannot enforce its authority" over society, but must win it "again and again" through open competition and democratic procedures.

This radical principle led Dubcek's party to a series of democratic precepts that have been explicitly ruled out by Gorbachev. The Czechoslovak action program specified, for example, that "state power cannot be monopolized either by a single party or by a coalition of parties" but "must be open to all political organizations of the people." Gorbachev has said the Soviet Union will not have a multiparty system.

SOLIDARITY ANTICIPATED

Under the Prague Spring program, Czechoslovakia would have moved quickly toward independent unions like Poland's Solidarity and other noncommunist social movements, and the party would have been obliged to compete with them under western-style democratic procedures. But Gorbachev's program limits pluralism to movements that are "not at variance with the development of socialist society."

In historical terms, the ways in which Dubcek's program differed from Gorbachev's roughly parallel the factors most cited by Moscow in justifying the invasion. Yet more importantly, the difference on democracy encapsulates the key struggle over reform now under way in Eastern Europe's two most progressive countries, Hungary and Poland.

The freedoms Dubcek promised have now become the key demand of societies weary of failed reforms and economic austerity. In Poland, a governmental plan for economic reform considerably more radical than Dubcek's has failed to gain public support as the rule of Gen. Wojciech Jaruzelski has refused to allow the legalization of independent movements like Solidarity.

In Hungary, new party leader Karoly Grosz has been confronted with a host of noncommunist movements, ranging from independent unions and student clubs to embryonic political parties, that demand legalization and the right to a place in the political process. Citing Gorbachev, Grosz has declared that while some movements may be tolerated, Hungary will not abandon the communist monopoly on political power.

For now, it appears that Grosz is right, that Gorbachev does not favor the more radical democratic reforms of Dubcek and that his leaders in Eastern Europe back him up on that issue. Yet the question remains of how Gorbachev would respond if a more radical Eastern European leader—another Dubcek—were to come to power and embrace the demands for pluralism.

THE 'BREZHNEV DOCTRINE'

That, in essence, is the second question of the Prague Spring legacy: Is the "Brezhnev Doctrine" alive or dead?

One month after the 1968 invasion, the Soviet party newspaper Pravda spelled out Moscow's right to intervene in Eastern Europe in blunt terms: "Every communist party is responsible not only to its own people but also to all the socialist countries," it said. "The sovereignty of individual socialist countries cannot be counterposed to the interests of world socialism and the world revolutionary movement."

Named the Brezhnev Doctrine in the West after Soviet leader Leonid Brezhnev, this principle has shadowed Soviet-East European relations for two decades. Until Gorbachev's rise to power in 1985, no East European leader could embark on a new political or economic policy without nervously awaiting Moscow's reaction. When another major reform movement erupted in Poland in 1980, the Soviet leadership immediately threatened the Polish leadership with military intervention.

In the past two years, Gorbachev's supporters in Eastern Europe have begun to argue that the principle of intervention no longer exists. In a series of speeches and in a joint statement signed with the Yugoslav Communist leadership, Gorbachev has recognized the right of Eastern Bloc countries to pursue "different roads" to socialism and has asserted that Moscow "does not want to dictate to anyone."

After Gorbachev's visit in March, a senior Yugoslav official said that the new leader's policy ruled out any repetition of the 1968 invasion. Similarly, Hungary's Grosz recently told a western interviewer that a Soviet intervention in Eastern Europe was no longer possible.

The wide diversity already existing among Eastern European regimes, some of which openly oppose Gorbachev's reform policies, bears out these claims. Yet neither Gorbachev nor any other Soviet official has suggested that Moscow would allow an Eastern European country to abandon communist party rule or withdraw from the Warsaw Pact.

On the contrary, there is considerable evidence that Moscow's will to control Eastern Europe remains strong. Under Gorbachev's leadership, the Warsaw Pact was extended for 30 years in 1985 without any visible modification in its terms. Soviet economic demands on Eastern Europe through the trade organization Comecon have intensified under Gorbachev's leadership.

Perhaps most significantly, Gorbachev and other senior Soviet leaders have yet to condemn or even express regret over the invasion of Czechoslovakia. Gorbachev's one recorded statement on the subject, made during a visit to Prague in 1987, even appeared to support the orthodox line. The people of Czechoslovakia, he said, "courageously thought over what happened. You went through a stern school. You drew good conclusions."

Many East European politicians doubt that the Soviet leader will stick to that position. In the long run, they say, the invasion must be recognized as an error, and Dubcek's program, if not his person, rehabilitated. That it has not happened until now, they say, suggests both Gorbachev's wish to avoid conflict with Prague's present, hardline leaders and his cautious approach to encouraging change in Eastern Europe.

It may also be that the Soviet leader has not yet formulated an answer to the questions the Prague Spring raises. If not, the pace of events in the region suggests that he will soon be forced to take a stand.●

AGENT ORANGE AND THE DOUBLE STANDARD

● Mr. DASCHLE. Mr. President, last week the administration re-released with great fanfare the results of a pilot study conducted by the Centers for Disease Control [CDC] as part of an effort to determine whether or not it was possible to conduct their version of a large-scale, records-based study of the effects of agent orange on Army ground troops in Vietnam. The announcement of the pilot study results 1 year after they became final is, to say the least, ironic, for they were already released and reviewed 1 year ago. The administration's attempt to call these results news is a curious one.

The CDC's pilot study was originally designed and conducted to test the validity of CDC's military records-based method for identifying Army veterans exposed to agent orange. The larger study, called the Agent Orange Exposure Study, was mandated in Public Law 96-151 as one of the several major studies to determine the health effects of exposure to agent orange on American ground troops in Vietnam.

In July and September of 1987, when the pilot study results were initially released, CDC said the results confirmed CDC's 1985 and 1986 pronouncements that a valid ground troop study based on military records could not be done. When the same results were released last week, just days before an expected vote on agent orange compensation legislation, CDC had a new claim—that the pilot study shows that very few ground troops were significantly exposed to agent orange.

It is a very bold move for CDC to draw such broad conclusions from such a limited study—a pilot study within a larger study that was abandoned due to inadequate design and a lack of subjects. It is bad logic, which, if followed, would lead to bad policy.

I spoke several months ago about the theory of eternal recurrence with respect to the agent orange issue. Because the administration continues to play its role in this theory, it appears that I must continue to play mine. I will repeat my most recent comments on the CDC pilot study that were part of my testimony for the Senate Veterans' Affairs Committee hearing on agent orange on May 12, when the CDC story was already old news:

> As a prime sponsor of legislation [PL 96-151] mandating [the CDC Agent Orange Exposure Study], I continue to be amazed at the way it has been handled . . . . my strongest frustration regarding this study is that CDC and others have insisted on drawing conclusions about Agent Orange exposure from a study that was never actually conducted. The CDC "hit model" used to identify exposure was recognized by CDC as flawed . . . . When they found "normal" dioxin levels in these veterans, they concluded that a valid ground troop study could not be conducted and that the blood tests proved that ground troops weren't exposed to Agent Orange to any substantial degree. Since the 665 veterans were identified by the flawed hit model, the only thing that could be "proved" by the blood tests was that the original method for identifying exposure was faulty . . . .

It would also be instructive to note comments on this topic made by scientists and veterans' organizations over the last year.

In the March 18, 1988, issue of the Journal of the American Medical Association, Dr. Peter Kahn and his associates challenged the CDC claim that a valid ground troop study cannot be done and concluded that the CDC "hit model" tended to misclassify exposure. Dr. Kahn, a Rutgers University biochemist, has been quoted as saying the "hit model" is "as full of holes as Swiss cheese."

At the May 12, 1988, Senate hearing, the Disabled American Veterans [DAV] testimony described the CDC developments this way:

> Frankly, Mr. Chairman, we view CDC's decision to totally abort their study incredulous and simply an acknowledgment that their preferred method of conducting such research was not felt feasible . . . . Suffice it to say the best interests of the government and, more importantly, Vietnam veterans have not as yet been served . . . . [Veterans] wait for some degree of assurance that the government is really doing something to address their concerns in an honest, forthright and meaningful fashion. Many feel this is not occurring . . . . Clearly, to expect veterans to wait until a large scale epidemiological study and/or long term research is completed is not a realistic response. We view the current process to be slow, tedious and totally inadequate.

The American Legion testimony echoed the DAV's and my concerns:

> We are troubled by CDC's conclusion for several reasons. . . . [A]bout twenty months ago, The American Legion expressed concern about the fact that the Agent Orange study . . . had become moored in major administrative and methodological problems that had forced the study to a standstill. . . . It was no surplus to us then, that after conducting a pilot study of its own design, CDE has concluded that the study cannot be done. We also voiced concern about the composition of the study population almost two years ago. Among the veterans eliminated from consideration were those who served more than one tour in Vietnam, those who served in a particular unit for less than 180 days, these who were above the rank of E-5, those who transferred from one unit to another during their tour, and any veteran who served any number of days before or after the proposed study window (January 1967-December 1968). These constraints may appear trivial to some, but they eliminated thousands of veterans, many of whom were no doubt heavily exposed to Agent Orange. In fact, it is reported that 83 percent of the original study subjects were disqualified based on criteria set forth by CDC.

The exclusion of such a large proportion of the original study subjects was a major issue at the July 17, 1986 oversight hearing, which Representative BOB EDGAR and I cochaired, of the House Veterans' Affairs Committee. At that time, the CDC study was already plagued by lengthy delays, unapproved protocol changes, and administrative problems.

Mr. Richard Christian, who was the head of the U.S. Army-Joint Services Environmental Support Group charged with providing CDC with study subjects, testified that he agreed with me and many others who were concerned that the CDC method for identifying exposed veterans for the ground troop study was flawed. Mr. Christian explained that he felt a valid study could have been done if CDC had not put such stringent restrictions on the veterans who could be included in the study.

So, the CDC decision that a ground troop study could not be done comes as little surprise to most of us. We have known for years that the study design was not going to work, and many have questioned whether or not CDC even wanted to do the study. Nine years and tens of millions of dollars later, we have nothing to show for our efforts.

What does come as a surprise is that CDC would attempt to characterize this information as news. The results published in last week's Journal of the American Medical Association are over 1 year old, and they have been rehashed several times since then. There is very little to be gained by dwelling on the CDC failure.

The news of CDC's results is especially frustrating in light of the fact that important new work—studies that have actually been conducted—is being completed all the time. The recent release of three new studies, one on non-Hodgkin's lymphoma and two on soft-tissue sarcoma, is much more worthy of our attention, though you will not see these studies cited in administration press releases.

First, Dr. Sheila Hoar Zahm and her associates at the National Cancer Institute have completed a study of Nebraska farmers exposed to 2,4-D, a primary component of agent orange, that replicates their earlier work in Kansas. I ask that an abstract of the Zahm study be printed in the RECORD following my statement. Dr. Zahm found a threefold increase in non-Hodgkin's lymphoma among Nebraska farmers exposed to 2,4-D more than 20 days per year.

Second, a mortality study of Massachusetts veterans by Michael Kogan, M.A., and Richard Clapp. M.P.H., found a statistically significant increase in soft-tissue sarcoma among these veterans. This study, published in the International Journal of Epidemiology, was discussed by Senator Kerry and printed in the August 11, 1988 Record beginning on page S11717.

Finally, in the August 1, 1988 issue of Cancer, Dr. Lennert Hardell and Dr. Mikael Eriksson of the University of Umea in Sweden conducted a study that confirms findings in earlier Swedish studies that found increased risks for soft-tissue sarcoma among workers exposed to phenoxyacetic acids, including 2,4-D and dioxin-laced 2,4,5-T, the primary ingredients in agent orange. The latest Hardell-Eriksson study, which adjusted for limitations in the earlier Swedish studies, detected a threefold increase in soft-tissue sarcoma for exposed workers. I ask that a copy of this study also be printed in the Record.

In conclusion, Mr. President, I think it is important that all my colleagues be presented with all the facts on the potential health effects of agent orange exposure. While the Centers for Disease Control may not be able to find the veterans who were exposed to agent orange, they do exist. Furthermore, they and occupationally exposed workers are being studied, and scientific evidence is increasingly suggestive of the relationship between exposure to these toxic agents and negative health effects.

The studies are not yet definitive, but they are suggestive. In my view, the evidence, at the very least, meets the reasonable doubt compensation standard we have always used to determine whether or not to provide veterans' disability compensation. The research must continue, for we need to pursue clearer answers. In the meantime, we, as policymakers, must decide how to respond to the legitimate concerns of the disabled veterans who turn to their Government for help. I believe it is time for us to give it to them.

The material requested to be printed in the Record follows:

A Case-Control Study of Non-Hodgkin's Lymphoma and Agricultural Factors in Eastern Nebraska

(By S. Hoar Zahm (National Cancer Institute, Bethesda, MD 20892), D.D. Weisenburger, P.A. Babbitt, R.C. Saal, K.P. Cantor, and A. Blair)

A recent study conducted in Kansas reported a six-fold excess risk of non-Hodgkin's lymphoma (NHL) among farmers exposed to agricultural herbicides 20 or more days per year. To further investigate the association between NHL and agricultural factors, a population-based case-control study was conducted in Eastern Nebraska. Telephone interviews were conducted with 385 (201 men, 184 women) histologically confirmed NHL cases and 1432 (725 men, 707 women) controls. Among men, use of the herbicide 2,4-D was associated with a nonsignificant 50% increased risk of NHL (OR=1.5, 95% CI=0.9,2.4). Exposure to 2,4-D more than 20 days/year increased risk 3-fold (OR=3.3; 95% CI=0.5,22.1). Use of the herbicide 2,4,5-T had an OR of 1.5 (95% CI=0.7,3.2). Risk among atrazine users (OR=1.4; 95% CI=0.8, 2.2) increased with duration with ORS of 0.9, 0.8, 2.0, and 2.0 for use of 1-5, 6-15,16-20, and 21+ years, respectively. Several classes of insecticides were associated with increased risk: chlorinated hydrocarbons (OR=1.4; 95% CI=0.8,2.3), carbamates (OR=1.8; 95% CI=1.0,3.2), and organophosphates (OR=1.9; 95% CI=1.1,3.1). Specific insecticides associated with significant excess NHL included chlordane (OR=2.1), diazinon (OR=2.0), dyfonate (OR=2.4), and malathion (OR=2.2). Risk rose with increasing duration of use of lindane and sevin. Multiple exposures will be evaluated.

The Association Between Soft Tissue Sarcomas and Exposure to Phenoxyacetic Acids—A New Case-Referent Study

(By Lennart Hardell, M.D., Ph.D., and Mikael Eriksson, M.D.)

A case-referent study on soft tissue sarcomas (STS) was conducted, to see if previous findings regarding an association between exposure to phenoxyacetic acids or chlorophenols and this tumor type could be reproduced. Fifty-five male STS patients were thereby compared with 220 living and 110 dead population-based referents. Furthermore, another referent group consisting of 190 patients with another type of malignant disease was used in order to evaluate any influence of recall bias on the results. To obtain information about exposure to the studied chemicals, as well as about any other exposures that might be of interest, questionnaires were used, and if necessary these were completed over the phone by an interviewer who had no information regarding case-referent status. All analysis and interpretation of exposure data were done in a blinded manner. Exposure to phenoxyacetic acids gave a roughly three-fold increased risk for STS, thereby confirming previous findings, whereas exposure to chlorophenols was not associated with STS in this study.—Cancer 62:652-656, 1988.

Previous studies have indicated an association between exposure to phenoxyacetic acids or chlorophenols and soft tissue sarcomas (STS).[1,2] Regarding phenoxyacetic acids this finding has been supported in some other studies,[3-9] whereas other studies have been negative.[10-14] In a study from the state of Washington (U.S.),[15] an association was found in a subgroup of persons with Scandinavian names, whereas no significantly increased risk was found in the total material. In a newly published case-referent investigation from Kansas (U.S.), Hoar et al.[16] did not find any association between phenoxyacetic acids and STS, whereas an increased risk was found for malignant lymphoma of the non-Hodgkin's type. In that study, phenoxyacetic acid exposure was essentially synonymous with exposure to 2,4-D since little or no 2,4,5-T had been used in the study area.

Since the epidemiologic findings are conflicting it was of interest to see if we could reproduce our earlier findings. Different types of bias, which may occur in case-referent studies, have been suggested to have influenced our results.[12,17] In order to further evaluate these aspects, the methods were somewhat modified in this new study.

MATERIALS AND METHODS

Cases

All male patients, aged 25 to 80 years with STS who had been diagnosed during 1978 to 1983 and reported to the Regional Cancer Registry in Umea, Sweden encompassing the three most northern counties in Sweden, were included in the study. Only patients with the diagnoses based upon histopathologic examination were included. Of the 55 patients fulfilling these criteria, 18 were alive and 37 were dead when the study started. The investigation comprised all localizations of STS (Table 1). No reexamination of the histopathologic specimens was done for this study. In most cases the diagnosis was conclusive according to the histopathologic report, but in eight cases the tumor was classified as probably STS but another malignancy could not be excluded. The distribution of different histopathologic subtypes of STS is given in Table 2.

TABLE 1.—SITES OF SOFT TISSUE SARCOMA CASES ACCORDING TO THE 7TH INTERNATIONAL CLASSIFICATION OF DISEASES (ICD-7)

Code ICD-7	Site	Number
151	Stomach	3
152	Duodenum	1
160	Nasal sinuses	1
162	Lung	4
180	Kidney	2
193	Nervous system	6
197	Connective tissue	35
199	Unspecified	3
Total		55

TABLE 2.—HISTOPATHOLOGIC DIAGNOSES OF SOFT TISSUE SARCOMA CASES

	Number of cases
Diagnosis:	
Angiosarcoma	2
Blastoma	1
Carcinosarcoma	1
Dermatofibrosarcoma	1
Fibromyxosarcoma	1
Fibrosarcoma	3
Fibrosarcoma/glioblastoma	1
Fibrosarcoma/liposarcoma	1
Hemangiopericytoma	3
Leiomyosarcoma	7
Lipsarcoma	5
Malignant fibrous histiocytoma	16
Malignant schwannoma	3
Myxofibrosarcoma	1
Neurofibrosarcoma	3
Polymorphcellular sarcoma	2
Sarcoma unspecified	2
Synovial sarcoma	2
Total	55

Referents

Two different population-based referent groups were used. The first group consisted of four living male referents to every case, both alive and dead, matched upon age and living in the same country as the case at the time of diagnosis. The second group consisted of two dead male referents to every case, both alive and dead. The same matching criteria were used, and they had all died during the period of diagnosis, *i.e.*, 1978 to 1983.

To obtain a referent group consisting of cancer patients, 190 referents with another type of malignant disease were drawn at random from the Regional Cancer Registry. Malignant lymphomas and nasopharyngeal carcinomas were excluded since earlier studies have indicated an association between these tumor types and exposure to the studied phenoxyacetic acids or their related chlorophenols.[18, 19] The cancer referents were diagnosed during the same time period as the STS cases and were of the same age group. At the time of the study 112 were alive and 78 dead. The various cancer diagnosis are presented in Table 3.

TABLE 3.—DIAGNOSIS OF CANCER REFERENTS ACCORDING TO ICD–7

Code ICD–7	Site	Number
140	Lip	4
150	Esophagus	3
151	Stomach	16
153	Colon	7
154	Rectum, anus	11
155	Liver	3
157	Pancreas	5
161	Larynx	5
162	Lung	19
177	Prostata	50
178	Testis	3
179	Penis	1
180	Kidney	13
181	Urinary bladder	13
190	Malignant melanoma	3
191	Skin, other	1
193	Nervous system	8
194	Thyroid gland	5
195	Endocrine glands	5
196	Bone	1
199	Unspecified	1
	More than one cancer	13
Total		190

Assessment of Exposure

All living persons in the study and next-of-kin for dead persons received a questionnaire by mail. Information was obtained regarding all jobs for the study person, exposure to various agents during work or leisure time, smoking habits, *etc.* For many different types of work, specific questions about exposure to a variety of chemicals were included. Incomplete or industrial information was completed over the phone. The interviewer had no information if it was a case or a referent. All subjects who had been working in forestry, agriculture, horticulture, carpentry or in saw mills for some period since 1948, when phenoxyacetic acids and chlorophenols were introduced in Sweden, were phoned and interviewed about exposures regardless of their statements in these respects in the questionnaire.

It has been suggested that the reporting of exposure to phenoxyacetic acids could have been biased by knowing the name of one of the researchers (L.H.) whose name has been connected to research about these substances in Sweden. Of the 220 living population referents 110 received an envelope for the return of the questionnaire addressed to L.H., whereas the other 50% (110) received an envelope addressed to a statistical research bureau independent of the Department of Oncology. These two groups were analyzed separately.

The questionnaires with added information from the interviewer were analyzed in a blinded manner. Thus, the names, ages, personal identification numbers, addresses, and information about diseases and hospital visits were removed from the questionnaires, as well as any other information regarding the status of case or referent. After interpretation of the data the case or referent status was disclosed through a coding system.

Regarding exposure to phenoxyacetic acids and chlorophenols a minimum time of one day was required. Exposure less than 5 years before the diagnosis (for referents diagnosis of the respective case) was excluded because of the induction-latency period for solid tumors. For exposure to other agents no such criteria were used.

Statistical Methods

The statistical analyses of the data were based on the Mantel-Haenszel procedures for the calculation of *P* values and for the estimation of overall rate ratio.[20] The 95% approximative (test-based) confidence intervals were calculated according to the principles outlined by Miettinen.[21]

RESULTS

Of all subjects in the study 5.4% refused to answer the questions. Fifty-four of 55 cases (*i.e.,* patients with STS) answered. In the group of living population referents 12 of 220 (5.5%) did not answer whereas the corresponding figures for dead population referents were seven of 110 (6.4%). Of cancer referents no reply was obtained for 11 of 190 (5.8%) subjects; 6.4% for living and 5.4% for deceased cancer referents.

Exposure to various agents is presented in Table 4.

TABLE 4.—EXPOSURE FREQUENCY (PERCENT) TO DIFFERENT AGENTS AMONG CASES AND REFERENTS OF THE TOTAL SAMPLE

Agents	Exposure frequency								
	Cases			Population-based referents			Cancer referents		
	Alive	Dead	Total	Alive	Dead	Total	Alive	Dead	Total
Total material (number of subjects in parenthesis)	(18)	(36)	(54)	(208)	(103)	(311)	(73)	(106)	(179)
Phenoxyacetic acids	16.7	16.7	16.7	8.7	3.9	7.1	5.8	8.5	7.8
Chlorophenols:									
High grade [1]	5.6	0	1.9	6.2	3.9	5.5	4.1	3.8	3.9
Low grade [2]	5.6	5.6	5.6	5.3	5.8	5.5	4.1	6.6	5.6
Total	11.2	5.6	7.5	11.5	9.7	11.0	8.2	10.4	9.5
DDT [3]	11.1	11.1	11.1	7.2	3.9	6.1	5.5	3.8	4.5
DDT [3] (exposed to phenoxyacetic acids excluded)	5.6	0	1.9	3.4	2.9	3.2	1.4	1.9	1.7
Mercury seed dressings	0	2.8	1.9	3.4	3.9	3.5	1.4	3.8	2.8
Pesticides, other than above	11.1	5.6	7.6	8.2	3.9	6.8	5.5	0.9	2.8
Asbestos	11.1	13.9	13.0	11.5	10.7	11.3	15.1	14.2	14.5
Man-made fibers	16.7	11.1	13.0	18.7	14.6	17.4	13.7	13.2	13.4
Organic solvents:									
High grade [1]	16.7	0	5.6	12.0	7.8	10.6	11.0	12.3	11.7
Low grade [2]	0	0	0	1.0	4.9	2.3	8.2	1.9	4.5
Total	16.7	0	5.6	13.0	12.7	12.9	19.2	14.2	16.2
Smoking:									
Now	33.3	22.2	25.9	22.1	48.5	30.9	20.5	36.8	30.2
Earlier	33.3	47.2	42.6	40.4	25.2	35.4	42.5	37.7	39.7
Total	66.6	69.4	68.5	62.5	73.7	66.3	63.0	74.5	69.9

[1] High grade: exposure more than 1 mo over the years or more than 1 wk continuously.

[2] Low grade: other exposure to chlorophenols or organic solvents.

[3] DDT: dichloro-diphenyl-trichloroethane.

Exposure to phenoxyacetic acids was reported by 16.7% of the cases, exactly the same frequency among alive as well as dead cases. Of the living population referents with return envelopes addressed to L.H., 8.5% reported exposure whereas 8.8% were exposed in the living population referent group with return envelopes addressed to the Statistical Research Bureau. Thus there was no difference in this regard, so these two groups were lumped together in the further analyses. Of dead referents 3.9% were exposed to phenoxyacetic acids. In the whole population referent group 7.1% were exposed to phenoxyacetic acids, which is consistent with findings in our earlier studies in the region. In the cancer referent group 5.8% of the living and 8.5% of the dead persons, 7.8% in total, were exposed.

Exposure to phenoxyacetic acids gave a rate ratio (point estimate) of 3.3 ($P = 0.018$, CI95 = 1.4-8.1) when compared to all population referents, and when stratified for age and vital status (Table 5). If the eight cases with uncertain STS diagnosis were excluded the rate ratio was 4.1 ($P = 0.005$; CI95 = 1.7-10.0) as presented in Table 6. If these eight cases with their corresponding referents were all excluded the rate ratio was 3.7 ($P = 0.012$; CI95 = 1.5-9.1).

TABLE 5.—EXPOSURE TO PHENOXYACETIC ACIDS AMONG SOFT TISSUE SARCOMA CASES AND POPULATION-BASED REFERENTS

Age (yr) and vital status	Cases (C)/ referents (R)	Exposed	Unexposed	Total
25 to 55:				
Alive	C	1	3	4
	R	3	44	47
Dead	C	2	6	8
	R	1	24	25
56 to 70:				
Alive	C	1	6	7
	R	9	68	77
Dead	C	1	12	13
	R	0	37	37

TABLE 5.—EXPOSURE TO PHENOXYACETIC ACIDS AMONG SOFT TISSUE SARCOMA CASES AND POPULATION-BASED REFERENTS—Continued

Age (yr) and vital status	Cases (C)/ referents (R)	Exposed	Unexposed	Total
71 to 80:				
Alive	C	1	6	7
	R	6	78	84
Dead	C	3	12	15
	R	3	38	41
Total	C	9	45	54
	R	22	289	311
Crude rate ratio		2.6	(1.0)	
P value (Mantel-Haenszel)		0.018		
Rate ratio (Mantel-Haenszel):				
Point estimate		3.3		
95% confidence interval		1.4–8.1		

TABLE 6.—EXPOSURE TO PHENOXYACETIC ACIDS AMONG SOFT TISSUE SARCOMA CASES AND POPULATION-BASED REFERENTS [1]

Age/(yr) and vital status	Cases (C)/ referents (R)	Exposed	Unexposed	Total
25 to 55:				
Alive	C	1	3	4
	R	3	44	47
Dead	C	2	6	8
	R	1	24	25
56 to 70:				
Alive	C	1	5	6
	R	9	68	77
Dead	C	1	11	12
	R	0	37	37
71 to 80:				
Alive	C	1	5	6
	R	6	78	84
Dead	C	3	8	11
	R	3	38	41
Total	C	9	38	47
	R	22	289	311
Crude rate ratio		3.1	(1.0)	
P value (Mantel-Haenszel)		0.005		
Rate ratio (Mantel-Haenszel):				
Point estimate		4.1		
95% confidence interval		1.7.10.0		

Note.–STS: soft tissue sarcoma.

[1] Eight cases with uncertain STS diagnosis were excluded. One of the eight STS cases did not answer the questionnaire.

When compared to cancer referents, and stratified as above, the rate ratio for exposure to phenoxyacetic acids was 2.2 ($P = 0.160$; C195 = 0.9–5.3), as shown in Table 7. With exclusion of the eight uncertain STS cases a rate ratio of 2.4 was calculated ($P = 0.091$; C195 = 1.0–5.9).

TABLE 7.—EXPOSURE TO PHENOXYACETIC ACIDS AMONG SOFT TISSUE SARCOMA CASES AND CANCER REFERENTS

Age (yr) and vital status	Cases (C)/ referents (R)	Exposed	Unexposed	Total
25 to 55:				
Alive	C	1	3	4
	R	1	10	11
Dead	C	2	6	8
	R	1	7	8
56 to 70:				
Alive	C	1	6	7
	R	2	34	36
Dead	C	1	12	13
	R	7	41	48
71 to 80:				
Alive	C	1	6	7
	R	2	24	26
Dead	C	3	12	15
	R	1	49	50
Total	C	9	45	54
	R	14	165	179
Crude rate ratio		2.4	(1.0)	
P value (Mantel-Haenszel)		0.160		
Rate ratio (Mantel-Haenszel):				
Point estimate		2.2		
95% confidence interval		0.9–5.3		

Regarding exposure to chlorophenols, no difference was found between cases and referents.

Exposure for dichloro-diphenyl-trichloroethane (DDT) was found in 11.1% of STS cases compared to 6.1% in population-based referents and 4.5% in cancer referents. This difference, however, was explained by joint exposure to phenoxyacetic acids. If persons exposed to both DDT and phenoxyacetic acids were excluded no differences were found, as show in Table 4.

For various other agents, as presented in Table 4, no statistically significant differences were found between cases and referents. The questionnaire asked for all types of pesticide exposure. In addition to those presented in Table 4 a number of different pesticides were mentioned, but the number of any type was low, and constituted no increased risk for STS.

Regarding smoking habits few differences were found between STS cases, population referents, and cancer referents. Dead STS cases as well as cancer referents had more frequently stopped smoking than dead population-based referents. This can be explained by the clinically well-known fact that persons who get a cancer diagnosis tend to stop smoking.

DISCUSSION

This investigation confirms our previous findings of an association between exposure to phenoxyacetic acids and STS. The median latency period was 21 years. Due to the low number of exposed subjects a dose-response calculation was not meaningful.

The study design was methodically somewhat changed. In addition to population-based referents, cancer referents were used to evaluate the possibility of recall bias due to having a malignant disease. Since the risk ratio decreased when cancer referents were used some recall bias could not be excluded, but there was still an association between exposure to phenoxyacetic acids and STS regardless of which referent group was used. Another explanation of the risk ratio reduction might be a general carcinogenic effect by phenoxyacetic acids. These pesticides can be contaminated by dibenzodioxins and dibenzofurans, some of which are highly toxic substances. The isomere 2,3,7,8-TCDD, a potent tumor promoter,[22,23] is a contaminant of the phenoxyacetic acid 2,4,5-T.

The interviews and interpretation of the questionnaires were done in a blinded manner, as to prevent the possibility of observational bias.

Some studies [10,12,14] have not shown an increased risk for STS when exposure to phenoxyacetic acids was defined as the job categories agriculture and foresty, *i.e.,* occupations with possible exposure to these pesticides. In this study, as well as in our previous ones, neither could we find any statistically significant association between exposure defined in this way and STS.

Exposure to the dioxin 2,3,7,8-TCDD, as occurring in 2,4,5-T and trichlorophenols, gave a crude rate ratio of 3.5 when population-based referents were used, and 3.1 with cancer referents, *i.e.,* it was somewhat higher than when calculations were made upon phenoxyacetic acids.

Regarding chlorophenols no increased risk was found in this study, in contrast to our previous findings. The number of subjects exposed to chlorophenols in this study was low, however, so this could be explained by random variation.

No differences in exposure to various other pesticides were found between cases and referents.

In summary this investigation confirmed our previous findings regarding the association between exposure to phenoxyacetic acids and development of STS. This association could not be explained by observational or recall bias. Since all of the STS cases and most of the referents were exposed to phenoxyacetic acids combinations including 2,4,5-T it was not possible to evaluate if the increased risk was attributed to the phenoxyacetic acids as such or to contaminants such as 2,3,7,8-TCDD. For chlorophenols, no increased risk was demonstrated, but this could be due to random variation since the exposed subjects were few.

FOOTNOTES

[1] Hardell L, Sandstrom A. Case-control study; Soft-tissue sarcomas and exposure to phenoxyacetic acids or chlorophenols. *Br J Cancer* 1979; 39:711–717.

[2] Eriksson M. Hardell L, Berg NO, Moller T. Axelson O. Soft-tissue sarcomas and exposure to chemical substances: A Case-referent study. *Br J Ind Med* 1981; 38:27–33.

[3] Honchar PA, Halperin WA. 2,4,5–T, trichlorophenol, and soft-tissue sarcomas. *Lancet* 1981; 1:268–269.

[4] Cook RR. Dioxin, chloracne, and soft-tissue sarcoma. *Lancet* 1981; 1:618–619.

[5] Moses M, Selikoff IJ. Soft-tissue sarcomas, phenoxy herbicides and chlorinated phenols. *Lancet* 1981 1:1370.

[6] Johnson FE, Kugler MA, Brown SM. Soft-tissue sarcomas and chlorinated phenols. *Lancet* 1981; 2:40.

[7] Lynge E. A follow-up study of cancer incidence among workers in manufacture of phenoxy herbicides in Denmark. *Br J Cancer* 1985; 52:259–270.

[8] Vineis P. Terracini B, Ciccone G *et al.* Phenoxy herbicides and soft-tissue sarcomas in female rice weeders; A population-based case-referent study. *Scand J Work Environ Health* 1986; 13:9–17.

[9] Kogan MD, Clapp RW. Soft-tissue sarcoma mortality among Vietnam veterans in Massachusetts, 1972–1983. *Int J Epidemiol* (Accepted for publication).

[10] Milham S Jr. Herbicides, occupation and cancer. *Lancet* 1982; 1:1464–1465.

[11] Greenwald P, Kovasznay B, Collins DN, Terriault G. Sarcomas of soft-tissues after Vietnam service. *J Natl Cancer Inst* 1984; 73:1107–1109.

[12] Smith AH, Pearce NE, Fisher DO, Giles HJ, Teague CA, Howard JK. Soft-tissue sarcoma and exposure to phenoxyherbicides and chlorophenols in New Zealand. *J Natl Cancer Inst* 1984; 73:1111–1117.

[13] Balarajan R, Acheson ED. Soft-tissue sarcomas in agriculture and forestry workers. *J Epidiol Comunity Health* 1984; 38:113–116.

[14] Wiklund K, Holm LE. Soft-tissue sarcoma risk in Swedish agricultural and forestry workers. *J Natl Cancer Inst* 1986; 76:229–234.

[15] Woods JS, Polissar L, Severson RK, Heuser LS, Kulander BG. Soft-tissue sarcoma and non-Hodgkin lymphoma in relation to phenoxy herbicide and chlorinated phenol exposure in Western Washington. *J Natl Cancer Inst* 1987; 78:899–910.

[16] Hoar SK, Blair A, Holmes FF *et al.* Agricultural herbicide use and risk of lymphoma and soft-tissue sarcoma. *JAMA* 1986; 256:1141–1147.

[17] Cole P. Direct testimony before the Environmental Protection Agency of the United States of America. Washington, DC, 1980; Exhibit 860:2–24.

[18] Hardell L, Eriksson M, Lenner P, Lundgren E. Malignant lymphoma and exposure to chemicals, especially organic solvents, chlorophenols, and phenoxy acids: A case-control study. *Br J Cancer* 1981; 43:169–176.

[19] Hardell L, Johansson B, Axelson O. Epidemiological study of nasal and nasopharyngeal cancer and their relation to phenoxy acid or chlorophenol exposure. *Am J Ind Med* 1982; 3:247–257.

[20] Mantel N, Haenszel W. Statistical aspects of the analysis of data from retrospective studies of disease. *J Natl Cancer Inst* 1959; 32:719–748.

[21] Miettinen OS. Estimability and estimation in case-referent studies. *Am J Epidemiol* 1976; 103:266–235.

[22] Pilot HC, Goldsworthy T, Campbell HA, Poland A. Quantitative evaluation of the promotion by 2,3,7,8-tetrachlorodibenzo-p-dioxin of hepatocarcinogenesis from diethylnitrosamine. *Caner Res* 1980; 40:3616–3620.

[23] Abernathy DJ, Greenlee WF, Huband JC, Boreiko CJ. 2,3,7,8-tetachlorodibenzo-p-dioxin (TCDD)

promotes the transformation of C3H/10T1/2 cells. *Carcinogenesis* 1985; 6:651-653.●

"MA" LINEHAN AND THE HAM AND BEAN SUPPER

● Mr. KERRY. Mr. President, I rise today in honor of a great tradition in my home State which we will be celebrating once again this week. For over 40 years, Watertown, MA, has been home to one of the greatest political traditions in a State that cherishes its politics as much as its sports: the Ham and Bean Supper.

Through the years countless politicians seeking a hand to shake and a vote to solicit have attended this biennial rite of passage. From Tip O'Neill to Mike Dukakis, they have all walked through the Hibernian Hall, between the tables and up to the microphone, to give speeches and offer themselves to the electorate.

Perhaps the most noteworthy element of this tradition is in its establishment. When Franklin Roosevelt was President of this country, a young woman named Ellen Linehan left County Cork, Ireland, to settle in Watertown. Over the next 60 years, "Ma" Linehan became a fixture in Watertown Democratic politics. She was the first woman appointed to the Watertown Housing Authority, established the Watertown Democratic Womens Club, and served as a delegate to countless State conventions. Through these efforts, and so many others, "Ma" Linehan became the matriarch of Watertown Democratic politics earning the moniker of "Mrs. Democrat."

Therefore, it was only natural that "Ma" Linehan established the Ham and Bean Supper. It was a match made in heaven. Every fall of an election year for the past 40 years, hundreds of Watertown residents and their families have come to the Hibernian Hall to have a plate of ham and beans, as they listened to those who sought their support.

But this Saturday for the first time in its rich history, "Ma" Linehan will not be there. Earlier this year at the age of 92, "Ma" Linehan passed away. In her wake she left a legacy of political and community involvement that will be difficult, if not impossible, to replicate. "Ma" gave much to this community and expected it to do the same. All of the hard work and commitment inspired respect for her and every effort she led. That respect was never more evident than every 2 years at the Ham and Bean Supper. Senators, Congressmen, and Governors alike, to the faithful voters of Watertown all thronged to this event to offer their opinions, ideas, and promises for the future.

So this Saturday, as the Watertown faithful gather once again at the Hibernian Hall to pay $2 for all the ham and beans they can eat, as well as all the speeches they can listen to, a tip of the hat goes to the memory of "Ma" Linehan. For "Ma" represented the very best that this country has to offer. And in 1988, a very important year for each and everyone of us, we should all try a little harder to emulate "Ma" Linehan for everything she so proudly represented and worked so hard to give to others.●

THE PROBLEM OF YOUTH GANGS

● Mr. SIMON. Mr. President, the Chicago Defender recently had an editorial on a measure that Senator BRADLEY and I have introduced relative to youth gangs. My interest is sparked obviously, because of the problem we have in Chicago, IL. Though frankly, it is a problem we also have in Rockford, IL and East St. Louis, IL.

But the problems of Chicago are small compared to the problems of Los Angeles. Chicago has about 12,000 youths and 125 gangs and Los Angeles has about 70,000 gang members. So far this year in Chicago there has been 22 gang related homicides and that is tragic. Last year in Los Angeles there were 387 people killed by gangs.

The editorial has these eloquent words that all Americans should heed:

> It is much better for the individual and society when youngsters shoot basketballs rather than each other; respect law, not imprisoned by it; carve wholesome careers rather than notches on guns; collect awards, degrees, certificates, and the like rather than criminal records; spend time learning beneficial pursuits, not dope distribution and other unsavory activities;

Those words are as eloquent as any I have seen in an editorial for months.

I hope that either the remainder of this session or next year, we can move on this particular measure.

In our cities, which increasingly are the centers of poverty in our Nation, have to become more livable.●

HONORING JOSEPH F. THOMAS

● Mr. D'AMATO. Mr. President, I rise today to honor an old friend and mentor for his lifelong dedication to teaching and coaching and his 40-year commitment to the students of Chaminade High School in Long Island, NY. Joseph F. Thomas recently taught his 40th and final year at Chaminade, bringing to a close the end of an era.

Many students, including myself, came to Chaminade ill-focused and undisciplined, fortunately to encounter the strong influence and guiding hand of Coach Thomas. For me, it was 4 years of running track under Joe. For others, it was on the football team or the basketball team or even in the classroom where the larger than life personality of Coach Joe Thomas impressed itself upon the minds and hearts of us all.

Simply put, Coach Thomas imparted discipline. He taught us by example—patient example. By his willingness to take that bit of extra time, whether to help ease life's pitfalls, to shoreup fledgling confidence, or to review a pass pattern, he consistently demonstrated sincere concern for each youngster. Coach's patience was seldom tried, for he always made clear the point beyond which we could not deviate lest we be made to understand the true meaning of discipline.

Humility, patience, discipline. These traits are the essence—and the enduring example—of a great man I know as Coach. Mr. President, I salute and thank Joseph F. Thomas, educator, coach, mentor, citizen, and friend.●

ADDITIONAL COSPONSOR—S. 2003

● Mr. GRAMM. Mr. President, on March 30, 1988, I submitted the name of the distinguished Senator from Maine, Senator COHEN, to be added as a cosponsor to my bill, S. 2003, to assure that farmers and ranchers continue to remain exempt from paying taxes on diesel fuel they use for off-highway purposes. I very much appreciate Senator COHEN's support of that measure and note that the concepts embodied therein have passed the House of Representatives as part of H.R. 4333, the Miscellaneous Revenue Act of 1988, and are included in the Senate Finance Committee's version of the same.

Unfortunately, however, Senator COHEN's name never appeared in the CONGRESSIONAL RECORD indicating his cosponsorship.

Therefore, I ask unanimous consent that the permanent record of March 30, 1988 be changed to reflect that Senator COHEN did become a cosponsor of S. 2003 on that day.●

PLIGHT OF AIDS VICTIM

● Mr. SIMON. Mr. President, there are few issues that divide our communities as much as the AIDS issue. Across the Nation, families of people with AIDS are the victims not only of physical illness but also of intense hatred, fear, and discrimination.

At the same time, these communities struggle to come to terms with this fear of the unknown and to adjust to the needs of their citizens.

Those struggles are not always pleasant. Much of what an Illinois family has endured in the past 2 years has been painful. Last month, I informed my colleagues about Jason Robertson, a 7-year-old Granite City boy who has an AIDS-related complex through no fault of his own. He is a hemophiliac and received a tainted blood transfusion. A very small, but vocal, minority of the town's residents has fueled the fires of hatred and fear. School board members have searched for the difficult balance between the needs and rights of the child and the needs and rights of the community. There was no road map they could follow.

My office was contacted last month and asked to help the Robertsons. Concerning one aspect of this difficult case, my staff was informed on two separate occasions that Jason had been forced to participate in contact sports. I have since learned that that is not the case, and I want to use this opportunity to correct that error for the RECORD. It is my understanding that at no time was Jason forced to participate in physical education activities, that there is no organized contact sport program at the school and that 7-year-old Jason was to regulate and monitor his own physical activities. If, for example, Jason had told school officials that because of his hemophilia, he should not engage in running laps around the gymnasium or running and playing at recess, school officials indicate that they certainly would have allowed him to sit out during those activities.

Under such a program school officials believe they have done their utmost to provide for Jason's needs and were grossly offended by the allegation that they had "forced Jason to participate in contact sports." I appreciate their concern and apologize for the inaccurate statement.

Regardless of whether the Robertson family returns to Granite City, it is important for people to know of the good things that were done. Ultimately, that experience is critical to our successful handling of this delicate issue.

The district held 17 educational sessions in the evening hours on AIDS. Medical experts were brought in. There was an AIDS Awareness Week. The principal of the elementary school developed a filmstrip presentation for the young children to help educate them about AIDS. And as a result of that education, the children themselves, when Jason was being picketed, picketed on behalf of Jason's right to attend school.

I wish I could have witnessed that. It is a wonderful story.

I continue to hope that this family finds the peace and sense of community they seek. I hope Americans everywhere can learn from the good that has been done by many in the Robertsons' community, as well as from the harm that has come their way.●

WORKERS SPEAKING UP IN A LOT OF LANGUAGES

● Mr. SIMON. Mr. President, the New York Times on Saturday, August 6, 1988 ran a story entitled "Workers Speaking Up In a Lot of Languages."

It outlines the growing need on the part of American businesses and the growing interest in foreign languages.

Unfortunately, that need is not simply in American businesses it is also in the American Government, and we ought to be doing much more to encourage the development of foreign languages in our country.

I am pleased that there is a growing awareness of the situation but that growth must continue.

We still have the only foreign service in the world where you can get into the foreign service without the knowledge of a foreign language. That clearly has to change.

I ask unanimous consent to have printed in the RECORD this article from the New York Times.

[From the New York Times, Aug. 6, 1988]

WORKERS SPEAKING UP IN A LOT OF LANGUAGES

Donald Creadore, an attorney with a Manhattan law firm, says speaking English is no longer enough.

"The legal market in New York City is such that it has a global reach," said Mr. Creadore, who recently completed a course in Japanese at New York University.

Like Mr. Creadore, many more Americans are learning a second language in the hope that it will benefit their careers, according to the Modern Language Association, a nonprofit organization that conducts triennial surveys of language instruction at American colleges and universities. The most recent survey, completed in 1986, reported slightly more than one million registrations in foreign language course in the United States, an increase of 3.9 percent from 1983.

RISE IN OVERSEAS BUSINESS

The trend has accelerated as a direct result of the surge in American exports and the rewakened interest of business in overseas markets as a result of the dollar's decline, said Patrica Sze, director of marketing at Berlitz International Inc., a subsidiary of Macmillan, Inc.

Berlitz, which offers courses that range in price from $199 to $5,000, said its United States enrollments jumped 27 percent last year but declined to disclose its earnings or revenues. Specialized schools like Berlitz, and cultural organizations that offer courses—like the Japan Society and Deutsches Haus in New York—are not included in the Modern Language Association's survey, making it hard to gauge the full magnitude of the surge in language studies.

Revenues for the specialized schools topped $100 million in the United States last year, said Richard Huarte, executive director of Inlingua, private company that operates 20 schools around the nation and claims to be the second-largest language business after Berlitz. But Mr. Huarte warned that most schools are regional and that any estimate of how their segment of the language business is faring can only be an educated guess.

In some cases, the training is being paid for by companies who deal in foreign markets or need workers for overseas branches. Many American companies recognize that to compete overseas they must have multilingual employees, as many of their foreign competitors do. But in many instances, employees are taking the courses on their own.

For example, Montgomery Mackenzie 3d, an assistant to the New York bureau chief of a Japanese television station based in Tokyo, started taking Japanese lessons at the Bilingual U.S.A. Corporation in order to make his superiors take him more seriously.

"I think it could only improve my usefulness," said Mr. Mackenzie, who frequently meets with Japanese executives.

Mr. Mackenzie has a long way to go—he thinks that, in his first effort to say it was about to rain in Japanese, he told colleagues he was going to jump out the window. But the ambitions that he and thousands of new students share are good news for language schools and the colleges and universities that provide continuing education for adults. Income from language courses is up sharply. New York University, for example, receives about $900,000 in revenues from its courses, which range in price from $280 to $450, compared with $566,000 five years ago.

The Modern Language Association says that the most dramatic increase has been in the interest of American students in Asian language courses. The number of students studying Japanese increased 45.4 percent, to 23,454, from 1983 to 1986, the association said. The number studying Chinese increased 28.2 percent, to 16,891, in the same period.

"I think the trend is overwhelming," said William F. Cipolla, director of N.Y.U.'s foreign language and translation studies program. "There's quite a shift from the traditional European languages to Asian languages."

Interest in the far more widely studied European languages like French and Spanish also increased. The Modern Language Association reported that between 1983 to 1986, the number of people studying Spanish increased 6.5 percent to 411,293, and the number studying French grew 1.9 percent, to 275,328.

The students in Mr. Creadore's N.Y.U. class included teachers, flight attendants and engineers. Some members of the class were scheduled to go to Japan almost immediately for their company. But many could not cite a particular need for the language, only a sense that speaking Japanese would be helpful in the future.

For instance, Jean Busatti, a high school department head who has been teaching for 27 years, said she was considering a career change "into business on the management level." She is already fluent in Spanish, French and Italian, but wants Japanese, too.

"I feel that in the business world today that would be a plus," she said.

Many people who are rushed for time may take a two-week intensive course like N.Y.U.'s class in "survival Japanese." Students learn to speak simple sentences like, "I think this is pretty," but not much more than that, said Miyoko Tum Suden, who teaches Japanese at N.Y.U.

SENDING TEACHERS TO COMPANIES

Because much of the new interest comes from the business world, some schools are adding programs that will send teachers out to company headquarters. Berlitz and the Bilingual Corporation both send instructors to companies to teach small groups of employees.

N.Y.U. says it is considering such a program for fall 1989 that would allow instructors to go to corporate offices and teach on location for an hour a few times a week.

"My gut feeling is that there is a great need," Dr. Cipolla said.

In many cases, the courses not only teach language but business etiquette. For instance, Bilingual's 20-day intensive program in Japanese includes instruction on how to present business cards, when to give invitations and when to bow rather than shake hands.●

BRUCE LEONARD OF NEW MEXICO

● Mr. BINGAMAN. Mr. President, I rise with pleasure today to commend a man whose dedication and hard work have been invaluable assets to my home State of New Mexico. The man I speak of is Dr. Bruce Leonard, an employee of the Indian Health Service. Until recently, we New Mexicans had the good fortune of having Dr. Leonard working for us—as executive director of HealthNet, New Mexico—and we are healthier and happier because of his service.

HealthNet is an innovative, privately funded organization that Bruce and I helped to create some years ago to encourage New Mexicans to lead healthier lifestyles. As overseer of that statewide program of education, encouragement, and support for better health practices by people in our State of all ages, Bruce has enriched the lives of thousands. Indeed, during its first year, HealthNet reached more than 44,000 people in 620 worksites and some 60 communities. This year, with a program that focuses on three key components of good health—better nutrition through "Eat Right New Mexico," physical fitness through "Get Fit New Mexico," and cessation of tobacco use with "Tobacco Free New Mexico"—many thousands more New Mexicans are on their way to sounder minds and bodies.

Some of these people undoubtedly would have made these important lifestyle changes without HealthNet or Bruce Leonard. But many would not. To them, HealthNet and its simple lessons for healthy living are invaluable. And to HealthNet itself, Bruce has been invaluable. His expertise, leadership and energy since its conception have been central to HealthNet's success.

As a commissioned public health service officer on loan from IHS, Bruce brought to HealthNet considerable experience with a national scope. His many writings on topics relating to weight control and community fitness serve as a foundation for HealthNet's philosophy: A healthy life is essential to a productive and satisfying one.

Long before HealthNet became a reality, Bruce was putting his theories and philosophies into practice. One notable example is his involvement with the nationally recognized effort to increase fitness and reduce the high incidence of diabetes among the members of the Zuni Pueblo in New Mexico.

We in New Mexico are truly indebted to Bruce, and it is with mixed feelings that I mark his resignation from HealthNet. Fortunately, the loss to HealthNet is not a loss for New Mexico, as Bruce will be returning to IHS to further service an important part of New Mexico's population, the native American community. I wish him every success with his new challenges and all future endeavors.●

ORDER OF BUSINESS

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

THE CALENDAR

Mr. BYRD. If the distinguished Senator will indulge me just an additional minute, I wonder if we could do the morning business items that we have ready.

UNITED STATES CODE AMENDMENT

Mr. BYRD. Mr. President, there is an item on the calendar, I believe, which is under the rule 14 procedure. If there would be no objection, I would hope that the Chair could proceed with that item at this time without waiting until the morning business is closed, and I make that request.

The PRESIDING OFFICER. The clerk will read H.R. 3763 for the second time.

The assistant legislative clerk read as follows:

An act (H.R. 3763) to amend title 28, United States Code relating to foreign sovereign immunity with respect to certain activities of foreign governments, and for other purposes.

Mr. BYRD. I object to any further proceedings at this time on that measure.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

SOUTH AFRICA SANCTIONS

Mr. BYRD. Mr. President, I understand that the Senate has now received from the House of Representatives H.R. 1580, the South Africa sanctions bill. On behalf of Mr. KENNEDY I ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

An act (H.R. 1580) to prohibit investments in and certain other activities with respect to South Africa, and for other purposes.

Mr. BYRD. Mr. President, I ask that the bill be read the second time.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. There is objection. The bill will remain at the desk pending the second reading on the next legislative day.

Mr. BYRD. Mr. President, I do not want to impose on the distinguished Senator from Illinois further. I thank him for yielding.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

REPORT TO THE SENATE

FACTFINDING VISIT TO SOUTH AFRICA, BOTSWANA, AND MOZAMBIQUE

Mr. SIMON. Mr. President, during the August recess, I spent 5 days in South Africa and, also, briefly visited Botswana and Mozambique. I was joined on this trip by Congressman RICHARD LEHMAN of California, a House colleague of above average leadership potential. Our main purpose was to understand the South Africa situation better and to communicate to the leaders the genuine concerns we have for the future of that nation and her people.

A nation of 5 million whites, 25 million blacks, and almost 4 million categorized as Asian or coloured, South Africa is blessed with a marvelous climate and natural beauty, but a people perhaps more deeply divided than in any nation in the community of nations.

Visiting South Arrica is both encouraging and discouraging.

Encouraging, because there are people of good will in all the racial groupings. There are people in that rich nation who understand the critical problems South Africa faces, though their voices do not dominate decisionmaking.

Encouraging because the democratic majority in South Africa want a nonracial society to emerge, and want it to come about peacefully.

Encouraging, because of the industrial and business base of the country, not growing now as it could be, because of failure to confront reality, but a cause for long-term hope, nevertheless. South Africa has the most highly developed industrial complex of any nation on the continent. I add one word of concern: The business community must provide greater leadership. Some remarkable things have happened, but it is also true that timidity is not an unknown quantity in the business community—an understandable timidity, because they could suffer so much at the hands of the government. But they also will have huge losses if reality is not faced. Greater courage by business leaders is both warranted and needed.

Encouraging, because of the willingness of many South African whites to privately assure visitors that apartheid must go, and encouraging because more and more blacks and whites are speaking out publicly.

Encouraging, because educational opportunities at the university level are growing for all South Africans, including black South Africans.

Encouraging, because the religious leaders of South Africa—such as Archbishop Desmond Tutu, Archbishop Dennis Hurley, Rev. Alan Boesak, Prof. Johan Heyns, Rev. Frank Chikane, and Father Smangaliso Mkhatshwa and others increasingly, are speaking out against the injustice of apartheid.

Encouraging, because the trade union movement in South Africa has emerged with black leaders unafraid to call for equal opportunities for all South Africans.

Encouraging, because there is an increasing number of business leaders who understand that the only alternative to peaceful change is violent change.

But, discouraging is the understandable despair and hopelessness of so many blacks, and the understandable fears of so many whites.

Discouraging are the living conditions and educational opportunities of blacks in Soweto Township, Crossroads Township, and Mamelodi Township—the three townships I visited—and the other black townships and homelands I heard about.

Discouraging is the unwillingness of people in key positions in the Government to seize the opportunity to bring justice to South Africa.

Discouraging, because in the year 1988, a nation that prides itself on its Christian-Judeo heritage, still does not permit a single black to vote, not a single black to sit in Parliament, and not a single black to sit in the courts of justice as a judge, in a system that does not provide trial by jury.

Discouraging in that there is greater likelihood of meaningful dialog between the leaders of the South African white community and the real leaders of the South African black community outside of the nation rather than within South Africa.

Discouraging in the reality that South Africa today is an intensely polarized society—far beyond anything we have known in the United States in recent decades—with most whites having no real comprehension of the conditions under which blacks live and no understanding of their hopes and dreams. And, where there is no understanding, that vacuum is filled by fear and hatred.

Discouraging, because a nation that likes to consider itself a Western, civilized nation has a state of emergency that permits detention of people in prison at whim, and suppresses and discourages free expression of news coverage and of opinion.

Discouraging, because South Africa has more political prisoners than almost any nation.

Discouraging, because in addition to an overzealous security force, there exists a group called, by themselves and by the government, vigilantes, with all the power to abuse a system of justice that name implies.

Discouraging, because press freedom is limited. The week I was in South Africa, every copy of Newsweek magazine had Nelson Mandela's picture carefully cut out. How can the publication of Nelson Mandela's picture in Newsweek possibly threaten a government, unless that government fears its people?

And, for my colleagues here, this is the Newsweek magazine. I do not know if you can see it from there, Mr. President. This is the Newsweek magazine with Nelson Mandela's picture carefully cut out of every Newsweek magazine for last week. It is a strange system indeed when you have press censorship.

Those in Pretoria who say that South Africa needs improved public relations are correct, but that improvement will not come with some slick public relations campaign, nor with suppression of the news, nor with suppression of a people. When South Africa changes the substance of its policy, it will change its public image.

South Africa is drifting toward bloodshed that will dwarf the bloodshed of the Iran-Iraq war, that will exceed anything the world has known since World War II, but it can yet be avoided.

South Africa needs courageous government leadership, leadership that looks more to the approval of history than to the immediate approval of the electorate, though such a leader might be surprised to find more support from the electorate than he anticipates. South Africa needs an Anwar Sadat, a leader of uncommon courage and vision. Who that will be, I do not know. Whether such a leader will emerge, I do not know. If, 6 months prior to President Sadat's dramatic moves, someone would have suggested the possibilities of what he might do, few would have believed it possible. I certainly would not have. Can the current President, P.W. Botha, be such a leader? I do not know. Are there others who might emerge? I do not know.

What I do know is that at the present time, South Africa is in a similar situation to the United States before the Civil War, deeply divided on the issues of race. Prior to the Civil War, we had the misfortune of having as our President, James Buchanan, who danced around the edges of the fundamental problem, rather than attacking it. And the Nation paid dearly with the loss of millions of lives for that vacuum of leadership. Today, South Africa has leadership that dances around the edges of the fundamental problem, but does not attack it. Whether history will be repeated, I do not know, but it is clear that disaster is the present course, just as it is equally clear that disaster can be avoided.

No one who has visited South Africa for 5 days can claim expertise—even though we visited a broad spectrum of people.

But no one who has seen what is happening in South Africa, who has even a limited understanding, should remain silent.

There are steps that must be taken—and can be taken—without causing political chaos.

First, the leaders of the Government, together with some other representative white leaders, should meet with the real black leaders of South Africa, to discuss their mutual problems candidly, but, primarily, to jointly select a mediator who could work with both sides to bring about an agreement. In theory, a mediator is not necessary, but the chasm is so deep that divides people today that I doubt agreement can be reached without such a person or persons. Ideally, it could be someone from South Africa, though I have doubts that that is now possible. It might be Henry Kissinger or General Obasanjo or Andrew Young or any number of other possibilities or a team of three designated people. It should be someone who initially shuttles back and forth between the two sides, who gets a good feeling for what is possible and where the two sides might find compromise—and blacks and whites, alike, must understand that both sides must compromise, or both sides will lose and lose tragically.

Then, practical steps must be taken that will build for the future. The first step must include the release of all political prisoners and the freedom for organizations to meet and express their views. This must be accompanied by two essential actions:

First, an immediate cessation of the Population Registration Act and the Group Areas Act that are the bases of apartheid. These are the laws that require all South Africans to register by race, and designate where people can live. Repeal of these laws will not overnight change residential patterns, will not suddenly bring about a dramatically different society. But the repeal of these laws, like the repeal of segregation laws in the United States, will permit greater opportunity for all South Africans, and

Second, a strong commitment to protect basic civil liberties for all South Africans, including freedom of speech, freedom of assembly, and freedom of the press; and no arbitrary detention.

South Africa has neighbors from whom she can learn much: one is Botswana. On a scale of 1 to 10 today, with 1 being the most repressive dictatorship and 10 being a high degree of sensitivity to the basic freedoms that should be preserved for people, I would give Botswana a grade of 10. When I was in South Africa, I heard over and over from white South Africans that the blacks cannot govern effectively. Unfortunately, there are too many examples of repressive governments in Africa. But a government that is much less repressive than the administration of South Africa, much more free in every respect, is the Government of Botswana run by black Africans. It is no accident that Botswana has experienced a substantially greater percentage increase in economic growth than has South Africa. Unless there are changes in South Africa, that difference, in both basic freedoms for people and economic growth, will continue to expand.

With those basics in place, South Africans must develop structural changes in the Government that recognize the rich potential of that nation, if the resources and talents of all her people are utilized. The structure might include:

First, a series of steps to give the nation a bicameral legislative body, fashioned somewhat on the U.S. model.

The one house, like our Senate, could be based on geography. It could initially be structured so that whites have a greater voice than their numbers justify, just as some geographical regions in the United States have more voice than others. Alaska with 500,000 people has the same number of Senators as California—and I see the Senator from California on the floor—with 24 million people. As freedom of movement is established in South Africa, inevitably over time there will be shifting patterns in the voting in these geographical units. But whites who have great fears would be assured an initial voice in the government and in the future of South Africa. That voice and contribution are needed. South Africa must become a truly nonracial society with all South Africans fully participating and contributing, if that nation is to achieve her full potential. The second house would be based on population. A new transitional parliament must include blacks in an equitable way.

Second, the judiciary must be opened immediately to qualified nonwhite candidates.

Third, the nation's chief executive should be selected, either by the people in a direct election, or by the two houses of the legislative body.

These are ideas, not a plan. They are suggested simply to help launch the dialog. But the dialog must take place. The political conversation in South Africa must shift from whether apartheid is going to go to how it is going to go.

But the plan must emerge from South Africans themselves, not from a United States Senator or anyone else outside of South Africa.

What is needed in the immediate future—before the government is likely to act—is an informal meeting—without significant government representation because they would decline to participate—somewhere outside of South Africa, with key whites and representatives of the majority of the people.

One person I met in South Africa who commands enough respect to launch such a meeting is Anton Rupert, one of the world's leading businessmen. I am sure there are others. I have not discussed this idea with him, and he will be totally surprised when he learns of this speech. If he were to undertake this successfully, it would be by far the most significant contribution he would make in his illustrious lifetime. But someone must lead. Right now that leadership is not likely to come from the government.

The meeting should last several days. From it should emerge the outline of the kind of government that South Africa might eventually have and what steps should be taken to achieve it. Over time, the outline will be changed substantially, but the plan presented can help shift the dialog to the practical steps that must be taken if South Africa is not going to explode.

Negotiation on those steps must take place between whites who have power and legitimate leaders of the blacks. The question is not whether such negotiations will take place. The only question is whether such dialog will occur before massive violence, or after such senseless slaughter. Let no South African leader fool himself or herself into believing otherwise.

The immediate policy problem we face in the United States is whether sanctions should be tightened. I see no alternative at this time. When and if the Government of South Africa sends strong signals to the international community that change is coming, I will be among the first to request that sanctions be removed. Those signals must include at least two things: First, the start of a meaningful dialog between the Government of South Africa and the significant leaders of that country. At some point, that must include the leadership of the African National Congress. Second, I do not expect apartheid to disappear tomorrow, but I do expect a timetable with a series of specific steps that will be taken to remove this scourge of injustice from South Africa.

Sanctions send a strong, clear signal to the business community that change must come. Two elements changed the laws of segregation in our country: religious leadership and the business community leadership. Then political action followed. In South Africa the religious leadership, and the university leadership, is generally trying to move that nation toward peaceful change and a just society. The businesss community must join that battle more forcefully. I recall the day the Birmingham [AL] Chamber of Commerce adopted a resolution calling for the elimination of segregation in the South. It was like a church bell ringing at midnight. We all sensed something significant had happened. Sanctions send a message to the South African business community in the only effective way possible, and the message is a simple one: We need your leadership.

No one can guarantee that sanctions will work. What we do know is that doing nothing other than occasional pious pronouncements will not work. Wishing injustice away does not remove injustice.

I hope that both political parties in our country can join in taking steps to help remove the plague of injustice in South Africa, just as both parties joined in that effort in the House. The cause of justice should not be a partisan issue. And the cause of justice can best be promoted by encouraging increasingly strengthened sanctions.

For sanctions to be effective, other nations must join in the effort, and I have reason to believe others in the community of nations are seriously considering this. They not only share our concerns of conscience, but some of them could face severe problems if uncontrolled bloodshed erupts. There are, for example, over 500,000 people in South Africa with British passports. The British have much at stake here, both for reasons of heritage, and to avoid potentially large domestic problems.

In my discussion with the South African foreign minister on sanctions, he said that sanctions are wrong because they will destroy South Africa. "South Africa," he is fond of saying, "is like a zebra. You cannot kill only the white parts of the zebra without also killing the black parts." He is partially correct in his zebra analogy. But it is also true that you cannot repress and unfairly subjugate the black parts of South Africa without also repressing and unfairly subjugating the white parts of South Africa. When freedom of expression is limited, it is not simply to those who are black. When a short-sighted policy restricts the contribution that the majority can make, it is the entire economy that suffers.

If there were a fairer, more effective way of sending a signal of disapproval to South Africa, other than sanctions, I would seize it. But those who oppose sanctions have not provided that meaningful alternative.

Do not permit history to make this judgment of us: Too little, too late.

Several business leaders spoke to me of the rich potential of the southern African region, if apartheid can be shaken off the back of South Africa.

They are correct. Post-apartheid South Africa—if that status is achieved peacefully—will experience an unbelievable prosperity. But change is essential, though I would add that it is not only South Africa that must further develop her potential.

On this trip I also visited Botswana and Mozambique. Botswana is a nation that is developing her economy and, at the same time, protecting the liberties of her people. Mozambique faces the problems of brutal atrocities and destabilization caused by Renamo—significantly referred to as "the bandits" by the people of that nation—and in my visits with the leaders in Mozambique, I sensed a strong desire to move that nation ahead, including giving greater voice to the people.

President Chissano, with whom we had a fine visit, appears determined to follow such a course, and the United States and other nations should do all we can to encourage the pursuit of that policy. Faced with governing a country when they had only 40 college graduates in the entire nation at the time of independence, the Mozambican people have struggled to gradually lift themselves. I was impressed with the quality of leaders I met and the potential of that nation. The rigid theories of Marxism are gradually being abandoned, and practicality is replacing theory. I trust that part of the future for Mozambique is a great role of participation for all her people, in freedom.

Our visit with President Masire, of Botswana, and other leaders there, in some ways, was the highlight of the trip. Their remarkably successful leadership is a shining example for recently independent nations everywhere. Botswana is ready for a regional development that can surpass everyone's expectations. Mozambique cannot be called ready yet, but she is preparing herself. Other front-line states are doing likewise.

But the key remains the giant of that area, South Africa. Will government leaders with vision and courage emerge? The people of that region and the people of the world await that answer with great concern but, also, with hope.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The acting majority leader.

ANTI-APARTHEID ACT AMENDMENTS OF 1988

Mr. CRANSTON. Mr. President, I appreciate very much the remarks of the distinguished Senator from Illinois, who shares my views and those of many other Americans on apartheid and the abomination that is practiced in South Africa. I think it is great that the Senator made a trip to see firsthand the situation of South Africa, and returns to the Senate with the additional insight that he has shared with us today, strengthening the hands of those of us who are hoping to move legislation, now, that will carry us still further forward in combating apartheid, and make plain to the world our position against it and, we hope, be persuasive, finally and at long last, to those who presently rule South Africa, that changes must come there.

It is for these reasons, for the reasons that the Senator from Illinois has just expressed and for others, that I am today reintroducing South Africa sanctions legislation which closely tracks legislation I introduced last year.

The measures I am advancing today, cosponsored by Senators KENNEDY, WEICKER, SIMON, DODD, ADAMS, and LEVIN, would curb virtually all United States trade with apartheid South Africa and require most United States firms to disinvest from operations in that nation. This bill, which is very similar to the measure which passed the House on August 11, will be considered at a markup of the Senate Foreign Relations Committee at 10 a.m. tomorrow.

It is time for the Senate to move on strong and effective legislation to combat the evil of apartheid. This issue is not new to any Member of the Senate. The House has passed a strong bill designed to penalize those who maintain a monopoly on political and economic power in Pretoria, and to increase the costs of maintaining apartheid. I have put together a similar measure—working with my colleagues Senators KENNEDY, WEICKER, and SIMON—which we will consider in markup in committee tomorrow. In most respects, the Cranston-Kennedy-Weicker-Simon bill is identical to the House passed measure. Minor changes have been made in the provision governing intelligence cooperation, the transshipment of fish products and trade in diamonds whose country of origin is unclear. None of the central features on trade and disinvestment have been changed in any way.

As the Senate prepares to consider this measure, I want to make sure one point is clear on the record. This little secret is that "constructive engagement" lives. Yes, this thoroughly discredited Reagan administration policy remains in place. We have heard from Reagan officials in numerous hearings about why the "trickle down theory" is still South African blacks' best hope for progress toward freedom. We have heard about why we need to maintain economic ties with the apartheid regime, why we need to remain fully engaged in a meaningful dialog with a repugnant government. We have even heard testimony offered—with a straight face—questioning the efficacy of economic sanctions against South Africa. This from the same administration which enforces sanctions against Nicaragua so vigorously that jeeps with baby food are prevented from driving south across the Mexican border, and this from the same administration which has reported in writing that the 1986 Anti-Apartheid Act's sanctions "registered an important message to the white South African community, and have contributed to our efforts to broaden our contacts with black opposition groups."

It is time for us now to take more meaningful action, to put in place some economic penalties that make clear that our Government will no longer tolerate Americans profiting from apartheid.

Last year I introduced S. 556, which calls for disinvestment and strict trade curbs against the apartheid regime in South Africa. I proposed that legislation because I felt the 1986 comprehensive sanctions bill did not go far enough in pressing for an end to the repugnant practice of apartheid. The South African regime has managed to circumvent several provisions of that modest 1986 law by exploiting loopholes. Provisions of the law have suffered because of weak enforcement by the Reagan administration. And other nations have taken advantage of U.S. sanctions because the President has not pursued a multilateral approach to combating apartheid, as Congress recommended in 1986.

In the meantime, South Africa has increased its repression—silencing peaceful dissenters, jailing thousands of young children, imposing a press blackout, and destabilizing other governments in the region. The South African regime has renewed and maintained its state of emergency decree, giving us little reason to hope that progress is in sight. Moreover, South Africa continues to spread the terror beyond its borders, supporting the brutality of Renamo in Mozambique, retaining its illegal control of Namibia, and, the evidence seems clear, attempting to murder its opponents in exile abroad.

Because the press has been so effectively silenced in South Africa, this horror is no longer a regular item on the United States nightly news. Perhaps this lack of information has led some to believe that the fight against apartheid is no longer a priority. But if we fail to focus on South Africa we will, in essence, allow the South African regime to declare victory—their strategy of preventing the news media from fully reporting events there will have worked. We must not let this happen. We have a moral obligation to continue to press for freedom for all South Africans. Under terms of the 1986 legislation, we are now obligated by law to recommend additional steps to curb sharply our economic relations with the South African regime. The bill we passed in 1986 over the President's veto says that—

> It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within 12 months of the date of enactment of this act in ending the system of apartheid and establishing a nonracial democracy.

The situation in South Africa has hardly improved. It has, in fact, become far worse. The legislation we are introducing today will take the required next step. This measure will close the loopholes, broaden the scope of the sanctions, and require negotiations with industrialized democracies to ensure a strong, multilateral approach to resisting apartheid in South Africa.

The extent to which we as a nation choose to do business with the racist regime in South Africa boils down to a moral issue. Whose side are we on? How do we demonstrate our support to the forces of democracy in South Africa? These are the issues.

While these are moral issues, there is no question we are dealing with critical strategic interests in southern Africa as well. We must develop a strong relationship with the black leaders who will one day have a strong voice in governing South Africa. We must also find a way to convince the white minority that we will resume normal relations once progress is achieved, and that we will seek to protect their political rights under majority rule. We must make clear our commitment to human rights, democracy, and freedom for all South Africans, black and white.

Mr. President, I ask unanimous consent that a summary of my legislation be printed in the RECORD, together with a comparison with the House-passed bill and the full text of the measure we are introducing today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR PROVISIONS OF S. 2756

Investment.—Prohibits purchase, acquisition, ownership, or holding of any investment in South Africa, except for: (1) investments in enterprises controlled and at least 90 percent owned by disadvantaged South Africans by apartheid; and (2) investments which individuals are unable to dispose of because of South African laws (ex. emigrant non-resident assets).

Requires U.S. firms to negotiate terms of disinvestment with employee unions or representatives.

Effective 180 days after enactment. One-time, 180 day Presidential waiver. (Sec. 101 (a)).

Exports.—Prohibits the export or re-export to South Africa of any goods or technology subject to U.S. jurisdiction; except for: (1) audio and visual communication media; (2) humanitarian donations; (3) commercial sales of agriculture products; (4) news media equipment and technology; (5) economic or human rights assistance to disadvantaged South Africans; and (6) contributions to certain types of charitable organizations.

Effective 180 days after enactment. (Sec. 101(b)).

Energy.—Prohibits U.S. persons from directly or indirectly transporting crude oil or refined petroleum products to South Africa.

Effective upon enactment.

Prohibits granting of U.S. mineral leases to any U.S. company which has investments in South Africa or exports oil or petroleum products to South Africa.

Effective 180 days after enactment. (Sec. 102(a)).

Nuclear Assistance.—Prohibits the Secretary of Energy from authorizing any person to engage, directly or indirectly, in the production of special nuclear materials in South Africa. (Sec. 103).

Intelligence and Military Cooperation.—Prohibits U.S. Government agencies from cooperating in intelligence gathering with the South African Government except for (1) those activities which are reasonably designed to facilitate the collection of necessary intelligence and (2) information concerning military activities and equipment of Cuban and Soviet military forces in southern Africa.

Prohibits the U.S. Government agencies from providing any intelligence to the South African Government relating directly or indirectly to the South African opposition or other Southern African countries.

Urges President to cut off exchange of military attaches. (Sec. 104).

Sanctions Coordination.—Establishes the position of Coordinator of South Africa Sanctions within the Department of State to coordinate and monitor compliance and enforcement of sanctions.

Establishes the Interagency Coordinating Committee on South Africa composed of the Secretaries of: State, Treasury, Defense, Commerce, Agriculture, the Attorney General, the U.S. Trade Representative to coordinate and monitor implementation of sanctions legislation. (Sec. 105).

Namibia.—Adds granting of independence to Namibia as one of the conditions to be met for the termination of sanctions. (Sec. 106).

Disadvantaged South Africans.—Amends the Foreign Assistance Act to provide for up to $40,000,000 annually in ESF for disadvantaged South Africans; earmarks not less than $4,000,000 of this for refugee education and assistance for South Africans and Namibians.

Effective October 1, 1988. (Sec. 108).

Sense of Congress Regarding Anti-Trust Investigation of South African Diamond Cartel, Study of Diamond Origins, and Enforcement of Prohibition on Importation of South African Diamonds into the United States. (Sec. 109).

Gold Study.—Directs the President to investigate and report to Congress on possible U.S. actions to reduce South Africa's foreign exchange earnings resulting from the sale of gold. (Sec. 110).

Terrorism Report.—Directs the Secretary of State to report to Congress on the extent of South African involvement in international terrorism. (Sec. 111).

Imports.—Prohibits the import of any article grown, produced, extracted, or manufactured in South Africa and any article marketed by a South African parastatal; except for (1) strategic minerals; (2) audio/visual media; and (3) imports from business enterprises owned by victims of apartheid.

Effective 180 days after enactment. (Sec. 201).

Multilateral Measures.—Directs the President to enter into negotiations with other nations to reach cooperative agreements on the imposition of sanctions and to report on these efforts to Congress, and to pursue sanctions similar to those imposed by the U.S. at the U.N.

Effective 180 days after enactment. (Sec. 202 (a)&(b)).

Directs the President to retaliate against foreign firms taking advantage of U.S. sanctions by limiting the import of that firm's product or service or prohibiting U.S. agencies from contracting with that firm.

Effective 180 days after enactment. (Sec. 202 (c)).

CMEA.—Directs the President to prepare a report every 30 days on the average amounts of critical material imported to the United States from member countries and observers of the Council for Mutual Economic Assistance. (Sec. 204).

Strategic Mineral Dependency Study.—Directs the President to develop a program to reduce U.S. dependence on strategic minerals from South Africa and to report to Congress thereon. (Sec. 205).

Circumvention.—Directs the President to discuss with the frontline states measures to ensure the non-circumvention of U.S. sanctions legislation. (Sec. 206).

Violence.—Urges the President to: (1) denounce the use of violence by the South African Government and call for the termination of the nationwide state of emergency and the release of political detainees; (2) urge the African National Congress to condemn "necklacing" and to take action to end this practice; (3) state the United States does not condone violence as a political tool. (Sec. 301).

COMPARISON: HOUSE-PASSED BILL AND S. 2756

S. 2756, introduced by Senators CRANSTON, KENNEDY, WEICKER, SIMON, DODD, ADAMS, and LEVIN is identical to the House-passed bill except for the following six areas:

1. LOANS

Under both bills the prohibition on investments in South Africa includes loans. The House bill makes an exemption for a loan agreement entered into before April 20, 1988, as long as the terms of the loan are not changed. (Sec. 101(e)).

The Senate bill contains the same exemption but allows the loans to be rescheduled on an annual basis as long as rescheduling arrangements do not provide new credits or funds to the South African entity. (Sec. 101 (e)).

2. INTELLIGENCE AND MILITARY COOPERATION

The House bill prohibits all intelligence and military cooperation except for the sharing of intelligence on equipment and activities of Cuban and other Communist forces in southern Africa. (Sec. 104).

The Senate bill prohibits only intelligence cooperation, not military cooperation. It retains the exception in the House bill for intelligence-sharing on the activities of communist forces in southern Africa but adds a second exception for activities reasonably designed to facilitate the collection of necessary intelligence. (Sec. 104).

Both bills contain sense of the Congress language urging the President to cut off the exchange of military attaches between the U.S. and South Africa.

3. DIAMONDS

Both bills contain sense of the Congress language directing the President to ensure effective and rigorous enforcement of the prohibition on the importation of South African diamonds into the United States. (Sec. 109 in both).

The Senate bill makes minor changes in the House bill to clarify the language regarding the impact of the enforcement procedures on U.S. importers who unknowingly import South African-origin diamonds. Substantively, the provisions in the House and Senate bills are the same.

4. CONSULATES AND VISAS

The House bill contains sense of the Congress language urging the President to close two of South Africa's consulates, eliminate all honorary consuls, freeze the staffing of South Africa's embassy, and stating that U.S. visas should be granted to South Africans only after scrutinizing the South African Government's record of allowing South Africans, particularly those in anti-apartheid groups, to travel to the United States. (Sec. 111).

This language is deleted from the Senate bill.

5. PARASTATAL EXPORTS

The Senate bill adds language to Sec. 201 of the House bill to ensure that the ban on South African imports into the United States includes articles marketed by a South African parastatal organization. The definition of parastatal in the Senate bill is taken from the 1986 Comprehensive Anti-Apartheid Act.

6. FISH AND SEAFOOD PRODUCTS

The House bill specifies that the ban on South African imports includes fish or seafood stored in or shipped from South Africa. (Sec. 201). The Senate bill deletes this language.

S. 2756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Anti-Apartheid Act Amendments of 1988".

(b) REFERENCES.—References in this Act to "the Act" are to the Comprehensive Anti-Apartheid Act of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—SANCTIONS AGAINST INVESTMENT IN, AND EXPORTS TO, SOUTH AFRICA AND OTHER MEASURES (EXCEPT IMPORT RESTRICTIONS) TO END APARTHEID

Sec. 101. Prohibitions on investment in, and exports to, South Africa.
Sec. 102. Prohibition regarding involvement in the South African energy sector.
Sec. 103. Prohibition on nuclear assistance to South Africa.
Sec. 104. Prohibition on United States intelligence and military cooperation with South Africa.
Sec. 105. Coordinator of South Africa sanctions; inter-agency coordinating committee on South Africa.
Sec. 106. Independence of Namibia.
Sec. 107. Penalties.
Sec. 108. Assistance for disadvantaged South Africans.
Sec. 109. Sense of Congress regarding antitrust investigation of South African diamond cartel, study of diamond origins, and enforcement of prohibition on importation of South African diamonds into the United States.
Sec. 110. Study of measures to reduce South Africa's foreign exchange earnings from gold.
Sec. 111. Report on South Africa's involvement in international terrorism.
Sec. 112. Technical and conforming amendments.

TITLE II—SANCTIONS AGAINST SOUTH AFRICAN IMPORTS INTO THE UNITED STATES

Sec. 201. Prohibitions on imports from South Africa.
Sec. 202. Multilateral measures, including import restrictions, to dismantle apartheid.
Sec. 203. Referral in the House of joint resolutions pertaining to import restrictions.
Sec. 204. Reports on United States imports from member states of the Council for Mutual Economic Assistance.
Sec. 205. Program to reduce dependence upon importation of strategic minerals from South Africa.
Sec. 206. Preventing circumvention of United States import restrictions.

TITLE III—GENERAL PROVISIONS

Sec. 301. Policy toward violence in South Africa.
Sec. 302. Effective date.

TITLE I—SANCTIONS AGAINST INVESTMENT IN, AND EXPORTS TO, SOUTH AFRICA AND OTHER MEASURES (EXCEPT IMPORT RESTRICTIONS) TO END APARTHEID

SEC. 101. PROHIBITIONS ON INVESTMENT IN, AND EXPORTS TO, SOUTH AFRICA.

(a) PROHIBITIONS ON INVESTMENT.—Effective 180 days after the date of the enactment of this Act, section 301 of the Comprehensive Anti-Apartheid Act of 1986 (hereafter in this Act referred to as the "Act") is amended to read as follows:

"PROHIBITION ON INVESTMENT IN SOUTH AFRICA

"SEC. 301. (a) Subject to subsections (b) and (c), a United States person may not purchase, acquire, own, or hold any investment in South Africa.

"(b) The prohibition under subsection (a) shall not apply to any investment in a business enterprise owned and controlled by South Africans economically and politically disadvantaged by apartheid where after the investment such business enterprise is not less than 90 percent owned by, and is under the control of, South Africans economically and politically disadvantaged by apartheid.

"(c)(1) Notwithstanding subsection (a), any individual described in paragraph (2), may continue to own and hold investments in South Africa during any period and to the extent that such investments are considered South African emigrant non-resident assets and subject to restrictions on their transfer or disposition under the exchange control regulations of the Government of South Africa (promulgated pursuant to the Currency and Exchange Act of 1933 and as in effect on June 2, 1988) which limit the ability of such an individual to comply with such prohibitions under subsection (a).

"(2) An individual, for purposes of paragraph (1), is an individual who, on the date of the enactment of the Anti-Apartheid Act Amendments of 1988, is—

"(A) a former citizen or resident of South Africa; and

"(B)(i) a citizen of the United States; or

"(ii) an alien lawfully admitted for permanent residence in the United States.".

(b) PROHIBITION ON EXPORTS TO SOUTH AFRICA.—Effective 180 days after the date of the enactment of this Act, section 303 of the Act is amended to read as follows:

"PROHIBITION OF EXPORTS TO SOUTH AFRICA FROM THE UNITED STATES

"SEC. 303. (a) No goods or technology subject to the jurisdiction of the United States may be exported, or re-exported, to South Africa. No goods or technology may be exported, or re-exported, to South Africa by any person subject to the jurisdiction of the United States.

"(b) The prohibitions under subsection (a) shall not apply to—

"(1) publications, including books, newspapers, magazines, films, television programming, phonograph records, video and audio tape recordings, photographs, microfilm, microfiche, posters, and similar materials;

"(2) donations of articles intended to relieve human suffering, such as food, clothing, and medicine and medical supplies intended strictly for medical purposes;

"(3) commercial sales of agricultural commodities and products; and

"(4) goods and technology for use in the gathering or dissemination of information by news media organizations subject to the jurisidiction of the United States which provide an assurance to the Secretary of State that such goods and technology will not be used, leased, sold, or transferred to any South African entity.

"(c) The prohibitions under subsection (a) shall not apply to any goods that are the direct product of technology of United States origin under a written agreement entered into on or before April 20, 1988, and that are exported prior to the date which is one year after the date of the enactment of the Anti-Apartheid Act Amendments of 1988.

"(d) The prohibitions under subsection (a) shall not apply to—

"(1) economic assistance or human rights programs for disadvantaged South Africans, South African blacks or other nonwhite South Africans, or victims of apartheid in South Africa pursuant to the Foreign Assistance Act of 1961, the Export-Import Bank Act of 1945, or any other provision of law authorizing economic or human rights assistance programs; and

"(2) contributions to charitable organizations engaged in social welfare, public health, religious, educational, and emergency relief activities in South Africa.".

(c) WAIVER.—A person affected by the prohibition under section 301 of the Comprehensive Anti-Apartheid Act of 1986 (as amended by subsection (a)) may apply to the President for a one-time waiver of the prohibition. With respect to any applicant, the President may waive the application of section 301 for not more than 180 days after such section takes effect. Such waiver may be granted only for good cause. During any period of waiver under this subparagraph, the provisions of the Comprehensive Anti-Apartheid Act of 1986 as in effect before the date of the enactment of the Anti-Apartheid Act Amendments of 1988 shall apply and the President may not waive any such provision.

(d) REPEAL OF CERTAIN PROVISIONS OF THE ACT.—Effective 180 days after the date of the enactment of this Act, the Comprehensive Anti-Apartheid Act of 1986 is amended by striking sections 212, 304, 309, 310, 317, 318, 319, 320, 321, and 323.

(e) DEFINITIONS.—

(1) Paragraphs (3) and (4) of section 3 of the Act are amended to read as follows:

"(3) the term 'investment in South Africa' means—

"(A) a commitment of funds or other assets (in order to earn a financial return) to a South African entity, including—

"(i) a loan or other extension of credit made to a South African entity, or security given for the debts of an entity;

"(ii) the beneficial ownership or control of a share or interest in a South African entity, or of a bond or other debt instrument issued by such an entity; or

"(iii) capital contributions in money or other assets to a South African entity; or

"(B) the control of a South African entity in cases in which subparagraph (A) does not apply;

"(4) the term 'loan'—

"(A) means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including—

"(i) overdrafts;

"(ii) currency swaps;

"(iii) the purchase of debt or equity securities issued by the Government of South Africa or a South African entity on or after the date of enactment of this Act;

"(iv) the purchase of a loan made by another person;

"(v) the sale of financial assets subject to an agreement to repurchase;

"(vi) a renewal or refinancing whereby funds or credits are transferred or extended to the Government of South Africa or a South African entity;

"(vii) short-term trade financing, as by letters of credit or similar trade credits; and

"(viii) sales on open account in cases where such sales are normal business practice;

"(B) does not include any loan for which an agreement was entered into before April 20, 1988, nor a subsequent rescheduling of any such loan provided that any new rescheduling arrangements do not extend beyond one year at a time, and provided further that no new funds or credits are thereby extended to a South African entity or the Government of South Africa;".

(2) Section 3 of the Act is further amended by—

(A) striking "and" after the semicolon in paragraph (8)(B);

(B) striking the period at the end of paragraph (9) and inserting a semicolon; and

(C) adding at the end of such section the following:

"(10) the terms 'United States person' and 'person subject to the jurisdiction of the United States' mean—

"(A) any person, wherever located, who is a citizen or resident of the United States;

"(B) any person actually within the United States;

"(C) any corporation organized under the laws of the United States or of any State, territory, possession, or district of the United States; and

"(D) any partnership, association, corporation, or other organization, wherever organized or doing business, that is owned or controlled by persons specified in subparagraphs (A), (B), or (C) of this paragraph;

"(11) the terms 'goods' and 'technology' have the meanings given such terms by section 16 of the Export Administration Act of 1979;

"(12) the term 'goods subject to the jurisdiction of the United States' includes goods that are the direct product of technology of United States origin; and

"(13) the term 'foreign person'—

"(A) means any person who is not a United States person or subject to the jurisdiction of the United States, and

"(B) does not include any government or any agency or other entity or instrumentality thereof (including a government-sponsored agency) unless any such agency, entity, or instrumentality is a business enterprise.".

(3) The amendments made by this subsection shall take effect 180 days after the date of the enactment of this Act.

(f) Negotiations With Employee Organizations Regarding Termination of Investment.—A controlled South African entity, subject to the investment prohibition under section 301 of the Comprehensive Anti-Apartheid Act of 1986 (as amended by subsection (a)), that employs more than 24 South Africans—

(1) shall notify all South African employees and their employee organizations of such termination of investment not less than 90 days prior to such termination; and

(2) shall enter into good faith negotiations with representative trade unions, particularly those representing disadvantaged South Africans, (or with other representative worker organizations if there are no such unions) regarding the terms of a termination.

Negotiations shall include discussions and agreements concerning pension benefits; relocation of employees; continuation of existing union recognition agreements; severance pay; and acquisition of the terminated business or the business assets by representative trade unions, union-sponsored workers' trusts, other representative worker organizations, or employees.

SEC. 102. PROHIBITION REGARDING INVOLVEMENT IN THE SOUTH AFRICAN ENERGY SECTOR.

(a) Restrictions Regarding Involvement in the South African Energy Sector.—The Act is amended by adding after section 303 (as amended by section 101 of this Act) the following new section 304:

"RESTRICTIONS REGARDING INVOLVEMENT IN THE SOUTH AFRICAN ENERGY SECTOR

"Sec. 304. (a) A United States person may not, directly or through an affiliate, provide transport to South Africa of a commercial quantity of crude oil or refined petroleum products. The prohibition under this subsection includes transport on a vessel of United States registry and transport on a vessel owned, directly or indirectly, by a United States person.

"(b)(1) Effective 180 days after the date of the enactment of this subsection, the Secretary of the Interior may not issue any lease pursuant to the Mineral Leasing Act of 1920, the Mineral Leasing Act for Acquired Lands, the Outer Continental Shelf Lands Act, or the Geothermal Steam Act of 1970 to any national of the United States which is controlled by, or under common control with, any foreign person who—

"(A) purchases, acquires, owns, or holds any investment in South Africa; or

"(B) exports to South Africa, directly or indirectly, any crude oil or refined petroleum products.

"(2) Prior to issuing any lease referred to in paragraph (1), the Secretary of the Interior shall require an applicant for such a lease to certify that the applicant is not subject to the provisions of paragraph (1).".

(b) Waiver of Prohibition on Issuance of Leases.—A person affected by the prohibition under section 304(b) of the Comprehensive Anti-Apartheid Act of 1986 (as amended by subsection (a)) may apply to the President for a one-time waiver of the prohibition. With respect to any applicant, the President may waive the application of section 304(b) for not more than 180 days after such subsection takes effect. Such waiver may be granted only for good cause.

SEC. 103. PROHIBITION ON NUCLEAR ASSISTANCE TO SOUTH AFRICA.

Section 307 of the Act is amended to read as follows:

"PROHIBITION ON NUCLEAR ASSISTANCE TO SOUTH AFRICA

"Sec. 307. Notwithstanding any other provision of law, the Secretary of Energy shall not, under section 57 b. (2) of the Atomic Energy Act of 1954, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa.".

SEC. 104. PROHIBITION ON UNITED STATES INTELLIGENCE AND MILITARY COOPERATION WITH SOUTH AFRICA.

(a) Amendment to Comprehensive Anti-Apartheid Act of 1986.—The Act is amended by striking section 322 and adding after section 308 the following new section:

"PROHIBITION ON UNITED STATES INTELLIGENCE AND MILITARY COOPERATION WITH SOUTH AFRICA

"Sec. 309. (a)(1) No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence.

"(b) No agency or entity of the United States involved in intelligence activities may provide any intelligence information to the Government of South Africa which relates, directly or indirectly, to—

(1) a South African opposition group, movement, organization or individual, wherever based; or

(2) political, economic, or military conditions in any southern African country.

"(c) The prohibitions contained in subsection (b)(2) shall not apply to the conduct of diplomatic activities or to intelligence information concerning the military activities or equipment in southern Africa of Cuban military forces or the military forces of another Communist country acting in concert with Cuban military forces.

"(d) Any anticipated change in any form of cooperation with the Government of South Africa shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947.

"(e) No agency or entity of the United States may provide any information to the Government of South Africa for the purpose, or which have the effect, of assisting South Africa to evade any sanctions or prohibitions imposed by this Act.

"(f) Funds authorized to be appropriated or otherwise made available by the Congress (including funds specified in a classified schedule of authorizations or appropriations) may not be obligated or expended by any agency or entity of the United States for any expenses related to any cooperation prohibited by this section.".

(b) Amendment to Intelligence Authorization Act for Fiscal Year 1987.—Section 107 of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99-569) is hereby repealed.

SEC. 105. COORDINATOR OF SOUTH AFRICA SANCTIONS; INTERAGENCY COORDINATING COMMITTEE ON SOUTH AFRICA.

The Act is amended by adding after section 606 the following new sections:

"COORDINATOR OF SOUTH AFRICA SANCTIONS

"SEC. 607. (a) There is established within the Department of State a coordinator of South Africa sanctions who shall be responsible to the Secretary of State for matters pertaining to the implementation of sanctions against South Africa, in accordance with the provisions of this subsection.

"(b) The Secretary of State, through the coordinator of South Africa sanctions, shall—

"(1) lead and coordinate all executive agency activities concerning monitoring of compliance with, and enforcement of, this Act;

"(2) lead and coordinate monitoring by appropriate executive agencies of other countries' trade and financial flows with South Africa (including economic relations which may undermine the effects of United States sanctions);

"(3) assist the Department of Commerce, the Department of the Treasury, and appropriate intelligence and other agencies in carrying out the functions of such agencies under paragraphs (1) and (2); and

"(4) annually prepare and submit, on February 1 of each year after 1989, a comprehensive report to the Congress which—

"(A) describes specific actions taken during the preceding year by each affected executive agency to monitor compliance with, and enforce, the provisions of this Act;

"(B) describes the trade and financial flows (by commodity, activity, total volume, and value) during the preceding year between South Africa and each of its trading and financial partners, including economic relations which may be subject to penalties under section 402;

"(C) includes the information required under section 402(b)(3);

"(D) describes the resources utilized by the coordinator, the Department of State, and other executive agencies in carrying out their functions under this Act in the preceding year, including an evaluation of whether such resources were adequate; and

"(E) provides any recommendations of the Secretary of State for improving the effectiveness of the coordinator.

"(c) In carrying out the functions under subsection (b), the coordinator shall place particular emphasis on activities related to strategically important trade in oil, coal, computers, specialized machinery and arms, and to financial credits.

"INTERAGENCY COORDINATING COMMITTEE ON SOUTH AFRICA

"SEC. 608. (a) There is established an Interagency Coordinating Committee on South Africa. The Committee shall coordinate and monitor implementation of this Act.

"(b) The committee shall be composed of—

"(1) the Secretary of State,

"(2) the Secretary of the Treasury,

"(3) the Secretary of Defense,

"(4) the Secretary of Commerce,

"(5) the Secretary of Agriculture,

"(6) the Attorney General,

"(7) the United States Trade Representative, and

"(8) such other heads of executive agencies with functions under this Act as the President considers appropriate.

The Secretary of State shall be the chairperson of the Committee.".

SEC. 106. INDEPENDENCE OF NAMIBIA.

(a) ADDITIONAL MEASURE FOR TERMINATION OF CERTAIN PROVISIONS OF THE ACT.—Section 311 of the Act is amended—

(1) in subsection (a)—

(A) by inserting "402(a)," before "501(c)" in the matter preceding paragraph (1),

(B) in paragraph (4) by striking "and" after the semicolon,

(C) in paragraph (5) by striking the period and inserting "; and", and

(D) by adding after paragraph (5) the following new paragraph:

"(6) ends the illegal occupation of Namibia and implements United Nations Resolution 435 which calls for the independence of Namibia."; and

(2) in subsection (b)—

(A) by inserting "402(a)," before "501(c)", and

(B) by amending paragraph (2) to read as follows:

"(2) taken four of the five actions listed in paragraphs (2) through (6) of subsection (a), and".

(b) POLICY TOWARD THE GOVERNMENT OF SOUTH AFRICA.—Section 101(b) is amended—

(1) in paragraph (5) by striking "and" after the semicolon;

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding after paragraph (6) the following new paragraph (7):

"(7) end South Africa's illegal occupation of Namibia and implement United Nations Resolution 435 which calls for the establishment of an independent Namibia.".

SEC. 107. PENALTIES.

Effective 180 days after the date of the enactment of this Act, section 603(b) of the Act is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)";

(B) by adding at the end of subparagraph (A) (as so designated by subparagraph (A) of this paragraph) "and"; and

(C) by adding at the end the following new subparagraph:

"(B) any person, other than an individual that knowingly violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act, shall be fined not more than $500,000; and"; and

(2) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) any individual who knowingly violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act, shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.".

SEC. 108. ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.

(a) AMENDMENT TO FOREIGN ASSISTANCE ACT OF 1961.—Section 535(a) of the Foreign Assistance Act of 1961 is amended—

(1) by amending paragraph (1) to read as follows:

"SEC. 535. ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS.—(a)(1) Up to $40,000,000 of the funds authorized to be appropriated to carry out this chapter and any other economic development assistance activities under the Foreign Assistance Act of 1961, for the fiscal year 1989 and each fiscal year thereafter, shall be available for assistance for disadvantaged South Africans. Assistance under this section shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on nonracial principles. Such activities may include scholarships (including scholarships for study in the health care professions and the health sciences), assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise, alternative education and community development programs, and training and other assistance (including legal aid in challenging government media restrictions) for South African journalists.";

(2) in paragraph (2) by striking "programs for South Africa's trade unionists." and inserting "and other support programs (including legal assistance) for trade unions in South Africa and Namibia, including COSATU (Congress of South African Trade Unions), NACTU (National Council of Trade Unions), and NUNW (National Union of Namibian Workers), their affiliates, and other viable unions in order to develop a balanced assistance program which is representative of the trade union movement."; and

(3) by adding after paragraph (2) the following new paragraph:

"(3)(A) Not less than $4,000,000 of the amounts provided for each fiscal year pursuant to this subsection shall be available for programs of refugee education and assistance for South Africans and Namibians.

"(B)(i) Except as provided in clause (ii), funds provided pursuant to this paragraph—

"(I) may not be used for assistance to individuals who are residing in areas under the control of or administered by the South West Africa People's Organization (hereinafter referred to as 'SWAPO') or the African National Congress (hereinafter referred to as 'ANC'); and

"(II) may not be administered through SWAPO, the ANC, or any other group or individual affiliated with SWAPO or the ANC.

"(ii) The President may waive any limitation concerning the African National Congress (ANC) under clause (i) if the President determines that the ANC has provided assurances that it does not support any form of violence against individuals who are not members of the South African military or security services actually engaged in military or paramilitary operations against the ANC or other resistance organizations or if the President determines that it is in the national security interests of the United States.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1988.

SEC. 109. SENSE OF CONGRESS REGARDING ANTITRUST INVESTIGATION OF SOUTH AFRICAN DIAMOND CARTEL, STUDY OF DIAMOND ORIGINS, AND ENFORCEMENT OF PROHIBITION ON IMPORTATION OF SOUTH AFRICAN DIAMONDS INTO THE UNITED STATES.

It is the sense of the Congress that—

(1) the President should direct the Attorney General of the United States to conduct an investigation of the South African-controlled international diamond cartel in order to ascertain if any enforcement action is appropriate under the antitrust laws of the United States;

(2) the President should direct the Secretary of Commerce and the Commissioner of Customs to conduct a study to determine the feasibility of identifying at port of entry, without harm to producers and processors of diamonds outside of South Africa, the national origin of diamonds entering the United States; and

(3) the President should—

(A) ensure effective and rigorous enforcement of a prohibition on the importation into the United States of uncut diamonds of South African origin by—

(i) applying direct pressure on the Central Selling Organization in London to identify and segregate diamonds by country of origin and encouraging other nations (including diamond-producing nations) to take appropriate measures to achieve that result; and

(ii) entering into negotiations for agreements with the principal exporting nations of uncut diamonds to the United States (particularly the United Kingdom and Switzerland) to ensure that uncut South African diamonds will not be exported to the United States;

(B) ensure that the implementation of the import prohibition contained in section 302(a) of the Act and the enforcement measures described in this section do not interfere with the ability of any United States importer to import uncut diamonds whose origin is unknown to such importer, despite any unknowing importation of South African diamonds that may result; and

(C) direct the Secretary of the Treasury to submit a report on the status of the effort to identify and segregate uncut South African diamonds to the Speaker of the House of Representatives and the President of the Senate 180 days after the date of the enactment of this Act and every 180 days thereafter.

SEC. 110. STUDY OF MEASURES TO REDUCE SOUTH AFRICA'S FOREIGN EXCHANGE EARNINGS FROM GOLD.

(a) STUDY.—In consultation with other industrialized nations and international financial institutions, the President shall conduct a study of possible actions by the United States to reduce the foreign exchange earnings of South Africa which accrue through sales of gold. The President shall consider possible international and domestic consequences of any course of action and shall evaluate mechanisms to avoid or minimize any adverse effects on the United States gold mining industry.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress a report of the findings of such study.

SEC. 111. REPORT ON SOUTH AFRICA'S INVOLVEMENT IN INTERNATIONAL TERRORISM.

Not less than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit a detailed report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate concerning the extent to which, if at all, the Government of South Africa has been involved in or has provided support for acts of international terrorism.

SEC. 112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO THE TABLE OF CONTENTS.—

(1) The table of contents in section 2 of the Act is amended by amending the item relating to Section 108 to read as follows:

"Sec. 108. Policy toward violence in South Africa.".

(2) The table of contents in section 2 of the Act is further amended by amending the items relating to title III to read as follows:

"TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

"Sec. 301. Prohibition on investment in South Africa.
"Sec. 302. Prohibition on imports into the United States from South Africa.
"Sec. 303. Prohibition of exports to South Africa from the United States.
"Sec. 304. Restrictions regarding involvement in the South African energy sector.
"Sec. 305. Prohibitions on loans to the Government of South Africa.
"Sec. 306. Prohibition on air transportation with South Africa.
"Sec. 307. Prohibition on nuclear trade with South Africa.
"Sec. 308. Government of South Africa bank accounts.
"Sec. 309. Prohibition on United States intelligence and military cooperation with South Africa.
"Sec. 311. Termination of certain provisions.
"Sec. 312. Policy toward violence or terrorism.
"Sec. 313. Termination of tax treaty and protocol.
"Sec. 314. Prohibition of United States Government procurement from South Africa.
"Sec. 315. Prohibition on the promotion of United States tourism in South Africa.
"Sec. 316. Prohibition on United States Government assistance to, involvement in, or subsidy for trade with, South Africa.".

(3) The table of contents in section 2 of the Act is further amended—

(A) by striking the item relating to section 212;

(B) by amending the items relating to sections 402 and 502, respectively, to read as follows:

"Sec. 402. Limitation on imports from and contracting with certain foreign persons.
"Sec. 502. Reports on United States imports from member states of the Council for Mutual Economic Assistance."; and

(C) by adding after the items relating to section 606 the following items:

"Sec. 607. Coordinator of South Africa sanctions.
"Sec. 608. Interagency coordinating committee on South Africa.".

(b) CONFORMING AMENDMENTS TO THE ACT.—

(1) Section 602(a)(1) and 602(b)(1) of the Act are amended by striking "318(b),".

(2) Section 602(c) is amended by striking paragraph (2) and redesignating paragraphs "(3)" and "(4)" as paragraphs "(2)" and "(3)", respectively.

(3) Section 603(b) of the Act is amended by striking paragraph (4).

(4) Section 603(c) of the Act is amended by striking paragraph (2) and by redesignating paragraph "(3)" as paragraph "(2)".

(5) Section 501(c) of the Act is amended—

(A) by inserting "or other measures" after "additional measures"; and

(B)(i) by striking paragraphs (2) and (4);

(ii) by inserting "and" at the end of paragraph (1);

(iii) by striking "; and" and inserting in lieu thereof a period at the end of paragraph (3); and

(iv) by redesignating paragraph "(3)" as paragraph "(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

TITLE II—SANCTIONS AGAINST SOUTH AFRICAN IMPORTS INTO THE UNITED STATES

SEC. 201. PROHIBITIONS ON IMPORTS FROM SOUTH AFRICA.

(a) PROHIBITION ON IMPORTS.—Effective 180 days after the date of the enactment of this Act, section 302 of the Act is amended to read as follows:

"PROHIBITION ON IMPORTS INTO THE UNITED STATES FROM SOUTH AFRICA

"SEC. 302. (a) No article which is grown, produced, extracted, or manufactured in South Africa may be imported into the United States; and no article which is grown, produced, extracted, manufactured, or marketed by a parastatal organization of South Africa may be imported into the United States.

"(b) The prohibition of subsection (a) shall not apply to the import of—

"(1) any strategic mineral (including any ferroalloy thereof) with respect to which the President certifies to the Congress for purposes of this Act that the quantities of such mineral which are essential for the economy, public health, or defense of the United States are not available from alternative reliable suppliers; and

"(2) publications, including books, newspapers, magazines, films, television programming, phonograph records, video and audio tape recordings, photographs, microfilm, microfiche, posters, and similar materials.

"(c) The prohibition under subsection (a) shall not apply to imports from business enterprises in South Africa that are wholly-owned by persons economically and politically disadvantaged by apartheid.

"(d) The prohibition under subsection (a) includes—

"(1) uranium hexafluoride that has been manufactured from South African uranium or uranium oxide; and

"(2) fish or seafood—

"(A) processed on shore in South Africa or processed aboard South African-flag or South African-owned vessels, or

"(B) harvested by South African vessels and not incorporated as a part of a product in a third country or aboard a non-South African flag processing vessel.

"(e) For purposes of this section, the term 'parastatal organization' means a corporation, partnership, or entity owned, controlled, or subsidized by the Government of South Africa, but does not mean a corporation, partnership, or other entity which previously received start-up assistance from the South African Industrial Development Corporation but which is now privately owned."

(b) CERTIFICATION.—The certification of the President with respect to any strategic mineral under section 303(a)(2) of the Comprehensive Anti-Apartheid Act of 1986 (as in effect prior to the date of the enactment of this Act) shall be effective for purposes of section 302(b)(1) of such Act as amended by this Act, unless the President rescinds or modifies such a certification.

SEC. 202. MULTILATERAL MEASURES, INCLUDING IMPORT RESTRICTIONS, TO DISMANTLE APARTHEID.

(a) NEGOTIATING AUTHORITY.—

(1) Section 401(b) of the Act is amended to read as follows:

"(b)(1) The President, or at his direction, the Secretary of State (in consultation with the United States Trade Representative), shall, consistent with the policy under subsection (a), confer with the other industrialized democracies in order to reach cooperative agreements to impose sanctions against South Africa to bring about the complete dismantling of apartheid.

"(2) Before the 180th day after the date of the enactment of the Anti-Apartheid Act Amendments of 1988, the President shall submit a report to the Congress containing—

"(A) a description of United States efforts under paragraph (1) to implement multilateral measures to bring about the complete dismantling of apartheid;

"(B) his evaluation regarding whether the efforts described in subparagraph (A) have been successful in achieving multilateral measures to bring about the complete dismantling of apartheid; and

"(C) if the efforts described in subparagraph (A) have been successful, a detailed description of economic and other measures adopted by the other industrialized countries to bring about the complete dismantling of apartheid, including an assessment of the stringency with which such measures are enforced by those countries.".

(b) United Nations Sanctions.—Section 401(e) of the Act is amended by striking "It is the sense of the Congress that the President should" and inserting "The President shall".

(c) Limitation on Imports From and Contracting With Certain Foreign Persons.—Section 402 of the Act is amended to read as follows:

"LIMITATION ON IMPORTS FROM AND CONTRACTING WITH CERTAIN FOREIGN PERSONS

"Sec. 402. (a)(1) Subject to subsection (b), effective on and after the 180th-day after the date of the enactment of the Anti-Apartheid Act Amendments of 1988 (or the 360th day after such date if the evaluation of the President under section 401(b)(2)(B) is affirmative), to the extent that a foreign person takes significant commercial advantage of any sanction or prohibition imposed by or under this Act, the President shall impose not less than one of the penalties under paragraph (2).

"(2) The President may impose one or both of the following penalties under paragraph (1):

"(A) Limit the importation into the United States of any product or service of the foreign person.

"(B) Restrict the foreign person from contracting with departments, agencies, and instrumentalities of the United States Government.

"(3) For purposes of applying this subsection—

"(A) the European Community shall be treated as being a single industrialized democracy; and

"(B) any limitation imposed under paragraph (2)(A) shall, to the extent possible, offset the value of the significant commercial advantage obtained by the foreign person.

"(b)(1) The President may waive the application of subsection (a) with respect to foreign persons of an industrialized democracy that is party to an agreement that has entered into force with respect to the United States under section 401.

"(2) The President shall revoke, for such time and subject to such conditions as he considers appropriate, a waiver made under paragraph (1) if the President finds that the industrialized democracy that is party to the agreement in force under section 401 is not adequately enforcing the measures provided for under the agreement.

"(3) The annual report required under section 607(b)(4) shall include, with respect to the period covered by the report—

"(A) an evaluation of the extent to which the import restrictions, if any, provided for under each agreement in force under section 401 are being enforced by the industrialized democracy concerned and the effect of such enforcement; and

"(B) the reasons for each waiver and revocation made under paragraphs (1) and (2).".

SEC. 203. REFERRAL IN THE HOUSE OF JOINT RESOLUTIONS PERTAINING TO IMPORT RESTRICTIONS.

Section 602(a)(2) of the Act is amended to read as follows:

"(2)(A) A joint resolution, other than a joint resolution referred to in subparagraph (B), shall, upon introduction, be referred to the Committee on Foreign Affairs of the House of Representatives.

"(B) A joint resolution under—

"(i) section 311(b), if the joint resolution suspends or modifies any import restriction in effect under title III, section 402(a), 501(c), or 504(b);

"(ii) section 401(d), if the joint resolution approves an agreement encompassing any import restriction measure; or

"(iii) section 501(d), if the joint resolution would enact any import restriction under section 501(c);

shall, upon introduction, be jointly referred to the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives.".

SEC. 204. REPORTS ON UNITED STATES IMPORTS FROM MEMBER STATES OF THE COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE.

Section 502 of the Act is amended to read as follows:

"REPORTS ON UNITED STATES IMPORTS FROM MEMBER STATES OF THE COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

"Sec. 502. Beginning 30 days after the date of the enactment of the Anti-Apartheid Act Amendments of 1988, and every 30 days thereafter, the President, through the Secretary of Commerce, shall prepare and transmit to the Congress a report setting forth the average amounts of imports of coal or any strategic and critical material entering the United States from each member country and observer country of the Council for Mutual Economic Assistance (C.M.E.A.).".

SEC. 205. PROGRAM TO REDUCE DEPENDENCE UPON IMPORTATION OF STRATEGIC MINERALS FROM SOUTH AFRICA.

Section 504(b) of the Act is amended to read as follows:

"(b)(1) The President shall develop a program to reduce the dependence, if any, of the United States on the importation from South Africa of the materials identified in the report submitted under subsection (a). In the development of such program, the President shall determine (in consultation with knowledgeable individuals in industry, government, and academia) whether, to what extent, and in what time period, adequate quantities of such materials could reasonably be obtained from (A) alternative reliable domestic and foreign sources, and (B) improved and effective methods of manufacturing, substitution, conservation, recovery, and recycling. Such determination shall include consideration of the quality and cost of such materials.

"(2) Not more than 270 days after the date of the enactment of the Anti-Apartheid Act Amendments of 1988, the President shall submit a report to the Congress concerning the program under paragraph (1), particularly the respective roles in the implementation of such program of the Federal Government, users of such materials, and other affected persons. On February 1, 1990, and on February 1 of each subsequent year until the termination of sanctions under this Act, the President shall submit a report to the Congress concerning progress in implementing such program.".

SEC. 206. PREVENTING CIRCUMVENTION OF UNITED STATES IMPORT RESTRICTIONS.

Within 180 days after the date of the enactment of this Act and at such times thereafter as are appropriate, the President, or the designee of the President, shall confer with the governments of the African "frontline" states regarding the content and implementation of appropriate measures to prevent the circumvention by South Africa of the import restrictions on South African products placed in effect by the United States under the authority of this Act.

TITLE III—GENERAL PROVISIONS

SEC. 301. POLICY TOWARD VIOLENCE IN SOUTH AFRICA.

Strike section 108 of the Act and insert in lieu thereof the following:

"POLICY TOWARD VIOLENCE IN SOUTH AFRICA

"Sec. 108. (a) The Congress finds that—

(1) the use of violence for political purposes has increased over the last four years in South Africa;

(2) the South African Government has resorted to force as a means of stemming anti-apartheid protests and activities;

(3) the South African Government has maintained a nationwide state of emergency since June 1986 and granted the security and police forces widespread powers under state of emergency regulations;

(4) more than 30,000 people were detained in 1986 and 1987, many of them children under the age of 18, and several were the victims of torture and brutality at the hands of South African Government officials;

(5) over 500 South Africans died as a result of a heinous practice commonly known as "necklacing", in which an individual is executed by placing a tire filled with gasoline around the neck;

(6) violent clashes have occurred between supporters of different anti-apartheid organizations in South Africa, in some cases leaving hundreds dead; and

(7) a growing number of bombings have taken place, many of them claiming the lives of civilians in white areas.

(b) It is the sense of the Congress that the President should—

(1) denunciate the use of violence by the South African Government and call upon the South African Government to immediately terminate the nationwide state of emergency and release all detainees;

(2) urge the African National Congress to issue a clear condemnation of the practice of "necklacing" and to take effective actions against necklacing of any person in any country; and

(3) clearly state that the United States does not condone the use of violence as a means of achieving or thwarting political change in South Africa."

SEC. 302. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

Mr. WEICKER. Mr. President, I rise today to introduce with Senators CRANSTON and KENNEDY the House-passed version of the Anti-Apartheid Act Amendments of 1988. I believe this legislation to be the necessary next step in the fight against apartheid.

Apartheid is alive and uglier than ever in South Africa, if not as visible to the American people, owing to press censorship which worsens with each passing week. Lacking the fresh images on our nightly news, we find it harder to muster the sense of urgency required. Still, the tragedy unfolds. In fact, most supporters and opponents of sanctions agree that conditions are deteriorating. The two largest anti-apartheid newspapers, the New Nation and South, have been shutdown, while others have been threatened with like treatment. Some 30,000 individuals have been detained without charge. As many as 10,000 of them are children. Such detentions routinely involve physical assault and torture. Almost all antiapartheid organizations including the United Democratic Front [UDF] have been banned. The moderate antiapartheid leaders of the past are aging—many of them behind bars—and being replaced by younger, more radical leaders who have lost hope and are more willing to resort to desperate means to accomplish their ends.

The question that confronts us is what the U.S. role should now be—and this is where the disagreement begins.

Some of my colleagues are saying that we should repeal sanctions—that they have not worked and have actually hurt blacks and the possibility of reform in South Africa. To them, I respond that in 1986 the Congress redirected American foreign policy when we overrode a Presidential veto of the Comprehensive Anti-Apartheid Act. This legislation was not everything that I wanted, but it was a new direction and sent a message of hope to South African blacks. America stood up and said that we are on your side—the side of the majority of South Africa's people. That needed saying.

As to the repeated charge that sanctions hurt blacks by taking away jobs, I do not contest it any more than those who bear the burden of that loss contest it. Still, they support sanctions and so do I. In fact, moderate black leaders and organizations are calling for stronger sanctions. Archbishop Desmond Tutu, Rev. Alan Boesak, the South African Council of Churches, and COSATU and NACTU—the two largest black trade unions—want comprehensive international economic sanctions. To repeal this landmark legislation and return to the failed policy of "constructive engagement" would signal betrayal to them.

Others of my colleagues are not convinced that the Congress should take any more action on South Africa. It is true that the impact of the 1986 legislation has been much less than was hoped for—both the President in his report on the effectiveness of sanctions and the General Accounting Office in its report agree on that. Another study released recently by the Lawyers' Committee for Civil Rights under law reveals some of the reasons why. It criticizes the administration for its unwillingness to wholeheartedly implement the current sanctions, and further points out: "The current sanctions are selective often skirting the key pressure points in the South African economy." I urge those who question whether the track record of the first bill warrants further action to reconsider. I believe a close examination of the facts will convince them otherwise.

One failing of the 1986 law was that it gave the President an option with regard to multilateral measures to undermine apartheid. The current President has chosen to ignore his option. In the context of a superpower summit, he speaks volumes about the "dignity of the individual in the face of the modern state" and marvels at what people will "suffer to be free." Yet he fails to give the people of South Africa the same credit. One lost opportunity was the Toronto summit. This economic summit of the seven major industrialized nations has come and gone with only one statement on apartheid, which is—we abhor it. Well, this is just not enough. A few words mumbled between cups of tea are no substitute for concerted international action. With this in mind, this legislation calls on the President to confer with other industrialized countries "in order to reach cooperative agreements to impose sanctions against South Africa."

The best way to get South Africa's attention is to cut off their oil in concert with other nations. Oil is the achilles heel of the apartheid regime.

Last, let me say that even if the comprehensive economic sanctions became the law of the land, I am not naive enough to believe that they would bring overnight change in South Africa. I do, however, believe that they represent one of our last hopes to help bring about "peaceful" change in that tortured nation. We need to fan the winds of hope, instead of pouring gasoline on the anger and hate of blacks and whites alike. Mr. President, I believe that the Anti-Apartheid Act Amendments of 1988 can help do that and I hope the Senate will move expeditiously on it.

TAFT INSTITUTE AUTHORIZATION ACT

Mr. CRANSTON. Mr. President, on behalf of Senator KENNEDY, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4585.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 4585) entitled "An Act to extend the authorization of appropriations for the Taft Institute through fiscal year 1991", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Williams, Mr. Owens of New York, Mr. Hayes of Illinois, Mr. Perkins, Mr. Jeffords, Mr. Goodling, Mr. Coleman of Missouri, and Mrs. Roukema be the managers of the conference on the part of the House.

Mr. CRANSTON. Mr. President, I move that the Senate insist on its amendments and agree to a conference requested by the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. PELL, Mr. MATSUNAGA, Ms. MIKULSKI, Mr. HATCH, Mr. STAFFORD, and Mr. THURMOND conferees on the part of the Senate.

ORDERS FOR THURSDAY

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders, or their designees, have been recognized under the standing order on tomorrow morning there be a period for morning business to extend until the hour of 10:30 a.m. and that Senators may speak during that morning business period for not to exceed 5 minutes each, and that at the hour of 10:30 a.m. the Senate resume consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. CRANSTON. Mr. President, I now ask unanimous consent that the Senate recess according to the order previously entered.

There being no objection, the Senate, at 6:29 p.m., recessed until Thursday, September 8, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 7, 1988:

Department of State

ROBERT BIGGER OAKLEY, OF LOUISIANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

United Nations

PATRICIA MARY BYRNE, OF OHIO, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43 SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

Department of Energy

FRANCIS S. RUDDY, OF TEXAS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE J. MICHAEL FARRELL, RESIGNED.

Foreign Service

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of State

SHIRLEY ELIZABETH BARNES, OF NEW YORK.

Department of Commerce

CAROL MURRAY KIM, OF VIRGINIA.

Agency for International Development

RICHARD NEWTON BLUE, OF VIRGINIA.
LEO LAWRENCE LAMOTTE, OF VIRGINIA.
JULIE OTTERBEIN, OF MICHIGAN.
MARILYN ANNE ZAK, OF WASHINGTON.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of State

DONNA MARIE DIPAOLO, OF THE DISTRICT OF COLUMBIA.
MARY JANICE PRICE, OF VIRGINIA.
ANITA G. SCHROEDER, OF VIRGINIA.
ROY FRANKLIN SULLIVAN, OF TEXAS.

Department of Commerce

ERIC K. SLETTEN, OF NEVADA.

Agency for International Development

CLEMENT J. BUCHER, OF CALIFORNIA.
JONG C. CHOI, OF VIRGINIA.
F. WHITNEY GLYNN, OF HAWAII.
MARTIN EDWARD HANRATTY, OF NEW YORK.
ROBERT B. HEBB, OF FLORIDA.
EDVARD MARKESET, OF CALIFORNIA.
BRIAN M. MILLER, OF VIRGINIA.
PAUL F. MULLIGAN, OF VIRGINIA.
MARY CATHERINE OTT, OF VIRGINIA.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of State

MARY HILLERS WITT AMARAL, OF WEST VIRGINIA.
ELLEN S. BONEPARTH, OF CALIFORNIA.
MADELEINE MARCOUYEUX BROWN, OF THE DISTRICT OF COLUMBIA.
LORETTA DE WALD DE BUSK, OF MARYLAND.
JEAN CHRISTOFF NEITZKE, OF NEW JERSEY.
PRINCE A. TERRY, JR., OF NORTH CAROLINA.

Agency for International Development

KEVIN L. ARMSTRONG, OF TEXAS.
DONALD H. KRUSZEWSKI, OF VIRGINIA.
MARY REYNOLDS, OF NORTH CAROLINA.
DAVID MURRAY SONGER, OF TEXAS.

U.S. Information Agency

DAVID A. QUEEN, OF TEXAS.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of State

JAY NICHOLAS ANANIA, OF CONNECTICUT.
MICHAEL LEE BAJEK, OF TEXAS.
JOHN L. BALLIF, IV, OF UTAH.
JANET E. BEIK, OF PENNSYLVANIA.
SUSAN KIRSTEIN BENNETT, OF NORTH CAROLINA.
KATHRYN S. R. BERCK, OF OREGON.
DOUGLAS MCALPINE BERRY, OF NEW YORK.
ELIZABETH LEITCH BONKOWSKY, OF FLORIDA.
JOSEPH MURPHY BRACKEN, OF MARYLAND.
DOLORES MARIE BROWN, OF NEW YORK.
CHERYL A. CASEBEER, OF CALIFORNIA.
LOIS ANN CECSARINI, OF CONNECTICUT.
KAREN LISE CHRISTENSEN, OF VIRGINIA.
ANDREW GILMAN CHRITTON, OF TEXAS.
DANIEL A. CLUNE, OF MARYLAND.
ELLEN LEIGH COSGROVE, OF PENNSYLVANIA.
PHILIP CHARLES CUTAJAR, OF NEW YORK.
THOMAS MICHAEL CYNKIN, OF NEW HAMPSHIRE.
EUGENIA WALKER DAVIS, OF THE DISTRICT OF COLUMBIA.
JOHN W. DAVISON, OF PENNSYLVANIA.
DOUGLAS BLAKE DEARBORN, OF MARYLAND.
ELDWINE EDWARD DE SANTIS, OF CALIFORNIA.
DENNIS A. DRONEY, OF FLORIDA.
CHARLES WILLIAM DUNNE, OF THE DISTRICT OF COLUMBIA.
KENNETH MICHAEL DURKIN, OF MARYLAND.
RICHARD MANSFIELD EASON, OF VIRGINIA.
PEDRO GUSTAVO ERVITI, OF FLORIDA.
JOHN GILMORE FOX, OF CALIFORNIA.
ALCY RUTH FRELICK, OF CALIFORNIA.
JAMES F. FREUND, OF TEXAS.
PEGGY ANN GENNATIEMPO, OF WASHINGTON.
MARY ELLEN GRANDFIELD, OF MASSACHUSETTS.
GARY ANTHONY GRAPPO, OF FLORIDA.
CANDY GREEN, OF CALIFORNIA.
BEVERLY DARIA GREENE, OF MICHIGAN.
TED WILLIAM HALSTEAD, OF VIRGINIA.
ROSEMARY ELLEN HANSEN, OF VIRGINIA.
TODD PHILIP HASKELL, OF FLORIDA.
LINDA MAY HOLMES, OF CALIFORNIA.
ELEANOR J. HOLSTEIN, OF OHIO.
GEORGE W. INDYKE, JR., OF NEW JERSEY.
BRADFORD HOWES JOHNSON, OF MASSACHUSETTS.
SURA ROCHEN JOHNSON, OF CALIFORNIA.
KATHLEEN ANN KAVALEC, OF CALIFORNIA.
CRAIG ALLEN KELLY, OF CALIFORNIA.
THOMAS PATRICK KELLY III, OF CALIFORNIA.
HOLLY ANNE KENWORTHY, OF CONNECTICUT.
PATRICIA KIM-SCOTT, OF VIRGINIA.
MICHAEL S. KLECHESKI, OF NEW YORK.
DELLA KNOX-BENNETT, OF WASHINGTON.
VIRGINIA IDELLE KURAPKA, OF MARYLAND.
JOHN MARSH KUSCHNER, OF NEW YORK.
ELIZABETH LEIGHTON, OF MAINE.
JAMES ANDREW LEWIS, OF ILLINOIS.
DAVID E. LINDWALL, OF CALIFORNIA.
IMRE LIPPING, OF NEW YORK.
MERIDY S. LIPPOLDT, OF FLORIDA.
EARLE DUDLEY LITZENBERGER, JR., OF CALIFORNIA.
MARY F. MARTINEZ, OF CALIFORNIA.
WILLIAM WHITING MCILHENNY IV, OF WEST VIRGINIA.
KAREN JO MCISSAC, OF NEW YORK.
JOHN A. MERANTE, OF NEW YORK.
DENNIS WAYNE MERZ, OF WASHINGTON.
THOMS HARALD MOORE, OF MAINE.
WILLIAM H. MOSER, OF GEORGIA.
DONALD FRANKLIN MULLIGAN, JR., OF VIRGINIA.
CAMERON PHELPS MUNTER, OF CALIFORNIA.
JULIE ANN NAUMAN, OF THE DISTRICT OF COLUMBIA.
CHARLES NEARY, OF CALIFORNIA.
MARC ELLINGTON NORMAN, OF MARYLAND.
GEORGE NOROIAN II, OF CALIFORNIA.
PATRICIA MCGUIRE PARKER, OF CALIFORNIA
ISIAH L. PARNELL, OF FLORIDA.
ROBERT PATTERSON, OF PENNSYLVANIA.
EDWARD CARL POPE, OF THE DISTRICT OF COLUMBIA.
PETER B. ROE, OF FLORIDA.
MATTHEW M. ROONEY, OF TEXAS.
ERIC SETH RUBIN, OF NEW YORK.
FERIAL ARA SAEED, OF CALIFORNIA.
JAMARI SALLEH, OF PUERTO RICO.
ERIC CLARK SANDBERG, OF FLORIDA.
RICHARD MILTON SANDERS, OF PENNSYLVANIA.
FREDERICKA SCHMADEL HEARD, OF FLORIDA.
DOUGLAS ALDEN SEARS, OF PENNSYLVANIA.
JOHN WOODLEY SHEARBURN, OF TENNESSEE.
DANIEL L. SHIELDS III, OF PENNSYLVANIA.
DOUGLAS ALAN SILLIMAN, OF TEXAS.
MICHEAL DEAN SLACK, OF INDIANA.
GREGORY SCOTT SLOTTA, OF CALIFORNIA.
LE ROY OTHELLO SMITH, OF CALIFORNIA.
BARBARA J. STEPHENSON, OF FLORIDA.
MARC J. SUSSER, OF NEW JERSEY.
SUSAN M. SUTTON, OF VIRGINIA.
ROBERT J. TANSEY, OF NEW JERSEY.
HARRY KEELS THOMAS, JR., OF NEW YORK.
MATTHEW HEYWOOD TUELLER, OF UTAH.
MICHAEL JAMES VARGA, OF INDIANA.
PATRICK WILLIAM WALSH, OF CONNECTICUT.
MARILYN WYATT, OF CALIFORNIA.
JOHN ANTHONY WYSHAM, OF OREGON.
PHILIP D. ZELIKOW, OF TEXAS.

Department of Commerce

BARRY I. FRIEDMAN, OF NEW YORK.

U.S. Information Agency

JESS LIPPINCOTT BAILY, OF OHIO.
CHARLES VINCENT BARCLAY, JR., OF CALIFORNIA.
JAMES E. BORUP, OF ILLINOIS.
ELROY JAY CARLSON, OF WASHINGTON.
MARJORIE COFFIN, OF TEXAS.
CARYN DANZ, OF ILLINOIS.
DOUGLAS L. EBNER, OF TEXAS.
CLAIRE FRIED HUFFAKER, OF CALIFORNIA.
MICHAEL J. HURLEY, OF WASHINGTON.
MARY VIRGINIA JEFFERS, OF MARYLAND.
JOHN STUART KINCANNON, OF NEW HAMPSHIRE.
AMBROCIO LOPEZ, OF TEXAS.
CAROL LYNN MACCURDY, OF OHIO.
ELIZABETH ELMORE MCKAY, OF FLORIDA.
GERALD MCLOUGHLIN, OF CONNECTICUT.
KEN MOSKOWITZ, OF FLORIDA.
MARY MONICA O'KEEFE, OF MARYLAND.
NANCY LUCINDA RIDER, OF MISSOURI.
BROOKS A. ROBINSON, OF CALIFORNIA.
EUGENE CHARLES SANTORO, OF FLORIDA.
ROBERT CHARLES SCHMIDT, OF NEW JERSEY.
CATHERINE BENTLEY SEVCENKO, OF THE DISTRICT OF COLUMBIA.
D. BRUCE WHARTON, OF TEXAS.
PHILLIP EMANUEL WRIGHT, JR., OF NORTH CAROLINA.

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE, AGRICULTURE AND COMMERCE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

LUCY KIMBALL ABBOTT, OF MAINE.
ANDREA MARY AMBROSE, OF VIRGINIA.
THOMAS HART ARMBRUSTER, OF HAWAII.
DORON DAVID BARD, OF VERMONT.
KEITH G. BATEMAN, OF UTAH.
CHARMAINE E. BERG, OF WASHINGTON.
DAVID EDWARD BOSLEY, OF MARYLAND.
R. DOUGLAS BROWN, OF WASHINGTON.
FLETCHER MARTIN BURTON, OF TENNESSEE.
DUANE CLEMENS BUTCHER, OF CALIFORNIA.
ROGER AUGUSTUS CARIGNAN, OF MASSACHUSETTS.
JUAN O. CRUZ, OF VIRGINIA.
ALICE A. DAVENPORT, OF MARYLAND.
KAREN R. DELACY, OF THE DISTRICT OF COLUMBIA.
MATTHEW J. EICHNER, OF NEW JERSEY.
LUIS A. FALCON III, OF VIRGINIA.
JOHN MICHAEL FINKBEINER, JR., OF MARYLAND.
WILLIAM EUGENE FITZGERALD, OF NEW YORK.
GEORGE A. FORSYTH, OF CALIFORNIA.
ROBERT A. FRAZIER, OF TEXAS.
MARK S. GARDINER, OF VIRGINIA.
MICHAEL ANTHONYY GAYLE, OF VIRGINIA.
THERESA M. GORENZ, OF ILLINOIS.
LINDA S. GURSKY, OF TEXAS.
ROBIN LORENE HAASE, OF FLORIDA.
JAMES W. HABRON, JR., OF NEW JERSEY.
KATHERINE B. HADDA, OF NEW YORK.
JANNA L. HATTAWAY, OF NORTH CAROLINA.
PETER STUART HINZ, OF THE DISTRICT OF COLUMBIA.
AMY ELIZABETH HOLMAN, OF NEW YORK.
HANS A. HOLMER, OF VIRGINIA.
ROBERT L. INNES, OF VIRGINIA.
TRACEY ANN JACOBSON, OF THE DISTRICT OF COLUMBIA.
HILDA M. KENNER, OF CALIFORNIA.
SUNG Y. KIM, OF CALIFORNIA.
R. DAVID KITCHEN, OF COLORADO.
I. JUNE LEGLEITER, OF KANSAS.
MARY BETH LEONARD, OF THE DISTRICT OF COLUMBIA.
WILLIAM W. LESH, OF MARYLAND.
RICHARD G. LILLY, OF FLORIDA.
BENNETT LOWENTHAL, OF OHIO.
JOHN OREN MAHER, OF GEORGIA.
CHASTAIN MANN, OF SOUTH CAROLINA.
BARRY LYNN MARK, OF OKLAHOMA.
ZENAS A. MASSEY, JR., OF FLORIDA.
MARK D. MCFARLIN, OF VIRGINIA.
GERLAD J. MEYER, OF FLORIDA.
MARC JENNEWEIN MEZNAR, OF TEXAS.
ANDREW SAMUEL MILLER, OF VIRGINIA.
PATRICK E. MILLER, OF VIRGINIA.
VIRGINIA E. MILLER, OF ILLINOIS.
ALISTAIR NORVAL MITCHELL, OF ILLINOIS.
PETER FRANCIS MULREAN, OF VIRGINIA.
KATHLEEN DIANE O'NEILL, OF VIRGINIA.
FRANK W. OSTRANDER, OF VIRGINIA.
GEETA PASI, OF NEW YORK.
BEATRICE M. PEARSON, OF CALIFORNIA.
CHRISTOPHER J. RANDALL, OF INDIANA.
EARLINE MASON REID, OF CALIFORNIA.
GORDON MICHAEL RIVENBARK, OF WASHINGTON.
JUAN RIVERA-RIVERA, OF FLORIDA.
THOMAS G. ROGAN, OF MASSACHUSETTS.
PAULA M. SANCHEZ, OF CALIFORNIA.
CARL E. SCHONANDER, OF TEXAS.
MARY E. SCHRODT, OF WASHINGTON.
WILLIAM RYON SILKWORTH, OF NORTH CAROLINA.
JOHN R. SIPHER, OF NEW YORK.
STEPHEN B. SLICK, OF CALIFORNIA.
JAMES E. STOLL, OF NEW YORK.
ELIZABETH ANNE SUNUNU, OF NEW HAMPSHIRE.
LEONARD P. SUTPHIN, OF TEXAS.
PATRICIA TEFFT, OF VIRGINIA.
HERBERT L. TREGER, OF VIRGINIA.
DAVID V. VACALA, OF ILLINOIS.
VICTOR A. VOCKERODT, OF MARYLAND.
MATTHEW DOUGLAS WALLACK, OF THE DISTRICT OF COLUMBIA.
MARK C. WOODSUM, OF MAINE.
CHRISTOPHER FRANCIS WURZEL, OF MINNESOTA.

CONSULAR OFFICERS OF THE UNITED STATES OF AMERICA:

MERRITT T. COOKE, OF NEW YORK.
PHILIP A. SHULL, OF OHIO.

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ROSS S. COOK, OF VIRGINIA.

RUSSELL L. KEETON, OF CALIFORNIA.

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE NOVEMBER 1, 1981 TO NOVEMBER 30, 1986.

CAREER MEMBER, OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER COUNSELOR:

RONALD A. GAIDUK, OF FLORIDA.

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE FEBRUARY 14, 1988.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER COUNSELOR:

RICHARD K. ARCHI, OF NEVADA.

WILLIAM R. JOSLIN, OF NEW HAMPSHIRE.

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE JANUARY 3, 1988.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

MICHAEL M. HORNBLOW, OF NEW YORK.

PETER D. WHITNEY, OF NEW YORK.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. HANSFORD T. JOHNSON, [redacted] FR, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. ARTHUR E. BROWN, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3034:

To be vice chief of staff of the Army

LT. GEN. ROBERT W. RISCASSI, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent brigadier general

COL. BRUCE T. MIKENTINAC, [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. HENRY C. MUSTIN, [redacted]/1110, U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Wednesday, September 7, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are aware, O gracious God, that You know us by name and care for us as individuals and the vocations we pursue. Yet, O God, give us that healthy spirit that allows us to focus our prayers not only on our own needs and our problems, but also to sense more clearly the joys and sorrows and hopes of others, to appreciate differing vocations, to learn of diverse cultures and faiths. May we gain the fullness of life by seeing the breadth and length and depth of Your glorious creation and the gifts and responsibilities of Your wonderful world. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3235. An act to amend the Public Health Service Act to revise the program of assistance for health maintenance organizations;

H.R. 3471. An act to establish the Veterans' Administration as an executive department;

H.R. 3977. An act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993;

H.R. 4267. An act to authorize additional appropriations for the WEB Rural Water Development Project, South Dakota, authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and to rename certain facilities of the Central Valley Project, California;

H.R. 4419. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; and

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3235) "An act to amend the Public Health Service Act to revise the program of assistance for health maintenance organizations," requests, a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. SIMON, Mr. ADAMS, Mr. MATSUNAGA, Mr. HATCH, Mr. QUAYLE, and Mr. HUMPHREY to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3471) "An act to establish the Veterans' Administration as an executive department," disagreed to by the House, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints, Mr. GLENN, Mr. SASSER, Mr. LEVIN, Mr. MITCHELL, Mr. ROTH, Mr. STEVENS, and Mr. HEINZ; and from the Committee on Veterans' Affairs: Mr. CRANSTON and Mr. MURKOWSKI to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4781) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. STEVENS, Mr. WEICKER, Mr. GARN, Mr. MCCLURE, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1081. An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan;

S. 2030. An act to amend the Marine Protection, Research, and Sanctuaries Act;

S. 2102. An act to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes;

S. 2209. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes;

S. 2221. An act to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes;

S. 2349. An act to amend the Middle Atlantic Interstate Forest Fire Protection Compact to include the State of Ohio;

S. 2436. An act to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission;

S. 2470. An act to promote energy conservation and technology competitiveness in the American steel and aluminum industries; and

S. 2749. An act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

MOTION TO TABLE OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. GLICKMAN moves to lay on the table the motion to discharge.

The SPEAKER. The question is on the motion offered by the gentleman from Kansas [Mr. GLICKMAN] to lay on the table the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 217, nays 148, not voting 66, as follows:

[Roll No. 291]

YEAS—217

Akaka	Anderson	Annunzio
Alexander	Andrews	Anthony

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fazio
Feighan
Flippo
Florio
Foley
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Jenkins
Jontz
Kanjorski
Kastenmeier
Kennedy
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Lukens, Donald
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pelosi
Perkins
Pickett
Price
Rahall
Rangel
Ray
Richardson
Robinson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—148

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Gallegly
Gallo
Gekas
Gilman
Gingrich
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Horton
Hunter
Ireland
Jeffords
Johnson (CT)
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roth
Roukema
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Wortley
Young (AK)

NOT VOTING—66

Ackerman
Badham
Boulter
Boxer
Cardin
Cheney
Clinger
Donnelly
Dornan (CA)
Dowdy
Espy
Fascell
Flake
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Garcia
Goodling
Gray (PA)
Gregg
Holloway
Houghton
Hutto
Hyde
Inhofe
Jacobs
Johnson (SD)
Jones (NC)
Jones (TN)
Kaptur
Kasich
Kemp
Kennelly
Kolter
Leland
Lott
Mack
MacKay
McCrery
McCurdy
McDade
Mica
Mollohan
Morella
Oxley
Packard
Pease
Penny
Pepper
Pickle
Rodino
Rogers
Rowland (CT)
Schneider
Schroeder
Schumer
Spence
Torricelli
Vander Jagt
Waxman
Whittaker
Williams
Wilson
Wylie
Young (FL)

□ 1228

The Clerk announced the following pairs:

On this vote:

Mr. Jones of North Carolina for, with Mr. Boulter against.

Mr. Ford of Michigan for, with Mr. Dornan of California against.

Messrs. PORTER, MARLENEE, and LENT changed their vote from "yea" to "nay."

Messrs. LaFALCE, MARTINEZ, NAGLE, and ROYBAL changed their vote from "nay" to "yea."

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1230

REVISION OF DATE OF REDESIGNATION FROM HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communcation:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 31, 1988.

MY DEAR MR. SPEAKER: Further to my earlier letter of resignation, I wish to revise the date and officially terminate my tenure as Delegate to Congress on September 6th, 1988.

With every best wish for you, sir.

Sincerely,
FOFO I.F. SUNIA.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 18, 1988.

Hon. A.P. LUTALI,
Governor of American Samoa, Pago Pago, American Samoa

DEAR GOVERNOR: Please accept this letter of resignation from the position of Delegate to Congress from the Territory of American Samoa, effective September 6, 1988.

Respectfully yours,
FOFO I.F. SUNIA,
Member of Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
August 12, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 10:15 a.m. on Friday, August 12, 1988 the following message from the Secretary of the Senate: That the Senate passed without amendment H.R. 1841, H.R. 2370, H.R. 3617, H.R. 4143, H.R. 4318, H.R. 4458, H.J. Res. 140, H.J. Res. 539, H.J. Res. 583 and H. Con. Res. 61; that the Senate agree to the amendment of the House to the amendment of the Senate No. 25 and recede from its amendments numbered 1-24 to H.R. 5026; and that the Senate agree to the House amendment to S. 2560.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution on Friday, August 12, 1988:

H.R. 3617. A bill for the relief of the Coushatta Tribe of Louisiana;

H.R. 4458. A bill to simplify the process of obtaining licensing by States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal Government for identification and criminal history records relating to the applicant for such licensing;

H.R. 4694. A bill to amend the Perishable Commodities Act to increase the statutory ceilings on license fees;

H.R. 5026. A bill making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 5141. A bill to delay temporarily certain regulations relating to sea turtle conservation; and

H.J. Res. 140. Joint resolution designating August 12, 1988, as "National Civil Rights Day."

And the Speaker signed the following enrolled bills and joint resolutions on Thursday, August 18, 1988:

H.R. 1841. A bill to provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes;

H.R. 2370. A bill to provide for the establishment of an economic development plan for, and Federal services and assistance to, the northwestern band of the Shoshoni Nation, and for other purposes;

H.R. 3679. A bill to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes;

H.R. 3960. A bill to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes;

H.R. 4143. A bill to establish a reservation for the confederated tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.R. 4318. A bill to improve the administration of the personnel systems of the General Accounting Office;

H.R. 5174. A bill to make clarifying, corrective and conforming amendments to laws relating to Indian education, and for other purposes;

H.J. Res. 539. Joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week"; and

H.J. Res. 583. Joint resolution designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week."

RESIGNATION AS MEMBER OF SELECT COMMITTEE ON HUNGER

The SPEAKER laid before the House the following resignation as a member of the Select Committee on Hunger:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 22, 1988.

Hon. JIM WRIGHT,
Office of the Speaker, H-204 Capitol, Washington, DC.

DEAR MR. SPEAKER: I would like to resign from the House Select Committee on Hunger effective September 7, 1988.

Thank you very much for your assistance in this matter.

Sincerely,

GUY V. MOLINARI,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2148

Mr. FAWELL. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 2148.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

NEW LEADERSHIP NEEDED FOR WAR ON DRUGS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, we are beginning debate today on a comprehensive bill to literally wage war on drug abuse, attacking the problem from every angle. As we head into the debate, I think it is important that we take a moment to look at the inadequacies of the policies of recent years.

While Vice President BUSH has headed the administration's drug interdiction efforts, the flow of drugs into our country has escalated dramatically as has the tragedy of drug abuse among Americans. Let's take cocaine as an example. Since 1982, the quantity of cocaine entering this country has tripled. Only 6 to 8 percent of that is being interdicted by our Government. The number of deaths attributable to cocaine use doubled just between 1984 and 1986.

The next occupant of the White House is going to have to be ready to act, not just talk about the problem and give excuses for why we aren't doing any better. The record is clear. In the drug war, we need to commit new resources, but we also need to bring on new, effective Presidential leadership to give direction, strength and commitment to our war on drugs.

ACID RAIN

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, last week the Vice President revived an oldtime religion of the Republican Party. In the tradition of Teddy Roosevelt, he pledged a new "conservation ethic" for his administration, including the need to preserve wetlands, to punish ocean dumpers, to protect environmentally sensitive offshore waters and an ambitious goal to reduce acid rain causing emissions.

The Vice President highlighted the devastation of acid rain and recognized this environmental threat as nonpartisan killer requiring immediate control.

Even the President has recognized the seriousness of acid rain, and he is negotiating an emissions control treaty with Canada. And the first acid rain bill to clear a committee of Congress occurred when Republican's were in control of the Senate. However, the record in the House is one of delay, excuses and stalling for 7 years. The Democratically controlled Energy and Commerce Committee has stifled the acid rain debate and prevented the House from working its will on this important environmental issue.

GEORGE BUSH was right to highlight the devastating problem of acid rain, and I hope my colleagues on the Energy and Commerce Committee will take GEORGE BUSH's lead on acid rain and move a bill in this 100th Congress.

TODAY IS THE DAY FOR CONGRESS TO SAY "NO"

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is an old adage that, if you tolerate something, you get more of it, and we have tolerated drugs and murder too long here in America.

Now we have tried negotiation, and we have tried compromise. We even ask our kids to say, "no," but the truth is the drug problem and its violence keeps growing.

Let us face it. The drug barons are armed better than our police, and they do not have to read anyone their rights. They just keep laughing all the way to the bank. To protect their millions of dollars worth of dope they will simply kill anyone in their way, and they do.

Let us not forget Officer Byrne of New York earlier this year.

Today is the day, Mr. Speaker, for Congress to say, "no." Today we should impose the death penalty for those who kill during the transmission of a drug event.

Now there will be those who argue that prosecuting capital cases is too costly. I say today we consider it a pain and a cost to the American family. The death penalty that will be offered in amendment today will not require the death penalty. It will allow for it.

Second, a convicted drug dealer and murderer, once executed, will never kill again and certainly never sell drugs to our kids again.

THE ULTIMATE WEAPON—THE DEATH PENALTY

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, it is true the war on drugs cannot be won without the use of the ultimate weapon, and that weapon is the option of the death penalty for those who would kill in the furtherance of that criminal enterprise that has become so profitable and so deadly to our young people. It is not a theoretical option that we are talking about. Murders have been committed, murders of judges, drug law enforcement officers, of law enforcement officers who are protecting witnesses in pending drug cases. All along the landscape there are bodies of individual fellow American citizens who lost their lives at the hands of drugs dealers.

Mr. Speaker, I ask that when the bill comes up and the amendment for the death penalty that we give it consideration and vote in favor of it.

MAKING A PLEDGE AND KEEPING IT

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, does this language sound familiar? "We are sick and tired of having this country run down by phonies who don't understand hard work and patriotism." That was Spiro Agnew speaking in 1969. The reason it might sound familiar is because it is the same foolishness we are hearing from the Republicans on the campaign trail today. Here is a sample of theirs: Today: They say we Democrats show "disdain for the simple and basic patriotism of most Americans." That foolishness came from Education Secretary Bennett this week. It's essentially what BUSH and QUAYLE have been saying for several weeks.

Some years ago, in Massachusetts, the legislature passed a bill that would have required teachers to lead schoolchildren in the Pledge of Allegiance to the flag each day. The Supreme Court advised Governor Dukakis that the requirement was unconstitutional, so he vetoed it. On that basis, years later, some Republicans are now questioning the basic patriotism of Michael Dukakis and Democrats. It represents another low road in politics.

This worm's eye view of politics from the Republican campaign reminds me of something Emerson once said, "The louder he talked of his honor, the faster we counted our spoons."

Shame on GEORGE BUSH, DAN QUAYLE, and William Bennett for leading the party of Lincoln back into the darkness of demagoguery. Shame on them for trying to build themselves up by tearing others down. Shame on them for questioning the patriotism of their opponents.

So, Mr. BUSH, please understand that we all believe in the Pledge of Allegiance, but we believe in other pledges as well—pledges you ought to start making and keeping.

You ought to make a pledge to balance the Federal budget. You did that once and then ran up the debt by over a trillion dollars. You should pledge not to sell arms to international outlaws such as Ayatolla Khomeini. You did that once and then you sent Oliver North to Iran loaded with a cake, a Bible, and a supply of guns for the Ayatolla. You should pledge to support education. You did that once and then you tried to cut the education budget by one third. You should pledge to support our elderly. You've done that before and then you voted to cut their Social Security benefits. Finally, you should pledge to run an honest campaign on the issues. You did that before as well, but look at you now.

No. GEORGE BUSH, the Pledge of Allegiance doesn't belong to the Republican Party. We all say the Pledge of Allegiance. The real question, Mr. BUSH, is what pledges will you make about America's future and this time, which ones will you keep.

NATIONAL FIREFIGHTERS RECOGNITION DAY

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, over the last several weeks, and even as we assemble here today, we follow with great admiration the heroic efforts of the firefighters in the western part of the Nation who have been battling raging forest and brush fires. These individuals exemplify the proud group of professionals across the country who epitomize what this great Nation is all about, our firefighters, some 2 million strong.

Mr. Speaker, it is only fitting that we set aside 1 day each year to honor and recognize these brave men and women who make up our fire and emergency services network.

Tomorrow I will introduce legislation to designate Saturday, October 15, as National Firefighters Recognition Day. I, as chairman of the Congressional Fire Services Caucus, along with my cochairs, the gentleman from Pennsylvania [Mr. WALGREN], and the gentleman from New York [Mr. BOEHLERT], and our 235 Members of what has become the fourth largest caucus, and soon to be second largest caucus on Capitol Hill, ask all of my colleagues to join with us in this fitting tribute to these national heroes.

U.S. FOREST SERVICE NEEDS MORE CONGRESSIONAL OVERSIGHT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, my constituents think that the U.S. Forest Service is out of control and want more congressional oversight of their operations.

Specifically, they are appalled about the policy allowing the Yellowstone to burn. They are appalled at the huge increase in translator fees on public lands for broadcasting. They are appalled at decisions they believe are being made on road improvements, logging and other practices without adequate public input.

Mr. Speaker, many of these decisions are made without adequate congressional oversight. They are made by executive decision.

Mr. Speaker, the Committee on Agriculture should look at the Forest Service operation and review whether we need some policy changes. They are a fine agency, but need desperately some direction. They should make decisions on their own.

□ 1245

HERE WE GO AGAIN

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, well, here we go again. Return with us now to those not so thrilling and those counterproductive days of the 1970's when America's farmers and ranchers were faced with all sorts of price freezes, grain embargoes, boycotts, government manipulation, and market interference, sold by well-meaning consumer groups, but groups who were very misled.

Mr. Speaker, like the poltergeist movies, they are back. The Consumers Union, the Nutrition Institute, and the Consumer Federation of America apparently believe that the drought we are surviving and working through, and as a result the higher market prices at the country elevator, will be responsible for skyrocketing prices or food shortages at the year's end.

These folks have called for an end to the Export Enhancement Program, the very program that has resulted in increased market share for our farm commodities and our prices.

Consumers of America, my urban colleagues, not to worry. We have a reliable supply of grain. The cost will be minimal. How much grain, what cost, see page 2 when we have 1-minutes the next time around; but a warning to these groups. Do not lead us down this road again. There has been too much pain, too much suffering, too much trauma in rural America when we are experiencing that price recovery.

AIR STATION CHICAGO AND THE COAST GUARD BUDGET TANGLE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, on August 1, the Chicago Air Station saved two more lives when it plucked Sarah and Wayne Christenson from Lake Michigan after their plane ditched in the water. That brings to

157 the number of lives this vital installation has saved since 1982.

Yet, the future of this search and rescue station and others like it continues to hang in the balance of a strange congressional funding scheme. This year the House Transportation appropriations bill assumes money from other budget functions. For fiscal year 1989, the Defense appropriations bill is relied upon to provide $60 million for operating expenses and $350 million out of a $435 million AC&I account. In the Senate $200 million for operating expenses is to come from Defense, and $50.3 million from yet another budget function, military construction.

This situation may lead to the Coast Guard getting short changed, and heroics like those that saved Sarah and Wayne Christenson may be a thing of the past. Until Coast Guard funding is put under just one budget function, we must do everything possible to ensure that vital lifesaving services like Chicago's air rescue station do not slip through the cracks of the hectic October rush to adjourn.

OMNIBUS DRUG INITIATIVE ACT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the devastation caused by drug abuse and drug trafficking is overwhelming. Drug-related crimes are escalating in Washington, DC, New York, Los Angeles, indeed, throughout the Nation. The urgency of finding solutions cannot be overstated.

The problems we face today are a sad reflection of the failed policies of the Reagan administration's so-called war on drugs. In 1982, Vice President BUSH was put in charge of the administration's task force to coordinate drug enforcement efforts. It's been 6 years, Mr. Speaker, and the Vice President's record speaks for itself. Even he cannot pretend that progress has been made. In fact, matters have become much worse.

It will take more than rhetoric to solve this complex and destructive problem. As we begin consideration of the Omnibus Drug Initiative Act today, it is my hope that we will adopt the thoughtful, comprehensive, and effective program it incorporates which deals with the reality of the drug problem and reject the unconstitutional, unprincipled, and one should say phony panaceas, which will be offered by way of amendment. Mr. Speaker, the Vice President has taught us by example that flailing efforts and hot air cannot succeed. I hope we have all learned that lesson.

OPERATION ALLIANCE

(Mr. SKEEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKEEN. Mr. Speaker, I want to commend the committees and Members for the bipartisan effort to address the growing menace of drug use and abuse in the United States. With the enactment of several strengthening amendments, this Congress will have produced one of the most comprehensive and hard-hitting drug bills in history.

There is no doubt that a coordinated effort on the part of law enforcement is necessary to fight this influx of illegal drugs. Local, State, and Federal agencies must work together and can work together to effectively stem the tide of imported drugs.

The 2,000-mile border between the United States and Mexico provides a corridor for nearly one-third of the heroin, one-third of the cocaine, and one-third of the marijuana entering our country. My own district, which covers the entire border between the State of New Mexico and the nation of Mexico, has benefited from a drug interdiction program named "Operation Alliance."

Operation Alliance is comprised of 16 Federal Government agencies, all local law enforcement agencies, and the Government of Mexico. Its initiative was to choke the life out of drug trafficking across the border. And choke it has. In the first year alone nearly 7,700 kilograms of cocaine were seized—a 241-percent increase over the previous year.

Local law enforcement officials have indicated to me that Operation Alliance has been a boon to their drug interdiction programs—Federal and local agents working side by side against a common foe.

It is obvious that this kind of concerted effort must be expanded to protect all the borders of the United States. The Omnibus Drug Initiative Act will provide the mechanism to develop an Operation Alliance type of system nationwide. We must work together to end the terror.

As our forefather stated, "We must all hang together, or surely we shall all hang separately." This is not a separate or a parochial problem—we truly must hang together and hang tough—tough on drugs.

THE OMNIBUS DRUG BILL

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker. I want to express my appreciation for demonstrating true leadership on the drug issue. Unlike the administration, you do not just talk tough about fighting illegal drugs, you act tough. And today, Mr. Speaker, your efforts to spearhead congressional action on our Nation's drug problem has borne fruit. This House will pass H.R. 5210, the omnibus drug bill.

As you know from your past visits to my district in south Texas, Mr. Speaker, there is a daily large-scale flow of drugs along the United States-Mexico border. That's why I am pleased by this legislation's establishment of a Latin-American regional antinarcotics force. Your efforts are a far cry from the Reagan-Bush administration, which says it has a "zero tolerance" for drug smuggling, but nevertheless tolerated Mr. Noriega's drug running for many years.

The Vice President also has a lackluster record in our war on drugs, having been the head of the National Narcotics Border Interdiction System, which the DEA has called to be abolished because it was harming the Nation's antidrug efforts.

If you want to really make a difference in our war on drugs, support this bill.

ANNOUNCEMENT OF RELEASE OF NEW GUIDE TO STATE AND FEDERAL RESOURCES FOR ECONOMIC DEVELOPMENT

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, as cochair of the Northeast-Midwest Congressional Coalition, I am pleased to announce the release of our new "Guide to State and Federal Resources for Economic Development." This major publication represents the most comprehensive catalog and analysis of current economic development initiatives across the country. It features more than 60 case studies of State programs designed to spark economic revitalization and growth. It also analyzes Federal development programs and tax incentives which—though reduced—still provide the foundation for considerable development activity.

The guide, prepared as a service to members of the coalition, will serve as a handbook of basic information to help promote economic development activities. It aims to examine the economic development process and many of the tools used to promote private investment and create jobs.

I would strongly recommend the guide to my colleagues in the coalition.

THE OMNIBUS DRUG INITIATIVE ACT OF 1988

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, today the House takes up a strong initiative against illegal drugs, the Omnibus Drug Initiative Act of 1988. It is essential for Congress to act on this bill, which will enable us to battle the drug epidemic because it is clear that the current administration has not.

In 1982, President Reagan formed a special task force designed to combat the drug problem and named George Bush as its director. Since that time, the flow of cocaine into this country has increased more than four times and we have experienced a doubling of cocaine-related deaths. The administration's own Director of the Drug Enforcement Agency called for the abolition of the Bush task force on the grounds that it was actually harming the Nation's antidrug efforts.

George Bush, placed in charge of the Nation's antidrug activities for 7 years, was unable to deliver. Bush was charged with coordinating the Nation's antidrug activities, but the various Government agencies involved in the drug war have turned into warring factions. Customs and Coast Guard officials assail each other's failure at stopping drugs. Treasury Department officials and State Department officials engage in a continuing war of words. The DEA fights with the CIA, and the Border Patrol has been brought into the war on drugs fitfully, if at all.

The administration's own official acknowledge that under Bush the NNBIS has failed to make any contribution to the antidrug effort.

We must send a message to the administration, Mr. Speaker, that we want actions, not words, on the drug issue; and in that spirit.

THE OMNIBUS DRUG BILL

(Mr. GORDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. GORDON. Mr. Speaker, at a time when we are asking our Nation's children to say no to illegal drugs, we in the House of Representatives this week have a chance to say yes to a broadside of programs that will attack our country's drug problem.

We must say yes to helping law enforcement agencies detect and prosecute drug pushers and smugglers.

We must say yes to making sure all young people in my district and in this Nation are told the full story about the consequences of using illegal drugs.

We must say yes to tough new measures that will make drug users think again before buying illegal drugs.

And we must say yes to helping people free themselves from drug use by making sure rehabilitation programs are available to all.

Drug abuse is not just a big-city problem. It touches us all, in every community whether it is rural or urban, rich or poor.

My constituents in middle Tennessee are worried. They have seen drug abuse touch their communities. They are demanding action, now, to turn the tide, to get illegal drugs out of our society.

We must do our job this week and pass this bill. The American people are counting on us.

DRUG PUSHERS FEEL HEAT OF DUKAKIS DRUG PROGRAMS

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, while the administration boasts that it has not lost one square inch of ground to the Communists, it is in the process of losing an entire nation—this one—to an equally insidious enemy—drugs.

While cocaine imports have tripled in the past 6 years and cocaine deaths doubled between 1984 and 1986, the Reagan-Bush administration has sought deep cuts on many fronts in the war against drugs. Let's fight that war with programs, not platitudes.

In Massachusetts, under Governor Dukakis, those programs exist and the results have been impressive. Drug pushers have felt the heat from the Governor's drug task force that sent five times as many pushers to prison in 1987 than in 1983. The Governor's alliance against drugs, a school-based campaign has been called a model for the Nation by the Drug Enforcement Agency.

In Massachusetts, drug use by high school students has declined much faster than the national average, twice as fast for all categories of drugs and five times as fast for cocaine.

The administration talks a good fight, but Massachusetts is winning it despite the lack of Federal assistance. Crime is an obvious byproduct of drugs, but while crime has increased by 4 percent nationwide over the past 5 years, the crime rate in Massachusetts has decreased by 13 percent. In addition, Massachusetts now has the lowest homicide rate of any industrialized State in the Nation.

That is a solid record, not a broken record.

PROLIFERATION OF DRUGS THREATENS SECURITY OF OUR NATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge the support of the Members on H.R. 5210, the Omnibus Drug Initiative Act.

Mr. Speaker, we are here today to draw the line. We are here today to say that we are sick and tired of drugs in our community. We are disgusted with the despair and violence associated with cocaine, heroin, and other controlled substances which have crossed our borders by the ton in recent years.

Mr. Speaker, the greatest threat to the security of our Nation is not from forces from the outside but the proliferation of drugs which are destroying the minds of a whole generation of young people. The passage of this legislation will send a clear and distinct message to the drug barons that we will regain control of our streets and our neighborhoods. This must be our message today.

BIPARTISAN DEBATE NEEDED ON DRUG PROBLEM

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, in a few moments we are going to begin the debate on the bipartisan antidrug bill. I hope the debate will be bipartisan. However, some of the comments of some of my colleagues on the other side have concerned me in that they seem to have a partisan tinge to them.

It just seems to me that the Rip Van Winkles of the Democratic Party ought to recall where we were when this administration came into office.

We had received cuts in the number of people who served in the FBI and the DEA prior to the time that this administration came into office. It took this administration two budget cycles to get the manpower levels of the FBI and the DEA up to what they were before the Carter administration came into office.

People should recall the FBI was never involved in drug matters until this administration came into office. They had a concern that being involved in drug investigations would have the possibility of corrupting some of their personnel. There was a longstanding tradition in the FBI, a tradition that no administration was able to overcome prior to the Reagan administration coming into office.

For the very first time we now have the FBI involved in drug investigation combined with the DEA, both of whom had to increase their manpower in the beginning of this administration to bring it up to what it was before the Carter administration came into office.

Mr. Speaker, if people want to talk about numbers and if they want to talk about personnel, if they want to talk about criticism, there is plenty there. We are happy to debate it. It would be far better if we had a bipartisan debate dealing with the problem before us and how we are going to solve that problem. We will not solve the problems of drugs in this country until we have a comprehensive attack which results in the change of the culture of America from some tolerance of illegal drug use to zero tolerance.

HOUSE OF REPRESENTATIVES MUST LEAD IN BATTLE AGAINST DRUGS

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, I certainly liked the remarks of the previous speaker, but I tell the Members the truth, we are only going to win the war on drugs in this country when we begin to be honest with the American people.

Do the Members want to know how this administration fights drugs? Last year this body proposed and passed a bill that required a report of official foreign corruption by government officials and heads of state every 6 months. It is called the 2013 Report, and the first time they had to submit it, it was late. The second time they just submitted it 4 months late.

How did they treat official corruption in Laos? They admitted that the whole Government is corrupt, and then invoked the national waiver saying that we are not going to cut off their money because it is not the right thing to do at this time, but they admitted that the whole Government is corrupt.

In Mexico they admitted that there is no hot pursuit right, that one cannot get any resolution to the torture murders of Camarena or Cortez' brutal, vicious beatings.

Mr. Speaker, how did they treat that and the corruption which they admitted existed? Another national interest certification so that they do not have to deal with it.

The best one of all is Noriega. How did they treat Mr. Noriega, folks? Here is a little honesty for you: He was canned by Mr. Delvalle before Mr. Delvalle was overthrown. Therefore, Mr. Noriega is no longer part of the government. Therefore, they do not have to report on him. Therefore, there is no corruption in Panama. With a wave of the hand, with a wave of the hand, the most corrupt drug individual in government around the world today was made to not exist.

This is the Government's approach. This is this administration's approach to drugs and to the way to stop it.

It is this House that is going to be the catalyst for real drug fighting, and it is going to be the Democrats who are going to lead this battle, and in November the people are going to reward the Democrats for having done it.

VISIT TO HOLOCAUST CAMPS INDESCRIBABLE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, during the district work period I did some work that was not in my district. I went to the Soviet Union for a week and met with some of the internal security forces there, the two top people who run the prison camp system, all of their prisons, and the gentleman that also is head of all of the police forces in the state then met with about two dozen refuseniks, most of them Jewish.

I am going to do a special order tonight about that and some of my experiences at the end of that week in the nation of Poland where I visited all six Nazi extermination camps, including Treblinka, Sobibor, Belzec, Chelmno, where there is nothing left but rolling fields and the foundations of the crematoria.

Mr. Speaker, I then visited Auschwitz-Birkenau, two camps which are separated by only 3 kilometers and Maidanek outside of the city of Lublin, where there are the remains of the decayed buildings of the camps.

Mr. Speaker, it is an experience that will stay with me for the rest of my life. I thought I was approaching being an expert on the Holocaust and what had happened to Soviet Jewry and 6 million other citizens who were torn up by the Nazi horror, but to visit all the sites where so many souls were sent to God, where so many human beings were destroyed is just an absolutely almost indescribable situation. However, I will attempt to describe what I learned further in depth, further on the Holocaust on a special order tonight or tomorrow.

THE OMNIBUS DRUG ABUSE BILL

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I rise in strong support of the omnibus drug initiative of 1988. The drug epidemic in this country is taking a terrible toll. Large numbers of our citizens are suffering the direct effects of drug use—addiction, overdoses, unemployment, even death. We, as a society, are also the victims of abuse. Reduced productivity and higher health care costs impact our entire Nation.

The drug abuse problem in this country continues to grow instead of dissipate, reaching younger and younger victims with a wider selection of drugs. Enactment of the comprehensive omnibus drug initiative before us today is essential. The American people have told us that they are fed up with the state of affairs regarding the drug crisis, and that they are looking to the Congress for concrete answers, strong leadership, and commitment. This bill fits that criteria with reasonable, thoughtful programs which allow us to use all the resources at our command. It authorizes funds for drug enforcement, treatment, prevention, and education and makes various changes to existing law which are intended to discourage or prevent drug use and improve antidrug law enforcement efforts. It builds on the omnibus drug legislation we enacted in 1986 and allows us to continue to send a strong signal to those involved in criminal drug enterprises, who are poisoning the minds and bodies of our children, that their crimes will not go unheeded. We must pass this legislation without prejudice and send it to the President with all possible speed.

I have made it a point to meet with many of the individuals in my district who are working in the community to combat the narcotics crisis and I am gravely concerned that our resources are not being directed to our county and city governments responsible for enforcing the law with the greatest possible efficiency. This critical measure would streamline drug enforcement assistance to local jurisdictions and increase the assistance for States and localities to $500 million beginning in fiscal year 1990. It would create a system of block grants and mandate prompt delivery of those funds to city governments. If States do not expeditiously apply for the assistance, municipalities can apply directly to the Department of Justice. It also provides a pilot grant program to provide additional training and recruitment of local drug enforcement officers.

I have always been deeply committed to educating our youth, in their formative years, to the dangers of drugs. The economic and social costs of drug trafficking and addiction to this country are unacceptably high and our children must be reached before they fall prey to curiosity or peer pressure to experiment with illegal narcotics. The 1987 survey on drug use among high school seniors, sponsored by the National Institute on Drug Abuse, indicated that over half (57 percent) of high school seniors had tried an illicit drug, and over one-third had tried an illicit drug other than marijuana. One in six or seven high school seniors has tried cocaine (15.2 percent) and one in 18 (5.6 percent) has tried crack cocaine specifically. These numbers are far too high and illustrate the tremendous need to reach our kids before the onset of drug usage.

The comprehensive drug initiative of 1988 establishes a new program of formula grants for States, to develop more effective juvenile justice programs targeted to drug abuse, and to refer juveniles and their families to drug abuse prevention, treatment, and rehabilitation services. The bill also establishes a new program of competitive grants for public and private nonprofit agencies. These grants could be used for drug abuse education designed to reduce juvenile delinquency, to support relevant research, to develop community outreach and counseling programs, and to provide training and technical assistance relating to innovative and effective drug abuse education programs.

I believe that drug interdiction and international narcotics control must be stepped up if we are to stop the flow of drugs into our country. This bill authorizes the Coast Guard to engage in maritime air surveillance and interdiction and provides significant increases for the Customs Service to enhance customs' air interdiction program. It includes provisions to encourage development of a Latin American regional antinarcotics force; modify procedures for certifying countries as cooperating with narcotics control efforts and makes various other changes in laws related to international narcotics control.

Mr. Speaker, the economic and social costs of drug trafficking and addiction to this country are high and rising. Americans spend an estimated $130 billion each year on illicit drugs. The cost of narcotics abuse in the United States amounts to more than $100 billion annually in increased health care costs, lost productivity, and related crime and violence. We cannot sit by and allow the menace of illegal drugs to endanger our schools, our workplaces, our streets, and sometimes our families. We must defend the American people against this scourge. We must let the public know that there are many voices of reason on this issue in the Congress, and they must not allow themselves to be swayed by those who are ready to acquiesce. We will move forward, as a country, and address these issues head on. By fashioning this legislation we have acknowledged that the war on drugs will be long and hard-fought, but that it can be won. I urge my colleagues to join with me in strongly supporting the omnibus drug initiative of 1988.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore (Mr. TRAXLER) laid before the House the following communications from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, August 10, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on August 4, 1988:

LEASE PROSPECTUSES

U.S. Customs Service and Social Security Administration, San Diego, California.

Veterans Administration and Other Agencies, San Diego, California.

U.S. Forest Service, Lakewood, Colorado.

Department of Defense, Hartford, Connecticut.

Judiciary, 1100—17th Street, NW, Washington, D.C.

U.S. Secret Service, 1800 G Street, NW, Washington, D.C.

Swing Space for Multiple Agencies, Washington, D.C.

Internal Revenue Service, Covington, Kentucky.

National Security Agency, Linthicum, Maryland.

Health Care Financing Administration, Woodlawn, Maryland.

Internal Revenue Service, 6 St. James Avenue, Boston, Massachusetts.

U.S. Army Corps of Engineers, Vicksburg, Mississippi.

U.S. Coast Guard and Railroad Retirement Board, St. Louis, Missouri.

Drug Enforcement Agency, Edison, New Jersey.

Internal Revenue Service, Middlesex County, New Jersey.

Internal Revenue Service, Las Vegas, Nevada.

Environmental Protection Agency, Houston, Texas.

Executive Office of the President, Arlington, Virginia.

Federal Bureau of Investigation, Springfield, Virginia.

Census Bureau—3 Locations.

REPAIR AND ALTERATIONS

450 Golden Gate, San Francisco, California.

Federal Center Building 810, Denver, Colorado.

U.S. Tax Court, Washington, D.C.

FY 88 Supplemental Design.

11(B) RESOLUTIONS

Agana, Guam.

Brooklyn, New York.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,
Chairman.

There was no objection.

OMNIBUS DRUG INITIATIVE ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 521 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5210.

□ 1312

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Washington [Mr. FOLEY] will be recognized for 1 hour and 30 minutes and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 1 hour and 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I designate the gentleman from New York [Mr. RANGEL] to control general debate, and I ask unanimous consent he be allowed to yield blocks of time.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Mr. Chairman, this afternoon we will have an opportunity to, in part, meet the challenge of the great scourge that drugs has brought upon our congressional districts, our regions, our States and, indeed, the world. We will have an opportunity for 3 hours to generally discuss this bill, and we look forward to having two or three amendments today, and the rest of the amendments and the conclusion of the bill tomorrow.

Mr. Chairman, I think that we all can go home pretty proud of the fact that once again the initiative and the leadership, in an attempt to do something about this serious problem, was initiated in our House of Representatives, and that we expect to have the full cooperation of the other body.

I think that our Speaker in, once again, selecting our majority leader to work with our whip and to reach across the aisle to the gentleman from Illinois [Mr. MICHEL], the gentleman from California [Mr. LEWIS], and the gentleman from Florida [Mr. MCCOLLUM], has made the effort to make certain that we come out of here whole, not with Republican or Democratic legislation, but the type of legislation so that we can say we have done the best that we could.

I would like to take time to reach out to the gentleman from New York

[Mr. GILMAN] who has worked so hard over the years on the Select Narcotics Committee, and all of its members, all of whom serve on legislative committees like the gentleman from New Jersey [Mr. HUGHES], who in the Committee on the Judiciary will probably control much of the debate on the serious and important amendments that we will be addressing and, or course, the gentleman from Florida [Mr. SMITH] as we address the issues in foreign affairs and, or course, the gentleman from Oklahoma [Mr. ENGLISH] as we bring our military into what I think is an important role, and that is the protection of our Nation against this threat to our national security.

□ 1315

In 1986, for the very first time, comprehensive legislation was created by this body and the other body and signed into law. That was in October 1986.

In January the next year the administration, led by the Office of Management and Budget, was asking for severe cuts in the very programs that before the last election we were asking the American people to support.

Well, this time we can be certain that once we pass this bill it will not be the same people asking for cuts. Maybe sometime next year we will not have these drug initiatives coming from the Congress but we will find an administration to present to us for the first time a comprehensive program, a policy, a strategy, and ask this Congress to support it. Meanwhile, we cannot afford to wait. Even though Secretary Shultz has not asked us to do anything, we think it is about time to bring together the heads of these countries where the cocaine is being grown, processed, and exported to see whether or not, as friendly allies and partners, we can come up with some strategy to have these fragile democracies survive.

So we are sending help, military and economic assistance, we are going to the Export and Import Banks and saying, "Help these countries to help themselves."

But we are not stopping there. It is true that we have never gotten a request from Ed Meese to give any assistance to local and State law enforcement; it is true that the administration has, for 8 years, violently opposed any assistance to be given to local and State law enforcement.

But how can we have a war on drugs when our lead agency, the Drug Enforcement Administration, has a mere 2,800 agents to cover the United States and the entire world?

So we are moving to pump up and to give assistance to local and State law enforcement. We also are going to give support to our Federal agents.

We know that we never got a request from Secretary Bennett in Education, but under the leadership of Chairman HAWKINS, we know that we are going to have to do something to reduce the demand, especially by our youth. We have to make a special appeal in sports to attract kids to do something besides ruin their lives, the runaway kids, the homeless kids, the kids involved in gangs. So we can be proud of the Committee on Education and Labor because they are not waiting for Cabinet people to ask for help; they are doing something.

And, of course, we did hear from the Watkins Commission. They said we should do something about this AIDS epidemic. Those of you who have visited the maternity wards and have seen these little children born addicted, born with AIDS, those of you who are so cost conscious to see that it costs $500, $600, $700 a day to take care of these AIDS patients know that we have to do something about it before these diseases happen, and we have to be able to try to educate and to rehabilitate.

So we are not waiting for the administration to tell us as legislators what to do; we are doing it because the Committee on Energy and Commerce has brought to us comprehensive programs to deal with the AIDS and intravenous drug problem.

So we cannot win this battle just by throwing dollars at it. This bill would add some $1.3 billion, bringing our overall antidrug effort to a total of some $5 billion, but still we have to work to make certain that there is accountability.

You cannot make certain that local and State governments are doing what we would want, but all of us together can send a message to the American people that we expect the next administration to be held accountable for what we are doing.

I do hope, as my colleagues have suggested, that we do not get partisan as we start to discuss this bill. But more importantly, that we do not allow the emotionalism of some of the amendments we are going to hear discussed tomorrow to distract from what we really have to do and that is to try to give assistance to those people that are on the front line.

I do not know where we would be if Ed Meese had not been in charge of coordinating our national effort. That is a partisan question which I have agreed that I will not discuss.

I do not know where we would be if our Vice President did not dedicate himself to protect our borders against the drugs that have come in over the years. Again, I promised that that is a partisan question that I will not deal with. But I know one thing, that if we cannot find a national policy and we cannot find a national strategy, that we all should be able to thank Nancy Reagan for at least giving us her program in "Just Say No."

But today for our omnibus drug bill, H.R. 5210, I hope that you will be able to find it in your hearts to "Just Say Yes."

The CHAIRMAN. The gentleman from New York [Mr. RANGEL] has consumed 9 minutes.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Reclaiming my time, I would like very much to very briefly analyze what this bill does and where we are going. It is a bipartisan effort that has gotten us here. I want to thank all of the parties, the leadership of both the Democrat and Republican sides of the aisles for bringing this bill out today, and the myriad of staff who worked very hard. I especially want to thank the 55 members of the House Republican task force who worked diligently to create and promote some of the ideas that have been incorporated in the bill itself that will not be debated during amendment time. I think their process, their work product, and the adoption of much of those proposals in the subcommittee and committee process leading to today, merits some comment and some praise, and also some praise of their staffs who worked very hard to do that.

Over 30 million, according to the American Medical Association, over 30 million Americans use marijuana today; over 500,000 are addicted to heroin, over 3 million regularly use cocaine; more than 12 million have tried it once in the past 3 years. I submit that that is a rather conservative figure and unfortunately I am afraid the usage is probably much more widespread than has been documented.

The bottom line is that we are engaged and we have been for some time in the war on drugs in this country. I do not know of many people who do not understand that. That is the No. 1 issue right now facing the United States.

The war, in terms of its strategy and the scope, has not changed much. But the need for certain specific programs continues to change.

Two years ago this body and the other body adopted legislation, the President signed into law a bill of omnibus nature similar to what we are doing today. The scope of all of this legislation, the scope of the program the Vice President has fought for and much of this administration has fought for and this Congress has endorsed basically comprises four components.

No. 1, the component of eradication: If we are going to win the war on drugs it has to be comprehensive, it has to start overseas where the crops are grown that lead to the production of the product, whether that be cocaine or heroin or marijuana. We need, as we always have had, to have the resources to do that. We also need the cooperation of the foreign governments. That involves a diplomatic, an executive, and a legislative initiative. It involves in this case and what this bill before us today attempts to do further, it involves the use of herbicides and the funding and support concept to spray where possible.

It involves the support of our Drug Enforcement Administration; it involves attacks on the laboratories that are clandestine in those countries where the product is grown and where the product has to be refined. It involves restrictions on the shipment of those precursor chemicals that are necessary to produce the cocaine, for example, from the coca plant and the coca paste.

If we can do those things, and this legislation further promotes that, we can win part of that war in the eradication area, then we have made a successful step. And we are making those steps as we have been for the past several years. This bill enhances it considerably.

Second, to win the war on drugs we have to have an effective interdiction program.

Probably more attention and more publicity is in the area of interdiction than anywhere else. That is where the Coast Guard and the Customs and the military come in. That is where the Immigration Service comes in because they actually capture through their stopping of those who might be illegal immigrants into our country more people possessing narcotics than any other single law enforcement agency. More resources are needed and this legislation addresses it. But a lot of the past efforts of the administration and of this Congress have been devoted to that area.

We also, if we are going to win this war on drugs, have to support our local law enforcement. That means that we have to have grant programs like we adopted a couple of years ago.

We have to do everything we can to give local law enforcement, in addition to funds, the necessary tools in terms of legislative initiatives. And we need to give our Federal law enforcement folks on the street in the Federal judicial system the tools they need. That means not only the laws that we currently have on the books, but some that we can put on the books in this particular omnibus bill, such as the change in the exclusionary rule so that when we actually prosecute and have somebody arrested we do not have the evidence thrown out because of some technicality. We need to have the death penalty as a deterrent. We do not have that today for drug kingpins.

We have the opportunity in amendments before us in the next couple of days to adopt that additional tool for law enforcement.

We have the opportunity to do a number of things that will aid law enforcement very significantly. And I submit that we can and we should do that.

Perhaps the most significant thing is to add additional prisons and to add additional U.S. attorney areas.

We need to address that. It is somewhat addressed in the bill. A lot more can be done in the amendments that are to be offered.

It is that area that I have heard the most about in the last few days from local law enforcement back home in my State. I am confident most Members have heard that in their States as well.

But there is a fourth area besides eradication and interdiction and law enforcement that we have to address and that we have to enhance. Perhaps in this area we have been weakest of all. We have not appropriately, in my judgment, addressed the issue of demand.

If we Americans continue to use and consume the amount of narcotics that we are today, there is no amount of interdiction, eradication, or local law enforcement efforts that is going to win this war. Too many Americans are demanding it. It is the law of supply and demand, pure and simple.

We cannot seal the borders, we cannot stop the stuff from coming in in the quantities it is coming in unless we address the demand side.

That really involves three things. It involves education, not just Mrs. Reagan's "Just Say No to drugs" but a lot of education other than that in our schools. We have made an effort at that in the omnibus bill 2 years ago.

We are making more efforts here. The administration is making an effort. We have to do more.

It involves also rehabilitation. We do not have enough rehabilitation centers, we do not have enough effort in that area. That effort has been ongoing and it needs to be supplemented. The proposed legislation before us would do that.

It also involves a third component, one we have not adequately addressed at all in the past. That is creating some kind of a deterrence on the user side, to make a user accountable and to say to that young person in particular who does not heed the warning of the education component, who is not yet an addict, who is not beyond the pale, but who is thinking about it because of peer pressure or the enticements or whatever around him, thinking about using it or trying it or experimenting with it. We need to put on the books something besides jail time which is not practical, to say to that young person, "If you use and make that choice you are going to be held accountable, you are going to have to pay a price that is greater than you will want to pay." Such ideas as the New Jersey suggestion which has come from their law, of a period of time of suspending or revoking a driving privilege of a 16-year-old or someone else who has been convicted once of possession, or taking away some Federal benefits for student loans and college opportunities for those who are convicted twice, subject of course to their opportunity to rehabilitate themselves and get their rights and those benefits back.

Civil penalties, perhaps and a lot of those kind of things.

The bottom line is this is a comprehensive effort. It is a part of an ongoing war which we have all been involved in, this Congress, the past Congress, the President, the administration. No amount of politics, no political rhetoric here on the floor over the next 2 or 3 days, no political rhetoric between the Presidential candidates in this campaign we are involved with will win this war.

□ 1330

Mr. Chairman, it is not something that will be won in 1 year, with one master plan and with one new concept. It will be won with the overall concept and effort that we have been involved with. We can win, and we will win it. The legislation before us can be improved, and it will be improved, I am sure, by amendments over the next 2 or 3 days which will enhance that legislation and, I believe, give us a great boost in winning that war.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of H.R. 5210, the Omnibus Drug Initiative Act of 1988 and I commend the leadership on both sides of the aisle for their work in formulating this bipartisan, comprehensive measure and for bringing it to the floor of the House for consideration, and particularly the Speaker, Mr. WRIGHT, and the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], and the distinguished majority leader, the gentleman from Washington [Mr. FOLEY], the gentleman from California [Mr. LEWIS], the gentleman from Oklahoma [Mr. EDWARDS], the gentleman from Florida [Mr. McCOLLUM], and the distinguished chairman of our Select Committee on Narcotics, the gentleman from New York [Mr. RANGEL], and the distinguished chairman of the Judiciary's Subcommittee on Crime, and the chairman of our Foreign Affairs Task Force on Narcotics, the gentleman from New Jersey [Mr. HUGHES].

This measure builds upon the Anti-Drug Abuse Act of 1986 and authorizes urgently needed resources for drug crop eradication, for interdiction, for local law enforcement, treatment, and most importantly, for education. H.R. 5210 would authorize $6.1 billion for fiscal year 1989, a significant increase in resources over the $2.7 billion provided by the Anti-Drug Abuse Act of 1986.

H.R. 5210 includes many proposals that are essential to a coherent and effective national narcotics strategy. The bill expresses clearly and unequivocally the sense of Congress in opposition to the legalization of drugs; it streamlines and increases drug enforcement assistance to local jurisdictions; it establishes new drug prevention programs targeted at youth gangs and at runaways; authorizes $1.5 billion for treatment of those who have acquired AIDS through IV-drug use, as recommended by the President's AIDS Commission, and calls for a Western Hemispheric Summit Conference on Drugs.

The significant 1986 Anti-Drug Act made substantial progress but did not win the war against drugs and this 1988 Anti-Drug Act alone cannot win this war. We are in a long-term struggle against the curse of drugs with the soul of our Nation at stake. The American people, in poll after poll, indicate that they view drug trafficking and drug abuse as the most important issue facing this country. And with good reason.

Illegal drugs have overwhelmed our Nation. No neighborhood, town, city, or school, is immune from its evil effects. Drug-related crime and violence have made bloody shootouts an everyday event in some areas. Millions of Americans have lost control of their lives and become addicted to drugs.

Mr. Chairman, I have one major concern regarding H.R. 5210—a concern we must all address—and that is the question of where will the money come from to underwrite these worthy initiatives? Is it going to come from the Defense Department? Are we going to have to tap into the entitlement programs? I must remind my colleagues that a bill for this urgently needed drug initiative will be due. In that regard, I recently proposed an excise tax measure that would have increased the tax on beer by only 1 penny a can, on cigarettes by 2 cents per pack, and 3 cents on a bottle of wine, a modest increase that would have raised more than $1 billion and was virtually no impact on the taxpayer. I urge my colleagues to bear in mind that the American people fully support greater efforts to wage a war on drugs but they are entitled to know where the scarce dollars are coming from to underwrite this initiative.

The war against drugs has many fronts and we must fight on all of them simultaneously. If our efforts are sustained over an extended period of time and if we provide our frontline troops—the law enforcement officers, the drug educators, and the treatment, rehabilitation and prevention specialists with the urgently needed resources—then we will be able to make a difference in reducing the supply and demand for drugs. Mr. Chairman, this legislation before the House is an important step in the right direction in waging our war against drugs and I urge my colleagues on both sides of the aisle to cast aside political differences and to expeditiously resolve our differing views and to present to our Nation a strong unified strategy in stamping out this evil which is undermining our social institutions and which is killing so many of our young people.

Mr. Chairman, again I commend the gentleman from Florida [Mr. McCollum] for his industrious work on this measure, and I hope we are going to be able to fully support what is now before us. I want to thank the gentleman for yielding.

Mr. McCOLLUM. Mr. Chairman, I want to thank the gentleman from New York [Mr. Gilman]. His effort has been indeed a measure of great accomplishment on his part, both now and for a long time in the past on this issue. It has been a tremendous compliment to us that he has spent so much time on this issue, and I thank him for his time.

Mr. JEFFORDS. Mr. Chairman, I rise in support of title II, the Education and Labor Committee title of the bill. In the most recent annual Gallup poll of the public's attitude toward the public schools, 32 percent identified the use of drugs by students as the biggest problem facing local schools. This is the third consecutive year in which the public has identified drug abuse as the biggest local school problem. Lack of discipline scored a distant second, whereas in 1986 only 2 percentage points separated the two issues in the minds of the public.

The United States has the highest rate of drug use among young people of the world's industrialized nations. More than half [57 percent] of last year's high school seniors have tried an illicit drug, and more than a third have tried illicit drugs other than marijuana. No wonder then, that the public has become more acutely aware of drug abuse as a problem in our schools. The Gallup poll also revealed that there is general confidence in the schools' ability to deal with this societal problem.

In title II of this bill, H.R. 5210, the Education and Labor Committee attempted to address the need for greater education, information and outreach with respect to drug abuse and prevention. These efforts will come through a variety of programs including programs for youth gangs, incarcerated individuals, children of alcoholics, disadvantaged youth, runaway and homeless youth, and participants in the WIC Supplemental Food Program.

The problem of drugs cannot be addressed by focusing on the supply side only. Attention must be given to the demand as well. The programs authorized in title II complement those activities included in the 1986 Drug-Free Schools and Communities Act, a program extended earlier this year as part of Public Law 100-297, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

Drug abuse results in costs related not only to higher health care costs, drug-related crime and violence and lost productivity, but in the number of lives lost unnecessarily. The effects of the problem are being felt across all economic levels and age groups. We must face this problem with a comprehensive approach which allows communities to develop a coordinated effort toward arresting the problem.

I would also like to address my remarks briefly to title IV, which concerned the drug-free workplace requirements imposed upon Federal grantees and contractors.

When the Education and Labor Committee considered its portion of the drug bill, I was successful in attaching an amendment requiring Federal grantees and contractors to have in place a drug-free workplace policy which is administered in good faith. Shortly thereafter, the Government Operations Committee reported its drug-free workplace bill, which imposed a similar, albeit more detailed, requirement. On their face, the two bills appeared to contain substantial differences. But, in spirit, they were virtually identical.

Because of this commonality of intent, I am pleased to inform the House that we have resolved our differences and the drug bill, therefore, contains a single unified approach to this problem. My principal concern with the Government Operations bill was with its prescriptiveness. I was afraid that it would place certain hurdles before a grantee or contractor which would be both administratively and financially burdensome. To create such a burden would be particularly inappropriate since it is so obvious that employers today already realize that it is in their own best interests to maintain a drug-free workplace.

With this in mind, Chairman Hawkins and I worked very closely with the Government Operations Committee to modify the most potentially troublesome provisions. Most of these have now been clarified with committee report language which will dispel any potential ambiguities. Meanwhile, the text of the bill has been mofified to remove the employee certification requirement, which was identified by members of the business community as the single most troublesome aspect of the bill.

In working out our differences, a key role was played by the original author of this requirement, the gentleman from Pennsylvania, Mr. Walker. He is certainly to be commended for bringing this whole area to the attention of the House and for having the perseverance to see that something is actually done about the problem.

The result of all of our efforts is a drug-free workplace requirement that every Member of this House should be able to support.

Finally, I want to thank the chairman of the committee, Mr. Hawkins, for his leadership in this area of grave concern. His willingness to work with the minority members of the Education and Labor Committee is appreciated.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Rhode Island [Mr. ST GERMAIN], and I ask unanimous consent that the gentleman be allowed to yield blocks of time out of his allotted time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. ST GERMAIN asked and was given permission to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Chairman, I yield myself 5 minutes.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I rise in strong support of H.R. 5210, the Omnibus Drug Initiative Act of 1988. I would like to commend the majority leader and the members of the committees who shaped this legislation for their excellent work. The bill we have before us today is a reasonable and effective bill which will allow us to implement a comprehensive assault on drugs. It provides the means to help stop the flow of drugs into our Nation and to fight and punish those who produce and sell drugs. It also provides the means to help prevent our children from being seduced by drugs and to treat those who are caught in the nightmare of addiction.

Our Nation can ill-afford to pay the high price of drug use any longer. No longer can we afford to lose the contributions of our citizens whose drug addiction diverts their energies and talents. We cannot afford the deaths caused by drugs or the shattered lives of the innocent victims of drug-related crimes. We cannot afford to have our young people turn to drugs from despair or have their talents wasted on running messages for drug dealers. And we cannot allow the continued tragedy of our Nation's babies being addicts before they have even taken their first breath.

H.R. 5210 is a comprehensive assault on the drugs which are tearing apart our Nation. It provides the tools to halt the drugs which are flooding our borders. The bill will improve international cooperation to fight drug production and trafficking. The bill also increases drug enforcement assistance to State and local governments to provide them the tools they need to fight drugs on the streets and in our neighborhoods.

Furthermore, this legislation responds to the challenge of prevention. No matter what we do to stop the trafficking of drugs, it will be ineffective if we do not lessen the demand for them. H.R. 5210 does more than provide a catchy slogan. It contains important provisions to help reach and educate our citizens and our youth. H.R. 5210 also provides much needed funding for increased rehabilitation and treatment programs for our citizens who are suffering from abuse and addiction.

Mr. Chairman, we are making some strides in our war against drugs. But, much, much more needs to be done and we cannot afford to stop now. We must develop responsive, effective measures which will truly reduce drug abuse in America. This bill is an important step in that direction. I urge my colleagues to support this measure.

Mr. ST GERMAIN. Mr. Chairman, I rise in strong support of H.R. 5210, the Omnibus Drug Initiative Act of 1988. In particular, I would direct my colleagues attention to title I of the bill—the Money Laundering Control Amendments of 1988 which was unanimously ordered reported out of the Committee on Banking, Finance and Urban Affairs on June 9, 1988.

Mr. Chairman, it is news to no one that drugs generate massive sums of cash. This cash must be laundered—slipped into the mainstream of commerce—if the drug traffickers are to be successful. We intend to make these laundering operations as difficult and costly as possible. We cannot allow financial institutions, insured by the U.S. Government, to be used—whether by accident or design.

The subject of money laundering and the use of financial institutions to launder funds derived from illegal sources such as drug trafficking is not new to the committee. In fact, over 18 years ago, the Committee on Banking concentrated its efforts on ways to combat drug trafficking, organized and white collar crime, tax evasion and other crimes in which criminals use the Nation's financial institutions as a means to conceal or launder funds.

Just 2 years ago, the Banking Committee made a major contribution in combating drug trafficking and money laundering. The Anti-Drug Abuse Act of 1986, Public Law 99-570, contains the Comprehensive Money Laundering Prevention Act—which constituted the Banking Committee's efforts in combating drug trafficking. Although effective, we are mindful that certain improvements to that act need to be made. Title I in today's bill reflects those needed improvements. The provisions of title I will improve law enforcement efforts to get at the drug trafficker and money launderer without unduly burdening the recordkeeping or reporting requirements of financial institutions.

In addition, the committee has in certain instances amended the Right to Financial Privacy Act [RFPA] in an effort to prevent insider abuse and fraud within our Nation's depository institutions and to prevent drug dealers from taking over these entities.

As reported out by the Committee on Banking, Finance and Urban Affairs, title I of the bill would do the following:

AMENDMENTS TO THE BANK SECRECY ACT

First. It prohibits a financial institution from issuing or selling a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction that involves cash of $3,000 or more unless such individual either has an account with the institution or the individual furnishes identification as prescribed in regulations by the Secretary of the Treasury. In addition, the institution is required to maintain a record of such transaction and report to the Secretary, upon request, the purchase of such instruments by any individual.

All too often a money launderer purchases these monetary instruments for less than $10,000 in cash to avoid kicking off the currency transaction report [CTR] required to be filed by financial institutions for cash transactions of more than $10,000. For the money launderer, carrying cashier's checks or money orders is much more convenient and easier to dispose of than having to carry an equal amount of cash around in his pockets. The Department of Treasury agrees that section 1002 will be a useful deterrent to the practice of smurfing through the purchase of monetary instruments and will not be overly burdensome for financial institutions.

Second. Section 1003 authorizes Treasury to target financial institutions in certain geographic locations for a certain period of time, involving cash transactions at an amount less than the current $10,000 threshold. The purpose of this section—which has been favorably endorsed by the Treasury Department—is to use the authority of the Bank Secrecy Act to respond to epidemic drug money laundering in certain locations that: First, have been identified by law enforcement; and second, where launderers are dealing in transactions below the $10,000 reporting amount. The reports would be analyzed separately from other currency transaction reports on the spot in an effort to break up the money laundering rings.

It should be noted that this provision does not automatically lower the more than $10,000 threshold reporting requirement for cash transactions required by financial institutions under current law. Only those institutions specifically targeted for a limited duration would be affected by this new provision.

AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT

Third. Section 1004 amends the Right to Financial Privacy Act [RFPA]. That act was intended to protect the customer of financial institutions from unwarranted intrusion into his or her financial records—while at the same time permitting law enforcement to conduct legitimate investigative activity. The Right to Financial Privacy Act seeks to strike a balance between the privacy rights of bank customers and the need for law enforcement officials to obtain financial records in legitimate investigations.

Section 1004 provides a limited exception to the notification requirement under RFPA and would permit a financial institution or a supervisory agency to provide the financial records of any officer, director, employee, controlling shareholder, or any major borrower from such institution whenever there is reason to believe that records are relevant to possible criminal activity against the financial institution or supervisory agency by such individuals. I would hasten to add that in the case of the major borrower exception, the records of such individuals would be provided only if there is reason to believe that such borrower may be acting in concert with any officer, director, employee, or controlling shareholder of a financial institution.

Mr. Chairman, this provision will help law enforcement authorities to detect money-laundering schemes that may be drug related and would help prevent bank fraud and other insider abuse which has taken a heavy toll on this Nation's deposit insurance funds.

I would point out to my colleagues that the Right to Financial Privacy Act, which was reported out of the Banking Committee in 1978, was never meant to protect these insiders who violate their position of trust—and their coconspirators. Under present law, the insider under investigation often has access to his own as well as his coconspirator's vital bank records and can alter, destroy, or conceal them if notified that some information has been transferred to a law enforcement agency, usually by way of a criminal referral.

The Department of Justice and the Subcommittee on Commerce, Consumer and Monetary Affairs of the Government Operations Committee agree that insider criminal misconduct in financial institutions today involve both insiders and borrowers acting in concert. There is mounting evidence that more major borrowers defrauding financial institutions are part of organized criminal elements and when acting in concert with insiders of financial institutions—can effectively kill major criminal investigations.

Section 1004 is a very limited exception to the notification requirement under the RFPA and will provide law enforcement officials the vital information they need to detect, prosecute, and convict all criminals—including those who are drug traffickers and dealers.

In addition, Mr. Chairman, in an effort to respond to the concerns of financial institutions who are hesitant to make criminal referrals or turn over evidence even when they are victimized by an insider because of potential civil liability, the good faith defense from civil liability available to financial institutions under present law is made applicable whenever records—exempted by the insider and major borrower provisions of this section—are provided to law enforcement agencies. Further, any State or local law which would otherwise prohibit disclosure of records of insiders and affected major borrowers is preempted.

NEW CIVIL MONEY PENALTIES

Fourth. Section 1006 provides civil money penalties for failure to comply with certain recordkeeping requirements. A civil penalty up to $10,000 per violation per day is imposed on insured banks, thrifts, and other financial institutions for a willful violation of recordkeeping regulations pursuant to the Bank Secrecy Act. Violations of the recordkeeping provisions of the Bank Secrecy Act can be as harmful to law enforcement efforts to eradicate drug trafficking as violations of the reporting provisions of the BSA.

However, the committee trusts that Treasury will exercise its good judgment when imposing penalties for recordkeeping violations.

EXPORT-IMPORT BANK FINANCING AMENDMENT

Fifth. Under present law, the Eximbank is legally prohibited from financing sales of defense articles to Third World countries. There is, however, certain equipment which can be used for both defense and antidrug purposes. In order to ensure that all possible resources are made available to combat drug trafficking, an exception to the current Eximbank prohibition is provided in section 1011.

In order to maintain a balance between the bank's traditional role of helping exporters and its new role of helping with the war on drugs, this provison limits antidrug assistance to 10 percent of the Eximbank's overall guarantee authority per fiscal year.

Further, to ensure that the sale of defense articles or services would be in the national interest of the United States, the President shall take into account wheher the sale would: First, be consistent with the antinarcotics policy of the United States; second, involve the end use of a defense article or service in a major drug-transit country; and third, be made to a country with a democratic form of government.

MULTILATERAL BANK PROVISIONS IN DRUG BILL

Sixth. Provisions encouraging the increased direct participation of the multilateral development banks in the fight against illicit narcotics are also included in the Banking Committee title. Specifically, the U.S. Executive Directors of the World Bank and Inter-American Development Bank are required to seek the establishment of targeted loan programs to reduce the economic dependence on illicit narcotics in the developing countries. We call on these banks to pursue those programs which would serve to provide legal economic alternatives to income derived from the illegal drug trade. The committee believes that such a role is most appropriate for the MDB's. The plain truth is that drugs will continue to be produced unless the poor peasant farmer who grows the coca is provided with alternative means for acquiring the basic necessities of life. The MDB's can help provide these alternative means.

Let me just briefly comment on the other provision of the legislation relating to the MDB's. Section 3050 of the Foreign Affairs Committee title amends the Foreign Assistance Act by removing the MDB's from the country certification process. The purpose of removing the banks from this process is to streamline the certification procedure and remove unnecessary delays regarding resolutions of decertification. The U.S. "no" votes required in the MDB's if a country is not certified have little practical effect in any case. However, the so-called Rangel amendment requiring a negative vote by the United States if a country is making inadequate efforts to stem the flow of illegal drugs into the United States, remains in effect. Finally, I would point out that, through an understanding between myself and Chairman FASCELL, the presence of this provision in the Foreign Affairs title has no jurisdictional implications.

In conclusion, Mr. Chairman, I want to thank the ranking minority member of the committee, Mr. WYLIE and other members of the committee—both majority and minority—for their full cooperation for the work the committee has done under title I.

Only with this kind of participation and full cooperation can we truly combat effectively the drug epidemic that unfortunately engulfs this Nation.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise today in strong support of the omnibus drug abuse bill. This issue affects every citizen of this country as the plague of drug abuse and related crimes reaches everywhere; onto our streets, into our schools, and across the borders of our Nation.

There is no singular solution to the drug problem and it remains an ongoing battle in our society. In 1986, with enactment of the Omnibus Drug Act, Congress took a major step to provide the ammunition to step up the war on drugs. The bill today provides additional critically needed resources and programs to continue to combat drugs on all fronts, from education and treatment to crop eradication.

I am particularly pleased to note that this bill also includes important money laundering provisions which strike at the very essence of narcotics related crime. As a member of the House Banking Committee, I have been advancing these proposals for a number of years. Working with the chairman and my colleagues on the committee, the Treasury Department, the FBI, and the DEA, we have significantly strengthened provisions of the 1986 money laundering statute.

Southern California, in particular, is awash with dirty narcotics related cash. It is estimated, perhaps conservatively, that $1 billion in drug generated cash is being laundered annually in the Los Angeles area alone, which I represent, through a variety of money laundering schemes. Our Nation's banks are being caught up in these schemes.

The money laundering provisions in this bill will allow the Treasury Department to target individuals banks or banks in a geographic area for stricter enforcement of bank recordkeeping and reporting requirements for cash transactions. In addition, in order to purchase certain monetary instruments, an individual will either have to have an account at the bank or present identification. This identification requirement will make it much more difficult for money launderers to carry out their schemes.

Mr. Chairman, these enhancements will help provide law enforcement personnel with the tools they need to prosecute and penalize those engaged in money-laundering operations. By doing so, the bill goes a long way to shut down the drug lords in our society. I urge my colleagues to lend their support for these provisions and the entire drug bill. It is critically needed legislation.

The CHAIRMAN. The Chair wishes to state that the gentleman from Rhode Island [Mr. ST GERMAIN] has 45 seconds remaining.

Mr. ST GERMAIN. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. ANNUNZIO].

The CHAIRMAN. The gentleman from Illinois [Mr. ANNUNZIO] is recognized for 45 seconds.

Mr. ANNUNZIO. Mr. Chairman, H.R. 5210, the Omnibus Drug Initiative Act, is a good bill that, with the adoption of several amendments, can become a great bill. I want to commend the committees that worked on this legislation for their hard work and diligent effort in putting together a package of such a comprehensive nature. I also want to commend the Rules Committee and its chairman, the distinguished gentleman from Florida, Senator PEPPER, for allowing such a fair and equitable rule on the bill which allows for 36 amendments to be considered.

There has been some criticism that we are rushing this legislation too quickly. I reject that argument, for I do not believe that we can move fast enough in the war on drugs. Nor can we deal with the drug problem by using the same old ineffective approaches that have been tried in the past.

Americans are deeply concerned about the drug problem. And in every poll taken about the issues affecting the American people, the issue of drugs is always at the top of Americans' concerns.

One of the provisions in the legislation that I support strongly is the 7-day waiting period before anyone buying a handgun would be permitted to take possession of the firearm. This waiting period will allow local law enforcement authorities to check the background of the purchaser to make certain that the sale would not violate Federal or State law. This provision would go a long way toward keeping handguns out of the hands of criminals. While it is true that not all criminals buy their weapons over the counter, a Justice Department study has shown that more than 20 percent of criminals do buy weapons from registered gun dealers. And in New Jersey alone, more than 500 convicted felons a year buy handguns over the counter using their own names.

The 7-day waiting period is not going to solve the problem of criminals obtaining guns, but it will have an effect on the problem. And even if we can stop only a few guns a year from getting in the hands of criminals, isn't it worth the effort? Civil libertarians often say, "it is better to acquit 100 guilty people than to convict one innocent person." Let me suggest then, isn't it better to stop one murder by requiring a 7-day waiting period, than it is to allow no waiting period at all, which may lead to hundreds of murders? Isn't a 7-day waiting period a small price to pay for stopping crime?

It should be pointed out that this provision in the legislation applies only to handguns. It will not stop the hunter who suddenly remembers that duck season opens the day after tomorrow and needs to get a new shotgun for the season, unless the hunter wants to go after duck with a .22 caliber snub-nose revolver.

As I said earlier in my statement, this is a good bill, it can be turned into a great bill with the adoption of several amendments. The gentleman from New York [Mr. WORTLEY] and I will offer an amendment that will allow the Justice Department to obtain records on money laundering cases from other Federal agencies without requiring that the Justice Department notify the person whose records are being obtained. This amendment is important because it will enable the Justice Department to build a case against the drug dealer who is laundering money without the drug dealer knowing about the investigation. Under existing law, the Justice Department must notify the drug dealer of the investigation, which of course, gives the drug dealer ample time to flee the country or go into hiding. This is an important amendment that needs to be added to this bill.

I will also be supporting the amendment to add the death penalty for drug related killings. This amendment will allow the death penalty for anyone who intentionally kills a person during the course of committing or in furtherance of a drug felony, or while attempting to avoid the apprehension for or service of a prison sentence for a drug felony.

Mr. Chairman, it had long been my intention to offer a death penalty amendment to the drug bill. I had even gone so far as to instruct my staff to work on an amendment, and I have had conversations with other Members concerning my introduction of such an amendment. However, I felt that since I am not a member of the Judiciary Committee, the committee which would have jurisdiction over the death penalty provision, I decided that once I was certain that a death penalty amendment would be offered that I would let a member of the Judiciary Committee offer that amendment.

Pride of authorship is not important in this legislation nor with this amendment. Stopping drug dealing in the United States of America is what is important. And I intend to support every provision in the legislation and every amendment that will move toward that goal. The American people want a strong antidrug bill. The American people want strong criminal penalties against drug dealers. The House of Representatives is the house of the people, and we should give the people what they want.

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Mr. McCOLLUM. Mr. Chairman, I yield 8 minutes to the gentleman from Ohio [Mr. WYLIE], and I ask unanimous consent he be allowed to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. WYLIE. Mr. Chairman, the legislation that we are debating today is one of the most important the 100th Congress will consider. Everyday we read about the drug problem—almost every night another homicide results from drugs. It has been estimated that Americans spend $80 to $150 billion a year on drugs. Organized crime, deeply involved in the drug trade, earns anywhere from $40 to $60 billion a year. As one can see this is a problem of massive proportions, and that is why this legislation designed to curb drug use and punish drug dealers is critically important. The problem is so bad that we need to try in many ways to combat drug use.

One method of combating drugs in the financial community is to limit the ability of drug dealers to launder money. This too is a sizable problem. An estimated $5 to $15 billion a year is laundered through financial institutions every year. In 1986, the Congress began the fight against this problem by improving the Bank Secrecy Act. Under those changes, we made it a crime to structure transactions to avoid that act's reporting requirements. Moreover, we clarified that financial institutions could give limited information about accounts to Federal investigators where criminal activity is suspected.

It has been 2 years since the passage of Anti-Drug Abuse Act of 1986, and having had a chance to review the implementation of that law, the Treasury and Justice Departments have recommended some changes to build on the effectiveness of the law.

Title I of this bill will require that some limited information be recorded by the financial institution when issuing travelers checks, cashier checks, and other similar instruments over $3,000. Additionally, the Treasury Secretary will have the authority to require more extensive transaction information for transactions of less than $10,000 in targeted areas. For example, if the Secretary determines that money laundering is worse in the Los Angeles area—then he can require stiffer reporting requirements. I think this is a sensible provision.

This legislation will also make an important change in the Right to Financial Privacy Act. For the first time, law enforcement authorities will have the ability to review financial records of bank insiders without having to notify them that their records are being reviewed for possible criminal activity. As the Justice Department testified before our committee, they had a file cabinet full of cases where the suspect headed for the airport immediately after being notified that his records had been subpoenaed. Insiders are designated as officers, directors, employees, controlling shareholders, and in some cases, major borrowers.

Finally, the chairman mentioned title I allows the Export-Import Bank to provide financing for sales of military equipment, but only if the equipment is to be used to combat narcotics. A study is authorized as to whether $100 bills should be removed from circulation and also to improve lending to Third World nations to lessen dependence on the drug trade. Title I is a good title, and will improve law enforcement in the money laundering area and I commend Chairman ST GERMAIN for leadership on this title. It definitely adds strength to this bill.

AMENDMENTS TO TITLE I

Mr. Chairman, let me also discuss the two amendments that will be offered to this title. First, my Banking Committee colleagues Mr. ANNUNZIO and Mr. WORTLEY will offer an amendment that will allow a government agency to transfer financial records to the Attorney General or State law enforcement authorities without notifying the suspect. Why is this needed? Let me give you an example. Let's assume that a Federal agency in the course of routine examination uncovers some suspected fraudulent activity in an account. In order for a criminal investigation to begin they have to give these records to the Justice Department or a State authority. What happens when they inform the suspect that his records are in the hands of the Justice Department—the suspect is on the first plane to Europe or the Cayman Islands. You can see why we need to allow this transfer without notification.

The second amendment to be offered by my good friend Mr. WORTLEY is purely technical in nature. Current law requires the actual financial records of a suspect to be presented to a grand jury. Physical presentation, however, sometimes means traveling miles to a warehouse to simply look at stacks of records. How many jurors are going to physically review a warehouse full of records. You guessed it right if you said none. What the jurors will rely on is a summary of the records. This amendment would simply allow a summary of those records to be substituted for the actual records, when presenting the actual records is physically impractical. Again, the Justice Department testified that in many cases grand juries only sit for 1 day a month—that day can be wasted visiting a warehouse full of records. Finally, Criminal Rules of Procedure already protect against any tampering of subpoenaed records. Mr. Chairman, I urge my colleagues to support both of these amendments. Both have been requested by the administration, and are badly needed to combat drug-related crimes.

AMENDMENT TO TITLE VI

Mr. Chairman, later on in this debate, some amendments will be offered to assist HUD in cleaning up the drug problem in public housing. A constituent wrote me on this issue earlier this year, and the letter read as follows:

> The drug problem is worse than ever here. People live here who are not on leases. I have told my friends that live here, that there is hope that we can clean this place up, and make it the nice place it once was. With God's help and yours I have told my neighbors that we can clean it up.

Well we can start the cleanup by kicking drug dealers out of public housing and putting them in jail where they belong. Representative DIOGUARDI's amendment will provide HUD with the authority to coordinate and provide training in drug prevention efforts for the purposes of establishing drug-free public housing. I urge my colleagues to support this amendment when it is offered.

This amendment will strengthen an otherwise excellent bill.

Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. WORTLEY].

The CHAIRMAN. The gentleman from New York [Mr. WORTLEY] is recognized for 4 minutes.

Mr. WORTLEY. Mr. Chairman, I am pleased that the Congress is finally undertaking one of the most important pieces of legislation it has faced in the 100th Congress. Every person in the United States is touched in one way or another by the massive problem we are having with drugs. From the horrors of heroin addicts, to cocaine in the office, to pot in our schools, to drivers on our highways, to murdered police officers in our streets, we all yearn for a society that will be free of drugs.

Over the last several years, we have developed an increased awareness of the extent of the drug problem, the damage it can cause to individuals, families, and neighborhoods, the effect it has on productivity, and the connection between drug use and crime. This increased awareness has led to the necessity of what I call a four-pronged attack on drugs, all of which are interrelated.

We must make every attempt at eradicating all drug production at home and abroad. This includes the spraying of marijuana fields and limiting the diversion of cocaine-refining chemicals made in the United States to laboratories in drug-producing countries, such as Colombia. Moreover, we can halt drug production abroad by assisting, in both monetary and human terms, those countries in locating and dismantling drug processing sites.

The next leg of the drug war is the interception of illegal shipments of drugs entering the United States. We need to give any and all assistance, including the military, to stop this importation. I am disturbed that the bill does little to allow our Armed Forces to lend its support to drug interdiction efforts. However, I am pleased to see that the drug bill bolsters the U.S. Coast Guard interdiction efforts by appropriating money specifically for marine and air drug interdiction assets, including surveillance aircraft.

The foreign affairs title also calls for the Organization of American States to establish an antinarcotics force. With $10 million set aside for this effort if other members of the OAS lend their support, this could prove to be a substantial investment to combat what Secretary of State George Shultz properly calls the "pirates of the 20th century." The drug bill additionally assists allies by allocating some funds, by way of the Department of Defense, to train Latin American defense forces and police in antinarcotic techniques.

We must shore up our existing laws through more rigorous law enforcement which, unfortunately, is not adequately addressed in this bill. We should also pass tougher legislation to serve as a deterrent and at the same time rightly punish those who insist on dealing in drugs. This includes heightened penalties for production, distribution and use of all drugs—including marijuana—complete forfeiture of all assets, increased support for all law enforcement officials including prosecutors and a general concept of "zero tolerance." I would also urge my colleagues to support the amendment that would give the death penalty to drug traffickers and kingpins who cause the loss of human life.

A solid amendment to this drug bill is what many refer to as "user accountability." This provides that persons with drug possession convictions are ineligible for Federal benefits, contracts, or licenses for 5 years unless they have completed a drug rehabilitation program. Furthermore, there are 10 years of ineligibility after 1 conviction for drug traffickers. User accountability is also demonstrated by suspending drivers' licenses for drug offenses—I have to ask what could better deter our youth from experimenting with drugs?

Civil fines, in addition to current criminal penalties, would also deter many "casual users" from using drugs. These fines, up to 25 percent of the person's income, would give prosecutors another tool as they would not have to prove guilt beyond a reasonable doubt. Revenue collected from civil fines could also offset the enormous cost of this bill and avoid sequestration.

I will be offering two amendments to the drug bill on the floor of the House of Representatives that will strengthen law enforcement by cracking down on money laundering, a practice that drug kingpins and traffickers have mastered to an art. I would like to ask my colleagues to take a close, hard look at my amendments. I sincerely believe that they will greatly add to the current bill and will help our law enforcement officials investigate and prosecute drug dealers who launder money.

I am pleased that an important provision was included that permits the Export-Import Bank to guarantee bank credits for the export of military equipment, if the military hardware is used "primarily for antinarcotic purposes." This arrangement is especially crucial to countries such as Colombia who are shifting from a drug-producing to a drug-consuming society. Ironically, this has forced those governments to more fully realize the harmful effects of drugs. Unfortunately, those governments do not have the financial wherewithal to thoroughly combat the "narco-trafficants." This Export/Import Bank guarantee will ensure that countries like Colombia can more effectively secure loans in order to buy equipment to combat the drug menace.

The fourth, and most important, leg of the attack is demand reduction, to convince people, especially our youth, that drugs are bad and can kill. This is also the broadest part as it requires pieces of the above three legs along with education, prevention, rehabilitation, drug-free workplaces and assistance to individuals, including pregnant women, who are in special need of aid.

Public education about the ills of drugs will be greatly enhanced as many urban areas will receive direct block grants from the Federal Government. This will bypass the normal path of allocating money to the States, where much of the money gets bogged down in bureaucratic redtape, or is diverted to other favored programs. These block grants will especially help education children in our schools, where all too often experimenting with drugs leads to abusing drugs. A higher level of education will directly lead to enhanced prevention which will in turn lead to a reduced demand.

The Congress is faced with an excellent opportunity to enact new comprehensive antidrug legislation that will combat the growing menace of illegal narcotics. The war on drugs will undoubtedly need constant attention and updating from our courts, communities, families, churches, coaches, legislators, and the public in general. Through hard work, and through direct and indirect pressure from all branches of government, we can overcome this scourge of our society.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from California [Mr. HAWKINS], and I ask unanimous consent that the gentleman from California be allowed to yield blocks of that time out of his allotted time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

One of the best ways to eradicate drugs from our communities is through a coordinated and comprehensive effort of education, prevention, and supportive counseling and other social services.

Title II of the Omnibus Drug Initiative Act of 1988 provides a good beginning for education and social service programs to augment community resources in the war on drugs and to intervene directly with at-risk populations.

It authorizes the Secretary of Health and Human Services to target funds to fight the epidemic of youth gangs which commit drug-related crimes, by supporting educational outreach by local law enforcement, as well as informing gang members and their families of the availability of treatment and rehabilitation services.

The Secretary of HHS is also authorized to make grants to conduct a free-standing National Youth Sports Program [NYSP] targeted to economically disadvantaged boys and girls, a key target population for efforts to address the demand for illegal drugs.

The boys and girls receive instruction in sports, and education and counseling in such areas as drug and alcohol abuse prevention, and personal health and nutrition. Each youngster receives a free medical examination and followup, and a free daily nutritious meal.

The activities authorized include training staff in the most effective methods of drug abuse education and prevention and involving parents of NYSP participants in the drug abuse education and prevention activities.

Title II would increase the number of colleges and universities currently participating in the NCAA-sponsored program—138 in 1988—by about 30 a year for 3 years. Currently, the NYSP is conducted only in the summer, but we could make it into a year-round program.

Title II also authorizes a new program, administered by the Office of Juvenile Justice and Delinquency Prevention [OJJDP] in the Justice Department, with two components. Part 1 provides formula grants to States to further the development of more effective juvenile justice programs targeted to the illicit use of drugs by youth and to provide juveniles and their families referral to education, prevention, treatment, and rehabilitation.

The Administrator of JJDPA is also authorized to make grants, on a competitive basis to: First, prevent or reduce juvenile delinquency by drug abuse education; second, develop community outreach and counseling programs; and third, provide training and technical assistance relating to innovative and effective programs.

Title II establishes a new program to prevent and reduce illicit drug use among runaway youth. It authorizes the Secretary of HHS to make competitive grants to: First, provide counseling to runaway youth and their families, and to homeless youth; second, develop and support peer counseling programs and community education programs; and third, provide similar assistance to runaway and homeless youth in rural areas.

The programs authorized reflect the prevailing professional view that substance abuse problems among youth are frequently a consequence of similar problems within the family or an attempt to cope with family problems. Therefore, substance abuse problems of youth must be addressed in a comprehensive manner.

The bill also ensures that women receiving nutrition assistance through the WIC program are given drug abuse education; that the Secretary of Education be allowed to fund innovative alcohol abuse education programs; that States may use Adult Education Act funds for drug abuse education programs for incarcerated individuals; and that VISTA fund innovative community-based volunteer demonstration projects which provide drug abuse education to youth during the summer months.

These are extremely modest programs that are intended to build on the Drug-Free Schools and Communities Act which has already been reauthorized. They merit the strong support of all Members.

I am deeply concerned, however, about a proposal which came before the Education and Labor Committee.

The committee has twice been faced with amendments that would, if adopted, prevent students convicted of drug-related offenses from receiving student financial assistance under title IV of the Higher Education Act. On both occasions during the consideration of two different bills, the committee rejected these amendments. The majority of the committee believed that this is an ineffective deterrent to drug abuse and that enacting such user accountability provisions would prove to be an obstacle to rehabilitation.

It is perverse to deny offenders particular benefits while other convicted criminals continue to receive them. Do the proponents of such proposals mean to imply that we find even a relatively minor drug-related offense more heinous than murder, rape, and other violent felonies?

Rather than deter drug use or provide an incentive to rehabilitation, user accountability has the potential to permanently condemn drug users to addiction and inferior status in our society, and increase, not reduce, our Nation's drug problem.

I, therefore, urge you to reject the amendment to be offered by Mr. McCollum which punishes victims for their inability to say "no" to drugs.

Instead, I strongly urge you to support the Montgomery-Dingell-Rangel alternative which is a much more thoughtful approach to user accountability. Its aim is to push drug users into rehabilitation and treatment programs rather than into the streets.

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Mr. McCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. Moorhead].

Mr. MOORHEAD. Mr. Speaker, the drug problem in America continues to have the dimensions of a plague. It has and will continue to scar each of us physically and economically until the scourge is defeated by the combined best efforts of each of us. The International Narcotics Control Strategy Report, issued by the State Department, indicates that every major drug-producing nation increased production of drugs in 1986 and 1987.

More potent forms of drugs are making the war more difficult as crack and black-tar heroin continue to infiltrate our cities and towns. In 1986 more than 150 tons of cocaine, 12 tons of heroin, 60,000 tons of marijuana, and 200 tons of hashish, entered the United States. Since then the demand has increased. In 1987, Americans spent $140 billion on illegal drugs. The social and economic costs of drug use—prevention, treatment, related crime, violence, death, property destruction, lost productivity, and drug enforcement—totals an additional $100 billion.

The Federal Government is doing more than it ever has in the past to fight drugs but clearly enough has not been done. In that regard, H.R. 5210, the Omnibus Drug Initiative Act of 1988, is an important and timely initiative that will provide additional resources for the war on drugs. The gentleman from New Jersey [Mr. Hughes] and the gentleman from Florida [Mr. McCollum], the chairman and ranking member of the Judiciary Subcommittee on Crime are to be commended for their work on H.R. 5210. By the same token, the distinguished majority and minority leaders, Mr. Foley and Mr. Michel, have been instrumental in fashioning this important piece of legislation, as well as the gentleman from New York, Mr. Hamilton Fish, the ranking Republican on the full Judiciary Committee.

Earlier this year I attended hearings in Los Angeles conducted by the House Judiciary Subcommittee on Crime on gangs and their nationwide drug-selling operations. The hearings contributed several worthwhile ideas that have since been incorporated in H.R. 5210, such as the establishment of a new drug prevention program targeted at youth gangs.

When the legislation was being considered by the Judiciary Committee, I added an amendment to provide $1.4 billion in funding for the Federal prison system for fiscal year 1989. My amendment was based on the recognition that overcrowding is currently the most serious problem confronting the Bureau of Prisons. Accordingly, as we consider initiatives such as H.R. 5210, that will clearly impact on the Federal inmate population, I believe that it is imperative that we provide the Bureau with the resources necessary to cope with an ever-increasing-inmate population.

At the present time our Federal prisons are 50 percent overcrowded. We also have the problem of letting prisoners out very early. I was approached not long ago by a constituent from my district whose sons were both drug dealers. He was complaining that they were let out after 2 months in jail, saying that they did not even have a chance to begin to try to reform them or to change their ways so that they would go directly out on the streets. We cannot allow this to happen.

I also introduced an amendment to increase criminal penalties for drug dealers operating in or near public parks. Although this amendment was not made in order by the Rules Committee, I am hopeful that down the road the concept will in some way be implemented as an important safeguard for our children, as has been a similar amendment that deals with the public schools.

Finally, it had been my intention to offer an amendment to H.R. 5210 that would modernize and consolidate the existing statutory provisions relating to the Marshals Service and to provide a clear statutory basis for its current responsibilities. This amendment is based on H.R. 3551, the U.S. Marshals Service Act, which was introduced by the gentleman from Wisconsin [Mr. Kastenmeier] and which I was pleased to cosponsor. It is my understanding that this amendment will be offered as part of a noncontroversial bloc amendment by the distinguished majority leader, Mr. Foley.

Additional amendments will be offered by my Republican colleagues to add the death penalty for those who commit murder during a drug felony, to change the exclusionary law to make it easier to convict drug offenders and to make drug users more accountable. Southern California is now the Nation's distribution center for PCP, heroin, and cocaine. In the past year, drug-related arrests in Los Angeles jumped nearly 20 percent. In 1987 over 7 tons of cocaine were seized by Los Angeles police.

It is important that we give support to our police forces and to the Border Patrol, which has done more to capture narcotics that have been sent to the United States at the border than any other law enforcement agency.

The abuse of dangerous drugs remains a visible and disturbing aspect of American life. We must continue to diligently pursue effective and responsible legislative solutions to combat one of the most pressing problems of our generation, the war on drugs.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the gentleman from Florida [Mr. SMITH] and I thank the gentleman for the distinguished job he has been doing to share with us section 3 of the bill.

Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. SMITH] be allowed to yield blocks of time out of his allotted time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time. I want to commend the gentleman from New York for his continuous long-term battle in the war against drugs and his significant leadership in this fight.

Mr. Chairman, title III contains the contribution of the Foreign Affairs Committee. As chairman of the Task Force on International Narcotics Control, we have written much of what is in the foreign affairs title and the task force and the committee wholeheartedly endorse these proposals.

I think it is very, very important for those who are listening to this debate to understand that it is the Foreign Affairs Committee that was in the forefront in the international battle against narcotics for years. With the help of the gentleman from New York [Mr. RANGEL], who years ago with others dreamed up a significant and important part of the battle, the Rangel-Gilman amendment, which cut off aid which makes the U.S. cooperation with other countries contingent on their cooperation with us, and other people, we have had some major and significant advances; but more is being grown, more is being thrown at us, and unfortunately we have not kept pace with the problem.

So in the 1986 omnibus antidrug bill, the Foreign Affairs Committee fashioned what I think was a very good package, and in 1988 once again we have contributed what I think is an important part of the total bill. It is one of the least costly in terms of dollars, but I think it can be utilized effectively in the fight against narcotics and drugs, which is the cheapest part of the fight, and that is eradication and interdiction.

Roughly half of the title consists of narcotics-related provisions of H.R. 3100, which is the foreign aid bill as passed by the House. Another portion is largely technical corrections designed to unify the standards used in the certification process for bilateral and multilateral aid and for trade.

I might say, Mr. Chairman, that this morning I did a 1-minute speech on how this particular administration unfortunately deals with the problem of certification by closing their eyes to it, waving away those people in foreign governments who are involved in drugs and corrupt practices.

The remainder of the title consists of modest new initiatives. The most significant include asking the OAS to review the need for a multinational regional antinarcotics force and regional strategy, with a hemisphere conference to follow if there is agreement on these concepts.

I might add in that regard, Mr. Chairman, just in the last few weeks we have seen a group known as IDEC, the International Drug Enforcement Conference, actually foster and develop and make a significant drug raid simultaneously in three different countries: Colombia, Peru, and Bolivia. With all those and other countries cooperating in the region, even Western European countries, this can work. The regional approach does work. They confiscated tons of cocaine, millions of dollars, put clandestine laboratories out of business and bombed clandestine airstrips. It can work if we get cooperation.

Another item is a special assistance package for Colombia, which is trying hard but suffering mightily under the drug traffickers and because of the connection between narcotics traffickers and terrorists, what we call narcoterrorism.

There is a process for determining which countries are major drug transit countries for the purposes of certification as to whether they receive foreign aid, a waiver of section 660 which prohibits the provision of weapons and ammunition to foreign antinarcotics police, so that we will be able to provide some training and some weaponry for people if they qualify, with appropriate human rights safeguards.

There is a prohibition on economic and military aid to drug traffickers, which may sound silly, but right now some drug traffickers have in fact applied for some AID grants.

It waives the Export-Import Bank's prohibition on financing military sales if the sales are for equipment to be used for antinarcotics purposes.

It makes the Secretary of State the coordinator of and the reporter on all American overseas antinarcotics aid, as he now does for antiterrorism aid. It requires the Secretary of State to revoke passports for convicted drug felons and authorizes the President to stamp travel documents of drug violators.

Finally, we authorize funds to the State Department to develop machinery for visas. This is a problem, because quite honestly drug traffickers who have valid passports who would otherwise need a visa cannot be discovered because some of our machines are not capable of having the information stored.

So we have done a number of things, which again will marginally help beyond where the Foreign Affairs Committee has already gone in terms of the last few years.

All of this, together with all the other items that are in this complete package, are significant when taken as a whole. If in fact this House passes, and I hope they do, this package, I believe it will go again further down the road in making the battle against drugs more winnable and more successful.

I think that if there is a place to commend people for having been involved in this fight for a long time, it is right here in the House of Representatives. The men and women who serve here, I believe, have been more attuned to the needs and the problems of this Government and of the governments around the world and have done more than anywhere else, not in the other body, not in the administration that have come and gone or are currently in power, but in this body there has been more of a significant response to the problem of drugs than anywhere else.

□ 1415

Mr. Speaker, a lot of the Members, my good friend, the gentleman from New York [Mr. GILMAN], over on the other side, who was a cochair of the task force with me, have been involved for many years in fighting this battle. I am proud to be with them once again on an issue like this where with bipartisan support the American people know that somebody, at least, is going to stand up and lead the battle against drugs and try to win the war.

Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, I rise in support of H.R. 5210, the 1988 omnibus antidrug bill.

I am pleased to have sponsored title III of this bill, the Foreign Affairs Committee's contribution to the legislation. Title III is substantially the same as H.R. 4841, which the committee approved on June 15. It is the latest in a long list on narcotics control legislation sponsored by the committee over the past two decades.

The committee has not only enacted legislation, but has carefully monitored the impact of that legislation as well. Since passage of the Omnibus Antidrug Abuse Act of 1986, the committee's Task Force on International Narcotics Control has held almost two dozen hearings on international narcotics control issues. Many of the provisions in title III stem directly from those hearings. Also included are several recommendations made by a series of GAO reports mandated by the committee.

The committee's long and active history in narcotics control issues has led to the conclusion that there are no easy answers or quick fixes to the problem of international narcotics control. Title III of the bill therefore contains none of the more radical proposals which might be politically attractive in an election year. Instead, it authorizes a number of modest but nonetheless sensible approaches which will assist in the fight against narcotics production and trafficking. These include:

Asking the Organization of American States to review the need for a multinational regional antinarcotics force, and requiring the Secretary of State to consult with these nations to develop a comprehensive regional strategy to combat cocaine;

Authorizing a special assistance package for Colombia;

Establishing a process for determining which countries are major drug transit countries for purposes of certification;

Providing aid to foreign law enforcement agencies for antinarcotics purposes, under specified conditions;

Waiving the Export-Import Bank's prohibition on financing military sales if the equipment is for antinarcotics purposes;

Revocation of passports for convicted drug felons;

Making the Secretary of State the coordinator of, and report to Congress on, all U.S. Government overseas antinarcotics aid; and

Authorizing funds to the State Department to develop machine-readable visas.

I continue to believe that demand reduction provides the only realistic long-term hope for effectively dealing with the narcotics problem. Nonetheless, these and other measures in the bill provide useful tools in the battle overseas. Finally, I want to commend Congressman LARRY SMITH and Congressman BEN GILMAN for their long hours of work on this legislation. As chairman and cochairman of the committee's task force, along with Congressman ED FEIGHAN, they have made vital contributions to this bill.

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] has 1 minute remaining.

Mr. SMITH of Florida. Mr. Chairman, I yield my 1 minute to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the administration tells us we are engaged in a war against drugs, but it really turns out that we are barely involved in a skirmish.

In July I went down to Peru, where most of the cocaine in the world is produced, and to Colombia, where much of it is processed. It turned out, in talking to our people down there, no thought, no planning, no consideration whatsoever has been given to the development of a master plan for breaking the back of the cocaine cartels in Latin America.

A provision of this title would mandate the Secretary of State, in consultation with the producing and processing countries in South America and with the other industralized nations that, like ourselves, are the victims of cocaine, to report to the Congress on a master plan for the eradication of the production and processing of cocaine in South America, how much it will cost, how long it will take, and how it can be done so that at long last we will be able to have before us a plan and a master strategy for winning this war against drugs by beating it at the source.

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the remarks of the previous gentleman were most interesting and certainly we must do something on the supply side. But I think all of us have to recognize that unless we do something on the demand side, which is something many of the governments of the world have been suggesting we do and something many in this Congress have been suggesting we do, we are fooling ourselves. Until we have user accountability, until we hold the the user responsible as well as the provider of this poison, we are not going to defeat the problem. While we still have the sights on national television of coaches bemoaning the fact that certain million dollar athletes cannot play a couple of games because they have been caught repeatedly using drugs and yet no one suggests that the individual is responsible for his own actions, the individual is insulting the young people of America, and the individual is the one who is bringing problems upon himself. Unless we change this attitude, we are not going to solve the problem here in America; we are only going to fool ourselves.

One of the major elements of this bill, hopefully, on final passage will be user accountability. I hope people keep that in mind.

Mr. Chairman, I yield 8 minutes to the gentleman from Michigan [Mr. BROOMFIELD] and I ask unanimous consent that the gentleman from Michigan be allowed to yield blocks of time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, I supported the foreign affairs section of the drug bill as reported out of committee. My colleague, Chairman FASCELL, also supported the bipartisan effort to craft an effective Foreign Affairs Committee section of the drug bill. I believe that we were successful. Many Republican drug bill initiatives have been included in whole or in part in the bill before us today.

Some of these new initiatives call for the creation of a Latin American antinarcotics strike force and permit police training for foreign antinarcotics units to combat the drug problem in their own country.

Also included are funds for weapons and ammunition for foreign police units who confront the drug producers and traffickers on a daily basis.

Another commendable proposal in the bill authorizes funds for training programs for personnel from drug producing and trafficking countries.

In addition, MAP funds are authorized for equipment that will be used in antinarcotics efforts in Colombia.

If America is to win the battle against illegal drugs, both domestically and internationally, we must use all the available tools possible to aggressively confront and shut down the international drug traffickers.

I have an amendment which I intend to offer during consideration of the bill. It is very simple and promotes yet another arrow to America's quiver in the war against drugs. My sense-of-Congress initiative calls upon the executive branch to actively use covert action, military and paramilitary activities specifically, in the war against drugs.

America should not fight the drug lords with one hand tied behind its back. If we are really in a war, let us use all of our Nation's formidable resources in the attack. We clearly cannot afford to lose this battle.

Mr. Chairman, I yield for 1 minute to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of title III of H.R. 5210, the foreign affairs section of the Omnibus Drug Initiative Act of 1988. I would like to commend the distinguished Foreign Affairs chairman, Mr. FASCELL, the ranking minority member, the gentleman from Michigan, [Mr. BROOMFIELD], and our narcotics task force chairman, Mr. SMITH for their good work in putting together title III, the foreign affairs section of this bill.

The foreign affairs section of this measure contains a number of significant provisions: the authorization of $10 million for a Latin American regional antidrug force; earmarking of $900,000 to arm antidrug aircraft and $3.5 million for weapons and ammunition to Latin America and Caribbean police for narcotics control purposes; providing $5 million for rewards to those helping law enforcement authorities capture narco terrorists; in addition to denying passports to convicted drug violators and the requirement that the United States oppose multilateral development bank financing to uncooperative countries. This omnibus antidrug legislation also includes increased funding for the DEA, the FBI, INS, the Federal prison system, the Coast Guard and Customs.

This legislation also calls for a long overdue Western Hemispheric drug summit. Accordingly, I urge my colleagues to fully support title III.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise to offer my support and to congratulate my colleagues for the expeditious manner in which they have brought this much needed and most important legislation to the floor.

As a member of the Task Force on Drugs, I have been involved in formulating an antidrugs measure which would accomplish several necessary objectives if we are to obliterate this menace to society. Since the problems caused by the widespread use of drugs touch people in all parts of the country and at every level of the social spectrum, including our schools, the workplace—both the private and public sectors, sports, and law enforcement to name but a few, it is imperative that we accomplish this long overdue task.

I would, of course, like to ensure that the minority initiatives are included in the final package which is to be debated further here this week. The Republican bill, H.R. 4842, contains several key provisions which I believe would strengthen this bipartisan effort.

There are several provisions in the Republican bill which zero in directly on the problem of drug abuse and the best avenue of attack to use against this problem.

One of the primary provisions which I hope to see included in this legislation is the death penalty for certain drug related murders. I believe this would act as one of the greatest deterrents possible in putting a stop to the thousands of drug related deaths which occur each year. Last year alone over 37,000 deaths occurred as a direct result of drug use. In addition, we must stop future generations from killing themselves. Statistics show us that drugs are responsible for many more deaths than through the direct use of these illegal substances. For instance, most experts agree that there is a direct correlation between the use of drugs and teenage suicide. In addition, 10 to 15 percent of all highway fatalities involve drug use. Drug users also are three times more likely to be involved in on-the-job accidents. The most horrendous example of this would be the recent Amtrak collision which cost many innocent people their lives.

Whether we examine the cost in terms of human life—including future lives which will be lost and ruined—or in terms of the continuing strain this scourge puts on the entire populace, we must recognize the fact that we cannot continue to pay the high price this abuse demands. We must endeavor to eradicate the drug cartel which has made our streets a virtual battleground. Death to those who profit from death and who kill is the price we must demand—a lesser price will only cause our Nation to continue on the same path of destruction. Aristotle put it quite succinctly when he said: "The generality of men are naturally apt to be swayed by fear rather than by reverence, and to refrain from evil rather because of the punishment that it brings, than because of its own foulness." What was true then, is still true today. The death penalty as proposed in the Gekas amendment would certainly be a signal to members of the drug cartels that we mean business.

There is also an urgent need to adopt the exclusionary rule amendment to be offered by Representative LUNGREN. If we do not adopt this provision, we weaken our efforts in the fight to bring more drug dealers to trial. This provision would not be in violation of fourth amendment rights as some might suggest because use of this type of search would not be sanctioned unless it was done in a "good faith" manner. That is, the belief that it was constitutional. Fighting drugs is not a game. Drug dealers should be brought to trial where searches and seizures are made in good faith.

We must also do all we can to insure that those seeking help to recover from drug and alcohol abuse have some place to go. This type of rehabilitation requires long-term treatment and followup programs.

Last, we must do all that we can to stop these illicit drugs from ever entering our country. There are several important mechanisms at our disposal which we must employ in conjunction with the cooperation of our friends in the international community to make sure this aspect of the war on drugs is successful. We should have a sense of Congress resolution stating that fighting narcotics trafficking is an important foreign policy goal. Along with this we should urge the President to convene a Western Hemisphere conference on antinarcotics cooperation. In addition, we need to: Encourage extradition agreements, waive prohibition on export-import financing of military sales to major producer countries if equipment is needed to combat drugs, and also insure that passports of people who have committed drug violations should either be revoked or marked.

There must also be the establishment of a multinational anti-drug strike force so that we can combat illicit narcotics production and trafficking. In connection with this, we must not cut Coast Guard funding as the majority did last year. The Coast Guard has been instrumental in stopping the flow of illegal drugs into this country. We must also make better use of our Armed Forces by giving them the authority to locate, pursue, and seize aircraft and vessels suspected of carrying narcotics on board. We also should encourage, and, where, appropriate, demand that private and public institutions follow the example of the U.S. armed services in stopping use of drugs in the workplace. We need to do more to make drug users accountable; some such amendments will be offered by Republican sponsors, including things as loss of driver's licenses.

Mrs. Reagan deserves a lot of credit for the "Just Say No" campaign. It is very clear, really, that if there is no demand, there is no sale—no buy, no sale.

Throughout my years in the California State Senate and here in Congress, I have consistently supported, authored, and voted for efforts to control the spread of illegal drugs and to increase penalties for those who bring this poison to our streets and to our children.

In the past, I have cosponsored several measures designed to stop the spread of drug abuse. Many of the bills I have cosponsored relating to the drug problem will be addressed in the Omnibus Drug Initiative Act of 1988. I look forward to seeing this bipartisan effort becoming law.

The CHAIRMAN. The gentleman from Michigan [Mr. BROOMFIELD] has 3 minutes remaining.

Mr. BROOMFIELD. Mr. Chairman, I yield back the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the gentleman from Texas [Mr. BROOKS], and I ask unanimous consent that the gentleman from Texas be allowed to yield blocks of time out of his time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, title IV of the Omnibus Drug Initiative Act is identical to H.R. 4719, the Drug-Free Workplace Act of 1988, as approved unanimously by the Government Operations Committee on June 29 of this year.

H.R. 4719 has broad bipartisan support, and I know of no opposition to the measure. A drug-free workplace is essential for the safety of American workers and for the production of high quality goods and services.

Title IV provides that an organization cannot be a Government contractor or grantee unless it has certified that it will provide a drug-free workplace by adhering to six separate and specific requirements, including:

First, publishing a statement prohibiting the unlawful manufacture, distribution, dispensation, possession, or use of drugs in the workplace and specifying sanctions that will be taken against employees;

Second, establishing a Drug-Free Awareness Program for employees;

Third, requiring each employee to certify that he or she received a copy of the statement, understands it, and will abide by it, and that the employee will notify the employer of any drug conviction in the workplace;

Fourth, notifying the contracting agency within 10 days after receiving notice from an employee;

Fifth, imposing a sanction on a convicted employee, or requiring his satisfactory participation in a Drug Abuse Assistance or Drug Rehabilitation Program; and

Sixth, continuing, in good faith, the implementation of these five requirements designed to maintain a drug-free workplace.

Members should note that this bill does not require drug testing. This is a highly controversial issue, which is currently being examined in litigation before the Supreme Court, and the committee did not believe that such tests or searches should be incorporated as a requirement in this bill.

Federal Government contractors and grantees will be subject to suspension and debarment if they fail to meet any of the six requirements I have outlined or if such number of their employees have been convicted of drug violations in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace. The suspension and debarment proceedings would be carried out by the Boards of Contract Appeals in the case of contracts, and in accordance with applicable law and regulations in the case of grants. If a contractor or grantee is debarred, it shall be ineligible for any Federal contract or grant for a period up to 5 years.

Title IV of the Omnibus Drug Initiative Act would enlist the Government's contractors and grantees in our Nation's efforts to combat drug abuse. It clearly sets out the requirements that those contractors and grantees must follow to maintain their business with the Government, and it provides a fair process for determining if they have met those obligations. The bill is comprehensive and tough, but it is also rational and fair.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, 2 years ago Congress passed the Antidrug Abuse Act of 1986. That law marked an important first step in developing a long-term approach to the war on drugs.

However, it is clear that more is needed. Drug-related crime continues to be an epidemic plaguing our Nation. The price of cocaine is low. We are running out of prison space. There are yearlong waiting lists to get into drug rehabilitation programs. The 1986 bill was a start, but now it's time for the next step.

Earlier this year, I introduced a comprehensive bill as a model for addressing demand reduction, international programs, and law enforcement efforts. I am pleased to see that the core bill which we will consider over the next few days bears a remarkable resemblance to that model.

The core bill provides more grant moneys for States and localities; more funds for education; more personnel and assets for the agencies; and more incentives for foreign source and transshipment countries.

One of its effects will be to build accountability into our efforts in the war on drugs. In the past, we have not had the mechanisms in place to determine which programs work and which don't. This bill includes feedback provisions so that we can encourage successful education, rehabilitation, and law enforcement programs, and weed out those that are not working.

This legislation builds on the foundation which Congress laid 2 years ago for a sound and long-term antidrug abuse strategy. It addresses issues of vital concern in all areas of drug abuse—from treatment, rehabilitation, and education, to law enforcement and interdiction.

In most respects, this core bill presents a bipartisan approach to the war on drugs. It includes increased funding for the Drug Enforcement Administration, the FBI, the Customs Service, and the Coast Guard. It includes chemical diversion provisions to track precursor chemicals. It includes standards for laboratories performing drug testing. It encourages the development of a Latin American regional antinarcotics force. And it revises and extends grants to States for drug abuse programs.

Mr. Chairman, as we begin debate on the controversial amendments which will be offered in the next few days, let's not lose sight of this core legislation. With a few exceptions, the amendments which will command the headlines will have little effect on the war on drugs.

But the core bill is sound. It is important. And it will provide the resources for turning the tide in the war. The House of Representatives has done an excellent job with this core bill, and that fact should not be forgotten.

□ 1430

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. LUNGREN. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from New York [Mr. HORTON] and I ask unanimous consent that he be allowed to yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HORTON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong support of the Drug-Free Workplace Act of 1988. The Government Operations Committee worked in a truly bipartisan manner to develop this provision.

Drugs adversely affect the quality of the American workplace. One study indicated that productivity loss due to substance abuse—both drugs and alcohol—reached nearly $100 billion in 1983. The same study reported that workers using drugs are 28-percent less productive than their peers.

In June, the Republican Leadership Task Force on Drugs heard from a former Greene County, OH, undercover agent. He now works with corporations to determine the extent of company drug use and to rid them from the workplace. That former undercover agent testified that the "safest place to sell drugs is in the corporate setting." He explained that the workplace is the safest place to deal drugs for two main reasons. First, the dealer knows his peer group—who is using and who is susceptible. Second, the dealer knows that law enforcement won't be present.

The problem is grave. The Drug-Free Workplace Act uses the enormous leverage of the Federal procurement and grant systems to crack the problem. As a result, we'll reach hundreds of thousands of people with the message that drugs will not be tolerated.

When we first became involved with this issue, I was concerned about the feasibility of what was being attempted. But through the work of the Government Operations Committee, especially Chairman BROOKS and Mr. WALKER, the act is very workable. It doesn't set up new enforcement mechanisms. It uses those currently in place. Important procedural due process is already built into these systems. The Drug-Free Workplace Act will work, and will benefit American workers.

For all of these reasons, I strongly support title IV, the Drug-Free Workplace Act of 1988.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

Mr. Chairman, I rise in strong support of title IV of this bill, the Drug-Free Workplace Act of 1988. This concept has been championed by my good friend from Pennsylvania, Mr. WALKER. It has been reworked in a bipartisan fashion by another friend, the distinguished chairman of the Government Operations Committee, JACK BROOKS.

The act is crucial. Drugs in the workplace must be made unacceptable in the United States.

Drugs in the workplace hurt the country. They make us less competitive in the world market. Drugs in the workplace cause defective products to be released on the American public. Neither the American public nor the Japanese nor the Europeans nor the South Americans want defective products produced by impaired minds and uncoordinated hands. Quite simply, if we want to be the best, we've got to be in the best shape.

Drugs in the workplace jeopardize the lives and health of innocent coworkers. A saw that slips, a forklift that drops its load, the switch that doesn't get thrown: These are the hazards of drugs in the workplace.

Users of illegal drugs are dangerous to themselves and those around them. We must make it socially unacceptable to use illicit narcotics. The only way to win the war on drugs is to eliminate demand. So long as a market exists, big-money smugglers will find a way to bring drugs into the country. This act will create an avenue by which to reach hundreds of thousands of people with this message.

American industry and American labor must fight for market share with superior products. We've got to ensure that something stamped "Made in U.S.A." sets the world's standard for quality and performance.

Setting that standard begins with a drug-free workplace.

I strongly support the provisions of title IV, the Drug-Free Workplace Act of 1988.

Mr. HORTON. Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania [Mr. WALKER], who is one of the coauthors of this bipartisan effort as far as the drug-free workplace is concerned.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 4 minutes.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, a few months ago the idea of taking action against drugs in the workplace was merely an idea. But it is an idea that has now been through a process that I think has made it into a workable concept and one which will contribute markedly to this bill.

I rise in support of title IV. I want to congratulate the gentleman from Texas [Mr. BROOKS], chairman of the committee, for the work that he did in helping to fashion this particular provision in the drug bill, and also thank my good friend, the gentleman from New York [Mr. HORTON], for the work that he has done along the way to make certain that we did accomplish this portion of the bill. I think it is a good provision.

As has been pointed out by my colleagues, this is a problem that we deal with in our society. We are, in fact, in a position where in world competition we are undermined by drugs in the workplace. We will improve our competitive position, we will improve our ability to have a responsible work force by having drugfree workplaces.

The question was how to go about achieving that, and the concept here is one of using Federal leverage, of having the power of the Federal Government, the power of contracting and grants to the Federal Government used in order to assure compliance.

We are coming at this from two approaches. Later on today we will have an appropriations bill on the floor that will shut off all money under the appropriations act to anyone who does not have a policy, and under this provision under title IV in this bill we put a strategy into place where we put a policy into place whereby the Federal Government can implement that kind of a standard. I think it works, and I think it will work well.

I think the bottom line is that what it will create in the workplace is peer pressure against drug usage. As the situation now stands, too often fellow workers of someone using drugs protect that person, not that they like it, but they simply are not in a position for calling in law enforcement officials or going to management about someone using drugs. Under this provision, knowing that a Federal contract could be lost, knowing that their work could be jeopardized by a drug user, or by drug usage in the workplace, workers will now begin to have peer pressure go the other way. They will begin to tell their fellow workers that their use of drugs jeopardizes my job and I am not going to tolerate it any more.

With that we can begin to change what happens with drug use. It seems to me that in the workplace that is important, and it seems to me that in society that is important.

This is a step. It is one way that we can deal with this problem of drugs as it pervades our society, and I rise in strong support of title IV and hope that this particular provision of the bill, as well as the whole bill, will be endorsed by the House.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my friend for yielding time to me and I rise in strong support of the Omnibus Drug Initiative Act of 1988.

I recently spent an entire evening with the Trenton police, the proactive use unit in Trenton, at which time a number of drug busts were made, and I saw firsthand the devastation that drugs are causing in our communities.

Mr. Chairman, I rise today in strong support of the Omnibus Drug Initiative Act of 1988. H.R. 5210 represents a comprehensive bipartisan response to beef up Federal efforts in this war on drugs.

Mr. Chairman, drug abuse in the United States has cast its ugly shadow on every aspect of life in America. Today, the widespread use of drugs such as heroin, cocaine, and marijuana and their inescapable social consequences are found in the cities and the suburbs; white-collar and blue-collar occupations; among the famous and the infamous; among the best and the brightest; among the destitute and the lonely; and among the weak and the strong. By now, every American has known at least one friend whose family life has either been terribly disrupted or tragically affected by the American drug problem.

The adverse consequences of drug abuse are devastating, not only for the user and his or her immediate family, but for society as a whole. A study conducted for the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA] estimated that the economic cost of drug abuse to the United States was $59.7 billion in 1983—the most recent available figures. This estimate does not include the cost of the drugs, but is inclusive of estimated crime costs, upgraded enforcement procedures, incarceration, reduced productivity, medical treatment, and other related expenses.

Mr. Chairman, I recently witnessed firsthand the incredible drug trafficking and drug abuse problem in Trenton, NJ, which is part of my congressional district. During several drug raids of the night of August 27, I observed the courage and professionalism of the pro-active units of the Trenton Police Department. Drugs on our streets is a shocking reality and local law enforcement units do their best to change this situation given their limited resources.

Mr. Chairman, how to prevent illicit use of drugs has been a public policy concern for at least a century. And while opinions continue to vary on exactly what the Federal Government should do to control drug abuse, most agree that the drug crisis has grown to such proportions that a more comprehensive, nationally coordinated approach must be enacted if we are to have any chance of winning the drug war.

Mr. Chairman, the bill before us is a blueprint for such an approach to wipe out America's drug problem. H.R. 5210 incorporates the provisions from reported bills and recommendations of 10 House committees. This comprehensive legislative package will provide approximately $2.5 billion in new moneys for our antidrug effort. The bill will bolster both fronts of the American war on drugs. H.R. 5210 attacks the supply front through increased efforts of enforcement, interdiction, and confiscation; it attacks the demand front through increased efforts in the areas of education, treatment, and research.

On June 22, the House Foreign Affairs Committee, of which I am a member, reported out its antidrug bill. As a cosponsor of this initiative, I am proud of contributions the committee has made to H.R. 5210 to halt the tide of illegal drugs entering the United States. With the United States currently being the largest single market for illegal drugs in the world, it is clear that we must beef up our drug interdiction and international drug control efforts. I would like to now highlight some of the key provisions of the Foreign Affairs portion of H.R. 5210:

Directs the Administrator of the FAA to ascertain the feasibility of requiring each aircraft entering the continental United States to have installed an operating transponder to facilitate drug interdiction.

Greatly expands funding for the operation and maintenance of the U.S. Customs Service's air interdiction.

Provides moneys for new helicopters, patrol boats, and radar equipment for the Coast Guard.

Adds 500 new full-time Coast Guard positions to help with drug interdiction.

Enhances ability of FBI and DEA to seize violators' assets and conveyance items in drug-related offenses.

Provides new moneys for Immigration and Naturalization Service to be used for interdiction, investigations, detention, and deportation.

Authorizes new moneys for international narcotics control programs which include crop irradication and substitution in foreign countries.

Sanctions against noncooperating narcotics producing countries.

Defensively arms aircraft used in narcotics control eradication or interdiction efforts.

The Secretary of State is made coordinator of, and reporter to Congress on, U.S. Government antinarcotics aid.

Directs the Secretary of State to revoke the passport of any individual convicted of any felony violation of Federal or State law involving controlled substances if the passport was used in the crime.

Mr. Chairman, I urge my colleagues to support this vital piece of legislation.

Mr. HORTON. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. Brooks] yields back 1 minute.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Arizona [Mr. Udall] and I ask unanimous consent that he be allowed to yield blocks of his time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. UDALL. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Chairman, I rise in support of the Omnibus Drug Initiative Act which is the result of the comprehensive work of 10 House committees and many Members of Congress. This legislation will provide the country with additional assistance for law enforcement, drug interdiction, and special education and treatment for those individuals who fall into the web of drug abuse.

One of the priorities of this Congress must be to address the growing problems presented by drug abuse in our society. Hard, fast, and effective action is required now, as it is clear that the policy of "just say no," however well intended, has not adequately funded our border patrols, equipped our law enforcement officials, or decreased the demand for drugs in our parks and public lands, in our community streets, and in our Nation's schools. Contrary to the Reagan State of the Union Address, we are not winning the war on drugs.

Mr. Chairman, first I would draw my colleagues attention to a proposal initially offered by myself and Mr. Waxman that has been included in H.R. 5210. As written in this bill, the proposal would authorize funding for demonstration projects to provide prevention, education and treatment services for substance-abusing pregnant women. It also funds research efforts focused on the effects of abuse on women and their infants. Education, counseling, and research have to be a focus of breaking the drug abuse cycle in our society.

I introduced this legislation to address the severe and growing problem of drug and alcohol abuse among pregnant women. A recent report from the National Institute on Drug Abuse estimated that 10½ million women between 18 and 34 years of age used an illicit drug in the last year. In one hospital in my district alone, over 60 babies have been born in the past year to women who were abusing crack or cocaine. Just over the August recess, I visited the Ramsey and Hennepin County Medical Clinics in Minnesota where counseling and treatment is available for substance-abusing mothers. I met with dedicated doctors, nurses, social workers, and others who are increasingly alarmed at the growing number of mothers that abuse drugs during their pregnancies.

On August 29, a comprehensive study completed by the National Association of Perinatal Addiction Research and Education found that at least 11 percent of women in the 36 hospitals surveyed had used illegal drugs during their pregnancies. Further, this study suggests that 375,000 newborn babies from urban and rural communities alike are exposed to health risks each year because of their mothers' substance abuse. These infants are the most innocent victims in the vicious cycle of drug and alcohol abuse in our society and this problem of drug babies—cocaine or "crack" babies—has mushroomed just this past year and could well explode if the challenge is not met.

This study and others have reported that babies born to mothers who abuse drugs suffer not only from lower birthweight, irritability, and developmental problems, they are also often delivered prematurely, increasing the risk of complications and their possible death. Cocaine-exposed babies face a tenfold increase in the risk of crib death. These children deserve our help and support.

Second, this bill contains provisions that would help eradicate the production and trafficking of illegal drugs on the one-third of our Nation's land mass that are in national stewardship and ownership. Some of these national parks, national forests, and public lands are being misused for the cultivation, production, and distribution of illegal substances. This misuse has become a threat to the health and safety of recreationists, polluting the environment and harming the natural resources of our Nation. H.R. 5210 is an important step toward ensuring that our parks, forests, and public lands have healthy environments that are safe places for Americans to visit and enjoy.

H.R. 5210 combats illegal drugs on Federal lands in several significant ways:

First, it authorizes increased annual funding for drug related law enforcement for the major land management agencies. It authorizes $1.5 million for the Bureau of Land Management, $3 million for the National Park Service and $10 million for the Forest Service.

Second, the bill makes it a criminal act with stiff penalties to pollute national forests with poisons and hazardous substances while manufacturing or distributing illegal drugs.

Third, it gives the Forest Service, for the first time, the authority to combat drugs outside the boundaries of the national forests as long as these activities pertain to violations within the national forests. The agency now would be able to pursue drug traffickers who flee across national forest boundaries, to interview witnesses after they have left national forests and to make arrests wherever suspects are apprehended. The National Park Service and Bureau of Land Management already have this authority.

Fourth, the bill gives the Forest Service the authority to deputize law enforcement officials from other agencies to help fight drugs on the national forests. Similar authority already exists for the Park Service and the BLM.

Fifth, the bill strengthens all Forest Service law enforcement activities, not just those related to drugs, by codifying into law the agency's authority to enforce its regulations.

I want to thank Chairman Volkmer of the Subcommittee on Forests and Family Farms and Chairman de la Garza of the full Agriculture Committee for their help in developing these provisions and special credit is due Representative Ron Wyden who introduced specific legislation on this matter. All of their support was instrumental in enabling this bill to strengthen the Forest Service's drug law enforcement efforts.

I also appreciate the cooperation we had from the Judiciary Committee. After working closely with us, Judiciary included in its title of the bill the important provisions that I have mentioned that codify Forest Service law enforcement authorities and that give the agency the authority to deputize and to pursue drug cases beyond national forest boundaries. The Judiciary Committee was willing to compromise with the other committees and sponsors in limiting the scope of the Forest Service's memorandum of understanding with the Justice Department to include just those law enforcement activities related to drugs.

Mr. Chairman, all these provisions that help our land management agencies fight the war on drugs are the result of a consensus. Not only do they have the support of the Interior, Agriculture, and Judiciary Committees, but the agencies and the minority helped in their development as well. I am pleased that so many diverse interests were able to come to an agreement on how we should engage the drug problems on national lands.

Mr. Chairman, I urge my colleagues to lend their support to this bill on behalf of these proposals and the many others present in the legislation.

Mr. UDALL. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, title V of the Omnibus Drug Initiative Act of 1988 includes provisions within the jurisdiction of the Committee on Interior and Insular Affairs.

These provisions were developed on a bipartisan basis within the committee. They address serious problems of drug abuse on Indian reservations, public lands and in insular areas.

I will limit my remarks to the subtitle on Indian Alcohol and Substance Abuse and Treatment.

Chairman BRUCE VENTO of the Subcommittee on National Parks and Public Lands is speaking to the subtitle on the National Park System, Public Lands, the National Forest System, and the Bureau of Land Management Program.

Chairman RON DE LUGO of the Subcommittee on Insular and International Affairs is addressing the subtitle on the insular areas for which the United States has responsibilities; in particular American Samoa, Guam, the Northern Mariana Islands, Palau, Puerto Rico, and the Virgin Islands.

Subtitle A of title V continues the efforts begun in the 1986 act for Indians and Alaska Natives. Alcoholism and alcohol abuse is the No. 1 health and social problem in Indian reservations. In addition, the use of illegal narcotics and other deleterious substances is growing on the reservations.

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, included in the 1986 Omnibus Act, establishes a comprehensive program for dealing with this severe problem on the reservations. The act's provisions included community development and organization authorities; education and prevention efforts; law enforcement enhancement; training requirement and programs, and comprehensive treatment efforts.

In general the Indian provisions of title V reauthorize funding for these programs and fine-tune some of the authorities and programs established in the 1986 act. It also creates a new program for the funding of alcohol and drug programs for Indians in the urban areas.

Mr. Chairman, I will insert in the RECORD a section-by-section analysis of subtitle A of title V containing the Indian provisions.

In concluding, Mr. Chairman, I want to recognize the leadership on this legislation of Speaker WRIGHT; the majority and minority leaders, our colleagues TOM FOLEY and BOB MICHEL; and Chairman RANGEL of the Select Committee on Narcotics Abuse and Control.

Their initiative—and the hard and thoughtful work of many other Members as well—with all of the committees concerned has made it possible for us to be able to consider the comprehensive approach to the terrible scourge of drug abuse embodied in this bill.

SECTION-BY-SECTION ANALYSIS OF TITLE V OF H.R. 5210, THE OMNIBUS DRUG INITIATIVE ACT OF 1988

TITLE V—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Subtitle A—Indian and Substance Abuse Prevention and Treatment

Section 5001

Section 5001 provides that amendments or repeals made by subtitle A shall be considered to be made to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 *et seq.).*

Section 5002. Minimum Performance Standards

Subsection (a) amends subsection (a) of section 4205 of the 1986 Act, which requires that the Memorandum of Agreement between the Secretary of the Interior and the Secretary of Health and Human Services include minimum standards for program responsibilities, by changing the phrase "minimum standards" in subsection (a) to "minimum performance standards". This simply makes clear that it is the level of minimum performance in each such program which must be developed and implemented.

Subsection (b) amends subsection (c)(1) of section 4206, which establishes criteria for Tribal Action Plans developed pursuant to section 4206, by changing the phrase "minimum standards" to "minimum performance standards".

Subsection (c) provides that the Secretary of the Interior and the Secretary of Health and Human Services shall submit a joint report to Congress with the FY 1988 budget request on the minimum performance standards developed pursuant to section 4205 of the 1986 Act.

Section 5003. Remedial Plan for Complying With Minimum Performance Standards

Subsection (a) amends subsection (c) of section 4206 by adding a new paragraph (3) which requires that any Tribal Action Plan shall include a remedial plan for complying with the minimum performance standards incorporated under paragraph (1) of the subsection.

Subsection (b) amends subsection (b) of section 4207, establishing an Office of Alcohol and Substance Abuse in the Bureau of Indian Affairs, by requiring such office to monitor compliance with minimum performance standards established and to report to Congress on program deficiencies in that respect.

Section 5004. Definitions

Section 5004 amends section 4204 of the 1986 Act, which contains definitions, by adding a new paragraph which provides that the terms "Urban Indian", "Urban Center", and "Urban Indian Organization" are to have the same meaning as provided in section 4 of the Indian Health Care Improvement Act.

Section 5005. Amendment and Revision of Tribal Development Plan

Section 5005 amends section 4206 by providing that Tribal Action Plans established pursuant to that section shall include procedures for the amendment or revision of such plans as determined necessary by the Tribal Coordinating Committee.

Section 5006. Authorization of Appropriations for Grants

Section 5006 amends subsection (d) of section 4206, which authorizes appropriations for technical assistance grants to Indian tribes for the development of Tribal Action Plans, by reauthorizing the appropriation of not to exceed $1,000,000 for fiscal years 1990, 1991, and 1992.

Section 5007. Leasing of Tribal Property

Section 5007 amends section 4209, relating to the use of Federal facilities, property and equipment under Tribal Action Plans, by adding a new subsection (c) authorizing the long-term lease of tribal facilities or property to house programs under the Act where it would be practical or cost efficient to do so. It also provides that, where a program is to serve several tribes, the lease of a tribal facility for such program must be with the consent of all tribes to be served.

Section 5008. Emergency Shelters and Halfway Houses

Subsection (a) amends subsection (a) of section 4213 to make clear that halfway houses funded under the section can be used either for intake or aftercare facilities for youth admitted to long-term treatment. It also authorizes the Bureau of Indian Affairs, the Indian Health Service, or the tribes to use their resources to staff and operate such facilities.

Subsection (b) amends subsection (e) of section 4213 by reauthorizing funding for the design, construction, and renovation of emergency shelters and half-way houses at $3,000,000 for fiscal years 1990, 1991, and 1992. It also amends subsection (e) by authorizing the appropriation of $2,000,000 for fiscal year 1990 for staffing and operation costs for such facilities and by providing that, thereafter, such costs will be included in the base budget for the Bureau of Indian Affairs.

Finally, it amends subsection (e) to provide that funds appropriated are to be allocated among the various tribes on the basis of need and that such funds will be subject to tribal contracting under the Indian Self-Determination Act.

Section 5009. Certain Illegal Narcotics Trafficking

Subsection (a) amends subsection (a) of section 4216, providing funding to the

Tohono O'odham Tribe of Arizona for the interdiction of illegal narcotic traffic on the tribe's reservation, by providing similar assistance to the St. Regis Mohawk Tribe of New York. In addition, the amendment reauthorizes funding for the Tohono O'odham Tribe at $500,000 for fiscal years 1990, 1991, and 1992 and authorizes funding for the St. Regis Mohawk Tribe at $450,000 for fiscal years 1989 and 1990.

Subsection (b) amends subsection (b) of section 4216, which establishes a program for the eradication of marijuana cultivation on Indian reservations, by reauthorizing funding for such program at $500,000 for fiscal years 1990, 1991, and 1992.

Section 5010. Law Enforcement and Judicial Training.

Section 5010 amends section 4218 of the 1986 Act, which establishes alcohol and substance abuse training for BIA and tribal law enforcement personnel, by reauthorizing appropriations for such training at $1,500,000 for fiscal years 1990, 1991, and 1992.

Section 5011. Treatment of Juvenile Offenders

Section 5011 amends section 4219, which provides for the medical assessment and treatment of Indian juvenile offenders with respect to alcohol and substance abuse, by adding a new subsection (b) which provides that the Indian Health Service must provide interim treatment to Indian juvenile offenders who are referred under the section unless a court has prohibited such treatment or has found the juvenile to be a danger to others.

Section 5012. Juvenile Detention Centers

Section 5012 amends section 4420, which provides for the construction of juvenile detention centers on Indian reservations, by reauthorizing funding for the construction or renovation of such centers at $5,000,000 for fiscal years 1990 and 1991. In addition, it authorizes the appropriation of $5,000,000 for fiscal year 1990 for staffing and operation of such centers and provides that, thereafter, such funding shall be included in the base budget of the Bureau of Indian Affairs.

Section 5013. Indian Health Service Youth Program

Subsection (a) amends subsection (a) of section 4227, providing for detoxification and rehabilitation services for Indian juvenile abusers, to make clear that it is the Secretary of Health and Human Services who has that responsibility.

Subsection (b) rewrites subsection (b) of section 4227, which provides for the establishment, by construction or renovation, of a youth regional treatment center for each Indian Health Service area, to make clear that the subsection includes authority to appropriately staff and operate such centers. It reauthorizes funding for such construction or renovation at $5,000,000 for the fiscal years 1990 and 1991. In addition, it authorizes the appropriation of $9,000,000 in staffing and operation funds for fiscal year 1990 and provides that, thereafter, such funding shall be included in the base budget of the Indian Health Service.

Section 5014. Training and Community Education

Section 5014 amends section 4228 of the 1986 Act, which provides for the development and funding of certain community education and training programs on Indian reservations, by reauthorizing funding for such programs at $5,000,000 for the fiscal years 1990, 1991, and 1992.

Section 5015. Navajo Alcohol Rehabilitation Program

Section 5015 amends section 4229, which establishes a Navajo alcohol rehabilitation program in Gallup, New Mexico, by reauthorizing funding for such program at $200,000 per fiscal year with the limitation than not more than 10% of such funds can be used for administrative purposes.

Section 5016. Urban Indian Program

Section 5016 amends the 1986 Act by adding a new section 4231 to the Act which establishes a comprehensive program to combat alcohol and substance abuse among Indians in the urban areas. Funding is made available for such purposes to Urban Indian organizations which have a contract with the Indian Health Service under the Indian Health Care Improvement Act. The section establishes goals and criteria for grants and authorizes funding for such grants at $5,000,000 for fiscal years 1990, 1991, and 1992. The section also authorizes the appropriation of $1,000,000 each fiscal year beginning in fiscal year 1990 for research in the area of alcohol and substance abuse among Indians.

Section 5017. Treatment of Funds Appropriated To Carry Out Act

Section 5017 amends section 4207 of the Act to generally provide that funds appropriated pursuant to the Act shall be separately identified by the Secretary of the Interior and the Secretary of Health and Human Service in agency accounts and in agency budget requests.

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Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, this bill is a good bill and it is a step forward. I would like to congratulate Mr. RANGEL, the chairman of the Select Committee on Narcotics Abuse and Control, for the outstanding leadership that he has given in working with the other committees and the other leaders of the Congress in moving this bill forward.

I would like to put a footnote on the remarks made by the gentleman from Minnesota [Mr. VENTO]. We are not going to solve this problem by eradication of crops on hills around the world and we are not going to solve this problem by interdiction.

From "zero tolerance" to "just say no" the Reagan-Bush administration has resorted to slogans instead of making the tough decisions needed to control drug abuse.

This administration has greased its biceps on the drug issue but it has accomplished far too little in treating substance abusers and educating our children against the scourge of drugs.

In the area of treatment, the Omnibus Drug Initiative Act will improve upon the President's request with programs to reduce the transmission of AIDS and shorten the waiting lists for drug abuse rehabilitation programs. The bill will also add some innovative programs in education and prevention.

I am dismayed, however, that we continue to increase funding for interdiction and law enforcement at the expense of education and treatment.

In fiscal year 1988 we are spending only 1 percent of our education budget on drug education and just over 0.5 percent of our health budget on substance abuse.

In the Anti-Drug Abuse Act of 1986 we authorized $250 million for drug education. Last year the President only requested $100 million of these funds. Finally, in the 1988 election year the President has requested $250 million for drug education.

I am pleased that this bill will add to the President's request in the area of drug education. We must do better.

Only by reducing the demand for drugs can we stop or at least control drug abuse.

Our policies of interdiction and enforcement have barely made a dent in the flow of drugs through our borders. Of the tons of narcotics flooding into the United States, we intercept only 5 to 15 percent.

We could triple the current level of funding for drug law enforcement and still stop no more than 20 to 25 percent of the drugs that make their way into the bodies of our youth.

If we do spend the billions upon billions of taxpayers dollars that it would take to reduce significantly the importation of drugs, the domestic production of more deadly synthetic drugs like PCP will increase.

Education can be successful in the long run. Just witness the turnaround in attitudes and behavior on diet, physical fitness, drunk driving, cigarette smoking, and casual multipartner sex.

Increasingly, law enforcement officers are calling for vastly expanded drug education efforts. Col. Ralph Milstead, director of public safety in Arizona, testified in the Select Committee on Narcotics:

> Let's bring our people back and let's go ahead and work on the problem here and let's work on the demand side rather than keep pouring money on the supply side. I liken it to killing a snake tail first. We ought to start at the head and the head, of course, is the demand.

The Omnibus Drug Initiative Act is a good beginning. We must, however, establish ongoing programs to teach all children why they should stay off drugs and provide treatment for all those who need it.

The CHAIRMAN. The gentleman from Arizona [Mr. UDALL] has 1½ minutes remaining.

Mr. UDALL. Mr. Chairman, I reserve the balance of my time for the benefit of the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. McCOLLUM. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS of Michigan. Mr. Chairman, I am pleased to support this legislation—the product of a lot of hard work, combining the efforts of 10 House committees, including the Merchant Marine and Fisheries Committee of which I am the ranking member. Clearly the drug epidemic in this country is one of our greatest challenges and one which we are today continuing to address.

I would like to address myself primarily to those parts of this package in which I have had a hand.

First, this bill will provide some very important funding for our U.S. Coast Guard, the agency that has primary responsibility for the maritime interdiction of drugs coming into this country. As we all know, the United States is the largest and most lucrative market for illegal drugs in the world. The Coast Guard has made that market more difficult to get to, but we need to do more. We are authorizing $264 million for Coast Guard equipment, as well as additional funding and personnel for operating that equipment. Although many see the Coast Guard's drug interdiction role as their most important, the Coast Guard has a daily lifesaving mission, as well as other law enforcement missions such as maritime pollution control and fishing treaty enforcement. It is absolutely imperative that we give the Coast Guard the resources necessary to conduct an aggressive Drug Interdiction Program without sacrificing these other missions. This bill does that.

H.R. 5210 also makes changes in our maritime enforcement laws which will allow us to prosecute drug smugglers who are hiding behind foreign flags on the high seas.

As a Member of Congress who represents the Great Lakes region I am also glad to say that this bill contains provisions which will promote the cooperation between the United States and Canada on drug interdiction in the Great Lakes. We are asking the State Department to negotiate an agreement with Canada on information sharing and cooperation in these activities on the Great Lakes. We are also asking the Transportation Department and the Treasury Department to get together on Coast Guard and Customs efforts in this region.

Finally, I would like to take a little time to talk about our "innocent owner" provision, which will protect the innocent citizen from the seizure of boats, vehicles, or aircraft when drug activities are discovered and the owner had no knowledge or gave no consent to the drug offense. This is very important. Earlier this year, when the Coast Guard and Customs adopted what they called a zero tolerance attitude toward drug use, some citizens found that a boat they owned but were not aboard, or a car their son or daughter was driving, was suddenly in the hands of the Federal Government with no appeal available. While I strongly support the maxim that drug users must be accountable for their actions, I have to ask if the seizure of vessels when the owner of the vessel is innocent of any drug use or even the knowledge of any drug use is fair? I also ask whether these highly publicized seizures are really the best use of our strained resources? Finally, I ask whether these actions are not alienating our most important resource against drug use—the law-abiding U.S. citizen?

It is for these reasons that I worked hard to get this innocent owner provision included in this bill. We must make sure that we are not punishing anyone but the drug user, and that we are not unfairly depriving an innocent citizen of his or her property, whether it is used for recreation or for livelihood. This provision does that without giving up the authority to prosecute the drug user—the person who, after all, we're after.

In conclusion, Mr. Chairman, I think this Congress is making it very clear today that we do not tolerate drug pushers or drug users in this country and I urge all my colleagues to support this bill.

I have an amendment that simply adds a provision to establish a vessel identification system similar to the ones we have for cars and planes. It will help identify vessels and their owners in drug cases. We have worked out positive and constructive changes with the administration to improve this measure.

It will be part of an omnibus amendment that will be offered later on and I am sure it will be adopted.

This is an excellent bill, Mr. Chairman. A lot of people have worked hard to put it together.

Mr. Chairman, I urge a strong vote of support when we reach final passage.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, not too long ago, drugs were a problem for only a few people in the territories and commonwealths. Today, they are a problem for every island resident.

The need to get money to buy drugs and the big money that can be made selling them has spawned a vicious, new type of crime in the islands. Ruthless and brutal drug crime has victimized family after family.

Violent crime rates in some islands actually range to double the national average or more. Police estimate that three-quarters of these crimes are drug related.

And this is an insular problem that doesn't just affect the people of the islands. It affects their fellow Americans in the States as well.

This is because drug abuse in the islands is often a byproduct of international trafficking. Drugs are shipped to the islands primarily to be transhipped to the States.

The U.S. insular areas are the Nation's insular borders in the Caribbean and the Pacific. They are also the least protected of the Nation's borders.

Drug traffickers know this. In recent years, they have used our islands to smuggle their deadly goods to the large and lucrative U.S. market.

My home islands, the Virgin Islands, are right on the smuggler's route from South America to the United States.

Drug crime is too big a problem for insular governments to handle alone. They lack the resources and capability needed to fight it.

To provide the needed help, our colleagues from the other insular areas and I sponsored the U.S. Insular Areas Drug Abuse Act of 1986. Unfortunately, though, the administration hasn't implemented this law as intended.

The authorized spending for Puerto Rico was appropriated; but the administration made me fight hard to get the $4 million that was authorized for the Virgin Islands. Further, none of the special assistance authorized for the Pacific has been appropriated.

The Customs Service has finally agreed to station an aerostat radar for Puerto Rico and the Virgin Islands; but we are still waiting for the Coast Guard to station a patrol vessel in St. Croix.

The administration hasn't given us the first required report on insular drug problems, even though its almost time for the second.

Meanwhile, insular drug problems have gotten worse. New types of drugs, like the killer crack, are coming in.

Over the past 5 years, Palau has developed a staggering heroin problem so serious that it is spilling over to Guam and other United States areas as well. According to the Drug Enforcement Administration and the World Health Organization, hundreds of Palau's 15,000 people may have used heroin.

So, as chairman of the Insular and International Affairs Subcommittee, I sponsored the Insular Areas Drug Amendments of 1988. Our other colleagues from the insular areas, Fofo Sunia, JAIME FUSTER, and BEN BLAZ joined me in sponsoring this bill.

Its intent was to build upon the 1986 law by providing ongoing attention to the Nation's drug problems in the insular areas. A hearing I held on our bill underscored the need for it. Testimony from witnesses such as Governors Alexander Farrelly of the Virgin Islands and Joseph Ada of Guam, Lt. Gov. Eni Hunkin of American Samoa, and senate president Iver Stridiron of the Virgin Islands as well as Reagan administration officials made it clear that the insular drug problem has become serious and has worsened.

The hearing also made it clear that Federal law enforcement agencies are doing little about the problem, shortsightedly not fully recognizing how it fits in to the drug problem faced by the Nation.

With the support of the subcommittee's ranking Republican, Bob Lagomarsino, full committee chairman Mo Udall, as well as the Speaker and the majority and minority leaders, almost all of our bill's provisions have been included the bill we are debating today, the Omnibus Drug Initiative Act of 1988.

Subtitle C of title V would allocate more money, training, and equipment for insular drug abuse control efforts. It would dedicate these resources on a long-term basis. Assistance would be provided for locally developed—but federally approved—comprehensive drug abuse plans.

The few differences between the omnibus bill and the bill we initially introduced reflect agreements with the minority and the Judiciary Committee.

The bill would provide help for insular drug law enforcement. But it also recognizes that fighting drug crime is just one of the ways we must battle drug abuse.

Education and rehabilitation are just as important as law enforcement because demand has to be reduced. As long as the demand exists, someone will figure out a way to meet it.

Kids have to be taught not to be led into abusing drugs. Those on drugs already have to be gotten off them. Basic values have to be instilled.

It will take a dedication of resources to beat the Nation's drug problem in the insular areas. This bill would provide the resources needed and I urge the House to pass it.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from New Jersey [Mr. Rodino], the chairman of the Committee on the Judiciary, and I ask unanimous consent that he be allowed to yield blocks of time out of his allotted time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RODINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. RODINO. Mr. Chairman, the social, economic, and human costs to our Nation of drug trafficking and drug abuse are staggering. Those of us who have been working on this problem for many years know that the solutions are not easy. Our drug enforcement efforts are still fragmented among too many agencies. While some progress has been made, much greater coordination is needed. Drugs also must be made a top priority on our foreign policy agenda. More resources and efforts at all levels of our society must be devoted to education and prevention.

I support H.R. 5210, the Omnibus Drug Initiative Act which should assist in this effort. This legislation will get desperately needed funds to our communities which are being terrorized every day by drug trafficking and drug abuse.

Considerable resources rightly have been directed recently toward cracking down on those suppliers and distributors of illegal narcotics who are contemptuous of human life. Not enough have been concentrated on the other aspect of this grave problem: education of our young people to save them from becoming slaves to drugs, and treatment to give addicts a chance to become productive members of society. This bill will increase Federal assistance for State and local education and rehabilitation programs and provides a vehicle for expediting delivery of those funds.

H.R. 5210 also will provide more funds to the Drug Enforcement Agency, the Customs Service, the Organized Crime Drug Enforcement Task Forces, and the Coast Guard. It establishes new controls over substances used to produce illegal drugs. It is designed to fight money laundering and it creates new offenses to stop the supply of arms to drug traffickers.

The bill reauthorizes State and local drug law enforcement programs and increases current Federal assistance.

One of the most important provisions of this legislation in fighting crime is the requirement for a 7-day waiting period before a handgun can be sold, to give police time to check an applicant's background for drug trafficking or other criminality, or for drug abuse or insanity.

As you know, Federal law already prohibits the sale of handguns to such persons. But that prohibition is meaningless in most States, because purchasers need only say they are not disqualified and they can get their guns, no further questions asked.

The waiting-period requirement gives our public-safety forces 7 days to tell a gun dealer whether would-be buyers have records that would deny them a handgun under current law. It provides time for dealers to ensure that the sale would not violate existing law. If you are law abiding, if you are mentally competent, you can buy a gun. If records provide that you are not, then you cannot. In life-threatening circumstances the waiting period could be waived.

This legislation is not gun licensing. It is not gun registration. It is not a ban on the manufacture of guns. It in no way impinges on one's legitimate right to own a gun. This legislation will merely accomplish that which we already have deemed desirable: It will make it harder for the criminal and the unbalanced to get guns; it will curb the frightening flow of deadly weapons into the wrong hands. And it is a sensible step that will help make the stress-filled job of our police officers a little less perilous. There is no doubt about the danger of their job. Seventy-two officers were murdered last year. Fifty of those murders involved handguns. Police groups strongly support this legislation.

A waiting period is not a concept foreign to our society. You cannot drive a car without passing a test. You cannot get a loan until your credit is checked. You cannot get a job in many cases without a reference check. No matter your academic credentials, you cannot practice your profession until you have proved your right to do so.

In short, many activities require waiting periods to protect us from those who are reckless or incompetents or who have criminal backgrounds. Several States already have waiting periods for the purchase of handguns. But many do not. Interstate trafficking in handguns, therefore, is notoriously easy. A trip across a State line permits criminals to buy handguns in States with weak laws and resell them in areas with tough laws.

That is why we need a national waiting period: To stem this deadly trafficking, to keep these weapons out of the hands of those who have no right or reason to have them, to help our police to protect themselves and us from those who should be denied guns but can buy them today all too easily.

Opponents of this legislation tell us that a waiting period will not prevent all criminals from getting guns. No one claims otherwise. But as Joe D. Casey, Nashville chief of police and president of the International Association of Chiefs of Police, wrote recently, gun laws do work. My own State of New Jersey has required background checks for handgun purchases for many years. New Jersey State Police say that they have caught 10,000 convicted felons trying to buy handguns.

California has a 15-day waiting period. The State stopped 1,515 prohibited persons from buying handguns in 1986, Chief Casey wrote. President Reagan, you recall, said at the Toronto Economic Summit that he supported the California law. The Department of Justice has said it supports the concept of a waiting period.

For daring to voice support for a waiting period, the President was condemned by the gun lobby for having "undercut" tens of millions of his supporters. "Fortunately for him, he will never again have to face those voters * * *," the gun lobby said. And the gun lobby threatened in this letter to Members of Congress: "Other public officials, however, do not necessarily find themselves in the same luxurious situation." This attack is puzzling, because the gun lobby some years back, in what seemed its more reasonable days, actually had words of support for a waiting period.

So let us not be intimidated, and let us not be deceived with the notion that this issue would be best left to the States. Like drug trafficking, gun running is a national problem demanding a national response.

Gun trafficking is directly related to drug trafficking. they go hand in hand. The Bureau of Alcohol, Tobacco and Firearms reports that in 1986 and 1987 a Virginia man bought 79 guns in that State. Four were found in New York in drug-related investigations. Three New York residents and a Dallas-area resident were charged with smuggling 131 handguns from Texas to a Brooklyn drug ring this year.

The Judiciary Committee unanimously approved this legislation last June 30, 35 to 0. The police are strongly urging its passage. Hubert Williams, president of the Police Foundation, has said: "There is no way that we can keep firearms out of the hands of criminals, people who are demented, and those bent on violence, people with serious criminal records, unless we have an opportunity to first do a background check and investigation."

And, Chief Casey notes that a reasonable waiting period will simply allow police to find out who is seeking to buy a weapon that could become an instrument of death. How can anyone who supports law enforcement be against that?

The Judiciary Committee voted to call this provision the Brady amendment, in honor of James S. Brady, the White House press secretary who was gravely wounded in the 1981 assassination attempt on President Reagan, and his wife, Sarah Brady, whose tireless efforts on behalf of a national waiting period were crucial to committee approval of this legislation. In the aftermath of the tragedy that struck her and her husband, Sarah Brady's personal commitment to this proposal has made a profound contribution to the growth of the public's information and support for it.

I urge support of H.R. 5210. It has the strong backing of the leaders of our communities. Drug abuse is a disease that infects the Nation. It breeds crime that infests our communities, regardless of wealth or circumstance. It is a national problem that demands a comprehensive approach.

Drugs are the No. 1 enemy confronting our families and our children today. Although we have made progress in mobilizing our resources to combat this terrible problem, the scope and magnitude of drug abuse in the United States continues to grow. The tragic, drug-related deaths of our youngsters, the drug pushers who populate our schoolyards and neighborhoods, the overwhelming flow of illicit, deadly drugs across our Nation's borders—all of these sap our Nation's strength and productivity. These are urgent problems that demand and deserve nothing less than an urgent, serious response.

We are still a long way from declaring victory in our battle against drugs. H.R. 5210, however, will be another important weapon in this fight.

Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

□ 1500

Mr. HUGHES. Mr. Chairman, the Committee on the Judiciary has general oversight of the Nation's law enforcement effort and all criminal justice proceedings. This includes all aspects of drug enforcement. Like many committees, our work on drug enforcement and drug abuse is ongoing. Therefore many of the measures which we have reported as our contribution to the Omnibus Drug Initiative Act, included in title VI, are matters which we have been considering for some time.

Let me just summarize some of the key provisions of title VI.

CHEMICALS

One of the most significant provisions, and perhaps as a consequence of that fact, one of the last controversial and most broadly supported provisions, is the chemical diversion and trafficking act. This major initiative was requested by the administration to prevent the flow of chemicals, such as ether and acetone, from the United States to countries like Colombia, Peru, and Bolivia because the chemicals are essential to the refining of cocaine. The bill would also substantially strengthen the ability to control the commerce in precursor chemicals—chemicals which are the raw materials for making dangerous drugs such as amphetamines, methamphetamine, and PCP.

FORFEITURE

The title also reflects our long experience and numerous oversight hearings on the forfeiture of the assets and property of drug traffickers. It requires an annual audit of the Department of Justice forfeiture fund by GAO. It provides more flexibility for the U.S. Marshals Service to procure computers for operating the forfeiture fund. It provides an innocent owner defense for owners of conveyances in civil forfeiture proceedings if they were not involved in illegal activity and provides expedited administrative procedures within the Department of Justice for these transactions.

STATE AND LOCAL ASSISTANCE

The title also reauthorizes the State and local drug law enforcement program. It expands the program from an authorized level of $225 to $250 million in fiscal year 1989, and to $500 million in each of the next 3 fiscal years. It encourages expediting the processing of funds to local units of government, which have the bulk of the burden of fighting drug traffic in their neighborhoods, and provides an entitlement concept for grants of more than $25,000 for local governments. The State and local units still will have to provide a 50-50 hard match for the Federal money.

ADDITIONAL RESOURCES

The title provides for additional resources for drug law enforcement. It provides, in the current fiscal year, $4.9 million to relocate DEA's headquarters from Washington, DC, to Pentagon City thereby centralizing staff now scattered in a half-dozen downtown locations, and achieving substantial rent decreases.

For fiscal year 1989 it provides for $115 million for increased DEA programs that the committee has identified as critical for maximizing our antidrug efforts. These include a 25-percent increase in the foreign cooperative investigations program of $15 million, $19 million for DEA's airwing, $9 million for DEA's intelligence program, $23.5 million for DEA's South American initiative against the cocaine traffic, $30 million to enforce the chemical diversion bill, and $10 million to complete DEA's relocation to Pentagon City.

The bill provides for $9 million for the prosecution of cases by the multiagency organized crime drug enforcement task forces for fiscal year 1989.

At the suggestion of RON MAZZOLI, chairman of the Immigration Subcommittee, it includes $82.3 million for enhanced functions of the Immigration and Naturalization Service that support the drug enforcement mission: interdiction, investigations, detention and deportation, training and orientation.

FIREARMS

The title creates two new offenses to stop the supply of firearms to drug traffickers and provides for a 7-day waiting period before a handgun transaction can be completed to permit local police to check if the purchaser has any criminal background. Waiting periods have been proven in many jurisdictions around the country to be effective in preventing criminals and drug traffickers from buying handguns. There is no question that guns are as essential to the drug business as drugs, precursor chemicals or money laundering services. This provision will help us disarm traffickers.

AMENDMENTS

The Judiciary Committee reported two other important provisions which have not been included in H.R. 5210 due to jurisdictional concerns: user accountability and the so-called drug czar.

These provisions will be enforced as amendments. I will be supporting the McCollum amendment on user accountability which was reported by the committee. I will support the Brooks amendment which creates a drug czar in a form modified some from what the committee reported.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in support of H.R. 5210, the Omnibus Drug Initiative Act, which seeks to attack the drug problem from many angles. It will come down hard on drug traffickers and persistent users while encouraging and funding drug education and rehabilitation programs.

During Judiciary Committee consideration of the bill we expanded many of the programs started in the 1986 Omnibus Drug Act—such as special Federal assistance to State and local law enforcement efforts to combat drugs. We revised the 1986 program to assure that local governments—such as Louisville and Jefferson County, KY—receive all the the Federal money they are due from the State and quickly as possible. The bill also provides for cities and counties to apply directly to the Federal Government should any untoward delays occur at the State level in passing through their entitlements.

I am disappointed, however, that language was included revising the Federal-local cost-sharing formula from the current 75-25 Federal-local match to a 50-50 match. I proposed an amendment, which unfortunately the rules committee rejected, which would have restored the current 75-25 formula. I hope this provision will receive further scrutiny as the bill proceeds through the legislative pathway. This increased match places an unreasonable burden on our local governments who wish to participate in the program.

Also during Judiciary Committee consideration of the bill, we included language which would create a correctional officers' training center under the National Institute of Corrections to assist Federal, State, and local prisons in their drug rehabilitation efforts. I understand that my colleague JACK DAVIS of Illinois plans to offer an amendment to strike this language, and I urge my colleagues to vote against such a move. In a recent study conducted in my hometown of Jefferson County, KY, over 50 percent of a group of parolees tested positive for illegal drug use. This is but one example of the growing problem of drug abuse in our Nation's correctional facilities and the corresponding rate of recidivism due to drug-related offenses. Effective drug rehabilitation programs in our Nation's prisons could curb this often-endless cycle of drug abuse and crime—and in the long run help us curb our ever-increasing expenditures for prisons and prison construction. It makes good sense for us to maintain this language in the bill.

Another important provision included by the Judiciary Committee would require a national 7-day waiting period before a handgun can be purchased or transferred. The "Brady amendment"—named after Presidential Press Secretary Jim Brady, who was shot and permanently injured during the 1981 assassination attempt on President Reagan, and his wife Sarah—makes sense. It is not a step toward confiscation of handguns, but will help to keep handguns out of the hands of the wrong people—including those involved in the dirty illegal drug trade. Earlier this year Sarah Brady visited Louisville to talk about the waiting period bill. She exhibited during her day with us, wit, charm—and real stamina—as she answered friendly and not-so-friendly questions about the bill. It was in large part through the hard work of Mrs. Brady and members of the law enforcement community—including Sgt. Ralph Orms of Louisville, who holds a national office with the Fraternal Order of Police—that we were successful with the waiting period bill. I urge my colleagues to vote against any amendments to strike or weaken this important language.

The Judiciary Committee also included increased resources for the antidrug activities of the FBI, DEA, and for the first time, at my request, the Border Patrol of the Immigration and Naturalization Service. The Border Patrol has seized over 60 percent of all illegal narcotics coming into the United States along the United States-Mexican land border since the beginning of fiscal year 1987 and deserves adequate resources to continue this important work.

Lastly, although the Judiciary Committee did not consider this matter, I would like to bring it to the attention of my colleagues. The U.S. Customs Service operates a little-known facility in Front Royal, VA, which trains drug-detecting dogs and dog handlers for Federal, State, local, and international law enforcement efforts. Because this training is a critical component in our war against drugs, I would urge my colleagues to consider at some point authorizing funding to upgrade and expand the Customs Canine Enforcement Training Center. It is the only such Federal-civilian facility in the Nation and has trained dog and dog handlers from 69 State and local law enforcement agencies since 1974, including several from the Kentucky State Police. There is no money in the bill specifically earmarked for such upgrading and expansion, but I urge my colleagues to give this matter further consideration down the road.

I urge support—strong and bipartisan support—on final passage of H.R. 5210.

Mr. McCOLLUM. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, while we on this side are not debating the bill on the same order the other side is, I want to take this opportunity, being a member of the Committee on the Judiciary, to commend both gentlemen from New Jersey, my subcommittee chairman and the chairman of the committee, for their work and to point out the fact that this bill does already contain provisions that will not be amended on precursor chemicals that are really fantastic new improvements to the DEA law enforcement fighting tools, changes in the State drug-grant program that includes some encouragement for user accountability, prison funding, at the President's request, of $1.38 billion, changes in the Postal and Forest Service authority to apprehend drug dealers and a money-laundering tax predicate offense, which I think are every good solid, new proposals out of the Committee on the Judiciary in this legislation that will not otherwise be debated, and I think the public needs to be aware of it. It is a very major effort.

I also want to commend the gentleman from New Jersey [Mr. HUGHES] for his efforts in helping with the user accountability provisions that will be before us for amendment probably tomorrow to further strengthen the area that is really remiss right now on the demand side to make users pay a price to help deter their areas.

The CHAIRMAN. The Chair wishes to announce that the gentleman from Florida [Mr. McCOLLUM] has 41 minutes remaining and the gentleman from New York [Mr. RANGEL] has 33 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DAVIS].

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I am pleased to support H.R. 5210, the Omnibus Drug Initiative Act of 1988, and, in particular, title X of the bill which was crafted in the Energy and Commerce Committee on which I serve. I congratulate you and my colleagues for packaging a wide range of innovative legislative proposals to address the manufacture, distribution, and use of illegal drugs.

I have a particular interest in this legislation since the New York State Office of Substance Abuse estimates that 260,000 IV drug abusers reside in New York and that perhaps as many as 3 million persons in New York used drugs for nonmedical purposes during 1987. These figures clearly demonstrate how far we have to go in meeting our Nation's drug problem.

Title X of the bill makes some major changes in Federal drug, alcohol abuse, and mental health programs to strengthen drug and alcohol prevention and demand reduction programs and to improve and expand drug and alcohol treatment and mental health services. What was formerly a single State block grant for $487 million will be reauthorized as two separate State block grants; one for $475 million for alcohol and drug abuse, and one for $350 million for mental health services. Separating these authorities will allow funds to be more effectively targeted.

Title X also establishes a new block grant for IV drug abuse treatment and outreach for drug abusers at risk of transmitting the AIDS virus. This $250 million program requires a dollar-for-dollar match by the States. Another important provision, the result of a Republican amendment, is the special one-time grant program for $100 million to expand drug abuse treatment programs in order to reduce the waiting time for persons needing treatment.

I am also pleased that these provisions set aside funds to support demonstration projects for alcohol and drug abuse prevention and treatment programs for pregnant women. Clearly, innovation in this critical area is needed.

These changes along with other health programs reauthorized in title X should provide for a strong combination of programs to launch this important initiative against drug abuse.

Finally, I must voice my concern over a provision included in title X that was not part of the version reported out of the Energy and Commerce Committee. These provisions establish Federal standards for the certification of all drug testing laboratories. While I certainly support the need for high standards for such laboratories, these provisions are so stringent that few laboratories will be able to pass certification, and drug testing programs will, in effect, be eliminated. Regardless where one stands on the sensitive issue of drug testing, I believe that reasonable and workable standards for laboratories are needed. I intend to support the amendment to be offered by the gentleman from Virginia [Mr. Bliley], that will delete these provisions and substitute reasonable standards that will improve the quality of both drug testing programs and the drug testing laboratories. I urge my colleagues to join me in supporting the Bliley amendment.

Mr. DAVIS of Illinois. Mr. Chairman, today I am pleased that we are here debating the merits of this omnibus drug bill because it illustrates to America that we in Congress believe it is time to set in motion a comprehensive policy and program to deal with the drug problem in this country.

In 1986, 1987, and again in 1988, I proposed the four-legged program know as PIER—punishment, interdiction, education, and rehabilitation.

I think that the bill that we are considering today is very strong in the areas of education and rehabilitation. Unfortunately, it is not so strong on punishment, and it is completely lacking at this point in interdiction. I will be offering two amendments which go hand in hand to add strength and efficiency in this punishment area. One of the amendments strikes a provision which spends $22 million on a center to train prison officials to conduct a drug rehabilitation program, and the other adds the $22 million, plus $8 million, back to the Department of Justice for offices of U.S. attorneys in areas where the moneys are desperately needed for prosecutions.

The Department of Justice already has a Federal law enforcement training center in two locations in America and is building a third, plus they have a 5-year training plan currently under way and do not support a facility which duplicates the purposes of their Federal law enforcement training centers and the Bureau of Prisons.

As I said before, we need to deal comprehensively with the drug problem, and I should add that we need to do that efficiently and effectively. My constituents are willing to help pay for the war on drugs, but they expect us to do it in a manner which does not waste tax dollars on unnecessary facilities.

On the other side of the coin, Congress has consistently cut the President's request for new U.S. attorneys while giving more money to investigators, and that is causing a terrible backlog in the system. We have to make an effort to free the logjam at the courts and get our judicial system back into balance.

My amendments are small but significant steps toward that end, and the need we have in this country for Federal prosecutors is no secret. I am sure every Member could check back with his own U.S. attorney's offices in his State and hear first hand the problems and frustrations they face. In fact, in my home State of Illinois I know of two pending cases in which one of the U.S. attorney's offices could indict 100 or more criminal felons on drug charges if they had prosecutors to put them through the justice system. The best studies show that in order to have a more effective drug law enforcement, the Federal prosecutor ratio should be 4½ to 1. That ratio is currently 19 to 1, and that does not take into account the fact that most investigators are the product of a coordinated Federal, State, and local effort.

Mr. Chairman, I ask the Members to please support the Davis amendments when they come to the floor during the next 2 days.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho [Mr. Craig].

Mr. CRAIG. Mr. Chairman, at the outset let me, first of all, congratulate the chairman of the Committee on the Judiciary and the appropriate subcommittees, along with the ranking minority members of those subcommittees, for a piece of legislation that I think has long been needed in this country. I am, of course, talking about the omnibus drug control bill. It will go a long way in beginning to build some controls on the streets and education with our young people that is so critically necessary to fight this national plague.

Let me address myself, though, specifically to title VI, subsection 6503. This is an important issue and an important area, and I have to believe that the Subcommittee on Crime in large part added a portion to this legislation that is, if not needed, at least unworkable. I am talking about a 7-day waiting period on handguns.

This morning I was privileged to introduce 115 rank-and-file cops on the beat, you could call them, from over 27 States in this Nation. They came here to lobby. They came here to lobby us Members of Congress on this legislation, not in opposition to the omnibus crime control bill but certainly in opposition to this section, because, as they said so clearly this morning, it will not deter the criminal; it will be the honest law-abiding citizen that might be without a gun or that will be limited in his or her right to acquire a gun while the criminal, the drug dealer on the street, will still be buying his gun from behind the bar for an exorbitant amount of money because he has it or out of the back of a car that moves into a community to sell handguns to young kids on the street that are pushing crack.

That is really the issue. I hope as we debate this bill and as we move toward amendments, that we will look at some reasonable alternatives that are valuable to us. As we move to amend this important legislation, I hope when we arrive at this section, we will look most clearly at the McCollum alternative or the McCollum substitute that will devise a mechanism by which we will be able to track and identify those individuals who are criminals attempting to acquire a gun. That really is the issue here, to take guns away from criminals and not take guns away from law-abiding citizens or in some way to restrict the right of the individual law-abiding citizen to do so.

We have provided positive alternatives for the law-enforcement community, alternatives that 115 rank-and-file cops on the street supported and endorsed today as they came to lobby us here. Let us make the appropriate amendments, pass this most important legislation for our country, and hopefully improve the climate on the streets for the young people and for the law-abiding citizen.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. Rowland].

Mr. ROWLAND of Connecticut. Mr. Chairman, first let me congratulate and thank the many Members who have worked on this legislation and the various committees and also the Select Committee on Narcotics Abuse and Control, the gentleman from New York [Mr. RANGEL], chairman of the committee, and the ranking minority member, the gentleman from New York [Mr. GILMAN].

Mr. Chairman, I have spent a lot of time over the last 4 years talking with young people across my State and across my district, and, quite frankly, the conclusion I have come to is really that the way to resolve this issue is to rely on our next generation, to rely on those young people, and hopefully what we are doing today and through this week is to give them the tools, the support, and the encouragement to get the job done. If our first graders and our eighth graders and our high school kids out there are not willing to participate, if they are not willing to shut down the drug dealers across this country, we are not going to be successful.

So I hope that as we debate these amendments, some 36 amendments, during the next several days, that we keep this in mind. This is political, there are party differences, but when all is said and done, I hope this is the type of vehicle everyone can use to resolve the problem.

I would like to highlight a few key provisions I see in the legislation. First of all, it is comprehensive. We ask for supply and demand. On the demand side, we want more money for drug rehab programs, no legalization of drugs, youth programs, educational programs, recognition of problems with gangs in our urban areas, alcohol abuse problems, and yes, we will debate the death penalty and other provisions which may be very, very helpful.

On the supply side, we want more money for the Coast Guard, law enforcement, more money for DEA regional cooperation, and cooperation with other countries. We are going to go after drug trafficking, and we want money for the FAA and DOT, and we want money-laundering provisions.

□ 1515

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the gentleman from Florida [Mr. HUTTO], and I ask unanimous consent that he be allowed to yield blocks of time out of his allotted time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HUTTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the leadership on its tremendous effort in assembling the legislation before us today. This was no small task and I believe H.R. 5210 is basically a sound bill that deserves our strong support.

The distinguished chairman of the Merchant Marine and Fisheries Committee, the gentleman from North Carolina [Mr. JONES], is unable to be here this afternoon. However, I ask that his statement fully outlining the provisions of our committee's title in H.R. 5210 be inserted in the RECORD.

Mr. Chairman, I won't take a lot of time to describe the provisions of title VII. I will simply highlight the main provisions.

Several sections of our title clarify a number of legal questions relating to Coast Guard drug law enforcement activities, and should help the Coast Guard to do its job more effectively.

Section 7002 would extend the same liability protection Coast Guard commanders now have under the law to Navy commanders of ships on which Coast Guard personnel are assigned for drug enforcement missions.

Section 7003 closes loopholes in existing law whereby smugglers who sink their boats in an effort to prevent detection may be prosecuted if they are American citizens or resident aliens and there is sufficient evidence to indicate possession with intent to distribute, and would allow Americans and resident aliens arrested by a foreign nation on the high seas for drug charges to be prosecuted by the United States if the arresting nation does not do so.

Section 7003 also requires persons on ships of unknown status to make foreign registry claims at the time of boarding, rather than making the claim later in court to escape prosecution.

Section 7004 would provide indemnification of Coast Guard employees from personal liability for claims arising from performance of their duties during law enforcement activities.

Section 7005 would amend the Suits in Admiralty Act and the Public Vessels Act to ensure that Coast Guard law enforcement personnel are afforded the same protection under the law at sea that other Federal law enforcement officers enjoy on land under the Federal Tort Claims Act.

Section 7006 clarifies existing law to state that the Coast Guard has law enforcement authority over, as well as on and under, waters subject to the jurisdiction of the United States and the high seas.

Section 7007 addresses the most effective use of interdiction efforts on the Great Lakes.

Section 7008 would amend title 49 of the United States Code with relation to forfeiture of conveyances in drug-related offenses.

Finally, Mr. Chairman, section 7009 will provide a total of $346 million to the Coast Guard to fund 500 new full-time positions, to enhance existing equipment, and to purchase additional vessels, aircraft, and surveillance radar for drug enforcement activities. Most of the new equipment will be additional 110-foot patrol boats and HH-60 helicopters, which are not only critical to our drug effort but can also be used by the Coast Guard for its other missions should we ever truly turn the corner in this increasingly violent battle.

Mr. Chairman, the Coast Guard is on the front line in our drug interdiction efforts. It has done a tremendous job in the past. However, it wants to do a better job and it will do a better job with the additional equipment and personnel provided by this bill.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong support of H.R. 5210 and would like to commend you and our distinguished majority leader for your leadership in formulating and coordinating the development of this essential legislation. Plenty has been said as to the need for this legislation, legislation which should permit us to "round the bend" in this war to eradicate drug abuse in this great country. Instead, I rise to explain the provisions of title VII, the portion of the anti-drug bill developed by the Committee on Merchant Marine and Fisheries in a true bipartisan fashion.

In developing our title, the committee sought to provide for more effective Coast Guard enforcement of laws relating to drug trafficking. This goal is addressed through two avenues. First, this legislation clarifies several legal questions which have arisen since the enactment of the Anti-Drug Abuse Act of 1986. Second, the legislation authorizes additional appropriations for Coast Guard operations and the purchase of equipment for fiscal years 1989 through 1992.

Allow me to briefly explain the provisions contained in our title and our reasoning behind their inclusion. Since the passage of the Anti-Drug Abuse Act of 1986, several legal questions have arisen which had the potential to adversely impact the Coast Guard's drug interdiction efforts. These include: First, personal liability exposure of naval commanding officers involved in drug interdiction activities; second, enforcement problems related to difficulties in determining the flag status of vessels; and third, liability exposure of the Coast Guard and its employees.

The Anti-Drug Abuse Act of 1986 authorized Coast Guard law enforcement detachments [LEDETS] to engage in drug interdiction activities from Navy vessels. Liability problems may occur when naval vessels have to fire into a vessel suspected of drug smuggling which refuses to stop. If personnel on the suspect vessel are injured and a search of the vessel turns up no drugs, the naval commanding officer may be subject to a law suit. Under section 637 of title 14, United States Code, commanding officers of Coast Guard vessels, and persons acting under their orders, are indemnified from penalties or damages when a Coast Guard vessel fires at or into another vessel that does not stop following an order to do so.

On two occasions Navy ships with Coast Guard LEDETS aboard have had to fire into suspect vessels that refused to stop. On both occasions the vessels contained large amounts of drugs. In one instance, one person was injured; fortunately, no one was killed. Given the continued escalation of drug smuggling and the associated violence, the frequency of these types of events will likely increase, thereby exposing naval personnel to increased opportunities for personal liability claims. Section 7002 of our title serves to correct this problem by extending indemnification protection to naval commanding officers and personnel acting under their orders aboard Navy vessels on which Coast Guard law enforcement detachments are assigned pursuant to section 379 of title 14 United States Code.

The Coast Guard has encountered two types of cases where it has had difficulty in enforcing the Maritime Drug Law Enforcement Act of 1980 because of problems related to determination of the flag status of a vessel. The first case occurs when drug smugglers sink their vessel to avoid detection during the boarding. A related situation occurs when the occupants of a vessel, the registry of which cannot be determined at the time of the boarding, later raise a valid foreign registry as a defense in court. The second case occurs when the vessel's flag state retains jurisdiction, but shows little interest in prosecuting U.S. citizens or resident aliens. Current law does not allow the Coast Guard to proceed against U.S. citizens or resident aliens in either of these cases.

Under section 3(a) of the Maritime Drug Enforcement Act (46 U.S.C. App. 1903(a)), it is unlawful to "knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance" on any vessel subject to the jurisdiction of the United States. Section 7003 of our title extends the application of section 3(a) of the act to include U.S. citizens and resident aliens aboard a vessel of any nation. This would allow the United States to try a U.S. citizen or resident alien for a violation of the Maritime Drug Enforcement Act if the flag state of the foreign vessel fails to try the individual for the offense under the law of that country. This section is not intended to limit the authority of the flag state to take custody of and proceed against the individual. It would also not change the existing requirement for consent of the flag state before the Coast Guard boards a foreign vessel on the high seas or in the territorial waters of another nation. Nor would it change international procedures and arrangements for obtaining custody of U.S. citizens through extradition proceedings.

Subsection (b) of section 7003 amends section 3(b)(2) of the Maritime Drug Enforcement Act to require that claims of vessel nationality or registry be raised at the time of boarding by the Coast Guard. This addresses the situation in which a vessel appears to be a U.S. vessel at the time of the boarding, but individuals charged with a violation of the act later raise the vessel's foreign registry as a defense to prosecution. Requiring that a claim of foreign registry be raised at the time of boarding would allow an inquiry into the vessel's registry and appropriate requests to the state of registry for a waiver of jurisdiction.

The Coast Guard's increased emphasis on drug interdiction has also led to increased exposure of Coast Guard employees and the Coast Guard itself to law suits. Currently, Coast Guard employees are liable for actions undertaken in the performance of their duties. This exposure has resulted in 32 suits being filed against Coast Guard personnel. The Coast Guard itself is also subject to suits for all of its maritime activities, under the authority of the suits in Admiralty Act. On land, however, it is protected from common law torts by the Federal Tort Claims Act [FTCA]. This has the anomalous effect of exposing the Coast Guard to a variety of suits for actions taken at sea which would be protected by FTCA if they were carried out on land. We have sought to alleviate this problem through the legislation incorporated as sections 7004 and 7005. Section 7004 authorizes the Commandant of the Coast Guard to indemnify any Coast Guard member or employee against personal liability for actions taken within the scope of their official law enforcement duties. It is patterned after the authority of the Federal Aviation Administrator to indemnify Federal Aviation Administration employees for damages for actions taken within the scope of their employment.

Section 7005 incorporates certain of the exceptions to suits against the United States presently contained in the Federal Tort Claims Act (28 U.S.C. 2671-2680) and is intended to clarify maritime law relating to the liability of the United States.

Prior to 1960, admiralty suits against the United States, other than those arising from the operation of certain vessels, were brought under the Federal Tort Claims Act. In 1960, Congress amended the suits in Admiralty Act (46 U.S.C. App. 741-752) to encompass all admiralty actions, in order to remove uncertainty over the proper forum for certain claims against the United States.

On land, the U.S. Government and its employees are protected from common law torts by the Federal Tort Claims Act. The Federal Tort Claims Act does not apply on the navigable waters of the United States or on the high seas. On those waters the suits in Admiralty Act applies. The suits in Admiralty Act does not contain several of the exceptions to suit contained in the Federal Tort Claims Act. Section 7005 would amend the suits in Admiralty Act to include several exceptions currently provided under the Federal Tort Claims Act.

Specifically, the exceptions for discretionary function and customs detention are particularly important with respect to Coast Guard law enforcement efforts. For example, claims frequently arise with respect to seizure of vessels during maritime law enforcement efforts. In some cases, vessels containing large quantities of illicit narcotics have been seized but have sunk before they could be returned to a U.S. port, and claims have been filed against the United States for loss of the vessel. Because the vessel is destroyed, no property is available to effect a forfeiture. Therefore, the ability of the United States to use the defense that the vessel was subject to forfeiture, and that title vested in the United States at the time of commission of the act, notwithstanding the lack of a declaration of forfeiture, is unclear. Inclusion of the Federal Tort Claims Act customs detention exception from suit within the suits in Admiralty Act provision would insure that the United States is not liable for damage to detained property on navigable waters of the United States or the high seas under the same circumstances as is presently the case for damage to detained property that occurs ashore.

Section 7006 amends section 2 of title 14, United States Code, to specifically authorize the Coast Guard to enforce and assist in the enforcement of all U.S. laws over, as well as on and under, waters subject to the jurisdiction of the United States and the high seas. The section also adds maritime air surveillance or interdiction to the Coast Guard's primary law enforcement duties. The committee does not intend that this section interfere with or override the provisions of the memorandum of understanding between the U.S. Coast Guard and the U.S. Customs Service signed May 11, 1987, and approved by the National Drug Policy Board.

Section 7007 requires the Secretary of Transportation and the Secretary of the Treasury to sign an agreement reflecting the most effective use of U.S. Coast Guard and U.S. Customs Service resources to interdict illegal drugs on the Great Lakes. The section also encourages the Secretary of State to begin negotiations with officials of the Canadian Government on an agreement to increase cooperation between and coordination of our respective Governments' efforts to interdict drugs on the Great Lakes.

The agreement and negotiations under this section will not only increase the effectiveness of drug interdiction on the Great Lakes, but will also have a deterrent effect against any increase of drug activity on the Great Lakes.

Section 7008 has as its basis the belief that the owner of a conveyance and those who rely on the continued operation of that conveyance in order to earn a livelihood should not be punished for the actions of another which are beyond the knowledge and without the consent of the owner. This concern arose as a result of the implementation of the administration's zero tolerance policy. Seemingly overnight, we are apprised of numerous inequitable instances when, for example, a fishing vessel would be seized and be subject to being forfeited because some small amount, perhaps even just a trace of illegal substances, were found in the personal belongings of one of the crew members. This placed an economic hardship upon the innocent, when in fact it was the guilty individual who should bear the burden of the punishment.

Section 7008 of our title provides that no vessel, vehicle, or aircraft shall be forfeited to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge or consent of the owner.

Finally, a perennial Coast Guard problem is the lack of adequate funding. These problems are evidenced by the fact that over the past 5 years, in constant dollar terms, the Coast Guard has been level funded. By way of comparison, the Department of Defense has seen its budget increase by over 15 percent during the same period. In an effort to help alleviate Coast Guard's funding problems, the Department of Defense has periodically provided the Coast Guard with additional funds for the purchase of new equipment, but has provided very little additional funds for operations. The Coast Guard's operating expenses problems reached the breaking point in fiscal year 1988 when it suffered a $103 million funding shortfall. This forced it to close a number of units, to reduce law enforcement efforts by 55 percent, and to cease performing discretionary search and rescue patrols.

Section 7009 authorizes appropriations for the Coast Guard, to remain available until expended, of $264 million for acquisition, construction and improvements, $82 million for operating expenses for fiscal year 1989, and $30 million per year for operating expenses for fiscal years 1990, 1991, and 1992. This money shall be used to provide 500 additional full-time positions, and to procure, enhance, relocate, operate, and maintain additional equipment and facilities for drug interdiction activities of the Coast Guard. Amounts and personnel authorized by this section are in addition to any other amounts or personnel strengths authorized.

To guard against the siphoning off of Coast Guard resources from its more traditional missions such as the protection of life and property at sea, this section contains a proviso that nothing in this omnibus drug bill shall require the Coast Guard to engage in new drug enforcement missions, except to the extent that additional funds are appropriated or transferred to the Secretary of Transportation for those drug interdiction purposes. I feel that this section is particularly important because of recent actions taken by the Coast Guard. As I am sure many of you know, the Coast Guard closed numerous search and rescue, and marine safety units this past year. At the same time, however, it was expanding its drug interdiction operations in the Bahamas. While I certainly don't oppose expansion of the Coast Guard's drug interdiction efforts, I strongly oppose doing so at the expense of other Coast Guard missions. In plain English, this section requires the Coast Guard to ask Congress for additional appropriations if it wants to expand drug interdiction efforts.

I urge all Members to support this important legislation in order to avoid any additional delay which can only serve to exacerbate this already grievous problem which this great Nation faces.

Mr. HUTTO. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I would like to ask my distinguished colleague from Florida to clarify a section of this legislation that is critical to our interdiction of illegal narcotics traffickers. Title VII of the omnibus drug bill authorizes appropriations of $264 million for the Coast Guard for acquisition, construction, and improvement of assets. Additional funds are authorized for operation and maintenance purposes. I would first like to commend the gentleman for deferring to the Coast Guard's expertise in what is needed out there by not trying to mandate specific types of equipment. There is, however, an urgent need to address gaps in radar surveillance in the gulf coast region. This is of obvious concern because many of those gaps occur over my district and the gentleman's district as well. Would a viable drug interdiction option be the purchase of aerostate radar systems by the Coast Guard, then basing those systems on private vessels chartered for that purpose and modified by private industry in the most economical means possible?

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Chairman, hearings before the House Armed Services Committee confirmed that the gulf coast region is extremely vulnerable to narcotics traffickers due to gaps in radar coverage. Additionally, the statement of managers to the Department of Defense authorization bill identified aerostats as a cost-effective way to fill the gaps in our border detection network. The agencies charged with drug surveillance and interdiction must determine the most effective and efficient mix of drug surveillance and interdiction assets to meet this threat. Among such assets are aerostate radar systems which can provide 24-hour surveillance of possible narcotics traffickers. Such systems are extremely cost effective, operating at lower acquisition and life-cycle costs than fixed-wing radar aircraft. Given that aerostat systems are able to provide effective deterrence and interdiction of drug smugglers, they should continue to be a critical element of our national war on drugs.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Florida [Mr. HUTTO] for his response, and I also want to commend him for the excellent job he is doing on behalf of the Coast Guard and its efforts at interdiction for this country.

Mr. HUTTO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the omnibus antidrug bill and ask unanimous consent to revise and extend my remarks. This is a good bill which understands the vital partnership necessary to fight the war on drugs both on the supply and demand side of the problem.

Mr. Chairman, 2 years ago Congress passed an omnibus antidrug bill that was supposed to help the Nation fight its battle against illegal drugs. The legislation was a compilation of proposals primarily aimed at attacking the supply side the drug equation through drug interdiction and enforcement.

In the intervening 2 years, it has become apparent that this approach alone simply is not working. Drugs are more prevalent than ever. Treatment centers are overburdened. Prisons are filled to capacity. Clearly, it is time to develop a new approach that focuses on on the other side of the equation; that is, reducing the demand for drugs.

How do we go about reducing demand? We do it by creating a "no drug culture," a culture in which it isn't fashionable to use drugs, a culture that doesn't accept the idea of "recreational drug use."

For a long time, we have tolerated the idea of the casual user. That has to stop. We need to impress upon people that in using drugs there is a cost, not only to the individual, but to the community: that buying and using drugs enriches criminals in this country and abroad. We need a society that rejects that cost because the ultimate price is lost productivity, lost revenue, and lost lives here at home.

Later there will be an amendment offered which will help create this "no drug culture" by making drug users accountable. The amendment would limit access to certain government privileges and benefits, like grants and licenses. The American taxpayer should not provide privileges and special assistance to drug criminals.

As the ranking minority member of the Housing Subcommittee, I also want to emphasize that this amendment would prohibit Federal housing assistance to individuals twice convicted of drug felonies. At a time when we have long waiting lists of law-abiding citizens who hope to receive housing assistance, it makes no sense to allow even a single unit of assisted housing to be occupied by a criminal who preys on others in housing projects and their neighborhoods. It's a tough approach, but one which sends a clear message that "There is a cost to using drugs."

I also want to point out to the membership that our colleague from New York, Mr. DIOGUARDI, may offer an amendment to establish a drug abuse clearinghouse within the Office of Public Housing of HUD and to establish a regional training program to help housing officials deal with drug crime. The gentleman from New York has been a leader in our subcommittee on this issue, and I commend him for it.

H.R. 5210 will create new offenses for supplying firearms to drug dealers, new sentences for possesion of crack, and expansion of drug testing within the criminal justice system. Again, these are penalties to be imposed upon those who support and contribute to the drug culture.

To help those who want to eliminate the drug culture through education, prevention and treatment, we have provided in this bill a major increase in Federal funding. Specifically, we have authorized $85 million in funding for programs which target juvenile delinquents, youth gangs, homeless youth, and women enrolled in the WIC Program.

We have provided new money for local drug prevention programs and targeted that assistance to those centers that have long waiting lists. Furthermore, we allow States to use the Adult Education Act to fund drug abuse prevention and rehabilitation programs for prisoners.

Though H.R. 5210 focuses on the demand side of the drug equation, we have not overlooked the importance of reducing the supply of drugs.

The bill includes a number of provisions designed to combat money laundering by drug traffickers. For example, the bill prohibits banks from selling bank checks, cashier's checks, travelers checks, or money orders over $3,000 to those without proper identification, and requires institutions to maintain records of all such transactions. Second, H.R. 5210 would allow law enforcement to access certain financial records when they are relevant to an investigation. Finally, the bill establishes severe penalties for violation of these recordkeeping rules.

H.R. 5210 provides over $700 million in increased funding for Federal agencies involved in drug interdiction and enforcement; $1.75 billion in matching grants over 4 years to boost State and local drug enforcement efforts; and $449 million for the Federal prison system. This is an unprecedented commitment of money by Congress to combat drugs, and I think, it shows a willingness on the part of Congress to "put its money where its mouth is."

In conclusion, Mr. Chairman, I am pleased with the drug bill before us today. I think the legislation properly focuses on demand for drugs and does not simply throw money at the problem.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, there are many words that might be used to describe drug abuse.

I think the best one is waste.

Waste of promise. Waste of money. Waste of lives. And waste of the American future.

Think of all the human potential that has been devoured by this monster of waste.

We have to stop this disaster in two ways: in cutting off supply and in holding users accountable.

That is what this drug bill is all about.

As this debate continues you will hear about the supply problem. Let me for a moment talk about the demand problem.

How do we reduce drug demand? We all agree that education and treatment are necessary.

Yet these critical elements are not enough. Many casual drug users are already educated on the dangers and illegality of drug use and choose to get high anyway.

More education won't make any difference to the already educated.

The new and necessary element to reduce demand is user accountability.

Three Republican amendments to this bill establish Federal user accountability provisions for the first time.

At the very heart of our civilization is the belief in individual responsibility. But a belief in individual responsibility without individual accountability is a belief without substance in the real world.

We often use the metaphor of war when we talk about our fight against illegal drugs.

I am reminded that during World War II, those in conquered nations who aided the Nazis were known as collaborators. They were scorned by their neighbors. And after liberation, they were punished.

Well, those who use illegal drugs are collaborators with those who sell them.

And collaborators have to know they will be held accountable for their collaboration.

We say to those who use drugs—if you use you lose.

That's part of the message we want to send in this legislation to users.

Our message to traffickers is the same tough drug enforcement response we have advocated for years. Once again we have the opportunity to provide the death penalty and exclusionary rule to show how serious we are about stopping drug trafficking.

For the first time we will allow military training and assistance against international drug trafficking. Dramatic action is required.

So I urge the adoption of the amendments dealing with accountability, along with the other good provisions of this bill.

May I take this moment in conclusion quickly to thank the kind cooperation we have had from the majority side. The Speaker initially determined that it would be a bipartisan effort and had the distinguished majority leader get in touch with us so that we might work together, as we have now with 11 or more of our committees involved, but we are back here with the package that will get support from both sides of the aisle on admittedly some controversial issues that we have got to discuss by way of the amendments that have been made in order. But I certainly want to applaud the distinguished gentleman from New York [Mr. RANGEL] too, and the gentleman from New York [Mr. GILMAN], who I see here, who serve as our chairman and ranking member on the Select Committee on Narcotics Abuse and Control. What they have done to help push and motivate this whole piece of legislation we are grateful to the two of them for and all those who played such a vital role in what we have to work with today.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I am pleased that we have before us today legislation to address one of the most serious threats to our Nation's well-being, the Omnibus Drug Initiative Act. Unfortunately, we have evidenced the personal destruction that results from drug abuse, and the violent and illegal methods that are used to promote such activities. Without necessary resources and truly effective enforcement measures, we will be unable to successfully deter this enemy. For this reason, I specifically draw your attention to an amendment to be offered by my colleague from Pennsylvania, Mr. GEKAS, that I believe will prove effective in fighting the spread of drug abuse and ending the free reign that drug dealers have enjoyed as a result of lax punishment for the crime of murder.

I will rise in strong support of the Gekas amendment to the Omnibus Drug Initiative Act of 1988. Let me take this opportunity to compliment my colleague for his persistence in this matter. As my colleagues in the House have already demonstrated during a 1986 vote on a similar amendment, a vote in favor of the death penalty for drug dealers who kill in the course of a criminal activity is desperately needed and, most importantly, wanted by the majority of Congress and the American public.

The need for the Federal death penalty is made abundantly clear by a shocking situation I was recently exposed to. In the course of a life-threatening undercover drug operation, a drug enforcement agent from my district was fatally wounded by two suspected heroin dealers. As one of the suspects later testified, the incident had originally been planned "as a ripoff from the beginning."

The ultimate rip-off, however, was the death of a respected Federal agent and the subsequent grief suffered by his family and friends. And a just punishment may not be served because of a glaring deficiency in Federal law: The lack of a death penalty for any offense other than murder during a hijacking.

In fact, Federal prosecutors felt obligated to turn this case of heinous violence over to State authorities since the State of California does have a death penalty on the books. My concern over this issue, and my longstanding support for the reinstatement of the Federal death penalty, led me to introduce a bill that would provide the death penalty for anyone convicted of the killing of a Federal law enforcement officer. I am pleased to inform my colleagues that already there are 48 cosponsors of my proposal.

How many more times will we allow this sort of senseless drug massacre to occur without a fitting punishment? Must we continue to read the bold headline—"Drug Related Murder"—and be reminded that hardened and calculating criminals may only face weak and uncertain penalties under Federal law?

I believe that the drug enemy must not be permitted to continue to recklessly ruin the lives of our youth and take the lives of our Federal agents without the fear of serious punishment.

These agents are people who place their lives on the line everyday in order to protect each and every citizen of this country. If we expect to protect the rights of victims and send a resounding message to the drug abusers and dealers, then we should once again vote in favor of the death penalty.

Now that the Senate has approved a death penalty measure, the House must not pass up this opportunity to demonstrate to the American public that our fight against the drug war is real. The need is apparent, and the time to take decisive action is now.

I urge you to vote in favor of the Gekas amendment.

□ 1530

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the gentleman from California [Mr. ANDERSON], and I ask unanimous consent that the gentleman be allowed to yield blocks of time out of his allotted time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from New York for yielding me this time.

Mr. Chairman, I rise in support of H.R. 5210, the Omnibus Drug Initiative Act of 1988, and in particular title VIII of the bill.

That title, reported by the Committee on Public Works and Transportation, marks the culmination of an extensive, bipartisan investigation into the role and responsibilities of the Federal Aviation Administration in carrying out the 1984 and 1986 Aviation Drug Laws and in providing assistance to Federal, State, and local agencies involved in the enforcement of the Nation's drug laws.

In 1987, the drug trafficking industry in the United States expanded to an estimated $180 billion a year business. The drug lords have created an underground empire of crime, violence, and corruption.

Drug abuse, which has been a serious health problem in the United States for two decades, is now a major national public health threat that continues to grow.

It was estimated for 1987 that there were 600,000 active heroin addicts in the United States. The number of addicts has been increasing steadily because there is more heroin available on the streets.

Whether one looks at overall trends or annual statistics, the picture is bleak. These figures are only the tip of the iceberg. The actual extent of the problem is even greater and may become even worse in the future because the sad fact is that drugs continue to infiltrate our borders.

The smuggling of narcotics through the use of general aviation aircraft—from South America, the islands, or wherever—is a major contribution to the current drug epidemic.

The amount of cocaine and marijuana seized from general aviation aircraft as a percent of the total volume of illegal drugs seized was 69 percent in 1984, 60 percent in 1985, 53 percent in 1986 and 64 percent in 1987. In the last year alone, some 40,000 pounds of cocaine and almost 13 billion dollars worth in street value, were confiscated.

The Office of Technology Assessment estimates 1,300 to 3,500 general aviation aircraft drug smuggling flights per year or about 3.5 to 10 per day. These are the ones we've tracked—there are undoubtedly countless others about which we are unaware.

Moreover, this method of drug smuggling, once generally limited to the gulf and southern borders, is appearing increasingly at all our border areas. For example, less than a year ago, in New York, 610 pounds of cocaine were seized from a twin-engined Cessna. The flight originated in Colombia.

Drug-trafficking has become a national crisis—one that is eating at the fabric of American society. The law enforcement community, which is in the front line in this battle, experiences one frustration after another. They are faced with limited personnel, facilities, equipment and funding, and confronted by a sophisticated and ruthless enemy. The frustration that law enforcement agencies have expressed with respect to the FAA's system for registering aircraft, certificating airmen, and filing major forms was the focus of the committee's investigation, and is the basis for title VIII of H.R. 5210.

Basically, title VIII focuses on three issues:

First. Should the current FAA system of registering aircraft, certificating pilots and processing major repair and alternation forms be improved, especially as it relates to assisting law enforcement agencies in the enforcement of the Nation's drug laws?

Second. Should current FAA drug aviation information activities be improved to assist in drug interdiction and enforcement?

Third. Are the 1984 and 1986 aviation drug statutes being enforced and are they adequate to support effective drug enforcement and prosecution?

In so doing, title VIII attempts to address complaints voiced by law enforcement officials that the FAA's "system" for registering aircraft, certificating airmen and filing major repair and alteration forms is too lax and is, therefore, subject to abuse by drug smugglers; and the FAA does not enforce what rules it does have in these areas.

To meet these concerns, title VIII directs FAA to assist law enforcement agencies in drug-trafficking efforts, consistent with aviation safety, and to issue rules within 10 months to correct failures in aircraft registration, pilot certification and repair and alteration of airplanes. These changes would aid the identification, tracing and prosecution of aircraft and pilots engaged in drug smuggling.

It also increases the civil penalties for violation of registration requirements from $1,000 to $10,000 and grants FAA the authority to impose them administratively; sets new criminal penalties of up to $15,000 in fines and 3 years in prison for violation of registration and related requirements; and gives law enforcement agencies the authority to seize aircraft when there are violations of the new criminal provisions whether controlled substances are involved or not.

For a more detailed explanation of these and overall legislative intent, I refer you to the report accompanying H.R. 4844 which was filed today.

I believe title VIII is quality legislation. It reflects a thorough effort; it addresses an area of vital concern to our Nation's law enforcement community; and it will make a difference in the war on drugs.

I urge your support for H.R. 5210 and in particular title VIII.

Mr. Chairman, I yield the balance of my time to the chairman of the Aviation Subcommittee, the gentleman from California [Mr. MINETA].

The CHAIRMAN. The gentleman from California [Mr. MINETA] is recognized for 1½ minutes.

Mr. MINETA. Mr. Chairman, I rise in support of H.R. 5210 and to speak particularly about title VIII which was developed by the Committee on Public Works and Transportation.

Title VIII of the omnibus drug legislation addresses problems associated with the interdiction of drugs smuggled by air. Title VIII is identical to H.R. 4844, which was reported by the committee on June 21.

Over the past year, the Committee on Public Works and Transportation has conducted an indepth investigation into what the Federal Aviation Administration could do to better assist the drug interdiction and enforcement efforts of local, State, and Federal authorities.

What this investigation revealed was that the FAA's system of registering aircraft and certificating pilots should be changed in order to make the false registration of aircraft more difficult. It is also clear that there is a need to improve the FAA's information on pilots and aircraft ownership to facilitate investigations of and legal actions against drug smugglers.

When drug enforcement authorities learn that a particular aircraft is being used in drug smuggling activities, it is sometimes difficult or impossible to discover the identity of the true owners. The difficulty is caused by the ease with which the FAA's aircraft registration and pilot certification requirements can be circumvented by smugglers. In addition, there are some significant holes in the FAA's system of registering aircraft and pilots even when a pilot or owner is acting in good faith.

The FAA's registration system is adequate to its purposes of recording liens on aircraft; however, it is not well suited to assisting in drug interdiction and enforcement. Title VIII of the bill directs the FAA to initiate a rulemaking to reform the registration of aircraft and pilots so that the records on pilots and aircraft ownership will be as accurate and reliable as possible and will serve as a valuable law enforcement tool.

The title also provides new criminal penalties for the forging of airman certificates, false marking of aircraft, and other registration and aircraft alteration violations.

Testimony before the committee by law enforcement officials indicated strong for changes in the FAA's system of registration. The law enforcement community believes that the FAA and its records can become a vital tool in the Nation's efforts to interdict drugs and punish smugglers. This title, when enacted, will enable this to happen.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in strong support of title VIII of H.R. 5210, the Omnibus Drug Initiative Act of 1988.

It is all too clear that illegal drugs are a growing threat to our society and that we need to strengthen our efforts to stem the tide of these drugs flowing across our borders.

Certainly our awareness of the problem has been heightened by the tough initiatives undertaken by the drug task force headed by Vice President GEORGE BUSH, along with the ongoing hard work and commitment of our law enforcement officers who must deal on a daily basis with the problem.

With this legislation, and especially with title VIII, we expect to build on those efforts that have already been made. The Vice President, in all of his public and private statements, continues to view the drug battle as one of his highest priorities.

We have learned from our experiences in dealing with the relentless and ruthless drug lords that there are loopholes in the system and that these people are more than savvy enough to take full advantage of the situation.

Title VIII, drafted by the Public Works and Transportation Committee, specifically addresses the growing problem of using aviation in illicit drug transportation. This title reflects conclusions reached following many months of intensive investigation by our committee into this issue. From start to finish, it was conducted on a strong bipartisan basis and in a very thorough manner.

At the conclusion of the investigation, our committee held a most enlightening hearing on our findings, during which we learned just how effective drug smugglers have been in transporting their illegal cargo by air.

I might add that title VIII is identical to H.R. 4844, reported by the Public Works and Transportation Committee, and for a complete legislative history, my colleagues can consult the report filed by our committee with that bill.

Essentially, title VIII will tighten the Federal Aviation Administration's aircraft registration, pilot certification, and major repair and alteration procedures.

It is essential that we do this if we are to put an end to a variety of abuses, including the registration of aircraft to fictitious persons, the use of phony addresses, and the use of illegal tail numbers on aircraft.

The title also adds criminal penalties, increases civil penalties, and authorizes the Secretary of Transportation to impose very reasonable user charges to finance the cost of the proposed changes in the system.

What we are not doing in this title is succumbing to the temptation to micromanage the program. Perhaps the greatest strength of this title is the important balance it strikes between solving this very serious aviation drug trafficking problem while giving the executive branch enough discretion to come up with specific solutions to the problems we have targeted.

Finally, I think it is important to note that what is being proposed in no way minimizes the primary safety role of the FAA.

We should also recognize that the approach we are taking to improve the aircraft registration system will not only help law enforcement but also all users of the system.

I, therefore, urge my colleagues to support this legislation.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. DEWINE].

Mr. DEWINE. Mr. Chairman, I rise in support of this bill. I think we have to be realistic, though, with the American people. It is a good bill. It is a solid bill. It is going to help, but it certainly is not going to work miracles.

I think as we analyze the bill, we have to tell the American people what we are trying to accomplish. I think one of the things we are trying to accomplish is to drive up the price of drugs. There is, in fact, a relationship between use and price. Clearly, there is that relationship. It is simply a matter of economics, an inverse relationship actually between the price and use.

It is an interesting thing as I look back 10 or 11 years ago when I was a county prosecuting attorney in Green County, OH, when I compare the price of cocaine on the street at that time versus the price of cocaine today. It is about one-third today what it was 10 or 11 years ago. What that means is that it is more readily available to people. The consumption goes up as the price does, in fact, go down and get cheaper.

On the streets of America today, the streets of our major cities or smaller cities, you can buy crack for $15 or $20 a hit. You see 14- or 15-year-old boys who are involved in very sophisticated methods, part of a very sophisticated marketing system. They are the runners who carry beepers around. There is a very sophisticated marketing system to get these drug into the hands of people.

What is needed I think is a full court press, and I think this bill helps in this direction. If we are going to drive the price of drugs up, we have to keep pressure on. We have to make the cost of doing business very, very high for all concerned, not just in the production stage, but in consumption as well.

□ 1545

We have to go to the source, and this bill deals with that. We have to make it more difficult for the production of the drugs to occur in Central America and South America. We have to make it more difficult to get the drugs into the United States, make it more costly for the drug dealers to accomplish this.

Then on the streets of America where the local law enforcement takes over, we have to keep in mind that 98 to 99 percent of all drug enforcement is done at the local level. We have to give them the assistance to make it tougher on the drug pushers and then, yes, it has been talked about, we have to make it tougher as far as those who consume the drugs. We have to make user accountability, and that will be one of the amendments which will be offered. This is one way, I think, we deal with the problem.

There is another part of this bill that I would like to briefly mention, Mr. Chairman, and that has to do with an amendment that I offered in our committee that is passed, and is now part of this bill. It plugs a loophole that is in current law. I received a letter some time ago from Michael Merz, who is a U.S. magistrate in Dayton, OH. He pointed out to me a loophole in current legislation, in current law, which provides that if one is drunk and gets in their car and drives onto a Federal enclave that while that Federal judge or that Federal magistrate can put that person in jail, confine them, he or she cannot take the individual's license away. What this bill does as currently written is to plug up that loophole and allows that Federal judge to apply the local State law as far as a license suspension.

This provision is supported by the Mothers Against Drunk Drivers, and it is supported by law enforcement. It is a good measure, and I think it is an added addition to this bill.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the chairman of the awesome and powerful Committee on Ways and Means and one of the most distinguished leaders that we have in this Congress, the gentleman from Illinois [Mr. Rostenkowski], and I ask unanimous consent that the gentleman from Illinois may yield blocks of time from his time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5210, the omnibus antidrug bill. The drug problem facing our Nation today poses a major threat to virtually all aspects of our society. It is a bipartisan issue which follows no regional, racial, or religious boundaries. We all agree that our best efforts must be directed toward the elimination of this insidious problem.

The Anti-Drug Abuse Act of 1986 contained a number of provisions reported by the Committee on Ways and Means which significantly strengthened Customs' enforcement capability in fighting the war on drugs. In particular, these provisions revised many of our outdated Customs laws to close loopholes that had made it easier for drug traffickers to smuggle drugs into our country; increased the penalties for violations of Customs drug laws; provided funding for drug interdiction programs through the Customs forfeiture fund; significantly increased Customs' manpower and equipment for waging a more effective campaign against drugs and created a tool for the President to use by requiring denial of preferential trade status to nations which are the source of illegal drugs if they refuse to cooperate in arresting illegal drug traffic. All of these provisions have been helpful in fighting the war on drugs but yet the problem continues to worsen.

The Ways and Means title of H.R. 5210 therefore contains additional provisions to further strengthen the enforcement capability of the U.S. Customs Service. Title IX, which was approved unanimously by the Committee on Ways and Means would authorize appropriations for the U.S. Customs Service providing an increase over that requested by the administration of $73 million for the addition of 500 Customs officers, $55 million devoted exclusively to the enhancement of Customs' Air Interdiction Program, and $15 million for the construction of an x-ray imagery vapor sensitive scanning device.

Further, title IX provides for a fivefold increase in the penalty for failure to declare a controlled substance—from 200 to 1,000 percent of the value of the article—and an amendment which would allow the Secretary of the Treasury to transfer forfeited property to State, local, or foreign governments "that cooperate with the U.S. Customs Service in joint law enforcement operations."

These provisions should complement the strong Customs enforcement provisions the committee included in the omnibus drug bill enacted in the 99th Congress to provide for effective Customs interdiction of narcotics at our borders.

I urge my colleagues to join me in supporting this important piece of legislation.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. Kennelly].

Mrs. KENNELLY. Mr. Chairman, I thank the gentleman from New York [Mr. Rangel] for his work on this bill, and the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. Rostenkowski], the gentleman from California [Mr. Anderson], and the gentleman from Michigan [Mr. Dingell] and the other chairman who worked so expediently to bring this bill to the floor at this time.

Mr. Chairman, 2 years ago we were all in this same Hall calling for a war on drugs. Our rhetoric was full-blown. We almost acted like a football team at a rally before the celebrated Thanksgiving game.

Listening to this debate, we see a little difference. We see more practicality. We see that we are much more serious about what we are about. We know the war cannot be fought from Washington, but it has to be fought in our communities, in our schools, our hospitals, our prisons.

We know that the Customs Service has its work cut out for it and that the Coast Guard can only do so much, that we have to back our local police forces, because they know who is doing what in our cities and towns.

We hear today as much about demand as we do about supply. We know that those who use the drugs have to be held responsible. I commend the chairmen and the committees who worked so hard to bring this bill to us today. I commend the people who have spoken so far because we are not being nonpartisan about this problem, and, yes, we have a war in our cities and towns. We read about it every day in the newspapers. It sounds like random killing, and it is not just killing concerning drug actions.

I am in support of this bill, and I know we are going to pass a good bill, because we cannot become the country we are if we continue to be diminished until we solve this problem.

The CHAIRMAN. The gentleman from Illinois [Mr. Rostenkowski] has 3 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. Guarini].

Mr. GUARINI. Mr. Chairman, today our national treasures are under siege from a slow and deadly poison: drugs.

This crisis represents a fatal attraction eating away at our children, our cities and our way of life.

Just weeks ago, our own Secretary of State, George Shultz, was attacked in Bolivia.

We are reminded, again, of the powers that are promoting drugs.

We are reminded, again, that we are dealing with multinational merchants of death.

Judges are murdered, police are bribed, mayors are bought, communities are terrorized.

Democratic institutions are corrupted, controlled, disrupted, and devastated by a shadow government of fear that profits from the misery of drugs.

Panamanian dictators, Honduran generals, Mexican politicians, Haitian soldiers, Asian godfathers, Bolivian terrorists—the list is endless and growing.

From Bogota to Panama City, from Los Angeles to New York City, drugs are flown in, shipped in, trucked in, and smuggled in.

Make no mistake: By targeting the Secretary of State, in Bolovia the drug lords are sending us a message.

And by passing the bill before this House, we are sending a message back.

At home there is some good news. In towns and cities across this country, people are ready to march.

They are angry, determined, and ready to fight back.

They want to win this war, and they are waiting for a call to action.

This legislation makes the money available to fight this war.

It supports Federal, State, and local law enforcement programs.

To find, capture, convict, and imprison those who profit by dealing in drugs.

It improves education, treatment, and rehabilitation programs.

To teach our children to say no, and to help them when they make the mistake of saying yes.

It makes drug users accountable for their actions in the workplace.

To ensure the safety of our work force and to strengthen our national economy.

Mr. Chairman, when we talk about drug use, we talk about people.

Not simply numbers, not merely programs, but people.

Ultimately, the war against drugs will not be won at our borders. It will be won in our hearts, in our souls, in our national conscience.

It will be won by giving our kids something to believe in, something to work for, something to fight for.

It will be won by renewing that sense of purpose, that spirit of idealism, that American notion of decency and compassion.

It will be won when children are born with hope, not hunger; when they live by dreams, not despair.

It will be won by healing wounds, uniting families, and bringing our people together.

It will be won by regaining respect for law, and defining law as promoting justice.

It will be won with books and learning and the power of knowledge.

It can be won when every boy and every girl can grow up to be president, when every man and every women has a right to a decent job.

It will be won when the richest child, and the poorest child, wake up and say: "I can use my talents. * * * I can accomplish great things. * * * I have equal opportunity. * * * I can be somebody, * * * and nothing can stop me. * * *"

Yes, we need police, and prosecutors, and courts, and money, and military, and foreign policy.

But even more, perhaps, we need hope, we need opportunity, we need inspiration and leadership.

This bill balances these priorities and gives us the wings that will lift our people above the need for drugs.

And by doing so, we can lift our country to new heights of achievement, excellence and justice for all.

This bill deserves our strongest support.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield back my remaining time.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] has 18 minutes remaining, and the gentleman from New York [Mr. Rangel] has 11½ minutes remaining.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. Lowry].

Mr. LOWRY of Washington. Mr. Chairman, too many people in our Nation face a crisis caused by too little economic opportunity and diminished hope of living a rewarding life. And one of the worst symptoms of this crisis is the drug problem that affects every community in our Nation. Jumping on the antidrug bandwagon every election year will not solve the problem of drug abuse. We need a sustained effort and a willingness to invest in our young people so that they will make the right choices and say no to drugs and yes to a quality education, a quality job, and a fair and just community.

With common sense, we can rise above the drug problem in our country. We shouldn't panic. We should rely on the basic principles that have guided this country for hundreds of years.

This week the House is considering another anti-drug abuse bill and the bill, as crafted by our committees, deserves support. This bill has a balanced approach. It is my hope that we can reject misguided amendments that may grab headlines. Those misguided amendments won't solve the drug problem, but they will jeopardize individual liberties and rights under our Constitution.

We need education and rehabilitation and we need to support responsible local law enforcement. We need to set up this spending so that the money gets to local providers and isn't hung up in the bureaucracy—$3 billion included in the 1986 bill became entangled in bureaucratic delays and a year later the U.S. Conference of Mayors found that only one city had received money earmarked for local law enforcement and less than a third of the drug education money had found its way to local drug education programs.

This is a tragedy because of all the people who voluntarily apply to drug treatment and rehabilitation centers, 90 percent are turned away and put on waiting lists for 6 to 18 months. From 1980 to 1986, Federal support for drug abuse service declined by about 40 percent. We can turn that around.

We need to support drug interdiction as part of our drug control efforts. That's why I've supported increased funding for the Coast Guard. And that's why I fought to keep Coast Guard cutters from going to the Persian Gulf. Coast Guard ships should be used in antidrug patrols in our own waters where they have a much more important mission. We've got to use the Coast Guard properly and we also have to make sure that both the Coast Guard and local police have the resources they need to do the job. Importantly, let us remember the reasons we keep law enforcement under civilian control. I appreciate what both Secretary Weinberger and Secretary Carlucci have said about the need to separate military and law enforcement missions. I agree with them.

Drug use in our country is a tremendous problem. Our people need better choices than drugs. I believe this year's omnibus drug bill is a step in the right direction. Among its best provisions are:

Drug-free workplaces for Federal contractors;

Drug enforcement funding;

Chemical Division and Trafficking Act to prevent the flow of solvents used to refine cocaine;

Combating money laundering;

A handgun waiting period;

Coast Guard drug enforcement funds;

Customs Service funding;

Youth drug abuse prevention;

AIDS and drug abuse prevention;

Reduced waiting for drug abuse treatment;

Alcohol, drug abuse and mental health grants and research.

There's a lot in this bill to support. Let's keep it that way. Let's not tie it up with amendments of dubious constitutionality and dubious effectiveness. We can battle the drug problem in our country with hope and leadership. We can battle the pain with education, treatment and with interdiction. With courageous leadership and common sense, we can move toward overcoming drug use in this country.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, debating an antidrug bill is like debating motherhood, but the consensus breaks down when we begin to discuss how we go about fighting drugs.

Who should we hold accountable for the drug problem? Not just traffickers, not just smugglers, not just illegal drug manufacturers, but the drug user, too, the man or woman whose money keeps the whole operation flowing day after day.

Mr. Chairman, it almost seems sometimes that the interests of the users have become more important than the interests of society. Yet, poll after poll shows that Americans rank drug abuse as one of the greatest problems facing the country. Americans care about the crime caused by the drug trade. Americans care about a generation of urban youth carrying beepers to elementary school so they will be available for an unexpected drug run. Americans care about public housing being taken over by crack houses and drug gang warfare, and they recognize that country-club cocaine users are financing the drug trade. They recognize that backyard marijuana smokers are directly linked to smuggling operations in the Florida Keys, drug drops in Texas and gang deaths over turf battles in Los Angeles.

Drug users are not to be pitied. Drug users choose to use illegal drugs. They choose to expose themselves to addiction. They choose to violate Federal and State laws. They choose to risk the consequences of their selfish acts, and it is not unreasonable to attach consequences to those acts.

Clearly the American people want the Congress and the President to do whatever it takes to stop the drug problem, but for too many years we have not been willing to do what it takes to discourage drug use among the millions of recreational users who make up the backbone of the drug trade industry. For too many years we have intentionally ignored the role that the casual user plays in our national tragedy.

I urge my colleagues to support amendments that will fill this gap by providing reasonable penalties to deter drug use and balance our attack in this war against illegal drugs.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I am pleased that H.R. 5210, the Omnibus Drug Initiative of 1988, in being considered today and the next 2 days. Clearly, the war against drugs is one of our highest national priorities. I also am grateful for the many bipartisan efforts which have preceded consideration of this measure. Initiatives involving international narcotics control, eradication and interdiction, and initiatives addressing the demand side, education and treatment are included in H.R. 5210. Without a question, Mr. Chairman, we must continue these efforts. Interdiction, as difficult a task as it is, must be a high priority. Widely available treatment must be available. I congratulate the chairmen and ranking minority members of the several committees involved. To a large extent issues have been worked out.

On my Judiciary Committee the chairman and ranking minority member of the Crime Subcommittee deserve great credit.

Our 1986 authorizations to combat drugs have not been realized. To a large extent we are going over the same ground as in 1986. The exception and an important one is the greater emphasis on the demand side. We cannot hope to reduce the amount of narcotics in our land without addressing its demand.

The strategy to reduce demand has several components. Of course, prevention and education attempt to keep nonusers from ever starting, while encouraging those minimally involved to stop. But it is also important to go big on education and try to identify users. Children in school and those in the workplace can be helped if symptoms are recognized.

User accountability is a necessary element in the reduction of demand. It is not a penalty but a help in prevention. The goal is to get users off drugs.

The addicted needs treatment. The user who is not addicted but who continues to use has been generally neglected. By not paying attention to this group, this use has in effort been legalized. User accountability will help while sending a message to others.

Three amendments will be offered addressing the need for user accountability. The gentleman from Florida, Mr. McCOLLUM, will offer an amendment to remove eligibility for certain Federal benefits from individuals convicted of a drug-related offense.

This amendment sends the right signal to drug users—the American public does not want tax dollars spent for those who refuse to act responsibly. The other McCollum amendment concerns the highway trust funds. It requires States to enact laws which revokes or suspends drivers' licenses of those convicted of drug offenses. States which refuse to enact such measure will lose a percentage of their highway funds. This amendment should prove to be a deterrent to young people who are often unaffected by other criminal penalties. Finally, Mr. EDWARDS from Oklahoma will offer an amendment which adds the option of imposing civil penalties on those who possess small personal use amounts of a controlled substance. This will provide an additional tool to the Attorney General to penalize drug users. I urge support of these amendments and the bill.

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Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, as a long-time member of the Select Committee on Narcotics Abuse and Control, I want to join in congratulating the distinguished gentleman from New York, Mr. CHARLIE RANGEL, the chairman of the committee, and the gentleman from New York, Mr. BEN GILMAN, my friend and the ranking minority member, for the work they have done on this bill. It contains many, many good sound provisions.

But it also contains a danger. It contains a danger because there is a tendency to shower the problem with money to try to stop the supply of drugs coming from other countries. There is a danger because there is a tendency to blame those nasty foreigners. They are without a doubt an easy target.

Sure, we have to stop the supply. Sure, we have to interdict the drugs. But we also have to be willing to be tough enough to combat the demand here at home. We have to be willing to say no to drugs. We have to be willing to have zero tolerance for drugs in our schools and in our workplaces. We have to be willing to penalize the purchasers as well as the pushers.

Mr. Chairman, in my city of Philadelphia, as in many cities around this country, some of those who sell drugs are juveniles, literally children on the streets selling, pushing if you will. Adults with lots of money drive up in big cars and buy drugs from these kids. These adults should be subject to prosecution. They should be forced to forfeit their cars and their drivers' licenses. We need to penalize the purchasers as well as the pushers.

Mr. Chairman, we have to be tough enough to have a random drug testing policy for those who are responsible for the safety of others. It is hard to believe that we can have a drug bill before us today that does not contain provisions for random testing for those who are responsible for the safety of others. So while I commend the chairman and the ranking minority member of the Select Committee on Narcotics Abuse and Control, as well as the others responsible for this bill, I hope that we will adopt many of the amendments that will be offered in the course of its consideration.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, and I ask unanimous consent that he be allowed to yield blocks of his time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my beloved friend, the gentleman from New York [Mr. RANGEL] for this among many other courtesies which he has so graciously shown me during our long and close friendship and service here today.

Mr. Chairman, the bill before the House today represents a continued response from the Congress to the escalating costs to our society caused by illegal drugs. Nowhere are those costs more obvious than in the human lives that are damaged and destroyed by drug use.

The provisions of this bill as reported by the Committee on Energy and Commerce respond to the increased needs for drug abuse prevention, for treatment, for rehabilitation, and for education. Within title X, the committee has reauthorized the substance abuse programs within its jurisdiction at significantly increased levels, including $100 million to help eliminate the waiting lists at clinics for rehabilitation. The committee has implemented the recommendations of the President's AIDS Commission, and has established a bloc grant program to the States and to localities for the treatment and prevention of AIDS through IV drug use.

The committee has also included legislative language to ensure that laboratories which conduct workplace drug testing are held to the highest standards of accuracy. Our committee has gone into this question in considerable detail in connection with hearings held before the Subcommittee on Oversight and Investigation. There, Mr. Chairman, we have found that through careless, slovenly and disinterested work by laboratories that honorable and decent citizens are destroyed. Their earning capacity is reduced, their possibility of reemployment or employment or gainful work are virtually eliminated, and the ability to correct the wrong done through careless and slovenly testing or through false reporting of results is not only impossible to correct, but is crushing in terms of its impact upon those who submit to these testing programs.

Surely no drug testing program can have merit unless it assures that the test is fair and reliable and that wrongdoers, if such they be, are identified, but that innocent men and women are protected against the hideous consequences of improper and inadequate testing. This Congress must then recognize that lives can and will be damaged unless the Congress requires that the highest possible care be used in connection with falsely positive random drug testing.

I would urge my colleagues to support the bill. I would urge them to support the provisions of title X.

Mr. Chairman, I commend my colleagues, the gentleman from New York [Mr. RANGEL], distinguished chairman of the committee, and I am pleased that we have been able to work so fruitfully with him.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] has consumed 3 minutes.

Mr. McCOLLUM. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise today in strong support of H.R. 5210. Never before has a more complete piece of legislation to fight drugs been introduced.

We, as a nation, are facing what may well be the greatest threat we've encountered in 200 years of nationhood. We are seeing the fabric of our society ripped and torn by drug abusers and drug traffickers. Many have termed our fight against drug abuse and the drug trade the war on drugs. I think this is a legitimate term to be used—in our neighborhoods, in our schools, indeed even in our homes, the fight against drugs truly is a war.

In this war, we need to craft a four-pronged attack. First, we must work with Mexico and our other Latin American neighbors to stem the flow of drugs being produced and shipped into our country. On this front we must not only strengthen the patrols of our borders, but we must help provide economic assistance to promote development. With alternative industries available for people to earn an honest living, the drug industry becomes less attractive.

Next we must turn our attention to stemming the supply internally. Tougher enforcement measures for existing laws must be put into place. Drug pushers and kingpins must understand the seriousness whith which their menace is viewed. Penalties must be sure, strict, and swift, and our law enforcement community must be given the resources they need to implement these measures.

Third, we need better education for children and families to warn against the dangers of drugs. We need to give our children the weapons they will need in this war—an understanding that drug use is wrong, as well as a prospect of a brighter and promising future, a future where drugs are not involved.

Finally, we need better and more programs to help the casualties of this war, the individuals who have become prisoners to the addiction of drugs and their families and friends. We need to provide the help needed to break these addictions, to turn a broken home into a family, and an individual dependent on society into a contributing member of the community. We must provide this help, and then enlist the aid of these individuals to help in the efforts to educate others against the dangers of drugs.

H.R. 5210 has provisions to address each of these areas. This bill would establish a multilateral strike force that will enable the United States to join with other nations to wage war on the drug problem. As the Representative of a border State, I believe that combining our antidrug forces with Mexico and other nations offers a constructive way to meet this common threat. We will be able to eliminate illicit crops, prevent the laundering of drug money, and launch assaults on drug-trafficking bases and staging areas. Such a multilateral drug strike force is also essential if we are to capture drug runners who move back and forth across international borders virtually at will. A multilateral strike force, with joint air surveillance and apprehension operations between Mexico and the United States, staffed by crew members from both countries, would facilitate pursuit of traffickers who retreat across the border, and ease concerns about territorial sovereignty.

H.R. 5210 also reaffirms our support for the highly successful Assets Forfeiture Program, a program vital to boosting our enforcement efforts. This program provides financial incentives for State and local law enforcement to get more involved. A percentage of the property seized in a drug bust will go to State and local law enforcement agencies. They in turn can dispose of them to raise money to support antidrug efforts.

I'm pleased by the assistance this bill provides for the Tohono O'odham Tribe of Arizona. With their tribal lands along the Mexican border, the Tohono O'odham Tribe needs the assistance this bill provides for investigating the controlling drug trafficking. Specifically, this bill earmarks $500,000 for drug enforcement on the Tohono O'odham Reservation.

In addition, H.R. 5210 greatly expands our programs available to educate our youth and families in risk against the threat of drugs. Grants made to public and nonprofit private agencies will help in the development of efforts to prevent and reduce gang involvement, programs to provide counseling and rehabilitation for drug and alcohol abuse, and other programs to provide support and assistance programs. Ultimately, it will be these educational efforts, and the involvement of private citizens that will result in our victory in this war.

H.R. 5210 is the result of many hours of work, by many individuals, and a commitment to achieve a common goal. All who have been involved in crafting this bill are to be commended. With some final amendments and refinement to be completed during these next few days, H.R. 5210 will be an outstanding bill, the legal cornerstone of our war against drugs. I urge my colleagues to support the legislation. Let's make America drug free.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, nothing is more important than our war on drugs, and this new bill is a big, big step in meeting the problems that we have with both the users as well as those producers.

Drugs are causing a severe, terrible decay in our society, and we must stop this decay. It is destroying our youth, corrupting our law enforcement, separating and destroying families.

This bill will go a long way in preventing some of those things from happening. But we must have the courage, each and every one of us, to do what we can to stop the recreational use of drugs in this country. We must cut off the supply and certainly we must cut off the demand. This bill will help us do that.

But this legislation is absolutely worthless unless we, the Congress, keep our commitments to those to whom we said we would do something for those to whom we have been committed. We, the Congress, made commitments in 1986, just about this time, just shortly before the election with an antidrug abuse bill. It was a very fine bill. But we reneged on those commitments, and we reneged on those promises. We cannot do that again.

Those that we reneged on the most were our first line of defense against the drugs in our streets, the local law enforcement officers. We told them we would help them, we would supply them with the funds, and we told them we would give them certain amounts of money to do their job, and we did the first year. The second year we cut most of it out, and this year we are only giving them about $70 million of the $230 million that they were promised.

These people need the help from this Congress and must have the commitment to do it. We can blame everybody else, we can blame administrations, this one, previous administrations, we can blame the churches, we can blame the families, but this Congress still has a commitment to keep the promises that it makes, and it has not done that as far as this Congressman is concerned to our local law enforcement officers.

Within the past 10 days I have had two local policemen gunned down in the streets by drug dealers, one shot right through the heart. He just received a meritorious award a month prior for his outstanding work fighting crack in the streets. Another one was shot dead and left two children and a pregnant wife.

I say to my colleagues in this Congress are we going to continue to allow this to happen? I do not think we can. We all have a responsibility, both the Congress and the American people, and if the American people want to stop the scourge on our society, they are going to have to take the solemn pledge that they want to do something about it, that we cannot tolerate recreational drugs, we cannot have the use of drugs in our families.

Most of the people that come in contact with us will tell us that certainly they do not want drugs in our society. They know many families, all of us do, that have been touched by this terrible thing.

I will tell my colleagues this day as we are going to pass this legislation that it will do what we want it to do if we will make it work and the American people will make it work.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. Chairman, I rise to support the bill that he and his committee have brought to the Congress. Like all Members, I learned about the severity of the drug problem in my district during my first term when I observed drugs being available freely in the colleges. Twenty years later, the same drugs are now available in high schools and in the elementary schools.

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This bill is welcome. It provides tough laws and money for enforcement and education. I am grateful for the leadership of the gentleman from New York [Mr. RANGEL], the gentleman from Florida [Mr. MCCOLLUM] and all the Members of the committee who have contributed to this effort.

They bring us a comprehensive bill that provides hope to attack the drug problem in America.

Mr. Chairman, I have one amendment that I think would improve this bill, No. 32, which would promote cooperation among the various agencies of the executive branch. Perhaps some of you observed about 6 weeks ago that the head of the DEA wrote letters to General Manuel Noriega congratulating him on the cooperation that he provided us in our war on drugs when in fact Noriega was about to be indicted for complicity and for drug running himself.

Federal agencies need to cooperate with one another. My amendment would establish a process, a procedure for sharing information together with safeguards that are necessary for national security, counterintelligence and for investigations of drug activities.

I would invite the Members to review my amendment and I hope that they will support it when it is presented. At the appropriate time I will ask for consent to include extraneous material.

Also, I discussed my amendment in detail and inserted various documents relevant to this subject in the August 11, CONGRESSIONAL RECORD.

In 1972, I was deeply concerned about the problem of drug abuse that was just beginning to trouble my State of Arkansas. I organized a forum on the subject of drug abuse, and experts from all over the country attended the event. The forum was held at Arkansas State University in October 1972. I would ask that a transcript of a discussion session of that forum be included at this point in the RECORD.

DRUG FORUM AT ARKANSAS STATE UNIVERSITY, OCTOBER 1972

Speaker 1. Forrest Baker, Pharmacist from Clinton, discussion leader: I'm the reporter for group one and we really didn't get anything definite decided except maybe that the penalty for drug possession was too high. We went into deeper things like sex, double standards and things like that. We really got involved in a lot of things. But one point we thought was pretty good that was brought out was that it wasn't really the drug that was so bad, it was the person that was using it. That his standards in his mind and the defects of his mind, you might say, were wrong. But like I said, we didn't really get anything decided and we went into a lot of different fields.

Narrator (H.T. Moore, congressional aide): Okay group two. Incidentally, the discussion group leader in group one was Forrest Baker a pharmacist from Clinton and I do want again to thank all the people who did lead the discussion groups for us, many of them came long distances. I don't know if any of you know where Clinton is, but as they say there is no way to get there from here, but Forrest did come over and others did also and at their own expense and everything. We're greatly appreciative. Group two was led by Sergeant Roven Andrews of the Forrest City Police Department. Donna Ford is going to report for them.

Speaker 2. (Donna Ford): I'm Donna Ford and I'm from Paragould. In our group we did all agree that there is a problem and we discussed that if alcohol is legal then why shouldn't marijuana. But most of them decided that there should be stricter laws on drug abuse. That's not necessarily my feelings, but the majority of the people in our groups' feelings. We think that drugs affect everybody in different ways. Well mostly, everybody thought that there should be stricter laws on drug abuse. We came to the conclusion that one of the solutions to drug abuse should be more education for the parents. One person in our group stated that you can't teach an old dog new tricks but I think he later decided that everybody should be taught about drugs. They start with younger children like in grade school and they should be taught by their parents. In order for their parents to teach them this they should have better education. Some agreed that parents should be literally made to go to a class on drugs and they should be taught about it so they can relate to their children about it and set their children in what they think is the right direction. Whether the children do that or not it's their own opinion, I mean their own . . . well their own . . . they can do what they want but yet the parents should be taught I think, myself, all about drugs so they can better understand it so they can teach their children and set their children on the right paths that they think is right for them. Whether they go down the path or not is their own decision and well basically the conclusion we reached is that there should be better education for everybody on drug abuse. Stricter laws, not like death penalties for one marijuana cigarette if you're caught with it. I myself think that if alcohol is going to be legal, why shouldn't marijuana because alcohol basically has the same effect on you as marijuana and if you're not going to drink alcohol you're going to smoke marijuana and if you're not going to smoke marijuana you're going to drink alcohol. We discussed to about prohibition time whenever there were bootleggers and everything, people couldn't buy alcohol but they could get it from the bootlegger. Well if marijuana isn't going to be legalized it's still going to be around because the people that want it, are going to get it, whether it's going to be legal or not and it's going to be there. Well this way should almost stop it, I mean you know you can get the ring leaders of it and everything and have real strict laws. Some people are going to have it whether they want you to or not and I feel that it's going to be there, and if it's there it's going to be used, it's going to be abused and I see no way that it can be completely stopped. I think it should be legalized if alcohol is going to be legal too. If marijuana is not going to be legal, I think alcohol should be ruled out too. But then there you have there is going to be bootleggers, there are going to be people selling marijuana secretly. Well that's my opinion but that's not our group's opinion, our group thinks that there should be stricter laws because if there are stricter laws that people will not want to get caught and go to prison ten or twenty years for being caught with a little marijuana, and they think it's going to make people not want to use it because of these penalties but still it's going to be around and then, like I said, our solution to the problem is better education. Thank you.

Speaker 3. Fred Rogers, Arkansas College, Batesville: Our group came to the conclusion that everyone was from a rural area, well just about everyone, and no one knew enough about drugs to really talk about it and so we decided that there were a lot of myths about drugs that people believe and the way to get rid of these myths and get people to know what the drugs were is through education. That was the initial thing and then we went and we talked about crime's with no victim, which in most cases deals with marijuana and the smoking of marijuana. We decided that you should be allowed to have marijuana to smoke, there should be no penalty, I mean no laws against marijuana. But we said for the selling of marijuana, there should be laws and there should be licensed pushers. We also started a dicussion about heroin and methadone program we decided the methodone program was more or less like a crutch and the user just kept going and going and going. We said that there should be more personal relationship and that's the only way you're really going to help a junky is through a personal relationship with them, an intimate relationship, not so much a sexual relationship but an intimate relationship. We decided it wasn't working and we were trying to come up with ways how we could more or less give ourselves to get help for the junky and we decided that it wasn't working if he just came up to you and asked you for help because a lot of people are afraid of the stigma of someone who's a junky coming up to you and you being associated with them. We said there should be centers, which there are not enough of them and the only people who you're going to be able to help are the people who want to be helped. You can't help anyone who doesn't want to be helped and we decided that is no need to try and help anyone on marijuana because that's ridiculous. They don't need the help. I mean there is no help to be given. Heroin addicts, we said that they can be cured, if they want to be cured, but you can't force them.

Narrator: Next is group four, Diane Stevens. Group four was led by Mr. Robert Turniman.

Speaker 4. Diane Stevens: Our group was lead by Mr. Robert Turniman and I am Diane Stevens from Imboden and we talked about the extent that drugs are being used and we all came to agree that nobody really knows what extent in each area that drugs are being used, and that three times as many people are being killed by drinking and driving than there are in the wars. On the penalties for drug use, we decided that they weren't harsh enough, that they should be stricter and all. The drug stores and drug pushers and people who use drugs are the ones that, well that's where we get drugs from and we thought the penalty should be stricter on these. In the general public, we don't think they know enough about drugs and we think everybody should know more about drugs and should learn about them and tell their children about them so that they will know about drugs and pass it on to their children and so that there will be less drug users today.

Narrator: Group number five is led by Butch Bradley from Jonesboro. Scott Melton will report for that group.

Speaker 5. Scott Melton: I'm also a staff member at Harbored House in Paragould and our group covered quite a bit of ground and we came out with I'd say maybe, three or four basic ideas which we feel need work on them. One is to stop the classifying of the casual user of drugs as an addict. Now this is a thing, I think, which the general population is definitely guilty of. You say I smoke one marijuana joint and automatically someone will come up to you and say alright you're a junky. Then you go on the general education of the population and I think the community fails to realize that the problem is there, and exactly what type of education it will take, I don't know but it definitely is needed. Also that most people use drugs on a recreational basis, I would say about 95% of them do and they still function in society. They have a job, take care of their children and everything else, and yet they are still classified as drug users. Also on the drug laws there needs to be more of the appropriate law for the appropriate drug. They can coincide more, like with the marijuana laws especially. The laws are very harsh often in many states and somewhat less in Arkansas but still harsh and I think they need to be, concerning this particular drug when it is not, the way you feel in general, that bad. One person in our group brought out a real fine thing, I thought, on statistics. There is too much classifying people as statistics. Like you'll say 20% does this, 5% does this and go on through that. It's going to have to be taken on a more individual type basis to really get anything done towards helping the people, especially when you get into your hard drugs if you want to help them. There was one lady in our group, a school teacher and I think I just heard her giggle over there, ah she (can't understand tape) which she is entitled to and brought out some very good points during the talk and more or less bounced us off quite a bit and we enjoyed having her, ah that'll be it.

Narrator: Group number six was led by Wayne Jarvis of Rector. Huth Ward will report.

Speaker 6. Thank you. I'm also from the Harbored House in Paragould and although group six talked about a lot of things including sex but that was trivial. But ah to mention what we did talk about and I'm a realist, I don't believe in statistics or other things that labels or what ever you want to call it. Communication between parent and child or parent and son and daughter, what ever age is lacking in this area of Arkansas. I mean the parents are so hung up on all their little hard headed ways and their mixed up ways you know be proud that they won't give in a little bit. Children are also not giving in. They can't sit down and talk to their parents either, so the communication between parent and son and daughter and ah these meetings aren't very frequent and they're lacking, they really are. If it happened where something like this could happen every three months, if everybody could agree on it and get it out in the open, I mean face to face with it, get down to the nitty-gritty of it and instead of just talking about it, going about it or what ever and I feel that group six alone did not really get anything other than the communication, and everything else was just bad statistics, ah, lack of knowledge and that's about it. Thank you.

Narrator: Group seven was led by Ruth Hutchison of Paragould and Tina Tinker from Imboden will give the report. Excuse me, it's Dena.

Speaker 7. My names Dena Tinker and I'm from Imboden and our group seemed to think that the drugs were a universal problem and in some places it was decreasing and some places it was increasing and ah, marijuana was the most widely used drug. There was also reports of LSD, cocaine and THC and ah, the opinion was that the penalty for drugs was slightly harsh and that they should be sort of lightened a little. There seemed to be some sentiment that legalization of marijuana should be, and the general public, they think that well drugs is just some place else, it's not here.

You know it couldn't happen to us but it can and it does and then ah some schools have had drug programs most of them have and they seem to be ineffective or just very little effective at all and ah, that there is only a few service places available for the addicts that's Hunnington House in Jonesboro, Harbored House in Paragould. We thought that materials on drug abuse could be improved by making them more realistic instead of just being completely down and telling them oh, it's horrible, it's horrible then they go and talk to somebody that's not on drugs and they say well it's really neat you know, you ought to try it. Well you should tell them the whole facts about it, and that's what we come to the conclusion of.

Narrator: Group number eight was led by Harry Mains of Little Rock. Keith Inman will report.

Speaker 8. (Keith Inman): Our group didn't have much time to talk about the abuse problem really. We talked about some of the other things but about drugs, some of us said that marijuana should be legalized. It would possibly make the drug pure and less dangerous. But then somebody else said there should be education before it's legalized and then let them make up their own mind whether they should use it or not and let the government stay out of it, other than making it more pure. As for legalization, I think marijuana should be legalized and not, or at least not such a harsh penalty and I believe that's about it. I think if you'd had more students in the class, in our discussion group we could have gotten more done.

Narrator: Group nine was led by Carrie Rogers of Paragould and he received also the dubious honor of giving his own report so.

Speaker 9. (Carrie Rogers): I want to know why I was the only group leader who got stuck with making his own report? Our group talked about what drugs are being used in this area first. We all agreed that there is widespread use of marijuana, but this is not the problem, the problem is with harder drugs such as amphetamines, barbiturates, LSD, and there is not much use of hard narcotics such as heroin and morphine in this part of the country yet. Ah, we also felt that there is too much emphasis put on the use by the teenage group and not enough by adults, not legal drug abuse. Where adults go to their doctors and get barbiturates and amphetamines and abuse them. We don't think there is enough emphasis put on this problem because it's not as widely seen by the public. We also discussed the legalization of marijuana. Some of the pro's for legalization were that it would take kids out of the drug culture and not put them in contract so much with harder drugs and also the quality of the drug would be controlled. Some of the con's against it were that there is not enough known yet about marijuana and that it would just be another problem, like we have so many alcoholics now, we would just have a lot of potheads running around. We also agree that the system as it is doesn't work. That putting people in jail is not the answer to the problem and that there is a need for some kind of counseling service after people are arrested or even before, and some kind of professional help for them if they need it. We also decided that a lot of communities fail to realize their problem or if they do realize it they push it under the rug and don't want to deal with it because they are afraid it might be their kid. We also decided that when they do face up to the problem, maybe find out that their kids are using drugs they deal with it irrationally without enough education. We decided that one of the problems is lack of communication between various people. There needs to be more communication between parents and children. More realistic communication. Also that between the facilities that are trying to help drug users such as Huntington House and Harbor House, more communication between them and the community people that help and law enforcement agencies. We decided that ex-users are a great help in dealing with the problem because they do know what they are doing and kids can handle their own problems, if their trusted and their given the chance. We also felt that there is just not enough services available yet and that more community action towards drug abuse is needed.

Narrator: Group ten was led by Bob Franks of Arkansas College at Batesville.

Speaker 10. Our group mostly talked about drugs and that was really our main subject, we didn't get on sex or anything. Our group has several, several recommendations. Five people felt that marijuana should be legalized, that there should be no more penalties for first offenders but recommended counseling. Penalties should be harsher though for the pusher. Three felt that all drugs should be legalized but declared contraband if found on the person on the street and recommended he get counseling so that there would be no criminal record for the rest of his life. Our group felt all drug commercials even anticommercials should be banned and we feel drug education is what we need right now, so the parents and the young people would understand more of why, some people think drugs should be legalized. Some people need to be excused for something because sometimes life is a rat race so we need something to sort of bring us down off of it now and then. So we felt drugs should be legalized but first before there are all these commercials, I have to be careful or I'll get sued, but some commercials opposing drugs or anti drugs like why they have to call it dope and stuff like that, should be abandoned and put stuff on there that is down right to comprehend everything just so a magazine can be published and everything. We need things to help the people understand more about drugs which will be legalized.

Narrator: Our 5th panelist has now joined us. He is Doctor H.W. Smith from Memphis, he's the research director for the Memphis Drug Abuse Commission and he's also an advisor to the Crowley's Ridge Development Council Program on narcotics and drug abuse. This is your chance now, I'm going to get away from the microphone and I think everybody else is besides you. If you have questions that you would like to ask of any of the panelists, so everyone can hear you, know what your question is, will you please just come to the mic' there's one on each side so you can kind of sneak up on it and you can ask your questions directly, again let me go over the names of the people on the panel in case you want to ask them directly. Starting first Mr. Gene Raft, Prosecuting Attorney, C.L. Stinette, Administrator of the State Drug Abuse Program, Bernie Red with the Bureau of Narcotics and Dangerous Drugs, Doctor Buckman and Doctor Smith. Let's see who can ask the first question. Let me ask you to do one more thing. Please speak directly into the mic', that way everyone can hear you.

Question 1. Ah, Mr. Raft, I believe you're on the end. You're the Attorney General.

Answer: No, I'm not the Attorney General.

Question 1. Prosecuting Attorney. Do you believe that the rap for the marijuana drug law is too strict or could be stricter, or do you think there is a possible way it could change in the future, near future?

Answer: Let me answer that in this way. I don't know how many of you are aware of this, probably most of you are. The law with respect to the state of Arkansas was changed the last time the legislature was in session. As a lot of you know, there are some very strict laws in this country dealing with simple possession of marijuana. For example in the state of Texas, for simple possession of marijuana, unless they have changed it recently, you could receive life in prison. I think that we all probably pretty well would agree that that is certainly too strict a law dealing with simple possession. I think the Arkansas legislature realized that and where it was a felony prior to the last session it is now a misdemeanor and for simple possession of marijuana, the penalty for that is up to one year in the county jail and a fine not to exceed $250. Well I think at first blush when we're thinking in terms of those maximums that I've just said, we'd say not perhaps that's a little to strict too, and I think in most cases it would be but let me say to you and I'm fairly familiar with what I think most prosecutors do within the state of Arkansas. Very few people who are picked up for simple possession ever receive anything near the maximum sentence. As a matter of fact in the first judicial district which I represent, the bottom five counties which would be the First Congressional District. Normally a person for simple possession of marijuana received a fine of $100 and cost and they do not receive any jail time whatsoever and do not go behind the jail for any period of time. I think as far as the leniency of the law is concerned with respect to marijuana that's probably about as lenient as you're going to get as long as it does in fact remain illegal and as long as there is some penalty placed upon it. I think at the present time, in light of the research that's been done, the inconclusive nature as it rests in my judgment at least at this time with respect to what harmful effects if any that marijuana has, that Arkansas has as well as in light of the law dealing with the possession of marijuana as any state in the union. At this time I think it's a proper law. Does that answer your question? I presume it does.

Narrator: Who's next with a question? I know you people have lots of questions to ask and this is the time to do it.

Question 2. I'd like to address just anybody on the panel that can answer it. Do you know how many people we have in Arkansas prisons today for narcotic violations? Can any of you answer that question?

Answer 2. (speaker unidentified): If I may gentleman, I don't think anyone on this panel, unless I'm sadly mistaken, would be in a position to answer that question because some of the penalties as you well know are felonies and they would be incarcerated in the Arkansas Department of Corrections. Other penalties are misdemeanors and they could be incarcerated in any jail in any county in the state of Arkansas, which there are quite a few, I don't think any of us would have that answer for you, sir.

Question 2. (continued): OK, none of you know that answer. This rebuttal for presumption law that was passed through everybody here, which becomes part of Act 590. If you have within this quantity, it's considered a misdemeanor. Is that correct?

Answer 2. (continued): If you have over that quantity it's considered a felony and the presumption is created that you intended to deliver or sell, however that presumption is rebuttable.

Question 2. (continued): Now when we get to this hard drug hearing Ed, give you 100 milligrams. Is that correct? And I'd like you all to rise to have 100 milligrams of heroin and still be under the misdeameanor law.

Answer 2. (continued): You're talking about heroin?

Question 2. (continued): That's right. Incidentally, I'm from Virginia.

Answer 2. (continued): And you say you're authorized to have that? No sir, you're not authorized to have less than that. We're talking about the difference between a misdemeanor and a felony.

Heroin has no legal purpose that is recognized in Arkansas what so ever at this time, if you have any heroin on you it's in violation of the law, with respect to what law it violates would be the amount that you have on you and that's the amount that if you have more than that then you would be charged with a felony. Any amount of heroin would be in violation of this state.

Question 2. (continued): If you had 100 milligrams or less it would be a misdemeanor is that correct?

Answer 2. (continued): That's correct as I interpret it.

Question 2. (continued): 100 milligrams as I see it here would be approximately 33 doses at 5%, as it's broken down in street value of approximately $330. An this opium 3 grams of opium, that's approximately 50 doses. With the morphine, incidently I have this all broken down by druggist and doctors and so forth that tells just the quantities that it gives you. For instance on Cocaine, you're authorized 2 grams or less and still be a misdemeanor. That 2 grams has the street value of $400 and 40 doses. Now I have no fault with the marijuana and I don't believe that a user with 4 or 5 cigarettes and is picked up should be sent to any prison. I don't think he should be given a year in jail, which they can give you know, for the possession of it, but then I think some of these things are ridiculous. The quantities that is considered under the presumption law, because it gives a license, as I see it, to the pusher. What's to keep the pusher if he's pushing this particular item here, let's say cocaine, to stay within $400 street value. Go to his catch or his stach or whatever you want to call it, take that amount or that quantity with him and unless you actually catch him making a transaction or sell all you have him for is a misdemeanor. To a law enforcement, that's far too much and I'd like to know the panels feelings on that and the peoples feeling here. Know I'm not for taking a user and putting him in jail at all but the pusher I have no sympathy for him and I feel he is the person we have to get to.

Narrator: If we could have a comment from any of the panelist, I think that's what we're after here. Mr. Redd is head of the BMDD.

Answer 2. This is naturally state law and not the federal law that I would be involved with, but well, we do get involved with state law quite often. I think there are some discrepancies in the way the rebuttable presumption law was written, I think some amounts were set if they are going to have a rebuttable presumption section which I'm not in full agreement with in the first place, but if they do I think they should be more equal in the amount. Some of the amounts are like Chief Hanley stated, approximately $400 worth of drugs, others are $2 worth of drugs and I don't think that's a fair equation. That's about the only thing I have to comment on.

Second spokesman for same question: Let me say to you to broaden that chief, if I may, the state legislature now in their committees are discussing that problem that you have just raised and that's with respect to the disproportion amounts involved with respect to the various drugs. Their viewing the rebuttable presumption in two lights. Their viewing it in the street sale light which you mentioned but their also viewing that with respect to how dangerous that particular drug is. There is some thought in Arkansas advanced by some groups and some legislators that when you are dealing with hard drugs such as heroin that that should be classified as a felony, because it has no known medical use and the addictiveness of heroin is beyond question.

Narrator: It might be helpful if maybe Doctor Smith could comment on the use of smaller dose and larger doses.

Doctor Smith: Well I don't know that I could add much to what has been said that except that when they made this up that probably some people weren't to familiar with how these dosages go and so it just seemed reasonable like most laws, so I would say the discrepancy certainly exist but is probably very innocently, someone making up the law that didn't know the difference between heroin and marijuana too much. It probably will be cleared up and I think the next legislature will probably close that gap a little bit.

Narrator: Thank you Doctor Smith.

Question 3. In attendence to one of the discussion groups, I was pleased to be a spectator. One of the groups indepth aspects of that particular group was the motivation behind the participant in drug abuse. Though the expert of that particular group felt like that it was not such a thing as peer group pressures. Many in the group expressed that it was. Such a thing as what I and my late terminology would call this rebellion against authority in many instances prompted this kind of thing. I would like to ask Doctor Buckman on the basis of his expertise and life background if he would comment on that, how he views this as it effects drug abuse.

Answer 3. That honestly is yes and no. There are numerous motivations for drug abuse and for any one person there may be at least one dozen reasons why he or she will abuse drugs. Each one of those reasons is valid. You can be more dogmatic about why a certain person may be finished up on a certain drug because he seeks a special type of relief of oblivion or psychedelic experiences. The general question of drug abuse, many motivations, certainly peer group pressure, certainly the need to rebel and they need to be caught, to be punished, to be an escape goat, to be a martyr, to provoke. Those are the more valid reasons maybe to explore to understand, I don't think I can really answer it any other way. Many motivations for every abuser. Some are socially determined, also people conform to our sterotypes quite often and I'd like to back track if I may to the last question. I think the difficulties we were discussing just now, same as with motivation. The motivation in those who want to use and abuse and the motivation in those who want to stop it and the difficulty here, is trying to legislate for public and private morality. It's a question of opinions and a constantly changing situation. I think I would be interested if legislators were asked to write opinion when they change the law and say why they decreased the penalty. In the same right the judges have to write opinions. It would be very enlightening I think.

Speaker for same question: Let me add something to that too, you know it seems to us in Memphis, we have been sort of studying these problems for about two years there. We've gone through two different phases and I certainly agree that there are many causes. At first we start out with a lot of abusers with something we call a counter culture. There were very visibly dressed in different ways if were talking about dropping out and so on and so forth. So the first about two years or two and a half years ago in Memphis, most of the drug use was confined to this group of people. Today that's not true anymore, it's moved into the suburbs in the middle class. Probably you've noticed in or on most college campuses, you don't quite have the disagreement with college policies we had before but I would say that talking across time the problem shifts. It used to be everybody says the drug abusers are somebody else but our experiences have been that it is now shifting from a rather vocal anti-establishment group to now, the thing is sort of like hoola-hoops. We find probably this shift is certainly something you must consider when you're trying to understand what motives are and how to deal with it. We studied one group that one of crises intervention center and also all the people that came in on bad trips in were sitting in the Memphis hospital and we selected at random about forty people and we found for example they were really addicted and quite often more than 50% of them were psychotic so they were something else, there was a great history before this one instance came along. So it is a very complex situation but I would suggest as far as Memphis and I would think even it seems that other cities you'll find a little change in your population of users as it goes along.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LUNGREN.]

Mr. LUNGREN. Mr. Chairman, it is comforting to see there is much bipartisan support for us to do something, anything, in the war on drugs. The American people will be watching to see whether what we do is actually effective.

This is a massive comprehensive bill attempting a comprehensive approach to the problem, but I would like to underscore what I have said before, a comment that we have heard from some of the outside who have been taking the brunt of some of our criticism, some in other countries who basically said they will work with us to try to interdict illegal drugs coming into this country but they would expect us, as the consumer nation, to do something with respect to the consumers.

We cannot actually point to the traffickers as the total problem. We have to recognize that a good portion of the problem remains within our borders, not only with the traffickers within our own borders but with the users.

Until we accept the responsibility that individuals make individual decisions and that individuals should accept the consequences of those decisions and that our laws will make them accept the consequences of those decisions, we will not truly be serious about what we are embarking upon here today, which is to eradicate the problem of drugs in our country.

Frankly we need a cultural change, we need to have a change all the way from the entertainment community to the floor of the House of Representatives. We must say to our young people that both by our words and our deed, illegal drug use is unacceptable.

A number of amendments will go in that direction.

I will say with respect to the last amendment mentioned by the gentleman from Arkansas [Mr. ALEXANDER] sometimes issues are more complex than they appear and sometimes presenting a bill which suggests that you should share more broadly the information, even raw intelligence information about possible illegal drug use, does not help the problem; it hinders the solution to the problem.

Many people know that our intelligence community, involved as it is around the world with a whole host of requirements, receives information that must be first reviewed and must be seen as to its credibility and that somehow send it up the channel immediately portends political problems across the board.

Someone would have to be blind not to realize that we do not have problems with leaks both on this side of Pennsylvania Avenue and the other end of Pennsylvania Avenue.

Think, if you will, if we had more possibilities for leaks of raw intelligence information with respect to initial investigations about drug dealings around the world whether that will help or that will hinder our efforts to do something seriously about the problem.

One of the major problems we have is there is the temptation toward the political rather than the substantive and I hope in this debate we will know the difference and we will act on that difference.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] has 3 minutes remaining and the gentleman from Michigan [Mr. Dingell] has 5 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. Shaw].

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I would like to congratulate the gentleman from Florida [Mr. McCollum] as well as the gentleman from New York [Mr. Rangel] as well as all of the others in this House who have worked together to speed a most important bill, and the bill that is going to be the most important bill coming out of the 100th Congress.

I would also like to congratulate the 140 cosponsors of H.R. 4446 which I filed some 6 months ago because of the provisions that had been lifted from that bill as that bill in fact lifted from other bills to put together a very concise and valuable bill.

This bill includes such things that are included in H.R. 4446 such as the sense-of-the-Congress against legalization of drugs; the drug treatment of pregnant women which had been beyond their grasp until now. Moneys that are appropriated by the Federal Government to the States will be available to women who are expecting babies and who are in fact addicted to drugs. It sets up an international narcotics task force which is most important if we are going to attack the drug problem at the source, and that is in the source country.

It provides for the suppression of international narcotics trade as one of the highest and important foreign policy objectives of this country. It provides for eradication of coca plants and it goes on and on and on. There are going to be a number of amendments that are most important and I hope the Members will listen very carefully.

Unfortunately the procedure that has been followed by the House has not allowed for hearings. However, this bill has been out, it has been studied by the Members and their staffs and a lot of very important amendments are going to be offered.

So I would encourage all of the Members to listen very carefully when these amendments come to the floor, listen to the debate, stick either on the floor or to your television sets so that you know exactly what is going on and we can intelligently vote.

One of the things we have to be very careful about is we do not use this bill as a vehicle to weaken existing law. And to that many of the amendments will be directed.

Mr. DINGELL. Mr. Chairman, I yield back the 5 minutes which I had remaining.

Mr. RANGEL. Mr. Chairman, what is the time situation?

The CHAIRMAN. The gentleman from New York [Mr. Rangel] has 5 minutes remaining and the gentleman from Florida [Mr. McCollum] has 1 minute remaining.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. Garcia].

Mr. GARCIA. Mr. Chairman I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 5210, the Omnibus Drug Initiative Act, to be considered here today and tomorrow. Drug abuse has become a national problem of crisis proportions. During the last 25 years there has been a significant increase in drug abuse in the United States. During this same time, Congress has responded with increased levels of spending to help combat the drug problem. Spending has risen from $82 million in 1969 to approximately $3.9 billion and $3.5 billion in 1987 and 1988 respectively.

I want to commend Congressman Charlie Rangel, chairman of the Select Committee on Narcotics Abuse and Control, for his valuable and outspoken leadership in our war on drugs and in the formulation of this legislation today. I also commend the different House committees of jurisdiction and their members for their hard work in putting together this legislation.

We can all be proud of the measure being considered here today. It represents a strong step forward in our war on drugs and a renewed commitment to eliminate drugs from our streets and classrooms. I am particularly proud of their provisions designed to reduce drug abuse among our young people and to make more readily available drug treatment facilities to all those in need. In my district in the South Bronx, the incidence of youth participation in drug use and trafficking is alarming. I therefore support the provisions in this bill that attempt to prevent drug abuse among our young people and attempt to reach out to members of youth gangs and juvenile delinquents to bring them into a more productive and meaningful life.

After World War II, there was a sharp increase in the use of heroin in our inner cities, and more recently, there has been an alarming increase in the use of cocaine, and cocaine derivatives, such as "crack" and "rock." In New York City alone, there are an estimated 250,000 to 300,000 heroin addicts. Deaths due to cocaine abuse in the city have risen from 7 in 1983 to 92 in 1984, 196 in 1985, and 287 in 1986. Deaths due to AIDS among IV drug users has risen from 88 in 1983 to 293 in 1984, 488 in 1985, and 1,000 in 1986. Drug arrests in New York City are equally telling, rising from 60,000 in 1985 and 69,500 in 1986 to over 80,000 in 1987.

Equally alarming is the fact that the increased use of drugs, and especially the use of "crack," has involved population groups previously not associated with the problem. This of course includes the tragic use of drugs and involvement in drug running by school-age youth and adolescents. Today, the problem has reached such crisis proportions that it comes as no surprise when we hear of youngsters in grammer school involved in drugs, or when we hear of youth gang violence and law enforcement fatalities. This simply cannot be allowed to continue. We must make the full commitment necessary to eliminate drugs from our society.

The Federal strategy in the war against drugs is multifaceted. It includes initiatives to reduce the supply of drugs through drug and narcotics regulations, and international control of drug production and trafficking. It also includes initiatives to reduce the demand for drugs through education, prevention, treatment and rehab programs, as well as programs funding research into drug dependency, treatment and prevention.

The first major drug initiative, the Anti-Drug Abuse Act of 1986, increased spending by $1.7 billion for fiscal year 1987. This included new authorizations for State and local law enforcement and Federal drug enforcement activities. It also authorized new international narcotics control and drug interdiction activities, as well as domestic drug abuse education, treatment and research programs. Today and tomorrow Congress will consider an omnibus drug bill which authorizes a total of $6.1 billion for new and existing programs. This figure represents a $2.1-billion increase over amounts presently provided in fiscal year 1989 appropriation measures.

This new bill provides much needed funding for antidrug abuse education, treatment and prevention programs. It authorizes $30 million for drug abuse prevention targeting youth gangs and $15 million targeting runaway and homeless youth. The legislation also authorizes $15 million for a National Youth Sports Program and $10 million for drug abuse education in WIC programs.

The drug bill will also provide funding for increased law enforcement and drug interdiction activities. It authorizes $2.5 billion for a variety of enforcement and correctional programs in the Department of Justice, and provides $346 million to the Coast Guard and $1.2 billion to the Customs Service for interdiction efforts. It is essential that we do all that we can to stop the flow of drugs into our country and to address the problems associated with drug abuse and narcotics trafficking.

As chairman of the Subcommittee on International Finance, Trade and Monetary Policy, I have carved out a role for the Eximbank to make loans to democratic governments to reduce the production of drugs within their borders and the shipment of drugs into this country. I also recommended the inclusion of a discretionary grant program for the expansion of existing drug treatment facilities and a special research and treatment program to address the growing problem of infant addiction.

This war against drugs is ongoing. We are not nearly done and therefore we must not let up our effort. We must work toward positively influencing young people in their attitudes toward illegal drugs and providing them with alternatives that will lead them into productive lives. No level of funding or amount of commitment is too great in this war on drugs—this fight for our youth and our future. It requires a participation by all of us. Today as we begin the debate on the Omnibus Drug Initiatives Act of 1988 we move forward in our war against drugs. I urge all of my colleagues to join in.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, today we are considering a comprehensive drug initiative in an attempt to find a solution to the crippling effects of the drug abuse epidemic. This legislation would create new opportunities for drug prevention and treatment programs while increasing Federal assistance for law-enforcement efforts. Congress must recognize that the time has come to find new creative approaches, because the old ones have not worked in combating our drug problems.

My own district of San Francisco has experienced an unprecedented rise in drug related crime. Over the last 5 years, we have experienced a 439-percent increase in dangerous drug offenses, and a 245-percent rise in drug related emergency room treatments. Since 1980, the bay area has witnessed an increase of over 400 percent in cocaine overdose deaths. Despite our efforts, these figures continue to rise.

We must work to develop innovative programs to stop drug abuse. One such project in my district which has been very successful is the Delancey Street project. Delancey Street participants rid themselves of drug dependency while acquiring useful job skills. The participants are currently financing and providing 80 percent of the labor in the construction of their new home, the Embarcadero Triangle. This kind of innovative project should be encouraged.

The city of San Francisco has developed a plan for drug prevention, treatment, and counseling intended to respond to the critical drug problem in low-income housing areas. I believe that this plan is just the type of innovative program this bill seeks to promote.

The program is designed as a series of centers to be located in public housing sites throughout the city, to provide multiple drug treatment, intervention, and prevention services. The plan is intended to bring to the individual housing site all the necessary resources to organize community drug treatment efforts, to provide treatment, to prevent juvenile drug use, and to intervene in serious drug crises affecting housing projects. Prevention strategies and interventions would be targeted specifically at housing projects and other low-income housing to reduce the risk of drug addiction in those populations.

This proposal requires multiple sites throughout the city because experience shows that success in one single neighborhood can simply shift the problem to other neighborhoods. Citywide coordination will help to reduce drug supply and demand within the whole city. Programs that prove to be effective should be identified, encouraged, and where possible, replicated. Should this program prove effective, as expected, similar programs could be planned for other major metropolitan areas.

I commend my colleagues for their work on this comprehensive drug initiative. By combining forces on the Federal, State, and local levels, coordinating our efforts, and rewarding innovative programming we can expect to make gains against the rising illegal narcotic trade in this country.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER] to close debate.

Mr. HUNTER. Mr. Chairman, I want to commend the many authors of this particular bill which is coming up. Particularly, I want to commend the gentleman from Florida [Mr. McCOLLUM] and the gentleman from New Jersey [Mr. HUGHES] for their work on the meth lab legislation that they have commenced work on earlier this year and particularly the precursor ephedrine which is a substance used in many legitimate enterprises, being used right now as a centerpiece of the meth-lab making of chemicals that has rendered San Diego, where I come from, the meth-lab capital of the world. It is a very dangerous drug. It kills people in its use, it also kills people in its manufacture.

I want to give particular commendation to Peter Nunez, our U.S. attorney for holding a meeting earlier this year that resulted in certain language being given to the committee, particularly the language that requires that a certificate of lawful use be required of people who buy ephedrine from chemical companies. Right now you have chemical companies that are selling large amounts of ephedrine for illegitimate use.

The CHAIRMAN. The gentleman from New York [Mr. RANGEL] has 2 minutes remaining.

Mrs. COLLINS. Mr. Chairman, when our youth disfigure their futures by wielding the chain saw called "drugs," we cannot be an absent parent. When drugs cause our workers to produce a work output that is mediocre in both quantity and quality, we cannot be the friendly foreman. When walking our boulevards becomes a hazardous activity due to a proliferation of drug-related violence, we cannot be the social theoretician, asking citizens to live in fear and defend themselves while the problem is being studied.

Drugs have created myriad social and socioeconomic disasters in recent years. Although some problems conveniently disappear over time drug abuse has proven itself to not be one of them. On a regular basis, in virtually every major newspaper, one reads of teenagers killed over drug deals, school test scores falling while dropout rates rise due to drug abuse, and chronic unemployment, again with a direct link to narcotics abuse.

The time to extract this parasite from the body of our culture is now. The need for a comprehensive, effective attack on all fronts of the drug war is manifest. Drug abuse is not an isolated phenomenon devoid of impact. To the contrary, drug misuse and abuse today assures us of problems tomorrow. A child, adolescent, or adult who uses drugs—and the numbers who do are staggering—is impaired in ways which are irreversible. Spirit is dampened; attitude becomes dour; enthusiasm succumbs to apathy; the nervous system becomes distorted; interests are diverted. This later translates to social problems, economic problems, psychological problems, family problems, personal problems, and possibly even physiological problems, such as the incapacity to produce a healthy child. Not only are these circumstances unacceptable on an individual level, they spell bad news for society and for the country as a whole. In a period where the word "competitiveness" is on everyone's lips, how can our country expect to be fully competitive if any of those participating in our economic growth are dulled by drugs.

Without question, drug trafficking and abuse has led to a massive increase in crime. It has become so bad that senior citizens often hesitate to leave their homes for fear of being caught helpless amidst such an atmosphere. When our cities become unlivable for many of their denizens, remedial action is long overdue.

With problems as extreme as these, one might think that the American Government would be leading the fight against this evil. Instead, Nancy Reagan tells us to "say no" to drugs while President Reagan says no to developing an effective policy which will lead to the rapid eradication of this blight on America. Substance abuse is deeply rooted and cannot be solved by a mere slogan. Drug use has almost become a custom institutionalized in numerous sectors of our society and customs cannot be shattered with lipservice.

Thus, it has become the responsibility of Congress—this Congress—to begin to try to combat this evil by passing the Omnibus Drug Initiative Act. Some of the causes are too comprehensive to rectify in the short term. For example, in the Reagan years, where people with material means were helped to increase it while the people without sufficient means were forgotten, the division between rich and poor has grown. Unfortunately, many such people see drug trafficking as a ticket to big money and their road to glory. But once again, this is far too deep a problem to be solved today.

Today, we must turn our attention to more feasible solutions such as community-sponsored afterschool activities, drug abuse education, addiction cure centers, mass media efforts, family bond enhancement, and afterschool jobs. These are important measures which can decrease the demand for drugs among the young. The Omnibus Drug Initiative Act of 1988 initiates a laudable well-directed effort at steering the American community toward a more healthy course.

Now no antidrug effort can be complete without addressing the supply side of the drug equation. This bill makes a solid, serious attempt to reinforce law enforcement efforts to eradicate the production of illegal substances and interdict any shipment of them aimed at the United States. In so doing, H.R. 5210 intelligently provides avenues for tackling this massive problem.

One such avenue, which many of you mistakenly believe will assist in our efforts, is the imposition of the death penalty in cases where drugs lead to murder. This may seem, at first glance, like a good idea, but when one considers the details of when it would be used and for whom it should be used, serious misgivings begin to take place. A death penalty provision—should any be deemed the least bit appropriate—must be very narrowly conscribed and specifically tailored so as not to be indiscriminately applied, nor applied discriminatorily.

Mr. Chairman, on the whole, this bill is a very solid, comprehensive attack on drugs. It embraces the future rather than write it off. America needs it badly. Therefore, I believe it is not just our right, but our duty, to enthusiastically support this legislation.

Mr. FEIGHAN. Mr. Chairman, today, we are considering an extremely crucial piece of legislation, the omnibus drug bill. This bill intensifies and improves our efforts in the war on drugs. We have learned that this battle must be fought on several fronts. The omnibus drug bill reaffirms this commitment.

Perhaps the most important component of this bill is the fact that support and necessary funding will go to people who are truly fighting to rid America of the drug scourge. These people are in our States and small towns. They are the men and women of the Customs Service and the Coast Guard. For too long now, they have tirelessly performed their duties with inadequate resources provided by the Federal Government. Today, we send a message to them, "we will help you." Today, we also send a message to the drug traffickers, dealers and pushers, "we will fight you at every border, street corner, alley, and playground."

H.R. 5210 increases drug enforcement grants to State and local agencies. State and local forces bear the primary burden of waging the war on drugs. These funds represent the very least we should do to help. The Custom Service and Coast Guard will receive the additional moneys needed to protect our borders and police our coasts.

However, there is a whole other area, separate from the battle cries and war analogies; the area of education and prevention. As we strive to cut off the supply side, we also have to work to lessen the demand for illicit drugs. Here, the omnibus drug bill also provides the much-needed impetus. We must warn America's young people about the dangers of drug use and addiction. Community alcohol and drug abuse education programs will finally receive the Federal backing they deserve. Those who have already suffered, need to be helped. Specific programs will treat and rehabilitate runaways, homeless youths, gang members, and juvenile delinquents.

I am pleased to see that Congress has realized the great threat posed by intravenous drug abusers who transmit the horrible AIDS virus. Increased funding will provide both training for new drug abuse counselors and outreach activities encouraging IV drug abusers to seek treatment. These programs are wisely targeted for the areas that need it most.

I would also like to take this time to express my support for a couple of the amendments offered to this bill. While we have heard a lot of antidrug tough talk from this administration, we have yet to see a clearly defined or effective national drug policy. Representative HUGHES' drug-czar amendment would change this. Currently, there are 11 Cabinet departments, 32 Federal agencies, and 5 independent agencies charged in some way with fighting the war on drugs. With a Cabinet-level drug administrator, such diffusion of responsibility would be avoided. An effective and comprehensive national agenda could be implemented.

I would also like to thank all of my colleagues who have supported the 7-day waiting period amendment. In the past few months, I have urged my colleagues to recognize the drug-gun connection. We cannot win the drug war unless we can disarm the dealers. The omnibus drug bill should include a 7-day waiting period on handgun sales, so that police may conduct a background check to ensure that handguns stay out of reach of drug dealers.

In closing, I would just like to thank all of the members and respective committees, who put together a responsible and sensible drug bill. We cannot lose faith in our resolve to correct societal ills. This is not only a battle we can win, but a battle we must win.

Mr. CONTE. Mr. Chairman, the war on drugs, in which we are now engaged, is the most serious challenge to the fabric of our society that I have seen in my 30 years in Congress. Drugs are overpowering our children, plaguing our economy, and killing innocent citizens who get caught in the crossfire of the drug traffickers' wars.

I have advocated and I support a strong Federal role in combating drugs, and I applaud the approach and the goals of the Omnibus Drug Initiative Act. It attacks the drug problem from both the supply side and the demand side. My good friends BOB MICHEL, the minority leader, and TOM FOLEY, the majority leader, deserve credit for putting together a good, comprehensive bill.

On the demand side it increases our commitment to drug prevention through education, care, and treatment, through greater penalties for drug users, and by creating alternatives to involvement in drugs for youths.

One such alternative program, which I have long advocated, is the National Youth Sports Program for disadvantaged youths, which would be expanded from a summer program to a year-round program. While the program is not specifically focused on drugs, and perhaps should have been separately authorized, it is worthwhile and deserves our support.

The Drug Act tackles the supply side of drugs by expanding our commitment to drug enforcement and interdiction. It provides additional tools to get to the big dealers, the powerful drug lords who hide behind their laundered money. It permits greater international efforts to reduce drug production and smuggling.

It is, to outside appearances, a serious attempt at handling the Nation's drug problem. But a glaring oversight threatens to make it little more than rhetoric. The war against drugs cannot be fought where there is no money. To be responsible, the commitment we make through the Drug Act must be backed up with dollars, and right now we are backed up against the $146 billion spending ceiling for fiscal year 1989. Any additional spending will trigger an automatic sequester of a minimum $10 billion across the board, cutting into the very antidrug programs that we are supplementing in the Drug Act.

I am disappointed that the Rules Committee did not make in order the two amendments I proposed to the Drug Act which would have handled the funding problems. The first would have answered positively the question of paying for the act, and the second would have raised $100 million for the Coast Guard which would have helped offset a fraction of the Drug Act's $4 billion cost.

My first amendment would have provided that authorizations for additional spending not take effect unless equivalent offsetting reductions in spending for other programs are made, or equivalent additional revenue is provided. This offsetting amendment is necessary to avoid a sequester and to demonstrate that we are really serious, that we are really going to war on drugs.

The House should have had an opportunity to vote this issue up or down. We did once before, on April 20, when we voted unanimously, 412 to 0, to comply with the bipartisan budget agreement spending caps when fighting the war on drugs. Why not implement that decision now? The American people deserve a real war on drugs, and I, for one, am saddened that by not ensuring funding, we are responding to this terrible scourge with rhetoric.

My second amendment rejected by Rules was a $20 annual user fee on recreational boaters who use U.S. waterways. The user fee would raise about $100 million annually for the Coast Guard. Since the Coast Guard spent $266 million in fiscal year 1987 in support of recreational boaters, a user fee is already justified. In view of the expanded role of the Coast Guard in drug enforcement under this Drug Act, I think a user fee is even more necessary to provide boaters with the services they have received in the past while keeping the Coast Guard in the war on drugs.

We don't have to sacrifice our war on the deficit in order to fight our war on drugs, but the Drug Act, unfortunately, doesn't give us a choice in its present configuration. Without offsets, a $4 billion appropriation herein authorized is going to trigger a sequester and break the agreements we worked so hard to reach last year. I support the Drug Act, and will work to prevent a sequester, but I am disappointed that we have taken an approach that does not responsibly address the real and immediate funding pressures with which we are faced.

I have some additional comments I would now like to insert for the RECORD. Thank you, Mr. Chairman.

ADAMHA REAUTHORIZATION

In many ways this bill goes beyond the assigned topic of drugs and branches into many different areas. One of them, on which I would like to comment, is the reauthorization of many of the programs of the Alcohol, Drug Abuse and Mental Health Administration.

NIDA RESEARCH

One provision, about which I have grave reservations, involves the proposal to set aside 15 percent of research monies at the National Institute on Drug Abuse for service demonstration programs. There are multiple reasons why this is not a good idea.

First of all, it has the potential to reduce research funding at precisely the time when it is needed. It is most important to provide services and experiment with better services to substance abusers. But it is important to recognize that any real answers to the problems of addiction depend on research. At the present time, getting abusers into treatment is not a guarantee of recovery. In fact, with some exceptions, there is a very good chance that addicts who go into treatment will relapse. The reason is because we are just beginning to support the research that is necessary to come to an understanding of the nature of the addictive process and how it can be effectively treated.

It would be wrong to reduce our effort to understand drug dependence and treat it more effectively through research, in order to fund short term demonstration programs that are important but not a substitute for new knowledge. It is ironic that on a problem like AIDS we are willing to invest billions of dollars in research, but on a problem like drug dependence, we are talking about diverting the few dollars that are spent on research into service projects.

This is even more critical, because it is not clear against what funding base the set aside would be applied. NIDA research is currently funded under two different provisions of the Public Health Service Act, section 301 and section 517. The provision in this bill, Section 10013, would authorize the 15% set aside against funding provided under section 517 (renumbered as section 518). It is unclear how much funding is considered provided under section 517 and how much funding is considered provided under section 301. It is possible to consider at least 3 different figures as being provided under section 517, the NIDA research line in the FY 1989 appropriations bill, which provides $115 million, the NIDA research line in the FY 1989 bill plus the NIDA AIDS funds provided under the ADAMHA AIDS line, which amounts to something like, estimating $238 million, or the NIDA research line in the FY 1989 bill plus the NIDA AIDS research (and not prevention or service) funds only, which would fall somewhere in between.

It there were a set-aside, I would hope it would be taken against the larger figure, since it is likely to match up more closely with the Institute's current activities. If it were applied against the smaller figure, it would be a clear diversion of funds from research and disruptive in the extreme of the research program at NIDA.

But I want to indicate my strong opposition to the set-aside and my strong desire to see this provision changed as this bill moves along. If service demonstrations need to be funded, let them be authorized separately.

EFFECT OF REAUTHORIZATION ON APPROPRIATIONS

Furthermore, if this bill does go through, there will be the situation of having an FY 1989 appropriation based on the existing panoply of ADAMHA programs, with a subsequent revamping of those programs due to this reauthorization. As the Ranking Minority Member of both the Appropriations Committee and the Subcommittee on Labor, Health and Human Services and Education, it is my opinion that before the agency could spend any funds in accordance with the new authorization, there would have to be a reprogramming sent up to the Committee for its approval of the agency's proposed plans to spend the appropriated funds in accord with the new authorization.

Mr. ROTH. Mr. Chairman, I rise to express my strong support for H.R. 5210, the Omnibus Drug Initiative Act. This legislation adds important new weapons to our fight against the scourge of drug smuggling and abuse. It is the product of months of work by several committees of the House. With the American people citing the drug epidemic as the Nation's greatest domestic problem, this bill must be our top priority for action.

H.R. 5210 builds on the legislation we passed in 1986. It addresses all aspects of the drug abuse problem, combining tougher controls at our Nation's borders on smuggling; stronger penalties for the manufacture, distribution and use of narcotics; and improved measures to prevent drug dependence.

I am proud to have contributed to this bill, through both my Banking and Foreign Affairs Committee assignments. In June, we on the Banking Committee approved important new powers for our law enforcement agencies in tracking the flow of drug-related money, which is the lifeblood of the drug trade. The Treasury Department will have broader authority to require reporting of large transactions in localities where drug smuggling is rampant. This will help us locate the smugglers and shut them down, as they try to move their funds through the Nation's financial network.

In the Foreign Affairs Committee, we approved new programs to fight the international drug cartels. A new multinational antinarcotics force will be set up in Latin America, combining our resources with those of the Organization of American States and other member governments. We will provide new armaments to protect drug control agents from the already well-armed smugglers. We will step up our research on effective herbicides for use against the basic narcotic-producing crops. And we will tighten passport and visa controls to stop smugglers from entering our country.

Although this bill is a big step forward in our fight against drugs, by no means is this the end of our work. I will vote for amendments to make this bill even stronger, and I urge my colleagues to do the same.

Yet, in acting on this bill, we must recognize that winning the war against drugs will require far more than new laws and law enforcement. Every American must enlist in this struggle, because drug abuse is a problem that permeates all parts of our Nation, from big cities to our small towns.

Every family, every teacher, every community leader must do their part. We are in a battle to preserve the fabric of our society, and we must do what is necessary to win.

Mr. YOUNG of Alaska. Mr. Chairman, today we in the House have the opportunity to take action against the greatest threat to the health and safety of our Nation today, the scourge of drug. I have had to deal with the pain and suffering of this blight first hand. I have lost two nephews to drugs and I have seen how this parasite preys on our young people, the extent that it steals the very life from our greatest national treasure, our young people.

This bill gives us the opportunity to fight back against this scourge and to make it clear to those who would profit from the poisoning of this Nation that we are not going to take it anymore. Mr. GEKAS will give us the opportunity to make it clear to those who would kill our young people that their lives will be in jeopardy if they persist in such activity. The bill also makes many necessary reforms which will assist our law enforcement efforts. This is a worthwhile and essential goal, but we must not in our zeal to improve drug enforcement trample the rights of innocents.

Subtitle B of title VI and title VII would protect the rights of innocent conveyance owners from forfeiture. These sections also provide numerous procedural safeguards to innocent owners who have had their conveyances seized. Unfortunately these sections do not apply to the customs laws. This leads to the untenable situation where the lead agency involved in vessel, aircraft, and auto seizures are not compelled to respect the basic rights of our citizens. Mr. STUDDS will be offering an amendment to ensure that the basic rights of innocent owners are respected by all Federal agencies.

I am also proud of the title V sections which would reauthorize the Indian alcohol and substance abuse sections of the 1986 drug bill. These sections were the result of 3 years of hearings by the Interior Committee and constitute a strong effort to stop drug use by Native Americans at an early age. Subtitle A would amend the 1986 act to reach a greater number of Indians and Native Alaskans in urban areas.

This is important legislation and while I feel that it could be improved by amendments in some areas, I would still urge its expeditious passage.

Mr. MANTON. Mr. Chairman, I rise in strong support of H.R. 5210.

No action the 100th Congress has taken or will take in the remaining months is as important for our Nation than the passage of the Omnibus Drug Initiative Act. This is a much needed initiative to shore up our actions of 2 years ago in the passage of the Omnibus Anti-Drug Abuse Act.

Mr. Chairman, we must stop the flow of drugs into our Nation. Illegal drugs are killing our Nation's youth and having a devastating impact on every segment of our society. There is no greater menace to our children and our neighborhoods.

To illustrate just now serious this problem is, Mr. Chairman, I would like to recount a recent telephone call to my office. My constituent did not believe the Congress was doing enough to eradicate the drug plague. She did not understand why Congress could not declare war on drugs. She was not talking about the rhetorical war we all often speak of, but rather, a real declaration of war; involving all that a state of war would involve—a draft, full use of the military, and even the suspension of certain rights which might result from such a state of emergency. This was not a facetious request, Mr. Chairman, and it clearly demonstrates how far the average citizen wants the Congress to go in eliminating the flow of drugs into our society.

The amount of drugs pouring across our borders is both mindboggling and heartbreaking. I know we have all heard the gruesome statistics about drugs in America; however, I believe they bear repeating. In 1986 an estimated 150 tons of cocaine, 12 tons of heroin, up to 60,000 tons of marijuana, and 200 tons of hashish flooded into the United States. This is in addition to the estimated 4,000 tons of marijuana illegally cultivated in the United States, and more than 10 tons of psychotropic drugs which were manufactured domestically.

Mr. Chairman, these statistics are all the evidence we need to conclude we have a raging drug epidemic that must be shut off with strong, decisive congressional action.

These statistics are even more telling when put in human perspective. These are not just numbers, they show the toll taken on human health and well-being.

There are more than 600,000 heroin addicts in the United States and their numbers have been growing steady every year since the late seventies. More than 1 million Americans are estimated to be addicted to cocaine and in need of professional help. In New York alone there were some 600 drug-related deaths in 1986. The rate of drug-related emergency room admissions and deaths continues to grow across our Nation.

According to the House Select Committee on Narcotics Abuse and Control, the total social and economic cost of this drug epidemic was $100 billion in 1986. These costs include drug prevention programs, treatment, related crime, violence, death, property destruction, lost productivity, and drug enforcement.

The figures speak for themselves. We have a deadly disease which has permeated every facet of our society. We presently are losing—not winning—the war on drugs.

One of the major reasons we are losing this war has been the lack of support and leadership from the administration. With the passage of the 1986 Anti-Drug Abuse Act Congress sought to make drug abuse education an essential element of our national antidrug strategy. Yet, every year since then the President has requested funding will below that authorized for this and other valuable programs to fight drugs. In some instances they even asked for zero appropriations. However, this is not a new approach for this administration. From 1980 to 1986, Federal support for drug abuse services declined by approximately 40 percent, severely straining our States' public treatment programs. This administration may call this a war on drugs but I call it a surrender.

Also, this administration has pursued the irrational policy of zero tolerance while allowing major international drug dealers to go about their business unfettered. We have a policy of confiscating private boats for having on board infinitesimal quantities of marijuana while allowing drug kingpins such as General Noreiga to remain in power.

General Noreiga has been indicted by two U.S. grand juries on drug trafficking and racketeering charges. He has been charged with conspiring to import tons of illicit drugs into the United States and using Panamanian banks to launder the proceeds of these illegal activities. This administration was for many months unwilling to recognize this source of drugs threatening our country, and for many months now has been incapable of removing this threat. This is an outrage and an insult to our ability to remain a world power.

Mr. Chairman, this legislation will supplement our previous anti-drug efforts by strengthening existing law and providing new resources in our fight against drugs. With the passage of this legislation we will finally place controls on many of those chemicals commonly available which are used in the manufacturing and processing of illegal narcotics; greatly improve our ability to control the laundering of drug money; increase our assistance to State and local drug enforcement by increasing their overall authorization and providing direct grants to municipalities; broaden the jurisdiction of several branches of the Federal Government to play a wider role in drug enforcement; and, establish additional mandatory penalties for certain drug offenses.

Finally, Mr. Chairman, I want to add my voice in strong support of the amendment to provide the death penalty for drug kingpins. I believe such an amendment is necessary to enhance the enforcement of our Nation's antidrug laws. I have introduced similar legislation to provide this long-overdue weapon in our arsenal to fight the illicit drug trade, which is carried out by vicious killers who are destroying our neighborhoods and our country.

Mr. Chairman, my support for the death penalty for certain drug-related crimes is a product of my years as a New York police officer and my years representing Jackson Heights which has long been one of the major cocaine trafficking centers in New York. The drug trade has bred more crime and more violence every year. Last year, this plague culminated in the cold blooded murder of officer Edward Byrne who was gunned down execution style while guarding the Queens home of a witness in a major drug investigation.

Mr. Chairman, we are losing our war on drugs and we will not start winning this war until we take decisive action. The drug dealers responsible for the killing of Eddie Byrne sent our society a message. They told us they do not care about human life. They only care about obtaining money and power at any cost. We have the opportunity with the adoption of this death penalty amendment to send our own equally clear message that we as a society will not hesitate to impose the ultimate penalty on those who are killing our youth, our neighborhoods, and our law enforcement officers.

We, as a nation, simply must have the resolve to take this step if we are to defeat these drug czars who are destroying our society.

Mr. Chairman, the legislation we will be considering in the days ahead provides the needed ammunition for our fight. I urge approval of the bill and of the death penalty amendment.

Mr. TRAFICANT. Mr. Chairman, I rise today in strong support of H.R. 5210, the Omnibus Drug Initiative Act of 1988. As a former director of a countywide drug program and as a former county sheriff, I know the grave threat drugs pose to our Nation. In 1986, I coauthored the omnibus antidrug bill that marked an important step forward in addressing America's serious drug problem.

However, since that the time the drug problem has remained a serious and tragic problem. From professional athletes to train operators to junior high school students the problem has pervaded every sector of our society. A comprehensive approach is the only answer and I am gratified that Congress is building upon the foundation that was laid in 1986. H.R. 5210 is a comprehensive measure—one that will address the drug problem on all fronts: enforcement, treatment, education, eradication, interdiction and counseling. As a member of the House Select Committee on Narcotics Abuse and Control, I am pleased that the legislation before us today addresses many of the problems the Select Committee has reviewed and also adopts several recommendations the Select Committee has made.

I would like to single out and express my strong support for several key provisions in this bill I feel are particularly important. H.R. 5210 permits eligible localities to apply directly for Federal drug law enforcement funds if States fail to make timely applications for grants—this provision will ensure that local governments have streamlined access to desperately needed Federal drug fighting moneys.

For fiscal year 1989, the bill authorizes $1.38 billion for the Federal Prison System. Expansion of the prison system is the only way to ensure that those convicted of serious drug offenses serve hard time and are not put on probation or released early because of prison overcrowding. I also support the amendment being offered of Mr. ORTIZ of Texas which would make 50 percent of asset forfeiture funds secured by local law enforcement agencies under equitable sharing available to their corresponding State and local governments for prison construction, expansion, maintenance and operations. This amendment would be of little or no cost to the U.S. taxpayer and would provide State and local governments with urgently needed funds to ease the prison overcrowding problem.

I strongly support provisions in the bill calling on Federal contractors to establish and announce antidrug policies, education programs and to deal with drug violations in the workplace. The time has come for the Federal Government to provide clear and unambiguous leadership in getting those who deal with the Federal Government to adopt tough and clearly defined antidrug programs and policies. While it is important to identify when a worker is using drugs—it is equally important for employers to inform and educate employees that help and treatment is available. All employees should be encouraged to seek help and treatment if they have a drug problem—without the fear of being fired.

I strongly support the provision in the bill expressing the sense of Congress that proposals to legalize illicit drugs should be rejected. Although it is to get discouraged when examining the enormous scope of the Nation's drug problem, legalization is not the answer. Any discusison of legalization hinders our drug fighting efforts and diminishes the very real threat posed by drugs—especially to our young people. Drugs kill and drugs ruin people's lives. They should never be legalized. We must continue to wage an all-out, comprehensive war on drugs—the future of our Nation is at stake. Legalization is a nonsolution.

One other important provision of the bill I feel is important to single out is the authorization of funding for grants to drug treatment programs to expand their capacity in order to reduce waiting periods for those seeking treatment. One of the tragedies of the drug problem is that those addicted to drugs who want help many times have to wait several months to get into a treatment program. This overload has caused countless addicts undue pain and suffering. Hopefully this program can be expanded upon so that in the future drug treatment programs have the resources they need to provide assistance to all who seek treatment.

I would like to also express my strong support for the death penalty amendment to be offered by Mr. GEKAS of Pennsylvania or myself. I have supported a Federal death penalty for drug traffickers who kill for quite some time—it is time for Congress to enact this much needed provision. Today many of my colleagues will argue that the cost of prosecuting a capital punishment case is too great and that it will hinder efforts to extradite kingpin drug dealers. Let me remind Members that the death penalty amendment under consideration today only allows the death penalty for those of convicted of intentionally killing a person during the course of committing or in the furtherance of a drug felony or to avoid apprehension for or service of a prison sentence for a drug felony. It does not require the death penalty and provides as an alternative a life sentence or at least 20 years in prison.

This is balanced provision that will allow prosecutors to seek the death penalty for those drug dealers who are preying upon our society. Conventional penalties have not worked. The American people overwhelmingly support the death penalty for drug dealers who kill and I say the time has come for Congress to truly get tough on the drug dealers. As far as the cost goes—what about the cost to the families of the victims of these drug dealing murderers? What about the untold cost to society these murderers have caused through ruined lives. One thing is for sure—a drug dealing murderer who is convicted and executed will never kill again and will never again poison our children with drugs. I urge all Members to support the death penalty amendment to H.R. 5210.

In closing, Mr. Chairman, I urge all Members to support final passage of H.R. 5210 and to work hard to ensure that this important bill is signed into law before Congress adjourns for the year.

Mr. WEISS. Mr. Chairman, I wish to compliment the distinguished committee chairmen and members of the various committees who have shaped the Omnibus Drug Initiative Act of 1988.

In more than 20 years in government as a prosecutor, city council member, and Member of Congress, I have never seen worse devastation that that currently wrought by narcotics trafficking and abuse. The drug crisis is ravaging the Nation from the streets of my district in Manhattan to the remote countryside along our borders. There is an urgent need to find remedies, but effective solutions require careful, collective thought and planning.

The Reagan administration's so-called war on drugs has proven to be a barrage of empty rhetoric. The drug crisis is a complex problem that requires actions with integrity. The administration has responded with sloganeering and a task force, headed by Vice President BUSH, which generated no significant recommendations or policies in 6 years. During that period the situation has deteriorated greatly.

We must do better than this. We can achieve solutions to the drug crisis while safeguarding the rights of individual Americans. We must fight increasing violent drug-related crime with increased Federal support of local law enforcement. We must improve and expand drug treatment programs which currently keep thousands on waiting lists. And we must do everything possible to educate our children so they do not face the same frightening situation in the future.

The Omnibus Drug Abuse Initiative of 1988 represents a continuing effort by Congress to address the complexity of narcotics abuse. One of the best ways to solve the drug problem is to stop drug use before it begins. I am pleased that H.R. 5210 expands upon the education programs initiated in the 1986 Drug-Free School and Communities Act. We should pay heed to the sage assertion in the Department of Education's recent report on the 1986 act, which states that "* * * there is little evidence to challenge the basic premise that prevention is the most humane and cost-effective response to drug and alcohol use related problems among youth."

I am also pleased the 1988 omnibus bill expands on sorely needed treatment programs and funding. Both in- and out-of-prison drug treatment programs currently face extensive waiting lists and drastic underfunding. Title X of the 1988 bill helps move us closer to correcting this problem, with provisions such as increased grants to high-risk treatment programs, and new funding for AIDS treatment for IV drug users. When we condemn the use of illicit drugs, we also oblige ourselves to extend a hand to those who are struggling to follow our exhortations and rid themselves of their addictions. And if we succeed in treating drug abusers who are in prison, we reduce the chance of their committing drug-related crimes when they get out.

The omnibus bill also takes steps to remedy the negative consequences of the administration's inconsistent policy on drug law enforcement. It is ironic that the same administration that prides itself on being "tough on drugs" requested no funding for 1989 State and local law enforcement grants. I support the initiatives in the 1988 bill on local law enforcement officer training and logistical support, as well as the 7-day waiting period provision on gun purchases. We should give our law enforcement officials time to make background checks on the people they could meet face to face in the drug wars on our streets.

On an international level, the administration's vacillating narcotics enforcement policy has done little to crack down on drug trafficking across our borders. The 1988 Omnibus Act begins to redress the deficiencies in administration policy with measures that include encouraging the development of a Latin American regional antinarcotics force, and modifying procedures for certifying countries as cooperating with drug control efforts.

The Omnibus Drug Initiative Act of 1988 could be an important component in our long-term fight against drug abuse. It is therefore unfortunate that many of the amendments to the bill are ill-considered, pernicious, and at best marginally germane to the subject of this important legislation.

I refer in particular to the amendment offered by Mr. LUNGREN, the gentleman from California, which would drastically modify the exclusionary rule in criminal trials. Fortunately, Mr. LUNGREN'S attempts to add a similar amendment to the 1986 omnibus drug bill failed, and there is no place for the Lungren amendment in this year's bill either.

The Lungren proposal has implications which go far beyond narcotics control. By undercutting the primary tool for protecting Americans against unreasonable searches and seizures, this proposal would strike at the very foundations of the fourth amendment to the Constitution.

I would also like to draw the attention of my colleagues to the user accountability amendment offered by the gentleman from Florida, Mr. McCOLLUM. This measure mandates the denial of Federal benefits to individuals convicted of two or more drug-related offenses within a 10-year period, or one conviction for distribution of a controlled substance. On a practical level, this amendment makes little sense, since its penalties are not related to the underlying offenses. Beyond that, it is simply inhumane, as it works directly against reintegration of individuals who have already served their sentence into the community.

Finally, I am deeply disturbed by the amendment offered by Mr. GEKAS, the gentleman from Pennsylvania which would permit imposition of the death penalty in new categories of cases. This amendment has no place in a bipartisan effort to address the drug problem, which already contains increased penalties for drug-related crimes. The taking of human life by the Federal Government will do nothing to reduce the availability of drugs, and may in effect serve the opposite purpose by hindering our efforts to extradite foreign citizens engaged in drug trafficking. Some foreign countries prohibit extradition of their citizens to face trial for violations punishable by death.

Furthermore, to vote for the Gekas amendment is to place this country in a category of nations, many of which are pariah nations, whose human rights violations have been repeatedly condemned by Congress and this administration. It would place the United States in direct contradiction to the recent trend in the last decade toward abolition of the death penalty.

Many of our Western allies have followed the trend of abolishing the death penalty, including Portugal, Spain, France, Argentina, Australia, and the German Democratic Republic. By passing the Gekas amendment, we place the United States alongside of some of the most oppressive regimes in the world: South Africa, Iran, Kampuchea, Libya, Syria, North Korea, and the U.S.S.R.

I hope that we can pass this important, comprehensive drug abuse legislation without corrupting it with pernicious, unconstitutional amendments. The Omnibus Drug Initiative Act of 1988 before us today contains programs and incentives that could make a valuable contribution to our battle against drug abuse, but we must not jeopardize the basic rights of individual Americans in the process.

Drug abuse is a frightening, escalating crisis, which requires our urgent attention. We can find solutions to the drug epidemic while maintaining the values that have always shaped progress in this Nation. There should be no conflict between constitutional rights and a strong effort to address the challenge of the drug crisis. Assuming that amendments of the type I have described are not adopted, it is my intention to vote for this bill. It is urgently needed to give our communities and especially our children a chance to fight off this dreadful epidemic.

Ms. SNOWE. Mr. Chairman, this week the House will be considering a measure which will have a significant impact on the future of this country—a future which is currently clouded by illegal drugs.

I am pleased with the bipartisan approach that the House leadership has taken in developing comprehensive legislation that will address the critical issue of drug abuse. This bill, which is the product of 10 House committees, seeks to combat the drug problem with a multifaceted approach by providing funds and informational assistance for drug education, rehabilitation, law enforcement and eradication programs.

And while every Member may not agree with all of the provisions in this legislation, there can be no disagreement about the magnitude of the drug abuse problem facing our Nation. It is estimated that 1.2 million people in this country are addicted to cocaine, and millions of people use marijuana regularly. In fact, a 1986 survey of high school seniors found that 57 percent of them admitted to illicit drug use. Tragically, many of these drug users are teenage children.

These figures only hint at the enormous human and economic costs our Nation suffers due to drug abuse. We spend hundreds of millions of dollars annually to combat it. In my own State of Maine, the cost of drug and alcohol abuse is estimated at $700 million per year for lost productivity, crime, fire, and health costs.

And while the ravages of drug abuse are demonstrated vividly within our borders, the solution to this problem will not solely be found domestically. Over 100,000 tons of illicit drugs entered the United States last year and unfortunately only 5 to 15 percent of that amount was intercepted.

In that regard, Mr. Chairman, I cosponsored the legislation that resulted in title III of this bill, developed by the Foreign Affairs Committee, on which I sit. We seek, in this section, to address the drug supply problem by promoting cooperation with other countries. Through the sharing of resources, information and technology we will, along with our allies, be able to stem the flow of illegal drugs to countries around the world, including the United States.

Mr. Chairman, for the most part I am pleased with this bill. However, I would like to outline briefly my concern about the waiting period provisions included in this legislation by the House Judiciary Committee. The bill's language would institute a mandatory, nationwide 7-day waiting period for individuals trying to purchase certain firearms. Clearly, this is a poorly conceived attempt to use popular omnibus drug legislation as a vehicle to enact unnecessary gun control legislation.

High ranking military officials have said that the term "war on drugs" is a misnomer. For my part, I disagree. Cocaine, speed, heroin and crack have invaded our playgrounds, our workplaces and our neighborhoods. They are trying to capture this country's most valuable resource, her people. In all too many cases, the enemy has won. Hospital mentioned deaths related to cocaine alone rose from 314 in 1983 to 1,092 in 1986.

But there is hope. Over 7,000 groups have been started across this Nation by parents who are concerned about the effects of drug and alcohol abuse on their children. And First Lady Nancy Reagan has shown us all that our young people can and will stay away from drugs with a little encouragement, help and support.

This bill is an important step in reclaiming our ground. We must educate our children so they understand the dangers of drug use. We must provide treatment for those who have been captured, and we must arrest and jail those who seek to continue the war.

The battle plan is not simple for this war must be fought in the back alleys, the penthouses, the parks and the borders of every State in this country. We must support our educators, our police officers, our courts and our doctors with money, technology, information, education, and other necessary tools. This is a war we cannot afford to lose.

Mr. Chairman, I am hopeful that my colleagues will join me in producing a final antidrug abuse bill that the 100th Congress can support and that President Reagan will sign into law. It is the best way for the House to demonstrate its support to the individuals across the country and around the world who are working every day to win the war on drugs. I urge all of my colleagues to help in this life-or-death battle.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 5210, the Omnibus Drug Initiative Act, which is to be considered by the U.S. House of Representatives beginning on September 7, 1988.

We in the U.S. Congress—and in the Nation—are faced by a growing, rather than lessening, crisis in the worldwide production, distribution, and use of narcotics. Every report indicates a growing problem in an ever larger number of countries—even those which previously did not have a serious problem. Accompanying this expansion, are related problems in economic conversions that threaten the political stability of many countries, that endanger the world banking system—as well as individual countries' banking systems, narcotics problems that have elevated "piracy" on the high seas and in the skies to new levels of corruption, drug problems that have reduced production and safety standards in the business world through addiction, bringing even greater losses and, in general, disrupting family life, personal achievement, and causing individual tragedy through the massive increases in drug usage.

I have served on the Select Committee on Narcotics Abuse and Control for over 8 years and during that time, I have had the opportunity to participate in the diligent efforts of the Select Committee and the Congress in developing legislation and engaging in public oversight activities that have worked toward eradicating this scourge from the life of our Nation. Our efforts have drawn upon the informed, talented contributions of every facet of the U.S. Federal Government, with constant working linkages to State and local efforts in the eradication of narcotics production, distribution, and usage.

It is from this close-in review of all the problems, all the good attempts at solutions, and all the elusive factors that still haunt us that I salute and join the effort by the U.S. Congress in its careful consideration and enactment of H.R. 5210.

As the 4th ranking member of the Committee on Banking, Finance and Urban Affairs, and as chairman of that committee's Subcommittee on International Development Institutions and Finance, I have another base of experience and service from which to view our continuing efforts on the crisis of narcotics.

As all my colleagues know, the Congress has pursued on a steadily continual basis legal reforms that deal with the problem of money laundering—a practice by drug czars that has endangered banking systems, eluded many nations' tax structures, and provided enormous sums of unidentified moneys with which to bribe and destabilize whole governments. The latest provisions in H.R. 5210 to address the threat of money laundering have my fullest support. They add further strength to already existing laws we have enacted, and should do much to take us through the next steps of controls.

In my capacity as chairman of the Subcommittee on International Development Institutions and Finance, I refer to another provision in H.R. 5210 which instructs the U.S. executive directors of the World Bank and Inter-American Development Bank to link programs that reduce economic dependence on illicit narcotics crops to U.S. policies on lending programs to those countries. We have worked over a period of time with the agenda of crop substitution in countries where poor workers have found the narcotics crops their only source of meager income—with the large profits of the drug trafficking going to the drug czars in their country. Together with my colleagues on the Subcommittee on International Development Institutions and Finance, I renew with further intensity the need to use U.S. lending policies with these countries to enforce adequate crop incomes for their poorest workers through nonnarcotics crop production. However, I must repeat an oft-stated concern that the American people must assume their fair share of the joint responsibility in this critical issue. The demand for illicit narcotics here in the United States is the ultimate cause of drug production and trafficking in foreign countries. We cannot delude ourselves on this point. This, in turn, means that the best-laid drug eradication programs will not work without simultaneous effective efforts to curb drug abuse here at home. The provision in H.R. 5210 is designed to work in an atmosphere of reduced demand by fostering alternative, income-generating opportunities for people living in drug-producing regions of developing countries. People who actually grow coca leaves are essentially low-income farmers who are trying—under very adverse circumstances—to provide for their families. Their struggle to attain a minimum living standard is what motivates them—not huge profits reaped by the drug cartel. In the end, the only way these poor farmers will stop growing illegal drugs is when they have alternative and legal-income opportunities.

This provision by the Subcommittee on International Development Institutions and Finance in H.R. 5210 instructs the U.S. executive directors of the banks to seek the establishment of country lending programs which will build roads and schools, generate employment opportunities and provide agricultural extension services. The multilateral banks are involved in the economic development business. That is why they exist. With some fine tuning of programs to reflect the particular circumstances of drug producing and trafficking regions, I believe they can have a significant impact on curbing illicit narcotics production. With attention to demand and the provisions on supply, H.R. 5210 will effectively carry the fight further in our efforts.

Mr. Chairman, in connection with the international aspects of the narcotics crisis, I am also in support of a provision contained in title III of H.R. 5210 that urges consideration by the Organization of American States for the creation of a regional antidrug force, with a focus on regional strategy and a possible hemispheric presidential conference.

In a significant effort that would bring the voice of our individual citizens to the need for international—Western Hemisphere—dialog last April, the Greater Washington Council of Churches held a series of demonstrations at five embassies of Western Hemisphere countries heavily utilized by the international drug cartels. It is clear, if one looks at the human condition in those countries, that the people of these respective countries are suffering, as are our own, from the effects of drug traffic. Therefore, I want to commend the Committee on Foreign Affairs for authoring this important provision which sounds a clarion call for all Nations to join together in the fight against the international drug cartels.

Mr. Chairman, another issue of great urgency that I have been concerned with for several years, is the scope of treatment needs in our country. We need to know the types of treatment patients require; we need an accurate evaluation of the treatment modalities presently available; we need surveys, preferably by one of our Federal agencies like the National Institute for Drug Abuse or U.S. Health and Human Services, that provide current figures on treatment needs; and last but not least, we need a special emphasis on research on treatment modalities.

I am deeply concerned about the need for treatment at all levels of American Life. From our prisons, where the need is crucial, to treatment for the worker in the workplace, treatment availability and the elimination of long lists of waiting referrals must be addressed through the leadership of the U.S. Congress.

I am pleased to support the beginning of a commitment by the Federal Government under the provisions of title X in H.R. 5210, through the model programs listed and the thorough approach to every aspect of treatment in these provisions.

We are approaching the time when all too many American homes and families have had some contact with the tragedy of drug use, however diverse that experience or contact might have been.

In the light of this great diversity of exposure to the drug problem which leaves, in some degree, countless people subject to evaluation, suspicion, or accusation, I am completely opposed to any provisions for death penalties in any drug-related activities. I support life imprisonment for drug cartels and czars; appropriately severe imprisonment penalties for distributors and dealers; and I support Congressman EDWARDS' amendment that would provide for civil penalties of up to $10,000 per violation against persons found to be in possession of small "personal use" amounts of marijuana, cocaine, and any other controlled substances.

I also support the provisions in H.R. 5210 that oppose legalization of drugs and I support the 7-day waiting period for the purchase of guns as outlined in the Brady provision.

H.R. 5210 has been carefully crafted by the experienced efforts of the Members of the House of Representatives through the hard work of House committees. H.R. 5210 offers hope, support, and—in many cases—experienced and sophisticated levels in addressing a national crisis that challenges the conscience of every American, in or out of Government. The coming debate on this legislation will further refine and clarify provisions and provide careful consideration of amendments.

It is my earnest hope that H.R. 5210 can be moved forward expeditiously to a vote and that we can count on this legislation to give an important boost to all our efforts toward narcotics prevention and control.

Mr. FEIGHAN. As a cochairman of the international narcotics control task force of the Foreign Affairs Committee, I rise in strong support of this title. These provisions are designed to strengthen our international efforts at fighting the drug trade at the source. I want to commend my colleagues Mr. SMITH and Mr. GILMAN for their fine work on the task force. I also want to thank the chairman for his leadership and determination in making the drug fight a key concern of our committee and our Congress.

These recommendations come in the face of some very hard facts. The Select Committee on Narcotics estimated in 1986 that 150 tons of cocaine entered the United States; as much as 60,000 tons of marijuana; 200 tons of hashish; and 12 tons of heroin. The Department of State reported increased production in almost every major drug producing nation in the last 2 years.

To put it simply, we face a relentless tide of illicit drugs coming into this Nation. We can't "Just say no" and leave it at that. We have to say "yes" to increased funding for the State Department's Bureau of International Narcotics matters. We have to say "yes" to a new initiative for fighting drugs in this hemisphere. And most important, we have to say "yes" to improving our certification procedures so that drug-producing and drug-trafficking nations do not enjoy the benefits of U.S. aid and trade.

In hearings earlier this year before our task force, we discussed with the State Department the idea of creating a regional anti-narcotics force under the auspices of the Organization of American States. It was clear from that testimony that the idea, while subject to some consideration, was not likely to be acted upon in the absence of congressional action.

The response comes today in the drug bill's call for a regional anti-narcotics force. First, we call for an exploration of the idea at the O.A.S. If promising, we ask that the leaders of the hemisphere meet for a presidential conference on narcotics control. If the idea of a regional anti-narcotics force is approved, the bill authorizes $10 million as the U.S. contribution to the force.

This idea gives us a regional approach that we haven't had before. It offers a partnership with other democracies in the hemisphere that are facing the same drug threat that we do. And finally, it responds to the reality that we must work cooperatively with countries that do not have the resources to wage this battle alone.

As a member of the task force for the last 5 years, I have had the opportunity to deal each year with a certification process that has done a reasonably good job in identifying the countries that have not cooperated with U.S. drug enforcement efforts. However, that process has been flawed by a failure to adequately identify major drug-transiting countries—the gatekeepers of drugs flowing into this country. The bill calls for the administration, in consultation with Congress, to specify a standard to be used in deciding whether or not to certify these countries.

This is a small change in our laws. But it will greatly improve the certification process. I urge my colleagues to support these recommendations and pass a bill that will increase our efforts to ensure that we fight the suppliers, the shippers, and the gatekeepers of the drug trade.

Mr. STARK. Mr. Chairman, sometimes it's amazing how counterproductive good intentions can be. With consideration of the House's version of the antidrug bill, H.R. 5210, the Omnibus Drug Initiative Act, we're destined to a ill-fated and doomed national drug policy.

Let's fact it—we're losing the so-called war on drugs and it's our current policies which contribute and exacerbate the crisis. By making this a criminal problem rather than a health problem, we're destined to lose this war.

The 1988 antidrug bill has fallen vicitm to the deceiving assumption that we can prosecute our way out of the drug problem. The result of this bill will be an ever-increasing need for additional law enforcement resources: police and court systems overburdened with tracking, arresting, prosecuting, convicting, and incarcerating those who violate our drug laws. But a war on drugs without sufficient programs to eliminate drug addiction or a commitment to provide drug or substance abuse treatment and rehabilitation to everyone who needs help is an ill-fated, failing policy.

Consider the testimony of the Alcohol, Drug Abuse, and Mental Health Administration: Because of a serious lack of personnel, space and resources, we currently turn away 90 percent of those who voluntarily seek drug or other substance-abuse treatment and rehabilitation. Half of those who seek treatment are under the age of 18; the typical waiting list is 6 months to 18 months; only one-third to one-half of those who first seek treatment will actually reapply after the waiting period.

Whenever we deny drug and substance-abuse treatment and rehabilitation to those who need help, we're simply fostering and facilitating the crime problem. A report by the Justice Department, in fact, reveals that the addict who is turned away from needed treatment commits, on average, a crime every other day—180 crimes per year—to maintain an expensive habit.

Granted, this antidrug bill is a step in the right direction in that it provides for a much-needed increase in drug treatment grant moneys to be directed to the States. It is, however, an increase that will not meet the glaring need for "treatment on request." Ironically, by passing the 1988 omnibus drug initiative in its current form, and not providing treatment to all those in need, we should recognize that lack of affordable, available treatment and rehabilitation contributes to our rising drug-related crime rate.

A result of our tendency to seek well-intended, but shortsighted, "Miami Vice"-type solutions to the problem is that we face insurmountable overcrowding of our Federal, State, and local prisons. A total of 38 States are currently under court order to reduce prison capacity due to overcrowding. Thus, those who violate our drug laws can expect to serve a fraction of their prison terms.

Overcrowding of our prison system is a reality we have to face and, given the fiscal realities, we'll never be able to fully fund our prison facilities. Anyone who states othewise ignores the enormous costs: $71,000 per year per maximum-security prisoner; $53,000 per year per medium-security prisoner; $30,000 per year per minimum-security prisoner. By comparison, the cost for comprehensive drug and substance-abuse treatment is often less than $4,000.

By imprisoning and not rehabilitating the drug user and abuser, we've pushed the system past the breaking point and, at the same time, we've created a revolving door for not only drug dealers and smugglers, but countless murderers, rapists, and other violent offenders. Those who violate our drug laws can expect to serve roughly 39 percent of their prison terms.

What's most startling is the fact that over 70 percent of our prisoners are in need of addiction treatment, yet less than 10 percent are provided the critical treatment assistance. Ask any prison official or law enforcement officer and they'll tell you the easiest place to find drugs is in prison. It's safe to say that our prison system resembles a "negative laundromat."

We take prisoners who go in soiled, and then they come out dirty—a "negative laundromat." Therefore, we've created a "revolving door" prison system which creates and develops drug addicts and puts them back into society with a need and willingness to commit more crimes to fulfill an awful drug habit.

Since 1981, we've more than doubled the Federal funds allocated to law enforcement and interdiction efforts. During the same period, we've decreased the share of war-on-drugs funding aimed at drug treatment and rehabilitation. The knee-jerk focus on the supply side, demonstrated by spending three-fourths of our war-on-drugs funding for supply side activities, has crowded out the demand side's health-oriented solutions, contributing to our current never-ending drug crisis. No wonder the demand for illicit narcotics thrives throughout our country.

Let's stop the silliness, end the hysteria, and redesign our failing war on drugs before it's too late. This aintidrug bill won't end the drug dilemma, as some of my colleagues might like to believe, and, in fact, it's likely to increase the devastation of drug use and abuse. When the dust settles and it becomes obvious the drug policy status quo guarantees continual failure, let's be willing to regroup and develop a winnable war on drugs.

Mr. BATES. Mr. Chairman, there is no doubt that drugs are the greatest threat to the security of the United States. The drug problem is not simply just a "drug problem" as it is frequently referred to, but a government policy problem as well.

The recent National Narcotics Intelligence Consumers Committee report showed that wholesale prices for drugs during this past year were the lowest ever reported, while the purity of most drugs remained at high levels. Furthermore, as a reflection of the widespread availability of cocaine in this country, the number of cocaine-related hospital emergencies is projected to be almost four times more this year than in 1984. Miami, the primary domestic entry point for much of the Nation's cocaine supply is losing the war on drugs. New York, the drug trading center of the Nation is losing the war on drugs. The States adjacent to the Mexican border are losing the war on drugs. San Diego, the methamphetamine capital of the United States, is losing the war on drugs. Mr. Speaker, America is losing the war on drugs.

What can be done to stop the drug flow in our country? From a congressional standpoint, H.R. 5210, the Omnibus Drug Initiative Act, is an excellent tool for the next President to work with. The interdiction provisions of this drug bill are impressive. By providing increased Federal funding for several Federal law enforcement agencies such as the Drug Enforcement Agency, the Federal Bureau of Investigation as well as several prisons, this bill presents an opportunity for America to win the war on drugs.

Further, the bill contains provisions from separate legislation introduced by myself and my colleagues from San Diego, Representatives HUNTER and LOWERY, which establishes recordkeeping and reporting requirements for the distribution, sale, and importation of the methamphetamine drug. The Omnibus Drug Act makes it a crime to sell, import, or distribute certain precursor chemicals and combinations of those chemicals used to produce methamphetamine.

The recent NNICC report noted that most of the methamphetamine illicitly available comes from clandestine laboratories in the United States. This bill would fight the drug flow by stopping the problem at its conception—in the laboratory. The practice of producing methamphetamine in illicit drug labs is a key step in winning the war on drugs.

Another major provision of the bill, title X, provides for the establishment of health and environmental guidelines for the cleanup of substances associated with these clandestine drug labs. The cleanup of these toxic wastes is vital to ensure that in combating one problem—drugs, we do not contribute to another problem—the destruction of our environment. Let's pass H.R. 5210.

Mr. McGRATH. Mr. Chairman, I rise in strong support of the omnibus drug bill of 1988. This is the most important legislation yet devised to combat the increasingly deadly war on drugs. It is designed to bolster drug enforcement and drug abuse programs. From the President on down, every member of this administration is totally committed to this war, and we are in it to win. We are all aware of the enormous and unprecedented commitment of the First Lady to drug prevention in nation's schools and communities. We all follow her example. The antidrug programs are among the highest priorities in the Attorney General and other Cabinet members' departments. During the past 25 years, the Congress has enacted a large number of laws which were intended to prevent the misuse of narcotics and other dangerous drugs. Some of them are designed to reduce the demand for such drugs, and others are supposed to reduce drug supply—through regulation of production and distribution, by curbing illicit traffic and by foreign assistance for the control of drug production and trafficking abroad.

The omnibus drug bill contains measures that go further in securing a drug-free society. I would like to express my support for some of the amendments offered within this legislation. Among them, the amendment proposed by Representative McCOLLUM relating to user accountability. It establishes the ineligibility for Federal benefits to all persons convicted of drug trafficking or two possession offenses. I especially think of those young people who might think twice before "saying yes" if they know they will miss an opportunity of going to college by losing eligibility for Federal student loans and grants. Of course, this is not the only group of our society that this proposition would touch upon. There also are contracts, licenses, or entitlement to public housing—lost for at least 5 years, unless a treatment or rehabilitation program is successfully completed.

The other amendments I would like to mention are: An expedited driver's license suspension or revocation system for individuals who operate motor vehicles while under influence of alcohol—also offered by Representative McCOLLUM; and civil penalties amendment offered by Representative EDWARDS. It allows the Justice Department to assess civil penalties of up to $10,000 for violation for possession of small "personal use" amounts of drugs such as marijuana and cocaine.

I am very pleased to have my amendment included in the title IX of the Ways and Means Committee. I recommend that the Customs Service be authorized $15 million for a demonstration project to construct an operational advanced technology cargo container scanning device. The fiscal year 1987 drug budget contained some $58 million to buy five aerostats for the Southwest border. These are radar balloons that will be used to detect drug smuggling aircraft entering the United States from Mexico. These five aerostats and the one bought in fiscal year 1986, will provide full coverage of the entire United States-Mexican border. My proposition is only furthering what we already began. With today's technology we can have a prototype of a scanning device which would inspect cargo and vehicles using high resolution images of an X-ray generator and analysis of vapors detected by chemical sensors. We could have as many as 40 containers inspected within 1 hour as opposed to several hours that our inspectors have to spend right now. This investment of $15 million has a great potential to lead to great development in the field of cargo inspection and drug interdiction.

In conclusion, Mr. Chairman, I would like to add that I hope we all recognize that winning the war against drugs is not necessarily directly correlated with spending ever increasing Federal dollars on antidrug programs. This fight is and should be a partnership of the Federal, State and local governments, schools, churches, unions, charitable organizations and private citizens. The Omnibus drug bill should be a totally bipartisan effort. Our success depends on enlisting more and more institutions in our great struggle.

Mr. Chairman, I urge all of my colleagues to support this important legislation.

Mr. EMERSON. Mr. Chairman, there is no question that drugs have invaded every nook and cranny of our society. There is no safe haven; not our schools, nor our parks, nor even our homes are free from the threat posed by illicit drugs, and we have seen time and time again that drug abuse is not a victimless crime.

We must be tough and aggressive in our battle against drug abuse. We must punish those who perpetuate the drug market—everyone from the "weekend user" to the "drug kingpin." Stiffer civil and criminal penalties are in order for drug traffickers, and the adoption of the death penalty for those who intentionally kill another human being in the commission of a drug-related crime is a crucial element in our war on drugs. We must send a message that we will no longer tolerate either drug use or the crimes directly related to it.

I urge my colleagues to support these tough antidrug measures. The menacing threat of drug abuse will continue to rob our society of its health and safety unless we stand firm in our commitment to end drug abuse.

Mr. DAVIS of Illinois. Mr. Chairman, I am pleased that we are here debating the merits of the omnibus drug bill. It illustrates to America that we in Congress believe that it is time to set in motion a comprehensive policy and program to deal with the drug problem in our country.

In 1986, and again in 1988, I proposed a four-legged program known as "P.I.E.R."—punishment, interdiction, education, and rehabilitation.

I think that the bill we are considering today is strong in the areas of education and rehabilitation. Unfortunately, it is not so strong on punishment and completely lacking on interdiction.

I will be offering two amendments which go hand in hand to add strength and efficiency in the punishment area. One of the amendments strikes a provision which spends $22 million on center to train prison officials to conduct drug rehabilitation programs. And the other adds $30 million to the Department of Justice for the offices of U.S. attorneys, an area where the money is desperately needed.

The Department of Justice already has a Federal Law Enforcement Taining Center in two locations and is building a third. Plus, they have a 5-year training plan currently under way and do not support a facility which duplicates the purposes of their Federal Law Enforcement Training Centers and the Bureau of Prisons.

As I stated before, we need to deal comprehensively with the drug problem and I should add that we need to do that efficiently and effectively. My constituents are willing to help pay for the war on drugs but they expect us to do it in a manner which does not waste their tax dollars on unnecessary facilities.

On the other side of the coin, Congress has consistently cut the President's budget requests for the U.S. attorneys while giving more money to investigators.

This is causing a terrible backlog in the system. We have to make an effort to free the logjam at the courts and get our judicial system back into balance. My amendments are a small, but significant step toward that end.

The need we have in this country for Federal prosecutors is no secret. I am sure that every Member could check with the U.S. attorneys' offices in their State and hear first hand the problems and frustrations they face.

In fact, in my home State of Illinois, I know of two pending cases in which one of the U.S. attorney's office could indict 100 more people on drug charges if they had more prosecutors.

The best studies show that in order to have an effective drug law enforcement system, the Federal investigator to Federal prosecutor ratio should be 4.5 to 1. That ratio is currently 19 to 1 and that does not take into account the fact that most investigations are coordinated Federal, State, and local efforts.

I am very disappointed that the Rules Committee did not accept my amendment to add the military interdiction language adopted by the House-Senate conference on the fiscal year 1989 defense authorization bill to this bill.

In my opinion we will pass a fatally flawed drug bill by letting partisan politics get in the way of passing a responsible, comprehensive policy to fight the war on drugs through my interdiction amendment to expand the role of the military in our war on drugs.

In effect, we will be letting 150 tons of cocaine, 12 tons of heroin, up to 60,000 tons of marijuana, and 200 tons of hashish cross our borders unchallenged.

I understand that the majority leader worked with the minority leader for many hours and many compromises were reached and I commend both of them for all of their hard work. In general, the bill we have before us today is a good one. But I cannot help but express my disappointment in the fact that no military interdiction measure was included in the omnibus drug bill and hope those gentlemen will agree to add on the interdiction amendment.

I will vote for this bill on its other merits however, and look forward to seeing the final product. I do hope that during the amending process that my colleagues on both sides of the aisle will support the amendments which make the user more accountable for his or her actions.

Mr. RANGEL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as we wrap up this debate I hope the Members would really pay attention and kind of support the thrust of this bill and be wary tomorrow, as we look at the provisions that have the death penalty, as to whether or not it could really work against the efforts that we are trying to achieve.

The truth of the matter is that the State Department, the Justice Department, recognized that we have extradition treaties with many countries that the drug kingpins are seeking haven in, and in some countries like Colombia they cannot even prosecute these criminals and they rely on sending them to the United States. But they will not do it if they believe that their nationals are subjected to laws which they have not enacted. Of course, I refer to the death penalty.

The death penalty has not worked in the States that have it; it certainly is not working in the State of Florida and there is no reason to believe that we will be providing any great service to the American people by just acting tough without really having tough laws that we are prepared to have people to acknowledge.

What we should do is to say that every criminal who is arrested is going to have a speedy trial and that the sentence is going to be certain and that is what the criminal justice is all about.

□ 1630

Mr. Chairman, for us just to talk about the ability of this Congress to stoop as low as those killers in the street, I think, is below the dignity of this great House. How in God's name can we have ourselves a belief that these thugs, these people who have no respect for human life, these people who are killing each other off, are going to be threatened by the deterrent of a drug sentence? Let us face it. They do a better job at killing than we would expect government to do, and I hope we would not give support for that concept.

Mr. MURTHA. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURTHA. Mr. Chairman, I know we are waiting here for the chairman of the Subcommittee on Treasury, Postal Service, and General Government, but I just wanted to commend the gentleman from New York and the ranking minority member, the gentleman from Florida [Mr. McCollum] for the tremendous work they have done.

I was just home during the whole recess, and even in an area where we have one of the lowest crime rates in the Nation, people there talk about the most awesome problems they perceive not only in our district but throughout the Nation, and that is with drugs. So I want to say that the work the gentlemen have done, along with the rest of the committee, on this issue, is absolutely on target, and this is what the American people are interested in. In my district people do not usually get excited about an issue, but this issue has been concerning them and worrying them. They see their children going off to college and even working in the mills, and so forth, and it is just one of those things that they look to the committee chairman, the gentleman from New York [Mr. Rangel] for the work that has been done on this issue over the years. And the gentleman from Florida [Mr. McCollum] has done such a great job to try to make sure that we solve this problem in an equitable manner.

We may have some disagreements here on exactly the right way to do it, but one thing for sure, this bill is something the American people want, and I know the people of my district commend the gentlemen for all the work they have done.

Mr. Chairman, if the gentleman would like to use some of my time to talk on this matter while we wait for the chairman of the subcommittee, we would appreciate his comments.

Mr. RANGEL. Mr. Chairman, I would certainly appreciate that if the Chairman would recognize me for that purpose.

Mr. MURTHA. Mr. Chairman, I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I would really like to point out in an extension of what I was saying about the death penalty, that we are concerned with a sentence that is certain, we are talking about the speedy trial, and we also are talking about the fact that if you take a look at the length of time that these people are laid to languish, waiting to determine whether or not the Government is going to enact the provisions of the death penalty, then what we are talking about is not only a very costly provision as we have found out from our State experiences, but what we are talking about is that we are not making penalties certain. So it seems to me that if we can allow this bill to pass in the present form, without carrying the burden of this controversy, then the House can come back and take a look at this and take testimony to see whether or not this death penalty is one provision that we would want to take away from the States.

If the States believe that it is in their best interests to have the death penalty, 30 States have it. I think over the last decade there have been less than 12 executions. There have been no Governors saying this has served as a deterrent, but I ask you check with the State Department, check with the Justice Department, and see whether or not we are talking about the overall best interests of the security of the United States and take a look at the extradition treaties. I have here a letter from one of the most outstanding public servants that we have. This gentleman, the U.S. attorney from the Southern District of Florida, was a person who had the courage to go out and indict this international drug thug Noriega. He indicted the man, took a lot of courage for him to do it, and he said in a letter dated to us on September 1, that it would be wrong for us to do it because the existence of the dealth penalty would provide an excuse to countries in Central and South America, and Europe to refuse to cooperate in sending drug kingpins to the United States for trial.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield on that point?

Mr. MURTHA. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, the gentleman's argument is an interesting one, but the gentleman's argument does not merely go to this bill. If the gentleman's logic is to be followed, that is an argument for us to remove the death penalty that presently exists in the various States that the gentleman just mentioned and the death penalty we adopted on the floor several years ago for espionage committed while in uniform.

Now the point is, that when we do those extraditions from those particular countries, if they refuse to extradite because the death penalty would be imposed, the action of the individual States is to make sure that that individual will not be charged with the death penalty. That is the way it works.

So, if the gentleman's argument were to follow, for us to remove the considerations of the death in this bill, we should therefore tell all the States they ought to remove it as well, because it somehow interferes with the extradition agreement.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. Murtha] has expired.

Mr. MURTHA. Mr. Chairman, I ask unanimous consent that I may be recognized for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RANGEL. Mr. Chairman, will the gentleman yield to me?

Mr. MURTHA. I continue to yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, let me say one thing. We have a narcotics bill that is here, and we are expected to use the benefits of our experience as it relates to these drug kingpins. You want to review all of the State laws, you want to review whether Congress should go. We will do that.

What I am asking is this: Do not burden this historic piece of legislation with a controversial death penalty provision which you know the country and this Congress is divided on.

If you take a look at the situation that exists in Colombia today, you would know, they are not proesecuting any cases in Columbia with the drug kingpins. They are not doing it in the military, they are not doing it civilly, and we are, today, working on agreements with them to send those people here to the United States, and I am telling you who has better experiences in dealing with these things than our U.S. attorneys, appointed by the Department of Justice, and the Attorney General, who has better knowledge than the Secretary of State?

Now, I would agree we do not hear too much from the Secretary of State on drugs, and I would agree that the Attorney General had other problems, but here we have a U.S. attorney that historically has provided the indictment of General Noriega of Panama.

Now, would you not yield on the question that this gentleman has more experience in dealing with international thugs than you do, or than I do?

Don't take away the tools from these crime fighters.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield to me?

Mr. MURTHA. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding.

I have a very strong objection to these concerns over the death penalty. In this Congress, 2 years ago, on another drug bill, this House passed essentially the same death penalty. There is no question the American public wants to see the death penalty for drug kingpins, especially when murders have been committed.

There has been a longstanding problem over getting this issue up to the floor out of the Committee on the Judiciary for not only this but for a lot of other reasons. It is long past time that we put the death penalty in place.

The argument about the death penalty is specious. Most people in the Justice Department that I have talked with want to see the death penalty. They are not going to worry about the extradition question. It is going to occur very rarely, but when it does, it will be overcome.

The message the death penalty sends to those out there dealing in drugs is an extremely important one, the missing deterrents on the main side of this issue, outside of the demand side where user accountability is missing, and we simply, as a body, cannot afford to leave here in the next couple of days, when we consider this bill, without putting the death penalty in.

With all due respect for the gentleman from New York, there are other things in here that I strongly agree about, but strongly disagree with him on this, and encourage my colleagues to put the death penalty provision in when the time comes.

Mr. Chairman, I thank the gentleman for yielding.

Mr. MURTHA. Mr. Chairman, let me add a thing from my experience of going down to Colombia. I went down with the Secretary of the Army, and we met with the President of Colombia, and, of course, he talked about how the judiciary system in Colombia had been taken over by the drug dealers. There is no question in my mind, how tragic the situation is, and how they need help, and the type of things we can extend to them with a comprehensive overall view of international relations in dealing with this drug situation.

I can see the differences, we can all see the differences, and we may disagree on one part of the drug bill or the other, but this is the type of thing that is needed in order to pull everything together, to attack at every front.

For instance, when we were down there he said not only do we have to worry about Colombia if we are to stop the transmission of drugs through Colombia, they will open it someplace else, and it has to be a coordinated effort, no question in my mind, and this is the type of bill that coordinates that effort to the greatest degree.

Mr. Chairman, I see the gentleman from California [Mr. ROYBAL] walking in the hall, and so my filibuster is over.

The CHAIRMAN. Before the gentleman from New York [Mr. RANGEL] makes his motion that the Committee do now rise, the Chair wishes to make a statement.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of the H.R. 5210 is as follows:

H.R. 5210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Drug Initiative Act of 1988".

(b) TABLE OF CONTENTS.—

TABLE OF CONTENTS

Title I—Committee on Banking, Finance and Urban Affairs
Title II—Committee on Education and Labor
Title III—Committee on Foreign Affairs
Title IV—Committee on Government Operations
Title V—Committee on Interior and Insular Affairs
Title VI—Committee on the Judiciary
Title VII—Committee on Merchant Marine and Fisheries
Title VIII—Committee on Public Works and Transportation
Title IX—Committee on Ways and Means
Title X—Committee on Energy and Commerce

TITLE I—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Money Laundering Control

SECTION 1001. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Amendments of 1988".

SEC. 1002. IDENTIFICATION REQUIRED TO PURCHASE CERTAIN MONETARY INSTRUMENTS OF $3,000 OR MORE.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 5325. Identification required to purchase certain monetary instruments

"(a) IN GENERAL.—No financial institution may issue or sell a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of $3,000 or more unless—

"(1) the individual has an account with such financial institution and the financial institution—

"(A) verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual; and

"(B) records the method of verification in accordance with regulations which the Secretary of the Treasury shall prescribe; or

"(2) the individual furnishes the financial institution with such forms of identification as the Secretary of the Treasury may require in regulations which the Secretary shall prescribe and the financial institution verifies and records such information in accordance with regulations which such Secretary shall prescribe.

"(b) REPORT TO SECRETARY UPON REQUEST.—Any information required to be recorded by any financial institution under paragraph (1) or (2) of subsection (a) shall be reported by such institution to the Secretary of the Treasury at the request of such Secretary.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5325. Identification required to purchase certain monetary instruments.".

SEC. 1003. MONETARY TRANSACTION RECORDKEEPING AND REPORTING REQUIREMENTS FOR TARGETED INSTITUTIONS.

(a) SECRETARY AUTHORIZED TO REQUIRE RECORDKEEPING FOR DOMESTIC COIN AND CURRENCY TRANSACTIONS.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5325 (as added by section 2(a) of this Act) the following new section:

"§ 5326. Records of certain domestic coin and currency transactions

"Under such circumstances as the Secretary of the Treasury may prescribe by regulation, the Secretary may issue an order requiring any domestic financial institution—

"(1) to obtain such information as the Secretary may describe in such order concerning—

"(A) any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe; and

"(B) any other person participating in such transaction;

"(2) to maintain a record of such information for such period of time as the Secretary may require; and

"(3) to file a report with respect to any transaction described in paragraph (1)(A) in the manner and to the extent specified in the order.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5325 (as added by section 2(b) of this Act) the following new item:

"5326. Records of certain domestic coin and currency transactions.".

SEC. 1004. FINANCIAL RECORDS OF INSIDERS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(l) Crimes Against Financial Institutions by Insiders.—Nothing in this title shall apply when any financial institution or supervisory agency provides any financial record of any officer, director, employee, or controlling shareholder (within the meaning of subparagraph (A) or (B) of section 2(a)(2) of the Bank Holding Company Act of 1956 or subparagraph (A) or (B) of section 408(a)(2) of the National Housing Act) of such institution, or of any major borrower from such institution who there is reason to believe may be acting in concert with any such officer, director, employee, or controlling shareholder, to the Attorney General of the United States, to a State law enforcement agency, or, in the case of a possible violation of subchapter II of chapter 53 of title 31, United States Code, to the Secretary of the Treasury if there is reason to believe that such record is relevant to a possible violation by such person of—

"(1) any law relating to crimes against financial institutions or supervisory agencies by directors, officers, employees, or controlling shareholders of, or by borrowers from, financial institutions; or

"(2) any provision of subchapter II of chapter 53 of title 31, United States Code.".

SEC. 1005. DELEGATION OF ENFORCEMENT POWER TO POSTAL SERVICE.

Section 5318(a)(1) of title 31, United States Code, is amended by inserting "and the Postal Service" after "appropriate supervising agency".

SEC. 1006. PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN RECORDKEEPING REQUIREMENTS.

(a) Insured Banks.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended by adding at the end thereof the following new subsection:

"(j) Civil Penalties.—

"(1) Penalty imposed.—Any insured bank and any director, officer, or employee of an insured bank who willfully violates any regulation prescribed under this section shall be liable to the United States for a civil penalty of not more than $10,000.

"(2) Treatment of continuing violation.—A separate violation of any regulation prescribed under subsection (b) of this section occurs for each day the violation continues and at each office, branch, or place of business at which such violation occurs.

"(3) Assessment.—Any penalty imposed under paragraph (1) shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.".

(b) Insured Institutions.—Section 411 of the National Housing Act (12 U.S.C. 1730d) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(a) Regulations.—The Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(b) Civil Penalties.—

"(1) Penalty imposed.—Any insured institution and any director, officer, or employee of an insured institution who willfully violates any regulation prescribed under subsection (a) of this section shall be liable to the United States for a civil penalty of not more than $10,000.

"(2) Treatment of continuing violation.—A separate violation of any regulation prescribed under subsection (a) of this section occurs for each day the violation continues and at each office, branch, or place of business at which such violation occurs.

"(3) Assessment.—Any penalty imposed under paragraph (1) shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.".

(c) Other Financial Institutions.—

(1) Institutions subject to recordkeeping requirement.—Section 123(b) of Public Law 91-508 (12 U.S.C. 1953(b)) is amended to read as follows:

"(b) Institutions Subject to Recordkeeping Requirements.—The authority of the Secretary of the Treasury under subsection (a) extends to any financial institution (as defined in section 5312(a)(2) of title 31, United States Code), other than an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) and any insured institution (as defined in section 401(a) of the National Housing Act), and any partner, officer, director, or employee of any such financial institution.".

(2) Increase in amount of civil penalties.—Section 125(a) of Public Law 91-508 (12 U.S.C. 1955(a)) is amended by striking out "$1,000" and inserting in lieu thereof "$10,000".

SEC. 1007. GOOD FAITH AS A DEFENSE FROM LIABILITY FOR DISCLOSURE OF FINANCIAL RECORDS OF INSIDERS.

Section 1117(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3417(c)) is amended—

(1) by inserting "or pursuant to the provisions of section 1113(l)" after "certificate by any Government authority"; and

(2) by inserting before the period at the end thereof the following: "under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State".

SEC. 1008. TECHNICAL CORRECTIONS.

(a) Subparagraphs (T) and (U) of section 5312(a)(2) of title 31, United States Code, are amended to read as follows:

"(T) any agency of the United States, or of any State or political subdivision of any State, which engages in any activity in which any business described in this paragraph is authorized to engage, including the United States Postal Service; and

"(U) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage.".

(b) Section 5312(a)(5) of title 31, United States Code, is amended—

(1) by inserting a comma after "Puerto Rico"; and

(2) by striking the second comma after "Pacific Islands".

(c) The first sentence of section 5321(a)(1) of title 31, United States Code, is amended by inserting "(if any)" after "transaction".

SEC. 1009. STUDY OF WITHDRAWAL OF LEGAL TENDER STATUS OF $100 FEDERAL RESERVE NOTES.

(a) Study Required.—The Secretary of the Treasury, in consultation with appropriate law enforcement agencies, shall conduct a study of the feasibility of withdrawing the legal tender status of $100 Federal Reserve notes.

(b) Factors To Be Considered.—The study conducted pursuant to subsection (a) by the Secretary of the Treasury shall include an analysis of the following factors:

(1) Whether $100 Federal Reserve notes are being used predominately for illegal activities, especially drug-related transactions.

(2) Whether withdrawing the legal tender status of $100 Federal Reserve notes would help deter such illegal activities.

(3) Whether withdrawing the legal tender status of $100 Federal Reserve notes would impair legitimate business transactions.

(4) Whether withdrawing the legal tender status of $50 Federal Reserve notes (in addition to the $100 notes) would result in even greater deterence of illegal activities.

(c) Report Required.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to subsection (a).

Subtitle B—International Provisions

SEC. 1011. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES FOR ANTI-NARCOTICS PURPOSES.

Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended—

(1) by inserting "(A)" before "The Bank";

(2) by striking "paragraph" and inserting in lieu thereof "subparagraph"; and

(3) by adding at the end the following new subparagraphs:

"(B) Subparagraph (A), and section 32 of the Arms Export Control Act, shall not apply to any sale of defense articles or services if—

"(i) the Bank is requested to provide a guarantee or insurance for the sale;

"(ii) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States;

"(iii) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 10 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles and services; and

"(iv) the sale is made on or before September 30, 1992.

"(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

"(i) be consistent with the anti-narcotics policy of the United States;

"(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 481(i) of the Foreign Assistance Act of 1961); and

"(iii) be made to a country with a democratic form of government.

"(D) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance, and such determination has been reported to the Congress not less than 25 days of continuous session of the Congress before the date of such approval. For purposes of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25-day period referred to in such sentence.

"(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 502B of the Foreign Assistance Act of 1961 (relating to governments which engage in a consistent pattern of gross violations of international recognized human rights).

"(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act (relating to the foreign military sales program) may be used under section 4 of such Act.

"(G) As used in this paragraph, the term 'defense articles and services' means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).".

SEC. 1012. LOAN PROGRAMS TO REDUCE ECONOMIC DEPENDENCE ON ILLICIT NARCOTICS.

The International Financial Institutions Act (22 U.S.C. 262 et seq.) is amended by redesignating section 1606 as section 1607 and by inserting after section 1605 the following new section:

"SEC. 1606. LOAN PROGRAMS TO REDUCE ECONOMIC DEPENDENCE ON ILLICIT NARCOTICS.

"(a) Findings.—The Congress finds that—

"(1) the illicit narcotics epidemic currently afflicting the United States represents a direct threat to the well-being of every United States citizen;

"(2) every effective means must be pursued to reduce the foreign production and subsequent importation into the United States of illicit narcotics;

"(3) the multilateral development banks can play an integral role in efforts to control the production of illicit narcotics;

"(4) producer country narcotics eradication programs will not be effective unless such programs provide an economic alternative to the production of narcotics;

"(5) efforts to address the illicit narcotics epidemic through production control are doomed to failure unless greater effort is applied to curb use of and demand for illicit narcotics; and

"(6) the appropriate role for the multilateral development banks in the 'War Against Drugs' is through coordinating and financing alternative economic opportunities in producer and trafficking countries.

"(b) Loan Programs to Reduce Economic Dependence on Illicit Narcotics.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development and the United States Executive Director of the Inter-American Development Bank to initiate discussions with other executive directors of such institutions and to advocate and support the creation, within such institutions, of specific country lending programs and policies (including crop substitution, creation of roads conducive to the expansion of markets for licit goods, other infrastructure development measures such as development projects generating employment, agricultural extension assistance, and region-specific development plans) which are particularly oriented to reducing or eliminating the economic dependence of regions of borrowing countries known to be areas in which illicit narcotics are produced or trafficked, on such production and trafficking.

"(c) Coordination Among Assistance Programs Designed to Reduce Economic Dependency on Illicit Narcotics.—In addition, the Secretary of the Treasury should instruct the United States Executive Director of the International Bank for Reconstruction and Development and the United States Executive Director of the Inter-American Development Bank to encourage such institutions to provide coordination among other multilateral and bilateral assistance programs designed to reduce the economic dependence of regions of borrowing countries known to be areas in which illicit narcotics are produced or trafficked, on such production and trafficking.".

TITLE II—COMMITTEE ON EDUCATION AND LABOR

Subtitle A—Drug Education and Prevention Relating to Youth Gangs

SEC. 2001. ESTABLISHMENT OF DRUG ABUSE EDUCATION AND PREVENTION PROGRAM RELATING TO YOUTH GANGS.

The Secretary of Health and Human Services, through the Administration on Children, Youth, and Families, shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to prevent and to reduce the participation of youth in the activities of gangs that engage in illicit drug-related activities,

(2) to promote the involvement of youth in lawful activities in communities in which such gangs commit drug-related crimes,

(3) to prevent the abuse of drugs by youth, to educate youth about such abuse, and to refer for treatment and rehabilitation members of such gangs who abuse drugs,

(4) to support activities of local police departments and other local law enforcement agencies to conduct educational outreach activities in communities in which gangs commit drug-related crimes,

(5) to inform gang members and their families of the availability of treatment and rehabilitation services for drug abuse,

(6) to facilitate Federal and State cooperation with local school officials to assist youth who are likely to participate in gangs that commit drug-related crimes,

(7) to facilitate coordination and cooperation among—

(A) local education, juvenile justice, employment and social service agencies, and

(B) drug abuse referral, treatment, and rehabilitation programs,

for the purpose of preventing or reducing the participation of youth in activities of gangs that commit drug-related crimes, and

(8) to provide technical assistance to eligible organizations in planning and implementing drug abuse education, prevention, rehabilitation, and referral programs for youth who are members of gangs that commit drug-related crimes.

SEC. 2002. APPLICATION FOR GRANTS AND CONTRACTS.

(a) Submission of Applications.—Any agency, organization, institution, or individual desiring to receive a grant, or to enter into a contract, under section 2001 shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(b) Contents of Application.—Each application for assistance under this subtitle shall—

(1) set forth a project or activity for carrying out one or more of the purposes specified in section 2001 and specifically identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of the operation of such project or activity,

(5) provide that regular reports on such project or activity shall be submitted to the Secretary, and

(6) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subtitle.

SEC. 2003. APPROVAL OF APPLICATIONS.

In selecting among applications submitted under section 2002(a), the Secretary shall give priority to applicants who propose to carry out projects and activities—

(1) for the purposes specified in section 2001 in geographical areas in which frequent and severe drug-related crimes are committed by gangs whose membership is composed primarily of youth, and

(2) that the applicant demonstrates that it has the broad support of community based organizations in such geographical areas.

SEC. 2004. COORDINATION WITH JUVENILE JUSTICE PROGRAMS.

The Secretary shall coordinate the program established by section 2001 with the programs and activities carried out under the Juvenile Justice and Delinquency Prevention Act of 1974 and with the programs and activities of the Attorney General, to ensure that all such programs and activities are complementary and not duplicative.

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

To carry out this subtitle, there are authorized to be appropriated $30,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

Subtitle B—Alcohol Abuse Education Programs

SEC. 2101. INNOVATIVE ALCOHOL ABUSE EDUCATION PROGRAMS.

Part F of title IV of the Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating section 4607 as section 4608, and

(2) by inserting after section 4606 the following new section:

"SEC. 4607. INNOVATIVE ALCOHOL ABUSE EDUCATION PROGRAMS.

"(a) Programs for Children of Alcoholics.—The Secretary is authorized to develop materials for innovative programs of alcohol abuse education, especially programs that focus on the effect of the disease of alcoholism on families of alcoholics, particularly with respect to children of alcoholics. Programs for which materials are developed under the preceding sentence should be programs designed to benefit young children, particularly children in grades 5 through 8.

"(b) Training Programs for Educators.—The Secretary may make grants to programs for educators that are designed to—

"(1) increase awareness of children's problems that may be caused by an alcoholic parent;

"(2) enhance the ability of such educators to identify children at risk for alcohol abuse;

"(3) inform such educators concerning referral of children of alcoholics for appropriate professional treatment; and

"(4) train such educators to inform the public about the special problems of children who have an alcoholic parent.".

Subtitle C—Drug Abuse Education and Prevention Programs for Incarcerated Individuals

SEC. 2201. DRUG ABUSE EDUCATION AND PREVENTION FOR INCARCERATED INDIVIDUALS.

Section 326 of the Adult Education Act is amended—

(1) by inserting "(a) MANDATORY PROGRAMS.—" before "Funds set aside",

(2) by redesignating subsection (b) as subsection (c),

(3) by inserting after subsection (a) the following new subsection (b):

"(b) OPTIONAL PROGRAMS.—Funds set aside under section 322(b)(1) by a State may be used for the cost of drug abuse education and prevention programs and referral to drug abuse treatment programs for criminal offenders in corrections institutions.", and

(4) by inserting "DEFINITIONS.—" after the subsection designation for subsection (c) (as redesignated by paragraph (2)).

Subtitle D—National Youth Sports Program

SEC. 2301. ESTABLISHMENT OF NATIONAL YOUTH SPORTS PROGRAM.

The Secretary of Health and Human Services may make grants to eligible entities in accordance with this section to carry out a national youth sports program to provide to disadvantaged youth—

(1) medical and nutrition services,

(2) exposure to college and university campuses,

(3) sports instruction and competition in settings that provide high quality facilities and supervision, and

(4) related educational and counseling services.

SEC. 2302. APPLICATIONS FOR GRANTS.

A grant may be made under section 2301 only to an eligible entity that—

(1) submits to the Secretary an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require, and

(2) provides to the Secretary satisfactory assurances that—

(A) not less than 90 percent of the youth who participate in each activity for which such grant will be expended to carry out the program established under such section will be from families with an income not exceeding the poverty line,

(B) to carry out its activities under such program, such entity will provide a non-Federal contribution (in cash or in kind) that equals or exceeds the amount of such grant, and

(C) such entity will comply with section 2303.

SEC. 2303. REQUIRED ACTIVITIES.

Each eligible entity that receives a grant under section 2301 shall expend such grant and the contribution required under section 2302(2)(B) to carry out activities for disadvantaged youth throughout a 1-year period, concentrating such activities in June, July, and August. Such activities shall include providing to all participating youth—

(1) access to the facilities and resources of all the institutions of higher education at which such activities are carried out;

(2) an initial medical examination and follow-up referral or treatment, without charge, while such youth participate in any of such activities in the 90-day period beginning on June 1;

(3) at least 1 nutritious meal per day, without charge, while such youth participate in any of such activities in the 90-day period beginning on June 1;

(4) high quality instruction in a variety of sports by college, high school, and junior high school coaches and teachers; and

(5) enrichment instruction and information on matters relating to the well-being of youth, such as drug and alcohol abuse prevention, educational and career opportunities, health and nutrition, study practices, and job responsibilities.

SEC. 2304. SPECIAL EMPHASIS ON DRUG ABUSE EDUCATION AND PREVENTION.

In selecting among applications submitted under section 2302, the Secretary—

(1) shall give special emphasis to the applications of eligible entities that propose to carry out activities relating to drug abuse education and prevention,

(2) may approve the use of such grant—

(A) to train in the most advanced and effective methods of drug abuse education and prevention the staff that will carry out such activities,

(B) to provide quality technical assistance to develop and implement drug education and prevention activities,

(C) to develop, implement, or operate a drug education and prevention program at sites where the applicant carries out the activities required by section 2303,

(D) involve in drug education and prevention activities the parents of youth who participate in the national youth sports program, and

(E) develop and provide anti-drug abuse educational materials, including videotapes and booklets, for use in carrying out activities under section 2301, and

(3) shall give priority to eligible entities that propose to carry out such activities in or near geographical areas in which drug abuse and related problems are concentrated.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $15,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991 to carry out this subtitle.

Subtitle E—Programs Relating to Juvenile Delinquency and to Runaway and Homeless Youth

PART 1—PROGRAM TO ENHANCE JUVENILE DELINQUENCY PREVENTION

Subpart A—Projects and Activities of State and Local Governments

SEC. 2401. ESTABLISHMENT OF PROGRAM.

The Administrator shall make grants to States for purposes of planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies—

(1) to develop more effective education, prevention, treatment, and rehabilitation services related to the illicit use of drugs by juveniles,

(2) to provide to juveniles and their families referral to such services and to other appropriate services available to them, and

(3) to coordinate the referral and services described in paragraphs (1) and (2).

SEC. 2402. ALLOTMENT.

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated to carry out this part shall be allotted by the Administrator among the States based on the relative population of individuals who are less than 18 years of age.

(b) MINIMUM ALLOTMENTS.—(1) Any allotment made under subsection (a) to a State shall be not less than $75,000, except that an allotment to the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands) shall be not less than $20,000 each.

SEC. 2403. APPLICATIONS FOR ALLOTMENTS.

(a) To receive an allotment under section 2402, a State shall submit an application that satisfies the requirements of section 2403 and that contains a plan that describes the drug abuse education, prevention, treatment, and rehabilitation projects and activities it proposes to carry out over a 3-year period with such grant. To the extent practicable, such projects and activities shall be designed to increase or enhance the programs and activities for which financial assistance is received under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) and the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 4601-4663). Such plan shall be developed with the participation and review of the advisory group established pursuant to section 223(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)).

(b) In expending the amounts allocated under subsection (b), each State shall give priority to projects which—

(1) propose innovative methods of preventing or reducing juvenile delinquency through drug abuse education, prevention, and treatment programs,

(2) assist or support families,

(3) cooperate and coordinate with other youth serving agencies and organizations in the community,

(4) demonstrate strong community support, and

(5) provide services in geographical areas with a high frequency of illicit drug use.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Subject to subsection (b), to carry out this subpart, there are authorized to be appropriated $30,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this subpart unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5672) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

Subpart B—Other Projects and Activities

SEC. 2411. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Administrator shall, on a competitive basis, make grants to and enter into contracts with public and private nonprofit agencies, organizations, institutions, and individuals to carry out activities designed—

(1) to prevent or to reduce juvenile delinquency by carrying out drug abuse education, prevention, and treatment projects,

(2) to support research on—

(A) the illicit use of drugs by juveniles,

(B) the effects on juveniles of the illicit use of drugs by family members,

(C) innovative and effective approaches to prevention and treatment of such use, and

(D) the correlation between delinquent behavior and such use,

(3) to develop community outreach and counseling projects related to reducing and preventing the illicit use of drugs, which involve providing services to juveniles by juveniles, and

(4) to provide training and technical assistance relating to innovative and effective drug abuse education, prevention, and treatment to persons and organizations involved in the prevention and treatment of juvenile delinquency.

(b) Limitation.—A grant or contract may be made under subsection (a) for a period not to exceed 3 years.

SEC. 2412. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Subject to subsection (b), to carry out this subpart, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) Limitation.—No funds are authorized to be appropriated for a fiscal year to carry out this subpart unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5672) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

Subpart C—Reports

SEC. 2431. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this part, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains—

(1) a description of—

(A) the projects and activities for which each State expended in such fiscal year funds received under subpart A, and

(B) how each State coordinated the projects and activities for which such funds were so expended with projects and activities for which funds were expended under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) and the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 4601-4663),

(2) a summary of each project or activity for which funds received for such fiscal year under subpart B were expended, an evaluation of the results of such project or activity, and a determination of the feasibility and advisability of replicating such project or activity in other locations, and

(3) a description of exemplary drug abuse education, prevention, and treatment projects and activities, with particular attention to community based juvenile delinquency prevention projects and activities that involve and assist families of juveniles.

PART 2—PROGRAM FOR RUNAWAY AND HOMELESS YOUTH

SEC. 2451. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall make grants to public and private nonprofit agencies, organizations, and institutions to carry out research, demonstration, and services projects designed—

(1) to provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth,

(2) to develop and support peer counseling programs for runaway and homeless youth related to the illicit use of drugs,

(3) to develop and support community education activities related to illicit use of drugs by runaway and homeless youth, including outreach to youth individually,

(4) to provide to runaway and homeless youth in rural areas assistance (including the development of community support groups) related to the illicit use of drugs,

(5) to provide to individuals involved in providing services to runaway and homeless youth, information and training regarding issues related to the illicit use of drugs by runaway and homeless youth,

(6) to support research on the illicit drug use by runaway and homeless youth, and the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide, and

(7) to improve the availability and coordination of local services related drug abuse, for runaway and homeless youth.

(b) Priority.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies and organizations that have experience in providing services to runaway and homeless youth.

(c) Limitation.—Grants under this section may be made for a period not to exceed 3 years.

SEC. 2452. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this part, the Secretary shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains—

(1) a description of the types of projects and activities for which grants were made under this part for such fiscal year,

(2) a description of the number and characteristics of the youth and families served by such projects and activities, and

(3) a description of exemplary projects and activities for which grants were made under this part for such fiscal year.

SEC. 2453. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Subject to subsection (b), to carry out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) Limitation.—No funds are authorized to be appropriated for a fiscal year to carry out this part unless the aggregate amount appropriated to carry out title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701-5751) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

PART 3—GENERAL PROVISIONS

SEC. 2461. APPLICATIONS.

(a) Submission of Application.—Any State, unit of local government (or combination of units of local government), agency, organization, institution, or individual desiring to receive a grant, or enter into a contract, under this subtitle shall submit an application at such time, in such manner, and containing or accompanied by such information as may be prescribed by the Federal officer who is authorized to make such grant or enter into such contract (hereinafter in this part referred to as the "appropriate Federal officer").

(b) Contents of Application.—In accordance with guidelines established by the appropriate Federal officer, each application for assistance under this subtitle shall—

(1) set forth a project or activity for carrying out one or more of the purposes for which such grant or contract is authorized to be made and expressly identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of such project or activity,

(5) provide that regular reports on such project or activity shall be sent to the appropriate Federal officer, and

(6) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subtitle.

SEC. 2462. REVIEW OF APPLICATIONS.

(a) Consideration of Factors.—In reviewing applications submitted under this subtitle, the appropriate Federal officer shall consider—

(1) the relative cost and effectiveness of the proposed project or activity in carrying out purposes for which the requested grant or contract is authorized to be made,

(2) the extent to which such project or activity will incorporate new or innovative techniques,

(3) the increase in capacity of the State or the public or nonprofit private agency, organization, institution, or individual involved to provide services to address—

(A) juvenile delinquency through drug abuse education, prevention, and treatment, in the case of a application submitted under part 1, and

(B) the illicit use of drugs by runaway and homeless youth, in the case of an application submitted under part 2,

(4) the extent to which such project or activity serves communities which have high rates of illicit drug use by juveniles (including runaway and homeless youth),

(5) the extent to which such project or activity will provide services in geographical areas where similar services are unavailable or in short supply, and

(6) the extent to which such project or activity will increase the level of services, or coordinate other services, in the community available to eligible youth.

(b) Competitive Process.—(1) Applications submitted under this subtitle shall be selected for approval through a competitive process to be established by rule by the appropriate Federal officer. As part of such a process, such officer shall publish a notice in the Federal Register—

(A) announcing the availability of funds to carry out part 1 or 2, as the case may be,

(B) the general criteria applicable to the selection of applicants to receive such funds, and

(C) a description of the procedures applicable to submitting and reviewing applications for such funds.

(2) As part of such process, each application referred to in subsection (a) shall be subject to peer review by individuals (excluding officers and employees of the Department of Justice and the Department of Health and Human Services) who have expertise in the subject matter related to the project or activity proposed in such application.

(c) EXPEDITED REVIEW.—The appropriate Federal officer shall expedite the consideration of an application referred to in subsection (a) if the applicant demonstrates, to the satisfaction of the Administrator, that the failure to expedite such consideration would prevent the effective implementation of the project or activity set forth in such application.

Subtitle F—Drug Abuse Education for Participants in the Special Supplemental Food Program for Women, Infants, and Children

SEC. 2501. DRUG ABUSE EDUCATION FOR PARTICIPANTS IN THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended as follows:

(1) PURPOSE.—Subsection (a) is amended by striking "health problems" in the last sentence and inserting "health problems, including drug abuse,".

(2) EDUCATION.—Subsection (e)(1) is amended by inserting "and drug abuse education" after "nutrition education" each place it appears in the first and second sentences.

(3) STATE PLAN.—Subsection (f) is amended—

(A) in paragraph (1)(C)(iii), by inserting "drug abuse education," after "family planning,", and

(B) in paragraph (14)(A), by inserting "and instruction relating to drug abuse education and prevention" after "instruction".

(4) STUDY; AUTHORIZATION OF APPROPRIATIONS.—Subsection (g) is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary, before the end of the 6-month period beginning on the date of the enactment of this Act, shall conduct a study with respect to appropriate methods of drug abuse education instruction.

"(B) There is authorized to be appropriated, for purposes of carrying out the study required by subparagraph (A) and for purposes of preparing and distributing drug abuse education materials under this section, $10,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year.".

(5) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Subsection (k)(1) is amended—

(A) in the first sentence, by striking "twenty-one" and inserting "twenty-three", and

(B) in the last sentence—

(i) by striking "and" the last place it appears, and

(ii) by striking the period at the end and inserting the following: "; one member shall be an expert in drug abuse education and prevention; and one member shall be an expert in alcohol abuse education and prevention.".

Subtitle G—Community-Based Volunteer Demonstration Projects for Drug Abuse Education and Prevention Services and Activities

SEC. 2601. COMMUNITY-BASED VOLUNTEER DEMONSTRATION PROJECTS FOR DRUG ABUSE EDUCATION AND PREVENTION SERVICES AND ACTIVITIES.

(a) PROGRAM AUTHORIZED.—

(1) GENERAL AUTHORITY.—Section 124 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) is amended—

(A) by inserting "(a)" after the section designation, and

(B) by adding at the end the following new subsection:

"(b)(1) The Director is authorized to make grants to public and nonprofit organizations for innovative, community-based volunteer demonstration projects which provide comprehensive drug abuse education and prevention services and activities to youths during the summer months. Such projects may include—

"(A) extending effective school-based programs, or other programs operated during the school year, to the summer months;

"(B) developing or expanding summer recreational; volunteer service, and youth development activities to provide for youths positive alternatives to illicit drug use;

"(C) incorporating drug abuse education and prevention activities in public and private programs which serve youths during the summer months;

"(2) In awarding grants under this subsection, the Director shall give priority to projects that—

"(A) serve high-risk youths; and

"(B) provide opportunities for parent involvement.

"(3) For the purposes of this subsection, the term 'high-risk youth' has the same meaning given such term in section 5122(b)(2) of the Elementary and Secondary Education Act of 1965.".

(2) TECHNICAL AMENDMENT.—The table of contents contained in the first section of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 note) is amended by inserting after the item relating to section 123 the following new item:

"Sec. 124. Special initiatives.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 501 of the Domestic Volunteer Service Act (42 U.S.C. 5081) is amended—

(1) in the first sentence of subsection (c), by inserting "(other than section 124(b))" after "of this Act",

(2) in subsection (d)(1), by inserting "(other than section 124(b))" after "title I" the first place it appears, and

(3) by adding at the end the following new subsection:

"(f) There is authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 $5,000,000 for purposes of carrying out section 124(b).".

Subtitle H—Amendments to the Drug-Free Schools and Communities Act of 1986

SEC. 2701. LIMITATION ON ADMINISTRATIVE COSTS UNDER DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

Section 5121(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3191(a)) is amended—

(1) by inserting "(1)" after "PROGRAM.—"; and

(2) by adding at the end the following new paragraph:

"(2) Not more than 2.5 percent of the amount reserved under paragraph (1) may be used for administrative costs of the chief executive officer of the State incurred in carrying out the duties of the chief executive officer under this part.".

SEC. 2702. PARTICIPATION OF INDIVIDUALS OTHER THAN HIGH-RISK YOUTH IN INNOVATIVE STATE PROGRAMS UNDER THE DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

Section 5122(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(b)) is amended—

(1) in paragraph (1), by inserting "that are designed" after "coordinated services"; and

(2) by adding at the end the following new paragraph:

"(3) Not more than 10 percent of participants in programs under paragraph (1) may be individuals who are not high-risk youth if the Secretary determines that the participation of such individuals will not significantly diminish the amount or quality of services provided to high-risk youth.".

SEC. 2703. ACCURACY REQUIREMENT WITH RESPECT TO MATERIALS PROVIDED UNDER THE DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

(a) RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.—Section 5124(b)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(b)(2)) (hereafter in this section referred to as the "Act") is amended by inserting after "evaluation of" the following: "the most readily available, accurate, and up-to-date".

(b) LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.—Section 5125(a)(1) of the Act (20 U.S.C. 3195(a)(1)) is amended by striking "curricula" and all that follows through the semicolon and inserting the following: "curricula and textbooks and materials—

"(A) developed from the most readily available, accurate, and up-to-date information; and

"(B) which clearly and consistently teach that illicit drug use is wrong and harmful;".

(c) FEDERAL ACTIVITIES.—Section 5132(b)(3) of the Act (20 U.S.C. 3212(b)(3)) is amended by inserting after "disseminate" the following: "the most readily available, accurate, and up-to-date".

Subtitle I—Miscellaneous

SEC. 2801. DEFINITIONS.

For purposes of this title and the amendments made by this title—

(1) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention,

(2) the term "community based" has the meaning given it in section 103(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(1)),

(3) the term "controlled substance" has the meaning given it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

(4) the term "controlled substance analogue" has the meaning given it in section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)),

(5) the term "disadvantaged youth" means a youth whose family income does not exceed 130 percent of the poverty line,

(6) the term "drug" means—

(A) a beverage containing alcohol,

(B) a controlled substance, or

(C) a controlled substance analogue,

(7) the term "Director" means the Director of the ACTION Agency,

(8) the term "eligible entity" means an organization the members of which are institutions of higher education that have access to high-quality educational and sports facilities,

(9) the term "illicit" means unlawful or injurious,

(10) the term "institution of higher education" has the meaning given it in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)),

(11) the term "public agency" has the meaning given it in section 103(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(11)),

(12) the term "poverty line" has the meaning given it in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) and includes any revision required by such section,

(13) the term "Secretary" means—

(A) the Secretary of Health and Human Services for purposes of subtitles A, D, and E,

(B) the Secretary of Education for purposes of the amendments made by subtitles B and C, and

(C) the Secretary of Agriculture for purposes of the amendments made by subtitle F,

(14) the term "State" has the meaning given it in section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(7)),

(15) the term "treatment" has the meaning given it in section 103(15) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(15)),

(16) the term "unit of general local government" has the meaning given it in section 103(8) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(8)), and

(17) the term "youth" means both boys and girls.

TITLE III—COMMITTEE ON FOREIGN AFFAIRS

Subtitle A—General Provisions

SEC. 3001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1988".

SEC. 3002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—General Provisions
Sec. 3001. Short title.
Sec. 3002. Table of contents.
Sec. 3003. Definitions.
Subtitle B—Latin American Regional Anti-Narcotics Force and Integrated Plan To Fight the International Cocaine Trade
Sec. 3011. Need for Latin American regional anti-narcotics force.
Sec. 3012. Negotiations to establish Latin American regional anti-narcotics force.
Sec. 3013. United States assistance for Latin American regional anti-narcotics force.
Sec. 3014. Establishment of a regional anti-narcotics training center in the Caribbean.
Sec. 3015. United States effort to establish other regional anti-narcotic forces.
Sec. 3016. Need for an integrated regional plan to fight the international cocaine trade.
Subtitle C—Authorizations and Earmarkings of Foreign Assistance
Sec. 3021. Authorization for international narcotics control assistance.
Sec. 3022. Herbicides for aerial coca eradication.
Sec. 3023. Procurement of weapons to defend aircraft involved in narcotics control efforts.
Sec. 3024. Training for narcotics control activities.
Sec. 3025. Military assistance for anti-narcotics efforts.
Sec. 3026. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.
Sec. 3027. Increased funding for AID drug education programs.
Subtitle D—Provisions Relating to Specific Countries
Sec. 3031. Cooperative nonmajor drug-transit countries.
Sec. 3032. Assistance for Bolivia.
Sec. 3033. Assistance for Peru.
Sec. 3034. Assistance for Mexico.
Sec. 3035. Assistance for Colombia.
Sec. 3036. Illicit drug production and trafficking in Pakistan.
Sec. 3037. United States reliance on illicit opium gum from foreign sources.
Sec. 3038. Afghanistan as a source of heroin.
Sec. 3039. Involvement of the Government of Laos in illicit drug production and trafficking.
Subtitle E—Annual Reporting and Certification Process for Foreign Assistance Programs
Sec. 3041. Expression in numerical terms of maximum achievable reductions in illicit drug production.
Sec. 3042. Reports on assistance denied.
Sec. 3043. Drug-related corruption by foreign government officials.
Sec. 3044. Determining major drug-transit countries.
Sec. 3045. Requirement for bilateral narcotics agreements.
Sec. 3046. Waiver of restrictions on United States assistance for certain major drug-transit countries.
Sec. 3047. Clarification of assistance termination requirement; congressional review of recertifications.
Sec. 3048. Definition of United States assistance.
Sec. 3049. Reports and restrictions on certain countries.
Sec. 3050. Removal of certification procedure for MDB financing from Foreign Assistance Act.
Subtitle F—Miscellaneous Provisions Relating to Assistance Programs
Sec. 3051. Reporting on transfer of United States assets.
Sec. 3052. Importance of suppressing international narcotics trafficking.
Sec. 3053. Prohibition on assistance to drug traffickers.
Sec. 3054. Procurement for international narcotics control assistance.
Sec. 3055. Prohibition on use of narcotics control assistance to acquire real property.
Sec. 3056. Correction of technical errors in prior Acts.
Sec. 3057. Reimbursement for DOD services used in providing international narcotics control assistance.
Subtitle G—Department of State Activities
Sec. 3061. Coordination of all United States anti-narcotics assistance to foreign countries.
Sec. 3062. Rewards for certain information.
Sec. 3063. Denial of passports to certain convicted drug traffickers.
Sec. 3064. Machine readable visas.
Sec. 3065. Extradition and mutual legal assistance treaties and model comprehensive antidrug laws.
Sec. 3066. Overseas investigative program.
Sec. 3067. Assignment of more Drug Enforcement Administration Agents to United States embassies.

SEC. 3003. DEFINITIONS.

As used in this title, the terms "drug" and "narcotic" mean narcotic and psychotropic drugs and other controlled substances as defined in section 481(i)(3) of the Foreign Assistance Act of 1961.

Subtitle B—Latin American Regional Anti-Narcotics Force and Integrated Plan To Fight the International Cocaine Trade

SEC. 3011. NEED FOR LATIN AMERICAN REGIONAL ANTI-NARCOTICS FORCE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the operations of international illegal drug smuggling organizations pose a direct threat to the national security of the member nations of the Organization of American States;

(2) illegal international drug smuggling organizations have grown so large and powerful that they threaten to overwhelm small nations standing alone against them;

(3) to preserve the national sovereignty, protect the public health, and maintain domestic law and order within their borders, member nations of the Organization of American States should coordinate their efforts to fight the illegal drug trade;

(4) recent events in drug source and transit countries in the Western Hemisphere make clear the requirement for international agreement on the formation of a multinational strike force intended to conduct operations against these illegal drug smuggling organizations;

(5) the United States should make every effort to initiate diplomatic discussions through the Organization of American States aimed at achieving agreement to establish and operate a Latin American antinarcotics force; and

(6) sensitive to the legitimate concerns of other member nations of the Organization of American States, the United States stands ready to provide equipment, training, and financial resources to support the establishment and operation of such an anti-narcotics force, but believes that the personnel for such a force should be provided by those nations facing the most serious threat from drug trafficking organizations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to authorize the appropriation of $10,000,000 for the United States share of the expenses of a Latin American regional anti-narcotics force;

(2) to encourage agreement within the Organization of American States on the establishment of Latin American regional antinarcotics force;

(3) to encourage the establishment, under appropriate multilateral auspices, of regional anti-narcotic forces in other regions of the world; and

(4) to encourage the creation of a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade.

SEC. 3012. NEGOTIATIONS CONCERNING A LATIN AMERICAN REGIONAL ANTI-NARCOTICS FORCE.

(a) UNITED STATES INITIATIVE.—The President shall direct the United States representative to the Organization of American States to seek the views of other member nations of the Organization on the feasibility of establishing a Latin American regional anti-narcotics force.

(b) REGIONAL SUMMIT CONFERENCE.—If there is a positive response within the Organization of American States to the United States initiative described in subsection (a), the President shall call for a meeting of heads of government of member nations of the Organization to conclude an agreement providing for the establishment of a regional anti-narcotics force, with appropriate contributions of personnel, training, equipment and financial resources for this force to be made by members of the Organization.

SEC. 3013. UNITED STATES ASSISTANCE FOR LATIN AMERICAN REGIONAL ANTI-NARCOTICS FORCE.

(a) DOD ASSISTANCE FOR ANTI-NARCOTICS FORCE.—If an agreement is reached within the Organization of American States providing for the establishment of a regional anti-narcotics force, the President shall direct the Secretary of Defense to provide appropriate assistance for that force.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President, as supplemental appropriations for fiscal year 1988 (which are authorized to remain available until expended), $10,000,000 for the United States share of the expenses of a Latin American regional anti-narcotics force, including reimbursement to the Department of Defense for assistance provided pursuant to subsection (a).

(c) NOTICE TO CONGRESS.—Not less than 15 days before obligating funds authorized to be appropriated by subsection (b), the President shall notify the committees of Congress specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the reprogramming procedures applicable under that section.

SEC. 3014. ESTABLISHMENT OF A REGIONAL ANTI-NARCOTICS TRAINING CENTER IN THE CARIBBEAN.

It is the sense of the Congress that the Assistant Secretary of State for International Narcotics Matters—

(1) should seek the establishment of a regional anti-narcotics training center in the Caribbean;

(2) should contribute funds or other resources to such a center; and

(3) should seek such contributions from other countries for such a center.

SEC. 3015. UNITED STATES EFFORT TO ESTABLISH OTHER REGIONAL ANTI-NARCOTIC FORCES.

The Congress urges the President to seek the establishment, in each of the relevant regions of the world, of a multilateral regional anti-narcotics force similar to the Latin America regional anti-narcotics force contemplated by this subtitle.

SEC. 3016. NEED FOR AN INTEGRATED REGIONAL PLAN TO FIGHT THE INTERNATIONAL COCAINE TRADE.

(a) CONSULTATIONS CONCERNING CREATION OF AN INTEGRATED PLAN.—The Secretary of State shall consult with—

(1) the heads of appropriate agencies and departments of the United States Government,

(2) the governments of those countries in the Western Hemisphere that cultivate, process, or traffick in cocaine, and

(3) the governments of other cocaine consuming countries,

about the feasibility of creating a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade.

(b) REPORT ON THE INTEGRATED PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Congress on—

(1) the feasibility of creating a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade;

(2) the measures in such areas as eradication, interdiction, crop substitution, economic development, extradition, money-laundering, precursor chemical control, and related fields, that would be required to achieve such an objective;

(3) the material resources, funding, and technological assistance each producer and transit country would require in order to achieve such an objective; and

(4) the resources, funding, and other assistance each producer, transit, and consuming country would be prepared to make available for such an effort.

Subtitle C—Authorizations and Earmarkings of Foreign Assistance

SEC. 3021. AUTHORIZATION FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)":

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for fiscal year 1989.".

SEC. 3022. HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $500,000 of the funds made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) to finance the testing and use of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 3023. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) EARMARKING OF MAP FUNDS.—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $900,000 for fiscal year 1989 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(b) NOTIFICATION TO CONGRESS.—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

SEC. 3024. TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1989 to carry out chapter 5 of part II of the Foreign Assistance Act (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts of countries in Latin America and the Caribbean which are described in subsection (c); and

(2) the expenses of deploying, upon the request of the government of a foreign country described in subsection (c), Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) UNITS ELIGIBLE FOR TRAINING.—Education and training may be provided under subsection (a)(1) and training may be provided under subsection (a)(2) only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) ELIGIBLE COUNTRIES.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(e) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 3025. MILITARY ASSISTANCE FOR ANTI-NARCOTICS EFFORTS.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of friendly governments to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) WAIVER OF CERTAIN PROVISIONS.—Section 660(a) of the Foreign Assistance Act of 1961 shall not apply with respect to assistance provided under chapter 2 of part II of that Act (relating to the grant military assistance program) to countries described in subsection (c) for the procurement, for use in narcotics control, eradication, and interdiction efforts, of weapons or ammunition for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) ELIGIBLE COUNTRIES.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) REPORTS TO CONGRESS.—Not less than 15 days before funds are obligated to provide assistance authorized by this section, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961, a written notification which specifies—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(e) REPORTS ON HUMAN RIGHTS SITUATION.—Section 502(c) of the Foreign Assistance Act of 1961 (relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(f) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(g) EARMARKING FOR LATIN AMERICA AND THE CARIBBEAN.—Of the amounts made available for fiscal year 1989 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, $3,500,000 shall be available only to provide assistance authorized by this section for countries in Latin America or the Caribbean.

SEC. 3026. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) REQUIREMENT TO REALLOCATE.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales credits).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 3027. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

There are authorized to be appropriated to the President, as supplemental appropriations for fiscal year 1988 (which are authorized to remain available until expended), $1,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

Subtitle D—Provisions Relating to Specific Countries

SEC. 3031. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) GREATER ATTENTION.—The Congress urges the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

(b) EARMARKING OF ASSISTANCE.—Of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $1,000,000 shall be available only for assistance to countries described in subsection (a).

SEC. 3032. ASSISTANCE FOR BOLIVIA.

(a) SECURITY ASSISTANCE.—For fiscal year 1989, assistance may be provided for Bolivia under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia has enacted and is implementing legislation that—

(1) establishes its legal coca requirements,

(2) provides for the licensing of the number of hectares necessary to produce the legal requirement,

(3) makes unlicensed coca production illegal, and

(4) makes possession and distribution of coca leaf illegal (other than for licit purposes).

(b) SECTION 481 CERTIFICATION.—

(1) CONDITIONS ON CERTIFICATION.—For fiscal year 1989, the President may make a certification with respect to Bolivia under clause (i) or (ii) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia—

(A) has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985;

(B) has fully achieved the eradication targets contained in that agreement; and

(C) has begun a program of forced eradication of illicit coca cultivation if the targets for voluntary eradication are not being met or are not continued.

(2) NONWAIVABILITY.—The authorities contained in section 614 of the Foreign Assistance Act of 1961 may not be used to waive the requirements of this subsection, and may not be used to waive the requirements of section 481(h) of that Act for fiscal year 1989 with respect to Bolivia.

(c) DEVELOPMENT ASSISTANCE.—For fiscal year 1989, the project agreement document for a project carried out pursuant to chapter I of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall contain—

(1) in the case of the Chapare Regional Development Project, a clause requiring that project activities be suspended if the Government of Bolivia fails to achieve the coca eradication targets contained in the November 23, 1987, agreement concerning that project; and

(2) in the case of a project to be carried out in an area in Bolivia in which there is no known illicit coca cultivation as of the date of enactment of this Act, a clause requiring that project activities be suspended if the Government of Bolivia fails to keep the project area free of illicit coca cultivation.

(d) FISCAL YEAR 1988 EARMARKING.—Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended in the paragraph under the heading "INTERNATIONAL NARCOTICS CONTROL" by striking out "$15,000,000" and all that follows through "not less than" in the second proviso.

SEC. 3033. ASSISTANCE FOR PERU.

(a) DETERMINATIONS REGARDING NARCOTICS CONTROL COOPERATION.—In making determinations with respect to Peru pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall give foremost consideration to whether the Government of Peru made substantial progress in meeting its coca eradication targets during the previous year.

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds authorized to be appropriated for fiscal year 1989 to carry out chapter 1 of part I of that Act (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Administrator of that Agency determines, and reports to the Congress, that such project continues to be effective in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley.

SEC. 3034. ASSISTANCE FOR MEXICO.

(a) LIMITATION ON ASSISTANCE.—Of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not more than $15,000,000 may be made available for Mexico.

(b) PROSECUTION OF THOSE RESPONSIBLE FOR THE TORTURE AND MURDER OF DEA AGENTS.—Of the funds allocated for assistance for Mexico for fiscal year 1989 under that chapter, $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior; and

(3) has brought to trial and is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

(c) Joint Air Operations and Joint Crewing.—In making determinations with respect to Mexico pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall consider whether the Government of Mexico has responded favorably to the United States proposals to establish, and is making measurable progress toward implementing—

(1) a joint United States-Mexico airborne apprehension capability (commonly referred to as "joint air operations"); and

(2) joint air surveillance operations (commonly referred to as "joint crewing").

(d) Banking Information Concerning Money Laundering.—The Congress encourages the Government of Mexico, upon ratification of the Mutual Legal Assistance Treaty between the United States and Mexico, to furnish banking information pursuant to that treaty which would permit the successful investigation and prosecution in the United States of major narco-terrorists who use Mexican financial institutions to "launder" their profits.

SEC. 3035. ASSISTANCE FOR COLOMBIA.

(a) Size of Military Assistance Group.—The third sentence of section 515(c)(1) of the Foreign Assistance Act of 1961 (relating to countries authorized to have more than 6 members of the Armed Forces assigned to carry out international security assistance programs) is amended by inserting "Colombia," after "Honduras,".

(b) Increased Military Assistance.—There are authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance) $15,000,000 as supplemental appropriations for fiscal year 1988, which are authorized to remain available until expended. These funds shall be available only to provide defense articles to the armed forces of Colombia to support their efforts to combat illicit narcotics production and trafficking.

(c) Protection From Narco-Terrorist Attacks.—

(1) Earmark of funds.—Of the funds made available for fiscal year 1989 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), not less than $5,000,000 shall be used to provide to the Government of Colombia such assistance as it may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(2) Waiver of prohibition on assistance to police forces.—The assistance provided for in paragraph (1) may be provided without regard to section 660 of the Foreign Assistance Act of 1961.

(3) Notification to congress.—Funds made available pursuant to paragraph (1) not be obligated until at least 15 days after the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the proposed obligation in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(4) Extension of period for obligation of funds.—Funds allocated to carry out this subsection shall remain available until expended, notwithstanding any other provision of law.

SEC. 3036. ILLICIT DRUG PRODUCTION AND TRAFFICKING IN PAKISTAN.

In making determinations with respect to Pakistan pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of Pakistan—

(1) is reducing illicit narcotics cultivation;

(2) is increasing drug seizures;

(3) is increasing its suppression of the manufacture of illicit narcotics;

(4) is increasing the number of illicit laboratories destroyed;

(5) is increasing the number of arrests and successful prosecutions of violators, with particular emphasis on putting major traffickers out of business;

(6) has made changes in Pakistani legal codes in order to enable Pakistani law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws; and

(7) is expeditiously processing United States extradition requests relating to narcotics trafficking.

SEC. 3037. UNITED STATES RELIANCE ON LICIT OPIUM GUM FROM FOREIGN SOURCES.

(a) Review.—The President shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with treaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

The results of this review shall be reported to the Congress by December 31, 1988.

(b) Section 481(h) Certifications With Respect to India.—For fiscal year 1989, the President may make a certification with respect to India under section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 only if the President determines that the Government of India has taken steps to prevent significant diversion of its licit opium cultivation and production into the illicit market, to reduce its licit opium stockpile, and to eliminate illicit opium cultivation and production. If that certification is made, the President shall include with that certification a detailed report on what steps were taken and an estimate of the amount of licit opium still being diverted to the illicit market.

SEC. 3038. AFGHANISTAN AS A HEROIN SOURCE.

(a) Finding.—The Congress finds that Afghanistan remains the source of most of the heroin exported from southwest Asia.

(b) Statement of Policy.—It is the sense of the Congress that—

(1) the United States Government should pursue efforts to press the Government of Afghanistan, and should work with the Mujahadeen—

(A) to reduce production and trafficking in areas under their respective control, and

(B) to encourage drug eradication, interdiction, and crop substitution in Afghanistan; and

(2) an initiative should be developed which could be put in place as the Mujahadeen and successors to the present Kabul regime begin to exert more civil authority.

SEC. 3039. INVOLVEMENT OF THE GOVERNMENT OF LAOS IN ILLICIT DRUG PRODUCTION AND TRAFFICKING.

(a) Quarterly Reports.—Not later than 3 months after the date of enactment of this Act and every 3 months thereafter, the President shall prepare and transmit to the Congress a report containing the following determinations:

(1) Does the Government of Laos, as a matter of government policy, encourage or facilitate the production or distribution of illegal drugs?

(2) Does any senior official of the Government of Laos engage in, encourage, or facilitate the production or distribution of illegal drugs?

(3) Do other governments in the region assist the distribution of illegal drugs from Laos?

(b) Information To Be Included.—(1) If an affirmative determination is made under paragraph (1) or (2) of subsection (a), the report shall describe the activities and identities of officials whose activities caused that determination to be made.

(2) If an affirmative determination is made under paragraph (3) of subsection (a), the report shall describe the activities of other governments in the region which caused that determination to be made.

(c) Restrictions.—If an affirmative determination is reported under paragraph (1) or (2) of subsection (a), United States assistance may not be furnished to Laos, and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of funds of such bank for the benefit of Laos, unless the President certifies to the Congress that—

(1) overriding vital national interests require that provision of such assistance; and

(2) such assistance would improve the prospects for cooperation with Laos in halting the flow of illegal drugs.

(d) Relation to Other Provisions.—The restrictions contained in subsection (c) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

Subtitle E—Annual Report and Certification Process for Foreign Assistance Programs

SEC. 3041. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 3042. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(8) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

SEC. 3043. DRUG-RELATED CORRUPTION BY FOREIGN GOVERNMENT OFFICIALS.

Section 481(h) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (2)(A)(i)(I) by inserting "corruption by government officials and" after preventing and punishing"; and

(2) in paragraph (3)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by inserting after subparagraph (B) the following:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery.".

SEC. 3044. DETERMINING MAJOR DRUG-TRANSIT COUNTRIES.

(a) PROCEDURES FOR DETERMINING.—Section 481 of Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(k)(1) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subsection (i)(5) (A) and (B) of this section.

"(2) Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(3) Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(A) which countries appear likely, as of that date, to be determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(B) which countries appear likely, as of that date, to be determined to be major illicit drug producing countries for that year.

"(4) Each report submitted pursuant to subsection (e) shall discuss—

"(A) any changes made, since the notification provided pursuant to paragraph (2), in the numerical standards and other guidelines used in determining which countries were major drug-transit countries under subsection (i)(5) (A) and (B) during the preceding year; and

"(B) any changes made, since the notification provided pursuant to paragraph (3)—

"(i) in the countries determined to be major drug-transit countries under subsection (i)(5) (A) and (B) during the preceding year; or

"(ii) in the countries determined to be major illicit drug producing countries for that year.".

(b) TRANSITION PROVISION.—For calendar year 1988, the Secretary of State—

(1) shall take the actions specified in subsection (k)(2) of section 481 of the Foreign Assistance Act of 1961 (as added by subsection (a) of this section) not later than 30 days after the date of enactment of this Act; and

(2) shall take the actions specified in subsection (k)(3) of that section (as added by subsection (a) of this section) not later than 60 days after the date of enactment of this Act.

SEC. 3045. REQUIREMENT FOR BILATERAL NARCOTICS AGREEMENTS.

(a) DEFINITION OF BILATERAL AGREEMENT.—Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(I) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(II) increase drug interdiction and enforcement;

"(III) increase drug treatment;

"(IV) increase the identification of and elimination of illicit drug laboratories;

"(V) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs;

"(VI) increase cooperation with United States drug enforcement officials; and

"(VII) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(b) MULTILATERAL AGREEMENTS.—Section 481(h)(2)(A)(i)(I) of that Act, as amended by subsection (c)(1) of the section of this title entitled "**CORRECTION OF TECHNICAL ERRORS IN PRIOR ACTS**", is amended by inserting "or a multilateral agreement which achieves the objectives of this subsection" after "(ii))".

(c) REQUIREMENT FOR AGREEMENT.—Effective October 1, 1988, section 481(h)(2)(A) of that Act is amended by adding at the end the following:

"(iii) A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under clause (i)(I) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of this subparagraph.".

(d) CONFORMING AMENDMENT.—Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is hereby superceded.

SEC. 3046. WAIVER OF RESTRICTIONS ON UNITED STATES ASSISTANCE FOR CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1989 if the President certifies to the Congress, during that fiscal year, that—

(1) section 481(i)(5)(C) of that Act (relating to money laundering) does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(1)(A)(ii) of that Act) or a multilateral agreement which achieves the objectives of subparagraph (A) of section 481(h)(1) of that Act;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing corruption by government officials.

SEC. 3047. CLARIFICATION OF ASSISTANCE TERMINATION REQUIREMENT; CONGRESSIONAL REVIEW OF RECERTIFICATIONS.

Section 481(h) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) Paragraph (1) shall apply without regard to paragraph (2) if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under paragraph (2), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(5) If the President does not make a certification under paragraph (2) with respect to a country or the Congress enacts a joint resolution disapproving such certification, that country may not be provided with any of the United States assistance for the current fiscal year that was required to be withheld by paragraph (1), and may not be provided with any United States assistance for subsequent fiscal years, unless—

"(A) the President submits, at the time specified in paragraph (2)(A)(i) or at any other time, a certification under subclause (I) or (II) of that paragraph with respect to such country;

"(B) a period of 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) elapses after the Congress receives that certification; and

"(C) during that period, the Congress does not enact a joint resolution disapproving the determination of the President contained in such certification.

"(6)(A) Any joint resolution under paragraph (4) or (5) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolution under paragraphs (4) and (5), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

SEC. 3048. DEFINITION OF UNITED STATES ASSISTANCE.

(a) EXCLUSION OF CERTAIN NARCOTICS EDUCATION AND AWARENESS ACTIVITIES.—Section 481(i)(4) of the Foreign Assistance Act of 1961 is amended by striking out "or (vii)" and inserting in lieu thereof "(vii) assistance for narcotics education and awareness activities pursuant to section 126(b)(2) of this Act (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act), or (viii)".

(b) CONFORMING AMENDMENT.—The amendment made by subsection (a) shall be in lieu of any amendment to section 481(i)(4) of the Foreign Assistance Act of 1961 that is contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, and that relates to assistance under section 126 of the Foreign Assistance Act of 1961; and any such amendment contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, shall not take effect.

SEC. 3049. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

Section 2013(a) of the Anti-Drug Abuse Act of 1986 is amended—

(1) by striking out "Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the" and inserting in lieu thereof "The"; and

(2) by inserting ", as part of the report required by section 481(b)(2) of the Foreign Assistance Act of 1961," after "transmit to the Congress".

SEC. 3050. REMOVAL OF CERTIFICATION PROCEDURE FOR MDB FINANCING FROM FOREIGN ASSISTANCE ACT.

Section 481(h) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1)—

(A) by striking out "country—" through "50 percent" and inserting in lieu thereof "country, 50 percent";

(B) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (B);

(2) in the text of paragraph (2)(A)(i) preceding subclause (I)—

(A) by striking out "(1)(A)" and inserting in lieu thereof "(1)"; and

(B) by striking out "and the provisions of paragraph (1)(B) shall not apply"; and

(3) in paragraph (2)(B)(i) by striking out "or financing".

Subtitle F—Miscellaneous Provisions Relating to Assistance Programs

SEC. 3051. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

(a) 15-DAY ADVANCE NOTIFICATION.—Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(b) ANNUAL REPORTS.—Section 2061 of this title requires that all such transfers be reported annually to the Congress.

SEC. 3052. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.

Section 481(a)(1) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;".

SEC. 3053. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by section 3026 of this title, is further amended by adding at the end the following:

"SEC. 487. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

"(a) PROHIBITION.—The President shall take all reasonable steps to ensure that assistance under this Act and the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe—

"(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating narcotic or psychotropic drugs or other controlled substances (as defined in section 481(i)(3) of this Act); or

"(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

"(b) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(c) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect.".

SEC. 3054. PROCUREMENT FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

The Congress urges the Secretary of State to take appropriate corrective action to improve the Department of State's procurement operations in order to assure that the procurement of property or services for use in providing assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control assistance) is timely, efficient, and in accordance with applicable procurement statutes and regulations.

SEC. 3055. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by sections 3026 and 3053 of this title, is further amended by adding at the end the following:

"SEC. 488. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

"Funds made available to carry out this chapter may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces.".

SEC. 3056. CORRECTION OF TECHNICAL ERRORS IN PRIOR ACTS.

(a) ANTI-DRUG ABUSE ACT OF 1986.—

(1) Section 2015(b)(1) of the Anti-Drug Abuse Act of 1986 is amended by striking out "effects" and inserting in lieu thereof "efforts".

(2) Section 2030(b) of that Act is amended by striking out "subsection (A)(4)" and inserting in lieu thereof "subsection (a)(4)".

(b) 1986 DRUG ACT AMENDMENTS TO FOREIGN ASSISTANCE ACT.—Section 481 of the Foreign Assistance Act of 1961 (as amended by section 2005 of the Anti-Drug Abuse Act of 1986) is amended—

(1) in subsection (h)(2)(A), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period;

(2) in subsection (h)(4)(A), by inserting "a" before "joint resolution"; and

(3) in subsection (i)(4)(vi), by striking out "section 1049(c)(2)" and inserting in lieu thereof "section 104(c)(2)".

(c) FY 1988 CONTINUING RESOLUTION AMENDMENTS TO FOREIGN ASSISTANCE ACT.—Section 481(h) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (2)(A)(i)(I) by striking out ", (as described in (ii)) and," and inserting in lieu thereof "(as described in clause (ii)),";

(2) in paragraph (2)(A)(i)(II) by striking out "subclause (i)" and inserting in lieu thereof "subclause (I)"; and

(3) in paragraph (4) by striking out "clause (A)(ii)" and inserting in lieu thereof "subparagraph (A)(i)(II)".

SEC. 3057. REIMBURSEMENT FOR DOD SERVICES USED IN PROVIDING INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

Section 632(c) of the Foreign Assistance Act of 1961 is amended by inserting after "actual cost," the following: "or, in the case of services procured from the Department of Defense to carry out chapter 8 of part I, the amount of the additional costs incurred by the Department of Defense in providing such services,".

Subtitle G—Department of State Activities

SEC. 3061. COORDINATION OF ALL UNITED STATES ANTI-NARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.

(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(b) ANNUAL REPORTS.—

(1) REQUIREMENT FOR REPORTS.—At the time that the report required by section 481(e) of the Foreign Assistance Act of 1961 is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) SPECIFIC ITEMS TO BE INCLUDED.—(A) Each report pursuant to this subsection shall specify the amount and nature of the assistance provided.

(B) For each country which is a significant direct or indirect source of illicit narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, each report pursuant to this subsection shall set forth separately the assistance with respect to narcotic control efforts provided or to be provided (as the case may be) to that country by the Drug Enforcement Administration, the Customs Service, and Coast Guard, respectively, during the preceding fiscal year, the current fiscal year, and the next fiscal year.

(C) Each report required by this subsection shall also list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

SEC. 3062. REWARDS FOR INFORMATION CONCERNING NARCOTICS-RELATED OFFENSES COMMITTED OUTSIDE THE UNITED STATES.

Section 36(g) of the State Department Basic Authorities Act of 1956 is amended by amending the second sentence to read as follows: "In addition to the amount authorized to be appropriated by the preceding sentence, there are authorized to be appropriated, without fiscal year limitation, $5,000,000 for 'Administration of Foreign Affairs' for use in paying rewards for information described in subsection (b)(1).".

SEC. 3063. DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS.

(a) Ineligibility for Passport.—

(1) In general.—A passport may not be issued to an individual who is convicted of an offense described in subsection (b) during the period described in subsection (c) if the individual used a passport or otherwise crossed an international border in committing the offense.

(2) Passport revocation.—The Secretary of State shall revoke a passport previously issued to an individual who is ineligible to receive a passport under paragraph (1).

(b) Drug Law Offenses.—

(1) Felonies.—Subsection (a) applies with respect to any individual convicted of a Federal drug offense, or a State drug offense, if the offense is a felony.

(2) Certain misdemeanors.—Subsection (a) also applies with respect to an individual convicted of a Federal drug offense, or a State drug offense, if the offense is a misdemeanor, but only if the Secretary of State determines that subsection (a) should apply with respect to that individual on account of that offense. This paragraph does not apply to an individual's first conviction for a misdemeanor which involves only possession of a controlled substance.

(c) Period of Ineligibility.—Subsection (a) applies during the period that the individual—

(1) is imprisoned, or is legally required to be imprisoned, as the result of the conviction for the offense described in subsection (b); or

(2) is on parole or other supervised release after having been imprisoned as the result of that conviction.

(d) Emergency and Humanitarian Exceptions.—Notwithstanding subsection (a), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

(e) Indicating Drug Law Violations On Travel Documents.—The President may, by regulation, prescribe procedures for indicating on—

(1) passports and other travel documents issued by the United States, and

(2) passports and other forms of personal identification presented during a United States immigration or customs inspection in order to establish the identity of an individual seeking admission or entry into the United States,

the fact that the holder has been convicted of, or has been assessed a civil penalty or has forfeited property on account of, a Federal drug offense or a State drug offense if, in committing the offense, the individual used the passport or other travel document or other form of personal identification in order to cross an international border.

(f) Definitions.—As used in this section—

(1) the term "controlled substance" has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(2) the term "Federal drug offense" means a violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) any other Federal law involving controlled substances; or

(C) subchapter II of chapter 53 of title 31, United States Code (commonly referred to as the "Bank Secrecy Act"), or section 1956 or section 1957 of title 18, United States Code (commonly referred to as the "Money Laundering Act"), if the Secretary of State determines that the violation is related to illicit production of or trafficking in a controlled substance;

(3) the term "felony" means a criminal offense punishable by death or imprisonment for more than one year;

(4) the term "imprisoned" means an individual is confined in or otherwise restricted to a jail-type institution, a half-way house, a treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a conviction;

(5) the term "misdemeanor" means a criminal offense other than a felony;

(6) the term "State drug offense" means a violation of State law involving the manufacture, distribution, or possession of a controlled substance; and

(7) the term "State law" means the law of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

SEC. 3064. MACHINE READABLE VISAS.

There are authorized to be appropriated to the Department of State for "Salaries and Expenses", in addition to amounts otherwise authorized, $15,000,000 as supplemental appropriations for fiscal year 1988, which are authorized to remain available until expended. Amounts authorized to be appropriated by this section shall be available only for expenses of the Department of State in developing and implementing a machine readable visa system.

SEC. 3065. EXTRADITION AND MUTUAL LEGAL ASSISTANCE TREATIES AND MODEL COMPREHENSIVE ANTIDRUG LAWS.

(a) Findings.—The Congress finds that—

(1) section 133 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (enacted August 16, 1985), directed the Secretary of State to increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country;

(2) section 803 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (enacted December 22, 1987) directed the Secretary of State to ensure that an objective of the United States diplomatic mission in each major illicit drug producing or major drug-transit country be to ensure that drug traffickers can be extradited to the United States; and

(3) although some progress has been made pursuant to these directives in increasing international law enforcement cooperation with respect to illicit drug production and trafficking, much greater international law enforcement cooperation is required in combating the illicit drug problem.

(b) Greater Emphasis Required.—Therefore, the Congress directs the Secretary of State to place greater emphasis on updating extradition treaties, and on negotiating mutual legal assistance treaties, with major illicit drug producing countries and major drug-transit countries.

(c) Model Treaties and Antidrug Laws.—The Secretary of State and the Attorney General shall jointly develop a model extradition treaty with respect to narcotics-related violations (including extradition of host country nationals), a model mutual legal assistance treaty, and model comprehensive anti-narcotics legislation. The Secretary of State shall distribute such treaties and legislation to each United States mission abroad.

(d) Report to Congress.—The Secretary of State shall report to the Congress, not later than six months after the date of enactment of this Act, on actions taken to carry out this section.

SEC. 3066. OVERSEAS INVESTIGATIVE PROGRAM.

It is the sense of the Congress that Regional Security Officers and other security personnel at United States embassies and other civilian posts abroad should be directed to expand their investigative activities with respect to illicit drug use and trafficking by United States Government personnel and their dependents.

SEC. 3067. ASSIGNMENT OF MORE DRUG ENFORCEMENT ADMINISTRATION AGENTS TO UNITED STATES EMBASSIES.

The Congress urges the Secretary of State to permit the assignment of additional Drug Enforcement Administration agents to United States diplomatic missions in those foreign countries where illicit narcotics production or trafficking is, or is likely to become, a significant problem.

TITLE IV—COMMITTEE ON GOVERNMENT OPERATIONS

SEC. 4001. SHORT TITLE.

This title may be cited as the "Drug-Free Workplace Act of 1988".

SEC. 4002. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL CONTRACTORS.

(a) Drug-Free Workplace Requirement.—No person or organization shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services from any Federal agency unless such person or organization has certified to the contracting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the person's or organization's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such contract, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the contracting agency within 10 days after receiving notice under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 4004; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) Suspension, Termination, or Debarment of the Contractor.—

(1) Grounds for suspension, termination, or debarment.—Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder shall be subject to debarment, in accordance with the requirements of this section if the board of contract appeals of the contracting agency determines that—

(A) the contractor has made a false certification under subsection (a);

(B) the contractor violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) Conduct of suspension, termination, and debarment proceedings.—If a contracting officer determines, in writing, that cause for suspension, termination, or debarment exists, a suspension, termination, or debarment proceeding subject to this subsection shall, on application by a contracting officer of an agency, be conducted by the board of contract appeals of the agency which conducts the procurement. The board of contract appeals shall, based upon a preponderance of the evidence presented, resolve all issues of fact, determine whether a basis exists for the suspension or termination of the contract or debarment of the contractor, and issue a final decision in favor of or against suspension or termination of the contract or debarment of the contractor. A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review. Determinations and final decisions of the board of contract appeals shall be final unless appealed by the contractor to the United States Court of Appeals for the Federal Circuit within 60 days after the receipt by the contractor of a copy of a final decision of the board of contract appeals. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such board determinations and decisions under this paragraph.

(3) Conduct by GSA board.—In the case of an agency that has not established a board of contract appeals under section 8(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(a)(1)), the General Services Administration Board of Contract Appeals shall make the determinations and issue final decisions under paragraph (2) for such agencies. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such Board determinations and decisions under this paragraph.

(4) Effect of debarment.—Upon issuance of any final decision under this subsection requiring debarment of a contractor, such contractor shall be ineligible for award of any contract by any Federal agency and for participation in any future procurement by any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the contractor, the contractor shall be compensated as provided by law or regulations.

SEC. 4003. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL GRANT RECIPIENTS.

(a) Drug-Free Workplace Requirement.—No person or organization shall receive a grant from any Federal agency unless such person or organization has certified to the granting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the grantee's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such grant, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the granting agency within 10 days after receiving notice of a conviction under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 4004; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) Suspension, Termination, or Debarment of the Grantee.—

(1) Grounds for suspension, termination, or debarment.—Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee has made a false certification under subsection (a);

(B) the grantee violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) Conduct of suspension, termination, and debarment proceedings.—A suspension, termination, or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) Effect of debarment.—Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the grantee, the grantee shall be compensated as provided by law or regulations.

SEC. 4004. EMPLOYEE SANCTIONS AND REMEDIES.

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 4002(a)(3)(B) or 4003(a)(3)(B)—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

SEC. 4005. WAIVER.

(a) In General.—A termination, suspension, or debarment under this title may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines, after the issuance of a final determination under section 4003(b) by a board of contract appeals regarding a contract entered into by that agency, that suspension or termination of the contract or debarment of the contractor, or refusal to permit a person or organization to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension or termination of the grant or debarment of the grantee would not be in the public interest.

(b) Exclusive Authority.—The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

SEC. 4006. AUTHORITY OF BOARDS.

Not later than 90 days after the date of enactment of this title, the chairman of each board of contract appeals shall prescribe rules and procedures governing actions under this title. Each judge of such board may administer oaths and affirmations and issue subpoenas.

SEC. 4007. DEFINITIONS.

For purposes of this title—

(1) the term "drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in section 4002 or 4003 of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this title;

(2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 4002 or 4003;

(3) the term "controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812);

(4) the term "conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person or organization responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person or organization responsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5, United States Code.

SEC. 4008. EFFECTIVE DATE.

Sections 4002 and 4003 shall be effective 120 days after the date of the enactment of this title.

TITLE V—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Subtitle A—Indian Alcohol and Substance Abuse Prevention and Treatment

SEC. 5001. AMENDMENTS TO INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986.

Whenever in this subtitle a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.).

SEC. 5002. MINIMUM PERFORMANCE STANDARDS.

(a) IN GENERAL.—Paragraph (3) of section 4205(a) (25 U.S.C. 2411(a)) is amended by striking out "minimum standards" and inserting in lieu thereof "minimum performance standards".

(b) PROVISIONS OF TRIBAL ACTION PLANS.—Subparagraph (B) of section 4206(c)(1) (25 U.S.C. 2412(c)(1)) is amended by striking out "minimum standards" and inserting in lieu thereof "minimum performance standards".

(c) REPORT REGARDING STANDARDS.—The Secretary of the Interior and the Secretary of Health and Human Services shall submit a joint report to the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the House of Representatives and the Select Committee on Indian Affairs of the Senate on the minimum performance standards developed pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411). Such report shall be submitted with the budget request submitted for fiscal year 1990.

SEC. 5003. REMEDIAL PLAN FOR COMPLYING WITH MINIMUM PERFORMANCE STANDARDS.

(a) DEVELOPMENT AND IMPLEMENTATION.—Subsection (c) of section 4206 (25 U.S.C. 2412) is amended by adding at the end thereof the following new paragraph:

"(3) Any Tribal Action Plan shall provide for developing and implementing the remedial plan for complying with the minimum performance standards incorporated under paragraph (1)(B).".

(b) RESPONSIBILITY OF OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—Paragraph (2) of section 4207(b) (25 U.S.C. 2413(b)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and";

(3) by adding at the end thereof the following:

"(C) monitoring the performance in achieving compliance with the minimum performance standards through the remedial plans developed and implemented pursuant to section 4206(c)(3); and

"(D) submitting to the Congress reports in each case where remedial plans are necessary to address program deficiencies, but not tribal specific problems with compliance.".

SEC. 5004. DEFINITIONS.

Section 4204 (25 U.S.C. 2403) is amended by inserting at the end thereof the following new paragraph:

"(6) The terms 'Urban Indian', 'Urban Center', and 'Urban Indian Organization' shall have the same meaning as provided in section 4 of the Indian Health Care Improvement Act.".

SEC. 5005. AMENDMENT AND REVISION OF TRIBAL DEVELOPMENT PLAN.

Paragraph (2) of section 4206(c) (25 U.S.C. 2412(c)) is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph (E):

"(E) the establishment of procedures for amendment and revision of the plan as may be determined necessary by the Tribal Coordinating Committee.".

SEC. 5006. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.

Paragraph (2) of section 4206(d) (25 U.S.C. 2412(d)(2)) is amended to read as follows:

"(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years 1990, 1991, and 1992 for grants under this subsection.".

SEC. 5007. LEASING OF TRIBAL PROPERTY.

Section 4209 is amended—

(1) by amending the heading to read as follows:

"SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT; LEASING OF TRIBAL PROPERTY."; and

(2) by adding at the end thereof the following new subsection (c):

"(c) LEASES.—(1) The Secretary of the Interior and the Secretary of Health and Human Services are authorized to enter into long-term leases of tribally owned facilities to house programs established by this subtitle where they determine that there is no Federal facility reasonably available for such purpose and the cost of constructing a new Federal facility would exceed the cost of such lease unless they determine that mitigating factors favor such a lease.

"(2) A tribal facility may be leased pursuant to this authority to house a regional treatment center to be established pursuant to section 4227(b) only if all the tribes within the Indian Health Service area to be served by such regional treatment center initially consent to such lease.".

SEC. 5008. EMERGENCY SHELTERS AND HALFWAY HOUSES.

(a) HALFWAY HOUSES.—Subsection (a) of section 4213 (25 U.S.C. 2433) is amended by adding at the end thereof "Halfway houses may be used as either an intake facility or an aftercare facility for youth admitted, or to be admitted, for long-term treatment of substance abuse. The Indian Health Service, the Bureau of Indian Affairs, and the tribes are authorized to use their respective resources to adequately staff and operate any such facility.".

(b) AUTHORIZATION.—Subsection (e) of section 4213 (25 U.S.C. 2433) is amended to read as follows:

"(e) AUTHORIZATION.—(1) For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $3,000,000 for each of the fiscal years 1990, 1991, and 1992.

"(2) For the staffing and operation of emergency shelters and half-way houses, there is authorized to be appropriated $2,000,000 for fiscal year 1990. Such amount shall be included in the base budget of the Bureau of Indian Affairs and funding thereafter shall be as authorized by the Act of November 1, 1921 (25 U.S.C. 13).

"(3) The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act."

SEC. 5009. CERTAIN ILLEGAL NARCOTICS TRAFFICKING.

(a) ASSISTANCE.—The section heading and subsection (a) of section 4216 (25 U.S.C. 2442) are amended to read as follows:

"SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE TOHONO O'ODHAM AND ST. REGIS RESERVATIONS; SOURCE ERADICATION.

"(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to—

"(A) the Tohono O'odham Tribe of Arizona for the investigation and control of illegal narcotics traffic on the Tohono O'odham Reservation along the border with Mexico, and

"(B) the St. Regis Band of Mohawk Indians of New York for the development of tribal law enforcement and judicial systems to aid in the investigation and control of illegal narcotics traffic on the St. Regis Reservation along the border with Canada.

"(2) The Secretary shall ensure that tribal efforts under this subsection are coordinated with appropriate Federal law enforcement agencies, including the United States Customs Service.

"(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated—

"(A) $500,000 under paragraph (1)(A) for each of the fiscal years 1990, 1991, and 1992, and

"(B) $450,000 under paragraph (1)(B) for each of the fiscal years 1989 and 1990.".

(b) Authorization.—Subsection (b)(2) of section 4216 is amended to read as follows:

"(2) Authorization.—For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated $500,000 for each of the fiscal years 1990, 1991, and 1992.".

SEC. 5010. LAW ENFORCEMENT AND JUDICIAL TRAINING.

Subsection (b) of section 4218 (25 U.S.C. 2451) is amended to read as follows:

"(b) Authorization.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1990, 1991, and 1992.".

SEC. 5011. TREATMENT OF JUVENILE OFFENDERS.

Section 4219 (25 U.S.C. 2452) is amended—

(1) by inserting "(a)" before "The Memorandum"; and

(2) by adding at the end thereof the following new subsection (b):

"(b) Treatment of Certain Committed Youth.—The Indian Health Service shall not refuse to provide necessary interim treatment for any Indian youth referred pursuant to subsection (a) who has been charged or is being prosecuted for any crime unless such referral is prohibited by a court of competent jurisdiction or the youth is determined by a court of competent jurisdiction to be a danger to others.".

SEC. 5012. JUVENILE DETENTION CENTERS.

Subsection (b) of section 4220 (25 U.S.C. 2453) is amended to read as follows:

"(b) Authorization.—(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1990 and 1991.

"(2) For the purpose of staffing and operating juvenile detention centers, there is authorized to be appropriated $5,000,000 for fiscal year 1990. Such amount shall be included in the base budget of the Bureau of Indian Affairs and funding thereafter shall be as authorized by the Act of November 2, 1921 (25 U.S.C. 13).".

SEC. 5013. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) Detoxification and Rehabilitation.—Subsection (a) of section 4227 (25 U.S.C. 2474) is amended by inserting "of Health and Human Services" after the "Secretary".

(b) Treatment Centers.—Subsection (b) of section 4227 is amended to read as follows:

"(b) Treatment Centers or Facilities.—(1) The Secretary shall construct or renovate, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For the purposes of this subsection, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office.

"(2)(A) For the purpose of constructing or renovating centers or facilities required by paragraph (1), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1990 and 1991.

"(B) For the purpose of staffing and operating such centers or facilities, there are authorized to be appropriated $9,000,000 for fiscal year 1990. Such amount shall be included in the base budget of the Indian Health Service and funding thereafter shall be as provided in the Act of November 2, 1921 (25 U.S.C. 13).".

SEC. 5014. TRAINING AND COMMUNITY EDUCATION.

Section 4228 (25 U.S.C. 2475) is amended—

(1) by striking out subsection (c); and

(2) by amending subsection (d) to read as follows:

"(c) Authorization.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1990, 1991, and 1992.".

SEC. 5015. NAVAJO ALCOHOL REHABILITATION PROGRAM.

Subsection (c) of section 4229 is amended to read as follows:

"(c) Authorization.—There are authorized to be appropriated for the purposes of grants under subsection (a) $200,000 for each fiscal year. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.".

SEC. 5016. URBAN INDIAN PROGRAM.

The subtitle is amended by adding at the end thereof the following new section 4231:

"SEC. 4231. URBAN INDIAN PROGRAM.

"(a) Grants.—The Secretary of Health and Human Services is authorized to make grants for the provision of health-related services in school and community-based education, prevention, treatment, or rehabilitation of alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.).

"(b) Goals of Grant.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) Criteria.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Indian Health Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) Treatment of Moneys Received by Urban Indian Organizations.—Any moneys received by an urban Indian organization under this or any other Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

"(e) Authorization for Grant Program.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the purposes of this section, other than subsection (f).

"(f) Research.—There is authorized to be appropriated for each fiscal year beginning with fiscal year 1990 to the Secretary of Health and Human Services $1,000,000 for research into substance abuse prevention, treatment, and rehabilitation and the development of strategies for combatting substance abuse. Such research shall include the collection, compilation, and analysis of epidemiological data on substance abuse among the Indian population.".

SEC. 5017. TREATMENT OF FUNDS APPROPRIATED TO CARRY OUT ACT.

(a) Secretary of the Interior and Secretary of Health and Human Services.—Section 4207 (25 U.S.C. 2413) is amended by adding at the end thereof the following:

"(d) Treatment of Funds.—(1) Amounts appropriated pursuant to this part shall be identified in the agency accounts separate from any other funds appropriated to the Secretary of the Interior or the Secretary of Health and Human Services.

"(2) The Secretary of the Interior and the Secretary of Health and Human Services shall each separately identify the funds needed to carry out this part in their budget requests submitted to the Congress under section 1105 of title 31, United States Code.".

(b) Indian Health Service.—Section 4225 (25 U.S.C. 2472) is amended—

(1) by inserting "(a)" before "The Memorandum"; and

(2) by adding at the end thereof the following:

"(b) Treatment of Funds.—(1) Amounts appropriated pursuant to this part shall be identified in the Indian Health Service accounts separate from any other funds appropriated to the Indian Health Service.

"(2) The Indian Health Service shall separately identify the funds needed to carry out this part in its budget request submitted to the Congress under section 1105 of title 31, United States Code.".

Subtitle B—National Park System, Public Lands, and National Forest System

SEC. 5101. AMENDMENTS TO TITLE V OF THE ANTI-DRUG ABUSE ACT OF 1986.

(a) National Park Service Police.—Section 5052 of title V of the Anti-Drug Abuse Act of 1986 is amended to read as follows:

"SEC. 5052. NATIONAL PARK AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and prohibited substances in National Park System units, from amounts appropriated there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $3,000,000 for the fiscal year 1989, and for each fiscal year thereafter, to be used for the employment and training of additional and existing National Park Service police, for equipment and facilities to be used by such personnel and for expenses related to such employment, training, equipment, and facilities.".

(b) Bureau of Land Management.—Title V of the Anti-Drug Abuse Act of 1986 is amended by adding at the end thereof the following:

"Subtitle C—Bureau of Land Management Program

"SEC. 5063. SHORT TITLE.

"This subtitle may be cited as the Bureau of Land Management Drug Enforcement Supplemental Authority Act.

"SEC. 5064. BUREAU OF LAND MANAGEMENT AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and prohibited substances on Bureau of Land Management public lands, from amounts appropriated there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,500,000 for the fiscal year 1989, and for each fiscal year thereafter to be used for the employment and training of additional and existing Bureau of Land Management law enforcement personnel, for equipment and facilities to be used by such personnel, and for expenses related to such employment, training, equipment, and facilities.".

SEC. 5102. NATIONAL FOREST SYSTEM.

(a) Authorization of Appropriations.—Section 15006 of title XV of the Anti-Drug Abuse Act of 1986 is amended to read as follows:

"SEC. 15006. FOREST SERVICE AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and prohibited substances on lands administered by the Forest Service, from amounts appropriated there are made available to the Secretary of Agriculture, in addition to sums made available under other authority of law, $10,000,000 for the fiscal year 1989, and for each fiscal year thereafter, to be used for employment and training of additional and existing Forest Service law enforcement personnel, for equipment and facilities to be used by such personnel, for expenses related to such employment, training, equipment, and facilities, and for cooperative programs with State and local law enforcement agencies.".

(b) Criminal Penalty.—Title XV of the Anti-Drug Abuse Act of 1986 is amended by adding at the end the following new section:

"SEC. 15008. CRIMINAL PENALTY FOR CREATING A HAZARD ON FEDERAL LANDS WHILE USING A POISON, CHEMICAL, OR HAZARDOUS SUBSTANCE IN MANUFACTURING, DISTRIBUTING, OR DISPENSING A CONTROLLED SUBSTANCE.

"Whoever, in violating section 401(a)(1) of the Controlled Substances Act, or in attempting to do so, knowingly uses a poison, chemical, or other hazardous substance on Federal land and, by such use, creates a serious hazard to humans, wildlife, domestic animals, or the environment shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.".

Subtitle C—Insular Areas

SECTION 5201. SHORT TITLE.

This subtitle may be cited as the "Insular Areas Drug Abuse Amendments of 1988".

SEC. 5202. AMERICAN SAMOA.

Section 5004(a) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(a)) is amended—

(1) in paragraph (2) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting ", as appropriate," after "States";

(C) inserting "and, upon request of the Government of American Samoa, shall" after "are authorized to";

(D) inserting "and other personnel" after "officers"; and

(E) inserting "or other substance" after "drug".

(2) in paragraph (3) by—

(A) striking "$700,000" and inserting in lieu thereof "$350,000 for fiscal year 1989 and annually thereafter for grants to the Government of American Samoa to be expended in accordance with a plan approved by the Secretary of Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services"; and

(B) striking "subsection" and inserting in lieu thereof "Act"; and

(3) by adding at the end thereof the following:

"(4) The Secretary of the Treasury in consultation with the Secretary of the Interior shall provide the Government of American Samoa with a vessel to be used in the enforcement of narcotics and other laws. There are authorized to be appropriated $500,000 for this purpose.".

SEC. 5203. GUAM.

Section 5004(b) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(b)) is amended—

(1) in paragraph (1) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting "and, upon request of the Government of Guam shall, provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug";

(2) in paragraph (2) by striking "$1,000,000" and all that follows through "shall" and inserting in lieu thereof "$500,000 for fiscal year 1989 and annually thereafter for grants to the Government of Guam to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services, to carry out the purposes of this Act, to"; and

(3) by adding at the end thereof the following:

"(3) There are authorized to be appropriated for a grant to the Government of Guam $500,000 to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General for drug abuse law enforcement equipment.".

SEC. 5204. NORTHERN MARIANA ISLANDS.

Section 5004(c) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(c)) is amended—

(1) in paragraph (2) by—

(A) moving "of the United States" to after "Services";

(B) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(C) inserting "and, upon request of the Government of the Northern Mariana Islands, shall" after "are authorized to";

(D) inserting "and other personnel" after "officers"; and

(E) inserting "or other substance" after "drug"; and

(2) in paragraph (3) by—

(A) striking "$250,000" and inserting in lieu thereof "$125,000 for fiscal year 1989 and annually thereafter for grants to the Government of the Northern Mariana Islands to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services"; and

(B) striking "subsection" and inserting in lieu thereof "Act".

SEC. 5205. PUERTO RICO.

Section 5004(d) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(d)) is amended—

(1) in paragraph (1) by striking all after "Rico" and inserting in lieu thereof "$7,000,000 for fiscal year 1989 and $2,000,000 annually thereafter for grants to the Government of Puerto Rico to carry out the purposes of this Act to be expended in accordance with a plan approved by the Executive Director of White House Task Force on Puerto Rico in consultation with the Attorney General and the Secretaries of Education and Health and Human Services of the United States, to remain available until expended."; and

(2) in paragraph (4) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting "and, upon request of the Government of Puerto Rico, shall provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug".

SEC. 5206. VIRGIN ISLANDS.

Section 5004(e) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(e)) is amended—

(1) in paragraph (1) by striking all after "Islands" and inserting in lieu thereof a comma and "$2,000,000 for fiscal year 1990 and annually thereafter to carry out the purposes of this Act to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services, to remain available until expended.";

(2) in paragraph (2) by striking "should" and inserting in lieu thereof "shall";

(3) in paragraph (3) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and"

(B) inserting "and, upon request of the Government of the Virgin Islands, shall provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug"; and

(4) by adding at the end thereof the following:

"(4) To assist in the prosecution of the violation of the narcotics laws of the United States, the Attorney General of the United States shall assign the necessary personnel to serve in the office of the United States Attorney for the Virgin Islands appointed pursuant to section 27 of the Revised Organic Act of the Virgin Islands, as amended (48 U.S.C. 1617).

"(5) Effective fiscal year 1989, there are authorized to be appropriated for a grant to the Government of the Virgin Islands $2,500,000 to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Secretary of Health and Human Services for a substance abuse facility.".

SEC. 5207. PALAU.

Section 5004 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b) is amended by adding at the end thereof the following:

"(f) Palau.—(1) The Attorney General and the Secretaries of Education and Health and Human Services are authorized to and, upon request of the Government of Palau, shall provide appropriate training, technical assistance, and equipment to carry out the purposes of this Act and any other applicable Federal or insular drug or other substance abuse laws.

"(2) There are authorized to be appropriated $500,000 for fiscal year 1989 and annually thereafter for grants to the Government of Palau to be expended in accordance with a plan to be approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education, State, and Health and Human Services to carry out the purposes of this Act.

"(3) To the extent not prohibited under the Constitution of Palau, upon written request of the President of Palau or by resolution of the Congress of Palau, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Secret Service, the Immigration and Naturalization Service, and the Customs Service are authorized to investigate any United States criminal laws which are applicable in Palau in cooperation with law enforcement agencies of Palau.".

SEC. 5208. PURPOSES.

Section 5002 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494) is amended by—

(1) inserting "and the Trust Territory of the Pacific Islands (or successor governments)" after "States" where it first appears;

(2) inserting "and other substance" before "prevention" and

(3) inserting "and associated" before "insular areas.".

SEC. 5209. ANNUAL REPORTS.

Section 5003 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494a) is amended by—

(1) inserting "(a) IN GENERAL.—" before "The President";

(2) in such subsection (a) inserting ", the Trust Territory of the Pacific Islands," before "and states" in paragraph (1) and after "territories" each place in which it appears in paragraph (2); and

(3) adding at the end thereof the following new subsection:

"(b) TRANSMISSION DATE.—The annual reports required by subsection (a) shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate not later than the first day of October each year. Notwithstanding any other provision of law, for any year that said report is not transmitted to said Committees on or before October 1, no funds shall be expended for the operation of the Office of Territorial and International Affairs of the Department of the Interior nor for the Office of Freely Associated State Affairs for the fiscal year which begins October 1 until said report is transmitted.".

SEC. 5210. DRUG ENFORCEMENT AGENCY PERSONNEL ASSIGNMENTS.

Title V of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494 et seq.) is amended by adding at the end of Subtitle A the following new section:

"SEC. 5005. DRUG ENFORCEMENT AGENCY PERSONNEL ASSIGNMENTS.

"To assist in the enforcement of the controlled substances laws of the United States in coordination with law enforcement officers in insular areas in the eastern Caribbean and in the central and western Pacific, the Administrator of the Drug Enforcement Administration shall assign appropriate personnel and other resources to the Virgin Islands and Guam.".

TITLE VI—COMMITTEE ON THE JUDICIARY

SEC. 6001. SHORT TITLE.

This title may be cited as the "Anti-Drug Abuse Amendments Act of 1988".

Subtitle A—Chemical Diversion and Trafficking

SEC. 6051. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 6052. REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES.

(a) IN GENERAL.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES

"SEC. 310. (a)(1) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall keep a record of the transaction—

"(A) for 4 years after the date of the transaction, if the listed chemical is a precursor chemical or if the transaction involves a tableting machine or an encapsulating machine; and

"(B) for 2 years after the date of the transaction, if the listed chemical is an essential chemical.

"(2) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall retain as a record the certificate copy referred to in subsection (c) for two years after the date of the transaction.

"(3) A record under this subsection shall be retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, a description of the tableting machine or encapsulating machine, and a description of the method of transfer.

"(4) It is the duty of each regulated person who engages in a regulated transaction to obtain identification of each other party to the transaction. It is the duty of such other party to present such identification to the regulated person. The Attorney General shall specify by regulation the types of documents and other evidence that constitute proof of identification for purposes of this paragraph.

"(b) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

"(1) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this title;

"(2) any proposed regulated transaction with a person whose description or other identifying characteristic the Attorney General furnishes in advance to the regulated person;

"(3) any unusual or excessive (as determined under guidelines prescribed by the Attorney General) loss or disappearance of a listed chemical under the control of the regulated person; and

"(4) any regulated transaction in a tableting machine or an encapsulating machine.

Each report under paragraph (1) shall be made at the earliest practicable opportunity after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under paragraph (2) unless the transaction is approved by the Attorney General.

"(c) The transferee of a listed chemical in a regulated transaction shall furnish to the regulated person a certificate of lawful use, in such form and manner as the Attorney General may require. The regulated person—

"(1) not later than 15 working days after the transaction, shall transmit the certificate to the Attorney General; and

"(2) shall retain a copy of the certificate as provided in subsection (a)(2).

Not later than March 31 of each year, the Attorney General shall report to the Congress the number and types of certificates furnished during the preceding fiscal year and shall include in the report an analysis showing the law enforcement effectiveness of the certificate requirement.

"(d)(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

"(2) Information referred to in paragraph (1) may be disclosed only—

"(A) to an officer or employee of the United States engaged in carrying out this title, title III, or the customs laws;

"(B) when relevant in any proceeding for the enforcement of this title, title III, or the customs laws;

"(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

"(D) to a State or local law enforcement, prosecutorial, or judicial officer in conjunction with the enforcement of controlled substances laws.

"(3) The Attorney General shall take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2).

"(4) Any person who is aggrieved by a disclosure of information in violation of this section may bring a civil action against the violator for appropriate relief.

"(e)(1) The Attorney General may prescribe such regulations as may be necessary to carry out this section.

"(2) A regulation relating to subsection (c) of this section—

"(A) shall be prescribed only upon a finding by the Attorney General that the regulation is necessary to provide information to enable the Attorney General to attain the goal of prevention of diversion of listed chemicals to unauthorized manufacture of a controlled substances;

"(B) shall be in force for a period of one year from the effective date of the regulation;

"(C) may be renewed for subsequent one-year periods, upon findings referred to in subparagraph (A);

"(D) shall impose only requirements that are based on factors directly related to the the goal referred to in subparagraph (A);

"(E) shall not require a regulated person to verify any information on a certificate furnished by a transferee; and

"(F) shall provide that a regulated person need not obtain a certificate from a transferee who is a regular customer of the regulated person more than once.

"(3) Each finding of the Attorney General referred to in paragraph (2)(A) shall state in detail each type of (A) chemical, (B) location of a transaction, and (C) party to a transaction, to be covered by the regulation.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Regulation of listed chemicals and certain machines.".

SEC. 6053. NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.

(a) IN GENERAL.—Part A of the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended by adding at the end the following new section:

"NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS

"SEC. 1018. (a) Each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.

"(b)(1) The Attorney General shall provide by regulation for circumstances in which the requirement of subsection (a) does not apply to a transaction between a regulated person and a regular customer of the regulated person.
At the time of any importation or exportation constituting a transaction referred to in the preceding sentence, the regulated person shall notify the Attorney General of the transaction.

(2) The regulations under this subsection shall provide that the initial notification under subsection (a) with respect to a customer of a regulated person shall, upon the expiration of the 15-day period, qualify the customer as a regular customer, unless the Attorney General otherwise notifies the regulated person in writing.

"(c)(1) The Attorney General may order the suspension of any importation or exportation of a listed chemical (other than a regulated transaction to which the requirement of subsection (a) does not apply by reason of subsection (b)) or may disqualify any regular customer on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance. From and after the time when the Attorney General provides written notice of the order (including a statement of the legal and factual basis for the order) to the regulated person, the regulated person may not carry out the transaction.

"(2) Upon written request to the Attorney General, a regulated person to whom an order applies under paragraph (1) is entitled to an agency hearing on the record. The hearing shall be held not later than 45 days after the request is made, except that the hearing may be held at a later time, if so requested by the regulated person.".

(b) EFFECTIVE DATE AND SPECIAL RULE.—Subsection (a) of section 1018 of the Controlled Substances Import and Export Act, as added by subsection (a) of this section, shall take effect 180 days after the Attorney General prescribes the regulations referred to in subsection (b) of such section 1018. Each regular customer whose identity is furnished to the Attorney General not later than 60 days after the Attorney General prescribes such regulations shall be a regular customer for purposes of any applicable exception from the requirement of subsection (a) of such section 1018, unless the Attorney General otherwise notifies the regulated person in writing.

(c) PENALTY FOR IMPORTATION OR EXPORTATION.—Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by adding at the end the following new subsection:

"(d) Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or, in the case of an exportation, in violation of the law of the country to which the chemical is exported; or

"(2) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance in violation of this title or, in the case of an exportation, in violation of the law of the country to which the chemical is exported;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.".

(d) PENALTY FOR FAILURE TO NOTIFY.—Section 1011 of the Controlled Substances Import and Export Act (21 U.S.C. 961) is amended in the matter before paragraph (1) by inserting after "section 1004" the following: "or fails to notify the Attorney General of an importation or exportation under section 1018".

(e) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end of the items relating to part A of title III the following new item:

"Sec. 1018. Notification, suspension of shipment, and penalties with respect to importation and exportation of listed chemicals.".

SEC. 6054. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (8), by inserting "or a listed chemical" after "a controlled substance";

(2) in paragraph (11), by inserting "or a listed chemical" after "a controlled substance" both places it appears; and

(3) by adding at the end the following new paragraphs:

"(33) The term 'listed chemical' means any listed precursor chemical or listed essential chemical.

"(34) The term 'listed precursor chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is critical to the creation of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following:

"(A) Anthranilic acid and its salts.

"(B) Benzyl cyanide.

"(C) Ephedrine, its salts, optical isomers, and salts of optical isomers.

"(D) Ergonovine and its salts.

"(E) Ergotamine and its salts.

"(F) N-Acetylanthranilic acid and its salts.

"(G) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

"(H) Phenylacetic acid and its salts.

"(I) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

"(J) Piperidine and its salts.

"(K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

"(L) 3,4-Methylenedioxyphenyl-2-propanone.

"(35) The term 'listed essential chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this title, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following chemicals:

"(A) Acetic anhydride.

"(B) Acetone.

"(C) Benzyl chloride.

"(D) Ethyl ether.

"(E) Hydriodic acid.

"(F) Potassium permanganate.

"(G) 2-Butanone.

"(H) Toluene.

"(36) The term 'regular customer' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported to the Attorney General.

"(37) The term 'regulated person' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine.

"(38) The term 'regulated transaction' means—

"(A) a distribution, receipt, sale, importation or exportation of a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

"(i) a lawful distribution in the usual course of business between agents or employees of a single regulated person;

"(ii) any category of transaction specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this title or title III;

"(iii) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or

"(iv) any transaction in a chemical mixture; and

"(B) a distribution, importation, or exportation of a tableting machine or encapsulating machine.

"(39) The term 'chemical mixture' means a combination of two or more chemical substances, at least one of which is not a listed precursor chemical or a listed essential chemical, except that such term does not include any combination of a listed precursor chemical or a listed essential chemical with another chemical that is present solely as an impurity.".

SEC. 6055. AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Any person who knowingly or intentionally—

"(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this title; or

"(2) possesses or distributes a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance except as authorized by this title;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

"(e)(1) Whoever knowingly distributes a listed chemical in violation of this title (other than in violation of a recordkeeping or reporting requirement of section 310) shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(2) Whoever possesses any listed chemical, with knowledge that the recordkeeping or reporting requirements of section 310 have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18, United States Code, or imprisoned not more than one year, or both.".

(b) Additional Penalty.—Section 401 of the Controlled Substances Act (21 U.S.C. 841), as amended by subsection (a) of this section, is further amended by adding at the end the following new subsection:

"(f) In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.".

SEC. 6056. AMENDMENTS TO SECTION 402 OF THE CONTROLLED SUBSTANCES ACT.

(a) Confidential Information Amendment.—Section 402(a)(8) of the Controlled Substances Act (21 U.S.C. 842(a)(8)) is amended by inserting after "protection" the following: ", or to use to his own advantage or reveal (other than as authorized by section 310) any information that is confidential under such section".

(b) Identification Amendment.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended to read as follows:

"(9) who is a regulated person to engage in a regulated transaction without obtaining the identification required by 310(a)(3).".

(c) Technical Amendment.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking out subparagraph (C).

(d) Records Violations.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (8), as amended by subsection (a) of this section, by striking out "or" at the end of the paragraph;

(2) in paragraph (9), as amended by subsection (b) of this section, by striking out the period at the end of the paragraph and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(10) to fail to keep a record or make a report under section 310.".

SEC. 6057. AMENDMENTS TO SECTION 403 OF THE CONTROLLED SUBSTANCES ACT.

(a) Additional Offenses.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) in paragraph (4)(B), by striking out "piperidine" and inserting in lieu thereof "a listed chemical";

(2) in paragraph (4)(B), by striking out "or" after the semicolon;

(3) in paragraph (5), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding after paragraph (5) the following new paragraphs:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, with intent to manufacture a controlled substance except as authorized by this title;

"(7) to manufacture, distribute, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title; or

"(8) to create a chemical mixture for the purpose of evading a requirement of section 310 or to receive a chemical mixture created for that purpose.".

(b) Additional Penalty.—Section 403 of the Controlled Substances Act (21 U.S.C. 843), is amended by adding at the end the following new subsection:

"(d) In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.".

SEC. 6058. SUBPOENA POWER.

The first sentence of section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting "or listed chemicals" after "with respect to controlled substances".

SEC. 6059. FORFEITURE.

(a) In General.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new paragraph:

"(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this title or title III.".

(b) Technical Amendment.—Paragraph (3) and paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881 (a) and (4)) are each amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (9)".

SEC. 6060. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle shall take effect 120 days after the enactment of this Act.

Subtitle B—Asset Forfeiture Amendments

SEC. 6151. SHORT TITLE.

This subtitle may be cited as the "Asset Forfeiture Amendments Act of 1988".

SEC. 6152. AUDITS AND REPORTS RELATING TO THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(9) The Comptroller General shall audit the fund annually.".

SEC. 6153. USE OF RESIDUAL AMOUNTS UNDER THE DEPARTMENT OF JUSTICE FORFEITURE FUND.

(a) Deposit in Treasury.—Section 524(c) of title 28, United States Code, as amended by section 6152, is further amended by adding at the end the following new paragraph:

"(10) At the end of each fiscal year, the Attorney General shall deposit in the Treasury as a miscellaneous receipt any amount in the fund that is in excess of the amount necessary to satisfy outstanding obligations of the fund, except that the Attorney General may carry forward in the fund not more than $5,000,000.".

(b) Elimination of Transfer Provision.—Paragraph (1) of section 524(c) of title 28, United States Code, is amended—

(1) by inserting after the semicolon at the end of subparagraph (F) the following: "and";

(2) by striking out "; and" at the end of subparagraph (G) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (H).

(c) Conforming Repeal.—Section 210(b) of the Department of Justice Appropriation Act, 1988, as contained in title II of Public Law 100-202, (28 U.S.C. 524 note) is repealed.

SEC. 6154. EXEMPTION OF CERTAIN CONTRACT SERVICES UNDER THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND FROM ADVERTISING AND PROCUREMENT REQUIREMENTS.

Section 524(c) of title 28, United States Code, as amended by section 6152 and section 6153, is further amended by adding at the end the following new paragraph:

"(11) The Attorney General may exempt contract services referred to in paragraph (1)(A) from section 3709 of the Revised Statutes of the United States and title III of the Federal Property and Administrative Services Act of 1949, if necessary to maintain the security and confidentiality of a criminal or civil investigation.".

SEC. 6155. USE OF DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND FOR SERVICES FOR CERTAIN INFORMATION SYSTEMS.

Section 524(c)(1)(A) of title 28, United States Code, is amended by striking out "90 percent" and inserting in lieu thereof "the majority".

SEC. 6156. ADDITIONAL EXCEPTION TO PROVISION RELATING TO FORFEITURE OF CONVEYANCES.

Paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) in subparagraph (A), by striking out "and" after the semicolon;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner.".

SEC. 6157. RESTORATION OF EQUITABLE SHARING PRINCIPLE RELATING TO TRANSFER OF FORFEITED ASSETS TO STATE AND LOCAL AGENCIES UNDER THE CONTROLLED SUBSTANCES ACT.

(a) In General.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.".

(b) Technical Amendment.—Section 511(e)(1)(A) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(A)) is amended to read as follows:

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 616 of the Tariff Act of 1930, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;".

SEC. 6158. COORDINATION OF POST-SEIZURE PROCEDURES.

(a) IN GENERAL.—Part E of the Controlled Substances Act (21 U.S.C. 871 et seq.) is amended by adding at the end the following new section:

"COORDINATION AND CONSOLIDATION OF POST-SEIZURE ADMINISTRATION

"SEC. 517. The Attorney General and the Secretary of the Treasury shall take such action as may be necessary to develop and maintain a joint plan to coordinate and consolidate post-seizure administration of property seized under this title, title III, or provisions of the customs laws relating to controlled substances.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 516 the following new item:

"517. Coordination and consolidation of post-seizure administration.".

SEC. 6159. EXPEDITED PROCEDURES FOR SEIZED CONVEYANCES.

(a) IN GENERAL.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 511 the following new section:

"EXPEDITED PROCEDURES FOR SEIZED CONVEYANCES

"SEC. 511A. (a)(1) The owner of a conveyance may petition the Attorney General for an expedited decision with respect to the conveyance, if the conveyance is seized for a drug-related offense and the owner has filed the requisite claim and bond in the manner provided in section 608 of the Tariff Act of 1930. The Attorney General shall make a determination on a petition under this section expeditiously, including a determination of any rights or defenses available to the petitioner. If the Attorney General does not grant or deny a petition under this section within 20 days after the date on which the petition is filed, the conveyance shall be returned to the owner pending further forfeiture proceedings.

"(2) With respect to a petition under this section, the Attorney General, after considering whether the evidence establishes that the petitioner has a valid, good faith interest in the seized conveyance as owner or other interested party (inluding lienholder) and that the petitioner at no time had any knowledge or substantial reason to believe that the conveyance was being or would be used in a violation of the law, may—

"(A) deny the petition and retain possession of the conveyance;

"(B) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release the conveyance to the owner; or

"(C) advise the petitioner that there is not adequate information available to determine the petition and promptly release the conveyance to the owner.

"(3) Release of a conveyance under subsection (a)(1) or (a)(2)(C) does not affect any forfeiture action with respect to the conveyance.

"(4) The Attorney General shall prescribe regulations to carry out this section.

"(b) At the time of seizure, the officer making the seizure shall furnish to any person in possession of the conveyance a written notice specifying the procedures under this section. At the earliest practicable opportunity after determining ownership of the seized conveyance, the head of the department or agency that seizes the conveyance shall furnish a written notice to the owner and other interested parties (including lienholders) of the legal and factual basis of the seizure.

"(c) Not later than 30 days after a claim and bond have been filed under section 608 of the Tariff Act of 1930 regarding a conveyance seized for a drug-related offense, the Attorney General shall file a complaint for forfeiture in the appropriate district court, except that the court may extend the period for filing for good cause shown or on agreement of the parties. If the Attorney General does not file a complaint as specified in the preceding sentence, the court shall order the return of the conveyance to the owner and the forfeiture may not take place.

"(d) Any owner of a conveyance seized for a drug-related offense may obtain release of the conveyance by providing security in the form of a bond to the Attorney General in an amount equal to the value of the conveyance unless the Attorney General determines the conveyance should be retained (1) as contraband, (2) as evidence of a violation of law, or (3) because, by reason of design or other characteristic, the conveyance is particularly suited for use in illegal activities.

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 511 the following new item:

"511A. Expedited procedures for seized conveyances.".

SEC. 6160. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall take effect on the date of the enactment of this subtitle, except that the amendments made by sections 6153(a), 6153(b), and 6155, and the repeal made by section 6153(c) shall apply with respect to fiscal years beginning after September 30, 1988.

(b) EFFECTIVE DATE FOR SECTION 6159.—The amendments made by section 6159 shall apply with respect to seizures made more than 120 days after the date of the enactment of this Act.

Subtitle C—State and Local Assistance

SEC. 6201. SHORT TITLE.

This subtitle may be cited as the "State and Local Law Enforcement Assistance Act of 1988".

SEC. 6202. GRANTS TO IMPROVE CRIMINAL HISTORY INFORMATION.

(a) AUTHORITY TO MAKE GRANTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 304 the following section:

"GRANTS TO IMPROVE CRIMINAL HISTORY INFORMATION

"SEC. 305. Not less than 5 per centum of the funds appropriated for a fiscal year to carry out this part shall be used by the Director to make grants under section 302(c) to States and units of local government to improve the accuracy and completeness of criminal history information.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Grants to improve criminal history information.".

SEC. 6203. APPOINTMENT OF THE DIRECTOR OF THE BUREAU OF JUSTICE ASSISTANCE.

The first sentence of section 401(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741(b)) is amended by striking "Attorney General" and inserting "President, by and with the advice and consent of the Senate".

SEC. 6204. ANTITERRORISM PLANS.

Section 403(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)) is amended—

(1) in paragraph (17) by striking "and" at the end,

(2) in paragraph (18) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(19) developing and implementing antiterrorism plans for deep draft ports, international airports, and other important facilities.".

SEC. 6205. CERTIFICATION REQUIREMENT.

Section 1303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796j) is amended—

(1) in paragraph (4) by striking "and",

(2) in paragraph (5) by striking the period and inserting "; and", and

(3) by inserting after paragraph (5) the following:

"(6) a certification that the State is undertaking initiatives to reduce, through the enactment of innovative penalties or increasing law enforcement efforts, the demand for controlled substances by holding accountable those who unlawfully possess or use such substances.".

SEC. 6206. STATE DISTRIBUTION OF FUNDS TO UNITS OF LOCAL GOVERNMENT.

Section 1305(b)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796l(b)(1)) is amended—

(1) by inserting "(A) Except as provided in subparagraph (B)," after "(1)",

(2) by adding at the end the following:

"(B) Except as provided in subparagraph (C), each State that receives funds under subsection (a) shall distribute to a unit of local government (or to a combination of units of local government) in such State for the purposes specified in section 1302 of this title that portion which bears the same ratio to the aggregate amount of such funds as the amount expended by such unit of local government (or such combination of units of local government) for criminal justice in the preceding fiscal year bears to the aggregate amount expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year. Each unit of local government (or combination of units of local government) that receives funds under this subparagraph shall make a good faith effort to participate in the development of the State plan and priorities and to comply with the principles of the State plan and priorities.

"(C)(i) A single unit of local government, or a combination of units of local government, is ineligible to receive funds under subparagraph (B) if the aggregate amount distributable to such unit or such combination (without regard to this clause) is less than $25,000.

"(ii) A unit of local government is ineligible in a fiscal year to receive funds under subparagraph (B) both in its capacity as a single unit of local government and in its capacity as a part of a combination of units of local government.".

SEC. 6207. DIRECT DISTRIBUTION OF FUNDS TO UNITS OF LOCAL GOVERNMENT.

(a) Applications to Receive Grants.—Section 1303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796j) is amended—

(1) by inserting "(a)" after "Sec. 1303.",

(2) by striking "this section" each place it appears and inserting "this subsection", and

(3) by adding at the end thereof the following:

"(b)(1) To request a grant under section 1302 of this title, the chief executive of a unit of local government (or a duly authorized executive officer of any single unit of local government that is part of a combination of units of local government and who is selected by such combination to represent such combination) shall submit to the Director an application at such time and in such form as the Director may require.

"(2) Such application shall include—

"(A) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would otherwise be made available for drug law enforcement activities;

"(B) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipient of such grant;

"(C) an assurance that the applicant has submitted a copy of the application referred to in paragraph (1) to the appropriate State office designated under section 1308 of this title; and

"(D) an assurance that the application referred to in paragraph (1), and any amendment thereto, was made public before submission to the Bureau and, to the extent provided under State or local law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.".

(b) Review of Applications.—Section 1304(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796k(a)) is amended in the matter preceding paragraph (1) by striking "State".

(c) Allocation of Funds and Distribution of Funds.—Section 1305 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796l) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and inserting "(A)",

(B) in paragraph (2) by striking "(2)" and inserting "(B)",

(C) by striking "(a) Of" and inserting "(a)(1) Except as provided in paragraph (2), of", and

(D) by adding at the end the following:

"(2) If a State fails to submit an application for a grant under section 1302 of this title, before the expiration of the preference period for such fiscal year, then except as provided in paragraph (4)—

"(A) there shall be allocated to each eligible unit of local government (or combination of units of local governments) in such State an amount that bears the same ratio to the aggregate amount allocable to such State under paragraph (1) without regard to this paragraph as the amount of funds expended by such unit of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by all units of local government in such State for criminal justice in the preceding fiscal year; and

"(B) there shall be allocated to such State the amount by which the aggregate amount allocable to such State under paragraph (1) without regard to this paragraph exceeds the aggregate amount allocated under subparagraph (A) to units of local government in such State.

"(3) For purposes of paragraph (2)(A), the term 'eligible unit of local government' means a unit of local government that submits an application for a grant under section 1302 of this title for a fiscal year not later than 90 days after the expiration of the preference period for such fiscal year.

"(4)(A) A single unit of local government, or a combination of units of local government, is ineligible to receive an allocation under paragraph (2)(A) for a fiscal year if the amount of such allocation determined under such paragraph with respect to such unit, or all units of local government that are part of such combination, would be less than $25,000.

"(B) A unit of local government is ineligible to receive an allocation under paragraph (2)(A) for a fiscal year both in its capacity as a single unit of local government and in its capacity as a part of a combination of units of local government.

"(5) For purposes of this subsection, the preference period consists of the aggregate of—

"(A)(i) for fiscal year 1989, the 120-day period beginning on the date any funds are appropriated to carry out this part for fiscal year 1989; or

"(ii) for any other fiscal year, the 60-day period beginning on the date any funds are appropriated to carry out this part for such fiscal year; and

"(B) the 60-day period beginning on the expiration of the applicable period referred to in subparagraph (A) if the Director determines that good cause exists for the failure of a State to submit an application for a grant under section 1302 of this title for the fiscal year involved within such applicable period.",

(2) in subsection (b)(1)(A), as amended by section 6206 of this Act, by inserting "(excluding such units and such combinations that receive funds under subsection (a)(2))" after "in such State" the first place it appears, and

(3) in subsection (c) by inserting "or to a unit of local government (or combination of units of local government)" after "to a State".

(d) Reports.—Section 1306 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796m) is amended—

(1) in subsection (a)—

(A) by striking "Each State" and inserting "Each applicant",

(B) in paragraph (1) by inserting "in the case of a State applicant," after "(1)", and

(C) in paragraph (2) by striking "State" and inserting "applicant", and

(2) in subsection (b) by striking "State" each place it appears and inserting "applicant".

(e) Expenditure of Grants; Records.—Section 1307(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796n(c)) is amended—

(1) in paragraph (1)—

(A) by striking "State" and inserting "applicant", and

(B) by inserting "made to a State" after "such grant, and

(2) in paragraph (2)—

(A) by striking "States" and inserting "applicants", and

(B) by inserting "made to a State" after "under section 1302".

SEC. 6208. MATCHING REQUIREMENT.

Section 1307(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796n(a)) is amended by striking "75 per centum" and inserting "50 per centum".

SEC. 6209. DISCRETIONARY GRANTS.

(a) Limitation on Funds for Discretionary Grants.—Section 1311 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796r) is amended by inserting "or $50,000,000, whichever is less" after "20 per centum".

(b) Conforming Amendment.—Section 1305(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796l(a)), as amended by section 6207(c) of this Act, is amended by striking "80 per centum" and inserting "the amount remaining after reserving the amount required to carry out section 1311 of this title".

SEC. 6210. DRUG LAW ENFORCEMENT PILOT PROJECT.

(a) Authority to Make Grants.—Section 1309 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796p) is amended—

(1) by striking "The" and inserting "(a) Subject to subsection (b), the", and

(2) by adding at the end the following:

"(b) With funds set aside to carry out this subsection, the Director is authorized to make grants to States and units of local government to improve drug law enforcement programs by—

"(1) providing additional compensation and incentives (including overtime pay) not normally available to drug law enforcement officers;

"(2) providing additional training for drug law enforcement officers;

"(3) developing programs to recruit youth who reside in areas with a high level of drug-related crime, to become drug law enforcement officers; and

"(4) providing logistical support to increase the efficiency of drug law enforcement officers.",

(b) Funds Set Aside.—Section 1311 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796r) is amended—

(1) by striking "Of" and inserting "(a) Subject to subsection (b), of", and

(2) by adding at the end the following:

"(b) Of the amount required by subsection (a) to be reserved and set aside in any fiscal year, $5,000,000 shall be set aside for section 1309(b) of this title in a special discretionary fund for use by the Director in carrying out the purposes specified in such section.".

(c) Definition.—Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended—

(1) in paragraph (20) by striking "and",

(2) in paragraph (21) by striking the period and inserting "; and", and

(3) by adding at the end thereof the following:

"(22) 'drug law enforcement officer' means a law enforcement officer, as defined in section 1203(5) of this title, who is engaged more than 50 percent of the time he or she is engaged in performing official duties, in enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act.".

SEC. 6211. AUTHORIZATION OF APPROPRIATIONS.

(a) BUREAU OF JUSTICE STATISTICS.—Section 1001(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(1)) is amended—

(1) by striking "years 1984, 1985, 1986, 1987, and" and inserting "year", and

(2) by inserting after "necessary" the following: ", and $30,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992,".

(b) NATIONAL INSTITUTE OF JUSTICE.—Section 1001(a)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(2)) is amended—

(1) by striking "years 1984, 1985, 1986, 1987, and" and inserting "year", and

(2) by inserting after "necessary" the following: ", and $30,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992,".

(c) BUREAU OF JUSTICE ASSISTANCE.—(1) Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended—

(A) by striking "is" and inserting "are",

(B) by striking "each of the fiscal years 1984, 1985, 1986, 1987, and" and inserting "fiscal year", and

(C) by inserting "and $100,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992" after "1988".

(2) Section 1001(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(4)) is amended—

(A) by striking "1984, 1985, 1986, 1987, and", and

(B) by inserting ", 1989, 1990, 1991, and 1992" after "1988".

(3) Section 1001(a)(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)) is amended—

(A) by striking "$230,000,000" the first place it appears and all that follows through "and $230,000,000", and inserting "$250,000,000", and

(B) by inserting "and $500,000,000 for each of the fiscal years 1990, 1991, and 1992" after "1989".

SEC. 6212. AUTHORITY FOR PROGRAMS REGARDING ALCOHOL-DEPENDENT OFFENDERS AND FOR AUTOMATED FINGERPRINT IDENTIFICATION SYSTEMS.

(a) ALCOHOL-DEPENDENT OFFENDERS.—Section 403(a)(8) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)(8)) is amended by adding "and alcohol-dependent offenders" after "drug-dependent offenders".

(b) FINGERPRINT IDENTIFICATION.—Section 403(a)(12) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)(12)) is amended by inserting "(including automated fingerprint identification systems)" after "systems" the first place it appears.

SEC. 6213. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) EFFECTIVE DATE OF SECTIONS 6206 THROUGH 6210.—Sections 6206, 6207, 6208, 6209, and 6210 shall take effect on October 1, 1988.

Subtitle D—Authorizations of Appropriations for the Department of Justice and for Prisons

SEC. 6251. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE.

(a) FISCAL YEAR 1988.—There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for fiscal year 1988 for the Department of Justice for the Drug Enforcement Administration, $4,900,000.

(b) FISCAL YEAR 1989.—(1) There is authorized to be appropriated for fiscal year 1989 for the Department of Justice for the Drug Enforcement Administration, $620,551,000, of which $800,000 shall be available for voice privacy equipment.

(2) There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for fiscal year 1989 for the Department of Justice for Organized Crime Drug Enforcement, $9,000,000.

(3) There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for fiscal year 1989 for the Department of Justice for the Immigration and Naturalization Service, $82,300,000, to be used for the purposes of interdiction activities, investigations, detention and deportation, training and orientation.

(4) There is authorized to be appropriated for fiscal year 1989 for the Department of Justice for the Federal Bureau of Investigation for drug enforcement and related activities, $148,893,000.

SEC. 6252. AUTHORIZATION OF APPROPRIATIONS FOR PRISONS.

There is authorized to be appropriated $1,380,084,000 for fiscal year 1989 for the Federal prison system.

SEC. 6253. DRUG ENFORCEMENT ADMINISTRATION AIR WING FACILITY.

The Administrator of the Drug Enforcement Administration shall take such action (including site acquisition, purchase of equipment and fixtures, and relocation from any former facility) as may be necessary to establish, maintain, and operate a special purpose facility for the use of the Drug Enforcement Administration Air Wing, to be located at a site having direct aircraft access to public aviation facilities. To carry out this section, there is authorized to be appropriated for the Department of Justice for the Drug Enforcement Administration, $10,800,000.

Subtitle E—Money Laundering

SEC. 6301. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Prosecution Improvements Act of 1988".

SEC. 6302. INVESTIGATIVE AUTHORITY.

(a) SECTION 1956 VIOLATIONS.—Section 1956(e) of title 18, United States Code, is amended—

(1) by inserting "(including the Internal Revenue Service)" after "Department of the Treasury";

(2) by inserting after the first sentence the following: "Violations of this section involving specified unlawful activity which the United States Postal Service may investigate may also be investigated by the United States Postal Service."; and

(3) by inserting "and the United States Postal Service" after "the Secretary of the Treasury" each place it appears in the final sentence.

(b) SECTION 1957 VIOLATIONS.—Section 1957(e) of title 18, United States Code, is amended—

(1) by inserting "(including the Internal Revenue Service)" after "Department of the Treasury";

(2) by inserting after the first sentence the following: "Violations of this section involving specified unlawful activity which the United States Postal Service may investigate may also be investigated by the United States Postal Service."; and

(3) by inserting "and the United States Postal Service" after "the Secretary of the Treasury" each place it appears in the final sentence.

(c) CONFORMING AMENDMENTS TO SECTION 981.—Section 981 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "or the United States Postal Service" after "Secretary of the Treasury" the first place it appears; and

(B) by inserting "or the United States Postal Service, as the case may be," after "Secretary of the Treasury" the second place it appears; and

(2) in each of subsections (c) through (e), by inserting "or the United States Postal Service" after "Secretary of the Treasury" each place it appears.

SEC. 6303. APPLICATION OF SECTION 1957 TO ATTORNEYS FEES.

Section 1957(a) of title 18, United States Code, is amended by adding at the end the following: "This subsection does not apply to monetary transactions involving the bona fide fees an attorney accepts for representing a client in a criminal investigation or any proceeding arising therefrom.".

SEC. 6304. CROSS REFERENCE TECHNICAL CORRECTIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 38 of the Arms Export Control Act" and all that follows through "(50 U.S.C. App. 3)" and inserting in lieu thereof "section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, or section 16 (relating to offenses and punishment) of the Trading with the Enemy Act.".

SEC. 6305. DEFINITION OF MONETARY INSTRUMENT FOR MONEY LAUNDERING OFFENSES.

Section 1957 of title 18, United States Code, is amended by striking out "for the purposes of subchapter II of chapter 53 of title 31" and inserting "in section 1956(c)(5) of this title" in lieu thereof.

SEC. 6306. MONEY LAUNDERING WITH INTENT TO VIOLATE THE INTERNAL REVENUE CODE OF 1986.

Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

"(3) Whoever knowingly conducts or attempts to conduct a financial transaction that in whole or in part involves the proceeds of specified unlawful activity with intent to violate section 7201 or 7206 of the Internal Revenue Code of 1986 shall be sentenced to a fine under this title or in an amount not more than twice the value of the monetary instrument or funds involved in the transaction, whichever is greater, or imprisonment for not more than 20 years, or both.".

Subtitle F—Sense of Congress That Proposals To Legalize Illicit Drugs Should Be Rejected

SEC. 6401. SENSE OF CONGRESS THAT PROPOSALS TO LEGALIZE ILLICIT DRUGS SHOULD BE REJECTED.

It is the sense of Congress that—

(1) proposals to combat sale and use of illicit drugs by legalization should be rejected; and

(2) consideration should be given only to proposals to attack directly the supply of, and demand for, illicit drugs, such as proposals to strengthen and expand penalties for sale and use, proposals to encourage greater multinational cooperation in eradication and interdiction, and proposals to promote educational awareness programs for young people.

Subtitle G—Firearms Provisions

SEC. 6501. INTERDICTION OF SUPPLY OF FIREARMS TO DRUG TRAFFICKERS.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(f) Whoever, with the intent to engage in conduct which—

"(1) constitutes an offense listed in section 1961(1),

"(2) is punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

"(3) violates any State law relating to any controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

"(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

"(g) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years, fined in accordance with this title, or both.".

SEC. 6502. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OR CARRYING OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of section 924(c) of title 18, United States Code, and paragraph (2) of section 929(a) of title 18, United States Code, are each amended to read as follows:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).".

SEC. 6503. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(p)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923 unless—

"(A)(i) such transferor, before delivery of the handgun and within one day after the date the transferee proposes such transfer, has sent, by registered or certified mail (return receipt requested), a copy of a sworn statement by the transferee to the chief law enforcement officer of the place of residence of the transferee notifying such officer of the proposed transaction; and

"(ii) 7 days have elapsed from the date such sworn statement was sent and such transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal law or of a State or local law of the residence of the transferee; or

"(B) the transferee has presented to the transferor a certificate from the chief law enforcement officer of the place of residence of the transferee which states that the transferee requires access to a handgun because of a threat to the life of the transferee.

"(2) Nothing in this subsection shall be interpreted to require any action by a chief law enforcement officer which is not otherwise required.

"(3) The sworn statement referred to in paragraph (1) shall contain only—

"(A) an accurate description of the handgun which is the subject of the proposed transaction;

"(B) the serial number of the handgun;

"(C) the name, address, and date of birth appearing on a valid piece of the transferee's personal identification containing a photograph of the transferee and a description of the identification used;

"(D) a statement that Federal law does not prohibit the receipt of the handgun by the transferee; and

"(E) the date the sworn statement is made.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee is in violation of Federal law or of State or local law of the residence of the transferee shall immediately communicate all information such transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of—

"(i) the place of business of the transferor, in the case the transferor is a licensed importer, licensed manufacturer, or licensed dealer; or

"(ii) the place of residence of the transferor, in any other case; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except incident to the proposed transaction.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the sworn statement of the transferee with respect to the handgun transaction for at least one year after the date the transaction is completed.

"(B) Unless the chief law enforcement officer to whom a copy of such sworn statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall destroy such copy within 60 days after the date the transferee made such statement.

"(7)(A) Notwithstanding any other provision of this title, any licensed importer, licensed manufacturer, or licensed dealer who violates this subsection shall be fined not more than $1,000, or imprisoned for not more than one year, or both.

"(B) The penalties provided in this paragraph shall be the only penalties imposed for a violation of this subsection.

"(8) For purposes of this subsection, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(9) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(25) The term 'handgun' means a firearm which has a short stock and is designed to be held and fired by the use of a single hand or any combination of parts from which a handgun can be assembled.".

(c) EFFECT ON STATE LAW.—Section 927 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "No"; and

(2) adding at the end the following:

"(b) A provision of State law is not in direct and positive conflict with section 922(p) if such provision provides—

"(1) for a waiting period of at least 7 days before the transfer of a handgun; or

"(2) that, before a handgun transfer is completed, a law enforcement officer shall determine that the transferee is qualified under law to receive a handgun.".

(d) CONFORMING AMENDMENT.—Section 924(a)(1) of title 18, United States Code, is amended by inserting "section 922(p)," after "section," the first place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

(f) DESIGNATION OF SECTION.—This section may be cited as the "Brady Amendment".

Subtitle H—Investigative Powers of Postal Service Personnel and National Forest System Drug Control

SEC. 6551. INVESTIGATIVE POWERS OF POSTAL SERVICE PERSONNEL.

(a) IN GENERAL.—Section 3061 of title 18, United States Code, is amended to read as follows:

"§ 3061. Investigative powers of Postal Service personnel

"(a) Subject to subsection (b) of this section, Postal Inspectors and other agents of the United States Postal Service designated by the Board of Governors to investigate criminal matters related to the Postal Service and the mails may—

"(1) serve warrants and subpoenas issued under the authority of the United States;

"(2) make arrests without warrant for offenses against the United States committed in their presence;

"(3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

"(4) carry firearms; and

"(5) make seizures of property as provided by law.

"(b) The powers granted by subsection (a) of this section shall be exercised only—

"(1) in the enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails, and other postal offenses; and

"(2) to the extent authorized by the Attorney General pursuant to agreement between the Attorney General and the Postal Service, in the enforcement of other laws of the United States, if the Attorney General determines that violations of such laws have a detrimental effect upon the operations of the Postal Service.".

(b) CLERICAL AMENDMENT.—The item relating to section 3061 in the table of sections of chapter 203 of title 18, United States Code, is amended to read as follows:

"3061. Investigative powers of Postal Service personnel.

SEC. 6552. POSTAL SERVICE FUND AMENDMENTS.

Section 2003(b)(7) of title 39, United States Code, is amended—

(1) by striking out "administrative"; and

(2) by striking out "under title 18".

SEC. 6553. CIVIL FORFEITURE AUTHORITY OF THE POSTAL SERVICE UNDER THE CONTROLLED SUBSTANCES ACT.

(a) In General.—Section 511 of the Controlled Substances Act (21 U.S.C. 881), as amended by section 6159, is further amended by adding at the end the following new subsection:

"(l) The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.".

(b) Deposits of Proceeds in Postal Service Fund.—Section 511(e)(2)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(2)(B)) is amended by striking out the period at the end and inserting in lieu thereof the following: ", except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, United States Code, such moneys and proceeds."

SEC. 6554. NATIONAL FOREST SYSTEM DRUG CONTROL.

(a) Officers.—Section 15003 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) is amended to read as follows:

"SEC. 15003. ENFORCEMENT.

"(a) The Secretary of Agriculture may designate and specially train employees of the Forest Service as officers to enforce—

"(1) criminal laws relating to controlled substances that are manufactured or distributed on National Forest System lands; and

"(2) any other Federal criminal law relating to the administration of the National Forest System lands.

"(b) The Secretary may authorize such officers, in the performance of duties under subsection (a)—

"(1) to carry firearms and conduct investigations;

"(2) to make arrests with a warrant in the case of any felony or misdemeanor;

"(3) to make arrests without a warrant in the case of any misdemeanor committed in the presence of the officer and in the case of any felony;

"(4) to serve warrants and other process; and

"(5) to conduct searches and seizures.".

(b) Assistance From Other Departments and Agencies.—Section 15004 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559d) is amended—

(1) in paragraph (1), by striking out "and" after the semicolon;

(2) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the Secretary of Agriculture is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authority of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service.".

(c) Agreement.—Section 15007 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559f) is amended by striking out "conferred herein" and inserting in lieu thereof "under section 15003(a)(1)".

(d) Report.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Secretary of Agriculture shall each submit a report to the Committee on Agriculture, the Committee on Interior and Insular Affairs, and the Committee on the Judiciary of the House of Representatives, and to the Committee on Agriculture, the Committee on Energy and Natural Resources, and the Committee on the Judiciary of the Senate on the activities of the Attorney General and the Secretary of Agriculture in expediting investigations referred to in section 15003(a)(1) of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559b et seq.).

Subtitle I—Travel Expenses and Health Care of Department of Justice Personnel Serving Abroad

SEC. 6601. AUTHORIZATION OF APPROPRIATIONS FOR TRAVEL AND RELATED EXPENSES AND FOR HEALTH CARE OF DEPARTMENT OF JUSTICE PERSONNEL SERVING ABROAD.

(a) In General.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 530A. Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad

"There are authorized to be appropriated, for any fiscal year, for the Department of Justice, such sums as may be necessary—

"(1) for travel and related expenses of employees of the Department of Justice serving abroad and their families, to be payable in the same manner as applicable with respect to the Foreign Service under paragraphs (3), (5), (6), (8), (9), (11), and (15) of section 901 of the Foreign Service Act of 1980; and

"(2) for health care for such employees and families, to be provided under section 904 of that Act.".

(b) Clerical Amendment.—The table of section for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad.".

Subtitle J—Program-Related and Study Provisions

SEC. 6651. ENHANCEMENT OF THE DRUG AFTERCARE PROGRAM OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 (18 U.S.C. 4255 note) is amended by—

(1) striking out "$14,000,000" and inserting "$24,000,000" in lieu thereof, and

(2) striking out "$16,000,000" and inserting "$26,000,000" in lieu thereof.

SEC. 6652. DEMONSTRATION PROGRAM FOR DRUG TESTING OF ARRESTED PERSONS.

(a) Establishment.—The Director of the Administrative Office of the United States Courts shall establish a demonstration program of mandatory testing of criminal defendants.

(b) Length of Program.—The demonstration program shall begin not later than January 1, 1989, and shall last one year.

(c) Selection of Districts.—The Judicial Conference of the United States shall select 5 Federal judicial districts in which to carry out the demonstration program, so that the group selected represents a mix of districts on the basis of criminal caseload and the types of cases in that caseload.

(d) Inclusion in Pretrial Services.—In each of the districts in which the demonstration program takes place, pretrial services under chapter 207 of title 18, United States Code, shall arrange for the drug testing of defendants in criminal cases. To the extent feasible, such testing shall be completed before the defendant makes the defendant's initial appearance in the case before a judicial officer. The results of such testing shall be included in the report to the judicial officer under section 3154 of title 18, United States Code.

(e) Report to Congress—Not later than 90 days after the end of the demonstration program, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the demonstration program and include in such report recommendations as to whether mandatory drug testing of defendants should be made more general and permanent.

SEC. 6653. NATIONAL TRAINING CENTER FOR PRISON DRUG REHABILITATION PROGRAM PERSONNEL.

(a) In General.—The Director of the National Institute of Corrections, in consultation with persons with expertise in the field of community-based drug rehabilitation, shall establish and operate, at any suitable location, a national training center (hereinafter in this section referred to as the "center") for training Federal, State, and local prison officials to conduct drug rehabilitation programs for criminals convicted of drug-related crimes and for drug-dependent criminals. Programs conducted at the center shall include training for correctional officers, administrative staff, and correctional mental health professionals (including subcontracting agency personnel).

(b) Design and Construction of Facilities.—The Director of the National Institute of Corrections shall design and construct facilities for the center.

(c) Authorization of Appropriations.—In addition to amounts otherwise authorized to be appropriated with respect to the National Institute of Corrections, there are authorized to be appropriated to the Director of the National Institute of Corrections—

(1) for establishment and operation of the center, for curriculum development for the center, and for salaries and expenses of personnel at the center, not more than $4,000,000 for each of fiscal years 1989, 1990, and 1991; and

(2) for design and construction of facilities for the center, not more than $10,000,000 for fiscal years 1989, 1990, and 1991.

SEC. 6654. STUDY OF ALTERNATIVE JUDICIAL SYSTEM.

The Attorney General shall study the feasibility of prosecuting Federal drug-related offenses in a manner alternative or supplemental to the current criminal justice system. The Attorney General shall report the results of such study to Congress not later than 180 days after the date of the enactment of this Act.

Subtitle K—Manufacturing Offenses

SEC. 6701. CRIMINAL PENALTY FOR ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING A CONTROLLED SUBSTANCE.

(a) In General.—Part D of the Controlled Substances Act is amended by adding at the end the following new section:

"ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING A CONTROLLED SUBSTANCE

"Sec. 417. Whoever, while manufacturing a controlled substance in violation of this title, or attempting to do so, creates a substantial risk of harm to human life shall be fined in accordance with title 18, United

States Code, or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end of the items relating to part D of title II the following new items:

"416. Establishment of manufacturing operations.

"417. Endangering human life while illegally manufacturing a controlled substance.".

Subtitle L—Common Carrier, Locomotive, and Motor Vehicle Offenses

SEC. 6751. AMENDMENT RELATING TO CERTAIN PRESUMPTIONS.

Section 343(1) of title 18, United States Code, is amended by inserting "percent" after ".10".

SEC. 6752. INCREASED PENALTY FOR OPERATION OF LOCOMOTIVE OR COMMON CARRIER WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

Section 342 of title 18, United States Code, is amended—

(1) by inserting "locomotive or" after "operation of a"; and

(2) by striking out "drugs," and all that follows through the end of the section and inserting in lieu thereof the following:

"drugs—

"(1) if death results, shall be fined under this title or imprisoned not more than 20 years, or both;

"(2) if serious bodily injury results, shall be fined under this title or imprisoned not more than 10 years, or both; and

"(3) in any other case, shall be fined under this title or imprisoned not more than 5 years, or both.".

SEC. 6753. LICENSE SUSPENSION AND OTHER PENALTIES FOR DRUNK AND DRUGGED DRIVING IN FEDERAL AREAS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. License suspension and other penalties for drunk and drugged driving in Federal areas

"(a) Any penalty that, under the law of a State, territory, possession, or district, may be imposed pursuant to a conviction for drunk driving or drugged driving is, for purposes of section 13 of this title, a punishment provided by that law.

"(b) Any driving restriction imposed pursuant to a conviction for drunk driving or drugged driving under such section 13 shall apply only with respect to the special maritime and territorial jurisdiction of the United States.

"(c) As used in this section—

"(1) the term 'penalty' means, with respect to the offense of drunk driving or drugged driving, any criminal penalty or administrative or other sanction (including a driving restriction) that may be imposed for the offense under the law of a State, territory, possession, or district;

"(2) the term 'drunk driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, alcohol, however such offense is denominated and defined under applicable law;

"(3) the term 'drugged driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, a drug, however such offense is denominated and defined under applicable law; and

"(4) the term 'driving restriction' means a license suspension or other penalty that restricts the privilege of operating a motor vehicle.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. License suspension and other penalties for drunk or drugged driving in Federal areas.".

SEC. 6754. CONSENT OF MOTOR VEHICLE OPERATORS TO ALCOHOL AND DRUG TESTS IN FEDERAL AREAS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, as amended by section 1403, is further amended by adding at the end the following new section:

"§ 37. Consent of motor vehicle operators to alcohol and drug tests in Federal areas

"(a)(1) An individual who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents, by reason of such operation, to submit to alcohol tests and drug tests, to be administered upon a determination by the appropriate law enforcement officer that there are reasonable grounds to believe the individual has committed the offense of drunk driving or drugged driving in that jurisdiction.

"(2) An individual may revoke the consent referred to in paragraph (1) by declining to submit to a test.

"(b) Before administration of a test under this section, the appropriate law enforcement officer shall inform the individual of—

"(A) the right of revocation under this section; and

"(B) the matters described in subsection (c).

"(c)(1) The results of any test and evidence of the circumstances of any revocation of consent under this section are admissible in any criminal, civil, or administrative proceeding to the extent provided by applicable law or rule.

"(2) An individual who, after having been informed under subsection (b), declines to submit to a test under subsection (a), may not operate a motor vehicle in the special maritime and territorial jurisdiction of the United States for one year, beginning on the date the individual so declines.

"(3) An individual who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States in violation of paragraph (2) shall be considered for all purposes to have so operated such vehicle without a license or other authority to do so.

"(d) As used in this section—

"(1) the term 'alcohol test' means a chemical test of the blood, breath, or urine of an individual to determine if the individual is impaired by, or under the influence of, alcohol;

"(2) the term 'drug test' means a chemical test of the blood, breath, or urine of an individual to determine if the individual is impaired by, or under the influence of, a drug;

"(3) the term 'drunk driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, alcohol, however such offense is denominated and defined under applicable law."; and

"(4) the term 'drugged driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, a drug, however such offense is denominated and defined under applicable law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 205 of title 18, United States Code, as amended by section 1403, is further amended by adding at the end the following new item:

"37. Consent of motor vehicle operators to alcohol and drug tests in Federal areas.".

TITLE VII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 7001. SHORT TITLE.

This title may be cited as the "Coast Guard Drug Enforcement Act of 1988".

SEC. 7002. AUTHORITY AND PROTECTION OF COMMANDING OFFICERS ON NAVAL VESSELS TO WHICH COAST GUARD PERSONNEL ARE ASSIGNED.

(a) IN GENERAL.—Section 637 of title 14, United States Code, is amended to read as follows:

"§ 637. Stopping vessels; immunity for firing at or into vessel

"(a) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal, fire at or into the vessel which does not stop.

"(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

"(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

"(1) it is a Coast Guard vessel or aircraft; or

"(2) it is a surface naval vessel on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10.".

(b) CONFORMING AMENDMENT.—The item relating to section 637 in the table of sections at the beginning of chapter 17 of title 14, United States Code, is amended to read as follows:

"637. Stopping vessels; immunity for firing at or into vessel.".

SEC. 7003. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) SECTION 3(a) AMENDMENT.—Section 3(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (46 U.S.C. App. 1903(a)), is amended by inserting after "jurisdiction of the United States," the following: "or who is a citizen of the United States or a resident alien of the United States on board any vessel,".

(b) SECTION 3(b) AMENDMENT.—Section 3(b)(2) of such Act (46 U.S.C. App. 1903(b)(2)) is amended by inserting after "High Seas" the following: "and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of United States law".

SEC. 7004. INDEMNIFICATION OF COAST GUARD MEMBERS AND EMPLOYEES.

(a) In General.—Title 14, United States Code, is amended by inserting after section 644 the following:

"§ 645. Indemnification of Coast Guard members and employees.

"The Commandant may indemnify any member or employee of the Coast Guard against any claim or judgment against the member or employee if the claim or judgment arises out of an act committed, as determined by the Commandant, within the scope of the official duties of the member or employee in carrying out law enforcement activities.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"645. Indemnification of Coast Guard members and employees.".

SEC. 7005. AMENDMENTS TO SUITS IN ADMIRALTY ACT AND PUBLIC VESSELS ACT.

(a) Amendment to Suits in Admiralty Act.—Section 2 of the Act of March 9, 1920 (46 U.S.C. App. 742; commonly known as the Suits in Admiralty Act) is amended—

(1) in the first sentence by striking "In cases" and inserting in lieu thereof "(a) Subject to subsection (b), in cases"; and

(2) by adding at the end the following:

"(b) No proceeding may be brought under this section against the United States, and no proceeding may be brought under any law against an employee of the United States, for an act or omission of the employee while acting in the scope of employment, with respect to the following claims:

"(1) Any claim based on an act or omission of an employee of the United States Government exercising due care in executing a statute or regulation, whether or not the statute or regulation is valid.

"(2) Any claim based on the exercise or performance, or a failure to exercise or perform, a discretionary function or duty by a Federal agency or an employee of the United States Government, whether or not involving an abuse of discretion by the agency or employee.

"(3) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

"(4) Any claim arising out of the assessment or collection of any tax or customs duty, the detention of any goods or merchandise, by any officer of the customs or by any other investigative or law enforcement officer.

"(5) Any claim arising out of an act or omission of any employee of the United States in administering the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

"(6) Any claim for damages arising out of the imposition or establishment of a quarantine by the United States.

"(7) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights. With regard to acts or omissions of investigative or law enforcement officers of the United States Government, this Act shall apply to any claim arising on or after the date of the enactment of this subsection out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution.

"(8) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

"(9) Any claim arising out of the combatant activities of the military or naval forces (including the Coast Guard) during time of war.

"(c) In this section, the term 'investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of United States law.".

(b) Amendment to Public Vessels Act.—Section 1 of the Act of March 3, 1925 (46 U.S.C. App. 781; commonly known as the Public Vessels Act) is amended—

(1) by striking "A libel" and inserting in lieu thereof "(a) Subject to subsection (b), a libel"; and

(2) by adding at the end the following:

"(b) No libel or petition may be brought under this section for any claim described in section 2(b) of the Act of March 9, 1920 (46 U.S.C. App. 742(b)(1); commonly known as the Suits in Admiralty Act).".

SEC. 7006. COAST GUARD LAW ENFORCEMENT DUTIES.

Section 2 of title 14, United States Code, is amended—

(1) by striking "on and under" the first time it appears and inserting in lieu thereof "on, under, and over"; and

(2) by striking "United States;" the first place it appears and inserting in lieu thereof "United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;".

SEC. 7007. GREAT LAKES DRUG INTERDICTION.

(a) Interagency Agreement.—The Secretary of Transportation and the Secretary of the Treasury shall enter into an agreement for the purpose of increasing the effectiveness of maritime drug interdiction activities of the Coast Guard and the Customs Service in the Great Lakes area.

(b) Negotiations With Canada on Drug Enforcement Cooperation.—The Secretary of State is encouraged to enter into negotiations with appropriate officials of the Government of Canada for the purpose of establishing an agreement between the United States and Canada which provides for increased cooperation and sharing of information between United States and Canadian law enforcement officials with respect to law enforcement efforts conducted on the Great Lakes between the United States and Canada.

SEC. 7008. FORFEITURES OF CONVEYANCES.

Section 2 of the Act of August 9, 1939 (chapter 618, 53 Stat. 1291; 49 U.S.C. App. 782), is amended by adding at the end the following: "No vessel, vehicle, or aircraft shall be forfeited under this section to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge or consent of the owner.".

SEC. 7009. AUTHORIZATION OF APPROPRIATIONS.

(a) Additional Authorization of Appropriations for the Coast Guard.—

(1) Acquisition, construction, and improvements.—There are authorized to be appropriated for acquisition, construction, and improvements of the Coast Guard $264,000,000 for fiscal year 1989, to remain available until expended.

(2) Operating expenses.—There are authorized to be appropriated for operating expenses of the Coast Guard $82,000,000 for fiscal year 1989 and $30,000,000 for each of fiscal years 1990, 1991, and 1992, to remain available until expended. Amounts appropriated pursuant to this paragraph shall be used to increase by 500 the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal years 1989, 1990, 1991, and 1992, and to procure, enhance, relocate, operate, and maintain vessels, aircraft, radar, equipment, and structures by the Coast Guard for drug interdiction purposes.

(b) Amounts in Addition to Other Amounts.—Amounts and personnel authorized by this section are in addition to any other amounts or personnel strengths authorized for the Coast Guard for any fiscal year.

(c) Authorization Enhancement.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

TITLE VIII—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SEC. 8001. SHORT TITLE.

This title may be cited as the "Federal Aviation Administration Drug Enforcement Assistance Act of 1988".

SEC. 8002. FINDINGS AND POLICY.

(a) Findings.—Congress makes the following findings:

(1) Illegal drug consumption and the trafficking in illegal drugs is a major problem in the United States.

(2) The smuggling of drugs into the United States through the use of general aviation aircraft is a major contributing factor in the illegal drug crisis facing our Nation.

(3) The Federal Government has a significant role in combatting such drug crisis.

(4) The Federal Aviation Administration has played an important role in assisting law enforcement agencies in certain aspects of drug interdiction and enforcement activities.

(5) The current systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and enforcement of the requirements associated with such systems need to be improved in order to more effectively contribute to drug interdiction and enforcement efforts.

(6) Improving such systems and enforcement of such requirements will require providing the Federal Aviation Administration with additional funding and other resources.

(7) Improved systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and increased enforcement of requirements associated with such systems will benefit all users of such systems (including law enforcement officials) and the general public.

(b) Policy.—Section 103 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1303) is amended by redesignating paragraphs (a), (b), (c), (d), and (e) (and any references thereto) as paragraphs (1), (2), (3), (4), and (5), respectively, by striking out the semicolons at the end of each of paragraphs (1), (2), (3), and (4) (as so redesignated) and inserting in lieu thereof a period, and by adding at the end thereof the following new paragraph:

"(6) The provision of assistance to law enforcement agencies in the enforcement of laws relating to the regulation of controlled substances, to the extent consistent with aviation safety.".

SEC. 8003. AIRCRAFT REGISTRATION SYSTEM.

(a) Modification Authority.—Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end thereof the following new subsection:

"(h) Modification of System.—The Administrator is authorized and directed to make such modifications in the system established under this title for registration and recordation of aircraft as may be necessary to make such system more effective in serving the needs of buyers and sellers of aircraft, officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act), and other users of such system. Such modifications may include a system of titling aircraft or of registering all aircraft whether or not operated, shall assure positive, verifiable, and timely identification of the true owner, and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The registration of aircraft to fictitious persons.

"(2) The use of false or nonexistent addresses by persons registering aircraft.

"(3) The use by a person registering an aircraft of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The registration of aircraft to corporations and other entities established to facilitate unlawful activities.

"(5) The submission of names of individuals on applications for registration of aircraft which are not identifiable.

"(6) The ability to make frequent legal changes in the registration markings which are assigned to aircraft.

"(7) The use of false registration markings on aircraft.

"(8) The illegal use of 'reserved' registration markings on aircraft.

"(9) The large number of aircraft which are classified as being in 'self-reported status'.

"(10) The lack of a system to assure timely and adequate notice of the transfer of ownership of aircraft.

"(11) The practice of allowing temporary operation and navigation of aircraft without issuance of a certificate of registration under this section.".

(b) Conforming Amendment to Table of Contents.—That portion of the table of contents contained in section 1 of such Act relating to section 501 of such Act is amended by adding at the end thereof the following:

"(h) Modification of system.".

SEC. 8004. MODIFICATION OF SYSTEM FOR ISSUING AIRMAN'S CERTIFICATES TO PILOTS.

(a) Modification Authority.—Section 602 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422) is amended by adding at the end thereof the following new subsection:

"(d) Modification of System.—The Administrator is authorized and directed to make such modifications in the system established under this title for issuance of airman's certificates to pilots as may be necessary to make such system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall assure positive and verifiable identification of each person applying for or holding such a certificate and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The use of fictitious names and addresses by applicants for such certificates.

"(2) The use of stolen or fraudulent identification in applying for such certificates.

"(3) The use by a person applying for such a certificate of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The use of counterfeit and stolen airman's certificates by pilots.

"(5) The absence of information concerning physical characteristics of holders of such certificates.".

(b) Conforming Amendment to Table of Contents.—That portion of the table of contents contained in section 1 of such Act relating to section 602 of such Act is amended by adding at the end thereof the following:

"(d) Modification of system.".

SEC. 8005. MODIFICATION OF SYSTEM FOR PROCESSING FORMS FOR ALTERATIONS OF FUEL SYSTEMS.

(a) Modification Authority.—Section 605 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1425) is amended by adding at the end thereof the following new subsection:

"(c) Modification of System.—The Administrator is authorized and directed to make such modifications in the system established under this title for processing forms for major repairs or alterations of fuel tanks and fuel systems of aircraft as may be necessary to make such system more effective in serving the needs of users of such system, including officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The lack of a special identification feature to permit such forms to be easily distinguished from other major repair and alteration forms.

"(2) The excessive amount of time required for receiving such forms at the Airmen and Aircraft Registry of the Federal Aviation Administration.

"(3) The backlog of such forms which are awaiting processing at the Airmen and Aircraft Registry.

"(4) The lack of ready access by law enforcement officials to information contained on such forms.".

(b) Conforming Amendment to Table of Contents.—That portion of the table of contents contained in section 1 of such Act relating to section 605 of such Act is amended by adding at the end thereof the following:

"(c) Modification of system.".

SEC. 8006. REGISTRATION, CERTIFICATION, AND FUEL SYSTEM ALTERATION REGULATIONS.

(a) Rulemaking.—Not later than 10 months after the date of the enactment of this title, the Administrator shall issue final regulations for carrying out the objectives of sections 501(h), 602(d), and 605(c) of the Federal Aviation Act of 1958 and provide a written explanation of how such regulations address each of the deficiencies and abuses required to be addressed by such sections. Such regulations shall include, but not limited to, a requirement that each individual listed in an application for registration of an aircraft provide, together with such application, his or her driver's license number and each person (other than an individual) listed in such an application provide, together with such application, its Federal tax identification number.

(b) Consultation Requirement.—In issuing regulations in accordance with this section, the Administrator shall consult the Drug Enforcement Administration of the Department of Justice, the United States Customs Service, other Federal law enforcement officials, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(c) Fees.—

(1) General rules.—Section 313 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354) is amended by adding at the end thereof the following new subsection:

"(f) Processing Fees.—

"(1) Establishment and collection.—The Administrator may establish and collect such fees as may be necessary to cover the costs associated with issuance of certificates of registration of aircraft, issuance of airman certificates to pilots, and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(2) Maximum fee schedule.—The amount of any fee which may be collected under this subsection—

"(A) with respect to issuance of an airman's certificate to a pilot may not exceed $12;

"(B) with respect to registration of an aircraft after transfer of ownership may not exceed $25;

"(C) with respect to renewal of an aircraft registration may not exceed $15; and

"(D) with respect to processing of a form for a major repair or alteration of a fuel tank or fuel system of an aircraft may not exceed $7.50.

The amounts established by this paragraph shall be adjusted by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(3) Limitation.—No fee may be collected under this subsection before the date on which the final regulations referred to in section 6(a) of the Federal Aviation Administration Drug Enforcement Assistance Act of 1988 take effect.

"(4) Credit to account; availability.—The amount of fees collected under this subsection shall be credited to the account in the United States Treasury from which expenses were incurred by the Administrator for carrying out titles V and VI of this Act and shall be available to the Administrator for paying expenses for which such fees are collected.".

(2) Conforming amendment to table of contents.—That portion of the table of contents contained in section 1 of such Act relating to section 313 is amended by adding at the end thereof the following:

"(f) Processing fees.".

(3) Conforming amendment to section 334 of title 49.—The first sentence of section 334 of title 49, United States Code, is amended by striking out "only when" and all that follows through the period and inserting in lieu thereof the following:

"only when—

"(1) the charge—

"(A) was in effect on January 1, 1973, and

"(B) is not more than the charge that was in effect on such date, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed; or

"(2) the charge is a fee established and collected in accordance with section 313(f) of the Federal Aviation Act of 1958.".

(4) GAO Audit.—During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958, the Comptroller General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit.

(e) Report.—Not later than 180 days after the date of the enactment of this title and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section.

(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in "sale-reported status".

(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act.

(f) Definitions.—For purposes of this title—

(1) Administrator.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) Aircraft.—The term "aircraft" has the meaning such term has under section 101 of the Federal Aviation Act of 1958.

SEC. 8007. CIVIL PENALTIES.

(a) Relating to Ownership and Registration.—Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(1)) is amended by inserting before the period at the end of the first sentence the following: "and for each such violation which relates to registration or recordation of an aircraft under title V".

(b) Administrative Assessment.—Section 901(a) of such Act (49 U.S.C. App. 1471(a)) is amended by adding at the end thereof the following new paragraph:

"(3) Administrative assessment of certain registration and recordation violations.—

"(A) General authority.—The Administrator, or his delegate, may assess a civil penalty for a violation of title V, or a rule, regulation, or order issued thereunder, which relates to registration or recordation of an aircraft upon written notice and finding of violation by the Administrator.

"(B) No reexamination of liability or amount.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(C) Continuing jurisdiction of district courts.—Notwithstanding subparagraph (A), the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator—

"(i) which involves an amount in controversy in excess of $50,000;

"(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

"(iii) regarding which an aircraft subject to lien has been seized by the United States; and

"(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(D) Limitations.—

"(i) Hearing.—A civil penalty may be assessed by the Administrator under this paragraph only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(ii) Violations.—This paragraph only applies to civil penalties initiated by the Administrator after the date of the enactment of this paragraph.

"(iii) Maximum amount.—The maximum amount of a civil penalty which may be assessed by the Administrator under this paragraph in any case may not exceed $50,000.".

SEC. 8008. CRIMINAL PENALTIES.

(a) In General.—Subsection (b) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472) is amended by redesignating paragraph (3) as paragraph (5) and by striking out the subsection heading and paragraphs (1) and (2) and inserting in lieu thereof the following:

"(b) Forgery of Certificates, False Marking of Aircraft, and Other Aircraft Registration Violations.—

"(1) Description of violations.—It shall be unlawful for any person—

"(A) to knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued under this Act, or to knowingly sell, use, attempt to use, or possess with the intent to use any such fraudulent certificate;

"(B) to obtain any certificate authorized to be issued under this Act by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry;

"(C) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if such aircraft is not registered under section 501 or the certificate of registration of such aircraft is suspended or revoked, or if such owner knows or has reason to know that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(D) to knowingly and willfully operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration of such aircraft is suspended or revoked, or that such person does not have proper authorization to operate or navigate such aircraft without registration for a period of time after transfer of ownership;

"(E) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such capacity;

"(F) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(G) to operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with all applicable rules, regulations, and requirements of the Administrator; or

"(H) to knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or misleading as to the nationality or registration of the aircraft.

"(2) Penalties.—Any person who commits a violation of paragraph (1) shall be, upon conviction, subject to—

"(A) a fine of not more than $15,000 or imprisonment for a term of not more than 3 years, or both; or

"(B) a fine of not more than $25,000 or imprisonment for a term of not more than 5 years, or both, if such violation was in connection with the act of transportation by aircraft of a controlled substance or of the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law or is provided in connection with any act which is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

Any term of imprisonment imposed under subparagraph (B) shall be in addition to, and shall not be served concurrently with, any other term of imprisonment imposed on such person.

"(3) Seizure of aircraft.—

"(A) By DEA or customs.—An aircraft used in connection with, or in aiding or facilitating, a violation of paragraph (1) whether or not a person is charged in connection with such violation, may be seized and forfeited by the Drug Enforcement Administration of the Department of Justice or the United States Customs Service in accordance with the customs laws.

"(B) Presumptions.—For purposes of subparagraph (A), an aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of—

"(i) paragraph (1)(B) if the aircraft is registered to a fictitious or false person;

"(ii) paragraph (1)(B) if the application form used to obtain the aircraft registration certificate contains a material false statement;

"(iii) paragraph (1)(A) if the registration for the aircraft has been forged, counterfeited, altered, or falsely made;

"(iv) paragraph (1)(C) if the aircraft has been operated while it is not registered under section 501;

"(v) paragraph (1)(H) if there is an external display of false or misleading registration numbers or false or misleading country of registration;

"(vi) paragraph (1)(G) if there is on the aircraft a fuel tank or fuel system which has not been installed or modified in accordance with all applicable rules, regulations, and requirements of the Administrator; and

"(vii) paragraph (1)(G) if, in the case of an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the Administrator for such installation or modification is not carried aboard the aircraft.

"(C) MEMORANDUM OF UNDERSTANDING.—The Federal Aviation Administration, the Drug Enforcement Administration, and the United States Customs Service shall enter into a memorandum of understanding for the purpose of establishing procedures for carrying out the objectives of this paragraph.

"(4) CONTROLLED SUBSTANCE DEFINED.—For purposes of this section, the term 'controlled substance' has the meaning that such term has under section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 902(b)(5).—Paragraph (5) of section 902(b) of such Act, as redesignated by subsection (a) of this section, is amended by inserting "EFFECT ON STATE LAW.—" before "Nothing" and by aligning such paragraph with paragraph (2) of such subsection, as inserted by subsection (a) of this section.

(2) TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(b) Forgery of certificates and false marking of aircraft."

and by inserting in lieu thereof

"(b) Forgery of certificates, false marking of aircraft, and other aircraft registration violations.".

(c) LIGHTING VIOLATIONS.—

(1) IN GENERAL.—Subsection (q) of section 902 of such Act (49 U.S.C. App. 1472) is amended—

(A) by striking out the section heading and paragraph (1) and inserting in lieu thereof the following:

"(q) LIGHTING VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES.—

"(1) DESCRIPTION OF VIOLATION.—It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights."; and

(B) by striking out paragraphs (4), (5), and (6).

(2) CONFORMING AMENDMENTS.—

(A) SECTION 902(q).—Section 902(q) of such Act is amended—

(i) in paragraph (2) by inserting "RELATIONSHIP TO CONTROLLED SUBSTANCE OFFENSES.—" before "The act";

(ii) in paragraph (3) by inserting "PENALTY.—" before "A person"; and

(iii) by aligning such paragraphs with paragraph (1) of such section, as amended by paragraph (1) of this subsection.

(B) TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(q) Violations in connection with transportation of controlled substances."

and by inserting in lieu thereof

"(q) Lighting violations in connection with transportation of controlled substances.".

SEC. 8009. INFORMATION COORDINATION.

Not later than 180 days after the date of the enactment of this title and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in accordance with the amendments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act, section 3401 of the Anti-Drug Abuse Act of 1986, and this title.

(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances Act), and (ii) the role of such Administration with respect to such trafficking.

(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center.

SEC. 8010. FUNDING AND OTHER RESOURCES.

(a) 5-YEAR COST REPORT.—No later than 30 days after the date on which the final regulations referred to in section 8006(a) of this title are issued, the Administrator shall prepare and transmit to Congress a report on the resources (including funding and positions) which will be necessary on an annual basis during the 5-year period beginning after such 30th day to implement the objectives of this title (including the amendments made by this title).

(b) TRANSMITTAL OF BUDGET ESTIMATES.—Whenever—

(1) the Airmen and Aircraft Registry of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Administrator or the Secretary of Transportation; and

(2) the Administrator submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary of Transportation, the President of the United States, or the Office of Management and Budget;

pertaining to funding to carry out the objectives of this title (including the amendments made by this title), it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(c) EXEMPTION FROM PAPERWORK REDUCTION ACT.—No information collection requests necessary to carry out the objectives of this title (including the amendments made by this title) shall be subject to review or approval of the Director of the Office of Management and Budget under chapter 35 of title 44, United States Code.

(d) REVIEW OF CERTAIN GRADE-LEVEL CLASSIFICATIONS.—

(1) APPLICABILITY.—This subsection applies with respect to—

(A) positions within the Airmen and Aircraft Registry of the Federal Aviation Administration; and

(B) positions within the Law Enforcement Assistance Unit of the Aeronautical Center of the Federal Aviation Administration.

(2) REVIEW; REMEDY; REPORT.—Not later than 120 days after the date of the enactment of this title, the Office of Personnel Management shall—

(A) in accordance with section 5110(a) of title 5, United States Code, review a sufficient number of positions under paragraphs (1)(A) and (1)(B), respectively, to determine whether positions under those respective paragraphs are being placed in appropriate classes and grades;

(B) if the Office finds that positions have not been placed in appropriate classes and grades, and after consulting with appropriate officials of the Federal Aviation Administration, exercise any authority under section 5110(b) of title 5, United States Code, which may be necessary to ensure that those positions are placed in their appropriate classes and grades; and

(C) transmit to Congress a report on the results of such review and any actions taken in accordance with subparagraph (B).

SEC. 8011. USE OF TRANSPONDERS ON AIRCRAFT ENTERING THE UNITED STATES.

(a) STUDY.—The Secretary of Transportation shall study the feasibility, costs, and benefits with respect to drug interdiction of requiring each aircraft entering the continental United States—

(1) to have installed an operating transponder;

(2) to have a flight plan filed with the Federal Aviation Administration before such entry;

(3) to have the signal from such transponder identify, in the most efficient manner, such aircraft; and

(4) to have the signal from such transponder which identifies such aircraft provide information which ensures that such aircraft is following its filed flight plan.

(b) REPORT.—Not later than 180 days after the date of the enactment of this title, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 8012. ESTABLISHMENT OF FLIGHT CORRIDORS.

(a) STUDY.—The Secretary of Transportation, in consultation with the Attorney General and the Secretary of the Treasury, shall study—

(1) the feasibility of establishing flight corridors across the borders of the continental United States and intercepting any aircraft which deviate from such corridors; and

(2) the impact of the establishment of such corridors on the safe and efficient movement of aircraft and on drug interdiction.

(b) REPORT.—Not later than 180 days after the date of the enactment of this title, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 8013. LIMITATION ON APPLICABILITY.

This title (including any amendments made by this title) shall only apply to aircraft which are not used to provide air transportation (as defined in section 101 of the Federal Aviation Act of 1958).

TITLE IX—COMMITTEE ON WAYS AND MEANS

Subtitle A—Authorization of Appropriations for the United States Customs Service

SEC. 9001. AUTHORIZATION OF APPROPRIATIONS.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) Authorization of Appropriations.—

"(1) For noncommercial operations.—There are authorized to be appropriated for fiscal year 1989 not to exceed $417,068,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations.

"(2) For commercial operations.—There are authorized to be appropriated for fiscal year 1989 not to exceed $622,753,000 from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations.

"(3) For air interdiction.—There are authorized to be appropriated for fiscal year 1989 not to exceed $197,262,000 for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service.

"(4) For Advanced technology interdiction.—There are authorized to be appropriated for fiscal year 1989 not to exceed $15,000,000 for the purchase and construction of an x-ray imagery vapor sensitive cargo scanning device for use by the United States Customs Service.".

Subtitle B—Other Customs Provisions

SEC. 9011. INCREASED PENALTY FOR FAILURE TO DECLARE CONTROLLED SUBSTANCES.

(a) Amendment.—Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by striking out "200 percent" and inserting "1,000 percent".

(b) Effective Date.—The amendment made by subsection (a) applies with respect to violations of section 497(a) of the Tariff Act of 1930 occurring on or after the date of the enactment of this title.

SEC. 9012. DISPOSITION OF FORFEITED PROPERTY.

(a) Amendment.—Section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended to read as follows:

"(c) The Secretary of the Treasury may apply property forfeited under this Act in accordance with paragraph (1) or (2), or both:

"(1) Retain any of the property for official use.

"(2) Transfer any of the property to any—

"(A) other Federal agency;

"(B) State or local law enforcement agency; or

"(C) foreign government;

that cooperates with the United States Customs Service in joint law enforcement operations.".

(b) Effective Date.—The amendment made by subsection (a) applies with respect to property forfeited under the Tariff Act of 1930 on or after the date of the enactment of this title.

SEC. 9013. TECHNICAL AMENDMENTS.

(a) Deposit Authority Conformed to Effective Period of Customs Forfeiture Fund.—Section 609(b) of the Tariff Act of 1930 (19 U.S.C. 1609(b)) is amended by striking out "September 30, 1987," and inserting "September 30, 1991,".

(b) Manifest Information Available for Public Disclosure.—Section 431(c)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended to read as follows:

"(G) The country of origin of the shipment.".

SEC. 9014. AIR CARRIER SMUGGLING PREVENTION PROGRAM.

Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended by adding at the end thereof the following new subsection:

"(c) Air Carrier Smuggling Prevention Program.—(1) The Secretary of the Treasury in conjunction with the Secretary of Transportation shall issue air carrier controlled substance interdiction regulations for a two-year demonstration program within six months of the enactment of this subsection. This demonstration program shall be subject to the jurisdiction and oversight of the Committee on Ways and Means. The regulations shall apply to at least three United States International Airports classified as high-risk by Customs and based upon the highest volume of cargo and number of aircraft arriving from high-risk points of departure. Such regulations shall establish procedures for air carrier development and Customs Service approval of inspection practices that reflect the nature and level of the controlled substance threat that particular foreign locations pose and the ambient security conditions at each foreign airport. The regulations shall permit air carriers to request the Secretary of the Treasury for the authority for the air carrier, the Customs Service, and/or an approved agent of United States Customs to inspect at United States airport of entry, aircraft arriving from high-risk foreign locations. The Secretary shall promptly approve such requests unless the applicant fails to meet the requirements of the regulations. Such an inspection shall supplement the carrier's predeparture inspections at such locations. In granting permission for an air carrier to perform or have performed an inspection of cargo and aircraft at a United States airport, the Secretary of the Treasury shall specify the sampling basis for selecting which pieces of cargo and which aircraft are to be inspected. In the setting of such sampling criteria, the resources available for such inspections shall be taken into account. Unless exigent circumstances require otherwise, such inspections of aircraft shall be conducted at the arrival terminal and shall be completed within 90 minutes, and such inspections of off-loaded cargo shall be completed within a reasonable period of time as defined by commercial needs.

"(2) Air carriers which have applied to the Secretary of the Treasury and which the Secretary determines to be in compliance with the regulations and inspection requirements promulgated under paragraph (1) shall be considered participating air carriers. The Secretary of the Treasury shall establish by regulation a procedure for finding a carrier to be a participating carrier and procedures for subsequent removal of that status. The Secretary shall not remove an air carrier from the status of participating air carrier unless he or she shall first have provided it a written notice that the air carrier is not in compliance with the regulations or inspection requirements promulgated under paragraph (1), which notice shall include the reasons for that determination, and shall have provided the air carrier a reasonable opportunity to correct such noncompliance. Removal of participating air carrier status shall be reviewable in the United States District Court for the district in which the carrier has its principal place of business or in the United States District Court for the District of Columbia.

"(3) Participating air carriers shall be considered to have met the test of the highest degree of the due diligence required under law, and shall not be subject to the fine, penalty or seizure provisions of this Act, if a controlled substance is discovered aboard an aircraft that they may own or operate or in the cargo they carried, unless the Secretary of the Treasury proves in an oral evidentiary hearing that the air carrier willfully, or because of gross negligence, failed to comply with the applicable procedures established in the regulations promulgated under paragraph (1) and that failure was the cause of the importation into the United States of the controlled substance.

"(4) For the purpose of this subsection, the term 'air carrier' shall mean air carrier or foreign air carrier as those terms are defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).".

SEC. 9015. TRANSFER OF AIRCRAFT.

The Secretary of the Treasury shall transfer to the office of the sheriff of Marion County, Indiana, for use by that office for drug enforcement and prisoner transportation purposes, a light twin engine or high-performance single engine aircraft having a capacity of not less than 4 passengers that—

(1) was forfeited to the United States under the customs laws;

(2) is not transferred to any Federal agency or State or local law enforcement agency under section 616 of the Tariff Act of 1930; and

(3) would, but for this section, be sold at public auction under section 609 of the Tariff Act of 1930.

Section 616(d) of the Tariff Act of 1930 applies to the aircraft transferred under this section.

Subtitle C—Annual Certification Procedures

SEC. 9021. TRADE AND AVIATION SANCTIONS.

(a) Congressional Review Period.—Section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)) is amended—

(1) in paragraph (3) by striking out "30 days" and inserting in lieu thereof "45 days";

(2) in paragraph (4)(A) by striking out "30 days" and inserting in lieu thereof "45 days"; and

(3) in paragraph (4)(B) by striking out "30 days" and inserting in lieu thereof "45 days".

(b) Criteria for Cooperation.—(1) Section 802(b)(1) of that Act is amended—

(A) by inserting after "on its own," the following: "in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in subparagraph (B) or a multilateral agreement which achieves the objectives of this paragraph,";

(B) by inserting "(A)" after "(1)"; and

(C) by adding at the end the following:

"(B) A bilateral narcotics agreement referred to in this paragraph is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(i) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(ii) increase drug interdiction and enforcement;

"(iii) increase drug treatment;

"(iv) increase the identification of and elimination of illicit drug laboratories;

"(v) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs;

"(vi) increase cooperation with United States drug enforcement officials; and

"(vii) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(2) The amendments made by paragraph (1) (A) and (C) apply with respect to any certification which is made by the President under section 802 of the Trade Act of 1974 on or after March 1, 1989.

(c) Requirement for Bilateral Narcotics Agreement.—Effective October 1, 1988, section 802(b)(1) of that Act is further amended by adding at the end the following:

"(C) A country which in the previous year was designated as a major drug producing country or a major drug-transit country may not be determined to be cooperating fully under subparagraph (A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of this paragraph.".

(d) National Interest Waiver.—Section 802(b)(1)(A) of that Act, as amended by subsection (b) of this section, is further amended—

(1) by inserting "(i)" after "1961, that"; and

(2) by inserting before the period at the end the following: "or, (ii) for a country that would not otherwise qualify for certification under clause (i), the vital national interests of the United States require that subsection (a) not be applied with respect to that country.".

(e) Determining Major Drug-Transit Countries.—Section 802 of that Act is amended by adding at the end the following:

"(e) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under section 805(3) (A) and (B).".

TITLE X—COMMITTEE ON ENERGY AND COMMERCE

SEC. 10001. SHORT TITLE.

This title may be cited as the "Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988".

SEC. 10002. PURPOSES.

(a) Substance Abuse.—The purposes of this title with respect to substance abuse are—

(1) to prevent the transmission of the etiologic agent for acquired immune deficiency syndrome by providing matching funds to States in order to ensure that treatment services for intravenous drug abuse, and counseling services with respect to acquired immune deficiency syndrome, are available to intravenous drug abusers;

(2) to continue the Federal Government's partnership with the States in the development, maintenance, and improvement of community-based alcohol and drug abuse programs;

(3) to provide financial and technical assistance to the States and communities in their efforts to develop and maintain a core of prevention services for the purpose of reducing the incidence of substance abuse and the demand for alcohol and drug abuse treatment;

(4) to assist and encourage States in the initiation and expansion of prevention and treatment services to underserved populations; and

(5) to increase understanding about the extent of alcohol abuse and other forms of drug abuse by expanding data collection activities and supporting research on the comparative cost and efficacy of substance abuse prevention and treatment services.

(b) Mental Health.—The purposes of this title with respect to mental health are—

(1) to encourage the development and provision by the States of community mental health services;

(2) to encourage the development of a comprehensive community mental health system within each State;

(3) to encourage the implementation of new and innovative community mental health services;

(4) to encourage the provision of community mental health services in the least restrictive appropriate environment and to involve the families of individuals undergoing treatment in the development and provision of such services;

(5) to foster interagency coordination and integration among a broad range of human service providers, support groups, and advocates for the purpose of ensuring that mental health, rehabilitation, health, vocational, educational, and residential services are available to individuals who need them;

(6) to expend Federal funds for the purpose of expanding community mental health services within each State; and

(7) to increase understanding about the extent of mental illness and the need for appropriate treatment services by expanding data collection activities and supporting research on the comparative cost and efficacy of mental health services.

SEC. 10003. REVISION AND EXTENSION OF DRUG ABUSE, ALCOHOL ABUSE, AND MENTAL HEALTH PROGRAMS.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by striking parts B and C and inserting after part A the following new parts:

"Part B—Acquired Immune Deficiency Syndrome and Intravenous Drug Abuse

"SEC. 1921. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

"(a) Requirement of Allotments.—For the purpose described in subsection (b), the Secretary, acting through the Director of the National Institute on Drug Abuse, shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 1925. The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1924.

"(b) Purpose of Allotments.—The Secretary may not make payments under subsection (a) for a fiscal year unless the State involved agrees that, with respect to the etiologic agent for acquired immune deficiency syndrome, such payments will, subject to section 1923, be expended for the purpose of preventing the transmission of such etiologic agent by eradicating intravenous drug abuse.

"SEC. 1922. REQUIREMENT OF MATCHING FUNDS.

"(a) In General.—For fiscal year 1990 and subsequent fiscal years, the Secretary may not make payments under section 1921(a) for a fiscal year unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in section 1921(b), to make available (directly or through donations from public and private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in such payments.

"(b) Determination of Amount of Non-Federal Contribution.—With respect to compliance with subsection (a) as a condition of receiving payments under section 1921(a)—

"(1) the Secretary may not, in making a determination of the amount of non-Federal contributions, include any amounts provided by the Federal Government; and

"(2) the Secretary shall, in making such a determination, include only non-Federal cash contributions in excess of the amount of non-Federal cash contributions made toward the purpose described in section 1921(b) during fiscal year 1988.

"(c) Requirement of Specification of Amount of Non-Federal Contributions.—The Secretary may not make payments under section 1921(a) for a fiscal year unless the State involved—

"(1) submits to the Secretary a statement specifying the amount of non-Federal contributions that the State intends to make available pursuant to subsection (a); and

"(2) agrees that the State will make available such contributions in the amount specified in such statement.

"(d) Prohibition Against Imposition of Matching Requirement for Fiscal Year 1989.—With respect to an allotment under section 1921(a) for a State for fiscal year 1989, the Secretary may not require the State to make non-Federal contributions as a condition of receiving payments from the allotment.

"SEC. 1923. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"(a) Eligible Uses of Funds.—A State may expend payments received under section 1921(a)—

"(1) to develop, implement, and operate programs of treatment for intravenous drug abuse;

"(2) to train drug abuse counselors, and other health care providers, to provide such treatment;

"(3) with respect to individuals in need of treatment for drug abuse, to carry out outreach activities for the purpose of encouraging such individuals to undergo such treatment;

"(4) to train such counselors and providers to provide counseling on the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome;

"(5) to test individuals for infection with such etiologic agent; and

"(6) subject to section 1952, to renovate or construct facilities for programs of treatment for intravenous drug abuse.

"(b) Requirements.—The Secretary may not make payments under section 1921(a) for a fiscal year unless the State involved agrees that, in carrying out the purpose described in subsection 1921(b), the State—

"(1) will, with respect to programs of treatment for intravenous drug abuse, require that any such program receiving funds pursuant to this part, upon reaching 90 percent of its capacity to admit individuals to the program, provide to the State a notification of such fact;

"(2) will, with respect to such notifications, ensure that, to the maximum extent practicable, each individual who requests treatment for intravenous drug abuse is admitted to such a program within 7 days after making the request;

"(3) will require any program receiving funds pursuant to this part to carry out outreach activities described in subsection (a)(3);

"(4) will, with respect to counseling and testing described in paragraphs (4) and (5), respectively, of subsection (a), ensure that any such counseling and testing conducted or supported by the State with such payments is carried out in accordance with conditions described in part A of title XXIII; and

"(5) will, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, ensure that each individual admitted to a program described in paragraph (1) is routinely offered an opportunity to undergo counseling and testing with respect to such etiologic agent and is encouraged to undergo such counseling and testing.

"(c) CLOSING OF BATHHOUSES.—

"(1) The Secretary may not make payments under section 1921(a) for a fiscal year unless the State involved provides assurances satisfactory to the Secretary that the State will prohibit the operation of any public bath owned or operated by a person who knows or should know that, with respect to acquired immune deficiency syndrome, the bathhouse is hazardous to the public health as a result of the bathhouse being used for sexual relations and for intravenous substance abuse.

"(2) Assurances made to the Secretary pursuant to paragraph (1) shall not apply in any State subject to a judicial order that the prohibition described in such paragraph be suspended or terminated.

"SEC. 1924. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1921(a) to a State for a fiscal year unless—

"(1) the State, by not later than January 1 of the fiscal year, submits to the Secretary an application for the payments containing agreements and assurances in accordance with sections 1921 through 1923 and with sections 1952 through 1954;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the statement required in section 1922(c)(1) and the description of intended expenditures required in section 1951; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1925. DETERMINATION OF AMOUNT OF ALLOTMENTS.

"(a) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available in appropriations Act, the allotment for a State under section 1921(a) for a fiscal year shall be the greater of—

"(1) $500,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $100,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

"(2) an amount determined in accordance with subsection (b).

"(b) DETERMINATION UNDER FORMULA.—

"(1) The amount referred to in subsection (a)(2) is the sum of—

"(A) an amount determined in accordance with paragraph (2); and

"(B) an amount determined in accordance with paragraph (3).

"(2) The amount referred to in paragraph (1)(A) is the product of—

"(A) $40,000,000, or an amount equal to 10 percent of the amounts appropriated for the fiscal year pursuant to section 1929(a), whichever is less; and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of cases of acquired immune deficiency syndrome in the State involved, as indicated by the number of such cases reported to, and confirmed by, the Secretary; divided by

"(ii) an amount equal to the number of cases of acquired immune deficiency syndrome in the United States, as indicated by the sum of the respective amounts determined for each State under clause (i).

"(3) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to the greater of—

"(i) the difference between $40,000,000 and the amounts appropriated for the fiscal year pursuant to section 1929(a); and

"(ii) 90 percent of the amounts appropriated for the fiscal year pursuant to such section; and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census; divided by

"(ii) an amount equal to the population living in urbanized areas of the United States, as indicated by the sum of the respective amounts determined for each State under clause (i).

"SEC. 1926. DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.

"(a) CATEGORICAL GRANTS.—The Secretary shall, from amounts described in subsection (b), make grants to public and nonprofit private entities for the purpose of assisting grantees in carrying out the purpose described in section 1921(b).

"(b) FUNDING.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 1921(a) that are not paid to a State for a fiscal year as a result of—

"(1) the failure of the State to submit, in accordance with paragraph (1) of section 1924, the application by January 1 of the fiscal year;

"(2) the failure of the State, in the determination of the Secretary, to prepare such application in compliance with such section; or

"(3) the State informing the Secretary that the State does not intend—

"(A) to make the full amount of non-Federal contributions specified in section 1922(c)(1); or

"(B) to expend the full amount of the allotment made for the State.

"(c) REQUIREMENT OF PROVISION OF SERVICES IN CERTAIN STATES.—With respect to grants under subsection (a), amounts made available pursuant to subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.

"SEC. 1927. EVALUATIONS AND DATA COLLECTION.

"The Secretary shall, directly or through contracts with public and private entities, provide for—

"(1) evaluations of programs carried out pursuant to this part;

"(2) the collection of data with respect to acquired immune deficiency syndrome and intravenous drug abuse; and

"(3) the dissemination of information developed or collected pursuant to paragraphs (1) and (2).

"SEC. 1928. DEFINITIONS.

"For purposes of this part:

"(1) The term 'State' means each of the several States, the District of Columbia, and the territories of the United States.

"(2) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 1929. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $250,000,000 for fiscal year 1989, $500,000,000 for fiscal year 1990, and $750,000,000 for fiscal year 1991.

"(b) ALLOCATION OF FUNDS BY SECRETARY.—Of the amounts appropriated pursuant to subsection (a), the Secretary shall make available an aggregate 2 percent for the purpose of carrying out section 1927 and for the purpose of administering this part.

"(c) USE OF FUNDS.—

"(1) One of the purposes of this part is to provide for counseling and testing services to prevent and reduce exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(2) All individuals receiving counseling pursuant to this part are to be counseled about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

"(3) None of the funds appropriated to carry out this part may be used to provide counseling that promotes or encourages, directly, homosexual or unsafe heterosexual sexual activity or intravenous substance abuse.

"(4) Paragraph (3) may not be construed to prohibit a counselor who has already performed the counseling of an individual required in paragraph (2) from providing an individual the most current scientific knowledge available to reduce the individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

"PART C—ALCOHOL AND DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION SERVICES

"SEC. 1931. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

"(a) REQUIREMENT OF ALLOTMENTS.—For the purpose described in subsection (b), the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1934. The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1933.

"(b) PURPOSE OF ALLOTMENTS.—The Secretary may not make payments under subsection (a) to a State for a fiscal year unless the State agrees that amounts paid under such subsection will be expended only for the purposes of establishing and carrying out programs of prevention, treatment, and rehabilitation with respect to substance abuse and activities relating to such programs, including—

"(1) planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs and activities to deal with the abuse of alcohol and other drugs;

"(2) activities to expand the capacity of treatment and rehabilitation programs and facilities to provide services to individuals suffering from the abuse of alcohol and other drugs; and

"(3) activities to provide access to vocational training, job counseling, and education equivalency programs for individuals at risk of, or undergoing treatment for, the abuse of alcohol or other drugs.

"SEC. 1932. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"The Secretary may not make payments under section 1931(a) for a fiscal year unless the State involved agrees that—

"(1) not less than 35 percent of amounts received under such section for a fiscal year will be expended for the purposes of programs and activities relating to alcoholism and alcohol abuse;

"(2) not less than 35 percent of amounts received under such section for a fiscal year will be expended for the purposes of programs and activities relating to drug abuse;

"(3) not less than 20 percent of amounts received under such section for a fiscal year will be expended for the purposes of programs and activities relating to preventing the abuse of alcohol and drugs, including early intervention programs and activities directed to children and adolescents;

"(4) not less than 10 percent of the amounts received under such section for a fiscal year will be expended for the purposes of programs and services described in paragraphs (1) through (3) that are designed for women (including women with dependent children; and

"(5) from the amounts received under such section for a fiscal year, grants will be made for demonstration projects for the provision of residential treatment services to expectant mothers.

"SEC. 1933. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1931(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 1931 and 1932 and with sections 1952 through 1954;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the description of intended expenditures required in section 1951; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1934. DETERMINATION OF AMOUNT OF ALLOTMENTS.

"(a) STATES.—

"(1) Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1931(a) for a State for a fiscal year in accordance with the following formula:

"(2) For purposes of the formula described in paragraph (1), the term 'A' means the difference between—

"(A) an amount equal to the amount appropriated pursuant to section 1937(a) for allotments under section 1931(a) for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) For purposes of the formula described in paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for each State under paragraph (4).

"(4)(A) For purposes of the formula described in paragraph (1), the term 'X' means the product of—

"(i) an amount equal to the term 'P' as determined under subparagraph (B); and

"(ii) the greater of—

"(I) 0.4; and

"(II) an amount equal to an amount determined in accordance with the following formula:

"(B) For purposes of subparagraph (A)(i), the term 'P' means the sum of—

"(i) an amount equal to the product of—

"(I) 0.3; and

"(II) an amount equal to the number of individuals in the State who are between 18 and 24 years of age, as indicated by the most recent data collected by the Bureau of the Census;

"(ii) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 44 years of age, as indicated by the most recent data collected by the Bureau of the Census; and

"(iii) an amount equal to the product of—

"(I) 0.5; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 64 years of age, as indicated by the most recent data collected by the Bureau of the Census.

"(C) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P' as determined under subparagraph (B).

"(D) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of the respective amounts determined for each State under subparagraph (C)(i); divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each State under subparagraph (B).

"(b) MINIMUM ALLOTMENT FOR STATES.—Subject to the extent of amounts made available in appropriation Acts, the amount of an allotment under section 1931(a) for a State for a fiscal year shall be the greater of—

"(1) an amount determined in accordance with subsection (a); and

"(2) an amount equal to the amount of the allotment for substance abuse services under former section 1913 for the State for fiscal year 1986.

"(c) TERRITORIES.—

"(1) Subject to subsection (d), the allotment for a territory under section 1931(a) for a fiscal year shall be the greater of—

"(A) $50,000; and

"(B) an amount determined in accordance with paragraph (2).

"(2) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to the amounts reserved under paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate population of the territories, as indicated by such data.

"(3) The Secretary shall reserve for the territories of the United States 1.5 percent of the amounts appropriated pursuant to section 1937(a) for allotments under section 1931(a) for the fiscal year involved.

"(d) TRANSITION RULES FOR TERRITORIES.—

"(1) For fiscal year year 1989, the amount of the allotment required in section 1931(a) for a territory shall be the greater of—

"(A) an amount determined in accordance with subsection (c); and

"(B) an amount equal to 80 percent of the amount of the allotment for substance abuse services under former section 1913 for the territory for fiscal year 1987.

"(2) For fiscal year 1990, the amount of the allotment required in section 1931(a) for a territory shall be the greater of—

"(A) an amount determined in accordance with subsection (b); and

"(B) an amount equal to 60 percent of the amount of the allotment for substance abuse services under former section 1913 for the territory for fiscal year 1987.

"(e) INDIAN TRIBES.—

"(1) Upon the request of the governing body of an eligible Indian tribe or tribal organization within a State, the Secretary shall—

"(A) reserve from the amount that otherwise would be allotted for the fiscal year to the State under subsection (a) an amount determined in accordance with paragraph (2); and

"(B) grant the amount reserved under subparagraph (A) to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(2)(A) The amount reserved under paragraph (1)(A) shall be an amount equal to the product of—

"(i) the amount that otherwise would be allotted to the State under subsection (a) for the fiscal year; and

"(ii) the percentage described in subparagraph (B).

"(B) The percentage referred to in subparagraph (A)(ii) is a percentage equal to the quotient of—

"(i) an amount equal to the amount the Indian tribe or tribal organization received under former section 1921(b) for fiscal year 1987; divided by

"(ii) an amount equal to the total aggregate amount received under such section in fiscal year 1987 by the State, Indian tribes in the State, and tribal organizations in the State.

"(3) The Secretary may not make a grant under paragraph (1)(B) to an Indian tribe or tribal organization unless the Indian tribe or tribal organization submits to the Secretary a plan for expending such a grant that meets such criteria as the Secretary may establish.

"(f) Disposition of Certain Funds Appropriated for Allotments.—

"(1) Amounts described in paragraph (2) shall be allotted by the Secretary to States receiving allotments under section 1931(a) for the fiscal year (other than any State described in paragraph (2)(C)). Such amounts shall be allotted according to a formula established by the Secretary. The formula shall be equivalent to the formula described in this section under which the allotment of the State for the fiscal year involved was determined.

"(2) The amounts referred to in paragraph (1) are any amounts made available in appropriations Acts for allotments under this part that are not allotted under section 1931(a) as a result of—

"(A) the failure of any State to submit an application under section 1933;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"SEC. 1935. EVALUATION OF PROGRAMS.

"The Secretary, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism and the Director of the National Institute on Drug Abuse, shall evaluate alcohol and drug abuse treatment programs to determine the quality and appropriateness of various forms of treatment. Such programs shall be carried out through grants, contracts, or cooperative agreements provided to public and nonprofit private entities. In carrying out this section, the Secretary shall assess the quality, appropriateness, and costs of various treatment forms for specific patient groups.

"SEC. 1936. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'former section 1913' means section 1913 of this Act as in effect on the day before the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988.

"(2)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, and the territories of the United States.

"(B) For purposes of subsections (a) and (b) of section 1934, the term 'State' means each of the several States and the District of Columbia.

"(3) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 1937. FUNDING.

"(a) Authorization of Appropriations.—For the purpose of carrying out this part, part E, and section 509D(c), there are authorized to be appropriated $475,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) Allocation of Funds for Certain Programs of National Significance.—For the purpose of carrying out sections 509D(c), 1935, and 1958(a), the Secretary shall obligate not less than 5 percent, and not more than 15 percent, of the amounts appropriated pursuant to subsection (a) for a fiscal year.

"(c) Availability to States.—Any amounts paid to a State under section 1931(a), obligated by the State, and remaining unexpended at the end of the fiscal year for which the amounts were paid shall remain available during the succeeding fiscal year to the State for carrying out the purpose described in section 1931(b).

"Part D—Community Mental Health Services

"SEC. 1941. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

"(a) Requirement of Allotments.—For the purpose described in subsection (b), the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1945. The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1944.

"(b) Purpose of Allotments.—The Secretary may not make payments under subsection (a) for a fiscal year unless the State involved agrees that amounts paid under such subsection will be expended only for the purpose of planning, developing, and providing, in accordance with section 1943, community mental health services and related support services.

"SEC. 1942. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"(a) Certain Priorities With Respect to Development and Provision of Services.—

"(1) The Secretary may not make payments under section 1941(a) for a fiscal year unless the State involved agrees that, in carrying out the purpose described in subsection 1941(b), the State—

"(A) will give priority to the development and provision of community mental health services not available on October 1, 1988;

"(B) except as provided in paragraph (2), will, for fiscal year 1991 and subsequent fiscal years, expend not less than 55 percent of such payments for the development, implementation, and operation of services not available on October 1, 1988;

"(C) will, with respect to each service provided pursuant to paragraph (1), provide funds for each such service only for a limited period of time (the duration of which period may be determined by the State);

"(D) will expend not less than 10 percent of such payments for services and programs for severely disturbed children and adolescents; and

"(E) will, if the amounts appropriated under section 1947(a) for the fiscal year exceed $260,000,000, expend not less than a specified percentage of such payments for services and programs for individuals not less than 65 years of age who are not inpatients or residents of mental institutions, which specified percentage is the percentage of the population of the State that the number of individuals not less than 65 years of age constitutes.

"(2) If the amount of the allotment under section 1941(a) for a State for a fiscal year is less than the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986, the Secretary may waive the requirement established in paragraph (1)(B) for the State for the fiscal year upon a determination by the Secretary that such requirement will result in a significant reduction in the level of mental health services available in the State relative to such level on October 1, 1988.

"(b) Requirement of Development of State Comprehensive Community Mental Health System.—The Secretary may not make payments under section 1941(a) for a fiscal year unless the State involved agrees that, in carrying out the purpose described in section 1941(b), the State will facilitate the coordination among institutions offering mental health services in the State in order to establish a State community mental health system that—

"(1) provides for the development of a continuum of community mental health services within identified geographic areas;

"(2) ensures that mental health services offered by the system are accessible to all individuals in the State who need the services;

"(3) provides mental health services according to the particular needs of the individual for whom services are sought, including developing plans of care and providing services in the context most appropriate to the age, sex, and cultural background of the individual;

"(4) encourages such individual to be independent and encourages the family of the individual to provide emotional support to the individual with respect to achieving the optimal level of independence;

"(5) ensures that mental health services are provided in the least restrictive appropriate environment; and

"(6) ensures that the mental health services provided by the system meet applicable professional standards for such services.

"SEC. 1943. REQUIREMENT OF ESTABLISHMENT OF MENTAL HEALTH SERVICES PLANNING COUNCIL.

"(a) In General.—The Secretary may not make payments under section 1941(a) for a fiscal year unless the State involved agrees to establish and maintain a State mental health planning council in accordance with subsections (b) and (c).

"(b) Duties.—The duties of the Council will be—

"(1) to serve as an advocate for chronically mentally ill individuals, severely emotionally disturbed children and youth, and other individuals with mental illnesses or emotional problems; and

"(2) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the State.

"(c) Membership.—

"(1) The Council will, subject to paragraph (2), be composed of residents of the State, including representatives of—

"(A) the principal State agencies with respect to—

"(i) mental health, education, vocational rehabilitation, criminal justice, housing, and social services; and

"(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act;

"(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services; and

"(C)(i) chronically mentally ill individuals who are receiving (or have received) mental health services; and

"(ii) the families of such individuals.

"(2) Not less than 50 percent of the members of the Council will be individuals who are not State employees or providers of mental health services.

"(3) The Council may assist the State in the preparation of the plan required in section 1951.

"SEC. 1944. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1941(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 1941 through 1943 and with sections 1952 through 1954;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the description of intended expenditures required in section 1951; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1945. DETERMINATION OF AMOUNT OF ALLOTMENTS.

"(a) STATES.—

"(1) Subject to subsection (d), the Secretary shall determine the amount of the allotment required in section 1941(a) for a State for a fiscal year in accordance with the following formula:

"(2) For purposes of the formula described in paragraph (1), the term 'A' means an amount equal to the difference between—

"(A) an amount equal to the amount appropriated pursuant to section 1948(a) for allotments under section 1941(a) for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) For purposes of the formula described in paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for each State under paragraph (4).

"(4)(A) For purposes of the formula described in paragraph (1), the term 'X' means the product of—

"(i) amount equal to the term 'P' as determined under subparagraph (B); and

"(ii) the greater of—

"(I) 0.3; and

"(II) an amount equal to an amount determined in accordance with the following formula:

"(B) For purposes of subparagraph (A)(i), the term 'P' means the sum of—

"(i) an amount equal to the product of—

"(I) 0.4; and

"(II) an amount equal to the number of individuals in the State who are between 18 and 24 years of age, as indicated by the most recent data collected by the Bureau of the Census; and

"(ii) an amount equal to the product of—

"(I) 0.6; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 44 years of age, as indicated by the most recent data collected by the Bureau of the Census.

"(C) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P' as determined under subparagraph (B).

"(D) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of the respective amounts determined for each State under subparagraph (C)(i); divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each State under subparagraph (B).

"(b) TERRITORIES.—

"(1) The amount of an allotment under section 1941(a) for a territory for a fiscal year shall be the greater of—

"(A) an amount equal to 80 percent of the amount of the allotment for mental health services under former section 1913 for the territory for fiscal year 1987; and

"(B) an amount determined in accordance with paragraph (2).

"(2) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to the amounts reserved pursuant to paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate population of the territories, as indicated by such data.

"(3) The Secretary shall reserve for the territories of the United States 1.5 percent of the amounts appropriated pursuant to section 1948(a) for allotments under section 1941(a) for the fiscal year involved.

"(c) INDIAN TRIBES.—

"(1) Upon the request of the governing body of an eligible Indian tribe or tribal organization within a State, the Secretary shall—

"(A) reserve from the amount that otherwise would be allotted for the fiscal year to the State under subsection (a) an amount determined in accordance with paragraph (2); and

"(B) grant the amount reserved under subparagraph (A) to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(2)(A) The amount reserved under paragraph (1)(A) shall be an amount equal to the product of—

"(i) the amount that otherwise would be allotted to the State under subsection (a) for the fiscal year; and

"(ii) the percentage described in subparagraph (B).

"(B) The percentage referred to in subparagraph (A)(ii) is a percentage equal to the quotient of—

"(i) an amount equal to the amount the Indian tribe or tribal organization received under former section 1913 for fiscal year 1987; divided by

"(ii) the aggregate amount received under such section in fiscal year 1987 by the State, Indian tribes in the State, and tribal organizations in the State.

"(3) The Secretary may not make a grant under paragraph (1)(B) to an Indian tribe or tribal organization unless the Indian tribe or tribal organization submits to the Secretary a plan for expending such a grant that meets such criteria as the Secretary may establish.

"(d) TRANSITION RULES FOR STATES.—

"(1) For fiscal year 1989, the amount of the allotment required in section 1941(a) for a State shall be the greater of—

"(A) an amount determined in accordance with subsection (a); and

"(B) an amount equal to 90 percent of the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986.

"(2) For fiscal year 1990, the amount of the allotment required in section 1941(a) for a State shall be the greater of—

"(A) an amount determined in accordance with subsection (a); and

"(B) an amount equal to 70 percent of the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986.

"(3) For fiscal year 1991, the amount of the allotment required in section 1941(a) for a State shall be the greater of—

"(A) an amount determined in accordance with subsection (a); and

"(B) an amount equal to 50 percent of the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986.

"(e) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) Amounts described in paragraph (2) shall be allotted by the Secretary to States receiving allotments under section 1941(a) for the fiscal year (other than any State referred to in paragraph (2)(C)). Such amounts shall be allotted according to a formula established by the Secretary. The formula shall be equivalent to the formula described in this section under which the allotment for the State for the fiscal year involved was determined.

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 1941(a) as a result of—

"(A) the failure of any State to submit an application under section 1944;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"SEC. 1946. EVALUATION OF PROGRAMS.

"(a) IN GENERAL.—

"(1) The Secretary, acting through the Director of the National Institute of Mental Health, shall evaluate community mental health programs and services, including evaluations of—

"(A) the most effective methods of providing community-based prevention, treatment, and rehabilitation services for the mentally ill; and

"(B) the quality, appropriateness, and costs of different methods of treatment utilized in such programs with respect to diagnoses of mental illness for which such programs provided treatment.

"(2) Evaluations required in paragraph (1) may be carried out through grants, contracts, or cooperative agreements.

"(b) USE OF RESEARCH CENTERS.—The Director of the National Institute of Mental Health may, to the extent practicable, establish research centers to carry out the evaluations required in subsection (a)(1). Such research centers shall establish and maintain liaisons with community mental health systems that provide services to the mentally ill.

"(c) MODEL PLAN WITH RESPECT TO CHRONICALLY MENTALLY ILL INDIVIDUALS.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and make available, from time to time, a model plan for a community-based system of care for chronically mentally ill individuals. Such plan shall be developed in consultation with State mental health directors, providers of mental health services, chronically mentally ill individuals, advocates for such individuals, and other interested parties.

"SEC. 1947. DEFINITIONS.

"For purposes of this part:

"(1) The term 'Council' means the State mental health services planning council required in section 1944(a).

"(2) The term 'former section 1913' has the meaning given such term in section 1936(1).

"(3)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, and the territories of the United States.

"(B) For purposes of subsections (a) and (d) of section 1945, the term 'State' means each of the several States and the District of Columbia.

"(4) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 1948. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this part, part E, and section 509D(b), there are authorized to be appropriated $350,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) ALLOCATION OF FUNDS FOR CERTAIN NATIONAL PROGRAMS.—For the purposes of carrying out sections 1946, 1958(a), and 509D(b), the Secretary shall obligate not less than 5 percent, and not more than 15 percent, of the amounts appropriated pursuant to subsection (a) for a fiscal year.

"(c) AVAILABILITY TO STATES.—Any amounts paid to a State under section 1941(a), obligated by the State, and remaining unexpended at the end of the fiscal year for which the amounts were paid shall remain available during the succeeding fiscal year to the State for carrying out the purpose described in section 1941(b).

"PART E—GENERAL PROVISIONS

"SEC. 1951. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USES OF BLOCK GRANT.

"(a) IN GENERAL.—The Secretary may not make payments under any of parts B through D to a State for a fiscal year unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend such payments for the fiscal year;

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities; and

"(3) the State agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State pursuant to the program involved.

"(b) PROGRAM SPECIFIC REQUIREMENTS.—

"(1) The Secretary may not make payments under part B to a State for a fiscal year unless the description required in subsection (a) identifies the populations in the State that are intravenous drug abusers and the geographic areas in which such populations are located.

"(2) The Secretary may not make payments under part C to a State for a fiscal year unless the description required in subsection (a) identifies the populations and the geographic areas in the State that are at risk with respect to the abuse of alcohol or other drugs and that have a need for prevention, treatment, or rehabilitation services.

"(3) The Secretary may not make payments under part D to a State for a fiscal year unless the description required in subsection (a)—

"(A) describes intended expenditures for the provision of services described in section 1942(a)(1)(A); and

"(B) identifies the populations and the geographic areas in the State with a need for mental health services, including a description of the number of chronically mentally ill individuals and the number of severely emotionally disturbed children and youth in the State.

"(c) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make payments under any of parts B through D for a fiscal year unless the State involved agrees that, in developing and carrying out the description required in subsection (a), the State will provide public notice with respect to the description (including any revisions) and will facilitate comments from interested persons.

"SEC. 1952. RESTRICTIONS ON USE OF PAYMENTS.

"(a) IN GENERAL.—

"(1) The Secretary may not, except as provided in paragraph (2), make payments under any of parts B through D for a fiscal year unless the State involved agrees that the payments will not be expended—

"(A) to provide inpatient services, except with respect to short-term residential treatment for substance abuse provided in settings other than hospitals;

"(B) to make cash payments to intended recipients of services under the program involved;

"(C) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment;

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(2) If the Secretary finds that the purpose of the program involved cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified State, waive the restriction established in paragraph (1)(C).

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under any of parts B through D for a fiscal year unless the State involved agrees that the State will not expend more than 5 percent of the payments for administrative expenses with respect to carrying out the purpose of the program involved.

"SEC. 1953. ADDITIONAL REQUIRED AGREEMENTS.

"(a) IN GENERAL.—The Secretary may not, except as provided in subsection (c), make payments under any of parts B through D for a fiscal year unless the State involved agrees that—

"(1) the legislature of the State will conduct public hearings on the proposed use and distribution of the payments to be received for the fiscal year;

"(2) the State will, to the maximum extent practicable, ensure that services provided to an individual pursuant to the program involved will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual;

"(3) the State will provide for periodic independent peer review to assess the quality and appropriateness of treatment services provided by entities that receive funds from the State pursuant to the program involved;

"(4) the State will permit and cooperate with Federal investigations undertaken in accordance with section 1955;

"(5) the State will maintain State expenditures for services provided pursuant to the program involved at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments; and

"(6) the State will provide to the Secretary any data required by the Secretary pursuant to section 509D.

"(b) PROGRAM SPECIFIC REQUIREMENTS.—

"(1) The Secretary may not make payments under part C for a fiscal year unless the State involved agrees to ensure that any entity in the State receiving funds with respect to carrying out the purpose described in section 1931(b) will comply with sections 544 and 548.

"(2) The Secretary may not make payments under part D for a fiscal year unless the State involved agrees that, to the maximum extent practicable, the State will develop and implement arrangements to locate jobs for employees affected adversely by actions taken by the State mental health authority with respect to emphasizing outpatient health services.

"(c) CERTAIN WAIVER.—The Secretary may, upon the request of a State, waive the requirement established in subsection (a)(5) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

"SEC. 1954. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary may not make payments under any of parts B through D for a fiscal year unless the State involved agrees that to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to any of parts B through D were expended and of the recipients of such payments;

"(2) determining whether the payments were expended in accordance with the needs within the State required to be identified pursuant to section 1951(b);

"(3) determining whether the payments were expended in accordance with the purpose of the program involved; and

"(4) determining the percentage of payments received pursuant to any of parts B through D that were expended by the State for administrative expenses during the preceding fiscal year.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under any of parts B through D unless the State involved agrees to make copies of the report described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of payments under any of parts B through D in order to assure that expenditures are consistent with the provisions of the program involved.

"SEC. 1955. FAILURE TO COMPLY WITH AGREEMENTS.

"(a) Repayment of Payments.—

"(1) The Secretary may, in accordance with subsection (b), require a State to repay any payments received by the State pursuant to any of parts B through D that the Secretary determines were not expended by the State in accordance with the agreements required to be made by the State as a condition of the receipt of payments under the program involved.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under the program involved.

"(b) Opportunity for a Hearing.—Before requiring repayment of payments under subsection (a)(1), the Secretary shall provide to the State an opportunity for a hearing.

"SEC. 1956. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) In General.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under any of parts B through D.

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments from amounts paid to the State under any of parts B through D may not conceal or fail to disclose any such event with the intent of fraudulently securing such amount.

"(b) Criminal Penalty for Violation of Prohibition.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 1957. NONDISCRIMINATION.

"(a) In General.—

"(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under the program involved shall be considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under the program involved.

"(b) Enforcement.—

"(1) Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to the program involved, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

"(C) take such other actions as may be authorized by law.

"(2) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 1958. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) Technical Assistance.—The Secretary shall, without charge to a State receiving payments under part B or part D, provide to the State (or to any public or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) Provision by Secretary of Supplies and Services in Lieu of Grant Funds.—

"(1) Upon the request of a State receiving payments under any of parts B through D, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1959. REPORT BY SECRETARY.

"Not later than October 1, 1990, the Secretary shall report to the Congress on the activities of the States carried out pursuant to parts B and D. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives.

"SEC. 1960. DEFINITIONS.

"For purposes of this part:

"(1) The term 'program involved' means the program of allotments established in part B, in part C, or in part D, or any or all of such programs, as indicated by whether the State involved is receiving or is applying to receive payments under part B, part C, or part D, or under any or all of such parts.

"(2) The term 'State' has the meaning given such term in the program involved.".

SEC. 10004. ESTABLISHMENT OF GRANT CONDITIONS AND CONFIDENTIALITY PROTECTIONS RELATING TO COUNSELING AND TESTING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) In General.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXIII as title XXIV;

(2) by redesignating sections 2301 through 2303 as sections 2401 through 2403, respectively;

(3) by redesignating sections 2306 through 2316 as sections 2404 through 2414, respectively; and

(4) by inserting after title XXII the following new title:

"TITLE XXIII—COUNSELING AND TESTING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"Part A—Grant Conditions for Counseling and Testing

"SEC. 2301. REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY AND INFORMED CONSENT.

"(a) Confidentiality.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees to ensure, in accordance with Federal law (including part B) and with State and local law not superseded by Federal law, the confidentiality of information and records with respect to individuals counseled or tested pursuant to such assistance.

"(b) Informed Consent.—

"(1) The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, in conducting testing with respect to the etiologic agent for such syndrome, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone counseling described in section 2302(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

"(2)(A) If, pursuant to section 2307(a), an individual will undergo testing described in paragraph (1) through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement entered into pursuant to such paragraph if such individual signs the statement described in such subsection using the pseudonym.

"(B) If, pursuant to section 2307(a), an individual will undergo testing described in paragraph (1) without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement entered into pursuant to such paragraph if such individual orally provides the declaration described in such paragraph.

"SEC. 2302. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) Counseling Before Testing.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, before testing an individual for infection with the etiologic agent for such syndrome, the applicant will provide to the individual appropriate counseling with respect to such syndrome (based on the most recent scientific data relating to such syndrome), including—

"(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

"(2) the accuracy and reliability of the results of such testing;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

"(4) encouraging individuals, as appropriate, to undergo testing for such etiologic agent and providing information on the benefits of such testing;

"(5) the benefits of early diagnosis and treatment of infection with such etiologic agent;

"(6) information on the failure rate of condoms;

"(7) provisions of law relating to the confidentiality of the fact that the individual is undergoing counseling or testing and the confidentiality of information provided by the individual during the process of such counseling or testing, including information with respect to any disclosures that may be authorized under law and information with respect to the availability of anonymous counseling and testing pursuant to section 2307(a);

"(8) provisions of law relating to the confidentiality of the results of such counseling or testing, including information with respect to any disclosures that may be authorized by law;

"(9) provisions of law relating to the reporting to, and use by, State public health authorities of the results of such counseling and testing; and

"(10) provisions of law relating to discrimination against individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(b) Counseling of Individuals With Negative Test Results.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, if the results of testing for infection with such etiologic agent indicate that an individual is not infected with such etiologic agent, the applicant will review for the individual the information provided pursuant to subsection (a) with respect to such syndrome, including—

"(1) the information described in paragraphs (1) through (3) of subsection (a); and

"(2) information on the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome.

"(c) Counseling of Individuals With Positive Test Results.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, if the results of such testing section indicate that the individual is infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will provide to the individual appropriate counseling with respect to acquired immune deficiency syndrome, including—

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome;

"(3) the availability in the geographic area of any appropriate services with respect to health care, including mental health care and appropriate social and support services;

"(4) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to the etiologic agent for acquired immune deficiency syndrome and any individual whom the infected individual may have exposed to such etiologic agent; and

"(5) the availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (4).

"(d) Counseling of Women, Children, and Hemophiliacs.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, in counseling individuals with respect to such syndrome, the applicant will, where appropriate, provide opportunities for women, children, and hemophiliacs to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

"(3) Rule of Construction With Respect to Counseling Without Testing.—Agreements entered into pursuant to subsections (a) through (d) may not be construed to prohibit any recipient of Federal financial assistance from expending such assistance for the purpose of providing counseling services described in such subsections to an individual who will not undergo testing described in such section as a result of such recipient or the individual determining that such testing of the individual is not appropriate.

"SEC. 2303. APPLICABILITY OF REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.

"The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, with respect to testing for infection with the etiologic agent for such syndrome, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2301 and 2302.

"SEC. 2304. REQUIREMENT OF REPORTING AND CONTACT TRACING WITH RESPECT TO CASES OF INFECTION.

"(a) Reporting.—The Secretary may not provide Federal financial assistance to a State for counseling and testing with respect to acquired immune deficiency syndrome unless the State provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

"(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such infection; and

"(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have such infections.

"(b) Contact Tracing.—The Secretary may not provide Federal financial assistance to a State for counseling and testing with respect to acquired immune deficiency syndrome unless the State provides assurances satisfactory to the Secretary that the State will require that the State public health officer, to the extent appropriate in the determination of the officer, carry out a program of contact tracing with respect to cases of infection with the etiologic agent for acquired immune deficiency syndrome.

"SEC. 2305. REQUIREMENT FOR STATE GRANTEES OF MANDATORY TESTING OF INDIVIDUALS CONVICTED OF CERTAIN CRIMES.

"(a) In General.—The Secretary may not provide Federal financial assistance to a State for counseling and testing with respect to acquired immune deficiency syndrome unless the State requires that—

"(1) each individual who is convicted of prostitution, of a crime relating to sexual assault, or of a crime relating to intravenous drug abuse, be tested for infection with the etiologic agent for acquired immune deficiency syndrome;

"(2) before testing an individual for such infection pursuant to the requirement described in paragraph (1), the State notify the individual that the individual will be required to undergo such testing; and

"(3) with respect to any individual convicted of a crime relating to sexual assault, the State notify the victim of the crime of the results of such testing if the victim makes a request to be so notified.

"(b) Time Limitations With Respect to Required Laws.—With respect to complying with subsection (a) as a condition of receiving Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome, the Secretary may provide such assistance to a State if—

"(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will establish the requirements described in subsection (a); and

"(2) for fiscal year 1991 and subsequent fiscal years, the State has established such requirements.

"SEC. 2306. REQUIREMENT FOR STATE GRANTEES OF ESTABLISHMENT OF CIVIL AND CRIMINAL ACTIONS WITH RESPECT TO KNOWING TRANSMISSION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) In General.—Subject to subsection (c), the Secretary may not provide Federal financial assistance to a State for counseling and testing with respect to acquired immune deficiency syndrome unless—

"(1) subject to the condition described in subsection (b), the State prohibits any individual who is infected with the etiologic agent for acquired immune deficiency syndrome from making a donation of blood, semen, breast milk, or an organ, if the individual knows of the infection and knows that the individual will through such donation expose another individual to such etiologic agent in the event that the donation is utilized;

"(2) subject to the condition described in subsection (b), the State prohibits any individual infected with such etiologic agent from engaging in sexual activity if the individual knows of the infection and knows that the individual will through such sexual activity expose another individual to such etiologic agent;

"(3) subject to the condition described in subsection (b), the State prohibits any individual from engaging in any behavior with the intent to expose another individual to such etiologic agent, which behavior would, if carried out as intended, result in exposing the other individual to such etiologic agent; and

"(4) the State establishes a civil cause of action for damages for any violation of a prohibition described in any of paragraphs

(1) through (3) and establishes a criminal penalty for any such violation.

"(b) Consent to Risk of Transmission.—The condition referred to in each of paragraphs (1) through (3) of subsection (a) is that the prohibition described in each such paragraph shall not apply if the individual who is subjected to the behavior involved provides prior consent for being exposed to the etiologic agent for acquired immune deficiency syndrome.

"(c) Time Limitations With Respect to Required Laws.—With respect to complying with subsection (a) as a condition of receiving Federal financial assistance with respect to acquired immune deficiency syndrome, the Secretary may provide such assistance to a State if—

"(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will establish the prohibitions and civil and criminal actions described in subsection (a); and

"(2) for fiscal year 1991 and subsequent fiscal years, the State has established such prohibitions and such criminal and civil actions.

"(d) State Certification With Respect to Required Laws.—With respect to complying with subsection (a) as a condition of receiving Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this section.

"SEC. 2307. ADDITIONAL REQUIRED AGREEMENTS.

"(a) Provision of Opportunities for Anonymous Counseling and Testing.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, to the extent permitted under State law, the applicant will offer substantial opportunities for an individual—

"(1) to undergo counseling and testing pursuant to such section without being required to provide any information relating to the identity of the individual; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

"(b) Prohibition Against Requiring Testing as Condition of Receiving Other Health Services.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing described in such section as a condition of receiving the health services unless such testing is medically indicated in the provision of the health services sought by the individual.

"(c) Distribution of Clean Needles or Bleach With Respect to Intravenous Drug Abuse.—The Secretary may not provide Federal financial assistance for counseling and testing with respect to acquired immune deficiency syndrome unless the applicant for such assistance agrees that the grant will not be expended to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection.

"Part B—Confidentiality With Respect to Counseling and Testing

"SEC. 2321. ESTABLISHMENT OF PROHIBITION AGAINST DISCLOSURE OF CERTAIN INFORMATION ORIGINATING IN PROCESS OF COUNSELING AND TESTING.

"(a) In General.—Except as provided in any of sections 2322 through 2327, a person described in subsection (b) may not disclose identifying information with respect to a protected individual or a contact of such individual.

"(b) Persons Subject to Prohibition.—A person referred to in subsection (a) is a person who obtains identifying information with respect to a protected individual or a contact of such individual as a result of—

"(1) direct or indirect involvement in the process of—

"(A) providing to the protected individual counseling with respect to acquired immune deficiency syndrome or testing the protected individual for infection with the etiologic agent for such syndrome; or

"(B) providing to the protected individual health care in the course of the provision of which the protected individual discloses identifying information with respect to the protected individual;

"(2) direct or indirect involvement in the process of carrying out a purpose for which a disclosure of identifying information is made under any of sections 2322 through 2326; or

"(3) reading (or otherwise directly perceiving) any record containing identifying information with respect to a protected individual or a contact of such individual, which record is developed in a process described in paragraph (1) or (2).

"(c) Applicability.—The prohibition established in subsection (a) shall apply to the conduct of a person without regard to whether the person receives Federal financial assistance.

"SEC. 2322. AUTHORIZED CONSENSUAL DISCLOSURES.

"(a) In General.—A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2323 through 2326, may disclose identifying information with respect to a protected individual if—

"(1) prior to the disclosure, the protected individual has, in accordance with subsection (d), consented to the disclosure; or

"(2) prior to the disclosure, the protected individual is legally incompetent under the law of the State in which the protected individual resides, the counseling and testing described in section 2321(b)(1) was provided at the request of the guardian of the protected individual, and the guardian consents, in accordance with subsection (d), to the disclosure.

"(b) Claimant Under Insurance on Life of Protected Individual.—A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2323 through 2326, may disclose identifying information with respect to a protected individual if—

"(1) prior to the disclosure, the protected individual is deceased and is the insured pursuant to life insurance;

"(2) prior to the disclosure, the claimant for the proceeds of the life insurance consents to the disclosure in accordance with subsection (c); and

"(3) the disclosure is made to the business organization providing the life insurance.

"(c) Recipient of Consensual Disclosure.—Any person receiving, pursuant to this section, a disclosure of identifying information with respect to a protected individual may disclose the identifying information under the applicable conditions described in subsection (a) or (b).

"(d) Required Procedure.—A consent under any of subsections (a) through (c) shall—

"(1) be in writing and be dated;

"(2) be signed by the person providing consent pursuant to subsection (a), (b), or (c);

"(3) specify the identifying information to be disclosed and the purpose of the disclosure;

"(4) specify the person, persons, or generic class of persons whom the consent authorizes to make the disclosure;

"(5) specify the person, persons, or generic class of persons to whom the disclosure is to be made; and

"(6) specify the period of time during which disclosures may be made under the consent and the procedures for withdrawal of consent.

"(e) Void Consent.—A consent under any of subsections (a) through (c) shall be void to the extent that the consent authorizes the recipient of the disclosure to make subsequent disclosures of identifying information in the discretion of the recipient.

"SEC. 2323. AUTHORIZED NONCONSENSUAL DISCLOSURES.

"(a) Nonconsensual Disclosure With Respect to Counseling and Testing.— A person described in section 2321(b)(1)(A) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made—

"(1) to a health care provider for the purpose of providing to the protected individual the counseling or testing described in such section;

"(2) to the protected individual; or

"(3) to the guardian of the protected individual, if the protected individual is legally incompetent under the law of the State in which the protected individual resides and such counseling or testing was provided at the request of the guardian.

"(b) Nonconsensual Disclosures With Respect to Other Health Care.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual if the disclosure is made to a health care provider that provides health care to the protected individual under conditions in which, as determined under guidelines issued by the Secretary, the provider is likely to be occupationally exposed to the etiologic agent for acquired immune deficiency syndrome.

"(c) Nonconsensual Disclosure to State Public Health Officer.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made to the State public health officer and the law of the State in which testing described in section 2321(b)(1)(A) is carried out requires disclosure to the officer.

"(d) Nonconsensual Disclosure With Respect to Bodily Fluids and Organs of Protected Individuals.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual if the disclosure is made to a health care provider (including a blood bank) that has received or will receive blood from the protected individual for the purposes of blood transfusions, has received or will receive semen from the individual for the purposes of artificial inseminations, has received or will receive breast milk from the individual for the purposes of distribution, or has received or will receive a donation from the individual of an organ for the purposes of transplantation.

"(e) NONCONSENSUAL DISCLOSURE WITH RESPECT TO BURIAL OF PROTECTED INDIVIDUALS.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual if the disclosure is made to a person who has received or will receive the body of the protected individual for the purpose of preparing the body for burial.

"(f) CERTAIN INTRAORGANIZATION NONCONSENSUAL DISCLOSURES.—Identifying information received by an organization pursuant to a disclosure under this section or section 2324 may be disclosed within the organization to the extent reasonably necessary to carry out the purpose for which the disclosure is made.

"SEC. 2324. AUTHORIZED NONCONSENSUAL REDISCLOSURE.

"Any person authorized under section 2322 or 2323 to receive a disclosure of identifying information may, for a purpose described in section 2323, disclose identifying information to any person authorized under such section to receive, for the purpose involved, a disclosure of such information.

"SEC. 2325. AUTHORIZED NONCONSENSUAL DISCLOSURE PURSUANT TO SALE OR TRANSFER OF ORGANIZATIONS AUTHORIZED TO MAKE OR RECEIVE DISCLOSURES.

"A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2322 through 2324, may disclose the identifying information if the disclosure is made only to the extent reasonably necessary for the purpose of—

"(1) selling the organization with respect to which such person is authorized under any of such sections to make or receive a disclosure of identifying information; or

"(2) effecting a transfer, merger, or consolidation of such organization.

"SEC. 2326. COURT ORDERS WITH RESPECT TO PUBLIC HEALTH OFFICER.

"(a) DISCLOSURE TO OFFICER.—A court of competent jurisdiction may, upon appropriate application to the court by the State public health officer, order any person described in section 2321(b)(1), and any person who receives a disclosure of identifying information under any of sections 2322 through 2325, to make a disclosure to the health officer of identifying information with respect to a protected individual or a contact of such individual to the extent reasonably necessary, in the determination of the court, to prevent a clear and imminent danger of the transmission, by the protected individual or contact involved, of the etiologic agent for acquired immune deficiency syndrome.

"(b) REDISCLOSURE BY OFFICER.—A court of competent jurisdiction may, upon appropriate application to the court by the State public health officer, authorize the officer to disclose identifying information with respect to a protected individual or a contact of such individual to the extent reasonably necessary, in the determination of the court, to prevent a clear and imminent danger of the transmission, by the protected individual or contact involved, of the etiologic agent for acquired immune deficiency syndrome.

"(c) OPPORTUNITY TO PARTICIPATE IN PROCEEDINGS.—Before requiring or authorizing a disclosure of identifying information under subsection (a) or (b), respectively, the court shall provide to the protected individual (and to any contact of such individual with respect to whom identifying information is sought) a reasonable opportunity to participate in the proceedings for determining whether, and to what extent, a disclosure will be ordered.

"(d) IN CAMERA PROCEEDINGS.—Proceedings under subsections (a) and (b) shall be conducted in camera. Any references in court documents to the parties in such proceeding shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"(e) FINDINGS OF FACTS AND CONCLUSIONS OF LAW.—In granting or denying applications pursuant to subsection (a) or (b), the court involved shall find the facts specially and state separately the conclusions of law that constitute the grounds of the actions of the court.

"SEC. 2327. NONCONSENSUAL DISCLOSURES TO CERTAIN CONTACTS OF PROTECTED INDIVIDUALS.

"A person described in section 2321(b)(1)(A), and a person who receives a disclosure of identifying information under section 2323(c), may disclose identifying information with respect to a protected individual if—

"(1) such person is a physician or a counselor;

"(2) the disclosure is made to the spouse of the protected individual or to an individual whom the protected individual has, during the process of counseling or testing described in such section, identified as being a sexual partner of the protected individual or an individual with whom the protected individual has shared a hypodermic needle;

"(3) such person has counseled the protected individual with respect to making medically appropriate disclosures of identifying information to the individuals described in paragraph (2);

"(4) such person reasonably believes that—

"(A) the protected individual will not inform such individuals of the identifying information with respect to the protected individual; and

"(B) the disclosure is medically appropriate; and

"(5) the disclosure of the name of the protected individual is made only if medically appropriate.

"SEC. 2328. NONCONSENSUAL DISCLOSURE TO VICTIM OF SEXUAL ASSAULT.

"A person described in section 2321(b)(1)(A) may disclose identifying information with respect to a protected individual if—

"(1) the protected individual is convicted of a crime relating to sexual assault;

"(2) the disclosure is made to the victim of such crime at the request of the victim; and

"(3) the disclosure is made by a physician or a counselor.

"SEC. 2329. REQUIREMENT OF CERTAIN NOTIFICATIONS WITH RESPECT TO DISCLOSURE OF IDENTIFYING INFORMATION.

"(a) IN GENERAL.—

"(1)(A) Except as provided in paragraph (2), any person who, under any of sections 2322 through 2326, discloses any identifying information with respect to a protected individual shall ensure that such disclosure, whether made orally or in writing, is accompanied by a written statement declaring that any subsequent disclosure of the information provided may be prohibited by law.

"(B) Except as provided in paragraph (2), any person who, under any of sections 2322 through 2324, discloses any identifying information with respect to a protected individual shall notify such individual (if living) in writing of the fact of such disclosure.

"(2) The requirements established in paragraph (1) shall not apply to any disclosure of identifying information under any of sections 2322 through 2324 made to a person who is part of the same organization as the person from whom the disclosure is received.

"(b) NONCONSENSUAL DISCLOSURE TO CERTAIN CONTACTS OF PROTECTED INDIVIDUAL.—Any person who, under section 2327, discloses identifying information with respect to a protected individual shall notify such individual (if living) in writing of the fact of such disclosure.

"SEC. 2330. CIVIL MONEY PENALTY AND CIVIL CAUSES OF ACTION FOR VIOLATION OF PROHIBITION.

"(a) ASSESSMENT OF CIVIL MONEY PENALTY.—

"(1) Any person who intentionally or negligently violates section 2321 or 2329 shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

"(2) A civil penalty under paragraph (1) may be assessed by the Secretary only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the person makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

"(3) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed pursuant to paragraph (2).

"(4) If the Secretary issues an order pursuant to paragraph (2) after a hearing described in such paragraph, the person who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, seek judicial review of the order pursuant to section 1331 of title 28, United States Code, and chapter 7 of title 5, United States Code.

"(5) If a person does not request a hearing pursuant to paragraph (2) and the Secretary issues an order pursuant to such paragraph, or if a person does not under paragraph (4) seek judicial review of such an order, the Secretary may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in paragraph (4). In such an action, the decision of the Secretary to issue the order, and the amount of the penalty assessed by the Secretary, shall not be subject to review.

"(6) The Secretary may not under this subsection commence proceeding against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321 or 2329.

"(b) INJUNCTIVE RELIEF.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a violation of section 2321 or 2329.

"(c) CIVIL CAUSE OF ACTION BY AGGRIEVED INDIVIDUAL.—

"(1) Any individual who is aggrieved as a result of a violation by any person of section 2321 or 2329 may, in any court of competent jurisdiction, commence a civil action against such person to obtain appropriate relief, including actual and punitive damages, equitable relief, and a reasonable attorney's fee and costs. For a violation of section 2321, damages shall be not less than the liquidated amount of $2,000.

"(2) An individual described in paragraph (1) may not commence proceedings under such paragraph against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321 or 2329.

"(d) IN CAMERA PROCEEDINGS.—Proceedings under this section shall be conducted in camera. Any references in court documents to the parties in such proceeding shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"SEC. 2331. CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.

"(a) IN GENERAL.—Any person who intentionally violates the prohibition established in section 2321 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than one year, or both.

"(b) LIMITATION ON ACTION.—Proceedings under subsection (a) may not be commenced against a person unless, with respect to such proceedings, the indictment is found or the information is instituted not later than the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321.

"SEC. 2332. VIOLATIONS BY FEDERAL GRANTEES AND CONTRACTORS.

"Grants made, and contracts entered into, by any Federal agency may be terminated by the agency involved if the Federal grantee or contractor involved violates section 2321 or 2329. Any Federal grantee or contractor violating such a prohibition may, with respect to Federal grants and contracts, be suspended or debarred by the agency involved.

"SEC. 2333. EXCLUSIVITY OF FEDERAL PENALTIES AND REMEDIES FOR VIOLATIONS.

"The imposition of a penalty under section 2330 or 2331 for a violation of section 2321 or 2328 shall not preclude the imposition of any other applicable penalty under Federal law with respect to such a violation. The receipt of relief pursuant to section 2330(c) for such a violation shall not preclude the receipt of any other relief available under Federal law with respect to such a violation.

"SEC. 2334. PREEMPTION OF CERTAIN STATE DISCLOSURE LAWS.

"(a) IN GENERAL.—This part shall supersede any State law that—

"(1) provides a criminal or civil penalty, or a cause of action, for the failure of any person described in section 2321(b) to make a disclosure of identifying information not authorized under this part to be made; or

"(2) provides a criminal or civil penalty, or a cause of action, for a disclosure by any such person of identifying information authorized under this part to be made (including any State law that prohibits, or authorizes a cause of action for, a disclosure of identifying information by a physician or counselor under section 2327).

"(b) AUTHORIZED STATE CRIMINAL AND CIVIL ACTIONS.—This part shall not supersede any State criminal or civil action (including a cause of action for damages) for a disclosure of identifying information made in violation of any State law not superseded by subsection (a), including any State criminal or civil action for a disclosure of identifying information made by an individual receiving such information under section 2327.

"SEC. 2335. DEFINITIONS.

"For purposes of this part:

"(1) The term 'contact of a protected individual' means any individual whose identity is, during the process of counseling or testing described in section 2321(b)(1)(A), disclosed by a protected individual.

"(2) The term 'identifying information' means any information—

"(A) relating to the identity of an individual who is a protected individual, or who is a contact of such individual, whichever is indicated by the context of usage; and

"(B) provided in a context indicating that the individual has undergone, is undergoing, or will undergo, counseling or testing described in section 2321(b)(1)(A) or in a context indicating whether the individual is infected with the etiologic agent for acquired immune deficiency syndrome.

"(3) The term 'protected individual' means an individual—

"(A) who has undergone, or is undergoing, counseling or testing described in section 2321(b)(1)(A); or

"(B) who has, in anticipation of undergoing such counseling or testing, disclosed his or her identity to a person who provides such counseling or testing.

"PART C—GENERAL PROVISIONS

"SEC. 2341. DATA COLLECTION WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) INTRAVENOUS DRUG ABUSE RESULTING IN ADMISSIONS TO EMERGENCY ROOMS.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, shall collect data each year on the number of individuals who are both—

"(A) infected with the etiologic agent for acquired immune deficiency syndrome; and

"(B) admitted to the emergency rooms of hospitals as a result of intravenous drug abuse.

"(2) Paragraph (1) may not be construed—

"(A) to require or authorize any person to test any individual for infection with the etiologic agent for acquired immune deficiency syndrome; or

"(B) to preclude any person from testing any individual for such infection.

"(b) MENTAL HEALTH.—

"(1) The Secretary, acting through the Director of the National Institute of Mental Health, shall collect data each year on the number of cases of mental illness—

"(A) arising as a result of cases of asymptomatic infection with the etiologic agent for acquired immune deficiency syndrome; and

"(B) arising as a result of cases of acquired immune deficiency syndrome.

"(2) Paragraph (1) may not be construed—

"(A) to require or authorize any person to test any individual for infection with the etiologic agent for acquired immune deficiency syndrome; or

"(B) to preclude any person from testing any individual for such infection.

"SEC. 2342. DEFINITIONS.

"For purposes of this title:

"(1) The term 'counseling with respect to acquired immune deficiency syndrome' means such counseling provided by an individual trained to provide such counseling.

"(2) The term 'exposed to the etiologic agent for acquired immune deficiency syndrome' means to be in circumstances in which there is a significant risk of becoming infected with such etiologic agent.

"(3) The term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from such etiologic agent.

"(4) The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(5) The term 'testing for infection with the etiologic agent for acquired immune deficiency syndrome' includes any diagnosis of such infection made by a health care provider licensed to make such a diagnosis under the law of the State in which the diagnosis is made.

"(6) The term 'records' includes electronic recordings and any other method of storing information.".

(b) CONFORMING AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 305(i), by striking "2313" each place it appears and inserting "2411";

(2) in section 465(f), by striking "2301" and inserting "2401"; and

(3) in section 497, by striking "2301" and inserting "2401".

(c) EFFECTIVE DATES.—Part B of title XXIII of the Public Health Service Act (as added by subsection (a)) shall take effect on the expiration of the 60-day period beginning on the date of the enactment of this Act.

SEC. 10005. CONTINGENT AUTHORITY FOR TRANSFERS BETWEEN CERTAIN BLOCK GRANTS.

(a) TRANSFER TO PART D.—If, under part D of title XIX of the Public Health Service Act (as added by section 10003 of this Act), the amount of the allotment for a State for a fiscal year is less than the amount of the allotment for mental health services under former section 1913 (as defined in section 1928(2) of such part) for the State for fiscal year 1986, the State may transfer to its allotment under such part D not more than 25 percent of the amount of the allotment for the State under part C of such title (as added by section 10003 of this Act).

(b) TRANSFER TO PART C.—If, under part C of title XIX of the Public Health Service Act (as added by section 10003 of this Act), the amount of allotment for a State for a fiscal year is less than the amount of the allotment for substance abuse services under former section 1913 (as defined in section 1937(1) of such part) for the State for fiscal year 1986, the State may transfer to its allotment under such part C not more than 25 percent of the amount of the allotment under part D of such title (as added by section 10003 of this Act).

SEC. 10006. STANDARDS FOR CERTIFICATION OF LABORATORIES ENGAGED IN DRUG TESTING.

Title V of the Public Health Service Act is amended by adding at the end the following:

"PART E—DRUG TESTING

"DRUG TESTING OF URINE AND BLOOD SPECIMENS

"SEC. 551. (a)(1) Not later than 90 days after the date of enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary shall, by regulation, establish a program (hereinafter referred to in this section as the 'certification program') for the certification of laboratories for the performance of toxicological urinalysis conducted for drug testing programs. Except as provided in paragraphs (2), (3), and (4) such certification program shall—

"(A) in all material respects conform to the mandatory guidelines for Federal workplace drug testing programs published on April 11, 1988, by the Alcohol, Drug Abuse, and Mental Health Administration at 53 Fed. Reg. 11979 (hereinafter referred to in this section as the 'ADAMHA guidelines'), and

"(B) include all standards and requirements set forth in subparts B and C of the ADAMHA guidelines.

"(2) The certification program established by the Secretary under paragraph (1) shall treat any person conducting a drug testing program in the same manner as the ADAMHA guidelines treat the Federal agencies to which they are applicable and shall, in addition—

"(A) govern drug testing programs designed to identify the presence in a urine specimen of any drug,

"(B) limit the duration of any interim certification procedure to not more than 6 months,

"(C) require that all blank and spiked specimens used in any blind proficiency challenge, including all sets, groups, or packages of such specimens, shall be prepared, assembled, and transmitted to the laboratory being tested in such manner and form as to be indistinguishable from actual test specimens,

"(D) require that following each quarterly blind proficiency challenge prescribed by the certification program, any person conducting a drug testing program shall inform the Secretary of any false positive results reported by a laboratory in such challenge and shall specify whether the error or errors consist of one or more of the following—

"(i) incorrectly reporting the presence in a blank specimen of any drug,

"(ii) incorrectly reporting the presence in a spiked specimen of any drug found in a class of drugs different from the class in which the drug or drugs actually used to spike such specimen is found, or

"(iii) incorrectly reporting the presence in a spiked specimen of any drug within the same class of drugs as the drug or drugs actually used to spike such specimen,

"(E) require the Secretary to revoke the certification of any laboratory found to have incorrectly reported the presence in any blank specimen of any drug, without regard to the reason for the error,

"(F) require the Secretary to suspend for a minimum of one year the certification of any laboratory found to have incorrectly reported the presence in a spiked specimen of any drug found in a class of drugs different from the class in which the drug or drugs actually used to spike such specimen is found, and to suspend for a minimum of 6 months the certification of any laboratory found to have incorrectly reported the presence in a spiked specimen of any drug within the same class of drugs as the drug or drugs actually used to spike such specimen,

"(G) prohibit the performance of toxicological urinalysis in connection with a drug testing program conducted by any person with which the laboratory performing the urinalysis is affiliated, directly or indirectly,

"(H) allow access by any test subject, upon written request, to any records relating to the results of a blind proficiency challenge conducted during any quarter in which he was tested,

"(I) provide that the Secretary shall have the responsibility to oversee and review the performance of any contractor or other recognized organization which the Secretary designates to act on the Secretary's behalf to ensure that such designee implements the certification program in strict accordance with the requirements of this section, and

"(J) provide that the Secretary shall have the right to obtain from such designee and from any laboratory that may be certified by such designee all records and materials that may be necessary for the oversight and review required by subparagraph (I).

"(3) The certification program established by the Secretary under this subsection shall prohibit—

"(A) deviation from or waiver of the requirements of the certification program,

"(B) the subcontracting by any laboratory of any work in connection with toxicological urinalysis, except to another laboratory certified under the certification program,

"(C) the use of self-certification procedures,

"(D) the recertification of any laboratory whose certification has been revoked under paragraph (2)(E), and

"(E) the certification of any laboratory affiliated, directly or indirectly, with a laboratory with respect to which a certification has been revoked under paragraph (2)(E), or with respect to which a certification has been suspended under paragraph (2)(F) during the period of such suspension.

"(4) A laboratory may not be certified under the program established under paragraph (1) to perform drug testing unless the laboratory is licensed or accredited under section 353.

"(b) Not later than one year after the date of enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary shall, by regulation, revise the certification program established under subsection (a) to include requirements for the safe collection and accurate toxicological analysis of blood specimens in connection with drug testing programs. To the maximum extent practicable, the Secretary shall apply to such blood testing the requirements of the certification program established under subsection (a) with respect to specimen collection procedures, laboratory personnel, laboratory analysis procedures, quality assurance and quality control, reporting and review of results, protection of records, access by test subjects to test and proficiency challenge records, and certification. The Secretary shall require that laboratories engaged in such blood testing shall meet quality and proficiency standards no less stringent than those required under subsection (a) and shall also provide that laboratories engaged in such blood testing shall be subject to revocation and suspension of their certifications on terms no less stringent than those applicable under subsection (a) to laboratories engaged in toxicological urinalysis.

"(c) It shall be unlawful for any person to solicit or accept any urine or blood specimen for toxicological analysis in connection with any drug testing program unless that person is a laboratory which is certified by the certification program established or revised under subsection (a) or (b), whichever is applicable.

"(d) It shall be unlawful for any person—

"(1) other than a test subject, to disclose the results of a toxicological analysis of any urine or blood sample in connection with any drug testing program, except as provided in the certification program established or revised under subsection (a) or (b), whichever is applicable,

"(2) to knowingly alter the results of a toxicological analysis of any urine or blood specimen in connection with any drug testing program or blind proficiency challenge or to falsely report such results,

"(3) to knowingly perform or cause to be performed on a urine or blood specimen a test for any substance, drug, or medical condition without the consent of the test subject or of a physician treating such test subject, except as provided in the certification program established or revised under subsection (a) or (b), whichever is applicable,

"(4) to take any adverse action against any test subject based, in whole or in part, upon such subject's refusal or failure to provide the consent described in paragraph (3),

"(5) in the case of a toxicological urinalysis, to take any adverse action against any test subject based, in whole or in part, upon a positive result that has not been accurately verified by a confirmatory test performed in accordance with the requirements of the certification program established under subsection (a), and

"(6) to fail to administer or conduct any toxicological analysis or drug testing program in accordance with the requirements of the certification program established or revised under subsection (a) or (b), whichever is applicable.

"(e)(1) A person who violates subsection (c) or (d) shall be subject to one or more of the following sanctions for each such violation:

"(A) Assessment by the Secretary of a civil penalty of not less than $1,000 nor more than $10,000, taking into account the previous record of the person in terms of compliance with subsections (c) and (d) and the gravity of the violation.

"(B) Imprisonment for not more than 3 years, or a fine under title 18, United States Code, or both.

"(2) Nothing in this subsection shall be construed to limit the Secretary's authority to revoke or suspend a laboratory's certification under the certification program established or revised under subsection (a) or (b), whichever is applicable, or to limit the availability of the remedies provided in subsection (f).

"(f)(1) Any test subject who is tested or whose test results are handled in violation of, or is deprived of rights under, subsection (c) or (d) or the requirements of this section or the certification program established or revised under subsection (a) or (b), whichever is applicable, may institute a civil action in any district court of the United States of competent jurisdiction for appropriate legal and equitable relief, including employment, reinstatement, promotion, the payment of lost wages and benefits, and damages, plus the costs of suit, including a reasonable attorney's fee. Such an attorney's fee shall be allowed in the manner in which attorney's fees are allowed under the last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988). It shall not be a defense to such an action that the plaintiff has waived the rights or protections provided for in this section or such certification program or has otherwise consented to a violation described in subsection (c) or (d) or that the defendant acted in good faith. No action may be instituted under this paragraph after the expiration of 3 years from the date the person discovers, or with the exercise of reasonable diligence should have discovered, the violation or deprivation.

"(2) The Secretary may bring an action to restrain violations of this section. In any action brought under this paragraph, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this section, including such legal or equitable relief incident thereto as may be appropriate, including employment, reinstatement, promotion, and the payment of lost wages and benefits.

"(3) Any person conducting a drug testing program who takes any adverse action against any test subject based, in whole or in part, upon a report by a laboratory of a positive test result which is thereafter found to have been a false positive result and who consequently is held liable under paragraph (1) or (2) for damages or other sums may institute a civil action for indemnification against such laboratory in any district court of the United States of competent jurisdiction. No action may be instituted under this paragraph after the expiration of one year from the date on which a judgment under paragraph (1) becomes final.

"(g)(1) Nothing in this section limits the authority of any test subject or duly authorized representative of a test subject to contract for standards, procedures, or requirements more protective of the rights of test subjects than those provided under subsection (c) or (d) or in the certification program.

"(2) To the extent that subsection (c) or (d) or the certification program established or revised under subsection (a) or (b) provides greater protection to test subjects or imposes more stringent requirements on the Secretary, laboratories performing toxicological analysis of urine or blood specimens, or persons conducting drug testing programs, such protections and requirements shall supersede and replace those provided by any drug testing program prescribed by the ADAMHA guidelines and by any statute, rule, regulation, executive order, or other law in effect on the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988.

"(3) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with this section, except that this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property.

"(h) The Secretary shall require the payment of fees by a laboratory for certification and recertification in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of granting or denying such certification or recertification under the certification program established or revised under subsection (a) or (b). The Secretary shall also require the payment thereafter of annual fees by certified laboratories in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of ongoing testing, inspection, and other supervisory activities with respect to certified laboratories under this section and such certification programs.

"(i) As used in this section—

"(1) the term 'affiliated' means associated as a shareholder, partner, subsidiary, division, department director, officer, or employee,

"(2) the term 'blank specimen' means a urine or blood specimen containing no drug,

"(3) the term 'blind proficiency challenge' means a test of a laboratory's ability to identify correctly whether a blood or urine specimen contains any quantity of a drug and, in the case of a spiked specimen, to identify correctly the quantity of any drug in that specimen, where such test is conducted so as to ensure that the laboratory has no knowledge that its performance is being tested,

"(4) the term 'class of drugs' means any group of drugs having chemical structural similarities, including—

"(A) the group of drugs known as cannabinoids,

"(B) the group of drugs known as opiates,

"(C) the group of drugs known as phencyclidines,

"(D) the group of drugs known as amphetamines,

"(E) the group of drugs known as barbiturates,

"(5) the term 'controlled substance' has the meaning given to it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

"(6) the term 'drug' means any controlled substance and any metabolite of a controlled substance,

"(7) the term 'drug testing program' means any program or policy under which 2 or more individuals are, or can reasonably be expected to be, required or requested to submit urine or blood specimens for toxicological analysis, but such term does not include—

"(A) any program for the toxicological analysis of urine or blood specimens—

"(i) administered by the armed forces (as defined in section 2101(2) of title 5, United States Code) or the intelligence community (as defined in Executive Order 12333 of December 4, 1981), or

"(ii) involving the testing of arrestees, detainees, probationers, incarcerated persons, or parolees in the criminal justice system, and

"(B) the submission to a laboratory of any urine or blood specimen by an individual's physician in the regular course of diagnosis or treatment,

"(8) the term 'false positive result' means a report of the results of any toxicological analysis of a urine or blood specimen in which one or more of the following errors is present—

"(A) with respect to a blank specimen, incorrectly reporting the presence of any drug in such specimen, or

"(B) with respect to a specimen containing any drug or drugs—

"(i) incorrectly reporting the presence in that specimen of any drug found in a class of drugs different from the class in which the drug or drugs actually present in such specimen is found, or

"(ii) incorrectly reporting the presence in that specimen of any drug found in the same class of drugs as the class in which the drug or drugs actually present is found,

"(9) the term 'interim certification procedures' means the procedures described in section 2.6 of the ADAMHA guidelines,

"(10) the term 'person' includes the Federal Government, a State or local government, or any agency of such a government,

"(11) the term 'self-certification procedures' means the procedures described in section 2.6(b) of the ADAMHA guidelines,

"(12) the term 'spiked specimen' means a urine or blood specimen into which any quantity of a drug or drugs has intentionally been placed for use in a blind proficiency challenge,

"(13) the term 'test subject' means an individual who has been required to submit a urine or blood specimen for toxicological analysis in connection with a drug testing program,

"(14) the term 'toxicological analysis' means the performance of any analytical procedure or set of procedures on a urine or blood specimen to identify the presence in that specimen of any drug and the amount thereof, and

"(15) the term 'toxicological urinalysis' means toxicological analysis using a urine specimen.".

SEC. 10007. FUNDING FOR OFFICE FOR SUBSTANCE ABUSE PREVENTION.

Section 508(d) of the Public Health Service Act (42 U.S.C. 290cc-2(d)) is amended to read as follows:

"(d)(1) For the purpose of carrying out this section and sections 509, 509A, and 509E, there are authorized to be appropriated $75,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available not less than 5 percent to carry out subsection (b)(5) and not less than 10 percent to carry out section 509E.".

SEC. 10008. REQUIREMENT OF ANNUAL COLLECTION BY SECRETARY OF CERTAIN DATA WITH RESPECT TO MENTAL ILLNESS AND SUBSTANCE ABUSE.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"DATA COLLECTION

"SEC. 509D. (a) The Secretary, acting through the Administrator, shall, through representive sampling, collect data each year on—

"(1) the national incidence and prevalence of the various forms of mental illness and substance abuse; and

"(2) the incidence and prevalence of such various forms in major metropolitan areas selected by the Administrator.

"(b) With respect to the activities of the Administrator under subsection (a) relating to mental health, the Administrator, acting through the Director of the National Institute of Mental Health, shall ensure that such activities include the collection of data on—

"(1) the number and variety of public and nonprofit private treatment programs;

"(2) the number of individuals receiving treatment through such programs and the diagnoses of such individuals; and

"(3) demographic characteristics of the population of such individuals.

"(c)(1) With respect to the activities of the Administrator under subsection (a) relating to substance abuse, the Administrator, acting through the Director of the National Institute on Alcoholism and Alcohol Abuse and the Director of the National Institute on Drug Abuse, shall ensure that such activities include the collection of data on—

"(A) the number of individuals admitted to the emergency rooms of hospitals as a result of the abuse of alcohol and other drugs;

"(B) the number of deaths occurring as a result of substance abuse, as indicated in reports by coroners;

"(C) the number and variety of public and private nonprofit treatment programs;

"(D) the number and demographic characteristics of individuals receiving treatment through such programs; and

"(E) the number of such individuals who return for treatment after the completion of a prior treatment in such programs and the method of treatment utilized during the prior treatment.

"(2) With respect to the collection of data under paragraph (1), the Director shall conduct annual surveys.".

SEC. 10009. MODEL PROJECTS FOR PREGNANT AND POST PARTUM WOMEN AND THEIR INFANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 10008 of this Act, is further amended by adding at the end the following new section:

"MODEL PROJECTS FOR PREGNANT AND POST PARTUM WOMEN AND THEIR INFANTS

"SEC. 509E. (a) The Secretary, acting through the Director of the Office, shall make grants to establish projects for prevention, education, and treatment regarding drug and alcohol abuse relating to pregnant and post partum women and their infants.

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) for low-income women and their infants; and

"(2) designed to develop innovative approaches to prevention, education, and treatment regarding the use of the drugs with respect to which there exists insufficient information (including cocaine and the cocaine derivative known as crack).

"(c) In making grants under subsection (a) for projects that provide treatment, the Director of the Office shall ensure that grants are reasonably distributed among projects that provide inpatient, outpatient, and residential treatment.

"(d) The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director of the Office determines to be necessary to carry out this section.

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.".

SEC. 10010. ESTABLISHMENT OF PROGRAM OF GRANTS WITH RESPECT TO REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 10009 of this Act, is further amended by adding at the end the following new section:

"REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT

"SEC. 509F. (a) The Secretary may make grants to public and nonprofit private entities for the purpose of expanding the capacity of grantees to carry out programs of treatment for drug abuse.

"(b) The Secretary may not make a grant under subsection (a) unless the applicant for the grant—

"(1) is experienced in the delivery of treatment services for drug abuse;

"(2) is, on the date the application is submitted, carrying out a program for the delivery of such services;

"(3) as a result of the number of requests for admission into the program, is unable to admit any individual into the program any earlier than one month after the date on which the individual makes a request for such admission; and

"(4) provides assurances satisfactory to the Secretary that, after funding is no longer available under this section, the applicant will have access to financial resources sufficient to continue the program.

"(c) The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d)(1) For the purpose of carrying out this section, there is authorized to be appropriated $100,000,000.

"(2) Amounts made available pursuant to paragraph (1) shall remain available until expended.

"(3) No grant may be made under this section after the aggregate amounts obligated by the Secretary pursuant to this section are equal to $100,000,000.".

SEC. 10011. REQUIREMENT OF EVALUATIONS OF FEDERALLY FUNDED PROGRAMS OF TREATMENT FOR DRUG ABUSE.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 10010 of this Act, is further amended by adding at the end the following new section:

"EVALUATIONS OF PROGRAMS FOR TREATMENT OF DRUG ABUSE

"SEC. 509G. (a) The Secretary shall, directly or by contract, provide for an independent evaluation of federally funded programs of treatment for drug abuse and for independent evaluations of federally funded programs of research into methods of such treatment.

"(b) In carrying out the evaluations required in subsection (a), the Secretary shall—

"(1) assess the comparative effectiveness and costs of the various methods of treatment utilized for specific patient groups served by programs described in subsection (a);

"(2) clarify research and treatment objectives of such programs;

"(3) clarify research and treatment methodologies of such programs;

"(4) determine whether entities carrying out such programs have organizational biases with respect to providing treatment for drug abuse; and

"(5) determine the extent to which such programs are contributing to progress in the development of effective methods of treatment for drug abuse.

"(c) The Secretary shall, not later than 1 year after the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, complete the evaluation required in subsection (a) and submit to the Congress a report describing the findings made as a result of the evaluation.".

SEC. 10012. AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH WITH RESPECT TO ALCOHOL ABUSE AND ALCOHOLISM.

Section 513(a) of the Public Health Service Act (42 U.S.C. 290bb-2(a)) is amended by striking "1987." and inserting the following: "1987, and such sums as may be necessary for each of the fiscal years 1989 through 1991.".

SEC. 10013. FUNDING FOR RESEARCH WITH RESPECT TO DRUG ABUSE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended by striking "1987." and inserting "1987, and such sums as may be necessary for each of the fiscal years 1989 through 1991.".

(b) SET-ASIDE WITH RESPECT TO PREGNANT WOMEN AND INFANTS.—Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended—

(1) by redesignating such section as section 518;

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end the following new subsection:

"(b) Of the amounts appropriated pursuant to subsection (a), the Secretary shall make available 5 percent to carry out section 516(b) and not less than 10 percent to carry out section 517.".

SEC. 10014. DEMONSTRATION PROJECTS WITH RESPECT TO INTRAVENOUS DRUG ABUSE AND ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 10013(b)(1) of this Act, is further amended by inserting after section 516 the following new section:

"DEMONSTRATION PROJECTS WITH RESPECT TO INTRAVENOUS DRUG ABUSE AND ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 517. (a) The Secretary, acting through the Director of the National Institute on Drug Abuse, may make grants to public and private entities for demonstration projects—

"(1) to determine the feasibility and long-term efficacy of programs providing drug abuse treatment and vocational training in exchange for public service;

"(2) to conduct outreach activities to intravenous drug abusers with respect to the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome and to encourage intravenous drug abusers to seek treatment for such abuse; and

"(3) to provide drug abuse treatment services to pregnant women, postpartum women, and their infants.

"(b) The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of projects carried out pursuant to subsection (a) and for the dissemination of information developed as result of such models.

SEC. 10015. ESTABLISHMENT OF GRANT PROGRAMS FOR RESEARCH WITH RESPECT TO MENTAL HEALTH SERVICES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) by amending section 504(f) to read as follows:

"(f)(1) The Secretary, acting through the Director, shall—

"(A) develop and publish information with respect to the causes of suicide and the means of preventing suicide; and

"(B) make such information generally available to the public and to health professionals.

"(2) Information described in paragraph (1) shall especially relate to suicide among individuals under 24 years of age.";

(2) by striking subsections (g) through (i) of section 504; and

(3) by adding at the end of part B the following new subpart:

"Subpart 3—Mental Health Research

"ESTABLISHMENT OF PROGRAM FOR MENTAL HEALTH RESEARCH

"SEC. 519. The Secretary, acting through the Director, may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities for the conduct of, promotions of, coordination of, research, investigation, experiments, demonstrations, and studies relative to the cause, diagnosis, treatment, control, and prevention of mental illness.

"NATIONAL MENTAL HEALTH EDUCATION PROGRAM

"SEC. 520. The Secretary, acting through the Director, shall establish a National Mental Health Education Program for the purpose of—

"(1) developing improved methods of treating individuals with mental health problems and improved methods of assisting the families of such individuals;

"(2) supporting programs of biomedical and behavioral research, training, and education with respect to the causes, diagnosis, and treatment of mental health problems;

"(3) collecting and making available, through publication and other appropriate methods, information on, and the practical application of, such research and other activities;

"(4) providing technical assistance to public and private entities that are providers of mental health services;

"(5) disseminating to such providers and to the public information with respect to mental health, including information on programs that provide financial assistance in obtaining mental health services; and

"(6) establishing a clearinghouse in order to collect information developed in mental health research and treatment programs and to make such information available to providers of mental health services, to individuals with mental health problems, and to the general public.

"ESTABLISHMENT OF GRANT PROGRAM FOR DEMONSTRATION PROJECTS

"SEC. 520A. (a) CHRONICALLY MENTALLY ILL INDIVIDUALS AND SERIOUSLY MENTALLY DISTURBED CHILDREN.—The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and nonprofit private agencies for mental health services demonstration projects for the planning, coordination, and improvement of community services (including outreach and self-help services) for chronically mentally ill individuals, seriously emotionally disturbed children and youth, elderly individuals, and homeless chronically mentally ill individuals, and for the conduct of research concerning such services.

"(b) INDIVIDUALS AT RISK OF MENTAL ILLNESS.—

"(1) The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit agencies for prevention services demonstration projects for the provision of prevention services for individuals who, in the determination of the Secretary, are at risk of developing mental illness.

"(2) Demonstration projects under paragraph (1) may include—

"(A) prevention services for populations at risk of developing mental illness, particularly displaced workers, young children, and adolescents;

"(B) the development and dissemination of education materials;

"(C) the sponsoring of local, regional, or national workshops or conferences;

"(D) the conducting of training programs with respect to the provision of mental health services to individuals described in paragraph (1); and

"(E) the provision of technical assistance to providers of such services.

"(c) LIMITATION ON DURATION OF GRANT.—The Secretary may make a grant under subsection (a) or (b) for not more than three consecutive one-year periods.

"(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under subsection (a) or (b) to an applicant unless the applicant agrees that not more than 10 percent of such a grant will be expended for administrative expenses.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) For the purposes of carrying out this section, there are authorized to be appropriated $32,000,000 for each of the fiscal years 1989 and 1990.

"(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available 25 percent for demonstration projects to carry out the purpose of this section in rural areas.".

SEC. 10016. MISCELLANEOUS AMENDMENTS.

(a) TITLE V OF PUBLIC HEALTH SERVICE ACT.—

(1) The title of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended so as to read: "TITLE V—ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH PROGRAMS".

(2) Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended—

(A) by adding at the end of subsection (b) the following new paragraph:

"(4) The Office of Substance Abuse Prevention.";

(B) in the first sentence of subsection (e)(2)—

(i) by striking "The" and inserting the following: "Not less than once each three years, the"; and

(ii) by striking "annually";

(C) by striking "fraud" each place it appears in subsection (f) and inserting "misconduct";

(D) by striking subsection (k); and

(E) by adding at the end the following new subsections:

"(k) The Administrator may accept voluntary and uncompensated services.

"(l) The Administrator may conduct and support research training—

"(1) for which fellowship support is not provided under section 487; and

"(2) that is not residency training of physicians or other health professionals.

"(m)(1) The Secretary, acting through the Administrator, may make grants to public and nonprofit private entities for the acquisition of small instrumentation necessary for carrying out the purpose of this title with respect to research.

"(2) The Secretary may not make a grant under paragraph (1) unless the small instrumentation acquired pursuant to the grant will be contemporaneously utilized by two or more grantees under this title with respect to research.

"(3) Grants under paragraph (1) shall be subject to technical and scientific peer review under section 507.

"(4) A grant under paragraph (1) for a fiscal year may not exceed $100,000.

"(5) For the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 through 1991.".

(3) Section 515(a) of the Public Health Service Act (42 U.S.C. 290cc) is amended in the matter after and below paragraph (6) by inserting before the period the following: "(particularly with respect to pregnant women and their children)".

(4) Section 516 of the Public Health Service Act (42 U.S.C. 290cc-1) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b) In making grants under subsection (a), the Secretary shall give special consideration to projects for determining the effects of drug abuse among pregnant women and the resulting effects on the infants of such women, including the relationship between drug abuse during pregnancy and the birthweight of infants.".

(b) SECTION 303.—Section 303(d)(1) of the Public Health Service Act (42 U.S.C. 242a(d)(1)) is amended by inserting "marital and family therapy," after "nursing,".

(c) ANTI-DRUG ABUSE ACT OF 1986.—Section 6005(b) of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is amended by striking "one year" and all that follows through "Act" and inserting "18 months after the execution of the contract referred to in subsection (a),".

SEC. 10017. BANNING OF BUTYL NITRITE.

(a) IN GENERAL.—Except as provided in subsection (b), butyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) LAWFUL PURPOSES.—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States butyl nitrite for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "butyl nitrite" includes n-butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing these chemicals.

(2) The term "commercial purpose" means any commercial purpose other than for the production of consumer products containing butyl nitrite that may be used for inhaling or otherwise introducing butyl nitrite into the human body for euphoric or physical effects.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this Act.

SEC. 10018. FORFEITURE AND ILLEGAL TRAFFICKING IN STEROIDS.

Any conviction of a person for a violation of the Federal Food, Drug, and Cosmetic Act involving anabolic steroids or human growth hormone which is punishable by imprisonment for more than one year shall for purposes of section 413 of the Controlled Substances Act be considered a conviction for a violation of that Act.

SEC. 10019. PROTECTION OF PUBLIC HEALTH WITH RESPECT TO ILLEGAL DRUG LABORATORIES.

(a) GUIDELINES AND COUNSELING.—The Administrator of the Environmental Protection Agency shall, not later than 180 days after the date of the enactment of this Act, develop and publish guidelines and provide counseling for law enforcement agencies for dealing with illegal drug laboratories to protect the public health and environment.

(b) DEMONSTRATION PROJECTS.—

(1) The Administrator of the Drug Enforcement Administration shall make grants and enter into contracts for demonstration projects to clean up and safely dispose of substances associated with illegal drug laboratories which may present a danger to public health or the environment.

(2) The Administrator of the Drug Enforcement Administration may not under this subsection make a grant or enter into a contract unless the applicant for such assistance agrees to comply with the guidelines issued pursuant to subsection (a).

(3) The Administrator of the Drug Enforcement Administration shall, through grant or contract, provide for independent evaluations of the activities carried out pursuant to this section and shall submit to the Committee on Energy and Commerce of the House of Representatives, to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing the findings made as a result of the evaluations.

(c) FUNDING.—Of the amounts made available to carry out the Controlled Substances Act for fiscal year 1989, not less than $5,000,000 shall be made available to the Administrator of the Drug Enforcement Administration to carry out this section.

SEC. 10020. EFFECTIVE DATE.

Except as provided in sections 10004(c) and 10017(d), this title and the amendments made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

The CHAIRMAN. Amendments are not in order except those amendments specified in House Report 100-861, part 2, and amendments offered by the majority leader in the manner specified in House Resolution 521. Such amendments shall be considered only in the order and manner specified and shall be considered as having been read. The proponents of such amendment shall have permission to make conforming changes in their amendments.

Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed to the amendment. Such amendments are not subject to amendment, except as specified, or to a demand for a division of the question.

If amendments are offered to title VI by the gentleman from New York [Mr. RANGEL] and the gentleman from Pennsylvania [Mr. GEKAS] and both of those amendments are adopted, only the latter amendment adopted shall be considered as finally adopted and reported back to the House.

Pursuant to the unanimous-consent agreement of Thursday, August 11, 1988, the gentleman from New Jersey [Mr. HUGHES] may offer an amendment to title VI relating to the subject of drug enforcement coordinator following consideration of the amendment to be offered by the gentleman from Texas [Mr. BROOKS]. If those amendments are offered to title VI and are adopted, only the latter amendment adopted shall be considered as finally adopted and reported back to the House.

It shall be in order at any time for the majority leader, after consultations with the minority leader, to offer amendments to the bill. Those amendments are not subject to amendment and are debatable for a period not to exceed 1 hour, to be equally divided and controlled by the majority leader and the minority leader.

The Chair will announce the amendment made in order by the rule and the name of its sponsor in order to give notice to the Committee of the Whole as to the order of recognition when we begin tomorrow.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 4775, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1989

Mr. ROYBAL. Mr. Speaker, I call up the conference report on the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 12, 1988.)

The SPEAKER. The gentleman from California [Mr. ROYBAL] will be recognized for 30 minutes and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYBAL].

□ 1645

Mr. ROYBAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees have reached agreement on the Treasury, Postal Service, and general government appropriations bill for fiscal year 1989. This conference report provides $16 billion in recommended appropriations for fiscal year 1989, a reduction of $144 million below the budget request and $94 million below the House-passed bill.

In highlighting a few of the significant items in the conference report, one finds that:

For the U.S. Customs Service, the conferees have recommended funds to add an additional 640 positions for the Customs Service. The budget proposed a freeze on personnel at the present onboard strength. The conferees feel that in view of the severe drug problem in this country, it just is not prudent to freeze the personnel in the very agency that mans our borders and ports of entry.

The high level of drug abuse and related crime in this country requires a strong law enforcement effort to stem the tide of illicit drugs coming into the United States. The proposed freeze would also have slowed down the processing of visitors to this country and of our own citizens returning from abroad. Further, this freeze would have slowed down the processing of commercial goods being imported into the United States. More importantly, this reduction would have had a severe adverse impact on the Government's ability to interdict the flow of illegal drugs and other contraband into the country, as well as on its ability to prevent the illegal exportation of high technology items to unfriendly countries. We have, therefore, not accepted the proposed freeze in personnel but instead have added 640 more positions.

One of the big regrets that I have about this conference report is that we were forced to reduce the IRS by over $100 million below both the House-passed level and the budget request. The Internal Revenue Service has testified that for every dollar spent in this activity, many additional dollars of revenue would be collected. In addition, Internal Revenue Service personnel contact many other people during the course of audits, collections, and investigations which serve to remind other taxpayers that failure to pay the proper amount of taxes owed results in positive action against the violator by the Service. The positive effect on voluntary compliance is difficult to measure but is probably very significant. The service cannot allow the tax collection process to become a lottery where dishonest taxpayers can take a chance on either not filing or filing incorrect returns with the knowledge that the chances are that they either won't be caught or that if they are caught nothing will be done to them. If that situation is ever allowed to occur then the honest taxpayers will be losers.

I hope that we can keep the IRS funded at levels which will allow IRS to adequately perform its essential mission.

For the Postal Service, the conferees have recommended $436,417,000, the amount testified by the Postal Service as necessary to keep the preferred mail rates at the current level through all of fiscal year 1989.

Mr. Speaker, in connection with amendment 37, the conferees were in total agreement with language included in both the House- and Senate-passed bills that restates title 31, United State Code, section 1301 to emphasize that appropriations can be used only for the purposes for which they were appropriated.

The conferees took strong exception to action by the Director of the Office of Management and Budget in his memorandum for Cabinet officers and agency heads dated March 15, 1988. That memorandum reminded them, and all employees of their agencies that congressional reports have no force of law and claimed the right of the executive branch to substitute its judgment as to which projects to fund.

APPROPRIATIONS CAN BE USED ONLY FOR THE PURPOSES FOR WHICH MADE

Title 31 of the United States Code makes clear that appropriations can be used only for the purposes for which they were appropriated, as follows:

"SEC. 1301. APPLICATION.—

"(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."

STATEMENT OF INTENT INCLUDED IN CONTINUING RESOLUTION

Section 107 of Public Law 100-202, the Continuing Resolution for fiscal year 1988, says:

"Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the House and the Senate and in the Joint Resolution."

Executive branch wishes cannot substitute for Congress' own statements as to the best evidence of congressional intentions—that is, the official reports of the Congress.

The conferees also worked out a compromise on the Federal employee pay increase which I believe will satisfy everyone. There is no pay increase in this conference for Members of Congress. This amendment provides a pay increase for all Federal employees earning less than $82,500 pay year. The conferees strongly support parity for civilian and military personnel in adjustment of compensation. The conferees have provided for a 4.1-percent adjustment for civilian workers as was provided in the Defense authorization bill approved by both Houses of Congress. The conferees have remained silent on the military adjustment, because military personnel are protected under section 1009 of title 37 of the United States Code which provides that military personnel shall receive no less of an adjustment than civilian employees. The conferees have excluded Members of Congress from the pay adjustment along with any employee whose basic rate of salary is equal to or greater than level III of the Executive Schedule—that is, anyone making $82,500 or more.

I would like to point out to the Members of the House a significant problem with the Budget Act that we faced this year. The House and Senate Appropriations Subcommittees were working under significantly different budget ceilings. In the case of the Treasury, Postal Service Subcommittee, the House budget allocation was almost $200 million above the Senate budget allocation. In conference we split the difference. That meant we had to reduce the House-passed bill by about $94 million. Thus this conference report is well below the House-passed bill, and complies with the new 302(b) budget allocation for both new obligational authority and outlays.

Mr. Speaker, I think this is a good conference report and represents a reasonable compromise with the Senate. I urge your favorable consideration. I have a comparative statement of obligational authority that I will insert in the RECORD at this point.

	FY 1988	FY 1989				Conference compared with---			
	Enacted	Estimate	House	Senate	Conference	Enacted	Estimate	House	Senate
TITLE I - DEPARTMENT OF THE TREASURY									
Office of the Secretary:									
Salaries and expenses	55,681,000	83,681,000	59,618,000	83,000,000	59,618,000	+3,937,000	-24,063,000		-23,382,000
International affairs	23,422,000		24,063,000		22,000,000	-1,422,000	+22,000,000	-2,063,000	+22,000,000
Federal Law Enforcement Training Center:									
Salaries and Expenses	28,672,000	26,525,000	31,018,000	34,664,000	34,664,000	+5,992,000	+8,139,000	+3,646,000	
Facilities, acquisition and related expenses				25,000,000	20,000,000	+20,000,000	+20,000,000	+20,000,000	-5,000,000
Financial Management Service:									
Salaries and expenses	265,000,000	280,461,000	280,461,000	276,000,000	277,230,000	+12,230,000	-3,231,000	-3,231,000	+1,230,000
Bureau of Alcohol, Tobacco and Firearms	217,531,000	218,503,000	231,003,000	240,000,000	234,000,000	+16,469,000	+15,497,000	+2,997,000	-6,000,000
United States Customs Service:									
Salaries and expenses	966,000,000	966,903,000	1,004,821,000	1,046,000,000	1,025,411,000	+59,411,000	+58,508,000	+20,590,000	-20,589,000
Operations and maintenance, air interdiction program	140,000,000	142,262,000	132,262,000	142,262,000	142,262,000	+2,262,000		+10,000,000	
Customs forfeiture fund (limitation on availability of deposits)	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Customs services at small airports (to be derived from fees collected)	486,000	1,588,000	1,588,000	1,588,000	1,588,000	+1,102,000			
Total, United States Customs Service	1,116,486,000	1,120,753,000	1,148,671,000	1,199,850,000	1,179,261,000	+62,775,000	+58,508,000	+30,590,000	-20,589,000
Payment to the Government of Puerto Rico	7,800,000					-7,800,000			
United States Mint:									
Salaries and expenses	42,000,000	47,869,000	47,869,000	46,000,000	47,000,000	+5,000,000	-869,000	-869,000	+1,000,000
Bureau of the Public Debt	215,000,000	242,840,000	242,840,000	219,430,000	219,430,000	+4,430,000	-23,410,000	-23,410,000	
Payment of Government losses in shipment	400,000	960,000	960,000	960,000	960,000	+560,000			
Internal Revenue Service:									
Salaries and expenses	87,165,000	94,547,000	94,547,000	87,165,000	87,165,000		-7,382,000	-7,382,000	
Processing tax returns	1,691,076,000	1,850,134,000	1,850,134,000	1,691,076,000	1,740,353,000	+49,277,000	-109,781,000	-109,781,000	+49,277,000
Examinations and appeals	1,849,581,000	1,864,819,000	1,864,819,000	1,849,581,000	1,932,441,000	+82,860,000	+67,622,000	+67,622,000	+82,860,000
Investigation, collection, and taxpayer service	1,431,058,000	1,490,225,000	1,490,225,000	1,431,058,000	1,434,921,000	+3,863,000	-55,304,000	-55,304,000	+3,863,000
Total, Internal Revenue Service	5,058,880,000	5,299,725,000	5,299,725,000	5,058,880,000	5,194,880,000	+136,000,000	-104,845,000	-104,845,000	+136,000,000
United States Secret Service	367,000,000	352,000,000	362,000,000	354,500,000	357,500,000	-9,500,000	+5,500,000	-4,500,000	+3,000,000
Total, title I, Department of the Treasury: New budget (obligational) authority	7,397,872,000	7,673,317,000	7,728,228,000	7,538,284,000	7,646,543,000	+248,671,000	-26,774,000	-81,685,000	+108,259,000
TITLE II - POSTAL SERVICE									
Payment to the Postal Service Fund	517,000,000	527,482,000	436,417,000	436,417,000	436,417,000	-80,583,000	-91,065,000		
Payment to the Postal Service Fund for nonfunded liabilities	1,000					-1,000			
TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT									
Compensation of the President	250,000	250,000	250,000	250,000	250,000				
Office of Administration	16,000,000	16,900,000	16,900,000	16,800,000	16,850,000	+850,000	-50,000	-50,000	+50,000
White House Conference for a Drug Free America	2,500,000					-2,500,000			
The White House Office	26,426,000	27,950,000	27,950,000	27,950,000	27,950,000	+1,524,000			
Executive Residence at the White House	7,403,000	5,698,000	5,698,000	5,698,000	5,698,000	-1,705,000			
Official Residence of the Vice President	258,000	258,000	258,000	258,000	258,000				
Special Assistance to the President	2,163,000	2,199,000	2,199,000	2,199,000	2,199,000	+36,000			
Council of Economic Advisers	2,500,000	2,787,000	2,787,000	2,787,000	2,787,000	+287,000			
Office of Policy Development	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
National Critical Materials Council	350,000	178,000	178,000	300,000	225,000	-125,000	+47,000	+47,000	-75,000
National Security Council	5,000,000	5,100,000	5,100,000	5,100,000	5,100,000	+100,000			
Office of Management and Budget	39,000,000	39,780,000	39,780,000	39,500,000	39,640,000	+640,000	-140,000	-140,000	+140,000
Expenses of management improvement		5,900,000		2,950,000	1,000,000	+1,000,000	-4,900,000	+1,000,000	-1,950,000
Office of Federal Procurement Policy	2,300,000	2,353,000	2,353,000	2,353,000	2,353,000	+53,000			
Unanticipated needs	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Total, title III, new budget (obligational) authority, Executive Office of the President	108,150,000	113,353,000	107,453,000	110,145,000	108,310,000	+160,000	-5,043,000	+857,000	-1,835,000

	FY 1988	FY 1989				Conference compared with ---			
	Enacted	Estimate	House	Senate	Conference	Enacted	Estimate	House	Senate
TITLE IV - INDEPENDENT AGENCIES									
Administrative Conference of the United States	1,865,000	1,865,000	1,865,000	1,865,000	1,865,000				
Advisory Commission on Intergovernmental Relations	1,378,000	1,275,000	1,275,000	1,040,000	1,040,000	-338,000	-235,000	-235,000	
Advisory Committee on Federal Pay	200,000	205,000	205,000		205,000	+5,000			+205,000
Committee for Purchase from the Blind and Other Severely Handicapped	850,000	862,000	862,000	862,000	862,000	+12,000			
Federal Election Commission	14,174,000	15,433,000	15,433,000	15,433,000	15,433,000	+1,259,000			
General Services Administration:									
Federal Buildings Fund:									
Limitation on availability of revenue:									
1. Construction & acquisition of facilities	(115,036,000)	(233,839,000)	(92,139,000)	(137,147,000)	(119,820,000)	(+4,784,000)	(-114,019,000)	(+27,681,000)	(-17,327,000)
2. Repairs and alterations	(472,945,000)	(538,251,000)	(550,673,000)	(517,424,000)	(544,865,000)	(+71,920,000)	(+6,614,000)	(-5,808,000)	(+27,441,000)
3. Payment on purchase contracts	(133,105,000)	(142,450,000)	(142,450,000)	(133,000,000)	(133,000,000)	(-105,000)	(-9,450,000)	(-9,450,000)	
4. Rental of space	(1,169,532,000)	(1,200,000,000)	(1,200,000,000)	(1,177,532,000)	(1,177,532,000)	(+8,000,000)	(-22,468,000)	(-22,468,000)	
5. Real property operations	(805,384,000)	(881,703,000)	(881,703,000)	(882,000,000)	(882,000,000)	(+76,616,000)	(+297,000)	(+297,000)	
6. Program direction & centralized services	(48,014,000)	(49,740,000)	(49,740,000)	(49,000,000)	(49,000,000)	(+986,000)	(-740,000)	(-740,000)	
7. Design and construction services	(110,036,000)	(136,698,000)	(136,698,000)	(130,000,000)	(130,000,000)	(+19,964,000)	(-6,698,000)	(-6,698,000)	
Total, Federal Buildings Fund: (Limitations)	(2,854,052,000)	(3,182,681,000)	(3,053,403,000)	(3,026,103,000)	(3,036,217,000)	(+182,165,000)	(-146,464,000)	(-17,186,000)	(+10,114,000)
Federal Supply Service:									
Operating expenses	69,600,000	47,829,000	47,829,000	47,000,000	47,000,000	-22,600,000	-829,000	-829,000	
Federal property resources service	12,000,000	12,109,000	12,109,000	12,000,000	10,800,000	-1,200,000	-1,309,000	-1,309,000	-1,200,000
National defense stockpile transaction fund	10,000,000		18,000,000	27,000,000	30,000,000	+20,000,000	+30,000,000	+12,000,000	+3,000,000
(Limitation on administrative expenses)	(35,000,000)					(-35,000,000)			
General management and administration	122,500,000	122,774,000	122,774,000	122,774,000	120,774,000	-1,726,000	-2,000,000	-2,000,000	-2,000,000
Expenses, presidential transition		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000			
Real property relocation	5,000,000	50,000,000	16,000,000	10,000,000	4,000,000	-1,000,000	-46,000,000	-12,000,000	-6,000,000
Information Resources Management Service	31,193,000	36,835,000	36,835,000	33,000,000	31,875,000	+682,000	-4,960,000	-4,960,000	-1,125,000
Office of the Inspector General	24,334,000	25,400,000	25,400,000	25,000,000	25,000,000	+666,000	-400,000	-400,000	
Allowances and Office Staff for Former Presidents	1,198,000	1,431,000	1,431,000	1,400,000	1,431,000	+233,000			+31,000
Total, General Activities	206,225,000	251,549,000	235,549,000	234,174,000	226,880,000	+20,655,000	-24,669,000	-8,669,000	-7,294,000
Total, General Services Administration	275,825,000	299,378,000	283,378,000	281,174,000	273,880,000	-1,945,000	-25,498,000	-9,498,000	-7,294,000
National Archives and Records Administration	116,000,000	117,862,000	125,962,000	117,862,000	121,900,000	+5,900,000	+4,038,000	-4,062,000	+4,038,000
Office of Personnel Management:									
Salaries and expenses:									
Appropriation	101,834,000	107,477,000	107,477,000	108,977,000	108,000,000	+6,166,000	+523,000	+523,000	-977,000
Limitation	(67,746,000)	(77,017,000)	(77,017,000)	(77,017,000)	(77,017,000)	(+9,271,000)			
Government payment for annuitants, employees health benefits	1,788,931,000	2,374,414,000	2,374,414,000	2,374,414,000	2,374,414,000	+585,483,000			
Payment to civil service retirement and disability fund	4,720,913,000	4,858,668,000	4,858,668,000	4,858,668,000	4,858,668,000	+137,755,000			
Total, Office of Personnel Management	6,611,678,000	7,340,559,000	7,340,559,000	7,342,059,000	7,341,082,000	+729,404,000	+523,000	+523,000	-977,000
Merit Systems Protection Board:									
Salaries and expenses:									
Appropriation	20,957,000	20,488,000	20,488,000	20,488,000	20,488,000	-469,000			
Limitation	(1,200,000)	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)	(+200,000)			
Office of special counsel	4,673,000	4,761,000	4,761,000	5,000,000	5,000,000	+327,000	+239,000	+239,000	
Total, Merit Systems Protection Board	25,630,000	25,249,000	25,249,000	25,488,000	25,488,000	-142,000	+239,000	+239,000	
Federal Labor Relations Authority	17,576,000	17,540,000	17,540,000	17,540,000	17,540,000	-36,000			
Total, federal personnel activities	6,654,884,000	7,383,348,000	7,383,348,000	7,385,087,000	7,384,110,000	+729,226,000	+762,000	+762,000	-977,000
United States Tax Court	27,500,000	29,345,000	29,345,000	29,345,000	29,345,000	+1,845,000			
Total, title IV, Independent Agencies:									
New budget (obligational) authority	7,092,676,000	7,849,573,000	7,841,673,000	7,832,668,000	7,828,640,000	+735,964,000	-20,933,000	-13,033,000	-4,028,000
(Limitations)	(2,957,998,000)	(3,261,098,000)	(3,131,820,000)	(3,104,520,000)	(3,114,634,000)	(+156,636,000)	(-146,464,000)	(-17,186,000)	(+10,114,000)
Grand total, titles I, II, III and IV:									
New budget (obligational) authority	15,115,699,000	16,163,725,000	16,113,771,000	15,917,514,000	16,019,910,000	+904,211,000	-143,815,000	-93,861,000	+102,396,000
(Limitations)	(2,957,998,000)	(3,261,098,000)	(3,131,820,000)	(3,104,520,000)	(3,114,634,000)	(+156,636,000)	(-146,464,000)	(-17,186,000)	(+10,114,000)

Mr. Speaker, I reserve the balance of my time.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report of the Treasury-Postal Service appropriations bill represents a truly bipartisan and bicameral effort. I believe we have achieved a compromise which responsibly meets the needs of those agencies of our Government covered by this bill. While it does not do everything I would have liked to do, by and large I am pleased with the result and I would strongly urge support for this bill.

The bill appropriates slightly over $16 billion and is $143.8 million under the administration request. It represents a decrease of $93.8 million from the amount originally recommended by the Postal-Treasury Subcommittee and subsequently approved by the House. It is within its 302(b) allocations.

As I expressed above, this bill represents a compromise. In that compromise, the Internal Revenue Service will receive $104 million less than the administration request and that originally passed by the House. It will still receive, however, an increase of $136 million over the fiscal year 1988 level. I am comfortable with that figure and have no doubt it is sufficient for the IRS to meet its critical revenue raising mandate.

On another front this compromise also resulted in a decrease in the appropriation for the Secret Service. While less by $4.5 million than that recommended by the House, the appropriation recommended herein for the Secret Service—$357.5 million—still represents an increase of $5.5 million over that recommended by the administration.

On a more positive note, this bill would result in increased appropriations for a number of the agencies or entities critically involved in our war against drugs. These include the U.S. Customs Service; the Bureau of Alcohol, Tobacco and Firearms; and the Federal Law Enforcement Training Center.

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Through enforcement of Federal firearms statutes the Bureau is also contributing in the war against drugs in addition to its other critical activities. This bill recommends an appropriation to the BATF of $234 million and represents an increase of $3 million over the House level, $15.5 million over the administration request, and $16.5 million over the fiscal year 1988 level.

This compromise also provides for 3,701 FTE's, an increase of 250 positions over that proposed by the House.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Under this bill the Federal Law Enforcement Training Center, which serves such a critical role in the training of our Federal law enforcement personnel involved in our war against drugs, will also receive an appropriation enabling the implementation of the first phase of the master plan for the expansion of the Training Center at Glynco, GA. In addition the appropriation would support the creation of a Satellite Training Center in the Southwestern United States. This appropriation level amounts to an increase of $28 million over the administration request and promises to greatly aid the Center in its training efforts.

Also provided in this bill is a 4.1-percent pay raise for all civilian employees, the level recently requested by the administration.

Additionally, the bill contains appropriations for the U.S. Postal Service for revenue forgone. The administration had proposed the elimination of appropriation for revenue forgone for most religious and charitable organizations. Under the bill as proposed herein the rate structure for all nonprofit mailers would be maintained at the current rate through fiscal year 1989.

SUMMARY

Mr. Speaker, the conferees worked hard within tight budgetary constraints to craft a well-balanced, equitable bill. Again, I thank Chairman ROYBAL and commend him and all of the conferees on their fine work.

While the administration undoubtedly objects to certain features of this bill, I have received no communication from the administration suggesting veto and I would surmise that the prospects for the President signing this bill are good. I reiterate that the funding levels provided herein are "generally consistent with the President's request." This is a fiscally responsible bill.

I strongly urge your support for this bill. It is deserving of broadbased and bipartisan support.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from New Mexico [Mr. SKEEN] for yielding, and I rise in support of the conference report.

In particular I want to note the good work done by the conferees on the part of the House to include in the bill section 628 as denoted through amendment 149. This is, in fact, the language that implements the drug-free workplace provisions that this House had put on every appropriations bill as it passed through the body. The Committee on Appropriations in a move that I think makes sense decided to wrap all of those particular amendments into one package, include them in this bill and have it apply to the Government as a whole.

I think that was a wise thing to do, and the language that was eventually adopted I think moves us down the road toward achieving what this gentleman always intended to do, and that is assure that where Federal money goes we are trying to have drug-free workplaces, and this language, it seems to me, makes it clear that no agency of the Federal Government, no instrumentality, no department of the Federal Government will spend money unless it is done under a policy which insures drug-free work environments.

Mr. Speaker, it goes further to say that the contracts of the Federal Government and agreements of the Federal Government with regard to money also are covered and that there will be no money flow where there has not been a policy to develop a drug-free workplace and good-faith administration of that policy.

Mr. Speaker, I think this particular language satisfies what I had hoped to achieve. I think it is good language. I think it will be further enhanced by the omnibus drug bill when we put in place a procedure under the omnibus drug bill that allows this to take place.

But the committee has done good work here and, I think, has helped write a drug policy right here in the bill that goes far down the road toward what we are trying to achieve in the omnibus drug bill.

Mr. ROYBAL. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER] for his kind remarks, and he is correct in his analysis of the situation.

Mr. WALKER. Mr. Speaker, I thank the chairman, the gentleman from California [Mr. ROYBAL] for his work, and I yield back the balance of my time.

Mr. SKEEN, Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, notwithstanding the fact that the conferees are in agreement on this bill and that those of us who watch from the sidelines believe that our committee has done a workmanlike job in presenting it, it is still a very expensive measure, a huge expenditure of the taxpayers' funds which in my judgment are not all absolutely necessary and probably should not all be spent at a time of fiscal despair in this country. It is 900 million more than we spent last year. It is slightly over $16 billion. That is an increase in spending of 6 percent over the previous year. That is not quite twice the increase in the CPI, but that is considerably more than the cost-of-living increase for the affairs that are covered under this budget.

□ 1700

As I said before, as far as I know there may be emergencies within the various subclassifications, but certainly overall they cannot be sweeping emergencies. I believe this is too much money and I hope the House will act accordingly.

Mr. CONTE. Mr. Speaker, this conference report is a well balanced and fiscally responsible compromise that meets the pressing needs funded through this bill and, yet, does not bust the budget summit agreement. The total amount appropriated in this bill, just over $16 billion, is under the 302(b) allocations for both budget authority and outlays. Moreover, the conference report is $94 million less than the amount provided in the House-passed bill and just 1.9 percent more than last year's level for discretionary programs.

Reaching this reduction, cutting the House bill by $94 million was not an easy task considering the choices before the committee. First of all, 45 percent of the funds in this bill are for mandatory payments. We can't touch those funds. So the $94 million cut had to be taken from discretionary programs, most of which are law enforcement and revenue collection activities.

The committee was faced with high wire crossing, $95 million long, and it required a masterful balancing act to bridge the funding gap and produce this conference report. ED ROYBAL and JOE SKEEN performed with honors in crafting this compromise. With limited resources, the committee was faced with two very important but competing interests. On one hand, revenue producing programs of the IRS had to be maintained so that the assumptions in the budget summit agreement could be reached. Yet, equally important drug enforcement and interdiction programs required additional funds to continue the war on drugs. That was the choice we had. Cut $94 million. Add funds to the IRS, and enhance drug interdiction programs. All at the same time.

This conference report did reach a fair balance between our goal to control spending and our need to provide adequate resources for the programs and activities funded in this bill. This conference report provides funds for the basic and fundamental functions of the Federal Government: revenue collection, law enforcement, personnel management, and maintenance of our physical assets.

Specifically, the conference report provides:

Additional resources for the Customs Service to continue drug interdiction efforts;

Funds for the Bureau of Alcohol, Tobacco and Firearms to continue the Armed Career Criminal Program, the most efficient drug program in the Federal Government;

Funds to provide thousands of nonprofit groups and rural newspapers with reduced mail rates;

Funds to the Secret Service for protection activities;

Funds to the IRS for revenue collection and taxpayer service; and

Funds to the GSA for health and safety improvements in our Federal buildings across the country.

All of these programs are essential to a smooth running Federal Government, and we have an obligation to provide adequate resources to operate them.

Mr. Speaker, amendment 141 provides for the sale of 2.5 million ounces of silver held by the Treasury in each of the next 3 fiscal years. The House bill provided for the sale of 5 million ounces during the same period. To accommodate the concerns of the other body, the conferees decreased the amount to be sold pursuant to this act. The House conferees still believe the larger figure could be sold without disrupting the market; however, the smaller figure is acceptable as a first step to reducing excess Government stocks of silver. Let me recall, for the House, the rationale and background for this proposal.

First, the Treasury Department has had a surplus supply of sliver for years, and it is now estimated to be about 40 million ounces. The silver is occasionally used for medallions and some commemorative coinage programs. However, in recent coinage programs the Congress has authorized the use of surplus silver from the Defense stockpile, reducing further the need for the Treasury Department to hold an asset which could be sold at a large profit. Silver in Government stocks is carried on the books at $1.29 per ounce while the market price so far this year has averaged about $6.66.

Second, the United States is a net importer of silver and the availability of more domestic silver would contribute at least in a small measure to reducing the trade deficit. Last year, we were net importers of 54 million ounces of silver, according to the Bureau of Mines statistics.

Mr. Speaker, concern has been expressed by our colleagues from Western States that the sale of Government silver would depress the price of silver. In developing the original proposal to sell 15 million ounces over 3 years, we gave serious consideration to maintaining a calm market for the metal because a volatile market benefits neither consumers nor producers. We decided an offering of 5 million ounces per year for 3 years would not be disruptive. Such a sale would have meant the disposal of 500,000 ounces of silver during each of 10 months of the fiscal year.

To put the compromise offering of 250,000 ounces per month into perspective, this amount is the equivalent of about a half-day's supply for domestic industry. Furthermore, on any given day an average of 150 million ounces are traded on the Commodity Exchange of New York City alone. It should be clear that an orderly disposal would have little or no effect on prevailing silver prices.

Mr. Speaker, out of further respect for the concerns of those who represent silver producing areas of the country, amendment No. 144 was adopted which "* * * allows the Secretary of the Treasury to reduce the amount of silver sold if he submits a written determination to Congress that such a sale severely disrupts the domestic market for silver." The conference committee is on record as understanding "that silver sales in a declining market shall be considered severely disruptive. * * *."

Although I urge my colleagues to support this language, I believe it is unnecessary. In talking with those in the silver industry, it is hard to believe that such a relatively small amount of Government silver being sold could cause a declining silver market. There are, of course, other factors which do impact the market, causing a wide fluctuation in prices. Perhaps a clarification on how one defines a declining market is necessary.

In this regard, Mr. Speaker, we have reviewed the market action during the first 8 months of this year and have found the following:

The high Handy & Harman (NY) price for the year to date was $7.99 on July 11.

The low price for the year was $6.11 on February 29.

Through August 31, the average price for the year was $6.66, which compares with $7.00 for all of 1987 and $5.47 in 1986.

The monthly averages of the Handy & Harmon (NY) quotes were: January, $6.73; February, $6.32; March, $6.41; April, $6.47; May, $6.54; June, $7.03; July, $7.14; August, $6.70.

Price variations from one day to the next on the Commodity Exchange of New York City were at many levels including unchanged, with the largest increase at 57 cents and the biggest decrease at 25 cents.

The high and low range each month were as follows: January, $6.50–$7 (.50); February, $6.11–$6.58 (.47); March, $6.16–$6.71 (.55); April, $6.37–$6.83 (.46); May, $6.34–$6.76 (.42); June, $6.63–$7.37 (.74); July, $6.76–$7.99 ($1.23); August, $6.51–$6.91 (.40).

From the above it can be seen that price ranges for silver for whatever reason during the last 8 months were between 6 and 18 percent with a 1-day change being as much as a 7 percent jump. In order to permit an orderly sale policy to be developed, the Secretary should announce a schedule of sales of 250,000 ounces for the first week of every month. So long as the silver price is no lower than 10 percent of the average price 30 days earlier, the full amount should be sold.

If there is more than a 10-percent drop in the price from the average price for the previous month, the Secretary could reduce the amount of silver sold without reducing the monthly offering. Any unsold silver should be carried forward and added to the next monthly offering of 250,000 ounces. If after 10 months there is unsold silver, the offerings should be continued for the 11th and 12th months, if necessary.

Mr. Speaker, in previous government sales of silver there have been restrictions on who could purchase the metal. In the interest of getting the best price, it would appear that no such limitation should be set so long as the financial interests of the Government are protected.

Mr. Speaker, as the author of these provisions, I expect that the suggestions put forward here serve as a guideline to assist the executive branch in its implementation of the new program. Certainly, the expertise demonstrated in past silver sales by the General Services Administration leaves this Member comfortable with a final plan developed along the lines I have suggested.

Mr. Speaker, let me emphasize again that this conference report meets the targets of the budget summit agreement. It is just 1.9 percent more than the amount provided last year, and it is $94 million less than the amount provided in the House passed bill. I urge all my colleagues to support this conference report.

Mr. SKEEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROYBAL. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. TORRES). Without objection, the previous question is ordered on the conference report.

There was no objection.

The **SPEAKER** pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 371, nays 30, not voting 30, as follows:

[Roll No. 292]

YEAS—371

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Lungren
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—30

Archer
Armey
Bartlett
Brown (CO)
Combest
Crane
Dannemeyer
DeLay
Dreier
Fawell
Fields
Frenzel
Gradison
Gregg
Latta
Luken, Thomas
Marlenee
Moorhead
Olin
Sensenbrenner
Shays
Shumway
Slattery
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Stenholm
Stump
Swindall
Upton

NOT VOTING—30

Badham
Bentley
Boulter
Boxer
Cheney
Clay
Dowdy
Ford (MI)
Hyde
Jacobs
Johnson (SD)
Jones (NC)
Jones (TN)
Kemp
Kolter
Leath (TX)
Mack
MacKay
McCurdy
McDade
Mica
Packard
Schroeder
Spence
Stratton
Torricelli
Towns
Waxman
Wilson
Wise

☐ 1720

Mr. SLATTERY and Mr. THOMAS A. LUKEN changed their vote from "yea" to "nay."

Mr. DOWNEY of New York changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The **SPEAKER** pro tempore (Mr. TORRES). The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 3, strike out all after line 3 over and including line 5 on page 4, and insert:

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided*, That the Center is authorized the acceptance of gifts: *Provided further*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; $34,664,000: *Provided further*, That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, $25,000,000 to remain available until expended; *Provided*, That of this amount, $7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: *Provided further*, That $18,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at

Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: *Provided further,* That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an advanced firearms training range for participating agencies with specialized firearms training requirements.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized the acceptance of gifts: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; $34,664,000: *Provided further,* That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, $20,000,000 to remain available until expended: *Provided,* That of this amount, $7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: *Provided further,* That $13,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: *Provided further,* That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an advanced firearms training range for participating agencies with specialized firearms training requirements.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that Senate amendments Nos. 10, 11, 16, 31, 45, 46, 47, 62, 63, 71, 76, and 85, be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendments offered en bloc is as follows:

Senate amendment No. 10: Page 5, line 24, after "1989" insert ", of which no fewer than 543 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program".

Senate amendment No. 11: Page 5, line 24, after "1989" insert ": *Provided further,* That not to exceed $2,500,000 shall be available until expended for the purchase of a mainframe processor and associated hardware and software for special occupational and excise tax processing, and $300,000 shall be available until expended for the development and implementation of a secure communications and intelligence facility".

Senate amendment No. 16: Page 7, line 12, after "1989" insert ": *Provided further,* That all of the additional full-time equivalent positions made available by this Act for the United States Customs Service over the full-time equivalent positions level of 16,099 contained in the President's budget for fiscal year 1989 shall be allocated only for commercial operations of the Customs Service in fiscal year 1989".

Senate amendment No. 31: Page 15, after line 20, insert:

SENSE OF SENATE PROVISION

It is the sense of the Senate that no funds appropriated under this Act or made available by 39 U.S.C. 2401(a) be used by the United States Postal Service to implement Phase II of the contract between the United States Postal Service and Perot Systems until forty-five days afer the General Accounting Office reports to Congress on the Perot Systems sole source contract and that the General Accounting Office report to Congress within forty-five days of the adoption of this amendment.

Senate amendment No. 45: Page 24, after line 25, insert:

Louisiana:

Baton Rouge, Federal Building, Courthouse, to be constructed on a site donated by the City of Baton Rouge, $16,758,000

Senate amendment No. 46: Page 25, after line 9, insert:

Newark, Martin Luther King, Jr., Federal Building, Site and Design (parking facility), $250,000

Senate amendment No. 47: Page 25, after line 12, insert:

New Mexico:

Albuquerque, Grant to the University of New Mexico, Zimmerman Library, Repair and Extension, $5,000,000

Senate amendment No. 62: Page 32, line 18, after "$212,780,000" insert ", of which up to $2,000,000 shall be made available to fund a pilot project establishing safe areas-of-refuge from fire for the disabled in six existing Federal buildings in the United States".

Senate amendment No. 63: Page 32, line 18, after "$212,780,000" insert ": *Provided,* That by no later than July 30, 1989, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $10,000,000, to provide additional funding for United States-Mexico Border Facility projects".

Senate amendment No. 71: Page 34, line 6, after "Mines)" insert "Baton Rouge, Louisiana, Federal Building/Courthouse; and Lakeland, Florida, Federal Building".

Senate amendment No. 76: Page 37, line 9, after "property" insert ": *Provided further,* That notwithstanding any provision of this or any other Act, not more than $1,500,000 of the appropriations made available under the heading "Real Property Relocation" by this Act or by Public Law 100-202, shall be available to pay for the relocation costs associated with the facility at Loran Station, Makahuena Point, Island of Kauai, Hawaii: *Provided further,* That upon relocation, such property shall be sold by the Administrator of General Services at not less than the estimated fair market value through a competitive public sale".

Senate amendment No. 85: Page 41, line 17, after "for" insert "design and".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendments of the Senate numbered 10, 11, 16, 31, 45, 46, 47, 62, 63, 71, 76, and 85, and concur therein.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows: Page 10, line 19, strike out "$1,864,819,000" and insert "$1,849,581,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$1,932,441,000".

Mr. SKEEN (during the reading) Mr. Speaking, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 19, line 20, strike out "$39,780,000" and insert "$39,500,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment insert the following: "$39,640,000, of which not to exceed $1,000,000 may be available for a consolidated Federal budget and financial information system to improve the management of Executive agencies, and".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 21, line 21, insert:

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to improve the management of Executive agencies by providing a consolidated Federal budget and financial information system, under the direction of the Office of Management and Budget, and to provide a comprehensive officer automation system, including equipment and software, for the Offfice of Management and Budget, $2,950,000, to remain available until expended.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, $1,000,000, to remain available until expended.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 41: Page 22, strike out lines 19 to 22.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000: *Provided,* That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 42: Page 24, line 12, strike out "$3,053,403,000" and insert "$3,026,103,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$3,024,217,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 24, after line 22, insert:

Florida:

Lakeland, Federal Building, $15,000,000

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$14,000,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

□ 1730

The SPEAKER pro tempore (Mr. Torres). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 49: Page 25, after line 20, insert:

Other selected purchases including options to purchase, $1,000,000:

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$500,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 53: Page 27, after line 9, insert:

San Francisco, 450 Golden Gate Avenue, Federal Building, Courthouse, $20,000,000

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$5,000,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 60: Page 31, strike out all after line 18 over to and including line 17 on page 32, and insert:

Capital Improvements of United States-Mexico Border Facilities $75,799,000 as follows:

Arizona:
Douglas, AZ
New facility/R&A/Safety $1,476,000
Lukeville, AZ
R&A/Safety, $412,000
Naco, AZ
New facility/R&A/Safety, $577,000
Nogales, AZ
Grande Ave./Morley Gate, New station/R&A/Safety, $4,354,000
Mariposa, R&A, $1,343,000
Sasabe, AZ
New facility/R&A/Safety, $639,000
San Luis, AZ
R&A/Safety, $898,000
California:
Andrade, CA
New station/R&A/Safety, $817,000
Calexico, CA
New station/R&A/Safety, $8,680,000
San Ysidro/Otay Mesa, CA
New facility/Otay Mesa, $1,298,000
Safety, San Ysidro/Otay Mesa, $4,809,000
R&A/Signs/Security/Commercial lot improvements, $8,914,000
Tecate, CA
New station/R&A, $1,550,000
New Mexico:
Antelope Wells, NM
Security/Housing, $285,000
Columbus, NM
Security, $425,000
Santa Teresa, NM
New station, $3,000,000
Texas:
Amistad Dam, TX
R&A, $150,000
Brownsville, TX
Gateway Bridge, Security/R&A/Lane expansion/New Bridge, $10,402,000
B&M Bridge, Replace station, $3,227,000
Los Indios, Replace station $190,000
Del Rio, TX
Security/Lane expansion, $1,075,000
Eagle Pass, TX
Security/R&A, $4,050,000
El Paso, TX
Bridge of the Americas, Design/R&A/Import Lot Paving, $3,058,000
Paso del Norte, Extension/R&A, $1,150,000
Ysleta, Design/Construction, $2,700,000
Fabens, TX
Site acquisition/Security, $800,000
Falcon Dam, TX
R&A, $310,000
Hidalgo, TX
Safety/Design/R&A, $1,110,000
Laredo, TX
Juarez-Lincoln Bridge, Site/Design/R&A, $3,000,000
New bridge, $500,000
Convent Street, Design upgrade, $2,650,000
Presidio, TX
Security/Housing, $1,000,000
Progresso, TX
Security/R&A, $400,000
Roma, TX
Safety, $550,000

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

Capital Improvements of United States-Mexico Border Facilities, $42,150,000 as follows:

Arizona:
Douglas, AZ
New facility/R&A/Safety, $820,700
Lukeville, AZ
R&A/Safety, $229,100
Naco, AZ
New facility/R&A/Safety, $320,900
Nogales, AZ
Grande Ave./Morley Gate, New Station/R&A/Safety, $2,420,900
Mariposa, R&A, $746,800
Sasabe, AZ
New facility/R&A/Safety, $355,300
San Luis, AZ
R&A/Safety, $499,300
California:
Andrade, CA
New station/R&A/Safety, $454,300
Calexico, CA
New station/R&A/Safety, $4,830,900
San Ysidro/Otay Mesa, CA
New facility/Otay Mesa, $721,700
Safety/San Ysidro/Otay Mesa, $2,673,900
R&A/Signs/Security/Commercial lot improvements, $4,956,200
Tecate, CA
New station/R&A, $861,800
New Mexico:
Antelope Wells, NM
Security/Housing, $158,500
Columbus, NM
Security, $236,300
Santa Teresa, NM
New station, $1,668,000
Texas:
Amistad Dam, TX
R&A, $83,400
Brownsville, TX
Gateway Bridge, Security/R&A/Lane expansion/New Bridge, $5,783,
B&M Bridge, Replace station, $1,794,300
Los Indios, Replace station, $105,700
Del Rio, TX
Security/Lane expansion, $597,700
Eagle Pass, TX
Security/R&A, $2,251,800
El Paso, TX
Bridge of the Americas, Design/R&A/Import Lot Paving, $1,700,300
Paso del Norte, Extension/R&A, $639,400
Ysleta, Design/Construction, $1,501,200
Fabens, TX
Site acquisition/Security, $444,800
Falcon Dam, TX
R&A, $172,400
Hidalgo, TX
Safety/Design/R&A, $617,200
Laredo, TX
Juarez-Lincoln Bridge, Site/Design/R&A, $1,668,000
New bridge, $278,000
Convent Street, Design upgrade, $1,473,400
Presidio, TX
Security/Housing, $556,000
Progresso, TX
Security/R&A, $222,400
Roma, TX
Safety, $305,800

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 68: Page 33, line 7, strike out "$136,698,000" and insert "$130,000,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following:

"$130,000,000, of which $2,200,000 shall be made available for a grant to the Marine Biological Laboratory at Woods Hole, Massachusetts and of which $127,800,000 shall be available".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 72: Page 35, line 5, strike out "$3,053,403,000" and insert "$3,026,103,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$3,024,217,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 74: Page 36, line 1, strike out "$12,109,000" and insert "$12,000,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$10,800,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 75: Page 36, line 7, strike out "$16,000,000" and insert "$10,000,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$4,000,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 77: Page 38, line 9, strike out "$36,835,000" and insert "$33,000,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$31,875,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 80: Page 39, line 12, strike out "$18,000,000" and insert "$27,000,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$30,000,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 81: Page 39, strike out lines 14 to 22 and insert:

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, $10,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, $4,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, $4,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $9,000,000.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

University of Texas at El Paso pursuant to 50 U.S.C. 98a and 98g for a grant to study and facilitate the development, transfer, and installation of strategic materials technologies among American industries; $3,000,000;

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, $14,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the Federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, $3,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, $3,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $7,000,000.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 88: Page 44, after line 9 insert:

SEC. 7. The Administrator of General Services is authorized and directed to hire up to and maintain an annual average of not less than 1000 full-time equivalent positions for Federal Protective Officers. This shall be accomplished by increasing existing staff levels at the end of fiscal year 1988 at a rate of not less than 50 positions per year until the full-time equivalency of 1000 is attained by not later than fiscal year 1992.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 88 and concur therein with an amendment, as follows: In lieu of the section number proposed by said amendment, insert the following: "10".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 89: Page 44, after line 9, insert:

SEC. 8. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of agency borrowings from the Federal Financing Bank.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 11. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financing Bank when such borrowings are legal obligations of the Fund.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 90: Page 44, after line 9, insert:

SEC. 9. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, the Federal Building located at 124 South Tennessee Avenue in Lakeland, Florida, and to deposit such proceeds into the Federal Buildings Fund.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: in lieu of the section number named in said amendment, insert the following: "12".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 91: Page 44, after line 9, insert:

SEC. 10. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "13".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 44, after line 9, insert:

SEC. 11. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfork Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 14. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfork Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 15. Notwithstanding any other provision of this Act the amount appropriated for "General Management and Administration, Salaries and Expenses" of the General Services Administration is $120,774,000 for fiscal year 1989.

SEC. 16. The Administrator of General Services shall transfer, without consideration, to the Secretary of the Army the approximately 24 acres located in Laurel, Maryland, and classified as surplus property under the title "FDA—Beltsville Research Facility". Such property shall be used in connection with the Maryland National Guard.

SEC. 17. The Secretary of the Interior, within 30 days of enactment of this Act shall designate a consolidated agency of no less than 400 people within the Department of the Interior for relocation to Avondale, Maryland. The Administrator of General Services shall relocate the designee to the Avondale facility no later than 90 days after the Administrator determines design and alternation of the facility is completed.

SEC. 18. Notwithstanding any other provision of this Act, no funds made available from the Federal Buildings Fund for new construction for fiscal year 1989 may be used to fund the St. Croix Federal Building, Courthouse located in the Virgin Islands.

SEC. 19. None of the funds appropriated by this or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land identified as a portion of the Middle River Federal Depot located in Baltimore County, Maryland before October 1, 1989: Provided, That such land may be sold before that time if the General Services Administration enters into a nutually agreed upon sale agreement with the State of Maryland and/or Baltimore County, Maryland.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 44, line 17, strike out "$125,962,000" and insert "$117,862,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$121,900,000, of which $125,000 shall be made available directly to the Forbes Library, Northhampton, Massachusetts for such expenses as are necessary for the proper preservation, restoration, and display of the Presidential papers of Calvin Coolidge, and".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 98: Page 46, line 10, after "Salaries;" insert "$1,000,000 shall be made available for the establishment of Federal health promotion and disease prevention programs for Federal employees;".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "not to exceed $1,000,000 may be made available for establishment of Federal health promotion and disease prevention programs for Federal employees;".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 100: Page 46, line 10, after "Salaries;" insert "$500,000 shall be made available for implementation of the Combined Federal Campaign in fiscal year 1989;".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "not to exceed $500,000 may be made available for implementation of the Combined Federal Campaign in fiscal year 1989;".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 102: Page 51, after line 24, insert:

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: Provided, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 102, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 113: Page 56, after line 4, insert:

SEC. 517. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 113 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "519".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 116: Page 56, strike out all after line 12 down to and including line 21.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 116 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Sec. 521. Not later than October 1, 1989, of the amounts obtained from the sale, transfer, or disposition of silver from the National Defense Stockpile, not less than $1,000,000 shall be obligated for a pilot project to upgrade cobalt deposited in the National Defense Stockpile to the highest purity levels requried for critical military applications. The funds used in this section for upgrading shall not exceed $2,000,000.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 117: Page 56, strike out all after line 21 over to and including line 2 on page 57.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Sec. 522. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 121: Page 59, after line 19, insert:

Sec. 522. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 121 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "526".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 122: Page 59, after line 19, insert:

Sec. 523. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services, specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for services during fiscal year 1987.

(3) The term "consulting services" shall be defined consistent with the provision of OMB Circular A-120.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 122 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 527. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) The term "consulting services" shall be defined consistent with the provision of OMB Circular A-120 dated January 4, 1988.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4.1 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

Sec. 528. Section 509 of this Act shall have no force or effect.

Sec. 529. The Office of Personnel Management may, during the fiscal year ending

September 30, 1989, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 138: Page 75, strike out all after line 13 over to and including line 4 on page 77.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 620. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary of basic pay payable for that office or position was less than the rate of basic pay then payable for such level III.

(2) For purposes of paragraph (1), the rate or salary or basic pay payable as of September 30, 1988, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 141: Page 77, strike out lines 5 to 9.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 141 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 621. Effective October 1, 1988, the Secretary shall sell, within fiscal year 1989, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 142: Page 77, strike out lines 10 to 14.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 142 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment insert the following:

SEC. 622. Effective October 1, 1989, the Secretary shall sell, within fiscal year 1990, 2.5 million fine troy ounces of silver held by the Treasury subject to sec. 624 of this Act.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 143: Page 77, strike out lines 15 to 19.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 143 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 623. Effective October 1, 1990, the Secretary shall sell, within fiscal year 1991, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

Thre was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The next of the amendment is as follows:

Senate amendment No. 145: Page 77, after line 24, insert:

SEC. 620. Notwithstanding any other provision of law, no Executive Branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 145 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "625".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

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The SPEAKER pro tempore (Mr. Torres). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 146: Page 77, after line 24, insert:

Sec. 621. Employees currently performing stockpile management and related functions in the Federal Property Resources Service, General Services Administration, pursuant to the Strategic and Critical Materials Stockpiling Act shall continue to perform these functions notwithstanding enactment of any amendments to this Act placing the direct functional responsibilities in another Federal department or agency. Any of these employees transferred from the Federal Property Resources Service, General Services Administration, to another Federal department or agency pursuant to law shall not be subject to agency reduction-in-force procedures not shall they be reduced in classification or compensation for two years after such transfer, except for cause. A formal plan implementing these provisions shall be submitted to the House and Senate Committees on Appropriations by the recipient agency prior to any actual transfer that may be mandated.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "626".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 149: Page 78, strike out all after line 20 over to and including line 6 on page 79.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 149 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

Sec. 628. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1989, or under any other Act appropriating funds for fiscal year 1989, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 152: Page 79, after line 6, insert:

Sec. 626. (a) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of 18,000 pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) has previously been transferred in the interest of the Government from one official station or agency to another for permanent duty as a career appointee in the Senior Executive Service; and

"(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or of chapter 84 of this title.".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate Numbered 152 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 629. (a) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of 18,000 pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) during the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, and thereafter, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service; and

"(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or chapter 84 of this title.".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 153: Page 79, after line 6, insert;

Sec. 627. Nothwithstanding any other provision of law, Public Law 89-784, 80 Stat. 1367 and Public Law 90-469, 82 Stat. 666 pertaining to the naming, maintaining and operating of the William Langer Jewel Bearing Plant are amended by striking out all references to the "General Services Administration", "the administrator of the General Services" and "Administrator" and insert in lieu thereof "the National Defense Stockpile Manager".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 153 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "630".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 154: Page 79, after line 6, insert:

Sec. 628. For purposes of section 1886 of the Social Security Act, Missouri Baptist Hospital of Sullivan in Sullivan, Missouri is deemed to be located in Franklin County, Missouri, retroactively effective for discharges beginning on or after December 22, 1987.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 154 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "631".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Roybal].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, on Thursday, August 11, I was unavoidably detained, and as a result I was not able to cast my vote on rollcall 289, on motion to consider House Resolution 524, providing for the disposition of the Senate amendments to H.R. 5026 making dire emergency supplemental appropriations for the fiscal year 1988, and rollcall 290, on motion to disagree to Senate amendments number 1 through 24 and concur in Senate amendment 25 with an amendment to H.R. 5026. Had I been present, I would have voted yea on rollcalls 289 and 290.

IN SUPPORT OF THE RESTORATION OF DEMOCRATIC GOVERNMENT OF BURMA

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 529) in support of the restoration of democratic government in Burma, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from New York to explain the resolution.

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Chairman, my very good friend from Iowa, I have just returned from a brief trip to Burma where the people of that country, in an extraordinary display of a deeply rooted commitment to democracy, have been demonstrating in a peaceful fashion for several weeks now in an effort to bring about the establishment of genuine democracy in their country. These demonstrations which have taken place, and not just in Rangoon, the capital of the country, but in towns, villages and cities all across the nation, are a manifestation of the desire on the part of the Burmese people to put the past, the so-called Burmese socialism behind them and to establish a multiparty democracy with a free enterprise economic system in their country.

During the course of my stay in Rangoon I had one of the most extraordinary experiences I have had in my 14 years in the Congress.

As I drove throughout the capital in the car of our Ambassador, which had the American flag waving from the front fender, I saw groups of Burmese, as we passed by, spontaneously applauding this symbol of our great country. And the reason they were applauding the American flag was because over the course of the last several weeks our Government has made it clear in a number of ways that we support the aspirations of the Burmese people for democracy, and support their effort for peaceful change in Burma.

What is perhaps most remarkable is the fact that in spite of a substantial loss of life due to the use of the firepower by elements within the Burmese Armed Forces against the people of their own country, literally hundreds of thousands of Burmese have been willing to risk their lives for democracy by continuing the peaceful protest movement that has swept the entire country.

Tomorrow, Mr. Speaker, a general strike has been called in Burma. It is a virtual certainty that the country will be shut down. There is a wall-to-wall coalition in favor of change.

On September 12, the Government of Burma is planning to hold a party congress of the Burmese Socialist Party in order to ratify the call for a referendum to constitutionally establish a multi-party system in that country. Yet the Burmese people believe they have already voted for democracy. The are convinced that this is nothing more than, nor less than, a ploy on the part of the Government to divert the movement for democracy and to deprive them of their just democratic deserts.

There is, therefore, a very real possibility that if the Government goes ahead with its call for a party congress on September 12, the people of Burma in a peaceful fashion will massively demonstrate in an effort to prevent this Congress from going forward.

If they do, the Government may well feel compelled to call the army out in order to disburse the demonstrators.

I heard many reports that most of the enlisted men and officers up to the rank of colonel are already in sympathy with the people. But the highest levels of the army may still give their loyalty to a government which has long since been discredited.

There is, therefore, a real possibility that within the next several days, blood could flow in Burma, possibly even producing a civil war.

My friends, there is no doubt but that democracy will come to Burma. The only real question is whether it comes about peacefully, or whether it comes about in the wake of massive bloodshed.

It is the purpose of this resolution today to let the people of Burma know, in unmistakable fashion, that the House of Representatives strongly supports their desire for democracy.

The resolution first of all pays tribute to the Burmese people for their courage and commitment in their effort to restore democratic government in their country by peaceful means.

Second, it condems the killings which have already taken place, in which up to 3,000 Burmese have lost their lives.

Third, it expresses our strong support for the restoration of democratic government in Burma.

Fourth, it calls for the establishment of a transitional body consisting of men and women with an unquestioned commitment to democracy, who have the confidence of the country, to preside over a transition from the one party dictatorship under which Burma has suffered for 26 years to a genuine multiparty democracy.

Fifth, it urges appropriate Third World countries to consider favorably any request they may receive from leaders of Burma, past and present, who may wish to depart the country and whose departure may be necessary for a peaceful transition to democracy.

Sixth, it calls upon the executive branch of our own Government to review whether, under existing circumstances, it is prudent and even possible to continue our existing aid programs.

And finally it states the willingness of the Congress, in the context of the establishment of genuine democracy in Burma, to consider sympathetically proposals designed to assist Burma's economic recovery.

For more than a quarter century the people of Burma have suffered from the political oppression and economic stagnation of one of the most repressive regimes in Southeast Asia. But the winds of democracy are now sweeping through the region.

The people of Burma were inspired by the triumph of people power in the Philippines and the establishment of democracy in South Korea last year. They have been inspired by the economic miracles which have taken place in Singapore, in Taiwan and in Hong Kong. And in spite of the efforts on the part of the Burmese Government to isolate their people from the rest of the world, they have not entirely succeeded.

I was amazed to discover when I was in Burma on Sunday that the Senate of the United States, the other body, passed a resolution in August calling for the establishment of democracy in Burma. My friends, I myself did not know that this resolution had been adopted. I doubt that there were many people in the United States who were aware of it. And yet I found the Burmese people knew about it. They heard about it on the Voice of America, they heard about it on the BBC, and it enormously encouraged them. It gave them the feeling that they were not isolated.

I want to assure you as we stand here this evening that the adoption of this resolution will be reported in Burma. The people will find out about it and they will know that the United States is on the side of democracy rather than dictatorship.

It is no accident that the Burmese opposition has chosen the site of the American Embassy in Rangoon as the location for most of the demonstrations they have held calling for democracy in their country. They look to us as an inspiration and as the embodiment of the kind of multiparty democratic system they would like to have in their own country.

In the final analysis, the fate and future of Burma will be determined by the Burmese people themselves. But this is the least we can do, to lend our moral and political support to this extraordinary movement in which the people of Burma, in spite of the loss of blood which has already taken place, in spite of the existence of an army which has demonstrated its willingness to fire on its own people, have pledged their lives, their fortunes and their sacred honor, as our Founding Fathers did over 200 years ago, to the very same principles upon which our own great republic was founded.

So I respectfully request my colleagues to sympathetically consider, and to support this resolution which will lend encouragement to the courageous people of Burma who are seeking for themselves the same democratic rights and freedoms which we have been privileged to enjoy for two centuries.

Mr. FASCELL. Mr. Speaker, will the gentleman from Iowa yield under his reservation to me?

Mr. LEACH of Iowa. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. Fascell], the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding and for his cooperation in making it possible to bring this resolution to the floor.

Mr. Speaker, I rise in strong support of the resolution before us and urge its adoption. I would like to commend Representative Solarz for prompt action in bringing this matter to the House floor. He returned from Burma on Tuesday evening deeply impressed by the support he witnessed there for an immediate transition to a multiparty democracy.

The situation in Burma is at a crucial crossroad between a peaceful resolution to the current unrest and the possibility of a bloody civil conflict. As representatives of a great country with a long and proud democratic tradition, it is our responsibility to convey to the people of Burma our support for the restoration of democratic government and to urge the Government of Burma to refrain from any further use of force against citizens engaged in peaceful protest. The Peaceful transition from dictatorship to democracy is possible in Burma. It is our hope that passage of this resolution today will extend moral support to both sides to work out their differences and move promptly to the establishment of a new democratic government in Burma.

I urge my collegues to join me in supporting house passage of this resolution.

□ 1800

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. Further reserving the right to object, I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I was remiss in neglecting to take note of the fact at the outset of my remarks that it obviously would not have been possible to have brought this resolution to the floor in such an expeditious fashion, given the fact that we only returned to work earlier today, without the cooperation of my very good friends on the other side of the aisle, the very distinguished ranking member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD], and the equally distinguished and able gentleman from Iowa, the ranking member of the Subcommittee on Asian and Pacific Affairs, and, of course, without the support also of our beloved chairman, the gentleman from Florida [Mr. FASCELL]. The willingness of the Members on the other side of the aisle to work with us in a genuine bipartisan fashioning in a resolution that reflects the views of this entire House is greatly appreciated.

May I just say also that the resolution does have the strong support of the administration, with whom we discussed the text as it evolved. Their willingness not only to endorse this resolution but to have spoken up on behalf of democracy and peaceful change in Burma long before we even considered this resolution is greatly to their credit.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. Further reserving the right to object, I yield to the distinguished ranking member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I would like to pay tribute to the gentleman from New York [Mr. SOLARZ], who is the chairman of the Subcommittee on Asian and Pacific Affairs, as well as the ranking member, the gentleman from Iowa [Mr. LEACH], who is the ranking Republican on that subcommittee. I thank these gentlemen for the expeditious manner in which they brought this resolution to the floor. I think the gentleman from New York [Mr. SOLARZ] has given a very good report on the necessity for this resolution, and I strongly urge the support of the resolution by the Members.

This is a very timely resolution. We are witnessing a growing demand for democracy in Burma. Hundreds of thousands of Burmese have taken to the streets demanding an end to a quarter century of single party rule and a continually worsening economy.

All parts of Burmese society have joined in raising their voices in calling for democracy. Today's New York Times states that all 187 foreign ministry workers who belong to Burma's ruling party have joined other Government workers in resigning from the party and calling for the establishment of an interim government.

Unlike his predecessors who reacted with bullets to the demonstration, the current leader of Burma, President Maung Maung [Mong Mong], has so far acted with restraint. It is to be hoped that his government will continue to do so.

The resolution before us pays tribute to the Burmese people who have courageously stood for the restoration of democracy in Burma and condemns the killings of unarmed demonstrators. It further urges the Burmese Government to refrain from the use of force against citizens engaged in peaceful protest. It also expresses the strong support of the House of Representatives for the restoration of democracy in Burma, and the establishment of a transitional government.

Mr. Speaker, as a cosponsor I urge my colleagues to support this resolution and to send a clear signal to the people of Burma that this body supports the people's desire for democracy and economic development, and hopes that the Government there will allow the necessary changes to come about peacefully.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from New York [Mr. SOLARZ] for taking time during this brief recess to go to Burma and to bring back this report to the House and for his prompt and expeditious manner in forging a measure that will be of support to the emerging democracy in Burma. We appreciate his eloquent remarks this evening that fully analyze the present situation.

Accordingly, Mr. Speaker, I urge my colleagues to fully support the resolution now before us.

Mr. LEACH of Iowa. Mr. Speaker, further reserving the right to object, recent developments in Burma have demonstrated impressively the desire of the people of Burma for democracy after 26 years of one-party authoritarian rule by the Burma Socialist Program Party. By their actions, the people of Burma have told their leaders that they have reached their limits with Government intolerance of political opposition and curbs on basic human rights.

While Burma may be one of the world's poorest nations, the breadth and vigor of the recent popular protest for democratic change once again underscore the universal appropriateness of democracy for all peoples, regardless of economic status. In fact, Burma's failure to keep pace with the impressive economic accomplishments of many of its Asian neighbors cannot be divorced from its political failures and may be attributed in large part to a centralized rather than free market economy. Hopefully, with a transition to a more open political system, the people of Burma may also be able to enjoy the benefits of a more open economic system and an improved standard of living.

Unfortunately, popular demands for change and for freedom have not been without enormous human cost. The use of deadly armed force against unarmed civilians engaged in the peaceful protests is reprehensible and is appropriately condemned in the resolution before us today. And, although it has resulted in substantial bloodshed, it has failed to quell dissent.

The resolution today pays tribute to the people of Burma for their courage and commitment in pressing for democracy and expresses the strong support of the House for the restoration of democracy in that country. The resolution urges the establishment of a transitional body, committed to democracy, to organize multiparty elections.

The resolution, also appropriately takes note of public statements by our State Department and by our Ambassador in Burma, expressing strong United States support for the restoration of democracy in Burma and condemning the killing of unarmed demonstrators. It also calls on the executive branch, in the resolved clause, to review whether it is wise to continue U.S. assistance under current conditions in that country.

Mr. Speaker, given the daily unfolding of events in Burma, it is important that the House act expeditiously on the resolution before us. This body should unhesitantly go on record registering the strong support of the American people for a new era of democracy and freedom for the people of Burma.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 529

Whereas General Ne Win overthrew the democratically-elected government of Burma in 1962 and established the Burma Socialist Program Party, which has ruled Burma as a dictatorship since then;

Whereas the state-controlled economy established by the Ne Win regime has resulted in a significant decline in the standard of living of the Burmese people, while the free enterprise economies of other countries in the region has prospered;

Whereas despite the efforts of the Government of Burma to isolate the Burmese people from developments elsewhere in the world, the Burmese people have learned of and been inspired both by the restoration of democratic governments in the Philippines and the Republic of Korea and by the economic miracles that have taken place in Singapore, Thailand, and other countries in the region;

Whereas in the summer of 1988, hundreds of thousands of Burmese citizens participated in demonstrations not just in the capital but in cities across the country in favor of multiparty democracy in Burma;

Whereas these protest activities have demonstrated the commitment of the overwhelming majority of the Burmese people to peaceful, democratic change;

Whereas the Government of Burma has responded to these peaceful demonstrations with an excessive use of force against unarmed civilians;

Whereas this bloodshed has already claimed up to 3,000 lives;

Whereas despite the violence inflicted on them, the Burmese people remain unshaken in their commitment to achieving democracy by peaceful means and in their willingness to risk their lives to achieve it;

Whereas through public statements by representatives of the Department of State in Washington and the United States Ambassador in Burma, as well as by the passage of Senate Resolution 464, the United States has clearly expressed both its condemnation of the killing of unarmed Burmese demonstrators and its strong support for the restoration of multiparty democracy in Burma;

Whereas the people of Burma have warmly welcomed these expressions of United States support for the democratization process and have chosen, as a symbol of democracy, the United States Embassy in Rangoon as the staging site for many prodemocratization demonstrations; and

Whereas the success of the democratization process in Burma would not only give the Burmese people the opportunity to enjoy the benefits of genuine democracy but would also serve as an inspiration to oppressed peoples in other countries across the globe that have nondemocratic regimes: Now, therefore, be it

Resolved, That the House of Representatives—

(1) pays tribute to the Burmese people for their courage and commitment in supporting the restoration of democratic government in their country by peaceful means;

(2) condemns the killing of unarmed demonstrators, and urges the Government of Burma to refrain from any further use of force against those Burmese citizens engaged in peaceful protest;

(3) expresses its strong support for the restoration of democracy in Burma;

(4) to that end, urges the establishment of a transitional body, consisting of Burmese citizens who are unquestionably committed to democracy and who have the confidence of the Burmese people, to organize the holding of multiparty elections and otherwise facilitate the establishment of a genuinely democratic government;

(5) urges appropriate third parties to consider favorably requests to facilitate the departure of present or former Burmese Government officials as a means of strengthening the prospects for a peaceful settlement;

(6) calls upon the executive branch to review whether, under existing circumstances, it is possible or prudent to continue United States assistance programs in Burma; and

(7) states its willingness, in the context of the establishment of a genuinely democratic government that has the confidence and support of the Burmese people, to consider sympathetically proposals designed to assist Burma's economic recovery from three decades of mismanagement and economic stagnation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 529, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that on tomorrow, Thursday, September 8, 1988, the Committee on Public Works and Transportation may be permitted to sit during the 5-minute rule.

Mr. Speaker, I further state that the matter has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

NATIONAL D.A.R.E. DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 295) to provide for the designation of September 15, 1988, as "National D.A.R.E. Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. LEVINE], who is the chief sponsor of House Joint Resolution 540, designating September 15, 1988, as National Drug Abuse Resistance Education Day.

Mr. LEVINE of California. Mr. Speaker, I am very grateful to the leadership on both sides of the subcommittee for bring forth this Senate joint resolution, and I am very grateful to the majority of my colleagues who have cosponsored this resolution.

Mr. Speaker, I rise in enthusiastic support of Senate Joint Resolution 295, designating September 15, 1988, as National Drug Abuse Resistance Education Day. As the House sponsor of this legislation, I am pleased that Congress has chosen to recognize this outstanding program.

D.A.R.E. is an innovative approach to drug abuse prevention developed by the Los Angeles Police Department and the Los Angeles Unified School District. It offers a 17-week curriculum to teach fifth and sixth grade children the decisionmaking skills necessary to resist pressure to experiment with drugs and alcohol. The D.A.R.E curriculum teaches assertive response styles, resistance techniques, and how to evaluate risk-taking behavior and the consequences of their choices. Other D.A.R.E. units help students understand self-image, resist gang pressure, recognize stress, and manage it without taking drugs, and analyze and resist media presentations about alcohol and drugs.

The D.A.R.E. Program is taught by veteran police officers, who have direct experience with the tragedies and crimes caused by drug abuse. Each police officer completes a special 2-week training program which includes instruction on teaching techniques, officer-school relationships, development of self-esteem, child development, and communication skills. The D.A.R.E. Program provides the opportunity for law enforcement, teachers, and school administrators to work together to reduce drug abuse.

Independent research has confirmed the success of the D.A.R.E. Program. D.A.R.E. graduates are less accepting of drug use, and more able to resist peer pressure to use drugs. The D.A.R.E. Program also contributes to improved study habits and grades, decreased vandalism and gang activity, and a more positive attitude toward the police and school.

The success of D.A.R.E. is also demonstrated in a student-parent survey taken in the Los Angeles Unified School District. Before taking the D.A.R.E. Program 51 percent of the students surveyed equated drug use with having more friends. After completing the D.A.R.E. Program, only 8 percent of the students made this association. Similarly, before witnessing the D.A.R.E. presentation, 61 percent of parents thought that there was nothing parents could do to prevent their children from using drugs. However, after the D.A.R.E. presentation, only 5 percent of the parents believed this.

I commend law enforcement for its willingness to sponsor innovative and effective programs like D.A.R.E., and I urge my colleagues to support this legislation.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I would like to compliment the chief sponsor of the House joint resolution. It is particularly appropriate that we talk about this innovative program at this time when we are considering the major Omnibus Drug Initiative Act.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the distinguished gentleman from New York.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 295 which would designate September 15, 1988, National Drug Abuse Resistance Education Day and I commend the gentleman from California [Mr. LEWIS]. There is probably no more important aspect of the war against drugs than the struggle for the hearts and minds of the next generation of Americans. They must learn the dangers of drugs and they must understand that saying no to drugs means saying yes to hope.

It is noteworthy that 495 communities in 34 States now teach the D.A.R.E. Program in their local schools and more than 15 million students have benefited from this worthy program.

Accordingly I urge my colleagues on both sides of the aisle to give their full support for this important measure. Let us focus the Nation's attention on the need to teach our children the threat that drugs pose to their lives and to our society.

Mrs. MORELLA. Mr. Speaker, further, reserving the right to object, I would like to point out that I had a drug program in Montgomery County, and that the gentleman from New York [Mr. GILMAN] was kind enough to be there as ranking member of the Select Committee on Narcotics Abuse and Control. We had a speaker who has chaired a Rand Commission report on drugs around the Washington area, and he pointed out that if we do not do something about drugs, including education and prevention, a whole generation could be lost. That is exactly what this D.A.R.E. Program is about, to get the police officers involved in teaching the young people so that they will have the courage to resist.

At the same time, during that program we had some young people who were students at a school that is unique in the district that I represent called the Phoenix School with two campuses. These are young people who are engaged in education and treatment programs, and what they are doing also is going to school and meeting with those youngsters in the third grade and saying, "Hi, I am Debbie," or "John, and I am a drug addict," and indicating to them the terrible experiences they had had and the fact that they have, through the turmoil and travail, been able to transcend it.

So, Mr. Speaker, I certainly heartily support the program that is part of this resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of House Joint Resolution 540 designating September 15, 1988, as National D.A.R.E. Day. I congratulate my colleague, Representative MEL LEVINE from California, for his efforts on this legislation and I thank the Post Office and Civil Service Committee for their expeditious movement of this resolution through the committee.

I would like to take this opportunity to call attention to the Drug Abuse Resistance Education [D.A.R.E.] Program which is being implemented by law enforcement agencies in local school districts throughout the country. The program is successfully teaching children the skills necessary to recognize and resist the pressure that influences them to experiment with drugs.

The D.A.R.E. Program, originally developed in 1983 in Los Angeles, CA, is now being taught in more than 495 communities in 38 States, including 90 jurisdictions in the State of Virginia.

D.A.R.E. is a semester-long program teaching 5th graders how to resist the pressure to experiment with drugs and alcohol. The program is taught by individuals who have seen others ruin their lives with drugs and alcohol—veteran police officers who go through an 80-hour training course including development of self-esteem, teaching techniques, officer-school relationships, and communication skills.

There are three D.A.R.E. jurisdictions which fall within the 10th District of Virginia, including Arlington County, Falls Church, and Loudoun County. After attending one of the D.A.R.E. classes and reviewing the course material offered, I am convinced more than ever that the D.A.R.E. Program, on both a local and national level, is an extremely positive approach to equipping our youngsters with the skills to resist peer pressure to experiment with and use harmful drugs.

The D.A.R.E. Program offers a responsible approach to educating our youngsters about the tragic effects of substance abuse and I congratulate everyone involved. I feel honored to be a part of the effort designating September 15, 1988, as National D.A.R.E. Day and I urge the support of my colleagues for House Joint Resolution 540.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 295

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a semester long program which teaches fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol;

Whereas the D.A.R.E. program is also provided to kindergarten and junior high school students and their parents;

Whereas D.A.R.E. targets children when they are most vulnerable to tremendous peer pressure to try drugs or alcohol and teaches the skills to make positive decisions and resist pressure to participate in negative behaviors;

Whereas more than 495 communities in 34 States teach the D.A.R.E. program in their local schools, and a pilot program has been implemented for use internationally in the Department of Defense Dependent Schools;

Whereas almost 1.5 million students have been reached through D.A.R.E.;

Whereas because school children are frequently much more sophisticated about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers with direct experience with ruined lives and crimes caused by substance abuse;

Whereas each police officer teaching the D.A.R.E. program completes an 80-hour training course including instruction in teaching techniques, officer-school relationships, development of self-esteem, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District helps students understand self-image, recognize stress and manage it without taking drugs, analyze and resist media presentations about alcohol and drugs, evaluate risk-taking behavior, resist gang pressure, apply decision making skills, and evaluate the consequences of the choices available to them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol, and it has also contributed to improved study habits and grades, decreased vandalism and gang activity, and has generated greater respect for police officers;

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to what is one of the most difficult problems facing our young people today, drug abuse; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 15, 1988, is designed as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 295, the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WITH A BIG HEART, NASHVILLE WELCOMES VISITORS

(Mr. CLEMENT asked as was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CLEMENT. Mr. Speaker, it is always a pleasure to tout the fine attributes of Nashville, TN.

As in many parts of our great Nation, Nashville thrives on the many thousands of visitors who come to partake of its sights and sounds. Nashville welcomes its guests with country hospitality known to melt the skepticism of the most experienced world traveler.

While music is important in many parts of our community, Nashville is also known for its historic sites. From the Hermitage home of Andrew Jackson to the recently reopened 100-year-old full-size reproduction of the Parthenon, Nashville has much to offer.

But I am naturally biased in my attitude toward Nashville. So instead of relying on my descriptions of my hometown, I encourage my colleagues to read an article which appeared in the Washington Post travel section during the August recess.

Better yet, round up your family and come to Nashville and see for yourself.

Mr. Speaker, I include the article from the Washington Post of Sunday, August 21, 1988, as follows:

COMIN' INTO THE COUNTRY

(By Jeffrey A. Frank)

My son and I went to Nashville on a pilgrimage of sorts. You should know that he is 14, and just graduated from the choir in which he sang for five years. And you should know that country music has for me been a lifetime guilty pleasure. It would, I believed, be good for him to learn something about that music, and good for both of us to learn something about the place where so much of it was born and raised.

We had picked a fine time (mid-June), when a special liveliness had overtaken Davidson County: The latest installment of Fan Fair, where 20,000 people show up to meet the country stars they admire, was in progress at the Tennessee State Fairgrounds.

We turned the three-day trip into a determined immersion, no doubt missing a good deal (and having no time at all for such "sights" as Andrew Jackson's house). What we found was a place, or more accurately a small part of a place, where music rules, the guitar pick is a weapon of choice, old Cadillacs take on mythic dimensions and boundaries of time, taste and even mortality melt away.

One should think of musical Nashville in four parts: Music Row, where much of the industry is located as well as tourist draws like the Country Music Hall of Fame; the slightly disreputable lower Broadway; the Opryland complex, consisting of the Grand Ole Opry auditorium, hotels and an unusual theme park, Opryland USA; and the West End, near Vanderbilt University, where a number of clubs thrive.

Nashville seems villagelike in spite of a population of half a million, and it doesn't take long to find your way around. A couple of hours after getting here, we were in the 16th Avenue Shoney's, just behind the Country Music Hall of Fame, across from the storefronts on Demonbreun Street with names like: The Hank Williams Jr. Family Tradition Museum, Barbara Mandrell's One Hour Photo, Ernest Tubb's Record Shop (one of three locations), Conway Twitty Country Store & Record Shop, George Jones Car Collection, Loretta Lynn's Western Store, the Elvis Presley Museum. And so on.

It was a dark, cloudy day on Music Row, and inside Shoney's, where we waited for Shoney-burgers, a man dressed like Willie Nelson, bearing an old Martin guitar, was looking inquiringly at passing customers. Dress of the day was red baseball caps—often emblazoned with the words International Fan Fair—baggy jeans and very large ornamental belt buckles.

We had just come from the Hall of Fame, which, like baseball's hall in Cooperstown, is stuffed with artifacts and history. Almost upon entering (admission $6.50), you see a wide-lapel suit worn by Hank Williams, a purple-and-white dress favored by Patsy Cline, a pink costume (decorated by birds and flowers) used by Marty Robbins.

You also discover that some very famous songs were often scribbled in the rudest fashion, on whatever scrap was handy. A laundry list. A receipt. "Wolverton Mountain" was scrawled on the stationery of Nashville's defunct Noel Hotel.

There's really a great deal to see here. Both of us particularly liked a small theater that shows terrific film clips, some of which, simply because they exist, seem miraculous: Jimmie Rodgers yodeling' Hank Williams on Kate Smith's television program singing "Hey, Good Lookin' "; Patsy Cline accompanied by country-jazz guitarist Hank Garland. Nearby is one of Elvis Pressley's Cadillacs, the celebrated "solid gold" 1960 model. "He did know how to go in style," a visitor beside us remarked unnecessarily.

On the way to the gift shop, you pass the plaques of the inductees: Minnie Pearl's includes the $1.98 price tag on her hat. Another says simply, "Hank Williams will live on in the memories of millions of Americans."

A block away (included in the ticket) is RCA's celebrated-Studio B, no longer in use but still very much intact—down to the mixing board. As is common here, you are invited to treat the exhibits as if they were your own: to stand in the spot where Presley did his Nashville sessions, to play the Steinway used by Jerry Lee Lewis. An English visitor seemed fascinated by a honky-tonk piano by the wall; one bearded tourist wearing a Fan Fair cap picked up a guitar and began to strum. My son went right to the Steinway.

We had not, to be sure, really heard any music yet, but this introduction seemed altogether proper. After all, one of the customs of the country-music world is a bonding between star and fan, a bonding that does not end with death. Patsy Cline, Hank Williams, Marty Robbins, Ernest Tubb are still powerful icons, and you quickly get a sense of this.

In the Hall of Fame, a special exhibit devoted to the living Johnny Cash begins with Cash on videotape describing various items in display cases—he's talking as if you are an old friend. "This," he says, "is a very unique book," and he holds up a volume autographed by Helen Keller in 1935; he points to a Remington bronze, and calls the room he's standing in "my private little study, [with] my books, where I do all my writing."

Some of the nearby shrines seem a bit of a cheat. The clapboard yellow Minnie Pearl Museum, for example, which charges $3, seems awfully sparse for such a long, enduring career, in spite of the welcome mat at the front door that proclaims, "How-dee!"

Across the street, on Demonbreun, things get better. Hank Williams Jr. also charges $3, and one immediately discovers the baby-blue Cadillac convertible in which Hank Williams Sr. died in 1953. There's lots more, including Hank Sr.'s boots, family pictures, the 1958 Cadillac DeVille favored by Hank Jr. and a videotape chronicling his life. We were so pleased that I bought a $2.98 mug, featuring Hank Sr.'s blue Cadillac.

We wandered a bit, skipping George Jones' cars, a wax museum and Elvis' museum (on grounds that Memphis ought to have the most authentic Presley collection). And then we headed 10 blocks east for lower Broadway.

A friend, a Nashvillian by birth, describes this neighborhood as a stop for country entertainers on their way down-and-out, or just starting. Most of it is found between Fourth and Fifth avenues and it seems, at first, like a stage set of seediness. My son remarked that it looked like what George Bailey saw in "It's a Wonderful Life" when his guardian angel showed him how Bedford Falls would have turned out without him.

On Fifth, just south of Broadway, is the Ryman Auditorium, once the home, for 30 years or so, of the Grand Ole Opry, and we headed there once, surrounded by a busload of tourists en route to the gates of the homes of the stars. I had always been troubled by the Opry's decision to leave the Ryman in 1974 and set up shop in the Opryland suburbs; it seemed akin to abandoning Carnegie Hall for Tenafly, N.J., and in fact there is a wondrous feel still to the Ryman.

You recognize the place, almost in a rush of *deja vu:* the barn-red backdrop; the wooden seats, like pews, in a semicircle around the stage; the balcony so low that the view from the back is halved; the posts in the middle; the sense of hot airlessness on a summer night when the WSM radio show went out to millions, creating the illusion that the Opry was America's rural back yard.

Some Opry stars were so upset by the move that a section of Ryman floor was cut out—to be made into a circle in the stage of the new theater. The Ryman is otherwise unscathed, and fit enough to make guest appearances in films like "Coal Miner's Daughter" and an occasional television production. Those on the bus tour were encouraged to sing "You Are My Sunshine" as they stood on the stage; then they could tell friends they'd performed at the Ryman. We joined in, too.

Around the corner, on Broadway, is Tootsie's Orchid Lounge, another landmark of sorts ("What's gonna happen to Tootsie's if they tear the Ryman down?" goes the song), and although Tootsie herself is deceased, the place endures—an oddity, part tourist joint, yet somehow authentic, much like the fragile neighborhood around it. Every millimeter of wall space is covered with photos of country stars, famous and obscure, and from the ceiling in the center hangs an enormous pair of panties—"Jane Russell's drawers."

When we dropped by, a guitarist-singer, accompanied by his wife (on bass) and 12-year-old son (on drums), was playing for tips in a plastic bucket, and when they took a break, a very chubby singer named Mel Anderson let loose with "I washed her from the blackboard of my heart" and more. Anderson made a record called "The Woodpecker Song" some years back, which sold mainly because the lyrics were considered naughty. The gold lettering on his green T-shirt read: "350 Lbs. of Sounds"

As Anderson performed "The Woodpecker Song," a half-dozen Japanese tourists walked in and took a table in the rear. The 12-year-old sold autographed pictures of himself for a dollar apiece.

It was still afternoon, and none of the other bars along the strip was doing much. Between Fourth and Fifth you find an Adult World, (another) Ernest Tubb's Record Shop, the Turf, Polee's Rhinestone Cowboy and a place, now closed, called Friedman's, where a sign spells out the idea: "Music & Loan."

Also on the strip is Gruhn Guitars Inc., where owner George Bruhn, in a sense, helps rule the world's vintage guitar market. Gruhn's inventory list, mailed out to about 2,000 subscribers every three weeks, has been called the Blue Book of used guitars, and upstairs, on the day we stopped by, he had instruments packed for shipment to Italy, West Germany, Japan, as well as many U.S. cities.

The guitar, of course, is emblematic of the city. Out on Gallatin Pike, north toward Hendersonville, one pawnshop advertises guitars and shotguns. Customers (including a guitarist for the Judds) milled about. Gruhn complained to us, "I worry that we're running out of space."

Those are scary words in the shadow of the Ryman.

That evening we had reserved a place in the studio for "Nashville Now," a talk-music program broadcast live on The Nashville Network. (TNN is located in the Opryland complex, nine miles northeast of town.)

My son has acquired a wry appreciation of that old sitcom, "The Brady Bunch," and was much amused to sit so close to Florence Henderson, a guest that night. I was pleased that Minnie Pearl was scheduled, and disappointed to have missed the Everly Brothers, who were booked the night before.

"Nashville Now's" host, Ralph Emery, is regarded locally as a sort of Johnny Carson, and his 1½-hour program is an easy way for out-of-towners to get some sense of the musical life of the city. The rules of informality prevail, with people snapping pictures during the telecast, walking around. Pizza Hut was promoting a new flavor the day we went, and samples were passed out during the show. Emery singled out my son to ask if he had a girlfriend and could count to 10 with a mouth full of pizza. My son's father covered his face.

An hour later, I was dragging us back into town to visit the Bluebird Cafe, in the West End at 4104 Hillsboro Rd., which had been recommended by a Nashville native as an antidote to the Opry tradition (cover charge, $6). Its owner, Amy Kurland, holds weekly songwriters' nights along with bookings for established or semiestablished acts—with an emphasis, she says, on new country and acoustic music.

When we dropped by, the house was packed for an engaging, progressive country group called SKB (Thom Schuyler, Fred Knobloch and Craig Bikhardt), joined by another songwriter, the Grammy-winning Don (The Gambler) Schlitz—thus a special billing as SKBS. My son enjoyed the music, as did I, and he noted a distinct absence of red baseball caps in the crowd.

It is possible, you realize, to fill every moment of a visit here with music, most of it country music. Country music, to be sure, includes many styles: bluegrass, traditional, new traditional, progressive, gospel, pop, rockabilly, the so-called Nashville sound.

The different styles, and their leaders, are like different sects of a church, and sometimes they attack one another bitterly. Still, the music endures because country music, originally made by and for "common folk," can be enormously engaging and witty and sentimental and melodic, which is why its audience is so vast.

That audience has made Nashville a center of the record industry (just behind New York and Los Angeles), the home of an estimated 2,500 AFRTA singers, 3,000 working union musicians, at least 90 recording studios and perhaps 350 music publishing companies. Someone told us that 10,000 songwriters are in town at any given moment, though most live on dreams and day jobs. The Chamber of Commerce says that 90 percent of all country music is recorded here.

It is a city where you find someone like Greg Krochman, who owns and operates the Classic Axe, on 16th Avenue. Krochman spends most of his time customizing and repairing the instruments of Nashville musicians—he even makes house calls. Like so many, he came here with a band, hoping for stardom (in Krochman's case, from Tampa, Fla., in 1982). He has worked on guitars belonging to, among others, Merle Travis. "The stories attached to them, that's what gets you," he says.

It is not so easy for visitors to get a sense of that, beyond the public attractions. If you want to see a recording session (as many as 40,000 are held each year), you have to try the studios individually and hope for the best; we made a couple of attempts and had no luck, but were told that was bad timing, not policy. In any case, the industry gossip column in Music Row magazine gives a pretty good roundup of who is doing what in the various studios.

But always, or almost always, Nashville is a place where the circle between music makers and listeners is unbroken, and so it was at the Tennessee State Fairgrounds, a 15-minute drive from the center of town, where the 17th annual Fan Fair was winding down.

When we got there, there were a still a few stars—Tanya Tucker for one—easily spotted by the queues and the flash cameras. (Just outside the fairgrounds, there were no queues around a well-preserved Tiny Tim, who has been recording in the city.) "It's like family," says a woman who knows Nashville well. "The fans stick with them through thick and thin."

They stuck by Barbara Mandrell, who signed autographs at the fairgrounds and at her pricey ($6) Music Row museum. The Oak Ridge Boys were said to have devoted six hours to autographs. We did not see the prize-winning Ricky Skaggs booth, but The Tennessean reported that it was called "Comin' Home to Stay" and that its decorations included a white picket fence, yard greenery and artificial chickens.

The event brings lots of money to Nashville—nearly $6.6 million this year, according to the Chamber of Commerce. For $60, the four-day Fan Fair provides two meals, free admission to places like the Hall of Fame and about 30 hours of live music.

On our second day, we moved to the Opryland Hotel, which itself is a sort of theme park.

Our room, in a section of the hotel called the Cascades, overlooked a one-acre atrium-greenhouse: palm trees, suspended walkways, streams and . . . waterfalls . . . connecting to another one-acre atrium, the Conservatory, which has a jungle motif—thick plant life, smaller waterfall and streams. In the early evening, as we drank Cokes close to a waterfall, we noticed that the fountains were rising and swaying, lighted green and pink, accompanied by Strauss. My son, who had never seen dancing waters, began to giggle. I noted that it was about time for the Grand Ole Opry.

The hotel and Opry auditorium are almost side by side, but they have separate exits off the Briley Parkway and you have to drive a couple of miles to get from one to the other. I was somewhat dreading things; my son, who had been impressed by the old Ryman, was curious too. We talked about a large harp poised on a balcony overlooking the Cascades atrium, which I could not then explain.

The very good news was finding that the slick, new Opry auditorium is, spiritually and esthetically, very much like its predecessor. It has 4,400 seats, compared with 3,300 at the Ryman, but the contours are similar; that piece of transplanted floor may help, too.

On Friday nights, the show (tickets are $12) is broadcast locally on WSM, and a half-hour segment is transmitted to affiliates nationwide. On Saturday, half an hour is telecast. As you listen and watch, there is an occasional strobelike effect from the flash bulbs: People are descending the aisles, passing below the stage, photographing the performers. A Canadian sitting beside us dutifully left his seat almost every time a new act appeared, camera in hand.

We felt lucky to have been there on a night when Roy Acuff, walking stiffly but looking vigorous, sang "The Wabash Cannonball," as he has, off and on, for the 50 years he's been an Opry regular. (Acuff, who will turn 85 on Sept. 15, also participated in a sentimental duet about an ancient, fading country singer.)

An evening at the Opry, incidentally, means five separate half-hour segments, with commercials piped in. We heard such longtime regulars as Porter Wagoner, Hank Snow and the Osborne Brothers; and a newcomer, Ricky Van Shelton, was inducted in the cast. For those who regularly curse sound systems in clubs and auditoriums, you should know that the mix inside the Opry auditorium is perfect.

Back at the hotel, hundreds were strolling through the tropical growth, lingering by the waterfalls, searching for restaurants (long lines for the inexpensive ones, easy seating at the others), stopping for the musical performances at a palce called the Pickin' Palor. The harp on the balcony beckoned, mysteriously.

What makes Opryland USA different from all other theme parks is that its theme is country music—and you can hear hours of live performances there. And there is a special difference in the visitors themselves—my son noticed right away that all ages seemed represented; there were lots of retired couples strolling about.

Before going into the park, we took a trip (embarking at 8:15 a.m.) on a modern, four-deck paddle-wheel showboat called the General Jackson, which provides music and food during a short ride on the Cumberland River.

These things are a matter of taste, but we began feeling a bit claustrophobic before we docked, more than two hours later. By then we had watched a revue of American song in the Victorian Theatre on a lower deck—a performance that leaps out at you during the ample buffet breakfast and reminded my son of a "PTL Club"—and had a nice conversation with a retired couple from Charleston S.C., and another couple from Huntsville, Ala. On the so-called Hurricane Deck, in the sunshine, we listened to a group of cheerily cynical bluegrass musicians perform standards such as "Rocky Top" and "Salty Dog" and "Fox on the

Run," and we were listening still when we docked.

I suspect we would have enjoyed Opryland USA more were we less weary. My companion had, five days previous, been on a class trip to King's Dominion, and it was my good luck that he was not so eager to take many of the 21 rides. We did board the Sky Ride, which carries you across the park from the 1950s DoWahDiddy City to the New Orleans area (a 15-year-old from Hendersonville said she spent much of her summer in that ride). And we did the Grizzly River Rampage, which I thought was fun but my son found slightly inferior to the white-water ride at King's Dominion.

We stayed nearly three hours, sitting down to watch most of an outdoor revue called "Country Music USA," in which a group of musicians pay homage to a pantheon of stars from Jimmie Rogers to Alabama. There was much more; the park says it employs approximately 400 singers, dancers, musicians and technicians for the shows.

On the way out, after a stop at Roy Acuff's Musical Collection (which is just, wonderfully, that), we headed toward Hendersonville.

Where things got a little grim.

We were on Gallatin Pike (its name changes to Johnny Cash Boulevard just north of Gallatin) to find Twitty City, the "village" that singer Conway Twitty built to get closer to his fans. When we arrived in midafternoon, there were not many fans present, and what you see at first is a brick building dedicated to Twitty. Close by lie four more attractions: Ferlin Husky's Wings-of-a-Dove Museum; and "museums" dedicated to Bill Monroe, Willie Nelson and Marty Robbins.

Admission to all four is $8, or $3.50 for one—the Twitty building extra. We debated these choices seriously, and settled finally on bluegrasser Monroe's museum, the closest. We spent a litte more time inside (fiddles, banjos, mandolins, boots) than we wanted to, so as not to insult the young lady selling tickets.

After stopping for aspirin, we drove another mile up Johnny Cash Highway to the House of Cash. I have long admired Cash's music; its simplicity and earnestness make much of it as fresh as it was when Eisenhower was president. But it was difficult to admire the House of Cash, which holds prized possessions owned by Cash and his wife June Carter. A brochure announces that its contents include "priceless Frederic Remington original bronzes, antique Colt pistols, a letter written by Andrew Jackson and the Elizabethan bed Johnny and June slept in for the first couple of years of their marriage . . ."

We opted to save the $5 apiece for other treats.

Back at the Cascades, the mystery of the harp on the balcony was solved.

From our room, we saw a man dressed in a white sequined suit, bearing a faint resemblance to Liberace. As the waters danced, he played "Memories," from "Cats," and other favorites, to great applause. My son pleaded with me to take him back to Nashville; time, he pointed out, was running short.

Twenty minutes later, we were walking past a couple of street musicians on Second Avenue, close to the Cumberland River, where most of the storefronts have been gentrified. A terrific bookstore called Rare, Foreign and More (it also sells newspapers, magazines and chocolate) is located there.

On Broadway, at dusk on Saturday night, you can hear music on the street. You can hear it from in front of the T.G. Tilman & Son grocery, which has been on the corner of First and Broadway for 47 years, and very clearly by the time you pass Ernest Tubb's.

Someone with a nice voice was singing ballads inside the Turf, and at Tootsie's a less-talented performer was singing "Jambalaya." We enjoyed walking around, and when it got dark we drove to the Bluegrass Inn, located between 19th and 20th streets just off Broadway.

The Blue Grass Inn, recommended by another Nashville friend, is a nice place (with a clock shaped like a guitar behind the bar); the cover charge is $4, and Cokes are $1 apiece, served in cans, and no one pushes you to drink them. Hubert Davis and the Season Travelers, a longtime local favorite, were playing songs from an immense repertoire, and Davis asked people where they came from. "Is it your first time here?" he asked each table. "Will you be back?" We answered yes to both questions.

On the way home, I asked my son what he'd learned in Nashville, and part of what he said was this: "I learned about country music, and about the people who worship country stars." They seemed like pretty good things to have picked up in three days, and let me now give Nashville—that bubbling, tacky, important American city—thanks for that, too.

THE LOW-INCOME HOUSING PRESERVATION ACT OF 1988

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, all of us recognize that our country is suffering from a tremendous shortage of low income housing. To make matters worse, the existing low income housing stock will be badly depleted in the next few years unless we act now to preserve it. Today the Honorable NANCY PELOSI and I are introducing the Low Income Housing Preservation Act, which would enable nonprofit corporations and State and local housing agencies to acquire and maintain low income housing threatened by the prepayment of HUD subsidized mortgages and the termination of HUD low-income housing subsidies.

The Federal Government, as a partner with private owners in these low income housing projects, has a responsibility to preserve their low income character. The least costly means of fulfilling that responsibility entails the purchase of the threatened low income housing with funds from a housing preservation grant, which my legislation would establish.

An April 1988 National Low Income Housing Preservation Commission report showed that the cost of acquiring and operating low income housing threatened by mortgage prepayment or subsidy termination is less than the cost of providing tenant based subsidies—section 8 vouchers or certificates—for the tenants who would otherwise be displaced. This approach also guarantees the existence of a longterm low income housing resource, since the housing acquired under the bill would remain available to low income renters for its physical life.

In the 1960's the Federal Government sought to attract private investment in low income housing by offering mortgage subsidies and mortgage insurance. Today, many of these mortgages are becoming eligible to prepay, and, once prepayment occurs, low income rent requirements no longer apply. According to HUD, 316,481 units in 2,875 low income housing projects will be vulnerable to prepayment by 1995. HUD estimates that 25.5 percent of these projects will prepay.

In addition to the tens of thousands of units which are likely to be lost due to prepayment, tens of thousands more units are subject to subsidy termination. The cost of acquiring these projects and eliminating the threat that owners would opt out of their subsidy contracts is far less than the cost of building new low income housing. The displacement of low income tenants is not a humane or economical policy alternative, since emergency housing for those displaced is often inadequate and excessively expensive.

Under the legislation I am introducing today, the Federal Government would allocate money for low income housing preservation to each State on the basis of the size of the prepayment and subsidy termination threats. Each State would in turn make grants to local government entities and nonprofit corporations for the acquisition and preservation of low income housing. In the absence of a capable local entity the State would undertake the necessary preservation activities. The Secretary of HUD would have strict oversight responsibilities and could intervene in order to block an uncreditworthy acquisition. The bill would authorize $437.5 million for each of the years 1989, 1990, and 1991.

The Low Income Housing Preservation Act is an economical, effective and farsighted solution to the potential disaster of prepayment and subsidy termination. The bill encourages local initiative. It maximizes the impact of each Federal dollar devoted to low income housing preservation. It puts low income housing into the hands of those who want to preserve its low income character. Finally, it does not restrict the owners' right to prepay their mortgages and sell their properties on the market.

The text of the bill follows:

H.R. 5252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Low Income Housing Preservation Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the unavailability of low income housing has reached crisis proportions;

(2) the prepayment of mortgages on low income housing that are insured or subsidized by the Secretary of Housing and Urban Development, and the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance), may cause the displacement of hundreds of thousands of individuals from their homes; and

(3) the Federal Government, as a partner with private owners in low income housing, has a responsibility to attempt to preserve the low-income character of such housing, taking into consideration the contractual rights of the owners.

(b) Purpose.—It is the purpose of this Act—

(1) to mitigate the effect of the prepayment of mortgages on low income housing, and the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance), on the availability of low income housing, in order to further the stated goals of low income housing mortgage programs—

(A) to assist private industry in providing housing for lower and moderate income families and displaced families; and

(B) to maintain affordable rentals for low income families;

(2) to provide assistance to States for the preservation of low income housing threatened by the prepayment of mortgages insured or subsidized by the Secretary, or the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance), including—

(A) assistance for the acquisition of such low income housing: and

(B) assistance for the continued operation of the low income housing acquired under this Act or preserved as a low income housing resource by a State or local government housing agency or by a nonprofit corporation;

(3) to encourage and assist the formation of State low income housing offices and corporations that are empowered—

(A) to set forth a plan to maximize the number of low income housing units preserved; and

(B) to initiate a program consistent with the plan to acquire and facilitate the acquisition by local government agencies and nonprofit corporations of low income housing threatened with the prepayment of mortgages insured or subsidized by the Secretary, or the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance); and

(4) to require that the Secretary issue an annual report on the availability of housing to lower income families (including housing not assisted by the Federal Government) and the success of the Secretary in preserving existing low income housing under the provisions of this Act.

SEC. 3. GENERAL AUTHORITY TO MAKE GRANTS.

The Secretary may make grants to States to assist the States to purchase and maintain eligible low income housing (as defined in section 13).

SEC. 4. ELIGIBILITY REQUIREMENTS.

(a) Designation of Administering Office or Corporation.—To be eligible for a grant under this Act, a State shall designate an office or corporation to carry out the responsibilities of the State under this Act and shall grant the office or corporation the authority—

(1) to buy, own, manage, lease or otherwise acquire property in connection with the developments or projects under this Act;

(2) to secure any funds necessary to acquire the developments or projects under this Act;

(3) to establish accounts necessary to accomplish the purposes of this Act;

(4) to enter into general or limited partnerships with private individuals or private corporations, agencies, organizations, or institutions;

(5) to enter into real estate syndication transactions;

(6) to create a management firm, if necessary, to manage the housing acquired under this Act;

(7) to accept any funds that may be donated to it;

(8) to take out loans;

(9) to accept and encourage State funds;

(10) to accept and reinvest available surplus bond revenues of the State; and

(11) any other power determined by the State to be necessary to permit the office or corporation to carry out its responsibilities under this Act.

(b) Direct HUD Program.—The Secretary shall carry out the program under this Act in any State—

(1) that does not have an office or corporation in compliance with subsection (a); and

(2) in which the Secretary determines there are lower income families who are likely to be displaced from eligible low income housing due to the prepayment of mortgages or loans insured or subsidized by the Secretary or the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance).

SEC. 5. APPLICATIONS FOR GRANTS.

(a) Submission.—No grant may be made to any State under section 3 unless the State submits to the Secretary an application in accordance with the requirements and procedures established by the Secretary.

(b) Requirements.—Each application shall include the following:

(1) Low income housing preservation plan.—A 5-year plan for the preservation of eligible low income housing. The plan shall include the following:

(A) Existing low income housing.—A description of the existing low income housing in the State, specifically including the number and location of units insured or subsidized by the Secretary.

(B) Projected availability of housing.—A projection of the availability of low income housing in the State.

(C) Projected loss of housing.—A projection of the loss of eligible low income housing due to the prepayment of mortgages or loans insured or subsidized by the Secretary or the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance).

(D) Projected acquisition and operating costs.—A projection of the costs of acquiring and operating eligible low income housing under the provisions of this Act.

(E) Involvement of state, localities, and nonprofits.—A description of State and local governments and nonprofit corporations involved with the activities authorized by this Act, and a description of the involvement of the State and local government and nonprofit corporations in the program set forth by the State.

(2) Low income housing preservation program.—A program that does the following:

(A) Acquisition maximization.—Maximizes the number of units of eligible low income housing that will be acquired.

(B) Use of tax benefits.—Makes use to the fullest extent possible of State and Federal low income housing tax credits and any other tax advantages that accrue to low income housing.

(c) Involvement of state, localities, and nonprofits.—Subject to subparagraph (A), maximizes the use of State and local housing agencies and nonprofit corporations in the furtherance of the low income housing plan of the State.

(d) Preservation for lower income families.—

(i) General requirement.—Provides that the eligible low income housing acquired under this Act shall be preserved for occupancy by lower income families for the physical life of the housing, subject to clause (ii).

(ii) Exception.—If the preservation of any housing required in clause (i) is not economically feasible, the owner may annually exempt not more than 2 dwelling units from the low income occupancy and rent restrictions established in this Act, but only to the minimum extent necessary to make the preservation of the housing under clause (i) economically feasible. If an owner utilizes the authority provided in this clause, the owner shall—

(I) apply for assistance for operating expenses pursuant to section 6(a)(2), if the maximum permissible exemptions have been made under this clause; and

(II) designate the next available dwelling units as units subject to the low income occupancy and rent restrictions established in this Act, to the extent economically feasible, until the original number of dwelling units subject to such restrictions is attained.

(iii) Economically feasible.—For purposes of this subparagraph, economically feasible shall mean project revenue is not less than project operating expenses, excluding any return on investment.

(e) Targeted investments.—To the extent practicable, seeks investments for which there is either an inadequate supply of private capital or where private investors are not committed to preserving the eligible lower income housing for lower income families for the physical life of the housing.

(3) Non-federal resources.—A description of the resources, other than the grant provided under section 3, that are expected to be made available toward meeting its needs and objectives.

(4) Compliance with original restrictions.—Assurances satisfactory to the Secretary that the low income housing preservation program under this Act will be conducted and administered in conformity with the original restrictions attached to eligible low income housing, except as otherwise specified by this Act.

(5) Citizen participation.—Assurances satisfactory to the Secretary that citizens have an adequate opportunity to participate in the development of the application. This paragraph may not be construed to restrict the responsibility and authority of the State for the execution of its low income housing preservation program.

(c) Approval.—

(1) In general.—The Secretary shall, within 75 days, approve an application for an amount that does not exceed the amount determined in section 8, unless—

(A) on the basis of significant facts and data, pertaining to the information set forth in the low income housing preservation plan described in subsection (b)(1), the Secretary determines that the low income housing preservation program of the State is plainly inconsistent with such information;

(B) on the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the goals of the low income housing preservation program formulated under subsection (b)(2); or

(C) the Secretary determines that the application does not comply with the requirements of this Act or other applicable law or proposes activities that are ineligible under this Act.

(2) Extension to permit compliance.—If any of the conditions for the denial of an application set forth in paragraph (1) are met, the Secretary shall—

(A) inform the State of the specific deficiencies in the application; and

(B) allow a period of time not to exceed 60 days for the State to correct the deficiencies.

SEC. 6. ELIGIBLE ACTIVITIES.

(a) Required Activities.—The low income housing preservation program established by each State assisted under this Act shall carry out the following activities:

(1) Acquisition and preservation of eligible low income housing.—Acquire eligible low income housing and preserve the low income character of the housing, or make grants to local governments or their agencies or nonprofit corporations for such acquisition and preservation.

(2) Operating assistance for eligible low income housing.—Provide assistance for operating expenses to local governments or their agencies, nonprofit corporations, or partnerships in which the State is a participant, for the preservation of any eligible low income housing for which the maximum permissible exemptions have been made under section 5(b)(2)(D)(ii). Any agreement to provide operating assistance shall be adjusted following the payment of the mortgage insured, assisted, or held by the Secretary.

(b) Technical Assistance.—The low income housing preservation program established by each State assisted under this Act may also provide technical assistance to nonprofit corporations with respect to planning, financing, acquisition, maintenance, or management of eligible low income housing proposed to be supported by the State.

SEC. 7. ASSISTANCE AGREEMENTS.

(a) In General.—Each State shall enter into assistance agreements with local governments or their agencies, nonprofit agencies, or partnerships, that own the eligible low income housing to be assisted under section 6. Each such agreement shall provide for—

(1) continuation of the existing rent agreement, subject to subsection (b); and

(2) continuation of the same procedures and protections with respect to tenant selection and leases.

(b) Continuation of Existing Rent Agreement.—The acquisition of eligible low income housing under this Act shall not affect the rent agreement previously entered into with respect to the housing, except—

(1) the rent agreement shall continue for the life of the housing; and

(2) the monthly rent paid by any family residing in a dwelling unit assisted under this Act shall be the higher of—

(A) the rent under the rent agreement; or

(B) 30 percent of the monthly adjusted income of the family.

SEC. 8. ALLOCATION OF FUNDS.

Allocation Formula.—The Secretary shall allocate the amount approved in appropriations Acts for any fiscal year under section 15 to the States as follows:

(1) First funding round.—50 percent of the amount shall be allocated to the States in a funding round during the first half of the fiscal year. The amount available in the first funding round shall be allocated as follows:

(A) Total eligible dwelling units.—25 percent shall be allocated to the States on the basis of eligible dwelling units. Each State shall be allocated an amount under the subparagraph that bears the same ratio to the amount available for allocation under this subparagraph for all States as the ratio between—

(i) the number of dwelling units in eligible low income housing in the State; and

(ii) the number of dwelling units in eligible low income housing in all States.

(B) Dwelling units eligible for prepayment or opt-out within 2 years.—Subject to subparagraph (c), 75 percent shall be allocated to the States on the basis of eligible dwelling units that are, or will within 2 years become, eligible for prepayment without prior approval of the Secretary or eligible for termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance). Each State shall be allocated an amount under this subparagraph that bears the same ratio to the amount available for allocation under this subparagraph for all States as the ratio between—

(i) the number of dwelling units in eligible low income housing in the State that are, or will within 2 years become, eligible for prepayment without prior approval of the Secretary or eligible for termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance); and

(ii) the number of dwelling units in eligible low income housing in all States that are, or will within 2 years become, eligible for prepayment without prior approval of the Secretary or eligible for termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance).

(C) Discretionary reallocation by Secretary.—The Secretary may reallocate not more than ⅓ of the funds allocated under subparagraph (B) based on the likelihood of the prepayment of mortgages insured or subsidized by the Secretary, or the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance), in each State, which shall be determined by the Secretary by comparing the market value of eligible low income housing in the State with the current return on the housing.

(2) Second funding round.—The amount not allocated under paragraph (1) shall be allocated to the States in a funding round held 6 months after the beginning of the fiscal year. The amount available in the second funding round shall be allocated as follows:

(A) Replacement of amounts used or committed.—The Secretary shall allocate to each State an amount equal to the portion of the amount received by the State under paragraph (1) that has been used or committed by the State.

(B) Additional amounts.—Following allocation under subparagraph (A), the Secretary shall allocate the remaining amounts to States that received amounts under paragraph (1) and used or committed all of the amounts received. The amount available under this subparagraph shall be allocated as follows:

(i) Total eligible dwelling units.—25 percent shall be allocated to the States on the basis of eligible dwelling units. Each State shall be allocated an amount under this clause that bears the same ratio to the amount available for allocation under this clause for all States as the ratio between—

(I) the number of dwelling units in eligible low income housing in the State; and

(II) the number of dwelling units in eligible low income housing in all States eligible for allocations under this subparagraph.

(ii) Dwelling units eligible for prepayment or opt-out within 2 years.—75 percent shall be allocated to the States on the basis of eligible dwelling units that are, or will within 2 years become, eligible for prepayment without prior approval of the Secretary or eligible for termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance). Each State shall be allocated an amount under this clause that bears the same ratio to the amount available for allocation under this clause for all States as the ratio between—

(I) the number of dwelling units in eligible low income housing in the State that are, or will within 2 years become, eligible for prepayment without prior approval of the Secretary or eligible for termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance); and

(II) the number of dwelling units in eligible low income housing in all States eligible for allocations under this subparagraph that are, or will within 2 years become, eligible for prepayment without prior approval of the Secretary or eligible for termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance).

(iii) Discretionary reallocation by Secretary.—The Secretary may reallocate not more than ⅓ of the funds allocated under clause (ii) based on the likelihood of the prepayment of mortgages insured or subsidized by the Secretary, or the termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance), in each State, which shall be determined by the Secretary by comparing the market value of eligible low income housing in the State with the current return on the housing.

(b) Reallocation of Amounts.—Any amounts approved in an appropriations Act under section 15 that is not allocated due to the noncompliance or nonparticipation of a State with the provisions set forth in this Act shall be allocated to participating States on the basis of the formula set forth in subsection (a).

SEC. 9. REVIEWS, REPORTS, AND AUDITS.

(a) Review by Secretary of Proposed Acquisitions.—Prior to the acquisition of any eligible low income housing under this Act, the Secretary may review the creditworthiness of the prospective purchaser and prohibit the acquisition on the basis of insufficient creditworthiness. The Secretary may not prohibit the acquisition for any other reason.

(b) ANNUAL PERFORMANCE REPORTS BY GRANTEES.—Prior to the beginning of each fiscal year, each State receiving a grant under this Act shall submit to the Secretary a performance report concerning the activities carried out under this Act.

(c) REVIEWS AND AUDITS BY SECRETARY.—The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

(1) each State has carried out a lower income housing preservation program substantially as described in its application;

(2) the program conformed to the requirements of this Act and other applicable laws; and

(3) the State has a continuing capacity to carry out the approved program.

(d) ADJUSTMENTS IN GRANT AMOUNTS.—The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the findings of the Secretary under subsection (c).

(e) GAO AUDITS.—Insofar as they relate to funds provided under this Act, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things of property belonging to or in use by such recipients pertaining to such financal transactions and necessary to facilitate the audit.

SEC. 10. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT OF SECRETARY.—Not later than 180 days after the end of each fiscal year in which assistance is provided under this Act, the Secretary shall submit to the Congress a report that includes—

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of such funds as approved by the Secretary under this Act during the preceding year; and

(3) an estimate of the avilability of low income housing.

(b) REPORTS OF RECIPIENTS.—The Secretary may require recipients of assistance under this Act to submit such reports and other information as may be necessary for the Secretary to make the report required in subsection (a).

(c) ANNUAL REPORTS OF STATES.—Each State shall submit an annual report to the Secretary commencing October 1, 1989, and annually thereafer. The report shall include a comprehensive and detailed report of the operations, activities, and financial condition of the State lower income housing program under this Act.

(d) INFORMATION FROM SECRETARY.—The Secretary shall provide each State with any information regarding prepayment dates, projects eligible for prepayment, addresses of such projects and their owners, other subsidies attached to those projects, the number of units in each of those projects or any other information that may be necessary to carry out the purposes of this section.

SEC. 11. OTHER REQUIREMENTS RELATING TO PREPAYMENTS.

(a) NOTICE OF INTENT TO PREPAY.—

(1) FILING BY OWNER.—An owner of eligible low income housing seeking to initiate prepayment or other changes in the status or terms of the loan, mortgage, or regulatory agreement shall file with the Secretary a notice of the intent of the owner in such form and manner as the Secretary shall prescibe. The owner shall simultaneously file the notice of intent with the Governor (or other chief executive officer) of the State, and the local government office responsible for low income housing, for the jurisdiction within which the housing is located.

(2) PUBLICATION BY SECRETARY.—Upon receiving a notice of intent under paragraph (1), the Secretary shall inform the tenants regarding the notice of intent. The statement shall include—

(A) the date of the proposed prepayment;

(B) the name and address of the owner;

(C) the location of the housing; and

(D) the number of dwelling units in the housing.

(b) PREPAYMENTS TO FACILITATE ACQUISITIONS.—An owner of eligible low income housing may prepay, and a lender or mortgagee may accept prepayment of, a loan or mortgage on such housing without prior approval of the Secretary, if—

(1) the prepayment is part of a transaction under which a State, local government, or nonprofit corporation will acquire the housing under this Act; and

(2) the State, local government, or nonprofit corporation demonstrates that the acquisition will be more economically viable with the prepayment.

SEC. 12. COORDINATION WITH OTHER HOUSING PROGRAMS.

(a) GENERAL POLICY.—It is the policy of the Congress that the provisions of this Act shall not—

(1) result in any reduction in the amounts provided under any other Federal program of assistance for low income housing;

(2) preclude the use of the provisions of title II of the Housing and Community Development Act of 1987.

(b) EXEMPTIONS FOR ACQUIRED HOUSING.—

(1) SECOND MORTGAGES ON SECTION 236 PROJECTS.—Any eligible low income housing acquired under this Act that is subject to a mortgage insured, assisted, or held by the Secretary under section 236 of the National Housing Act shall not be subject to any restriction in such section on the taking out of second mortgages.

(2) LOAN-TO-VALUE RATIO.—The loan-to-value ratio limitations applicable to the insurance of loans and mortgages under the National Housing Act shall be 100 percent for any eligible low income housing acquired under this Act.

SEC. 13. DEFINITIONS.

For purposes of this act:

(1) ADJUSTED INCOME.—The term "adjusted income" has the meaning given the terms in section 3(b) of the United States Housing Act of 1937.

(2) ELIGIBLE LOW INCOME HOUSING.—The term "eligible low income housing" means any housing that—

(A) is financed by a loan or mortgage that—

(i) is—

(I) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(II) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

(III) insured, assisted, or held by the Secretary under section 236 of the National Housing Act; or

(IV) held by the Secretary and formerly insured under a program referred to in clause (I), (II), or (III); and

(ii) is, or will become, eligible for prepayment without prior approval of the Secretary; or

(B) is eligible for termination of project-based subsidies under section 8 of the United States Housing Act of 1937 (other than loan management assistance).

(3) LOWER INCOME FAMILIES.—The term "lower income families" has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

(4) OPERATING EXPENSES.—The term "operating expenses" means reasonable expenses necessary to operate and maintain a project in habitable condition (including expenses for management, operation, services, maintenance, and security,) debt service, taxes, and reasonable reserves. For purposes of such term, debt service shall not include the portion of the payments of principal and interest attributable to any excess of refinance principal other than the outstanding principal of the loan refinanced.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(6) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 14. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $437,000,000 for each of the fiscal years 1989, 1990, and 1991. Any amount appropriated under this Act shall remain available until expended.

□ 1815

MAIL COSTS INCREASE

The SPEAKER pro tempore (Mr. PAYNE). Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] is recognized for 5 minutes.

Mr. FRENZEL. Mr. Speaker, on July 22 the Congressional Research Service completed a report, "U.S. Congress Official Mail Costs: Fiscal Year 1972 to Present," which ought to be of interest to every Member of Congress. Surely it will be of overwhelming interest to every taxpayer.

For reasons of cost, and because the RECORD cannot reproduce the very effective charts and graphs in the report, it will not be a part of this statement. I commend it to the attention of my colleagues.

The report contained good news and bad. If the fact that mailing costs in current dollars has more than doubled from fiscal year 1972 to 1988 is troubling, the fact that those costs have not increased at all in constant dollars is a consolation. If the soaring volume of congressional mail is distressing, then it is less distressing to know that outbound mail volume has actually declined since 1984.

Even though some of the news is good, my impression of the report is that it shows, sometimes between the lines, that there are millions of dollars of savings for the taxpayers to be found in the exercise of simple and reasonable restraints on congressional mailing.

First, however, it is necessary to understand that the cost and volume figures are only estimates. Estimates of outbound mail from Washington come from counting bags and assuming how many pieces of mail are in them. Outbound mail from congressional districts is a little different kind of guessing game, probably less accurate than the Washington estimates.

There's a problem with the appropriations, too. Billings from the Postal Service lag behind actual use by a quarter and half. Payments against those billings are not revealed, but they surely are seldom made very quickly, and I suspect not even always made quarterly. There are no rules that force prompt, or even leisurely, payment.

For me, there is also a problem with counting inbound mail. Inbound volume increases are deceptive. A lot of the apparent increases are mail that requires no answer. A substantial portion is "Dear Colleague" letters which we write to each other to describe our brilliant programs and wonderful amendments. These letters swell our totals, but don't have to be answered.

Another large, and growing, portion of inbound mail does not need to be answered. This consists of ads, catalogs, announcements, reference group mailings, newsletters, newspapers, magazines and the like. Increases in these types of incoming mail are deceptive because they carry no obligation to the representative to make a reply.

Congressmen receive a lot of postcards. They are preprinted and generated by reference groups. We love them because they represent an opportunity for us to write back, but they are at the low end of the communication scale.

Actually, there is no computation, or estimate, of the numbers of good, old-fashioned, first-class letters coming to Member's Washington offices from their own constituents. This component, the real mail, comprises a small percentage of the huge figure called inbound mail.

The report shows clearly that there is plenty of money to be saved. The Senate has given a good example of forebearance. The Senate with exactly the same constituency as the House uses less than one-half the funds consumed by the House. The difference lies in the restraints the upper House has laid on itself, and in the unwillingness of the lower House to accept similar restraints.

The report draws a stark distinction between the Houses that ought to embarrass this House into the adoption of self-imposed restraints. There is no reason for the House to be the big spender.

There are lots of good ideas to reduce mailing costs. Here are the ones that seem to me to be the best opportunities to reduce waste without unnecessarily restricting needed communications:

First. The House must assign accountability for mail costs to each individual Member. Every Member must have the same limits, either in pieces of mail, or dollars of cost, preferably the latter. The modest election year, and newsletter, restrictions are really not restrictions at all. In fact, we have an open-ended entitlement for Congress in our mail account.

Second. Accountability limits must result in less mailing and lower costs than current ones. The higher spending in even numbered years reveals the frank as a blatant election device. The disparity between House and Senate costs shows the difference between control and willfulness. Accountability won't help much if the limits are set at the current high-spending levels.

Third. Loopholes must be closed. When newsletters were restricted, Members flooded district mailboxes with town meeting notices. Each of us knows anecdotal lore which tells of hundred of thousands of such notices being sent for meetings at which a handful of constituents were present. Many observers consider such mailings a reelection device which puts an incumbent's name in a lot of mailboxes. Limits on notices are essential.

Another new loophole is the automated letter. Members can now personally address and individually type letters in any volume to any group on any subject. Reporting to constituents is one thing, but sending out many letters for each one received or to people who never write is considered another reelection device. Some new restrictions on this relatively recent type of letter are also necessary.

House newsletters are restricted to six per year. Six is more than enough, especially in election years. Six per biennium is more reasonable.

Another more recent phenomenon is the use of large mailings by committees, subcommittees, leadership offices and legislative support organizations.

Committees have lists of thousands of names, usually of the jurisdictional clientele. There is a fine line, or an indistinguishable one, between providing necessary information to the public, and building support for a chairman's bill.

It is reported that the Speaker's fancy new office computer can store and use three quarters of a million names and addresses. Taxpayers are asking "What for?"

Legislative support organizations are inside interest groups funded by the taxpayers from Members' expense accounts. They can use the inside mail system to communicate with their members. Large, organized, and repeated mailings by these groups ought not to be funded by the taxpayers, but they are.

There will be some Members and some groups who will read the CRS report and say that, since volume and cost have apparently been decreasing since 1984, we are on the right course. My own conclusion is that the figures are damning evidence that the Senate is doing a responsible job and the House is not.

The House has steadfastly, cunningly and effectively avoided self discipline for much to long. We could save the taxpayers millions by action this year. All that is needed is leadership. If the leadership in the House is not up to it, perhaps we should import some of it from the Senate.

NEVER AGAIN

The SPEAKER pro tempore (Mr. PAYNE). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of Califorina. Mr. Speaker, sometime this week, tomorrow night or Friday night—well, not Friday night because we do not want to keep the staff late, but, if not tomorrow night, sometime next week I would like to take out a special order to discuss a most unusual experience I had this last week in visiting the nation of Poland and seeking to fulfill something I have wanted to do for over 30 years, actually even longer than that, since I was in the seventh grade and American troops overran some of the German concentration camps in what is now West Germany, the Federal Republic of Germany, and two camps in what is now the People's Democratic Republic, communist East Germany. I was so impressed as a 12-year-old at this ultimate horror of man's inhumanity to man, the Nazi concentration camps, that I read everything I could get my hands on, and then later on in the decade of the fifties, when I was in active duty in the Air Force, I came across a book; the author has just died within the year; called "A Theory and Practrice of Hell," the stories of what took place in the Nazi concentration camps, particularly the major concentraiton camp in Poland, Auschwitz; its Polish name: Oswiczem, which eventally turned into one of the first of six extermination camps, camps that were not to concentrate political prisoners or others of what the Nazis called undesirables, but actually six camps that had one reason for existence, and that was the massive slaughter of millions of human beings. I had always wanted to visit these camps to see if I could somehow or other comprehend more easily being on the spot how a nation, Germany, that was two-thirds Protestant and one-third Roman Catholic—I am Roman Catholic—how they could possibly as a Christian nation have so lost their way under atheistic Nazi leadership, that this horror that we now refer to as the holocuast could have ever unfolded in the 20th century, the middle of the 20th century, in an increasingly modern world, a psotindustrial revolution world.

Well, in 1966 I visited the founding camp of all the cocnentration camps, Dachau, and that inspired me over later years to visit Mathausen outside of Vienna, Austria, the death site of over 150,000 Jews at Babayar in the Ukraine, which is just really a massive pit in the ground with a beautiful Russian memorial commemorating the memory of the people that have suffered so grievously there. Then I visited Solasbyales and the remains—hardly anyting left of the camp—outside of Riga and Latvia.

But I had always wanted to go to these camps in Poland. At one point in my youth I was able to get down to Krakow, to get out to the Auschwitz camp, and I arrived late at night because the plane had been delayed, and I walked around what I thought were modern administration buildings that were built around what I thought would be a wooden camp somewhere in the interior. Well, it has taken me several decades to get back, and at Auschwitz I found out that the big brick permanent buildings were in fact the concentration camp.

I do not have time in 5 minutes to discuss what my 28-year-old son, Mark, and I did, but we left Warsaw less than a week ago on a beautiful sunny morning and went first to Treblinka, drove all afternoon into the evening to reach Sobibor, one of the extermination camps at night, drove into the wee hours of the morning to get back to Lublin, which in itself was a town of terror. The castle there was one of the worst torture sites of political prisoners. We drove out that next morning to Majdanek, drove all that afternoon down to another one of the extermination camps, Belzec, where 300,000 people had been put to death. Then we drove that night late into Krakow so that the next morning we were able to arise and go out to Auschtwitz to the much larger extermination camp 3 kilometers away, Birkenau; its Polish name is Brizinka, and then drove that afternoon up to the beautiful religious city of Czestochowa and went to mass there, and then that night drove till we reached about 11:30 at night the site where there is only a big concrete memorial and the concrete remains of the crematoria, the final site we had visited of Chelmno. These six camps alone accounted for the murder of over 8½ million people, a stunning figure, and a realization came upon me for the first time that the reason the Nazi Third Reich did not kill a million more was that they could not dispose of the bodies fast enough.

So, Mr. Speaker, in closing I would just like to say that tomorrow or next week I will do an hour special order on this. I will not be able to do it justice. But it confirmed for me why Jews around the world say, "Never again," why all human beings, because 12 million died; the Nazi equaled the 6 million Jews with 6 million Catholics, gypsies, Soviet POW's, people from all around the world; why we should all say, "never again," and why every Nazi criminal should be hunted down until they are all dead and why there will never be a point where we say we will let byones be bygones.

The hunt shall now continue.

TRIBUTE TO ALOYSIUS A. MAZEWSKI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. SYNAR] is recognized for 5 minutes.

Mr. SYNAR. Mr. Speaker, I rise to pay tribute to Aloysius A. Mazewski, one of the leading Polish Americans of our time.

Mr. Mazewski was president of the Polish American Congress from 1968 until his death. He was also president of the Polish National Alliance, a mutual benefit society and was an eloquent spokesman on Polish American concerns, strongly supporting the Solidarity union movement and Pope John Paul II's efforts to ease tensions within Poland.

Aloysius Mazewski was always concerned with balancing the Polish American Congress' repudiation of the Communist regime in Poland with its responsibility to provide moral support for the just aspirations of the people of Poland. Through his work for the Polish American Congress, he hoped to help improve the quality of life of the Polish people and to assist them in their struggle for human rights and democratic freedoms. In response to the imposition of martial law in 1981, the Polish American Congress Charitable Foundation shipped to Poland $150 million worth of medicines, medical supplies, and equipment and food to help overcome the drastic shortages in Poland.

As an American of Polish descent, I am proud to be able to salute Aloysius Mazewski, whose life and work provide an inspiring example to all Americans.

MEDICARE INPATIENT HOSPITAL CAPITAL EXPENDITURE AMENDMENTS OF 1988

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California [Mr. STARK] is recognized for 5 minutes

Mr. STARK. Mr. Speaker, I am today introducing the Medicare Inpatient Hospital Capital Expenditure Amendments of 1988. The bill is designed to limit Medicare's reimbursement of hospital capital-related expenses to support of only those institutions and services which are truly needed.

Capital expenditures by hospitals appear to be out of control. Over the last 5 years, with an increase in inflation of 17 percent as measured by the GNP deflator, expenditures by Medicare to reimburse hospitals for their capital expenditures rose 76 percent. Looking at it another way fixed assets per hospital bed—often referred to as "bricks and mortar"—rose about 12 percent per year while total assets—including moveable equipment—rose about 14 percent annually.

Moreover, if no action is taken, Medicare's aggregate payments to hospitals are estimated to rise by an annual average rate of 11 percent between 1989 and 1993. This will raise Medicare capital payments per case from $482 to $661, an increase of 37 percent.

These increases will occur while use of hospital facilities reaches ever higher levels of inefficiency. Average occupancy for hospitals is now just over 64 percent for staffed beds, having dropped from a level of about 75 percent over the last decade. In other words over one-third of the hospital beds in the Nation which are staffed are standing idle every single day.

What is perhaps most disturbing is that 54 percent of all hospitals have an occupany rate below 50 percent and only 5 percent of hospitals have an occupancy rate above 80 percent.

The cost of these empty beds is startling. The administration's private sector initiative known as the Grace Commission estimated that each of these empty staffed beds cost $40,000 per year, a conservative estimate based upon 1979 costs. Nevertheless, this estimate produces a total of almost $14 billion in wasted resources.

Equipment and services have been proliferating at a very high rate as well. In many cases hospitals have expanded services beyond the capacity which can be sustained, leading to situations in which the volume of service provided is below the level necessary to maintain the competence of the staff.

This is especially true with respect to cardiac care. For example, in Arizona the relaxation of capital expenditure review laws has led to an increase in the number of open heart surgery units from 7 to 17 in just 2 years. During this period charges for open heart surgery increased 50 percent.

Of much greater concern is that an investigation by an Arizona newspaper revealed that death rates for open-heart patients in Phoenix jumped sharply after capital reviews were dropped. The highest mortality rates were found in hospitals which on average did not meet the minimum volume standard of 200 procedures per year generally accepted as the level necessary to maintain competence. These hospitals suffered a mortality rate twice that of the group of hospitals above the minimum volume.

The normal rules of economics do not appear to apply in any meaningful way to hospitals. A good example of this has occurred in Houston, TX, which has been suffering through a recession related to the drop in oil prices. Since a capital expenditure review law was relaxed in 1985, nine new hospitals have opened. There is currently $1.5 billion in hospital construction in progress and occupancy rates in Houston have fallen from 75 percent prior to deregulation to below 60 percent today. In Houston hospital expansion is going forward notwithstanding the fact that the community's ability to pay for more and more hospital facilities is severely constrained.

Hospital capital expenditures ignore the normal rules of economics in another important respect as well. More capacity to provide more services does not lower prices as it does in other areas of the economy—it simply raises volume and expenditures. Health economists discovered some time ago a phenomenon called the Roemer effect; that is, the more hospital beds and services built, the more hospital beds and services used. Study after study have confirmed that hospital utilization rates are higher when the supply of beds and services is high. Therefore, the high rate of excess capacity in beds and services leads directly to unnecessary admissions and procedures.

Given the high rate of expansion of specialized cardiac units, it is not surprising that a recent article in the Journal of the American Medical Administration found that 14 percent of heart bypass surgery was "unnecessary" and 30 percent was "questionable." Bypass operations doubled from 137,000 in 1980 to 284,000 in 1986.

The so-called procompetitive health care strategy employed by the administration has paid insufficient attention to questions surrounding access to hospital services. Although we have clearly overinvested in the hospital industry, many hospitals, including public hospitals and those serving the indigent, are undercapitalized. We have failed in our attempts to regionalize expensive tertiary services such as intensive neonatal care and burn units. We have developed adequate trauma networks in only two states, and many developed in other States, including my own State of California, are now falling apart.

Protecting access to hospital services in the Nation's rural areas demands our special attention. Average occupancy in rural hospitals has dropped from 52 percent in 1983 to below 40 percent in 1988. Occupancy has been decreasing the fastest in the smallest hospitals: rural hospitals with less than 100 beds.

These data suggest that rural patients are voting with their feet and driving the extra miles to obtain care at the nearest regional hospital with its broader range of services. No amount of throwing additional money at these small rural hospitals through increases in the PPS rates will assure their survival in the face of this phenomenon. What is needed is a creative effort in every region of the country to find ways to assure access and to redefine the role small rural hospitals will play in a well-planned, rational system of rural health care.

The question of how to reimburse hospitals for their capital costs and how to restrict unnecessary capital expenditures has occupied a great deal of attention in the Congress over the last few years. The prospective payment system was adopted in 1983 as the method of hospital operating cost payment. Payment for capital-related expenses was not included in PPS due to uncertainty about the impact of including capital reimbursement in the system. Capital continues to be reimbursed on a retrospective costbased system.

Congress directed the Secretary of Health and Human Services to study and report to the Congress on a proposal to include capital in the prospective payment system. The report was submitted in March 1986, proposing a system for capital costs which would pay hospitals a flat amount per Medicare admission based upon the actual national average capital payment per admission at that point in time. This system was to be implemented October 1, 1986. Given concerns about the impact of this proposal on specific hospitals, Congress first delayed its implementation until October 1, 1987, and then again until October 1, 1991.

During the same period, based upon promises that market competition would slow the medical arms race, the administration successfully ended Federal support for capital review programs.

This has left us with the worst of both worlds. On the one hand, we have in effect told the States that we no longer care about their efforts to restrain hospital capital expenditures, leaving 14 States to drop their capital review programs, while many others focus on reviews of nursing homes where the States have a much more direct financial interest. On the other hand, we have retained a retrospective cost-based reimbursement system which creates distortions which demand correction.

The retrospective cost-based or cost passthrough system assures that hospital managers will be insensitive to interest rates or to less expensive alternative methods of financing. Because cost-based reimbursement exceeds actual costs in the first several years after a capital project is put into service, cost-based reimbursement includes strong incentives to begin new projects. This leads hospitals to invest in facilities that are not needed by the population served, thereby creating additional excess capacity. The passthrough also creates strong incentives to substitute capital for labor or other operating costs, particularly as operating cost reimbursement is controlled through prospective payment and capital payments are not.

Medicare's present reimbursement methodology contains another perverse feature, as well. Medicare pays hospitals for capital based on Medicare's proportionate share of inpatient services provided by the hospital. The approach is insensitive to whether or not the hospital is full or half empty. For example, if a 400-bed hosptial has half of its beds filled by Medicare patients and half filled by non-Medicare patients, Medicare will pay for about half of the hospital's capital costs. However, if the same hospital has one quarter of its beds filled with Medicare patients, one quarter with non-Medicare patients, and one-half of its beds empty, Medicare will still pay half of the capital costs for its entire plant. In essence, Medicare is subsidizing the hospital for its empty beds.

I have argued in the past that the best way to deal with this set of problems is to pay hospitals a single rate for both capital and operating costs, based upon average costs per admission, adjusted for case mix, labor costs, and other factors. Unfortunately, this proposal has engendered the violent opposition of the hospital industry and has not been enacted. Wide variation in hospital-specific capital costs has also raised questions about the effect such a proposal may have on access to individual hospitals.

The proposed legislation I am introducing today is an effort to provide a comprehensive response to the various issues surrounding the capital expenditure dilemma. It represents an effort to balance between the need to provide appropriate incentives within individual hospitals versus the need to guide the entire hospital care delivery system in an efficient manner, taking into account the population's need for services.

My proposal requires each State with an urban hospital occupancy rate below 85 percent and a rural occupancy rate below 75 percent to establish a system to review and approve the capital expenditures of new hospitals which cost more than $1 million or which create new beds or services. If the State did not create such a system, Medicare would not reimburse hospitals in the State for their capital expenditures.

In response to those who would point out that capital expenditure review systems have not been as effective as we had hoped in the past, my bill provides the essential missing ingredient in assuring the success of these programs—an overall limit on capital expenses against which competing proposals can be evaluated.

The bill imposes a limit on the amount of new capital which can be approved annually in a State equal to the amount Medicare would have spent on fixed assets if payments were made on a per admission basis. Reimbursement for the capital expenses of fixed assets would continue on a cost basis for both old and new capital. Reimbursement for moveable equipment would be on an allowance basis with the allowance based upon the average proportion of total cost attributable to capital costs for moveable equipment in fiscal year 1987. The allowance would be phased in over 3 years.

The capital target for fixed assets would be derived from the proportion of total Medicare reimbursement represented by average capital costs in fiscal year 1987. The target would increase each year as Medicare admissions and the hospital update factor increase. The Secretary would be authorized to make exceptions and provide adjustments as needed.

In order to assure that the capital expenditure review process is based upon an explicit assessment of the need for investment in health care in a State, the bill requires each State to develop an inpatient hospital plan. The plan would address access to hospital facilities, identification of hospitals and parts of hospitals which should close in order to reach the occupancy targets, regionalization of inpatient services, the special needs of public and other disproportionate share hospitals, and the special needs of AIDS patients.

The bill would treat rural facilities differently from urban facilities in recognition of the unique circumstances facing rural hospitals. The States would not be required to review the capital expenses of rural hospitals if the State developed a plan for rural health. The plan would provide a strategy for stabilization of rural health care through regionalization of services, development of alternatives to traditional inpatient hospital facilities, and recognition of the unique transportation needs of rural communities, regarding both emergency and nonemergency health needs.

An important component of my bill is that it would allow Governors to designate local review agencies to provide for review of capital investment proposals at the local or regional level. I have included this provision, notwithstanding the problems in coordination which have occurred in the past with similar structures, because I believe something very important has been lost in the health care system over the last several years with all the talk about competition and market share.

Health is a community affair, one about which everyone in a community ought to have a right to speak. Decisions about hospital care are not ones which should be closely held in the powerful hands of administrators, doctors, or trustees. We should have a forum in which communities may debate the future of health care in that community. After all, well over half the revenue of hosptials is derived from public sources. It seems unreasonable to deny the public the right to debate capital investment decisions supported by their own money. My bill would allow, but not require, the designation of agencies at the local level to perform this role.

Reimbursement of capital costs is the most important remaining area in which the Congress has not reached consensus regarding Medicare hospital payment policy. My bill represents an effort to provide a new approach which mixes the best of the old and the new in order to provide a reasonable, orderly response to the need for a hospital capital investment policy.

A summary of the bill follows:

MEDICARE INPATIENT HOSPITAL CAPITAL EXPENDITURES AMENDMENTS OF 1988—SUMMARY—H.R. 5257

I. PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES

Medicare payments to hospitals for their capital-related costs would end in a state on October 1, 1989 unless:

(a) the state entered into an agreement to review proposed capital expenditures in the state, or

(b) the average occupancy of licensed hospital beds exceeded 85 percent in urban areas and 75 percent in rural areas in the state.

II. REQUIREMENTS FOR STATE CAPITAL EXPENDITURE REVIEW

The State would be required to establish a process for capital expenditure reviews which meet the following requirements:

(a) all proposed capital expenditures by hospitals in urban areas of the state exceeding $1 million would be reviewed;

(b) approvals would not exceed the capital-payment ratio limitation (described below);

(c) reviews would consider the relationship of the proposed expenditure to the Inpatient Hospital Facilities Plan (described below); the need of the population served for the proposed service, equipment, or facility; the availability of alternative, less costly, or more effective methods for providing the service; and the extent to which the proposed services would be available to all the residents of the service area, particularly the indigent;

(d) reviews would be performed consistent with procedures and criteria established in regulation, decisions would be made in public meetings, opportunity would be afforded for public hearings, and the state would provide for appeal;

(e) any decision of the state regarding a review would be based solely on the agency's review and record of the review; and

(f) an application for an expenditure would include a timetable for completing the review and any approval could be withdrawn if the state found that a good faith effort to meet the timetable was not being made.

III. CAPITAL-PAYMENT RATIO LIMITATION

State approvals of proposed capital expenditures for other than moveable equipment (and, at the state's option, for other than rural facilities) would be limited by a capital-payment ratio limitation.

The Secretary would establish a limit for each state for each fiscal year in order to assure that the ratio of capital payments to operating cost payments did not exceed the national level of that ratio in fiscal year 1988. The effect would be that capital payments could grow no faster than DRG payments.

In establishing the limit, the Secretary would project the estimated amount of DRG payments and capital payments in the state for future years when new capital projects would come on line. The Secretary would also take into account the impact of capital reimbursement for moveable equipment paid on a fixed basis (described below.)

In consultation with the Prospective Payment Assessment Commission, the Secretary would be authorized to adjust the ratio from time to time to take into account unforeseen circumstances and changes in medical practice.

IV. INPATIENT HOSPITAL FACILITIES (IHF) PLAN

Each IHF plan would be designed to assure that the needs of the state's residents for inpatient hospital facilities are met; include occupancy targets; and be developed in consultation with appropriate mental health, mental retardation, alcoholism, and drug abuse authorities.

Each plan would be required to identify which hospitals would be closed in order to meet the occupancy targets, provide for regionalization of inpatient services, and address the special needs and circumstances of disproportionate share hospitals and AIDS patients.

V. RURAL HOSPITAL CAPITAL EXPENSES AND RURAL HEALTH PLAN

The state would not be required to review proposed capital expenditures for rural hospitals in the state. If the state chose not to review rural facilities, its capital expenditure limit would be adjusted accordingly to exclude rural expenditures.

The state would be required to develop a rural health plan which would have as its major focus the assurance of access to inpatient and other health services by low density rural populations. The plan would be required to address, at a minimum:

(a) the regionalization of services;

(b) alternatives to traditional and inpatient hospital facilities; and

(c) the need for special emergency and other health-services related transportation needs.

VI. LOCAL REVIEW

The State review plan may provide for designation of local review agencies to assist in reviewing capital expenditures. If local agencies were designated, the state review agency would be required to take into account the recommendations of the local agencies regarding proposed capital expenditures.

VII. REIMBURSEMENT FOR CAPITAL EXPENDITURES

Reimbursement for approved and existing capital expenditures for fixed assets would continue to be made on a cost pass-through basis. Reimbursement for new and existing capital expenditure for moveable assets would be made through a fixed add-on to per admission payments for operating costs. The add-on would be phased in over three years.

VIII. FEDERAL SUPPORT FOR STATE CAPITAL EXPENDITURE REVIEW

The bill would authorize grants to states from the Part A Medicare Trust Fund.

Each State would receive, on a 75/25 matching basis an amount equal to .70 per person if the state chose not to designate local review agencies and $1.00 per person if the state so chose; however, no state could receive less than $1.0 million nor more than $7.5 million without local agencies or less than $1.25 million nor more than $10 million with local agencies.

INDIAN HEALTH CARE AMENDMENTS OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, today I am introducing the Indian Health Care Amendments of 1988 for myself, Mr. WAXMAN, and others, to reauthorize and amend the Indian Health Care Improvement Act.

I introduced a similar bill on May 5, 1987, which was jointly referred to the Interior Committee and the Committee on Energy and Commerce. The Interior Committee reported the bill on July 15, 1987, and the Energy Committee reported it on December 8, 1987. There were significant differences in the bill as reported by the two committees.

For several weeks, we have been discussing those differences in an attempt to come up with a compromise bill. The bill I am introducing represents the results of those negotiations. I am pleased to say that it enjoys the support of the Republican leadership of my committee and the ranking Republican on the Subcommittee on Health and the Environment of the Energy Committee.

Congressman WAXMAN, the chairman of the Subcommittee on Health and the Environment, has included with his introductory statement a summary of the compromise bill.

It is my hope that we can bring this bill before the House under suspension of the rules as soon as possible.

Mr. Speaker, this is badly needed legislation to deal with the severe health problems of the Indian people. My committee and Mr. WAXMAN'S subcommittee have been working on this legislation for the last 6 years. I urge the Members to support enactment of this legislation.

A TRIBUTE TO THE LATE HONORABLE BOB McCLORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 60 minutes.

Mr. PORTER. Mr. Speaker, this is a special order for our late colleague, Bob McClory of Illinois, and I yield to the minority leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, first may I extend my thanks and appreciation to the gentleman from Illinois [Mr. PORTER] for taking the time for this special order to make whatever comments Members might want to make relative to the recent departure of our dear friend, Bob McClory, who has served with such distinction in this body with so many of us.

I guess I would refer to our late Bob McClory as one of those really great ones from our delegation. I have read the obituaries that, as many would expect, were filled with praise for his fine congressional career. Almost all of them mentioned the work that he had done on the Committee on the Judiciary at the time of the impeachment move against President Nixon. He acted, as always, out of conscience and with a deep understanding of how important his vote would be in those proceedings, and it was a time of great pressure for him.

Mr. Speaker, any of us can do the job when the pressure is not there and when the spotlight is off, but it took something extra to do the job under the incredible pressure of the Watergate issue. And Bob did what he felt was right, as he always did.

Bob McClory came to us in the election of 1962 after serving with distinction in the Illinois State Legislature and then eventually became ranking Republican member on our Committee on the Judiciary here in the House of Representatives. During his 20 years in the House he proved to be a man of reasoned opinion and prudent judgment. He exemplified the kind of civility and comity that is so important to the functioning of this institution.

Bob McClory was a wonderful person to be with and to be around. When we had our Illinois delegation meetings we could always expect Bob to give it a little lighter lift from time to time when things got too serious, and he was never one to speak ill of a colleague of either side of the aisle, and so we loved Bob McClory very much.

When it came to work, Mr. Speaker, he was so industrious. He did his homework, and he knew every line of the bill that he was managing on the floor backward and forward. He was very gracious in his yielding of time to the opposition. We always knew full well that he had command of the situation and could counter any arguments to the contrary that might arise.

Mr. Speaker, he was a real legislative craftsman in this body, and those of us who likewise think from time to time we do a fair job to middling in legislating and putting things together in this body came to recognize a real pro, and that is what Bob was.

But I guess in a lighter vein, a more personal vein, particularly after Bob left this body, he would come back from time to time. As a matter of fact, he was in my office no less than, I think, 3 or 4 days before he succumbed to the heart attack, and while I was not in the office at the time, the girls in the office said, "Your good friend Bob McClory was here bounding ebullient as ever, and he didn't want anything particularly, just wanted to have a few little words with you, I guess, about the Presidential election." So that is the way we got to know Bob McClory even better after he retired from this body.

Of course, I guess, at times in winter he could be seen down there ice skating on the Reflecting Pool right down here at the base of the Capitol.

Mr. Speaker, he kept up his burning interests in every thing we were doing around here and wanted to participate as much as he could. As a matter of fact, in the former Members group that we now have formally established for this body he was very active in that organization, and Members all loved to see Bob and his delightful wife, Doris, from time to time.

I regret very much that at the time that Bob passed away I was away again, as so many of us have to be, and I could not attend the furneral itself. But I would remind Members that next Tuesday afternoon in the Committee on the Judiciary we are going to have a special occasion, a memorial service at that time, and while I know this evening, for example, so many Members have others obligations to meet and to attend, that we will have that special occasion next Tuesday afternoon. At that time, of course, the gentleman from Illinois [Mr. PORTER] would want to expand on the very brief remarks that he will make here today, and I want to thank the gentleman from Illinois for taking the time.

Obviously in conclusion I extend my sincere condolences to Doris and all the members of the family on Bob's passing. He was obviously one of our dear best friends, and even though he came from our home State and by normal conditions, I suppose, we would meet one another, it really did not happen until he was elected to this body. Then, as is so frequently the case, someone who we might otherwise have never known, and particularly so well, did we become good friends as Members of this institution. And that will always remain in our minds and lives for as long as we live.

□ 1830

That will always remain in our minds and lives for as long as we live, the wonderful group of people who from year to year pass through the doors of this Chamber and then, of course, all the more sad when they pass on to their reward and we have to have occasions like this to express our feelings in eulogy form for those we love.

I thank the gentleman for yielding this time.

Mr. PORTER. Mr. Speaker, I thank our minority leader for his warm words in praise of Bob McClory.

Mr. Speaker, when Congressman Robert McClory passed away July 24, Illinois and the Nation lost a dedicated public servant, a man deeply devoted to the rule of law and to working for the best interests of our country and the people he represented. I, along with thousands of other people throughout Lake County and northern Illinois, have also lost a good friend—a warm, caring man who endered himself to all who knew him.

Originally from Riverside, IL, Bob McClory became known early as a hard worker and a consummate athlete, playing on Riverside's high school football team. He spent a year teaching English and studying in Switzerland, where he became a pole-vaulting champion. In part, that is why his sudden death came as a great surprise to those of us who knew of this considerable athletic prowess and insistence on physical conditioning—he was a jogger, an outstanding tennis player, and an accomplished skier. As late as last winter, he was skiing the Swiss Alps, where his daughter lives. He had even begun his last day jogging, to get a Sunday newspaper.

Before turning to banking and law school, he attended Dartmouth College. I understand that while he was at Dartmouth, he worked as a waiter and once let his classmate and good friend, Nelson D. Rockefeller, Jr., take his place. Bob later said that Rockefeller—who become Vice President—had done a creditable job as a substitute waiter.

Following his graduation from law school, Bob McClory practiced law in Chicago and then in Waukegan. He was very active in local politics, and was elected chairman of the Lake County Young Republicans. He was first elected to public office in 1950, when he won a seat in the Illinois House of Representatives. He was elected to the State senate in 1952, 1956, and again in 1960.

In the State legislature, he was the driving force behind many important pieces of legislation, and gained a reputation as a tenacious fighter for what he believed in. He sponsored the bill which raised the minimum driving age in Illinois to 16, and worked hard for important highway safety legislation. He was also chairman of the judicial advisory council.

When elected to the Congress in 1962, he quickly rose to prominence and eventually became the ranking Republican on the House Judiciary Committee. It was there, in my judgment, that he displayed his greatest talent and had his finest hour as an elected official.

Bob was a conservative and staunch Republican. But during the Watergate hearings when considering impeachment of a Republican President, he eschewed partisanship, insisting that the facts, and only the facts, should move the committee toward judgment. During his opening remarks in those hearings, Bob said, "I have heard it said by some that they cannot understand how a Republican could vote to impeach a Republican President. Let me hasten to assert that that argument demeans my role here. It would make a mockery of our entire inquiry."

Bob sifted through the voluminous evidence concerning the Watergate scandal with the same diligence and fairness that had marked his entire career. When he finally came to the conclusion that the facts supported impeachment charges, it was he who helped draft them. Bob was a man who understood that party loyalty must never be allowed to supersede the Constitution and the rule of law. In the debate that followed, he told his colleagues plainly, "I realize that there is no nice way to impeach a President of the United States."

Bob was a politician of the old school. When he voted, he voted his conscience, not the program of outside interests. Never did he consider the impact of a decision on his campaign. If, at times, he appeared to agonize over decisions, as he clearly did during Watergate, it was because he relied only on his own sense of right and wrong—partisan politics always took a back seat to justice. As one who worked for Bob on the Judiciary Committee staff told me, "He acted more like a judge than a politician."

As traditional as his style was, Bob McClory's agenda was forward looking. On the Judiciary Committee he supported the cause of civil rights, including the Voting Rights Act, the Civil Rights Act, and the Fair Housing Act. He was a strong proponent of the ERA and he long supported a balanced budget amendment.

Bob displayed a deep concern for the family and public safety. He was a leader in Congress for Monday holidays. In an ever-atomized modern society, he believed 3-day weekends would provide families enough time to celebrate together even though individual members might live hundreds of miles apart. In addition, he advocated gun-control measures including a ban on Saturday night specials—a position that put him at odds with his party leadership.

Above all, Bob was a competent and honest legislator. Lesser known by the public, he was hugely respected by his colleagues who admired his hard work and willingness to take tough stands. Though he was not one to seek public attention and adulation, his name will long be remembered and respected by those who knew him.

During his 20 years in the House, Bob was a model legislator and an outstanding representative for the people of Lake County. One of our local attorneys, Donald Deuster of Sylvan Lake, worked as Bob's administrative assistant for 7 years. Of his former boss, Deuster said, "He was the epitome of an honest and conscientious public servant. He was very industrious and very dedicated to the communities here. It was an honor to follow in his footsteps and a privilege to have worked with him." Ned Fisher, the president of the Lake County Republican Federation, in his eloquent and moving and intensely human eulogy at Bob's funeral, also emphasized Bob's honesty, sense of humor, and his total lack of guile.

I can only echo those sentiments. As someone who now represents a part of Bob's old district, I have a deep appreciation of the wonderful job he did for our area in Congress. The McClory name will evoke admiration and respect in Lake County and northern Illinois for many, many years to come.

Following Bob's passing, the Washington Post took the unusual step of remembering his political career on its editorial page. The editors wrote of a man "well known by his colleagues and constituents for years * * * as a thoughtful, independent legislator with a deep-seated belief in civil and constitutional rights." Though he wasn't the type of congressman to hold "big press conferences to set forth his views, he never shied from answering questions about stands he took." It is a testament to Bob's integrity, that in a town so inured to political activity, he was remembered so prominently in its largest publication.

Bob was active to the very end, having joined the Washington law firm of Baker & McKenzie after leaving Congress. He is survived by his loving wife, Doris; two sons, Michael, of Washington, and Oliver, of Richmond, CA; his daughter Beatrice Etienne of Geneva, Switzerland; his sister, Elizabeth Poole of Saint Helena, CA; a half-brother, Frederick McClory of Long Beach, CA, six grandchildren and one-great-granddaughter. Our thoughts and prayers go out to them all during this difficult time.

Bob McClory will never be foregotten, neither by the people he so ably represented nor by those whose lives he touched in his own special way. His dedicated service to Illionis and the Nation, and his abiding respect for the rule of law, will be his enduring legacy.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I thank the gentleman for yielding. Indeed, from both sides of the aisle, Robert McClory was a very respected gentleman whom we all loved and admired.

Mr. Speaker, it is an honor that I rise today to pay tribute to the late Robert McClory. It was with great sadness that I learned of Bob McClory's death on July 24, 1988, and I share in the sorrow my colleagues express here today in the House in his memory.

Robert McClory was a true representative of the people as he proudly served the people of the 13th District of Illinois for 20 years, 1962–82. A graduate of the Kent College of Law, Bob became very active in local Chicago politics. His interests in politics led him to serve in the Illinois House of Representatives, the State senate, and eventually in the U.S. House of Representatives. Bob was known for his tenacious nature, and he was determined in fighting for what he believed. This was true in his fight for civil rights and his position in the impeachment of former President Richard Nixon.

Bob McClory was a diligent, hard working, dedicated man who earned the respect of the people he represented and the individuals who were honored to serve with him in the U.S. House of Representatives. Perhaps the greatest distinction I have enjoyed in my 13½ years in Congress has been to serve with inspiring individuals like Bob McClory.

My wife, Carol, and I enjoyed a 1984 trip to Geneva, Switzerland, with Bob McClory and his lovely and talented wife, Doris. Bob and I were delegates to the 1984 Conference of the Interparliamentary Union at Geneva. My wife and I learned that Bob and Doris McClory were a tremendous couple.

Carol and I would like to pass along our deepest sympathy to Doris, their two sons, Michael and Oliver, and their daughter, Beatrice Etienne. I am fortunate to have had the opportunity to know Bob, and honored to have served with him here in Congress. I, along with my colleagues, will deeply miss him.

Mr. PORTER. Mr. Speaker, I thank the gentleman from Kentucky for his very, very fine statement.

Mr. Speaker, I yield to my colleague, the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I certainly appreciate my colleague, the gentleman from Illinois [Mr. PORTER], bringing this special order before the House.

I would like to take a few moments to pay special tribute to Bob McClory, who represented a portion of my congressional district for over 10 years. Bob leaves a legacy of an excellent record of legislation that he sponsored during the time he worked in both the Illinois General Assembly and certainly as a part of this body. During his years in this House he was a supporter sometimes of things that were not overly popular, but he had a very strong belief in what he did and a strong conviction. Once he made up his mind that he was for something or against something, he attacked that and went after it with real fervor and real integrity.

In the Illinois House, he was noted for his legislation to raise the minimum age to 16 and cosponsored other highway safety legislation that I ran into when I was a member of the Illinois House and certainly Bob McClory left big footprints in that assembly, just as he left big footprints here in this Congress.

He was a hard-working legislator who had the respect of his colleagues on both sides of the aisle and broad support among his constituent in Illinois. His service to the public dates back to 1950. I can tell you that in going around especially the northern part of my district in northern Kane County and McHenry and that area, people day in and day out during my short tenure there asked. "Do you ever see Bob McClory?

How is he doing? I want to send my regards."

Let me tell you a story about what Bob did for me, how he helped us and how he solved the ice problem on the Fox River and on and on. So the legacy of Bob McClory goes far beyond the man himself. He certainly was a legend in his own time and he certainly gives us a legacy in Illinois and in the Illinois delegation to live up to.

I first met Bob compaigning in 1980 up in Kane County. Myself as an aspirant for the Illinois General Assembly, he put his arm around me and gave me some wisdom and pointed me in the right direction and certainly was a good friend.

Then back here when I came to Congress, Bob was a regular member of our weekly Congressional Prayer Breakfast. He always had a story or a question to ask about somebody or an inquiry about back home, so I felt that even though I did not serve with Bob McClory, he was a good friend.

□ 1845

Certainly he was a very, very good colleague, and I salute him. I certainly salute the gentleman from Illinois [Mr. Porter], who brought forward this special order and thank him very much.

Mr. PORTER. Mr. Speaker, I thank the gentleman for his very, very fine statement.

Mr. Speaker, our minority leader, the gentleman from Illinois [Mr. Michel], said it very, very well. Bob McClory was loved by the Members of this body. He was an American who made a difference, and he gave us an example, all of us an example, to live by.

Many, many Members have remembered Bob McClory today, Mr. Speaker, and have submitted for the Record their remarks. I would like to read at this time the names of those who have submitted remarks for the Record, and others may hereafter, but they are Glen Anderson, Frank Annunzio, Doug Applegate of Ohio, Silvio Conte, John Conyers, Lawrence Coughlin, Philip Crane, Kika de la Garza, David Dreier, Hamilton Fish, William Frenzel, Bill Goodling, Steve Gunderson, John Paul Hammerschmidt, Frank Horton, Bill Hughes, Jim Jeffords, Ed Jones, Bob Lagomarsino, Romano Mazzoli, Clarence Miller, Claude Pepper, Tom Petri, J.J. Pickle, Dan Rostenkowski, Matt Rinaldo, Peter Rodino, Marty Russo, Richard Schulze, Jim Sensenbrenner, and Norm Shumway, all of whom have submitted their remarks and their tribute to Bob McClory.

Mr. Speaker, I know that they would have wanted to have been able to be here in person to make their statement, but time being what it is, they have all submitted statements for the Record expressing their admiration for Bob and for the wonderful example that he gave all of us in the House of Representatives.

Mr. Speaker, we will remember Bob as someone who was virtually everywhere. He was at meetings, he was in our offices, he was here with us at the State of the Union Address even after he retired, he was in the hallways where he would meet and greet us, but most of all, Mr. Speaker, Bob McClory was in our hearts. He always had a warm smile for us and a good hello, and we will remember always his sense of humor, his integrity, his love of our Nation and its Constitution and of our rule of law for which he stood forth as a shining example to all of the Members of the House of Representatives and to all of the people of our great country.

Mr. Speaker, we are going to miss him very, very much.

Mr. ROSTENKOWSKI. Mr. Speaker, I join with my colleagues in honoring the memory of my friend and peer, the Honorable Bob McClory.

Bob and I began our public service careers together many years ago in the Illinois General Assembly. For 28 years, our careers ran a parallel course. Bob entered the Illinois House in 1950, 2 years before me. When I entered the State house in 1952, Bob moved on to the State senate, where I joined him 2 years later. When I left the State senate to start my tenure here in the U.S. House, I was joined by Bob 4 years later. We served in the U.S. House together for 18 years. I am proud to say that I served along side Bob McClory, for the good of our State and our country, all those years.

Although we sat on different sides of the aisle, Bob and I developed a close personal and professional relationship. I will always remember him as a diligent, dedicated, and compassionate public servant who made the concerns of his district his priority in Washington.

In the State assembly, Bob was known for his hard work. He sponsored the bill raising the minimum driving age to 16 and cosponsored significant highway safety legislation. He was also chairman of the Judicial Advisory Council.

A ranking Republican on the House Judiciary Committee, he will best be remembered for his leadership during the Watergate hearings. Although a staunch supporter of President Nixon, he rejected suggestions that he had a partisan obligation to defend the President against all of the accusations against him. He even voted to impeach Nixon for abuse of power. His work on the Judiciary Committee also included his leadership role in pushing for voting rights legislation and the equal rights amendment. He truly was a man of integrity and honesty.

My family and staff joins me in expressing our heartfelt sympathy to Bob's wife, Doris; his daughter, Beatrice Etienne; his sons, Oliver and Michael; his grandchildren; and his many, many friends. May Bob rest in peace.

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the late Robert McClory, who was not only a colleague of mine, but indeed a friend. As we gather today to salute him, I wish to invoke the memory of a man who was a sincere and thoughtful statesman.

I carry with me many fond memories of times that Bob and I spent together. Though he and I served on opposite sides of the aisle, Bob always inspired me to respect his point of view. This respect was engendered by his unwavering commitment to justice and personal integrity. As everyone is aware, when Bob was the second-ranked Republican on the Judiciary Committee during the impeachment hearings of President Richard M. Nixon, he was a pillar of his party and the system of justice, two things that may have seemed mutually exclusive at the time. His commitment to the Republican Party did not serve to prejudice him toward the President, but made him all the more anxious to dispatch his duties in a just manner. It was this unwavering commitment to the truth that gave Bob his reputation as one of the most honest, fair, forthright, and sincere Members ever to serve in Congress.

In my opinion, Bob McClory was the epitome of success. He was rich in friendships, he was respected by his adversaries and loved by his family. My wife Lee and I have many fond memories of time spent with Bob and Doris. We would like to wish Doris and the rest of the family well, and remember that we were all lucky to have known and to have played a part in the life of so outstanding a man.

Mr. ANNUNZIO. Mr. Speaker, I rise to join our colleagues in the House of Representatives in paying tribute to former Congressman Robert McClory of Illinois, whose sudden death last Sunday was a tremendous loss to the people of this Nation.

I was privileged to have Bob as a personal friend, and during the 18 years we served in Congress together, I came to know and respect Bob for his fairness and integrity. His dedication to high standards was an inspiration to all of us who had the opportunity to work with him in the U.S. House of Representatives.

Congressman Bob McClory devoted his life to public service, and ably represented his constituents from the 13th Congressional District of Illinois until his retirement in 1982. Before coming to Congress, he graduated from Dartmouth College in 1930, and received his law degree from the Chicago-Kent School of Law in 1932. He practiced law in Chicago for the next 20 years, and was also a member of the Marine Corps Reserve from 1933 to 1937.

Elected to the Illinois House of Representatives in 1952, Congressman McClory also served in the Illinois Senate from 1953 to 1962, where he compiled an outstanding record of achievement as chairman of the Highways and Traffic Regulations Committee. He was first elected to the U.S. House of Representatives in 1962.

As the second-ranking Republican on the House Judiciary Committee, Congressman McClory earned the respect and admiration of his colleagues in the House of Representatives for his conscientious and statesman-like conduct during the Watergate impeachment hearings. He played a key role, as the House manager of the equal rights amendment, and was of great help to me in the passage of my bill to grant a Federal charter to the Italian-American War Veterans of the United States.

In addition, Bob McClory was of invaluable assistance in securing the passage through Congress of legislation which made Columbus Day a national holiday, and he was a motivating force in providing for the observance of all Federal holidays on Mondays.

Congressman McClory was a fine legislator, and a human being of great compassion and courage. After leaving Congress, he worked in the Washington office of the Chicago law firm of Baker & McKenzie, and was a frequent visitor of his many friends in the Congress. He will be sorely missed by all of us in the House of Representatives, who had worked with him and who knew the pleasure of his company.

Mrs. Annunzio and I extend our deepest sympathy of his wife, Doris, his sons, Michael and Oliver, his daughter, Beatrice, and the other members of his family who survive him.

Mr. CONTE. Mr. Speaker, those of us who knew Bob McClory knew a great men. Bob McClory was a caring friend, a loving family man, and a diligent public servant. He served in this Congress with enthusiasm, insight and above all with integrity. Mr. Speaker, Bob McClory's death is a tragic loss.

Bob's public record defines him as a man of great character. No one will ever forget his work on the House Judiciary Committee during the Watergate hearings. President Nixon was Bob's dear friend. Yet after careful consideration, Bob did what he thought was right for the Nation and voted to impeach the President. He was judicious and deliberate and he earned the respect of his friends and colleagues.

Mr. Speaker, while that was one of the most difficult decisions of Bob's career, his commitment to public service was at no time more evident than when he decided to leave the House. Bob was one of this Chamber's greatest legislators. Yet, when circumstances determined that his reelection bid would undermine the unity of the party and the institution, he withdrew. Bob earned the respect of his colleagues, and I know that each of us here today sorely misses him as a colleague.

But his death causes me deep, personal grief—grief over the loss of a good friend, and grief over the loss to his family. Bob leaves behind a beautiful wife, Doris, and three wonderful children. Bob dearly loved his family and his death will be difficult. I want to extend my heartfelt sympathies to Doris, the children, and the rest of his family.

Mr. Speaker, I was proud to consider Bob McClory among my friends. He never lost that wry sense of humor and he never forgot about his friends. Bob was one of those busy men who always took the time to talk to a friend. His concerns were earnest and his love for his friends sincere. I will never forget the times we spent togehter.

Mr. Speaker, it is a great honor for me to participate in a tribute to one of this Nation's finest legislators and greatest men. But his death is a tragedy that cannot easily be overcome. I'll miss him.

Mr. CRANE. Mr. Speaker, It is never a pleasant moment when we arrive at that point in our lives when we must say goodbye to a friend and a colleague. There is a bright spot to those moments, however—that's that we are able to recall memories with a smile in our hearts.

Our friend and former colleague, Congressman Bob McClory, certainly provided us with an almost endless trail of pleasant memories. Memories of a friendship and a job so well done by him.

For more than 30 of his 80 years he served the people of northeastern Illinois in the Illinois House of Representatives, in the Illinois State Senate and, here in this Chamber.

But he served not only those constituents. His career, of course, saw him work for and protect the interests of all of the people of Illinois as well as the citizens of this Nation. And besides his brilliant legislative career, he also served his country as a member of the Marine Corps Reserve.

A quite, thoughtful man, he was a tenacious fighter for the principles which he supported.

Most of all, he supported the ideals of the Republican Party; convinced that they held the solutions to the Nation's needs.

He was a conservative-liberal—conservative in standing firmly behind responsible fiscal policy; liberal in his never-loosening grasp of the need to assist those Americans unable to help themselves.

Bob will best be remembered by historians for his fine work as a member of the House Judiciary Committee, where he toiled for two decades, climbing to the top and serving as ranking Republican member.

That service was marked by difficult battles. Often the struggles weren't for popular causes, but they were for causes he held to be true—and that's what counted to him.

And his athletic accomplishments were truly amazing. Here was a man—in his 80th year—who just last year rode a pair of skis in a dash down the Alps of Switzerland. A pole vault champion in this twenties, he skied, ice-skated, and played tennis in his seventies.

When the 1980 census redrew the congressional map of Illinois, Bob retired from this body. He could have mounted a strong campaign for reelection, but it would have meant indulging in what could have developed into a bitter primary, and he wanted no part of what he termed a "potentially self-defeating campaign against another younger and capable Republican colleague."

And so he acted in the only manner he knew—with dignity—and graciously withdrew to protect his party and colleague from embarrassment.

I was fortunate to inherit many of Bob's constituents when the lines were drawn for the latest Illinois congressional map. I have tried to serve them as well as Bob did—no small task, I assure you.

Only recently, the two of us discussed the 1988 political campaign. He was going back to Illinois and we talked of where we might join forces as he sought to help the Republican Party and those of us who serve under that banner. I had looked forward to a visit back in Illinois with this very distinguished former colleague of ours and his lovely wife, Doris.

Our condolences go out to Doris, his children, Beatrice, Oliver, and Michael, his grandchildren and great-grandchild, and the many friends who knew, respected, and loved Bob McClory.

Mr. DE LA GARZA. Mr. Speaker, I join my colleagues in paying tribute to our former colleague Bob McClory today. With his passing I have lost a friend and the people of Illinois and the United States have lost a dedicated public servant and an outstanding legislator.

As a Representative in the Congress of the United States for 20 years, Bob McClory possessed those qualities that are essential for leadership—sound judgment, patience, and perserverance. He was an outstanding member of the House Judiciary Committee whose insight and understanding proved invaluable assets in finding workable solutions to the many problems faced.

Known to many of us as one of the most delightful companions, one of the most understanding and one of the sagest in the ways of people and of politicians, Bob McClory grasped the foibles of the system as well as the eccentricities of its practitioners bringing a benign spirit of an understanding nature to help us frequently make sense out of legislative chaos.

It is often easy to come to this body and speak only for things that are comfortable to speak for. Bob McClory was tougher than that as the Watergate hearings evidenced. He stood his ground, spoke forthrightly for his values and for those of the people he represented as well as the Nation, not yielding his convictions to convenience.

When I think of Robert McClory I think of a man who has been an illustrious Member of the House, a stabilizing factor in his delegation, an inspiration to the many who have known him, and a vital part of the Nation's business. We will miss him, and with his passing we have lost a champion.

Mr. DREIER of California. Mr. Speaker, I am proud to be a part of this special order in honor of a good friend and esteemed legislator. To those of us who knew Bob McClory, he was a true public servant and a tremendous asset to not only the Republican Party but the entire Nation.

Bob was first elected to the Illinois House of Representatives in 1950. Later, he served three terms in the State senate and, in 1962, he began his illustrious career as a U.S. Representative. He quickly moved up the ranks and became the second-ranking minority member of the House Judiciary Committee.

Although, I only had the pleasure of working with Bob during my freshman term, it was a pleasure to learn the "trade" from such an influential and hardworking colleague. He was witty and strong; a true statesman. Bob struggled unceasingly to find the truth, and his dedication will be sorely missed.

I send my deepest regrets to his family, and I know we will always have a place in our hearts for Bob.

Mr. FRENZEL. Mr. Speaker, I am greatly saddened by the death of our former colleague, and my close friend, Bob McClory.

Like many of us, Bob started his distinguished career in public service in the State legislature of his home State of Illinois. He spent 20 successful years here with us in the U.S. House of Representatives. He rose to stardom during the Watergate investigation when he was the ranking minority member of the Judiciary Committee.

A strong, life-long Republican, he passed that test the way he passed all tests. He did what he believed was right. History has shown what Bob believed was right was, in fact, right.

When Bob left the Congress in 1982, the transition was very difficult for him. He loved to work and he loved this institution as few others have. Fortunately, as a member of the Baker & McKenzie law firm here in Washington, Bob was able to maintain very close contact with those of us who loved and respected him.

Bob McClory was always so friendly and so committed to his causes that he was welcomed into congressional offices not only by his former colleagues but by the many staffers who quickly grew very fond of him. With his experience, Bob was always welcomed. He made his pitch quietly and efficiently and moved on.

Bob was a graduate, and a devoted son of Dartmouth College. He was a legislator's legislator, a good husband and father, a true gentleman, a patriot, and a friend I shall miss.

Ruthy and I shall miss him sorely. We send our sincere condolences to Doris and the family.

Mr. HAMMERSCHMIDT. Mr. Speaker, I was deeply saddened to learn of the passing of my colleague, Robert McClory. I have long considered Bob and his wife, Doris to be very good friends of my wife, Virginia, and me.

Bob came to Congress 4 years before I did and ably represented the people of the 13th District of Illinois for 20 years. He began his career of government service with the Marine Corps Reserve, serving from 1933 to 1937. He then began participating in Republican Party politics and was elected to the Illinois House of Representatives in 1950. After serving a term in the Illinois House, he was elected to the State senate, where he served until his election to Congress in 1962.

I was always impressed by the statesman that Bob was. In addition to serving as the ranking Republican of the Judiciary Committee, he also served on the Permanent Select Intelligence Committee and was a permanent member of the U.S. delegation to the Interparliamentary Union. I had the opportunity to attend several Interparliamentary Union Conferences with Bob and was always proud that this country had an individual of Bob McClory's caliber on the permanent delegation.

Of course, Bob will always be best known for his leadership and integrity during the Watergate hearings. A loyal Republican Member, he nevertheless struggled with the evidence presented to him, and in the end concluded that the law must be upheld no matter what the personal cost.

Bob was a deeply religious man and it seems most fitting that he died of a heart attack suffered while attending church—God must have looked down and took one of the best from this world to be with Him. There are few people on this Earth who were more thoughtful and decent than Bob McClory. I extend my deep condolences to Doris and his family—Bob will be missed by all who knew him.

Mr. HORTON. Mr. Speaker, I would like to join my colleagues in paying tribute to a remarkable Congressman and a close personal friend, Robert McClory, of Illinois.

Bob and I were elected to the House at the same time and began service as Members of the 88th Congress. From the moment we first met, Bob impressed me with his honesty, integrity, and devotion to his constituents.

Bob and I represented similar districts, both of which encompassed suburban and rural settings. As a result, we shared many of the same concerns in legislative areas and often discussed what programs would best assist our constituents. I could always count on Bob to offer straightforward insights as we both learned to be more effective legislators.

Perhaps Bob's greatest achievement came during one of the most difficult periods of his tenure in Congress. As the Judiciary Committee considered the impeachment of then-President Richard Nixon, Bob McClory sat as the second-ranking Republican of that committee. Faced with the decision to choose between staying loyal to a Republican President and upholding the intent of the law, Bob saw his course clearly—he voted for impeachment.

Another attribute that Bob McClory possessed was unselfishness. This was evidenced by Bob's decision to retire from Congress rather than run against another Republican who had been redistricted.

I remained in touch with Bob after his departure from the Congress and we saw each other frequently in Washington. My wife, Nancy, and I send our heartfelt condolences to Bob's wife, Doris, and to his children. We will miss Bob.

Mr. HUGHES. Mr. Speaker, it is with profound sorrow that we gather once again to honor the memory of a departed friend and colleague. Robert McClory was a man respected on both sides of the aisle for his skills as a legislator and an advocate for what he believed to be right.

During the time I had the privilege of serving on the Judiciary Committee with Bob, it was often that we found ourselves in complete accord. But even when we were not in agreement Bob personified the sentiment that it is better to disagree agreeably. Even during the most heated debates on the most divisive issues, Bob McClory was always a gentleman. His thoughtful manner and his willingness to listen to opposing arguments won him the esteemed admiration of his colleagues.

All of America had the the opportunity to observe Bob McClory's praiseworthy character during the televised hearings of the Judiciary Committee on the impeachment of President Nixon. We watched a man who was passionately faithful to his President weigh the accumulated evidence, and struggle with the decision to put the Constitution and the Nation before any personal loyalties. Bob's decision to vote for articles of impeachment was undoubtedly the most difficult of his career.The manner in which he cast aside partisanship in favor of principle earned him the enmity of a few, but the respect of millions.

Mr. Speaker, I want to join with my colleagues in extending our deepest sympathies to his wife Doris and their family as well as the many friends of Bob McClory.

Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay tribute to our departed colleague, the Honorable Robert McClory, of Illinois. Even though Bob retired from this body at the end of the 97th Congress, he remained in touch with many of its Members through the last 6 years.

I was fortunate to have served in the Congress with Bob but I really got to know him through the weekly meetings of the Congressional Prayer Breakfast. We usually sat next to one another each week. Bob was a fine Christian man whose beliefs were strong and who was dedicated to serving his country both while in the Congress and even after his retirement. I was always grateful for having known Bob and for being able to share in his wisdom and knowledge through our weekly meetings.

Bob will be missed by his former constituents, his former colleagues and all who knew him. I extend my deepest sympathy to his family.

Mr. LAGOMARSINO. Mr. Speaker, I would like to join my colleagues in paying tribute to my friend and former colleague, Robert McClory. Bob served a very distinguished career in public service, beginning with his election to the Illinois House of Representatives in 1950, followed by three terms in the State Senate before being elected to Congress in 1962. He provided a major leadership role during the Watergate proceedings and also on the House Judiciary Committee.

Bob was an honorable figure in both Illinois politics and the Nation. He will be remembered as not only a fair and independent legislator, but a thoughtful, gentle, decent man who will be missed and well remembered by his family, friends, constituents, and colleagues.

Mr. MILLER of Ohio. Mr. Speaker, I want to take this opportunity to join my House colleagues today in this tribute to a personal friend, Robert McClory. He was a terrific legislator and a dedicated public servant. We will miss him greatly.

Bob's noteworthy public service career began in 1950 with his election to the Illinois House of Representatives. Later on, he served three terms in the Illinois State Senate. He was elected to Congress in 1962 and soon became the second ranking minority member on the important House Judiciary Committee. Of all the notable achievements Bob attained while a Member of Congress, he will perhaps be best remembered in history as a legislator who displayed tremendous integrity and conviction during the difficult days of the Watergate proceedings. I recall the demands the process placed on the shoulders of those on the committee and I remember that it was Bob McClory who analyzed every word, every item of evidence, every piece of testimony. He placed the rule of law and the canons of the Constitution first. He knew that the test of the hearings was, in reality, a test of the strength and balance of our system of government. He didn't seek publicity or the limelight but, chose instead, to invest his time in being fair, being considerate of all the issues tied to Watergate and the impeachment process. It was during that period, especially, that my respect and admiration for this able leader grew tremendously.

Coupled with this record of dedicated service was the fact that Bob McClory was a wonderfully decent and humble man. He cared about the good people of Illinois and he consistently met the expectations of those who asked him to represent them in government. They—the elderly, the young, the businessman, the student, the veteran and the farmer—knew that nothing could substitute for loyalty and trust. They trusted Bob, with good reason. They relied upon his judgment and actions.

As a Member of Congress, I, too, turned to his good counsel and advice on more than one occasion. He was the kind of person you thought of first, and foremost, when the discussion turns to competence and dedication in the halls of Congress.

Bob McClory's legacy will long remain as a reminder to those who continue to serve the people of this great Nation. I want to extend my personal sympathy to his family and friends.

Mr. PEPPER. Mr. Speaker, all the Members of this House were recently deeply saddened by the sudden passing of one of the distinguished former Members of the House, Robert McClory. Bob McClory, as he was affectionately known by his colleagues, served for 20 years with great distinction as a Member of this House. He was an eminent and influential member of the Judiciary Committee of the House, and he played a very important role in the impeachment proceedings of President Nixon. In this matter he displayed characteristic courage and dedication to the public interest and reflected the high moral sense which credited him all the days of his life.

My closest association with Bob derives from the numerous occasions when we have attended the Interparliamentary Union conferences in various parts of the world. He was a distinguished member of the Interparliamentary Union, now consisting of 108 nations, and was an eminent chairman of one of the most important committees of that organization. He exerted great influence in that great organization where he enjoyed the profound respect of the numerous members from all over the world. After he left the Congress, he was elected by the Council of the Interparliamentary Union an honorary member and for many years he continued to go back to these conferences where he always received the warmest welcome. He and his lovely wife, Doris, were always popular members of the U.S. delegation and Bob's advice and counsel were constantly sought by the representatives of many nations. In the years that I have been active in the leadership of the U.S. delegation, Bob and Doris McClory have been immeasurably helpful to me. Bob's long experience and attendance upon the conferences of the Union, his great knowledge and grasp of the many subjects on the Union's agenda qualified him to be an exceptionally able counsellor to our delegation. He attended committee meetings and Council sessions and for all practical purposes was a very important and active member of the U.S. delegation. We had looked forward to both Bob and Doris attending with us the Twelve Plus meeting coming up in Oslo and the fall meeting of the Interparliamentary Union in Sofia, Bulgaria, both in September, and we had been discussing plans for our delegation to participate in those meetings. We shall always cherish the memory of Bob and Doris being with us on these trips where we could enjoy not only the wisdom of their counsel, but the delightful social graces and pleasant friendship which they reflected.

Bob McClory will be long remembered as a Member of this house who served with deep dedication to the public interest, who epitomized the height of personal integrity and who was a delightful, charming colleague whose friendship all who have known him have so highly valued. I can say with all the warmth of my heart of Bob McClory, "Well done, Thy good and faithful servant" of the country you loved so much and served so nobly.

To his beloved and lovely Doris we extend the greatest sympathy of our hearts and our affectionate condolence upon the passing of Bob.

Mr. PICKLE. Mr. Speaker, I rise today in fond remembrance of our former colleague, Robert McClory.

In many respects, Bob McClory was the conscience of this House; indeed, he was the conscience and courage of the minority party in this House. When he came to vote on issues of major national importance, Bob McClory legislated from a high sense of integrity and honesty. As a prominent member of the Judiciary Committee, he was personally involved in virtually every major piece of legislation for 25 years. No matter how late the hour, or how contentious the issue, Bob McClory was never silent when he felt he should speak out, and he always spoke in support of better, more equitable legislation.

Bob McClory and I were both Members of the 88th club, and as colleagues we worked side-by-side on many of the important issues of our day. Bob and his wife, Doris, were leaders of the 88th club, and they kept in close touch with members across the nation. Bob and Doris weren't just "attenders," they were "doers"—activists in the best sense of the word—and we came to love them dearly.

When we lost Bob last Sunday, it was felt personally by all the members of the 88th club and by all who knew this good man. We will remember him as a colleague and a friend, and our country will know that many of the great laws of our time bear the lasting personal imprint of Robert McClory.

Mr. RODINO. Mr. Speaker, I rise today to pay tribute to our departed good friend and former colleague Robert McClory. Bob's death on July 24, which saddened us all, was a great loss to Illinois and to the Nation he served so well.

I can still vividly recall Bob's dedication and commitment during one of the greatest tests of his career—the 1974 impeachment proceedings. While all of us confronted this enormous responsibility and burden, few Members of the House Judiciary Committee were more personally challenged by this national tragedy than was Bob McClory. As the second ranking minority member, a loyal Republican, and a friend of President Nixon's, Bob was faced with the dilemma of reconciling these ties of loyalty with his own innate sense of duty.

It was also difficult for Bob, who had always avoided the limelight and preferred to work quietly behind the scenes, to find himself the focus of national attention and to be forced to reach a painful and agonizing decision before the television cameras as an anxious nation looked on.

When Bob finally cast his vote for two articles of impeachment, it was not a surprise to his colleagues. We never doubted that Bob would—as he always did—weigh the evidence with his sharp intellect and do what he believed was right. We knew that he would do whatever was necessary to uphold the Constitution and to preserve the principle that the rule of law applied equally and fairly to everyone—even the President of the United States.

The impeachment proceedings were an example of the true measure of Bob McClory: honesty and fairness, an unwavering commitment to the Constitution, an enduring belief in justice. What Bob did in 1974 was what he always did—he upheld the finest traditions of public service by placing the public interest above any other consideration. If I had to sum up Bob in one word it would be integrity—an integrity that was an enduring part of his character and that never faltered whatever the challenge.

Long before Watergate and long after, Bob enjoyed a distinguished career for two decades in the Congress where he carefully tended to his suburban Chicago district and diligently represented his constituents.

He also, in his own quiet and unassuming way, left his imprint on the major legislative achievements of our time. Civil rights legislation, home rule for the District of Columbia, fair housing, gun control, Monday holidays, and his effective leadership as one of the floor managers for the equal rights amendment stand as Bob's legacy to this Nation.

I was privileged to call Bob McClory my friend and to work side by side with him on the Judiciary Committee. He was always there when I needed him, always ready to fight for those who could not fight for themselves, and always willing to defend his belief in the Constitution. Bob commanded my respect and admiration as a devoted public servant and outstanding legislator. He held my genuine affection as a good friend over many years.

Mr. Speaker, we are all richer for having known Bob McClory and this Chamber is a better place for having echoed his words. His death is a great loss for his family, his friends and colleagues, for the State of Illinois and for the entire Nation. My deepest sympathy goes to Bob's wife Doris, his sons Michael and Oliver, and his daughter Beatrice. They are in our thoughts and our prayers.

Mr. RUSSO. Mr. Speaker, I rise today to honor the late Robert McClory of Illinois who died this past Sunday. He was a friend as well as a colleague and I am proud to have been associated with this thoughtful and dedicated legislator.

In my early days here in the Congress, when I served on the Judiciary Committee along with Representative McClory, I came to appreciate his integrity and, though we were on different sides of the aisle, his willingness to be helpful and cooperative to a "newcomer" in the delegation. I also value the man whose word you can always count on, and this too was characteristic of Bob.

Bob led a life that included remarkable achievements, and when you have a man of his caliber in the House, his influence is felt. He leaves a rich legacy for his State and Nation.

I offer my condolences to his family and I hope they will find comfort in the knowledge that he will always be remembered and admired.

Mr. PETRI. Mr. Speaker, I just wanted to mention my sadness at Bob McClory's death. Doris and Bob had been neighbors and close friends of the late Bill Steiger and his family.

When I came to Washington to represent Wisconsin's Sixth District following Bill's untimely death, Bob kindly took me under his wing and made my first years in this body a lot easier. Bob served in Congress during two exciting decades—a time which saw the Civil Rights Act, the escalation of our involvement in Vietnam, and of course, Watergate.

Bob took his role on the Judiciary Committee very seriously during the evidentiary hearings for the impeachment charges. He carefully weighed the evidence and avoided the trap of jumping to conclusions—conclusions which would have been understandable given the mood sweeping Washington at the time.

Bob demonstrated then, as he always did, his reasonableness, his integrity, and his reliance on fact—qualities which all public servants should try to remember. I shall miss Bob, and I extend my deepest sympathies to Doris.

Thank you.

Mr. SCHULZE. Mr. Speaker, I rise to offer a few words in memory of our former colleague, Robert McClory of Illinois. He will be greatly missed by all those who knew him and we should take this time to reflect on the man and his many accomplishments.

Bob served the people of northeastern Illinois for 20 years. He served in the Illinois Legislature, joining the State House in 1950, then serving three terms in the State Senate. In 1962, Bob McClory was elected to the U.S. Congress and established himself as a thoughtful and dedicated public servant. Indeed, Bob scrupulously avoided self-promotion and instead concerned himself only with what was best for the constituents he represented and the Nation he loved. His quiet demeanor and quick smile were always gratefully received by his colleagues and this allowed Bob to be one of the most effective Members of this body.

His position on the Judiciary Committee allowed Bob McClory to advance numerous drives for constitutional amendments on a variety of topics. He was House manager of the equal rights amendment, was Republican leader for statehood for the District of Columbia, and sponsored legislation providing that Federal holidays be celebrated on Mondays, leading to the oft appreciated 3-day weekend. Bob's knowledge of constitutional law served him well in 1974 when he was assigned the difficult task of serving on the Joint Select Committee on Watergate. Again, Bob demonstrated his ability and his intelligence in this endeavor.

Always a party loyalist, Bob McClory put aside political rhetoric to wrestle with the great judicial questions arising from this investigation. His fairness and thoughtful consideration gained national attention throughout this period. In the end, however, Bob's sense of duty and justice, and his promise to use his abilities to serve the people, led Congressman McClory to make the difficult decisions that had to be made regarding the articles of impeachment. By the time Bob retired, in 1983, he fittingly held the ranking minority membership post.

But Bob McClory's contribution to this Nation did not end with his departure from the House. He was a permanent member of the U.S. delegation to the Interparliamentary Union, rarely missed a trip, and represented the very best of the United States in places the world over. Additionally, Bob McClory was an active member in the Former Members of Congress Organization, an energetic supporter and organizer of its programs and efforts.

Nancy and I join our colleagues and spouses in expressing our deepest condolences to his wife Doris. I will miss Bob McClory. The Nation has lost a truly fine American.

Mr. SENSENBRENNER. Mr. Speaker, I rise today to speak to the accomplishments of our colleague, Congressman Bob McClory.

I had the pleasure of serving with Bob on the House Judiciary Committee. As a freshman member in 1979 Bob helped to show me the "ropes" within the Judiciary Committee and in the House. The advice Bob gave me instilled a sense of understanding of the legislative process, a dedication to constituent service and an appreciation for the values of this Nation.

I am proud to receive his counsel and friendship even after his retirement from the House of Representatives.

A staunch Republican, Bob helped guide the early Reagan legislative agenda and I'm proud to say with my help.

The House will miss Bob.

Mr. SHUMWAY. Mr. Speaker, it was with a great sense of personal sorrow that I learned of the passing of our friend and former collegue, Robert McClory last month, and I appreciate the gentleman from Illinois reserving this time to pay tribute to him.

Bob was a distinguished legislator, and admired leader, but most importantly to me, he was a friend. I will continue to miss his geniality, his guidance, and his inherent commitment to what is right and what is just.

I did not have the opportunity to work with Bob during perhaps his greatest challenge as a Member of Congress, and as a senior member of the Judiciary Committee, during the Watergate hearings. Nonetheless, his impeccable record of commitment to the Constitution and the law during that volatile era made a name for him as an outstanding legislator. He will be admired and respected by this body, and by all who had the privilege to know and work with him, for many years to come.

Bob McClory was truly a leader. He represented his district, his State, and this great Nation in a model manner for some 20 years. Bob continued to be a voice of leadership in the intervening years. He will be missed, and he will not be forgotten.

Mr. YATES, Mr. Speaker, I was shocked to learn that Bob McClory had died on Sunday. He was a good friend and a wonderful colleague and I will miss him.

In all the many years that I knew Bob McClory I do not remember his ever being angry or unpleasant. Bob was one of those people who enjoyed doing things, both physical and intellectual, and he accomplished a great deal. He was a gracious and friendly man who worked very hard for the people of his district and he did it with complete integrity and remarkable thoughtfulness.

A good and kind man has left us and I am sorry. Addie joins me in extending our most sincere sympathy to Doris and the entire family.

Mr. RINALDO. Mr. Speaker, I join with my colleagues in mourning the recent passing of our friend, Congressman Robert McClory.

Bob was a distinguished Member of the House for 20 years and earned the respect and admiration of all of us who had the honor of serving with him. He was a dedicated public servant having worked devotedly for the people of Illinois for over 30 years, beginning his public life as a member of the Illinois House of Representatives.

The people of Illinois and this country are fortunate to have had the benefit of a man like Bob McClory working in their behalf. His outstanding record of service will not be forgotten.

I extend my heartfelt condolences to his wife, Doris, at a lose shared by all of their friends.

Mr. MAZZOLI. Mr. Speaker, it is with great sadness that we mourn the death of our late colleague from Illinois, the Honorable Robert McClory.

Bob was my good friend. He was a friend of everyone whom he met. His genial manner and kindly disposition were ever present. And, Bob possessed the intellectual and leadership qualities which easily earned him respect and admiration from his colleagues in this Chamber.

Bob's assignments in the House brought us together often. Though in different parties, Bob and I have worked closely, both during his service on the House Judiciary Committee and since his retirement in 1982. I've met with him many times over the last few years. A gentleman in every sense of the word, Bob always demonstrated the highest professional and scholarly approach to his job as a Member of Congress and the issues at hand.

His legal and constitutional scholarship and personal integrity rightfully earned Bob great respect for his leadership in the Watergate impeachment proceedings. The responsibility of steering our Nation through the trauma of that period could not have rested in more able hands than those of Bob McClory.

It has been a privilege for me to know and serve with Bob McClory, a man whose career of distinguished public service brings only honor to this House. I hope that we can all remember and emulate the very high standard he set for us. We will miss him.

To Bob's wife, Doris, and his family, I extend my deepest condolences at this difficult time.

Mr. JEFFORDS. Mr. Speaker, I appreciate my friends from Illinois calling this special order so that the House may pay tribute to our colleague Bob McClory.

Bob's sudden death has saddened us all. We have lost a fine colleague of 20 years service in the House and we have lost a friend who continued to be part of daily life on Capitol Hill even after his retirement in 1982.

The national press has paid tribute to Bob's many accomplishments, his critical role in the Watergate era, and his reputation as a hardworking, conscientious, and capable legislator. I was pleased to work with him on innumerable occasions. During debate on the 1986 Tax Reform Act, Bob brought to my attention the concerns of the endangered granite industry. Bob succeeded in convincing the Ways and Means Committee to keep the unique problems of that industry in mind as it drafted the bill.

I join my colleagues in extending our warmest sympathies to Bob's wife and family. He will be missed by all of us.

Mr. GUNDERSON. Mr. Speaker, many of my colleagues have spoken far more eloquent than I as to the many achievements which marked the distinguished career of our good friend, the late Bob McClory. Mr. Speaker, I would like to speak of his kindness.

Having arrived in Congress as a result of the 1980 election, I had the opportunity to serve with Bob for only 2 years. Yet, as a first term Member of Congress, I enjoyed the unique and warm kindness Bob extended to those of us so much younger than he.

But, I have enjoyed the years since even more. While we don't discuss all the details, Bob was an ever present institution at our Thursday morning prayer breakfasts. We often sat across from each other at the table. Bob had the unique heart and soul which allowed him to truely care about others. His remarks were always warm. His concern was always sincere.

If a kinder, more gentleman has served in this distinguished House, I am not aware of him. To me, Bob's life represents high achievement professionally combined with warm sincerity personally. It is the combination so many of us in life would seek. So few of us do. But because Bob did—his life will always serve as an example to those of us who had the privilege to know him.

Mr. GOODLING. Mr. Speaker, I rise today to pay tribute to a former colleague and respected Member of this illustrious body, Robert McClory.

Bob McClory served in the House for 20 years. During that time, one of the hardest decisions he had to make was whether or not to support the impeachment of a President he respected. That tough decision was made after careful consideration of the facts presented to the House Judiciary Committee. Although Bob McClory was second ranking Republican on the committee at that time, he was often called upon to fill in for Congressman Edward Hutchinson, who was ill at the time. In the end, his integrity in place, Bob McClory supported several of the articles of impeachment.

Bob McClory was active in many of the important pieces of legislation to come before the Judiciary Committee both before and after his tenure as ranking Republican member, such as statehood for the District of Columbia and the equal rights amendment. While he did not support outlawing handguns, he supported sane handgun control legislation in the face of bitter opposition from large numbers of his constituents. He also took part in the Commission designed to study our country's immigration problems. Their report, as we all know, was the basis for the major immigration bill enacted by the Congress.

But Bob's activities were not just limited to the House Judiciary Committee. He was, for many years, a member of the Interparliamentary Union, working with legislators from other country's to address some of the major problems facing the world. In addition, he was a member of the Permanent Select Committee on Intelligence.

Bob was interested in education and often contacted me with respect to the school lunch program and impact aid.

Anyone who knew Bob knew he did not decide to retire from the Congress because he could not keep up with the long hours. Many, many times, you could find him in his office until 11 o'clock at night, signing mail and working on strategies for the next day's committee hearings. Bob retired because he was redistricted and ended up in competition with a fellow Illinois Republican. Rather than divide the party, he chose to retire.

Bob McClory was an active man. He skied, played tennis, walked to and from work daily, and could often be found ice skating in Washington during the winter months. But, more than anything else, Bob McClory was a religious man, a family man.

Mr. Speaker, I want to take this opportunity to express my sympathy to his wife Doris, his children Bea, Oliver, and Michael and all of the other members of the McClory family. They have lost a beloved family member and we have lost a friend and valued colleague.

Mr. APPLEGATE. Mr. Speaker, I would like to join with my colleagues in the House in paying tribute to our former colleague from Illinois, Robert McClory.

Mr. Speaker, I was shocked and deeply saddened to learn last week of the passing of Bob McClory. I feel fortunate that I was able to know Bob before he retired in 1982, after his 20 years of highly commendable service in the U.S. Congress.

I think any one of us needs only to look back to the tumultuous years during the Watergate scandal and Bob's key position on the House Judiciary Committee during that time to understand his dedication to what was proper and correct. While some urged him to ignore hard facts and evidence along with constitutional transgressions, Bob, instead, held himself to a higher level of service to his Nation in understanding and upholding the law of the land and the key concepts of our noble Constitution.

While we served on different sides of the aisle, Bob McClory was always able to surmount political divisiveness and disagreements. Regardless of the party, Bob taught all of us the lessons of being a true statesman and a representative of the people. Bob was an expert on the Constitution, and I always appreciated the opportunity to learn from an elder Member of this Chamber.

I enjoyed working with Bob McClory, and I can only say that he will be greatly missed by all of his friends and colleagues here in the House, people who knew him for the upstanding citizen that he was and for the continued devotion that he extended to this body as an active former member. Bob, even after his two decades of service in the House, maintained his dedication and respect for the Congress.

In closing, Mr. Speaker, I wish to extend to Bob's beautiful wife, Doris, and to Bob's children, six grandchildren, and one great-grandchild my utmost condolences upon his passing. I've lost a good friend and the Members of the House will miss a strong influence as we continue to attempt to answer the tasks that lie ahead. All of us are better off today because of the outstanding record of service achieved by Robert McClory, the quiet man from Illinois.

Mr. FISH. Mr. Speaker, on Sunday, July 24, Members of this House lost a distinguished former colleague and a great many of us lost a close and valued personal friend as well.

Congressman Robert McClory will long be remembered for the integrity and diligence which he brought to a career of public service which began in the Illinois State House in 1950 and ended 32 years later with his retirement from the U.S. House of Representatives, after 20 years of service, at the close of the 97th Congress.

In the course of the 14 years we served together in this body and on the Judiciary Committee, where he was my predecessor as ranking minority member, I came to know and admire Bob as a conscientious and thoughtful legislator, a man of humor, great modesty, and enormous integrity, a man willing, indeed, eager to listen to all points of view but resolute in his dedication to the principles of civil and constitutional rights in which he believed.

Bob McClory was proud of his beloved wife, Doris, his daughter, Beatrice, and his sons, Oliver and Michael. He was proud of this body in which he served so well, and he was proud of this country. He will be missed.

Mr. CONYERS. Mr. Speaker, today I would like to pay tribute to a friend and former colleague Robert McClory who died suddenly last Sunday.

I regard Bob McClory as a dedicated public servant and have long admired him for his principled stand during the Richard Nixon impeachment proceedings. As the second-ranking Republican on the Judiciary Committee and a loyal Republican, Bob McClory took a laudably independent and potentially controversial position when he helped to lead the fight to bring an article of impeachment in 1974 charging then-President Nixon with abusing his constitutional powers in the Watergate affair. He further challenged party leadership by drafting another article charging Nixon with contempt of Congress for ignoring congressional subpoena. He risked the rebuke of party leaders in his effort to reestablish the public's waning faith in the American political process and to guarantee that future generations would trust in the integrity of the American Congress and Presidency.

During the 20 years in which I knew Bob McClory, he always placed his commitment to the people of America above party politics. When party politics challenged the welfare of our citizenry, Bob McClory fought to preserve and enhance the well-being of the American people before submitting to political pressure.

His resignation from Congress was a loss to me as a fellow member of the Judiciary Committee and it was a loss to the country that benefited from his voice and legislative actions. American women will long remember him for his work on the equal rights amendment. American workers will long remember and value him for his struggle to move Federal holidays to Monday. But while he may have been most proud of these achievements, I am most proud to have known him as the strong, independent, and scrupulous voice that helped this Nation overcome the disgrace of Watergate. For me, it was indeed an honor to have worked with a man who sincerely believed that justice must be blind to party politics.

Mr. COUGHLIN. Mr. Speaker, I rise to join the distinguished minority leader, Mr. MICHEL, Mr. PORTER, and Mr. CRANE, and my colleagues in paying tribute to Bob McClory of Illinois.

Bob McClory served the people of Illinois' 13th Congressional District and this Nation with distinction for 20 years. In the finest tradition of the Congress, he was known as a studious and independent legislator.

I was honored as a junior member from 1969 to 1972 to serve with Bob on the Judiciary Committee. He was a hard-working member of that committee; he was respected for his knowledge of legal issues and his penchant for painstaking deliberations before reaching his conclusions. Always at the heart of committee debates, Bob acted on his conscience and the Constitution.

During one of the most turbulent and difficult periods this Nation ever faced, Bob McClory followed the Constitution and the rule of law. During the Watergate hearings, Bob played a pivotal role in protecting Congress' constitutional right to fully examine the matters before the Judiciary Committee.

In addition to his work on Judiciary, Bob served on the Select Committee on Intelligence where he worked to protect this country's national security against foreign espionage, and the lives of those working abroad in sensitive positions.

A lawyer and former marine, he served in the Illinois House of Representatives and Senate before his election to Congress in 1962.

Bob McClory served the people of Illinois for over 30 years. He will be remembered there and in this Chamber as a man dedicated to public service. His legacy is one of honor, courage, and conviction.

I send my deepest condolences to his family and many friends.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject matter of my special order.

The SPEAKER pro tempore (Mr. PAYNE). Is there objection to the request of the gentleman from Illinois?

There was no objection.

TRIBUTE TO COL. RICHARD E. MOSS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 10 minutes.

Mr. MONTGOMERY. Mr. Speaker, I rise to commend one of our country's truly outstanding and dedicated military officers, Col. Richard E. Moss, Air National Guard. Enlisting at the age of 18, Colonel Moss progressed through the enlisted ranks later serving as a noncommissioned officer prior to receiving his commission. After 34 years of service Colonel Moss, currently a statutory tour officer detailed to the Office of the Secretary of the Air Force, will retire from active service. As one of the small number of guardsmen on extended active duty assigned to the National Guard Bureau, he is one of the conscientious professionals—the quiet cadre—who support the over 114,595 Airguardsmen in our country.

Mr. Speaker, I ask to enter into the record our commendation and sincere appreciation to Col. Richard E. Moss for his outstanding and dedicated service to his State, the Congress, his Commander in Chief and our country. Colonel Moss is the best of our country's citizen airmen.

COL. RICHARD E. MOSS

Colonel Richard E. Moss is currently assigned as Special Assistant to the Deputy Assistant Secretary of the Air Force for Reserve Affairs. He is responsible for all office management, acts as Principal Advisor to the Deputy Assistant Secretary, serves as the Acting Deputy Assistant Secretary in the absence of incumbent, serves as Executive Secretary for the Air Reserve Forces Policy Committee (a committee consisting of 15 general officers), monitors the Statutory Tour Officer Program, performs as Air Force Liaison with the Reserve Force Policy Board and provides general guidance to the other advisors assigned.

Colonel Moss was born 13 February 1936, in Columbia Heights, Minnesota. He graduated from Lakeville High School in Minnesota and completed 2 years of college work at American River College in Sacramento, California. He attended Air Command and Staff College at Maxwell AFB, Alabama in 1971 and completed the resident Air Force Professional Personnel Management Course, also at Maxwell AFB, in 1975. He has completed Squadron Officers School and Industrial College of the Armed Forces through correspondence.

Colonel Moss began his military career in 1954 as an enlisted airman in the United States Air Force, serving at various locations during the final phases of the Korean conflict. Upon completion of his initial enlistment in 1958, he enlisted in the California Air National Guard as an E-4 and was employed as an Air Technician at North Highlands Air National Guard Station in Sacramento. He held a number of personnel and administrative assignments attaining the grade of E-6 prior to being considered for commission. He was commissioned a second lieutenant in August 1961 and became Director of Administration, in both a military and Air Technician capacity, for the 162nd Commissions Group (M), North Highlands ANG Station, California.

He served in various military and Air Technician positions including Chief, Personnel for the Communications Group and Chief of Maintenance for the 149th Combat Communications Squadron, prior to being selected for the resident Air Command and Staff College. He was promoted to Major in 1970 while at school, and upon graduation, assumed command of the 149th Combat Communications Squadron at North Highlands in 1971. He was simultaneously selected as the Air Technician Communications Unit Supervisor, responsible for the day to day management of the Air Technician workforce at North Highlands. In October 1972, he was selected by the Director, Air National Guard, for a short tour of active duty, to represent the ANG in the initial "Project Volunteer" program, working with the USAF on the all volunteer program. He returned to his command and Air Technician position in December 1972.

In March 1973, Colonel Moss applied for active duty in the ANG Statutory Tour Program and was selected for assignment as the Chief, Personnel Training Branch, Air Personnel Division, National Guard Bureau. He was promoted to lieutenant colonel in 1975 while assigned to this position. In May 1976 he was reassigned as Deputy Chief, Air Personnel Division, NGB, and served in that capacity until August 1978. On 1 September 1978, Colonel Moss was selected for assignment as the ANG Advisor to the Director Personnel Plans, HQ USAF, and promoted to 1979. On 7 May 1981, he was selected as Chief, Office of Training, Air Directorate, National Guard Bureau. Colonel Moss was assigned to the position he now holds as Special Assistant to the Deputy Assistant Secretary of the Air Force for Reserve Affairs in 1982. Some of his many accomplishments include direct involvement in the first piece of legislation effecting Reserve Officer management being passed in 35 years. He was instrumental in comprehensive development of the Reserve Officer Personnel Management Act (ROPMA). Colonel Moss has also significantly improved relationships between the USAFR and the ANG membership in the Air reserve procedures and getting the committee involved with matters of importance to the Total Force.

Colonel Moss has received the Legion of Merit, the Air Force Meritorious Service Medal, with two oak leaf clusters; the National Defense Service Medal; the Army Good Conduct Medal; the Armed Forces Reserve Medal; and other federal awards. In addition, he has been awarded the Order of California, the California Medal of Merit, with two gold clusters; the California Commendation Medal; and the California Service Medal. In 1976 he was selected as the first recipient of the ANG Professional Military Education Center Distinguished Service Award. He has also been awarded the ANG Meritorious Service Award. In April 1985, he was selected as the National Guard Association of California Tour Guardsman of the Year 1984-1985.

Colonel Moss was promoted to his current grade effective 8 February 1979, with a date of rank from 6 June 1978.

He is married to the former Marva Mefferd of Live Oak, California. They have four adult children (three sons and one daughter) and four grandchildren. They currently reside in Woodbridge, Virginia.

REASONABLE RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk this evening on the concept of reasonable rules and have a special order entitled "Reasonable Rules."

Mr. Speaker, I think it is important to recognize that we are a nation in transition in terms of how we apply certain rules and what we mean by those rules, that those changes apply to our culture at large, the changes apply to our political system, the changes apply to our Government, and the changes apply to the Congress, and that the rules which seemed reasonable over the last 20 years seem less reasonable today. Things which we would have tolerated or gotten used to, accepted as business as usual, now no longer seem quite so acceptable.

Maybe this is most obvious in the area of drugs and the problem of crime in the overt sense, but I would say that there is a general shift partly caused by the fact that the baby boom is growing older, and as it looks at its own children it may have looked at things which it may have experimented with or might have done that it has concluded were dangerous or even bad. I think we are seeing the establishment of principles of good and bad, that there are some things that are just unacceptable.

Maybe the most obvious example of this is the whole debate which is emerging over the question of furlough programs for first-degree murderers serving life sentences without parole, an argument which has been going on now for several months involving Governor Dukakis and the whole question in the 1970's and the 1960's both among Republicans and Democrats. Particularly in the liberal wing of both parties there was an attitude that one always had to understand the criminal, that somehow the criminal always was somebody that we could find an excuse for; they had a bad upbringing, they lived in a bad neighborhood, something had gone wrong in their life, but it was never quite the criminal's fault, so there was an enormous bias in favor of finding an excuse to allow the criminal to have one more chance, 2 more chances, 10 more chances. Ultimately in its most bizarre form that bias in favor of always understanding the criminal led to the Massachusetts furlough program first enacted in 1972 which made Massachusetts the only State which permitted furloughs for first-degree murderers serving life sentences without parole.

Let me make a distinction. There are a number of States which permit furloughs. There are even some States which permit furloughs for first-degree murderers, but in those States the furloughs are granted only after the inmate is decided eligible for parole, not before; that is, if they have somebody who earlier in their life may have done something, but they have been a very good prisoner, they have learned and grown and changed and the parole board has decided that ultimately they might be able to live in civilized society without hurting people, then in other States there is some opportunity for those criminals to be allowed out a little bit at a time to test them out in society, to give them weekend furloughs, to give them a chance. For example, in New York State if one serves 80 percent of their sentence, they have a chance to get out on furlough to begin the process of rehabilitation. In Massachusetts, the figure was 20 percent, so they only had to serve one-fourth as much of their sentence in Massachusetts as they had to serve in New York State.

There is a further difference. The Massachusetts program that Governor Dukakis defended established the principle that first-degree murderers who were serving life sentence without parole, and that is a very specialized kind of sentence, were allowed to be furloughed.

As Richard Cohen of the Washington Post pointed out, a life sentence for first-degree murderers without parole is the kind of sentence that a liberal State gives in order not to have the death penalty. Life sentence without parole is designed to say, "Here is a person so bad that in other States such as California or Florida they might have gone to the death penalty, but in Massachusetts, a much more liberal State, we will not execute them, but we promise to the citizens of Massachusetts that they will never again be allowed to walk the streets." That is why the term "first-degree murderers serving life sentences without parole" is a very important term.

The fact is that sometimes prisoners on furlough do not come back, and that if you let a murderer out on Friday afternoon for the weekend, he may decide not to return. Presently there are 80 prisoners who are missing from prerelease centers, furloughs, and work-release programs. Sixty-two of those 80 prisoners escaped under Governor Dukakis. Those escapees include 59 violent criminals including 10 murderers, 9 rapists, and 25 armed robbers, and 12 criminals were serving sentences for drug-related crimes, including 9 for distribution or attempt to distribute.

These are not just threats to the citizens of Massachusetts. Governor Dukakis' support for the murderers' furlough program had impact across State lines. The most famous example, Willie Horton, who escaped from a murderers' furlough program, was given life sentence without parole for stabbing a 19-year-old boy 17 times and dumping him in a 50-gallon drum to die while robbing a gas station. When Willie Horton was furloughed, he ran away, went to Maryland, terrorized a couple in their home, stabbed the man repeatedly, raped the woman several times.

However, not until March 22, 1988, a year after Willie Horton had engaged in that kind of terrorist activity, did Governor Dukakis reluctantly agree to sign a bill prohibiting furloughs for first-degree murderers, and Governor Dukakis defended his system all through 1987. He said, "Look, we are running a very tough, strong, well-defined furlough program in this State which by and large has been very successful." That is a quote in the Lawrence Eagle Tribune of January 31, 1988, and that is defending a program he made this quote after he knew of the Willie Horton case in which the convicted murderer had while on furlough left the State and, as I said, tortured the husband and raped the wife.

In fact, at the time Dukakis finally agreed to sign the bill changing the furlough program for murderers sentenced to life without parole, he was faced with both a hostile legislature and a potential referendum on furloughs on the November ballot, which was not something he wanted to see the public have to vote on.

Let me give the Members some examples. Some of the case histories, as reported in the Lawrence, MA, Eagle Tribune on January 10, 1988, of some of the escapees from Governor Dukakis' furlough program, and the first was, as I mentioned, Willie Horton, who was serving a sentence without the possibility of parole for first-degree murder, and on his 10th furlough in June 1986 he escaped. On April 3, 1987, he terrorized the Maryland couple in their home, stabbing the man and raping the woman. He was later apprehended and sentenced in Maryland to two consecutive life terms plus 85 years. Somewhat incredibly, Massachusetts requested his extradition. The judge, however, ruled that he should not be sent back to Massachusetts where he could become eligible for parole once again.

It is fascinating, by the way, and I have seen a videotape which has been made of the murderers' furlough program. In that videotape, the Maryland judge says quite specifically that he refused to send Willie Horton back to Massachusetts on the grounds that it was clear that he would be allowed out on the weekends and he would once again run away, and the judge in Maryland did not want to let Governor Dukakis' Massachusetts threaten the people of America with this kind of murderer. That tape, by the way, is called "Justice on Furlough." It is a videotape available that is really a remarkable document.

Another example, Brendan Boyd, a convicted rapist who was also serving a life sentence for murdering a prison inmate, but he was, however, released on furlough in 1986 during which he raped a woman in Mattapan and then shot himself to death.

Armand Carrier, a former New Hampshire State trooper who shot a police officer and another man to death, but he was permitted a work detail to Worcester Hospital, which had been approved by the Massachusetts Corrections Commissioner, and he escaped.

Charles Costa, serving 3 to 5 years for the rape of a child by force in Everett, a career criminal, he had a record of burglary and escapes in other States, yet he was placed on work release at the South Middlesex Prerelease Center from which he escaped on February 27, 1987.

Michael Jones, serving 10 to 12 years for rape and armed robbery, walked away from the Northeast Corrections Center Prerelease Center in January 1983.

Eugenio Torres, convicted in 1986 for the unlawful possession of a controlled substance, a few months later was permitted a work release from the Massachusetts Corrections Institute at Shirley, from which he escaped and stabbed his wife and another male at home.

Robert Jeffries had a criminal record including burglaries, drugs, assault with a dangerous weapon, and assault on a police office. Nevertheless, he was permitted to take furloughs at his mother-in-law's home while serving 6 to 10 for a 1980 armed robbery. He escaped from the Boston Prerelease Center January 30, 1986.

□ 1900

Those are some examples of the kinds of dangerous, tough criminals which Governor Dukakis has said he favors being given the right to run loose and to be given the opportunity to escape through his furlough program.

Governor Dukakis described his furlough program in the Eagle Tribune article of January 31, 1988, as saying "It is a very tough, strong, well-defined furlough program, in this State which by and large has been very successful."

It is a sign that Governor Dukakis had not talked to any of the victims who were in fact victimized recently by people Governor Dukakis had allowed to go out on weekends. This is a tragic story, and I commend to anyone who wants to read more about it, the article from Reader's Digest in July entitled, "Getting Away With Murder." That article, "Getting Away With Murder" outlines in some detail the kinds of examples of the problems that Governor Dukakis had in Massachusetts because he was willing to allow very dangerous prisoners to have weekends off, to go out in the world, even though in fact there had been consistent warnings about the dangers of the furlough program.

For example, there was a commission which in 1975, the special commission relative to the effect of the prisoner furlough program on the citizens of the Commonwealth, issued the following report on October 16, 1975:

> The commission has found no benefits, singly or in toto, attributable to the furlough program that can justify for the public's sake the continuance of a practice that allows convicted criminals to walk the streets devoid of restraints and free to commit crimes against their fellow man.

To give an example, if my colleagues ever get the chance to see the videotape "Justice on Furlough," they interview on that particular tape a woman who talks about her older daughter being killed, and then several years later taking her younger daughter to dinner and having in the very same restaurant, having dinner with her younger daughter and herself in the very same restaurant the convicted murderer who is now out on furlough. And she describes in this videotape "Justice on Furlough" how emotionally deeply she felt about the impact of knowing that the murderer who had killed her older daughter was right there across the room in that restaurant, out on furlough.

I think that it is important to recognize that Governor Dukakis was warned over and over again that releasing murderers who had been convicted and sentenced to life imprisonment, without parole, is very, very dangerous, that real human beings, innocent citizens were suffering because of Governor Dukakis' willingness to let innocent citizens take the risk.

Consider some of these facts. The Wall Street Journal pointed out on April 19, 1988, "Between 1980 and 1987, the Massachusetts Corrections Department granted an average of 388 furloughs a year to killers." In other words, in the average year in Massachusetts, 388 furloughs were being given to people who had been convicted of killing somebody else. So if you lived anywhere, and given the mobility of modern America, a convicted killer could get out of jail on Friday night, travel anywhere in America, and if he or she was honorable, show back up by Monday. They could fly to Los Angeles, they could fly to San Francisco, they could fly to Houston, or Miami on Friday evening, do whatever they wanted to do on Saturday and Sunday, fly back, as long as they reported in. That is if you thought the convicted killers were going to come back.

"On average, a first-degree murderer was let out on furlough every day for the past 7 years," from the Lawrence, MA, Eagle Tribune, December 30, 1987.

Imagine Governor Dukakis being willing to have all of the rest of us take the risk of having a first-degree murderer let out on furlough every day of the year, in effect.

Let me go back again to the case of Willie Horton, because people might say, well, should we not have given him a chance. Let me explain some of the background.

November 1, 1974, during an armed robbery of a gas station in Lawrence, MA, Horton held at gun point a 17-year-old gas station attendant, Joseph Fournier. Having robbed the youth, Horton brutally stabbed him 19 times and stashed him in a garbage can. For this crime, Horton was sentenced to life in prison without benefit of parole.

I might mention that earlier in his life Horton had been convicted of another armed robbery and had been left out on parole in another State before he went to Massachusetts to commit that robbery and kill that young man.

June 2, 1986, Horton escaped from Massachusetts while on a weekend pass from a State prison in Concord. Horton was on his 10th furlough when he escaped.

April 3, 1987, Horton breaks into the home of a Maryland couple, Clifford and Angela Barnes, and terrorizes them for 12 hours. During the night of terror he tied Mr. Barnes up in the basement, stabbed him repeatedly and robbed him, and waited for Mrs. Barnes to return home. Upon her entrance, Horton dragged her upstairs and raped her twice. Horton then stole a car, and after a high-speed auto chase was recaptured after being shot twice. For this and other offenses Horton committed during the hours of terror he was charged with 13 different crimes including two counts of kidnaping, two counts of false imprisonment, five counts of assault with intent to murder, two counts of first degree rape, two counts of second degree rape, one count of malicious cutting of a person, one count of possession of a firearm by a felon, one count of breaking and entering, one count of burglary, two counts of discharging a loaded weapon while under arrest, one count of possession of a firearm while a felon.

Horton was found guilty of these crimes in Maryland and sentenced to two life terms plus 85 years. The sentencing judge stated at the close of the trial:

> With all due respect to the citizens of our sister State, the Commonwealth of Massachusetts, I'm not prepared to take the chance that Mr. Horton might again be furloughed or otherwise released. He now belongs to the State of Maryland.

In this setting, understanding the risk to innocent citizens, understanding the difficulties that would happen, realizing that we are talking here about releasing very, very dangerous people, that on occasion they committed crimes, and in some cases on some occasions, as I already indicated, the murderers, when released by Governor Dukakis' program, murdered other people, what is the Dukakis record of learning about that? Let us look over the years.

In 1976, after vetoing a bill to end furloughs for first degree murderers, Dukakis said, "This bill would have cut the heart out of the efforts at inmate rehabilitation. With 89 percent of those committed to our institutions eventually returning to society, it is essential that we retain what has proven to be a successful tool for breaking the cycle of crime which our prison systems used to encourage." Let me suggest that that successful tool did not look very successful to Cliff and Angie Barnes. That successful tool did not look very successful to the people who have been killed, robbed, and otherwise violated by the various murderers that Governor Dukakis has released.

On June 7, 1987, Governor Dukakis said, "I am a supporter of the furlough program because I think it is an important part of any modern and any effective correctional system. There is always a risk, and our job is to make that furlough program as strong and as well administered and as responsible as possible." Notice that while Governor Dukakis recognizes the risk, it is not his risk, it is the risk of innocent citizens, it is the risk of the victims and the families of victims who have to suffer knowing that somebody who killed one of their relatives is now alive and free on weekends.

On June 30, 1987, "The furlough program over the past 10 years has been quite successful, and it's something I rely on very heavily when it comes to making decisions about commutations." Again, I would just suggest it has been successful for the murderers. It has been successful in terms of getting people out of the prison population. But one has to question how successful it has been for those who have been raped, terrorized, tortured, or killed by people released by Governor Dukakis.

November 23, 1987, "I just don't like the idea of absolutely prohibiting the possibility of a furlough program in these cases. I do not see how a Governor can responsibly exercise his commutation power under these circumstances." Notice Governor Dukakis comes back again and again to how can I commute the sentence of the killer, how can I take care of the person who has been sentenced to life in prison, how can I make sure that the person who has a major problem, having murdered a fellow human being, or raped, or tortured a fellow human being, how can Governor Dukakis make sure that it is the murderer who is taken care of, not the victim.

December 17, 1987, "I think a good, strong, aggressive corrections system requires a well managed furlough program." Apparently again he represented a program in which 62 murderers sentenced, and violent criminals, had escaped from his furloughs as a good, strong aggressive corrections system.

January 6, 1988, "We recognize this is a serious problem of great concern to people, and it is of great concern to me. We have brought all of the lifers back into more secure settings. As a practical matter, the furlough program for lifers is on hold." What happened was despite the consistent effort to stop every repeal of the furlough for murderers, public anger, public outrage had built. Families who had had somebody killed, families of victims had gathered the signatures to put an initiative on the ballot this fall in Massachusetts, and the legislature was in rebellion against Governor Dukakis, and was insisting on passing a bill to repeal the furlough for life murderers sentenced to life in prison without parole.

Finally the Governor began to crumble, but it is fascinating, if Members get a chance to see the videotape "Justice on Furlough," to notice that when victims of the murderers who had been furloughed by Governor Dukakis tried to see the Governor, he would not see them. When Cliff and Angie Barnes, who had been tortured and raped by Willie Horton, went to Massachusetts to try to see the Governor, he would not talk to them. Governor Dukakis had time for the families of the prisoners, but he did not have time for the families of the murder victims.

That is pretty much typical of the leftwing mind-set which always finds an excuse for the criminal, but never finds much compassion for the innocent citizens, which always finds a reason to make sure that the criminal gets the best possible defense, but does not quite notice the policeman who may have lost his life in the process.

The result is a very biased viewpoint, a viewpoint which I think is not representative of much of America.

But while all of us should read "Getting Away With Murder," the article from the July Reader's Digest, and as many people as possible should see the "Justice on Furlough" video, let me suggest to my colleagues here in the House that it is not good enough for the House of Representatives simply to set the rules for the rest of the country. It is not good enough for us to talk about rules as they apply to murderers in Massachusetts, or rules as they apply to Wall Street corruption, but we also have to confront the fact that we here in the House have an obligation to look at some very real problems.

There is a fascinating article in this week's Congressional Quarterly which talks about what is happening with political action committees and its impact on the Congress. There has been a series of articles recently in the New York Times, the Washington Post, the Wall Street Journal, and the Washington Times outlining these problems.

The National Journal has been commenting on the difficulties we are now faced with in terms of the ethics and election reform in the House. I want to suggest that we are in a period when we have at least the beginnings of a very, very serious need to change the rules of the House, to reform the way in which we do business, both in terms of our own ethics and in terms of our election procedure.

Let me start by saying that I think rules need to be reasonable. My guess is that the current rules as they apply to elections, as they apply to office accounts, as they apply to expenses, and as they apply to a whole range of things, are so complicated, there are so many pages of detail, they are so bureaucratized that virtually every Member of the House engages occasionally in small, minor violations, that virtually everybody, if they were carefully enough audited, and if every question of doubt went against them, would have something wrong. I think that is a mistake, and I think we need a very serious reform effort to rewrite the rules of the House and to write a coherent code of rules that includes our official duties, our political behavior as candidates, and our responsibilities as individuals. I think it ought to be one set of documents which would cover all three questions, because each of us plays a different role when we are a candidate, when we are an official, when we are a private citizen, and very often because we have different agencies now writing overlapping rules, frankly, we have a lot of confusion.

But in addition, I think we have to recognize just how serious the problem of incumbent invulnerability is becoming; 98.4 percent of the incumbents were reelected in 1986. That is fundamentally undermining a process of the Constitution. The Founding Fathers clearly wanted the Congress to be reelected every 2 years. The Founding Fathers wanted in the Constitution to have a people's House by biennial elections in which we would renew ourselves. And 40 percent of the incumbents in the First Congress were not returned in 1790 when they had the first election after the beginning of the American Government. That is of those elected in 1788, 40 percent did not come back in 1790.

The Founding Fathers wanted a process of renewal, a process of equal opportunity for the voter, to fire those they could not get to, to make sure that while you served for a while, when you went back home every 2 years, if the voters did not like you or like what you were doing, they could get rid of you.

□ 1915

So that while the voter loaned power for you to go to the House, the voter retained the power to fire you and that was the ultimate check on your behavior as a Representative.

Interestingly in the debates on the Constitution at Philadelphia, the Founding Fathers debated between 6-month terms and 2-year terms. Many of the Founding Fathers wanted the House to be even more representative, even closer to the people.

What do we have today? We have quite the opposite of that system. We have a system growing up now where the power of the incumbent to survive, a combination of tax-paid office accounts, congressional junk mail, massive advantages in raising money from political action committees and from other contributors, the ability of incumbents to affect gerrymandering so that when reapportionment occurs it tends to have a bias in favor of the incumbents, the result is that we now have a House which is dramatically different than the Founding Fathers intended.

As the Wall Street Journal noted in 1986, 10 of the 34 Senate seats, that is 30 percent of the Senate seats, 14 of the 33 governorships, or 42 percent of the governorships, changed hands. Yet only 15 of the 435 House seats changed parties, less than 4 percent, less than one-tenth of those which changed in the very first Congress. And of the incumbents who sought reelection in the House, only 1.6 percent were defeated.

Mr. Speaker, I yield to my colleague from Texas.

Mr. FROST. Interestingly, Mr. Speaker, I read the article that the gentleman is referring to in the current Congressional Quarterly. This was an article that talked about what a difficult time Republicans were having raising PAC money, if I remember the article the gentleman is referring to. It seems to me down in that article it quoted not by name, but unnamed Republicans as being critical of the Republican campaign committee and that it was not working hard enough for its challenges, it was not setting up appointments for them, it was not aggressively working the PAC's.

Now does the gentleman agree with this? Is there something wrong with his campaign committee? Because in the past Republicans have done pretty well from political action committees. I do not understand. Has something gone wrong this year? Do you need some new blood on the Republican campaign committee?

Mr. GINGRICH. I found that article interesting because in fact if you read the very same article it points out that on the Senate side, a very different campaign committee, that Democrats are outraising Republicans on the Senate side. In fact, if you exclude the singular race of Voinovich against METZENBAUM, the margins are about as great on the Senate side, where the Democrats now have power, outraising the Republicans on the Senate side.

Mr. FROST. Is there something wrong with the gentleman's campaign committee, his Republican campaign committee in the House that it is not aggressively working the PAC's hard enough?

Mr. GINGRICH. The gentleman must not have heard what I just said. Let me try one more time.

Mr. FROST. I heard what the gentleman said on the Senate. I am talking about the House and not the Senate. The gentleman and I are Members of the House and I am talking—I am asking him is there something wrong with what is going on on the other side of the aisle over here.

Mr. GINGRICH. Well, I am talking and saying that if the Senate Republican Committee and the House Republican Committee are both finding, now that the Senate committee is in a minority status also, that in both cases it is vastly harder for the Republicans to raise money from political action committees than it is for the Democrats. The fact that it is happening in both the Senate and the House at the same time might raise the suggestion that the problem lies now not in terms of a national Republican Congressional Committee or the Senate Republican Congressional Committee, but that in fact political action committees in the business and professional community give to power which means now the Democrats in the House and the Senate, while labor unions give to the Democratic party. So the Democrats get 95 percent of all the money given by labor and they now get a disproportionate amount of money given by business and professional PAC's because business and professional PAC's are frankly, I think, trying to avoid being punished by the committee and subcommittee chairmen.

Mr. FROST. It is interesting; the gentleman and I had a discussion about this a month or two ago before the recess and I asked the gentleman at that time and I would like to ask him again: Here he is saying how terrible it is that PAC's are giving a lot of money to Democrats and yet the gentleman has opposed putting a limit on how much PAC's can give to any one candidate. He has opposed in the past bills that have imposed an aggregate limit on how much he could receive from all PAC's or that I could receive from all PAC's.

Now I do not understand; either the gentleman likes PAC's or he does not like PAC's.

Mr. GINGRICH. I will be glad to answer my colleague.

I would be very much in favor of a limit to how much incumbents can receive from PAC's. I think the greatest single problem in American politics today is the enormous power of incumbent House Members to get re-elected.

So I would be very willing to accept a limit on PAC contributions to incumbents equal, say, to the amount that individuals can give, to be $1,000.

Mr. FROST. Does the gentleman think he might have any problem with the court system if he were to make classifications among candidates, if he were to say that certain types of candidates, both Democrats and Republicans could receive *x* amount and certain other types of candidates, both Democrats and Republicans, not incumbents, could receive *y* amount? Does he think he might be able to defend that in the Supreme Court?

Mr. GINGRICH. There is a very easy way to defend that, as my colleague well knows, and it is precisely the way we apply the rule on televising the House in terms of politics. All one would have to do is pass a rule of the House saying that no Member of the House under House rules could accept more than $1,000 from each political action committee and that would in fact automatically limit incumbents. It would be very defensible in the Supreme Court because it would be a rule which applies to an entire class, those who already serve in the House, and the fact that it does not apply to non-House Members would be irrelevant.

Mr. FROST. Well, Mr. Speaker, of course the gentleman knows if we were to do something in the House that could be challenged in court as being unconstitutional, it would be set aside just as if we had applied past legislation.

Mr. GINGRICH. The court would not, I suspect, and I think this is well worth testing in Court, unlike Democrats who share Dukakis' unwillingness to sign the Pledge of Allegiance because it might have been contested, I would argue that we ought to do what we think is right and then fight it out in the Supreme Court.

My guess is, as a historian, that the Supreme Court would rule that the Constitution clearly allows the House to establish rules for its own Members and that in that setting we could easily say once you are a Member, no one who is currently serving as a Member would be allowed to accept more than $1,000 per PAC.

I ask my friend, setting aside the legalities, would the gentleman be willing to agree to a rule of the House to limit incumbents to $1,000 per political action committee?

Mr. FROST. Mr. Speaker, I think the gentleman knowns that any matter like that would be one that all of us would seek a potential legal opinion on, both on the Democratic side and on the Republican side.

I do not have any problem because unlike the gentleman, I favor an aggregate limit on what PAC's can give to Members. I do not have any problem with putting a limit on PAC's.

I would like to ask the gentleman a question.

Mr. GINGRICH. If I may reclaim my time.

Mr. FROST. I will answer the question.

Mr. GINGRICH. If I may reclaim my time.

Mr. FROST. I will answer the gentleman's question.

If I were satisfied it was constitutional I would have no problem with it. I would like to ask the gentleman something else.

Mr. GINGRICH. Before the gentleman gets to his second question, is he saying that he wants to set the same aggregate limit to both challengers and incumbents even though he knows that an incumbent has about $1.2 million advantage in taxpaid money in terms of staff and computers and travel and junk mail and all the other things?

Mr. FROST. Well, in the past I have voted for limits and the gentleman has not. The record is very clear. I have voted for aggregate limits. I authored legislation to put limits on what everyone could receive. The gentleman has opposed any limits. I would like to pursue another matter, if I may, because the gentleman raised a very interesting point at the beginning of his discussion about the baby boom generation and about how things have changed in the last 20 years.

Now the gentleman and I are the same age, we are about a year difference in age. The gentleman was born in 1943 and I was born in 1942. We are both baby boomers. We are kind of on the early part of the baby boom generation, but we are a part of it.

Mr. GINGRICH. Technically we are a little earlier than the baby boomers.

Mr. FROST. Well, we are baby boomers. The gentleman—and this is something that has come up involving the baby boom generation within the last month or month and a half—the gentleman, if I recall correctly from his biography entered college in 1961 and continued in college for about 10 years, roughly the period of the Vietnam war. The gentleman is very outspoken on national defense issues; the gentleman is very outspoken, as we have heard today, on crime, the gentleman wants to be tough.

The gentleman, I believe, from reviewing the record, which has been published in a number of newspapers, the gentleman does not have any military service. The gentleman did not serve either in the National Guard as Mr. QUAYLE did, the gentleman did not serve in the Army Reserves and did not serve in the armed services during Vietnam.

Now I think this is a legitimate question, because the gentleman poses—has presented himself as one who is tough on crime, tough on defense. I would ask the gentleman about that.

Mr. GINGRICH. Well, I think that is a legitimate question.

Mr. FROST. I would like to ask about the absence of his service during the Vietnam war.

Mr. GINGRICH. I think that is a very legitimate question. I will be quite candid. I joined the Air Force ROTC in my freshman year, served for most of that year, got married and ended up having a daughter prior to the Vietnam war. I ended up having two daughters prior to students being drafted. I never had a student deferment because it was not necessary, because as the gentleman well knows, fathers with small children were never considered part of the draft pool at any point during the Vietnam war.

I had to weigh a choice between two sets of obligations, an obligation to my two daughters who were very, very young at that time. One was born in 1963 and the other was born in 1966; and a powerful desire to make sure that my country was served. It was one where I waited a long time and reached the conclusion that my immediate obligation was to my two daughters who were very, as I say—one was, in the period when the war was at its peak, 1967 to 1969, one daughter was 4 at the beginning of that period and the other daughter was barely 1 year old.

Mr. FROST. Does the gentleman have any concern—and I do not address this just to the gentleman's personal situation, but to the fact that there are so many Members, particularly Members who argue long and loud on behalf of a strong national defense—who are the same age that the gentleman and I are who did not serve, does this concern the gentleman?

Mr. GINGRICH. Well, the gentleman raised a good question. I think it goes to the question of reasonable rules. I think it is a fair question. It is a dialogue we need in this country.

The Vietnam war was a mess. It was a peculiar bird. Let me give you an example. And I do not mean this purely in a partisan sense, though it clearly makes the partisan point.

Governor Dukakis served the entire Korean war at Swarthmore College. He took a student deferment for the whole war. Once he got out of college he went into the service as was fairly common in that period. No one would ever have noticed that Mike Dukakis had a student deferment for the entire Korean War if it were not for DAN QUAYLE's nomination to the Vice Presidency, because for Dukakis' generation it simply was not a question. In Dukakis' generation, then you automatically got a student deferment if you were in college, you automatically finished college and then if there was still a fight going on you might join the service if you wanted to.

Mr. FROST. As Governor Dukakis did.

Mr. GINGRICH. As Governor Dukakis did.

So no one ever said, "Gee, why did Dukakis sit out the Korean war at Swarthmore instead of having an opportunity at Pusan or Seoul or Inchon." They just ignored it. It was not part of the issue. Our generation had a different problem.

Lyndon Johnson was not willing to explain the war. He was not willing to mobilize the National Guard, which was always an option. As the gentleman knows, 7,000 guardsmen did serve in Vietnam.

In Indiana, for example, where DAN QUAYLE is from, there was a Ranger company which did go to Vietnam and took 110 casualties including 3 men killed.

But as a general rule, Lyndon Johnson wanted to fight the Vietnam war without fighting the Vietnam war. So he never fully mobilized the country psychologically, politically or militarily.

Richard Nixon came in in 1968, took office in 1969 and Nixon's pledge was to get out of the war.

Nixon was Vietnamizing the war.

The result was an entire generation of young people—and I was a graduate student during much of this period, I went to Tulane in the fall of 1966 in graduate school—and everyone was confused. If you were for the war you knew they were not trying to win it and the real center of the problems was Washington, DC. If you were against the war, you sure did not want to go because you did not believe in the war. The result was that the poor person, who really ended up more often than not being the black, was the young man who was undereducated, often black; although frankly if you look at the percentage of casualties, the black percentage of combat casualties was about the same as the black percentage of population as a whole.

Mr. FROST. That is correct.

Mr. GINGRICH. I think it is an important point to make.

There were an awful lot of young second lieutenants who were college graduates who were willing to risk their lives. There were terrible casualties among the junior officers and among the senior NCO's, particularly in the infantry.

I look back, and this is part of the reason why I started talking tonight about reasonable rules, because we can spend some time on Vietnam, we can spend some time on the drug culture, we can spend some time on crime, we can spend some time on House ethics and on elections. I think our generation, I must confess because my older daughter is toward the end of the baby boom era and reminds me I am really a little too old to be a baby boomer since I think technically it starts in 1948.

☐ 1930

Mr. FROST. But I believe, since I was born in 1942, I notice that most of the discussions in the papers started in 1942.

Mr. GINGRICH. Yes, the upsurge began in 1942 and 1943. So since no one is here to challenge us on that, you and I will claim membership. I think we were in the sorting-out period.

Mr. FROST. Yes.

Mr. GINGRICH. I think we went through this period, and I was part of this as a graduate student and then a young college teacher. I was part of that same soft education, soft on criminals, the world is really sort of touchy-feely, and with humanistic psychology, if we have enough encounter groups and enough sensitivity sessions, we will all get to like each other, and if the guy who mugs you could only come home for Christmas, he would like you, too, and we would end up discovering that we all had these things in common, many of which became situation comedies later.

But the fact is if we are not tough enough and school kids do not learn to read, if they cannot read, then they go into the job market and they are truly ripped off for a lifetime. If we are too soft on drugs and crime, kids learn to get away with things that destroy them as human beings, and in the process they may destroy other people. If we allow a level of corruption in the House of Representatives or allow a level of unethical behavior in the election process, we sicken and weaken the whole system.

Mr. FROST. But it goes back to this: The gentleman and I, being in the same age group and having gone through this and having a somewhat different perspective, although we share many things in common, made different decisions. I was a college student and later a law student, but during the same period of time, confronted with the same decisions, I chose to go into the armed services.

Mr. GINGRICH. The gentleman had two children?

Mr. FROST. No, I did not have any children.

Mr. GINGRICH. All right.

Mr. FROST. But I was the same age as the gentleman, with the same type of education as the gentleman, faced with the same decisions. I chose to go into the armed services, the gentleman chose not to go into the armed services.

It is a problem, quite frankly, for many people in Congress, not because they had or did not have military service but for the people who made that decision that that critical time not to go into the service, for whatever reason, we now see people standing before the country as super patriots, as defenders of the flag, as being critical of people on my side of the aisle, saying we are weak on defense. Not all of us are weak on defense. We have diversity on my side.

Mr. GINGRICH. I said most of you are weak on defense.

Mr. FROST. No, that is not true, but people on your side of the aisle, many of whom did exactly what the gentleman in the well did, not to go in the service, and to criticize, some criticized us for being weak on defense.

Michael Dukakis chose to go in the service, chose 2 years.

Mr. GINGRICH. After the war. After the Korean war.

Mr. FROST. I chose time in the Army and the gentleman did not, but he is a strong defender of national defense, and strong defender of the flag, and wants to criticize all of us together on the question of crime, and quite frankly, some of us take offense.

Mr. GINGRICH. Franklin Roosevelt did not serve, Lincoln served a couple months in the militia. Those are people that would not have been accepted as legitimate. Jefferson didn't serve.

Mr. FROST. Everyone has the right to make that decision, obviously, as the gentleman did, but you have made that decision, and then to present himself as a strong patriot, to present him as a strong supporter of national defense, sometimes is inconsistent, is my point.

Mr. GINGRICH. I don't think there is inconsistency. I have never advocated, and I think it is a cheap shot that is plain wrong. I have never advocated that people with two young children volunteer, not in a war the size of Vietnam, not short of a World War II environment. I find it frankly outrageous.

There are two views of the left. If you have a gentleman from California [Mr. DORNAN] standing up here who has served, has done everything one could do in a combat environment, or we have a Congressman from California [Mr. HUNTER] who was an infantry officer, the battle cry is there, is a Rambo figure, somebody eager to go to war. That is a tactic.

Mr. FROST. I have nothing but the highest respect for their record. You would never hear anything like that.

Mr. GINGRICH. But Members on this side would, and they have, so at the same time I would say to you, that there is a very great number of Americans, over 50 percent of the baby boom generation, according to a poll taken last year, believes it was the politicians in the U.S. Congress who cost us the war. It wasn't the infantry guy in Vietnam, it wasn't the guy flying airplanes in North Vietnam.

Mr. FROST. Was that a justification not to serve?

Mr. GINGRICH. No, a justification to come to this Congress and do everything possible not to have an America so weak in the future, or to have those who led amnesty.

Mr. FROST. Who served 2 years as enlisted men in the U.S. Army?

Mr. GINGRICH. After the Korean War, and I am not blaming anyone. It was the normal thing to do.

Mr. FROST. But not to take a student's deferment to go to law school and take a Ph.D.?

Mr. GINGRICH. But he was not married at the time.

I fully understand, and my friends warned the problems of raising issues of ethics in the House strains the process of comity and collegiality.

It is perfect for colleagues on the other side and friends on the left to decide that we will make this as personal as possible. That is fine.

I will frankly show in the worst case, I would argue that somebody who used to be an alcoholic, and now stands and speaks against drunk driving is not necessarily a hypocrite, but may be a person who learns through life's experiences. So I do not necessarily mind this dialog, and I appreciate the fact, to put in the RECORD, the fact that the only reason it was involved was not student diverting, but the fact I had two young children.

Mr. FROST. The gentleman is aware that this issue, of course, never came up until DAN QUAYLE was put on the ticket, and is now a very legitimate question to be raised, and is being raised all over the country. I don't object to Vice President BUSH's decision to put QUAYLE on the ticket.

Mr. GINGRICH. Last week the U.S. Navy took a 3-star admiral and broke him in rank to 2 stars, retiring him, and said that he was no longer in a position to command because he had inappropriately used travel funds.

As we know, the gentlewoman from Illinois [Mrs. MARTIN] and others have raised the question, we ought to apply the House rules to the Congressmen, the same standards we would expect of others in the Government. You were talking about the military. I think that if a senior officer like that, a man who is supposed to be a leader, had in any serious way, not just a minor error, but in a serious way violated the rules of the Navy, he should have been retired, to send a signal. We would be enforcong the rules.

What would your position be on a Member of the House, for example, who might have abused the rules in order to take a trip, and to take a trip with no other Member involved, and to be in a position where, say, $58,000 in Federal tax money had been spent for that Member going somewhere, should we apply a tough rule, or is that not an appropriate, not an unreasonable thing to do?

Mr. FROST. We have an Ethics Committee, a bipartisan Ethics Committee. And it is up to the Ethics Committee to hear the evidence when an allegation is made. That committee is made up of 6 Democrats and 6 Republicans, and they make recommendations to this House.

I really do not know anything about the situation, and I don't know enough about what the gentleman has described, and I think it is very difficult for any of us to make premature judgments when we don't have all the facts.

I have a great deal confidence in committee split 6-6, bipartisan committee to evaluate matters and make recommendations to the House, and it is interesting, and it is appropriate to see what that committee recommends in any situation.

I quite frankly do not know enough how to give more information.

Mr. GINGRICH. I am not asking that. It is certainly appropriate for the Ethics Committee to look to the general membership for a sense of appropriate behavior.

Whether the House is going to be tough on violations, or softer on violations, we are talking about changes we are going through. I am not asking about a particular case, but saying clearly there have been occasions when Members of the House have engaged in activities which might, upon investigation of the committee, lead to the conclusion they have misused $58,000 in funds, taking a trip, a trip which had not been appropriated or had met the official requirements for a congressional delegation.

All I was asking of my colleague, in terms of setting standards and being willing to be tough-minded, and the things you were commenting on a few minutes ago, how does one deal with that? Should we be tougher on Members? Obviously, we will not fire them. That is not our job, but once we stop the voters from firing us, by creating invincible incumbents, we put a much greater burden on the House to police itself. Once the voters can no longer police us because they cannot fire us.

Mr. FROST. Is not the gentleman's argument about that, not that 98 percent of incumbents, assuming that figure is accurate, are reelected, but the fact that Democrats keep getting reelected. If Republicans were being elected, I do not think the gentleman would be so ferocious.

Mr. GINGRICH. Well, I don't mind being honest. Probably if there was a Republican majority for 34 years, and we had absolute power for 34 years, there probably would be a Democrat complain.

Mr. FROST. Isn't the problem that Republicans are losing the elections, and that Republicans, for whatever reasons, cannot win?

We have a free electoral system, and we don't have limits on a rate of or what to contribute. You can recruit candidates who are wealthy, who can pull on unlimited funds. You can recruit candidates with a lot of contacts in the business community.

Mr. GINGRICH. In other words, if you recruit millionaires?

Mr. FROST. There are a lot of options. The gentleman can recruit people who are widely respected in the business community, who can raise large sums of money.

Is not the problem, that you are not recruiting candidates who can do these things?

Mr. GINGRICH. Let me answer you, because the argument is circular.

First, we made incumbents very, very powerful. We give them $1,200,000 an election cycle in tax paid money, we give them advantages by drawing the district lines to maximize incumbents. They reelect, and we are sure that incumbents have advantages in terms of recognition and public identity. Then the party puts enormous pressure, for example, there being one Democratic freshman who has raised more PAC money, $329,419, than all 326 Republican challengers combined, who raised $316,829. Now, that Democratic freshman did not raise more money than all 326 Republican challengers, because all 326 Republican challengers are poor or dumb or untrained. He did so because the Political Action Committee system today is a system by which chairmen and subcommittee chairmen extort protection money, from business and lobbying groups, in order that they be punished. It is a fundamentally different system in the last 15 years, being discussed in a brand-new book called "Honest Graft," which I encourage every citizen to read. Having made the incumbent extraordinarily powerful, so that it is very, very unlikely that the incumbent will get beaten, it then becomes far harder to recruit a good candidate, because the average person out there looks and says, "Why would I want to climb a mountain that is impossible?" A 98.4 percent is the accurate number of the total incumbents who were elected in 1986 in the House out of the incumbents who ran for reelection.

As I said, I will give you the exact citation of the Wall Street Journal. Out of 435 House seats, in 1986, only 15 changed parties. That is less than 4 percent. And of the incumbents who sought reelection, only 1.6 percent were defeated.

You go out in most of America and say, "Hi, I would like you to have an opportunity to run against incumbents who will spend $1,200,000."

Mr. FROST. And I did, and I have beaten an incumbent.

Mr. GINGRICH. You did it earlier. You did not do it now. It is much, much harder in the late 1980s because the system decayed dramatically in favor of the incumbent, and so then you say to a person, "By the way, when you run against this incumbent, if they are in a vulnerable vote, particularly if they are a Democrat, all of the power of the Democratic machine will make sure that they get to raise money." Let me give you some examples.

We have one Member who is a Democrat who started the war chest this year, $1,010,000. Another Member, a Democrat, had $904,000. A third Member, a Democrat, had $770,000.

That is in their campaign fund before they started raising money.

Of the top 50 Political Action Committee recipients, 45 were Democrats. The total amount given to the 45 listed Democrats was $11,849,000.

Mr. FROST. The gentleman has a solution. Just put a very low limit on it. Put a limit of $80,000 on it. The gentleman had a chance to vote for that and voted against it, on the amount of money an incumbent can accept.

Mr. GINGRICH. Mr. Speaker, I want to reclaim my time to make this point: Any Democratic incumbent is perfectly happy to set a low cap on it, because given the $1,200,000 in taxpaid money, we get to start with, that absolutely guarantees that no challenger will ever be able to win.

Mr. FROST. But you cannot have it both ways.

Mr. GINGRICH. Sure you can.

Mr. FROST. You cannot say that PAC's are terrible, but, no, we cannot set a limit on what PAC's can give. I mean that does not make any sense, I am sorry.

Mr. GINGRICH. I did not say that PAC's were terrible. I said Political Action Committees are now extorted and threatened by powerful incumbents, that it is the powerful incumbents who are too secure, not the Political Action Committees. I am very happy to set a limit on incumbents. I am happy this evening to agree that we ought to set a thousand dollars, the same as an individual, that no incumbent could raise more than a thousand dollars from a Political Action Committee.

But I do not think there are many Democrats who would be very eager to do that. I am also willing to say that we ought to eliminate being allowed to carry money over. I think we ought to start every 2 years in a new finance mode. I do not think we ought to be able to take $600,000 or $900,000 or $1 million in campaign money and have that carried over.

□ 1945

Mr. FROST. It is an interesting point. I believe the gentleman has carried over money from year to year.

Mr. GINGRICH. Not very much; very tiny amounts.

Mr. FROST. The gentleman—if I recall, the gentleman has a PAC that he set up. It is an interesting point that the gentleman is talking about, PAC's. The gentleman raised an incredible amount of money, a very large amount of money in his PAC, and wound up giving almost none of it to candidates.

Mr. GINGRICH. Let me just clarify since apparently the gentleman has been taken in by the Democratic Congressional Campaign Committee's systematic misinformation on that topic.

As the gentleman well knows, any direct mail operation can have a large amount of contributions which then go to pay for the direct mail. I suspect, if the Democratic Congressional Campaign Committee were candid about it; I know in one case that the Democratic Congressional Campaign Committee sent out a letter from Governor Cuomo which lost money——

Mr. FROST. The gentleman did not wind up giving up very little out of his PAC for candidates, a very small amount?

Mr. GINGRICH. That is right. That is because, if the gentleman will look at the net dollars, the amount of money left after the cost of the mailings was very small.

I started to say that in the case of Governor Cuomo's mailing the gentleman actually lost money. Now the total contributions may have been large, but the total cost of the mailing was larger.

Mr. FROST. I seem to recall—I do not have the figures in front of me—that the gentleman raised at least several hundred thousand dollars for his PAC.

Mr. GINGRICH. How much?

Mr. FROST. At least several hundred thousand dollars.

Mr. GINGRICH. Now the total net—we lost——

Mr. FROST. What was the gross amount?

Mr. GINGRICH. We lost money. I think—I do not remember the exact gross——

Mr. FROST. The gross amount. How much money total did the gentleman take in for his PAC?

Mr. GINGRICH. I think that the direct mailings ultimately grossed about 200,000 and cost more than 200,000. So there was no net money. That is from the political action committee side, but let me carry the gentleman back again to——

Mr. FROST. I guess the gentleman——

Mr. GINGRICH. Notice the difference.

Mr. FROST. Is that why the gentleman is down on PAC's now?

Mr. GINGRICH. No.

Let me carry the gentleman back to the difference because I think every citizen ought to be aware of this.

Every Member who is an incumbent walks in the opening day of Congress knowing that without raising a dime, without picking up the phone to ask for any help, they have $1.2 million from the taxpayers to hire staff, to open offices, to run computers, to send letters, to send junk mail, to travel, to have telephones——

Mr. FROST. What would the gentleman——

Mr. GINGRICH. Let me finish——

Mr. FROST. I am curious. What would the gentleman have us do?

Mr. GINGRICH. Well, I already said two things. I would put a very, very severe cap on how much incumbents can take——

Mr. FROST. No, on the official expense side you are complaining that we have all this money for staff and to serve our constituents, to answer our mail and to do case work. Should we just give all that money back?

Mr. GINGRICH. Well, one thing which I offered this summer, which I do not remember how the gentleman voted, but I offered three amendments this summer to limit dramatically the amount of junk mail we can send. I do not think incumbents ought to send junk mail before an election.

Mr. FROST. Is this figure that the gentleman quotes; does that include postage or does that just include staff salaries and office——

Mr. GINGRICH. My impression is that is the estimate of the total value of all the things an incumbent can do involving staff, mail, printing——

Mr. FROST. Well, should we have fewer staff; is that what the gentleman wants?

Mr. GINGRICH. I think I just told the gentleman as a starting point——

Mr. FROST. No, no, let us go through all the things.

Should we have fewer staff?

Mr. GINGRICH. Wait a second. Let me say to the gentleman that I think that we should change the rules of the election system to weaken incumbents and to dramatically strengthen challengers.

Mr. FROST. No, but the question is, How do we serve our constitutents? The gentleman is complaining that we have too much money——

Mr. GINGRICH. I have already told the gentleman.

Mr. FROST. Should we close one of your offices in Georgia? Should I close one of my offices in Texas?

Mr. GINGRICH. No. I think we should be honest about the advantage we have. Since incumbents are dramatically stronger than the challenger who enters the field, we should shift the rules of the election game to favor the challenger.

Now recognize that I am an incumbent. I am saying that my Democratic challenger should have certain advantages running against——

Mr. FROST. But the gentleman does not want to reduce the staff.

What about travel? Should we travel back and forth less? Should the gentleman go fewer times to Georgia and should I go fewer times to——

Mr. GINGRICH. Why is it that when I mention quite specific reforms the gentleman jumps off of them as though it was a hot——

Mr. FROST. The gentleman knows that I do not mind discussing the postage question because the gentleman knows we do have limits on——

Mr. GINGRICH. Would you agree——

Mr. FROST. Send out every year.

Mr. GINGRICH. And again I do not know how the gentleman voted this summer when I offered three amendments to cut spending on mail, but would the gentleman agree to limit the amount of junk mail we should be allowed to send out?

Mr. FROST. I think it is something we ought to examine quite closely, and maybe we can get by on less than six bulk mail pieces a year, which is what we get right now——

Mr. GINGRICH. Would the gentleman agree——

Mr. FROST. But my question is—that a component. My question is: Should we have fewer staff? Should we take less trips? The Gentlemen is saying no.

Mr. GINGRICH. I will give you a couple of other examples. I think that we should—I will do it another night.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PORTER) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 5 minutes, today.

Mr. SHUSTER, for 60 minutes, on September 27.

Mr. MCCOLLUM, for 60 minutes, on September 14.

Mr. DORNAN of California, for 5 minutes, today.

Mr. QUILLEN, for 60 minutes, on September 26.

Mr. COATS, for 60 minutes, on September 14.

Mr. COATS, for 60 minutes, on September 15.

Mr. ARMEY, for 60 minutes, on September 13.

Mr. ARMEY, for 60 minutes, September 14.

Mr. ARMEY, for 60 minutes, September 15.

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, on September 8.

Mr. GINGRICH, for 60 minutes, today.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. UDALL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SYNAR, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. MONTGOMERY, for 10 minutes, today.

Mr. HOYER, for 15 minutes, today.

Mr. DE LA GARZA, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, on September 15.

Mr. GAYDOS, for 60 minutes, on September 8.

Mrs. LLOYD, for 60 minutes, on September 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PORTER) and to include extraneous matter:)

Mr. HORTON.

Mr. BROOMFIELD.

Mr. JEFFORDS in two instances.

Mr. KYL.

Mr. VANDER JAGT.

Mr. DAVIS of Michigan.

Mr. MCDADE.

Mr. WOLF.

Mr. FISH.

Mr. CRAIG.

Mr. MCEWEN.

Mr. ROWLAND of Connecticut.

Mr. SAXTON.

Mr. CRANE in four instances.

Mr. BEREUTER in two instances.

Mr. LEACH of Iowa.

Mr. LAGOMARSINO in three instances.

Mr. LENT.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. LANTOS.

Mr. TRAFICANT in eight instances.

Mr. KANJORSKI.

Mr. DINGELL.

Mr. STARK in three instances.

Mr. CLAY.

Mr. MURTHA.

Mr. FUSTER.

Mr. ATKINS.

Mr. GARCIA.

Mr. LIPINSKI in two instances.

Mr. BATES.

Ms. PELOSI.

Mr. BONKER.

Mr. MANTON.

Mr. ROE.

Mr. RAY.

Mr. BORSKI.

Mr. MILLER of California in two instances.

Mr. KASTENMEIER.

Mr. DOWNEY of New York.

Mr. WAXMAN.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1081. An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan; to the Committees on Agriculture and Science, Space, and Technology.

S. 2102. An act to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes; to the Committees on Energy and Commerce and Interior and Insular Affairs.

S. 2221. An act to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes; to the Committees on Energy and Commerce, Government Operations and House Administration.

S. 2436. An act to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission; to the Committee on Interior and Insular Affairs.

S. 2470. An act to promote energy conservation and technology competitiveness in the American steel and aluminum industries; to the Committee on Science, Space, and Technology.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1158. An act to amend title VIII of the Act commonly called the Civil Rights Act of 1986, to revise the procedures for the enforcement of fair housing, and for other purposes;

H.R. 1841. An act to provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes;

H.R. 2370. An act to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes;

H.R. 3617. An act for the relief of the Coushatta Tribe of Louisiana;

H.R. 3679. An act to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes;

H.R. 3960. An act to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes;

H.R. 4143. An act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.R. 4318. An act to improve the administration of the personnel systems of the General Accounting Office;

H.R. 4458. An act to simplify the process of obtaining licensing by States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal Government for indentification and criminal history records relating to the applicant for such licensing;

H.R. 4694. An act to amend the Perishable Commodities Act to increase the statutory ceilings on license fees;

H.R. 5026. An act making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 5141. An act to delay temporarily certain regulations relating to sea turtle conservation;

H.R. 5174. An act to make clarifying, corrective and conforming amendments to laws relating to Indian education, and for other purposes;

H.J. Res. 140. Joint resolution designating August 12, 1988, as "National Civil Rights Day";

H.J. Res. 539. Joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week"; and

H.J. Res. 583. Joint resolution designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week."

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On August 12, 1988:

H.R. 3431. An act to release a reversionary interest of the United States in a certain parcel of land located in Bay County, FL;

H.R. 3617. An act to for the relief of the Coushatta Tribe of Louisiana;

H.R. 3880. An act to extend the authorization of the Upper Delaware Citizens Advisory Council for an additional 10 years;

H.R. 4458. An act to simplify the process of obtaining licensing by States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal Government for indentification and criminal history records relating to the applicant for such licensing;

H.R. 4676. An act to amend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 to extend through the fiscal year 1989 the authorities contained in such act;

H.R. 4694. An act to amend the Perishable Commodities Act to increase the statutory ceilings on license fees;

H.R. 4754. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 5026. An act to making dire emergency supplemental appropriations for the fiscal yer ending September 30, 1988, and for other purposes;

H.R. 5141. An act to delay temporarily certain regulations relating to sea turtle conservation;

H.J. Res. 138. Joint resolution to authorize and request the President to issue a proclamation designating the third Sunday of August 1988 as "National Senior Citizens Day";

H.J. Res. 140. Joint resolution to designating August 12, 1988, as "National Civil Rights Day";

H.J. Res. 417. Joint resolution to designating May 1989 as "Neurofibromatosis Awareness Month"; and

H.J. Res. 525. Joint resolution to designate the month of November 1988 as "National Hospice Month."

On August 30, 1988:

H.R. 1841. An act to provide for the establishment of additional safety requirements for fishing vessels, and for other purposes;

H.R. 2370. An act to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Naiton, and for other purposes;

H.R. 3679. An act to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes;

H.R. 3960. An act to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes;

H.R. 4143. An act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.R. 4318. An act to improve the administration of the personnel systems of the General Accounting Office;

H.R. 5174. An act to make clarifying, corrective and conforming amendments to laws relating to Indian education, and for other purposes;

H.J. Res. 539. Joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week"; and

H.J. Res. 583. Joint resolution designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week."

ADJOURNMENT

Mr. FROST. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, September 8, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4173. A letter from the Director, Office of Management and Budget, transmitting notification of the President's intent to exempt all military personnel accounts from sequestration, pursuant to 2 U.S.C. 901; to the Committee on Appropriations.

4174. A communication from the President of the United States transmitting two requests for FY 1988 budget supplemental for the District of Columbia, pursuant to Public Law 93-198, section 446; Public Law 98-473, section 101(b) (H. Doc. No. 100-223); to the Committee on Appropriations and ordered to be printed.

4175. A letter from the Acting Director, Congressional Budget Office, transmitting the agency's initial sequestration report for fiscal year 1989, pursuant to 2 U.S.C. 901; to the Committee on Appropriations.

4176. A letter from the Comptroller General of the United States transmitting a review of the deferrals reported in the President's fourth special impoundment message for fiscal year 1988, pursuant to 2 U.S.C. 685 (H. Doc. No. 100-226); to the Committee on Appropriations and ordered to be printed.

4177. A letter from the Director, Office of Management and Budget, transmitting the agency's initial sequester report for fiscal year 1989, pursuant to 2 U.S.C. 901; to the Committee on Appropriations.

4178. A letter from the Secretary of Defense transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(a)(2); to the Committee on Appropriations.

4179. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Venezuela for defense articles estimated to cost $50 million or more (Transmittal No. 88-50), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

4180. A letter from the Assistant Secretary of Defense (Comptroller) transmitting the selected acquisition reports [SAR's] for the quarter ending June 30, 1988, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

4181. A letter from the Deputy Assistant Secretary for Logistics, Department of the Air Force, transmitting notification of the plan to study the conversion to contractor performance of a commercial activity being performed by Department of Defense employees at the Consolidated/Containerization Point at the Sacramento Air Logistics Center, McClellan AFB, CA, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

4182. A letter from the Acting Assistant Secretary (Logistics), Department of the Air Force, transmitting notification of the decision to convert the communication-computer operations and maintenance function at Dobbings Air Force Base, GA, to contractor performance as the most cost effective method of conversion, pursuant to 10 U.S.C. 2304 note; Public Law 99-190, section 8089; to the Committee on Appropriations.

4183. A letter from the Deputy Secretary of Defense, transmitting notification of the transfer of funds in support of the Nicaraguan Democratic Resistance, pursuant to 10 U.S.C. 114 note; to the Committee on Armed Services.

4184. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the decision to convert to contractor performance the public works functions at naval station, Mayport, FL, which was found to be the most efficient and cost effective, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Armed Services.

4185. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the decision to convert to contractor performance the utility functions at the Naval Submarine Base, Bangor, WA, which was found to be the most efficient and cost effective, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Armed Services.

4186. A letter from the Assistant Secretary of the Army (Installations and Logistic), transmitting a draft of proposed legislation to authorize, when in the interest of the Government or under unusual circumstances, exempting certain categories of individuals from paying the full meal rate for a meal consumed in a dining facility of the Armed Forces; to the Committee on Armed Services.

4187. A letter from the Commander, Headquarters, 1st Brigade, 100th Division (Training), Department of the Army, transmitting a draft of proposed legislation to authorize special duty assignment pay for enlisted soldiers of the Reserve components of the Armed Forces; to the Committee on Armed Services.

4188. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification of the Department's intent to offer for lease certain naval vessels to the Government of Pakistan, pursuant to 10 U.S.C. 7307, chapter 6 AECA; to the Committee on Armed Services.

4189. A letter from the Secretary of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1987, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Banking, Finance and Urban Affairs.

4190. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Board's report on the feasibility of a nationwide electronic clearinghouse as a means to improve the Nation's payments system, pursuant to Public Law 100-86, section 609(f)(3)(101 Stat. 649); to the Committee on Banking, Finance and Urban Affairs.

4191. A letter from the Administrator, General Services Administration, transmitting the fourth report on Federal actions taken to assist the homeless, pursuant to Public Law 100-77, section 501(e) (101 Stat. 510); to the Committee on Banking, Finance and Urban Affairs.

4192. A letter from the Chairman, National Credit Union Administration, transmitting the Administration's annual report regarding prevention of unfair or deceptive acts or practices by Federal credit unions; to the Committee on Banking, Finance and Urban Affairs.

4193. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

4194. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-237, "Economic Development Zone Incentives Amendment Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

4195. A letter from the Auditor, District of Columiba, transmitting a copy of a report entitled, "Washington Convention Center's Posting and Depositing of Daily Receipts," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4196. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statement for Board member Orlando W. Darden, pursuant to D.C. Code section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

4197. A letter from the Secretary of Education, transmitting a copy a final priorities for the National Adult Education Discretionary Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4198. A letter from the Secretary of Education, transmitting a copy of final regulations—debt collection, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4199. A letter from the Secretary of Education, transmitting a copy of final regulations for the student assistance general provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4200. A letter from the Secretary of Health and Human Services, transmitting a copy of the 1985-86 report from the National Center on Child Abuse and Neglect, pursuant to Public Law 99-509, section 9339(b)(3) (100 Stat. 2036); to the Committee on Education and Labor.

4201. A letter from the Chairman, Advisory Committee on Student Financial Assistance, transmitting a report on the Pell multiple data entry contracts; to the Committee on Education and Labor.

4202. A letter from the Director, Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's fiscal year 1987 annual report of its activities, pursuant to 42 U.S.C. 2000e-4(e); to the Committee on Education and Labor.

4203. A letter from the Chairman, National Labor Relations Board, transmitting the Board's 51st annual report, pursuant to 29 U.S.C. 154(c); to the Committee on Education and Labor.

4204. A letter from the Secretary of Energy, transmitting a report on the 1988 energy projections transmitted in October 1987, pursuant to 42 U.S.C. 7361(a); to the Committee on Energy and Commerce.

4205. A letter from the Secretary of Agriculture, transmitting the annual horse protection enforcement report, fiscal year 1987, pursuant to 15 U.S.C. 1830; to the Committee on Energy and Commerce.

4206. A letter from the Secretary of Energy, transmitting the Department's quarterly report of the strategic petroleum reserve during the period April 1, 1988, through June 30, 1988, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

4207. A letter from the Secretary of Health and Human Services, transmitting the 1987 report on the consolidated federal programs under the maternal and child health services block grant, pursuant to 42 U.S.C. 706(a)(2); to the Committee on Energy and Commerce.

4208. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's annual report, fiscal year 1987; to the Committee on Energy and Commerce.

4209. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for acting on the appeal in No. 40073, *South-West Railroad Car Parts* v. *Missouri Pacific Railroad Company,* to December 2, 1988, pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

4210. A letter from the Acting Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license and technical assistance agreement with Taiwan for the export of defense articles and defense services sold commercially under a contract in the amount of $50 million or more (Transmittal No. 39-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

4211. A letter from the Acting Assistant Secretary of State, Legislative Affairs, transmitting notification of the intent to issue a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50 million or more, to Switzerland (Transmittal No. MC-37-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4212. A letter from the Acting Assistant Secretary of State, Legislative Affairs, transmitting notification of the intent to issue a proposed commercial export license for the export to Venezuela of major defense equipment sold commercially under a contract in the amount of $14 million or more (Transmittal No. MC-38-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4213. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter (s) of offer and acceptance [LOA] to Spain for defense articles and servcies estimated to cost $64 million (Transmittal No. 88-57), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4214. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposd letter (s) of offer and acceptance [LOA] to Canada for defense articles and servcies estimated to cost $47 million (Transmittal No. 88-56), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4215. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposd letter (s) of offer and acceptance [LOA] to Venezuela for defense articles and services estimated to cost $50 million (Transmittal No. 88-50), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4216. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the President's determination and justification for the request for appropriations to meet unexpected urgent refugee and migration needs in Africa, pursuant to 22 U.S.C. 2601 (c)(3); to the Committee on Foreign Affairs.

4217. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the intent to continue assistance for El Salvador under the Anti-Terrorism Assistance Program, pursuant to 22 U.S.C. 2349aa-3 (a) (1); to the Committee on Foreign Affairs.

4218. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual reporets for the period October 1987-March 1988 listing voluntary contributions by the United States to international organizations, pursuant to 22 U.S.C. 2226 (b) (1); to the Committee on Foreign Affairs.

4219. A letter from the Assistant Secretary of State for legislative Affairs, transmitting the 12th 90-day report on the Camarena investigation, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, Section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

4220. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affarirs.

4221. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affarirs.

4222. A letter from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting the third semi-annual report, on behalf of the Secretary, prepared in consultation with Justice, the Drug Enforcement Administration, Customs, and the Central Intelligence Agency, which includes the appropriate certifications by the Secretary, on official involvement in narcotics trafficking by governments and senior officials, and provides additional information on the investigation into the murder of DEA Agent Camarena and the issue of "hot pursuit" raised with the Government of Mexico, pursuant to 22 U.S.C. 2291-1; to the Committee on Foreign Affairs.

4223. A letter from the Secretary of Commerce, transmitting the final report of the Federal Coal Export Commission, pursuant to 15 U.S.C. 4011 note; to the Committee on Foreign Affairs.

4224. A letter from the Comptroller General, transmitting a listing of reports issued or released by GAO in July 1988, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

4225. A letter from the Assistant Secretary for Health, Department of Health and

Human Services, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4226. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4227. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4228. A letter from the Farm Credit Banks of St. Louis, transmitting the report for the sixth farm credit district retirement plan for the plan year ending December 31, 1987, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4229. A letter from the Managing Director, Federal Communications Commission, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4230. A letter from the Chairman, Federal Election Commission, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4231. A letter from the Director, Administration and Management, Office of the Secretary of Defense, transmitting notification of two proposed new Federal records systems and one altered Federal records system submitted by the Department of the Army, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4232. A letter from the Director, Office of Personnel Management, transmitting a report on its competition advocacy program for fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

4233. A letter from the U.S. Marine Corps, Department of the Navy, transmitting the annual report of the retirement plan for civilian employees of the U.S. Marine Corps exchanges, recreation funds, clubs, messes, and the Marine Corps exchange service, for the year ended December 31, 1987, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4234. A letter from the Administrator, U.S. Small Business Administration, transmitting notification of the determination that it is in the public interest to limit competition for the establishment and operation of a clearinghouse between small business development centers, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Operations.

4235. A letter from the Vice President, Western Farm Credit Bank, transmitting a copy of the financial statements for the Sacramento farm credit employees' retirement plan as part of the 1987 report submitted in July 1988, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4236. A letter from the Director, Office of Management and Budget, transmitting the agency's position on the collection of delinquent debt owed by legislative branch employees to the Federal Government; to the Committee on House Administration.

4237. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

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4246. A letter from the Secretary of the Interior, transmitting his views on H.R. 4127, the American Heritage Trust Act; to the Committee on Interior and Insular Affairs.

4247. A letter from the Attorney General, transmitting notice of judicial district certification for the States of Tennessee and Kentucky, to the Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. 581 note; to the Committee on the Judiciary.

4248. A letter from the National Treasurer, American Gold Star Mothers, Inc., transmitting the organization's report and financial statements for the 12-month period ending June 30, 1988, pursuant to 36 U.S.C. 1101(63), 1103; to the Committee on the Judiciary.

4249. A letter from the Executive Director, American Historical Association, transmitting the Association's report and financial audit for the year ended June 30, 1988, pursuant to 36 U.S.C. 1101(3), 1103; to the Committee on the Judiciary.

4250. A letter from the U.S. Coast Guard Commandment, transmitting the views of the Department on section 4045 of H.R. 4842; to the Committee on Merchant Marine and Fisheries.

4251. A communication from the President of the United States, transmitting an alternative plan for a Federal employees' pay adjustment to become effective on the first day of the first applicable pay period beginning on or after January 1, 1989, pursuant to 5 U.S.C. 5305(c)(1) (H. Doc. No. 100-227); to the Committee on Post Office and Civil Service and ordered to be printed.

4252. A letter from the Chairman, Merit Systems Protection Board, transmitting a report entitled, "A Study of Cases Decided by the U.S. Merit Systems Protection Board in Fiscal Year 1987," pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

4253. A letter from the Secretary of Transportation, transmitting the eighth annual report on collision avoidance systems, pursuant to 49 U.S.C. app. 1348 note; to the Committee on Public Works and Transportation.

4254. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a report of building project survey for Cleveland County, NC, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4255. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a lease prospectus replacement for the Park Building, Rockville, MD, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4256. A letter from the Director of Operations, The John F. Kennedy Center for the Performing Arts, transmitting the Center's audited financial statements for the period ending October 4, 1987, pursuant to 20 U.S.C. 76/(c); to the Committee on Public Works and Transportation.

4257. A letter from the Executive Secretary, Department of Defense, transmitting the report on Department of Defense procurement from small and other business firms for October 1987 through June 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

4258. A letter from the Secretary of Energy, transmitting the ninth annual report on the use of alcohol in fuels, pursuant to 26 U.S.C. 4041 note; to the Committee on Ways and Means.

4259. A letter from the Chairman, Cultural Property Advisory Committee, transmitting a report of the findings and recommendations as to the manner in which the U.S. government should respond to the May 1988 request of the Government of Bolivia for emergency United States import restrictions, pursuant to 19 U.S.C. 2605(f)(6); to the Committee on Ways and Means.

4260. A letter from the Administrator, Agency for International Development, transmitting notification of the administration's determination that the Government of Liberia has made significant progress toward economic reform, political freedoms and human rights, pursuant to Public Law 100-202, title III, section 555(a)(1) and (2) (101 Stat. 1329-1 69-170); jointly, to the Committee on Appropriations and Foreign Affairs.

4261. A letter from the Acting Assistant Secretary of Defense for Production and Logistics, transmitting an action plan for making the U.S. defense industrial base stronger; jointly, to the Committees on Armed Services and Banking, Finance and Urban Affairs.

4262. A letter from the Secretary, Department of Commerce, transmitting a draft of proposed legislation to amend the Public Works and Economic Development Act of 1965 to authorize the Secretary of Commerce to use funds from the economic development revolving fund established by section 203 of the act for the care and protection of collateral acquired in connection with grants made under that act, to provide the Secretary with necessary authority to deal with such property, and for other purposes; jointly, to the Committee on Banking, Finance and Urban Affairs and Public Works and Transportation.

4263. A letter from the Secretary of Labor, transmitting the Secretary's annual report on employment and training programs, pursuant to 29 U.S.C. 1579(d); jointly, to the Committees on Education and Labor and Veterans' Affairs.

4264. A letter from the Secretary of Health and Human Services, transmitting his views of H.R. 4843, a bill to authorize the Secretary of Health and Human Services to make grants for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

4265. A letter from the Acting Director, Office of Civilian Radioactive Waste Management, transmitting a report on the activities and expenditures of the office for the fiscal year ended September 30, 1987, pursuant to 42 U.S.C. 10224(c); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4266. A letter from the Governor, State of Arizona, transmitting a copy of the "Southwestern Low-Level Radioactive Waste Disposal Compact," enacted in Arizona on July 8, 1988, for formal ratification by the House and Senate, pursuant to Public Law 99-240; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4267. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report of the nondisclosure of safeguards information for the quarter ending June 30, 1988, purusant to 42 U.S.C. 2167(e); jointly to the Committees on Interior and Insular Affairs and Energy and Commerce.

4268. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting a report on abnormal occurrences at licensed nuclear facilities for the first calendar quarter of 1988, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4269. A letter from the Acting Comptroller General, transmitting a report on the Federal Home Loan Bank Board's financial statements for the years ended December 31, 1987 and 1986, and reports on the Bank Board's system of internal accounting controls and on its compliance with laws and regulations, pursuant to 31 U.S.C. 9106(a) and 3512(f); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

4270. A letter from the Chairman, Federal Election Commission, transmitting the Commission's budget request for the fiscal year 1990, pursuant to 2 U.S.C. 437d(d)(1); jointly to the Committees on Appropriations and House Administration.

4271. A letter from the Secretary of Health and Human Services, transmitting a report on the impact of the physician assistant reimbursement change under medicare, pursuant to 42 U.S.C. 1395x note Public Law 99-509, section, 9338(e); jointly, to the Committees on Ways and Means and Education and Labor.

4272. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation to restore the administration of the rail industry pension plan to the railroad industry; to move toward the establishment of a private pension system for rail workers; to enhance the ability of the system to continue benefit payments to all railroad retirees and employees; to extend direct coverage of the Social Security system to the railroad industry and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

4273. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for the more efficient transportation abroad of Government-financed passengers and property by noncertified air carriers, and for other purposes; jointly, to the Committees on Ways and Means and Foreign Affairs.

4274. A letter from the Secretary of Agriculture, transmitting the third annual report on agricultural trade consultations, pursuant to 7 U.S.C. 1736r(c); jointly, to the Committees on Agriculture, Foreign Affairs, and Ways and Means.

4275. A letter from the Comptroller General, transmitting a report, "An Overview of Changes in the World Oil Market" (GAO/RCED-88-170; August 1988); jointly, to the Committees on Government Operations, Energy and Commerce, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Aug. 11, 1988, the following report was filed on Sept. 6, 1988]

Mr. PEPPER: Committee on Rules: Supplemental Report to House Resolution 521, resolution providing for the considering of a bill relating to the omnibus drug initiative; Rept. 100-861, Pt. 2. Ordered to be printed.

[Pursuant to the order of the House on Aug. 11, 1988, the following reports were filed on Aug. 12, 1988]

Mr. RODINO: Committee on the Judiciary. H.R. 4427. A bill to amend the Immigration and Nationality Act with respect to the grounds for exclusion and deportation of aliens; with an amendment (Rept. 100-882). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportaton. H.R. 5073. A bill to amend the Federal Aviation Act of 1958 to provide protection for aviation whistleblowers; with an amendment (Rept. 100-883). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. S. 1934. An Act pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes; with an amendment (Rept. 100-884). Referred to the Committee of the Whole House of the State of the Union.

[Pursuant to the order of the House on Aug. 10, 1988, the following reports were filed on Aug. 18, 1988]

Mr. BROOKS: Committee on Government Operations. Report on toward more effective and efficient auditing of Government transportation bills: GSA oversight (Rept. 100-885). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on investigation of disability compensation programs of the Veterans' Administration (Rept. 100-886). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on Aug. 11, 1988, the following reports were filed on Aug. 26, 1988]

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 4970. A bill to amend title 35 of the United States Code relating to animal patents; with an amendment (Rept. 100-888). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Sept. 7, 1988]

Mr. WHITTEN: Committee on Appropriations. Report on revised allocations of subdivision of budget totals for fiscal year 1989 pursuant to section 302(e) of the Congressional Budget Act of 1974, as amended (Rept. 100-890). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 4844. A bill to direct the Federal Aviation Administration to provide assistance to law enforcement agencies in their efforts with respect to drug trafficking interdiction, and for other purposes; with an amendment (Rept. 100-891). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Pursuant to the order of the House on Aug. 10, 1988, the following report was filed on Aug. 18, 1988]

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 2848. A bill to amend title 17, United States Code, relating to copyrights, to provide for the interim statutory licensing of the secondary transmission by satellite carriers of superstations for private viewing by earth station owners; with amendments; referred to the Committee on Energy and Commerce for a period ending not later than September 29, 1988, for consideration of such provisions of the bill and amendments as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rept. 100-887, Pt. 1). Ordered to be printed.

Pursuant to the order of the House on Aug. 10, 1988, the following report was filed on Aug. 26, 1988]

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 4807. A bill to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes; with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than September 26, 1988, for consideration of such provisions of title V of the bill and the amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rept. 100-889, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON (for himself, Mr. Nowak, Mr. Hammerschmidt, and Mr. Stangeland):

H.R. 5247. A bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. CRAIG:

H.R. 5248. A bill to amend title XVIII of the Social Security Act to eliminate mandated caps on physicians' fees, and to eliminate the reimbursement differential between hospitals in different areas; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DAVIS of Michigan:

H.R. 5249. A bill to protect the Great Lakes from the disposal of medical waste, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries; Science, Space and Technology; Energy and Commerce; and Public Works and Transportation.

By Mr. LEVIN of Michigan (for himself and Mr. Moody):

H.R. 5250. A bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the Old-Age, Survivors, and Disability Insurance Program and the Supplement Security Income Program; to the Committee on Ways and Means.

By Mr. DeLAY:

H.R. 5251. A bill to amend the Stewart B. McKinney Homeless Assistance Act to clarify the provisions relating to the use of surplus Federal property to assist the homeless; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

By Mr. EDWARDS of California (for himself and Ms. Pelosi):

H.R. 5252. A bill to authorize the Secretary of Housing and Urban Development to make grants to States for the preservation of low income housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DERRICK:

H.R. 5253. A bill to amend title XVIII of the Social Security Act, to allow Medicare coverage for all clinical diagnostic laboratory services; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FIELDS:

H.R. 5254. A bill to amend the Panama Canal Act of 1979 with respect to proxies of the Panama Canal Commission, and the transfer of use of funds available to the Panama Canal Commission; to the Committee on Merchant Marine and Fisheries.

By Mr. GRADISON:

H.R. 5255. A bill to temporarily suspend the duty on self-folding collapsible umbrellas; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 5256. A bill to exempt certain pension plans established for firefighters and policemen from the minimum participation rules enacted in the 1986 Tax Reform Act; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5257. A bill to amend title XVIII of the Social Security Act with respect to payment for capital-related costs for inpatient hospital services under the Medicare Program; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 5258. A bill to authorize the Secretary of the Interior to transfer title to certain project lands acquired for the Palmetto Bend Project, TX, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 5259. A bill to amend title XVIII of the Social Security Act to permit small rural hospitals to elect to be paid on a reasonable cost basis; to the Committee on Ways and Means.

By Mr. UPTON:

H.R. 5260. A bill to provide protection for established recreational uses of water resources projects constructed by the Secretary of the Army; to the Committee on Public Works and Transportion.

By Mr. UDALL (for himself, Mr. Waxman, Mr. Young of Alaska, Mr. Rhodes, Mr. Nielson of Utah, Mr. Campbell, Mr. Lagomarsino, and Mr. Bereuter):

H.R. 5261. A bill to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. KASTENMEIER:

H.J. Res. 647. Joint resolution designating September 24, 1989, as "U.S. Marshals Bicentennial Day"; to the Committee on Post Office and Civil Services.

By Mr. ANNUNZIO:

H. Con. Res. 361. Concurrent resolution to print a revised edition of "Our Flag"; to the Committee on House Administration.

By Mr. SOLARZ (for himself, Mr. Fascell, Mr. Broomfield, and Mr. Leach of Iowa):

H. Res. 529. Resolution in support of the restoration of democratic government in Burma; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

459. By the SPEAKER: Memorial of the House of Representatives of the State of Mississippi, relative to the Choctaw All-Season Outdoor Recreational Complex and Tourist Attraction; to the Committee on Interior and Insular Affairs.

460. Also, memorial of the Legislative of the State of California, relative to California's coastal management program; to the Committee on Merchant Marine and Fisheries.

461. Also, memorial of the Legislative of the State of California, relative to Vietnam veterans centers; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 39: Mr. Horton.

H.R. 382: Mr. Pickett.

H.R. 387: Mr. Owens of New York and Mr. Kolter.

H.R. 458: Mr. Bunning and Mr. MacKay.

H.R. 722: Mr. Martin of New York.

H.R. 936: Mr. Broomfield.

H.R. 1028: Mr. Chandler, Mr. Sisisky, Mr. McCrery, and Mr. Olin.

H.R. 1076: Mr. Miller of Washington.

H.R. 1398: Mr. Wolpe.

H.R. 1635: Mr. Guarini.

H.R. 1663: Mr. Shays, Mr. Miller of Washington, and Mr. Durbin.

H.R. 1782: Mr. Shuster.

H.R. 1925: Mr. Marlenee.

H.R. 1961: Mr. Bonker.

H.R. 2036: Mrs. Boxer, Mrs. Roukema, and Mr. Lantos.

H.R. 2091: Mr. McEwen.

H.R. 2148: Mrs. Lloyd and Mr. Mineta.

H.R. 2238: Mr. Pease, Mr. Jenkins, Mr. Hiler, Mr. Mack, Mr. Coats, Mr. Madigan, Mr. Rose, Mr. Ravenel, and Mrs. Morella.

H.R. 2854: Mr. Hughes, Mrs. Collins, and Mr. LaFalce.

H.R. 2920: Mr. Baker.

H.R. 2925: Mr. Blaz, Mr. Saxton. Mr. Nielson of Utah, Mr. Chapman, and Mr. Lagomarsino.

H.R. 2934: Mr. Bates.

H.R. 3054: Mr. Stratton.

H.R. 3081: Mr. Towns, Mr. Herger, Mr. Lagomarsino, and Mr. Chapman.

H.R. 3241: Mr. Wolpe.

H.R. 3314: Mr. Atkins, Mr. Feighan, Mr. Nielson of Utah, Mr. Pease, and Mr. Mfume.

H.R. 3348: Mr. Morrison of Connecticut.

H.R. 3410: Mr. Wolpe.

H.R. 3454: Mr. AuCoin and Mr. Stallings.

H.R. 3478: Mr. Davis of Michigan, Mr. Scheuer, Mr. Buechner, and Mr. Mfume.

H.R. 3620: Mr. Sisisky.

H.R. 3778: Mr. Schulze.

H.R. 3791: Mr. Marlenee.

H.R. 3815: Mr. Boulter.

H.R. 3919: Mrs. Morella.

H.R. 3944: Mr. Gordon and Mr. Stallings.

H.R. 4018: Ms. Oakar and Mr. Yatron.

H.R. 4127: Mr. Gray of Pennsylvania, Mr. Mfume, Mr. Torricelli, Mr. Flake, Mrs. Meyers of Kansas, Mr. Hastert, Mr. Staggers, Mr. Owens of New York, and Mr. Grant.

H.R. 4136: Mr. Flake and Mr. Morrison of Connecticut.

H.R. 4189: Mr. Ford of Tennessee and Mr. Lantos.

H.R. 4213: Mr. Glickman.

H.R. 4227: Mr. Gunderson.

H.R. 4277: Mrs. Patterson, Mr. Coble, and Mr. Inhofe.

H.R. 4297: Mr. Morrison of Connecticut, Mr. Kennedy, and Mr. Martinez.

H.R. 4357: Mrs. Byron.

H.R. 4362: Mr. Stump and Mr. Kolbe.

H.R. 4396: Mr. Vento.

H.R. 4420: Mr. Lipinski.

H.R. 4454: Mrs. Boxer.

H.R. 4479: Mr. Fazio, Mr. Bryant, Mr. Kennedy, Mr. Mollohan, and Mr. Applegate.

H.R. 4498: Mr. Davis of Illinois, Mr. Campbell, Mr. Rahall, and Mr. Blaz.

H.R. 4511: Mr. Holloway.

H.R. 4530: Ms. Pelosi.

H.R. 4531: Mr. Buechner, Mr. Donald E. Lukens, and Mr. Denny Smith.

H.R. 4552: Mr. Borski, Mr. Bonior, Mr. Towns, Mr. Traficant, Mr. Hayes of Illinois, and Mr. Torres.

H.R. 4554: Mr. Chandler.

H.R. 4575: Mr. Walgren, Mr. Berman, Mr. Akaka, and Mr. Moody.

H.R. 4603: Mr. Parris, Mr. McCloskey, and Mr. DeWine.

H.R. 4606: Mr. Espy, Mr. Bates, and Mr. Berman.

H.R. 4609: Mr. Henry.

H.R. 4664: Mr. Derrick.

H.R. 4708: Mr. Hatcher, Mr. Bonior, Mrs. Collins, and Mr. Bryant.

H.R. 4717: Mr. Boulter.

H.R. 4768: Mr. Whittaker and Mr. Donald E. Lukens.

H.R. 4787: Mr. AuCoin and Mr. Wyden.

H.R. 4803: Mrs. Collins, Mr. Horton, Mr. Fauntroy, Mr. Bryant, Mr. Shumway, Mr. Hawkins, Mr. Foglietta, and Mr. Dicks.

H.R. 4846: Mr. Meyers of Kansas, Mr. Wolpe, Ms. Slaughter of New York, Mrs. Patterson, Mr. Lancaster, Mr. Evans, and Mr. Hawkins.

H.R. 4862: Mr. Donnelly.

H.R. 4894: Mr. Edwards of Oklahoma.

H.R. 4921: Mr. Hochbrueckner.

H.R. 4968: Mr. Bates, Mr. Stark, and Mr. Hawkins.

H.R. 4979: Mr. Hawkins and Mr. Kaptur.

H.R. 4987: Mr. Owens of New York, Mr. Rahall, and Mr. McEwen.

H.R. 4989: Mr. Kildee.

H.R. 5000: Mr. Evans, Mr. Morrison of Connecticut, Mr. Manton, and Mr. Sensenbrenner.

H.R. 5003: Mr. Kennedy.

H.R. 5018: Mr. Scheuer, Mr. Foglietta, and Mr. Owens of New York.

H.R. 5024: Mr. Campbell.

H.R. 5031: Mr. Foglietta.

H.R. 5033: Mr. Bonker.

H.R. 5075: Mr. Grandy, Mr. Clay, Mr. Thomas of California, Mr. Ray, Mr. Morrison of Washington, Mr. Tauzin, Mr. Hughes, Mr. Goodling, Mr. Barnard, Mr. Davis of Michigan, Mr. Smith of New Jersey, Mr. Rhodes, and Mr. Gingrich.

H.R. 5081: Mr. Mavroules, Mrs. Saiki, Mr. Ford of Tennessee, and Mr. Gejdenson.

H.R. 5122: Mr. Campbell, Mr. Dwyer of New Jersey, Mr. Fawell, Mr. Jontz, Mr. Fauntroy, Mr. Lipinski, Mr. English, Mrs. Boxer, and Mr. Frost.

H.R. 5151: Mr. Dornan of California, Mr. Sundquist, Mr. Hefner, Mr. Rowland of Connecticut, Mr. Wortley, Mr. Emerson, Mr. Jenkins, Mr. Swindall, Mr. McCandless, Mr. Solomon, Mr. Bustamante, Mr. Marlenee, Mr. Frank, and Mr. Armey.

H.R. 5167: Mr. Lagomarsino, Mr. Myers of Indiana, Mrs. Saiki, Mr. Hughes, and Mr. DeWine.

H.R. 5186: Mr. Manton, Mr. Grant, Mr. Evans, Mr. Montgomery, Mr. Valentine, Mr. Leach of Iowa, Mr. de la Garza, Mr. Hatcher, Mr. Roe, Mr. Watkins, Mr. Mollohan, Mr. Fazio, Mr. Goodling, Mr. Ford of Tennessee, Mr. Wilson, Mr. Bevill, Mr. Frank, and Mr. Hammerschmidt.

H.R. 5225: Mr. Rinaldo.

H.J. Res. 330: Mr. Gejdenson, Mr. Gray of Pennsylvania, Mrs. Kennelly, Mr. Nichols, Mr. Robinson, Mr. Hayes of Louisiana, Mr. Callahan, Ms. Kaptur, Mr. Bevill, Mr. Darden, Mr. McGrath, Mr. Costello, Mr. Tauzin, Mr. Gordon, Mr. Hefner, Mr. Swindall, Mr. Clement, Mr. AuCoin, Mr. Flake, Mr. Lancaster, Mr. Akaka, Mr. Brown of Colorado, Mr. Hall of Ohio, and Mr. Bennett.

H.J. Res. 360: Mr. Gregg, Mr. Ford of Michigan, Mr. Dorgan of North Dakota, Mr. Traficant, Mrs. Kennelly, Mr. Bliley, Mr. Gallegly, Mr. Morrison of Connecticut, Mrs. Boxer, and Mr. Ravenel.

H.J. Res. 449: Mrs. Morella, Mr. Upton, Mr. Clement, Mr. Applegate, Mr. Bunning, Mr. Goodling, Mr. McHugh, Mr. Coughlin, Mr. Jeffords, Mr. Hopkins, Mr. Durbin, Mr. Clarke, Mr. Coble, Mr. Clinger, Mr. Stark, Mr. Murtha, Mr. Grandy, Mrs. Boggs, Mr. Thomas A. Luken, Mr. Young of Florida, Mr. Gejdenson, Mr. Hefner, and Ms. Oakar.

H.J. Res. 477: Mr. Lewis of California, Mr. Akaka, Mr. Chandler, Mr. Rangel, Mr. Bruce, Mr. Dowdy of Mississippi, Mr. Mack, Mr. Olin, Mr. Dymally, and Mr. de la Garza.

H.J. 520: Mr. Shays, Mr. Hamilton, Mr. Bonior of Michigan, Mrs. Roukema, Mr. Kolbe, Mrs. Kennelly, and Mr. Robinson.

H.J. Res. 526: Mr. Fawell.

H.J. Res. 537: Mr. Upton, Mr. Pashayan, Mr. Florio, Mr. Neal, Mr. Quillen, Mrs. Patterson, Mr. McCloskey, Mr. Tallon, Mr. Manton, Mrs. Lloyd, Mr. Roberts, Mr. Sundquist, Mr. Jacobs, Mr. Hall of Ohio, Mr. Archer, Mr. Berman, Mr. Borski, Mr. Brooks, Mr. Conte, Mr. Frank, Mr. Kildee, Mr. Thomas A. Luken, Mr. Martinez, Mrs. Kennelly, Mr. Morrison of Connecticut, Mr. Eckart, Mr. Young of Florida, Mr. Jeffords, Mr. Shays, Mr. Gordon, Mr. Kolter, Mr. Holloway, Mr. Moody, Mr. Emerson, Mr. Vento, Mr. Kennedy, Mr. Ford of Michigan, Mr. Coelho, Mr. Buechner, Mr. Miller of California, Mr. Clement, Mr. Dannemeyer, Mr. Thomas of Georgia, Mr. Clinger, Mr. Bevill, Mr. Dixon, Mr. Gejdenson, Mr. Hawkins, Mr. Chandler, Mr. Wolpe, Mr. Donald E. Lukens, Mr. Dellums, Mr. Moorhead, Mr. Stump, Mr. Grant, and Mr. Gilman.

H.J. Res. 540: Mrs. Lloyd, Mrs. Johnson of Connecticut, Mr. Hochbrueckner, Mr. Mfume, Mr. Bonior of Michigan, Mr. Dannemeyer, Mr. Barton of Texas, Mr. Wylie, Mr. Visclosky, Mr. Payne, Mr. Torricelli, Mrs. Saiki, Mr. Hatcher, Mr. Robinson, Mr. Jacobs, Mr. Waxman, Mr. Hopkins, Mr. Kolter, Mr. Johnson of South Dakota, Mr. Moorhead, Mr. Morrison of Connecticut, Mr. Sisisky, Mr. Anthony, Mr. Frank, Mr. Panetta, Mr. Frenzel, Mr. Blaz, Mr. Bliley, Ms. Snowe, Mr. Hawkins, and Mr. DeWine.

H.J. Res. 557: Mr. Stump, Mr. Hamilton, Mr. Broomfield, Mr. Sisisky, Mr. Brennan, Mr. McMillen of Maryland, Mr. Coats, Mr. Carper, Mr. Smith of New Hampshire, Mr. Fascell, Mr. Studds, Mr. Frank, Mr. Payne, Mr. Upton, and Mr. Pepper.

H.J. Res. 564: Mrs. Patterson, Mr. Manton, Mr. Fawell, Mr. McCloskey, Mr. Ford of Tennessee, Mrs. Johnson of Connecticut, Mr. Frenzel, Mr. Stratton, Mr. Courter, Mr. Hoyer, Mr. LeLand, Mr. Wilson, Mr. Gephardt, and Mr. Lipinski.

H.J. Res. 570: Mr. Bliley, Mr. Bonior of Michigan, Mr. Boucher, Mr. Bryant, Mrs. Johnson of Connecticut, Mr. Kostmayer, Mr. Levin of Michigan, Mr. Martinez, Mr. McMillen of Maryland, Mr. Neal, Mr. Olin, Mrs. Patterson, Mr. Schumer, Mr. Sisisky, Mr. Stokes and Mr. Wortley.

H.J. Res 571: Mr. McGrath, Mr. Bliley, Mr. Traficant, Mr. Russo, and Mr. Campbell.

H.J. Res. 575: Mr. Applegate, Mr. Bonior of Michigan, Mr. Boucher, Mr. Brown of California, Mr. Coleman of Missouri, Mr. Coyne, Mr. Crockett, Mr. Daub, Mr. de Lugo, Mr. DeWine, Mr. Dreier of California, Mr. Ford of Tennessee, Mr. Fuster, Mr. Grandy, Mr. Hansen, Mr. Hastert, Mr. Hatcher, Mr. Hertel, Mr. Hutto, Mr. Kemp, Mr. Mavroules, Mr. Markey, Mr. Mazzoli, Mrs. Meyers of Kansas, Mr. Montgomery, Mr. Neal, Ms. Oakar, Mr. Parris, Mr. Rhodes, Mr. Richardson, Mr. Rinaldo, Mr. Rodino, Mr. Sabo, Mr. Skelton, Mr. Spratt, Mr. Tauke, Mr. Watkins, Mr. Wyden, Mr. Yates, and Mr. Yatron.

H.J. Res. 576: Mr. Ackerman, Mr. Aspin, Mr. Bonior of Michigan, Mr. Bonker, Mr. Bustamante, Mr. Coleman of Missouri, Mr. Dymally, Mr. Edwards of Oklahoma, Mr. Frenzel, Mr. Hansen, Mr. Jacobs, Mr. LaFalce, Mr. LeLand, Mr. Lewis of Florida, Mr. McMillen of Maryland, Mr. Manton, Mr. Mineta, Mr. Morrison of Connecticut, Ms. Pelosi, Mr. Robinson, Mr. Scheuer, Mr. Shaw, Mr. Smith of Florida, Mr. Synar, and Mr. Wheat.

H.J. Res. 582: Mr. Neal, Mr. Lancaster, Mr. Bevill, Mr. Chappell, Mr. Emerson, Mr. Hayes of Illinois, Mr. Skelton, Mr. Bryant, Mr. Sabo, Mr. McMillen of Maryland, Mr. Coughlin, Mr. Donald E. Lukens, Mr. DeWine, Mr. Wolpe, Mr. Anderson, Mr. Shumway, Mr. Pashayan, Mr. Lent, Mr. Davis of Michigan, Mr. Andrews, Mr. Moorhead, Mr. McHugh, Mr. Vento, Mr. Green, Mr. Hawkins, Mr. Russo, Mr. Archer, Mr. Scheuer, Mr. Callahan, Mr. Payne, Mr. Huckaby, Mr. Bilbray, Mrs. Morella, Mr. Chandler, Mr. Hochbrueckner, Mr. Manton, Mr. Schaefer, Mr. LaFalce, Mr. Ray, Mr. Rowland of Connecticut, Mr. Jontz, Mr. Kostmayer, Mr. Coelho, Mr. Kennedy, Mr. Erdreich, Mr. Florio, Mr. Henry, Mr. Wortley, Mr. Brown of California, Mr. Barton of Texas, Mr. Bruce, Mr. Baker, Mrs. Meyers of Kansas, Mr. Hammerschmidt, Mr. Ford of Tennessee, Mr. English, Mr. Valentine, Mr. Bunning, Mr. Thomas A. Luken, Mr. Lehman of California, Mr. Goodling, and Mr. Volkmer.

H.J. Res. 585: Mr. Anderson, Mr. Bryant, Mr. Bennett, Mr. Bonior of Michigan, Mr. Clement, Mr. Coelho, Mrs. Collins, Mr. Neal, Mr. Valentine, and Mr. Wortley.

H.J. Res 596: Mr. Thomas A. Luken and Mr. Foglietta.

H.J. Res. 598: Mr. Bonior of Michigan, Mr. Owens of Utah, Mr. Brennan, Mr. Saxton, Mr. McMillen of Maryland, Mr. Rangel, and Mr. English.

H. J. Res. 603: Mr. Waxman, Mr. Wylie, Mr. McEwen, Mr. Rinaldo, Mr. Bonior of Michigan, Mr. Gregg, Mr. Thomas A. Luken, Mr. Bilirakis, Mr. Emerson, Mr. Clement, Mr. Green, Mr. Synar, Mr. Sabo, Mr. Applegate, Mr. LaFalce, Mr. Bustamante, Mr. Ford of Michigan, Mr. Aspin, Mr. Porter, Mr. Smith of New Hampshire, Mr. Rodino, Mr. Chandler, Mr. Wyden, Mr. McMillen of Maryland, Mr. Rahall, Mr. Parris, Mr. Dowdy of Mississippi, Mr. Skelton, Mr. Valentine, Mr. Wortley, Mr. Carper, Mr. Dixon, Mr. Darden, Mr. Miller of Ohio, Mr. Annunzio, Mr. Jones of Tennessee, Mr. Frank, Mr. Lowry of Washington, Mr. Pashayan, Mr. Lewis of Georgia, Mr. Markey, Mr. Frost, Mr. AuCoin, Mr. Bates, Mr. Thomas of Georgia, Mr. Robinson, Mr. Hayes of Louisiana, Mr. Garcia, Mr. Fuster, Mr. Lewis of Florida, Mr. Moody, Mr. Martin of New York, Mr. Bryant, Mr. Weldon, Mr. Jeffords, Mr. Ray, and Mr. Dymally.

H. J. Res. 604: Mr. Coelho, Mr. Hammerschmidt, Mr. Bonior of Michigan, Mr. Hatcher, Mr. Lantos, Mr. Rangel, and Mr. Bliley.

H. J. Res. 615: Mr. Anderson, Mr. de Lugo, Mr. Wolf, Mr. Wortley, and Mr. Applegate.

H. J. Res. 619: Mr. Foglietta, Mr. Hayes of Louisiana, Mrs. Johnson of Connecticut, Mr. Leland, Mr. Darden, Mr. Buechner, Mr. Lantos, Mr. Callahan, Mr. Campbell, Mr. Jeffords, and Mr. DeFazio.

H. J. Res. 623: Mr. Lehman of California, Mr. Chapman, Mr. Hughes, Mr. Brown of California, Mr. Frenzel, Mr. Gekas, Mr. Bliley, Mr. Young of Alaska, Mr. Levin of Michigan, and Mr. Visclosky.

H. J. Res. 626: Mr. Annunzio, Mr. Bennett, Mrs. Bentley, Mr. Bevill, Mr. Bliley, Mr. Boland, Mr. Borski, Mr. Boucher, Mr. Boulter, Mrs. Boxer, Mr. Brown of Colorado, Mr. Bustamante, Mr. Crockett, Mr. Darden, Mr. Dixon, Mr. Dornan of California, Mr. Dymally, Mr. Fauntroy, Mr. Fish, Mr. Frenzel, Mr. Fuster, Mr. Gray of Illinois, Mr. Hughes, Mr. Kolter, Mr. Lagomarsino, Mr. Leland, Mr. Mack, Mr. Montgomery, Mr. Moorhead, Ms. Oakar, Ms. Pelosi, Mr. Rahall, Mr. Savage, Mr. Shaw, Mr. Tallon, Mr. Tauzin, Mr. Traxler, Mr. Vander Jagt, and Mr. Visclosky.

H. J. Res. 630: Mr. Anthony, Mr. Bliley, Mr. Kanjorski, and Mr. Ireland.

H. J. Res. 636: Mr. Smith of Florida, Mr. Ackerman, Mr. Bennett, Mr. Berman, Mr. Bevill, Mr. Bliley, Mr. de la Garza, Mr. Dymally, Mr. Espy, Mr. Frost, Mr. Fuster, Mr. Grant, Mr. Hatcher, Mr. Kostmayer, Mr. Lehman of Florida, Mrs. Lloyd, Mr. McEwen, Mr. Mack, Mr. MacKay, Mr. Matsui, Mr. Mica, Mr. Moakley, Mr. Owens of New York, Mr. Pepper, Mr. Wolf, Mr. Wortley, and Mr. Dyson.

H. J. Res. 639: Mr. Fazio, Mr. Wyden, Mr. Bevill, Mr. Lujan, Mr. Bliley, Mr. Anderson, Mr. Kolter, Mr. McMillen of Maryland, Mr. Wolf, Mr. Kleczka, Mrs. Kennelly Mr. Coelho, Mr. Moakley, Mr. Rangel, Mr. Boucher, Mr. Smith of Florida, Mr. Wortley, Mr. Gonzalez, Mr. Leland, Mr. Stokes, Mr. Volkmer, Mr. Ackerman, Mrs. Boxer, Mr. Atkins, Mr. de la Garza, and Ms. Oakar.

H. J. Res. 645: Mr. Owens of New York, Mr. Bliley, Mr. Wortley, and Mr. Fauntroy.

H. Con. Res. 28: Mr. Traficant and Mr. Montgomery.

H. Con. Res. 263: Mr. Buechner.

H. Con. Res. 277: Mrs. Schroeder.

H. Con. Res. 295: Mr. Tallon and Mr. Stark.

H. Con. Res. 317: Mr. Dreier of California, Mr. Shays, Mr. Bates, Mr. Jeffords, Mr. Gejdenson, Mr. Moody, Mr. Montgomery, Mr. Burton of Indiana, Mr. Dixon, Mr. Wise, Mrs. Boxer, Mr. Moorhead, and Mr. Kasich.

H. Con. Res. 327: Mr. Donald E. Lukens, Mr. Skaggs, and Mr. Buechner.

H. Con. Res. 328: Mr. Torricelli and Mrs. Schroeder.

H. Con. Res. 349: Mr. Horton and Mr. Lancaster.

H. Con. Res. 354: Mr. McEwen, Mr. Badham, and Mr. Lightfoot.

H. Res. 471: Mr. Pease, Mr. Levine of California, Mr. Lehman of Florida, Mr. Feighan, Mr. Wolpe, Mr. Bryant, Mr. Bereuter, Mr. Vento, Mr. Kennedy, and Mr. Edwards of California.

H. Res. 516: Mr. Atkins, Mr. Owens of New York, Mr. Wilson, Mr. AuCoin, and Mr. Hyde.

H. Res. 527: Mr. Foglietta, Mr. Shays, and Mr. Bryant.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2148: Mr. Fawell.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

225. By the SPEAKER: Petition of the Vietnam Veterans Outreach, Joplin, MO, relative to the POW/MIA search in Vietnam; to the Committee on Foreign Affairs.

226. Also, petition of the Embassy of Venezuela, Washington, DC, relative to a copy of a declaration passed by the Chamber of Deputies of the Congress of Venezuela concerning the process of disarming the nuclear weapons in Europe; to the Committee on Foreign Affairs.

227. Also, petition of the National Association of Commissions for Women, Washington, DC, relative to S. 2042; to the Committee on House Administration.

228. Also, petition of the city of Miami Commission, Miami, FL, relative to the American Heritage Trust Act; to the Committee on Interior and Insular Affairs.

229. Also, petition of Mr. John Henry Lewis, Morristown, PA, relative to a writ of habeas corpus; to the Committee on the Judiciary.

230. Also, petition of the Board of Supervisors, county of Los Angeles, relative to highway funding; jointly, to the Committees on Public Works and Transportation and Ways and Means.

EXTENSIONS OF REMARKS

WHO ARE THE VICTIMS OF CAPITAL PUNISHMENT?

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. CLAY. Mr. Speaker, as we consider the death penalty amendment to the omnibus drug bill, I must urge my colleagues to reflect on the history of the use of capital punishment in our society.

In 1623, when some of our earliest ancestors were migrating to the new world, John Donne wrote: "Any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee."

Many in our society, indeed many in this Congress do not agree with the sentiments expressed by this distinguished writer. Indepth studies demonstrate that the death penalty is applied in a wholly capricious and arbitrary manner. Between the years 1930 and 1982, 3,800 persons were officially executed in the United States. The only consistent factor in each case is that every victim was economically disadvantaged and/or the member of a minority group. Poverty and race are the two constant factors in the capital punishment equation. Ethics, principles, and morality have nothing to do with the State's decision to kill people. The rich, the famous, and the influential do not suffer such harsh punishment. Retribution for these individuals ranges from exoneration to life imprisonment—and most often it is tied to an individual's wealth, fame, and influence.

In order to comprehend the real extent and the magnitude of capital punishment in the United States, we should add the number of black Americans who where lynched to the list of 3,800 people who were officially executed by the State. Although lynching was not carried out in accordance with due process of the law, the State sanctioned these executions by its failure to prosecute the whites who carried out these barbarous deeds.

Since 1934, lynchings have not posed a problem of national concern. Between 1935 and 1962, a mere 85 Americans were reported as victims of lynchings. But, from 1882 to 1934, 4,736 people were lynched in the United States. Of this number, 3,362 were blacks accused of homicide, felonious assault, rape, attempted rape, robbery, theft, and insulting a white person. The official number of lynchings is probably underestimated by at least 75 percent. Most lynchings never came to public attention and those which did usually were quickly dismissed as necessary to preserve law and order.

One case, typical of many others, made its way to the Supreme Court of the United States. In this suit, *Moore* v. *Dempsey*, 261 U.S. 86 (February 19, 1923), Justice Holmes delivered the opinion. This action was highly unusual, most similar cases were disposed of by local grand juries and never reached the Supreme Court. But in this instance, according to the Negro Almanac:

> This case was an outgrowth of an Arkansas race riot, during which one white man was killed, and several people of both races were injured. Twelve blacks were sentenced to death, and 67 to lengthy prison terms.
>
> Black witnesses appearing at the trial were whipped until they consented to testify against the accused. The all-white jury heard the case in the presence of a mob threatening violence if there were no convictions. The court appointed counsel did not ask for a change of venue, and called no witnesses—not even the defendants themselves. The trial lasted 45 minutes, and the jury brought in a verdict of guilty after five minutes.
>
> NAACP attorneys later applied for a writ of habeas corpus in the federal courts, a petition which was at first dismissed on demurrer. The U.S. Supreme Court ultimately ruled that the petition would be heard, and reversed the decision of the Arkansas District Court, with Justice Holmes stating in his opinion that "* * * counsel, jury and judge were swept to the fatal end by an irresistible wave of public passion * * *."

Conditions and circumstances have not fundamentally changed since the days of illegal, State sanctioned lynchings. Today, the same inhumane mentality exists toward blacks and poor whites.

In October 1983, 1,268 convicted criminals were on death row, 654 poor whites, 531 poor blacks, 67 poor hispanics, 9 poor native Americans, 5 poor Asian-Americans and two others quietly awaited extermination. Only 30 percent of the American population is classified as poor, only 12 percent as black, and 56 percent of blacks fall into the category of poor. If 100 percent of those on death row are poor and 42 percent of them are black, collective wisdom tells us that the "bell tolls" only for those who are black and poor.

Justice William O. Douglas wrote in the Furman case, "One searches our chronicles in vain for the execution of any member of the affluent strata of this society." Common sense reveals something grossly unfair about a legal system which subjects only blacks and poor whites to barbaric punishment. Common decency demands we address this abomination and common cause mandates that we end this injustice.

If blacks were guilty of committing premeditated murder in disproportionate numbers, their more frequent execution numbers would have a different meaning. But, the simple truth is that blacks do not commit premeditated murder more frequently than the populaltion. The capricious and arbitrary punishment of black defendants underlies this higher rate of conviction. Black defendants are most often the victims of incompetent legal representation and discrimination in jury selection. In addition, there is often a dual standard for assessing the value of life in the majority community and the value of life in the minority community. The combination of these factors is the real reason for the higher number of blacks on death row.

For example, in the State of South Carolina, 75 percent of those sentenced to die in recent years were black. Yet, not a single black served on any of the juries which convicted these individuals. This reality reflects what is common practice throughout our entire Nation. The only white to receive the death penalty was shamefully represented by an incompetent prima donna masquerading as an attorney. As reported by David Bruck in the New Republic:

> In South Carolina, where I practice law, murders committed during robberies may be punished by death. According to police reports, there were 286 defendants arrested for such murders from the time South Carolina's death penalty law went into effect in 1977 until the end of 1981. (About a third of those arrests were of blacks charged with killing whites.) Out of all of those 286 defendants, the prosecution had sought the death penalty and obtained final convictions by the end of 1981 against 37. And of those 37 defendants, death sentences were imposed and affirmed on only 4; the rest received prison sentences. What distinguished those 4 defendants' cases was this: 3 were black, had killed white storeowners, and were tried by all-white juries; the fourth, a white, was represented at his trial by a lawyer who had never read the state's murder statute, had no case file and no office, and had refused to talk to his client for the last two months prior to the trial because he'd been insulted by the client's unsuccessful attempt to fire him.

Mr. Speaker, the effort to enact a Federal death penalty amendment to the omnibus drug initiative is really just an attempt to involve the Federal Government in the legal lynchings that too many States still practice. If a Federal death penalty law is enacted, we already know who is liable to be executed. We cannot pretend that this death penalty amendment will send a single drug kingpin to the electric chair. A death penalty means absolutely nothing to the heads of the international drug cartels. Those who earn millions of dollars a year in the illegal narcotics trade already have their own armies, their own assassins and their own methods of justice. The only individuals who might ever be affected by this amendment are a handful of poor blacks whose ancestors were already lynched by our Government and who have perhaps developed some misguided and distorted dreams about how to improve themselves in a capitalist society. The death penalty amendment is a travesty to justice and it is a crime to attach it to the omnibus drug initiative. I encourage my colleagues to defeat this misguided, distorted, and abominable amendment.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

NEXT, A FREE-TRADE PACT WITH JAPAN?

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. GARCIA. Mr. Speaker, in midst of the consideration of legislation for the United States-Canada Free Trade Agreement in Congress there have also been discussions relating to establishing a free trade agreement between the United States and Japan. The August 12 issue of the Wall Street Journal had a thoughtful editorial written by Ambassador Ernest Preeg on this interesting concept. Ambassador Preeg is presently a senior fellow at the Center for Strategic and International Studies.

Ambassador Preeg points out that there have been more attention given to beginning negotiations on forming a free trade agreement with Japan but not enough on what should be the substance of the agreement. He calls for an indepth examination by the U.S. Government of such an agreement. Currently, there are studies being undertaken by the United States International Trade Commission and Japan researching the possibilities for negotiations.

I submit Ambassador Preeg's editorial for my colleague's perusal:

[From the Wall Street Journal, Aug. 12, 1988]

NEXT, A FREE-TRADE PACT WITH JAPAN?

(By Ernest H. Preeg)

A free-trade agreement between the U.S. and Japan boggles the traditional, most-favored-nation mind. Peter Murphy, deputy U.S. trade representative, recently dismissed the idea as moot, because "it almost certainly would not win U.S. congressional approval."

Nevertheless, the idea is receiving persistent attention. Ambassador Mike Mansfield is known to favor a free-trade agreement. Prime Minister Noboru Takeshita discussed it with Senate Majority Leader Robert Byrd during his Washington visit in January. Trasury Secretary James Baker has alluded to the possibility, and Sen. Lloyd Bentsen has requested the International Trade Commission to assess the pros and cons for bilateral negotiations on the subject.

The problem is that discussion of the pros and cons of entering formal negotiations is taking place before an examination of what the substance of an ultimate agreement might look like. Parallels are often drawn with the pending U.S.-Canada free-trade agreement, but this is a limited and potentially misleading comparison. The U.S.-Canada agreement reflects the distinctive characteristics of the two nations' relationship. This is seen especially in the energy and investment provisions. Major bones of contention between the U.S. and Japan, such as bidding on public porocurement contracts and intellectual property protection, are treated very lightly in the U.S.-Canada agreement.

THREE LINES OF REASONING

The specifics of a possible U.S.-Japan arrangement have not yet been addressed publicly in any detail in either country. The Japanese have at least three studies on the subject under way, in and out of the government, but there is no counterpart American effort. Sen. Bentsen's request to the International Trade Commission is limited to examining the pros and cons of entering into negotiations with Japan and does not address the substance of a possible agreement.

Despite the paucity of analysis, three distinct lines of reasoning in support of considering a U.S.-Japan agreement have emerged.

The first might be called the stalking horse Uruguay Round/European Communities concept. There is growing concern on both shores of the Pacific that the GATT Uruguay Round of multilateral trade negotiations will not achieve much in terms of multilateral trade liberalization because the EC and some developing countries, such as Brazil and India, are unprepared to open their markets. The EC is becoming increasingly preoccupied with an internal unified market by 1992, and statements about the "reciprocity" expected from outsiders sound ominous to U.S. and Japanese observers.

In a January article in International Economy, principally about the U.S.-Canadian agreement, Secretary Baker wrote: "The rewards of this agreement offer an incentive to other agreements. If possible, we hope this follow-up liberalization will occur in the Uruguay Round. If not, we might be willing to explore a 'market liberalization club' approach, through minilateral arrangements or a series of bilateral agreements." Yoshiji Nogami, economic counselor at the Japanese Embassy in Washington, was more pointed. In a Journal of Commerce article last month, he was quoted as saying that Asian nations should be prepared to negotiate free-trade agreements with the U.S. if slow-moving GATT talks don't produce results during the next two years.

The second line of reasoning, attributed to Ambassador Mansfield and others on both sides of the Pacific concerned about the trade frictions of recent years, is that a free-trade agreement somehow will produce greater harmony and less "Japan bashing." This might well not be borne out in practice. The coming year inevitably will bring more difficult trade issues between the two countries, and a formal bilateral arrangement conceivably could raise the decibel level of public debate. It all depends on what the major points of contention will be, and how bilateral mechanisms for handling them would be structured.

This leads to the third line of reasoning, the leapfrogging concept, which is the least clear, yet the most important of the arguments under consideration. The point of departure is that bilateral negotiations in recent years have resolved most outstanding direct barriers to trade and now it is necessary to come to grips with the next tier of far more complex impediments to open, reciprocal trade. On the Japanese side, there is intellectual property protection, government procurement, and various institutional and regulatory problems. Issues on the U.S. side include anti-dumping procedures and growing resistance to Japanese direct investment. The idea is that to handle this broader economic relationship, a broader bilateral mechanism is needed. The item-by-item approach of recent years for dealing with trade issues is simply inadequate.

What do these three lines of reasoning add up to? Is a U.S.-Japan free-trade agreement simply a pipe dream? Or is there a real prospect that such an arrangement will come to fruition?

The answer depends largely on a more detailed and imaginative assessment of the possible components of an arrangement, one that goes beyond the issues enumerated above. The U.S. and Japan are at the forefront of the technological revolution, with roots in the information-technology sector, that is having unprecedented impact on a global scale, and for which the policy implications are only dimly perceived. Much of the strain in the U.S.-Japan trade relationship results from the frenetic pace of new technology development, its commercial application and its wrenching impact on existing firms and workers. Is it not reasonable that the two leading-edge innovators be equally creative in their policy relationship, not only for bilateral issues, but in support of global economic objectives as well?

It is time a comprehensive and forward-looking assessment of possible U.S.-Japanese economic cooperation got under way in this country as it already has in Japan. What are the priority issues that will present problems or opportunities over the next three to five years? What bilateral intergovernmental mechanisms might be created to help bring about greater harmony in trade between the two countries and a more concerted approach to global trade liberalization and economic development in poorer countries? How would a phaseout of tariffs affect bilateral trade, the trade relationships among the Pacific Rim countries, and the GATT multilateral trading system?

FORMAL TALKS PREMATURE

It is premature to enter formal negotiations on a possible U.S.-Japan free-trade area, to answer the question posed by Sen. Bentsen to the ITC. However, some hard analysis within the U.S. government is clearly in order. In addition, since the private sectors in both countries are in many respects ahead of governments in adjusting to the new international economic realities, leadrship for assessing the future structure of the bilateral economic relationship should come from the two countries' corporate pioneers as well.

It is highly unlikely that formal negotiations for a U.S.-Japan free-trade agreement will develop over the next year or two unless there is a major impasse in the Uruguay Round. But this does not make the idea of a U.S.-Japan agreement moot. The very discussion and examination of its possible contents could help us understand better this complicated and important bilateral economic relationship. And stalking horses do occasionally help the hunter bring home the prey.

A CONGRESSIONAL SALUTE TO RONALD L. CEDILLOS

HON. GLENN M. ANDERSON

OF CALFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to bring to my colleagues' attention the long and distinguished career of an outstanding citizen in my area, Mr. Ronald L. Cedillos. Mr. Cedillos will be honored on Friday, September 23, 1988, by the Los Angeles Area Council Boy Scouts of America. This occasion gives me the opportunity to express my appreciation for his work on behalf of the surrounding community.

Ron is a third generation native Californian, having been born in Los Angeles and raised in Torrance. After graduating from North High

School in Torrance he enlisted in the U.S. Army and volunteered for airborne infantry. After his Army service, Ron studied business at El Camino College.

While serving with the 82d Airborne Division, Ron began his study of the martial arts. After leaving the service, Ron began a professional athletic career as a karate fighter. He was also a successful karate instructor and operator. In conjunction with this, he also became a professional motion picture actor and appeared in several major movies.

Ron is currently president of Cedillos Testing Co. Since acquiring Cedillos Testing Co. 8 years ago, the company has become the fastest growing, most progressive non-destructive testing company in the Western United States.

Ron also maintains several philanthropic pursuits. He is a member of the board of directors of the Boy Scouts of America, Los Angeles Area Council. He is the chairman of the exploring committee as well as the nominating and long range planning committees.

As a result of his involvement with scouting, Ron received a doctor of philanthropy degree from Pepperdine University. He is also the recipient of the Silver Beaver Award for distinguished services to youth, the highest award given by the Boy Scouts to adult sponsors.

As a result of all his activities, Ron is listed in "Who's Who in California" and "Who's Who in Aviation and Aerospace." he has been the subject of many newpaper and magazine articles.

My wife, Lee, joins me in extending our congratulations to Ronald Cedillos today. Ron is a truly remarkable individual. He is a man who has devoted his talents and energies to enriching the lives of other people. On behalf of the entire community, we wish Ron, his wife Linda, and his children, Michelle, Ronald, and Ashley, all the best in the years to come.

TEOPHILA SAMOLINSKA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LIPINSKI. Mr. Speaker, it's with great pride that I call attention to an outstanding citizen of Chicago. Whether Teophila Samolinska was writing, acting, or leading her fellow women, she was serving the Polish people in America.

She came to this country just after the Civil War as a Polish immigrant searching for peace and happiness here in America. She found Chicago to be the place where her talents would be appreciated by her fellow Poles. Here, she gave impetus to the emancipation of Polish women and took an active part in organizing several Polish women's societies, the Polish Women's Central Society, and the Dramatic Circle.

Teophila Samolinska was one of the spirits behind the birth of the Polish National Alliance, sending out pleas to unite the various existing Polish societies into one solid group.

Samolinska also became very well known to the Polish reading world through the many inspiring and patriotic poems, plays, and novels that she wrote, winning many awards for her works, including a prize at the Warsaw dramatical contest in 1880 for her play, "The Three Florians."

The following poem, written in English and dedicated to the Polish Community Society, is just one example of her stirring verse that points right to her patriotic soul. I quote:

Under the "Gmina's" banner wing,
The exiled Poles united stand
And her jubilee they all sing,
Sending love to the Fatherland.
The name of Poland once so grand
Has not been trampled down to dust,
As long as heart to heart we stand:
Liberty! Freedom! win we must!

Teophila Samolinska's patriotic works are still read and enjoyed by the many Polish readers of today.

To honor the 75th anniversary of Teophila Samolinska's death, a Polish Mass, a dedication of a monument to her at St. Adalbert's Cemetary in Niles, IL, as well as an artistic program to honor her as a poetess and actress all will be held later this month.

Poetess, dramatist, novelist, actress, and leader—Teophila Samolinska represents the spirit of the Polish people here in America. Today, we salute this great woman at the 75th anniversary of her death. May her achievements be a model to all Americans.

TRIBUTE TO AMERICAN LEGION POST NO. 235

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the American Legion Post No. 235, a very special organization in my 17th Congressional District. It fills me with great pride and humility to be able to inform my fellow Members of the U.S. House of Representatives that American Legion Post No. 235 is celebrating its 65th anniversary as an American Legion Post. Please allow me a few moments to inform you about this wonderful organization.

Post No. 235 was founded in 1923 by patriotic veterans of World War One and the Spanish-American War. Throughout the years, combat heroes from World War Two, the Korean war, and the Vietnam war have become devoted members of this organization, as have dedicated patriots who served in the American Armed Forces during peacetime. Today, Post No. 235 is led by strong leaders such as second Vice Commander James E. Cox, of Girard, OH, and it is a place for veterans of all ages to get together to swap war stories, watch football games, and enjoy good times.

Post No. 235 is a part of the Department of Ohio, the Ninth Legion District, and the Trumbull County Council. The actual date of their 65th anniversary will be in October 1988.

America should be proud of each of the admirable veterans of Post No. 235 for their service to their country. I sincerely believe that this post has a long and bright future, and I want each member of Post No. 235 to know that I am willing to help them here in Washington in any way that I can. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in saluting the outstanding veterans of American Legion Post No. 235—one of the best American Legion Posts in the State of Ohio and in the entire United States of America—on their 65th birthday.

RECOGNIZING LUDMILLA GONDA DORAN

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. MURTHA. Mr. Speaker, it's a pleasure for me to take a moment to recognize the 93d birthday next week of a special constituent of mine, Mrs. Ludmilla Gonda Doran.

A native of Austria, Mrs. Doran remains very active in tending her garden and sharing time with her beloved cats and dog. Over those years, Mrs. Doran, led a simple but dedicated life, a life of quiet dignity, and raised her children with clear-eyed dedication, a fact I know for certain because one of her children works in my Johnstown office.

When contemplating such a wonderfully, long life, it is always amazing to me to consider the wonderful, often-shattering changes that someone like Mrs. Doran has seen over the past 93 years. The ability to accept and cope with those changes and keep one's life moving forward is a too-often overlooked remarkable achievement in itself. And I often note that strength of America comes less from its government, than from the quiet, dedicated lives of people like Mrs. Doran who collectively provide our Nation's strength, commitment, and dedication.

It's a pleasure for me to insert these comments in the CONGRESSIONAL RECORD, and to wish Mrs. Doran well on this and many more healthy birthdays.

MASSACHUSETTS BROADCASTER OF THE YEAR: IKE COHEN

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. ATKINS. Mr. Speaker, the Massachusetts Broadcasters Association has awarded Israel "Ike" Cohen of Lowell, MA, the coveted honor of "Broadcaster of the Year."

Actually, his leadership in broadcasting, from his early days behind the scenes in New York to the enterpreneurial spirit that gave the Merrimack Valley an indispensable voice for news and entertainment, goes beyond this year and this State. For half a century in broadcast engineering, management, and news, Ike Cohen has personified the industry's commitment to serving the public interest, convenience, and necessity.

After working for a radio station on Long Island and as radio officer on a number of passenger liners, Ike went to work for radio station WHN in New York in 1939. He engineered programs for such show business legends as Ed Sullivan and Major Bowes; such sports figures as Red Barber, Lou Gehrig, and Mel Allen; and such big band greats as Glenn Miller, Cab Calloway, Lionel Hampton, and Guy Lombardo.

In 1946, Ike Cohen acted on a dream, and with his brothers Maurice and Theodore and others, he put together Northeast Radio, Inc., that would become WCAP Radio in Lowell.

From its first day on the air on June 10, 1951, WCAP has established a reputation for excellence, not only in quality entertainment but in news—covering the Merrimack Valley's fires and floods, politics and parades, sports and schools.

Ike is currently secretary-treasurer of the Massachusetts Broadcasters Association, serves on the Legislative Liaison Committee of the National Association of Broadcasters and is past national vice president of Daytime Broadcasters.

But Ike Cohen's community involvement goes far beyond operating a radio station and serving on industry boards. His volunteer work in charitable organizations throughout the Lowell area, particularly the Salvation Army and the American Cancer Society, has made the Merrimack Valley a far better place to live.

Ike Cohen is the kind of businessman and broadcaster, with local roots and a commitment to public affairs, that all of us should salute.

HOW THE MEDIA SLIGHT PINOCHET

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. CRANE. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent article from the New York Times regarding the reforms and progress made in Chile.

Chile is currently undergoing a period of political transition which could result in an elected civilian government by March 1990. A plebescite will be held in a few months to ratify or reject a candidate nominated by the government. Should the likely candidate, General Pinochet, lose the plebescite a general election will be held in 1990.

At this time, the left would lead us to believe that General Pinochet has little support. Actually, informed observers believe that General Pinochet could legitimately win the plebescite.

Now that Chile is making progress toward a free government and a free economy, it is not the time for the United States to interfere and impose sanctions against Chile, which I understand are being considered by a few of my colleagues. I hope that this article, "How the Media Slight Pinochet," will demonstrate to my colleagues that we must not believe everything we hear from the press about Chile.

[From the New York Times, July 15, 1988]

HOW THE MEDIA SLIGHT PINOCHET

(By Rolf J. Luders and Steve H. Hanke)

BALTIMORE.—The journalistic drumbeat from Chile has, for some time, signaled that freedom and democracy are on the rocks and that prospects for change are slim. It is alleged that the responsibility for this sad state of affairs lies with that country's ever-present pariah, Gen. Augusto Pinochet.

In fact—hard though this may be for liberal critics to accept—General Pinochet and the military regime have moved dramatically to expand economic liberty and are moving Chile on schedule, under the Constitution, toward a full democracy.

The Chilean Constitution requires that a plebiscite be called before Jan. 11, 1989. Voters will be called upon to ratify or reject a candidate nominated by the commanders in chief of the armed forces and the police: the junta. The candidate, if ratified, will become President and serve from March 1990 until 1997. If the candidate is rejected, General Pinochet will continue as President until March 1990. At that time, a new president, chosen in a general election, will assume the reins.

The important points are: first, the Chilean military regime is constitutionally required to end, at the latest, in March 1990; second, a Congress with two chambers will be elected; third, all individual rights and guarantees, currently restricted, will become fully applicable.

The constitutional process is designed to guarantee an orderly transition to democracy. But this is lost on most liberal commentators. Rather, they hammer away on two themes; that the rules of the game are rigged to favor the present Government and that the process will be accompanied by widespread electoral fraud.

For example, many analysts assert that the military regime—in an attempt to hold down voter registration and restrict it mostly to those who favor its candidate—has limited the number of registration offices and the hours they are open and harassed potential registrants. These assertions are baseless.

Of Chile's approximately eight million potential voters, six million have already registered. If the current registration rate of about 500,000 a month continues for only one more month, the percentage of potential voters who have registered will exceed that of the 1973 election. Even Chilean opponents of the plebiscite admit that, based on the registration criterion, legitimate elections can be held.

Nevertheless, the claim is still heard that the system is rigged because of provisions in the Political Parties Act that make it extremely difficult to organize political parties. This claim has also proved to be unfounded. To date, 8 parties have been legally recognized. Four of them are openly in the opposition. The other four are either independent or support the Government. In addition, four more opposition parties are currently registering members in anticipation of official recognition.

Moreover, a new voting procedures law was enacted recently. It has not been contested by the opposition. On the contrary, important opposition leaders—such as the President of the Committee for Free Elections-confirm that the "legislation provides guarantees for a secret vote and protects individuals against pressures."

Some analysts further argue that the junta's control of the media makes a legitimate election impossible. This argument is highly questionable. For example, newspapers and magazines cover the full range of political views. There is also a wide range of radio programming, with the opposition represented by some of the country's most important radio stations. Even though all television channels are probably sympathetic to the Government, they are open to opposition leaders, who appear regularly.

If all this weren't enough, liberal pundits slant opinion poll data to give the impression that General Pinochet is highly unpopular. For example, they continue to report that only about 20 percent of the voters favor the General, implying that 80 percent oppose him. These numbers merit two comments.

First, the data are outdated. All recent polls show that more than 20 percent favor General Pinochet. For example, a recent poll by the Chilean State University found that almost 38 percent of the voters would favor any candidate presented by the junta. The poll also found that 29 percent would vote against the junta's candidate and that 27 percent are undecided.

This brings us to our second comment: Most informed observers believe that General Pinochet, if he were the candidate, would probably pick up something in excess of one-half of the undecided votes. If this occurs, and if General Pinochet is the candidate, he would legitimately win the plebiscite.

But why the insistence on presenting polling data in a biased manner? Because it will allow the press to validate its allegations. If President Pinochet is the junta's candidate, and he wins the plebiscite, then the press can claim that there was vote fraud, confirming its previous assertions.

The evidence clearly demonstrates that the junta has followed the 1980 Constitution, that it intends to continue to do so and that it will relinquish power. This shouldn't be too surprising. After all, the military regime has with its radical free-market reforms, dramatically reduced the scope and power of the state—hence, it own power-and increased individual freedom in the economic sphere.

For example, it has privatized state-owned enterprises and social security, deregulated financial markets, instituted laws that protect the rights of foreign investors, reduced tariffs, abolished most business regulations, cut Government spending and taxes and reformed labor laws so that the Government cannot intervene in collective bargaining.

In consequence, Chile has the freest economy in Latin America. By March 1990, it will also have a duly elected civilian government.

MORE ON THE CHILD CARE DEBATE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. BEREUTER. Mr. Speaker, if all goes as planned, the leadership of the House will bring the Act for Better Child Care Services [ABC] to the floor before Congress adjourns. The current wisdom is that proposals to increase child care assistance for those American families who need it deserve the additional attention of the Federal Government.

Unfortunately, the current strategies, well-intentioned as they are, promote assistance for child care programs and activities, rather than assistance for our Nation's neediest children and their families.

In the August 8, 1988, issue of Newsweek, Robert J. Samuelson ably describes how our intended largesse is misguided and suggest ways in which the Federal Government's role should be recast. His thoughtful analysis of working-parent myths and realities should be required reading for all of us who are actively seeking ways to enable American parents to participate in the work force and successfully arrange decent child care for their children.

CHILD CARE REVISITED

(By Robert J. Samuelson)

The debate over child care poses a basic question: where do family responsibilities end and government responsibilities begin? The question became inevitable once the massive entry of women into the labor force altered traditional child-rearing patterns. The resulting dispute is an important one and, though I've written about it recently ("The Debate Over Day Care," June 27), it's worth revisiting because it's become part of the presidential campaign. Both Michael Dukakis and George Bush want the support of working women.

The debate is all about whether government should help working parents pay for safe, high-quality day care. Children are our future, the argument runs, and working mothers are the norm. The problem is that this approach supports an activity—child care—rather than the neediest children and families. Consider the government's costliest child-care program: a tax credit for child-care expenses. About half of the $4 billion in benefits goes to the wealthiest third of families, Roberta Barnes of The Urban Institute estimates. The poorest third receives only 3 percent.

The same problem afflicts the $2.5 billion Act for Better Child Care Services (ABC), approved last week by the Senate Labor and Human Resources Committee. It would provide child-care subsidies for families with up to the local median income (about $32,000 nationally). Perhaps 16 million children would be eligible: either a small share of eligible families—not necessarily the neediest—would receive significant help or tiny subsidies would go to many families.

What justifies the subsidies? Is child care superior to mother's care? Almost no one (including ABC's main sponsor, Sen. Christopher Dodd of Connecticut) says so. It's hard to argue that two-earner families as a class are more deserving than those with stay-at-home moms. Even many families using child care would be excluded. Religious-oriented day-care centers would be ineligible on constitutional grounds. Many informal day-care providers (friends, relatives) wouldn't meet required regulatory standards.

Good intentions aren't really at issue in the child-care debate. Indeed, it's precisely because everyone wants the best for our children that the debate inspires so much wishful thinking and misinformation. Consider some objections prompted by my original column:

Senator Harry Reid of Nevada says that the column "misses the point . . . Many families simply have no choice. Sadly, only 10 percent of our families fit the traditional father-breadwinner, mother-homemaker role."

Choice remains. The 10 percent figure is misleading, because half of all families don't have children under 18. (For older couples, children have left home; many younger couples haven't yet had children.) In families with children, about half of mothers with infants under three don't work. The share is nearly 40 percent for those with children between three and five.

A woman from Pasadena, Calif., contends—as many did—that "subsidized child care . . . is a necessary investment in the future of the country."

The investment would be huge and the benefits imaginary. Yale's Bush Center in Child Development estimates that adequate child care could cost as much as $90 billion. The estimate covers after-school care for those up to 14. It implies that most children go to centers with well-trained and well-paid staff. By contrast, about two-thirds of the care for children under five is in homes, often provided by relatives or friends. For 1985, out-of-pocket costs were estimated at $11 billion.

Gains from any added investment are guesswork, because no one knows the long-term effects of child care. So much else affects what kinds of adults children become; parents, talent, neighborhoods, later schooling . . . the list runs on. There's no evidence that that subsidized child care in Europe subsequently leads to more productive workers.

A child-care advocate from San Francisco says: "This country is now dependent on working mothers to sustain its economic position."

Yes . . . but. Although women are almost half of the labor force, only about a third have children under 14. The 8.3 million working mothers with children under six constitute 7 percent of the labor force. If all mothers with pre-schoolers stayed home—something I'm not not advocating—the economy wouldn't collapse.

A women from Pittsburgh writes that many of "today's working mothers are single parents . . . These women [need] safe, affordable child care."

Poor working parents—single or not—need help but child care may not be the best way to provide it. Because they rely heavily on friends or relatives, their child-care expenses are usually low. They need money; let them decide whether to use it for rent, utilities, child care or whatever. Suppose the $4 billion spent on the child-care credit were used for a refundable credit for low-income working families. About 5.4 million working families have children under 18 and incomes less than $15,000. About half are single parents. Each could receive about $750.

Child-care politics focuses mostly on imagery. Dukakis supports the Senate's ABC bill. Bush proposes a tax credit for families near the poverty level, about $11,000, with children under four—a better approach. But neither candidate suggests ending the child-care credit and using the funds to help the neediest families. Neither wants to offend working mothers. Each implies he's on their side. In truth neither man will change the child-care choices faced by most families. As a practical matter, money for sweeping reforms isn't available. This debate ought to focus on how best to spend scarce funds on the poorest. Should there be more tax relief? More job training (with the associated day-care expenses) for welfare mothers? More spending on Head Start?

Even if more money were available, mass child-care subsidies—as I said in my first column—would be undesirable. Government does have a responsibility, both as a matter of collective social well-being and common decency, to try to help the poor become more self-reliant. But how the vast majority of parents raise their children is a personal matter. Government shouldn't influence whether or not families use child care by subsidizing them if they do. Parents who do (as my wife and I do) should pay for it.

TRIBUTE TO EVANGELINA "VANGIE" DIAZ

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LAGOMARSINO. Mr. Speaker, I always enjoy taking this opportunity to mention some of the outstanding people who help make California's 19th District such a great place to live, and one of those people is certainly Evangelina "Vangie" Diaz, who is leaving her hometown of Santa Barbara to become a missionary in Mexico. Anyone familiar with Mrs. Diaz's long history of community service can appreciate how much she will be missed in Santa Barbara, but a community cannot be selfish with people like her.

For almost three decades Mrs. Diaz has been an active force in community affairs, working on behalf of the underprivileged with an emphasis on the Hispanic people. During the activist 60's Vangie began 18 years of involvement with groups such as the United Farm Workers, the Shelter for Battered Women, the Community Action Commission, League of Women Voters, Afro Community Services, the Legal Defense Center, and many others. Her involvement assisted the poor and the elderly, the handicapped, troubled families and young people, women and men of all races. Many, many people were touched by her kindness, influenced by her outstanding example, and inspired by her spirituality. Every strong community is built and sustained around people like Mrs. Diaz.

I know that the citizens of the 19th District join with me in thanking Mrs. Diaz for her years of community service, and in wishing her well on her mission to Mexico. Knowing what we do about Vangie, we feel confident that it will be a complete success.

THE DISASTER ASSISTANCE ACT OF 1988 (H.R. 5015)

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. MILLER of California. Mr. Speaker, subtitle B of title IV of H.R. 5015 contains the Reclamation States Drought Assistance Act of 1988 and other provisions designed to enable the Secretary of the Interior to respond to the drought in the Western States.

This subtitle originated in the Interior Committee as H.R. 4628, introduced by Mr. COELHO.

The basic purpose of subtitle B is to provide the Bureau of Reclamation with some flexibility to make water from Bureau projects available to a variety of users during a drought emergency.

Our intention, in drafting these provisions, was to make it possible for all water users to have access to the water from Bureau projects, whether or not they normally receive such water. This would include cities and towns. This would include farmers who are not now Bureau contractors, fish and wildlife which are experiencing tremendous losses from the drought.

The language agreed to by the conferees is clearly discussed in the conference report. There are, however, several issues I would like to clarify for purposes of the legislative history of this bill.

Section 413 of this subtitle provides the Secretary of the Interior with the authority to make water or canal capacity at existing reclamation projects available to water users and others on a temporary basis. The price to be charged for this water is to be at least sufficient to recover the operation and maintenance costs and an "appropriate" share of the capital costs associated with providing such water. The phrase "appropriate," as used in this section, is synonymous with "proportionate" share of the capital costs.

I would further note that this section establishes a floor for what the Secretary may charge. It is perfectly acceptable for the Secretary to charge a greater amount, if he so chooses.

Section 413 also directs that the actions of the Secretary in making water or canal capacity available to water users and others shall be consistent with existing contracts or agreements and State law.

The word "agreements" is important and should not be overlooked by the Department in implementing this provision. It is our intention that this term be interpreted liberally. For example, there are many State fish and wildlife agencies that may have agreements, memoranda or understanding, or other arrangements providing for water for fish and wildlife purposes. This is certainly the case in California.

The conferees would expect the Secretary to take these agreements into account when determining how much water is available for contracting under section 413.

Section 417 authorizes the Secretary to make available to the Oakdale and South San Joaquin irrigation districts their unallocated storage from the previous year. This language is not intended to set any precedent. It was not included to take a position on ongoing discussions between the Bureau and the irrigation districts.

Mr. Speaker, most of the assistance we are providing in H.R. 5010 is aimed at farmers. The reclamation provisions will assist others as well, including towns and cities, and wildlife.

The on-farm impacts of the drought are obvious and have received most of the attention of the press. However, we should not forget that the drought has also impacted commercial and sport fisheries, wildlife, and municipal water users. They deserve our attention as well.

LYNDON B. JOHNSON'S 80TH BIRTHDAY

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. PICKLE. Mr. Speaker, on August 27, Texas and the Nation marked what would have been the 80th birthday of the 36th President of the United States, the late Lyndon B. Johnson.

To mark the occassion, members of the Texas State Society gathered at the LBJ Grove on the banks of the Potomac River here in Washington to pause and reflect on the accomplishments which are Lyndon Johnson's enduring legacy. Horace Busby, who served as an assistant to Johnson during his terms in the House of Representatives and the Senate and later as Special Assistant to the President and Secretary to the Cabinet during the Johnson administration, delivered a warm and touching remembrance of LBJ on this occasion. Mr. Busby is a leading consultant to business and associations on social, demographic, and political trends.

I would like to share Mr. Busby's remarks with my colleagues in affectionate remembrance of the late President and his lasting contributions to our country.

REMARKS ON THE 80TH ANNIVERSARY OF THE BIRTH OF LYNDON B. JOHNSON

On this day, 80 years ago, Lyndon Baines Johnson was born in Blanco County, Texas. Neither of the happy parents had any way of realizing what they had wrought.

Over the next 64 years, four months, and 26 days, that child would grow into a man who served successively as public schoolteacher, Congressional secretary, director in Texas for the National Youth Administration, Member of the House of Representatives from the 10th District of Texas, Member of the United States Senate, majority whip, minority leader and majority leader in that body, chairman of the Senate's first committee on space, Vice President of the Nation from 1961 until November 1963, and as the 36th President of the United States from 1963 until his voluntary retirement in January 1969.

I entered his employ 40 years ago in 1948, while he was still a Member of the House. We had never met before I arrived at his office in March of that year. That was just as well. Had either of us known the other beforehand, I am sure the long association which followed would never have begun. My relationship with him was, like that of most others who entered his world early, at times warm, close and constructive—and, at other times, tempestuous, volcanic and distant.

What bonded all of us together was—and still is—a commonality of belief that there were no problems confronting this Nation which could not be overcome with faith in the American people and trust in the American system.

I have not come today to deliver a eulogy. Birthdays are, after all, days for celebration, merriment and laughter. Furthermore, I am constrained from attempting to be solemn or profound by my own long experience in the company of the man we honor.

Lyndon Johnson did not like for his own people to treat him too seriously. Should I begin to pay him flowery tribute, I am quite sure his spectral presence would come creeping through the bushes and, just at the climactic moment, toss a snake—or worse—at my feet. Then, I would join our friends from National Airport in the flight pattern overhead.

So, let me share with you a random assortment of recollections which may serve to call up the memory and the works of this man.

In 1973, soon after President Johnson's death, a Soviet scholar from the American Institute in Moscow showed up at my office. His mission, he explained, was to gain a better understanding of the kind of man Lyndon Johnson had been. I talked with him several times and provided him with a list of others whom I felt might provide useful insights.

Some weeks later, he returned. Mr. Busby, he said, the people all see him as a different man.

Reading from his notes, he related that some say he was a master parliamentarian, a genius, a man with a keen mind and a large heart and everyone says he was a patriot. But, he went on, the same people say, he was a scalawag and a schemer, a rogue and a roue. So, Mr. Busby, what do you say? My reply was, "Yes, of course."

Early in my association, I was afforded an insight to understanding this man. On the first day of his celebrated helicopter campaign for the Senate, I was present when he climbed out of what he called "the Johnson City windmill" to make the first campaign speech at Jacksboro.

I was appalled. He was wearing a white-on-white custom tailored shirt, with French cuffs and silver cufflinks. The pockets bore a monogram and his tie showed the then distinctive mark of Countess Mara. At noontime, he asked me how I thought he had done as a campaigner. I drew myself up and with the wisdom of my 24 years, I told him that men just did not dress like that when campaigning through rural Texas.

He was patient enough but he fixed me with his penetrating stare. Son, he said, they take me like I am or they get themselves another boy.

That got close to the essence. He was the only public man I have known who never allowed the pursuit of popularity to compromise his determined pursuit of principle.

More than 50 years ago, an American scholar wrote what has long been accepted as very nearly the definitive work on leadership in this democracy. In 1935, Ordway Tead, said this:

"Those who rise in any marked way above the mass of men have conspicuously more drive, more sheer endurance, greater vigor of body and mind than the average person * * *. The leader's energy begets energy in the followers. The existence of abounding vigor goes far toward making the leader crave to work for significant purposes and toward producing that total mobilized zeal we call enthusiasm."

Rexford Tugwell, a brains truster of the New Deal and a notable scholar himself, once said of that passage: "It might have been written to fit Lyndon Johnson."

Lyndon Johnson did "crave to work for significant purposes." And what we most remember is not merely that he craved to do such work but that, in almost every instance, he succeeded at his purposes.

There is no need to repeat the litany of his accomplishments as president. On the night he returned from Dallas as president, I was with him in his bedroom as he changed into his pajamas. Suddenly, he said, Buzz, do you realize that nearly all the unfinished business on my desk when I came back as president was on my desk as unfinished business when I first came to Congress more than 20 years ago.

He had his agenda in mind—civil rights, medicare, aid to education, repeal of the discriminatory immigration laws—and he used the opportunity afforded him to accomplish all those things.

We are, I believe, much too given to attributing to presidents credit for what the people themselves accomplish. It is the American people—not the American presidents—who have made this society what it is. But, as a footnote, let me say this: in all of history, no white man ever used his office, his credits or his skills more determinedly than Lyndon Baines Johnson to assure that men and women of color could share fully in freedom, justice and opportunity.

That is the strength of our nation today.

Let me conclude with a perspective which I am sure Lyndon Johnson would appreciate being mentioned this afternoon.

Five years after Lyndon Johnson was born, a friend of his father from the Texas Legislature entered Congress. Freshmen were not usually permitted to speak but since he had been Speaker of the Texas House, the elders invited this man to make a brief address. In those remarks, Sam Rayburn said this:

"I have always dreamed of a country which I believe this should be and that is one in which the citizenship is an educated and patriotic people, not swayed by passion and prejudice and a country that shall know no east, no west, no north, no south, but inhabited by a people liberty loving, patriotic, happy and prosperous, with its lawmakers having no other purpose than to write such just laws that shall in the years to come be of service to humankind yet unborn."

In November, 1972, Lyndon Johnson called me one morning from the ranch. Like a child with a new toy, he said, Guess what I just found out—Over at Fort Sam Houston, the Army has a captain and a lieutenant and a sergeant whose only job is to plan my funeral. I'm having them out for dinner to talk about it: would you like to come. I told him that, if it were all the same, I would pass.

A few days later, he called and asked me for the name of an old hymn which he remembered from years past. I looked it up and passed it on—and, so it was by Lyndon Johnson's own plan, that at this funeral in 1973, there was sung at Dr. Davis's church the old song about a land in which there is no east, no west, no north, no south.

We live together today, a stronger nation, a more confident people, because this one man devoted himself so unceasingly to making sure that all Americans enjoyed together the same blessings of liberty that were once enjoyed only by the few.

That accomplishment lives on and Lyndon Johnson lives on in what he was able to achieve in one lifetime.

THE STRATEGIC PETROLEUM RESERVE—NOW IS THE TIME TO "FILL 'ER UP"

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LANTOS. Mr. Speaker, financial analysts and academicians are generally in agreement that the modest oil prices we are now enjoying are a temporary phenomenon. The Persian Gulf crisis of last summer, which led to an expanded American naval presence in the gulf, was a reflection of the very serious concerns about the security of world oil supplies. At some point in the future, another disruption of the world oil supply—similar to those we faced in 1974 and 1978—is almost inevitable. The solution, Mr. Speaker, is to use this time of low oil prices and abundant supplies as an opportunity to fill the strategic petroleum reserve.

Mr. Speaker, Hobart Rowen the knowledgeable economics specialist of the Washington Post makes this argument most convincingly in a recent issue of that newspaper. I place it in the RECORD now for the benefit of my colleagues. We would all do well to follow his advice.

[From the Washington Post, Aug. 25, 1988]

THE STRATEGIC PETROLEUM RESERVE: FILL IT UP

(By Hobart Rowen)

In Texas and other parts of the Southwest, the collapse of the oil-price boom has led to a deeply depressed economy, the symbol of which is the almost daily story on yet another bankrupt savings and loan association or bank.

The bitter joke going the rounds is that "when you buy a toaster in Texas, they give you a bank."

We tend to forget that much of the malaise of the financial community in the Southwest can be traced to greed: Texas banks loaned money on the hope and expectation that oil prices would climb to the sky. So they overvalued the prospective reserves of oil drillers several-fold.

Throughout the 1970s, OPEC and producers in the American Southwest raked in huge revenues from rising prices. Arab leaders of OPEC (especially in Saudi Arabia) gained enormous political power, with deferential treatment by the Western powers and international organizations.

Today, these are the banks that have gone belly-up, and the Federal Deposit Insurance Corporation, in liquidating bad loans, is trying to get 20 or 30 cents on the dollar for oil-drilling equipment. Some of it has never been uncrated, according to New York oil broker Harry Neustein. Eager-beaver middlemen are combing through inventories, looking for drilling-equipment bargains that eventually may be used in the Middle East or Asia.

Have the oil analysts learned a lesson, especially now that the war in Iran and Iraq is coming to an end? One would think that the obvious prospect that an end of hostilities will increase the oil glut would crank some sense into the oil-forecasting business.

In 1987, while they were shooting at each other, Iran and Iraq pumped only 4.5 million barrels a day, or about half of their peak production in the 1970s. Iraq's oil reserves, according to oil expert Eilyahu Kanovsky, are second only to those of Saudi Arabia. And in addition to large oil reserves, Iran's natural-gas resources are second only to those of the Soviet Union.

Yet, one private advisory service suggests that peace might increase the willingness of Iran and Iraq to comply with OPEC's oil quota system. There is nothing to support such an assumption, beyond meaningless assurances by OPEC Secretary General Subroto that once the war is over for good, oil production will drop by more than 1 million barrels a day. This is merely wishful thinking, and we will hear more of it at the next OPEC meeting, on Nov. 21 is Vienna.

I have frequently quoted Kanovsky on the subject of Middle East oil and politics because he has a proven track record. At the height of the oil boom-when establishment experts were talking confidently of $100-a-barrel oil—Kanovsky argued that supply pressures would force prices down.

He was right. But the conventional wisdom among financial analysts and academics persists in seeing the oil glut as just a temporary phenomenon. The Saudi-led OPEC cartel will rise once again, many believe.

Today, OPEC's nominal price target is around $18 a barrel. But OPEC sellers cheat, defying the quota system. Neustein estimates the "real, true price" is only $12 a barrel. That is what Iran has been charging Japan. "Another 1 million barrels of Iranian oil is being bartered, so who knows the real price of oil?" Neustein adds. He thinks it could sag into single digits, as low as $5 a barrel.

In a study prepared for a conference next month on the impact of the Iran-Iraq war, Kanovsky predicts that Iraq—its oil fields mostly untouched by the war—could boost production by as much as 1.5 million barrels a day within a year after the Gulf is opened to its oil exports. Iran won't be far behind.

"Both countries will demand that other OPEC countries reduce their quotas to 'make room' for their production and will, most likely, be ignored," Kanovsky said. For the other countries to cut back oil shipments to accommodate Iran and Iraq would be a financial hardship: they all need the money. So all will pump oil and sell it like crazy, pushing prices down, Iraq owes up to $50 billion to the Saudis and Kuwait for financing its war. How can that be paid, except in oil?

"For the past eight years, the Arab countries in the Gulf have lived in fear that the war would engulf them," says Kanovsky. "The end of hostilities will certainly bring a sense of relief. But for those countries in the region, overwhelmingly dependent on their oil revenues for their very survival . . . the aftermath of the Iran-Iraq war may be almost as burdensome as the war itself."

Cheaper oil would cut two ways. It would creat massive problems for producing countries, including Mexico and the American Southwest, but be a bonanza for consuming countries—especially Japan. And once again, there is a golden opportunity to follow the advice of Sen. Bill Bradley (D-N.J.): Fill up the Strategic Petroleum Reserve.

CORRESPONDENCE FROM THE PRIME MINISTER OF HUNGARY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. HORTON. Mr. Speaker, on June 16, 1988, I held a special order to commemorate the 30-year anniversary of the execution of Imre Nagy, the former Prime Minister of Hungary. In conjunction with the commemoration, I and 43 of my colleagues in the House sent a letter to the current Prime Minister of Hungary, the Honorable Karoly Grosz. The letter seeks the return to their families of the bodies of those executed for their role in the Hungarian Revolution of 1956. For the last 10 years, I have lead the fight in Congress to have these bodies returned to their families. A copy of the letter sent to Prime Minister Grosz was submitted for the CONGRESSIONAL RECORD during the June 16 special order.

Past requests for the return of these bodies have been ignored by the Hungarian leadership, so the written response to this letter I received from Prime Minister Grosz was encouraging. I also had the opportunity to meet the Prime Minister during his recent visit to the United States, and he seemed genuinely committed to resolving this issue in the near future. I have offered the Hungarian officials any assistance I can to ensure that this goal is achieved.

The following is a translation of the Prime Minister's written response:

Hon. FRANK HORTON,
Congress of the United States of America, House of Representatives, Washington, DC.

DEAR MR. REPRESENTATIVE: I have received the letter you and forty-three of your fellow-Congressmen wrote to me and was pleased to read the appreciative words about the economic and political endeavours of the Hungarian leadership and the achievements of my country in asserting human rights.

With regard to the matter you raised about allowing the families to get back the remnants of those who were executed for their participation in the 1956 counterrevolutionary events, I would like to stress that I am aware of the psychological and emotional burden these families carry. My Government has the intention to settle this problem in a humane spirit in the near future, enabling the families to rebury the dead and to pay their tribute at the graves. I would also like to emphasize that such a humanitarian gesture has no bearing on the evaluation of the events of the time.

I agree with you that responsible leaders of a country have to face the past and draw the necessary conclusions. Our program and efforts prove that we have done so and shall continue to do so, as indicated among other things by the fact that we have set up an ad hoc committee to examine the history and politics of past decades. Although we should not forget the past, I am convinced that we have to turn our attention to the future. It is in this spirit that we wage our efforts in our own country and also in this spirit that we strive to shape the broadest possible cooperation with your country, Congress and Administration, asking for your support and for that of your fellow-Congressmen.

Sincerely,

KÁROLY GRÓSZ,
Prime Minister of the Hungarian People's Republic.

ED JONES DAY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. DE LA GARZA. Mr. Speaker, on August 19 I had the pleasure and honor of participating in "Ed Jones Day" at the International Agricultural Exposition in Memphis, TN. I was struck by the mutual admiration and rapport between the people of western Tennessee and their Congressman, ED JONES.

I have been fortunate to know and work with ED on the House Committee on Agriculture throughout the nearly 20 years he has served in Congress. There is no person in this body who is more respected for his ability and dedication on behalf of his constituents and American agriculture as ED JONES. In recent years as chairman of the House Agriculture Subcommittee on Conservation, Credit, and Rural Development, he has carried a heavy workload involving American agriculture's most important issue areas. His list of legislative accomplishments is long, and include the conservation title in the 1985 farm bill and the Agricultural Credit Act of 1987, the largest refinancing measure ever passed by Congress.

As we all know, ED has decided to retire after this year. While we are losing an able colleague and a friend here in Washington, the people of western Tennessee are welcoming home their son and neighbor. I think the following article which appeared in the Memphis Commercial Appeal, August 20, 1988, sums up my feelings and those of others about the man they call "Mr. Ed:"

[From the Memphis Commercial Appeal, Aug. 20, 1988]

"MR. ED" REAPS PRAISE FOR SERVICE TO FARMING

(By Laura Coleman)

From farms and cities, in FFA jackets and business suits, they came to Agricenter International Friday to heap praises and plaques on the man they've known as 'Mr. Ed.'

Rep. Ed Jones (D-Tenn), who's retiring this year after 20 years in Congress, sat on the stage of the ampitheater named for him Friday and smiled. Then he let it be known whose impression of him mattered the most.

"My greatest hope is that my efforts will be judged as having met some degree of success not by me, not by my colleagues in the Congress but by those who spend their lives tilling the soil," said Jones, 75.

From the chairman of the House Agriculture Committee to a Mississippi farmer, Jones' friends lauded his work for agriculture, citing especially Jones' efforts on soil conservation, the farm credit system and rural development.

"He made me a steward of the land," said Buddy Moses, who farms in Sunflower, Miss. "He could see down the road of agriculture and around the curve too, I think.

"I know that I'm a better person and I know this country is a better place to live because of Ed Jones," Moses said.

Throughout Jones' congressional career, the Yorkville, Tenn., farmer has been a member of the Agriculture Committee. He is the third-ranking member of the committee and has been chairman of the committee's powerful subcommittee on conservation and credit.

Much of Jones' work in recent years has centered on the conservation aspect of that committee, and he was cited Friday for being the author of the current farm bill's section on conservation.

Much of that praise came from Rep. E. 'Kika' de la Garza (D-Texas), chairman of the Agriculture Committee.

"He has been my top lieutenant," said de la Garza. "He made me look good.

"We have a saying in South Texas that if you go on the land and don't feel its vibration, forget about farming because it's not going to work for you. Ed Jones is the type of person who feels that vibration and he can translate that feeling into the legislative process."

Far up high in the auditorium, the blue-and-gold Future Farmers of America jackets distinguished Ruby Williams and Marshall Fennel, both 18, from the crowd. They'd met Jones during an FFA trip to Washington, they said, and wanted to attend Friday's tribute.

"We met some of those other congressman and senators, but some of them you were scared of," said Miss Williams, who lives in Reagan, Tenn., "but he was easy to talk to."

Jones, appearing moved by many of the testimonials, down-played his efforts, but said he was gratified that his name will be on the wall of Agricenter.

"I know how difficult the farmers' task is every year. I know how uncertain their future is and how little control they really have," Jones said. "Yet, I also know how terribly important it is to all human beings that they succeed, so I devoted my congressional work to trying to contribute a little something to them, something that would offer them greater opportunity for success while recognizing our obligation as stewards of enormous natural resources."

IN SEARCH OF PEACE IN CENTRAL AMERICA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. GARCIA. Mr. Speaker, I would like to submit the following article by Wayne Smith for the RECORD. The article covers and provides some analysis of recent events in Nicaragua. Included in this article are the results of a poll conducted by the Central American University in Managua which my colleagues may find as interesting as I did . Mr. Smith points out that the Arias peace plan and Contra aid don't mix, and that as legislators we should think about what we want U.S. policy in Central America to achieve.

[From the Los Angeles Times, Aug. 7, 1988]

CONTRA AID COUNTER TO PROSPECTS FOR PEACE

(By Wayne S. Smith)

WASHINGTON.—In his July 30 radio address, President Reagan assured the nation that U.S. failure to continue aid to the Contras had caused the peace talks in Nicaragua to break down. Saying that only its resumption would get the Sandinistas back to the negotiating table, he urged Congress to pass an aid package now being put forward by Sen. Bob Dole (R-Kan.), that includes military as well as logistical support.

As usual, the President has turned the situation in Nicaragua on its head. The peace talks broke down not because of the suspension of U.S. aid to the Contras, but because the Reagan Administration and the Contra faction led by Col. Enrique Bermodes wanted them to break down.

On June 9, Contra negotiators tabled a series of demands they knew the Sandinistas could not accept—indeed, no self-respecting government would accept. They, demanded, for example, that all captured Contras be freed immediately, even though the Contra army remains in the field, that all soldiers drafted into the Sandinista army be allowed to go home immediately and that all Supreme Court Justices be forced to resign—with the Contras given the right to name the majority of new justices. These demands, moreover, were put forward as an ultimatum—the Sandinistas had just two hours to accept.

When the Sandinistas said they were prepared to discuss the demands but not to accept them on a non-negotiable basis, the Contras walked out of the talks. Assistant Secretary of State Elliott Abrams and his men, with their inimitable style, rushed to announce that the peace process had broken down because of Sandinista intransigence.

But if the Reagan Administration engineered the suspension of peace talks, responsibility for the internal crackdown that followed rests squarely on the Sandinistas. True, reaching the full opening to democracy is contingent on ending the war. With the peace talks halted, Sandinistas incentives to press ahead with the democratization process were reduced.

But it is also true that the United States has been funding the opposition newspaper, La Prensa, and one can imagine how frantically the CIA station chief in Managua has been trying to convert political rallies into cilvil disturbances—to do anything, in fact, that would provoke the Sandinistas to overreact and move against internal dissent. But at the same time, the Sandinistas seemed ready to move against the political opposition, close La Prensa and several radio stations irrespective of anything the CIA did. Opponents have become increasingly vocal and the Sandinistas don't like it.

Whether provoked by the United States or simply reflecting an aversion to democratic processes, the crackdown was a serious mistake on the part of the Sandinistas. If the former, the Sandinistas foolishly fell into the trap planted by the Reagan Administration. If the latter, their aversion is inconsistent with the spirit of the peace plan put forward by President Oscar Arias of Costa Rica and must be overcome. Perhaps negative reaction abroad is bringing that point home, for La Prensa has been reopened and a number of the radio stations soon will be.

Meanwhile, the Reagan Administration hopes reaction in the U.S. Congress to recent events in Nicaragua will open the way to more Contra aid. What they refuse to accept is that that Contra aid didn't work before and would work no better now. No matter what mistakes the Sandinistas make, aid to the Contras will not solve U.S. problems in Nicaragua. On the contrary, it would violate the Arias Plan and give the Sandinistas the pretext for a more comprehensive crackdown.

One reason the Contra ploy won't work was pointed up in a June poll by the Jesuit-run Central American University in Managua—the first independent poll taken in Nicaragua since 1979. Some will question its accuracy and objectivity, but the poll can hardly be seen as biased in favor of the Sandinistas. Only 28% of those polled identified with the Sandinistas. Only 27% thought the government's overall performance good, while 26% disapproved. Only 40% believed the Sandinista government to be democratic, while a solid 48% said it was not—and the number of skeptics doubtless increased in the wake of July's internal crackdown.

But if the poll reflected divisions and doubts about the Sandinistas and their policies, it showed no such ambiguity concerning U.S. policy toward Nicaragua. An overwhelming 85% opposed further U.S. aid to the Contras. In other words, even Nicaraguans who dislike the Sandinistas reject aid to the Contras as a means of dealing with them.

This is of crucial significance, for without widespread support among the Nicaraguan people, the Contras cannot win. They are the inferior military force, they could only overcome that imbalance by winning wide popular support inside Nicaragua, something they have failed utterly to do. Naming Bermúdez, a former officer in Anastasio Somoza's hated National Guard, as the principal Contra leader further undercuts their appeal.

Another reason the U.S. Contra policy won't work is that it isn't supported by other latin American countries; they see it as interventionist. And it is not supported by a majority of U.S. citizens.

By the end of last week, Senate Democrats had worked out an alternative to the Dole aid package. Their proposal virtually ruled out military assistance and is thus palatable to both liberal and conservative Democrats. Not even this alternative is likely to get through the House, however, because that chamber is more strongly opposed to any resumption of aid.

That is just as well. Rather than sticking with something that hasn't worked, the United States should do the following: Encourage rather than impede peace talks. Encourage other Latin American governments to exert pressure on the Sandinistas to adhere to the Democratization process (something they will not do as long as we are trying to overthrow the government in Managua). Begin direct talks with the Sandinistas to work out a verifiable security agreement (ruling our Soviet and Cuban bases, sending all foreign military personnel home, etc.), emphasizing that U.S. power and honor would stand behind that agreement. Such an approach would have a high chance of success; aid to the Contras has none.

A CONGRESSIONAL SALUTE TO MAYOR KAY CALAS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual, a well-recognized civic leader, and a tireless public servant. Mayor Kay Calas will be honored by a testimonial dinner in her behalf on September 29, 1988. This occasion gives me the opportunity to express my sincere appreciation for her many years of hard work and unending commitment to the betterment of the Carson, CA, community.

Kay Calas was born in Kansas City, MO, the next to last of eight children in John and Rose Boswell's family of seven girls and one boy. In 1945 she moved to California and the following year married John Calas, a local businessman in the South Bay area.

During her early years as a wife and mother, Kay devoted herself to her husband and her five sons, Chuck, John, Jr., Frank, Jim, and Tom. She soon found herself involved, as a parent, in the Woodcraft Rangers, the De Molay Mothers' Club, and the PTA, where she holds a lifetime membership. In addition to her early civic involvements, Kay also served as president and director of the Keystone Women's Club as well as becoming a member of the Eastern Star and Rebekah Lodge.

Kay's longstanding civil contributions have resulted in a biannual low cost rabies vaccination program for dogs as well as the establishment of a Carson chapter of Alcoholics Anonymous. She has participated in local committees such as the City Economic Development Committee, the City Public Relations Committee, the City Anti-Graffiti Committee, and the City Community Task Force on Crime, which she has actively promoted. She has served on the board of directors of the Carson Chamber of Commerce, is a member of Dominquez Women's Club, the Carson V.I.P. Club, the T.L.C. Club, the Carson Jolly Club, the Y.M.C.A. Century Club, the Dominquez Swinging 50's, and the Keystone Women's Club. Moreover, it should be mentioned that Mayor Calas' activities have not been confined to the Carson city limits. She served on the Alameda task force, the Los Angeles County Sheriff's Advisory Committee, and the Los Angeles County Abatement Committee. Her influence even stretches as far away as the Philippines and Japan through her involvement in the Sister City Committee.

In 1975, Kay embarked upon a new area of leadership by becoming the first woman in the history of Carson to be elected to the Carson City Council. Upon Kay's entrance into the area of public service, she began to initiate and encourage innovative programs to benefit the citizens of the city. Under her leadership, four new parks have been established, and numerous innovative programs for the physically challenged, females, and senior citizens have been developed. After serving as a delegate to the National Democratic Convention in both 1980 and 1984, she was honored as

Democratic Woman of the Year for the 30th Senate District in 1988.

Mr. Speaker, Mayor Kay Calas commands the respect of her community and of her country. Her unselfish commitment and dedication serves as a reminder to the limitless capabilities of the human spirit. Because of her efforts, Carson has developed into one of the finest communities in this country. However, despite her numerous public and civic achievements, perhaps her greatest accomplishment has been her ability to maintain a strong devotion to her five sons and her eight grandchildren, John, III, Christopher, Nicole, Leslie, Frank, Jr., Jim, Jr., Justin and Brooke.

My wife, Lee, joins me in extending our congratulations to Kay Calas. She is truly a remarkable individual who has devoted her talents and energies to enriching the lives of so many other people. On behalf of the entire Greater Harbor community, we wish Kay, and her family, all the best in the years to come.

JUSTICE, IL, PUBLIC LIBRARY: 10TH ANNIVERSARY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LIPINSKI. Mr. Speaker, I am pleased to bring to the attention of my colleagues the Justice, IL, Public Library District, which will celebrate it 10th anniversary on September 18, 1988. This is truly an example of Federal and local government cooperation at its most effective.

Thanks to the Federal funding of Project PLUS, the Justice Public Library was able to open its doors on September 18, 1978, to give citizens a taste of library service before they voted on a referendum to formally establish this service. Initial funding and many other forms of assistance were also received from the local suburban library system. The system's consultant, Beth Mueller, was among those most instrumental in the creation of this library district. The village of Justice contributed some of its Federal revenue-sharing funds as well as the use of a village-owned house for the library building.

In February 1979, the referendum to establish a library district passed in the village of Justice with a vote of 496 to 140, allowing a second year of Federal funding. The library began using two rooms of the village-owned house and spread into other rooms as they were remodeled. Later, a referendum to annex to the library district the unincorporated area of Sterling Estates was approved. In 1984, a former mobile classroom was joined to the original building to accommodate the growing collection and usage. A building program is being planned for further growth. Justice is very proud and appreciative of these expanding library facilities.

Having accomplished many of its community service goals, the library district is planning for the future on this 10th anniversary. A just completed community survey will help the library be responsive to the wishes of citizens. It is rewarding to see Federal and local initiatives truly address a community need, as Justice's, in an effective and cooperative manner. I am sure my colleagues will join me in congratulating all involved on this celebratory occasion, thanking them for a job well done and for their continued service to the Justice community, and wishing them all the best.

TRIBUTE TO THE NEWTON FALLS VFW HORSESHOE CLUB

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the Horseshoe Club of Newton Falls VFW Post 3332, which is located in my 17th Congressional District of Ohio.

The fine idea for the creation of the horseshoe club and the construction of the courts was proposed by Dick Lantz, who is a veteran and member of post 3332. Post 3332 provided the financial backing and labor needed to construct the horseshoe pitching courts. Construction of the courts began in September 1987 and was completed in April 1988. A special word of recognition goes to the members who gave freely of their labor: Ken McVicker, Ed Hillon, Richard Kilbert, Glen Dickey, and Roy Winland.

During the time the courts were being constructed, the post set about to form a league consisting of post members. Charles Stiles was elected league president, Carl Stier vice president, and Ken McVicker secretary-treasurer. Charles Stiles, Richard Kilbert, and Fauston Rapzak. Twelve three-man teams were on hand for the first Wednesday night league, but perhaps the most important aspect in the development of this horseshoe club was the development of a women's league as well. The horseshoe club also travels around the State to compete with other clubs.

Mr. Speaker, it is with great pride that I pay tribute to the work VFW Post 3332, which would like to dedicate its courts to the memory of two of its outstanding members, Cletus Price and Bob Boring. I wish to commend post 3332 on the completion of their horseshoe pitching courts and those to whom the courts are to be dedicated.

HONORING THE APOLLO VOLUNTEER FIRE DEPARTMENT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. MURTHA. Mr. Speaker, probably no organization has so mirrored the development of America as our local, volunteer fire companies. They have been part of the American community since our earliest days, and throughout our history they have symbolized the volunteerism and community spirit that has helped to make America the greatest Nation in the world.

That marks one reason why I am so proud to take note of the upcoming 100th anniversary of the Apollo Volunteer Fire Department. From the days of leather buckets and fire brigades to modern pumpers and an aerial water tower/pumper, this organization has been a key part of the Apollo community.

The great strength of America does not flow outward from its seat of Government, but from our communities and neighborhoods to Congress and the Federal Government. The commitment of people to their communities, the spirit of helping neighbors in time of their need, and the willingness to join in community ventures will continue in the decades ahead to provide great strength to the United States.

For those reasons, it is a particular pleasure for me to insert these remarks into the CONGRESSIONAL RECORD honoring the Apollo Volunteer Fire Department and wishing the community well in celebrating its upcoming 100th anniversary.

WILLIAM "TINY" MULLIGAN, A LOWELL HERO

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. ATKINS. Mr. Speaker, I was saddened to learn this week of the death of one of Lowell's finest citizens, William "Tiny" Mulligan, a giant of a man.

Tiny Mulligan died of cancer at the age of 65, and it was the only battle he ever lost. He had retired from the Lowell police force after 25 years of service as a well loved beat cop who, despite his tough guy image, seldom used force in the line of duty. His imposing presence made it unnecessary.

Tiny Mulligan, a lifelong resident of Lowell, had been a professional boxer for 6 years after scoring 43 straight wins as an amateur. In 1941, he was the National Athletic Union middleweight champion.

In his quarter century as a police officer, walking the beat near city hall, Tiny Mulligan won six citations and four commendations. Among his deeds were saving lives at a fire in 1970 and saving a drowning man in 1971.

Tiny Mulligan will be remembered not only for his bravery and toughness, but for his kindness. The words of Lowell Police Chief John Sheehan, who was broken in by Tiny Mulligan, said it best: "He worked a tough area and people knew who he was and they respected him. He was very fair, very straight. But if you were going to act up, you were dealing with the wrong police officer."

The Nation needs more old-fashioned cops like Tiny Mulligan.

THE MYTH OF THE MINIMUM WAGE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. CRANE. Mr. Speaker, currently, much debate has been focusing on whether Congress should increase the Federal minimum wage. I would like to share with my colleagues a few pertinent facts as they consider legislation to raise the minimum wage. First, an increase in the minimum wage may seem like a solution to the problem of an extremely low salary; however, realistically it will hurt far more people than it will help. The information regarding the impoverished workers who earn only $3.35 an hour, the current minimum wage which hasn't changed since 1981, is deceiving.

I do not support the increase of the minimum wage as there are many misleading facts about the positive effects from an increase. Young adults, low-skilled workers, the elderly, and those with little or no formal education hold these low-level entry jobs. Such jobs provide an opportunity for these people to enter the work force and to gain the experience needed for advancement. However, with an increase in the minimum wage, low-entry level jobs are often eliminated because businesses cannot afford to employ as many people. Also, prices increase because the cost of conducting business is raised. This, in turn, hurts the consumers.

Finally, the elimination of jobs and the increase in prices raises unemployment and inflation. The effects on the economy are felt almost immediately.

To further familiarize my colleagues with the discrepancies surrounding the minimum wage issue, I recommend the following article by Robert J. Samuelson entitled "The Myth of the Minimum Wage."

THE MYTH OF THE MINIMUM WAGE

(By Robert J. Samuelson)

Some of you may think that raising the minimum wage is a long-overdue way of helping the poor. Please discard this outdated idea. Current efforts by Democratic leaders in Congress to raise the minimum have more to do with embarrassing the Republicans in an election year than helping the poor. Increasing the minimum wage is misguided social policy, even if it seems the fair thing to do.

Popular wisdom is understandable and well meaning. The current minimum—$3.35 an hour—hasn't been raised since 1981. By 1987 it stood at only 37 percent of average hourly earnings. It hasn't been that far below the average wage rate since 1949. This seems monstrously indecent. Workers stuck in minimum-wage jobs are being progressively impoverished. Their pay is about $7,000 a year. That's less than two-thirds of the government's official poverty floor for a family of four. It's a dismaying picture. It's also thoroughly misleading.

The profile of minimum-wage workers simply doesn't fit the popular stereotype. Consider:

Most aren't from poor families. About 70 percent come from families with incomes at least 50 percent above the poverty line, according to a study by the Congressional Budget Office. Only 19 percent come from families below the poverty line.

Most minimum-wage jobs aren't held by heads of families. About two-thirds are held by young (24 and under) and single workers. About a third are teen-agers. The typical minimum-wage worker is a teen-ager from a nonpoor family working as a waiter or waitress. A third of all minimum-wage jobs are in restaurants.

Most workers don't get stuck in full-time minimum-wage jobs; indeed, two-thirds of minimum-wage jobs are part time. Some jobs permanently pay the minimum, but they have high turnover. Other jobs may start at the minimum, but companies quickly give raises to employees thay want to keep. Since 1980 the proportion of workers receiving the minimum has fallen from about 11 to 4 percent.

Government policies shouldn't be based on stereotypes that are demonstrably false. Legislation passed by the House Education and Labor Committee would raise the minimum wage about 51 percent, to $5.05, by 1992. Enacting this sort of increase to help the minority of workers who fit the stereotype—heads of families with full-time jobs—is self-defeating. It would raise unemployment and inflation in return for, at most, a tiny reduction in poverty.

When government mandates higher labor costs, someone has to pay them. Companies are likely to raise prices and fire (or not hire) the least productive workers. After reviewing the available studies, economists Frederick Furlong and Marc Charney of the Federal Reserve Bank of San Francisco concluded that the present proposal would raise inflation at least a quarter of a percentage point and result in the loss of 100,000 to 300,000 jobs. "The increase in unemployment would be among lower-wage workers, the group that the minimum-wage law is supposed to help," they write.

Supporters of a higher minimum dismiss these side effects as trivial. For instance, they point out that the extra joblessness would add only 0.1 to 0.3 percentage points to the unemployment rate. This argument is absurd. It justifies bad legislation as long as the bad effects are small, as Rep. Richard Armey, Republican of Texas, says. "Why not raise 'the minimum' to $10 or $20 an hour?" he asks. "The adverse effect of the minimum wage is perfectly obvious when we imagine it inflated to $10 an hour. * * * At $5.05 the effects on employment are not quite so blindingly apparent. Instead of millions of workers being laid off, there will only be a mere few hundred thousand."

There are better ways of helping the working poor. Rep. Thomas E. Petri (R-Wis.) suggests improving the earned-income tax credit, which goes to working parents with low incomes. The maximum credit is now $874. Because most of these workers don't owe income taxes, the credit is refundable. It's a direct payment that covers their social security taxes and a bit more. But today's credit doesn't vary according to family size. Petri would provide bigger credits for larger families, up to $2,500 for four children. This approach wouldn't raise prices, wouldn't deter hiring and would direct benefits to those in need.

It's not a partisan idea. An early advocate was economist Robert Reischauer of the Brookings Institution, a Democrat. Privately, some Democratic congressmen concede it's a good concept. But the Democratic congressional leadership clings to the minimum wage out of habit and expediency. It's superficially popular. One recent Gallup poll showed 77 percent of Americans support a higher minimum. It's also heavily favored by organized labor, a major Democratic constituency. Finally, it doesn't add to the budget deficit. By contrast, Petri's proposal would cut tax revenues about $2 billion. Doing it right would mean raising someone else's taxes or cutting some spending.

There's no taste for such tough choices. Even raising the minimum wage is harder than it seems. The dilemma is basic: the larger the increase, the greater the economic damage; the smaller the increase, the more it's a gesture. In the House, the Democrats haven't felt confident enough of victory to bring the measure to a floor vote. Congressmen from the oil patch and farm belt—where local economies remain weak—worry that excessive increases would hurt too much. The leadership is looking for the middle ground. Last week the Senate Labor Committee approved legislation raising the minimum only to $4.55 by 1991. Even Republicans might accept $4.10 or $4.25.

A lot of intricate legislative maneuvering lies ahead. It should be fascinating. But be assured that it doesn't have much to do with the poor. It's over political symbolism. Raising the minimum wage involves the worst kind of backdoor spending and feel-good politics: people can say they're helping the poor when they're really not. Democrats are trying to paint the Republicans as cold, cruel and heartless, while the Republicans are desperately scrambling to avoid this unpopular stigma. Whoever wins, the poor lose.

EDITORIAL SUPPORT FOR DROUGHT RELIEF MEASURE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. BEREUTER. Mr. Speaker, a recent editorial in the York, NE, News Times will be of interest to my colleagues. The editorialist commends the quick action by Congress to address the Nation's drought conditions.

To our credit, this emergency measure largely escaped election-year rhetoric and partisanship. With bipartisan support and with cooperation from the administration we successfully passed a bill that should bring relief to the most severely drought-stricken areas of the country.

I wanted to share this editorial with my colleagues to illustrate the editorial support from an agricultural-oriented community that has watched our actions and applauded the results.

DROUGHT AID ESCAPES ELECTION-YEAR POLITICS

Good news from Washington D.C., is on the way to the nation's farmers.

In the midst of drought conditions which have parched the heartland as badly as any year in recent history, lawmakers dropped partyline politicking and passed a provision which will deliver an estimated $3.9 billion to struggling agriculture families.

This year's drought aid package is the biggest federal emergency relief bill ever passed for farmers in the United States. For those who survived the industry's fallout over the last few years, the funds will in many cases make the difference between filing bankruptcy and looking ahead to another year.

Passage of the bill is welcome news in itself, but the unanimous support with which it was approved is an even healthier sign for the industry.

As we approach an open race for the White House, every issue is being weighed as much for candidate position as it is for its own validity. On-going debates on aid to the Contras, economic reform, etc., are publicized as to Bush-Dukakis differences and how they might influence the November vote.

The nation's lawmakers looked past the fall ballot, however, in putting the country's resources to work in this time of emergency need. Midwestern states can thank their representatives for coming home, seeing the need, and impressing on Capitol Hill what grave conditions threaten the immediate future of this vital industry.

The adopted language of the drought aid package also offered relief from the normal onslaught of non-related tack-on provisions. The final bill escaped the writhing channels without the addition of costly special interest amendments and was given sweeping support by both Congress and the President.

The help was clearly needed, as recent surveys show that 43 percent of the country is suffering from severe or extreme drought conditions, which rate as the fourth worst since the government began keeping the statistics in 1895.

Nebraska has fared better, fortunately, than other regions of the country, particularly with the aid of available groundwater resources.

A combination of the '88 drought bill, higher market prices and a relatively high yield potential spells hope for Nebraska's farmers. York County looks to survive the year of the drought in a profitable way.

TRIBUTE TO DR. HORACE JIM McMILLAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LAGOMARSINO. Mr. Speaker, I rise today to recognize one of the 19th District's outstanding citizens, Dr. Horace Jim McMillan, who retired August 17, after many years of healing and helping the citizens in and around Santa Barbara. Dr. McMillan is more than just a dedicated and excellent physician; he is also, as the only black doctor to practice medicine in Santa Barbara, a pioneering and exemplary role model to the minority community there.

Dr. McMillan began his family practice in Santa Barbara in 1952, after receiving a B.S. from Prairie View A&M college, an M.D. from Meharry Medical College, doing graduate work at St. Louis University, and after serving as the first black pharmacist's mate in the history of the U.S. Coast Guard. He received an HMO certificate from UCLA in 1975. Dr. McMillan also served as vice president of the Physicians Investment Corp., as a member of the Mayor's Advisory Committee on Human Relations, on the board of directors of the Goleta Valley Community Hospital, and as a staff member at St. Francis Hospital, Santa Barbara Cottage Hospital, Goleta Valley Community Hospital, and Pinecrest Hospital. Dr. McMillan has also been recognized and honored as the innovator of the Franklin Neighborhood Service Center and is one of four recipients of the Martin Luther King Award—Afro American Community Service Center.

Mr. Speaker, I could continue listing Dr. McMillan's accomplishments for the duration of my time, but it should already be obvious that this man has played a large role in the local health care profession, as well as in the Santa Barbara community as a whole. Dr. McMillan's public service achievements extend well beyond the realm of physical healing, and I know that I speak for the citizens of the 19th District when I thank and applaud him for his extraordinary efforts to improve the lives of people there.

TRIBUTE TO ABRAHAM AMADOR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to Abraham Amador, a resident of Oakley, CA, in my district. Mr. Amador has contributed immeasurably to the growth and betterment of Oakley as one of the foremost leaders of the community. He is also a personal friend of mine.

Abraham Amador has dedicated his life to helping others, many times at a cost to himself. At the age of 58, Mr. Amador can reflect on his days as a farm laborer living in camps with his children and wishing for a place they could be proud to call home. Now he lives in his own home on a street that bears his name. Abraham knows firsthand what it means to farmworkers to own their own home, and he has spent many years of his life working to make that dream a reality for farmworkers like himself.

Mr. Amador was quoted in one of our local newspapers as saying, "It came down to 'either I work to get money for ourselves and get wealthy, or I work to help other people who haven't made it yet.' It wasn't hard to decide which road to take."

Indeed, Abraham's work has enabled countless alien workers to gain residency under the recently passed immigration law. He also helped to erect 43 homes for farmworkers with mortgage payments as low as $66 a month. In addition to building new homes, Mr. Amador's work has assisted another 600 families in obtaining loans to buy their own homes. He has also helped to obtain and rehabilitate two farm labor camps near Brentwood, CA.

Most recently, Mr. Amador has been given the Humanitarian of the Year Award by the Oakley Residents for Responsible Growth. Although he greatly appreciates receiving the award, Amador was careful to note that while he was getting the recognition, there were many others who shared in his work who are not recognized.

Despite the magnitude of his past accomplishments, Abraham Amador approaches the future with the same special commitment to work for change. He realizes the struggle is far from over and sees that he must continue the fight.

I know my colleagues in the House of Representatives will join me in commending Abraham Amador for his outstanding achievements. Abraham's work has made a difference in many people's lives, and I feel fortunate to be able to work alongside him and know him as my friend.

EXPLANATION OF ABSENCE

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. PICKLE. Mr. Speaker, I was en route from scheduled events in my district this morning and missed rollcall vote No. 291. Had I been present, I would have voted "aye."

ABM CRISIS NEARING

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. KYL. Mr. Speaker, we are reaching a critical point in arms negotiations because of the Soviet Union's illegal phased-array radar at Krasnoyarsk in Siberia.

Despite that the radar is in violation of the Anti-Ballistic Missile Treaty, the Soviets have, since 1983, insisted on deep concessions from us before they will dismantle it. Originally, they wanted us to dismantle our legal radar sites overseas. Now, the Soviets say they will trade Krasnoyarsk for a narrow interpretation of the ABM Treaty, which is nothing more than another attempt to kill our strategic defense initiative.

An editorial that recently appeared in the Arizona Republic precisely explains the looming crisis in arms control negotiations, and offers the only logical answer: "Either Moscow should dismantle the site, or the Reagan administration should abrogate the pact."

Mr. Speaker, I urge my colleagues to read the Arizona Republic's editorial, and include it in the RECORD at this point:

[From the Arizona Republic, Sept. 6, 1988]

ABM CRISIS NEARING

The Soviet arms-control negotiating strategy is clear; what is mine is mine, and what is yours is negotiable.

This is evidenced again by the breakdown last week of the talks in Geneva. The collapse came when the Soviets refused to dismantle the large phased-array radar site at Krasnoyarsk in south-central Siberia.

Since it was first discovered in 1983, the installation has been regarded in Washington as a violation of the 1972 Anti-Ballistic Missile Treaty. U.S. negotiators consequently warned that unless it was dismantled, it would be declared a "material breach" of the treaty, thus paving the way for Washington to abrogate the pact.

That Krasnoyarsk violates the ABM Treaty is obvious. The treaty's language is unambiguous. "Each party," it says, "undertakes not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward."

Krasnoyarsk is located nowhere near a border and is improperly oriented to perform the function Moscow alleges for it—tracking objects in space. Also, it has the capability to perform illegal early-warning and battle-management functions. Krasnoyarsk's two 10-story antenna buildings are identical to the Pechora-class radars surrounding Moscow—part of the legal ABM system protecting that captial.

Moscow's apologists dismiss Krasnoyarsk as a "technical" violation of the treaty. Even the Joint Chiefs of Staff oppose declaring the site a "material breach" because, they argue, we have no treaty-violating projects ready to implement, whereas the Soviet Union is prepared to deploy a national missile-defense system on a moment's notice. Thus, in the topsy-turvy logic of arms control, Soviet treaty violations become an argument for our adherence to the pact.

The doting arms controllers pooh-pooh Krasnoyarsk or obfuscate the issue with gratuitous, and often fanciful, excuses for why Moscow would undertake such a hugely expensive project of such supposed insignificance.

Since 1983, Moscow has demanded concessions in exchange for the destruction of Krasnoyarsk. It has demanded that in exchange for Krasnoyarsk the U.S. dismantle radar sites at Thule in Greenland and Flylingdales in Great Britain—both long in existence both legal even with the recent phased-array upgrade. Recently, however, the Soviets have dropped this line in favor of demanding that Krasnoyarsk be swapped for a U.S. pledge to abide by Moscow's narrow interpretation of the ABM Treaty, thus cripping research into the Strategic Defense Initative.

Soviet compliance with treaty obligations cannot be conditioned on other steps, concessions or trade-offs. Krasnoyarsk is a blatant violation of the ABM Treaty. Either Moscow should dismantle the site, or the Reagan administration should abrogate the pact.

NEW CONSIDERATIONS FOR EARTHQUAKE PREPAREDNESS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Ms. PELOSI. Mr. Speaker, an earthquake is the most devastating of natural disasters. The Federal Emergency Management Agency has estimated that if an earthquake equivalent to San Francisco's earthquake of 1906 where to strike San Francisco today, up to 11,000 deaths would occur and 40,000 people would require hospitalization. However the threat of earthquakes is not just limited to California; 75 percent of our States contain regions that are classified as having major or moderate seismic risk. Because of geological differences in the East, seismic waves travel further from the quake's epicenter than on the west coast. The area affected by an earthquake on the east coast would be 20 times larger than the area affected on the west coast. The Federal Government must be strongly committed, in the form of continued funding for U.S. Geological Survey and Federal Emergency Management Agency. The Earthquake Hazard Reduction Act passed in this session was a first step in improving the Federal, State, and local governments' ability to increase awareness and preparedness for a catastrophic earthquake.

This July, the U.S. Geological Survey released a report that estimated there was a 50-percent chance that a major quake would hit the bay area in the next 30 years.

I have included for the RECORD, the July 14 editorial from the San Francisco Chronicle which reviews this report:

[From the San Francisco Chronicle, July 14, 1988]

QUAKE SAFETY

An estimate that a major earthquake has a 50-50 chance of striking the Bay Area within the next 30 years, or chances of two in 10 that it will hit within the coming decade, is adequate warning that nothing but thorough preparation will prevent fatalities in the thousands.

Although many uncertainties exist in the science of quake prediction, a report by the U.S. Geological Survey said the big local temblor could hit either the San Andreas Fault which runs through the San Francisco Peninsula or the Hayward Fault in the East Bay.

An 8.3 magnitude quake on the San Francisco side of the bay could kill 3,000 to 11,000 people, according to an estimate by the Federal Emergency Management Agency, and a 7.4 quake in the East Bay could kill 3,000 to 7,000 people.

The San Andreas system has been "relatively quiet" for many years, a Geological Survey geophysicist told Chronicle science editor David Perlman, but the two crustal blocks on either side of the fault are straining to slip past each other and the stresses must finally be released with shuddering effect. The resultant natural disaster is probably inevitable, but its damage can be minimized to a certain degree in advance.

Stricter construction standards should be adopted; old structures, particularly brick and masonry buildings, should be reinforced; highway overpasses should be strengthened; regional emergency plans should be coordinated among city, police, fire and other agencies. An individual can store emergency supplies and locate main switches and valves that control the flow of water, gas and electricity.

Without aggressive programs of emergency planning and earthquake preparedness, the next major quake in a highly developed urban area will result in a great loss of life and property.

TRIBUTE TO JUDGE GERALD E. RADCLIFFE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. McEWEN. Mr. Speaker, I am honored to share with my colleagues the awarding of the "Meritorious Service to the Juvenile Courts of America" to my good friend and native Ohioan, Judge Gerald E. Radcliffe.

Judge Radcliffe has dedicated his life and his service to addressing the needs of the juvenile court system and the families they are charged with protecting across our Nation and throughout Ohio. I am pleased to learn that Judge Radcliffe's peers have bestowed upon him this much deserved honor. I join with Judge Radcliffe's many friends and family in offering my sincerest congratulations.

Mr. Speaker, I commend to your attention the following information concerning this Meritorious Service Award. During these times of increased attention to the need of our juveniles, it is important to recognize such dedicated service.

OHIO JUDGE RECEIVES NATIONAL HONOR

The National Council of Juvenile and Family Court Judges founded in 1937 is the oldest judicial organization in the United States. Its primary goal is to offer continuing education for judges and court related personnel in the family and juvenile courts.

At its Annual Conference a family or juvenile court judge is selected by the Awards Committee of the National Council for its Meritorious Service Award to the Juvenile Courts of America. This is the highest recognition that the National Council of Family and Juvenile Courts Judges awards to a judge.

Gerald E. Radcliffe, Judge of the Probate and Juvenile Divisions of the Common Pleas Court of Ross County, Ohio has been selected to receive this honor at the 51st Annual Conference of the National Council in Fort Lauderdale, Florida on Monday, July 11th.

Judge Radcliffe, a native of Chillicothe and juvenile court judge of Ross County for nearly sixteen years stated,

"This is a great tribute to our community and state, and national recognition that those of us in rural America are capable of making contributions to the betterment of the Juvenile Justice system of our nation. I am deeply moved and honored to accept this award on behalf of all those that made it possible!"

Louis W. McHardy, Executive Director of the National College of Juvenile and Family Law in making the announcement stated that Judge Radcliffe was previously recognized as an Adjunct Senior Judicial Scholar by the Council.

Judge Gerald E. Radcliffe is a native of Chillicothe, was educated at Ohio University and at the Univesity of Cincinnati.

Before assuming his judicial duties for Ross County in 1973, Judge Radcliffe served as an acting municipal court judge of Chillicothe.

In his community, Judge Radcliffe has been the project director for the South Central Ohio Juvenile Detention Center and is one of the founders of the Roweton Family Complex with its nationally recognized parent visitation home.

Judge Radcliffe presently serves as Chairman of the advisory Council of the Governor for the Department of Youth Services, Trustee of the Ohio Judicial College, and a member of the Supreme Court Advisory Committee currently evaluating suggestions for changes in child support riles for the family Courts of Ohio.

[From the Chillicothe (OH) Gazette, July 11, 1988]

JUDGE GETS NATIONAL AWARD

(By Jan Angilella)

Ross County Juvenile Court Judge Gerald Radcliffe will receive today a national service award for his work in the juvenile court system.

Radcliffe will be given the Meritorious Service to the Juvenile Courts of America Award. He was selected by the National Council of Juvenile and Family Court Judges. The award is the highest recognition that the national council awards a judge.

"I'm really thrilled," Radcliffe said Friday. "I'm so proud, I'm busting at the seams. If we were just talking about Ohio, it would be one thing. But to be picked out of the whole nation is just remarkable."

Radcliffe will receive the award at the 51st annual conference of the National Council in Fort Lauderdale, Fla.

Radcliffe has been the project director for the South Central Ohio Juvenile Detention Center and is one of the founders of Ross County's Roweton Family Complex. The complex has been nationally recognized for its parent visitation home.

Radcliffe currently serves as Chairman of the Governor's Youth Advisory Council for the Department of Youth Services and Trustee of the Ohio Judicial College. He also is a member of the Supreme Court Advisory Committee evaluating proposals for changes in child support rules for the family courts of Ohio.

Radcliffe, a Democrat, is seeking the newly-created seat on the 4th District Court of Appeals in the November election.

H.R. 5261, INDIAN HEALTH CARE AMENDMENTS OF 1988

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. WAXMAN. Mr. Speaker, I am proud to join Chairman UDALL in introducing the Indian Health Care Amendments of 1988. This bill would revise and extend, through 1992, various health manpower, health service, and health facility programs authorized by the Indian Health Care Improvement Act and administered by the Indian Health Service [IHS].

This bill represents a compromise between the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs. Last year, both committees ordered reported H.R. 2290, the Indian Health Care Amendments of 1987, with differing amendments. As a result of negotiations over the last few months, we now have a product that both committees, on a bipartisan basis, can support. I hope that this bill will be considered by the House on the suspension calendar in the near future.

The basic thrust of this bill is to raise the health status of the Indian people to parity with that of the general U.S. population. As the Office of Technology Assessment concluded in its 1986 report, "the health of American Indians on average has improved on many measures over the past 15 years, but in almost every IHS service area and on almost every measure it is still far behind that of the U.S. all races population." OTA found that Indians are more likely to die of tuberculosis chronic liver disease and cirrhosis, accidents, diabetes, pneumonia and influenza, homicide, and suicide.

To improve the inferior health status of Indians, the bill would extend the existing Indian health manpower programs and authorize new initiatives to address the growing shortage of doctors, nurses, dentists, and other health professionals faced by the IHS and by tribal contractors. The bill would also direct the IHS to expand its health promotion and disease prevention activities, with an emphasis on diabetes prevention, treatment, and control. In addition, the bill would establish a fund to increae allocations to those tribes that are most deficient in health care providers, facilities, and other resources. Finally, the bill would direct the IHS to implement a plan to reduce infant and maternal mortality and fetal alcohol syndrome among American Indians and Alaska Natives.

Some Members have raised concerns about the use of funds appropriated to the IHS for the performance of abortions. Under current IHS regulations, Federal funds may not be used to pay for abortions unless a physician has found and certified in writing that the life of the mother would be endangered if the fetus were carried to term. Under this policy, the IHS in 1985 performed a total of five induced abortions; in 1986, the number declined to four. Stated another way, the IHS has a ratio of 0.3 induced abortions per 1,000 live births. This compares with a ratio of 421 induced abortions per 1,000 live births for the United States as a whole in 1985, the latest year for which the Alan Guttmacher Institute has data.

Section 617 of the bill provides that, with respect to the performance of abortions, the IHS, like other Public Health Service agencies, is governed by the relevant language in the Health and Human Services appropriations bill, even though the IHS is funded under the Interior appropriations bill. Currently, the language in the HHS appropriations bill is the Hyde amendment, which prohibits the use of Federal funds for the performance of an abortion except where the life of the mother would be endangered if the pregnancy were carried to term. Thus, the IHS in any fiscal year would be governed by whatever restrictions on the use of Federal funds for the payment for abortions are included in the HHS appropriations bill for that year.

This bill contains budget authority of $74.8 million in fiscal year 1989, $105.5 million in fiscal year 1990, $110.7 million in fiscal year 1991, $111.3 million in fiscal year 1992, and $74.5 million in fiscal year 1993. The large majority of this funding—over 60 percent—represents extensions of existing programs, such as community health representatives and urban Indian health projects. The major new initiatives are first, the fund for improving allocations to resource-deficient tribes; second, provisions for upgrading IHS clinical staffing; and third, the program for diabetes prevention, treatment, and control. Each of these new initiatives is essential to enabling the IHS to meet its most basic responsibilities for the health of the Indian people.

A summary of the bill follows. This reauthorization, a version of which has been passed by the House in each of the last two Congresses, is long overdue. The reauthorization is a high priority for the Indian people. I urge my colleagues to support the bill.

SUMMARY OF INDIAN HEALTH CARE AMENDMENTS OF 1988

TITLE I. INDIAN HEALTH MANPOWER

Section 101. Extends the current health professions recruitment program for Indians at the following authorization levels: $0.6 million in FY 89; $0.65 million in FY 90; $0.7 million in FY 91; and $0.75 million in FY 92.

Section 102. Revises and extends the current health professions preparatory scholarship program for Indians at the following authorization levels: $3 million in FY 89; $3.7 million in FY 90; $4.4 million in FY 91; and $5.1 million in FY 92.

Section 103. Extends the current IHS extern program at the following authorization levels: $0.3 million for FY 89; $0.35 million in FY 89; $0.4 million in FY 91; and $0.45 million in FY 92.

Section 104. Revises and extends the current Indian health professions scholarship program at the following authorization levels: $5.1 million in FY 89; $6.0 million in FY 90; $7.1 million in FY 91; and $8.234 million in FY 92.

Section 105. Extends the current program for continuing education allowances at the following authorization levels: $0.5 million in FY 89; $0.526 million in FY 90; $0.554 million in FY 91; and $0.582 million in FY 92.

Section 106. Authorizes a health professions scholarship program for Native Hawaiians at the level of $1.8 million for each of the fiscal years 1989 through 1992.

Section 107. Codifies under the Snyder Act the current community health representative program with no specific authorization levels.

Section 108. Establishes the following new programs to address the shortages in physician, nursing, and other clinical staffing faced by the IHS and tribal contractors: (1) an IHS loan repayment program, with an authorization of such sums as may be necessary; (2) an authorization of $0.1 million in each fiscal year for the IHS to reimburse travel expenses of individuals being recruited for placement at IHS or tribal sites; (3) a program of grants to tribes to recruit and retain health professionals, with an authorization of $1 million for each of the fiscal years 1989—1991; (4) a program to enable providers in Indian health programs to pursue advanced training or research.

TITLE II. HEALTH SERVICES

Section 201. Establishes a new Indian Health Care Improvement Fund to provide additional funds to resource-deficient tribes at the following authorization levels: $19 million in FY 90 and in FY 91, and $20 million in FY 92.

Section 202. Codifies the current Catastrophic Health Emergency Fund at an authorization of $12 million for each of the fiscal years 1989-1992.

Section 203. Requires the IHS to provide health promotion and disease prevention services, including a program of diabetes prevention, treatment, and control, with an authorization level of such sums as may be necessary. Also directs the Secretary to establish a health promotion and disease prevention program for Native Hawaiians at an authorization level of $750,000 for each of the fiscal years 1989 through 1992.

Section 204. Confers on the IHS a right to recover from private insurers and other third parties for the costs of services rendered to Indian patients. Provides that any reimbursements recovered are to be retained by the IHS facility or tribal contractor that delivered the services for which recovery was sought. Also provides that at least $200,000 of the funds appropriated to the IHS each fiscal year are to be applied to health services research.

TITLE III. HEALTH FACILITIES

Section 301. Requires the Secretary to submit to the Congress an impact evaluation at least one year prior to the closure of any IHS hospital or outpatient facility, and to submit annually a health facility priority system setting forth the ten highest priority inpatient and outpatient construction or renovation projects.

Section 302. Requires the IHS to develop and implement a 10-year plan to provide safe water supply and sanitary sewage and solid waste disposal facilities to Indian homes and communities. Also requires the IHS to submit annually to the Congress a sanitation facility priority system. Authorizes $3.85 million for each of the fiscal years 1990-1992 to enable the IHS to provide financial and technical assistance, training, and emergency repairs to Indian tribes operating sanitation facilities.

Section 303. Specifies the conditions under which the Secretary may accept non-IHS funds for the renovation or modernization of IHS facilities.

Section 304. Provides for the disposition of the Bethel, Alaska, Hospital upon a final administrative ruling by the Interior Department.

TITLE IV. URBAN INDIAN HEALTH SERVICES

Section 401. Revises and extends, under the authority of the Snyder Act, the current urban Indian health program, with no specific authorization levels.

Section 402. Clarifies the definition of the term "urban Indian organization."

TITLE V. ORGANIZATIONAL IMPROVEMENTS

Section 501. Provides a statutory basis for the recent elevation of the IHS to agency status within the Public Health Service of the Department of Health and Human Services. Requires the IHS to establish an automated management information system for the IHS, including financial and patient care data.

TITLE VI. MISCELLANEOUS PROVISIONS

Section 601. Authorizes the IHS to lease facilities owned by Indian tribes for the purpose of delivering health services.

Section 602. Revises and extends the current authority establishing Arizona as a contract health service delivery area through 1991.

Section 603. Codifies criteria for eligibility for IHS services with respect to California Indians.

Section 604. Delineates the contract health service delivery area in California.

Section 605. Requires the IHS, with respect to health program and facilities operated by tribal contractors, to pay the same expenses as the IHS covers in the programs and facilities it operates.

Section 606. Prohibits the Secretary from removing a National Health Service Corps physician from an Indian site unless the Secretary assures there will be no reduction in services.

Section 607. Describes the circumstances under which IHS facilities can make services available to persons who are not eligible Indians.

Section 608. Directs the IHS to develop and implement a plan to reduce the rates of infant mortality, maternal mortality, and fetal alcohol syndrome among Indians to specified levels by 1993.

Section 609. Requires the IHS to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians.

Section 610. Directs the Secretary to report to Congress by September 30, 1990, on the feasibility of an arrangement for sharing of services and facilities between the IHS and the V.A. Authorizes the IHS clinic in Ft. Duchesne, Utah, to serve veterans.

Section 611. Requires that the IHS submit an impact report to the Congress if, in allocating funds, it reduces the base resources of any recurring program, project, or activity of a Service Unit by 5 percent or more in any fiscal year.

Section 612. Directs the IHS to pay for services to Indians in Montana who are indigent and eligible for county charity care pending conclusion of litigation.

Section 613. Directs the Secretary to fund a demonstration project by the Tohono O'odham tribe of Arizona to take over the IHS health care delivery system serving the tribe. The authorization is $275,000 for FY 89, $275,000 for FY 90, and $75,000 for FY 91.

Section 614. Directs the Secretary to make grants to the San Juan Pueblo, New Mexico, for substance abuse treatment services, at an authorized level of $250,000 for each of FY 90 and FY 91.

Section 615. Requires the Secretaries of Health and Human Services, Interior, and Energy to conduct a joint study with respect to nuclear resources health hazards on Indian lands.

Section 616. Prohibits the IHS from using Depo-provera to stop menses in mentally retarded women unless such use is specifically authorized by the FDA.

Section 617. Provides that the language in the HHS appropriations bill limiting the performance of abortions shall apply to the IHS for the fiscal year to which the language applies.

A TRIBUTE TO FRANCIS SMITH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. Francis A. Smith, a very special resident of my 17th Congressional District. It is truly one of my most exhilarating and proudest moments as a Member of Congress to be able to inform my fellow Members of the U.S. House of Representatives that Francis Smith was named National Big Brother of the Year for 1988. Please allow me a few moments to inform you about this great addition to the human race.

Mr. Smith resides at 20 Brookline Avenue in Youngstown, OH with his lovely wife Ginger and doting son Scott. He has served as big brother to three outstanding young men over the past 13 years: John Banko of Youngstown, a graduate of Chaney High School who intends to become a top student at Youngstown State University; Joe Silva, a YSU student majoring in management and an energetic retail store employee; and David Altman of McDonald, OH, a star pupil at McDonald Elementary School. Through Mr. Smith, each of these wonderful young men have received the guidance, love, and attention that every person needs.

Besides being named National Big Brother of the Year, Mr. Smith was also named Regional Big Brother of the Year for 1988 and Mahoning Valley Big Brother of the Year for 1982. Mr. Smith's mind-boggling devotion as a big brother has been slavish and exhaustive. He has served as president of Mahoning Valley Big Brothers for the past 2 years and has been a member of their board of trustees for the last 12 years. His accomplishments also include coordinating and acquiring toys for the Big Brothers Christmas Party since 1978, and obtaining countless dollars for his organization through the fund raiser bowl for kids.

Francis Smith received his 1988 National Big Brother of the Year award at the Big Brothers/Big Sisters of America Conference in Milwaukee, WI, on June 23, 1988. When he was given his award by the great Pittsburgh Steelers wide receiver Lynn Swann, I am certain that it was the happiest and most satisfying moment of Mr. Smith's life.

Francis, I salute you for the joy and meaning that you have given to the lives of young men, and want you to know that I am willing to help you out in this effort in any way that I can. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in paying tribute to the zest for life and humanitarian achievements of Mr. Francis A. Smith, the 1988 National Big Brother of the Year.

HONORING STATE REPRESENTATIVE AMOS HUTCHINSON

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. MURTHA. Mr. Speaker, I want to take special note of the retirement from the Pennsylvania State Legislature of a personal friend, and an outstanding legislator, Amos Hutchinson.

I served with "Hutch" in the Pennsylvania House, and I have stayed in touch with him in recent years, particularly after reapportionment when we both represented parts of Westmoreland County.

In thinking back over the career of Amos Hutchinson, there are many words that come to my mind. Independent; committed; honest; truthful; able; concerned; and dedicated.

But there is one description that comes to mind above the others: Amos Hutchinson was a dedicated American. In that deceptively simple phrase, you can tell a great deal about Amos Hutchinson, and a great deal about why our governmental system is the best in the world.

"Hutch" was the true citizen-legislator. He worked for his people. He carried his area's message to Harrisburg. He stayed true to the principles of democratic government. He expressed his views forcefully, but he respected the well-thought-out conclusions of an opponent. In retiring he commented, "My whole career in the legislature has been a highlight. It's an honor to represent the people of Westmoreland County".

And it has been an honor for the State legislature and for the people of Westmoreland County to have Amos Hutchinson in the State house of representatives.

The numbers and facts show 20 years of service, supervision of a reorganization of PennDOT and rebuilding the State's highway system where his accomplishments were much too regularly overlooked, the only current member to chair two committees, and a State law compensating volunteer firemen, policemen, and prison guards killed in the line of duty.

But behind those numbers stands a dedicated American, a man of principle, a man who was always "Hutch" to neighbor, friend, or foe, a good friend of mine, and a man in whose government service we can all appreciate and are all a little better because of his work.

TESTIMONY FOR PREFERENTIAL TREATMENT OF CAPITAL GAINS SUBMITTED TO NEC

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. CRANE. Mr. Speaker, in these times of revenue shortfalls and overburdening taxes, the preferential treatment of capital gains is an avenue that will provide revenues and lessen the tax burden on the American people. I recently had the privilege to submit testimony to the National Economic Commission on preferential treatment for capital gains. The following is the text of that testimony:

WRITTEN TESTIMONY OF PHILIP M. CRANE, COMMITTEE ON WAYS AND MEANS, AUGUST 17, 1988

Thank you for giving me the opportunity to present my views to the National Economic Commission. In this day and age of increasing Congressional spending and a runaway budget deficit, it is obvious we need to return to basic bugetary principles. The federal government, like a family, must establish an effective budget in which expenditures do not excede revenues. All too often, Members of Congress pass pet pork-barrel projects without regard to how the project will be financed. Consequently, the burden falls on the Members of the Ways and Means Committee to devise ways in which to raise revenues by increasing unpopular taxes, usually on the business community.

RAISING REVENUES—NOT TAXES

It is imperative that the Members of Congress and the National Economic Commission understand that the answer can only be achieved through reduction of expenses, tax incentives that encourage growth, and fiscal responsibility. The continued growth of the economy is the most important step in creating revenues through income tax on new wage earners in new jobs. One way to stimulate growth is by increasing capital that is available to invest not only in new, but expanding ventures. The taxation of earnings on investments, or capital gains taxes, should receive preferential treatment to expand the development of capital resources in this country. As an added bonus, the preferential treatment of capital gains would add to the coffers at Treasury, and thus, help reduce the deficit. According to a much publicized study by Professor Lawrence Lindsey, using simulations of Dr. Martin Feldstein's capital gains model, the revenue optimizing rate will be achieved with a drop in the rate from 28 percent to 15 percent.

Capital gains are those gains resulting from the sale of capital assets, such as stocks, bonds and real estate. Until the passage of the Tax Reform Act of 1986, long-term capital gain (long-term gain was that resulting from the sale of a capital asset held for longer than 6 months), was entitled to preferential tax treatment. In general, 60 percent of the long-term capital gain was excluded from tax. The highest effective tax rate on a long-term capital gain was, therefore, 20 percent (40 percent of the long-term gain subject to tax times the highest marginal tax rate, 50 percent).

Interestingly, capital gain is a voluntary tax. It is the individual taxpayer who decides that he wants to sell an asset and therefore pay the corresponding tax. Taxpayers want to maximize profits. Logic dictates that a lower tax would encourage sales, while a higher tax rate stifles sales. With an increase in sales, one will find that increased activity leads to higher revenues. The federal government can only collect receipts on capital gains when taxpayers sell their assets for profit.

In the early 1970s, Congress doubled the maximum tax rate on capital gains from 25 percent to 49 percent. The motivation for this dramatic increase was to increase tax revenues; but these high tax rates on capital gains caused those years to be one of the most unproductive in recent history in terms of capital investment and small business growth. The venture capital needed to start new businesses and the growth for corporations virtually disappeared. A period of economic stagnation ensued, and many corporations went under, went deeply into debt, or in the case of many new high technology firms, were forced to sell or license their products to foreign corporations.

Then, in 1978, behind the leadership of the late Congressman Bill Steiger, Congress acted to reduce the capital gains tax rate from 49 percent to 28 percent. The results were astonishing even to those who had proposed the reduction: in a mere 18 months, more than $1 billion of new venture capital poured into funds for investment in new and growing companies. With a further reduction to 20 percent in 1981, this country experienced a virtual explosion of investment and capital formation. This seemingly innocent preferential treatment for capital gains created millions of new jobs and increased revenues taken in by the Treasury Department. In 1979, the first year of the Steiger tax cut, $11.7 billion in capital gains revenues were collected, up from $8.1 billion collected in 1977, and $9.3 billion collected in 1978.

Preferential treatment of capital gains is an essential building block in the continuing resurgence of this country's economy. This is a tax treatment that affects most taxpaying Americans. The affluent, the middle class, the small businessman are all affected by this taxation. Homeowners do not sell their dwellings, farmers do not sell their parcels, small businesses do not generate venture capital unless tax levels make it worthwhile for them to do so. Recognizing that this item of the tax code affects all aspects of the economy, we must understand that this issue cuts across party lines. This isn't conservative issue, a liberal issue, a supply-side issue, a Keynesian, or any other specific cause. It is an issue that is good for America. What better signal to send the people of this country, than a message from this newly created committee that states: "We support the innovators of this country in building tomorrow's dreams, today."

History proves that the preferential treatment of capital gains provides a more dynamic and lucrative economy while providing additional revenues to the federal government. It is essential that we restore the capital gains tax treatment to a maximum rate of 15 percent. By enacting this legislation, Congress and this Commission can help to maintain a favorable atmosphere for economic growth and encourage sensible innovative risk-taking. In addition to raising revenues through enhanced investment, the reduced rate will create more jobs and thereby also raise more revenue. A reduction in the rate will correct one of the great blunders of the Tax Reform Act of 1986.

I thank the members of the National Economic Commission for providing me the opportunity to present my views. I look forward to working with you in the future.

TRIBUTE TO SGT. BILL LEWIS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LAGOMARSINO. Mr. Speaker, California's 19th District is blessed with a wealth of dedicated public servants—it is a part of what makes living there such a pleasure—and so it is always a special occasion when I have an opportunity to recognize any one of them individually. One of those outstanding individuals has to be Sgt. Bill Lewis, who is retiring September 16, after over 32 years of dedicated police work.

Since 1956 Bill Lewis has served his hometown of Oxnard very well, working in vice and narcotics, on the special enforcement team, patrol, canine unit, detectives, and finally as a sergeant in the traffic division. On September 16, the Oxnard Peace Officers Association will be sponsoring a retirement dinner to honor Sergeant Lewis, including a special "roast" and a presentation of "The Bumper Morgan Award" by actor George Kennedy.

I know that I speak for the citizenry of the 19th District when I thank Sergeant Lewis for his years of dedicated service, and wish him well in the future. It is comforting to know that his dedication to duty will be continued by his two sons, Bob Lewis and Bill Lewis II, who also work for the Oxnard Police Department.

THE NORTHEAST-MIDWEST ECONOMIC DEVELOPMENT GUIDE

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LEACH of Iowa. Mr. Speaker, the number of Federal programs to stimulate economic development has fallen sharply since 1981. Fortunately, many States have implemented innovative programs of their own in order to spur economic vitality and development.

The Northeast-Midwest Congressional Coalition has documented many of these successful programs in the 1988 edition of "The Guide to State and Federal Resources for Economic Development," which was released today. This valuable guide contains outlines of remaining Federal programs as well as a useful anthology of 460 brief case studies—drawn from every State in the Nation—that illustrate the strong initiative taken at the State level.

This scholarly work will help Federal, State, and local policymakers meet the challenge of a rapidly changing economy. I strongly recommend "The Guide to State and Federal Resources for Economic Development" to all of my colleagues in the coalition. This guide contains a wealth of information that will be useful in promoting the continued economic revitalization of the Northeast-Midwest region.

At this time, Mr. Speaker, I would like to enter one of these brief studies from my home State of Iowa into the RECORD.

IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

OBJECTIVE

The Iowa Industrial New Jobs Training Program (INJTP) provides funds for linking area community colleagues and businesses to train and employ workers using an incremental property tax financing mechanism.

DESCRIPTION

The INJTP began operations in 1983 following its establishment by the Iowa state legislature. Designed and run by the Iowa Department of Economic Development (IDED), the program lowers firms' costs of expanding their work forces and locating new facilities in the state.

The INJTP coordinates relationships between Iowa businesses providing new jobs, and postsecondary schools capable of designing customized training specifically for those new jobs. A joint agreement between an eligible Iowa business and local community college begins the process. The business puts together a training plan for a future job position by working out an educational program with the college. The educational component can take many forms including but not limited to classroom sessions, consulting, preparation of training manuals, and on-the-job training. Once the business and the college reach agreement, the IDED provides technical assistance and oversight.

The program is completely funded by bonds in the form of training certificates sold by the college. Proceeds of the sale finance (within statutory limits) legal fees, underwriter fees, and indirect administrative costs to the college. One percent of the bond sale amount goes to the state for administration cost and partially funds the Iowa Business-Industry Information and Training Network. The balance of the proceeds are available to the business for reimbursement of the training costs it incurs. Training may include screening, skills assessment, and testing; in-plant instruction; on-the-job training; and specialized training customized to the employers' specific needs, among others. In addition to the cost of instructors, materials, and other training needs, the bond proceeds may be used to reimburse an employer for up to 50 percent of the wages and fringe benefits paid to workers during the training period.

Responsibility for repayment of these bonds rests on the business receiving direct benefits from the training project. Bonds are repaid in two ways. Under the program's tax increment financing system, the future taxes on the portion of the firm's property used for its job expansion are diverted to repayment of the bonds. The financing may also be repaid through a portion of the employers' withholding payments on state income taxes. A business also may use a combination of the two methods.

Under the property tax method, the county auditor collects the firm's annual property taxes as usual, but deposits the new taxes generated by the expansion in the college's special repayment fund. The program places a lien on the employer's business property until the bonds are repaid in full. These payments are part of the employer's regular annual property tax liability and carry the same penalties for nonpayment. The college pledges its special fund to the payment of principal and interest on the bonds. Though the INJTP is self-funding, certificates are secured by the community-college district through a provision implementing a stand-by tax fund in the event of a business' failure or inability to repay.

New and expanding firms in almost any industry qualify for entry into the program. Retail, health, and professional service businesses are not eligible for program assistance.

PROGRAM IN PRACTICE

According to program officials, the INJTP is the only state training program in the nation using tax increment financing as a funding scheme. The 1986 reforms to the federal tax code contained a grandfather clause allowing the program to continue to use tax-increment financing to repay bonds issued by the Iowa colleges, even though the new legislation placed restrictions on tax increment financing in general.

The program offers a strong expansion incentive to businesses, which essentially are receiving free training aid in return for the ordinary payment of taxes on designated property and salaries from the new jobs. These taxes on the expanded portion of the business are not made any higher, but rather are earmarked for expenditure in the Jobs Training Program. The IDED fills a purely technical assistance and oversight role in the Jobs Training Program. For the most part, the program is run by Iowa's "merged area" schools (15 area community college districts throughout the state) and by the participating businesses. The state has experienced little difficulty with the retirement of bonds, and has never had to implement the stand-by tax. To date, 153 training projects have been carried out through the program, providing training for 13,872 job positions.

TRIBUTE TO LOUISE CERVONE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mrs. Louise Cervone, a wonderful young lady who just celebrated her 84th birthday on August 12, 1988. This special woman has lived a long and dedicated life, touching many people who refer to her simply as "Gram."

Though she has experienced some of life's tragedies, Louise has remained undaunted throughout her years. After marrying the "boy next door," Louis and Louise had three daughters and a son. However, her happiness was interrupted by the tragic death of Louis when she was 33. Left alone to raise her four children, Louise succeeded in raising them to be caring and responsible individuals.

Born and raised in Niles, OH, Louise still resides there and is an active member of Our Lady of Mount Carmel Church. She also joined the working world for a brief time during World War II at the barrel works in Niles. Today, she enjoys the pleasures of her nine grandchildren and four great-grandchildren.

It is with pride, honor, and pleasure that I salute an outstanding individual, on behalf of the people of the 17th Congressional District. May Louise continue to find happiness and hope in the years to come.

MR. DUKAKIS "YOUR RECORD IS NOT REASSURING"

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. CRANE. Mr. Speaker, as my colleagues know, Mr. James Schlesinger has dealt with national security for every President since Dwight Eisenhower. Given that Mr. Schlesinger has served as Director of the CIA in both the Nixon and Ford administrations and was later appointed to Jimmy Carter's Cabinet as Secretary of Energy, we must recognize that he is a nonpartisan expert on national security. Hence, his criticism of Mr. Dukakis' grasp of defense issues must be taken seriously. In the following article, "Your Record Is Not Reassuring", Mr. Schlesinger describes why we should not trust Mr. Dukakis to protect our national security interests.

[From Time Magazine, Aug. 1, 1988]

"YOUR RECORD IS NOT REASSURING"

DEAR GOVERNOR DUKAKIS: While congratulating you on your nomination, many of us who have worked for the nation's security in Democratic and Republican Administrations feel trepidation about your views—and, more important, your instincts—on crucial defense issues. All that we have to go on are your actions as Governor and your statements in the campaign.

As chief executive of Massachusetts, you have had an opportunity to affect the national-security policy of the country as a whole, and your record is not reassuring. You have steadily prevented Massachusetts' participation in the Ground Wave Emergency Network, a communications system designed to transmit warnings or presidential orders to the Strategic Air Command and the North American Aerospace Defense Command if the nation were under nuclear attack. Of 56 intended GWEN sites around the country, 52 have now been completed. Only your state and Rhode Island continue as holdouts. This Massachusetts gap in the national-warning system is particularly disquieting since the primary radar installation for detecting a submarine-launched missile attack is located on Cape Cod.

In your 1986 letter to the Air Force objecting to the placement of GWEN in Massachusetts, you suggested that having such a communications system might encourage the "mistaken belief that nuclear war can be kept under control once it begins" and thereby "make national leaders more inclined to let one begin." Governor, what deters war is the completeness and integrity of the U.S. deterrent, and secure communications enhance our deterrent. Yet you seem to suggest that the way to deter war is to be unprepared to respond.

In a matter less consequential but perhaps equally indicative, in your ten years as Governor you have declined all invitations to visit Hanscom Air Force Base, the premier military facility in Massachusetts and the home of the Air Force's Electronic Systems Division. Four ESD commanders have invited you. Accepting such invitations is the normal political practice, and other Massachusetts officials have regularly done so. Your unwillingness to visit Hanscom has led many of us to wonder whether you are viscerally antimilitary.

Your campaign statements to date have done little to dissipate such concerns. You have explicitly opposed America's latest intercontinental ballistic missile, the MX; plans for a small, single-warhead mobile ICBM, the Midgetman; the B-1 and Stealth bombers. You have also urged a ban on all missile test flights. You have indicated that you would terminate or radically reduce the Strategic Defense Initiative (SDI).

To be sure, you have strongly supported efforts to achieve further arms-control agreements. Nonetheless, for us unilaterally to curtail our strategic programs, as you have suggested, would remove much of the Soviet Union's military incentive for compromise and thus destroy much of America's leverage in negotiations. In recent months, as you have moved toward the political center, you have acknowledged the continued necessity for nuclear deterrence and have indicated that, despite your opposition to the MX and Midgetman, you are not necessarily against a new ICBM in principle. Yet you will find that any new missile program is impossible unless you back off from your commitment to a missile test-flight ban. We cannot have a new missile system unless we test it.

You have expressed support for NATO and called for a "conventional defense initiative." This exhortation, which so far is largely lacking in content, seems intended to constitute your substitute for SDI and other new strategic programs. Those of us who have long advocated an improved conventional capability are eager to join in any serious effort to that end. But you seem not to have faced up to the intractable reality that improvement in the conventional balance is both difficult and costly.

Quite simply, nuclear weapons and nuclear strategy hold NATO together. Our European allies will view with alarm any statement that seems to weaken the nuclear element of the deterent. They will be especially disturbed by any repetition of your remarks to the Atlantic Council on June 14 that NATO must be up "to the challenge of fighting—and winning" a conventional war. The Europeans are interested not in fighting but in deterring a war. They would not want as an American President anyone who believes that conventional war is somehow fightable and winnable—therefore acceptable.

Moreover, you will find that over the past decade or so, the Soviet Union has enormously improved the number and quality of its conventional forces. The Warsaw Pact has particularly improved its capability for short-warning attack. Therefore we have a dauntingly long way to go in restoring the conventional balance. Yet we and our key allies are under immense budgetary and other pressures to shrink NATO's forces. So while strengthening NATO's conventional capability is desirable, it will require careful handling of our allies and additional resources. In estimating the price tag for these conventional improvements at $3 billion over four or five years, as you did in an interview with the Baltimore Sun published on July 3, you have trivialized the problem. A more realistic estimate would be tens of billions of dollars a year. Strengthening NATO's ability to deter war should not be simply an afterthought for a politician who may have painted himself into a corner by opposing strategic nuclear programs; a true conventional defense initiative will require additional expenditures roughly on the order of the Strategic Defense Initiative itself. As you seek to become the leader of the free world and our Commander in Chief, many of us hope that you will acquire a better feel for these complexities.—James Schlesinger.

THE N-LRA BILL

HON. MAC SWEENEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. SWEENEY. Mr. Speaker, I rise today to introduce legislation aimed at alleviating the dire economic situation faced by Jackson County, TX. Like many parts of rural Texas, Jackson County has been hit hard by the decline in the agricultural and oil industries. Total property values have fallen 34 percent in the last 3 years, and the effects of this fall are compounded by the fact that the Lavaca Navidad River Authority [L-NRA] depends almost entirely on county property taxes to finance operating and maintenance costs of Jackson's Lake Texana and Palmetto Bend Dam.

This bill proposes for the L-NRA to assume title to a small part of Lake Texana's surrounding Federal lands for the purpose of limited private development. The L-NRA hopes to use proceeds from leasing lakefront lands to cover its $750,000 annual operating expenses and reduce two substantial debts owed to the Federal Government. The L-NRA has a $1.5 million repayment obligation for its recreational facilities and must pay 42.67 percent of a $68 million construction debt. Although water sales are intended to cover all costs and obligations associated with the project, the L-NRA to date has only managed to sell about 10 percent of the total water available. Payment of the recreational debt has been further prevented by the inability of these facilities to generate a positive profit. The L-NRA's payment on the construction debt is scheduled to begin in 1996—at a rate of approximately $1 million per year until 2036—but unless water sales substantially improve in the next 8 years, the L-NRA may have to consider defaulting. It is hoped that lakefront development will head off this possibility and provide Jackson County with badly needed economic development.

The bill I introduce today aims at three purposes: to ease the tax burden of Jackson County citizens, to work toward settling the L-NRA's debt problem, and to provide badly needed economic development for Jackson County. The bill was conceived and largely written by the L-NRA, and its introduction will serve both as a tribute to their dedication and as a symbolic first step towards eventual resolving of the matter. I hope that my colleagues will recognize the importance of this issue, and I look forward to having bipartisan support as we move forward.

THE FIGHT FOR FREEDOM GOES ON

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. LENT. Mr. Speaker, tomorrow, I will have the opportunity to shake hands with a man I met 5 years ago in the Soviet Union, a man who waited 10 years for his freedom. I met Yakov Rabinovich along with other Soviet Jewish refuseniks during a congressional trip to the Soviet Union in 1983. Yakov, a shipbuilding engineer from Leningrad, was refused permission to leave Russia in 1978 for reasons of secrecy.

During his struggle and many years of hardship, including losing his job for applying to emigrate, Yakov never lost hope. Despite the threat of arrest and harassment, he never stopped working as an active member of the refusenik community to promote Jewish culture and education. Throughout all this, he never stopped believing that one day he would be free to practice his Jewish faith.

Yakov became my Fourth Congressional District's adopted refusenik following the release of our adopted prisoner of consicence, Ida Nudel. Ida emigrated to Israel in October 1987 after 16 years in refusal. On several occasions, Yakov had been informed he had been granted a visa, only to be told later that permission had been rescinded. Together with the Long Island Committee for Soviet Jewry and the U.S. State Department, we launched an all-out campaign to secure Yakov a visa. In May, we learned the good news that, finally, he had been granted permission. Recently, he immigrated to my area of Long Island, NY, and we welcome him to America with open arms.

I'm very gratified to have helped Yakov and other Soviet Jews realize their dream of freedom. But sadly, there are thousands who remain behind the Iron Curtain. The Union of Councils of Soviet Jewry reports that, in 1987, 7,776 Jews emigrated from the U.S.S.R. I'm pleased to report that figures for this year are higher; 9,138 Soviet Jews emigrated through August.

This is progress, but it's a far cry from free emigration that is the right of every man and woman. And for anyone who believes that religious tolerance has improved under glasnost, I urge them to listen to the stories about PAMYAT. With an estimated 400,000 members who were black shirts reminicent of the "brown shirts" of Nazi Germany, PAMYAT has free reign under Gorbachev's policy of glasnost to give voice to its virulent antisemitism. Innocent Soviet Jews live in fear of the terrifying PAMYAT, the Soviet version of the Ku Klux Klan. They have no protection, no recourse against this persecution, and their only hope is that citizens of the free world speak out in protest.

We in Congress must continue to fight human rights abuses wherever and whenever they exist. This kind of treatment is wrong, whether official or unofficial policy, and we must raise our voices loud and clear in protest or we are, in fact, condoning such atrocities.

The fight for freedom goes on, and I hope that my colleagues will join me in doing our utmost for that noble cause to succeed.

TRIBUTE TO HASAN M. EL KHATIB

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. TORRICELLI. Mr. Speaker, I rise to pay tribute to my dear friend Hasan M. El Khatib. Hasan El Khatib is currently celebrating the 20th anniversary of the company he founded, Dena Corp. of Elk Grove, IL. Dena Corp. has become a major force in the personal care products industry.

Hasan El Khatib is an American success story. He immigrated to this country in 1956 and has become a leader in the business world and the Arab-American community of Chicago. Mr. Speaker, no one who knows Hasan can fail to be impressed by his kindness and generosity, his good sense and good humor. His many friends in Chicago, the rest of the United States, and indeed around the world, will attest to the major role he plays in a variety of civic and charitable endeavors. Hasan's success and his realization of the American dream have reinforced his determination to assist the less fortunate and strengthen his community.

Mr. Speaker, it is with great pride that I commend Hasan El Khatib to my colleagues, and take this opportunity to wish him, his wife Maysoon, and their two fine children much continued success in the years ahead.

A LONG, HOT SUMMER

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. STARK. Mr. Speaker, this summer's heat wave and drought have focused some much needed attention on the importance of caring for our environment. We simply cannot continue "business as usual," squandering our natural resources and polluting our air and water.

I have previously introduced two bills, H.R. 4735, and H.R. 4882, which would encourage greater automobile fuel efficiency. The first bill closes a loophole which allows manufacturers to include "gas guzzlers" with more fuel-efficient models in one "model type" thereby avoiding the "gas guzzler" tax. The second bill gradually increases both the fuel efficiency standard and the dollar tax on those models that do not meet it.

I urge my colleagues on both sides of the aisle to join me in support of these measures; and I request that the August 28, 1988, Washington Post column, "Dream Machines," by Brock Yates, and a September 2, 1988, Washington Post article, "The Energy Crisis Isn't Gone," by Melvin A. Conant be included in their entirety in the RECORD.

GM'S BIG CRYBABY

No one has ever confused any of the leadership of General Motors with Mother Teresa, but the latest bleatings of President Robert Stempel may fluster even the disciples of Ayn Rand, not to mention the free-market fanatics who write the Wall Street Journal editorials.

Stempel is whining about the draconian fuel and emission standards levied on his industry by the U.S. government. He recently told a group of car-biz types that the current CAFE (Corporate Average Fuel Economy) standards of 27.5 miles per gallon place our home-grown car companies at a disadvantage.

His reasoning: The Japanese are sending in thousands of tiny, fuel-efficient cars that boost their fleet averages to a point where they can afford to build larger, more gas-hungry cars that compete with our domestic brands. (The CAFE standards permit legions of high-mileage small cars to offset the gas-guzzlers in a certain manufacturer's lineup, provided the entire fleet averages 27.5 mph. A large output of fuel-efficient cars permits a buildup of "credits" that can be used to offset the production of bigger, less-efficient models.)

Stempel moans that the Japanese are using this loophole to their advantage. One wonders, amid all this handwringing, why General Motors doesn't do the same thing. Is the design of small, economical automobiles an arcane secret possessed only by a few Buddhist monks and handed out to a few favored Far Eastern industrialists? Or must we listen to that aged Detroit blather that Americans want "family-size" cars and are not interested in miniature, high-mileage machines and that GM et al., as classic free-marketers, are only serving that demand?

Stempel is also complaining that any further efforts to reduce exhaust emissions would hurt U.S. manufacturers. That would involve "technology that doesn't exist," he says, and would cause further dependence on the Soviet Union and South Africa for platinum (the core element in catalytic converters). As I recall, that is exactly the same party line we heard from Detroit in the early 1970s, when the Clean Air Act was implemented. Somehow, thanks in no small part to the fierce competition offered by the hated imports, the boys in Detroit developed "nonexistent" technology and were dragged, kicking and screaming, into beginning a cleanup of the filthy air in our cities.

Now Stempel is at it again, beating the old laissez-faire drum and demanding that the pols in Washington lay off his industry. The problem with the rules from Washington, says Stempel, is "they ignore market forces." As one who seldom allies himself with the bureaucratic meddlers and social engineers in this city, I say to Mr. Stempel, balderdash.

While the theory of a free market is appealing to everyone except Michael Harrington and aging Marxists, there are certain realities that Stempel and his ilk choose to ignore. These realities are self-evident and would seem to transcend such short-term trivialities as the profit-and-loss statements of General Motors. To wit: The Earth's atmosphere is bursting with effluvia from our industrialized societies. Much of that pollution is created by the burning of fossil fuels in internal-combustion engines. Moreover, those fossil fuels exist, as far as we know, in finite supplies on this globe, and as they are consumed, they will become rare and highly prized commodities. Even now, many experts are predicting that the current oil glut will lead to another crippling OPEC embargo in the 1990s.

Therefore, in the name of the environment and a stable economy, it would seem obvious that limiting consumption of petroleum should be a national priority. It does not take a Nobel laureate to comprehend this. In the face of this elementary truth, Stempel's demand for fewer constraints on the combustion of gasoline for short-term profit epitomizes the simplistic lust that gives capitalism a bad name.

How can one of America's most important industrial leaders be so greedy for black ink? Surely it is understandable that the health of his great corporation is of prime importance to him and to this nation as a whole, but there are certain problems that reach far beyond the scope of the Gross National Product, much less the welfare of a single business. General Motors has traditionally been perceived as the embodiment of the tycoon mentality in the United States. Much of that reputation is unjustified, but remarks like Stempel's only enhance the stereotype. The planet is at risk of choking on its own garbage, and to resist any efforts to correct that ominous prospect—which emission and fuel-efficiency standards do in a small way—is only to confirm suspicions that GM is as myopic as ever.

Wouldn't it have been terrific if Stempel had told the same audience that General Motors was making a total commitment to clean, efficient engine technology and that it would support an increase to a CAFE standard of 35 mpg and even more stringent emission standards? Imagine the public relations bonus if he had acknowledged the technological and bottom-line risks yet announced GM was determined to embark on a new, daring and more socially responsible course aimed at benefiting all mankind. Imagine if General Motors had chosen to force the market in new directions for a change, rather than dragging along a decade behind the West Germans and the Japanese. A naive speculation? Perhaps. But no more naive than the apparent sentiment of Stempel that a free market knows no boundaries.

THE ENERGY CRISIS ISN'T GONE—IT'S BIGGER THAN EVER AND LYING IN WAIT FOR THE NEXT ADMINISTRATION

It is steadily becoming clearer that the United States is heading toward energy problems that could be more serious and more long-lasting than those it experienced in the 1970s. It seems very likely that they will strike, in some form, during the next administration.

Just as in the 1970s, the problem isn't "energy." It's oil. Despite the lessons we should have learned in the last decade, we are continuing to run our economy with an energy source that is rapidly declining almost everywhere except in the Middle East. Because of the political instability in that region, we are headed directly toward upheavals in oil supply and price like those that traumatized our society in the 1970s; the only question about them is when they will occur.

Unlike 1973, when we had a strong domestic petroleum industry and a major electric power expansion under way to substitute for foreign oil, we will face our next crisis unarmed. Our national policies of the 1980s have crippled our domestic energy industries.

The dangers can be seen in the basic mismatch between oil supplies and demand. Only 5 percent of the world's oil reserves are in the United States. Over 80 percent are in OPEC countries, nearly 70 percent in the volatile nations of the Middle East. Other major sources of oil—England's North Sea, Mexico, South America—will not by themselves be adequate. By the late 1990s, we may be importing as much as 60 percent of the oil our economy needs—at a cost of as much as $200 billion a year—and most of it will originate in the Middle East.

We have the world's largest oil demand. Nearly half of all the oil used by the world's non-Communist industrialized nations is burned in the United States. Two-thirds of the oil we use—more than 25 percent of all the oil burned in the free world—goes into U.S. transportation. Fifteen years after the Arab embargo of 1973 warned us about the dangers of relying heavily on oil, we still count on it for more than 42 percent of our total energy use—and nearly 40 percent of that is imported.

The implications of this mismatch will become painfully clear in the next several years. As world oil demand inches up because of economic and population growth, and as economical reserves outside the Middle East become less certain, the world will become more dependent on a handful of unpredictable nations for their oil supply. That's not a forecast; it's a description of what is already taking place.

The next oil shocks could be supply disruptions caused by political upheavals in the Middle East, or simply rapid price escalations as demand rises. In either event, they are likely to be much more severe and longer-lasting than in the 1970s or the 1980s. This time, we will not be able to count on any rapid expansion of U.S. electric power.

The main form of energy that we turned to after the 1973 embargo to help us reduce our dependence on imported oil was electric power. At the time of the 1973 embargo, U.S. utilities were constructing more than 50 large nuclear power plants. Twelve new ones began operating that year, 14 the next year, a total of 87 in the years since. This momentum, along with a similar construction program for coal-fired power plants, allowed us to follow the same strategy that Japan, France and vitually all of the industrial world have pursued: shift much of our energy use from oil to electric power.

This transition has been dramatic, in the 15 years since the embargo, our use of electricity has climbed by 45 percent, but our use of oil has declined. Electricity—through heat pumps, electric arc furnaces, advanced electronics—has replaced foreign oil in countless uses throughout our economy. And coal and nuclear energy replaced oil in the generation of that electricity.

Today, though, the situation is very different. There is not a major power plant under construction in the entire country that was started in the 1980s, and none on the drawing boards. Even though our use of electricity is climbing by more than 4 percent a year, utilities are making essentially no commitments to new baseload power plants. Some areas of the country have already been having electric power reliability problems this summer; the entire country could see them in the early 1990s. We have turned electric power into its own form of energy crisis.

Early in the next administration—in the first 100 days—the president should take bold steps to reduce our consumption of oil, especially in the transportation sector. A tax on gasoline, for example, would not only reduce the federal deficit (by $1 billion for every penny in tax), but would also hold down our demand for imported oil. And changes in electric power regulations, to stimulate new generating capability by whatever means that can assure us of an adequate, reliable supply, would let our two most abundant domestic resources, coal and uranium, continue replacing our increasingly risky dependence on imported oil, and put our energy security back under our own control.

TRIBUTE TO REV. MICHAEL JOSEPH LAVELLE, S.J.

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Rev. Michael Joseph Lavelle, S.J., who is to be inaugurated as the 21st president of John Carroll University in University Heights, OH, on September 23, 1988.

Father Lavelle is a respected and dedicated professional in the educational community. While promoting the academic excellence of John Carroll University, one of his main goals is to ensure that the university remains close to the northeast region of Ohio both in spirit and service.

John Carroll University has been a recognized leader in the higher education community for more than 100 years. Located in northeast Ohio, it has provided the liberal arts education that has produced exceptional leaders for today and the future. It is with vision for the next decade and beyond that Father Lavelle is ushered in as John Carroll's newest president.

It gives me a great deal of pride and honor, on behalf of the people of the 17th Congressional District, to salute Rev. Michael Joseph Lavelle, S.J., and wish him success in his new endeavor.

INTRODUCING A JOINT RESOLUTION DESIGNATING SEPTEMBER 24, 1989, AS "UNITED STATES MARSHALS BICENTENNIAL DAY"

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. KASTENMEIER. Mr. Speaker, it is my pleasure to introduce a joint resolution to designate September 24, 1989, as "United States Marshals Bicentennial Day." The resolution will commemorate the 200th birthday of the Nation's oldest law enforcement agency.

The office of the U.S. marshal was created by act of the First Congress on September 24, 1789. Over the years, marshals and their deputies have courageously and effectively upheld the rule of law under the Constitution.

The first 13 marshals were appointed by President George Washington in 1789. Not long thereafter, one of their number, Robert Forsyth of Georgia, was shot and killed while attempting to execute an order of the court, thus demonstrating the level of sacrifice and devotion to duty that the young Nation would grow to expect of U.S marshals, and that marshals have never failed to offer. Since Forsyth's time, more than 300 marshals and deputy marshals have given their lives in the performance of their duty.

For more than a century after the establishment of the U.S. Government in 1789, U.S. marshals provided the only nationwide, civilian police power available for the enforcement of Federal law, performing an extraordinary variety of functions. In addition to their responsibilities to the Federal courts, the marshals took the national census until 1880, distributed Presidential proclamations, collected statistical data on commerce and manufacturing, supplied the names of Government employees for the national register, and performed many other administrative functions as local representatives of the Federal Government. In times of crisis, they were called upon to perform special tasks, such as registering aliens in wartime, preventing armed excursions into foreign countries, and restoring order in times of civil disturbance. In the territories of the American West, the marshals were frequently the only law throughout much of the 19th century, an era which secured their place in our Nation's folklore.

Indeed, U.S. marshals and their deputies became the veritable "handymen" of Federal law enforcement, playing a crucial role in most of the major episodes in America's history, from the Whiskey Rebellion of 1794, to the Reconstruction period following the Civil War and the enforcement of the Civil Rights Acts of the 1960's.

Today, the U.S. Marshals Service occupies a central position in the Federal justice system: providing security for the Federal judicial process and enforcing court orders; tracking down fugitives form justice; operating the Government's Witness Security Program; taking custody of and transporting Federal prisoners; and managing and disposing of seized criminal assets. Virtually every significant Federal law enforcement initiative involves the Marshals Service.

The celebration of the marshals' bicentennial will commence later this year with the opening of an exhibit, developed by the Smithsonian Institution and the U.S. Marshals Foundation, to be unveiled in the U.S. Supreme Court Building this December and subsequently shown in 12 cities around the country.

The resolution which I am introducing will assist in commemorating the bicentennial of the U.S. marshals. It will provide a level of recognition which is justly deserving for these intrepid lawmen, both past and present, who have contributed so much to the rule of law and the protection of human rights through law in the United States. I therefore urge my colleagues to join me in supporting prompt enactment of this resolution.

ROE PRAISES FLORIO ARTICLE ON WASTE DISPOSAL

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. ROE. Mr. Speaker, I would like to insert in the RECORD the following article written by my distinguished colleague from New Jersey, Mr. JAMES FLORIO. This article deals with the vital issue of safe and effective disposal for our Nation's waste. I believe it makes some critical points, especially in light of our Nation's shrinking landfill capacity:

HOW WE CAN GET ON WITH THE JOB

(By Representative James J. Florio)

It was a long time coming, but finally Americans are starting to pay attention to garbage.

It would be nice to think this concern stems from an enhanced awareness of the need to plan for a safe environmental future, and in some cases it probably does. But the biggest spur to action has been the unpleasant realization that our garbage is piling up faster than we can safely get rid of it.

Simply put, our landfills are reaching the limits of their capacity; but solid waste generation keeps on growing, year after year.

To get some sense of the magnitude of the problem, take a look at my own state. A recent study found that, in 1970, New Jersey had 370 operating landfills. Today, 11 landfills handle 85 percent of the state's municipal solid waste.

While that landfill capacity disappears, state officials predict solid waste generation in the range of eight million to 10 million tons every year for the rest of this century. It does not take an advanced degree in mathematics, then, to realize New Jersey will reach its landfill limit in a matter of years, not decades.

This situation leads policymakers at all levels to look for ways to reduce solid waste generation at the source. As good as that might appear on paper, though, there are serious implications to proposals for mandating waste minimization. As the solid waste crisis accelerates, it will not be possible to deal with the problem only at its source. So we have seen the push toward waste-to-energy incineraction increase dramatically, and it will continue to do so.

The Environmental Protection Agency (EPA) reports that 99 solid waste incinerators now are in operation throughout the United States. Another 200 are expected to be built by the year 2000. And, significantly, waste-to-energy facilities are expected to handle as much as one-third of the nation's garbage by the year 2000—compared with only four percent today.

But, as we all know, there are no panaceas in the garbage business. The drive toward waste-to-energy incineration carries with it legitimate public health concerns that must be addressed before these facilities can be fully accepted. Studies have found that municipal solid waste incinerators emit potentially hazardous amounts of deadly dioxins and furans and significant amounts of heavy metals and other particulates and pollutants.

While people have looked to governmental authorities to tell them what are safe levels of emissions for these facilities, EPA's existing regulations fall woefully short of being able to deal with the problem. EPA has not revised its incinerator particulate regulations in more than a decade, and the agency has issued no standard at all to control incinerator emissions of toxic organics, including dioxins.

EPA's regulatory shortfall is having a serious, adverse, impact on waste-to-energy incineration. It not only thwarts the planned construction of waste-to-energy projects, it also undermines public confidence in the technology. There is no way anyone can feel confident about the environmental safety of a waste-to-energy plant built in their municipality when there are no uniform standards dealing with what the plant is likely to spew into the air.

Even though the Federal government promised widespread support to cities and states in the 1976 Resource Conservation and Recovery Act (RCRA), Washington essentially went back on its end of the deal from 1981 until the present. From time to time, the current administration's EPA role in solid waste management has been radically cut back, leaving cities and states in a quandary.

Obviously, some cities and states have met the lack of national standards by taking extraordinary steps to protect the public from environmental hazards. Some have issued permits only on the condition that solid waste incinerators meet the same stringent standards as those required for hazardous waste incinerators. But for a community considering waste-to-energy incineration for the first time, there are no benchmarks or standards; and there is no technical guidance to tell the community what an environmentally sound waste-to-energy facility would look like.

We are dealing with potentially life-threatening substances here, and it is simply unacceptable to expect that responsible officials get by with the same sort of standards that the U.S. Supreme court once applied to obscenity: I know it when I see it.

To address this problem, I have introduced a legislative package that would require the EPA to set uniform national standards which ensure that waste-to-energy facilities do not threaten public health or the environment.

The package contains two bills to address two specifically important concerns with waste-to-energy facilities. The first bill (H.R. 2787) amends the federal Clean Air Act to require EPA to develop air emission standards for incinerators within 12 months of the measure's enactment. Standards would be developed for a number of toxic pollutants, including dioxins, lead and other toxic substances. Such standards would reflect the best technologies currently available. The standards would apply to every new facility. Facilities already in operation would have to meet the standards under a specified schedule.

EPA currently is considering setting standards for these facilities under the existing authority of the Clean Air Act, but there is no indication that the standards will be established anytime soon. And we are running out of time.

My bill will put EPA on a fast track to issue standards so we can lift the cloud of uncertainty that now hangs over the development of waste-to-energy facilities. Cities must start work on these plants immediately. They cannot wait around until EPA finds the time to issue standards.

If EPA fails to promulgate standards within the deadlines set in the legislation, new facilities would have to meet the emissions levels actually achieved by the best operating facilities in 1987.

The legislation also would require EPA to develop regulations for monitoring air emissions. It also contains operation and maintenance requirements, because even the best designed facility can produce highly toxic emissions if it is operated poorly. These regulations will ensure that the environmental protection afforded in the blueprints is carried out in practice.

The second part of my legislative package (H.R. 2517) would amend the federal Resource Conservation and Recovery Act to require EPA to develop an improved test to determine whether incinerator ash residues pose a health risk. Many cities have justifiably complained that EPA's testing procedures do not adequately account for the variability in the toxicity of ash from day to day. Indeed, residues at one plant might flunk the test in the morning only to pass in the afternoon. To require separate management of those two piles of ash would be absurd. The legislation would direct EPA to develop a test to solve this problem.

The bill also directs EPA to develop treatment standards for ash residue. We have been told by many cities that combining bottom ash with fly ash can reduce or eliminate the toxicity of the ash. This bill simply would direct EPA to verify those contentions and set specific standards and protocols for treatment.

Finally, the bill provides that if incinerator ash fails EPA's new testing procedures, the city has the option of either treating the ash in accordance with the treatment standards or managing the ash by complying with the same design standards for hazardous landfills.

Building a waste-to-energy facility is an extremely expensive, delicate undertaking that involves balancing environmental concerns with disposal needs. In that process, timing and delay can make or break a project.

With this in mind, I have been told by some cities that federal legislation could lead only to added uncertainties and delays while EPA gets around to ultimately issuing regulations. This uncertainty, the cities contend, might delay or cancel pending projects.

I understand where they are coming from, and I am as concerned as they are that we make sure we implement federal standards that minimize confusion and uncertainty. In fact, it was my fear that EPA would take too long to implement standards on its own—creating even more confusion and uncertainty—that prompted me to introduce this legislation.

In the short run, there will be some uncertainty—until federal standards are issued. But I believe that over the long haul, the establishment of federal standards actually will facilitate the use of waste-to-energy incineration. When meaningful protective standards are on the books, public confidence in the technology will grow and opposition will decrease.

I do not believe public opposition will entirely disappear. But as more and more people begin to understand that uniform standards are in place, waste-to-energy incineration will become less controversial. I think eveyone would agree that some short-term uncertainty is a modest price to pay for such obvious long-term benefits.

We must see to it that any action to solve the solid waste crisis—whether through waste minimization, source separation, recycling or waste-to-energy incineration—brings with it a commitment that protective controls will be in place. One important place to begin is in controlling the environmental hazards from waste-to-energy facilities.

I look forward to working with cities, environmentalists and the waste-to-energy industry as this legislation moves forward. Many cities, states and companies have a vast wealth of expertise which can greatly aid those of us trying to reach sensible solutions. I invite everyone interested in this issue to work with me to develop the best possible legislative product. Only by working together in the legislative process can we best serve the public.

NATIONAL OPTICIANS MONTH

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise today to bring to the attention of my colleagues the fact that next January 1989 we will celebrate "National Opticians Month." The singular importance of good vision in our lives and the essential role opticians play in delivering good vision to us cannot be overstated.

Russell B. Fritz, Sr., Mr. Speaker, is more than a constituent of mine, he is also the dynamic president of the Opticians Association of America. I would like to take a few moments to join Mr. Fritz's ongoing campaign to broaden the general public's awareness as to who opticians are and how important they are for good eye care. Many of us are tempted to lump opticians, optometrists and ophthalmologists together without taking the time to discover the unique role each one plays. Ophthalmologists are physicians who treat eye diseases and injuries and can perform surgery. Optometrists are also physicians who examine eyes for defects and prescribe glasses, but cannot perform surgery. Opticians are the ones who fill the prescriptions of the optometrists and ophthalmologists and fit the patients with their glasses or contact lenses.

After the diagnosis of an optical impairment and the prescribed remedy, it is to the optician that we turn to gain help in deciding what type of eye wear to choose, either glasses or contact lenses. Opticians, through training, experience and continuing education, are uniquely qualified to guide consumers through the thousands of frame and lens choices, and the multiplicity of low vision aids, to achieve the highest possible use of their eyesight. Independent retail opticians further provide the competitive balance which keeps eyewear within the budget of every American.

For glasses, opticians take measurements such as the distance between pupil centers and help the customer choose glasses that meet his or her preference, needs and lifestyle. The optician then writes the lens grinding and frame assembly order for the laboratory technicians to follow. When the glasses arrive from the laboratory the optician uses optical tools and gauges to check the power and surface quality of the lenses and make the adjustments needed to fit them to the patient. The same time, effort and dedication is taken by opticians for dispensing contact lenses.

For the millions upon millions of Americans who depend on glasses or contact lenses to get along in life, the opticians perform one last, but perhaps most crucial task. They maintain patient records so that lost or broken glasses and contact lenses can be replaced and new glasses or sunglasses made or ordered.

When 54 percent of all Americans and nearly all Americans over the age of 65 are in need of some form of vision correction, further elaboration on the importance of opticians in delivering quality eye care is almost unnecessary. However, too many of us take our eyes for granted and, therefore, need a little reminding about who it is we will turn to when our vision diminishes. I take this opportunity to applaud Russell Fritz, Sr., the membership of the Opticians Association of America and the more than 30,000 nationwide retail opticians for their tireless efforts to educate all of us to the importance of proper eye care. I wish Mr. Fritz good fortune and the Opticians Association of America continued long standing and prosperity. I am honored to further those wishes by honoring National Opticians Month now and next January.

IN HONOR OF STEVEN J. McDONALD, A TRUE AMERICAN HERO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. MANTON. Mr. Speaker, I want to call to the attention of my colleagues an article which appeared in the August 15 edition of the New York Times regarding Officer Steven McDonald. Officer McDonald is a true American hero. A couple of years ago he was looking for a robber and approached three teenagers who fit a description and who were loitering in the park. As he approached the youth, one of them fired three shots at close range. A portion of one of the bullets lodged in Officer McDonald's spine and he has been paralyzed from the neck down ever since.

Mr. Speaker, Officer McDonald is a deeply religious man and a devoted father and husband. The article I call my colleagues' attention to discusses how Officer McDonald now is willing to face and forgive the 15-year-old juvenile delinquent who shot him and now is serving a prison term for attempted murder. This truly is an act of generosity, compassion, and faith that I believe few of us would be capable of if we lost our ability to use our arms and legs.

Mr. Speaker, I also wish to remind my colleagues that I am the author of the Steven McDonald Public Safety Officer Compensation Act, currently before the House Judiciary Committee. This long overdue piece of legislation will provide a cash benefit to State and local public safety officers who are permanently disabled as a result of an injury they receive in the performance of their duties. H.R. 2674 expands upon existing law, which provides for a one-time Federal payment to the family of a public safety officer who is killed in the line of duty, by providing the exact same benefit to those members of State and local police, fire, and ambulance squads who suffer a total and permanent disability. The Judiciary Committee has recently approved an increase in the death benefit from $50,000 to $100,000. We need to enact my bill this year so that brave officers such as Steven McDonald are properly recognized for the great sacrifices they have made to protect the lives and liberties of all of us.

Mr. Speaker, I ask that the article be printed in the RECORD at this point.

[From the New York Times, Aug. 15, 1988]

HE WOULD FACE HIS ATTACKER TO FORGIVE HIM

(By Sam Roberts)

When Steven McDonald was 7 years old his family moved from Queens Village to Rockville Centre, L.I.

"My first friends were two young black fellows," said Mr. McDonald, who is white. "They lived in my town, but not where I lived. We played ball together. I remember visiting one friend's home. It was just like any home. In the family room, there were three pictures: Jesus Christ, Martin Luther King and John Kennedy. We had a lot in common."

Mr. McDonald is 31 years old now and lives in Malverne, L.I. He is married and has an 18-month-old son, but they may never play ball together.

Two years ago, as a plainclothes police officer, he approached three teen-agers loitering in Central Park who fit his profile of would-be robbers. One whipped out a gun and fired three times. Bullet fragments penetrated the officer's spine. He has been paralyzed from the neck down ever since.

But the three pictures in his boyhood friend's home created an enduring mental bridge, one that he has been quietly attempting to extend to a distant shore that most mortals would shun. He wants to meet with the young man who shot him.

"I don't want to see him end up becoming a career felony criminal," Officer McDonald said.

Some months ago, he communicated with the young man's lawyer, then met privately with his mother.

"I told her I'm concerned," he said.

Her son, Shavod Jones, was a volatile 15-year-old juvenile delinquent at the time of the shooting. Abandoned by both parents at birth, he was raised by a grandmother in East Harlem. He was re-united with his mother when he was 10, the same year he got his first gun.

"Nobody really knows me," Shavod Jones said when he was sentenced in January 1987 to 3½ to 10 years in prison for attempted murder."

Officer McDonald has spoken to his assailant only once before, "about two seconds before he shot me," he said. Now he wants to get to know him, then to help.

"It's up to him and me," Officer McDonald said.

He spoke of his faith as a Roman Catholic, how, if people seek forgiveness themselves, they must forgive others, and of his debt to a God who didn't let him die.

Officer McDonald, the third generation of his family on the police force, insisted he's no different from most colleagues in reaching out to young people in trouble—"We recognize that they're our future"—although he acknowledged that the image of the police has been tarnished by egregious but largely isolated lapses in discipline.

"People are so quick to judge and say we don't care," he said. "I don't know what people want from us. I do know that if we left the street to those people who want to turn it inside out, we'd be better appreciated." He said if his son, Conor, "was inclined to work to help people, I couldn't think of a better job."

Officer McDonald remains on medical leave, dreaming of returning to the force. "The doctors tell you there's no prognosis," he said.

He has become a hero to the handicapped, publicly supporting wounded police officers (most recently at the Larry Davis trial in the Bronx) and other disabled people, though largely avoiding political controversies, ranging from Mayor Koch ("regardless of all the political rhetoric, he's quite a human being") to the death penalty ("I think the people who are left behind have a right to expect something from the system, but if somebody wants to hit on a cop, they're going to do it anyway").

He was wearing a pink Lacoste shirt and white pants as he maneuvered his high-tech wheelchair into the Wall Street office of his lawyer, Peter J. Johnson Jr., where he was interviewed. He looked sunburned and virile, as if only the straps and stirrups restrained him. But he spoke in clipped phrases, pausing to catch his breath through a translucent blue ventilator tube.

"Physically I've changed and I'm a little wiser," he said. "I'm not impressed by the things people feel and touch. I can't really yell. I can't strike out with my legs and hands. I'm able to think and evaluate better, to set priorities. My priority is to get off this ventilator and get up and walk."

With a collaborator, E.J. Kahn 3d, he is writing a book, tentatively titled "Delivered from Evil," although the day he was shot must have been as close to evil as he ever got. Indeed, he sounded saintly during the interview, at least until a fly began buzzing about his head.

The fly circled again and again. Officer McDonald was helpless. He became frustrated, finally angry. In short, he suddenly seemed human, which made everything Steven McDonald said he stood for sound all the more believable.

AMERICA'S LIBERTY—OUR HERITAGE

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. SAXTON. Mr. Speaker, while I was attending a VFW Burlington Post dinner, I was pleasantly touched by a speech penned by a youth in my 13th Congressional District of New Jersey. This speech was given by Rosalind A. Rita, a participant in the Voice of Democracy broadcast scripwriting contest. This contest is conducted each year by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. I had the pleasure to hear Rosalind read her speech for which she won first place at the Rancocas Valley Regional High School in Mt. Holly.

I feel Rosalind deserves to be commended for her exceptional speech. Her insights and enthusiasm will serve as a model to other youths. The pride spurred in Rosalind's speech with the theme "America's Liberty—Our Heritage" deeply moved me. I am very proud to present Rosalind A. Rita's winning essay. I wish you could have heard Rosalind recite it:

AMERICA'S LIBERTY—OUR HERITAGE

Have you ever heard the sweet sound of ringing bells on a quiet morning? I stop and listen to the splendid tones chiming across the land. Enthralled by the magnificent air of dignity created by the bells, I let my imagination soar. With each toll, I hear the rejoicing voices of my family and friends, and rising louder, the voices of our past—singing of America's liberty. I wonder what America's first bells sounded like to our Founding Fathers. The massive instruments had a powerful impact on the listener. A ringing bell would capture one's attention with its incredible volume. Bells were an early form of communication and were rung on all special occasions.

It was no mistake then for our legislators in 1751 to choose a bell as the symbol of our liberty. "Proclaim Liberty through all the land to all the inhabitants thereof." These words are engraved on the majestic Liberty Bell that first rang in 1753 calling the Pennsylvania Assembly House together. Today, the deep tones of the bells remind me of those who fought with tremendous determination for the liberty of America. And I thank those who protected our liberty, for I know that I have the opportunity to fulfill my dreams because of our great heritage.

Along with this liberty, we have inherited the responsibility to keep America free and work together to make a brighter future. A bell is composed of many hoops, each producing a different tone, just as America is made up of individuals with different opinions and ideas. If we unite, we can create harmony, like the bell. We must ensure America's liberty for all the future. The casting of a bell is much like the formation of our liberty. The molds determine the shape of the bell. It is then made strong by the various metals. The design of the bell and the mixture of the metals must be carefully planned in order to produce the perfect tone. Then, much care and effort are given to create the exact shape, smooth the surface, and do the final tuning. The same holds true with our liberty. America's liberty has a solid foundation on which to grow. Checks on the legislative, executive, and judicial branches can be compared to the tuning of the bell. The components that keep our liberty strong flourish in our government and laws. We must diligently study the Declaration of Independence and the Articles of Confederation, which became the first Constitution of the United States. This provided a national structure for our newly formed states. In their wisdom, the framers of the Constitution realized that our liberties needed to be clearly stated and safeguarded. To this end, the Bill of Rights was forged and adopted as the first ten amendments. These and other important documents are the founding principles of America's heritage. Our liberty is protected under these laws. We have the rights to independence and equality. We are given the freedom to express our ideas openly. And we are granted religious and political freedom. We must honor our laws, preserve our rights, and work for the common good. The government which serves us today has developed from the political concepts of our forefathers. Even though their ideas have been reinterpreted, we still maintain the sacred principles of freedom. As America changes, our Constitution expands. We must consider the fundamental principles which liberated America when developing our own ideals for today. We take pride in and celebrate the success of our heritage, just as the early craftsman took pride in their workmanship producing beautiful bells that still ring today.

America's liberty thrives. Yet, there is a crack in the Liberty Bell. This should remind us that our liberty is challenged everyday, and there are always threats to our freedom. Like a precious family heirloom, liberty is priceless, and if well-kept, passed down from generation to generation. We must protect our heritage of liberty with valor and confidence.

America's liberty is shared by all in our country. The Liberty Bell captures the American spirit. We have fortified the bell with our own hands to preserve its grace for our children. It is displayed in quiet grandeur where it is accessible to the public. Though the Bell does not actually ring today, the sounds of American liberty will ring forever in our hearts.

The next time you hear a bell toll, listen to the rich tones. In them you may hear the resonating voices of a great nation—the cries of freedom on a blazing battlefield, the shouts of protest for justice, the laughing voices of singing children. Listen to the deep and broad vibrations rolling over our vast land, like a mighty thunder, celebrating freedom. Listen to the Voices of America—voices of yesterday, today, and tomorrow. Listen to the Sound of Liberty.

HAPPY BIRTHDAY—CINCINNATI BOARD OF REALTORS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, in August 1888, a small group of realty pioneers came together with a version for a strong union of those with a stake in the real estate business who could play a prominent and influential role in local, State, and national real estate happenings, for many years to come.

Those individuals met to carry forth their goal and this year the board proudly celebrates 100 years of active service and achievements which have greatly contributed to the development of the real estate community nationwide and to the city of Cincinnati. We congratulate them on their accomplishments over these last 100 years.

Many prominent Cincinnatians have helped to develop the dream of this first group of realtors who met 100 years ago. One of their first steps toward success was the incorporation of the organization on February 11, 1890.

The organization, then called the "Exchange", was led by A.C. Horton, its first president. Representatives from Cincinnati joined forces with 16 other boards, from 13 States, and 1 State association. They met in Chicago on May 12, 1908 and organized the National Association of Real Estate Boards, which is now known as the National Association of Realtors [NAR].

In 1910, Cincinnati and two other boards organized the Ohio Association of Real Estate Boards which is now known as the Ohio Association of Realtors [OAR]. The OAR's first president was Cincinnatian William B. Poland. Other Cincinnati board members who served as OAR presidents over the years include William B. Poland 1910, 1911; William H. Dyer 1918; Don G. Boyd 1929; John B. Spilker 1930; Frank Malick 1932; James P. Mulford 1937, 1938; Douglas G. High 1945; West Shell, Jr. 1958; Ralph F. Yeager 1965; Chester C. Sudbrack, Jr. 1971; Stanley R. Gershuny 1983; and Stephen F. Casper 1988.

Headquarters for the Cincinnati Board of Realtors has shifted over the years from room 1 of the old Cincinnati College Building to the Chamber of Commerce Building [1890]. Some years later the headquarters were again moved to such sites as the Union Central Life Insurance Building, the Guarantee Title & Trust Company Building, the First National Bank Building and the Cincinnati Stock Exchange. Later, the board's home office was moved to Tennessee Avenue and from there moved to its present headquarters in the Kodak Building at 14 Knollcrest Drive.

The Cincinnati Board is responsible for many notable achievements which have been of invaluable assistance to the city of Cincinnati. They aided in drafting the first license law governing the practice of real estate in Ohio in 1927 and played a large role in the beginning of real estate education at the University of Cincinnati. In 1980, the board gave support to continuing education requirements for Ohio real estate licensees in an effort to maintain professionalism within the business. All licensees now complete 30 hours of continuing education every 3 years to keep an active and up-to-date license and to continue to provide qualified professional service to clients. The Cincinnati Board of Realtors has always played a leadership role in promoting the highest standards within its profession and in the process has been of great service to its realtors and clients and to the citizens of the city of Cincinnati.

Again, we, the city of Cincinnati, thank the Cincinnati Board of Realtors for their many outstanding accomplishments and wish them our congratulations on their 100 years of distinguished service to us and to others nationwide.

STANDOUT IN THE CARIBBEAN

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. FUSTER. Mr. Speaker, I would like to share with my colleagues excerpts of an article published by the Philadelphia Inquirer on July 24, 1988, in which Arthur Frommer describes what he terms "The Loss of Lure in the Caribbean." He begins his story apocalyptically saying that "The Caribbean is in trouble. Though three or four of its islands may be doing well in tourism—Aruba and Puerto Rico among them—most had a dreadful winter, and the off season has been only slightly better * * *"

After detailing some of the problems the islands face, he goes on to recognize and praise Puerto Rico's success in the following terms:

> The standout in the Caribbean is Puerto Rico. Its tourism has increased by 50 percent in the last two years, and it is in sight of regaining its former title as the area's most popular destination. What brought about the renaissance was, mainly, the investment by government and private interests of more than $300 million in improvements to the island's aging hotels.
>
> But more important has been the emphasis by Puerto Rican tourist authorities upon the distinctive culture of Puerto Rico as the main reason for a visit there.
>
> Programs have been developed to promote the distinctive paradores (country inns), the countryside restaurants serving distinctively Puerto Rican food (mesones gastronomicas) and the music and dance of Puerto Rico. Thus, the island remains a refreshingly different place to see.

UPS—50 YEARS OF SERVICE TO MILWAUKEE

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. MOODY. Mr. Speaker, I rise today to pay tribute to the United Parcel Service which recently celebrated its 50th anniversary of service to Milwaukee.

We have today a wide range of choices for the fast and economical movement of goods around the world.

United Parcel Service is a major force in the flow of commerce, both on the ground and in the air. Its development has spanned much of the modern transportation age, beginning early this century.

Like the automobile and the airplane, the UPS method of assuring fast, reliable distribution of packages is an invention that serves society. And while UPS develops even better distribution, the company has not grown by technology alone. UPS has been, and remains, an enterprise of people serving people. The year was 1907 when 19-year-old James E. Casey and a handful of other teenagers started the company that would become United Parcel Service.

In August 1938 UPS began service in Milwaukee. This was the start of the Wisconsin district.

Starting with a payroll of less than 150 people, Wisconsin UPS'ers now number almost 4,000.

During the 1940's the war years taxed the strengths of UPS in Milwaukee. But UPS there became better because of it.

The 1950's and 1960's saw common carrier status come to many States including Wisconsin.

The 1970's brought 2d Air Service to 50 States, ground service operations in West Germany, and service to Canada.

The 1980's have brought UPS into the age of high technology and Next Day Air service to 16 countries in Europe and Japan.

Through the efforts of UPS'ers everywhere, the brown package car and fold trademark have become American symbols of quality.

In 1954, founder Jim Casey said, "Our horizon is as distant as our mind's eye wishes it to be." Today, Wisconsin business and employment "are in a fine state." This, in part, is due to the skillful efforts of Wisconsin UPS'ers, building upon their founder's vision.

While providing the best service at the lowest possible cost, UPS has added safe, and productive jobs to Wisconsin's economy for 50 years. I'm sure they will be with us for many more, and I wish them the best on a remarkable first 50 years.

PAWLING BICENTENNIAL CELEBRATION

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. FISH. Mr. Speaker, it is with great pride that I rise today to pay tribute to the town of Pawling, which is celebrating its bicentennial this year.

Pawling was 1 of 102 towns founded on March 7, 1788, as part of a strategy by George Clinton, then the Governor of New York, to thwart ratification of the U.S. Constitution. Clinton believed the residents of the new towns, who were mainly farmers, were independent-minded and would oppose a strong Federal Government as envisioned in the Constitution. Fortunately, his strategy did not work, and the State of New York ratified the Constitution in July 1788.

The town was named after Katharine Beekman Pawling, the daughter of Henry Beekman who owned an estate in Dutchess County known as the Beekman Patent. Mrs. Pawling inherited a portion of the estate after her father's death in 1716. The Pawling name was first used in 1769 when the Beekman Patent was divided into the precincts of Beekman and Pawling. The town also encompasses a stretch of land know as the Oblong, an area on the New York/Connecticut border.

The rapid growth of New York City in the 18th and 19th century brought about a metamorphosis to the town. Once a farming community, the railroad in 1849 connected Pawling with the city, and opened new markets for the town. Dairy farming was suddenly feasible since the railroads solved the transportation problem to the city, and many beef farmers converted their operations to take advantage of that lucrative industry.

Additionally, many New Yorkers soon discovered by rail the beauty and tranquility of the Harlem Valley, and tourism began to blossom in Pawling. Hotels such as the Mizzentop and the Dutcher House provided luxury accommodations for travelers to the town. The Depression and the rise of automobile travel brought about the decline of rail travel and the demise of such establishments, but the original Dutcher House still stands and is represented on the town of Pawling logo.

Pawling also contains a number of historic sites including the John Kane House, which served for a time as Gen. George Washington's headquarters during the Revolutionary War, and the Quaker Meeting House, which was used as a hospital for Washington's forces.

Residents of the town have included Rear Adm. John L. Worden, the commander of the Civil War battleship, the *Monitor,* during its historic battle against the *Merrimack;* Lowell Thomas, renowned radio broadcaster and author; New York Governor, Thomas E. Dewey, who ran for the Presidency in 1948; Edward R. Murrow, radio broadcaster, television producer, and director of the U.S. Information Agency; and current resident Norman Vincent Peale, who established the Foundation for Christian Living.

On September 10, the town of Pawling will celebrate its birthday with an all-day extravaganza including a star-spangled parade and a town fair at the Edward R. Murrow Recreation Park. Mr. Speaker, I am fortunate to represent the town of Pawling, and I send out my most sincere best wishes for the Pawling bicentennial celebration.

A TRIBUTE TO AL MAZEWSKI

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. DINGELL. Mr. Speaker, today I rise to pay tribute to a fellow American of Polish descent, Aloysius A. Mazewski, a distinguished citizen who dedicated a lifetime to Polish affairs.

Al Mazewski may not be with us in body, but his spirit reminds all Americans, especially Polish Americans, of the importance of our roots. Mr. Mazewski and I, as well as 12 million Americans, share these common roots: we are of Polish heritage.

Early in his life, Al Mazewski studied and practiced law and, in the interim, served in the U.S. Army during WWII. Mr. Mazewski was elected in 1967 as president of the Polish National Alliance at its 35th Quadrennial Convention in Detroit and was elected in 1968 as president of the Polish American Congress. Every President since Eisenhower has recognized him as a leader in Polish affairs. Hence, they continually appointed him to leadership positions of national and international concern. Mr. Mazewski testified numerous times before Senate and House Committees regarding such vital areas as Polish veterans and human rights. In addition, he was awarded a number of distinguished prizes in recognition of his devoted and sincere attention to Polish affairs. Yet, through all his dedication, hard work and honors, he never forgot his Polish heritage. His pride and preserverance in the accomplishments for his Polish brothers and sisters never diminished in its intensity.

Al Mazewski will be long remembered for his deep commitment to the relentless fight for the rights and freedoms, which we as Americans fortunately enjoy, for the people of Poland and Polish Americans. Al Mazewski will always stand for the proposition that our ancestry must not be forgotten.

THE PRESIDENT'S SIGNING OF S. 2561, THE TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. JEFFORDS. Mr. Speaker, on August 19, 1988, President Reagan signed S. 2561, the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (H.R. 4904), into law. The law is Public Law 100-407, and I view it as yet another piece in our overall effort to increase the independence and civil rights of, and opportunities for, individuals with disabilities. I wish to especially thank one of my staff, Patricia Morrissey, for helping me to develop the initial discussion draft and for working with Senate staff to develop the legislation that was introduced jointly in both bodies on June 23, 1988, as H.R. 4904 and S. 2561.

This law will have an immediate and sustained beneficial impact on the lives of individuals with disabilities. Access to technology will increase, as well as access to services and expertise in technology. Such technology, services, and expertise will enable individuals with disabilities to sustain and increase their independence and productivity and to become fuller participants in the activities in their homes, schools, work places, and communities. Technology will enable those who cannot talk, to communicate; those who cannot hear, to hear; those who cannot see, to read; and those who cannot move, to move. Such technology will give individuals with disabilities more control over their own lives and more opportunities to make choices, choices that previously were in the hands of others.

When I came to this body in January 1975, one of the first bills that I was privileged to work on was H.R. 7217 which became Public Law 94-142, the Education of All Handicapped Children Act. Now as then the law ensures a free appropriate public education for each child with a handicap. I am especially proud of several provisions in that act which included the due-process provisions and the provision allowing small districts to file consolidated applications for funding. I played a central role in the development and incorporation of these provisions into Public Law 94-142, while serving as the ranking Republican on the Subcommittee on Select Education.

In the 99th Congress, when Public Law 94-142 was amended, I was involved in the design of the provisions relating to a GAO study to assess the impact of the payment of attorney's fees on the due-process procedures in the law. Also, during the 99th Congress we recognized the importance of early intervention as a critical component in services to individuals with handicaps. As a result of this recognition, I and my colleagues strengthen the services to preschoolers and established, for the first time in Federal law, services to infants and toddlers with such handicaps.

In this Congress, along with my colleague BILL GOODLING, I authored amendments to the omnibus education bill, Public Law 100-297, relating to children with handicaps. Our amendments clarified and updated the requirements pertaining to such children being educated in State-operated and State-supported programs, authorized new uses of funds, and simplified the administrative requirements. This section of the law had not been substantially amended since its initial enactment in 1965.

During my tenure on the Committee on Education and Labor I also have been actively involved with legislation that affects the lives of adults with disabilities. I authored amendments to the Rehabilitation Act to prohibit discrimination on the basis of handicap by Federal agencies; to authorize independent living services, for the first time, for the elderly with visual impairments; to establish an Inter-Agency Committee on the Handicapped to promote the coordination of Federal programs that affect individuals with disabilities and to promote the removal of architectural and communication barriers that impact on persons with hearing impairments.

In the 98th, 99th, and this Congress I was actively involved in the drafting and promoting the passage of the Civil Rights Restoration Act, to overturn the Supreme Court decision in Grove City College versus Bell. This decision narrowly construed the definition of "recipient of Federal financial assistance," thus increasing the opportunities to discriminate against individuals on the basis of race, sex, age, or disability. During this Congress the Civil Rights Restoration Act became law, thereby prohibiting such discrimination.

Just this summer, I joined in sponsoring the Americans with Disabilities Act, that when passed, will serve as a catalyst to ensure greater civil rights for individuals with disabilities in housing, transportation, public accommodation, and employment.

In the last 13 years we have made considerable progress in addressing the needs of individuals with disabilities. We have increased programs and services, expanded rights, and raised funding. But, we have done more than that. We have invested in our Nation's future. More and more people with disabilities of all ages will be able to do a greater amount for themselves and for others, to expect more from themselves and more challenges from others, and to serve as a resource and partner as we build for tomorrow. The recently signed, Technology-Related Assistance for Individuals With Disabilities Act of 1988, Public Law 100-407, is a reflection of the belief in such a tomorrow and of the commitment to make it happen.

TRIBUTE TO THALIA M. DONDERO

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to an outstanding civic and political leader, Commissioner Thalia M. Dondero. On Friday, September 23, the American Lung Association will honor this exceptional Las

Vegan for her contributions to the community of southern Nevada.

Thalia was born in Greeley, CO, and has been a resident of Las Vegas since 1943. Prior to taking office in 1975 as a Clark County Commissioner, Thalia served as executive director of the Frontier Girl Scouts Council for Las Vegas for 10 years. She also served on several boards and commissions by appointment of the Governor relative to such issues as parks, tourism, and energy, and was a founding member of the Secret Witness Program.

As a county commissioner, Commissioner Dondero is the vice-chairman of the board of county commissioners, having recently completed her third term as chairman. Her service to the residents of southern Nevada is something that we should all be proud of. She is the president of the Las Vegas Valley Water District Board of Directors, chairman of the Kyle Canyon Water District, a member of the University Medical Center of Southern Nevada Board of Trustees, and the Nevada Development Authority.

Previously, she has served on the Las Vegas Convention and Visitors Authority, and the Metropolitan Police Committee on Fiscal Affairs.

Besides the numerous boards and committees she serves on, she has been actively involved in promoting safe transportation, the development of recreational facilities and the arts for the residents of Las Vegas.

Mr. Speaker, Thalia has given her time and energy to promote the successful growth of Southern Nevada and its citizens. It is only proper that she be honored for her work. I ask my colleagues to join me today in commending Commissioner Thalia Dondero for her well-deserved recognition.

TRIBUTE TO LARRY W. RIVERS

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. HOLLOWAY. Mr. Speaker, I rise today with great pride in my heart. More than 2 million members of the Veterans of Foreign Wars [VFW] elected my constituent, Larry W. Rivers, of Alexandria, LA, their commander in chief at their 89th National Convention held in Chicago on August 26.

Larry served in the Marine Corps from 1968 until 1971. During this tour of duty of Vietnam, he was awarded the Combat Action Ribbon, the Vietnamese Cross of Gallantry and the Bronze Star. After his discharge, he joined the Johnson-Brown VFW Post 1936 in Alexandria, and he has served in various leadership positions. In 1980-81, my constituent served as the department commander of the Louisiana VFW and in this capacity, he had the distinction of being the youngest person ever elected to this office.

In 1981, Larry was first elected to national office when he served as judge advocate general of the VFW and he held the position of national chief of staff from 1984 until 1985. During this time, he served on many important and hardworking national VFW committees.

Commander Rivers has a BA in government from Northwestern State College and a law degree from Loyola University of the South. His wife, Connie, is a former neighbor of mine from Forest Hill. The couple is blessed with three children, Larry, Jr., Rosalyn, and Raegan.

During the past year, Larry served as senior vice commander of the VFW. In this position, he traveled 8 months out of the year while still a partner in the Alexandria law firm of Rivers & Beck. Despite his busy and demanding schedule, Larry still took the time to be on my panel at my very successful Veterans Workshop at the Veterans Administration Medical Center in Alexandria on July 19. He is truly devoted to the over 27.5 million veterans in this country.

The 48,000 veterans of the Eighth Congressional District of Louisiana and I share in the pride of Larry's family and friends in his accomplishments and I know he takes seriously his new responsibilities of leadership. He begins a new generation of VFW leaders and I wanted to share with you the dramatic and moving acceptance speech given by this new commander in chief at the convention. His theme should serve as an inspiration to all of us.

ACCEPTANCE SPEECH OF LARRY W. RIVERS, VFW COMMANDER-IN-CHIEF

The demands of office, with the accompanying responsibilities of leadership, today pass to a new generation of VFW leaders. As your commander-in-chief, I am acutely aware that officers at every level of command must now devote themselves to the pleasaint yet demanding task of providing direction and leadership to the greatest and most unselfish legion of volunteers in America—the more than 2.8 million members of the Veterans of Foreign Wars of the United States and our great Ladies Auxiliary.

As we begin our new VFW year, we do so with full knowledge that unresolved issues, important to us as Americans and as veterans, will require not only our immediate attention but our best efforts as well. We must, and we will, complete our unfinished work with renewed purpose and with that sense of urgency our total unwavering commitment demands.

We do not kid ourselves. We are keenly aware that the days and months ahead will bring new issues, new problems and new concerns. We welcome challenge. Armed with your wisdom, conveyed through the resolutions passed at our 89th national convention, and with your support we can and will turn adversity into opportunity and replace meaningless rhetoric with solid results.

Our theme, for this our 90th year, is a simple one—"We remember." So beautiful in its simplicity yet so powerful in the message it conveys. As we celebrate 90 years of faithful service to America and her veterans, we do indeed remember. We remember that many challenges we have faced, the many obstacles we have overcome and the impressive list of accomplishments that we, together, have compiled.

The call to arms in the defense of freedom is a noble calling. The simple act of accepting this noble call binds us together as veterans. Honorable service brings its special reward—a treasure shared only by those who pay the demanding price such service requires. Honorable service rendered in response to this call to arms earns the right to wear a very special title—veteran. We in the VFW believe that by virtue of this service, upon which freedom depends for its very existence, veterans deserve a special place in a democratic society and among a free people. Our commitment to the veterans of this country remains total and without reservation. That commitment will never change.

History teaches that the best intentions of government often fade as the guns of war are silenced. Good intentions have been too often torpedoed by apathy and indifference. Veterans will never accept apathy and indifference as the reward for honorable service. We have earned our special place. We intend to preserve it and pass it on to the next generation of veterans just as it has been passed on to us.

We have learned from history. We have learned from our past experience that the preservation of earned entitlements requires constant vigilance. Reliance upon "good intentions" has never been enough. We remember, and because we do, we are ever prepared to challenge apathy and indifference regardless of the forum in which they may appear. Our task for 90 years has been to perpetuate "good intentions," to transform indifference into concern and concern into appropriate veterans legislation. We have done that—and we do it better than anyone else because we are the VFW—we care and we remember.

Like a clown with many faces, indifference has the uncanny ability to appear in many disguises. It shows its destructive potential when the defenses on this country are allowed to deteriorate. Indifference is clearly in control when our Veterans' Administration provides substandard medical care to deserving and needy veterans. This arch enemy of veterans, this indifference, overpowers "good intentions" when the Department of Veterans Benefits is understaffed and inadequately trained and therefore unable to properly and fairly handle veterans claims.

From payment of burial benefits to determination of service connection for a wound, injury, or disease, it seems that everything moves through the present system at a snail's pace. We accept no excuse for what is clearly needless delay. Too many veterans wait too long for medical attention and proper medical care—indifference—manifested in these and so many other ways. There is still time for the Veterans' Administration to address tomorrow's problems. Our immediate concerns are the lack of accountability, the excuses and the quality of service as we address problems that confront us today.

As individuals we must do more. As an organization we can and we will do more. Utilizing all resources at our disposal, we will increase the watchdog responsibilities of our Department Service officers and our National Veterans Service Staff. Our employees and our volunteers will train harder, will look closer and dig deeper during future inspections at VA facilities. We will demand better quality control and improved quality of care from the Department of Medicine and Surgery, the Department of Vetrerans Benefits and from all other Departments within the VA. We will ask hard questions—demand honest and straightforward answers. And in so doing, we will keep faith with our members and with all veterans.

If the VA cannot or will not satisfy our concerns, we will take those concerns to the American people, to the Congress and to the President. We remember and we will not allow others to easily forget.

This VFW year will bring a new President, a new administration and a new Congress. We stand ready to work hand-in-hand with our new leaders—to work as hard as we possibly can to improve and strengthen our Veterans' Administration and the programs administered by that agency. However, just as we are prepared to march in harmony with our new leaders, we are equally prepared to use every resource at our disposal to oppose any person or any agency that promotes an anti-veteran agenda that does not keep faith with the veterans of this Nation.

Our new President will have the duty and high honor of nominating the first Secretary of Veterans Affairs. This special office, created to serve as the voice of America's proven patriots, must be headed by a true veteran's advocate. The individual who serves in this office must recognize and appreciate the special service rendered by the veterans of this country. Our Secretary must understand not only our fears; he must also understand the unique problems commonplace among veterans and their families.

This first Secretary of Veterans Affairs must understand the needs of our aging veteran population. Veterans will measure the depth of that understanding by the vigor with which he joins with us in our fight to fully fund a quality and meaningful geriatric care program.

If this first Secretary of Veterans Affairs understands the suffering caused by herbicide exposure, and indeed he must, he will move quickly and deal fairly with this important issue. Agent Orange victims must be compensated. Unless rhetoric must be replaced by meaningful action. Compassion and common sense must now replace protracted debate. Vietnam veterans and their families suffering from herbicide exposure have waited too long. In the name of decency, the waiting must end.

If the Secretary is to speak for us, and indeed he must, of necessity he must understand our needs, our concerns, our hopes and our fears. Our Secretary must not rise above us and talk down to us. He must stand in our ranks, side-by-side, and talk to and among us. He must listen. He must hear and he must care. We hope—no, we demand—that our new President give us a true veterans advocate to serve as the first Secretary of Veterans Affairs.

The plague of indifference does not limit its damaging presence to the arena of veterans rights. Occasionally, indifference is the end result of "good intention" weakened by misunderstanding of true fact. This lethal combination is quite apparent among those who argue that the cost of defending this country is a burden we can no longer afford. Necessary defense expenditures are blamed for the growing Federal deficit and proclaimed as proof-positive that defense spending must be drastically reduced. Such ridiculous logic claims among its victims certain elected officials and others in positions of trust and responsibility. This misunderstanding of fact and this apparent ignorance of reality is another manifestation of indifference and is certainly cause for alarm. During this political season, as we choose among those who seek high office, it is imperative those whom we entrust with our vote clearly understand the dangers, pitfalls and realities that confront us throughout the world. These realities require strength. Our precious freedom has no other protector, no truer friend.

All citizens deplore waste, abuse and mismanagement in the Defense Department or any other agency of the Government. These serious problems call for civil sanctions, and when appropriate, criminal prosecution. Breach of public trust cannot and should not be the excuse used, nor the justification given, for massive reductions in the defense appropriations. The appropriate course of action is to punish the perpetrator, not to penalize the Nation. Irresponsible action dramatically increases the real possibility that the future cost of our defense will be paid not only with dollars but also with our blood.

We remember the inadequacy of our defense prior to World War II. All too well do we remember the high price paid in life and limb because we were not militarily strong. We remember the alternatives to strength. They are not pleasant memories. There are other things we have not forgotten. We clearly remember the Communist aggression that brought war to Korea and Vietnam. We remember that the Soviet Union, in concert with its surrogates, brought war, human suffering and death to Afghanistan and dictatorship to both Cuba and Nicaragua. We clearly remember the Russian legacy of imperialism that still holds Eastern Europe in military slavery.

The defense policy of this country rests in our hands. With our votes and through our continuing involvement, we can and must send a clear and convincing message to both friend and foe; a message that reaffirms our commitment to peace and conveys our resolve to remain the greatest military force on Earth. Those of us who cherish freedom remain determined never to be duped into reducing our defenses either by false claims about the defense "burden" or false hopes about Soviet intentions.

As we take into account the economic realities of today's world, we expect our allies to shoulder their fair share of the cost of our mutual defense. Fair play among friends and allies creates and fosters mutual respect. Alliances grow stronger, our Nation is stronger, and the world is more secure when our dealings with the agreements and other nations of the world are based upon this mutual respect.

The Monroe Doctrine quite appropriately and correctly recognizes the countries of Central and South America as indispensable to our own security. Nothing has changed in that now troubled region that requires us to re-examine the Monroe Doctrine. Central and South America are still indispensable to our security. Events of the moment do, however, require us to decide as a people exactly which acts, which alliances, which forms of government and which military actions constitute a real threat to our security and to the security of future generations. In these important and delicate times, certain of our leaders seem unwilling, and apparently unable, to deal decisively on matters of such grave import. They seem impotent and incapable of acting, forcefully to prevent another Cuba, or series of Cubas, in the Western Hemisphere. America deserves statesmen. Yet, we are asked to settle for politicians, politicians unwilling to rise above partisanship, politicians unwilling to strike a blow for freedom and politicians unwilling to face squarely the most important issue of the day. It's time to act. It's time to reverse this threat to our security and to threaten the security of the dictators, Communists and drug lords in Nicaragua, Panama and any other country in this hemisphere wherever they may appear. It's also time to tell General Noriega that we have no intention of giving away our canal on the Isthmus of Panama—not now, not in the year 2000 or at any other time.

The times in which we live call for strong leadership and firm resolve. We must stand with the forces of democracy and freedom. There is no other choice. There is no acceptable alternative.

As we review our commitment to freedom and as we remember the struggles for freedom that continue around the world, we in the VFW likewise remember our POW's and MIA's.

Nearly 2,400 still missing from Vietnam. Another 8,000 still missing from Korea. We should not, we cannot and we will not forget them. We will remain in the forefront voicing our concerns, urging a speedy and honorable resolution of this most difficult problem. Under my stewardship as your commander-in-chief, we will actively pursue and promote your mandates, your resolutions, on this most important of all issues. This issue remains top priority with the VFW. We remember and we will not allow others to forget.

As we enter our 90th year and as we work toward our 34th year of consecutive membership growth, we know, and by our record of service others will know, that there is no greater veterans advocate and no greater patriotic organization than the Veterans of Foreign Wars of the United States.

We in the VFW recognize and understand the challenges that confront our country and our veterans. The issues I singled out for comment today are certainly not intended to be an exhaustive list. Quite the contrary, they represent only a small fraction of the issues that concern us as citizens and as veterans. As commander-in-chief, I pledge to you that your VFW will deal with each of these important issues in a forthright and honest manner. Just as we have been for nearly 90 years, we will continue to be good citizens, good Americans and true patriots. Yes, we remember—and we always will.

TRAGEDY STRIKES IN PAKISTAN: THREE FIGHTERS FOR THE CAUSE OF FREEDOM ARE LOST

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. BROOMFIELD. Mr. Speaker, the recent tragedy in the skies over Pakistan claimed the lives of Pakistani President Mohammed Zia ul-Haq, Ambassador Arnold L. Raphel, and Brig. Gen. Herbert Marion Wassom. While we may never know the cause of that terrible incident, all of us should pause and pay respects to those brave men who died in the service of their respective countries.

In their own way, each man served the interest of freedom and political stability in South Asia. President Zia was a friend of the United States and won the admiration of the world for his staunch support for the Afghan people following the brutal Soviet invasion of that country. His sincere hospitality for the 3 million refugees who fled from the Soviet occupiers of Afghanistan will be long remembered. Without Pakistan's role in actively supporting Afghan freedom fighters in their war against the Soviet-backed Communist government in Kabul, the Soviet troop withdrawal might never have begun. In the face of Soviet threats about his government's involvement in supporting the Mujaheddin, President Zia stood his ground. He actively resisted the Soviet-sponsored destabilization efforts of Pakistan to include state-supported terrorism operations which brought many random attacks on innocent Pakistani citizens.

Ambassador Raphel and Lieutenant General Wassom were American patriots who died in the services of their country. Arnold Raphel was a career diplomat, an authority on South Asia and one of the Department of State's brightest stars. Ambassador Raphel was the 152d American diplomat since 1780 to lose his life in the line of duty while performing duties overseas. He had been in Pakistan for a year and helped negotiate the end of the Soviet occupation of Afghanistan. He was also responsible for supporting the Afghan rebels in their struggle for the liberation of that occupied country.

In previous assignments, Ambassador Raphel had served in the 1970's in Iran and in Pakistan. He was later assigned to the State Department's Bureau of Politico-Military Affairs where he helped formulate United States policy toward Iran in its war with Iraq. He was closely involved in "Operation Staunch," America's effort to persuade other countries to observe an arms embargo of the Teheran government.

General Wassom was the chief United States defense representative to Pakistan when he died. In previous years, he had served two tours of duty in Vietnam and was assistant commander of the 101st Airborne Division. Lieutenant General Wassom was a native of Rockwood, TN, and was a graduate of the Army Command and General Staff College and the National War College. President Zia, Ambassador Raphel, and General Wassom were returning from a demonstration of a new United States M1 tank that Pakistan was interested in buying when the incident occurred.

The most fitting tribute which we can pay to these three brave men is to ensure that all Soviet troops leave Afghanistan as soon as possible, and that the Afghani refugees, who have already suffered so much, are returned to their homeland. It is also essential that the close friendship between Pakistan and the United States be maintained.

My heart goes out to the families of all of the victims of this horrible disaster, to include the loved ones of the 10 senior Pakistani Army officers who also lost their lives in that incident. While these men may be gone, their memories and their great contributions will live on and inspire all of us who want peace and stability in South Asia.

AMERICAN POLITICAL SCIENCE ASSOCIATION CONGRESSIONAL FELLOWSHIP PROGRAM—35TH ANNIVERSARY

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. CRAIG. Mr. Speaker, I want to take this opportunity to congratulate the American Political Science Association on the 35th anniversary of its congressional fellowship program. This program has grown from 6 fellows in 1953 to between 40 and 50 fellows a year. It is the oldest such program on Capitol Hill and is designed to place highly skilled professionals from a wide spectrum of backgrounds in congressional offices for a year-long look at Congress. The fellows serve half of their year in the Senate and half in the House.

I can think of no better way for someone to learn how Congress operates than to be totally immersed in its operations for a year, and to participate in the many informal and formal centers of power in the Congress, an opportunity that the APSA program offers its fellows. The program is truly bipartisan with fellows working in offices and committees from both sides of the isle. While the fellows come to learn they do some teaching of their own and America is well served. These highly qualified professionals bring with them new insights, fresh ideas, extensive knowledge and experience in many disciplines and an abundance of enthusiasm and committment.

Alumni of this program attest to its value in serving Congress and the American people. Alumni include Members of Congress, high-ranking Government officials, congressional staff, university presidents, deans, department heads, professors, newspaper and magazine editors, distinguished journalists, judges, diplomats, and business executives. Presently in my office is Dr. Mit Parsons, a Federal Fellow from the U.S. Forest Service. His insights into the management of natural resources have been a valued addition to my efforts with the Interior Committee. I have no doubt Dr. Parsons is taking with him a deeper understanding of how our legislative process works and will distinguish himself in a career in public service.

I encourage my colleagues to take advantage of this excellent program. Participation in the Congressional Fellowship Program is done at no cost to the individual congressional office. The rewards are tangible and real to legislators as well as fellows. I wish the program well on its 35th anniverary and look forward to having future classes of fellows on my staff.

DUTY SUSPENSION ON SELF-FOLDING, COLLAPSIBLE UMBRELLAS

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. GRADISON. Mr. Speaker, today I am introducing legislation to suspend the duty on self-folding, collapsible umbrellas through December 31, 1992. It is a counterpart of S. 2716 introduced in the Senate by Mr. GLENN. It is noncontroversial and should be included in any conference agreement with the Senate on the miscellaneous tariff bill.

Currently, there is an 8.2 percent ad valorem duty on self-folding, collapsible umbrellas—United States Tariff Schedule item 751.0150. This tariff does not provide any industry protection as there is no mass market integrated umbrella making industry in the United States. Furthermore, there is no domestic umbrella industry opposition to this bill since they are engaged in the manufacture of golf, beach, or other specialty umbrellas which are not competitors of self-folding, collapsible umbrellas.

This duty suspension will save American consumers and importers money. In 1987 U.S. firms paid $5.35 million in Customs duties on these items. Some or all of this savings could be passed on to domestic consumers.

I urge my colleagues to support this noncontroversial piece of legislation. It will not harm any U.S. company and could save American consumers money.

CONTROL OF MEDICAL WASTE IN THE GREAT LAKES

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. DAVIS of Michigan. Today I am introducing a bill designed to control the disposal of infectious medical waste into the Great Lakes.

Although the media stories have focused on the crisis along the shores of the mid-Atlantic coast, medical waste is a national problem. Medical refuse, some contaminated with the deadly AID's virus and hepatitis B, has littered our beaches in Connecticut, Florida, Maryland, Massachusetts, North Carolina, and Rhode Island, as well as New York and New Jersey.

The Great Lakes are not immune from medical flotsam, just like many other marine pollution problems. On August 10, on a private beach near Cleveland, approximately 200 syringes and other medical debris washed ashore from Lake Erie, a body of water which was pronounced dead just 12 years ago and is now making a strong comeback.

Coupled with the very real risk of disease or injury, medical waste has affected local economies, causing a severe dropoff in tourism, fishing, and other recreational uses. Like the citizens of our sister States along the oceans, many residents of Great Lakes States depend on the water for their livelihood, and recreational uses of the water have added millions of dollars to our economy.

My bill prohibits the dumping or disposal of infectious medical waste into the Lakes themselves or along their shores, where waves and wind could sweep it into the waters. The bill also establishes severe penalties for those who dispose of infectious medical waste into Great Lakes waters, asks the Administrator of the Environmental Protection Agency to develop guidance on ways to reduce the amount and toxicity of medical waste currently generated in the Great Lakes region, and requires a monitoring and research program to halt additional waste dumping in the Lakes.

My bill, along with H.R. 3478, introduced by Congressman JIM SAXTON of New Jersey, will create a truly national program to protect our health, our economy, and our beaches from the harm posed by syringes, blood vials, needles, dirtied bandages, and other types of potentially dangerous medical waste. A strong national program to regulate and ban water disposal of medical waste is another important step in cleaning up our oceans and the Great Lakes.

TRIBUTE TO COAL TOWNSHIP, PA.

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. KANJORSKI. Mr. Speaker, I pay tribute today to Coal Township, PA, now celebrating its 150th birthday as a part of our distinguished Commonwealth. As the name suggests, Coal Township is an important part of the Pennsylvania coal industry. This sesquicentennial celebration pays tribute to the five citizens of Coal Township who, over the span of 150 years, have helped to make Pennsylvania what it is today, and have also played an important role in helping fuel the fires of progress that were so much a part of the development of our entire Nation.

In 1837, the courts of Pennsylvania gave area leaders orders to proceed with the planning and development of Coal Township. For many years, Coal Township was "linked" with Shamokin, creating a large coal center in Northumberland County. This area soon became the second largest and most productive anthracite coal region in the State, bringing in approximately $11 million in revenues in 1939 alone. Anthracite coal was the main fuel used to smelt iron in our Nation through much of the 19th century's Industrial Revolution, and the contributions of the businessmen and coal miners of the area helped put America head and shoulders above the rest of the world in industrial growth and progress.

Immigrants came to share in this success story, and today the area is richly endowed with people from many different cultures. Coal Township is home to individuals of German, Scotch-Irish, Italian, Polish and Slavic descent, as well as many other groups who have helped forge this area's proud heritage of diversity and culture. We, our State and our Nation, owe much to these people, who came from Europe for a stake in the American dream. Through hard work, they realized their dreams. They showed that through industry, diligence, and determination we can successfully build a better tomorrow.

Coal Township is a success story that deserves special recognition. Since its official formation in 1838, the people of this area have contributed to the formation of America like few other regions of our country have. Today, it is our responsibility to continue in their proud tradition. By building on their foundation we can make new contributions to keep America strong, free, and healthy.

TRIBUTE TO NICK FORGIONE

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to a truly courageous man, Nick Forgione.

Mr. Forgione is a victim of cancer. At age 66, he has reached the crucial 5-year survival mark in his battle with colon cancer. But Nick Forgione has done more than survive.

In May 1983, Nick Forgione underwent a 7½ hour colostomy operation. Since then, he has had to completely alter his eating and exercise habits in order to lead a normal life. He eliminated meat and fats from his diet and substituted high fiber, low-fat foods. In addition, he has biked 10,000 miles in the last 3 years.

That, however, is not enough for Nick Forgione. He is out to prove that colorectal cancer can be overcome. He wants to show every colorectal cancer patient that this disease can be defeated.

Mr. Forgione often visits Philadelphia area hospitals to offer encouragement to cancer victims. He stresses his altered lifestyle as the key to his survival and a good example for disease prevention.

Inspired by President Reagan's victory over colorectal cancer, Nick Forgione will bicycle from Philadelphia to Washington, DC, to publicize the far-reaching extent of colorectal cancer and raise funds for the American Cancer Society.

This weekend, Nick Forgione will ride through Pennsylvania, Delaware, Maryland, and Virginia. He hopes to reach the White House on Monday morning, September 12.

Mr. Speaker, it is my hope that this courageous act will help promote more healthful, cancer-preventive lifestyles for all Americans. I applaud Mr. Nick Forgione for his selflessness, perseverance, and bravery.

GLIDDEN R. BENEFIELD, A GREAT COACH AND A GREAT TEACHER

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. VANDER JAGT. Mr. Speaker, I rise today to pay tribute to Glidden R. Benefield, an outstanding high school football and track coach who at the age of 85 is being inducted into the Marin High School Athletic Hall of Fame on October 8 by the Marin Athletic Foundation of Mill Valley, Marin County, CA.

The outstanding achievements of Coach Benny, as he has been affectionately known by his students and players over his 44 years of active teaching and coaching, was brought to my attention by my long time friend and former Michigan congressional colleague, Hal Sawyer. Mr. Benefield is Hal's former high school football and track coach.

Coach Benny's record has indeed been remarkable. During his coaching career his teams won 93 championship pennants in football, track and cross country competition, a record possibly unequalled in California high school athletics.

Hal Sawyer points out that students and athletes learned much from Coach Benny and uniformly feel that he epitomizes all that the teaching profession is and should be at its very best.

While, as is obvious from his record, he was a strong competitor whose teams were coached to win, he was equally dedicated to how the game was played. His final admonition and wish to his graduating students and athletes was always, "May you win most of your games but lose enough to be good for your soul."

Coach Benny is a shining credit to his profession and I sincerely appreciate Hal Sawyer bringing his accomplishments to my personal attention so that I could in turn share them with my colleagues in the Congress. I know you will join me in congratulating Coach Benny for a job exceedingly well done.

COMMENDING SAUDI ARABIAN DISASTER RELIEF TO THE SUDAN

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. BATES. Mr. Speaker, today I would like to take this opportunity to commend an outstanding act of compassion committed by the Saudi Arabian Government toward a fellow country in need.

On August 4, 1988, The Sudan suffered from the worst flood it has witnessed since 1946. Torrential rains fell continuously for 2 days and dumped more water in that period than has ever been recorded in a single year. About 2 million people were left homeless and more than 80,000 homes were washed away in the cities of Khartoum, Kassala, Shwab, and Damir. On August 9, 1988 the government of The Sudan declared those four cities disaster areas, and declared a state of emergency in the whole country.

Responding to The Sudan's appeal to the international community for aid, the Saudi Arabian Government promptly provided assistance the same day the request was declared. On orders from King Fahd, a transport plane was sent to The Sudan to distribute relief food supplies to the flood victims. On August 10, 1988, Saudi Arabia set up an aerial supply route to transport food, medical supplies, and tents. Other supplies also included 20,000 tons of rice, 250 tons of flour, a large amount of meat, fruit, sugar, milk, and other food stuffs, blankets, and clothes, as well as medical supplies, generators, pumps, and batteries.

In addition to the disaster relief provided to The Sudan from the Saudi Government, King Fahd donated $8 million from his personal funds and also created a committee to oversee that The Sudan successfully recovers from this crisis. I commend King Fahd's humanitarian aid for The Sudan flood victims and I join Saudi Arabia in calling on the international community to provide further assistance.

THE PIONEER MAJOR GIRLS' ALL-STAR SOFTBALL TEAM OF COLUMBUS, GA

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. RAY. Mr. Speaker, earlier this summer, the Pioneer Major Girls' All-Star Softball Team of Columbus, GA, won the District 8, Georgia State and Division II championships. Needless to say, along with their friends and families, our entire community is very proud of their achievements.

In tribute and recognition, I am placing their names in the CONGRESSIONAL RECORD:

Shannon Bigbee, Heather Borum, Beth Cheves, Reagan Griffin, Ann Land, Melissa Lipham, Angie Norrell, Melanie Robinson, Beth Roberts, Danielle Snow, Mandy Weeks, Deidre Williams, Chastidy Valero, and Manager Johnny Valero, Coach Dennis Griffin, Assistant Coach Richard Weeks, and Assistant Coach Keith Barbee.

In addition, I would like to thank the parents and other adults who supported the team's efforts. Their success proves the positive results that can be achieved when adults take a little time to invest in the hopes and dreams of our young people.

FISHERY IMPORTS FROM SOUTH AFRICA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. BONKER. Mr. Speaker, a statement clarifying the Foreign Affairs Committee's view on the fisheries import secton of H.R. 1580, the Anti-Apartheid Amendments Act of 1988, was inadvertently not placed in the RECORD on the day the House acted favorably on this bill. I ask that it be printed now:

The provision in section 302(d) of the Anti-Apartheid Amendments Act of 1988, banning fish or seafood imports from South Africa is not meant to include fish or seafood from third countries, such as canned tuna from Mauritius or frozen prawns from Mozambique, which is merely in transit through a port in South Africa. Nor is the ban meant to include fish or seafood from such third countries which is being held in a customs bonded warehouse in South Africa while simply awaiting shipment. Such fish never enters the Customs territory of South Africa, and the South African Government thus derives no duties or revenues from its temporary presence. In both cases, the fish or seafood is merely in transit, just as the goods of most "frontline" states transit South Africa on their way to the United States.

NATIONAL REHABILITATION WEEK

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. McDADE. Mr. Speaker, I am very pleased today to commend Allied Services in Scranton, PA, for its leadership over the past decade in the celebration and observance of National Rehabilitation Week. It was Allied Services that led the country in 1976 by commemorating the first rehabilitation week.

The third week of September was designated as National Rehabilitation Week by resolution of the U.S. Congress in 1978. I was grateful for the opportunity to sponsor that resolution which encouraged a greater awareness of rehabilitative services and the ways in which such services improve the quality of life.

National Rehabilitation Week serves to highlight the quality and the capabilities of the rehabilitation services available to America's disabled population. Despite continued advances in preventative medicine, many of us will suffer some disability in our lifetime. The importance of rehabilitation in reducing the impairments—and the hardships—caused by disability is clear. Rehabilitation brings hope and dignity to our many disabled neighbors who in turn share with us their spirit and vitality.

Our efforts to promote the rehabilitation of disabled people and the prevention of future disability must continue. Now is the time to renew our commitment to the disabled and to the efforts of rehabilitation medicine in improving the quality of life for the disabled.

SUPPORT THE BRADY AMENDMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. DOWNEY of New York. Mr. Speaker, March 30, 1981, was one of the darker days in our Nation's history. On that day, a man by the name of John Hinckley tried to assassinate President Reagan. Fortunately, he failed. Whenever attempts are made on the lives of our Nation's leaders, Americans react with anguish and doubt, and they begin to think a bit about how vulnerable we all are.

The plain truth is that the events of that cold day in March could have been avoided. The handgun that John Hinckley used was bought in a "stop and shop" State—a State where you can put your money down on the counter and walk out with a weapon. Hinckley lied about his address when he bought the gun, and that was a felony. If a waiting period had been in effect when he bought that gun—a 7-day period that would be used to complete a background check on the potential handgun owner—authorities would have known that Hinckley was lying. Chances are, he would have been stopped. Chances are that Ronald Reagan would have spent a normal day on the 30th of March, and chances are that James Brady wouldn't be in a wheelchair right now.

All this week we will debate the drug bill. There is another plain truth—you can't deal with the drug crisis in this Nation if you ignore the gun problem. Guns that are bought by drug dealers and drug users kill innocent people, often they kill cops. By supporting the Brady amendment to the drug bill, we can improve our chances of survival against gun-wielding drug lords. Support a 7-day waiting period. Support the Brady amendment.

TOWN OF VIENNA SALUTES RETIRING TOWN COUNCILMAN VINCENT J. OLSON

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 7, 1988

Mr. WOLF. Mr. Speaker, I am pleased to join the town of Vienna in the 10th Congressional District of Virginia in saluting Vincent J. Olson as he retires from the Vienna Town Council. As the representative of the 10th District and a resident of the town of Vienna, I am pleased to have this opportunity to express my appreciation to Vince for a job well done.

Vince Olson was first elected to the town council in 1976 and served the Vienna community with honor and distinction for 12 years. He served as mayor pro tem in 1980 and also was chairman of the Charter Review Committee that year. From 1977 to 1987, he was a member of the Virginia Municipal League's Transportation Committee. Before being elected to the town council Vince was a member of the Vienna Planning Commission from January 1975 through June 1976. Having always been a civic minded individual and active in the community, Vince is a past president of the East Vienna Woods Civic Association and former cub scout master of pack 976. Vince also served his country in the Navy during the Korean war.

During his years on the town council Vince was very active in the area of traffic control. In 1980 Vince proposed VAMSCAT [Vienna Area Metro Station Citizen Action Team], a citizens task force which worked to design a traffic control plan for Metrorail.

I offer my congratulations to Vince Olson on his efforts to improve the quality of life for the people of Vienna and also best wishes to him, his wife, Valerie, and their children in all their future endeavors.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when sched-

uled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 8, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 9

8:00 a.m.
Veterans' Affairs
To hold oversight hearings to review the adequacy of available funds and personnel for the VA health-care system.
SH-216

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on the community reinvestment, check cashing, lifeline and branch closing provisions of H.R. 5094, to strengthen the competitiveness and protect the safety and soundness of depository institutions.
SD-538

Commerce, Science, and Transportation
To hold hearings on the nomination of R. Kent Burton, of Virginia, to be Assistant Secretary of Commerce for Oceans and Atmosphere.
SR-385

Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 2272, to authorize funds for fiscal years 1989 and 1990 for programs of the Fish and Wildlife Conservation Act of 1980, S. 2384, to authorize funds for fiscal years 1989, 1990, and 1991 for programs of the Atlantic Striped Bass Conservation Act, and other pending calendar business.
SD-406

Labor and Human Resources
To hold hearings on the nomination of Lauro F. Cavazos, of Texas, to be Secretary of Education.
SD-430

Select on Intelligence
Closed business meeting, on pending committee business.
SD-219

10:30 a.m.
Conferees
On H.R. 4586, appropriating funds for fiscal year 1989 for military construction programs of the Department of Defense.
S-128, Capitol

Conferees
On H.R. 4794, appropriating funds for fiscal year 1989 for the Department of Transportation and related agencies.
H-140, Capitol

SEPTEMBER 12

10:00 a.m.
Energy and Natural Resources
To hold hearings to examine the pending sale of the Great Plains Coal Gasification Project near Beulah, North Dakota.
SD-366

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2752, to declare that certain lands be held in trust for the Ouinault Indian Nation.
SR-485

SEPTEMBER 13

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration.
SR-485

Energy and Natural Resources
To hold oversight hearings to examine the fate of the Soviet satellite Cosmos 1900, and U.S. plans and strategies associated with launching and using nuclear power sources in space.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nominations of John R. Dahl, George J. Benston, of New York, Darryl McLaren, Gordon C. Southern, and Edward C. Williamson, Jr., of Georgia, each to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.
SR-332

Environment and Public Works
To hold hearings on the nomination of James R. Curtiss, of Maryland, to be a Member of the Nuclear Regulatory Commission.
SD-406

Foreign Relations
Business meeting, to consider pending committee business.
SD-419

Judiciary
To hold hearings to review refugee admission levels for fiscal year 1989.
SD-226

2:00 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2213, S. 2326, and H.R. 4101, bills to strengthen the authority of the Federal Trade Commission to regulate telemarketing activities.
SR-485

Governmental Affairs
To hold hearings on the nomination of John Alderson, of Virginia, to be Administrator of General Services.
SD-342

2:30 p.m.
Finance
To hold hearings on the nomination of Nicholas F. Brady, of New Jersey, to be Secretary of the Treasury.
SD-215

SEPTEMBER 14

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Select on Indian Affairs
To hold hearings on S. 2723, to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds.
SR-485

Select on Intelligence
To resume hearings to review the conduct of the Federal Bureau of Investigation inquiry into activities of the Committee on Solidarity with the People of El Salvador (CISPES).
SH-216

10:00 a.m.
Foreign Relations
War Powers Subcommittee
To resume hearings to review the War Powers Resolution of 1973 (P.L. 93-148).
SD-419

Governmental Affairs
To hold hearings on regulatory reform.
SD-342

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 4068, to strengthen the enforcement provisions of the Archaeological Resources Protection Act of 1979, S. 1314, to prohibit attempted excavation, removal, or defacing, and to reduce the felony threshold value of illegally removed artifacts to $500, S. 1985, to improve the protection and management of archaeological resources on Federal land, S. 2545, to redesignate Salinas National Monument in New Mexico, and S. 2617, to revise the boundary of Aztec Ruins National Monument in New Mexico.
SD-366

SEPTEMBER 15

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2657, Campaign Cost Reduction Act.
SD-562

10:00 a.m.
Foreign Relations
War Powers Subcommittee
To continue hearings to review the War Powers Resolution of 1973 (P.L. 93-148), with former President Ford.
SH-216

SEPTEMBER 16

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on state taxation of interstate transportation.
SD-628

SEPTEMBER 20

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings to review the U.S. and foreign commercial service.
SR-253

Governmental Affairs
To hold hearings on S. 2298, to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the GSA inventory for supply to Federal agencies.
SD-342

Rules and Administration
Business meeting, to consider a report on the operation of the Senate, and a

report on impeachment proceedings pursuant to instructions of the Senate.

SR-301

SEPTEMBER 22

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine airline concentration at hub airports.

SD-562

Governmental Affairs

To resume hearings on regulatory reform.

SD-342

SEPTEMBER 27

9:30 a.m.

Governmental Affairs

To resume hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.

SD-342

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review legislative priorities of the American Legion.

SD-106

SEPTEMBER 28

9:00 a.m.

Office of Technology Assessment

The Board, to meet to consider pending business.

S-146, Capitol

10:00 a.m.

Governmental Affairs

To continue hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.

SD-342

OCTOBER 3

2:00 p.m.

Governmental Affairs

To resume hearings on regulatory reform.

SD-342

SENATE—*Thursday, September 8, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable Patrick J. Leahy, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For I am persuaded, that neither death, nor life, nor angels, nor principalities, nor powers, nor things present, nor things to come, nor height, nor depth, nor any other creature, shall be able to separate us from the love of God, which is in Christ Jesus our Lord.—Romans 8:38, 39.

Eternal God, perfect in justice and truth, thank You for this incredible, unconditional, infallible, universal love of which the Apostle Paul writes. Thank You for this stubborn love which will not let go of us in life or in death.

We praise You, Lord, for the return of Senator Biden and pray for his continuing, increasing strength. We join the Capitol Police who wear black stripes on their badges, mourning the unexpected death of Officer James William Mishkel, a 20-year veteran of the Capitol Police. May Your infinite compassion comfort his loved ones in their great loss.

Thank You, Father, for healing in life and Your presence through the valley of the shadow. In His name who is incarnate love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, September 8, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Patrick J. Leahy, a Senator from the State of Vermont, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. **LEAHY** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the distinguished majority leader is recognized.

Mr. **BYRD.** Mr. President, I thank the Chair.

RESERVATION OF LEADERSHIP TIME

Mr. **BYRD.** I ask unanimous consent that the time of the two leaders be reserved.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **BYRD.** I yield the floor, Mr. President.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Wisconsin.

WHY BUSH IS WRONG ON 30 MILLION MORE JOBS IN NEXT 8 YEARS

Mr. **PROXMIRE.** Mr. President, how about the prediction made by Vice President Bush in his acceptance speech that in the next 8 years this country could add 30 million jobs? Is this possible or is this pie in the sky? Later in August some economists in the Bush campaign backed a little away from this prediction. They called 30 million jobs a "goal," not a "promise."

Mr. President, the fact is that 30 million jobs by 1996 as a "goal" or a "promise" is ridiculous. It is an absurdity. Here is why I am so sure George Bush is wrong. In the past 17 years this Senator has chaired more than 100 hearings before the Joint Economic Committee on employment and unemployment in this country. Every month since April 1971 the Commissioner of Labor Statistics has come before the Joint Economic Committee on the day the Bureau released its statistics on employment and unemployment in our country. Our committee has meticulously monitored those statistics. We have questioned in great detail a series of commissioners and the commissioner's staff on the level of employment in this country. We have heard testimony from the Nation's economic experts from business, from labor, from the great universities of our country on the American job market. Mr. President, these hearings have given us a wealth of material and understanding. We have gained a perspective over the years on the potentialities and the limitations of governmental economic policies to increase or reduce the number of jobs in America.

So how do we evaluate the stunning assertion by Vice President George Bush that if he is elected we will increase employment in this country in the next 8 years by 30 million? Mr. President, make no mistake about it; this was a criticially important matter George Bush was discussing. There is literally nothing more important to most Americans than their job. A job is not just a meal ticket—important as that is. It is not simply a matter of being able to pay the rent or buy a home, take a vacation, or earn a retirement pension. Our job is what makes most of us know we are worth something. It is our ticket to self-esteem. Work is not everything. But an honest job, the opportunity to produce, to earn our living goes a very long way toward making our life worthwhile.

So how about it? Is the Vice President's vision of 30 million new jobs in 8 years—3¾ million additional jobs every year between now and 1996 an honest possibility? Mr. President, on the basis of 17 years of unremitting and detailed study of the problem of employment and unemployment in our country, the answer is that 30 million additional American jobs in the next 8 years is absolutely impossible.

Here are a few reasons why this is true. At the present time we have the highest rate of employment for every person male and female, 16 years of age and over in our history. The present level of unemployment, 5.5 percent, can probably not be reduced below 3 percent without causing serious inflation. Second, the available pool of American workers will not continue to grow as it has in the past through simple demographic factors. The baby boom crop that followed after World War II and ended about 20 years later is now largely in the work force. The children now in elementary, high school, and college who will be entering the labor force in the next 8 years is far smaller than it has been in recent years. Third, Americans

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

at work now can be expected to continue to retire at an average age of 62 or earlier and more will be retiring over the next 8 years than ever before. Fourth, with the immigration law that the Congress has just passed, the number of new workers coming into the country from foreign countries is much more likely to diminish in numbers than increase in the next 8 years. Fifth, the influx of women into the work force, which accounted for a large share of its expansion over the past 10 years, is unlikely to continue at the past rate because there is already nearly as high a proportion of women in the American work force as men. It follows that most of the increase in the work force from the influx of women has already taken place.

So why is it likely that the rapid rate of increase in employment over the past 8 years will speed up by nearly threefold? Keep in mind that the past 8 years has seen a very rapid increase in jobs. Consider what would have to happen to our economy to make this near tripling of the rate of job increase possible. If we put every last one of the presently unemployed to work, we would add not 30 million but only 7 million jobs, and we would shoot inflation sky high. The Bureau of Labor Statistics has made three projections of the increase in the American work force between now and the year 2000. These projections are: The most likely work force growth, a low work force growth, and a high work force growth. The highest work force projection made by the Bureau foresees the outside possibility of as many as 13 million additional workers coming into the work force in the next 8 years, that is, by 1996. So if we increase employment to put all of the 7 million presently unemployed workers to work, plus every last one of the 13 million new net entries into the work force, we would have absolutely flat out no unemployment—no one in between jobs, no frictional unemployment at all. None. We would have super inflation as zooming wages shoved up prices. All of this is with 20 million new jobs.

If the Bush projection of 30 million jobs become a reality, we would have 10 million job vacancies without anyone available to fill them. So then what would happen? By sharply increasing wages, we could dissuade older workers from retiring, but this would require major wage increases that would be highly inflationary. We could eliminate programs that now assist young people to go to college and thereby force more of them to go directly to work. But this would deprive the country of the kind of skilled and educated work force essential to our future economic progress. We could repeal the recently passed immigration law. We could throw our borders open to immigration. This would swell our work force in size, but it is not going to happen.

For anyone who has studied the historical record of employment in this country, particularly in recent years, 30 million in the next 8 years is an absurd and gross exaggeration. It is the kind of exaggeration that comes easily to those who tell us we have to increase the present level of spending for the military space station, pay more for scientific endeavor including a multibillion-dollar super atom smasher, billions more for education, additional billions for child care, and new billions for environmental protection. These same people tell us the Congress must absolutely not increase any taxes. The Bush program would even reduce the capital gains tax and increase tax preferences to the tune of $10 billion, according to President Reagan's former IRS Commissioner Roscoe Egger.

As long as we continue to live beyond our means by running mammoth Federal deficits, we will enjoy a deceptively prosperous present while imposing a huge interest cost from the skyrocketing debt on our children and grandchildren. But even that kind of reckless policy will not produce 30 million additional jobs in the next 8 years. And if George Bush will put that good mind of his to work for 2 minutes or so, he will realize what a grotesque exaggeration he has handed the country.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

NATIONAL LITERACY DAY

Mr. REID. Mr. President, some time ago my wife, Landra, visited a day care center in Las Vegas and read a book to the children there. The book was called "My Mother Can't Read." At the end of the story, she asked the children to raise their hands if they knew any adults who could not read. Many children raised their hand.

So when our schools do their best to teach these boys and girls, many go home to mothers and fathers, or aunts and uncles, who cannot read and cannot help them with their homework or provide the motivation and support so important for the child's development. As a result, the child is often at a disadvantage in school, and the cycle of illiteracy in the family is perpetuated.

Today is National Literacy Day, marked by various events and seminars conducted in association with the U.S. Department of Education, the International Reading Association, and the American Newspaper Publishers' Association Foundation.

It is a day when I can assess how much Nevada has accomplished in addressing the problem of illiteracy. Over the past year, Landra chaired a task force challenged with developing a statewide literacy effort in Nevada, in the context of a public-private partnership. A proposal was completed last week and presented to Gov. Richard Bryan. This is a very important first step to addressing a problem that is getting out of control.

The problem is continually cited in an onslaught of headlines, such as one in a Nevada newspaper that reads "Hundreds of Job Applicants Can't Read, Write, or Add."

While international competitors grow stronger, American businesses struggle with workers that have insufficient reading skills.

Take the example of Bently Nevada Corp., the world's largest supplier of electronic instruments used by powerplants and other factories. Thousands of dollars have been wasted on training assemblers who cannot follow instructions. Critical parts have been damaged because the assemblers did not understand technical manuals.

Bently Nevada has since instituted strict job eligibility requirements and testing measures.

Unfortunately, Bently is one of a growing number of American companies that must reconcile a poorly skilled work force with an increasingly sophisticated workplace.

This is not the only example. There are many all over the country.

Mr. President, when Kennecott went out of business in eastern Nevada and closed after having been in business some 70 years, the retraining money that was supplied by Congress and the administration to retrain these displaced workers was not used. The Governor asked why. One of the main reasons was because displaced workers could not fill out the application forms to obtain these retraining moneys.

The literacy initiatives, such as the one that my wife has helped develop in Nevada, are more than educational initiatives that help those who cannot read or write.

All of us benefit. By promoting literacy, we can begin to stem the hidden costs of illiteracy: the increasing number of welfare beneficiaries, the crime, and the lost taxes and lost productivity.

We are beginning to realize that confronting the challenges of illiteracy is too great a task for the Government to tackle on its own. The Federal, State, and local governments have begun working together throughout the country with private sector, labor, academic institutions, volunteers, and local communities. An exciting trend toward public-private partnerships is emerging, characterized by a widespread base of support and participation.

Nevada is only one of many States heading in this direction. Our idea is not a new one. But addressing illiteracy does not call for being creative and unique. It calls for what works. I have observed persons and groups with disparate views put aside questions of turf and ideology, and come together in a cooperative effort to create a more literate, productive society.

It is an exciting trend that holds promise for reversing our country's spiraling illiteracy rate.

I yield the floor, Mr. President. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

SENATOR REID'S SPEECH ON ILLITERACY

Mr. LEAHY. Mr. President, during the past few months I have had occasion when presiding at the beginning of the session to hear the distinguished Senator from Nevada, now the Presiding Officer, speak on several topics. One was his concern about drunk drivers. I find that here is a case where we live nearly a continent apart, but we both have something in common—States that are small in population where people not only know each other, but also have a sense of self-reliance and duty to their neighbors.

When the distinguished Senator spoke on the issue of those who drive while under the influence, I could not help but think back to my own experience as a prosecutor. As our country became increasingly aware of the problem of drunk driving, many solutions were proposed. I supported efforts to provide alcohol education from grade school on up, as well as improving alcohol rehabilitation programs. But, as a prosecutor, I realized that the most effective way to handle drunk drivers was, of course, to get them off the road.

You are not going to be killed by a drunk driver, you are not going to be injured by a drunk driver, and you are not going to have damage by a drunk driver if that person, he or she, is not driving a car. It is as simple as that. Of course, this requires very tough drunk driving laws, strenuous enforcement of those laws, and a strong commitment on the part of the public to these laws. It can be done.

As State's attorney I had a rule that you did not give anybody a break. Anyone picked up for drunk driving was treated the same, regardless of who they were. It did not make any difference if the drivers were political officials, community leaders, or a stranger passing through town. They were all treated the same.

Once I recommended to a judge that he sentence a convicted driver to jail, fine him and suspend his license. I turned to the defense attorney and asked him if he had any comments to make. He said yes, he had just one request; that was, if he ever needed a heart transplant, could he have mine because he said it had not yet been used. I may have been tough, but I was proud that deaths resulting from drunk drivers dropped almost 50 percent in the jurisdiction.

When I was State's attorney, you would go by some of the local night spots on a Sunday morning, and think that everybody's business was booming because the parking lots were full of cars even though the place was closed. But that was because people were taking cabs instead of driving home drunk. Tough enforcement of the laws did not mean people could not drink. It just put them on notice not to drive when you drink.

Mr. President, I also wanted to mention Senator REID's speech this morning on adult illiteracy. Again, on this subject, I feel a bond between Nevada and Vermont. My sister, Mary Leahy, runs the Barre Learning Center and works with adult illiterates in Vermont. I know how hard she works. She spends evenings and weekends working with adults, teaching them for the first time how to read. She even takes students on trips into a city to show them how to read street signs, and how to fill out applications.

This morning, Senator REID mentioned the problems when a major plant closed in his State. Many of the people who lost their jobs were unable to fill out applications for programs that might have been available to the displaced workers. I thought of my sister Mary telling me about people who have been driving without a driver's license for years and applying for their first driver's license. They had never applied before, not because they could not drive, but because they did not want to admit to anybody, including the members of their family, that they could not read. They could drive beautifully, but they could not read the forms to apply.

There are also cases in Vermont where people who were bright and responsible workers could not take a job promotion, even though they needed the money, because they could not read. If they took the promotion, they might have to read directives and memos, instead of having somebody tell them what to do. They could not do it.

I remember being with Mary once when a man who had been a sergeant in Vietnam told me how he was now learning to read for the first time. He had somehow worked his way through the service faking it.

There was no question he was as bright as most people you would ever meet. But now, like so many other parents Mary has helped, he could sit down with his children and read to them; something that I took for granted as a parent. Reading bedtime stories to my children is one of the greatest joys I had as a parent.

There is a huge number of adults who cannot read, not only in my State, but throughout the country. Nobody is taking the time to teach them how to read. Nothing gives this Senator greater pleasure to sit down and read. And other people can learn to be anything they want to be if they can read about it.

I am glad the Senator from Nevada has discussed this important issue. There are many Americans who should be able to read in this country—the wealthiest and most powerful nation in the world. Because of the efforts taken by the wife of the Senator from Nevada, my sister Mary, and many others, some will start to learn how to read. But this country ought to do more on that. Eliminating illteracy is important to the strength of our Nation.

I applaud the Senator from Nevada for raising this important point today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO EXTEND NEPA REPORTING REQUIREMENTS TO U.S. PARTICIPATION IN INTERNATIONAL BANKS

Mr. SYMMS. Mr. President, on August 25, the Senate Environment and Public Works Committee reported an original bill to address a very pressing problem, and that is the U.S. contribution to environmental destruction around the world. I strongly support S. 2753, and this is why—

The United States contributes over $1 billion a year to international financial institutions [IFI's]. Sadly, we have not closely scrutinized where that money has gone and what it has accomplished. We are just now finding out that much of the development we have financed cannot be sustained.

TROPICAL DEFORESTATION

Unsustainable development can have devastating environmental effects, including deforestation, erosion, desertification, water pollution, and waterborne disease. Tropical deforestation, in particular, is becoming an increasing concern with IFI lending practices. Unsustainable development has reduced Brazil's coastal forest to less than 10 percent of what it was in Darwin's time. The tropical dry forests of the Central American Pacific Coast are now 98 percent nonexistent. And in the Amazon and Zaire basins, coastal West Africa, Central America, and the archipelagos of Southeast Asia, closed tropical forests have already been cut back an estimated 44 percent from their original climatic range of 1.6 billion hectares.

Many biologists believe that these official statistics understate the extent of forest clearing. The World Commission on Environment and Development estimates that in addition to outright clearing of between 7.6 and 10 million hectares of tropical forests each year, another 10 million hectares are grossly disrupted. At the same time, reforestation efforts lag far behind. In Africa, at least 29 trees are cut for every 1 planted. In the Northwest, in Idaho, we plant 10 trees for every 1 that is harvested.

The economic benefits of clearing rain forests have often proved short-lived. In the Amazon Basin, for instance, at least half of the 15 to 17 million hectares of forest converted to pasture and cropland are now abandoned. The heavy rains bleach out nutrients quickly, leaving the land totally unsuitable for domestic agricultural cultivation.

Of the many environmental concerns associated with tropical deforestation, the two most prominent are first, climate change, and second, loss of biodiversity.

CLIMATE CHANGE

Forests play a crucial role in the global cycling of carbon. The Earth's vegetation and soils hold some 2 trillion tons of carbon, roughly triple the amount stored in the atmosphere. When trees are cleared or harvested, the carbon they contain, as well as some of the carbon in the underlying soil, is oxidized and released to the air, adding to the atmospheric store of carbon dioxide (CO_2). This release occurs rapidly if the trees are burned, but slowly if they decay naturally.

Since 1960, forest clearing has contributed some 90 to 180 billion tons of carbon to the atmosphere, compared with 150 to 190 billion tons from the burning of coal, oil, and natural gas. Together deforestation and the combustion of fossil fuels have raised the level of CO_2 in the atmosphere from 280 ppm in preindustrial times to 348 ppm in 1987, a 24-percent increase. Like a one-way filter, carbon dioxide lets energy from the Sun pass through it but absorbs the longer wavelength radiation emitted from the Earth—a phenomenon dubbed the greenhouse effect. The result is an anticipated warming of the Earth. At the American Geophysical Union's 1986 annual meeting, it was reported that cutting South American evergreen forests could precipitate a regional temperature rise of 3 to 5 degrees Centigrade.

The Worldwatch Institute cites studies showing that tropical deforestation alone could have been responsible for the release of as much as 2.5 billion tons of CO_2 in 1980, almost 50 percent as much as worldwide fossil fuel combustion that year. Twenty percent of this deforestation occurred in Brazil, 37 percent in tropical Asia, and 23 percent in tropical Africa.

Widespread deforestation also impairs the capacity of some tropical systems to recycle inland rainfall, as has been demonstrated in the Amazon. This phenomenon may be related to the past 20 years of drought in Africa. The erosion and soil deterioration that accompany deforestation exacerbate drought conditions, possibly contributing to famines like that in Ethiopia.

LOSS OF BIODIVERSITY

Some ecologists believe that the most serious, long-term global problem resulting from deforestation will be the loss of a large portion of the Earth's biological diversity within a few decades. Although only about 500,000 species of tropical organisms have been named, there could be more than 3 million yet to be discovered. Terry Erwin, of the Smithsonian Institution, estimates from preliminary biotic sampling of the upper forest strata that the true number of insect species alone many approach 30 million or more.

Assuming existence of only 3 million species of tropical organisms, the better known group distributions can be used to project how many species could be destroyed or damaged in the next 15 years under current deforestation. For plants, 120,000 of the estimated 165,000 tropical species would not survive. A total of 2.2 million tropical species could be endangered.

The loss of these species would have damaging effects on human standards-of-living. Numerous tropical plants exhibit unique chemical and organic characteristics. Oral contraceptives are produced from Mexican yams; muscle relaxants used in surgery come from an Amazonian vine traditionally used to poison darts; the cure for Hodgkin's disease comes from the rosy periwinkle, a native of Madagascar; and the gene pool of corn was recently enriched by the discovery of a wild perennial relative in the mountain area of Mexico.

THE U.S. ROLE IN DEVELOPMENT LENDING

The debtor countries of Latin America, Africa, and Southeast Asia seldom have the capital to finance their own development. A significant portion must come from outside sources. The United States Government participates in a number of institutions that provide such capital, commonly termed multilateral development banks [IFIs]. More than 88 percent of the outside capital entering Third World debtor countries in the last 8 years has either come directly from IFIs or from commercial banks and businesses in Japan, Europe, or the United States with an IFI providing technical assistance, negotiation, or guarantee.

IFI investment portfolios are determined by individual bank policies, which are theoretically controlled in turn by member-country representatives on the bank's governing board. In most IFIs, the vote of the board is divided up proportionately to the share of bank capital contributed by each member-country. The United States' vote varies from bank to bank, ranging from a high of 34.5 percent in the Inter-American Development Bank to a low of 5.3 percent in the African Development Bank. The United States controls 18 percent of the vote in the World Bank, the IFI accounting for 70 percent of all IFI lending.

The decision as to how the United States will use its vote is ultimately a responsibility of the Secretary of the Treasury. Treasury is advised by the Working Group on Multilateral Assistance [WGMA], an informal group representing State, the Fed, Commerce, Interior, USDA, STR, AID, EX-IM, Labor and Transportation. Some of these agencies have claimed they receive too little information on each loan, with too little time to review it, and their recommendations are seldom reflected in the final Treasury decision.

CURRENT ENVIRONMENTAL REQUIREMENTS

Congress, acting principally through its appropriations committees for IFI funding, has already given Treasury several specific instructions to address the environmental impacts of IFI loans. The continuing resolution for 1987 included directives that the Secretary of the Treasury instruct U.S. Executive Directors (who represent the U.S. in bank votes) to promote the following:

Addition of professional-trained staff in the banks;

Development of plans for systematic and thorough environmental review of projects;

Creation of line units to carry out such reviews;

Establishment of multidisciplinary planning processes;

Development of plans for rehabilitation and management of ecological resources;

Involvement of health and environmental ministers and nongovernmental organizations in the project preparation cycle; and

Increase in the proportion of environmentally-beneficial lending.

Again, the 1987 C.R. reiterated much of the previous year's requirements, and further instructed Treasury to:

Analyze debt/conservation swaps;

Discuss with other donors personnel and financial support for environmental programs in the regional development banks;

Enhance early-warning system to identifying problematic loans;

Report on comprehensive strategy to address natural resource problems;

Discuss integrated pest management with other member nation executive director; and

Promote a requirement that the IMF conduct an analysis of the impact of adjustment policies and conditionality on environment, public health, natural resources and indigenous peoples.

Somewhat in response, the World Bank carried out in 1987 a major reorganization of management and staff. A central environmental department was established in the Policy, Planning and Research complex. Twenty-three positions have been authorized for the three divisions of the Bank. In addition, 22 positions have been assigned to environmental units created in the technical departments of the Bank's four regional offices.

THE ROLE OF NEPA

The environmental problems caused by unsustainable development may have finally attracted the attention of Congress, Treasury, and the Banks, but an effective way of addressing such concerns has yet to be adopted. The C.R. language leaves Treasury with a number of environmental requirements that it must consider when casting the vote of the U.S. on bank proposals. What is lacking is an effective and systematic means of employing those requirements. S. 2753 provides this means.

The National Environmental Policy Act [NEPA] was established to "improve and coordinate Federal plans, functions, programs, and resources." It is under the auspices of NEPA that nearly all environmental effects of U.S. Government action are considered. Such an assessment process, integrating environmental considerations in economic and policy decisions, is becoming increasingly popular in many other countries as well. NEPA is one of the statutes to which Patricia Adams, executive director of the Canadian Probe International, referred when she said:

> Multilateral banks devote few resources and apply little scrutiny to these issues because they have been permitted to operate in a vacuum, and have not had to answer to the public of any nation. In the rare cases when the banks carry out environmental assessments, they are usually conducted by consultants hired by the proponents of the project—the IFI or the government of the aid-receiving country. Residents of the lending or the borrowing country never have the opportunity to see these assessments, test their assumptions, or challenge their conclusions.
>
> Public scrutiny, public hearings, and freedom-of-information legislation would not end all unsound projects. But comparing the environmental record of the United States to that of Canada, Britain, or any other country in which citizens have weaker or nonexistent rights to any open policy-making process yields the inescapable conclusion that information is an important source of power. Armed with information, the public could challenge the value of proposed projects, and might be able to prevent environmental disasters before they begin.

By extending NEPA or a NEPA-like process to loan decisions, S. 2753 offers the possibility of broader participation and comment on potential environmental effects. This bill, in the true spirit of NEPA which is not a prohibitive or prescriptive statute, simply requires that information be generated, considered, and made available in a consistent and organized manner. Such a process would significantly improve the IFI's somewhat ad hoc environmental assessments. Besides merely improving the assessment process, however, I project that S. 2753 will result in several significant improvements in IFI lending and environmental policy overall. For example:

First, the flagging of environmentally-degrading loans will increase the likelihood that such loans will not be made.

Second, while some types of lending will be discouraged, the bill should encourage in their place micro-enterprise and smaller scale entrepreneurial lending which is more sustainable.

Third, the bill would also require Treasury to "consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise." This reinforces the interagency consultation process.

Fourth, the bill requires that all pertinent information be assembled in a public document. Information on environmental effects of bank loans has not been so organized in the past.

Fifth, Treasury must request that environmental documents be made available no less than 120 days in advance of a vote. This would force environmental assessment to be done early in the loan review process. It also allows enough time to bring particularly destructive loans to the attention of bank-member countries before the loan is finalized.

For these and many other reasons, I urge that S. 2753 be brought before the Senate and passed at the leaderships' soonest possible opportunity.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SYMMS. Mr. President, might I inquire from the majority leader if it would be possible to get 5 additional minutes for some more inserts in the RECORD?

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue for 5 minutes, that the Senator be recognized, and may speak therein, and then that the Senate resume consideration of the textile bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for an additional 5 minutes.

Mr. SYMMS. I thank the Presiding Officer, and I thank the distinguished majority leader.

THE COMMUNITIES FOR A GREAT NORTHWEST TIMBER INDUSTRY SOLIDARITY RALLY

Mr. SYMMS. Mr. President, last month, on Saturday, August 20, over 600 people gathered in Farragut State Park near Coeur d'Alene, ID, to express their support for wise multiple use management of this country's national forest lands.

These people were not paid to be present at the rally, to stand and cheer in spite of the periodic rain showers. In fact, they paid to be there. The availability of timber to local mills in northern Idaho is that important to them. To a timber company executive, a decline in timber milled means lost revenue. But the majority of the people at this rally were not industry executives. They were the loggers, the truckers, the mill workers, and mechanics. To them, its their very livelihoods that are at stake.

There wasn't a soul at that rally who advocated cutting down trees at the expense of destroying the forests of northern Idaho. These people are foresters—and they think like farmers. They harvest trees only because they know that through their intensive reforestation efforts and careful stewardship, there will be trees to harvest in northern Idaho for centuries to come.

The Federal Government owns two-thirds of Idaho's land base, and a much higher percentage of its forest base. Because of this, Uncle Sam has a near monopoly on the timber supply to north Idaho's mills. The timber industry is forced to look to the U.S. Forest Service for the logs its needs to stay alive.

That is why I invited Forest Service Chief Dale Robertson to speak at that rally last month. Mr. President, with all due respect to the great men who have served as Chief of the Forest Service in the past, may I say that I have never heard a Chief give any better speech—it was right on the mark. Chief Robertson showed that he knows what it means to be dependent on the forest for a living. And while he emphasized that managing a forest requires balancing conflicting uses, he strongly endorsed those Forest Service personnel who can do so in a spirit of cooperation and not controversy.

I ask unanimous consent that his prepared remarks be printed at this point in the RECORD, and urge my colleagues to pay close attention to how this son of an Arkansas factory worker struck a chord with 600 plus hardworking Idahoans last month.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY F. DALE ROBERTSON, CHIEF U.S. FOREST SERVICE AT FARRAGUT STATE PARK, ID

Thank you Senator Symms. Let me add to that introduction: I grew up on a farm in the foothills of the Ozark Mountains in Arkansas. That was poor country. My dad worked in the local shoe factory. My mother and I worked the farm. It took all three of us, working together, to make a decent living.

I still remember, as a young boy, my dad coming home from work and saying, "The shoe factory is closing down; I've lost my job!" I still remember the fear, frustration, anger, and pain that my family went through. I still remember my dad and mother asking themselves the same question over and over, "What do we do now?"

Things eventually worked out. My dad created his own job by going into business for himself. But that experience is something that I will never forget.

PEOPLE MATTER

People matter! I don't make decisions lightly that affect people—their jobs, families, communities, and way of life. I know the importance of jobs associated with the National Forests. There are about 500,000 of them, and a lot of people who hold those jobs are here at this rally. I know the importance of those jobs for families and communities. I know the importance of a strong, diversified economy, too, that creates opportunities for a growing population.

Without that strong economy, most other things just don't work out very well, for jobs, families and communities. We only have to look back a few years, to 1982-83, when the timber industry was laid on its back by poor markets, to see that, and the pain and suffering which that inflicted on people and their communities.

That bust was due to poor markets, and the Forest Service doesn't have a lot of control over markets. But the timber supply is another story. Future timber supply matters, and we can collectively do something about it with decisions about managing both public and private forest lands. That's why the National Forest plans are so important, and why incentives to improve forest productivity on private lands are important, too.

We can do something about the future timber supply, and the Forest Service intends to do our share. We're going to be a significant, reliable supplier of timber from the National Forests.

MULTIPLE USE

But the National Forests are much more than just a source of timber, as important as that is. There are many other things that matter, too!

The National Forests are also important for fish and wildlife. They contain about 50 percent of the nation's big-game habitat, and more than half of the spawning and rearing grounds for salmon and steelhead in the Northwest. They're important for water—the lifeblood of the West. The National Forests are the source of three-fourths of the West's water supply.

They're important for recreation and wilderness, with National Forest recreation use more than double the National Parks, and about 80 percent of the wilderness in the lower 48 states. They're vital for energy and minerals, for grazing, and other uses, and for the 25 percent of their receipts that go for schools and roads in your counties and communities.

When you add it all up, there are so many things on the National Forests that really matter to the people of Idaho and the Northwest. And we need to manage all of those resources to encourage strong, diversified, local economies. We want the National Forests to be an asset, not a liability, to you, your community, and your State.

We want them to contribute their utmost to your economic wellbeing, your quality of life, the stability and growth of your communities, and the quality environment and lifestyle that westerners are so accustomed to.

STAND BY OUR PLANS

That all seems simple enough, doesn't it? Our forest plans will make the National Forests an asset to communities. Yet we've had so much conflict and controversy over working out the details of the National Forest plans. We've had so much debate, and it continues.

In my opinion, if we have a single "silver bullet" that can meet our needs and find room in the National Forests for everyone's purposes, it's the multiple use management concept, with the details of those uses being worked out in partnership between Forest Service professionals and people who care about the National Forests.

To use that "silver bullet," we've got to have a cooperative attitude among all of the partners, with a willingness to give and take a little here and there to accommodate the reasonable needs of everyone.

We've been developing plans for managing the National Forests, and we've come through some difficult and controversial times in getting those plans completed. But I don't feel "beat up" at all by that process. Rather, I feel "upbeat," because people like you—who have a stake in the outcome—are willing to get actively involved.

The management of the National Forests is simply too important to be left up to the Forest Service without involving the people most affected by that management. So we've sat down together, talked and reasoned together, and worked together to work out Forest Plans here in Idaho and Montana that are reasonable and good. We're still working on the plans in Oregon and Washington.

These plans represent our best judgments, trying to balance all of the multiple uses on what we know now. But they aren't perfect, and never will be. They will be changed as we go along and gain experience. They don't represent everything that everyone wanted—I'm not sure they every could. But, at some point, we've got to stop debating and start delivering. We need to quit fighting over the plans, and move on to carry them out, because people—their jobs, communities, and way of life—are at stake.

There simply must be a special bond between the Forest Service and the local people. That bond needs to be strengthened. And now we have a rallying point: Let's get on with full implementation of the forest plans.

EPITAPH FOR AN UNCOMMON DIPLOMAT

Mr. SYMMS. Mr. President, I think we were all saddened to hear the loss of President Zia, of Pakistan. With President Zia in that airplane was a fine American general, General Wasson and also a fine American professional diplomat, Arnie Raphel.

Mr. President, last January I had the privilege of visiting Pakistan and visiting the Khyber Pass. I spent a night in Ambassador Raphel's house with his lovely wife and him, and we had an opportunity to discuss the issues there.

My sympathy goes out to her and to the family of this fine diplomat.

I would like to say, also, that in the process of this that when I left Pakistan after spending 3 days in the country I was very, very proud to be an American, and I was particularly proud of the job that our people in the United States were doing in Pakistan helping to see that Pakistan stays free but also helping to see that the mujaheddin will be successful and freedom will prevail in Afghanistan.

I said when I first heard of the C-130 crash that took the lives of President Zia, our Ambassador, and our general who was there, that I will be surprised if the fingerprints of the KGB are not found over the wreckage of the C-130. I still stand with that belief because it has been no secret that the KGB were operating out of Kabul, training Pakistanis and Afghans that were sympathetic to their cause to go back into Pakistanis and commit acts of terrorism against Pakistani civilians.

I ask unanimous consent to print in the RECORD at the conclusion of my remarks an editorial in Newsweek magazine by Gregg Easterbrook, the contributing editor, an Epitaph of an Uncommon Diplomat.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Oftentimes those of us in Congress are very critical of the activities of the U.S. State Department, but this uncommon diplomat is one diplomat who gave his life for freedom and for this country and for a cause that he believed in and was doing a marvelous job, and I hope that his family realizes that many of us appreciate the duties that he carried out and the job that he did that made all Americans and all people all over the world who love freedom very proud.

EXHIBIT 1

EPITAPH FOR AN UNCOMMON DIPLOMAT

(By Gregg Easterbrook)

A while back I made a promise to Arnold Raphel, the U.S. ambassador who died last week in Pakistan. I came to know Raphel this year while living in Pakistan with my wife, who is also a U.S. diplomat. He worried about letting a journalist loose in the midst of a key country's diplomatic corps, and made me swear to write nothing of what I learned. I have kept that vow, but now I'm going to break it, to write of the man himself.

Raphel was one of the true bright lights in the Foreign Service: smart, skilled, enviably successful, at 45 among the youngest American ambassadors ever assigned to a vital embassy. "Arnie was one of the top two or three officers of his generation, destined for the very top ranks," said Michael Armacost, Under Secretary of State for Political Affairs. When my wife was listing for me all the questionable attractions of a move to Pakistan—terrorism, 115-degree heat, no booze, no halter tops or miniskirts, a diet heavy on goat meat soaked in ghee—the most persuasive reason was the chance for her to work with, and learn from Raphel.

But then the diplomatic world has lots of smart guys, many of them martinets with handshakes cold as fish fins. More impressive than formal credentials was that Raphel knew the joys of life. He wisecracked through highlevel meetings, shunning all formalities of ambassadorial starch, saying he ran a "loosened-tie operation." Devoted to his own wife, Nancy, and his family, Raphel "took an interest in the careers and families of people in positions to do him *no good at all,*" marvels one colleague.

No blue blood himself, Raphel made a special effort to encourage female officers, traditionally shut out of the old-boy Foreign Service network. His deputy, Elizabeth Jones, is believed to be the first woman ever chosen deputy chief of a "Class 1" embassy. When Raphel ran the Bureau of Near Eastern and South Asian Affairs, it had the highest percentage of female senior personnel of any Foggy Bottom bureau.

Raphel spent most of his State Department years in hot-spot countries. Nearly a decade ago he was the working-level negotiator who, jawboning in Persian, sealed the deal that released the hostages from Iran. Afghanistan and Pakistan were his other specialties. A simple testament to Raphel's diplomatic prowess is that he communicated with the factions of these three intensely Muslim countries despite being Jewish. He was equally effective in the bureaucratic thicket. It's rare for a Washington luminary to trust an aide who has links to a powerful rival, but Raphel managed to be mentored by Henry Kissinger, Lawrence Eagleburger, Cyrus Vance, Warren Christopher and George Shultz.

Raphel was one of the unsung heroes of the Soviet withdrawal from Afghanistan. As State's senior Washington-based official for the Near East during the dark days of the early 1980s, when conventional wisdom held that the mujahedin could never, ever prevail, Raphel argued tirelessly on their behalf. Later, as envoy to Islamabad, he persuaded Pakistan to continue as a U.S. logistics base for the war, a controversial proposition inside the country. And this year, as the Soviet disengagement was negotiated, Raphel was a crucial conduit for communications among the White House, the mujahedin and the Pakistani government. Though the historic reversal of Soviet fortunes in Afghanistan seems to have drawn a curiously muted reaction in the United States, the Kabul regime, on its last legs, was acutely aware of where credit was due; there have long been rumors it would try to strike back at the two men most responsible for its plight, Raphel and Mohammad Zia ul-Haq. With Raphel's death, more U.S. ambassadors have now died in the line of duty during the last 15 years than U.S. two-, three- and four-star generals were killed in action in Vietnam.

There are thousands of patriots like Arnie, who dedicate themselves to the American vision. Though their names won't make the papers, they are the blood plasma of the free, responsible nation we strive to be, and we never thank them till after it's too late. Countries like America are made possible by people like Arnold Raphel. Let that be his epitaph.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

WATCHMAN ON THE WALL

Mr. SYMMS. Mr. President, I had the opportunity over the recess to see an article about the late Congressman Larry McDonald, from the New American, August 29, 1988.

I had the privilege of having known Congressman McDonald before he came to the Congress when he was a practicing physician in Atlanta, after he came to the Congress, and he was a highly underrated Member of this Congress.

Oftentimes people who excel in intelligence and brilliance are not appreciated by their colleagues because they oftentimes march to a different drummer. That was truly the case of the late Congressman Larry McDonald.

He graduated from Emory University at age 16, the way I recall it, graduated from medical school at age 22, was a Navy flight surgeon, the youngest one in the Navy at the time, and had had an excellent record.

But I saw this article, and I thought that since, in 1983 when he was murdered by the Soviet airplane that shot down the KAL 007, it would only be appropriate that we remember Congressman McDonald, remember what he stood for, and recognize that countless articles, issues, and research was done by him and his staff in the years he was in the Congress that excelled the intellect of most of our expectations in this body.

So, I ask unanimous consent that the article "American Hero, Watchman on the Wall, Congressman McDonald Sounded the Trumpet," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WATCHMAN ON THE WALL—CONGRESSMAN McDONALD SOUNDED THE TRUMPET

Lawrence Patton McDonald was born in Atlanta in 1935. His mother, Callie Patton McDonald, was a cousin of the famous general, George S. Patton, Jr., who was killed in a vehicular accident at the conclusion of World War II, when Larry was ten years old. In General Patton, young Larry McDonald had a hero in the family and a figure worthy of his emulation.

Larry also imitated the best qualities of his father's side of the family: his grandfather and father were both hard-working Atlanta physicians, and from boyhood, Larry wanted to follow in their footsteps. He received his MD at Emory University in 1957 and served for four years as a Navy physician and flight surgeon. After a two-year residency in general surgery in Atlanta and three years residency in urology at the University of Michigan, Dr. McDonald joined his father's urological clinic in Atlanta.

But there was something in McDonald's nature that demanded more from him—a sense of his place in history. His southern code of chivalry required that he do nothing less than his gallant best to defend a beleagured Western Civilization.

According to Larry's brother, Dr. Harold McDonald, Jr., the future Americanist leader first became concerned about the Red threat while he was a Naval surgeon in Iceland and physician to diplomatic personnel at the U.S. Embassy in Reykjavik. His brother noted:

"He came back from Iceland after discharging his Naval Reserve active duty obligations and began reading political history and books on foreign policy. . . . He also looked around for anyone else concerned about Communism, and the only organization he found trying to do anything was The John Birch Society. Larry believed in saving the country from Communism as strongly as a missionary to Africa in the nineteenth century believed in saving the souls of the people."

Larry McDonald became a member of the National Council of The John Birch Society in 1967. By 1972, McDonald felt that he could do even more for his country in public office and made an attempt at a congressional seat, losing closely to Representative John Davis. Two years later, he defeated the same incumbent and won his seat in the House.

Congressman McDonald's first speech on the floor of the House was on April 29, 1975. The subject: *outrage* that the Carter Administration was planning to ignore Captive Nations Week. The freshman from Georgia at once demonstrated his powerful oratory and organizational skills and proved he was a force with which the Left would have to reckon. The Administration relented and proclaimed Captive Nations Week.

Throughout his nearly nine years in Congress, Larry McDonald compiled an outstanding record as a totally Constitutionalist (he preferred that term to "conservative") Congressman. Republican Congressman Phil Crane said of the Georgia Democrat:

"I regard Larry as one of the most staunch conservatives here in Congress. We have pooled our efforts on many occasions, often calling upon his expertise in the health area, but most recently Larry has been a great asset to the Panama Canal [giveaway] opponents as he again demonstrates real devotion to the cause of freedom. And, of course, his stern presence on the Armed Services Committee is an important watchdog for us all."

Larry McDonald's many accomplishments during his four-plus terms in Congress are too numerous to mention, but he accumulated a perfect 100 percent score on "The

Conservative Index," then compiled by The Review Of The News.

But Larry McDonald was much more than an exemplary legislator—others in Congress could share that description. He was becoming the unifying force of American, and even international, anti-Communists. By assuming the Chairmanship of The John Birch Society, establishing the Western Goals Foundation (whose motto was ". . . so to rebuild and strengthen the political, economic and social structure of the United States and Western Civilization so as to make any merger with totalitarians impossible"), and serving on the boards of Conservative Caucus and the Committee for the Survival of a Free Congress, Larry McDonald had become the most dangerous enemy the Communists had.

Drawing inspiration from the Biblical reference to the watchman on the wall in Ezekiel 3:17-21, Larry often noted that "if evil, villainy, or war comes, and if the Watchman does not sound the trumpet, then the blood is on his hands. Any of the blood that is shed is on the hands of the Watchman who goes to sleep. But if the Watchman sounds the trumpet and if the people are too lethargic, too busy enjoying the good life to care, then the blood and responsibility is on the hands of the people."

The evil, villanous force of which Larry McDonald spoke struck personally at him five years ago, when the Soviets attached Korean Air Lines Flight 007. We Americanists who have continued Larry McDonald's crusade must keep sounding the trumpet—lest the blood be on our hands.—Warren P. Mass

Mr. SYMMS. Mr. President, I thank the distinguished majority leader and managers of the bill for their indulgence, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

TRIBUTE TO LEADER BYRD

Mr. INOUYE. Mr. President, when the 101st Congress covenes, our Senate Chamber and our Nation will be deeply diminished by the absence—for the first time in 22 years—of Senator Robert C. Byrd as Democratic leader of the Senate. As majority or minority leader over the past decade, Leader Byrd has served his colleagues and our Nation in an outstanding manner.

I join my colleagues in paying tribute to our majority leader reluctantly, not for lack of admiration, but in recognition of the awesome vacuum that his absence will create. Despite the fact that Senator Byrd will still be with us in the important positions of chairman of the Committee on Appropriations and President pro tempore, his presence and guidance as official leader of the Senate will be keenly missed.

The life and background of Senator Byrd is well worth repeating, as a lesson in perseverance, motivation and sheer hard work. He was an orphan raised by poor relatives in the coalfields of West Virginia. He toiled as a gas station attendant, a meatcutter, a skilled welder and a grocery store operator. Robert Byrd was honored as valedictorian of his class, but was unable to go to college because of poverty. He earned his college degree while a member of the West Virginia House and Senate, and he earned his juris doctor degree, cum laude, from American University's College of Law by attending classes at night while also fulfilling all of his responsibilities as a U.S. Senator.

Leader Byrd leads as one who has surmounted obstacles in every step of life's way, as one whose success derives from the dignity of labor, and as one whose devotion to public service stems from a firsthand understanding of the plight of poverty.

Listening to Leader Byrd quote from memory at length from the Bible or "Gibbons' Rise and Fall of the Roman Empire" is a twofold lesson: it is both a history course and an impressive display of a scholar's ability to recall and apply his knowledge. No one can match Leader Byrd's thorough knowledge of Senate procedures and traditions. I am hopeful that his wisdom and guidance will be available to his successor.

As one who has served in a position of leadership alongside Senator Byrd since 1977, I have tremendous respect and admiration for him as a man of high character and unquestioned integrity. The task of majority leader—managing the Senate's schedule and its relationship with the other Chamber and the Executive, while serving as both a legislative and political spokesman, and at the same time serving one's constituents' needs and concerns—is overwhelming. The ability of Leader Byrd to carry out these responsibilities with grace and distinction is a tribute to his remarkable wisdom, legislative acumen, and dedication to our Nation.

TRIBUTE TO THE ALABAMA SYMPHONY ORCHESTRA

Mr. HEFLIN. Mr. President, it is my great pleasure to rise today to inform the Senate that the Alabama Symphony Orchestra will be performing at the Kennedy Center here in Washington on October 2, of this year. I am hopeful that some of my colleagues will be able to attend and hear for themselves what a wonderful asset Alabama has in this orchestra. This concert, the Alabama Symphony Orchestra's first major engagement outside of the State, is made possible through a contribution from the Alabama Federal Savings & Loan Association and will serve as the national kickoff for the Alabama reunion.

I am very proud that the Alabama Symphony Orchestra will represent my State in our Nation's Capital. The orchestra, under the brilliant direction of Paul Polivnick, will perform a program which includes Russell Peck's "Peace Overture" and Adam Khachaturian's "Piano Concerto" featuring Lorin Hollander as soloist. The concert finale, "Mussorgsky's Pictures at an Exhibition" by Vladimir Ashkenazy, features an arrangement never performed in the Kennedy Center.

The Alabama Symphony Orchestra premiered Peck's "Peace Overture" in its 1988 annual Birmingham Festival of Arts concert. The festival commissioned this piece which serves as a salute to former Egyptian Prime Minister Anwar Sadat and former President Jimmy Carter. The orchestra is proud to present soloist Lorin Hollander in the Khachaturian "Piano Concerto." Hollander, one of our country's most gifted and inspiring pianists, has performed with every major orchestra in the world. He should add a brilliant touch to the concert.

Mr. President, the Alabama Symphony Orchestra represents an incredible State resource and treasure. It is the oldest professional arts organization in the State of Alabama. For 55 years, symphony performances have provided the people of my State with opportunities to enjoy and support cultural activities. Although the Alabama Symphony Orchestra usually performs music from the standard classical repertory, it has twice won the American Society of Composers and Publishers Award for the presentation of contemporary American music. The symphony participates in the Festival of Sacred Music, the Festival of Arts, Civic Opera performances, the Alabama State Ballet performances, and other church and musical performances as well as its regular season and pops concerts. The symphony's guest artist program has enabled thousands of Alabamians to see the world's premier performers including composers Igor Stravinsky and Ernest Von Doohnanyi, as well as soloists Issac Stern, Arthur Rubenstein, Van Cliburn, Robert Merrill, Rise Stevens, and Elanor Steber.

For the past 3 years, the Alabama Symphony Orchestra has been fortunate to have Paul Polivnick as the music director and conductor. He brings to the symphony a vast musical background and varied musical skills including piano, violin, and trumpet. Polivnick studied conducting at the Julliard School under Jean Morel. He also worked and studied with Walter Susskind, Jorge Mester, Franco Ferrara, and Leonard Bernstein. Paul Polivnick's talent has become widely recognized and the past 2 years have seen his shining conducting debuts in Portugal, Vienna, and Korea. His charismatic leadership has invigorated the symphony and brought much critical acclaim.

Mr. President, I am looking forward to this performance with great anticipation. I encourage my colleagues and others here in Washington to take advantage of this wonderful opportunity. The Alabama Symphony Orchestra performance at the Kennedy Center on October 2, will allow people here and in the rest of the country to see what Alabama has to offer.

LEAVE OF ABSENCE

Mr. RIEGLE. Mr. President, I would like to inform the Senate that I will be necessarily absent for part of today's proceedings, September 8, 1988. My wife Lori underwent surgery this morning for the removal of a herniated disc in her lower back, and I will be helping her through her recovery.

Lori has been treated for several years for this problem and her doctors concluded that the surgical procedure was needed at this time. I was with her through the surgery and am pleased to inform my colleagues that the surgery was successful.

I ask that my absence from the Senate be excused today.

CHARLES Z. WICK AND THE USIA

Mr. PRESSLER. Mr. President, a revolution has occurred in global communications and public diplomacy in recent years. Since 1981, the U.S. Information Agency [USIA], which is responsible for America's public diplomacy, has become a more effective voice around the world.

The dramatic improvement in America's public diplomacy is the product of the unusual dedication and perseverance of a man who is the longest serving Director of USIA and who, on June 9, 1988, completed 7 years in that post.

Mr. President, I am referring to the remarkable Charles Z. Wick.

Public diplomacy involves direct Government communication with people throughout the world. Once considered a peripheral aspect of American foreign policy, it has been transformed by the information technology revolution and the increasing influence of public opinion in the international political arena into a key instrument of foreign policy.

Modern communications can be used to foster freedom and democratic values—or they can be used for less noble purposes by the forces of repression. Consider, for example:

How access to the communication media in the Philippines brought the unknown wife of a reform leader onto the world's stage;

How the televised images of apartheid have brought the moral force of world opinion to the door of the South African Government;

How audio cassettes recorded in Paris and smuggled into Iran helped overthrow the Shah;

How terrorists deal with authorities, through global television coverage of kidnapings, hijackings, and airport attacks; or

How a $100 million Soviet disinformation campaign played a role in stopping United States deployment of the neutron bomb.

This is the world we face today. It is smaller and more interdependent. It is a world whose people are hungry for freedom. It is a world in which the skillful practice of public diplomacy can advance the cause of freedom and democracy.

The remarkable leadership of Charles Wick at USIA has furthered that cause.

Mr. President, at this time I would like to review some of the many accomplishments of the USIA under the directorship of Mr. Wick since 1981.

WORLDNET

WorldNet, the world's first global television satellite network, began operations on November 3, 1983. This interactive state-of-the-art network links Washington via satellite with U.S. embassies and other posts overseas, providing two-way audio and one-way video transmission. Now U.S. leaders can respond quickly to fast-breaking news that might affect our interests. These messages are replayed through the foreign media in homes around the world.

There are now 121 WorldNet satellite Earth stations installed in 81 countries around the world. USIA's goal is to establish a worldwide network of some 200 TV Earth stations, all with access to a daily satellite signal direct from USIA Washington, by the end of fiscal year 1990.

Since 1983, WorldNet has grown dramatically to meet the needs of America's public diplomacy. WorldNet's European service expanded from 2 hours to 4 hours daily on April 20, 1987. WorldNet's Latin American service sends 1 hour each weekday to South and Central America and the Caribbean. On August 17, 1987, USIA extended this daily feed throughout Africa. On April 4, 1988, USIA extended daily service into Africa, the Near East, and South Asia.

WorldNet interactive programs—totaling over 850 in the last 5 years—have reached over 80 countries worldwide. Over 30 Members of Congress have appeared on WorldNet.

Through WorldNet, USIA has been able to achieve more media placement abroad for America in the last 4 years—by television, radio, and print—than in the entire 30-year history of the agency.

Two congressional hearings have been televised abroad via WorldNet. One hearing considered hunger in Africa and another involved exchanges between the United States and Central America. Both inspired enthusiastic responses from officials in both regions.

Recently, two WorldNet programs allowed journalists in Central America and Europe to interview high-ranking Nicaraguan defector Maj. Roger Miranda on his views regarding Sandinista activities and compliance with the Central American peace process. The program beamed to Europe was timed to coincide with Nicaraguan President Ortega's visit to several European cities, where it effectively countered many of Ortega's statements.

Tom Clancy, author of "The Hunt for Red October," was a recent participant on WorldNet. He later wrote to USIA Director Wick, and I would like to quote from his letter:

> On visiting your broadcast facility last August, my reaction was as positive as it was immediate: I think WorldNet has the potential to become the most powerful, most useful, most cost-effective tool of American diplomacy . . . WorldNet has the potential to remake the world.

The most remarkable feature of WorldNet's success is that it has been achieved in less than 4½ years. But, we must be aware of the 1986 report of the U.S. Advisory Commission on Public Diplomacy which stated:

> WorldNet cannot be turned on and off like a spigot. If funding is cut due to the Gramm-Rudman-Hollings Act or other episodic concerns, the contracts, access, and favorable arrangements with foreign governments could be lost permanently.

VOICE OF AMERICA

Radio, with its ability to penetrate closed societies, is an essential component of America's public diplomacy. In 1980, the Voice of America [VOA] was broadcasting with World War II equipment, from outdated studios and with transmitters incapable of carrying a strong signal to Soviet Central Asia and other vital areas. The Reagan administration and Charles Wick have changed that.

In 1982, President Reagan announced a long-term commitment to modernize the Voice of America. Since VOA's modernization program began, USIA has secured agreements for eight new overseas relay stations in Sri Lanka, Morocco, Thailand, Botswana, Costa Rica, Belize, Grenada, and Antigua. Broadcast capability in the Federal Republic of Germany has been improved, and an agreement for a jointly operated VOA-Board for International Broadcasting station in Israel has been approved. The first overseas result of the modernization program was the inauguration of medium wave stations in Costa Rica and Belize in 1985 and 1986. On October 9, 1987, a new 500-kilowatt shortwave transmitter began broadcasting VOA programs from Bavaria, West Germany.

VOA's 1981 estimated audience of 66 million increased in just 7 years to 129 million. Since 1981, the number of

VOA broadcast languages has increased from 39 to 44 with the addition of Amharic, Azerbaijani, Cantonese, Pashto, and Creole. The number of weekly program hours has risen from 891 in 1981 to 1,208 at the present time, including Radio Marti and VOA Europe broadcasts.

One of the most important additions to VOA programming came in 1985 when, with strong bipartisan support from Congress, USIA established the Radio Marti Program of the Voice of America.

Radio Marti has penetrated what former Cuban political prisoner and author of the acclaimed prison memoir, "Against All Hope," Armando Valladares called the "void of information that is Cuba today." Cuban human rights leader Ricardo Bofill has said of Radio Marti:

> It seems to me that there will arrive a moment concerning the situation in Cuba when it will be necessary to speak of the time before and after the broadcast of Radio Marti.

The Cuban media have been forced to cover news and events they would have kept from the Cuban population prior to Radio Marti's inception. Similarly, the Cuban Government has been forced to respond to news and information provided by Radio Marti because it knows, that the program has an extensive audience.

Audience surveys were conducted by both Radio Marti and by the public relations firm of Hill & Knowlton. Results of these studies indicate that Radio Marti has twice the audience of the next leading domestic or international station.

This fall, Radio Marti plans to expand its on-air hours from 17.5 to 24 hours per day.

Radio Marti has been so successful that Congress appropriated $100,000 to the Advisory Board for Radio Broadcasting to Cuba to undertake a study of the feasibility of TV Marti. More recently, Congress appropriated $7.5 million to initiate TV Marti operations.

UNITED STATES-SOVIET EXCHANGES

During the past few years, under the inspired leadership of Charles Wick, USIA has responded vigorously to the Soviet information challenge and has engaged in serious and fruitful discussions aimed at stopping the jamming of the Voice of America and opening Soviet media to the uncensored views of American officials.

With a winning combination of straight facts, intelligence, and wit, Director Wick has met face to face with Soviet officials—including Soviet General Secretary Mikhail Gorbachev—both in Moscow and in Washington, on such sensitive issues as the jamming of the Voice of America, disinformation, media reciprocity, and the free flow of information between our two countries. Never before had these issues been discussed at such high levels between our two countries.

The results have been encouraging. The Soviets stopped jamming all VOA English and vernacular broadcasts to the Soviet Union on May 23, 1987. Limited jamming of VOA Dari and Pashto to Afghanistan continues, as well as heavy jamming of Radio Free Europe and Radio Liberty transmissions to Eastern Europe.

Director Wick's meetings with senior Soviet media officials during the December 1987 Washington summit, and conversations with General Secretary Gorbachev and Politburo member Aleksandr Yakovlev have led to a mutual commitment to discuss outstanding informational, cultural, and educational issues in a systematic manner. The result of the December discussions in Washington was last April's unprecedented United States-Soviet information talks, which also took place in Washington. This month, Mr. Wick is scheduled to lead a delegation of some 50 Americans from the private sector to Moscow for the second round of information talks.

Signs of this improved atmosphere are evident in other areas:

Academic and scholarly exchanges have been revived and are reaching the peak levels established during the 1970's. One new program will involve, for the first time, undergraduates from both countries in fields other than language training.

Also for the first time, we have established reciprocal youth exchanges. Most notable was the high school exchange between students at Phillips Academy in Andover and the Novosibirsk Physics and Mathematics School.

Two conferences sponsored on the American side by the Chautauqua Society brought together unprecedented numbers of Soviet and American citizens, including high-level government officials, for wide-ranging discussions on issues of mutual concern.

"Information USA," the first USIA exhibit in the Soviet Union since the 1985 Geneva accord, is attracting record crowds. This multimedia exhibit, which highlights America's communications and information revolution, is expected to be seen by over 2 million Soviets during its nine-city tour.

After years of returning "unsold" copies of America Illustrated, USIA's magazine to the Soviet Union, the Soviets recently informed our Embassy in Moscow that the magazine now sells out.

For the first time ever, a Voice of America bureau will open in Moscow later this year.

EXCHANGES OF PERSONS

The exchange of persons programs always have been essential to the accomplishment of USIA's mission. With strong bipartisan support from Congress, Charles Wick has reaffirmed the importance of these programs and rebuilt them to the high-water levels of the mid-1960's. Since 1982, the funding of exchange programs in real dollars has almost doubled. The Fulbright program, which had dwindled to 3,500 grantees in the late 1970's, now stands at a total of 5,500 grants.

Likewise, under Mr. Wick's leadership, USIA has expanded the number of participants in its International Visitor Program from 2,000 in 1980 to over 2,800 in 1988, while maintaining the vitality of the Humphrey Fellowship Program and expanding support for books and libraries.

At the same time that it has been reinvigorating these programs, USIA has developed new exchange mechanisms, and improved and refined others to be more responsive to our national needs—the needs of U.S. scholars, professionals, youth, and the government—and the needs of our exchange partners. For example:

The Campus program, begun in 1985 as a response to a recommendation by the Kissinger Commission, brings financially disadvantaged young Central Americans to the United States for academic study. Some 238 students have participated—students whose leadership potential creates the possibility of a great multiplier effect.

The President's youth exchange initiative, begun in 1982, has promoted some 34,500 additional exchanges of young people and expanded beyond the original 7 target countries to 88.

Yet another innovative exchange program is the University Linkage Program. Begun in 1983, the program seeks to establish enduring partnerships between United States and foreign colleges and universities through exchanges of faculty and staff.

One of the most creative and cost-effective programs created by Charles Wick is the Artistic Ambassador Program, which sends abroad some of America's most talented, but still undiscovered, musicians. Since its creation in 1983, 28 musicians have toured 63 countries, giving performances and holding master classes with students and conservatory faculties.

PRIVATE SECTOR SUPPORT

Under Charles Wick, U.S. public diplomacy has made great strides forward in the past 7 years because of the generosity and spirit of voluntarism of America's private sector. Ten private sector advisory committees—composed of over 200 outstanding leaders in American business and industry—have provided valuable expertise and counsel to USIA. When we have needed their help, this unique group of Americans has been there. Together, they have contributed approximately $100 million in time and in-kind contributions to USIA since 1981.

Director Wick recently introduced a new dimension to this vital partnership when he established the USIA International Council. Last October, and again in June, over 100 opinion leaders from some 30 countries met in Washington to present their perceptions of and attitudes toward the United States. USIA has incorporated this data into its research on foreign attitudes.

Mr. President, Charles Wick is a visionary. He long ago understood the power and potential reach of satellite television, not only as a force for America's public diplomacy, but also for world peace and understanding.

Just as President Reagan is considered "the great communicator," so it should be no surprise that years hence, Charles Wick will become known as the father of modern global public diplomacy.

Public servants come and go in our Nation's Capital, but the impact of Charles Wick on USIA and the United States' role in global public diplomacy will be felt for decades to come—well into the 21st century.

My distinguished colleagues, please join with me in saluting a great American—Charles Z. Wick.

RENEWABLES, CLEAN AIR, AND AGRICULTURE

Mr. FOWLER. Mr. President, last year I introduced the Renewable Energy and Energy Conservation Act of 1987. Its purpose is to strengthen our efforts to develop safe and reliable alternative energy sources—efforts which have diminished as we have become complacent about our energy security.

Just before we recessed for August, this bill was reported by the Energy Committee. I rise to bring my colleagues' attention to that fact, as we head into the home stretch of the 100th session of Congress, because I think this legislation addresses many of the important issues we have struggled with this year.

During my days in the Congress, I have advocated greater reliance on renewable sources of energy. I have stood here before in the well of the Senate to talk about reducing our dependence on oil imports—the kind of dependence that has our ships patrolling the Persian Gulf. We can reduce that dependence, which is about to top 60 percent of our oil needs—and which keeps our Nation from being truly secure—through the development of solar, wind, geothermal, biomass, and other virtually inexhaustable sources of power.

We worked all year, and had heated political battles, to pass a trade bill to aid American competitiveness. In earlier remarks, I have pointed out that development of renewables would reduce our trade deficits by reducing our oil imports. Renewable technologies would also open up vast export markets for America, since 75 percent of the developing world is not yet connected to a power grid. Photovoltaics, which produce energy from the sun without any harmful byproducts, are already replacing diesel generators in many of these remote areas. But in this decade we have lost our lead in the world photovoltaics market to the Japanese—as they have increased their national commitment to research and development and we have reduced ours.

I have promoted renewables in part because of the clean air benefits they promise. Recently the news is full of studies and hearings on the greenhouse effect, the potentially catastrophic warming of our climate caused by the burning of fossil fuels. Again, alternative energy sources are a large part of the solution.

When most of us think of cleaning up our atmosphere, we associate those efforts with our cities. But we are making a mistake if we do not focus our attention on environmental issues in the countryside as well.

Just before the August recess we passed drought legislation in the Senate to help our farmers recover from the dry, scorching summer we have endured. But another long-term economic and environmental problem facing our agricultural areas is low-level ozone.

The same ozone that, in our stratosphere, protects us from harmful radiation is a harmful pollutant when introduced into our lower atmosphere. It hurts our lungs, burns our eyes, and keeps the old, the young, and even athletes from enjoying the outdoors on hot summer days when ozone levels are the highest.

In our cities, ozone is the reason why on summer days you can't see Atlanta's skyline from the airport or the Capitol Dome from the Lincoln Memorial. In the countryside, ozone rarely blocks the view, but it can have grave impacts on the economic backbone of rural America—agriculture.

Since 1950, scientists have known that air pollution can hurt agricultural yields, but only recently have they started to quantify this damage. In 1984, the Office of Technology Assessment reported that ozone has reduced crop yields in the United States by 6 to 7 percent.

OTA estimates that if we could bring ozone levels in rural areas down to their natural, background levels, we would see soybean yields increase by 13 percent and peanut yields increase by 24 percent.

It is hard to imagine what this could do for farmers in Georgia. We'd see a little more bustle in the streets of Ocilla. We might see some John Deere outlets reopen in other small towns. More teenagers from Ludowici and Cordele would be able to go off to college. The whole rural economy of my State would benefit.

Across America, for all crops, the OTA estimates we could increase the value of our agricultural production by $2 to $3 billion, simply by getting ozone levels down where they belong.

And even if we cannot go all the way overnight, scientists predict that just reducing the current ozone levels by 25 percent would provide an additional $1.7 billion dollars in agricultural benefits.

On the other hand, along with that promise goes a warning. A modest increase in ozone, by 25 percent, which is not outside the realm of possibility in many rural areas, could cost us $2.1 billion in crop losses.

So how can we prevent that from happening? These are complex problems with complex sources—but I can give one approach.

In 1985, transportation sources were responsible for 34 percent of the hydrocarbon emissions and 45 percent of the nitrogen oxides emissions, both of which create ozone. We have done far too little thinking about what will power our cars and trucks and buses and trains in the future—without the damage caused by dirty fossil fuels.

We need more research into cleaner alternative fuels. Methanol, ethanol, and compressed natural gas may offer benefits over ordinary gasoline in reduced emissions, and in the long-term, solar and electric vehicles may be the cleanest possible way to get around.

When I first entered the House of Representatives in 1977, the thought of running a vehicle on Sun-power was almost laughable. But General Motors recently raced an unusual vehicle almost 2,000 miles across Australia using only the Sun for energy. Alternative energy sources can come of age with our commitment.

Modest increases in Federal support for research into these promising technologies can put us on the road to energy independence—and a healthier and more productive environment. And with the cooperation and support of America's greatest resource—private industry—we can begin to make some headway toward long-term answers to these challenges.

We need to develop the energy sources of the future—and I include clean coal as one of the technologies that can power our economy and industry with our own resources—without harming our environment.

We also need to protect our air, in the meantime, through workable clean air legislation. I cannot think of anything that is more in the general, public interest than clean air. According to the Environmental Protection Agency, Americans are exposed to more toxins in the air than through their food or water supplies.

The Senate has before it a Clean Air Authorization that addresses these issues. Last December, we decided to put off some of these discussions until August 31, and at the time it seemed the prudent thing to do. August is past us now, Mr. President, and the country is counting on us to fulfill our responsibility and our promise to grapple with these issues.

I urge my colleagues not to put off any longer the tough decisions we must make to develop renewable energy sources and formulate a clean air policy—to reduce the pollutants that endanger our health; that induce potentially catastrophic climate change; that threaten our farmers and their crops, which are such a vital element of our national strength.

This is a basic responsibility of our stewardship. I hope the Senate will focus on the issues addressed by renewable energy and conservation bill. I also commend my colleagues—from Senator MITCHELL of Maine to Senator MATSUNAGA of Hawaii—who have worked diligently to fashion national policies that will result in clean air and energy security. We need a comprehensive plan to achieve these goals for future Americans. Not just for generations to come in the next century.

According to our scientists we need to act on behalf of today's children, Americans such as Emily Richardson Humphreys, who was born on August 10 to Elizabeth and Steve Humphreys of my staff in Alexandria Hospital. The basic promise of the American dream is that we will leave a better country for our children. I hope that we will think seriously about this obligation as we consider the legislation before us—which represents the first step in resolving the questions about powering our society and restoring our environment, questions we can no longer afford to neglect.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Time for morning business has also expired.

TEXTILE AND APPAREL TRADE ACT

The PRESIDING OFFICER. The Senate will now resume consideration of Senate bill No. 2662, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2662) to remedy injury to the United States textile and apparel industries caused by increased imports.

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, I understand the distinguished Senator from Texas [Mr. GRAMM] is momentarily on his way to the floor and will be presenting an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate has been on the textile bill now for several minutes and all Senators knew that we were going to return to it today at 10:30. Mr. HOLLINGS, the manager of the bill, is here at his post of duty and the Senate is marking time. Even though time is being used out of the overall 30 hours, that is not a great deal of consolation.

But the Senate needs to act and to act we ought to have somebody come over and call up amendments. There are several amendments that are at the desk ready to be called up by Senators on the other side of the aisle.

I know that there are some committee meetings going on, but we have not given consent for committees to meet, and it may be well not to give consent for committees to meet if we do not get Senators to come over here and call up amendments.

I hesitate to put in a quorum call and make it go live at this time, which I could do. That would break up the committee meetings. That would get Senators over here and perhaps we could get an amendment up and get the Senate moving. As it is, the tail is wagging the dog. The committees, which are the creatures of the Senate, the parent body, are having their meetings and the Senate, which is the parent body, is here just marking time with no action. So I suggest that Senators on the other side get over to the floor and call up their amendments so that the Senate can be acting rather than just twiddling its thumbs and frittering away the time.

We might keep in mind that the longer we wait at this point, the later we will be in completing action on the bill. So that what we lose on the front end comes in the tail end. So if Senators will keep all of these wise sayings in mind and listen, they will come over to the floor and call up amendments.

As I say, I am tempted to put in a live quorum call now and have the Sergeant at Arms instructed. That would get a rollcall vote. That would get the blood pressure flowing and the cholesterol unclogged out of the veins and arteries. But I hesitate to have that vote right now because I have good reason for not wanting to do it right now. The good reason is that my good colleague on the other side, the Republican leader, had to go to the dentist, which we all have to do once in a while. Not everybody has good teeth like I have. He had to go to the dentist and I told him I would not have a vote until he got back here. So I do not want to have a vote while he is out. But we ought to have somebody on the other side scrambling around and getting some amendments up.

Having said that now, I feel much better, but I will feel even better if, through the door on the east side, there appears a Senator carrying a handful of amendments.

Hearing no applause, I suggest the absence of a quorum and take my seat.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Mr. President, I would like to begin this morning by explaining I was over this morning with the Armed Services Committee with my colleague, the senior Senator from South Carolina. We are getting the final report this morning on the *Vincennes*. My other two colleagues from Oregon and Washington, who have been heavily involved in the debate, are in markup this morning and that explains why we are slow getting off, in terms of debating this important bill.

If our absence this morning has caused any inconvenience I would like to begin by apologizing to our colleague from South Carolina.

Mr. President, yesterday we focused on the unfairness of this bill and, at the potential risk of being somewhat redundant, since what tends to happen in these debates is that we have one side talk about their facts and figures, we have the other side talk about their facts and figures, everybody varies their end points or the period they choose and so we just talk past each other. I think it is fair to say that my distinguished colleague from South Carolina and I, who agree with each other on so many subjects, are totally in disagreement on this subject, and I am unlikely to convince him and I think he has already reached the conclusion that he is unlikely to convince me on this subject. But we are making a record here. Members are listening to the debate. So I would like to begin this morning by summarizing what we were doing yesterday, and then begin our program for today.

Mr. President, yesterday we were trying to focus on the unfairness of this bill. I would like to just simply begin by outlining the points we were trying to make yesterday.

Point No. 1: we hear talk about the textile industry and about the perils of world competition but the reality, which has in no way been disputed by anyone here, is that the textile industry is the most protected industry in America. Nobody can deny that.

There are 1,500 quotas that limit the freedom of every American to buy textiles abroad if somebody got to the store and bought them first. No one denies that that artificially drives up the cost of textiles to the American consumer. My own opinion is that Americans on average pay about twice for textiles what they would pay in the absence of these quotas. The cost to the American consumer, by people who have done indepth studies about this degree of protectionism, ranges between about $300 per family of four and $700 per family of four that we pay in extra costs in putting clothing and shoes on the backs and feet of our children and our parents and ourselves.

Mr. President, the second point I would like to make that we focused on yesterday is that it is not as if this great imperiled textile industry in America stands naked before the world in terms of competition. It is not as if, if we failed to adopt this textile bill, they are going to have no degree of protection in competing with the textile industry of the world. The truth is we have already 1,500 different quotas. We have a tariff which averages 18 percent on textiles.

Every time an American consumer goes to K-Mart or J.C. Penney's or Sears or whatever, some fancy clothing store somewhere, and buys a textile product that was produced abroad, he or she is paying an 18-percent tax on everything on that textile product. Combine that with the quotas and you see the massive costs on the consumers we are talking about.

Yesterday we really posed the question, if consumers are already paying $300 to $700 per family of four to protect the textile industry, if, in fact, we already have 1,500 different quotas and an 18-percent tax on the consumer, does the textile industry need or deserve additional protection?

In trying to answer this question, we looked at several things. First of all, what has happened in the last 3 years? What has happened in the period during which we have debated this textile bill? To an outsider, it may look like the textile lobby lost when Congress refused to enact the bill in the face of the President's opposition. The reality does not bear that initial observation out.

The reality is that in response to the incessant pressure from protectionism, the Government of the United States has taken 19 different actions to in one way or another grant additional restrictions on imports or limits on competition. The Multi-Fiber Agreement, which has been reached, severely limits the ability of foreign producers to sell products on the American market.

Yesterday both of our colleagues from South Carolina talked about China and about their sales. The current agreement that has been entered into with China has limited their sales growth to about 3.3 percent a year. That is a very severe restriction. I note that since there are other products produced in America that generate jobs besides textiles, as important as the textile industry is, that when we started this dispute with China about textile sales, we cut off their ability to sell us 50 million dollars' worth of textiles. They responded by canceling agricultural purchases of $699 million of American products.

Anybody who thinks that kind of trade war helps America is a lunatic. Anybody who thinks that we gain by preventing 50 million dollars' worth of sales in the United States that would have benefited the consumer, and we end up losing 699 million dollars' worth of ag sales abroad because of that, anybody who thinks that is good policy never read the history of the Smoot-Hawley tariff.

In addition to all this, let me say, Mr. President, out of all fairness, that no matter when this debate occurred, I would not have been for this bill. Just being fair up front, this is raw, rotten, stinking protectionism and is an anathema to everything I believe in my life and everything I think is important to America.

But some people might have had a legitimate position in supporting this bill 5 years ago or 10 years ago or maybe 3 years ago. But the great paradox, Mr. President, is that this bill today has absolutely no leg to stand on. If there ever was an argument for this bill, it has long since passed. It has long since passed because the textile industry, much to its credit, unable to get Congress to come in and just block off competition, has been forced to reach down and grab itself by its bootstraps and modernize, to come in and build the same kind of equipment that their foreign competitors were using. As a result, there is a renaissance going on in the textile industry.

Granted, there is always somebody who can pick a couple of months or last week or Thursday afternoon and say, "Thursday afternoon was a bad afternoon in the textile business." But the plain truth is that if you take any extended period of time, and let me just take 1985, which is when we started voting on it, and 1987, which was the end of last year where we got good hard data, between 1985 and 1987, all manufacturing in America on average has seen a growth in manufacturing of 6.5 percent. Our textile industry during that same period has seen a growth in manufacturing of 13.5 percent, which, obviously, in arithmetic is about twice as fast.

Mr. President, that is a great testament to the genius of the American free enterprise system. The fact that in 1985 we were here on the floor saying the textile industry is dying; we cannot compete; America does not have the ability to compete; we are incapable of competing; we cannot do it, why, do you realize there are people making lower wages than Americans? Do my colleagues realize that from the time the first Pilgrim stepped on Plymouth Rock that America has always had the highest real wages in the world, at first because we were a labor shortage country; second, because we were the most modern, mechanized industrial nation on Earth? We have never competed against people who paid higher wages than we do; never. And yet we have whipped their fanny because we have done it better, because we have developed technology.

We have 115 million Americans at work. We have created more jobs than all our industrial trading partners combined since 1982. Seventy-five percent of those jobs are in the upper half of the income distribution of the country, and we have done it while paying more because we produce more, which is the only way a nation can pay more.

Our distinguished colleague from South Carolina has not looked at the history of Great Britain. They wanted to pay more without producing more. They put up all these tariffs at the end of World War I because they wanted to "protect the British worker." And what happened? Living standards went right through the floor. Britain declined as a world power and is coming back today only because they have stopped that nonsense. Of course, some of our historians now write about the decline of nations as if Britain declined because it was a world leader, not because it was following poor economic policy.

Much to the glory of the textile industry, when they did not get what they wanted legislatively, they went out and did what they had to do economically. The results have been pretty impressive. Let us just look at pretax profits. We know Congress spends all this money buying votes mostly and then they raise people's taxes. That is Congress' fault and the textile industry cannot help that. But their before tax rate of return for the last 12 months certified by the Department of Commerce, no estimates, actual figures, their before-tax rate of return last year was 26 percent on average. For every dollar of real equity invested in the textile industry last year in America, 26 cents were earned. It is almost twice the average equity return before taxes by manufacturing in general.

Mr. President, I am not here saying we ought to suddenly rush out and tax the textile industry. I congratulate them for what they have done. I wish they were earning 126 percent because every dollar they are earning they are plowing back into building better tools, building newer, more modern plants. They are making America more competitive. So I say God bless them for earning 26 percent. I wish it were 126 percent. And if it were 1,026 percent, I would oppose any efforts to take it away from them.

But, Mr. President, how can we be here on the floor arguing that this industry ought to have more protection against competition when it earned a before-tax rate of return on equity last year roughly twice what was earned in other industries in America?

Mr. President, we have heard a lot about jobs in textiles, and there is no doubt about the fact, and our colleagues have made very clear, there has been a decline in the number of people employed in the textile industry. Nobody disputes that most of that reduction has been because of mechanization. The truth was we were sitting on our duffs. We let foreign competition build better tools than we were building. We let them learn the processes that we were using and improve on them. There is one thing that is certain in this life, I do not care what Congress does, what law we pass, you cannot use poor tools and pay higher wages. I do not care what kind of laws you pass, you cannot repeal the laws of economics. We found ourselves in a position where we had to modernize, and we have.

But last year we had an increase in the number of people working in the textile industry, in the apparel industry, or between 20,000 and 40,000, depending on which number you take. So here we are saying to the American consumer, we want you to pay another $10 million for textiles and apparel. We want you to do it to help an industry that has seen its production grow twice as fast as all manufacturing in America, that has a before tax rate of return twice as high as the average for all manufacturing for America in the last fiscal year that we have data, that is experiencing a growth in employment for the first time in a long time.

Then we are hearing about the States that are affected. Now, Mr. President, the Founding Fathers intended that we should be here as Members of the Senate representing our States. We all try to do that. It is understandable when we sometimes lose sight of reality in trying to do that. But let me talk about the States that are going to be the big beneficiaries of this bill. Let me take the top five textile producing States in America: North Carolina, Georgia, New York, South Carolina, and Pennsylvania. Per the last unemployment figure we have, which is June of this year, unemployment in those five States averaged 4.8 percent. Unemployment in America was 5.5 percent. As a matter of reference, most of these States had unemployment roughly half of the unemployment rate in my State, Texas. Yet our colleagues are here saying, "Look, the before tax rate of return on investment may be twice the national average in textiles, production may be growing twice as fast, employment may be growing, and unemployment in the textile States may be half the national average, but it is not enough. We want to impose protectionism, force the consumer to pay another $10 billion for textiles and apparel, let other nations reciprocate by imposing tariffs and quotas on other American goods because it is not enough."

(Mr. ADAMS assumed the chair.)

Mr. GRAMM. Now, shoes are in here, and we have all heard about shoes on an unending basis. But, Mr. President, if you look at the top five shoe-producing States: Maine, Missouri, Tennessee, Massachusetts, and New York, the average unemployment rate in those States in the last month we have figures is 25 percent below the national average.

Mr. President, why should we be raising the cost of buying work boots for people that are out using those boots walking around looking for a job in Odessa, TX, when the States that are producing the boots have an unemployment rate 25-percent below the national average?

In short, all of yesterday, in amendment after amendment after amendment, the point we were making is that this bill is not fair. It is not right. It is not fair to impose this additional cost on the American people. In fact, this bill points out the greatest problem with democracy, in my opinion. The greatest problem with democracy, in my opinion, is that even in the greatest political system that the world has ever known piracy works. Any small group of people can get very well organized and activate the beneficiaries of their policies and can pirate the rest of society, and that is in essence what we are seeing. Unfortunately, the cost will fall heaviest on working men and women, on the people who spend the largest share of their income on clothing. In the very week that most of the schools in America are going back into session and people are going all over the country to buy new tennis shoes for Johnny, to buy new clothing, to buy new dresses for Mary to go to school, we are debating how we can raise their costs and make them pay more.

Now, today we want to take a different tack. The tack we want to take today is that we are not just talking about the consumer. We are talking about jobs. We are talking about jobs because this protectionist bill is a step back down the road to Smoot-Hawley and the Great Depression. As I look at the future of America and the future of the world, in my opinion, the greatest peril we face is the peril of protectionism. It is a great paradox—I pointed it out may times—that here we are the greatest beneficiary of world trade; we have created more jobs since 1982 than Japan and Germany combined have created in a decade, and yet everywhere in Congress there is a scream to stop trade. To stop trade means to stop growth. To build walls around America to keep foreign goods out keeps in American goods.

If we pass this bill under existing GATT agreements, every nation affected has the right to go to GATT and say, that the United States of America has violated the GATT agreement. And GATT looks at the facts and says, "Well, that is right." Then they say, "Under the GATT agreement, we demand our right of offset and compensation."

Now, what are they going to offset and compensate? I can tell you what the Japanese are going to do. They are a lot more concerned about jobs in high technology than they are in textiles, so they are going to ask for right of compensation and offset in computer chips and in high technology. The Koreans are going to ask for right of offset in chemicals and agricultural products. Europe is gong to ask for right of offset and compensation on aircraft and on manufactured goods and on chemicals. These are industries that have an average wage of twice the industry we are talking about. So for whatever job might be saved in textiles, we are going to lose at least one job in these other areas and they are by and large jobs with higher wages. They are jobs that represent the future of America in terms of being able to compete. Mr. President, that is not smart policy.

I have tried to put together an amendment to address this issue. I am going to call it up in a second, but I want to outline what it does. We have not heard these words in this debate, but we heard them the last time we had this bill before us. Mostly we have not heard them because the people who are here debating do not make any bones about the fact that this is protectionist. I am sure that as we get close to a final vote we are going to have a rush of Members coming over here saying, "I am not a protectionist. I just want fair trade. I just want countries to treat us like we treat them. If they will buy our goods, we will buy their goods. I am not a protectionist."

Well, I thought that I would begin this debate this morning by giving everybody an opportunity to put their vote where their mouth is, so I am going to call up an amendment. The amendment is simple and straightforward. It is an amendment that in essence says that we go out and study all of our trading partners' protections, we look at their quotas, we look at their tariffs, we look at their licensing fees and we say, "Is this country more or less protectionist than the United States?"

If it is more protectionist than the United States or as protectionist as the United States, then we impose these restrictions on that country. On the other hand, if the country is less protectionist than we are or wants to sell more textiles, not be affected by this, and is willing to become less protectionist, if they are willing to open up their markets and let more American goods in which is what we claim we want them to do, then this will exempt them from this bill.

That will not leave their textile industry "unprotected"—still 1,500 tariffs, still an 18-percent tax. But what this amendment says is if a country is less protectionist than we are, if it allows American goods freer access to its economy than we allow goods access to our economy, then it is exempt from this bill.

AMENDMENT NO. 2864

(Purpose: To exempt from quotas under the bill imports from countries that are less protectionist than the United States)

Mr. GRAMM. Mr. President, I call up amendment 2864, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2864.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new subsection:

"(d) EXEMPTION FOR LESS PROTECTIONIST COUNTRIES.—"Notwithstanding any other provision of this Act, any limitation imposed by this provision of this Act, any limitation imposed by this Act on the quantity of any article that may be entered, or withdrawn from warehouse, for consumption in the customs territory of the United States shall not apply to such articles of a country if—

"(1) the President, after consulting with the United States Trade Representative, determines that the tariffs and quotas that such country imposes on United States exports to such country (based on the weighted average of the value of such exports) are lower than tariffs and quotas the United States imposes on exports of such country to the United States based on the weighted average of the value of such foreign exports), and

(2) the President submits to the Congress a written statement certifying such determination within 90 days after the date of enactment of this Act.".

Mr. GRAMM. Mr. President, I ask unanimous consent that I be given 20 minutes of Senator PACKWOOD's time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Mr. President, I think the amendment speaks for itself. If people simply want to open up more trade, create more jobs, if we want fair trade, if our objective here is to penalize people who are cheating in trade, then we ought to adopt this amendment. If the country is less protectionist than we are, if they are letting in American goods on a freer basis than we are letting in their goods, I do not think we ought to slap on another degree of protection and induce them in turn to let in fewer American goods.

So I hope my colleagues will adopt this amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I trust the distinguished former economics professor has enjoyed his lecture this morning.

Earlier it was said that the distinguished minority leader, Senator DOLE, had to go to the dentist. I doubt he suffered more pain in the dentist's chair than I did here listening to this smokescreen about Smoot-Hawley and Plymouth Rock, tariffs and quotas, such oozing of concern that America be fair and benign.

The reason I direct this comment to my distinguished colleague from Texas is that I know he knows better. He is among the most brilliant Members of the entire Congress. He has proven it time and again. I have worked with him intimately. I'll testify to his cleverness. Yesterday he treated us to a panoply of diversionary tactics.

He started off with the issue of constitutionality. He knows this bill is constitutional. He took refuge in the buzzwords "work shoes" and "work coveralls."

He tried every device imaginable to sneak in some votes, and now he has given us this Texas A&M lecture. I am delighted to lecture him in turn, because he misses the entire point about competition.

We can go back to that fellow David Ricardo and his theories of free trade and comparative advantage. British disciples of Ricardo counseled our Founding Fathers, "Let us use our comparative advantage. You in America will ship to us in the mother country the raw materials that you produce best and there will be no tariffs. There will be no quotas. And we in turn from merry old England, mother country, will ship back to you the manufactured goods that we produce best under our comparative advantage, and there will be no tariffs. And there will be no quotas."

Alexander Hamilton, when he heard this comparative advantage nonsense, replied in his pamphlet "Report on Manufactures." He said, in effect, "Stick it in your ear." Of course, he worded it somewhat more eloquently, but that is the gist of his reply. He told Great Britain, look, we just fought a war to liberate ourselves from your colonialism. Now you want to shackle us to economic colonialism. We will ship to Britain our timber and indigo and tobacco and rice, and you will build up your British industry by shipping to America your finished manufactured goods. Thanks, but no thanks.

Hamilton replied "No." He insisted that America would build up its own industrial backbone. And we would build that strength the old-fashioned way, with tariffs and barriers and cargo preference laws. The first bill authorized by Hamilton, Jefferson, and Madison, signed on July 4, 1789—it was not a holiday—was a tariff bill of up to 50 percent on 70 different articles starting with steel and going right down the line. We started building up the industry of America. The result was the mightiest economic power in history.

All of these politicians up here know about military competition. And they know about political competition; that is how we all get here. But we do not know anything in this Nation about industrial competition and international markets.

America's industrial might was not some happenstance, serendipitous byproduct of free trade. Entirely to the contrary. America's economic might was fostered and nurtered by the intelligent use of government. The British tried to choke us off. We battled back for our political and economic independence. And one vital tool in our arsenal was—yes, use the dreaded word—protectionism.

You might find others embarrassed to use their government to foster our Nation's industrial strength. But you will not find this Senator embarrassed. Call me protectionist if that makes you feel morally superior. Make me the No. 1 protectionist in the country. But, in fairness, Alexander Hamilton must come first, so make me No. 2.

Martin Luther King said he had been to the top of the mountain. I have been to the top of our industrial mountain. I have opened industries in Palestine, TX.

I started 30 years ago with a State that resembled an undeveloped country—poor education, low income, no skills. South Carolina had the second lowest per capita income and next to no industry. We created a development board at the State level. We built technical training colleges to gain worker skills. I went to my friends Mike DeSalle in Ohio and Abe Ribicoff in Connecticut. I got together the best ideas and strategies so that we could gain the skills and become as smart as you folks are in Seattle, making those airplanes. I put in a business development corporation to finance it. In short, I proudly used the creativity and leverage of Government to build South Carolina's economic strength. I say we must use Government as Hamilton did.

As for Smoot-Hawley, ask your friend JOHN HEINZ, of Pennsylvania, about that. As Senator HEINZ pointed out 10 years ago, Smoot-Hawley affected less than one-third of our trade. Less than 1 percent of our GNP was tied to trade. Now we are at 9 percent to 10 percent tied to international trade. We are a commercial Nation.

What did old Cordell Hull say? Protectionism. He said let us have reciprocal free trade. I do not believe in free trade per se. That is a hollow cry. Whoever heard of business being fair? Everybody is in business to get the other fellow out, to get the bigger market and a bigger profit. These politicians around here have never run a business. They all holler: "Be fair, be fair." This free-trade charade has been going on since Eisenhower, for 30 years. I was once part of it. I thought it might work.

But the name of the game today is controlled capitalism, with Government orchestrating strategy and setting forth the ground rules. That is the story in Japan and across the Pacific rim and Europe.

It was Government that brought South Carolina into the first world. All the States do it, and Texas, too. Take Michigan under Governor Blanchard. I hope somebody from Michigan is listening. I used to go up to Michigan and clean their clock, luring away their industry. They did not foster their industry 30 years ago. In contrast, Governor Blanchard now has a kitty of $350 million to attract industry and develop research. He has built a dynamic economy. More power to him.

Those who get elected in the States know how to use their governments, and the Japanese have emulated us.

Consider the record of Abraham Lincoln? We wanted to build a transcontinental railroad, and the cry in Congress was, "We can import it cheaper." Sound familiar? That is the same cry that the Senator from Texas makes. We can get it cheaper. He says you are a lunatic if you do not like $50 million worth of textiles coming in here at a cheap price. I will show you in a minute that Senator GRAMM's is a grossly false economy. He says you are a lunatic if you do not like those cheap imports. Well, then Lincoln was a lunatic, because he believed we had to build those steel plants ourselves.

Abraham Lincoln said, "We are going to produce our own steel." Yes, we can get it cheaper abroad, but that is not necessarily in our national interest.

I take my hat off to the Senator from Texas, because he knows about sacrifice, but I want you to talk about sacrifice in industrial competition. It costs in the short run, but it pays off.

Lincoln said, "We will have the transcontinental railroad, but we will not get it on the cheap from England." The lobbyists were swarming here from Great Britain, like the Japanese lobbyists are swarming now. It is against the law to lobby in Japan.

Plain and simple, Abraham Lincoln practiced protectionism. That is how we got the Harrimans and Carnegies, the great endowments. That is how we built up our capital and infrastructure. The Government was willing to sacrifice.

Pulling out of the Depression, to rescue the good State of Texas, we enacted price adjustments for agriculture as well as protectionist quotas. I support that brand of protectionism. I want you to see one in the flesh; I am a protectionist.

Mr. GRAMM. I know.

Mr. HOLLINGS. So we have American agriculture. What a great thing America's agriculture is. It produces enough to feed America and 15 other countries. We have done it with the backing of Government. We voted $4 billion because we had a drought. I supported it. I voted for the agricultural program. But let us know where it is coming from.

Free trade: "Tend to your economic interests," said Cordell Hull. We put in the Export-Import Bank to finance airplane sales and other products for export. We subsidized those sales. We continue to support the Export-Import Bank. I voted for that, too.

In 1955, we passed oil import quotas, under Eisenhower, for all the oil boys. That was governmental action.

The Japanese watched us following the war and listened to our hooey about free trade. They said: "If those American politicians believe that, let them continue to believe it. We can dump everything we now produce, and we will take over the American market." They organized a Ministry of International Trade and Industry. It meets every Monday morning in the Iron and Steel Building. MITI and the Japanese Government orchestrate the commercial strategy of Japan, Inc., and they belly-laugh at our childlike faith in 18th century notions of free trade.

As a Governor, I knew how to develop an economy and use Government. I was tickled to death to do it and continue to do it. I doubt there is a Governor in America who does not have an office in Tokyo. The States solicit foreign industry. We know how to compete. We have offices in Brussels. We have offices in Dusseldorf. I have more West German industry in South Caroina than in all the other 49 States combined. We are out hustling. We are working. But up here in Washington we are blowing smoke with all of these economic shibboleths of protectionsim and free trade. There is no such animal. Do not worry about starting a trade war. It is already raging. Our lines have already been overrun. We are going the way of England. Let us admit it.

Mr. President, let us understand that we are not immoral in this country. The politicians will tell you that we are immoral, that we do not save and the Japanese do, so the Japanese are of greater moral fiber. Likewise, they say that America's industry ought to get off the golf course because America's industry is lazy. I say nonsense.

We are going to sober up this crowd here on this textile debate and let them really learn exactly what is going on with respect to the matter of America's alleged immorality.

The Japanese support savings in every way possible and penalize any kind of mortgages, loans or credit. You do not get the interest deduction for your mortgage in Japan. In fact, in Korea when you buy a home and get a mortgage then you have to chip in $2,000 to keep the kitty going for the next fellow to borrow. When you get your mortgage you also buy Korean bonds. They build savings accounts and funnel that capital into the Japan Development Bank, all controlled by MITI and the other commercial banks. They allocate their scarce capital. Of course, it is not scarce now. They have 25 percent of the financial holdings of the world. That is how they are out buying up America.

When my colleagues talk about the CBI amendment, I am for helping the Caribbean Basin nations. But we exempted textiles when we began the Caribbean Basin Initiative. But I tell you now that the Pacific rim nations are exploiting the tiny nations of the Caribbean Basin to transship Asian goods. It will be the biggest loophole you have ever seen, a shell game, and they will inundate us if we adopt the CBI amendment.

The Asian nations allocate their scarce capital. They provide the tax incentives. They establish Government-backed leasing companies. They control their domestic markets, Mr. President. They prevent price wars, and encourage domestic cartels.

We Americans have a little private program that runs around and says "crafted with pride in the U.S.A." You see it. Bob Hope is a spokesman. He says, "It matters to me, made in the

U.S.A." But we have to do that ourselves.

It convinced Sam Walton of Wal-Mart, one of the richest fellows in America and the finest businessman with Sam's Wholesale and Wal-Marts all over the country. He used to buy his merchandise out of Tokyo and Seoul. Now, Walton is supporting "crafted with pride in the U.S.A."

We are enlightening some business people around here. They have been waiting for the politicians to act.

Mr. President, we miss the point when we focus strictly on tariffs and quotas. The worst problem is nontariff barriers.

Japan threw out the import licenses. The MITI crowd does not give you an import license. The Japanese are against antitrust. They promote mergers. When we complain about the cartels, they said there are no cartels. They have an antitrust law, but they do not enforce it and they ensure their domestic producers a profit. They set different industrial standards.

If you follow a load of 1,000 Toyotas from Portland, OR—that is where they land them and put them on flatbeds and send them across the country—we will inspect 10 of those Toyotas and put them on the flatbeds by afternoon, and they are on their way to Charleston, SC, where we sell them.

If you put a Ford automobile on a dock in Tokyo, it takes the Japanese 4 months to inspect it and, if it passes inspection, they will change the specs on the next car so they can reject it. They say, "We are very sorry, but the specifications have changed now and you can't come in."

And it is not just Japan. I do not mean to single them out. I respect them. If you think 4 months is bad in Japan, it takes you a solid year in France to sell a 1988 Toyota. A 1988 Toyota has not yet been for sale in Paris, France. They have to wait until January 1, 1989, because the French take 1 year to inspect them.

These are the changes that our Texas A&M economics professor would ignore, though I know he knows these things. I am not enlightening him. He is standing up for the retailers and for their bigger profits.

Let me say something about those bigger profits. The New York Times inveighs against the textile bill. Retailers are naming that tune, because textile factories do not advertise in the New York Times, but retailers do. And they start off with the bogus argument that $4 million in campaign contributions seems to be all the jurstification Congress needs to pass a textile bill.

Mr. President, I speak in measured terms, because I respect our textile leaders. I have appointed many of them to the South Carolina Development Board. They have been on the leading edge of industrial development, not only in textiles but the entire economy. To name just one on the opposite side of the political fence, Roger Miliken, he gives to the colleges, he serves on the boards, he is active, he is dynamic, he is as competitive as anybody in Japan, Korea, anywhere in the world, and he is a great citizen. But he does not contribute to any Democrats. When I first ran for the Senate in 1966, I had been touted as the young great Governor and the new voice of the South. I had gotten a gold wristwatch from my textile friends and everything else. So my friend, Gordon McCain got together a fundraiser up near Flat Rock, NC, and we had all the leaders there, 38 of them. Do you know how much we raised? Thirty-five thousand dollars. A paltry $35,000 to run for the U.S. Senate.

It really put the fight in me. I had traveled around the clock, to industry after industry, from early morning to late at night. Many times, I canceled a Sunday afternoon and evening with my family and got on the plane and was in New York at midnight and at No. 1 Walnut Street, Irving Trust Co., with industry. I brought industry after industry to South Carolina. But I got peanuts in financial support for my political campaigns.

In contrast, the newspapers know that the retailers are their bread and butter, their most lucrative advertisers. So is anyone surprised that the Times opposes the textile bill?

Here is what the New York Times says; that we are "running full tilt and profits booming."

I have just received from the Department of Commerce, from the Office of Textiles, the July figures, and it is 80 percent of capacity. That is booming? I knew it had to be down. It is going down more and more every month. That is the most recent figure.

I came back from the Far East to find that the big Edisto mill had closed in Orangeburg. They had a good operation but they are out of business. Textiles are operating at 80 percent.

What about the price of imports versus domestic? In 1985, the domestic price of all apparel, according to Market Research Corp., was $17.61; the import price was $17.67. In 1986, the domestic price was $17.30; the import price was $17.44. In 1987, the domestic price of all apparel, Mr. President, was $17.87. The import price of all apparel was $18.09. That is from Market Research Corp.

We hear talk about textiles fattening their profits. What kind of nonsense is that? Last year, textile profits were up 3.8 percent. Yes, it was up 3.8 percent. We were glad for it. But overall for manufacturing profits were up 4.8 percent. That is last year. This year, textile profits are down 12 percent. We have 6.7 percent unemployment in textiles and 9.6 percent in the apparel industry.

The Senator said he wanted to talk on this amendment about jobs. Fine, I am giving you the true picture. We have lost 31,000 jobs already this year. We can see the trend. Inventories are up 6 percent; orders are down 7 percent. And imports have seized 55 percent of the market. Their market share is up. The London Economist Intelligence Unit predicts that, with imports growing at a 15-percent rate each year, by 1995 83 percent of all U.S. consumption in textiles and apparel will be represented by imports. And that is credible. They are not shilling for retailers. Editorially, the London Economist is the biggest free trade advocate there is.

How ironic, because Britain has been vanquished by free trade. The per capita income in Great Britain is down to $9,800. West Germany's is $18,400. The United States' is $18,600. And Japan's is $19,000.

The losers have outdistanced the conqueror in World War II. The Japanese richer than you and me. They have taken over the market share all around the world with their Government leading the way. They have won through government-controlled capitalism.

Mr. President, we all know of Japan's MITI. They will not call it that in Taiwan, but they have one. They have one in Korea. You know, monkey see, monkey do. And if you bring a country back from the devastation of World War II like Japan to become the leading financial power in the world, the richest people in the world, brother, you better stop, look, and listen. Do not give us this Economic 101 malarkey about free trade. You better sober up and find out what the international competition is all about. There is a MITI in Indonesia. There is a MITI in Thailand. The government-controlled capitalism of Asia is winning.

And I have talked to them. The Commerce Minister in Indoensia said, "Oh, no, we believe in free trade; free trade."

I said, "Come on. We can't even get a license to sell in your country. The Japanese built all the plants. It is a sweetheart deal. You don't even countenance licenses."

I said, "Incidentally, I hope to help you, because you do buy soybeans and wheat from us and I would certainly rather help you develop here in low-income Indonesia rather than to continue to fatten Japan or fatten the People's Republic of China, a Communist country."

I like capitalism. I want to favor capitalism. But now the Communists have gotten into it with their own MITI. They call it a Marxist government; totally controlled. We are favoring slave labor.

And this administration, I will show you the letter from Mac Baldrige that you cannot bring a subsidy case against any of these Communist countries because we cannot prove the costs. I can get a bunch of lawyers around here and they will prove the cost of, let us say, polyester fiber in about 5 minutes. They can take the labor cost of Thailand next door in 10 minutes and add it together. We can prove it. They do not want to.

So we have to compete with Russia dumping textiles, the People's Republic of China dumping textiles.

Talking about protectionism, they say we have 1,500 regulations on textile imports. Nonsense. 1,500? Look at this book here. It is titled Foreign Regulations Affecting U.S. Textiles and Apparel Exports. It contains way more than 1,500 regulations; 15,000, more or less.

Everytime you repeal one category of regulations, they come around and put in another little blend and call it something different.

The question in this particular debate is not Smoot-Hawley or protectionism. It is whether we sober up in our national Government and understand what industrial competition is all about in this international economy.

Mr. President, I used to brag, and rightfully so, about our industry in South Carolina. But 6 or 7 years ago I started talking to executives of companies we brought into South Carolina. And, incidentally, they are mostly Republican; I am putting myself out of business.

Cumming Gear said, "Governor, we have to leave. Sorry. We are going down to Mexico. You know, we have been very productive here." We brought them from Stuttgart, Germany.

He said, "We can hire $1.85 an hour labor just across the line." They call it maquiladora, and it is a wonderful thing for American industry.

They use to have a thousand maquiladora plants. It is now near 2,000 plants; 5 General Motors; 5 GE's; RCA's biggest plant—before GE took it over down in Mexico.

But they take advantage of that industry and productivity and bring the products right back in tariff and quota free. I am not interested in tariffs and quotas. I know about no tariffs and no quotas.

And so to meet international competition. Pratt and Reed which has made pianos in Liberty, SC, they have now gone down to Mexico. I can give you a long list. We are soliciting new industries. We are getting in some from Japan and other places.

We have to move. We cannot sit here and listen to this forensic nonsense about free trade versus protectionism.

(Mr. SANFORD assumed the chair.)

Mr. HOLLINGS. By the year 2000, the Pacific Rim countries' GNP will outdistance that of the United States and the European Economic Community combined. Thailand has had 7 percent growth each year for almost 40 years.

The New York Times cannot see the forest for the trees. I am looking at the entire forest and the trends. Mr. President, let us go right down that trend one more time, for my distinguished colleague.

Textile and apparel employment, back in 1980, was 4 million. It is down now to 1,812,000. In 1982, we lost 157,000 jobs; in 1983, we lost only 5,000 textile jobs. In 1984, we picked up 26,000 and we had to listen to the argument in 1985 about how wonderful the industry was doing.

But then in 1985, after we passed the textile bill and it was vetoed, we learned that 102,000 textile and apparel jobs were lost in 1985.

In 1986, we only lost 5,000 jobs. In 1987, we picked up 18,000 and that is the figure they are citing in these editorials and this drumbeat of pellmell for hell, down the road to becoming a second-rate power. They use that figure when already in 1988 we have lost another 31,000 jobs. Textiles operate on a cyclical basis and we continue to lose more and more and we continue to go down.

So the question here is, yes, jobs; but the issue is also the survival of the industry, creating an environment in which it is worthwhile to invest.

Look, you have money. You have billions. The textile industry, yes, has put in $18.6 billion since 1980, over $2 billion a year. They did that in a crash program of modernization, computer controls, electronic controls, and otherwise. They cut back on employment. There is no question about that.

But they have now reached the point, seeing the important trends, where they question whether it is worthwhile to invest in a declining industry, in an industry targeted for extinction.

Mr. President, I ask unanimous consent to print in the RECORD a list of new textile and apparel exporters to the United States.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NEW SUPPLIERS

	1986	1987	Percent growth
Bulgaria	2.0	4.7	125
Burma	2.5	2.7	8
Cameroon	0.1	4.8	6,894
Cyprus	2.1	2.3	9.8
Ecuador	1.5	3.5	137
Fiji	.5	1.2	140
Guyana	2.1	2.6	20
Iran	.9	1.3	43
Ivory Coast	1.9	10.3	431
Kenya	.9	1.3	43
Lesotho	.9	1.1	28
Madagascar	.01	3.0	51,023
Malawi	.1	4.2	3,664
Morocco	4.7	6.7	42
Nigeria	.5	17.5	3,548
St. Lucia	3.2	8.0	147
Swaziland	1.5	2.8	92
Tunisia	.4	5.7	1,412
U.A. Emirates	1.0	5.8	462
U.S.S.R	.383	2.4	6,161
Zimbabwe	3.3	10.4	212

Source: OTEXA, Major Shipper's Report, December 1987.

Mr. HOLLINGS. The entrance of the little countries is significant, because they are used as points of transshipment. It is a shell game aimed at inundating the U.S. market. I never heard of Malawi. But right in between Mozambique and Zimbabwe is Malawi. I had never heard of it until we got this list of new suppliers.

Let us just read, since they are talking about economics, the balance sheet. Let us assume that company A has 50 percent of a particular textile market and their market share is growing at 10 percent. Company B has only 20 percent of the market but their market share is growing at 40 percent. The overall market is growing at 30 percent.

Every time you double your market share you reduce by 20 to 30 percent your cost of production. Anybody investing in New York would immediately say: Look at company A. It has 50 percent and it is growing at 10 percent, which is more than the growth of all U.S. manufacturing, so that is a wonderful investment.

The truth of the matter is that company A is going to be bankrupt in about 6 or 7 years because company B is getting that market share, knows exactly what it is doing. It will continue to get that market share and take over entirely. They will have the lower cost production. They will have the quality product.

I am sick and tired of my colleagues telling me we ought to have a quality product in the United States. Our quality is better than anything imported from other countries. I can show it to you right now in textiles and apparel. In fact, it is quality and fashion and texture in advanced things like carpeting. We make a better carpet. We make it cheaper. But we cannot export them because of barriers abroad.

We are the best manufacturer. We have the best research centers. We make the best carpet in the world at the cheapest price, but we cannot sell it abroad. That, Senators, is what I am talking about.

Mr. GRAMM. That is what this amendment is about.

Mr. HOLLINGS. That is what I am talking about, not tariffs and quotas and not even reduce the barriers—I do not expect the U.S. Government to do that for me, but I do expect them to enforce the dumping laws. They trot out what they call the exporters sales price. In my opinion it is illegal. I do not have the money to bring the case again.

They will take the sales costs, all developmental costs, TV advertising and everything else, and say that was the domestic price. They do not do that in Europe.

They have sense in Europe. They have globalized quotas, exactly what we are asking for in this bill, and they reduced their deficit from $5 billion in 1980 down to $1 billion in 1988. They have enforced their global law.

I have tried it every way I can, but I cannot get our Government to enforce the law. I am going to do it the way the Europeans are doing it. Globalize the quotas; take care of the CBI. We give the initiative to the President of the United States. We tell the President, "You can go ahead and get anybody you want."

If I wanted to develop this hemisphere, I can tell you exactly what we should do. We are graduating 28,000 high school graduates in Panama in June with no place to work. And we are wondering why we are having troubles down there. It is not drugs. It is worse than drugs. Marxism is moving in. Thousands of those graduates went to Patrice Lumumba University in Moscow and have been doing it for years.

I went down to Latin America under Eisenhower with President Kubitschek, in Brazil, and Frondizi, in Argentina, and Ike had Operation Pan America. Jack Kennedy had the Alliance for Progress, and now we have CBI. We give it all a big title and forget it, sending money down there to the dictatorships. Let us tell the truth. The oligarchs intercept our money and they send it to bank accounts in Geneva and Miami. The rich get richer; the poor get poorer. And if I was in Nicaragua, I probably would be Ortega. You have got nothing to lose.

We have to develop a middle class, and this is where you start, right here, with this globalization. This bill will start a foreign policy this country can be proud of. Let us take the Latin American MBA's from Harvard and Yale and Austin, TX, and encourage them to legally set up businesses and then, Mr. President, on a globalized basis lets allocate them textile quotas. I want to take 5 percent of the textiles from the People's Republic of China. Ten percent of the textiles from Hong Kong. Let us say 20 percent of the shoes from Korea; 30 percent of the hand tools from Taiwan; 10 percent of the electronics from Japan. They are rich as can be. Richer than you and me. If I can reassign those quotas on a globalized basin down to the Western Hemisphere, I can build up a middle class and get free elections. We talk about freedom. We have to have freedom. You are not going to get any freedom without a middle class. I want to build up a middle class. I want to strengthen my hemisphere, but they will not let me do it because they give me that malarkey about Smoot-Hawley. Rotten history if I ever heard.

We ought to be proud of this bill. We can start something in this Senate. "Have the courage," says the New York Times. I have the courage. I hope they have the intellect to sober up and find out what the facts of life are. They sell these New York Times in downtown Hong Kong. I cannot sell any textiles.

We are losing industry after industry. I bought Elgin watches in South Carolina from Elgin, IL. They increased their productivity 35 percent, but they do not make Elgin watches in America. They have gone to Korea.

I can go down the list of industries. We are gradually losing machine tools, sporting goods, electronics, radios, TV's, power tools, because the industries Governor Sanford and I brought in, they are telling us they have to go to Mexico because we cannot beat that $1.85 an hour labor, that international competition. That is the only objection, frankly, to the minimum wage hike.

I would like to pay a minimum wage of $10 if we could afford it. It is a question of what you can afford. We are legislating double-breasted, parental leave, plant closing notification. I can make a good talk on any one of them.

It is our standard of living that we are talking about, not Smoot-Hawley. If we as politicians, Republican and Democrat, come here and say you have to have Social Security, you have to have unemployment compensation, you have to have a minimum wage, you have to have clean air, you have to have clean water, you have to have a safe working place, you have to have safe machinery, you have to have plant closing—just add on to it. We can keep adding on. Fine business. That raises the American standard.

But then the politicians give you this economic bunk at the other end of the line about Smoot-Hawley and say you need to compete with dollar-an-hour labor abroad.

I am ready to move to table this amendment. They are trying every angle in the world to make mischief.

They know good and well their use of procedure was wrong, their use of the Constitution was wrong, their use of the buzzword "work," their use of the buzzword "poor." Now they are going to say you really ought to remember free trade versus protectionism. They want everybody to say, "I'm a protectionist, put me down." But put Hamilton first. I am only No. 2. Alexander Hamilton built it and James Madison and Thomas Jefferson built it because they cosponsored tariffs. Put me down as No. 4. Lincoln too. Excuse me, put me down No. 5. Excuse me, Cordell Hull. I am down to No. 6. Dwight Eisenhower, with oil import quotas. I am down to No. 7. Old Dwight, he believed in protectionism. Golly, I am going to put myself out of business. I better stop talking. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the distinguished Senator from Texas [Mr. GRAMM] has a good deal to say about economics concerning textiles. There are a few facts I would like to bring out.

The opponents of the Textile and Apparel Trade Act that we are now considering circulated a document to Senate offices entitled "The State of the U.S. Textile and Apparel Industry." The information contained in the document is highly misleading and in some instances downright fictitious.

The opponents claim that production, capacity utilization, exports and employment all increased in 1987. This trend is continuing in 1988, they say, while the imports have declined more than 9 percent in the first 5 months of the year. That is fiction.

Now, what are the facts? Twenty-nine thousand jobs were lost in the textile and apparel industry during the 12-month period ending July 1988. Capacity utilization in the textile industry has dropped 5 percent since the first half of 1987. Textile profits have plummeted 12 percent in the first quarter of 1988, compared to the first quarter of 1987. New orders for textile mill products have fallen over 4.6 percent during the first 6 months of 1988. For broadwoven fabrics alone, new orders have dropped 57 percent.

Now, Mr. President, the opponents also claim that textile production increased 6 percent while import volume increased four-tenths of 1 percent. For the first 5 months of 1988, they say imports fell 8.2 percent.

Now, what are the facts? The facts are that the trade gap in textiles rose to $4 billion in 1987, up 12 percent from 1986. Real shipments of textiles rose only 1 percent in 1987 and are down 3 percent in 1988.

Now, the opponents claim that textile capacity utilization climbed to 92 percent, up from 88 percent.

What are the facts? Textile capacity utilization did climb in 1987 but only by 0.7 of 1 percent. It has tumbled 4 percent in 1988. Basic textile capacity utilization in June 1988 was under 87 percent.

The opponents claim that average manhours were up 5.2 percent.

What are the facts? For January to July 1988 average textile manhours worked were down 0.5 of 1 percent. For July alone, hours worked fell 3.4 percent from a year ago.

The opponents claim that textile employment rose 3 percent, for an increase of 21,000 jobs.

What are the facts? Textile employment dropped and this is a very important figure—8,000 jobs from November 1987 to June 1988. Combined textile and apparel employment dropped by 26,000 jobs during the same period.

Opponents claim that profits of textile companies increased 8.6 percent in 1987 compared to 1986.

What are the facts? Profits did increase in 1987 primarily as a result of downsizing. The last textile company in America will probably make a profit until it, too, is driven out of business by the flood of foreign imports. Textile profits have fallen 12 percent during the first quarter of 1988. I repeat, textile profits have fallen 12 percent during the first quarter of 1988 compared with the first quarter of 1987, and only 3.3 percent of the sales.

The opponents claim that apparel employment in 1987 remained at the 1.1 million level of 1986.

What are the facts? Twenty-seven thousand American apparel industry jobs have been lost in the past 12 months. U.S. apparel industry employment in July was at the lowest level since January 1946.

The opponents claim that merchandise exports increased 25 percent.

What are the facts? The apparel trade gap in 1987 was $20.8 billion, 18 percent higher than 1986. Increases in merchandise exports largely represent shipments of cut cloth for reimport under the 807 program, so these exports in fact create imports which represent lost job opportunities for American garment workers.

The opponents claim that personal consumption expenditures on clothing increased 5.6 percent on top of a 6.6-percent increase in 1986.

What are the facts? In real terms, personal consumption expenditures on clothing increased 1.8 percent, on top of a 7.1-percent increase in 1986. For the first quarter of 1988, real spending is down 1.1 percent and has declined for three consecutive quarters, a most unusual development.

Now, Mr. President, the distinguished Senator from Texas was talking about protectionism. He says not to apply this to any countries that are less protectionist than the United States.

Now, Mr. President, what does protection mean? Other countries have tariffs, quotas, which may be identified, but what about the hidden barriers and the nontariff barriers such as informal business cartels, such as product standards that exclude U.S. products, such as lack of antitrust laws allowing vertical integration and price fixing?

How would you handle these? What about the complicated distribution system like the Japanese use? Mr. President, there is no question about it. With the low wages overseas in many of these plants compared with the high wages we pay and also with governments subsidizing these companies—a lot of governments actually subsidize industries to manufacture goods to send here just to give the people work—is that fair, Mr. President?

We have come to a time when we want not free trade but fair trade. That is all we are asking. What some of the opponents of this bill want is complete free trade. How can you have complete free trade when other governments are subsidizing products sent here and when they are paying 50 cents to $3 or $4 an hour and we are paying $8 and $10 an hour? How can you compete under circumstances such as those?

We are not asking for protection. We are just asking for reasonable, fair trade. That is all we want and that is what we should have.

Countries may not be protectionist now, but what about the future? This amendment says not applying to any countries that are less protectionist than ours. That does not mean anything. The moment we take action they can take action, they can change the laws and they can claim they are making them less protectionist.

Who is going to decide whether they are less protectionist?

Mr. President, this amendment should be killed and I hope the Senate will see fit to kill it.

Mr. HOLLINGS. Mr. President, Senator ADAMS is ready to go with an amendment.

Mr. ADAMS. Mr. President, I have an amendment I am prepared to offer. It is my understanding that Senator GRAMM's amendment is still pending.

Mr. HOLLINGS. Let us yield at this time. The minority leader has not gotten back yet. I want to talk to him. Senator GRAMM has momentarily agreed that we could stack the vote maybe if there was to be one momentarily until about 2:30. If that is the case, maybe Senator FOWLER can go because I have to get Senator GRAMM back.

Mr. ADAMS. I am very willing and prepared, I say to the Senator, to proceed with the argument on my amendment. I just want to be certain that I am not, Mr. President, in any way interfering with Senator GRAMM's rights on his amendment.

Mr. HOLLINGS. Not at all.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. ADAMS. Thank you very much, Mr. President.

I want to say first to my good friend from South Carolina that I have listened with great interest both as a Presiding Officer and on the floor to the debate on this bill. I think it is an important bill, and I think it is a very important debate.

Mr. President, in a few minutes I will offer an amendment at the appropriate time to strike the quota auctioning portion of this bill. I have filed this amendment. I know that it is well known to both the manager who is in favor of the bill and to the manager in opposition.

This amendment strikes the quota auctioning provision from the bill. Mr. President, I am concerned that many Members of the Senate do not even know what the quota auctioning section is because this amendment is directed toward a provision. The quota auctioning portion was not in the House bill as passed, was not in the Senate bill as it came from committee, and has come before the Senate for the first time during this debate. It is a very far-reaching and very difficult to administer provision.

It is very important to understand why it was included by Senator HOLLINGS in the bill and why the bill was called up under rule XIV as a separate standing bill rather than using the bill that came from the House or the bill that came from the committee, and as we all know the bill came from the committee without recommendation.

This has never been passed upon. It has never been reported by the full Senate from the Finance Committee and it is offered for one very simple reason: the Congressional Budget Office has found that the quota contained in this bill is a revenue loser. It is a revenue loser to the tune of $346 million in the first year of implementation. Being a revenue loser this provision in this bill, if it were taken up as it came out of the Senate committee without a quota auction, being a revenue loser would be subject to a point of order.

This quota auctioning provision in this bill, according to the Congressional Budget Office, would lose $346 million. In other words, if we just left the bill as it was, the original bill, with the global quota and with the provisions in it for limitation, it would lose $346 million in the first year of revenues that were included in the budget resolution. It will lose $451 million in the second year, acording to the Congressional Budget Office, $694 million in the third year, $966 million in the fourth year, and $1.3 billion in the fifth year.

In other words, we would not be receiving customs revenues that had been planned in the budget. In order to ensure that a point of order under the budget would not lie against this bill, my good friend, Mr. HOLLINGS, who is very, very skilled in budgetary matters, and I know he is from long experience that I had in the House as chairman of the Budget Committee, and I have been an admirer of his in trying to keep down this congressional budget. He found it necessary in order to save this bill to impose a tax to offset the revenue loss in the first year. And I do not blame him for it. I am not critical of his motives or anything else, but the Members of the Senate need to understand that this is a budgetary quick fix in order to get by the concurrent budget resolution.

Since we are going to have this put into the law, if this bill passes, it is important that we examine the merits. That is what I am here to do this morning, and to enter into a debate with the chairman and with all others who wish to discuss quota auctions. But I made these preliminary remarks so that all of my colleagues understand that this quota auctioning provision which I am moving to strike was put in because this bill without it restricts imports, reduces revenues, and therefore would be violative of the budget process.

Mr. President, the truth is on quota auctioning—that is what I want to discuss now—does not improve the House or Senate committee's version. It makes both of those bills much worse bills. I am talking about the bill that came from the House over here and the bill that came out of the Senate Finance Committee. It places the cost of trade protection contained in this bill on the retailers and the importers who will be taxed to fund textile protection by bidding for import licenses. That is what you do under a quota auctioning system. You have to bid for import licensing.

This quota auctioning scheme, Mr. President, I will point out, is unworkable. It is anticompetitive. And it is unfair. The cost of such a quota auction far outweighs any perceived benefits it may offer. Moreover, Mr. President, since foreign governments will be able to continue their own system of allocation of quotas because under a quota system those who are sending have control and can apply a quota allocation system among their producers, manufacturers, and exporters. And the United States as the importing part of this quota system is now proposing that we not only have a tariff system where we charge license fees, but a portion will now be put up for auction.

This bill establishes for the first time a global quota, and it adds 1 percent. That 1 percent is less than the normal growth. That is why there is going to be a reduction in total amount of revenue collected. But the quota auctioning section does something else. It takes this global quota and then takes 20 percent on all of these various items coming in through all of these ports, coming through the port of the Senator from South Carolina, the Port of Charleston, and coming through the Port of Seattle. It is going to say that you are going to auction these licenses. It is kind of like, I say to my good friend from South Carolina, when they proposed to auction the slots out at the airports.

This is a scheme that becomes very complicated. Actually, with this particular system, we are going to have two sets of quota allocations, because I do not know what Japan and Korea and Taiwan and all these other people are going to do with these quota licenses that we are going to be putting up for auction over here. They may be saying to their people: "Well, only you people in our system can apply for these licenses"; or they may try to say, "If you have to pay more in the auction, we will do something else."

All I am pointing out is that we have agreements under the Multi-Fiber Agreement at the present time with 54 countries. Fifty-four countries will have to decide how they are going to handle this system.

In addition—and we have not discussed it at great length in this debate—where we are having a real problem in the Multi-Fiber Agreement is that a lot of other nations are coming into it, so we are beyond the ones that are under the agreement. We have other nations, either through triparty shipping or through their own textile interests, and these are the ones increasing the amount of textile flow into the United States.

I might state that I enjoyed very much the lengthy discussions this morning between the proponents and opponents of the bill on the textile industry. I will add this one note to it: The textile industry has always moved. As the Senator from South Carolina is well aware, it moved from London to Boston, to South Carolina, to Japan, to Korea, to Thailand, and I do not know where it is going next, but it keeps moving. It always has done this, so it will keep moving out into these other nations.

The reason I mention that in this debate is that we will have countries that have an experience with quotas and licenses and a system that may be able to deal with this quota auction we are going to hold. A lot of other countries will be coming into this, and I do not know how they will get into this quota auctioning system. They have to obtain some right from their country to send it.

One of the things that is going to happen in the United States is that this is going to create a bureaucratic nightmare of setting up an auction system.

Mr. President, I have been a Cabinet officer, and I have often said in little speeches around the country that hell on Earth is to be a Cabinet officer who has to administer the statutes that one has passed as a Congressman. There is only one thing really worse than that, and that is when Congress passes a statute and it is very general and then says that the Secretary shall pass regulations to implement the statute.

That is what we have done here. I do not blame the Senator from South Carolina and the others who drafted this bill for not putting into this legislation this quota auctioning system, because I do not know how you are going to create it.

What has been done is one of those awful things to a Cabinet officer which says—and this is on pages 15 and 16 of the bill:

> By no later than the date that is 60 days after the date of enactment of this act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph 1, and the regulations shall provide for auctioning the quotas on a historical basis among retailers, importers, and manufacturers of textiles.

That would concern me if I were a Secretary. That means that if you were in and you had a license or a historical base, you had a right to sell that out to somebody actually in the game before anybody else is in the game of this auction.

This is the second part: "The transfer of import licenses among importers." So we are going to create a commodity market here. I understand that one already sort of exists upstairs in Hong Kong on the Australian market, where you go up a set of stairs and somebody says: "We will guarantee you under one of those quota auctions that we will speculate on what the price is going to be."

Let us say that you are dealing in shirt fronts. I do not know a lot about the textile business and I am not trying to be an expert in it. But I understand that you take parts of the garment and create them in one place and sell them some other place. We both have shirt fronts, so I will use that. Those shirt fronts are selling in the export-import market for $20 apiece. In other words, you are licensed, and after you have paid for it, it is going to be $20. You paid for the cost.

Now you are going to start an auction on these. You will have to have 100,000 shirt fronts in your manufacturing system over the next 12 months. If you and I are in the manufacturing business, we cannot possibly go month by month and set a price on our goods and try to figure the manufacturing sequence and have that price going on whatever the auction happens to be 2 months out or 3 months out or 5 months out. We know the cost is $20, but somebody may bid them up to $40 because they want to get into the business; and a speculator will say to us, "I will see that you get your 100,000 shirt fronts at $30 apiece."

You will say, "That's $10 over what I am paying for them."

He says: "OK, you go gamble on them."

So you will have a market then, and somebody will make money on it, and that is fine. But there will be a side market that involves a fixed price.

This provision allows somebody who already has a license to get into it. So I do not know whether 20 percent is going to be the limit on this. If you get into a secondary market with the auction market, somebody else has a right to say: "I have 25,000 shirt fronts I can import under my historical basis, and I will let you have the 25,000, but I will charge you $24.50."

Again, I understand, and I do not want to draw these regulations, but somebody will have to say who gets in, how much they get in, and what the size of the market is.

Then, the final part of it becomes really difficult, because it says: "A means of ensuring that no person obtains undue market power in the markets of the United States through use of the auction import licenses."

Mr. President, I do not know all the things in the textile market or the commodity market in Chicago. I do know something about the timber market, and I can tell you that we have had a lot of regulations as to base amounts of logs that can come out of national forests. People get a base and they have a right to go in for so much. We have auctions then.

When you start fooling around with the auction system and say somebody has or has not cornered the market, you are in the antitrust field then. I do not know whether Treasury is capable of doing this. I can tell you, as a former Cabinet officer, that when you have one of these things and it involves three or four departments, you will try to get an inter-Cabinet group. An inter-Cabinet group, as the old sage says, is a camel with a horse put together by a committee.

Treasury will have to go to Justice and will have to say: "We can't let somebody corner this market and force out new people in the United States who want to get into the apparel business." We cannot let somebody corner a market in Hong Kong or wherever this thing starts on selling these quotas back and forth.

Then we will have to have some regulations on whether you prosecute somebody; and if you do prosecute them, how you do it.

The only way it can be done—again, I am not critical. I understand why you have this in here. But you will have to create a staff.

And they are going to have to be expert in category by category, whether it is poplin jackets or whether it is certain types of suit apparel or whether it is down jackets. It is going to have to go category by category in this auctioning program.

The distribution network is going to have to take this into account because this is going to be the price of their items.

I happen to know through Jim Whitaker who was one of the first on Mount Everest and does these down jackets, that they assemble them in Seattle but they assemble them in pieces. Some come in with the sleeves and some come in with the parts that are partially made.

In these categories you have to know whether somebody has cornered that market in the auction system, and then with this provision in here that says you have your base license in there I think those base license people can probably get into a market to say, "I can do better for you than the auction."

You see, I understand that an effort is made in this bill to just take a small piece, 20 percent, and that would be historic.

The way they do that in the log business, it is if you ship so much, say you are Weyerhaeuser and you had a base of this amount you are given that during the year. That is really kind of anticompetitive in and of itself because when you divide up the bases you freeze the people who are in the business, and anybody who is going to come into the business or wants to expand under this system is going to be in a mad rush to go out and get a quota, and those that cannot get a quota are going to have to go to those who have a base.

So this system of buying and selling and speculating, it is just inevitable. It is inevitable, Mr. President, that the largest and richest firms that have the market share are going to build on it at the expense of the smaller. I know the 20 percent was put in to make this a pilot program for a year. But by having both a bigger base and the right to go into a market and bid in an auction, if you have the base, and you have the size, you just simply can put anybody against you to the wall on trying to obtain the necessary things they need to manufacture.

That is what happened in the timber market and, incidentally, we had some foreign companies come in and go into those Forest Service auctions and bid up the price of what was being auctioned and so it just knocked out people who were in our supply system. Some tried to go in. They bid up the contracts and they met the price, and then you know what happened? The market went down for sales and people who had bought at these high rates in the auctions were left with products that they could not sell and everybody had to come back to the Congress and try to bail it out.

The only point I am trying to make in this is this is a very complicated thing that we are about to start and we are doing it in an hour's debate on the floor here and I just hope that my colleagues understand and will vote for my amendment when I offer it to really prevent chaos out there in this industry.

Anybody who is listening to this debate who is in the business and is a small firm and who receive little or no quota under a base, or those who want to expand next year, are going to look at this and say, "Am I going to be able to get enough product to expand?" And the industry has shifted, as the President knows, because he is from a State and is very experienced in this, that industry has shifted from a lot of bolt cloth production into very sophisticated production of sophisticated nylon and other products and in new types of weaving.

So you cannot depend that you are going to get this in a domestic market either. So we may be protecting a market and setting up an auction system where nobody is going to be able to get the supply at which point I am not quite certain what the consumer does because if this is a 1-year program, everybody better go out and buy quick to get through the year or figure that for the year it is going to be a tough year distributing. I do not blame them for just trying it a year. Again, I am not critical of that. It is to see how would things work. I just want to give a little fair warning to everybody in the business that if we go out there with this year, the way I have seen regulations work down there in other administrations, and I do not think this one is as good as some we have, I am not sure you can issue regulations in a year.

I remember regulations that we put in regarding access to subways and we were 3 years out and I was working mighty hard. I do not say I am the world's smartest fellow, but I am a hard worker, and I just could not get those things through. We had 60 days' notice, we had 90 days' notice, and then we had appeals to the courts and then we had court challenges and then we went back and we reissued and then we had a couple hearings up here because they did not like what we were doing, and I do not blame that they did not like what we were doing, but I am just telling you put this thing in effect 60 days after this bill goes into effect and I will be a monkey's uncle if in 6 months out during this year periods that there will be any regulations.

I just hope they do not put any criminal penalties in on anybody who has violated the regulations that they have not got.

So, we have this thing coming. I just want to be sure we all know this is a policy we really want.

You know the irony of this is that there is a group out in the country that is advocating using a quota auctioning system to shift from tariffs over to a system where maybe they auction all of these licenses as they came in.

In other words, there are people who say this would liberalize trade and put it in the free market and instead of the Government putting out regulations and tariffs, everybody gets together and they would auction off these systems. And that this would be a way to pay for trade protectionism.

But that is not advocated here.

This is a temporary system. There is no provision for continuing it beyond what is needed just for this quick fix.

So we not only have something that we cannot implement and we are creating uncertainty where I hope the result, Mr. President, is that a lot of mills and apparel people in the United States just pull back because of the uncertainty, because it sure hurt a lot of businesses in my State, not only those who are involved in the importation but those who are involved in the apparel business, and I think it would have a dramatic impact.

You know, I hope this quota auctioning system is not going to be called the Business Closing and Anticompetition Act of 1988 because the fact is that many little retail outlets and businesses are going to be faced with some panic bidding, some profiteering, and some predatory practices.

I have to say, Mr. President, that I do not have a great deal of confidence in these people in the financial markets who run these commodity trading speculative schemes and things go up and down. I do not have confidence in them, and I do not like the fact that we do not regulate them a lot more than we do at the present time, and we are creating a new one.

A final point is this, that we have a GATT system, we have a Multi-Fiber Agreement. We are going to try and renegotiate it, and you know this quota auctioning system would violate articles 2 and 7 of GATT. These two articles prohibit the imposition of any charges or taxes which amount to more than an incidental user fee.

Maybe you can say that somehow because we are auctioning these things and people are bidding and they are coming in at different prices it is not a tax, but it is really a tax.

You are going to pay. It is just kind of a lottery as to how much you are going to pay.

Now, those who have championed this auction system of liberalized trade as substituting for flat-rate Government tariffs, like Fred Bergston at the International Institute of Economics, identified the danger, Mr. President, of applying quota auctions unilaterally in the textile and apparel section. Because if you apply these in this fashion, as Mr. Bergston writes:

> A unilateral conversion would violate the terms of the bilateral agreements which call for the exporting country to administer the trade restraints. It could lead to calls for compensation for the affected exporting countries and cause some countries to question the viability of the MFA regime itself. To implement an auction system, the United States and other developed country signatories to the MFA would need to establish a benchmark for their total imports of MFA products based on the average volume level of the last 2 years of MFA-4.

Mr. President, this just means we are going to have to hire some more people, and we are going to have to go out and be certain that this benchmark is accurate and we are going to have to expand this scheme and then go to our bilateral trading partners and say to them, "Well, now, we are going to do this. What are you going to do about it?" And then they are going to ask for some kind of compensation.

Mr. President, what bothers me is the ones that we will be applying this to, the kind of compensation they are going to want from us is the worst kind to have. They are going to go after us in our high-paying jobs. They are going to go after us and say they want to have tariff compensation in other areas—chemicals, high-tech products, and so on.

Mr. President, implementing a radical change in the textile and apparel trade with auction quotas is not something that the Senate should do unilaterally. We need careful thought and debate and we should not do this—though I am not critical of my good friend for wanting to avoid a budget point of order—but we just cannot do this to avoid a budget point of order. This quota auctioning provision was not in the bill reported without recommendation by the Finance Committee. The Finance Committee, so far as I know, has not held any hearings on this and how the systems work. It is not included in the House-passed textile and apparel bill.

I have tried to point out that it would be a bureaucratic nightmare to administer. Its costs are going to outweigh its gains because an auction quota is going to go above the price now and it is going to create a secondary market. It would violate our international obligations. And I do not know what they are going to demand from us in return for doing this. We should not be doing all of this to get by our budget requirement.

The answer is we should not and I hope we do not. This provision on quota auctioning deserves our careful attention and scrutiny. Failure to examine it carefully now will mean that the Senate is going to have to vote up or down on a proposal within a proposal that will tax American business. It will cost us jobs, it is going to raise costs to consumers, and it is going to break our international obligations.

Mr. President, I would say to the chairman—I notice the majority leader is on the floor—I am prepared to lay down my amendment at this time. It is amendment numbered 2859.

It is my understanding, Mr. President, that there is a pending amendment. I do not wish to interfere unless I can obtain—and I would ask the majority leader if he would obtain a unanimous-consent agreement and I would lay down my amendment under that.

Without yielding the floor, I would like to ask the question of the majority leader.

Mr. BYRD. Mr. President, let me respond by saying that if there is no objection, I would like to set aside the Gramm amendment. Mr. HOLLINGS is going to offer a motion to table that amendment at some point. I understand Mr. GRAMM wishes to have 5 minutes prior to that tabling motion to comment further on the amendment. But if we could put that amendment over, say, until 2:30 and, in the meantime, take up the amendment by Mr. ADAMS, and if conversation runs its course on that and it is not 2:30, we will set that amendment aside and have another amendment called up and have the votes begin running at 2:30 bang, bang, bang.

The PRESIDING OFFICER. Is there objection?

Mr. EVANS. Mr. President, reserving the right to object. I think that sounds fine to me. It is my understanding that Senator PACKWOOD—we are all running into problems of markups which are occurring. There is an important markup in Foreign Relations on the South African bill which will reconvene at 2:15. I understand that the tax technical will reconvene at approximately the same time. Senator PACKWOOD hopes that at some time between now and then he could come over and lay down an amendment he has that is of importance to him on footwear. I suspect the debate on this amendment will conclude before 2 o'clock. I would hope so. I think it probably does make sense then to stack those votes one after the other.

Mr. BYRD. Very well.

Mr. President, I ask unanimous consent that the Gramm amendment be temporarily laid aside and that the vote on the tabling motion thereto occur at 2:30 p.m., with 10 minutes, to be equally divided, for further debate on that amendment to begin at 2:20 p.m.; that, in the meantime, Mr. ADAMS call up his amendment and, if an agreement is reached to vote on or in relation to that amendment, either on the amendment or a tabling motion, if we could stack that one, or if there is a point of order.

Mr. HOLLINGS. Mr. President, I have talked with my distinguished colleague from Washington. I would be forced to make a point of order and then, if he moved to waive the Budget Act, I would have to move to table that. I would think that that would be the scenario.

Mr. ADAMS. I have discussed this with the floor manager. I did not know whether he wished to move or table or whether he wished to raise a point of order.

Mr. HOLLINGS. I would raise a point of order.

Mr. ADAMS. Then I will offer my amendment, I say to the majority leader, and the point of order will then be raised, and then we will dispose of that.

Mr. BYRD. Very well. If we could have that vote or votes on or in relation to the Adams amendment, a point of order, et cetera, follow immediately on the vote on the tabling of the Gramm amendment, we would have some stacked votes. Is that agreeable with the manager?

Mr. HOLLINGS. Yes.

Mr. BYRD. Very well. If this is entered, then the Senator from Washington may call up his amendment.

The **PRESIDING OFFICER.** Is there objection? If not, it is so ordered.

AMENDMENT NO. 2859

(Purpose: to strike quota auctioning program from S. 2662

Mr. ADAMS. Mr. President, I call up amendment No. 2859 and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2859.

On page 14, beginning with line 22, strike out all through line 6 on page 17;

On page 17, line 7, strike out "SEC. 9" and insert in lieu thereof "SEC. 8"; and

On page 20, line 19, strike out "SEC. 10" and insert in lieu thereof "SEC. 9".

The **PRESIDING OFFICER.** The Senator from Washington.

Mr. ADAMS. Mr. President, I would state with regard to this amendment that it is to strike the sections involving the quota auctioning system within the bill. This amendment would place the bill back into the form that has been debated in the House and has been debated in the Senate Finance Committee. I have discussed this with the manager of the bill, the distinguished Senator from South Carolina. I understand that, if he does not have these provisions in this bill, it can be subject to a potential point of order. I hope that there will not be a point of order raised, that we will strike this. This is a very, very bad section.

If it does remain in the bill, the bill has problems way beyond those that have been discussed in the regular course of action on this textile bill. It breeds a whole new system of auctioning, a whole new bureaucracy, and will violate our international agreements.

Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, the temptation is to characterize my distinguished friend's presentation as akin to the octopus's defense. When you do not have merits, the facts, or the law—like the octopus in the dark of water—you squirt out your ink and sneak away. And then I kept listening to my distinguished colleague and remembered he became famous for having recognized that when President Carter created his malaise.

President Carter went up to the top of the mountain and found the body politic in malaise. And my distinguished colleague commented against that malaise, at the time, in a very wise fashion. I am rather nonplussed, then, to watch him creating a quota malaise here on the floor, saying it has never been discussed by the Finance Committee—bosh.

It is in the 1979 Trade Act, passed by the Finance Committee, signed into law. Quota auctions have been authorized by three readings in the House, three readings in the Senate, signed by the President and on the book today.

Let us not say that this is a quick fix. On the contrary, it is a very deliberate and absolute fix, and it had to be checked through all the way around before we put it in.

It was checked through with the Parliamentarians in both Houses. I have discussed this already with the chairman of the Ways and Means Committee as well as the committee members over here on Finance, Chairman BENTSEN and the others. It has been explained to all and has been explained to me. I am not yet an expert on quota auctioning, but I know it is not complex.

They auction timber stump out in the State of Washington. We can go back to PHIL GRAMM, his mineral and oil leases; they auction them in Texas. They have a weekly auction at the Treasury Department of Treasury securities. But if you let my friend from Washington describe it, you cannot get there from here and you are going to start the Going Out of Business Act. I do not know who all is going to get put in jail. We had better deputize a posse to get all these criminals in Hong Kong and in New Zealand and Australia where they have auctions, or in the Treasury Department, where they will have them this week. They have auctions. It is not all that complicated.

Right to the point, yes, when we put in the original bill that we had in both Houses, the question was not raised—I thought it would be—on the House side. They have a rule.

The Senator is the former chairman of the Budget Committee. They do not make a point of order on the budget. You just get a rule and that waives the budget under the interpretation of the House. We have different rules for the budget, membership committees and everything else, on the House side. So they did not need a raising of revenues.

This Senator was not going to bring in a revenue question unless I was forced to do it. But, thereafter, when it came over on that rule and not complying with the budget, then it has been a moving target. I have looked at it. Article 2 has to do with tariffs, not any auction quotas.

Article 8 under GATT has to do with custom feeds, not with auction quotas. We have been through GATT. This is not a quick fix.

Oh, he does not criticize me. He knows why I did it. He would not object to my doing it, but there was a quick fix and there is a tremendous bunch of confusion and discombobulation.

Not so. Not so at all.

No, sir, we studied this one, and we have the up-to-date figure from CBO: $480 million. That is why later, at an appropriate time, I would raise that point under section 311(a) of the Budget Act. Because there, the former chairman of the Budget Committee knows better than I, it is going to knock out $480 million. Then you have to replace it with $480 million. He has not done that. He just put in the amendment. He forces me to raise the point of order.

I do not know whether he moved to waive the Budget Act or not. I would expect the point of order would be sustained and we have had to study this out. We did not go into it helter skelter.

Incidentally, when I say "studied it out," we had to reconcile and get all the textile and apparel people together. As the distinguished Presiding Officer knows better than any, the former Governor of North Carolina, you have got to get the apparel people, you have got to get the fiber people, you have got to get the woolens, you have got to get man-made fibers, cottons, the cotton farmers; you have got to get everybody together and it is not easy.

Northern and Southern people have different policies and whatnot.

So to reconcile it all the way across the board and have it agreed to, you do not find but a couple of these amendments allied to this particular situation.

I understand what is behind my distinguished friend from Washington. But the fact of the matter is that we passed it into law. It has been debated in the Finance and Ways and Means Committees for over 10 years, and at one time one of the principal opponents today, was then the principal proponent. He talks about Treasury like it would be a stranger.

There has been a book already mentioned. The name, Fred Bergsten, of the Institute for International Economics, "Auction Quotas and United States Trade Policy"; an entire booklet. Mr. Bergsten has appeared and testified in favor of auction quotas and he treats with all the different ramifications and says we are frittering away a fortune. We are frittering away a fortune, and he has measured it: 20 percent.

If I needed more than $500 million, I would have put 30 percent. If I needed less, I would have put 10 percent. It is not a quick fix. It is measured, studied through, authorized by law, in conformance with our bilaterals, in conformance with GATT, in conformance with everything. Because we certainly were not going to give the President of the United States a clear legal authority to veto.

And, of course, he had not. No one suggested repealing that section. The President signed it in 1979. It is in the law books today, giving the President authority under the Trade Act of 1979 to institute import auctions.

So I do not know what the disposition of my colleague is. There is no one I have greater respect for. He has had tremendous experience and, as I say, has led the way for budgetary responsibility in the national Government over the many, many years and he knows better than any. I would be derelict if I did not raise that point, but I do not want to raise that point if there is further discussion.

I yield the floor at this time.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I ask unanimous consent that the amendment be in order notwithstanding the fact it amends the bill in more than one place.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I listened with great interest to my colleague from Washington who I thought in a very effective way pointed out the difficulties in carrying out this particular portion of the act. Let me speak more broadly to the inequities of this whole concept to begin with. This gets right to the heart of the textile bill we are debating.

First, I might say to my colleague from South Carolina, apparently he believes, and we have not yet seen a specific letter from the Budget Committee as to the estimated budgetary impact of this particular provision, that apparently 20 percent utilization of an auction quota would bring about half a billion dollars.

Mr. President, maybe what we should do, if this is really such a marvelous thing to accomplish, is not just start with 20 percent, but go to 100 percent, and instead of half a billion dollars, we would get $2.5 billion and we would have $2 billion left over to reduce the Federal deficit, which I am certain my colleague from South Carolina, with his sponsorship of the Gramm-Rudman-Hollings bill, would believe would be an important and good thing to do.

If it is good for 20 percent of the quota, why is it not good for 100 percent of the quota and let us get some real benefit out of this in terms of reducing the Federal budget deficit?

Mr. President, it is not good for 100 percent of the quota; it is not good for 2 percent of the quota; it just simply is not good at all.

Let me start at the beginning. There is nothing that is a clearer evidence of the end results of tampering with markets than what has happened with this quota auction.

The same thing happens in New York City with the New York City cabbies. I do not think there are very many people who think that a New York City cabby has a splendid occupation that brings that cabby enormous income. But there is a limit on how many cabs there can be in New York City and, as a result of that limit, they have put them in short supply and short supply leads to an excess of demand over supply and that raises the price. As a result, the last time I checked, to get a medallion in order to run a cab in New York City costs something over $100,000. One cab. That is the result of tampering with the market.

We had what was called a voluntary restraint agreement with the Japanese on automobile imports. I spoke yesterday of the end result of that kind of artificial limiting of a market. The end result being an extraordinary cost to American consumers which went into the pockets not just of American automobile companies but Japanese automobile companies as well. They did not suffer under the voluntary restraint agreement. They made extra money at the cost of the American consumer. All that happened was that prices went up as the demand for those particular automobiles exceeded the supply.

Mr. President, this proposal in the bill is evil either way you cut it. Maybe it will raise the money the Senator from South Carolina suggests, but we do not know that. All we have is an estimate of the Budget Committee as to what will happen under this quota auction. It depends on the desires and future as made out by the various manufacturers here and abroad.

If it does not raise the money, then we face an additional deficit because it is very clear what the cost of this bill will be. That we know and know in some detail. That cost, of course, comes from the fact that at current tariffs on imported materials we are going to decrease the amount of those imports and, in doing so, decrease the revenue that comes from tariffs.

So we know the cost of the bill, but we do not know the revenue. Even if it works out that the revenue is there and that this really brings in the kind of money the Senator talks about, it clearly raises the cost of goods and it raises the cost of goods not in a miniscule way or a minor way, but in some of the auctions can raise it in a major way. Let me describe in rough terms what this means on certain items.

Last year, one of the hot items in the United States was cotton trousers. Cotton trousers are subject to a certain quota. There was more demand than there was supply, and so the quota price went up as various manufacturers vied with each other to get the ability to manufacture cotton trousers to serve an increasing market in the United States.

At one time that quota, particularly in the Hong Kong market, was over $8 per garment. That still does not sound like very much when you are talking to a consumer in the United States and the price they paid for a pair of cotton trousers. But the price to the manufacturer at that time was $7. The quota cost more than the value of the product itself. We ended up more than doubling the base price of that article of clothing and, of course, that doubling then gets added to by the percentages that each successive person in the chain adds to a price until it gets to the retail department counter and customers have the first crack at it. It potentially doubles the price that that garment might otherwise have cost.

The real evil of an auction system is that it is just simply reflective of what road we have started down with the excessive number of multifiber and bilateral agreements and the excessive protectionism that is already applied to the textile and apparel industry in the United States.

Briefly, Mr. President, just to follow through on some of the remarks my colleague from Washington made, if we proceed, in spite of the economic insanity of it all, with going down the road of limiting, limiting and in doing so raising prices, raising prices through these auction quotas, does the bill itself provide for a responsible way to institute those auction quotas?

In the first place, it sets a 20-percent limit or minimum both by volume and by value. There is no way until the volume comes along that the Secretray can know the values of those imports, and they are going to have to go substantially beyond that to ensure that they do not violate these provisions of law which we have set, both value and volume.

Is there any study the Senator from South Carolina or anyone else can point to that tells us through any kind of a responsible analysis or study what the economic consequences of such an auction would be, either to consumers, to manufacturers, to retailers or to any other element of this industry in the United States? Have those studies been undertaken? Are there clear and definitive results that tell us what will happen? I have not seen one, and I doubt that anyone can produce one.

Interestingly enough, Mr. President, the imposition of this particular auction section has the result—I am sure it was inadvertent but nonetheless the result—of eliminating at least 20 percent of the effectiveness of the so-called Daschle amendment, because if these quota auctions are to be distributed on an historical basis—I presume historical means along the same lines or in the same arenas that they have been in the past, and if that is the case those countries do not have to line up to buy agricultural products from the United States if in fact those quota auctions will be distributed on an historical basis.

Finally, Mr. President, this bill is a long way from passing and an even further distance from being accepted by the President, and so whenever it is accepted, if it is, and if it ever becomes law, there will be less than 3 months to implement the regulations for a horrendously complicated issue such as this. I cannot think of any better way to guarantee chaos in the industry and cost to the American consumer than to mandate this going into effect in such an irresponsibly short period of time.

Mr. President, I hope that our colleagues will recognize the inequities, not just the inequities of this particular provision of law and that it reflects so closely the bad features of this country attempting to unilaterally limit the kinds of imports to such a degree that we end up paying more for quota auction than we do for the price of the goods themselves. Something is wrong with our system when that is the end result.

Mr. DANFORTH. Mr. President, I just had the opportunity of having lunch with members of the Kansas City Chamber of Commerce. The Kansas City Chamber of Commerce is looking at the possibility of creating a world trade center for the purpose of promoting exports of American goods and services. How foreign this textile quota legislation now before us is compared to the can-do concept of the Kansas City Chamber of Commerce.

Within the last week or so I was in Caruthersville, MO, down in the bootheel of our State. They are in the process of building a new port authority on the Mississippi River. The people of southeast Missouri see exports as a key to generating new jobs and new economic growth in the region. How different this textile quota legislation now before us is from the concept behind the port authority in Caruthersville, MO.

A few weeks ago the President of the United States signed into law the trade bill which took years of hard work to achieve. A key objective of that legislation was to increase exports and make America more competitive in international markets. When we passed that legislation, we said in effect that America was not going to go the route of protectionism; that we can compete with anyone in the world provided the opportunities are there and that the rules are enforced.

The omnibus trade bill was designed to enforce the rules of international trade. How different this textile quota legislation now before us is from that landmark measure. Instead of enforcing existing rules and agreements in international trade, the textile quota bill now before us specifically violates all kinds of trade agreements.

And so, Mr. President, I rise today in opposition to S. 2662, the Textile and Apparel Trade Enforcement Act of 1988. This bill is an ill-conceived attempt to protect some at the expense of many, and it deserves to be defeated once and for all.

The important issue here is not whether we should protect the American textile industry. Indeed, few can deny that the industry has been severely challenged in recent years by low-priced imports. The real issue is whether the protection should be provided through a negotiated system of import restraints and effective enforcement of our trade laws, or through unilateral congressional imposition of quotas that violate our trade agreements and threaten the livelihood of Americans whose jobs depend on exports.

The textile and apparel industry is and will continue to be one of the most heavily protected industries in the United States. In addition to tariffs which are six times higher on average than those for other manufacturing sectors, the textile and apparel industry has long enjoyed and extensive web of negotiated protection. The industry has enjoyed increasingly restrictive quota protection for more than 25 years. In 1986, the Multi-Fiber Arrangement, MFA, was renewed for 5 years and extended to products not covered by previous agreements. This international agreement is complemented by 43 bilateral agreements with our supplier nations. In the case of our largest suppliers, these accords include strict ceilings on the average annual growth in imports. Overall, more than 90 percent of our low-priced textile and apparel imports are controlled by quotas.

I have always supported the MFA and have, at the request of the industry, written to the administration on numerous occasions to encourage both a firm stance during renegotiation of our bilateral agreements and strict enforcement of laws against unfairly subsidized textile and apparel imports.

Still, the industry believes it needs more protection. So be it. But a quota bill such as this is not the right way to secure that protection. While this latest version of the textile bill is somewhat less objectionable than the previous version considered by Congress in 1985, it remains fundamentally flawed in several ways. Its adoption could have devastating consequences on a number of fronts.

The bill, expanded now to cover Canada and the European Community, would lay waste to our negotiated commitments. It would violate the MFA by unilaterally imposing global restrictions on all products, and would force the abrogation of our bilateral agreements. In addition, it would violate the GATT escape clause by effectively granting permanent protection to a vast array of products.

Enactment of the textile bill would also damage our credibility in the multilateral trade negotiations currently underway in Geneva, and it would seriously undercut our efforts to secure a more fair and open trading system from American exports.

S. 2662 does provide for some compensation to our trading partners in exchange for the establishment of the quotas. But this compensation provision would barely offset a fraction of the bill's impact on our trading partners, many of whom have stated clearly that they would retaliate if the bill were enacted. Retaliation would likely be directed at competitive American exports such as farm commodities, chemicals, aircraft, and other machinery. This would have a devastating impact on my State, where one out of nine manufacturing jobs and one-third of total farm income depend on exports.

In an attempt to respond to concerns about possible retaliation against U.S. agricultural exports, proponents of the bill added a provision that would require the Department of Commerce to give preferential textile quota shares to countries that increase their purchases of American farm products. This measure is billed as an incentive—in the form of an expanded textile quota—to buy more American agricultural commodities. But I do not believe that this proposal would achieve what it is supposedly designed to do. Instead, it is more likely to result in retaliation from those countries that will necessarily face quota cutbacks in order to offset increased quota shares awarded to others. Even those countries that might "gain" from enhanced quota levels would still likely receive shares below the levels entitled to them under existing agreements.

Despite the addition of the so-called Daschle provision, many major farm groups continue to oppose the textile bill, including: American Farm Bureau Federation, National Grange, American Soybean Association, National Association of Wheat Growers, Millers' National Federation, North American Export Grain Association, National Soybean Processors Association, National Turkey Federation, Agricultural Trade Council, and United Fresh Fruit and Vegetable Association.

The farm groups alone in opposing the bill. Other opponents include: American Business Conference, National Retail Merchants Association, American Retail Federation, Computer and Business Equipment Manufacturers Association, American Association of Exporters and Imports, and the May Company. The list goes on and on.

The textile bill is also a revenue loser. To offset this fact, the revised version of the legislation includes a provision to establish a pilot quota auctioning program during the 1989 calendar year. The President already has the authority under current law to establish a quota auction program if he deems it appropriate. Mandating this type of arrangement, even on a trial basis, would be unwise for several reasons. Its execution would be a bureaucratic nightmare, and it could result in predatory practices, excessive market concentration and chaotic shifts in supply. For precisely these reasons, the conferees on the omnibus trade bill rejected a similar pilot program, agreeing instead to add auctioned quotas to the list of the President's remedy options under section 201.

Finally, the textile bill would carry a hefty price tag for American consumers. The President's Council of Economic Advisers estimates that the bill would raise consumer costs between $25 billion and $37 billion over a 5-year period. The burden of this bill would be especially heavy on low- and middle-income consumers.

I am especially sorry to see that the domestic footwear industry decided to hitch its wagon to this protectionist legislation. No one knows better than I do that the dramatic increase of footwear imports in recent years has had a devastating impact on domestic production and employment in this important sector. I have watched footwear-related employment in my State decline percipitously—dropping 25 percent between 1980 and 1986 alone—while imports have grown to capture more than 80 percent of domestic market share.

I have long been at the forefront of efforts to help the footwear industry regain its ability to compete with foreign suppliers. In 1984, the domestic shoe industry sought relief under section 201 of the Trade Act of 1974. When their request was turned down by the International Trade Commission [ITC], I succeeded in changing the law—by liberalizing the rules under which injury from imports is determined—to give the industry another chance. The case was refiled at the beginning of 1985, and the ITC subsequently issued a unanimous finding in favor of the industry and recommended that the President grant the industry import quotas for 5 years. I testified before the ITC on behalf of the shoe industry twice. Unfortunately, in the summer of 1985, the President rejected the ITC's recommendation. This decision had major implications: It told our domestic industries that playing by the rules wasn't worth it anymore. The shoe industry followed the basic legal remedies available through our trade laws, doggedly pursued a very compelling case—and still came up short. This decision essentially gutted section 201, thereby destroying the only effective mechanism Congress had for deflecting protectionist pressure from politically powerful sectors.

As a result of this misguided decision, revitalizing section 201 became a top priority in our efforts on the omnibus trade bill. I believe that in this regard, we have succeeded handsomely. The new law emphasizes positive adjustment to changed competitive circumstances and increases the likelihood that the President will provide temporary relief to those industries and workers truly in need. Under the statute, domestic industries seeking relief from imports will be required to show serious injury and demonstrate that they would become competitive if relief were granted. If the ITC agrees with the industry's case, the President will be required to take all appropriate and feasible action—in the form of trade or adjustment measures—that would facilitate this adjustment, unless he determines that the costs would outweigh the economic and social benefits of relief. The compromise on section 201 carefully balances a stronger certainty of relief with greater Presidential discretion to determine the form of relief. I firmly believe that if the shoe industry were to refile its case under the overhauled section 201 statute, they would finally secure the relief they have long been denied.

The textile bill is protectionism at its worst. It runs directly counter to the concept of reciprocity which we just overwhelmingly endorsed in the new trade bill. That legislation, which is now the law of the land, emphasizes enforcement of our trade agreements. But the textile bill would have us violate those agreements. Thanks to the trade bill, we have a revitalized section 201 process and stronger antidumping and countervailing duty laws on the books. But the textile bill ignores the existence of these important laws. The textile bill would impose excessive costs on many—in the form of lost exports, lost jobs in export sectors, exorbitant consumer costs and lost opportunities to create a more open international trading system—for the sake of protecting a few.

Congress has an important role to play in strengthening U.S. trade policy, and I believe we exercised that right responsibly when we finally adopted the omnibus trade bill earlier this summer. The textile quota bill is the first trade-related measure we have considered since the omnibus trade bill became law. Adoption of this ill-conceived textile legislation would completely undermine our efforts to create a coherent, aggressive trade policy based on reciprocity. Major successes such as the omnibus trade bill don't come along every day. We should not throw it all away by adopting a protectionist quota bill before we even begin to enjoy the fruits of our efforts.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Senator ADAMS' amendment is the pending business until 2:20.

Mr. PACKWOOD. Mr. President, I think this has been agreed to. I ask unanimous consent to set aside the pending business so that I might call up an amendment related to footwear.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2861

(Purpose: To exempt athletic footwear from the footwear quota)

Mr. PACKWOOD. Mr. President, I call up Amendment No. 2861.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment numbered 2861.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SEC. . EXEMPTION OF ATHLETIC FOOTWEAR FROM QUOTA.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, any provision of this Act (other than an amendment made by this Act to another Act) which imposes a limitation on the quantity of footwear that may be entered shall not apply with respect to athletic footwear.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "athletic footwear" means—

(A) nonrubber footwear of special construction for specific sports, including baseball, softball, football, soccer, golf, track and field, skating, wrestling, boxing, weightlifting, gymnastics, cycling, bobsledding, parachuting, or skiing, and

(B) nonrubber footwear not dedicated to a specific sport that is designed and construed for—

(i) playing tennis, basketball, racquetball, volleyball, handball, squash, or any other court game, or

(ii) physical conditioning activities including, but not limited to, running, jogging, training, or aerobics,

whether or not used for such purposes.

(2) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

Mr. PACKWOOD. Mr. President, this bill has been referred to as the textile protection bill, and indeed it is that. But there is a significant section in it relating to footwear. It has an anomalous provision. There are two kinds of footwear in the athletic shoe business—rubber footwear and nonrubber footwear. Rubber footwear is normally a cheaper shoe—a thong, a sandal, perhaps a rubber bottom with a canvas top. It usually has a lower-end sale price and is a relatively flimsy shoe. There is some domestic manufacture of rubber footwear in this country.

The bill does not put any limitation on the imports of rubber footwear.

So if the argument of the sponsor is correct that this bill is designed to protect domestic employment, it does not protect the domestic employment of the rubber footwear industry.

The other athletic shoe, the nonrubber, is basically the kind we see now in most of the stores. They usually have a rubber bottom and a leather top or leather and vinyl top and are more expensive. It is the shoe that has grown the fastest in the last few years. It has become stylish. It has become a booming business.

Two of the leading companies in the United States in this nonrubber athletic footwear business are headquartered in Oregon. One is Nike, which is well-known throughout the world, and the other is Avia. Both are high-caliber, high-class companies. However, almost all of the nonrubber footwear sold in the United States is manufactured overseas. For all practical purposes, there is no domestic manufacturer of nonrubber footwear.

The estimates are that somewhere between 1 percent and 3 percent of the nonrubber athletic shoes sold in this country are made domestically, and they are not manufactured from scratch. It is an assembly of imported components. So, from a manufacturing standpoint, for all practical purposes, there is no domestic industry.

If the argument is made that tariffs and quotas protect jobs in the United States, there are not jobs to be protected in the manufacture of these products. There is in the distribution part. Avia and Nike, to use the two examples headquartered in Oregon, have immense operations in this country. I do not mean the kind of coolie labor referred to, people sitting at machines, paid 25 cents an hour.

Nike has over 2,500 employees in this country, and many are in Memphis, where there is a distribution point for the entire United States. Avia has more employees in the United States engaged in advertising, distribution, sales, and all the things that go with the distribution of such a product, than all the employees involved in the manufacture of these shoes in the United States by all the other companies that make them.

So there is nothing to be gained, in terms of the protection of jobs in the United States, by putting a limit on the import of this nonrubber athletic footwear—no jobs. But this bill not only puts a limit; it does not even have a 1-percent increase. It puts a flat limit and says what was imported last year is the limit.

What happens? We have seen this with the Japanese cars and restraints on cars. You are importer of these shoes and you look at the market and think it is increasing 2, 3, 4, or 5 percent a year. But you are suddenly limited to the number of shoes that can come into this country as to what was brought in last year.

As this market grows at 4 or 5 percent a year, what are you going to do? Which shoes will you bring in? If you brought in a hundred shoes and if now there is a market for 105 or 110, which ones will you bring in? You will bring in the ones on which you make the greatest profit. As with automobiles, those are the higher-priced shoes.

When we put the restraints on Japanese cars in 1981, most of us can remember when you could buy a Honda, Datsun, or Toyota for $5,000 or $6,000, but as soon as we put the restraints on the Japanese, they got rid of that line. What you buy now are Hondas or Toyotas or other Japanese cars that cost $10,000, $15,000, $20,000, or $25,000, which, ironically, has left a major market for Hyundai, which has cars for $5,000, $6,000, or $7,000, because they are not subject to those restraints.

Talk about a tax on consumers: This is a back-to-school tax.

I do not know how many parents in this country have to go through two, three, or four pairs of this footwear every year. Junior wears them morning, noon, and night, practically goes to bed with them. They wear out fast, you buy another pair. There is not a mother in this country who does not shop for the best value she can get when she buys these Keds, as the Chair and I used to call them. The cost goes up.

We will not be protecting a single American job. All we will succeed in doing is driving up the cost of this particular kind of shoe that is not made in the United States.

Mr. President, I have spent a considerable amount of time in the last year working with the Government of Korea on the issue of french fries. Oregon exports lots of french fries, but we had been unsuccessful in being allowed into the Korean market and wanted to be in it prior to the Olympics. We have successfully concluded an agreement. Those going to the Olympics will be eating a fair amount of Oregon french fries. If I meet with the Korean Ambassador, I will say: "I want to thank you very much. You helped out my State and my companies making french fries. I appreciate your dropping your unfair trade barrier on french fries."

Then I have to say: "By the way, Mr. Ambassador, I apologize for our putting up the unfair barrier on the shoes you make under the Nike label, under the Avia label, and send to our country. We are going to put up a barrier even though we will not protect a single American job."

That puts me in an untenable position when I am trying to argue the interests of companies in my State.

I can tell you this: We talk about high-value companies, being on the cutting edge of technology. Go through one of these Nike or Avia plants and take a look at the design or how rapidly they lay out new shoes. That is the kind of industry we want to be attracting to this country and to keep in this country; not low-end, sweatshop labor, but high-end thinking, imaginative, creative design, sales and distribution.

I helped open the new Nike distribution plant in Oregon, and it is as fascinating a plant as you will see in this country. I want to keep those companies headquartered in Oregon. I want to make sure we do not have this back-to-school tax that will penalize every parent of every child from 4 to 18 to 22 in this country who wears these shoes and goes through two, three, four, or five pairs every year.

Let me close by saying this: We are not going to protect any American job by putting a limit on the import of nonrubber athletic footwear. There is not a single manufacturer of that kind of footwear that is asking for this protection. The textile industry is asking for the protection. Nike and Avia are not asking for this protection. So no jobs are to be saved.

Two, once we put the limit on and say 100 is the limit, that is all you can ever import, there is no question but what the cost is going to go up as the market demand goes up, and they will send the higher end shoes and the higher end shoes that cost a little bit more money and cost a little bit more money.

And last, Mr. President, when any of us are trying to argue with countries overseas, whether it is Korea in French fries or Korea in insurance, as we argue with Korea in insurance, or Japan in beef or the European Common Market in citrus, it makes it very difficult and embarrassing for us to argue about free trade or freer trade or getting rid of unfair trade barriers, reciprocity, or pull down the barriers on both sides for the benefit of the consumers on both sides when we then turn around and say but we do not mean nonrubber athletic shoes; on those we are going to put up a barrier to no end, to benefit no one in this country, tax the consumers, hamstring America's most competitive countries in this business, the Avias and the Nikes of the world and achieve absolutely nothing in terms of the protection of anything in the country.

So, Mr. President, of all the amendments we have had so far I would encourage the Senate to adopt this amendment, which absolutely guarantees that shoe prices will remain as low as possible and absolutely guarantees that there will not be a single job lost in the country if the amendment is adopted.

I thank the Chair and yield the floor.

The **PRESIDING OFFICER**. The Senator from Alabama.

Mr. **HEFLIN**. Mr. President, I rise to support this bill. I vigorously supported textile legislation 2 years ago when it was brought to the Senate floor for a vote and I have not changed my position on this legislation. In fact, I see more reason to support this bill now than I did 2 years ago.

Sometimes I think people relate the word "textile" to the big mills, but in almost every State in the Nation there are cut-and-sew operations which are part of the textile and apparel industry. Some of these operations employ 50 people; others employ 100 or 150 people. These small textile and apparel plants are really the backbone of the economy for small cities and for rural America.

I have seen, by going into these plants, the way the average textile and apparel worker works. Most of these companies have had the foresight to put their workers on an incentive plan, compensating them on a piece-by-piece basis and if you are a U.S. Senator, a politician who goes into the textile mill or the apparel plant, you find that these workers will smile at you, they are glad to see you, but they do not really want to take the time away from making that extra piece to shake your hand. They are interested in greater productivity because it means more dollars to them. I doubt if there is any industry in the world where you can find a greater incentive to increase production than there is in today's American textile and apparel industry.

This incentive basis of compensation has created in these workers the knowledge that "If I work harder I will make more money," but then all of a sudden, they realize that "Regardless of how hard I work, how many hours I put in, how many pieces I sew, my job is vanishing, vanishing because of wages as low as 25 cents an hour in some countries, vanishing because of unfair trade."

I am reminded of a story of a lady who got on an airplane in Dallas, TX, coming to Washington, DC. She had to go through Atlanta. Most of us who travel in the South figure that if you are going to heaven or hell you still have to go through Atlanta. Anyway, this woman was about 65 years of age and she sat down next to a gentleman who was about 70 years of age. They began to talk. Their conversation was quite animated. She found out that he was going to Washington, DC, also and when they changed planes in Atlanta, they sat down and had a cup of coffee together. Then they got onto another plane, sat together, came on up to Washington, DC, got to be quite friendly and as they were nearing Washington, about to land at National Airport, she patted him on the leg and said, "You remind me of my third husband."

"Oh," he said "is that right?" He says, "How many times have you been married?" And she said, "Twice."

Now, I would say that woman had great expectations of what might occur and just imagine how this woman's excitement and enthusiasm would be replaced by a feeling of despondency if that man had replied "Oh I hate to tell you but I am already married."

Well, the American textile workers feel that despondency after working hard, increasing their productivity and then being told, "I hate to tell you but your job has been taken by unfair trade."

I think this story sort of illustrates the rise and fall of hopes which has been experienced by the American worker. I think that the American textile worker, the American apparel worker, has great expectations as he puts in the extra energy and spends the extra time to do a competent job.

(Mr. DASCHLE assumed the chair.)

Mr. **HEFLIN**. Mr. President, when it comes right down to it, our workers are losing their jobs because of the tremendous difference in the wages they are paid compared to the wages paid to workers in certain other countries. In Hong Kong textile workers are paid $1.40 an hour. In South Korea, they are paid $1.53 an hour. In India, they are paid 40 cents an hour and in Bangladesh, they are paid 25 cents an hour.

Mr. President, we talk about the minimun wage which currently stands at $3.35 an hour in our country. But how does that compare with 25 cents an hour?

In considering this issue, it also occurs to me that we have tied in tandem two industries, the apparel and the apparel-related textile industry and the footwear industry when actually, these two industries should be evaluated separately in order to discover the damage which has been done to each industry and in order to forecast the futures of each of them.

With respect the domestic footwear market, we have now reached a point where 82 percent of the shoes sold in the United States are produced in foreign countries. Yet we have taken no action to help this industry.

Now, if it the import penetration level rises to 92 percent, do we take no action? If it rises to 99 percent do we take no action?

With respect to the domestic textile and apparel market, the import penetration level has now reached 54 percent. If it to be 64 percent, do we sit back and do nothing? If it to be 74 percent, do we sit back and do nothing? Or do we just say we'll let those industries vanish, let them vanish just like that lady's idea of a third husband might vanish when she found out that man was married."

And this is a trend that is developing. I do not think you can point to past history but you can point to the future, and basically it comes down to what do the workers in certain countries make.

So I think you have to look at this situation in terms of the direction our textile apparel and footwear industries are heading. If the footwear industry is any indication, and I fear it is, then we are in real trouble.

At some time, we have to take action and I think the time has come. This is a reasonable bill, a bill which should be adopted, should be signed, and in the event that the President does not sign it, should become law by overriding the veto.

So I think you have to look and see that imports from these and other low-wage countries, imports which are often produced in working conditions that would be considered illegal in this country, with workers being paid what might even be considered to be slave wages, are a continual threat to the jobs of productive American workers trying to make a living.

It is a reasonable bill which has been carefully drafted and revised. It contains provisions which would develop increased incentives for other countries to increase their purchase of U.S. agricultural products. To me, it is a bill which has set forth a good policy relative to agriculture.

So I hope that the Members of the U.S. Senate will consider this—consider the footwear industry, its history and the similar history which is developing with respect to textiles and apparel. Does there have to be a calamity or a depression before we take some action to save these industries? I hope not because American industries and American workers cannot wait that long for our Government to demand fair trade. Free trade is important but so is fair trade. So let us sound a voice that will be heard around the world—a voice which will let our competitors know that we will settle for nothing less than fair trade nothing less than our country deserves.

Mr. President, year after year, the declining health of our Nation's textile and apparel industry has been discussed on the Senate floor. In 1986, both Houses of Congress saw the wisdom of passing legislation which would slow down the give-away of our domestic textile and apparel market. Unfortunately, the President vetoed that bill, setting the stage for another year of record-breaking imports of textiles and apparel into our country.

Every time we come to the floor about this issue, the figures are more startling, the statistics more appalling and the damage done to our domestic industry more severe. For the past 6 years, the average annual textile import growth rate has been 17 percent per year. This growth rate has resulted in an import penetration level of 54 percent for apparel and apparel-related textiles while import penetration in the U.S. footwear market has now reached 82 percent.

If imports continue to grow at this rate, there could be little or nothing left of our domestic textile and apparel industry the next time we come to the floor to discuss this issue. It is clear that unless import growth is reduced to our market growth rate, the domestic industry and its workers will continue to be injured.

This bill calls for a global quota system that would hold imports of textiles and apparel to their record-shattering 1987 levels, with a 1-percent annual increase. Despite some recent improvement, the long-term trend in world fiber demand is one of slower growth. In developed countries as a whole, the annual growth rate during the last 10 years has been less than 1 percent; in developing countries, it has barely kept pace with population growth and in the last few years has fallen below it. When you consider that this dramatic acceleration of import growth—almost 20 percent a year—is being thrust into an American textile and apparel market whose growth has risen less than 1 percent annually, it is no wonder that the industry's health is declining.

Mr. President, the American textile and apparel industry is the world leader in productivity and efficiency. Nobody makes textiles faster and better than we do, largely because of our industry's long-term commitment to modernization. Since 1980, the industry has invested $17 billion in modernization, an average of $2 billion per year. During that same period of time, the industry has invested some $18.9 billion in new capital spending. Today, fully 70 percent of American textile facilities were installed within the past 10 years.

In addition to efficient facilities, the textile industry employs some of our country's most efficient workers. The average increased productivity of the textile worker for the past 10 years has been 4.6 percent compared to the national average of only 2.7 percent.

Despite the fact that the American textile and apparel industry has invested billions to modernize and improve productivity, it still cannot compete with foreign producers who pay their workers well below the U.S. minimum wage.

As many of my colleagues know, some 350,000 textile and apparel jobs have been lost since 1980. Despite these tremendous cuts in employment, our Nation's textile and apparel industry still manages to employ 2 million people and registers as the largest manufacturing employer of women and minorities in our country. I do not need to tell my colleagues how valuable these jobs are to the 2 million people who hold them, to the families they support, and to our Nation's economy.

Mr. President, we cannot allow this industry to suffer further before we take some action and this bill will enable us to address this problem in a responsible manner. It does not discriminate against any particular country, it grants the administration full flexibility within the global limits, it is consistent with the GATT, and there is no rollback of trade.

The bill also contains an important provision providing preferential treatment in the allocation of the 1-percent annual increase in imports to those nations that increase their purchases of agricultural products from the United States. After years of other countries keeping their markets tightly closed to U.S. products and agricultural goods while they flood our market with their textiles and apparel, I think it is high time we use access to our market, the largest market in the world, as an incentive to other countries to open their markets to our products.

Mr. President, the time has come for our Government to slow the relentless flood of imports which threatens an efficient, productive industry and its 2 million productive workers. I urge my colleagues to support this bill and our domestic textile and apparel industry.

Thank you, Mr. President.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. Mr. President, will the distinguished Senator from North Carolina yield to me?

Mr. SANFORD. Certainly.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote that was to occur at 2:30 today occur at 3:15 p.m. today.

This would mean that the 20 minutes—and I would like to change that from 3:15 to 3:20.

Mr. PACKWOOD. Mr. President, I do not object, but I thought there was 10 minutes of debate at 2:20 prior to the 2:30 vote.

Mr. BYRD. No, that was 20 minutes' debate. Was that not 10 and 10?

Mr. PACKWOOD. It was 5. You would want to set that at 10 to 3 if you were going to vote at 3 o'clock.

Mr. BYRD. Twenty minutes equally divided is what I was thinking.

Mr. PACKWOOD. I have no objection to setting the vote at any time you want to set it, but to just set that 10 minutes ahead of time because I believe the proponents wanted to talk for 5 minutes.

Mr. BYRD. I wanted to do the same thing, but I am under the impression that it was 20 minutes instead of 10.

The PRESIDING OFFICER. The record shows that there is 10 minutes of debate ordered on the amendment set aside, 10 minutes in total.

Mr. BYRD. All right. That I ask unanimous consent that the vote that was to occur at 2:30 begin running at 3:10, and that the 10 minutes for debate, equally divided, begin at 3 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, when Mr. SANFORD and Mr. PACKWOOD finish discussing this amendment, it is my hope that we could get up the Treasury-Post Office appropriation conference report and hopefully dispose of that without a rollcall vote. Mr. DECONCINI and Mr. DOMENICI are ready to do that. They felt they could have a short debate and we could dispose of that, unless a Senator wants a rollcall vote.

I am not trying to delay the distinguished managers on this bill.

I ask unanimous consent that the time that is consumed on that Treasury-Post Office conference report come out of the 30 hours on this bill.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

Mr. SANFORD. Mr. President, I have remarks I would like to make about the textile aspects of the bill generally and I will do that before the final vote, but the distinguished Senator from Oregon has raised an issue I would like to address now. The Senator from Oregon's remarks regarding the production of athletic shoes in this country has compelled me to raise some additional points. Primarily, I am compelled to question the Senator's assertion that there is no domestic production of nonrubber athletic footwear and that no U.S. jobs would be affected if athletic footwear were eliminated from this bill. There is indeed a large manufacturer of leather, nonrubber athletic shoes, as well as rubber shoes, in North Carolina, one whose name the Senator and I will both remember from years past, that is the Converse Corp. They have 2,000 employees in Lumberton, NC, making 35,000 to 40,000 shoes a day, many of them athletic leather, nonrubber shoes.

In addition to that, I am told that there are some 8,000 to 9,000 producers of athletic footwear in the United States from Pennsylvania to Florida to Georgia and to Maine. Certainly Converse is an important corporate citizen of North Carolina.

Mr. PACKWOOD. Could I ask the Senator a question, because I think we might be laboring under a misimpression.

Mr. SANFORD. Certainly.

Mr. PACKWOOD. As I understand it, the Converse shoe, of which I still have some old ones around and wear from time to time, is not a nonrubber shoe. It is classified as rubber footwear, am I correct?

Mr. SANFORD. Converse makes both rubber and nonrubber footwear in North Carolina. Some of their shoes are classified as rubber footwear, but others including leather upper and some nylon shoes, are classified as nonrubber footwear. They make shoes competitive with Nike.

Mr. PACKWOOD. I thank the Senator.

Mr. SANFORD. I would assume that Nike and others would have some options under the present legislation, since it is my understanding that while the quotas are global quotas, the President has an opportunity to allocate those quotas differently if the President so desires or as manufacturing shifts location. I think the reason that quotas for shoes were frozen as distinguished from the textiles where there is a provision of 1 percent a year increase is because almost all shoes now are indeed foreign made. And, if there is to be any advance in footwear productivity at all, it almost has to be in the some 17 percent that is left to the United States. Foreign imports take up 83 percent of the domestic shoe market, and that, perhaps, was the committee's thinking in not providing for an increase. But no company is absolutely frozen because the President does have authority to shift within the global quotas.

Mr. President, I will address other aspects of the bill later, but I did want the record to show that there is an important, although dwindling, segment of the manufacture of athletic shoes, nonrubber, in the United States and especially in North Carolina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, in listening to the distinguished Senator from Alabama speak some time ago, he talked about the wages in Hong Kong in the textile factories and how could we compete against those wages, and I will give a couple of examples of how we can compete in other industries and do compete in other industries against comparable wages in similar industries.

Come with me to Mentor-Graphics in Beaver, OR, just outside of Portland, a company that did not exist before 1979. It was formed in 1980. It did not make any sales, as I recall, until late 1980 or 1981. In its first year it may have had sales of, I will take a guess, $10 to $15 million, none of them overseas.

What the company makes are what we call CAD/CAM machines, computer-assisted design, and what they enable a company to do, instead of making a model of a product and test it, is to, in essence, make the models on a computer and test it on the computer so that you do not have to go through the labor of remodeling and remodeling and testing and retesting.

This company is in the electronics business and clearly there are electronics industries in Malaysia and Bangladesh—unless they are under water now—and certainly Japan and Korea, that pay their laborers comparable wages to what is paid in the textile industry. Yet this company in Oregon, as I recall now, has sales last year of over $800 million. I may be even under on that figure. I might be talking about the year 1986 rather than 1987. Over half of their sales are overseas; 50 percent of their gross, overseas sales, on a product manufactured in Oregon.

When I asked them how can you compete against these wages of 25 cents an hour or $1.25 or $2.10, they say wages are not the critical factor in our worldwide competition; it is being 3 months, 6 months, 1 year if possible in this business, ahead of the competition in design, in thinking, in creativity.

Or, come with me to Bend, OR, to a company called Advanced Power Technology. Here I will have to describe in lay terms what it is they do because it is a complex type of equipment, using silicon, fashioning the silicon into, for a lack of a better term, a switch that switches electricity.

As we are all aware, when a motor starts, there is a surge of electricity and then it steps back. Where you see this in tremendous quantities is in electric utilities, where you have tremendous surges of electricity, one way or the other. And the quicker that you can switch the electricity, the more money you can save, so that you are not wasting electricity.

It has been within the last year. They had been going for 3 years without any sales nor did they plan to have any sales for 3 years. They found some venture capital. And what they have invented is literally in the electric switching business, a better mousetrap.

If the existing switch, the state of the art, on the market 2 years ago would switch a thousand volts in a second, this switch will switch a million volts in a hundredth of a second.

I cannot remember, I think I have the nationalities mixed up, but it was either a French or German president of the company and if it was a French president, it was a German chief of engineering or vice versa. And I said how on earth did you get the money to put this company together and how could you go for 3 years and know when at the end of the 3 years you put together what you knew you could put together you would still have the market for it?

They said, well, to begin with, there are only three or four companies in the world that make this. We are all familiar with each other and the work each other does and we knew if we could put this switch together that we are designing we would, indeed, have a leap on the market and would be able to make sales and profits and we just had the confidence we can do it. We were able to attract the investors that gave us the money to do this.

Then I said to them: Why on earth, out of curiosity, have you located in Bend, OR? It is in one of the beautiful towns in Oregon. It would remind you of Denver a century ago, high mountains along one side of town and plains in the other direction. But it is 135 miles from Portland. It is not on any water, in terms of waterborne commerce. It has a good airport.

But you would think to yourself not only have they chosen not to locate in

Portland, which is the hub of Oregon in the sense of commerce, they have gone 135 miles away, but how could a company like this afford to locate in the United States? It is a highly technical company making something that could just as well be made in Singapore, Korea, or Pakistan.

The president said to me, again, the principal costs that we face are not labor costs. You see that machine right there? And he points to a little machine about this size, maybe 18 inches by 18 inches. And he said, what do you think that costs? He said, well, that costs about $300,000. I said, what is the useful life of it? He said, well, if you mean how long could you physically use it, he kind of shrugged and said, 15 years, perhaps; but if, he said, if you mean how long is the actual life of it in the business we are in; 3 or 4 years. He said that machine costs $300,000 to $400,000 whether you buy or use it in Singapore or Bend, OR. We do not save any money going to Singapore to manufacture a product which, very frankly, the initial sales of which would be in the United States and Western Europe.

He said, we could have located anyplace and our costs would be relatively stable. We chose to locate in Bend, OR, because we like the climate, we like the people, they were receptive and we can compete worldwide from a relatively modest size town in central Oregon, all over the world.

So, when the stories are presented about we cannot compete in this country, we are being driven out by coolie labor in Asiatic countries who will work under the most slaving of conditions, 8, 10, 12 hours a day, 60 hours a week, Mr. President, it just is not true.

Oregon has become, in the last 10 years, the eighth largest center of electronic manufacturing in the United States for a State that, in terms of population, does not rank in the top 8, 10, 15, 20, or even 25 in this country. And it is not only domestic investment. We have Japanese companies there, NEC recently located there. We have a number of Japanese companies manufacturing there.

Mr. President, it can be done. If you are willing to say to yourself: Where is the world going to be in 5, 10, 15, or 20 years? What are the coming products?

I was fascinated with a trade conference I was at in Williamsburg 2 years ago. There was a particular representative there, an American, who represented some Japanese interests. One of the companies he represented was a company that was in the steel and the auto business. He did not say which combine but if it is steel and autos it can only be one of four combines in Japan.

He said he had been to their company meeting about 3 months earlier in which they were deciding where they were going to be in the year 2000 and he said it was a fascinating process. This was then 13 years out they were talking about.

He said, one, in the year 2000 they plan to manufacture all of their cars for the northern American market in the United States. They had not yet decided whether they would manufacture in the United States for markets in Europe or elsewhere, but for the north American market which is their biggest market, bigger than Japan, they would manufacture all of their cars here.

Why? Why come here and manufacture if there is cheap labor in Korea? Korea makes a good car. They make a Hyundai. India is making cars. Why not go there? And they said no, we have discovered the American worker is as good as any other worker. We have discovered the bulk of the market is in the United States. We have discovered if we make a good car in the United States it is cheaper and better for us to make it where we are going to sell it. So they make it here, despite differences in wages. But I was even more intrigued with the fact that the company had decided by the year 2000 to get out of the steel business.

I said: "You mean they are going to let it go to Brazil, India, or someplace else?" In this area they cannot compete because of wages.

They said: "No, they think steel is a declining business that has no significant future, and they want to be out of it."

I said: "Are they getting out of materials altogether?

They said: "No, they are not getting out of materials. They are going to go into ceramics."

I kind of laughed and said: "You mean flower pots?"

He said: "No, they mean ceramic engines instead of steel engines. They think that is where the cutting edge of technology is going to be."

I tell this story only to relate it to the story I read in the Financial Times, the London publication, just 2 days ago. In the middle of the paper there is a story on the Rolls Royce, and it says, "Rolls Royce Looking Toward Ceramics." They were not talking about Rolls Royce cars. They were talking about the aircraft engines that Rolls Royce makes and the tremendous temperatures and thrust they are trying to develop and the requirements aircraft manufacturers are putting on the engine manufacturers to make the engines more efficient, run at higher temperatures, to be able to withstand higher temperatures, deliver more thrust and have less weight. Rolls Royce thinks they can do it with ceramics. They think it is 10 or 15 years out, but they are going to move in that direction.

Mr. President, that is the kind of thinking this country needs. Instead of thinking how can we save a relatively low-wage job in an old industry that we have been trying to protect for the better part of two centuries, is that not something we can do better, think better, create better, sell better than anyone else in the world and do it in this country? And the answer is yes, yes, yes. We prove it every day around this country. We prove it, as a matter of fact, in the State of the principal sponsor of this bill. His State has one of the best research triangles in the electronics industry in the country, both South Carolina and North Carolina.

It can be done anyplace, if you believe it. There is no limit to what we can do in this country if we believe it. But if we wring our hands and say Portland, OR, cannot compete with Pusan, Korea; Bend, OR, cannot compete with Seoul—I suppose Koreans must have this problem because they pay, comparatively speaking, in Asia better wages than some of the other lesser-developed countries. I suppose they say in Korea, "Oh, dear, we can't compete with Bangladesh; we can't compete with Pakistan."

I will close with a story. In fact, it comes from the same town, Bend, OR. It has to be 10 years ago now.

A young fellow decided that he wanted to build a museum in Bend. Bend is 145 miles from Portland. It is a desert country; mountains on one side, desert on the other; relatively dry climate. When he talked to me about it initially, I said I think of Picassos and Monets. He said, "No, I don't mean art museums in that sense. I mean basically a desert museum. Something in harmony with the land." It is called the High Desert Museum.

No one thought he could do it. This kid was 25 years of age at the time. The first thing he had to do was convince the local newspaper and then convince the local establishment of the metropolitan area of Bend, which probably was in the area of 50,000, 60,000 that he could do it. He had to make them believe it. Then he went throughout the State of Oregon and convinced basically the establishment of Oregon that this can be done, that they ought to put money into it, and he could build this museum.

By gosh, he built it. I have visited it three or four times in the past few years. It is a wonderful high desert museum, well put together, intelligently managed. It is drawing tremendous crowds and is a success.

The day I recall so well is when I was privileged to participate in the dedication of the museum. A young fellow, a kid named Kerr, last name Kerr, was the principal speaker, and he told of how he got the idea, sold it to the townspeople, then to the State and here is the museum. He closed using a wonderful expression. He said:

"If you think you can or if you think you can't, you're right."

That ought to be the attitude about industry in this country. If you think you can, we will succeed. For all of the complaints about the education system in this country, it is pretty good. It is better than most. We have an immense access to capital and an ability to amass it. We have a sensational transportation system. We have management experience. In some areas, the Japanese have beaten us recently, but it turns out we have caught up. We learned from some of the mistakes of ours and learned from some successes of theirs. We can do it, but if you think you cannot, if you think, "Oh, I can't compete; the taxes in the State are too high; I can't get along with the unions; I am having a terrible time in transportation; the wages are awful; I just can't compete with Korea," in all likelihood you cannot. In that case, your problem is not Korea; your problem is probably Canton, OH, or Sandusky, Portland, OR, Beaverton or Bend, someplace where there is somebody who thinks they can.

This bill apparently is going to pass, I hope by a margin not big enough to override a Presidential veto because he will veto the bill, and I hope we can sustain it. If this is the harboring of an attitude in America of we cannot, then that is a self-fulfilling prophecy and, indeed, we will not. Given that attitude and the subsequent actions, one day we will not be significant and we will not be a major factor in this world in commerce or the military or in any other area, but it will not be because Korea beat us or Japan beat us. It will be because we beat us. Pogo once said, we have met the enemy; he is us. And maybe. We and only we can succeed in beating ourselves, but if we believe we can, then there is not anybody in this world who can beat us.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I was delighted to hear the very inspirational message of my friend from Oregon. It was almost a throwback of Knute Rockne or perhaps a variation of "The Little Train That Could." But the notion somehow a malaise has permeated through the manufacturing industry in this country I think is simply not borne out either by the facts or by the political implications that occurred back in the 1976 through 1980 period.

I can point to a number of companies, one in my own State of Maine, a little company that thought it could. It modernized and produced a slipper sock. They tried to export it to Japan and Japan said, "No, you can't bring it in here." There was a company who felt they could, they tried and they could not.

So I think we can find company after company that you could demonstrate had that kind of inspirational message and wanted to go out and compete against those foreign competitors. They could not because they were not allowed to ship into their countries. Mr. President, today, I rise in strong support of S. 2662, the Textile, Apparel and Footwear Trade Act of 1988. This legislation is designed to ensure effective enforcement of existing U.S. laws and international agreements relating to the trade of textiles and apparel. In addition, this measure provides needed and justified relief to the beleaguered American footwear industry so that it may continue to modernize and streamline its operations.

Mr. President, this legislation would not be necessary if the administration and the agencies responsible for the monitoring and enforcement of laws already on the books were properly carrying out their duties. And despite what appears to be a belated recognition on the part of the administration that it can no longer be a passive player in the trade arena, considerable real damage has already occurred to the textile, apparel and footwear industries, thereby necessitating this legislation.

Since 1973, international trade in textile and apparel products has been guided by the multifiber arrangement [MFA], which allows for negotiated country-by-country quotas among the major textile producing nations. Since its inception, the MFA has evolved into a framework for negotiation bilateral restraint agreements.

A basic premise of the MFA allows each signator to provide for the orderly and nondisruptive growth of imports of textile and apparel products. I emphasize the word orderly, because the effect of imports upon the U.S. textile and apparel sector since 1980 has been anything but orderly. For example, since 1980, imports of textile and apparel products have grown at an annual rate of 18 percent—far greater than the orderly marketing objectives of the MFA, and far in excess of the 1-percent annual average growth rate of the U.S. market demand during that same period. In the past 6 years, apparel imports have more than doubled, reaching a level greater than 50 percent of our market last year.

One important aspect of the MFA is the right of each signator to call for consultations on limits for additional categories if export surges threaten the country with market disruption. The number of calls made by the United States this year is expected to reach a record level. Given the fact that U.S. imports of textile and apparel products have grown enormously in recent years, while, at the same time, the domestic industry has experienced such a dramatic decline, it has become apparent that the current trading framework is simply not working.

As a result of this explosion of foreign textile and apparel products into the U.S. market, the U.S. trade deficit in this category alone grew to $25 billion last year, or over 15 percent of our worldwide merchandise trade deficit. Because of the dramatic increase in imports of textile, fiber and apparel products, the American textile sector is experiencing intolerable market disruption, numerous plant closings, over 300,000 jobs lost in the past 5 years, and significantly reduced production despite investing nearly $7 billion for capital improvements since 1980. It is time to call a halt to this situation before even further damage is inflicted upon our textile and apparel industry.

In my own State of Maine, the textile, apparel and wool industries rank with footwear, another industry beleaguered by imports, among the largest employers. There are approximately 15,000 people directly employed by these industries whose jobs are in jeopardy if reasonable limits on imports are not imposed. Recently, a major, old line manufacturer of sweaters in central Maine announced the closing of its plant, throwing some 200 people out of work. The primary factor in these closings was the dramatic increase in imports from the low-wage Pacific Rim countries.

Since my distinguished colleagues from South Carolina have already detailed the textile and apparel provisions of this legislation, I will not repeat them. However, as the cochairman of the Senate footwear caucus, I would like to make a few observations concerning the footwear provisions contained in this bill.

Year after year, we come before this body saying: "Provide some measure of relief from the flood-tide of foreign imports coming into this country and putting our people out of work." Back in 1981, we started debating this issue. There was 50 percent import market share at that point. Then it went up to 60, 70, and now the latest figure is 82 percent of the market is occupied by our foreign competition. Eighty-two percent.

During just the last 4 years, we have lost one shoe plant every single week. One plant has closed down every week for the past 4 years. We have lost thousands of jobs. The unemployment rate in the shoe industry is now 13.2 percent, about double of what the unemployment rate is in other manufacturing industries. We have been reduced to producing about 222 million pairs of shoes. Foreign imports are almost 1 billion.

In Maine, some 6,000 people have lost their jobs since 1981, and it has become rather commonplace to read in the newspapers that another shoe factory has shut down.

In 1986, five Maine shoe plants ceased operation last year, four more closed.

Now, there is a provision in our trade laws which was designed specifically to provide relief in a situation where an entire industry is in danger of being completely wiped out and overwhelmed. It is section 201 of the Trade Act. This section of the Trade Act applies to us. It also applies to every other trading partner of ours. No country is willing or eager to see an entire industry wiped out, and that was the purpose of section 201 of the Trade Act.

The shoe industry tried to comply with the law. They said, "Give us relief. Let us make our case." They spent thousands upon thousands of dollars putting the case together to show that a floodtide of shoes coming into the country was destroying the industry. Three years ago, under this particular section of the law, section 201, they made their case. They made their case against overwhelming opposition from their foreign competitors before the International Trade Commission. The ITC ruled unanimously and when was the last time you heard about a unanimous ruling coming out of the ITC? Rare yet, the ITC ruled that under section 201, the shoe industry was entitled to relief, and they proposed a series of measures designed to provide some measure of relief and, indeed, protection to the domestic shoe industry.

Unfortunately, President Reagan chose to ignore and, in fact, reject flatly the ITC's recommendation. Now, my colleague, JACK DANFORTH, the distinguished former chairman of the Trade Subcommittee, put it rather bluntly back in 1985. Senator DANFORTH said,

> The President's decision makes a mockery of U.S. trade law. The law is now a dead letter. The President has said that playing by the rules is for suckers. If the shoe industry cannot secure relief under section 201, then no industry—I repeat, no industry—can expect any help from section 201.

We have made some modest changes to section 201 in the Omnibus Trade Act that was recently passed, but I doubt very much whether it can provide significant relief. Therefore, I have been left with no alternative but to support legislation that would essentially implement exactly what the ITC proposed 3 years ago. The legislation before the Chamber embodies the main tenets of the ITC's decision. Specifically, it would set a global import quota for nonrubber footwear at the record-setting level of 937 million pairs established in 1986, the highest ever in the history of the country. It would provide that 18 percent of those 937 million pairs be reserved for imported shoes with a customs value of $2.50 or less to ensure the continued availability of low priced footwear for moderate income Americans. It would also grant authority to the President to reduce duties on all nonrubber footwear up to 10 percent over a 5-year period to compensate those countries which are negatively impacted by this global quota.

Now, my friend from Oregon indicated that none of the domestic footwear manufacturers supported this particular measure. Converse in North Carolina is very supportive of the legislation before us. Etonic, Saucony in Maine, Tretorn, New Balance, down in Florida we have Joy, Suave, Gator, Carter Rubber in Pennsylvania.

I make one final point before closing, Mr. President. I find it intriguing that on the one hand, we are now objecting to legislation providing some measure of protection. Give us 18 percent of the market. We have already given up 82 percent, and we are being charged with being protectionist or negative or suffering from economic malaise.

I noticed in looking at the reports from other countries that France has now decided to restrict shoe imports into their country. Korea and Taiwan now supply 10 percent of that shoe market. France has decided 10 percent is enough. No more. The British have also come to a similar conclusion. South Korea and Taiwanese shoes are now flooding their market. South Korea grabbed 12.7 percent of the Italian shoe market in 1987, Taiwan had 10.8 percent. Italy, France, and Britain have said, "Enough." We are now up to 82 percent import penetration and still there is resistance coming against any protection for this harried, harassed, and endangered industry.

Mr. President, we must commit ourselves to the development and implementation of rational controls over our economic borders which will provide our domestic industries a fair opportunity to compete. Let us serve notice to our trading partners that we will not continue to be the world's only free trader in this increasingly hostile world trading environment, nor will we continue to serve as the dumping ground for the excess production of our trading partners.

Mr. President, I hope we have an overwhelming rejection of the Packwood amendment. Nine hundred thirty-seven million pairs of foreign produced shoes coming into this country should be more than sufficient to take care of those other countries. I will at the appropriate time, if one is not made, move to table the Packwood amendment.

I thank the Chair.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, is there a conference report at the desk on the Treasury-Post Office appropriations bill?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I call up that conference report and I ask unanimous consent that time on the conference report be limited to 25 minutes equally divided between Mr. DECONCINI and Mr. DOMENICI, and that the time be charged against the time under cloture on the textile bill.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4775) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 7, 1988.)

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the Chair and I thank the majority and minority leaders for permitting us to move ahead on this conference report.

Mr. President, as chairman of the Subcommittee on Treasury, Postal Service, and General Government, I hope that my colleagues in the Senate will agree with me that this conference report should be passed overwhelmingly and promptly. Yesterday, the House of Representatives approved the conference report by a landslide vote of 371 to 30. I hope that the Senate will follow suit with an overwhelming vote in support of this bill.

Mr. President, the conference report is the product of a very, very tough conference with the House. The Senate-passed bill contained 155 amendments to the House-passed bill, so our differences were many and oftentimes contentious. The committee of conference met formally for two long and arduous sessions, plus one final meeting to iron out some very important lingering differences before the conference report could be put to bed. Frankly, there were moments when I was not sure that we would ultimately reach an agreement, but with the steadfast support of my distinguished ranking member, Mr. DOMENICI of New Mexico, and his willingness to stay there hours upon hours and always willing to meet again to formulate a strong position for the Senate. And I thank Chairman ROYBAL on the House side, who agreed to some concessions as we agreed to concessions, and we were able to bring the conference report to the Senate in what I consider very good shape.

Mr. President, the conference report calls for a total of $16.019 billion, which is $94 million below the House bill and $102 million over the Senate bill—about a split between the two bills.

Mr. President, I am proud of the fact that despite significant differences between the House and Senate, both in terms of dollars and issues, this conference report protects the overwhelming majority of Senate interests and is under our revised 302(b) allocations for both budget authority and outlays.

Also, the conference report is $143.8 million below the President's budget estimates for fiscal year 1989, and I have no reason to believe that the President will not sign this bill. He has not said that he will sign it, but there is no indication from OMB or anybody that I have talked to, or that my staff has talked to who say this bill will not be signed. I think my ranking member, Senator DOMENICI, may be able to address this in more detail.

I want to go over just a few of the highlights of the conference report.

First, the conference agreed on a total appropriation for the Internal Revenue Service of $5,194,880,000. This amount is $136,000,000 over the Senate-passed bill, but $104,845,000 below the House-passed bill. We reached this compromise funding level for IRS after very vigorous and often heated debate with the House and after the personal intervention of the former Secretary of the Treasury, James Baker.

I want to pay a compliment to Mr. Baker for his involvement in this effort. He was there to talk to this Senator, and I know he talked to my colleague from New Mexico on numerous occasions. He gave us his bottom lines, compromise lines, and though we did not quite make the point that he wanted we were within $5 million of what he felt was most reasonable. I think it is a good funding level for the IRS. It will allow the agency to continue its ongoing revenue raising activities and begin the process of improving both taxpayer service and agency data processing capabilities.

Second, I am pleased that we were able to preserve the President's budget request and the Senate-passed funding level for the Customs Service's air drug interdiction program. The Customs Service is making major strides toward bringing high technology systems into the war on drugs and will be able to continue its lead role in air interdiction next year.

Third, the conferees agreed to bolster the Federal Law Enforcement Training Center [FLETC] and to begin its first phase of improving its facilities at Glynco, GA, and Marana, AZ. Also, thanks to Senator DOMENICI's tremendous leadership, the Center will be opening a new advanced training center at Artesia, NM, during fiscal year 1989. These facilities are crucial as we embark upon a second major omnibus drug bill in the last 3 years.

Fourth, although I would have liked to have provided more money, we were able to provide additional funding to Customs for its commercial operations and to enhance staffing at critical jobs on the commercial side of Customs.

This is a side that is often forgotten about. It plays a major role in our trade policy and has been short of funding for a long, long time. It is particularly important as we begin to implement the new trade bill and trade agreements with our trading partners.

Fifth, we were able to maintain the Postal Service revenue forgone program in the face of administration opposition to this vital program. This will allow all nonprofit and other mailers to do their important jobs with the knowledge that rates should remain relatively stable for the balance of fiscal year 1989.

And, finally, I am pleased to say that despite very rigid budget constraints, we were able to provide a second phase of funding to improve southwest border facilities in Texas, New Mexico, Arizona, and California.

If any of my colleagues want to be embarrassed, they should go down to the southwest border between Mexico and the United States and look at some of the particular facilities that are there. This is not a good image for the United States nor does it help us to improve relations with our good neighbors to the south. We made a major stride last year and are able to continue it with funding this year for the border projects. These projects are vitally important in fostering better trade relations with Mexico; in providing secure law enforcement facilities for our drug interdiction officers; and in enhancing the total infrastructure of our southwest border ports of entry from Brownsville, TX, to San Ysidro, CA.

Mr. President, I want to conclude my remarks by paying tribute to my distinguished ranking member, PETE DOMENICI. He is a pleasure to work with. He is most professional. He is willing to work hard. His staff member Rebecca Davies, likewise is always there, and is willing to spend those hours, as is my staff member, Bob Mills. They have put in a great deal of time on this effort.

I think much credit should also go to the minority leader, and demonstrates that when it comes to getting something done out here on the floor of the Senate and in conference the bipartisan approach is really the answer to accomplishment.

So I thank very, very much Senator DOMENICI.

Mr. President, I ask unanimous consent that a table entitled Budgetary Impact of Conference Report on H.R. 4775 be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGETARY IMPACT OF CONFERENCE REPORT ON H.R. 4775 PREPARED BY THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SEC. 308(a), PUBLIC LAW 93–344, AS AMENDED

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
Comparison of amounts in the bill with the Committee allocation to its subcommittees of amounts in the First Concurrent Resolution for 1989: Subcommittee on Treasury Postal Service	15,700	15,577	15,649	[1] 15,525
Projections of outlays associated with budget authority recommended in the bill:				
1989				[2] 14,127
1990				[2] 1,316
1991				136
1992				17
1993 and future years				6
Financial assistance to State and local governments for 1989 in the bill				
	Direct loans		Loan guarantees	
Credit authority estimates, fiscal year 1989				

[1] Includes outlays from prior-year budget authority.

[2] Excludes outlays from prior-year budget authority.

Note.—Reflects scorekeeping adjustment for IRS.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement on H.R. 4775, the fiscal year 1989 Treasury, Postal Service, and General Government Appropriations Act, and I urge its adoption.

As I mentioned on the floor when the Senate considered this measure, a regular Treasury appropriations bill has not been enacted into law since fiscal year 1980. For the past 8 fiscal years, funding for the programs and activities included in this bill has been provided for by a continuing appropriations resolution. It is indeed an achievement that we present the conference report on this appropriations bill today. The House has approved it. With the final clearance of the Senate, the bill will be sent to the President for signature.

This bill is an example of the significant progress made by the Appropriations Committee this year in its goal to send 13 separate appropriation measures to the White House. Two of the 13 regular fiscal year 1989 appropriations bills have already been signed into law. This is 1 of 3 appropriations bill conference reports filed before the August recess. The eight remaining bills were passed by the Senate prior to the recess and are now awaiting conference committee action. The Appropriations Committee is making every effort to complete action on these measures to avoid an end of the year continuing appropriations measure. I commend Chairman STENNIS and the committee's ranking Republican member, Senator HATFIELD, for their leadership. We are well on our way to completing action on appropriations prior to the start of the fiscal year.

This conference report on the fiscal year 1989 Treasury, Postal Service, and General Government Appropriations Act provides a total of $16,019,910,000 in new budget authority; total fiscal year 1989 outlays from this new budget authority and prior-year funding actions are estimated to be $15,909,758,000. Discretionary funding provided by this conference report totals $8,785,618,000 in budget authority and $7,167,497,000 in outlays. These amounts, together with outlays from prior-year spending actions, are below the subcommittee's 302(b) discretionary spending allocations.

We had some difficult issues in conference and I commend both Chairman DECONCINI and Chairman ROYBAL on this conference result. I believe that given the differences between the House and Senate and the budget constraints we faced, this is an extremely good bill.

The largest funding difference between the House and Senate bills was the fiscal year 1989 appropriation level for the Internal Revenue Service. The President requested total IRS funding of $5,299,725,000 for fiscal year 1989, $241 million above the fiscal year 1988 funding level. The House bill contained this requested funding increase for IRS activities; the Senate bill did not, basically because the fiscal year 1989 budget resolution the Congress adopted did not assume this additional funding. I might point out that the increase requested by the President for IRS activities for fiscal year 1989 contained no revenue enhancement initiatives. The $241 million increase requested involved $90 million to annualize fiscal year 1988 IRS activities; $140 million for additional automated data processing investments; and $14 million for tax fraud and problem resolution. Given the fact that IRS funding alone represents nearly 60 percent of the total discretionary spending provided by this bill, there was simply no way the conference committee could provide the total funding increase for the IRS requested by the President, provide adequate funding for other programs, and stay within the subcommittee's total spending allocations. The conferees agreed to provide an additional $136 million above the fiscal year 1988 funding level for IRS activities in fiscal year 1989. Although less than the amount desired, this increase is sufficient to enable the IRS to maintain its revenue enhancement and taxpayer service responsibilities in the coming fiscal year.

Also included in this conference report is a 4.1-percent pay increase for civilian employees effective January 1, 1989. Excluded from this pay increase are legislative, executive, and judicial branch employees making $82,500 or above; this includes Members of the Congress, judges, Cabinet officers, Assistant Secretaries, and other high-level employees. The Senate bill included a provision providing for a 4.0 civilian, increase excluding only Members of the Congress; the House bill authorized a 4.0-pay raise capped at level V of the executive schedule. The 4.1-pay increase agreed to by the conferees is the same as that included in the Defense authorization bill for military employees. This bill does not provide for a military pay increase; however, in the event that the military pay increase is not provided for by separate authorization, the level of pay increase for the military is tied to that provided for civilian employees.

Although not as high as the amounts originally contained in the Senate bill, this conference report contains increased fiscal year 1989 funding for the law enforcement activities of the U.S. Treasury Department, many of which are vital to our war against illegal drugs. These include the U.S. Customs Service; the Bureau of Alcohol, Tobacco, and Firearms; the Federal Law Enforcement Training Center; and the Secret Service.

I am pleased with this conference result, Mr. President. It is one my colleagues should support. It is a well-crafted bill which adheres to the funding constraints imposed on it and I urge its adoption.

Mr. President, I want to thank the distinguished chairman, my colleague from Arizona, Senator DECONCINI, for all of his efforts with reference to this bill, H.R. 4775, the Treasury, Postal Service, and General Government Appropriations Act for 1989. I also want to thank the majority staff and the minority staff for their diligent work.

I think my friend and colleague from Arizona has expressed the difficulties that we had in this bill. I would just like to pass a few remarks on to the Senate with reference to the nature and kind of historic significance of this bill.

First of all, I think our distinguished majority leader will be pleased. We have not had a Treasury, Postal Service, General Government appropriations bill since fiscal year 1980. That means every year we have been unable to pass this as a freestanding measure for one reason or another.

I think he would agree with the Senator from New Mexico. It is our goal consistent with the accepted practices that we have 13 freestanding appropriations bills. This should be one of them.

Every year since fiscal year 1980, we have had to take this bill which is anywhere from $10 to $16 billion covering a very, very broad spectrum of activities of our Federal Government, from the U.S. Treasury Department, including the U.S. Customs Service and the IRS, to the General Services Administration and OPM and many other functions of Government in between. We have had to include the funding for all these in one big continuing appropriations resolution.

I am very hopeful that even though this bill is not exactly what the President asked—and it would be a rare achievement if an appropriations bill would be exactly what the President asked for, be it in pay for employees, or be it in how many particular IRS agents we should have and how much we should spend for each program and activity. It seems to me that we should have some degree of autonomy, some degree of independence, and then be able to work something out with the executive. I am very hopeful that in looking at the President's proposals and then doing what we thought best, that we came out somewhere in divergence but not so much so that he would not be able to sign this bill. I do not have any assurance that he will, but neither do I have any indication that it has a veto message, implied or otherwise, against it.

If it does get signed, as I indicated, it will really be historic because then we will have good management and a good process for the first time in 8 years with reference to these very, very difficult areas, from the postal subsidy that we have to provide for because those charitable organizations and other preferred mailers that use our U.S. mail get a rate that is lower than others—we have to pay for that out of the treasury—to general Government activities which are in this bill including the Treasury Department. I would close with just a brief comment about our Federal employees, both civilian and military.

First of all, this conference agreement does not authorize a pay increase for the military. What we have done—and I am very pleased that the President of the United States has indicated his support—is that we indicated that both military and civilian should get the same pay raise this year and we have provided for a 4.1 percent for all, except those who are members of the legislative branch—that is, the Members of the Senate and the Members of the House—those employees of the Federal Government who make more than $82,500, Cabinet members, and judges and others. They will not get the increase. All others will get 4.1 percent. I think that is beginning to play a little catch-up with reference to the pay parity with the private sector, for which we aspire for our civilian and military personnel.

This particular bill, as I indicated, does not authorize a pay raise for the military, but if we do not get a bill through that raises the pay for the military, theirs will be 4.1 percent also, as military pay is tied to the 4.1 percent civilians will receive under this bill.

Likewise, we are all aware that the Internal Revenue Service is engaged in a modernization process, not only with reference to new equipment, but also, they are turning a substantial part of their effort toward serving people and being responsive to people's needs, as compared with a major process of enforcement which they have been undergoing for years.

New money was sought for the Internal Revenue Service for enforcement and for serving the public, and we were not able to fund it as high as the President sought, but we gave them a rather substantial increase—over 50 percent of what was requested—$136 million in new dollars over fiscal year 1988. We are very pleased that even with that, we were able to fund most of the projects that the Senate sought and most of those that the House sought.

Mr. President, I hope that the Senate will give this conference report a resounding vote of confidence and that we can have the President of the United States sign it into law, so that we will get back into a cycle of better management by passing a full year appropriation bill for these many important programs and activities of the Federal Government that serve the people of the United States.

I close by thanking the distinguished senior Senator from Arizona [Mr. DECONCINI] and his staff and my staff for all the hours that went into this bill.

The Senate should know that our 13 subcommittees and the chairmen and the ranking members spent a lot of time with their staffs. At times, it is fun and enjoyable; at others, it is plain hard work. We have had our share of both, and I am pleased to have been part of it.

Mr. CHILES. Mr. President, Senate Budget Committee scoring of conference report on the Treasury/Postal appropriations bill for fiscal year 1989, as reported by the Committee of Conference, shows that the bill is under its revised 302(b) budget authority and outlay targets. I commend the chairman of the Appropriations Subcommittee on Treasury, Postal Service, and General Government, Senator DECONCINI, and the ranking member of the subcommittee, Senator DOMENICI, for their successful effort in keeping the spending levels for programs within the subcommittee's jurisdiction under the 302(b) budget allocation.

Mr. President, I have a table from the Budget Committee showing the official scoring of conference report and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4775

TREASURY-POSTAL—SPENDING TOTALS (CONFERENCE REPORT)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) BILL SUMMARY		
H.R. 4775, Conference Report (new BA and outlays)	16.0	14.1
Enacted to date		1.8
Adjustment to conform mandatory programs to resolution assumptions	+0.1	+0.1
Scorekeeping adjustments: Adjustment for IRS	−0.4	−0.4
Bill total	15.7	15.6
Subcommittee 302(b) allocation	15.7	15.6
Difference	−(1)	−(1)
Bill total above (+) or below (−):		
President's request	−0.1	−0.1
House-passed bill	−0.2	−0.2
Senate-passed bill	+0.1	+0.1
SUMMIT CAP SUMMARY		
Defense (050) spending in bill	+(1)	−(1)
Allocation under defense cap		−0.1
Difference	+(1)	+(1)
Domestic discretionary spending in bill	8.3	8.2
Allocation under domestic cap	8.2	8.2
Difference	+0.1	+0.1

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding.
Source: Senate Budget Committee Staff.

Mr. DECONCINI. Mr. President, I yield back the time, and I urge that the Senate adopt the conference report.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate concur en bloc in the House amendments to the Senate amendments that remain in disagreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The House amendments to the Senate amendments remaining in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

For necessary expenses of the Federal Law Enforcement Training Center, as a Bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided*, That the Center is authorized the acceptance of gifts: *Provided further*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training or private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; $34,664,000: *Provided further*, That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, $20,000,000 to remain available until expended: *Provided*, That of this amount, $7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: *Provided further*, That $13,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: *Provided further*, That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an advanced firearms training range for participating agencies with specialized firearms training requirements.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$1,932,441,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $39,640,000, of which not to exceed $1,000,000 may be available for a consolidated Federal budget and financial information system to improve the management of Executive agencies, and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, $1,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000: *Provided*, That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$3,024,217,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$14,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$500,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$5,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Capital Improvements of United States-Mexico Border Facilities, $42,150,000 as follows:

ARIZONA

Douglas, AZ: New facility/R&A/Safety, $820,700.

Lukeville, AZ: R&A/Safety, $229,100.

Naco, AZ: New facility/R&A/Safety, $320,900.

Nogales, AZ: Grande Ave./Morley Gate, New Station/R&A/Safety, $2,420,900. Mariposa, R&A, $746,800.

Sasabe, AZ: New facility/R&A/Safety, $355,300.

San Luis, AZ: R&A/Safety, $499,300.

CALIFORNIA

Andrade, CA: New station/R&A/Safety, $454,300.

Calexico, CA: New station/R&A/Safety, $4,830,900.

San Ysidro/Otay Mesa, CA: New facility/Otay Mesa, $721,700. Safety/San Ysidro/Otay Mesa, $2,673,900. R&A/Signs/Security/Commercial lot improvements, $4,956,200.

Tecate, CA: New station/R&A, $861,800.

NEW MEXICO

Antelope Wells, NM: Security/Housing, $158,500.

Columbus, NM: Security, $236,300.

Santa Teresa, NM: New station, $1,668,000.

TEXAS

Amistad Dam, TX: R&A, $83,400.

Brownsville, TX: Gateway Bridge, Security/R&A/Lane expansion/New Bridge, $5,783,000. B&M Bridge, Replace station, $1,794,300. Los Indios, Replace station, $105,700.

Del Rio, TX: Security/Lane expansion, $597,700.

Eagle Pass, TX: Security/R&A, $2,251,800.

El Paso, TX: Bridge of the Americas, Design/R&A/Import Lot Paving, $1,700,300. Paso del Norte, Extension/R&A, $639,400. Ysleta, Design/Construction, $1,501,200.

Fabens, TX: Site acquisition/Security, $444,800.

Falcon Dam, TX: R&A, $172,400.

Hidalgo, TX: Safety/Design/R&A, $617,200.

Laredo, TX: Juarez-Lincoln Bridge, site/Design/R&A, $1,668,000. New bridge, $278,000. Convent Street, Design upgrade, $1,473,400.

Presidio, TX: Security/Housing, $556,000.

Progresso, TX: Security/R&A, $222,400.

Roma, TX: Safety, $305,800.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $130,000,000, of which $2,200,000 shall be made available for a grant to the Marine Biological Laboratory at Woods Hole, Massachusetts and of which $127,800,000 shall be available

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $3,024,217,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $10,800,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $4,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $31,875,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $30,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

University of Texas at El Paso pursuant to 50 U.S.C. 98 a and g for a grant to study and facilitate the development, transfer, and installation of strategic materials technologies among American industries; $3,000,000;

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, $14,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the Federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, $3,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, $3,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $7,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *10*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Sec. 11. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financing Bank when such borrowings are legal obligations of the Fund.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *12*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *13*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 14. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 15. Notwithstanding any other provision of this Act the amount appropriated for "General Management and Administration, Salaries and Expenses" of the General Services Administration is $120,774,000 for fiscal year 1989.

SEC. 16. The Administrator of General Services shall transfer, without consideration, to the Secretary of the Army the approximately 24 acres located in Laurel, Maryland, and classified as surplus property under the title "FDA—Beltsville Research Facility". Such property shall be used in connection with the Maryland National Guard.

SEC. 17. The Secretary of the Interior, within 30 days of enactment of this Act shall designate a consolidated agency of no less than 400 people within the Department of the Interior for relocation to Avondale, Maryland. The Administrator of General Services shall relocate the designee to the Avondale facility no later than 90 days after the Administrator determines design and alteration of the facility is completed.

SEC. 18. Notwithstanding any other provision of this Act, no funds made available from the Federal Buildings Fund for new construction for fiscal year 1989 may be used to fund the St. Croix Federal Building, Courthouse located in the Virgin Islands.

SEC. 19. None of the funds appropriated by this or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land identified as a portion of the Middle River Federal Depot located in Baltimore County, Maryland before October 1, 1989: Provided, That such land may be sold before that time if the General Services Administration enters into a mutually agreed upon sale agreement with the State of Maryland and/or Baltimore County, Maryland.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: $121,900,000, of which $125,000 shall be made available directly to the Forbes Library, Northampton, Massachusetts for such expenses as are necessary for the proper preservation, restoration, and display of the Presidential papers of Calvin Coolidge, and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: not to exceed $1,000,000 may be made available for establishment of Federal health promotion and disease prevention programs for Federal employees;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: not to exceed $500,000 may be made available for implementation of the Combined Federal Campaign in fiscal year 1989;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *519*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 521. Not later than October 1, 1989, of the amounts obtained from the sale, transfer, or disposition of silver from the National Defense Stockpile, not less than $1,000,000 shall be obligated for a pilot project to upgrade cobalt deposited in the National Defense Stockpile to the highest purity levels required for critical military applications. The funds used in this section for upgrading shall not exceed $2,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 522. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 121 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *526*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 527. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) The term "consulting services" shall be defined consistent with the provision of OMB Circular A-120 dated January 4, 1988.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4.1 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

SEC. 528. Section 509 of this Act shall have no force or effect.

SEC. 529. The Office of Personnel Management may, during the fiscal year ending September 30, 1989, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 620. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level III.

(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1988, for any office or position which

was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 621. Effective October 1, 1988, the Secretary shall sell, within fiscal year 1989, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 622. Effective October 1, 1989, the Secretary shall sell, within fiscal year 1990, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 623. Effective October 1, 1990, the Secretary shall sell, within fiscal year 1991, 2.5 million fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 145 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *625*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 146 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *626*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 149 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 628. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1989, or under any other Act appropriating funds for fiscal year 1989, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 629. (A) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transportating, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of 18,000 pounds net weight, to the place where the individual will reside within the Untied States, it territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) during the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, and thereafter, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service; and

"(B) is eligible to recieve an annuity upon such separation under the provisions of subchapter III of chapter 83 or chapter 84 of this title".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *630*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *631*

The PRESIDING OFFICER. The question is on concurring en bloc in the House amendments to the Senate amendments that remain in disagreement.

The amendments remaining in disagreement were agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendments remaining in disagreement were agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the majority leader and both Senators from South Carolina for letting us do this.

Mr. BYRD. Mr. President, I thank the manager, Mr. DECONCINI, and the ranking manager, Mr. DOMENICI, for their work on this conference report and on the bill. It is the first time since 1980 that a separate bill on Treasury-Postal Service has been passed. Those Senators and the other Senators on the Appropriations Committee should be highly commended.

TEXTILE AND APPAREL TRADE ACT

The Senate continued with the consideration of S. 2662.

AMENDMENT NO. 2864

The PRESIDING OFFICER (Mr. SHELBY). The question is on agreeing to the Gramm amendment. Ten minutes remain for debate.

Mr. LEVIN. Mr. President, I support the philosophy underlying this amendment; that is, we should take into account how a country treats our exports when deciding how we are going to treat their exports.

The sponsor of the amendment claims that it will exempt from the bill's quotas the textile and footwear products of those countries who are "less protectionist" than the United States. But how would these "less protectionist" countries be identified? The President, in consultation with the Trade Representative, would compare the tariffs and quotas that a particular country imposes on our exports with the tariffs and quotas that we impose on that country's exports, and decide whether their tariffs and quotas are lower or higher than ours. If their tariffs and quotas are lower than ours, the textile and footwear quotas established by this bill would not apply to them.

The problem with this approach is that it ignores a whole host of protectionist policies which are neither tariffs nor quotas. In the U.S. Trade Representative's annual report on foreign trade barriers, unfair foreign trade practices are divided into 12 different categories. Tariffs and quotas are only two of them; the others include such things as restrictive licensing practices, restrictive use of standards, testing, and labeling requirements, "buy national" policies and closed bidding, service barriers, and investment barriers. And this is by no means an exhaustive list. The USTR report analyzes the trade practices of a number of countries whose nontariff, nonquota barriers are a more significant impediment to our goods than their tariffs and quotas.

Because this amendment ignores nontariff, nonquota trade barriers, it will be practically useless in determining which countries are "less protectionist" than the United States. The idea of reciprocity—treating other countries no better and no worse than they treat us—is an appealing one. But this amendment will not result in reciprocity, and therefore I cannot support it.

THE TIME IS LONG OVERDUE TO PASS THE TEXTILE AND APPAREL TRADE ACT

Mr. SANFORD. Mr. President, I rise today in strong support of S. 2662, the Textile and Apparel Trade Act. I am from the State with the largest number of textile and apparel workers. Over 350,000 men and women in my home State of North Carolina work in the fiber, textile and apparel business and I am proud of them. They have done a remarkable job of modernizing their industry and increasing their productivity in the face of a relentless surge of imports since 1980. These workers have fought to keep needed manufacturing jobs here at home in America. They have done an outstanding job, and I am proud to represent them in strong support for the bill now before the Senate.

But Mr. President, this is a bill that the American people, not just the textile and apparel workers of this country solidly support and it is high time that we pass it, and defend it against a misguided Presidential veto. In a survey recently conducted in eight States—none of which are textile producing States—over two-thirds of those surveyed indicated they support the bill presently before the Senate. And this expression of support comes from States such as Colorado, Florida, Iowa, Montana, Utah and others. It indicates that the American people are fed up with our weak trade policies and they want action now. It also shows that the American people are solidly behind the textile and apparel workers of this country. As one typical respondent said, "I'll gladly pay a penny more for a sock in order to assure jobs for my fellow workers."

BILL CRUCIAL FOR SAVING U.S. TEXTILE INDUSTRY

The unrestricted flow of imported textiles, apparel and footwear into the United States must be curtailed immediately, or one of this country's largest and most important manufacturing industries will be fatally damaged. Indeed, this bill is crucial to the lives and long-term economic stability of the over 2.2 million textile and apparel workers in America.

It is inaccurate to dismiss this legislation as protectionist. Unlike any other commodity or product, the United States has actively promoted, supported, and financed competition from abroad. It has been easy to get developing economies into the textile business. As national policy, we have helped and have opened our markets to them. No other industry has been sent abroad so readily by U.S. generosity, that has helped millions around the world survive. We do not complain about this, but it is unwarranted to say the regulation of this generosity is protectionism. Most foreign producers of textiles face costs far below those of American manufacturers, so they would be expected to sell their goods at prices well under that U.S. companies must charge. But the U.S. textile and apparel industry has not sat back and watched this tide of imports from low-wage countries simply wash over them. Rather, they have invested over $18.9 billion in new capital spending to modernize their plants and U.S. textile and apparel workers have the lowest work/time per product of any country in the world.

Despite these heroic efforts of our domestic workers, imports have captured huge portions of both the apparel and footwear markets in the United States. Some of those we have helped have become very wealthy. They continue to look to the United States with its generous trade policies. Most of the burden of providing the markets falls on us. We cannot let an uninhibited invasion of foreign textiles continue, as this industry is far too vital to the American economy. With 2.2 million workers and an annual payroll of $25 billion, the U.S. textile and apparel industry has more employees than our steel and auto industries combined, and serves as America's largest manufacturing employer of women and minorities. Can we afford to lose an industry that contributes $46 billion annually to the U.S. GNP, an industry which the Pentagon ranks second only to steel production in importance to national defense? Of course not, and it is crucial that this bill be passed in order to preserve our domestic textile and apparel industry.

IMPORTS HAVE TAKEN CONTROL OF OUR DOMESTIC TEXTILE MARKET

In the last 7 years, imports have taken unprecented shares of the American textile market. Since 1980, imports have nearly doubled their stake in the apparel and apparel fabric market, as they hold 55 percent of a market in which they controlled only 28 percent just 7 years ago. Equally as alarming is the fact that foreign-produced shoes account for 82 percent of the American footwear market, up from 50 percent in 1980. If these trends continue without restrictions, in just 5 years imports will control 90 percent of the apparel market, while American footwear manufacturers will be on the verge of extinction.

INDUSTRY UNEMPLOYMENT WELL ABOVE NATIONAL AVERAGE

What do these figures mean in terms of American jobs and plant closings? Since 1980, 1,000 domestic textile and apparel plants have closed, resulting in 350,000 lost jobs. Over the same span, 400 U.S. footwear plants have closed at a cost of another 70,000 jobs, representing a 37-percent decline in footwear industry employment levels. Unemployment in the industry is more than twice the national average. In States like North Carolina, these jobs are crucial. When these jobs are lost, they are often not replaced, or when they are, they are replaced by lower paying service sector jobs. Indeed, as the study prepared for the Joint Economic Committee states, "many observers believe that the accelaration—of the shift in employment from manufacturing to the service sector—has been largely attributable to the emergence of large trade deficits in manufactured goods." This shift from manufacturing jobs to service jobs is the hallmark of the Reagan administration. We simply must reverse this loss of good jobs. This is not a matter of protectionism. It is a matter of survival.

THE TEXTILE INDUSTRY NEEDS THIS BILL

Many opponents of this bill will argue that the textile industry is on the road to recovery, that profits are up, and that the industry no longer need this bill. Mr. President, nothing could be further from the truth. In the last 6 months alone, 16,000 textile and apparel jobs have been lost. In addition, for the first 4 months of 1988, apparel orders are down 5 percent, while textile orders are off 9 percent. Not surprisingly, absolute profits for the textile industry during the first quarter of 1988 fell 12 percent compared with the first quarter of 1987, a figure especially striking considering that the all-manufacturing profits average soared by 49 percent over the same period.

Moreover, the absolute size of the domestic textile industry has declined at the very time its home market has been expanding. From 1982 to 1986, the U.S. market increased by 21 percent, or 6 billion square yards. But textile and apparel imports soared by almost 7 billion square yards during that time. Therefore, imports captured not only all of the market's growth, but also a considerable share of what domestic manufacturers used to produce. Consequently, the U.S. industry has been forced to shut down nearly 8 percent of its capacity, and unless action is taken to regulate the flow of textile imports, the U.S. industry could be destroyed entirely.

BILL WOULD SLOW EXPANSION OF IMPORTED TEXTILES

We can avoid this tragedy by passing S. 2662 into law. Contrary to popular belief, this legislation does not cut back textile imports, it just slows their expansion to 1 percent per year—the historic growth rate of the U.S. market. This is only fair. It gives imports the right to grow, but no faster than the domestic market has typically grown—not the right to capture an ever increasing share of our market until the United States no longer has any textile and apparel workers.

Import quotas would be established for each category of textile products from all sources, each being based on the level of imports in that category for the year 1986. Then each quota would grow by 1 percent per year, a yearly increase that actually exceeds the annual growth rate of 0.8 percent experienced by the U.S. textile market from 1973–85. The bill also limits nonrubber footwear from all sources in 1987 to the level of imports in 1986.

However, unlike many import quotas, this legislation allows for certain exceptions and types of compensation for special cases. The law would provide the administration the flexibility to decide which countries would have to limit their textile exports to the United States, and by how much, as long as the overall growth in imports does not exceed 1 percent. The President would be given the power to negotiate reductions in American textile and apparel tariffs to compensate for those countries affected, and to lower duties on footwear covered by the bill up to 10 percent over a 5-year period. Furthermore, foreign customers of U.S. agricultural products who increase their purchases would gain greater access to the American textile and apparel market, thereby stimulating the demand for U.S. farm products overseas at the same time.

BILL AIDS WOOL AND COTTON PRODUCING STATES AS WELL

The legislation will also substantially help American producers of wool and cotton, as the U.S. textile industry is the largest customer for domestic fabric materials. It is estimated that the bill would result in an 8-percent increase in U.S. wool production and a 2-percent rise in cotton production, thereby boosting an industry that provides 300,000 jobs nationally.

The fact that the bill will have such a dramatic effect on our wool-producing States such as Texas, North and South Dakota, Oklahoma, Montana, and Wyoming underscores the fact that this is a national bill, not just a textile State bill.

FEARS OF FOREIGN RETALIATION COMPLETELY UNFOUNDED

Critics of this legislation worry about retaliation from some of our foreign trading partners, fearing tough new barriers to U.S. exports to certain countries. That is what they said about the omnibus trade bill. These concerns are completely unjustified. First of all, the bill's constraints are not rollbacks or cuts into the amounts currently being exported to the United States; they simply limit the annual growth rate of imported textiles. Second, the quotas enacted by the bill are no more restrictive than those imposed by the European Economic Community on many categories of textile imports, against which little, or no, retaliation has occurred. Third, the bills plan to provide increased access to the U.S. textile market for countries increasing their American agricultural purchases encourages continued trade. Fourth, the provisions allowing affected nations to seek compensation for any losses they can demonstrate resulting from the bill further reduces the likelihood of retaliation. Finally, the European Economic Community will be especially reluctant to retaliate since they would be risking the $25.2 billion trade surplus with the United States that they currently control.

It should also be noted that S. 2662's quotas will not even out the long uneven trade balance of textiles from developing countries. Despite a 30-percent smaller population than the European Economic Community, the United States receives more than 2½ times the amount of apparel products exported from developing countries than the EEC, and 10 times as much as Japan is willing to buy for a population half as large as the United States.

THE AMERICAN PEOPLE FAVOR THE BILL, EVEN IF IT CAUSED HIGHER PRICES

The other concern being voiced by opponents to this legislation is that it will result in higher consumer prices for products restricted by the bill. In fact, it is mostly the retailer that benefits from the cost differences. A recent survey indicates that far more people support the bill than oppose it even if it means higher prices. In Iowa and Montana, for example, supporters outnumbered opponents by 50 percent.

Furthermore, the study provides a good indication of just how badly the public wants this legislation. The survey revealed that in all eight States, over 60 percent of the population thinks that U.S. trade laws regarding imports of foreign goods are not strict enough, including over two-thirds of the respondents in Florida, Nebraska, and Oklahoma. Not surprisingly then, when people were asked how they felt about a bill restricting the growth of textile imports, respondents overwhelmingly supported the idea, with more than twice as many people definitely favoring the bill as those opposing it in Colorado, Oklahoma, and Utah. And when the bill's provisions giving expanded U.S. textile market access to countries increasing their U.S. agricultural purchases were explained, the response was even more enthusiastic about the bill, with supporters outnumbering opponents by over 2 to 1 in all eight States, and 3 to 1 in Utah, Colorado, and Iowa. Finally, the majority of respondents in every State surveyed felt that fears of retaliation are unjustified. Results such as these typify national opinion about the textile bill, lending overwhelming support to the passage of such legislation.

TEXTILE BILL AVOIDS PROBLEMS OF PREVIOUS LEGISLATION

Yet, last year, despite pressure to pass textile import restrictions, a number of arguments were made to derail the bill's progress. But the Textile and Apparel Trade Act of 1987 corrects the main problems of last year's legislation. While that proposal discriminated by hitting just certain countries with import quotas, the new bill's global limit does not specify constraints for individual nations. The new legislation will also prevent trade retaliation by limiting, not cutting, textile imports, and by authorizing compensation for affected countries, two features not present in the previous bill.

Mr. President, the American textile, apparel and footwear workers have waited far too long for this legislation. They have done their part in addressing the trade deficit by consistently improving their productivity, efficiency and the level of their exports. Now it is time for the Congress to do its part to preserve this essential domestic industry. I strongly urge my colleagues not to turn their backs on our 2.2 million textile and apparel workers, and their families, and their communities. It is time to help these American workers and time to pass the Textile and Apparel Trade Act.

Thank you.

Mr. HOLLINGS. Mr. President, I have just been informed that Mr. GRAMM will not require that amount of time, and we are ready to move on.

What we would be prepared to do would be to move to table the Gramm amendment and ask for the yeas and nays; thereafter, on the Adams amendment, make our point of order under section 311 of the Budget Act; thereafter, on the Packwood shoe amendment, move to table that and have the yeas and nays.

So, as soon as Senator GRAMM comes to the floor and yields back his time——

Mr. THURMOND. Mr. President, I am authorized, on his behalf, to yield back his time.

Mr. HOLLINGS. I yield back our time.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I think the yeas and nays have been ordered on the amendment.

The PRESIDING OFFICER. The question now occurs on the Hollings motion to table the amendment of the Senator from Texas.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Indiana [Mr. QUAYLE] and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 26, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—68

Baucus
Biden
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dodd
Dole
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—26

Adams
Armstrong
Bingaman
Boschwitz
Chafee
Danforth
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hecht
Humphrey
Karnes
Kassebaum
Lugar
McCain
Murkowski
Nickles
Packwood
Pressler
Simpson
Symms
Wallop
Wilson

NOT VOTING—6

Bentsen
Dixon
Hatfield
Matsunaga
Quayle
Stafford

So the motion to lay on the table the amendment (No. 2864) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend.

Mr. BYRD. Mr. President, I do not believe the Senators heard the Chair. If the Chair would speak louder and try to get order?

The PRESIDING OFFICER. I do not believe they heard me either. The Senate will be in order and Members will take their seats and clear the well.

Mr. BYRD. Mr. President, I do not believe it is the Chair's fault. I believe Members are just not paying any attention to what the Chair is saying. I will insist that there be order in the Senate.

The PRESIDING OFFICER. The Members of the Senate will take their seats and clear the aisles and clear the well. The majority leader is entitled to be heard.

Mr. BYRD. Mr. President, if the Senators would give the managers, now, their attention so that the managers could indicate what the next actions are to be, I will yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the next action would be a point of order relative to the Adams amendment under section 311(a) of the Budget Act, and if we do receive a favorable ruling on that point we would go to the Packwood amendment on shoes. Our colleague, the Senator from Maine, Senator MITCHELL, has been tied up in a Finance Committee meeting. He wanted to make his comments about it. The Senator said it would take about 10 minutes and he is momentarily going to get his material over here and we will talk, then, for 10 minutes and then, if it is agreeable with the distinguished Senator from Oregon, I would be prepared to move to table when no other Members want to speak.

Mr. PACKWOOD. As I indicated, I have nothing further to say on the amendment that I know of at the moment. I might have a minute or two to respond to Senator MITCHELL. I did not know anybody else wanted to talk about it.

AMENDMENT NO. 2859

Mr. HOLLINGS. Mr. President, on the Adams amendment, section 311(a) of the 1974 Budget Act prohibits consideration of legislation that would exceed the revenue floor. On that point of order, 311(a), I so make that point on the Adams amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, before ruling, I understand the section 311 point that is made on this and, Mr. President, I will await the ruling of the Chair, but I want to state that if the Chair should so rule that this violates the Budget Act, it establishes the point that we have been trying to make, that the quota allocation system, I believe, is a very bad system and was not considered. But if it were not in this bill, and is not in this bill at some point, this bill does violate the Budget Act, and I certainly would not want to waive the Budget Act for this bill. Thank you, Mr. President.

The PRESIDING OFFICER. The adoption of the amendment and the enactment of the bill as thus amended would cause revenues to be less than the appropriate level of revenues set out in the budget resolution for fiscal year 1989. The point of order is well taken. The amendment falls.

Mr. HOLLINGS. I thank the Chair.

AMENDMENT NO. 2861

Then, Mr. President, the distinguished Senator from Maine momentarily needs about 2 minutes.

On that score I want to thank the Senator from Oregon for his wonderful lecture on the power of positive thinking, Norman Vincent Packwood. What we should all do in industry today, while we lose our shirts and go out of business, is look at the bright side of this destruction. Likewise, we were told yesterday that we ought to be happy about unemployment in the textile industry. Today, America's industry really needs psychoanalysis. If we could only think positively—man, they are thinking positively, they are leaving.

I had a talk early this morning relating fine industries that South Carolina had attracted from different sections of the country and the world. They are now departing for foreign shores. The competition internationally is orchestrated by the Governments of Japan and Korea, Indonesia, Thailand, Hong Kong, down the list. Government has moved in. It is governmental controlled capitalism.

People think capitalism means free markets. That day is long since past. The key element of comparative advantage, today, is Government. The Asian and European Governments are working for their industries. I do not bash Japan, I bash Washington. It does not work, does not protect, does not give us a chance to stay in this country and compete.

There is no question about U.S. industry's competitiveness.

Mr. PACKWOOD. I want to ask the majority leader a question.

Mr. STENNIS. Mr. President, may we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD. Mr. Leader, we had a number ask what your plans are tonight. There is no possibility of a time agreement. I should tell you that now, so I do not know if that affects your answer. But the Members are curious of what you have in mind.

Mr. BYRD. There is no possibility of a time agreement?

Mr. PACKWOOD. Not at the moment.

Mr. BYRD. Very well, we will be in a while.

Mr. PACKWOOD. Eight o'clock, 9 o'clock, 10 o'clock?

Mr. BYRD. A good while. At least to 9 o'clock.

Mr. PACKWOOD. Thank you, Mr. Leader. I wish I had not asked the question.

Mr. BYRD. If we are making good progress, we might be in until 10. If we are not making good progress, we might be in to 11.

Mr. President, I should not be facetious. The Senate will be in until 9 or 10 o'clock this evening, if not longer. I have no desire to stay longer but I hope that Senators will call up their amendments and let the Senate act on them. The manager, Mr. HOLLINGS, is prepared to discuss them and to move to table them if necessary.

I hope Senators will stay on the floor now, call up their amendments, if we can have votes, we can at least go to 9 or 10 o'clock.

The Senate will be back in tomorrow. We could go all night tonight and chew up the 30 hours by tomorrow afternoon, but I do not desire to do that. I do not say we will not but I have no present plans to do that.

Our problem is, on Monday there is a religious holiday and we are committed to have no votes before 6 o'clock on Monday so, if it is the desire of those who oppose this bill to carry it over until Monday, I suppose we can do that. I have not indicated that we will have a Saturday session. I do not intend to do that without sufficient notice to all Senators, so there will be no session this Saturday.

But this means that on Monday, if we have not finished this bill by the time we wind up tomorrow, which would be 6 o'clock, I suppose, we will be back on this bill Monday, and I would hope that Senators would be willing to call up their amendments and stack the votes until 6 o'clock Monday evening.

Meanwhile, I would be willing to have an agreement, if we could achieve one, that would see us work tomorrow and reach a time agreement for a final vote on this bill—and I have not cleared this with the manager, I am talking a little out of school—reach a final vote on this bill, say 6 o'clock Monday and go to the House bill without further debate and vote on the House bill, wind up the whole ball of yarn at around 6 or 7 o'clock Monday. And without having to come in early Monday and stay overly late tomorrow.

I have indicated what my plans are. I would like for those who oppose the bill to be just as forthright as I have been and lay their cards on the table. What are their plans? Do they plan to filibuster the House bill? If they do I would like to know that.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HECHT. Would the majority leader yield, please?

Mr. BYRD. Yes.

Mr. HECHT. To the distinguished majority leader, to have votes on Monday night at 6 o'clock is quite an inconvenience for those of us who wish to spend the Jewish holidays at our home city, and 6 o'clock is not sundown, when the end of the Jewish holiday is. So it is quite an inconvenience. If there is any way this could be put off until Tuesday, it would be very much appreciated by those of us who want to spend the Jewish holidays with our friends at home.

Mr. BYRD. I want to accommodate all Senators and that is the reason why we have agreed not to have any votes before 6 o'clock on Monday.

Is there an inclination on the part of those, to say we will give you an agreement and we will finish, say, 11 o'clock Tuesday morning with no filibuster on the House bill so that we can wrap up the whole package?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Oregon.

Mr. BYRD. Mr. President, I yield to the Senator.

Mr. PACKWOOD. All I can tell you now is there is no possibility of an agreement right now. You want us to lay our cards on the table. I have no plans to filibuster. There may be one; there may not. I know at least on this side, we are not prepared to make an agreement now. You might as well go on that assumption, if you want to.

Mr. BYRD. Very well. Mr. President, I will return to the subject at 9 o'clock tonight, and we will see what the situation is then, and if there is no inclination to come to an agreement, then we may stay later. I have laid out what I am willing to do, with the concurrence of the manager, and what I think would be a reasonable way to approach this matter, to dispose of the House bill and get on to something else. But if we are going to have another filibuster on the House bill and that becomes obvious, then we will have to act in such situation accordingly.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I oppose the amendment of the Senator from Oregon because it would effectively delete the footwear provisions from this legislation. Although he says this amendment is intended to exempt only athletic footwear, it would have the effect of exempting all footwear imports from the bill.

By removing the so-called athletic footwear from the import limits included in the bill, the limit for all other footwear is in effect increased by the volume of athletic footwear imported.

That is, under his amendment, we would not count approximately 216 million pair of athletic footwear imported into this country as part of the 941 million pair limit on imports. That means imports of all other shoes can increase by another 216 million pair, or by 23 percent over current levels.

Thus, this amendment would permit the continued destruction of the domestic footwear manufacturing industry in the United States.

And for what purpose? The Senator from Oregon is understandably motivated by the concerns of two Oregon companies which import 100 percent of their athletic shoes sold in this country. One of those companies formerly had a plant in Maine employing approximately 1,000 people until a few years ago when they closed the plant and moved those jobs overseas.

The Senator from Oregon is concerned that if we freeze footwear imports at the enormous volume imported in 1986 that it will restrict supply at a cost of jobs for the two Oregon companies. I suggest that is not accurate.

First of all, there are already approximately 220 million pair of athletic footwear being imported annually into this country.

If this law were enacted last year, it would have had no effect on 1987 imports because less shoes were imported last year than in 1986. We have chosen the year in which imports were at their greatest level ever because of an unusual growth in demand.

In 1986, 941 million pair of shoes were imported. That is the maximum that would be permitted under this legislation. In contrast, last year 938 million shoes were imported. Thus, there would have been no effect on athletic footwear.

The concern of the Senator from Oregon—understandable concern—that jobs will be lost is also misplaced. All of the jobs that exist in the two Oregon companies he is worried about relate to distribution of imports, including jobs at the docks, in corporate headquarters, at distribution centers, and in retail stores.

Since this legislation would not reduce the level of imports, and would in fact permit imports to grow above last year's enormous levels, how can it result in a cost of jobs?

Indeed, the opposite is true. A study conducted by ICF, Inc., an international consulting firm in Washington, estimates that this legislation will create 152,000 jobs in the United States over the next 2 years. These jobs will put money into the hands of factory workers and turn them into consumers which will have a positive influence on the economy.

One of the more apparent problems with this amendment is that it attempts to create a definition of a type of footwear—that is, athletic footwear—that cannot be defined. The amendment would be unenforceable because the Customs Service cannot determine for what purpose a particular footwear article is used. Yet that would be required under the definition of "athletic footwear" in the amendment.

The difficulty of drawing a legal definition is reflected in the nature of the market where 80 percent of so-called athletic shoes are in fact never used for sports. Instead, they are used for casual wear.

Of course, that means shoes which could fall under the category athletic footwear compete directly against all casual footwear. So there is no market distinction which would justify the exclusion of athletic footwear under this legislation. Are boots used for hiking which can also be used for work athletic footwear? Are sandals used for walking on the beach athletic footwear?

There is no substantive basis for the exclusion of athletic footwear as proposed in this amendment. It is simply an accident of geography that two of the largest importers are based in Oregon.

Imports now claim an unprecedented 82 percent of the domestic footwear market. There is no major American industry which has been under greater assault from imports than the footwear manufacturing industry. Since 1981, the date on which the President was inaugurated, imports have skyrocketed from 365 million pair to almost 940 million pairs of imports annually. The share of the domestic market claimed by imports over that period has risen from 50 percent to 82 percent.

In the meantime, the domestic industry has shrunk by about 40 percent as hundreds of plants shut their doors sending more than 60,000 workers to the unemployment lines.

This kind of rapid retrenchment of a major industry in the face of aggressive export promotion in other nations is exactly the kind of situation that merits a period of relief under international trade rules. Under the GATT escape clause, when an industry has been injured due to a surge in imports, it is permissable for a nation to establish temporary import controls to enable the industry to get back on its feet.

That temporary relief from imports is a fundamental principle of international trade rules which Congress and American industry have relied upon in adopting trade liberalization agreements. Certainly, our trading partners have taken full advantage of the escape clause.

In this country, however, we have unilaterally forfeited our international rights. This administration has refused to defend the interests of our industries and its workers against the tidal wave growth of footwear imports.

In the most recent case in 1985, the International Trade Commission unanimously ruled that the domestic footwear manufacturing industry was severely injured as a result of rapidly increasing imports and was due some relief.

At that time, in 1985, imports had grown rapidly to claim 75 percent of the domestic market—up from 50 percent in 1981. Hundreds of plants were closing, throwing thousands of workers out of their jobs. The industry was in a turmoil as other importing nations closed their borders to footwear imports at the same time the exporting nations were increasing production capacity.

In spite of the clear use of injury to the American footwear industry, President Reagan rejected the unanimous recommendation for relief from the International Trade Commission.

That was the last of the four cases for relief filed by the industry over a 13-year period when the volume of imports more than tripled and the share of the domestic market doubled, from 41 to 82 percent.

The footwear industry played by the rules. It sought relief as provided under international law and was clearly recognized as injured. But this administration refused its effort for help from increasing imports.

The footwear provisions in this legislation have been made necessary by the refusal of the administration to exercise American rights to prevent the demise of the domestic footwear industry. Nevertheless, these provisions are in fact quite modest and represent far less restraint than recommended by the ITC.

This legislation should, in fact, have little impact on imports. It would permit imports to continue at their current extraordinarily high levels. In this legislation, we, in effect, cede fully 82 percent of the domestic market to imports, preserving the existing volume of sales. We simply say that imports will not grow beyond the level reached in 1986—938 million pairs of shoes.

In fact, if this legislation had been enacted last year, it would not have had any impact on footwear imports this year because the volume of imports—not the market share but the actual volume—actually declined last year as a result of falling demand.

By freezing the market at a certain volume of imports, we provide some assurance to the domestic industry that it will not continue to be decimated by imports. We provide a level of assurance that will enable it to go ahead and make the investment necessary to reclaim at least a portion of former production levels.

The limits in this bill are really quite modest. Remember in 1982, imports claimed 51 percent of the domestic market. By 1985, that share had risen to 75 percent. The International Trade Commission recommended bringing the import share back down to 62 percent. That would be approximately 710 million pairs in the current market.

But this legislation does not seek a rollback. It would simply preserve existing market share at 82 percent. That's 940 million pairs of imported shoes—one-third more shoe imports than recommended by the ITC.

What other industry would agree to give up so much of its market? What other industry would have to defend itself against an amendment of this type?

Another thing we do in this legislation is preserve existing levels of lower priced shoes by separating out this footwear for its own limits. This prevents importers from switching to higher priced footwear to obtain higher profit margins on their sales. It protects lower income consumers.

The reasonableness of this legislation should be contrasted to steps that have been taken in other countries to control imports. And, of course, this is a major part of our problem. Korea, Taiwan, Brazil, Italy, and other exporting nations must sell into the American market because every other major consuming—and most producing nations—have tight controls on footwear imports.

That is the root of the problem and it is continuing today. For example, in early July the European Economic Community imposed what it calls emergency restrictions on Taiwanese and Korean footwear exports to France. These 2-year quotas were imposed because imports from those two nations had claimed 17 percent of the domestic market.

Let me repeat that. In Europe when imports of shoes into those countries reached 17 percent, they imposed quotas. Here they are 82 percent and we have objections to any effort to protect our industry.

Well, the United States has no such limits, yet imports from those same two countries control more than 50 percent of our market.

Earlier this year, Italy won approval from the Economic Community for quotas that cut imports from Korea and Taiwan by 40 percent. The United Kingdom has also just recently asked for quota protection. Japan has the most restricted market with strict quota limits on total footwear imports. Brazil imposes a 100-percent surcharge on footwear imports, on top of a 70-percent import tariff. That applies, however, only to those few footwear imports which can first obtain an import license.

The United States has the most open footwear market in the world among major importing nations. Alone among the major industrialized nations, we impose no limits on the importation of shoes. The predictable effect has been the rapid destruction of the domestic footwear manufacturing industry at a cost of thousands of jobs to Korea, Taiwan, Italy, and other foreign countries—all of those countries which will not let American shoes into their markets.

Those footwear factories cannot be replaced and this legislation does not try to do that. It does not turn back the clock by requiring the footwear imports be rolled back to lower import levels. Instead, it would simply enable the industry to hold on to the markets it now has to prevent the virtual elimination of an important American industry.

I urge my colleagues to support the preservation of a domestic footwear manufacturing industry in the United States by opposing this amendment.

Mr. HELMS. Mr. President, we should not exempt nonrubber athletic footwear from this bill. Import penetration for nonrubber footwear is more than 82 percent. Approximately 60,000 American jobs have been lost and 400 factories closed as a result of footwear imports since 1980. In fact, 1,800 jobs have been lost so far this year.

As currently defined, nonrubber athletic footwear makes up 25 percent of all footwear imports. This amendment will define the term "athletic footwear" even more broadly.

I have heard from a number of people who do not favor any import relief for the domestic footwear industry. I simply cannot agree that we should sit here and take no action. Unless steps are taken to slow down the rate of footwear import growth, the footwear industry in this country may soon disappear.

The history of the athletic footwear industry demonstrates that current trade statutes do not provide adequate remedies for the injuries caused by imports. Congressional action is required, and this bill is a modest, necessary step. It will be grossly unfair to the more than 150,000 workers in the domestic athletic footwear manufacturing and supplier industry if this amendment is agreed to.

Finally, to dispel the notion that we have no nonrubber footwear production in this country, I would like to point out that in North Carolina—which is the 12th largest footwear producing State in the country—there are 10 facilities that manufacture nonrubber footwear. Those 10 facilities employ approximately 2,500 employees. That is compared to the 14 plants employing almost 6,000 workers that existed in North Carolina in 1981. Mr. President, I oppose this amendment because I do not want to see further unfair elimination of those jobs.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I am not too sure that all Members of the Senate understand that this textile bill contains a provision to protect footwear, shoes, and I am very pleased that the distinguished Senators from Maine have brought out this fact. In addition to the 300,000 or 350,000 jobs lost in the last 8 years in textiles, about 70,000 jobs have been lost in shoes. The industry remains in decline today. Domestic production was down nearly 6 percent in 1987 and down almost 8 percent in the first 5 months of 1988.

Now, I just want to say, though, that this provision calls for no rollback in shoes, in footwear, but it does apply in the future.

Now, when you talk about jobs, you might as well face it. From 1980 to 1986 alone—and this does not include the last 2 years—Arkansas lost 2,130 jobs, California lost 2,064 jobs, Florida lost 421 jobs, Georgia lost 686 jobs, Illinois lost 1,338 jobs, Indiana lost 190 jobs, Kentucky lost 1,831 jobs, Maine lost 7,062 jobs, Maryland lost 483 jobs, Massachusetts lost 7,195 jobs, Missouri lost 4,403 jobs, New Hampshire lost 4,160 jobs, New Jersey lost 134 jobs, New York lost 3,351 jobs, North Carolina lost 1,405 jobs, Ohio lost 2,263 jobs, Pennsylvania lost 4,382 jobs, Tennessee lost 7,833 jobs, and Texas lost 666 jobs. I want to call that to the attention of the Senator from Texas especially; Virginia lost 194 jobs, West Virginia lost 858 jobs, and Wisconsin lost 1,334 jobs.

That is from 1980 to 1986. And the last 2 years it has gone up. Now I understand we lost 70,000 jobs.

I hope the Members of the Senate will think about this when they go to vote on this bill. It is not the textile bill alone. It is the shoe bill too. These are jobs. These are jobs of American workers that we are just letting go overseas. It does not make sense. The idea of letting foreign imports control 82 percent of all the interest in the States in shoes, I am amazed that the business people in the shoe business have not come here and contacted and buttonholed every Senator in this body, and told them that 82 percent of the business in America is going abroad to other people taking jobs away from Americans.

Mr. President, this alone warrants passage of this bill besides, of course, the vast thousands and thousands of textile jobs that have been lost—350,000 in the last 8 years alone.

I want to repeat again that the Defense Department says that textiles rank second to steel in the matter of national defense. Are we going to run the risk of sending all of that abroad? If we have a war, what are we going to do? I ask the Senate to think soberly about this matter and vote against this amendment and vote against this bill.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me say a few words in rebuttal because I know a motion is going to be made to table my amendment.

One, I would trade straight across the board the unemployment level in my State for the unemployment level in the State of the senior Senator from South Carolina or North Carolina or Georgia, which are the three biggest textile States in the Union. Their unemployment levels are below that in my State. I would trade the unemployment level of my good friends from Maine, Senator MITCHELL, and Senator COHEN—their unemployment rate, as I recall, is 3.7-percent straight across the board—for my unemployment rate in Oregon. Maine is running about 40 percent below the national level on unemployment.

So it is amazing for all of these jobs we have lost overseas somehow that we have created in the last 6 years, 6 million new jobs in this country. We have an unemployment rate in this country of 5.5, 5.6, or 5.7 percent. All of Europe is running a higher unemployment rate than we are. Several of the Asiatic countries are running at higher unemployment.

Who on Earth are we employing? What are they doing? Where are these jobs coming from? It is not that they are all running overseas and there are no jobs. There are good jobs here, and by and large better jobs than the jobs we are losing.

I realize that is not going to change any votes now. I think the votes on this bill are set. But we are not doing ourselves or the mothers that are trying to put their kids in sneakers or jobs in this country any favor if we defeat the amendment I have offered. One to three percent at the most of the consumption of nonrubber athletic footwear in this country is made in this country.

One to three percent. Of that 1 to 3 percent the bulk of it is assembly, not original manufacture. So all we are doing is guaranteeing higher prices to the woman, to the man that is trying to buy two, three, four, or five pairs of sneakers a year for their kids. We are not saving any jobs. Those jobs do not exist in this country.

Senator COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, just a couple of comments in closing. It is interesting to cite the unemployment statistics of North Carolina, South Carolina, and Maine as an abstract proposition. I suppose you can always drown in a pool of water that has an average depth of 3 feet. The point is that while some areas in my State might have a very low unemployment rate, it does not at all indicate what kind of jobs those particular people are employed at but, second, it ignores the fact that the rate in some counties, particularly shoe-producing counties—Aroostook, 8.3; 8.7 in Franklin; Penobscot, 6; Piscataquis, 7.8, and on and on. The issue really here is whether or not we are going to allow foreign competition to totally destroy the last vestiges of the shoe manufacturing capacity in this country. Eighty-two percent ought to be enough for our foreign competition. Save just 18 percent for the American foot workers who want to continue to hold their jobs.

With that, Mr. President, I would move to table the amendment of the Senator from Oregon. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from Oregon. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Indiana [Mr. QUAYLE], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The PRESIDING OFFICER [Mr. LAUTENBERG]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 28, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—66

Biden
Bond
Boren
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—28

Adams
Armstrong
Baucus
Bingaman
Boschwitz
Bradley
Chafee
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hecht
Karnes
Lugar
McCain
Murkowski
Nickles
Packwood
Pressler
Roth
Sasser
Simpson
Stevens
Symms
Wallop
Wilson

NOT VOTING—6

Bentsen
Dixon
Hatfield
Matsunaga
Quayle
Stafford

So the motion to lay on the table the amendment (No. 2861) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today in support of S. 2662, the Textile and Apparel Trade Act. This bill would limit the growth in imported textiles and textile products to 1 percent a year. Domestic industries have been overwhelmed by import competition. Foreign producers now claim 55 percent of the U.S. apparel and apparel fabric market.

The Textile and Apparel Trade Act would contribute to a substantial reduction in the U.S. trade imbalance and provide a safe harbor for important industries to make further strides in their efforts to compete more effectively. Equally important, this bill will protect American jobs whose loss would have a devastating impact on the economies of many States including my own State of Alabama.

In Alabama, the textile and apparel industry is the largest employer in the State: 38,900 Alabamians work in the textile industry, 56,700 Alabamians work in the apparel industry, and, 5,229 Alabamians work in the cotton industry.

When we add all of these components of the textile industry together, we find that there are over 100,000 Alabamians employed in the textile industry—a $1.4-billion industry in my State.

The textile and apparel industry is the only area of manufacturing that is represented in every county of my State. Everything from synthetic fiber and yarn to dresses and suits is manufactured in the textile and apparel plants in my State.

Unfortunately, because of the vast quantities of imports of textiles and apparels, the textile industry in my State and throughout the country is at risk.

For example: between 1980 and 1986, Alabama lost 17,023 jobs due to plant closings and layoffs in the textile industry; since 1980, 300,000 textile and apparel jobs have been lost throughout the country; and, 750,000 job opportunities have been lost.

Recent Department of Commerce figures show that imports of textiles and apparel in 1987 reached a record $29 billion while exports totaled only $4 billion. In spite of the apparent slowdown in the growth of the overall U.S. trade deficit, the textile and apparel deficit rose 17 percent to a staggering $25 billion in 1987. Because $1 out of every $7 in the Nation's overall trade deficit is a textile and apparel dollar, it is not difficult to see how import relief for the textile and apparel industries under S. 2662 would substantially reduce the red ink in our Nation's balance of trade.

I believe in free trade like most Americans. But I also believe that American industries should have a level playing field on which to compete. That is not true today. It is particularly not true in the textile industries.

Many textile companies have invested millions of dollars to modernize their factories only to discover that they are still unable to compete with companies in countries where workers are not paid a decent wage and, in some instances, are paid as little as 16 cents per hour. Also, a lot of these countries have few laws, if any, governing workplace safety, child labor, or clean water and air.

I am encouraged, Mr. President, that our companies are working to modernize and improve themselves despite the threat of injury due to the low wage and subsidized imports that they face in a global economy. We, in the Congress, must take effective steps to prevent our companies from being placed in a no-win situation, such as occurs here today.

Mr. President, we cannot allow our textile industry to be overwhelmed by import competition.

The textile and apparel industries contribute so much to the economic vitality of many communities across the Nation. For instance:

Two million Americans are employed by the textile and apparel industries with an annual payroll of $25 billion.

Textile industries are among the largest employers of women and minorities in the United States.

Textile industries have a greater work force than the steel and auto industries combined.

Textile industries contribute $46 billion to the U.S. gross national product.

Every 100 jobs in the textile industry create 67 other jobs.

Another example of this: of these 100 jobs, 45 of the jobs are created in wholesale and retail trade businesses; 7 of these jobs are created in transportation; 3 of these jobs are created in financial services; 3 of these jobs are created in construction-related jobs; 3 of these jobs are created in repair work jobs; 3 of these jobs are created in public administration; and, last, 3 of these jobs are created for miscellaneous services.

Passage of this bill today, Mr. President, I believe has great significance. Without this legislation, industries vital to the economic health of many American communities will face serious economic harm because the rules of competition are not the same for all players.

We have an opportunity here in the Senate today on this bill to do something about these rules and to save American jobs and let American industries compete fairly. I urge that we move quickly to enact the Textile and Apparel Trade Act.

Mr. President, I commend my colleague from South Carolina, the chairman of the Commerce Committee, who has taken so much of his time and has been so steadfast in pushing this legislation and working hard.

I also commend his colleague from South Carolina, Senator Thurmond, for also putting his shoulder to the wheel and staying with it.

I believe this is good legislation. I urge my colleagues to join in supporting it.

I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. JOHNSTON, Mr. President, I will shortly call up the fiscal year 1989 Interior conference report. This conference report for the Department of the Interior and related agencies contains funding recommendations in the bill which total $9.878 billion in net budget authority, which is $10 billion less than the subcommittee's revised allocation in accordance with——

Mr. BYRD. Will the distinguished Senator yield?

Mr. JOHNSTON. Yes.

Mr. BYRD. Mr. President, under cloture that would require unanimous consent.

I ask unanimous consent that when the conference report is called up on the Interior appropriations bill, hopefully shortly, that there be 10 minutes——

Mr. JOHNSTON, Mr. President, I think 10 minutes would be adequate. Senator McClure is not at this moment on the floor. I would want him to agree to that. I am sure Senator Dole would as well.

Mr. DOLE. Twenty minutes equally divided.

Mr. BYRD. Twenty minutes equally divided to be controlled by Mr. Johnston and Mr. McClure and that the time be charged against the now pending bill.

I withdraw the last clause of my request anent the time being charged against the textile bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I withhold the request for now.

AMENDMENT NO. 2885

Mr. GRAHAM. Mr. President, I call up amendment No. 2885.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> At the end of the bill add the following new section: "All countries identified under the Caribbean Basin Initiative are exempted from the provisions of this act."

Mr. GRAHAM. Mr. President, this Congress, in 1983, passed the Caribbean Basin Initiative. That initiative, which had a 12-year life expectancy, was designed to promote expanded economic activity within Central America and the Caribbean and between the United States and our neighbors to the South. This legislation represented a strong statement of the United States awareness of the importance of a strong, free enterprise economic system to support the emerging democracies in the Caribbean Basin.

Historically, the Caribbean-Central American countries have had uniquely close economic, political and cultural ties to the United States. We have increasingly come to understand that promoting prosperity in this region is in the economic, political, and security interests of the United States.

It is not necessary, Mr. President, on this bill today to have an extended discussion of the nature of that close relationship between the United States and the Caribbean basin, but let me mention a few dimensions.

One, we have a significant political stake in this region. By encouraging free economic systems, we are also making a fundamental contribution towards pluralistic democratic political institutions. We will strengthen our hemispheric influence and discourage the establishment of regimes which are antagonistic to United States interests, such as the Sandinista Government in Nicaragua.

Second, we have common enemies in this region. Already, the Soviet Union and its surrogates have made substantial inroads into the Caribbean basin. Cuba and Nicaragua stand as bastions of Soviet tyranny in our region.

We also have other adversaries in this region. One of those that we will spend a substantial amount of time discussing over the next few days is the common adversary of drugs. Unfortunately, this part of our hemisphere is not only an area for the production of drugs, but a major transshipment point between Latin America and the United States. If we are going to fundamentally attack the drug trafficking in the United States, we will do so through a collaboration, a partnership, a recognition of our mutuality of interest between the United States and the countries to the south.

Third, we have strong economic ties in this area—ties which are increasingly mutually beneficial. One of the observations that is made from people who return from this region is how dominant the U.S. stamp is. "Made in the USA" is not only a proud but a prevalent statement in the Caribbean and Central America.

This is a major area for United States' economic influence.

And finally, Mr. President, this is an area in which many of these countries shoulder some of the heaviest debt burdens in the world. Costa Rica has the second highest per capita debt in the world, with a debt of $1,685, closely followed by Jamaica with a per capita debt of $1,645, and Trinidad/Tobago, $1,166.

How are we going to expect these nations to be able to carry out their international responsibilities, Mr. President, unless we give them the opportunity to expand their economies, to have a level of prosperity which will support their domestic needs and meet their international obligations?

Mr. President, one of the goals of the Caribbean Basin Initiative as a means of achieving all of these important objectives between the Caribbean and the United States was to facilitate an expansion of what had historically been a narrow, in many cases, single-crop economy. We are making substantial progress in that direction. Not as much as we had hoped in 1983, but a sound beginning.

One of the areas in which that beginning has shown the greatest promise has been in textile and apparel, and this has been particularly true under the 807 program.

Mr. President, this is a program in which fabric which is produced in the United States, fabric which is cut in the United States, is then sent to the Caribbean and Central America, where it is assembled, and then returned to the United States.

Under that 807 program, for instance, in 1982, the Dominican Republic was sending to the United States $117 million. Three years later that increased to $290 million. Haiti, from $70 million to $118 million, just in the first 3 years of this program.

Three of the foremost participating countries in the 807 program, Mr. President, are countries from the Caribbean basin region. So this has had a significant positive contribution in broadening the economic base of these countries. And yet, because the economies of the Caribbean are so small, it does not represent any significant economic competition to the United States.

Total United States imports from the Caribbean Basin region have been less than three-tenths of 1 percent of United States gross national product. The CBI's share of apparel imports from all sources in the United States was less than 6 percent in 1987.

A congressional study on the implementation of CBI showed a minimal impact on United States industries and consumers. No United States industries claimed adverse effects from CBI imports.

Mr. President, I am concerned at the impact of this legislation on a region of such importance to the United States. This is a region in which the opportunity to use a large, unskilled but productive and hardworking work force in areas that will allow them to increase their economic opportunity is critically important to those countries and the United States. I would suggest that by providing this special treatment to the CBI, we would be faithful to our commitment made in 1983.

As I indicated, that was a 12-year commitment made in 1983. And so, between now and 1995, we will have to revisit the question of whether the United States wishes to continue this special economic relationship with the Caribbean and Central America. It is during this period that we will be able to closely follow the effects of giving to this region of the world an opportunity to establish a broader economic base; yes, including a broader economic base in the area of textiles and apparel.

I am concerned, Mr. President, about a particular provision of this bill, a provision that I hope to learn more about as this debate continues but one which would appear to say that if a country increases its quantity of purchases of American agricultural products, it will have preferential treatment in the regulations which will allocate the annual quota of textiles and apparel into the United States. That is a provision which will have the effect of encouraging other countries to purchase United States' agricultural products. That is a positive and laudable objective. But it is likely to have unintended adverse effects in the Caribbean for two reasons. One, this is a region which is relatively poor. Most of the countries in this region have a per capita income of less than $1,500. And, second, it is a region which already is importing substantial amounts of United States' agricultural product.

On a per capita basis, for instance, Trinidad and Tobago last year imported $74, per capita, of U.S. agricultural products; Jamaica, $45; the Dominican Republic, $24.

Comparing those figures from relatively poor countries in the Caribbean with France, less than $8; Germany, $17; even affluent Japan, $42, almost half what Trinidad and Tobago purchase from the United States on a per capita basis.

So, these have been good customers for American agricultural products. They are already purchasing at high levels, high levels by any objective standard and especially high levels based on their capacity.

Yet I fear that these are going to be the countries that are likely to be adversely affected, as the restricted quota is allocated to those countries in the Pacific rim and Europe which have the capacity, the capacity both because they are not purchasing that large a quantity of U.S. agricultural products today and the capacity because they have got the wealth, to take advantage of this special provision. Another reason, Mr. President, why I believe it would be appropriate to give special consideration from now until 1995 to the Caribbean Basin.

Mr. President, this is a very bad time for the United States to be considering this type of treatment of the Caribbean. We have over the past few years slapped this region with a number of economically insensitive actions.

In the area of sugar, we have drastically reduced the quota which had been available to the Caribbean and Central America until this year which, because of our own drought and other agricultural restrictions, we now have been able to increase that quota. But the sharp reduction which has been experienced over most of the decade of the 1980's has had a devastating effect on countries such as the Dominican Republic.

It is also an unfortunate time, Mr. President, because this is a period of great political significance to the Caribbean and Central America. Countries such as Jamaica, El Salvador, Guatemala, and the Dominican Republic are all entering their election season. They are going to be looking closely at U.S. actions in terms of what will be the policy of new governments in those important countries.

This is not the time we want to be sending another message of insensitivity and lack of concern. Rather, it is the time that we could send, through the amendment that I have offered, a clear message of friendship, that we care about them and their future. We understand that their future and our future are inexorably intertwined. We understand that they are a land of opportunity for their citizens and for ourselves. It is an opportunity that we can help to be realized.

Mr. President, we have an opportunity with this amendment today to send that positive message, a message which will have very substantial positive benefits to the United States in areas of security, in areas of political independence and democracy, in areas of our mutual concern with drug trafficking; and will do so at the most minimal economic costs and at potential long-term great economic benefit to the United States.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, under cloture it is necessary to ask unanimous consent to bring up a conference report. We now have one on which there is no controversy. Our statements should be put into the Record and there should be no Record vote.

So, Mr. President, I ask unanimous consent that it be in order to submit a report on the committee of conference on H.R. 4867 and to ask for its immediate consideration.

Mr. BYRD. Mr. President, reserving the right to object, may we have a time limitation on that?

Mr. JOHNSTON. Mr. President, if I may say to the leader, I think we can do it faster without a time limitation because we have to put a time limitation on the other side, and we think we can do this within 5 minutes.

Mr. BYRD. Very well. Mr. President, I raise no objection conditioned upon that statement.

Mr. McCLURE. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on H.R. 4867 and ask for its immediate consideration.

The **PRESIDING OFFICER.** The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 10, 1988.)

Mr. **JOHNSTON.** Mr. President, this conference report is $10 million less than the subcommittee's revised allocation under section 302(b) in budget authority and $9 million below the 302(b) allocation in outlays.

It is, I believe, now noncontroversial.

Mr. President, I bring before the Senate the conference report on fiscal year 1989 appropriations for the Department of the Interior and related agencies. The funding recommendations in the bill total $9.878 billion in net budget authority, which is $10 million less than the subcommittee's revised allocation, in accordance with section 302(b) of the Budget Act, and $10.032 billion in net outlays, which is $9 million below our revised 302(b) allocation.

Mr. President, as many Senators know, this appropriations bill affects Americans in many different ways. This bill provides funding for the 341 units of the National Park System, 441 national wildlife refuges, 71 fish hatcheries, 156 national forest areas, and 270 million acres of public lands managed by the Bureau of Land Management. It is almost impossible to escape the benefits this bill brings to the American public—whether it be a visit to a national park, attendance at an art exhibit, hiking in a national forest, or a reduction in our collective vulnerability to foreign energy supplies. As a result of these wide-ranging impacts, the subcommittee receives funding requests for projects in all areas of the country. Fiscal constraints limit our ability to fund all of these requests, but the bottom line for this appropriations bill is that the benefits accrue to the country as a whole.

This year the conferees considered 204 Senate amendments and some 1,225 discrete items. The chairmen and ranking members on both sides reviewed these matters closely. I believe the agreements reached are fair, and address projects and funding priorities important to both the House and the Senate. The task was difficult, since our compromise 302(b) allocation—BA: $9.888 billion and BO: $10.041 billion—did not permit us to fund every item as fully as we would have liked.

Mr. President, some brief highlights of the conference agreement include:

First, $744.8 million for operation of the National Park System, which is only $1.2 million less than the Senate level;

Second, $206.6 million for land acquisition and $421.9 million for construction in our national parks, forests, and wildlife refuges, which are increases of $10.1 million and $48.9 million respectively over the Senate level;

Third, $2.243 billion for programs for native Americans conducted by the Bureau of Indian Affairs, the Indian Health Service, and the Department of Education, an increase of $29.4 million over the Senate level;

Fourth, $153.6 million for the people of the territories, an increase of $8.8 million over the Senate level; and

Fifth, $1.634 billion for energy programs, including $190 million for clean coal technology, $380.6 million for fossil energy, and $372.5 million for energy conservation. In addition, the conferees have included an advance appropriation of $575 million in fiscal year 1990 for a third competitive clean coal technology solicitation, as proposed by the Senate. These clean coal technologies can make important contributions to solving the acid rain and global warming problems which confront us.

Mr. President, the conferees were well aware of the strong interest on both sides in geosciences research and development. The final conference agreement includes a total of some $18.3 million for geosciences research; and the statement of the managers directs the Department of Energy to provide at least $5 million for "comprehensive, openly competed, cost-shared programs" involving geosciences research. These funds are open to competitive awards to individual universities, consortia of universities, and to other organizations; but I want to stress that we expect to see strong industrial participation in the selected proposals. Also, as a point of clarification, the Department is not to conduct a single competitive geosciences solicitation totaling $5 million, but rather, should conduct its geoscience research program within the discrete oil and gas line item research programs identified in the budget justifications. These individual contracts, to be awarded throughout the fiscal year, should, in any event, total no less than $5 million. The Department should report to the Committees on Appropriations regarding its fiscal year 1989 geosciences research plan as soon as it is developed.

Mr. President, I also want to take this opportunity to thank our ranking Republican member, Senator MCCLURE, for his close attention and hard work in the development of this bill and the successful completion of the conference agreements which we are about to consider.

Mr. President, I believe this is a good and fair conference agreement, and I urge its adoption by the Senate. This will be yet another appropriations bill that the Congress can send to the President for his signature.

Mr. President, I request that the table providing a comparative statement of new budget authority and outlays for the fiscal year 1989 Interior appropriations bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
TITLE I - DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	464,487,000	500,959,000	510,595,000	508,462,000	412,121,000	446,862,000	455,274,000	452,777,000
Construction and access	1,338,000	5,431,000	2,631,000	5,431,000	335,000	1,359,000	659,000	1,359,000
Payments in lieu of taxes	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000
Land acquisition	100,000	11,640,000	12,020,000	12,290,000	50,000	5,820,000	6,010,000	6,145,000
Rescission	---	---	---	---	---	---	---	---
Oregon and California grant lands	57,434,000	61,445,000	59,141,000	60,000,000	42,501,000	45,469,000	43,764,000	44,400,000
Range improvements (indefinite)	8,506,000	8,506,000	8,506,000	8,506,000	5,376,000	5,376,000	5,376,000	5,376,000
Service charges, deposits & forfeitures (indefinite)	6,000,000	6,000,000	6,000,000	6,000,000	4,248,000	4,248,000	4,248,000	4,248,000
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	56,000	56,000	56,000	56,000
Total, Bureau of Land Management	642,965,000	699,081,000	703,993,000	705,789,000	569,687,000	614,190,000	620,387,000	619,361,000
United States Fish and Wildlife Service								
Resource management	331,863,000	350,251,000	360,654,000	360,688,000	265,490,000	280,760,000	289,082,000	289,110,000
Construction and anadromous fish	7,577,000	23,756,000	25,294,000	31,834,000	1,515,000	4,750,000	5,058,000	6,365,000
Migratory bird conservation account	---	---	---	---	---	---	---	---
Land acquisition	1,874,000	50,809,000	61,849,000	57,529,000	1,499,000	22,864,000	27,832,000	25,888,000
National Wildlife Refuge Fund	5,645,000	7,645,000	5,645,000	6,645,000	5,645,000	7,645,000	5,645,000	6,645,000
Total, United States Fish and Wildlife Service	346,959,000	432,461,000	453,442,000	456,696,000	274,149,000	316,019,000	327,617,000	328,008,000
National Park Service								
Operation of the national park system	733,768,000	742,181,000	746,024,000	744,835,000	550,326,000	559,510,000	562,392,000	561,500,000
Park receipts (indefinite)	---	---	---	---	---	---	---	---
National recreation and preservation	10,204,000	14,093,000	13,470,000	14,608,000	9,184,000	12,684,000	12,123,000	13,148,000
Historic preservation fund	---	30,000,000	30,250,000	30,500,000	---	15,450,000	15,579,000	15,708,000
Urban Park recreation fund (rescission)	---	---	---	---	---	---	---	---
Construction	15,003,000	131,809,000	119,072,000	159,108,000	2,250,000	19,767,000	17,857,000	23,861,000
Visitors facilities fund	---	---	---	---	---	---	---	---
(Liquidation of contract authority)	(31,000,000)	(47,000,000)	(47,000,000)	(47,000,000)	---	---	---	---
Land and water conservation fund (rescission of contract authority)	---	-30,000,000	-30,000,000	-30,000,000	---	---	---	---
Land acquisition and state assistance	15,779,000	62,206,000	64,961,000	72,609,000	12,623,000	21,773,000	22,737,000	25,414,000
John F. Kennedy Center for the Performing Arts	5,193,000	5,181,000	5,181,000	5,181,000	3,895,000	3,886,000	3,886,000	3,886,000
Illinois and Michigan Canal National Heritage Corridor Commission	---	250,000	---	250,000	---	125,000	---	125,000
American Revolution Bicentennial Administration	---	4,765,000	---	4,765,000	---	4,289,000	---	4,289,000
National Film Preservation Board	---	100,000	---	250,000	---	75,000	---	187,000
Jefferson National Expansion Memorial Commission	---	---	---	---	---	---	---	---
Total, National Park Service	779,947,000	960,585,000	948,958,000	1,002,106,000	578,278,000	637,559,000	634,574,000	648,118,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
Geological Survey								
Surveys, investigations, and research.................	425,003,000	448,056,000	448,045,000	451,506,000	403,753,000	425,653,000	425,643,000	428,930,000
Minerals Management Service								
Leasing and royalty management........................	171,317,000	170,009,000	171,847,000	170,744,000	111,356,000	110,506,000	111,701,000	110,984,000
Payments to States from receipts under Mineral Leasing	600,000	---	---	---	600,000	---	---	---
Total, Minerals Management Service.............	171,917,000	170,009,000	171,847,000	170,744,000	111,956,000	110,506,000	111,701,000	110,984,000
Bureau of Mines								
Mines and minerals....................................	126,605,000	146,254,000	165,167,000	159,292,000	86,091,000	99,452,000	112,312,000	108,318,000
Office of Surface Mining Reclamation and Enforcement								
Regulation and technology.............................	101,066,000	104,086,000	100,837,000	101,095,000	58,921,000	60,682,000	58,788,000	58,938,000
Abandoned mine reclamation fund (definite, trust fund)	159,094,000	191,154,000	201,328,000	193,160,000	44,069,000	52,950,000	55,768,000	53,505,000
Total, Office of Surface Mining Reclamation and Enforcement..................................	260,160,000	295,240,000	302,165,000	294,255,000	102,990,000	113,632,000	114,556,000	112,443,000
Bureau of Indian Affairs								
Operation of Indian Programs..........................	938,416,000	996,024,000	980,486,000	992,767,000	768,781,000	817,215,000	804,483,000	814,554,000
Construction..	56,793,000	79,136,000	78,513,000	79,283,000	13,062,000	18,201,000	18,058,000	18,235,000
Road Construction.....................................	---	---	---	--	---	---	---	---
White Earth Trust Fund................................	---	---	---	--	---	---	---	---
Miscellaneous payments to Indians.....................	13,955,000	13,952,000	13,955,000	13,952,000	12,727,000	12,724,000	12,727,000	12,724,000
Tribal trust funds....................................	---	---	---	---	---	---	---	---
Revolving fund for loans (limitation on direct loans).	(13,000,000)	---	---	---	---	---	---	---
Indian loan guaranty and insurance fund...............	3,370,000	3,370,000	3,370,000	3,370,000	1,915,000	1,915,000	1,915,000	1,915,000
Indian loan guaranty and insurance fund (limitation on guaranteed loans)..............................	(45,000,000)	---	---	---	---	---	---	---
Total, Bureau of Indian Affairs.................	1,012,534,000	1,092,482,000	1,076,324,000	1,089,372,000	796,485,000	850,055,000	837,183,000	847,428,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
Territorial and International Affairs								
Administration of territories	71,477,000	82,397,000	96,087,000	92,767,000	51,421,000	57,449,000	65,006,000	63,173,000
Trust Territory of the Pacific Islands	2,780,000	28,434,000	18,287,000	28,434,000	2,474,000	25,304,000	16,274,000	25,304,000
Compact of Free Association	34,935,000	36,160,000	30,360,000	32,360,000	34,935,000	32,893,000	30,360,000	32,360,000
Total, Territorial Affairs	109,192,000	146,991,000	144,734,000	153,561,000	88,830,000	115,646,000	111,640,000	120,837,000
Departmental Offices								
Office of the Secretary	51,681,000	49,580,000	48,809,000	49,067,000	43,929,000	42,143,000	41,488,000	41,707,000
Office of the Solicitor	25,325,000	24,686,000	24,686,000	24,686,000	22,793,000	22,218,000	22,218,000	22,218,000
Office of Inspector General	18,816,000	18,858,000	18,649,000	18,749,000	16,934,000	16,972,000	16,784,000	16,874,000
Construction Management	1,800,000	1,800,000	1,800,000	1,800,000	1,622,000	1,622,000	1,622,000	1,622,000
Total, Departmental Offices	97,622,000	94,924,000	93,944,000	94,302,000	85,278,000	82,955,000	82,112,000	82,421,000
Total, title I, Department of the Interior:								
New budget (obligational) authority (net)	3,972,904,000	4,486,083,000	4,508,619,000	4,577,623,000	3,097,497,000	3,365,667,000	3,377,725,000	3,406,848,000
Appropriations	(3,972,904,000)	(4,516,083,000)	(4,538,619,000)	(4,607,623,000)	(3,097,497,000)	(3,365,667,000)	(3,377,725,000)	(3,406,848,000)
Definite	(3,958,298,000)	(4,501,477,000)	(4,524,013,000)	(4,593,017,000)	(3,087,817,000)	(3,355,987,000)	(3,368,045,000)	(3,397,168,000)
Indefinite	(14,606,000)	(14,606,000)	(14,606,000)	(14,606,000)	(9,680,000)	(9,680,000)	(9,680,000)	(9,680,000)
Rescission	---	(-30,000,000)	(-30,000,000)	(-30,000,000)	---	---	---	---
(Liquidation of contract authority)	(31,000,000)	(47,000,000)	(47,000,000)	(47,000,000)	---	---	---	---
(Limitation on direct loans)	(13,000,000)	---	---	---	---	---	---	---
(Limitation on guaranteed loans)	(45,000,000)	---	---	---	---	---	---	---

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
TITLE II - RELATED AGENCIES								
DEPARTMENT OF AGRICULTURE								
Forest Service								
Forest research	129,279,000	139,865,000	132,599,000	137,867,000	97,347,000	105,318,000	99,808,000	103,773,000
State and private forestry	34,781,000	78,143,000	82,918,000	86,668,000	25,634,000	57,592,000	61,112,000	63,875,000
National forest system	1,159,655,000	1,309,244,000	1,329,018,000	1,329,488,000	1,005,421,000	1,151,740,000	1,168,884,000	1,169,292,000
Construction	203,974,000	216,542,000	225,997,000	225,518,000	118,917,000	126,244,000	131,756,000	131,477,000
Timber receipts transfer to General Fund (indefinite)	(-79,100,000)	(-79,100,000)	(79,100,000)	(-79,100,000)	---	---	---	---
Timber purchaser credits	(125,367,000)	(64,000,000)	(125,367,000)	(75,000,000)	---	---	---	---
Timber purchaser election (rescission)	---	---	---	---	---	---	---	---
Mount St. Helens (contract authority)	---	(5,333,000)	---	(5,333,000)	---	---	---	1,066,000
Land acquisition	3,900,000	42,245,000	57,734,000	64,205,000	3,510,000	16,898,000	23,094,000	25,682,000
Timber Roads, Purchaser Election, Forest Service (rescission)	---	---	-40,000,000	-40,000,000	---	---	---	---
Timber Salvage Sales	---	---	---	---	---	---	---	---
Tongass Timber Supply Fund	40,699,000	25,264,000	40,699,000	35,999,000	37,443,000	23,243,000	37,443,000	33,119,000
Operation and maintenance of recreation facilities	31,800,000	---	---	---	23,850,000	---	---	---
Acquisition of lands for national forests, special acts	966,000	966,000	966,000	966,000	814,000	814,000	814,000	814,000
Acquisition of lands to complete land exchanges (indefinite)	335,000	335,000	335,000	335,000	297,000	297,000	297,000	297,000
Range betterment fund (indefinite)	3,875,000	3,875,000	3,875,000	3,875,000	3,020,000	3,020,000	3,020,000	3,020,000
Miscellaneous trust funds	90,000	30,000	90,000	90,000	90,000	30,000	90,000	90,000
Total, Department of Agriculture	1,609,354,000	1,816,509,000	1,834,231,000	1,845,011,000	1,316,343,000	1,485,196,000	1,526,318,000	1,532,505,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
DEPARTMENT OF ENERGY								
Clean coal technology	---	---	---	---	---	---	---	---
Base program, FY 1989	525,000,000	100,000,000	525,000,000	190,000,000	52,500,000	52,500,000	52,500,000	15,500,000
Base program, FY 1990	---	(225,000,000)	(575,000,000)	(135,000,000)	---	---	---	---
Base program, FY 1991	---	(200,000,000)	---	(200,000,000)	---	---	---	---
Supplemental program, FY 1990	(575,000,000)	---	---	(575,000,000)	---	---	---	---
Supplemental program, FY 1991	(600,000,000)	---	---	---	---	---	---	---
Supplemental program, FY 1992	(600,000,000)	---	---	---	---	---	---	---
Fossil energy research and development	166,992,000	357,361,000	367,829,000	380,595,000	66,797,000	142,945,000	147,133,000	152,239,000
(By transfer)	---	---	---	---	---	---	---	---
Naval petroleum and oil shale reserves	185,071,000	185,071,000	185,071,000	185,071,000	101,789,000	101,789,000	101,789,000	101,789,000
Energy conservation	89,359,000	326,138,000	357,019,000	372,502,000	17,872,000	28,889,000	62,319,000	29,077,000
Economic regulation	20,772,000	21,010,000	21,372,000	21,372,000	13,086,000	13,236,000	13,464,000	13,464,000
Emergency preparedness	6,154,000	6,154,000	6,154,000	6,154,000	4,923,000	4,923,000	4,923,000	4,923,000
Strategic Petroleum Reserve	173,421,000	173,421,000	174,421,000	173,421,000	95,382,000	95,382,000	95,932,000	95,382,000
SPR petroleum	333,555,000	333,555,000	242,000,000	242,000,000	233,489,000	233,489,000	127,216,000	127,216,000
Energy Information Administration	62,856,000	62,856,000	63,156,000	62,856,000	40,856,000	40,856,000	41,051,000	40,856,000
Total, Department of Energy	1,563,180,000	1,565,566,000	1,942,022,000	1,633,971,000	626,694,000	714,009,000	646,327,000	580,446,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Indian health services	986,772,000	1,016,667,000	1,014,536,000	1,020,106,000	769,682,000	793,000,000	791,337,000	795,682,000
Fiscal year 1990	(1,003,007,000)	---	---	---	---	---	---	---
Indian health facilities	---	64,050,000	50,185,000	61,668,000	---	16,012,000	12,546,000	15,417,000
Total, Department of Health and Human Services	986,772,000	1,080,717,000	1,064,721,000	1,081,774,000	769,682,000	809,012,000	803,883,000	811,099,000
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Indian education	67,653,000	68,153,000	72,297,000	71,553,000	9,892,000	9,965,000	10,571,000	10,462,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
OTHER RELATED AGENCIES								
Navajo and Hopi Indian Relocation Commission								
Salaries and expenses	22,973,000	27,723,000	26,473,000	27,373,000	14,473,000	17,466,000	16,678,000	17,245,000
Institute of American Indian and Alaska Native Culture and Arts Development								
Salaries and expenses	2,467,000	3,094,000	2,849,000	3,094,000	2,220,000	2,784,000	2,564,000	2,784,000
Smithsonian Institution								
Salaries and expenses	216,214,000	209,266,000	208,734,000	211,240,000	190,917,000	184,781,000	184,311,000	186,524,000
Construction and improvements, National Zoological Park	5,305,000	5,305,000	5,305,000	5,305,000	2,387,000	2,387,000	2,387,000	2,387,000
Restoration and renovation of buildings	20,835,000	20,835,000	20,735,000	20,735,000	8,334,000	8,334,000	8,294,000	8,294,000
Construction	10,150,000	8,655,000	8,655,000	8,655,000	4,060,000	3,462,000	3,462,000	3,462,000
Subtotal	252,504,000	244,061,000	243,429,000	245,935,000	205,698,000	198,964,000	198,454,000	200,667,000
National Gallery of Art								
Salaries and expenses	38,543,000	37,831,000	38,543,000	37,981,000	33,031,000	32,421,000	33,032,000	32,550,000
Repair, restoration and renovation of buildings	1,000,000	500,000	1,000,000	750,000	240,000	120,000	240,000	180,000
Subtotal, National Gallery of Art	39,543,000	38,331,000	39,543,000	38,731,000	33,271,000	32,541,000	33,272,000	32,730,000
Woodrow Wilson International Center for Scholars								
Salaries and expenses	4,285,000	4,240,000	4,240,000	4,240,000	2,631,000	2,603,000	2,603,000	2,603,000
Endowment Challenge Fund	350,000	---	350,000	300,000	350,000	---	350,000	300,000
Total, Woodrow Wilson International Center for Scholars	4,635,000	4,240,000	4,590,000	4,540,000	2,981,000	2,603,000	2,953,000	2,903,000
Total, Smithsonian Institution	296,682,000	286,632,000	287,562,000	289,206,000	241,950,000	234,108,000	234,679,000	236,300,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
National Foundation on the Arts and the Humanities								
National Endowment for the Arts								
Grants and administration	140,531,000	141,800,000	141,431,000	141,890,000	---	---	---	---
Matching grants	27,200,000	27,200,000	27,200,000	27,200,000	---	---	---	---
Associated outlays	---	---	---	---	56,525,000	56,953,000	56,829,000	56,984,000
Total, National Endowment for the Arts	167,731,000	169,000,000	168,631,000	169,090,000	56,525,000	56,953,000	56,829,000	56,984,000
National Endowment for the Humanities								
Grants and administration	111,735,000	125,000,000	115,535,000	124,300,000	---	---	---	---
Matching grants	28,700,000	28,700,000	28,700,000	28,700,000	---	---	---	---
Associated outlays	---	---	---	---	64,741,000	70,856,000	66,493,000	70,533,000
Total, National Endowment for the Humanities	140,435,000	153,700,000	144,235,000	153,000,000	64,741,000	70,856,000	66,493,000	70,533,000
Institute of Museum Services								
Grants and administration	21,944,000	22,620,000	21,944,000	22,270,000	5,662,000	5,836,000	5,662,000	5,746,000
Total, National Foundation of the Arts and the Humanities	330,110,000	345,320,000	334,810,000	344,360,000	126,928,000	133,645,000	128,984,000	133,263,000
Commission of Fine Arts								
Salaries and expenses	451,000	475,000	475,000	475,000	413,000	435,000	435,000	435,000
National Capital Arts and Cultural Affairs								
Grants	---	5,000,000	5,000,000	5,000,000	---	5,000,000	5,000,000	5,000,000
Advisory Council on Historic Preservation								
Salaries and expenses	1,781,000	1,774,000	1,781,000	1,778,000	1,710,000	1,703,000	1,710,000	1,707,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
National Capital Planning Commission								
Salaries and expenses	2,962,000	2,962,000	2,962,000	2,962,000	2,725,000	2,725,000	2,725,000	2,725,000
Franklin Delano Roosevelt Memorial Commission								
Salaries and expenses	28,000	28,000	28,000	28,000	23,000	23,000	23,000	23,000
Pennsylvania Avenue Development Corporation								
Salaries and expenses	2,353,000	2,343,000	2,311,000	2,334,000	1,906,000	1,898,000	1,872,000	1,891,000
Public development	3,095,000	3,175,000	3,095,000	3,175,000	2,321,000	2,381,000	2,321,000	2,381,000
Total, Pennsylvania Avenue Development Corporation	5,448,000	5,518,000	5,406,000	5,509,000	4,227,000	4,279,000	4,193,000	4,272,000
United States Holocaust Memorial Council								
Holocaust Memorial Council	2,209,000	2,244,000	2,209,000	2,244,000	1,747,000	1,774,000	1,747,000	1,774,000
Total, title II, Related Agencies:								
New budget (obligational) authority	4,892,070,000	5,211,715,000	5,582,826,000	5,314,338,000	3,119,027,000	3,422,124,000	3,385,837,000	3,340,040,000
Appropriations	(4,892,070,000)	(5,211,715,000)	(5,622,826,000)	(5,354,338,000)	(3,119,027,000)	(3,422,124,000)	(3,385,837,000)	(3,338,974,000)
Definite	(4,887,860,000)	(5,207,505,000)	(5,618,616,000)	(5,350,128,000)	(3,115,710,000)	(3,418,807,000)	(3,382,520,000)	(3,335,657,000)
Indefinite	(4,210,000)	(4,210,000)	(4,210,000)	(4,210,000)	(3,317,000)	(3,317,000)	(3,317,000)	(3,317,000)
Rescission	---	---	(-40,000,000)	(-40,000,000)	---	---	---	---
(Timber receipt transfer to general fund)	-79,100,000	-79,100,000	79,100,000	-79,100,000	---	---	---	---
(By transfer)	---	---	---	---	---	---	---	---
RECAPITULATION								
Total, Department of the Interior and Related Agencies Appropriations:								
New budget (obligational) authority	8,864,974,000	9,697,798,000	10,091,445,000	9,891,961,000	6,216,524,000	6,787,791,000	6,763,562,000	6,746,888,000
Appropriations	(8,864,974,000)	(9,727,798,000)	(10,161,445,000)	(9,961,961,000)	(6,216,524,000)	(6,787,791,000)	(6,763,562,000)	(6,745,822,000)
Definite	(8,846,158,000)	(9,708,982,000)	(10,142,629,000)	(9,943,145,000)	(6,203,527,000)	(6,774,794,000)	(6,750,565,000)	(6,732,825,000)
Indefinite	(18,816,000)	(18,816,000)	(18,816,000)	(18,816,000)	(12,997,000)	(12,997,000)	(12,997,000)	(12,997,000)
Rescission	---	(-30,000,000)	(-70,000,000)	(-70,000,000)	---	---	---	---
(Liquidation of contract authority)	(31,000,000)	(52,333,000)	(47,000,000)	(52,333,000)	---	---	---	(1,066,000)
(Limitation on direct loans)	(13,000,000)	---	---	---	---	---	---	---
(Timber receipt transfer to general fund)	(-79,100,000)	(-79,100,000)	(79,100,000)	(-79,100,000)	---	---	---	---
(By transfer)	---	---	---	---	---	---	---	---

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
TITLE I -DEPARTMENT OF THE INTERIOR								
Bureau of Land Management	642,965,000	699,081,000	703,993,000	705,789,000	569,687,000	614,190,000	620,387,000	619,361,000
United States Fish and Wildlife Service	346,959,000	432,461,000	453,442,000	456,696,000	274,149,000	316,019,000	327,617,000	328,008,000
National Park Service	779,947,000	960,585,000	948,958,000	1,002,106,000	578,278,000	637,559,000	634,574,000	648,118,000
Geological Survey	425,003,000	448,056,000	448,045,000	451,506,000	403,753,000	425,653,000	425,643,000	428,930,000
Minerals Management Service	171,917,000	170,009,000	171,847,000	170,744,000	111,956,000	110,506,000	111,701,000	110,984,000
Bureau of Mines	126,605,000	146,254,000	165,167,000	159,292,000	86,091,000	99,452,000	112,312,000	108,318,000
Office of Surface Mining Reclamation and Enforcement	260,160,000	295,240,000	302,165,000	294,255,000	102,990,000	113,632,000	114,556,000	112,443,000
Bureau of Indian Affairs	1,012,534,000	1,092,482,000	1,076,324,000	1,089,372,000	796,485,000	850,055,000	837,183,000	847,428,000
Territorial and International Affairs	109,192,000	146,991,000	144,734,000	153,561,000	88,830,000	115,646,000	111,640,000	120,837,000
Secretarial Offices	97,622,000	94,924,000	93,944,000	94,302,000	85,278,000	82,955,000	82,112,000	82,421,000
Total, Title I - Department of the Interior	3,972,904,000	4,486,083,000	4,508,619,000	4,577,623,000	3,097,497,000	3,365,667,000	3,377,725,000	3,406,848,000
TITLE II - RELATED AGENCIES								
Forest Service	1,609,354,000	1,816,509,000	1,834,231,000	1,845,011,000	1,316,343,000	1,485,196,000	1,526,318,000	1,532,505,000
Department of Energy	1,563,180,000	1,565,566,000	1,942,022,000	1,633,971,000	626,694,000	714,009,000	646,327,000	580,446,000
Indian Health	986,772,000	1,080,717,000	1,064,721,000	1,081,774,000	769,682,000	809,012,000	803,883,000	811,099,000
Indian Education	67,653,000	68,153,000	72,297,000	71,553,000	9,892,000	9,965,000	10,571,000	10,462,000
Navajo and Hopi Indian Relocation Commission	22,973,000	27,723,000	26,473,000	27,373,000	14,473,000	17,466,000	16,678,000	17,245,000
Institute of American Indian and Alaska Native Culture and Arts Development	2,467,000	3,094,000	2,849,000	3,094,000	2,220,000	2,784,000	2,564,000	2,784,000
Smithsonian	252,504,000	244,061,000	243,429,000	245,935,000	205,698,000	198,964,000	198,454,000	200,667,000
National Gallery of Art	39,543,000	38,331,000	39,543,000	38,731,000	33,271,000	32,541,000	33,272,000	32,730,000
Woodrow Wilson International Center for Scholars	4,635,000	4,240,000	4,590,000	4,540,000	2,981,000	2,603,000	2,953,000	2,903,000
National Endowment for the Arts	167,731,000	169,000,000	168,631,000	169,090,000	56,525,000	56,953,000	56,829,000	56,984,000
National Endowment for the Humanities	140,435,000	153,700,000	144,235,000	153,000,000	64,741,000	70,856,000	66,493,000	70,533,000
Institute of Museum Services	21,944,000	22,620,000	21,944,000	22,270,000	5,662,000	5,836,000	5,662,000	5,746,000
Commission of Fine Arts	451,000	475,000	475,000	475,000	413,000	435,000	435,000	435,000
National Capital Arts and Cultural Affairs	---	5,000,000	5,000,000	5,000,000	---	5,000,000	5,000,000	5,000,000
Advisory Council on Historic Preservation	1,781,000	1,774,000	1,781,000	1,778,000	1,710,000	1,703,000	1,710,000	1,707,000
National Capital Planning Commission	2,962,000	2,962,000	2,962,000	2,962,000	2,725,000	2,725,000	2,725,000	2,725,000
Franklin Delano Roosevelt Memorial Commission	28,000	28,000	28,000	28,000	23,000	23,000	23,000	23,000
Pennsylvania Avenue Development Corporation	5,448,000	5,518,000	5,406,000	5,509,000	4,227,000	4,279,000	4,193,000	4,272,000
Federal Inspector for the Alaska Gas Pipeline	---	---	---	---	---	---	---	---
Holocaust Memorial Council	2,209,000	2,244,000	2,209,000	2,244,000	1,747,000	1,774,000	1,747,000	1,774,000
Total, Title II - Related Agencies	4,892,070,000	5,211,715,000	5,582,826,000	5,314,338,000	3,119,027,000	3,422,124,000	3,385,837,000	3,340,040,000
Grand total	8,864,974,000	9,697,798,000	10,091,445,000	9,891,961,000	6,216,524,000	6,787,791,000	6,763,562,000	6,746,888,000

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
CONGRESSIONAL BUDGET RECAP								
Scorekeeping adjustments:								
Indefinite appropriations (discretionary).........	-100,000	-100,000	-100,000	-100,000	---	---	---	---
Indefinite appropriations (mandatory).............	---	---	---	---	---	---	---	---
Outer Continental Shelf receipts..................	---	---	-70,000,000	---	---	---	-70,000,000	---
Miscellaneous payments to Indians.................	---	---	994,000	---	---	---	1,694,000	700,000
Operation of National Parks System................	---	---	---	---	---	---	---	---
Forest Service construction contract authority....	---	---	---	---	---	---	---	---
Forest Service (permanent)........................	---	8,581,000	29,706,000	25,706,000	---	5,941,000	21,316,000	18,316,000
Mount St. Helens contract authority...............	---	5,333,000	5,333,000	5,333,000	---	1,066,000	1,066,000	---
Energy Conservation...............................	---	---	-45,424,000	-45,424,000	---	---	---	---
Geothermal resources development fund (Hulin well	---	---	4,400,000	---	---	---	4,400,000	---
Claims, judgments, and relief acts................	---	---	6,000,000	---	---	---	6,000,000	---
Compact of free association (2% cut of object clas	---	---	-401,000	---	---	---	-401,000	---
2% cut, object classes 21,25,26,31................	---	---	-42,261,000	---	---	---	-29,433,000	---
Mandatory adv. appropriations from prior years 1/.	---	---	---	---	---	---	---	---
Endowment challenge fund (permanent)..............	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000
Energy conservation...............................	---	---	---	---	---	---	---	---
Total, adjustments............................	-40,000	13,874,000	-111,693,000	-14,425,000	60,000	7,067,000	-65,298,000	19,076,000
Total (including adjustments).....................	8,864,934,000	9,711,672,000	9,979,752,000	9,877,536,000	9,482,187,000	10,060,461,000	9,963,867,000	10,031,567,000
Amounts in this bill..............................	(8,864,974,000)	(9,697,798,000)	(10,091,445,000)	(9,891,961,000)	(6,216,524,000)	(6,787,791,000)	(6,763,562,000)	(6,746,888,000)
Scorekeeping adjustments..........................	(-40,000)	(13,874,000)	(-111,693,000)	(-14,425,000)	(60,000)	(7,067,000)	(-65,298,000)	(19,076,000)
Prior year outlays associated with this bill......	---	---	---	---	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)
Total Summit mandatory and discretionary..............	8,864,934,000	9,711,672,000	9,979,752,000	9,877,536,000	9,482,187,000	10,060,461,000	9,963,867,000	10,031,567,000
Mandatory...	(43,601,000)	(44,826,000)	(38,625,000)	(41,026,000)	(40,427,000)	(38,385,000)	(35,451,000)	(37,852,000)
Mandatory (prior year)............................	---	---	---	---	(3,174,000)	(3,174,000)	(3,174,000)	(3,174,000)
Mandatory (total).................................	(43,601,000)	(44,826,000)	(36,625,000)	(41,026,000)	(43,601,000)	(41,559,000)	(38,625,000)	(41,026,000)
Discretionary.....................................	(8,821,333,000)	(9,666,846,000)	(9,941,127,000)	(9,836,510,000)	(6,176,157,000)	(6,756,473,000)	(6,662,813,000)	(6,728,112,000)
Discretionary (prior year)........................	---	---	---	---	(3,262,429,000)	(3,262,429,000)	(3,262,429,000)	(3,262,429,000)
Discretionary (total).............................	(8,821,333,000)	(9,666,846,000)	(9,941,127,000)	(9,836,510,000)	(9,438,586,000)	(10,018,902,000)	(9,925,242,000)	(9,990,541,000)
Total Congressional mandatory and discretionary.......	8,864,934,000	9,711,672,000	9,979,752,000	9,877,536,000	9,482,187,000	10,060,461,000	9,963,867,000	10,031,567,000
Mandatory (total).................................	(44,201,000)	(44,826,000)	(38,625,000)	(41,026,000)	(3,306,630,000)	(3,303,988,000)	(3,301,054,000)	(3,303,455,000)
(Mandatory new)...................................	(44,201,000)	(44,826,000)	(38,625,000)	(41,026,000)	(41,027,000)	(38,385,000)	(35,451,000)	(37,852,000)
(Prior year)......................................	---	---	---	---	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)	(3,265,603,000)
Discretionary (new)...............................	(8,820,733,000)	(9,666,846,000)	(9,941,127,000)	(9,836,510,000)	(6,175,557,000)	(6,756,473,000)	(6,662,813,000)	(6,728,112,000)

1/ Endowment challenge fund for FY87 and FY89 $150,000

MEMORANDUM:

Comparative Statement of New Budget (Obligational) Authority

	New Budget Authority FY 89				Outlays New CBO Estimates FY 89			
	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report	Budget Estimates	House Floor Action	Senate Floor Action	Conference Report
Bureau of Indian Affairs Credit Reform								
Indian direct loan subsidies..........................	3,175,000	---	---	---	---	---	---	---
Indian guaranteed loan subsidies......................	11,250,000	---	---	---	---	---	---	---
Indian loan guarnty and insurance fund................	-752,000	---	---	---	---	---	---	---
Total, Credit reform..........................	13,673,000	---	---	---	---	---	---	---

Mr. JOHNSTON. In addition, I would offer that the following printing errors in the Statement of the Managers—House report 100-862—be noted:

First, on page 7, under amendment No. 1, $125,000 is for the San Pedro conservation area Arizona, not $215,000;

Second, on page 14, amendment No. 18 appropriates $744,835,000 for operation of the National Park System, not $74,835,000;

Third, on page 19, funds for Denali National Park, AK, are for a replacement hotel, not Southside;

Fourth, on page 27, definitions identified in section 11 apply to all sections 1 through 13;

Fifth, on page 45, amendment No. 100, the Senate proposed amount was $132,599,000, not $312,599,000;

Sixth, on page 48, under amendment No. 106, $13,000,000 is for forest fire protection, including $1,000,000 for additional fuels treatment, not $13,000,000 for additional fuels treatment. Also, an increase of $1,352,000 over the Senate amount is for soil, water, and air management. Beginning with $1,182,000 for land line location, the remainder of the changes are decreases;

Seventh, on page 66, under amendment No. 142, the new central science facility cost is $24,750,000, not $25,750,000; and

Eighth, on page 66, under amendment No. 148, $91,555,000 is appropriated for acquisition of petroleum beginning on October 1, 1989, not $91,550,000.

In addition to these printing errors, the Statement of the Managers should reflect the agreement reached to provide $165,000 for planning for facility development at Theodore Roosevelt National Park, ND.

I would also note that the bill contains an appropriation for reconstruction and restoration at Fort Abraham Lincoln at Mandan, ND, pursuant to the Historic Sites Act of 1935. I want to make it clear that expenditures under this provision are to be made in consultation and cooperation with the Fort Abraham Lincoln Foundation of Mandan. I had the opportunity to meet with officials from the foundation last month, and to view the progress that has already occurred at the fort. The foundation has done an excellent job.

I would further note that this bill contains funding for hospital improvements in American Samoa. The Statement of the Managers requires that funds "are to be made available only upon creation and implementation of an independent hospital authority." It is our intent that the American Samoa Government enact the legislation necessary to direct the establishment of the hospital authority, and provide assurances that it is committed to having an independent authority operating within a reasonable period of time, before the funds will be made available.

Mr. President, I want again, as is my habit and my deeply held feeling, to commend my dear friend from Idaho, the distinguished senior Senator, Senator McCLURE, who is not only able but very pleasant to work with.

Mr. McCLURE. Mr. President, I concur in the statement made by the Senator from Louisiana, and I very much appreciate the opportunity to work once again with him on a successful conclusion of this particular bill. He is great to work with.

Mr. President, the Senate Appropriations Committee reported this legislation on July 6, 1988 and the full Senate considered it on July 13, 1988. The conference on this bill was held on Tuesday, August 9, 1988.

Let me begin by complimenting the acting chairman and his staff for their hard work on this bill. Charlie Estes, Don Knowles, Sue Masica, and Shannon Skripka have all done an excellent job in a very difficult budget year.

I know the difficulties they have had in assembling a bill when the allocation for the subcommittee simply does not meet the requests of the Members. Unfortunately, it seems as if the farther along in the legislation process this bill moves, the more amendments it attracts.

As most of the Members know, the House subcommittee had a lower allocation than the Senate subcommittee. The final allocation given the subcommittee was a direct split between the initial House and Senate allocations. The Congressional Budget Office and the Senate Budget Committee indicate that the conference report before us today complies with the new allocation of $9.888 billion in budget authority and $10.041 billion in outlays.

While we have complied with this allocation, it is $412 million in budget authority below our current services base as calculated by the Congressional Budget Office.

Since the President's budget was released earlier this year, the subcommittee has received over 1,700 requests from nearly every Member of the Senate. These requests totaled over $2.0 billion. Simply put, our allocation did not allow us to fund all of our requests and we were forced to make reductions in conference to bring the bill into compliance with the final allocation. I regret we could not fill all of the requests but I hope Members who did not receive funds for projects they had requested will work with the subcommittee in future fiscal years.

Thank you, Mr. President.

Mr. President, the conference report accompanying the fiscal year 1989 Interior appropriations bill includes bill language relating to recreation residence fees on Forest Service land.

The intent of that provision is to prevent the Forest Service from attempting to collect any supplemental fees that it would otherwise be required to collect for the years 1987 and 1988. In addition, the new fees are to be implemented beginning January 1, 1989, be phased in only for those recreation residence permittees who elect to accept the new standard term permit as set forth in the new policy.

Is that the understanding of the Senator from Louisiana, the acting chairman?

Mr. JOHNSTON. Mr. President, the Senator from Idaho is correct. The provision relating to recreation residence fees settles a longstanding dispute between the Forest Service and permittees.

The language does not allow the Forest Service to collect any supplemental fees that would be otherwise required for the years 1987 and 1988. The language also allows that new fees will be implemented beginning January 1, 1989, and will be phased in only for those recreation residence permittees who elect to accept the new standard term permit as set forth in the new policy.

Mr. McCLURE. Mr. President, among the many provisions in this legislation is one designed to fulfill the United States' obligations to the people of Bikini Atoll in the Marshall Islands. There are several points I would like to clarify with respect to this provision if my colleague, Senator JOHNSTON, would agree to go through those with me.

Mr. JOHNSTON. By all means. Senator McCLURE and I have worked for many years on this issue, and it is important to specify the details of the agreement which has been worked out.

Mr. McCLURE. This provision would provide $90 million over a 5-year period for the cleanup and resettlement of Bikini. The appropriation is based on the full faith and credit commitment contained in section 103(1) of the Compact of Free Association Act, Public Law 99-239. Moreover, this appropriation is designed and intended to fulfill both the moral and legal commitment of the U.S. Government to the people of Bikini contained in section 103(1) of the Compact Act; in the lawsuit settlement agreement, *People of Bikini* v. *United States of America,* Civ. No. 84-0425 (D. Ha.) (March 13, 1985); and in article VI of the compact Section 177 Agreement.

The first point I would like to clarify is that the appropriation is a part of the final settlement of nuclear testing claims provided by section 177 of the compact. Section 177, and its subsidiary agreement, is intended by Congress, the U.S. Government, and the government of the Marshall Islands, to provide for the full and final settlement of all claims arising from the Nuclear Testing Program which the Government of the United States conducted in the northern Marshall Islands.

Mr. JOHNSTON. The Senator is correct. This is an important and fundamental point. Section 177 of the compact was intended to be, and remains, a full and final settlement of the nuclear testing claims. This appropriation is a part of that settlement. The reason that this portion of the settlement was not provided earlier, as described in article VI, section 1, of the Section 177 Agreement, is because this portion, which provides funding for the rehabilitation and resettlement of Bikini, could not be quantified due to the unavailability of reliable cost estimates. The work of the Bikini Atoll Rehabilitation Committee [BARC] has since provided the information needed to quantify the obligation of the United States Government to clean up and resettle Bikini. It was from the BARC information that this $90 million appropriation was developed.

Mr. McCLURE. I thank my colleague, and I believe he knows why I raise this point. He recalls that congressional intent in approving the compact, and specifically section 177, was that it would provide a final settlement of the nuclear testing claims. There are those who may incorrectly argue that this appropriation is made outside of the Section 177 Agreement and therefore Congress did not intend for section 177 to provide a final settlement. The opposite is true. The Congress continues to intend section 177 to be a full and final settlement. This appropriation was anticipated at the time the compact, including section 177, was approved by Congress. The United States and the Republic of the Marshall Islands, two sovereign entities, have reached an international agreement providing for espousal of all nuclear claims by the Marshall Islands. Congress, in turn, has approved that agreement, thereby accepting its responsibilities to the victims of U.S. nuclear testing in the Marshall Islands, and this provision fulfills our commitment to meet those responsibilities.

Mr. JOHNSTON. I thank my colleague, and would also add, as he knows, that the courts have been urged to assert jurisdiction and review claims covered by the Section 177 Agreement despite clear congressional intent to the contrary. Much has been made in the courts of floor statements by a former Member of the House of Representatives on this issue. However, such statements must be put into perspective. Those statements represent the view of one Member of Congress whose position was not accepted by Congress when it enacted the Compact Act. The intent of Congress is clear on its face in the statutory language of Public Law 99-239, section 103(g):

> It is the intention of the Congress of the United States that the provisions of section 177 of the Compact of Free Association and the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact * * * constitute a full and final settlement of all claims described in Articles X and XI of the Section 177 Agreement, and that any such claims be terminated and barred except insofar as provided for in the Section 177 Agreement.

I would further note that the language was specifically included in the statute to rebut any indication that enactment of the compact did not constitute a full and final settlement and a complete and absolute bar to either continued or further litigation. The analysis of the section set forth in the record at the time of passage is clear: "In light of the statement made by some more interested in protracted litigation than compensation for the victims of the testing program, both the Senate and House agreed that an explicit endorsement of the resolution was important. Additional ex gratia"—and I want to emphasize the words "ex gratia"—"assistance will be available in the future if circumstances warrant and this provision in no manner lessens the concern which we have for the population of the affected atolls. It is designed to prevent the Marshall Islands from becoming a tropical Bleak House." The language is absolutely clear and unambiguous. The attempts by some to weaken or alter the original language were rebuffed and specifically disclaimed. They attempted to undercut the language of section 177 and failed completely. Their language was not simply rejected by both the House and Senate, it was rejected with finality and extreme prejudice by the insertion of the statutory language which I have just quoted.

Mr. McCLURE. A second related point I would like to clarify is the situation in which the people of Bikini may seek relief from the courts for payment of the $90 million provided by this legislation. It must be clear that access to the courts, in this case, is not for review of nuclear testing claims, nor review of section 177, nor review of any matter other than the United States Government's failure to pay the people of Bikini the amounts specified in this legislation and at the times specified. This is in fulfillment of the settlement. No new jurisdiction is created over the claims settled.

Mr. JOHNSTON. The Senator is correct. A pledge of full faith and credit is attached to the funds provided by this provision. Accordingly, should the United States Government fail to provide these funds in the amounts and at the times specified in the legislation, then the people of Bikini would have a cause for action in the United States claims courts. Indeed, the U.S. courts already have jurisdiction to enforce other full faith and credit provisions of the compact. In a June 4, 1986 memorandum to the Assistant Secretary for Territorial and International Affairs, the Department of the Interior's Acting Associate Solicitor for General Law stated that Congress pledged full faith and credit in section 103(1) of the Compact Act, and that "the anticipated consequences of not funding the provision are that the United States could face and might well lose a lawsuit brought to enforce the provisions." Thus, this action is a part of, and is intended to further, the Section 177 Agreement, including the termination and barring of court proceedings under article XII. But, the full faith and credit payments made by this provision are a separate issue from the limitation of article XII of the Section 177 Agreement in that article XII would not bar an action to obtain full faith and credit payments provided by section 177 under this legislation.

Mr. McCLURE. A final point I would like to clarify is the use of the funds to be provided by this act. It is intended that these funds will be deposited in the existing resettlement trust fund—of approximately $20 million—and that the terms of that trust will be modified to provide that the corpus and income from the trust may be used for the rehabilitation and resettlement of Bikini Atoll, and that up to $2 million per year may be used for projects on Kili and Ejit.

Following rehabilitation and resettlement, these funds will no longer be available to Kili and Ejit, and any funds remaining in the trust, not identified for future needs, shall be deposited in the U.S. Treasury. It is anticipated that these future needs, to be described in a report by the Secretary of the Interior in consultation with the people of Bikini, will include: First, maintenance of the resettlement infrastructure until the Bikinians are prepared to assume that task; second, training the Bikinians for the operations and maintenance of the infrastructure; and third, continuing rehabilitation activities, if any. Thus, these funds are intended for use only to further rehabilitation and resettlement, except for limited use on Kili and Ejit. Once this objective is reasonably met, then all funds in the trust shall revert to the United States. The people of Bikini will then need to rely on other funds, such as the other $75 million provided pursuant to section 177, to meet their financial needs. In the context of the Section 177 Agreement the Bikinians will have accepted this trust arrangement as full and final discharge of all United States obligations arising from, or in any way related to, their relocation from Bikini during and after the Nuclear Testing Program and no further appropriations will be required in order, finally, to have fulfilled the United States commitments to the Bikini people, except as provided for under article IX of the Section 177 Agreement.

Mr. JOHNSTON. The Senator is correct. It is the intent that these funds are to be used for the rehabilitation and resettlement of Bikini Atoll. Once that objective has been met, funds not needed for the specific needs identified in the report of the Secretary of the Interior shall be deposited in the U.S. Treasury. Following completion of rehabilitation and resettlement these funds are not to be used for operations on Kili or Ejit; the Bikinians have received other funds under the Section 177 Agreement which can be used to meet such operational and other needs. They are intended only for operations on Bikini directly associated with rehabilitation and resettlement as identified in the Secretary's report.

Moreover, it is expected that these funds will provide for rehabilitation and resettlement of Bikini Atoll. These funds are provided to the Bikinians so that they, and not the United States Government will be responsible for the management and the decisions involved in returning to their homeland. The Secretary of the Interior's report to Congress on future needs does not suggest that Congress would provide additional funds. It is the responsibility of the people of Bikini to wisely invest and expend these funds so that they meet the objectives of rehabilitation and resettlement and provide for limited future needs. The involvement of the Secretary of the Interior in the administration of these funds is ministerial, and is for the purpose of ensuring proper expenditure of the funds in accordance with the statutory purpose of the trust. All decisions and responsibilities for rehabilitation and resettlement of Bikini rests with the people of Bikini.

Mr. McCLURE. I thank the Senator. I am pleased that we have been able to reach agreement on this issue, which he and I have been working on for so many years. I am particularly pleased for the people of Bikini, to whom the United States has owed so much, and I am pleased that the United States has now met its responsibility to them.

Mr. JOHNSTON. I appreciate the Senator's remarks and his clarifying these important points. I, too, am pleased that the United States has met its obligations to the people of Bikini. The history of the relationship between the United States and Bikini has been troubled. Fortunately, the Compact of Free Association Act and the Section 177 Agreement have provided the framework with which to repair that relationship. The Bikinians have long been the victims of United States policy but now they have the means to return to their homeland, to regain control of their lives, and to live in dignity. The United States cannot alter the history of our relationship with the people of Bikini, but by meeting our final commitment to them through this provision, we can both now turn from the past and look toward the future.

Mr. CHILES. Mr. President, Senate Budget Committee scoring of the conference report on the Department of the Interior appropriations bill for fiscal year 1989, as reported by the committee of conference, shows that the bill is at its revised 302(b) budget authority and outlay targets. I commend the chairman of the Appropriations Subcommittee on the Interior, Senator Byrd, and the ranking member of the subcommittee, Senator McClure, for their successful effort in keeping the spending levels for programs within the subcommittee's jurisdiction at the 302(b) budget allocation.

Mr. President, I have a table from the Budget Committee showing the official scoring of the conference report and I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4867—INTERIOR, SPENDING TOTALS (CONFERENCE REPORT)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) BILL SUMMARY		
H.R. 4867, conference report (new budget authority and outlays)	9.4	6.7
Enacted to date	.5	3.3
Adjustment to conform mandatory programs to resolution assumptions	+(1)	+(1)
Scorekeeping adjustments		
Bill total	9.9	10.0
Subcommittee 302(b) allocation	9.9	10.0
Difference	−(1)	−(1)
Bill total above (+) or below (−):		
President's request	+.3	+.1
House-passed bill	+.2	−.1
SUMMIT CAP SUMMARY		
Domestic discretionary spending in bill	9.8	10.0
Allocation under domestic cap	9.8	10.0
Difference	−(1)	−(1)

[1] Less than $50,000,000.

Note.—Details may not add to totals due to rounding.

Source: Prepared by Senate Budget Committee staff.

Mr. BRADLEY. Mr. President, I would like to engage the floor manager of the Interior appropriations bill, H.R. 4867, in a colloquy concerning the ability to use high priority wetland acquisition funds provided in this measure and funds provided pursuant to the Migratory Bird Conservation Act for the acquisition of Cedar Bonnet Island. The Senate bill had provided $1.1 million for acquisition of this area in the Edwin B. Forsythe National Wildlife Refuge. Unfortunately, that funding was deleted during the House-Senate conference.

I would like to make clear our intent that funds which are not earmarked, that is both the wetland money and migratory bird money, are available to acquire Cedar Bonnet Island under the terms of those authorizations. Consistent with that understanding, Edwin B. Forsythe National Wildlife Refuge will be eligible to compete for the $10 million in undesignated funds in this bill.

Mr. JOHNSTON. I share the Senator's interest in acquisition of Cedar Bonnet Island and wish it had been possible to retain that funding in the conference. It is correct that the $10 million in wetland acquisition funds is not earmarked. Therefore, I see no reason why Forsythe National Wildlife Refuge area would not be able to compete for those funds.

Mr. DeCONCINI. Mr. President, motion pictures are a significant part of our Nation's historical and cultural heritage which uniquely reflect their time. Through the eyes of the filmmakers, we relive moments in history, gaining insight into the time depicted in the film. The motion picture is a significant art form worthy of recognition and protection. To this end, the Interior Appropriations bill contains language establishing a National Film Preservation Board within the Library of Congress to protect this art form from alteration.

As a member of the Interior Subcommittee and, coincidentally the chairman of the Senate Subcommittee on Patents, Copyrights, and Trademarks, I was very concerned about the inclusion of this provision in the Interior appropriations bill. It seems obvious to me that the proper forum for consideration of these issues is the subcommittees with jurisdiction over copyright in the House and Senate. Because I serve on both subcommittees, the subcommittee considering the legislation and the subcommittee that should have jurisdiction over the legislation, I believe that I was in an excellent position to affect the legislation. Along with my friend and colleague, Senator Leahy of Vermont, who also sits on both subcommittees, I attempted to improve the legislation presented to us by the House.

Substantial changes were made in the legislation at every step of its consideration, including the House-Senate conference. At one time, the legislation would have created a wholly unprecedented and I think unworkable and unwise copyright infringement remedy for parties who were not copyright holders. Although the legislation was improved by the time it was considered by the conferees, major substantive changes were still necessary. I am still of the opinion that the legislation should not be included in the Interior appropriations bill. I believe that if the Congress is going to enact moral rights legislation, it should do it in a comprehensive and thoughtful manner. If I am chairman of the appropriate subcommittee in the 101st Congress, I intend to initiate such a thoughtful and thorough examination. However, because I was able to achieve substantial modifications of the National Film Preservation Act including sunsetting it after 3 years, I did not stand in the way of its adoption. In its present form, the National Film Preservation Act does little more than honor a small number of films as being culturally significant and require that a very few colorized films be labeled as such. Since the owners of colorized films are perfectly willing, if not eager to publicize the fact that these films are colorized, then this requirement is rather superfluous.

The bill provides for labeling requirements of films nominated for inclusion in a National Film Registry. With regard to films that are on the registry, a requirement is made that if they are materially altered, a specified label must be affixed to the film. With respect to such films aired for cable or broadcast television viewing, the appropriate label specified in the bill would be displayed.

I note that during consideration of this legislation in the House, a colloquy took place in which it was stated that the National Film Preservation Act requires that on the designated films, labels be placed at both the beginning and at the end of a colorized or materially altered film. In addition, it was stated that when such a label is shown, no other audio or video information be broadcast. There was no such agreement by the conferees for such a requirement. In fact, section 4 of the act defines the required label as appearing "immediately preceding the commencement of the film." I know of no reason why the plain language of the statute on this point should not be controlling.

Section 11(a)(5) of the bill provides a definition for the term "material alteration." The term is defined to mean colorizing or otherwise making fundamental changes in a film after it has been publicly released. The term does not apply to those changes made in accordance with "customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast." By the inclusion of this language excepting these normal practices, the conferees intended to grandfather-in the standard procedures used to prepare a film for broadcast television, videocassette sale and rental, and cable viewing. For example, practices such as panning and scanning, time compression, time expansion, and customary editing to meet time formats are common in the preparation of films for broadcast television, videocassette sale and rental, and cable viewing. These practices, as well as editing designed to remove material that the broadcaster is concerned may offend community sensibilities such as nudity, profane language, and inappropriate and excessive violence are not intended to be "material alteration" under this definition.

When, in the broadcaster's opinion, in the course of preparing a film included in the National Film Registry for broadcast, it has been subjected to alteration that the broadcaster believes would constitute material alteration, the broadcaster may voluntarily place a label on the film without submitting to the regulatory process that would require such placement. In other words, if a broadcaster knows that he is going to have to put the label on a film, he can do so voluntarily without submitting the film to the Commission for an opinion.

Retail video dealers who receive copies of registry films from their distributors without the proper labeling may have no way of knowing if material alterations have occurred. Retail dealers also have no way of affixing the required label on the film itself and therefore the films would have to be labeled by the distributor. The retail video dealers should not be held liable under these circumstances.

The committee empowered the Librarian to appoint alternate members of the Board for those instances when a member of the Board is unable to fulfill his or her responsibilities to the Board. While we hope that Board members will have very few instances when they cannot attend Board meetings, it is the intent of the conferees that the alternates have similar expertise as the Board members that they replace. It is the conferees intent that the alternates have full voting rights.

The amendment provides that a National Film Board Collection of those films selected for inclusion in the National Film Registry will be created by the Librarian of Congress. The Librarian is entrusted with obtaining copies of the films from their owners by gift. The films are for archival purposes, so it is anticipated that the Librarian would obtain archival quality copies, and that he would use his expertise to properly preserve and maintain copies in a special collection in the Library of Congress. It is the understanding of the managers that the copies so received by the Librarian would become the property of the U.S. Government.

I understand that there is some misunderstanding about the intent and meaning of some of the provisions of the National Film Preservation Act. Because of the time pressures of the last days of the Congress before the Republican Convention recess, it was not possible for the conferees to agree to a detailed or specific conference report. I have attempted to explain my understanding of the legislation because it was important that certain modifications be made in the legislation in order for me to acquiesce to its enactment. It is my belief that the statutory language is clear and should be interpreted on its face.

Mr. JOHNSTON. I concur with the comments of the Senator from Arizona on the conference report and I appreciate his clarification of the agreement between the conferees.

Mr. JOHNSTON. Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The assistant legislative clerk proceeded to read the amendments in disagreement as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$12,290,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *$360,688,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$31,834,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "*: Provided,* That of the funds provided to the United States Fish and Wildlife Service under the heading "Construction and Anadromous Fish" in Public Law 100-71, $1,200,000 shall be expended for the lease or purchase of water rights, from willing sellers, for the benefit of Stillwater Wildlife Management Area, Nevada: *Provided further,* That the lease or purchase shall be carried out pursuant to the statutory and procedural requirements of the laws of the State of Nevada, and the Secretary shall proceed with any such lease or purchase pursuant to this appropriation if and only if the Secretary receives certification from the State of Nevada that the transfer of water rights and associated change of use for the beneficial use of Stillwater Wildlife Management Area is approved by the State of Nevada"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$14,608,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$30,500,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$159,108,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$72,609,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That $3,000,000 of the funds made available herein shall be available for land acquisition at Congaree Swamp National Monument, South Carolina, subject to enactment of authorizing legislation: *Provided further*, That notwithstanding the provisions of Public Law 95-625, the Secretary may initiate condemnation with the consent of the owner of property, improved or unimproved, within the boundary or at a currently authorized administrative site of the New River Gorge National River, West Virginia."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

NATIONAL FILM PRESERVATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Film Preservation Board in the Library of Congress, $250,000: *Provided*, That the following may be cited as the "National Film Preservation Act of 1988":

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage; and

(3) it is appropriate and necessary for the Federal Government to recognize motion pictures as a significant American art form deserving of protection.

SEC. 2. NATIONAL FILM REGISTRY.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry pursuant to the provision of this Act, for the purpose of registering films that are culturally, historically, or aesthetically significant.

SEC. 3. DUTIES OF LIBRARIAN OF CONGRESS.

(1) POWERS—(1) The Librarian shall, after consultation with the Board established pursuant to section 8, and pursuant to the rulemaking procedures provided in subchapter II of chapter 5 of title 5, United States Code, known as the Administrative Procedures Act—

(A) establish criteria for guidelines pursuant to which such films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first theatrical release;

(B) establish a procedure whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(C) establish general guidelines so that film owners and distributors are able to determine whether a version of a film registered on the National Film Registry which is in their possession has been materially altered.

(2) In addition, the Librarian shall—

(A) determine, from time to time, after consultation with the Board, which films satisfy the criteria developed pursuant to paragraph (1)(A) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films per year for inclusion in such Registry;

(B) convene, from time to time, a panel of experts, as provided in subsection (b), solely to advise the Board on whether it is necessary to petition Congress to revise the definition of "material alteration";

(C) provide a seal to indicate that the film has been included in the National Film Registry as an enduring part of our national cultural heritage and such seal may then be used in the promotion of any version of such film that has not been materially altered; and

(D) have published in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3)(A) The Librarian shall submit annual reports to the appropriate Committees of the Congress listing films included on the National Film Registry and describing the criteria used in determining why specific films were included in the National Film Registry.

(B) The first such report shall be submitted within 12 months after the date of enactment of this Act.

(b) COMPOSITION OF PANEL.—The panel provided for in subsection (a)(2)(B) shall be chosen by the Librarian. It shall be comprised of four persons, one representative each from the Motion Picture Association of America and the National Association of Broadcasters, and one representative of the Directors Guild of America and one representative of the Screen Actors Guild of America. The Presidents of these four organizations shall recommend three nominees to serve on such panel.

(c) APPEALS TO THE LIBRARIAN.—(1) The owner, exhibitor, or distributor of a film may appeal to the Librarian—

(A) objecting to the Board's recommendation of such film for inclusion in the National Film Registry; or

(B) the determination that a version of a film which is included in the National Film Registry has been materially altered.

(2) The Librarian shall refer such appeals to the Board for its recommendation.

(c) REGISTRY COLLECTION.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of an original version of each film included in the National Film Registry. All films so received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Board Collection". The Librarian shall, by regulation, provide for reasonable access to films in such collection.

SEC. 4. LABELING REQUIREMENTS.

(a) LABEL REQUIRED.—Except as otherwise provided in this section, no person shall knowingly distribute or exhibit to the public a materially altered version of a film included in the National Film Registry unless the version is labeled as required by this section.

(b) EFFECTIVE DATE OF LABEL.—Except as provided in subsection (c), any labeling requirement established pursuant to this section shall be effective 45 days after publication in the Federal Register indicating that a film has been selected for inclusion in the National Film Registry.

(c) EXCEPTIONS.—With respect to films intended for home use through either retail purchase or rental, the provisions of subsection (b) shall apply, however no requirements imposed under this section shall apply to—

(1) a film which has been packaged for distribution prior to the effective date of such requirement with respect to such film, except that the provisions of this paragraph shall not apply in the packaging has been accelerated in contemplation of imposition of such requirement; or

(2) a retail distributor of films for home use, other than a manufacturer or packager, who has in good faith relied on compliance with the provisions of this Act by the manufacturer, wholesaler, or packager of a film.

(d) REQUIREMENTS OF THE LABEL.—(1)(A) A label for a materially altered version of a film, other than a colorized version, shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(2)(A) A label for a colorized version of a film shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."

(B) Such a label shall appear in a conspicuous and legible type.

(3)(A) A label for a film package of a materially altered film, other than a colorized version, shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

(4)(A) A label for a film package of a colorized version of a film shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a colorized version of original work. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

SEC. 5. MISUSE OF SEAL.

No person shall knowingly distribute or exhibit to the public a version of a film which bears a seal described by section 3(a)(2)(C) of this Act is such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but such version has been materially altered.

SEC. 6. REMEDIES.

(a) JURISDICTION AND STANDING.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of sections 4 and 5 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective inclusion or application of, or removal of, a label as appropriate.

(2) In the case in which the Librarian finds a pattern or practice of the willful violation of this Act, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

SEC. 7. LIMITATIONS OF REMEDIES.

(a) The remedies provided in section 6 shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of a seal as described by section 3(a)(2)(C) or labeling of materially altered films.

(b) No remedies under section 6 of this title shall be available with respect to any film which is exempted from the labeling requirements of this Act pursuant to section 4(c).

SEC. 8. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of thirteen members, selected by the Librarian in accordance with the provisions of this paragraph. Each organization listed in subparagraphs (A) through (M) shall submit a list of not less than 3 qualified candidates to the Librarian. The Librarian shall appoint one member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend:

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America;

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Cinema Studies in the Graduate School of Arts and Science at New York University;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Association of Motion Picture and Television Producers; and

(M) the Screen Actors Guild of America.

(2) Before the Librarian selects nominees for such Board, such Librarian shall request that each of the entities listed in paragraph (1) who do not currently have a nominee on such Board nominate three individuals to serve on such Board. No individual may serve on the Board for more than one term and each entity shall be represented a comparable number of times.

(b) CHAIRPERSON.—The Librarian shall appoint one member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years.

(2) A vacancy in the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than one nominee on the Board at any one time. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Any member appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—Seven members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as person employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) MEETINGS.—The Board shall meet at least twice each calendar year and the first such meeting shall be within 120 days after the effective date of this Act. Meetings shall be at the call of the chairperson or a majority of its members.

(g) CONFLICT OF INTERESTS.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 9. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Chairperson of the Board may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-16 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 10. POWERS OF BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. The Board shall review nominations for films submitted to it for inclusion in the National Film Registry and consult with the Librarian with respect to the inclusion in the Registry, and with respect to the powers defined in section 3.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, producers, and film critics, film preservation organizations and representatives of academic institutions with film study programs. The Board shall not nominate more than 25 films a year for inclusion in the Registry.

SEC. 11. DEFINITIONS.

(a) DEFINITIONS FOR SECTIONS 1 THROUGH 13.—As used in sections 1 through 13:

(1) The term "Librarian" means the Librarian of Congress.

(2) The term "film" means a feature-length, theatrical motion picture after its first theatrical release.

(3) The term "film package" means the original box, carton or container of any kind in which a videotape or disc is offered for sale or rental.

(4) The term "Board" means the National Film Preservation Board.

(5) The term "material alteration" means to colorize or to make other fundamental post-production changes in a version of a film for marketing purposes but does not include changes made in accordance with customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast.

(6) The term "to colorize" means to add color, by whatever means, to versions of motion pictures originally produced, marketed, or distributed in black and white.

(7) The term "colorization" means the process whereby a film is colorized.

(b) EXCLUSION FROM DEFINITION OF "MATERIAL ALTERATION".—Excluded from the definition of "material alteration" are practices such as the insertion of commercials and public service announcements for television broadcast.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this Act, there are authorized to be appropriated to the Librarian of Congress, such sums as may be necessary to carry out the purposes of this Act, but in no fiscal year shall such sum exceed $250,000.

SEC. 13. EFFECTIVE DATE.

The provisions of this Act shall be effective for three years beginning on the date of enactment of this Act. The provisions of this Act shall not apply to any copy of a film materially altered prior to such effective date if such copy of such film is owned by an individual for his personal use, the inventory of the manufacturer or packager of a videocassette or already distributed to retail or wholesale distributors of videocassettes.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"None of the funds in this Act may be used to issue a permit for seismic exploration of Big Cypress National Preserve, Florida, until and environmental impact statement has been completed: *Provided,* That such statement shall be completed within two years of the date of enactment of this Act."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"None of the funds provided in this Act shall be available for an appeal to the February 26, 1988, special rate pay approved by the Office of Personnel Management for the U.S. Park Police."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"The Director of the National Park Service shall administer a fellowship program, within available funds, to improve mutual understanding and cooperation between Service employees, and Members and Committees of Congress. The program is dedicated to the memory of Pietro Antonio (Tony) Bevinetto, and Service employees participating in the program shall be known as 'Bevinetto Fellows'."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "up to $500,000 for a 50 percent cost-shared scientific project for test and observation wells near Kohala, Hawaii: *Provided,* That upon enactment of this Act and hereafter, final costs related to the National Petroleum Reserve in Alaska may be paid from available prior year balances in this account, and $451,006,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$35,000 shall be used by the Secretary to enter into a cooperative agreement with the State of Louisiana to carry out or conduct audit activities on any lease or portion of a lease subject only to section 8(g) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1337(g)): *Provided,* That notwithstanding the provisions of section 201 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1731), sections 202 through 206 of that Act (30 U.S.C 1732-1736) shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act: *Provided further,* That for purposes of those provisions and for no other purposes, such lease or portion of a lease shall be regarded as within the coastal state or states entitled to receive revenues from it under section 8(g), and of which not less than $52,302,000"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That the Secretary shall conduct a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States.

"Funds authorized as grants to states shall be reconciled according to:

"(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

"(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining Reclamation and Enforcement during each relevant fiscal year under review.

"The findings of the Secretary shall be transmitted to the Committees on Appropriations by May 1, 1989. Such information shall not be used to amend or revise State allocations during fiscal year 1989"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the basis of the formula recommended by the Assistant Secretary—Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989 the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990 the minimum weight factor shall be 1.2 rather than 1.3"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$79,283,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: ": *Provided,* That the National Park Service shall reissue a Notice of Proposed Rulemaking on the mandatory use of seatbelts while traveling on National Park Service roads within 30 days after the date of enactment of this Act"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley: *Provided,* That no funds made available by this or any other Act shall be expended to exchange lands located within the boundaries of the Lake Mead National Recreation Area in Nevada in township 32 south, range 22 west, Mount Diablo Meridian."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, and insert:

"SEC. 113. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the approval of permits for the acquisition of geologic and geophysical data in Outer Continental Shelf areas, except that exploratory drilling shall not be permitted by this provision in lands within the Eastern Gulf of Mexico Planning Area which lies south of 26 degrees North latitude and east of 86 degrees West longitude and for areas identified as the Northern California Planning Area and the Georges Bank-North Atlantic Planning Area out to 400 meters."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, and insert:

SEC. 114. Notwithstanding any other provision of law, and subject to valid existing rights, the Secretary of the Interior shall transfer to the House Authority, Clark County, Nevada, without consideration, all rights, title, and interest of the United States, in and to the land described as township 21 south, range 60 east, Mount Diablo Meridian, section 24, north half southwest quarter, Clark County, Nevada, for use only as a mobile home park for low income senior citizens, reserving to the United States all minerals under applicable law and such regulations as the Secretary of the Interior may prescribe, and as required by the Act of August 30, 1890 (43 U.S.C. 945), a right-of-way thereon for ditches or canals constructed by the authority of the United States: *Provided,* That if such land ceases to be used as a mobile home park for low income senior citizens, all rights, title, and interest in and to such land shall revert to the United States.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 117. Within currently available funds, the Secretary of the Interior is directed immediately to appoint and compensate an in-

dependent third party factfinder mutually agreed upon by the Secretary and the Governor of Louisiana, to make all appropriate factual findings relating to past drainage on State and Federal leases occurring along the boundary of the State of Louisiana and Federal waters. Such factual findings shall include:

(a) whether drainage of either United States or State hydrocarbons has occurred during the time period starting April 7, 1986 and ending on the date the factfinding proceeding is completed;

(b) the areas of reserviors from which the drainage occurred;

(c) the quantity of recoverable hydrocarbons, determined on a volumetric basis, originally in place within such areas or reservoirs prior to any production therefrom;

(d) the respective precentages of such recoverable hydrocarbons within the Federal and State portions of such areas or reservoirs;

(e) the total accumulated volume of any net drainage from each area or reservior, including the value thereof (together with a description of the method for determining such value) and all production costs incurred during that period;

(f) the net dollar impact to the United States, United States lessees, the State of Louisiana, and the State lessees that has resulted from any such drainage from each area or reservior;

(g) the proper allocation of production from each field from all time periods starting April 7, 1986; and

(h) the proper prospective allocation of production from the fields involved.

Within 180 days of the date of enactment of this Act, the third party factfinder shall submit a written report containing the factual findings to the Secretary, the Governor of Louisiana, and the Congressional Committees of jurisdiction. The Secretary shall then prepare a plan 60 days after receipt of the written report regarding options for the potential redistribution of royalty receipts, if warranted by the findings of this written report.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

The Secretary is directed to convey by quitclaim deed, without a requirement for reimbursement, all right, title, and interest of the United States in and to all improvements (1) situated on leased land as recorded in Docket 5191, pages 258-260, Maricopa County, Arizona, and (2) situated on leased land as recorded in Docket 4388, pages 452-455 and Docket 4673, pages 147-148, Maricopa County, Arizona.

The Secretary is further directed, concurrently with conveyances under this section, to relinquish, without a requirement for reimbursement, that certain lease dated October 13, 1962, as amended on May 15, 1963, and that certain related Memorandum of Understanding of like date therewith (collectively referred to herein as the "lease agreement"), which instruments cover and pertain to the real property located on the campus of Arizona State University in Tempe, Arizona: Provided, That the United States is hereby released from any and all liability arising from the future use of the facilities or lands affected by this Act: Provided further, That the Forest Service shall continue to occupy the facilities described herein, at no increased expense, until such time as replacement space which is determined to be comparable by the Forest Service is available: Provided further, That the Forest Service may not move from the facilities described herein unless the move is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$86,668,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

Provided further, That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for construction of the Spokane River Centennial Trail, and a grant of $1,350,000 shall be provided to the County of Kootenai, Idaho, for construction of the Idaho Centennial Trail

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$1,329,488,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: Provided, That appropriations in this account remaining unobligated at the end of the fiscal year 1988, both annual and two-year funds, and which would otherwise be returned to the General Fund of the Treasury, shall be merged with and made a part of the fiscal year 1989 National Forest System appropriation, and shall remain available for obligation until September 30, 1990: Provided further, That funds available for forest firefighting and emergency rehabilitation of National Forest System lands are available for liquidation of obligations made in preceding fiscal years

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$63,805,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Notwithstanding any other provision of law or order based thereon, if requested by the Secretary of Agriculture, the Secretary of the Interior is authorized and directed to take such actions (including but not limited to the revocation of the Shay Creek withdrawal (Mount Diablo Meridian: T. 10N., R. 19E., Sec. 24 SE¼ NE¼, E½ SE¼, and SW¼ SE¼) under Public Land Order 2301 and the issuance of patents) as may be necessary to consummate the exchange within the Toiyabe National Forest in California of the Shay Creek parcel for private holdings of equal value.

The following may be cited as the "New Hampshire Forest Management Initiatives Act of 1988".

SEC. 1(a). For the protection and management of the timber resources and the scenic, natural, recreation and other resource values associated with certain forest lands in the State of New Hampshire, and in cooperation with State and private entities as provided herein, the Secretary of Agriculture (hereafter "Secretary") is authorized and directed to acquire by purchase, donation and otherwise, lands and interests therein now or formerly owned by Diamond International Corporation in the State of New Hampshire (hereafter "Diamond lands").

(b) The Diamond lands are generally depicted on maps dated July 1988 and entitled, "New Hampshire Forest Initiatives", which maps are on file with the Chief, Forest Service, Washington, D.C. The Secretary may correct technical and clerical errors on any map.

(c) Acquisitions made pursuant to this Act shall be commensurate with appropriated and donated funds and shall be completed by the Secretary notwithstanding any other provision or requirement of law or condition precedent. The Secretary may exclude from acquisition such rights-of-way, easements and other outstanding rights deemed unacceptable to the Secretary, and may also exclude from acquisition any small or isolated parcels which the Secretary deems are not manageable for Federal purposes. It is the intent of Congress that these acquisitions be completed prior to October 15, 1988.

SEC. 2(a). To the extent deemed practical by the Secretary in furtherance of this Act, the Secretary shall cooperate and assist ongoing and future initiatives by State and private organizations (hereafter "cooperating entity(ies)" to acquire the Diamond lands. Cooperating entities include, but are not limited to, the Society for the Protection of New Hampshire Forests, The Nature Conservancy, and the State of New Hampshire or instrumentality thereof.

(b) Any information provided the Secretary by any cooperating entity relating to the study and acquisition of lands shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

SEC. 3. Subject to the availability of donated and appropriated funds, if by October 1, 1988, the Secretary or a cooperating entity has not acquired title or a land purchase option or contract to purchase the lands referenced in section 1, less any exclusions, the Secretary is directed to condemn such lands, or portions thereof, commensurate with available funds. Condemnation shall be as soon as possible after October 1, 1988, by a declaration of taking filed in accordance with the Act of February 26, 1931 (40 U.S.C. 258a, as amended). Nothing herein shall preclude filing of a condemnation action at any time if the Secretary deems further negotiations for the acquisition of the Diamond lands to be futile or if the condemnation is for the purpose of clearing title. No Congressional oversight or approval shall be required for the filing of a declaration of taking or any other aspect of the land acquisitions herein authorized, it being the intent of the Congress that the Diamond lands be acquired as soon as practicable.

SEC. 4. All lands acquired by the Secretary under authority of or pursuant to this Act *shall be administered under the Weeks Act of March 1, 1911 (36 Stat. 961, as amended). For lands acquired by the United States located outside of and not contiguous to national forest boundaries existing as of the date of this Act, the primary management emphasis shall be the sustained yield of forest products consistent with the traditional uses, including public access, and conservation of other resource values. Within two years from the date lands are acquired pursuant to this Act, the Secretary shall report to Congress with recommendations for the permanent administration and disposition of such Federally-owned lands.*

SEC. 5. In furtherance of the public purposes associated with the present and future protection and management of the timber, scenic, natural, recreation and other resources of forest lands in New Hampshire, and for other similar purposes as may be authorized by Congress, the Secretary may enter into written cooperative agreements with States and their political subdivisions, and private organizations, for the study, acquisition, management and administration of forest lands. Such agreements may include provisions for limited financial assistance for such purposes.

SEC. 6. Of the amount provided herein, $5,250,000 shall be available from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of lands and interests therein, and associated administrative costs.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

, and for sales preparation of timber sales to replace sales lost to fire or other causes, and sales preparation activities to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: Provided further, That moneys received from the timber salvage sales program in fiscal year 1989 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1988 from the harvesting of National Forest Timber in excess of $791,000,000, the 1988 National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1989: Provided, That this estimate of 1988 receipts shall not be adjusted for the purposes of this section: Provided further, That such funds shall be made available during fiscal year 1989, and shall be in addition to any funds appropriated in this Act: Provided further, That this transaction will not affect, diminish, or otherwise alter the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): Provided further, That the funds associated with this section shall be scored in a manner consistent with the President's request for fiscal year 1989: Provided further, That funds made available to the Secretary of Agriculture pursuant to this section shall be used for the necessary expenses, including support costs of National Forest System programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest Trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource management; 5 per centum for wilderness management; 10 per centum for reforestation; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1990 and fiscal year 1991 timber sale offerings: Provided further, That not later than 30 days after the submission of the President's fiscal year 1990 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1989, fiscal year 1990, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1989 and proposed for fiscal year 1990, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $575,000,000 shall be made available on October 1, 1989, and shall remain available until expended: Provided, That projects selected pursuant to a general request for proposals issued pursuant to this appropriation shall demonstrate technologies capable of retrofitting or repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190 and 100-202 as amended by this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

The first paragraph under this head in Public Law 100-202 is amended by striking "and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988" and inserting "$190,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended, $135,000,000 are appropriated for the fiscal year beginning October 1, 1989, and shall remain available until expended, and $200,000,000 are appropriated for the fiscal year beginning October 1, 1990": Provided, That outlays in fiscal year 1989 resulting from the use of funds appropriated under this head in Public Law 100-202, as amended by this Act, may not exceed $15,500,000: Provided further, That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$380,595,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the second sum named in said amendment, insert: ***$4,500,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$372,502,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: ***$3,000,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 149 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

$62,856,000 of which $1,000,000 for computer operations shall remain available until September 30, 1990

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 150 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: ***$1,020,106,000***

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: Provided further, That of funds appropriated in the fiscal year 1987 continuing resolution for the construction of detoxification facilities for Indian youth, not to exceed $600,000 shall be made available for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in

the State of Washington: Provided further, That the Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Gila River Indian Tribe for use solely as the Phoenix Area Regional Youth Treatment Center for Alcohol and Substance Abuse, and may use funds appropriated to the Indian Health Service in Public Law 99-591, to renovate the buildings for that purpose

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 156 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 157 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

and is further amended by adding after the word "agreement" and before the period the words ": Provided, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 165 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert:

$3,094,000, for payment to the Institute of American Indian and Alaska Native Culture and Arts Development to carry out the provisions of Public Law 99-498, as amended (20 U.S.C. 56, Part A)

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 167 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$211,240,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 169 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert:

$37,981,000, including $2,370,000 for the special exhibition program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert;

PAYMENT TO ENDOWMENT CHALLENGE FUND

For payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars, $300,000, to remain available until September 30, 1990: Provided, That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 173 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$141,890,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 191 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves only will be done to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 193 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *SEC. 318.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 195 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 319. Nothwithstanding any other provision of law, hereafter for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and then Indian Health Service, shall mean "particular matter involving specific parties".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 196 to the aforesaid bill, and concur therein an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 320. Notwithstanding any other provision of law, the Final Environmental Impact Statement issued by the USDA Forest Service concerning the Silver Complex Fire Recovery Project on the Siskiyou National Forest and the Record of Decision accompanying the Environmental Impact Statement shall not be subject to judicial review, and shall be subject only to one level of administrative appeal. Existing administrative appeals and appellant's Statement of Reasons shall be immediately transferred to the Chief of the Forest Service for decision. The Chief must render his decision not later than 30 days following enactment of this Act.

Any decision of a responsible Forest Service official to undertake a specific activity, including but not limited to the preparation, advertisement and sale of timber and the preparation, advertisement and contracting for the construction of related roads within the Silver Complex Fire Recovery Area, as designated on maps dated June 1988, and entitled "Silver Complex Fire Recovery Area", which maps are on file with the Chief, Forest Service, Washington, D.C., shall not be subject to administrative appeal or judicial review.

No funds made available to the Forest Service under this or any other Act may be expended to extend the Bald Mountain Road on the Siskiyou National Forest beyond S.W. ¼, N.E. ¼, of section 21, T. 36 S., R. 10 W., W.M.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 197 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 321. To ensure adequate availability of timber from the Mapleton Ranger District of the Siuslaw National Forest until the final forest land and resource management plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1604) (is in effect, and not withstanding the injunction issued pursuant to the judgment in National Wildlife Federation, et al. v. United States Forest Service, et al. (592 F. Supp. 931 (D. Ore. 1984) as modified by 801 F.2d 360 (9th Cir. 1986)), the Secretary of Agriculture is authorized to offer up to 90 million board feet of net merchantable timber in fiscal year 1989 in the Mapleton Ranger District of the Siuslaw National Forest pursuant to the requirements of this section and until completion of the final forest plan. For purposes only of selling timber pursuant to this section (and activities related thereto), the Secretary shall utilize the Siuslaw National Forest draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 as if they were the final forest plan and environmental impact statement; Provided, That such statement, timber sales, roads and other associated activities, and their accompanying environmental assessments, prepared and offered pursuant to and consistent with such draft plan, for purposes only of this section, shall be treated as satisfying all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1600 et seq.) and shall not be subject to administrative or judicial review for compliance with such Acts: Provided further, That nothing in this section shall affect any existing right of administrative or judicial review of such timber sales for compliance with other applicable laws: Provided further, That this provision does not in any manner represent a judgment upon the legal adequacy of the Siuslaw National Forest final plan and environmental impact statement.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 199 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 322. Unobligated balances remaining from the Baca Geothermal Demonstration Powerplant Project may be used to clean out the Hulin Well in the State of Louisiana.

Resolved, That the House recede from its disagreement to the amendment of the

Senate numbered 202 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 323.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 203 to the aforesaid bill, and concur therein with an amendment as follows:

Sec. 324. The Secretary of the Interior shall not recover or recoup any portion of late payment interest paid to the United States which is paid or distributed to any State or other recipient of Federal mineral lease revenues prior to September 30, 1989, except for amounts paid in connection with royalties or other revenues subsequently determined to be not owing to the United States.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendments in disagreement were agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I thank all Senators and especially my colleague from Idaho and the distinguished Senator from Florida for letting me break in.

TEXTILE AND APPAREL TRADE ACT

The Senate continued with consideration of the bill.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2885

Mr. HOLLINGS. Mr. President, right to the point, there is a good deal of appreciation and understanding on the part of this Senator for my distinguished colleague from Florida. I am not late to the nay admitting the CBI—and I agree in almost every respect with what he said except for the fact that it is very misleading when he says carry out the commitment of 1983 to the CBI.

The truth of the matter is that is why I am not late to the nay. We had this particular debate back in 1982 and 1983. It was after Grenada that the President recommended his Caribbean Basin Initiative. We were talking about some policy. Every President comes with some new policy, whether it is Operation Pan America, the Alliance for Progress, and I can go right down the line, and now there is one that is called the Caribbean Basin Initiative. It is something that nettles this particular Senator that we really have not followed through with.

I know the intent of the distinguished colleague from Florida, Senator Graham, is to follow through. But we debated that CBI measure and specifically included two items—textiles and shoes—as import sensitive. We knew what was impending and, unfortunately, it has happened.

Even with the restrictive nature of 807 category imports, it is now being abused in a terrible fashion. I will go into that in detail, but the point to be made and understood by our colleagues is that was not the commitment of CBI. I am committed to the CBI. I am committed to the 807 program, but we said, "Alright, let's give a little and see what happens."

On the CBI Program, I want to add that I have constantly tried to solve that Western Hemisphere problem. In fact, it nettles me that we can solve the problems of the People's Republic of China right now. We are over there like gangbusters. I wish I could get the investors down in the Dominican Republic, in Haiti, in Tobago, and all these other countries.

What we have here now is going out to the bigger, fatter, richer markets. Business is business. There is no more distinguished business leader than the Presiding Officer. Business is competitive. We have heard lectures about psychology and they ought to think they can a little while ago and other lectures—economically, they ought to be happy for unemployment and more political baloney than I have ever heard in this textile debate.

But they move with markets. People talk the different languages. You get interpreters. Money talks.

What really has happened is that they have boomed down there, but not to the benefit of the CBI along with the United States. The CBI Program envisioned under 807—because we had that part not on the CBI but under the 807 program that preceded CBI.

It was decided that we would use textile cloth from New Jersey and South Carolina. We would send it down there for the finished goods and then the tariff would only be on the enhanced value as it came back in.

But what has really happened is there was a little phrase—these business fellows know how to put it past us politicians. I did not realize it. But the cutting, they said, of other cloth could come in and be cut and sent out. We found out that is less than 5 percent. So the majority now is not American fabric. It is Asian fabric, and it is less than 5 percent.

So all they do is take the Asian fabric, bring it through for less than 5 percent enhanced value right into the United States to qualify and then bring it in and less than one-third is the wage rate down there on the enhanced value.

As we well know, they pay 35 cents an hour in Haiti, and I could go down a long list. At 35 cents an hour, you can see it makes for a terrific bargain for the Asian entrepreneurs, and they have the money in Japan. And so now it is booming.

Let me dwell on that particular point. The Dominican Republic, 175.2 to 379.9 million, a growth of 117 percent in that 3-year period.

Jamaica, up to 1987, which are the latest figures I could find, was an increase of 595 percent.

Costa Rica, 129 percent; Haiti, 60 percent; Honduras, 89 percent; Guatemala, 402 percent. And, in fact, they advertise. We had our own Government agencies paying South Carolina taxpayer money to tell everybody to go down there. We did not want that to happen, just locate down there. Coopers & Lybrand advertises, and this is a quote, "Labor rates ranging from 35 cents to a dollar an hour." Coopers & Lybrand were taking all their particular accounts and telling them to go ahead and move down there. And we had already started a hold under the 807 program. Now, under the amendment of the Senator from Florida, which I am required, of course, to move to table, which I regret having to do, it will just open up the darnedest shell game you have ever seen for Asians and the Far East. There is no question about it. They are coming in there with all these different categories, the 807 categories, over 100 different kinds and descriptions. I ask unanimous consent that we include that in the Record at this particular time.

There being no objection, the categories were ordered to be printed in the Record, as follows:

Category, and description		Conversion factor	Unit
Made-Up and Miscellaneous Textiles			
360	Pillowcases	1.1	No
361	Sheets	6.2	No.
362	Bedspreads and quilts	6.9	No.
363	Terry and other pile towels	0.5	No.
369	Cotton manufactures nspf	4.6	Lb.
464	Blankets	1.3	Lb.
465	Floor coverings	0.1	Sft.
468	Wool manufactures nspf	2.0	Lb.
665	Floor coverings	0.1	Sft.
666	Other furnishings	7.8	Lb.
669	Man-made fiber manufactures, nspf.	7.8	Lb.
670	Flatgoods, handbags, and luggage.	2.0	Lb.
863	Towels	0.5	No.
870	Luggage	2.0	Lb.
871	Handbags and Flatgoods	2.0	Lb.
899	Other made-ups	6.0	Lb.
Apparel			
239	Infants' wear, cotton and man-made.	3.4	Lb.
330	Handkerchiefs	1.7	Doz.
331	Gloves and mittens	3.5	Dpr.
332	Hosiery	4.6	Dpr.
333	M&B suit-type coats	36.2	Doz.
334	Other M&B coats	41.3	Doz.
335	W&G coats	41.3	Doz.
336	Dresses	45.3	Doz.
337	Playsuits, sunsuits, etc.	25.0	Doz.
338	M&B knit shirts	7.2	Doz.
339	W&G knit shirts and blouses	7.2	Doz.
340	M&B shirts, not knit	24.0	Doz.
341	W&G shirts and blouses, not knit.	14.5	Doz.
342	Skirts	17.8	Doz.
345	Sweaters	36.8	Doz.

Category, and description	Conversion factor	Unit
347 M&B trousers, slacks and shorts.	17.8	Doz.
348 W&G trousers, slacks and shorts.	17.8	Doz.
349 Brassieres and body supporting garments.	4.8	Doz.
350 Dressing gowns, etc.	51.0	Doz.
351 Nightwear and pajamas	52.0	Doz.
352 Underwear	11.0	Doz.
353 M&B down-filled coats	41.3	Doz.
354 W&G down-filled coats	41.3	Doz.
355 M&B rubber/plastic coats	41.3	Doz.
356 WGI rubber/plastic coats	41.3	Doz.
359 Other cotton apparel	4.6	Lb.
371 Other apparel subject man-made fiber restraint.	17.8	Doz.
431 Gloves and mittens	2.1	Dpr.
432 Hosiery	2.8	Dpr.
433 M&B suit-type coats	36.0	Doz.
434 Other M&B coats	54.0	Doz.
435 W&G coats	54.0	Doz.
436 Dresses	49.2	Doz.
438 Knit shirts and blouses	15.0	Doz.
440 Shirts and blouses, not knit	24.0	Doz.
442 Skirts	18.0	Doz.
443 M&B suits	4.5	No.
444 W&G suits	4.5	No.
445 M&B sweaters	14.88	Doz.
446 W&G sweaters	14.88	Doz.
447 M&B trousers, slacks, and shorts.	18.0	Doz.
448 W&G trousers, slacks, and shorts.	18.0	Doz.
455 Rubber/plastic coats	54.0	Doz.
459 Other wool apparel	2.0	Lb.
630 Handkerchiefs	1.7	Doz.
631 Gloves and mittens	3.5	Dpr.
632 Hosiery	4.6	Dpr.
633 M&B suit-type coats	36.2	Doz.
634 Other M&B coats	41.3	Doz.
635 W&G coats	41.3	Doz.
636 Dresses	45.3	Doz.
637 Playsuits, sunsuits, etc.	21.3	Doz.
638 M&B knit shirts	18.0	Doz.
639 W&G knit shirts and blouses	15.0	Doz.
640 M&B shirts, not knit	24.0	Doz.
641 W&G shirts and blouses, not knit.	14.5	Doz.
642 Skirts	17.8	Doz.
643 M&B suits	4.5	No.
644 W&G suits	4.5	No.
645 M&B sweaters	36.8	Doz.
646 W&G sweaters	36.8	Doz.
647 M&B trousers, slacks and shorts.	17.8	Doz.
648 W&G trousers, slacks and shorts.	17.8	Doz.
649 Brassieres and body supporting garments.	4.8	Doz.
650 Dressing gowns, etc.	51.0	Doz.
651 Nightwear and pajamas	52.0	Doz.
652 Underwear	16.0	Doz.
653 M&B down-filled coats	41.3	Doz.
654 W&G down-filled coats	41.3	Doz.
655 M&B rubber/plastic coats	41.3	Doz.
656 WGI rubber/plastic coats	41.3	Doz.
659 Other man-made fiber apparel	7.8	Lb.
671 Other apparel subject to man-made fiber restraints.	17.8	Doz.
831 Gloves and mittens	3.5	Dpr.
832 Hosiery	4.6	Dpr.
833 M&B suit-type coats	36.2	Doz.
834 Other M&B coats and jackets	41.3	Doz.
835 W&G coats and jackets	41.3	Doz.
836 Dresses	45.3	Doz.
838 Knit shirts, blouses and tops	14.0	Doz.
840 Not knit shirts and blouses	20.0	Doz.
842 Skirts	17.8	Doz.
843 M&B suits	4.5	No.
844 W&G suits	4.5	No.
845 Sweaters of vegetable fibers	36.8	Doz.
846 Sweaters of silk	36.8	Doz.
847 Trousers, slacks, and shorts	17.8	Doz.
850 Robes and dressing gowns	51.0	Doz.
851 Nightwear and pajamas	52.0	Doz.
852 Underwear	13.5	Doz.
858 Neckwear	3.6	Lb.
859 Other apparel	6.8	Lb.

Mr. HOLLINGS. There are over 100, and some categories not including, of course, what they call basket amendments. Those include even further descriptions, so I would imagine it would allow over 150 different categories. Our friend from Texas has been referring all day in this debate to 1,500 categories of regulations. That is the competitive nature of textiles and apparel. Heavens above, if we have learned one thing, it is that if you pass a law or policy, they can change the category and go end around and do this and to that; they are so competitive, so cost conscious, so readily able to take advantage of any kind of break, and you do not blame business people. That is the free economy that we all hope for.

I heard in the debate a little bit earlier—I did not want to use up the time—that we have a lot of capital. There is a 7-to-1 advantage in capital in Japan, and they are looking to put money in everywhere. They bought up Los Angeles. They bought up Hawaii. They have bought the hotels and buildings in New York. They are buying up everything that you can think of. And of course if they can come into a place like Jamaica—I can show you one report where they come in just on the shirt factories down there where they advertise in their annual report that they have 300,000 dozen "and we are going for more."

The Asian development group, they come in there and they start with Asian money. They do not pay any pensions. I say to the Senator from Florida. They do not pay any unemployment insurance. There is no protection or anything for the workers. In fact, there are those who will argue that it is a momentary thing for the workers but not any real help. And when they get through, they will pick up and leave and that will be the end of that as they move from one of the 31 Caribbean nations, one to the other, taking advantage as they say of the proximity to the market and further inundate us.

Now, let us get back to the point. I do have that Afasia annual report, and it is very interesting because they report the Afasia group of companies. They have different ones down in Jamaica. They moved momentarily into Mauritius. For example, the Mauritian Woolen & Worsted Mills, Ltd.; the Alliance Knitters, Ltd.; Intarsia Knits; Maurice Knitters, Ltd.; United Knitters, Ltd.; Vogue Knitters, Ltd. We found in our textile studies that Mauritius exports more than they could possibly produce. And they are using many of those things to pass through in transshipments. We have asked our Commerce Department to look into that because we can tell exactly what is happening. But the Afasia group has 300,000 dozen shirts coming through the Jamaica plant on the page describing Jamaica, which you cannot, of course, duplicate in the RECORD. But under Jamaica—they call it East Oceans Textiles, Ltd.—the output is 300,000 dozen annually, and that is an increase from veritably nothing overnight and it will continue in all these other places.

Getting back to our CBI concern, I have always thought that we could develop the strength, the economies and the freedom, the security of the Western Hemisphere by developing a middle class. I have traveled some 30 years, trying to solicit business down in Latin America. It is not a new area to this particular Senator. He has the same zeal that the Senator from Florida has in concern over that area, because my Port of Charleston is 300 miles closer, Mr. President, to Caracas, Venezuela, than to New Orleans. As a result, we had trade missions that I headed up back 30 years ago traveling to these countries, and we built up quite a bit of port trade and quite a bit of development for the different companies expanding into the countries of Latin America.

But in 1980 Europe had a $5 billion deficit in the balance of trade, and we had a $4.7 billion deficit. The United States and Europe were about even. The Europeans globalized their quotas and enforced the law, and they have dropped from $5 billion down to a $1 billion deficit in the balance of textile and apparel trade. But in this allegedly most protected industry, we have gone from a $4.7 billion textile trade deficit in 1980 to $24.8 billion, almost $25 billion last year. We are five times the 1980 amount. That accounts for a $25 billion deficit in the balance of trade. And seeing that and understanding there is a better way, New Zealand and Australia are for globalization.

Then if you please, Mr. President, I found that the President of the United States was for globalization because he said in a letter to then Congressman Campbell, of South Carolina, who is now Governor of South Carolina, back in 1980, when he said he was going to relate the growth of imports to the American market, "We should explore the possibility of setting global quotas or guidelines."

Now, this Senator on the floor back 10 years ago resisted globalization on the premise that what we ought to do is enforce our antidumping laws and our subsidy laws, and we would not put the textile bill on the Carson City silver dollar. And I see the debate going on now with the Senator from Connecticut, Senator Ribicoff, who was recommending globalization, and Senator Russell Long, the chairman of the Finance Committee, who said he was tending in that direction. I have to now agree that they had vision and foresight. Senator Ribicoff and Senator Long, of Louisiana, were correct. And then it was picked up by President Reagan in the campaign, and he called for globalization.

And now that we have the bill on the floor for globalization, some want to bust a hole in it and permit a shell game run-around that you will never be able to administer, by exempting the CBI countries. Absolutely we cannot administer 807 now. They are going around and we are having a very, very difficult time. Eighty-five percent 2 years ago represented the American fabric. It has dropped to less than 80 percent now. And it is a recent report. That is as of 1987. In 1988, they are now reporting that 50 percent of the CBI 807 is Asiatic fabric.

So it has just zoomed overnight. We have been pleading and corresponding with the administration, with the Special Trade Representative, the Commerce Department, the Customs boys. We would like to try to continue with section 807. This Senator put in a bill to repeal that if they do not particularly administer it, but Heavens above, let us not just up and say the CBI under the Senator from Florida's amendment is exempt so we can go completely through it.

I again emphasize the similar sentiment that he has. I do not understand where the Senator from Florida argues that this would have unintended results. I have just talked about unintended results under 807. We know it. His plea that it could have unintended results would be that countries are poor and other countries are rich, and thereby the rich countries would be favored.

We did not say rich countries. We said countries that favored American agriculture, and as the distinguished Senator from Florida said, and I tried to emphasize, Tobago, Haiti, and all had $45 per capita; the Dominican Republic, $24 per capita. I would agree with those figures and agree with that sentiment, and come with an absolute opposite conclusion: namely, they should be favored rather than having the unintended results.

They are buying our agricultural products. It is our hemisphere. It is close to Florida, South Carolina, and the United States. We have a vital interest of defending it. We are committed to the defense of the Caribbean.

This bill not only has the discretion, it has the guidance, given the administration, be it Republican or Democrat, to favor those CBI countries who purchase our agricultural products. That is what I want to do. I want to favor them.

I was in Indonesia recently and the Minister of Commerce was loaded for bear. They had a demonstration all arranged and everything against me. I think, after our conference, they called it off. I asked the head of the textile industry if they thought they might still have a protest against me. I said, "Please put it on quick, because I am going to have to leave to go back home, but if you can put on that demonstration I can get reelected. Let me get some cameramen. I do not have any with me, but I would sure like to have that big, old demonstration against me and my stand on textiles." But I said, before you do, do not cut off your nose to spite your face. I said Indonesia is an agricultural purchasing country from the United States. Indonesia is a growing country with a capitalist system. It is a government-controlled capitalist system, I hasten to add. It is government controlled. But they do have a constitution, they have freedom of religion, and they have one House of Parliament.

I called and talked to the Speaker and that Speaker of the Parliament is going to be talking at the invitation of our Speaker of the House of Representatives, Speaker WRIGHT. He is going to be visiting us this month, later on. I hope to bring him and at least introduce him to friends over here.

I said, "Wait a minute. We are terribly interested in the security of the Far East. We have a Philippine problem right now in Subic Bay and Clark Field. We have a problem up in Thailand. They are a front-line country. They have 400,000 refugees. They are holding the line for us with respect to Laos and the Vietnamese in there; the Khmer Rouge down in Cambodia. And we want to favor those countries that are capitalistic in going the way of freedom, building up their economies, and bringing a decent standard of living to their people."

I congratulated Suharto. I visited his home over 15 years ago. But to the Minister of Commerce I said, "If we go to war here, I do not think the People's Republic of China is going to be on my side. I don't think they are in any treaty, as you are." I said, "I think we can count on Indonesia, but we are not going to count on the People's Republic. I can tell you, any administration worth its salt should be favoring you."

I do not think if we are confronted in any fashion in our security that we are going to find a Hong Kong army and a Hong Kong navy. In fact, it is just a shipping dock for the People's Republic, and a bunch of fast-dealing entrepreneurs that move the world around. There is Canadian money, British money, American money, there is Dutch money. It is a big, big Ponzi game when they call it the country of Hong Kong. It is absolutely ridiculous. But I would like to take everything from Hong Kong and give it to the CBI. Let's offer such a bill. The Senator from Florida and I will cosponsor it. That is what we want to do: to help the CBI. Sober up this crowd around here who are being taken to the cleaners by the competitive businessman and we do not have enough sense as politicians to understand the competitiveness of business. I could go right on down the list.

I said why make Japan richer? They are richer than me, and I am having to pay for their defense. That is stupid enough now. I tell you right now while we have the time, if you want to know and want to marry two problems, let us marry that burden-sharing problem in Subic Bay and Clark Field and not be held up by the Philippines at this particular hour—billions of dollars they want when we gave them their freedom. We fought for it, gave it back to them, and now they want to hold us up.

Just move Subic and Clark out to Okinawa and say, you rich Japanese, I want you to build a base, own it. Now we are beginning to talk sense. We cannot let Japan in defense have an air force. We cannot let them have nuclear. We do not want them to have a large standing army. What do we want them to do? Let them buy up all of those expensive ships and patrol the Pacific from Okinawa down to the Antarctic. We have given them the Aegis carrier. We just had that with Senator BRADLEY's amendment. Let them have the sophisticated ships, bases, and put it there in Okinawa. We do not even need a treaty. If they do not like us and tell us to leave, we will leave.

You and I cannot afford the defense of the world. The new administration is not talking about it. They are talking about where you are forced to take the pledge of allegiance or you are going to have a gentle and kindly government. Man, come on. I hope this whole crowd rather than playing their pollstered brand of politics would get off of it and talk some of the issues that really confront us.

This textile bill locks in half the U.S. textile market to imports. Who ever heard of putting in legislation saying we are going to give half the business to people outside the country? I remember the day when if you put in a bill like that, 15 or 20 years ago, you would get run out of Congress. Now we do it in desperation and say we guarantee markets. To whom? To the rich countries.

We do not exempt Japan, Korea, Taiwan, Hong Kong—these big suppliers. We guarantee them a majority of the market, and they call it protectionism. It is protecting them, the importers, not the United States. We are being blamed for protectionism. Then we guarantee them the growth in domestic consumption, and we guarantee to the President complete discretion. He can take quotas away from France or Japan and give them to Trinidad, under this bill. It would be up to his discretion, working through the Secretary of Commerce, to administer it; and under his administration, he can do exactly what the Senator from Florida wants to do and what the Senator from South Carolina wants to do.

I want to build it down there. There is no use making the rich richer and building up the Marxist government in Russia. Here we would take away the quota we now have permitting the Soviets to dump on my home town dock, we could reallocate it to CBI nations.

We have to maintain this fundamental industry for the American economy. It is necessary for our national security. My senior colleague has put that in the RECORD, and I reaffirm it. We found that back 25 years ago and more, in 1961. President Kennedy held hearings and made the determination that textiles are essential to national security.

Under the amendment of the Senator from Florida, we would build a loophole big enough to drive vast new Asian trade. We cannot afford that.

I am glad we are making this record this afternoon. I say to the Senator from Florida that we would like it to go down there because they are buying our agricultural products, they are important to our security, and we are committed to their security, economically and militarily.

I yield the floor.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate the comments that have been made by the distinguished Senator from South Carolina, a very articulate and able adversary in any circumstance.

I recognize his long and genuine concern about hemispheric relations and the sincerity of his statements of interest in seeing how the United States and our neighbors in this hemisphere can build a stronger, long-term relationship. We disagree as to the opportunity to advance that cause today.

Mr. President, I make these few comments in closing, prior to the Senator from South Carolina offering a motion to table, as he has indicated.

The basic legislation that we are considering here today stands for the principle of increased Government participation in our economic life. That is a principle which concerns me, because I come from an economic philosophy which is premised on maximizing the ability of individuals to make judgments, maximizing the role of the marketplace in deciding where to allocate resource and capital, and to use Government only sparingly where it is necessary, in order to achieve order in that marketplace, and to redress some clearly seen social malady.

I recognize, however, that as we move into an increasingly international economic system, we are going to be calling upon Government to be involved in some different or some newly applied old patterns, because we are dealing with international economics, which means, essentially, interpolitical economics. Therefore, whatever we may feel about the ultimate wisdom of this bill that is before us and that we are debating, it is clearly appropriate in our current period of economic development.

The comments that have been made by the Senator from South Carolina raise some caution. The Senator from South Carolina has made a statement—I am not there to dispute it, but I am also not here to provide evidence to support it—that the administration is doing an inadequate job in enforcing the 807 Program. I have no evidence that that is the fact.

I have anecdotal experience which indicates that the 807 Program has been a very mutually beneficial one, which has allowed the protective capacity of the American textile industry and the desire of unskilled persons, now hoping to be better skilled persons, in the Caribbean and Central America to then use that American-produced fabric to produce apparel which will be sold to and worn by Americans. That has been a mutually beneficial relationship. If the circumstances is as the Senator from South Carolina states, I think it raises an appropriate cautionary flag on the general issue of involving the Government in excessive detail in our economic life.

Mr. President, I should like to speak specifically on another point that the Senator from South Carolina made, and that has to do with the agricultural provision.

As I stated in my opening remarks, the objectives of this are understandable and laudatory. The mechanics, I think, are subject to some scrutiny and legitimate concern for those who have a special interest in the relatively poor but high agricultural importing countries in the Caribbean and Central America.

Let me state the structure of this part of the bill as I see it, and if the Senator from South Carolina has further discussion or amplification of how he believes this section of the bill will function I think it would be constructive if he would add that.

I might say, collaterally, that while there is a committee report from the House on many of the provisions contained in this bill because this bill was heard by the House Ways and Means Committee and that committee submitted a report to the House, there was no committee report in the Senate because there was no committee consideration of this bill. Since there was no agricultural provision in the House bill we have no clear record of what was intended in this portion of the Senate bill.

But let me state what a reading would appear to give as its goal and as its implementation. The goal would seem to clearly be to encourage increased purchases of quantities of U.S. agriculture by those countries which have an interest in exporting to the United States their textile products.

The means of achieving that objective is to first provide that the Secretary of Commerce shall be given the authority to prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this act.

The legislation goes on to say that those regulations may be prescribed only if such regulations ensure that, that is to say, that a prerequisite to adopting regulations by the Secretary is that they ensure that an amount of the limitation imposed by this section on the aggregate quantity of textile and textile products, et cetera, is allocated to such products of each country to which the total quantity of U.S. agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of U.S. agricultural products exported on commercial terms to such country during the agricultural year before the calendar year preceding the applicable year.

I believe that what that language says is that if you imported more U.S. agricultural products by quantity on commercial terms in year two than you did in year one that the rules for the administration of these textile quotas are required to take that into account in allocating that quantity on a country-by-country basis. If that is what appears to be the goal, the strategy for accomplishing the objective, I submit that my concern continues to be that it is going to have an adverse effect on these some two dozen countries which have two common characteristics. It is poverty. Most of these countries have a per capita income of less than $1,500. And, second, they already are importing on a per capita basis substantial amounts of American agricultural products, amounts that rival or exceed much wealthier countries in the Pacific and in Europe.

The consequence is that their margin for increased agricultural purchases from the United States is thus restricted. They already are big customers. They are poor. How much more are they going to be expected to do? And yet under the structure of this provision, it does not help you any that you are a good customer yesterday. You only get help if you are a better customer tomorrow.

I suggest that whatever happens to this legislation, that at some point this provision needs to be looked at in terms of what is going to be its practical impact on this particular group of countries which are especially important to us.

Mr. President, in closing, the Senator from South Carolina made a very strong historically insightful set of observations about countries in the Pacific rim. I think his comments could be characterized as saying we have done a lot of positive things for them and maybe they have not been as accommodating, as friendly as we would have thought they should have been in light of our course of conduct.

Mr. President, I point out that the countries we are talking about now in this amendment, the two dozen countries that are participants, signatories to the Caribbean Basin Initiative and would be given the special treatment of my amendment by being excluded from the quota of restrictions, these have been some of the most friendly countries to the United States.

I think if you would ask the U.S. Drug Enforcement Agency what is a country that would be a model of cooperation between the United States and that nation in our efforts to suppress international drug traffic they have told me that the Dominican Republic would be such a country. If you were to ask where in the troubled region of Central America has there been a country that has been a source of stability, of calm, of democracy, of an attempt to inculcate the very values that this country stands for, it would be Costa Rica.

Where is the largest cluster of democracies on a square mile basis in the world? It is in the eastern Caribbean. When into that cluster of democracies in the eastern Caribbean a Soviet-Cuban state was about to be established with a significant potential for military mischief in Grenada who were the people that asked the United States to join them in returning that nation to democracy? Those same nations, those same struggling small, poor, but proud countries of the eastern Caribbean. Those are the nations who have established a history of good friendship with the United States.

Just as you might say for those who have shown indifference to our prior actions, why should we go out of our way to show them additional support and assistance? For these countries that have had on the main a long, consistent, positive, and cooperative relationship with the United States, why should we not take this opportunity to show them an additional expression of our friendship, of our appreciation, of our recognition, of our mutuality of interest, and the sense of optimism of a better future which we can build together?

Mr. President, the amendment that we are debating today is not the end of the world for the Caribbean as the amendment that we debated a few days ago relative to ethanol, as the provisions that we debated over the past several years on sugar; none of these acts is in and of themselves, one single decision by this Senate, make a political or economic difference for those countries or our relationship.

But what we are doing is adding incrementally one by one a series of abuses to good friendship, a series of failure to appreciate mutual interests and another burden which I fear when that burden reaches too great a level may cause a fundamental turning in a region of the world in which the United States should have the happiest most peaceful and most prosperous mutual relationships with our neighbors in the Caribbean and Central America.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, to describe as an abuse of friendship a bill that, by design, could not penalize—there is no rollback—any neighbor or friend in the Caribbean; to describe as an abuse of friendship a bill that will reward those who buy our agricultural products, is absurd. And the Senator from Florida should know that.

He accurately described the Daschle amendment, but he came with the exact wrong conclusion. The Daschle amendment says you cannot retaliate. You do not have to favor. It does not require a penalty if you do not buy U.S. farm products, but it says you cannot retaliate. You must have at least the same amount, and whether you give them that particular business if they are buying our agricultural products, one shirt or 100,000 dozen shirts, under this globalization, it would be left to discretion.

So we are not penalizing anyone, but we can favor the smallest little country in the world that does not even buy U.S. agriculture.

We can do that. Let us say that a CBI country did not buy any agricultural products from us and that others, like Hong Kong, did not buy any from us. We can take all the Hong Kong quota and give it to a CBI country that does not buy any agriculture under this bill. I just want to be categorical so we understand it.

So do not misdescribe the result of this particular measure; namely, if you are a poor country you are going to be discriminated against. That is totally false. You are going to be favored; should be. We made that crystal clear. And if you do agriculture business with us, this bill says, yes, you have to get at least the same amount. You have to get at least the same amount under the globalization of the quota that you have had before.

So, once again, this is not any abuse of friendship, but the extended hand of friendship. What really happens under the Graham amendment is, once again, you open that loophole. If you go to Indonesia—our friends in this debate says Japan now has moved on into the steel business and Korea is building ships and they do not have any textiles. It is money.

In Indonesia, it is those Japanese-financed, built, operated, and profited textile plants. And then they went to Thailand and now they are down to Sri Lanka, India, and they keep moving to more countries. Now they have moved into Jamaica. They have the money.

What we know is what we are trying to do is save an industry. And time and again I have described that business formula whereby if you double your market share, you lessen the cost of production by 20 or 30 percent. The market share is the name of the game and we have less than half right now. Yes, other nation's will be more competitive. They will have less in the cost of production. They already do with respect to labor and our high standard of living in the United States of America.

So the foreign share will jump like it was described earlier on the previous amendment on shoes, where in 1982 it was only 50 percent; in 1988, in 6 years' time, it is 84 percent, which is the updated figure by the Department of Commerce. Eighty-four percent of all shoes purchased in the United States are represented by imports.

So that is what we are trying to do—keep from having that hole being opened and the shell game started.

We have millions going to CBI nation's today. The bill that we passed here with respect to aid to the Caribbean is over $217 million; $736 million just in the next year to Central America. You can go down the list. We are not disregarding these nations.

You and I are taxing our people now. People say no taxes, no taxes, no taxes. I do not know how you are going to pay for these things. We ought to pay for them. I support that. But do not act like, oh, well, they will find out that we are not true blue and the hand of friendship is gone, and if you pass this bill, it will be an abuse of friendship.

On the contrary. It is the hand of friendship.

Unless the Senator from Florida would like to respond, or anyone else, I am prepared to make my motion.

Mr. GRAHAM. Will the Senator yield for a question.

Mr. HOLLINGS. Yes.

Mr. GRAHAM. I am trying to understand the agricultural provision. My concern is that is appears as if it is going to operate in probably an unintended but real adverse manner relative to countries that have the two characteristics which most of the countries in the Caribbean have, which is poverty and an already high level of U.S. agricultural imports.

As I read on page 11, lines 6 through 12, it describes the rulemaking authority of the Secretary of Commerce. Then lines 13 through 15 state: "The regulations may be prescribed only if such regulations ensure that" which would seem to me to say that unless the Secretary of Commerce incorporates within his regulations an assurance that an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products is allocated to such products of each country to which the total quality of U.S. agricultural products grows from year one greater in year two.

If that is not the way that section is intented to operate in order to create the incentive for countries to import more U.S. agriculture as an inducement to get a greater opportunity to export textiles into the United States, then I would like to be satisfied and my mind put at ease that the negative consequences that I foresee are not going to occur.

Mr. HOLLINGS. Most respectfully, I say to the Senator that he gives a very accurate description of that particular section and it says exactly what you have just said. They shall be favored. And that is the intent.

Now, you come with the other conclusion that since I am poor and others may increase, for example, their agriculture and since I am poor I have no chance to get any additional business. That is not true at all.

Mr. GRAHAM. Let us assume hypothetically that the 1 percent growth represented 100 units.

Mr. HOLLINGS. Well, we have 13.7 billion yards, so 137 million yards.

Mr. GRAHAM. 137 million units. A country like Germany only purchased last year $17.18 per capita of U.S. agriculture products. Germany is a relatively affluent nation. It has a substantial capacity, both in terms of its wealth and the low base from which it is starting to increase its purchase of U.S. agriculture products. Contrast, for instance, with Jamaica.

Mr. HOLLINGS. Wait a minute. Follow that through. If they do purchase more, they get bigger cuts. That is right. You and I agree on that.

Mr. GRAHAM. So we have this 137 million unit additive.

Mr. HOLLINGS. That is right. We have a total of 13.7 billion yards. It just says agriculture countries should not be rolled back. There is an absolute guarantee that if you are buying your agriculture products from the United States, there would be no roll back from where you are. But that does not include all countries.

And, as you indicate, Germany is diminishing. The fact of the matter is 20 percent of the world's wheat is now produced by the European Economic Community. And we can count, once they go in 1992 into their total common market, you can count on them working as a unit and I would not be able to sell, for example, my chickens in downtown Bonn Germany.

Mr. GRAHAM. That would seem to indicate that you do not think this provision is going to be much of an inducement to the Europeans.

Mr. HOLLINGS. I hope it is an inducement. But, no, they are playing hardball for the little bit of textiles. I do not think it will induce them, no.

Mr. GRAHAM. I am concerned that you are going to be successful, that they are going to do what this has as its objective and the consequence is that that 137 million additional units each year, the 1 percent growth, is going to end up being allocated to the affluent countries in Europe and the Pacific rim, both because they have the dollars to buy more products and they are not buying very many now, and that the countries such as Jamaica, which is already almost three times per capita what Germany is, is not going to be able to buy very many more agricultural products.

Mr. HOLLINGS. I say to the Senator his mistaken premise is that we only have a 137 million to deal. False. You have 13.7 billion yards to begin with. Then you look over the 13.7 billion yards and then you do find out West Germany is trading some agriculture with us. And, yes, we do hope they will increase it. And if they do increase it, they will be allocated, as you read very accurately, the Secretary of Commerce would assign them an additional quota of textile and apparel products.

But, on the other hand, we have those that not only do not buy but those who are diminishing their purchases.

I remember 5 and 6 years ago, you will find the People's Republic of China, they were buying most of their corn from us.

Last June, when we were in a similar debate, the People's Republic of China found corn elsewhere that was less, 18 cents a bushel less, than Nebraska corn. And they are importing less U.S. agricultural products. That is the design of Deng Xiaoping and his government in the People's Republic of China, that they not only take and produce all they can consume but they also become an exporting country. And they are becoming that.

So we are losing out there and we are losing in all of these other places. There is more than a sufficient amount to allocate down to the CBI.

We can easily take from every one of the Communist countries, do not buy any and take and list them down in the East European section and immediately allocate and probably treble or quadruple what we have got right now for the CBI. If I were President I would do it. And I think our President Reagan would do it, too. Because we could go over, you and I could see him even though we are Democrats, and I think he would listen to use and say I think that is a good idea.

Mr. GRAHAM. Well, Senator, you certainly have an enlightened concept of what is in our Nation's interests. I am concerned that the effect this legislation is going to impose, in terms of strictures imposed on the current economic realities, will make that an unlikely or unavailable option for the current or whatever future President has the responsibility for administering this act. At some point, whatever happens to this amendment, I would hope that the impact of this on this class of poor, high consuming U.S. agricultural countries, will be given some attention.

Mr. HOLLINGS. Well, that is what we intend to do and that is what it says and you have a mistaken assumption that somehow or other it is not going to work. We have looked it over very carefully and closely. If you buy more of our agriculture, you get more of our textile quotas, and if you buy any agriculture, you cannot get any less than you are receiving now; and there is more than enough in the $13.7 billion plus the increase of 1 percent over 137 million yards each year to distribute down to our particular friends in the CBI.

So we have a kitty sitting right there. We have a kitty sitting right there. I hope we can build up the agricultural products, but all of us in favor of American agriculture as well as textiles wanted to be sure that there was not any discrimination or retaliation against those people who were buying our wheat and buying our corn and grain.

If that is all then, Mr. President, I would move to table the amendment and ask for the yeas and nays.

The **PRESIDING OFFICER** (Mr. BINGAMAN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** There being no further debate, the question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON], and the Senator from Hiawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Nevada [Mr. HECHT], the Senator from Indiana [Mr. QUAYLE], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 34, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—59

Baucus
Biden
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Exon
Ford
Fowler
Glenn
Gore
Grassley
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Lautenberg
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan

Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker

NAYS—34

Adams
Armstrong
Bingaman
Boschwitz
Chafee
Chiles
Danforth
Dodd
Dole
Domenici
Durenberger
Evans
Garn
Graham
Gramm
Harkin
Humphrey
Karnes
Kassebaum
Kerry
Leahy
Lugar
McCain
McClure
Murkowski
Nickles
Packwood
Pressler
Simpson
Stevens
Symms
Wallop
Wilson
Wirth

NOT VOTING—7

Bentsen
Dixon
Hatfield
Hecht
Matsunaga
Quayle
Stafford

So the motion to lay on the table amendment (No. 2885) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, if there are no other amendments, it is time for third reading but I understand there are some other amendments. The Senate will be in until 10 o'clock or 11 tonight. I would suggest that Senators call up their amendments.

The PRESIDING OFFICER. Are there further amendments to the bill?

LABOR-MANAGEMENT DISPUTE BETWEEN THE CHICAGO AND NORTH WESTERN TRANSPORTATION CO. AND THE UNITED TRANSPORTATION UNION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 374, introduced earlier today by Senators Simon, Dixon, Grassley, and Harkin. This has been cleared on both sides.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 374) to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SIMON. Mr. President, I thank the majority leader, and I also express my thanks to Senator Dole and to Senator Hatch and Senator Kennedy.

This measure is cosponsored by Senators Grassley, Dixon, and Harkin. It imposes a settlement on the emergency board appointed by the President on the Chicago Northwestern strike. It is a settlement that is in agreement with similar agreements that have been worked out between labor and management.

It permits both sides to continue to negotiate and to modify this in any way, but it does not permit a breakdown of a major railroad that would have a massive impact on the economy of this Nation.

Mr. DIXON. Mr. President, September 8 is upon us. Tomorrow, the 35-day cooling off period for the Chicago and Northwestern strike will expire. Consequently, unless Congress acts, labor will walk out and the trains will no longer run, let alone run on time.

A strike would cause the disruption of freight traffic throughout the Midwest. A strike would cause the Northwestern Commuter Line to cease its services and thereby leave over 41,000 Chicago-area commuters with no way to get into work. In short, a strike would be devastating to the Chicago economy and the economy of the entire Midwest.

Negotiations have been going on for over 2 years and the two sides have not been able to reach an agreement. The provisions of the Railway Labor Act regarding a dispute of this kind are extraordinarily complicated and comprehensive. Both parties have made several appeals to the Railway Labor Board. When this process failed to help them reach an agreement, the President called together an emergency board—composed of rail experts—to look into the situation. The emergency board disclosed their findings and made recommendations earlier in the summer. However, even the board's recommendations failed to solve the dispute. Consequently, several temporary stays were granted to the two parties in hope that time would enable the CNW management and labor to reach an agreement; the last stay being the 35-day cooling off period granted by us in the Congress. Despite all of this extra time and expert advice, a strike still appears imminent—the parties still have not resolved their dispute. The only way left, therefore, to resolve this problem without a crippling, disruptive strike that would benefit no one, is for Congress to act.

I wish legislation was not necessary. I am very reluctant to interfere in the collective-bargaining process. But, I see no other alternative at this late date. As I said before, the consequences of a strike are just too devastating for it to be allowed to happen.

The precedent for Congress' actions in this sort of a situation is clear. We are not the experts and cannot pretend to know what would be the wisest resolution to the two parties' dispute. So, instead, as has been done in the past, we will implement the advice of the experts, the President's emergency board, in order to bring about a resolution and avert a strike. Again, I wish a legislative solution was not necessary, but, unfortunately, time has run out.

The junior Senator from Illinois, Senator Simon, has provided excellent and judicious leadership on this very difficult issue. As a cosponsor of this resolution, I join him in urging its quick enactment. It is vitally needed and deserves the Senate's support.

Mr. GRASSLEY. Mr. President, today I join in cosponsoring this legislation to enact the President's emergency board's recommendations regarding the Chicago Northwestern labor dispute.

Thirty days ago, Congress extended a cooling off period to enable labor and management to further negotiate a possible settlement regarding this strike. At that time I stated:

> It is a mistake to delay a resolution of the Chicago Northwestern crews dispute until September. We should address this issue now.

As you can see, 30 days later we are again faced with legislation regarding this dispute. It is my hope that Congress will act quickly on this legislation. The Chicago Northwestern supplies over 50 percent of the rail service for my State, and therefore a strike will be devastating to the movement and the shipment of farm products during the harvest season. We are in a crucial period for the movement of grain and it is important that these shipments continue.

The President's emergency board's recommendations are important, because these people have reviewed all of the important data to develop a fair and equitable solution to the problems faced by labor and management. It is clear that one side or the other, or perhaps both sides, will not be happy with all the recommendations. But because the two sides in this dispute could not come to an agreement it is essential to end this strike by implementing the President's emergency board's recommendations. Therefore, I join with my fellow Senators in cosponsoring this legislation. I urge my fellow colleagues to support this legislation.

Mr. PACKWOOD. Mr. President, as has been indicated, this has been cleared on our side.

I especially thank Senator Grassley, who worked very hard on this matter. His interest was responsible for reaching this conclusion very rapidly.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 374

Whereas the labor dispute between the Chicago and NorthWestern Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union threatens to interrupt essential transportation services of the United States;

Whereas it is essential to the national interest, particularly in health and defense, that essential transportation services be maintained;

Whereas Congress finds that emergency measures are essential to maintaining the security and continuity of transportation services provided by the Chicago and NorthWestern Transportation Company;

Whereas the President, by Executive Order 12636 of April 20, 1988, and pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), created Presidential Emergency Board 213 to investigate the dispute and report findings;

Whereas the recommendations of the Emergency Board 213 issued on July 1, 1988, have not resulted in a settlement of the dispute;

Whereas all the procedures provided under the Railway Labor Act for resolving the dispute have been exhausted and have not resulted in settlement of the dispute;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONS FOR RESOLVING DISPUTE.

The following conditions shall apply to the dispute referred to in Executive Order 12636 of April 20, 1988, between Chicago and NorthWestern Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union:

(1) The parties to such dispute shall take all necessary steps to restore or preserve the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on August 4, 1988, except as provided in paragraphs (2) and (3).

(2) The report and recommendations of the Emergency Board 213 shall be binding on the parties upon the enactment of this joint resolution and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), except that nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by this joint resolution.

SEC. 2. ARBITRATION.

(a) UNRESOLVED ISSUES—If there are any unresolved issues as to the initial implementation of the report and recommendations or agreement under section 1(a)(2) after 10 days after the date of the enactment of this joint resolution, on request of either party the parties to the dispute shall enter into binding arbitration to provide for a resolution of such issues.

(b) APPOINTMENT OF ARBITRATION BOARD—The National Mediation Board established by section 4 of the Railway Labor Act (45 U.S.C. 154), shall appoint an arbitration board composed of three neutral members experienced in the resolution of railroad disputes to resolve the issues described in subsection (a).

(c) CONDUCT OF ARBITRATION BOARD.—Except as provided in this joint resolution, the arbitration required under this section shall be conducted in accordance with section 7 of the Railway Labor Act (45 U.S.C. 157).

(d) ENFORCEMENT AND REVIEW OF ARBITRATION AWARD.—The arbitration shall be enforceable and reviewable as if it were under section 9 of the Railway Labor Act (45 U.S.C. 159).

(e) JURISDICTION FOR JUDICIAL REVIEW OF ARBITRATION AWARD.—The United States Court for the Northern District of Illinois, Eastern Division, is designated as the court in which the award is to be filed and reviewed.

SEC. 3. TIME LIMIT FOR ARBITRATION.

Not later than 30 days after the date of the enactment of this joint resolution, the binding arbitration entered into pursuant to subsection (a) shall be completed.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 7 o'clock p.m. and that Senators may speak during that period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

SEPTEMBER 1, 1983: DEATH OF HENRY M. JACKSON

Mr. DOLE. Mr. President, 5 years ago this month, on September 1, 1983, Senator Henry M. Jackson of Washington died at the age of 71. Born in Everett, WA, the son of Norwegian immigrants, he got his nickname, "Scoop," as a newsboy who delivered 74,880 copies of the Everett Daily Herald without a single customer complaint. He took a law degree at the University of Washington in 1935 and began his political career as prosecutor of Snohomish County. He immediately set about driving liquor and pinball machines out of the county, which earned him the title, "Soda Pop Jackson."

Jackson, a Democrat, was elected to the House in 1940. He moved to the Senate in 1953, where the length of his service—30 years—was matched by his influence. He served as chairman of the Energy and Natural Resources Committee, the Governmental Affairs Committee's Permanent Subcommittee on Investigation, and, at the time of his death, he was the ranking Democrat on the Armed Services Committee and a member of the Select Committee on Intelligence.

Even this impressive list of committee assignments, however, hardly conveys the extent of Henry Jackson's influence. Through his mastery of the ways of the Senate and the issues that concerned him, he became one of the most powerful and respected personages on Capitol Hill, an acknowledged authority on defense, energy, the environment, and related issues. National security was the area on which Senator Jackson left his strongest imprint. He once said that he regarded the Soviet Union "As an opportunistic burglar who walks down the corridors trying all the door handles to see which door is open." It was a conviction from which he never wavered.

At the time of his death, Henry Jackson had come to personify strength in national defense, wariness in dealing with the Soviet Union, and pragmatic approaches to domestic problems. On November 19, 1987, many of Scoop's friends gathered in the Russell Office Building for the dedication of a bronze portrait bust—a gift to the Senate from Mrs. Jackson and the Henry M. Jackson Foundation.

STATEMENT ON TRAGIC DEATHS IN PAKISTAN

AMBASSADOR RAPHEL AND GENERAL WASSOM

Mr. DOLE. Mr. President, it is appropriate that the Senate express its deep sadness over the recent tragic deaths of our Ambassador to Pakistan, Arnold Raphel; and our senior military representative there, Gen. Hubert Wassom.

The loss so far from our shores of these two outstanding public servants—one a diplomat, the other a soldier—reminds us again of the breadth of America's interests and responsibilities around the globe. Sadly, it brings home, too, the great sacrifices that Americans often must make, to advance our Nation's interests and the cause of peace and freedom throughout the world.

We will miss the service of these outstanding men. And, through passage of this resolution, we send our deepest condolences to their grieving families.

PRESIDENT ZIA

At the same time, in a separate resolution, we also take note of the death, in the same air disaster, of Pakistan President Zia, and so many members of his government.

President Zia was a strong and determined leader of his nation; a key player in the south Asian region; a bulwark of support for the Afghan resistance; and a good friend of America.

We mourn his passing; we express our condolences to his family, and to the families of those who died with him; and we reconfirm our support for the Pakistan Government, as it moves toward greater democracy at home, and continues to stand firmly behind the cause of a free and independent Afghanistan.

MANASSAS NATIONAL BATTLEFIELD PARK AMENDMENTS—H.R. 4526

Mr. WARNER. Mr. President, I ask unanimous consent that the remarks I presented before the Committee on Energy and Natural Resources today on H.R. 4526, the Manassas National Battlefield Park Amendments, be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR JOHN WARNER

Chairman Bumpers and members of the Committee, I sincerely appreciate your holding this important hearing so soon after the Senate has returned from the August recess.

The bill from the House of Representatives, which is the focus of this hearing, authorizes a "legislative taking" of the 542-acre William Center property adjacent to the Manassas National Battlefield Park.

I request that the Committee conduct a broader examination of this problem before finally deciding on the House recommendation of a "legislative taking" as the recommendation of this Committee to the Senate as the "solution" to controlling development pressures near this Park. It is imperative that this be done because the President has unequivocally indicated he would veto the House bill. A veto, while justified from the likely excessive cost to the taxpayer in the House bill, would be disastrous to the present and long-term historical interests of the Manassas National Battlefield Park.

Under the leadership of Congressman Wolf and other House members, their bill was given extensive consideration and was adopted with a strong vote. Nevertheless, the Senate is on notice it will be vetoed. Therefore, I urge the Committee to examine alternatives. I stand ready to work with members of the Committee, the professional staff, and other experts from the National Park Service and historic preservation groups to bring together the best technical minds to draft a bill, along the lines I outline today, for the Senate to consider.

To assist the Committee, I recite below an analysis of the House bill, the history and parameters of the Manassas Battlefield problem, and my own legislative recommendations.

Now is the time—today—for a reconciliation of views on this matter so that we can forge an equitable solution which protects the park and permits some economic development. Time is running out! Bulldozers are creating irreversible situations. A veto of the House Bill is a reality. Therefore, let us begin a process of compromising today.

LEGISLATIVE TAKING

A "legislative taking" as recommended by the House allows the government to take immediate control of the land upon enactment and compensate landowners at a later date. This rarely-used process was utilized most notably in 1978 for the Redwoods National Park in California. This case is a striking example of how the cost estimates which influenced Congressional action—the "legislative taking"—fell dramatically short of the ongoing costs still being borne today by federal taxpayers.

Given this precedent, I strongly urge the Senate to carefully weigh this case before subjecting the taxpayers with another excessive bill at a subsequent date. We cannot, in good conscience, allow the "legislative taking" process to become a routine means of federal land acquisition.

The Senate must fully assess the complex aspects of this Manassas situation and determine if a "legislative taking" of the William Center property is in the best interest of the federal taxpayer and the preservation of the Manassas National Battlefield Park.

There seems to me to be at least three essential requirements Congress must consider before exercising this extraordinary power of a legislative taking. In my view, only one has been established; the other two are undetermined because of the wide diversity of evidence available to date.

1. *Time urgency.*—This requirement is established. Unless Congress acts now the entire tract will be developed to a point where action by a subsequent Congress would be unlikely.

2. *Historical significance.*—Has the importance of the "entire" tract—I repeat "entire"—as intended to be acquired by the House bill, been established? While there appears to be a consensus of opinion on the historical significance of a portion of Stuart's Hill where General Robert E. Lee made his encampment during the Second Battle of Manassas, and on the northern portion of the property where General Longstreet began his attack, there remains a diversity of viewpoints among credible historians on the amount of acreage comprising this area. Secondly, there is extensive diversity among historians about the value of the balance of the property.

3. *Cost to taxpayers.*—These estimates are essential to a decision to exercise a "legislative taking." To date, I have received the widest possible range of opinions. A case can be argued for costs ranging from $15 million to $75 million to add the entire 542 acres to the Park. We must reach some conclusion on the eventual cost to the taxpayers.

It is my view that the Committee must reach definitive answers to both points 2 and 3 before further considering the extraordinary action of a "legislative taking."

As you know, the Department of Interior went on record in opposition to this bill before it was considered by the House of Representatives because of its expense and its precedent-setting land acquisition procedure. I am advised they will repeat this position today.

(See exhibit #1, Department of Interior statement.)

The Secretary has made it abundantly clear that he will recommend to the President that he veto a conference report which closely parallels the House Bill.

Unfortunately, since the House action, no movement towards a compromise has been achieved by the parties involved. This Senate hearing must provide the impetus for negotiation and compromise.

I am deeply concerned that unless the Senate fashions a compromise that can be supported by the President, the collective efforts of many to devise proper protections for the Park will have been in vain.

The earliest the Congress will be able to revisit this issue will be February or March 1989. Throughout this period construction can continue.

I believe a brief review of the legislative history on the issues involving the last Manassas Battlefield expansion bill (1980) will give a clearer understanding of the issues today.

Prior to 1979, the House of Representatives passed legislation five times to add contiguous properties of significant historical value to the Park. By inaction, the Senate blocked action each time.

Finally, in 1980, with the cooperation of the Virginia Congressional delegation, the Price William County Board of Supervisors, historic preservation groups and interested citizens, many of whom are here again today, I sponsored legislation, which became law, compromising the five years of controversy between the House and Senate. This legislation expanded the Park by 1500 acres, from 3000 acres to its present authorized total of 4,520 acres.

The 1980 legislation was an equitable compromise, which maximized historical and environmental considerations and minimized economic losses to the community and to private landowners. All parties involved considered this bill to be a final resolution of these long-standing controversies which would last for an indefinite period. But, of course, that was not to be for we are back before the Congress again with a controversy of equal or greater passion.

In performing its responsibilities, I urge this Committee to receive evidence from at least the following:

The National Park Service;

The State of Virginia;

The Prince William County Board of Supervisors;

The National Trust for Historic Preservation and other historians;

The U.S. Army Corps of Engineers; and,

Numerous interested citizens groups and individuals who own the properties in question and others expressing views on the ownership and development of property.

From the beginning, I have been sincerely searching for an equitable solution to this problem, one which will protect that portion of the property historians agree to be significant to the understanding of events involving the Second Battle of Manassas, and one which will allow for some mix of residential and office park development that always has been envisioned for this property and which is needed by the County. Such a solution would represent a substantial saving to the federal taxpayer in comparison to the House Bill.

When I recall the circumstances surrounding the proposals to expand the Manassas

Battlefield when I arrived in the Senate in 1979, the focus of attention was on the amount of property from the Brawner Farm tract immediately across Route 29 from the William Center property to be included in the Park.

Whether, prior to my involvement in this Park's expansion proposals it has been decided that the William Center tract was not as critical to the Park as other properties, or whether because of the County's long-standing places to retain this tract for commercial development, the legislative history reflects little or no mention of the historical importance of this property during the 1980 Senate Energy and Natural Resources Committee hearings.

This new-found recognition of a portion of the property aside, clearly what was understood by everyone involved with the Battlefield expansion during 1979 and 1980 was that the William Center property would be developed in some way that would be compatible with the historic interests of the Park.

The core issue today is the role of the federal government in a dispute which involves not only a federal interest—a national park—but a dispute which also involves a local government's land-use decisions and a state's right to plan, finance, and construct its highway system. The division of the traditional responsibilities of each—Federal, State, and local—must be borne in mind.

This problem involves—at least—five main interests—each of which must be weighed fairly.

First, the sovereign right of a state. The State of Virginia has jurisdiction over the roads in and around the Park, and is obligated, in some cases in conjunction with the Federal Government, County Government, to maintain and improve them.

Second, the Prince William County is an integral unit of government. It must be given a fair review of its decisions affecting its citizens, its tax base and obligation to provide basic, affordable services, and its plans for roads and economic development in the area.

Third, the historic and scenic integrity of the Manassas National Battlefield Park must be preserved. This is clearly a joint obligation of the executive and legislative branches of the Federal Government.

Fourth, the federal taxpayer. They are jointly represented by the Executive and Legislative branch of the Federal Government. We must clearly define the priority resource and transportation needs of the Park and match those needs to the federal government's ability to pay for them.

Fifth, the owners of the property who may exercise their rights within our American free enterprise system to purchase property and plan its development in accordance with federal, state and local regulations must be recognized and given fair and appropriate consideration.

The question before us today remains the density and composition of development now proposed, is compatibility of such a development with the Manassas National Battlefield Park. Couple this with the extent we believe a cost reasonable to the taxpayers and this constitutes the extent to which Congress should be involved.

It has been represented to me that when the Hazel/Peterson Company originally presented (April, 1986) plans to Prince William County to develop this property, the proposal specified that a portion be for single-family residences, a portion for townhouses, a portion for an office park and a small (120,000 square feet) community shopping area to accommodate the businesses and residences on the property. There was no large retail shopping mall proposed in this concept plan presented in April, 1986.

(See exhibit #2. Illustrative Concept Plan (Draft), April 1986.)

It was this concept that was presented to the National Park Service for comment on the relationship to and potential impact on the Battlefield.

(See exhibit #3. National Capital Planning Commission statement.)

It was this concept that was presented to the public for its review and comment. That public involvement, therefore, was extensive.

Consequently, it was this concept of development which was agreed to by the Park Service and interested citizens in the area.

It is this concept of development—residences, office park and minor retail—that I believe should now be the centerpiece for a compromise between the parties.

It is this concept of development, which does not permit a shopping mall, that is the foundation for my legislative proposal that I present today, and which I believe should be the foundation of any legislative proposal reported by this Committee.

I oppose the construction of the planned 1.2 million square foot shopping mall on the William Center tract because it would be imcompatible with the preservation of the historic and scenic integrity of the Manassas National Battlefield Park as envisioned in my 1980 legislation.

LEGISLATIVE COMPROMISE

While I agree there are merits to the House bill relating to transportation issues, which I have included in my proposal, we must be pragmatic and forge a solution that protects the Park and can eventually become law.

To ensure that development of the William Center keeps faith with representations made at this Committee's 1980 hearing and with concepts presented to the public and the National Park Service in April, 1986, my legislative proposal embodies four fundamental provisions.

1. The National Park Service will acquire through the "legislative taking" process, 136 acres representing Stuart's Hill where General Lee made his headquarters during the Second Battle of Manassas and a suitable buffer to be defined by the National Park Service along the northern portion of the property parallel to Route 29 representing a major portion of the formation of General Longstreet's troops for the Manassas National Battlefield Park.

I have selected this limited acreage because I am advised by historians that significant events important to the Second Battle of Manassas occurred on this portion of the William Center tract. I welcome comments from the historians who will testify later during the hearing on their views on this point to determine the accuracy and appropriateness of the 136 acre figure.

2. Development on the remaining portion of the property not acquired by the National Park Service will be compatible with the concept of development envisioned by Hazel/Peterson Company in the Illustrative Concept Plan (Draft), April 1986. It was this plan which was presented to the public and the National Park Service for comment during the public hearing process and which the public believed would occur on the property. This site plan showed an office park, residences and minor retail, but it did not depict the large shopping mall which has been the focus of so much controversy.

3. I concur with Section 4, part A and B, of H.R. 4526 relating to the transportation issues. This provision will accomplish the first comprehensive study of the transportation needs of the area concerning closing Route 29 and Route 234 through the Park and addressing the alternative transportation routes that will be needed.

4. My proposal further provides $11.9 million (new money) for the State of Virginia and Prince William County to proceed with the proposed construction of an interchange with Interstate 66 with reasonable access to the William Center tract. This interchange has been planned by the County for 14 years and it remains its Number One transportation priority.

The State of Virginia would ordinarily fund this interchange from its Interchange 4R funds from the Federal Highway Administration. Under existing law the financing of the project would be 90 percent federal and 10 percent state. The interchange is anticipated to cost $13.2 million; 90 percent of that amount is approximately $11.9 million.

I believe these four provisions should be the foundation of a legislative proposal to ensure the protection of the Manassas National Battlefield Park by including historically sensitive properties, conforming development on the remainder of the property with concepts presented during the public hearing/rezoning process, and requiring a comprehensive review of the transportation alternatives in the area.

In my opinion, these provisions reflect the views expressed by the public and the Park Service on the type of development they believed could be accommodated on the property.

These provisions recognize the economic interests of the County and the owners of the property.

These provisions provide for a reasonable amount of immediate protection for the Park by adding 136 acres upon enactment, and provide for future protections by limiting development and devising a comprehensive transportation plan for the area.

And, these provisions reduce the cost to the federal taxpayer.

A full "legislative taking" of the entire 542 acres of the William Center property requires a significant investment of federal dollars for one national park that has already received $6.8 million since 1980.

I am advised that estimates for acquisition of the William Center tract vary from $15 million to $75 million.

The price, to be determined by court settlement, could easily go higher. (See record of the recent purchase of the Brawner Farm under the 1980 Warner-Harris bill which was appraised at $812,000; however, a court awarded the landowners $4.2 million for 312 acres).

As I have said before on the Floor of the Senate, this single land acquisition could exceed annual funds appropriated by Congress for land acquisition by the National Park Service for the entire nationwide park system of 334 parks and sites. The FY 1989 Interior Appropriations conference report, which will soon be before the Senate, recommends $52.6 million for land acquisition for the entire national park system.

Lastly, we must consider the future. The 1980 legislation was thought to be the last "major" acquisition to the Manassas Park. If a legislative proposal, such as mine becomes law, once again further extending this national park into the heart of the economic geographic base of Prince William County, we must ask ourselves is this the end? There remains considerable underdeveloped property in the immediate or adjacent areas. What obligation do we have to the Park, the County, the owners as to the future?

Mr. Chairman, and members of the Committee, I urge you to carefully consider the legislation proposal I have presented as a fair and equitable solution to this specific case of development pressures next to one of our nation's most treasured natural resources.

I also welcome the comments of witnesses who will follow me today. I continue to be open to suggestions on my proposal and I remain willing to explore other proposals to resolve this dispute.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON ACTIVITIES UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT—MESSAGE FROM THE PRESIDENT—PM 153

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91-596; 29 U.S.C. 675), I transmit herewith the 1987 annual reports on activities under that law of the Department of Labor, of the Department of Health and Human Services, and of the Occupational Safety and Health Review Commission.

RONALD REAGAN.

THE WHITE HOUSE, *September 8, 1988.*

MESSAGES FROM THE HOUSE

At 10:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day".

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year September 30, 1989, and for other purposes; it has receded from its disagreement to the amendments of the Senate numbered 10, 11, 16, 31, 45, 46, 47, 62, 63, 71, 76, 85, and 102 to the bill, and agrees thereto, and it has receded from its disagreement to the amendments of the Senate numbered 2, 25, 35, 39, 41, 42, 44, 49, 53, 60, 68, 72, 74, 75, 77, 80, 81, 88, 89, 90, 91, 92, 93, 98, 100, 113, 116, 117, 121, 122, 138, 141, 142, 143, 145, 146, 149, 152, 153, and 154 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

At 1:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2560. An act to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

The enrolled bill had previously been signed on today, September 8, 1988, by the Acting President pro tempore (Mr. LEAHY).

At 2:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes; it has receded from its disagreement to the amendments of the Senate numbered 4, 10, 14, 21, 24, 27, 30, 35, 52, 58, 61, 76, 82, 83, 84, 94, 95, 118, 123, 124, 125, 128, 129, 134, 135, 148, 152, 154, 155, 158, 159, 166, and 182 to the bill; and it has receded from its disagreement to the amendments of the Senate numbered 5, 7, 11, 13, 28, 29, 31, 33, 34, 38, 39, 40, 42, 43, 45, 53, 59, 63, 86, 89, 92, 93, 98, 103, 104, 105, 106, 107, 114, 116, 120, 122, 127, 130, 131, 132, 136, 137, 140, 142, 149, 150, 153, 156, 157, 165, 167, 169, 172, 173, 191, 193, 195, 196, 197, 199, 202, and 203 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of February 3, 1987, the following enrolled bill was signed on September 7, 1988, during the recess of the Senate, by the Vice President:

H.R. 1158. An act to amend title VIII of the act commonly called the Civil Rights Act of 1986, to revise the procedures for the enforcement of fair housing, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 8, 1988, he had presented to the President of the United States the following enrolled bill:

S. 2560. An act to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-614. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 76

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 76, Sher. California's coastal management program.

"This measure would request the President of the United States and the Secretary of Commerce not to proceed with decertification of California's coastal management program, would urge the state and the secretary to enter into negotiations to resolve any dispute over California's approved coastal management program, and would request Congress to take action to encourage negotiation and to prevent the Department of Commerce from proceeding with decertification.

"Whereas, California's coastal resources are vital to the state's tourism and fishing industries, are a fundamental part of the state's ecology, and are enjoyed by the people of the state and the nation because of their scenic beauty and the recreational opportunities which they provide; and

"Whereas, The federal Coastal Zone Management Act of 1972 (CZMA) encourages states to adopt management programs for their coasts; and

"Whereas, Congress found in the CZMA that it is national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation's coastal zone for this and succeeding generations; and

"Whereas, The CZMA also states that it is national policy to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources; and

"Whereas, Prior to enactment of the CZMA, the people of California recognized the need for coastal management through enactment of the McAteer-Petris Act in 1969 which established the San Francisco Bay Conservation and Development Commission, and by placing Proposition 20 on the ballot in 1972 to develop a coastal management plan; and

"Whereas, In November 1977, the National Oceanic and Atmosphere Administration (NOAA) approved California's coastal management program, finding that it met the goals and requirements of the CZMA; and

"Whereas, California's coastal management program has served the state well by planning and permitting needed development while protecting coastal resources which are vital to public recreation and the state's tourism and fishing industries; and

"Whereas, In its 1987 evaluation of the coastal management program, NOAA threatened to initiate decertification of the state's coastal management program; and

"Whereas, NOAA's evaluation attacks aspects of the state's program which it had previously approved and which had been affirmed by the court in American Petroleum Institute v. Knecht (609 F.2d 1306); and

"Whereas, The State of California has filed suit against NOAA, charging that NOAA's actions violate the terms of the CZMA, the federal Administrative Procedure Act, and the National Environmental Policy Act; and

"Whereas, The Secretary of Commerce has not halted the actions against the California coastal management program by agencies under the secretary's direction in spite of appeals by both of California's United States Senators and a bipartisan group of the state's Congressional Representatives; and

"Whereas, Decertification of California's coastal management program would deprive the state of authority over federal projects which affect the coast; and

"Whereas, Decertification would make California ineligible for annual federal grants of approximately $2 million which have assisted both state and local coastal planning and implementation; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States and the Secretary of Commerce not to proceed with decertification of California's coastal management program; and be it further

"Resolved, That the Legislature urges the State of California and the Secretary of Commerce to enter immediately into meaningful negotiations to resolve any dispute over implementation of California's federally approved coastal management program as an alternative to pursuing decertification; and be it further

"Resolved, That the Legislature memorializes the Congress of the United States to take such action as is necessary to encourage negotiation and to prevent the Department of Commerce from proceeding with decertification; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Commerce, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States."

POM-615. A resolution adopted by the City Council of Haines, Alaska strongly objecting to legislation on Tongass timber reform; to the Committee on Energy and Natural Resources.

POM-616. A joint resolution adopted by the Legislature of the State of California, to the Committee on Veterans Affairs.

"ASSEMBLY JOINT RESOLUTION No. 60

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 60, Hauser. Vietnam veterans centers.

"This measure would urge the President of the United States to support, and the Congress to enact, legislation to continue funding of Vietnam veterans centers in community locations to ensure that veterans receive needed assistance.

"Whereas, Approximately 7.5 million American men and women served the United States military during the Vietnam era, with 2.3 million providing Vietnam war zone service, and 906,000 Vietnam era veterans currently residing in the State of California; and

"Whereas, The legacy of combat and of a nation divided during the Vietnam conflict has left physical and emotional scars for the veterans and a continuing need for professional counseling and support; and

"Whereas, The United States Congress has established 18 Vietnam veterans centers in California communities which have provided effective readjustment counseling and other services to promote settlement of the psychological and social difficulties faced by Vietnam veterans since their military discharge; and

"Whereas, Federal statutes in effect in 1988 require the Veterans' Administration beginning October 1, 1988, to move the Vietnam veterans centers from community settings into Veterans' Administration medical facilities, thereby reducing the potential neighborhood outreach capabilities that promote easy access to services by the veteran population; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly encourages the President to support, and the Congress to enact, legislation to continue funding of the Vietnam veterans centers in community locations to ensure that veterans receive assistance to meet the needs created while serving their country; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Senate Armed Services and Veterans Committee, the Veteran's Administration, and to the chairperson of each committee of the Senate and House of Representatives for consideration of legislation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2641. A bill to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS:

S. 2759. A bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. HOLLINGS, and Mr. SANFORD):

S. 2760. A bill to ensure air safety to air passengers; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. CRANSTON, Mr. INOUYE, Mr. ADAMS, Mr. EVANS, and Mr. WILSON):

S. 2761. A bill to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GORE:

S. 2762. A bill to establish a National Educational Software Corporation to promote the development and distribution of high-quality, interactive, and educationally useful computer software, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PELL:

S. 2763. A bill entitled the "Prevention of Genocide Act of 1988"; read the first time.

By Mr. DOLE (for Mr. THURMOND (for himself and Mr. HOLLINGS)):

S. 2764. A bill to provide for a Health and Human Resources Center at Voorhees College in Denmark, SC; considered and passed.

By Mr. GLENN (for himself and Mr. SIMON):

S. 2765. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. DIXON and Mr. GRASSLEY):

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union; considered and passed.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S.J. Res. 375. Joint resolution designating October 22, 1988, as "National Chester F. Carlson Recognition Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, Mr. DOLE, Mr. HUMPHREY, Mr. PELL, Mr. HELMS, and Mr. BOSCHWITZ):

S. Res. 467. Resolution to express the deep regret of the Senate regarding the deaths of Ambassador Arnold Lewis Raphel and General Herbert Marion Wassom; considered and agreed to.

By Mr. BYRD (for himself, Mr. DOLE, Mr. STENNIS, Mr. HELMS, Mr. BOREN, Mr. HEFLIN, Mr. HUMPHREY, Mr. JOHNSTON, Mr. HECHT, Mr. SHELBY, Mr. SYMMS, Mr. MCCLURE, Mr. NICKLES, and Mr. BOND):

S. Res. 468. Resolution to express the deep regret of the Senate of the United States over the death of President Mohammad Zia ul-Haq of Pakistan; ordered held at the desk.

By Mr. FORD:

S. Con. Res. 141. Concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS:

S. 2759. A bill to amend title XVIII of the Social Security Act to eliminate mandated caps on physicians fees, and to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

ELIMINATION OF LIMITATIONS ON PHYSICIANS CHARGES

Mr. SYMMS. Mr. President, today, I am pleased to introduce a bill designed to correct the gross inequity of the Medicare reimbursement rates for rural hospitals and referral centers, in addition to removing unnecessary Government intervention in the health care profession.

Our rural hospitals are in dire straits.

Over the past 8 years, 161 rural hospitals have closed their doors and approximately 600 additional rural hospitals are on the brink of bankruptcy.

The closing of rural hospitals is endangering the health and well being of millions of Americans. Following such closures, residents of communities in many parts of Idaho and other Western States must often travel in excess of 150 miles to seek even simple checkups.

The elderly are especially affected by the closures of rural health care providers. To illustrate this point, I ask unanimous consent that an article published by the National Center for Health Services Research be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RURAL HOSPITAL CLOSURE MAY HARM THE VERY OLD

The closure of rural hospitals combined with the trend to regionalize specialty hospital services may have implications for the very old in the Nation's rural areas, according to research sponsored by the National Center for Health Services Research and Health Care Technology Assessment (NCHSR). An analysis of distances traveled for hospital care by rural area residents in New York State showed that few residents 75 years of age and older went beyond the county line for care. Most were hospitalized locally. Only 18 percent crossed a county line to get care, compared with 31 percent of those younger than 75. Overall, 29 percent of the State's rural inhabitants went outside their home county for hospital care. In fact, almost two-thirds of this group went to urban medical centers.

The study also examined the impact of severity of illness on expected treatment costs for New York rural inhabitants who go to urban hospitals for care and those who use local facilities. An index based on Medicare's Diagnosis Related Group (DRG) patient classification system was employed. However, because of the difficulty of distinguishing severity of illness from intensity of patient resource use and medical practice patterns also captured by DRGs, a second index based on Disease Staging also was used. Because Disease Staging is clinically based, it categorizes patients only by severity of illness, thus avoiding the "confounding effects" of treatment-related information inherent in the DRG-based scheme. The resulting cost estimates were then compared. Use of either index showed that rural patients had higher costs in urban hospitals, but that the estimates varied according to the index employed. Using the DRG method, rural patients would cost 20 percent more to treat in urban hospitals than patients in local rural hospitals. In contrast, use of the Disease Staging method showed that rural patients would cost only 8 percent more in urban hospitals than those treated in local hospitals. According to author and former NCHSR researcher Christopher Hogan, Ph.D., the results suggest that resource intensity may be more important than severity of illness in explaining the high costs of treatment in urban hospitals.

However, after adjusting for the mix of patients across DRGs, Disease Staging showed that rural patients in New York's urban hospitals should cost between 2 and 3 percent more to treat than in the State's rural community hospitals. This is about the level of the current Medicare rural-urban hospital payment differential for New York. In other regions of the country, however, the rural-urban Medicare payment differential approaches 20 percent. According to Dr. Hogan, a similar analysis for such regions might shed light on the degree to which variations in the urban-rural Medicare differential are justified on severity of illness grounds. The study was based on discharges from short-term general hospitals in New York in 1983. Details are in an article, "Patterns of Travel for Rural Individuals Hospitalized in New York State: Relationships between Distance, Destination, and Casemix," published in the July 1988 issue of the *Journal of Rural Health.* Reprints are available from NCHSR.

Mr. SYMMS. Mr. President, the present Medicare payment system does not adequately account for the fact that small rural hospitals compete for the same doctors and nurses, buy from the same suppliers, and have other costs comparable to those paid by hospitals in metropolitan areas. In fact the rural/urban differential is entirely capricious, penalizing a hospital if it happens to be located in an area which is certainly in need of health care providers, but is termed "rural," when just across some imaginary line is a hospital with the same underlying costs, but receiving higher payments.

For example, Nampa, ID, 20 miles from Boise, ID, is considered rural. Boise is considered urban. Coeur d' Alene, ID, 45 miles from Spokane, WA, is considered rural. Spokane is considered urban. They all compete for the same doctors, the same nurses, the same supplies. It is in the same general inland empire region. It is very difficult for those rural hospitals to get payments, which are much less for the same medical treatments and procedures as the other hospital in the neighboring community.

Medicare payments have a particularly large impact on rural hospitals. Because most rural hospitals are small, they cannot adjust easily to fluctuations in inpatient admissions or case mix, whereas larger hospitals can average the fluctuations from year to year and over many cases. For small rural hospitals which tend to operate closer to the margins of their costs, and cannot take advantage of spreading Medicare losses across large numbers of patients, as done by large metropolitan hospitals, these fluctuations can be devastating financially. Because a large proportion of rural hospital patients are Medicare patients, rural health providers are doubly at risk when the prospective payment system fails to compensate them adequately for their special circumstances or when inequities in payment policies exist.

This legislation will also remove mandated caps on physicians' fees. Removal of such caps will help ensure access to care for Medicare patients while continuing to allow physicians to reduce their fees as necessary to accommodate the financial circumstances of elderly patients. In addition, this measure will effectively eliminate the current discriminatory distinction between participating and nonparticipating physicians which will, in turn, allow Medicare patients more options in seeking affordable health care.

Mr. President, I ask unanimous consent to have an editorial from the Idahonian/Daily News by Sandra Haarsager which addresses the Medicare reimbursement inequities printed in the RECORD along with the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Idahonian Daily News, Aug. 3, 1988]

NEW MEDICARE RULES SNAG LOCAL HOSPITALS

[By Sandra Haarsager]

It's good that the federal government has taken steps to control once-skyrocketing Medicare costs.

But as frequently happens with distant bureaucratic decisions meant to control expenses, the bureaucracy has created a briar patch.

Caught in today's briar patch are the hospitals in Moscow and Pullman.

Both take care of Medicare patients, who constitute about half of Gritman's patients and about 20 percent of Pullman Memorial's patients. Both hospitals compete for personnel from roughly the same skilled labor pool, under roughly the same economic conditions and wage requirements currently existing on the Palouse.

But Medicare's masters at the Health Care Financing Administration (HCFA) have decided one hospital should be reimbursed for care based on a salary index that's 20 percent higher than the other.

That makes no sense, and is made even worse by the latest update of the rules to take effect Oct. 1.

The feds in their infinite wisdom say Pullman Memorial needs to pay its workers 99 percent of the national average and Gritman needs pay only 80 percent of the national average, but those numbers themselves are misleading.

First, the allowable figures are based on 1984 salary surveys. Is anybody around here making the same amount of money he or she made in 1984?

Second, Medicare has set up an artificial problem, by grouping Pullman's hospital with the Seattle and Spokane labor market costs while grouping Moscow with southern Idaho's historically low salaries.

In effect, they're telling Gritman it can get along on much less than its counterpart eight miles away, which isn't exactly flush itself.

Taken together, the new rules on reimbursement mean Gritman could be getting as much as 40 percent less to care for the typical Medicare patient than a hospital in Spokane.

And if there's that kind of problem here, it's certain to be repeated at rural hospitals elsewhere in the nation, especially those with high proportions of Medicare and Medicaid patients.

Granted, it's hard to generate sympathy for hospitals, especially after getting one of their bills with a list of charges longer than a small town's phonebook.

But in this case, local rural hospitals—especially ones like Gritman—are getting a bum deal.

And if they have to shift costs, it's their other patients who will be footing the bill.

S. 2759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF LIMITATIONS ON PHYSICIAN CHARGES.

(a) Elimination of Reasonable Charge Limit for Participating Physicians.—

(1) In general.—Section 1842(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)) is amended by striking "(I) the reasonable charge is the full charge for the service and (II)".

(2) Termination of participation agreements.—Section 1842(h)(1) of such Act (42 U.S.C. 1395u(h)(1)) is amended by inserting "and ending before 1989" after "1984".

(b) Elimination of Actual Charge Limits.—

(1) In general.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(A) by repealing subsections (j)(1), (l), and (m), and

(B) by striking paragraph (4) of subsection (j).

(2) Conforming amendments.—

(A) Section 1842 (b)(3)(G) of such Act (42 U.S.C. 1395u(b)(3)(G)) is amended by inserting "ending before 1989" after "each year".

(B) Section 1842(b)(11) of such Act (42 U.S.C. 1395u(b)(11)) is amended by striking subparagraph (C).

(c) Determination of Reasonable Charge for Payment to Physicians.—Section 1842(b)(4) of such Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this part, in determining the reasonable charge under paragraph (3) for physicians' services furnished on or after January 1, 1989, the Secretary shall determine such charge without regard to whether the physician was a participating or nonparticipating physician in any previous year.".

(d) Effective Date.—The amendments made by this section shall become effective with physician's services delivered on or after January 1, 1989.

SEC. 2. ELIMINATION OF SEPARATE AVERAGE STANDARDIZED AMOUNTS FOR HOSPITALS IN DIFFERENT AREAS.

(a) In General.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(i)(1)(A) On or before April 1, 1989, the Secretary and the Prospective Payment Assessment Commission established under subsection (e) (in this subsection referred to as the 'Commission') shall each submit to the Congress a report recommending a methodology that provides for the elimination of the system of determining separate average standardized amounts for subsection (d) hospitals (as defined in subsection (d)(1)(B)) located in large urban, other urban, or rural areas. The methodologies set forth in such reports shall provide for a graduated reduction of the differences in the average standardized amounts applicable to large urban, other urban, or rural area hospitals during the 36-month period beginning October 1, 1989 and shall provide for the complete elimination of such differences for discharges occurring on or after October 1, 1991. Such methodologies may provide for such changes to any of the adjustments, reductions, and special payments otherwise authorized or required by this section as the Secretary or the Commission determines to be necessary and appropriate to carry out the purposes of this subsection.

"(B) Not later than May 1, 1989, the Congressional Budget Office (in this subsection referred to as 'CBO') shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than June 1, 1989, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A) (including any recommended changes in the adjustments, reductions, and special payments otherwise authorized or required by this section).

"(D) Not later than August 30, 1989, the Secretary shall promulgate final regulations to implement the recommendations and changes described in subparagraph (C).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before October 1, 1989, with respect to the average standardized amounts applicable to large urban, other urban, or rural area hospitals, then, notwithstanding any other provision of this section, the average standardized amounts for such hospitals for discharges occurring on or after October 1, 1989, shall be determined in accordance with the final regulations promulgated under subparagraph (D).

"(2)(A) On or before April 1, 1990, the Secretary and the Commission shall each submit to the Congress a report specifying the manner in which the average standardized amounts determined under the regulations becoming effective in accordance with paragraph (1)(E) should be adjusted appropriately to reflect legitimate differences in the operating costs of inpatient hospital services (as defined in subsection (a)(4)) for different categories of subsection (d) hospitals.

"(B) Not later than May 1, 1990, CBO shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than June 1, 1991, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A).

"(D) Not later than August 30, 1991, the Secretary shall promulgate final regulations to implement the Secretary's recommendations under subparagraph (A).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before October 1, 1991, with respect to adjustments to the average standardized amounts applicable to large urban, other urban and rural area hospitals, then, notwithstanding any other provision of the section, the average standardized amounts for such hospitals for discharges occurring on or after October 1, 1991, shall be determined in accordance with the final regulations promulgated under paragraph (1)(D) and subparagraph (D) of this paragraph.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

By Mr. METZENBAUM (for himself, Mr. Hollings, and Mr. Sanford):

S. 2760. A bill to ensure greater air safety to air passengers; to the Committee on Commerce, Science, and Transportation.

AIR SAFETY LEGISLATION

● Mr. METZENBAUM. Mr. President, I rise to offer legislation to help reduce the incidence of fires on commercial aircraft. This legislation, which would require all commercial airlines to equip their planes with crash resistant fuel systems, is desperately needed.

Just last week, we witnessed the crash of a Delta flight in Dallas, TX. Thirteen people lost their lives in the ensuing fire. While we still don't know the exact cause of the crash, we do know the devastation and loss of life caused by the postcrash fire.

Miraculously, the vast majority of passengers survived that Delta flight. But they were lucky. The truth is that not enough has been done to reduce the smoke and fire caused by airplane crashes. We can do more to protect airplane passengers from these dangers.

For over 40 years airline pilots have been calling for better antifire devices on planes. Let me quote from a New York Times article, dated November 5,

1947. At the time, airlines captains urged the adoption of "* * * approved type fuel cells which would be self-sealing, as in war planes, to prevent fires inflight and after even minor ground damage to planes."

It is now 1988—41 years later—and we still don't have self-sealing fuel lines in commercial aircraft. Military planes are so equipped—and apparently were so equipped in the 1940's—but not commercial airplanes which carry millions of passengers every year.

The bill I am introducing today will change this. The legislation is similar to the amendment which I offered back in October 1987, during consideration of the Airport and Airway Capacity Expansion Act. That amendment would have required the FAA to adopt proven technologies which would reduce fires on airplanes. Unfortunately, the conferees opted for a study instead.

We've studied this matter enough. We are talking about adopting available technologies.

We will no doubt hear cries about the costs associated with these safety improvements. But, Mr. President, we are talking about saving lives. Isn't it worth paying a few cents more for an airline ticket to have safer planes?

The FAA has taken its time but it has finally adopted flammability standards for the interior cabins of airplanes. This will be an important step toward reducing the dangers of fire onboard airplanes.

However, the FAA has dragged its feet on other critical fire safety matters. It hasn't done enough research on ways to lower the combustibility of airplane fuel. And it hasn't pushed the airlines to use crash resistant fuel tanks and fuel lines.

My bill would stop all the foot-dragging. It would require all new planes built after 1990 to be equipped with self-sealing fuel lines, crash resistant inner fuel tanks or other technologies to prevent the spraying of highly flammable fuel. For planes that are already operating, the Secretary of Transportation would determine technologically feasible ways to retrofit them to reduce the incidence of fires. Finally, it would provide the FAA with funds to do developmental research on such fuel-related measures as antimisting kerosene to help localize fires.

Mr. President, I want to emphasize the point about retrofitting existing planes. Airplanes are used for a long time. Indeed, that Delta jet which crashed last week was built in the early 1970's. We must ensure that similar planes—the ones flying today—are made safer.

I'm not an engineer. My bill will leave it to the experts at the Federal Aviation Administration and the Department of Transportation to decide how to make airplanes more fire-resistant. But it will get the FAA moving.

We can't wait any longer. This legislation is supported by the Air Line Pilots Association, the Association of Flight Attendants, Consumers Union and the Aviation Consumer project. I urge my colleagues to join in cosponsoring this important airline safety measure. I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CRASH-RESISTANT FUEL SYSTEMS

SECTION 1. In order to ensure greater air safety to passengers of air carriers, the Secretary of Transportation, within 120 days following the date of the enactment of this Act, shall issue such regulation or regulations as may be necessary to require each air carrier aircraft manufactured after January 1, 1990, to be equipped with crash-resistant inner fuel tanks, and breakaway, self-sealing fittings throughout the fuel system or other devices or means which will prevent the spraying or free flow of significant quantities of fuel after an air crash. Such regulation shall include a requirement that each air carrier aircraft manufactured on or before January 1, 1990, be retrofitted, in a technologically and appropriate manner as determined by the Secretary, so as to reduce the incidence of fire or explosion.

RESEARCH AND DEVELOPMENT

SEC. 2. The Secretary of Transportation, within 60 days following the date of the enactment of this Act, shall cause to be undertaken a program of research and development in the area of fuel additives with a view to achieving a reduction in rapid fuel dispersal and combustibility in connection with the crash of an air carrier. In carrying out such program, the Secretary shall commit such amounts as may be necessary for the research and development necessary for such a reduction.

AUTHORIZATION

SEC. 3. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.●

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. CRANSTON, Mr. INOUYE, Mr. ADAMS, and Mr. EVANS):

S. 2761. A bill to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992, and for other purposes; referred to the Committee on Commerce, Science, and Transportation.

MARINE SANCTUARIES AUTHORIZATION ACT

Mr. HOLLINGS. Mr. President, today I am introducing legislation to reauthorize title III of the Marine Protection, Research, and Sanctuaries Act of 1972 [MPRSA], the National Oceanic and Atmospheric Administration's [NOAA] Marine Sanctuary Program. This legislation was enacted in response to growing concern over the degradation of marine habitats. Its primary purpose is to provide for the conservation and protection of nationally significant marine resources.

The legislation I am introducing has five main goals. First, it reauthorizes the program for 4 years. The National Marine Sanctuaries Program was last authorized in 1984. At that time, $3 million was authorized for fiscal year 1985, increasing to $3.9 million for fiscal year 1988. The bill I am introducing today authorizes $3 million for fiscal year 1989, escalating to $3.5 million for fiscal year 1990; $4 million for fiscal year 1991; and $4.5 million for fiscal year 1992.

Second, the bill addresses a problem related to NOAA's ability to recover financially for damages to sanctuary resources. In recent years, two accidents have caused significant damage to marine sanctuary resources. These events involved the grounding of a freighter in the Key Largo National Marine Sanctuary and the grounding and rupture of an oil tanker near the Farallones National Marine Sanctuary. Clearly, these events were catastrophic to the surrounding marine ecosystem. In both incidents, NOAA sued and collected large cash settlements for the damage done to the sanctuaries. However, since NOAA presently lacks the explicit authority to recover monetary damages for destruction done to sanctuary resources, the settlement moneys were returned to the Treasury. My legislation will permit funds that are collected for resource damages to be returned to NOAA for sanctuary restoration.

Third, this legislation will provide a system of special-use permits within marine sanctuaries. Historically, NOAA has initiated a policy of promoting multiple uses of sanctuaries—provided they are compatible with resource protection. Congress incorporated this multiple-use concept into the 1984 amendments. However, questions continue to arise concerning commercial activities within sanctuaries, especialy regarding NOAA's authority to grant concessions for such activities. The bill I am introducing today will provide a mechanism for controlling activities which cannot adequately be controlled under current sanctuary regulations.

Fourth, the bill will establish guidelines for enforcement within marine sanctuaries. This provision, similar to that used to protect other marine resources, is necessary to provide for a more uniform enforcement authority under statutes protecting living marine resources.

Finally, this legislation provides a specific schedule for the designation of three new sanctuaries. NOAA has been quite slow to designate new sanctuaries. In fact, since our last review of the sanctuaries program in 1984, only one new sanctuary has been incorporated into the system. This bill sets specific dates by which time the Secretary of Commerce must issue notices of final designation for three sites—Cordell Banks, Monterey Bay, and the Western Washington Outer Coast. While I feel that it is unfortunate that we, in Congress, must legislate these designations, it is only way I know that we can move the program along.

In closing, let me emphasize that I believe this legislation is necessary to provide a renewed sense of direction in our National Marine Sanctuaries Program, particularly with respect to the long-term goal of establishing consistent authority in the conservation and protection of our nationally significant marine resources.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing today be printed in the CONGRESSIONAL RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Marine Sanctuaries Authorization Act of 1988".

SEC. 2. The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended—

(1) by redesignating sections 308 and 309 as sections 310 and 311, respectively; and

(2) in section 310, as so redesignated, by adding at the end the following:

"(5) $3,000,000 for fiscal year 1989.

"(6) $3,500,000 for fiscal year 1990.

"(7) $4,000,000 for fiscal year 1991.

"(8) $4,500,000 for fiscal year 1992.".

SPECIAL USE PERMITS

SEC. 3. (a) The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), as amended by this Act, is further amended by inserting immediately after section 307 the following new section:

"SEC. 308. SPECIAL USE PERMITS.

"(a) ISSUANCE OF PERMITS.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

"(1) to establish conditions of access to and use of any sanctuary resource; or

"(2) to promote public use and understanding of a sanctuary resource.

"(b) PERMIT TERMS.—A permit issued under this section—

"(1) shall authorize the conduct of an activity only if the activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

"(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

"(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

"(4) shall require the permittee to purchase and maintain comprehensive general liability insurance against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

"(c) FEES.—

"(1) ASSESSMENT AND COLLECTION.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

"(2) AMOUNT.—The amount of a fee under this subsection shall be equal to the sum of—

"(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

"(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

"(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.

"(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

"(A) for issuing and administering permits under this section; and

"(B) for expenses of designating and managing national marine sanctuaries.

"(d) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

"(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

"(2) assess a civil penalty in accordance with section 307; or

"(3) both.

"(e) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

"(f) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.".

SANCTUARY RESOURCE DESTRUCTION, LOSS, OR INJURY

SEC. 4. The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 309. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

"(a) LIABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(2) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(3) DEFENSES.—A person is not liable under this subsection if that person can establish that—

"(A) the destruction or loss of, or injury to, a sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and that the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

"(1) RESPONSE ACTIONS.—The Secretary may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

"(2) DAMAGE ASSESSMENT.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(1).

"(c) CIVIL ACTIONS.—

"(1) RECOVERY OF RESPONSE COSTS AND DAMAGES.—The Secretary, acting as trustee for sanctuary resources on behalf of the United States, shall commence a civil action in the United States district court for the appropriate district against any person or vessel who may be liable under subsection (a) for response costs and damages.

"(2) VENUE.—Venue for an action under this section lies—

"(A) in any district in which the defendant resides or may be found;

"(B) in any district in which is located the defendant's principal place of business;

"(C) in the district nearest to the national marine sanctuary involved; and

"(D) in the case of an in rem action against a vessel, in any district having jurisdiction over the vessel.

"(d) USE OF RECOVERED AMOUNTS.—Amounts recovered by the Secretary under this section for response costs and damages and under section 307 for civil penalties shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), and used as follows:

"(1) USE OF AMOUNTS RECOVERED UNDER THIS SECTION.—Amounts recovered under this section shall be used, in order of priority—

"(A) to finance response actions and damage assessments by the Secretary involving national marine sanctuaries;

"(B) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

"(C) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

"(D) to manage and improve any other national marine sanctuary.

"(2) USE OF CIVIL PENALTIES.—Amounts recovered under section 307 in the form of civil penalties shall be used by the Secretary in accordance with section 307(e) and paragraph (1) (C) and (D) of this subsection.

"(3) FEDERAL-STATE COORDINATION.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (1) (B) and (C) in accordance with an agreement entered into by the Secretary and the Governor of that State.".

(b) Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and by redesignating paragraphs (4) and (5) as paragraphs (7) and (8) respectively;

(2) by inserting immediately before paragraph (2), as so redesignated, the following new paragraph:

"(1) 'damages' includes—

"(A) compensation for—

"(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

"(II) the value of the lost use of a sanctuary resource pending its restoration, its replacement, or the acquisition of an equivalent sanctuary resource; or

"(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired; and

"(B) the cost of damage assessments under section 309(b)(2);";

(3) in paragraph (2), as so redesignated, by striking "section 304(a)(1)(E)" and inserting in lieu thereof "section 304(a)(1)(C)(v)" and

(4) by inserting immediately after paragraph (4), as so redesignated, the following new paragraphs:

"(5) 'response costs' means the costs of actions taken by the Secretary to minimize destruction or loss of, or injury to, a sanctuary resource, or to minimize the imminent risks of such destruction, loss, or injury; and

"(6) 'sanctuary resource' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or asthetic value of the sanctuary.".

(c) Section 309 of the Marine Protection, Research, and Sanctuaries Act of 1972, as added by this Act, shall apply to any amount in the form of damages received by the United States after the date of enactment of this Act for destruction or loss of, or injury to, a sanctuary resource as defined in section 302(6) of such act of 1972.

MARINE SANCTUARY ENFORCEMENT

SEC. 5. Section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437) is amended to read as follows:

"SEC. 307. ENFORCEMENT.

"(a) In General.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

"(b) Powers of Authorized Officers.—Any person who is authorized to enforce this title may—

"(1) with or without a warrant or other process—

"(A) board, and search or inspect, any vessel that is subject to the provisions of this title;

"(B) seize any vessel (together with its equipment, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of this title or any regulation or permit issued under this title;

"(C) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title; and

"(D) seize any evidence related to a violation of this title or of any regulation or permit issued under this title;

"(2) execute any warrant or other process issued by any court of competent jurisdiction; and

"(3) exercise any other lawful authority.

"(c) Civil Penalties.—

"(1) Civil penalty.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) Notice.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

"(3) In rem jurisdiction.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction.

"(4) Review of civil penalty.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order and simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States attorney. Upon being served such a complaint, the Secretary shall promptly file in such court in accordance with section 2112 of title 28, United States Code, a certified copy of the record upon which the violation relating to such complaint was found or such penalty imposed. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

"(5) Collection of penalties.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(6) Compromise or other action by secretary.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

"(d) Forfeiture.—

"(1) In general.—Any vessel (including its equipment, stores, and cargo) and any other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection.

"(2) Application of the customs laws.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

"(3) Disposal of sanctuary resources.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations issued by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

"(4) Presumption.—For the purposes of this section, there is a rebuttable presumption that all sanctuary resources found on board a vessel that is seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

"(e) Payment of Storage, Care, and Other Costs.—

"(1) In general.—Notwithstanding any other law, the Secretary may use amounts received under this section in connection with civil penalties, forfeitures of property, and liability for costs imposed under paragraph (2) to pay—

"(A) The reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such sanctuary resource or other property was seized; and

"(B) A reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or of any regulation of permit issued under this title.

"(2) Liability for costs.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

"(f) Subpoenas.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order may be punished by such court as contempt.

"(g) Jurisdiction.—The district courts of the United States shall have jurisdiction to restrain a violation of this title and regulations and permits issued under this title, and to grant such other relief as may be appropriate.

"(h) Use of Resources of State and Other Federal Agencies.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

"(i) Coast Guard Authority Not Limited.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

"(j) Injunctive Relief.— If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 309, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.".

ACTIONS WITH RESPECT TO NEW SANCTUARIES

SEC. 6. (a) The Secretary of Commerce shall issue a notice of designation under section 304(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)(1))—

(1) with respect to the proposed Cordell Banks National Marine Sanctuary as generally described in the Federal Register notice of June 30, 1983, not later than December 31, 1988;

(2) with respect to the Monterey Bay National Marine Sanctuary as generally described in the Federal Register notice of December 31, 1979, not later than December 31, 1989; and

(3) with respect to the Western Washington Outer Coast National Marine Sanctuary as generally described in the Federal Register notice of August 4, 1983, not later than June 30, 1990.

(b) The Secretary of Commerce shall submit a prospectus under section 304(a)(1)(C) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)(1)(C)) to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives with respect to the Northern Puget Sound National Marine Sanctuary, as generally described as the Washington State Nearshore area in the Federal Register notice of August 4, 1983, not later than March 31, 1991.

STUDY OF AREA FOR MARINE SANCTUARY DESIGNATION PURPOSES

SEC. 7. (a)(1) The Secretary of Commerce shall conduct a study of the area described in subsection (c) for purposes of making determinations and findings in accordance with section 303(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)) regarding whether or not all or any part of such area is appropriate for designation as a national marine sanctuary in accordance with title III of that Act.

(2) Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report which sets forth the determinations and findings referred to in paragraph (1).

(b) If as a result of a study conducted pursuant to subsection (a) the Secretary makes the determinations and findings specified in section 303(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)) with respect to all or any part of the area described in subsection (c), the Secretary, in accordance with the procedures for the designation of national marine sanctuaries set forth in section 304 of that Act (16 U.S.C. 1434), shall designate such area or parts of such area as a national marine sanctuary as the Secretary considers appropriate.

(c) The area referred to in subsections (a) and (b) is the portion of the marine environment off the coast of California commonly referred to as Santa Monica Bay, consisting of an area described generally as follows: Beginning at the point known as Point Dume near the western extent of Santa Monica Bay, proceed generally southeast along the shoreline to the point known as Point Vincente near the southern extent of Santa Monica Bay; then west to the 900 meter bathymetric contour; then generally northwest along the 900 meter bathymetric contour to a point due west of Point Dume; then east to Point Dume at the point of beginning.

(d) For the purposes of this section, the term "marine environment" has the meaning such term has in section 302(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(3)).

Mr. KERRY. Mr. President, I rise today with my colleague Senator HOLLINGS to introduce legislation which will reauthorize title III of the Marine Protection, Research, and Sanctuaries Act of 1972 [MPRSA]; the Marine Sanctuary Program of the National Oceanic and Atmospheric Administration [NOAA]. Our Nation and in particular my home State of Massachusetts share a strong marine heritage. This legislation protects that heritage through sound marine resource management and additional protection provided under this act. The Nation's Marine Sanctuary Program has been successful in preserving and protecting significant ocean resources in the Atlantic and Pacific Oceans as well as the Gulf of Mexico.

Current marine sanctuary sites include unique coral reefs, large areas of threatened marine mammals and sea birds, and a shipwreck site of the Civil War ironclad, the U.S.S. *Monitor*. Seven sites have been designated as sanctuaries by the Secretary of Commerce since the U.S.S. *Monitor* sanctuary was first designated in 1975. Three additional sites are active candidates and are planned for designation as sanctuaries by 1991.

The legislation that we are introducing today is needed to strengthen title III of the MPRSA and extend the reauthorization for 4 years. In addition this bill provides that funds collected for sanctuary damage must be returned to NOAA for sanctuary restoration. It also allows for special use permits to be issued within the sanctuary system. These permits will allow both public and commercial activities to occur as long as they do not violate the resource protection and management in specific sanctuaries. Finally this legislation enhances law enforcement authority in marine sanctuaries to ensure the same protection for marine resources within the sanctuaries as we have for fishery conservation and marine mammal protection. This will allow NOAA to practice more uniform enforcement conduct.

The General Accounting Office evaluated NOAA's Marine Sanctuary Program in 1981 and concluded that the program was extremely important to marine resource management and conservation and should therefore be federally supported. In their study the General Accounting Office found that the program had specific authority to manage ecosystems through the sanctuary process. They showed the great benefits the program offered ocean resources by ensuring their long-term preservation. The report further highlighted the positive nature of public education about our valuable ocean resources as a result of the Sanctuary Program. This is a program which must continue to preserve our Nation's marine environment, including its historic marine sites. The legislation that Senator HOLLINGS and I are introducing today will meet this need.

By Mr. GORE:

S. 2762. A bill to establish a National Educational Software Corporation to promote the development and distribution of high-quality, interactive, and educationally useful computer software, and for other purposes; to the Committee on Governmental Affairs.

NATIONAL EDUCATIONAL SOFTWARE ACT

● Mr. GORE. Mr. President, I rise today to introduce the National Educational Software Act of 1988. Ensuring America's world leadership in advanced computer technology may well be the most important economic and technological challenge of the 21st century. I believe that high performance computing represents one of our best hopes to improve American competitiveness by restoring growth in productivity, and computer software is critical to our success.

In computer technology, the hardware in typically several years ahead of the software, and the software is often ahead of the policy. Just as it takes time for programmers to design applications for new machines, it takes time for policymakers to address the problems that new technology brings. We cannot afford to delay. We are dangerously behind, for example, in addressing the problems of software copyrights.

In the hearing I chaired last month, it became clear that we need to put resources into hardware, software, research and development, education, and the training of personnel. In the coming months, I plan to work with my colleagues to address these issues.

In the meantime, I have reintroduced legislation I authored in the 98th and 99th Congresses that focuses on educational software. Computers have spread throughout our school systems, and many of them make good teachers. But too often we have ignored this area of software development. If we are going to get this country moving in the next century, we will need to focus, on the next generation

and protect our intellectual market share—America's ability to train competitive thinkers. The National Educational Software Act would establish a public corporation to develop and distribute high quality, interactive, and useful educational software.

The legislation I have introduced today addresses one critical need in software development, and it provides a starting point for us. Members of Congress, industry, Federal agencies, software authors, and computer users should view this legislation as a vehicle for discussion and a launching point for comprehensive legislation addressing software problems. The advances in artificial intelligence and parallel processing, for example, point to our technological and intellectual expertise. But the Federal Government must address the problems of software copyright law, technology transfer, and long-term research and development. I will continue to work on this issue, and I plan to introduce comprehensive software legislation to address a wide range of software problems and ensure adequate investment in software development.

The National Educational Software Act is one of the first steps needed to ensure America's continued leadership in the information industry. I urge my colleagues to work with me in the coming months to address these pressing issues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Educational Software Act of 1988".

FINDINGS

SEC. 2. The Congress finds that—

(1) computers can play a valuable role in enhancing the quality of education in the Nation;

(2) high-quality, interactive, and educationally useful software is essential to enable the tremendous educational potential of computers to be realized;

(3) the vast majority of educationally oriented computer software now available is of less than adequate quality; and

(4) a national effort is needed to encourage the development of high-quality, interactive, educationally useful software for the schools of the Nation.

ESTABLISHMENT OF CORPORATION

SEC. 3. (a) There is established within the executive branch of the Federal Government a National Educational Software Corporation (hereafter in this Act referred to as the "Corporation").

(b) The Corporation shall be operated under the general direction and supervision of a board of directors which shall consist of—

(1) the Secretary of the Department of Education, the Director of the National Science Foundation, and the Director of the Office of Science and Technology Policy, or their designees; and

(2) twelve individuals appointed by the President with the advice and consent of the Senate as follows:

(A) four individuals shall be engaged in the teaching profession who, as a group, teach at elementary and secondary schools and institutions of higher education;

(B) three individuals shall be involved in the administration of educational institutions;

(C) three individuals shall be experts in the application of computer technology to education; and

(D) two individuals shall be experts in the venture financing of high technology companies.

(c) Except for the individuals specified in subsection (b)(1) of this section, no individual who is a full-time officer or employee of the Federal Government may be appointed to the board of directors of the Corporation. A vacancy in the board shall be filled in the manner in which the original appointment was made. Members of the board may be removed by the President for good cause.

(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, those members of the board of directors appointed pursuant to subsection (b)(2) of this section shall be appointed for terms of six years.

(2) Of the members first appointed pursuant to such subsection—

(A) three shall be appointed for a term of six years;

(B) three shall be appointed for a term of five years;

(C) three shall be appointed for a term of four years; and

(D) three shall be appointed for a term of three years.

(3) Any member of the board of directors appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(e) The President shall appoint the Chairman of the board of directors from among those members appointed pursuant to subsection (b)(2) of this section.

(f) The board of directors shall meet at the call of the Chairman or a majority of its members. Ten members of the board shall constitute a quorum. A majority vote of the board shall be necessary to approve the actions of the Corporation under this Act. Members of the board may vote by written proxy or written assignment of proxy.

(g) The board of directors shall appoint an executive director who shall be responsible for the management and administration of the Corporation.

(h) Members of the board of directors appointed by the President shall each be paid at a daily rate equal to the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule and shall be entitled to travel expenses and a per diem in lieu of subsistence in accordance with subchapter I of chapter 57 of title 5, United States Code.

(i) Members of the board of directors who are full-time officers or employees of the Federal Government shall receive no additional pay by reason of their service on the board.

PRINCIPAL FUNCTIONS OF THE CORPORATION

SEC. 4. Subject to the availability of appropriations therefor, the Corporation shall—

(1) develop corporation participation criteria for the selection of high-quality, interactive, and educationally useful computer software;

(2) secure investment capital for projects, selected by the Corporation as warranting its assistance, to develop such software;

(3) make appropriate and reasonable investments in projects for the development of such software, subject to the limitations contained in this Act;

(4) enter into contracts and make grants to assist in the development of such software; and

(5) engage in such other operations and activities as the board of directors determines to be necessary and appropriate to encourage the development and use of such software.

GENERAL AUTHORITIES OF THE CORPORATION

SEC. 5. In carrying out its functions under section 4, the Corporation is authorized—

(1) to adopt and use a corporate seal, which shall be judicially noticed;

(2) to sue and be sued in its corporate name;

(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

(4) to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate;

(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

(7) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities);

(8) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

(9) to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates;

(10) to determine the character of and the necessity for its obligations and expenditures, and the manner in which such obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and

(11) to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

PROVISIONS CONCERNING INVESTMENTS BY THE CORPORATION

SEC. 6. (a) Any investment made by the Corporation under section 4(3) in a project for the development of high-quality, interactive, and educationally useful software must be based on a finding by the board of directors that—

(1) the proceeds of the investment will be used only to cover the initial capital needs

of the project, except as otherwise specified in this Act;

(2) the project has a reasonable chance of success;

(3) the Corporation's investment is necessary to the success of the project because funding for the project is unavailable in the traditional or venture capital markets, or because funding has been offered on terms that would substantially hinder the success of the project; and

(4) there is a reasonable possibility that the Corporation will recoup at least its initial investment.

(b) No investment shall be made by the Corporation unless the board of directors determines that a reasonable, good faith effort has been made to secure a professional investor, in lieu of the Corporation, to make an adequate investment in the project, and that such effort was unsuccessful. Subject to the requirements of this Act, nothing shall prohibit the Corporation from making an investment in a project as a coventure with professional investors if the Corporation determines that such investment is appropriate to the success of the project.

(c) The Corporation shall not make any investment by which it exercises or has the power to exercise any voting rights under an equity security.

(d) For purposes of this section, the term "professional investor" means any bank, bank holding company, savings institution, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, licensee under the Small Business Investment Act of 1958, or any person, partnership, or other entity of whose resources a substantial amount is dedicated to investing in securities or debt instruments and whose net worth exceeds $250,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated to carry out this Act $15,000,000 for each of the fiscal years 1988, 1989, and 1990.●

By Mr. PELL:

S. 2763. A bill entitled the "Prevention of Genocide Act of 1988"; read the first time.

PREVENITON OF GENOCIDE ACT

Mr. PELL. Mr. President, on the Iraqi-Turkish border evidence of a crime of unthinkable proportions is emerging. For the second time in this century a brutal dictatorship is using deadly gas to exterminate a distinct ethnic minority. In this case the victims are the Kurdish minority of Iraq and the perpetrators are the Iraqi Army.

The Kurds are a distinct ethnic group, with an ancient history and rich culture, comprising some 20 million people. Although many have long aspired to an independent Kurdish homeland, the Kurds have the great misfortune to be divided among Iraq, Iran, Turkey, Syria, and the Soviet Union. It is hard to imagine a less agreeable set of masters.

While Iraq's treatment of its Kurdish minority has in the past been somewhat better than that of its neighbors, the condition of the Iraqi Kurds has in recent years taken a turn for the catastrophic. With the onset of the Iran-Iraq War, Kurdish insurgents in both countries saw an opportunity for greater autonomy, if not independence. In Iraq the Kurdish insurgency made great progress, taking effective control of much of the countryside in mountainous northeast Iraq.

However, with the tides of war changing in Iraq's favor early this year, the Iraqi Army launched a major offensive against the Kurds. The offensive was accompanied by the dynamiting of Kurdish villages throughout the region. Poisonous gas was used on the people. In March in the Kurdish town of Halabja, some 5,000 Kurdish civilians were gassed.

With the August 20 cease-fire in the Iran-Iraq War, the Iraqi Army has turned its firepower and its ample stocks of poison gas almost entirely against the Kurds. Refugee accounts provide incontrovertible evidence of massive use of poison gas. Because the region is closed to all foreign observers we can only speculate at the death toll, but it clearly is in the tens of thousands.

The campaign against the Kurdish people is continuing as we speak. There can be no doubt but that the Iraqi regime of Saddam Hussein intends this campaign to be a final solution to the Kurdish problem.

While a people are gassed, the world is largely silent. There are reasons for this: Iraq's great oil wealth, its military strength, a desire not to upset the delicate negotiations seeking an end to the Iran-Iraq War.

Silence, however, is complicity. A half century ago, the world was also silent as Hitler began a campaign that culminated in the near extermination of Europe's Jews. We cannot be silent to genocide again.

I am today introducing legislation that would cut off credits to Iraq, require the United States to vote against loans to Iraq in the international financial institutions, and prohibit the importation of Iraqi oil. These sanctions will continue as long as Iraq uses poisonous gas in violation of the 1925 Geneva protocols and as long as Iraq's campaign of genocide against the Kurdish people continues.

It is said we do not have much influence over Iraq. This may be true, but I believe we must use whatever means at our disposal to get their attention. The Iraqi regime is a vicious dictatorship toughened by years of conflict. Hand wringing alone will not change their course; immediate action is essential.

By Mr. GLENN (for himself and Mr. SIMON):

S. 2765. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; referred to the Committee on the Judiciary.

NATIONAL GUARDIANSHIP RIGHTS ACT

● **Mr. GLENN.** Mr. President, today, along with my colleague, Senator SIMON, I am introducing S. 2765, the National Guardianship Rights Act of 1988. This legislation is being introduced in the House of Representatives by Chairman CLAUDE PEPPER of the House Select Committee on Aging's Subcommittee on Health and Long-Term Care, who issued a report, "Abuses in Guardianship of the Elderly and Infirm: A National Disgrace." This report and the information compiled by the Associated Press' yearlong investigation and special report, "Guardians of the Elderly: An Ailing System," make it clear that action is needed to reform the process by which guardians are appointed and to monitor the activities of guardians on behalf of their wards. Guardianships are handled by the States, usually through the probate courts, but it has become apparent that there is an important role for the Federal Government to play by ensuring minimum standards in all guardianship systems.

It is estimated that from 300,000 to over 500,000 elderly and disabled people are under guardianship, which means that their legal rights, possessions and decisionmaking power have been transferred to another person because a court has determined they are unable to handle their own affairs. Guardianship is an important protection for those who truly need assistance, but there is a growing concern about problems and abuses with our current guardianship systems. This concern is intensified given our aging population—particularly the "old-old" who are most likely to be frail, widowed, institutionalized and in need of some assistance. The National Guardianship Rights Act of 1988 addresses many of the problems that have been documented, including the following:

Lack of notification to an individual that someone is petitioning the court to have a guardian appointed for that individual;

Use of advanced age as significant criteria for a finding of incapacity and issuance of a guardianship order;

Lack of consideration of medical evidence in determining incapacity;

No requirement that an alleged incapacitated individual be present when a guardianship proceeding takes place;

No standards for becoming a guardian; and

Lack of oversight of the actions taken by guardians.

Our legislation establishes Federal requirements so that all States must provide due process protections in guardianship proceedings, in accordance with the 14th amendment to the U.S. Constitution; and it establishes rights regarding the appointment of competent and trained guardians and regarding reconsiderations of determinations of incapacity. States would be required to demonstrate compliance with this act by submitting a State implementation plan to the Attorney General not less than once every 2 years. Failure to comply substantially with any provision of this act would result in a withholding of Federal payments to the State.

Guardianship is an important issue—one that is tied to our concern about long-term care for our growing elderly population, particularly the very old. Many of these people may need some assistance, not because they are old but because they are in very poor physical or mental health. However, their civil liberties should not be taken from them without very good justification and without due process. And when a guardian is appointed, there should be an assurance that this person is highly qualified and that their actions will be monitored to ensure that they are in the best interests of the person they have been appointed to protect. The National Guardianship Rights Act of 1988, legislation which sets Federal standards for the States to follow, addresses these important issues, and I look forward to its passage by the Congress.●

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S.J. Res. 375. Joint resolution designating October 22, 1988, as "National Chester F. Carlson Recognition Day"; to the Committee on the Judiciary.

NATIONAL CHESTER F. CARLSON RECOGNITION DAY

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a joint resolution designating October 22, 1988, as National Chester F. Carlson Recognition Day. Fifty years ago on that date, Carlson, an unknown patent attorney, discovered xerography, a revolutionary new way to copy documents. It was a dry, clean, and relatively inexpensive process, destined to play an instrumental role in the information age.

The genius and curiosity of Chester Carlson is rare. Xerography represented a dramatic breakthrough in the fields of physics, chemistry, and engineering. Two years after its discovery, the first office copier as we know it was on the market. Carlson's determination and relentless experimentation earned him a total of 34 U.S. patents, 28 of which related to xerography.

As the grandson of Swedish immigrants, Carlson overcame poverty to obtain a degree in physics and law. His hard work and innovation resulted in a multimillion dollar fortune in patent royalties. But as a man of principles and generosity, he donated most of his wealth in support of world peace, the United Nations, the civil rights movement, and many colleges and universities.

On October 22, 1988, we will salute both his genius and philanthropy. Chester Carlson is a true hero in this country's history. Perhaps, by recognizing his contributions on this day, we will inspire more inventors and philanthropists.●

ADDITIONAL COSPONSORS

S. 1382

At the request of Mr. METZENBAUM, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1382, a bill to amend the National Energy Conservation Policy Act to improve the Federal Energy Management Program, and for other purposes.

S. 1738

At the request of Mr. WILSON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Indiana [Mr. LUGAR], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1897

At the request of Mr. THURMOND, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Incorporated.

S. 2170

At the request of Mr. GRAHAM, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2170, a bill to support democracy and respect for human rights in Haiti.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2345

At the request of Mr. WEICKER, the names of the Senator from Washington [Mr. ADAMS], the Senator from Alaska [Mr. STEVENS], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2345, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

S. 2395

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2450

At the request of Mr. CHILES, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2450, a bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools.

S. 2461

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2461, a bill to amend part E of title IV of the Social Security Act to extend and make necessary improvements in the independent living program under such part, and for other purposes.

S. 2501

At the request of Mr. WILSON, the name of the Senator from Arizona [Mr. MCCAIN], and the Senator from Illinois [Mr. SIMON] were added as a cosponsor of S. 2501, a bill to amend the Internal Revenue Code of 1986 to allow periods of out-of-residence care to qualify for the principal residence use requirements of the one-time capital gain exclusion for taxpayers who have attained age 55.

S. 2630

At the request of Mr. WILSON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2630, a bill to correct the unfair treatment by the tax laws of the United States of citizens performing jury duty.

S. 2633

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2633, a bill to provide jurisdiction and procedures for claims by individuals for injuries or death due to exposure to radiation from nuclear testing.

S. 2641

At the request of Mr. MELCHER, the name of the Senator from Wyoming [Mr. SIMPSON], the Senator from Wyoming [Mr. WALLOP], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. MCCLURE], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2641, a bill to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildlife protection.

S. 2707

At the request of Mr. SYMMS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2707, a bill to provide for the transfer of certain monkeys to the animal sanctuary known as Primarily Primates, Incorporated.

S. 2733

At the request of Mr. THURMOND, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2733, a bill to amend title 18, United States Code to prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis.

S. 2734

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Maryland [Mr. SARBANES], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2734, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict.

S. 2756

At the request of Mr. CRANSTON, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2756, a bill entitled the "Anti-Apartheid Act Amendments of 1988."

SENATE JOINT RESOLUTION 149

At the request of Mr. HELMS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 149, joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Georgia [Mr. NUNN], the Senator from Alaska [Mr. STEVENS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 181, joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. THURMOND, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 182, joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, District of Columbia, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II.

SENATE JOINT RESOLUTION 309

At the request of Mr. WILSON, the names of the Senator from Washington [Mr. ADAMS], the Senator from Oklahoma [Mr. BOREN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 309, joint resolution designating the month of May as "National Asparagus Month."

At the request of Mr. WILSON, the name of the Senator from Maryland [Mr. SARBANES] was withdrawn as a cosponsor of Senate Joint Resolution 309, supra.

SENATE JOINT RESOLUTION 337

At the request of Mr. COCHRAN, the names of the Senator from Missouri [Mr. BOND], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 337, joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 21, 1988, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 360

At the request of Mr. BOND, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 360, joint resolution to designate February 12, 1989, as "World Marriage Day."

SENATE JOINT RESOLUTION 361

At the request of Mr. PELL, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from Louisiana [Mr. BREAUX], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. BIDEN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Delaware [Mr. ROTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Ohio [Mr. GLENN], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Joint Resolution 361, joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. HELMS, the names of the Senator from Florida [Mr. CHILES], the Senator from Colorado [Mr. WIRTH], the Senator from Ohio [Mr. GLENN], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 364, joint resolution to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

SENATE JOINT RESOLUTION 365

At the request of Mr. GARN, the name of Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 365, joint resolution to designate January 28, 1989, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Concurrent Resolution 127, concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE CONCURRENT RESOLUTION 141—AUTHORIZING THE ROTUNDA OF THE UNITED STATES CAPITOL TO BE USED ON JANUARY 20, 1989

Mr. FORD submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That the Rotunda of the United States Capitol is hereby authorized to be used on January 20, 1989, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

SENATE RESOLUTION 467—REGARDING THE DEATHS OF AMBASSADOR ARNOLD LEWIS RAPHEL AND GENERAL HERBERT MARION WASSOM

Mr. BYRD (for himself, Mr. DOLE, Mr. HUMPHREY, Mr. PELL, Mr. HELMS, and Mr. BOSCHWITZ) submitted the following resolution; which was considered and agreed to:

S. RES. 467

Whereas the Senate of the United States has learned with profound sorrow and deep regret of the tragic deaths of the United States Ambassador to Pakistan, Arnold Lewis Raphel, and the Chief United States Defense Representative to Pakistan, Brigadier General Herbert Marion Wassom; and

Whereas Ambassador Raphel's career in the United States Foreign Service spanned more than two decades during which he distinguished himself as an expert on the Middle East and South Asia; and

Whereas General Wassom served more than twenty-six years of active duty in the United States Army and was decorated for his valor with the Legion of Merit with Oak Leaf Cluster, the Bronze Star with two Oak Leaf Clusters and the Defense Meritorious Service Medal; and

Whereas the presence of Ambassador Raphel and General Wassom in Islamabad served to strengthen the important bond of friendship between the governments of the United States and Pakistan; and

Whereas Ambassador Raphel and General Wassom were tragically killed while actively promoting the long-standing commitment of the United States to the security and independence of Pakistan; and

Whereas Ambassador Raphel was the sixth United States Ambassador to be killed while courageously serving this nation overseas; and

Whereas the untimely deaths of Ambassador Raphel and General Wassom on August 17, 1988, are a tragedy for the United States Foreign Service, the United States Army, and the American people.

Therefore be it resolved that: The United States Senate expresses its deep sympathies to the families of Ambassador Arnold Lewis Raphel and Brigadier General Herbert Marion Wassom who were killed while serving this nation with courage and dedication.

SENATE RESOLUTION 468—RELATIVE TO THE DEATH OF PRESIDENT MOHAMMAD ZIA UL-HAQ OF PAKISTAN

Mr. BYRD (for himself, Mr. DOLE, Mr. STENNIS, Mr. HELMS, Mr. BOREN, Mr. HEFLIN, Mr. HUMPHREY, Mr. JOHNSTON, Mr. HECHT, Mr. SHELBY, Mr. SYMMS, Mr. MCCLURE, Mr. NICKLES, and Mr. BOND) submitted the following resolution; which was ordered held at the desk.

S. RES. 468

Whereas, the Senate of the United States has learned with profound sorrow and deep regret of the tragic death of President Mohammad Zia ul-Haq of Pakistan; and

Whereas, President Zia has been a true friend of the United States and a stalwart defender of Pakistan's sovereignty and independence; and

Whereas, President Zia has earned the respect of the people of the United States for his historic leadership in the struggle of the Afghan people for freedom and for harboring more than four million Afghan refugees who fled the brutal Soviet occupation of Afghanistan; and

Whereas, President Zia's willingness to confront the Soviet Union helped make possible an historic Soviet commitment to withdraw all forces from Afghanistan; and

Whereas, President Zia has undertaken a leading role in promoting regional stability; and

Whereas the untimely death of President Zia on August 17, 1988 is a great loss for the people of Pakistan and for the Afghan Resistance in their struggle for freedom:

Now, therefore, be it resolved, That the Senate—

(1) expresses its deep sympathies to the family of President Zia and to the people of Pakistan for their tragic loss; and

(2) expresses its deep sense of sorrow for the loss of President Zia's leadership, courage, and commitment to the sovereignty and independence of Pakistan; and

(3) reaffirms its longstanding bipartisan commitment to the security and independence of Pakistan; and

(4) welcomes the commitment of the Government of Pakistan under the leadership of President Ghulam Ishaq Khan to follow the constitutional process, to proceed with free and fair parliamentary elections scheduled for November 16, and to continue Pakistan's support for the Afghan refugees and the Resistance in their struggle for freedom in Afghanistan.

AMENDMENTS SUBMITTED

NURSE EDUCATION REAUTHORIZATION ACT

KENNEDY (AND HATCH) AMENDMENT NO. 2939

Mr. BYRD (for Mr. KENNEDY, for himself, and Mr. HATCH) proposed an amendment to the bill (S. 2231) to amend the Public Health Service Act to reauthorize nurse education programs established under title VIII of such act, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nurse Education Reauthorization Act of 1988".

TITLE I—SPECIAL PROJECTS

SEC. 101. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) PURPOSES.—Section 820(a) of the Public Health Service Act (42 U.S.C. 296k(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (E);

(B) by inserting "and" after the semicolon at the end of subparagraph (F); and

(C) by adding at the end thereof the following:

"(G) provide faculty development directed at improving the ability of faculty to facilitate retention of such individuals;";

(2) in paragraph (5), by striking out "and the need to promote preventive health care" and inserting in lieu thereof ", the need to promote preventive health care, and the need to promote occupational health care"; and

(3) by striking out paragraph (6) and inserting in lieu thereof the following new paragraph:

"(6) provide training and education—

"(A) to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel with priority given to rapid transition programs towards achievement of undergraduate nursing degrees; and

"(B) to develop curricula for the achievement of baccalaureate degrees in nursing or masters degrees in nursing by registered nurses or individuals with baccalaureate degrees in other fields;".

(b) AUTHORIZATION.—Section 820(d) of such Act is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (1) through (6) of subsection (a), there are authorized to be appropriated $15,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $17,000,000 for fiscal year 1991."; and

(2) in paragraph (2), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (7), (8), and (9) of subsection (a), there are authorized to be appropriated $4,200,000 in fiscal year 1989, $4,700,000 in fiscal year 1990, and $5,200,000 in fiscal year 1991.".

SEC. 102. ADVANCED NURSE EDUCATION.

(a) PURPOSES.—The last sentence of section 821(a) of the Public Health Service Act (42 U.S.C. 296l(a)) is amended—

(1) by striking out "priority in" and inserting in lieu thereof "priority to (A)"; and

(2) by inserting before the period at the end thereof the following: "and (B) programs with innovative curriculum that permit individuals with registered nursing degrees to rapidly achieve advanced degrees".

(b) AUTHORIZATION.—Subsection (b) of section 821 of such Act is amended to read as follows:

"(b) For payments under grants and contracts under this section, there are authorized to be appropriated $19,500,000 for fiscal year 1989, $20,500,000 for fiscal year 1990, and $21,500,000 for fiscal year 1991.".

SEC. 103. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

(a) TRAINING.—Section 822(a)(2)(B)(ii) of the Public Health Service Act (42 U.S.C. 296m(a)(2)(B)(ii)) is amended by striking out "less than eight" and inserting in lieu thereof "less than six full-time equivalent".

(b) TRAINEESHIPS.—Section 822(b)(3) of such Act is amended—

(1) by inserting "Indian Health Service or a Native Hawaiian health center" after "(designated under section 322)"; and

(2) by striking out "or in a public health care facility" and inserting in lieu thereof ", a public health care facility, a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), a migrant health center (as defined in section 329(a)(1)), or a community health center (as defined in section 330(a))".

(c) GUIDELINES.—Section 822(c) of such Act is amended by inserting "under subsection (a) or (b)" after "a program".

(d) AUTHORIZATION.—Subsection (d) of section 822 is amended to read as follows:

"(d) For payments under grants and contracts under subsections (a) through (c), there are authorized to be appropriated $19,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.".

SEC. 104. NURSING SHORTAGE RELIEF PROGRAMS.

Part A of title VIII of the Public Health Service Act (42 U.S.C. 820 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. NURSING SHORTAGE RELIEF PROGRAMS.

"(a) LONG-TERM CARE NURSING PRACTICE DEMONSTRATION.—

"(1) IN GENERAL.—The Secretary shall make grants to or enter contracts with public and nonprofit private collegiate schools of nursing for projects to demonstrate and evaluate innovative nursing practice models with respect to the provision of long-term managed health care services and health care services in the home or the provision of health care services in long-term care facilities. Models demonstrated and evaluated with grants and contracts under this subsection shall be designed to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care and to improve nursing care in home health care systems and nursing homes.

"(2) AUTHORIZATION.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(b) NURSE RECRUITMENT CENTERS.—

"(1) In General.—The Secretary shall make grants to and enter into contracts with public and nonprofit private entities to develop, establish, and operate at least one and not more than five regional model professional nurse recruitment centers for the purpose of recruiting individuals to enter education programs to train professional nurses. In making grants and entering into contracts under this subsection, the Secretary shall ensure that centers developed, established, and operated under this subsection include centers in rural areas.

"(2) Duties.—Each center developed, established, or operated with a grant or a contract under this subsection shall—

"(A) conduct nursing recruitment programs directed towards—

"(i) individuals between the ages of 12 and 14 years of age;

"(ii) individuals who are enrolled in high schools;

"(iii) individuals enrolled in colleges and universities who have not declared a major field of study; and

"(iv) adults who are not in school and who may desire to enter nursing;

"(B) develop and compile resource materials concerning professional opportunities in nursing, and disseminate such materials to appropriate individuals and groups, such as community and professional organizations, hospitals, career and guidance counselors in educational institutions, and the print and broadcast media;

"(C) identify potential applicants for nursing education programs and provide information to such potential applicants on the role of the nurse and nursing education programs; and

"(D) promote collaboration among organizations and assist individuals and organizations to establish mentor relationships between professional nurses and potential applicants for nursing education programs.

"(3) Authorization.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(c) Application Requirements.—No grant may be made and no contract may be entered into under this section unless an application therefor is submitted to the Secretary at such time, in such form, and containing such information as the Secretary may prescribe.".

TITLE II—ASSISTANCE TO NURSING STUDENTS

SEC. 201. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 of the Public Health Service Act (42 U.S.C. 297) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c)(1) The Secretary may make grants to and enter into contracts with public and nonprofit schools of nursing and other public and nonprofit private entities to cover the cost of traineeships for nurses pursuing graduate degrees in other disciplines.

"(2) Payments under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition, fees, and other direct educational costs.

"(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to provide full-time service with or without compensation, for a period equal to 1 month for each month for which the recipient receives such a traineeship, in—

"(A) a health manpower shortage area (designated under section 332);

"(B) a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.);

"(C) a community health center (as defined in section 330(a));

"(D) a migrant health center (as defined in section 329(a)(1));

"(E) the Indian Health Service;

"(F) a Native Hawaiian health center; or

"(G) a public health care facility.

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Federal government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments that were received under the traineeship.

"(C) Any amount that the United States is entitled to recover under subparagraph (A) or (B) shall, within the 3-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(d)(1) For the purposes of subsection (a), there are authorized to be appropriated $18,000,000 for fiscal year 1989, $19,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.

"(2) For the purposes of subsection (b), there are authorized to be appropriated $1,100,000 for each of the fiscal years 1989 through 1991.

"(3) For the purposes of subsection (c), there are authorized to be $1,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 202. NURSE ANESTHETISTS.

Section 831 of the Public Health Service Act (42 U.S.C. 297-1) is amended—

(1) in subsection (b), by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Secretary may make grants to public and private nonprofit institutions to cover the costs of projects to improve, plan, develop, and operate programs for the education of nurse anesthetists that are accredited by an entity or entities designated by the Secretary of Education."; and

(2) in subsection (c), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For the purpose of making grants under this section, there are authorized to be appropriated $1,800,000 for each of the fiscal years 1989 through 1991.".

SEC. 203. TRAINEESHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Subpart I of part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 832. SCHOLARSHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

"(a) In General.—

"(1) Grants.—The Secretary may make grants to accredited public or nonprofit private schools of nursing for scholarships to be awarded by the school to full time undergraduate students thereof who are in financial need.

"(2) Amount of award.—The total amounts of the scholarship award to a student for each year shall not exceed the cost of attendance (tuition and fees) for such year at the educational institution attended by the student (as determined by such educational institution).

"(3) Priority.—Priority in the awarding of scholarships shall be given to individuals from disadvantaged backgrounds.

"(b) Payments.—Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for scholarships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees.

"(c) Authorization.—For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $11,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 204. LOAN AGREEMENTS.

Section 835(c)(1) of the Public Health Service Act (42 U.S.C. 297a(c)(1)) is amended by adding at the end thereof the following new sentence: "This subsection may not be construed to require such schools to reimburse the student loan program under this subpart for loans that became uncollectable prior to 1983.".

SEC. 205. LOAN PROVISIONS.

Section 836(b)(1)(C) of the Public Health Service Act (42 U.S.C. 297b(b)(1)(C)) is amended by striking out "of exceptional financial" and inserting in lieu thereof "in".

SEC. 206. DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

Section 839 of the Public Health Service Act (42 U.S.C. 297c) is amended by striking out "1991" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1994".

SEC. 207. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end the following new subpart:

"Subpart III—Nursing Scholarship and Loan Demonstration Program

"SEC. 843. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

"(a) In General.—The Secretary may award scholarships and loans to full-time students enrolled in public or nonprofit private schools accredited for the training of professional nurses who have contracted with a health care facility described in subsection (g) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during which the student received scholarship and loan assistance under this section.

"(b) Maximum Amount of Assistance.—The total amount of scholarships and loans provided to a student under this section shall not exceed 100 percent of the cost of tuition, reasonable living expenses, books, fees, and necessary transportation.

"(c) Eligibility.—A scholarship or loan may be awarded under this section to a student currently enrolled, or to a student who has been accepted to and plans to matriculate, in a nursing program described in subsection (a). Demonstration of need for financial assistance (as determined by the Secretary) shall be required for the award of scholarships and loans under this section. In the award of scholarships and loans under this section, preference shall be given to disadvantaged and minority students underrepresented in the nursing profession.

"(d) Split of Scholarship and Loan.—Of the proportion of scholarship and loan awarded to a student under this section, not more than 75 percent shall be in the form of a loan.

"(e) Interest.—Loans awarded under this section shall bear interest on the unpaid balance of the loan, computed from the date the student completes the nursing program or from the date the student is no longer enrolled in the nursing program, at a rate of 5 percent per annum.

"(f) Administration.—The Secretary may prescribe such regulations as may be necessary to carry out the demonstration program authorized under this section. The Secretary shall require any student seeking a scholarship and loan award under this section to submit an application in such form as the Secretary may require.

"(g) Repayment.—

"(1) In general.—Any hospital, long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), or other private nonprofit or public facility that has a contract described in subsection (a) may contract with the Secretary to repay on behalf of a nursing student up to 75 percent of the amount of principal and interest due on a loan awarded under this section.

"(2) Liability of students.—If a student who has been awarded a loan under this section does not fulfill the contract with an eligible health care facility described in paragraph (1) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during which the student received scholarship and loan assistance under this section, is dismissed for academic reasons, or voluntarily terminates academic training, the student shall be liable for repayment of an amount equal to 100 percent of the principal and interest due on the loan. Repayment of such amount shall begin not later than 6 months following the date the student completes the nursing program or the date the student is no longer enrolled in the nursing program. The period for repayment of such amount shall be determined by the Secretary, except that such period may not exceed 10 years.

"(3) Liability of health care facilities.—If a health care facility with which a student has entered into a contract under this section does not fulfill the contract, the health care facility shall remain liable for repayment of an amount equal to 75 percent of the principal and interest due on the loan incurred by the student.

"(4) Waiver or suspensions.—The Secretary shall by regulation provide for the waiver or suspension of any obligation of any student who has received a scholarship or loan under this section whenever compliance by such student is impossible or would involve extreme hardship to such student and if the enforcement of such obligation with respect to any student would be against equity and good conscience.

"(h) Rural or Frontier Areas.—Of the amount made available for a fiscal year under subsection (i), not less than 35 percent of such amount shall be allotted for scholarships and loans for students who contract with health care facilities in rural or frontier areas.

"(i) Authorization of Appropriations.—For scholarships and loans awarded under this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 through 1991.".

TITLE III—GENERAL

SEC. 301. RENAMING OF NATIONAL ADVISORY COUNCIL ON NURSE TRAINING.

(a) In General.—Section 851 of the Public Health Service Act (42 U.S.C. 298) is amended—

(1) in the section heading, by striking out "NATIONAL ADVISORY COUNCIL ON NURSE TRAINING" and inserting in lieu thereof "ADVISORY COUNCIL ON NURSES EDUCATION"; and

(2) in subsection (a), by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

(b) Conforming Amendments.—

(1) Section 820 of such Act (42 U.S.C. 296k) is amended by striking out "National Advisory Council on Nurse Training" each place it appears in subsections (b) and (c) and inserting in lieu thereof "Advisory Council on Nurses Education".

(2) Section 856(1) of such Act (42 U.S.C. 298b-3(1)) is amended by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

TEMPORARY EMERGENCY WILDFIRE SUPPRESSION ACT

MELCHER (AND OTHERS) AMENDMENT NO. 2940

Mr. BYRD (for Mr. Melcher, for himself, Mr. Baucus, and Mr. Wallop) proposed an amendment to the bill (S. 2641) to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

Sec. 2. Definitions.—As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

Sec. 3. Implementation.—(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment and Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 14, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

Sec. 4. Funds.—Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildlife protection resources in connection with activities under the the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided,* That no such funds may be expended for wildlife protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

Sec. 5. Termination Date.—The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

STAFFORD STUDENT LOAN DEFAULT PREVENTION AND MANAGEMENT ACT

PRESSLER AMENDMENT NO. 2941

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill (S. 2647) to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that act, and for other purposes; as follows:

On page 137, between lines 3 and 4, insert the following new section:

SEC. 506. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTER AREAS.

Section 413D(e) of the Act is amended by adding at the end thereof the following: "In making such reallocations, the Secretary shall give a high priority to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster.".

On page 137, line 4, strike out "SEC. 507" and insert in lieu thereof "SEC. 508".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, September 8, 1988, to consider S. 2651, a bill to implement the United States-Canada Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on September 8, 1988, to hold a Justice Department hearing on nominations.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, September 8, in executive session to receive testimony on the investigation by the U.S.S. *Vincennes* and a demonstration at the Aegis Combat System Center, Wallops Island, VA.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, September 8, 1988, to conduct hearings on community reinvestment, check cashing, lifeline and branch closing provisions of the House Banking bill, H.R. 5094.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 8, to hold a markup on S. 2756, South Africa Sanctions Legislation.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

IN PRAISE OF ASHLAND OIL'S DROPOUT PREVENTION ACTIVITIES

● Mr. McCONNELL. Mr. President, while I was in Kentucky during the August recess, some encouraging news regarding the future of our children came to my attention. I rise today to commend one of Kentucky's industrial leaders for its involvement in the fight to encourage children to complete their high school education. Although this corporation has long been distinguished for its service to the Commonwealth of Kentucky and the Nation as a whole, its latest educational media campaign is particularly noteworthy for its singular modesty. Mr. President, I rise in praise of Ashland Oil and its multimedia dropout prevention campaign.

Ashland Oil has spent millions of dollars in support of education, particularly in my own State of Kentucky and its sister State of West Virginia. Ashland Oil has now donated materials and services for a series of television, radio, newspaper, and magazine advertisements to heighten public awareness of the dropout problem. However, Ashland Oil's name will not appear in connection with these advertisements. Instead, the advertisements will be identified as public-service announcements from the Council for State Governments and the Advertising Council.

Although Ashland Oil's media campaign underlines the importance of education to parent and child alike, the campaign particularly targets the children themselves. In one commercial, a young mother describes the difficulty of finding a job when "neither my husband or me finished school." She promises things will be different for her son, that "he's gonna stay in high school if I have to tie him to his chair * * * I wish someone had done me that way."

The second commercial tells a story that is also, sadly, all too common. The story concerns a young man, Joey, whose car was the "most important thing in Joey's life." So much so, Joey "quit high school to get a job so he could have the 'hottest ride in town'." Now, the job long gone, "the car doesn't work anymore * * * and without a high school diploma, neither does Joey."

These two simple, powerful images convey the importance of staying in school to children—in language they can understand. And if this multimedia campaign persuades just one more child to complete his or her education, it will have been a success.

Although Ashland Oil donated all the materials and services for this campaign without associating its own name in connection, Ashland Oil's tireless efforts in support of excellence in education deserve our recognition. In no area, however, are the stakes higher, and the effort more important, than in dropout prevention. Far too may of our children fail to finish high school, much less enter higher education. And in today's ever more complex world, they are in imminent danger of being left behind—permanently.

The U.S. Department of Labor's Bureau of Labor Statistics recently reported some encouraging news: The educational level of the U.S. labor force as a whole continues to rise. However, the acute dropout problem in Kentucky suggests that this news needs to be viewed with some caution.

Presently, one out of every three Kentucky high school students drops out before completing school. Only 53 percent of Kentucky's population 25 and older have high school degrees. Not surprisingly, many of these people wind up on the welfare rolls. In Kentucky, only 2.3 percent of the fathers and 10.2 percent of the mothers on welfare are high school graduates.

Thus, though the proportion of workers without a high school diploma has declined sharply nationally, far too many without high school diploma subsist entirely on the public dole. While I believe we should make every effort to lift those on the welfare rolls back to productive participation in society, it is certainly no less important that we keep our youth off those rolls in the first place. Because dropout problem affects the future of not only the children involved, but the Nation as a whole, I would argue that dropout prevention is of paramount importance.

The continuing involvement of Ashland Oil in the fight against the dropout problem is welcome indeed. This problem is so severe that no single element of society is sufficient to combat it. The dropout problem will require the continuing involvement of industry leaders, like Ashland Oil, willing to invest in this Nation's future. It will also require the involvement of government, at the Federal, State, and local levels. But most importantly, it will require the active efforts of both parents and children, through student groups, and parent organizations, such as the Parent Teacher Association.

The combined efforts of industry leaders, sustained involvement by parent organizations, and a concerted effort by government at all levels, can make all the difference in fighting the dropout problem. Mr. President, as a nation, we can do no less.

TRIBUTE TO BLUE CROSS AND BLUE SHIELD OF KANSAS CITY

● **Mr. BOND.** Mr. President, Blue Cross and Blue Shield is celebrating their 50th anniversary of delivering prepaid health insurance to the Kansas City area. "50 and Forward," their theme for this anniversary, is a reminder of the prepaid health insurance concept first introduced in 1938, and still in existence as one model to be used in maintaining affordable health costs both today and in the future.

In 1938, prepaid health insurance meant 30 days of hospitalization per year for covered employees of Wolferman's Bakeries and their dependents, all for a one-time enrollment fee of only $1, plus 75 cents per month. Blue Cross and Blue Shield of Kansas City continues to expand its services and products to meet the changing needs of their 850,000 members, who make up one half of the population of the greater metropolitan area. Blue Cross/Blue Shield employs approximately 850 Kansas Citians from Missouri and Kansas. They provide health care insurance through multiple products ranging from comprehensive/major medical to HMO coverage, and at the same time serve as the contractor for Medicare Part B claims processing for 30 counties in Missouri, as well as Johnson and Wyandotte County in Kansas.

Missouri is proud of Blue Cross and Blue Shield's contribution to our State and I offer my congratulations for their 50 years of service.●

TOUGH WORDS FROM A GOOD FRIEND

● **Mr. LEVIN.** Mr. President, the welfare and security of the nations of Central America and the United States are intricately interrelated. It is important that we understand the historic forces at work in the region, and recognize both the opportunities and dangers that lie ahead. Costa Rica's President Oscar Arias is an important friend of the United States, and a person whose counsel can help us achieve success in our relationships with the nations of the region, and avoid the mistakes that will endanger our interests.

In an article by Tad Szulc published in the August 28, 1988, Parade magazine, President Arias is quoted as saying "There are so many ways of obtaining the support, affection and gratitude of the people of Latin America through United States help and understanding, that I think you should concentrate on a dialog with us—not the use of force."

We should pay heed to his warnings, Mr. President, and we should listen to his wise counsel. In discussing the futility of the self-defeating Contra war, President Arias said "Nicaragua's leadership uses military pressure as an excuse not to negotiate, and they use the war as an excuse to justify the economic failure of the Marxist experiment in Nicaragua."

Mr. President, I hope my colleagues have the opportunity to read this article, and weigh these "tough words from a friend." I ask that the text of the article be printed in the RECORD.

The article follows:

TOUGH WORDS FROM A GOOD FRIEND

Be nice. Stop being the ugly American," President Oscar Arias Sánchez of Costa Rica told me amiably. I had asked him what he thought would be the most fruitful approach the United States could take to his crisis-ridden part of the world.

"There are so many ways of obtaining the support, affection and gratitude of the people of Latin America through U.S. help and understanding," he went on, "that I think you should concentrate on a dialog with us—not the use of force." It is urgent, Arias added, to do this as soon as possible to avoid new confrontations like those over Nicaragua or Panama. In both countries, Washington has tried military and economic pressures to achieve controversial goals.

He is upset, for example, over the way the Reagan Administration, earlier this year, went about trying to oust Gen. Manuel Antonio Noriega, the Panamanian strongman who was indicted by Florida grand juries on charges of trafficking in narcotics. And he was regretful that the U.S. killed his mediation efforts to persuade Noriega to depart quietly.

"I say publicly that I was not in agreement with economic sanctions against Panama to force Noriega out," Arias told me. "This is a way of making enemies in a country that, until now, has been a friend of the United States. When such great errors are committed, you must remember, it is easy to convert your best friends into your worst enemies. This can happen in Panama, if you do not act intelligently."

With the U.S. at a crossroads in its relations with Latin America and a new administration to be installed in Washington next January, I recently flew to San José, the volcano-ringed Costa Rican capital, to discuss with President Arias the future of relations in our hemisphere.

What Arias thinks—and what he represents—is extremely important to North Americans. In tiny Costa Rica, a peaceful republic with 2.7 million inhabitants, he presides over Latin America's most effective and prosperous democracy. Since winning the Nobel Peace Prize last year for his August 1987 plan to end the decade of fratricidal warfare tearing apart his Central American neighbors—and deeply involving the U.S.—the 46-year-old soft spoken Costa Rican lawyer has become one of the most respected voices in international diplomacy. His talents as an arbiter are in constant demand.

Relaxed, quick to smile but doggedly stubborn and brutally honest, Arias has been in office since May 1986. He is both a hell-raising politician and a man of great intelligence resources. He has a saturnine countenance, which he says comes from Indian blood "that almost all Costa Ricans have in their veins—a mixture of Spanish and Indian blood." He resembles somewhat Massachusetts Gov. Michael Dukakis, whom he met many years ago. The two men admire each other, and Arias told me, "We share the problem of lacking sufficient sense to humor and of being too serious and too intellectual in talking to our people, but we are both overcoming it."

As the only mediator acceptable to all sides in the Central American conflicts, Arias astounded Washington and most news analysts by bringing about in March the first extended cease-fire between the Marxist Sandinista regime in Nicaragua and the U.S.-backed rebels, the contras, and directing peace negotiations between the two hostile bands—an event that was unthinkable even a few months earlier. The talks were halted in mid-June because the Sandinistas and the contras could not agree on a political settlement, but full-fledged fighting did not resume. As a result of the Arias plan, Nicaragua battlefields were still silent this summer after seven years of war, except for scattered clashes, but the civil war next door in El Salvador between the U.S.-supported government and Marxist guerrillas went on unabated.

Nicaragua's fate remains important to the U.S. It was U.S. efforts to keep supporting the contras despite a Congressional ban that brought the Reagan Administration into scandal when it secretly and illegally sold arms to Iran in order to finance the contras with the profits. Arias does not believe that the Sandinistas can be dislodged through the contra war. "If this war continues," he told me, "it will be a prolonged war of many years that will get us nowhere. Nicaragua's leadership uses military pressure as an excuse not to negotiate, and they use the war as an excuse to justify the economic failure of the Marxist experiment in Nicaragua. So we must remove all these excuses and force them to democratize."

Arias and his fellow Costa Ricans are vigorously pro-United States—possibly more so than most other Latin Americans. But the president believes that speaking his mind, sometimes very critically, is an essential part of the friendship between the two countries.

Arias revealed his penchant for frank talk during our conversations at his quietly elegant family villa in the capital's affluent Rohrmoser suburb and in chats at his office in the government building known as "Presidential House" in another suburb.

Arias insisted that his peace plan was signed by the other four Central American presidents—of Nicaragua, Honduras, Guatemala and El Salvador—only when they understood that it was a "balanced proposal" designed "to advocate the interest of all the countries in the area—and not just to please, let us say, Washington, D.C." He has conveyed similar views in private meetings with President Reagan and other top U.S. officials and before a joint session of the U.S. Congress last autumn.

Arias' outspokenness has earned him respect in Washington. Last October, the Senate and the House of Representatives passed resolutions congratulating him on the Nobel Peace Prize. And the Administration which often expresses resentment over his opposition to the Nicaraguan contras, recently paid Arias a high compliment by naming one of the U.S.'s most experienced diplomats, Deane R. Hinton, as ambassador to Costa Rica.

Though Arias criticizes certain U.S. actions, he also wastes no opportunity to lecture Nicaragua's leftist President Daniel Ortega Saavedra on what "real democracy" is, and the Sandinista chief listens attentively. Arias spoke in detail about his relationship with Ortega, whom the Reagan Administration regards as dangerous because of his ideological and military ties with Cuban President Fidel Castro. This regime took power in the 1979 revolution, and Ortega was elected in 1984 in a virtually one-man race.

"First," Arias said, "Costa Rica felt betrayed by the Sandinista revolution—betrayed and deceived—because nobody helped the Sandinistas more in their fight 10 years ago against the Somoza dictatorship than Costa Rica. Our national territory was used as an airport—as an aircraft carrier—for defeating Somoza. But we wanted a new Nicaragua, not a second Cuba.

"Dracula, the vampire, can be killed only with the Cross. In Nicaragua, democracy is the Cross," Arias said, an amused twinkle in his eye. "But I keep telling Oretega that he needs democracy in his revolution. I once said to him: 'You can call the regime you have anything you want—except a democracy, because there is no democracy without political pluralism, without free elections, without freedom of the press, without respect for individual liberties.' "

Ortega's reaction, Arias recalled, was surprising. He informed Arias that he could conceive of a system developing in Nicaragua along the lines of Mexico. There, the dominant political party—the Party of Revolutionary Institutions—has managed to win every presidential election in the last 60 years because of its total control over the country, but the people enjoy considerable freedom.

If permanent peace is achieved, Arias says, Nicaragua may have to evolve toward some form of democracy—and away from the Marxist-Leninist totalitarian model—because the peace plan, which Ortega signed, establishes democratization as crucial to an overall peace settlement. Arias told me that Ortega decided to sign the plan when he realized that all the other Central American presidents would do so, and the Sandinistas could not afford to be isolated in the eyes of the world in opposing a peaceful solution to the civil war. The Sandinistas know that failure of the peace plan, which bans military assistance to anti-government forces such as the contras and the leftist guerrillas in El Salvador, may well mean fresh U.S. funds for the contras—and more war for their devastated country.

Oscar Arias' success in launching his peace plan is based on his credibility as an independent-minded democratic leader and on the image of Costa Rica as a neutral and peaceful nation which, having abolished its armed forces following a civil war in 1948, has been able to harness all its resources for social and economic development. Costa Rica today enjoys the highest living standard in Latin America. There are pockets of poverty, but one sees no sickly, barefoot children in the villages and no beggars and almost no slums in the capital and provincial towns—in high contrast with the familiar sights of Third World misery elsewhere. The literacy rate stands at about 95 percent, and the mortality of children under the age of 5 is 23 per 1000 (in the U.S., the figure is 13, but it is 70 in Mexico, 87 in Brazil and 261 in Ethiopia). Arias' main goal during his term is to build enough low-cost housing so there would be "no Costa Rican without his own home."

Costa Rica was the first Latin American nation to abolish slavery (in 1813), the first to provide free and compulsory education (120 years ago), the first to abolish capital punishment (in 1882) and the first—and the only—to do away with its army. Women received the vote only in 1949, but when Arias was elected in 1986, he submitted to the national assembly legislation granting women absolute equality with men. President Arias' wife, Margarita Penon de Arias Sánchez, who has a degree in chemistry from New York's Vassar College, is deeply involved in politics and is very popular.

Costa Ricans have made their country what it is today. Its natural resources are limited, and it has no tradition of wealth, even as a Spanish colony. Yet they have almost entirely avoided violence, having suffered only one civil war in nearly a century.

"We are a nation of teachers and lawyers," Arias told me, "and we are a democratic welfare state, not a garrison state." Internal security is provided by the police, numbering less than 12,000 men. As Arias told the U.S. Congress, "In my homeland, you will not find a single tank, artillery piece, warship or military helicopter. In Costa Rica, we are not afraid of freedom." The democratic process has not been interrupted in 40 years, and Costa Rica is the only country in Central America with no leftist guerrillas or conspiracies.

Arias is continually criticized by the conservative press in Costa Rica. At one point, after complaining about it, he suddenly brightened. "Well, they can criticize me all they want," he said, "but they can't throw me out because they don't have an army. Besides," he joked, "I'm the one who made Costa Rica famous with my Nobel Prize—Americans no longer confuse Costa Rica with Puerto Rico."

In health care and education, democratic Costa Rica does as well or better for its people than Marxist-Leninist Cuba. Arias noted that Costa Rica has "the same social indicators today as Cuba, but without the *Paredón* [execution wall], without thousands and thousands of citizens in exile." This is another reason why Costa Rica is so important to the United States: It establishes the principle that small nations can grow in stability and freedom if given a chance by their own societies as well as the outside world.

The United States has shown that it appreciates Costa Rica as a democratic showcase and is prepared to support it in every way. With the national economy seriously damaged by the fall in the prices of coffee and bananas, its principal exports, the U.S. provided Costa Rica with $338 million in 1986 and 1987, making our assistance program there second only to Israel in per capita civilian grants and low-interest loans.

To the annoyance of the Reagan Administration, Arias forbade the use of a Costa Rican airport by the U.S. for secret deliveries of war supplies for the contras in Nicaragua, refused to allow the installation of a secret communications center to relay intelligence data to the rebels and expelled contra leaders from his country. There was enough wisdom in Washington to avoid any retaliation.

In dealing with the United States, Oscar Arias has the special advantage of understanding the gringos better than most Latin American leaders. His English is so fluent that he can deliver first-rate extemporaneous speeches at the drop of a sombrero. After receiving a degree in law and economics from the University of Costa Rica, he graduated from the University of Essex in England, then attended Boston University and Harvard. As minister of planning and economic policy (at age 31), he began building up his network of contacts and friendships in the United States, where he feels absolutely at home.

He told me how he forced his fellow Central American presidents to agree on his peace plan—at their meeting in Guatemala on Aug. 7, 1987—by keeping them in the conference room until 4 o'clock in the morning, fearing that a recess might interrupt the negotiations for good. He was inspired, he said, by the example of President Franklin D. Roosevelt, who would lock his aides in a room until they reached an agreement. (Arias read it in Roosevelt: The Lion and The Fox, a biography by James MacGregor Burns.)

Precisely because of his feeling of kinship with the U.S. Arias is troubled by the way Washington has been acting among its southern neighbors. In addition to the crises affecting Nicaragua and El Salvador, both caught up in full-fledged wars, Arias sees Panama as the latest—and unnecessary—flashpoint in U.S. policies.

With the security of the Panama Canal at stake, the U.S. faced a dilemma in Panama, and Arias has been fearful of the consequences.

"In Panama," Arias said, "the U.S. realized that the policy of force did not work. This preoccupies me, because I believe that the United States cannot afford to lose its credibility. And Costa Rica, as a defenseless country, needs for a friendly country—the United States—to be respected and to be trusted. If you lose credibility, we all lose it. If you say, 'I give you 48 hours to leave,' and a man like Noriega doesn't leave, and then you apply sanctions to a little country for disobeying you, then you're losing credibility. As it is, we missed a great opportunity when our mediation in Panama was made to fail."

As I was bidding him farewell, Arias put his hand on my arm. "Let me repeat," he said. "If I had to advise Washington on its policy in Latin America, I'd say, 'Please be nice—please stop being the ugly American.' "●

COSPONSORSHIP OF S. 1738

● **Mr. McCAIN.** Mr. President, today I join my colleague from California, Senator WILSON, as a cosponsor of S. 1738, legislation to make long-term care insurance available to Federal employees.

Mr. President, sooner or later, virtually every family in America will be confronted with a catastrophic illness. Whether it is a grandparent with Alzheimer's disease, a spouse hit by a stroke, a worker in the prime of life disabled by an accident, a relative stricken with cancer, or a child born with cerebral palsy—the expense for needed care could result in destroying, if not severely taxing, a family's financial security. Catastrophic illness seems to impact most dramatically on three groups: older Americans who face hospital bills which exceed their Medicare coverage; those who need expensive, long-term care services; and working Americans who lack adequate health insurance. Such an illness can require treatment or care so costly that many families can only pay by impoverishing themselves.

Earlier this year, this body adopted legislation addressing the first group—older Americans who face hospital bills which exceed their Medicare coverage. The Medicare Catastrophic Illness Coverage Act of 1988—which has now been signed into law. The legislation will provide for a cap in the out-of-pocket costs that a Medicare beneficiary can incur during a year for hospital and physician charges, and it provides coverage of out-of-pocket prescription drugs for the first time in Medicare's history. In addition, it allows elderly couples—faced with huge nursing home bills—to hang on to more of their resources before Medicaid kicks in, thus avoiding being reduced to poverty as a result of the magnitude of the expenses.

As I communicated with seniors in Arizona about the Medicare Catastrophic Illness Coverage Act I found that, by a 3-to-1 majority, seniors in my State felt that though some of the benefits in the bill would be nice, most of the benefits are not "truly catastrophic-related." What is more, most of the benefits are available through the private sector. In doing so, this legislation will significantly increase the premiums that many seniors are responsible for under the Medicare Program.

The resounding sentiment of Arizona's seniors seemed to be that they would have preferred that Congress address what they saw as the true catastrophic health need seniors face—protection from the financial ravages of long-term care expenses. They are willing to pay for the cost of a new program, but only if it provides coverage of those services which they feel they need. Needless to say, many seniors in my State are upset. They are deeply concerned that the Government has just established a new public program—which, for the most part, duplicates benefits that are currently available through the private sector. What they expected is that the Government would work to make sure that they were able to protect themselves from what is their true catastrophic concern—and not widely available through the private sector—protection from the enormous cost of long-term care services.

Due to a lack of affordable long-term care protection available in the private sector, most are unable to insure themselves and at the point that they need nursing-home services they have to pay for the services out of their pockets. That is, until they have exhausted their resources—at which time they become eligible for Medicaid benefits, or in Arizona's case, the counties—and soon to be AHCCCS. The result is that many end up impoverishing themselves and their spouses, prior to being eligible for public assistance. Included in the "Medicare Catastrophic Illness Protection Act" was a provision providing spouses with some measure of protection. This is, indeed, a true catastrophic benefit—and will be helpful to many Americans.

The numbers are alarming, and perhaps best tell the story.

Americans spend about $38 billion a year on nursing home care. Seventy percent of all single people admitted to a nursing home go broke within 3 months; close to 90 percent of single older Americans will be impoverished within a year; and 50 percent of all couples are impoverished within 6 months after one spouse is admitted.

Over 60 percent of American families have already had direct experience with the need for protection from long-term care expenses. Millions of Americans suffer from chronic conditions that limit their ability to function on their own. Some need help preparing meals. Others need assistance in feeding themselves, bathing, getting dressed, or just getting around. Most of the help they need is nonmedical—referred to as "custodial care." It is little wonder that the need for protection from the cost of such care is such a concern—with the cost of a year's nursing home stay ranging from $20,000 to $35,000. Many of the needed services can also be provided at home. Delivery of such services at home is often the less costly, and is better for the family and individual in need of care. But, like services provided in the nursing home, there really is not much protection available from the cost of these services—unless the individual is eligible for Medicaid, or AHCCCS as in Arizona's case.

It is my belief that Congress must work hard to tackle, in the upcoming session, the need to provide older Americans with protection from the expenses of long-term care services.

Given the need to exercise fiscal restraint—in light of the Federal budget deficits, and the increased financial burden that will be placed on Medicare beneficiaries as a result of the Medicare Catastrophic Illness Coverage Act—I believe the most responsible approach would be the development of a public/private partnership. Addressing the long-term care coverage issue requires the involvement of all segments of our society. We must develop a partnership—if you will—among individuals, families, private organizations and all levels of government.

Based on my discussions with Arizonans, I believe a responsible partnership approach to dealing with the need for enhanced long-term care coverage would consist of four parts.

First, the private and public sectors must work together to educate the American people, both current Medicare beneficiaries and working-age Americans, about the possibility that they may need long-term care services in the future and the importance of protecting themselves against the cost of such services.

Second, the Federal Government must create a more supportive tax environment for long-term care insurance contracts. In part, this would hopefully lead to more working Americans being able to select long-term care coverage as part of their health insurance package, provided in cooperation with their employer. In addition, it would permit retirees to rollover part of their life insurance benefits into long-term care insurance coverage—which is probably more the need as one ages.

Third, that all levels of government and the private sector must work together to make it possible for the development of an extensive long-term care insurance market. Perhaps this could even include the development of an age-graded tax credit for those who are currently retired and opt to purchase long-term care insurance.

And, fourth, reform the Medicaid system so that the public sector can more effectively assist those with long-term care needs that are least able to afford the cost of protecting themselves.

Certainly, any approach with regard to providing long-term care coverage must include both services provided in nursing homes and those provided at home.

While we probably will not get there overnight, I believe that forging a private/public partnership approach to meeting the long-term care coverage needs of older Americans will assure greatest success.

This legislation, which I am cosponsoring today, S. 1738, is one step in that direction. It would permit Federal employees, who have reached the age of 50 and participated in the life insurance program [FEGLI] for 10 years, to convert their life insurance to long-term care insurance. Eligibility for participation would not be effected at all by the health status of the individual. The process of determining which company would actually offer the policy would be handled through a competitive bidding process. And, because there is a cost difference between life insurance and long-term care insurance, employees would have to pay a nominal premium in addition to what they already pay for their life insurance benefit.

I believe this legislation represents a responsible approach to providing access to long-term care protection for one group—Federal employees. For that, Senator WILSON and those at the Office of Personnel Management are to be commended.

But, Mr. President, we must not stop here. Building a comprehensive, responsible, approach to long-term care is like piecing together a puzzle. With a puzzle, each piece is an integral component—and without all the pieces, a puzzle is not complete. This legislation is one of the pieces to that puzzle.

Last year, I offered legislation designed to make it possible for workers to transfer their pension benefits from employer to employer as they change jobs. One of the important components of this legislation, S. 1349, the Pension Portability Act—and relevant to the attempt to develop a comprehensive long-term care policy—is a provision making it possible for individuals in the private sector to tap their pension benefits to help meet long-term care expenses. Mr. President, I believe this, too, is a piece to the puzzle.

Providing our Nation's citizens with protection from the financial ravages of a long-term care needs in a responsible way will only be accomplished as a result of a lot of individuals working together to creatively craft the various pieces to the puzzle. While there are obstacles, such as our Nation's budget deficits, I believe we can be successful.

This legislation, which I am cosponsoring today, is evidence of the fact that we can be successful. If enacted, this legislation will assist Federal employees in obtaining long-term care coverage. And, due to the large pool of individuals that will be participating, the cost to the individual will be lower under this approach than if they were to purchase the plan on the open market. The cost to the Federal Government will be negligible, because the Federal Government's role is not the funding of a new Government program. Its role will merely be that of coordinating, and overseeing, a new program. In my opinion, this proposal is a responsible piece to the puzzle, I am pleased to add my name to the list of those who have cosponsored this legislation.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. W. Donald Campbell, a member of the staff of Senator CRANSTON, to participate in a program in West Germany sponsored by Haus Rissen International Institute for Politics and Economics, from August 14-24, 1988.

The committee has determined that participation by Mr. Campbell in the program in West Germany, at the expense of Haus Rissen, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35, for Mr. James C. Brenner, a member of the staff of Senator KERRY, who participated in a program in London, England, sponsored by the 21st Century Trust, from July 11-22, 1988.

The committee determined that participation by Mr. Brenner in the program in London, England, at the expense of the 21st Century Trust, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Mark Fowler, a member of the staff of Senator HEFLIN, to participate in a program in Hamburg, West Germany, sponsored by the Haus Rissen International Institute for Politics and Economics, from August 14-24, 1988.

The committee has determined that participation by Mr. Fowler in the program in West Germany, at the expense of the Haus Rissen International Institute for Politics and Economics, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Pat Windham, a member of the staff of Senator HOLLINGS, to participate in a program in Hamburg, West Germany, sponsored by the Haus Rissen International Institute for Politics and Economics, from August 14-24, 1988.

The committee has determined that participation by Mr. Windham in the program in West Germany, at the expense of the Haus Rissen International Institute for Politics and Economics, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Christine Williams, a member of the staff of Senator MITCHELL, to participate in a program in Toronto and Ottawa, Canada, sponsored by the Centre for Legislative Exchange, from September 7-10, 1988.

The committee has determined that participation by Ms. Williams in the program in Canada, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for G. Lawrence Atkins and Laura A. Erbs, members of the staff of Senator HEINZ, to participate in a program in Toronto and Ottawa, Canada, sponsored by the Centre for Legislative Exchange, from September 7-10, 1988.

The committee has determined that participation by Mr. Atkins and Ms. Erbs in the program in Canada, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Peter Lennon, a member of the staff of Senator STENNIS, to participate in a program in Japan, sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Mr. Lennon in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Deborah Leavy and John Trasvina, members of the staff of Senator SIMON, to participate in a program in Japan sponsored by the Association for the Advancement of Human Rights, from August 15-19, 1988.

The committee has determined that participation by Ms. Leavy and Mr. Trasvina in the program in Japan, at the expense of the Association for the Advancement of Human Rights, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Abigail Lawlis Kuzma, a member of the staff of Senator HATCH, to participate in a program in Japan sponsored by the Association for the Advancement of Human Rights, from August 15-19, 1988.

The committee has determined that participation by Abigail Lawlis Kuzma in the program in Japan, at the expense of the Association for the Advancement of Human Rights, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. John G. Behuncik, a member of the staff of Senator RUDMAN, to participate in a program in Turkey sponsored by the Turkish Foreign Policy Institute, from August 20-28, 1988.

The committee has determined that participation by Mr. Behuncik in the program in Turkey, at the expense of the Turkish Foreign Policy Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Sarah Sewall, a member of the staff of Senator MITCHELL, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Ms. Sewall in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Judith Freedman, a member of the staff of Senator NUNN, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Ms. Freedman in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dick D'Amato, a member of the staff of Senator BYRD, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Mr. D'Amato in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Harry Broadman, a member of the staff of Senator GLENN, to participate in a program in Japan sponsored by the Japanese Government, from August 14-25, 1988.

The committee has determined that participation by Mr. Broadman in the program in Japan, at the expense of the Japanese Government, is in the interest of the Senate and the United States.

The select committee has received a request for confirmations under rule 35, for Greg Schnake and Mark Scanlan, members of the staff of Senator DOLE, who participated in programs in Taipei, Taiwan, sponsored by the Tunghai and Tamkang Universities, respectively, from July 17-25, 1988.

The committee has determined that participation by Mr. Schnake and Mr. Scanlan in the programs in Taipei, Taiwan, at the expense of the Tunghai and Tamkang Universities, was in the interest of the Senate and the United States.●

A QUESTION OF POWER: JUDICIAL REVIEW OF CONGRESSIONAL RULES OF PROCEDURE

● Mr. McCONNELL. Mr. President, I am including in the RECORD today a law review comment that I believe will be of academic interest to many in the congressional community. "A Question of Power: Judicial Review of Congressional Rules of Procedure" was written by Gregory F. Van Tatenhove, a third year student at the University of Kentucky College of Law.

First published in volume 76 of the Kentucky Law Journal, this work explores those instances when courts have been asked to review the internal rules of procedure by which the Senate and the House conduct its business. The comment also examines the relationship between separation of powers notions and the constitutional and historical framework upon which our rules are founded. The author concludes that an absence of jurisdictional power results in an extremely limited role for the judiciary in reviewing congressional rules of procedure.

Mr. President, the press of the legislative calendar gives us too little time to step back and consider matters that affect the balance of powers between the three branches of Government. But the importance of this inquiry cannot be overstated. In referring to separation of powers principles as the "absolutely central guarantee of a just government," Justice Scalia recently noted that "[w]ithout a secure structure of separated powers, our Bill of Rights would be worthless, as are the bills of rights of many nations of the world that have adopted, or even improved upon, the mere words of ours." *Morrison v. Olson*, 487 U.S. ——, ——, 56 U.S.L.W. 4835, 4847 (1988) (Scalia, J., dissenting).

With the words of Justice Scalia in mind, Mr. President, I commend the following commentary to the attention of my colleagues:

A QUESTION OF POWER: JUDICIAL REVIEW OF CONGRESSIONAL RULES OF PROCEDURE

James I spoke of the mystery of the King's power. The institutions of a secular, democratic government do not generally advertise themselves as mysteries. But they are. What they do, how they do it, or why it is necessary to do what they do is not always outwardly apparent. Their actual operation must be assessed, often in sheer wonder, before they are tinkered with, lest great expectations be not only defeated, but mocked by the achievement of their very antithesis.*

INTRODUCTION

To note that the Supreme Court has affirmed the authority of the judiciary to review, for constitutional compliance, the acts of the other branches of Government is to invoke an axiom tempered by a long history.[1] Equally axiomatic, however, is the observation that over 200 years of constitutional debate and scrutiny have failed to define precisely the scope of that review.[2] The debating halls are filled by those who would find in the Constitution a reserved and guarded role for the judiciary in voiding the acts of other branches,[3] as well as those who would find for the judiciary a broad mandate in the realm of constitutional interpretation.[4]

What continues to be at issue, therefore, is no less than a determination of the boundaries that mark the federal judicial power [5]—boundaries that cannot, of course, be considered in a vacuum. As Chief Justice Rehnquist has observed, "[t]he exercise of the judicial power also affects relationships between the co-equal arms of the National Government." [6] The result of our system of separate but equal governmental divisions is inherent tension.[7]

This commentary begins by recognizing that at few intersections is this inherent tension greater than at the point where the judicial branch is asked to review the rules of procedure by which the legislative branch conducts its business.[8] Part I discusses the nature of congressional rules of procedure by briefly exploring the constitutional and historical framework upon which these rules are founded. Part II surveys the judicial decisions written in response to a request to review the rules of Congress. Finally, Part III suggests that the judicial review of congressional rules of procedure should be exercised in only the most limited of circumstances. Indeed, focusing on arguments developed by former District of Columbia Circuit Court of Appeals Judge Robert Bork, this Comment concludes that an absence of jurisdictional power demands this result.[9]

I. "UNIFORMITY OF PROCEEDING": CONSTITUTIONAL AND HISTORICAL AUTHORITY FOR CONGRESSIONAL RULE-MAKING POWER

Article I, section 5, clause 2 of the Constitution states that "[e]ach House may determine the Rules of Its Proceedings." In addition, article I addresses a number of specific legislative procedures including quorums,[10] adjournments,[11] and roll calls.[12] Congress, therefore, has a body of rules consisting of those provisions specifically enumerated in the Constitution, as well as a set of standing rules adopted individually by the Senate [13] and the House of Representatives [14] pursuant to the authority of article I, section 5, clause 2. Furthermore, each chamber is governed by statutory provisions which have the force of congressional rules,[15] precedents of each chamber,[16] and informal practices and customs.[17]

The historical records of the constitutional convention indicate that the general grant of rule-making authority in article I, section 5, clause 2 generated no discussion.[18] Even the debate surrounding the enumerated provisions pertaining to quorums,[19] adjournments,[20] and roll calls [21] was brief and relatively uneventful.[22]

Clearly, the lack of attention the framers gave to the congressional rules provisions reflects the necessity of granting the legislative branch authority to fashion rules by which it can administer its constitutionally delegated powers.[23] In his landmark commentary, Justice Story observed the following:

> No person can doubt the propriety of the provision authorizing each House to determine the rules of its own proceedings. If the power did not exist, it would be utterly impracticable to transact the business of the nation, either at all, or at least with decency, deliberation, and order. The humblest

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Footnotes at end of article.

assembly of men is understood to possess this power, and it would be absurd to deprive the councils of the nation of a like authority.[24]

In recognizing congressional rule-making authority, the framers were doing nothing more than recognizing textually what was considered by many at the time to be an inherent ability.[25] The Constitution, therefore, recognizes that the legislative branch must have a near exclusive ability to determine its rules of procedure.[26]

These rules, which the Senate and the House adopted initially at the beginning of the first Congress,[27] were descendants of the rules that governed the English Parliament.[28] As noted in Holdsworth's history, they owed a great deal to the common law:

> No doubt the procedural rules of the common law were gravely defective; but they had at least one merit—they discountenanced the very archaic legal ideas which so seriously hampered the representative assemblies of the continent. They were capable of a certain amount of development and adaptation; and the men who spent their lives working and developing them were the men who were best fitted to create a workable set of rules for the guidance of a representative assembly.[29]

Even today, the House turns to "general parliamentary law" for guidance in adopting its rules at the beginning of each Congress.[30]

Since the rules are not self-enforcing, each house of Congress has the authority to amend its rules unilaterally, as well as suspend, waive, or even ignore them altogether.[31] As one observer of the legislative process noted, "the legislative rules of Congress are essentially endogenous. . . . If these rules are enforced rigorously and consistently, it is only because Congress chooses to do so." [32]

II. "ALL MATTERS OF METHOD": THE JUDICIAL DEFINITION OF CONGRESSIONAL RULE-MAKING POWER

A. Ballin *to* Yellin: *Illusory Limits on the Judicial Power to Review Congressional Rules*

While the propriety of congressional rules had been challenged on earlier occasions,[33] the 1891 decision of *United States* v. *Ballin* [34] provided the Supreme Court with its first opportunity to articulate the scope of review applicable to congressional rules. The rule in controversy was House Rule XV which provided that the members present in the chamber but not voting would be "counted and announced in determining the presence of a quorum to do business." [35] Prior to the adoption of this rule in 1890, conventional wisdom held that the constitutional quorum requirement [36] could be satisfied only if a majority of members actually voted on the proposition before them. This meant that those opposed to a proposition could, even though present in the chamber, defeat a quorum by not voting.[37]

In this context, the importers Ballin, Joseph & Co. argued, in response to an unfavorable decision by the Board of United States General Appraisers, that an act imposing certain import duties was invalid since it was approved by less than a majority vote and, therefore, allegedly in the absence of a constitutional quorum.[38] Although addressing the alternative argument that the act should be given a different construction,[39] the Supreme Court found the question of whether the legislation was legally passed of greater importance.[40]

Writing for a unanimous Court, Justice Brewer noted that the judiciary had the power to consider whether a bill was validly enacted; [41] and, when the judiciary makes this determination, the entries in the House journal [42] "must be assumed to speak the truth." [43] After referring to the journal, the Court accepted as fact that when the vote occurred a majority of members were present in the chamber although less than a majority actually voted.[44] The Court was left to consider, therefore, whether Congress had properly exercised its rule-making authority in approving the Rule XV method of determining the constitutionally required quorum.[45]

The Court refused to overturn the rule stating that "[n]either do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each house to determine its rules of proceedings." [46] Despite its conclusive language, the Court was unwilling to concede final authority to the legislative branch:

> *[The House] may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained.* But within these limitations all matters of method are open to the determination of the house, and it is no impeachment of the rule to say that some other way would be better, more accurate or even more unjust. It is no objection to the validity of a rule that a different one has been prescribed and enforced for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house, and *within the limitations suggested,* absolute and beyond the challenge of any other body or tribunal.[47]

The standard announced in *Ballin,* therefore, recognized that Congress has the power to make its own procedural rules, but the courts have the power to determine whether they are constitutional. Rule XV was, in effect, reviewed by the Court and allowed to stand only after the Court was satisfied that it conformed to these criteria: (1) the rule complied with "constitutional restraints"; [48] (2) the rule violated no fundamental rights; [49] and (3) there was a "reasonable relationship between" the rule's method and "the result sought to be attained." [50] *Ballin,* far from carving out an area in which judicial review is strictly limited, established an expansive role for the Court in reviewing legislative rules of procedure. This proposition was supported and even expanded by the Court's decision in *United States* v. *Smith.*[51]

The rule at issue in *Smith* allowed for the reconsideration of a Senate vote on an executive branch nomination after notification of confirmation or rejection had been sent to the President.[52] The executive branch challenged this rule after the Senate adopted motions requesting President Hoover to return for reconsideration a confirmation resolution of one of his appointments to the Federal Power Commission.[53] The President refused this request,[54] and the Senate, despite the position of the executive branch, subsequently reconsidered and rejected the nomination.[55]

The Court admitted that "[t]he question primarily at issue relates to the construction of the applicable rules, not to their constitutionality." [56] Judicial review was predicated on the fact that "the construction to be given to the rules affects persons other than members of the Senate. . . ." [57] Despite its recognition that, "[i]n deciding the issue, [we] must give great weight to the Senate's present construction of its own rules," [58] the Court held that the history and the precedents of the Senate, both before and after the incident in question, supported an interpretation of the rules that precluded reconsideration of the appointment by the Senate.[59] In short, the Court substituted its interpretation of the Senate rules for that of the Senate.[60]

Seventeen years later, the scope of review delineated in *Ballin* and *Smith* allowed the Court to decide *Christoffel v. United States.*[61] The *Christoffel* Court faced a fact pattern that arose out of the rules of a House committee acting in an investigatory capacity,[62] not out of proceedings relating to floor debate.[63] Once again, the rule in controversy pertained to the method by which the committee determined a quorum.[64]

At the beginning of the committee session, a call of the roll indicated that a quorum was present.[65] Three hours later, the petitioner allegedly made perjurious statements [66] for which he was later convicted.[67] Evidence at trial suggested that less than a majority of the members were present when the statements were made. While agreeing "that the presence of a quorum was an indispensable part of the offense charged," the trial judge instructed the jury to find that a quorum existed as long as a majority of the committee was present at the beginning of the session.[68] Justice Murphy, writing for the majority, held that this instruction was improper—that a quorum consisting of a majority of the committee members had to exist at the time the statements were made for the committee to constitute a "competent tribunal" under the District of Columbia perjury statute.[69]

Justice Jackson, writing in dissent on behalf of Chief Jutice Vinson and Justice Reed, rejected the latitude taken by the majority.

> [W]hat Congress may do by express rule it may also do by custom and practice. There is no requirement, constitutional or otherwise, that its body of parliamentary law must be recorded in order to be authoritative. In the absence of objection raised at the time, and in the absence of any showing of a rule, practice or custom to the contrary, this Court has the duty to presume that the conduct of a Congressional Committee, in its usual course of business, conforms to both the written and unwritten rules of the House which created it. "Each House may determine the Rules of its Proceedings. . . ." Art. I, § 5, cl. 2. This Court accordingly can neither determine the rules for either House or Congress not require those rules to be expressed with any degree of explicitness other than that chosen by the respective Houses.
>
> The House has adopted the rule and practice that a quorum once established is presumed to continue unless and until the point of no quorum is raised. By this decision, the Court, in effect, invalidates that rule despite the limitations consistently imposed upon court where such an issue is tendered.[70]

The holding of *Ballin,* when considered in light of *Smith* and *Christoffel,* makes it quite clear, however, that "the limitations consistently imposed" are largely without force. Although now nearly twenty-five years old, the Supreme Court's most recent discussion of the scope of review of congressional rules,[71] *Yellin v. United States,*[72] continues to stand for this assertion.[73]

Like *Christoffel,* the controversy in *Yellin* centered around the application of a House committee rule[74] to a witness subpoenaed pursuant to a committee investigation. In reversing a contempt of Congress conviction, the majority held that the committee failed to follow its own rule relating to the interrogation of a witness in executive session and, thus, violated the witness' right, granted by the rule, to be questioned in private.[75] The logic of the majority holding was uncomplicated: "The Committee prepared the groundwork for prosecution in Yellin's case meticulously. It is not too exacting to require that the Committee be equally meticulous in obeying its own rules."[76]

As the dissent pointed out, however, this conclusion necessarily depends on the Court rejecting the interpretation of the rule Congress offered and concluding that the congressional committee had indeed failed to follow its own rule.[77] Citing the restrictive language of *Ballin*[78] and *Smith,*[79] Justice White wrote on behalf of the dissent that "[w]hile the testimony is reasonably clear as to the Committee's construction and application of its own rule, if there were any doubt about the matter it is not our place to resolve every doubt against the Committee."[80] Clearly, the distance that the dissenters were willing to wander into the procedural briar patch of the legislative branch was far shorter than that of the majority.[81]

Thus, while offering an obligatory nod to the merit of judicial restraint, the Supreme Court, without so much as a blush, has embraced an all-inclusive scope of review of congressional rules in a variety of contexts. In *Ballin,* the Court examined the constitutionality of a rule that construed the quorum requirement found in the text of the Constitution.[82] In *Smith,* the Court justified going one step further in reviewing the application of an admittedly constitutional rule by noting the effect application of the rule had on a private party.[83] *Christoffel* presented a similar factual scenario with the Court concluding that a facially constitutional rule was interpreted incorrectly.[84] Finally, *Yellin* illustrates once again the Court's willingness to review congressional rules for compliance when a private party is involved.[85]

Following the Supreme Court's lead, the more recent decisions by the lower federal courts[86] generally echo this reluctance to recognize a jurisdictional limitation.[87] In the final analysis, the courts more often than not have chosen to draw the boundaries of judicial review deep and wide rather than choosing a line of restraint.[88]

B. Vander Jagt to Kurtz: "Standing" in the Way of Judicial Power

The theme of the District of Columbia Circuit decisions involving review of congressional rules has been one of concern about the separation of powers problems raised by judicial consideration.[89] The opinions have most often given force to this concern by paying homage, albeit more and more sparingly, to the separation of powers concepts embodied in the political question doctine.[90] Nevertheless, these decisions continue to assert a far-ranging jurisdictional authority[91] to review Congress' in-house procedural rules.

The decision in *Vander Jagt, v. O'Neill*[92] presents the most complete expression of the D.C. Circuit's doctrine relating to judicial review of congressional rules. In *Vander Jagt,* a group of House members challenged the allocation of a disproportionate number of House committee seats to Democrats.[93] After noting that "[t]his circuit has previously expressed its reluctance to review congressional operating rules, though it has never denied its power to do so,"[94] the court examined at length the scope of review articulated in *Ballin* and *Smith.* The court then concluded "that Art. I simply means that neither we nor the Executive Branch may tell Congress what rules it must adopt. Article I does not alter our judicial responsibility to say what rules Congress may not adopt because of constitutional infirmity."[95] The court went on to admit candidly "that this raises some doubt about the intelligibility of the 'textually committed' aspect of the political question doctrine."[96] Indeed, the opinion lends support to the premise that the doctrine is only of academic interest, observing that it is "far more useful to examine 'case-by-case' whether [it] would be unwise to intrude in 'political' controversies."[97]

Significantly, the court did not find a threshold bar to justiciability in applying the standing doctrine[98] to the plaintiffs either in their capacity as members of Congress or in their capacity as private-party voters.[99] In his concurrence, Judge Bork argued against granting standing, stating that "[w]hether the requirement is rooted in Article III or in judicial prudence . . . the Supreme Court continues to regard the standing concept as informed by considerations of separation of powers."[100] The majority disagreed, choosing to grant standing to the plaintiffs and then dismissing the action in an exercise of the court's remedial discretion.[101]

First proposed by Judge Carl McGowan,[102] the remedial discretion doctrine was adopted by the D.C. Circuit in *Riegle v. Federal Open Market Committee*[103] as a way of "translating . . . separation-of-powers concerns into principled decision making. . . ."[104] In essence, the doctrine counsels the court to dismiss suits brought by legislators "[w]here a congressional plaintiff could obtain substantial relief from his fellow legislators through the enactment, repeal, or amendment of a statute. . . ."[105]

While concurring in the result, Judge Bork raised fundamental questions about the rationale used by the majority to dismiss the suit:

> Political question, like standing, is a doctrine that raises a jurisdictional bar to judicial power, while remedial discretion, as described in Judge Gordon's opinion for the majority, raises no bar and grants the judiciary unfettered discretion to hear a case or not, depending on the attractiveness of the idea.
>
> My colleagues' disinclination to rest this case upon a jurisdictional ground—whether that of standing or political question—rests squarely upon the erroneous notion, expressed in *Riegle* and reiterated today, that there must be judicial power in all cases and that doctrines must not be adopted which might frustrate that power.[106]

Arguably, the *Vander Jagt* approach of factoring-in the separation of powers restraints as part of a strict remedial discretion analysis, rather than a standing analysis, results in a very narrow judicial role when the plaintiff is a member of Congress.[107] Remedial discretion, however, as the name implies, provides not a jurisdictional mandate for the court but rather a choice. Furthermore, when the plaintiff is a private party, the separation of powers element of the remedial discretion doctrine is largely without force.[108]

In *Gregg v. Barrett,*[109] the court was presented with both congressional plaintiffs and private-party plaintiffs claiming that their first amendment rights were violated because the Congressional Record was not a verbatim transcript of congressional debate.[110] In dismissing the complaint as to the congressional plaintiffs, Judge Mikva invoked the remedial discretion doctrine, noting that the Congressmen could persuade their colleagues to enforce either existing rules or approve a resolution requiring a verbatim transcript.[111] The court, however, rejected the appellees' argument that the private parties' claim should be dismissed on grounds related to those articulated by the equitable discretion doctrine.[112] Indeed, the *Gregg* opinion noted that "an important reason to withhold equitable relief for congressional plaintiffs is the possibility that other, private plaintiffs may bring suit in a context less laden with separation-of-powers concerns."[113]

Gregg, therefore, consistent with the holding in *Riegle,*[114] recognized a clear role for the judiciary in examining congressional rules on behalf of private plaintiffs who qualify under the separation-of-powers-purged standing analysis. In the end, however, the *Gregg* court dismissed the private appellants' claim, concluding that there is "no first amendment right to receive a verbatim transcript of the proceedings of Congress."[115] Ironically, after embracing the jurisdictional authority to review House rules on behalf of a private party, Judge Mikva concluded the opinion by observing that "[n]otwithstanding the deference and esteem that is properly tendered to individual congressional actors, our deference and esteem for the institution as a whole and for the constitutional command that the institution be allowed to manage its own affairs precludes us from even attempting a diagnosis of the problem."[116]

The D.C. Circuit's most recent response to a request to review a rule of Congress is found in *Kurtz v. Baker.*[117] The appellant in *Kurtz* brought suit when the chaplains of the House and Senate, pursuant to congressional rules,[118] refused a request "to deliver secular remarks in both houses of Congress during the period each house reserves for morning prayer."[119] While the district court reached the merits of claim,[120] the circuit court concluded that the appellant failed to meet the article III standing requirements.[121]

As noted in Judge Ruth Ginsburg's dissent, the majority incorporates the separation of powers analysis into its doctrine of standing:

> Although they acknowledge that Kurtz meets the core, injury-in-fact requirement, my colleagues nonetheless conclude that Kurtz lacks standing because he cannot show causation, *i.e.,* that his injury is "traceable to the chaplains' rejection of Kurtz' requests" for a guest speaker bid. The majority emphasizes that the chaplains lacked authority to grant Kurtz's requests in the face of the firm will of Congress, expressed in its internal rules, to open sessions with prayer; they then maintain, essentially, the Congress made and *only Congress* can unmake the rules determining that prayer will be the exclusive benediction upon the opening of legislative sessions. If this is indeed the pivotal point, then the majority—notwithstanding its use of a "standing" label—is deciding not *who* may sue, but an anterior question, *viz, what*

issues are legitimately open to third branch resolution.[122]

Notwithstanding the objections of Judge Ginsburg, this is precisely the function of the standing requirement [123]—to define the limits of the court's article III jurisdictional power.[124]

In general, therefore, the D.C. Circuit opinions recognize that the judiciary cannot review the procedural rules of the legislative branch without encountering a host of separation of powers problems.[125] Like the earlier decisions of the Supreme Court,[126] the court of appeals, until *Kurtz*, had refused to find that it lacked jurisdictional power. Instead, the court reserved the discretionary right to impose self-limitations on review. This analysis was accomplished either by pulling from the shelf the remedial discretion doctrine when presented with legislator plaintiffs or by using more traditional prudential limitations when asked by private-party plaintiffs to review the procedural rules of Congress.[127]

III. "TO SAY WHAT THE LAW IS": RECOGNIZING AN ABSENCE OF JUDICIAL POWER

Although rendered meaningless by nearly one hundred years of tolerance of judicial meddling in the realm of legislative procedure, the proper role of the judiciary in this area, or more accurately lack of role, was clearly stated by Justice Brewer in *U.S. v. Ballin:* [128] "With the courts the question is only one of power. The Constitution empowers each House to determine its rules and proceedings." [129] The decisions from *Ballin* to *Gregg v. Barrett* [130] have refused to accept this premise and have provided the rhetorical baggage that reduces it to insignificance.

For example, the court in *Vander Jagt v. O'Neill,*[131] ironically but justifiably citing *Ballin,* stated that "[c]ourts and commentators have long recognized that it is crucial to distinguish questions about whether judicial power exists, from questions about whether judicial power should be exercised." [132] This reasoning allowed the court to conclude:

> [W]hile there are compelling prudential reasons why we should not interfere in the House's distribution of committee seats, it is nevertheless critical that we do not deny our jurisdiction over the claims in this case. As long as it is conceivable that the committee system could be manipulated beyond reason, we should not abandon our constitutional obligation—our duty and not simply our province—"to say what the law is." [133]

In retort, Judge Bork agreed with the mandate of *Marbury v. Madison* [134] but not with the result of the majority's analysis:

> Of course, when a court finds a jurisdictional bar to its exercise of power, it does state what the law is. When, on the other hand, a court claims a discretion, whose contours are not suggested, to decide or not decide, the court refuses to say what the law is.[135]

Indeed, Chief Justice Marshall recognized in *Marbury* [136] that boundaries to judicial power do exist. He wrote that "[q]uestions in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in this court." [137]

Separation of powers considerations,[138] given force in the doctrine of standing,[139] demand that the judiciary recognize once and for all an absence of power to review in every instance the procedural rules of Congress. A startling limitation on the court's ability to have the last word in the realm of constitutional interpretation? Not necessarily, for as Judge Bork has observed, "it is of course precisely the function of the Article III limitations on jurisdiction, through such doctrines as standing and political question, to ensure that nonfrivolous claims of unconstitutional action *will* go unreviewed by a court." [140]

Thus, in *Vander Jagt* the injury alleged—diminution of influence—defined the issue which the legislator plaintiffs successfully requested the court to examine.[141] A threshold separation of powers analysis, however, counsels against recognizing this as a judicially cognizable injury for the purpose of granting standing. Furthermore, in contrast to dynamics of the remedial discretion doctrine, standing, permeated by separation of powers concerns, has a similar jurisdictional effect when the plaintiff is a private party.[142] *Kurtz v. Baker,*[143] moreover, illustrates that even when a judicially cognizable injury is found, the separation-of-powers-aware standing test may foreclose jurisdiction.[144]

Assuming, arguendo, that a particular rule falls within the set of those questions effectively outside the reach of the judiciary does not necessarily require the conclusion that the rule is above scrutiny for constitutional compliance. To suggest that members of Congress could adopt rules in contravention of the Constitution ignores the fact that all public officers are required by article 6, clause 3 "to support this Constitution." [145] Of course, taken to its logical extreme this argument supports the clearly untenable view that by virtue of article 6, clause 3, all statutes should be given the unquestioned presumption of constitutionality.

The problem that judicial review of statutes does not present, however, is that of impermissible control by one branch over the internal procedures of another.[146] The importance of allowing the legislative branch to craft the procedural framework by which it conducts its business without intrusion from the other branches of government is not difficult to understand. If article I, section 5, clause 2 had granted to the executive or the judiciary the authority to impose procedural rules on Congress, it would have created not a check on power but rather a control of one branch by another. A similar spectre is presented by allowing an assertion of power by the judiciary, limited only by self-restraint, to impose its interpretation of those rules on Congress.[147]

The ability of Congress to interpret the Constitution has been the focus of recent scholarly debate.[148] The case for recognizing congressional competence to make final constitutional determinations about its rules is particularly compelling.[149] As Judge Bork noted, asserting judicial power to review procedural rules raises "the very real problem of a lack of judicial competence to arrange complex, organic, political processes within a legislature so that they work better." [150] Congress is in a much better position to gather the information necessary to make prudent determinations about the effect of adopting one application or interpretation of a procedural rule over another.[151]

A limited scope of judicial review allows a more fundamental protection to work in these cases as well—a protection which recognizes the dilemma inherent in a constitutional democracy: judicial review allows unelected judges to thwart the will of the majority.[152] Justice Scalia has noted that "[t]he degree to which the court become converted into political forums depends not merely upon what issues they are permitted to address, but also upon *when* and *or whose instance* they are permitted to address them." [153] Thus, if the doctrine of standing is understood to include a separation of powers element, according to Justice Scalia, it "restricts courts to their traditional undemocratic role of protecting individuals and minorities against impositions of the majority, and excludes them from the even more undemocratic role of prescribing how the other two branches should function in order to serve the interest *of the majority itself.*" [154] The democratic process, therefore, must be allowed to work.[155]

CONCLUSION

Professor Berle has suggested that once the Supreme Court has expanded its judicial power no room to retreat exists: "Power cast aside without provision for its further exercise almost invariably destroys the abdicating power holder—as, for example, Shakespeare's King Lear found out when he improvidently abandoned his power, and was promptly crushed." [156] It is far too dramatic to conclude, however, that judicial recognition of less power to review congressional rules of procedure results in an impermissable void or an abdication that damages the court.[157]

Indeed, correctly determining where the judicial review boundary ends simultaneously plots the line that marks the power of the legislative branch.[158] While the surveyor's tools must be carefully chosen, we should not hesitate to adjust the boundaries when required.

The doctrine of standing, then, necessarily informed by separation of powers considerations, should serve as the surveyor's transit in the field of congressional rules of procedure.[159] This analysis would result in the judiciary being denied emphatically the power to review, for either constitutionality [160] or compliance,[161] rules which affect purely internal functions of the Congress.[162] Even when congressional procedural rules reach out and directly affect third parties who are admittedly injured,[163] the court would be largely without power to review.[164]

While the weight of authority rejects this jurisdictional restraint, *Kurtz v. Baker* [165] has begun the process of redrawing the lines—a process the importance of which Judge Bork has long recognized: "Major alterations in the constitutional system can be accomplished through what seem to be minor adjustments in technical doctrine." [166] In the end, therefore, this "question of power" must be answered in favor of the legislative branch.—*Gregory Frederick Van Tatenhove*[**]

FOOTNOTES

[*] Vander Jagt v. O'Neill, 699 F.2d 1166, 1182 (D.C. Cir.) (Bork, J., concurring) (quoting A. Bickel, Reform and Continuity 2 (1971)), *cert. denied,* 464 U.S. 823 (1983).

[1] Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803) ("It is emphatically the province and duty of the judicial department to say what the law is.").

[2] *See, e.g.,* Judicial Review in American History: Major Historical Interpretations (K. Hall ed. 1987).

[3] *See, e.g.,* J. Choper, Judicial Review and the National Political Process 123 (1980) ("[The judiciary's] constitutional role is limited to protecting those individual rights that are unambiguously expressed or that at least may in some persuasive way fairly be found within the broad philosophical

confines of the basic charter."); L. Hand, The Bill of Rights 15 (1958) ("[S]ince [the power of judicial review] is not a logical deduction from the structure of the Constitution but only a practical condition upon its successful operation, it need not be exercised whenever a court sees, or thinks that it sees, an invasion of the Constitution."); Kurland, *Toward a Political Supreme Court*, 37 U. Chi. L. Rev. 19, 45 (1969) ("Essentially because [the Court's] most important function is antimajoritarian, it ought not to intervene to frustrate the will of the majority except where it is essential to its function as guardian of interests that would otherwise be unrepresented in the government. . . ."); Thayer, *The Origin and Scope of the American Doctrine of Constitutional Law*, 7 Harv. L. Rev. 129, 135 (1893) ("In so far as legislative choice, ranging here unfettered, may select one form of action or another, the judges must not interfere, since *their* question is a naked judicial one." (emphasis in original)); Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 Harv. L. Rev. 1, 19 (1959) ("A principled [judicial] decision, . . . is one that rests on reasons with respect to all the issues in the case, reasons that in their generality and their neutrality transcend any immediate result that is involved.").

[4] *See, e.g.*, A. Bickel, The Least Dangerous Branch 25 (1962) ("[C]ourts have certain capacities for dealing with matters of principle that legislatures and executives do not possess."); W. Douglas, The Court Years: 1939–1975 55 (1980).

Those who take the other view of the role of the Court are called the "activists"; and this was the label that the Harvard cabal used against Brennan, Black, Warren and myself. My view always has been that anyone whose life, liberty or property was threatened or impaired by any branch of government—whether the President or one of his agencies, or Congress, or the courts (or any counterpart in a state regime)—had a justiciable controversy and could properly repair to a judical tribunal for vindication of his rights.

Id.; Grey, Do We Have an Unwritten Constitution?, 27 Stan. L. Rev. 703, 705 (1974–1975) ("It seems to me that courts do appropriately apply values not articulated in the constitutional text, and appropriately apply them in determining the constitutionality of legislation.").

[5] "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." U.S. Const. art. III, § 1. The boundaries of judicial review, however, necessarily include the limitations of art. III, § 2 which confine federal court jurisdiction to "cases" and "controversies." J. Nowak, R. Rotunda & J. Young, Constitutional Law § 2.12(a) (1986); *see* Allen v. Wright, 468 U.S. 737, 750 (quoting *Vander Jagt*, 699 F.2d at 1178–79 (Bork, J., concurring)), *reh'g denied*, 468 U.S. 1250 (1984):

All of the doctrines that cluster about Article III—not only standing but mootness, ripeness, political question, and the like—relate in part, and in different though overlapping ways, to an idea, which is more than an intuition but less than a rigorous and explicit theory, about the constitutional and prudential limits to the powers of an unelected, unrepresentative judiciary in our kind of government.

[6] Valley Forge Christian College v. Americans United for Separation of Church and State, 454 U.S. 464, 473 (1982).

[7] Madison's commentary of 1788 continues to be relevant: Experience has instructed us that no skill in the science of government has yet been able to discriminate and define, with sufficient certainty, its three great provinces—the legislative, executive, and judiciary; or even the privileges and powers of the different legislative branches. Questions daily occur in the course of practice, which prove the obscurity which reigns in these subjects, and which puzzle the greatest adepts in political science.

The Federalist No. 37, at 242 (J. Madison) (E. Bourne ed. 1901). Note, however, that the judicial boundaries for Madison were much sharper than they are for the modern surveyor:

It is not unfrequently a question of real nicety in legislative bodies whether the operation of a particular measure will, or will not, extend beyond the legislative sphere. On the other side, the executive power being restrained within a narrower compass, and being more simple in its nature, and the judiciary being described by landmarks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves.

Id. No. 48, at 340.

[8] For courts to reassign congressional committee seats would be no less intrusive than for Congress to enact a law forbidding the members of this court from conferring on the decision of cases or forbidding specified judges from sitting on cases of a particular type. If the courts would not accept such invasions of their sphere, they ought not attempt the invasion of Congress' sphere sought by appellants.

Vander Jagt, 699 F.2d at 1181–82 (Bork, J., concurring).

[9] "Questions of jurisdiction are questions of power, power not merely over the case at hand but power over issues and over other branches of government." Barnes v. Kline, 759 F.2d 21, 43 (D.C. Cir. 1985) (Bork, J., dissenting) (President Reagan's pocket veto of certain legislation challenged by 33 members of the House of Representatives and United States Senate), *vacated*, 107 S. Ct. 734 (1987).

[10] "[A] Majority of each [House] shall constitute a Quorum to do business. . . ." U.S. Const. art. I, § 5, cl. 1.

[11] "[A] smaller number [than a Quorum] may adjourn from day to day. . . ." *Id.* "Neither House, during the Session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting." *Id.* at art. I, § 5, cl. 4.

[12] "[T]he Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal," *Id.* at art. I, § 5, cl. 3; "[T]he Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively." *Id.* at art. I, § 7, cl. 2.

[13] The Senate Rules are catalogued in the Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate, S. Doc. No. 98–1, 98th Cong., 2d Sess. (1984) [hereinafter Senate Manual]. As a continuing body the Senate does not adopt new rules at the beginning of each Congress. *See* Senate Rule V: "The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules." Senate Manual, at 5.

[14] House rules are adopted at the beginning of each Congress by vote of the members and can be found in the Constitution, Jefferson's Manual and the Rules of the House of Representatives, H.R. Doc. No. 99–279, 99th Cong., 2d Sess. (1987) [hereinafter House Rules and Manual]. Compiled by Thomas Jefferson when he was Vice-President, Jefferson's Manual was incorporated into the House Rules in 1837. Jefferson recognized that whether the rules be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the speaker or the captiousness of the members. House Rules and Manual, at 115–16.

[15] *See, e.g.*, Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93–344, 88 Stat. 297 (1974); Legislative Reorganization Act of 1970, Pub. L. No. 91–510, 84 Stat. 1140 (1970); Legislative Reorganization Act of 1946, Pub. L. No. 99–601, 60 Stat. 812 (1946).

[16] Recent Senate precedents have been collected by parliamentarian emeritus Floyd M. Riddick in Senate Procedure Precedents and Practices, S. Doc. No. 97–2 (1981). The early precedents of the House are found in A. Hinds, Hinds' Precedents of the House of Representatives (1907) and C. Cannon, Cannon's Precedents of the House of Representatives (1935). Recent House precedents have been compiled in Deschler's Precedents of the United States House of Representatives.

[17] *See* W.J. Oleszek, Congressional Procedures and the Policy Process 11 (1984).

Congress is regulated not only by formal rules, but by informal ones that influence legislative procedure and members' behavior. . . .

Folkways . . . are unwritten norms of behavior that members are expected to observe. . . . Several of the more important are "legislative work" (members should concentrate on congressional duties and not be publicity seekers), "courtesy" (members should be solicitous toward their colleagues and avoid personal attacks on them), and "specialization" (members should master a few policy areas and not try to impress their colleagues as a "jack of all trades"). *Id.*

[18] *See* The Records of the Federal Convention of 1787 180, 245–56 (M. Farrand ed. 1937) [hereinafter Farrand]; 1787 Drafting the U.S. Constitution 672–75 (W. Benton ed. 1986) [hereinafter Benton]; C. Warren, The Making of the Constitution 412–26 (1973).

[19] *See* Farrand, *supra* note 18, at 180, 245–56, 305; Benton, *supra* note 18, at 667–72.

[20] Farrand, *supra* note 18, at 180, 258, 260–62; Benton, *supra* note 18, at 681–84; C. Warren, *supra* note 18, at 426–28.

[21] Farrand, *supra* note 18, at 180, 254–56; Benton, *supra* note 18, at 675–80; C. Warren, *supra* note 18, at 429–31.

[22] Although the journals kept by James Madison of Virginia and James McHenry of Maryland document slightly different chronologies, apparently most of the debate on art. I, § 5 took place on August 10 and 11, 1787. Benton, *supra* note 18, at 656–84.

[23] "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." U.S. Const. art. I, § 1.

[24] 1 J. Story, Commentaries on the Constitution of the United States § 837 (1873).

[25] Thomas Jefferson illustrated this assumption in his comments on the Residence Bill of 1790:

Every man, and every body of men on earth, possesses the righ[t] of self-government: they receive it with their being from the hand of nature. Individuals exercise it by their single will: collections of men, by that of their majority; for the law of the *majority* is the natural law of every society of men. When a certain description of men are to transact together a particular business, the times and places of their meeting and separating depend on their own will; they make a part of the natural right of self-government. This, like all other natural rights, may be abridged or modified in it's [sic] exercise, by their own consent, or by the law of those who depute them, if they meet in the right of others: but so far as it is not abridged or modified, they retain it as a natural right, and may exercise it in what form they please, either exclusively by themselves, or in association with others, or by others altogether, as they shall agree.

2 The Founders Constitution 300 (P.B. Kurland ed. 1987) (quoting Afrom 17 The Papers of Thomas Jefferson 195 (J. Boyd ed. 1950)).

In the preface to his Manual of Parliamentary Practice, Jefferson notes that "[f]or some of the most familiar forms no written authority is or can be quoted, no writer have supposed it necessary to repeat what all were presumed to know." House Rules and Manual, *supra* note 14, at 111-12 n.9. *Cf.* Wayman v. Southard, 23 U.S. (10 Wheat.) 1 (1825) (early discussion on the capacity of the judicial branch to determine its rules of proceeding).

[26] The Supreme Court has noted the following:

[W]hen the Framers intended to authorize either House of Congress to act alone and outside of its prescribed bicameral legislative role, they narrowly and precisely defined the procedure for such action.

Clearly, when the Draftsmen sought to confer special powers on one House, independent of the other House, or of the President, they did so in explicit, unambiguous terms.

One might also include another "exception" to the rule that congressional action having the force of law be subject to the bicameral requirement and the Presentment Clauses. Each House has the power to act alone in determining specified internal matters. Art. I, § 7, cls. 2, 3 and § 5, cl. 2. However, this "exception" only empowers Congress to bind itself and is noteworthy only insofar as it further indicates the Framers' intent that Congress not act in any legally binding manner outside a closely circumscribed legislative arena, except in specific and enumerated instances.

INS v. Chadha, 462 U.S. 919, 955 n.21 (1983).

[27] When the 30th of the 59 representatives elected to the First Congress reached New York on April 1, 1789, the assembled quorum promptly chose as Speaker of the House Frederick A. C. Muhlenberg of Pennsylvania. The next day Muhlenberg appointed a committee of 11 representatives to draw up the first rules of procedure, which the House adopted April 7. The first standing committee of the House—a seven-member Committee on Elections—was chosen April 13, and its report accepting the credentials of 49 members was approved April 18. By then, the House already was debating its first piece of legislation, a tariff bill.

Congressional Quarterly's Guide to Congress 41 (3d ed. 1982). Courtesy, dignity and informality marked the proceedings of the Senate in the early days of the Republic. A body that on a chill morning might leave its seats to gather around the fireplace had no need for an elaborate system of procedure and rules. At the first session in 1789 the Senate adopted only 20 short rules, a number deemed sufficient to control the proceedings of a Senate no larger than some modern-day congressional committees.

Id. at 79; *see* 127 Cong. Rec. S1284-95 (daily ed. Feb. 16, 1981) (statement of Sen. Byrd).

[28] Jefferson noted the relation of the parliamentary law to the early legislative procedure of Congress:

But to what system of rules is he to recur, as supplementary to those of the Senate? To this can be but one answer: To the system of regulations adopted for the government of some one of the parliamentary bodies within these States, or of that which has served as a prototype to most of them. This last is the model which we have all studied, while we are little acquainted with the modifications of it in our several States. It is deposited, too, in publications possessed by many, and open to all. Its rules are probably as wisely constructed for governing the debates of a deliberative body, and obtaining its true sense, as any which can become known to us; in the acquiescence of the Senate, hitherto, under the references to them, has given them the sanction of the approbation.

House Rules and Manual, *supra* note 14, at § 286 n. a.

[29] 2 W. Holdsworth, Holdsworth's History of English Law: Anglo-Saxon Antiquities, The Medieval Common Law 431 (1923); *see* 4 W. Holdsworth, Holdsworth's History of English Law: The Common Law and Its Rivals 174-78 (1924) (16th century parliamentary procedure) [hereinafter W. Holdsworth, The Common Law and Its Rivals].

The most striking feature of the procedure of Parliament continued to be the influence exercised by the forms and conceptions of the common law. . . . Firstly, we have seen that the whole fabric of Parliamentary procedure was regarded as a special law governing Parliament. It was the "lex et consuetudo Parliamenti," which governed the High Court of Parliament, just as the procedural rules of the common law, the civil law, or the canon law, governed the various courts which exercised jurisdiction in the English state. Secondly, this law was a customary law to be ascertained mainly by the precedents to be collected from the records of Parliament. It therefore possessed all the flexibility and adaptability of customary law; and this was no small advantage at this time of conflict. Thirdly, it was, like the common law itself, a permanent and independent body of customary law.

6 W. Holdsworth, The Common Law and Its Rivals, *supra* note 29, at 88-89 (footnotes omitted).

[30] House Rules and Manual, *supra* note 14, at § 60.

[31] [T]he ways in which the House applies its rules are relatively predictable, at least in comparison with the Senate. . . . Moreover, even the ways in which the House frequently waives, supplants, or supplements its regular rules with special, temporary procedures generally fall into a relatively limited number of recognizable patterns.

Underlying most of the rules that Representatives may invoke, and the procedures the House may follow, is a fundamentally important premise—that a majority of Members ultimately should be able to work their will on the floor.

S. Bach, An Introduction to the Legislative Process on the House Floor 1-2 (Congressional Research Service, Rep. No. 86-96G, 1986).

The essential characteristic of the Senate's rules, and the characteristic that most clearly distinguishes its procedures from those of the House of Representatives, is their emphasis on the rights and prerogatives of individual Senators. . . . [T]he Senate's rules give greater weight to the value of full and free deliberation than they give to the value of expeditious decisions. . . .

Precisely because of the nature of its standing rules, the Senate cannot rely on them exclusively. If all Senators took full advantage of their rights under the rules whenever it might be to their advantage, the Senate would have great difficulty reaching timely decisions. Therefore, the Senate has developed a variety of practices by which it sets aside some of its rules to expedite the conduct of its business or to accommodate the needs and interests of its members. . . . In most cases, these alternative arrangements require the unanimous consent of the Senate—the explicit or implicit concurrence of each of the one hundred Senators.

Id. Rep. No. 87-176, 1986, revised March 6, 1987).

[32] S. Bach, The Nature of Congressional Rules (Sept. 3-6, 1987) (paper prepared for delivery at the 1987 Annual Meeting of the American Political Science Association; Chicago, Illinois).

[33] Although not the subject of judicial consideration, the following account of an incident involving John Quincy Adams provides an excellent early illustration of the type of problems a congressional rule can present:

In 1836 John Quincy Adams challenged a House practice, begun in 1792, of refusing to receive petitions and memorials on the subject of slavery. Adams offered a petition from citizens of Massachusetts for the abolition of slavery in the District of Columbia. His action led to a protracted debate and the adoption of a resolution by 117-68 vote directing that any papers dealing with slavery "shall, without being either printed or referred, be laid upon the table and that no further action whatever shall be had thereon."

Adams, who considered adoption of the resolution to be a violation of the Constitution and the rules of the House reopened the issue in 1837 by asking the Speaker how to dispose of a petition he had received from 22 slaves. Southerners moved at once to censure Adams. The move failed, but the House agreed, 163-18, that "slaves do not possess the right of petition secured to the people of the United States by the Constitution." Further agitation led the House in 1840 to adopt, by a vote of 114-108, a rule that no papers "praying the abolition of slavery . . . shall be received by this House or entertained in any way whatever." Four years later, however, the rule was rescinded by a vote of 108-80.

Congressional Quarterly's Guide to Congress, *supra* note 27, at 46.

[34] 144 U.S. 1 (1891).

[35] *Id.* at 5.

[36] *See supra* note 10.

[37] The Constitution of the United States of America: Analysis and Interpre-

TATION, S. Doc. No. 92-82, 92nd Cong., 2d Sess. 113 (1973).

[38] *In re Ballin*, 45 F. 170 (C.C. S.D.N.Y.) (rev'g the Decision of the Board of United States General Appraisers), *rev'd*, 144 U.S. 1 (1891).

[39] *U.S.* v. *Ballin*, 144 U.S. 1 at 9-11 (1891).

[40] *Id.* at 3.

[41] "Whatever a question arises in a court of law of the existence of a statute, or of the time when a statute took effect, or of the precise terms of a statute, the judges who were called upon to decide it have a right to resort to any source of information which in its nature is capable of conveying to the judicial mind clear and satisfactory answer to such questions; . . ."

Id. (quoting Gardner v. The Collector, 73 U.S. (6 Wall.) 499, 511 (1868); *see* J. Grant, *Judicial Control of the Legislative Process: The Federal Rule*, 3 WEST. POL. QUART. 364, 379-84 (1950); *see also* Comment, *Judicial Review of the Legislative Enactment Process; Louisiana's "Journal Entry" Rule*, 41 LA. L. REV. 1187 (1981); Comment, *Judicial Review of the Legislative Process of Enactment: An Assessment Following Childers v. Couey*, 30 ALA. L. REV. 495 (1979) (judiciary reviewing Alabama state legislature procedures).

[42] "Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgement require Secrecy. . . ." U.S. CONST. art. I, § 5, cl. 3; *see supra* note 12; *see also* Field v. Clark, 143 U.S. 649, 680 (1891):

> [I]t is not competent for the appellants to show, from the journals of either House, from the reports of committees or from other documents printed by authority of Congress, that the enrolled bill . . . contained a section that does not appear in the enrolled act in the custody of the State Department.

[43] *Ballin*, 144 U.S. at 4.

[44] *Id.*

[45] *Id.* at 4-5.

[46] *Id.* at 5.

[47] *Id.* (emphasis added).

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] 286 U.S. 6 (1932).

[52] The pivotal provisions are ¶¶ 3 and 4 of Rule XXXVIII which read:

> "3. When a nomination is confirmed or rejected, any Senator voting in the majority may move for a reconsideration on the same day on which the vote was taken, or on either of the next two days of actual executive session of the Senate; but if a notification of the confirmation or rejection of a nomination shall have been sent to the President before the expiration of the time within which a motion to reconsider may be made, the motion to reconsider shall be accompanied by a motion to request the President to return such notification to the Senate. Any motion to reconsider the vote on a nomination may be laid on the table without prejudice to the nomination, and shall be a final disposition of such motion."
>
> "4. Nominations confirmed or rejected by the Senate shall not be returned by the Secretary to the President until the expiration of the time limited for making a motion to reconsider the same, or while a motion to reconsider is pending, unless otherwise ordered by the Senate." *Id.* at 30-31.

[53] *Id.* at 28.

[54] *Id.; see* President's Message to the Senate Refusing to Return Senate Resolutions of Advice and Consent for Appointments to the Federal Power Commission, PUB. PAPERS 11-14 (Jan. 10, 1931).

> "I am advised that these appointments were constitutionally made, with the consent of the Senate formally communicated to me and that the return of the documents by me and reconsidered by the Senate would be ineffective to disturb the appointees in their offices. I cannot admit the power in the Senate to encroach upon the Executive functions by the removal of duly appointed executive officer under the guise of reconsideration of his nomination."

President's Statement About Refusal to Resubmit Federal Power Commission Appointments to the Senate, PUB. PAPERS 13-16 (Jan. 10, 1931) ("'I am advised by the Attorney General that these appointments were constitutionally made, [and] are not subject to recall. . . .'").

[55] *Smith*, 286 U.S. at 29.

[56] *Id.* at 33.

[57] *Id.*

[58] *Id.*

> To place upon the standing rules of the Senate a construction different from that adopted by the Senate itself when the present case was under debate is a serious and delicate exercise of judicial power. The Constitution commits to the Senate the power to make its own rules; and it is not the function of the Court to say that another rule would be better. A rule designed to ensure due deliberation in the performance of the vital function of advising and consenting to nominations for public office, moreover, should receive from the Court the most sympathetic consideration. *Id.* at 48.

[59] *Id.* at 37-48.

[60] The Court's decision in Missouri Pac. Ry. Co. v. Kansas, 248 U.S. 276 (1919), provides an interesting contrast. Although concluding that the "question would be justiciable," *id.* at 279, the Court deferred to Congress' application of art. 1, § 7, cl. 2 requiring a two-thirds vote of each House to pass a bill over a presidential veto. Writing for the entire court, Justice White concluded that the "application of the rule was the result of no mere formal following of what had gone before but came from conviction expressed, after deliberation, as to its correctness by many illustrious men." *Id.* at 284.

[61] 338 U.S. 84 (1948).

[62] *See* McGrain v. Daugherty, 273 U.S. 135, 174 (1927) ("We are of [the] opinion that the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function."); *see also* STAFF OF JOINT COMM. ON CONG. OPERATIONS, 94TH CONG., 2D SESS., LEADING CASES ON CONG. INVESTIGATORY POWER (Comm. Print 1976).

[63] *Christoffel*, 338 U.S. at 85. Rule XII(1)(a)(1) provides: "The Rules of the House are the rules of its committees and subcommittees so far as applicable. . . ." HOUSE RULES AND MANUAL, *supra* note 14, at 405.

[64] *Christoffel*, 338 U.S. at 87; *cf.* United States v. Bryan, 339 U.S. 323 (1950) (Absence of a quorum was not available as a defense when the objection was not raised before the committee.).

[65] *Christoffel*, 338 U.S. at 86.

[66] *Id.*

[67] "Every person who, having taken an oath or affirmation before a competent tribunal, . . . wilfully and contrary to such oath or affirmation states or subscribes any material matter which he does not believe to be true, shall be guilty of perjury. . . ." *Id.* at 85 n. 2 (quoting District of Columbia Code, § 22-2501, 31 Stat. 1329).

[68] *Id.* at 86.

[69] *Id.* at 89-90.

[70] *Id.* at 91, 95.

[71] Although beyond the scope of this Comment, the analogous issues raised by those more recent cases which explore the boundaries of the speech or debate clause ("for any Speech or Debate in either House, [Senators and Represenatives] shall not be questioned in any other Place." U.S. CONST. art. I, § 6, cl. 1) cannot escape reference. *See* Davis v. Passman, 442 U.S. 228 (1979) (A congressional employee brought suit against a congressman for employment discrimination. While the majority did not reach the speech or debate clause issue, it did hold that the petitioner had a cause of action. Chief Justice Burger, joined by Justices Powell and Rehnquist dissented, arguing that the case presented serious separation of powers concerns.); Eastland v. United States Servicemen's Fund, 421 U.S. 491, 504 (1975) (Plaintiff brought suit to obtain an injunction against the issuance of a subpoena by a Senate subcommittee. The Court held that the issuance of the subpoena was "an integral part of the deliberative and communicative processes," of congressional business.); Doe v. McMillan, 412 U.S. 306 (1973) (A suit was brought by parents of children cited for disciplinary problems in a House subcommittee report. The Court concluded that the speech or debate clause barred relief from committee members and staff for introducing the material at committee hearings, for referring the report to the Speaker of the House, and for voting for the publication of the report since these were all legislative acts.)

In Gravel v. United States, 408 U.S. 606, 625 (1972), *reh'g denied*, 409 U.S. 902 (1972), action was taken against Senator Gravel to restrain publication of the Pentagon Papers. The Court held that private publications was unprotected and offered the following standard:

> Legislative acts are not all-encompassing. The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.

Another case of particular importance, although not always found under the speech or debate rubric, is Powell v. McCormack, 395 U.S. 486 (1969). Congressman Adam Clayton Powell, responding to a resolution excluding him from the 90th Congress for mishandling House funds, brought an action to compel House members and employees to seat him as a duly elected Member of Congress. Writing for the majority, Chief Justice Warren concluded that "though this action may be dismissed against the Congressmen petitioners are entitled to maintain their action against House employees and to judicial review of the propriety of the decision to exclude petitioner Powell." *Id.* at 506. By determining that the action against Powell was an exclusion rather than an expulsion, the Court avoided reaching the question of whether it had the power to review House expulsion standards. Since Powell clearly met the constitutional requirements of age, residence, and citizenship, the Court saw no need to apply art. I, § 5, cl. 1, which provides that each House is "the Judge of the Elections, Returns and

Qualifications of its own Members. . . ." *Id.* at 522. Thus, the Court had the final word on the application of explicit nondiscretionary constitutional requirements and only indirectly on internal congressional procedure. Of interest is Professor Wechsler's observation, articulated in another context a decade before *Powell*, that though presenting "issues of the most important constitutional dimension, . . . the seating or expulsion of a Senator or Representative" is not a proper matter for review by the judiciary. Wechsler, *supra* note 4, at 8.

For discussions of the evolution of the speech or debate doctrine see Reinstein and Silvergate, *Legislative Privilege and the Separation of Powers*, 86 Harv. L. Rev. 1113 (1973); Note, *Speech or Debate Immunity: Preserving Legislative Independence While Cutting Costs of Congressional Immunity*, 60 Notre Dame L. Rev. 589 (1985).

[72] 374 U.S. 109 (1963).

[73] *Id.* at 114.

[74] The particular Committee Rule involved, Rule IV, provides in part:

> "IV—Executive and Public Hearings:
>
> A—*Executive:*
>
> "(1) If a majority of the Committee or Subcommittee, duly appointed as provided by the rules of the House of Representatives, believes that the interrogation of a witness in a public hearing might endanger national security or *unjustly injure his reputation*, or the reputation of other individuals, the Committee *shall interrogate such witness in an Executive Session for the purpose of determining the necessity or advisability of conducting such interrogation thereafter in a public hearing.*
>
> B—*Public Hearings:*
>
> (1) All other hearings shall be public." *Id.* at 114–15 (emphasis added)

[75] *Id.* at 123.

[76] *Id.* at 124.

[77] *Id.* at 143 (White, J., dissenting).

[78] *Ballin*, 144 U.S. at 5.

[79] *Smith*, 286 U.S. at 33.

[80] *Yellin*, 374 U.S. at 146.

[81] The role that the courts play in adjudicating questions involving the rules of either house must of necessity be a limited one, for the manner in which a house or committee of Congress chooses to run its business ordinarily raises no justiciable controversy. . . . Even when a judicial controversy is presented, the function of the courts is a narrow one. *Id.* at 143 (White, J., dissenting) (citations omitted).

[82] *Ballin*, 144 U.S. at 1; *See supra* notes 34–50 and accompanying text.

[83] *See supra* notes 51–59 and accompanying text.

[84] *See supra* notes 61–70 and accompanying text.

[85] *See supra* note 72–81 and accompanying text.

[86] Due to geographical proximity, case law at the U.S. Court of Appeals level has been confined almost exclusively to the D.C. Circuit. *But see* Texas Ass'n of Concerned Taxpayers v. United States, 772 F.2d 163, 167 (5th Cir. 1985) ("Where . . . a constitutional provision governing the mode of internal operation of Congress contains a word or phrase susceptible of more than one meaning, and Congress has given that word or phrase an interpretation consistent with the limitations on authority contained in the provisions, the courts should not intrude. . . ."), *reh'g denied*, 776 F.2d (1985) (en banc), *cert. denied*, 476 U.S. 1151 (1986); Davids v. Akers, 549 F.2d 120, 125 (9th Cir. 1977) ("We are not in a position . . . to make a better judgment about how the Arizona House of Representatives should go about its business than the House can make. Even if the court could, it ought not to.").

[87] *See infra* notes 89–127 and accompanying text.

[88] *See infra* notes 92–106 and accompanying text.

[89] *See* Metzenbaum v. Federal Energy Regulatory Comm'n, 675 F.2d 1282, 1287 (D.C. Cir. 1982) ("To decide [in favor of intervention] would subject congressional enactments to the threat of judicial invalidation on each occasion of dispute over the content or effect of a House or Senate rule."); United States *ex rel.* Joseph v. Cannon, 642 F.2d 1373, 1379 (D.C. Cir. 1981) ("[S]o-called political questions are denied judicial scrutiny, not only because they invite courts to intrude into the province of coordinate branches of government, but also because courts are fundamentally under-equipped to formulate national policies or develop standards of conduct for matters not legal in nature."), *cert. denied*, 455 U.S. 999 (1982); Exxon Corp. v. Federal Trade Comm'n, 589 F.2d 582, 590 (D.C. Cir. 1978) ("Although the courts will intervene to protect constitutional rights from infringement by Congress, including its committees and members, . . . where constitutional rights are not violated, there is no warrant for the judiciary to interfere with the internal procedures of Congress. . . ." (citations omitted)), *cert. denied*, 441 U.S. 943 (1979); Harrington v. Bush, 553 F.2d 190, 214 (D.C. Cir. 1977) ("In deference to the fundamental constitutional principle of separation of powers, the judiciary must take special care to avoid intruding into a constitutionally delineated prerogative of the Legislative Branch."); Consumers Union of United States v. Periodical Correspondents Ass'n, 515 F.2d 1341, 1351 (D.C. Cir. 1975) ("[This case is] not justiciable by reason of the textually demonstrable commitment of such rules to the legislative branch of government. . . ."), *cert. denied*, 423 U.S. 1051 (1976).

[90] Prominent on the surface of any case held to involve a political question is found the textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question.

Baker v. Carr, 369 U.S. 186, 217 (1962); *see infra* notes 92–127 and accompanying text. *Compare* Henkin, *Is There a "Political Question" Doctrine?*, 85 Yale L.J. 597, 601 (1976) ("The cases which are supposed to have established the political question doctrine required no such extra-ordinary abstention from judicial review; they called only for the ordinary respect by the courts for the political domain.") *with* Redish, *Judicial Review and the "Political Question"*, 79 Nw. U.L. Rev. 1031 1032–33 (1984–85) ("[I]n a number of cases in which the Court purported not to invoke the political question doctrine, it was in fact applying most of the doctrine's precepts in rendering its decision.").

[91] *See infra* note 95 and accompanying text.

[92] 699 F.2d 1166 (D.C. Cir.), *cert. denied*, 464 U.S. 823 (1983).

[93] *Id.* at 1167.

[94] *Id.* at 1172–73.

[95] *Id.* at 1173.

[96] *Id.*

[97] *Id.* at 1174.

[98] Although Justice Douglas had warned that "[g]eneralizations about standing to sue are largely worthless as such . . .," Association of Data Processing Serv. Org. v. Camp, 397 U.S. 150, 151 (1970), a traditional standing analysis has been characterized most often as requiring the following: (1) an injury in fact; (2) a causal connection between the injury and the challenged conduct; and (3) an available judicial remedy. C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure: Jurisdiction 2d § 3531 (1984). Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464 (1982), illustrates the terminology of modern standing theory:

> Art. III requires the party who invokes the court's authority to "show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant," *Gladstone, Realtors v. Village of Bellwood*, 441 U.S. 91, 99 (1979), and that the injury "fairly can be traced to the challenged action" and "is likely to be redressed by a favorable decision," *Simon v. Eastern Kentucky Welfare Rights Org.*, 426 U.S. 26, 38, 41 (1976). In this manner does Art. III limit the federal judicial power "to those disputes which confine federal courts to a role consistent with a system of separated powers and which are traditionally thought to be capable of resolution through the judicial process." *Flast v. Cohen*, 392 U.S. at 97.

Id. at 472 (footnote omitted). In commenting on the close relationship between the "traceability" and "redressability" requirements, the Court has concluded that "[t]o the extent there is a difference, it is that the former examines the causal connection between the assertedly unlawful conduct and the alleged injury, whereas the latter examines the casual connection between the alleged injury and the judicial relief requested." Allen v. Wright, 468 U.S. 737, 753 n.19 (1984). Important, too, is the Court's, discussion of the Article III "case" and "controversy" genesis of standing doctrine:

> In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. This inquiry involves both constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise. In both dimensions it is founded in concern about the proper—and properly limited—role of the courts in a democratic society.

Warth v. Seldin, 422 U.S. 490, 498 (1975) (citations omitted); *see Allen*, 468 U.S. at 752 ("[T]he law of Art. III standing is built on a single basic idea—the idea of separation of powers."), *reh'g denied*, 468 U.S. 737 (1984).

[99] *See* McGowan, *Congressman in Court: The New Plaintiffs*, 15 Ga. L. Rev. 241, 265 (1981) ("Invoking the court's discretion to deny an equitable remedy when the petitioner could get adequate relief from his fellow legislators seems to be the most satisfying way of resolving these cases."); *see also* Note, *The Justiciability of Congressional-Plaintiff Suits*, 82 Colum. L. Rev. 526, 527 (1982) ("[C]ourts access for congressional plaintiffs [should] be primarily determined by traditional doctrines of standing, focusing on the injury to the plaintiff's status

and rights as a legislator."); Note, *Congressional Access to the Federal Courts,* 90 Harv. L. Rev. 1632, 1634 (1977) ("By treating all congressional suits alike, the courts have also obscured the institutional problems peculiar to suits by individual congressmen to assert participatory rights."); Comments, *Standing Versus Justiciability: Recent Developments in Participatory Suits Brought by Congressional Plaintiffs,* 1982 B.Y.U.L. Rev. 371 (1982).

[100] *Vander Jagt,* 699 F.2d at 1180 (Bork, J., concurring). In his dissent in Barnes v. Kline, 759 F.2d 21, 44 (D.C. Cir. 1985), Judge Bork further articulated his view that a standing decision necessarily encompasses separation of powers concerns:

> "Standing" is one of the concepts courts have evolved to limit their jurisdiction and hence to preserve the separation of powers. . . . Every time a court expands the definition of standing, the definition of the interests it is willing to protect through adjudication, the area of judicial dominance grows and the area of democratic rule contracts.

[101] *Vander Jagt,* 699 F.2d at 1168.

[102] *See supra* note 99.

[103] 656 F.2d 873 (D.C. Cir.), *cert. denied,* 454 U.S. 1082 (1981).

[104] *Id.* at 881.

[105] *Id.*

[106] *Vander Jagt,* 699 F.2d at 1184 (Bork, J., concurring).

[107] *See supra* note 99.

[108] Judge Bork argues against this result:

> [S]eparation-of-powers considerations do not, strictly speaking, operate here on the basis of the plaintiffs' status as legislators. Rather, in keeping with the standing doctrine, my concern is with the separation-of-powers implications of the *harm* alleged: "diminution of influence" and the legislative process. Appellants complain of this single harm in both of their capacities.

Vander Jagt, 699 F.2d at 1183 n.3 (Bork, J., concurring) (emphasis in original).

[109] 771 F.2d 539 (D.C. Cir. 1985).

[110] *Id.* at 540.

[111] *Id.* at 545.

[112] Brief for Appellee at 36; *Gregg,* 771 F.2d at 539.

[113] *Gregg,* 771 F.2d at 546.

[114] *Riegle,* 656 F.2d at 881 ("While we discourage congressional plaintiffs in such circumstances, it is probable that a private plaintiff could acquire standing to raise the issue of unconstitutionality before a court.").

[115] *Gregg,* 771 F.2d at 546.

[116] *Id.* at 549.

[117] 829 F.2d 1133 (D.C. Cir. 1987).

[118] House Rule VII states that "[t]he Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer. . . ." Rule XXIV provides that "[t]he daily order of business shall be as follows: First, prayer by the Chaplain."

> As for the Senate, it has long been provided by resolution that "the Chaplain shall open each calendar day's session of the Senate with prayer. . . ." Senate Rule IV(1)(a) regulates commencement of daily sessions, and provides for "prayer by the Chaplain. . . ." Senate Rule IV(2) refers to the "customary daily prayer by the Chaplain."

Id. at 1143.

[119] *Id.* at 1134.

[120] *Id.* at 1136-37.

[121]

> [T]he complaint barely survives scrutiny under the first part, and thoroughly fails under the second part, of the test the Supreme Court has developed for determining Article III standing: (1) there must be concrete personal injury to the plaintiff, (2) such injury must be fairly traceable to the challenged conduct, and (3) the injury must be "likely" to be redressed if the relief sought is granted.

Id. at 1138.

[122] *Id.* at 1148 (Ginsburg, R., J., dissenting) (citations omitted) (emphasis in original).

[123] *See supra* note 98 and accompanying text.

[124]

> [I]f the court were to order the chaplains to discontinue the program, both houses would still have the power to invite guest chaplains to lead them in prayer without the intervention of their official chaplains. While such an order might provoke a conflict on a matter of constitutional principle between the houses of Congress and this court, it would involve a test of political will rather than of law because this court is without authority to act outside the boundaries of Article III.

Kurtz, at 1144-45.

[125] *See supra* notes 89-116 and accompanying text.

[126] *See supra* notes 33-88 and accompanying text.

[127] *See supra* notes 89-116 and accompanying text.

[128] 144 U.S. 1 (1891).

[129] *Id.* at 5.

[130] 771 F.2d 539 (D.C. Cir. 1985); *see supra* notes 33-116 and accompanying text.

[131] 699 F.2d 1166 (D.C. Cir.), *cert. denied,* 464 U.S. 823 (1983).

[132] *Id.* at 1170.

[133] *Id.* (quoting Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803)).

[134] 5 U.S. (1 Cranch) 137 (1803).

[135] *Id.* at 1185 (Bork, J., concurring).

[136] *Marbury,* 5 U.S. (1 Cranch) at 170.

[137] *Id.* Chief Justice Marshall reiterated this theme in a speech delivered to Congress:

> If the judicial power extended to every question under the constitution, it would involve almost every subject proper for legislative discussion and decision; if to every question under the laws and treaties of the United States, it would involve almost every subject on which the executive could act. The division of power which the gentleman had stated, could exist no longer, and the other departments would be swallowed up by the judiciary.

Barnes v. Kline, 759 F.2d 21, 54 (D.C. Cir. 1985) (Bork, J., dissenting) (quoting Speech of the Honorable John Marshall to the United States House of Representatives, 18 U.S. (5 Wheat.) Appendix at 3, 16 (1820)).

[138] Understanding separation of powers objectives is a prerequisite to understanding the concept's effect on standing methodology. Separate powers, implicit in the structure of the Constitution, have been described "as a keystone for guaranteeing the liberty of the people." Choper, *supra* note 3, at 263. With reference to a lineage that includes Locke, Montesquieu, and Blackstone, Professor Choper has summarized the views of the founding fathers on the consequences that are avoided by maintaining a system of divided powers:

> While a number of the founding fathers—including Washington, Adams, Jefferson, Jay, and Wilson—urged acceptance of the [separation of powers] principle on the grounds of government efficiency, Madison's statement that "the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny" could as well have come from Montesquieu's pen. Washington voiced the same sentiment in his Farewell Address, cautioning against "the exercise of the powers of one department to encroach upon another" because "the spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a red despotism." John Adams wrote that "it is by balancing each of these powers against the other two, that the efforts of human nature towards tyranny can alone be checked and restrained, and any degree of freedom preserved in the constitution." And Jefferson was equally confident in his opinion that concentration of powers "in the same hand [either Congress or the President] is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one; 173 despots would surely be as oppressive as one."

Id. at 264-65 (footnotes omitted).

[139] *See supra* note 98 and accompanying text. The mere assertion that separation of powers notions are part of standing theory says nothing about how they influence standing methodology. The Court's lack of guidance in this area has led one commemtator to observe that "[p]recisely how separation-of-powers analysis advances doctrinal application of the standing inquiry may be difficult to fathom." L. Tribe, American Constitutional Law, 109 (1988).

For Judge Bork, the integration of separation of powers principles as a part of standing methodology is accomplished by focusing on two inquiries aimed at the two major components of the standing test—injury in fact and causation. First, a court must ask if recognition and protection of an injury would unduly enhance the role of the judiciary in relation to other branches. Thus, Judge Bork concluded in Vander Jagt v. O'Neill that "[c]ourts may take cognizance only of injuries of certain types, and the limitations are often defined less by the reality of the litigant's 'adverseness' than by the courts' view of the legitimate boundaries of their own power." Vander Jagt at 1177.

Second, in reviewing causation a court must go beyond an "esimation of probabilities" and examine the effect granting standing would have on the spread of judicial authority. "'[C]ausation' in this context," argues Judge Bork, "is something of a term of art, taking into account not merely an estimate of effects but also considerations related to the constitutional separation of powers as that concept defines the proper role of courts in the American governmental structure." Haitian Refugee Center v. Gracey, 809 F.2d 794, 801 (D.C. Cir. 1987) (standing denied to nonprofit membership corporation organized to assist Haitian refugees and two members who challenged a federal program to interdict undocumented aliens on the high seas).

See generally Logan, *Standing to Sue: A Proposed Separation of Powers Analysis,* 1984 Wis. L. Rev. 37, 42 (1984).

> When a plaintiff asserts what is in the Court's view a "generalized grievance," separation of powers concerns counsel that the Court consider disposing of the case on prudential rather than article III grounds, reserving for the legislative branch the opportunity to determine ultimately the best forum for resolving the controversy.

Id. Scalia, *The Doctrine of Standing as an Essential Element of the Separation of*

Powers, 17 Suffolk U.L. Rev. 881, 882 (1983).

> [S]tanding is a crucial and inseparable element of [separation of powers], whose disregard will inevitably produce—as it has during the past few decades—an overjudicialization of the processes of self-governance. . . . [C]ourts need to accord greater weight than they have in recent times to the traditional requirement that the plaintiff's alleged injury be a particularized one, which sets him apart from the citizenry at large.

Id. Note, *More Than an Intuition, Less Than a Theory": Toward a Coherent Doctrine of Standing*, 86 Colum. L. Rev. 564, 593 (1986) ("Standing to raise constitutionally grounded claims should be approached by first recognizing rights derived directly from the Constitution as legally cognizable, and then examining whether the right so derived accrues to the people in gross or in personam.").

[140] *Vander Jagt*, 699 F.2d at 1183 (Bork, J., concurring) (emphasis added).

> The function of the article III case-or-controversy limitations, including the standing requirement, is, however, precisely to ensure that claims of unconstitutional action will go unreviewed by a court when review would undermine our system of separated powers and undo the limits the Constitution places on the power of the federal courts.

Barnes, 759 F.2d at 60 (Bork, J., dissenting).

[141] *Vander Jagt*, 699 F.2d at 1168.

[142] *See* Kurtz v. Baker, 829 F.2d 1133 (D.C. Cir. 1987).

[143] *Id.*

[144] *Id.* at 1143 ("Article III requires a chain of causation less ephemeral than a coin tossed into a wishing well."); *see* Allen v. Wright, 468 U.S. 737, 762 n.26 (1984) ("We rely on separation of powers principles to interpret the 'fairly traceable' component of the standing requirement.").

[145] Indeed, the notion that Congress can be trusted with the final word on the constitutionality of its procedural rules is not without precedent. Consider the comments of Professor Black in the judicial impeachment context:

> We are used to confiding (or to imagining we confide) all constitutional questions to the courts. . . . Congress, . . . rests under the very heavy responsibility of determining finally some of the weightiest of constitutional questions, as well as a great many important and difficult questions of procedure. For this purpose, and in this context, we have to divest ourselves of the common misconception that constitutionality is discussable or determinable only in the courts, and that anything is constitutional which a court cannot or will not overturn. We ought to understand, as most senators and congressmen understand, that Congress's responsibility to preserve the forms and the precepts of the Constitution is greater, rather than less, when the judicial forum is unavailable, as it sometimes must be.

C. Black, Impeachment: A Handbook 23-24 (1974); *see* Comm. on Fed. Legislation, *The Law of Presidential Impeachment*, 29 Rec. A.B. City N.Y. 154, 170 (1974) ("[W]e believe it would be unconstitutional for the courts to review judgments of impeachment, even if Congress sought to escape its 'sole' responsibility by enacting a statute conferring such jurisdiction on the courts. Our conclusion applies equally to judicial review of the procedures utilized by Congress in impeachment proceedings.") (footnotes omitted).

[146] *See Barnes*, 759 F.2d at 44 (Bork, J., dissenting) ("Every time a court expands the definition of standing, the definition of the interests it is willing to protect through adjudication, the area of judicial dominance grows and the area of democratic rule contracts."), *rev'g* Barnes v. Carmen, 582 F. Supp. 163 (1984), *vacated as moot sub nom.* Burke v. Barnes, 475 U.S. 1044 (1986).

[147] *See supra* note 8 and accompanying text.

[148] Speaking from the perspective of a former member of Congress as well as a current member of the federal bench, D.C. Circuit Judge Abner J. Mikva has argued that "at best, Congress does an uneven job of considering the constitutionality of the statutes it adopts." Mikva, *How Well Does Congress Support and Defend the Constitution?*, 61 N.C.L. Rev. 587, 587 (1983). Judge Mikva suggests that as an institution Congress is incapable of making the hard constitutional choices, *Id.* at 608.

In direct response to Judge Mikva, congressional scholar Louis Fisher argues that "Congress can perform an essential, broad, and ongoing role in shaping the meaning of the Constitution." Fisher, *Constitutional Interpretation by Members of Congress*, 63 N.C.L. Rev. 707, 708 (1985). He supports this contention by observing that "Congress, by the very nature of our political system, shares with the executive and the judiciary the duty of constitutional interpretation." *Id.* Fisher further contends that "[t]he oath of office, the finding of facts for constitutional law, the resolution of 'political questions,' and the congressional staff reforms of recent decades are some examples that reinforce both congressional authority and competence," in the area of constitutional interpretation. *Id.*

[149] No one doubts that Congress, like the Court, can reach unconstitutional results. As Justice Brennan said in 1983: "Legislators, influenced by the passions and exigencies of the moment, the pressure of constituents and colleagues, and the pressure of business, do not always pass sober constitutional judgment on every piece of legislation they enact. . . ." Yet if we count the times that Congress has been "wrong" about the Constitution and compare those lapses with the occasions when the Court has been "wrong" by its own later admissions, the results make a compelling case for legislative confidence and judicial modesty. In a recent evaluation, George Anastaplo said that "in the great crisis over the past two hundred years, when Congress and the Supreme Court have differed on major issues, Congress has been correct."

Justice Brandeis once remarked that "the process of trial and error, so fruitful in the physical sciences, is appropriate also in the judicial function." The judiciary's record of the past two centuries supports his perception: it is a process of trial and error. At times the Court will admit its errors of constitutional interpretation and reverse a previous decision. Some members of the Court have the intellectual integrity to adopt Justice Jackson's attitude: "I see no reason why I should be consciously wrong today because I was unconsciously wrong yesterday." Others, under the spell of stare decisis, will stick doggedly to errors of the past. It is particularly at such times that Congress, the President, and the public have a duty to exercise independent judgment and prevail upon the Court to revisit and rethink anachronous holdings. Often constitutional adjustments can be accomplished without recourse to litigation, either through statutory change or executive-legislative accommodations.

Fisher, *Judicial Supremacy or Coordinate Construction?* 43-44 (article based on the author's paper *Does the Supreme Court Have the Last Word in Constitutional Law?* (presented October 17-19, 1986, at the University of Dallas)).

[150] *Vander Jagt*, 669. F.2d at 1182 (Bork, J., concurring).

[151] *See* Fisher, *Judicial Misjudgments About the Lawmaking Process: The Legislative Veto Case*, Pub. Admin. Rev. 705, 710 (Nov. 1985) ("Through its misreading of history, congressional procedures, and executive-legislative relations, the Supreme Court has commanded the political branches to follow a lawmaking process that is impracticable and unworkable.").

[152] When a court invalidates an act of the political branches on constitutional grounds, however, it is overruling their judgment, and normally doing so in a way that is not subject to "correction" by the ordinary lawmaking process. Thus, the central function and it is at the same time the central problem, of judicial review: a body that is not elected or otherwise politically responsible in any significant way is telling the people's elected representatives that they cannot govern as they'd like.

J. Ely, Democracy and Distrust: A Theory of Judicial Review 5 (1980).

[153] *See supra* Scalia, note 139, at 891 (emphasis in original).

[154] *Id.* at 894 (emphasis in original).

> Even if the doctrine of standing was once meant to restrict judges "solely, to decide on the rights of individuals," what is wrong with having them protect the rights of the majority as well? They've done so well at the one, why not promote them to the other? The answer is that there is no reason to believe they will be any good at it. In fact, they have in a way been specifically *disigned* to be bad at it—selected from the aristocracy of the highly educated, instructed to be governed by a body of knowledge that values abstract principle above concrete result, and (just in case any connection with the man in the street might subsist) removed from all accountability to the electorate. That is just perfect for a body that is supposed to protect the individual against the people; it is just terrible (unless you are a monarchist) for a group that is supposed to decide what is good for the people. . . . It may well be, of course, that the judges know what is good for the people better than the people themselves; or that democracy simply does not permit the *genuine* desires of the people to be given effect; but those are not the premises under which our system operates.

Id. at 896-97 (emphasis in original).

[155] Critics might suggest that this view is untenable since it could thwart the review of an unquestionably unconstitutional rule. Theoretically, for example, a majority of House or Senate members could approve a rule which applies racial criteria to the selection of congressional officers. In response to similar criticism, however, Professor Ely has refused to accept the necessity of playing the "what if" game with regard to what can only be characterized as highly unlikely hypotheticals: "[I]t can only deform our constitutional jurisprudence to tailor it to laws that couldn't be enacted, since constitutional law appropriately exists for those situations where representative government cannot be trusted, not those where we know it can." J. Ely, *Supra* note 152, at 183.

[156] A. BERLE, THREE FACES OF POWER 51 (1967), *quoted in* Kurland, *Toward a Political Supreme Court,* 37 U. CHI. L. REV. 19, 20 (1969).

[157] Although offered in a different context, perhaps the words of Edmund Burke more closely communicate the spirit of the problem: "Those who have been once intoxicated with power, and have derived any kind of emolument from it, even though but for one year, can never willingly abandon it." Letter to a Member of the National Assembly (1791), *quoted in* THE OXFORD DICTIONARY OF QUOTATIONS 111 (1979).

[158] *See supra* note 6 and accompanying text.

[159] *See supra* notes 98, 138–39 and accompanying text.

[160] *See supra* notes 34–50 and accompanying text. The conclusion by Congress, therefore, that the constitutional quorum requirement can be satisfied by counting nonvoting members of the House who are present in the chamber is a nonjusticiable issue. Recognition of the claimed injury, being adversely affected by legislation passed in an allegedly unconstitutional procedural manner, would unduly enhance the role of the judiciary. Thus, the first prong of the standing analysis is not met. Neither is the injury "fairly traceable" to the assertedly unlawful conduct when considered with reference to separation of powers principles. *See supra* notes 98, 138–39 and accompanying text.

[161] For example, House rules require a separate vote on Senate amendments to general appropriations bills that, if originating in the House, would have been in violation of House rules. *See* HOUSE RULES AND MANUAL, *supra* note 14, at 570. Although the House regularly ignores this rule, its failure to comply is clearly not justiciable. Once again the separation of powers doctrine given voice in standing methodology requires this result. *Cf. supra* notes 72–81 and accompanying text.

[162] Thus, a majority vote of the House that results in the allocation of disproportionate committee assignments to the political parties is not reviewable by the courts. As already noted the injury resulting is not justiciably cognizable. *See supra* notes 92–108 and accompanying text.

[163] *See supra* notes 51–81, 117–24 and accompanying text.

[164] When third parties allege injuries in their own right, the standing analysis does not per se result in the absence of jurisdiction. Particularly in the case of a witness before a congressional investigatory committee, a threshold recognition of standing may not invoke separation of powers concerns. As already argued, if a concrete injury is alleged and causation established, the court must still consider the potential for encroachment into the rightful territory of the other branches. This concern is conceivably, although not necessarily, less in the investigatory context. *See supra* notes 138–39 and accompanying text.

[165] Kurtz v. Baker, 829 F.2d 1133 (D.C. Cir. 1987).

[166] Barnes v. Kline, 759 F.2d 21, 42 (D.C. Cir. 1985) (Bork, J., dissenting).

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CANCER RESEARCH

● Mr. DURENBERGER. Mr. President, I rise to honor and commend the AMC Cancer Research Center's nationwide network of volunteers for their support of my mammography provision in the catastrophic illness bill recently passed by this Congress.

The AMC Cancer Research Center is a world leader in the field of laboratory, clinicial and cancer control research. Since its founding in 1904, this health research institute has been renowned not only for the number and quality of its scientific and medical achievements, but for the dedication of the thousands of people across the Nation who work to further its humanitarian mission.

Breast cancer is a central battlefield in the Nation's cancer war on which AMC and its volunteers have helped bring about strategic victories. AMC serves as world headquarters for the International Association for Breast Cancer Research, an organization of 1,500 members representing 48 nations. In addition to conducting extensive basic and clinical research on this disease which takes the lives of 42,000 American women every year, AMC has launched unprecedented national programs for breast cancer control involving the participation of volunteers in virtually every State of the Union. Deserving special recognition for their efforts in this regard are AMC's National Council of Auxiliaries, with 12,000 members in 75 chapters throughout the country; High Priority, AMC's unique nationwide women's breast cancer research and information network; and the Adolph Coors Co., and actress and singer Cher for producing a national magazine ad campaign that has motivated and informed millions of American women on early breast cancer detection.

AMC President and Director Dr. Marvin A. Rich, National Chairwoman of AMC's High Priority group Evelyn Ostin, and actress and entertainer Lynda Carter aided in establishing the argument that reimbursement for screening mammograms under Medicare would save thousands of lives, billions of dollars and untold human suffering in this country every year.

The provision mandating Medicare reimbursement for screening mammograms was included in the final version of the catastrophic illness bill and it was signed by President Reagan July 1, 1988.

Mr. President, I know my colleagues in both the Senate and the House join me in thanking the AMC Cancer Research Center and its volunteers for their work to inform and influence legislators and the public on this and other cancer-related matters. Their continuing efforts are of vital importance to our Nation's health.●

IMPLEMENTATION OF INF TREATY

● Mr. WEICKER. Mr. President, an important milestone along the long and tortuous road toward real arms control was reached today. The United States has begun implementing the substance of the INF treaty.

This morning at 10 a.m. central daylight time at the Longhorn Army Ammunition Plant, Karnack, TX, the United States, for its part, began destroying nuclear delivery systems—Pershing and ground-launched Cruise missiles. A similar process got underway in the Soviet Union in August.

The United States is scheduled to destroy one Pershing IA and one Pershing II missile today. Nine more Pershings will be destroyed next week. The first Cruise missile will be destroyed in the fall. Under the terms of the treaty, the entire process—the destruction of about 860 Pershings and Cruise missiles—is to be completed by June 1991, and all of this is to be done under the watchful eye of a Soviet onsite inspection team.

Mr. President, the INF is not a perfect treaty by any stretch of the imagination. It eliminates only a fraction of the United States-Soviet nuclear arsenal by destroying about 860 United States and 1,750 Soviet missile systems but does not destroy their warheads. Nonetheless, I believe the INF Treaty constitutes another logical and important step in the East-West arms control process—a long-term effort we hope will lead to the elimination of all nuclear weapons.

In several ways, the INF Treaty is unprecedented.

For the first time in superpower arms control agreements, an entire class of nuclear weapons will be eliminated, and these are not obsolete weapons ready for retirement. They are some of the most modern and sophisticated weapons in the superpower arsenals.

More importantly, the treaty provides for on-site inspection of an unprecedented scale. In the past, on-site inspection has always been a major obstacle to meaningful arms control. The breakthrough achieved on INF augurs well for the future.

Mr. President, I applaud President Reagan's achievements in the field of arms control and his efforts to reduce the threat of nuclear war. I hope future administrations will remain committed to arms control and that the INF Treaty will act as a foundation for future agreements.●

COSPONSOR S. 2756

● Mr. MOYNIHAN. Mr. President, once again the Senate finds itself debating further sanctions against South Africa. Our action today has been prompted by the South African Government's utter lack of progress in extending rights to the nonwhite majority in that country.

Since 1981, the current administration has pursued a policy of constructive engagement, which seeks to cajole Pretoria into acting like the responsible Western government it proclaims itself to be. Congress though cajoling to be an inadequate response to conditions in South Africa and passed the Comprehensive Anti-Apartheid Act of 1986 over the President's veto.

That act stated in part:

> It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within twelve months of the date of enactment of this act in ending the system of apartheid and establishing a nonracial democracy.

Seventy-eight Senators voted for that language, including 15 of the 17 Senators now sitting on the Foreign Relations Committee. Can any of them in good faith say that the end to apartheid is in sight?

As we proceed to the adoption of additional sanctions against South Africa, it may be useful to recall the extended period of patient insistence on change that has led the Senate to this point.

For my part, this began in 1975 at the time I was the U.S. Permanent Representative to the United Nations, and persuaded our Government—President Ford, as I shall note, needed no persuading—to support a General Assembly resolution entitled "Solidarity With the South African Political Prisoners." This resolution condemned "the ruthless repression by the racist South African regime * * *", expressed "solidarity with all South Africans struggling against apartheid * * *" and called upon the South African regime to:

> Grant an unconditional amnesty to all persons imprisoned or restricted for their opposition to apartheid or acts arising from such opposition, as well as to political refugees from South Africa, and to repeal all repressive laws and regulations restricting the right of the people to strive for an end to the apartheid system.

The resolution passed the Special Political Committee by consensus on October 20 of that year. Three days later, speaking on behalf of the U.S. Government before that committee concerning apartheid, the late and beloved Clarence M. Mitchell, Jr., the public member of our delegation to the 30th Assembly, and a historic figure in the American civil rights movement, said:

> The United States deplores the detention of persons whose only act is outspoken opposition to the system of apartheid. The South African Government is courting disaster when such repressive measures have the effect of closing off all avenues for peaceful change.

In response, then Prime Minister Vorster of South Africa called the first sentence of this statement a "downright lie." He also called for the name of just one individual in South Africa who was arrested and detained only because of his outspoken opposition to apartheid.

Mr. President, I did not think that such a charge could go unanswered. And so we immediately commenced to document what we knew to be true. We prepared, in effect, a bill of particulars. And we brought it before the General Assembly on November 28, 1975.

Mr. Mitchell addressed the Assembly at length with respect to violations of civil liberties in South Africa. He named prisoners, specified dates, cited statutes, quoted judges, described sentences, identified jails.

Mr. President, the U.S. delegation had a larger purpose than merely responding to Mr. Vorster's charge. The plain fact was that half or more of the nations who sponsored the General Assembly resolution, calling for amnesty for political prisoners in South Africa, were either police states or totalitarian states—need I name them?—with political prisoners in their own jails and Gulags.

It was because of this that there was some initial hesitation in Washington about joining such company in denouncing just one oppressive nation in particular. May I note, however, that President Ford always understood that we could not stand apart, no matter how noxious the company we would be keeping. Our solution was to be specific about names and places, in the manner a constitutional government need not fear—the totalitarians did not dare begin such a practice—but also to point out that not all was lost in South Africa, that the rudiments of constitutional government still existed and needed to be supported by the West, not abandoned.

We commenced a lawyer-like presentation of the case, in the tradition of a "Brandeis Brief," a term we used at the time. There may have been political prisoners in South Africa: but they were no longer unknown political prisoners. We presented a list of persons under banning orders as published in the South African Government Gazette on July 11, 1975. The UN's Department of Political and Security Council Affairs' Unit on Apartheid had issued a report that month providing details on those individuals listed in the Gazette.

Later that day, November 28, the General Assembly adopted the draft resolution on solidarity with the South African Political Prisoners unamended and without objection as General Assembly Resolution 3411(B).

Again, I wish to note that I felt it was not without some irony and hypocrisy, that the South Africa resolution had passed the committee on October 20 by consensus. To repeat: more of the countries supporting the resolution also had political prisoners; and some had been imprisoned without benefit of trial. For that reason, on November 12, I introduced in the Special Political Committee a draft resolution entitled "Amnesty for Political Prisoners." That resolution appealed to all Governments to proclaim an unconditional amnesty by releasing all political prisoners. Not surprisingly, we were not successful in having this resolution adopted, and, in fact, withdrew it, on November 21.

Mr. President, since coming to the Senate I have continued to speak out against apartheid—and have sponsored legislation to combat it. I am especially proud to have been an original cosponsor of S. 635, the Anti-Apartheid Act of 1985. That bill provided limited but significant sanctions against the Government of South Africa, demonstrating that the United States would materially oppose apartheid, and providing tangible incentives for the South African Government to change its racist principles.

I also supported S. 995, the Anti-Apartheid Action Act of 1985, which included similar incentives and was approved by the Senate on July 11, 1985. To provide a further spur to change in South Africa, that act stated that it would be United States policy to impose additional economic and political sanctions against the Government of South Africa within 12 months, if significant progress had not been made toward ending apartheid.

And on August 15, 1986, I cosponsored the Comprehensive Anti-Apartheid Act.

Since the Senate last visited the subject of South Africa sanctions, the South African Government has become no less brutal in its efforts to subjugate the 29 million nonwhites living within its borders. Prime Minister Botha has twice extended the state of emergency originally imposed in June 1986, giving police and the military extraordinary arrest and detention powers. Disturbing reports of Government-ordered political killings persist. Many have been beaten while in police custody. The Government of South Africa has encouraged black-against-black violence as part of a divide and conquer strategy to maintain power. No one even presumes to suggest that the South African justice system is worthy of its name.

What has changed since we last visited this subject in the Senate is that the South African Government has frozen the flow of information, both within South Africa and between South Africa and the outside world. In South Africa, it is illegal to refer to any of the thousands of political detainees in public. The major antiapartheid organizations have been banned from any political activity. Reporters are barred from reporting news of violence, unlawful gatherings, strikes, or any form of public dissent. It is illegal to quote restricted antiapartheid organizations or their spokesmen. The power to censor is absolute, and it is unchecked.

Conditions in South Africa have not improved since 1986. They have only disappeared from our view. Brutal images of apartheid no longer flash across the television screen. But nonwhites are still suffering, are still humiliated, are still denied the most basic human rights solely because of the color of their skin.

The Senate must follow through on its 1986 commitment to impose further sanctions if change were not forthcoming. It has indeed not been. I therefore wish to be added as cosponsor of S. 2756, the Anti-Apartheid Act Amendments of 1988.

As I said on December 9, 1984, "it's not just what the people think in South Africa that matters. It's what they think in the world. They're looking to us. We are the most successful multiethnic, multiracial Nation on Earth. We demonstrate that what most countries can't do, can, in fact, be done. We show what South Africa could do."●

S. 2199, THE AMERICAN HERITAGE TRUST ACT

● Mr. LEAHY. Mr. President, I want to express my strong support today for S. 2199, the American Heritage Trust Act, which was introduced on March 18, 1988, by Senators FOWLER, CHAFEE, BAUCUS, and GRAHAM. Since then, this vital piece of legislation has attracted 32 additional cosponsors—including this Senator—from both sides of the aisle.

I call this legislation "vital" in that it is intended to preserve, protect, and extend recreation and wildlife areas, open space and historically significant buildings, all of which are an important part of our recreational, environmental and cultural health as a people. This is legislation that would stabilize funding for two important Federal funding vehicles—the Land and Water Conservation Fund [LWCF] and the Historic Preservation Fund [HPF].

My home State of Vermont is a place with a time-honored tradition of preserving recreation and wildlife areas, and historic buildings. For this reason I want to document my support for the American Heritage Trust Act with an outstanding example of a LWCF project in Vermont. This example explains how the people of the town of Groton—population 667—in Vermont's Northeast Kingdom feels about the development of their recently completed veteran's park.

This project was initiated in 1984 when a group of Groton townspeople decided that they needed a recreation area in their village. They felt that an abandoned gas station on the main highway would make an excellent site because it was in the center of the village and also bordered the Wells River. After considerable public involvement, the town purchased the site and applied for Federal funds to develop it for recreation purposes.

In Vermont, project applications for Land and Water Conservation Funds are ranked according to a point system by the State Forests, Parks, and Recreation Board, a five member citizen board appointed by the Governor. Because Groton had never received any prior LWCF moneys, the need was well documented, and community support was strong, the board ranked Groton third out of 11 applications, assuring funding.

Many lower ranking, but still very worthwhile, applications were not approved due to funding limitations. This legislation will return the funding for the LWCF back to reasonable levels, so that fewer of these worthy applications would need to be denied.

Work on the project was begun in 1987 and completed in July 1988. A site that was a real eyesore to the community is now a very attractive 1.5 acre area. It includes a multipurpose recreation court for basketball and volleyball, a tot lot, access to the Wells River for fishing, walkways, horseshoe courts, skating and sledding areas, picnic tables, and a bandstand. The entire project cost the Federal Government only $31,647.

Projects such as this can do a lot for community spirit and cohesion. For good reason, this legislation is strongly supported by Vermont State officials, such as our commissioner of forests, parks and recreation, Mollie Beattie. It is also supported by many of our local officials, such as Michael O. Blair, the chairman of the board of selectmen in the town of Groton.

I urge many more of my colleagues to join me in cosponsorship and active support of S. 2199. To demonstrate to my fellow Senators the great good sense of the Land and Water Conservation Fund, which would receive adequate, consistent funding under the provisions of the American Heritage Trust Act, I ask that Mr. Michael O. Blair's statement be printed in the RECORD.

The letter follows:

TOWN OF GROTON,
Groton, VT.

This project has been very beneficial to the people of Groton. The LWCF grant has enabled a small community to carry out a recreation and beautification program that would have otherwise been impossible.

Groton is a small town in a rural area and with very limited resources. We have many families with small children and, also, a large percentage of senior citizens on fixed incomes. The park is located in the center of town near these people and is designed to benefit both the young and the old. The park was planned for, and is filling, a much needed facility for recreation and just plain relaxation for all age groups.

The funding by LWCF was the needed spark to get this project rolling. With work progressing at the park site public involvement and enthusiasm has increased steadily. We have seen volunteer labor, donations of material and substantial money donations from private individuals and local businesses.

The town has been working for the last several years to improve the appearance of property in town, especially in the area of the park. Most houses have recently been painted and spruced up and the town has resurfaced the sidewalks. The completion of the park has crowned this effort and has installed a new pride in the community. It is a beautiful addition to this town and we believe will be used and treasured for many years to come.

We are strong believers in the LWCF program and in what it can accomplish in a community. We would urge any town interested in self-betterment to consider participation in this program.

MICHAEL O. BLAIR,
Chairman, Board of Selectmen.●

SUPERCONDUCTING SUPER COLLIDER

● Mr. McCAIN. Mr. President, early last year President Reagan endorsed as a national imperative the superconducting super collider. Now, after months spent in the site evaluation process, the Department of Energy is preparing to select the final location of the super collider. Mr. President, this is a critical point in the progress of this great and necessary project. Now is the time that my colleagues and I must reaffirm our commitment to the SSC, before the final site is chosen and our parochial biases are tested. This project is simply too vital to the future of American global competitiveness for us to sacrifice our national interest due to short-sighted resentment by those States which are not selected to host the project.

Why is it so important? Allow me to read from a recent article by President Reagan's former science adviser, G.A. Keyworth:

> [The SSC] reflects an underlying national understanding that science is the fountainhead of American technological competitiveness and must, therefore, be accorded high public priority. The most important aspect of the SSC may well be the message it sends to a generation of young people, a message that emphasizes a national focus on knowledge, on excellence, and on leadership. But perhaps even more significant, consider the message we would be sending if we failed to grasp this opportunity. The particle accelerator was invented in this country and as it evolved it generated dozens of Nobel Prizes for American scientists. We now have a choice: to crown 50 years of advances, or to step back from the frontier we blazed our way to.

Last February, the Secretary of the Department of Energy, John Herrington also aptly described the case for the super collider. He called President Reagan's decision to support the SSC "a momentous leap forward for America and science and technology" and stated that "the super collider holds the potential for a new generation and a new revolution in science, education, technology and commerce." "Like Apollo," he explained, "[the super collider] will have spinoffs, discoveries, and innovations that will profoundly touch every American * * *. Once again, this Nation has said there are no dreams too big, no innovation unimaginable, and no frontiers beyond our reach."

Mr. President, that is precisely the issue we face. The super collider is a tremendous opportunity for this Nation to silence all challengers for global leadership in the realm of high energy physics. It will also help revitalize American industry through unforeseen discoveries and spinoff technologies and will bring us a more complete understanding of the fundamental workings of the universe. Finally, Mr. President, as the largest scientific instrument in the world, the super collider has the dramatic appeal necessary to spark a new era of pride and enthusiasm for science in this country. The Nobel laureate, Prof. James Cronin has commented on this effect:

> The intellectual achievements of humanity in its relatively brief time on Earth are almost beyond belief. Furthermore, they are among the most positive aspects of human nature. The spirit of a nation and the pride of its people can only be enhanced when science, including the exploration of our planet, solar system, galaxy, and universe is among its highest priorities.

Mr. President, even if those skeptics among us wish to dismiss the potential impact of the super collider on the psyche and general scientific literacy of our Nation, they cannot ignore the fact that the SSC is an economically sound investment. Recently, a study was completed by CENR—the Center for European Nuclear Research—which confirmed the economic promise of constructing the super collider. An April article by Lee Edson describes the study's findings. It reads:

> A recent study of the 10-year economic impact in Europe of the European Center for Nuclear Research, or CENR—the huge Swiss accelerator near Geneva—shows that the presence of this device and the research community around it has created an "economic utility" that has paid back 60 percent of the cost during the 10-year period under study. What's more, in a sample year, 75 percent of the increased business from CENR resulted from sales to markets outside high-energy physics, such as shipbuilding, railways, power generation, refrigeration, and medical care.

One can only imagine the magnitude of the benefits, economic and otherwise, that will accrue from a super collider with 20 times the maximum energy of the CENR accelerator.

Mr. President, I believe it may be useful to devote a few additional seconds to recalling some of the technological developments that owe their origin to basic research in high energy physics.

On a general level, it is estimated that about one-third of our Nation's GNP is directly attributable to our knowledge of the atom and its composition. One reason for this was the development of the quantum theory which, according to an article by John Dowell, "now underlies all of the technologies involving matter on the molecular, atomic, and nuclear scales, including all of modern electronics." Many physicists today feel that they are on the verge of discoveries which will have comparable, if not greater, implications.

More specifically, according to Mr. Dowell, work at the CENR accelerator has resulted in spin-offs for "computers, electronics, telecommunications, power generation and distribution, cryogenics, vacuum technology, optics, precision mechanics, magnet technology, steel and welding, car design, railways, shipbuilding, subway control, refrigeration, oil prospecting, materials storage, television," for "manufacturing techniques, and the industrial application of new materials, " and for medicine and biochemistry.

History provides an appropriate anecdote that we should recall in assessing the merits of the super collider. When questioned regarding the possibility of extracting power from the atom, the great scientist Rutherford replied that "anyone who expects a source of power from the transformation of these atoms is talking moonshine!"

Experience has taught us repeatedly that investment in basic scientific research pays off. History has also made it clear that those nations which lack the leadership to make progress a priority face inevitable decline. The super collider is an excellent chance for us to preserve our position as the world's greatest innovator and to heed the lessons of history.

Mr. President, we are moving in that direction. Two weeks ago the Department of Energy released a draft environmental impact statement that discusses the ramifications of locating the super collider in each of the seven remaining possible sites. Although it is important that construction of the SSC not be hindered by parochial bickering, the reality is that a site must be chosen. I believe the DOE document offers some useful distinctions for determining which location is most qualified.

I think it is clear that the report reflects favorably on my State of Arizona. If built at the Arizona-Maricopa site, the super collider will enjoy numerous benefits accruing from the site's desert character. Of course, this is not surprising since the SSC was initially envisioned as a "desertron" to be built in the desert.

Because the Maricopa site is nearly uninhabited, construction in Arizona will require the fewest number of relocations and the smallest expenditures for purchasing privately owned land. This will permit an exceptionally rapid land acquisition process. Arizona was also cited by the DOE report as the only site at which water inflow will not be a problem during either construction or operation of the facility. Building the super collider in Arizona will also result in loss of the least acreage of prime farmland and in zero loss of water supply. The site is also unique in offering absolutely no loss of valuable wetlands or forests. In fact, it is not an exaggeration to say that the environmental quality of the Arizona site will actually improve with the project's replanting efforts since the area has been degraded by excessive grazing and use of recreational vehicles.

The Arizona-Maricopa site also offers superior air quality and climate and very little risk of seismicity. No designated critical habitats for threatened or endangered species would be jeopardized by construction and no adjustments of the siting areas will be necessary due to existing structures or for any other reason. The Arizona site also has the least potential for paleontological finds and is significantly less culturally and historically important than many of the competing locations. In addition, the DOE gave Maricopa high marks for solar power potential, natural gas consumption requirements, and absence of difficulties related to noise pollution. Finally, geology at the Arizona site was commended for superior strength, low plasticity, and low slake potential.

Mr. President, I am convinced that the super collider represents a necessary and attractive investment in the continued global scientific leadership of this Nation. It is very nearly inevitable that construction of the SSC will bring radical discoveries, discoveries which will spawn profitable spin-off technologies and fundamentally alter our understanding of the universe. As Professor Cronin has observed, "the single most important parameter responsible for the enormous progress in particle physics has been the energy of the accelerator. The pace of discovery has been a consequence of the steady increase in the energy of particle collisions provided by the accelerator."●

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the following calendar orders have been cleared on his side: calendar orders numbered 899, 907, 910, 912, and 913.

Mr. DOLE. Mr. President, I say to the majority leader that each of these matters has been cleared on this side.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar orders numbered 899, 907, 910, 912, and 913 en bloc; that those measures be considered en block, agreed to en bloc, with amendments where shown adopted; that if there are amendments to the preamble, that they also be agreed to; and that the motion to reconsider en block be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AWARDING OF CONGRESSIONAL GOLD TO MRS. JESSE OWENS

The bill (H.R. 1270) to award a congressional medal to Mrs. Jesse Owens, was considered, ordered to a third reading, read the third time, and passed.

NATURAL GAS POLICY ACT AMENDMENTS

The Senate proceeded to consider (H.R. 2701) to amend the Natural Gas Policy Act of 1978 to remove certain duration and right of first refusal requirements.

Mr. NICKLES. Mr. President, I rise to strongly support the passage of H.R. 2701, a bill to remove portions of Natural Gas Policy Act of 1978 that prevent the efficient operation of the natural gas marketplace. Specifically, this bill repeals two provisions in section 315, one of which requires that contracts for new OCS gas from reservoirs in production prior to the NGPA be for a duration of at least 15 years. The second provision in section 315 repealed by H.R. 2701 requires producers of certain categories of now decontrolled natural gas to offer their present purchaser a "right of first refusal" because the producer can sell to a new purchaser.

Both of these provisions were placed in the 1978 law to assure interstate pipelines long-term sources of natural gas supplies. However, even if there was a rationale for the provisions in 1978, the fundamental changes that have occurred in the natural gas marketplace since then clearly show that these two provisions are not only unnecessary for pipelines' supply but are unfair to producers and consumers.

During the past decade there have been many changes in natural gas markets, especially in the quantities of gas available as a result of partial decontrol of natural gas prices and the advent of direct sales between producers and consumers. In response to these changes, natural gas contracts are now of shorter duration and have flexible pricing terms.

These two provisions in section 315 hamper efficient market operation by encumbering certain producers with conditions that unfairly disadvantage them in today's fast-paced market. The 15-year contract duration requirement for OCS gas is an unattractive requirement in today's market, and discourages investments by producers to bring on additional supplies from older reservoirs. The consumer loses the benefit of the lower cost and security of these additional supplies. The "right of first refusal" provision in section 315 imposes a timelag in which the producer and new purchaser must wait while the old purchaser reviews the proposed purchase. This cumbersome delay is not necessary for supply security and serves as an obstacle in today's fast moving gas market that discourages serious bargaining by would-be purchasers. This provision has also raised the possibility of anticompetitive practices because the producer has to show his best deal to the old purchaser.

I am proud of having taken an active role in the Committee on Energy and Natural Resources in moving this important measure to the Senate floor. I hope my colleagues will join the Members of the House in unanimously supporting H.R. 2701.

The bill (H.R. 2701) was ordered to a third reading, read the third time, and passed.

UMATILLA BASIN PROJECT ACT

The Senate proceeded to consider the bill (S. 1613) to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, OR, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Umatilla Basin Project Act".

SEC. 2. AUTHORIZATION OF PROJECT.

(a) For purposes of mitigating losses to anadromous fishery resources and continuing water service to the Hermiston, West Extension, Westland, and Stanfield Irrigation Districts, or any other entity which participates in the project water exchange, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain the Umatilla Basin Project, Oregon, substantially in accordance with the report of the Secretary dated February 12, 1988. The principal works of the project shall consist of—

(1) pumping plants and related diversion, conveyance, and distribution features;

(2) works incidental to the rehabilitation or modification of existing irrigation systems necessary to accomplish a water exchange;

(3) fish passage and protective facilities and other necessary mitigation measures;

(4) a program to monitor and regulate project operations; and

(5) a program to evaluate fishery resource mitigation measures.

SEC. 3. INTEGRATION AND OPERATION OF PROJECT.

Project facilities and features authorized by this Act shall be integrated and coordinated, from an operational standpoint, into other features of the Umatilla Project, and shall be operated in a manner consistent with Federal reclamation laws and water rights established pursuant to State law including the contract rights of water users. Prior to the initiation of project construction, the Secretary shall secure the necessary State and local permits and other authorities for the operation of project facilities, and through the conclusion of appropriate agreements with the State of Oregon, the relevant irrigation districts, and the Confederated Tribes of the Umatilla Indian Reservation provide for the monitoring and regulation of project related water supplies for the purposes herein identified.

SEC. 4. POWER FOR PROJECT PUMPING.

The Administrator of the Bonneville Power Administration, consistent with provisions of the Columbia River Basin Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697), shall provide for project power needed to effect the water exchange with irrigation districts for purposes of mitigating anadromous fishery resources. The cost of power shall be credited to fishery restoration goals of the Columbia River Basin Fish and Wildlife Program.

SEC. 5. FISHERY RESOURCE FACILITIES.

Facilities and any other project features which furnish fishery resource benefits in connection with the project shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89-72, 79 Stat. 213), as amended, except that costs, which shall be allocated to the mitigation of anadromous fish species, shall be nonreimbursable.

SEC. 6. NON-FEDERAL OBLIGATIONS.

The Secretary shall negotiate and enter into agreements which specify appropriate non-Federal obligations of the operation and maintenance of project facilities authorized in this Act. The Federal responsibility for operation and maintenance shall be limited to those costs in excess of non-Federal obligations as established by such agreements.

SEC. 7. INTERIM FLOW AUGMENTATION.

Until the facilities authorized in this Act are constructed and in operation, and as an interim measure to provide flow augmentation of the Umatilla River for anadromous fishery resources, funds are authorized to be appropriated to the Secretary to provide for interim operation and maintenance of existing pumps or other facilities for the purpose of providing flow augmentation for anadromous fish.

SEC. 8. NON-FEDERAL COSTS.

(a) CREDIT FOR NON-FEDERAL FISHERY RESOURCE IMPROVEMENTS.—The Umatilla Basin Project authorized by this Act is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Umatilla River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources

under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (94 Stat. 2697) and programs of the State of Oregon and other entities shall be consolidated in any final calculation of required cost sharing.

(b) Treatment of Non-Federal Costs Incurred in Implementing Project Features Before Appropriations.—Where a public or private entity shares in the cost of or constructs any feature of the project or portion thereof prior to the appropriation of funds for construction of such feature, the costs incurred shall be credited to the total amount of any cost sharing required for the project. The Secretary is authorized to accept title to facilities appropriate to the project without compensation and thereafter to operate and maintain such facilities.

SEC. 9. CONJUNCTIVE USE OF PUMPING FACILITIES.

When project pumping capacity is available in excess of that needed for fishery resource benefits as determined by the Secretary of the Interior, such capacity shall be available to supplement the water supply of irrigated lands eligible for service from the irrigation districts that participate in the project authorized in this Act at a rate based upon a share of operation and maintenance costs associated with such use as negotiated by the Secretary of the Interior and the irrigation districts: Provided, That such use shall be considered as secondary to the purpose of providing water for fishery resource purposes. Pumping power for this purpose shall be provided to the Bureau of Reclamation by the Administrator of the Bonneville Power Administration. The Administrator's rate for this service during the peak period shall be the forecasted average rate to be paid by public agencies for irrigation loads during peak periods. The rate during the off peak period shall be the rate paid by public agencies for irrigation loads during off peak periods. The cost of power for such pumping shall be borne by irrigation districts receiving the benefit of such water. The cost of transmitting power from the Federal Columbia River Power System to the project pumping facilities shall also be included in the operation and maintenance costs.

SEC. 10. REHABILITATION AND BETTERMENT AUTHORIZATION.

For purposes of encouraging water conservation and improvements to water supply systems of the irrigation districts participating in the project authorized by this Act, such districts shall be eligible to receive financial assistance, as deemed appropriate by the Secretary, under provisions of the Rehabilitation and Betterment Act of October 7, 1949 (63 Stat. 724), as amended.

SEC. 11. LEASE AND PURCHASE OF WATER.

The Secretary is authorized to acquire from willing parties land, water rights, or interests therein for benefit of fishery resources consistent with the purpose of this Act: Provided, That acquisition of water rights shall be in accordance with applicable State law. There is hereby authorized to be appropriated such sums as required to accomplish the purposes of this section.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) There is hereby authorized to be appropriated for construction of the Umatilla Basin Project the sum of $42,200,000 (April 1987 prices), plus or minus such amounts as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by applicable engineering cost indices and exclusive of facilities indicated in section 12(b) of this Act. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project, including the monitoring and evaluation of project accomplishments.

(b) Related fish passage and protective facilities constructed or to be constructed by the Bonneville Power Administration that are features of the Columbia River Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) shall be consolidated into calculations of project costs and benefits: Provided, That the Secretary shall not request an appropriation of funds to construct any such facilities.

SEC. 13. WATER RIGHTS.

Nothing in this act shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

S. 2763 READ THE FIRST TIME

Mr. BYRD. Mr. President, I ask that S. 2763, which was introduced by Senator Pell earlier today, be read the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2763) entitled "The Prevention of Genocide Act of 1988."

Mr. BYRD. Mr. President, I ask that the bill be read a second time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I respectfully object.

The PRESIDING OFFICER. Objection is heard.

SOUTH DAKOTA WATER SUPPLY AND ASSISTANCE ACT

The Senate proceeded to consider the bill (H.R. 2772) to authorize the Lyman-Jones West River, and Oglala Sioux Rural Water Development Projects, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "South Dakota Water Supply and Assistance Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) there are insufficient water supplies available to residents of the Pine Ridge Indian Reservation in South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) Shannon County, South Dakota, where the Pine Ridge Indian Reservation is located, is the poorest county in the United States, and the lack of water supplies on the Pine Ridge Indian Reservation restricts efforts to promote economic development on the reservation;

(3) serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Ridge Indian Reservation; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Pine Ridge Indian Reservation, and the residents of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties is the Missouri River.

(b) Purposes.—The Congress declares that the purposes of this Act are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) provide certain benefits to fish, wildlife, and the natural environment of South Dakota; and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program.

SEC. 3. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) Authorization.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Oglala Sioux Rural Water Supply System, as generally described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988. The Oglala Sioux Rural Water Supply System shall consist of—

(1) pumping and treatment facilities located along the Missouri River near Fort Pierre, South Dakota;

(2) pipelines extending from the Missouri River near Fort Pierre, South Dakota, to the Pine Ridge Indian Reservation;

(3) facilities to allow for interconnections with the West River Rural Water System and Lyman-Jones Rural Water System;

(4) distribution and treatment facilities to serve the needs of the Pine Ridge Indian Reservation;

(5) appurtenant buildings and access roads;

(6) necessary property and property rights;

(7) electrical power transmission and distribution facilities necessary for services to water system facilities; and

(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Oglala Sioux Tribe and reservation villages, towns, and municipalities.

(b) Agreement With Non-Federal Entity to Plan, Construct, Operate, and Maintain the Oglala Sioux Rural Water Supply System.—

(1) In carrying out subsection (a), the Secretary, with the concurrence of the Oglala Sioux Tribal Council, shall enter into agreements with the appropriate non-Federal entity for planning, designing, constructing, operating, maintaining, and replacing the Oglala Sioux Rural Water Supply System.

(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems of individual tribal members located on the Pine Ridge Indian Reservation.

(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Oglala Sioux Tribe.

(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10 of this Act for the Oglala Sioux Rural Water Supply System.

(c) Service Area.—The service area of the Oglala Sioux Rural Water Supply System shall be the boundaries of the Pine Ridge Indian Reservation.

(d) Construction Requirements.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Oglala Sioux Rural Water Supply System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Pine Ridge Indian Reservation, the West River Rural Water System, and the Lyman-Jones Rural Water System, taking into account the effects of the conservation plans described in section 5. All three systems may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Oglala Sioux Rural Water Supply System.

(e) Title to System.—Title to the Oglala Sioux Rural Water Supply System shall be held in trust for the Oglala Sioux Tribe by the United States and shall not be transferred without a subsequent Act of Congress.

(f) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the Oglala Sioux Rural Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met;

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety [days; and] *days.*

[(3) the recommendations required by section 6(b) of this Act have been submitted to the Congress.]

(g) Technical Assistance.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Oglala Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Oglala Sioux Rural Water Supply System, including (but not limited to) operation and management training.

(h) Application of Indian Self-Determination Act.—Construction and operation of the Oglala Sioux Rural Water Supply System within the Pine Ridge Reservation shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450f et seq.).

SEC. 4. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) Planning and Construction.—

(1) The Secretary is authorized and directed to enter into cooperative agreements with appropriate non-Federal entities to provide Federal funds for the planning and construction of the West River Rural Water System and the Lyman-Jones Rural Water System in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, as described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(2) The Secretary may not provide more than 65 per centum of the total cost of—

(A) the West River Rural Water System, and

(B) the Lyman-Jones Rural Water System.

Such Federal funds may be obligated and expended only through cooperative agreements described in subsection (b).

(3) The non-Federal share of the costs allocated to the West River and Lyman-Jones Rural Water Systems shall be 35 per centum.

(b) Cooperative Agreements.—

(1) The Secretary, with the concurrence of the Lyman-Jones and West River Rural Water Systems, shall execute cooperative agreements with the appropriate non-Federal entities to provide Federal assistance for the planning, design, and construction of the West River Rural Water System and the Lyman-Jones Rural Water System. Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(c) Facilities on Which Federal Funds May Be Expended.—The facilities on which Federal funds may be obligated and expended under this section shall include—

(1) water intake, pumping, treatment, storage, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) necessary property and property rights;

(4) electrical power transmission and distribution facilities necessary for service to water system facilities;

(5) planning and design services for all facilities; and

(6) other facilities and services customary to the development of rural water distribution systems in South Dakota.

(d) Service Area.—The service area of the West River Rural Water System and the Lyman-Jones Rural Water System shall be as described in the engineering study entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(e) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the West River Rural Water System and the Lyman-Jones Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met;

(2) final engineering reports have been prepared and submitted to the Congress for a period of not less than ninety [days; and] *days.*

[(3) the recommendations required by section 6(b) have been submitted to Congress.]

(f) Prohibitions on Use of Federal Funds.—The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of either the West River or Lyman-Jones Rural Water Systems.

SEC. 5. WATER CONSERVATION.

[(A) Development and Implementation of Conservation Programs.—The Secretary may not obligate any Federal funds for the construction of the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System, until the Secretary finds that appropriate non-Federal interests have developed and implemented water conservation programs throughout the service area of each such rural water system. The purpose of such programs shall be to ensure that such rural water systems and their customers are utilizing the best practicable technology and management techniques to reduce water use and water system costs. Such conservation programs shall include (but are not limited to) adoption and enforcement of the following:

[(1) American National Standards Institute low consumption performance standards for all newly installed plumbing fixtures.

[(2) Beneficial reductions in nondomestic uses.

[(3) Leak detection and repair programs.

[(4) Metering for all elements and individual connections of the rural water supply systems.

[(5) Conservation pricing schedules.

[(6) Public education programs.

[(7) Coordinated operation between each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provision for periodic review and revision, in cooperation with the Secretary.

[(b) Authority to Withhold Water.—The Secretary is authorized to withhold water deliveries to the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System if the tribal authority or non-Federal sponsoring agency fails to comply with the water conservation plans required under subsection (a).]

The Secretary shall encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operation of the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System where such measures are shown to be economically feasible. The non-Federal parties (incuding the Oglala Sioux Tribe) participating in the Systems shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives. The provisions of section 210(c) of Public Law 97-293 (96 Stat. 1268) shall apply with respect to the Systems.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

(a) Oglala Sioux Rural Water Supply System and the West River and Lyman-Jones Rural Water Systems.—Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with [or prior to] project construction.

(b) Oahe and Big Bend Dams and Reservoirs.—The Secretary, in cooperation with the State of South Dakota and other Federal agencies, shall develop and submit recommendations to the Congress for financing and implementing mitigation plans for fish and wildlife losses incurred as a result of the construction and operation of the Oahe Dam and Reservoir and Big Bend Dam and Reservoir. Such plans shall incorporate the proposal of the United States Army Chief of Engineers as outlined in Design Memorandum M(Gen)-19 of December 1987 for improved management of existing Federal lands, and purchase of single-purpose mitigation lands, such as the Olson and Mudon Ranches, from willing sellers.

SEC. 7. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, or the Lyman-Jones Rural Water System may be used to plan or construct facilities used to supply water for the purpose of irrigation.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act is intended, nor shall be construed, to preclude the State of South Dakota or the Oglala Sioux Tribe from seeking congressional authorization to plan, design, or construct additional federally assisted water resource development projects.

SEC. 9. USE OF PICK-SLOAN POWER.

(a) In General.—The Systems authorized by sections 3 and 4 of this Act shall utilize power from Pick-Sloan for their operation. This power shall be deemed to be a project use pumping requirement of Pick-Sloan.

(b) Power To Be Used.—As of the date of enactment of this Act, power identified for future project use pumping at the Pollock-Herreid Unit of the Pick-Sloan shall be reserved for and utilized by the Systems and made available for the purpose authorized by subsection (a).

(c) Rate.—The rate for project use power made available pursuant to subsection (a) shall be the wholesale firm power rate for the Pick-Sloan (Eastern Division) in effect at the time the power is sold.

(d) Additional Power.—If additional power beyond that made available through subsection (b) is required to meet the pumping requirements of the Systems, the Administrator of the Western Area Power Administration is authorized to purchase the additional power needed under such terms and conditions the Administrator deems appropriate. Expenses associated with such power purchases shall be recovered through a separate power charge, sufficient to recover these expenses, applied to the Systems.

(e) Definitions.—For purposes of this section—

(1) the term "Systems" means the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System; and

(2) the term "Pick-Sloan" means the Pick-Sloan Missouri Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891; commonly referred to as the Flood Control Act of 1944).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Planning, Design, and Construction.—There are authorized to be appropriated $87,500,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System under the provisions of sections 3 and 4 of this [Act] *Act, plus or minus such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1987, as indicated by engineering costs indices applicable for the type of construction involved.* Such sums are authorized to remain available until expended.

(b) Operation and Maintenance of Oglala Sioux Rural Water Supply System.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System.

SEC. 11. WATER RIGHTS.

Nothing in this Act shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

[(5) affect any water rights of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress.

Nothing in this Act is intended, nor may be considered, to diminish or affect the quantity or quality of water from the Missouri River Basin or elsewhere that is owned or claimed by the Oglala Sioux Tribe under aboriginal title, recognized title, or under the Winters' doctrine (Winters against United States, 207 U.S. 564 (1908) and progeny).]

(5) affect any water rights (including Winters' rights), including the quantity or quality thereof, of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress or under aboriginal title except that nothing in this section or in this Act may be construed to validate or invalidate or in any way affect any assertion that any such rights or aboriginal title exist or does not exist or was heretofore extinguished.

SEC. 12. REPEAL OF AUTHORIZATION OF APPROPRIATIONS.

(a) Pollock-Herreid Unit.—Section 407 of the Reclamation Authorization Act of 1975 (Public Law 94-228; 90 Stat. 209) relating to the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program is hereby repealed. The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin Program.

[(b) Feasibility Studies.—Paragraphs (2) and (3) of section 3(a) of Public Law 97-273 (96 Stat. 1181) are hereby repealed.]

(b) Feasibility Studies.—Strike section 3 of Public Law 97-273 (96 Stat. 1181) and substitute in lieu thereof the following:

"Sec. 3. The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a feasibility investigation of the alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James Division, Pick-Sloan Missouri Basin Program, South Dakota, and to report to the Congress the findings of such study along with his recommendations.".

The amendments were agreed to.

Mr. DASCHLE. Mr. President, I rise today to urge the adoption of H.R. 2772, the Mni Wiconi Project Act of 1988. This legislation was introduced in the House of Representatives by Tim Johnson, and I introduced the Senate bill with my distinguished colleague, Senator Pressler.

The act authorizes the construction of the Lyman-Jones/West River/Oglala Sioux water pipeline. The pipeline will service the West River region of South Dakota, including the Oglala Sioux Tribe on the Pine Ridge Reservation, the West River Rural Water District and the Lyman-Jones Rural Water District. Because of the extensive involvement of the Oglala Sioux Tribe in the planning and development of the pipeline complex, it has been named the Mni Wiconi project, derived from the Lakota term meaning "good water."

The Mni Wiconi project began in earnest when the three local entities participating in the project, the Oglala Sioux Tribe, and the West River and Lyman-Jones Water Districts, recognized that the common need for decent drinking water made jurisdictional boundaries irrelevant. Cooperation and commonality of purpose and action have made this legislation possible. In South Dakota, Governor Mickelson's support has been important, and in the House of Representatives, I would like to credit the leadership and tireless support of my colleague from South Dakota, TIM JOHNSON. This project would not have been possible had this close cooperation not existed.

The setting for the proposed Mni Wiconi project is 11,000 square miles of prairie grasslands in western South Dakota. The area is one of the most isolated regions of the country, and also one of the most starkly beautiful. The vast, rugged area is inhabited by approximately 20,300 people, of which about 12,000 are Indians. Most of these people extract a modest living raising livestock. They do this in an area where they lack one of the most basic living requirements—safe drinking water.

The Mni Wiconi project will bring safe drinking water to these people. Today, those who can afford to do so truck their water in at great cost. Others are forced to drink what comes from the ground. Analyses show that this water contains unsafe levels of sodium, dissolved solids, sulfates, iron, and radium 226/228, among others. High blood pressure and a myriad of other health problems have been the direct result of having to drink the contaminated water.

The Mni Wiconi project will pipe easily treatable water from the Missouri River, near Fort Pierre, SD, to the project areas. The 30-inch pipeline will pump a maximum of 7,000 gallons of water per second from the river, an amount equal to only about one-half of 1 percent of the river's flow at the dam site. The Mni Wiconi project, like the highly successful WEB pipeline, has rare support from State and national conservation groups who recognize that real water needs can be addressed while still protecting the environment. Any environmental damage incurred during the construction of the project will be mitigated on an acre-for-acre basis, similar to the provisions adopted for the Garrison Diversion project.

In a last minute attempt to kill the project, the administration inserted various amendments and threatened to veto the bill, in large part due to the $100 million price tag for the Mni Wiconi. Indeed on a per capita basis, the project is more expensive than we are used to seeing in much of America. However, when one considers the fact that individual wells in the area can cost from $10,000 to $30,000, and do not ensure water quality, the cost is not too high.

It is difficult to overstate the importance of this bill on the daily lives of the Oglala Sioux people and the Pine Ridge Reservation. Shannon County, the county where most of the people on the reservation live, is considered to be the poorest county in the Nation. Unemployment on the reservation hovers around 85 to 90 percent. One out of five houses on the reservation does not have running water. How can one expect employment, poverty, and the standard of living to improve without decent water?

Differences from the original House bill arose when amendments were included in the Senate version of the bill. Unfortunately, the administration remained totally silent during the House committee and floor passage of this bill. As a result, the compromise bill, agreed to on a totally bipartisan basis by the South Dakota congressional delegation, Governor Mickelson, the Oglala Sioux Tribe, environmental groups, and the project sponsors, will be forced to cross another hurdle before passage. However, I am confident that agreement can be reached swiftly by the House-Senate conference committee which will be asked to reconcile the differences between the respective bills.

This year the Nation has been rudely confronted with the problem of unreliable water. Drought, polluted beaches, and toxic spills in our waterways are all examples of the problem. Passing the Clean Water Act over the President's veto showed that Congress was ready to make a stand against unsafe water. The Federal Government sets safe drinking water standards in recognition of the right of every American to drink clean water. This right extends to rural America where the ground water is unsafe and a pipeline delivering clean water is the only answer.

Mr. President, I urge the Senate to authorize the Mni Wiconi project and continue to send Americans the message that clean and safe water is a basic right of daily life.

The amendments were ordered to be engrossed, the bill (H.R. 2772) was read the third time, and passed.

REFUNDS UNDER THE FEDERAL POWER ACT

The Senate proceeded to consider the bill (H.R. 2858) to provide for refunds pursuant to rate decreases under the Federal Power Act, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

This Act may be cited as the "Regulatory Fairness Act".

SEC. 2. REFUNDS IN PROCEEDINGS UNDER SECTION 206 OF THE FEDERAL POWER ACT.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended as follows:

(1) At the end of subsection (a) insert: "Any complaint or motion of the Commission to initiate a proceeding under this section shall state the change or changes to be made in the rate, charge, classification, rule, regulation, practice, or contract then in force, and the reasons for any proposed change or changes therein. If, after review of any motion or complaint and answer, the Commission shall decide to hold a hearing, it shall fix by order the time and place of such hearing and shall specify the issues to be adjudicated.".

(2) Designate subsection (b) as (d) and insert the following new subsections after subsection (a):

"(b) Whenever the Commission institutes a proceeding under this section, the Commission shall establish a refund effective date. In the case of a proceeding instituted on complaint, the refund effective date shall not be earlier than the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period. In the case of a proceeding instituted by the Commission on its own motion, the refund effective date shall not be earlier than the date 60 days after the publication by the Commission of notice of its intention to initiate such proceeding nor later than 5 months after the expiration of such 60-day period. Upon institution of a proceeding under this section, the Commission shall give to the decision of such proceeding the same preference as provided under section 205 of this Act and otherwise act as speedily as possible. If no final decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. In any proceeding under this section, the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon the Commission or the complainant. At the conclusion of any proceeding under this section, the Commission may order the public utility to make refunds of any amounts paid, for the period subsequent to the refund effective date through a date fifteen months after such refund effective date, in excess of those which would have been paid under the just and reasonable rate, charge, classification, rule, regulation, practice, or contract which the Commission orders to be thereafter observed and in force: Provided, That if the proceeding is not concluded within fifteen months after the refund effective date and if the Commission determines at the conclusion of the proceeding that the proceeding was not resolved within the fifteen-month period primarily because of dilatory behavior by the public utility, the Commission may order refunds of any or all amounts paid for the period subsequent to the refund effective date and prior to the conclusion of the proceeding. The refunds shall be made, with interest, to those persons who have

paid those rates or charges which are the subject of the proceeding.

"(c) Notwithstanding subsection (b), in a proceeding commenced under this section involving two or more electric utility companies of a registered holding company, refunds which might otherwise be payable under subsection (b) shall not be ordered to the extent that such refunds would result from any portion of a Commission order that (1) requires a decrease in system production or transmission costs to be paid by one or more of such electric companies; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company: Provided, That refunds, in whole or in part, may be ordered by the Commission if it determines that the registered holding company would not experience any reduction in revenues which results from an inability of an electric utility company of the holding company to recover such increase in costs for the period between the refund effective date and the effective date of the Commission's order. For purposes of this subsection, the terms 'electric utility companies' and 'registered holding company' shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended."

SEC. 3. LIMITATION ON AUTHORITY PROVIDED.

Nothing in subsection (c) of section 206 of the Federal Power Act, as amended (16 U.S.C. 824e(c)) shall be interpreted to confer upon the Federal Energy Regulatory Commission any authority not granted to it elsewhere in such Act to issue an order that (1) requires a decrease in system production or transmission costs to be paid by one or more electric utility companies of a registered holding company; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company. For purposes of this section, the terms "electric utility companies" and "registered holding company" shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act are not applicable to complaints filed or motions initiated before the date of enactment of this Act pursuant to section 206 of the Federal Power Act: Provided, however, That such complaints may be withdrawn and refiled without prejudice.

SEC. 5. STUDY.

No earlier than three years and no later than four years after the date of enactment of this Act, the Federal Energy Regulatory Commission shall perform a study of the effect of the amendments to section 206 of the Federal Power Act made by this Act. The study shall analyze (1) the impact, if any, of such amendments on the cost of capital paid by public utilities; (2) any change in the average time taken to resolve proceedings under section 206; and (3) such other matters as the Commission may deem appropriate in the public interest. Upon completion the study shall be sent to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

The amendment was agreed to.

Mr. BUMPERS. Mr. President, I rise in support of H.R. 2858, the Regulatory Fairness Act, which was reported by a unanimous vote of the Energy Committee on August 3. The legislation is based on S. 1567, which I introduced in July 1987, and the House-passed version of H.R. 2858, sponsored by Congressman TERRY BRUCE.

The committee bill will amend the Federal Power Act to ensure that consumers of wholesale electric power receive timely and effective relief when their electric rates are too high. Typically wholesale electric power is purchased by small publicly owned utilities or rural cooperatives from large investor owned utilities. These wholesale purchases are regulated by the Federal Energy Regulatory Commission [FERC].

In my view, the current law is patently unfair to the customers of these small utilities. Rate increases sought by utilities go into effect subject to refund while FERC considers the merits of the request. In contrast, rate decreases sought by consumers are not effective until the end of a lengthy FERC proceeding. Rate relief is prospective only, so the wholesale consumer receives no recompense for having paid excessive rates during the pendency of the rate proceeding. Under this system, consumers have little incentive to go through the trouble and expense of applying for rate reductions, and wholesale suppliers of electricity have every incentive to delay rate reduction proceedings.

The committee bill would address this inequity by establishing more symmetry between the procedures for rate reductions and rate increases. It would provide that rate reductions ordered by FERC be prospective from a refund effective date set by the Commission as contrasted to the date of the final Commission order. Excess rates collected between the refund effective date and the final Commission order would be refunded to consumers.

Several amendments were adopted by the committee which are explained fully in the committee report. Regarding the report, I note a typographical error which should be corrected in the description of one of these amendments—making refunds discretionary so as to parallel the refund authority for rate increases. On page 5 of Rept. 100-491, the word "not" was dropped from the last sentence in the last full paragraph. The corrected sentence would read: "The committee recognizes that it may not be appropriate in all instances to order refunds in the event that it is determined in a proceeding under section 206 of the act that rates or charges are not just and reasonable.".

Mr. President, the merits of this bill are evident and the equitable arguments in favor of it are easy to understand. As in many regulatory matters however, there tend to be complexities in the execution of the most clearcut equitable principles. I am indebted to the staff of the Energy and Natural Resources Committee—particularly Bill Conway, senior counsel of the Water and Power Subcommittee—for their professional assistance in cutting through these complexities to achieve a bill which the entire membership of the committee could support.

There are more than 900 local, publicly owned electric systems and more than 500 rural electric cooperatives that purchase all or part of their electric power from investor-owned utilities. In addition a number of investor-owned utilities are wholesale customers of generating utilities whose rates fall under FERC jurisdiction. The Regulatory Fairness Act will provide important equitable relief for the millions of consumers served by these utilities. I urge the Senate to adopt this legislation.

The amendment was ordered to be engrossed, the bill (H.R. 2858) was read the third time, and passed.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 894, S. 2231.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2231) to amend the Public Health Service Act to reauthorize nurse training programs established under title VIII of such act, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2939

(Purpose: To provide a substitute amendment)

Mr. BYRD. Mr. President, on behalf of Senators KENNEDY and HATCH, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. KENNEDY (for himself and Mr. HATCH) proposes an amendment numbered 2939.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nurse Education Reauthorization Act of 1988".

TITLE I—SPECIAL PROJECTS

SEC. 101. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) Purposes.—Section 820(a) of the Public Health Service Act (42 U.S.C. 296k(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (E);

(B) by inserting "and" after the semicolon at the end of subparagraph (F); and

(C) by adding at the end thereof the following:

"(G) provide faculty development directed at improving the ability of faculty to facilitate retention of such individuals;";

(2) in paragraph (5), by striking out "and the need to promote preventive health care" and inserting in lieu thereof ", the need to promote preventive health care, and the need to promote occupational health care"; and

(3) by striking out paragraph (6) and inserting in lieu thereof the following new paragraph:

"(6) provide training and education—

"(A) to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel with priority given to rapid transition programs towards achievement of undergraduate nursing degrees; and

"(B) to develop curricula for the achievement of baccalaureate degrees in nursing or masters degrees in nursing by registered nurses or individuals with baccalaureate degrees in other fields;".

(b) Authorization.—Section 820(d) of such Act is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (1) through (6) of subsection (a), there are authorized to be appropriated $15,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $17,000,000 for fiscal year 1991."; and

(2) in paragraph (2), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (7), (8), and (9) of subsection (a), there are authorized to be appropriated $4,200,000 in fiscal year 1989, $4,700,000 in fiscal year 1990, and $5,200,000 in fiscal year 1991.".

SEC. 102. ADVANCED NURSE EDUCATION.

(a) Purposes.—The last sentence of section 821(a) of the Public Health Service Act (42 U.S.C. 296l(a)) is amended—

(1) by striking out "priority in" and inserting in lieu thereof "priority to (A)"; and

(2) by inserting before the period at the end thereof the following: "and (B) programs with innovative curriculum that permit individuals with registered nursing degrees to rapidly achieve advanced degrees".

(b) Authorization.—Subsection (b) of section 821 of such Act is amended to read as follows:

"(b) For payments under grants and contracts under this section, there are authorized to be appropriated $19,500,000 for fiscal year 1989, $20,500,000 for fiscal year 1990, and $21,500,000 for fiscal year 1991.".

SEC. 103. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

(a) Training.—Section 822(a)(2)(B)(ii) of the Public Health Service Act (42 U.S.C. 296m(a)(2)(B)(ii)) is amended by striking out "less than eight" and inserting in lieu thereof "less than six full-time equivalent".

(b) Traineeships.—Section 822(b)(3) of such Act is amended—

(1) by inserting "Indian Health Service or a Native Hawaiian health center" after "(designated under section 322)"; and

(2) by striking out "or in a public health care facility" and inserting in lieu thereof ", a public health care facility, a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), a migrant health center (as defined in section 329(a)(1)), or a community health center (as defined in section 330(a))".

(c) Guidelines.—Section 822(c) of such Act is amended by inserting "under subsection (a) or (b)" after "a program".

(d) Authorization.—Subsection (d) of section 822 is amended to read as follows:

"(d) For payments under grants and contracts under subsections (a) through (c), there are authorized to be appropriated $19,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.".

SEC. 104. NURSING SHORTAGE RELIEF PROGRAMS.

Part A of title VIII of the Public Health Service Act (42 U.S.C. 820 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. NURSING SHORTAGE RELIEF PROGRAMS.

"(a) Long-Term Care Nursing Practice Demonstration.—

"(1) In general.—The Secretary shall make grants to or enter contracts with public and nonprofit private collegiate schools of nursing for projects to demonstrate and evaluate innovative nursing practice models with respect to the provision of long-term managed health care services and health care services in the home or the provision of health care services in long-term care facilities. Models demonstrated and evaluated with grants and contracts under this subsection shall be designed to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care and to improve nursing care in home health care systems and nursing homes.

"(2) Authorization.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(b) Nurse Recruitment Centers.—

"(1) In general.—The Secretary shall make grants to and enter into contracts with public and nonprofit private entities to develop, establish, and operate at least one and not more than five regional model professional nurse recruitment centers for the purpose of recruiting individuals to enter education programs to train professional nurses. In making grants and entering into contracts under this subsection, the Secretary shall ensure that centers developed, established, and operated under this subsection include centers in rural areas.

"(2) Duties.—Each center developed, established, or operated with a grant or a contract under this subsection shall—

"(A) conduct nursing recruitment programs directed towards—

"(i) individuals between the ages of 12 and 14 years of age;

"(ii) individuals who are enrolled in high schools;

"(iii) individuals enrolled in colleges and universities who have not declared a major field of study; and

"(iv) adults who are not in school and who may desire to enter nursing;

"(B) develop and compile resource materials concerning professional opportunities in nursing, and disseminate such materials to appropriate individuals and groups, such as community and professional organizations, hospitals, career and guidance counselors in educational institutions, and the print and broadcast media;

"(C) identify potential applicants for nursing education programs and provide information to such potential applicants on the role of the nurse and nursing education programs; and

"(D) promote collaboration among organizations and assist individuals and organizations to establish mentor relationships between professional nurses and potential applicants for nursing education programs.

"(3) Authorization.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(c) Application Requirements.—No grant may be made and no contract may be entered into under this section unless an application therefor is submitted to the Secretary at such time, in such form, and containing such information as the Secretary may prescribe.".

TITLE II—ASSISTANCE TO NURSING STUDENTS

SEC. 201. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 of the Public Health Service Act (42 U.S.C. 297) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c)(1) The Secretary may make grants to and enter into contracts with public and nonprofit schools of nursing and other public and nonprofit private entities to cover the cost of traineeships for nurses pursuing graduate degrees in other disciplines.

"(2) Payments under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition, fees, and other direct educational costs.

"(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to provide full-time service with or without compensation, for a period equal to 1 month for each month for which the recipient receives such a traineeship, in—

"(A) a health manpower shortage area (designated under section 332);

"(B) a long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.);

"(C) a community health center (as defined in section 330(a));

"(D) a migrant health center (as defined in section 329(a)(1));

"(E) the Indian Health Service;

"(F) a Native Hawaiian health center; or

"(G) a public health care facility.

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Federal government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments that were received under the traineeship.

"(C) Any amount that the United States is entitled to recover under subparagraph (A) or (B) shall, within the 3-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(d)(1) For the purposes of subsection (a), there are authorized to be appropriated $18,000,000 for fiscal year 1989, $19,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.

"(2) For the purposes of subsection (b), there are authorized to be appropriated $1,100,000 for each of the fiscal years 1989 through 1991.

"(3) For the purposes of subsection (c), there are authorized to be $1,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 202. NURSE ANESTHETISTS.

Section 831 of the Public Health Service Act (42 U.S.C. 297-1) is amended—

(1) in subsection (b), by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Secretary may make grants to public and private nonprofit institutions to cover the costs of projects to improve, plan, develop, and operate programs for the education of nurse anesthetists that are accredited by an entity or entities designated by the Secretary of Education."; and

(2) in subsection (c), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For the purpose of making grants under this section, there are authorized to be appropriated $1,800,000 for each of the fiscal years 1989 through 1991.".

SEC. 203. TRAINEESHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Subpart I of part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end thereof of the following new section:

"SEC. 832. SCHOLARSHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

"(a) In General.—

"(1) Grants.—The Secretary may make grants to accredited public or nonprofit private schools of nursing for scholarships to be awarded by the school to full time undergraduate students thereof who are in financial need.

"(2) Amount of award.—The total amounts of the scholarship award to a student for each year shall not exceed the cost of attendance (tuition and fees) for such year at the educational institution attended by the student (as determined by such educational institution).

"(3) Priority.—Priority in the awarding of scholarships shall be given to individuals from disadvantaged backgrounds.

"(b) Payments.—Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for scholarships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees.

"(c) Authorization.—For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $11,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 204. LOAN AGREEMENTS.

Section 835(c)(1) of the Public Health Service Act (42 U.S.C. 297a(c)(1)) is amended by adding at the end thereof the following new sentence: "This subsection may not be construed to require such schools to reimburse the student loan program under this subpart for loans that became uncollectable prior to 1983.".

SEC. 205. LOAN PROVISIONS.

Section 836(b)(1)(C) of the Public Health Service Act (42 U.S.C. 297b(b)(1)(C)) is amended by striking out "of exceptional financial" and inserting in lieu thereof "in".

SEC. 206. DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

Section 839 of the Public Health Service Act (42 U.S.C. 297c) is amended by striking out "1991" each place it appears in subsections (a) and (b) and inserting in lieu thereof "1994".

SEC. 207. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end the following new subpart:

"Subpart III—Nursing Scholarship and Loan Demonstration Program

"SEC. 843. NURSING SCHOLARSHIP AND LOAN DEMONSTRATION PROGRAM.

"(a) In General.—The Secretary may award scholarships and loans to full-time students enrolled in public or nonprofit private schools accredited for the training of professional nurses who have contracted with a health care facility described in subsection (g) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during which the student received scholarship and loan assistance under this section.

"(b) Maximum Amount of Assistance.—The total amount of scholarships and loans provided to a student under this section shall not exceed 100 percent of the cost of tuition, reasonable living expenses, books, fees, and necessary transportation.

"(c) Eligibility.—A scholarship or loan may be awarded under this section to a student currently enrolled, or to a student who has been accepted to and plans to matriculate, in a nursing program described in subsection (a). Demonstration of need for financial assistance (as determined by the Secretary) shall be required for the award of scholarships and loans under this section. In the award of scholarships and loans under this section, preference shall be given to disadvantaged and minority students underrepresented in the nursing profession.

"(d) Split of Scholarship and Loan.—Of the proportion of scholarship and loan awarded to a student under this section, not more than 75 percent shall be in the form of a loan.

"(e) Interest.—Loans awarded under this section shall bear interest on the unpaid balance of the loan, computed from the date the student completes the nursing program or from the date the student is no longer enrolled in the nursing program, at a rate of 5 percent per annum.

"(f) Administration.—The Secretary may prescribe such regulations as may be necessary to carry out the demonstration program authorized under this section. The Secretary shall require any student seeking a scholarship and loan award under this section to submit an application in such form as the Secretary may require.

"(g) Repayment.—

"(1) In general.—Any hospital, long-term care facility certified under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.), or other private nonprofit or public facility that has a contract described in subsection (a) may contract with the Secretary to repay on behalf of a nursing student up to 75 percent of the amount of principal and interest due on a loan awarded under this section.

"(2) Liability of students.—If a student who has been awarded a loan under this section does not fulfill the contract with an eligible health care facility described in paragraph (1) to engage in full-time employment as a nurse for a period of time that is at least equal to the period of time during which the student received scholarship and loan assistance under this section, is dismissed for academic reasons, or voluntarily terminates academic training, the student shall be liable for repayment of an amount equal to 100 percent of the principal and interest due on the loan. Repayment of such amount shall begin not later than 6 months following the date the student completes the nursing program or the date the student is no longer enrolled in the nursing program. The period for repayment of such amount shall be determined by the Secretary, except that such period may not exceed 10 years.

"(3) Liability of health care facilities.—If a health care facility with which a student has entered into a contract under this section does not fulfill the contract, the health care facility shall remain liable for repayment of an amount equal to 75 percent of the principal and interest due on the loan incurred by the student.

"(4) Waiver or suspensions.—The Secretary shall by regulation provide for the waiver or suspension of any obligation of any student who has received a scholarship or loan under this section whenever compliance by such student is impossible or would involve extreme hardship to such student and if the enforcement of such obligation with respect to any student would be against equity and good conscience.

"(h) Rural or Frontier Areas.—Of the amount made available for a fiscal year under subsection (i), not less than 35 percent of such amount shall be allotted for scholarships and loans for students who contract with health care facilities in rural or frontier areas.

"(i) Authorization of Appropriations.—For scholarships and loans awarded under this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 through 1991.".

TITLE III—GENERAL

SEC. 301. RENAMING OF NATIONAL ADVISORY COUNCIL ON NURSE TRAINING.

(a) In General.—Section 851 of the Public Health Service Act (42 U.S.C. 298) is amended—

(1) in the section heading, by striking out "NATIONAL ADVISORY COUNCIL ON NURSE TRAINING" and inserting in lieu thereof "ADVISORY COUNCIL ON NURSES EDUCATION"; and

(2) in subsection (a), by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

(b) CONFORMING AMENDMENTS.—

(1) Section 820 of such Act (42 U.S.C. 296k) is amended by striking out "National Advisory Council on Nurse Training" each place it appears in subsections (b) and (c) and inserting in lieu thereof "Advisory Council on Nurses Education".

(2) Section 856(1) of such Act (42 U.S.C. 298b-3(1)) is amended by striking out "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education".

The PRESIDING OFFICER. Are there amendments to the substitute? If not, the question is on agreeing to the substitute.

The amendment (No. 2939) was agreed to.

Mr. KENNEDY. Mr. President, I am pleased to speak in support of S. 2231, the Nurse Education Reauthorization Act of 1988. Historically, the nurse training authority under title VIII of the Public Health Service Act has provided two principal types of aid—institutional support for nursing schools and financial assistance for nursing students. This support in the past has increased the enrollments and graduates of nursing educational institutions. As a result, title VIII has served the important role of increasing opportunities for nurses to obtain undergraduate degrees and advanced training to become nurse administrators, nurse practitioners, nurse midwives, and clinical nurse specialists. Title VIII programs received $56 million in appropriations for fiscal year 1988. This legislation provides for an increase in authorization to $94 million in fiscal year 1989 to address the worsening nursing shortage.

Today the Nation faces a crisis in health care due to a worsening nursing shortage which demands our immediate attention. We are faced with an ever-increasing demand for nursing services at a time of recognized shortage of nurses and rapidly declining enrollments in our schools of nursing.

In Washington, D.C. General Hospital has had to close its emergency room on several occasions in the past year because of a lack of adequate nursing staff. Hospitals around the country have been forced to close beds and patient wards due to the nursing shortage. Many intensive care units and surgical units are dangerously close to compromising patient care because far too few nurses are available for duty. And with nurses being asked to work double shifts and care for too many critically ill patients, burnout is causing many to leave the profession.

The implications for the future nursing supply may well be devastating. Preliminary projections from the Sixth Report of the Department of Health and Human Services to the President and to Congress for the year 2000 indicate that 1,743,000 nurses will be needed—38 percent more nurses than were required in 1985. Faced with declining enrollment and a hospital vacancy rate for nurses exceeding 13 percent, support of nursing requires immediate attention.

An article in Time magazine of March 14, 1988, outlines the existing and potential dangers to a continuation of this crisis. Citing the increased nursing responsibility associated with advancing medical technology, the aging population and the amount and complexity of nursing care involved in caring for the growing number of AIDS patients, the article highlights the immediate and future perils to patient care.

Experts have attributed the shortage of nurses in all disciplines and every area of the country to several causes. First, nurses are clearly underpaid. They do not receive initial salaries commensurate with the amount of education required nor with the level of responsibility required to care for patients. The salary premium for over 20 years of nursing experience has been estimated to be only 5 cents an hour. It is easy to understand why so many people who might be interested in nursing turn to other higher paying professions.

Second, nurses do not receive adequate respect as full members of the health care team. Often they are not included in the decisionmaking process. This combination frequently leads to frustration, burnout, and high turnover.

Lastly, the number of nurses entering and completing undergraduate training programs is shrinking. Student enrollment in undergraduate nurse programs has declined for the third consecutive year and the supply of nurse graduates is expected to decrease well into the next decade. The National League for Nursing reports a 10-percent decline in RN Program enrollments between 1983 and 1985. This represents 25,000 fewer RN students over this 2-year period. An American Hospital Association study cites a further drop in enrollment of nearly 20 percent from July 1986.

Nursing schools have the capacity to educate more nurses, but fewer young people are choosing this career. Significant change is needed in hospital policies and in reimbursements for medical care to improve nursing salaries and provide greater involvement in patient care decisions. Hospitals have developed several innovative methods for recruiting nurses, including paying bounty awards and paying the educational costs for nursing students in return for a commitment to join the staff. But greater Federal resources are clearly necessary to increase the supply of nurses and the number and quality of nurse specialists.

As a result, this bill provides several important revisions to the existing Nurse Education Act—title VIII of the Public Health Service Act. Federal support of nurse education has been an important method of increasing the supply of nurses, and a new section would be added entitled "Scholarships for Undergraduate Education of Professional Nurses." The purpose of this program is to offer direct financial support to nursing students, with priority for disadvantaged students.

To direct financial support for students, this bill also includes an increase in funding for institutions of nurse education. The special projects section provides for improved geriatric nurse training and support for faculty to retain disadvantaged students in their programs. The bill recommends the establishment of a complete educational career ladder to encourage and support all nurses in obtaining undergraduate and graduate nursing degrees through rapid transition programs which acknowledge their past professional experience. In addition, this program will encourage the development of curriculums for the achievement of baccalaureate degrees in nursing by those individuals with baccalaureate degrees in other fields.

In recognition of the important role and increased need of nurses with advanced training, the bill also proposes additional funding for advanced nurse education. Graduate programs in nursing have responded to the need for such education in specialized clinical areas, including organ transplant care, trauma, and critical care nursing. The nature of acute illnesses, shortened hospital stays, and advanced technology in health care have heightened the need for postgraduate specialty education of the nurses.

In addition to these areas, master and doctoral programs have prepared nurses and made vital contributions to health care in areas such as nursing administration, health policy, gerontological nursing, and nurse education. These programs offer opportunities for nurses to assume an important role in solving the critical problems facing the health care system. Such programs provide for nursing leaders, educators, and clinical nurse specialists.

The Nurse Practitioners and Nurse Midwives Programs funded by this legislation provide needed primary health care to a large portion of the underserved population. After completion of advanced training, nurses are able to manage clients independently within the context of a health care consultation system. Because of their autonomous nature, these health providers are able to provide care to the needy in rural areas, inner city and neighborhood health centers, migrant health centers, community health centers, and other public health facilities.

The report of the Graduate Medical Education National Advisory Committee states that "* * * nurse practitioners and nurse midwives can make positive contributions to the health care system, can enhance patient access to services, decrease cost and provide a broadened range of services." As a result of this increasingly important role, increased funding is needed for traineeships. In exchange for traineeship funds to support the cost of their education, nurse practitioners, or nurse midwives will be required to practice in a long-term care facility, community health center, migrant health center, or public health facility for underserved populations for a period equal to the length of their traineeships.

To assist students in financing their education, the bill includes language to revise the Loan Provision Program. This change is minor, but it will broaden the range of eligible applicants and encourage participation in this proven program.

This bill also includes specific initiatives from S. 1402, the Nursing Shortage Reduction Act of 1987 which was adopted unanimously by the Senate. Two of the three provisions will be included under a special section—the Nursing Shortage Relief programs. Long-term care nursing practice demonstrations will provide funds to evaluate nurse practice models to improve nursing care in home health care systems and nursing homes. The second program, nurse recruitment centers, provides for the development of regional models of recruitment centers directed toward individuals between the ages of 12 and 14 years of age; toward those enrolled in colleges who have not declared majors; and toward adults who are not in schools who may desire to enter into nursing. These programs are vital measures to address the complex nature of the nursing recruitment crisis. The need for more nurses to care for the elderly and patient population with ever-increasing complex illnesses is compelling. Congress must respond by providing greater funding for nursing education.

Finally, the bill includes a new demonstration program to provide loans and scholarships. Nursing students who receive these loans and scholarships must agree to work for a hospital or other health care facility for a specified period of time. In return, the health care facility must agree to repay 75 percent of the student's loans received under this documentation. I am optimistic that this sort of public-private cooperative effort to increase the supply of nurses will be successful, and will serve as a model for other Federal programs.

I want to thank my colleagues on the Committee on Labor and Human Resources for their hard work on behalf of S. 2231. In particular, I greatly appreciate the effort of Senators SIMON, WEICKER, and HATCH, and their staffs for their support and determination to guide this important legislation through the Senate. I also want to commend the many nursing associations, specialty nursing groups and nurse educators, as well as the Division of Nursing in the Department of HHS and other interested groups and individuals who have assisted in the development of this legislation. I encourage my colleagues to support this bill and join in providing adequate funding for these most important nurse education programs. I ask all of my colleagues in the Senate to favorably consider S. 2231.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the House companion bill, Calendar Order No. 800, H.R. 4833.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4833) to amend the Public Health Service Act to revise and extend the programs of nurse education established in title VIII of such act, and for other purposes.

Mr. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the text of S. 2231, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 4833), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendment and ask for a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. HARKIN, Mr. MATSUNAGA, Mr. HATCH, and Mr. QUAYLE conferees on the part of the Senate.

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 894 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT VOORHEES COLLEGE

Mr. DOLE. Mr. President, I send a bill to the desk on behalf of Senators THURMOND and HOLLINGS and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2764) to provide for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, this legislation provides support for a project that is of vital importance to a small historically black college in South Carolina, Voorhees College. I am pleased to have my distinguished colleague, Mr. HOLLINGS, join me as a sponsor of this measure.

Some years ago, the State of South Carolina and Voorhees entered into an agreement whereby Voorhees made available to Bamberg County land on which an elementary school and gymnasium were built. Voorhees was promised use of the gymnasium for its academic and sports programs. That agreement is now threatened because the school plans to develop an afternoon program that will consume the few hours Voorhees presently has available for its classes. Therefore, Voorhees will no longer have access to a facility for its instructional programs. So far they have been able to negotiate continued use through June, 1989. Voorhees hopes to be able to renew this lease through 1989, but the outcome of this is uncertain. This less than satisfactory agreement hampers Voorhees ability to plan for the future; but more importantly, its accreditation would be in jeopardy if Voorhees does not have a facility in which to offer its programs.

The lack of a suitable facility for physical and health education programs was noted in Voorhees's last acreditation evaluation.

To lose accreditation would be devastating to Voorhees. It would jeopardize its ability to attract good students, as well as current Federal funding. Moreover, Voorhees plans a critical community leadership role in Bamberg County, which has the highest unemployment and teenage pregnancy rates in South Carolina. Accordingly, Voorhees is seeking Federal support to build a facility to house these programs.

I urge my colleagues to support this bill.

Mr. HOLLINGS. Mr. President, today I join with my distinguished senior Senator in introducing legislation to authorize the construction of a Health and Human Resources Center on the campus of Voorhees College in Denmark, SC. Senator THURMOND and I have worked closely with Voorhees College on this badly needed project. And, while our efforts for authorization have been successful in the Senate, complications with the larger measure in which the project was included has prevented its actual enactment into law.

We have, however, been successful in obtaining a conference agreement on the project's funding—the conference agreement on H.R. 4783, the fiscal year 1989 Labor, Health and Human Services, and education appropriations bill, provides $4.5 million for the cost of constructing a Health and Human Resources Center at Voorhees College.

Mr. President, it is now critical that the authorization for this project go forward. Without an authorization the moneys cannot be allocated to Voorhees and this historically black college could very possibly lose its accreditation—seriously threatening the continuation of this fine institution.

I urge my colleagues to join Senator THURMOND and I in supporting, once again, legislation authorizing the construction of a Health and Human Resources Center at Voorhees College.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH AND HUMAN RESOURCES CENTER.

(a) GENERAL AUTHORITY.—The Secretary of Education is authorized, in accordance with this section, to provide financial assistance to Voorhees College in Denmark, South Carolina, to pay the cost of construction and related costs for a Health and Human Resources Center at Voorhees College.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless the applicant completes an application according to requirements set forth by the Secretary of Education.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sum, not to exceed $4,500,000, as may be necessary to carry out this section. Funds appropriated pursuant to this section shall remain available until expended.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL POW/MIA RECOGNITION DAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 453, a joint resolution to designate September 16 as "National POW/MIA Recognition Day," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 453) designating September 16, 1988, as "National POW/MIA Recognition Day."

The Senate proceeded to consider the joint resolution.

Mr. MURKOWSKI. Mr. President, as the ranking Republican member of the Senate Veterans' Affairs Committee, I am pleased to support Joint Resolution 453 which would designate September 16, 1988, as National Prisoner of War—Missing in Action Day. This recognition reinforces my belief that these POW/MIA's have not been and will not be forgotten.

During 1986, while I was chairman of the Senate Committee on Veterans' Affairs, the committee held extensive hearings, both open and closed, on the issue of Americans still missing or prisoners in Southeast Asia. In January 1986, I led the first bipartisan delegation of Members from both Houses of Congress on a factfinding mission to Hanoi, Bangkok, and Vientiane, Laos. Since that time, President Reagan and the Congress have continued to operate on the premise that Americans may still be held against their will in Southeast Asia. As a result, our Defense Intelligence Agency devotes considerable resources to tracking down and attempting to verify reports of live sightings of Americans.

In my capacity as ranking minority member of both the Committee on Veterans' Affairs and the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, I have continued to work to ensure all agencies of our Government fulfill their obligation to actively follow every lead concerning Americans possibly held captive. We owe that dedication to the men who are still missing and to their families. I believe that by setting aside a day of recognition for these men, we as a country will show our support as well for these men who so gallantly served their Nation, as well as for their families and friends.

I was encouraged when General Vessey's mission to Hanoi seemed to result in increased seriousness in the treatment of the issue by the Vietnamese Government. More recently, in late July 1988, the Vietnamese withdrew their cooperation only to announce in late August they would resume their cooperation when they discovered that we could not be manipulated by attempts to play upon our heartfelt and unquenchable desire to obtain a full and final accounting for those still missing and freedom for any still-held prisoner. Once again I am hopeful the way lies open to make progress toward resolution of this question.

We as a people continue to care deeply about those who served in combat in defense of American ideals. The missing in action and their families who continue to wait, hope and pray for progress in the search for answers are an integral part of that heritage and serve as a reminder that, although the guns are silent, the war is not over. This day is not only for these men but for their families as well.

On September 16, 1988, I will be proud to join all America in remembering those brave men still missing. They will never be forgotten and we will never rest until they are accounted for.

The joint resolution (H.J. Res. 453) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMBASSADOR ARNOLD LEWIS RAPHEL AND GEN. HERBERT MARION WASSOM

Mr. BYRD. Mr. President, I send to the desk and ask for its immediate consideration a resolution on behalf of myself and the distinguished minority leader and others.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 467) to express the deep regret of the Senate regarding the deaths of Ambassador Arnold Lewis Raphel and General Herbert Marion Wassom.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 467) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

Whereas the Senate of the United States has learned with profound sorrow and deep regret of the tragic deaths of the United States Ambassador to Pakistan, Arnold Lewis Raphel, and the Chief United States Defense Representative to Pakistan, Brigadier General Herbert Marion Wassom; and

Whereas Ambassador Raphel's career in the United States Foreign Service spanned more than two decades during which he distinguished himself as an expert on the Middle East and South Asia; and

Whereas General Wassom served more than twenty-six years of active duty in the United States Army and was decorated for his valor with the Legion of Merit with Oak Leaf Cluster, the Bronze Star with two Oak Leaf Clusters with the Defense Meritorious Service Medal; and

Whereas the presence of Ambassador Raphel and General Wassom in Islamabad served to strengthen the important bond of friendship between the governments of the United States and Pakistan; and

Whereas Ambassador Raphel and General Wassom were tragically killed while actively promoting the long-standing commitment of the United States to the security and independence of Pakistan; and

Whereas Ambassador Raphel was the sixth United States Ambassador to be killed while courageously serving this nation overseas; and

Whereas the untimely deaths of Ambassador Raphel and General Wassom on August 17, 1988, are a tragedy for the United States Foreign Service, the United States Army, and the American people. Therefore, be it

Resolved That the United States Senate expresses its deep sympathies to the families of Ambassador Arnold Raphel and Brigadier General Herbert Marion Wassom who were killed while serving this nation with courage and dedication.

BOND REVIEW WAIVER

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5143, a bill to waive the review period for the issuance of certain D.C. revenue bonds.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5143) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GLENN. Mr. President, as chairman of the Committee on Governmental Affairs, I want to take a moment to explain to my colleagues H.R. 5143, the District of Columbia Revenue Bond Act of 1988. This legislation passed the House on August 11, and has been cleared by myself, the committee's ranking minority member, Senator ROTH, and the chairman and ranking members on the subcommittee with jurisdiction over the District of Columbia, Senators SASSER and HEINZ, respectively.

What this bill does is to waive the 30-day congressional review period for certain District of Columbia bond acts. This legislation is for a limited purpose and is aimed at insuring that the upcoming October adjournment of Congress does not place undue burdens and impediments on six District of Columbia bond acts due to the mandated 30-day congressional review period.

This legislation is necessary because the U.S. Internal Revenue Code affecting the issuance of tax-exempt bonds requires the approval of the appropriate State or local authority for the issuance of revenue bonds. Further, under section 602(C)(1) of the District of Columbia Self-Government and government Reorganization Act, Public Law 93-198 (the "Home Rule Act"), after the D.C. Government has done all it can and must do to pass a bond act, that act must then be transmitted to Congress for a review period of 30 legislative days.

I would note that this 30-day period counts legislative days in which at least one House of Congress is in session. Typically the count converts to between 60 to 90 calendar days.

Bond issues in particular are financially sensitive and should not be unduly delayed. Several D.C. bond acts now pending or recently approved will not clear the 30-day review period prior to the scheduled adjournment of Congress. The six bonds which would be adversely affected are to be issued by the following non-profit institutions: Columbia Hospital for Women, Children's Hospital, District of Columbia Hospital Association, Georgetown University, Providence Hospital, and St. John's Child Development.

It is critically important for the participating institutions to have the District issue tax-exempt bonds on their behalf at the earliest possible time in order to take advantage of current low tax-exempt rates. The bonds issued pursuant to the District's revenue bond acts will comply in all respects with applicable Federal tax law.

Finally, I should note that this legislation also has the support of the Mayor of the District of Columbia, Marion Barry, as well as David Clarke, chairman of the council of the District of Columbia.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5143) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ROTUNDA OF THE U.S. CAPITOL TO BE USED IN CONNECTION WITH THE INAUGURATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 141 submitted earlier today by Mr. FORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 141) authorizing the Rotunda of the United States Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FORD. Mr. President, I am today submitting a concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

This concurrent resolution is identical to one approved by the Congress 4 years ago and is essential in the event circumstances require that the inaugural ceremony be moved indoors. As you will recall, this was the case in 1985 when bitterly cold weather necessitated a last-minute change from the west front inside to the rotunda.

This concurrent resolution will assure that the Joint Congressional Committee on Inaugural Ceremonies has the necessary authority to take similar action in 1989 in the event it is required.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1989, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

AGREEMENT WITH FOREIGN FIRE ORGANIZATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2641 dealing with the agreement with foreign fire organizations reported earlier today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2641) to authorize the Secretary of Agriculture and other Agency heads to enter into agreements with foreign fire organizations for assistance on wildlife protection.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2940

(Purpose: To authorize the Secretary of Agriculture and other Agency heads to enter into agreements with foreign fire organizations for assistance in wildlife protection)

Mr. BYRD. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of Senators MELCHER and BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. MELCHER (for himself, Mr. BAUCUS and Mr. WALLOP) proposes an amendment numbered 2940.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildlife protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION.

(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 4. FUNDS.

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided*, That no such funds may be expended for wildfire protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

SEC. 5. TERMINATION DATE.

The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. DOLE. Mr. President, will the Senator from Montana yield? Does the Senator from Montana have any objection to including Senator WALLOP as a cosponsor?

Mr. BAUCUS. Not at all.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, the thrust of the substitute of the original bill is to allow the Secretaries of Interior and Agriculture to enter into an agreement with Canada whereunder the United States Government would reimburse Canada for certain firefighting equipment that is so necessary now for fires in Yellowstone Park and fires that are now ravaging many parts of the West.

We all have read in the papers and see on the evening news the fires in Yellowstone National Park, our national treasure. The first and most famous park we have in our country. Old Faithful lodge, for example, is threatened. Several outbuildings very close to Old Faithful have already burned down. It is, frankly, sheer luck that has prevented Old Faithful Lodge itself from burning down last night.

The firefighting crews and support staff on the ground are tired to the bone. They have been working very hard and valiantly. They have done an absolutely terrific job in trying to fight these fires.

However, we need more manpower. Canada has trained personnel that we need immediately. Canada also has slurry bombers that we need to drop fire retardent on these fires. Canada has infrared equipment that is neded to penetrate the smoke to find out where the hotspots are. There is a whole list of equipment and list of needs that are necessary to put these fires out.

The House is committed to passing this bill. Once we pass this legislation tonight, it is my strong hope that the President signs it tomorrow forthright so that the authority is there for Canada to come forth with the necessary resources and we can reimburse them.

The fact is that we have provided services to Canada in the past. The Canadian Government has reimbursed the United States. Unfortunately, this legislation is now needed for the converse, so that Canada can provide services and we can reimburse Canada.

I thank the leader and also the Senator from Kansas for quickly moving on this. The senior Senator from Montana pushed this resolution through the Agriculture Committee. I want to thank him, Senator WALLOP, and others. It is very, very urgent and action has to be taken at this moment.

I thank the Chair, and I thank the Senator from West Virginia.

Mr. MELCHER. Mr. President, I recently returned from Montana, where I saw first hand the continuing devastation wrought by forest fires in my home State. The pending measure would further efforts to put out these and other of our Nation's wildfires in the United States by enabling Federal firefighting agencies to draw upon Canadian firefighting resources.

Although the United States and Canada in the past have assisted each other in combating forest fires, Federal firefighting agencies lack express statutory authority to engage in such activities or to reimburse Canada for any such assistance. Lacking a firm statutory basis, firefighting arrangements with Canada have been unnecessarily complicated or altogether precluded. To remedy this situation, this legislation would grant the Secretary of Agriculture and the Secretary of Interior, with the consultation of the Secretary of State, the authority to enter into international firefighting agreements and to reimburse other governments for help in this area.

This measure is based on legislation I introduced earlier this summer with the cosponsorship of the chairman of the Committee on Agriculture, Senator LEAHY. I understand that the Agriculture Secretary Richard Lyng recently wrote to the chairman to express his support for that legislation and to urge that the measure be enacted as soon as possible. In addition, on June 29, 1988, at a hearing of the House Subcommittee of Forestry, Family Farms, and Energy, on a House measure identical to S. 2641, F. Dale Robertson, chief of the U.S. Forest Service supported this legislation. The Department of the Interior and the National Association of State Foresters also have expressed their support.

The pending bill is an emergency interim measure, and would extend the needed authority to the Departments of Agriculture and Interior only through December 31, 1988. I will continue working to ensure enactment of a permanent policy in this area before the finish of the 100th Congress.

Mr. President, given the emergency nature of the fire situation in Yellowstone National Park and other areas of the West which are experiencing forest fires, I am especially thankful to the chairman of the Agriculture Committee and the committee's ranking minority member for taking such prompt action on my legislation.

Canada has approximately 35 planes that are especially designed for fighting forest fires. These could be mobilized on very short notice to help bring fires in this Nation's forests and parks under control. To provide the U.S. Forest Service and other Federal agencies access to these and other available Canadian firefighting resources, I urge my colleagues to pass this vitally needed legislation.

The PRESIDING OFFICER (Mr. SIMON). The bill is open to further amendment. If there is no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 2641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION.

(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 4. FUNDS.

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided,* That no such funds may be expended for wildfire protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

SEC. 5. TERMINATION DATE.

The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I earlier inquired of the distinguished Republican leader if Calendar Order No. 903, H.R. 900, had been cleared on his side, and the distinguished Republican leader indicated in the affirmative.

Mr. DOLE. It has been cleared.

WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 903.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 900) to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "West Virginia National Interest River Conservation Act of 1987".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purpose.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

Sec. 101. Boundary modification.
Sec. 102. Cooperative agreements with State.
Sec. 103. Improvement of access at Cunard.
Sec. 104. Flow management.

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

Sec. 201. Establishment.
Sec. 202. Administration.
Sec. 203. Miscellaneous.
Sec. 204. Authorization of appropriations.
Sec. 205. Special conditions.
Sec. 206. Advisory committee.

TITLE III—MEADOW NATIONAL WILD AND SCENIC RIVER

Sec. 301. Designation of Lower Meadow River.

TITLE IV—BLUESTONE NATIONAL SCENIC RIVER

Sec. 401. Designation of Lower Bluestone River.

TITLE V—GENERAL PROVISIONS

Sec. 501. Coordination among recreational resources.
Sec. 502. Special provisions.
Sec. 503. Public awareness program.
Sec. 504. Consolidated management.
Sec. 505. New spending authority subject to appropriations.

TITLE VI—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

Sec. 601. Acreage limitations.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation experience. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

(b) Purpose.—The purpose of this Act is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

SEC. 101. BOUNDARY MODIFICATION.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking out "NERI-20,002, dated July 1978" and substituting "NERI-80,023, dated January 1987".

SEC. 102. COOPERATIVE AGREEMENTS WITH STATE.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1113. COOPERATIVE AGREEMENTS WITH STATE.

"In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or nonreimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

SEC. 103. IMPROVEMENT OF ACCESS AT CUNARD.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1114. IMPROVEMENT OF ACCESS AT CUNARD.

"(a) Development and Improvement.—The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

"(b) Interim Measures.—Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.".

SEC. 104. FLOW MANAGEMENT.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end:

"SEC. 1115. FLOW MANAGEMENT.

"(a) Findings.—The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 1110 of this Act and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

"(b) Report To Congress Required.—The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments.

"(c) Contents of Study.—The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments.

"(d) Test Procedures.—As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.".

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

SEC. 201. ESTABLISHMENT.

(a) In General.—In order to protect and preserve the scenic, recreational, geological, and fish and wildlife resources of the Gauley River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referred to as the "recreation area").

(b) Area Included.—The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled "Gauley River National Recreation Area", numbered NRA-GR/20,000A and dated July 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) Boundary Modifications.—Within five years after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall submit to the Committee on Interior and In-

sular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

SEC. 202. ADMINISTRATION.

(a) In General.—The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approve Application August 25, 1916 (16 U.S.C. 1-4).

(b) Hunting and Fishing; Fish Stocking.—The Secretary shall permit hunting, trapping and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws. The Secretary may, after consultation with the State of West Virginia Department of Natural Resources, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of West Virginia with respect to fish and wildlife

(c) Cooperative Agreements With State.—In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) Application of Other Provisions.—The provisions of section 7(a) of the Act of October 2, 1968 (16 U.S.C. 1278(a)), shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) Recreational Access.—

(1) Existing public roads.—The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and public rights-of-way within the boundaries of the national recreation area to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would not unreasonably diminish the scenic and natural values of the area.

(2) Facilities adjacent to dam.—In order to accommodate visitation to the recreation area, the Secretary shall construct such facilities as necessary to enhance and improve access, vehicle parking and related facilities, and provide river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not provided pursuant to section 205 and such facilities are within the boundaries of the recreation area. Such construction shall be subject to the memorandum of understanding referred to in subsection (f).

(3) Other locations.—In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands to construct such parking and related facilities at other appropriate locations outside the boundaries of, but within one mile of the recreation area as may be necessary and appropriate. Any such lands shall be managed in accordance with the management provisions for the recreation area as defined in subsection (a).

(f) Properties and Facilities of Federal Agencies.—After consultation with any other Federal agency managing lands and waters within or contiguous to the recreation area, the Secretary shall enter into a memorandum of understanding with such other Federal agency to identify those areas within the recreation area which are (1) under the administrative jurisdiction of such other agency; (2) directly related to the operation of the Summersville project; and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

SEC. 203. MISCELLANEOUS.

(a) Lands and Waters.—The Secretary may acquire lands or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) Jurisdiction.—Lands, waters and interests therein within the recreation area which are administered by any other agency of the United states and which are not identified under section 202 as directly related to the Summersville project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary.

(c) Protection of Existing Project.—Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99-662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary to facilitate and enhance whitewater recreational use and other recreational use of the recreation area.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

SEC. 205. SPECIAL CONDITIONS.

(a) New Project Construction.—If, after the enactment of this Act, any department, agency, instrumentality or person commences construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project at or in conjunction with the Summersville project, the department, agency, instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction.

(b) Adverse Effects on the Recreation Area.—If any such new project referred to in subsection (a) will create a direct, physical, adverse effect on access to the recreation area immediately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for whitewater recreation and other recreational use of the recreation area, the department, agency, instrumentality or person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the Secretary.

(c) New Project Permits.—The terms and conditions referred to in this section shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 202(d), except that during the four-year period after the enactment of this Act, nothing in this Act shall prohibit the licensing of a project adjacent to Summersville Dam as proposed by the city of Summersville, or by any competing project applicant with a permit or license application on file as of August 8, 1988, if such project complies with this section. Any such project shall be limited to 80 megawatts. If such project is licensed within such four-year period, the Secretary shall modify the boundary map referred to in section 201 to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point five hundred and fifty feet downstream of the existing valve house and one thousand two hundred feet (measured along the river bank) upstream of United States Geological Survey Gauge Numbered 03189600, except in making the modification the Secretary shall maintain within the boundary of the recreation area those lands identified in the boundary map referred to in section 201 which are not necessary to the operation of such project.

SEC. 206. ADVISORY COMMITTEE.

(a) Establishment.—There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the "Advisory Committee"). The Advisory Committee shall be composed of fifteen members appointed by the Secretary to serve for terms of two years. Any member of the Advisory Committee may serve after the expiration of his term until a successor is appointed. Any member of the Advisory Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) Management and Development Issues.—The Secretary, or his designee, shall meet on a regular basis and consult with the Advisory Committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) Expenses.—Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) MEMBERSHIP.—The Secretary shall appoint members to the Advisory Committee as follows:

(1) one member to represent other departments or agencies of the United States administering lands affected by the recreation area, to be appointed from among persons nominated by the head of such department or agency;

(2) two members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia;

(3) one member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of West Virginia;

(4) three members to represent the commercial whitewater rafting industry in West Virginia;

(5) one member to represent noncommercial whitewater boating organizations;

(6) one member to represent conservation organizations in West Virginia;

(7) one member to represent individuals engaged in game fishing in West Virginia;

(8) one member to represent the Nicholas County Chamber of Commerce;

(9) one member to represent the Fayette County Chamber of Commerce;

(10) one member to represent recreational users of Summersville Lake; and

(11) two members to represent local citizens or citizens groups which are concerned with the Gauley River or own lands included within the boundaries of the recreation area.

(e) TERMINATION; CHARTER.—The Advisory Committee shall terminate on the date ten years after the enactment of this Act notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Advisory Committee.

TITLE III—MEADOW NATIONAL WILD AND SCENIC RIVER

SEC. 301. DESIGNATION OF LOWER MEADOW RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) MEADOW, WEST VIRGINIA.—The segment from approximately one mile above the Route 19 Bridge to its confluence with the Gauley River approximately 4.5 miles downstream from the bridge, as depicted on the boundary map entitled 'Meadow Wild and Scenic River', numbered WSR-MEA/20,000A and dated July 1988; to be administered by the Secretary of the Interior. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. The acreage limitations specified in subsection (a) of section 6 shall not apply. Nothing in this Act shall affect the management by the State of hunting, trapping, and fishing within the segment designated under this paragraph.".

TITLE IV—BLUESTONE NATIONAL SCENIC RIVER

SEC. 401. DESIGNATION OF LOWER BLUESTONE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) BLUESTONE, WEST VIRGINIA.—The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on the boundary map entitled 'Bluestone Wild and Scenic River', numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting, trapping and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on the enactment of this paragraph. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. Nothing in this Act shall be construed to affect the continuation of studies relating to such project which were commenced before the enactment of this paragraph.".

TITLE V—GENERAL PROVISIONS

SEC. 501. COORDINATION AMONG RECREATIONAL RESOURCES.

Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing: Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.

SEC. 502. SPECIAL PROVISIONS.

Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act.

SEC. 503. PUBLIC AWARENESS PROGRAM.

The Secretary of the Interior shall establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia, in cooperation with State and local agencies, landowners, and other concerned organizations. The program shall be designed to further public understanding of the effects of designation as components of the National Wild and Scenic Rivers System of segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by this Act as units of such system. By December 31, 1992, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate describing the program undertaken pursuant to this section. Section 7(b) of the Wild and Scenic Rivers Act shall continue to apply to the segments subject to this section until December 31, 1992.

SEC. 504. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act, the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.

SEC. 505. NEW SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

Any new spending authority which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.

TITLE VI—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

SEC. 601. ACREAGE LIMITATIONS.

Notwithstanding the provisions of section 501(b)(1)(B) of Public Law 99-590, section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)) is amended to read as follows:

"(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date if provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments.

"Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.".

Mr. ROCKEFELLER. Mr. President, I rise today in support of H.R. 900, a bill to protect and enhance the natural, scenic, cultural, and recreation values of specific segments of the

Gauley, Meadow, and Bluestone Rivers. I believe this bill is in the interest of the Nation and my own State. This bill has widespread support among the people living in the region. Passage of H.R. 900 will bring about significant economic, recreational, and environmental benefits, and these are the reasons I am so enthusiastic about this bill.

To give you some background, in 1978 when the New River was designated as a National River through legislative action, a study was authorized to look at the tributaries of this beautiful and special river. These legislatively mandated studies performed by the National Park Service determined the Bluestone, Gauley, and Meadow to be outstanding rivers in terms of their scenic, natural recreational, and cultural attributes.

As a result of these studies and the strong support voiced by local citizens of this region, I introduced the legislation which you are considering today, which would establish a portion of the Gauley River as a national recreation area and designate the lower portions of the Meadow and the Bluestone as the State's first wild and scenic rivers. This bill will also allow for much needed boundary modifications in the New River Gorge National River.

Protection of these river segments in their free-flowing natural state will preserve these rivers for enjoyment by our citizenry now and in the future. Federal designation of these rivers will enhance the economic development of the region through the expanded opportunities for tourism and recreation that will result. Each year 700,000 tourists visit the New River Gorge National River. My bill will heighten awareness even more—nationally and internationally—of the enormous recreational opportunities available on these rivers. This designation will provide more publicity to this region than we could ever possibly buy. As a State still struggling to overcome difficult economic problems, West Virginia needs the boost that would be provided by this legislation.

The potential of this legislation is also helped greatly by recent steps that have been taken or completed to improve the road system in the area. The recently funded New River Parkway, and the just completed turnpike and Interstate 64, will enable tourists to visit these areas on modern, safe, and convenient highways.

Through H.R. 900, the Gauley River National Recreation Area will cover a 24.5 mile segment from Summersville to Swiss in Nichols County. This area provides one of the most spectacular whitewater experiences in the country with its boulder strewn rapids, high ledges, narrow chutes, and tortuous channels. I recommend it highly to any of you who enjoy the outdoors. In 1986, whitewater recreation on the Gauley alone pumped over $16 million into the local economy.

The Meadow River from the Route 19 bridge to Carnifex Ferry where it joins with the Gauley is in a wild and primitive condition. It is an even more demanding—and some would say breathtaking—challenge for whitewater rafting than the Gauley due to its narrow channel and steep gradient.

One of the most pristine rivers in the United States is the Bluestone. Well known for its beauty and magnificent gorge, the Bluestone offers opportunities for fishing, camping, rafting, and canoeing.

Mr. President, without a doubt, the rivers that I have proposed for Federal designation are worthy of inclusion in the system of Wild and Scenic Rivers. Enactment of this legislation will complement the existing New River Gorge National River, greatly enhance the economic development of southern West Virginia through tourism, and help to ensure that the scenic beauty and natural resources of this area are given the care and protection that they so deserve.

My views both echo and reflect the views of the people who reside and work in this region of West Virginia. I am pleased about this consensus, which I hope will underscore the importance of this legislation to this body.

Again, I am grateful for your consideration of H.R. 900 and I urge passage of this legislation.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill pass?

So the bill (H.R. 900), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I have had a discussion with the distinguished Senator from Montana, Mr. BAUCUS, if we could add Senator SIMPSON as a cosponsor, and he also does not have any objection to Senators SYMMS and MCCLURE being added. I ask unanimous consent that Senators SIMPSON, SYMMS, and MCCLURE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF PRESIDENT MOHAMMED ZIA UL-HAQ

Mr. BYRD. Mr. President, I send to the desk a Senate resolution on behalf of Mr. DOLE, Mr. STENNIS, Mr. HELMS, Mr. BOREN, Mr. HEFLIN, Mr. HUMPHREY, Mr. JOHNSTON, Mr. HECHT, Mr. SHELBY, Mr. SYMMS, Mr. MCCLURE, Mr. NICKLES, Mr. BOND, and myself. I ask unanimous consent that tomorrow, upon the disposition of the textile bill, the Senate proceed without further debate to vote on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, during the August recess I was deeply saddened by the news of the tragic death of President Mohammed Zia ul-Haq of Pakistan. President Zia was a brave man who stood up to the Soviet Union in Afghanistan.

When the Soviet brutally and illegally invaded the sovereign country of Afghanistan in 1979, President Zia understood that this was a first step toward Soviet hegemony over the whole region.

Courageously, President Zia came forward and aided the Afghan freedom fighters in their struggle to rid their country of the Communist occupation. He allowed the freedom fighters to use Pakistan as a staging area for their attacks on Soviet-backed troops. And he sheltered more than 4 million Afghan refugees who had fled the horror of the Soviet occupation.

The sheltering of these refugees was an especially risky undertaking. The area in Pakistan, where most of the refugees settled, was already heavily populated, and they were unpopular with the local residents. But President Zia took in these refugees anyway, knowing full well that if the Soviet Union were to gain total control of Afghanistan, then Pakistan would probably be next on the Kremlin's menu.

I should hope that all of those involved, especially the Soviet Union, recognize that neither the resolve of the United States toward the Afghan people, nor our commitment to the stability of that region, has wavered. We all should take a minute to reflect upon what South West Asia would look like at this moment had President Zia not given his support to the Afghan Resistance.

Mr. President, the people of Pakistan have lost a leader who fought tenaciously for the sovereign rights of his people. The United States and the Afghan resistance have lost a trusted friend and a loyal ally.

Mr. President, I was pleased to work with the majority leader and the Republican leader in putting this resolution together, along with the other sponsors; Senators BOREN, HEFLIN, HUMPHREY, JOHNSTON, HECHT, SHELBY, MCCLURE, SYMMS, NICKLES, and BOND.

This resolution expresses the deep regret of the Senate over the death of President Zia. In addition, it welcomes the commitment of the Government of Pakistan to follow the constitutional process, to proceed with free and fair elections and to continue Pakistan's support for the Afghan refugees and the resistance.

President Zia was a valued friend of the United States. He took grave risks to promote our interest in bringing about a free Afghanistan. He was a figure of heroic proportions who will long be remembered as a builder of Pakistan.

EXTENSION OF MORNING BUSINESS AND RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that morning business may be extended for 10 minutes and that the distinguished Senator from New Hampshire be permitted to speak therein, and upon the conclusion of his speech at or before 7:20 the Senate stand in recess under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. HUMPHREY. I thank the leadership for an extension of time in morning business.

DEATH OF AMBASSADOR ARNOLD RAPHEL AND BRIG. GEN. HERBERT MARION WASSOM

Mr. HUMPHREY. Mr. President, the sudden and untimely deaths of the United States Ambassador to Pakistan, Arnold Raphel, and the Chief United States Defense Representative to Pakistan, Brig. Gen. Herbert Wassom, are a tragedy for the United States Foreign Service, the United States Army, and the American people. Of course, it is a deep personal tragedy for their families.

It is appropriate that in this first week returning after the recess, during which the tragic accident occurred which took the lives of these fine public servants, the Senate take the time to honor them and to express its deep sympathy to their respective families.

I never met General Wassom, but I had met many times with Ambassador Raphel. I always found him to be considerate and gentlemanly, and, of course, his knowledge of Southwest Asia is internationally known. I did not always agree with Ambassador Raphel. That is likewise known. In fact, we frequently disagreed on issues concerning the war in Afghanistan. But despite our differences we worked closely on many important initiatives over the past year: naming a political officer to cover Afghanistan full time, appointing a scholar-in-residence on Afghanistan, naming a full-time Voice of America reporter in Peshawar, establishing a USIA country plan for Afghanistan, and establishng a USIA presence in Quetta, among other things.

Ambassador Raphel's career in the U.S. Foreign Service spanned more than two decades during which he became known as one of the most capable diplomats in our Foreign Service Corps. He was considered a "rising star." At age 45 he was without question one of our youngest Ambassadors ever to serve in such an important post. General Wassom, and Ambassador Raphel's tours in Islamabad served very greatly to strengthen the important bounds of friendship between the Governments of Pakistan and the United States.

I commend the leaderships of the Senate for bringing this resolution to the Senate floor for early consideration. We hope that will offer some little consolation to the families and that it will yet be a further source of pride for them.

Mr. President, I thank the Chair.

UNANIMOUS-CONSENT AGREEMENT—S. 2662

Mr. BYRD. Mr. President, the following request has been cleared with Mr. HOLLINGS, the manager on this side. The distinguished Republican leader is on the floor.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until tomorrow morning at 9:30 a.m. that following the two leaders under the standing order, there be a period for morning business, not to extend beyond the hour 10 a.m.; that at the hour of 10 a.m. the Senate resume consideration of the pending measure, the textile bill; that there be only 2 hours remaining on that bill, to be equally divided between and controlled by Mr. PACKWOOD and Mr. HOLLINGS or their designees; that a vote occur on final passage of the textile bill at the hour of noon; that only in the event there is a pending amendment at the hour of noon, would that vote on final passage at the hour of noon slip a little bit—in other words, the only vote, under the order, that could occur at the hour of noon other than a vote on final passage would be a vote on a then pending amendment; that there be no motion to recommit, with or without instructions; that paragraph 4 of rule XII be waived; that upon the passage of the bill, no time be in order on a motion to reconsider and no entry of a motion to reconsider be in order.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Do I correctly understand that that would be the final action on this matter, the textile matter, tomorrow?

You might have some other business tomorrow, but that would be the final action on this bill?

Mr. BYRD. That would be the final action on this bill, but I would move to go to the House bill. I cannot say that once we pass this bill, we would go home and do nothing else, nor can I say we would not try to go to the House bill. I would move to go to the House bill, and that would be debatable. If Senators wish to debate that motion over the weekend, I would simply offer a motion to invoke cloture, and we could go to some other bill, and then the cloture motion would ripen on Tuesday. But I would not entertain any thought of going late tomorrow on the motion to proceed.

Once the motion to proceed is made, if there is a disposition—and it is a clear disposition—to filibuster that motion, the motion to invoke cloture would be offered, and it might be that I would try to take up something else tomorrow. Of course, I would discuss that with the distinguished Republican leader.

Mr. PACKWOOD. That is fine.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent then at 9:30, after the two leaders have been recognized, there be a period for morning business to extend to the hour of 10 o'clock, that Senators may be permitted to speak during that time for morning business for not to exceed 5 minutes each, that at the hour of 10 o'clock, as under the order previously entered, the Senate resume consideration of the textile bill, that there be 2 hours of debate to be equally divided between Mr. HOLLINGS and Mr. PACKWOOD, and that the remainder of the previous order fall into place as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow morning.

Thereupon, the Senate, at 7:12 p.m., recessed until Friday, September 9, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 8, 1988:

DEPARTMENT OF STATE

JOHN RANDOLPH HUBBARD, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

UNITED NATIONS

THE FOLLOWING-NAMED PERSONS TO BE REPRESENTATIVES AND AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

REPRESENTATIVES:

RUDY BOSCHWITZ, UNITED STATES SENATOR FROM THE STATE OF MINNESOTA.

CHRISTOPHER J. DODD, UNITED STATES SENATOR FROM THE STATE OF CONNECTICUT.

ALTERNATE REPRESENTATIVE:

ARTHUR SCHNEIER, OF NEW YORK.

INTERNATIONAL BANKS

NICHOLAS F. BRADY, OF NEW JERSEY, TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK; AND UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT FUND.

INTER-AMERICAN FOUNDATION

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR THE TERMS INDICATED:

FOR A TERM EXPIRING OCTOBER 6, 1992:

JOHN C. DUNCAN, OF NEW YORK, VICE LUIS GUERRERO NOGALES, TERM EXPIRED.

FOR A TERM EXPIRING SEPTEMBER 20, 1994:

RICHARD THOMAS MCCORMACK, OF PENNSYLVANIA. (REAPPOINTMENT.)

PEACE CORPS NATIONAL ADVISORY COUNCIL

GARY DALE ROBINSON, OF WASHINGTON, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM OF ONE YEAR EXPIRING OCTOBER 6, 1988. (NEW POSITION.)

GARY DALE ROBINSON, OF WASHINGTON, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM OF TWO YEARS EXPIRING OCTOBER 6, 1990. (REAPPOINTMENT.)

DEPARTMENT OF DEFENSE

KAREN R. KEESLING, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE TIDAL W. MCCOY, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARY T. GOEDDE, OF OHIO, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE RONALD F. DOCKSAI, RESIGNED.

DEPARTMENT OF THE INTERIOR

JANET J. MCCOY, OF OREGON, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE RICHARD THOMAS MONTOYA, RESIGNED.

MERIT SYSTEMS PROTECTION BOARD

SAMUEL W. BOGLEY, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEM PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 1995, VICE DENNIS M. DEVANEY, RESIGNED.

NATIONAL INSTITUTE OF BUILDING SCIENCES

DIANNE E. INGELS, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1991. (REAPPOINTMENT.)

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

KENNETH BLANKENSHIP, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM OF YEARS PRESCRIBED BY PUBLIC LAW 99-498 OF OCTOBER 17, 1986. (NEW POSITION.)

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJOR JACK S. ARNOLD, [redacted] 6/8/88
MAJOR DONALD I. BASH, [redacted] 5/18/88
MAJOR RICHARD R. CAWLEY, [redacted] 5/14/88
MAJOR WILLIAM B. MOORE, [redacted] 3/5/88
MAJOR GLENN B. PUSEY, JR., [redacted] 6/8/88
MAJOR GEORGE S. RALSTON, [redacted] 4/17/88
MAJOR RICHARD L. RAYBURN, [redacted] 5/22/88
MAJOR TIMONTHY C. RYAN, [redacted] 4/21/88
MAJOR JAMES A. SCHMELTZER, [redacted] 2/27/88
MAJOR VINCENT J. SHIBAN, [redacted] 5/27/88
MAJOR JAMES T. WILLIAMS, [redacted] 5/25/88
MAJOR JAMES F. WILSON, [redacted] 5/27/88
MAJOR STEWART A. ZUBER, [redacted] 6/5/88

MEDICAL CORPS

MAJOR JAMES O. BROWN II, [redacted] 6/4/88
MAJOR KEITH W. RUSSELL, [redacted] 3/30/88

NURSE CORPS

MAJOR PATRICIA S. SANCHEZ, [redacted] 5/23/88

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be major

LINDA R BESON, [redacted]

BIOMEDICAL SCIENCES CORPS

BRUCE W. EBERT, [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 2107:

CARL T AMODIO, [redacted]
ETHAN W ANDREWS, [redacted]
SALINA M BARLOW, [redacted]
BRIAN J BLYTHE, [redacted]
THOMAS S BOWERS, [redacted]
LISA M BOTUCHIS, [redacted]
ANTHONY W BROOKS, [redacted]
TIMONTHY K BUCKLEY, [redacted]
DAVID C CAMPBELL, [redacted]
STEPHANIE J CURLING, [redacted]
CHRISTOPHER P CYRUS, [redacted]
CHRISTIPHER J DANIELS, [redacted]
ROBERT W EAVES, III, [redacted]
PAUL L EDWARD, [redacted]
SEAN M FALK, [redacted]
MICHAEL G FERGUSON, [redacted]
STEPHEN P FORTE, [redacted]
JOHN B HAMILTON, [redacted]
NEAL A HEIMER, [redacted]
DAVID P HERONEMUS, [redacted]
ANDREW J KOSTIC, JR, [redacted]
CRAIG S KOZENIESKY, [redacted]
ALEXANDER R LOZANO, [redacted]
SAMUEL T MACRANE, III, [redacted]
SAMUEL A MAGLIANO, [redacted]
ANNE M MARTIN, [redacted]
TIMOTHY D MCLEAN, [redacted]
AUSTIN MILLER, [redacted]
SCOTT C NEWTON, [redacted]
JOHN A OMELAN, [redacted]
ABRAHAM ORTIZ, [redacted]
DONALD A PETTIES, [redacted]
WILLARD W REVELS, [redacted]
DAVID J ROBNETT, [redacted]
SHANE L ROSSOW, [redacted]
PAUL E SCHMDIT, [redacted]
JANICE D SWEETSER, [redacted]
KEVIN K TAKABAYASHI, [redacted]
LANDRY L VEAL, [redacted]
DANIEL S WISNIEWSKI, [redacted]
EDMUND P ZAIDE, JR, [redacted]

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE SECTION 531:

PETER J DEVINE, [redacted]
JOHN P FLAVIN, [redacted]
JONATHAN O GACKLE, [redacted]
DANIEL G KREILEY, [redacted]
MICHAEL P ROACH, [redacted]

THE FOLLOWING NAMED U.S. NAVAL ACADEMY GRADUATE FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

CLARKE M WOODSIN, [redacted]

IN THE NAVY

THE FOLLOWING NAMED AIR FORCE CADETS TO BE PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ALBERT M. PASSY
DAVID M. SMITH

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

LINE OF THE AIR FORCE

LEX A. ABADIE, [redacted]
FREDERICK H. ABBOTT, III, [redacted]
VALENTINA M. ABORDONADO, [redacted]
EMIL E. ABRAHAM, [redacted]
JOHN T. ACKERMAN, [redacted]
BRYAN E. ADAMS, [redacted]
JAMES L. ADAMS, JR, [redacted]
THOMAS A. ADAMS, [redacted]
MERRILL E. ADKISON, [redacted]
SIMON A. ADMORE, [redacted]
KEITH K. AGENA, [redacted]
NEIL W. AGNEW, [redacted]
MARK E. AIKEN, [redacted]
KERIM A. AKEL, [redacted]
GARY L. AKINS, [redacted]
STEPHEN L. ALLEN, [redacted]
ALEXANDER A. ALLER, [redacted]
SUSAN M. ALTMEYER, [redacted]
STEPHEN P. AMISANO, [redacted]
TRACY A. AMOS, [redacted]
CHRISTOPHER P. ANDERSON, [redacted]
DAVID J. ANDERSON, [redacted]
DOLORES M. ANDERSON, [redacted]
DON L. ANDERSON, [redacted]
DOUGLAS P. ANDERSON, [redacted]
LYNDON S. ANDERSON, [redacted]
MARK D. ANDERSON, [redacted]
MICHAEL G. ANDERSON, [redacted]
PETER ANTARAMIAN, [redacted]
JOHANN J. ANTLFINGER, [redacted]
DUANE L. APLING, [redacted]
RITA K. ARCHER, [redacted]
DANA C. ARNOLD, [redacted]
DAVID C. ARTHUR, [redacted]
TERESA ARTIS, [redacted]
PAULA M. ASHBY, [redacted]
CHRISTOPHER E. ASHE, [redacted]
WILLIAM R. ASHLOCK, [redacted]
ALFRED B. BACON, [redacted]
BERNARD BADAMI, [redacted]
BRENT G. BAILEY, [redacted]
RICHARD W. BAILEY, [redacted]
CHRISTOPHER S. BAKER, [redacted]
GLENN A. BAKER, [redacted]
HOWARD B. BAKER, [redacted]
SHAWN B. BAKER, [redacted]
VINCENT R. BAKKE, [redacted]
RICHARD B. BAMBERGER, [redacted]
MARK D. BANCZAK, [redacted]
JAMES M. BARON, [redacted]
DIANNE M. BARRETT, [redacted]
ANGELA B. BARTHOLOMEW, [redacted]
CHARLES J. BARTLETT, [redacted]
MATTHEW R. BARTLETT, [redacted]
KENNETH R. BARTON, [redacted]
ROBERT K. BARTON, [redacted]
ROBERT L. BASS, [redacted]
JOHN G. BATHERSON, [redacted]
JAMES C. BATTE, [redacted]
DENNIS G. BAXTER, [redacted]
MARILYN J. BAYLESS, [redacted]
ARTHUR J. BAYUK, [redacted]
RICHARD J. BEAN, [redacted]
EDWARD F. BECK, [redacted]
RANDALL A. BECK, [redacted]
CARL J. BECKWITH, [redacted]
KIMBERLY C. BELKA, [redacted]
WADE E. BELL, JR, [redacted]
PETER L. BELMONTE, [redacted]
SAMUEL BELOFF, [redacted]
MARK C. BENEDICT, [redacted]
GARY A. BENITZ, [redacted]
JOHN T. BENJAMIN, [redacted]
CRAIG A. BENSON, [redacted]
JOHN V. BERGMAN, [redacted]
RYAN J. BERGMAN, [redacted]
CRAIG A. BERLETTE, [redacted]
PATRICIA A. BERNHARDT, [redacted]
GREGORY D. BEST, [redacted]
MICHAEL R. BEST, [redacted]
CHARLES S. BIEVER, [redacted]
JEFFREY B. BIGELOW, [redacted]
DAVID G. BIGGAR, [redacted]
SCOTT G. BIRKLAND, [redacted]
JAMES R. BISHOP, JR, [redacted]
MARK G. BISHOP, [redacted]
JERRY O. BLACK, [redacted]
JOHN W. BLACK, [redacted]
NORMAN S. BLACK, [redacted]
DOUGLAS E. BLAUSER, [redacted]
LAWRENCE K. BLAVOS, [redacted]

MARK A. BLUME, [redacted]
PATRICK J. BOCK, [redacted]
JOSEPH BOLTERSDORF, [redacted]
CRAIG A. BOND, [redacted]
DARREN R. BOND, [redacted]
ALLEN N. BOOHER, [redacted]
WAYNE A. BORDEN, [redacted]
BENJAMIN P. BOTT, [redacted]
MICHAEL C. BOUDOURIS, [redacted]
CLAUDIE E. BOWEN, [redacted]
TODD A. BOYD, [redacted]
VICKI M. BOYD, [redacted]
MICHAEL A. BOYNTON, [redacted]
DAVID A. BRADLEY, [redacted]
MICHAEL D. BRAMHALL, [redacted]
JAMES A. BRANCH, [redacted]
AMY JANE BRANDON, [redacted]
SCOTT B. BRAUNER, [redacted]
KEVIN P. BREEN, [redacted]
JOAN CATHERINE BREMER, [redacted]
DOUGLAS A. BRENNAN, [redacted]
GARY D. BREWINGTON, [redacted]
RICHARD W. BRIGGS, [redacted]
EDWARD E. BRIMNER, [redacted]
FREDERICK M. BRINGHURST, [redacted]
JEFFRY M. BRINGSLID, [redacted]
PETER A. BRINKMAN, [redacted]
RODNEY K. BRITTENHAM, [redacted]
BRAD T. BROEMMEL, [redacted]
CHERYL P. BROOKS, [redacted]
BARRETT P. BROUSSARD, [redacted]
DAVID W. BROWN, [redacted]
DWIGHT F. BROWN, [redacted]
GARY W. BROWN, [redacted]
MARY G. BROWN, [redacted]
MATTHEW W. BROWN, [redacted]
MICHAEL A. BROWN, [redacted]
DAVID E. H. BRUNEAU, [redacted]
JEFFREY A. BRUNING, [redacted]
STEVEN P. BRUNTS, [redacted]
JOSEPH R. BRYAN, [redacted]
GLENN W. BUCHFELLER, [redacted]
SUSAN M. BUCKMAN, [redacted]
DAVID T. BUECHE, [redacted]
DOUGLAS L. BULLOCK, [redacted]
DAVID P. BUNTIN, [redacted]
JAY D. BURDETT, [redacted]
STEVEN A. BURKE, [redacted]
KENT T. BURKHARDT, [redacted]
ALAN J. BURNS, [redacted]
DAVID W. BURNS, [redacted]
KRIS A. BURROWS, [redacted]
CRAIG S. BUSHEY, [redacted]
CHARLES T. BUTLER, [redacted]
ROBERT J. BUTLER, [redacted]
ANDREW L. BUTTS, [redacted]
BRADLEY G. BUTZ, [redacted]
STEVEN A. BYBEE, [redacted]
DAVID J. BYRD, [redacted]
THOMAS A. BYRGE, JR, [redacted]
THOMAS W. CACCAMO, [redacted]
GREGORY M. CAIN, [redacted]
WILLIAM F. CAIN, JR, [redacted]
MICHELLE C. CALDERA, [redacted]
JAMES R. CALKINS, [redacted]
KEVIN P. CALLAHAN, [redacted]
JUAN A. CAMACHO, JR, [redacted]
JON E. CAMERON, [redacted]
GAGE B. CAMP, [redacted]
DANIEL L. CANTERBURY, [redacted]
JAMES G. CAPASSO, [redacted]
ROBERT E. CAREY, JR, [redacted]
JAMES M. CARGILL, [redacted]
JEFFREY L. CARLSON, [redacted]
LARRY D. CAROTHERS, [redacted]
CHRISTINE M. CARPENTER, [redacted]
DOUGLAS A. CARPENTER, [redacted]
MICHAEL J. CARR, [redacted]
NATSU LENA CARR, [redacted]
KEITH B. CARRAGHAN, [redacted]
ROBERT J. CARROLL, JR, [redacted]
MARK A. CARTEAUX, [redacted]
BRIAN B. CARTER, [redacted]
GREGORY S. CARTER, [redacted]
WALTER G. CARTER, [redacted]
RICKY W. CARVER, [redacted]
TERRY W. CARVER, [redacted]
CARLA J. CASCIO, [redacted]
JAMES P. CASEY, [redacted]
JENNIFER L. CASSIDY, [redacted]
GERARD A. CASTELLI, [redacted]
DAVID A. CASTILLO, [redacted]
RICHARD M. CEGLARZ, [redacted]
WILLIAM A. CENTER, [redacted]
SPENCER R. CHAPMAN, [redacted]
STEVEN R. CHARBONNEAU, [redacted]
MARIE ANN B. CHIO, [redacted]
DARWIN J. CHIVERS, [redacted]
PAUL M. CHOUDEK, [redacted]
DALE R. CHRISTENSEN, [redacted]
STEVEN R. CHRISTY, [redacted]
IN Y. CHUNG, [redacted]
THOMAS J. CIPOLLA, [redacted]
ORLANDO L. CISNEROS, [redacted]
DOUGLAS L. CLARK, [redacted]
KENNETH W. CLARK, [redacted]
SHARON G. CLARK, [redacted]
THOMAS G. CLARK, [redacted]
ANDREW L. M. CLARKE, [redacted]
WILLIAM C. CLEMENT, [redacted]
JOHN D. CLINE, [redacted]
KENNETH L. CLINE, [redacted]
ALAN J. CLOSSON, [redacted]
GARY L. COCHRAN, [redacted]
RYAN C. COCHRAN, [redacted]
BARBARA J. COHEN, [redacted]
KENT S. COKER, [redacted]
KEVIN J. COLE, [redacted]
THOMAS M. COLE, [redacted]
RONALD A. COLEMAN, [redacted]
GLEN K. COLLINS, [redacted]
JOSE E. COLON, [redacted]
DOUGLAS C. COMBS, [redacted]
CARLTON P. COMTE, JR, [redacted]
JEFFREY CONNERS, [redacted]
REGINA M. CONNOR, [redacted]
WILLIAM D. CONNORS, [redacted]
WILFRED B. CONSOL, [redacted]
DAVID R. CONTRERAS, [redacted]
JAMES L. COOK, [redacted]
DAVID B. COOMER, [redacted]
SCOTT J. COONAN, [redacted]
WALTER A. CORBY, JR, [redacted]
FRANK W. CORLEY, III, [redacted]
JAY A. COSSENTINE, [redacted]
WILLIAM J. COSTLOW, [redacted]
JOHN A. COTE, [redacted]
SARAH E. COTRUPI, [redacted]
RICHARD M. COTT, [redacted]
JAMES D. COUCH, [redacted]
BARRY J. COUSLER, [redacted]
CHARLES D. COX, [redacted]
SAMUEL E. COX, [redacted]
DAVID S. CRAGO, [redacted]
STEVEN E. CREWS, [redacted]
DARYL L. CROCKER, [redacted]
MICHAEL A. CROSS, [redacted]
TIMOTHY D. CROUCH, [redacted]
GEORGE R. CROUSE, [redacted]
JAMIE A. CROWELL, [redacted]
MICHAEL D. CRUMM, [redacted]
THOMAS B. CUCCHI, [redacted]
ANN R. CUNNINGHAM, [redacted]
GREGORY D. CUNNINGHAM, [redacted]
THOMAS J. CURRIE, [redacted]
JOHN W. CURRY, [redacted]
CHESTER R. CURTIS, JR, [redacted]
ROBERT E. CURTIS, JR, [redacted]
SUSAN M. CUTLER, [redacted]
TAMMY L. DALE, [redacted]
MARK L. DAMICO, [redacted]
COLLEEN A. DANSEREAU, [redacted]
THOMAS A. DARDIS, [redacted]
DOUGLAS E. DARLING, [redacted]
BERNARD P. DAVEY, [redacted]
DARRELL E. DAVIS, [redacted]
GREGORY G. DAVIS, [redacted]
JOHN D. DAVIS, JR, [redacted]
M. TODD DAVIS, [redacted]
MICHAEL E. DAVIS, [redacted]
MICHAEL L. DAVIS, [redacted]
SCOTT J. DAVIS, [redacted]
WESLEY C. DAVIS, [redacted]
DANN R. DAY, [redacted]
KATHYRN A. DAY, [redacted]
STEVEN A. DAY, [redacted]
CLARENCE J. DECKER, [redacted]
LYLE K. DECKER, [redacted]
DOUGLAS W. DEHART, [redacted]
WILLIAM J. DELANCEY, [redacted]
FRANK DELEON, JR, [redacted]
HUGH C. DELONG, [redacted]
MARK S. DEMIANOVICH, [redacted]
MICHAEL H. DEMOULLY, [redacted]
ROBERT H. DEMPSEY, II, [redacted]
MARK C. DENHAM, [redacted]
MERRILY B. DENTE, [redacted]
WILLIAM J. DEROUCHEY, [redacted]
GARY D. DESCHANE, [redacted]
JOSEPH E. DIANA, [redacted]
SCOTT P. DICKMAN, [redacted]
JENNIE E. DICKOVER, [redacted]
CHARLES J. DIERKES, [redacted]
MARK DIESER, [redacted]
DAVID J. DINTAMAN, [redacted]
GREGORY E. DITZLER, [redacted]
KRAIG F. DOBSON, [redacted]
CHERYL M. DODD, [redacted]
GREG R. DODSON, [redacted]
RICHARD K. DOERING, [redacted]
JOHN D. DOHERTY, [redacted]
ROBERT A. DOMINGUEZ, [redacted]
CHRISTINE M. DON, [redacted]
PATRICK J. DONAHUE, [redacted]
THOMAS J. DONALDS, [redacted]
MICHAEL K. DONALDSON, [redacted]
STEPHEN D. DONALDSON, [redacted]
DAVID L. DONLEY, JR, [redacted]
LUCILLE M. DORSETT, [redacted]
LATESSA D. DOTSON, [redacted]
JOSEPH T. DOUGHERTY, [redacted]
JEFFREY M. DRAKE, [redacted]
DUANE R. DREON, [redacted]
JERRY A. DUBOSE, [redacted]
CHERYL A. DUCKETT, [redacted]
RALPH W. DUESTERHOEFT, [redacted]
VALENTINE J. DUGIE, [redacted]
BRIAN C. DUNN, [redacted]
CHARLES A. DUNN, II, [redacted]
ROBERT W. DUNN, [redacted]
RICHARD E. DYER, JR, [redacted]
PATRICK C. EASON, [redacted]
JAMES H. EASTLAND, III, [redacted]
RONALD B. EDDY, [redacted]
MICHAEL K. EDGAR, [redacted]
TROY EDGELL, [redacted]
COAWETTA D. EDWARDS, [redacted]
DAVID B. EDWARDS, [redacted]
JERRY L. EDWARDS, [redacted]
KEITH A. EDWARDS, [redacted]
KENNETH A. EDWARDS, [redacted]
LANA L. EDWARDS, [redacted]
MARTIN L. EDWARDS, [redacted]
COLIN F. EICHMANN, [redacted]
MARK A. ELGERT, [redacted]
ISSAM S. ELKHATIB, [redacted]
GERALD H. ELLIS, [redacted]
MARY K. ELLIS, [redacted]
PAUL J. ENGLAND, [redacted]
BRUCE A. ENSOR, [redacted]
JEFFRY R. EPLING, [redacted]
RODNEY D. ERICKSON, [redacted]
SCOTT B. ERICKSON, [redacted]
GRETA M. ESPEAIGNNETTE, [redacted]
VIRGILIO ESTEVEZ, [redacted]
DANIEL S. EUCKER, [redacted]
KRISTA L. EVANS, [redacted]
MARK B. FALKE, [redacted]
JEFFREY L. FATH, [redacted]
KEITH L. FAULK, [redacted]
LOREN L. FAULKNHAM, [redacted]
BRIAN E. FAZENBAKER, [redacted]
TIMOTHY S. FELDMAN, [redacted]
WALTER D. FELVER, JR, [redacted]
RICHARD L. FENNESSEY, [redacted]
WAYNE D. FENNO, [redacted]
CARL D. FERGUSON, [redacted]
KIM E. FINN, [redacted]
MICHAEL R. FISHER, [redacted]
SCOTT A. FISHER, [redacted]
ANNE F. FITCH, [redacted]
DANIEL C. FLETCHER, [redacted]
MARK T. FOISY, [redacted]
JAMES A. FOLEY, [redacted]
KIMBERLEE A. FORBESS, [redacted]
MARC A. FORCIER, [redacted]
KENNETH W. FORRESTER, [redacted]
KEITH B. FOWLER, [redacted]
JERRY W. FOX, JR, [redacted]
JOHN W. FOX, [redacted]
STEPHEN L. FRAIN, [redacted]
REGINA M. G. FRANZ, [redacted]
KRISTIN M. FRAZIER, [redacted]
TERI L. FREDERICK, [redacted]
WARREN K. FRIEDERSDORF, [redacted]
DANA M. FRYE, [redacted]
ALGENE FRYER, [redacted]
JAMES C. GAINEY, JR, [redacted]
ROBERT J. GALBERG, [redacted]
ROBERT G. GALLASCH, [redacted]
CARLOS R. GAMUNDI, [redacted]
ANTHONY D. GARRANT, [redacted]
JOHN W. GASKINS, [redacted]
TODD A. GASWICK, [redacted]
LAWRENCE L. GATSCHET, [redacted]
JANA M. GAUGHRAN, [redacted]
ROBERT C. GAUNTLETT, JR, [redacted]
GARY L. GAUTREAU, [redacted]
WILLIAM R. GEISER, [redacted]
RICHARD A. GENTSCH, [redacted]
RICHARD B. GERTZ, [redacted]
JEFFREY I. GETTLE, [redacted]
ALLISON B. GIBBONS, [redacted]
ORLANDO G. GIBBONS, [redacted]
ROBERT L. GIDDINGS, [redacted]
SUSAN A. GILBERT, [redacted]
RICHARD T. GINDHART, JR, [redacted]
ELIZABETH L. GLEISBERG, [redacted]
JEFFREY T. GLIDDEN, [redacted]
JOHN R. GLOCK, [redacted]
ROSS P. GOERES, [redacted]
BRIAN GOLDEY, [redacted]
ALEX A. GONZALEZ, [redacted]
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REID M. GOODWYN, [redacted]
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JOSE A. MATA, [redacted]
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PAUL E. SCHMIDT, [redacted]
GEORGE C. SCHMIELER, JR, [redacted]
GIGI R. SCHMIT, [redacted]
ERIC W. SCHNAIBLE, [redacted]
CRAIG W. SCHNEPF, [redacted]
MICHAEL E. SCHULTE, [redacted]
DEAN R. SCHULTZ, [redacted]
TIMOTHY A. SCHWALM, [redacted]
BARBARA D. SCOTT, [redacted]
CARL W. SCOTT, [redacted]
PATRICIA K. F. SEARCY, [redacted]
MARK A. SELLERS, [redacted]
EUGENE A. SENN, [redacted]
KENNETH A. SEPTARIC, [redacted]
FRANK D. SERRA, [redacted]
HOUSTON A. SEWELL, [redacted]
THOMAS M. SHARKEY, [redacted]
ROBERT S. SHAW, [redacted]
ALAN J. SHAWCROSS, [redacted]
RICHARD L. SHELLEY, [redacted]
TIMOTHY L. SHELTON, [redacted]
TIMOTHY A. SHEPLEY, [redacted]
JIMMY SHEPPARD, JR, [redacted]
JOHN U. SHERWOOD, [redacted]
RICHARD P. SHIPMAN, [redacted]
TIMOTHY C. SHOCKLEY, [redacted]
JAMES R. SHOEMAKER, [redacted]
LOUIS M. SHOGRY, III, [redacted]
MAUREEN E. SHOW, [redacted]
DENNIS W. SHUMAKER, [redacted]
RODNEY S. SIBILA, [redacted]
DANIEL W. SIETMAN, [redacted]
WILLIAM F. SIFFIN, [redacted]
PETER R. SILVERO, [redacted]
REGIS C. SIMILE, [redacted]
JESSE T. SIMMONS, JR, [redacted]
JOHN C. SIMMONS, [redacted]
WILLIAM C. SIMON, [redacted]
THOMAS A. SIMPKINSON, [redacted]
ANDREW L. SIMPSON, [redacted]
DONALD B. SIMS, [redacted]
ETHEL E. SINGLETON, [redacted]
ROBERT W. SINGLETON, [redacted]
ROBERT E. SIPPEL, [redacted]
SHARON M. SIPPEL, [redacted]
KENNETH G. SIPPERLY, JR, [redacted]
HENRY SIROLA, [redacted]
ERIC M. SITRIN, [redacted]
DANIEL P. SKROBIALOWSKI, [redacted]
MICHAEL J. SLAVEN, [redacted]
WILLIAM E. SLUTTER, [redacted]
TRACY A. SMIEDENDORF, [redacted]
ALLAN J. SMITH, [redacted]
BRENT A. SMITH, [redacted]
DANIEL J. SMITH, [redacted]
GEORGE M. SMITH, [redacted]
GREGORY M. SMITH, [redacted]
JENNIFER L. SMITH, [redacted]
JONATHAN K. SMITH, [redacted]
MARK D. SMITH, [redacted]
MARK R. SMITH, [redacted]
ROBERT A. SMITH, [redacted]
ROBERT G. SMOTHERS, [redacted]
ERICK A. SNELLMAN, [redacted]
CHRISTOPHER E. SNIDER, [redacted]
BRUCE D. SNYDER, [redacted]
GREGORY D. SNYDER, [redacted]
LAURENCE J. SNYDER, [redacted]
WILLIAM S. SOBASKIE, [redacted]
DAVID I. S. SOBRINO, [redacted]
STEVEN R. SODERHOLM, [redacted]
ROBIN G. SOULE, [redacted]
DANA J. SPACCAROTELLA, [redacted]
PAUL J. SPAUSE, [redacted]
JOHN L. SPELLMEYER, [redacted]
RONALD R. SPENCER, [redacted]
WILLIAM J. SPENDLEY, JR, [redacted]
KIRK D. SPERRY, [redacted]
DAVID L. SPRAGUE, [redacted]
EDWARD D. SPRINGER, [redacted]
ROGER D. STAMEY, [redacted]
STEPHEN W. STARKS, [redacted]
RONALD P. STEFANIK, [redacted]
SCOTT A. STEFANOV, [redacted]
DANIEL M. STEFFEY, [redacted]
LINDA K. STEVENS, [redacted]
RONALD W. STEWART, [redacted]
MICHAEL H. STICKNEY, [redacted]
STEPHEN W. STIGLICH, JR, [redacted]
THOMAS R. STOFFEL, [redacted]
TED W. STOKES, [redacted]
STEPHEN A. STOOPS, [redacted]
JEFFREY N. STOUT, [redacted]
TYRONE A. STRACHAN, [redacted]
ROBERT E. STRALEY, [redacted]
ANNE E. STRATTON, [redacted]
GERALD E. STREFF, [redacted]
THOMAS J. SULLIVAN, [redacted]
ANDREE B. SWANSON, [redacted]
MEADE C. SWENSON, [redacted]
MARK A. SYZDEK, [redacted]
WILLIAM J. SZAREK, [redacted]
RICHARD J. TAGLANG, JR, [redacted]
LINDA J. TAIPALE, [redacted]
MICHAEL L. TALBERT, [redacted]
WILLIAM K. TALBOT, [redacted]
MARK S. TALLEY, [redacted]
PAUL A. TANGUAY, [redacted]
STEVEN E. TARBAY, [redacted]
JOHN W. TATE, [redacted]
JOSE C. TAURO, III, [redacted]
SCOTT T. TAYLOR, [redacted]
BRIAN D. THEISEN, [redacted]
MARVIN L. THOMAS, [redacted]
PETER J. THOMAS, [redacted]
ROBERT S. THOMAS, [redacted]
IAN C. THOMPSON, [redacted]
IRENE I. THOMPSON, [redacted]
RALPH THOMPSON, JR, [redacted]
RALPH L. THOMPSON, [redacted]
STEVEN L. THOMPSON, [redacted]
WILLIAM J. THORNTON, [redacted]
DENNIS E. TICE, [redacted]
BARRY C. TILTON, [redacted]
DONALD L. TOBIN, JR, [redacted]
CARL W. TONG, [redacted]
WILLIAM L. TONGUE, [redacted]
JOHN M. TONIOLLI, [redacted]
PEDRO TORRES, [redacted]
TERESA J. TRAINOR, [redacted]
TUAN V. TRAN, [redacted]
TIMOTHY J. TREMPER, [redacted]
KENT R. TRETHEWAY, [redacted]
DOROTHY J. TRIBBLE, [redacted]
THOMAS R. TRIPPEL, [redacted]
BRIAN M. TROTTER, [redacted]
KENNETH Y. TSEH, [redacted]
ELIZABETH A. TUCKER, [redacted]
MONA LISA D. TUCKER, [redacted]
PAMELA S. TURNBULL, [redacted]
JOHN V. TURNER, [redacted]
RICHARD D. TURNER, [redacted]
CARL F. UNHOLZ, JR, [redacted]
REGINALD UPSHAW, [redacted]
JAMES S. UTTERBACK, [redacted]
MARY E. UTTERBACK, [redacted]
WILLIAM H. UTTRICH, [redacted]
DIRK W. VANDERMEYDEN, [redacted]
PHILIP M. VANEAU, [redacted]
BRUCE C. VANHORN, [redacted]
DAVID R. VANPATTEN, [redacted]
WILLIAM J. VAUGHT, JR, [redacted]
RUBEN F. VELEZ, [redacted]
MARC D. VERNICK, [redacted]
MICHAEL J. VERROI, [redacted]
EDUARDO L. VICENCIO, [redacted]
KAREN J. VINCENT, [redacted]
RENA F. VIOLETTE, [redacted]
JEAN N. VITE, [redacted]
BRIAN L. VOGNILD, [redacted]
BARRY M. WADDELL, [redacted]
JAMES B. WAGER, JR, [redacted]
MARC D. WAGNER, [redacted]

RICHARD L. WALKER, JR, [redacted]
TERESA W. WALKER, [redacted]
NANCY R. WALLACE, [redacted]
KEITH D. WALYUS, [redacted]
RANDALL E. WANTZ, [redacted]
WARREN G. WARD, [redacted]
RICHARD E. WARREN, [redacted]
ROBERT A. WASHBURN, II, [redacted]
GLEN R. WASS, [redacted]
DEL J. WATSON, [redacted]
KENNETH L. WATSON, JR, [redacted]
WILLIAM G. WATSON, [redacted]
CHARLES F. WATTERSON, [redacted]
DALE E. WEAVER, [redacted]
DEBRA A. WEBB, [redacted]
PAUL A. WEBB, [redacted]
JOSEPH A. WEINBERGER, JR, [redacted]
DEBORAH D. WEISBERGER, [redacted]
ERIC P. WEISSMANN, [redacted]
GALEN E. WELLESLEY, [redacted]
JEFFREY M. WELSH, [redacted]
JAMES A. WENTWORTH, [redacted]
JOHN R. WERTHMANN, [redacted]
WILLIAM O. WEST, IV, [redacted]
JOEL S. WESTA, [redacted]
HAROLD L. WESTBROOK, JR, [redacted]
PHILIP V. WESTERFIELD, [redacted]
MARK W. WESTERGREN, [redacted]
WAYNE T. WHETSTONE, [redacted]
DENEISE P. WHITE, [redacted]
DOUGLAS R. WHITE, [redacted]
OVETA M. WHITE, [redacted]
KEITH G. WHYTE, [redacted]
CHARLES M. WILBORN, [redacted]
STEPHEN D. WILBUR, [redacted]
CALVIN WILLIAMS, [redacted]
EDWARD M. WILLIAMS, [redacted]
GARY A. WILLIAMS, [redacted]
JEAN C. M. WILLIAMS, [redacted]
GARY F. WILLMES, [redacted]
MICHAEL J. WILLSON, [redacted]
HENRY T. WILSON, [redacted]
LAWRENCE M. WILSON, [redacted]
MICHAEL R. WILSON, [redacted]
PATRICK A. WILSON, [redacted]
STEVEN P. WINKLMANN, [redacted]
MARCIA M. WINKMACIAS, [redacted]
THOMAS E. WINTERS, JR, [redacted]
MARK G. WINTON, [redacted]
MICHAEL E. WISMER, [redacted]
DIANE B. WOJCIESZAK, [redacted]
GARY M. WOLBERT, [redacted]
DAWN M. WOLCOTT, [redacted]
ANITA L. WOLFE, [redacted]
DALLAS A. WOLFE, [redacted]
CHRISTOPHER J. WOODS, [redacted]
LOUANN J. WOODS, [redacted]
RUSSELL P. WOODS, [redacted]
EDWIN R. WOODWARD, [redacted]
TYRONE M. WOODYARD, [redacted]
WILLIAM E. WOOTEN, [redacted]
RICKEY J. WORKMAN, [redacted]
LORI A. WORTMAN, [redacted]
BROOKS D. WRIGHT, [redacted]
PETER H. WRIGHT, [redacted]
LEE O. WYATT, [redacted]
RONALD L. WYCKOFF, [redacted]
JOHN E. YOUELL, [redacted]
DOUGLAS E. YOUNG, [redacted]
KENNETH A. YOUNG, [redacted]
MARK R. YOUNG, [redacted]
MICHAEL V. YUILL, [redacted]
DANIEL R. ZAHIRNIAK, [redacted]
ANDREW ZAPRZALA, [redacted]
JOHN M. ZAUGG, [redacted]
DONA K. ZAVISLAN, [redacted]
JAMES J. ZENTNER, JR, [redacted]
LOUIS V. ZUCCARELLO, [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL, UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

LARRY D. ADAMS, [redacted]
STEPHEN S. ADAMS, [redacted]
CHARLES A. ANDERSON, [redacted]
ALLAN R. BACON, JR, [redacted]
SHERIDAN W. BARRETT, [redacted]
ROBERT L. BELL, [redacted]
MARTIN O. BINN, [redacted]
GERARD J. BOYLE, [redacted]
CHARLES B. BREWER, [redacted]
JOHN M. BUETTNER, [redacted]
FRANCISCO M. CIVIDANES, [redacted]
JOHANN A. CLENDENIN, [redacted]
JOHN F. CORCORAN, [redacted]
JOHN P. COTTER, [redacted]
MELVIN V. CRATSLEY, [redacted]
THOMAS E. CUNNINGHAM, [redacted]
ALAN R. DAVIS, [redacted]
DANNY D. DEDERICK, [redacted]
ROBERT J. DEPASS, [redacted]
STEVEN G. EASTERDAY, [redacted]
ROBERT P. EICHORN, [redacted]
NED H. ELLSWORTH, [redacted]
CHARLES L. EMMA, [redacted]
EDMUND E. EVANS, [redacted]
LARRY G. FANNING, [redacted]
FISHER A. FELTENBERGER, [redacted]
GERALD L. FISCHER, [redacted]
SIMON H. FORGETTE, [redacted]
DOUGLAS N. FRAZIER, [redacted]
JOHN E. FREY, [redacted]
HAROLD J. FRUCHTNICHT, [redacted]
FRANK M. GALLAGHER, JR, [redacted]
KEVIN A. GARVEY, [redacted]
LINDA S. GEVOCK, [redacted]
RICHARD A. GODFREY, [redacted]
KATHRYN A. GORDON, [redacted]
PATRICIA F. HALSEY, [redacted]
JAMES E. HALUSKA, [redacted]
JAMES E. HAYNIE, [redacted]
ROBERT L. HEDDEN, [redacted]
JOHN J. HEINECKE, [redacted]
LARRY D. HENSON, [redacted]
STEVEN T. HENSON, II, [redacted]
JAMES R. HESS, [redacted]
ANDREW F. HILEMAN, [redacted]
WELDON M. HITCHCOCK, [redacted]
RAYMOND A. JAHAASKI, [redacted]
JOAN M. JOHNSON, [redacted]
JERRY K. JOHNSON, [redacted]
BRETT A. JONES, [redacted]
JEROME D. KAIRIS, [redacted]
DAVID E. KELLY, [redacted]
HOLLIS G. KENT JR, [redacted]
PHILIP A. KERR, [redacted]
MICHAEL F. LOFTUS, [redacted]
MICHAEL B. MAGINNIS, [redacted]
SALVATORE A. MANNO, [redacted]
ALBERT T. MCADOO, [redacted]
WALTER C. MCBRIDE, JR, [redacted]
JAMES B. MCCANN, [redacted]
JOHN J. MCGARRY, [redacted]
FRANK M. MCINTIRE, [redacted]
MICHAEL J. MCKINNEY, [redacted]
MICHAEL T. MCVEY, [redacted]
RONALD B. MEADE, [redacted]
JOHN T. MILES, [redacted]
ROBERT J. MOBERG, II, [redacted]
TOMMY L. MOORE, [redacted]
DENNIS A. MORGA, [redacted]
KEVIN J. MURPHY, [redacted]
KENNETH C. NAIZER, [redacted]
PAUL NAWA, [redacted]
ALAN J. NEUMANN, [redacted]
JOHN J. NEWMAN, [redacted]
RUSSELL E. NICOSIA, [redacted]
RONALD C. ODEN, [redacted]
GARY J. OHLS, [redacted]
CHARLES A. PARLIER, II, [redacted]
JERRY E. PATTERSON, [redacted]
EDWARD J. PERROTT, [redacted]
PATRICIA L. PFEIL, [redacted]
STEPHEN A. PHARO, [redacted]
CHARLES D. REID, [redacted]
DOUGLAS W. REISER, [redacted]
RALPH W. RORAFF, [redacted]
SAMUEL J. ROUTSON, [redacted]
WAYNE P. SAMUELSON, [redacted]
MICHAEL G. SCHUTTA, [redacted]
PETER R. SEAL, [redacted]
DONALD C. SHEEHAN, [redacted]
JORGE A. SIBILA, [redacted]
STEPHEN C. SKILES, [redacted]
CLARENCE A. SMITH, JR, [redacted]
STEPHEN M. SMITH, [redacted]
TERRY W. STARK, [redacted]
ROGERS M. STEED, [redacted]
JAMES B. STOVER, [redacted]
ROGER J. STUDEBAKER, [redacted]
THOMAS P. SULLIVAN, [redacted]
STEPHEN C. TENNANT, [redacted]
KENNETH M. TOLBERT, [redacted]
CANDELARIO TREVINO, JR, [redacted]
WILLIAM T. VAUGHN, JR, [redacted]
DANIEL T. VENTRE, [redacted]
STEPHEN C. VERNON, [redacted]
THOMAS H. WALSH, [redacted]
WILLIAM G. WICKUN, [redacted]
JOHN G. WIETING, [redacted]
GARY I. WILSON, [redacted]
JOHN F. WIRTZ, JR, [redacted]
CRAIG W. WOOD, [redacted]
RUSSELL E. WOOLARD, [redacted]
THOMAS C. YANCEY, [redacted]

HOUSE OF REPRESENTATIVES—*Thursday, September 8, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that You raise up public servants who dedicate their lives to make our Nation a better place and who do what they can to help people of every background or need. We are thankful that there are leaders who use their gifts to help lift people to walk on higher ground. At the beginning of this new day we express our special gratitude for the contributions of our friend and colleague, CLAUDE PEPPER. At this time of his birthday we remember him for his life and labor and pray that Your benediction will continue to bless him and each one of us that we will be the people You would have us be and do those good things that honor You and serve every person in Your creation. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mrs. BENTLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. BENTLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 117, not voting 58, as follows:

[Roll No. 293]

YEAS—256

Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Aspin
Atkins
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Courter
Coyne
Darden
Davis (MI)
de la Garza
DeFazio
Derrick
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Green
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCollum
McCrery
McCurdy
McEwen
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Whitten
Williams
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—117

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Burton
Chandler
Clay
Clinger
Coats
Coble
Coleman (MO)
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Goodling
Gradison
Grandy
Gregg
Gunderson
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Nielson
Pashayan
Penny
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Young (FL)

NOT VOTING—58

Ackerman
Anthony
AuCoin
Badham
Barnard
Boulter
Bunning
Chapman
Cheney
Conyers
Coughlin
Crockett
Dellums
Dingell
Dowdy
Dyson
Early
Feighan
Ford (MI)
Ford (TN)
Frank
Garcia
Gingrich
Gray (PA)
Hall (OH)
Hawkins
Houghton
Hutto
Hyde
Jones (NC)
Jones (TN)
Kemp
Kennelly
Konnyu
LaFalce
Leath (TX)
Lowery (CA)
Lujan
Mack
MacKay
McCloskey
McDade
McGrath
Mica
Moakley
Nagle
Nichols
Packard
Rangel
Rodino
Roybal
Spence
St Germain
Tauzin
Torres
Towns
Waxman
Wilson

□ 1024

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make a statement and will then recognize the gentleman from California [Mr. HUNTER]. The Chair would like to explain the plans for the consideration of legislation and other action by the House today.

With the kind permission of the membership, the Chair would like to suggest the following order of legislative business today: Members may desire to learn what is planned and in what order in order that they may make their own plans. It is the intention of the Chair that we would receive messages from the Senate or from the President, and then the

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Chair has promised to recognize the gentleman from California [Mr. HUNTER] for a motion on which the Chair supposes he will probably want a rollcall vote.

Then it is the desire of the Chair to accept five 1-minute speeches on each side, the reason being that we have much business to transact today.

Then the Chair understands that the chairman of the Democratic Caucus, the gentleman from Missouri [Mr. GEPHARDT], has a special resolution which he would like to offer in commemoration of a grand event, the birthday of one of our most honored Members.

Then we would go to the Subcommittee on Interior of the Committee on Appropriations and would consider the conference report on the Interior appropriations bill. Following that, we would resume consideration of the drug legislation.

We have made splendid progress. If the Chair may do so, he would like to thank the Members for their very fine cooperation.

At the end of tomorrow, we will have sent five individual appropriation bills to the White House, and all of the remainder will be in conference as of the end of tomorrow.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On August 8, 1988:

H.J. Res. 90. Joint resolution to authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes; and

H.R. 2615. An act to provide that certain lands shall be in trust for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, CA.

On August 10, 1988:

H.J. Res. 475. Joint resolution to designate October 1988 as "Polish American Heritage Month";

H.R. 442. An act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians; and

H.R. 3811. An act to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, GA, as the "Martin Luther King, Jr. Federal Building."

On August 11, 1988:

H.R. 4726. An act to designate the U.S. Post Office Building located at 700 Main Street in Danville, VA, as the "Dan Daniel Post Office Building"; and

H.R. 5015. An act to provide drought assistance to agricultural producers, and for other purposes.

On August 14, 1988:

H.R. 5026. An act making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes.

On August 16, 1988:

H.R. 2213. An act to require certain telephones to be hearing aid compatible;

H.R. 2629. An act to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska.

August 17, 1988:

H.J. Res. 138. Joint resolution to authorize and request the President to issue a proclamation designating the third Sunday of August 1988 as "National Senior Citizens Day";

H.J. Res. 140. Joint resolution designating August 12, 1988, as "National Civil Rights Day";

H.R. 3932. An act to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President; and

H.R. 3980. An act to make technical corrections to the agricultural credit laws.

August 19, 1988:

H.J. Res. 525. Joint resolution to designate the month of November 1988 as "National Hospice Month";

H.R. 4676. An act to amend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 to extend through the fiscal year 1989 the authorities contained in such act; and

H.R. 4800. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes.

August 20, 1988:

H.R. 1414. An act to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents; and

H.R. 1860. An act entitled the "Federal Land Exchange Facilitation Act of 1988."

August 22, 1988:

H.J. Res. 417. Joint resolution designating May 1989 as "Neurofibromatosis Awareness Month";

H.R. 3431. An act to release a reversionary interest of the United States in a certain parcel of land located in Bay County, FL;

H.R. 3617. An act to settle certain land claims of the Coushatta Tribe of Louisiana against the United States, to authorize the use and distribution of the settlement funds, and for other purposes;

H.R. 3880. An act to extend the authorization of the Upper Delaware Citizens Advisory Council for an additional 10 years;

H.R. 4458. An act to simplify the process of obtaining licensing by States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal Government for identification and criminal history records relating to the applicant for such licensing;

H.R. 4694. An act to amend the Perishable Agricultural Commodities Act to increase the statutory ceilings on license fees;

H.R. 4754. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; and

H.R. 5141. An act to delay temporarily certain regulations relating to sea turtle conservation.

August 23, 1988:

H.R. 4848. An act to enhance the competitiveness of American Industry, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 4585) "An act to extend the authorization of appropriations for the Taft Institute through fiscal year 1991," disagreed to by the House, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. MATSUNAGA, Ms. MIKULSKI, Mr. HATCH, Mr. STAFFORD, and Mr. THURMOND to be the conferees on the part of the Senate.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. HUNTER. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. HUNTER moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

MOTION TO TABLE OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer a motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. FOLEY moves to lay on the table the motion to discharge.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to lay on the table the motion offered by the gentleman from California [Mr. HUNTER].

The question was taken; and the Speaker announced that the ayes have it.

RECORDED VOTE

Mr. HUNTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 233, noes 162, not voting 36, as follows:

[Roll No. 294]

AYES—233

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke

Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—162

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Burton
Callahan
Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
St Germain
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—36

Anthony
Badham
Boulter
Bunning
Cheney
Coughlin
Dowdy
Early
Feighan
Ford (MI)
Ford (TN)
Garcia
Gingrich
Gray (PA)
Hyde
Jones (NC)
Jones (TN)
Kemp
Kennelly
Konnyu
Leath (TX)
Lowery (CA)
Lujan
Mack
MacKay
McDade
McGrath
Mica
Nichols
Packard
Roybal
Spence
Torres
Towns
Waxman
Wilson

□ 1047

The Clerk announced the following pairs:

On this vote:

Mr. Torres for, with Mr. Boulter against.

Mr. CROCKETT changed his vote from "nay" to "yea."

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BUSH LEADERSHIP OF DRUG INTERDICTION EFFORT A FAILURE

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, Vice President GEORGE BUSH's leadership of the administration's drug interdiction effort has been a failure. For example, in regard to the south Florida task force, the Vice President's first drug-related assignment in the administration, he chaired a newly created task force to stop the flow of drugs coming into south Florida. According to a Government Operations Committee report there was "more detection capability in the Florida area before the Vice President's South Florida Task Force than is present today."

Another example occurred when he was asked to head the National Narcotics Border Interdiction System [NNBIS]. The Vice President was told to coordinate the work of all Federal agencies having the responsibility for drug interdiction and to monitor suspected drug smuggling activity in the border regions. The head of the DEA under the Reagan-Bush administration said that it ought to be abolished, because he said it had "made no material contribution" to the administration's efforts, to quote a New York Times story in 1984.

On the other hand, Michael Dukakis can boast a very different kind of record in regard to drug interdiction and leadership to end the scourge of drugs. He cracked down on pushers in Massachusetts, creating a statewide task force, placing over 100 State police and other law enforcement agents in prosecutors' offices around the State. The result, five times as many drug offenders were sentenced to prison in 1987 as were in 1983—real progress in the war against drugs.

The record of the Dukakis administration gives us some indication as to the way our future drug programs and policies would be administered by our next President. We can count on a higher commitment and improved programs.

NOTCH BABIES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, for more than a decade, Congress has delayed action on an issue that has created a great deal of uncertainty and misunderstanding about the integrity of the Nation's Social Security system. Retired persons who are known as notch babies have been led to believe that legislation aimed at addressing their concerns will be given serious consideration by the Congress.

My colleagues in the House of Representatives know full well that this issue can only be resolved once and for all by an up-or-down vote on any of the proposals now gathering dust in committee. By refusing to allow a vote on this issue, the leadership of the House protects those Members who have gained political mileage from their sponsorship of this legislation, many of whom, in fact, make no secret of their actual opposition to the bills they have signed.

I believe we have reached a point in this debate when it's time to put up or shut up. Along with several of my colleagues, I have today signed a discharge petition that directs the leadership to bring this issue to a vote before the House of Representatives.

Those who have cosponsored this legislation, if they have any intention of dealing fairly with the notch issue, will join with me and others who are urging its consideration on the floor of the House.

Let us take this legislation off the back burner, subject it to full and vigorous debate, and resolve this nagging question once and for all time.

NEXT INSTALLMENT IN DRAMA OF ADMINISTRATION'S DRUG POLICY

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, today we get the next installment in the drama of how this administration turns its drug policy. Very interesting. If you read today's paper, you will find that one of the key advisers to the Vice President of the United States who is running for the Presidency and a firm that has ties to many, many of the key officials in this Government and have in fact some of them been key officials themselves, have in fact over the years when we were fighting drugs, when we were trying to get the Bahamas to straighten themselves out, were serving as advisers to the Bahamian Government, to the tune of almost $800,000.

And their sales pitch? "We have close connections to this administration, to Mr. Meese, to Mr. BUSH," and so on.

The revelation last week was they were doing it for Panama and Mr. Noriega, trying to improve his image in the last few years while this country was collecting evidence which was going to be used as the basis for an indictment.

Before that, the revelation was that some of the same people in some of the same firms were in fact advising a man named Miguel Recarey, Jr., who cheated the U.S. Government out of millions of dollars in a fraudulent HMO scheme in Florida, is now an escaped fugitive who left after sending a large sum of money to this firm and then taking a $2.2 million tax refund he had just received, putting it in a Swiss bank and got on a plane.

This is disgraceful and it is indicative of how this administration uses the war on drugs. They make money from it. This has got to stop. This is disgraceful conduct.

The war on drugs is too important to be left to public relation firms to make money representing drug traffickers.

BILLS NEEDED TO PROTECT OUR OCEANS AND WATERWAYS FROM MEDICAL WASTE AND ENVIRONMENTAL DAMAGE

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRENNAN. Mr. Speaker, among the important issues we face on returning to Washington is the environmental damage threatening our coastal waters and Great Lakes.

This threat was dramatically highlighted by cover stories in Time and Newsweek last month. And all of us were outraged by medical waste washing up on our beaches.

People in Maine feel strongly about a clean and unpolluted ocean, as do residents of other coastal States. But wherever we live, we all depend on a healthy marine environment. It is truly "our planet's life belt."

Yesterday the House Subcommittee on Oceanography approved two bills that will help protect the marine environment. I urge my colleagues to join the committee members and me in supporting the Marine Research Act, which I have introduced to expand and strengthen marine research at the regional level, and the Medical Waste Tracking and Control Act, which will require tracking and proper disposal of medical waste, and stiffen penalties for illegal dumping. These bills are badly needed to clean up our oceans and waterways and to assure that our beaches are free of medical waste.

"UNMASKING DUKAKIS" SLEAZE AND DAVID HARRIS

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. COBLE. Mr. Speaker, Mike Dukakis prides himself on his progressive views with regard to helping minorities and women. However, Dukakis' rhetoric doesn't match his record. Dukakis' firing of David Harris, director of the State office of minority business assistance [SOMBA], provides a vivid example of his insensitivity as Governor of Massachusetts.

In May 1985, Dukakis suddenly fired Harris. David Harris is a highly acclaimed black civil rights leader who served as director of SOMBA in four Massachusetts administrations. The purpose of SOMBA is to ensure minority-owned businesses get their share of State contracts and that the contractors are actually owned by minorities.

Robert Jordan, a black columnist for the Boston Globe, said "Harris' firing shows how far the Dukakis administration will go to satisfy a constituency at the expense of integrity." Despite pressure from the Dukakis administration, Harris refused to certify over 100 cases because they were fraudulent. "My biggest problem with Dukakis was women-owned businesses" Harris said. "Most of the ones they supported for contracts were just fronts. * * *"

In conclusion, Dukakis' record seems to prove that he will refuse the opportunity of a minority to get a contract if it means that a friend or contributor will lose—in spite of the law. Harris said, "From what I've seen, this administration practices as much patronage and underhanded dealing as any. I've watched four administrations, and this last Dukakis administration was the most fraudulent and corrupt of the four."

OUTRAGEOUS USE OF POISON GAS BY IRAQ

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I rise to express outrage by the use of Iraq of posion gas against its Kurdish minority.

The reports are especially disturbing because they follow on confirmed reports, carefully confirmed reports, that Iraq also used poison gas against Iran.

Poison gas was outlawed by the international community 60 years ago, because poison gas is unacceptable in a civilized world. Because it is unacceptable, civilized people must condemn Iraq in every forum, in the House of Representatives, in the Senate, in the White House, in the United Nations and in every other possible forum.

The message must be clear, unequivocal, unrelenting. Poison gas is unacceptable as a weapon of war.

UNMASKING DUKAKIS—THE SASSO "FURLOUGH"

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, Mike Dukakis accuses the Reagan administration of having a "sleaze factor." He says his campaign stands for "responsibility and respect for the truth" and then demonstrates respect for the truth by rehiring a proven liar—John Sasso.

John Sasso is the former campaign manager for Dukakis who was responsible for the "Biden attack video" which revealed Senator JOSEPH BIDEN's plagiarism of speech material.

When the scandal broke, John Sasso lied to the press. He claimed another campaign was responsible for the video. When the truth was discovered, Sasso resigned in disgrace. Dukakis never fired him.

Sasso also previously distributed a doctored tape of Dukakis's gubernatorial opponent's wife, Jody King. Sasso played a sexual parody of King's campaign commercial featuring King's wife to reporters. Again Sasso lied—denying involvement until he was forced to tell the truth.

Now, Michael Dukakis is showing total contempt for his campaign promises of respect for the truth by rehiring this man who purposely mislead the American people and press.

The Dukakis furlough program for murderers and rapists now includes a job furlough program for liars. So much for the Dukakis pledge to respect the truth.

☐ 1100

WAITING PERIOD PROVISION AMENDMENTS AND OMNIBUS DRUG LEGISLATION

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, yesterday the House began consideration of the omnibus drug initiative. Today we continue with this important matter. I support the drug legislation. However, there is one provision in this bill, commonly referred to as the waiting period proposal, that I have objections to.

All of us want to keep firearms out of the hands of criminals. Yet we must not diminish in any way the rights of the law-abiding citizen in attempting a solution. The waiting period proposed in the omnibus drug legislation does not meet this test.

The McCollum-Staggers substitute amendment for the handgun control amendment does meet the test. Their substitute directs the Attorney General to develop an identification system that will allow immediate and accurate background checks on all felons attempting to purchase handguns. The McCollum-Staggers amendment also requires that the privilege of parole or probation be revoked for any individual who is caught in possession of a firearm while out of prison.

Vote for the McCollum-Staggers substitute. Let's treat the criminal as a criminal rather than assuming law-abiding citizens are criminals.

INDIAN REPRESSION OF THE SIKHS CONTINUES

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the violence continues unabated in the Punjab. In 1987, an average of three people were killed daily. More than 60 people were killed during the week of August 1 of this year, including 40 on Friday, August 5. In total more than 1,640 people have been killed in attacks this year alone.

Rajiv Gandhi can no longer use the actions of a handful of extremists to justify his ongoing subjugation of the Sikh people in the Punjab. The demands of responsible Sikh representatives are not unreasonable—the land transfer of Chandigarh, the maintenance of the Punjab's water supply, the investigation of the continued detention of those unjustly jailed following Indira Gandhi's death and the end to the all-too-often disappearance of Sikh political leaders.

While the United States signed an economic agreement with the Indian Government in 1985 that has led to some technological transfers, Rajiv Gandhi must know that this cooperation has a price. We demand of our allies and trading partners that they do not violate basic human rights. The Indian Government's claim of being the world's largest democracy rings hollow in light of its continued abuse of Sikhs in the Punjab.

TRIBUTE TO THE HONORABLE CLAUDE DENSON PEPPER ON HIS 88TH BIRTHDAY

Mr. GEPHARDT. Mr. Speaker, I call up the resolution (H. Res. 530) to recognize CLAUDE DENSON PEPPER, on the occasion of his 88th birthday, for the contributions that he has made to the quality of life of all Ameicans, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 530

Whereas Claude Denson Pepper has served in public office for a period spanning almost sixty years, including service in the Florida Legislature, the United States Senate, and the United States House of Representatives;

Whereas Claude Denson Pepper has played an essential role in the formulation and development of policies and programs to protect the health, rights, economic security, and dignity of our Nation's elderly;

Whereas Claude Denson Pepper has been the principal author of key legislation addressing issues ranging from the Lend-Lease plan, to the establishment of the National Institutes of Health, to the elimination of the mandatory retirement age;

Whereas Claude Denson Pepper celebrates his 88th birthday on September 8, 1988; and

Whereas the dedication, commitment, and energy of Claude Denson Pepper stand as an inspiration to people of all ages: Now, therefore, be it

Resolved, That the House of Representatives of the United States, on the occasion of his 88th birthday, commends and acknowledges Claude Denson Pepper for his continuing contributions to the quality of life of all Americans.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour.

Mr. GEPHARDT. Mr. Speaker, I want to offer this resolution today on behalf of the gentleman from Washington [Mr. FOLEY], the gentleman from California [Mr. COELHO], the gentlewoman from Ohio [Ms. OAKAR], and the gentleman from Illinois [Mr. MICHEL], and many other Members of the House who wish today to extend their heartiest congratulations to our senior Member of the House and one of our most beloved Members of the House.

Mr. Speaker, CLAUDE PEPPER, as the resolution says, has served the public for almost 60 years, today as he celebrates his 88th birthday. Few Members of this body will be able to reach the fine age of 88 years, and very few of us will be able to say that we have served the public for almost 60 years.

Public service is one thing; high-quality public service is quite another. CLAUDE PEPPER has offered public service in the highest manner. He has been active on a series of legislative efforts that have improved the life of the American people. He was the original sponsor of the lend/lease legislation in the late 1930's that came to the aid of our allies in Europe. He was the author of the establishment of the National Institutes of Health, which has contributed immeasurably to the good health of the American people. He sponsored the elimination of the mandatory retirement age in the late 1970's, which made such a major contribution to the lives and the quality of the lives of our senior citizens. In 1983, when the Social Security System was in trouble, CLAUDE PEPPER was the pivotal member of the Commission in the legislative effort that recreated our Social Security System and made sure that that system was safe and was strong.

Mr. Speaker, he has served the people of Florida and the people of the United States with dedication, commitment and energy, and he is an inspiration to every Member of this body and every citizen of this country.

Together, I hope with one voice, we shall say today that the House of Representatives of the United States on the occasion of the 88th birthday of CLAUDE PEPPER commends and acknowledges CLAUDE DENSON PEPPER for his continuing contribution to the quality of life of all Americans.

Mr. Speaker, I ask that this resolution be accepted.

If there are no other speakers, I would ask for its unanimous consideration and unanimous approval.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

The SPEAKER pro tempore. The Chair recognizes the distinguished gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Speaker, I now understand better what the Greeks were talking about when they spoke of the good life. The good life as they must have prognosticated was being a Member of the House of Representatives of the United States of America with such wonderful colleagues and friends as one enjoys here in this great body.

I hope, however, that the constancy and repetitive nature of my birthdays will not cause my colleagues to feel toward me the way a lady felt toward her husband who was vacationing, enjoying her second honeymoon in Miami.

For a week they were celebrating their second honeymoon observing the beautiful places about our area, and every day of that week the husband told the wife how much he loved her, how wonderful she was and what all she had meant to him. Finally came the luncheon of the last day of their visit. They were having lunch in a restaurant looking out over our beautiful Biscayne Bay; the husband looked out, and they saw the white-capped waves, they saw the waving palms, the beautiful scene. Sentiments of romance came once more to his lips, and looking directly across the table into the eyes of his lovely wife, he said, "I am proud of you." She had grown a little hard of hearing in the late years. She misunderstood the words he used. She looked right back at him and said, "I'm tired of you, too." I hope my colleagues will not tire of me or the repetitive nature of my birthdays.

Mr. Speaker, I want everyone to know the greatest privilege of my life has been serving in the Congress of the United States, and I think my colleagues here will share that sentiment. When one comes toward the end of a long life and looks back down the road, if they can see instances where maybe they have made a little contribution toward people walking on higher ground, may be living a little longer, being a little healthier, perhaps a little happier, it gives one satisfaction that hardly anything else can give to the human heart.

I am profoundly grateful to the Lord. I never close my eyes at night without thanking Him for his goodness to me, nor can I ever cease to be grateful to my friends all along the pathway of life who have been such a warm inspiration and such a great, stalwart strength to me in my life's affairs.

I want to express my profound gratitude to our beloved minister this morning for his gracious reference to me in his prayer, and I want to especially thank my dear friend, the gentleman from Missouri [Mr. GEPHARDT], and the leadership for their kind cooperation in this honor that they have done for me. It will lighten my footsteps as they tend to slow down a little bit, but they will be a little lighter when I remember the warmth of this inspiration that you have all given me today, and I just hope all of you will be here at least until 100, and I will be here to enjoy the 100th birthday with you.

I thank you all, and God bless you.

1987 ANNUAL REPORTS ON CERTAIN ACTIVITIES UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, Thursday, September 8, 1988.)

CONFERENCE REPORT ON H.R. 4867, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, FISCAL YEAR 1989

Mr. YATES. Mr. Speaker, I call up the conference report on the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 10, 1988.)

The gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Appropriations brings back to the House today the conference report on the bill, H.R. 4867, making appropriations for the Department of the Interior and related agencies for fiscal year 1989. This report is the product of bipartisan cooperation. It is a good bill. It comes within the 302(b) allocation for both budget authority and for outlays.

Like many conference reports, it was a very difficult exercise. We had to reconcile 204 amendments. I will not say that the other body's conferees were stubborn, but they were insistent upon their position. Nevertheless, we persevered, and we succeeded in our mission, because this is a very good bill, thanks to the excellent conferees on the part of the House, particularly our good friend, the gentleman from Ohio [Mr. REGULA], the ranking member of our subcommittee.

The total recommended for this bill, Mr. Speaker, is $9,981,961,000. This is an increase of $194,163,000 over the amount passed by the House on June 29, 1988. It is $199,484,000 below the Senate-passed bill.

Mr. Speaker, as I stated, it comes within the 302(b) allocation for both budget authority and for outlays.

Mr. Speaker, the long hot spell now seems far in the past. Its resulting high levels of air pollution, particularly in urban areas, still lingers on, however, and it has focused the attention of many in this country on the so-called greenhouse effect and on the related problems such as acid rain.

This bill for years has provided impetus to technologies that would mitigate the effects of both acid rain and atmospheric warming or the greenhouse effect.

Since 1981 and again this year, the Congress has provided funding well in excess of that requested by the administration for research, development and demonstration of such technologies.

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For previous appropriations during this administration, from fiscal year 1982 through 1988, the Congress has increased acid rain related research from a request of $530 million to $1.2 billion, an increase of 128 percent.

Research related to global warming has been increased from $388 million to $862 million, an increase of 123 percent.

In energy conservation, research and development has been increased from a request of $560 million to $1.1 billion, a 98-percent increase.

I cite these increases, Mr. Speaker, to show the determination by our committee to treat the problems of acid rain and the warming atmosphere.

For demonstration of technologies that could lead to commercial plants in the 1990's, the conference agreement supports an aggressive Clean Coal Technology Program which is also supported by the administration. These technologies would decrease pollutants which cause acid rain as well as in some cases increase the efficiency of coal-burning technologies which would in turn reduce coal's contribution to carbon dioxide in the atmosphere. For the Clean Coal Program the conference agreement provides $190 million for fiscal year 1989 as part of the second procurement with an additional $135 million to become available in 1990 and $200 million to become available in 1991. In addition, the conferees agreed to include $575 million for fiscal year 1990 to provide for a third competitive procurement.

Research in other areas of fossil energy as well as in energy conservation have also been increased. The conferees have recommended continuing energy research and development in fossil energy and conservation, and energy conservation grants to States for low-income weatherization and schools and hospitals. Recommendations for these programs total $753 million, some $497 million over the budget request.

In fossil energy, the conference agreement increases acid rain related research from $76 million to $191 million, and carbon dioxide or greenhouse related research from $48 million to $140 million. In conservation, research and development has been increased from $86 million to $153 million.

The bill provides $1.1 billion for clean coal technology over a period of years, and over $300 million in fossil energy and conservation to combat acid rain and carbon dioxide pollution, but more effort will be required to deal with them in the future in order to prevent significant deterioration in our environment. We plan to continue our support of this research, just as we have done in the past, and in this conference agreement.

The conferees have once again rejected the administration's attempts to curtail land acquisition for our national parks, for our national forests, our public lands, and wildlife refuges. The President's budget request for the land and water conservation fund was only $21,653,000. That figure was raised in the conference report to $206,633,000 which is an increase of $184,980,000 over the budget request. The committee was determined, again, to support and maintain these areas so that this generation may pass along to our children and grandchildren and future generations the parks, the forests, the public lands, the refuges, the beauties that we now enjoy so that they may be enjoyed by those who come after us as well. A minimal land acquisition program would only result in future bills facing higher land prices, loss of critical habitat, and hardships for private landowners. Included in this amount is $20 million for State grants from the land and water conservation fund. The conferees have also responded to a General Accounting Office report detailing deficiencies in park maintenance by providing a net increase of $24,092,000 for maintenance.

The conference report includes $4,577,623,000 for programs of the Department of the Interior; $1,845,011,000 for the U.S. Forest Service; $1,633,971,000 for programs of the Department of Energy; and $1,835,356,000 for Indian health, Indian education, the Smithsonian Institution, the National Endowment for the Arts and the Humanities, and the other related agencies of the bill.

I would like to highlight two major changes from the House bill. The conferees agreed to include revised language on the National Film Preservation Board which establishes it within the Library of Congress. The Board is authorized for 3 years with an appropriation not to exceed $250,000 for each fiscal year. Labeling is required for films nominated for inclusion in a national film registry.

The conferees have not included the House bill language which requires 50 percent domestic construction and content for any new construction of vessels, rigs, platforms, and other structures used in the Outer Continental Shelf.

The bill also contains provisions with respect to the Outer Continental Shelf for a moratorium on leasing for oil drilling off the northern California coast and a moratorium on portions of the eastern Gulf of Mexico and Georges Bank in the North Atlantic. They are retained, the moratorium, to protect environmentally sensitive areas which would be affected adversely by drilling operations.

In the Minerals Management Service Program the conferees included $400,000 for the audit program in mineral revenue collection and $35,000 for the State of Louisiana to conduct 8(g) audits in systems development and maintenance. The conferees agree that these funds are to be used in mineral revenue compliance.

The conferees also have recommended $242 million for acquisition and transportation of oil for the strategic petroleum reserve at levels of 50,000 barrels per day. They have also included $173 million to continue reserve capacity construction.

With regard to the $5 million in the conference agreement for competitive geoscience programs in the Department of Energy, I want to clarify that the conferees intend that this money be allocated to procurements in the individual programs to which the money has been provided and not in one large procurement package which might tend to lessen the amount of competition for the funds.

Mr. Speaker, I want to mention an initiative taken by our committee in the House which I think is a most important development. It is the appropriation for the National Endowment for the Humanities which deals with the deterioration of books in libraries.

A recent Office of Technology Assessment study says this, and I quote:

> Even in today's high-tech society, books are the principal records of human civilization. Over the centuries, books have become the most reliable and permanent records available, but, in the last century, that reliability has been threatened by the use of "modern" acidic paper that becomes brittle and unstable in a relatively short period of time. Books printed since 1850 are deteriorating en masse in libraries the world over.

To deal with this problem, the conferees agreed to provide $12,500,000 for such actions as microfilming brittle books, including grants for national cooperative microfilming projects and awards to individual research libraries to film endangered volumes in their collections. It is our expectation that research libraries which have preservation capabilities such as the New York Public Library would qualify for awards under this program.

Mr. Speaker, the conferees, finally, have struggled with the question of squeezing all our programs to fit within a split of the difference between the House and Senate 302(b) allocations. As I said, I think we have succeeded. We have brought the House a very good bill. It continues important programs necessary for the protection and enhancement of our national resources while maintaining fiscal responsibility and providing a substantial return to the Treasury.

Again, I want to commend all the conferees for their determined and unselfish efforts and contributions in rising to this difficult fiscal challenge and again, I want to note the contributions of our ranking minority member, the gentleman from Ohio, RALPH REGULA.

Mr. Speaker, I urge Members on both sides of the aisle to support the conference report.

For further clarification, I am placing a support table into the RECORD to accompany this statement.

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF THE INTERIOR						
Bureau of Land Management						
Management of lands and resources	498,983,000	464,487,000	500,959,000	510,595,000	508,462,000	+9,479,000
Construction and access	3,430,000	1,338,000	5,431,000	2,631,000	5,431,000	+2,001,000
Payments in lieu of taxes	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	....
Land acquisition	8,885,000	100,000	11,640,000	12,020,000	12,290,000	+3,405,000
Oregon and California grant lands	58,475,000	57,434,000	61,445,000	59,141,000	60,000,000	+1,525,000
Range improvements (indefinite)	8,506,000	8,506,000	8,506,000	8,506,000	8,506,000	....
Service charges, deposits & forfeitures (indefinite)	6,600,000	6,000,000	6,000,000	6,000,000	6,000,000	-600,000
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	100,000	....
Total, Bureau of Land Management	689,979,000	642,965,000	699,081,000	703,993,000	705,789,000	+15,810,000
United States Fish and Wildlife Service						
Resource management	342,594,000	331,863,000	350,251,000	360,654,000	360,688,000	+18,094,000
Construction and anadromous fish	25,062,000	7,577,000	23,756,000	25,294,000	31,834,000	+6,772,000
Migratory bird conservation account	1,000,000	....	....	....	....	-1,000,000
Land acquisition	51,754,000	1,874,000	50,809,000	61,849,000	57,529,000	+5,775,000
National Wildlife Refuge Fund	5,645,000	5,645,000	7,645,000	5,645,000	6,645,000	+1,000,000
Total, United States Fish and Wildlife Service	426,055,000	346,959,000	432,461,000	453,442,000	456,696,000	+30,641,000
National Park Service						
Operation of the national park system	730,799,000	733,768,000	742,181,000	746,024,000	744,835,000	+14,036,000
National recreation and preservation	12,935,000	10,204,000	14,093,000	13,470,000	14,608,000	+1,673,000
Historic preservation fund	28,250,000	....	30,000,000	30,250,000	30,500,000	+2,250,000
Urban Park recreation fund (rescission)	-1,900,000	....	....	....	....	+1,900,000
Construction	93,017,000	15,003,000	131,809,000	119,072,000	159,108,000	+66,091,000
Visitors facilities fund	(4,700,000)	....	....	....	....	(-4,700,000)
(Liquidation of contract authority)	(31,000,000)	(31,000,000)	(47,000,000)	(47,000,000)	(47,000,000)	(+16,000,000)
Land and water conservation fund (rescission of contract authority)	-30,000,000	....	-30,000,000	-30,000,000	-30,000,000	....
Land acquisition and state assistance	60,749,000	15,779,000	62,206,000	64,961,000	72,609,000	+11,860,000
John F. Kennedy Center for the Performing Arts	4,904,000	5,193,000	5,181,000	5,181,000	5,181,000	+277,000
Illinois and Michigan Canal National Heritage Corridor Commission	250,000	....	250,000	....	250,000	....
American Revolution Bicentennial Administration	....	....	4,765,000	....	4,765,000	+4,765,000
National Film Preservation Board	....	....	100,000	....	250,000	+250,000
Total, National Park Service	899,004,000	779,947,000	960,585,000	948,958,000	1,002,106,000	+103,102,000
Geological Survey						
Surveys, investigations, and research	447,747,000	425,003,000	448,056,000	448,045,000	451,506,000	+3,759,000
Minerals Management Service						
Leasing and royalty management	168,717,000	171,317,000	170,009,000	171,847,000	170,744,000	+2,027,000

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference	Conference compared with enacted
Payments to States from receipts under Mineral Leasing		600,000				
Total, Minerals Management Service	168,717,000	171,917,000	170,009,000	171,847,000	170,744,000	+2,027,000
Bureau of Mines						
Mines and minerals	146,398,000	126,605,000	146,254,000	165,167,000	159,292,000	+12,894,000
Office of Surface Mining Reclamation and Enforcement						
Regulation and technology	102,125,000	101,066,000	104,086,000	100,837,000	101,095,000	-1,030,000
Abandoned mine reclamation fund (definite, trust fund)	199,380,000	159,094,000	191,154,000	201,328,000	193,160,000	-6,220,000
Total, Office of Surface Mining Reclamation and Enforcement	301,505,000	260,160,000	295,240,000	302,165,000	294,255,000	-7,250,000
Bureau of Indian Affairs						
Operation of Indian Programs	970,756,000	938,416,000	996,024,000	980,486,000	992,767,000	+22,011,000
Construction	83,225,000	56,793,000	79,136,000	78,513,000	79,283,000	-3,942,000
Road Construction	1,000,000					-1,000,000
Miscellaneous payments to Indians	13,340,000	13,955,000	13,952,000	13,955,000	13,952,000	+612,000
Tribal trust funds	1,000,000					-1,000,000
Revolving fund for loans (limitation on direct loans)		(13,000,000)				
Indian loan guaranty and insurance fund	3,085,000	3,370,000	3,370,000	3,370,000	3,370,000	+285,000
Indian loan guaranty and insurance fund (limitation on guaranteed loans)		(45,000,000)				
Total, Bureau of Indian Affairs	1,072,406,000	1,012,534,000	1,092,482,000	1,076,324,000	1,089,372,000	+16,966,000
Territorial and International Affairs						
Administration of territories	78,235,000	71,477,000	82,397,000	96,087,000	92,767,000	+14,532,000
Trust Territory of the Pacific Islands	41,940,000	2,780,000	28,434,000	18,287,000	28,434,000	-13,506,000
Compact of Free Association	33,620,000	34,935,000	36,160,000	30,360,000	32,360,000	-1,260,000
Total, Territorial Affairs	153,795,000	109,192,000	146,991,000	144,734,000	153,561,000	-234,000
Departmental Offices						
Office of the Secretary	47,519,000	51,681,000	49,580,000	48,809,000	49,067,000	+1,548,000
Office of the Solicitor	23,053,000	25,325,000	24,686,000	24,686,000	24,686,000	+1,633,000
Office of Inspector General	17,757,000	18,816,000	18,858,000	18,649,000	18,749,000	+992,000
Construction Management	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	
Total, Departmental Offices	90,129,000	97,622,000	94,924,000	93,944,000	94,302,000	+4,173,000
Total, title I, Department of the Interior:						
New budget (obligational) authority (net)	4,395,735,000	3,972,904,000	4,486,083,000	4,508,619,000	4,577,623,000	+181,888,000
Appropriations	(4,427,635,000)	(3,972,904,000)	(4,516,083,000)	(4,538,619,000)	(4,607,623,000)	(+179,988,000)
Definite	(4,412,429,000)	(3,958,298,000)	(4,501,477,000)	(4,524,013,000)	(4,593,017,000)	(+180,588,000)

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference	Conference compared with enacted
Indefinite	(15,206,000)	(14,606,000)	(14,606,000)	(14,606,000)	(14,606,000)	(-600,000)
Rescission	(-31,900,000)		(-30,000,000)	(-30,000,000)	(-30,000,000)	(+1,900,000)
(Liquidation of contract authority)	(31,000,000)	(31,000,000)	(47,000,000)	(47,000,000)	(47,000,000)	(+16,000,000)
(Limitation on direct loans)		(13,000,000)				
(Limitation on guaranteed loans)		(45,000,000)				
TITLE II - RELATED AGENCIES						
DEPARTMENT OF AGRICULTURE						
Forest Service						
Forest research	135,510,000	129,279,000	139,865,000	132,599,000	137,867,000	+2,357,000
State and private forestry	76,469,000	34,781,000	78,143,000	82,918,000	86,668,000	+10,199,000
National forest system	1,243,391,000	1,159,655,000	1,309,244,000	1,329,018,000	1,329,488,000	+86,097,000
Construction	214,078,000	203,974,000	216,542,000	225,997,000	225,518,000	+11,440,000
Timber receipts transfer to General Fund (indefinite)	(-78,635,000)	(-79,100,000)	(-79,100,000)	(79,100,000)	(-79,100,000)	(-465,000)
Timber purchaser credits		(125,367,000)	(64,000,000)	(125,367,000)	(75,000,000)	(+75,000,000)
Mount St. Helens (contract authority)			(5,333,000)		(5,333,000)	(+5,333,000)
Land acquisition	49,076,000	3,900,000	42,245,000	57,734,000	64,205,000	+15,129,000
Timber Roads, Purchaser Election, Forest Service (rescission)	-75,000,000			-40,000,000	-40,000,000	+35,000,000
Timber Salvage Sales	37,000,000					-37,000,000
Tongass Timber Supply Fund		40,699,000	25,264,000	40,699,000	35,999,000	+35,999,000
Operation and maintenance of recreation facilities		31,800,000				
Acquisition of lands for national forests, special acts	966,000	966,000	966,000	966,000	966,000	
Acquisition of lands to complete land exchanges (indefinite)	990,000	335,000	335,000	335,000	335,000	-655,000
Range betterment fund (indefinite)	3,605,000	3,875,000	3,875,000	3,875,000	3,875,000	+270,000
Miscellaneous trust funds	90,000	90,000	30,000	90,000	90,000	
Total, Department of Agriculture	1,686,175,000	1,609,354,000	1,816,509,000	1,834,231,000	1,845,011,000	+158,836,000
DEPARTMENT OF ENERGY						
Clean coal technology	50,000,000					-50,000,000
Base program, FY 1989		525,000,000	100,000,000	525,000,000	190,000,000	+190,000,000
Base program, FY 1990			(225,000,000)		(135,000,000)	(+135,000,000)
Base program, FY 1991			(200,000,000)		(200,000,000)	(+200,000,000)
Supplemental program, FY 1990		(575,000,000)		(575,000,000)	(575,000,000)	(+575,000,000)
Supplemental program, FY 1991		(600,000,000)				
Supplemental program, FY 1992		(600,000,000)				
Fossil energy research and development	326,975,000	166,992,000	357,361,000	367,829,000	380,595,000	+53,620,000
(By transfer)	(20,894,000)					(-20,894,000)
Naval petroleum and oil shale reserves	159,663,000	185,071,000	185,071,000	185,071,000	185,071,000	+25,408,000
Energy conservation	309,517,000	89,359,000	326,138,000	357,019,000	372,502,000	+62,985,000
Economic regulation	21,565,000	20,772,000	21,010,000	21,372,000	21,372,000	-193,000
Emergency preparedness	6,172,000	6,154,000	6,154,000	6,154,000	6,154,000	-18,000
Strategic Petroleum Reserve	164,162,000	173,421,000	173,421,000	174,421,000	173,421,000	+9,259,000
SPR petroleum	438,744,000	333,555,000	333,555,000	242,000,000	242,000,000	-196,744,000

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference	Conference compared with enacted
Energy Information Administration	61,398,000	62,856,000	62,856,000	63,156,000	62,856,000	+1,458,000
Total, Department of Energy	1,538,196,000	1,563,180,000	1,565,566,000	1,942,022,000	1,633,971,000	+95,775,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Health Resources and Services Administration						
Indian health services	949,481,000	986,772,000	1,016,667,000	1,014,536,000	1,020,106,000	+70,625,000
Fiscal year 1990	....	(1,003,007,000)	....	....	....	....
Indian health facilities	62,511,000	....	64,050,000	50,185,000	61,668,000	-843,000
Total, Department of Health and Human Services	1,011,992,000	986,772,000	1,080,717,000	1,064,721,000	1,081,774,000	+69,782,000
DEPARTMENT OF EDUCATION						
Office of Elementary and Secondary Education						
Indian education	66,326,000	67,653,000	68,153,000	72,297,000	71,553,000	+5,227,000
OTHER RELATED AGENCIES						
Navajo and Hopi Indian Relocation Commission						
Salaries and expenses	25,270,000	22,973,000	27,723,000	26,473,000	27,373,000	+2,103,000
Institute of American Indian and Alaska Native Culture and Arts Development						
Salaries and expenses	....	2,467,000	3,094,000	2,849,000	3,094,000	+3,094,000
Smithsonian Institution						
Salaries and expenses	201,432,000	216,214,000	209,266,000	208,734,000	211,240,000	+9,808,000
Construction and improvements, National Zoological Park	8,150,000	5,305,000	5,305,000	5,305,000	5,305,000	-2,845,000
Restoration and renovation of buildings	19,254,000	20,835,000	20,835,000	20,735,000	20,735,000	+1,481,000
Construction	1,315,000	10,150,000	8,655,000	8,655,000	8,655,000	+7,340,000
Subtotal	230,151,000	252,504,000	244,061,000	243,429,000	245,935,000	+15,784,000
National Gallery of Art						
Salaries and expenses	37,352,000	38,543,000	37,831,000	38,543,000	37,981,000	+629,000
Repair, restoration and renovation of buildings	....	1,000,000	500,000	1,000,000	750,000	+750,000
Subtotal, National Gallery of Art	37,352,000	39,543,000	38,331,000	39,543,000	38,731,000	+1,379,000

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference	Conference compared with enacted
Woodrow Wilson International Center for Scholars						
Salaries and expenses	4,028,000	4,285,000	4,240,000	4,240,000	4,240,000	+212,000
Endowment Challenge Fund		350,000		350,000	300,000	+300,000
Total, Woodrow Wilson International Center for Scholars	4,028,000	4,635,000	4,240,000	4,590,000	4,540,000	+512,000
Total, Smithsonian Institution	271,531,000	296,682,000	286,632,000	287,562,000	289,206,000	+17,675,000
National Foundation on the Arts and the Humanities						
National Endowment for the Arts						
Grants and administration	139,311,000	140,531,000	141,800,000	141,431,000	141,890,000	+2,579,000
Matching grants	28,420,000	27,200,000	27,200,000	27,200,000	27,200,000	-1,220,000
Total, National Endowment for the Arts	167,731,000	167,731,000	169,000,000	168,631,000	169,090,000	+1,359,000
National Endowment for the Humanities						
Grants and administration	111,935,000	111,735,000	125,000,000	115,535,000	124,300,000	+12,365,000
Matching grants	28,500,000	28,700,000	28,700,000	28,700,000	28,700,000	+200,000
Total, National Endowment for the Humanities	140,435,000	140,435,000	153,700,000	144,235,000	153,000,000	+12,565,000
Institute of Museum Services						
Grants and administration	21,944,000	21,944,000	22,620,000	21,944,000	22,270,000	+326,000
Total, National Foundation of the Arts and the Humanities	330,110,000	330,110,000	345,320,000	334,810,000	344,360,000	+14,250,000
Commission of Fine Arts						
Salaries and expenses	443,000	451,000	475,000	475,000	475,000	+32,000
National Capital Arts and Cultural Affairs						
Grants	4,500,000		5,000,000	5,000,000	5,000,000	+500,000
Advisory Council on Historic Preservation						
Salaries and expenses	1,719,000	1,781,000	1,774,000	1,781,000	1,778,000	+59,000
National Capital Planning Commission						
Salaries and expenses	2,948,000	2,962,000	2,962,000	2,962,000	2,962,000	+14,000

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference	Conference compared with enacted
Franklin Delano Roosevelt Memorial Commission						
Salaries and expenses	28,000	28,000	28,000	28,000	28,000	
Pennsylvania Avenue Development Corporation						
Salaries and expenses	2,516,000	2,353,000	2,343,000	2,311,000	2,334,000	-182,000
Public development	3,000,000	3,095,000	3,175,000	3,095,000	3,175,000	+175,000
Total, Pennsylvania Avenue Development Corporation	5,516,000	5,448,000	5,518,000	5,406,000	5,509,000	-7,000
United States Holocaust Memorial Council						
Holocaust Memorial Council	2,171,000	2,209,000	2,244,000	2,209,000	2,244,000	+73,000
Total, title II, Related Agencies:						
New budget (obligational) authority	4,946,925,000	4,892,070,000	5,211,715,000	5,582,826,000	5,314,338,000	+367,413,000
Appropriations	(5,021,925,000)	(4,892,070,000)	(5,211,715,000)	(5,622,826,000)	(5,354,338,000)	(+332,413,000)
Definite	(5,017,330,000)	(4,887,860,000)	(5,207,505,000)	(5,618,616,000)	(5,350,128,000)	(+332,798,000)
Indefinite	(4,595,000)	(4,210,000)	(4,210,000)	(4,210,000)	(4,210,000)	(-385,000)
(Timber receipt transfer to general fund)	-78,635,000	-79,100,000	-79,100,000	79,100,000	-79,100,000	-465,000
(By transfer)	20,894,000					-20,894,000
RECAPITULATION						
Total, Department of the Interior and Related Agencies Appropriations:						
New budget (obligational) authority	9,342,660,000	8,864,974,000	9,697,798,000	10,091,445,000	9,891,961,000	+549,301,000
Appropriations	(9,449,560,000)	(8,864,974,000)	(9,727,798,000)	(10,161,445,000)	(9,961,961,000)	(+512,401,000)
Definite	(9,429,759,000)	(8,846,158,000)	(9,708,982,000)	(10,142,629,000)	(9,943,145,000)	(+513,386,000)
Indefinite	(19,801,000)	(18,816,000)	(18,816,000)	(18,816,000)	(18,816,000)	(-985,000)
Rescission	(-106,900,000)		(-30,000,000)	(-70,000,000)	(-70,000,000)	(+36,900,000)
(Liquidation of contract authority)	(31,000,000)	(31,000,000)	(52,333,000)	(47,000,000)	(52,333,000)	(+21,333,000)
(Timber receipt transfer to general fund)	(-78,635,000)	(-79,100,000)	(-79,100,000)	(79,100,000)	(-79,100,000)	(-465,000)
(By transfer)	(20,894,000)					(-20,894,000)
TITLE I -DEPARTMENT OF THE INTERIOR						
Bureau of Land Management	689,979,000	642,965,000	699,081,000	703,993,000	705,789,000	+15,810,000
United States Fish and Wildlife Service	426,055,000	346,959,000	432,461,000	453,442,000	456,696,000	+30,641,000
National Park Service	899,004,000	779,947,000	960,585,000	948,958,000	1,002,106,000	+103,102,000
Geological Survey	447,747,000	425,003,000	448,056,000	448,045,000	451,506,000	+3,759,000
Minerals Management Service	168,717,000	171,917,000	170,009,000	171,847,000	170,744,000	+2,027,000
Bureau of Mines	146,398,000	126,605,000	146,254,000	165,167,000	159,292,000	+12,894,000
Office of Surface Mining Reclamation and Enforcement	301,505,000	260,160,000	295,240,000	302,165,000	294,255,000	-7,250,000
Bureau of Indian Affairs	1,072,406,000	1,012,534,000	1,092,482,000	1,076,324,000	1,089,372,000	+16,966,000
Territorial and International Affairs	153,795,000	109,192,000	146,991,000	144,734,000	153,561,000	-234,000
Secretarial Offices	90,129,000	97,622,000	94,924,000	93,944,000	94,302,000	+4,173,000
Total, Title I - Department of the Interior	4,395,735,000	3,972,904,000	4,486,083,000	4,508,619,000	4,577,623,000	+181,888,000
TITLE II - RELATED AGENCIES						
Forest Service	1,686,175,000	1,609,354,000	1,816,509,000	1,834,231,000	1,845,011,000	+158,836,000
Department of Energy	1,538,196,000	1,563,180,000	1,565,566,000	1,942,022,000	1,633,971,000	+95,775,000
Indian Health	1,011,992,000	986,772,000	1,080,717,000	1,064,721,000	1,081,774,000	+69,782,000

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference	Conference compared with enacted
Indian Education	66,326,000	67,653,000	68,153,000	72,297,000	71,553,000	+5,227,000
Navajo and Hopi Indian Relocation Commission	25,270,000	22,973,000	27,723,000	26,473,000	27,373,000	+2,103,000
Institute of American Indian and Alaska Native Culture and Arts Development		2,467,000	3,094,000	2,849,000	3,094,000	+3,094,000
Smithsonian	230,151,000	252,504,000	244,061,000	243,429,000	245,935,000	+15,784,000
National Gallery of Art	37,352,000	39,543,000	38,331,000	39,543,000	38,731,000	+1,379,000
Woodrow Wilson International Center for Scholars	4,028,000	4,635,000	4,240,000	4,590,000	4,540,000	+512,000
National Endowment for the Arts	167,731,000	167,731,000	169,000,000	168,631,000	169,090,000	+1,359,000
National Endowment for the Humanities	140,435,000	140,435,000	153,700,000	144,235,000	153,000,000	+12,565,000
Institute of Museum Services	21,944,000	21,944,000	22,620,000	21,944,000	22,270,000	+326,000
Commission of Fine Arts	443,000	451,000	475,000	475,000	475,000	+32,000
National Capital Arts and Cultural Affairs	4,500,000		5,000,000	5,000,000	5,000,000	+500,000
Advisory Council on Historic Preservation	1,719,000	1,781,000	1,774,000	1,781,000	1,778,000	+59,000
National Capital Planning Commission	2,948,000	2,962,000	2,962,000	2,962,000	2,962,000	+14,000
Franklin Delano Roosevelt Memorial Commission	28,000	28,000	28,000	28,000	28,000	
Pennsylvania Avenue Development Corporation	5,516,000	5,448,000	5,518,000	5,406,000	5,509,000	-7,000
Holocaust Memorial Council	2,171,000	2,209,000	2,244,000	2,209,000	2,244,000	+73,000
Total, Title II - Related Agencies	4,946,925,000	4,892,070,000	5,211,715,000	5,582,826,000	5,314,338,000	+367,413,000
Grand total	9,342,660,000	8,864,974,000	9,697,798,000	10,091,445,000	9,891,961,000	+549,301,000

Following is an explanation of several printing errors in the "Statement of the Managers" (H. Rept. 100-862):

(1) On page 7, under amendment No. 1, $125,000 is for the San Pedro Conservation Area (AZ), not $215,000;

(2) On page 14, amendment No. 18 appropriates $744,835,000 for Operation of the National Park System, not $74,835,000;

(3) On page 19, funds for Denali NP, AK are for a replacement hotel, not Southside;

(4) On page 45, amendment No. 100, the Senate proposed amount was $132,599,000, not $312,599,000;

(5) On page 48, under amendment No. 106, $13,000,000 is for forest fire protection, including $1,000,000 for additional fuels treatment, not $13,000,000 for additional fuels treatment. Also, an increase of $1,352,000 over the Senate amount is for soil, water, and air management. Beginning with $1,182,000 for land line location, the remainder of the changes are decreases:

(6) On page 66, under amendment No. 142, the new central science facility cost is $24,750,000, not $25,750,000; and

(7) On page 66, under amendment No. 148, $91,555,000 is appropriated for acquisition of petroleum beginning on October 1, 1989, not $91,550,000.

In addition, the "Statement of the Managers" inadvertently omitted $165,000 within available funds for construction planning at Theodore Roosevelt National Park, ND.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the subcommittee, Mr. YATES, has done an excellent job of outlining the accomplishments of the conference committee. He served as the chairman of the conference and I think did a remarkable job considering the fact that the bill that we bring to you today is $200 million less than the Senate bill. It points out very clearly that it required a lot of tenacity and leadership in the conference to get a reduction of $200 million in the final product, particularly because the bill that we are dealing with today touches most districts across the Nation. It deals with things that are close to the hearts of the people of these United States, our parks, our public lands, our forests, the crown jewels, in a sense of our Nation and the great assets that we should take care of.

We read about the fire in Yellowstone, we become aware even more graphically of how important our parks are and how important the care of them is to each of us.

Chairman YATES did insure that the important things were taken care of in the bill but, nevertheless, that it conformed to sound and responsible fiscal policy.

We have received no letter from the administration. This is almost a first that they have not submitted a letter in opposition to the bill. I would take from that that there is generally support downtown for what we have produced in this conference.

I might also add that it is a joy to work with the chairman. We work as a partnership with all of the members of the subcommittee in achieving what we think is responsible legislative action.

We did address some tough issues. Among those particularly would be housing.

Last week Congressman MURTHA and myself visited the Grand Canyon National Park to look at the housing problems there. It is quite clear that there is a great need in housing. This is just one example.

I think that is pretty much true across the board. We ask the people who serve in the Park Service to move around, to provide their leadership for this program and yet we do not provide adequately for housing.

We did as much as we could; $10 million. We need a lot more because the health and sanitary codes are not being met in many of the parks. And it is important in attracting and keeping good people in the Park Service that we have adequate housing for them.

I think evidence of how important these parks are is the fact that in the Grand Canyon alone, we had nearly 4 million visitors during the past year. Many of these visitors come from other countries.

I was struck as I walked along the rim of the canyon just listening to the many different languages that were being spoken by groups who were visiting there. Obviously this generates international good will. It helps with the balance of payments and it gives people from other nations an opportunity to enjoy the beauties of these United States.

But we have to have good people managing facilities if we are to have success.

I am pleased to report that the Fee Program that was initiated by both the authorizing and appropriation committees is gaining success.

In this past year we collected $52.2 million in fees. This money is being plowed back into the needs of the park service so that we can continue to improve our park experience for those who visit.

Maintenance is another need. A recent GAO report identified $1.9 billion in needs for maintenance in the parks. Obviously, we could not begin to meet that kind of challenge with the resources available. We did, however, provide a $24 million increase for maintenance for a total of $270 million.

Frankly, we had to stretch every dollar. The chairman recognized that, both in putting together our bill, as well as in the conference report.

We had a lot of requests from Members that had to be met because they were sound proposals for enhancement of a facility in their districts. But there is much more to be done in maintenance. I think the fee program is one of the ways that we can achieve a very desirable goal in that respect.

I might also point out that programs funded in this bill will generate an estimated $8.4 billion in revenue in fiscal year 1989.

I would like to mention the Clean Coal Program. The chairman did talk about that. But it is an important program. We recognized that with the appropriation of $575 million for the third solicitation, which will be for retrofit and repowering technologies. It is, I think, the answer to the acid rain question. We hear a lot about it today in the news media. Certainly it is a problem. I do not think we need a study to find out there is a problem.

The real issue is how do we meet this challenge? The Clean Coal Program in my judgment offers a responsible way to do that. Since 1985 we have appropriated $1.5 billion approximately. But more importantly, or certainly equally important, is the fact that the private sector has more than matched, and will more than match, this $1.5 billion. First of all, the law requires a 50-percent match. In most of the projects that have been approved, the private sector is putting in more than 50 percent because it too recognizes that this is a viable and responsible way to address the problem of acid rain and, more importantly, the problem of energy needs.

A recent article in the September 2d Washington Post entitled "The Energy Crisis Isn't Gone" highlights the challenge that confronts this Nation. I would like to quote just a few of the statements in this article because I think it is important that this body address the energy needs, particularly in the upcoming 101st Congress.

Just a few of the quotes from the article:

> It is steadily becoming clear that the United States is heading toward energy problems that could be more serious and more long-lasting than those it experienced in the 1970's. Just as in the 1970's the problem isn't energy, it is oil.

It goes on to point out the fact that we depend on the Middle East and that is a volatile region.

> In 1973 we had a strong domestic petroleum industry and the major electric power expansion underway to substitute for foreign oil. We will face our next crisis unarmed. Our national policies of the 1980's have crippled our domestic energy industries. Only five percent of the world's oil reserves are in the United States and yet we have the world's largest oil demand, nearly one-half of all the oil used by the world's noncommunist industrialized nations is burned in the United States.

Additionally, an article that appeared today in the Washington Times illustrates a problem that will confront the United States. It is good news in the sense that it highlights

"Our soaring productivity." And in this article it points out the "revival of U.S. manufacturing competitiveness; manufacturing output is up in the last 7 years, 3.5 percent, output per hour is up 4.4 percent, value added up 3.5 percent."

It points out that our growth in manufacturing productivity has been the highest of any nation, with the exception of Japan, during the 1980's. It points out that exports have soared 30 percent. All of that means the need for more energy, and it is good news because it means more prosperity and it means greater ability to compete in the world's marketplace.

But I think the article that appears in the Times today highlights the problems we are going to confront in the energy field.

Going back to the Post Op-Ed piece, it says that by the late 1990's we will be importing as much as 60 percent of the oil our economy needs. This is particularly frightening, as we look at the volatility of the Middle East, where nearly 70 percent of the world's oil is located. The report also points out something I think is very important as we talk about clean coal, and that is that the use of electricity in the United States has climbed 45 percent in the past 15 years. The problem with that, according to the article, is that there is not a major powerplant under construction in the entire country that was started in the 1980's. None are even on the drawing board. Even though our use of electricity is climbing by more than 4 percent a year, utilities are making essentially no commitments to new base load powerplants.

One of the reasons, of course, is that we have decided, as a national policy, not to use nuclear. It is very difficult to get approval for nuclear plants, and the ultimate result of all of this is that we are going to have to depend on coal, or we will have to depend on imported oil. I think it would be a great mistake in policy for this Nation to have a growing reliance on oil imports.

So, it is vital that we develop a program to burn the greatest energy resource we have, namely, coal, and to burn that coal in an environmentally safe way.

The Clean Coal Program that we have in this bill, and have had in the past bills, may be one of the most significant policy actions that this body has taken during the past several years. I think as we face the crisis in electric power that is coming down the road, it becomes even a greater imperative that we develop a Clean Coal Program. I am pleased that we were able to get the support in the conference for the third round of solicitations, because time is running out, as evidenced by the statistics in the article I just quoted, and it is indicative of a need to go forward.

I think it is interesting to note as we talk about the energy crisis and the oil crisis, that the proven reserves of coal in the United States today are something like the equivalent of 1.5 trillion barrels—not billions, not millions—but 1.5 trillion barrels of oil. We need to use that resource. To do it, we need a Clean Coal Program. We should save our oil for transportation, and I think that the bill that we have before us does achieve that objective. It is a good bill, it is a responsible bill, it addresses the problems, it reflects leadership that we had in the conference and the committee.

I urge my colleagues to support this bill, because what we are dealing with today is a priceless resource, our public lands.

One-third of the United States is owned by the people of this Nation, in the form of public lands, and we are people that are responsible for the way in which we manage it. It is vital that we recognize their value, and I think this bill does it in a very responsible way.

Mr. Speaker, I would like to enter into a colloquy with the chairman of the subcommittee on an item in the bill, if I may.

Mr. YATES. I would be very glad to do that, if the gentleman will yield, let me say to my friend.

Mr. Speaker, may I have the gentleman's question?

Mr. REGULA. Mr. Speaker, we provided funding in this Interior appropriations bill, for fiscal year 1988, for the King Center in Atlanta, for the purchase of land and the construction of a parking lot to accommodate the many visitors the center receives each year.

The language specified that the construction take place at the vacant lot on the north side of Irwin Street, between Jackson and Boulevard.

Since the law's enactment, the King Center and the National Park Service have determined that a different location within the King historic site may be a more cost effective and a beneficial site. The new site would allow the two entities to work together more closely with the parking lot in a more central location. The Park Service is presently examining the issue further. It may be necessary to incorporate a technical change to the earlier language.

I would appreciate your support in granting the center and the Park Service the flexibility it needs to provide for greater services to their visitors, if it is determined by their consultations that this should be the case.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. Mr. Speaker, I yield to the chairman of the subcommittee.

Mr. YATES. Mr. Speaker, I would be very happy to work with the gentleman and with the Park Service, and with the King Center on this matter. I am sure that we can get a reasonable solution to the problem.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to compliment the gentleman from Ohio [Mr. REGULA] and also the chairman of our subcommittee, the gentleman from Illinois [Mr. YATES], for the leadership they have shown in coming up with clean coal technology which this country has needed for many, many years. Without the leadership of the gentlemen, I do not think we would be as far advanced as we are now. I think we are on the edge of a breakthrough that this country and the world have long needed.

As the gentleman indicated in his earlier remarks, the dependence we have on imported oil will be a thing of the past if we can come up with the type of technology that is provided for in this legislation.

Mr. Speaker, once again I wish to commend the gentleman from Ohio and the gentleman from Illinois for their leadership in this area.

Mr. REGULA. Mr. Speaker, I thank the gentleman from Ohio [Mr. LATTA] for his comments.

Mr. YATES. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I appreciate the gentleman's yielding this time to me.

Mr. Speaker, I am proud to support the conference report for H.R. 4867, the fiscal year 1989 appropriations for the Department of the Interior and related agencies. As an 8-year member of the Interior Appropriations Subcommittee, I believe this bill is among the best we have developed during the 1980's in the way it balances Oregon's and the Nation's, priorities.

This bill comes as close as any bill Congress writes to bring a report card for promotion of Oregon's economic opportunities and protection of its environment. It shapes the policies for management of more than 50 percent of Oregon's land, as well as many of its ocean resources. Few, if any, bills have such a direct impact on Oregon's well-being.

Taken in this light, I can report to my colleagues in the House and to concerned Oregonians that this bill hits a grand slam for promoting economic diversity, stabilizing key industries, protecting critical public lands, and fostering a better understanding of crucial offshore resources.

In this one bill, several of Oregon's historic and natural resources will be recognized and promoted, greatly strengthening Oregon's draw as a destination for tourism. This bill includes amendments of mine which: provides $1,761,000 to begin restoration of the historic Crater Lake Lodge complex; appropriates $1,300,000 to begin planning and construction of a visitor facility outside Baker for the Oregon Trail; provides $2,500,000 to realign and pave the road which connects Highway 101 and the Yaquina Head Outstanding Natural Area in Lincoln County; contributes $1,500,000 toward construction of educational exhibits and displays at the proposed Oregon Coast Aquarium in Newport; and appropriates over $250,000 to plan for expansion of the Fort Clatsop National Memorial. These five sites alone will account for over 1,000,000 visitor days in the coming years, and the new facilities developed through this bill will provide a huge boost for tourism.

This bill also initiates a 3-year, $1,500,000 research project through Beaverton's Oregon Graduate Center, to improve the economic viability of thermomechanical pulping, a process which does not require the bleaches and chemicals used in the traditional kraft papermaking process. This research initiative, small thought it is, may help draw a new TMP paper mill to southern Oregon, creating hundreds of new jobs while using abundant, underutilized wood resources such as white fir in the process. This initiative can only be described as an economic and environmental winner for Oregon.

For protecting critical Oregon lands, this bill touches no fewer than five areas. In the administration's budget request, no funds were requested for the Land and Water Conservation Fund. We rejected this inappropriate proposal, and key Oregon areas can be acquired through this bill. This appropriation provides $4,300,000 for acquisition of lands in the Columbia River Gorge, a national scenic area which I helped create in 1986.

It also appropriates $2 million to complete acquisition of lands in the Warner Basin, as well as an additional $2 million to continue acquisition efforts to expand the Klamath Forest National Wildlife Refuge. Completion of these acquisitions will mean the protection of thousands of acres of prime wildlife habitat in southern Oregon.

The bill also provides $1 million to acquire more than 200 acres of old growth forest adjacent to the Cummins Creek wilderness area in Lane County. This area is prime habitat for the silverspot butterfly, a federally listed endangered species. The Forest Service will preserve this old growth to protect the silverspot butterfly.

Finally, this bill directs the Bureau of Land Management to give top priority to acquiring inholdings in and around several wilderness study areas in the Trout Creek Mountains in southeastern Oregon.

To address the concerns raised over the Minerals Management Service's plans to lease on the Outer Continental Shelf off Oregon and Washington for oil and gas, I have added $200,000 to accelerate preleasing environmental studies in this area. Better information on this issue can only lead to better decisions on whether leasing ought to proceed there.

The conference report also drops a provision which would have permitted bids received on a lease sale in Bristol Bay, Alaska, to be opened while a pertinent court case is pending. This provision, included in the Senate bill, was inappropriate, and dropping it was the best option.

For those concerned about the long-term viability of Oregon's public forest lands, and for those concerned about the long-term viability of Oregon's forest products industry, I believe this bill fairly balances these often conflicting concerns.

Our subcommittee heard extensive testimony about the twin needs to protect additional old-growth forests in the northwest and to promote the production of lumber and plywood, which in recent years has been credited with leading Oregon out of a deep economic recession.

There is no question in my mind that Oregon's long-term economic interests are best served by economic diversification and by prudent protection of additional old-growth areas. That is why I am pushing projects like those I just mentioned, which promote tourism and utilization of non-old-growth wood products and which protect sensitive lands.

There is also no question, however, that Oregon's economic viability will continue to rest in no small part on a stable lumber and plywood industry, and the mills which depend on public timber for their raw material will continue to present the only economic opportunities for dozens of small communities around the State. And while the metropolitan Portland area is not as directly tied to this industry as many communities in the State, it is clear that many of Oregon's service industries sink or swim based on the health of the wood products sector.

As a result, it is essential that Congress balance these conflicting goals and that Oregonians make constructive contributions in resolving these issues. This bill takes several positive steps in this direction.

First, it sets a timber sale program at 4.35 billion board-feet of net merchantable timber—significantly below the 5.1 billion-board-foot-potential yield specified in the existing, legally valid land management plans, but slightly higher than the 4.03 billion board-feet contemplated in new, draft forest plans.

It is important to note, however, that 500 million board feet of this 4.35 billion-board-foot-sale program has already been sold once and wiped off the books—then either "bought out" under the Federal Timber Contract Payment Modification Act or defaulted. Charging this volume to the 1989 sale program after it was already sold before amounts to a double counting, and blurs the actual volume of new, green timber that will be sold.

In truth, the timber sale level for region 6, after deducting this 500 million feet, is 3.85 billion board-feet. That is significantly below the legally valid plan level and below the level recommended by the draft forest plans as well. It is also 150 million board feet lower than the 1988 sale level, but 100 million board-feet above the administration's 1989 budget request.

A second key factor is the directive contained in this appropriation for the Forest Service to improve its on-the-ground inventories of old growth forests. The Forest Service testified before my subcommittee that there are over 6,000,000 acres of old growth on the national forest lands in Oregon and Washington, and roughly half that old growth will be off-limits to harvest due to wilderness designation, other legislative protections, and administrative withdrawals of areas from the suitable land base.

Others contest this rather astounding figure—by any reasonable standard, protection of 3,000,000 acres of National Forest old growth represents substantial preservation of this forest.

One of the greatest frustrations I have in addressing this issue is reconciling the facts: Are there, in fact, 3,000,000 acres of old growth forest being protected, or is the number much smaller? Reasonable solutions to this controversy will never be reached as long as the basic facts are in dispute.

That is why I have succeeded in this bill, better information from the Forest Service, and I believe the accelerated inventories we call for in this conference report will lead to better management decisions by the Forest Service.

The third balancing element in this bill is contained in two general provisions which address unique management problems on the Siskiyou and Siuslaw National Forests. Both issues have been controversial, and I want to take a minute to explain the provisions of the bill.

Several years ago, the Forest Service was enjoined by the courts from selling timber from the Mapleton Ranger District of the Siuslaw National Forest. In 1985, Congress passed a provision which authorized the Forest Service to resell without judicial review timber sales which had been prepared, reviewed for environmental considerations, sold, and then returned under the 1984 Contract Modification Act. Limits on the amount which could be sold each year were set so that this volume would provide an interim measure of stability until the Siuslaw forest plan was completed.

Three years later, delays in that forest plan have prevented its final issuance, and the timber sales which could be resold have run out. In order to extend this interim bridge, a new provision was written which permits the Forest Service to sell up to 90 million board feet a year on the Mapleton District, based on timber sales proposed in the preferred alternative from the draft forest plan. This sale level is 10 percent below the amount recommended in the preferred alternative. Legal challenges to individual sales for violations of substantive law—the Endangered Species Act, Clean Water Act, and others—are permitted.

In the instance of the Siskiyou National Forest, we have included a provision which permits the Forest Service to implement its Silver Fire recovery project plan without judicial delays, but prohibits significant extension of the controversial Bald Mountain Road. Again, we have attempted to strike a balance between conflicting industry and environmental concerns, and I believe we have succeeded.

A year ago, a series of lightning strikes ignited the Silver Complex fire, which ultimately spread to roughly 100,000 acres on the Siskiyou National Forest. Nearly half the acres were in the Kalmiopsis Wilderness Area, which I helped create in the 1984 Oregon Wilderness Act. Much of the remaining acreage was in roadless areas that were not designated wilderness.

Once the fires were extinguished, the question of how best to manage the burned areas arose and quickly became controversial.

The question arose of what areas should be salvaged and what areas should be left alone. Obviously, the roughly 45,000 acres burned in the Kalmiopsis Wilderness will be left alone. The extent of salvage operations in the released areas, however, was the subject of exhaustive research, public debate, and management decisions, all of which was incorporated in a full environmental impact statement.

Throughout this process I heard from individuals who advocated salvaging most of the 270 million board feet of timber in this area, and from individuals who opposed salvaging any of the burned timber. Frankly, I find both stands unsupportable based on the facts.

The Forest Service's environmental impact statement provides a reasonable middle ground, with the exception of the proposed Bald Mountain Road extension. The decision to extend that road is better considered as part of the pending Siskiyou National Forest plan, rather than in the interim fire recovery project.

Thus, we chose to balance a limited salvage program with a prohibition on extension of the road. Environmentalists win on this compromise in two ways: First, it fulfills their concern that new timber sales be delayed and the salvage volume be substituted for sale of green timber; and, second, it stops the Bald Mountain Road and retains the option to keep this area in a roadless state.

For the wood products industry, this provision ensures that some timber volume will be available for harvest in the foreseeable future.

Many have criticized this compromise; some environmentalists and some industry leaders apparently feel their concerns were slighted. I view this measure as the essence of compromise, and this provision can just as easily be viewed as a half-full glass and not a half-empty one.

It has become unfortunate, Mr. Speaker, that public land issues such as this one in Oregon have become polarized so as to exclude hope for sensible, middle-ground decisions. Oregonians have a long history of addressing controversies with cool heads and a constructive attitude, but for some this inclination has vanished on forest management questions.

It is apparent that there are interests who prefer to create controversies rather than resolving them. Fostering divisiveness does not serve Oregon well, because it will take constructive thinking and work to ensure that Oregon's natural resources are intelligently managed, that our economic opportunities are promoted in a diverse fashion, and that the quality of life we Oregonians enjoy is preserved and enhanced.

This conference report incorporates a constructive approach to Oregon's economic and environmental problems and opportunities, and I appreciate the work of my fellow House and Senate conferees and the constructive suggestions of thousands of Oregonians who provided me with input into this bill. I urge my colleagues to support it.

Mr. REGULA. Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the Committee on Appropriations, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise in strong support of this conference report for the Interior appropriations bill.

SID YATES and RALPH REGULA deserve a lot of credit for developing a compromise that meets our obligations to support the programs funded in this bill and at the same time is fiscally responsible. This bill funds many important programs that reach every district in the country, and the temptation is always present to justifiably add more and more to these programs.

The urge to add can be even more enticing when the other body has spent more than you, and that is the case here. The Senate bill added almost $400 million to the House amount. But the House conferees maintained a fiscally responsible approach, and as a result, this conference report cuts that increase in half. This compromise slashed $200 million from the Senate-passed bill. And with many competing and worthy interests requiring funding, this significant reduction is all the more impressive.

Even with a paring down in conference, the committee was able to provide meaningful increases for many important programs, particularly in an effort to conserve our natural resources.

For example, in an area near and dear to my heart, the committee was generous to provide $10 million for the implementation of the North American waterfowl plan. Even though everyone here knows that I'm for the birds, there's still a serious threat to waterfowl resources and to the habitat they use.

That threat is sharpened each year by chronic drought conditions and by the pressures of overdevelopment. These funds for the North American plan will go a long way to arresting the declining trend in the waterfowl population.

And this conservation effort is just one of many funded in this bill. Endangered species protection, fish restoration, wetlands preservation, and contaminant cleanup are all funded in this appropriation.

Mr. Speaker, it's not exaggerating to claim that the programs funded in this conference report reach virtually every American at one time or another. By visiting the Smithsonian, by hiking in a national forest, by using technology developed as a result of Department of Energy research, by touring a national historic park, by living in one of our territories, by enjoying the recreational opportunities of a wildlife refuge, Americans will use the funds that we are providing today. It's an investment in America, and in the future, for our children and grandchildren to enjoy.

I urge all my colleagues to support this conference report.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my friend, the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, the gentleman mentioned his strong support for the waterfowl programs, but he has also been a strong supporter of fish hatcheries, and I want to commend him for this.

In addition to visiting Grand Canyon, I had an opportunity to visit Lake Mead and to realize how important it is that we continue stocking the vast numbers of lakes we have across this country with fish and how important it is that we have a fish hatching program. They pointed out at Lake Mead and other places that this has been one of the valuable assets for recreational users.

So, Mr. Speaker, I commend the gentleman for his strong support of these programs in the past.

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Mr. CONTE. Mr. Speaker, I want to thank the gentleman.

I had the good fortune to go to Alaska last week and I spent a lot of time on the ground with fish biologists talking about some of the major problems that we have in Alaska. I visited one lake in which the three spined stickleback has taken over, and, as a result, the sockeye salmon population is down tremendously. The stickleback population has just loaded that particular lake, and these young folks up there with the Fish and Wildlife Service are devoting their lives to the study of how to increase the population of sockeye salmon in that particular lake. I spent many, many hours with these dedicated young people. They are certainly a credit to the Federal service.

Of course I saw some other things in the refuges that really impressed me. The greatest concentration of grizzly bears in the world is on Kodiak Island, and I took a great deal of pictures of them. There was a family of otters living near our camp, and every night around 9 o'clock a family of about five otters would come out and go fishing, and every day we would watch them. They would come back in about 7:30 in the morning and go back out again at night just like clockwork. I also saw a lot of deer and bald eagles.

These fish and wildlife resources are preserved because of the work of the gentleman from Ohio [Mr. Regula] and the chairman, Mr. Yates. They deserve a lot of credit for their contribution to the conservation of our precious natural resources.

Mr. YATES. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. Coelho].

Mr. COELHO. Mr. Speaker, I have a question for the gentleman from Illinois [Mr. Yates].

Mr. YATES. I would be happy to answer a question from the gentleman from California.

Mr. COELHO. Mr. Speaker, the House-passed version of the fiscal year 1989 Interior and related agencies appropriations bill included $200,000 and began a congressionally mandated study of the effect of aircraft overflights on units of the National Park System. This important study is aimed at protecting park system resources and at enhancing the safety and enjoyment of visitors by establishing appropriate minimum altitude for overflights over national parks and monuments. However, the conference report does not specifically provide funding for the overflight study.

Mr. Speaker, I would like to ask the gentleman from Illinois [Mr. Yates] if there is sufficient funding in the National Park Service resources management account to begin the overflight study in a meaningful way in fiscal year 1989.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, in reply to the gentleman's question let me say that I am quite sure there is sufficient funding in that account. I consider the study to which he referred a very important and necessary study, and I look forward to hearing about it in the hearings that we have for the next appropriations bill.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. COELHO. Mr. Speaker, will the gentleman encourage the park management funds for this purpose?

Mr. YATES. I certainly will, I tell the gentleman. I think it is a very useful study.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Illinois.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. Mr. Speaker, there is a lot of good work that has been done in this bill, and I am sure that the committee feels strongly that they have done the best they can, but I think the House does need to understand that we have got some financial problems with this bill. The bill is in fact $194 million over the House passed version of the bill. It is $549 million more than the baseline for fiscal 1989, and so, therefore, we have added hundreds of millions of dollars in this particular bill, and it is one that causes some concern.

Mr. Speaker, I am sure that there are valuable reasons for having those add-ons, but I would suggest that there are some things in here that cause at least this gentleman some concern. For instance, in leafing through the bill I find that we are providing $85,000 for police operations in Harper's Ferry, WV. One has to wonder why Harper's Ferry, WV, gets $85,000. There are a lot of police departments around the country that would probably like to have that kind of money for the operation of their police force. All of a sudden though, we find $85,000 of taxpayers' money that can be pitched toward that one community in this bill. I would suggest that that is probably one where we did not need the money.

Mr. Speaker, I find down in here $3 million for an Energy and Natural Resources Technology Development Center at Brandeis University. Again, this is probably a very worthwhile project, but I cannot find that either it has ever been authorized, nor can I find there has been any peer review of this particular project.

So the question becomes: How is it that this committee makes decisions about the allocation of these moneys based upon no authorization authority and based upon no kind of peer review?

Mr. Speaker, I have had discussions with the gentleman from Illinois in the past over some of these issues, and he has agreed with me that we need to have some kind of peer review process to be sure that the science we are getting out of the projects is the best science. We are not getting that though.

The fact is that we do not get any kind of decision by the committee to stop funding programs that do not meet that criteria. Until we stop funding them people are going to continue to come in and ask for them, and we are obviously going to continue to give it to them.

Mr. Speaker, I do not think the taxpayers can afford that for very much longer, so, when I look at that $549 million of spending, I have to come to the conclusion that some of that is money we did not have to spend, or money that probably should have been peer reviewed before we decided to spend it or at least authorized by this House and by this Congress before we decided to spend it. That has not happened in this bill. I am disappointed about that. I would hope that some of the Members anyhow would vote "no."

Mr. REGULA. Mr. Speaker, I would point out to the gentleman from Pennsylvania [Mr. Walker] that a number of the add-ons over the baseline were requested by the administration.

I would also point out that Harper's Ferry, WV, is a very important part of the Park Service resource because we do the planning for the entire Park Service in this very, very small community, much of which is Federal property.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, what does that have to do with police operations?

The point is that there is lots of money in here for Harper's Ferry, and it is probably very valuable, but what in the world does that have to do with the operation of the local police department?

Mr. REGULA. What it has to do is that there is a great impact of visitors there, and in the process they require police services.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, I have lots of tourist industry in my district, too, and most of it is not under the National Park Service, but, nevertheless, we have a lot of visitors in my area. We are not supporting the police department in my area that have the burden as a result of that.

So, therefore, the question remains. The question is: Why do we have to come up with this money in this bill for police operations in an area that we are already providing money for to have a national park?

I think the gentleman from Ohio [Mr. REGULA] well knows there is probably a good deal of politics involved in that $85,000, but I just have to question whether or not that is wise use of the taxpayers' money.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, let me say to the distinguished gentleman from Pennsylvania [Mr. WALKER] that the importance of the gentleman's State in the field of coal was called to our attention, and part of the amount to which he referred as being over the baseline, namely $140 million, is for clean coal technology. I am sure the State of Pennsylvania will benefit to a very great extent for that amount.

Mr. REGULA. Mr. Speaker, I just have one last comment about the bill totally, and that is that I think that, if we were to factor it out, that the percentage of increase in this appropriation over the past number of years is substantially less than the percentage of the increase in the utilization of the public lands for visitation. So I know that, for example, the Forest Service has more visitor days than even the Park Service, and there is an enormous thirst for recreation opportunity in this Nation, and there will be even a greater need for it in the years to come so that we have to build a base today to meet that challenge.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, this Interior appropriation is much like its predecessors. It has some valuable components and is the product of hard and constructive work by the Interior subcommittee.

But, acknowledging the positive side, I must vote against it. The negative aspect is the usual, almost invariable, problem. The bill is too expensive.

At a time when many Members, and hordes of taxpayers, are demanding a spending freeze, this bill piles a half a billion dollars on top of last year's oversized bill. It increases spending by more than 5½ percent from a level that was too high to begin with.

In round numbers, the increase is $540 million. To my constituents that's still a fair amount of money.

In addition the bill is full of Members' pet projects, including a hefty grant to a police department in an obscure West Virginia town.

One of our colleagues made a nice speech about the various tourist attractions this bill would well fund in his State. I don't believe my constituents, or yours, should have to pay for his pet projects.

Until we can instill some law and order in this appropriation process, I believe conscientious legislators ought to vote "no" on this bill. I intend to do so.

Mr. FIELDS. Mr. Speaker, I rise in strong opposition to H.R. 4867 and urge my colleagues to vote "no" on this conference report.

While there are a number of reasons why this is a bad bill, including the fact that it is nearly $1 billion over budget, I intend to confine my remarks to the serious damage that H.R. 4867 inflicts on our Nation's vital offshore oil and gas leasing program.

For the past 7 years, Congress has repeatedly delayed efforts to explore those Federal Outer Continental Shelf lands off the coast of California. This has occurred despite the fact that Secretary Don Hodel has made unprecedented efforts to satisfy environmental concerns. While Secretary Hodel has accepted 95 percent of Governor Deukmejian's "environmentally sensitive" recommendations and has limited leasing to only 13 percent of the offshore area previously under a congressional moratorium, he has received nothing but contempt from those no leasing opponents who are willing to lock up 95 percent of the oil and 85 percent of the gas that exists in the California OCS Program.

As the ranking minority member of the Panama Canal and Outer Continental Shelf Subcommittee, I have thoroughly reviewed every aspect of the Federal OCS Program. There is no question that those Federal lands off the coast of California can be explored and developed in an enviromentally sound manner. In fact, the Federal OCS is our Nation's safest energy extraction program. There has never been an oil spill resulting from a blowout in any of the more than 6,000 exploratory wells drilled in United States waters.

Mr. Speaker, because of my deep concern about our Nations's energy security, last year I, along with our colleagues RALPH HALL and JOE BARTON, spearheaded an effort to oppose any attempt to reestablish a leasing moratorium on the California OCS. As a result of our efforts, over one-third of the House of Representatives wrote a letter to the President urging him to veto any legislation that reestablished a congressional leasing moratorium on California offshore lands.

H.R. 4867 is exactly the type of bill that we urged the President to veto last year.

Mr. Speaker, those Federal lands offshore California are the most promising for energy development of any region outside the Gulf of Mexico. Unless we find new and significant domestic oil and gas resources, our nation will be dependent on foreign sources for up to 60 to 75 percent of our petroleum needs by the year 2000.

In addition, this moratorium will result in a loss to the U.S. Treasury of millions of dollars in bonus bids, rental fees, and royalty payments.

While this issue alone merits a no vote on H.R. 4867, unfortunately, this legislation also includes language which will for the first time deny the rights of oil and gas lessees to undertake exploration on Federal lands which they have already acquired in the eastern Gulf of Mexico, as Secretary Don Hodel has stated:

> Denial of the approval of an exploration plan through an appropriations moratorium rather than the regulatory procedures of the Outer Continental Shelf Lands Act is bad energy policy, bad economic policy, and—perhaps most significantly in the long run—an act of bad faith on the part of the Federal Government.

If we allow this dangerous post lease sale moratorium provision to become law, we will send the worst possible signal to our domestic energy industry that the Federal Government is an unreliable partner which is willing to unilaterally change the rules at any time. This unprecedented assault on our Federal OCS Program will cause an accelerated trend toward foreign investment, a huge increase in our trade deficit, a significant loss of jobs, and a growing dependence upon unreliable sources of foreign oil.

In addition, this grievous breach of faith is likely to result in litigation against the Federal Government by those companies which have invested more than $100 million for those Federal leases off the coast of Florida.

Mr. Speaker, these Federal lands off the coasts of California and Florida are not the personal domain of either the Governors of those States or any Member of Congress. They belong to the people, all of the people, of the United States. Any oil and gas produced in these areas benefits all Americans.

After years of moratoriums and other delays, it is high time for the Federal OCS Leasing Program to move forward in the balanced manner that Congress envisioned in the OCS Lands Act of 1978.

It is also time that we end this political charade which is leading this Nation down the path toward increased foreign energy dependence. If you want to avoid gasoline lines and school and factory closings in the years ahead, then join with me in voting "no" on this conference report.

Mr. YATES. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I thank my friends and colleagues of this subcommittee for the fine job they have done. It has been a pleasure working with them through the years.

I want to point out that the Committee on Appropriations has continually held appropriation items which are discretionary below the amount that the President has recommended. Our debts come from other entitlements and back door spending that represent contracts that have to be paid. I am glad to say that this year, all subcommittees working to produce bills under the House-passed budget ceilings, since the budget conferees were not in agreement. Then, 53 days late, after we had done our work, they suddenly got together and told us to cut another $1,900,000,000. We have had a constant fight looking after our own country, and I would like to say that this committee and all of the subcommittees have been cooperative and we have held amounts within the budget conference. Since we no longer have gold and silver behind our money, all we have is our country. And I want to say this subcommittee and all subcommittees have cooperated in working to take care of basic things which are so important to the people of the United States. The gentleman from Illinois [Mr. YATES] did a great job not only this year, but every year, and I also say that to the gentleman from Ohio [Mr. REGULA] and all other members of the subcommittee.

I am glad to report that our Committee on Appropriations has done a fine job, and we appreciate the support we have had from the Congress.

I am particularly pleased that the agreement includes $15,600,000 for construction on the Natchez Trace Parkway and that the conferees continue to support completion of the work now underway by the National Park Service to extend the Natchez Trace Parkway to the historic Natchez Bluff area and to include Fort Rosalie and Melrose as part of the Park System.

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Mr. YATES. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the chairman for yielding me this moment.

I really want to rise and say how proud I will be to vote for this conference report and to thank the chairman, the gentleman from Illinois [Mr. YATES] and to thank the gentleman from Ohio [Mr. REGULA] for the excellent job that they did.

There is a park in the San Francisco Bay area called the Golden Gate National Recreation Area. It draws more visitors than any other park in the country. I think most of my colleagues will remember our former colleague from California, Phil Burton, was the one who got that park going.

The park was in great need of help. I will have to say in a bipartisan way the committee really rallied around. The gentleman from Pennsylvania [Mr. MURTHA] was extremely helpful and we were able to come up with some wonderful additions to the park to handle these many visitors.

I also want to thank the chairman for his support of the Bay Area Ridge Trail in the attempt to link all the beautiful open spaces on the Bay Ridges together into one trail, and to mention to the committee how grateful I am for their respect for the oceans.

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BOSCO].

Mr. BOSCO. Mr. Speaker, I want to thank the subcommittee chairman for yielding me this minute.

Mr. Speaker, I rise to make a point regarding section 320 of the bill, which places restrictions on the appeals process relating to the salvage of certain fire-damaged timber in the State of Orgeon.

Mr. Speaker, although this language applies only to a narrowly defined area in the Siskiyou National Forest, it is in operational terms nearly identical to legislation I introduced earlier this year concerning the salvage of timber damaged by severe fires in California in 1987.

As we all know, the West and Midwest have been devastated this summer by forest fires brought on by record dry conditions. Through the extensive media coverage given the disastrous fires in Yellowstone Park, I believe that the public is beginning to realize that these extraordinary and tragic situations demand extraordinary—and expedient—remedies.

Section 320 of this appropriations measure expedites the salvage of fire-damaged timber in portions of the Siskiyou National Forest by limiting the number of administrative appeals and by eliminating entirely the possibility of judicial appeals. The drafters of this language clearly believed that it would be injurious to the environment, as well as gratuitously damaging to local economic interests, to allow vast quantities of salvageable timber to lie dormant while Government bureaucrats and so-called environmental activists haggled over an avalanche of spurious appeals.

At present, over 20 appeals are pending on salvage timber sales in California, preventing almost 200 million board feet of burned timber from being harvested in the Klamath, Mendocino, Sequoia, and Shasta-Trinity National Forests.

We in northern California are frustrated by the intolerable delays that have been brought on by narrow, self-serving interest groups. The U.S. Forest Service must be given the authority to move quickly to approve these sales and thus limit further damage to soils, streams, and other natural resources.

Mr. Speaker, I support the inclusion of section 320 in this appropriations measure. I hope that it will put so-called environmental groups on notice that Congress will no longer tolerate their abuse of the appeals process.

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, the Interior and related agencies appropriation bill, in my view is one of the most important of the 13 regular appropriation bills for my home State of West Virginia and I fully support the conference report before us today.

This legislation includes funding for programs as diverse as those under the National Park Service, which seek to conserve the natural resource heritage of this Nation, to those under agencies such as the Office of Surface Mining which control the development of our natural resources. Accommodating both of these land use mandates involves an intricate balancing act.

I am extremely pleased with the support this legislation offers for one of the developing jewels of the National Park System, the New River Gorge National River in West Virginia. For years the current administration instituted a slash and burn policy at this national park unit at the very time when it was in its infancy in terms of basic land acquisition and facility construction. Consequently, while on paper we had a federally designated national river in West Virginia, in reality we had little in the way of what the broad spectrum of the public expects of a unit of their National Park System. Our only saving grace has been the appropriation process and the persistence of West Virginia's elected representatives to the Congress. In this regard, I would pay special tribute to our senior Senator, ROBERT C. BYRD.

This appropriation bill provides for some very necessary developments at the New River Gorge National River, including $540,000 in increased operational funding, $6,050,000 for construction primarily for visitor services, $1,775,000 for planning, and $8,000,000 for land acquisition.

I also want to take note of amendment No. 34, which is being reported in technical disagreement. I have discussed this matter with my colleagues on the authorizing committee and we will have no objection to the motion to recede and concur in the Senate amendment with the amendment agreed to by the conferees. A provision of this amendment would allow the Secretary to initiate condemnation with the owner's consent of improved or unimproved properties within the boundary of the New River Gorge National River or at the currently authorized administrative site at Glen Jean. The original intention behind this provision deals with the need to acquire certain tracts for the new park headquarters site at Glen Jean. While the owners are willing to sell, the Park Service through the normal appraisal process has been unable to reach acceptable terms with them and this authorizing language would simply allow the courts to decide the value of the properties.

As an aside, I would like to state very clearly what condemnation authorities are provided for in the enabling legislation for the New River Gorge National River. That law allows for condemnation, if necessary, of unimproved properties within the park unit, and properties which were improved after 1978 if the improvements are incompatible with the purposes of the park unit. There should, as such, be no doubt that there is condemnation authority at the New River Gorge National River although it has never been used.

Nonetheless, the authorizing language included in this appropriation bill provides the Park Service with an additional tool it can use at the New River Gorge National River in any instance where negotiations and the normal appraisal process fails. However, I would seek to have this authority reserved for special tracts of land of paramount importance to the development of the park unit.

Also included under the National Park System appropriation items is $100,000 for a statewide park assessment for West Virginia. I would like to take this opportunity to commend the Park Service for the assistance it has provided to date in projects involving the feasibility of establishing new units of the National Park System in the State. There are some exciting possibilities being considered, and with adequate funding, I expect some real progress to be made in examining several areas within West Virginia which offer some outstanding natural, scenic, recreational, cultural, and historic values of national significance. With the type of assistance the Park Service can lend in endeavors such as the coal heritage project, I expect to be on sound footing during my future park unit authorization efforts.

Another matter of interest of West Virginia as well as the other coal producing States is the approximately $150 million appropriated by this legislation from the abandoned mine reclamation fund for the State grants program. This is money well spent on projects to remedy the health, safety, and environmental threat posed by abandoned mine lands to coalfield residents.

There are, however, several controversies which continue to plague this program. Concern has been expressed over the integrity of the AML inventory which is used in part to allocate the Secretary's discretionary share of the fund to the States. OSM has been using a 50-50 split between AML inventory and historic coal production. However, this conference report contains a statement that the discretionary share is to be allowed solely on the basis of historic coal production during fiscal year 1989 after which a return to the inventory/historic coal production formula is envisioned pending OSM conducting a revision of the existing inventory.

During the next Congress it is my intention to work for the reauthorization of the title IV SMCRA programs and as part of this effort I will seek to address issues relating to the allocation formula. For this reason, I am not objecting to amendment No. 53, which contains authorizing language, as the information provided by the accounting of past AML contributions and disbursements required by the provision may be of some benefit to the reauthorizing effort.

Within the budget for the Bureau of Mines, $1.5 million is being made available for the National Mine Land Reclamation Center. This center, in its second year of funding, is comprised of a consortium of university participants under the leadership of West Virginia University. I expect to see some substance results from the research being conducted by the center, especially in the area of addressing acid mine drainage problems at abandoned coal mine sites. Also being provided is approximately $10 million for the Mineral Institutes Program and $2.5 million for the Generic Center or Respirable Dust at Penn State and West Virginia University.

Overall, in such critical and high priority endeavors such as mine disaster prevention, advanced mining systems, methane drainage, self-contained-self-rescuer and haulage research within the Bureau of Mines' health, safety, and mining technologies programs, this conference agreement makes a great deal of progress in addressing the seemingly institutional shortcomings of the Bureau's budget submissions for these research areas.

Mr. Speaker, I want to extend my deep appreciation to the House managers of this legislation and I urge all of my colleagues to give this conference report favorable consideration.

Mr. BOSCO. Mr. Speaker, I rise in support of the conference report on H.R. 4867, the Department of the Interior appropriations bill, and I would like to commend the gentleman from Illinois [Mr. YATES] for his fine work in bringing this bill to the floor. I would once again like to express my appreciation to Mr. YATES' subcommittee and to the full Committee on Appropriations for ratifying another delay in the Interior Department's proposed lease sale 91 off the northern California coast, and for insuring that this delay was retained in the conference report we have before us today.

To provide just a little background for my colleagues, lease sale 91 involves Outer Continental Shelf tracts located along two counties in my northern California district. This lease sale was announced early in the Reagan administration and Congress has, with cause, postponed it for each of the past 6 years.

Lease sale 91 has been, from its very conception, a fatally flawed proposal on environmental and scientific grounds. But we in the California delegation have not been playing a "four corners" stall offense on proposals for drilling off the California coast. Recognizing the need to expand our domestic sources of energy, our delegation has been willing to negotiate with the administration every step of the way, and under the capable leadership of Mr. PANETTA we have always taken the position that compromise is preferable to polarization and stalemate.

And yet today we face a stalemate. Due to the Interior Department's disregard for valid environmental concerns and its extreme political misjudgment, the debate over offshore oil drilling in California has become one of the most impassioned, polarized, heated, and nonproductive in the State's history. Thousands of citizens turn out at public hearings up and down the coast to voice their firm opposition to any offshore drilling, and both sides have become mistrustful of each other to a fault and firmly opposed to any form of compromise.

We did not have to arrive at this unfortunate state of affairs. Our delegation reached an agreement with the Secretary of the Interior in 1985 that would have provided protection for environmentally sensitive areas of our coast in exchange for limited drilling in other areas, and this agreement had the support of the major environmental groups and local communities and citizens. Yet under pressure from oil interests the Secretary unceremoniously backed out of the agreement, dooming to failure any subsequent negotiations between his Department and the Congress.

Mr. Speaker, if the Secretary had not uncourageously caved in to oil interests, our search for new domestic oil resources might be more productive today, and we could be busy reducing at least a fraction of our unhealthy reliance on imported oil. Instead, it will now be up to the next administration to navigate its way through this highly emotional issue and arrive at a solution that protects legitimate environmental interests while recognizing the need for national energy security.

Mr. PANETTA. Mr. Speaker, I am delighted to rise in support of the conference report on H.R. 4867, the Department of the Interior appropriations bill.

Before extolling the virtues of this measure, let me extend my warmest thanks to Chairman YATES, BILL LOWERY, and other members of the subcommittee and full committee who worked on the bill. I have worked with them for 8 years now on the issue of offshore oil drilling, and my appreciation for their work and their contributions to the protection of the coast is profound. I will add, as I have before, that my constituents and, literally, millions of Californians, share my gratitude for their work.

This bill provides for a delay until October 1, 1989, in the administration's proposal for oil and gas development off the northern California coast. Despite the fact that this area contains only a few days' worth of oil and despite the fact that it is an environmentally sensitive area, the administration proposed to go forward with a massive OCS development scheme.

This proposal ran into a little trouble along the way, however. The EPA found that the Draft EIS on the lease sale was seriously deficient, and the Fish and Wildlife Service, which is part of the Interior Department, concluded that—

> Minerals Management has inaccurately painted a picture of a routine operation with few potential impacts when in fact offshore development in Northern California and the proposed tanker traffic is a high risk operation in rough seas, in a geologically unstable area, with potentially devastating impacts on coastal resources.

In response to this document, the Interior Department pressured Fish and Wildlife to tone down its evaluation, but even the "sanitized" document still contains sharp criticisms of the plan.

Besides these concerns about the plan, both Vice President BUSH and Governor Dukakis indicated that they believed that the sale should be delayed or canceled, to allow closer review of the environmental issues and the role of this area in the overall OCS Program. Even Secretary Hodel agreed, reluctantly, to a brief administrative delay.

Unlike the delay offered by Secretary Hodel, however, the delay provided in the bill will allow meaningful negotiations between the California congressional delegation and the Department to take place once the new administration takes office. This is critical to ensuring that a comprehensive resolution to this issue, which includes all three California OCS planning areas, can be developed. I look forward to working with my colleagues and with the next President on this issue, and I am deeply grateful to Mr. YATES, the subcommittee and the full committee for making that process possible by delaying lease sale 91.

Let me also touch on other key parts of this bill. The bill includes a ban on prelease exploratory drilling in the areas which have received legislative delays in leasing. This is critical to ensure that these sensitive areas are safeguarded from the impacts of this activity while long-term protections are developed. In addition, I am also grateful to BILL LOWERY and SID YATES for working to include language in the report accompanying the conference report which asks Interior to report back to the committees on the need for an EIS on seismic surveys. This is an activity which has not been thoroughly studied and which has caused disruption in fishing operations, and I would hope, at a minimum, that further environmental evaluation could be undertaken.

I am also pleased to note that the bill provides delays in leasing in Florida and Massachusetts. These areas are critical, and I would hope that the delegations from these States would be able to work with the next administration to provide long-term protections for them.

I am further pleased to note that the conferees were able to drop a provision in the Senate bill which would have disrupted ongoing litigation in Alaska over a lease sale in the Bristol Bay area. This provision replaced a very ill-advised measure in the bill, as reported, which would have advanced a lease sale in southern California and, in fact, waived environmental impact statement requirements for that sale. While I was pleased that the southern California provisions was dropped, there were serious concerns raised by the Bristol Bay provision, and I am glad that it was removed.

Frankly, the bill represents the end of what has truly been an 8-year war by the current administration against the California coast. It has been a battle in which the administration has sought to impose massive oil and gas development in virtually every part of the coast, even in the most sensitive areas. It has also been a battle in which the administration shocked Members of the delegation and millions of Californians by reneging on an agreement which would have provided long-term protection for the coast and ended the guerrilla warfare on this issue. I might add that the fight was conducted not only on the issue of offshore oil drilling, but also on the issue of the State's right to protect its own coastal zone and other related matters. The battle is now over, however, and the administration's extremist policies have been defeated by voices of reason and balance from both sides of the aisle.

I am very hopeful that the next administration will take a better approach to this issue. Both candidates have indicated their sensitivity to the need to protect critical areas, and I hope that this is a sign that we will be able to find a resolution to this issue. There is no question that millions of Californians will press the candidates at every possible opportunity to make crystal clear their commitment to protection of the coast against ill-advised OCS leasing proposals and other threats to this priceless resource. I join them in hoping that the commitments which we have already received, as well as others which we may receive during the course of the campaign, are honored.

I urge my colleagues to support the conference report on H.R. 4867. I also urge the President to sign this measure into law and to bring the long battle over the administration's offshore oil drilling policies to a peaceful conclusion.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the conference report on the fiscal year 1989 Interior appropriations bill. As I do, I want to pay special tribute to the gentleman from Illinois [Mr. YATES], the chairman of the Interior Appropriations Subcommittee.

The programs supported by this bill seldom receive the kind of page 1 coverage that defense or foreign aid bills do. However, the investments made possible by Interior appropriations play a critical role in promoting the public welfare. Support for the National Parks Service, the Bureau of Indian Affairs, the Indian Health Service, the Forest Service, the Bureau of Mines, and Fossil Energy Research are just some of the vital services made possible by this legislation.

I stress that my support for this legislation is not out of attachment to programs, however, but as a result of the investments in physical and human resources. This bill pioneers efforts to deal with such critical environmental problems as acid rain and the so-called greenhouse effect.

In my own State of North Dakota, this bill supports the lifeline of basic service for our Indian reservations. I am particularly pleased that this bill recognizes the special needs of health and sanitation and targets funding for the Indians Into Medicine [INMED] Program at the University of North Dakota and hemodialysis and sanitation improvements at the Standing Rock and Fort Berthold Reservations. It will also undergird a strong program at tribally controlled community colleges and the United Tribes Technical College, both of which play a key role in promoting self-sufficiency among tribes and tribal members. This bill also permits complete replacement of the Turtle Mountain Middle School, which was destroyed by fire.

The National Park Service posts in North Dakota will likewise benefit from this bill. It includes funding to advance work at the historically unique Fort Union Trading Post and the Knife River Indian Villages Historic Site. Moreover, it recognizes the efforts of local communities in the State to initiate matching programs to help preserve historic and scenic treasures. As a result, we will realize improvements at the Theodore Roosevelt Park North Unit and Fort Abraham Lincoln, the site of Col. George Armstrong Custer's last encampment before the famous battle at the Little Big Horn. These new resources will help North Dakota show the Nation's western tourists an abundance of natural resources and historic sites even more accessible than some of the better know sites in the Rocky Mountains.

Not least of this bill's achievements is its continuing commitment to fossil energy research and mine land reclamation. The bill will foster ongoing efforts to advance clean coal technolgoy, innovative uses of fossil fuels, and environmentally and economically sound ways to reclaim lands disrupted by mining. The University of North Dakota has played a special role in pioneerng research in these fields and will continue to do so as a result of provisions in this legislation. Coal is an abundant and vital national energy resource which we can no longer overlook and I am pleased to see that this bill addresses that reality.

In closing, let me reiterate my appreciation to Chairman YATES and the ranking member, Mr. REGULA, for their invaluable assistance and cooperation. They have produced a conference report which trims over $200 million from the Senate level and which enjoys wide bipartisan support. For this, I commend my two colleagues for their leadership.

Mr. YATES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIKORSKI). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 45, not voting 27, as follows:

[Roll No. 295]

YEAS—359

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Collins
Conte
Conyers
Cooper
Costello
Courter
Coyne
Craig
Crockett
Darden
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torricelli
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Weiss
Weldon
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—45

Archer
Armey
Bartlett
Barton
Bliley
Brown (CO)
Bunning
Burton
Combest
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dornan (CA)
Dreier
Fields
Frenzel
Gallegly
Gekas
Hastert
Hefley
Herger
Inhofe
Lightfoot
Lukens, Donald
Lungren
McCandless
McEwen
Moorhead
Penny
Roberts
Schaefer
Sensenbrenner
Shumway
Shuster
Slaughter (VA)
Smith, Robert (NH)
Stump
Swindall
Tauke
Thomas (CA)
Upton
Walker
Weber

NOT VOTING—27

Alexander
Badham
Boulter
Cheney
Coleman (TX)
Coughlin
DeFazio
Dowdy
Garcia
Hall (OH)
Jones (NC)
Jones (TN)
Kemp
Leath (TX)
Mack
MacKay
McDade
Mica
Packard
Roukema
Spence
Stark
Torres
Towns
Waxman
Wheat
Wilson

□ 1224

Mr. INHOFE and Mr. ROBERTS changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. SIKORSKI). The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 3, line 15, after "expenses." insert "The Payments in Lieu of Taxes Act (31 U.S.C. 6901(2)) is amended by deleting the phrase 'existing in the State of Alaska on the date of enactment of this Act' from the definition of a unit of Government.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, line 20, strike out "$11,640,000" and insert "$12,020,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$12,290,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 8, line 24, strike out "$350,251,000" and insert "$360,654,000, to remain available for obligation until September 30, 1990".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted, insert "$360,688,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. YATES. Mr. Speaker, I ask unanimous consent that Senate amendments Nos. 10, 14, 21, 24, 35, 52, 58, 61, 62, 76, 94, 118, 123, 124, 125, 128, 129, 134, 135, 148, 152, 154, 155, 158, 159, and 166 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the amendments in disagreement.

The text of the amendments is as follows:

Senate amendment No. 10: Page 9, line 14, after "Act" insert "; and of which $1,500,000 shall remain available until expended for the development and installation of displays, exhibits, films, and other educational material for an ecological center, which will display the interdependency of fish and wildlife habitat upon each other and the need for informed public stewardship of these resources, including man's impact on freshwater and coastal streams, and which will be located on non-Federal land and be constructed by non-Federal participants".

Senate amendment No. 14: Page 10, after line 5, insert:

The Secretary may acquire lands and waters or interests therein subject to the interest of the State of California, including the public trust, in lands including submerged lands which are now or at any time have been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artificially raised, or said lands are now or at any time have been below the ordinary high water mark of the Sacramento River, if said river and/or its tributaries is in its natural state; and further subject to any adverse claim based upon the assertion that (i) any portion of said lands is not now or has not at any time been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artificially raised, or is not now and has not at any time been below the ordinary high water mark, if said river and/or its tributaries is in its natural state; (ii) some portion of said lands has been created by artificial means or has accreted to such portion so created; or (iii) some portion of said lands has been brought within the boundaries thereof by an avulsive movement of the Sacramento River and/or its tributaries, or has been formed by accretion to any such portion.

Senate amendment No. 21: Page 12, line 12, after "compensation" insert ": *Provided further*, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use".

Senate amendment No. 24: Page 12, line 20, after "Property" insert ": *Provided further*, That no funds appropriated by this Act shall be available to remove, obstruct, dewater, fill, or otherwise damage the Brooks River fish ladder in the Katmai National Park, Alaska".

Senate amendment No. 35: Page 14, line 25, after "contracts" insert "hereafter".

Senate amendment No. 52: Page 37, line 21, after "Office" insert ": *Provided further*, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may, hereafter, provide for the travel and per diem expenses of State and tribal personnel attending OSMRE-sponsored training".

Senate amendment No. 58: Page 41, line 3, after "SD)" insert ": *Provided further*, That subsection (b) of section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c) is amended by striking out "Indian individuals" and inserting in lieu thereof "Cow Creek descendants or other Indian individuals" ".

Senate amendment No. 61: Page 41, line 3, after "SD)" insert ": *Provided further*, That for the purpose of enabling Indian reservation residents in Arizona who are eligible for General Assistance and who have dependent children to participate and succeed in Job Corps training, the Bureau shall pay general assistance support for the dependent children at the full State AFDC A-2 grant level".

Senate amendment No. 62: Page 41, line 3, after "SD)" insert ": *Provided further*, That notwithstanding any other provision of law, any portion of the funds appropriated under the authority of Public Law 93-530 not yet obligated, but not to exceed $700,000, shall be transferred by the Secretary of the Interior to the governing body of the San Carlos Apache Tribe (hereafter referred to as the "Tribe") by no later than the date that is sixty days after the date of enactment of this Act. Amounts transferred to the Tribe under this proviso shall be used for economic development purposes in accordance with the plan which was adopted by the governing body of the Tribe on April 12, 1988, and any amendment thereto which has been approved by the Secretary of the Interior. The Tribe may expend the amounts transferred under this proviso for the purposes authorized without the prior approval of the Secretary of the Interior. None of the funds transferred to the Tribe may be used to make per capita payments to the members of the Tribe: *Provided further*, That notwithstanding any other provision of the law, the funds transferred by this Act to the San Carlos Apache Tribe may be treated as non-Federal, private funds of the Tribe for purposes of any provision of Federal law which requires that non-Federal or private funds be used in a project or for a specific purposes: *Provided further*, That the Federal Government shall have no further obligation to appropriate funds for the purposes indentified in Public Law 93-530".

Senate amendment No. 76: Page 46, line 5, after "1989" insert ": *Provided further*, That any unobligated balances for Palau government operations which remain available on the date of Compact implementation shall be used by the Department of the Interior to reduce the accumulated deficit of the Trust Territory Government".

Senate amendment No. 94: Page 56, after line 15, insert:

SEC. 115. Section 103(h)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1783, 48 U.S.C. 1681) is amended as follows: after the word "firm" insert "or by a grant to the Government of the Republic of the Marshall Islands which may further contract only with a United States firm or a Republic of the Marshall Islands firm, the owners, officers and majority of the employees of which are citizens of the United States or the Republic of the Marshall Islands"; and, after the word "Bikini" insert ", Rongelap, Utrik,".

Senate amendment No. 118: Page 60, after line 7, insert:

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE (RESCISSION)

Of the funds currently available and unobligated in this account, $40,000,000 is hereby rescinded.

Senate amendment No. 123: Page 64, after line 7, insert:

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Senate amendment No. 124: Page 64, after line 7, insert:

Notwithstanding any other provision of the law, none of the funds available under this, or any other Act shall be obligated or expended to adjust annual recreational residence fees except on a four-year phased in basis commencing January 1, 1989.

Senate amendment No. 125: Page 64, after line 13, insert:

Notwithstanding the provisions under the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with the various States, and private, nonprofit organizations to continue the recreation and wildlife and fish Challenge Cost-share Programs.

Senate amendment No. 128: Page 65, after line 13, insert:

Notwithstanding the lack of authorization for payment from appropriated funds in older supplements to cooperative right-of-way construction and use agreements, the Forest Service is authorized and directed to make cash payments in lieu of payment through collection rights where it determines that an unreasonable delay has occurred or is likely to occur before the collection rights can be exercised or offsetting construction performed. In addition, the Service is authorized and directed to make cash payment of excess cost imbalances carried by cooperators which the Government has not repaid within a reasonable time period through the exercise of collection rights or by other means.

Senate amendment No. 129: Page 65, after line 13, insert:

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System Lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

Senate amendment No. 134: Page 66, after "account" insert ": *Provided further*, That for the purposes of the sixth proviso in Public Law 99-190 under this heading, funds provided under section 306 of Public Law 93-32 shall be considered non-Federal".

Senate amendment No. 135: Page 66, after line 13, insert ": *Provided further*, That reports for projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190 , which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the second session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate".

Senate amendment No. 148: Page 69, line 19, after "That" insert "an additional $91,555,000 shall be made available until expended beginning October 1, 1989: *Provided further*, That"

Senate amendment No. 152: Page 75, line 13, after "expended" insert *: Provided*, That the Indian Health Service may hold in reserve a sum not to exceed $600,000 as a contingency for site acquisition at the Kotzebue Hospital".

Senate amendment No. 154: Page 76, line 13, strike out "and" and insert "or".

Senate amendment No. 155: Page 76, line 14, strike out "available to" and insert "retained by".

Senate amendment No. 158: Page 78, line 7, after "Service" insert ": *Provided further*, That notwithstanding any other provision of law, the Secretary is authorized to undertake a demonstration project at Kayenta, Arizona, on the Navajo Indian Reservation, to construct 10 housing units on Federal land, i.e., three one-bedroom, four two-bedroom, and three three-bedroom units, under an agreement with a non-profit, Indian controlled community development corporation, and in return for a Federal grant of $200,000, units which meet or exceed Federal construction standards are to be built, operated, maintained in adequate condition and, for a period of 20 years following completion of construction, offered for rent to Federal employees. First preference for rental is to be given to essential Indian Health Service (IHS) employees as determined in accordance with IHS quarters management policies. Rental rates charged by the owner shall be established by the same method as would be used if the units were federally owned. Navajo Area IHS guidelines for occupant conduct and responsibility in Federal quarters shall apply unless stricter standards are mutually adopted".

Senate amendment No. 159: Page 78, line 7, after "Service" insert ": *Provided further*, That notwithstanding any other provision of law, there are 170 village built clinics authorized to be operated in Alaska".

Senate amendment No. 166: Page 79, after line 18, insert:

Section 1513 of the Higher Education Amendments of 1986 (20 U.S.C. 4420) is amended—

(1) by striking out "The Institute" and inserting in lieu thereof "(a) TAX STATUS.—The Institute",

(2) by inserting "; TORT LIABILITY" after "STATUS" in the section heading, and

(3) by adding at the end thereof the following new subsection:

"(b) TORT LIABILITY.—

"(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28, United States Code.

"(2) For purposes of chapter 171 of title 28, United States Code, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

"(3) For purposes of chapter 171 of title 28, United States Code, the President of the Institute shall be deemed the head of the Agency."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendments of the Senate numbered 10, 14, 21, 24, 35, 52, 58, 61, 62, 76, 94, 118, 123, 124, 125, 128, 129, 134, 135, 148, 152, 154, 155, 158, 159, and 166 and concur therein.

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 9, line 20, strike out "$23,756,000" and insert "$25,294,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$31,834,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The Speaker pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Speaker pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The Speaker pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 10, line 5, after "expended" insert ": *Provided*, That of the funds provided to the United States Fish and Wildlife Service under the heading "Construction and Anadromous Fish" in Public Law 100-71, $1,200,000 shall be expended for the lease or purchase of water rights, from willing sellers, for the benefit of Stillwater Wildlife Management Area, Nevada: *Provided further*, That the lease or purchase shall be carried out pursuant to the statutory and procedural requirements of the laws of the State of Nevada, and the Secretary shall proceed with any such lease or purchase pursuant to this appropriation if and only if the Secretary receives certification from the State of Nevada that the transfer of water rights and associated change of use for the beneficial use of Stillwater Wildlife Management Area is approved by the State of Nevada: *Provided further*, That notwithstanding any other provision of this Act, the Secretary shall continue to pursue a comprehensive settlement of water rights disputes on the Carson and Truckee Rivers among the affected parties: *Provided further*, That Stillwater Wildlife Management Area is to be considered a high priority wetland for purposes of this Act and shall be fully considered by the Secretary for funding of any future projects undertaken pursuant to the North American Waterfowl Management Plan".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: in lieu of the matter inserted, insert ": *Provided*, That of the funds provided to the United States Fish and Wildlife Service under the heading "Construction and Anadromous Fish" in Public Law 100-71, $1,200,000 shall be expended for the lease or purchase of water rights, from willing sellers, for the benefit of Stillwater Wildlife Management Area, Nevada: *Provided further*, That the lease or purchase shall be carried out pursuant to the statutory and procedural requirements of the laws of the State of Nevada, and the Secretary shall proceed with any such lease or purchase pursuant to this appropriation if and only if the Secretary receives certification from the State of Nevada that the transfer of water rights and associated change of use for the beneficial use of Still-Water Management Area is approved by the State of Nevada".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 12, line 20, after "Property" insert ": *Provided further*, That where any Federal lands included within the boundary of the Park created by the Act of December 18, 1971 (Public Law 92-207), were legally occupied or utilized on the date of approval of that Act for grazing purposes pursuant to a lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the persons or persons so occupying or utilizing such lands and the heirs of such person or persons shall at that time be entitled to renew said leases, permits, or licenses under such terms and conditions as the Secretary of the Interior may prescribe, for the lifetime of the permittee or any direct descendants (sons or daughters) born on or before the enactment of Public Law 92-207 (December 18, 1971). Such grazing activities shall be subject to the following conditions:

"(a) Grazing will be based on active preference that exists on the date of this Act and no increase in animal unit months will be allowed on park lands.

"(b) No physical improvements for stock use will be established on NPS lands without the written concurrence of the Park Superintendent.

"(c) Nothing in this section shall apply to any lease, permit, or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes.

"(d) Nothing contained in this Act shall be construed as creating any vested right, title interest, or estate in or to any Federal lands.

"(e) The provisions of Public Law 97-341 are hereby repealed.

"(f) Grazing will be managed to encourage the protection of the Park's natural and cultural resources values".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein.

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Without objection, the reading is dispensed with.

Mr. VENTO. Mr. Speaker, reserving the right to object, am I correct that this is the amendment that affects the Capitol Reef National Park in Utah?

Mr. YATES. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. VENTO. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The Chair at this time will recognize the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, as I understand it, the gentleman from Minnesota had reserved an objection, and I think he should be recognized.

Mr. VENTO. Mr. Speaker, the gentleman from Minnesota seeks time.

The **SPEAKER** pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes if he would like to yield time.

Mr. YATES. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, this amendment affects Capitol Reef National Park. I must say, I think, that the conferees on the whole in terms of the conference did a masterful job in terms of responding to the myriad of concerns that myself and other Members of the House have raised.

This bill is a major improvement overall with regard to concerns that affect the areas of jurisdiction which I share with the chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], and his ranking member on the committee, but I must say that with respect to this provision amendment No. 27 what I would characterize as authorizing legislation on an appropriation bill, in spite of the fact of the parliamentary procedure here today and/or the nature of the policies, they are inappropriate and unnecessary.

In this instance, I vigorously object to this procedure and to the policy nature of this amendment No. 27. In essence, what this amendment does is under the law Capitol Reef National Park has a phaseout of grazing permittees in that park.

This park, established decades ago, set in motion a policy in which grazing would be permitted for a specific period of time and then phased out, but the fact is what this amendment, this legislative change, this authorizing change permits the permittees and their heirs lifetime grazing privileges. What that means is that well into the next century we are likely to have this fragile and beautiful park impacted by grazing.

The fact is that I have visited this particular site and park and have seen the damage that is being done by such grazing.

Congress has twice rejected similar proposals in 1972 and 1982. This provision is, of course, legislative in nature and has not had the benefit of any hearings in my subcommittee or, for that matter, no hearings in this Congress nor in the other body, the Senate. This is simply a provision to benefit a few that are permitted to graze in this area at the expense of the many, to the destruction and to the damage to this national park in Utah.

I think we ought to understand this. I understand that the chairman of the Interior Appropriations Committee and ranking member fought these types of amendments and were successful in some instances in not accepting amendments which would authorize on this legislation that would change policy, but the fact of the matter is that in the conference they were forced to accept some of these amendments.

I understand the overall importance of this bill, but I nevertheless strongly object to the procedure in which we add this language and change in law. I think that our subcommittee, the Parks and Public Lands Subcommittee on Interior, and the Committee on the Interior is one of the hardest working committees in this Congress, and by the conclusion of this Congress we willl have acted on 70 or 80 different legislative measures, many of which will be signed into law. It is a record that has been accomplished on a bipartisan basis, and orderly process, measures are considered and given consideration in that committee, and there is no need to leverage such policies in the appropriation of such authorizing language.

This is not the only measure, but this is one I strongly object to in this legislation, and I would hope that this procedure is not repeated in future conferences with the Senate regarding Interior appropriations.

Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The gentleman from Ohio [Mr. REGULA] is recognized for 30 minutes.

Mr. REGULA. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, just let me say this: This became a park in 1960. At that particular time, it was expanded considerably over what Congress had asked for.

There have been ranchers in that area since 1880. This is a fourth and fifth generation.

In 1981 myself and Senator GARN worked out an extension for 12 years. John Seiberling was then chairman of the committee, and he said that we had to come up with some different language, and the language that was suggested was the Teton language which has been very successful and has worked out very, very well.

□ 1230

The superintendent of the park, the division manager of the Park Service, all of them say: How is there a way we can phase these people out of the park. And basically what the Senate has come up with, and which I feel we should concur in, is an adequate way to phase them out.

Whatever we are talking about, it appears we are talking about a whole bunch of ranchers, but we are really not. We are only talking about three families. And the language that says it goes to their heirs, there is one person by the name of Guy Pace, a county commissioner down there. He has 1,025 animal unit months, and he has one heir. There are two others, a Carl Taylor family, no eligible heirs; the Morrell brothers, no eligible heirs, so really we are talking about one family.

The Park Service has gone to these people, and of all of the available animal unit months, they have bought them out at a cost of $129,000.

Let us just look at the economy. The one that John Seiberling, John Hansen, and Jake Garn did would mandate a study which has not been done for a cost of $1 million. What we are talking about here is a relatively small amount of money, only amounting to $100-something thousand, and in a matter of a very short number of years they are gone.

So I cannot understand why we do not go along with this. I would strongly support the committee position. I feel it is the cheaper way to do it, and we are not running roughshod over a relatively small number of ranchers who have been there for an awfully long time, and did not feel the park would be extended into their grazing areas.

So I would resist the position of the gentleman from Minnesota [Mr. VENTO] and strongly urge that we go along with the committee position.

Mr. REGULA. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I would like to agree with the gentleman from Utah, [Mr. HANSEN] in what he said. This occurred before I became a Member of the Congress.

The uppermost part of that park is in my district, but the bulk of it is in the district of my colleague, the gentleman from Utah [Mr. HANSEN]. It is important to maintain the things that were agreed to by Senator Moss and Senator Bennett many, many years ago, and by the House at that time, and I think it should be phased out. The cost will be very minimal, and as the gentleman from Utah [Mr. HANSEN] said, and he has studied this issue very thoroughly, the problem will go away rather quickly if we do not choke it to death, and I would hope that the gentleman from Minnesota [Mr. VENTO] would not press his point.

Mr. YATES. Mr. Speaker, I yield myself 30 seconds.

First I want to tell the gentleman from Minnesota that our committee tries not to invade the jurisdiction of legislative committees. This was an amendment that the Senate introduced and that we had to accept.

I also want to tell the gentleman that if there is overgrazing in the park, I think the park certainly has jurisdiction to review that kind of a condition and to tell the ranchers that they are overgrazing in order to protect the park. The fact that they are authorized to graze does not entitle them to overgraze.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 12, line 25, strike out "$14,093,000" and insert "$13,470,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$14,608,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 13, line 4, strike out "$30,000,000" and insert "$30,250,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$30,500,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 30: Page 13, line 14, after "appropriation" insert ": *Provided further*, That $1,000,000 of the amount appropriated herein shall remain available until expended in the Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1989 shall include consideration of such factors as—

"(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1989;

"(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1989; and

"(C) the availability of matching contributions in the State: *Provided further*, That no State shall receive more than 15 per centum of the Bicentennial Lighthouse Fund in any one fiscal year, nor more than 10 per centum of the total appropriations to the Fund in any two fiscal year period: *Provided further*, That only the light station structure, itself, shall be counted in determining the number of properties in each State eligible to participate in the Fund: *Provided further*, That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 13, line 18, strike out "$131,809,000" and insert "$119,072,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$159,108,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 33: Page 14, line 14, strike out "$62,206,000" and insert "$64,961,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$72,609,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 34: Page 14, line 20, after "program" insert ": *Provided further*, That $3,000,000 of the funds made available herein shall be available for land acquisition at Congaree Swamp National Monument, South Carolina, subject to enactment of authorizing legislation".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That $3,000,000 of the funds made available herein shall be available for land acquisition at Congaree Swamp National Monument, South Carolina, subject to enactment of authorizing legislation: *Provided further*, That notwithstanding the provisions of Public Law 95-625, the Secretary may initiate condemnation with the consent of the owner of property, improved or unimproved, within the boundary or at a currently authorized administrative site of the New River Gorge National River, West Virginia".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 38: Page 15, strike out all after line 13 over to and including line 12 on page 27.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: Restore the matter stricken, amended to read as follows:

NATIONAL FILM PRESERVATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Film Preservation Board in the Library of Congress, $250,000: *Provided*, That the following may be cited as the "National Film Preservation Act of 1988":

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage; and

(3) it is appropriate and necessary for the Federal Government to recognize motion pictures as a significant American art form deserving of protection.

SEC. 2. NATIONAL FILM REGISTRY.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this Act, for the purpose of registering films that are culturally, historically, or aesthetically significant.

SEC. 3. DUTIES OF LIBRARIAN OF CONGRESS.

(a) POWERS.—(1) The Librarian shall, after consultation with the Board established pursuant to section 8, and pursuant to the rulemaking procedures provided in subchapter II of chapter 5 of title 5, United States Code, known as the Administrative Procedures Act—

(A) establish criteria for guidelines pursuant to which such films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first theatrical release;

(B) establish a procedure whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(C) establish general guidelines so that film owners and distributors are able to determine whether a version of a film registered on the National Film Registry which is in their possession has been materially altered.

(2) In addition, the Librarian shall—

(A) determine, from time to time, after consultation with the Board, which films satisfy the criteria developed pursuant to paragraph (1)(A) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films per year for inclusion in such Registry;

(B) convene, from time to time, a panel of experts, as provided in subsection (b), solely to advise the Board on whether it is necessary to petition Congress to revise the definition of "material alteration";

(C) provide a seal to indicate that the film has been included in the National Film Registry as an enduring part of our national cultural heritage and such seal may then be used in the promotion of any version of such film that has not been materially altered; and

(D) have published in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3)(A) The Librarian shall submit annual reports to the appropriate Committees of the Congress listing films included on the National Film Registry and describing the criteria used in determining why specific films were included in the National Film Registry.

(B) The first such report shall be submitted within 12 months after the date of enactment of this Act.

(b) COMPOSITION OF PANEL.—The panel provided for in subsection (a)(2)(B) shall be chosen by the Librarian. It shall be comprised of four persons, one representative each from the Motion Picture Association of America and the National Association of Broadcasters, and one representative of the Directors Guild of America and one representative of the Screen Actors Guild of America. The Presidents of these four organizations shall recommend three nominees to serve on such panel.

(c) APPEALS TO THE LIBRARIAN.—(1) The owner, exhibitor, or distributor of a film may appeal to the Librarian—

(A) objecting to the Board's recommendation of such film for inclusion in the National Film Registry; or

(B) the determination that a version of a film which is included in the National Film Registry has been materially altered.

(2) The Librarian shall refer such appeals to the Board for its recommendation.

(c) REGISTRY COLLECTION.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of an original version of each film included in the National Film Registry. All films so received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Board Collection". The Librarian shall, by regulation, provide for reasonable access to films in such collection.

SEC. 4. LABELING REQUIREMENTS.

(a) LABEL REQUIRED.—Except as otherwise provided in this section, no person shall knowingly distribute or exhibit to the public a materially altered version of a film included in the National Film Registry unless the version is labeled as required by this section.

(b) EFFECTIVE DATE OF LABEL.—Except as provided in subsection (c), any labeling requirement established pursuant to this section shall be effective 45 days after publication in the Federal Register indicating that a film has been selected for inclusion in the National Film Registry.

(c) EXCEPTIONS.—With respect to films intended for home use through either retail purchase or rental, the provisions of subsection (b) shall apply, however no requirements imposed under this section shall apply to—

(1) a film which has been packaged for distribution prior to the effective date of such requirement with respect to such film, except that the provisions of this paragraph shall not apply if the packaging has been accelerated in contemplation of imposition of such requirement; or

(2) a retail distributor of films for home use, other than a manufacturer or packager, who has in good faith relied on compliance with the provisions of this Act by the manufacturer, wholesaler, or packager of a film.

(d) REQUIREMENTS OF THE LABEL.—(1)(A) A label for a materially altered version of a film, other than a colorized version, shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(2)(A) A label for a colorized version of a film shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(3)(A) A label for a film package of a materially altered film, other than a colorized version, shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film"; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

(4)(A) A label for a film package of a colorized version of a film shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a colorized version of original work. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

SEC. 5. MISUSE OF SEAL.

No person shall knowingly distribute or exhibit to the public a version of a film which bears a seal as described by section 3(a)(2)(C) of this Act if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but such version has been materially altered.

SEC. 6. REMEDIES.

(a) JURISDICTION AND STANDING.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of sections 4 and 5 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—Except as provided in paragraph (2), relief shall be limited to the prospective inclusion or application of, or removal of, a label as appropriate.

(2) In the case in which the Librarian finds a pattern or practice of the willful violation of this Act, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

SEC. 7. LIMITATIONS OF REMEDIES.

(a) The remedies provided in section 6 shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of a seal as described by section 3(a)(2)(C) or labeling of materially altered films.

(b) No remedies under section 6 of this title shall be available with respect to any film which is exempted from the labeling requirements of this Act pursuant to section 4(c).

SEC. 8. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of thirteen members, selected by the Librarian in accordance with the provisions of this paragraph. Each organization listed in subparagraphs (A) through (M) shall submit a list of not less than 3 qualified candidates to the Librarian. The Librarian shall appoint one member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend:

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America;

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Cinema Studies in the Graduate School of Arts and Science at New York University;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Association of Motion Picture and Television Producers; and

(M) the Screen Actors Guild of America.

(2) Before the Librarian selects nominees for such Board, such Librarian shall request that each of the entities listed in paragraph (1) who do not currently have a nominee on such Board nominate three individuals to serve on such Board. No individual may serve on the Board for more than one term and each entity shall be represented a comparable number of times.

(b) CHAIRPERSON.—The Librarian shall appoint one member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years.

(2) A vacancy in the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than one nominee on the Board at any one time. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Any member appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—Seven members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) MEETINGS.—The Board shall meet at least twice each calendar year and the first such meeting shall be within 120 days after the effective date of this Act. Meetings shall be at the call of the Chairperson or a majority of its members.

(g) CONFLICT OF INTERESTS.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 9. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Chairperson of the Board may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-16 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 10. POWERS OF BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the

Librarian with respect to the inclusion in the Registry, and with respect to the powers defined in section 3.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, producers, and film critics, film preservation organizations and representatives of academic institutions with film study programs. The Board shall not nominate more than 25 films a year for inclusion in the Registry.

SEC. 11. DEFINITIONS.

(a) DEFINITIONS FOR SECTIONS 1 THROUGH 13.—As used in sections 1 through 13:

(1) The term "Librarian" means the Librarian of Congress.

(2) The term "film" means a feature-length, theatrical motion picture after its first theatrical release.

(3) The term "film package" means the original box, carton or container of any kind in which a videotape or disc is offered for sale or rental.

(4) The term "Board" means the National Film Preservation Board.

(5) The term "material alteration" means to colorize or to make other fundamental post-production changes in a version of a film for marketing purposes but does not include changes made in accordance with customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast.

(6) The term "to colorize" means to add color, by whatever means, to versions of motion pictures originally produced, marketed, or distributed in black and white.

(7) The term "colorization" means the process whereby a film is colorized.

(b) EXCLUSION FROM DEFINITION OF "MATERIAL ALTERATION".—Excluded from the definition of "material alteration" are practices such as the insertion of commercials and public service announcements for television broadcast.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this Act, there are authorized to be appropriated to the Librarian of Congress, such sums as may be necessary to carry out the purposes of this Act, but in no fiscal year shall such sum exceed $250,000.

SEC. 13. EFFECTIVE DATE.

The provisions of this Act shall be effective for three years beginning on the date of enactment of this Act. The provisions of this Act shall not apply to any copy of a film materially altered prior to such effective date if such copy of such film is owned by an individual for his personal use, in the inventory of the manufacturer or packager of a videocassette or already distributed to retail or wholesale distributors of videocassettes.

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. YATES. Mr. Speaker, I would ask for time on this motion.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MRAZEK].

Mr. Speaker, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, this bill contains a compromise version of the National Film Preservation Act. Senator DECONCINI, who is chairman of the Copyright Subcommittee in the Senate and a member of the Interior Appropriations Subcommittee, agreed to the proposal after some changes were adopted. Because these changes basically fit the thrust of the House bill, we reached agreement. The gentleman from New York [Mr. MRAZEK], a coauthor of the bill in the House, was instrumental in negotiating the compromise and he is the one who has been responsible for moving that bill to the extent Congress has moved it.

Mr. MRAZEK. Would the subcommittee chairman not agree that the basic changes we negotiated were of a procedural nature?

Mr. YATES. That is correct. The jurisdiction of the program was shifted out of the Interior Department and to the Library of Congress. Mr. Billington has expressed enthusiasm for administering the effort, and, of course, is also pleased that prints provided the Library though the program would become the property of the U.S. Government.

Mr. MRAZEK. As I understand it, the wording of the label was strengthened and standardized to preclude the possibility of the commission coming up with a nonstandard label.

Mr. YATES. That is correct. The broadcasters were worried that the commission might come up with a truly noxious label. So we agreed to that. But the basis for applying the label, the nature of the material alteration, is basically unchanged. We did agree that panning and scanning should not be considered an alteration that materially affects the film. This is all we agreed to. Also at the behest of the broadcasters.

Mr. MRAZEK. This is an important point. We have fought for this measure, and I speak as one of the coauthors along with Mr. YATES, in order to establish the importance of movies as an American art form and to give consumers some idea of how classic films are being altered. As one of the authors, it was always my intention that editing for television, beyond that required by the FCC, time compression, and colorization all be considered as material alterations. Frankly, panning and scanning should also be included, but in the spirit of compromise we gave way on that.

Mr. YATES. This was my understanding as well. There would be no point in passing a bill requiring labeling if we then came along and exempted everything from triggering the label.

Mr. MRAZEK. The conference bill includes a "customary practices and standards" phrase which I have understood to mean only those things offensive to public taste that the FCC now requires be edited out for television viewing. The "reasonable requirements" phrase relates to panning and scanning.

Mr. YATES. Yes, that is my understanding as well. If we broaden this any further we will nullify the whole point of the bill.

Mr. MRAZEK. It is also my understanding that the conferees agreed that the label should be displayed at the beginning and the end of the movie, immediately before the company logo and not separated from it and immediately after the final frame of the credits. The label should be shown without any visual or audio interference of any kind and should be displayed for a sufficient amount of time that an average viewer would have a chance to read it.

Mr. YATES. Yes, again, these are my understandings. There would be no point in creating these labeling requirements if they were to be vitiated by the statute right from the beginning.

Mr. MRAZEK. It is my understanding that alternates to the Film Preservation Board would be selected by the Librarian of Congress in the same manner as the members of the Board. Alternates attending Board meetings in place of absent members are empowered with the same voting rights and duties as the members they replace.

Mr. YATES. That is correct.

Mr. FAZIO. Mr. Speaker, during the House consideration of the conference report on H.R. 4867, the fiscal year 1989 Interior appropriations bill, my good friend from New York, Represenative MRAZEK, made several statements with regard to the National Film Preservation Board that do not reflect what I understand to be the conference compromise position. I was an active participant in the initial House negotiations resulting in the House amendment to H.R. 4867 which created the Board.

Although I am not a member of the Interior Subcommittee and, therefore, not a House conferee, I remained interested in the creation of this Board and its powers and responsibilities and carefully followed the conference committee negotiations. Representative MRAZEK'S interpretation of those processes excluded from the definition of material alteration of a film is more restrictive than the interpretation many of us thought was agreed to by the conferees. Further, the gentleman from New York stated that the conference report requires labels to be placed at both the beginning and the end of a colored or materially altered motion picture. A look at section 4 of the act, however, defines the required label as appearing "immediately preceding commencement of the film." The statute cannot be read as requiring that a label also be placed at the end.

This situation of differing interpretations is one of the reasons I initially opposed legislating on the appropriations bill. Without hearings or consideration by the authorizing committees with jurisdiction and expertise, we are left to muddle through a variety of individual interpretations. In this instance, not only was there no consideration by the authorizing committees, there is not explanatory material accompanying the appropriations conference agreement. Without the guidance of the committees with expertise, we are left with the possibility of 535 individual interpretations of what Congress meant when it created the National Film Preservation Board.

□ 1245

The SPEAKER pro tempore (Mr. Bosco). Does the gentleman from Ohio [Mr. REGULA] seek time?

Mr. REGULA. No, Mr. Speaker, I do not.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 31, strike out lines 1 to 4.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: Restore the matter stricken, amended to read as follows: "None of the funds in this Act may be used to issue a permit for seismic exploration of Big Cypress National Preserve, Florida, until an environmental impact statement has been completed: *Provided*, That such statement shall be completed within two years of the date of enactment of this Act.".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 40: Page 31, after line 4, insert:

"None of the funds provided in this or any other Act shall be available to prepare a request or study or respond to a request or to cooperate with the Office of Personnel Management or to take any other action to increase special pay provisions for the United States Park Police except as provided for in this Act.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"None of the funds provided in this Act shall be available for an appeal to the February 26, 1988 special rate pay approved by the Office of Personnel Management for the U.S. Park Police."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 42: Page 31, after line 4, insert:

"There is hereby established a Fellowship in Congressional Operations Program for employees of the National Park Service. The Director of the National Park Service shall design and administer the program, within available funds, to improve mutual understanding and cooperation between Service employees, and Members and Committees of Congress. The program is dedicated to the memory of Pietro Antonio (Tony) Bevinetto, and Service employees participating in the program shall be known as "Bevinetto Fellows"."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the matter proposed, insert:

"The Director of the National Park Service shall administer a fellowship program, within available funds, to improve mutual understanding and cooperation between Service employees, and Members and Committees of Congress. The program is dedicated to the memory of Pietro Antonio (Tony) Bevinetto, and Service employees participating in the program shall be known as "Bevinetto Fellows"."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 31, line 17, strike out "$448,056,000" and insert "$448,045,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment insert the following: "up to $500,000 for a 50 percent cost-shared scientific project for test and observation wells near Kohala, Hawaii: *Provided*, That upon enactment of this Act and hereafter, final costs related to the National Petroleum Reserve in Alaska may be paid from available prior year balances in this account, and $451,006,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 45: Page 33, line 5, strike out "$51,567,000" and insert "$53,605,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment insert the following: "$35,000 shall be used by the Secretary to enter into a cooperative agreement with the State of Louisiana to carry out or conduct audit activities on any lease or portion of a lease subject only to section 8(g) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1337(g)): *Provided*, That notwithstanding the provisions of sections 201 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1731) sections 202 through 206 of that Act (30

U.S.C. 1732-1736) shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act: *Provided further*, That for purposes of those provisions and for no other purposes, such lease or portion of a lease shall be regarded as within the coastal state or states entitled to receive revenues from it under section 8(g), and of which not less than $52,302,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 53: Page 37, line 21, after "Office" insert ": *Provided further*, That (a) No funds appropriated by this Act may be used by the Secretary of the Interior for the purpose of reconciling the Abandoned Mine Reclamation Fund unless the Secretary of the Interior, from existing funds, conducts a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States.

"(b) Funds authorized as grants to States shall be reconciled according to—

"(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

"(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining and Reclamation during each relevant fiscal year under review.

"(c) The report required by this section shall be presented to the appropriate committees of the Congress prior to June 1, 1989. The findings of the Secretary under this section shall not be used to amend or revise State allocations during fiscal year 1989."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following ": *Provided further*, That the Secretary shall conduct a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States.

"Funds authorized as grants to States shall be reconciled according to:

"(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

"(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining Reclamation and during Enforcement each relevant fiscal year under review.

"The findings of the Secretary shall be transmitted to the Committee on Appropriations by May 1, 1989. Such information shall not be used to amend or revise State allocations during fiscal year 1989".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 59: Page 41, line 3, after "SD)" insert ": *Provided further*, That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the same basis as such funds were distributed in fiscal year 1986".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert ": *Provided further*, That notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the basis of the formula recommended by the Assistant Secretary-Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989 the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990 the minimum weight factor shall be 1.2 rather than 1.3".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 63: Page 41, line 10, strike out "$79,136,000" and insert "$78,513,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$79,283,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 82: Page 48, line 2, after "receipts" insert ": *Provided further*, That in full satisfaction of the obligation of the United States to provide funds to assist in the resettlement and rehabilitation of Bikini Atoll by the People of Bikini, to which the full faith and credit of the United States is pledged pursuant to section 103(l) of Public Law 99-239, the United States shall deposit $90,000,000 into the Resettlement Trust Fund for the People of Bikini established pursuant to Public Law 97-257, and governed pursuant to the terms of such trust instrument, such deposit to be installments of $5,000,000 on October 1, 1988; $22,000,000 on October 1, 1989; $21,000,000 on October 1, 1990; $21,000,000 on October 1, 1991; and $21,000,000 on October 1, 1992".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 83: Page 48, line 2, after "receipts" insert ": *Provided further*, That the terms of such Resettlement Trust Fund are hereby modified to provide that corpus and income may be expended for rehabilitation and resettlement of Bikini Atoll, except that the Secretary may approve expenditures not to exceed $2,000,000 in any year from income for projects on Kili or Ejit".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 84: Page 48, line 2, after "receipts" insert "*Provided further,* That one year prior to completion of the rehabilitation and resettlement program, the Secretary of the Interior shall report to Congress on future funding needs on Bikini Atoll. Unless otherwise determined by Congress, following completion of the rehabilitation and resettlement program, funds remaining in the Resettlement Trust Fund in excess of the amount identified by the Secretary as required for future funding needs shall be deposited in the U.S. Treasury as miscellaneous receipts. Upon completion of those needs, the Resettlement Trust Fund shall be extinguished and all remaining funds shall be deposited in the U.S. Treasury as miscellaneous receipts. The payment and use of funds in accordance herewith is for the sole purpose of implementing and fulfilling the terms of the Section 177 Agreement referred to in section 462(d) of the Compact of Free Association between the United States and the Republic of the Marshall Islands, including Article VI, section 1, and Articles X and XII, thereof, Payments pursuant hereto shall be made only upon: One, voluntary dismissal with prejudice of Juda et al. v. the United States, No. 88-1206 (Fed. Cir.); and two, submission of written notice to the United States and the Republic of the Marshall Islands, executed by duly-authorized representatives acting on their behalf, that the people of Bikini accept the obligations and undertaking of the United States to make the payments prescribed by this Act, together with the other payments, rights, entitlements and benefits provided for under the Section 177 Agreement, as full satisfaction of all claims of the People of Bikini related in any way to the United States nuclear testing program in accordance with the terms of the Section 177 Agreement".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 86: Page 48, line 8, strike out all after "expenses" down to and including "roads" in line 13.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 86 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "*Provided,* That the National Park Service shall reissue a Notice of Proposed Rulemaking on the mandatory use of seatbelts while traveling on National Park Sevice roads within 30 days after the date of enactment of this Act".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 89: Page 52, strike out lines 13 to 17.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: restore the matter stricken, amended to read as follows:

"SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley: *Provided,* That no funds made available by this or any other Act shall be expended to exchange lands located within the boundaries of the Lake Mead National Recreation Area in Nevada in township 32 south, range 22 west, Mount Diablo Meridian."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 56, after line 15, insert:

"SEC. 113. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the approval of permits for the acquisition of geologic and geophysical data in Outer Continental Shell areas.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 113. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the approval of permits for the acquisition of geologic and geophysical data in Outer Continental Shelf areas, except that exploratory drilling shall not be permitted by this provision in lands within the Eastern Gulf of Mexico Planning Area which lie south of 26 degrees North latitude and east of 86 degrees West longitude and for areas identified as the Northern California Planning Area and the Georges Bank-North Atlantic Planning Area out to 400 meters."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 56, after line 15, insert:

SEC. 114. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer to the Housing Authority, Clark County, Nevada, without consideration, all right, title, and interest of the United States approximately eighty acres of land in Clark County, Nevada, described as township 21 south, range 60 east, Mount Diablo Meridian, section 24, north half southwest quarter, Clark County, Nevada, for use as a mobile home park for senior citizens, reserving to the United States all minerals in such land together with right.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 114. Notwithstanding any other provision of law, and subject to valid existing rights, the Secretary of the Interior shall transfer to the Housing Authority, Clark County, Nevada, without consideration, all rights, title, and interest of the United States, in and to the land described as township 21 south, range 60 east, Mount Diablo Meridian, section 24, north half southwest quarter, Clark County, Nevada, for use only as a mobile home park for low income senior citizens, reserving to the United States all minerals under applicable law and such regulations as the Secretary of the Interior may prescribe, and as required by the Act of August 30, 1890 (43 U.S.C. 945), a right-of-way thereon for ditches or canals constructed by the authority of the United States: *Provided*, That if such land ceases to be used as a mobile home park for low income senior citizens, all rights, title, and interest in and to such land shall revert to the United States."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 95: Page 56, after line 15, insert:

SEC. 116. The Secretary of the Interior is authorized to guarantee a loan by the Federal Financing Bank to the Government of Guam, in amounts not to exceed $53,000,000, for water system improvements on Guam: *Provided*, That the conditions on such loan shall include but not be limited to the following: the Government of Guam shall place water ratemaking authority in an independent public utility commission; a source of revenue for payment of the loan shall be identified, with such revenues placed in an escrow account in sufficient amounts to insure timely payment; and, should the Government of Guam default on the loan, the Secretary of the Interior shall deduct such sums as are in arrears from sums normally paid to the Government of Guam under section 1(c) of Public Law 95-348.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 98: Page 56, after line 15, insert:

SEC. 119. Within currently available funds, the Secretary of the Interior is directed immediately to appoint and compensate an independent third party factfinder mutually agreed upon by the Secretary and the Governor of Louisiana, to make all appropriate factual findings relating to past drainage occurring on Louisiana State Lease numbers 10087, 10088, and 10187, and Federal Lease numbers OCS-G 5668 and OCS-G 5669 in the field on West Delta Blocks 17 and 18. Such factual findings shall include:

(a) whether drainage of either United States or State hydrocarbons has occurred in such field during the time period starting April 7, 1986 and ending on the date that the factfinding proceeding is completed;

(b) the areas or reservoirs from which the drainage occurred;

(c) the quantity of recoverable hydrocarbons, determined on a volumetric basis, orignally in place within such areas or reservoirs prior to any production therefrom;

(d) the respective percentages of such recoverable hydrocarbons within the Federal and State portions of such areas or reservoirs;

(e) the total accumulated volume of any net drainage, including the value thereof (together with a description of the method for determining such value) and all production costs incurred during that period;

(f) the net dollar impact to the United States, United States lessees, the State of Louisiana, and the State lessees that has resulted from any such drainage;

(g) the proper allocation of production from the field from all time periods starting April 7, 1986; and

(h) the proper prospective allocation of production from the field.

Within 90 days of the date of enactment of this Act, the third party factfinder shall submit a written report containing the factual findings required by this section to the Secretary, the Governor of Louisiana, and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

"SEC. 117. Within currently available funds, the Secretary of the Interior is directed immediately to appoint and compensate an independent third party factfinder mutually agreed upon by the Secretary and the Governor of Louisiana, to make all appropriate factual findings relating to past drainage on State and Federal leases occurring along the boundary of the State of Louisiana and Federal waters. Such factual findings shall include:

(a) whether drainage of either United States or State hydrocarbons has occurred during the time period starting April 7, 1986, and ending on the date the factfinding proceeding is completed;

(b) the areas or reservoirs from which the drainage occurred;

(c) the quantity of recoverable hydrocarbons, determined on a volumetric basis, originally in place within such areas or reservoirs prior to any production therefrom;

(d) the respective percentages of such recoverable hydrocarbons within the Federal and State portions of such areas or reservoirs;

(e) the total accumulated volume of any net drainage from each area or reservoir, including the value thereof (together with a description of the method for determining such value) and all production costs incurred during that period;

(f) the net dollar impact to the United States, United States lessees, the State of Louisiana, and the State lessees that has resulted from any such drainage from each area or reservoir;

(g) the proper allocation of production from each field from all time periods starting April 7, 1986; and

(h) the proper propsective allocation of production from the fields involved.

Within 180 days of the date of enactment of this Act, the third party factfinder shall submit a written report containing the factual findings to the Secretary, the Governor of Louisiana, and the Congressional Committees of jurisdiction. The Secretary shall then prepare a plan 60 days after receipt of the written report regarding options for the potential redistribution of royalty receipts, if warranted by the findings of this written report."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 103: Page 56, after line 24, insert:

The Secretary is directed to convey by quitclaim deed, without a requirement for reimbursement, all right, title, and interest of the United States in and to all improvements (1) situated on leased land as recorded in Docket 5191, pages 258-260, Maricopa County, Arizona, and (2) situated on leased land as recorded in Docket 4388, pages 452-455 and Docket 4673, pages 147-148, Maricopa County, Arizona.

The Secretary is further directed, concurrently with conveyances under this section, to relinquish, without a requirement for reimbursement, that certain lease dated October 13, 1962, as amended on May 15, 1963, and that certain related Memorandum of Understanding of like date therewith (collectively referred to herein as the "lease agreement"), which instruments cover and pertain to the real property located on the campus of Arizona State University in Tempe, Arizona: *Provided*, That the United States is hereby released from any and all liability arising from the future use of the facilities or lands affected by this Act: *Provided further*, That the Forest Service may continue to occupy the facilities described herein, at no increased expense, until such time as comparable replacement space is available: *Provided further*, That the Forest Service may not move from the facilities described herein unless the move is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 103 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"The Secretary is directed to convey by quitclaim deed, without a requirement for reimbursement, all right, title, and interest of the United States in and to all improvements (1) situated on leased land as recorded in Docket 5191, pages 258-260, Maricopa County, Arizona, and (2) situated on leased land as recorded in Docket 4388, pages 452-455 and Docket 4673, pages 147-148, Maricopa County, Arizona.

The Secretary is further directed, concurrently with conveyances under this section, to relinquish, without a requirement for reimbursement, that certain lease dated October 13, 1962, as amended on May 15, 1963, and that certain related Memorandum of Understanding of like date therewith (collectively referred to herein as the "lease agreement"), which instruments cover and pertain to the real property located on the campus of Arizona State University in Tempe, Arizona: *Provided*, That the United States is hereby released from any and all liability arising from the future use of the facilities or lands affected by this Act: *Provided further*, That the Forest Service shall continue to occupy the facilities described herein, at no increased expense, until such time as replacement space which is determined to be comparable by the Forest Service is available: *Provided further*, That the Forest Service may not move from the facilities described herein unless the move is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 104: Page 57, line 5, strike out "$78,143,000" and insert "$82,918,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 104 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$86,668,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 105: Page 57, line 8, strike out all after "95-495" down to and including "544j)" in line 17.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 105 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided further*, That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for construction of the Spokane River Centennial Trail, and a grant of $1,350,000 shall be provided to the County of Kootenai, Idaho, for construction of the Idaho Centennial Trail".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 58, line 3, strike out "$1,309,244,000" and insert "$1,329,018,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$1,329,488,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 107: Page 58, line 8, after "4601-6a)" insert "*Provided*, That appropriations in this account remaining unobligated at the end of the fiscal year 1988, both annual and two-year funds, and which would otherwise be returned to the General Fund of the Treasury, shall be merged with and made a part of the fiscal year 1989 National Forest System appropriation, and shall remain available for obligation until September 30, 1990".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That appropriations in this account remaining unobligated at the end of the fiscal year 1988, both annual and two-year funds, and which would otherwise be returned to the General Fund of the Treasury, shall be merged with and made a part of the fiscal year 1989 National Forest System appropriations, and shall remain available for obligation until September 30, 1990: *Provided further*, That funds available for forest firefighting and emergency rehabilitation of National Forest System lands are available for liquidation of obligations made in preceding fiscal years.".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion by considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 114: Page 59, line 20, strike out "41,645,000" and insert "$57,734,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 114 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$63,805,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 116: Page 60, after line 2, insert:

The following may be cited as the "White Mountain National Forest Boundary Modification Act of 1988".

Section 1. For the protection and management of the scenic, natural, recreation and other resource values associated with certain forest lands in the State of New Hampshire, the Secretary of Agriculture (hereafter "Secretary") is authorized and directed to acquire by purchase, exchange, donation or otherwise, all rights, title and interests in those lands now or formerly owned by Diamond International Corporation in the State of New Hampshire, which are generally depicted on maps dated June, 1988 and entitled, "White Mountain National Forest Additions", which maps are on file with the Chief, Forest Service, Washington, D.C. Acquisition under authority of this section shall be completed by the Secretary notwithstanding any other provision or requirement of law or condition precedent. The Secretary may exclude from acquisition such outstanding rights, rights-of-way, easements and other encumbrances deemed acceptable to the Secretary, and may also exclude from acquisition any small or isolated parcels which the Secretary deems are not manageable for Federal purposes. It is the intent of Congress that these acquisitions be completed prior to October 15, 1988.

Sec. 2. Except as provided in section 3 of this Act and subject to the availability of donated or appropriated funds, if by October 1, 1988, the Secretary has not acquired title or a land purchase option or contract to purchase the lands referenced in section 1, less any exclusions, the Secretary is directed to condemn such lands, or portions thereof, commensurate with available funds. Condemnation shall be as soon as possible after October 1, 1988, by a declaration of taking filed in accordance with the Act of February 26, 1931 (40 U.S.C. 258a, as amended). Nothing herein shall preclude an earlier filing of a declaration of taking if the Secretary deems further negotiations for the acquisition of the referenced lands to be futile or if the condemnation is for the purpose of clearing title.

Sec. 3. The Secretary is not required to condemn any lands owned or under option to contract by The Nature Conservancy, the Society for the Protection of New Hampshire Forests, the New Hampshire Retirement System, or the State of New Hampshire or an instrumentality thereof, but the Secretary shall seek to purchase any lands or interests therein which these entities may own within the area depicted on the map referenced in section 1 of this Act. It is the intent of Congress that the Secretary shall cooperate with such entities in the acquisition of lands required by this section.

Sec. 4. The boundaries of the White Mountain National Forest are modified and expanded as indicated on the map dated June, 1988 and entitled "Boundary Modification—White Mountain National Forest".

Sec. 5. The Secretary may correct technical and clerical errors in all maps referenced in this section.

Sec. 6. All lands acquired under authority of or pursuant to this Act shall be administered under the Weeks Act of March 1, 1911 (36 Stat. 961, as amended), and under the laws, rules and regulations pertaining to the National Forest System.

Sec. 7. Of the amount provided under the head "Land acquisition" in the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, $5,250,000 shall be available from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of lands and interests therein, and associated administrative costs.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 116 and concur therein with a amendment, as follows: In lieu of the matter inserted, insert the following:

"Notwithstanding any other provision of law or order based thereon, it requested by the Secretary of Agriculture, the Secretary of the Interior is authorized and directed to take such actions (including but not limited to the revocation of the Shay Creek withdrawal (Mount Diablo Meridian: T. 10N., R. 19E., Sec. 24, SE¼ NE¼, E½ SE¼, and SW¼ SE¼) under Public Land Order 2301 and the issuance of patents) as may be necessary to consummate the exchange within the Toiyabe National Forest in California of Shay Creek parcel for private holdings of equal value.

The following may be cited as the "New Hampshire Forest Management Initiatives Act of 1988".

Sec. 1. (a) For the protection and management of the timber resources and the scenic, natural, recreation and other resource values associated with certain forest lands in the State of New Hampshire, and in cooperation with State and private entities as provided herein, the Secretary of Agriculture (hereafter "Secretary") is authorized and directed to acquire by purchase, donation or otherwise, lands and interests therein now or formerly owned by Diamond International Corporation in the State of New Hampshire (hereafter "Diamond lands").

(b) The Diamond lands are generally depicted on maps dated July 1988 and entitled, "New Hampshire Forest Initiative", which maps are on file with the Chief, Forest Service, Washington, D.C. The Secretary may correct technical and clerical errors on any map.

(c) Acquisitions made pursuant to this Act shall be commensurate with appropriated and donated funds and shall be completed by the Secretary notwithstanding any other provision of requirement of law or condition precedent. The Secretary may exclude from acquisition such rights-of-way, easements and other outstanding rights deemed unacceptable to the Secretary, and may also exclude from acquisition any small or isolated parcels which the Secretary deems are not manageable for Federal purposes. It is the intent of Congress that these acquisitions be completed prior to October 15, 1988.

Sec. 2. (a) To the extent deemed practical by the Secretary in furtherance of this Act, the Secretary shall cooperate and assist ongoing and future initiatives by State and private organizations (hereafter "cooperating entity(ies)" to acquire the Diamond lands. Cooperating entities include, but are not limited to, the Society for the Protection of New Hampshire Forests. The Nature Conservancy, and the State of New Hampshire or instrumentality thereof.

(b) Any information provided the Secretary by any cooperating entity relating to the study and acquisition of lands shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Sec. 3. Subject to the availability of donated and appropriated funds, if by October 1, 1988, the Secretary or a cooperating entity has not acquired title or a land purchase option or contract to purchase the lands referenced in section 1, less any exclusions, the Secretary if directed to condemn such lands, or portions thereof, commensurate with available funds. Condemnation shall be as soon as possible after October 1, 1988, by a declaration of taking filed in accordance with the Act of February 26, 1931 (40 U.S.C. 258a, as amended). Nothing herein shall preclude filing of a condemnation action at any time if the Secretary deems further negotiations for the acquisition of the Diamond lands to be futile or if the condemnation is for the purpose of clearing title. No Congressional oversight or approval shall be required for the filing of a declaration of taking or any other aspect of the land acquisitions herein authorized, it being the intent of the Congress that the Diamond lands be acquired as soon as practicable.

Sec. 4. All lands acquired by the Secretary under authority of or pursuant to this Act shall be administered under the Weeks Act of March 1, 1911 (36 Stat. 961, as amended). For lands acquired by the United States located outside of and not contiguous to national forest boundaries existing as of the date of this Act, the primary management emphasis shall be the sustained yield for forest products consistent with the traditional uses, including public access, and conservation of other resource values. Within two years from the date lands are acquired pursuant to this Act, the Secretary shall report to Congress with recommendations for the permanent administration and disposition of such federally owned lands.

Sec. 5. In the furtherance of the public purposes associated with the present and future protection and management of the timber, scenic, natural, recreation and other resources of forest lands in New Hampshire, and for other similar purposes as may be authorized by Congress, the Secretary may enter into written cooperative agreements with States and their political subdivisions, and private organizations, for the study, acquisition, management and administration of forest lands. Such agreements may include provisions for limited financial assistance for such purposes.

Sec. 6. Of the amount provided herein, $5,250,000 shall be available from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of lands and interests therein, and associated administrative costs.

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 120: Page 63, line 17, after "forest" insert ", and for sales preparation of timber sales to replace sales lost to fire or other causes, and sales preparation activities to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, construction, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 120 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", and for sales preparation of timber sales to replace sales lost to fire or other causes, and sales preparation activities to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 122: Page 63, line 20, after "appropriation" insert ": *Provided further*, That moneys received from the timber salvage sales program in fiscal year 1988 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 122 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That moneys received from the timber salvage sales program in fiscal year 1989 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 127: Page 65, after line 13, insert:

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available unitil expended all National Forest Fund timber receipts received by the Treasury during fiscal year 1988 from the harvesting of National Forest Timber in excess of the National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1989: *Provided*, That such funds shall be made available during fiscal year 1989, and shall be in addition to any funds appropriated in this Act: *Provided further*, That this transaction will not affect, diminish, or otherwise alter the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided further*, That the funds associated with this section shall be scored in a manner consistent with the President's request for fiscal year 1989: *Provided further*, That funds made available to the Secretary of Agriculture pursuant to this section shall be used for the necessary expenses, including support costs of National Forest Systems programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest Trail construction; 23 per centum for wildlife and fish habitat management; 22 per centum for soil, water, and air management; 6 per centum for cultural resource management; 6 per centum for wilderness management; and 33 per centum for timber sales administration and management, including all timber support costs, including advanced preparation work for fiscal year 1990 and fiscal year 1991 timber sale offerings: *Provided further*, That the Forest Service offers a minimum of an 11.727 billion board feet timber sales program during fiscal year 1989 and that any fiscal year 1989 timber sales resulting from these funds shall be allocated in a manner consistent with the distribution of sales volume in the report accompanying this Act: *Provided further*, That not later than 30 days after the submission of the President's fiscal year 1990 budget, the Chief of Forest Service shall provide a report to the Committee on the final amount, distribution and expenditure of funds appropriated under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1989, fiscal year 1990, and subsequent years, using funds appropriated under this section, and a comparison of the outputs achieved in fiscal year 1989 and proposed for fiscal year 1990, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 127 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1988 from the harvesting of National Forest Timber in excess of $791,000,000, the 1988 National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1989: *Provided*, That this estimate of 1988 receipts shall not be adjusted for the purposes of this section: *Provided further*, That such funds shall be made available during fiscal year 1989, and shall be in addition to any funds appropriated in this Act: *Provided further*, That this transaction will not affect, diminish, or otherwise alter the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided further*, That the funds associated with this section shall be scored in a manner consistent with the President's request for fiscal year 1989: *Provided further*, That funds made available to the Secretary of Agriculture pursuant to this section shall be used for the necessary expenses, including support costs of National Forest System programs as follows: 6 per centum for National Forest Trail maintenance; 4 per centum for National Forest Trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource management; 5 per centum for wilderness management; 10 per centum for reforestation; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1990 and fiscal year 1991 timber sale offerings: *Provided further*, That not later than 30 days after the submission of the President's fiscal year 1990 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1989, fiscal year 1990, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1989 and proposed for fiscal year 1990, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 130: Page 65, after line 13, insert:

Of the funds available to the Forest Service, $2,500 is available to the Chief of the Forest Service for official receptions and representation expenses.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 130 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 131: Page 65, after line 15, insert:

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $575,000,000 shall be made available after September 30, 1989, and shall remain available until expended.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 131 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

"For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $575,000,000 shall be made available on October 1, 1989, and shall remain available until expended: *Provided*, That projects selected pursuant to a general request for proposals issued pursuant to this appropriation shall demonstrate technologies capable of retrofitting or repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190 and 100-202 as amended by this Act."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 132: Page 65, strike out all after line 15 over to and including line 2 on page 66.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 132 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

The first paragraph under this head in Public Law 100-202 is amended by striking "and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988" and inserting "$190,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended, $135,000,000 are appropriated for the fiscal year beginning October 1, 1989, and shall remain available until expended, and $200,000,000 are appropriated for the fiscal year beginning October 1, 1990": *Provided*, That outlays in fiscal year 1989 resulting from the use of funds appropriated under this head in Public Law 100-202, as amended by this Act, may not exceed $15,500,000: *Provided further*, That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119(2 U.S.C. 909).

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that that motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 136: Page 66, line 20, strike out "$357,361,000" and insert "$367,829,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 136 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$380,595,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 137: Page 67, line 4, after "Oklahoma" insert ", and $9,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable, and $5,500,000 shall be available for continued construction of DOE Fossil Energy building B26".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 137 and concur therein with an amendment, as follows: In lieu of the second sum named in said amendment insert "$4,500,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 140: Page 68, line 9, strike out "$371,562,000" and insert "$357,019,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 140 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$372,502,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 142: Page 68, line 15, after "4507)" insert ": *Provided further,* That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $4,900,000 shall be available for a grant for an energy and natural resources technology development center at Brandeis University in Waltham, Massachusetts without section 111(b)(2) of such Act being applicable".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 142 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$3,000,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

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The **SPEAKER** pro tempore (Mr. Bosco). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 149: Page 69, line 26, strike out "$62,856,000" and insert $63,156,000 of which $1,000,000 for ADP operations shall remain available until expended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 149 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following "$62,856,000 of which $1,000,000 for computer operations shall remain available until September 30, 1990".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the ammendment is as follows:

Senate Amendment No. 150: Page 73, line 4, strike out "$1,016,667,000" and insert "$1,014,536,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 150 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$1,020,106,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 153: Page 75, line 13, after "expended" insert ": *Provided further,* That of funds appropriated in the fiscal year 1987 continuing resolution for the construction of detoxification facilities for Indian youth, not to exceed $600,000 shall be made available for planning, and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in the State of Washington".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 153 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further,* That of funds appropriated in the fiscal year 1987 continuing resolution for the construction of detoxification facilities for Indian youth, not to exceed $600,000 shall be made available for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in the State of Washington: *Provided further,* That the Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Gila River Indian Tribe for use solely as the Phoenix Area Regional Youth Treatment Center for Alcohol and Substance Abuse, and may use funds appropriated to the Indian Health Service in Public Law 99-591, to renovate the buildings for that purpose".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 156: Page 77, line 23, after "person" insert ", whether or not such person is an Indian or Alaska native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations, for medical services provided in Alaska".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 156 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 157: Page 78, line 1, after "tribe,"" insert "and is further amended by deleting the period after the word "agreement" and adding the words: *Provided*, That such employees in Alaska shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, as a term of employment, to perform medical, surgical, dental or related functions at a facility in Alaska other than the facility operated pursuant to such contract or agreement".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 157 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "and is further amended by adding after the word "agreement" and before the period the words ": *Provided*, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contact or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contact or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor"".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 165: Page 79, line 16, strike out "$3,094,000" and insert "$2,849,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 165 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$3,094,000, for payment to the Institute of American Indian and Alaska Native Culture and Arts Development to carry out the provisions of Public Law 99-498, as amended (20 U.S.C. 56, Part A)".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 167: Page 80, line 8, strike out "$209,266,000" and insert "$208,734,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 167 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$211,240,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The test of the amendment is as follows:

Senate amendment No. 169: Page 82, line 15, strike out "$37,831,000" and insert "$38,543,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 169 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted in said amendment, insert the following: "$37,981,000, including $2,370,000 for the special exhibition program".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 172: Page 83, after line 7, insert:

PAYMENT TO ENDOWMENT CHALLENGE FUND

For payment to the Endowment challenge fund for the Woodrow Wilson International Center for Scholars $350,000, to remain available until September 30, 1990: *Provided*, That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 172 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

PAYMENT TO ENDOWMENT CHALLENGE FUND

"For payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars $300,000, to remain available until September 30, 1990: *Provided*, That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 173: Page 83, line 14, strike out "$141,800,000" and insert "$141,431,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 173 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$141,890,000".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 182: Page 89, line 23, after "coal," insert "oil, gas,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 191: Page 95, strike out all after line 16 over to and including line 2 on page 96.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 191 and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"Sec. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves only will be done to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 193: Page 96, after line 13, insert:

Sec. 316. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 193 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "Sec. 318".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates.]

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 195: Page 96, after line 13, insert:

Sec. 318. Notwithstanding any other provision of law, for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 195 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

"Sec. 319. Notwithstanding any other provision of law, hereafter for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties"."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 196: Page 96, after line 13, insert:

Sec. 319. Notwithstanding any other provision of law, the Final Environmental Impact Statement issued by the USDA Forest Service concerning the Silver Complex Fire Recovery Project on the Siskiyou National Forest and the Record of Decision accompanying the Environmental Impact Statement shall not be subject to judicial review, and shall be subject only to one level of administrative appeal. Notice of that appeal and appellant's Statement of Reasons shall be submitted simultaneously to the Chief of the Forest Service within 30 days after the publication in the Federal Register of the Notice of Availability of the Final Environmental Impact Statement. The Chief must render his decision within 30 days of receipt of the notice of appeal.

Any decision of a responsible Forest Service official to undertake a specific activity, including but not limited to the preparation, advertisement and sale of timber and the preparation, advertisement and contracting for the construction of related roads within the Silver Complex Fire Recovery Area, as designated on maps dated June, 1988 and entitled "Silver Complex Fire Recovery Area", which maps are on file with the Chief, Forest Service, Washington, DC, shall not be subject to administrative appeal or judicial review.

No funds made available to the Forest Service under this or any other Act may be expended to extend the Bald Mountain Road on the Siskiyou National Forest beyond S.W.¼, N.E.¼, of section 21, T. 36 S., R. 10 W., W.M.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 196 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 320. Notwithstanding any other provision of law, the Final Environmental Impact Statement issued by the USDA Forest Service concerning the Silver Complex Fire Recovery Project on the Siskiyou National Forest and the Record of Decision accompanying the Environmental Impact Statement shall not be subject to judicial review, and shall be subject only to one level of administrative appeal. Existing administrative appeals and appellant's Statement of Reasons shall be immediately transferred to the Chief of the Forest Service for decision. The Chief must render his decision not later than 30 days following enactment of this Act.

Any decision of a responsible Forest Service official to undertake a specific activity, including but not limited to the preparation, advertisement and sale of timber and the preparation, advertisement and contracting for the construction of related roads within the Silver Complex Fire Recovery Area, as designated on maps dated June, 1988 and entitled "Silver Complex Fire Recovery Area," which maps are on file with the Chief, Forest Service, Washington, D.C., shall not be subject to administrative appeal or judicial review.

"No funds made available to the Forest Service under this or any other Act may be expended to extend the Bald Mountain Road on the Siskiyou National Forest beyond S.W. ¼, N.E. ¼, of section 21, T. 36, S., R. 10 W., W.M.".

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 197: Page 96, after line 12, insert:

Sec. 320. To ensure adequate availability of timber from the Mapleton Ranger District of the Siuslaw National Forest pending completion of the final forest plan pursuant to section 6 of the National Forest Management Act of 1976, Public Law 94-588, 16 U.S.C. 1604, as amended, and notwithstanding the injunctions issued pursuant to the judgment in *National Wildlife Federation et al.* v. *United States Forest Service et al.* 592 F. Supp. 931 (D. Ore. 1984) as modified by 801 F. 2d 360 (9th cir. 1986), the Secretary of Agriculture shall determine the potential environmental impact of all prepared timber sales in the Mapleton District that are contemplated by the Draft Environmental Impact Statement of October 1, 1986, concerning the Siuslaw National Forest Plan, and shall characterize each sale's potential environmental impact as minimal, moderate or serious. At such time as insufficient timber previously sold but returned pursuant to default or to the Federal Timber Contract Payment Modification Act of 1984, Public Law 98-478, 16 U.S.C. 618, is available for resale to maintain adequate timber availability in the Mapleton District as determined by the Secretary, and prior to implementation of the final Siuslaw National Forest Plan, the Secretary is authorized to sell other timber in the Mapleton District provided he gives sale priority to those sales with the least potential environmental impact as determined pursuant to this section. Any decision of the Secretary to sell timber pursuant to this section, and all characterizations of potential environmental impact made pursuant to this section, shall not be subject to judicial review. Timber sold pursuant to this section each fiscal year shall not exceed 90 million board feet of chargeable volume.

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 197 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"Sec. 321. To ensure adequate availability of timber from the Mapleton Ranger District of the Siuslaw National Forest until the final forest land and resource management plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1604) is in effect, and not withstanding the injunction issued pursuant to the judgment in National Wildlife Federation, et al. v. United States Forest Service, et al. (592 F. Supp. 931 (D. Ore. 1984) as modified by 801 F.2d 360 (9th Cir. 1986)), the Secretary of Agriculture is authorized to offer up to 90 million board feet of net merchantable timber in fiscal year 1989 in the Mapleton Ranger District of the Siuslaw National Forest pursuant to the requirements of this section and until completion of the final forest plan. For purposes only of selling timber pursuant to this section (and activities related thereto), the Secretary shall utilize the Siuslaw National Forest draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 as if they were the final forest plan and environmental impact statement: *Provided*, That such statement, timber sales, roads and other associated activities, and their accompanying environmental assessments, prepared and offered pursuant to and consistent with such draft plan, for purposes only of this section, shall be treated as satisfying all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1600 et seq.) and shall not be subject to administrative or judicial review for compliance with such Acts; *Provided further*, That nothing in this section shall affect any existing right of administrative or judicial review of such timber sales for compliance with other applicable laws: *Provided further*, That this provision does not in any manner represent a judgment upon the legal adequacy of the Siuslaw National Forest final plan and environmental impact statement."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 199: Page 96, after line 13, insert: Sec. 322. Revenues received by the Department of Energy from the sale of assets related to the termination of the Baca Geothermal Demonstration Powerplant Project shall be retained by the Department for use to clean out the Hulin Well in the State of Louisiana.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 199 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 322. Unobligated balances remaining from the Baca Geothermal Demonstration Powerplant Project may be used to clean out the Hulin Well in the State of Lousiana.

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 202: Page 96, after line 13, insert:

Sec. 325. (a) Subject to valid existing rights, on the date of enactment of this section deposits of quartz mineral within the Ouachita National Forest in the State of Arkansas shall no longer be subject to location and entry under the General Mining Law of 1872 (17 Stat. 91), as amended, and all such deposits shall hereafter be disposed of under the same conditions as are applicable to common varieties of mineral materials on such lands under the Materials Act of 1947 (61 Stat. 681), as amended: *Provided*, That fifty percent of the moneys received pursuant to this section shall be paid by the Secretary of the Treasury to the State of Arkansas, to be expended as the State may prescribe for the benefit of the public schools and public roads of the counties in which the Ouachita National Forest is situated.

(b) The Secretary of Agriculture shall prescribe rules and regulations for the disposal of quartz mineral from the Ouachita National Forest.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 202 and concur therein with an amendment, as follows: In lieu of the section number named in this amendment insert "Sec. 323.".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 203: Page 96, after line 13, insert:

SEC. 326. For fiscal year 1988 and each fiscal year thereafter, for the purposes of any law authorizing the leasing and extraction of oil, gas, coal, or any other mineral from the Outer Continental Shelf or from any interest in land owned by the United States, regardless of the source or origin of the United States' ownership, any interest paid to the United States under any law, regulation, or other authority which arises from or accrues with respect to late payment of royalties, rents, bonuses, or other payments due to the United States for any period, and received after the date of enactment of this provision, shall be paid or distributed to the same recipients and in the same manner as the royalties, rents, bonuses, or other payments in connection with which such interest was paid. The Secretary of the Interior shall not recover or recoup any portion of late payment interest paid to the United States before the enactment of this provision which was paid or distributed to any State or other recipient of Federal mineral lease revenues, except for amounts paid in connection with royalties or other revenues subsequently determined to be not owing to the United States.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 203 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"SEC. 324. The Secretary of the Interior shall not recover or recoup any portion of late payment interest paid to the United States which is paid or distributed to any State or other recipient of Federal mineral lease revenues prior to September 30, 1989, except for amounts paid in connection with royalties or other revenues subsequently determined to be not owing to the United States."

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 4867, as well as Senate amendments reported in disagreement, and that I may include tables, charts, and other extraneous materials.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MODIFICATION OF AMENDMENT MADE IN ORDER BY HOUSE RESOLUTION 521 TO BE OFFERED TO H.R. 5210, OMNIBUS DRUG INITIATIVE ACT OF 1988

Mr. ORTIZ. Mr. Speaker, I ask unanimous consent that my amendment as reported in the Committee on Rules report on H.R. 5210 and passed by the House as House Resolution 521 be modified to reflect certain corrections designed to clarify its intent.

A copy of the amendment as modified is at the desk.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HUGHES. Mr. Speaker, reserving the right to object, let me ask the gentleman, is this the amendment that the gentleman and I have been working on for the better part of a couple of days now, an amendment which the gentleman would modify relative to the sharing of property to State and local units of government on the basis of their participation in seizures?

Mr. ORTIZ. Mr. Speaker, if the gentleman will yield, that is correct. This is the amendment that the gentleman and I have been working on for the past few days.

Mr. HUGHES. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

OMNIBUS DRUG INITIATIVE ACT OF 1988

The **SPEAKER** pro tempore. Pursuant to House Resolution 521 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5210.

□ 1310

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** When the Committee of the Whole rose on Wednesday, September 7, 1988, all time for general debate had expired, and the bill is considered as having been read for amendment under the 5-minute rule.

The first amendment in order is the amendment offered by the gentleman from New York [Mr. WORTLEY].

AMENDMENT OFFERED BY MR. WORTLEY

Mr. WORTLEY. Mr. Chairman, I offer an amendment.

The **CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WORTLEY: Page 11, after line 15, insert the following new section:

SEC. 1010. TRANSFER BY GOVERNMENT AGENCY OF RECORDS TO THE DEPARTMENT OF JUSTICE FOR CRIMINAL INVESTIGATION.

Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this title shall apply when financial records obtained by an agency or department of the United States are disclosed or transferred to the Attorney General upon the certification by a supervisory level official of the transferring agency or department that there is reason to believe that the records may be relevant to a violation of Federal criminal law. Records so transferred shall be used only for criminal investigative or prosecutive purposes by the Department of Justice and shall, upon completion of the investigation or prosecution (including any appeal), be returned only to the transferring agency or department.".

The **CHAIRMAN.** Pursuant to the rule, the gentleman from New York [Mr. WORTLEY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to offer, along with my friend, Congressman ANNUNZIO, a bipartisan amendment to the Omnibus Drug Initiative Act of 1988. The amendment we are offering today is a commonsense correction of a procedural problem created by the Right to Financial Privacy Act which has resulted in impeding criminal investigations and prosecutions against money launderers and drug dealers.

A problem arises under the Right to Financial Privacy Act when one of the Federal banking agencies, in the course of their lawful oversight of the banking industry, uncovers evidence of crimes. It is no secret that bank fraud, money laundering, and other serious financial institution crime is often related to drugs. This is a problem that the Federal regulators are designated to uncover.

Currently, the Attorney General can only learn from various Federal agencies and departments of possible money laundering criminal activity by either a vague notification called a barebones that just lists the suspect's name and account number or by giving notice to the subject of the investigation. The first option, the barebones option, does not allow the bank regulators to lend their expertise on the suspected criminal activity to the Attorney General. When considering that bank fraud is sophisticated and involves complex financial transactions, it is silly to forbid bank regulators in helping the Attorney General in unraveling these transactions to identify criminal conduct.

The second option of notifying possible money launderers, often a drug dealer, that his records are being turned over to the Attorney General is even more absurd. Now, you don't have to be a detective to figure out what will happen when a money launderer or drug dealer gets a letter from the bank regulators notifying him that information from his bank records has been sent to the Attorney General. Evidence will be destroyed, suspects will flee, stories will be fabricated, and the potential for criminal authorities to conduct a thorough and wide-ranging investigation will be shattered.

The Department of Justice has the responsibility for investigating most Federal crimes and for prosecuting all of them. To do either of these things, the Department first needs to learn of the illegal activity. And customer records are often the logical place to begin an investigation. Unfortunately, the Justice Department cannot do anything about the crime, even a major drug trafficking operation and an attendant money laundering operation, if they cannot get the evidence or if the price they pay for getting it is to alert the potential defendant.

None of these results were intended when the Right to Financial Privacy Act was put into place. The Annunzio/Wortley amendment fine tunes the act while providing adequate privacy safeguards. We worked hard to carefully tailor it to balance law enforcement interests and legitimate bank customer privacy interests. The bill specifically says that only those records legally obtained by Federal regulators can only be turned over when a single supervisory official of the transferring agency certifies in writing that there is reason to believe the records are relevant to a violation of Federal criminal law.

The amendment says that the transferred records may only be used for investigative and prosecutive purposes and, upon the completion of the investigation and any trial and appeal, must be returned to the transferring agency. Therefore, the Justice Department would only have the records as long as it was working on that particular case.

Again, this is a specifically tailored amendment and will do nothing to undermine the important purpose and intent of the Right to Financial Privacy Act. It will not authorize bank regulators to make any criminal referral to the Justice Department that could not be made under current law. It would only remove a procedural impediment to the same criminal referrals that the authorities are already authorized and obligated to make as well as better protect law-abiding Americans by providing them with better law enforcement without effecting the privacy of their financial records. I urge all of my colleagues to support this amendment.

□ 1315

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. WORTLEY. I yield to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I am pleased to join my colleague, the gentleman from New York, Mr. WORTLEY, in authoring this important amendment.

This amendment will stop a regretful practice existing under current law that might well be called "dial-a-drug dealer."

Under current law, whenever a Federal agency, particularly one of the banking agencies, obtains information about money laundering, the financial arm of drug dealing, it cannot turn over that information to the Department of Justice without first notifying the drug dealer that the information is being sent to another agency. In simplest terms, that means that the suspected drug dealer must be notified that an investigation is under way. Of course, such notification means that the drug dealer can now flee the country or go into hiding.

Some have said that this amendment is an extreme measure. It may well be an extreme measure, but that is what we need to curb drug trafficking in this country. We are not talking about Little Bo Peep here, we are talking about a multibillion dollar illegal drug business that must be dealt with in the strongest possible terms and with the strongest possible laws.

Drug dealers should not be notified when their records are being transferred to the Justice Department. We don't need any "Dear Drug Dealer" letters going out from the Federal Government. Instead, we need to give government law enforcement officials more tools such as the Annunzio-Wortley amendment to work with in putting drug dealers out of business.

It is virtually impossible to run a drug business without money laundering. Money laundering is the method that drug dealers use to turn the cash from the drug sales into legitimate, usable funds. This is normally done by buying money orders or travelers checks with large sums of money or trying to get a financial institution to accept large cash deposits to bank accounts. We have good, strong laws governing money laundering, but those laws will be of no use unless the Justice Department can obtain the information about the money laundering. If one of the banking agencies uncovers information about a drug money laundering operation it cannot proceed against the drug dealer, but rather must turn the information over to the Justice Department for prosecution.

Without the Annunzio-Wortley amendment, the banking agency must notify the drug dealer that the information is being sent to the Justice Department. It is true that the Justice Department can go into court and ask for a 30-day temporary order to obtain the information, but that merely delays the notification of the drug dealer rather than doing away with the notification altogether. Such court orders also start the clock running on the notification procedure and present a great hardship to the Justice Department, which in many cases takes months and years to develop solid cases against large drug dealers.

The Annunzio-Wortley amendment will put the Justice Department back into the business of prosecuting drug dealers rather than keeping the Justice Department in the business of notifying drug dealers when they are under investigation.

I urge support for the Annunzio-Wortley amendment.

Mr. RANGEL. Mr. Chairman, I had thought there was going to be some opposition to this amendment, but it is my understanding from the committees of jurisdiction and the gentleman from New Jersey [Mr. HUGHES] that there is no opposition to the amendment.

The CHAIRMAN. If there is no opposition to this amendment, the Chair will put the question.

The question is on the amendment offered by the gentleman from New York [Mr. WORTLEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WORTLEY

Mr. WORTLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

SEC. 1010. AMENDMENT TO THE PRESENTATION OF RECORDS REQUIREMENT.

Section 1120(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(1)) is amended by inserting before the semicolon at the end the following: "unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records".

The CHAIRMAN. The gentleman from New York [Mr. WORTLEY] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Chairman, I would like to commend my colleagues and their respective committees for working so diligently on this bill. I rise again to offer an amendment which was originally reported out of the Committee on Banking, Finance, and Urban Affairs.

I believe that this amendment, which is actually technical in nature, would greatly speed up our grand jury process without any assault upon the rights of the accused. The Right to Financial Privacy Act was designed to protect citizens from improper governmental action in gathering and using private financial information. I would like to express that this amendment does nothing to infringe upon the principled protection provided by the Right to Financial Privacy Act.

Currently, under the Right to Financial Privacy Act, a prosecutor has to physically present all records obtained pursuant to a grand jury subpoena. Often, the grand jury must be bused to the location—such as a Government warehouse—at which the records are kept since the volume of the records, hundreds of thousands of documents at times, is simply too large. Such physical presentation, not required by any other law, is terribly time consuming and expensive, especially when you consider that many districts have grand juries meeting only once a month.

At a time when we should not further burden our overworked U.S. attorneys by requiring them to move such records and when we are faithfully searching for ways to cut down on spending, we should support legislation that would do both without any adverse spinoffs.

The requirement for physical presentation of the records also serves no privacy interests since other provisions in the Right to Financial Privacy Act regarding grand jury records and rule 6 of the Federal Rules of Criminal Procedure adequately protect against the unauthorized use of subpoenaed records.

This amendment will continue to require actual presentation of the records, but it will add the qualifier: "unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records."

I sincerely believe that this amendment, which is fully supported by the Department of Justice, would greatly improve the efficiency of the grand jury process and will free prosecutors' hands to pursue drug traffickers in violation of money laundering statutes.

I therefore urge my colleagues to support this amendment.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. WORTLEY. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I commend the gentleman from New York [Mr. WORTLEY] for this amendment, as I do for the previous one adopted. I think that it makes a good improvement in the money laundering and financial disclosure laws with regard to financial privacy and will aid immensely in the drug enforcement area by removing obstacles we have in this law, and I support him, and I support this amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. WORTLEY. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I rise to offer my congratulations to the gentleman from New York. His amendment is a good amendment. It is a practical amendment. I know from personal experience that it is often very difficult to take voluminous records to the grand jury, and frankly this will in fact make it much easier for U.S. attorneys to handle cases involving financial investigations, and I would urge my colleagues to support the amendment.

Mr. WORTLEY. Mr. Chairman, I thank the gentleman from New Jersey [Mr. HUGHES], and I want to thank him especially for the cooperation he has given me for this amendment and the previous amendment.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. WORTLEY. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I have been in touch with the Justice Department, and they think this would be of great assistance to them in furtherance of the course of justice, and I congratulate the gentleman on his efforts.

Mr. WORTLEY. Mr. Chairman, I thank the gentleman from New York [Mr. RANGEL].

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there any Member in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from New York [Mr. WORTLEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOMFIELD: Page 100, after line 17, insert the following:

SUBTITLE H—MISCELLANEOUS PROVISIONS

SEC. 3071. COVERT ACTIONS DIRECTED AT ILLICIT INTERNATIONAL DRUG TRAFFICKING.

It is the sense of the Congress that, given the magnitude of the illicit drug problem and the threat it poses to the national security of the United States, agencies of the intelligence community should through the use of covert actions, be more actively involved in the effort to combat illicit international drug trafficking.

Page 49, after the item relating to section 3067, insert the following:

SUBTITLE H—MISCELLANEOUS PROVISIONS

Sec. 3071. Covert actions directed at illicit international drug trafficking.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

My amendment is very simple and promotes the use of yet another weapon in America's arsenal to combat the war on drugs.

We must get serious about the war on international traffickers and groups such as the Medellin Cocaine Cartel.

The drug traffickers play hard ball in their efforts to smuggle in the drugs that poison America's youth. We must fight these groups on all fronts, on all levels, and with every available means.

Covert activities, specifically military and paramilitary activities, directed against these traffickers will produce results.

My sense-of-Congress language should make it abundantly clear that Congress supports a full-scale assault to cripple the production, distribution, and financial support networks of the illegal drug trafficking cartels.

Members of the cocaine cartels have grown bold in their efforts to stop America's initiatives to shut down their illegal operations. All of us have heard of their efforts to put a price tag on the head of U.S. officials overseas.

I was shocked to learn that Secretary of State Shultz was the target of an assassination plot during his recent visit to Bolivia. There is the evidence to suggest that a drug cartel organized the murder plot.

Last week we learned that Latin American drug traffickers recently planned to assassinate a U.S. Government employee, a DEA agent in New York City. This is outrageous.

Now is the time to tell those druggies that America will not tolerate such an arrogant disregard for the law in our country.

We in Congress must do everything we can to stop the traffickers from plotting right in our own front yard. We should act against those would-be assassins "post haste," wherever they are found.

Let's put an end to this type of assassination operation in our own country. Let's tell our intelligence community we are supportive of renewed efforts to direct every possible tool available to the U.S. Government to hit the international drug lords where it hurts.

I encourage you to support my amendment which brings the resources of the intelligence community to bear on those who would prey upon American officials both here and overseas.

Mr. Chairman, I yield such time as he many consume to the gentleman from California [Mr LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the amendment offered by the vice chairman of the Foreign Affairs Committee, Mr. BROOMFIELD, expressing Congress' support for the increased use of America's intelligence capabilities, including covert operations, in the war on drugs.

Our intelligence agencies have the unique capability of monitoring and operating covertly against illegal international drug trafficking. Like the military, the intelligence community is part of our national security structure and helps protect our borders. Clearly, drug smuggling is a threat to our national security. Also like the military, the intelligence community has specific capabilities that are needed if we are to mount a full and successful offensive against illegal international narcotics trafficking. We must use all of our resources in this important crusade.

Providing local law enforcement agencies with advance warnings of drug smuggling—relaying types and registration numbers of smugglers' vessels and aircraft so that they can be apprehended before delivering their poisonous goods—is one example of how increased use of U.S. intelligence capabilities abroad can help strike against drugs and crime at home.

By using our intelligence assets to expose drug traffickers with their secret labs and distribution centers to foreign governments we help these friendly governments strike against the growing centers and production factories of illegal narcotics and the "drug lords" who operate them. Clearly this complements our efforts against drugs.

We have declared war on drugs. Covert operations have been part of our battle strategy in past wars. They have contributed to victory. They should be a part of this war. We need to disrupt and destroy the international drug lords' smuggling network. Covert operations, carefully planned and coordinated in accordance with U.S. laws, are one of the ways, perhaps at times the only way, to accomplish this worthy goal.

I urge my colleagues to join me in supporting the Broomfield amendment.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the Broomfield amendment to the omnibus drug bill which expresses the sense of Congress that the intelligence community should be more actively involved in combating illicit international drug trafficking.

The drug cartels have unlimited resources and will go to any length to ensure that their deadly product reaches our citizens. In order to effectively combat the drug cartels, we must make aggressive use, within the law, of our intelligence capabilities. If we truly mean what we say about waging war against the drug traffickers, then our intelligence community must be utilized to penetrate the powerful drug cartels and if need be, through covert actions.

The recent turf battles between the Colombian Medellin and Cali drug syndicates clearly demonstrates that major drug seizures by our law enforcement agents are having a disruptive impact on the traffickers. Penetrating these organizations to obtain vital information and to disrupt their operational capabilities is vital to our waging an effective war against drugs.

Accordingly, Mr. Chairman, I urge my colleagues to support the Broomfield amendment.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to this amendment. While I can support and do support involvement of our intelligence agencies in providing intelligence regarding international drug trafficking, I do not support intelligence agencies being involved operationally in narcotics enforcement, as this amendment endorses.

In fact, the amendment not only endorses operational involvement of our intelligence community in narcotics law enforcement, but it specifically endorses involvement through covert operations, and only through covert operations.

In drug enforcement matters overseas, the United States is currently represented, and represented ably, by the Drug Enforcement Administration and its foreign cooperative investigative program.

In the past 8 years, as chairman of the Subcommittee on Crime with responsibility for oversight of the DEA, I have traveled to dozens of drug-producing and drug-transiting countries. In talking with heads of state and heads of numerous law enforcement agencies in those countries, I have learned that our DEA is well received in almost every country where it is present. Furthermore, leaders in these countries make it clear that the fact that DEA is a single mission agency, with no agenda other than drug enforcement, is one of the primary reasons our drug enforcement efforts are well received.

I have long felt that it would be a mistake to give DEA operational duties overseas which go beyond drug enforcement. It would likewise be a mistake to assign agencies of our intelligence community to operational drug enforcement activities overseas. We would be sending a completely wrong signal to other countries if we were to endorse increased covert operations by our intelligence agencies in the name of international narcotics enforcement.

Experience has proven that, given the nature of the activities involved, it is very difficult for the Congress to maintain sufficient control over activities of our intelligence community in areas of national security. These problems would only be expanded by a congressional exhortation to our intelligence community to increase covert operations aimed at international drug traffickers.

Finally, I take little comfort in the fact that this is "only" a sense of the Congress, and not a substantive authorization. If we send a clear message to our intelligence community that the Congress believes they ought to be undertaking covert operations in the area of drug enforcement, we not only cannot protest if they take us at our word, but we should protest if they do not.

There have been no congressional hearings on this proposal, and we have no legislative record on which to make a judgment on this very sensitive, potentially counterproductive step. It is a step that we therefore should not take at this time.

□ 1330

It is very seldom that I have ever disagreed with my colleague, the gentleman from Michigan. He is an astute legislator, a very thoughtful legislator.

Frankly, I just do not know enough about what the gentleman intends from reading the amendment to decide whether or not it would create major problems for those of us who believe there is an important role for the intelligence community, but which is a rather limited role, particularly in the area of covert operations.

My concern about the gentleman's amendment is that there have been no hearings that I am aware of.

We have had major problems, as my colleague, the gentleman from New York, the chairman of the select committee, can attest. I know the gentleman from New York [Mr. BEN GILMAN] can attest to the fact that one of the problems we run into in countries around the world is that countries want to make sure that our drug agency, the DEA, that operates the foreign cooperative investigative program is only interested in drugs. There was a time about 6 years ago when there was a proposal to merge the FBI and the DEA into one agency. Governments around the world told us that if we began to mix the missions of the FBI with its counterintelligence missions and the DEA, that they did not want to extend the same cooperation with the DEA. They were not going to cooperate. These countries felt they could not provide the same level of cooperation and maintain their sense of comfort that their sovereignty was being respected.

In many countries around the world, we actually run wiretaps in host countries. That is most extrordinary.

They trust the DEA. The DEA over the years has developed a very good rapport, and so we should not be doing anything really to compromise the intelligence gathering operations by the DEA. They are our lead agency around the world in getting good hard intelligence. If anything, we should be beefing up those operations.

The CIA role and the role of the other Intelligence agencies has always been providing good tactical, as well as strategic intelligence, but mostly strategic intelligence.

Frankly, the amendment of the gentleman would suggest that we want the CIA to get involved operationally in countries.

Now, I do not have to tell the gentleman from Michigan or my colleagues that we have enough problems trying to keep our CIA covert operations in the national security area within bounds.

I do not want to open up a Pandora's box and have them operational in other countries, compromising our intelligence gathering capabilities by the DEA, our lead agency. Second, this will create a hard job for Congress to oversee those covert operations.

Now, my question to the gentleman is, Does the gentleman conceive that the CIA, for instance, would have under his amendment—I know it is a sense-of-the-Congress resolution—would have the same operational capability in the drug area as they have in national security areas?

Mr. BROOMFIELD. Mr. Chairman, if the gentleman will yield, I think we would have to agree that it is a national security problem, this whole drug problem.

What this amendment actually would do is provide the next President, whoever he might be, an additional tool; in other words, to be able to go in and possibly help out in destroying some of these drug producing areas.

Mr. HUGHES. But we already receive intelligence from them. It is not just covert, it is overt intelligence. We receive a lot of intelligence from the intelligence community, and if anything, we are trying to encourage more intelligence gathering and better information. That is the direction we need to go. If we can do a better job of intelligence gathering in source and transshipment countries, we will do a better job by anticipating patterns and identifying criminals, but if we are going to compromise the foreign cooperative investigating program, and we just might do that if in fact this became the law, then I am not sure it is anything but counterproductive.

So for the reasons I have expressed, I have got to reluctantly oppose any effort to pursue this through covert operations.

I think what the gentleman intends, if I understand him correctly, is to have the CIA operational in the drug area. Frankly, I have some major concerns about that.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, the gentleman from New Jersey raises some concerns that we should all reflect upon; however, the gentleman from New Jersey should bear in mind that the President did declare narcotics trafficking a national security threat.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. HUGHES. I yield to the gentleman from New York.

Mr. GILMAN. Bear in mind that the President did declare narcotics trafficking a national security threat. We are at war with the drug dealers and if we are at war, then we should have access to all of our intelligence capabilites.

Mr. HUGHES. But we do have intelligence-gathering capabilities, I want to say to the gentleman.

Mr. GILMAN. Nobody is saying to our intelligence people what specifically they should do. What we are saying to them is to become more involved in the antidrug effort. Make more of your capabilities available to our Nation's drug war.

Mr. HUGHES. But we are getting that information now, as the gentleman knows, from the CIA and other Intelligence agencies. This amendment provides for "covert actions."

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding.

I would like to pose a question to the author of the amendment, if I might. Would the author of the amendment answer a question?

Mr. BROOMFIELD. Yes.

Mr. LEVINE of California. I would say to the gentleman from Michigan, I commend his intent with regard to this amendment.

I would ask the gentleman if he would consider an amendment to his amendment that would also make it a sense of the Congress that when our intelligence agencies obtain the type of information he is seeking——

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. McCOLLUM. Reserving the right to object, Mr. Chairman, I do not plan to object to this request, but I think we need to get a little ground rule in here, because this rule we have for considering the whole bill is rather restrictive. If we are going to continue to allow this to occur on this amendment, I would hope those who are floor leaders would allow us perhaps a little leeway on our time later.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me under his reservation?

Mr. McCOLLUM. I am glad to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, in the first place, if our committee had had more than 8 minutes to debate this, we might have been able to let Members know what is in this bill.

Frankly, this is an important amendment. I do not know that Members have focused in on it. Some of the members of committees that have jurisdiction were not even aware of the fact that it was in the bill.

Mr. LEVINE of California. Mr. Chairman, if the gentleman will yield further, I appreciate the gentleman's caution and I will try to be brief in my question to the gentleman from Michigan.

Mr. McCOLLUM. Mr. Chairman, I wonder if the gentleman from New York [Mr. RANGEL] could respond to this unanimous-consent request for time. We are getting into this request for more time. I have no problem for limited amounts of those requests, but I would just hope, if there is a policy being developed here on doing this, that we could have some understanding so that it is fair when our side has the same request later. Is there a problem with just sort of having some understanding that we are not going to let it go on for any of these for much longer than the rule allows?

Mr. RANGEL. Mr. Chairman, if the gentleman will yield, we have the rule and I do not intend to violate the rule. Because I asked unanimous consent the last time, is that the reason the gentleman is raising the question?

I do not know how much flexibility we have got to have. We are going to be on this for 2 or 3 days. There is other legislation that we are going to have to listen to, so there are restrictions that we have. We have got 36 amendments.

Mr. McCOLLUM. Mr. Chairman, I would agree with the gentleman, too; so I am going to be judicious here. I am not going to object to this request at this point, but I am going to be cautious with the gentleman from New York on the next round.

Mr. HUGHES. Mr. Chairman, I thank the gentleman.

Mr. McCOLLUM. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 1 additional minute.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, again I would ask the author of the amendment if he would consider including as an additional sentence in his sense-of-the-Congress resolution, the following sentence:

> It is further the Sense of the Congress that information regarding international illicit drug trafficking obtained by agencies of the Intelligence community in the course of their covert activities should be transmitted to the Secretary of State and to the Administrator of the Drug Enforcement Administration for appropriate review.

The reason being, and I believe the gentleman understands the reasoning, the reasoning being that the DEA and the State Department also have legitimate important concerns with regard to this information. This is simply sense-of-the-Congress language, and in our efforts to have the right hand know what the left hand is doing, I would think this might improve the administration of the suggestion of the gentleman.

Mr. BROOMFIELD. Mr. Chairman, if the gentleman will yield further, I appreciate the gentleman's comments. It seems to me that the present law, in other words on covert activity, would be up to the President of the United States to make that determination. The dissemination of that information goes through the proper Intelligence Committees in both the House and the Senate and they have the opportunity to make the determination of their interests in getting that information.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 322, noes 83, not voting 26, as follows:

[Roll No. 296]

AYES—322

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonker
Bosco
Boucher
Brennan
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dornan (CA)
Dreier
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Marlenee
Martin (NY)
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Olin
Owens (UT)
Oxley
Parris
Pashayan
Patterson
Payne
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—83

Atkins
AuCoin
Bates
Beilenson
Berman
Boland
Bonior
Borski
Boxer
Brown (CA)
Bustamante
Collins
Conyers
Coyne
Crockett
Dellums
Dingell
Dixon
Dorgan (ND)
Downey
Dymally
Edwards (CA)
Evans
Fazio
Flake
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Gonzalez
Gray (IL)
Gray (PA)
Hamilton
Hayes (IL)
Hertel
Hoyer
Hughes
Jontz
Kanjorski
Kastenmeier
Lehman (FL)
Leland
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
Martinez
Matsui
McHugh
Miller (CA)
Mineta
Moody
Morrison (CT)
Mrazek
Murtha
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Panetta
Pease
Rangel
Rodino
Roybal
Sabo
Savage
Sawyer
Scheuer
Sikorski
Smith (IA)
Stokes
Studds
Udall
Vento
Visclosky
Weiss
Wheat
Williams
Yates

NOT VOTING—26

Alexander
Badham
Bevill
Boulter
Brooks
Cheney
Clinger
Dowdy
Garcia
Hawkins
Jones (NC)
Jones (TN)
Kemp
Leath (TX)
MacKay
Martin (IL)
McCurdy
Mica
Packard
Pelosi
Spence
Stark
Torres
Towns
Waxman
Wilson

□ 1359

The Clerk announced the following pairs:

On this vote:

Mr. Boulter for, with Mr. Torres against.

Mrs. Martin of Illinois for, with Mr. Waxman against.

Mr. Jones of North Carolina for, with Mr. Towns against.

Mr. Packard for, with Mr. Hawkins against.

Mr. LEVIN of Michigan, Mrs. KENNELLY, and Messrs. FRENZEL, MANTON, LANTOS, FOGLIETTA, and WOLPE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1400

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RANGEL: Page 205, after the matter following line 4, insert the following:

Subtitle M—Life Imprisonment Penalty for Drug-Related Killings

SEC. 6801. LIFE IMPRISONMENT PENALTY FOR DRUG-RELATED KILLINGS.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesigning subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"Drug-Related Killings

"(e) In addition to the other penalties set forth in this section any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this title or title III intentionally kills any law enforcement officer or any other person, shall be sentenced to life imprisonment.".

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. RANGEL] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. HUGHES. Mr. Chairman, I may be opposed to the amendment, so I seek the time.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a point of parliamentary inquiry.

The CHAIRMAN. The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. GEKAS. Mr. Chairman, although I believe that at the end of this debate on the amendment offered by the gentleman from New York [Mr. RANGEL] that I would be voting in favor of it, I do stand now at the beginning in opposition to the amendment. Under the rule, since the gentleman from New Jersey has indicated his opposition, does the Chair now have to choose between those who oppose the amendment?

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania that the gentleman from New Jersey has signaled to the Chair his opposition to the amendment and the Chair will select one Member opposed to the amendment to control the 15 minutes in opposition.

Mr. GEKAS. Mr. Chairman, I will count on the gentleman from New Jersey and the gentleman from New York to grant the gentleman from Pennsylvania time to concur or discuss the amendment.

The CHAIRMAN. The gentleman from Pennsylvania is not stating a parliamentary inquiry.

The gentleman from New York [Mr. RANGEL] is recognized for 15 minutes.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, we are here today and for the next several days to see how we can perfect a drug bill that would benefit the people in the United States in trying to bring some relief to this great problem that affects all of us, our very lives. Now I think it is reaching the point, because it is on the eve of an election, where we may find ourselves thrown into a position that we are going to have to explain to the voters and our constituents just who was the toughest on crime, who was the toughest on drug traffickers, and sometimes when we have this type of debate, unfortunately, it is those Members who say let us kill the rascals that prevail rather than those who take the emotion out of the situation and try to find out what can truly be more effective.

If we want to see what is effective, why do we not take a look at some of the States where the legislatures and State Governors have made a decision and see how effective the death penalty has been. Why do we not take a look at the State of Florida, which really is one of the capitals, unfortunately, of drug trafficking, and see exactly what their death penalty has done. Why do we not take a look and see how many cases are pending.

There are over 2,000 people on death row. Are they the people who truly are the ones that should be executed, or do we take a look at the statistical data and find that 40 percent of them are poor and black and 60 percent of them are poor and white.

Somehow, in this great country of ours, it is difficult to find justice in the criminal justice system, because those who have the wherewithal to hire the attorneys, to avoid getting on death row, never get there. But the poor end there. But because we have the right of appeal, the average time that it takes for one of these cases to be finally resolved is some 7½ years. So even the certainty of the sentence is not there, and if we took a look at the number of pending cases, it would take 82 years to get rid of those inmates that presently are on death row.

I would think that all of us should have some concern about what happens when we make a mistake. There is not a year that goes by that we do not read in our hometown where somebody in jail or outside of jail had said that they were the ones committing the crime, and then we hear the dramatic story of the inmate coming out saying he is not angry with anybody, he just wants to put together his life or her life.

These are good stories when justice finally prevails. But when the death penalty prevails, we really do not get that opportunity to say we made a mistake and we are prepared to make restitution.

I think that while it may sound like the political thing to do, to talk about the death penalty, the real thing to do is to talk about sentences that we can be certain of. And when we talk about mandatory life, without parole, for those who are involved in drug-related murders, I think that we are doing the morally right thing, because if we are talking about being a deterrent and fearing death, the bums that are out there every day dealing in drugs have no fear of death. They live every day as potential victims, of being assassinated by the other bums that are in the field. If we want to talk about a life of violence, it is these people that traffic in national and international drugs who have no concern about life but only have a concern about wealth.

Finally I would like to say that while it is easy for us to say and do the right thing politically so that we can go back home and say that we were tough on the drug pushers, who has a better understanding of the problem than those people that we appropriate money for to prosecute and bring to justice the drug traffickers? And of course I am talking about the U.S. attorneys. Which districts have been the most active in bringing these drug kingpins to trial? I dare say it is the southern district of New York and the southern district of Florida. Which is the more highly publicized case of a drug pusher being indicted than the Noriega case, and what U.S. attorney brought him to the grand jury but that of the southern district of Florida? Here is someone who had the courage to say that whether you have been extradited or not we are going to do the indictment. But he also has a concern that if we are going to win this battle we cannot win it just the United States standing alone. We have to reach out to countries where their fragile democracies no longer allow them to bring these bums to trial.

What are they asking us to do? They are asking us to enter into extradition treaties so when they are fearful that their local courts cannot do the job that we would be able to do it here. But there is one thing that they truly believe in in most of the countries in Europe and Central and South America. They do not believe that a government has to stoop as low as to take someone's life away just because they stoop that low, and so they refuse to enter into treaties or to extradite these bums if it means that they can be killed over here by the Government of the United States.

If the U.S. attorney from Florida suggests that for us to pass the death penalty would impede our ability to put these bums in jail where they belong, I would suggest that he should know better than we do, but then again we are political and they are not.

Mr. Chairman, I reserve the balance of my time for the rest of the Members who would like to participate in this debate.

The CHAIRMAN. The gentleman from New York [Mr. RANGEL] has consumed 7 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 15 minutes.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, reluctantly I rise in support of the amendment offered by the gentleman from New York. My friend, CHARLIE RANGEL, and I seldom differ on issues and I don't think we have any major philosophical disagreement concerning this proposal. It's no secret that we both oppose the death penalty under any circumstances and if we had our way this amendment would not be necessary. But faced with the possibility of adoption of a provision for capital punishment, we are forced to support an effective alternative.

Mr. RANGEL, a former prosecutor for the State of New York, I am sure appreciates the importance of sentencing discretion by judges and juries. But let's be realistic; a majority in this body is so swept up in the hysteria of constituents demanding that we do something about the pervasiveness of illegal drugs that even this harsh amendment might not be draconian enough to satisfy their thirst for blood. Consideration of this and of the capital punishment amendment is admission that we don't really know how to confront this problem. And we don't know how to deal with it becaue our value system is confused as hell.

What we do know is that it's easier to buy cocaine in the United States than it is to buy condoms because the protectors of our morality are more concerned about the evils of sex than about the ills of drugs. We do know that FBI agents arrest more distributors of pornography than distributors of drug paraphernalia because religious fanatics boycott merchants who sell Playboy and ignore those who sell waterpipes and syringes. We do know that most communities are more likely to oppose abortion clinics than crack houses. We do know that fundamentalists walk picket lines in front of theaters showing movies about Jesus' compassion for a prostitute but never in front of movie houses showing films glorifying the drug culture.

These are just a few of the ironies facing our society. This country will not solve the drug crisis until we face up to certain hard realities of life. First, no other nation in the world suffers the widespread, pervasive use of drugs as the United States. Second, no other nation in the world tolerates the unconscionable rate of murder as the United States. The reality is that murder has always been pervasive in the United States and the increase in homicides is directly related to the increase in the availability of guns amongst the population.

So until this Congress is courageous enough to challenge the National Rifle Association and their idiotic positions on gun possessions, then it's pure hypocrisy for us to even consider legislation to reduce drug-related homicides. If we are serious, we will ban the manufacture, the sale, and the possession of firearms.

Instead we spend our time discussing waiting periods, executions, and mandatory life imprisonments. What folly. I support this amendment because it recognizes the silly game that legislators play. It takes into account the possibility that its adoption might prevent the probability of a more harsh solution—the death penalty.

Mr. Chairman, William Gilbert in act one of "The Mikado" said, "I shall achieve in time—to make the punishment fit the crime." Well none of us know precisely what punishment is proper for killing. What we all do know and what we all do agree is that the distribution of illegal narcotics is an unconscionable assault on civilization, and murdering others in the process an act of rebellion against everything we stand for. We all agree that those who engage in drug trafficking and murder must be separated from society. Although I believe that most convicted felons are capable of reform and rehabilitation, nevertheless, I will support this amendment to impose life in prison without parole. I take this position because I see it as the only viable option for Members of this body who hold similar views as I.

In the present climate of hysteria, our only alternative to the death penalty is life in prison. Personally, neither appeals to me. But since one is a lesser evil than the other—and even that may not satisfy a majority—I feel compelled to support this amendment. Mr. Chairman, I urge my colleagues to vote yes on the amendment of the gentleman from New York.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in support of the Rangel life imprisonment amendment and urge a no vote on the amendment of the gentleman from Pennsylvania [Mr. GEKAS] on the death penalty.

Mr. Chairman, I urge Members to vote no on the Gekas amendment and yes on the Rangel life imprisonment amendment. I urge you to vote no on Gekas first of all because this death penalty, like all others, will almost certainly be applied in a racially discriminatory manner. In the States, under statutes like the one before the House, death rows are disproportionately black. A black who kills a white is 4 to 10 times more likely to receive the death sentence than a white who kills a black.

Mr. Speaker, the death penalty is not an effective antidrug measure. In fact, the death penalty would be counterproductive in fighting drugs.

First. The death penalty has no deterrent value. Many States with the death penalty have higher murder rates than States without it. Florida has the second highest execution rate in the country, yet it still has one of the highest murder rates in the country and one of the worst drug problems.

Second. Adopting the death penalty will actually make it harder to bring the international drug kingpins to trial. Most countries will not extradite a person to the United States if the death sentence can be imposed. Let me quote the chief assistant U.S. attorney in Miami, whose office has indicted more drug kingpins than any other U.S. attorney's office in the country. Last month he said "If we imposed the death penalty, we wouldn't be able to get any of the true drug lords. It would be self-defeating."

Third. The death penalty diverts scarce resources from more effective uses. The cost of executing a person is enormous. In Florida, the full cost of a single execution is nearly $3.2 million. It is insane to sink $3.2 million into executing a single person when we are struggling to find adequate resources for measures that have been proven effective like drug treatment and putting more agents on the street. It is counterproductive and wasteful to spend millions of dollars killing a small percentage of drug dealers who commit murder when law enforcement agencies don't even have the resources to arrest all the drug dealers they know about.

I urge my colleagues to reject the rhetoric that the death penalty is tough on drugs. I urge my colleagues to resist the claim that it is politically dangerous to vote against the death penalty. The drug problem demands that we be honest with ourselves and the American people: It's time to admit that the death penalty will hurt, not help our antidrug efforts.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO], the chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Chairman, I rise in support of the amendment. The punishment called for by the amendment—life imprisonment, from which there can be no parole—is harsh and certain, but—under the circumstances set forth—deserved. The amendment will make it possible for Federal prosecutors to extradite from foreign countries drug kingpins who are flooding our Nation with deadly drugs. Most of the countries of the world will not extradite if the defendant is facing capital punishment. This amendment, therefore, would be more effective than a death penalty amendment in assisting Federal prosecutors to get drug kingpins out of circulation.

As a high-ranking police official in Detroit has noted, and as the number of homicides this year in our Nation's Capital will attest, "The risk of death is already great in the use and trafficking of drugs. The death penalty is ineffective." In addition, Federal prosecutors don't want it. To use an ineffective punishment deterimental to prosecutorial efforts, especially one that is irrevocable and precludes rectifying mistakes, cannot be justified and is not sound policy.

If there were any evidence to suggest that capital punishment deters, the issue before us might be closer—but there is no such evidence. The National Academy of Sciences has carefully studied the question of whether capital punishment deters and has concluded that the social sciences discipline cannot give us an answer. In fact, those States which have the death penalty have a significantly higher murder rate than those States which do not have the death penalty. The 5 States which have the highest number of murders per 100,000 population—Georgia, South Carolina, Florida, Alabama, and Texas—all use capital punishment. The States with the lowest murder rates—Minnesota, Wisconsin, Iowa, New Hampshire, and North Dakota—have abolished the death penalty. There is no empirical proof that the death penalty deters.

Drug traffickers live with the risk of death every day. Across the Nation we hear increasing reports of murders resulting from drug deals gone bad. Drive-by shootings are a frequent occurrence in many communities as drug gangs wage war against one another to protect their turf. Life in prison will give these criminals the opportunity to reflect on the nature of their crimes and weigh whether or not the money they obtained on revenge was worth the loss of their freedom. Life in prison is an onerous and lasting form of punishment which forces the criminal to face up to the cost of his violent act.

I urge my colleagues to support this amendment.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I believe it is time and appropriate at this juncture to explain to the Members of the House what we are about.

The gentleman from New York [Mr. RANGEL] has offered an amendment which everyone wants to support and seems able to support. Under the rule, the Rangel amendment, if adopted, would be followed then by the Gekas amendment. If the Gekas amendment should prevail, then the king of the mountain theme evolves and the last of the two amendments adopted would become the prevailing one on passage, and the other one would fall.

So it is my conviction that every Member of the House should vote in favor of the Rangel amendment, because what the gentleman seeks in his amendment is to make sure that life imprisonment is an option to be granted to a jury deliberating on a murder situation in the controlled substance violations which form the basis of this amendment.

What we want to do, though, is to go one further step after passing the Rangel amendment, and then have an up or down vote on the death penalty as the natural extension of the war on drugs following the Rangel amendment, to include life imprisonment in the Gekas amendment, but to give the jury the extra option of finding in an appropriate case that the death penalty should be applied as a remedy.

□ 1415

On that basis I speak on behalf of the Rangel amendment and have no opposition to it. It fits into the pattern that we want to establish for the law enforcement component of the war on drugs and ask everyone to follow closely. I will even not require a recorded vote on it. I do not know if the gentleman from New York [Mr. RANGEL] so plans. And then we would move into the debate on the Gekas amendment and the death penalty that it involves.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

I would like to ask the gentleman from Pennsylvania [Mr. GEKAS] a question.

If the Rangel amendment prevails and we had in the law mandatory life imprisonment, and somehow we found out that a mistake was made and the wrong person was sentenced to life imprisonment, could not the miscarriage of justice be remedied under the Rangel amendment, the life imprisonment provision while under the Gekas provision may not be remedied?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, I would be happy to yield to the gentleman if we are still within the 2 minutes. It is a long 2 minutes.

Mr. GEKAS. I thank the gentleman for yielding.

The question of a possible mistake in capital punishment has been in the picture since time immemorial and it is a serious question that the gentleman raises.

The opponents of the death penalty will always raise that and I understand that. While those who support and propose the death penalty will worry about that, there is no question about that. But it is our duty and the responsibility that we will meet to make sure that all the safeguards and all the traditional procedures to protect the one accused at whose hands the jury will be, to make sure that those things do not happen.

Mr. HUGHES. Mr. Chairman, I reserve the balance of my time. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has 11 minutes remaining and the gentleman from New York [Mr. RANGEL] has 8 minutes remaining.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in support of Mr. RANGEL's amendment

No other Western Nation uses capital punishment. However, nation's like China, Russia, and Iran still impose this remnant from the Dark Ages. Is this the kind of company we are proud to be keeping?

The American experience over the last couple of hundred years shows that death sentences simply do not work. If we want to be tough we will support the Rangel amendment.

Every law-abiding citizen is appalled at the rapidly increasing number of drug-related murders in our Nation. The most disturbing new twist in our ongoing drug wars is that law enforcement officers and innocent bystanders increasingly are being caught in the crossfire.

Under these circumstances, we all agree, strengthening the penalty for persons convicted of drug-related murders in warranted.

The only question is whether the death sentence is the appropriate penalty for drug-related murders.

Emotionally, the death sentence for drug-related murder has some appeal. Drug murders are among the most heinous and wanton crimes perpetrated against our society today. The ultimate penalty for the ultimate crime seems logical—on the surface.

Practically, however, those of you who want to impose the death sentence on drug-related murders face a classic catch-22 situation: The Constitution forbids the imposition of mandatory death sentences that deny defendants the opportunity to present and the jury the opportunity to weigh mitigating and extenuating circumstances. Two hundred years of experience with the death penalty in this country have shown that where juries have any discretion, they are extremely reluctant to impose a death sentence on their fellow citizens.

When the death sentence has been the penalty for a crime, juries have been willing to let palpably guilty defendants go free or to find them guilty of lesser offenses rather than bearing the burden of imposing the ultimate penalty.

As long ago as 1853, a member of the Alabama House of Representatives wrote that, if the death penalty did not actually allow a criminal to go free, it often resulted in a finding of guilty only for a lower grade offense, "however, fully proved may be the higher offense * * * this is because men have more humanity than the society which they establish. Because as a society, they enact laws, which in the moment they abrogate, in consequence of their inconsistency with the unconquerable feelings of our nature."

Before you cast your votes on the Rangel and Gekas amendments, I urge you to consider which would be a tougher penalty for drug-related murder—a mandatory life sentence which juries would be likely to impose, or a death sentence which juries, despite all the emotionalism surrounding drug-related murders, would seek to avoid?

I also urge my colleagues to consider that the last thing our overburdened courts need are more death penalty cases clogging up the system. As it is, what we must do to send the proper signal to young people who may be considering using drugs, is to make our court system more effective so that more drug dealers are indicted, convicted, and sentenced.

Finally, we must realize that quick-fix approaches like death penalty statutes only deflect our attention from the tough decisions that must be made to reduce drug consumption and violent crime associated with drug trafficking.

Specifically, we must provide resources sufficient to undertake a massive drug abuse education effort, because education works. If you have any doubts about the efficacy of education programs, witness the turnaround in attitudes and behavior on diet, physical fitness, drunk driving, cigarette smoking, and casual multipartner sex.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman.

Mr. Chairman, I rise perhaps in opposition to this. I wonder about my ultimate decision because of the language that is contained in the bill.

In the first case, I think the gentleman from New York misspoke when he said this is in contrast to the Gekas amendment which has a mandatory death penalty; as you know, it is not mandatory. It allows the jury to consider aggravating and mitigating circumstances. It would allow a death penalty constitutionally provided to be considered.

Second, if we read the gentleman from New York's amendment, it says, "shall be sentenced to life imprisonment." It does not say without possibility of parole.

As the gentleman knows, under the sentencing guidelines we established in the 1984 Comprehensive Crime Control Act, parole is abolished. However, those sentencing guidelines are currently under question in at least two courts in the United States. If the sentencing guidelines were found to be unconstitutional and parole were reinstated, it would allow, I am informed by the Justice Department, under the provisions of this particular amendment, someone to be paroled within 10 years. And we know the problem that we have in the State of Massachusetts with the current Governor of that State in terms of his parole authority.

So there is some concern on my part as to what we are actually doing here.

I would ask the gentleman if he could respond to that.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California can refer to the Governor of Massachusetts; I am not going to refer to the Vice President of the United States, however, But I would like to point out that we are legislating today based on existing law and if we do not have parole in existing law I hope the gentleman is not asking his colleagues to legislate on what the courts may finally rule as to what that law is.

Mr. LUNGREN. If I may reclaim my time, why did the gentleman not say, following "life imprisonment," the words "without possibility of parole?"

Mr. RANGEL. Because as long as we have existing law I am not going to say, notwithstanding what the U.S. Supreme Court may decide at some later date. And if indeed the courts change the law, assuming that we come back here next year then we will change the law to reach that objective.

Mr. LUNGREN. If I may reclaim my time, the gentleman just asked the gentleman from Pennsylvania a moment ago to consider what would happen if the death penalty were considered unconstitutional. I think it is fair to ask the gentleman the same thing and ask whether we have the possibility of parole under his provision.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the gentleman's amendment and in opposition to the amendment calling for the imposition of the death penalty.

Attaching a death penalty to the omnibus drug bill would be counterproductive to the central purpose of this legislation—to enhance our drug enforcement efforts, not hinder them. The death penalty has not been found to be an effective deterrent to murder and when applied to drug kingpins, such an amendment would actually work to the advantage of these criminals in avoiding being brought to justice. Most of the bigtime drug dealers engineer their society ravaging trade from the safety of foreign shores, immune from extradition to countries where they will face the death penalty. Indeed, the chief assistant U.S. attorney in Miami has called the move to attach a death penalty amendment to the drug bill self-defeating to their efforts. Do we actually want to pass an amendment which prosecutors on the front lines of battle oppose? I urge my colleagues to consider the practicality of attaching a death penalty amendment to the drug bill. It simply would not be a prudent strategy in combating these despicable characters.

Additionally, the death penalty would not serve as a deterrent to drug-related killings. There is no credible empirical evidence that the death penalty actually deters crime. Such an assumption would dictate that criminals make an analysis of the murder that they are about to commit, weighing the cost against the benefits. Such rational decisionmaking on the part of a criminal is highly questionable. If the death penalty serves as a deterrent to crime then one would conclude that States with capital punishment would enjoy lower crime rates than those without capital punishment. The facts do not reveal such a pattern. West Virginia has enjoyed the lowest crime rate in the Nation for the past 14 years—without a death penalty. The alternative of life imprisonment is far more efficacious.

Another factor which must be considered is the monetary cost of attaching a death penalty to the drug bill. Studies show that death penalty cases cost much more than life imprisonment cases. Should we be spending millions on the execution of a small percentage of criminals while effective drug enforcement programs are in dire need of more funding? Priorities need to be made in determining the most cost-efficient means to achieve victory in our war on drugs. The death penalty should not be held up as the means to this end but should be recognized as the smokescreen that it is—much hype but no results.

Finally, I would urge my colleagues to reject the death penalty amendment on moral grounds. As we debate a bill whose purpose is to save lives, it is a tragic irony that we are contemplating the state-sponsored taking of life. I believe that as a nation we must consider life sacred, from the moment of conception to the last breath of life. As human beings, our reasoning is fallible and therefore our decision to execute someone is also fallible and chillingly final. This potential for wrongful execution of an innocent person is too overwhelming to justify a paper tiger solution to a serious problem which plagues our society.

I urge my colleagues to support the Rangel amendment and reject the Gekas amendment.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is rather obvious, even though the debate seems to center on the death penalty, that basically the Rangel amendment does not deal with the death penalty but deals with mandatory life imprisonment, where there is an intentional killing of a police officer or other person in connection with a controlled substance offense.

I would ask the gentleman, am I not correct?

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct.

Mr. HUGHES. It is mandatory life imprisonment without parole, is that the gentleman's understanding?

Mr. RANGEL. There is no question that what I am saying is that we want to make the law certain. When a life is taken and it is drug-related that we make certain that the culprit goes to jail and not have the uncertainty of a death penalty, and by the same token that we are certain that if a mistake is made it could be reversed.

Mr. HUGHES. When somebody commits homicide on a police officer, he is generally going to go to jail. Now when you impose a mandatory prison term of life imprisonment, you have taken it one step beyond that and you have said to a sentencing judge that no other sentences can be considered. That individual is going to serve life imprisonment in prison without parole.

Now I hear a lot of arguments about deterrence. You know, deterrence to me is when you pass an ordinance in a town and you say, "If you park in front of a bank and you get a ticket it is going to cost you five bucks." Now you may think, "Well, gee, I am in a hurry so I will take the chance." Now when the municipality increases that to $25 you think twice about it. And if it goes to $100 and they threaten to tow your car away, you are going to think three times before you park there. That is called deterrence. I suspect that one of the reasons the gentleman is imposing a mandatory prison term is because he wants to send a signal—and I want to send that signal—to those individuals who kill a police officer in the line of duty or kill any other person in connection with a controlled substance offense, that there is no plea bargaining that issue. "Once you are convicted you are going to go to jail."

I am persuaded that it makes abundant good sense to support the Rangel amendment. That is what I intended to do.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. LUNGREN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LUNGREN. Mr. Chairman, I thought we were going to have opposition as well as support for this.

Mr. HUGHES. Mr. Chairman, I would be happy to yield to the gentleman one more time. I have been yielding very generously to that side of the aisle.

Mr. LUNGREN. I would like a little more time.

Mr. HUGHES. Mr. Chairman, I yield two additional minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, the problem with the recitation of facts is that currently the sentencing reform that we voted on is under attack in the courts. The parole commission has not yet gone out of existence. It is supposed to, if in fact the sentencing guidelines are upheld. The question I have is in the recitation of facts we are presenting to those in this body that this is a vote for mandatory life sentence without possibility of parole when in fact that may or may not be the case. And the only reason I raise it is that it could have been solved by a simple little insertion of words, "without possibility of parole."

So I think Members ought to be very well aware of what we are talking about. We are having problems in States with parole and with furlough and that is something that is on the minds of the American people. It seems to me it ought to be on our minds when we craft legislation here.

So I think it ought to be abundantly clear that the intent of the author may be mandatory life sentence without possibility of parole but in fact that is not what is in this provision. We know the sentencing guidelines are currently under review by the courts and have been found in at least one, if not two instances to be unconstitutional, which then allows the previous law to prevail and we already have a parole commission. So we ought not to fool ourselves. So if the debate is going to be the mandatory life sentence versus the Gekas amendment of death penalty, we should have had that debate because we should have had that amendment. Unfortunately, we do not quite have that amendment and people ought to know what we are doing, with their eyes open.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes a good point. Of course, any criminal statutes that we pass that creates a conflict with the sentencing guideline law is going to be in question.

Under existing law, however, this type of an offense, intentional killing of a police officer in the line of duty is already covered and it is without parole under existing law.

So no matter what the sentencing commission does or what happens to the sentencing commission guidelines in the courts of appeal, it seems to me that it will be without parole.

Mr. LUNGREN. So the gentleman is suggesting that current law already gives us this.

Mr. HUGHES. That is my understanding of current law.

Mr. LUNGREN. So this is a Trojan horse?

Mr. HUGHES. Basically we all know——

Mr. LUNGREN. No, I do not know.

Mr. HUGHES. That it is the hope that by passing Rangel that Gekas will not carry, in fact. That seems to be the conventional wisdom.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield briefly to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, this is a little bit confusing. Does not Rangel only apply to Federal offenses and not to State offenses?

Mr. HUGHES. Rangel applies only to Federal offenses and the intentional killing of a police officer in the line of duty or other persons in connection with a controlled substance offense.

□ 1430

The CHAIRMAN. The Chair will state that the gentleman from New Jersey [Mr. HUGHES] has 4 minutes remaining, and the gentleman from New York [Mr. RANGEL] has 4 minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, do I understand the gentleman says that the Federal law at the present time under the sentencing guidelines is a mandatory life term for killing a police officer, without probation or parole?

Mr. HUGHES. Mr. Chairman, if the gentleman will yield, that is under current law, under section 848, subsection (e), under current law.

Mr. VOLKMER. Then really Rangel does not do anything, and we are here for no real purpose.

Mr. HUGHES. Oh, yes, it does.

Mr. VOLKMER. Will the gentleman tell me what it does?

Mr. HUGHES. Mr. Chairman, if the gentleman will allow me to explain, it does. It makes this a new crime, intentional killing. All sentences under section 848, title 21, dealing with continuing criminal enterprises are without parole. That is current law.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

Mr. HUGHES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, we are creating a new offense, and the new offense is the intentional killing of a police officer in the line of duty, or other persons.

Mr. RANGEL. Mr. Chairman, if the gentleman will yield, will the gentleman tell the gentleman in the well that the Rangel amendment expands existing law?

Mr. HUGHES. There is no question about it.

Mr. RANGEL. It expands the law to make it a mandatory life imprisonment beyond those crimes already in the existing law.

Mr. HUGHES. That is absolutely correct. The gentleman is absolutely correct. The gentleman from New York [Mr. RANGEL] is creating an entirely new offense, the intentional killing of a police officer or other person in connection with a controlled substance offense. We do not have such a statute in existing law, and the gentleman is creating new law.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield for one question?

Mr. HUGHES. I yield briefly to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, let us assume that I commit such a crime and I am, as punishment, given life imprisonment without probation or parole and I am now in a Federal penitentiary and I make myself a shiv and I kill a guard. What are you going to do to me for killing a guard?

Mr. HUGHES. Is it in a Federal prison?

Mr. VOLKMER. You are going to stay there.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I rise in support of the Rangel amendment and in opposition to the Gekas amendment.

Mr. Chairman, for Congress to approve the death penalty would not only be ineffective, it would be immoral. Violence breeds violence, and the problems of drugs and crime will not be solved by resorting to more violence. The crimes that give us nightmares, and the daily crimes of mundane greed, are both symptoms of savage economic and social conditions. We must meet their challenge before they tear our society apart, but we must do so effectively and courageously, not incrementally and with cowardice.

The Rangel amendment gives us an effective and principled approach to drug-related crime: life imprisonment without possibility of parole will remove criminals from circulation just as surely as the death penalty. But that is as far as our rights over their lives can go. We do not have the right to kill—not even to kill criminals—no more in our capacity as public representatives than as private citizens; murder is murder no matter who does it. The correctness of the federally sanctioned death penalty becomes even more dubious when we realize that the true purpose of the death penalty is vengeance and retribution, since its failure as a deterrent is so well-documented by now.

Democratic principles demand that we forfeit some of our individual liberties for the good of the whole; but the same principles, as put forth by John Locke, deny that anyone can agree to forfeit his or her life. A principled and civilized society does not claim to have an absolute right of disposition over the lives of its citizens. To exact the ultimate price from a few individuals, and to select these individuals by arbitrary and unconstitutional means, would do little to increase public respect for law and order, or for the value of human life. The States would have to kill a person a day for 5½ years, just to execute all the persons now on death row, not even counting the 300 new convicts arriving annually. Do the American people really have the stomach to execute 2,000 people?

Most importantly, are the Members of the House prepared to renounce their unique historical role as mediators of the public passions? Are we, as Representatives, supposed to blindly follow those passions, whatever they may be, or are we supposed to reflect, to measure those passions against some standards of conduct and morality? When the public lusts for blood, is it our role to satiate and condone that lust? I assure you, we must make some real difference in the lives of those people who live in fear and despair, those who turn to crime or who are the most frequent victims of it, or it will be our blood they howl for, and rightly so. No government can ever rightly take the life of an individual, not for any reason of state, and especially not for any such reason as the desire for revenge and retribution. If we cannot do better than that, my distinguished colleagues, then we have not done our jobs.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, the debate over capital punishment is essentially a debate over values, a secure society, justice under rule of law, the sanctity of life itself. We are making value judgments about the kind of society in which we want to live.

The U.S. Catholic Conference 1980 bishops' statement on capital punishment made a very powerful statement about that issue:

> We should not expect simple or easy solutions to what is a profound evil (capital crime) and even less should we rely on capital punishment to provide such a solution.

The principal reason for advocating capital punishment is the deterrent value. Well, if capital punishment were a deterrent to crime, we might expect, in States which do not have capital punishment, that there might be a higher crime rate. We, in my State of Minnesota, do not have capital punishment, and we might expect that Minnesota would have a higher homicide rate than other States.

In fact, Minnesota has one of the lowest murder rates in the entire United States. It was in the bottom five of all States in per capita homicide rate.

The person who is about to commit murder in pursuance of drug activities does not sit down and rationally, thoroughly, carefully, coolly analyze the consequences of his action, including that it might cause his own death in a punishment carried out by society.

Capital punishment just simply does not work as a deterrent, but the certainty of punishment and the certainty of incarceration do work.

If you are looking for some way to punish, as the gentleman from New York so rightfully calls them, those bums, those thugs who deal in drugs, put them in jail and let them think about their crime for a lifetime. That is punishment. That will have deterrent value.

I urge support for the Rangel mandatory life imprisonment amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, let me say that there is no one in this House, perhaps no one in the Nation, who has been a more ardent fighter against the evil of drug and drug trafficking than the gentleman from New York [Mr. RANGEL]. When he tells us that adopting a mandatory or permissible death penalty in fact cripples the fight against drug traffickers, because it will make it more difficult to gain the extradition of criminals at the highest levels of drug trafficking from other nations, I think we ought to listen to him.

We also ought to bear in mind that less than 10 percent of the people who are charged with capital crimes in this country have private representation. The others have assigned counsel, many of whom do not have the requisite skill or experience to provide competent representation in a homicide trial. That is why there are such tremendous numbers of appeals. There is not enough fairness of representation to permit the application of the death penalty. It seems to me that both from a moral and pragmatic perspective, the wise thing to do is support Mr. RANGEL's amendment for mandatory life imprisonment, and to defeat the counterproductive death penalty amendment that the gentleman from Pennsylvania [Mr. GEKAS] will offer.

Mr. Chairman, I thank the gentleman from New Jersey for yielding time to me.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KASTENMEIER], a member of the committee.

Mr. KASTENMEIER. Mr. Chairman, I rise in support of the Rangel amendment and in opposition to the Gekas amendment.

Mr. Chairman, I support many of the efforts here today. Specifically, I support enactment of a law designed to effectively combat our Nation's raging drug problem. The bill that we are addressing today personifies the rage of the Members of this body, and, indeed, of the American people, over the tremendous wounds that we have suffered in our war against drugs. It says, we will take no more—this abuse must stop, and we will employ whatever legal and moral means we can to do so. But like rage, this bill is both legitimate and, sometimes, misdirected.

Invoking the death penalty clearly is the latter. By relying on this method of punishment, we put ourselves on the same level as those whom we aim to punish. Capital punishment takes a life as surely as criminal murder does, and deliberately destroying human life is as much a crime for the State as it is for a drug kingpin. As tempting and as dramatic a punishment as the death penalty may be, it is immoral. We cannot set aside our own morals to extract vengeance.

There are other reasons, beyond simple morality, which speak against the imposition of the death penalty. First, there is no convincing evidence that the death penalty is a more effective deterrent against crime than would be a mandatory sentence of life-in-prison with no possibility of parole, the alternative offered in the amendment by the gentleman from New York. Second, unlike with the gentleman from New York's alternative, if there is a mistake with the death penalty, there is no way to fix it; as Thomas Jefferson stated, "Until I shall have been convinced of the infallibility of human judgment, I shall always oppose the penalty of death." Third, the death penalty, traditionally, has been imposed in an arbitrary and racially biased manner; death row inmates are disproportionately poor, unskilled, uneducated, male and nonwhite. Fourth, death penalty cases actually cost taxpayers more money than life-in-prison cases—during the past few years, the State of Florida spent $57.2 million to execute 18 men; in New York, one capital case could cost the State upwards of $4 to $5 million. These are dollars that could be spent on law enforcement, drug rehabilitation programs, and prison construction, rather than in the pursuit of the punishment for one individual.

Fifth, imposing a Federal death penalty will usurp the traditional right of the States to determine appropriate penalties for criminal acts. In my own State of Wisconsin, that will mean compelling a State that abolished the death penalty over 100 years ago, to adhere to a Federal standard of punishment abhorrent to the majority of its citizens.

It is clear that the death penalty is not the magic solution to this country's drug problems. It will not deter drug use, it will not improve law enforcement programs, it will not fund rehabilitation programs, it will not protect our children and it will not save our addicts.

Imposing a Federal drug penalty will undermine the very moral foundation of this country. Yes, we must fight this war—but we must fight it on our term, not theirs. Therefore, I urge my colleagues to vote against the gentleman from Pennsylvania's amendment.

Mr. RANGEL. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. CONYERS] for the purpose of closing debate.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 1½ minutes.

Mr. CONYERS. Mr. Chairman, I am chair of the Subcommittee on Criminal Justice that has held extensive hearings, along with my colleague from Pennsylvania on this subject. I think most of us in this body who have listened to the debate during the period of time that we have had this subject matter under consideration, would agree that there is another and better way to protect society from those who kill. That is life imprisonment without parole.

Now, it is important that we look at the rest of the nations around the world; 45 of them have abolished capital punishment. The United States and South Africa are alone among the Western nations continuing executions. I think that this amendment speaks to where we want to go.

We have heard testimony at our subcommittee hearings indicating that the National Academy of Sciences has concluded that we cannot answer the question of whether or not the death penalty has a deterrent effect. If it were a deterrent, the homicide rate in America would not far exceed that in Western Europe, where the death penalty has been abolished.

It is those States that use the death penalty as we have heard here, that have the highest homicide rate, and those that do not use it, that have the lowest rates. I have a letter here which has been referred to from the chief assistant U.S. attorney for the Southern District of Florida, in which he points out the overwhelming problem in prosecuting major narcotics cases is that the highest level traffickers remain in safe havens in South and Central America, beyond the reach of the U.S. Justice Department. If we create a Federal death penalty, we would not be able to extradite them for prosecution of any of their crimes.

Let us support Rangel in this important amendment.

Mr. Chairman, I rise against the death penalty and in favor of Mr. RANGEL's proposal for lifelong imprisonment. Mr. RANGEL's amendment would foster a fairer criminal justice system. It avoids the potential errors in killing innocent victims. It avoids the problem of prejudice in the application of the death penalty. And it provides a more certain form of punishment.

We have already seen that there are major flaws in the application of the death penalty. There is no guarantee that innocent victims will always be acquitted. A recent study published in November 1987 listed the 350 death penalty cases in which innocent persons were convicted of capital crimes in the last century. Of these, 23 were executed. There are repeated stories of persons on death row who were within hours of execution before a stay was granted or a decision overturned.

The potential of killing innocent victims is inevitable because of the built-in biases in the system. Many defendants do not have adequate representation at the appellate level, so it is understandable that errors occur particularly in cases against minorities and the poor.

Furthermore, it is clear that the death penalty is applied in a discriminatory fashion. Although blacks constitute only 11 percent of the population at large, 39 percent of those executed in the last 12 years were black. Only 11 people—who were black—were executed for the murder of blacks and 86 people for murdering whites. Currently, blacks constitute 41 percent of those persons on death row, as of May 1, 1988.

Numerous research studies in jurisdictions around the country have shown that the death penalty is imposed in a racially biased manner, based either upon the race of the defendant or the victim. In 1980, a study of over 16,000 homicide cases in Florida, Georgia, Texas, and Ohio found that black defendants convicted of killing whites were more likely to receive the death penalty than were defendants of other races.

A 1984 study of Arkansas, Florida, Georgia, Illinois, Mississippi, North Carolina, Oklahoma, and Virginia found consistent discrimination based upon the defendant's race.

A 1987 study of capital cases in Colorado found that the killer of a white person is 20 times more likely to be sentenced to death than one who kills a black.

The most far-reaching study to date was undertaken by the Dallas Times Herald newspaper. In 1985, the paper reported that it had examined capital sentencing in 32 States and found that a person convicted of killing a white was 3 times more likely to receive a death sentence than if the victim were black.

Racial discrimination in a criminal justice system that claims to be fair and impartial is intolerable. But it is even worse when its effect is irreversable. The death penalty does not allow a later reevaluation of cases. We cannot save innocent people who were executed, possibly on false evidence or as a result of racial biases. A life sentence does allow, however, for a later reversal of a decision and the eventual release of an innocent defendant.

Life imprisonment makes sense for a number of other reasons. It is often a matter of chance that a person receives the death penalty as a sentence, and only 1 percent of those sentenced are executed. A life sentence, on the other hand, is applied uniformly to similar offenders and punishment is certain. Since parole is no longer an option, the surety of lifelong imprisonment may be an even greater deterrance than capital punishment for drug dealers who risk their lives every day. It is, furthermore, a more fitting form of punishment for our American criminal justice system, which has historically stressed rehabilitation over revenge. Lifelong prisoners have years to reflect on the nature of their wrongdoings; capital punishment merely responds with the same inhumane action.

On a purely practical level, life imprisonment without parole is better public policy. The death penalty has not proved to be a deterrent: Those States that have the death penalty have higher rates of homicide, and the homicide rate in America overall is far higher than in Western Europe where the death penalty was abolished.

Its greatest effect may be only to saddle the Government with higher expenses. The cost of keeping someone in prison for 40 years, according to the New York State Defenders Association, is $602,000. The cost of litigating a model capital case through the first 3 of the 11 levels of appellate review was $1.8 million. In my opinion, that is a poor alternative.

As chairman of the Subcommittee on Criminal Justice, I have held six hearings on capital punishment in the last 3 years. All of them have provided evidence that it would be a mistake to permit the use of the death penalty on a Federal level. I therefore urge my colleagues to vote against Representative GEKAS' amendment and for the wiser alternative proposed by Congressman RANGEL.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, nobody should be opposed, it seems to me, to the Rangel amendment. Those that support the death penalty should support the Rangel amendment. Those that are opposed to the death penalty should certainly support the Rangel amendment.

I think most people understand that anybody who kills a police officer in the line of duty in connection with a controlled substance offense should go to prison for the balance of his natural life, without parole.

I must say that I do support capital punishment. I have not made up my mind what I will do on the Gekas amendment, a far improvement over what we say by way of the Gekas amendment in the full Judiciary Committee. I think it has some flaws, and I am concerned about some of the aggravating circumstances which incorporate some of the essential elements of the criminal offense, as aggravating circumstancs. That concerns me.

I am also concerned over the fact that not only do we talk in terms of the intentional killing of a police officer, we add the language "other person," which gives me some concern in connection with the commission of controlled substance offenses. The Rangel amendment creates a brand-new offense, killing a police officer in the line of duty, and other persons in connection with a controlled substance offense, and it is worthy of this House's support.

Mr. DOWNEY of New York. Mr. Chairman, there is a saying, and perhaps some of my colleagues have heard it, that those who live by the sword, die by the sword. Funny how some pearls of wisdom never lose their punch.

Today we are debating the death penalty and its use as punishment in drug related murders, and there are those who would say that those of us who do not support the imposition of the death penalty for this or any other crime are somehow soft on drugs. The fact is quite the reverse—we are hard on the facts. And, as we have heard so frequently as of late, facts are stubborn things. The fact is that those who live by violence, like the Carlos Lehders of the world, will not comprehend, nor fear violence as punishment for their crimes. The key to squashing drug runners and drug kingpins who kill as part of their daily routine is not the severity of the punishment, but the certainty of punishment. I think that is a fact upon which we can all agree.

Mr. Chairman, as the deputy of the Detroit Police Department told the gentleman from Michigan [Mr. LEVIN], "the risk of death is already great in the use and trafficking of drugs. The death penalty is ineffective." Let's give drug dealers who kill a certain lifelong term in prison, not the threat of something they deal with every day—death. My friends, support the Rangel amendment for a swift and certain sentence of life imprisonment for drug dealers who kill.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. RANGEL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 410, noes 1, not voting 20, as follows:

[Roll No. 297]

AYES—410

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain

Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—1

Crockett

NOT VOTING—20

Alexander
Badham
Boulter
Cheney
Dowdy
Gibbons
Gingrich
Jones (NC)
Jones (TN)
Kemp
Martin (IL)
McCurdy
Mica
Packard
Spence
Stark
Torres
Towns
Waxman
Wilson

Mr. DONALD E. "BUZ" LUKENS and Mr. PEPPER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GEKAS: Page 205, after the matter following line 4, insert the following:

SUBTITLE M—DEATH PENALTY

SEC. 6801. DEATH PENALTY FOR DRUG-RELATED KILLINGS:

(a) ELEMENTS OF OFFENSE.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"DEATH PENALTY

"(e) In addition to the other penalties set forth in this section any person who, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this title or title III, intentionally kills any law enforcement officer or any other person, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by adding at the end the following:

"HEARING REQUIRED WITH RESPECT TO THE DEATH PENALTY

"(g) A person shall be subject to the penalty of death for any offense under this section only if a hearing is held under this section.

"NOTICE BY THE GOVERNMENT IN DEATH PENALTY CASES

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"HEARING BEFORE COURT OR JURY

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the the approval of the Government.

"(2) A jury impaneled under paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the appoval of the court that it shall consist of any number less than 12.

"PROOF OF AGGRAVATING AND MITIGATING FACTORS

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor. Where information is presented relating to any of the agravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to established the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the arugment. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"RETURN OF FINDINGS

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding idenfying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the agravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"IMPOSITION OF SENTENCE

"(l) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who by reason of a mental disease or defect, is unable to understand, that person's impending death or the reasons for it.

"MITIGATING FACTORS

"(m) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exlusive:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"AGGRAVATING FACTORS FOR HOMICIDE

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the vicitm.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt of anything of pecuniary value.

"(8) The defendant committed the offense after substantial planning and premeditation.

"(9) The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating this title or title III for which a sentence of five or more years may be imposed or was engaged in a continuing criminal enterprise.

"(11) The violation of this title in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"RIGHT OF THE DEFENSE TO JUSTICE WITHOUT DISCRIMINATION

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(2) Not later than one year from the date of enactment of the Anti-Drug Abuse Amendments Act of 1988, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1976; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this action.

"SENTENCING IN CAPITAL CASES IN WHICH DEATH PENALTY IS NOT SOUGHT OR IMPOSED

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of the imprisonment without the possibility of parole.

"APPEAL IN CAPITAL CASES

"(q)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28, United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with or the failure to find any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

"(4) In any post-conviction proceeding under section 2254 or 2255 of title 28, United States Code, seeking to vacate or set aside a death sentence, the court shall appoint counsel to represent any defendant who is or becomes financially unable to obtain adequate representation.

"REFUSAL TO PARTICIPATE BY STATE AND FEDERAL CORRECTIONAL EMPLOYEES

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 15 minutes and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

□ 1500

Mr. GEKAS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Gekas amendment to the omnibus drug bill which would allow the death penalty, under certain circumstances, for drug-related killings.

Our Nation is not vengeful. We are slow to anger and reluctant to punish. But there are some crimes which are so heinous, some behavior which is so reprehensible that a punishment fitting the crime must be administered.

Our Nation has known many challenges, it has been part of many great struggles, but never has any foreign enemy threatened so severely the heart and soul of our Nation the way drug trafficking and drug abuse have attacked our citizens and our institutions. Virtually every city, suburb, and town in our Nation has felt the impact of drugs and drug-related crime and violence. Our Nation is truly under siege.

A great deal more must be done to win the war against drugs. Most importantly, our children must be taught the dangers of drugs and learn why saying "No" to drugs means saying "Yes" to hope. But while we are educating our children, treating and rehabilitating our drug addicts, and beefing up our law enforcement agencies, the drug dealers are still going to murderous lengths to ensure that their poisonous drugs find a victim.

It is not an exaggeration to say that drug kingpins are mass murderers. Their distribution of poison is coldblooded, premeditated murder of thousands of Americans each year. Their evil drug trafficking activities amount to crimes against humanity. Their past victims are beyond our reach, but Mr. Speaker, their future victims might be our own children and grandchildren. We cannot and must not allow this to continue. We must send the death merchants a message that their activities are unacceptable, that our law enforcement officials will pursue and capture them, that our judicial system will try and convict them, and that, when appropriate, our judges and juries will sentence them to death for their heinous crimes.

The Gekas amendment to the omnibus drug bill makes it clear that the war against drugs is a war we intend to win. Accordingly, I urge my colleagues on both sides of the aisle to support this amendment.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the debate is over. It is over for all practical purposes. We are going to be arguing still remaining in this issue in the time that is allotted on the pros and cons of the death penalty, but the debate as far as the philosophical differences and whether or not the death penalty acts as a deterrent, that debate is over. It is time now to discuss how quickly we can put this penalty into effect, because the war on drugs cannot be won, cannot be fully fought without the ultimate weapon, the death penalty to be applied in the proper cases against the drug pusher, the trafficker, the dealer, who would kill in the furtherance of his enterprise.

We are not talking, as I have said time and time again, about theoretical cases. We are talking about cases that have hit the headlines over the last 15 years at a rapid pace. We are talking about a Federal judge who was killed at the direction of a drug dealer. We are talking about killings of drug law enforcement officers who in the furtherance of their responsibilities met the vengeance of a drug dealer.

We are talking about a law enforcement officer, a police officer, who in New York was assigned to guard a witness in a major drug case who was shot and killed at the insistence of a drug dealer operating, as the case unfolds, from a cell. So these are not theories we are talking about. These are actual cases.

The American public demands action in this war on drugs. There is not anybody in the Chamber who does not realize that it is the most sensitive and important issue of our time. It is now time for us to do the ultimate correct thing and to add the option to a jury of imposing the death penalty in the proper cases.

As we do so, we safeguard the defendants. We permit, we offer and we insist on all those constitutional guidelines that have been uttered by the Supereme Court to make sure that discrimination is eliminated from the application of the death penalty and that one who is finally faced with that possibility has been accorded all the rights under the Constitution and by the courts.

So we come to where we are. The death penalty is a deterrent, we will say. Others will not agree. The deterrent is a swift and final punishment, and that is the way it should be for those who would kill mercilessly for profit or for the furtherance of an enterprise that is bent on poisoning the public and ruining the lives of our children.

What is important to recognize where we are is that just as the gentleman from New York in his amendment emphasized how certain it would be to make sure that life imprisonment would be the punishment for an individual who would kill a law enforcement officer or anybody else during a controlled substance felony, we reiterate that that certainty applies even better to the death penalty, and in fact many would say and argue that the life imprisonment that the gentleman from New York advocates is more cruel, more barbarous, than the swift and certain execution that would go to a killer who has violated the law and has robbed a fellow American citizen of his life. In doing so, we are now at the point where the king of the mountain applies. When we finish the debate on this particular issue, a positive vote, a "yes" vote on the Gekas amendment, will automatically include the best of the Rangel amendment with respect to life imprisonment, but take that extra necessary step to allow a jury of the peers of the defendant in the proper case with the circumstances outlined in a second hearing to give that option to the jury to impose the death penalty in proper cases.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, this swift and certain penalty that the gentleman speaks of in terms of the death penalty, in 38 States now we have the death penalty. Twenty thousand people are murdered per year in this country. Four thousand per year are convicted of first degree murder. For 10 years, let us say, we are talking about 40,000 people who have been convicted of first degree murder.

Why do we only have 2,000 people on death row now?

Mr. GEKAS. Because what has happened is that when the death penalty was reinstituted by the States pursuant to the constitutional guidelines and the Supreme Court found indeed that the new methodology was proper for the imposition of the death penalty, it is so recent in our history that the experience and the body of case law has not been built up properly enough to promote the swift and certain punishment that those of us who feel it acts as a deterrent must be, and so that will come. We are in a transitional period right now where that swift certainty I will agree has not yet come, but it must, and one of the steps we are taking toward that is the Gekas amendment which I ask you to support so that you can guarantee the swift and certain punishment that is required to make the death penalty a deterrent.

Mr. CLAY. Mr. Chairman, if the gentleman will yield further, why are there 40,000 people on death row, whether or not they are executed swiftly? Four thousand people per year are convicted of first degree murder in this country and have been for the last 10 years, so an average of 40,000 people have been convicted of first degree murder, why are not 40,000 people sitting on death row now? Why are there only 2,000 people? Do we have a lottery system? Is it by chance that you sit on death row?

Mr. GEKAS. The answer, and I cannot yield any further, there are so many people want to speak further, maybe the gentleman can gain time from the opponents, but because of our safeguard system, the mitigating circumstance makes every case a unique case and it must be judged on it merits.

When one kills a law-enforcement officer in the pursuit of a case in which a controlled substance is being delivered to someone, that is an abject difference from someone who kills in passion in a barroom on whim. Those cases can be deliberated with all kinds of facts and circumstances to show the difference between them.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, I have only a brief question. I ask this because I have been getting some conflicting advice here. It is hypothetical.

If somebody is convicted of the possession of marijuana once, then has marijuana in their possession a second time and goes out and kills another person, under the amendment of my colleague, the gentleman from Pennsylvania, would that person be eligible for the death penalty?

Mr. GEKAS. In my judgment, the possession of marijuana, unless it is connected directly with the killing, would not be the kind of offense which would attach itself to the possibility of the death penalty. If the intentional killing was perpetrated to protect his cache of marijuana, to protect himself against being discovered as holding marijuana, that is a different thing; but the mere possession while he kills for vengeance or something like that, would not apply.

Mr. MILLER of Washington. Mr. Chairman, if the gentleman will yield further, that is helpful. In other words, he would have to be trying to acquire marijuana or protect it or sell it and commit the killing in connection with that to be eligible for the death penalty, not the killing just connected with mere possession.

Mr. GEKAS. That is correct. The jury would have to determine that there is a direct connection between intentional killing and his carrying that marijuana or other controlled substances.

Mr. MILLER of Washington. Mr. Chairman, I thank the gentleman.

Mr. GEKAS. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. RANGEL] for 15 minutes in opposition to the amendment.

Mr. RANGEL. Mr. Chairman, I rise in opposition to the Gekas amendment. I would like to say this, Mr. Chairman.

First of all, I would like to set the record straight that there has been no war against narcotics and there has not been since former President Nixon conducted that war, and there has not been one since.

Second, for those people who talk about this as some tool that is needed, some weapon that is needed in the war against drugs, why do we not go to the foot soldiers who are fighting the war?

There is nobody here who is fighting any war against drugs. We are supposed to provide the arsenal.

Now, let's look an area where the convictions are taking place, where the drugs are coming in. I refer you to a letter from the chief prosecuting attorney of the U.S. Department of Justice in the southern district of Florida, and notwithstanding what some of you think about the former Attorney General, it is still our Department of Justice and it is entitled to some respect by somebody.

Now, on September 1, 1988, this office said that:

U.S. ATTORNEY,
SOUTHERN DISTRICT OF FLORIDA,
Miami, FL, September 1, 1988.

Congressman CHARLES RANGEL,
House of Representatives, House Office Building, Washington, DC.

DEAR CONGRESSMAN RANGEL: I am writing in response to a telephonic request by Ed Jurith of your staff. Mr. Jurith asked if I would explain comments attributed to me in The Washington Post Newspaper article of July 26, 1988 regarding the death penalty for drug kingpins.

I testified before the Senate Foreign Relations Subcommittee on Terrorism, Narcotics and International Relations on July 12, 1988. I also testified before the House of Representatives Subcommittee on crime in Miami on June 27, 1988. I was questioned during my testimony in both hearings about my position on the death penalty for drug kingpins. I explained to the Senators and Congressmen present at those hearings, and I repeat in writing now, that the overwhelming problem in prosecuting major narcotics cases is that the highest level traffickers remain in safe havens in South and Central America beyond the reach of United States justice. I, personally, traveled to Spain on two occasions in order to attempt to get Spain to extradite cocaine kingpin Jorge Ochoa to the United States. He was, instead, sent to Colombia where he bought his way out of prison within two weeks. The Drug Enforcement Administration has done an outstanding job of identifying the leaders of cocaine traffic in the world. The United States Attorney's Office in the Southern District of Florida has indicted a substantial number of these drug kingpins. The United States must now enforce a foreign policy which makes it a priority to arrest and send major drug traffickers to the United States for trial.

Most of the countries in Europe and South and Central America will not extradite a defendant if that defendant faces the death penalty. In fact, in recent cases involving terrorism, the United States has had to agree to withdraw the death penalty from pending charges in order to get defendants extradited to the United States. Colombia, the home country of most of the world's largest cocaine traffickers, has abrogated its extradition treaty with the United States and no Colombians are being extradited at this time.

Mr. GEKAS. Mr. Chairman, will the gentleman yield on that point? It is an important point.

Mr. RANGEL. I am reading from the letter. The letter is here. He ends the letter on the next page.

He says that:

In order to get the cooperation of the government of Colombia and of other countries in Europe and South and Central America, the United States must extend its diplomatic efforts. Passing legislation which provides for the death penalty—

That of the gentleman from Pennsylvania—

would be useless in that the very defendants who might be subject to those penalties would not be extradited from their safe havens abroad. Further, the existence of the death penalty might provide an excuse to countries in Central and South America and Europe to refuse to cooperate in sending drug kingpins to the United States for trial.

It is my position that it should be the priority of both the State Department and the Justice Department that drug kingpins be indicted and brought to the United States for trial. I am opposed to any legislation which may interfere with that priority. It is for that reason that I have testified that capital punishment for drug kingpins would not be productive legislation."

Sincerely,

RICHARD D. GREGORIE,
Chief Assistant.

Now, why not have the gentleman respond to that on his time, because at this point I would like to reserve the balance of my time.

□ 1515

You will then be recognized to respond.

Mr. Chairman, I yield 2 minutes to the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, I rise in strong opposition to the amendment offered by Mr. GEKAS providing for the death penalty.

I believe that the death penalty is unconstitutionally applied. Despite the McCleskey decision, there is overwhelming evidence that race remains a factor in determining who is executed. Major studies in Georgia, and Florida, and of national execution patterns, have all reached the same conclusion: Those convicted of killing whites are far more likely to be executed than those convicted of killing blacks.

The death penalty also makes irrevocable any miscarriage of justice. It has been documented that at least 25 Americans later found to be innocent have been executed in the century.

There are a number of reasons why even those who favor the death penalty should oppose the amendment. First, this amendment will drain the resources the Federal Government must use in this war against drugs. In all 37 States that have a death penalty, capital punishment is already authorized for virtually the same crimes covered by this amendment. Under the amendment, the Federal Government would spend millions of dollars prosecuting offenses that are now handled by the States. These capital cases require both complex trials and lengthy appeals and are consequently many times more expensive than noncapital criminal cases. A recent study pegs the cost at $1.8 million for trial and first appeals alone. Time and money spend duplicating State efforts cannot then be spent in areas where the Federal Government can make a unique contribution, which is the driving force of this bill. Moreover, in States that have not authorized the death penalty for crimes covered by this amendment, Congress would be usurping the States' prerogative to determine punishment under their own criminal laws.

I think law enforcement officials make the strongest argument against this death penalty provision. A Detroit police officer was quoted as saying: "The risk of death is already great in the use and trafficking of drugs. The death penalty is ineffective."

And there is the testimony of a Federal prosecutor—the chief assistant U.S. attorney in Miami, the city that is at the hub of drug smuggling into the United States.

Last June before a Judiciary Subcommittee, Mr. Gregorie made clear that he is not opposed to capital punishment in all instances. But here is what he said about the death penalty with regard to drug offenses: "If you say we ought to have capital punishment for drug offenses, well, you have got to recognize that most of the countries of the world will not extradite to the United States an individual who might receive capital punishment. So that if we are going to try to capture the major drug lords of the world, you will not be able to do it if you have got capital punishment as the ultimate punishment of an offender."

This testimony makes clear that the U.S. prosecutor who must toil in the hotbed of drug smuggling considers the death penalty a detriment to his efforts to bring to trial the source of this terrible problem—the kingpins of drug trafficking.

The question then is: Do we want to throw a roadblock in the way of our hard-pressed prosecutors as they struggle day after day to bring the drug lords to justice? They don't want this death penalty provision. It would work to their disadvantage and to the advantage of the drug lords.

Finally, there is concrete evidence that shows that capital punishment does not deter crime. As cited by our colleague, Bill Clay:

"In Massachusetts, New Hampshire, and Washington, the average murder rate for the years when the death penalty was in effect are higher than when it was not in effect. Capital crimes in States such as Alaska, Iowa, Maine, Michigan, and Minnesota, which have no capital punishment, are no higher than States which impose it. In fact, the five States which lead in the number of murders per 100,000 population (Georgia, South Carolina, Florida, Alabama, and Texas) all use the death penalty. On the other hand, the States with the lowest murder rates per 100,000 population (Minnesota, Wisconsin, Iowa, New Hampshire, and North Dakota) have abolished the death penalty. Factors other than the death penalty are important in affecting the changes in murder rates in these States."

There is no evidence that capital punishment deters crime. We do have testimony that in this case it will deter law enforcement officers from bringing to justice drug lords who are at the heart of this tragic problem.

I urge my colleagues to defeat this amendment.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, the issue before us today is really very simple. I can understand somebody philosophically opposed to the death penalty, although I am not, but if we are going to have a death penalty for anything, we ought to have it for somebody who traffics in narcotics who does something that results in the death of another human being. It is just as simple as that.

The argument being made that extradition will not work or something, in this case is a bogus argument. Under the amendment by the gentleman from Pennsylvania [Mr. Gekas], there are a lot of people who are not in foreign countries who would be covered by this, an awful lot of major drug traffickers in our own country who deserve the death penalty, and we ought to give it to them.

As far as extradition of traffickers is concerned, our Justice Department does not think that is a problem. They expressed that, and one assistant U.S. attorney does not speak for them. I do not think it is a problem either.

If we are going to be serious in the criminal law dealing with drug trafficking, let us once and for all pass the death penalty as we did 2 years ago and make sure this country puts the proper law on the books to truly deter the drug kingpins, and that is the Gekas amendment.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Chairman, it would be a tragic and counterproductive mistake for the House to adopt the Gekas death penalty amendment.

First. The Gekas death penalty, if similar death penalties in the States are any indication, will be applied in a racially discriminatory manner. In certain cases, blacks are 4 to 10 times more likely to receive the death penalty than whites.

Second. The death penalty will have no deterrent effect. Some of the States with the death penalty have the highest murder rates and the worst drug problems in the country.

Third. It will hurt our efforts to obtain extradition of international drug kingpins, since most countries we work with in combating drugs will not extradite if death is a possible penalty.

Fourth. The death penalty will be enormously expensive, diverting resources from much more effective antidrug efforts.

More than most death penalty statutes, the Gekas provision suffers from serious ambiguities and flaws. For example:

First. The Gekas amendment may allow the admission of unconstitutionally obtained evidence in the sentencing phase. Subsection (j) states that "Any other information relevant to such mitigating or aggravating factors may be presented * * * regardless of its admissibility under the rules governing admission of evidence at criminal trials. * * *"

Second. The list of aggravating factors unfairly duplicates some of the elements of the crime, so that every defendant starts with at least one aggravating factor against him.

Third. The amendment allows consideration of the victim's vulnerability, which is unfairly inflammatory and prejudicial.

Fourth. The amendment may unconstitutionally limit the jury's consideration of mitigating factors by requiring the jury to make "findings" of mitigating factors and that they be proven by a preponderance of the evidence.

Fifth. Two of the mitigating factors listed are meaningless.

Sixth. The scope of appellate review may be so limited as to exclude most constitutional claims.

Seventh. The amendment does not specify a particular method of execution.

I urge you to vote "no" on the Gekas amendment. The Rangel provision on life imprisonment will significantly strengthen penalties against drug-related murder, and is subject to none of the problems posed by the death penalty.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, there were 10,000 drug-related murders in 1986, 10,000 drug-related murders. The drug dealers show no mercy on the street. They do not have to read anyone their rights. They continually kill anyone in their way including policemen. Just read your local papers.

Congress has dealt with this problem with a conscience. We have turned the other cheek. The truth is the drug dealers who kill have no conscience. As a former sheriff, I stand today voting 99 percent of the time with everybody, every Democrat, on this side.

I say this today: It is time to fight fire with fire. The American people are fed up, and they are tired of Congress simply talking, because just saying no is not enough.

Let me say one last thing. Members will see a direct impact if Congress imposes the death penalty today, and I urge the Members to pass the Gekas amendment.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, once again, perhaps unintentionally, we find ourselves engaging in mischievous legislative activity which can only mislead the public. This time the charade is cleverly disguised as an amendment promising execution of anyone convicted of murder while dealing in illegal drugs. It's misleading because the public will believe that this Congress at last is taking seriously the growing menance of illegal narcotics.

Official violence is not the answer to unofficial violence. Why do we—Members of this body—so engrained with moral and religious convictions that we open each session of Congress by asking God to give us guidance—why then, Mr. Chairman would we demean our Judeo/Christian heritage by adopting this amendment. Why do we feel it necessary to kill people who kill people to teach people who kill people that killing people is wrong. The most obvious contradiction in our collective moral illiteracy is believing that one injustice cancels another. Premeditated murder committed by Government is just as abhorrent, just as reprehensible, just as senseless as premeditated murder inflicted by the most vicious individual. Murder and capital punishment are one and the same. A judge, a prosecutor, a jury that conspire and calculate to take the life of a person are as guilty of murder as a wanton killer. What's morally impermissable for individuals cannot be rationalized as legally permissable for a group of individuals. That's the basis of mob psychology.

Supporters of this amendment claim that the threat of death is so awesome, so fearsome that those involved in the deadly business of illegal drugs will stop, will pause, will consider the consequences before killing someone who stands between them and millions of dollars in blood money.

Mr. Chairman what naivete. Or should I say what deception. These badmen with Colombian connections and in some instances, government protections challenge death 24 hours a day. The threat of capital punishment in 38 States has not deterred them from committing capital crimes and we all know it will not lessen their resolve to earn easy money and live in the fast line.

If we have any genuine intention of enacting responsible legislation to help law enforcement officials fight drug related criminal activity—we will reject all irrelevant amendments to the omnibus drug inititative and enact an effective law. We must not convey the idea that this amendment will protect innocent citizens from drug related criminals running rampant in our streets. Empirical evidence proves otherwise. Capital punishment will not stop a single mugging, a single burglary or a single murder and we must not fool ourselves into thinking that it will stop illegal drug abuse.

Mr. Chairman, if life is precious and I contend it is, and if deliberately taking of life is a most serious offense against civilized people, and I contend it is—then how can civilized people morally sanction that which they have legally outlawed?

There is no cause so noble that it alone is sufficient to validate the distorted concept that taking the life of one human being in order to set an example for other human beings is justifiable. That's the illogic confronting those who argue that capital punishment deters others from committing the same crime. Legal executions like illegal ones are nothing more than a solemn requiem to the failure of American society to understand the fine distinction between barbarism and civility. This amendment would make us coconspirators in a plot to eliminate corruption by becoming as corrupt as the corrupters. I urge defeat of the amendment.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, illegal drugs have had a terrible impact on America. Their use promotes crime and death. For those who would kill in the furtherance of the drug enterprise let them meet death.

I applaud the efforts of the committees which had jurisdiction over this bill. They've crafted a bill which, with proper enforcement mechanisms, could have a positive impact on the drug traffic in America. However, without strong deterrence measures, we'll have done little more than thump our chests.

The Gekas amendment, which calls for the death penalty for the drug thug who kill in the commission of their crime would put teeth in this bill.

In dealing with the drug problem, we must be realistic and pragmatic. Illegal drug activity is a dangerous threat to American society. However, the measures we now use to address the problem are not effective. We must take more decisive action. The Gekas amendment is decisive. Let's not kid ourselves, we are not dealing with jay walking here—we're dealing with first degree murder by those who are tearing at the very fabric of American society.

I would urge my colleagues to support the Gekas amendment to show that America is ready to get tough with the drug thugs who are poisoning society. Let's produce a bill tough enough to get the job done.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I am a hardliner on drugs. My record and activities in Washington and in my district manifest that. I don't like drugs and I don't like drug dealers. And I don't like what drugs do to the disadvantaged in our country—people who reach out to drugs for relief from the despair that dominates their lives.

In the war against drugs, we need a long-term plan, not shortcut proposals or shorthand slogans.

The administration's approach has been one of shortcuts and slogans. It has failed miserably.

The death penalty is essentially a diversion being used by some to cover up 8 years of irresponsibility and failure.

If this provision should pass, many of its proponents will offer it as an excuse for their lack of success in combating the drug peddlers who infest our society. "Ah," many will say, "if we had only had the death penalty."

The truth of the matter is that the death penalty wouldn't have made and won't make a dent in the drug problem. One thing can be said about the death penalty without fear of effective contradiction. It doesn't work. To make the point, the average murder rate in the 13 States that do not have the death penalty is 7.18. The rate in the 37 States that do have the death penalty is 9.02.

Instead of a death penalty, we need a real plan to solve the drug problem. We need rigorous interdiction of drug smugglers. We need courts that will throw the present book at drug peddlers. We need discipline in the schools. We need effective, active education about the horrors of drug abuse, and we need treatment for addiction.

In the war against drugs, America calls out for a blueprint, not a bumper sticker.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

The global violence that we have seen grow with the drug trafficking all across this country, the global violence calls upon the Congress of the United States, as the Representatives of the most victimized people in the world by the drug trade, to wield its most severe penalty for those who would kill in furtherance of this trade.

The gentleman from Missouri [Mr. CLAY] talked about how precious life is. Of course it is; that is why we are talking about this amendment. We are talking about a deterrent to murder.

The gentleman from New Jersey [Mr. RODINO] talked about the expenditure for the death penalty. We cannot look at the expenditure requirement when we are talking about dispensing justice, and we are talking about dispensing justice for the American people. The American people deserve better than what they have right now, and it is absolutely important, it is imperative, that the highest penalty we can dish out be dished out to those who would violently disregard our laws by taking the life of another.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the bill and in opposition to the Gekas amendment.

Mr. Chairman, the drug problem in America is an outrage and an affront to the vast majority of our citizens who work hard to earn a living and take care of their families, and who want to bring up their children in a drug-free society. As a father, I'm very concerned, too.

The current legislation being worked on in the House responds to the pleas that we protect that vast majority of Americans by getting tough on the users and pushers of drugs. And we should. But we need to be smart about this, as well as tough.

One important smart thing to do is education. This society has made enormous gains in recent years in dealing with two public health problems that kill many more people than hard drugs—alcohol and tobacco. We've made progress there by educating people about the health risks of alcohol and tobacco abuse. We need to give more credit to the common sense of the American people—they will change their behavior when they understand it involves life-threatening risks. And the earlier in life they learn these things, the better.

So, it is good news that this legislation seeks a really dramatic improvement in our public health education efforts to counter drug abuse. And, for those who are hooked, but want to change, it increases significantly the resources going into treatment and rehabilitation. Let's hope this will end the tragic reality in many cities where people who want help to get off drugs sometimes have to wait close to a year to get into a treatment program.

This bill does other smart things to fight the onslaught of drugs:

It beefs up resources for important DEA, FBI, Coast Guard, Immigration, and Customs programs to catch drug smugglers and keep drugs out of the country to begin with;

It increases assistance to States and localities and streamlines drug enforcement assistance to local jurisdictions;

It targets drug prevention and law enforcement funding at the youth gangs springing up in our major cities;

It supports our allies in Latin America who are battling on the frontlines against cocaine and marijuana growers, the drug mafia, and international terrorists; and

It gives law enforcement agencies new tools to detect and prosecute drug money laundering.

Passing this bill with these important provisions will be a tough and smart way to address our Nation's drug problem. It sends a message that we will be tough against users, smugglers, and dealers, but that we're smart enough to know that prevention and education are our first lines of defense. The bill also shows that, for those drug users who want desperately to kick the habit, Americans can also be compassionate.

One danger of bringing up this bill right before an election is that it will be more likely to attract politically motivated ideas that aren't smart at all, but which could win votes because they look tough. The proposal to apply the death penalty to killings related to a drug felony is one such idea: It looks awfully tough, but it sure isn't smart, and it will actually cause serious damage to our antidrug efforts.

No one can argue that the drug scourge isn't killing Americans. At the same time, the facts and the people on the frontlines of the drug war are telling us that the death penalty is not the smart way to fight drugs. The fact is, the death penalty provision that has been proposed as an addition to this bill will: First, prevent us from prosecuting and jailing international drug kingpins and murderers; second, have no effect whatsoever in deterring the drug-related crimes targeted for the death penalty; and third, cost U.S. taxpayers a lot of money.

And, as with the death penalty in general, it would also risk killing people convicted in error and unfairly discriminate against the poor and minorities. Add it all up, and we would be demeaning ourselves for no good result. That's not tough, that's not smart, and I won't support it. Even if it is "good politics" for an election year.

Let me elaborate briefly on these points.

First, this death penalty proposal would perversely keep international drug murderers, terrorists, and kingpins out of the reach of American prosecutors. The fact is—and all the tough people know this—almost all our extradition treaties with other countries preclude extradition to the United States in capital cases. So, for any drug murderer captured abroad—and given the international dimensions of the drug trade, many will be—the U.S. death penalty will be worse than an empty threat; it will actually save them from U.S. prosecution.

People should take the advice of Richard Gregorie, chief assistant U.S. attorney in Miami, whose office has indicted more drug kingpins than any other U.S. attorney's office in the country. In July, he stated: "You have to consider the practical consequences of what you're doing. * * * If we imposed the death penalty, we wouldn't be able to get any of the true drug lords. It would be self-defeating."

Second, no credible study has ever shown the death penalty to have any deterrent effect against crime. In this country, States with capital punishment often have a higher incidence of capital offenses than neighboring States which have no death penalty. In fact, the five States with the highest murder rate per capita have capital punishment. The five States with the lowest murder rate don't have capital punishment.

It's also clear that the violent, day-to-day world of drug dealers involves a much greater risk of the death penalty than any criminal prosecution. In Washington, DC, the number of suspected drug dealers murdered in the streets by other dealers or users this year alone is nearly double the number of people executed in the United States during the last 15 years. Yet that hasn't deterred those looking for enormous profits.

Third, cost. Estimates of the cost of prosecuting death penalty cases in this country, from trial through appeals to actual execution, range as high as $4.5-$7.3 million per case. Similar estimates of the cost to keep the same person in prison for life are about $800,000. Given our deficit and our overburdened judicial system, we have to wonder if we can't put our limited resources to better use.

Fourth, no matter how careful we try to be in our criminal justice system, it is a human system, and we make mistakes. Those mistakes happen in death penalty cases, too. And when they are discovered after execution, there is no remedy.

And finally, the facts show that a far greater percentage of poor and minority defendants end up being executed than their percentage of the offender population. We strive as a society for a criminal justice system that is blind to wealth or race, but we haven't gotten there yet. When the penalty is death, this shortcoming takes on added importance.

The drug problem is a massive one—there are no quick fix solutions. As a nation, and in each individual family that is touched by drugs, we have to be tough, but also smart. We have to stand up to electioneering and easy slogans and vote for what will actually work, whether it has the toughest sound to it or not. That's why I will not support adding the Gekas death penalty proposal to a bill that is in most other respects sound and effective.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

□ 1530

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Gekas amendment to H.R. 5210, The Omnibus Drug Initiative Act of 1988. I favor the imposition of more severe penalties for individuals convicted of a violent crime or of aiding in a drug felony and I believe that the threat of life imprisonment is the most effective deterrent to this type of violent crime.

In contrast, this death penalty amendment does not provide a means to deter the most serious violators of our nation's drug laws. Most major drug traffickers live and operate overseas and foreign officials will not extradite criminals to jurisdictions which practice the death penalty. The Gekas death penalty amendment would thus make it impossible for Federal drug enforcement officials to prosecute the most important drug lords.

In addition, the death penalty has been proven ineffective in deterring crime. Its poor performance with respect to drug-related crime can best be examined by looking at countries with death penalty statutes for drug trafficking convictions. In Malaysia, the Deputy Minister of Home Affairs stated in February 1986 that there had been an increase in drug trafficking despite the mandatory imposition of the death penalty for drug traffickers. In December 1985, the United Nations Expert Group on Counter-Measures to Drug Smuggling by Air and Sea stated that "the fact that capital punishment appeared on the statute books as the maximum penalty did not necessarily deter trafficking. The most effective deterrent was most assuredly the certainty of detection and arrest."

Life imprisonment is a more responsible allocation of federal resources. Numerous studies have shown life imprisonment to be much less expensive than the death penalty. In Florida, the average cost of trying a death penalty case and of executing an individual is $3.2 million. This is six times the cost of maintaining an inmate in prison for life without parole.

Mr. Chairman, our efforts should remain focused on finding real solutions to the drug epidemic. We need to improve and increase our drug treatment efforts, we need to provide more resources for our law enforcement agencies, we need to reduce the demand for drugs and we need to find ways to remove the inflated profits from drug trafficking. If we seriously intend to fight the drug problem in this country, we must not adopt an ill-conceived and costly death penalty provision which will only make it more difficult to arrest and prosecute drug traffickers. Thank you.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], chairman of the Subcommittee on Criminal Justice.

Mr. CONYERS. Mr. Chairman, I do not know what kind of appeal needs to be made at this point in the debate. I would just ask all Members who are deeply concerned about our not politicizing this issue to refrain from this drastic, ill-considered remedy.

It has been commented on across the country that this is the time to show how tough we are by putting in a death penalty amendment. I think it has been made clear time and time again in this debate that that is not the best way to go. It will not bring drug kingpins back from Central America, it will not change the statistics in the States that already have the death penalty. There is no proof that there is a deterrent effect to begin with, and for anyone to think that drug dealers are worried about life and death I think they are seriously misguided.

Vote down Gekas.

Mr. GEKAS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, I rise in support of the Gekas amendment that would establish the death penalty for murder during the commission of a drug related crime.

Public opinion polls have consistently shown that the American public overwhelmingly supports the death penalty, and rightfully so.

Throughout the country, drug dealers are literally getting away with murder, and the public is fed up with it. The American people want the carnage to stop and want Congress to put their lives and safety ahead of the lives of drug pushing murderers.

Although ACLU liberals might not agree, the enactment of the death penalty would do just that. It would put drug dealers on notice that it will no longer be business as usual, and it would let those drug pushers who murder to further their enterprise know that they will have the ultimate price to pay for their actions.

Mr. Chairman, the issue is simple. If we are indeed serious about eliminating murder associated with drug-related crimes, then we must make the penalty as severe as the crime. For this reason, the death penalty should be enacted into law.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, the question before us is a simple one, although a difficult and complex one. It is: Do you think the death penalty is appropriate under circumstances where an individual is killed intentionally by the perpetrator of a felony involving drugs? That is what the question is, simply put.

There are people of good conscience who disagree with the death penalty. I respect that. There are others, I think a majority in this House, who support the death penalty. I believe that the American people support a death penalty.

So the simple question is this: Do you think there ought to be a death penalty? If so, should it be invoked in cases involving someone committing a drug felony where that person intentionally kills another, whether or not that person is a law enforcement individual? That is the essential question.

We can talk about a lot of other things. We can talk about what we would want, how this politicizes or does not politicize this bill. But the fact is if Members support the death penalty under these circumstances, they should support the Gekas amendment.

Mr. GEKAS. Mr. Chairman, may I inquire of the time remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] has 2 minutes remaining and the gentleman from New York [Mr. RANGEL] has 2 minutes remaining.

Mr. RANGEL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Pennsylvania [Mr. GEKAS] is correct. The debate has already been over. We are not asked to make a legislative decision. We are asked to make a political decision before the election, and the truth of the matter is we already have a death penalty.

Thirty-six States have a death penalty. If Members believe in States' rights, they have it, and in 14 others if they want it they can get it.

The bums who are dealing in drugs are not afraid of the death penalty. They live under the fear of death every day. But they are driven by motivation of greed, and so they do not give a darn whether there is a death penalty or not.

But the warriors that we have jurisdiction over are the Federal warriors who have a responsibility for putting these people in jail, and they are saying if we enact this death penalty, then we allow them to seek safe haven in foreign countries that will not extradite them if we have the death penalty.

So what I am saying is why are we concerned about doing something just because it is an election year when the States, if they want to kill anybody for any purpose, can do it. The only handicap they have is the U.S. Supreme Court. Let these matters lie with the State legislative bodies. Let the Governors who believe that they want to execute, let them execute. But for us on the eve of an election to go to the American people and say that we are now giving tools to the prosecutors, tools that they are not asking for, I think is a cruel hoax to play on the American people. I think that we are going to end up with a pretty good bill.

If we can let this provision, which has not been enacted into law with all of the years that the Judiciary Committee has had to consider it, with all of the experts that they have, if they have not brought this to the floor yet, why is it that we want to attach it to this good legislation?

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from New York [Mr. RANGEL] asserts that the States, some of them, have the death penalty and they are applying it. But the gentleman sought it federally and felt that it was absolutely necessary for the Federal Government, for the Congress to get involved in the war on drugs. The gentleman from New York is not satisfied to allow the several States to do their own thing in the war on drugs, but knew deep down in his heart that the Federal Government and the Congress must act nationally and internationally to fight this war on drugs.

Mr. RANGEL. That is a good point. Will the gentleman yield?

Mr. GEKAS. Let me finish my point and I will yield to the gentleman.

Mr. RANGEL. Surely, that is a good point.

Mr. GEKAS. That is an excellent point, I agree.

Then on top of that, when we consider that the individuals we seek to protect, I say to the gentleman from New York, are those Federal Bureau of Investigation officers, the drug enforcement officers, and all of the other law enforcement officers across the country who are out there sacrificing their time, their energies, and their lives, and their blood, when necessary, to fight this war on drugs, this is designed to say to them we will protect you as best we can. There is no better way to protect them than to threaten the death penalty against those who would kill in cold blood the very individual whom we designate to go out and fight that war for us.

That is why we must have this death penalty. It is time to end this debate; it is time, after I yield to the gentleman from New York, to end this debate and to respond positively to the American people, who demand that we act as this death penalty provides.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentlman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Let me make it abundantly clear, if any Federal official is killed in any of these States, that does not preclude that State from executing the death penalty.

But what I am saying to the gentleman is this: that if those people who are working with the Federal Bureau of Investigation, with those dedicated people in the Drug Enforcement Administration, when they say they do not want it, then we should not shove it down their throats.

Mr. GEKAS. I seize back the balance of my time and say vote "yes."

Mr. LENT. Mr. Chairman, I am proud to rise in support of the amendment of the gentleman from Pennsylvania.

If I were to conduct an informal poll right now, asking my colleagues what they believed to be the most pressing problem facing our Nation today, I'm certain the majority would say "drugs." As representatives of the people, such a response would be appropriate given the fact that recent opinion polls indicate the Nation's insidious drug problem is foremost in the public's mind.

We, in Congress, make lofty speeches about the need to get tough on drug dealers who are terrorizing our neighborhoods. Well, today we have the opportunity to put those words into action. To miss this opportunity is to prove once again that "talk is cheap." While we sit idly by professing our commitment to the antidrug effort, it is open season for the drug dealers who brutally and indiscriminately kill law enforcement officers and other innocent people who get in their way.

Who among us wants the job of informing Officer Eddie Byrne's mother that her son's death at the hands of a drug dealer was in vain—that Congress lacks the resolution to mete out the supreme and just punishment to his killer.

The people of this country are calling for an end to the senseless drug-related violence that touches all of us. They are calling for tougher penalties for drug abusers and dealers. As representatives of the people we are obligated to heed this call for action.

Today, we have the opportunity to bring out the "heavy artillery" in the war on drugs. The Gekas amendment would provide for the death penalty against those who commit murder in the course of a drug felony. I urge my colleagues to join with me in supporting this amendment extending our policy of "zero tolerance" to the drug cartel's methods of brutality and demonstrating our commitment to combating the drug epidemic in this country.

Mr. MANTON. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Pennsylvania, [Mr. GEKAS]. The time to act is now; we must approve this important amendment to provide for the imposition of the death penalty for an intentional drug-related killing.

Mr. Chairman, the legislation before us today will fall short of our intended goals if we fail to enact this amendment. The time is long overdue for us to deal with these sleazy drug czars in the harshest manner possible, and in the only manner these merchants of death understand. I believe this amendment provides us with such a tool.

Our Nation's streets have become a free-fire zone. Drug dealers, drug users, and all too often police officers and even innocent bystanders have become the tragic victims of the illegal drug trade. We all know the sad truth. Every day we can pick up a newspaper and read yet another heart-rending story of some innocent citizen who has been gunned down by these sleazy dealers of death. These drug thugs have no regard for human life. We must present them with the very real possibility their dastardly acts will be met with the imposition of the death penalty.

I have spoken many times to this point. The sorrow and anger I feel over the execution style murder of a young New York City police officer, Eddie Byrne, who was guarding the house of a witness in a drug case, is as strong today as that fateful night 6 months age.

How can we in good conscience continue to ask our Nation's police officers to face this ever-present threat of death at the hands of drug dealers if we are unwilling to take the minimum step necessary to provide the ultimate punishment for the willful taking of life in our country?

The amendment offered by the gentleman from Pennsylvania is a good amendment. It is very similar in nature to legislation I offered earlier this year, H.R. 4278 and H.R. 4909. The latter of these two measures is identical to legislation introduced by my colleague from New York, Senator D'AMATO, and recently approved in the other body. This legislation, like the amendment before us here today, provides the much-needed ammunition in our war on drugs. I urge its approval.

Mr. BRENNAN. Mr. Chairman, drug-related crime has proliferated in our society to obscene proportions, and I understand that extreme measures are needed. However, taking the lives of those who commit these types of crimes is neither a reasoned nor a rational approach to the problem or the punishment.

I must express my disappointment that this body is today considering imposition of the death penalty for drug-related felonies. My own State of Maine rejected capital punishment in 1887—more than 100 years ago—and with good reason. The facts about this form of punishment have eliminated it as an option.

Studies on the subject historically indicate that the death penalty is not a deterrent to crime, any type of crime.

We also know that the death penalty has been traditionally applied in a racially disproportionate manner.

And we have found in practice that other nations are reluctant to extradite criminals, including drug kingpins, to countries where they might face a death penalty.

Let us not undermine our efforts in this war on drugs by putting up roadblocks to the apprehension of foreign drug leaders. To impose a mandatory life sentence instead of the death penalty would allow us access to these criminals and the opportunity to bring them to justice.

Mr. LAGOMARSINO. Mr. Chairman, I offer my unqualified support for this amendment. I have long been a proponent of imposing the death penalty for individuals committing murder in the course of dealing drugs. I am an original cosponsor of Mr. Gekas' amendment.

We must not allow police officers who face constant danger out on the streets to do so without being afforded some type of assurance that we recognize the peril which awaits them daily. We must offer them some form of protection. We can do this in no better way than by letting the drug pushers know that we will not tolerate our citizens and law enforcement officers being slaughtered indiscriminately.

By incorporating this amendment into the drug package we will most certainly add an extra deterrent to such crimes. Imposition of the death penalty for drug-related murders is no longer something to be considered—it must be accomplished and implemented. I believe then we would see a decline in the number of murders which are drug-related. The only way to deal with such violence is by a strict enforcement of such a tough law.

I urge my colleagues to vote in favor of this amendment.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the Gekas amendment and to the death penalty. Michigan abolished capital punishment in 1847, and like most of the people of my State, I believe capital punishment is morally wrong, ineffective as a deterrent, and even counterproductive.

The death penalty would be particularly counterproductive in the form in which it appears before us today, as a potential penalty for those who kill in the course of committing a drug felony. According to Federal prosecutors and State Department legal experts, those who deserve the severest penalties, the drug "kingpins" who direct the drug trade and profit the most from it, could actually benefit from the death penalty.

The reason is that most of the biggest drug traffickers, such as the leaders of the cocaine cartels, live abroad. And almost no country will agree to extradite any of its citizens to a nation where they face the prospect of the death penalty.

The U.S. attorney in Miami who has indicted more drug kingpins than any other U.S. attorney in the country says, "If we imposed the death penalty, we wouldn't be able to get any of the drug lords. It would be self-defeating."

We cannot afford to make it more difficult to bring drug traffickers to trial and to obtain convictions. I urge my colleagues to oppose the Gekas death penalty amendment.

Mr. DREIER of California. Mr. Chairman, I rise in support of the Gekas amendment to permit the death penalty for the intentional killing of a person in the course of committing or in the furtherance of a drug felony. The Supreme Court ruled in 1976 that the death penalty is constitutional, as long as certain procedures and safeguards are followed. The Gekas amendment establishes a constitutionally acceptable procedure for imposing capital punishment that would require an examination of the aggravating and mitigating circumstances surrounding each offense.

Mr. Chairman, tougher punishment is necessary to address the dramatic increase in drug-related crime. It has been demonstrated that such crime is more likely to include violence, particularly against police and increasingly against innocent bystanders. In light of this fact, we need to give prosecutors stronger weapons which will send a message that murder in the context of drug trafficking will not be tolerated.

I would like to share with my colleagues the results of a 1987 Los Angeles Times poll that showed 74 percent of the people questioned favored the use of the death penalty in certain instances. If this poll was conducted in my Los Angeles County congressional district today, I would promise you that the favorable response on capital punishment would be even greater.

The law-abiding citizens of Covina, Claremont, Glendora, Whittier, Pomona, and other communities in my district know the fear that comes from living near neighborhoods with armed street gangs involved in the drug trade. In many cases, these gangs have become well-organized, highly sophisticated criminal enterprises involved in national and international criminal activities. My constituents understand that these gangs do not value human life, instead they take it without compunction. Unfortunately, no deterrent seems to exist currently for this inhuman behavior. If there is a solution to this cycle of violence, I think the threat of the death penalty is it.

Finally, many of my colleagues have argued that foreign countries which arrest drug kingpins would be reluctant to extradite them to a death sentence. I believe it is important to point out that the Gekas amendment gives the Secretary of State the discretion to preclude the death penalty if that were the only way to bring such an individual before the American judicial system.

Mr. ROWLAND of Connecticut. Mr. Chairman, I rise in strong support of the Gekas amendment to H.R. 5210, the Omnibus Drug Initiative Act of 1988. This amendment will provide an important tool in the war against drugs. Clearly, strong steps are needed to reduce the epidemic of drug-related murders.

I am concerned with the increasing amount of drug-related crime and the fact that this type of crime is more likely to be associated with violence. Police and an increasing number of innocent bystanders are being killed by drug traffickers. Drug-related murders demonstrate a total disregard for civilized standards of behavior and the sanctity of life. I urge my colleagues to take an important step toward stopping the escalating number of drug-related killings and support the Gekas amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEKAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, noes 111, not voting 21, as follows:

[Roll No. 298]

AYES—299

Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Bosco
Boxer
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Cooper
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fields
Fish
Flippo
Florio
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Marlenee
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Moakley
Molinari
Montgomery
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Olin
Ortiz
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
St Germain
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traficant
Udall
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weldon
Whittaker
Whitten
Wilson
Wolf
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—111

Ackerman
Akaka
Atkins
AuCoin
Bates
Beilenson
Berman
Boggs
Boland
Bonior
Bonker
Boucher
Brennan
Brown (CA)
Cardin
Clay
Collins
Conte
Conyers
Coyne
Crockett
Dellums
Dixon
Downey
Dwyer
Dymally
Edwards (CA)
Evans
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gejdenson
Gonzalez
Goodling
Gordon
Gray (PA)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Jacobs
Jontz
Kastenmeier
Kildee
Kleczka
Kostmayer
LaFalce
Leach (IA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
McHugh
Miller (CA)
Miller (WA)
Mineta
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Nagle
Nowak
Oberstar
Obey
Owens (NY)
Owens (UT)
Pelosi
Penny
Rahall
Rangel
Rodino
Roybal
Sabo
Savage
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Slaughter (NY)
Smith (IA)
Smith (NJ)
Solarz
Staggers
Stokes
Studds
Synar
Tauke
Traxler
Vento
Visclosky
Weber
Weiss
Wheat
Williams
Wise
Wolpe
Yates

NOT VOTING—21

Alexander
Badham
Boulter
Cheney
Dowdy
Fazio
Jones (NC)
Jones (TN)
Kemp
Luken, Thomas
Martin (IL)
Martinez
McCurdy
Mica
Packard
Spence
Stark
Swift
Torres
Towns
Waxman

□ 1557

The Clerk announced the following pairs:

On this vote:

Mr. Torres for, with Mr. Towns against.

Mr. Jones of North Carolina for, with Mr. Waxman against.

Mrs. Martin of Illinois for, with Mr. Thomas A. Luken against.

Mr. Kemp for, with Mr. Fazio against.

Mr. DAUB and Mr. ROSE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEVIN OF MICHIGAN

Mr. LEVIN of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LEVIN of Michigan: At the end of the matter designated as a quoted subsection (1) in the matter proposed to be inserted, insert the following:

A sentence of death shall not be carried out upon a person who is mentally retarded.

□ 1600

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. LEVIN] will be recognized for 10 minutes.

Does the gentleman from Pennsylvania [Mr. GEKAS] seek recognition?

Mr. GEKAS. Yes, I do, Mr. Chairman, but I do not oppose the amendment.

The CHAIRMAN. Then the gentleman does not qualify.

Does the gentleman from New Jersey [Mr. HUGHES] seek recognition?

Mr. HUGHES. Mr. Chairman, I do not oppose the amendment in its present form.

Mr. LEVIN of Michigan. Mr. Chairman, I will yield half of my time to the gentleman from Pennsylvania [Mr. GEKAS], and perhaps that will solve the problem.

The CHAIRMAN. There being no Member seeking recognition in opposition, the gentleman from Michigan [Mr. LEVIN], under the rule, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment consists simply of one sentence: "A sentence of death shall not be carried out upon a person who is mentally retarded."

Two years ago in Georgia, Jerome Bowden was executed. Tests upon him indicated over the years that his IQ ranged from 59 to 65.

This year the Georgia Legislature enacted a law that prohibits execution in the case of a mentally retarded person. It was a bipartisan action that passed by a substantial margin. It had the support of the vast majority of the public.

As mentioned, my amendment would state simply that a sentence of death shall not be carried out upon a person who is mentally retarded. There is a well-established definition of mental retardation, and I would like to read it. It is brief. I know the gentleman from Pennsylvania [Mr. GEKAS] has a question regarding it.

The definition of "mental retardation" promulgated by the American Association on Mental Retardation and universally accepted in the courts states as follows: It states that a person shall be considered mentally retarded when they have "significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period." That is in the early period of their lives.

Under this bill, we do not execute children. I think it would be equally inhumane to execute someone who is mentally retarded.

Mr. Chairman, I urge support of this amendment.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the distinguished gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding.

Did the gentleman read into the record the definition as we agreed is the instant definition that is used nationwide?

Mr. LEVIN of Michigan. Yes; this is the present definition. It is subject to change, but it has not changed very much. The whole thrust is not to expand it; it is to focus it on those who are truly mentally retarded. So I think there is no danger here that there would be effective abuse by someone who inappropriately claimed mental retardation. The purpose of this is very much confined to prohibit execution of those who are mentally retarded.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for the explanation.

I rise in support of the proposition of the gentleman from Michigan, and of his amendment. I do so on two bases, on my inherent feeling and my own sympathies with the theme of mental retardation that caused me to support the amendment, but I want to make it abundantly clear that what we do here in placing the definition into the RECORD at the time of the debate on this amendment is meant, at least from my standpoint and that of others, to create that kind of legislative history which will guide both prosecutor and defense attorney, as well as the court, in the application of all of this, should a death penalty case arise, and then be confronted with a defense of mental retardation.

I also want to make it clear that it is my understanding that legislative history should reflect the thought that in the advancement of mental retardation as a defense, the burden, therefore, should be on the defense, which it will be, if the present structure of our system obtains. So the legislative history through my remarks should also reflect that.

Mr. LEVIN of Michigan. Mr. Chairman, I have inserted the definition, indicated the circumstances under which it is operated. As to raising the defense, I would agree with the purport of what you are saying, that that defense would be handled as any other defense would be when it came to this kind of a crime or the sentencing thereof, which may be operated under a different procedure.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. Mr. Chairman, I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding

Mr. Chairman, I commend the gentleman from Michigan [Mr. LEVIN] for this amendment. It is one that needs to be adopted. I also commend the gentleman from Pennsylvania [Mr. GEKAS] for supporting it.

Mr. Chairman, I rise in support of the Levin amendment which will prohibit the death penalty from being imposed on a person who is mentally retarded. Mental retardation is one specific type of a substantial disability which impairs an individual's capacity to understand and control his actions. There are two points that need to be made about mental retardation in this context and that need to be highlighted, first that mental retardation is permanent and, second, it can be measured in quantifiable scientific terms.

The level of mental retardation is determined by qualified psychologists, using one of several individually administered standardized general intelligence tests. These tests have been scientifically proven to be reliable and valid measures of ability and performance. A person is diagnosed as being mentally retarded, it is irreversible and incurable.

The American Association on Mental Retardation, the Nation's oldest and largest professional organization in the field of mental retardation defines a mentally retarded person as "someone who has significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period." This means a person with an IQ of 70 or below or less than 3 percent of the population. It is this definition which should guide the courts in determining whether an individual is mentally retarded or not.

Under this definition, an adult with mental retardation who is functioning at the highest levels only has the mental age of a 12-year-old child. Such an individual, because of his disability, cannot understand the nature of the death penalty, the nature of the court proceedings and cannot recognize and communicate facts to assist in his defense. In addition, the death penalty will not deter other individuals with mental retardation from committing drug-related murders because they are incapable of comprehending that the death penalty will apply to them if such a crime is committed.

Throughout the United States there is widespread sentiment from those who support the death penalty that it should not apply to people with mental retardation. In 1986, the State of Georgia executed an individual whose IQ was determined to be between 59 and 65. Public reaction in Georgia to this execution spurred the State to enact legislation prohibiting future executions of persons who are mentally retarded. It was the first State to enact such a law.

The death penalty is the ultimate punishment. It is reserved for those individuals sentenced by a court of law on the basis of their blameworthiness, moral guilt and personal responsibility.

People with mental retardation have substantial deficits in the areas of communication, memory, impulsiveness, and moral comprehension thereby limiting their ability to control and understand their actions. I believe people with mental retardation should be tried, convicted, and punished for any crime they commit. I do not believe the death penalty serves its purpose when applied to the mentally retarded.

I urge my colleagues to support and pass the Levin amendment.

Mr. GREGG. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from New Hampshire.

Mr. GREGG. Mr. Chairman, I thank the gentleman from Michigan for yielding.

Mr. Chairman, I respect the gentleman's amendment. I think it is an excellent amendment, one that is totally appropriate to the amendment that was just adopted relative to the death penalty, which I also think is appropriate and reflects the balance that this bill is reaching, on the issue of drugs, that we are addressing both sides of the question. We are addressing the enforcement side, to new initiatives in the area of coordination of police and coordination of our administrative forces, and also addressing the educational side of the drug questions, and especially the mental health side of the drug question, not only on this narrow issue, but a broader issue, setting up an alcoholic abuse area, which is also a drug.

I want to congratulate the gentleman on his amendment. We are certainly proceeding in the right way with it.

Mr. LEVIN of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, I rise to speak for this amendment to prohibit the death penalty for persons who are mentally retarded.

Mental retardation is a permanent and crippling disability. A mentally retarded person has the mind of a child, but he does not live in the world of a child and the world does not treat him like a child. Although a mentally retarded person may recognize that a particular act is right or wrong, he cannot understand or appreciate the magnitude of his actions or even the finality of death.

Capital punishment can serve as a deterrent only when the murder is a result of premeditation and deliberation. A person who is mentally retarded does not have the capacity to premeditate a crime or to understand its consequences, therefore the execution of a mentally retarded person does not serve as a deterrent. Instead, capital punishment becomes a cruel and excessive response, much like spanking a 6-year-old child for hitting a sibling 2 years after the act. The child has insufficient cognitive capacity to appreciate the length between his prior action and such belated punishment. The same is true with a mentally retarded person. Because I am the father of a 29-year-old mentally retarded son, and because of the knowledge and experience I have gained as a result of knowing and loving my William, I strongly urge you to support this amendment prohibiting the death penalty for persons who are mentally retarded.

Mr. LEVIN of Michigan. Mr. Chairman, I urge support of this amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. LEVIN].

The amendment was agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer amendments en bloc consisting of the amendments numbered 1, 2, 4, and 6 as printed.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments en bloc offered by Mr. EDWARDS of California:

In the portion of the matter proposed to be inserted that is designated as a quoted subsection (m), insert the following at the end of such quoted subsection (m):

"(5) The defendant was youthful, although not under the age of 18.

"(6) The defendant did not have a significant prior criminal record.

"(7) The defendant committed the offense under severe mental or emotional disturbance.

"(8) Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(9) Other defendants in other cases who were equally culpable have not been sentenced to death.

"(10) The victim consented to the criminal conduct that resulted in the victim's death.

"(11) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

At the end of the portion of the matter proposed to be inserted that is designated as quoted as subsection (r) insert the following:

SEC. 6802. GAO STUDY OF THE COST OF EXECUTIONS.

(a) STUDY.—No later than three years after the date of the enactment of this Act, the Comptroller General shall carry out a study to review the cost of implementing the procedures for imposing and carrying out a death sentence prescribed by this title.

(b) SPECIFIC REQUIREMENTS.—Such study shall consider, but not be limited to, information concerning impact on workload of the Federal prosecutors and judiciary and law enforcement necessary to obtain capital sentences and executions under this Act.

(c) SUBMISSION OF REPORT.—Not later than four years after date of the enactment of this Act, the Comptroller General shall submit to Congress a report describing the results of the study.

At the end of the portion of the matter proposed to be inserted that is designated as a quoted subsection (k) insert the following:

The jury or the court, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall be so instructed.

Strike out the last sentence at the end of the portion of the matter proposed to be inserted that is designated as a quoted subsection (l), and insert in lieu thereof the following:

A sentence of death shall not be carried out upon a person who, as a result of mental disability—

(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. EDWARDS] will be recognized for 10 minutes.

Does the gentleman from Pennsylvania [Mr. GEKAS] seek recognition?

Mr. GEKAS. I do, Mr. Chairman. I oppose the amendment as it is now constituted.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, these four amendments address some of the ambiguities that I see in the Gekas amendment.

Amendment No. 1 specifies additional mitigating factors that a jury may consider. The jury can impose the death penalty even if it finds one or more of these factors. The amendment merely makes it clear that the jury can consider them.

□ 1615

The Superme Court has held that the jury is entitled to consider any factor in mitigation. It is only fair that the factor should be listed in the statute as fully as possible, and this amendment will specify seven additional factors, including a general one based on the language of Supreme Court cases. Each of these additional mitigating factors has been adopted by one or more States.

The No. 2 amendment requires a GAO cost study, evidence from the States to indicate that imposing the death penalty is enormously expensive, as high as $3.2 million per execution, taking into account prosecutorial and court costs, appeals and maintenance of death row. This amendment clearly requires the GAO to study the cost of a Federal death sentence. Implementation of the death penalty would not be contingent upon completion of this study.

Amendment No. 4 provides that the judge or jury is never required to impose the death penalty. Note that the Supreme Court made it clear that the sentencing authority, whether judge or jury, always has discretion to exercise mercy and never is required to impose a death sentence. This amendment requires the jury to be so instructed.

The last amendment, No. 6, prohibits the execution of mental incompetents. The Gekas amendment already prohibits the execution of mental incompetents, and the amendment by the gentleman from Michigan [Mr. Levin] implements that. This amendment that I am offering expands the language in the Gekas amendment so that it conforms to the definition of incompetence recommended by both the American Bar Association and the American Association on Mental Retardation.

Mr. Chairman, I urge approval of the amendments en bloc.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, as I stated at the outset, I rose in opposition to the amendment as originally presented by the gentleman from California [Mr. Edwards] and printed in the Record.

Since that time, Mr. Chairman, the gentleman from California and I through our respective staffs have arrived at an agreement on which portions of his amendment are perfectly acceptable and portions which are not. The gentleman from California has correctly indicated those segments which are agreed to, and, therefore, I will not oppose the amendment and urge its passage.

One thing that ought to be stated for the Record with regard to No. 6, which has to do with the mental competency, and mental disability and so forth of the Levin amendment which was passed just before we encountered this amendment is separate and apart from the gentleman from California's No. 6.

Mr. EDWARDS of California. If the gentleman will yield, that is correct. These are separate amendments.

Mr. GEKAS. On that basis I know of no one who opposes the legislation in the amendment, and I would urge a positive vote.

Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California [Mr. Edwards].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Conyers:

Strike out the portion of the matter proposed to be inserted that is designated as a quoted subsection (q), along with its heading, and insert in lieu thereof the following:

"Counsel for Financially Unable Defendants

"(q)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime which may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert or other reasonably necessary services at any time either—

"(A) before judgment; or

"(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (2), (3), (4), (5), and (6).

"(2) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(3) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had no less than three years experience in the handling of appeals in that court in felony cases.

"(4) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications for writ of certiorari to the Supreme Court of the United States, and all available post-conviction processes together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(5) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under paragraph (6). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(6) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (5), at such rates or amounts as the court determines to be appropriate in order to provide such defendant with representation by counsel and other services as nearly equivalent as possible to those available to defendants who are financially able to obtain such representation and other services for their defense and appeal, and for the prosecution of any of the proceedings described in paragraph (4).

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment as it is presently constituted.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. Conyers] will be recognized for 10 minutes and the gentleman from Pennsylvania [Mr. Gekas] will be recognized in opposition for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Conyers].

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask unanimous consent to modify this amendment as indicated on the revised copy.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment as modified, offered by Mr. Conyers: Strike out the portion of the matter proposed to be inserted that is designated as a quoted subsection (q), along with its heading, and insert in lieu thereof the following:

"Counsel for Financially Unable Defendants

"(q)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime which may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert or other reasonably necessary services at any time either—

(A) before judgment; or

(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (2), (3), (4), (5), and (6).

"(2) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(3) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

"(4) With respect to paragraphs 2 and 3, the Court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

"(5) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications for writ of certiorari to the Supreme Court of the United States, and all available post-conviction processes, together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(6) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under paragraph (6). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(7) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (5), at such rates or amounts as the court determines to be appropriate in order to provide such defendant with representation by counsel and other services as nearly equivalent as possible to those available to defendants who are financially able to obtain such representation and other services for their defense and appeal, and for the prosecution of any of the proceedings described in paragraph (4).

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment as modified be considered as read, and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. GEKAS. Mr. Chairman, reserving the right to object, I believe that the gentleman from Michigan is offering language to which we agreed that would modify paragraphs 2 and 3.

Is that correct?

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, the gentleman from Pennsylvania is absolutely correct.

Mr. GEKAS. When the Clerk was reading the language of the amendment, I believe that she was referring to language that already was part of the original amendment. I think it would be proper for us now to repeat for the Record the new language.

The CHAIRMAN. The Clerk will complete the reading of the amendment, as modified.

The Clerk concluded the reading of the amendment, as modified.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

The CHAIRMAN. The gentleman from Michigan [Mr. Conyers] is recognized.

Mr. CONYERS. Mr. Chairman, I would like to explain to my colleagues the importance of this provision to provide adequate representation to persons on death row. While State courts appoint lawyers for indigent defendants, there is no legal representation automatically provided once the case in appealed to the Federal level. What has been happening is that it is becoming increasingly difficult to identify counsel throughout the country willing and able to accept the appointment in a growing number of capital cases for which representation is required.

Mr. Chairman, what we propose in this amendment to Mr. Gekas' earlier death penalty amendment is to provide a way to require that there be a certain level of skill for the lawyers that accept these cases for trial and on appeal. Capital cases involve a complex and highly specialized body of law and procedures, and inexperienced court appointed attorneys have often had difficulty coping with such cases.

In June 1984 the chief of the 11th Circuit Court of Appeals stated that in the death penalty cases receiving Federal court review in his circuit, they have found error of a constitutional dimension in over half. In an amicus brief filed by the NAACP Legal Defense Fund in the 1983 Supreme Court case of Barefoot versus Estelle, the organization argued that between 1976 and 1983 the Federal courts of appeals decided in favor of the condemned inmate in 73 percent of their death penalty cases.

So with this high rate of error being found in capital cases by the Federal judiciary and with the strong possibility that it in part is the result of the defendants having received inadequate legal representation at the trial level, this amendment is essential to reducing the amount of litigation associated with capital cases while providing maximum protection of the defendants' constitutional rights. What we propose is a requirement that the lawyers in these cases have sufficient experience that will enable them to handle these very difficult cases. If an appointment is made, we want to make sure that the attorney appointed has been admitted to practice in the court in which the case is to be tried for not less than 5 years and must have had not less than 3 years experience in the actual trial of felony cases in that court. If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than 5 years and again must have had not less than 3 years experience in handling of appeals in the court in felony cases.

The additional amendment to which we have agreed provides that the court, for good cause, may appoint an attorney who does not meet the above criteria, but whose background, knowledge or experience would otherwise enable him or her to properly represent the defendant with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation. In other words, Mr. Chairman, we are creating a small opening for the court to use its discretion and waive the experience requirements set out in paragraphs 2 and 3 of my amendment.

I would like to seek the agreement of the ranking member of the Subcommittee on Criminal Justice on a question which I would like to pose to him now about this newly added provision. I want to be sure that it is understood by not only him, but everyone in this Chamber, that the defendant would have the right to appeal a decision that the court made with reference to the appointment of a lawyer for a death penalty case who may not have met the requirements that are set forth in paragraphs 2 and 3.

Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I thank the gentleman from Michigan [Mr. Conyers] for yielding.

There was nothing in the new language to which we are agreed that would harm the defendants' already established set of rights to object to the persona of the counsel appointed or to the background or experience of that attorney.

Mr. CONYERS. The gentleman is correct, and I take it then that the gentleman agrees with me that this could be a matter that the defendant could take an appeal from.

Mr. GEKAS. The gentleman is correct.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Pennsylvania, and I hope that he would approve and give his concurrence to what I think is a very, very important part of any death penalty legislation, the requirement that appointed counsel possess a specific amount of legal experience. Adequate representation will cut down the amount of constitutional error that has been found so far in death penalty cases that have gone back up on appeal because of the inexperience of the particular appointed lawyers in this kind of case.

Mr. Chairman, I reserve the balance of my time.

□ 1630

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, by way of repetition really, we want the record to indicate that the court in the cases where the death penalty has been imposed or even before that, someplace along the line of litigation that the court would have to look first to the language that is employed in the amendment of the gentleman from Michigan, and if per chance the court cannot find or make available to the defendant an attorney with the specified background and experience as we have in this language, then the new language to which we have agreed would permit that court to look elsewhere, but still fill the need that the defendant evinces in his quest for overturning the death sentence. We agree that should occur.

The only other element that I wish to place in the record is this, that being a proponent of the swift and regular application of the death penalty once it is imposed, I do not want this to be viewed by the gentleman from Michigan or anybody else or utilized as a dilatory tactic or in any way to thwart the final will of the jury which has imposed the death penalty, but rather to accord the defendant all the rights which I feel are already his and to expand them to the extent that the qualifications of the counsel shall be without question.

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, if I might be recognized one final time, I want to thank my colleague, the gentleman from Pennsylvania, for acceding to this amendment.

I think it is critical that competent counsel be appointed in death penalty cases. I think we have covered every contingency very well. I am satisfied that this will be an important improvement in the death penalty.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. CONYERS].

The amendment, as modified, was agreed to.

AMENDMENT, AS MODIFIED, OFFERED BY MR. ORTIZ

Mr. ORTIZ. Mr. Chairman, I offer an amendment, as modified.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. ORTIZ: Page 163, after line 12, insert the following new sections:

SEC. 6161. USE OF THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND TO ASSIST STATE AND LOCAL PENAL FACILITIES.

(a) IN GENERAL.—Section 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(9)(A) In addition to the purposes specified in paragraph (1) of this subsection, the fund shall be available to the Attorney General, without fiscal year limitation in such amounts as may be specified in appropriation Acts, to assist State and local governments in providing for construction, expansion, maintenance, and operation of penal facilities. Not more than 50 percent of the the total amount that—

"(i) is paid under this subsection with respect to a State or local law enforcement agency in a fiscal year; and

"(ii) is based on shared law enforcement effort by a Federal law enforcement agency and such State or local law enforcement agency;

shall be available for construction, expansion, maintenance, and operation of penal facilities by the State or local legislative authority with responsibility for penal facilities for such State or local law enforcement agency. The specific percentage under the preceding sentence shall be determined by the State or local legislative authority involved. No amount shall be available under this paragraph for support of a penal facility that is operated by a nongovernmental person by contract or otherwise.

"(B) The State or local legislative authority shall make the determination referred to in subparagraph (A) not later than 150 days after notification by the Attorney General that funds are available for the purpose of this paragraph. If that authority does not so make the determination, the amounts involved shall be available as otherwise provided by law.

"(C) As used in this paragraph, the term 'penal facility' means a prison, jail, correctional institutional, or other penal facility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to fiscal years beginning after September 30, 1988, and ending before October 1, 1990.

SEC. 6162. USE OF THE CUSTOMS FORFEITURE FUND TO ASSIST STATE AND LOCAL PENAL FACILITIES.

(a) IN GENERAL.—Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended by adding at the end the following new subsection:

"(g)(1) In addition to the purposes specified in subsection (a) of this section, the fund shall be available to the Commissioner of Customs, without fiscal year limitation in such amounts as may be specified in appropriation Acts, to assist State and local governments in providing for construction, expansion, maintenance, and operation of penal facilities. Not more than 50 percent of the total amount that—

"(A) is paid under this subsection with respect to a State or local law enforcement agency in a fiscal year; and

"(B) is based on shared law enforcement effort by a Federal law enforcement agency and such State or local law enforcement agency;

shall be available for construction, expansion, maintenance, and operation of penal facilities by the State or local legislative authority with responsibility for penal facilities for such State or local law enforcement agency. The specific percentage under the preceding sentence shall be determined by the State or local legislative authority involved. No amount shall be available under this subsection for support of a penal facility that is operated by a nongovernmental person by contract or otherwise.

"(2) The State or local legislative authority shall make the determination referred to in paragraph (1) not later than 150 days after notification by the Commissioner of Customs that funds are available for the purpose of this subsection. If that authority does not so make the determination, the amounts involved shall be available as otherwise provided by law.

"(3) As used in this subsection, the term 'penal facility' means a prison, jail, correctional institution, or other penal facility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to fiscal years beginning after September 30, 1988, and ending before October 1, 1990.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment and would like to claim the time under the rule.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. ORTIZ] will be recognized for 10 minutes, and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Ortiz amendment addresses an important aspect of our war against drugs that has been ignored for too long.

This is the problem of prison and jail overcrowding which is not only threatening the integrity of our criminal justice systems and endangering our homes and communities.

This crisis is also seriously hampering our battle against the spread of illicit drugs.

Tougher drug laws are of no use if there is nowhere to put the criminals who break them.

At the State and local level in particular, overcrowding is having a devastating effect on drug enforcement efforts.

And yet, while these governments form the front line in the war against drugs, the omnibus bill we are considering contains no assistance for State and local penal systems.

Imagine the frustration of the men and women who put their lives on the line every day, when those they arrest for drug offenses are immediately released on their own recognizance, are allowed to go free after serving only a small portion of their sentences, or cannot be sent to jail at all—all because of overcrowding.

Mr. Chairman, my amendment would address this dilemma in an innovative and cost-effective way.

Under current law, local law enforcement agencies are entitled to a percentage of the returns realized when they cooperate with Federal officials in drug arrests and seizures.

Through a program known as equitable sharing, these local law enforcement agencies receive a percentage of forfeited property according to the degree to which they participated in the investigation and arrests.

My amendment would make up to 50 percent of these moneys available to the corresponding State and local governments for use in prison and jail construction, expansion, maintenance, and operations.

Contrary to what OMB is saying, use of the money for these purposes, would not be mandatory.

State and local governments would be allowed to determine their own funding priorities regarding prisons and law enforcement by leaving all or part of their 50 percent share in the hands of their law enforcement agency.

And because this is based on an existing program using the seized assets of drug offenders, it would be of virtually no additional cost to the American taxpayer.

Because overcrowding is both a cause and an effect of drug related crimes, it is only logical that these monies from Federal assets forfeiture funds be made available to help alleviate this problem.

Mr. Chairman, my bill is about common sense and flexibility.

It is a matter of common sense that tougher drug laws are useless if we do not help provide for the facilities to back them up.

And this amendment simply gives State and local governments the flexibility to use seized asset revenues for prison expansion if they wish. It simply gives them an option they do not have at this time.

In sum, Mr. Chairman, the Ortiz amendment makes sense. And I hope my colleagues will support and vote in favor of this measure.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly agree with the gentleman from Texas that his efforts and our efforts ought to be devoted as much as possible when we have the resources to providing the prison systems that are necessary in this country to house those who are drug dealers and those convicted of other heinous crimes. We do not have enough prison space in this country and we do need to marshal those resources; however, from my reading of the amendment that has been offered today in the form that has been changed by agreement earlier, I cannot bring myself to support this provision. The reason I cannot in large measure has to do with the fact that we in our Subcommittee on Crime who address the forfeiture area have not had an opportunity to examine this proposal. We have had no hearings on it. We have had no chance to go back and talk with our local law enforcement officials and our local government leaders. It seems to me on the face of it that we have changed fundamentally the power structure of who gets to decide how the forfeited resources are used.

In addition to that, under present forfeiture laws that we have on the books, the moneys that are captured by local law enforcement today as a result of their assistance in any apprehension dealing with a drug trafficking matter, those funds, those forfeited assets, may indeed be used to construct prisons. There is no prohibition in the laws and this amendment would not add any power in that regard to the local government.

What this amendment appears to do is to change the power structure at the local level so that instead of the local sheriff or the local police chief being able to decide how those forfeited assets can be used, the county commission or the city commission or perhaps the State legislature would make the decision with regard to prisons.

It would also put a cap of 50 percent of the forfeited asset moneys that could be used for prison construction or jail construction. I am sure it is not the author's intention, but this cap by the very nature of it is something that is not in existing law. Under present law, the forfeiture laws, local government, that is the local sheriff or the local police chief who gets control over these assets, could use 100 percent of their share of the forfeited proceeds to build prisons or jails.

So I do not think from my cursory opportunity to read and study this that this is a wise amendment. It seems to me that the idea is good to try to build more jails, but the whole thrust of this is to shift the power and the decisionmaking time to that particular period. I just do not think it does that job.

Mr. ORTIZ. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield very briefly to the gentleman from Texas.

Mr. ORTIZ. Mr. Chairman, just to respond now, if the local sheriff or the local law enforcement agencies do not have an overcrowding problem, there is no need for them to utilize these funds. They will remain in the hands of the law enforcement officials. We are trying to address the serious problem of jail overcrowding.

Mr. McCOLLUM. Mr. Chairman, I reclaim my time. I understand what the gentleman is trying to do, but I do not agree with it.

Mr. Chairman, I reserve the balance of my time.

Mr. ORTIZ. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Select Committee on Narcotics Abuse and Control, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, let me tell you why I support the Ortiz amendment. It seems as though we find it very easy to mandate to local officials as to what conduct we expect from them as it relates to a variety of situations. Soon we will be debating some of the questions about user responsibility. We hear the administration saying that users ought to be arrested, that they ought to understand that they cannot just disobey the law.

Soon people will be trying to take away welfare housing, veterans' disability benefits away from those that break the law, and yet we find it very difficult to say that if indeed we are asking local and State officials who enforce State and local laws, it seems to me that we should be prepared to be partners with them in support of the enforcement of these laws.

For the last 8 years we have asked State and local governments to do one thing and not give them the resources. I think that this does that at least in part.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I appreciate the gentleman yielding this time to me. I find it very difficult to disagree with my colleague on the Ways and Means Committee; however, Mr. Chairman, I rise in opposition to the amendment which would authorize expenditures out of the Customs Forfeiture Fund to assist State and local governments in providing for construction, expansion, maintenance, and operation of penal facilities. The Committee on Ways and Means has exclusive jurisdiction over the customs forfeiture fund and has not had the opportunity to review this proposal.

However, when the committee originated the customs forfeiture fund, members felt very strongly that the fund should be available only for certain designated expenses which would directly enhance the enforcement capabilities of the Customs Service. For example, the current statute authorizes expenditures for retrofitting seized vessels or airplanes so that they can be used for law enforcement purposes and for the payment of informants.

To allow expenditures out of the fund for the construction and maintenance of prisons goes well beyond the intended scope of the forfeiture fund.

This amendment also creates a potentially complex new Federal grant program—with all sorts of unanswered questions about its allocation and uses. What States and localities will receive funding? On what basis will those choices be made? Who will decide?

This is not the appropriate vehicle or forum for a new funding mechanism for our prison systems.

I urge my colleagues to reject this amendment.

Mr. ORTIZ. Mr. Chairman, I yield 2 minutes to my good friend and colleague, the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I thank my distinguished colleague for yielding this time to me and offering me a chance to speak in support of the Ortiz amendment.

I think all my colleagues are well aware that the gentleman from Texas [Mr. ORTIZ] before he became a Member of the U.S. Congress was a sheriff in Texas and is very familiar with the pressing needs of our local law enforcement agencies in our State, as we try to fight this drug problem.

I recently returned from the district work period in my part of Texas in the Sixth Congressional District and had an opportunity to tour several of our county jails. In every jail anywhere from 60 to 80 percent of the prisoners were in on drug-related offenses. At least one jail in my district is under court order because it is overcrowded and is under an immediate court injunction to build additional jail space.

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Our Texas prisons are also under a court-ordered mandate to build additional prison facilities, and I think the amendment of the gentleman from Texas [Mr. ORTIZ] which would make in order those local law enforcement agencies that participate in the war on drugs and are successful in getting assets that can be forfeited, they should benefit from their efforts. I think the 50-percent share is a reasonable amount, and I think this is a good idea.

We are going to need to build more county jails. We are going to need to build more State prisons. We are encouraging our juries in Texas to give longer sentences, and we are encouraging our judges in Texas and throughout the country to give tougher sentences.

I think the Ortiz amendment makes sense, and I urge the Members to adopt it.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, the Ortiz amendment would allow up to 50 percent of funds shared with State and local law enforcement agencies from the Customs Forfeiture Fund to be used for the construction, maintenance and operation of State or local-run prisons.

Currently expenditures out of the fund may only be made for specified law enforcement purposes. The Customs Forefeiture Fund is solely within the jurisdiction of the Committee on Ways and Means.

Using shared funds for other purposes takes half the money away from already strapped State and local law enforcement officials who currently receive assistance for cooperating with Customs law enforcement officers, and we should not penalize State and local law enforcement agencies for helping fight the war on drugs.

Allowing funds from the Customs Forfeiture Fund to be used for purposes other than law enforcement violates a longstanding agreement on the Committee on Ways and Means and the Committee on Appropriations on the uses of the fund and will open up the floodgates for other assaults on the fund and further dilute the value of the fund to all law enforcement agencies.

Important and much-needed funding for prison construction should be appropriated separately, and not come at the expense of other equally important law enforcement funding.

The States need Federal leadership to keep forfeiture funds in law enforcement. For example, the State of Virginia uses its State forfeiture funds to pay for libraries.

The Republican leadership and the administration strongly oppose the Ortiz amendment, and I would urge my colleagues on a bipartisan basis to vote against it.

Mr. ORTIZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say that I was on both sides of the fence. I was a sheriff, and I was a county commissioner before I came into this body. Let me tell the Members who support this amendment. When we talk about local people, we are talking about the National Sheriffs' Association, we talk about the National Association of Counties, we talk about the American Corrections Association, we talk about the American Jail Association, the people back home who know the seriousness of the problem, and when we talk about incentives, when we talk about rewards, the best reward that we can give a police officer is when we put the guy behind bars. That is what counts.

We need the help of the Members so that we can get this amendment passed. Incarceration is a part of law enforcement. What good is it to pass all the laws to put guys in jail when we do not have a facility to put them in?

I think that this is a good amendment; it is an amendment that makes sense, and I appreciate the support of my colleagues to support the Ortiz amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am concerned about this amendment. It is something that most of the Members probably do not understand, the whole subject matter, but as I think has been demonstrated by those who spoke in opposition, the chairman of the Committee on Ways and Means and the distinguished gentleman from that committee, the gentleman from Illinois [Mr. CRANE], there are really two funds here and two groups who do not care much for this amendment.

One of them is the fund that the Justice Department has for forfeited assets dealing with the drug dealing question, when you capture assets somewhere, planes, boats or cash, and the other is the fund from Customs, and the Committee on Ways and Means has jurisdiction over the Customs funds, and we over in the Committee on the Judiciary have jurisdiction over the Justice Department fund.

I do not think we who have jurisdiction like this concept. I know we do not. It is right now a good law the way it is, and it should remain that way in the hands of local law enforcement.

Jails can be built with this money, and we do need to address more funds for jails, but this is not the way to do it.

I urge the defeat of this amendment.

Mr. TRAFICANT. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Texas. This amendment will provide some much-needed assistance to State and local governments in their efforts to ease prison overcrowding. By helping State and local governments to meet the costs of prison construction, expansion, maintenance and operations we are helping to ensure that convicted drug dealers and murderers are not released early or placed on probation because of crowded prison conditions.

If we are truly serious about getting tough on drug dealers, then we have to be prepared to expand the Federal, State, and local prison systems. Mandatory sentences and stiffer penalties are no good if we have to release prisoners early just to find room for new offenders. This country desperately needs more prison space—if we don't do something now then we will never be able to effectively fight the war on drugs. The Ortiz amendment is an effective way to funnel funds to State and local governments—without bankrupting the Federal Treasury.

Most importantly, by providing a new source of funds for prison construction and expansion, the Ortiz amendment will ensure that dangerous drug dealers remain behind bars and not on the streets. I urge all members to strongly support this amendment.

The CHAIRMAN. The question is on the amendment as modified, offered by the gentleman from Texas [Mr. Ortiz].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ORTIZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment as modified, was rejected.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCollum: Page 205, after the matter following line 4, insert the following:

Subtitle M—User Accountability

SEC. 6801. INELIGIBILITY FOR FEDERAL BENEFITS.

(a) In General.—Any individual—

(1) Who is—

(A) convicted of a drug or narcotic offense that consists of the distribution of a controlled substance; and

(B) sentenced to a term of imprisonment that is not suspended or made probationary and exceeds one year; or

(2) who is convicted of two or more drug or narcotic offenses within a ten year period;

shall be ineligible for any Federal benefit during the period described in subsection (b).

(b) Period of Ineligibility.—The period of ineligibility referred to in subsection (a) begins on the date of the conviction creating the ineligibility and ends—

(1) ten years thereafter if the ineligibility is under subsection (a)(1);

(2) five years thereafter if the ineligibility is under subsection (a)(1); or

(3) the date (not later than the date otherwise provided under paragraph (1) or (2) determined to be appropriate by the head of the Federal agency administering the benefit program in question, in the case of an individual who—

(A) completes a supervised drug rehabilitation program after becoming ineligible under this section; or

(B) has otherwise been rehabilitated.

(c) Definitions.—As used in this section—

(1) the term "Federal benefit"—

(A) means any grant, contract, loan, license, or public housing provided by an agency of the United States or by appropriated funds of the United States;

(B) includes a veteran's benefit (other than a benefit described in subparagraph (C)), but only if the offense giving rise to the ineligibility consisted of the distribution of a controlled substance; and

(C) does not include any retirement, welfare, health, disability, or other similar benefit; and

(2) the term "drug or narcotic offense" means an offense defined as a drug or narcotic offense in section 404(c) of the Controlled Substances Act, and includes conduct relating to narcotic drugs, marijuana, or a depressant or stimulant substance which results in the imposition of civil penalties and which, if prosecuted under the Controlled Substances Act, would be a crime.

(d) Rules.—The Attorney General shall make rules to carry out this section.

Mr. RANGEL. Mr. Chairman, I rise in opposition to the amendment and in support of the Rangel substitute.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. McCollum] will be recognized for 15 minutes and the gentleman from New York [Mr. Rangel] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent that my 15 minutes be divided so that 7 minutes of that time may be controlled by the gentleman from New Jersey [Mr. Hughes], who is the coauthor and has been a strong supporter of this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to explain this amendment. The amendment that we are dealing with at this point is the McCollum user accountability amendment as some people have known it to be. It is an amendment which we have discussed and debated in committee a long time. It was adopted actually in the Committee on the Judiciary and then taken out by the Committee on Rules in order that it might be reoffered here today. There will be, as I understand it, a weakening substitute that the gentleman from New York will offer.

First of all, I would like to explain what this is all about. In the law today, we have a lot of legalism dealing with the drug war in the areas of eradication, interdiction, and local law enforcement. I think most of us recognize that what we are really missing in the war on the fight on drugs is to stem the tide of the demand on the use side, and when we have addressed that problem, we have tended to address it only in the areas of education and rehabilitation. Education and rehabilitation are not enough to stop demand for drugs in this country. It is absolutely necessary that we enact user accountability provisions that say that that user will pay some kind of a reasonable price if he is going to choose to make the decision to use drugs. If we do not do that and we do not have a deterrent, we will never win the war on drugs on the demand side; if we do not win the war on the demand side, we will not win the war, period.

The effort in this amendment is very simple. What it does is add a deterrent by saying that anyone who is convicted of a drug trafficking offense that is a felony loses eligibility for certain Federal grants, contracts, loans, licenses, public housing for a period of up to 10 years, and anybody who is convicted twice of a simple possession offense loses the Federal eligibility for grants, contracts, loans, licenses, or public housing for up to a period of 5 years.

There is an escape clause in here. If somebody chooses to go through a drug rehabilitation program, which we hope they do, and that is part of this, and that program is successfully completed, then that person is able to apply to the head of the Federal agency having whatever benefit was denied, and he can get those benefits restored.

We also have an exemption in here. Nobody need be concerned if there is a retirement benefit including Social Security, welfare, health, disability, or similar benefit, which is unaffected by the proposed amendment I am offering.

It does include student loans, student grants, and FHA loans. If we are going to get the attention, I think, of the college student today in America, to get him to think twice about, or her, to think twice about using drugs when they already know what the score is and they are willing to submit to peer pressure and try it, we have to have something that gets their attention. This will get their attention. It is a reasonable method. The first time they get convicted, no problem. The second time for simple possession, they have problems big time. It is user accountability in its simplest form.

Mr. Chairman, I urge adoption of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment. It is my understanding that if this amendment was to become law and we found a drug abuser that was the head of a household in public housing that his entire family would pay the penalty for the wrongdoing of that person that was in public housing.

It is my further understanding that if we found someone who was going to school and trying to rehabilitate themselves but had not completed the program or, further, that was being waitlisted trying to get into a program, that we would deny benefits to that person.

What is even more shocking to me, as we find more and more veterans from the Korean and Vietnam wars who have been exposed to more horrendous experiences than any of us would hope for ourselves or our children, that these people would be denied veterans' benefits by the country that they were serving. No, Mr. Chairman, I do not think that politically we intend to be that cruel. I do not think that we intend to even have kids that are entitled to benefits, if they are abusing drugs, that we just say, "Your Federal Government is going to leave you."

As a matter of fact, that was one of the reasons why I supported the Ortiz amendment, because here we are saying, "The Federal Government is going to mandate the type of conduct we would expect from you, that we are prepared to cut off the veterans' benefits, public housing benefits, education benefits," as though these people are just going to disappear, that no one is going to take care of them.

What we really are saying to local and State governments is that the Federal Government is pulling out of this as though we have ever been really involved, and the few benefits that are out there we are going to cut out. No, I do not think that the Congress intends to be that cruel just in an effort to show that we are tough on drugs, that we are going to the least powerful group that we have in this country and say that we are prepared to kick them out in the street and to join the ranks of the jobless and the homeless and the hopeless merely because we want to send a political message.

Mr. Chairman, I would just ask that the authors and supporters of this bill, if they do not have the time, I will yield time. But does it make any sense to kick people out of public housing into the street? Does it make any sense at all to deal with our kids under 18 in this fashion? Does it make any sense if there is no rehabilitation program available, or if they are in the program and have not completed it that under this law, on the eve of graduation, and joining the mainstream, that we would cut off benefits to veterans and nonveterans?

I do not know how Members treat those in the National Guard, but I know we have the highest esteem for them as well. But does it make any sense, in an effort on the eve of an election, that we are going to get so tough that even those that defended our country in fighting against the Communists, that we are going to pull these benefits from under them?

I hope there is a mistake in my understanding of this law, and if there is not, I hope that the proponents and the authors would change it before we vote on it.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I am happy to offer this amendment with my colleague Bill McCollum and commend him for his work with me in developing this amendment.

For the past 8 years that I have chaired the Crime Subcommittee, the leaders of the Nation's drug enforcement effort have pointed out repeatedly that to control our Nation's drug abuse problem, we must focus our effort on preventing people from using drugs. While our law enforcement effort has traditionally focused on reducing the supply of drugs to America, that effort cannot fight the laws of economics, the laws of supply and demand. Until we reduce the demand for drugs, the drug lords will find ways to sell drugs that Americans are lined up to buy.

The demand reduction effort has traditionally depended upon education programs and treatment and rehabilitation programs. Treatment is very valuable in reducing demand for drugs, but these programs are not enough.

It is clear that our efforts so far have not been successful. It is time to break some traditions. The role of law enforcement in reducing demand needs to be increased. The social and legal consequences of drug use need to be made much more onerous.

The McCollum amendment provides that if a person is convicted of a serious drug trafficking offense—measured by the judgement of the court in imposing at least a 1-year prison sentence—or two drug offenses of any degree of seriousness, that person will become ineligible for Federal grants, Federal contracts, Federal loans, licenses, or public housing.

The amendment then provides that this ineligibility is eliminated if the individual completes a supervised drug rehabilitation program or has otherwise been rehabilitated. This provision is a valuable spur to encouraging people to get drug treatment. Anyone who feels that they need or are entitled to Federal grants, contracts, licenses or public housing and are prevented from obtaining such benefits solely because of their convictions for drug offenses can restore their eligibility by entering treatment and becoming rehabilitated. This amendment encourages people to get drug treatment. Is there any Member of this body opposed to encouraging people to get drug treatment?

I ask you, should convicted drug traffickers be eligible for public housing? Should convicted drug traffickers be eligible for Federal contracts? Should drug traffickers be eligible for a Federal license? The answer, of course, is "No." I don't think any Member of this body would answer "Yes."

The amendment goes beyond drug traffickers. It applies to any person who has two convictions for a drug or narcotic offense. Is the answer to this question any different—should a twice convicted drug user be eligible for Federal contracts or other Federal benefits? I don't think so.

However there are some Members who feel that this amendment goes very far, that it is too intolerant to drug use.

Actually the amendment is very generous. This amendment says to the convicted drug trafficker or the twice-convicted drug user, if you get drug treatment and become rehabilitated, then you can rejoin your fellow citizens and have your eligibility for Federal benefits restored.

This is a long overdue approach to drug abuse. We need to raise the stakes for drug users. If you get convicted, you don't simply get a slap on the hand, you lose something which is significant. To the middle class drug user, we say, you can lose very important Federal benefits. To America's lawyers we say, if you're convicted of using drugs, you can lose your license to practice law. To America's doctors we say, if you're convicted of using drugs, you can lose your license to prescribe drugs. To Wall Street we say, if you're convicted of using drugs, you can lose your securities brokers license. To America's school students we say, if you're convicted of using drugs, you can lose financial assistance to go to college. To those who live in public housing we say, if you're convicted of using drugs, you can lose the place in which you live.

I believe that casual or so-called recreational drug users will understand the seriousness of these consequences. I believe that this amendment will be effective and humane. I believe that this amendment will save lives, and help prevent drug abuse. I believe that this amendment will be seen as a turning point in the war on drugs by changing the patterns of recruitment.

I don't think we should use taxpayers' money to subsidize drug traffickers and drug users. This is an important amendment and I urge the Members to support it.

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Mr. RANGEL. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from New York [Mr. Rangel] has 11 minutes remaining, the gentleman from Florida [Mr. McCollum] has 5 minutes remaining and the gentleman from New Jersey [Mr. Hughes] has 3 minutes remaining.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may need.

Mr. Chairman, I am going to keep asking these questions until one of the authors or proponents starts to respond to some of them.

The gentleman from New Jersey says we want to drive people into treatment. We have been trying to drive people into treatment for 8 years, and we do not have the treatment centers. There is nothing in here that indicates if there is no treatment center and you cannot complete it and so, therefore, you are denied Federal benefits.

I have a whole lot of questions, and if the gentleman from Florida will take notes, I will yield to him. Here it says you have to complete the drug rehabilitation program. Suppose it is the eve of graduation and you have not completed it? Do you get kicked out of public housing?

Another question I want to know is suppose you are a bum and you are a drug abuser, but your kids are not. Are they kicked out as well?

Suppose, I ask you, you have a Purple Heart, disabled veteran, and he had a drug problem overseas and he came back and he still has the drug problem and has been in and out of rehabilitation, and really there is no hope for him. The only thing is he got that condition because he was fighting for his country. Do we pull the Federal benefit veteran rug from under that individual?

Sure, there are a lot of questions that I have, and I hope with the remaining time we can get some answers.

Meanwhile, Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. Chairman, I rise in opposition to the user accountability amendment to the omnibus drug initiatives bill.

Mr. Chairman, our Nation already has a user accountability system in place. Those who possess or use drugs in violation of the law are subject to jail terms and fines. In fact, the same system of accountability applies to almost every criminal act including murder, robbery, and so forth.

This amendment would add to our current system of justice a variety of postconviction penalties, not for all criminals, just for drug offenders. Apparently, proponents of this amendment feel that our judicial system imposes appropriate sentences in all instances except for drug crimes.

Just 4 years ago this body established the U.S. Sentencing Commission to ensure that similar crimes of similar backgrounds would yield similar punishment. Although I had some problems with the way the Commission was established, the mandate was clear and noncontroversial: to impose equity in our sentencing process.

The amendment before us today, however, would abandon the processes of this Commission, established just 4 years ago, and selectively impose postconviction penalties. As a member of the Judiciary Committee, I am troubled to see this amendment on the floor today. Not one hearing or other shred of evidence was presented to the committee to prove the deterrent value of denying Federal benefits. Is it possible that drug offenders are so unique that the denial of public benefits is a deterrent not felt by rapists or other criminals?

No one testified to the Judiciary Committee to explain exactly what Federal programs would be included in this amendment or how the amendment would be implemented. For example, if an apartment owner rceiving HUD subsidies for housing low income families is convicted of a drug offense, the owner would no longer be eligible to receive HUD funds, and the poor families would be forced to leave the building. I'm afraid we're going to see more and more of these unexpected consequences if this amendment becomes law.

I believe the best deterrent to drug use is education. The efficacy of education has been borne out in recent years—we've seen an actual decline in drug use among high school students in our country. I know that in Baltimore, the young people involved in drugs are the least likely to even know what Pell grants and GSL's are. You can't threaten people with the denial of benefits they don't understand. But when you show them what happens physically and emotionally to people on drugs, when you make clear the dead end lives of drug users, they respond.

Imposing additional punishment on an individual who has already served a sentence will work directly against the goal of reintegrating individuals into the community. We cannot allow retribution to displace rehabilitation. Drugs are a dead end already. We don't need to make them worse.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman for yielding time to me and I rise in support of the McCollum amendment.

Anticipating that the gentleman from New York [Mr. RANGEL] will be offering a substitute amendment to exempt educational programs from this amendment, I think it would be unwise to support that substitute because I think we ought to answer the question: Why should American taxpayers support students who in turn support a drug habit or deal in drugs? That is exactly what the issue is all about. Why should we make sacrosanct educational benefits different than any other benefits that a person might have to lose out here because of a drug problem?

The thing that gets me, and I know there are going to be Members stand up and say we are not going to solve the drug problem by doing this and taking away these benefits, and that many people will not know about the loss of benefits before they commit a drug offense, and what have you. It comes down to the bottom line that we can excuse ourselves for a lot of things about this bill, this amendment, nothing is perfect. But the bottom line to me is even the occasional drug user on campus or anywhere else feeds into a distribution system that is eating away the fiber and fabric of this country.

A person may say, "Well, I just use drugs occasionally or for recreational purposes." Those same people are putting money in the hands of the drug kingpins of this country who are controlling crime on the streets, who are seeing people killed along the way, and mugged and robbed and everything else so that this is the No. 1 issue in this country.

We can excuse all of that by saying that we should not have these benefits taken away. But the bottom line is students who are supported by taxpayers under these benefits ought to wise up, and maybe they will learn that they too can stand to lose what they will lose, those educational benefits, if they participate in this type of activity. I believe it can be a deterrent. I believe it should be a deterrent. I think it would be unwise to exempt educational benefits from the McCollum amendment. I support it as it is.

Mr. RANGEL. Mr. Chairman, I yield 2½ minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding time to me. I have asked for time simply to ask the gentleman from New York a question.

I had heard the discussion in the Whip's meeting this morning and had intended to support the McCollum amendment. But then I heard the discussion on the closed circuit television in my office. As a result of that, I want to ask the gentleman one question.

Is it true that under the McCollum amendment, let us say a Vietnam war veteran, if he were convicted of drug trafficking, even after he paid his debt to society, would lose things like veteran's preference in hiring, would lose veteran's education benefits?

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, it is my understanding that you can serve in World War II, serve in Korea, revisit Vietnam, come back home addicted, sell drugs, do your time. After you serve your time, everything that your country has given you in benefits, disability benefits, housing benefits, education benefits, training benefits for this particular person, we say that ends it, your government is leaving you.

Mr. OBEY. If that is the case, then I would very reluctantly have to vote against the McCollum amendment, because while I certainly think that the

House ought to be as tough as possible on drug dealers and on people involved in the drug trade, I have a very fundamental problem with saying to a veteran who has stuck his neck out for his country and been shot at, to have that veteran be told, "Sorry." I have a great deal of difficulty in saying to that veteran that even if he fought in the Vietnam War, was totally screwed up by the experience and wound up because of that experience involved in the drug business, that we are going to take away the benefits which he earned by risking his life for his country.

Mr. RANGEL. I would just like to correct that to say that every benefit I mentioned is taken away, but if he were shot and disabled, that is the only benefit that they do not take away from the veteran.

Mr. OBEY. I thank the gentleman.

Mr. RANGEL. Mr. Chairman, at the appropriate time I would like to offer my substitute, but I am not going to do that until the other gentlemen have exhausted their time or the others who want to be included in this debate have the opportunity to be recognized.

Mr. McCOLLUM. If I might inquire of the Chair, I understand that I may retain at least 1 minute of my debate time on this amendment.

The CHAIRMAN. The gentleman may reserve time.

Mr. McCOLLUM. Mr. Chairman, I would like to reserve time, but at this time I yield myself 30 seconds to respond to what just went on.

I would just like to say that the veterans discussion that just took place is very misleading and wrong. The only benefits that would be lost would be to somebody who is a drug trafficker, would be to somebody who was a major dealer, convicted of a felony, and in that case I do not care what war they participated in, they ought not to have these kinds of benefits, and they do not get them except for things that are exempt.

Their retirement benefits, by the way, are not lost. Their disability benefits are not lost and their health benefits are not lost because they are exempt for everybody under this bill. So the only thing they can lose are the benefits of contracts or special loans or grants, and that is only for traffickers.

The CHAIRMAN. The Chair would state that the gentleman from Florida [Mr. McCollum] has 2½ minutes remaining, the gentleman from New Jersey [Mr. Hughes] has 3 minutes remaining and the gentleman from New York [Mr. Rangel] has 5½ minutes remaining.

Mr. RANGEL. Mr. Chairman, may I yield myself a couple of minutes, and I will be glad to have some exchange with the gentelman from Florida [Mr. McCollum].

Is the gentleman from Florida not saying that we are going to treat veterans a little different from other people who pay their debt to society? What the gentleman is saying is if a veteran, having served his country, violates local or State law and falls within this category, that after he serves his time or whatever other penalty it has been declared he should serve, that we now come along and say because you are a veteran we are going to take away your benefits?

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, there is a distinct preference given to veterans under this amendment that nobody else gets, because a veteran who is merely using is not affected. He has to be a trafficker, and if he goes through rehabilitation, or even if 10 years expires, he gets his benefits back, like anybody else. It is only the trafficker. He gets a better benefit than anybody else under this law.

□ 1715

I just asked one question and the gentleman answered a good question, but I did not ask it. My question is that if this veteran trafficker falls within this, serves his penalty, do we still come back and say that "You are a veteran and we will take away your benefits under the law"? That is all.

Mr. McCOLLUM. If he is a trafficker he has to be rehabilitated. If he has been rehabilitated he can get his benefits back like anybody else.

Mr. RANGEL. If there are no rehabilitation programs or if he has not completed the program or if he is on the eve of completion of the program would the gentleman give him a break under his law?

Mr. McCOLLUM. I think the gentleman is splitting a lot of hairs here.

Mr. RANGEL. It might be hairs.

Mr. McCOLLUM. Mr. Chairman, there are $1.5 or $1.7 billion in this bill for rehab centers.

Mr. RANGEL. I am just saying if it is not there and he has tried his darndest to get in or he is on the eve of graduation but he just did not comply with the gentleman's law he is just out of luck, is he not?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I would simply say that I think if a veteran or anybody else commits a drug offense you ought to throw the book at him. But I do not think we ought to be taking back from people who have risked their lives for this country, rights which they earned by having their heads shot at, their butt shot at or any other part of their anatomy. I think that we ought to respect the fact that those veterans have an earned right. If they make a major mistake after they come out of their service as a veteran then they ought to be punished like anybody else for that mistake. But you should not then take away the benefits which they earned as a veteran.

You could, under this amendment, have a Congressional Medal of Honor winner, as I understand it, lose veterans' benefits if the war affected him in such a way that he turned bad after he came back from the war. I do not think that is right to do to any veteran.

Mr. McCOLLUM. Mr. Chairman, would the gentleman yield on that very point?

Mr. RANGEL. Mr. Chairman, I would like to yield and I also want to yield to "Mr. Veteran", that is the gentleman from Mississippi [Mr. Montgomery], but I want to reserve the time necessary for me to move my substitute.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] has 2½ minutes remaining, the gentleman from New Jersey [Mr. Hughes] has 3 minutes remaining and the gentleman from New York [Mr. Rangel] has 2½ minutes.

Mr. RANGEL. Mr. Chairman, I yield 2 of those minutes to the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Chairman, the problem with the McCollum amendment is it does not treat all the veterans the same, as the gentleman from Wisconsin said. It picks and chooses on veterans.

Yes, it does protect some benefits for veterans. We wrote the general counsel of the Veterans' Administration about the McCollum amendment and we asked him what benefits would be affected, who would be ineligible, who would lose their benefits.

You would lose your education benefits under the GI bill; home loans would be affected; burial in national cemeteries—you could not be buried in a national cemetery under the McCollum amendment; burial allowances would be taken away.

This is very, very important: Dependents and indemnity compensation, those are widows and orphans of veterans who die of service-connected disabilities, they would be ineligible.

So the amendment picks and chooses. You should have treated all veterans the same but you did not.

It is a bad amendment and we should adopt the substitute that will be offered by Mr. Rangel and Mr. Dingell and myself.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. RANGEL] has 1½ minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

In the first place, we are talking about a drug trafficker who has been convicted of a drug offense, controlled substance offense and has been sentenced to prison for more than a year. The veterans you are talking about do in fact enjoy a special recognition in this amendment because, as my colleague has well stated, the user accountability provisions do not apply to a veteran.

Second, it exempts the following benefits: Retirement, welfare, health, disability and other similar benefits.

So I am not so sure that the litany of benefits that my colleague from Mississippi, whom I respect very much, is accurate. I do not think it would disenfranchise. But more importantly we are talking about an individual that has been convicted of a trafficking offense, that spent over a year in prison and who has not been rehabilitated.

Now one of the things we should be doing with Vietnam veterans, all veterans and in fact those that are not veterans is to try to encourage them to go into the rehab programs.

Now the argument seems to be that we do not have adequate funding. Well, it seems to me that we are trying to address that in this omnibus bill. It does not seem to me to be a legitimate argument that we have a waiting list. We are trying to address the waiting list problem.

But the question is, and it boils down to this: Do you think you can go home and tell your constituency that in fact we are going to subsidize drug traffickers in providing all kinds of Federal benefits? I cannot do that. I do not think the American public wants us to use scarce resources in providing benefits to those that are convicted of drug trafficking.

I do not think the American public wants us to provide taxpayer benefits to individuals who have been convicted twice of user offenses and who have refused to go into a rehab program. That is what it amounts to.

Now I want to say I regret very much that the leadership did not make in order an amendment that I wanted to offer that would in fact address some of the concerns that have been expressed about those that apply and are on waiting lists. And frankly I think that the Members could have supported that to address that problem. I was perfectly willing to address the concerns of those who believe we should take away the discretion of the agency head. I was perfectly prepared to do that. But that was not made in order. So we have to face the issue as we have it now.

Now you are going to have an amendment offered by Mr. RANGEL, by Mr. MONTGOMERY, and by Mr. DINGELL that basically excepts out everything. There is nothing left with their amendment.

Mr. Chairman, this a good amendment and I urge my colleagues to support it.

Mr. McCOLLUM. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I thank the gentleman for yielding, and I would like to add my support for the McCollum amendment on user accountability. The proposal to make drug abusers ineligible for certain Federal benefits recognizes the need to reduce the demand for illegal drugs, in concert with reducing the supply. It would encourage users to accept responsibility for their actions.

I don't understand it, but time and again I have seen colleagues shy away from this issue. I take an example from a meeting of the Education and Labor Committee, where we approved our portion of the omnibus drug bill. Almost no committee on the Hill missed this opportunity to get in on the action. After all, polls indicate that concern about drug abuse is foremost on the minds of our constituents. But instead of making good use of this opportunity, the Education and Labor Committee backed away from using its jurisdiction to penalize any adult 18 or older who has been convicted of two or more drug possession offenses, or one offense of drug distribution.

My colleague from Missouri, Mr. COLEMAN, offered an amendment during committee markup to deny Federal school loans to such individuals. After more than an hour of heated discussion, the amendment was defeated. No surpise there. What I found surprising, though, were some of the arguments against the amendment and the attempts to ridicule Mr. COLEMAN'S efforts.

The chairman of the committee asked Mr. COLEMAN whether the amendment also applied to those convicted of rape and murder. He replied that it did not, given that such an inclusion would not be germane to the drug bill. To which Chairman HAWKINS replied, "So, you can rape and murder and still get student aid. There is a distinction because we currently have a war on drugs and not one on rape and murder."

If I am following this line of logic correctly, the chairman is saying that because you can still rape and murder and get student loans (a situation that is, by the way, highly unlikely), it is unfair to single out drug users for punishment. I don't buy it. The point is we weren't marking up a bill dealing with the evils of rape and murder. Experimenting with rape and murder is not the rage on every college campus across the country. Experimenting with drugs is. Rape and murder are by no means socially acceptable activities. Casual drug use is.

If everyone accepts the fact that we are currently losing the war on drugs, then we must also accept the fact that we need to alter the battle plan and attempt to reduce demand. Thus, I urge adoption of the McCollum amendment to deny Federal benefits to drug offenders.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. RANGEL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. RANGEL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment offered by Mr. RANGEL as a substitute for the amendment offered by Mr. McCOLLUM: Page 205, after the matter following line 4, insert the following:

SUBTITLE M—USER ACCOUNTABILITY

SEC. 6801. INELIGIBILITY FOR FEDERAL BENEFITS.

(a) IN GENERAL.—Any individual, other than a person who has not attained the age of 18 years—

(1) who is—

(A) convicted of a drug or narcotic offense that consists of the distribution of a controlled substance; and

(B) sentenced to a term of imprisonment that is not suspended or made probationary and exceeds 1 year; or

(2) who is convicted of 2 or more drug or narcotic offenses within a 10-year period;

shall be ineligible for any Federal benefit during the period described in subsection (b).

(b) PERIOD OF INELIGIBILITY.—The period of ineligibility referred to in subsection (a) begins on the date of the conviction creating the ineligibility and ends—

(1) 10 years thereafter if the ineligibility is under subsection (a)(1);

(2) 5 years thereafter if the ineligibility is under subsection (a)(2); or

(3) the date (not later than the date otherwise provided in paragraph (1) or (2)) when the individual completes a drug treatment program or has otherwise been rehabilitated.

(c) SUSPENSION OF PERIOD OF INELIGIBILITY.—The period of ineligibility referred to in subsection (a) shall be suspended during any period in which the individual is participating in a drug treatment program or seeking admission to a drug treatment program the completion of which would qualify such individual for termination of ineligibility under subsection (b).

(d) DEFINITIONS.—As used in this section—

(1) the term of "Federal benefit"—

(A) means any grant, contract, loan, or license provided by an agency of the United States; but

(B) does not include any retirement, welfare, social security, health, disability, veterans, housing, education or training, or other similar benefit;

(2) the term "drug treatment program" means any drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, local or tribal health, law enforcement, or other appropriate agency; and

(3) the term "drug or narcotic offense" means an offense defined as a drug or narcotic offense in section 404(c) of the Controlled Substances Act committed after this section takes effect.

(e) PROTECTION OF DEPENDENTS.—The denial of a Federal benefit to an individual under this section shall not because of the relationship of an individual made ineligible by subsection (a) to any other individual, have the effect of denying such benefit to such other individual.

(f) RULES.—The Secretary of Health and Human Services shall make rules to carry out this section.

(g) NOTICE.—The Secretary of Health and Human Services and the Attorney General shall take steps to assure that the provisions of this section are disseminated to the public, to courts, prosecutors, and the criminal defense bar.

(h) DELAYED EFFECTIVE DATE FOR SUBSECTION (a).—Subsection (a) shall take effect on the same date as the rules of the Secretary of Health and Human Services implementing this section take effect.

The CHAIRMAN. Is the gentleman from Florida [Mr. McCOLLUM] seeking recognition?

Mr. McCOLLUM. Yes, Mr. Chairman. I am opposed to this amendment and under the rule I would request the time to be allotted for the opposition.

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. RANGEL] will be recognized for 15 minutes and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 15 minutes in opposition.

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent that half of my time or 7½ minutes be designated to the gentleman from New Jersey [Mr. HUGHES] the coauthor who also is an opponent of this substitute.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, Mr. DINGELL and Mr. MONTGOMERY will be heard on this issue as cosponsors of this substitute, especially since they have developed over the years an expertise not only in legislation but in the group in which we find it so easy now to talk about removing their benefits.

Basically what we do is say that there has to be a use responsibility and we follow the McCollum thrust. But we really believe that we are getting carried away when we allow it to include those under 18. So we exempt those.

In addition to that, I think it is absolutely ridiculous to say that while we may be trying to address the problem of a waiting list, while we hope that somehow we will have rehabilitation centers, that I know that you cannot believe that if someone is trying to be rehabilitated but cannot get into a center and is wait-listed or has not completed a course that they should be hit with this hard sanction.

So those people who are trying, if they are on the list or they are in the program, we exempt those.

In addition to that, we do not see any logic as to why you kick out everybody in public housing because you are dealing with one wrong-doer.

We think there should be enough legislation on the local and State level where people violate those laws and violate their lease, that it should be taken into consideration. But certainly we should not start some super-agency down here in the Federal Government that is going to oversight and throw everyone in a computer and determine who is going to be kicked out of public housing, whether or not these tenants have done anything wrong, or not, but merely because the person who signed the lease had done something wrong.

We think it is wrong, if someone is trying to get an education, trying to get job training and trying to get rehabilitation, that you just say, "If you didn't complete the course you are not entitled to education and you are not entitled to the training."

The last thing I would say is that America truly owes our veterans. We know, and those who have prosecuted, like Mr. HUGHES, know that this is not going after drug kingpins. There is hardly an abuser that is out there that is not selling to keep up his habit. And veterans are no different from those other people.

And to say that a user veteran who wrongfully sells drugs to keep up his habit, has not completed a rehab program, who has served his country, but somehow has been wait-listed, is going to be denied all that we had given him in our effort to say, "Thank you"; I do not think that that is what we want to do.

So I have a substitute here. I think that it is just as mean as anything that the other side has offered but it does offer just a little compassion and try to correct it where we hope it was not intended to be overly harsh on veterans, on minors and those people who live in public housing who have committed no wrong.

The CHAIRMAN. The gentleman from New York [Mr. RANGEL] has consumed 4 minutes.

Mr. McCOLLUM. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the very essence of the Rangel substitute guts the efforts that the Hughes-McCollum effort has put forth. We have attempted to set forth a very tough loss of eligibility deterrence in the law to anybody who possesses and uses drugs or certainly anybody who trafficks in them. This substitute proposal would totally destroy the impact on college-age students of this deterrence. I do not think the American people want to see that happen. I think that Americans are ready and willing and want to see this Congress take steps to say to every level of American citizen, regardless of their status in life, "You shouldn't be using drugs. You shouldn't have the habit. If you do you darned well better pay the price and get into a rehabilitation program." That is what we propose. But what you get if you adopt the Rangel substitute is an absolutely no-impact situation with respect to students because you exempt all of the educational programs altogether.

You also wind up in this whole process of not having a decent rehabilitation program. You are going to talk about somebody starting a rehab program and then you get your benefits back and you do not even have to complete it and you do not have to apply to an agency head to get it back.

What incentive is that? To get rehabilitation? And as to the veterans issue, that is bogus; that is the most demagoguery on that issue that I have heard around here in awhile, in my judgment.

Based on the fact that the simple issue here is that under the McCollum proposal, unamended, veterans still keep their retirement benefits, their health benefits, their disability benefits, no matter even if they are traffickers.

The bottom line is if they are traffickers, though, they ought to lose something. They ought to have some deterrents like everybody else and every other citizen. And they do lose the rights toward the loans and grants and privileges like other citizens. We just do not coddle them, if they are traffickers, like they would under the Rangel amendment. I think it is wrong to adopt this substitute. It guts the essence of user accountability and I strongly urge my colleagues to oppose and defeat the Rangel substitute.

Mr. HUGHES. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, my colleague from New York, a very distinguished prosecutor and legislator, characterized the amendment as tough, and lean and I think it is probably akin to five lashes with a wet noodle. When it comes right down to it, there is nothing left, there is nothing left in the Rangel amendment. What is left once you take out all the services that are provided in the amendment? There is nothing left to take away from anybody.

□ 1730

Frankly, we are talking about being unfair and mean to students and others.

Let me ask the Members a question. How much do we think a young man or a young woman who has a serious drug problem is going to accomplish in trying to get an education if, in fact, they are on serious drugs, as is often the case? Is it mean to try to encourage them to try to get into rehabilitation programs? The thrust of the McCollum-Hughes amendment is to attempt to encourage the traffickers, those who have been convicted of trafficking offenses, veterans and nonveterans, including users who have been convicted of two-use offenses, to go into a rehabilitation program.

Is that not what we should be doing? I think that is what we should be doing.

I would like to hear from the proponents of the so-called Rangel amendment as to what is left really in the amendment in services to be denied to anybody. The answer is that there is nothing left.

If Members want to vote against the McCollum-Hughes amendment, then they can vote against it, but voting for the Rangel approach is basically voting for zero because it will not disenfranchise or disentitle any citizens from any benefits. That is the net result of the Rangel amendment.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am pleased to join my distinguished colleagues from New York and Michigan, Mr. Rangel and Mr. Dingell, in sponsoring this substitute amendment.

I believe we must do everything that is reasonable to stop drug trafficking and to convict and punish those responsible for the distribution of drugs. As far as I'm concerned, anyone caught and convicted of pushing drugs should be given strong punishment by the sentencing judge

In addition to the sentence, there is nothing wrong with denying Federal benefits to all—and I stress all—individuals who are convicted of pushing drugs. But the McCollum amendment does not do that. The McCollum amendment would deny benefits to some but not to others. It does not treat veterans the same. This amendment is pick and choose.

The McCollum amendment would deny some veterans' benefits to certain drug offenders while allowing the same offenders to receive other Federal benefits, including retirement, welfare, health, disability, or other similar benefits.

When the McCollum amendment first surfaced in the Judiciary Committee, I asked the Administrator of Veterans Affairs to have his general counsel review the proposal and to advise me of its impact on veterans. According to the VA General Counsel, the following veterans programs would be affected: Education including the GI bill, benefits, home loans, insurance, burial in national cemeteries, burial allowances, burial flags, dependency and indemnity compensation, veterans' preference, veterans' reemployment rights, veterans' job training. There are widows and orphans of veterans who die from service-connected disabilities.

The Administrator cautions that, to the extent the amendment would render ineligible a veteran currently insured under a veterans' insurance program administered by the VA, the amendment would rise a significant constitutional issue.

Mr. Chairman, should we deny veterans who earned their GI bill benefits in the jungles of Vietnam the chance to use those benefits, while allowing others to continue to receive their benefits?

Of course not.

The McCollum proposal would have the Congress place a higher priority on benefits to some recipients than it would for veterans.

If the user accountability provision is to be included in the bill, it must treat Federal beneficiaries equally.

If Board exceptions are going to be made, I must insist that all veterans' benefits be included in those exceptions.

Our substitute amendment would, among other things, add veterans benefits and a couple of other categories to the list of exceptions contained in the McCollum amendment and I would urge my colleagues to support the Rangel-Montgomery-Dingell substitute.

It is fair—lets treat all veterans the same.

Mr. Chairman, I include with my remarks the following correspondence with the Veterans Administration:

Committee on Veterans' Affairs,
Washington, DC, June 30, 1988.

Gen. Thomas K. Turnage,
Administrator, Veterans Administration, Washington, DC.

Dear General Turnage: I have been advised that, during a full Committee markup by the House Judiciary Committee of H.R. 4916, a drug enforcement law, the enclosed amendment by the Honorable William Hughes of New Jersey was offered and adopted. If enacted, this provision would render certain individuals convicted of drug-related felonies ineligible for federal benefits, including certain veterans benefits.

Because of the potential impact such legislation would have on the Veterans Administration, I would ask that you seek the legal opinion of the General Counsel as to the specific programs that would be affected and advise me accordingly. Since the bill will likely be favorable reported to the House in the near future, I would appreciate your response at the earliest possible time.

Please contact Mr. John Brizzi of the Committee staff if you have any questions regarding this request.

Sincerely,
G.V. (Sonny) Montgomery,
Chairman.

Veterans' Administration,
Washington, DC.

Hon. G.V. (Sonny) Montgomery,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

Dear Mr. Chairman: I am pleased to respond to your request of June 30, 1988, for information on the specific VA benefits programs which would be affected by the amendment offered by Representative William Hughes of New Jersey and adopted by the House Judiciary Committee to H.R. 4916, a drug enforcement law.

The "Hughes Amendment" would make certain individuals convicted of drug or narcotic offenses ineligible for Federal benefits for specified periods following conviction. The Amendment defines the term "Federal benefit" as including certain veterans benefits (section 1401(c)(1)(B)).

At my request, our General Counsel's Office has reviewed this legislation and has informed me that, in its opinion, the following VA programs would be affected: education benefits, home loans, insurance, burial in national cemeteries, burial allowances, flags, Dependency and Indemnity Compensation, veterans' preference, veterans' reemployment rights, veterans' job training, and all contracts.

The General Counsel points out that the language and structure of section 1401(c)(1), defining the term "Federal benefit," is somewhat ambiguous. It is assumed, however, that the drafter intended that ineligibility for covered veterans benefits under the measure would be limited to cases where the offense consists of the distribution of a controlled substance.

Finally, the General Counsel cautions that, to the extent the proposed legislation would render ineligible a veteran currently insured under a veterans' insurance program administered by the VA, the measure would raise a significant constitutional issue. Repudiation or alteration by the Federal Government of its own contractual obligations under such insurance programs is restricted by the due process and just compensation clauses of the fifth amendment. Fifth amendment protection of contractual obligations of this nature is not absolute and may yield to paramount Federal power or important national interests such as national defense. However, any such deprivation of veterans' rights under insurance contracts with the Government would likely be tested through judicial challenge.

I hope that this information will be of assistance to you.

Sincerely,
Thomas K. Turnage,
Administrator.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. Lungren].

Mr. LUNGREN. Mr. Chairman, as I said on this floor repeatedly, we are not going to win the war on drugs until we change the culture of America with respect to the use and toleration of drug use. We can point all the fingers we want, to Mexico, to other South and Central American countries, to the Golden Triangle and other parts of the world. We can say all we want to about how one administration or another has not done enough or States have not done enough. But we are not really going to get to the crux of the problem until we have a comprehensive approach which involves, for the very first time, a recognition of the fact that until you change the attitude toward drug users in this country, you are not going to change the equation that presently exists.

I ask simply what is the impact on the young people of today when they see professional football players slapped on the wrist for 30 days, and supposedly beginning their drug rehabilitation by playing golf? What do they think when they hear on the floor of the House that we should excuse drug traffickers because they happen to be veterans?

I heard someone ask, "how can we take a particular benefit away from somebody when their service in Vietnam drove them to trafficking in drugs?"

Is that the message you want to send forward? Do you want to send a message forward that in a courtroom in America, that if someone is a drug trafficker, they can say they got involved in drugs in Vietnam, and therefore they are excused?

I am concerned about veterans of America and concerned about the Vietnam veterans, but more concerned about the young people of America today in this respect.

What I heard on the floor is that if a trafficker sells drugs to my son or your son or grandson, that person ought to receive special treatment because that person happened to be a veteran.

We made an exemption because we understood the problem of drug usage among some that returned from Vietnam. You do not suffer the same disability under the McCollum amendment if you are merely using drugs and convicted of use, if you happen to be a veteran. They are therefore given a special exemption; but when their action rises to the question of drug trafficking, we say we draw the line.

We don't take away your health benefit, we don't take away your retirement benefit; we protect those, but other types of benefits we are going to subject to penalty. Why do we do that? Because we have tried the purely criminal sanction route, and we have recognized that is not sufficient. We have to send a message that is more than that. We have to change the culture of America with respect to usage of drugs. That is why the amendment is crucial. It goes to the question of true user accountability.

Unfortunately, the Rangel substitute guts the effectiveness of this crucial amendment. This amendment may be more important than any other single amendment we have here because it reflects a change in attitude of our approach on the drug problem. We can talk big. We can have mandatory penalties; but if we excuse the users, as we have done, time and time again, if we now excuse the trafficker because the trafficker happens to be a veteran, we are going to send the wrong message to America.

If we want to save this generation of young people, if we want to save the next generation, we have to do more than we have done before. We have to establish user accountability, and that means changing the rules of the game that we have had thus far.

Is this something new? Absolutely. The reason it is new is because we have a tragedy affecting far more people than affected us in the Vietnam war. Remember more people were killed or destroyed by drug use than were killed in the Vietnam war.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

[Mr. MFUME addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just would like to respond to this wet noodle. If you are a veteran and you are caught in this wet-noodle approach, it is safe to say that your widow is denied compensation under this. To show that we really mean business, we go after the veterans' widow. That pension benefit that the beneficiary would receive, we cut out. That is another noodle.

The GI bill that benefits in order to go to school to get education, to try to help themselves out. You understand under this bill a veteran could be on the eve of graduating from a rehabilitation program, waiting to get into a rehabilitation program, but unless you have completed the program, then you just are out of business and are kicked out of school.

After your death, even though you are entitled to the flag over your coffin, the veteran cannot be buried in a national cemetery. Another noodle, but what the heck. If you are the family and kin of one of these veterans, it kind of hurt a little bit.

Veteran jobs preference. Trying to get a job. But oh, no, that is denied. Reemployment rights, veteran job training rights—all of these things are the noodle approach. Maybe we will hear some others from the chair of the Subcommittee on Postsecondary Education, Mr. WILLIAMS of Montana, and we can see just how tough the Rangel proposal would be, but we are just asking that as we try to enforce the law, that we just try to leave a little compassion for those who served our country and for those who are minors, and for those who are trying to be rehabilitated.

Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for his generosity in yielding time to me.

This is an election year. It is sometimes not entirely popular to come up with reasonable, rational, appropriate, workable solutions to emotional problems. It is more popular in my home State of Montana and, I am sure, in other States as well, to simply out-toughguy the other side when it comes to drugs. But I suggest to the Members that that is not reasonable, rational or appropriate with regard to those things under the jurisdiction of my subcommittee, and that is higher education. I suggest that America is better off to continue its historic tradition of saying to all Americans, including those who have made tragic mistakes, "If you want to change your life, if you have been a drug trafficker and are trying to change your life, you-all come, you-all try." We say to Americans, "Our colleges and universities will be open to those who want to try."

The historic tradition of the Federal approach to this and the State and local approach to this problem has been to make the highway of education an open avenue of opportunity and promise, not a dead-end cul-de-sac for those who created terrible indiscretions in their youth.

Is that the way to solve the problem, to say to those who have done wrong that the doors that have been open in America, the doors to higher education, are not closed to them?

With rehabilitation, we hold out the American promise of a better life to these people by saying, "Yes, if you have changed, you certainly have an opportunity to try to improve yourself through education and training.

Mr. Chairman, I commend the gentleman from New York [Mr. RANGEL] for his amendment.

Mr. HUGHES. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I just want to say to my colleagues, first of all, that with regard to veterans, they were treated as a special class, because it is only the veterans who were convicted of a felony, for drug trafficking, and served more than a year in prison who are disentitled to those benefits, and only if they have not been rehabilitated.

The real question, the bottom-line question is this: What kind of a signal do we think we send to Americans if we say to them, "We are going to reward the traffickers who have been convicted by subsidizing their benefits?"

This country and the world is full of zombies who are walking around with substantive abuse problems that need help.

□ 1745

The amendment, the McCollum amendment, is an effort to encourage them to get treatment. If they have been rehabilitated and they are productive citizens, they have nothing to fear. On the other hand, the Rangel amendment actually does nothing.

Mr. Chairman, I invite somebody to suggest to me what is left after we exclude all the benefits that the Rangel amendment excludes. The answer is that there is nothing left.

So, if my colleagues want to be honest, if they really feel that the McCollum approach is the right approach, they should vote against this.

I want to say to my colleagues that I can go home to my district this weekend and hold my head high because, frankly, I work to try to get my veterans and others in the detoxification centers even with a waiting list, and that is what I am sure my colleagues do. Frankly, that is why this was crafted the way it was crafted in the Subcommittee on Crime. We gave a lot of thought to this amendment. This was included in the judiciary bill, and it carried out of committee 35 to 0.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time only on the substitute amendment that we are talking about now.

Mr. Chairman, this debate has been a strange one today it seems to me. We have a very solid amendment, main amendment, McCollum-Hughes amendment, passed out of the Judiciary Committee, as the gentleman from New Jersey just said, overwhelming majority; a very liberal committee of this Congress I might add. A lot of effort went into that committee to be sure we exempt all kinds of folks from that provision so that we truly had user accountability in here. Nobody, including a veteran or any veteran's widow loses any retirement benefit, any welfare benefit, any health benefit, any disability benefit or any other similar benefit under any conditions under the McCollum amendment.

So, Mr. Chairman, I do not know what the hoopla is all about, and we made a special provision, as everybody has been talking about, to make sure that veterans who are users do not even lose anything. But, if they are traffickers, of course they do stop.

The bottom line is that, if we adopt the Rangel amendment, as the gentleman from New Jersey just said, we do have a wet noodle. We have nothing here. We do not have any deterrence. We do not have what we have to have to get at the users. And, if we do not get at the user, we do not stop demand in this country, and we cannot win the war on drugs.

Mr. Chairman, let us get something in the law that really makes college students perk up, and if we adopt the Rangel amendment, there is nothing in here for college students. They get their educational benefits. Nothing is ever taken away from them no matter whether they traffick or use or anything else. I think Americans say that it is high time that a college-eligible student loses his loan or loses his grant, and I urge the defeat of the Rangel amendment.

The CHAIRMAN. The Chair might state that on the Rangel substitute the gentleman from New York [Mr. Rangel] has 3 minutes remaining, and the gentleman from New Jersey [Mr. Hughes] has 3 minutes remaining. On the McCollum amendment, the gentleman from Florida [Mr. McCollum] has 2½ minutes remaining, and the gentleman from New York [Mr. Rangel] has 1½ minutes remaining.

Mr. HUGHES. Mr. Chairman, would I have to get unanimous consent to reserve a minute and half for the basic McCollum-Hughes amendment at this point of time?

The CHAIRMAN. The Chair cannot advise the gentleman.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent that I be able to reserve a minute and a half of the time remaining for the McCollum-Hughes amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. To restate the proposition, on the Rangel substitute the gentleman from Florida [Mr. McCollum] has no time. The gentleman from New York [Mr. Rangel] has 3 minutes remaining, the gentleman from New Jersey [Mr. Hughes] has 1½ minutes remaining on the principal amendment by the gentleman from Florida. The gentleman from Florida [Mr. McCollum] has 2½ minutes remaining, the gentleman from New Jersey [Mr. Hughes] has 1½ minutes remaining, and the gentleman from New York [Mr. Rangel] has 1½ minutes remaining.

Mr. HUGHES. Mr. Chairman, I have 1½ minutes remaining?

The CHAIRMAN. The gentleman from New Jersey has 1½ minutes remaining on the amendment.

Mr. HUGHES. First of all, I could not agree with my colleague from California more when he says, and it is an astute observation, that we will have as much substance abuse in this country as we will tolerate, and the question is what kind of a signal do we want to send to those who have refused rehabilitation, who are not productive citizens. Is it a signal that we are going to reward them now by providing taxpayer subsidies for certain benefits?

I do not know about my colleagues, but I hear from housing authorities in my congressional district almost every week about the gross problems they have, traffickers who disrupt tenants in the housing developments who basically are unproductive citizens who affect the lives of the youngsters who are in those housing complexes in a negative fashion, and do we say to them we are going to continue to reward them where they have rehabilitation by continuing their housing subsidies?

Mr. Chairman, that is what Rangel does. Rangel says to them basically, "Those that are entitled to educational benefits, it is OK. You've been convicted of a drug trafficking offensive, and you've served more than a year in prison, and you are refused rehabilitation, but now we are going to reward you."

Mr. Chairman, I do not think that is what the taxpayers want us to do with their money.

Mr. RANGEL. My colleagues have beaten up on Rangel just enough here, and I yield the balance of my time to the gentleman from Michigan [Mr. Dingell], who is my dear friend and the chairman of the Committee on Energy and Commerce and a leader in our Nation and certainly in this Congress, for the purpose of closing debates.

The CHAIRMAN. The gentleman from Michigan is recognized for 3 minutes.

Mr. DINGELL. Mr. Chairman, I rise in support of the Rangel amendment and in opposition to the McCollum-Hughes amendment.

The McCollum-Hughes amendment, I am sure, is adopted in good faith, but it is poorly drafted, and it leads to some extraordinarily curious consequences.

First of all, Mr. Chairman, it sets up an administrative nightmare where it is impossible to really catch wrongdoers, but where a veteran who had been involved twice in the use of or rather in the sale of narcotics, who would earn the Congressional Medal of Honor in Vietnam, could not be buried in Arlington Cemetery. It is supposed to strike at drug dealers, but in point of fact it does not strike at drug dealers. It strikes at the poor, unfortunate, and helpless.

Let us take a look. A person has been discharged for his second offense from the jailhouse. Under this then his family is no longer eligible for housing assistance, his family is no longer eligible for food stamps, his children are no longer eligible for Head Start, his sons are no longer eligible for vocational education, and the family is cast out into the street. It has some language in it that says that a veteran who has completed a drug rehabilitation program may then be eligible to derive his veteran's benefits. What it does not say is that he is not eligible for a federally financed program of drug rehabilitation.

Mr. Chairman, this is about as good an example as I have seen in my career of great enthusiasm resulting in the individual who is demonstrating that enthusiasm shooting himself in the foot or perhaps in some more difficult and unpleasant place. It strikes at the unfortunate family of the person convicted. It denies him the ability to enter a rehabilitation program financed by the Federal Government. It sees to it that his children are incapable of getting educational assistance and food stamps.

Now, if drug use has a component which is misfortune, despair, alienation, and lack of opportunity, then we are most assuredly, if we vote for the McCollum amendment, guaranteeing that that alienation component will be reinforced to the maximum degree and that a family cast out of public housing, denied food and food stamps, denied educational benefits by this, innocent of any wrongdoing, but simply associated with the head of the family who has been ineligible for these, will then have to seek some extraordinary method of procuring the support which is necessary for them to live.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. RANGEL] as a substitute for the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 124, noes 278, not voting 29, as follows:

[Roll No. 299]

AYES—124

Ackerman
Akaka
Anderson
Applegate
Atkins
AuCoin
Bates
Beilenson
Berman
Bevill
Boggs
Boland
Bonior
Boucher
Boxer
Brooks
Brown (CA)
Campbell
Cardin
Carper
Clay
Clement
Coleman (TX)
Collins
Conte
Conyers
Costello
Coyne
Crockett
DeFazio
Dellums
Dingell
Dixon
Downey
Dymally
Early
Edwards (CA)
Evans
Fazio
Flake
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gejdenson
Gephardt
Gilman
Gonzalez
Gray (PA)
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Jacobs
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
LaFalce
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Manton
Markey
Matsui
Mavroules
McCloskey
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Pelosi
Perkins
Pickle
Quillen
Rangel
Robinson
Rodino
Roe
Roybal
Sabo
Savage
Scheuer
Schumer
Sikorski
Slaughter (NY)
Smith (IA)
Solarz
St Germain
Stokes
Stratton
Studds
Swift
Synar
Torres
Udall
Vento
Weiss
Wheat
Whitten
Williams
Wolpe
Yates

NOES—278

Andrews
Annunzio
Anthony
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Bonker
Borski
Bosco
Brennan
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Carr
Chandler
Chapman
Chappell
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Dwyer
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gregg
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kolbe
Konnyu
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moorhead
Morrison (WA)
Murtha
Myers
Neal
Nelson
Nichols
Nielson
Olin
Ortiz
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Penny
Pepper
Petri
Pickett
Porter
Price
Pursell
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Wise
Wolf
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—29

Alexander
Aspin
Badham
Boulter
Cheney
Cooper
Daub
Dowdy
Green
Jones (NC)
Jones (TN)
Kemp
Kolter
Leland
Lipinski
Luken, Thomas
MacKay
Martin (IL)
Martinez
McCurdy
Mica
Packard
Ritter
Roth
Spence
Stark
Towns
Waxman
Wilson

□ 1816

The Clerk announced the following pairs:

On this vote:

Mr. Leland for, with Mrs. Martin of Illinois against.

Mr. Waxman for, with Mr. Packard against.

Mr. Towns for, with Mr. Roth against.

Mr. Green for, with Mr. Daub against.

Messrs. FASCELL, MYERS of Indiana, RINALDO, PAYNE, FOGLIETTA, VISCLOSKY, and NEAL, Mrs. SCHROEDER, Mr. WALGREN, and Mr. SAWYER changed their vote from "aye" to "no."

Mr. STOKES and Mr. BOLAND changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1815

Mr. McCOLLUM. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, at this point in time, we are ready to vote on the McCollum amendment, the substitute having just been defeated.

I am hopeful that the Members who voted the way they just did will simply reverse that vote.

I would like to very quickly explain what this amendment does again in case anybody missed it. The McCollum use amendment we are about to vote on would remove eligibility for Federal grants, contracts, loans, licenses, public housing if somebody is convicted of drug trafficking or if twice convicted of simple drug possession. This would include the felony convictions which includes student loans, grants, and FHA loans. It exempts, however, retirement, welfare, health, disability, or similar benefits, and provides for the reinstatement of these benefits for anybody who is declared ineligible, if it is a drug-trafficking conviction, that they are declared ineligible for, after a period of 10 years; it reinstates eligibility for the simple possession-use accountability provisions after a period of 5 years, or in either case, if somebody completes a drug rehabilitation program sooner and gets the head of an agency to grant them a reprieve and to reinstate their eligibility.

Mr. Chairman, the bottom line is this is an essential user-accountability provision. I urge the adoption of the McCollum amendment. If we are really going to get to the demand side, we got to the other side, we have education, rehabilitation and user accountability, and it is great amendment to vote for—the McCollum use. Please vote yes on it.

Mr. Chairman, I reserve the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I recognize that politically anything that sounds as though it is harsh and against drug violators is going to pass, but I want the Members to know what the gentleman from Michigan [Mr. DINGELL] and the gentleman from Mississippi [Mr. MONTGOMERY] and I had hoped is that this House would not deny to veterans, as it is under this bill, their widow's pension, would not deny those to be buried in a national cemetery, would not deny them the GI bill, and certainly I would hope that even if one is wait-listed in trying to get into a rehabilitation program or if one were in a rehabilitation program and if they have not completed it such as is demanded or required in this bill, that somehow it could be exempt.

I also did exempt 18-year-olds, because I thought that there might be some compassion and common sense as we tried to get a good drug bill, but since the move is that everything has to go if it sounds mean, I would say since we lost the Dingell-Montgomery-Rangel amendment, we do not have to go this far.

I urge a vote against this bill.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have heard it stated a number of times in this debate that we are going to deny veterans' families their benefits, survivors' benefits. That is not so. Retirement benefits and similar benefits are exempted from the bill. That is the first thing.

The second thing is it has been suggested that we are going to deny veterans burial in veterans' cemeteries. That is nonsense. We are talking in terms of benefits, licenses, grants. None of those things apply.

It is a very simple proposition. The question is whether or not we should be subsidizing with taxpayers' money a convicted drug trafficker who has served more than 1 year in prison who refuses to go into a rehab program. That is the issue. The question is whether or not we send the right signal, when we say to a two-time user who has been convicted who refues to go into a rehabilitation program that we are now going to reward him by providing him with educational benefits or housing benefits. That is the issue.

Frankly, I do not know about other Members, but I cannot go back to my district and say that that is the right signal to send to the taxpayers of this country. They want us to do something about it. We have zombies walking around who have substance-abuse problems who are of no assistance to their families, they are out stealing most of the time to try, in fact, to pay for their habit, and we are saying on top of that, on top of all the problems they present to our community, that we are going to reward them with taxpayer benefits.

I urge the Members to support the McCollum-Hughes amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this amendment simply balances compassion with the need for doing something about users. The country wants us to do that. We need to put a deterrent in along with education and rehabilitation. Nobody believes that taxpayers should subsidize those who break the drug laws of this country, and I do not think that we should be giving Federal benefits to college students or anybody else if they have demonstrated that they have been using drugs and they have been convicted twice of that until they have demonstrated that they have gone through a drug rehabilitation program.

The American people do not want them to have those loans and those grants either, and that is really all this amendment does. It exempts all of those things like retirement benefits and welfare benefits and so on, but the hard-line grants, loans and other privileged programs we have would be denied to drug traffickers and two-time convicted drug users. It is time we put user accountability into the law. This is our chance to do it.

Mr. Chairman, I urge, vehemently urge, a "yes" vote on the McCollum-Hughes amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 335, noes 67, not voting 29, as follows:

[Roll No. 300]

AYES—335

Andrews
Annunzio
Anthony
Applegate
Archer
Armey
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Cooper
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Manton
Marlenee
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
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Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
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Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Staggers
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Stangeland
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Stratton
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Sundquist
Sweeney
Swift
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Thomas (CA)
Thomas (GA)
Torres
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Valentine
Vander Jagt
Visclosky
Volkmer
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Walgren
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Watkins
Weber
Weldon
Whittaker
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—67

Ackerman
Akaka
Anderson
Atkins
Beilenson
Berman
Boland
Brooks
Cardin
Clay
Conte
Conyers
Coyne
Crockett
Dellums
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Foley
Ford (MI)
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Frank
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Roybal
Sabo
Savage
Scheuer
Sikorski
Solarz
St Germain
Stokes
Studds
Vento
Weiss
Wheat
Williams
Yates

NOT VOTING—29

Alexander
Aspin
Badham
Boulter
Bryant
Cheney
Collins
Daub
Dowdy
Green
Jones (NC)
Jones (TN)
Kemp
Leland
Lipinski
Luken, Thomas
MacKay
Martin (IL)
Martinez
McCurdy
Mica
Packard
Roth
Spence
Stark
Towns
Waxman
Whitten
Wilson

□ 1845

Messrs. HOYER, MFUME, and KENNEDY changed their vote from "aye" to "no."

Messrs. FOGLIETTA, GRAY of Pennsylvania, and McCLOSKEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DAUB. Mr. Chairman, I was unavoidably absent. Had I been present, I would have voted "yes."

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LUNGREN: Page 205, after the quoted matter following line 4, insert the following new subtitle:

Subtitle M—Limitation of the Fourth Amendment Exclusionary Rule

SEC. 6801. LIMITATION OF THE FOURTH AMENDMENT EXCLUSIONARY RULE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Except as specifically provided by law, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in an objective, reasonable, good faith belief that it was in conformity with the fourth amendment to the Constitution. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such an objective, reasonable, good faith belief, unless the warrant was obtained through intentional and material misrepresentation.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end the following new item:

"3508. Limitation of the fourth amendment exclusionary rule.".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. LUNGREN] will be recognized for 15 minutes.

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I notice the gentleman's amendment this year contains the objective standard that was missing from the amendment several years ago.

Mr. LUNGREN. The gentleman is correct.

Mr. BERMAN. I applaud the gentleman for that change, though I still oppose his amendment.

But I wanted to ask: My assumption is that that inclusion of the objective standard is in effect a statement that an officer's—his ignorance of the law, in effect, is not an excuse in this situation? The objective standard as opposed to a subjective standard means that within the good faith definition, he has to be—he has the obligation to know the law on the subject of what is a proper search and what is not a proper search.

Mr. LUNGREN. Reasonable standard and an objective standard combine in that situation and I would say that the gentleman is correct.

We have had cases in which the court has subsequently changed its interpretation of what the proper application of the law ought to be. An officer should not be required to be a seer. But a reasonable approach, reasonable standard which is applied objectively is the standard we placed in the amendment.

Mr. BERMAN. He cannot come in and say, "I did not know the law and therefore the search was in good faith. I am ignorant of the law on this subject".

Mr. LUNGREN. Not if he is intentionally ignorant of the law, no.

Mr. CONYERS. Mr. Chairman, has the opposition been established for this amendment?

The CHAIRMAN. The Chair will state that it has not.

Mr. CONYERS. Mr. Chairman, I oppose the amendment and I would like to represent the committee.

The CHAIRMAN. The gentleman from Michigan, Mr. CONYERS, will be recognized in opposition for 15 minutes.

The Chair recognizes the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this amendment would simply allow reliable physical evidence such as narcotics seized from a drug trafficker, where the responsible officer has acted with an objectively reasonable good faith belief that their conduct was lawful. In other words, this is a reform of the so-called exclusionary rule. It is particularly appropriate in the context of a drug bill because according to the National Institute of Justice study, over 70 percent of all felony cases rejected for prosecution in a California study were rejected because of potential exclusionary rule problems.

This happen in drug cases. Out of all of those that were rejected for exclusionary rule problems, 70 percent of those felony cases were drugs. Approximately 30 percent of these felony drug arrests were rejected by prosecutors because of search and seizure problems.

The U.S. Supreme Court has moved in the direction of my amendment by already adopting a good faith standard, a good faith exception to the exclusionary rule for searches where a warrant was obtained, in the cases of United States versus Leon and in Massachusetts versus Sheppard.

However, these cases did not address the vast majority of warrantless cases where the rule's deterrent purposes is not served because law enforcement officers in the good faith belief that their acts were lawful. In other words, the courts did not have before it the question of a case not involving a warrant where the officers acted in good faith but nonetheless inadvertently did not follow the latest strictures of the law in the latest interpretation of the exclusionary rule.

If one would go back and see the origins of the exclusionary rule, I think they would see that the reason for the exclusionary rule being imposed is basically to act as a deterrent against improper police conduct. That is, none of us want police breaking in our doors, none of us want police willy-nilly making search and seizures without some protections of the law.

It makes sense in cases where police officers intended to violate the law.

But the Supreme Court recognized that in a good faith case were a police officer has acted in good faith and nonetheless inadvertently violated the law, in a case involving warrants, the deterrent was not appropriate because you cannot deter good faith conduct.

We have even had cases where police officers acted in accordance with the rules as understood at that time, where an exclusionary rule application was made and where 2 years after the actual conduct took place the Supreme Court reinterpreted the rules under which police officers were to act. So a police officer would have had to be a seer, some prognosticator who could figure out what the courts were going to do two years down the line.

My amendment would enable us on the Federal level to return the exclusionary rule to its original purpose of deterring unlawful police conduct.

Under my proposal, an exception would be provided to the exclusionary rule only so long as the law enforcement officer has acted in good faith and concludes that a particular set of facts and circumstances give rise to probable cause.

I should note that I have changed this amendment since it was adopted by this body on a rather overwhelming vote 2 years ago almost to the day, September 11, 1986, as an element of the 1986 drug bill. On the basis of a suggestion by Chairman "BILL" HUGHES, the language in the amendment states explicitly that an objective reasonable standard will be used.

We entered into a colloquy at that time and so it was in terms of legislative intent and the accompanying dialog that we showed that that was in fact our intent. Here I have made sure that it is in the body of the statute itself.

It should be noted the exclusionary rule is not part and parcel of the fourth amendment. It is a judicially created remedy which was not adopted until 1914, 123 years after the fourth amendment was adopted. And it has only been applicable to State criminal proceedings for the past 27 years.

My amendment would not eliminate the exclusionary rule. Rather, it would maximize the availability of reliable evidence regarding the guilt or innocence of the defendant. That is important to know.

The exclusionary rule excludes otherwise reliable evidence that goes to the question of guilt or innocence. It is used in a sense to punish the officer so that it will be a deterrent for the future.

In this case, that is in cases involving a good faith effort by the officer to follow the law, the exception would be made.

This is particularly important with respect to the prosecution of drug cases. The fact finding process of our judicial system is best served by a limitation of a rule to the confines of its deterrent purpose. It is difficult to explain to the average citizen why you would throw out evidence that otherwise goes to the question of the guilt or innocence, when the police officer acted in good faith.

I would ask a "aye" vote.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the proposal to extend the good faith exception to the exclusionary rule is one of the dangerous outcomes of this drug debate. In the effort to look tough on drugs and preserve public safety, we are potentially undermining important constitutional rights and liberties.

Proponents of this measure see it as an antidrug provision that would allow police officers to arrest all persons caught with illegal drugs. They claim that the legal technicalities of obtaining a search warrant allow many persons possessing drugs to slip away. This simply isn't true. The most comprehensive study of Federal criminal proceedings, conducted by the U.S. Comptroller General in April 1979, showed that in only 1.3 percent of the 2,400 cases studied was any evidence suppressed. In only half of that, or 0.65 percent, were charges dismissed.

For that 0.65 percent, we cannot offhandedly consider extending exceptions to the exclusionary rule. This measure is not a mere extension of the current good faith exception established in U.S. versus Leon. In that case, the court held that an exception could be made for evidence gathered by officers acting in reasonable reliance on a search warrant offered by a neutral magistrate. Among other provisions, the court declared that this exception could not apply to cases in which the magistrate was not neutral or in which the officer had made false statements in obtaining the warrant.

A position of neutrality was the key to that decision. It was assumed that magistrates were neutral arbiters and would not violate fourth amendment rights against unreasonable searches and seizures. The amendment under consideration today, however, places responsibility in the hands of the police, allowing them to act upon a good faith belief that the search or seizure is in conformity with the fourth amendment. But police are not, as a rule, neutral arbiters. They have every interest in making an arrest or in securing convictions, because that is what their status, salary, and chance of promotion are based upon. There is every incentive in this situation for a police officer to overlook fourth amendment rights in the interest of making an arrest. The Supreme Court itself has refused for more than 4 years to consider such extensions to its ruling on Leon.

This amendment, moreover, provides no checks on warrantless searches. Under the current good faith exception defined by Leon, the police must articulate reasons for conducting the search before the magistrate. Objective evidence must be presented. Illegal searches are denied. The warrant itself limits the scope of the search.

Under the proposed amendment, however, there would be no warrant to limit the search and no evidence to prove that the officer acted in objective good faith. The courts can rely solely, in this case, on after-the-fact oral testimony, after the deed is done. Even if a police officer were found to have acted illegally, it is unlikely that a prosecutor, who works closely with the police, would bring charges. And internal review within the police department would, of course, be ineffective since the supervising officers share the same goals in making arrests.

What such an amendment allows, in effect, is the police officer's taking law into his own hands. Under this provision, a law enforcement officer interprets the Constitution for himself by gauging whether he is acting in confirmity with the fourth amendment. There is no constitutional review by the court before the search is undertaken. After the search, the court has little way to determine whether the police acted in good faith. Since there is no objective evidence involved, review by the court depends only on the police officer's word. In this situation, the subjective, and potentially biased, judgment of the police officer is placed above that of the court. This, to me, invites anarchy and opens doors to an intrusive government.

We have never been a nation without checks and protections of constitutional liberties. Although our Government may not be as efficient or as effective as other types or regimes, Americans consider this a necessary sacrifice for the preservation of individual rights. This amendment, however, overturns our delicately balanced system of checks and balances. For one person who might be arrested as a result of this amendment, thousands of other law-abiding citizens would lose their right to privacy. While I am 100 percent committed to an all-out war on drugs, which are ravaging my district of Detroit, I can not make a tradeoff with constitutional principles. The amendment would hardly make a difference to the numbers arrested and it places valuable rights in danger. I urge my colleagues to vote against this amendment.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding me the time, and I would just like to say briefly as a Member of the House who was a district attorney in my former life and who prosecuted hundreds of cases that I find I believe that the exclusionary rule is an anachronism that has no place under the current criminal justice system for this reason:

I think it is important to understand that the exclusionary rule is not anything based in the long history of the Constitution. It is something that was created by the U.S. Supreme Court about 30 or 40 years ago, to presumably protect defendants from misdeeds of police. The way it does so is by denying to the finder of fact, often the most critical evidence in the entire prosecution. In effect, what it does, is say the guilty may go free, because the constable blundered or because the police officer often, in good faith, had information which he reasonably believed was probable cause for a warrant and which, in retrospect, some 8, 10, 15, or 20 years later, some court decides was insufficient.

It does not serve the cause of justice, it prevents the effective prosecution in cases of drug abuse and drug smuggling, and I think we ought to adopt the Lungren amendment.

It is high time that we allow the finder of facts the most critical evidence, and if, in fact, the police, in good faith, apply for and secure a warrant, we should not deny to the finder of fact, often the most critical evidence that will help to convict and put behind bars the people that are violating our laws.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BERMAN], a former member of the Subcommittee on Criminal Justice.

Mr. BERMAN. I think it is very important that the House understand the amendment. This is not an amendment that is restricted to drug cases or drug-related cases. This bill will rip apart a Supreme Court decision of 1914 that provides the only effective enforcement to the fourth amendment to the Constitution of the United States for all Federal offenses, felony, and misdemeanor, drug or nondrug, without regard to the particular subject matter of the legislation we are considering now.

Second, and to repeat, this is not an effort to overturn some misguided Warren Court liberal do-gooder decision. This is overturning Weeks versus The United States, 1914. The Court concluded that the only effective way to protect the citizenry of the United States against violations of the fourth amendment was to provide for the exclusion of evidence.

The chairman of the subcommittee has very effectively pointed out the difference between a good faith exception and a warrantless search, where you have no neutral arbiter, no judge, no magistrate listening to evidence of probable cause, limiting the scope of the search warrant, and the self-serving after-the-fact statements of a police officer understandably committed to making to the arrest and getting the conviction, as to why he was acting in good faith, even though it was very clear that the search he conducted violated all appropriate standards.

Now, I appreciate the concession of the author of the amendment that this year's amendment does not reward ignorance of the law, that a police officer cannot say that he did not know it was illegal, and thereby establish his good faith, but the fact is that the good faith of the police officer is realistically never going to be challenged.

We are rendering the fourth amendment here to be a dead letter, by providing this kind of an escape clause. If the gentleman from California had proposed, along with this amendment, a series of sanctions, of disciplinary actions, of legal monetary remedies, to protect our citizenry against the illegal searches that violate the fourth amendment, then we would say maybe we could look at providing a different form of deterrent, a different method of protecting the citizenry, but there is no such alternative proposal.

I suggest that the 1.2 percent of the cases that have some evidence suppressed because of illegal searches, the one-half of 1 percent of the cases under the most recent GAO studies that have some charges dismissed because of that, do not warrant this kind of frontal assault on the fourth amendment.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I stand up in strong support for the Lungren amendment. There is a lot of conversation that has gone on, on the floor with regard to this. I think the gentleman from Michigan handling the other side of this is probably putting the most postive spin on the argument for those that are opposed to this. However, I think there are things that went unsaid.

Early in my career I was chief city prosecutor for the city of Fort Lauderdale, and following that, associate administrator judge, and I learned during that time, as anyone has learned that is involved in the criminal justice system, there are tens of thousands of cases a year that are filed because of the exclusionary rule.

The gentleman from Texas made a very good point a few moments ago when he said it was not the original intention of the Founding Fathers who wrote the Declaration of Independence, to put an exclusionary rule in there. It is simply not in there. This has been a creature created by the courts in interpretation of the fourth amendment. We are not rewriting the Constitution. We, indeed, are not taking away the Bill of Rights as it applies to law-abiding citizens. What we are taking away from the criminal, is a free ticket out of jail, that was not intended as part of the Bill of Rights. We are talking about rights, ladies and gentlemen. We are talking about the rights of the American people to be secure in their homes, not being run over by drug traffickers, and we are also talking about the rights of the citizens of the United States to prosecute those that would flagrantly disregard our laws and hide behind the fourth amendment, in a way that it was never intended.

I urge passage of the Lungren amendment.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL], chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. Mr. Chairman, this war against drugs seems like it is becoming a war against the Constitution. We are not talking about drug traffickers that are being protected on existing law. What we are talking about is rulings that have been made that government must also obey the law.

These laws, no matter what we do, are interpreted by the U.S. Supreme Court. Each time we talk about what we are doing with the criminal, we have to understand that we are talking about a cloak of innocence, that a person is innocent until proven guilty, and we are trying to make certain that the innocent continue to have protection against intrusion into their privacy.

It bothers me that with a such broad change that we want to make in the law, that we would wait until a vehicle that comes along like an antinarcotic, antidrug bill, one which we know definitely will pass, and for the first time, this becomes now a major thrust of those who want to make certain that drug traffickers go to jail. It hasn't been restricted to drug traffickers.

Mr. LUNGREN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, the exclusionary rule is not a constitutional provision. The exclusionary rule is a court-made interpretation in order to enforce some constitutional rights. It has been getting in the way, the way it has been interpreted, of law and order and, very simply put, the balanced interests of the American public versus the balanced interests of the accused in the sense that the enforcement process has been swinging too heavily in favor of the accused.

This amendment, this good faith exception that the gentleman from California has promoted this year, last year, and several years ago and got passed in the last Congress on a similar bill is nothing more and nothing less than an effort to put that pendulum back in the right direction in favor of the American public interest. We need to be able to arrest and convict drug traffickers, drug dealers, bad apples, and put them in jail. We need at the same time to protect the constitutional rights of American citizens.

Mr. Chairman, the adoption of this amendment will provide proper balance and proper focus, and I urge adoption of the Lungren amendment.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I thank the chairman of the subcommittee for yielding time to me.

Mr. Chairman, my colleagues on this side of the aisle have made a very strong case against this amendment. It really is rather a shocking thing that at this time in our history we are even considering allowing illegal evidence to be used against Americans. I certainly hope there is a huge vote against the amendment.

The only contribution I can make is that in the oversight of the FBI, the jurisdiction of the subcommittee that I chair, the subcommittee that has indulged them for the last 15 years or so, all of the directors have been asked the question, "Do you approve of the exclusionary rule, and do FBI agents comply with it?"

Every Director, Hoover, Kelly, Webster, and now Judge Sessions, says, "Of course we do. We have no problems in complying with the exclusionary rule."

The fact is they like to have the exclusionary rule because that means that FBI agents are going to behave themselves. They know that if they violate the exclusionary rule, they are going to look like fools before the country.

Mr. Chairman, I certainly urge a no vote on this amendment.

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Mr. LUNGREN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me just describe one of the types of incidents that the exclusionary rule applies to, the case of Robbins versus California in 1981. In Robbins, the court excluded under the exclusionary rule evidence of a substantial quantity of marijuana found in a car trunk on the decision that was largely based on two cases, the Chadwick case of 1979 and the Arkansas versus Sanders case of 1979. Neither of those cases had been decided at the time the officers made the arrest and the search. In fact, the Robbins decision overruled a previous decision of the trial and appellant courts in California that allowed the search. That is that the search was valid so that even if the police officer had law books with him with the latest decisions, and looked at them and followed them appropriately because the court decided they wanted to change the rule 2 years later, that evidence was tossed out. How does that go to guilt or innocence? How does that give respect to the law? In that case 14 judges reviewed the search. Seven found it valid; seven found it invalid.

To add to the confusion, Mr. Chairman, less than 3 months after they decided the Robbins case, the Supreme Court granted certiorari in the case of U.S. versus Ross and asked both sides to address the question of whether the Robbins case should be reconsidered. Now what should the police officer do under those circumstances? Should not an appropriate, reasonable standard, good faith approach be enough? Is not that what we want, to help, to protect the people of America in cases particularly involving drugs? That does not violate anybody's constitutional rights. That says, "Let's have some order and sense to it."

Mr. Chairman, the Supreme Court already recognized this in cases involving warrants. Two circuits of the Federal court have recognized it in cases not involving warrant, and all we are doing is following the pioneering that they have been involved in for the last several years, and since it disproportionately impacts on drug cases it is particularly appropriate to deal with it here.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. RODINO], the Chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Chairman, as I was about to rise to speak in opposition to the exclusionary rule amendment, the gentleman from New York, chairman of the select committee, said, "This is a rough day for the Constitution," and then he added that, "good faith is no substitute for good law." I think that this is what this argument is all about.

Mr. Chairman, this is a wholesale assault on the Constitution. The exclusionary rule was adopted in order to assure that illegal evidence was not used in the prosecution of the case.

Mr. Chairman, for nearly 75 years, the exclusionary rule has served as the primary remedy for violations of a citizen's fourth, fifth, and sixth amendment rights. The rule was first applied by the Supreme Court in Weeks versus United States (1914) and was applied to State cases in Mapp versus Ohio (1961).

Today we are considering an amendment that ironically would allow police officers to ignore the law in the attempt to enforce the law.

The rule protects the right of every American by exclusing illegally obtained evidence from use in prosecution. This is the only way that police searches without warrants can be forced to stay within the limits of the Constitution. In the year before the Mapp decision, the New York City police obtained no search warrants whatsoever. The next year, they obtained 200 warrants.

The good faith exception currently in existence is as far as we can go without creating serious problems for the protection of constitutional rights. The Supreme Court already allows objective good faith searches where there is a warrant involved. But to extend the exception to warrantless searches would hopelessly confuse the rule; there would be no prior requirment for the police to present their probable cause for the search, so there would be no evidence to determine whether objective good faith was present. Instead, the courts would have to rely on the police officer's after-the-fact oral justification, which might be shaped by the officer's desire not to see the evidence excluded and not to be criticized for sloppy police work.

By adopting the fourth amendment, the framers expressly decided to sacrifice a degree of effectiveness in law enforcement to make sure that citizens could be safe from unreasonable searches and seizures.

More importantly, there is no empirical evidence that the exclusionary rule creates significant obstacles to law enforcement. A study conducted by the Comptroller General's Office found that motions to suppress evidence were granted in only 1.3 percent of Federal cases. The leading commentator on search and seizure law has found that the exclusion of evidence attributable to fourth amendment violations is somewhere between 0.6 and 2.35 percent.

Studies have also shown that the suppression rate in warrantless searches is substantially lower than in searches supported by a warrant. So there is even less reason to create a good faith exception for warrantless searches.

People who attack the exclusionary rule are really attacking the Constitution. As Senator Robert Wagner pointed out in 1938 at a New York State constitutional convention:

> All the arguments [that the exclusionary rule will handicap law enforcement] seem to me to be properly directed not against the exclusionary rule but against the substantive guarantee itself. * * * It is the [law of search and seizure], not the sanction, which imposes limits on the operation of the police. If the rule is obeyed as it should be, and as we declare it should be, there will be no illegally obtained evidence to be excluded by the operation of the sanction.

Mr. LUNGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I reject the notion that someone here is assaulting the Constitution. That is the kind of rhetoric one hears when they have lost the argument, unfortunately.

If the Supreme Court has changed its mind and allowed a good faith exception, would one say that the Supreme Court is assaulting the Constitution? Does one say the Supreme

Court assaulted the Constitution when it created out of whole cloth the exclusionary rule 124 years after the adoption of the fourth amendment? Does one say that the Supreme Court assaulted the Constitution when 60-some years ago they applied this to States as well as to Federal agencies? Mr. Chairman, I do not think so.

These are changing times, changing application of rules that were created to help enforce fourth amendment protections. That is all we are doing.

As we have heard so many times from the chairman of the committee, the Constitution is a living, breathing document, not some musty, old document we put in the back room, and all we are saying is to let it breathe with a certain sense, and I would say that I would not say that Members of this body almost 2 years ago to the night, September 11, 1986, adopting this very same amendment 259 to 153—with one exception I have improved the amendment in accordance with the suggestion made by the chairman of the subcommittee, the gentleman from New Jersey [Mr. HUGHES]—that 259 Members of the House of Representatives assaulted the Constitution. No, they saw that this was the reasonable, good faith approach to take on this particular question.

Study after study shows the exclusionary rule has a disproportionate affect on the ability to bring people to justice involved in drug trafficking in this country. It seems timely for us to bring it here. I wish we would have this exclusionary rule debate at another time. We cannot get it out of the subcommittee or the committee, and the gentlemen on that side of the aisle know that. I would love to bring it out of committee. The gentleman from California has made it very clear that he does not agree with it and he would fight to the death against it.

Mr. Chairman, I would ask the Members to vote as they did 2 years ago.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON], a member of the Committee on the Judiciary.

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to the amendment. I think that it is important to remember this amendment cannot change the Constitution, and the only cases we are talking about here are cases where the Constitution has been violated with the rights of the person who has been searched have been violated. It is a violation of the Constitution or this amendment has no effect at all because, if it is constitutional search, the evidence is admissible. So all this amendment is saying is, "It's all right to violate the Constitution; go ahead and do it. There's no real penalty for doing that. You'll get away with it."

The Supreme Court innovated with the exclusionary rule after more than a hundred years on this determination, that the fourth amendment cannot be enforced if we allow illegal evidence to be admitted, and, therefore, the exclusionary rule has to be used in order to respect the fourth amendment, and in 1961 they extended it to the States for the reason that the States could not enforce the fourth amendment either.

Mr. CONYERS. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I would point out that the Lungren amendment really is an attack upon the Supreme Court because the exclusionary rule was created by the courts and has been sustained by the courts. I would remind my colleagues that we have had one Chief Justice who served for the last 17 years, Mr. Burger, who with his Court sought not to change it.

I say to the Members that Judge Webster, formerly the head of the FBI, came before our subcommittee and said that he did not want to change this rule, that William Sessions, the current Director of the FBI supports the continuation of the exclusionary rule. Why? Not because it hampers police in their work, but because it protects our citizens and requires the police to know the law.

Please vote "no."

Mr. HUGHES. Mr. Chairman, I rise in support of the amendment.

The argument in support of the exclusionary rule is that it serves to deter improper police activity. The problem with the result is that the penalty is imposed against society when evidence of a crime is not admitted in the trial of a criminal. That is a high price, and sometimes, the price, is appropriate. I recognize that the exclusionary rule, as a general proposition, has served to improve the training and performance of the Nation's police.

The amendment offered by the gentleman from California is a limited exception to the exclusionary rule and applies only to searches and seizures under the fourth amendment. Further, it only applies if the police officer's search was undertaken in an "objective, reasonable, good faith belief" that it was in conformity with the Constitution.

If the officer operates in an objective, reasonable, good faith belief that he is operating in conformity with the Constitution, what more could we want from the officer? If there is some minor or technical defect in the warrant, who are we punishing if we exclude the evidence? Obviously it's society. That makes no sense to me.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LUNGREN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 259, noes 134, not voting 38, as follows:

[Roll No. 301]

AYES—259

Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Borski
Bosco
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Combest
Cooper
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Davis (IL)
Davis (MI)
DeLay
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dornan (CA)
Dreier
Durbin
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gingrich
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Kanjorski
Kasich
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Manton
Marlenee
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morrison (WA)
Murphy
Myers
Nelson
Nielson
Nowak
Ortiz
Oxley
Parris
Pashayan
Patterson
Payne
Penny
Pepper
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Rogers
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
St Germain
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—134

Akaka
Atkins
AuCoin
Bates
Beilenson
Berman
Boehlert
Boggs
Boland
Bonior
Bonker
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bustamante
Cardin
Coleman (TX)
Conte
Conyers
Coyne
Crockett
de la Garza
DeFazio
Dellums
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gejdenson
Glickman
Gonzalez
Gray (PA)
Hawkins
Hayes (IL)
Hertel
Horton
Hoyer
Jeffords
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
Matsui
Mavroules
McCloskey
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Morella
Morrison (CT)
Mrazek
Nagle
Natcher
Neal
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Perkins
Pickett
Rangel
Ridge
Robinson
Rodino
Rose
Roybal
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Slattery
Slaughter (NY)
Solarz
Spratt
Staggers
Stokes
Studds
Swift
Synar
Torres
Torricelli
Traxler
Udall
Vento
Visclosky
Walgren
Weiss
Whitten
Williams
Wise
Wolpe
Yates

NOT VOTING—38

Ackerman
Alexander
Aspin
Badham
Boulter
Cheney
Clay
Collins
Daub
Dowdy
Ford (TN)
Garcia
Gephardt
Gilman
Green
Jones (NC)
Jones (TN)
Kemp
Leland
Lipinski
Luken, Thomas
Lukens, Donald
MacKay
Martin (IL)
Martinez
McCurdy
Mica
Murtha
Nichols
Packard
Roe
Roth
Spence
Stark
Towns
Waxman
Wheat
Wilson

□ 1941

The Clerk announced the following pairs:

On this vote:

Mrs. Martin of Illinois for, with Mr. Gephardt against.

Mr. Packard for, with Mr. Leland against.

Mr. Daub for, with Mr. Towns against.

Mr. Roth for, with Mr. Waxman against.

Mr. GRANT and Mr. DERRICK changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. KANJORSKI] having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4775) "An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments to the Senate numbered 2, 25, 35, 39, 41, 42, 44, 49, 53, 60, 68, 72, 74, 75, 77, 80, 81, 88, 89, 90, 91, 92, 93, 98, 100, 113, 116, 117, 121, 122, 138, 141, 142, 143, 145, 146, 149, 152, 153, and 154, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4867) "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments to the Senate numbered 5, 7, 11, 13, 28, 29, 31, 33, 34, 38, 39, 40, 42, 43, 45, 53, 59, 63, 86, 89, 92, 93, 98, 103, 104, 105, 106, 107, 114, 116, 120, 122, 127, 130, 131, 132, 136, 137, 140, 142, 149, 150, 153, 156, 157, 165, 167, 169, 172, 173, 191, 193, 195, 196, 197, 199, 202, and 203, to the above-entitled bill.

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2641. An act to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection; and

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago & North Western Transportation Co. and the United Transportation Union.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to advise the membership on the program for tomorrow.

Mr. Speaker, tomorrow we will begin the session of the House with the consideration of the conference report on H.R. 4783, the Labor/HHS appropriation for fiscal year 1989 with 1 hour of debate on the conference report and another hour of debate is possible on amendments reported in disagreement.

Then we will take up a number of motions to go to conference on fiscal year 1989 appropriation bills.

Following that, we will take up an unnumbered Senate bill to provide for settlement of labor-management disputes between the Chicago & Northwestern Transportation Co. and the United Transportation Union.

It is our judgment that the conclusion of that program will bring us very near to the 3 o'clock adjournment hour.

□ 1945

It is possible, but unlikely, that we will be returning to the drug bill before next Wednesday. I give the Members this advice for their use in planning their schedules.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, can the gentleman give us any idea on the schedule for next week? I understand we are coming in on Wednesday and will be in through Friday. Will the adjournment time be approximately the same?

Mr. FOLEY. We will be coming in on Tuesday next week. There will be no votes scheduled until Wednesday. There will be votes, Members should expect, Wednesday, Thursday, and Friday next week.

Mr. BURTON of Indiana. Pro forma on Tuesday?

Mr. FOLEY. No. We will be debating 27 suspensions and considering a conference report, but not any votes. They will be postponed until Wednesday.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I am happy to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, is it the gentleman's intention that we would finish the drug bill then next week?

Mr. FOLEY. I believe we will finish most likely on Thursday. I think it will probabaly take both Wednesday and Thursday next week to complete action on the bill.

Mr. EDWARDS of Oklahoma. What then does the gentleman foresee for the remainder of the week after that?

Mr. FOLEY. We will make an announcement on the schedule tomorrow. We will have a schedule on Friday next week. The Members should expect votes on Wednesday, Thursday, and Friday of next week. The predominant business on Wednesday and Thursday will be the drug bill, but other legislation will be scheduled on Friday.

Mr. EDWARDS of Oklahoma. If I could ask the gentleman one more question: Does the gentleman envision we will be in late any of those nights next week?

Mr. FOLEY. It is hard to tell. It is possible that we could be in late one night, but I expect adjournment by 3 o'clock on Friday.

Mr. BURTON of Indiana. Mr. Speaker, I did not catch that last remark. Did the gentleman say when adjournment would be?

Mr. FOLEY. I expect adjournment next Friday, that is Friday week, by 3'oclock, as it will be tomorrow.

Mr. EDWARDS of Oklahoma. If the gentleman will further yield for just one more question, it is my understanding that the White House picnic is next Thursday night.

Mr. FOLEY. We have been consulting with the leadership on the Republican side about an adjournment on Thursday which would accommodate Members for the attendance at the White House picnic.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT MONDAY, SEPTEMBER 12, 1988, TO FILE REPORT ON H.R. 5247, WATER RESOURCES ACT OF 1988

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight, Monday, September 12, 1988, to file a report on H.R. 5247, the Water Resources Act of 1988.

Mr. Speaker, I would state further that this matter has been cleared with the minority.

The SPEAKER pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

TEMPORARY EMERGENCY WILDFIRE SUPPRESSION ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2641) to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MORRISON of Washington. Mr. Speaker, reserving the right to object, I yield to our distinguished chairman, the gentleman from Texas [Mr. DE LA GARZA], to explain to the House what this action is.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding, and I will be happy to do so.

Mr. Speaker, approximately 1 month ago I brought to the floor of the House of Representatives a bill that was desperately needed to provide assistance to farmers severely affected by the drought of 1988. This measure was introduced and passed in an expeditious manner to ensure that farmers would get the help they so badly needed.

The effects of the drought of 1988 go far beyond the Farm Belt, however. Throughout the Western United States, savage wildfires are now raging as a result of the extremely dry conditions that persist in many of the Nation's forest lands. States like Wyoming, Montana, Idaho, Washington, Oregon, and California have been hardest hit. In these 6 States, 27 major fires are burning more than 1.1 million acres.

High winds and extremely low humidity have exacerbated the extremely dry conditions resulting from the drought. All State and National Forest lands in the northern Rockies have been closed to the public due to the hazardous weather conditions and severity of the fires. Nearly 600 thousand acres of the magnificent Yellowstone National Park have already burned. As I speak, Forest Service, Park Service, State, and local firefighters are making a valiant effort to save Cooke City and Silver Gate, MT, and the world-famous Old Faithful visitor's complex in Yellowstone National Park from complete destruction.

Nationwide, more than 3.7 million acres of National Park and forest lands have burned so far this year. Forest Service officials fear that even more destruction could result from existing and new fires should the Service be unable to muster the additional resources needed to battle these blazes. For this reason, the Forest Service has requested the Congress' help to provide them with the authority needed to enlist the aid of the Canadian Forest Service and the firefighting resources at their disposal. At present, the United States and Canada cooperate under two agreements in dealing with natural disasters such as fire. However, the Forest Service has not been able to directly reimburse the Canadians for resources, such as aircraft and other firefighting equipment, that might be brought into the United States to aid in fire suppression efforts under these agreements. This has created delays in obtaining Canadian assistance in fighting fires—assistance that is now desperately needed.

To correct this problem, I have introduced H.R. 5262, the Temporary Emergency Wildfire Suppression Act. This bill would provide the Secretaries of Agriculture and the Interior, in consultation with the Secretary of State, with temporary authority to enter into agreements with foreign fire organizations for mutual aid in fighting wildfires. This authority would expire at the end of this calender year. In the absence of such agreements, the Secretaries may furnish or accept emergency wildfire protection resources when it is in the best interest of the United States. In addition, and most importantly, the bill would permit the Forest Service to reimburse the Canadian Government or Canadian firefighting organizations for any costs incurred in helping to fight wildfires in the United States under two current cooperative agreements.

The Forest Service has provided me with a list of equipment and other resources that they would immediately request from Canada to help in fighting Western wildfires upon enactment of this legislation. The list includes 10 fixed-wing aircraft capable of spraying fire retardant, 35 helicopters for providing crew support, and highly specialized aircraft with infrared sensors for better assessing fire damage and coordinating suppression efforts. These resources would greatly assist in the timely suppression of fires currently burning in the United States and help to relieve the major threat to human life and property that exists.

Mr. Speaker, given the emergency created by these wildfires and the desperate need for Canadian assistance, I ask for unanimous consent to immediately consider S. 2641, a bill that was passed by the Senate earlier this evening and that is identical to H.R. 5262. This request has been cleared by both the Interior and Foreign Affairs Committees and the Democratic and Republican leadership of the House.

Mr. Speaker, the men and women on the fire lines throughout the West need the help that this bill can provide. I therefore urge my colleagues in the House to support immediate passage of S. 2641.

Mr. ROBERT F. SMITH. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Washington. Further reserving the right to object, I yield to the gentleman from Oregon [Mr. ROBERT F. SMITH] for his comments.

Mr. ROBERT F. SMITH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a very important and urgent piece of legislation that needs to be passed immediately. We have, as our distinguished chairman has identified, vast fires in the Northwest as well as the middle part of this country.

Canada has available forces that we can use, but we need the passage of this law to enter into contracts with Canada.

The House, I might point out, overwhelmingly has endorsed the Canadian free trade agreement. This is in addition to it. This will give us an opportunity to contract with Canada to bring over firefighters when and if necessary as well as tankers and help us in a very difficult, tragic situation, and help us put out fires in the Northwest.

Mr. Speaker, I urge the Members to pass this urgent message immediately, pass this legislation.

Mr. MORRISON of Washington. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding. I commend the chairman of the Committee on Agriculture for the very quick and extraordinary action in moving to pass this legislation which, of course, comes to us under similar action from the Senate this evening.

In the Yellowstone Park ecosystem there have now been 1 million acres which have burned. There are 10,000 people fighting that fire.

A fire has also now started, I hesitiate and regret to inform the Members, in the Glacier National Park which borders Canada and is in the north of my district. That fire was about only 1,000 acres this morning but has blown up within the last couple of hours and has now reached 5,000 acres or more.

These fires have gone beyond America's firefighting capability. Many of them are out of control, and we have in this country, to put it simply, run out of resources with which to fight these fires, and we need help from Canada, our neighbors on the north, by this weekend if we are going to be able to properly control those fires that are still controllable.

The one in Glacier National Park is controllable if we move on it in a matter of hours. The legislation is extraordinarily necessary, and I commend the gentleman for the swiftness of his action.

Mr. MORRISON of Washington. Mr. Speaker, further reserving the right to object, I would add only and comment that this is temporary authority. The Committee on Agriculture has coming through the congressional pipeline permanent authority in this same arena. It involves the jurisdiction of a number of committees of the House, and so we congratulate a number of people, not only our chairman, the gentleman from Texas [Mr. DE LA GARZA], but our subcommittee chairman, the gentleman from Missouri [Mr. VOLKMER], the gentleman from Illinois [Mr. MADIGAN], the ranking member, the gentleman from Washington [Mr. FOLEY], for their involvement in coordinating this emergency activity.

Mr. FASCELL. Mr. Speaker, I rise in support of this legislation which authorizes reimbursement for firefighting assistance to and from other countries.

This bill is similar to H.R. 4936, which was referred jointly to the Committees on Agriculture, Interior, and Foreign Affairs.

The forest fires which are engulfing the Western part of the United States are of such dangerous proportions as to justify expeditious floor consideration of this bill without it being reported by the appropriate committees. I note that the authority provided in this bill only extends until the end of this year—sufficient time for the current fires to be extinguished. Enactment of permanent authority should await full consideration by the appropriate committees as soon as possible next year.

I appreciate the courtesy and consideration of the concerns of the Committee on Foreign Affairs which have been extended by the sponsor of the bill and by the Committee on Agriculture, particularly in ensuring that the temporary authority contained in the bill be exercised only with consultation with the Secretary of State.

Mr. Speaker, I urge the immediate passage of the bill.

Mr. MORRISON of Washington. Mr. Speaker, I withdraw my reservation of objection and urge the House to quickly pass this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION.

(a)(1) The Secretary of Agriculture or the Secretary or the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 4. FUNDS.

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c); *Provided,* That no such funds may be expended for wildfire protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

SEC. 5. TERMINATION DATE.

The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2641, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONSTITUTION HERITAGE ACT OF 1988

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1939) to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Constitution Heritage Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that:

(1) 1987 was the bicentennial of the signing of the United States Constitution;

(2) commemoration of the Constitution's bicentennial included various events conducted by the Federal Commission on the Bicentennial of the United States Constitution, and State and local bicentennial commissions;

(3) bicentennial activities included important educational and instructional programs to heighten public awareness of the Constitution and the democratic process;

(4) educational programs for the Constitution should continue after the bicentennial to document its profound impact on the political, economic and social development of this Nation, and in order to recognize those Americans instrumental in the history of the Constitution; and

(5) units of the National Park System preserve and interpret key historic sites that document the history of the origins, subsequent development, and effects of the United States Constitution on this Nation.

(b) PURPOSES.—It is therefore the policy of the Congress to provide each of the following:

(1) the necessary resources to develop a national resource center to undertake, on an ongoing basis, educational programs on the Constitution;

(2) exhibits of, and an archives for, programs on or related to the recent bicentennial of the United States Constitution; and

(3) interpretation of the United States Constitution at those units of the National Park System particularly relevant to its history.

SEC. 3. ESTABLISHMENT OF THE CENTER.

(a) ESTABLISHMENT BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall establish The National Constitution Center (hereafter in this act referred to as the "Center") within or in close proximity to the Independence National Historical Park. The Center shall disseminate information about the United States Constitution on a nonpartisan basis in order to increase the awareness and understanding of the Constitution among the American people.

(b) FUNCTIONS OF THE CENTER.—The functions of the Center shall include—

(1) serving as a center of exhibits and related materials on the history and contemporary significance of the Constitution;

(2) directing a national program of public education on the Constitution; issuing traveling exhibits, commissioning radio and television programs, furnishing materials for the schools, and providing other education services;

(3) functioning as an intellectual center, drawing both academics and practioners to debate and refine constitutional issues and, at the same time, providing intellectual support for the Center's exhibits and public education program; and

(4) creating archives for programs on the bicentennial of the United States Constitution.

SEC. 4. ACQUISITION OF SITE FOR AND OPERATION OF THE CENTER.

(a) PROVIDING A SITE.—The Secretary through the General Services Administration, is authorized to provide, upon adequate reimbursement, a site, including necessary structures, for the Center by—

(1) using an existing structure or modifying an existing structure for use; or

(2) constructing a new structure to house the Center. The Secretary may acquire such land as is necessary to provide a site for the Center.

(b) PROVISION OF FUNDS TO THE CENTER.—The Secretary is authorized to make grants to, and enter into cooperative agreements, contracts or leases with The National Constitution Center, Philadelphia, Pennsylvania which shall operate the Center as provided in this Act in order to carry out the purposes of this Act. Funds authorized to be appropriated under this Act may be made available to the National Constitution Center only to the extent that they are matched by such entity with funds from nonfederal sources.

SEC. 5. DIRECTIVES TO SECRETARY.

(a) INDEPENDENCE NATIONAL HISTORICAL PARK AND OTHER UNITS.—The Secretary shall interpret the origins, subsequent development, and effects of the United States Constitution on this country at Independence National Historical Park and at such other units of the National Park System as are closely associated with the Constitution. The Secretary shall select not less than 12 units of the National Park System for such interpretation, including Independence National Historical Park.

(b) MEMORIAL.—The Secretary is authorized to establish and maintain at Independence National Historical Park an appropriate memorial to the United States Constitution as a key document in our Nation's history.

(c) PUBLIC MATERIALS.—In coordination with the National Constitution Center, the Secretary shall develop and make available to the public interpretive and educational materials related to sites within the National Park System as referred to in subsection (a).

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the owners or administrators of historic sites closely associated with the Constitution, pursuant to which the Secretary may provide technical assistance in the preservation and interpretation of such sites.

(e) RESEARCH AND EDUCATION.—The Secretary shall contract with the National Constitution Center and other qualified institutions of higher learning for research and other activities including the distribution of interpretive and educational materials as appropriate in order to carry out the provisions of this Act.

(f) Nothing in this section may be construed to alter or waive the requirement that the Secretary maintain the historic integrity of units of the National Park System, including compliance with section 106 of the Historic Preservation Act (90 Stat. 1320) as amended.

SEC. 6. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Amend the title so as to read: "An Act to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and to establish a National center for the United States Constitution within the Independence National Historical Park in Philadelphia, Pennsylvania.".

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I will not object.

Mr. Speaker, as a cosponsor of H.R. 1939, I rise in support of this measure. As passed by this body on May 27, 1987, the bill provided for continuing interpretation of the U.S. Constitution in units of the National Park System closely related to this historic document. It also authorized the Secretary of the Interior to establish an appropriate memorial to the Constitution within Independence National Historical Park in Philadelphia, PA.

This legislation was recently passed by the Senate after it was amended through the committee process to add provisions establishing the National Constitution Center. The Center is to provide exhibits and educational program on the Constitution, function as an intellectual center for the discussion of constitutional issues, and create archives for programs related to the recent bicentennial of the U.S. Constitution.

The Secretary is authorized to provide, on a reimbursable basis, a site for the Center. The Secretary may also provide grants to, and enter into cooperative agreements with the National Constitution Center, a nonprofit entity located in Philadelphia. However, it is important to note that Federal funds for the Center must be matched by funds from non-Federal sources.

Mr. Speaker, the importance of the U.S. Constitution, which affects all of our lives, cannot be overstated. Therefore, I believe it is important that we enact this legislation to enhance the public's awareness and understanding of the U.S. Constitution during its bicentennial and for years to come.

Mr. LAGOMARSINO. Mr. Speaker, I yield to the gentleman from Minnesota [Mr. VENTO], the chairman, to explain this legislation.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, over a year ago, I introduced, and the House subsequently passed, H.R. 1939, a bill to celebrate the bicentennial of the Constitution. This bill sought to ensure that the bicentennial of the constitution would not only be celebrated with parades and parties during 1987, but would have a lasting impact on our understanding of the document that has so affected the history of this Nation. I do not believe that we appreciate how thoroughly interwoven the Constitution is in the fabric of our country and our society.

It is particularly appropriate that the continuing interpretation of the constitution should be done at these park sites that actually preserve so much constitutional history. Our Nation's parks preserve and interpret key constitutional sites—from the obvious example of Independence Hall to Salem Maritime National Historic Site (customs and duties), Fort Smith National Historic Site (judiciary), Edison National Historic Site (patents), Martin Luther King National Historic Site (civil rights amendments) and Women's Rights National Historical Park (women's suffrage) as well as the Civil War battlefields, the Presidential homes and birthplaces, and the numerous forts that are all part of the National Park System.

H.R. 1939 will ensure that the national parks that best illustrate the diverse impacts of the Constitution on this Nation will interpret that history to the public. It will help us understand how we have been shaped by the Constitution even as we have shaped it.

The Senate amended H.R. 1939 by establishing the National Constitution Center as a means of bringing together the communities of scholars, practitioners, and the public to gain greater understanding of, and appreciation for, the U.S. Constitution. The Center's exhibits, scholarship, and public programs will also continue the bicentennial of the Constitution in most appropriate ways. I expect that the Center and the National Park Service will work closely together and establish a model of close cooperation between them. H.R. 1939, as amended, authorizes the Secretary of the Interior to enter into cooperative agreements with the National Constitution Center: CBO estimates Federal expenditures between $100,000 and $250,000 annually for the Center, but only on a matching basis with non-Federal funds. Certainly such expenditures are fitting given out Nation's need to learn more about the Constitution.

Mr. Speaker, I accept the Senate's changes and urge passage of H.R. 1939 as amended.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I do support this legislation. I think the Senate amendments makes it even a better bill and I urge my colleagues to support it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

DUKAKIS NEEDS TO TALK MORE ABOUT HIS OWN RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, I had earlier planned to do a 1-minute speech, but I thought what I would do is instead maybe do a short special order here on the question of the drug statements that the Presidential candidate, Governor Dukakis, has been making recently.

Whenver he talks about drugs, Mr. Dukakis likes to phrase the issue of the Noriega connection of this administration. I think it is time that Mike gets a message, and that is that the Reagan administration did not begin the policy of dealing with the known drug runner Noriega, as in fact it was a policy that was begun by none other than a Democratic administration under the Presidency of Jimmy Carter. That administration knew about Noriega's drug connections.

They, however, made a conscious determination not to release the information about the Noriega drug dealing to the Congress, because they were afraid that their attempts to pass the Panama Canal Treaty and sell out this Nation's access to that canal would, in fact, be lost in the Senate and be lost in the Congress if the Noriega drug dealing became known.

□ 2000

So, therefore, they hid the information of the Noriega drug dealing from the Congress.

Let us compare that with the Reagan administration that made public the information that you had Noriega dealing in drugs so that, in fact, they could proceed ahead with an indictment of him, and a U.S. attorney appointed under this administration in fact brought that indictment in Florida so that Noriega stands to be brought to trial in this country should we be able to find some way of wrestling him out of his country and bringing him here.

That is the record that Michael Dukakis keeps claiming is the tragedy of this administration. First of all, I would ask Mr. Dukakis why he did not complain about the fact that the Carter administration was dealing with this known drug runner? Maybe he did not know about the fact that Noriega was dealing drugs at that time, but the Carter people did, and he had yet to criticize the Carter administration for that particular record.

Secondly, I think we need to look at the drug dealing record of Michael Dukakis in Massachusetts. There was a very interesting article recently in the Washington Times that talked about the Dukakis drug record in his home State. It contained this paragraph, and I quote: "During his three terms as Massachusetts Governor, Mr. Dukakis has vetoed mandatory sentences for drug dealers, overseen a State legislature controlled by his party that has killed scores of anti-drug bills, and ordered furloughs for prisoners that allowed some convicted drug dealers out of jail early." That is the Dukakis drug record in his State.

A director of the Concerned Citizens for Drug Prevention in his State says, and I quote from this article: "Mr. Dukakis has been a Johnny-come-lately to the war on drugs."

"Mrs. Forti," that is the director of this group, "said that Mr. Dukakis has not been an enthusiastic supporter of tough crime legislation, and that under his leadership the heavily Democratic Massachusetts State Legislature has repeatedly shelved anti-drug bills sought by her group."

It also goes on to cite an instance where there is a problem.

> But a recent tragedy, the death of an 11-year-old girl killed in a crossfire between drug dealers, has led some community leaders to charge that the situation is out of control, and to lay the blame on Mr. Dukakis.
>
> Last Wednesday, at the funeral eulogy for Darlene Tiffany Moore, gunned down Aug. 19, the Rev. Rafe David Kelley, pastor of St. John Missionary Baptist Church, said, "How can you keep pigs in a pen with a revolving door?"

> He then asked, "How can he [Dukakis] run for President of the United States if he can't even govern Massachusetts?"

Of course, the issue that he was referring to was the furlough policy in Massachusetts where drug dealers got back out on the streets.

The article talks about that. It says:

> Drug dealers convicted of selling relatively small amounts rarely are sentenced to jail, according to a survey by the Boston Globe in April that found that in some Massachusetts counties as many as 80 percent of drug dealers received suspended sentences and probation in 1987.

That is not being tough on drugs.

There is one more thing that I think the American people ought to recognize when they hear Mr. Dukakis talking on this issue. Mr. Dukakis, during his term as Governor, according to the Boston Herald, has pardoned 21 drug dealers. If that is tough on drugs, I do not know tough on drugs.

This House in the last few hours has taken steps toward getting really tough on drugs. It has been bipartisan. It has been done by overwhelming votes.

What we now know about the Dukakis record in Massachusetts is that when his State Legislature had similar kinds of bills before it, he helped stop those bills from becoming law. We also know that when people were convicted under the weak laws that are presently in place in Massachusetts, Mr. Dukakis was out pardoning those drug dealers. We also know that many of the drug dealers never got to jail in the first place because the laws are so weak.

That is not exactly a record that I would want to take to the American people in the area of drugs. Mr. Dukakis needs to talk less about Noriega and more about his own record.

FORTY-NINTH ANNIVERSARY OF THE INVASION OF POLAND

The SPEAKER pro tempore (Mr. KANJORSKI). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the month of September marks the 49th anniversary of the invasion of Poland. On September 1, 1939, Poland was first invaded by the forces of nazism from the west, and 16 days later, on September 17, the forces of communism invaded the country from the east.

Although the Polish people, including over 830,000 soldiers and officers of the Polish Army, fought bravely to preserve their beloved homeland, they were unable to turn back these hostile forces. An underground movement was formed, directed by the Polish Government-in-exile, which contributed to the war effort by crippling the enemy. Also, many thousands of Polish soldiers were forced to flee the military might of their oppressors, and joined the allied troops.

During this period, the Polish nation lost close to one-quarter of its population, and the capital city of Warsaw was leveled to the ground. Sadly, in one of the ironic tragedies of history, the Polish people who endured the worst of World War II at the hands of the Nazis, found that a new enemy had taken control of their country's destiny. At the end of the war, the Communists quickly seized power as the Nazi forces were retreating, and ever since, the Polish people have been subjected to the all-consuming tyranny of their Communist oppressor.

Today, the struggle against the brutality of the Communists continues. Last week, several weeks of growing tensions in the Lenin shipyards in Gdansk, Lech Walesa, leader of the Solidarity union in Poland, held historic discussions with the leaders of the Polish Government. Through his courageous efforts and with the support of the Polish people, Walesa obtained concessions from the government that it would set up a framework for negotiations on the economy and the plight of the workers in Poland. Also, he received assurances that there will be a discussion of lifting the ban on Solidarity, which has been outlawed since 1981 when martial law was imposed. We in the United States must continue to urge that the leadership not renege on this agreement.

It is time that the communists realize no matter how harsh their actions, the Solidarity movement will continue to survive because its cause is a just one. The leaders of the Government of Poland must deal directly with the Solidarity movement and its noble objective of freeing the working men and women of Poland from the tyranny of the Communists. On September 3, the Chicago Tribune, published an editorial on this subject, and a copy of that editoral follows:

> "NO FREEDOM WITHOUT SOLIDARITY"
>
> Lech Walesa, his fellow workers and great numbers of their Polish countrymen for more years than they like to remember have lived by a ringing slogan that matches the passion of their cause: "There is no freedom without Solidarity."
>
> With the birth of the only independent trade union in the Soviet bloc amid the economic chaos of 1980, the scent of liberty slipped through the communist ramparts to tease the nostrils of Poland's long-repressed but stubbornly hopeful patriots. Since that tantalizing breath of freedom was smothered by the outlawing of Solidarity in 1982, the Poles have patiently endured, nurturing the forbidden dream.
>
> If in its years in legal exile Solidarity has lost much of its early muscle as a recognized union, it has just as surely risen in symbolic stature to join Poland's Roman Catholic Church as a cherished icon of those who would cling to some private acts of conscience in a quiet defiance of the communist government.
>
> Now Lech Walesa and his outlawed union have stepped to the fore again. To win an end to spreading strikes that had been plaguing the country in a new era of economic trouble, the government of Gen. Wojciech Jaruzelski brought Walesa into talks and promised to consider relegalization of Solidarity.
>
> Since he agreed to the process without promises on the outcome or assurances that wage demands would be met, Walesa's persuasive powers have been put to a test trying to get workers across the country to end their strikes, especially in the face of 60 percent inflation brought on by economic reforms that strikers complain didn't provide offsetting pay increases.
>
> But with the pledge that the union would have a place at the government's planned round-table talks on how to end the ongoing economic, social and political crisis, and that the role of Solidarity and other trade unions would be high on the agenda, Walesa argued that no more could be won "at this time." "I assure you this decision is not cowardice, but responsibility," he told a rally at the Lenin shipyard in Gdansk
>
> "Poland seeks agreement, agreement that will produce pluralism, solidarity and housing," he said before the workers agreed to return. "I am seeking agreement and I do not doubt that the authorities have embarked on the road to agreement."
>
> Implicit, if unspoken, in this latest political turnabout on Walesa and Solidarity is the sense that a Soviet Union embarked on Mikhail Gorbachev's road to glasnost and perestroika, openness and restructuring, probably would be hesitant to force the Polish party leadership to slam the door on reform.
>
> So far in his own campaign, Gorbachev has refrained from publicly pressing the entrenched communist regimes in Eastern Europe to follow his example. But he has shown no inclination to discourage developments in countries such as Poland where there's been a tendency to test whether the new rules in Moscow apply in their homelands. What is more in question at the moment is the enthusiasm of older leaders in the bloc for any relaxation of their rigid controls.
>
> But even in reluctant Poland, the winds of change are blowing with some as yet unmeasured force. And as Walesa has reminded his countrymen, it has become an article of faith with many Poles that "there is no freedom without Solidarity." They deserve both.

Mr. Speaker, we in Congress must continue to provide our support and our encouragement to the Polish people by endorsing their just aspirations for national liberty. On the 49th anniversary of the invasion of Poland, I take this opportunity to join with Polish Americans in the 11th Congressional District of Illinois which I am honored to represent, and Americans of Polish descent all over this Nation, in their hopes and prayers that these recent developments in Poland will lead to a day when the Polish people can live in personal and economic freedom with the right to choose the course of their own destinies.

HUMAN RIGHTS VIOLATIONS AGAINST THE SIKHS IN INDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I will not take my entire 60 minutes, but I will take just a few minutes tonight to talk about an issue that I think is very important halfway around the world. For the past couple of years I have been very concerned about what has been going on in a place called the Punjab which is in the northwestern part of India and adjoins Pakistan. In the Punjab there is a group of people who occupy that area, 17 million of them, called the Sikhs, and the Sikhs are some of the most intelligent, most hard-working people in the entire world. They are very religious people, and these people over the past few years have been persecuted unmercifully by Rajiv Ganhi's government in India, and the world seems to turn a deaf ear to their plight. It is a real concern of mine because we believe in human rights in this country, and on both sides of the aisle I have heard speeches made about the human rights violations that have been taking place in the Soviet Union, in Afghanistan, in Ethiopia, and elsewhere. But very little has been said about what is going on in the Punjab.

I think it is important that the people of this country know that there is torture going on in the Punjab, and the Indian Government is torturing Sikhs, they are murdering Sikhs, they are raping Sikh women, and there is severe repression of the press, censorship.

India is known around the world as one of the largest democracies that we have. The fact of the matter is India is no longer really being run as a democracy. It is being run as a totalitarian government by Rajiv Gandhi. The Gandhis have controlled that country for a long time now, and anyone who really knows what is going on knows that he is not running that country in a democratic way.

Also Rajiv Gandhi is working as a puppet of the Soviet Union. The Soviet Union is working in concert with the Gandhi government in producing Soviet weapons, Mig-21 fighter bombers, Mig-23's, Mig-27's, and Mig-29's. They are also involved in manufacturing helicopters and other war materials in India along with the Indian Government. Eighty percent of the war materials that India imports come from the Soviet Union, and they have been doing the bidding of the Soviet Union for some time.

When KAL 007 was shot down, India did not condemn the Soviet Union for doing that, even though an American Congressman was on board along with 260-some other human beings.

In addition to that, when the invasion of Afghanistan took place, many countries in the world who love freedom spoke out against the invasion. India did not.

India has received over $1 billion in the past 5 or 6 years from the United States in foreign aid, and just last year we appropriated another $600 million for them. They took that $600 million and turned right around and gave $10.4 million of it to the Communist Nicaraguan Government that we have been opposing in Central America.

So they are a puppet of the Soviet Union. They are closely tied to Cuba, Nicaragua, as well as other repressed governments.

But the thing I wanted to talk aobut tonight was the repression of the Sikhs that has been taking place and the censorship that has been taking place in the Punjab. We have talked about that for about 2 years now, and no one has been paying attention. But in the Christian Science Monitor this past Wednesday there was a newspaper article that I wish every one of my colleagues would take time to read and it has to do with the censorship not just in Punjab but the censorship that is spreading throughout the entire country, throughout all of India.

I would like to read just briefly from that newspaper article. It says dateline New Delhi, September 7, 1988.

> NEW DELHI.—Thousands of journalists across India went on strike yesterday to protest a proposed new defamation law thay say aims to curtail freedom of the press.
>
> The proposed Defamation Act expands the concept of defamation and negates the presumption that journalists, or others making disclosures, are innocent. The lower house of Parliament approved the Defamation Act August 30.
>
> The upper house was supposed to take up the bill Monday, but Prime Minister Rajiv Gandhi delayed consideration and appointed a committee of Cabinet ministers to discuss the matter with journalists.

We need to know what Rajiv Gandhi is all about. He is in league with the Soviet Union. It is not the independent, nonaligned nation as they say they are. They are closely tied to the Soviet bloc and have been doing the bidding of the Soviet bloc.

Regarding the Punjab, there are just a few things I would like to talk about that are extremely important in addition to the censorship.

Over the past few years, India has enacted a series of Draconian laws which strengthen the powers of the state at the expense of the rights of the people.

The Terrorist Affected Areas Act commonly called the TADA, can implicate any innocent citizen on charges of "terrorism." The law defines the term "terrorist" as any person who indulges in "violence or the killing of persons," the act also covers persons who "may indulge in the disruption of services or means of communication essential to the community or * * * affecting adversely the harmony between different religious, racial, language, or regional groups or caste or communities."

Under this law if you want to walk, you need the Government's permission. Because if you are are walking down a certain road or taking a stroll along a railroad track, or loitering near a certain building, you may be committing a crime. You can be hauled up by the police and sent to jail for a period of time that can last from 6 months to 3 years. According to the law "No person shall, without permission of the central government, enter or be on or in or pass over or loiter in the vicinity of any prohibited place." What is a prohibited place? Any place the government chooses. If you are unlucky enough to miss the official Gazette notification or fail to memorize the ever growing list of such prohibited places and inadvertently walk into their vicinity, you could be grabbed by the long arm of this law.

If you are a bystander and happen to be present when a violent incident takes place, you could be accused of being responsible for it. If you think this is absurd, listen to how the law reads: "If a person had been at a place in such areas at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces charged with the maintenance of public order, it shall be presumed * * * that person committed the offence".

Do not touch any piece of paper if you receive a letter or anyone thrusts a handout into you hands, be careful. Because if the government feels the paper carries information likely to assist terrorists or disruptionists and you touch it, the law says you can be jailed for a term varying from 6 months to 7 years. The mere receipt of such information by you is good enough for the government to arrest you.

Beware of speaking and writing. According to the law the government can intercept and interrupt your conversation if you are talking to a friend on the phone, since it might be suspected of facilitating "the commission of terrorist acts." If you are a journalist forget freedom of the press. The traditional privilege of interviewing anyone anywhere and the right to publish his or her view no longer exists in India. Under the law "No person shall, without lawful authority, make, print, publish or distribute any document containing any matter derived from terrorists, disruptionists or their sympathsers or associates. Of course publication of any matter derived from terrorists through interviews or otherwise does not necessarily indicate that the reporter or publisher sympathises with the view expressed by the interviewee. But the government thinks otherwise and bundles together both the interviewer and the interviewee as criminals.

If you live in the Punjab, the Indian Government has enacted a variety of special laws which remove almost everyone of your basic human rights. These measures allow police and paramilitary forces to arrest you, confiscate your property and even kill you. The laws also conveniently deny the citizen any right of recourse to due process of law since actions taken by the police under these laws are immune from court proceedings.

Since the imposition of President's rule in Punjab, thousands of people have been arrested and accused of terrorism. One has to wonder how many of these are actually terrorists. A recent newspaper headline from India read "12 Terrorists Killed in Punjab, Three Positively Identified." One must ask one-self, if the police don't know whom they've killed, how do they know they are terrorists? The majority of those Sikhs held as "terrorists" during "Operation Bluestar," in Amritsar, in 1984 are innocent pilgrims, old men and women who were just standing in the temple when the government attack came. I might add that over 300 of these innocent bystanders are still being held in Indian prisons.

Under the National Security Act, authorities are not bound to disclose the facts surrounding your arrest if they consider it against the public's interest to do so. Thus, you may be in complete darkness as to the reasons for your detention. You are not allowed to have a lawyer represent your case. Instead, you can appeal to an advisory board consisting of 3 persons who are qualified to be judges. The advisory board can either revoke your detention or confirm it. Your trial will be held in camera and the identity of the witnesses will be kept secret. Your confession to a police office can now be admissible to the courts. The meaning of this law sends an ominous signal to the innocent. The police are notorious for their various methods of torture which can make someone confess to something he or she didn't do. So currently in the Punjab you can be convicted on the basis of a confession extorted from you at bayonet point. I might add that this type of court and trial is very similar to the systems imposed on the people of Nicaragua and other Soviet Communist Bloc countries.

Some may say the Punjab is only just a special exception to India's democratic system. They feel sure people in the Punjab deserve such special laws. They are sure the government will use these laws in a spirit of understanding and generosity, sparing them—the innocent lawabiding citizens. There were optimists like these in the 1930's. Listen to their plight summed up by a civil liberties activist at the time: ". . . the Nazis came first for the Communists and I didn't speak up because I was not a Communist. Then they came for the Jews and I didn't speak up because I was not a Jew. Then they came for the trade unionists and I didn't speak up because I was not a trade unionist. Then they came for me and by that time there was no one left to speak for any one." So, if you choose, you can go through the same process of elimination. Somewhere along the line you may find a niche for your personal survival. But at what cost? Are you sure one midnight the security men will not come and knock on your door?

□ 2015

That is what the people in the Punjab are facing right now. Innocent men, women, and children are being put in jail without due process; people are being killed and the repression goes on and on and nobody is paying much attention.

Recently Amnesty International did point out that these atrocities are taking place. I applaud them for that. But much more attention needs to be drawn to the horrible nightmare that those people are having to endure over there. We need to put pressure on the government of India to bring about change. The United States can do something about it. We have given over $1 billion, as I said earlier, in foreign aid to Rajiv Gandhi. We just recently, last year, committed another $600 million to him over the next 3 years. Until he observes human rights, until he stops this repression of the people in the Punjab, the Sikhs, until he stops the repression of their religious rights and their human rights, we should cut off our foreign aid to him and let him know we are not going to give him one dime. He is getting all of this military assistance and advice from the Soviet Union; let them take care of the economic problems in India until he starts living up to the human rights commitments which democracies have made in the past.

Mr. Speaker, I hope that my colleagues who are listening to this special order will join with me in sponsoring or cosponsoring House Concurrent Resolution 343 which asks the Government of India to observe the human rights of people in the Punjab. That is all we are asking, just a guarantee of the people as to their human rights which other people in democracies around the world enjoy.

I hope my colleagues will see fit to cosponsor this resolution. It passed in the form of an amendment to the foreign aid bill earlier this year but we are concerned that that bill in the waning days of the session may die. So I would like for them to cosponsor this resolution which does the same thing.

Mr. Speaker, I have some extraneous material I would like to add for the RECORD.

The material follows:

A CITIZEN'S GUIDE TO RAJIV GANDHI'S INDIA

People's Union for Democratic Rights, till 1980 known as People's Union for Civil Liberties and Democratic Rights, came into existence during the Emergency. It is one of the few civil rights organizations in the country that has pursued it task despite fluctuations in the political environment and changes of Government.

Though a Delhi-based organisation PUDR has, in a variety of ways, helped strengthen the civil rights movement in the country. In the past it has taken up issues relating to agricultural labourers and peasants of Telengana, Patna and Jehanabad, industrial workers of Faridabad and Modinagar, mine workers of Chattisgarh and Meghataburu, Harijans of Bilaspur, slum dwellers of Delhi, artists of Kerala, political activitists of Tamilnadu, Adivasis of Adilabad and Singhbhum, Nagas of Manipur and others. It has fought a number of cases in the Supreme Court in relation to the rights of bonded labour, construction workers, tribals and concerning Police and Army at rocities. Thus, PUDR's work covers many states under different governments.

Given the consistency with which the rights of a large number of people are being violated in the country, PUDR's work can only be described as insignificant. Yet it intends to continue its work and appeals to all concerned people to help with donations and popularisation of its literature.

SOUNDING THE ALARM

The citizens' rights guaranteed in our Constitutions were won at a great cost. Any attempt to curtail, suspend or withdraw them therefore amounts to turning back the wheels of history. It calls for vigilance on the part of every citizen who wants to preserve his/her liberties.

When Rajiv Gandhi became the Prime Minister following the Congress(I)'s massive victory in the 1984 general elections in India, in his radio broadcast on January 5, 1985 he said that his first duty was 'to safeguard the life, property and legitimate rights of citizens belonging to every faith.'

His promise of a clean administration and to settle the disputes that were a legacy from his mother's regime, initially inspired the Indian press to build up his image as that of a young and dynamic Prime Minister determined to turn over a new leaf. Ironically today, the same press is at the receiving end of its erstwhile hero's stick. Journalists are among the first to bear the brunt of the series of extraordinary laws that had been enacted during the last three years of the Rajiv regime.

What followed his assumption of office was not only a continuation of the dismal legacy of the past, but a further reinforcement and extension of the authoritarian tendencies which during his mother's regime culminated in the shape of the Emergency in 1975-77. These tendencies are reflected in the new repressive laws and in the amendments made recently to similar laws enacted in the past, giving the police extreme discretionary powers without proper supervision or accountability. All these laws threaten the "life, property and legitimate rights of citizens belonging to every faith"—the objects which Rajiv Gandhi pledged to defend when he became the Prime Minister.

We already have quite a number of anti-democratic laws from the past which make inroads on our freedoms guaranteed by the Constitution. Some of them are derived from the British colonial regime and some of them were enacted during Mrs. Gandhi's regime. Some are restricted to certain parts of the country and some are applicable to the entire Indian territory.

Thus, for instance, under the Andhra Pradesh Suppression of Disturbances Act of 1948, a large number of areas in Andhra Pradesh remain declared "disturbed" where the inhabitants for the past several years have had no access to their fundamental rights. Section 5 of the Act empowers the police to "fire upon, order fire to be opened or otherwise use force, even to the causing of death against any person who . . . is acting in contravention of any law. . . ." No prosecution suit or other legal proceeding can be instituted against the police for such firing (Section 6).

The Armed Forces Special Powers (Assam and Manipur) Act, 1958 (amended in 1972), which is in operation in the northeastern states of India, empowers the army personnel with similar rights and immunity through Sections 4 and 6 of the Act respectively.

This Act was recently imposed in Tripura by the Centre in the face of opposition from the democratically elected Left Front government of Tripura. Such opposition by the Rajiv Gandhi led-Centre to elected non-Congress (I) state governments is quite common, as evident in May 1987, when it ousted the Akali (L) government in Punjab and imposed President's rule there, which was extended by another six months, in May of this year.

Thus, a large part of our population are legally segregated as second class citizens' being denied the right to equality with other Indian citizens. While Article 21 which guarantees us protection of life remains suspended for them, at the same time they are denied the right to legal redress which is open to citizens in other parts of the country.

There are some other laws which touch every Indian in any part of the country. The National Security Act of 1980 provides for preventive detention of citizens. Any citizen can be detained—not for committing any offence, but just because the government may feel "satisfied . . . with a view to preventing him from acting in any manner prejudicial to the security of the State or . . . to the maintenance of public order . . ."[S.3(2)]. The period of detention can be prolonged at the will of the government.

The Terrorist Affected Areas (Special Courts) Act—which was first promulgated as an Ordinance in July 1984—can implicate any innocent citizen on charges of "terrorism". While defining the term "terrorist", in addition to including any person "who indulges in wanton killing of persons or violence", the Act covers persons who may indulge in "the disruption of services or means of communication essential to the community or . . . affecting adversely the harmony between different religious, racial, language or regional groups or caste or communities. . . ." Thus, a transport worker on strike for his legitimate trade union demands, or a "dalit" labourer protesting against social discrimination by an upper caste landlord, may be hauled up as a "terrorist". Given the habit of the police to display arbitrary attitude or excess of zeal in performing the duties, one can well imagine how these laws can be sent by them to harass and endanger individual citizens.

THE RAJIV REGIME

Soon after Rajiv Gandhi came to power, he introduced the TADA, [Terrorist and Disruptive Activities (Prevention) Act 1984]—one of the most draconian legislations that the country has seen in recent times. In September 1985, he extended the ESMA (Essential Services Maintenance Act)—which bans strikes in essential services—by another five years.

The next year, 1986, saw the introduction of an amendment to the Indian Post Offices Act, to further tighten the provisions of this piece of colonial legislation (passed by the British rulers in 1898) which empower the government to snoop into the private mail of citizens.

Not satisfied with these measures, the Rajiv government sought to impose further curbs on the rights of citizens in 1987 by amending the National Security Act to provide for prolonged preventive detention without obtaining the opinion of the advisory board. The same year, when the TADA was about to expire (it was initially meant for two years), the government introduced an amendment to extend it for two more years and make confessions normally extracted through torture before senior police officers admissible in courts—the first time in the country's legal history.

The ascending order of repression reached its apogee in 1988 with the 59th amendment to the Constitution which permits the imposition of Emergency in Punjab on the plea of any "internal disturbances" there, and provides for the blacking out of news of Punjab from the rest of the nation.

In his determination to see to it that the repressive arm of the state—the police, the para-military forces, the intelligence services—carries out the task of persecution without any protest, Rajiv Gandhi during his regime introduced three legislations with the specific purpose of curtailing the fundamental rights of members of these forces. The National Security Guard Bill of August 1986 purports to suspend some of the fundamental rights with regard to the NSG. The Intelligence Organisations Bill of August 1985 disallows members of the intelligence wings to exercise their democratic rights like attending meetings, or communicating their grievances to the press. The Special Protection Group (SPG) Bill was introduced on May 5, 1988, constituting an armed force to provide proximate security to the Prime Minister and his family. It prohibits members of the SPG from joining any organization and from communicating with the press or publishing anything.

This then has been the record of Rajiv Gandhi's first three years in office. His voyage towards the 21st century is pulling the nation steadily away from the shores of Constitutional safeguards.

"Ours is a vibrant, living democracy. The people's voice rules through the legislature. The rule of law prevails. Our courts of justice are vigilant protectors of the rights of the individual. Our press is free, Ours is a great secular democracy in which every individual of every community is an equal Indian, equal in the enjoyment of civic and political rights . . ."—Rajiv Gandhi's speech at the commemorative session of Parliament to mark the 40th anniversary of Independence, August 13, 1987.

The writing on the wall . . . should be clear to all.

The following pages are an attempt to warn the citizens of India of the unduly wide scope of powers being given to the police, the paramilitary forces and the army under these Acts, which violate the right of the ordinary citizen to go about his/her legitimate business in daily life without unnecessary interference. The violation can take numerous forms ranging from detention of innocent citizens for an indefinite period to the outright shooting of citizens without any obligation on the part of the police or army to face the courts. The laws affect all sections of the population, ranging from employees in government institutions (including even those employed in the police intelligence agencies) to journalists, from trade union activists to an ordinary pedestrian. We have given examples of the situations which are most likely to occur—and have occurred—in the daily lives of citizens.

We are constantly aware of the need of balancing two interests—the need to ensure that terrorism is stopped, the criminals are prosecuted on the one hand, and on the other hand, the right of citizens to perform their normal functions without harassment, and above all their right to protection of life and personal liberty. But we feel that the government is increasingly adopting measures that are supposed to contain terrorism at the expense of individual liberty.

The government has as yet failed to give us a convincing explanation as to why instead of taking recourse to extraordinary laws, it is not effectively using the existing laws like the Criminal Procedure Code, the Indian Penal Code and similar legislations which are specifically meant to deal with criminals and have provisions that are thoroughgoing enough to arm the authorities with powers to tackle offences of a violent nature—the sort of offences that the terrorists are committing? Why are new laws being enacted which in one brushstroke paint both the terrorist and an innocent citizen with the uniform colour of black, which with a broad sweep drive both a criminal and a law-abiding citizen to the same fate—imprisonment or death?

If the government can violate the fundamental rights of Indian citizens on the basis of its subjective assessment of "intentions," it is about time that Indian citizens question the intentions of the government—a questioning not based purely on subjective speculation, but on the actual evidence of how these Acts are being used against political opponents, trade unionists, civil liberties activists—and ordinary citizen.

Watch the Damocles' Sword hanging over your lives. You may be yet unaffected by the repression—which is let loose in the less-publicized areas of Nagaland, Manipur or Mizpram, or the more-exposed (but likely to be blacked out once the Emergency is declared there) areas in Punjab. But soon, one day or the other, you can become its victim.

The dragnet is closing in. Yesterday it was Nagaland. Today it is Punjab. Tomorrow it may be you!

If you want to walk, you need the government's permission.

If you are walking down a certain road, or taking a stroll along a railway track, or loitering near a certain building, you may be committing a crime. You can be hauled up by the police and sent to jail for a period that can last from six months to three years.

Under the Terrorist and Disruptive Activities (Prevention) Rules, 1986, made by the Central Government in exercise of the powers conferred by the Terrorist and Disruptive Activities (Prevention) Act, or TADA of 1985: "No person shall, without the permission of the Central Government or the State Government enter or be on or in or pass over or loiter in the vicinity of any prohibited place." (Rule 6).

What is a prohibited place? According to the Rules, it means a place as defined in Cl. 8 of Sec. 2 of the Official Secrets Act, 1923. The relevant clause of that Act describes, among other places: ". . . any railway, roadway, or channel or other means of communication by land or water . . . which is for the time being declared by the Central Government by notification in the official Gazette to be a prohibited place for the purpose of this Act."

If you are unlucky enough to miss the official gazette notification, or fail to memorize the ever-growing list of such prohibited places, and inadvertently walk into their vicinity, leave alone entering them, you will be stung by the TADA live wire!

If you are a bystander . . . and happen to be present when a violent incident takes place, you can be accused of being responsible for it.

If you think it is absurd, read Section 111A of the Terrorist Affected Areas (Special Courts) Act: which says that if a person "had been at a place in such areas at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence."

Do not touch any paper. If you receive a letter, or anyone thrusts a handbill into your hands, or you pick up a newspaper from a stall, be careful. For, they can carry "information likely to assist terrorists or disruptionists." And once you touch them, you can be jailed for a term varying from six months to seven years.

Under TADA, "acquisition, possession or publication, without lawful authority or excuse, of information likely to assist terrorists or disruptionists" is a crime (S. 5-2-a-ii).

The mere receipt of such information by you is good enough for the government to arrest you. Plug your ears, put blinkers over your eyes and do not touch anything!

Beware of speaking and writing. The government can intercept and interrupt your conversation if you are talking to a friend (TADA-5-2-i) on phone, since it might be suspected of facilitating "the commission of terrorist acts".

We pass and receive 'information' by speaking and writing. What is the "information likely to assist the terrorists and disruptionists"?

The TADA Rules, 1986 are quite explicit about the nature of such information. It includes "any information which is intended or is likely—(i) to bring into hatred or contempt, or to excite, disaffection towards the Government established by law in India;

(ii) to bring into hatred or contempt, or excite disaffection towards the Armed Forces of the Union or the police force by whatever name called, of a State or any public servant or class of public servants;

(iii) to promote feelings of enmity or hatred or otherwise affect the harmony between different classes of persons in India. (19.1.c.i,ii,iii)

So be careful! If you are a journalist exposing corruption in the government, you can be accused of 'bringing into hatred or contempt towards the government'. If as an ordinary citizen, you write a letter to a newspaper complaining about police inefficiency, you can be charged with 'exciting disaffection towards the police force'. If you are a trade union leader and speak of the conflict between the working class and the industrialist class, or if you are a social activist and write about the persecution of the landless class by the landlord class, you can be hauled up for 'promoting feelings of enmity or hatred affecting the harmony between different classes of people. . . .'

If you think this is an idle speculation or a baseless apprehension, let us take you back to Ahmedabad, August 1987. Workers of Reliance Industries Limited went on strike demanding the implementation of the Industrial Tribunal award and increase in wages. Six leaders of their struggle committee were arrested under TADA, who were refused bail by the specially designated court set up under the Act.

If you are a journalist . . . forget 'Freedom of the Press'. The traditional privilege of interviewing anyone anywhere and the right to publish his/her view in newspapers is no longer there.

Under the TADA Rules: "No person shall, without lawful authority, make, print, publish, or distribute any document containing or spread . . . any matter derived from terrorists or disruptionists, their sympathisers or associates, or sources sponsored or utilised by or otherwise connected with terrorists, disruptionists, or their associates or sympathisers." (20.1)

Publication of "any matter derived from terrorists or . . . " through interviews or otherwise, does not necessarily indicate that the reporter or publisher of the newspaper sympathises with the view expressed by the interviewee. But our government thinks otherwise, and bundles together both the interviewer and the interviewee as criminals. If you publish "any matter derived from terrorists or disruptionists" or even "their sympathisers or associates", you can be punished with "imprisonment for a term which may extend to five years and shall also be liable to fine". (20.3)

Forget even interviews. If you happen to come across a leaflet and use its contents for writing a report—a common practice in world-wide journalism—you may attract the TADA which says that if "any leaflet distributed by the terrorists and disruptionists, by any means whatsoever, is at any subsequent time reproduced, whether in the same or a different form and whether with or without comments in any document", the designated court can take action (20.2.ii).

At least four journalists have been arrested under TADA—V.T. Rajshekhar editor of Dalit Voice; Sukhdev Singh, editor of Dignity; Shahid Siddiqui, editor of Naiduniya; Khalid Ansari, editor of Midday; and Al Haj Naz Ansari, editor of Mashiriqui Awaz. While the first was accused of expressing criticism regarding the Indian government's handling of the Khalistani secessionist movement, the other three have been charged merely for reproducing interviews with the Khalistani spokesmen.

If TADA spares you, there are other Acts to ensnare you. The National Security Act (NSA) of 1980—further tightened up by Rajiv Gandhi's government through an amendment in 1987 which can keep you in jail for years—can haul you up if the government, both the Central and the State, is satisfied that you need to be prevented "from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order". Interview: your occupational obligations involve your meeting with different sorts of people for carrying out your professional responsibility of objective reporting. Such meeting with anyone whom the government may consider a foreign spy or a terrorist, can be interpreted as "prejudicial to the security of the State", or "prejudicial to the maintenance of public order".

This is not wild imagination on our part. Let us remind you. One of your colleagues—Kuldip Singh Arora—a UNI staff correspondent in Amritsar, was arrested by the police on April 12, 1988, under NSA. The charge-sheet issued by the authorities against him accuses him of meeting certain persons—which he did in the discharge of his professional duty like any other journalist.

To escape going to jail if you decide to avoid touching domestic affairs and write about events abroad, you may still get into trouble. Reports do appear criticising the Indian government's role in Sri Lanka, the behaviour of the Indian Peace Keeping Force there. But there is a constant threat hanging over the reporters and the publishers of those reports. The government may detain them under NSA, if it is satisfied that their publication is "prejudicial to the defence of India, the relations of India with foreign powers".

There are still other ways of preventing you from carrying out your professional duties. You may visit a trouble spot affected by a communal riot, or a police firing, or insurgency and send your report to your newspaper. But the report may never land up there. There is the Indian Post Offices Act of 1898 to take care of it. It enables the government to prevent transmission, or intercept or detain any message from any person relating to any subject, if the government thinks it is necessary in the interests of public safety, or on the occurrence of any public emergency. (S-26.) Your report may attract this catch-all provision of the Act. Even after that, if you want to send your report through a private courier, you will be stopped from doing so by the latest amendment to the Act introduced by the Rajiv government. This amendment empowers the postal officers to enter the premises of anybody, especially of private couriers and conduct search.

If you mention 'punjab' . . . you may soon get into trouble.

The 59th amendment passed on March 23, 1988, does not only provide for the declaration of Emergency in Punjab, but also empowers the government to ban meetings to discuss anything on Punjab even outside the state. It can impose pre-censorship not just within Punjab, but also in the rest of India to cover any report that discusses the Punjab situation.

If you are arrested in this connection anywhere outside Punjab, you cannot obtain judicial redress by way of habeas corpus in any court because Article 359 has not been amended to restrict its operation only to Punjab.

One of the grounds for declaring emergency in Punjab, under the new amendment of the Constitution, is "internal disturbances". A stir by farmers of Punjab for better prices for their agricultural produce, marked by meetings and demonstrations, can be described as an "internal disturbance" and used as a plea for imposing Emergency. It is not only terrorist activities, peaceful protests like a non-cooperation movement also can fall under this category.

Any political protest, any democratic movement in any part of the country can be described as an "internal disturbance" by the Centre, to be used as an excuse for declaring Emergency. Punjab can well be the test-case—the prelude to the declaration of Emergency all over the country.

Once Emergency is declared in Punjab, the state's inhabitants will lose their rights to freedom of speech and expression; to assemble peaceably; to form associations; to move freely—the rights guaranteed under Article 19 of the Constitution. Article 21, which guarantees protection of life and personal liberty will also remain suspended during the Emergency period.

This can be a prolonged agony for the people of Punjab, for the 59th amendment provides for continuation of Emergency for three years, without bringing the matter up in Parliament for reconsideration.

During this period, the state will be cut off from the rest of the country, since the government is empowered to regulate the entry of people into Punjab. The suspension of fundamental rights will encourage the police to put thousands behind bars without any accountability, and to shoot down citizens without any impunity whatsoever.

If you are living in Punjab you must have already been hemmed in by 25 odd legislations—specially meant to combat terrorism in your state. There are the Code of CRPC (Punjab Amendment) Act of 1983; Armed Forces (Punjab and Chandigarh) Special Powers Act of 1983; Punjab Disturbed Areas Act of 1983; Chandigarh Disturbed Areas Act of 1983 and a host of other such measures which allow the police and para-military forces to arrest you, confiscate your property and even to kill you, but which deny the citizens right of recourse to due process of law—since actions taken by the police under these laws are immune from court proceedings.

Since the imposition of President's rule in Punjab in May 1987—at least 2,678 people have been arrested as 'terrorists' there. One wonders how many of them are terrosists? The majority of those who were held as 'terrorists' during the Operation Bluestar in Amritsar in 1984—and 300 odd among them are still detained in Jodhpur jail—were innocent pilgrims, old men and women who were stranded in the Golden Temple.

Ironically, while common citizens are being harassed, arrested and killed (in false encounters—till October 1987 there were about 430 such killings of innocent people) on mere suspicion of their having terrorist connections, the actual terrorists go undetected and have in fact increased their scores in terms of victims. According to the former Punjab Chief Minister Surjeet Singh Barnala, over 1,500 persons had been killed by terrorists in Punjab since the imposition of President's rule there.

Now with the 59th amendment, the bloody mayhem will be carried out in total darkness—since people outside Punjab will have little chance to know what is happening there with the imposition of precensorship.

From now on then, you are a second class citizen in Punjab—denied the rights which your fellow citizens enjoy in the rest of India. You are also a 'fair game'—for both the trigger-happy police and the fanatic terrorists.

If you are a doctor, a lawyer, or a teacher beware of your patients, your clients or your students. They may be "terrorists", "disruptionists", "secessionists".

Forget the Hippocratic oath and swear by TADA. If a patient comes to you and you treat him, and he turns out to be a "terrorist," you have committed a crime. According to TADA, "rendering of any assistance, whether financial or otherwise, to terrorists or disruptionists" is an offence (5-2-a-iii). You can be punished with imprisonment for at term which may not be less than six months but which may extend to seven years.

Do not dare to act on behalf of your client, if you are a lawyer. He may be a "terrorist". Acting on behalf of such a person "in drawing, accepting, paying, presenting for acceptance, or payment, negotiating, or otherwise dealing with any negotiable instrument" is an offence under the TADA rules (23-1-d).

Shun your students. For, they may be "instigating or abetting terrorist acts or disruptive activities or assisting in any manner terrorists or disruptionists. "Communicating with such persons is an offence. (TADA-5-2-a-i).

You may be innocent, but your house can be found guilty. TADA provides for "the demolition, destruction or rendering useless, in case of necessity, of any building or other premises or any other property." (5-2-f) to prevent the use of the premises by terrorists, or even to "minimise danger to persons and property in or in the vicinity of such premises during any operations against terrorists and disruptionists. "(TADA Rules-21-1).

If you are a worker employed in essential services like the railways, posts and telegraph, transport, etc. you are denied the right to strike. The Essential Services Maintenance Act (ESMA) which bans your right to strike was introduced first in 1981. It was extended by another five years on August 22, 1985. If you join the strike, or instigate or incite others to join it, you are liable to disciplinary action (including dismissal) and can be punished with imprisonment for a term which may extend to six months or with fine which may extend to Rs 1,000 or with both.

Even your wife or husband or friend is not spared by ESMA. Any person who expends or supplies any money in support of strike shall be punishable with imprisonment or fine or both, thus preventing the relatives and friends of the striking employees from contributing to strike-funds, or even from helping them out with food and money.

If you work in a hospital a school or a college you cannot go on strike, which is banned by the Hospitals and other Institutions Bill, passed by Rajya Sabha in April, 1988.

If you are a policeman do not think that you can escape the tentacles of the legal octopus. Three new bills have been introduced by the Rajiv Government, to keep your mouths shut.

The first—the Intelligence Organizations (Restriction of Rights) Bill—was passed on August 26, 1985. If you are a member of IB (Intelligence Bureau), RAW (Research and Analysis wing), and other agencies, you are "barred from communicating with the Press, or publishing or causing to be published any book, letter, pamphlet, poster or other document, except with the prior permission of the head of the Intelligence body."

You cannot participate in or address any meeting, or take part in any demonstration organized by any body or persons for any political purpose or for such other purposes as may be proscribed.

If you violate these rules, you can be punished with imprisonment for a term which may extend to two years, or with fine which may extend to Rs 2000, or both.

You can be jailed even for talking to your friends or relatives about functioning, structure, personal or organisational affairs of the intelligence organizations. The law bars you from contacting or communicating on these matters with any person except for purposes of official duty.

The other bill is the National Security Guard Bill, which was passed on August 20, 1986. It provides for the establishment of a new para-military force called the National Security Guard to deal with terrorist activities in various states.

The other is the National Security Guard Bill, which was passed on August 20, 1986. It provides for the establishment of a new para-military force called the National Security Guard to deal with terrorist activities in various states.

If you are a member of the force, your fundamental right to Constitutional remedies like the right to move the Supreme Court, stands restricted abrogated.

The latest bill—Special Protection Group (SPG) Bill—introduced in May 1988, prevents you, if you are a member of the SPG, from joining any organization, or speaking to the press about your grievances.

"We have taken up the cause of suppressed sections of the world. We have demonstrated that our voice is that of balance, tolerance, compassion, truth and non-violence."—Rajiv Gandhi's speech from the ramparts of Red Fort on the occasion of Independence Day, August 15, 1987.

If you are a jawan you have been trained and you are expected to protect the nation's border from its enemies. But you can be called up any moment to shoot upon your fellow citizens—in Nagaland, Andhra Pradesh, Tripura—and wherever the Rajiv Gandhi government wants to suppress the mounting discontent of the people. Innocent citizens there, as right now 50,000 of your colleagues in the guise of the Indian Peace Keeping Force (IPKF)—are doing in Sri Lanka. Over 400 of your men have already lost their lives there while fighting the Liberation Tigers of Tamil Eelam (LTTE), and about 1,300 are lying injured. (Defence Minister K.C. Pant's statements in the Rajya Sabha on April 28, 1988).

Whose war are you fighting in Sri Lanka? Do the Tamils who are facing your bullets there, regard you as a 'peace keeping force', or as an 'occupation army'?

If you are arrested under NSA, you can be detained for an indefinite period.

You should be informed of the grounds of your detention within ten days of your arrest at the most; but the authorities are not bound to disclose the facts if they consider it to be against public interest to disclose. (8-2). Thus, you may be in complete darkness as to the reasons for your detention.

You are not allowed to have a lawyer to represent your case. (11-4)

You can appeal to an Advisory Board set up by the government. The Board shall consist of three persons who are, or have been or are qualified to be appointed as Judges of a High Court (9-2). One of the members who is, or has been a judge of a High Court shall be its chairman. (9-3). When their is a difference of opinion among the members of the Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board (11-3).

It is on the recommendation of the Advisory Board that the government can either revoke your detention order, or confirm it. Thus, the composition of the three-member Board is an important factor which decides your case. Let us try to understand the implications of the composition of the Board as provided by NSA. The three members only need to be qualified to be appointed as High Court judges for membership of the Board. According to the Constitutional Article 217(b) one of the qualifications for appointment as a High Court Judge is at least 10 years' experience as a High Court advocate. Thus, any two High Court, advocates with 10 years experience each, can be appointed members of the Advisory Board. Nothing prevents the government from appointing its own public prosecutors as the members of the Board. If the government wants to keep you in detention, two handpicked members of the Board can overrule the chairman, a sitting or retired Judge, if the latter favours your release. You can be detained for a maximum period of 12 months (13). But even after the expiry of that period, or even if your detention order is revoked on the recommendation of the Board, you may be put back in jail under fresh detention orders (14-2).

In 1987, by an amendment, the Rajiv Gandhi government took away from you even the little hope that you could expect from the Advisory Board's recommendation. The amendment now enables the government to detain you "without obtaining the opinion of the advisory board for a period longer than three months but not exceeding six months from the date of detention."

If you are arrested under TADA, you will be triable only by a Designated Court, and not the ordinary judiciary (9).

Your trial will be held in camera (13-1) and the identity and address of the witnesses will be kept secret (13-2).

Do you understand the implications? You will be completely cut off from the rest of the world during your trial, with no friends or relatives to give you moral support. You cannot hope for a fair trial, not able to challenge the witness brought to give evidence against you. (He could be a police officer in mufti, pretending to be a member of the public, since his identify cannot be asked for).

You may be arrested in Punjab, but can be taken away for trial to Kanyakumari. For, the government can transfer your case from one Designated Court in a State to another Designated Court in a different state (9-2), thus depriving you of easy access to your family and friends living in the state to which you belong.

Two new amendments made to TADA in August 1987, have pushed you further to the walls. First, your confession to a police officer (and not to the judicial magistrate, as in the past) should be good enough for admissibility in the courts. Its ominous meaning must be clear to you. The police, notorious for their third-degree methods in custody—where almost every day there are cases of arrested suspects being beaten to death—will use all types of torture upon you to make you sign a confession to crimes which you have not committed. Thus, ironically enough, you can be convicted on the basis of a confession extorted from you at bayonet point.

The other amendment shifts the onus of proof from the prosecution to the accused, in four circumstances: recovery of arms and explosives from the possession of the accused; finding of fingerprints at the scene of the crime; confession to a co-accused; and extra-judicial confession made to any person other than a policeman.

If the over-zealous policeman wants to get you prosecuted, he can plant arms or explosives on you at the time of your arrest. You will then have to prove that they do not belong to you. In practice it is extremely difficult for the accused to discharge this burden of proving his/her innocence.

This legal provision violates the International Covenant on Civil and Political Rights (to which India is a signatory), which lays down "Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law."—a right which is recognized by the Human Rights Committee in its statement: ". . . the presumption of innocence . . . is fundamental to the protection of human rights. . . . By reason of the presumption of innocence, the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt."

But if you are arrested under TADA, all the odds are rallied against you—you will be barred from the outside world; witnesses will be brought against you whom you cannot challenge; you will be at the mercy of the police who will torture you with impunity to extort confessions from you.

That had been the fate of about 9,300 people detained under TADA till the end of 1987. Of them 4.028 were in Punjab alone, 2,234 in Gujarat and 1,410 in Haryana.

WHAT DO YOU EXPECT FROM THE COURTS?

The citizen's last resort for protection from the tyranny of an authoritarian government is the judiciary.

But can you hope for a fair hearing in our courts? If you are poor—many among the victims of the repressive laws come from the lowest rungs of the socio-economic order—the odds are heavily stacked against you. A beggarly appearance itself is often a reason for suspicion in the minds of those who are better fed and better dressed. It is the latter again who man the judiciary. A classic case of their typical bias against the poor was provided by the acquittal by the Madras High Court of some landlords who were accused by burning to death 42 Scheduled Caste landless labourers, including 20 children on December 25, 1968 in Kilvenmani, Tamilnadu. Acquitting them, the High Court observed: "Most of them are rich men owning vast extents of land . . . it is difficult to believe that they themselves walked bodily to the scene and set fire to the houses. . . ."

Compliant judgments are delivered from various motivations ranging from political bias to personal ambitions. The tendency towards such judgments increases during an Emergency—as we remember in 1975-77. When MISA detenus were being tortured and fired upon in jails, one Supreme Court judge in a famous judgment in the Habeas Corpus Case in April 1976, said: ". . . the care and concern bestowed by the state authorities upon the welfare of the detenus, who are well-housed, well-fed and well-treated, is almost maternal." The majority judgments in that same case which upheld the government's decision to suspend fundamental rights during an Emergency situation, indicated that a judiciary of the type we have in India can rarely persevere at odds for too long with the ruling political party.

The new extraordinary laws which have culminated in the passing of the 59th amendment are likely to lead to the judiciary's progressive capitulation to the executive's view of its legal powers. These laws seek to legitimize the oppressive authority of the police by deliberately obfuscating the boundaries of what constitutes lawful and legitimate views and actions in a parliamentary democracy through attempts to brand all dissidents as extreminst and terrorists. In such a situation, the judiciary can again act as a suppliant tool of the executive as it did during the 1975-77 Emergency period.

But not quite reassured of the judiciary's support, the government is trying its best to severely restrict the courts' scope for judicial review. NSA and TADA detenus have been put beyond the pale of the ordinary courts—the former to be heard by government appointed Advisory Boards, and the latter by specially designated courts.

Besides, the judiciary is being barred from interfering in disputes between the citizens and the police armed forces. The latter are being granted protection from any legal proceedings in connection with actions carried out by them in accordance with the objectives of these laws.

As a result, while you can be harassed, your movement curtailed, your voice muffled, your house demolished, your body rots in jail and remains at the mercy of police bayonets.

YOUR PERSECUTORS GO SCOT-FREE

Even if you are proved innocent—if you are lucky enough, or after you move heaven and earth to get released—you have no redress for the harassment and hardship caused to you, for the valuable time of yours stolen by the jail and the police, for the loss of income caused by days and months of incarceration.

You cannot go to the court demanding compensation for the losses you have suffered, or punishment for those responsible for causing them. Both NSA (Section 16) and TADA (Section 20) prevents you or others from instituting any suit, prosecution or other legal proceeding against the Central government or the State Government or any other officer or authority, who might have been responsible for restricting your movements, expunging your reports, stifling your voice, putting you behind bars—or even doing away with your life. The government grants them this immunity because whatever they do in accordance with the objectives of these Acts, is assumed to have been done "in good faith".

If you unwittingly stray anywhere near the Prime Minister or any one of his family members, you can be shot dead by the Special Protection Group (SPG), and your friends or relatives cannot seek any redress since under the SPG Bill "no suit, prosecution or legal proceedings shall lie against any member of the group who does anything which is in good faith done. . . ."

Your "good faith" has no place in the thinking of a government which provides no remedy in the courts by way of damages for a person who is subsequently shown to have been sent to prison for a crime which he did not commit.

You can be made to disappear and your dead body may reappear somewhere.

Although the Government has not yet enacted any law to make you disappear, the police can pick you up one fine morning and that may be the last one will hear of you.

If you think it is a figment of our imagination, remember Hashimpura in Meerut. On May 22, 1987, several people were taken away in trucks by the Provincial Armed Constabulary. Later their bullet-ridden bodies were recovered from canals, where according to eye witness accounts the PAC threw them after killing them.

In Andhra Pradesh, for the last several years now, political dissidents and civil liberties activists had been captured by the police, never brought before any court, shot dead and their bodies later shown as "killed in encounters".

On July 11, 1987, the Assam Rifles launched 'Operation Bluebird' in Oinam village in Manipur—in retaliation against an attack on their camp by guerillas of the National Socialist Council of Nagaland. Unable to apprehend the guerillas, the Assam Rifles personnel took it out on the innocent Naga villagers of Oinam. At least 15 villagers were taken away and tortured to death. Two teen-aged girls were kidnapped by the Assam Rifles personnel. They have not yet returned.

A POSTSCRIPT FOR CITIZENS WHO HAVE NOT YET HEARD THE MIDNIGHT KNOCK

You may accuse us of being prophets of doom of over-stating dangers, of spreading panic.

You may ask: "Why? Here we are—still moving around in a free society, enjoying free press that everyday brings out for us entertaining skeletons from the government's cupboard. Where is the nightmare that you are conjuring up from laws that in any case are not relevant for us—innocent, law-abiding citizens?"

You must say: "Punjab or Nagaland are distant-exceptional regressions from our democratic standards. They therefore deserve such exceptional laws. We are sure the government will use these laws in a spirit of understanding and generosity, sparing us—innocent, lawabiding citizens."

There were optimists like you in Germany in the 1930s. Listen to their plight, as summed up by a civil liberties activist:

". . . the Nazis came first for the Communists, and I didn't speak up because I was not a Communist. Then they came for the Jews and I didn't speak up because I was not a Jew. Then they came for trade unionists, and I didn't speak up because I was not a trade unionist. Then they came for me, and by that time there was no one left to speak for anyone."

If you choose, you can go through the same process of elimination. Somewhere along the line, you may find a niche for your personal survival. But at what cost? What sort of life are you opting for?

You can opt for the following—

—stop meeting people, even your friends, since they might be suspected of being terrorists, and thereby put you into trouble;

—stop receiving letters, newspapers and magazines, since they may contain terrorist propaganda;

—stop writing or speaking in public since it might be construed as aiding and abetting terrorists and disruptionists.

Do these options sound absurd? Unrealistic? Unnecessary? Since, the majority of our citizens can still avoid such extreme decisions?

But you can soon be pushed into making these decisions, since the laws—both old and new that are on the statute books—have all the provisions to compel you to restrict your lives to the grooves dictated by the state.

And even then, are you sure one midnight the security men will not come and knock at your door?

As we have tried to prove to you till now, the scope of operation of these laws is menacingly stupendous and all-embracing. They leave nothing to chance, and nothing escapes them. If today, in Delhi, Calcutta, Bombay, or Madras, you feel sure that they do not touch you, tomorrow any policeman can pick you up—if your name resembles that of a 'dreaded terrorist', or your face arouses suspicion, or even if your normal functioning in the course of your professional duties is considered as "abetting, advocating, advising, inciting . . . disruptive activity" (Section 4-1 of TADA). There is hardly anything you do which can escape the staggering provisions of these laws.

If you are still not feeling their pinch, chances that they will be used against you are vastly increasing. Remember how the TADA, ostensibly meant for the Punjab terrorists, was used against Gujarat workers. Remember how the NSA, ostensibly meant for the defence of India against foreign enemies was used against an Indian journalist. Remember how villages of Hashimpura disappeared—their bodies found later floating in canals.

A last tip for citizens who want survive in Rajiv Gandhi's India.

Begin to protest against the 'Black Laws.' Talk to friends, neighbors, relatives, colleagues, fellow-workers. Take part in actions. Join civil liberties groups. Go to meetings.

Speak up, before there is no one left to speak for anyone.

THE CURRENT STATE OF YOUTH CAMP SAFETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, Labor Day marked the end of summer and the beginning of school for millions of American boys and girls. At least 4 million of those boys and girls had the opportunity to spend all or part of their summer vacations relaxing and having fun in the 11,000 youth camps across the Nation. Those who went to camp spent some of this summer hiking, fishing, learning crafts, swimming, exploring nature, and enjoying the freedom which summer offers.

But it's not all fun and games. There are dangers at summer camps—far too many. It is estimated that during this summer alone, 2,700 of those youths who went to camp for fun became seriously ill or injured and another 25 died.

Just last month, an eight-passenger van owned by a summer camp in New York went out of control and smashed into a tree. the van was driven by a 17-year-old counselor and was packed with 11 campers and 3 counselors. One camper estimated that the van was going 20 miles above the posted speed limit when the driver lost control. All 14 people in the van were injured, and 5 of them were hospitalized.

In June, a 10-year-old boy died in a swimming pool at a summer camp in Silver Spring, MD. The police and camp officials say they have no idea how it happened, and nobody has any definite answers.

In an incident several years ago, a California camp rented a flatbed tractor trailor truck for a day trip to the beach. The driver took the vehicle out on an eight-lane California expressway—it overturned, literally somersaulting, killing 5 and injuring all of the other 62 campers and 8 counselors.

Near Allentown, PA, seven New York children were killed when a bus their camp had chartered went off the road during a rainstorm. The driver did not have a license and the bus' brakes may have failed.

A 12-year-old New York boy was struck and killed by a motorboat while swimming in a camp-sponsored race in Vermont several years ago.

In another incident, three children at a New York camp drowned over the course of four summers, but no action was ever taken against the camp.

I also know of a Connecticut man who sent his son to a camp in New York and the boy died on a camp-sponsored whitewater canoeing accident in Maine. The ensuing legal battle took 6 years to resolve. It was even more difficult because each of these three States has its own safety regulations, and they are all different.

With better safety and health laws and regulations, many of these deaths and injuries would not have happened.

In Washington, my Subcommittee on Health and Safety oversees the Nation's youth camp safety programs, as we have for more than 20 years. There is currently no Federal regulation of youth camp safety, and there are recurring questions about whether this should be changed.

From surveys of States throughout the Nation, we have found a patchwork of State health and safety regulations, which range from outstanding to inadequate.

At the top are States which have legislation specifically aimed at protecting campers; States like California, Colorado, Connecticut, Michigan, New Jersey, New York, and Texas.

States in between have some regulations on sanitation, medical care, program safety, transportation, and food preparation at summer camps.

Unfortunately, at least 10 States offer virtually no specific protections for kids at camp; these States include: Georgia, Iowa, Kansas, Missouri, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, and Wyoming. Kids who go to camp in these States are only protected by the general State health and safety laws, and there are no provisions for the unique hazards of a summer camp.

What's even worse, no one knows exactly how many kids go to camp, how many are killed, or how many are injured. We don't even know exactly how many camps there are.

My subcommittee has focused on improving youth camp safety for the past 20 years. Since 1973, my colleagues and I have introduced bills to establish Federal youth camp safety standards through a Federal office of youth camp safety in the Department of Health and Human Services.

Over the last 15 years, at least one bill, the Youth Camp Safety Act of 1975, was passed in the House, but was not considered in the Senate. In fact, the Senate has never even taken a vote on the issue, even though in 1975 the then-Department of Health, Education, and Welfare prepared a model statute to use in drafting youth camp safety regulations.

Well, I have certainly not lost my commitment to the protection of the estimated 4 million youth who attended camps this summer.

I have requested a report from the General Accounting Office on the current status of camp safety laws and conditions across the country. This study should help us gauge where we need to concentrate our efforts.

The Congressional Research Service has also been looking into youth camp safety at my request. I asked them to come up with background information on the number of campers, the number of fatalities, and the number of injuries sustained at summer camps. I also asked them to try to find actual examples of accidents and injuries at summer camps.

Unfortunately, Congressional Research Service says it cannot provide any new information.

Now, I'm not criticizing CRS, it's just that the information isn't available. Deaths and injuries at summer camps are kept as quiet as possible and camp owners are advised to try to keep the incidents out of the papers.

One reason might be that summer camps are such big business. According to Jim Le Mon, spokesman for the American Camping Association, youth camps are now a $2.5 billion industry.

Mr. Speaker, what other industry in the United States makes that much money and is not regulated or overseen by the Federal Government? I don't think there are any, and I also don't believe that there are other unregulated industries which pose such a potential threat to millions of our Nation's boys and girls.

I admonish the men and women who own and operate summer camps to be careful. If our research finds they are not providing a safe and healthy environment for our young campers and if we find that State laws and regulations are inadequate to protect these kids, then we will work to enact a Federal youth camp safety program.

Summer camps are places for kids to relax, exercise, and have fun, and they should be as safe and healthy as we can possibly make them.

My colleagues and I plan to continue monitoring camp safety and we will continue working to ensure that kids are safely able to enjoy the benefits, adventures, and pleasures of summertime in our Nation's youth camps.

WORKER SAFETY IS NOT HIGH ENOUGH ON THIS ADMINISTRATION'S AGENDA

Mr. Speaker, in conclusion I want to talk a little bit about worker safety whether or not it is high enough on this administration's agenda.

Mr. Speaker, a year ago this past April, a building under construction in Bridgeport, CT, collapsed and 28 construction workers died on the job.

Mr. Speaker, many of those deaths could—and should—have been prevented. The Agency in the Department of Labor charged with responsibility for workplace safety and health—the Occupational Safety and Health Administration [OSHA]—failed to do its job of protecting the Nation's workers.

The construction workers who were killed were working where they shouldn't have been. The contractor was using the lift slab technique for putting concrete slabs into place. It has been determined now that the load being carried was more than the machine could handle. But, if OSHA's rules and regulations had been followed, many of those 28 construction workers wouldn't have died even if the building had collapsed. According to OSHA regulations, workers should not have been working in the area underneath a lift slab operation.

OSHA, however, did not have an inspector at the site. In fact, OSHA has too few inspectors and far too few with any knowledge of construction.

That's why those 28 construction workers joined the roughly 1,000 construction workers who died last year.

But those 28 weren't the first workers to be killed in large numbers.

In 1982, an elevated highway ramp being built in East Chicago, IN, collapsed and 13 workers lost their lives.

In 1981, 11 construction workers died in Cocoa Beach, FL, when the highrise condominium they were building collapsed.

And 10 years ago, there was the tragic scaffolding collapse at Willow Island, WV, in which 51 construction workers lost their lives. The workers were pouring concrete 170 feet above the ground when the scaffolding under their feet collapsed and sent them plunging to their deaths.

The Willow Island tragedy did not have to happen. Thirteen months before the scaffolding collapsed, workers questioned whether that scaffolding met OSHA standards. A top-ranking OSHA official concluded that there was too little evidence to support the workers' claim—and 13 months later 51 workers lost their lives because the scaffolding—just like the workers said—was unable to support the load placed on it.

But it's not just in the field of construction that OSHA has failed to fulfill its mission.

In New York City, workers in a thermometer factory were reclaiming the mercury from damaged thermometers. That's something that's done all the time. But this time it was different. The workers were in an enclosed area—no windows, no ventilation, no air, and were shaking out the mercury onto themselves, their clothing, even their food, because they ate in that same room. And where was OSHA? Well, it seems that an OSHA official granted the company a variance from the standards governing mercury exposure and renewed that variance every several months without any review by any one else in the agency. And, just in case you aren't aware, mercury exposure kills and maims.

And just outside of Chicago there was a firm that recovered the silver from the back of used photographic film. In order to recover that silver, the film was dipped in a cyanide-based bath. Nobody told the workers they were being exposed to cyanide fumes and the hazard labels on the cyanide containers had been removed. There wasn't adequate ventilation. Nobody provided the workers with self-contained breathing devices. And OSHA never cited the company for any violations—until after a worker died on the job from cyanide poisoning.

The list of cases goes on and on. In Hopewell, VA, a small company was created to handle a highly toxic substance—kepone, which was used in making pesticides. Originally, one of the major chemical companies in the United States had been making and using kepone, but it was determined to be too hazardous and the manufacturing was spun off to a separate and distinct entity.

Well, it wasn't long before the workers started complaining about headaches, dizziness, and other symptoms. Then those workers were found to have damaged their reproductive capabilities. And, finally, it was discovered that the kepone had found its way into the James River where it destroyed the fish and other living organisms in the river.

Operations came to a halt, but the damage had already been done. Fortunately, there has been some reversal. Some of the workers, who to this day are subject to medical evaluations every few years, are regaining their reproductive capabilities. What's more, the fish seem to be returning to the river. The kepone is still there, however, now buried under the river bottom silt. Environmentalists are afraid to dredge it up for fear that moving it around will recreate the damage from which the river is recovering. They still fear that a hurricane coming up the east coast and creating heavy swells and tidal movement in the river could cause a problem in the future.

I won't go on any further with this litany, Mr. Speaker, but suffice to say that I have only skimmed the surface.

Those of us who have been involved in health and safety in the workplace, as I have for 20 years as a Member of Congress and for the past 10 years as the chairman of the Subcommittee on Health and Safety, know the numbers all too well.

We know that each and every year between 5 and 10 thousand workers die in traumatic accidents in their places of work. We know that each and every year, 3 million American workers are seriously injured and, in too many cases, permanently disabled. We know that each and every year as many as 100,000 workers die and another 400,000 join the disabled lists because they have diseases arising from exposures thousands of toxic substances, agents, and processes in their workplaces. Even more tragic for those suffering from occupational diseases is that they may not even know they have the disease for 10, 20, or 30 years.

OSHA says it is doing the job. The Agency Director points to a stack of headlines from newspapers around the country praising OSHA for attacking companies for violations.

I, too, applaud the Agency for taking some action. But I also believe that there is more to occupational safety and health than just proposing gigantic fines against companies which rank among the top 500 in the U.S.A. It's just too little, too late.

OSHA's record doesn't stand up, Mr. Speaker. Between April 1986 and December 1987, the Agency cited 25 companies or individual plants for various violations, mostly recordkeeping ones, and OSHA proposed record penalties—some in the millions of dollars.

Well, as far as I am concerned, I'll wait to see if anything comes of it. So far, the record speaks for itself. In those cases where a settlement has been reached, the final penalties have been between 30 and 50 cents on the dollar. OSHA says that the companies have promised to correct the deficiencies. That's fine, but how will we ever know? Even OSHA admits that it relies on the employer to confirm the problem has been corrected and OSHA only double checks between 5 and 10 percent of them.

Just a few short weeks ago, the Assistant Secretary of Labor for OSHA and the Deputy Solicitor for the Department of Labor appeared before the subcommittee. In the course of questioning it became very clear that we in the Congress have a different view of how well OSHA is operating and how effective the Solicitor's office is in reaching settlements on contested citations.

The Solicitor says that they reduce fines when companies under citation agree to make corporatewide corrections of the violations. But, as I said, how will we ever know?

If there is one thing that is lacking, it is consistency. Following a number of serious citations against a major meat packing company which included huge fines, the company and its employees reached an agreement on a number of safety and health issues that would have made the packer a model for the industry. Part of the deal was that the fine would be less than $1 million. The Department of Labor Solicitor refused to accept the dollar settlement and the entire deal fell through.

Yet, as I mentioned, there seems to be no compunction to settle recordkeeping violations at cut-rate levels.

I want to make it clear that there are two different types of violations involved in the many citations. Most of the violations are for recordkeeping. Others directly involve safety and health hazards in the workplaces.

The two different violations should be handled differently. If an employer and his employees agree to a settlement of the health and safety violations that provides for immediate abatement of the violation along with a reduced fine, I believe OSHA should accept that settlement if it does not violate any provisions of the OSH Act.

Fines for recordkeeping violations, however, should be held to a higher standard. If, as OSHA and others agree, accurate records are vital in order to determine where problems exist and as a means of identifying new hazards, then faulty records will only make the workplace less safe and healthy.

Just think about one little item. OSHA's inspection policy during this administration was based on voluntary compliance until just a few months ago. Voluntary compliance meant that if a company maintained an injury/illness rate below the national average for all industry, all the OSHA inspector had to do was review its OSHA log of recordable injuries and illnesses. Mind you, the OSHA inspector didn't compare the actual employee medical records with the OSHA log—all he did was look at the log.

The result of this was easy to see. OSHA inspections, one of the key ways of determining the productivity of the Agency, shot way up and were done with fewer inspectors.

Now, of course, we see what happens when the medical records are screened and compared to the OSHA log. A lot of injuries and illnesses that should have been recorded weren't. According to some estimates, only one of every four reportable injuries and illnesses are ever recorded.

After 7 years of recognized failure of the voluntary compliance concept, OSHA has dropped it. Now, OSHA inspectors are supposed to walk through a plant as well as checking its records. How many workers died because of the policy of voluntary compliance? How many workers can no longer function because of injuries and illnesses?

This administration's failure speaks for itself. In 1980, OSHA penalties totaled $22,826. In 1981, the first year of the Reagan administration, the total was $14,166 and in 1982, the amount was fairly stable—$15,990.

The watershed year, though, was 1983. In that year, OSHA proposed penalties of $9,561, a 13-year record low. Even the business community was embarrassed. So, in 1984 and 1985, OSHA bounced back with penalties of $21,950 in 1984 and $23,061 in 1985.

Then came the new era—the era of huge fines. In 1986, OSHA levied fines totaling nearly $1.5 million. And in 1987, the amount jumped to $1.6 million.

As I have already mentioned many of those fines have already been reduced and others are being contested. So we can expect that the actual dollar amounts will be considerably less than the original penalty amounts.

What concerns me most is that OSHA stands around crowing about these proposed fines it has levied. What I don't hear is that OSHA is proposing new standards that will prevent or, at the least, reduce worker exposure to toxic and hazardous materials. That's what is important. That's what will save lives.

But, does OSHA change? Absolutely not. Although OSHA has the money to hire 1,235 inspectors, it comes up short by about 200. In May 1987, roughly 1 month after the building collapse that took 28 lives, OSHA had 1,049 inspectors, including health and safety supervisors.

Seven months later, as of the first of January 1988, in testimony to my subcommittee, OSHA reported the number as 1,038, a drop of 11 inspectors at a time when more, not less, was vital to keep the Agency doing its job.

What we have here is a determined effort to win big headlines that will keep alive the impression that OSHA is doing its job while the original intent of this administration—to reduce the impact and effectiveness of OSHA—goes forward without impediment.

The result is very clear. More workers are dying on the job each and every year. The injury/illness rate goes up each year. And, more significantly, the lost workday rate—the number of days lost due to injury and illness—is rising dramatically, meaning that injuries and illnesses are more severe.

We in the Congress can take pride in our efforts on behalf of American workers. Just after I came to Congress in a special election in 1968, the Congress passed a bill promoting health and safety in the construction and building trades industries.

In 1969, we passed the Federal Coal Mine Health and Safety Act, one of the most significant laws in this Nation's history.

Just 1 year later, the Congress, under the direction of our late friend and colleague Dom Daniels of New Jersey, passed the most comprehensive health and safety law in America's almost 200 years—the Occupational Safety and Health Act.

For the next several years, first as a member of the Subcommittee on Health and Safety and then as its chairman, I worked to fend off continuous attacks against the act. I can remember in those early years when we would have as many as 200 to 250 bills filed each and every Congress to either outright repeal or severely weaken the act. But we stood fast on our commitment.

In 1977, I was the floor leader as we passed a package of amendments to the 1969 Coal Mine Health and Safety Act that created MSHA and what is still regarded as the strongest worker protection law on the books.

Last October, we did it again. Last October, the House passed H.R. 162, the High Risk Occupational Disease Notification and Prevention Act—my bill aimed at helping those men and women who are suffering and will continue to suffer death and debilitation from diseases arising from occupational exposures to the many toxic substances, agents, and processes. The program embodied in the bill we passed would have allowed us to identify those workers who are at risk of the diseases, would have allowed us to notify those workers of their risks and encourage them to enter a medical monitoring program, and finally, would allow us to assist companies in eliminating those exposures where possible and, thereby, preventing the diseases from arising. Unfortunately, Mr. Speaker, the Senate failed to end the filibuster on its version of the bill, so it appears the legislation is dead for this Congress.

During the past 20 years, the subcommittee has focused on the important occupational health and safety issues.

We have examined the potential health effects of video display terminals, reviewed the progress of OSHA's activities in controlling chemical exposures, questioned OSHA's actions in protecting workers in the Federal sector, developed and passed legislation providing for the safety and health of America's youth in summer camps, and examined the impact of alcohol and drugs in the workplace.

The subcommittee has conducted hearings into the ability of the Mine Safety and Health Administration [MSHA] to save lives in the mining industry, especially in the wake of mining tragedies, such as that one at the Wilberg Mine in Utah in which 27 miners lost their lives because MSHA allowed an operation in violation of the law. We have made recommendations on preventing grain elevator explosions and fatalities. We have examined the effectiveness of the various State OSHA programs.

Recently we concluded a series of hearings on OSHA's ability to protect the lives of men and women in the construction industry. What came out very clearly in this series of hearings is that OSHA isn't doing its job very well.

OSHA has never complianed to the subcommittee that it lacks the financial resources to do the job it is charged with doing, but it is clear to anyone who can read that a serious problem persists. As one subcommittee member said so succinctly to the Assistant Secretary of Labor for OSHA, in qestioning why the Assistant Secretary was not asking OMB for a larger budget, "* * * I would either scream—for more money—or quit. And I don't understand why you're not screaming."

No one, least of all me, believes that OSHA is getting enough money to do its best job. But, given the current budget constraints on all of us, maybe the answer is in how the funds are used. No one really knows where OSHA's dollars are spent, but we are going to find out. We have asked the General Accounting Office to review OSHA's activities with a special focus on what OSHA gets for the dollars it spends. Then, when OSHA's leadership comes before the subcommittee, we will know the right questions to ask.

Mr. Speaker, I started out my testimony by citing a number of incidents and accidents that attracted a lot of media attention. This attention was focused because of the numbers of fatalities that occurred.

But these incidents and accidents are not unique. I hope no one here believes that recurrences are unlikely. The unfortunate truth is that American working men and women are being killed and injured in their workplaces every day. The only difference is that when it's only one or two fatalities at a time or no fatalities at all, the media isn't quite as attentive.

We must focus on the overall picture. We cannot forget that between 5,000 and 10,000 workers die on the job each year. We should not forget that some 3 million workers are injured on the job each year. And, above all, we must not forget that as many as 100,000 workers die each year from occupational diseases and another 40,000 are disabled.

These are tragedies that the OSH Act was created to prevent. That is why we have OSHA. And that is why we cannot ever relax our vigil in ensuring that these agencies do the jobs they were created to do.

The OSH Act provides a strong framework for protecting American workers. The crucial element is the effort made by each administration to enforce the provisions of the act and to create and revise standards, rules and regulations so as to ensure that every worker has a safe and healthy work environment.

American workers deserve no less.

□ 1845

NATIONAL GUARDIANSHIP RIGHTS ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 10 minutes.

Mr. PEPPER. Mr. Speaker, I am today introducing, along with Congressman DON BONKER, legislation mandating national safeguards for elderly and infirm Americans facing or under guardianship. The bill, the National Guardianship Rights Act, is designed to combat widespread abuse and neglect recently uncovered in the nation's system of guardianship.

This legislation will put an end to this widespread abrogation of rights which our Nation's guardianship system today permits. The current system is a national disgrace. Unfortunately, many State and local guardianship systems have become sleeping watchdogs of personal liberty. Even a convicted felon is guaranteed more rights in many areas than innocent elderly and disabled Americans who are the subjects of guardianship proceedings. Because the imposition of a guardianship is so onerous—one loses the right to vote, own property, marry, make medical decisions, and other basic rights—there must be strong national safeguards against unnecessary and unduly restrictive guardianships. There are over 500,000 Americans under guardianship today.

The extent of abuses in our Nation's guardianship system is shocking. A system designed to protect the elderly and infirm has become in too many cases an avenue for abuse. Congressman BONKER and I are introducing this bill today to restore guardianship to a system which does indeed serve to protect our Nation's most vulnerable citizens.

Injustices like that suffered by a 91-year-old man from Michigan whose family recently wrote to me are the target of the new legislation. Mr. Clapsaddle, a retired General Motors executive, was placed under a guardianship and stripped of all rights and possessions with no hearing and based only on the testimony of one person, a speech therapist. Although found by an independent psychiatrist to have a "fine and active mind," he was unable to contest the guardianship and died without any rights.

A recent investigation and hearing by my Subcommittee on Health and Long-Term Care of the House Select Committee on Aging, as well as an intensive investigation by the Associated Press, revealed the need for major reforms to the system of guardianship. The National Guardianship Rights Act would require that all Americans facing the imposition of a guardianship receive adequate notice of impending guardianship proceedings; be represented by trained attorneys and to have counsel provided if they cannot afford one; be afforded an examination by an independent professional team before any guardianship may be imposed; have the right to a jury trial; and have right to prompt appeal of the decision or choice of guardian. The bill requires that all guardians be of competent character; receive thorough training; provide at least annual reports on the financial and physical well being of the incapacitated person; and be subject to annual review and automatic removal by the courts. The U.S. Attorney General would be charged with enforcing this civil rights legislation and is authorized to withhold Federal monies from States found not to be in compliance with the act.

I ask to include for the benefit of Members of Congress a copy of a questions and answers statement regarding this issue and a summary of the bill in their entirety at this point in the RECORD.

GUARDIANSHIP—QUESTIONS AND ANSWERS

What is guardianship?

Guardianship is a relationship where by the legal rights, possessions and decision-making power of one person (the ward) are transferred to another (the guardian) once a determination has been made that the ward is unable to handle his or her own affairs.

While guardianship was designed to protect the elderly, it is a process that is often used to take advantage of them. Guardianship in many ways is the most severe form of civil deprivation which can be imposed on a citizen of the United States. An individual under guardianship typically is stripped of his or her basic personal rights such as the right to vote, the right to marry, the right to handle money.

How many older Americans are under guardianship?

Today there are more than 500,000 older Americans under guardianship. A complete accounting of court records could bring this figure much higher.

Who are these elderly?

Most elderly placed under guardianship are very old, widowed, and live in a nursing home, boarding home or apartment. Their average age is 80. The majority of wards are women who have outlived their spouse. And more than half are in nursing homes.

While many of these older Americans genuinely need assistance in managing there own affairs, many can do some things for themselves and others were either never or only temporarily unable to completely manage their own affairs.

For example: Mrs. M., an 81 year old woman from Kansas, suffered a stroke. When she returned home she learned that while in the hospital the court had appointed a guardian to manage her affairs. Mrs. M., one day after mowing her lawn, was forcibly taken to a nursing home under orders of her guardian. This healthy and active woman spent 5 weeks in the nursing home unnecessarily and against her will before she was able to have the guardianship removed.

Who can be a guardian?

Virtually any mentally competent person can legally become the guardian of a person determined incompetent. This person is often the one who initiates the effort to have an elderly person declared incompetent. Despite the fact that a guardian typically has complete legal control over his or her ward's finances and personal well-being, there are typically no requirements that guardians have any special knowledge of accounting, social work, law or meet any minimum qualifications of education, experience or intelligence. In fact, only 18 states place any restrictions whatsoever on who can become a guardian, and in only 5 States are convicted felons prohibited from being appointed guardians!

For example: A 23 year old Michigan barroom janitor man, with no training or experience in handling money, social work or law, was given the job of public guardian. Within one year, he was responsible for 80 peoples' lives and their $350,000 in income and assets. He was later convicted of embezzling $130,000 from his wards.

Another alarming trend in guardianship of the elderly is that while 70 percent of guardians are family members of their wards, there is a growing number of for-profit companies specializing in guardianship. These businesses often handle large numbers of wards and have little or no personal interest in the well being of their wards. They profit off mostly helpless people.

Do courts require that guardians receive special training once appointed to control another person's life?

Rarely, if ever, is any kind of training provided or required under the law. In fact, fewer than 20 percent of courts even provide guardians with instructions as to their duties and legal responsibilities over their wards.

What is the legal process by which a person can be put under guardianship?

While the legal process by which a person is put under guardianship varies from state to state and from locality to locality, indeed from court to court, the common thread that runs throughout is that the "accused" incompetent has the deck stacked against them. An analysis of over 2,000 guardianship cases by the Associated Press found that fully 97 percent of petitions for guardianship were approved.

The guardianship process generally begins with the prospective guardian filing a petition in a county probate court. A judge usually hears the case (although in some counties the court clerk or other court official presides) and makes a ruling as to whether the "accused" is unable to manage his or her own affairs. As referred to above, very rarely is there review of the appropriateness of the individual attempting to be named guardian.

The "accused" incompetent elderly person not only has very few, if any, rights once placed under guardianship, he or she often has fewer rights and protections than an accused murderer in the process of adjudication. When one considers the following facts from the Subcommittee's review of pertinent state laws and literature, it is not difficult to imagine how 97 percent of guardianship petitions are granted:

Only 14 States require the alledgedly incompetent elderly be informed as to their legal rights (right to counsel, right to present evidence) or what rights they stand to lose if placed under guardianship before a judgement is made of their competence.

Only 8 States have no requirement that the "accused" even be notified that someone is petitioning to have them placed under guardianship and many others allow waiver of such a requirement. This is clearly a violation of basic due process under the law.

Only 15 States do not even specify that the elderly person has a right to counsel at the guardianship hearing.

Only 16 States require that the elderly person even be present at his or her own guardianship hearing. A recent study revealed that in 84 percent of cases, neither the "accused" elderly or a legal representative was present at the guardianship hearing.

Only 33 States allow "advanced age" as a cause for determing an elderly person's competence and whether or not he or she should be placed under guardianship.

Only 12 States require that medical evidence be submitted in order to find a person incompetent and thus be placed under guardianship.

The Subcommittee independently confirmed the ease with which a person can be placed under guardianship. It was found that in many instances, with a minimum of effort, time, and money a guardianship could be obtained. Simple forms regarding the alleged incompetent's general condition were required to be filed. In no case was the alleged incompetent required to be present at the hearing. In no case was the alleged incompetent required to be represented by legal counsel. The Subcommittee was told that hearings could be as short as 5 minutes.

What checks are in place to protect an elderly person from abuse by his or her guardian?

There are few. Only half the States require that guardians file an annual report of their wards well-being. Six States do not require any financial accounting of wards' monies. Even in the States that do require financial reporting, there is often little or no auditing of these reports. In Virginia, for example, the Subcommittee was told by an individual who works in the system. "The only thing that matters is what's on the bottom line of the statement. As long as income and outgo match up, no questions are asked. It doesn't matter whatsoever what the elderly person's money has been spent on or how much. That's why there are so many problems."

An investigation by the Associated Press found that nearly half of files on guardians were missing at least one annual accounting of money. Only 16 percent of the files reviewed contained reports on the elderly ward's well being.

What are some of the other most frequently cited problems with the current American guardianship system?

(1) There is a marked lack of due process in most States in the procedure by which a guardian is appointed. A person does not have to display evidence of training to be a guardian. There is no minimum requirement of education, experience or intelligence in any of the 50 States, the District of Columbia or the territories.

(2) The courts that handle guardianship (usually probate courts) are terribly overburdened, so that even in cases where guardianship is proper and appropriate, there are no followup checks to monitor the progress of the guardianship arrangement. Although laws in 44 states require guardians to file regular accountings of a ward's money, they were missing or incomplete in 48 percent of guardianship files examined in a recent Associated Press survey. According to AP, 13% of cases had the opening of guardianship as the last entry in the file. In 34% of cases, the closing of the guardianship was the last entry in the file.

(3) There is a powerful and unique abrogation of rights when a person's care is entrusted to another under a guardianship arrangement. The typical ward has fewer rights than the typical prisoner—they can no longer receive money or pay their bills. They cannot marry or divorce. By appointing a guardian, the court entrusts to someone else the power to choose where they will live, what medical treatment they will get and, in rare cases, when they will die.

How can an elderly person get out from under guardianship?

Procedures for terminating a guardianship vary all across the nation. However, in nearly all areas, it is a very difficult and time consuming proposition. Thus for an individual who was wrongfully found incompetent and wishes to "appeal" the finding, or an individual who was only temporarily unable to manage his or her affairs, to have control over their own lives restored is often difficult if not impossible.

Because the elderly person under the law is incompetent and has few legal rights, access to the legal system is often very difficult. Many are not able to secure the services of an attorney. Many have been placed in nursing homes and have little ability to get out and into court.

For example: Ms. E of Florida, a 66 year old professional was on her way to work when she was got into a serious car accident which left her comatose for two months. she recovered completely and found out only when she went to vote that she had been determined incompetent and therefore could not vote. While comatose her daughter had her declared her incompetent. Without any money, Mrs. E had to go the library and reseach on her own what she would have to do to get out from under this. After 7 trying months of research, writing and regular visits to the court, was the guardianship removed. However, Ms. E is outraged that in official legal records she still is listed in two ways: Ms. E and Ms. E, Incompetent.

What are some other examples of guardianship abuses?

Abuses in guardianships take all shapes and forms and claim as their victims people in all walks of life, from Broadway producers to chicken farmers. Abusers can be daughters, sons, friends, attorneys, or for-profit guardianships companies.

A Grand Rapids, Michigan woman admitted taking $45,000 from the estates of mentally incompetent persons and spending the money for a car, clothes and vacations.

A Denver mother defied a judge and sold a house that belonged to her child. The proceeds have never been accounted for.

A typical ward of the court is John A. Sward, a World War II veteran in Los Angeles who suffers from service-connected mental and emotional problems. He receives $1,295 in monthly benefits from the Veterans Administration.

Several years ago, Sward was befriended by the operator of the motel where he was staying. The motel operator, David Gold, became Sward's conservator. But in 1981, probate investigator Edith Reid filed a report in court that Gold had spent $10,767 of Sward's money on a car, even though Mr. Sward had no driver's license and got around town by bus. The woman who managed Gold's motel "drives the vehicle to her dance classes," the investigator reported. The Veterans Administration asked Gold to resign as conservator after he failed to file an accounting.

The relative ease with which an estate can be put into conservatorship is shocking in many instances. In another hotly disputed case. The $140 million estate of Los Angeles real estate developer Ben Weingart was put into conservatorship without his presence in court. Mr. Weingart died in 1980 at the age of 92, but his friend and live-in companion, Laura Winston, has doggedly pursued legal efforts to show the conservatorship was conceived in fraud. In 1974, three of Weingart's business associates petitioned the court to become conservators of his estate on the ground that his health was failing and Winston had designs on his money. But according to her, "Ben was in good condition when this happened. He went to work every day." Nevertheless, a doctor's report said, in effect, that Weingart's well being would be impaired if he attended hearings on the petition. The three associates, who were financially indebted to Weingart, were appointed permanent conservators.

Revia Karl, a frail, 84-year-old woman, is living her last years in a psychotic haze in an Inglewood, California hospital. "She has no knowledge of what is going on," says a hospital spokesman. Mrs. Karl doesn't know that her grandson, Jerry M. Karl, ran through most of her $75,000 in assets after a court appointed him her conservator. Mr. Karl wasn't charged with any wrongdoing, although he was replaced as conservator last year. "I screwed up my grandma's estate," concedes Mr. Karl, 36, a former mathematics teacher. "I've lived on her money for the last two years."

In Washington, D.C., an attorney acting as conservator took $376,000 from an elderly man's estate. He later pleaded guilty to fraud.

A Colorado woman, conservator for her ailing husband, spent $80,000 of his funds on her son's business.

Sometimes conservators simply lack the know-how to oversee an estate. Nearly all of Regina Aberson's $250,000 was wasted in the failure of her daughter, Regina Hershenson, "to use ordinary care and diligence" as conservator, according to an attorney's report to the Los Angeles Superior Court. The attorney, who represents the estate's new conservator, says Mrs. Hershenson with court approval had turned over her mother's money to a stockbroker to put into low-risk investments. Instead the broker used the money to trade options. Hershenson has been replaced as guardian.

Summary of the National Guardianship Rights Act of 1988, Introduced September 8, 1988, by Congressmen Claude Pepper and Don Bonker

FINDINGS AND PURPOSES OF THE ACT

Congress finds that thousands of elderly and infirm individuals are being deprived of their constitutional rights to personal liberty and control of their property by the imposition of guardianship orders without being accorded due process of law.

While State law governs the process by which courts determine that a person is incapacitated and how guardianships are imposed, Congress finds that many States allow the most basic due process protections to be routinely violated by the courts, including the following:

Notice that a court hearing is being held;

Presence by the alleged incapacitated person at the guardianship proceeding;

The right to counsel at the proceeding;

The requirement that a court consider medical evidence of incapacity and not rely on a presumption that those of advanced age are incapacitated;

The use of minimum requirements for those who may serve as guardians, including a prohibition on felons serving in that capacity;

Continued supervision by the court of the conduct of guardians.

Congress therefore establishes as a purpose of the Act to create certain basic rights for those subject to guardianship orders. Under the 14th Amendment to the U.S. Constitution, Congress has the authority to enforce by appropriate legislation the constitutional rights to equal protection and to due process of law.

BASIC RIGHTS OF ALLEGED INCAPACITATED INDIVIDUALS

The right to notice—An alleged incapacitated individual and members of his or her family shall be afforded 30 days written notice of a guardianship proceeding, except in the case of bona fide emergencies.

The right to presence at proceedings—An alleged incapacitated individual shall be present at all guardianship proceedings unless the court finds that he or she is unable to attend because of disability, and, whenever appropriate, the court shall conduct the proceeding at the location of the alleged incapacitated person.

The right to counsel—An alleged incapacitated person shall have the right to an attorney at any proceeding, and if unable to afford an attorney, one will be appointed by the court. Counsel shall serve in the role of an advocate at all proceedings, zealously representing the wishes of his or her client. Any waiver by the alleged incapacitated person of the right to counsel must be knowing and voluntary.

The right to an independent evaluation by a team of experts—The alleged incapacitated individual may request the appointment of an Independent Professional Guardianship Evaluation Team, including a psychiatrist or physician and a licensed social worker, which shall report to the court on what if any functional limitations there are of the alleged incapacitated individual.

Rights at the guardianship proceeding—The alleged incapacitated person or his or her attorney has the right to present evidence, call witnesses, to cross examine all adverse witnesses (including any expert witnesses), and to have the proceeding held before a jury. The court may determine a person to be incapacitated only by a finding of clear and convincing evidence that the individual is incapacitated. Advanced age may not be the basis for a finding of incapacity.

The right to not be subject to overly restrictive guardianships—An individual found by the court to be incapacitated shall retain the ability to manage his or her affairs commensurate with his or her ability to do so. The court shall transfer authority to the guardian only to the extent and for a duration absolutely necessary to protect the interests of the incapacitated person. Once the purpose for which the guardianship order was issued ceases to exist, the guardianship order shall be dissolved.

RIGHTS REGARDING THE APPOINTMENT OF GUARDIANS

The right to a competent and trained guardian—Before appointing a guardian, the court must find that individual being considered to be of sufficient competence and character to protect the interests of the incapacitated person. A person who has been convicted of a felony under State or federal law may not serve as a guardian. The court shall provide thorough training for the guardian in how to protect the interests of the incapacitated individual.

POSTPROCEEDING PROTECTIONS FOR AN INCAPACITATED INDIVIDUAL

The right to appeal—A person subject to a guardianship order has the right to appeal a determination of incapacity to a court of competent jurisdiction and to be represented by counsel at any appellate proceeding.

The right to reconsideration—A person found to be incapacitated has the right to receive a prompt review by the Court for a modification or dissolution of the guardianship order based upon a change in status of the individual.

The responsibility of the court to supervise the conduct of guardians—Guardians must report to the court at least annually on the status of their ward and guardians of the property must file a full accounting of the income and assets of the ward. The supervising court shall conduct investigations of the guardianships subject to its supervision.

DEMONSTRATION OF STATE COMPLIANCE

The filing of State implementation plans—Each State shall submit to the U.S. Attorney General a State implementation plan to demonstrate how the State is complying with the terms of the Act, and shall include certification that the State is taking sufficient action to comply.

Enforcement upon a finding of lack of compliance—When the Attorney General finds that a State has failed to substantially comply with the Act, the Attorney General is authorized to withhold federal payments to the State from programs for the elderly and disabled, except for program funding which would be provided directly to program beneficiaries. Also, upon a finding of consistent noncompliance by a State, the Attorney General or a U.S. Attorney may sue in federal court to order compliance.

Grants to assist States found to be in compliance—Federal funding shall be available for those States found by the Attorney General to be in compliance with the Act in order to assist with the costs of providing counsel, appointing Independent Professional Guardianship Evaluation Teams, and providing training of guardians as required by the Act.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. FOLEY), after 12 o'clock today, on account of an illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, today.

Mr. DANNEMEYER, for 60 minutes, today.

Mr. MCEWEN, for 60 minutes, today and 60 minutes on September 9.

Mr. WALKER, for 5 minutes, today.

Mr. GREEN, for 60 minutes on September 27.

Mr. GINGRICH, for 60 minutes, today.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PEPPER, for 10 minutes, today.

Mr. HOYER, for 15 minutes, today.

Mr. GONZALEZ, for 60 minutes on September 9, 13, and 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. CLINGER in two instances.
Mr. GEKAS.
Mr. HANSEN.
Miss SCHNEIDER.
Mr. KEMP.
Mr. LENT.
Mr. CRANE in four instances.
Mr. BEREUTER in two instances.
Mr. DELAY.
Mr. GILMAN in two instances.
Mr. ROTH.
Mr. ROWLAND of Connecticut.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. FLORIO.
Mr. STARK.
Mr. FUSTER.
Mr. CLAY.
Mr. MONTGOMERY.
Mr. TRAFICANT.
Mr. CLARKE.
Mr. DYMALLY.
Mr. THOMAS A. LUKEN.
Mr. LIPINSKI.
Mr. BRYANT.
Mr. SMITH of Florida.
Mr. HAMILTON.
Mr. STOKES.
Mr. BONKER.
Mr. GARCIA.
Ms. OAKAR.
Mr. FORD of Michigan.
Mr. TRAXLER.
Mr. ANNUNZIO.
Mr. LEVINE of California.
Mr. DOWNEY of New York.
Mr. KILDEE.
Mr. RANGEL.
Mr. DARDEN.
Mr. CARR.
Mr. FAUNTROY.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 2560. An act to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes; and

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day."

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Friday, September 9, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4276. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of August 1, 1988, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 100-228); to the Committee on Appropriations and ordered to be printed.

4277. A letter from the Secretary of Energy, transmitting a draft of proposed legislation entitled "The Oil Pipeline Regulatory Reform Act of 1988"; to the Committee on Energy and Commerce.

4278. A letter from the Ambassador-at-Large for Counterterrorism, Department of State, transmitting notification of the intent to provide antiterrorism training to Kuwait, pursuant to 22 U.S.C. 2349aa-3(a)(i); to the Committee on Foreign Affairs.

4279. A letter from the Commissioner, Bureau of Reclamation, transmitting notification of a proposed contract with the Maricopa-Stanfield Irrigation and Drainage District, Central Arizona Project, AZ, pursuant to 43 U.S.C. 505; to the Committee on Interior and Insular Affairs.

4280. A letter from the Counsel, Pacific Tropical Botanical Garden, transmitting the annual audit report of the garden, calendar year 1987, pursuant to Public Law 88-449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

4281. A letter from the Executive Director, Reserve Officers Association, transmitting the association's annual report and financial audit for the period ending March 31, 1988, pursuant to 36 U.S.C. 1101(41), 1103; to the Committee on the Judiciary.

4282. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a report of building project surveys for upper Manhatten/Harlem and lower Manhatten, NY, and copies of several lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4283. A letter from the Acting Administrator, General Services Administration, transmitting copies of lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4284. A letter from the Secretary of Energy, transmitting a summary of expenditures of rebates from the DOE low-level radioactive waste surcharge escrow account for calendar year 1987, pursuant to 42 U.S.C. 2120e(d)(2)(E)(ii)(II); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4285. A letter from the Assistant Secretary of the Army for Manpower and Reserve Affairs, transmitting a draft of proposed legislation to authorize the transportation of motor vehicles owned by Federal employees on Johnston Island to their families in Hawaii; jointly, to the Committees on Government Operations and Armed Services.

4286. A letter from the Deputy Assistant Secretary for Basic Industries, International Trade Administration, transmitting a report on "A Cost Comparison of Selected U.S. and Canadian Coal Mines," the second in a series of coal exporting country studies; jointly, to the Committees on Appropriations, Interior and Insular Affairs, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4983. A bill to amend the Public Health Service Act to revise and extend programs with respect to health research and teaching facilities and training of professional health personnel, and for other purposes; with an amendment (Rept. 100-892). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 3779. A bill to direct the Administrator of the Federal Aviation Administration to conduct research into the consequences for the air traffic control system of automation of such system, and for other purposes (Rept. 100-893). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4686. A bill to amend the Federal Aviation Act of 1958 relating to aviation research; with an amendment (Rept. 100-894). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. House Resolution 450. Resolution to express the sense of the House of Representatives that the Federal Aviation Administration should immediately establish a research and development program to study structural fatigue, wear, corrosion and damage to aircraft resulting from age and intensive utilization and to conduct nondestructive and destructive testing of older aircraft on a regular basis; with amendments (Rept. 100-895). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. de la Garza (for himself, Mr. Madigan, Mr. Volkmer, Mr. Morrison of Washington, Mr. Foley, Mr. Williams, Mr. Lehman of California, Mr. Robert F. Smith, Mr. Fazio, and Mr. Marlenee):

H.R. 5262. A bill entitled "The Temporary Emergency Wildfire Suppression Act"; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs.

By Mr. BONKER:

H.R. 5263. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, and to make supplemental authorizations of appropriations for the Board of International Broadcasting; to the Committee on Foreign Affairs.

By Mr. DeFAZIO:

H.R. 5264. A bill to require the transfer of the decommissioned Coast Guard cutter *Glacier* to the State of Oregon for use as a maritime musem and display; to the Committee on Merchant Marine and Fisheries.

By Mr. ENGLISH:

H.R. 5265. A bill to amend the Commodity Exchange Act to improve federal regulation of commodities and instruments traded on, or otherwise capable of being traded on commodity exchanges governed by Commodity Futures Trading Commission rules; to better protect customers for such products; and to promote more efficient marketing through encouraging greater utilization of U.S. commodity exchanges; to the Committee on Agriculture.

By Mr. PEPPER (for himself and Mr. Bonker):

H.R. 5266. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 5267. A bill to amend title XIX of the Social Security Act to assure appropriate coverage and payment for inpatient hospital services under the Medicaid Program; to the Committee on Energy and Commerce.

By Miss SCHNEIDER (for herself and Mr. Bonker):

H.J. Res. 648. Joint resolution to encourage increased international cooperation to protect biological diversity; to the Committee on Foreign Affairs.

By Mr. GEPHARDT (for himself, Mr. Foley, Mr. Coelho, Ms. Oakar, and Mr. Michel):

H. Res. 530. Resolution to recognize Claude Denson Pepper, on the occasion of his 88th birthday, for the contributions that he has made to the quality of life of all Americans; considered and agreed to.

By Mr. DIXON:

H. Res. 531. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards and Official Conduct in the 2d sess. of the 100th Congress; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. VANDER JAGT introduced a bill (H.R. 5268) for the relief of James C. Pope, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1028: Mr. Moody and Mr. Boucher.

H.R. 1638: Mr. Aspin, Mr. Berman, Mr. Jontz, Mr. Dyson, Mr. Stark, and Mr. Hall of Ohio.

H.R. 2489: Mr. Nielson of Utah.

H.R. 2632: Mr. Lowry of Washington.

H.R. 2676: Mr. Berman and Mr. Chapman.

H.R. 2852: Mr. Owens of New York, Mr. Weiss, Mr. Frost, and Mr. Morrison of Connecticut.

H.R. 2896: Mr. Lagomarsino.

H.R. 3174: Mr. Ford of Tennessee, Mr. Garcia, Mr. Kostmayer, and Mr. McMillen of Maryland.

H.R. 3334: Mr. Shays.

H.R. 3374: Mr. Schuette.

H.R. 3501: Mr. Gallo.

H.R. 3654: Mr. DeWine.

H.R. 4015: Mr. Petri.

H.R. 4049: Mr. Price of North Carolina, Mr. Tauke, Mr. Udall, and Mr. Ritter.

H.R. 4111: Mr. Shays, Mr. Sharp, Mr. Hertel, Mr. Crockett, and Mr. Schuette.

H.R. 4141: Mr. Fields.

H.R. 4156: Mr. Perkins.

H.R. 4189: Mr. Wise and Mr. Kostmayer.

H.R. 4335: Mr. McCollum.

H.R. 4373: Mr. Skelton and Mr. Kostmayer.

H.R. 4463: Mr. Jeffords and Mr. Parris.

H.R. 4468: Mr. Dyson, Mr. Dwyer of New Jersey, Mr. Foglietta, and Ms. Pelosi.

H.R. 4502: Mr. Morella.

H.R. 4552: Mr. Obey.

H.R. 4576: Mr. Nagle, Mr. Wilson, and Mr. Campbell.

H.R. 4720: Mr. Mavroules, Mr. Bartlett, and Mr. Petri.

H.R. 4723: Mr. Rowland of Connecticut.

H.R. 4729: Mr. Bevill.

H.R. 4758: Mr. McEwen.

H.R. 4804: Mr. McDade.

H.R. 4870: Mr. Hertel, Mr. Wyden, and Ms. Salughter of New York.

H.R. 4892: Mr. Darden.

H.R. 4924: Mr. Ritter, Mr. Wilson, Mr. Leath of Texas, Mr. Armey, and Mr. Stenholm.

H.R. 4963: Ms. Kaptur.

H.R. 4964: Ms. Kaptur.

H.R. 4965: Ms. Kaptur.

H.R. 4966: Ms. Kaptur.

H.R. 4979: Mr. Yatron.

H.R. 5003: Mr. Moakley.

H.R. 5050: Ms. Slaughter of New York, Mr. Roe, Mr. Dellums, Mr. Foglietta, Mr. Frost, Ms. Pelosi, Mr. Bustamante, Mr. Wolf, Mr. Lewis of California, Mr. McEwen, Mr. Roth, Miss Schneider, Mr. Solomon, and Mr. Rowland of Connecticut.

H.R. 5081: Mr. Martinez.

H.R. 5105: Mr. Towns, Mr. Atkins, Mr. Frank, Mr. Owens of New York, Mr. Vento, Mr. Morrison of Connecticut, Mr. Fauntroy, Mrs. Collins, Mr. Sabo, and Mr. Frost.

H.R. 5114: Mr. Rowland of Georgia and Mr. Staggers.

H.R. 5144: Mr. Fauntroy.

H.R. 5186: Mr. Jeffords.

H.R. 5187: Mr. Morrison of Connecticut, Mr. LaFalce, Mr. Bryant, Mr. Glickman, Mr. Nielson of Utah, Mr. Stenholm, and Mr. Schaefer.

H.R. 5199: Mr. Anderson, Mr. Lehman of California, Mr. Matsui, and Mr. Panetta.

H.R. 5230: Mr. Lightfoot, Mr. Weber, Mr. Gunderson, and Mr. Lagomarsino.

H.J. Res. 330: Mr. Schumer, Mr. Molinari, Mr. Traficant, Mr. Crane, Mr. Gephardt, Mrs. Boggs, Mr. Coyne, Mr. Spratt, Mr. Dickinson, Mr. Rowland of Connecticut, Mr. Hefley, Mr. Udall, Mr. Gunderson, Mrs. Bentley, Mrs. Byron, Mr. Livingston, and Mr. Flippo.

H.J. Res. 367: Mr. Chandler, Mr. Stark, Mr. Henry, and Mrs. Boxer.

H.J. Res. 518: Mr. Neal, Mr. Dornan of California, Mr. Gilman, Mr. Manton, Mr. Rodino, Mr. Rose, Mr. Carper, Mr. Broomfield, Mr. Coelho, Mr. McMillen of Maryland, Mr. Pickle, Mr. Torricelli, Mr. Grandy, Mr. Buechner, Mrs. Boggs, Mr. McEwen, Mr. Darden, Mr. Tallon, Mr. Wolf, Mr. Burton of Indiana, Mr. Henry, Mr. Hayes of Illinois, Mr. McCloskey, Mr. Taylor, Mr. Quillen, Mr. Leach of Iowa, Mr. Young of Alaska, Mr. Barnard, Mr. McDade, Mr. Bilbray, and Mrs. Morella.

H.J. Res. 543: Mr. Robinson, Mr. Traficant, Mr. Wyden, Mr. Coelho, Mr. Moody, Mr. Rose, Mr. Hall of Ohio, Mr. Kennedy, Mr. Carr, Mr. Wise, Mr. Bryant, Mr. DeWine, Mr. Archer, and Mr. Quillen.

H.J. Res. 555: Mr. Chapman, Mr. Horton, Mrs. Bentley, Mr. Hiler, Mr. Boulter, and Mr. Young of Florida.

H.J. Res. 565: Mr. Applegate, Mr. Bliley, Mr. Campbell, Mr. Coble, Mr. Evans, Mr. Hayes of Louisiana, Mr. McCloskey, and Mr. Smith of Iowa.

H.J. Res. 570: Mr. Brooks, Mr. Gejdenson, Mr. Jeffords, Mr. St Germain, Mr. Traficant, and Mr. Weldon.

H.J. Res. 572: Mr. Foley, Mr. Torricelli, Mr. Burton of Indiana, and Mr. Morrison of Connecticut.

H.J. Res. 582: Mr. Dickinson, Mr. Courter, Mr. Dornan of California, Mr. Gunderson, Mr. Hansen, Mr. Jeffords, Mr. Livingston, Mr. McDade, Mrs. Martin of Illinois, Mr. McGrath, Mr. Lipinski, Mr. Latta, Mr. McEwen, Mr. Akaka, Mr. McCollum, Mr. Dixon, Mr. Ritter, Mr. Donnelly, Mr. Pursell, Mr. AuCoin, Mr. Skeen, Mr. Gordon, Mr. Molinari, Mr. Berman, Mr. Perkins, Mr. Brown of Colorado, Mr. Montgomery, Mr. Konnyu, Mr. Fascell, Mrs. Kennelly, Mr. Smith of New Hampshire, Mr. Chapman, Mr. Hall of Ohio, Mr. Dicks, Mr. Fish, Mr. Boucher, Mr. Mfume, Mr. Frank, Mr. Harris, Mr. Bennett, Mr. Lowry of Washington, Mr. Lewis of Georgia, Mr. Grant, Mr. Madigan, Mr. Stump, Mr. Boland, Mr. Guarini, Mr. Kolbe, Mr. Burton of Indiana, Mrs. Byron, Mrs. Boxer, Mr. Flake, Mr. Robert F. Smith, Mr. Michel, Mr. Gonzalez, and Mr. Gephardt.

H.J. Res. 610: Mr. Holloway, Mr. Lewis of Florida, Mr. Nelson of Florida, Mr. Stallings, Mr. Hayes of Louisiana, Mr. Pepper, Mr. Frenzel, Mr. Fascell, Mr. Hastert, Mr. Chappell, Mr. MacKay, Mr. Huckaby, Mr. Carper, and Mr. Staggers.

H.J. Res. 618: Mr. Spratt, Mr. Matsui, Mrs. Lloyd, Mr. Conte, Mr. Wolf, Mr. Owens of New York, Mr. Roe, Mr. Erdreich, Mr. Dwyer of New Jersey, Mr. Hansen, Mr. DeFazio, Mr. Fazio, Mr. Lagomarsino, Mr. Fawell, Mr. Horton, Mr. Levin of Michigan, Mr. Evans, Mr. Lipinski, Mrs. Patterson, Mr. Lancaster, Mr. Foglietta, Mr. Frenzel, and Mr. McMillen of Maryland.

H.J. Res. 629: Mr. Fazio, Mr. Manton, Mr. Lent, Mr. Leland, Mr. Wolf, and Mr. McHugh.

H.J. Res. 638: Mr. Gonzalez, Mr. Bates, Mr. Fauntroy, Mr. Conyers, Mr. Applegate, and Ms. Kaptur.

H. Con. Res. 28: Mr. Atkins, Mr. McCloskey, and Mr. Lungren.

H. Con. Res. 237: Mr. Buechner.

H. Con. Res. 258: Mr. Chappell, Mr. Rowland of Georgia, Mr. Hoyer, Mr. Lagomarsino, Mr. Ireland, Mr. Stratton, Mr. Nelson of Florida, Mr. Tallon, Mr. Ray, and Mr. Hutto.

H. Con. Res. 342: Mr. Boehlert, Mr. Wortley, Mrs. Collins, Mr. Emerson, Mr. Roe, Mr. Crane, Mr. Payne, Mr. Armey, Mr. Fazio, Mr. Smith of New Hampshire, Mr. Saxton, Mr. Applegate, Mr. Marlenee, Mr. Courter, Mr. Edwards of Oklahoma, Mr. Dornan of California, Mr. Hiler, and Mr. Lujan.

H. Con. Res. 358: Mr. Owens of New York, Mr. Lowry of Washington, Mr. Fauntroy, Mr. Scheuer, and Mr. Frank.

PETITIONS, ETC.

Under clause 1 of rule XXII,

231. The SPEAKER presented a petition of the Ohio Valley Regional Development Commission, Portsmouth, OH, relative to the U.S. Enrichment Corporation; which was referred jointly, to the Committees on Interior and Insular Affairs; Energy and Commerce; Science, Space and Technology; and Ways and Means.

EXTENSIONS OF REMARKS

DETERIORATING HUMAN RIGHTS IN NORTHERN SOMALIA

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. GEJDENSON. Mr. Speaker, on July 14, the House Foreign Affairs Subcommittee on Africa held a hearing on the deteriorating human rights situation in northern Somalia. After reviewing all the information available to me from human rights organizations, the U.S. Department of State, and eyewitness accounts of conditions in the north, I have reached the conclusion that we must reassess our policy toward Somalia.

BACKGROUND

Located on the Horn of Africa, Somalia is considered to be a strategic importance to the United States due, in part, to its proximity to the Persian Gulf and its air and naval facilities at the Port of Berbera. Although Somali President Siad Barre was an ally of the Soviet Union for many years, the United States has been Somalia's principal ally since 1978.

HUMAN RIGHTS

The State Department has received frequent reports of such human rights abuses as torture of civilians by Somali police, arbitrary arrest and detention without trial, and summary trial by an untrained court. Civil liberties are severely restrained. According to the State Department's 1987 report on Somalia's human rights practices,

> There are recurring reports of the use of torture by police and security officials, including immersion in sea water, beatings, rape, and placing prisoners in contorted positions for extended periods. Somali officials consistently deny that torture is practiced. Authorities routinely use rough treatment in order to obtain confessions from criminal subjects. Some political detainees are held incommunicado for various lengths of time, reportedly in harsh conditions in maximum security prisons where they are denied contact with their families, and, in some cases, kept in solitary confinement.

Other organizations such as the Human Rights Watch and the Lawyers Committee for Human Rights are more vehement in their criticism of the regime's dismal record of human rights violations. In a joint critique of the above State Department document they report:

> A pro-government bias leads the State Department this year to distort facts, to omit discussion of vital issues, and to minimize the scope of human rights problems and the institutionalized nature of the repression. The report also seeks to justify abuses by exaggerating security threats to the government . . . One would never suspect from reading the report that President Mohamed Siad Barre rules by force and for eighteen years has relied on a policy of calculated brutality, pragmatic ruthlessness, killing, and detaining or buying out potential rivals.

Aryeh Neier of Human Rights Watch has outlined what he called, "the recent sharp deterioration in human rights in Somalia,"

> International human rights organizations have been receiving frequent and continuous reports of summary executions, torture, detentions without charge or trial of suspected political opponents as well as substantive violations of judicial procedure and political and civil rights.

CURRENT SITUATION

After a reproachment between Somalia and Ethiopia in the early months of 1988, the Somali National Movement [SNM], the opposition group, was no longer welcomed in Ethiopia. The SNM is closely tied with the northern Isaq clan, which has faced considerable discrimination by the Somali Government. On May 27, the SNM units returned to northern Somalia and stormed the town of Burao, assassinating a local commander and several government officers. The SNM also attacked Hargeisa on May 31.

The Economist (July 9, 1988) reported that the Somali Government responded by moving troops into the north and conducting bombing raids on Burao and Hargeisa. As reported in the Los Angeles Times (July 20, 1988), a Somali Government pilot ditched his Soviet made MIG-17 in neighboring Djibouti where he requested political asylum, stating that he was reprimanded for refusing to bomb civilian targets. Other eyewitnesses stated that government forces have taken people out of their homes, summarily executed them, and then used "bulldozers driven by soldiers, scooping up corpses and dumping them on street corners." (The Sunday Times, June 12, 1988). Various reports have estimated the recent death toll from several thousand to 10,000 people killed. While it is clear that the rebels gained considerable ground, it is difficult to know exactly where the government troops have regained control.

REFUGEE SITUATION

Due to civil strife, approximately 400,000 persons have entered Ethiopia since June 17 and the influx continues at the rate of 3,000 to 4,000 persons per day. One barometer of the seriousness of the plight of the civilians in the north is that they are moving into Ethiopia, a country racked by its own internal drought and bloodshed. Food, water, clothing, shelter, and medicine are all needed for the Somali refugees now in Ethiopia.

As for those displaced within Somalia, information is scarce since all foreign journalists and international relief workers were evacuated on June 7, 1988. The UNHCR and the International Committee for Red Cross [ICRC] have not been allowed back in the area, although the ICRC has been permitted to treat wounded soldiers at sites under government control 300 miles southeast of Hargeisa. CARE has not been allowed past the Port of Berbera to assure that its food shipments are properly used only for civilians in need.

Moreover, thousands of Somalis are thought to be in hiding in the countryside or to the south, and approximately 5,000 wounded women and children are known to be in villages next to the Ethiopian border. Since the conflict began, the delivery of food and health care to the civilian population, especially to the wounded, has been woefully inadequate.

UNITED STATES' POSITION DURING THE CONFLICT

According to the State Department, the United States has been encouraging the Somali Government to allow international relief organizations to return to northern Somalia. Administration's efforts in this direction can be applauded. However, several incidences have occurred in which military supplies or equipment service have been given to the Somali Government. According to the testimony of Aryeh Neier of Human Rights Watch given before the Subcommittee on African Affairs on July 14,

> A ship arrived a few days ago at the port of Berbera, carrying U.S. rifles and grenade launchers, which has been justified as a consignment that was scheduled before the recent fighting broke out. We are not aware that any other country, other than the United States, is currently supplying the Barre government with weapons and other warfare materials. In view of the peace treaty between Somalia and Ethiopia in April 1988, it is difficult to avoid the conclusion that such weapons are intended for internal use. In addition, we received reports that an American team is helping to maintain and run the military's communications network in the war zone in the north, to boost the government's military capacity.

NEXT STEPS

The administration must redouble its efforts to work with the Somali Government to permit the International Committee of the Red Cross and other international relief and human rights organizations to enter the northern area and be permitted to serve all victims of the conflict;

The Congress must insist that all military and economic aid be suspended until an independent assessment of the alleged human rights abuses is completed;

The Congress and State Department need to undertake a thorough reassessment of the USG foreign policy toward Somalia, underscoring the importance of both the strategic and human rights issues involved.

To assist in assuring that the above actions are taken, I am sending a letter to the Secretary of State outlining these concerns. I am recommending that the State Department suspend economic and military assistance to Somalia until a thorough assessment is completed on the alleged human rights abuses in the northern area and the International Committee for the Red Cross and other international relief organizations are permitted to go into

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the northern area to serve all victims of the conflict. I urge my colleagues to cosign this letter.

In addition, I am sending a letter to the General Accounting Office [GAO] requesting a review of the United States Military Assistance Program in Somalia. According to GAO sources, there has been no GAO study of the United States Military Assistance Program in Somalia in this decade. I believe such a review is warranted, especially given the current conflict in the north.

The study should examine the role of U.S. assistance vis-a-vis current U.S. interests. How have United States strategic interests in Somalia changed and what are our current and future base rights requirements? How do those needs relate to current military and economic expenditures? What military equipment is needed and what are the external and domestic requirements for that equipment? How should the present civil war influence the flow of military assistance? How has U.S. equipment been used in the current conflict in the north? What is the extent of human rights abuses in the northern region? Preliminary discussions with the GAO indicate that interviews with the refugees from the area could be an appropriate part of the investigation.

Such a study would help the Congress and the administration reassess United States policy toward Somalia. We need to review our policy recognizing the importance of both strategic and human rights considerations. To do less would be to abdicate our moral responsibility to the victims of this civil war, and jeopardize our long-term strategic interests in Somalia and in the region.

ASSURING EQUITABLE PAYMENT FOR HOSPITAL SERVICES BY THE MEDICAID PROGRAM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. STARK. Mr. Speaker, I am today introducing legislation to assure equitable payment for hospital services by the Medicaid Program.

The Medicaid Program is designed to assure access to needed health services by the poor. Unfortunately, hospital reimbursement methodologies employed by many States, particularly my own State of California, are seriously jeopardizing that goal.

My bill will mandate that States pay no less than 90 percent of what Medicare would have paid for similar cases, after adjusting for differences in the age and sex of the two programs' beneficiaries.

I have taken this step after watching with dismay the actions of the State of California during the last 5 years regarding Medicaid hospital reimbursement. Operating under a waiver granted by the Reagan administration, California has established a process by which hospital payments are set through secret negotiations between each hospital and the State. This has allowed the State to set hospital payment levels in a totally arbitrary fashion.

This approach has led to disarray in the hospital delivery system in the State. Many hospitals report little or no increases in payment levels since initial contracts were signed in 1984. If the State proposes unreasonably low levels of reimbursement, the hospital has no recourse but to threaten not to participate. Today 10 percent fewer California hospitals accept Medicaid than in 1983. The loser, of course, is the Medicaid beneficiary who cannot gain access to needed hospital services.

Analysis of the amounts paid by the Medicaid Program in California illustrate the problem. Although the HCFA market basket index for goods and services purchased by hospitals has increased 21.4 percent since 1984, California Medicaid payments have increased only 9.15 percent. This does not take into account the fact that the Medicaid patients seen in California hospitals are sicker today than they were in 1984.

California, an affluent State with relatively high health care costs, now spends less per Medicaid recipient than do all but three other States.

In his most recent budget, California's Governor Deukmejian proposed a further 10-percent reduction in Medicaid payment rates to hospitals and physicians.

My bill would preclude this type of arbitrary hospital payment policy. It will assure that hospitals in California and every other State are fairly paid. Most importantly, the bill will provide needed fiscal relief to those hospitals which are providing care to the most vulnerable members of our society.

A further problem in State Medicaid programs is that 11 States also impose arbitrary limits on inpatient hospital services under their Medicaid programs. Some of these States limit the number of days per hospital stay while others limit the number of hospital days covered per year.

The result is that reimbursement ceases for poor patients with no other means of paying for their hospital stay, whether the patient continues to need continued hospital care or not.

I am sure that no one believes that Medicaid coverage for hospital care should cease based solely on an arbitrary limit, particularly when that limit can be as low as 12 days per year, as it is in the State of Alabama. My bill would prohibit limitations on needed inpatient care for any reason other than medical necessity.

I believe strongly that hospital reimbursement by public programs should be lean, but fair. What is not fair, at a time when hospitals must shoulder approximately $7 billion in uncompensated care costs for the poor our society can't or won't cover, is to short-change them for the people that we do.

TRIBUTE TO MAYOR LEONARD C. PADUANO

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay tribute to Leonard C. Paduano, mayor of the city of New Rochelle, a city located in my congressional district. It is my pleasure to congratulate Mayor Paduano who was honored as "Man of the Year" by the New Rochelle Boys and Girls Clubs and other community leaders.

The honor received by Mayor Paduano stems from his dedication and commitment to the goals and ideals of the Boys and Girls Clubs. His remarkable devotion to the betterment of his community is constantly displayed through his contribution and involvement in many programs which aid the educational, health, social, and leadership development of our young men and women.

As well as being elected three times as the mayor of New Rochelle, Mayor Paduano has also served as an elected member of the city council and has been appointed to the New Rochelle Planning Board. In addition, he has served with Westchester 2000, the Boys and Girls Clubs, the Heart Fund, the Leukemia Society, Special Olympics, and the American Health Foundation. As the chief elected official, he has initiated and enacted legislation to build new community centers, recreational facilities, additional parks, playgrounds and ball fields, and promoted programs and activities leading to the continued success of the New Rochelle Boys and Girls Clubs.

Mayor Paduano is indeed a valuable contributor to the development of New Rochelle's young people. I ask my colleagues in the House to join me in honoring this special man and community leader.

THE NORTHEAST-MIDWEST ECONOMIC DEVELOPMENT GUIDE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CLINGER. Mr. Speaker, the number of Federal programs to stimulate economic development has fallen sharply since 1981. Fortunately, many States have implemented innovative programs of their own in order to spur economic vitality and development.

The Northwest-Midwest Congressional Coalition has documented many of these successful programs in the 1988 edition of the Guide to State and Federal Resources for Economic Development, which was released on September 7. This valuable guide contains outlines of remaining Federal programs as well as a useful anthology of 460 brief case studies—drawn from every State in the Nation—that illustrate the strong initiative taken at the State level.

This scholarly work will help Federal, State, and local policymakers meet the challenge of a rapidly changing economy. I strongly recommend the Guide to State and Federal Resources for Economic Development to all of my colleagues in the coalition. This guide contains a wealth of information that will be useful in promoting the continued economic revitalization of the Northeast-Midwest region.

At this time, Mr. Speaker, I would like to enter one of these brief studies from my home State of Pennsylvania into the RECORD.

PENNSYLVANIA BUSINESS INFRASTRUCTURE DEVELOPMENT PROGRAM

OBJECTIVE

The Pennsylvania Business Infrastructure Development Program (BID) was set up to make grants and loans to local governments to finance infrastructure improvements necessary to complement private industrial investment and create job opportunities.

DESCRIPTION

In 1984 the Pennsylvania legislature passed the Pennsylvania Economic Revitalization Act to encourage the expansion and growth of new and existing businesses. The state's Department of Commerce administers the act's eight programs, including the Business Infrastructure Development Program. BID offers grants to distressed communities and loans for projects in other areas. Program regulations classify as distressed those communities that meet federal Urban Development Action Grant eligibility criteria, including high levels of poverty, unemployment, and older housing. At least 25 percent of each year's grant and loan fund is set aside for municipalities of 50,000 or less in population. Program appropriations vary from year to year; for fiscal 1987, the state legislature allocated $29 million.

BID regulations allow communities to use its resources to construct, expand, improve, rehabilitate or repair facilities and systems for a variety of services: water supply, drainage, transportation, fire protection, public safety, power generation and distribution, and solid and liquid waste disposal. Almost any public entity is eligible to apply for BID assistance, including local governments, industrial development authorities and corporations, councils of government, municipal authorities, redevelopment authorities, and local development districts. BID may give funds to a public applicant for its own use, or for distribution to a private company or companies. Agricultural, industrial, manufacturing, and research and development enterprises all can request aid through public agencies in their communities. To be eligible for this pass-through assistance, a company must be locating or expanding at a Pennsylvania site and creating new jobs. In addition, it must invest at least $2 in private capital for each $1 of program monies.

A private company may initiate the application, approaching an eligible public agency to act as its sponsor. The public agency submits an application to the state. The application must be accompanied by a letter of intent from the company committing itself to investments if the improvements are made and specifying the number of jobs the project should create.

Any Pennsylvania community may apply for a BID loan. The program offers interest-free and low-interest loans. Interest-free loans may be used for eligible activities only on publicly owned property. Low-interest loans may be used for similar projects on private property. The Commerce Department determines the terms of all loans, as well as the interest rates for low-interest loans. The term usually is limited to the estimated useful life of the project or 20 years, whichever is less. The interest rate is usually between 4.5 and 7.25 percent, based on the population and unemployment rate of the county in which the project is located. The maximum loan amount is $1.5 million.

Like those in other parts of the state, public agencies in distressed communities may apply for loans; however, in its first three years of operation, BID provided virtually all aid to these areas in the form of grants. Between 1984 and mid-1987, the program concentrated heavily on financing projects in distressed areas, directing more than 77 percent of all assistance to them.

Grants, like loans, are limited to $1.5 million per project. They may be used for specific infrastructure improvements that will enable eligible private companies to locate or expand in distressed areas. Unlike the loan portion of the program, the grant component allows local jurisdictions to decide where to use the assistance. Projects located on publicly owned or privately owned property are eligible. For projects on privately owned land, the local government requests a grant, then lends the grant money to the private company to construct the project. The Commerce Department determines the interest rates and terms for such loans, though they are repaid to the local governments.

If a private company receiving a loan through a public agency fails to create the promised number of jobs, the Commerce Department penalizes it by increasing the interest rate on its loan. Public agencies that receive interest-free loans but fail to meet their repayment obligations may lose all or part of their liquid fuel tax allocations or suffer other penalties determined by Department officials. Local public sponsors of loans to private companies must maintain full and accurate records on the projects and must report to the Commerce Department periodically on construction progress, job creation, and investment.

PROGRAM IN PRACTICE

Program regulations are specific in their job-creation and state economic development objectives:

Projects must result in new private-sector investment by eligible business creating at least 10 net new full-time-equivalent jobs at the site within three years. At least one net new full-time equivalent job must be created for every $15,000 loaned or granted for the infrastructure improvements. If the business is already located at the site of the facility, it must expand employment by at least 4 percent within three years.

Projects must increase Pennsylvania's share of domestic and international markets. The companies assisted should receive most of their projected sale revenue from new markets captured by the firm from out-of-state or foreign competitors.

From 1984 to mid-1987, the BID program authorized ten loans totaling $6.15 million and 35 grants totaling $23.7 million. Among the first projects approved was a water-supply pipeline extension for Baker Mine Services, Inc., in Green County. According to program officials, the $130,000 grant, received through the sponsorship of the Southwest Pennsylvania Water Authority, will help create 100 new jobs. Trinity Paper and Plastic Corporation of Lewistown, under the sponsorship of the Mifflin County Industrial Development Corporation, received a $235,000 loan at 4.5 percent interest to construct a rail siding, a parking lot, and utility connections. Program officials estimated this project would help create 160 jobs.

On a larger scale, program officials expect a $1,500,000 grant to United Parcel Service to create nearly 1,800 jobs. The BID grant is to aid in reconstruction and extension of an access road, extension of utilities, and construction of an air taxiway for the $108.3-million privately financed project in the Philadelphia area.

THAT BIZARRE SOCIAL SECURITY SURPLUS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CRANE. Mr. Speaker, our Social Security system has become a political land mine. Nearly every Member of Congress is afraid to wander too closely to it for fear of committing political suicide. A surplus seems to be developing in the Social Security fund and Members are asking whether this is a good or bad thing for both the Social Security system and the country. The chairman of the Subcommittee on Social Security of the Committee on Ways and Means recently showed great courage in holding a hearing on this very matter. Witnesses from various political stripes were given a chance to voice their views and members on the subcommittee were given an opportunity to develop an understanding about this crucial issue.

I would like to recommend the following article, "That Bizarre Social Security Surplus," to my colleagues. It provides a significant contribution to the debate. It will enable Members of Congress to start the difficult process of confronting the issue of Social Security financing.

THAT BIZARRE SOCIAL SECURITY SURPLUS

(By Irving Kristol)

All of a sudden, while public opinion continues to be dubious about the financial viability of the Social Security system, the possible emergence of an enormous surplus over the next 40 years in the Social Security trust fund is attracting a lot of attention in Washington. It is also creating immense perplexity among economists and legislators, who cannot figure out whether it is good news for the nation, or bad news, or some undecipherable mixture of the two.

The most commonly cited forecast is derived from the Social Security Administration's own statistics. It is based on relatively conservative assumptions and shows that, by 1993, the trust fund will be some $400 billion in surplus. By 1996, that surplus will be more than $600 billion and the "unified federal budget"—which includes Social Security revenue as income to the Treasury—could be in balance. The surplus then grows exponentially to $2.5 trillion in 2005 and perhaps $12 trillion in the 2020s. At that time, the fund—restricted by law to the purchase of Treasury securities—will own the entire national debt, and may even have to seek new avenues of investment.

In the following two decades, however, the fund is paid out in full to the new generation of senior citizens. By 2050 or thereabouts the surplus is back to zero.

BIPARTISAN COMMISSION

It sounds incredible, and may turn out to be fictional, but those projections are regarded as plausible by most economists who have looked into the matter.

How did it happen? Well, back in 1983, a special bipartisan commission was given the assignment of "fixing" the Social Security system, then perceived to be headed for bankruptcy, for the next 75 years. It did its job with conscientious enthusiasm, increasing Social Security taxes, gradually raising the retirement age in the decades ahead, placing an unindexed tax on Social Security income for those in the upper-middle-income brackets, etc.

The trouble is that the assumptions it made about economic growth and growth in the labor force turn out to have been very, very conservative. In "fixing" Social Security, the commission unwittingly engaged in overkill. Not many people noticed this until recently, though Stuart J. Sweet, then legislative assistant to Sen. Paula Hawkins, was vigorously raising the issue back in 1985. Only now is he getting a serious hearing.

So what does it all mean? The problems posed by these projected surpluses are of a kind to give economists a severe case of vertigo. After all, if the Social Security trust fund were ever to own the entire national debt, what would happen to monetary policy? This is rather like asking an astronomer what would happen if the entire universe fell into one of those "black holes." The Federal Reserve Board would have no Treasuries to sell or buy, the banking system would be cut loose from its moorings, Treasury paper would become a species of "collectibles"—it is just not imaginable.

This is an extreme and unlikely case, to be sure, since it presumably won't be allowed to happen. But there are other more serious and less speculative issues that are being raised.

One such issue that has gained in urgency is whether income from the Social Security system should be counted against the operating deficit of the federal budget. The 1983 commission said it should not. Gramm-Rudman says it should. The arguments on both sides are powerful. In a sense, they represent a conflict between accounting and economic perspectives.

From an accounting point of view, Congress should not be allowed to count as income those revenues that go into a reserve fund, and the Social Security fund is, when all is said and done, precisely that. Remember: Those same projections that show a huge surplus in 2030 also show that in the following two decades, 2030-2050, all of this money will have to be paid out to Social Security recipients. So it would be utterly irresponsible for Congress to look at it as spending money.

On the other hand, from an economic point of view, tax revenue is tax revenue, and, in macro-economic terms, it makes no sense to "sterilize" such a substantial portion of government's revenues through what amounts to a system of large, forced savings. The negative impact on the economy could be severe, even disastrous.

I have to confess that I, along with many others, find much merit in both sides of this argument.

There are some cynical commentators who insist that, though the surpluses may turn out to be real, the problems they pose will not be, since our politicians will surely figure out ways to spend that money and reduce, or even eliminate, any surplus. Perhaps—but that won't be so easy, even if the cynicism about our politicians is understandable.

To begin with, there is a small group of analysts—actuaries, naturally—who insist that the "conservative" estimates on which the projections are based are themselves far too optimistic in their demographic and personal-income estimates. They insist that the Social Security system is actually still in the red, on an actuarial basis, and will remain so into the future. One such analyst happens to be the chief actuary of the Social Security agency itself, who has expressed his views in a memorandum to his superiors.

So long as he (and, one supposes, other actuaries working in this area) holds this ultra-conservative opinion, even though it be a minority opinion, will it be possible for Congress to lay its hot hands on those projected surpluses? I think not. Public opinion would be alarmed; the powerful senior citizens' lobby would be enraged.

But even if the actuarial fears are dispelled, it is unlikely that Congress would find it easy to "raid" the Social Security surplus. The problem it would confront is those last decades (2030-2050) of the scenario, when the surplus melts away to zero. Even though there is in fact a respectable economic case for converting that surplus into a one-year or two-year reserve—Barry Bosworth of the Brookings Institution has argued this case while urging a cut in Social Security taxes—it is hard to see how our politicians could justify a current expenditure of their children's (and our children's) Social Security entitlements. Even if it made economic sense, it would be, politically, a high-risk enterprise.

So it is possible to think, realistically, that those surpluses will actually happen. In which case, we are sailing in uncharted waters. Only Sweden has developed a social security surplus (now 30% of gross domestic product) that can serve as a precedent—a precedent, however, that is hardly a model for Americans.

SWEDISH STATISM

The Swedish surplus is invested in four streams: government bonds, housing bonds, "long-term capital projects" (whatever that means), and new issues of common stock. In effect, the socialist governments of Sweden have socialized the investment process while refraining from outright nationalization of the "means of production." It is, of course, not socialism in any meaningful sense of the term but simply collectivism, "statism." It is not a scenario likely to be attractive to the American people—especially since it is still too early to estimate its effects on the Swedish economy.

Where will it all end? This writer knoweth not. I would expect that, in the years ahead, various arguments for a greater "privatization" of the Social Security system—so that individuals have legal title to their "own" reserves, with considerable leeway on their use—will gain in popularity. Meanwhile, just in case, I think I'll go out and buy a couple of 30-year Treasuries for my grandchildren.

SAVING OUR OCEAN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. FLORIO. Mr. Speaker, this has truly been a lost summer on many of the beaches along the shore of New Jersey. One of our prime sources of recreation, inspiration, and economic strength—our ocean—has been so cruelly treated by a seemingly uncaring generation that we must fear for the future.

As might be expected, much has been reported in the media about this problem. One, however, would be hard pressed to find anything so eloquent as a recent editorial in the Asbury Park Press, a New Jersey newspaper, many of whose readers live on or near the shore.

Entitled, "A National Disgrace," I submit it here in hopes that it will serve to call even wider attention to a problem that simply cannot be allowed to continue.

A NATIONAL DISGRACE

Will ours be the last generation to know the Jersey Shore as a tourist area? Will our coastline become yet another national symbol of environmental degradation? Will we be showing our grandchildren the ocean through a barbed wire fence designed to keep the innocent from straying into the contamination?

So far this summer, beaches have been closed because of high fecal coliform levels, medical wastes, syringes and grease balls washing ashore, and brown tides off the coast. The "worst ever" summer of 1987—the one we hoped never to repeat—is being erased by the summer of 1988.

There is no proud distinction in having the vice president walk our beaches and term ocean pollution "a national disgrace." The sad truth is that historically in our state, protecting the ocean has taken a back seat to accommodating business and development interests. Deadlines to end ocean dumping of sludge have been extended to accommodate the dumpers; plans to end ocean disposal of inadequately treated sewage have been changed to accommodate the disposers; laws to control the discharge of toxic and chemical wastes into the ocean have been severely weakened by a failure to enforce environmental standards.

The situation is beyond pointing fingers of blame. Yet that's precisely what elected officials are prone to do. Perhaps the biggest finger of blame should be pointed at them. Where were they when environmental laws weren't being enforced?

And where have they been during the last month of daily reports of beach closings? Gov. Kean and other key officials have remained strangely silent. The Legislature took some tentative steps in approving part of the governor's ocean cleanup package, then adjourned without acting on some critically needed measures. There should be no summer vacation for our governmental officials while the vacations of so many state residents are being ruined.

In our view, these are the priorities for action in Trenton:

Speedy approval of the governor's proposed Coastal Commission. The need to control growth along the coastline to view the shore as a region and to be an effective advocate of coastal interests has never been stronger.

In the absence of a federal medical waste tracking system, both New York and New Jersey should adopt statewide systems that close existing loopholes—and provide for tough enforcement.

The natural resources trust fund, to spend an estimated $50 million a year on shore and environmental projects across the state, should be approved after years of debate.

Outfall lines should be extended from the four sewage treatment plants in Monmouth County that pour their waste into the ocean. The cost: $30 million.

The Legislature should commit to a long-term plan, and approve money to get the plan under way, to correct the practice in most of the state's urban areas of using the same pipes of both sewage and rain water. The result is both diluted sewage and debris washing into rivers and bays after heavy rainfalls. The cost: at least $600 million

It is already too late to repair the damage of a summer lost for tourism. But we aren't looking only at the demise of a central element of a region's economy. Even beyond the dimension of declining property values, lost jobs and diminished quality of life, we are looking at violating a sacred trust: Unless we act now, we will destroy a precious natural resource for generations to come.

THE BISHOPS AND SINGLE-ISSUE POLITICS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CLAY. Mr. Speaker, in recent years, religious organizations have assumed a more prominent role in our Nation's electoral process. As we move closer to this year's election, I would like to share with my colleagues a very interesting editorial which appeared in the St. Louis Post-Dispatch, August 10, 1988. "The Bishops and Single-Issue Politics" highlights the efforts of some Catholic church leaders to move away from single issue politics and to encourage a more wholistic evaluation of a candidate's platform.

THE BISHOPS AND SINGLE-ISSUE POLITICS

In the 1984 presidential election, several Catholic bishops virtually endorsed Ronald Reagan for re-election. Though they did not instruct Catholics to vote for the Republican ticket, they made it clear that the Mondale-Ferraro ticket was not acceptable because it did not agree with the Catholic Church's position on abortion. Cardinal John O'Connor of New York, for example, said Catholics could not in good conscience vote for anyone who was not opposed to abortion. That left only the GOP candidate.

This election year, however, bishops are less likely to intrude themselves so overtly in the campaign. The general counsel of the U.S. Catholic Conference has warned the nation's 300 bishops that the church's tax-exempt status could be jeopardized by statements either endorsing or opposing a candidate. The counsel, Mark E. Chopko, admonished the bishops that tax-exempt organizations must avoid labeling candidates and that they "must focus on issues and not personalities."

Putting the church's tax exemption at risk is not the only good reason for refraining from singling out candidates for support or opposition on the basis of their stance on abortion. There are numerous other issues with moral dimensions that voters should take into account when evaluating candidates, a point made last fall in a statement issued by the Catholic Bishops Administrative Board. The statement cited public policy issues with a moral content such as arms control, capital punishment, civil rights, economic justice and access to health care, as well as abortion.

Had Cardinal O'Connor and other bishops judged the presidential candidates on a range of issues with a moral content rather than just one, they might have concluded that Walter Mondale, not Ronald Reagan, was closer to the church's positions. Single-issue politics are dangerous for the democratic system, whether they are practiced by the anti-abortion lobby or the gun lobby or the Israel lobby.

Elected officials must make decisions on scores of important issues affecting millions of Americans, and they are entitled to be judged on their overall record and philosophy of government. Because a candidate is deemed as being right on one issue cannot justify overlooking how wrong he or she is on numerous others.

PUERTO RICO AND CUBA COMPARED

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. FUSTER. Mr. Speaker, once again, a nationally syndicated columnist has pointed out the success story that Puerto Rico continues to be, this time compared to another island in the Caribbean, Cuba, that has not been so successful, despite its claims otherwise.

Indeed, the facts are there for all to see about Puerto Rico, which is certainly "the shining star of the Caribbean." By contrast, Cuba is a disappointment, as becomes apparent each passing year.

Thus, I commend to my colleagues the following editorial page column by Georgie Anne Geyer, which appeared in the Washington Times of August 31, 1988:

[From the Washington Times, Aug. 31, 1988]

TWO ISLES ON SEPARATE PATHS

In 1898, two strikingly similar islands in the Caribbean took two strikingly different paths. The islands of Cuba and Puerto Rico, the last two "children" of imperial Spain and the two islands most dependent upon the monoculture of sugar, freed themselves from the mother land.

But then they took remarkably and almost metaphorically different paths, Puerto Rico, then the poorest island in the Caribbean and dependent upon sugar for 60 percent or more of its production, chose self-determination in a commonwealth relationship with the United States. Cuba fought the United States, its long and ambiguous conflict ending with the total hostility of Fidel Castro's revolution in 1959 and a total linkage to the socialist world.

It has seemed to most observers that the two islands—linked by blood, history and geographic fatalism—personify dependence in Puerto Rico and independence in Cuba. But now we can see for the first time since 1898 the degree to which those old suppositions have lied to us.

Today, "dependent" Puerto Rico is booming as never before. It is the pharmaceutical and electronic capital of Latin America. Its extraordinarily well-trained managers fan out all over the Caribbean. From an impoverished agricultural island with a per capita income of $121 in 1940, Puerto Rico has become an industrial center whose 1988 per capita income is $5,368, by far the highest in the hemisphere after the United States and Canada. Having come a long way from monoculture, Puerto Rican industry now provides fully 62 percent of the island's net income, agriculture only 3 percent.

And "heroic" Cuba today exports military men for African wars and sugar to the socialist bloc. It is a country totally, instead of relatively, independent of monoculture. Isolated from the rest of the region, 88 percent of Cuba's exports go to the socialist countries and 85 percent of its imports come from them. According to the Organization of American States, indicators of development reveal that Cuba has gone from third in the hemisphere in 1959 to 18th today.

Perhaps even more amazing in comparing these two classic models for development is the degree to which Cuba is every year more dependent on Soviet largess and aid, to the amount of $4.5 billion a year in military and economic aid, whereas Puerto Rico is growing more independent. Indeed, Puerto Rico is now helping the United States as the center of the Reagan administration's Caribbean Basin Initiative. Under savvy Puerto Rican Gov. Rafael Hernandez Colon, Puerto Rico, in a special relationship with the United States, is building 51 "twin plants" in 11 nations all over the Caribbean, thus helping immensely to relieve economic and emigration problems. Astonishing as well is the fact that with only 3.3 million people, Puerto Rico now buys more from the United States than do all the African nations with 600 million people combined.

Perhaps most fascinating amid all these changes is that analysts are starting to reassess the whole idea of models of realistic development—as well as, concomitantly, what truly constitutes dependence and independence in young nations.

Suddenly and dramatically, the premier model in the Caribbean is what is called the Puerto Rican model. The London Economist, in a recent comprehensive section on the Caribbean, even went so far as to say, "It may be that a new 'Caribbeanism' in Puerto Rico, which is the biggest economy in the region, will one day turn that self-governing American colony into a regional power."

Then the prestigious Economist went on to pose crucial questions for the area: What constitutes sovereignty today? What really is independence? It wrote for one of the first times of "something called sovereignty" that the early postcolonial generations of leaders thought would feed the people, but which in truth only "created a bitter illusion of independence, as if poor, tiny countries could make their own way in the world."

This is an interesting time geopolitically, a time of clarifications and a time in which the old slogans no longer hold if they cannot deliver. The deeper questions of sovereignty and of dependence and independence—and of delivering decent lives to one's people—are clarified in these two islands.

THE RAPOPORT FAMILY: A CREDIT TO TEXAS AND THE NATION

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. FROST. Mr. Speaker, on August 28, the southwest region of the Amerian Jewish Congress presented its 1988 Torch of Conscience Awards to distinguished Texans whose qualities of moral courage, love of liberty, and service exemplify the noblest of teachings and ideals.

Among this year's select recipients are Bernard and Audre Rapoport of Waco, TX, a couple I have known for many years. The Rapoports strongly and firmly represent the highest ideals of community and national service, compassion and commitment to others, and an unstinting generosity of spirit.

Bernard Rapoport, who was born in San Antonio, TX, and received his degree from the University of Texas, is a man of warmth, humor, and keen intellect, with an unswerving devotion to the disadvantaged, the needy, and the oppressed. A brief summary of some of Bernard Rapoport's activities and interests reflect the deep purpose with which he has strived to share his hard-earned advantages with others everywhere.

Mr. Rapoport currently serves on the board of overseers of Hebrew Union College, and on the boards of the Central Texas Sickle Cell Anemia Association, the Economic Policy Institute, the Democratic House and Senate Council, the Jerusalem Foundation, the American Israel Public Affairs Committee and the National Hispanic Center for Advanced Studies and Policy Analysis in Oakland, CA.

In an effort to seek solutions to the vexing social problems our society faces, Mr. Rapoport devotes his seemingly unlimited energy to the National Council on Crime and Delinquency of New Jersey, the National Institute for Citizen Education in Law, and the National Foundation for Hospice and Home Care.

Mindful of the tremendous importance of art and culture to the fabric of the Nation, Bernard Rapoport serves on the board of governors of the Texas Arts Alliance, the Texas Humanities Resource Center, and board of directors of the Waco Symphony Orchestra, and the Institute for the Humanities at Salado, TX. He has, as well, distinguished himself as chairman of the United Negro College Fund and the United Way of Waco, TX.

Bernard Rapoport is profoundly aware of the value of education and intellectual thought, having founded the Bernard Rapoport Post Graduate Institute in New York and numerous collegiate posts at the University of Texas at Austin, including the Rapoport Centennial Chairs in Economics and Public Affairs, among countless others.

It has been said that an institution is merely the lengthened shadow of one man. For Bernard Rapoport, there are an abundance of institutions that have benefited from the influence of this extraordinary person. Perhaps it is more appropriate to say that wherever Bernard Rapoport has cast his shadow, he has furthered and broadened institutional goals of truth, caring, and justice.

The helpmate and source of support in all Bernard Rapoport's endeavors has been his lovely and charming wife, Audre Jean. A Chicagoan by birth, Audre Rapoport serves on the board of directors of American Income Life Insurance Co., helping her husband in his role as chairman and chief executive officer.

Those of us who are fortunate to know Audre recognize that the inspiration, guiding light and genesis of the family's good works come from the lovely and vivacious Audre, the underpinning of the exceptional Rapoport family. Audre and Bernard Rapoport's son, Ronald Rapoport, is a professor at the college of William and Mary in Williamsburg, VA. Together, Bernard and Audre Rapoport share in the accomplishments of their son and his wife, Patricia, and the joy of their grandchildren, Abigail and Emily.

In tandem, Bernard and Audre Rapoport have brought light, happiness, and enrichment wherever they've found darkness, sorrow, and poverty. Indeed, they are exceptionally worthy recipients of the American Jewish Congress Torch of Congress awards.

I congratulate the Rapoport family, recommend their achievements to my colleagues and earnestly hope that the love, commitment and grace they have shown others will endure and return to the Rapoports tenfold.

HONORING ST. AGNES HOSPITAL

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. DIOGUARDI. Mr. Speaker, I rise today to honor St. Agnes Hospital in White Plains, NY, which on September 14 will celebrate its 80th year of service to the Westchester community.

St. Agnes Hospital was founded in September 1908, as the "Saint Agnes Hospital for Crippled and Atypical Children." It was opened by the Sisters of St. Francis of Hastings-on-Hudson at the request of John Cardinal Farley. Early in 1912, a small nine-bed general hospital was opened on the campus, both as a means of providing acute medical care for the children and to provide needed medical services to the community of White Plains.

Through the decades of the 1920's and 1930's, additional acute care beds were opened. Finally, in 1965, through the charity of Catherine and Henry Gaisman, the final 100 acute beds were opened. Today, St. Agnes Hospital is a 184-bed general acute care hospital. Among its specialty units are a 24-bed chemical dependency detoxification unit, a 12-bed obstetrical unit, a 10-bed intensive care unit and a 7-bed pediatric unit.

The Children's Rehabilitation Center of St. Agnes Hospital provides an extraordinary combination of educational and medical/therapeutic services to over 100 children each day. The center also provides medical/therapeutic services to an additional 500 to 600 children per year on an outpatient basis.

In June 1988, St. Agnes Hospital paid $150,000 to the State of New York to purchase an additional 4 acres of land which are adjacent to its property on North Street in White Plains. It is the fervent hope of the hospital that this land will be the home for a newly constructed Children's Rehabilitation Center. A strategic planning effort is currently under way. A task force formed with a cross-section of the hospital's primary constituencies, its board of trustees, its medical staff and its employees is targeted to present its recommendation for the future development of St. Agnes Hospital's mission in the fall of 1988.

Mr. Speaker, I ask our colleagues to join me in paying tribute to St. Agnes and its President Robert J. Stanley and in wishing St. Agnes many more successful years to come.

THE NEED FOR ADDITIONAL PRISON CELLS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CLINGER. Mr. Speaker, I would like to take this opportunity to point out that the omnibus drug bill authorizes appropriations for the Federal prison system. If you will recall, the regular appropriation bill for the Departments of Commerce, State, Justice, and the judiciary deferred funding for the prison system because legislation authorizing the appropriation had not been considered.

I make this point because it is necessary that additional prison space be made available to house an inmate population that has grown nearly 80 percent over the last 8 years and is expected to continue to grow. At this point in time the inmate population in Federal prisons is nearly 60 percent over the intended capacity of the system.

The reason for discussing the need for additional prison cells in the context of this debate is simple: a growing percentage of the inmate population were incarcerated for drug-related offenses. In 1981 approximately 21 percent of Federal inmates were serving time for drug-related offenses. That figure is now 43 percent and is expected to increase to more than 50 percent in the coming years.

The Bureau of prisons has developed plans to significantly reduce overcrowding in the Federal prison system. It is incumbent upon us to support the Bureau's efforts. We need only to consider the ongoing problems of the District of Columbia in meeting a Federal court order capping the inmate population. Should we fail to support the efforts of the Bureau of Prisons to reduce overcrowding by expanding capacity, we run the risk of a Federal judge capping the inmate population.

DEFENSE OF THE CHILEAN PRESIDENT AUGUSTO PINOCHET

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CRANE. Mr. Speaker, I rise to speak in defense of the Chilean President Augusto Pinochet. Chile's constitutionally mandated efforts to restore democracy are progressing rapidly. Their next step in the redemocratization process manifests itself in a Presidential plebiscite that will probably be held late this year. Voter registration drives are prevalent and a new Congress is anticipated.

I urge my colleagues in Congress to support the Chilean movement towards democracy. For further insight into the situation, I encourage you to read a letter by Paul M. Weyrich of Coalitions for America.

COALITIONS FOR AMERICA,
Washington, DC, July 20, 1988.

Hon. PHILIP M. CRANE,
U.S. House of Representatives,
Washington, DC.

DEAR PHIL: Despite growing and already overwhelming hard evidence that Chile's constitutionally mandated efforts to restore democracy are on track and working well, some members of Congress are scheming to scuttle the whole deal.

This letter, therefore, is written in the spirit of the old adage, "Forewarned is forearmed."

Last month, a group of House members requested signatures of their colleagues on a letter to Chilean President Augusto Pinochet, expressing "fear" about his government's resolve to return the country to democracy, as required by Chile's constitution. Some other House members have called for "investigations" and State Department "actions."

These ploys, thinly disguised efforts to cast doubt on Chile's efforts at re-democratization, have far-reaching and very dangerous implications for the United States.

If a large number of your House colleagues sign such documents or support such schemes, it could serve to undermine Chile's restoration of democracy and thrust it right back into the Communist camp of which it became part in 1970 under Marxist President Salvador Allende, and since 1973 has been struggling so vigorously and valiantly to escape.

The return of Chile to Marxist rule would give Soviet- and Cuban-backed Communist forces throughout Latin America and around the world a propaganda windfall of gigantic proportions in undermining and overthrowing a whole host of democratically elected governments. It most certainly would seriously endanger a number of fragile fledgling South American democracies.

So, when you are approached by your colleagues to lend support to anti-Chile proposals, please keep the following important and readily verifiable facts in mind:

Chile is about to carry out, the next, and crucial, step in its redemocratization process—a presidential plebiscite that probably will be held late this year. This procedure is mandated by Chile's constitution, approved by two-thirds of the voters who took part in a 1980 plebiscite. Under terms of that constitution, Chile's governing junta will nominate a presidential candidate to be considered in a plebiscite in which voters will cast "yes" or "no" ballots. It appears at the moment that that candidate will be the present president, Augusto Pinochet. If the nominee wins a majority of "yes" votes, he will be president for eight years. If there is a majority of "no" votes, the selection will go to an open, multiple-candidate, democratic election, the form for future presidential elections under the constitution.

In preparation for the presidential plebiscite, the Chilean government has enacted a series of election laws, including those establishing a system for voter registration; creating tribunals to resolve disputed election returns, and setting up courts to deal with vote fraud and similar crimes.

So far, some 6½ million Chileans have registered, to vote out of a voting-age population of about 8 million—already far more than the registration target of 5½ million; far exceeding historical trends, and acknowledged by most of Chile's political leaders, including most in the opposition, as being enough to provide valid election results. Only the Communist Party of Chile and several other Marxist political parties of the Far Left refused to take part in voter registration drives. All other parties, including the Christian Democrats, urged and helped eligible Chileans register to vote.

Chile's electoral system, including voter registration, is in the highly capable and experienced hands of Juan Ignacio Garcia, a man of impeccable credentials who received much of his training in election systems and procedures in the United States. Mr. Garcia's vast electoral experience spans Chile's Frei, Allende and Pinochet regimes, and he is highly regarded and respected by political leaders across nearly the entire spectrum of Chile's public life.

After the presidential plebiscite, the next step in Chile's return to democracy is the election of a new Congress through an open, democratic ballot process. Indicating the present government's intention to proceed with this aspect of a return to democracy is the fact that, in anticipation of a new Congress, legislative chambers and office buildings already are underway in the coastal resort city of Valparaiso, where the new Chilean Senate and Chamber of Deputies will sit.

There are many more indications that Chile is about to resume its historic democratic legacy, but the items listed above should give you more ample reason to believe that the present govrnment is acting in good faith and in accord with the Chilean constitution.

I urge you consider these facts and then to decline to take part in any project that could sabotage the return of democracy to Chile.

Thank you.

Yours sincerely,

PAUL M. WEYRICH,
National Chairman.

DESPITE REFORMS, THE SOVIET UNION DOES NOT REALLY RECOGNIZE THE RIGHT TO EMIGRATE

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CLARKE. Mr. Speaker, the last 2 years have been a time of considerable change in the Soviet Union. It is difficult for us in the West to measure the significance of these changes, although many of them may turn out to be for the better.

One obvious improvement has been the increase in the numbers of Jews, Armenians, and ethnic Germans allowed to emigrate. As in the past, there may be a correlation between these rising numbers and Soviet perception of improving relations with the United States. While we can only rejoice that thousands of families, many of whom have waited for years, have been able to emigrate to live elsewhere, Soviet policies reveal a fundamental ambivalence which requires continued close American attention to this and other human rights problems in the Soviet Union.

I object to the continuing Soviet insistence that emigration is a privilege, not a right. The authorities have permitted the recent increases in emigration by adjusting the machinery of refusal and obstruction, not by removing it. Soviet officials still require an invitation from a close relative abroad before even considering granting permission to emigrate. This attitude of the Soviet authorities contradicts the guarantees of the Universal Declaration of Human Rights and the Helsinki Final Act, which the Soviet Union signed. The right to leave one's country of residence has been recognized since the Magna Carta, and is especially important for minorities historically subject to persecution, bigotry, and discrimination.

At the same time, let us not forget the individuals who continue to receive refusals, in this time of reform, to their applications to emigrate. The excuse of possession of state secrets is still used, or misused, far beyond any legitimate need to protect secrets. Relatives or former family members can still exercise a veto over emigration, even for petty personal reasons. The whole process remains capricious and inconsistent.

Mr. Speaker, the United States must continue to defend the right of free emigration from the Soviet Union and every other country.

A TRIBUTE TO MAYOR KAY CALAS OF CARSON, CA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. DYMALLY. Mr. Speaker, it is with great pride and joy that I rise today to pay tribute to Mayor Kay Calas. Often referred to as the "Magnificent Mayor", she has served 13 years on the Carson City Council, 8 of those years as mayor or mayor pro tem, as elected by her council colleagues. Indeed, she is a professional who has dedicated her life to public service, yet she also represents a loving and caring individual who, as a wife and mother, has succeeded in accomplishing her many goals and projects within the community.

Born in Kansas City, MO, the next to the last of eight children in John and Rose Boswell's family of seven girls and one boy, she grew up and completed her education there. In 1945, she moved to California and the following year married John Calas, a local businessman in the South Bay area. Their successful and loving marriage lasted 29 years until he passed away in 1975.

During her early years as a wife and mother, she devoted herself to her husband and her five sons, Chuck, John Jr., Frank, Jim, and Tom. As a dedicated parent, she found herself involved in the Woodcraft Rangers, the De Molay Mothers' Club, and the PTA where she holds a lifetime membership.

She became active in local community activities such as the Keystone Women's Club where she served as president and director. In addition, she became interested in her husband's community project, a low cost rabies vaccination program for dogs in the surrounding neighborhoods. Since its initiation in 1962, the Annual Rabies Vaccination Clinic, currently held in the parking lot of Carson City Hall, has become a biannual event for pet owners.

In a relatively short time, her civic efforts resulted in the creation of numerous services and projects. One of her major accomplishments includes the establishment of a local chapter of Alcoholics Anonymous. Every year, she lends her assistance to the Miss Carson Beauty Contest and when the Rose Float parade begins in Pasadena every year, she watches in pride as the Carson entry rolls down the boulevard, for this, too, is high on her list of priorities.

After the unincorporated area became the city of Carson in 1968, she decided to enter the political arena. In 1975, she won the election to a seat on the city council which also represents the first woman elected to the Carson City Council. She immediately began to initiate and encourage programs to benefit the citizens of the city.

Since Kay Calas first took office, four new parks have been established and a new one will be built to replace the old Moine Tank Farm. She also started a therapeutic program for the physically challenged, programs for women and girls, and for senior citizens.

Under her administration, the Dial-A-Ride and the Carson Shuttle Bus services have improved transportation in the city which has helped seniors and the handicapped.

Her participation in various local committees is well known. These include the City Economic Development Committee, the City Public Relations Committee, the City Anti-Graffiti Committee, and the City Community Task Force on Crime, which she has actively promoted. Her activities, however, reach far beyond the city limits of Carson. She has also served on the Alameda Task Force, the Los Angeles County Sheriff's Advisory Committee and the Los Angeles County Mosquito Abatement Committee. Her influence is felt beyond the borders of our Nation as she works on the Sister City Committee which has outreach offices located in the Philippines and Japan.

As a Key Democratic Woman, she served as delegate to the National Democratic Convention in both 1980 and 1984. In 1988, Kay was honored as Democratic Woman of the Year for the 30th Senate District. Although she leads a very busy and demanding public life, she has remained faithful to her earlier obligations. She has served on the board of directors of the Carson Chamber of Commerce. She is a member and takes an active part in the Dominguez Women's Club, the Carson V.I.P. Club, the T.L.C. Club, the Carson Jolly Club, the Y.M.C.A. Century Club, the Dominguez Swinging 50's and the Keystone Women's Club. She also maintains a membership with the Eastern Star and the Rebekah Lodge.

Even with so many programs and projects, she still finds time to enjoy her family which includes eight lovely grandchildren: John III, Christopher, Nicole, Leslie, Frank, Jr., Jim, Jr., Justin, and Brooke.

As the Representative of the 31st Congressional District, I am proud to know and serve with Mayor Kay Calas, an exemplary woman who leads a well-rounded and successful life. She deserves the honors which come her way, some of which will be acknowledged at a testimonial dinner to be given later this year by citizens of Carson where she has contributed so much as a civic leader and political figure.

INTERNATIONAL LITERACY DAY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, today we celebrate International Literacy Day. A day not only to recognize the thousands of Americans who have learned to read and write in the strive for self-improvement, but also to recognize the 27 million Americans who remain unable to utilize the necessary skills of literacy.

In this presidential election season, public attention is being pulled towards the issues of defense, foreign policy, taxes and the budget deficit. However, we must not overlook the most essential tool this nation has—education. I firmly believe that the most basic way to improve our community and our lives is through an intense educational effort.

I commend the teachers who, in their pursuit of excellence in education, have made it possible for our children to recognize the importance and joy of reading. I commend the members of our community and the local business leaders who have joined together to establish programs such as the Cincinnati Youth Collaborative and the Greater Cincinnati Literacy Task Force.

The Cincinnati Youth Collaborative is a combined effort by Cincinnati leaders representing business, the city, the schools, and youth service agencies. The mission of this group is to put in place and assure the effective operation of structures and support systems which will lead every youngster to reach his or her potential.

The Greater Cincinnati Literacy Task Force, on the other hand, is an organized effort dedicated to fighting adult illiteracy. The task force utilizes the combined resources of the Cincinnati public schools and programs for basic adult education in the Greater Cincinnati area.

I am proud to offer my support to the members of our community who have played such an important role in cultivating a more informed and intelligent society as we celebrate International Literacy Day.

AGRICULTURAL ISSUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 7, 1988, in the CONGRESSIONAL RECORD:

AGRICULTURAL ISSUES

Although the drought and Congress' response to it have dominated the farm sector in recent months, the federal government has a hand in many other issues of interest to farmers. The drought will pass, but questions of farm policy, exports, pesticides, and food supply will remain. Several major agricultural issues will be high on the agenda of the Congress in upcoming months.

1990 Farm Bill: The farm commodity programs authorized by the Food Security Act of 1985 will expire in 1990. Some observers predict that the Congress may choose to basically extend the provisions of the 1985 Act, since little consensus is developing around a new direction for federal farm policy and many would prefer to avoid a long and potentially controversial debate. Yet if there is another crop shortage next year, there could be efforts to pass a major revision of the farm programs rather than the usual tinkering around the edges. The importance of deficit reduction will likely be a primary force in shaping the bill. Federal farm program costs increased from $2.7 billion in 1980 to $26 billion in 1986, but have declined to an estimated $16 billion this year. Targeted assistance, such as that contained in the recently-enacted drought bill, might prove popular in the cost-cutting atmosphere that will likely prevail.

Conservation: The effort to require from farmers a certain level of resource conservation in return for farm program benefits will continue. Many Congressmen and private conservation groups have been highly critical of the recent announcement by the Soil Conservation Service that acceptable farm conservation plans required by the 1985 Act need not bring erosion down to tolerance levels—the amount of soil loss that is offset by regeneration.

Crop Insurance: An effort may be made in the next farm bill to require that farmers purchase federal crop insurance if they wish to get the benefits of federal commodity programs. Sign-up for crop insurance has been lower than expected because of spotty availability and high premium costs, as well as a perception among farmers that the insurance is not needed because the federal government will provide assistance if a disaster strikes.

Pesticides: Concern about the slow pace at which the Environmental Protection Agency has been reregistering pesticides already in use or removing them from the market altogether has prompted attempts in the Congress to overhaul the federal pesticide law. A "core" bill, dealing primarily with reregistration and thereby avoiding other controversial issues, may be voted on yet this fall. The bill has met resistance from those who want to deal with groundwater protection, farmer liability for pesticide runoff, and business patent and indemnity concerns.

Farm credit: It is still too early to judge the long-term success of the Farm Credit Act enacted last fall to shore up the struggling Farm Credit System. Several land banks have received funds under the Act; several mergers have been approved. Farm failures due to the drought may have an adverse impact upon the farm credit network, as would higher inflation and interest rates. The Congress will be watching closely to see if the problems experienced by much of the farm credit sector have been resolved.

Tax issues: The "heifer tax" and collection of the off-road diesel tax would both be repealed by a bill currently working its way through the Congress. There have been several recent proposals to renew the preferential tax treatment of long-term capital gains, which would benefit many livestock producers. In addition, the drought, which has increased the variability of farm income, has provided new ammunition for farmers' arguments in favor of income averaging. The cost of such measures, however, makes their future uncertain. The approach favored by the Congress recently has been to require that the cost of any expansions of tax breaks be offset by reductions in others.

Food safety: Consumers are increasingly concerned about the possibility of foodborne diseases, pesticide-contaminated produce, and residues in meat from antibiotics or growth hormones. Some farmers and retailers have responded by labeling their products as "natural" or "organically grown," but others point out that such labels have little meaning in the absence of federal standards. The role of the federal government in these issues will likely remain one of monitoring food safety and assisting producer organizations attempting to solve problems within their own industries.

Commodity markets: The federal government will continue to provide farmers with advice on using futures and options trading as a way of protecting themselves from fluctuating prices. The Department of Agriculture is currently conducting a study on the economic benefit to farmers from such commodity trading compared to federal subsidy programs, and will be watching the markets for indications that further regulation is warranted.

Trade: The recent successful culmination of long-standing efforts to make Japan relax its strict beef and citrus import quotas was greeted with enthusiasm by an agricultural sector eager to exploit more markets abroad. The Free Trade Agreement with Canada, currently being considered by the Congress, has both supporters and opponents among farm commodity groups. Those in favor argue that it will open new markets, while opponents feel that the agreement provides insufficient protection from subsidized Canadian products. Farmers are also following the Geneva trade talks with great interest. The Reagan Administration's proposal to end all market-distorting subsidies by the year 2000 is still on the table, but has made little progress because of an inability among the countries involved to agree on what constitutes a subsidy. The drought has also taken some of the pressure off farm subsidy reform, since world grain supplies (and therefore subsidy costs) are at the lowest level in years. The new trade law requires that if significant progress is not made in negotiations to reduce restrictive trade practices, the U.S. will implement a "marketing loan" for wheat, feed grains, and soybeans aimed at getting commodities into world markets rather than government storage.

TRIBUTE TO CLARENCE DAVIS, JR.

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. STARK. Mr. Speaker, I rise today to pay tribute to an outstanding resident of Alameda County, Clarence Davis, Jr. Mr. Davis has a lifelong record of community and political achievements. He has served his community as a labor and community activist and his country through his tour of duty in the military in World War II.

As a member of the Construction and General Laborers Union Local 304 for over 20 years and Teamsters Local 315, he was instrumental in promoting union reforms. He was a founding member of the Negro American Labor Council.

Mr. Davis' long list of public service and activism is exemplary. In 1966, he was admitted to the California State Bar. From there he proceeded to improve his community through his work in politics. He and I once faced each other in a primary election that was a good and fair fight—one that typified his quality as a gentleman of fine character.

His affiliations are numerous; among them, Oakland Alameda Branch of NAACP, California State Democratic Central Committee, Alameda County Democratic County Committee, cochairperson of the Eighth Congressional District Caucus, organizer of the C.B.S. Democratic Club and membership in the Charles Houston Bar Association.

I join the friends of Clarence Davis, Jr., in paying tribute to this loyal community servant. I am very proud to congratulate and honor him. He has served as an inspiration, leader, and role model for all of us.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CLINGER. Mr. Speaker, I was absent from the Chamber yesterday afternoon when a recorded vote was taken on the Foley motion to table the Walker motion to discharge the Committee on Armed Services from further consideration of the veto message on the defense authorization bill. Had I been present at that time, I would have voted "nay" on the Foley motion.

STATE OF AFFAIRS IN MASSACHUSETTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CRANE. Mr. Speaker, I feel I must warn my colleagues of the impending dangers should Michael Dukakis become President of the United States.

Although he has been credited with the "Massachusetts Miracle," now even members of his own party acknowledge his poor fiscal management. In just 3 years, Gov. Michael Dukakis has converted $1 billion budget surplus in fiscal year 1986, to a $300 million deficit in fiscal year 1988. This dictates a $110 to $150 million tax increase for the coming year.

Dukakis blamed the situation on "a revenue shortfall" rather than excessive spending. This reaction suggests he may regard the Federal deficit in the same way and will likely suggest a tax increase.

Massachusetts experienced an economic turnaround from 1979 to 1982 while Dukakis was out of office. The State's revenue skyrocketed although Dukakis raised spending until it was nearly three times the Federal spending growth rate. However, as revenue growth tapered off, the spending maintained its rate. In addition, the spending increase had not been in entitlement programs for the poor, but on payrolls. Massachusetts House Ways and Means Committee chairman, Richard Voke, admitted that "Personnel costs are where the spending excess is." This expenditure has risen twice as fast as for the poor.

Currently, Lt. Gov. Evelyn Murphy worries over the state of affairs in Massachusetts that Dukakis is likely to leave with her. Perhaps the rest of us should learn from her mistakes and refuse Dukakis the chance to abuse the Federal economy as he did the State of Massachusetts. For further insight into this situation, I recommend the article "Duke May Leave 'Fiscal Mess' to His Successor" by Warren Brookes in the Boston Herald on June 5, 1988.

[From the Boston Herald, June 5, 1988]

DUKE MAY LEAVE "FISCAL MESS" TO HIS SUCCESSOR

(By Warren Brookes)

When the charming but fatally inept Louis XVI asked his finance minister, "What is the condition of the country's finances," the reply allegedly was:

"The condition of your majesty's finances is that your majesty has no finances!"

Over the last six weeks, the voters of Massachusetts and an increasingly fearful "lady in waiting," Lt. Gov. Evelyn Murphy have discovered the state's once-overflowing coffers are not only empty, but new taxes are needed.

This is because Massachusetts has raised both its debt and spending far faster than the nation as a whole. As a result, in just three years, Gov. Michael Dukakis has converted a $1 billion budget surplus in FY 1986 to a $300 million deficit in FY 1988, and another $200 million for FY89, forcing a major tax increase of nearly $110-150 million for this coming year.

This prompted one Massachusetts State House wag to suggest that next year's theme song will be "Who threw the deficit into Ms. Murphy's chowder?" Lt. Gov. Murphy is publicly not amused, worrying out loud that Dukakis is leaving her with "a fiscal mess."

Predictably, the governor blamed this not on excessive spending but on "a revenue shortfall," suggesting that is how he will approach the federal deficit as well, making tax increases not his last resort but his very first, just as he did in 1975 when he passed the largest tax increase in state history.

But, because of the economic turnaround, engineered entirely while Dukakis was out of office at Harvard (1979 through 1982, when the state's total revenue burden was cut by more than 17 percent while state spending actually declined in constant dollars) the state's revenues have poured in so fast even Dukakis had trouble spending all of them.

But he managed to meet the challenge manfully, raising total spending at an 11 percent/year nominal and 7 percent a year record real rate, nearly three times the federal spending growth rate.

Unfortunately, Massachusetts' incredible double-digit revenue growth began to taper off, to a little over 8 percent in 1987, 5.8 percent in 1988, and an estimated 7 percent in 1989.

The result was both predictable and avoidable, particularly since most of the spending increase was not in entitlement programs for the poor (which have risen the slowest of any segment of the budget) but on payrolls, which have risen 112 percent since 1983, nearly double the already high 63 percent rise in total spending.

Massachusetts House Ways and Means Committee Chairman Richard Voke (a liberal) admitted as much in a May 20 interview in Boston. He said, "Personnel costs are where the spending excess is. My advice to the governor when I met with him last week is that he shouldn't be fighting over cutting services, but cut the payroll costs.

"Personnel expense has risen twice as fast as for the poor. Dukakis' collective bargaining agreements have been almost double digit every year. State employees have gone from not being the best paid around to being better paid than comparable positions in private industry. Even so, we have the second highest sick leave in the nation almost double the national average."

We asked Voke if the current budget crisis in Massachusetts did not reflect bad fiscal management. He was concise: "You could say that, yes."

In his 52-page budget report Voke's language is routinely critical, laced with terms such as "skyrocketing costs," "Management tools ignored," "lack of fiscal control," "fragmented management."

Voke told us, "There hasn't been any will to control spending in this administration for at least five years. Every year it seems every agency comes in looking for more than the other agencies."

Unhappily, the Dukakis national election juggernaut depends on keeping this spending spree and organization going.

PROTECTING OUR ANIMAL AND PLANT SPECIES

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Miss SCHNEIDER. Mr. Speaker, today I am introducing a joint resolution to address an issue of the greatest importance: to prevent the accelerating loss of the world's rich diversity of animal and plant species.

Recently, I hosted a reception for Members of Congress to honor some of the world's recognized leaders in saving the Earth's irreplaceable germplasm. Many individuals are unaware that, as the distinguished conservation biologist Paul Ehrlich has noted, the frightening rate of species extinction is like a slowly unfolding nuclear holocaust. Each year the world is losing tropical forests the size of the State of Pennsylvania. These rainforests house the vast majority of plant and animal species. Half the world's remaining species could be lost within the next several generations due to the ecologically destructive activities of human beings.

Scientists estimate that the human induced rate of extinction is hundreds—to thousands—of times higher than the natural rate of extinction. One in three of the world's 200 primate species already are in trouble and at present trends, 1 in 7 could be extinct by the year 2000. In Madagascar, one of the most biologically diverse areas of the world, at least half of the 12,000 plant species and 190,000 animal species are extinct or close to extinction. According to the Office of Technology Assessment, the rate of loss of biological diversity is likely to increase over the next several decades. We are destroying the resources we need as we leave the industrial revolution and enter the biological revolution.

There are many compelling reasons—ethical, moral, economic, and others—why all human beings should help to dramatically reduce the current "extinction spasm." The National Academy of Sciences recently published an outstanding volume of essays called Biodiversity, which discuss these various reasons. The common theme running through all the essays was the impoverishment of the human condition if nature's endowment of rich diversity is allowed to disappear.

For example, maintaining diversity is critical to food production. The Department of Agriculture estimates that contributions from plant genetic material leads to a 1-percent increase in crop productivity worth over $1 billion every year.

Twenty-five percent of all prescription drugs in the United States with an estimated market value of $8 to $14 billion per year are derived from plants. Worldwide, drugs, including nonprescription drugs, from wild organisms have commercial value of $40 billion per year.

Biotechnology, which has given us the tools to manipulate desirable genetic properties, will continue to reply on the genetic materials found in nature. Preserving nature's "genetic library" is fundamental to unlocking the enormous benefits stored in these living resources.

Maintaining biological resources also provides free, but essential, ecosystem services, including climate stabilization and protection of soils and watersheds—conditions which are imperative to sustaining global economic development.

Fortunately, many experts believe there are a range of public policies that could prevent this great loss, while at the same time enabling the world economy to prosper. The Congress has recognized the importance of protection of biological diversity in section 119 of the Foreign Assistance Act. This section requires the United States to take a number of actions to help other nations conserve biological diversity. Mounting evidence of a worsening situation, however, makes it abundantly clear that additional actions are necessary.

The World Commission on Enviornment and Development, in its recent report, "Our Common Future," recommends that a biological diversity convention be pursued. I am proud to say that the United States has taken the lead in supporting such a convention. At the July 1987 governing council meeting of the U.N. Environmental Program, Assistant Secretary of State, John Negroponte, suggested that a convention be developed. Mr. Negroponte reported that there was broad agreement at the meeting for a convention.

It was with that idea in mind that I offered, and the House adopted, an amendment to title III of the Foreign Assistance Act reauthorization last December, calling for the President to pursue an International Convention for the Preservation of Biodiversity. The current joint resolution is offered in this same spirit, in the belief that congressional action on this issue this session is vital for sending a message to the President that time is of the essence in initiating an international convention.

The joint resolution expresses the Congress' support for U.S. efforts to initiate discussions to develop an international agreement to preserve biological diversity, and calls upon the President to exert U.S. leadership in order to achieve the earliest possible negotiation of an international convention to conserve the Earth's biological diversity.

REAUTHORIZATION OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. BONKER. Mr. Speaker, I am introducing today legislation to reauthorize the activities of the Overseas Private Investment Corporation [OPIC] for 4 years, until 1992, and to make certain changes in the program. The bill also contains an authorization of appropriations for completion of the Board for International Broadcasting's modernization program and for its construction of a new relay station in Israel.

This bill is identical to titles I and II of H.R. 4471, the Miscellaneous International Affairs Authorizations Act of 1988, which passed the House on May 12, 1988, by a vote of 267–112. It does not contain the foreign assistance authorization that was added to H.R. 4471 during floor consideration. Given the noncontroversial nature of the OPIC and BIB authorizations, I would hope that the House and Senate act expeditiously on this legislation.

The key sections of the OPIC title provide for: First, the establishment of a pilot program for limited equity investments in Caribbean and African development projects; second, the elimination of restrictions on OPIC operations in higher income developing nations in the Caribbean; third, an increase from $1 billion to $1.5 billion in overall liability for OPIC's investment guarantee program; fourth, greater cooperation between OPIC and the private political risk insurance industry; and fifth, authority for OPIC to use loan proceeds in the United States to adapt or develop new technology for development projects.

Mr. Speaker, OPIC is one of the more successful of our foreign assistance programs. It is totally self-sustaining, and is in fact one of the few U.S. Government programs that actually returns a profit of about $1 million annually to the U.S. Treasury. OPIC's authority expires on September 30, 1988. This bill is noncontroversial, and I urge that it receive expeditious consideration.

GEN. WILLIAM E. ODOM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. STOKES. Mr. Speaker, I would like to note the recent retirement of Lt. Gen. William E. Odom, U.S. Army, a longtime and well respected intelligence officer of this country. In his last 3 years of service, General Odom served as Director of the National Security Agency. Throughout his career, he was acknowledged as an expert in Soviet affairs. He had wide experience in national security matters, including service as military assistant to Dr. Zbigniew Brzezinski, the National Security Adviser to President Carter. He also served as Assistant Chief of Staff of the Army for Intelligence. During his years in Army intelligence and at the NSA, he was a frequent witness before the committee. His testimony was always highly knowledgeable and effective.

During his 3 years as Director, NSA, General Odom stood apart from other senior intelligence managers in his appreciation for the fiscal realities facing national security programs and in his pragmatic dedication to constructing a highly effective signals intelligence program within the context of those realities. General Odom led the way in modernizing U.S. signals intelligence collection and processing systems and ensuring the survivability of these systems. He was also responsible for major new initiatives to enhance support for military operations through better integration of national and tactical signals intelligence capabilities, as well as other efforts to protect the privacy of U.S. communications and automated information systems. He implemented successfully minority training and recruiting programs and improved the equal employment opportunities at NSA through a range of affirmative action programs.

Mr. Speaker, General Odom was a professional intelligence officer in every sense of the word. His country owes him a debt for his dedicated service.

MANNY CASIANO, JR.: TRIBUTE TO A HISPANIC BUSINESSMAN

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. GARCIA. Mr. Speaker, on September 8, the National Hispanic Chamber of Commerce will recognize Manuel A. Casiano, Jr., as the Hispanic Business Person of the Year for Region III, which covers the States from Maine to Florida and Puerto Rico. The award is given to individuals within the Hispanic community who have made outstanding contributions to the growth of Hispanic business and employment while serving as good corporate citizens.

Manny Casiano was born and raised in New York City, where he first made his name as a businessman involved with the city's film industry. Before he began his career as a businessman, however, Manny served his country as a proud member of the U.S. Marine Corps for 4 years, participating in the Korean conflict.

Manny retired from private business in 1970 to serve as the National Executive Director of the Puerto Rico Labor Department, Migration Division at the request of the Governor of Puerto Rico. In 1971, he was appointed to be the Administrator of Puerto Rico's Economic Development Administration by the Governor. In both of these positions, Manny served the Puerto Rican community well, helping to create new economic opportunities for Puerto Ricans both here and on the island.

Since 1976, Manny has been editor in chief and president of Casiano Communications Inc., a Puerto Rican based publishing company. In that capacity, he has published Caribbean Business, an influential English language tabloid dealing with economic and business affairs in the Caribbean; Imagen, a monthly Spanish language magazine concerned with the lifestyle of the Hispanic community; and an annual business directory and guide on how to do business in Puerto Rico.

Manny is a member of a number of important business organizations, including the Governor of Puerto Rico's Economic Advisory Council, the White House Conference on Small Business, and the Puerto Rico Chamber of Commerce.

There is no one more deserving than Manny to receive the Hispanic Chamber's award. He has made many contributions to the Hispanic community throughout his life, and since at 56, he is still a young man, I'm certain that he will continue to serve both his country and his community for years to come.

On behalf of myself and my friend and colleague from New York, Congressman CHARLEY RANGEL, I would like to congratulate Manny on receiving this award and for all the service he has given to his community.

A BETTER MEASURE OF PROSPERITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CRANE. Mr. Speaker, I rise in response to the criticism heaped upon the Reagan administration regarding the U.S. economy. The Democrats are quick to condemn the present economic situation although they frequently gather their evidence including all the administrations in the past 15 years. However, President Reagan has only held office for the past 7½ years. During this time, Reagan has been busy undoing the damage caused to the economy by the Carter administration. Since 1981, the median family's real income has increased 9 percent, rebounding from the 8 percent it dropped while President Carter held office. In addition, the same median family pays 28 percent less in income taxes. Finally, the real household financial wealth has increased 55 percent since 1981, after showing a total gain of only 3 percent in the 1970's.

Using the Democrats own misery index—devised in 1976 to exploit President Ford's shortcomings—President Reagan's inflation rate plus unemployment rate measures 9.2 percent, compared to President Ford's at 12.6 percent and President Carter's at a skyrocketing 20 percent. Currently, GEORGE BUSH favors the U.S. Chamber of Commerce's more optimistic, prosperity index, which places more importance on how many people say they belong to the labor force than on real job growth and expansion. Presently, there is a 5.3 percent unemployment rate representing 66 percent of Americans over 16 in the labor force. For the first quarter in 1988, the prosperity index measures 60.4 percent, a 20-percent increase from 1980 when it was registered at 50.2 percent. Although both the prosperity index and the misery index take a positive approach by measuring employment rather than unemployment.

For further insight into this matter, I suggest that my colleagues read "A Better Measure of Prosperity," by Warren Brookes, in the Washington Times on August 1, 1988.

The article follows:

A BETTER MEASURE OF PROSPERITY

(By Warren Brookes)

The Democratic National Convention was a study in contrasts. The booming Atlanta economy with its 4.8 percent unemployment on the outside contrasted sharply with the Depression-style rhetoric on the inside. Gov. Mario Cuomo was bad-mouthing a New York state economy whose unemployment rate is now 3.5 percent, the lowest since Al Smith was governor in 1928.

The Democrats dismiss such economic statistics as "misleading," or "not telling the real story."

Mostly they are doing their best to bury the economic good news of the Reagan era in the bad news of the Carter years, by the clever process of measuring progress from 15 or 20 years ago.

The Washington Post (which seems to have signed on to the Dukakis campaign for the duration) had the audacity to publish a preconvention story (July 14) with the headline:

"Are Americans Better Off Than 15 Years ago?" Funny, we weren't aware that Reagan was in his fourth term. This is, of course, the old "BCOR" strategy: Blame Carter on Reagan.

It was beautifully practiced by Convention Keynoter Ann Richards who read what was supposed to be a heart-clutching letter from a two-earner family in Texas complaining about making ends meet, and worried about the future, as if Ronald Reagan had created uncertainty and the two-earner family.

What Mrs. Richards did not tell us is that since 1981, this median family's real income has risen 9 percent after falling 8 percent under President Carter's budget years (1977-1981).

She also didn't tell us that they were paying 28 percent (or about $1,300) less income tax on this median income than they would have paid under Mr. Carter, or that their marginal tax rate had been cut from 28 percent in 1980 to 15 percent in 1988.

Most importantly, she didn't tell us that real household financial wealth has risen 55 percent since 1980, after rising only 3 percent in the entire decade of the 1970s. And it fell, under Mr. Carter's withering 13 percent inflation and 21 percent interest.

In 1976, candidate Jimmy Carter scorched Gerald Ford with something called "the misery index," a concoction of prominent liberal economist Arthur M. Okun, who once served on President John Kennedy's Council of Economic Advisers.

The index consisted of adding the inflation rate (CPI) to the unemployment rate to get level of combined economic "misery."

This backfired on Mr. Carter in 1980, because when he first castigated President Ford for his "economic misery" the index stood at about 12.6 percent—when Mr. Carter lost it stood at 20 percent, a record high.

Today, that index stands at about 9.2 percent, the lowest in more than 20 years, and chances are we will hear Vice President George Bush citing this 54 percent "reduction in economic misery" during his campaign.

But Mr. Bush prefers the U.S. Chamber of Commerce's new, more positive, "prosperity index," which takes into account the fact that the unemployment rate is a very "soft" number. It depends more on how many people say they are in the labor force than on real job growth and expansion.

It is possible to have a low unemployment rate, and still not have a very strong level of employment. For example, the latest unemployment number of 5.3 percent is a lot better than the 1974 figure of 5.3 percent with which it is being compared. In 1974, only 61 percent of Americans over age 16 were in the labor force. In 1988, that figure is close to 66 percent. If there had been 66 percent in the labor force in 1974, the comparable unemployment rate would have been 12.5 percent.

This is why the Chamber has chosen to use the "harder" number, known as the "employment ratio." This is the measure of the actual percentage of the adult population that have jobs, irrespective of how many are in the more loosely self-defined "labor force." (People who say they are available for work.)

They then subtract from this employment ratio the actual inflation rate as measured by the GNP deflator. This shows employment less inflation as an "index of prosperity."

As of the first quarter of 1988 that prosperity index is at a postwar high of 60.4, a huge 20 percent improvement over 1980 when it stood at a postwar election-year low of 50.2.

The advantage of this approach is that it is positive. Instead of measuring misery, it measures levels of prosperity, by measuring true levels of employment (not unemployment) less the inflationary cost of reaching that level.

It remains to be seen whether Americans feel as prosperous as this new index suggests—and what, if anything, this will mean in November, but it does show that the Democrats have a lot to prove.

PUBLIC RELATIONS IN PORTALES

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. RICHARDSON. Mr. Speaker, I would like to bring to the attention of my colleagues the following article about the Portales National Bank printed in the July issue of Independent Banker. The Portales National Bank under the leadership of its president, David Stone, is an interesting case study as we debate the banking legislation which will soon be before us. While we are often besieged by lobbyists from large multi-State and international banks, it is interesting to note that there are still a few banks whose profits are derived from providing services to their local communities.

While it is neither desirable nor feasible to use the Portales National Bank as a model for our banking system, I think the entire banking industry may learn a lesson from David Stone, that there are profits to be made from providing good service and responding to the needs of the local community.

PUBLIC RELATIONS IN PORTALES

(By Brian Nixon)

As David L. Stone hops out of his pickup truck, he points to a billboard that greets visitors as they enter Portales, New Mexico. "Welcome to Portales," the sign says, "a town of 12,000 friendly people * * * and three or four old grouches."

Atop the billboard words "The Potales National Bank." On the left is the bank's logo, depicting a windmill at sunset, or sunrise, depending on how you look at it. "That's the best advertising I've ever done," Stone, the president of the bank, says.

It was so successful, in fact, that it caught the eyes of a group of British Broadcasting Company people filming a travelogue on the United States. Sure enough, the distinctive billboard was beamed back to the British Isles for viewers' enjoyment. While Great Britain may be a little out of his bank's market area, it's nice to know your advertising has that kind of reach.

The bank doesn't stop with just one billboard. There's another adorning the entrance to the Roosevelt County 4-H Fairgrounds, which hosts the oldest and largest county fair in New Mexico. Other welcome signs are located on the west side of town, and one at the entrance to the Portales Country Club.

There's also a welcome sign in Elida, New Mexico, the bank's birthplace. It was chartered in 1906 as the First National Bank of Elida, Territory of New Mexico. Stone's father, Douglas, moved the bank to Portales in 1935.

For Stone, the signs are an important communications avenue to tell customers what his bank stands for: serving the community.

This is community bank marketing New Mexico-style—no Madison Avenue types in starched shirts need apply. Public relations decisions at the Portales National Bank are driven by common sense and laced with a tad of good humor.

Stone knows the patrons of the $48 million-asset bank and how to reach both present and future customers. Community relations is the key.

A ROOM FOR MODERN-DAY PIONEERS

Less than a block away from the bank's main office on East Second Street is the Pioneer Room, a building restored by the bank to reflect the community's heritage. Old-fashioned siding and a wood-shingled awning, covering the sidewalk, along with a hitching post in the front, provide a history lesson in frontier architecture. Inside, wood paneling, a tin sculptured ceiling and a retired turn-of-the century bar greet visitors.

With several tables and chairs, and coffee on the burner, visitors have a place to sit down, relax and banter about cattle prices or other topics. Trophies awarded teams that the bank has sponsored are displayed in the window.

The bank's customers helped complete the interior decoration when the Pioneer Room was completed in 1982. As part of the dedication, Stone invited the ranchers in the area to come into town, get their cattle brands good and hot and emblazon the walls with their logos. Stone's own brand, the diamond S, appears on one of the concrete anchors for the hitching post outside.

The Portales National Bank's Pioneer Room is also reminiscent of Stone's family heritage in New Mexico. His grandfather, after moving to New Mexico in the late 1800s, founded the first bank in Roosevelt County and went on to start four others. "Back then, everything was done by telegraph, mail or by rail," Stone says. "Roads were poor." His father worked at the Portales National Bank for 47 years and was president for 22 of them.

Adjacent to one of the bank's other offices in Portales, Stone put together "The Homestead," a look at how newcomers to the New Mexico territory lived. In the country around Portales, which is located in eastern New Mexico, wood was scarce. Homesteaders lived in dugouts, small homes built into the ground and covered by wood.

Although the dugouts were cramped by modern standards, they did offer some benefits. Since they were built partially underground, they were cool in the summer and warm in the winter. Mesquite provided fuel for wintertime heating needs. "Everybody when they came out here lived in dugouts," Stone says.

Beside the dugout at the Homestead stands a working Eclipse windmill, similar to the one depicted on the bank's logo.

A DIVERSIFIED ECONOMY

Stone notes proudly that one of the things weatherman Willard Scott likes to talk about in his morning monologues is Portales peanuts. They're an important product grown on irrigated land in the area.

While an ethanol plant provides a market for milo, peanuts are Portales' major farm product. "It's the only profitable cash crop we have," Stone says. One-third of Roosevent County's farm land is irrigated. Another one-third is dryland farmed, while the remainder is used for pasturing cattle.

Agricultural loans are an important part of the bank's lending portfolio—about $14 million, but Stone adds that the new Chapter 12 bankruptcy code has prompted the bank to take a more cautious approach with its farm and ranch loans.

With a population of 12,000, the community benefits from a diversified economy. Eastern New Mexico University is also located in Portales, which boosts the population and offers jobs for residents. "That provides a lot of stability for our economy," Stone say.

THAT'S WHERE WE MAKE LOANS

While driving through one part of Portales, Stone points out a variety of single-family homes that have received new roofs, fresh paint and other improvements. "I'm real proud of this part of Portales," he says.

It's a neighborhood that people have invested their time and sweat, to improve. "We have a wonderful work ethic here," Stone says. The Portales National Bank helped the residents, many with low incomes, get loans. The community has the lowest unemployment rate and the lowest per capita income in the state.

"I think part of the American dream is home ownership," Stone says. He recalls the time a bank examiner asked him if his bank red-lined neighborhoods. "I said we sure do," he says. "We draw a red line around the worst area and that's where we make loans."

Stone, like his grandfather and father before him, believes the bank's primary goal is to serve Portales, and its people. "That's the greatest reward you get as a community banker—the success of your customers," he says.

It's a message that's been seen in Great Britain, but is followed daily in Portales.

SUBMISSION OF AN ARTICLE BY MICHAEL J. LACIVITA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to respectfully request that I be able to insert an article written by Mr. Michael J. Lacivita, a distinguished citizen from my 17th Congressional District of Ohio.

Mr. Lacivita has written an article entitled "Plant Supervisors Are Key Safety People." This article, which appeared in the December 1986 National Safety and Health News, has been reprinted for the benefit of the Department of the Army and the Department of the Navy. Because of the great significance of the issues addressed by Mr. Lacivita in this fascinating article, I encourage all of my colleagues to read it.

PLANT SUPERVISORS ARE KEY SAFETY PEOPLE

(By Michael J. Lacivita)

Our supervisor is our key safety person and our statement of policy on safety and health is our key safety document.

The statement by our Chairman of the Board John Nelson, is as follows: "This is to reaffirm the policy of Commercial Shearing, Inc., that a vigorous safety and health program will be maintained to safeguard our employees. All operations are to be performed in an approved safe manner. Employees will be issued proper personal protective equipment and will be required to use it.

"Implementation of the accident prevention program is the responsibility of management. Supervisors at every level will actively support our safety and health policy and will insure that unsafe conditions or acts are corrected and that safe working practices are followed.

"It shall be the first line supervisors' responsibility to instill a safety awareness attitude in their employees through periodic personal contact and regular group safety meetings.

"The policy emphasizes our concern for the welfare of our employees and recognizes that both the company and its employees will gain because of a successful safety effort not only from the economic aspect, but humanitarian as well.

"It will in no way limit or detract from any safety or work procedure or regulation now in effect at any facility of Commercial Shearing, Inc., but is intended to strengthen and support them.

"Employees are urged, for the sake of their families, their co-workers, and themselves, to do their part in this effort to make our company a better and safer place to work."

This statement of policy is published in our Safety and General Plant Conduct Manual that is given to each employee.

The first line supervisor has been given a mandate by top management to instill a safety awareness attitude in their employees.

We believe one of the best methods to do this is through a regularly scheduled monthly safety meeting, with prepared safety topics. These meetings must be held regularly and presented by the supervisor in a most sincere manner.

The supervisor must gain the employees undivided attention and keep control of it at all times. The particular safety topic of the month such as eye protection, hearing conservation, fire prevention, etc., must be the focus of attention. Any deviation from the special monthly safety topic tends to disrupt the meeting.

The meetings should be brief, hard hitting, and to the point. Five or 10 minutes should be sufficient time to convey the safety message if the supervisor puts his heart into it and does not give the impression that it is something he wants to get out of the way because he has to do it.

The safety meeting is the company speaking through the supervisor. The impression he makes will be implanted in his employees, forever.

A well organized supervisor-employee safety communications program can help an employee achieve that accident-free goal. Safety programs must be planned and executed with the same importance as production or quality control activities.

An employee's safety awareness can be stimulated by creating a positive safety attitude through special safety messages. These messages should be factual teaching and training in a novel way. They should be dynamic, no static. Unsafe acts should be stressed as well as unsafe conditions.

To act safely, an employee must think safety. A six shooter approach must be used, that is repeat, repeat, repeat, repeat, repeat, and repeat. As one of our employees said in one of our safety contests. "If you're sick and tired of hearing about safety—good! We're getting through somehow!" It might be called the nagging syndrome. Our ultimate goal is to increase safety consciousness through repetition.

To reinforce our long standing safety theme of Be Safe—Not Sorry, we have issued Be Safe—Not Sorry key chains, baseball caps, and decals to our employees. We believe this slogan is having lasting impact on many of them, in fact, one employee submitted this thought in our latest safety contest: "Be Safe—Not Sorry is Commercial's motto, take my advice it's a rule you should follow."

The supervisor must be continually on the alert to spot unsafe acts. He must check to detemine that his employees are following safe work practices. There may be a few employees that are chance takers and Russian roulette players. These employees must be dealt with quickly and firmly.

There are times when an employee with a careless safety attitude must be disciplined. Discipline is for the employee's own good. In our experience, employees that received discipline for not wearing eye protection, for example, were very angry at the time, but at a later date, thanked us because the eye protection saved their eyes. The employee's I don't care attitude must be changed to one of I do care. It is far better for a supervisor to have a live enemy than a dead or injured friend.

Unsafe conditions should be corrected at once. If this is not possible, then corrective action should be initiated by the supervisor.

Alleged unsafe conditions that are brought to the supervisor's attention by employees should also be acted on quickly. The employee should be notified of the action being taken or given an explanation for the lack of action or its postponement.

The supervisor must set the safety example for his employees. His safety tolerance level will determine the safety attitude of the employees reporting to him. When it comes to safety, one of our supervisors once said, "We have to satisfy the safety director, because good enough is not good enough for him."

Employees must be educated to recognize unsafe conditions and unsafe acts. Good safety habits are as easy to form as the bad ones.

We all make safety judgment calls daily, while driving to and from work as well as on and off the job. By the end of the month, this could translate into hundreds of right or wrong calls. A person's good safety judgement can make him a winner in this game of life.

A supervisor must help to develop that safety prone, accident-free worker. This type employee saves himself physical misery and his company economic woes. Safe workers are industry's anchor men and can be depended upon. Many perform for years, yes, even a lifetime without suffering a serious injury. They have developed those good safety work habits and stick with them. It becomes second nature.

In my opinion, the main cause of most accidents has, and still is being overlooked—the *human element* problem. We may not be able to change basic personality traits, but we should attempt to understand and motivate the safety behavior of individuals.

We should study the *safety prone* employee as well as the unsafe worker to find what makes them perform the way they do. After all, low accident frequency employees work side by side with high accident frequency employees. Continuing educational programs directed toward both unsafe conditions and unsafe practices should be instituted and maintained.

In my accident investigations, I frequently hear the words, "It was my own fault. I wasn't thinking." I am sure that when most of us sit back and reflect on our own personal lives and consider the times when we had an on- or off-the-job accident, we will also say, "I just wasn't thinking."

It is one of the supervisor's prime responsibilities to concentrate on his employees having a safe place in which to work and to see to it that they work safely. He should care for his employees like he cares for his own family. An employee generally has an accident for one of two reasons: He doesn't know, or doesn't care.

These conditions are both under the supervisor's control. If the employee doesn't know, then the supervisor was weak in job instruction or follow up. If the employee doesn't care, then the supervisor should have motivated him using discipline if necessary. An employee will usually work as safely as the supervisor's safety tolerance level permits. If safety isn't in the leader, it won't be in his followers.

No one knows an employee better than his immediate supervisor. The supervisor should accept his *key safety person* responsibility when he accepts his supervisory position. He sets the safety image in his area and his actions will speak louder than his words. A supervisor's action and influence can favorably influence an employee's life forever. He is the key safety person in his employee's world of work and could be the difference between life and death.

In 1984, Commercial Shearing, Inc., became the first repeat winner of the American Metal Stamping Associations' *Seastrom Safety Award* that it first won in 1980. The award was presented for the company's continued dedication to employee safety and for the development of new approaches to making the workplace safe.

Michael J. Lacivita is the corporate safety and security director of Commercial Shearing, Inc., Youngstown, OH. He is a member of ASSE Ohio—Pennsylvania Chapter and received the local chapter's 1984 *Safety Professional of the Year Award*. He is past chairman of the Mahoning County Safety Campaign Committee and is at present on TMA's safety committee.

IN HONOR OF DEBORAH BERMAN, JERRY EPSTEIN, JAN PETERS, AND THE BOYS & GIRLS CLUB OF VENICE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to ask my colleagues in the U.S. House of Representatives to join me in saluting these fine Americans, who by their generosity of spirit and support have helped the quality of life for many young people in Venice, CA, a marvelous community in my 27th Congressional District.

The Boys & Girls Club of Venice provides service to 1,000 boys and girls, ages 6 to 18 from the greater Venice-Marina area of Los Angeles. It is a significant full-service community center providing professional counseling, tutoring, vocational guidance, service to needy families, and is a leader in delinquency diversion, as well as cultural enrichment.

A branch of Boys Clubs of America and an active member of United Way, the Boys & Girls Club of Venice is a nonprofit agency under the general direction of a volunteer board of directors and supervised in daily operations by a full-time executive director and staff.

Debra Berman, the Boys & Girls Club of Venice "Woman of the Year," is a business woman, lecturer, and top real estate salesperson. She began her career as a teacher in Watts. She has tutored emotionally disturbed children and organized fund raisers for the homeless. Despite the demands of a successful real estate business, she is active in many local charities, including Daniel Freeman Hospital Guild, Venice Family Clinic, Toys for Tots and Meals-On-Wheels. In keeping with her dedication to the youth of our community, she always finds time to spend many volunteer hours working with the children at the Boys & Girls Club of Venice.

Jerry B. Epstein, President of Jerry B. Epstein Management Co., is actively involved in real estate construction, development and management. His principal expertise is in planning, financing, constructing, and managing multiple dwelling apartments.

Jerry Epstein was among the group that originally planned Marina del Rey. He is a member of the Board of Airport Commissioners, City of Los Angeles; secretary, Los Angeles State Building Authority; chairman, Energy Commission for the Cities and County of Los Angeles; and a member of the executive committee, Board of Trustees, St. John's Hospital and Health Center, Santa Monica. As well as being a guiding figure of the Boys & Girls Club of Venice, Jerry has played an important role with the Big Brothers of America, Marina del Rey Chamber of Commerce, and the National Conference of Christians and Jews. I have known Jerry for many years and am pleased to join in this tribute to my good friend as he is named the Boys & Girls Club of Venice "Man of the Year."

The Boys Clubs of America has named Jan Peters it's 1988 Medallion award recipient. Jan Peters has 15 years in contemporary crafts, having open Del Mano Gallery with her partner, Ray Leier, in 1973. They currently own and operate a gallery in west Los Angeles and another in Pasadena, CA.

Jan Peters is a member of the American Craft Council, the Glass Art Society, the Contemporary Crafts Council of the Craft and Folk Art Museum and the Costume Council of the Los Angeles County Museum of Art. Ms. Peters has been a vice president of the Board of Directors of the Boys & Girls Club of Venice for the past 6 years.

On behalf of the Venice community and the U.S. House of Representatives, I join in congratulating these exemplary individuals and the Boys & Girls Club of Venice, for a job well done.

DON'T DROP THE BASE CLOSINGS MEASURE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. BEREUTER. Mr. Speaker, I commend to my colleagues an article that appeared in the Long Island Newsday of August 9 on the base closings bill. Both the House and Senate passed this measure, which would allow an independent panel to recommend military installation closings based on defense reasons rather than political or local economic development reasons. Due to technicalities in the different ways the House and Senate passed this measure and the veto of the Defense Authorization Act to which it was attached, it is now in danger of being dropped. The base closings provision will result in defense spending savings of between $2 and $5 billion per year. It must be retained and enacted into law.

UNLOAD THE BASES, CONGRESS; DON'T DROP THE BALL

A clever plan to make it easier to close obsolete military bases is in danger of falling into the legislative cracks—even though both houses of Congress have agreed to it. It's up to the chairmen of the Senate and House Armed Services Committees to salvage it.

Closing military bases, no matter how irrelevant they are to the nation's defense, is so politically touchy a matter that none has been closed since 1976. Yet, keeping unneeded installations going costs the taxpayers somewhere between $2 billion and $5 billion a year.

Under the plan proposed by Rep. Dick Armey (R-Texas), an independent panel of outside experts appointed by the secretary of defense would recommend a list of bases to be closed. If the president agreed, the list would be forwarded to Congress, which would have only two options: Close all or none.

But the bill now hangs in a sort of parliamentary limbo because of the different ways it was passed in the two houses: The Senate version was an amendment to the defense authorization bill, which was vetoed last week by President Reagan. But the base-closing measure was dropped in conference, so it wasn't covered by the veto. Meanwhile, the House passed a similar plan as a separate bill.

There's now a question whether the Senate needs to repass the bill, or, if not, whose responsibility it is to bring it to conference. There, it runs the risk of being watered down because many conferees would prefer a weaker bill. There's plenty of sentiment, for instance, to require that Congress vote to approve the list instead of merely not disapproving it. The former is considerably harder to do.

The lawmakers should keep in mind that—regardless of how the folks at home feel about lost local jobs and revenues—the purpose of military installations is to boost the nation's defense, not the local economy.

RONALD D. CASTILLE: 1988 OUTSTANDING DISABLED VETERAN

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. MONTGOMERY. Mr. Speaker, as a Marine Corps platoon commander in Vietnam, Ronald Castille was leading a team to remove casualties of another platoon that was pinned down by a Viet Cong battalion in a rice paddy near Duc Pho in Quang Ngai Province. A machinegun slug struck his upper right thigh and knocked him down. He patted a fistful of soft gray mud into his wound to slow the bleeding and continued to direct the recovery operation.

It was March 16, 1967, Castille's 23d birthday. Helicopters came for the wounded. He was the last man loaded on the last chopper to leave. A machinegun slug ripped through the floor, shattered, and struck his already wounded leg and lower body. The shock of the second blast stopped his kidneys. He almost bled to death before reaching Clark Air Base Hospital in the Philippines 2 days later.

Castille lay in a body cast for a week, not realizing how grievously he was injured. Bacteria from the mud in his wound had infected his leg, and caused gangrene to set in. The doctors had to remove the leg, despite his protests.

Despite the loss, self pity isn't in Ronald Castille's vocabulary. "One of the reasons I never felt sorry for myself was that I volunteered for combat," he says. "I was lucky. I came back. A lot of my friends didn't. An awful lot didn't."

Mr. Speaker, Ronald Castille has had a series of uphill battles since losing his right leg to a 50-caliber Viet Cong machinegun slug in 1967. But he has persevered and he has distinguished himself. Now Philadelphia's district attorney, Ronald Castille has been selected as 1988's Outstanding Disabled Veteran of the Year by the 1-million-member Disabled American Veterans.

Following his return from Southeast Asia, Castille spent 18 months at the Philadelphia Navy Base Hospital before joining friends at the University of Virginia Law School. He received a law degree in 1971 and returned to Philadelphia.

He joined the district attorney's staff and spent 11 years as a trial lawyer, 2 years as chief of the Career Criminal Unit and nearly 2 years as deputy district attorney before seeking the top post in 1985. He began his 4-year term as Philadelphia district attorney in January 1986 and now oversees a staff of 240 attorneys who prosecute about 50,000 criminal cases each year.

Castille is actively involved in veterans' affairs, many regard him as the Vietnam veteran's spokesman in Philadelphia. He's often asked to speak at Memorial Day and Veterans Day ceremonies.

In 1984, he and three other Vietnam vets began the Philadelphia Vietnam Veterans Memorial Fund. Approximately $750,000 in private donations was raised to erect a monument at Penns Landing to honor 630 Philadelphians who died in Vietnam. Completed last year and dedicated on October 26, the monument covers nearly a square block. The 630 names are etched on a long curved wall.

Castille's other community involvement includes the Youth Aid Council, Youth Services Coordinating Commission, Urban Coalition, USO, the "Philly Kids Play It Safe" antidrug program, and the Philadelphia Council executive committee of the Boy Scouts of America. As legislative chairman of both the National and Pennsylvania District Attorneys Associations, he testifies before Congress and the State legislature regarding criminal laws.

As district attorney, Castille has facilitated major changes in Philadelphia's juvenile justice system. He was instrumental in strengthening State laws concerning dangerous juvenile offenders. He also formed a volunteer program to help rehabilitate first-time nonviolent juvenile offenders. Youth aid panels selected from the community are trained by the district attorney's staff. They supervise qualified juvenile cases and administer community service and counseling in lieu of traditional punishment.

Shortly after taking office, Castille convened two grand juries—one to investigate operation of the city's abandoned housing abatement program, another to look into reconstruction of 61 homes destroyed in the 1985 MOVE incident. After an exhaustive examination, the grand jury last year returned separate presentments in each case, recommending charges be filed against three men who were accused of stealing more than $700,000 in taxpayer funds.

Castille has prosecuted city employees for loafing on the job at taxpayer's expense and for taking payoffs for illegal trash removal and is playing a leading role in the investigation and prosecution of Common Pleas Court judges taking bribes. In cooperation with Federal, State, and local authorities, Castille's office also has waged a successful campaign against organized crime.

Loss of a leg hasn't hampered Castille's interest in sports. An excellent golfer, he often plays with the best in celebrity benefit tournaments. He swims regularly and loves deep sea fishing, an interest he developed while growing up in Florida. He's an expert alpine skier, something he learned during his Navy rehabilitation period. He later spent three winters in Vail, CO, qualifying as an instructor for handicapped skiers.

The son of a career Air Force pilot with service in two wars, Castille spent his early years at various military bases around the world. Born in Miami, FL, in 1944, he graduated from Itazuke High School in Fukuoka, Japan, in 1961.

Prior to his injury, Castille planned to make a career in the military. At Auburn University he joined the U.S. Marine Corps Platoon Leaders Program. After graduation in 1966, he was commissioned a second lieutenant and served in Vietnam with Company F, 2d Battalion, 7th Marines, 1st Marine Division.

Mr. Speaker, I know my colleagues will want to join me in congratulating Ronald Castille for being chosen Outstanding Disabled Veteran of 1988 by the DAV, for his career successes and particularly for his courage and tenacity in the face of tremendous adversity. He is a remarkable and inspiring gentleman.

RECOGNIZING JOSEPH, MORTON, AND JACK MANDEL

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Ms. OAKAR. Mr. Speaker, I rise today to recognize the excellent work of three exemplary citizens of Cleveland, OH. Joseph, Morton, and Jack Mandel have contributed greatly to both the economic and cultural prosperity of our region. Yesterday, Case Western Reserve University (CWRU) honored as the namesake of the university's new Mandel School of Applied Social Sciences.

The Mandel brothers endowed the Mandel Center for Nonprofit Organizations at CWRU in 1984. In addition to funding the center, the Mandels sponsored the Mandel Professorship of Non-profit Management. The Mandels have contributed over $5 million dollars to the university, and will continue to be a driving force in the construction of yet another CWRU building next spring.

For nearly half a century the Mandels have built a major corporation, while never losing sight of the needs of their community. Greater Cleveland has benefited immensely from their good works. Morton was cofounder of Cleveland Tomorrow, and is today the vice chairman of the organization. He has served as both the president and chairman of the United Way Services, is a founder and trustee of Clean-Land, Ohio, and serves as a life trustee and president of the Jewish Community Federation.

The Mandels won the George S. Dively Award for corporate leadership in urban development for their Midtown Corridor revival project in Cleveland. The mark the Mandels have left on Cleveland is permanent, and will be felt for generations.

Forbes Magazine has reported on their economic success, but I wish to recognize another kind of success. Joseph, Morton, and Jack Mandel remain men of high ideals and unshakable integrity. They have contributed generously to their community and deserve our respect and admiration.

An article highlighting their achievements follows:

[From the Plain Dealer (Cleveland, OH), Sept. 6, 1988]

MANDELS HONORED FOR CONTRIBUTIONS—SOCIAL SCIENCES SCHOOL RENAMED

(By Marcus Gleisser)

When the three Mandel brothers are honored today at Case Western Reserve University, it will mark a giant step from their start 48 years ago in a small storefront auto parts distributor at 6525 Euclid Ave.

Today they head the giant Premier Industrial Corp. with operating revenues of more than $528 million in fiscal 1988 and a sprawling layout of buildings around E. 46th St. and Euclid Ave., within walking distance of their modest beginnings.

Their focus, they said, is on efforts to benefit the community. Their aim is to "build a fine corporate enterprise, but to do it in a socially responsible way to our native community," said Morton L. Mandel, board chairman.

"This has proven to be enlightened self-interest," he said. "It has come back to us in the kind of people who have committed themselves to working with us, the type who need to find fulfillment in the nature and culture of their employer."

Ceremonies today will include a convocation at 2 p.m. at Amasa Stone Chapel on the CWRU campus, with a procession of 59 faculty in academic gowns and talks by university President Agnar Pytte; the school's new dean, Richard L. Edwards; and Sen. Barbara A. Mikulski, D-Md. The university's social sciences school will be named in their honor; the Mandel School of Applied Social Sciences.

Altogether, the three brothers, Jack, 77; Joseph, 75; and Morton, 66, have given more than $5 million to the university, including $3 million toward a new building to house the social sciences school, according to a university spokesman. The school hopes to break ground next spring for a $6 million building at Bellflower Rd. and Ford Dr.

In 1984, the brothers helped endow the Mandel Center for Non-Profit Organizations at the school, a cooperative effort of

CWRU's law and social science schools and Weatherhead School of Management. That same year they established the Mandel professorship of non-profit management.

Other Mandel works include the founding of the massive Midtown Corridor revival along lower Prospect and Euclid Aves., which has won the national George S. Dively Award for corporate leadership in urban development. Morton Mandel was the first chairman and his brothers were on the first board.

Morton was a co-founder of Cleveland Tomorrow and vice chairman. He has been president and chairman of the United Way Services as well as life trustee, founder and trustee of Clean-Land, Ohio, Jewish Community Federation president and life trustee.

The Mandel contributions to the CWRU school of social work have special meaning to the three brothers, they said.

Morton Mandel said, "We know lots of people are hurting out there in our city: the disadvantaged. One good way to help them, combined with our interest in higher education, is to educate and train capable social workers who, in turn, will go out and help those who need help the most.

"My brothers and I are very grateful to this community. It is the setting in which we have been fortunate enough to accumulate substantial net worth and the opportunity to be constructive in our community."

Forbes Magazine late last year reported that each brother's Premier stock and other investments are worth at least $240 million.

They began with much less, growing up at E. 91st St. and St. Clair Ave. Their father and mother, Simon and Rose Mandel, who came from Poland about 1920, had a small dry goods store at 7406 St. Clair Ave. The father had to close it about 1930 when he became too ill to handle it. He died in 1943 at 57.

"We were in a poor family," Morton said, but his older brother, Jack, corrected him: "We did not consider ourselves poor or disadvantaged, we were just low income. But we had parents who gave us important values that we still live by. That was valuable."

While Morton went to Empire Junior High and Glenville High School, Jack and Joe worked to support the family. Jack became a department head at Fisher Body Co.; Joe was a salesman for Fels Naptha Soap Co. Morton sold hot dogs at ball games.

After graduation from Glenville in June 1939, Morton started at Western Reserve University's Adelbert College, but dropped out in the spring of 1940 to join his brothers in starting Premier.

With a total capital of $900, the brothers bought out the inventory of their uncle Jacob's firm, Premier Automotive Supply Co.

"We founded our company on Aug. 1, 1940, selling standard auto parts," Morton remembered. "The three of us were the sole employees."

Then World War II broke out. Joe worked in a defense plant to bring in more money. Morton enlisted in the Army and Jack ran the auto supply store, selling parts that were hard to come by during the war.

After his discharge, Morton returned to work at Premier, which had grown after the war under Jack's guiding.

"And then it continued to grow. It never stopped," Morton said.

"It came from hard work and luck," Jack said. "We found that the harder we worked, the luckier we got. A very important part of our philosophy was to go after niches where we would be the best, and we've done that.

"Growth is not hard if you abide by these basic principles: Be honest with yourself, be honest with employees and be honest with customers. It means give as much value as we possibly can to customers, consistent with the ability to show a profit, so the corporation can grow and provide opportunities.

My brothers and I have had a wonderful, exceptional relationship in business for 48 years. We have seen each other virtually every day. We each have different talents and use them independently. We may not always have agreed, but we remained close personal friends."

Growth and acquisitions have made the small store into a giant corporation with 43.6 million shares of common stock outstanding. It has diversified into electronic parts distribution; automobile parts are still 10% of the business. There also are maintenance products and firefighting products.

EDMUND F. BENSON BOULEVARD

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. SMITH of Florida. Mr. Speaker, in order to express their deep appreciation to Mr. Edmund F. Benson for his steadfast commitment and dedication to improving the environment for the residents of Dade County, FL, Commissioner Sherman S. Winn and Commissioner Harvey Ruvin have recommended that N.W. 97th Avenue from N.W. 33rd Street to N.W. 41st Street in Dade County, FL, be named "Edmund F. Benson Boulevard". This is certainly an honor that is well deserved.

I would like to commend Edmund Benson for his tireless efforts to bring critical environmental issues to the attention of South Floridians. I am confident that Mr. Benson will continue to serve the environmental interests of our community for many years to come and I am pleased to help pay tribute to his outstanding work.

Mr. Benson's accomplishments are well recognized. As chairman of the Dade County solid waste recycling task force, Edmund Benson has reinforced Dade County's position as a national leader in the area of solid waste recycling. Also, as a member of the Dade County resource recovery task force, Mr. Benson has been instrumental in developing a cohesive, working relationship between Dade County and the Costa del Sol community in managing an impressive resource recovery management program.

Mr. Benson is also the founder and chairman of ARISE Foundation, a not-for-profit, antipollution committee. This organization informs and alerts West Dade residents and county government about environmental problems at Dade County's garbage incinerator. Through his involvement in ARISE, Mr. Benson has secured funding for desperately needed testing and repairs for the Dade County garbage incinerator.

The continued success of the ARISE Foundation, the Dade County solid waste recycling task force, and the Dade County resource recovery task force are representative of the consistent efforts of Edmund Benson.

Mr. Edmund Benson is a truly remarkable man. His unwearied commitment to serving his community sets a fine example for the citizens of Dade County, the State of Florida, as well as the rest of the Nation. It will be an honor to drive down Edmund F. Benson Boulevard.

KEVIN NAVARRO: DALLAS POLICE OFFICER OF THE MONTH

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. BRYANT. Mr. Speaker, each month, the Dallas Community Police Awards Committee designates a police officer of the month. I want to share with my colleagues and fellow citizens the announcement, which appeared in the Dallas Police News, of Detective Kevin Navarro as August Officer of the Month.

KEVIN NAVARRO: AUGUST OFFICER OF THE MONTH

Crimes Against Persons Det. Kevin Navarro has been selected the August Officer of the Month by the Dallas Community Police Awards Committee. He will be honored Aug. 18 during a breakfast hosted by the Town North Optimist Club.

Before transferring to CAPERS, Det. Navarro, a seven-year veteran, was assigned to the Southwest Division where he immediately established himself as a dedicated law enforcement professional. Examples of his work include:

Jan. 6. 1988, Det. Navarro received an outstanding performance evaluation for the months of July through December, 1987. During this rating period, he investigated 415 offenses, clearing 304 cases. This represents a 75 percent clearance rate. He also filed 117 cases.

May 22, 1986, he received a citizens' commendation for the kindness he demonstrated when he helped at the scene of an accident. Navarro was off duty at the time.

Nov. 4, 1985, he received a commendation for assisting in the evacuation of residents at the Brookside Apartments during a five alarm fire at the complex.

Oct. 27, 1987, Navarro was commended for the successful conclusion of a high speed chase that resulted in the arrest of a suspect and the recovery of a stolen car.

Two days earlier (Oct. 25, 1987), he was commended for the manner in which he handled a high speed pursuit which resulted in the arrest of a suspect for Unauthorized Use of a Motor Vehicle, Unlawfully Carrying a Weapon, Credit Card Abuse, Burglary of a Vehicle and assorted other charges.

Sept. 25, 1982, Navarro, who had been off training only four months, was commended for the professional and calm manner in which he broadcast a high speed chase.

Sept. 14, 1982, he was commended for a burglary arrest which resulted in the clearance of 65 offenses.

In his off-duty time, Det. Navarro, who is an ordained Baptist deacon, is involved in activities at the First Baptist Church of Duncanville where he and his family worship. He taught high school Sunday School for five years and is still involved in drug abuse counseling at assorted schools and churches.

Det. Navarro is also a member of the Texas Peace Officers Rodeo Association which donates its proceeds to different charitable organizations. At last month's DPD rodeo, he took first place in the bull-riding competition.

IN HONOR OF FRED MILLER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to recognize Fred Miller as he is honored by the Automotive Division of the Pacific Southwest Region of the Anti-Defamation League with its prestigious "Man of the Year" Award. Fred is most deserving of this significant tribute.

Fred Miller began his career in the automotive industry in 1955 and founded Miller Leasing Co. in 1967. He became president of Miller Imports Nissan in 1970, president of Miller Imports Mitsubishi in 1982, and founded Miller Car Rental in 1984.

Fred has served as president of numerous automotive dealer advisory boards both nationally and internationally and as founder and president of several automotive advertising associations.

Highlighting Fred's vast experience of dedication to the growth of the community, he is a past vice president of the Van Nuys Chamber of Commerce and chairman of the legislative action committee, a California State Senate Commissioner on the Task Force on Automobile and Truck Insurance, and a member of the UCLA Graduate School of Management and Chancellors Associates. In addition, he is a founder and current director of Val Pac, a founder and member of the Sports Chapter of the City of Hope, and an adviser and sponsor of the Concern Foundation for Cancer Research.

In presenting the 1988 "Man of the Year Award" to Fred H. Miller, the Anti-Defamation League Automotive Division celebrates a singular man, an exemplary American who embodies the aims for which ADL was founded and the ideals toward which it aspires.

Throughout all his endeavors, Fred has enjoyed the love and support of his wife, Barbara and their children, Mark and Lisa.

It is a pleasure to share Fred Miller's accomplishments with my colleagues in the U.S. House of Representatives. I ask that they join me in wishing Fred the best of luck in all his future endeavors.

REAGAN AND HASTINGS COLLEGE: PEOPLE WHO KEEP THE NOISELESS TENOR OF THEIR WAYS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. BEREUTER. Mr. Speaker, my colleagues' attention is invited to the following especially thoughtful and moving editorial appearing in the September 8, 1988, edition of the Lincoln (NE) Star, which is keyed from remarks by President Ronald W. Reagan at the dedication of the C.J. & Marie Gray Center, the communication center at Hastings College, Hastings, NE, which was named for the parents of Robert K. Gray, a distinguished native son of Hastings. The editorial is a tribute to those many Nebraskans and Americans, whose quiet, unselfish, and continuing contributions to their neighbors, communities, and Nation, are the undergirding strength in the American society. President Reagan's recognition of their contributions and his ability to speak to and about them and their lives is in large measure the reason for his reputation as "the great communicator." On September 6, 1988, the President once again demonstrated that ability and the citizens of the Hastings area and Nebraska once again demonstrated their natural, rich measure of hospitality, courtesy, and patriotism.

REAGAN APPEAL ENDURES

President Reagan did something for an old friend this week and for a lot of people he had never met and never will. He was the featured attraction at the Hastings College dedication of a new $3 million communications center.

The C.J. Marie Gray Center is named for the parents of Republican Party stalwart Robert K. Gray, a Hastings native and longtime Reagan supporter. All Nebraskans share in the pride taken by the people of Hastings in this outstanding addition to the college facilities.

In today's environment, a communications center, a facility literally linking the educational institution with the entire world, could not be more appropriate. Many predict that the future of greatest potential for the human race will be found within communications technology.

But more than Hastings College was showcased with this dedication. Reagan said "it's no secret I like this area," and he spoke affectionately of the values of personal responsibility, self-reliance and moral courage that he saw epitomized here. And he quoted British poet Thomas Gray, who penned "Along the cool sequestered vale of life, they kept the noiseless tenor of their ways."

"He was talking about the kinds of people who don't make a lot of noise, whose lives aren't flashy or gaudy," Reagan said.

Well, there he goes again, demonstrating precisely why he is known as the Great Communicator. Without a doubt, Reagan speaks a language and expresses a set of values with which vast millions of people are in harmony.

Most people don't make a lot of noise and they live quiet lives. Nevertheless, they appreciate a little recognition of the contributions they make to their fellow man. They believe that by doing their jobs well, whatever they may be, they are contributing to society. They believe that by raising children who become productive individuals they are serving a high and worthwhile responsibility.

They aren't beating any drums, they aren't setting records and they are not widely recognized or honored, but they make the best of their lives as is within their capacity. They reach their full potential as they perceive it and they are rightly proud of it.

They are the neighbor who shows up with a pot of homemade soup when you're sick in bed, who happily loans you his car when you happen to be without one, who watches your house when you are gone and who always has a friendly greeting. They are your children's school teacher, a colleague at work, the family doctor, the mailman, the clerk in the store, the teller in your bank, your insurance agent, your clergyman and endless other people who make a positive contribution to all our lives.

Ronald Reagan knows those people—he knows them well—and they relate to him as they would to a member of the family. When it comes to human relations, Reagan could write the book and there will not likely be another like him in the White House for a good long time.

His easy way with people, his instinctive human decency; these are qualities worthy of recognition. He didn't have to go to Hastings. He did it for his friend Robert Gray and he left with the admiration of thousands who turned out for the same ceremony.

CONGRATULATIONS TO AAL BRANCH 3186 IN GOLDEN, IL

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. DURBIN. Mr. Speaker, branch 3186 of the Aid Association for Lutherans [AAL] was selected to receive this year's National Fraternal Award, the AAL's highest volunteer honor. Branch 3186 is located in Golden, IL, in the 20th Congressional District which I represent, and was singled out for recognition of the volunteer service and community outreach that its members donate on a regular basis.

Only 5 of AAL's 6,900 branches across the country receive this annual award, which indicates how important their work is. Branch 3186 was chartered in 1953 and has a long history of involvement, but one major project galvanized its members: helping a victim of a plane crash, who was severely burned when his crop-dusting plane crashed in a corn field. Branch members raised some $15,000 through several fund-raising projects, including a soup supper, a consignment sale, an agricultural program and an ice cream social. The money was enough to make 15 monthly payments to the hospital for the victim's medical expenses, allowing him to recover physically and financially and return to business.

Branch 3186 was also cited for raising more than $5,000 to help a family recover from a fire which destroyed their home, and numerous other smaller projects, such as installing smoke detectors in the homes of senior citizens. These are just a few of the projects AAL branch members quietly work on every day.

Mr. Speaker, the Aid Association for Lutherans provides 1.4 million members in 6,900 branches nationwide with fraternal benefits, while its affiliated companies offer members other financial services. We salute AAL and branch 3186 in particular for their outstanding volunteer services to their members and neighbors in need.

CONGRESSMAN DALE E. KILDEE HONORS MR. GRANT COBB, MR. FLOYD J. McCREE, MRS. LADESTA HAMILTON NEELY AND MRS. PAULINE DORN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to four individuals whose extraordinary efforts to improve the quality of life in my hometown of Flint will be honored on September 10, 1988. The LaPaloma Shrine Club of Vehicle City Lodge 1036 and Genesee Temple 550 will recognize their contributions to the Flint community, some posthumously, with Annual Appreciation and Achievement Awards.

The late Mr. Grant Cobb combined a successful career as a restaurateur with tireless devotion to the local community through his membership in organizations committed to making Flint a better place. An active member of the Progressive Eight Club, Twelve Kings Club, and Flint Business Mens Club, among others, Grant Cobb well served the community that he loved so much.

Each new generation is privileged to benefit from the wisdom and courage of great civic and political leaders. The late Mr. Floyd J. McCree must surely rank among those for whom leadership and service to the community was a way of life. Mr. McCree's distinguished political career began in 1956 with his service on the Genesee County Board of Supervisors. Elected to the Flint City Commission in 1958, the late Mr. McCree later became the first black mayor of a major city in the United States. An important precedent in itself, this election further highlighted the popularity and respect held for Floyd McCree by the people of Flint, black and white. Mr. McCree was next elected as Genesee County's Registrar of Deeds for four terms, serving 16 years until he passed away earlier this year. An extraordinarily active citizen of Flint, Floyd J. McCree was an inspiring example to all who knew him; his dedication and tireless devotion to public service were second to none.

Through the leadership and dedication of the late Mrs. Ladesta Hamilton Neely, the Genesee Temple No. 550 achieved phenomenal success. The late Mrs. Neely formed eight new units of the temple and enabled the group to greatly expand its charitable work. A great believer in encouraging young people to give of themselves to others, Mrs. Neely set up both the juvenile and junior temples, ensuring that those that came after her would be able to share in the gift of serving others.

Our Nation is continually blessed with people who are prepared to give of themselves in the service of those less able or less fortunate. One such individual who continues to work tirelessly to champion the rights of senior citizens and disabled people is Mrs. Pauline Dorn.

Mrs. Dorn has worked on the planning committee and as a delegate for Senior Power Day, the day each year when thousands of senior citizens descend upon Lansing to lobby State legislators. It is the efforts of people like Mrs. Pauline Dorn that ensures that all people are treated with dignity. A member of the Michigan Senior Advocacy Coalition, Mrs. Dorn continues to campaign for legislation beneficial to seniors. In addition to her full-time work, Pauline Dorn also undertakes a great deal of voluntary work for the handicapped.

Mr. Speaker, I would like to take this moment to ask my colleagues in the U.S. House of Representatives to join with me in commending the late Mr. Grant Cobb, the late Mr. Floyd J. McCree, the late Mrs. Ladesta Hamilton Neely, and Mrs. Pauline Dorn, president of the Black Caucus of Aging, in recognition of their enormous contributions to the city of Flint.

TRIBUTE TO REV. PAUL KAUFFMAN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. GEKAS. Mr. Speaker, on Sunday, September 11, 1988, the congregation of the 29th Street United Methodist Church in Harrisburg, PA, will honor its pastor, the Reverend Paul W. Kauffman on the occasion of his 35th year of ordination as a minister. Family, friends, pastoral associates, and Reverend Kauffman's congressman will be present to add to and participate in the program. The planned celebration will be a surprise to the pastor taking place during his regular Sunday service at 10:30 a.m.

Born in Dallastown, PA, Pastor Kauffman is a graduate of Dallastown High School, Lebanon Valley College, the United Theological Seminary in Dayton, OH, and the Gettysburg Lutheran Theological Seminary. He was licensed on October 5, 1950, at Centennial Memorial E.U.B. Church in Frederick, MD, and ordained on October 8, 1953, at Fourth Church in York, PA. Reverend Kauffman has served no less than 17 churches through nine charges in his 35 years of Christian service.

The son of Paul and Alice Kauffman of Dallastown, Pastor Kauffman has two children, a son, Paul Kauffman III of Newport, KY, and a daughter, Kristen Reilly of York, PA. Reverend Kauffman has served on the Conference Board of Trustees and Board of Missions. He is a member of the Paxtang Fire Co., Perseverance Lodge, and the Zembo Shrine. In addition, Pastor Kauffman was a camp director at Camp Penn for 5 years and has been recognized for outstanding volunteer service by the ambulance service of Newport.

As a dedicated pastor, friend, counselor, and teacher, Reverend Kauffman has served the needs of people from all walks of life. He has earned the respect of the young and old of the congregations he has served and of the people throughout the community.

I would ask my colleagues in the U.S. Congress to join me in honoring the Reverend Paul W. Kauffman for his 35 years of dedicated service to the church and to his community.

HIGH HOLIDAYS 5749

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. ANNUNZIO. Mr. Speaker, for Jews all over the world, the new year will begin on the evening of September 11, the first day in the autumn month of Tishri, 5749, under the Jewish calendar, with the celebration of Rosh Hashanah, the Day of Judgment.

According to Jewish tradition, on Rosh Hashanah, God remembers all his creatures and judges humankind. Their destinies are inscribed in the Book of Life, and it is a time for prayer, self-reflection, and penitence. The highlight of the Rosh Hashanah service in the synagogue is the blowing of the Shofar, or ram's horn, whose sound is meant to awaken man's conscience, to renew his faith, to return him to God, and to summon all Jews to self-examination and repentance.

During the evening celebration in the home, festival candles are lit, and a holiday meal is served, including a round loaf of bread and apples dipped in honey to symbolize the hope for a sweet new year.

For 10 days, beginning with Rosh Hashanah, and ending with Yom Kippur, the Day of Atonement, all Jews make a concentrated effort at introspection and reconciliation. Jews search their souls and repent for their sins, and ask forgiveness. Their deeds and fate are then weighed in the balance by God on the last day. This final day, the 10th of Tishri, Yom Kippur, is the culmination of the entire holiday period.

It is marked by fasting and all other physical abstinence, in order for Jews to concentrate to the utmost on spiritual elements. The entire day is spent in the synagogue, praying and repenting for past sins, and the day ends with the loud, long Shofar blast which marks the final sealing of the heavenly gates, the renewal of the spirit, and a final cleansing of the heart. Jews then return to their homes for a large and joyous break-the-fast meal.

During these most holiest of days, I extend my greetings and best wishes for a happy new year to my many constituents and friends of the Jewish faith who reside in the 11th Congressional District of Illinois which I am honored to represent, and to Jews throughout the world.

"May you be inscribed in the Book of Life for a good year, L'Shannah Tovah Tikatevu," and let us also pray that this coming year brings us closer to a peaceful resolution of Israel's difficulties in Gaza and the West Bank, as well as an easing of immigration restrictions for Soviet Jews, who are now prohibited from observing these most holy days, so they can lead a new life free from the tyranny of the Communists "next year in Jerusalem."

LESSONS OF A PEACE EPIDEMIC

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. LEVINE of California. Mr. Speaker, I would like to submit for the RECORD an opinion piece which appeared in the New York Times this week, entitled "Lessons of a Peace Epidemic." The article was written by an old friend of mine, Prof. Stanley Hoffmann of Harvard University.

Professor Hoffmann points to positive developments in the gulf, Southern Africa, Afghanistan, Cambodia, and Western Sahara to illustrate how effective international cooperation can limit the use of force throughout the world. When members of the international community join forces, and in particular, when the superpowers support the cause of peace, dramatic progress can be made. The recent work of the United Nations has been decisive in hastening the resolution of violent conflicts that have defied the efforts of peacemakers for decades.

The message here is a positive one: We need not helplessly sit by while wars rage throughout the Third World; we need not automatically choose a "side" in every conflict to turn each war into an East-West confrontation. Our support of the United Nations, and our willingness to discuss localized conflicts with the Soviets can end these wars that help no one, and that no one can win.

Mr. Speaker, I insert the full text of "Lessons of a Peace Epidemic" in the RECORD:

[From the New York Times, Sept. 6, 1988]

LESSONS OF A PEACE EPIDEMIC

(By Stanley Hoffmann)

CAMBRIDGE, MA.—Wars that have raged for years are ending. The Reagan Administration has been quick to argue that this results from its policy of strength. Actually, the peace epidemic tells a great deal about the sharp limits the international system puts on the successful use of force.

Force pays only as a deterrent, or as a demonstration of superior power, or for very short and limited interventions—and often, but not always, in guerrilla operations.

Wars drag on until the belligerents are sufficiently worn out. Critical to the success in ending wars—in Afghanistan, Cambodia, the Western Sahara, Namibia and between Iran and Iraq—has been the political cooperation of the superpowers as well as an active role for international or regional organizations.

One factor common to all the cases is exhaustion—the exhaustion of all, or of a side that is incapable of reaching its goal and is resigned to a face-saving agreement to cover retreat.

The first case is that of Iran and Iraq. Iraq, the initial aggressor, broke all the Iranian offensives but lacked the strength to reach its territorial and ideological goals. Iran contained Iraq but was bled white by its determination to pursue the war until the Iraqi regime was destroyed.

General exhaustion has also been the key factor in Southern Africa. Pretoria's increasing losses to Cuban offensives in southern Angola led it to reconsider its stand on Namibia. The Angolan regime calculated that the removal of South African troops and independence for Namibia would be worth the departure of its Cuban protectors.

In Afghanistan and Cambodia, invaders learned a key lesson: National liberation forces, given adequate internal and external support, can prevent an invader from controlling the countryside and can inflict losses that gradually appear unbearable and deny victory at a tolerable price.

In Afghanistan, a Soviet triumph would have required a far greater involvement of Soviet forces and even greater devastation at even higher costs in international prestige—and perhaps a risky attack on Pakistan, America's ally.

In Cambodia, a Vietnamese triumph would have required an invasion of Thailand, the main base of Cambodian guerrillas.

The exhaustion of one or both sides often has to be engineered from outside. Iran not only ran out of volunteers but of externally supplied equipment; Iraq was pressured by its supporters into accepting a truce.

External aid and sanctuaries have been indispensable in making the Afghan and Cambodian resistance strong enough to discourage the Soviet Union and Vietnam.

In Western Sahara, the end of Algerian support doomed the Polisario front, which has been fighting Morocco.

As long as American aid reaches the Angolan rebels led by Jonas Savimbi, the Angolan civil war will continue and the Cubans' complete departure may remain in doubt.

Also decisive was the Kremlin's decision to distinguish between its principal and secondary interests abroad and to reduce its burden in international affairs.

In effect, the Soviet Union has decided not to walk out on commitments or to shed allies and clients but to press them into settling interminable or unwinnable conflicts. Moscow's aim is to reduce the cost of supporting its clients and to strengthen relations with the West.

Undoubtedly, by appealing to worldwide aspirations for peace, Moscow is trying to regain influence in international affairs. This effort entails a devaluation of its use of military power. Another important factor is a kind of collusion between Mikhail S. Gorbachev and the Reagan Administration. Both seem to have discovered that the third world is an unrewarding terrain for competition: a trap, not a prize.

Both Moscow and Washington had an interest in allowing neither Iran nor Iraq to win their war, while not decisively antagonizing either side. America wisely decided to endorse the Soviet decision to withdraw its forces from Afghanistan without asking Moscow to solve the problem of a new government, as Pakistan demanded.

Further, America has pressed Pretoria to settle now rather than wait for a later moment when American hostility to apartheid might be more intense.

In Cambodia, the Administration is trying to shift power within the resistance from Pol Pot to the unsinkable Prince Norodom Sihanouk. Here, Soviet-American cooperation is not enough: A settlement requires a greater willingness by China to drop its support for Pol Pot. This might well happen as the Chinese-Soviet rapprochement warms up.

Finally, the United Nations Secretary General and his associates have helped arrange settlements in a way that saves face for the belligerents. These efforts have been particularly evident in Afghanistan, the Iran-Iraq war and the Western Sahara.

In organizing a referendum in the Western Sahara and in leading Namibia to independence, the United Nations will have an important political role to play as well.

The United Nations is benefiting from, and exploiting, the lowering of tension between the superpowers. It is remarkable that Moscow, for so long distrustful of the United Nations and of multilateral diplomacy, should have openly become a champion of the organization.

It is ironic that the rivival of the United Nations has occurred under the Reagan Administration, the most hostile of American postwar governments to international and regional institutions.

Let us hope that the next administration, the Soviet Union and the United Nations will apply the lessons of 1988 to unresolved conflicts: the civil wars in Nicaragua and El Salvador, the bloody conflict between Ethiopia and Eritrea and the Palestinian issue. Each has special difficulties but the positive events of 1988 are far from irrelevant to these tragedies.

EAGLE SCOUT JON W. SOBIESKI

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues an exemplary young citizen of my district, Jon W. Sobieski. He was recognized Sunday, July 31, for achieving the highest rank in Scouting, "Eagle Scout".

Jon is joining the ranks of a very select group. The individual tasks which he had to complete are impressive alone. These tasks challenged every facet of his personality—mental, physical, psychological, and more. His accomplishment becomes even more notable when it is viewed cumulatively. The high caliber of this individual is illustrated by the entire sum of achievements and the perseverance of character he demanded.

In today's society, our youth are truly bombarded with a variety of lifepaths from which to choose. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize young men who choose a constructive way of life and also excel at it. Though credit is certainly due to the family of this young man and to the Scout leaders who provided support, Jon knows today that he can participate independently in society in a manner that will benefit himself as well as his community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of Congress join me in wishing this young man the best of luck in his future endeavors.

MATILDA R. CUOMO: ADVOCATE FOR OUR CHILDREN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. RANGEL. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to one of this Nation's most vocal supporters, defenders, and advocates of our children, Mrs. Matilda R. Cuomo. While many of you may immediately know her to be the wife of New York State's able and distinguished Governor, Mario Cuomo, the First Lady of New York has established a name and reputation for herself.

As the cochairman of the New York State Citizens Task Force on Child Abuse and Neglect, Mrs. Cuomo has traveled throughout New York State and all across the country making Americans more aware of what perhaps is the gravest injustice that one human can commit against another—mental and physical child abuse.

Mrs. Cuomo, however, has not limited her travels to the United States. Last March, she led a United Nations delegation to the African country of Mozambique. It was there that Mrs. Cuomo learned first hand of the numerous violent acts being committed against that nation's children by a South Africa-backed guerrilla organization, Renamo. According to a United Nations report, this terrorist organization is responsible for physically maiming, psychologically scarring, and killing at least 250,000 children in that country in recent years.

Mr. Speaker, Mrs. Cuomo recently wrote an editorial describing her visit to Mozambique for the New York Times. What she has written is not only shocking, but chilling. While none of us enjoys reading about youngsters being forced to choose between shooting to death their parents or facing death for refusing to do so, such traumatic decisions are having to be made by children in Mozambique every day. The killings and related atrocities against these children by Renamo must end or a whole generation of politicians, lawyers and doctors—the future leaders of Mozambique—will be lost.

At this time, I would like to submit for the RECORD this timely piece written by Mrs. Cuomo.

IN MOZAMBIQUE, THE ATROCITIES JUST DON'T STOP

(By Matilda R. Cuomo)

ALBANY.—For many Americans, Mozambique remains an abstraction. Children and families in that southern African country are suffering unthinkable violence and death, largely without international awareness.

This suffering reflects a dimension of apartheid that extends beyond South Africa's borders. As reports of mass atrocities and fleeing refugees filter out of Mozambique, experts on the region are blaming a South Africa-backed guerrilla organization called Renamo for the tragedy.

Their attacks are part of a vicious campaign by South Africa to weaken its neighbors. The State Department conservatively estimates that 100,000 civilians have been murdered in the past two years, and that more than one million more have been driven into refugee camps outside Mozambique as a result of Renamo violence.

While attending a Unicef symposium in Zimbabwe in March, I was invited by Mrs. Graca Machel, wife of the late President of Mozambique, Samora Machel, to visit Mozambique with Unicef's special representative, Harry Belafonte, to observe what was happening, especially to the children. Today, four months later, the terror continues.

The tragedy recalls Khmer Rouge massacres in Cambodia, the Holocaust and the Armenian genocide.

Warfare and homelessness have become a way of life in Mozambique. There is no vaccine to protect the children against the bullets and machetes of the anti-Government Renamo forces.

As a result of the war, the infant and child mortality rates are among the world's highest. One in three children dies before the age of 5.

Our first stop was Lhangene Center, a former Roman Catholic school for priests, that had become a home for traumatized and orphaned children. One 12-year-old boy, in a near catatonic state, described the terror he felt when his village was raided. The guerrillas handed him a machine gun and told him he would have to learn to use it. To test his will, they told him he would have to shoot his parents or face being shot. He obeyed the orders and killed them. Initiated he became the guerrillas' prisoner until escaping.

Another traumatized boy told how his father, a member of the village militia, was murdered during a predawn raid. The guerrillas wanted information on other militia members that the boy could not provide. So they mutilated him, chopping off one finger at a time, pausing each time to extract information. When they ran out of fingers on one hand, they cut off an ear.

The United Nation's Children's Fund reports that 250,000 children have been physically maimed, psychologically scarred or orphaned by Renamo's violence.

Many do not know the whereabouts of their parents, and never will. Many saw them murdered. Many were saved by parents who sacrificed themselves as decoys during deadly raids so that their sons and daughters could flee. Many were trained to kill, forced to fire on friends and relatives and can never return to their villages.

The next morning, we visited Morrumbala, a camp for 30,000 refugees. In sweltering heat, men and women gathered to tell about guerrilla plundering of their villages—raping women, mutilating and killing savagely, destroying schools and health clinics, stealing crops, tin off roofs and personal belongings.

Ten thousand children in the camp had no books, paper or pencils and only five teachers. Elsewhere in the country, rebel attacks have left 500,000 children without schools.

In a hospital in Quelimane, the air was hot and stagnant. The sheets were dirty. There was little medicine. Among the men and women, there were many wounded children. Children in wheelchairs, paralyzed by bullets. Children with misssing limbs, the victims of machetes. Children bearing the weight of crude, wooden prostheses. Listless children, in their mothers' arms, suffering from malnutrition.

The killing and maiming must be stopped. If we continue to turn our backs on innocent children and families, we will be silent witnesses to yet another instance of incomprehensible slaughter.

BACK TO SCHOOL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. KEMP. Mr. Speaker, as our children head back to school, it is an appropriate time to reflect on our educational system and the contributions made by the departing Secretary of Education, William Bennett.

Secretary Bennett has been at the forefront of efforts to improve the quality and accountability of our educational system. He has effectively used his position to develop a broad, more demanding core curriculum that will prepare our children for the challenges they face. He has called for greater accountability from our school system, as well as increased parental involvement and choice in the fundamental decisions that will affect their childrens' future. He also has led efforts to reinstate not only the basics in our schools but also the values which need to be instilled in all of our young people to make them good citizens.

Bill Bennett has left an indelible imprint upon our educational system. He deserves our thanks and praise for his contributions to issues which are important to all of us who hope for a better life for our children and a greater future for our country.

I am including a September 7 editorial in the Wall Street Journal, which highlights some of the innovative educational improvements being made by the States and gives appropriate credit to Secretary Bennett for leading educational reform efforts. The article follows:

BACK TO SCHOOL

What kind of schools will the nation's students find as they return to their classrooms this fall? With education a live issue in the presidential election, this is a good time to review the bidding on the nation's schools.

There is much to cheer. Departing Education Secretary William Bennett's calls for increased accountability, especially to constructive pressure from parents, is finally getting a response. The most important reverberations come from the states and localities, which of course actually control public school systems.

Minnesota wins this year's top prize for innovation. While carefully avoiding the word "voucher," the state's "choose a school" program comes close to breaking down the education monopoly. Minnesota parents can send their children to any of the participating public schools anywhere in the city or even state. By 1991, this option will be available throughout the state. For the first time, public schools are forced to compete with one another for students.

Losing in this competition for students carries a penalty—loss in state aid of up to some $3,500 per student, which is transferred to the winning school. Perhaps not surprisingly, the Minnesota Federation of Teachers tried suing to stop such a dramatic program. Most unions nowadays learn to cope with the competitive marketplace;

some day teachers unions will also learn the same lesson.

South Carolina may deserve the award for best improvement. Special remedial classes have helped staunch the dropout problem. The state is using both financial incentives and punishments to improve schools, and to encourage tougher testing for graduation. Other states have revised the qualifications for teachers so that people who have knowledge of a subject outside teaching can qualify.

In Massachusetts, the blue collar area of Chelsea has arranged for Boston University to take control of its schools. A high school in Washington state has instituted a homework hot-line for students to call each other for help. Texas has a "no-pass, no-play" rule that forbids extracurricular activities for flunking students.

As the states experiment, they sometimes come to different conclusions. Arizona began a mandatory test program for first graders, but dropped it for fear the test put too much pressure on the youngsters. On the other hand, Georgia now has a test kindergartners must pass to get into the first grade.

A recent report by the National Governors' Association takes special aim at the dropout problem, which is serious not just in the big cities but in many rural areas. The group stresses that this isn't a problem for the feds. Instead the report notes that "states directly or indirectly fund many of the services for at-risk youth" and must make sure the money is spent wisely. The governors' group urges that state agencies recruit private sector help and advice. With the growing shortage of qualified workers for many jobs, business already is spending millions to pick up where the public schools fell off.

The new emphasis on making schools work has pushed aside some other, longstanding school debates. Desegregation of public schools remains a goal, but is entirely elusive in many areas. Many families that could—white or black—fled to suburban, private or parochial schools as busing alone became a more discussed issue than school curricula. With a few exceptions, such as Yonkers and Kansas City, federal judges have learned to eschew their tragic social engineering. Most now leave school systems alone to attract students back, not drive them out.

Mr. Bennett deserves much of the credit for raising the level of the education debate. Last week he offered a suggested reading list for elementary school students; it includes everything from Rudyard Kipling and Carl Sandburg to a collection of black folk tales and Isaac Bashevis Singer's stories from Eastern Europe. Not every state would opt for such a core curriculum, but we suspect many parents would opt for an approach, responsive to such critics of the system as Allan Bloom, that tried to open the minds of even the youngest Americans.

As to the federal government's role, it can lead education reform best by using the bully pulpit to open the debate, rather than handing down unending rules and mandates to local systems. Messrs. Bush and Dukakis should be asked to clarify where they stand on this important distinction, for it's clear that the real work of fixing the schools will fall to local politicians and school boards. With parents now demanding improvements, the states obviously aren't waiting for the next presidential election to get the ball rolling in the right direction.

CAPT. WILLIAM "DONNIE" ELLERS

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. DARDEN. Mr. Speaker, I am saddened to inform my colleagues of the tragic death of Capt. William "Donnie" Ellers, a 21-year veteran of the police department in my hometown of Marietta, GA. Donnie Ellers was a dedicated and honest police officer with whom, I am proud to say, I developed a friendship during my years as district attorney in Cobb County.

Donnie Ellers was killed in a boating accident 2 weeks ago. He had gone to Lake Allatoona to seek relief from the stress of the week-old investigation of a heinous crime—the murder of a young girl and the severe stabbing of her brother. With a suspect in custody, he finally felt free to take a little time for himself—to get away from the rigors of his role as chief investigator on that case.

Donnie Ellers was only 42 years old when he died, in the midst of a distinguished career with the Marietta Police Department. He had attended Florida State University and Georgia Tech, and was a graduate of the Southern Police Institute in Louisville, KY.

Mr. Speaker, I ask my colleagues to join me in extending our sympathies to Donnie Ellers' wife, Sherri Lee Ellers, to his daughter Suzanne, his son Billy, and other members of the family. Donnie Ellers was the kind of man law enforcement agencies treasure—a man of bravery, honesty, integrity, energy and compassion. We all will miss him.

ELLERS KILLED IN ACCIDENT—DETECTIVE IN CALDWELL CASE

(By Jeff Gil and Joe Kirby)

The lead investigator in the Marietta police probe of the slaying of 12-year-old Sarah Caldwell was killed Wednesday morning while test-driving a new boat on Allatoona Lake in Cherokee County, police said.

Capt. William "Donnie" Ellers, 42, a 21-year veteran of the police force, was killed when his boat apparently flipped from front to back and landed on him, while his teenage son was watching from the banks of the lake near the Little River Marina, said Lt. Barry Evans, an investigator with the Cherokee County Sheriff's Department.

The son "saw the accident and went for help," said Evans.

The accident occurred at 10 a.m. Ellers was taken to Kennestone Hospital in Marietta, where members of his family and Marietta Police Chief Charles Simmons gathered with doctors and hospital clergy.

Ellers died shortly after 11 a.m., Evans said.

"We're not sure what the cause of death was, whether it was drowning or because of other injuries," he said.

Evans, whose department is handling the investigation, said, "We're still looking for other witnesses to see if maybe there was a malfunction or other factors involved. We're still looking for clues to find the cause."

He added, "We just want to be sure we have all the facts before we try to pin it down."

No one else was injured in the accident.

The boat was recovered and was taken to an undisclosed location, Evans said. Officials said they did not know what type of boat Ellers was driving.

Funeral services will be held at 11 a.m. Saturday at the Roswell Street Baptist Church in Marietta with Dr. Nelson Price and the Rev. Johnny M. Hunt officiating. Burial will be in Mountain View Cemetery in Marietta.

ELLERS WAS DEDICATED, OFFICERS SAY

(By Jeff Gill)

Marietta police Capt. William "Donnie" Ellers, killed Wednesday in a boating accident at Allatoona Lake, was described by his co-workers as a dedicated professional with a firm commitment to his work.

"He will be missed tremendously," said Lt. Walter Parker.

"His death means the loss of a good superior officer, my boss and my friend."

Parker, who was aiding Ellers in investigating the murder of 12-year-old Sarah Caldwell, then became emotional and walked away saying he could say nothing more.

A somber mood was cast over the police department upon learning the news of Ellers' death at 11 a.m. Wednesday.

Ellers, 42, a 21-year veteran of the force and lead investigator in the slaying of Miss Caldwell, was killed Wednesday morning while test-driving a new boat near the Little River Marina at Allatoona Lake in Cherokee County, Cherokee County Sheriff's Department said.

Marietta Police Cheif Charles Simmons said Ellers "served the city well. . . he was a family man, a Christian, a man who did his job without question."

Ellers' death would be not only "a great loss to the community, but to the law enforcement community as a whole," Simmons said. "He was a fine professional."

"He was a very caring supervisor," said Patrolman M.D. Goins. "He was one of the best supervisors we ever had."

Patrolman James Ellerbee described Ellers as a "top-notch" person and a true professional, someone who approached his work in a very "businesslike manner."

He said Ellers not only worked hard but he played hard.

"He was considered one of the top boaters in the country," said Ellerbee.

Another close co-worker, Assistant Chief Robert Fuller, agreed with other members of the force in that he was shocked by the news of Ellers' death.

Lt. C.E. Whitlow, retiring from the force next week, also worked with Ellers many years.

"He was a super person," Whitlow said.

PEACE IN THE MIDDLE EAST THROUGH HUMAN RIGHTS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. HANSEN. Mr. Speaker, it is always a pleasure to recommend to this great body reading material which can enlighten us all. I am privileged to know Mr. Omar Kadar, a fellow Utahn and scholar who received his Ph.D. from the University of Southern California in International Relations. In addition, he has served as an adjunct professor for Brigham Young University. Mr. Kadar has written an article entitled, "Peace in the Middle East Through Human Rights." It discusses how the United States should pursue its own best interest in the Middle East. I have enclosed a condensed version of his article which recently appeared in the Spring 1987 issue of the Syracuse Journal of the International Law and Commerce, Syracuse University School of Law.

Peace in the Middle East Through Human Rights

(By Omar M. Kader [1])

I. INTRODUCTION

The study of the conflict in the Middle East is an area of international relations where the problems are generally understood. The principles needed to solve the problems are also generally understood: a secure Israel and self-determination for the Palestinians which would ultimately mean an independent Palestinian state. However, translating these principles into policy remains elusive to American policy makers because scholars and policy makers remain divided over how best to pursue American national interests in the Middle East.[2]

The interests of the United States in the Middle East are complicated and at times appear to be in conflict. The assumption that pursuing human rights in the Middle East somehow erodes our national interests is fundamentally flawed. Our policy towards Israel is based on human rights. The same principles employed to defend that policy to support and sustain Israel should be expanded to apply to the Palestinians. It can be done without endangering the security of Israel by pursuing a settlement through negotiating an exchange of land for a peace treaty between Israel and the Palestinians.

II. UNITED STATES NATIONAL INTERESTS IN THE MIDDLE EAST

The national interests of the United States in the Middle East are varied and at times appear contradictory. They include total support for Israel and good relations with Arab nations. However, the fundamental goal in the Middle East is peace. The creation of the state of Israel was considered a humanitarian act—a human rights policy. In the process of implementing that policy, the Palestinian question became an international issue. The displacement of Palestinians as a result of the creation of Israel has not yet been seriously addressed. The assumption that the Palestinians would be absorbed into neighboring Arab countries has not come to pass. The failure of the international community, Israel and the United States to address this issue head on has made the Palestinian question the core problem in the Middle East. There are other problems, but none are as urgent or more important to peace than the settlement of the Palestinian question.

The national interests of the United States includes the improvement of the human condition of citizens in every country.[3] "Within our limited capacity to do so, we should encourage increased observance of human rights in all societies. This would enable us to chart a new foreign policy consistent with our values."[4] While it is not in our interest to interfere in the domestic affairs of every state, it is in our interest to be concerned with the policies of other states when those policies directly affect American interests. In the case of Israel, Egypt, and Jordan, U.S. national interests are directly affected because of the high levels of aid and the economic relations which exist between them. The United States will not stand by if the security of these states are threatened, either by one another or by neighboring states.

The Palestinian question is one issue that remains as the key obstacle to peace between Jordan and Israel. The resolution of this issue lies in our ability to implement a human rights policy by negotiating a homeland for the Palestinians which is acceptable to Israel. Additionally there are benefits to the peace process which fulfill other interests of the United States.

Through peace, the United States can achieve one of its basic objectives: excluding the Soviet union from expanding its influence in the area. The exclusion of the Soviet Union from the Middle East is also part of a human rights policy if one agrees that living conditions under Soviet domination are generally in violation of human rights. While some may argue that the exclusion of the Soviets from the area is part of power politics or the realist position, it can be argued more forcefully that human rights is the ultimate aim of United States policy against the Soviet Union because their system denies its citizens basic human rights.[5]

The issue of peace in the Middle East generates controversial debates and plagues policy makers and politicians alike. Forty years of hot and cold conflict have forced the United States to pursue a foreign policy with various states in the Middle East that appear to be irrational in retrospect. Arming both Arabs and Israelis before, during, and after wars can only be explained by understanding that the Soviet Union threatens not only U.S. interests but those of Israel and moderate Arab states. Middle East wars have provided the Soviet Union with an opportunity to expand its interest in the area and become a factor in the peace process.[6]

Many would argue that U.S. policy in the Middle East encourages Soviet involvement.

"The competition between the United States and the Soviet Union for strategic position in the Middle East further aggravates regional tensions. Washington's singular fixation on Israel not only encourages Israel to behave irresponsibly in the region, it also delegitimizes Arab regimes with "special relationships" to the United States. Yet the rationale for this unbalanced policy is the bizarre notion that Israel is a 'strategic asset' in America's effort to keep the Soviet Union out of the area. For the Soviets, of course, Israel is a genuine strategic asset inasmuch as it allows Moscow to develop support within new Arab elites and in Arab public opinion generally. For its part the United States has considerable means at its disposal to weaken regimes with a strong Soviet connection. While both superpowers have good reason to try to practice 'conflict management' in the turbulent Middle East, they probably stir up more turbulence than they smooth out."

The ability of the Soviet Union to exploit unstable conditions resulting from Arab-Israeli wars stems from the Palestinian question. Arab states oppose Israel because of the displacement of Palestinians and the occupation of Palestine. Again, the interests of the United States and Israel are served by providing the Palestinians self determination, thus ending the cycles of violence and wars.

It is in the national interest of the United States to guard against Soviet expansion anywhere. This issue is not unique to the Middle East. However, what is unique is that Arab-Israeli wars are directly related to the ebb and flow of Soviet influence in the area.

Preventing the Soviets from expanding in the Middle East may be the desired end of a policy aimed at solving the Palestinian question, but human rights is the means. The United States has, at different times, emphasized, with varying intensity, the need for peace as an instrument of warding off the Soviet Union from expanding its influence with radical Arab states.

Advocating human rights for Palestinians living under Israeli occupation creates conflicts. There are fundamental issues involved in resolving the condition of Palestinians that will, by nature of the solution, affect Arabs in general. The demand for human rights for Palestinians must also apply to Arab nations. Non-democratic regimes which do not practice a human rights policy may feel threatened by the advocacy of Palestinian human rights.[7]

American support for Israel is strong and likely to remain that way. We have failed to convince the Arabs of this point. Israelis themselves sometimes doubt it. For its part, the United States has maintained its policy of ties with both Arabs and Israel at the cost of increased Soviet influence. The United States increases its influence in the area when it promotes a policy of fairness and evenhandedness. By pursuing a policy of human rights, the United States can achieve its goals on many fronts. A one sided policy enables the Soviet Union to gain influence.

The future of United States interests in the region will be enhanced when those interests can be articulated in terms that provide Israel with security and the Palestinians with statehood. The United States would do well to be on the forefront of the peace process. Allowing the Soviet Union to advocate Palestinian self-determination erodes the national interests of the United States in the Middle East. Nor is it in the long term interests of Israel to deny Palestinians self-determination. After forty years of exile, the Palestinians have proven to be a nation and a force in the region that could eventually challenge Israeli domestic security no matter how secure are its borders.[8]

A policy of human rights in the region would promote self-determination for the Palestinians and expand U.S. national interests by reducing one of the major sources of turmoil in the area. A human rights policy would also protect the security interests of Israel. Reduced tensions in the region also reduces the potential for an expanded Soviet role.

III. HUMAN RIGHTS AS SOUND FOREIGN POLICY

Human rights as a major tenet of American foreign policy has been viewed with the same enthusiasm that foreign aid receives.[9] It is generally viewed as an expendable humanitarian program to be pursued when the world is stable and risks can be taken without the threat of loss of America's global strength. It is also seen as an effective political weapon against the Soviet Union. However, too little attention has been paid to the affirmative benefits that can accrue from an aggressive human rights policy based on fundamental principles of universal rights. Those rights are in constant debate, but are generally accepted in the abstract, except when they are applied to sensitive areas of partisan interests such as the Middle East. Paradoxically, elements of domestic politics in the United States which have been at the forefront of advocating a foreign policy of human rights have at the same time avoided directly addressing the issue of the Palestinians. Domestic American political pressures stand as the only explanation for neglecting peace between Israel and the Palestinians.

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[1] Adjunct Professor, Brigham Young University; M.A., Ph.D. International Relations, University of Southern California.

[2] *See generally* Billings, *Realism and Vision in Foreign Policy,* 65 Foreign Aff. 630-52 (1987).

[3] *See* Fraser, *Freedom & Foreign Policy,* 26 Foreign Pol'y J. 140, 143 (1977).

[4] *Id.* at 141.

[5] *See id.* at 140-41.

[6] *See* V. Sakharov, Soviet Peace Plans for Middle East in Middle East Plans 85-114 (W. Belling ed. 1986); *see also* R. Freedman, Soviet Policy Toward the Middle East Since 1970, at 143 (1975).

[7] *See* E. Said, Under the Last Sky 3-4 (1985).

[8] Christison, *Myths About Palestinians,* 37 Foreign Pol'y 109-27 (1987).

The advocacy of human rights is not in itself an appropriate approach to all foreign policy problems. It has served as the basis for American foreign policy when the question of treatment of individuals is an issue in the affairs of nations. Human rights should be an issue at the forefront of relations between states as is the case with economic, military, and diplomatic issues.

The debate over human rights centers on its effectiveness in pursuing American national interests. It is often argued that the pursuit of human rights often jeopardizes the national interests and enhances those of the Soviet Union because the United States sacrifices friendly nations which do not practice democracy. In the process of forcing pro-western dictators to conform to western ideals we lose them to Marxism. Those who promote power politics argue that values have no place in the foreign policy debate. The role of values in foreign policy is important to the advocates of realism who promote power politics. They contend that the only measurement of foreign policy successes or failures is whether national power is enhanced or eroded.

Many would agree that governments are reluctant to come to agreements on human rights and other issues involving morality. However, the mere fact that few agree on what moral principles to pursue in foreign policy is not sufficient reason to forsake the attempt. Applying standards of morality may indeed be the most difficult of tasks, however, it is a task that is better attempted, resulting in failure, than one that has never been tried.

An important point Morgenthau makes is that if an individual has moral principles and acts on those moral principles, they "cannot be applied to the actions of states in their abstract formulation * * * while the individual has a moral right to sacrifice himself in defense of such a moral principle, the state has no right to let its moral disapprobation of the infringement of (a principle) get in the way of successful political action."

The principle of self-determination has enjoyed a widely shared consensus among governments in certain parts of the world. However, in the case of the Palestinians, neither the right of self-determination nor other human rights have drawn the attention of writers or American Middle East policy makers on the subject. In fact, human rights discussions in general conspicuously avoid the Middle East, yet dedicate inordinate attention to denouncing Soviet violation of human rights. Before a discussion on the specific applications of human rights in the Middle East can take place, a discussion on what those rights ought to consist of should be spelled out.

IV. PEACE IN THE MIDDLE EAST

The neglect of human rights in the Israeli-Palestinian conflict is one reason a peaceful resolution of the conflict has not been reached. The central issue in this conflict remains the rights of Palestinians to a homeland and the recognition of Israel and its security needs. Focusing on East/West rivalries in the region is a mistaken policy. Arabs and Israelis perceive a greater danger from each other than they do from the Soviet Union. Peace in the area must be pursued for its own good rather than an ancillary policy based on global competition with the Soviet Union.

It should come as no surprise to find the fundamental issues advocated by the Palestinians and the Israelis involve human rights. The Palestinians seek self determination and the Israelis seek recognition. Neither side rejects the ultimate aims of the other but insists their basic demands be met before negotiations can commence.

To break this deadlock both sides must be given assurances that their fundamental concerns will be addressed. If "the issue for the Israelis is recognition not borders," the status of Jerusalem or the rights of Palestinians living under Israeli occupation, then the role of mediators becomes the most critical missing element to peace.[10] That role clearly lies with the United States. It is not a glamorous role, but one of prolonged, patient negotiations where each side receives adequate guarantees from the United States that it will not attempt to wrench concessions from one side or the other, but seek common ground and mutually agreed conditions for the initiation of negotiations. In the end what remains to break this deadlock is a committed president who is willing to mediate between Israel and the Palestinians by creating conditions which would allow each side to get their basic conditions met without sacrificing the peace process over the debate on who gets what first. The Reagan Administration repeatedly failed to grasp events and manage the peace process. This Administration has squandered opportunities for peace on several occasions due to the lack of initiative and determination to see the peace process through its difficult stages.

Former President Jimmy Carter captures the Reagan Administration's position on peace by labeling it "Missing Leadership" when compared to previous Administrations.[11] "President Reagan has not been inclined to use negotiation and diplomacy as a means to achieve our nation's goals nearly so much as his Democratic and Republican predecessors. He's more inclined to exert America's military strength, either the actual use of it or the threat of it."[12] Carter said that during his administration, "whenever a person in the Middle East wanted to take the smallest step [towards peace] he knew he had an eager partner in the White House and State Department."[13] Carter indicated that leaders in the Middle East have had to promote peace on their own during this administration and that "their efforts have been doomed to fail without partnership and encouragement from Washington."[14]

President Reagan could very well have served his concerns about Soviet intentions in the Middle East best by directly addressing the problems of peace in the Middle East and thereby limiting Soviet influence in the area. By neglecting the Middle East conflict, Reagan has created conditions that are contrary to his objectives. Reagan has provided an opening for the Soviet Union to advocate peace and protect fearful Arab nations from American threats.

V. CONCLUSION

A negotiated peace in the Middle East is possible but it will require a commitment on the part of an American president willing to provide the necessary inducements to move from the present situation to a position which will lead to progress in the peace process.

The need for a President's role and an active, creative and determined Secretary of State is more important to the peace process in the Middle East than most are willing to admit. The Reagan and Shultz record in the Middle East is ample evidence that peace will hang in animation without being nurtured by concerned, imaginative and determined leaders at the senior levels of American government. The Middle East is recognized as a vital region to United States national interests. However, addressing the region from a human rights perspective has become a greater challenge to policy makers in this administration than in the past. The conflict between Arabs and Israelis takes in all the elements of the power politics and human rights debate. Israel's appeal for support from the United States has evolved from human rights to power politics, claiming to be a strategic asset in the region. The Palestinians appeal to the United States on the grounds that they are victims of Israel's policies and seek relief on human rights grounds.

The United States can and should address the Palestinian-Israeli conflict in terms of expanding America's interest in the region through a policy of human rights. Israelis and Palestinians look to no other world power for a solution. The conditions for peace exist. The will to pursue peace and the momentum needed to advance it, lies within the power of the presidency of the United States. Until that power is directly focused on nurturing the negotiation process, peace in the Middle East will continue to be an elusive dream.

THE NATIONAL UKRAINIAN MILLENNIUM CELEBRATION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. KANJORSKI. Mr. Speaker, this year marks the 1,000th anniversary of Christianity in the Ukraine, and this important milestone should inspire us to rededicate ourselves to the right of all people to practice their religions without governmental interference of any kind. Ukrainian Christians have struggled for the right to practice their religion freely over much of this 1,000-year period. Still, through all of this, these brave men and women who hold their allegiance to a higher authority banded together to worship as they chose.

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[9] Moynihan, *The Politics of Human Rights*, in HUMAN RIGHTS READER 25, 33 (W. Laquer ed. 1979) [hereinafter READER].

[10] *Id.*

[11] *See* Carter Assails President: Reagan Policies Hit in Cairo Speech, Wash. Post, Mar. 20, 1987, at 1, col. 3.

[12] *Id.*

[13] *Id.*

[14] *Id.*

Today, unfortunately, things are not much different from days past. The Soviet-ruled Ukrainians are still legally prohibited from practicing Christianity. Although recent "reforms" in the Soviet Union has made it easier for certain groups to diverge from official policies, fundamental freedoms are still denied in several important areas; the "freedoms" being proffered different groups these days by the Soviet Union is nothing more than officially sanctioned permission. Mr. Speaker, this may be a step in the right direction, but there still remains miles to go before meaningful reform is made.

In the past, I have been an outspoken critic of the Soviet Union's denial of religious freedom. Earlier this year, I joined over 100 of my colleagues in signing House Joint Resolution 429, which expresses the outrage of the Congress over Soviet persecution of Ukrainian churches and their members. This resolution also calls on the Soviet Union to abide by the Helsinki Agreement, which guarantees religious freedom, and it urges the President and the State Department to speak out forcefully against violations of religious freedom in the Ukraine.

Now, Mr. Speaker, some may argue that a resolution of this sort interferes with the internal affairs of another government. To this, I disagree. This resolution is not a political one, but a human one: It expresses the human desire to be left alone to make important personal decisions. As defenders of this most sacred freedom, we in America must make it clear to the persecutors and persecuted alike that we realize the importance of these most basic rights, and we will not calm our efforts to see this freedom granted until all people can bow their heads and pray as they wish.

Mr. Speaker, I have been asked to be an honorary cosponsor of this year's National Ukrainian Millennium Celebration to be held here in Washington October 7-9. I am most honored that I have been asked by the Ukrainian committee charged with this celebration to take part in recognizing this important milestone, and I urge my fellow colleagues to join us in looking back on these 1,000 years, as well as looking ahead 1,000 more to a better, freer political environment in which men and women can worship as they choose.

CAMERON DUNCAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. GILMAN. Mr. Speaker, our Nation has lost an important grassroots leader in the fight to end world hunger with the death of Cameron Duncan on September 5 from an AIDS-related illness. Cameron was 34 years old and his major passion in life was ending world hunger. He participated extensively in the Hunger Project and in RESULTS, a national citizens' lobby to generating the political will to end hunger. Cameron was a board member of RESULTS.

On World Food Day, October 16, 1982, Cameron coordinated a World Food Day Forum at Cooper Union in New York City in which, along with six of my colleagues from the New York delegation, I participated.

In the fall of 1985, Cameron became the second staff member of RESULTS and managed the Eastern United States. He worked with his colleagues in pushing for immunizing the world's children, microenterprise loans for the poor and other important issues. After about a year on staff, Cameron moved to Maine to attend to his health.

Cameron was a powerful, effective speaker whose love of life and love for people inspired those who heard and knew him. Since being diagnosed with AIDS in January 1986, he devoted much of his life to educating the public about AIDS. He talked about the disease and shared extensively his personal experiences of living—and later, dying—with AIDS in front of large and small groups, health care professionals, teachers and students. He served on the Maine Governor's Committee on AIDS and testified at legislative hearings and other public proceedings. He was featured in the recent TV documentary "Without Prejudice" on Maine people responding to the challenge of AIDS. It aired on channel 6, Portland, ME.

Sam Harris, executive director of RESULTS said:

> Cameron's contributions to the fight to end hunger and his contributions to life were far greater than a list of actions. Cameron's gift was the very special light he brought to life. It isn't possible to reconcile that light being snuffed out at age 34. But in some sense, it isn't snuffed out—it's in each one of us whose life he touched. Cameron so loved this work. Without making it a burden, I think he's counting on us to carry on for him.

Memorial services are being held in Maine, New York City, Santa Barbara, and Washington, DC. His friends are establishing the Cameron Duncan Media and Action Award for Ending World Hunger.

THE NORTHEAST-MIDWEST ECONOMIC DEVELOPMENT GUIDE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. OBERSTAR. Mr. Speaker, on September 7, the Northeast-Midwest Congressional Coalition released to its members the 1988 edition of "The Guide to State and Federal Resources for Economic Development." This massive volume will help Federal, State, and local policymakers meet the challenge of a rapidly changing economy.

Since 1981, Federal efforts to encourage economic development have fallen sharply, but numerous innovative programs have sprung up at the State level in an attempt to fill the void. In addition to outlining remaining Federal programs, this valuable guide contains 460 brief case studies—drawn from every State in the Nation—that document this tremendous increase in activity at the State level.

There is much to learn from these case studies that will be useful in promoting the continued economic revitalization of the northeast-midwest region. I strongly recommend this guide to my colleagues in the coalition.

Mr. Speaker, at this time I would like to enter into the RECORD one of those brief case studies from my own State of Minnesota.

MINNESOTA EXPORT FINANCE AUTHORITY

OBJECTIVE

The Minnesota Export Finance Authority (MEFA) provides pre-export and post-export financing assistance to small and medium-sized businesses wishing to enter and compete in overseas markets.

DESCRIPTION

MEFA was the first funded state export financing program in the United States. It was created by the state legislature in 1983 as a division of the Minnesota Trade Office. The program responds to the problem that small export transactions are not profitable for larger international banks and that smaller banks do not have the international expertise necessary to lend successfully in the export market.

To ensure that necessary capital is available to small exporters for producing export goods, MEFA provides pre-export loan guarantees of up to 90 percent of the costs, with a maximum guarantee of $250,000. The funding exists strictly for working capital loans that finance the production of goods ordered by foreign buyers, and covers the period between the conclusion of the sales agreement and the time of delivery. In order to qualify for a MEFA guarantee, a firm must have an export order from outside the U.S., show that banks were unable to provide the necessary capital, and obtain an export letter of credit from the foreign purchaser's bank to guarantee the purchaser's ability to pay for the exported products.

Since 1984, the Authority also has been able to supply post-export financing assistance to Minnesota's exporting firms. MEFA holds an insurance policy with the Export-Import Bank of the United States and offers insurance to small exporters under the Eximbank's "umbrella policy." By coming under this umbrella through MEFA's policy, participating small exporters are insured against possible foreign buyer default. The group policy makes premiums affordable to exporters and allows MEFA to assume a portion of the exporting risk.

PROGRAM IN PRACTICE

While the export finance program was funded originally out of the state's general fund at $2 million, operating surpluses have allowed MEFA's capital budget to be reduced to $1 million. Legislation allows this funding for working capital to be leveraged at a 4:1 ratio, which in essence allows the Authority to guarantee up to $4 million in state export loans. MEFA also has been authorized to earn interest on its funds and to collect fees of approximately 1 percent on guarantees it processes.

The Authority has approved 22 loan guarantees worth over $8 million and the participation of six companies under the post-export umbrella policy. While MEFA accommodates Minnesota exporters in any industry, agriculture-related businesses such as cattle and timber have made up over half those helped. A variety of high-tech, manufacturing, and other businesses make up the rest. The Authority also has furthered the Minnesota Trade Office's policy of targeting Western European and Far Eastern countries for trade. In practice, over half of MEFA-assisted export exchanges are with Pacific Rim nations such as China, Japan, and Korea.

The Authority has been working primarily with mid-sized companies (with $10 million or less in annual sales). Loan guarantees range from $25,000 to the $250,000 maximum. The average size of MEFA deals are in the $100,000 to $125,000 range. The Authority has co-guaranteed loans over $250,000 with the Export-Import Bank for two large transactions. Through financial counseling and referrals (largely to the Export-Import Bank) MEFA has helped over 100 other firms sell their goods to foreign markets.

OPPOSE FEDERAL FUNDING OF ABORTIONS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. ROTH. Mr. Speaker, I rise in strong opposition to the Senate's proposal to expand Medicaid funding of abortion. This is an attack on the Hyde amendment, which is a major protection of the rights of the unborn. The Senate wants to weaken this country's stance against Federal funding of abortions. We must not forsake any human being's right to life.

Since I have been in Congress, I have worked diligently to protect the rights of the unborn. The Senate amendment is an indirect effort to reopen the entire issue of Federal funding of abortions. I feel that it is time to stand up and declare our opposition to these actions. We have fought too long and hard to see the provisions of the Hyde amendment undermined.

I stand with the thousands of my constituents who want to protect the right to life. It is on their behalf that I urge my colleagues to vote against the Senate provision. All life is sacred.

The Hyde amendment has been a major factor in protecting the rights of the unborn. Now it is being threatened. I hope that you will join me in warding off this threat and restoring this country's proper stance against abortion.

A TRIBUTE TO THE INFORMATION, PROTECTION, AND ADVOCACY CENTER FOR HANDICAPPED INDIVIDUALS, INC.

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. FAUNTROY. Mr. Speaker, I rise today to recognize the outstanding work of the Information, Protection, and Advocacy Center for Handicapped Individuals Inc., a public interest, community-based, nonprofit agency designed as the protection and advocacy system for both developmentally disabled individuals and individuals with mental illness, who reside in the District of Columbia.

This occasion provides me with the opportunity to express my appreciation to IPACHI for their various programs and services directed to the interests, needs and rights of handicapped individuals.

On Friday, September 23, 1988, IPACHI will convene its annual training conference and awards luncheon at the Washington Plaza Hotel. This year's theme, "Advocacy for Community Integration, Productivity, and Independence," is one deserving of enthusiastic support for it speaks to the universal quest for humanity and dignity.

I applaud the bold and innovative leadership of the executive director, Mrs. Yetta W. Galiber, who has dedicated her life to helping others, many times at a cost to herself. Her commitment and dedication serves as a reminder to the limitless capabilities of the human spirit. It is largely because of her efforts that many in the Metropolitan Washington area have become keenly aware of the need for more and better services for the handicapped individual.

I am sure my colleagues will join me in congratulating and commending all involved in the IPACHI Annual Training Conference and Awards Luncheon, thanking them for their continued service to the handicapped community, and wishing them a most productive future.

TRIBUTE TO SEAN HIGGINS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. CARR. Mr. Speaker, I rise today to recognize an outstanding young man, Sean Higgins, a former intern in my office, who recently received the Alfred G. Wilson Award from Oakland University. The Wilson Award is "presented annually to the male student who has made an outstanding contribution to the life of the university through scholarship, student leadership, and the expression of responsibility in the solution of social problems." From my own experience in dealing with Mr. Higgins, I can attest to all these qualities.

Mr. Higgins served his fellow students in the university government beginning in 1984 and was executive assistant of the University Congress in 1987, while also chairing various subcommittees and shaping student resolutions. These resolutions included legislation on apartheid, coauthored by Mr. Higgins, which was accepted by the university board of trustees. As president of the commuter council, Mr. Higgins also helped to develop a scholarship program for commuting students, the Commuter Involvement Awards, which will have a lasting impact on Oakland University.

Despite these time commitments, Sean Higgins worked as a research assistant while maintaining a high G.P.A. and receiving academic honors in Oakland's Honors College. He helped develop the themes and syllabus for a course on leadership and write a code book used by Oakland Township for a master development plan.

Upholding his civic duty, Mr. Higgins served the Oakland University Democrats as their secretary-treasurer. Additionally, he was named a recipient of the Sidney Fink Memorial Award for enhancing race relations. And, the Michigan Association of Governing Boards honored him with its Outstanding Student Award.

Sean Higgins is a quintessential young scholar and civic leader. He possesses a rare combination of energy, intelligence, and perseverance. I congratulate him on his accomplishments to date and I wish him well in pursuing a law degree and a career in the public sector.

THE 75TH ANNIVERSARY OF THE SAGINAW COUNTY FAIR

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 8, 1988

Mr. TRAXLER. Mr. Speaker, I rise today to commemorate the 75th anniversary of one of mid-Michigan's most treasured events, the Saginaw County Fair. Annually, over 300,000 visitors take part in what has become the largest single event in Saginaw County. Many of those who live in America's heartland can appreciate the contributions of a Midwestern county fair. But in Saginaw and the surrounding mid-Michigan area, this week-long extravaganza has become an annual tradition for most of those 300,000 who visit each year. Indeed, many of those who attend have made it a "fall ritual," which is why the Saginaw County Fair is recognized as one of the largest of its kind in the United States.

The Saginaw County Agricultural Society (the original "Saginaw Fair") was organized on August 15, 1914. The original purpose of the society was to hold fairs and exhibitions in the county of Saginaw. Today, 75 years later, the purpose remains the same. The fair delivers a very significant contribution to the community—agricultural awareness. Blue Ribbon competition in nearly 25,000 exhibits is offered annually as well as $60,000 in awards to 3,000 exhibitors of all ages. Thus, the exhibition and competition of agricultural products, along with the awarding of premiums, undoubtedly provides the community with an education on state-of-the-art agricultural techniques.

Not only has this event attracted agricultural interests, but nearly all those residing nearby find some kind of value in participating in the Saginaw County Fair every year: Whether it be in exhibits, competitions, or just a walk down the midway to capture the excitement. Entertainment is certainly another big part of the fair's contribution to our community.

The Saginaw County Fair has been a part of our lives in mid-Michigan for 75 years now. Today, I want to call the attention of my colleagues in the United States House of Representatives to recognize the institution of the county fair as an integral part of our society. But most importantly, I am honored to stand and commemorate one of this Nation's finest.

On Tuesday, September 13, 1988, the mid-Michigan area will officially recognize the Saginaw Fair's Silver Anniversary. I wish them a most joyous celebration—Happy Birthday to the Saginaw County Fair!

SENATE—*Friday, September 9, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O give thanks unto the Lord; call upon His name: make known His deeds among the people. Sing unto Him, sing psalms unto Him: talk ye of all His wondrous works. Glory ye in His holy name: let the heart of them rejoice that seek the Lord. Seek the Lord, and His strength: seek His face evermore.—Psalm 105:1-4.

Eternal God, Creator, Sustainer, Consummator of history: in the milieu of temporal affairs which tend to smother awareness of the transcendent, awaken us to the poverty of life without Thee. Help us to seek Thy face—to realize, Lord, that when we seek Thee, every step we take brings us closer to Thee. When we turn away from Thee, every step we take removes us farther from Thee.

As the great scientist, Pascal, oberved, there is a "God-shaped vacuum" in each of us which only God can fill. Deliver us, gracious God, from the contradiction of starving our souls while we satiate our bodies and deprive ourselves of the wealth of blessing available when we turn to Thee.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 9, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERS' TIME

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority leader and the minority leader may be reserved for their use later today, at their discretion.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

THE IRISH SHOW HOW CUTTING SPENDING AND KEEPING UP TAXES PAYS OFF

Mr. PROXMIRE. Mr. President, suppose our country suffered 19 percent unemployment. Assume the Federal deficit had swollen to nearly three times the present level in relation to GNP. Imagine that our Federal Government debt were four times as heavy a burden as it is today. Our country is flat on its back under a burden of depression and enormous debt. Got it?

All right, now let us assume that the President and the Congress that had given the country years of big spending shifted and slashed Government spending by $30 billion in 1 year. The same Government proposed to cut Federal spending more sharply by $45 billion in the coming year. The cutbacks had already given the country hospital closings, larger school classes. The economy drive has eliminated 700,000 Government jobs. And that is not all the political poison the President and Congress had forced on the country. Assume that while making these painful cuts in spending, the President and Congress had maintained an income tax that smacked taxpayers with a 58-percent tax rate that began at $15,000 for a single person and $29,200 for a household head. The Congress and President maintain that punishing tax and give no indication that there is any prospect they will reduce it. Keep in mind that all of this is going on in a country with a true depression level 19 percent unemployment.

What would be the popular reaction? Political suicide? Would "throw the rascals out" sweep the country? How long are the odds against this kind of tough, ruthless, budget-slashing program winning broad public support? A thousand to one? Impossible? If that is your reaction, get ready for a shock.

I have just described precisely what has happened to Prime Minister Charles Haughey of Ireland. Ironically, until Haughey somehow got that old time religion, he had been principally known as a big spender. But in the last couple of years he has carried out exactly the austerity program I have just described. On August 15, the New York Times reported that a recent poll found that 55 percent of the electorate were satisfied with Prime Minister Haughey's policies. This gives the Irish budget-cutter the highest rating ever for an Irish Prime Minister.

Mr. President, of course, there is a world of difference between Ireland with its 3½ million people and the United States with 240 million people. The United States is about 300 times the economic size of Ireland. But we can learn a lesson from the little country from which so many of our ancestors came. The tough austerity program of Prime Minister Haughey has done nothing to reduce Ireland's unemployment or soften its cruel tax bite. But the Irish economy has made spectacular progress. In 1987 and 1988, the country began to grow economically after years of stagnation. The trade balance of Ireland, which had suffered a shocking deficit that was 15 percent of the country's GNP in 1981, has steadily improved. It broke into the black in 1987 and is projected to improve substantially in 1988. The huge Government borrowing has been slashed as a percent of gross national product. Inflation has diminished from more than 20 percent in 1981 to 2 percent in 1988.

Mr. President, this Senator takes special pride in this great performance by Ireland because both my mother's parents were as Irish as the Blarney Stone. Both Patrick Flanigan, my mother's father, and Rose O'Reilly, my mother's mother, were born in Dublin. How proud they would have been of their remarkable country. The Irish have the kind of glorious tradition of human strength and weakness that makes this modern morality tale of the rewards of prudence and restraint especially sweet. No national or ethnic group with the possible exception of European Jews has been more

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

celebrated for their humor than the Irish. The Irish have been pictured as the prime victims of alcohol consumption. It is even said that if the good Lord had intended for the Irish to rule the world. He never would have invented whisky. In politics, especially the politics of the big American cities, Irish mayors and aldermen have governed with a sense of the ridiculous that has marked the Irish as the great comedians of governance. In the Senate and in the Presidency, the remarkable Kennedy family has given a new kind of glory to the Irish touch. And now Prime Minister Charles Haughey has shown the great leader of the economic world, the United States, that the Irish can even excel at those previously non-Irish skills like cutting Government spending, reducing debt, and living within your means.

Mr. President, I ask unanimous consent that the article to which I have referred, by Steve Lohr, in the New York Times of August 15, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 15, 1988]

Irish Applaud Austerity Policies—Political Risk Pays as Economy Gains

(By Steve Lohr)

Dublin, Aug. 7.—In early 1987 Charles J. Haughey, a flamboyant politician known as a big spender during two previous stints as Ireland's Prime Minister, won his nation's highest office a third time and embarked on a ruthless, politically risky budget-slashing program.

The results have been striking, both economically and politically. An economy that had been contracting is growing again. Exports are surging. In fact, the nation had a trade surplus last year for the first time in two decades. Business confidence is reviving, and an entrepreneurial awakening is apparent.

The economic success explains the popularity of Mr. Haughey's austerity program with most of his fellow citizens, despite the reductions in public services, persistent high unemployment and the continuing emigration of many well-educated young job seekers.

Government spending was sliced 3 percent last year and will be reduced 4.5 percent this year. The cutbacks have resulted in hospital closings, larger school classes and the elimination of 10,000 Government jobs—measures that would traditionally be a prescription for political suicide in Ireland.

Yet opinion polls have consistently shown that most of Ireland's 3.5 million people say the belt tightening has been needed for a long time. In late May, for example, an Irish Times-Market Research Bureau poll found that 55 percent of the electorate were satisfied with Mr. Haughey's performance, the highest rating ever for an Irish Prime Minister.

Public approval for the Haughey formula reflects the belief that Ireland's economic future must depend more on private enterprise and less on the public sector, business executives, economists and Government officials have said,

"Haugheyism" is seen as the politics of economic survival. Although Mr. Haughey's tight-fisted regime is often compared with the prescription Prime Minister Margaret Thatcher has applied to Britain, her policies are inspired by a genuine ideological conviction in free-market economics while his are more a pragmatic accommodation to necessity.

IT'S IRELAND INC.

Pro-business pragmatism is the party line of the Haughey Government. "It's Ireland Inc. here now," said Seamus Brennan, Minister for Trade. "And that's the way Ireland is going to be run, like a business for growth."

Other small nations with large debts, like New Zealand and Denmark, have shifted to fiscal conservatism in recent years. But Ireland has faced the most severe problems because it has the highest debt burden, proportionally, among the developed nations. It also has adopted the deepest cutbacks.

In addition, the Irish feel a special external pressure from the deadline in 1992 when the European Community is scheduled to eliminate all internal trade barriers. Ireland, on the periphery of Europe, has a comparatively impoverished economy. Its wealth is less than two-thirds of the European average. It must upgrade its industrial structure to compete.

"If we're going to survive against the giants of Europe, we have to get our house in order and be a profitable, cost-effective place for doing business," said John R. McMahon, chief economist of the Industrial Development Authority of Ireland. "There's no other choice for us."

BORROWING SLASHED

So far, the program has paid off. Government borrowing as a percentage of gross national product has been cut from 13.2 percent in 1986 to a projected 8.2 percent this year. The economy, which had contracted by 1.6 percent in 1986, grew by 4.5 percent last year, thanks to a 14 percent rise in exports.

In 1987, the export surge gave Ireland a trade surplus in its current account, which includes both goods and services, for the first time in 20 years. And for the first four months of 1988 exports, led by electronic and chemicals, climbed by 18 percent, although economic growth for the year is expected to slow to 2 percent or less, dampened by further reductions in public spending.

Moreover, interest rates have declined sharply and inflation is down to an annual rate of 1.8 percent. Wage and price increases are being kept in check by a deal the Government struck with Ireland's major trade unions shortly after it came to power. Under the agreement, pay increases are to be held to 3 percent a year for the next three years.

CONFIDENCE INCREASING

There are signs that consumer and business confidence is increasing. Housing prices in Dublin, after remaining stagnant or falling for six years, have begun to rise. Car registrations went up 14 percent in the first quarter of this year. And foreigners have become net buyers of hundreds of millions of dollars' worth of Irish Government bonds.

In another encouraging vote of confidence in the Haughey Government, foreign companies are opening scores of factories and research plants here. During the first six months of this year, foreign corporations, which already employ more than 40 percent of Ireland's manufacturing workers announced the start of 81 projects, a pace unmatched during the 1980's.

Domestic companies have also stepped up their investment programs in the first half of the year, with 260 new projects announced by companies with fewer than 50 employees and 34 start-ups listed by companies with 50 or more workers.

HAUGHEY CAUTIOUS

Despite the encouraging trends, Ireland still faces at least a few more years of austerity. In a June speech to Parliament, Mr. Haughey said "great progress" had been made in overcoming Ireland's economic difficulties. But he warned that "we are still spending and borrowing too much in relation to what we produce and our capacity to pay."

Ireland's foreign debt alone represents 60 percent of its gross national product, while its total debt of about $38 billion translates into $41,000 for each household in the country.

The other persistent worry is unemployment. The jobless rate has leveled off and may even be declining marginally, but it remains at an exceptionally high 19 percent. And any easing of the number is largely explained by emigration. Nearly one-third of Ireland's college graduates seek work overseas.

ENTREPRENEURS SOUGHT

Steady growth is the only long-term cure for Ireland's national debt, unemployment and emigration. To achieve that growth, the nation must foster far more entrepreneurs to generate profits and jobs. Ireland has produced a handful of substantial multinational corporations in this decade, including the Jefferson Smurfit Group, a conglomerate; the aviation-leasing firm of Guinness Peat, and Masstock, agricultural developers.

Several companies are in the up-and-coming category. Most were founded by young Irishmen who worked overseas, saved their money and returned home to start businesses.

Pascal Phelan, chief executive of the Master Meat Packers Group, founded his company five years ago, applying experience in Australian banking and the Irish beef industry. His company buys Irish cattle, slaughters and processes them at its six factories, and ships most of the vacuum-packed cuts to major British food retailers, including Sainsburys, Tesco and Marks & Spencer.

When Master Meat Packers opened for business, most Irish beef was still shipped in the form of carcasses. The company has played a large role in shifting the local industry to boneless cuts, thus keeping more of the processing value and profits in Ireland. The company's sales, all exported, are running at $235 million, up 60 percent in two years. It employs 620 people, up from 35 four years ago.

Master Meat Packers' growth and ambitious reinvestment program have been helped by Ireland's corporate income tax rate of just 10 percent for manufacturing companies. "Ireland offers an outstanding environment for an entrepreneur," Mr. Phelan said.

Mentec International Ltd. represents an effort to exploit the large presence of foreign multinationals in Ireland. Founded in 1978 by Michael Peirce, a former lecturer in electrical engineering at the University of Dublin's Trinity College, Mentec makes specialized computer systems for manufacturing. With electrical engineers and computer scientists accounting for nearly two-thirds of its work force of 100 people, Mentec is the kind of company the Irish Government would like to see more often.

Its specialized systems, which run on Digital Equipment Corporation computers, are sold to major manufacturers including Michelin, Bowater and Britain's G.E.C. Since 1984, Mentec's revenues have growth at a 35 percent annual rate to $18 million.

Like all Irish entrepreneurs, Mr. Peirce warmly praises the current business environment with one glaring exception: extremely high personal income tax rates. The top rate of 58 percent starts at $15,000 for a single person and $29,200 for a married household head.

Government officials recognize the toll that high personal taxes have on entrepreneurial drive. The officials make pledges, though somewhat vague, to cut income taxes. "It's the next item on our agenda," Mr. Brennan, the Trade Minister, said. "But until now, we couldn't have even imagined discussing personal income-tax cuts."

KURDISH GENOCIDE

Mr. BOND. Mr. President, the news reports we have been hearing out of northern Iraq in recent days are truly appalling. It is clear that the Iraqis are systematically carrying out a campaign to eradicate the Kurdish minority in that country.

Since the signing of the cease-fire agreement between Iran and Iraq on August 20 freed up Iraqi troops, the Iraqi Government has turned its force against its own citizens. Over the past 2 weeks, refugees arriving in Turkey have told of more than a thousand Kurds being machinegunned, and even worse of huge areas coming under chemical attack.

News reporters are not allowed access to the area so details are sketchy. However, estimates of those killed by the Iraqis range into the tens of thousands, with many more wounded. More than 100,000 others have been forced to seek refuge in neighboring Turkey. The government of Turkish Prime Minister Turgut Ozal deserves commendation for its effort to accept those fleeing the Iraqis and to move them away from the dangerous border area.

This is not the first time the regime in Iraq has used gas against its own citizens. Most recently, on March 16, they gassed hundreds of innocent men, women and children in the town of Halabja. The pictures we saw from that horrible event shocked the world.

Mr. President, civilized people in this country and throughout the world cannot simply sit by while crimes of this magnitude are perpetrated against innocent people. I have been concerned over the past few days by the lack of concern expressed by international leaders. Yesterday, I was very pleased that our distinguished chairman of the Foreign Relations Committee introduced a bill which would force the United States to take action against Iraq. It is a good bill, and I hope my colleagues will approve it before we recess. I believe, however, that further action is necessary. I urge the President to issue the strongest possible condemnation of Iraq's action and to call upon our allies to do the same. In addition, I urge the President to seek a United Nations Security Council investigation into the Kurdish massacres and to push for a U.N. vote condemning the Iraqi actions.

Too many times in this century we have witnessed the horror wrought by madmen bent upon exterminating an ethnic or religious group—Idi Amin's massacres in Uganda; Pol Pot's extermination of 3 million of his countrymen; and the worst, Hitler's killing of 6 million Jews. We cannot allow it to happen again.

I ask unanimous consent to have two articles printed in the RECORD following my remarks. One is by Jim Hoagland and is entitled "Make No Mistake—This is Genocide." The other, by William Safire, is titled "Stop the Iraqi Murder of the Kurds." I urge my colleagues to read these articles, and to not just let this issue fade away.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MAKE NO MISTAKE—THIS IS GENOCIDE—IRAQ'S FINAL SOLUTION FOR ITS KURDS

(By Jim Hoagland)

PARIS.—Iraq is committing step-by-step genocide against the Kurdish people in the remote Zagros Mountains. The evidence is now so clear that the world cannot shrink from branding Iraq's actions with that horrible word and demanding an end to this calculated massacre.

The Iraqi version of genocide is being conducted in military operations stretched out over years and launched against the Kurds as opportunities permit. It does not have the maniacal pace or organization of Hitler's Germany or Pol Pot's Cambodia. But this must not lessen the horror, condemnation and forceful opposition the world community and especially the Reagan administration must demonstrate if a similar tragedy is to be avoided.

Washington and the United Nations have responded with surprisingly mild rebukes as Iraq has taken advantage of the U.N. sponsored cease-fire with Iran to intensify poison-gas attacks against Kurdish civilians, on a scale not known since World War I. More distressingly, the United States and other nations have taken no effective action to stop the slaughter of Kurdish civilians and the mass eviction of these Aryan tribal people from their mountain homes.

Such inactivity from an administration that has supposedly been building up American influence and leverage in the Persian Gulf is inexcusable. The United States spent $200 million to place a naval shield for the past year around the shipping of Iraq's Arab allies in the war against Iran. The White House also accepted with indecent haste an Iraqi apology for the attack on the USS Stark, which killed 37 American service-men. In its grudge match with Iran, the Reagan administration visibly tilted to Iraq's side—and at a high price.

But now Washington appears to either unable or unwilling to use the leverage it said it was obtaining to help the Kurds or push the Iraqis to drop the hard-line positions that have driven the negotiations on ending the Iran-Iraq war into deadlock.

Secretary of State George Shultz has given several recent speeches mixing eloquence with hand-wringing about the horrors of chemical weapons. When confronted with their open use by the brutal Iraqi regime that he has chosen to cultivate rather than confront, Shultz folds his cards. As it stands now, other countries that would be tempted to use the "poor man's atomic bomb" against their enemies can conclude from the Iraqi example that they will have to pay no price internationally for doing so.

An estimated 120,000 Kurds have fled into neighboring Turkey in the past week. One measure of the atrocities being committed against the Kurds is the public outrage voiced by the leaders of Turkey, a Moslem country that places high value on its relations with Iraq and has a reputation for suppressing its own Kurds. Nonetheless, Prime Minister Turgut Ozal was quoted by the BBC as saying that "a massacre of innocent people" is occurring in Iraq.

Where are equivalent U.S. statements that might signal a serious international action to halt the Iraqis? In the midst of the election campaign the Reagan White House and the State Department appear to have other things on their agenda. State Department officials speak instead of making "an expression of concern" to the Baghdad government.

History shows that such meekness will provide no comfort or protection for the Kurds—Moslems who are racially distinct from the Arab majority of Iraq. While their periodic rebellions against Baghdad in this century have been suppressed with brutality, it was only 13 years ago that "a final solution" sems to have been adopted as the option of choice for the troublesome Kurds.

In 1975, it was the shah of Iran who signed a border agreement with Iraq and gave Iraqi ruler Saddam Hussein a free hand in Kurdistan rather than continue a costly frontier war. The United States went along with the decision of the shah, who had been funneling American-supplied weapons to the rebel Kurdish army led by the legendary warrior Mullah Mustafa Barzani.

I was with Barzani in the Zagros when the end came that March. Anger and sorrow consumed him as he told me that he had risked everything because he had trusted the United States. He had expected betrayal by the shah; that was why he had insisted that the United States be deeply involved in supporting the rebellion from the beginning. In defeat, he asked for American humanitarian help to prevent the destruction of his people.

But over the next year, the Iraqis faced no international opposition as they destroyed thousands of Kurdish villages and resettled as many of the Kurds in Arab-dominated regions as they could. After the Iran-Iraq war erupted in 1980, the surviving Kurdish fighters threw in their lot with Tehran.

This time it is a truce with the ayatollahs that has enabled Iraq to have another go at removing the Kurds from their homeland, with the new wrinkle of poison gas thrown in. This time Hussein's intention of depopulating Kurdistan may be within his grasp.

It is unthinkable that he will benefit once again from offical American indifference and/or impotence that will be justified in the name of maintaining influences in the Arab world.

STOP THE IRAQI MURDER OF THE KURDS

(By William Safire)

BRIDGEHAMPTON, L.I.—On the day the cease-fire began in the Iran-Iraq war, Saddam Hussein, director of Iraq, launched a new military offensive. This was for vengeance—to punish the Kurdish people living in northern Iraq who had dared to pursue their long struggle for autonomy during the dictator's war against Iran.

With his forces freed by the cease-fire, Saddam Hussein smashed the Kurds—possibly with mustard gas, which he has reintroduced in modern warfare. Ninety thousand Kurdish refugees are now huddled in tent cities along the Turkish border, with another 40,000 cut off from escape.

This is a campaign of extermination aimed against an ancient ethnic group that wants only to keep its own language and customs in sarbasti—freedom. A classic example of genocide is underway, and the world does not give a damn.

Three men are alive today who can boast of having made a major contribution to world depopulation: Idi Amin of Africa, Pol Pot of Asia and Saddam Hussein of the Middle East. The Iraqi trails the Asian in the number slaughtered only because his nuclear capability was curtailed by the Israelis; otherwise, he would surely have incinerated five million residents of Teheran. However, Saddam is still active, and with several million Kurds at his mercy, he may yet pass Pol Pot in megamurders.

The Iraqi dictator evidently sees a cease-fire as a time for getting even. He will one day turn his aggressive attention to Syria's Assad, the only Arab leader to have helped Iran, but first he is intent on bloodily crushing all self-determination aspirations within his own borders.

For a millenium, Kurdistan has been a place but not a nation. Today the nearly 20 million Kurds live under three flags in Iran, Iraq and Turkey, with some in Syria and the Soviet Union. The Iranians supplied the Iraqi Kurds with arms to harass Saddam, and the Iraqi dictator armed the Iranian Kurds to harass the Ayatollah's army. The Kurds, though split into factions and aware they were being used as pawns, saw the Iran-Iraq war as a chance to establish a kind of autonomy if not independence.

But Iran-Iraq peace means retribution and death. Let us marvel at the reaction:

United Nations peacemakers in Geneva are concerned only with the interests of member nations, not with the lives of the Kurdish people or with the proliferation of poison gas. Not even a cluck of sympathy comes out of the U.N. Secretary General, who does not want to offend Baghadad or Teheran.

The United States, in its Reagan era assertiveness, did manage to issue one small cluck. The State Department spokesperson has said that *if* the reports of mass exodus of refugees are true, then what is going on *would be* "a grave violation of international human rights." How's that for taking action to stop slaughter of innocents? (Presumably a double-cluck, or even escalation to a loud harrumph, would cause us to lose influence with Saddam, whom we helped to wear down Iran; why waste an i.o.u.?)

The Turks, who severely repress their own Kurdish minority (they call the Kurds "mountain Turks" and forbid the Kurdish language) are accepting some refugees from Saddam's wrath. That's something; not much, but at least not the turning-away we get from the totalitarian Arab world or the amoral Soviet Union.

The world's film crews are too comfortable in Israel's West Bank, covering a made-for TV uprising of a new "people," to bother with the genocidal campaign against a well-defined ethnic group that has been friendless throughout modern history and does not yet understand the publicity business. For television, inaccessibility is no excuse for ignoring the news; the ability of color cameras to bring home the horror of large-scale atrocities imposes a special responsibility on that medium to stake out murder scenes or get firsthand accounts from refugees.

What about the two candidates for leader of the free world? If ever asked about stopping this killing, Mr. Dukakis would propose mailing a stern postcard to the U.N. and Mr. Bush might offer a little homily on even-handedness.

We could stop the killing by (a) demanding a Security Council investigation and linkage of human rights to the Geneva peacemaking, (b) bringing Kurdish refugees to the U.S. for testimony, (c) encouraging wider Turkish aid and (d) leaning on Iraq by threatening an early pullout of Persian Gulf ships. If this gets no result quickly, we can slip Stinger missiles to Massoud Barzani in the hills to bring down the gassing gunships.

The Kurds say *Pesh Merga*—"Forward to Death." That is a slogan of defiance, but it has also been a description of their fate. People who want only peace and freedom deserve America's attention and support.

Mr. BOND. I yield the floor.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from Nevada.

THE ENVIRONMENT

Mr. REID. Mr. President, as a member of the Environment and Public Works Committee chaired by Senator QUENTIN BURDICK, of North Dakota, I am proud of the progress we have made on important environmental issues during the 100th Congress. The environmental legislation we have passed this year includes an ocean dumping ban, the Montreal protocol to reduce consumption of chlorofluorocarbons, the endangered species reauthorization, a ban on the dumping of plastics, the Clean Water Act, asbestos removal legislation, and the creation of a national radon program.

However, even this record of accomplishment pales when compared to the environmental problems we still face in coming decades. The most important, I believe, of these are the general warming of our Earth, otherwise known as the greenhouse effect, which is depletion of the ozone layer in the atmosphere, the loss of our forests, and the shrinking supply of clean and fresh water.

Solving these problems within the borders of our own country is enough to keep us busy for years to come, but even that is not enough. These are world problems and no matter how much we do here at home, we cannot protect ourselves from environmental degradation unless we show leadership throughout the world in fighting these environmental problems. This makes the job of the committee about which I have spoken, Environment and Public Works Committee, even more important in the years to come.

Mr. President, the abnormally high temperatures we have experienced this year, coupled with the drought, have led scientists to speculate that we are seeing the beginning of the so-called greenhouse effect, where carbon dioxide and other industrial gases are trapping heat in the atmosphere and warming the Earth as if it were a greenhouse. Since the industrial revolution, carbon dioxide levels in the atmosphere have increased by some 25 percent. They are expected to increase another 30 percent over the next 50 years.

At the end of March 1988, American, British, and Soviet scientific data showed that the decade of the 1980's has been by far the warmest in over a century. The warmest year on record was 1987 and it appears that 1988 will break all records previously recorded.

If this trend keeps up, it is predicted that global temperatures could rise by 4.5 degrees centrigrade by the year 2030. To understand the magnitude of this change, it is only necessary to point out that the planet's climate has not varied by more than 2 degrees over the past 10,000 years. Such warming could cause a disastrous rise in sea levels. For example, with only a 2-foot rise in sea level the United States could lose between 50 and 80 percent of its coastal wetlands, and a rise of 6 feet would threaten one-third of the world's population. By comparison if the Arctic and Antarctic glaciers were to melt, sea levels would rise by nearly 300 feet. Other results of a major warming of the Earth would be, of course, a decline in food production, creation of new dust bowls, dying forests, unbearably hot cities, more frequent storms, forest fires, and outbreaks of pestilence and disease.

There are two key elements in fighting the problems caused by the greenhouse effect—education and research. First, we must educate people on the dangers inherent in the continued warming of the globe; that is only way to gain broad cooperation in efforts to reduce carbon dioxide emissions into the atmosphere. Second, we must start now with aggressive research into ways to cut down on carbon dioxide emissions without destroying the benefits in our quality of living that have been brought by industrial development. We need to continue and accelerate efforts to find safe and economical alternatives such as renewable energy sources. Ultimately, though, our biggest job may be in finding practical ways to adapt to a changing climate.

The problems associated with global warming are only some of the environmental concerns we must face in the coming decades. I will discuss some of these in the days to come in future discussions of this subject.

I thank the chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

(The remarks of Mr. ROTH pertaining to the introduction of legislation are printed in today's RECORD under Statement on Introduced Bills and Joint Resolutions.)

The ACTING PRESIDENT pro tempore. Is the Senator from Pennsylvania seeking recognition?

Mr. HEINZ. Yes, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

(The remarks of Mr. HEINZ pertaining to the introduction of legislation are printed in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

DECISION NOT TO APPEAL PLO CASE

Mr. GRASSLEY. Mr. President, I rise to protest the administration's deliberate failure to enforce a law duly enacted by the Congress.

Two months ago, a district court judge misconstrued congressional intent and international law. He found that the Anti-Terrorism Act, which we passed last December, did not require the closing of the PLO mission in New York. On August 29, the Justice Department announced that it would not pursue an appeal. And that is really why I am angry at this point. This action is nothing short of a cavalier disregard for the will and intent of the legislative branch of Government.

My colleagues, who are usually so sensitive to the Executive's failure to enforce Congress' will—the will of the people as expressed through their elected representatives—ought to join in denouncing the decision of the executive branch not to pursue an appeal.

In May 1987, I introduced the Anti-Terrorism Act. The bill had 50 additional cosponsors—Republican and Democrat, Liberal and Conservative. Upon passage by the House and the Senate, the President signed the legislation, signaling in every respect, as far as I know, his support for that legislation or why would he have signed it.

The law is not without its opponents, of course. We all know the State Department expressed strong objections to the legislation which occurred at every stage of the legislative process. But, regardless of the State Department's point of view, this Congress enacted that Anti-Terrorism Act and we make the laws.

Even the State Department's legal adviser, Abraham Sofaer, conceded, in a hearing which I chaired in 1986, Congress "calls the shots on making laws. As Judge Sofaer put it then:

> It is Congress that has to decide what the law should be. * * * It is our duty to abide by the judgment of Congress.

In the lawsuit filed by the Justice Department to enforce the Anti-Terrorism Act, a district court judge sitting in New York found that the law did not require the closing of the PLO mission. That judge found that our international obligations were not overriden by the Anti-Terrorism Act passed by Congress. Now, that is the judge's finding.

Usually, a case like this would be routinely appealed by the Justice Department. In fact, officials from the Justice Department, up to and including Attorney General Thornburgh—privately and in congressional testimony—assured me that the appeal would be filed in an effort to have the law, as Congress passed it, correctly applied and fully enforced.

At the 11th hour, however, the White House caved in to the judgment of the State Department. The Justice Department was told not to appeal, on the basis of some unspecified "foreign policy consideration." Can anyone here tell me of a more serious foreign policy concern than that of keeping professed world terrorists off of our shores?

But even more important than the substance of the Anti-Terrorism Act is the precedent set by this action. The executive branch simply has no right to second guess the merits of a duly enacted public law. We expect, and the American people expect, that the executive branch will do what the Constitution requires—to carry out the laws passed by the Congress of the United States, particularly considering the fact that the President signed the legislation.

Mr. President, I suggest that the work of the Congress may not yet be over on this issue. The Congress cannot simply "rollover" and let the executive branch pick and choose among the laws it will enforce.

The PRESIDING OFFICER (Mr. WIRTH). The majority leader.

Mr. BYRD. Mr. President, may we proceed with the regular order.

TEXTILE AND APPAREL TRADE ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2662, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2662) to remedy injury to the United States textile and apparel industries caused by increased imports.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, in the absence of the manager of the bill, understanding the time limit that exists, let me take a little bit of time this morning to talk about my position on the bill which is different than the position I have held in the past.

Before I do, let me commend the manager of the bill and the distinguished Senator from South Carolina, Senator THURMOND, both for their remarkable leadership on this issue and for the work that they have done in bringing the bill this far.

I have watched with a great deal of interest and certainly with some admiration the way they have handled the bill and certainly the way it has been handled on the floor in the last several days.

Mr. President, the Textile Apparel and Footwear Trade Act of 1988, could have a far reaching impact, not only on the textile and apparel industries, but also on other trade between the United States and textile exporting countries, and it is that concern I want to address this morning.

As we consider this legislation, it is important to review the textile industry and its economic foundation, the changes the bill's sponsors have made to improve this legislation over that presented to the 99th Congress, and finally the inclusion of a provision I authored to protect this country's agricultural exports against retaliation from textile exporting countries.

I opposed H.R. 1562, the textile quota legislation, when it was brought before the House in 1985. I voted against H.R. 1562 when it was first considered on the floor, and again when the House sustained the President's veto of that legislation.

If the bill's sponsors had not responded to the criticisms from the debate on H.R. 1562 and modified their original proposal to accommodate those objections, I would be opposing this legislation today.

It is important to note that S. 2662, the legislation before the Senate, has been changed in a number of substantive ways over the concepts embodied in H.R. 1562. I had many reasons for my opposition to that bill, the most important of which was the fact that it did not offer protection against the possibility that textile exporting countries might retaliate by purchasing less U.S. agricultural exports.

Opponents of that bill pointed to the fact that the textile exporting countries purchased 60 percent of U.S. agricultural exports, and that passage of textile quota legislation would certainly result in retaliation by textile producing countries purchasing less U.S. agricultural exports.

Thus, representing a State where agriculture is the primary industry, retaliation against U.S. agricultural exports was a concern that was not satisfactorily addressed in that legislation. Later, I intend to address this issue in further deatil and describe a provision I authored in S. 2662 to protect against this retaliation.

Second, the bill before us today will not mandate rollbacks in the amount of quota allocated to any textile exporting country. S. 2662 guarantees an import level of textiles and apparels to the amount of imports in 1987. It also provides for an annual 1-percent growth in the base quota in subsequent years. This contrasts sharply with the 99th Congress bill, which would have required rollbacks of up to 30 percent for the largest textile exporting countries.

Finally, S. 2662 adheres to the principles of the General Agreement on Tariff and Trade [GATT] by applying the quota to all countries, including Canada and the European Economic Community countries heretofore exempted from textile quotas. The exemption in H.R. 1152 for Canada and the EEC was a major criticism because the quotas discriminated between countries.

In addition, to ensure GATT adherence, the President is authorized to compensate foreign countries through tariff concessions, should that be necessary.

As I examined the changes incorporated in S. 2662 and assessed the impact of this legislation on our overall trading relationships with other countries, specifically the Pacific Rim, a number of factors weighed significantly on my conclusion that it is necessary to further define our textile trade policy.

Perhaps the most important of these was the fact that all the apparel exports to other countries in the world combined do not equal the level of apparel imports entering the United States from developing country exporters.

Even though nearly all major nations protect their textile and apparel industries, supporters of S. 2662 point out that the most liberal trade policies maintained by the major textile importing countries are those of the United States and the European Economic Community. As a result, it is little wonder that imports control over 50 percent of the domestic textile and apparel market.

When one examines the increasing percentage held by imports in the domestic market and the level of access to our domestic market compared to the restrictions that other countries place on their textile markets, the need for a comprehensive textile policy becomes apparent.

Mr. President, I ask unanimous consent that a "Survey of Import Restrictions in Textiles and Apparels" be printed in the RECORD for the benefit of my colleagues.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

TABLE 1.—Survey of Import Restrictions in Textiles and Apparel

Area	Form of restrictions
Developed countries:	
European communities.	Bilateral agreements pursuant to Multifiber Arrangement.
Canada	Do.
Sweden	Do.
United States	Do.
Finland	Do.
Austria	Do.
Australia	Global tariff quotas.
New Zealand	Import licensing subject to global quotas maintained "without GATT cover."
Norway	Global quotas pursuant to non-MFA bilaterals with major LDC suppliers.
Japan	Non-MFA voluntary retraint agreements, informal government pressure on distributors.
Eastern trading area countries.	Licensing requirements; imports must be conducted through foreign trade organizations (FTO's).
Major development countries:	
Mexico	Licensing requirements; licenses denied for most products.
India	Import ban on most products.
China	Trade regulated by FTO's.
Korea	Licensing requirement for items on "negative list," sometimes amounts to ban.
Taiwan	Periodic import bans, high tariffs.
Nigeria	Imports of all textiles and apparel are banned.
Argentina	Severe restrictions on items "similar" to those produced domestically.
Indonesia	Licensing requirement and administered to protect Indonesian producers.
Turkey	Import ban on many products.
Brazil	High (100%+) tariffs; licensing system amounting to a ban on many products.
Egypt	Import ban on some products; licensing requirements.
Colombia	Import ban on many products.
Venezuela	All clothing imports are banned.
Pakistan	Licensing requirement; some items allowed only for barter or if linked to extension of credit.

Mr. DASCHLE. As one can see, these import restrictions include global tariff quotas, restrictive licensing requirements, excessive tariffs, and import bans. I cite this list, not as an absolute defense for the domestic quotas called for in this legislation, but rather to make certain the debate on S. 2662 is properly focused on the entire world textile economy. This focus makes it clear that the provisions being proposed in this bill are no more restrictive than those found in other textile exporting and importing countries.

Furthermore, textile and apparel import statistics clearly indicate that textile-exporting countries have taken full advantage of the relative freedom of access to the U.S. textile and apparel market. The world trade in textile and apparel was $83 billion in 1985. Sixty-nine percent of textile trade was subject to import controls. Perhaps most importantly, 87 percent of developing country exports were subject to import controls, while only 59 percent of exports to developed countries were subject to import control.

Notwithstanding the restrictions in the world textile market, imports of textile and apparels have clearly surged, jumping to $35.4 billion in 1985 from $9.72 billion in 1974 for world exports from developing countries. The annual growth rate exceeded 12.5 percent, with over 90 percent of this growth translating to increased shipments from developing countries to the United States and the EEC.

There are those who dismiss this dramatic increase in textile exports as being due solely to low wages. It is argued that the wage differential in textile importing countries may account for a sizable portion of the increase in textile and apparel exports to the United States. Even though the wage differential argument can legitimately be made, there are a number of other very important factors that should be analyzed in the context of this debate on the impact of increasing textile imports.

Many of these textile exporting countries have joined with their domestic textile and apparel industries to advance a comprehensive and coordinated textile export strategy. Take China as an example. I expect that much will be made of the issue of China's exports to the United States and the ramifications of textile quotas on the trading relationship between our two countries. However, for many years, China has enjoyed as much as a 60 percent annual growth rate in textile exports to the United States.

The policies adopted by the Chinese Government include the availability to exporters of newly generated foreign exchange, special exchange rates for certain textile export sales, reductions in income taxes and discounted loans to textile exporting companies, and a priority allocation of raw materials, energy and transportation resources.

I do not blame China for taking these initiatives and I applaud them for their aggressiveness in doing so. If it had not been for the coordinated policies adopted by the Chinese, the 60 percent annual growth rate probably would not have been possible.

As I noted earlier, this bill is a major improvement the legislation that I previously opposed. S. 2662 is global in nature. It does not require rollbacks in the quotas of any of our trading partners. By not forcing quota rollbacks, this bill recognizes the importance of our emerging trade relationship with Japan, Taiwan, and Korea. It recognizes that these Pacific Rim countries are not only good trading partners, but allies as well, and need to be treated as such.

Perhaps equally important, unlike H.R. 1562, S. 2662 recognizes that these major textile exporting countries are not the sole cause of the problems confronting the textile industry. By establishing a global quota, the allocation of which is left to the discretion of the Secretary of Commerce, S. 2662 allows our policymakers to reflect the importance of these countries to the economy of the United States.

Secondly, as a result of the changes incorporated in this legislation, S. 2662 is GATT consistent. Under GATT article XIX, a country may restrain imports if increased imports have caused serious injury to domestic industries. The injury finding must be made by an appropriate government agency with the remedy meeting certain criteria, including global quotas, compensation for the quotas, and the remedy remaining in effect during the time of injury or threat of injury.

With the congressional finding of injury, the global quota, and the tariff compensation authority, S. 2662 meets the GATT requirements on all accounts.

In addition, this legislation is prospective in the application of the quota. It permits the Secretary to allocate quota in such a manner as to guarantee a country's level of imports at the amount exported to the United States in 1987. Furthermore, the legislation provides for an annual 1-percent increase in the amount of the global quota.

Thus, upon enactment, S. 2662 immediately guarantees an import penetration level of 52 percent of the domestic market and provides a mechanism to increase that level in succeeding years.

Finally, Mr. President, this legislation contains a provision I authored to address my concern that imposition regardless how fair, regardless how practical of this legislation on textile quotas may result in retaliation through the purchase of fewer U.S. agricultural exports. This argument made by the opponents of H.R. 1156 and S. 2662 is a legitimate one, and, as I previously noted, one that caused me to oppose H.R. 1562.

The so-called big five textile exporting countries—Japan, South Korea, Taiwan, Hong Kong, and China—account for 53 percent of the textile and apparel imports into the United States. These same countries purchase 31 percent of U.S. agricultural exports. By including Mexico and the European Economic Community, the amount of United States agricultural products purchased by the major textile exporting countries increases to 60 percent.

The potential of retaliation was not addressed to my satisfaction in the previous bill. However, it clearly is a significant factor and one that must be addressed in S. 2662. That, Mr. President, is why I have offered the agricultural export promotion amendment that has been included in this legislation.

My amendment will provide an incentive for countries to increase their commercial purchases of U.S. agricultural products and a disincentive for them to retaliate by deliberately purchasing less U.S. agricultural products.

The application of the amendment is simple. In the first year of the distribution of the global quota, the Secretary is directed to allocate a portion of the global quota to any country that has increased its commercial purchases of U.S. agricultural products. In subsequent years countries that continue to increases their purchases of U.S. agricultural products would be guaranteed the previous year's quota plus a priority share of any unallocated quota.

My amendment does not prevent the Secretary from allocating a portion of the quota to a country that reduces its commercial agricultural purchases. I want to maintain the greatest possible degree of flexibility to allow the Secretary to allocate the quota and that means permitting the Secretary to allocate quota to any country, even one that has reduced its agricultural purchases.

For example, a country could have reduced its purchases, but not in retaliation for the textile quotas. I believe that the Secretary should be allowed to allocate quotas in that kind of a situation.

Also, because the Secretary may not want to allocate quota in direct relation to the amount of agricultural purchases, my amendment does not draw a direct link between textile and apparel quotas and agricultural purchases. Just because a country purchases a large amount of agricultural products does not necessarily mean that country will receive a sizable allocation of the textile and apparel quota for the first year. The decision rests with the Secretary.

Mr. President, I hesitate to single out countries for special attention, but I am confident that some of the opponents of this amendment will cite the so-called China example as a reason why the textile bill, and this amendment, should not be passed.

In 1983, the United States imposed quotas restricting about $50 million of Chinese textile and apparel imports. The Chinese retaliated by cutting their United States agricultural product purchases by $500 million.

Again in 1984, the Chinese cut back in their agricultural puchases by 2.5 million metric tons when the United States changed its custom regulations to significantly cut back on Chinese textile imports.

Cutback from where, Mr. President? China has enjoyed an average textile and apparel export growth rate to the United States of approximately 45 percent. In 1986, Chinese textile imports rose an incredible 63 percent. From 1981 to 1987, textile and apparel imports from China has increased 13 times, from 562 million to 7.6 billion square yard equivalents.

During this time period when it appears that the Chinese have enjoyed relatively unrestricted access to the United States textile and apparel market, agricultural exports to China have followed the opposite trend. In 1981, the United States shipped nearly $2 billion in United States agricultural products to China. Since 1981, the value of United States exports to China has fallen steadily, to a low of $57 million in 1986. Despite a modest 1987 recovery in United States agricultural exports to China, the trend is obvious. The Chinese have been consistently reducing their purchases of United States agricultural products, and we have been rewarding that action with vastly increased access to the United States textile and apparel market.

To the credit of the administration, steps have been taken to limit to 3 percent annually the Chinese growth rate in the textile and apparel market. In fact, my good friend, Ambassador Clayton Yeutter, the United States Trade Representative, recently told the Chinese that they must open their domestic markets if "they expect to become a full-fledged member of the world commercial community."

The facts speak for themselves, and the facts are that we have a trade deficit with China, a deficit that increased to $3.5 billion in 1987 from $2.1 billion in 1986. The amendment I have authored will give Ambassador Yeutter and his successor one more tool to open markets to United States agricultural products, like that found in China, and make our trading partners understand that a price will be paid for deliberate retaliation, one that is found in law.

Let there be no mistake about my position on trade in general and this textile bill in specific.

Through our efforts in the trade bill, this Congress recognized the importance of a global economy and the impact of each country's economy on that of the other. I supported this bill because it embodied my thoughts on trade, that trade must be reciprocal for the globalized economy to work.

In every industry, including textile and apparel, we must strive to become more competitive, sharpening our ability to compete in the international trade economy.

I do not take lightly the charge that the textile bill could jeopardize the relations between textile exporting countries and the United States. Clearly, some of the most important trading relationships the United States has are with textile exporting countries of the Pacific rim. I have invested a great deal of time developing a better understanding of trade between the countries in the Pacific rim and the United States, as well as our social and political relationships. The return on that investment has been close working relationships and friendships with many individuals in South Korea, Japan, and Taiwan.

However, Mr. President, I have become convinced that the United States must articulate a textile trade strategy. Thus, I can support the formulation of this policy through the concepts contained in this legislation.

For that reason, and with the inclusion of my amendment to protect agricultural exports from the prospects of retaliation, I will support the passage of S. 2662.

At this time, I ask unanimous consent that following my remarks the following items be printed in the RECORD: Statistics on agricultural exports to textile-exporting countries; statistics on textile imports from textile-exporting countries; letters from farm organizations supporting the textile bill, including the National Corn Growers Association and a joint letter from the National Farmers Union, the National Farmers Organization, and the American Agricultural Movement; and finally, a resolution of support for my amendment from the Nebraska Wheat Growers Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AGRICULTURE EXPORTS FROM THE UNITED STATES

[In millions of dollars]

	1981	1982	1983	1984	1985	1986	1987	1981–87
Taiwan	1,145	1,115	1,308	1,458	1,231	1,164	1,285	8,746
China	1,956	1,505	544	613	157	57	362	5,194
South Korea	2,008	1,581	1,840	1,650	1,413	1,292	1,833	11,617
Hong Kong	394	392	344	407	389	396	466	2,788
Japan	6,562	5,555	6,251	6,782	5,409	5,106	5,700	41,365
Subtotal	12,065	10,188	10,287	10,910	8,599	8,015	9,646	69,710
EEC	9,059	8,397	7,374	6,529	5,240	5,721	6,835	49,119
Mexico	2,432	1,156	1,942	1,993	1,439	1,074	1,200	11,236
Total	23,556	19,741	19,603	19,432	15,242	14,810	17,681	130,065

TEXTILE AND APPAREL IMPORTS INTO THE UNITED STATES

[In millions of square yard equivalents]

	1981	1982	1983	1984	1985	1986	1987	1981–87
Taiwan	825	938	1,178	1,578	1,646	1,767	1,619	9,551
China	562	671	784	990	1,048	1,739	1,762	7,556
South Korea	783	764	968	1,165	1,285	1,473	1,376	7,814
Hong Kong	860	843	952	1,048	1,296	1,349	1,256	7,604
Japan	508	511	674	737	730	810	593	4,563
Total	3,538	3,727	4,556	5,518	6,005	7,138	6,606	37,088

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC, August 30, 1988.
Hon. THOMAS A. DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: At the 1986 Annual Convention of the National Corn Growers Association (NCGA), the Voting Delegates adopted a resolution supporting the effort to override the President's veto of the Textile and Apparel Trade Act of 1986 in the United States House of Representatives.

Since that time, the Textile Apparel and Footwear Trade Act (S. 2662) of 1988 has been crafted and introduced in the United States Senate with a view of being consistent with the General Agreement on Tariffs and Trade (GATT). In addition, the textile bill provides for an annual increase in the global quota of textile imports that will be permitted each year into the United States. With the inclusion of your "agricultural export enhancement provision" as an integral part of the 1987 Textile and Apparel Act, the National Corn Growers Association supports you and your colleagues in the enactment of this piece of legislation.

With the inclusion of your provision in this Act, Senator Daschle, and the provision for annual increase in the global textile import quota, we in the National Corn Growers Association comfortable are in supporting this legislation. Because of these provisions, we are also confident that the major textile exporting countries and/or other interests cannot with any rationale and justification argue that this Act is nothing more than a "piece of protectionistic legislation." Therefore, these provisions in this Act serve to eliminate any concerns about U.S. protectionism in textile trade, and remove any justification for any retaliatory actions by major foreign importing countries against U.S. corn and agricultural exports to those markets.

We look forward to working with you early in September, and trust that this bill with the Daschle provision as an integral part of it will be overwhelming passed by the United States Senate.

With best regards,

KEITH HORA,
President.

NATIONAL FARMERS UNION,
Washington, DC, March 6, 1987.
Hon. THOMAS DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: Because we recognize the need for effective trade policies, the American Agriculture Movement, Inc., the National Farmers Organization and the National Farmers Union urge you to support S. 549, the Textile and Apparel Trade Act of 1987. The enactment of this important piece of legislation will help communities where the livelihood of textile and apparel industry workers is severely threatened by the pressure of imports. Farmers in those same communities also feel the devastating consequences of a shrinking textile and apparel industry as plants close and jobs are lost.

America's farmers and our nation's two million textile and apparel workers share a common fate—and a common bond—in keeping their industries and our economy strong. Both compete in a highly competitive international marketplace. Both depend on a strong domestic economy with healthy employment levels to buy their products and provide financing. And both frequently serve as the foundation of rural communities, where farming families often rely on the second income that is provided by farmers' wives (and other relatives) working in local textile and apparel factories.

Increasingly, members of Congress understand the vital link between textiles, apparel and agriculture. About 120,000 wool growing and shearing operations and 41,000 cotton farms—agricultural interests that support textile and apparel—will be adversely affected if this legislation is not passed.

We strongly urge you to act on behalf of the textile, apparel and agricultural workers of America and give your support to S. 549.

Sincerely,

DAVID SENTER,
National Director,
American Agriculture Movement, Inc.
CHARLES L. FRAZIER,
Director, Washington Office,
National Farmers' Organization.
ROBERT A. DENMAN,
Director of Washington Office Operations.

Whereas, the major points include:

(1) We affirm the right of nations to determine the level of food self-reliance and food security appropriate to their situation.

(2) We affirm the right of individual nations to establish and manage their own agricultural policies within the framework of international agreements.

(3) Agricultural policies must allow farm income to be derived from the sale of products at fair prices above the cost of production. We strongly oppose policies that primarily rely upon government welfare payments, such as decoupling.

(4) We affirm the right of individual nations to implement effective supply management programs essential to balancing production and supply with demand, and reject all efforts to weaken GATT Article XI-2,

which currently protects supply management programs.

(5) Export dumping, as defined by Article VI of the GATT Agreement, must be forbidden. We recognize the need for establishing market shares and reference prices to accomplish this.

(6) The GATT agricultural negotiations must recognize the special needs of developing countries.

(7) While the GATT negotiations continue, urgent emergency measures, coordinated through existing international bodies, must be taken to reduce and manage stocks, establish fair world prices and to raise farm income: Now, therefore, be it

Resolved, That the NWGA recommends that the United States negotiators at GATT consider the attached statement as a positive alternative to the current U.S. position.

Whereas, the textile and apparel industries in the United States have been subjected to burgeoning imports of these products causing job losses and plant closing; and

Whereas, numerous farm families find off-farm employment in the textile and apparel industry; and

Whereas, the trend established on textile imports could also lead to similar trends that would result in burgeoning wheat imports as reflected by the recently passed Free Trade Agreement between the U.S. and Canada; and

Whereas, continued higher levels of textile imports could lead to traditional cotton acres shifting to wheat production during a period of oversupply and depressed prices; and

Whereas, numerous benefits can be realized through cooperation between the textile and agricultural groups in the federal arena; and

Whereas, the U.S. Congress is considering legislation to limit the growth of such imports to the level of growth in the domestic market: Now, therefore, be it

Resolved, That the Nebraska Wheat Growers Association supports enactment into law of the Textile and Apparel Act of 1987. The Nebraska Wheat Growers Association also supports adoption of an amendment to the bill which would give a preference in the allocation of the global quota to these countries which increase their purchases of U.S. agricultural commodities.

ERV FRIEHE,
Chairman.
DAN DUDDEN,
Cochairman of Clean Grain.
FRANK JOHANNSEN.
ED FARR.
DAN MCGUIRE.
CAROLYN LOGUE.

Mr. DASCHLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Let me thank our distinguished colleague from South Dakota for his leadership on this matter. He has brought us full circle. I remember back almost 6 years ago when I was in Iowa campaigning. I ventured to be interviewed on a radio talk show on WHO, Dutch Reagan's old radio station in Des Moines, IA.

The first question was, "Senator, coming out here from a textile State with all of that protectionism, how do you expect to get the vote of us Iowa farmers?" I will never forget it. I said, "Now, let's hold up a minute." I said, "On protection, let's find out who is really getting protection and subsidies." And, of course, I cited the Export-Import Bank, I cited the farm price support, protective quotas, and I said, "We in South Carolina are not asking for any subsidies for textiles. We have farmers, too. I have supported our cotton farmers, our soybean farmers. We are in this boat together."

I said "We have been shipping wheat to Europe, the European Economic Community, but because of a 25-percent price support in the European Economic Community, Europe will soon be exporting and stealing our markets." Europe last year exported 24 percent of the world's wheat. Ten years previously, they had been a net importer of 20 percent of the world's wheat.

So we are into an international competition and we must have an understanding among our South Korean, Japanese, Taiwanese, and other Pacific rim trading partners. The fortunate thing for the United States is that the Pacific rim nations have embraced robust capitalism. We welcome their participation and competition. The fact is, they have emulated our own Founding Fathers with respect to using government to foster the development of a strong independent industrial backbone and strong agricultural production. The use of government has proved very successful historically for us, and they have emulated us, only they have embellished the model by adding price controls, savings incentives, cartelization, and those kinds of things.

It behooves us to act reciprocally, and that is where the Senator from South Dakota has really led the way. Certainly he has persuaded this Senator. He is helping us and the farmers to work together because, No. 1, we have to have a strong agricultural economy. It still accounts for some $23 billion of our export trade today. That $23 billion is a plus for our balance of trade. We have to cut back on the $25 billion deficit in textile trade if we are going to begin to balance our international competitive stance. We are only going to restore that balance by working together rather than working at cross-purposes with a nonpolicy.

As I said in yesterday's debate, I proudly count myself in the tradition of Jefferson, Madison, and Hamilton who put in the very first tariff bill passed on July 4, 1789. If we be labeled protectionists, than I am in good company. President Lincoln, who demanded that we build the steel mills to build our transcontinental railroad rather than getting it cheaper from Great Britain, he acted in the same tradition. Franklin Delano Roosevelt, who passed in 1933 the Agricultural Adjustment Act giving price supports and protective quotas to America's agriculture, and the Export-Import Bank, to subsidize our agricultural exports to Russia 50 years ago and to sell airplanes from Boeing in Seattle, WA, he, too, was in the great tradition of standing up for America's industry and agriculture. Eisenhower, with his oil import quotas, followed in that tradition. We have all chosen to employ our great Government to safeguard America's economic security and industrial infrastructure.

In my recent trip to the Far East, the question I encountered from Asia's leaders was, "Senator, what are you in America going to do about your economy?" They are worried about their best friend. Earlier we heard a refrain about the hand of friendship. That is immature. We have embraced these countries with our friendship. We have stood up for those countries time and again. America is the vanguard of freedom and international security. In Korea we spilled American blood to defend our Asian brothers. Now the Koreans are beginning to worry about us. They do not mind competing with us economically and rebuilding their own economies, but they hate to see a self-defeating America, a naivete in the U.S. leadership, a failure to compete.

Well, bless us. The Senator from South Dakota has brought us an innovative idea that is full of realism, and I commend the Senator for it. We have been able to talk to our wheat farmers in Nebraska, to corn farmers in the Senator's State of South Dakota, and to my own farmers in South Carolina. Senator DASCHLE's ideas have helped to reconcile the interests of industry and agriculture.

We need such new ideas. I am tired of the old, hackneyed, playground whimpering about fairness and free trade. Business is business. Old FDR led the way back in the Depression. In order to keep the banks open, he momentarily closed the doors. In order to save farms, he momentarily plowed under the crops. And, today, in order to remove barriers to our exports and bring about reciprocity in trade, we are going to have to momentarily raise some barriers so that, later, we can remove both ours and theirs. That will be meaningful reciprocity.

The leadership of the Senator from South Dakota must be fully appreciated because he has worked over many months, and he has magnificently served the interests of South Dakota. I appreciate it very much. And, of course, I am not alone in this respect for Senator DASCHLE. The growing bipartisan support for this bill is a testiment to his coalition building and leadership. I thank the Senator very much.

Mr. DASCHLE. I thank the distinguished Senator from South Carolina for his very generous comments and again reiterate my commendation for his tremendous leadership in bringing this bill to the floor with the willingness to take into account new ideas and to fold them into a concept that he has worked for for many years.

I had the occasion during the month of August to talk to people from all sides about this bill. As was the Senator, I was in the Far East and talked to many business people, many organizations, and what I found was surprising. They can live with this bill. They understand this bill. They understand the motivation and they accept it.

But perhaps most surprising is my conversations with numerous organizations in South Dakota dealing directly with agriculture. The Farmers Union, the National Farmers Organization, the American Agricultural Movement, the National Corn Growers, the Nebraska Wheat Growers, and countless farm organizations have said we not only support this, we do it enthusiastically. I have never had that kind of broad-based agricultural community come to me in the past and say we want you to support this bill. So it is a real tribute to the Senator, and I hope as a result of this kind of grassroots support we are going to see a similar type of support from agriculture States on the Senate floor. I thank the distinguished Senator.

Mr. HOLLINGS. I thank the Senator.

Mr. HEINZ. Mr. President, I ask the manager of the bill for about 10 or 12 minutes.

The PRESIDING OFFICER. Does the Senator from South Carolina yield 12 minutes to the Senator from Pennsylvania?

Mr. HOLLINGS. Yes; he is on his time with respect to the bill and he has a full hour and we can allocate more.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina controls the hour of time.

Mr. HOLLINGS. Excuse me. Yes; I yield such time as necessary to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank my friend and colleague from South Carolina.

Mr. President, it is deeply disappointing in many respects that once again we have to debate this issue. In one way it is even tragic because of the tremendous human cost of our delays and our failure to enact this bill in previous Congresses. Since 1980, more than 300,000 jobs have been lost in the textile and apparel industry and more than 70,000 jobs have been lost in footwear. Many, if not most, of those jobs are filled by women and minorities, including immigrants trying to break into our economy and get their first foot up the ladder of economic opportunity in this country. Those people badly needed those jobs, and it is precisely that segment of our population which is in the greatest need of our attention.

Too often when we debate these economic issues, we deal with them in abstract policy terms and forget that the lives and livelihoods of real people are involved. If we abandon this industry, we do not just abandon its management and shareholders, but most important, we abandon its hundreds of thousands of workers and their families. Without question, they deserve better than that, and the country deserves better than that.

That is why, Mr. President, I once again wish to express my support for the Textile and Apparel Trade Enforcement Act, legislation which I have supported since its first introduction in 1985. This bill sets orderly limits on the foreign imports which have damaged three important American industries. The textile, apparel, and footwear industries are engaged in a major struggle to survive America's trade crisis when I say "Survive", consider some facts. Since 1980, textile and apparel imports have grown at an annual rate of 19 percent, far greater than the growth objectives of the Multi-Fiber Arrangement which set a ceiling of 6 percent annual import growth, and far in excess of the 1 percent average growth of the U.S. market during that period. This uncontrolled growth of textile and apparel imports has outpaced the growth of the domestic market, resulting in market disruption, job losses, curtailed production, and plant closings.

President Reagan promised as a candidate in 1980 to limit growth in textile imports to the growth in domestic consumption. He reaffirmed this pledge in a letter to Senator THURMOND in October 1982. Under the terms of this pledge, the deficit in textile trade should have increased from $4.7 billion in 1981 to $9.3 billion in 1987; that is, if the President had been true to that pledge.

It is fair to state, Mr. President, that had that promise been kept, we would not be here today debating this bill. However, because of the administration's lax enforcement of the Multi-Fiber Agreements, the actual textile-apparel deficit has skyrocketed to $25 billion, 2½ times the level promised by the President, and 5 times what it was 7 years ago. The administration's dollar devalution has also not helped, because a number of the major foreign producing nations such as Korea and Taiwan have continued to keep their currencies artificially low vis-a-vis the dollar in order to keep their exports high and growing.

Despite these pressures, U.S. textile and apparel companies are continuing to spend billions of dollars annually to modernize and improve worker productivity. The resulting productivity increase has been significantly greater than the rate of productivity growth for all U.S. manufacturing. Yet, despite this investment and increased productivity, U.S. manufacturers continue to lose market share and they do so at a rising and alarming rate. Import penetration has now reached 54 percent of the U.S. textile and apparel fabric market and 82 percent of the U.S. footwear market. This translates into the $25 billion textile and apparel trade deficit which comprises 16 percent of the Nation's trade deficit.

Recent data show that the market's downturn is continuing at least through the first quarter of this year. Textile profits have dropped 12 percent, and weekly hours for textile production workers in May hit a 2 year low. Other economic indicators such as the 4-percent decrease in capacity utilization and the 6-percent increase in factory inventory point to an alarming softening in the market.

The disaster represented by these numbers has dealt a great blow to American textile, apparel, and shoe workers. One thousand textile and apparel plants and 400 footwear plants have been closed. Despite the industry's annual $1.7 billion plant modernization effort amounting to 80 to 85 percent of its retained cash flow, 300,000 textile and apparel jobs and 70,000 footwear jobs have been lost since 1980. Increases in imports of textiles and apparel from 1981–86 represents nearly 700,000 lost job opportunities for Americans. In 1987 alone, foreign textile producers increased their shipments to the United States by 835 million square yards, or 19 percent. For every additional 100 million square yards imported, 10,000 U.S. job opportunities are lost.

The bill we are considering today will counteract this situation. Above all else, this bill is a creator of jobs. According to a study by ICR, enactment of the Textile and Apparel Trade Act of 1987 would create 152,000 new jobs in our country by the second year of its enactment. But the positive effects are not limited solely to this sector. A recent report by the Office of Technology Assessment found that about 40 percent of the jobs created by a productive textile and apparel industry are secondary and tertiary jobs in companies outside the industry.

Importers and retailers have lobbied against this bill, claiming that protection of the industry would come at great expense to the consumer because of the price increases that it would cause. We have all heard those arguments and we are not surprised at them. A special report by the Office of Technology Assessment [OTA], which I think most people hold in the highest esteem, however, dispels the myth that there is a significant consumer price difference between imported and domestic goods. The report states:

Even though it may cost producers only one-fifth as much to make their goods abroad, the U.S. consumer may not necessarily enjoy a similar reduction in price.

In fact, retailers typically mark up imported textiles and apparel 200 to 400 percent, compared to a 100 percent markup on similar U.S.-made goods. The consumer often pays the same price for equivalent imported and domestic products. OTA found that "many imported blouses, shorts and shirts actually cost more than their U.S.-produced counterparts."

Mr. President, I can attest to this issue personally. When the original legislation was first introduced in 1985, I looked into the pricing question in some detail and discovered that retailers sell many apparel items at established price levels, making no distinction in the origin of the item. The example I used at the time was men's dress shirts, where I obtained identical shirts made in three different countries, one of which was the United States, all sold by a major national retailer at the identical price. It is not hard to replicate this experiment in numerous other categories of apparel.

I have no doubt that the cost of the same item made in different countries is different. But that difference is absorbed by the difference in retailers' markup. The consumer sees the same price.

It is simply not accurate to claim that consumers benefit now, or will benefit in the future, from the continuous flood of low-priced textile and apparel goods without limitation whatsoever. It is the distributors and retailers who are profiting from the production of garments by poorly-paid foreign laborers. The OTA report states:

> There is often a large disparity between production cost and the selling price in the United States, with much of the difference ending up in the hands of foreign and domestic shippers, wholesalers and retailers.

Only through vigorous and fair competition among foreign and domestic producers will the American consumer really benefit. The intense competition among domestic producers, which has kept price increases for domestically produced textile and apparel down to 1.9 percent from July 1986 to July 1987, will keep a lid on future price increases. It is that competition, however, which is threatened by the rapid growth of imports.

The demise of American production of velveteen is a case in point. The last U.S. producer of velveteen went into bankruptcy in 1984. Within a few months, the price of imported velveteen had risen 33 percent. This example illustrates the consequences of letting American industry and its competitive potential fail in the false pursuit of lower prices today. American workers and American consumers will inevitably pay a high price for such an approach in more ways than one.

This issue also effects our national defense. Textiles apparel and footwear are essential for an adequately clothed and equipped army. The U.S. Government lists hundreds of textile-related items essential to our national defense. Numerous high-technology products are now manufactured from textiles and man-made fibers. A 1986 Defense Department report, however, found the capability of the domestic textile and apparel industries to support defense mobilization requirements seriously lacking. Diminishing sources in the textile industry have seriously affected its production base. This trend was reported as directly related to foreign competition. DOD also concluded in 1985, that during a period of only limited military mobilization, there would not be an adequate supply of footwear.

Mr. President, this legislation will help to reverse the U.S. role as the dumping ground for the world's textile and apparel exports. The OTA report concludes that the United States is "absorbing a large share of the world's textile and apparel exports, at the expense of its domestic industry." The United States is hit by developing nations in three ways: import protection, export subsidies, and low wages. OTA found that developing nations frequently couple export subsidies and import protection to promote their textile industries.

> Developing nations want their growing textile and apparel markets with their own countries for themselves. * * * Many countries ban imports altogether. * * * Beyond import restrictions, foreign trade is also influenced by the substantial government subsidies that many nations provide their textile industries. When these conditions are combined with wages that are a fraction of those paid to U.S. workers, it is extremely difficult for U.S. textile and apparel producers to compete in their own domestic market.

I urge all Senators to support this bill. If import growth is not slowed, future investment in these industries will be sharply curtailed, leading to a loss in competitiveness and the continued liquidation of an industry which is a major element of U.S. manufacturing.

This is a responsible piece of legislation. It properly addresses the criticisms that were made of the previous textile bill, and I think there is little question that it is largely possible to implement this bill consistent with our international obligations. Its global quota system does not single out countries or regions, and it allows us to honor existing agreements, if the President chooses to do so. The improvements to the most recent version of the bill—the so-called Daschle amendment and the auction quota plan—should further enhance its acceptability.

As I have said, Mr. President, if the Multifiber Arrangement had been properly enforced, we would not be here today debating this issue. Likewise, if we had been able to override the President's veto in 1986, we would not be here today. Each of those failures has added thousands of workers to the unemployment lines and further jeopardized the viability of this critical industry. This year I urge an overwhelming vote for this bill so that we can enact it, revitalize the industry and put this issue behind us.

Mr. **PACKWOOD**. Mr. President, I yield 20 minutes to the Senator from Texas.

The **PRESIDING OFFICER**. The Senator from Texas is recognized for 20 minutes.

Mr. **GRAMM**. I thank my distinguished colleague for yielding.

Mr. President, I am sure that yesterday, when our dear colleague from South Carolina started talking about Alexander Hamilton and about the philosophical roots of this debate, there were some who thought that it was beautiful rhetoric but might not be relevant to what we were debating. I was not one of those who considered it irrelevant. It was a relevant point—in fact, as relevant as one can be relevant in any debate, because what we are debating here is not a new issue. We are debating here an issue which, by and large, has dominated debate in economics since the beginning of civilization. It is a debate that was highly contested at the beginning of the Republic.

Our dear colleague from South Carolina is a man I admire and for whom I have great affection, in part because he never claims to be something he is not. Our dear colleague from South Carolina proclaimed yesterday that he was happy to be known as a protectionist. I do not agree with that philosophy, but I admire people who say what they are. I have less admiration for people who come to the floor of the Senate and say that they are for fair trade and yet who vote against amendment after amendment after amendment trying to achieve that objective.

Mr. President, I want to begin this morning by talking about the philosophy of this debate. Then I want to come back to this bill and talk about why I believe this bill should not become the law of the land.

Let me begin, as my colleague from South Carolina did, by talking about Alexander Hamilton. Alexander Hamilton was one of our great Founding Fathers. He represented a view that was very much a part of the time in which he lived. This view was that America could not be governed as a democracy, and that we should have a king, or at least a strong executive. It was a view that held that we had to have an executive who had all-dominant power, because ultimately democracy could not be trusted on the very tough issues that determine the life and death of a great nation.

Hamilton felt, very much in the philosophy of the time, that government was the primary engine of economic development. Alexander Hamilton wanted the Government of America to play a dominant role in molding the development of the Nation. He believed that government could set out a development strategy, that government could adopt taxes and policies and regulations that would ultimately produce a great economic engine in America. That philosophy was deeply rooted in what we called in that era mercantilism. That view is well represented today here in the U.S. Senate and around the world.

The alternative philosophy was the philosophy of Thomas Jefferson, and that was a philosophy that was focused on the future and not the past. Jefferson rejected the idea that democracy could not work; but, of more importance to the debate here today, he rejected the idea that government was the primary engine for economic development.

I do not think it is unfair to say that, to a large extent, those two different visions for America's future still dominate the American political scene. In fact, if one looks at the economic policy of the two people running for President of the United States today, I do not think it is unfair to say that, in a very real sense, they are heirs of those two Founding Fathers.

If you had asked Alexander Hamilton what his vision for America's future was, he no doubt would have said that his vision for America's future was a vision of government growing, government providing a dominant role in economic development, government as the primary engine for economic growth, to build a proud, a strong, and a prosperous America.

Had you asked Thomas Jefferson what his vision for America's future was, he would have said it more eloquently than I can, but I do not doubt that he would have outlined a vision of America growing, with its free people providing more opportunities for more people.

The debate between these two giants was really a question about where the genius that drives progress comes from. In one case, in Alexander Hamilton's case, it was government. It was the knowledge of the few people with talent and skill to gain control of the policies of a great Nation.

In Jefferson's mind it was the genius of the people—the farmer, the merchant, and the manufacturer. It was Jefferson's view that while government can have good policy and bad policy, ultimately the driving force for economic progress is freedom.

I think if one looked at the policies of our two great political parties today, they are basically a division along those lines: A choice between more government and more freedom.

Mr. President, no nation ever chooses unequivocally one philosophical path relative to another, but I do not think there are many who are going to question here today that America, much to its benefit, followed Jefferson's path both politically and economically. That is not to say that our Founding Fathers did not raise revenues through a protective tariff. That is not to say that protectionism has not always had a strong base of political support.

Anytime a small number of people can rob a large number of people and get away with it, it is going to be popular with those who gain from it.

If one looks, however, at the economic development of our great Nation, it is a development that has come from trade and come from the economic growth that has resulted.

Mr. President, we do not have to go back to the colonial period to get clear examples of protectionism. Let us look at 20th century Great Britain. After World War I the trade policies of Britain, which had dominated the world, the trade policies that were primarily policies of having free trade in goods and services, came into question. They came into question from all those who wanted reciprocity, all those who were complaining that other countries were not playing by the rules. This force primarily came from people who wanted to stop competition in Great Britain, and, of course, they did.

The Labor governments adopted policies that stopped trade, policies that tried to maintain high labor wages in Britain without maintaining high productivity, and we all know the history. It was a history of the decline of a great nation.

Fortunately, they now have a great leader who is taking Britain in the opposite direction.

Mr. President, without a doubt, we have heard more in the last 4 years about the evils of trade and foreign competition and imports than we have heard in the whole of the 20th century, with the possible exception of the great trade debate prior to the Great Depression and the Smoot-Hawley tariff.

My colleague from South Carolina said the Smoot-Hawley tariff was basically a phony as a major cause of the Great Depression because it only affected a third of the goods. I am not even sure that it affected a third. The point is, you do not have to affect all the goods to have a big impact on the economy, because what Smoot-Hawley did was set up a beggar-thy-neighbor policy which induced other nations to stop buying American goods as we stopped buying their goods. The net result was a worldwide depression.

Mr. President, the paradox of the debate in this great deliberative body in the last 4 years is that we have continued to hear all this talk about lost jobs. "We are losing jobs," our other distinguished colleague from South Carolina says, and he cites these jobs that are being lost.

But, Mr. President, we are not losing jobs in the aggregate. America has created jobs. We are now closing in on 18 million new jobs since 1982, as of last month's statistics.

That is not to say that employment in every area has grown. It is to say that we have created more jobs since 1982 than all of our developed nation trading partners combined. We have created more jobs just in a short period of 6 years than Japan and Germany combined have created in a decade.

Some would say well, those are jobs making tacos. Well, that is good political rhetoric, but factually it is nonsense. Only 6 percent of those jobs are in the lower quartile of wages; whereas 41 percent of the jobs created when Jimmy Carter was President were in the lower quartile of wages.

The truth is that America has experienced greater, broader economic development since 1982 than it has experienced in any comparable time in the whole postwar period.

Our colleagues talk about policies Europe has adopted with regard to import quotas. Europe has not created a job in a decade. Europe has not created a net new job in a decade; whereas we have created an economic miracle.

We have a political problem with the trade issue, Mr. President. One of the reasons I feel so strongly about the trade issue comes from the political problem that there is no organized constituency for economic freedom. I do not know of a single organized group in my State that is working on behalf of preventing the consumer from suffering another 10 billion dollars' worth of cost from protectionism. It is a typical case where 99 percent of the people lose and 1 percent of the people gain, but the 1 percent that gain are organized politically. They are working on it, they are looking over Congress' right shoulder, sending letters back home, telling people how you vote on this issue. The 99 percent who are losing are out working. They do not have a lobbyist here in Washington working on this issue. They do not understand the issue.

But, Mr. President, this issue is important to America. If you followed the logic of the distinguished Senator from South Carolina, why should we stop at textiles? Should we not protect the automobile industry? Should we not protect the steel industry? Should we not protect the oil industry? Should we not protect the chocolate-covered cherry industry, which we once did, by the way, in the name of national defense?

The point is that we could all be reduced to mere subsistence. My guess is, that with a lot of hard work, I could feed my family almost independent of anybody else, but the price I would pay would be poverty.

I wish the same principle were not true for great nations, but it is. The reality is that there is only one market. It is a world market. America has to compete or die. We cannot erect walls and create a new system that says we have one standard, the rest of the world has another standard, and we will not compete. We cannot do that and still prosper.

That is the path to defeat and decline, and I reject that path.

With regard to my colleagues who stood up here and talked about fair trade, I join my views with theirs. There is a lot of unfair trade in this world. We are unfair traders. We have restrictions on imports that make absolutely no sense, that cheat the consumer, that cheat foreign competition. We ought to be a leader in going out and negotiating reductions in tariffs and quotas.

I am for the Canadian Free Trade Agreement. I would like to see it expanded to Mexico. I would like to see them open their markets for American goods. I would like to open our markets for their goods, including textiles. I would like to see that ultimately grow all over the world. I would like one free trade area from the tip of North America to the tip of South America.

Maybe that day will never come, but the world would be richer and freer and happier if it did, and I am for it, though no one is likely ever to build a political constituency in America for it because every little special interest group would be against it.

As I once said in a speech in Mexico, protectionism has 1,000 voices but trade has a million beneficiaries. The Mexican press then denounced me as an imperialist, pointing out that they could not compete against American technology. Of course, our colleagues here say we cannot compete against Mexican labor, cheap labor. The reality is we can compete, we should compete, and if we competed, they would be richer and freer and happier, and so would we.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has remaining 5 minutes.

Mr. GRAMM. Mr. President, let me conclude by getting down to the practicality of why a person who disagrees with me, who thinks we ought to build walls around America, should oppose this bill. Let me explain why even those who insist that for industries that are not able to compete we ought to be willing to lower growth and living standards to protect them, let me explain to them why they still ought to vote against this bill.

There is no doubt about the fact that the textile industry has been a much imperiled industry. The truth is 3 years ago the textile industry was in grave danger and was losing the competitive battle.

To anybody who has ever studied history, that should not have come as a shock. Any developed nation always has difficulty in competing in industries where there is a lot of hand labor. That is how economics works.

If a nation gets rich, if wages go up, they have trouble competing in areas where people are working with their fingers. They have to work in areas where people are using tools.

Three years ago one might have argued that the textile industry was in deep trouble, and that they deserved our help. But, Mr. President, try as our colleagues have, that argument does not stand today.

In the last 3 years, textile manufacturing output has grown twice as fast the rate for U.S. manufacturing in general. The pretax rate of return in textiles have grown almost three times as fast as it has for manufacturing in general.

How can you argue that an industry that last year had a 26-percent rate of return on equity ought to be protected? How can you argue that people ought to pay higher prices to clothe their children in States that have high unemployment rates when the five largest textile producing States in the Union have a 15-percent lower unemployment rate than the Nation as a whole and when the five largest shoe producing States have a 25-percent lower unemployment rate than the rest of the country? That is the argument based on right and wrong and equity.

Let me make one final point, Mr. President. Under GATT, when we impose a tariff or a quota, other nations have the right of offset and compensation. Now, we have this little deal in here where supposedly we are going to auction off these quotas, and we are going to raise the money and lower tariffs to eliminate this. But nobody believes, Mr. President, that that is going to solve that problem.

If we impose more restrictions against European textiles, violating agreements that we have reached, they go to GATT. They have a right of offset. Where do you think they are going to take that offset? They are going to take that offset in computer chips, in chemicals, in high technology, in areas that have wages two or three times as high as those in the textile industry. So if our colleagues are successful in saving jobs or creating jobs in the textile industry, we are going to lose jobs in computer chips, in high technology and agriculture.

For my colleagues from farm States—and I am from a farm State—let me remind them one more time that in 1983, when we started down this road, we got into a dispute with China about $50 million worth of textiles. We showed them. We stopped textiles from coming in. We protected the consumer against these low-priced textiles. And they retaliated by cutting off the purchase of $699 million worth of American agricultural products. Is there anybody here who doubts that this is going to happen this time? I do not think so, Mr. President.

This is a bad bill at the wrong time. And let me remind my colleagues that we adopted a trade bill that said that if you can prove you are losing to foreign competition, you can get up to 8 years of protection. Why does not the textile industry use that law to try to get protection? The reasons they cannot use that law is because the figures do not bear it out. They cannot justify the protection.

There is no doubt about the fact that there are interests that will benefit from this bill, but America will not benefit. This is a bad bill that is unworthy of the greatest deliberative body in the history of mankind. I urge my colleagues to vote no. This is a bad bill and I urge its defeat.

The PRESIDING OFFICER (Mr. BREAUX). The time allocated to the Senator from Texas has expired.

Who yields time?

Mr. HOLLINGS. Mr. President, we are limited on this side. I yield 5 minutes to my distinguished senior colleague. I understand imminently there is going to be an amendment offered by our colleague from Rhode Island, and I will then yield 5 minutes to the distinguished Senator from Maine and retain the remainder.

The PRESIDING OFFICER. The Senator from South Carolina, Senator THURMOND, is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I want to call attention to the Senate that Levi Strauss has laid off 825 workers yesterday—yesterday—in Tennessee. Milliken & Co. shut down four plants for the week of September 8 due to a lack of orders. Springs Industries laid off 200 workers in Lancaster, SC, this week.

Mr. President, that is what has been going on here for years.

Carlton Woolen Mills laid off 150 workers last week in Maine.

Mr. President, the textile, fiber, apparel and footwear industries are engaged in a major struggle to even survive. Can they survive? They cannot keep on going like they are going.

We have lost 1,250 textile and apparel plants despite a $17 billion plant modernization effort in the last 8 years. Four hundred domestic footwear plants have been closed. Three hundred fifty thousand textile and apparel jobs and 70,000 footwear jobs have been lost. This is according to the U.S. Bureau of Labor Statistics, and I am sure it is correct. Sixteen thousand textile and apparel jobs have been lost in the last 6 months.

I want to repeat that. Sixteen thousand textile and apparel jobs have been lost in the last 6 months. Yet they talk about the textile industry doing so well. Seven hundred fifty thousands job opportunities have been lost. In other words, 750,000 more American, could have been put to work if it had not been for the situation with regard to the massive imports coming in here.

Imports new control—and this is an amazing figure—imports now control 55 percent of the U.S. apparel and apparel fabric market. Think about that. More than one-half of all the textile jobs are controlled by imports. Is that fair to the American people? Eighty-two percent of the footwear market is now controlled by foreigners.

I want Senators to think about this: Should we be allowing 55 percent of the jobs in textiles in America to go abroad; 82 percent in shoes, footwear, to go abroad? New orders for textiles and apparel produced by U.S. manufacturers are plunging, with apparel volume orders down 3 percent and textile orders down 9 percent in the first 4 months of 1988. The textile and apparel trade deficit reached an unprecedented $25 billion last year and is now 16 percent of the Nation's total trade deficit. Apparel and textiles only, 16 percent of the total deficit in the balance of trade.

Mr. President, I think these figures illustrate the need for this bill. There is no question about it, in my judgment.

Employment in the apparel industry in August totaled a decline of 1,000 positions from July and 7,000 from its August 1987 jobs.

Mr. President, the need for this bill is now. Now is the time we ought to pass this bill, not put it off further, not deprive American workers of jobs that they could get here at home.

I hope the Senate will act favorably on this bill as quickly as it can and get this bill back to the House so it can be passed.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

Who yields time?

Mr. PACKWOOD. Mr. President, I want to clarify something. If I yield time to the Senator from Rhode Island—and he cannot speak unless I yield time to him, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PACKWOOD. It is his intention to offer an amendment. That is fine. I have no objection to the amendment. But I want to make sure that if there is a vote on the amendment that the time consumed in the vote does not come out of the time allocated to this side. So I want to know what happens. I suppose the Senator wants 5 minutes to speak or so.

Mr. CHAFEE. I was not going to restrict it to 5 minutes.

Mr. PACKWOOD. Whatever time he has to speak. What then is the situation? His amendment is then pending and there has been no vote. Is the vote on that amendment put off until 12 o'clock and there is no other amendment and the vote occurs then, or, if a vote occurs at 11:15 or 11:20, against whom is the time charged used for the voting?

The PRESIDING OFFICER. The Chair will respond to the distinguished Senator from Oregon, that if a vote occurred on a pending amendment that the time allocated for that vote would be charged equally against the two managers of the time.

Mr. PACKWOOD. If the vote occurs now. Otherwise, if the vote occurred at 12, it just occurs and the vote is over and we then vote on final passage; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLINGS. It would be my hope, having the same concern, to withhold any motion to table the distinguished Senator's amendment until 12 o'clock, have the vote on his amendment because I understand there is none other, and then vote on final passage so when the Members come they will have the Chafee amendment and final passage but we will have our time. I have got very limited time, only about 10 minutes left on this side between now and the next 50 minutes, 12 o'clock.

Mr. PACKWOOD. That is fine with me. I am perfectly happy to yield the Senator from Rhode Island 5 minutes. I know of no other amendments, either, that are coming up. And if someone else has one we will have to hassle that when they get here. I will yield 5 minutes.

Mr. CHAFEE. Mr. President, if we might continue the discussion briefly, I would like more than 5 minutes if I could. Do we have other speakers?

Mr. PACKWOOD. I have some other speakers that are coming as far as I know; yes. Why do we not start with 8 minutes and see where you end up.

Mr. CHAFEE. Eight minutes the man says? All right, fine.

The PRESIDING OFFICER. The Senator from Oregon yields 8 minutes to the Senator from Rhode Island.

Mr. PACKWOOD. Eight minutes.

AMENDMENT NO. 2879

(Purpose: To delete the provisions in the bill relating to footwear)

Mr. CHAFEE. Mr. President, my amendment is at the desk. I will call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 2879.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Textile and Apparel Trade Act of 1988".

SEC. 2. POLICY.

The policy of this Act is to relate the growth of textile and clothing imports to the growth of the domestic market in order to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and clothing manufacturers, and loss of job opportunities for United States textile and clothing workers.

SEC. 3. FINDINGS AND DETERMINATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the current level of imports of textiles and textile products from all sources, more than one hundred and sixty-five countries, reached nearly 12.7 billion square yard equivalents in 1986, an increase of 17 per centum over 1985 imports; this level of imports is 2.5 times the level of imports in 1980, a rate of increase that was not foreseen when the United States granted trade concessions benefiting foreign suppliers of textiles and textile products, and represents over 1.2 million job opportunities lost to United States workers;

(2) imported textiles and textile products contain four million bales of cotton which is equivalent to 39 per centum of annual cotton production in the United States; eight out of every ten bales of cotton contained in imported textiles and clothing are foreign grown cotton; sustained massive increases in imports of cotton textile and clothing products are causing a declining market share for domestic cotton producers, depressed prices, and an average annual market revenue loss of over $1,000,000,000; another result is that a market development program voluntarily funded by United States cotton producers actually benefits foreign growers; finally, as imports of textiles and clothing increase, domestic cotton acreage is shifted to produce other agricultural products which are already in oversupply thereby adding to the problems of United States agriculture;

(3) imports of textiles and textile products made of wool have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; because import penetration in the domestic wool textile and clothing market is

nearly 70 per centum, it is critical that action be taken to halt further erosion of the domestic industry's market share;

(4) imports of textiles and textile products made of manmade fiber and competing fibers, other than cotton or wool, have more than doubled since 1980 resulting in substantial reductions in domestic manmade fiber production capacity and job losses;

(5) the textile and clothing trade deficit of the United States exceeded $21,000,000,000 in 1986, an increase of 18 per centum over 1985, and accounted for 12 per centum of the Nation's overall merchandise trade deficit;

(6) import growth of clothing and clothing fabrics has averaged 8 per centum annually since 1973; over that same period, the domestic market for clothing and clothing fabrics has grown only 1 per centum annually; import growth has recently accelerated and, since 1982, has averaged 21 per centum annually; the result is that import penetration in the domestic clothing and clothing fabric market has nearly doubled in the last six years, reaching a level of 52 per centum in 1986;

(7) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products competitive with those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to the Federal and local governments;

(8) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring new measures;

(9) unless the import growth rate of textiles and textile products is slowed to the long term rate of growth of the United States market, plant closings and job losses will continue to accelerate, leaving the United States with reduced competition benefiting domestic consumers and leaving the Nation in a less competitive international position;

(10) a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States; and

(11) actions taken by the United States under the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended (commonly referred to as the "Multi Fiber Arrangement" or "MFA") have failed to avoid disruptive effects in the textiles and textile products markets in the United States.

(b) DETERMINATIONS.—Congress determines that, for the foregoing reasons, textiles and textile products are being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of textiles and textile products in the United States, within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 4. LIMITS ON IMPORTS.

(a) CALENDAR YEAR 1987.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products, from all countries, classified under a category that is entered during calendar year 1987 shall not exceed an amount equal to 101 per centum of the aggregate quantity of such products classified under such category, from all countries, that entered during calendar year 1986.

(b) GROWTH ADJUSTMENT.—For calendar years after 1987, the aggregate quantity of textiles and textile products, from all countries, classified under each category that may be entered during each such calendar year shall be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year. If the aggregate quantity that could be entered under a category for a calendar year after 1987 is reduced under section 9(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 9(b) in previous calendar years.

(c) EXCEPTIONS.—

(1) The limitations in this Act on the aggregate quantity of articles of textiles and textile products that may be entered during any calendar year do not apply to articles of that kind that are the product of any insular possession of the United States if the articles are—

(A) exempt from duty under general headnote 3(a) of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(B) manufactured or produced in such possession by individuals who are either—

(i) United States citizens;

(ii) United States nationals; or

(iii) permanent residents of such possession in accordance with its laws.

(2) Notwithstanding any other provision of law, the aggregate quantity of sweaters that are—

(A) made of cotton, wool, or manmade fibers; and

(B) assembled in Guam from otherwise completed knit-to-shape component parts; and that may be entered—

(i) during calendar year 1987, may not exceed 163,216 dozen; and

(ii) during any calendar year after 1987, may not exceed the aggregate quantity that is authorized to be entered under this paragraph during the preceding calendar year, increased by 1 per centum.

(d) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this Act, including regulations governing entry, or withdrawal from warehouse, for consumption of the products covered by this Act. Such regulations shall provide for reasonable spacing of imports over the calendar year.

SEC. 5. TARIFF COMPENSATION.

(a) COMPENSATION.—

(1) The President may (A) enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed under section 4 of this Act to maintain the general level of reciprocal and mutually advantageous concessions under such agreements; and (B) proclaim such modification or continuance of any existing duty on textiles and textile products as he determines to be required or appropriate to carry out such agreements.

(2) No proclamation shall be made under paragraph (1) decreasing any rate of duty to a rate of duty which is less than 90 per centum of the existing rate of duty.

(3) Before entering into any trade agreement under this subsection with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(b) STAGING REQUIREMENTS.—The aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to subsection (a) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of one-fifth of the total reduction under subsection (a) had taken effect on the effective date of the first reduction proclaimed to carry out such trade agreement, and at one-year intervals after such effective date.

(c) PROHIBITION.—Except as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and may not decrease, or propose a decrease, in any such duty by any means, including an implementing bill under section 151 of the Trade Act of 1974 or a proclamation.

SEC. 6. ANNUAL REPORT.

Not later than March 15, 1988, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Act during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 4. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

SEC. 7. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this Act a review of the operation of this Act. The Secretary shall consult representatives of workers and companies in the textile and textile products industries, the United States Trade Representative, the Secretary of Labor, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings.

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) The term "textiles and textile products" includes, but is not limited to, all articles covered by a category.

(2) The term "category" means each of the following—

(A) each category identified by a three-digit number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1987, and in any amendments to such publication correcting clerical errors or omissions;

(B) each subdivision of a category described in subparagraph (A) with respect to which the United States has (i) an agreement with any country on the date of enactment of this Act limiting exports of textiles and textile products to the United States that includes a specific limit on such subdivision, or (ii) taken unilateral action to limit products from any country entered under such subdivision; and

(C) a category consisting of the manmade fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States. The Secretary of Commerce shall determine, after consultations with the United States Trade Representative and the United States International Trade Commission, whether comparable subdivisions described in subparagraph (B) are consistently defined; if the Secretary determines that such subdivisions are not consistently defined, then the Secretary shall prescribe by regulation an appropriate definition of the category covering such comparable subdivisions.

(3) The term "country" means a foreign country, a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship, political entity or foreign trade zone, whether affiliated with the United States or not, that is outside the customs territory of the United States.

(4) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(5) The term "existing" means the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of Schedules 1 through 7 of the Tariff Schedules of the United States (or the comparable rate of duty set forth in any law that may supersede such Traffic Schedules) existing on the day before the date of enactment of this Act.

(6) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

SEC. 9. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

(b) CALENDAR YEARS 1987 AND 1988.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 4(a) under each category during the period beginning on the date of enactment of this Act and ending on December 31, 1987. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products entered under a category after December 31, 1986, and before the date of enactment of this Act exceeds the quantity permitted entry for such products under such category during calendar year 1987 under section 4(a), then the limit that would otherwise apply under section 4(b) for such category for calendar year 1988 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 4(b) for such category for calendar year 1988, then the limit for such category for calendar years after 1988 shall be reduced until such excess is accounted for.

Mr. CHAFEE. Mr. President, what this amendment does is to separate out the footwear provisions intact, eliminate all the footwear quota provisions.

Mr. President, I think we have a problem with truth in labeling here. This is called the Textile and Apparel Trade Act of 1988. But it goes way beyond textile and apparel. It limits the importation of shoes and the New York Times calls it a textile bill. It is way more than a textile bill. It deals with shoes.

There has been some discussion of that on the floor here, but I think we have to make it very clear that this legislation will increase the price of shoes. By shoes we mean athletic shoes, we mean the shoes that everybody in this Chamber wears, and indeed all the shoes worn by their children. We mean the shoes worn by the low-income people and all of the children in school, wherever they might be. All of these shoes are covered by this legislation. The price of these shoes will go up.

This bill specifically applies to nonrubber footwear. But nonrubber footwear includes all the popular shoes: Reeboks, or Adidas, whatever they are, with those leather tops, or vinyl or plastic tops. In other words, practically all shoes that are worn by adults and children in the United States of America.

Why am I offering this bill to delete that provision? Because these footwear provisions would have a significantly negative effect on the American consumer. If the American consumers knew what was taking place here today in connection with shoes, they would be storming the offices of all of us. The trouble is nobody represents the American consumers. If the parents who were out there buying these shoes now, if they realized the price would go up 15, 20, 25 percent, they would be saying "Defeat this legislation; support the Chafee amendment."

The proponents will argue that even though 98 percent of athletic footwear is imported, the average price per shoe is at a record high. But I think that proves my point. We need the competition to keep the cost of shoes down and limiting imports would hinder competition and force prices up. The domestic industry has basically chosen not to compete in this particular category of shoes, that I am discussing. Therefore, it is practically solely an import area.

Why do I say it is going to affect prices? Because the import quotas that are on shoes in this legislation apply not to dollar volume, it applies to units. They are going to limit the number of units coming in. They limit it at a past figure. So, therefore, as the population grows, as more young people and adults want shoes, the price is going to go up. This is obvious, because the Americans cannot produce at that low cost, their prices are going to be higher. In addition, the importers, the foreign manufacturers making shoes are going to demand a higher price since, there is such a large demand. In fact, I believe they will move into the upscale section of shoes, just as we saw when we imposed the quotas on shoes from 1977 to 1981.

This is not a new experiment, this has taken place before and we have seen what happened. We had these import quotas in 1977 to 1981 that limited the importation of shoes from South Korea and from Taiwan. Our statistics clearly show that those quotas increased the cost of footwear to American consumers by $1.6 billion.

Even for those of us in Washington, $1.6 billion is a lot of money, particularly when it is being paid by the low-income consumers of our Nation.

The proponents of the legislation will say, well, it saved some jobs. Yes, it did. There were 40,000 jobs in American industry that quite possibly were saved during that period. That means the consumers paid $40,000 per job saved in the United States in the footwear Industry. What was the average wage in the United States at that time? The average footwear industry wage was $9,100. So, it cost the American consumer four times the average wage to protect those 40,000 jobs.

The proponents of this footwear provision will argue that there is a protection for the low-income consumer. There is a separate quota for what they call low-price footwear. The specific provisions in the bill pertaining to this low-price footwear deal with shoes that were imported at a value of $2.50 or less. They are not talking the athletic shoes, the Reeboks and others that are covered by this bill. They are talking about beach sandals and thongs and Kung Fu's and Jellies and the like. They are not talking low-cost athletic shoes that low-income American famililes buy. It is not enough to protect Jellies, they are not very useful in winter.

The shoes that are really needed by low-income families fall into the over $2.50 category and they do not have the protection in this legislation, our workers are protected. Workers are going to be harmed by imports, they said. We passed a trade bill and the President signed it last month. That bill has a measure that I support called the Trade Adjustment Assistance Program. That program is there to help those workers who are affected by imports.

I am not going to argue with the textile quota section of this bill. Historically, demand in the United States for textile and apparel products has grown at the rate of about 1 percent per year. We have allowed 1 percent annual growth in the textile section. We have not allowed it in the shoe section. I believe there is some justification for the textile section of the bill. But certainly there is no justification for increasing the cost of shoes.

What my amendment does is to separate out the entire shoe category from this legislation and protects the

American consumer from higher priced shoes.

How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 39 seconds remaining.

Mr. CHAFEE. I will yield that back.

The PRESIDING OFFICER. The Senator yields back his time. Who yields time?

Mr. HOLLINGS. Mr. President, I yield to our distinguished colleague from Maine, 5 minutes.

The PRESIDING OFFICER. Five minutes. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, imports now claim 82 percent of the domestic footwear market. How much more would the Senator from Rhode Island prefer? Ninety-five percent? One hundred percent? That would be the inevitable result of his amendment.

Now, this bill covers textiles and footwear, yet the Senator wants to eliminate the footwear provision but has nothing to say about textiles. Why is that so? There is no logical, rational, practical basis for the distinction the Senator from Rhode Island seeks to make. The reality is that there are textiles in Rhode Island and not many shoes being manufactured. So the Senator from Rhode Island wants to be able to say to the textile people, "Well, I really like this bill, but boy, these guys from shoes, they come and put this awful provision on it." So he makes a speech seeking to separate footwear out and ends with an almost silent note, "Well, I am not going to argue about the textile provisions."

That is what is going on here and, in fact, it is the shoe industry that has been almost totally decimated by the imports as opposed to the textiles. So if there were any logic to the Senator's position, it would be to take out the textile provisions and leave in the shoe provision. But, of course, that does not apply to the circumstances in his home State.

We have here an industry that has seen imports rise from 50 percent in 1981 to 82 percent now, an industry which proceeded under the law, followed the rules and won its case in the International Trade Commission which unanimously found injury and then recommended relief to the President and which the President rejected.

Since then, imports have continued to rise and now reach 82 percent. So more than four out of every five pair of shoes sold in America is not made in America. And the Senator says, take that part out of the bill, but leave in textiles.

I think there could be no less logical point to be made about this bill. I think if we need anything, we need the footwear provisions. We need them both.

So, Mr. President, I urge my colleagues to see this amendment for what it is and to reject it overwhelmingly. This is a very modest provision. What other industry would be prepared to see 82 percent of its market go to imports? The footwear industry is in effect doing that, and we do it in the face, Mr. President, of every other country restricting footwear imports into their markets while exporting them into the American market.

Korea, Taiwan, Brazil, Italy—they have tight controls on footwear imports. In July, the European Economic Community imposed emergency restrictions on Taiwanese and Korean footwear exports into France because they reached the staggering level of 17 percent. So the Europeans, when their footwear imports reached 17 percent, said no more. We are at 82 percent and the Senator from Rhode Island says, "Open the doors even wider. Let's completely destroy the domestic footwear industry."

Italy now has quotas; the United Kingdom has asked for quotas; Japan has the most restrictive market on footwear imports. Brazil effectively prohibits any imports. All of these countries are sending millions of pairs of shoes into the United States not permitting any shoes made outside their countries to be sold in their markets. They know that Uncle Sam is Uncle Sucker on this issue. They know that they can continue to sell, without restriction, all of their products in here while they prevent American products from being sold in their market.

Leave aside all the statistics, leave aside all the elevated arguments, that is just not common sense.

So, Mr. President, I urge Senators to reject this amendment overwhelmingly. It is not logical. It will result in the total destruction of the footwear industry which is already on its last leg.

Mr. President, let me add that imports now claim an unprecedented 82 percent of the domestic footwear market. How much more domestic market control by imports does the Senator from Rhode Island think is appropriate; 90 percent, or 95 percent?

There is no major American industry which has been under greater assault from imports than the footwear manufacturing industry. Since Ronald Reagan's first inauguration in 1981, imports have skyrocketed from 365 million pairs a year to almost 940 million pairs. The share of the domestic market claimed by imports over that period has risen from 50 to 82 percent.

In the meantime, the domestic industry has shrunk by about 40 percent as hundreds of plants shut their doors sending more than 60,000 workers into unemployment.

This rapid decline of a major industry in the face of aggressive exports from other nations is exactly the kind of situation that merits relief under international trade rules. Under the GATT escape clause, when an industry has been injured due to a surge in imports, it is permissible for a nation to establish temporary import controls to enable the industry to get back on its feet.

That temporary relief from imports is a fundamental principle of international trade rules which Congress and American industry have relied upon in adopting trade liberalization agreements. Certainly, our trading partners have taken full advantage of the escape clause.

In this country, however, the administration has unilaterally forfeited our international rights. The administration has refused to defend the interests of our industries and its workers against a tidal wave of footwear imports.

In the most recent case, in 1985, the International Trade Commission unanimously ruled that the domestic footwear manufacturing industry was severely injured as a result of rapidly increasing imports and was entitled to relief.

At that time, in 1985, imports had grown rapidly to claim 75 percent of the domestic market—up from 50 percent in 1981. Hundreds of plants were closing, throwing thousands of workers out of their jobs. The industry was in turmoil; other importing nations closed their borders to footwear imports while at the same time the exporting nations were increasing their production capacity.

In spite of the clear case of injury to the American footwear industry, President Reagan rejected the recommendation for relief by the International Trade Commission.

That was the last of the four cases filed by the industry over a 13-year period, during which the volume of imports more than tripled and their share of the domestic market doubled, from 41 to 82 percent.

The footwear industry played by the rules. It sought relief as provided under international law. It was clearly recognized as injured. But the President said "no."

The footwear provisions in this legislation have been made necessary by the refusal of the administration to exercise American rights to prevent the decline of the domestic footwear industry. Yet, these provisions are modest, and represent far less restraint than recommended by the ITC.

This legislation should, in fact, have little impact on imports. It would permit imports to continue at their current extraordinarily high levels. In this legislation, we, in effect, cede fully 82 percent of the domestic market to imports, preserving the existing volume of sales. We simply say that imports will not grow beyond the level reached in 1986—938 million pairs of shoes.

In fact, if this legislation had been enacted last year, it would not have had any impact on footwear imports this year because the volume of imports—not the market share but the actual volume—actually declined last year as a result of falling demand.

By freezing the market at a certain volume of imports, we provide some assurance to the domestic industry that it will not continue to be decimated by imports. We provide enough assurance to enable it to make the investment necessary to reclaim a portion of its former production levels.

The limits in this bill are modest. Remember, in 1982, imports claimed 51 percent of the domestic market. By 1985, that share had risen to 75 percent. The International Trade Commission recommended bringing the import share back down to 62 percent. That would be about 710 million pairs in the current market.

But this legislation does not seek a rollback. It would simply preserve imports' existing market share at 82 percent. That's 940 million pairs of imported shoes—one-third more shoe imports than recommended by the ITC.

What other American industry would agree to give up so much of its market? What other American industry would have to defend itself on the Senate floor against this type of amendment?

Another thing this legislation does is preserve existing levels of lower prices shoes by separating out this footwear for its own limits. This prevents importers from switching to higher priced footwear to obtain higher profit margins on their sales. It protects lower income consumers.

The reasonableness of this legislation should be contrasted to steps that have been taken in other countries to control imports. And, of course, this is a major part of the problem. Korea, Taiwan, Brazil, Italy, and other exporting nations must sell into the American market because every other major consuming nation—and most producing nations—have tight controls on footwear imports.

That is the root of the problem and it is continuing today. For example, in early July, the European Economic Community imposed what it calls emergency restrictions on Taiwanese and Korean footwear exports to France. These 2-year quotas were imposed because imports from those two nations had claimed 17 percent of the domestic market.

Well, the United States has no such limits even though imports from those same two countries control more than 50 percent of our market.

Earlier this year, Italy won approval from the Economic Community for quotas that cut imports from Korea and Taiwan by 40 percent. The United Kingdom has also just recently asked for quota protection. Japan has the most restricted market, with strict quota limits on total footwear imports. Brazil pretty much prohibits imports through a stiff 100-percent surcharge that applies on top of a 70-percent tariff.

The United States has the most open footwear market in the world among major importing nations. Alone among the major industrialized nations, we impose no limits on the importation of shoes. The predictable effect has been the destruction of the domestic footwear manufacturing industry at a cost of thousands of jobs.

Those footwear factories cannot be replaced. This legislation does not attempt that. It does not turn back the clock by requiring the footwear imports be rolled back to lower import levels. Instead, it would simply enable the industry to hold on to the markets it now has to prevent the virtual elimination of an important American industry.

I urge my colleagues to support the preservation of a domestic footwear manufacturing industry in the United States by opposing this amendment.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Who yields time?

Mr. PACKWOOD. Mr. President, I think my colleague from Rhode Island would like to respond to that. I yield 3 more minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. CHAFEE. Mr. President, one of the great opportunities on this floor is to hear the eloquence of the Senator from Maine, and I listened carefully. My ears were tuned to see if I heard one word, the word "consumer." Never once in that tongue of eloquence did the word "consumer" appear.

We have been down this path before. We had restrictive quotas and who suffered? The people who suffered were the consumers of America. And to pursue the course that the Senator has outlined is reckless to the consumer.

Now, he said there is no difference between the two provisions—the textile provision and the shoe provision. There is. The textile provision provides for growth in imports; the shoe provision does not.

Let us analyze the shoe industry a little bit. You can talk volume, but you have to be careful when you do that. You must be careful because clearly in units there are thousands and millions more units of low-cost shoes sold in America than there are the higher-cost shoes, and the U.S. shoe industry is in the higher cost shoes.

I suspect the distinguished Senator from Maine probably has a pair of Bass shoes on. If he does not, he is in jeopardy. Those shoes are not the low-cost shoes we are discussing here. Those shoes are made in America and they are higher cost.

So, the American high-cost shoe industry will remain, but let somebody stand up on this floor for the consumer and that is what my measure does. I want to thank the Chair.

Mr. MITCHELL. Mr. President, I ask for 45 seconds to respond briefly to the Senator's statement.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield.

The PRESIDING OFFICER. The Senator is recognized for 45 seconds.

Mr. MITCHELL. Let us talk about consumers. The 300,000 textile workers who lost their jobs as a result of imports used to be consumers but are not anymore. The 60,000 men and women who worked in manufacturing shoes who lost their jobs as a result of imports used to be consumers. They are not anymore. And the argument that this will increase prices is simply wrong. The provision in the bill takes into account the low-priced shoes. It sets them in a separate category and deals with the problem described by the Senator.

Finally, let me say, I have on a pair of Dexter shoes made in Maine. I will wear my Basses tomorrow. [Laughter.]

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. PACKWOOD. Mr. President, I hardly know where to start because we have not had just 2 days of debate on this bill, we have 3 or 4 years of debate on trade itself and 2 or 3 years of debate on textiles over. I am not sure there is much more new to say.

I can say this: One, the bill that is before us does not deal with unfair imports. There is no allegation of unfairness. It simply says we are going to put up a barrier against the fairly made foreign textiles and foreign shoes. The heck with the argument about fairness or unfairness; we are just going to put up the barrier fully realizing that that argument can come home to haunt us when we are trying to get other nations to knock down their unfair trade barriers to our exports. They will say, "You just put up unfair barriers to our textiles," to which we can only say, "Yes, we have."

I do not think anybody argues here as to whether or not the barriers are fair or unfair, the foreign trade practices are fair or unfair.

Two, there is no question but what the textile industry is very profitable. Its earnings are almost twice those, based on assets, of the average manufacturing industry in the United States. Unemployment in the textile States, without exception, is lower than in the rest of the States of the United States. There is no question the textile industry is doing well. Employment has gone up in the textile industry.

There is no question but what those in the textile industry think this is going to be a good year.

Let me read two or three quotes. The first is from W. Paul Tippett, the president of Springs Industries, Inc.:

> Over the past several years, textiles have been referred to as a sunset industry, an industry on the way out. In fact, we are now entering a period of potential strength and progress that may be greater than we have seen over the last 100 years.

From Charles Hayes, the chairman of the board of Guilford Mills:

> We are looking forward to 1988 with considerable encouragement. We anticipate another strong year in sales and earnings.

Mr. President, there is quote upon quote from textile leaders that they think they are on a dynamic industry, not a sunset industry. There is also not much argument as to whether or not this is going to cost the American consumers money. Their estimates run from a low of about $280 per family per year to a high of $500 or $600 per family per year depending upon which studies you read, but I do not know of any studies at all that say anything other than clothes and shoes are going to cost the American consumers more.

Now, ironically, instead of these tariffs and quotas, if we were to try to pass a bill and say we will levy a tax of $300 on every American family and we will give that money to the textile industry, we would be hooted out of the Senate. But by the simple device of putting on quotas which will raise the price of the clothing that the consumer pays for and the $300 per family goes to the textile industry by virtue of the quota rather than the tax, it becomes a serious argument. It is $300 either way for the consumer. The question is on one case the consumer knows it; in the other case the consumer does not. Those facts I think are probably beyond question. I say I might be off $100 one way or the other on the cost, but most of the studies would conclude that.

I now want to take up from yesterday if I might with Senator HOLLINGS and his Alexander Hamilton statement, "and I am a protectionist." Indeed, he says it, "make me the No. 1 protectionist in the country," and quotes himself as a protectionist. And my friend from Texas, Senator GRAMM, correctly lauded Senator HOLLINGS as not being a hypocrite. There are some people who will attempt to disguise their support for this bill. He frankly admits out and out, "I am a perfectionist."

I am not. But let us remember when he cites Alexander Hamilton and he cites the 1789 report on manufacturers and the first protection act of 1789, what was the purpose of protection at that time? The purpose of protection was to protect fledgling industries against protection from dominant European competitors—give these new industries a little bit of time to grow, become mature, become strong, and then the protection could be removed. That was the whole argument about protectionism. There is no question but what we tried to help the textile industry.

When we passed the first Tariff Act of 1789, we established tariffs on raw cotton, hemp, yarn, tanned leather, readymade clothing, millinery, shoes, boots, and whatnot. That was the first protection for the textile, apparel, and shoe industry, and then recently you see Representative Mallery's statement. He is complaining about the status of the textile industry and declining employment, and he says, "Now, it is certain they must surrender"—they being the manufacturers—"unless the Government will afford its aid. Already a part has relinquished. It cannot go on. Sacrifices have been made already. They have been endured in the hope, in the confidence, that this session of Congress would not pass by without an effort on their behalf. If this hope is abandoned, the manufacturer will abandon his business."

That, however, is Representative Mallery speaking in 1827. And we passed the "tariff of abominations" as it is called in history and may have helped bring on the depression in the 1830's when we passed a high tariff protecting textiles and others.

In 1956, when we were again dealing with the issue should we give to the President of the United States the power to negotiate limits on imports of textiles, Senator Payne of Maine says, "The textile industry does not seek favors but does ask, Mr. President, that the additional burden of ever-increasing exports not be added to other troubles. The industry seeks a chance to adjust, to work out its problems so that once again it can stand strong against competition from whatever source."

So we passed the act in 1956, 32 years ago, to give the textile industry time to work out its problems.

Mr. President, protectionism, as I say, was designed to give industries a time to become mature. It has now been 200 years since we started protecting the textile industry. They are big boys. They can fight their own battles worldwide. As a matter of fact, they are fighting their own battles worldwide very successfully. The United States is exporting increasing numbers of textiles. But Senator HOLLINGS says we have got to make it here, manufacture it here, and he cites the railroads, and Abraham Lincoln and the Civil War and somebody advising Lincoln, "Why don't you bring it in from England?" He says, "No, sir. We are going to make it right here in this country." And then the Senator goes on to say plain and simple Abraham Lincoln practiced protectionism, and that is how we got the Harrimans, Carnegies, the great endowments.

Mr. President, we built the railroads with foreign money, not domestic money, basically financed by Britain and Germany, mostly bonds. Almost all of the railroad engines on those railroads came from Europe. As a matter of fact, we had a negative balance of trade—trade is the normal term we use when we talk about goods. Payments is exchanges of money. We had a negative balance of trade and payments in this country from Plymouth Rock to 1914, and by that I mean we imported more machinery and textiles and everything else than we exported. We imported more money, more capital than we exported. We built an extraordinarily strong country on imported goods and imported capital.

Where we started to really succeed is when we became good at thinking and doing something better than the rest of the world could do it when Eli Whitney decided to invent a cotton gin and Cyrus McCormick the reaper, and George Westinghouse the air brake, and Eastman the cameras. We dominated the world markets when then we had higher wages than you had in the Koreas or the Japans. In many cases you had slavery existing in the world and no wages. We found a way to do it and that way was to outthink our competition.

I have used the example yesterday and I will use it again of Mentor Graphics, a young electronics firm in Oregon that did not exist a decade ago. It was founded in the late 1970's or early in 1980. I cannot remember which. It makes what they call a cad cam machine, a computer-assisted design machine that enables with the use of a computer design of engineering models rather than having to make the models. You punch it in on the computer and you see what it will do under different conditions and you can vary the factors. This company started out with no sales obviously. In 1980, 1981 they made sales of $15 million, none of which were overseas. I think in 1986—I may be off a year; I do not think these are 1987 figures—their sales had grown to about $800 million of which about half were overseas sales.

You ask yourself how on Earth can a computer company located in suburban Portland, OR, pay the wages we have to pay in the United States and compete against the wages of Japan and Singapore. The answer is that the key is not the wages. The key is the thinking and staying one step ahead of the competition.

I, on one occasion, talked to the president of Mentor Graphics when we were considering the research and development credit. This is a high-technology electronic company in the electronics industry and very supportive of a Federal Government research and development credit. And the president of the company was very careful. He said, "Bob, of course, my company would like the credit and we can use the credit, but to be very honest with you if there was no Federal research and development credit at all, it would not change one whit the amount of money that we spend on research and development because we have no choice." He said, "Maybe Big Blue," which is how they refer to IBM in the industry, "Maybe Big Blue can look at this credit and say we'll lay on an extra $100 million because the Federal Government will give us a 20-, 25-percent credit." He said "I hope my company one day gets to be that big and that profitable and that immense that I can think in those terms but at the moment we would spend what we spend on research and development because we have to because if we do not we will be out of business."

Now, Mr. President, the question is not can we outthink the rest of the world. If the standard of creative thinking are Nobel Prizes, we still beat the world hollow. You do not see many Nobel Prizes awarded, not many, to Japanese scientists, none to Korean scientists that I am aware of, none in Hong Kong, none in Singapore, none in Pakistan that I am aware of—I may have missed one—none in Bangladesh or the Philippines or the so-called underdeveloped countries that are becoming manufacturing centers and allegedly beating us because of low wages. The bulk of Nobel Prizes for medicine, chemistry, physics, the bulk of them still go to American scientists. So it is not a question that we are being outthought at the creative level. Someplace along the way what happened is I think we became slack or fat as the case may be, and we did not have to compete in the world, and that period was roughly 1945 to 1960, maybe 1962 or 1963 when we came out of World War II absolutely dominant. Our factories had not been bombed. Germany and Japan were prostrate. England had become a defeat economy with the election of the Labor government and for roughly 15, 16, or 17 years anything we made good or shoddy could be sold in the United States and sold overseas.

Our automobiles had no foreign competition except for funny looking little things that people called Volkswagens that we could not even initially pronounce the name of, funny little beetles and we thought only funny people drove them, and the industry leaders of General Motors, Ford, and Chrysler laughed and said those cars could never be 5 percent of the market. Nobody wants a car that could get 20, 25 miles per gallon that you have to crowd into; no market except for an odd segment of odd people who buy those funny German cars. That was 1955, 1956, and 1957. The Volkswagens did not do badly. Then we started getting hit in 1965, and 1970 with Hondas, Toyotas, Datsuns, Volvos—good cars, well-made cars, and not made by cheap labor. Japan's labor almost equals ours. Sweden pays more than we pay. And we were not used to it. But we are getting used to it now.

And there is no question but what we can compete, and the best of the textile industry is competing. But if we pass this bill, if we put up the barriers, and say to the textile industry, do not worry, despite the fact that you have now had 1 year short of 200 years of protection we will give you a little more temporary protection to adjust to the world competition. Then they will not adjust. Protection does not ensure adjustment. Protection guarantees sloth, waiting, and hoping.

I often wonder how in the 1800's and 1900's England became so dominant in the world, and I know my good friend from South Carolina will say, "Oh, protectionism," and whatnot. That is not what I mean. How did England happen to capture, after finally Holland ceded from their position of dominance, the world shipping market and the world manufacturing market? There were other areas that understood shipbuilders. England was not the leader of the shipbuilding industry in the 15th and 16th centuries. Genoa was, and Venice was. They made good ships, galleys or ships, designed for the Mediterranean Sea.

Do you know what happened? Genoa and Venice did not grasp what Henry the Navigator, Christopher Columbus, and others were discovering. There was an ocean to sail outside the Mediterranean, but you were not going to do it with ordinary galleys. You were going to do it with large sailing ships propelled by wind. Great Britain grasped that and became the leader of the world in shipping, not because their wages were lower. Their wages even then were higher than Genoa or Venice or Egypt, Phoenicia, any of the old sailing-dominant countries.

They simply realized there was a market to be met and they would meet it better than anybody else by building ships better than anybody else dominating world trade against countries that had had greater shipping histories earlier in their history, had been greater than England earlier in their history and had dominated what was then the world trade, the Mediterranean, earlier than England. But they all faded because they could not think ahead.

Rudyard Kipling once did a poem called the "Mary Glouster." It is the story of a shipping magnate in England. The poem takes place at the end of his life but the poem is a history from the time he was a young lad from where he started to how he became the shipping magnate in England. It goes something like this:

> I didn't begin with the asking,
> I took my job and I stuck.
> I took risks when others were fearful,
> And now they're calling it luck.
> When they asked me how I did it,
> I quoted the scripture text;
> Just keep your light a shinen
> A little ahead of the next.
> Oh, they copied and stole all they could find,
> But they couldn't copy my mind.
> So I left them sweatin' and stealin',
> A year and a half behind.

That is where America must be. Mr. President, we will not be there as protectionists. We will be there if we are forced to compete against the best minds and the best craftsmen that exist in this world. Because there is not yet another country in this world that can amass capital as we can. There is not yet another country that overall has as broad and good an education system as we do, as good an internal transportation system, and a better sense of international markets than we used to have.

This country is not lacking natural resources, If you want to talk about a country that is short of natural resources, look at Japan—no oil, no natural gas, no coal. They import 95 percent of all of their energy. This country is a cornucopia of energy. We have a 400-year supply of coal if we want to use it. We have a 200-year supply of oil shale. By twice over we could outdo Russia in natural resources. We are not lacking anything except perhaps confidence among some industrial leaders who fear they cannot compete.

So, Mr. President, I would hope that we would defeat this bill, turn America's attention again toward trade, commerce, and competition. If we turn our back on that, it will be a sorry and shameful day for this country.

I thank the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from South Carolina has 4 minutes, 53 seconds remaining.

Mr. HOLLINGS. I yield 53 seconds to my distinguished colleague from Maine.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COHEN. Mr. President, I thank the Senator for his generous yielding of time.

I want to offer a couple of comments about the amendment that is pending, that of Senator CHAFEE. Senator CHAFEE. is concerned that the price of shoes is going up for his Rhode Island constituents.

Let me suggest that if you agree to this amendment and eliminate the last 18 percent of the shoe manfacturers in this country, you will guarantee that prices will go up in this country. I will cite one example, a company that produced velveteen, manmade fibers in this country. It went out of business in 1985. The day after it went out of business, velveteen imports jumped 33 percent the very next day.

That is what you are looking for as far as the elimination of the shoe industry in this country by eliminating the last vestiges, the last 18 percent.

You will guarantee that 100 percent of all shoes that are manufactured are manufactured abroad, and there will be no incentive for those foreign competitors to reduce that price. It will only go up, and Senator CHAFEE. constituents will not pay less. They will pay more.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. PACKWOOD. What is the time situation?

The PRESIDING OFFICER. The Senator from Oregon controls 8 minutes.

Mr. PACKWOOD. I would be happy to yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. EVANS. Mr. President, I thank the Chair. I doubt that I will use the entire 5 minutes. We have debated this bill extensively over the last several days, and some would say ad nauseum. But I think we have come to a very clear point.

Those who support this bill and their proponents have rejected all amendments. Many of those amendments were designed to make it a better bill, perhaps even an acceptable bill to many of us. But we have rejected those amendments designed to relieve pressures on the poor, rejected amendments designed to relieve pressures on the elderly, and rejected amendments which would have in many instances aided those who seek help in a better fashion than this bill as it now sits.

I believe that many of those who voted to reject these amendments will find that those votes will come back to haunt them.

Mr. President, this is a bill of fear, not of hope. This is a bill of the past, and not the future. In fact, I would go so far as to say this is a bill of the colonial past, to preserve the very first instances of American economic growth.

In those years there were textiles, there was tobacco, and there was indigo that gave the first growth of American strength in the South. We protect tobacco. We have protected textiles extraordinarily. I am surprised that the Senators from these States have not brought forth a bill to seek unique protection for the indigo industry as well.

Mr. President, it has been clearly pointed out to all Members of the Senate and to everyone in the country that the States involved in these industries are clearly making a transition, a striking transition, to vibrant new economies. These are not States among the poorest. These are not States among the least economically healthy. These are States with low-unemployment rates, States with new industries, States with new opportunities. It is not just the vibrant new economies of those States, but it is the textile industry itself which has become more competitive.

It has been clearly pointed out that without this legislation, with the already excessive—in this Senator's view—protection of the industry, there has been ample opportunity to modernize, to become more effective, to compete in a world market.

Mr. President, we often vote in this body on the basis of friendships and long associations, and that is a commendable practice. It is a commendable practice until you are faced with an issue so vital and so strong that those long time friendships and associations simply must be set aside.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PACKWOOD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. EVANS. May I have 1 more minute?

Mr. PACKWOOD. I yield 1 more minute to the Senator.

Mr. EVANS. Mr. President, I urge—in fact, I implore—my fellow Senators, if it is a case of friendship and long association, to set it aside, to vote on this issue on its merits and on its merits alone and, in doing so, vote against a bill that is clearly not in America's best interests, not in the best interests even of the States involved, and not even in the best interests of the textile industry, itself.

Mr. PACKWOOD. Mr. President, I yield such time as I have remaining to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, how much time is that?

The PRESIDING OFFICER. Three minutes.

Mr. CHAFEE. Mr. President, the speeches that have just been heard deal with the overall piece of legislation. I would like to concentrate, if I may, for a couple of minutes on my amendment, which of course is quite separate from the overall bill.

My amendment would separate out the shoe provisions totally. It would eliminate all the quotas imposed on shoes.

There is difference between the shoe provisions and the textile provisions. The shoe provisions are far harsher. The shoe provisions provide that the quotas will be rolled back to the 1986 import level, with no growth whatsoever provided.

I would like everyone here who is listening and those throughout America to think: If you or your children wear Adidas or Nike or Reeboks—any of those shoes; you name it—they are all covered by these import restrictions. The price of these shoes will go up when there is a limitation on the imports provided and the American domestic shoe producers do not produce that type of shoe or that cost-level shoe. The American manufacturers are in the higher market, they are not going to market any of these in America because they cannot afford to, and the price of American consumers will rise dramatically.

The distinguished Senators from Maine have spoken, and despite the woes that are portrayed for Maine that are existing under the current flood of imports of shoes, as they describe it, the unemployment level in Maine, which is 4.7 percent, is less than the national average.

I hope everyone will support this amendment.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. COHEN. I point out that in the shoe-producing counties in Maine, the unemployment rate is in excess of 9 percent, not 4.7 percent. The reason why it is that overall in the State is that some wealthy Rhode Islanders have been coming to Maine and buying all the coastal properties. [Laughter.]

Mr. CHAFEE. If we have wealthy Rhode Islanders, they remain extremely scarce, in my judgment.

Mr. COHEN. Also, with respect to the imports coming in, the Reeboks and the others the Senator has cited, the import value as they come into this country is roughly $9.90. Ask the people in America, the mothers who are buying these shoes, whether they are paying $9.90. They are paying $60, $70, $80, or $90.

This amendment—in fact, the bill as it is structured—allows 937 million pairs of shoes. That is four pairs for every man, woman, and child in this country, per year, and 82 percent ought to be enough.

I thank the Senator for yielding.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. HOLLINGS. Mr. President, I am glad Senator PACKWOOD and Senator GRAMM have cited Alexander Hamilton and referred to 200 years ago and our effort to protect fledgling American industries.

Let us jump to the 1930's, after we had the economic boom of the twenties and developed our industry after World War I. Yes, protectionist FDR demanded reciprocal free trade, he demanded economic reciprocity, realizing, of course, that business is business. Business is not fair. Business is not crying and moaning: "We are helping you Japanese defend yourself, so you help us." We tried that for 30 years, and it has not worked.

What Roosevelt did in order to keep the banks open was to temporarily close the doors, and in order to save the farms, he temporarily plowed under the crops. Today, in order to remove foreign trade barriers, we will have to temporarily raise our own barriers.

I am a protectionist in the tradition of FDR. He passed not only the Reciprocal Trade Act but also the Agricultural Adjustment Act, with price supports and protective quotas for America's agriculture; also the Export-Import Bank, so that the folks in Seattle, WA, could subsidize their airplane industry. One thing textiles and apparel have never asked for is subsidies.

So let us get it straight. Yes, the driving force under Hamilton was mercantilism. Today, the comparative advantage is Government, Government's willingness to foster and favor exports while protecting critical domestic industries. Regrettably, our U.S. Government has refused to adapt to this new international reality. The result is plain to see.

Look down the list, and here is what has occurred. We have lost 65 percent of our photo-finishing commerce to import penetration; 80 percent to 90 percent of our 35 millimeter cameras to imports; 30.6 percent of power tools to imports; 34.6 percent of sporting goods; 48.8 percent of toys and games; 53.1 percent of musical instruments; 38 percent of semiconductors; 55 percent of apparel; 84 percent of footwear; 56 percent of telephone equipment; 48.7 percent of machine tools; 31.1 percent of automobiles; 68 percent of motorcycles; 100 percent of black-and-white TV's; 100 percent of consumer radios. The list is depressingly long. The handwriting is on the wall.

Mr. President, I urge my colleagues to vote for this important textile, apparel and footwear bill. American industry is willing to compete. The American worker is willing to compete. They deserve an American government as willing to compete as they are.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. Thank you.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I move to table the amendment that is pending.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent that I may proceed for an extremely brief period for the purpose of making a statement for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, the State of Nebraska is not well known as a textile and apparel producing State. However, the State of Nebraska employs over 2,000 workers in this industry. The hard-working men and women in Nebraska's apparel factories are to be admired and respected.

They produce top quality products at fair but competitive wages. Many Nebraska farm families depend on apparel jobs for a much needed second income to supplement an often unreliable income from agriculture. In recent years, these hard-working Americans have seen their jobs threatened by an unrelenting stream of cheap foreign products. If left unchecked, our Nation risks losing its textile and apparel industry.

We are at the point where our Nation must ask, do we want a domestic textile and apparel industry? I say yes, the textile and apparel industry is important to Nebraska and the Nation.

Mr. President, I intended to support the 1988 textile bill. I am especially pleased that the distinguished Senator from South Carolina, FRITZ HOLLINGS, added the Daschle amendment to the new textile bill.

The Daschle agriculture amendment, which I cosponsored, is a vital and crucial improvement in the legislation before this body. If properly implemented, this provision will protect American agriculture from retaliation. It will offer the United States an opportunity to expand its agricultural export markets. The Daschle amendment gives our trading partners a much needed incentive to purchase more American agriculture products in order to secure an opportunity to expand their textile and apparel exports to the United States.

In 1985, when a textile bill was last before the U.S. Senate, I voted against the bill. The current textile trade legislation before the U.S. Senate is dramatically different and better than the 1985 bill. The earlier version would have actually rolled back textile and apparel imports. The new bill allows 1 percent global growth. In fact, the 1988 textile bill permits a higher level of imports than would have resulted had existing trade agreements been fully enforced over President Reagan's term.

More importantly, the earlier bill offered no security to American agriculture. The new bill includes the ingenious Daschle amendment.

Another key change since 1985, is the passage of time and the continuing failure of the administration to take action to bring textile and apparel imports under control. It is important to point out that if the Reagan-Bush administration had kept its 1980 and 1984 campaign pledges to textile and apparel workers, there would be absolutely no need for this legislation. The President promised to hold down textile import growth.

Over President Reagan's term, we have heard a lot about the benefits of free trade. In Nebraska, we have seen many of the costs in terms of lost jobs and lost markets due to unfair foreign competition.

I have heard from hundreds of Nebraskans in the apparel industry who see their jobs at risk as a result of unrestrained free trade. It is time that we stood up for these working Americans who produce quality products.

Over the Reagan-BUSH years, there has been a marked deterioration of our Nation's industrial base. The textile and apparel industry has been hit hard by the free trade ideas of the last 7½ years. As a Senator from a rural State, I am a free trader by nature. However, free trade without fair trade is very dangerous.

Given the economic disruption experienced in the textile and apparel sector, the new textile bill makes sense. The current bill is moderate and it protects agriculture. This bill does not close our market to imported textiles, apparel, and shoes but attempts to hold import growth to manageable level.

Mr. President, although I would prefer that the Reagan-BUSH administration had enforced existing textile and apparel agreements over the last 7½ years, I will support the new textile bill. It is not the perfect solution to this problem, but it is a sensible one. Our Nation cannot afford to destroy the textile and apparel industry in the name of free trade.

Mr. President, in supporting the textile bill, I am proud to stand shoulder to shoulder with Nebraska's and America's textile workers. I would also like to note for the record, that the new improved textile bill is supported by a number of influential agricultural organizations including the Nebraska Wheat Growers, the Nebraska Wheat Board, the National and Nebraska Corn Growers, the National and Nebraska Farmers Organization, the National and Nebraska Farmers Union, the Nebraska Sheep Council, the American Agriculture Movement, and the Mid-States Wool Growers Cooperatives.

The PRESIDING OFFICER. The question now occurs on the motion of the Senator from Maine to table the amendment of the Senator from Rhode Island. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. DIXON], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Nevada [Mr. HECHT], the Senator from Nebraska [Mr. KARNES], the Senator from Indiana [Mr. QUAYLE], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

I also announce that the Senator from New Mexico [Mr. DOMENICI] is absent on official business.

The PRESIDING OFFICER (Mr. GORE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 26, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—63

Baucus
Biden
Bond
Boren
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Exon
Ford
Fowler
Gore
Graham
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McCain
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—26

Adams
Armstrong
Boschwitz
Bradley
Chafee
Dole
Durenberger
Evans
Garn
Glenn
Gramm
Grassley
Harkin
Humphrey
Kassebaum
Lugar
McClure
Murkowski
Nickles
Packwood
Pressler
Simpson
Stevens
Symms
Wallop
Wilson

NOT VOTING—11

Bentsen
Bingaman
Dixon
Domenici
Hatfield
Hecht
Karnes
Matsunaga
Metzenbaum
Quayle
Stafford

So the motion to lay on the table the amendment (No. 2879) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COHEN. While there has been much discussion here today on the consumer aspects of this bill, no one has focused on the safeguards provided to consumers, especially low income consumers. When looking at the footwear provisions, you see that the bill requires footwear imports to remain at the historically high 1987 levels, accounting for over 80 percent of the U.S. market. In addition, there is a special set aside for the cheapest shoes, those imported at $2.50 or less, so that they should be imported at the same high levels as last year. The bill prevents price increases in these products because it makes no allowance for borrowing volume from this category and making it available for imports of higher priced shoes. the legislation, therefore, encourages importers to fill up this lower-priced category. I believe that these provisions do not hurt our consumers; in fact, they protect our low income consumers. I think these safeguards for our low income consumers are important and I am pleased this legislation will provide those safeguards.

Mr. HOLLINGS. You are absolutely correct. The bill does protect our low income consumers by ensuring an adequate supply of the cheapest shoes because it doesn't allow the foreign countries to shift into higher priced footwear. The agency administering these quotas will be expected to develop a program that ensures that any shortfall in the amount of low-priced footwear imports is not made up by bringing in additional higher-priced footwear.

Mr. COHEN. I thank the Senator for that clarification.

Mr. JOHNSTON. Mr. President, I am pleased to be a cosponsor of S. 2662, the revised textile bill being considered by the Senate today. I am particularly pleased to note that a serious problem in the earlier version of this bill, S. 549—the failure to include 100-percent silk neckwear—has been corrected in the revised bill thanks to the good offices of my friend from South Carolina, Senator HOLLINGS. The Senator recognized this problem soon after S. 549 was introduced and pledged his best efforts to resolve the problem.

Even though 100-percent silk neckwear was covered in the textile bill we passed in the 99th Congress, due to an oversight, 100-percent silk neckwear was dropped when the textile bill was reintroduced in revised form earlier in this Congress. This was unfortunate; however, I have been working very closely with Senator HOLLINGS and his staff on this matter, and I am delighted to see that with his concurrence this provision has been restored in the amended bill. There are compelling reasons for restoring this provision.

The 100-percent silk neckties are the most significant and financially viable sector of the neckwear industry. To deny this segment coverage under the textile quota bill, while covering other segments of the industry, would invite product switching, resulting in further inroads by imports in this important sector. Moreover, quota ceilings on other apparel items inevitably leads to a transfer in production to areas that are not covered by quota.

Tariffs on silk neckties are currently 8 percent as opposed to other apparel items which are in excess of 21 percent. In addition, since 100-percent silk products are not covered under the multifiber arrangement, there are no bilateral restraints on silk neckties. So this segment, which has no quota protection, relatively low tariffs, and is subject to the same problems facing all our other domestic apparel industries, is doubly vulnerable.

The statistics support this contention. The import growth in silk neckties has risen phenomenally over the past several years. From 1982 to 1987, silk necktie imports grew by 257 percent. Silk necktie imports constituted 62 percent of all necktie imports in the first quarter of 1988.

This is a problem of growing importance to the tie manufacturers and the men and women who work in this industry in my State. In New Orleans alone, approximately 700 people are employed in the production of neckwear. As I have reminded my colleagues so often, for close to 3 years now, Louisiana has had one of the highest—if not the highest—unemployment rate in the country. Hence, we cannot afford to lose the jobs that are attributable to the neckwear industry. I believe S. 2662 provides the industry with meaningful relief and I hope the Senate will expeditiously approve the bill.

Mr. MOYNIHAN. Mr. President, I rise today as a leading cosponsor of S. 2662, the Textile and Apparel Trade Act. The textile industry is vital to the economic health and national security of the United States, and I strongly support this bill to remedy the import injury to our textile, apparel and footwear industries.

As we consider the need for the passage of S. 2662, I hope that we recall the historical commitment that the U.S. Government has to maintain the viability and vibrancy of our textile and apparel industry. Our commitment dates back to the late 1950's when a surge in cotton textile imports from Japan caused dislocations in the United States industry.

We soon recognized that the challenge facing the U.S. textile and apparel industry would not be turned aside by stopgap measures. Consequently, in 1962 President Kennedy initiated the negotiation of the long-term agreement, or LTA, on cotton textiles, which I participated in as an Assistant Secretary of Labor. We recognized then, as we recognize now, that an orderly increase in the import of textile and apparel products is critical to the maintenance of a U.S. industry and critical to the preservation of an open trading system. Textiles and apparel is a fundamental industry—larger in employment than our auto and steel industries combined. The United States cannot maintain a viable manufacturing sector without it.

At the same time, we understand that developing countries consider a textiles sector a sine qua non of industrialization. Consequently, for the past 25 years, GATT sanctioned agreements on textiles have tried to accommodate the contending needs of industrial and developing countries. The LTA gave way to the multifiber arrangement, or MFA—which has now been in place for over 15 years. Unfortunately, the successive agreements have not maintained a balance in textiles trade.

Indeed, the United States in 1987 imported over $20 billion in cotton, wool and manmade-fiber textile products covered by the MFA. Billions of dollars more of textile products not covered by the MFA were also imported. Our imports have tripled since 1980. Last year, imports supplied 37 percent of our textiles and 55 percent of our apparel. Imported footwear, meanwhile, supplied 82 percent of the U.S. market. Import shares will grow further if no action is taken.

Clearly, the moderate growth we have bargained for disappeared in the 1980's. The MFA, an agreement of the 1970's, no longer is effective in the late 1980's. We now need a legislative solution.

As our domestic market has been captured by imports, 350,000 Americans working in the textile industry have lost their jobs since 1980. The industry is important to New York and other States where textile jobs are concentrated: closing down textile and apparel plants in a city or town impacts an entire region. In New York State, 24.8 percent of workers in textile and apparel manufacturing lost their jobs between 1980 and 1987. Plants manufacturing nonrubber footwear in the State have reduced employment by 39 percent since 1980.

Against this backdrop of massive dislocation at home, some argue that if we pass S. 2662 we would be abandoning the MFA and our commitment to the GATT. That we would be accepting protectionism.

On the contrary, the MFA is already an agreed upon exception to GATT principles. The principle of providing a level of protection to the textile industries of developed countries was accepted almost 30 years ago. The fact that developing countries, with low wages and no regulatory burdens, are able to underprice developed countries in textiles was recognized long ago. The question since then has been what amount of market share each developed country would be asked to cede to imports.

I believe that the United States has now ceded a high enough market share, and if we fail to take action, the level of imports will inexorably move toward 100 percent, and the remaining 2 million jobs in the textiles industry will be lost. I find this inevitability under the present legal regime unacceptable. And, moreover, it was unintended under the MFA, and the LTA before that. Indeed, there is no principle of international trade law that requires a nation to accept the elimination of critical industries. Imports, yes. Competition, yes. But not economic oblivion. The bill is a matter of protection. But it is protection that is justified, because the alternative would represent an outcome we never bargained for.

Furthermore, the nature of the protection in S. 2662 is consistent with the GATT rules. Under the bill the President would take action to restrict U.S. textile imports under the authority of GATT article XIX, the escape clause. Under article XIX, the United States may impose import relief if increasing imports have been a substantial cause of serious injury to a domestic industry. Textile and apparel imports have clearly caused such injury, and consequently, the bill is consistent with our international obligations.

Indeed, other countries have used article XIX in the past to obtain relief from textile import injury. Canada invoked article XIX to set quotas on apparel in November 1976. Norway rolled back nine categories of textile imports in 1977. Likewise, Australia, between 1974 and 1982, acted under article XIX to limit footwear imports. S. 2662 is both consistent with article XIX of the GATT in that it provides for a temporary remedy for injury, and it follows international precedent for such action.

In addition, our textile and apparel workers have the right to demand that their jobs be protected until the supplying countries pursue trade and currency policies compatible with truly open markets. Many of the supplying countries that export textile products to us subsidize their exports and maintain import barriers. These barriers are not only directed at our exports, but also at the exports of competing developing countries which tends to divert exports to the U.S. market.

For example, China has designated textiles an export priority, and the Chinese Government gives the industry low-interest loans for its development. Textile facilities are located in special zones giving them tax breaks and easier regulatory treatment.

According to a report by the Office of Technology Assessment, China also subsidizes its textile industry by maintaining a multiple exchange rate system for exports. The official foreign exchange rate is currently 3.72 renmibi per dollar and the swap or free market rate is between 6 and 7 renmibi per dollar. The Chinese Government gives textile exporting enterprises the swap rate for their foreign exchange earnings, rather than the official Government rate.

South Korea, meanwhile, restricts imports through a negative list. Imports must receive prior approval of an appropriate ministry and are allowed entry on a controlled basis. Imports are allowed if they are useful to promote exports. Textile manufacturers were given special low-interest loans by the Korean Government while the industry was developed. Thus, preferential treatment of the textile industry in Korea helped give it the boost necessary to become a major world supplier of textiles.

Similarly, Taiwan virtually bans all apparel imports and strictly limits the imports of textile fiber. Textile imports are allowed to the extent that they are necessary to promote the export industry. Taiwan subsidized its textile industry by giving it special tax breaks. Between 1974 and 1979, Taiwan gave $300 million to its textile producers. Export processing zones also allow materials and equipment necessary to export production to enter Taiwan duty-free in order to boost export production

Likewise, many exporting countries do not maintain exchange rates that are consistent with underlying economic conditions. Indeed, many countries manipulate their currencies to subsidize export production—production largely destined for the U.S. market.

Thus, the dollar's devaluation against Japan and Europe will not restore competitiveness in textile and apparel manufacturing, because our largest foreign suppliers of textiles adjust their currencies to remain competitive. Between February 1985 and December 1987, for example, China's currency value declined relative to the dollar.

Taiwan, Korea, and Hong Kong, the next largest suppliers, peg their exchange rate values to the dollar. Although Taiwan and Korea have, under intense American pressure, recently adjusted their exchange rates against the dollar, their currencies remain undervalued. Hong Kong, meanwhile, refuses to permit any appreciation of its currency against the dollar. Other suppliers with pegged currencies, such as Indonesia, Brazil and Thailand, are rushing to supply the American market. In an effort to address this situation, I succeeded in having included in the Omnibus Trade and Competitiveness Act a provision that requires the Secretary of the Treasury to undertake negotiations with nations that manipulate their exchange rates to obtain a trade advantage.

Thus, the jobs of American textile workers should not be sacrificed in a unilateral U.S. pursuit of liberal trade. Rather, we must insist on fair and orderly trade as a condition for trade expansion and liberalization. It is long past the time that countries such as Korea, Taiwan, and China remove their import barriers to textiles.

Protectionism in textile trade is not solely a U.S. phenomenon—other countries must now accept the burden of open markets. We have ceded 55 percent of our apparel market to imports. It is time to restrain further growth, and insist that other countries accept more textile imports so that developing countries, such as Bangladesh and Indonesia, have the markets they need for their production.

Finally, we should not forget about the imperative to preserve a fragment of the U.S. footwear industry. Only a fragment will be saved by this bill, since 82 percent of consumption is already filled by imports. The Reagan administration failed in 1985 to provide even a shred of relief to an industry that is in many ways just as fundamental as the textile industry, despite the recommendation of the International Trade Commission in 1985 to protect the industry from further import injury.

In passing the Omnibus Tade and Competitiveness Act, the Congress approved a reform of the U.S. escape clause that guarantees relief for industries that can demonstrate injury and a will to become competitive. S. 2662, in effect, implements this policy for the case of the footwear and textile industries.

In short, S. 2662 would provide the critical basis upon which to ensure the continued vitality of the U.S. textile and apparel industries. It would offset penetration of our market by producers in the Pacific rim and elsewhere who peg their exchange rates to the dollar and evade existing trade agreements to increase exports to the United States while shutting their doors to imports. The bill would allow U.S. manufacturers to revitalize their industry by slowing the trend of import growth. It would also provide an opportunity to maintain an industry of huge importance to American workers and to our national security. Mr. President, I strongly support this important measure, and I urge its immediate favorable consideration.

Mr. MITCHELL. Mr. President, I am pleased to give my strong support to this legislation that responds to the serious threats facing our domestic textile, apparel, and footwear industries from ever increasing imports.

This bill is a modest, realistic, and carefully crafted effort to moderate import growth in the textile, apparel, and footwear industries. It does not roll back import levels as a means of artificially protecting uncompetitive industries. It is, rather, a responsible proposal to enforce internationally agreed upon import growth in these products.

This legislation is designed to ensure enforcement of existing bilateral agreements negotiated under the Multi-Fiber Arrangement. It is crafted within the guidelines of the General Agreement on Tariffs and Trade because it treats imports from all sources alike and provides for offsetting tariff reductions in instances where compensation should be provided to importing nations.

It is quite clear, from the evidence of the past several years, that bilateral agreements are simply not working. And in the absence of a global import level, they can never work. This bill would establish that global import level, without directing particular reductions by any particular country.

It would preserve the administration's flexibility in negotiating specific bilateral agreements within the global import level. It would also provide authority for negotiating offsetting tariff reductions in exchange for import moderation under the global level.

Despite the inevitable opposition from the administration this bill does not invite retaliation. It specifically permits tariff reductions to remain within GATT requirements. It permits import growth from year to year; it does not mandate a static import level.

What it seeks to do, in essence, is to create some predictability, to prevent our industries being damaged by the sudden surges of shoe and textile imports which have occurred during this decade.

When Ronald Reagan campaigned for the Presidency in 1980, he pledged in writing to the textile and apparel industry that as President he would work to control import growth so that imports would grow no faster than the domestic market. The record of his Presidency has been just the opposite. During this decade, imports of fiber, fabric, apparel and footwear products have increased faster than ever before.

In spite of a $17 billion modernization effort by the domestic industry since 1980, textile and apparel imports have doubled. That has resulted in the closing of more than 1,000 textile and apparel plants at a cost of 300,000 jobs. Today more than half of all apparel sold in the United States is imported.

In 1980, our Nation imported the equivalent of 4.8 billion square yards of textiles. Each billion square yards means 100,000 American jobs. By 1985, when Congress first attempted to moderate the tidal wave of imports, we were importing the equivalent of 10.8 billion square yards.

Despite the claims the bilateral agreements are all that is needed, imports have outraced those agreements. From 1982 to 1984 imports of textile and apparel products increased by 65 percent. In 1985 imports grew by another 10 percent.

In July 1985, the United States completed negotiations for a renewal of the Multi-Fiber Arrangement and then concluded 34 bilateral agreements under the MFA to control the growth of textile imports. Administration pronouncements notwithstanding, the new MFA and bilaterals thereunder have not worked to control growth. Textile and apparel imports inceased another 16 percent in 1986 and 17 percent in 1987.

While imports are down this year, that reflects softness in the domestic market, not any control of imports. For the domestic industry, profits were only 12 percent in the first quarter of this year, along with production hours, capacity utilization, and new orders.

Imports have had an even more devastating effect on the American footwear industry. Since 1980, the volume of imports has almost tripled, rising from a 50-percent market share to an incredible 82-percent share today. Across the Nation 308 shoe factories have closed since 1981 at a cost of 60,000 jobs.

In my home State of Maine, thousands of jobs have been lost over the last several years in the textile, apparel, and footwear industries. Until recently, Maine was the largest footwear producing State in the Nation, so the demise of the footwear industry has been particularly painful for our State. Since 1980 the State has lost more than 40 percent of its footwear jobs as 35 percent of our factories have shut their doors because of increasing imports.

This dislocation is particularly serious because the lost jobs are often located in smaller rural communities in depressed parts of the State where there are few employment alternatives.

The jobs lost are those of modest-income, long-time workers, who have neither the training nor the resources to relocate and begin a new career.

I support this legislation, not because it is the total answer to the trade imbalance in the textile and apparel sector. It is not. No one piece of legislation provides such an answer. But this bill represents a realistic and fair framework within which U.S. industry can function without harming our trading partners.

The fact is that world fiber and title production, and world footwear production, greatly exceed world demand. Production is simply too great relative to demand.

There is no mystery about how this over-production arose.

Textile and apparel production formed the initial building blocks of the Industrial Revolution in 19th century Britain. The technologies of these industries are not complex. And they are very competitive when the workers in them are paid less than a third of American wages.

Over 150 years, simple and efficient technology of mass apparel production has spread to every country that wants to develop its technology.

Likewise, the manufacture of footwear has spread to every country that wants to spur its internal economic growth.

There is nothing mysterious about this process, nor anything inherently blameworthy. Fiber and apparel production are the easiest and fastest route for nations moving from an agrarian economic base to an industrial economic base. The technologies are straightforward. The installation of manufacturing plants is not overly costly. The production cycle is very accommodating to a work force that is uneducated, plentiful and cheap.

When a nation's principal competitive resource consists of a willing, cheap, and unskilled manpower pool, one of the easiest ways to develop an industrial base is to employ that work force in fiber and apparel production.

Virtually every developing country in the world has recognized this fundamental fact and as a result, virtually every developing country is making an aggressive effort to produce in this field.

But these countries are not doing so with the goal of becoming self-sufficient in fiber production. They are doing so with the twin goals of development and export markets in mind. The global economy simply cannot absorb the productive capacity that this single-minded approach produces.

The Department of Commerce has identified 226 nations, trust territories and other states which produce fiber products. One hundred seventy-five of them export to the United States. There are only 159 member nations in the entire United Nations Organization.

Since 1973, when the first Multi-Fiber Agreement was negotiated, all the world's interested parties have attempted to order the trade in those products. Every participant in the Multi-Fiber Agreement has used its framework to control its imports, maximize its exports and manage the trade in these products.

Every country has succeeded in this except the United States. Alone among the producing and consuming world, America has been virtually the only free market outlet for the excess production that is the hallmark of the fiber and apparel industries.

When an enormous pool of production exists, whether it is in fiber products or any others, its effects in the international marketplace are like an enormous weight of dammed up water seeking the weakest point for release. The absence of any but the most porous kind of restraint against this weight of production is predictable and documented.

The United States today is the outlet for 59 percent of developing nation production of apparel products.

The European Economic Community, with a population as wealthy as ours and numerically larger than ours, is the outlet for less than half that amount—22 percent of world production. Japan, with over 120 million people, the wealthiest Asian nation, accepts just 5.6 percent of this output.

This is no accident of history or circumstance. It is not a reflection of our international competitiveness. Nor does it reflect free market competitive advantage. Many nations which export to our markets would willingly sell to Europe or Japan. The differentiating factor is that the Europeans and the Japanese have used the Multi-Fiber Agreements and other means to manage their trade. We have not. And we have paid the price for that in the loss of hundreds of thousands of American jobs.

There is going to be a great deal said in the course of this debate about the American consumer's right to purchase at the lowest possible price, and about the protected status that some claim the fiber/apparel industry has enjoyed for many years.

None of those claims stands up to analysis. The rate of inflation in women's apparel rose at an annualized level of 24 percent in May and April of this year alone. That had nothing to do with import restrictions. That had to do with retailers' judgments of what the market would bear.

The markups on these items are substantial that retailers and importers can bring in blouses for $2.50 and still mark them up to $16 to compete with American-made apparel. People who wonder how stores can stand to take markdowns of 40 and 50 percent, as their sales advertisements so often boast, should keep in mind that when you markup a product 300 percent, cutting that profit margin down to just double works no serious economic handicap.

Last year, some 18 percent of imported footwear came in at FOB prices of under $2.50 a pair. How many American consumers were buying shoes at that price?

The consumer argument is a smokescreen. Footwear and apparel retails to the consumer at a price that is competitive with American produced goods. It will always do so, and the only question is who will benefit from this fact? A handful of importers or the larger number of Americans and their families who make up the work force for these goods?

Another smokescreen argument in this debate is the so-called free trade argument. We repeatedly hear assertions that any deviation from the current flood of imports—whether they are at 30 percent of the market, or 50 or 80 percent—is an unwarranted protectionist effort to shield inefficient local manufacturers from the stimulating effects of the so-called free international marketplace.

But the claims that this legislation will be the straw that breaks our economic back are either disingenuous or spring from simple ignorance of our own economic history. Since the 1930's, America has controlled some aspects of fiber trade. We have done so in good times and bad, through economic expansion and contraction.

This country has controlled imports in raw cotton since the 1930's. Today, the domestic textile industry represents the major market for domestic cotton production. Imports take $1 billion from that farm sector.

In 1956, when the recovering European economy was getting under way after the devastation of the war, our Nation managed trade in fiber and apparel goods, and the economic growth of the 1950's and 1960's did not suffer one iota for it.

We were then doing what every single country has done since it got back on its feet or found its feet: We were recognizing that American and world interests were better served by orderly trade than by wild over-production and protectionism in every affected market.

It is time we learned that lesson. There has never been a free market in these goods and there probably never can be. There have been world trade markets in these goods managed for the benefit of particular countries—most notably Great Britain in the last century—but that time is past.

What every consuming nation and every producing nation—and in this sector, the terms are meaningless, because all the producers consume and all the consumers produce—what we've learned in the last two decades is that this is a trade sphere in which trade must be managed if it is not to dislocate and impoverish all parties.

This is not a free trade versus protectionism debate any more than it is a debate over American productivity and overseas efficiency.

Our fiber production today is beyond challenge in its efficiency of output and use of workers. The industry has invested more than $2 billion a year since 1980 in modernizing plants and equipment. Its level of productivity competes with any in the world. Computers are cutting shoe patterns and weaving high-quality fibers, for a myriad of uses, faster, cheaper and with less manpower than in any other country in the world.

The industry has made a commitment and it has made it in cold hard cash. It is time now for the Government to take on its responsibilities in the partnership. It is time, at last, after years of drift and delay, for the Government to do for our domestic industries what every other country does for theirs.

The Multi-Fiber Agreements for 14 years have been nothing but a screen for free trade ideologues to hide behind.

While the European Economic Community's imports in this sector have fallen from $23 to $18 per person, our Government has stood on the sidelines, blaming American workers, manufacturers and producers for the problems it wanted to avoid.

We have allowed rural communities, well-managed companies and longtime workers to pay for this indulgence. We can do so no longer.

The claims that any kind of American control would lead to immense, costly, and counterproductive retaliation are another fear tactic that has been decisively disproven by events.

If the only thing the so-called free international marketplace has to fear is American restrictions, why did the European Economic Community slap restrictions on fiber and textile imports last month? There were no American provocations to explain that.

The EEC did what it did for the reasons that it has been doing the same thing for the past two decades. It did so to protect the subsidies, the jobs and the investments of its citizens.

Every other country in the world has done exactly the same thing for at least as long, except for our own. We alone have asked that our working people, our manufacturers and our investors play by rules that nobody else observes in this field.

It is particularly galling to me that the nations which have been most outspoken in opposition to this legislation have far more restrictive controls on imports on textile and apparel products. That includes both developed and developing countries, although clearly the most protective textile and apparel markets are in the major exporting nations.

The European Community controls imports, much like the United States, under bilateral agreements it has negotiated as part of the MFA. However, unlike the United States, the European system is far more restrictive and results in substantially lower import levels.

Although Japan is a signatory to the MFA, it imposes even more stringent controls on imports outside the bilateral framework of the MFA. This is accomplished through the Ministry of International Trade and Industry which exerts pressure on domestic firms to voluntarily limit imports. Where that has proved unsuccessful, Japan has negotiated voluntary restraint agreements with exporting nations.

In the developing world, market barriers have been erected as part of an industrial strategy that permits these countries to concentrate on a specific export sector without threat of competition in their home markets.

Korea, for example, maintains what it calls a "negative list" of textile and apparel products that cannot be imported without specific approval by the Ministry of Trade. Taiwan imposes periodic bans on textile and fiber imports as well as prohibitively high tariffs.

Brazil imposes duties of 105 percent plus a 100-percent fine on the value of goods which do not have an import permit. Import permits are not granted for what it calls "superfluous goods"; that is, goods manufactured in Brazil.

India bans the import of all textile and apparel products except certain fibers which cannot be produced in adequate quantities domestically. China regulates the flow of imports through its foreign trade organizations, which are monopolies that import only goods which are not produced domestically.

During the most recent MFA negotiations, the importing, developed nations asked for a commitment from developing countries to open their own textile and apparel markets. That request was rejected out of hand.

The truth is that international trade in textile and apparel products is heavily protected in almost every nation. Most countries impose far more restrictive limits on textile and apparel products than are proposed in this legislation.

It is against the background of pervasive government control over textile, apparel, and footwear trade that this legislation must be considered. It is fine for opponents of this bill to hold up the free trade icon as some sort of economic salvation. But that kind of blind faith has little relevance in the real world where every government aggressively manages trade in textile, apparel and footwear products.

Several days ago the Congress again passed a trade bill whose central premise is that we must establish a trade policy, since this administration manifestly has not done so in 7½ years. A central element of that policy is that we will be saying to our trading partners, for the first time in many, many years, that the free ride is over.

Our Nation's people have been forced to learn the hard way what it means to compete in a competitive world. It is well past time that all those who have assumed the enormous American marketplace as a permanent condition learn the same lesson.

We are the only Nation in the history of the world which has allowed our allies and former adversaries to benefit from our tax dollars for their defense and given them free play in our consumer market. Historians of the future will look back in amazement on this 30-year episode. And they will be right.

No nation can afford to surrender its natural advantages, its earned economic and technological advantages and its military power to the discretionary benefit of others for three decades without paying a price.

This legislation simply says that for this one sector, we have paid the price and we have paid it for long enough. If the EEC nations can determine, as they recently did, that their enormous population and their unsurpassed wealth cannot accommodate the influx of more fiber/apparel production, there is nothing protectionist, nothing inviting retaliation and nothing but misguided ideology that prevents us from taking a similar step.

The legislation before us cuts back no trade, reduces nobody's playing field from the size it was last year. It simply says that the free ride is over: Imports can grow along with our market, not 15 or 20 percent beyond it.

It says that if you are willing to buy American agricultural produce, we will raise our limits to accommodate your fiber and apparel exports.

Europe and Japan are economically mature states, as is the United States. They face internal dissension on trade policy. But is someone suggesting we do not? They have their policy preferences and cultural priorities. But are ours any less worthwhile?

Our military alliances are not so weak that a rational American trade policy threatens them. Our future as a great power demands that we assert our legitimate rights in the international marketplace. This legislation is a sound, modest, and good way to begin.

Mr. GLENN. Mr. President, I rise today to explain my decision to vote against S. 2662, the Textile, Apparel and Footwear Trade Act. Before I begin let me say that my decision was not made hastily nor cavalierly. Over the last 18 months, I have met with both groups that support, and groups that oppose the textile bill. I have personally talked to labor union workers, union officers, the vice chairman of the Nation's leading textile manufacturer, the president of the clothing workers union, industrial fabric producers, retailers, importers, and many others.

I am not unfamiliar with the economic conditions in this industry. Nor am I unsympathetic. Some 250,000 textile and apparel jobs have been lost since 1980, forcing many unskilled or lightly trained men and women with families to feed into lower paying jobs or onto the unemployment rolls. Since the industry's peak in 1973, the number of jobs has declined by 50 percent in nonrubber footwear, 32 percent in textiles and 19 percent in apparel. Import growth has accelerated too. From 1980 through 1986, imports grew an average of 11 percent a year in textiles and 15 percent a year in apparel. It was during this period that the United States became the market of last resort: This country now buys almost 60 percent of the apparel exported by developing nations, while Europe buys only 22 percent and Japan, 6 percent. Today, imports control about 8 percent of the U.S. textile market and about 34 percent of the U.S. apparel market.

The apparel industry has felt the most pressure from cheap, overseas labor. In four top apparel exporting nations—Taiwan, Hong Kong, South Korea, and China—apparel workers earn between 21 cents and $1.89 per hour. American workers, with their relatively high wages, cannot be expected to compete, even though they are perhaps the most efficient and productive workers in the world.

But mindful as I am of these developments, I still must oppose S. 2662.

Market conditions, cyclical though they may be, simply do not justify the breadth of protection found in this bill. Simply put, I cannot support permanent import quotas for an industry that is making money at historically high levels and operating near full capacity.

Consider these facts: 1986 and 1987 were two of the most profitable years in memory for the textile industry. Furthermore, the industry's rate of return on equity has been higher than the U.S. manufacturing average. Also, capacity utilization in the industry has been running around 90 percent for some time now, well above the 82.9-percent rate of utilization for all manufacturing.

I believe other market conditions rule out more import protection. With the decline in the value of the dollar and current sluggishness in consumer buying, imports have recently declined. Textile and apparel imports grew by only 2.3 percent in 1987—well below the 14.7-percent annual average growth rate for the period from 1981 through 1987. This downward trend continues. During the first 6 months of 1988, U.S. imports fell nearly 9 percent from the same period a year ago. On the export side, U.S. textile and apparel firms are beginning to recapture some foreign markets. Apparel exports, for example, jumped 25 percent in 1987.

The industry's employment picture is also improving. Since 1985, some 15,000 new jobs have been created. In 1987, textile employment rose 3 percent, and apparel employment, after years of decline, remained steady. More important, the labor market is very tight in States where the textile and apparel industry is heavily concentrated. For example, North Carolina's unemployment rate is 3.1 percent, and South Carolina's unemployment rate is 4.7 percent. The top five textile States have an average joblessness rate of 4.8 percent. These levels compare quite favorably with the national average of 5.6 percent as well as with my home State's joblessness rate of 5.6 percent. If only Ohio could have it so good!

My description of current economic conditions is not meant to suggest that industry relief of some sort is not warranted. Nor do I ovelook the cyclical nature of the industry. My point is that an industry that is enjoying relative economic prosperity and growth should not be afforded permanent import protection.

Before leaving this subject, I must address what I believe is a misconception about the effect of foreign imports on employment in the textile and apparel industry. To be sure, cheap foreign labor has cost many Americans their jobs. However, what has driven the dramatic loss of jobs over the last 15 years has been the industry's own decision to modernize and install more efficient and less labor-intensive equipment. According to Prof. Richard McKenzie of Clemson University, industry modernization efforts produced a 49-percent increase in productivity between 1973 and 1984, a time period during which 270,000 jobs were lost. He concluded that—

> Productivity increases alone could account for the loss of approximately 225,000 jobs, or 83 percent of the total decrease in employment, in the textile industry.

I also object to S. 2662 because it would offer protection to an industry that is strong and internationally competitive. I have already discussed the very profitable textile industry, which would only gain additional, windfall profits from increased protection from imports. Let me also point out that substantial portions of the textile industry face very little import competition. In fact, well over half of the textile fiber market is relatively free of import competition, and some segments, according to the International Trade Commission, are almost entirely controlled by American firms, including knit fabrics, manmade filament yarns, carpets and rugs, manmade textile yarns, manmade broadwoven fabrics, and sheets and pillowcases.

Clearly, these segments do not need import protection. Giving it to them would not be in the public interest—it would reduce competition by further shielding them from better-priced, and maybe someday better-made, imports, all to the detriment of the pocketbooks of American consumers.

Industry-specific legislation is not only unjustified in the case of the textile and apparel industry, it sets a dangerous precedent for other, more imperiled industries. For example, in other industries, the effects of imports on employment have been worse. In my home State I saw over 85,000 workers lose their jobs in the steel, automobile, machine tools, and glass industries. In steel alone 41,000 jobs were eliminated. I draw your attention to this table which shows employment declines for these four Ohio industries; the figures are in thousands.

	1979	1987	Jobs lost	Percent decline
I. Steel:				
U.S. jobs	400.0	170.0	230.0	57
Ohio jobs	84.0	43.0	41.0	49
II. Autos:				
U.S. jobs	349.0	296.0	53.0	15
Ohio jobs	120.0	94.1	25.9	22
III. Machine tools:				
U.S. jobs	104.3	64.6	39.7	38
Ohio jobs	21.9	12.4	9.5	43
IV Glass:				
U.S. jobs	198.5	154.1	44.4	22
Ohio jobs	24.5	16.1	8.4	34

The textile and apparel industry also complains about the growth of import product pentration. To be sure, the nonrubber footwear industry's import pentration of 82 percent may need attention. But the record does not support the textile and apparel industry's contention that their situation overall is unique. For example, import penetration in the apparel segment of the industry grew from 22 percent to 34.3 percent in this decade. The level of textiles stands at about 8 percent. Compare this growth with that in the machine tools industry, which saw imports' share of the domestic market double in the 1980's from 24 to 50 percent. Other U.S. industries suffer from severe import penetration as well: Foreign autos make up 28 percent of the U.S. market, up from 18 percent in 1975, and foreign steel controls 20 percent of the American market. Consider, too, the import levels in consumer electronics, 65 percent; farm machinery, 18 percent; construction machinery, 17 percent; furniture, 17 percent; and appliances, 16 percent.

I should add that relative to the textile and apparel industry the future is a lot bleaker for many other industries. From now until the year 2000, the Labor Department believes about a dozen other industries—including the steel industry—will have greater annual employment losses. The apparel industry will fare somewhat better, with a projected rate of decline ranking somewhere behind 20 to 30 other more troubled industries.

The conditions in other industries demonstrate to me that the problems in the textile and apparel industry do not warrant special legislation. The competitive forces this industry confronts are not unique; therefore, industry-specific legislation would be unfair as well as unjustified. To accommodate the textile industry on this occasion would be to invite every troubled industry to approach the Congress and seek the same privilege. This is a prospect I do not relish.

If enacted, S. 2662 would probably save some jobs. But the question is: At what cost? And how many?

From the consumer's viewpoint, this bill would make a bad situation worse. According to William Cline of the Institute for International Economics, import protection currently enjoyed by the textile and apparel industry costs American consumers $20 billion annually. S. 2662 would increase the consumer price tag by an average of $6 billion a year. Another study estimates that the bill would protect 47,000 jobs at a cost of $10 billion a year in the form of higher prices—this amounts to $223,000 per job saved.

S. 2662 may save jobs, but no one really knows how many because future productivity increases engendered by the industry's modernization efforts will continue to place jobs in jeopardy for the foreseeable future. But S. 2662 could cost jobs too. If the increased clothing prices the bill is sure to produce were to dampen retail sales, department stores and other retailers will be forced to lay off workers. One study projects a loss of over 52,000 jobs.

The textile and apparel industry does not need S. 2662 because it is perhaps America's most protected industry. The apparel industry's tariff of 22 percent is among our highest. And 85 percent of all U.S. imports of textile and apparel from developing nations are already covered by over 1,500 quotas and 40 bilateral trade agreements. Four of our top five suppliers have already agreed to a 1 percent growth cap in their bilateral agreements with the United States. So even under the status quo the industry receives and will continue to receive plenty of import relief, with or without S. 2662.

I should at this point explain that I supported textile legislation in the past and have always supported the trade regime which controls textile imports, including the Multi-Fiber Agreement and the bilateral agreements. I am proud to say that this regime has played a significant part in the recent decline in imports. I also believe that it has helped the textile industry recover and attain its current levels of profitability. Under these circumstances, I cannot justify extending additional import protection to this industry.

The new omnibus trade bill works to make trade fair for all industries and should adequately protect the textile and apparel industry, like all others. This new law makes available to this industry—as well as every other industry that is injured by imports—several avenues for seeking relief from injurious levels of imports as well as unfair trade practices overseas. If this trade law is inadequate, we ought to consider changing this law, not adding industry-specific legislation like S. 2662.

I am also concerned about the foreign policy and international trade repercussions that S. 2662 would have. Some believe it would violate our bilateral textile agreements, the Multifiber Agreement, the General Agreement on Tariffs and Trade, and the proposed United States-Canada Free Trade Agreement. Others fear possible retaliation against U.S. exports, particularly agricultural products. In this regard, the so-called Daschle provision does not assuage these concerns over possible retaliation because even those nations that increased their agricultural imports would suffer a net loss in textile and apparel exports to this country. In addition, I am also concerned that this provision, by linking agricultural exports with textile and apparel imports, would undermine United States efforts at the Uruguay round to eliminate worldwide agricultural subsidies.

Finally, this is not the bill that the industry needs. If the industry believes that the 30 years of traditional trade policy using tariffs and quotas to stem imports has failed to make it a globally competitive and modern industry, then the Congress should consider other avenues. Clearly, what the industry needs is an innovative trade strategy, one that will link short-term import relief with an industry commitment to modernize and become internationally competitive. In fact, such a "contract" is a part of the omnibus trade bill's amendments to section 201 of our trade laws, a change which I fully supported. Moreover, there is nothing in S. 2662 to help workers dislocated by imports as well as productivity increases get retraining and start a new life elsewhere. Nor is there any attention given to opening up markets overseas. The bill offers none of this; it is just more of the same.

S. 2662 is an anachronism. We in the Congress have come too far in our understanding of trade policy to adopt old-fashioned, protectionist legislation. This bill comes on the heels of the balanced and prudent omnibus trade bill; its consideration will precede by days the all but certain approval of the market-opening and forward-thinking United States-Canada Free Trade Agreement. The Senate should not let this bill spoil its exemplary record.

Ms. MIKULSKI. Mr. President, we have heard a lot of numbers thrown around over the past 2 days of debate, but one number really stands out—370,000.

That is the number of textile, apparel, and footwear jobs that have been lost to foreign competition during the 1980's. Another 47,000 U.S. workers will lose their jobs if we don't approve this legislation.

Here is another number: $1.01.

That is the hourly wage received by Korean shoe workers. Can U.S. workers compete against that wage? Of course not. Should they have to? No way.

One last number: 12,490.

That is the number of Maryland workers who remain in these industries and who stand to lose their jobs to further import penetration—workers in Carroll County, Frederick County, and Washington County.

Fighting the battle against the trade deficit is a frustrating exercise, and it often seems that there is very little we can do to make a quick, decisive difference. Today we have that opportunity. A vote for this bill is a vote that will have an immediate payoff in U.S. jobs.

Mr. HELMS. Mr. President, since 1974, the Multi-Fiber Arrangement [MFA] has provided the framework for world trade in textiles and apparel. The purpose of the MFA is to guarantee markets in developed countries for textile and apparel products from lesser developed countries while insuring against market disruption in the developed countries.

This tradeoff is necessary to prevent unreasonable protectionist measures by developed countries while guaranteeing access to their markets for the lesser developed countries.

Mr. President, since 1980, the American textile and apparel industry has made significant efforts to improve its competitiveness. The industry has spent more than $2 billion a year on modernization to improve efficiency and quality control. Despite those efforts, our domestic textile and apparel industry continues to lose market share to low-wage imports that often enjoy Government subsidies. Imports now control more than 50 percent of the domestic market.

In deciding what approach we should take to this problem, we must address several important questions. First, we must ask how important our domestic textile and apparel manufacturing capability is to this country.

I will answer that simply by pointing out that, next to steel, the Pentagon ranks textiles as the item most vital to national defense. In July 1986, the House Armed Services Subcommittee on Investigations held a hearing in which the capability of our domestic industry to meet military wartime needs was drawn into serious question because of unrestrained textile imports. A 1986 Department of Defense report on the capability of the domestic textile and apparel industries to support defense mobilization requirements found that diminishing sources in the textile industry have seriously affected its production base.

Textiles are vital elements in over 300 combat essential items—from socks to aircraft brake systems. In total, the Department of Defense has in its inventory approximately 10,000 items which are made entirely or partially from textiles. Can we afford to put ourselves in the position of relying on a foreign market to supply the items necessary to our military readiness? Absolutely not.

In addition to its contribution to our military establishment, the textile/apparel industry provides essential jobs. In his September 3, 1980, letter to the distinguished senior Senator from South Carolina [Mr. THURMOND], President Reagan recognized that, "The fiber/textile/apparel manufacturing complex provides 2.3 million vitally needed American jobs, including a high percentage of female and minority employees."

In fact, one in every 10 Americans employed in manufacturing is part of the fiber, textile, and apparel industry. It is the largest single manufacturing employer in the United States.

I am proud to say that the North Carolina textile/apparel/fiber industry employs more than 300,000 people—that's more than any other State in the country. But textile jobs are limited neither to a particular State nor to a particular region. They are distributed throughout the 50 States.

Unfortunately, we are exporting more and more of these jobs overseas. Since 1980, approximately 350,000 American workers have lost their jobs in the textile and apparel industry. We lost almost 100,000 jobs in 1985 alone. More than 2,000 textile and apparel plants have been closed. The dramatic increase in imports represents approximately 750,000 American job opportunities lost to plants overseas.

The second question we must address is whether the administration has acted, as promised, to relate imports to the growth in the domestic market. Unfortunately, Mr. President, the answer is "no."

From 1980-88, textile and apparel imports have grown an average of 16 percent annually, while the domestic market has grown at a rate of approximately 1 percent. It was in this context that Congress passed the Textile and Apparel Trade Enforcement Act in 1986.

When the President vetoed the bill, we agreed to give the Government 7 months to demonstrate that it would strengthen its policies and fulfill the commitment to relate import growth to the growth in the domestic market. But what happened during that time? Imports grew 22 percent—the highest for any 6-month period in history.

Unfortunately, as we all know, Congress failed by a few votes to override the President's veto.

What about the commitment to negotiate a tougher MFA? Well, despite the administration's reports to the contrary, the new MFA did nothing to reduce the growth of imports. Figures released by the Department of Commerce showed that for the period January to May 1987, the textile and apparel trade deficit increased 22 percent over the same period in 1986.

Let me quote from "Textile Outlook International," the business and market analysis for the textile apparel industries:

> In the U.S.A. the key question is how far imports can continue (or be allowed to continue) to grow at the current rate. In the previous analysis it was assumed that more restrictive management of the various textile agreements would begin to limit the rate of import growth. This did not happen. Instead of the forecast trade deficit of 895,000 tons in 1986, the deficit was 1,500,000. Once again the question is how far the U.S.A. is able, or wishes, to slow down the flood. The economic issue is simple, if stark. If imports continue to grow at 15 percent per annum, which they have done since 1979, then by 1990 they would account for 45 percent of total final consumption and, by 1995, 83 percent. U.S. mill consumption would supply only 57 percent of final consumption by 1990 and 20 percent by 1995. This does not seem to be an acceptable scenario.

Mr. President, to understand what happened to our market, it is instructive to compare our industry's history to that of the European Economic Community [EEC].

From 1974 to 1980, the EEC was in a situation similar to ours. Their textile industry experienced multiple plant closings and lost hundreds of thousands of jobs—all due to an uncontrolled flood of imports.

In 1981, the EEC aggressively negotiated bilateral agreements with its trading partners pursuant to the new MFA. Their aggressive strategy incorporated several factors which our Government must wake up and recognize.

First, the EEC Ministers recognized that their textile and apparel industry was of vital importance and worth saving, even at the risk that some of their trading partners may retaliate.

Second, they adopted a strong negotiating stance: They demanded cutbacks in imports from the major supplier nations; they made it clear that they would withdraw from further negotiations if relief for their market was not forthcoming; and they established "global ceilings" for highly sensitive products. The use of global ceilings was particularly significant because it fragmented the supplier nations, forcing them to negotiate quickly and independently. This strategy allowed the EEC to negotiate from a position of strength.

The success of their efforts has been dramatic: during the same time period that the U.S. textile/apparel trade deficit was growing from $4 billion to $16 billion, the EEC trade deficit was decreasing from $4 billion to $2 billion. In 1985, our deficit grew to $18 billion—the EEC's deficit fell to $1 billion. Since 1980, our textile/apparel trade deficit has grown over 300 percent; that for the EEC has decreased by 75 percent.

Mr. President, it is important to compare the approach taken by S. 2662, the Textile and Apparel Trade Act of 1987, with that of previous legislative efforts. The textile industry and its workers have made significant efforts in drafting S. 2662 to address the objections expressed about the bill introduced in 1985—even though it was passed easily by Congress.

For example, the bill provides for a global quota that does not mandate restrictions on any specific country. This preserves maximum flexibility for the administration to implement the new law. Furthermore, the bill calls for no rollbacks in imports. It allows imports to remain at their 1987 levels with a 1-percent annual increase—the projected long-term growth rate of the domestic market.

Mr. President, in compliance with the General Agreement on Tariffs and Trade [GATT], the bill includes a congressional finding of injury to the domestic industry, it provides global quotas with no discrimination, and it authorizes the President to negotiate reductions in U.S. textile and apparel tariffs as compensation for those countries affected. These tariff cuts can be up to 10 percent and must be staged equally over 5 years.

Let me take a moment to rebut some of the arguments that are being made against this bill. First, it is being said that the textile and apparel industries are profitable, healthy and running at near capacity and, therefore, do not need stronger trade legislation.

In fact, Mr. President, profits after taxes for textile manufacturers during the first quarter of 1988 were 12 percent lower than the first quarter of 1987. That is particularly significant when compared to the 49-percent increase in profits for all manufacturing for the same period.

Another inaccurate statement that is being made is that consumers will pay radically higher prices if the textile bill becomes law. A report by the Office of Technology Assessment found that the cost benefits of cheap foreign labor rarely reaches consumers. By far, most of the difference between the production cost and the selling price ends up in the hands of shippers, wholesalers, and importers. Usually, the consumer pays the same price for equivalent imported and domestic products.

Furthermore, the intense competition among domestic producers will keep a lid on price increases.

A recurring argument is that foreign nations will retaliate against the textile bill—especially against American agriculture interests—by placing quotas or tariffs on exported U.S. goods.

The textile bill is no more restrictive than provisions imposed by the European Economic Community on many categories of textile imports, for which little, if any, retaliation has occurred. The President has full authority to establish quotas that would ensure European—or other nations—access to a substantial share of the U.S. market. There are also provisions in this bill that allow affected nations to seek compensation in the form of duty reductions on textile and apparel items shipped to the United States for any losses they can demonstrate as a result of the bill. Besides, our foreign competition already has large trade surpluses with the United States and would not want to endanger that situation.

An important provision has been included in the bill to provide an incentive for countries to increase purchases of U.S. agricultural products plus a disincentive for them to attempt to retaliate. The provision directs the Secretary of Commerce to give priority in the quota allocation to countries that have increased their purchases of agricultural products.

Despite the concessions that have been made by the textile industry in supporting this bill, there is still talk that the textile bill violates international trade agreements like the Geneal Agreement on Tariffs and Trade [GATT].

The bill does not call for the abrogation of our bilateral textile trade agreements. They can all remain in place until their expirations by reducing the growth from those countries with whom we do not have agreements. Even the Multi-Fiber Agreement [MFA] permits less favorable treatment for countries not under agreement than for countries under agreement.

Article XIX under GATT permits countries whose industry(ies) have suffered "serious injury" from imports to take appropriate action. The loss of jobs and large market share suffered by the American footwear, textile, apparel, and fiber industries—approximately 350,000 jobs lost and hundreds of plants closed in the last 8 years—is more than sufficient evidence, under GATT rules and procedures, of injury. The textile bill is, in itself, a congressional finding which fulfills all of the GATT requirements. The administration may not like Congress to make such a finding, but Congress has the authority to do so in accordance with the GATT.

The multifiber arrangement does not call for and, indeed, does not countenance the kind of import growth, year after year, that the United States has tolerated during the past 8 years: 16 percent per year average. The MFA permits importing countries to take appropriate action to reduce this growth. The European Community did it, but the United States has not done it, as the evidence clearly shows.

There are now more than 150 countries exporting textiles and apparel to the United States. Only 50 of them are signatories to the MFA, and the United States has bilateral agreements with only 39. It is obvious, then, that the disruption caused by over 150 suppliers shipping to the United States market cannot and will not be ameliorated by our bilateral agreements or the MFA.

Mr. President, it is clear that the Nation's textile/apparel complex is vital to our national and economic security. We must require our Government to enforce our trade laws effectively to guard against the unwarranted destruction of the industry.

This bill is fully consistent with the GATT and will allow our negotiators to bargain from a position of strength with our trading partners.

Mr. DURENBERGER. Mr. President, I rise to strongly oppose the Textile and Apparel Act (S. 2662). This legislation is nothing more than naked protectionism for an industry that is already the most protected industry in the United States, and which has been recently earning very strong profits.

Currently, there are import restrictions on well over 1,000 textile products from 42 countries, while the average textile and apparel tariff of 18 percent is about three times the average tariff for other manufactured products. This web of protection raises the cost of clothing for the average American family by $238 per year. And according to the Institute for International Economics, if we pass this bill, the cost of clothing for this family will rise by another $238, within a few years.

TAXING THE WORKING FAMILIES OF AMERICA

Mr. President, let us look at this legislation and the current layer of protection afforded this industry in a different way. Would any of my colleagues be willing to stand on this floor and suggest that we add a new line 39A to the 1040 income tax form and name that new line "The 2 Percent Textile and Apparel Surtax"? All proceeds of that tax could then be transferred to the management, employees, and shareholders of textile companies. Yet, that is the exact effect that the current textile and apparel protection program has on a family of four earning $20,000. If we pass this bill, we are in effect raising that 2-percent tax on the working families of this country to 4 percent.

Mr. President, I would also note that the added billions in consumer costs this bill mandates will be borne by those in our country least able to afford such extravagance. Most of the imports covered by these quotas are inexpensive clothing and shoes. Curbing their import would mean that the price increases will hit the kinds of clothing and shoes bought by people who just don't have that much money to spend on necessities.

EXACERBATING INFLATION

Furthermore, there is little doubt that the industry's current layer of protection has been contributing to inflation, and that passage of this bill will further exacerbate inflationary pressures. In the first half of this year, apparel prices rose at an annual rate of 8 percent. And for 2 straight months last spring, clothing prices shot up an unprecedented 2 percent per month—the largest increase ever recorded in the CPI since the Bureau of Labor Statistics began compiling such data.

Mr. President, working families have recently been stung by sharp price rises in the supermarket. Some, but not all, of those price rises are indirectly related to the drought that has ravaged the Midwest. Since we have no control over the weather, there is little we can do to diminish inflation at the supermarket. But we do have the power to hold down prices at the clothing store for those families. A vote against this bill is the best way to ensure that clothing prices do not accelerate their steep climb.

I also want to remind my colleagues that if we vote for inflation at the clothing store, we are in effect voting for larger COLA's for the elderly, larger raises for workers to maintain living standards, higher interest rates to dampen inflation, and ultimately higher budget deficits.

THE INDUSTRY IS HEALTHY

Mr. President, the legislation we are considering is not aimed at an industry that has idle productive capacity or is flooded with red ink on the bottom line. This legislation would grant protection to an industry that earned record profits of $1.9 billion last year—a 54-percent increase from just 2 years ago. And this is an industry that has been operating in the range of 88 percent to 92 percent of capacity—far above capacity utilization rates in other nonprotected domestic industries.

In the face of these positive economic facts, one has to wonder why we are even considering legislation that would clamp further restrictions on import competition and further raise consumer costs and industry profits. The answer we are told is jobs: Employment in this industry has been declining through most of the 1980's.

Mr. President, the loss of jobs in this, or any, industry is always a difficult issue. Yet, in a time of rapid and dynamic technological changes, employment shifts have become inevitable. It is indeed ironic, but the fact is that the vast majority of the job losses that have occurred in this industry throughout this decade have resulted from the industry's commitment to improve productivity and competitiveness by modernizing their plant and equipment.

For example, productivity in fiber extrusion processes from manmade fibers has increased by 300 percent in 15 years. Air-jet looms used for making sheets and curtains have brought about staggering productivity increases approaching 300 percent. In fact, output per worker has been improving every year throughout the 1980's.

IMPACT ON OTHER INDUSTRIES

Mr. President, this legislation will not save a single American job. It will, instead, surely invite retaliation against many of our industries that are now in a better position to compete in foreign markets because of the significant decline in the value of the dollar. And since the legislation unilaterally abrogates the Multi-Fiber Agreement negotiated in 1985 with our trading partners, they will be entitled, and certainly will, demand compensation in the form of new trade benefits.

A vote for this bill in fact says that clothing, textile and shoe workers, who work in facilities where nearly all of the machinery is imported from Japan and West Germany, are to be insulated in perpetuity from international competition; while the American agricultural, electronics, aircraft, and other export industries must pay for this protection by finding the doors to foreign markets closed in their face. Is it any wonder that the Computer & Business Equipment Manufacturers Association, the National Grange, the National Association of Wheat Growers, and the United Fresh Fruit & Vegetable Association oppose this protectionist bill.

The proponents of this bill claim to have carved out a special exemption to ensure that agricultural exports will not be harmed by this bill. This provision says, in effect, that if a country increases it's agricultural imports from the United State, the President can increase that country's export quota. In order for such increase to occur, however, another country will lose a portion of its quota. Mr. President, that makes absolutely no sense.

In the first place, some countries cannot increase agricultural imports because of their size and their small population and economy. For example, Hong Kong already imports virtually all of its food. Should we penalize Hong Kong simply because it cannot purchase further agriculture products? Moreover, what about the poor countries such as Bangladesh, who just do not have the money to buy more of our agricultural products. Should they lose a part of their quota because they are poor?

Mr. President, why should countries be rewarded only for increasing their imports of agriculture products. Why should there not be rewards if they purchase computers, or telephones, or airplanes, or any other American product? I am not advocating such a change in this bill because I think that we would establish a dangerous precedent in trying to manage world trade based on political agreements rather than market conditions. But I am just suggesting that agriculture, just like every other industry, would be significantly harmed if we begin down the road of managing trade in one product in exchange for another.

PROTECTION IN PERPETUITY

Mr. President, the recently adopted omnibus trade bill includes a provision allowing industries hurt by fairly traded foreign products to petition the International Trade Commission [ITC] for relief from imports. Under the new trade law, the ITC is allowed to recommend up to 8 years of protection to give the industry the chance to restructure and become more competitive. Yet in the case of the textile and apparel industry, we have been granting them more protection than any other domestic industry for more than 25 years.

This bill would further restrict imports for another 10 years. For what imaginable reason can we justify this special exception to our trade laws for an industry that has recently earned nearly $2 billion in profits and whose stock prices increased more than 800 percent between 1982 and 1987?

Mr. President, I would hope that in reflecting on the long-term consequences of this legislation, we will not make the mistake of adopting a short-term measure which can only set in motion a worldwide trade war psychology of retaliation and further market restrictions. I urge my colleagues to reject this protectionist measure.

Mr. TRIBLE. Mr. President, I rise in support of S. 2662, the Textile and Apparel Trade Act.

Mr. President, Government intervention dominates the world market in textiles and apparel. Two recent studies—one by the Office of Technology Assessment [OTA], and one by Alan W. Wolff—confirm this.

For example, OTA found that developing countries frequently couple export subsidies and import protection to promote their textile and apparel industries.

This cuts American exports to these—and third—countries, and forces developing countries products into U.S. markets. Both effects harm American textile and apparel producers.

At the same time, OTA found that very stringent import limitations enforced by the European Economic Community and Japan increasingly channel textile and apparel imports into the American market.

Finally, foreign currency manipulation has prevented a cheaper dollar from improving American competitiveness in textiles and apparel. Ordinarily, depreciation would make American goods more competitive at home and abroad, and would tend to reduce imports. But, since about half of American fiber, textile, and apparel imports are from Asian suppliers who manage their currencies to promote exports or tie their currencies to the dollar, these benefits have not been realized. Here again, Government intervention is interfering with the free market.

The result of Government intervention—in "forced export" strategies, closed foreign markets in the LDCS, the EEC, and Japan, and currency manipulation has been a flood of imports in the United States market.

Since 1980, textile and apparel imports have doubled, 1,000 American textile and apparel plants have closed, textile employment has declined by 350,000 jobs. Apparel employment has fallen to the lowest level in 42 years.

In short, Government intervention has contributed powerfully to the import surge which threatens the jobs of over 2 million American textile, apparel, and fiber workers.

Such a market is neither free nor fair. Our Government must step in to prevent these market distortions from destroying basic American industries.

It is important to emphasize that these American industries are trying to compete.

But American industry has battled unsuccessfully against these "governmental" actions and distortions.

Despite heavy investment, despite significant productivity gains, the American textile and apparel industry has been losing ground.

The textile industry alone has spent $1.9 billion to modernize since 1980; 70 percent of American textile factories have been installed in the past 10 years; American textile productivity has increased 37 percent since 1977—but we are still losing ground.

American industry cannot successfully compete against Government action. It needs help from its own Government if it is to survive in this world of managed—unfree—trade

Since governmental action—including lax administration of our own import control laws—has contributed so much to the surge of imports, it is appropriate and proper to protect American jobs and workers through Government action of our own.

This is what S. 2662 does.

S. 2662 limits the growth of textile and apparel imports from all sources to no more than 1 percent per year, starting from the 1987 "base level of imports."

These "global" quotas will prevent imports from capturing more than the current 50 to 52 percent import share of the American market. They will allow both American producers and foreign producers to share in the future growth of the American market.

S. 2662 should help to preserve the jobs of the 2.1 million Americans in the textile, apparel, and fiber industries.

It should help to preserve the jobs of the nearly 94,000 Virginians who work in the textile, apparel, and fiber industries, and create new job opportunities for them in the future.

Mr. President, I would also like to make a few comments about why I support the provisions of S. 2662 as they relate to the footwear industry.

S. 2662 will also preserve the jobs of 140,000 American footwear and supplier employees, including the jobs of over 2,000 Virginians in places such as Halifax, Lunenberg, Brunswick, and Mecklenburg Counties, and in Lynchburg and Pittsylvania.

Four times in the past 13 years, the International Trade Commission has found that imports were seriously injuring the domestic nonrubber footwear industry. Imports now account for 82 percent of the domestic market for nonrubber footwear. No other major American industry has such a high level of import penetration.

Despite these repeated findings of injury by the ITC, the nonrubber footwear industry has received no import relief under section 201 of the trade laws. That is why the industry is here today, asking for legislative help.

The U.S. nonrubber footwear industry has lost 60,000 jobs since 1981, 1,800 jobs in just the past year; 400 American footwear factories have been closed since 1980, 25 of them in 1987 alone.

Unfortunately, Virginians have shared this pain. Virginia's nonrubber footwear employment has dropped nearly 9 percent since 1980, with nearly 200 Virginians losing their jobs in this industry. Just last year, Craddock Terry closed six Virginia factories, factories in Lynchburg, Blackstone, Chase City, Farmville, Gretna, and Halifax.

It is time for Congress to stand up for these workers, and to protect their jobs, their livelihoods, and their communities.

S. 2662 protects those workers and jobs by holding nonrubber footwear imports at 1987 levels. It does not reduce imports, but allows the nonrubber footwear industry to hold onto a small share of the domestic market, and to gradually recover over time.

I think this is fair.

But some may ask, Why are quotas appropriate? The answer is that, much as with the textile and apparel market, foreign government actions have distorted the nonrubber footwear market. Many nations subsidize their shoe industries, directly and indirectly. And closed markets and high tariffs in third countries divert shoe imports to the U.S. market, intensifying the import problem. Since governmental action abroad contributes so much to the import problem, it is right for our Government to take appropriate remedial action.

I urge my colleagues to support S. 2662.

Mr. PELL. Mr. President, it is my understanding that the sponsors of the bill wish to keep amendments to a minimum. With this in mind, I would like to seek clarification on one point regarding imported toys. I do not wish to propose an amendment so long as my understanding of the bill, with regard to imported toys, is correct.

My understanding is that the term "textiles and textile products" as applied in section 4 and defined in section 8, includes, but is not limited to, all articles covered by the specific tariff category in which such textile and textile products are classified under existing textile restraint programs.

The phrase "but is not limited to" seems to leave open the possibility that the category under which textile products are now classified could be expanded in the future to include additional products such as toys and toy products.

It is my understanding, however, that such a hypothetical expansion of the category with respect to toys is not the intention of the committee in drafting this bill, and that there is no intention to include toys within the meaning of the definition of "textiles and textile products."

The toy products not included in this definition are articles presently classified under schedule 7, part 5, subpart E of the Tariff Schedules of the United States (19 U.S.C. 1202), whether or not such articles are classifiable elsewhere in the Tariff Schedules of the United States.

Exclusion of toys from the textile definition is wholly consistent with existing bilateral agreements between the United States and textile exporting countries, none of which cover toy products.

Exclusion of toys is also consistent with the purpose and intent of this bill. The Textile and Apparel Trade Act of 1987 has been drafted to limit imports of textiles and apparel products in order to prevent further damage to the domestic textile and clothing industries. Since the textile content of toys is miniscule compared to total U.S. textile consumption, the inclusion of toy articles in such agreements would have no discernible, positive effect on the domestic textile industries, but could have a devastating effect on the domestic toy industry.

Thus it is my understanding that toys classified in those sections of the Tariff Schedules of the United States that I have mentioned are not considered to be within the meaning of "textiles and textile products" for the purposes of this legislation, since their importation is not injurious to the textile and clothing industries. Can the Senator from South Carolina assure me that my understanding is correct?

Mr. HOLLINGS. Yes, the Senator is correct. Toys are not considered to be "textiles and textile products" and are not within the scope of this legislation.

Mr. MATSUNAGA. Mr. President, I rise in opposition to the Textile Apparel and Footwear Trade Act of 1988. I am opposed to S. 2662 for a number of reasons, the foremost of which is the detrimental effect it threatens to have on production and employment in the Hawaiian garment manufacturing industry.

Mr. President, in my State of Hawaii, the apparel industry is an important source of employment, a situation similar to that of many of the proponents of this bill. With 4,100 workers, this industry represents one of the larger manufacturing activities in the State and the industry pumps more than $148 million annually into Hawaii's economy.

However, Mr. President, the similarity of my State with that of other apparel producing States ends there. The Hawaiian garment industry in unique in the styles and fabrics which are used in producing the distinctive Hawaiian fashions known throughout the country, if not the world. The fabrics for these fashions are crafted from a large number of short production runs, the size of which are just not economical for domestic textile manufacturers.

In addition, Hawaii's prints require reactive dyes for the high quality colorations which give the fashions their distinctive appearance. These prints also require multiple screenings, which in combination with the small production runs, make them uneconomical to produce domestically. As a result, the Hawaiian industry has been long dependent on Asian, usually Japanese, textile mills which have been capable of supplying the Hawaiian garment industry with prints meeting its technical specifications.

Mr. President, I oppose this bill because its passage threatens to reduce employment in the State of Hawaii and, in this case, will not result in any benefits to the remainder of the domestic industry because it cannot economically supply Hawaiian garment manufacturers. This is even more valid today than in the past because the already high operating capacity of domestic mills means the small orders from Hawaiian manufacturers will be less enticing than ever. In the past, our industry has tried, unsuccessfully, to arrange supplier relationships with domestic manufacturers. This bill threatens to restrict the access of Hawaii's apparel manufacturers to the fabrics that are essential to keep their operations profitable and employment growing. So this legislation clearly is not beneficial to our apparel industry.

Mr. President, S. 2662 also contains a new provision that would provide for the auctioning of import licenses for 20 percent of the volume of textile and apparel imports into this country in 1989 and possibly in future years. This quota auction would introduce tremendous uncertainties into the lives of anyone involved in the textile and apparel business in this country. It will be especially risky for smaller textile importing companies such as those in Hawaii which do not have the financial resources to bid against larger, established companies and which are dependent on imports as essential inputs to their manufacturing processes. Auctioning of import licenses will also disrupt any company that is involved in importing apparel by introducing new and perhaps insurmountable hurdles into the complex procedure of designing apparel and having it manufactured abroad.

After careful review of the pros and cons of quota auctioning, Finance Committee conferees rejected a pilot program of quota auctions during our deliberations on omnibus trade legislation earlier this year. We did so because of the recognition of the great disruption auctioning import licenses might create for manufacturers and also for distributors and retailers of the products subject to auctioning. S. 2662 would reverse the decision of the conferees regarding quota auctioning for the textile and apparel industry. This proposal is likely to cause problems with particularly injurious and unfair effects on smaller companies such as those in Hawaii. These companies will in all likelihood be forced to bid against large diversified firms in order to obtain import licenses essential to their operations but perhaps only of peripheral importance to diversified manufacturers.

Mr. President, there have been many economic studies regarding the cost of additional protection for the U.S. textile and apparel industry. One, by the Council of Economic Advisers, indicates that the cost of the import restrictions in S. 2662 to the American economy would total more than $25 billion over a 5-year period. Other studies have come up with much higher estimates for the cost of additional protection. According to many estimates, the cost of protection per job exceeds the actual wage paid to the worker. In raw economic terms, it would be cheaper to the economy if we had no new restrictions and had consumers pay directly to affected workers this sum as adjustment assistance benefits.

Moreover, Mr. President, the textile and apparel industry is not in the woeful economic shape that some suggest. No one disputes the fact that this industry has undergone a difficult period of adjustment during the past decade. However, in 1987 capacity utilization in the textile industry was 92 percent, considerably higher than the average for all U.S. manufacturing industries. According to the Commerce Department, production in the apparel industry increased by 2 percent last year and employment has been increasing in the last 2 years. There have been supply shortages of a number of textile products in the domestic market because of lack of manufacturing capacity.

In addition, profits in the industry are up. Profits in the textile industry were higher in 1986 than in any year since 1964. The value of textile mill shipments continues to increase and exports are on the rise. Mr. President, this is not a picture of an industry that is about to disappear. It is an industry where the 11 largest companies were able to provide a return on investment in 1986 which ranked fourth among all industry groups. The trend continued in 1987 with a return on equity for publicly held textile firms reaching 10.7 percent.

Mr. President, not only is the industry not in need of the restrictions on imports proposed in this bill, it already is a protected industry. The average tariff on textile and apparel imports is 18.3 percent. In addition, the U.S. trade regime for textiles and apparel is considerably different than it was when the Senate voted on textile import quotas in 1985. Since that time, the United States has negotiated multilaterally for a tougher multifiber agreement. We have negotiated 43 bilateral textile agreements with other countries which have in place 1,500 quotas on textile and apparel products.

These agreements have been criticized in the past for not effectively slowing imports. In 1987, the Commerce Department reports that textile and apparel imports increased by only 2.3 percent with much of this increase coming from China, a country now subject to a new and more restrictive textile agreement. This compares to increases of 7 percent in 1985 and 19 percent in 1986. In the first quarter of 1988, imports declined 6.1 percent by volume compared with the first quarter of 1987 and prices for apparel in the first half of 1988 increased 76.5 percent. So it appears that this new set of comprehensive import restraints is in fact working.

Passage of this legislation would almost certainly lead to the abrogation of the terms of many of the existing bilateral textile agreements. Under the Multi-Fiber Agreement which governs international textile trade and the terms of which are incorporated in our bilateral textile agreements, import restraints may be imposed only after a finding of market disruption for a specific item, and only after a negotiated solution with a foreign supplier has been attempted. This bill will preclude any meaningful negotiations by imposing the solution, a new quota, before any talks are held.

Abrogation of these agreements will lead to demands from our trading partners for compensation for the loss of exports incurred because of this bill. If import restraints are imposed consistent with the terms of the MFA, the importing country is not required to provide compensation. Since the bill is inconsistent with the MFA, there will be widespread calls for compensation from 43 countries, none of which are presently entitled to compensation for existing trade restraints under the MFA.

The bill does not provide for adequate compensation authority from the limited tariff reductions allowed for textile and apparel products, which on the average would be a 1.8 percent reduction phased in over a 5-year period. Compensation therefore is going to come at the expense of other American industries in the form of retaliation and the raising of tariffs abroad. Willy De Clerq, the chief trade official of the European Community, has made this prospect of retaliation absolutely clear in a number of statements since this bill was introduced. This bill also would impose quotas on Israel and Canada, violating the terms of the free trade agreements negotiated with those countries. In addition, S. 2662 would violate the standstill and rollback commitment made by the United States to launch the Uruguay round of trade negotiations, jeopardizing progress in those import talks.

The proponents of the bill allege that S. 2662 is consistent with article 19 of the General Agreement on Tariffs and Trade in that it provides for a congressional finding of injury. This so-called injury determination by Congress is alleged to be adequate to satisfy the requrements of article 19 which permits emergency modification or withdrawal of trade concessions. Mr. President, I question the validity of this assertion. In all other areas of U.S. trade law where an injury determination is required, such a determination is made by the International Trade Commission, an independent agency of Government. This is the only proper approach to obtaining an objective finding of injury. As all Members of the Senate are well aware, this body is not the appropriate venue for making an objective determination regarding injury from imports to an industry that for many of us, my State of Hawaii included, represents an important State constituency.

My point is that while article 19 does not specify which domestic authority in a GATT contracting party is responsible for making a finding of injury, it is widely understood internationally for this finding to be made in an objective manner and not by political members of an elected legislature. To argue that a legislative finding of injury for across-the-board protection of three major industries is consistent with article 19 proposes a precedent that I suggest the United States does not want to establish. If we do, this precedent will be used to the detriment of U.S. exporters in the future with specious injury determinations, and more trade restrictions, from foreign legislatures.

Furthermore, Mr. President, article 19 requires that an injury finding be made as to each particular product for which import relief is to be sought. The finding under S. 2662 does not meet this specificity requirement in that it determines injury for three major industries, across the board, even if the United States happens to be a net exporter in a particular product category.

Mr. President, article 19 requires that the import relief provided be limited to an amount necessary to offset the injury to an industry. Article 19 also requires that the relief be in place only for the time necessary to prevent or remedy the injury. There is no such measured determination to be found in S. 2662. It specifies a limit on the growth rate of imports and a 10-year period of relief regardless of the health of the protected industries. In a year when the Congress has written a trade bill attempting to make the GATT a more effective institution, I am concerned that this legislation will be seen as making a mockery of the very GATT rules we seek to strengthen. If these industries are entitled to additional import relief, we already have section 201 of our trade laws under which import relief could be granted.

Although I oppose this bill, I do recognize the serious dislocations that changes in the domestic textile and apparel industry have had on many Americans working in these industries. It is my belief that much of this change is due to the rapid modernization that has swept the U.S. textile industry in response to intense international competition, rather than being solely attributable to the growth in imports.

Mr. President, it appears to this Senator that many of the factory closings that have occurred in this industry are the result of a modernizing industry that has rationalized its production processes, replacing older, less efficient factories with ones using modern, highly efficient machinery. The unfortunate result of this sweeping change is that many older factories have closed. Nonetheless, any industry that strives to remain competitive must, out of necessity, continue to change and modernize its production processes. Many of the companies in this industry have made substantial investments in the most modern looms and production processes available, much to their credit. This adaptation to the requirements of competition will be a continuing fact of life in coming years.

Much of the debate on this legislation arises from the economic dislocation that has occurred to workers and to the fabric of regional development in areas dependent on the textile, apparel, and footwear industries. Many of the factories that have closed have been the sole employer in smaller towns where there is no alternative employment for those who lose their jobs. The tragic result is that as factories are shuttered, formerly prosperous towns with established infrastructure, schools, homes, and lives are left to deteriorate at a great human cost to society.

Mr. President, if the Congress wants to address this problem of economic dislocation, this bill is not the answer. This bill is going to raise prices for apparel and shoes to Americans, but restricting imports is no guarantee that shuttered factories are going to be reopened. If assisting these small town economies is a goal of this legislation, then we should be considering some sort of regional development legislation rather than new restrictions on imports. Under this bill, there is no assurance that U.S. production will become more efficient or that small-town factories will remain in operation or even that there will be employment increases in this industry. If the Congress wants to address the real problems of economic dislocation which arise from rapid changes in our economy, a bill which provides incentives to preserve employment and factories in smaller towns is a better approach aimed at a visible problem. This bill, however, will only restrict imports to the detriment of consumers and workers in other industries.

It is also my belief that a good deal of the blame for the rapid growth of imports into the United States during the mid-1980's was due to the lax enforcement of existing customs laws and bilateral textile agreements by the Reagan administration. It is well-known by those familiar with the industry that the Customs Service is frequently so overburdened that it is incapable of enforcing the quota requirements under existing bilateral agreements or detecting the fraudulent customs entries which permit circumvention of those agreements.

Despite these enforcement problems, in past years the Customs Service has sought to reduce its personnel involved in handling commercial importation matters. This has been a disservice to legitimate importers of apparel and textiles, who have suffered harassment and delays, and to U.S. producers who have had to deal with inadequate enforcement of existing agreements. This has been a no-win situation for both interests.

The bill under consideration contains several amendments to the measure considered in the Finance Committee last summer and reported without recommendation. One amendment, offered by the junior Senator from South Dakota, is purported to protect our agricultural exports from being the subject of retaliation. It would do so with the lure of a better deal in textile and apparel import quotas for countries that increase their purchases of U.S. agricultural products.

Mr. President, this amendment should be titled "The Institution of Barter Trade Amendment of 1988." This is an amendment which says that it is U.S. trade policy to demand that countries increase their purchases of agricultural products from us if they want to sell more textiles in our market. Why just limit it to agricultural products? Is it now national policy to advocate the use of such a tied-trade policy?

Mr. President, this amendment represents the kind of government-managed barter trade policy which has such a dismal record among the countries of Eastern Europe. We don't need to endorse the failed economic policies of Eastern Europe by including it in legislation passed by this Congress. Senators from agricultural States shouldn't be fooled by this amendment: It is no protection at all from retaliation against agricultural exports. Buying more U.S. agricultural products to receive an unknown pro rata share of a 1-percent increase in the U.S. quota isn't much insurance against foreign retaliation.

Since many of the countries that will be affected by this bill already are our best agricultural customers, this sort of formula provides little protection from retaliatory actions abroad. In fact, by limiting foreign exchange earnings of poorer developing countries, this bill could actually reduce U.S. agricultural exports. In addition, it ignores reality by failing to recognize that trade flows are dependent on many factors including the strength of domestic economies and fluctuating exchange rates.

The only protection from retaliation is to vote against S. 2662. Mr. President, many major agricultural groups share this view that the Daschle amendment does not provide any protection for agricultural exports from retaliation. These groups include the American Farm Bureau Federation and the American Soybean Association.

Mr. President, let me reiterate that the U.S. trade regime in textile and apparel is considerably different in 1988 than it was in 1985 when we last voted on textile import quotas. We have renegotiated a new and tougher Multi-Fiber Agreement. We have concluded bilateral restraint agreements with 43 textile exporting countries. These agreements have proven effective in restricting trade—imports grew only 2.3 percent by quantity in 1987. There is now a system in place which is much more stringent than when we voted on the textile bill in 1985. The system works, it has reduced imports and is consistent with our obligations under the Multi-Fiber Agreement.

The proponents of S. 2662 propose to lock into place for 10 years an import quota regime that will violate a number of international trade agreements which we have signed with our trading partners. This will almost certainly lead to retaliation which will damage the exports of other competitive American industries. Many U.S. industries, agricultural and manufacturing alike, realize that any benefits to the textile and apparel industry that would come from this bill will put at risk their exports and other American jobs, and thus oppose S. 2662.

I urge my colleagues to oppose this bill.

Mr. SPECTER. Mr. President, I strongly support S. 2662, the textile, apparel, and footwear bill. Both the domestic textile and footwear industries have suffered devastating market losses due to a flood of imports. With prompt passage of this bill, we will help restore these vital industries to an equal footing with their foreign competitors. However, if we fail to act now, additional plants will be forced to close, and thousands of American workers will lose their jobs.

The evidence makes it painfully clear that these industries need and deserve our help, as contained in this legislation. On four separate occasions, the International Trade Commission has found that the footwear industry was being seriously harmed by imports. However, only one modest relief program was developed, and the most recent finding was not implemented despite a unanimous opinion by the ITC.

Imports have claimed 82 percent of the United States footwear market, with Taiwan alone controlling one-third of the entire market. Meanwhile, over 16,000 footwear industry jobs have been lost since 1968 in Pennsylvania alone. Nationally, the situation is equally discouraging: reports indicate that since 1980, 400 plants have closed and over 60,000 footwear jobs—approximately 40 percent of the industry's work force—have been eliminated. Additionally, unemployment in the nonrubber footwear industry reached 13.2 percent in 1987, more than twice the national unemployment level.

Unfair foreign competition and importation also are preventing the textile and apparel industry from thriving and, in many cases, even surviving. Import penetration of the U.S. textile market has doubled since 1980 and continues to accelerate, with foreign producers now claiming 55 percent of the U.S. market. American manufacturers are being squeezed out of their own domestic market. The textile market has increased by 1 percent each year, while imports have grown by 15 to 17 percent annually, leaving little room for domestic producers. In fact, new orders for textile mill products are down 4.6 percent during the first half of this year. If this legislation is not passed, the devastating situation will surely worsen in future years.

Mr. President, I am personally familiar with the effects of those lost jobs. In my travels throughout the textile and footwear producing areas of Pennsylvania, I have seen the devastating impact a plant closing can have on workers, their families and communities. I also have toured Pennsylvania textile mills which have modernized, and their products are now competitive. What is needed is an orderly market which slows the import growth, and gives Pennsylvania and the Nation's mills an opportunity to recover from unfair imports, to invest in capital improvements and compete.

The situation faced by the textile and apparel industry is similar to that faced earlier by our steel industry. Prior to implementation of the Voluntary Restraint Agreement Program, the steel industry faced losses from which many thought the industry would never recover. Yet, with the help of the Voluntary Restraint Agreement Program, massive American investments, and plain hard work, the steel industry's competitiveness has improved. Pursuant to the legislation pending today, the same type of success might be achieved.

Additional evidence of the need for this legislation is that prior attempts at controlling unfair imports in the textile and footwear industries have proven inadequate. The primary program to assist the textile industry, the Multi-Fiber Agreement [MFA], is insufficient to provide adequate assistance. The absence of a global quota has contributed to problems with country-of-origin designation, category determination, and customs fraud. As a result, unfair import levels have increased well beyond the original intent of the MFA. More stringent legislation is necessary.

The purpose of the pending bill is not to eliminate foreign imports; in fact, imports still will be able to increase under this legislation. Rather, the bill's purpose is to slow import growth to a reasonable level so that domestic producers may regain competitive footing in the marketplace.

This is a good bill and a fair bill, and I urge my colleagues to join me in strong support of it.

Mr. BIDEN. Mr. President, it is past time for Congress to act to restore trading practices in textiles and apparel that will be as fair to our own industry as to our trading partners. Were it not for a Presidential veto, that effort could have been underway for 2 years now.

In the absence of American action, decisions about the future of our textile and apparel industry are shifting to foreign capitals where governments make plans to promote their own industries, at our expense. As a result, today we have a $25 billion merchandise trade deficit in textiles and apparel.

In discussions about trade these days, much is heard about global competition in a global economy. This is a particularly apt description of the textile and apparel industry. This industry has become a global enterprise, as the Office of Technology Assessment reports in "The U.S. Textile and Apparel Industry." It is expanding rapidly. Most nations have a textile industry. Most can compete in the world marketplace. Most of the expansion of textile and apparel markets will take place outside the United States. If we want to compete in these markets, we will have to strengthen our industry and establish reasonable ground rules for the coming competition.

We must insist that American companies have access to these foreign markets. Our trading partners must understand that we will no longer tolerate their unfair trade practices. We must act to stop the onslaught of foreign textile products on our domestic market. Our industry, which has been aggressively modernizing, must have the opportunity to reestablish its market share at home and abroad.

Textile and apparel trade is a major part of our total international trade problem. In 1987, our total merchandise trade deficit was $171 billion—almost five times the deficit in 1981; $25 billion of that deficit was accounted for by trade in textiles and apparel.

We have had no trade policy worthy of the name for the past 8 years. Nowhere is this more apparent than in textiles and apparel.

The U.S. position in textile and apparel trade has been weakening for many years now.

Most dramatic is the deterioration that has taken place in U.S. net textile trade. Since 1980 the U.S. trade balance in textiles has gone from a positive $1 billion in 1980 to a negative $3.6 billion in 1986. In the apparel market, a similar picture emerges: between 1980 and 1986 our negative trade balance has grown from $5.6 billion to reach $17.6 billion.

Why has the U.S. trade in textiles and clothing deteriorated so badly in this decade? Obviously the strong dollar played a part in encouraging exports to the United States. However, many of the largest exporters to the United States have tied their currencies to ours. So the textile trade will realize limited benefit from the recent lower value of the dollar.

The dollar alone does not explain the devastation of the U.S. textile and apparel industry. Many factors have combined to achieve this.

United States markets have been much more open than those of Japan and the EC, making the United States an attractive target. Our textile trade agreements have been less effective than those of other nations, and they have not been effectively implemented.

The administration has failed to act to restrain imports, as witness the 20-percent annual growth rate in textile imports between 1982 and 1985, and the 12-percent annual growth rate in apparel imports over the same period. Only 2 percent of textiles coming into the United States are actually inspected according to the Office of Technology Assessment in its report. Failures to enforce quotas have cost thousands of U.S. jobs. Many complaints of MFA violations by our trading partners that were filed by the domestic industry have been dismissed. Transshipment of goods to avoid quotas are commonplace. Some nations admit to having dumped goods.

As the OTA pointed out in its report on the textile and apparel industry: "Developing nations want the growing textile and apparel market within their countries for themselves. A major response is to protect their own domestic markets with a variety of trade and marketing regulations." To do this they have imposed import controls through such techniques as licensing, industry approval requirements, and tariffs, quotas and outright prohibitions. Many have effectively eliminated our textile fiber industries from their markets with such techniques.

Many textile and clothing producing nations protect their infant textile industries, protect their expansion efforts, and continue to protect them when they are established in world trade. The United States does not. Many nations provide low-interest, subsidized loans for expansion or modernization. They allocate credit and provide subsidies. They provide special tax incentives and exemptions. They provide favorable regulatory treatment. Some nations support R&D and training efforts. They practice dumping.

The results of such Government assistance to our trading competitors are readily apparent in the decline of the industry in this country.

What is the future of this industry and its 2 million American workers? Despite plant modernizations and productivity gains, the industry is still in retreat from the flood of imports. Since 1980, 1,000 textile and apparel plants have been closed. Over 300,000 textile and apparel jobs have been lost. Imports now account for 55 percent of the apparel and apparel fabric market.

Over those same years the textile industry has invested about $17 billion in productivity improvements. Textiles today is the most productive of any American industry. Even with all this, the textile and apparel industry cannot compete against the unfair trade practices of foreign governments and the lack of concern right here in Washington about the industry's future.

The bill we are considering today can be the beginning of a turnaround in textile and apparel trade. It will halt the growth of imports with worldwide quotas, although it will not roll back present levels of imports. It will allow 1 percent annual growth in quotas, which will allow imports to grow with the American market. The President is authorized to negotiate compensation in the form of reduced tariffs.

This bill contains an innovative feature which could be important in developing a competitive trade policy. In May 1987 I introduced a bill—the Economic Excellence Act of 1987—which called for the establishment of a national policy of auctioning quotas. This bill provides for a pilot program for auctioning quotas—a farsighted experiment.

This is a fair bill that can help the U.S. industry in meeting foreign competition, in the American market and elsewhere. It will signal that the United States does not intend to be pushed around any more. While it is important to stop the unrestricted growth of imports into the United States, it is equally important to signal that we intend to fight for our share of the world market. Our trading partners should know that unfair trade practices will lead to countermeasures on our part. This bill will do that.

Mr. BRADLEY. Mr. President, you can see an apparel shop in north Jersey occupying one floor of an old factory that is otherwise vacant. They cut, sew, and assemble children's clothes. The sewing room is half as big as this Chamber. But there is only one row of seamstresses at work, over by the window where some sun gets in. The room dwarfs them. Dozens of sewing machines sit unused. There is a sweater factory on two floors of a smaller building in another town. When you walk in, the handful of workers on the job look up in alarm. When they see you are not the boss, coming in to tell them there's no work next week, they go back to what they are doing. In central Jersey, you could have seen some men and women shuffling their feet with their heads down in front of the shut door of an old brick industrial building. You could have seen two women crying with their arms clasped around one another's shoulders on the street corner, and you would have known what happened without reading the notice on the door.

These are the realities of the apparel industry in New Jersey. It is an industry whose gritty workers will accept part-time hours if they must, whose unions have negotiated piecework pay packages when it was necessary to keep a few more shops open. The industry cannot pay them well anymore, but they do not ask for much. They just want work.

One of the unions struggles to support 120,000 retirees. The pensions are just enough to get by, but there still are not enough workers to keep contributions up. You will not find fatcat foreman or union leaders insensitive to the competitive demands of the market in this industry. You find partnerships between good people forged under painful conditions.

Imports make things worse for the industry now. Before the surge in imports, the worst problem was cutthroat competition from low-wage, nonunion shops, usually in the South but also in New Jersey. After the surge in imports—assuming there is an "after"—it will probably be further automation that will take jobs away. But because imports are part of the problem, quotas look like they might be the solution.

Because I serve on the Tax Committee, I see a lot of people swagger in with slick stories about what the Government should do to make them rich. Their eyes are often remote, abstract—they do not look at you. It is as if their eyes were filled with the vision of a potential windfall.

But when the people in New Jersey's apparel industry come in, they do not swagger. They are gentle. Their stories are simple, not slick. Their eyes glisten and they look straight at you. They say what is obviously true, that imports have something to do with the hardships they suffer, and they want to know whether we can stop them. So many slick story-tellers get the tax breaks they do not deserve that it seems a crime to let imports take jobs away from honest men and women who are so decent.

Even though New Jersey's apparel industry shares the problem of imports with other industries in other parts of the country, it is unique. Its history of progressive, pragmatic, cooperative unionization makes it unique. Starting with the New York metropolitan area, the apparel unions negotiated decent hours, wages, and medical benefits that have exposed their workers to devastating nonunion competition inside the United States. New Jersey is in the heart of a high-cost region. It competes for a share of a fierce retail market where loyalty to suppliers can cost sales to customers. Its needs for specialized, short production runs of fabrics are singular. The ages, birthplaces, languages of its workforce are singular. The alternatives available to its workers are singular. Its ratio of retirees to active workers is unusually high. Its hopes and expectations are unique.

Despite that uniqueness, the Textile, Apparel, and Footwear Trade Act of 1988 offers the hope for job security through a simple quota on imports. It extends that hope to industries and regions that differ from New Jersey in every way except their shared competition with foreign producers. The promise of the bill is that a single solution—quotas—can lift hopes and solve problems in places and industries as alien to one another as nonunion textile mills in Spartanburg, SC, and apparel shops that have been unionized for 40 years in Union City, NJ.

To broaden its appeal, the bill extends its quotas to apparel and shoes. It even makes an appeal to farmers by favoring textile exporters who buy more U.S. food products. It addresses an astonishing variety of businesses.

It is true that quotas would let prices rise and might revive parts of the textile industry in many different regions. The problem is that the solution is too broad. Any quota that offers support to as many diverse products as this one is bound to have an enormous impact on the international trading system. The international trading system is a little like electricity. We do not pay much attention to it in our day-to-day lives. But it's probably responsible for the fact that we live better than our parents, and that our parents lived better than their parents. Cut off the smooth flow of international trade and you cut off one of the main sources of improvement that can make our grandchildren's lives better than ours.

First agriculture, then coal and steel, clothing and cars, and now computers and information systems have lifted the tide of American living standards. Trade lets us develop these industries. Without trade, we would have remained a poor, agricultural nation. This bill would have a direct effect on trade by cutting textile, shoe and apparel imports. But its indirect effect is more serious. It would send a message that we are unreliable trading partners. That the United States will make convenient exceptions for itself to the rule of open commerce. That developing countries had better not hope to work their way up to a standard of living like ours, at least not by trading with us.

The cost may be enormous, but the bill's sponsors argue that its benefits would be more enormous, too. It is true the part of the bill that interests me is the hope that some of its benefits might trickle down to New Jersey's apparel workers. I can't say whether it is fair or right to provide special protection for big textile conglomerates that turn down low-volume fabric orders from small apparel shops. I cannot be sure I want to increase the profits of the nonunion shops in other parts of the country that have taken so many jobs from mine. I am not sure it is right to perpetuate through import quotas the idea that certain industries should be a separate estate in the American economy, permanently exempt from the competitive pressures of open markets that reflect the real world of change outside our borders. And I am certain I do not want to tell our trading partners that we support the principle of fair and open trade as it applies to them, but exempt ourselves. We are the keystone of an arch of nations who depend on one another for growth. If we exempt ourselves from the rules of the trading system, we really put that keystone out of the arch. Nobody will stand for fair rules in international trade if we create our own exceptions. The arch could fall, as it has with terrible consequences in the past.

The threat this legislation presents to the trading system hurts us all. Among its benefits, I care only about a few. But I cannot even be sure this bill would be an unmitigated boon to the apparel and small textile shopworkers of my State. Quotas directly protect profits, not payrolls.

A study by the Congressional Research Service shows that yarns account for over half the volume of imports in the 10 textiles and apparel categories where this bill would have the greatest impact. In other words, the price impact of this bill is likely to be greatest on yarns. Will this help or hurt New Jersey sweater producers? It will not help them if it puts profits into the hands of nonunion yarn mills that want to expand into sweater production themselves. Quotas could accelerate rather than slow down the export of apparel goods from the Northeast to other places.

My fear may be misplaced. But who can assure me my apparel workers will see benefits from this bill that will outweigh the pressure of competition it could enhance from nonunion shops in other regions? Who can assure me enough benefits will trickle down to them to justify the threat to our shared welfare from a contraction in world trade?

I do not support the quotas on shoes, the special provisions for agriculture, or quotas benefiting certain highly profitable sections of the textile industry. In balance, I cannot support this bill.

Mr. President, I commend the authors of the bill for remedying problems with the Textile and Apparel Act of 1985. The bill now before us is nondiscriminatory. It would still force us to renege on existing trade agreements but at least avoids a rollback. It would still bring GATT talks to a halt but at least attempts to mimic GATT procedures for import relief.

It also creates new problems. For example, the bill would require the United States to make trade concessions in other industries to pay for the restrictions it imposes on textile and apparel imports. The Multi-Fiber Arrangement allows us to negotiate bilateral textile quotas and to restrict surging imports in the absence of a bilateral agreement without offering compensation. As a result, this bill will hurt the trade position of other U.S. industries to the degree it helps the trade position of textiles.

The Multi-Fiber Arrangement, if enforced, is the best solution we have to help the unionized apparel workers in my State without causing irreversible damage to the trading system. These trade arrangements recognize that even America needs time to absorb change in the world's markets. And they give our industry some relief without imposing our will unilaterally on countries that can do the same to us. The current MFA restricts import growth from Taiwan, Korea, and Japan to less than 1 percent per year. It restricts growth from dozens of other countries to 1 percent or little more than 1 percent per year. And for the first time, this administration is enforcing our textile trade agreements. Not perfectly, I realize, but at least enough that we are beginning to catch fraudulent shipments at Kennedy Airport and the Port of Newark and Elizabeth. The importance of continued vigorous enforcement of the MFA is central to avoidance of unilateral action.

Even a rigorously enforced Multi-Fiber Arrangement won't substitute perfectly for the benefits that unilateral quotas might provide to parts of the textile industry. But I believe it is the best we can do as long as we depend on healthy world trade for our long-term growth. I hope this and future administrations recognize that without enforcement of our trade agreements, a law that threatens the trading system is likely to pass over the veto of any President. I nearly supported the textile bill in 1985 despite its shortcomings because the administration had systematically reneged on its commitments to enforce the earlier Multi-Fiber Arrangement. We have a new, tougher MFA. But now even though I will vote against it, I hope the bill's sponsors will bring it up in the future if nonenforcement by an uncaring administration threatens the industry once again as it did in 1985-86.

Mr. GRASSLEY. Mr. President, I have wrestled with what my position would be on the Textile and Apparel Act when this legislation reached the floor.

The last time this legislation was before the Senate, I voted against the bill. Yet, because of the changes that have been made and the addition of an agricultural amendment, my decision has become much more difficult. Nevertheless, as you know, we are not afforded the luxury of a maybe vote—we must vote either yes or no.

One of the concerns I addressed in this legislation was whether or not this bill would be consistent with the General Agreement on Tariffs and Trade. The GATT requires a finding of injury through formal investigations before import controls may be imposed on fairly treated goods. It is my understanding that the textile bill does not provide for such an investigation.

This in my opinion would be a dangerous precedent for the United States to establish, particularly if other countries were to adopt the same technique. For example, if the Japanese diet or the European Community parliament were persuaded to adopt new restrictions on specific United States farm exports.

On the surface, when the agricultural amendment was first being proposed, it appeared to have some appeal to me. However, upon further reflection, it began to cause me some concern.

As you know, the amendment's intent is to give countries that increase their purchases of U.S. agricultural from one 12-month period to the next certain preference. The preference would have allowed that these countries could ship as much under certain textile categories as they had during a previous 12-month period, plus a certain additional quantity.

It would appear that the amendment in some respect takes on a beg-thy-neighbor bilateral arrangement whereby textile exporting countries would compete to fill a larger share of U.S. quotas.

That kind of system is inherently unstable and would move in a direction opposite to that of the multifiber arrangement. Stability of expectation is essential to an environment in which international trade, whether it be in textiles or in agricultural products, can grow.

Throughout the 99th Congress, the domestic textile and apparel industry repeatedly asserted that it would be extinct by 1990 if legislation were not enacted into law. We are more than half way to doomsday, but the industry shows no signs of dying. Indeed, it is thriving, out performing nearly all other manufacturing sectors.

Last year, W. Thomas Gould, president and chief operating officer of Younkers, Inc., testified before the Subcommittee on Trade of the Committee on Ways and Means. Younkers is a 37-unit department store located in the Midwest and headquartered in Des Moines, IA. In his testimony, Mr. Gould stated that if the bill would pass, it would raise consumer costs by an additional $10 billion per year over the billions the consumers already pay annually in hidden textile and apparel taxes; it would force 52,000 retailers out of work, while saving 47,000 textile and apparel worker jobs, at a cost to consumers of $223,000 per job protected.

Further, it would dramatically decrease the selection and variety of merchandise available in retail stores, and; would invite retaliation against U.S. exports, principally agricultural products.

Having said all of this, I am aware of a survey that was done in my home State of Iowa by the proponents of this legislation that indicates that they would support the textile bill and the agricultural amendment. A press release as recently as June 14, 1988, was also issued that showed textile profits dropped 12 percent for the first quarter.

Now having all this information at my disposal, you can understand how it was very difficult to arrive at a strong position of support or opposition. Nevertheless, as I indicated earlier we do not have a maybe vote.

As a result, and with some regret, I have concluded that I have not been totally assured that agriculture may not find itself in the position of retaliation or that we would not see mirror legislation enacted by our foreign counterparts and will cast a no vote.

● Mr. HATFIELD. Mr. President, I rise in opposition to S. 2662, the Textile and Apparel Trade Act; it is the wrong bill at the wrong time. I couldn't help but note the Washington Post's recent editorial that declared "The Senate's textile legislation is flagrantly, recklessly, almost comically wrongheaded." Mr. President, that is an understatement.

This is not a case where the legislation before us has some good provisions and a few troublesome ones; where one votes "yea" or "nay" depending on how the scale tips. In its entirety, this textile bill is blatantly protectionist, unnecessary, harmful to the economy and anticonsumer. It should be soundly defeated.

The legislation limits the growth of imported apparel, textiles and nonrubber footwear to 1 percent per year. In addition, a foreign textile supplier's access to this restricted American market would now depend upon that country's increased importation of U.S. agricultural products. Finally, the bill institutes a new program whereby import licenses will be sold to U.S. importers at a public auction. These provisions are unprecedented, and dangerous.

All of this to further protect a domestic industry which has been one of the most heavily protected in the past 30 years. Apparently, past efforts are not enough to satisfy the textile industry. As the Wall Street Journal sarcastically noted in its September 9, 1988 editorial, "* * * The special-interest gods are never satisfied with merely one sacrifice * * * indeed, the textile and apparel industries and their unions demand regular care and feeding."

Thanks to prior law, the American textile industry already enjoys the protection of tariffs on imports averaging almost 18 percent and benefits from more than 1,500 quotas which serve only to further raise the high wall of protection which has been built around this economic sector. As our U.S. Trade Representative has declared, the textile and apparel industry probably has the least persuasive case for further import protection of any major industry in this country. Industry profits are up substantially—8.6 percent last year and a whopping 67 percent in 1986. The Retail Industry Trade Action Committee reports that in the second quarter of 1988, textile and apparel industry profits averaged a 61-percent increase, 15 times greater than the average for the retail industry as a whole—4 percent. In addition, the domestic textile industry is running at full speed; in the first quarter of 1988 the industry operated at 90.8 percent of capacity, far outpacing the all-manufacturing average of 82.7 percent. Employment continues to rise as well. For the 12-month period ending May 1988, domestic textile employment was up 7,000 jobs and apparel jobs increased by 4,000. Clearly this is not an industry that cries out for more special treatment.

If enacted, the bill would invite retaliation from our trading partners against U.S. exports at the precise moment that these exports are increasing. The steady decrease in our trade deficit is a direct result of increased exports. Greater access to foreign markets has been a key concern to the administration and the Congress. Numerous bilateral agreements have been reached with our major trading partners to eliminate foreign trade barriers, and our improved exports figures bear testimony to that success. For example, exports for June 1988 reached $26.8 billion, the third highest monthly sales figure on record.

The inevitable response by our trading partners if this import quota bill is enacted will be to retaliate by restricting access to their markets, eliminating all of the gains the United States has made in gaining greater access to foreign markets. As a result, our trade deficit will swell once again and our relationships with foreign governments, in the context of our globalized economy, will become increasingly complicated. Why eliminate the hard-fought gains in export growth and market access just when this steady improvement is helping to reduce our trade deficit? Are we to risk damaging our national economy in the name of protecting an industry that is more protected and more prosperous than other sectors of our economy? The answer is obvious.

The bill also violates some 43 separate bilateral agreements with foreign countries voluntarily limiting their textile imports, not to mention the provisions of the General Agreement on Tariffs and Trade [GATT], the multifiber arrangement and probably the upcoming United States-Canada Free Trade Agreement. How can the U.S. Government, in good faith, reach agreements with various foreign governments regarding trade, only to turn around and knowingly enact legislation that violates those agreements?

And make no mistake, these agreements have been successful. As a direct result of the bilateral agreements limiting apparel and textile imports, these imports have declined for the last three consecutive quarters. For the 12-month period ending June, 1988, imports were 4.3 percent below the prior 12-month period. Geographically, apparel and textile imports from the major importers—China, Taiwan, Korea, Hong Kong and Japan—led the decline for the first half of 1988, dropping 21 percent collectively as compared with the same period last year.

And what about the American consumer? There's no question but that prices will rise, and the burden of these higher prices will fall heaviest on those least able to afford it. As the Wall Street Journal recently reported, William Kline of the Institute for International Economics estimates that textile protection costs the average U.S. household $238 per year for apparel—a total of $20 billion. The administration figures the new bill, which imposes even stiffer quotas, would cost consumers an additional $7 billion a year, $35 billion over 5 years. The increased inflation that will result from that price escalation will only make matters worse. It is a price tag that the American consumer, and the American economy, can ill-afford to pay.

In the context of the national economy, the bill is a net loser. Sponsors of the measure claim it is necessary to protect jobs and state that 350,000 jobs have been lost in the textile and clothing sector of our economy. While some jobs were lost directly due to imports, the majority were the result of modernization and increased productivity—the necessary consequence of an industry learning to compete in the world economy. And compete they have. The successes recently experienced by this sector of our economy proves that American textile and apparel manufacturers can compete internationally.

In our modern, interdependent economy, no single industry can be viewed in isolation from any other. Whatever textile jobs will be saved from this bill will be more than offset by the employment loss in other sectors of the economy, particularly in the import and retail sectors. As most of my colleagues know, Oregon is home to two of the country's leading athletic shoe companies, Nike and Avia, and their collective imports create hundreds of jobs in our State and many more throughout the Nation. Enactment of this bill will affect almost 80 percent of the shoes manufactured by Nike and Avia, resulting in a reduction in supply, a loss of jobs and substantially higher prices.

For all of these reasons, it makes no sense to provide further protection for an industry which is enjoying above average prosperity, particularly at a time when imports are down and exports are increasing. I urge my colleagues to defeat this bill.●

Mr. McCAIN. Mr. President, it is with regret and some dismay that I have watched the proceedings of the last several days on this bill because, as so many of my colleagues have pointed out, the Textile Apparel and Footwear Trade Act, is an unjustifiable, protectionist measure. It is unjustifiable because the industries that will benefit from this legislation already benefit from tariffs averaging nearly 18 percent, plus more than 1,500 quotas, making them among the most protected industries in America. They are also among the most profitable.

Although I sympathize with those who lose their jobs as the industry that employs them modernizes—as has happened to 350,000 textile workers—I believe job training and other measures are more constructive approaches to address the issue of job loss rather than out and out protectionism. This is especially relevant in an economy as strong as ours remains. We have an economy that has produced 17 million jobs over the past 5 years. The economies of the main textile States are similarly strong. In North Carolina, South Carolina, and Georgia alone—the three principal textile States—employment has risen in nontextile industries enough to offset the job losses associated with the textile industry. In Georgia, for instance, while 10,000 jobs were lost in textiles over the past 6 years, 565,000 new jobs were created in other sectors of that State's economy. The North Carolinian textile and apparel industry has experienced rising employment over the past 2 years, and while during the preceding 6 years textile and apparel employment fell, more than 465,000 new jobs were created. Finally, 196,000 new jobs were created in South Carolina's nontextile economy, more than enough to offset the loss of 27,000 jobs in the textile industry.

Apart from this, I fear that enactment of this bill so soon after enactment of the trade bill can only convey to the rest of the world that the United States is entering an era of increasing protectionism. I oppose this bill and would like to spend a moment explaining some of my objections.

I object to this bill not only because it is protectionist, but moreover, it provides protection permanently to industries that have been remarkably successful in regaining their competitive edges over the last few years. This bill is not designed simply to help an industry to regain its ability to compete internationally, but it is designed to provide a guaranteed share of this large market to thriving industries.

One need only look at the recent statistics published in every major newspaper to see that the import threat is on the decline. For instance, when the predecessor of the current measure was first introduced in 1985, the volume of textile imports had grown substantially between 1980 and 1984, rising from 4.9 to 10.2 million square yards. Moreover, import growth was accelerating. From 1980 to 1982, the average annual increase was 10.2 percent and from 1982 to 1984 increases average 30.9 percent a year. At that time there was some substance to the agruments of the measure's proponents.

Now, however, Mr. President, U.S. textile and apparel manufacturers are producing at record levels coupled with fantastic profits. According to the U.S. Trade Representative, domestic textile and apparel production employment, profits, and exports all posted sharp gains in 1986 and 1987, and moreover, textile and apparel imports rose by only 2.2 percent in 1987.

They actually fell by nearly 9 percent in the first 5 months of this year.

These statistics are partly a result of a lower dollar, from which so many industries have benefited. They are also indicative, Mr. President, of higher productivity among American textile firms. In fact, domestic production of cloths and apparel has reached record levels and the textile industry is operating at capacity. How much more can an industry ask for? I shudder to think.

Second, the costs of this protectionism are far too great and will be borne by every American. First, if this measure is enacted, the costs to the Federal Government will be high. As the Office of Management and Budget has predicted, because the United States would be obligated by the bill to pay compensation to those trading nations who will be hurt by its provisions, we could be faced with a bill as high as $6.1 billion in compensatory trade payments. In this era of Gramm-Rudman and red ink it is indefensible to compound our budgetary problems with special interest protectionism.

As many have mentioned already, this bill will present every American consumer with higher clothing costs. Existing quota and tariff protection for textiles and apparel already costs consumers $20 billion annually in higher prices. That works out to about $238 a year for the average American household. To limit import growth to 1 percent, as this bill would do, will double this cost of protection by 1996, according to the institute for international economics. Worse yet, as we all know, low-income Americans will be the most adversely affected. Who can justify stealing from the poor in this fashion, and giving to the already well-compensated shareholders of textile and apparel firms?

Third, this bill would override the 42 country-to-country agreements that now govern U.S. textile apparel imports under the general framework of the multifiber agreement. It would do so by imposing unilateral global quotas. Moreover, it may jeopardize the ongoing gatt negotiations which are intended to strengthen international trading system, and which are of vital importance to an array of industries, including the high-technology industry that is growing in the State of Arizona. It would do so by granting permanent protection to a large array of products.

It would also setback our efforts to finalize the United States-Canada Free Trade Agreement because it would cap textiles imported from Canada unilaterally.

In my view, these abrogations will severely damage our reputation as a responsbile trading partner, and I fear that the U.S. Trade Representative is correct in his prediction that such action will provoke retaliation against our exports even though the bill contains a modest compensation provision. According to Mr. Yeutter, the European Community already has indicated it would retaliate if this bill is enacted, and others may well follow suit. Not only textiles would be affected by such retaliation—it may affect some of our more sensitive and competitive export industries.

If our trading partners retaliate, it seems likely that many jobs will be endangered. Agriculture related industries seem especially vulnerable because over 85 percent of U.S. agricultural exports go to the more than 40 countries that would be most affected by this bill. In spite of the effort the bill makes to mitigate such an outcome, retaliation can only mean job loss in this sector of our economy. I also fear for the high-technology companies that are increasingly dependent on foreign trade for their success. Retaliation aimed at these companies could be devastating.

Even without retaliation, however, this bill will eliminate jobs. According to the International Business and Economic Research Corporation of Washington, 52,000 U.S. retail jobs could be eliminated by this bill—and 46,700 jobs will be protected. The cost per job protected would be $223,000 annually.

It is one thing to provide temporary shelter for an industry that is working hard to regain its competitive edge but it is a travesty to provide such successful ones with what amounts to a near monopoly by way of strong protectionist measures.

Finally, the cost to developing nations cannot be overlooked either. We cannot encourage less developed countries to cultivate industries and then refuse to buy their products. The men and women who work overseas and who may lose their jobs because of this bill, don't vote here. They do not, however, deserve to be so penalized by our protectionist urges.

Mr. President, this bill flies in the face of all the efforts Americans have made nationwide to become more competitive. It is a throwback to archaic and xenophobic policies we know are harmful. Its beneficiaries are few—only the shareholders associated with the textile and apparel industries—while the losers are many. For these reasons I urge my colleagues to oppose this measure.

Mr. LEAHY. Mr. President, I rise in support of the Textile and Apparel Trade Act. I do so because years of efforts to negotiate fair rules for international textile, apparel and footwear trade have failed miserably. As these well intentioned talks dragged on, U.S. textile industry employment declined by nearly 20 percent in just the last 6 years.

Mr. President, as chairman of the Committee on Agriculture, Nutrition, and Forestry, I worked hard to ensure that the agricultural provisions of the recently enacted omnibus trade bill rejected protectionism. Instead, the agricultural provisions of the trade bill will promote American farm exports.

I have worked equally hard to promote the passage of the Canadian Free Trade Agreement, an agreement which will create the largest free trade zone in the world.

I believe in fair and competitive trade laws. The type of import limitations included in the textile bill must only be used as a last resort, after efforts to negotiate have been tried and tried and tried again.

This is the case in textile trade. The international agreement governing textile trade, the Multi-Fiber Agreement [MFA], is so riddled with loopholes that it has little or no effect. Protectionism in textile trade is rampant. American exports are shut out of markets worldwide and the MFA has sanctioned these practices.

The textile bill sends a message to our trading partners. It is time to negotiate seriously and begin to level the playing field in international textile trade. Failure to negotiate in good faith could mean that access to our market, the richest market in the world, will be severely limited.

In order to send a clear message to our competitors, the textile bill imposes tough quotas on imports of textiles, apparel, and footwear. Little discretion is left for the President to waive these quotas. This only makes sense. How are we going to convince our trading partners to come to the negotiating table if they believe that our trade laws have no teeth and that the President can waive certain provisions at will?

That is why I opposed all amendments which would give the President the authority to suspend or waive the quotas, even for reasons which, on their surface, appear to be reasonable. Allowing the President to suspend the quotas because they might hurt less fortunate or elderly Americans would give almost complete discretion to the President in implementing the bill. These amendments, although they sound appealing, play right into the hands of our trading partners.

The President has indicated that he will veto the bill. But this is no time for Congress to back down. A new round of trade negotiations has just begun in Geneva. We must show our resolve to our trading partners. We want better, more fair rules of international trade. And if other nations do not open up their markets, the U.S. Congress is prepared to take appropriate action.

Finally, Mr. President, I am particularly pleased that Senator DASCHLE's amendment was included in the textile bill. That amendment will prevent our competitors from retaliating against

U.S. agricultural exports if the quotas under the bill are ever implemented.

I urge my colleagues to support the bill.

HERE WE GO AGAIN—NOTHING HAS CHANGED

Mr. BUMPERS. Mr. President, here we go again on the textile and footwear issue.

The President has not changed his views in the last 7½ years.

He still does not care about the destruction of the U.S. apparel and footwear industries.

He still does not know an unfair trade practice when it stares him in the face.

He still does not believe in using the economic power of the United States to protect our legitimate interests in international trade.

He still does not believe in enforcing U.S. trade laws or even U.S. bilateral trade agreements.

He still does not appreciate the suffering of U.S. workers who have lost their jobs.

He still thinks that free trade is an achievable goal.

He still thinks we can open up foreign markets when the United States appeases our trading partners.

He still practices unilateral disarmament in trade policy.

He still sees no need to stand tall for American trade interests.

I recognize that this exercise in adopting the textile and apparel bill is probably futile.

We probably cannot force him to enforce the current trade laws.

We probably cannot make him into a tougher negotiator.

We probably cannot make him more sensitive. We can't open his eyes. We can't make him understand.

If he spent a fraction of the time he spends in bashing the Sandinistas in negotiating with Taiwan, Hong Kong, and Singapore, we might have made some progress in dealing with the textile and footwear issues.

We probably cannot make him more concerned about a $150 billion trade deficit.

In fact, I think the trade deficits are a well calculated part of the administration's supply side economic policy.

How else could we run unconscionable government budget deficits? Normally, these budget deficits would be highly inflationary. The only reason they have not been inflationary is that the trade deficit keeps tremendous pressure on U.S. manufacturers to hold down wages and be more productive.

In short, we need the trade deficits to control the inflationary pressures which come from the budget deficits.

We need to keep our foot on the brake—the trade deficit—because we have our foot to the floor on the accelerator—the budget deficit.

This explains why this administration is not concerned about the trade deficits.

As long as we run huge trade deficits, the administration can tolerate the huge budget deficits and avoid inflation.

But, the President's economic strategy is unsustainable.

The trade deficits are killing U.S. companies.

Competition is fine. U.S. companies must compete. They must reduce costs and increase productivity. American consumers are the beneficiaries of this competition.

But, running a $150 billion trade deficit is ruinous.

The damage which is inflicted on U.S. concerns is far too high a price to pay for the supply side budget deficits.

If the President had approved the recommendations of the International Trade Commission, there wouldn't be a provision in this bill on footwear, and as a matter of fact, if the President had used the power he had, this bill wouldn't be necessary.

If he'd managed to negotiate a stronger Multi-Fiber Arrangement, or meaningful bilateral agreements with Japan, Hong Kong, and Taiwan, we wouldn't be here.

If he would enforce the current trade laws, this whole effort would be unnecessary.

But, the United States has been a wimp on trade issues.

We are getting taken to the cleaners.

We are the patsy in international markets.

This bill probably cannot change any of this.

Only the election can change U.S. policy.

We need a President who can see some evil and hear some evil.

We need to fight as hard for our national economic interests as for our national military interests.

We need to use our economic strength as well as our military strength.

If this constitutes economic nationalism, then count me as a patriot.

We need to see that if the United States does not fight unfair subsidies and dumping, no one in the international community will.

If we do not fight for fair trade, there will be no fair trade.

If we are not willing to protect U.S. interests when foreign governments rig the trade game, we will have no credibility in international negotiations.

We will obtain nothing if we do not fight. Nothing will come to us for free in international trade. None of our trading partners will make concessions out of the goodness of their hearts.

If we are not willing to risk offending some of our trading partners, they will continue to take advantage of us.

They are not embarrassed to fight for their own interests.

They do not make concessions without gaining something in return.

They do not reach an agreement just because we have better intellectual arguments on the merits.

The issue is power and will to exercise power, nothing more and nothing less.

Of course, our trading partners will cry protectionism when it is they who are the protectionists.

If we choose to defend ourselves, they have no effective way to retaliate.

We have what they want—the huge U.S. market.

We have all the high cards in negotiations.

We have nothing to fear from their retaliation or their starting a trade war.

It is we who are running the trade deficit and it is they who have the trade surplus.

Does anyone really believe that we can lose a trade fight?

If anyone thinks that we could lose a trade war, they have no understanding of the inherent strength of the United States position.

They know the difference between smoke and fire. They know the difference between posturing and retaliation. They know when they have something to lose. They know when we are serious and when we are committed to our goals. They know when they can get away with empty promises and gestures and bows and winks.

So, I will support this textile and footwear bill. I have supported all of the previous efforts to secure fairness for the U.S. textile and footwear industries. I have testified before the International Trade Commission. I have voted to stop filibusters. I have written letters. I have protested in every way I can about the unfair and ruinous rise in textile and footwear imports.

But, I do not honestly think anything will change until we have a new President with fundamental different views on trade policy.

Next January we need a President who will take executive action that will obviate the need for this legislation.

● **Mr. WILSON.** Mr. President, we are now in the midst of our semiregular debate on the textile bill—an irregular piece of legislation that never should have made it into the discount bin, let alone the legislative hopper.

The bill's proponents trumpet their goods as boldly restyled in order to attract the interest of our farming community. We are told that the binding structure of the earlier models has been changed to allow a freer flow, though it still retains its well-tailored approach designed to shield while retaining a high level of interest from our friends.

Unfortunately, Mr. President, no matter what this bill's creators may try to do, they will never come up with a product that I would buy. Simply put, they have a flawed concept of how our trade policy should be designed, as they continue to pin their hopes on a protectionist form.

Mr. President, yes, there are a few reasons to pass this bill to limit textile and apparel imports.

We should pass this bill if we want to force the parents of America to experience sticker shock when they go into stores to buy back-to-school clothes for their sons and daughters.

We should pass this bill if we want the kids of America to go without new shoes, because this bill will put the cost of new ones out of reach for many family budgets.

We should pass this bill if we want to close ourselves out of countries that have some of the fastest growing markets in the world, because they will certainly and rightfully retaliate, against us if we limit their access to our market for their fairly-traded textile and apparel products.

We should pass this bill if we want to establish ourselves as world-class hypocrites, who are willing to so-quickly contradict the trust of the omnibus trade bill we passed just weeks ago—a bill designed to expand international trade by ending protectionism, by using the lure of access to our market to gain entry into closed foreign markets.

Finally and succinctly, we should pass this bill if we want to make blatant protectionism the official policy of the United States.

We have a provision in our trade law, so-called section 201, designed to provide temporary help to industries facing an unexpected surge in imports. This law, which we broadened in the omnibus trade bill, is lawful under our international trade commitments. It recognizes that there are occasionally situations that arise that require a momentary deviation from free trade. Such temporary relief is designed to provide domestic industries some breathing room, a chance to catch their breath, to retool, and then again face international competition. But the textile and apparel industries do not want temporary relief. If they wanted temporary relief, protection for their industries would have ended long ago—in the last century.

Mr. President, jobs have been lost in our domestic textile and apparel industries. Some of this loss has resulted from the level of imports. But, much of the loss has come as the result of a process that takes place in any industry seeking to improve its competitiveness—namely, by improving productivity. In the textile and apparel industries, this effort has come in the form of automation. So, if we want to protect jobs in these industries, at any cost, we should not only shut down our borders, we should also outlaw automation.

Mr. President, we have programs for retraining workers in industries hurt by imports, and this program was strengthened and expanded in the omnibus trade bill. These programs provide the best answer to the problems faced by workers in the textile and apparel industries, one that is most effective for the displaced workers—because it helps these individuals find long-term jobs in productive industries—and one that is most effective for America's consumers.

Mr. President, there are textile and apparel workers in my State of California. There are also workers who design clothing and those who sell it. There are those who handle cargo coming off the ships and airplanes arriving from overseas. There are those who manufacture the most sophisticated electronics products—and therefore the most competitive products—who depend on foreign markets for a major percentage of their sales. And there are farmers who could not make a living if they were only able to sell in domestic markets. I do not want any of these people to lose their jobs, so we must work to limit the loss while maintaining our ability to operate internationally—for that is our best hope to maintaining an economy that creates jobs.

Mr. President, the key is to focus on policies that create jobs. Some job dislocation may be inevitable because of international competition, but a net job loss will only come from misdirected policies. A broadly directed policy designed to expand our overall economy may not save every job category, but it will produce a net increase in jobs—and that is in our country's best interests.

Mr. President, I urge defeat of this bill, if not today, then when the bill returns with President Reagan's veto message.

Mr. President, a recent editorial in the Los Angeles Times makes a clear and compelling case against passage of the textile bill, and I ask unanimous consent that it be printed in the Record at this point.

The editorial follows:

The Fabric of Greed

At the top of the agenda for the U.S. Senate when it reconvenes Wednesday is the mischievous, protectionist Textile and Apparel Trade Act that was passed a year ago by the House. The sponsors hope that election fever will help them to a victory that has been denied twice before. We take comfort from the fact that President Reagan stands ready once again with his veto.

In any circumstances the measure would be unacceptable. It would roll back quotas to 1986 levels in 185 categories of textiles and apparel, and then would permit an annual increase of only 1%. It would freeze imports in 15 categories of shoes at 1986 levels. These provisions would breach carefully negotiated agreements with key trading partners, betraying the integrity of the United States.

"It would hurt U.S. consumers, provoke retaliation against U.S. exports, violate our international obligations and undermine our efforts to obtain a more open trading system for U.S. exports," according to a letter sent Aug. 5 to the Senate from Clayton K. Yeutter, U.S. trade representative, and six members of the Cabinet, including Secretary of State George P. Shultz. We agree.

The greed of the sponsors is evident, for the measure would vastly expand already extreme protections now in place—protections that have helped the industry to increase its production and employment in each of the last three years. This makes all the more perplexing the willingness of so many members of Congress to vote for legislation that would impose a burden on consumers estimated at $25 billion in increased costs of textiles and apparel over the next five years.

Even more mischief is anticipated when the Senate takes up the bill. An amendment is to be introduced to try to attract more support by offering concessions to nations that are major buyers of American farm exports. But the proposals would erase only a portion of the punishing new quotas for those nations, leaving American farmers exposed to the increased risk of retaliation against their exports while further disrupting efforts to liberalize trade.

The textile-and-apparel legislation would deal a crippling blow to the two most important trade proposals of the decade—the new round of negotiations on the General Agreement on Tariffs and Trade now under way in Geneva and the U.S.-Canada free-trade agreement nearing final action in Congress.

Nevertheless, the sponsors appear to have captured at least a majority in the Senate for the passage of the legislation—apparently a careless response to a special interest that needs no rescue. The question then will be whether the victory margin can provide an override of a Reagan veto. In the House last year the margin was 263 to 156, almost 30 votes short of the two-thirds required for an override. Since then the U.S. trade balance has improved and the textile industry has continued to prosper. But this is no guarantee of reason in an election-year atmosphere that enhances the power of the special interests.●

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENT-

Sen], the Senator from New Mexico [Mr. Bingaman], the Senator from Illinois [Mr. Dixon], the Senator from Hawaii [Mr. Matsunaga], and the Senator from Ohio [Mr. Metzenbaum] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. Dixon] would vote "yea."

I further announce that, if present and voting, the Senator from New Mexico [Mr. Bingaman] and the Senator from Hawaii [Mr. Matsunaga] would each vote "nay."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. Hatfield], the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes], the Senator from Indiana [Mr. Quayle] and the Senator from Vermont [Mr. Stafford] are necessarily absent.

I also announce that the Senator from New Mexico [Mr. Domenici] is absent on official business.

I further announce that, if present and voting, the Senator from Nebraska [Mr. Karnes] and the Senator from Vermont [Mr. Stafford] would each vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 32, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—57

Biden
Bond
Boren
Breaux
Bumpers
Burdick
Byrd
Cochran
Cohen
D'Amato
Daschle
DeConcini
Dodd
Dole
Exon
Ford
Fowler
Gore
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker

NAYS—32

Adams
Armstrong
Baucus
Boschwitz
Bradley
Chafee
Chiles
Conrad
Cranston
Danforth
Durenberger
Evans
Garn
Glenn
Graham
Gramm
Grassley
Humphrey
Kassebaum
Lugar
McCain
McClure
Murkowski
Nickles
Packwood
Pressler
Simpson
Stevens
Symms
Wallop
Wilson
Wirth

NOT VOTING—11

Bentsen
Bingaman
Dixon
Domenici
Hatfield
Hecht
Karnes
Matsunaga
Metzenbaum
Quayle
Stafford

So the bill (S. 2662) was passed, as follows:

S. 2662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Textile Apparel and Footwear Trade Act of 1988".

SEC. 2. POLICY.

The policy of this Act is to—

(1) relate the growth of textile and clothing imports to the growth of the domestic market in order to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and clothing manufacturers, and loss of job opportunities for United States textile and clothing workers; and

(2) maintain a viable United States nonrubber footwear industry by preventing further damage to United States nonrubber footwear manufacturers and loss of job opportunities for United States nonrubber footwear workers.

SEC. 3. FINDINGS AND DETERMINATIONS.

(A) Findings.—The Congress finds that—

(1) with respect to textiles and textile products—

(A) the current level of imports of textiles and textile products from all sources, more than one hundred and sixty-five countries, reached nearly 12.7 billion square yard equivalents in 1986, an increase of 17 per centum over 1985 imports; this level of imports is 2.5 times the level of imports in 1980, a rate of increase that was not foreseen when the United States granted trade concessions benefiting foreign suppliers of textiles and textile products, and represents over 1.2 million job opportunities lost to United States workers;

(B) imported textiles and textile products contain four million bales of cotton which is equivalent to 39 per centum of annual cotton production in the United States; eight out of every ten bales of cotton contained in imported textiles and clothing are foreign grown cotton; sustained massive increases in imports of cotton textile and clothing products are causing a declining market share for domestic cotton producers, depressed prices, and an average annual market revenue loss of over $1,000,000,000; another result is that a market development program voluntarily funded by United States cotton producers actually benefits foreign growers; finally, as imports of textiles and clothing increase, domestic cotton acreage is shifted to produce other agricultural products which are already in oversupply thereby adding to the problems of United States agriculture;

(C) imports of textiles and textile products made of wool have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; because import penetration in the domestic wool textile and clothing market is nearly 70 per centum, it is critical that action be taken to halt further erosion of the domestic industry's market share;

(D) imports of textiles and textile products made of manmade fiber and competing fibers, other than cotton or wool, have more than doubled since 1980 resulting in substantial reductions in domestic manmade fiber production capacity and job losses;

(E) the textile and clothing trade deficit of the United States exceeded $21,000,000,000 in 1986, an increase of 18 per centum over 1985, and accounted for 12 per centum of the Nation's overall merchandise trade deficit;

(F) import growth of clothing and clothing fabrics has averaged 8 per centum annually since 1973; over that same period, the domestic market for clothing and clothing fabrics has grown only 1 per centum annually; import growth has recently accelerated, and, since 1982, has average 21 per centum annually; the result is that import penetration in the domestic clothing and clothing fabric market has nearly doubled in the last six years, reaching a level of 52 per centum in 1986;

(G) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products competitive with those imported have been seriously damaged, many of them have been forced out of business, have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to the Federal and local governments;

(H) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring new measures;

(I) unless the import growth rate of textiles and textile products is slowed to the long-term rate of growth of the United States market, plant closings and job losses will continue to accelerate, leaving the United States with reduced competition benefiting domestic consumers and leaving the Nation in a less competitive international position;

(J) a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States; and

(K) actions taken by the United States under the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended (commonly referred to as the "Multi-Fiber Arrangement" or "MFA") have failed to avoid disruptive effects in the textiles and textile products markets in the United States; and

(2) with respect to nonrubber footwear—

(A) nonrubber footwear imports in 1986 reached a record level of nine hundred and forty-one million pairs; this volume of imports is 2.5 times that of 1981, the year that import relief for the nonrubber footwear industry terminated, and is 11.6 per centum above 1985 levels, the year in which the International Trade Commission issued its third finding that the domestic nonrubber footwear industry has been seriously injured by increased imports;

(B) since 1981, import growth of nonrubber footwear has averaged more than 20 per centum per year, gaining market share at the expense of the domestic industry; in 1981, import penetration of the domestic nonrubber footwear market was 51 per centum; by 1986, import penetration reached an unprecedented 80.7 pen centum;

(C) as a direct result of imports, domestic nonrubber footwear production has declined every year since 1978, reaching two hundred thirty-four million pairs in 1986, a production level matched only during the Great Depression in the 1930's;

(D) domestic nonrubber footwear employment has steadily declined every year since 1981, and is down 37 per centum from 1981 levels and 7.3 per centum from 1985 levels; unemployment in the nonrubber footwear industry averaged 15.4 per centum in 1986, more than double the national average; and

(E) domestic nonrubber footwear production facilities are closing at an alarming rate, with three hundred and eighty factory closings since 1981 and seventy closings in 1986 alone.

(b) DETERMINATIONS.—Congress determines that, for the foregoing reasons—

(1) textiles and textile products are being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of textiles and textile products in the United States, and

(2) nonrubber footwear is being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of nonrubber footwear in the United States,

within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 4. LIMITS ON IMPORTS.

(a) CALENDAR YEAR 1987.—Notwithstanding any other provision of law—

(1) the aggregate quantity of textiles and textile products, from all countries, classified under a category that is entered during calendar year 1987 shall not exceed an amount equal to 101 per centum of the aggregate quantity of such products classified under such category, from all countries, that entered during calendar year 1986, and

(2) the aggregate quantity of nonrubber footwear, from all countries, classified under a nonrubber footwear category that is entered during calendar year 1987, and during each calendar year thereafter, shall not exceed an amount equal to—

(A) the aggregate quantity of nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986, and

(B) in the case of low priced nonrubber footwear, notwithstanding subparagraph (A), the aggregate quantity of low priced nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986.

(b) GROWTH ADJUSTMENT.—For calendar years after 1987, the aggregate quantity of textiles and textile products, from all countries, classified under each category that may be entered during each such calendar year shall be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year. If the aggregate quantity that could be entered under a category for a calendar year after 1987 is reduced under section 10(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 10(b) in previous calendar years.

(c) EXCEPTIONS.—

(1) The limitations in this Act on the aggregate quantity of articles of textiles and textile products and nonrubber footwear that may be entered during any calendar year do not apply to articles of that kind that are the product of any insular possession of the United States if the articles are—

(A) exempt from duty under general headnote 3(a) of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(B) manufactured or produced in such possession by individuals who are either—

(i) United States citizens;

(ii) United States nationals; or

(iii) permanent residents of such possession in accordance with its laws.

(2) Notwithstanding any other provision of law, the aggregate quantity of sweaters that are—

(A) made of cotton, wool, or manmade fibers; and

(B) assembled in Guam from otherwise completed knit-to-shape component parts;

and that may be entered—

(i) during calendar year 1987, may not exceed 163,216 dozen; and

(ii) during any calendar year after 1987, may not exceed the aggregate quantity that is authorized to be entered under this paragraph during the preceding calendar year, increased by 1 per centum.

(d) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this Act, including regulations governing entry, or withdrawal from warehouse, for consumption of the products covered by this Act. Such regulations shall provide for reasonable spacing of imports over the calendar year.

(e) ALLOCATIONS FOR CERTAIN COUNTRIES.—Regulations may be prescribed under subsection (d) only if such regulations ensure that—

(1) an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products classified under each category entered during calendar year 1989 and during each succeeding calendar year (hereafter in this subsection referred to as the "applicable year") is allocated to such products of each country to which the total quantity of United States agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of United States agricultural products exported on commercial terms to such country during the calendar year before the calendar year preceding the applicable year; and

(2) the amount of textiles and textile products classified under each category entered during the applicable year that is allocated so each country under paragraph (1) exceeds the quantity of such products of such country classified under such category that entered during the calendar year preceding the applicable year.

SEC. 5. TARIFF COMPENSATION.

(a) COMPENSATION.—

(1) The President may (A) enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed under section 4 of this Act to maintain the general level of reciprocal and mutually advantageous concessions under such agreements; and (B) proclaim such modification or continuance of any existing duty on textiles and textile products and on nonrubber footwear as he determines to be required or appropriate to carry out such agreements.

(2) No proclamation shall be made under paragraph (1) decreasing any rate of duty to a rate of duty which is less than 90 per centum of the existing rate of duty.

(3) Before entering into any trade agreement under this subsection with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(b) STAGING REQUIREMENTS.—The aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to subsection (a) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of one-fifth of the total reduction under subsection (a) had taken effect on the effective date of the first reduction proclaimed to carry out such trade agreement, and at one-year intervals after such effective date.

(c) PROHIBITION.—Except as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear and may not decrease, or propose a decrease, in any such duty by any means, including an implementing bill under section 151 of the Trade Act of 1974 or a proclamation.

SEC. 6. ANNUAL REPORT.

Not later than March 15, 1989, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Act during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 4. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

SEC. 7. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this Act a review of the operation of this Act. The Secretary shall consult representatives of workers and companies in the textile and textile products and nonrubber footwear industries, the United States Trade Representative, the Secretary of Labor, and other appropriate Government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings.

SEC. 8. AUCTION OF IMPORT LICENSES.

(a) IMPORT LICENSES.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish and implement a pilot program for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products.

(b) IDENTIFICATION OF CATEGORIES SUBJECT TO LICENSES.—The categories of textiles, and the categories of textile products, to which the import licensing program under this section applies shall be selected by the Secretary of the Treasury, in consultation with the Secretary of Commerce. Such selection shall be made so that—

(1) the number of categories of textiles so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textiles entered; and

(2) the total number of categories of textile products so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textile products entered.

(c) AUCTIONING OF IMPORT LICENSES.—

(1) Each import license to be issued and sold pursuant to this section shall be sold by the Secretary of the Treasury at a public auction held no earlier than fifteen days after the date on which notice of such auction is published in the Federal Register.

(2) By no later than the date that is sixty days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph (1). Such regulations shall provide for—

(a) the auctioning of quotas, on a historical basis, among retailers, importers, and manufacturers of textiles and apparel;

(b) the transfer of auctioned imported licenses among importers; and

(c) a means of ensuring that no person obtains undue market power in the markets of the United States through the use of auctioned import licenses.

(3) The Secretary of the Treasury is authorized to prescribe, on an expedited basis, such regulations supplementing the regulations prescribed under paragraph (2) as are necessary to address factors involved in conducting the sale by auction of import licenses for any article that are unique to such article.

(d) Deposit of Revenues.—Any revenues from the sale of import licenses under this section shall be paid into the general fund of the Treasury of the United States.

(e) Duration.—The import licensing program under this section shall begin on January 1, 1989, and end at the close of December 31, 1989.

(f) Report.—Not later than March 31, 1990, the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall report to Congress on the administration of the import licensing program under this section and the advantages and disadvantages of auctioning import licenses demonstrated by the program.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) The term "textiles and textile products" includes, but is not limited to, all articles covered by a category.

(2) The term "nonrubber footwear" mean nonrubber footwear article classified under items 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95 of the Tariff Schedules of the United States (19 U.S.C. section 1202) (as in effect on January 1, 1987) and includes, but is not limited to, all articles covered by a footwear category.

(3) The term "category" means each of the following—

(A) each category identified by a three-digit number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1987, and in any amendments to such publication correcting clerical errors or omissions;

(B) each subdivision of a category described in subparagraph (A) with respect to which the United States has (i) an agreement with any country on the date of enactment of this Act limiting exports of textiles and textile products to the United States that includes a specific limit on such subdivision, or (ii) taken unilateral action to limit products from any country entered under such subdivision; and

(C) a category consisting of the manmade fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States.

(D) a category consisting of the products not covered by a category described in subparagraph A and classified under TSUSA items 373.0530, 373.2030, and 373.2230.

The Secretary of Commerce shall determine, after consultation with the United States Trade Representative and the United States International Trade Commission, whether comparable subdivisions described in subparagraph (B) are consistently defined; if the Secretary determines that such subdivisions are not consistently defined, then the Secretary shall prescribe by regulation an appropriate definition of the category covering such comparable subdivisions.

(4) The term "nonrubber footwear category" means each of the following—

(A) men's leather;

(B) men's vinyl/plastic;

(C) men's other;

(D) women's leather;

(E) women's vinyl/plastic;

(F) women's other;

(G) juvenile leather;

(H) juvenile vinyl/plastic

(I) juvenile other;

(J) athletic leather;

(K) athletic vinyl/plastic;

(L) leather work footwear;

(M) other leather footwear;

(N) miscellaneous vinyl/plastic; and

(O) miscellaneous other.

(5) The term "low priced nonrubber footwear" means nonrubber footwear with a customs value of $2.50, or less, per pair.

(6) The term "country" means a foreign country, a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship, political entity or foreign trade zone, whether affiliated with the United States or not, that is outside the customs territory of the United States.

(7) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(8) The term "existing" means the nonpreferential rate of duty (however established, and even through temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of schedules 1 through 7 of the Tariff Schedules of the United States (or the comparable rate of duty set forth in any law that may supersede such Tariff Schedules) existing on the day before the date of enactment of this Act.

(9) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

SEC. 10. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the provisions of this Act shall apply to textiles and textile products and to nonrubber footwear entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

(b) Calendar Years 1987 and 1988.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products and of nonrubber footwear that may be entered under section 4(a) under each category and each nonrubber footwear category during the period beginning on the date of enactment of this Act and ending on December 31, 1987. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products or of nonrubber footwear entered under a category or nonrubber footwear category after December 31, 1986, and before the date of enactment of this Act exceeds the quantity permitted entry for such products under such category during calendar year 1987 under section 4(a), then the limit that would otherwise apply under section 4(b), in the case of textiles or textile products, or under section 4(a), in the case of nonrubber footwear, for such category for calendar year 1988 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 4(b), or section 4(a), as appropriate, for such category for calendar year 1988, then the limit for such category for calendar years after 1988 shall be reduced until such excess is accounted for.

(c) 1988 Enactment.—If the date of enactment of this Act is after December 31, 1987, then (1) the term "1988" shall be substituted for the term "1987" each place it appears in subsection (a)(1) and (b) of section 4 and subsection (b) of this section; (2) the term "1987" shall be substituted for the term "1986" in subsection (a)(1) of section 4 and subsection (b) of this section; and (3) the term "1989" shall be substituted for the term "1988" each place it appears in subsection (b) of this section.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there will be another rollcall vote on the resolution dealing with President Zia. But in the meantime, I wonder if we can establish what the program is going to be for the rest of the day. I would like to ask consent the Senate proceed now to the consideration of the House companion bill to the bill that was just passed, and if we can get consent to proceed to it, then I would like to have an understanding as to what the plans are of the opponents, whether or not they are prepared to let us vote on that bill today or whether they are not prepared to do so.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

Mr. BYRD. Mr. President, with that preface, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 316, H.R. 1154, the House textile bill.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Reserving the right to object, and I do not think I am going to, it is all right on our side to go to it. It is our understanding that will be the last that is on this bill today.

We have the other vote on President Zia, but there will be no other votes or business on the textile bill.

Mr. BYRD. If that is the desire of the opponents, of course, they can keep us from voting on that bill.

Mr. PACKWOOD. All we want to be sure is if there are any more votes on this textile bill. Are we coming in next Monday or Tuesday?

Mr. BYRD. Yes, we will be in on Monday, but there will be no more rollcall votes today dealing with textiles. I do not know of any other vote on anything.

Mr. DOLE. Mr. President, reserving the right to object, I understand one of my colleagues wanted to be present, Senator WEICKER, who is coming in the door now. In other words, if there is no objection to the motion to proceed to the House bill, then we would not be on that bill today. On Monday, we would be back on that House bill, I ask the majority leader?

Mr. BYRD. I hope on Monday we can go on to the Labor-HHS appropriations bill conference report. That is a privileged matter. There will be no problem with going on it.

I do not know if there is going to be some debate on it or not. That will be another matter.

Mr. DOLE. We have no objection at this time.

Mr. BYRD. I thank the distinguished Republican leader.

The PRESIDING OFFICER. Is there objection? Hearing none, the request is agreed to.

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 1154) to remedy injury to the United States textile and apparel industries caused by increased imports.

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for another 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I wonder if the opponents of the legislation—and let me thank them for the unanimous-consent approval—I wonder if they could indicate at this time what their intentions are with respect to the debate on the bill itself, whether or not we can expect to have a final vote on the House bill, say, at 6 o'clock Monday or 7 o'clock Monday or 11 o'clock Tuesday or some such, or is it their intention to fight cloture on that measure.

Mr. PACKWOOD. That has not been decided, I say to the majority leader. What we want to do, very honestly, is check with the number of people who voted on our side of the bill to see what their position might be in a veto override. I do not know right now.

Mr. BYRD. Mr. President, I think I should say to my friends that the time is running short and, as I see it, adjournment sine die is probably going to be around mid-October.

I understand those who oppose the bill, and if I were standing in their shoes, I would be working with them on the matter. Of course, it may be the strategy of those to try to string this matter out until such time as the President could pocket-veto this bill, if it indeed is sent to him.

Looking at it from this side of the aisle, I have to always prepare for eventualities. I think I should offer a cloture motion on that bill today. Therefore, we can be sure of a cloture vote on Tuesday. Otherwise, if I wait until Monday to offer a cloture motion, then we lose a day and, of course, if the opponents decide, and they certainly have a right to talk this over and make a decision, they have a right to use the rules to their advantage, but I am going to offer the cloture motion and, of course, if in the meantime it is decided by the opponents they do not want to or do not need to filibuster the bill itself, we will vitiate the cloture vote on Tuesday.

As I understand the opponents and their need to use the rules, I hope they will understand my need to do likewise, especially in the extremities that we face with respect to the remaining time for sine die adjournment.

Mr. PACKWOOD. I understand very well. I think this afternoon and Monday will give us ample time to make some phone calls and see what kind of assurances we get and then we can pretty well determine our strategy—hopefully by this evening.

Mr. BYRD. Very well. I send a cloture motion to the desk.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. DOLE. I just want to make certain we have the program correct for Monday because there are a number of Members on each side who have other obligations on that day. I would indicate, as the majority leader knows, that the opponents have been very cooperative. They let us proceed to the bill in the first instance.

Mr. BYRD. Yes.

Mr. DOLE. And they have given us consent on the motion to proceed to the House bill.

Mr. BYRD. Yes.

Mr. DOLE. I do not know of any intent on the part of the opponents to unduly delay the bill. They understand the majority leader has only so many days. I hope we are not in until mid-October. I think the majority leader is right; we ought to get out of here on the first fiscal day, which is October 1.

But in any event, would it be the intention of the majority leader then on Monday to proceed to the conference report on HHS-Labor appropriations? There will be a conference report on Monday on Labor-HHS?

Mr. BYRD. Yes, it will be on Labor-HHS. The House, I believe, is completing action on this conference report today.

Mr. DOLE. Sometime that day that would be disposed of?

Mr. BYRD. I would hope that we could do that. We will probably have to have a rollcall vote but maybe not on the conference report. We may not.

Mr. DOLE. The thing I was trying to establish, is there any way we can accommodate the majority leader's need to get work done and still accommodate some of our colleagues who would rather vote on Tuesday following our policy luncheons?

Mr. BYRD. Yes. Mr. President, the vote on the conference report on Labor-HHS could very well be a voice vote on Monday. I hesitate to say there will be no rollcall votes on Tuesday. I certainly want to bend over backwards in accommodating Senators who have a religious holiday on Monday. I hope what I say will not be misunderstood. On my religious holidays, I can exercise them here. I do not have to go back to West Virginia to do it. But that is not telling any other Senator what he has to do. We have the practice of trying to accommodate the religious holidays by not having any votes after, say, 4 o'clock on 1 day and no votes until 6 o'clock p.m. the next day. Now, if we are going to start the practice of not having any rollcall votes, then the next thing we will do is we will not be in at all on religious holidays and the next thing we will be out 2 days to accommodate Senators to go and come.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I share the concerns of the majority leader and I know, particularly when we know we all want to get out of here—that may be the wrong phrase. I mean when we want to leave and relieve the taxpayers of America in part, but if we could do the conference report—it may depend on whether or not they get into an abortion fight on the House side. There may be some amendments in disagreement. That could get fairly controversial. But if we were able to do that on Monday, I assume that the cloture petition would not ripen until Tuesday in any event.

Mr. BYRD. The cloture motion will not ripen until Tuesday. I will make this offer to the distinguished Republican leader. If the Senator and his colleagues would give me a time limit on that conference report, say, to last no more than 2 hours overall or 3 hours or 4 hours or whatever overall, to assure we have some type of time agreement on it, then I can assure Senators there would not be any rollcall vote on Monday. We could take it up on Monday, if that would be agreeable, use the 4 hours, and then dispose of it, or as far as I am concerned, if the time agreement were short enough, we could do it all on Tuesday. That way we would come in on Monday at some point and have morning business and so on so the record would not show that the Senate adjourned or recessed over an entire day for a religious holiday, important though they are. I just do not want to start down that track. One day someone will have to take off a week for a religious holiday—and it might be well worth it.

Mr. DOLE. I understand there may be an objection to a time agreement particularly until we know precisely what the House has done. They are taking it up today, are they not?

Mr. BYRD. They are working on it today. Perhaps before the day is over, we might be able to reach such agreement. If we could do that, I think that would satisfy our colleagues.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank all Senators.

Will the distinguished manager propose his substitute?

AMENDMENT NO. 2945

Mr. HOLLINGS. Mr. President, I have an amendment at the desk and I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2945.

Mr. HOLLINGS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following: That this Act may be cited as the "Textile Apparel and Footwear Trade Act of 1988".

SEC. 2. POLICY.

The policy of this Act is to—

(1) relate the growth of textile and clothing imports to the growth of the domestic market in order to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and clothing manufacturers, and loss of job opportunities for United States textile and clothing workers; and

(2) maintain a viable United States nonrubber footwear industry by preventing further damage to United States nonrubber footwear manufacturers and loss of job opportunities for United States nonrubber footwear workers.

SEC. 3. FINDING AND DETERMINATIONS.

(A) FINDINGS.—The Congress finds that—

(1) with respect to textiles and textile products—

(A) the current level of imports of textiles and textile products from all sources, more than one hundred and sixty-five countries, reached nearly 12.7 billion square yard equivalents in 1986, an increase of 17 per centum over 1985 imports; this level of imports is 2.5 times the level of imports in 1980, a rate of increase that was not foreseen when the United States granted trade concessions benefiting foreign suppliers of textiles and textile products, and represents over 1.2 million job opportunities lost to United States workers;

(B) imported textiles and textile products contain four million bales of cotton which is equivalent to 39 per centum of annual cotton production in the United States; eight out of every ten bales of cotton contained in imported textiles and clothing are foreign grown cotton; sustained massive increases in imports of cotton textile and clothing products are causing a declining market share for domestic cotton producers, depressed prices, and an average annual market revenue loss of over $1,000,000,000; another result is that a market development program voluntarily funded by United States cotton producers actually benefits foreign growers; finally, as imports of textiles and clothing increase, domestic cotton acreage is shifted to produce other agricultural products which are already in oversupply thereby adding to the problems of United States agriculture;

(C) imports of textiles and textile products made of wool have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; because import penetration in the domestic wool textile and clothing market is nearly 70 per centum, it is critical that action be taken to halt further erosion of the domestic industry's market share;

(D) imports of textiles and textile products made of manmade fiber and competing fibers, other than cotton or wool, have more than doubled since 1980 resulting in substantial reductions in domestic manmade fiber production capacity and job losses;

(E) the textile and clothing trade deficit of the United States exceeded $21,000,000,000 in 1986, an increase of 18 per centum over 1985, and accounted for 12 per centum of the Nation's overall merchandise trade deficit;

(F) import growth of clothing and clothing fabrics has averaged 8 per centum annually since 1973; over that same period, the domestic market for clothing and clothing fabrics has grown only 1 per centum annually; import growth has recently accelerated, and, since 1982, has averaged 21 per centum annually; the result is that import penetration in the domestic clothing and clothing fabric market has nearly doubled in the last six years, reaching a level of 52 per centum in 1986;

(G) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products competitive with those imported have been seriously damaged, many of them have been forced out of business, have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to the Federal and local governments;

(H) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring new measures;

(I) unless the import growth rate of textiles and textile products is slowed to the long term rate of growth of the United States market, plant closings and job losses will continue to accelerate, leaving the United States with reduced competition benefiting domestic consumers and leaving the Nation in a less competitive international position;

(J) a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States; and

(K) actions taken by the United States under the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended (commonly referred to as the "Multi Fiber Arrangement" or "MFA") have failed to avoid disruptive effects in the textiles and textile products markets in the United States; and

(2) with respect to nonrubber foowwear—

(A) nonrubber footwear imports in 1986 reached a record level of nine hundred and forty-one million pairs; this volume of imports is 2.5 times that of 1981, the year that import relief for the nonrubber footwear industry terminated, and is 11.6 per centum above 1985 levels, the year in which the International Trade Commission issued its third finding that the domestic nonrubber footwear industry has been seriously injured by increased imports;

(B) since 1981, import growth of nonrubber footwear has averaged more than 20 per centum per year, gaining market share at the expense of the domestic industry; in 1981, import penetration of the domestic nonruber footwear market was 51 per centum; by 1986, import penetration reached an unprecedented 80.7 per centum;

(C) as a direct result of imports, domestic nonrubber footwear production has declined every year since 1978, reaching two hundred thirty-four million pairs in 1986, a production level matched only during the Great Depression in the 1930's;

(D) domestic nonrubber footwear employment has steadily declined every year since 1981, and is down 37 per centum from 1981 levels and 7.3 per centum from 1985 levels; unemployment in the nonrubber footwear industry averaged 15.4 per centum in 1986, more than double the national average; and

(E) domestic nonrubber footwear production facilities are closing at an alarming rate, with three hundred and eighty factory closings since 1981 and seventy closings in 1986 alone.

(b) DETERMINATIONS.—Congress determines that, for the foregoing reasons—

(1) textiles and textile products are being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of textiles and textile products in the United States, and

(2) nonrubber footwear is being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of nonrubber footwear in the United States,

within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 4. LIMITS ON IMPORTS.

(a) CALENDAR YEAR 1987.—Notwithstanding any other provision of law—

(1) the aggregate quantity of textiles and textile products, from all countries, classified under a category that is entered during calendar year 1987 shall not exceed an amount equal to 101 per centum of the aggregate quantity of such products classified under such category, from all countries, that entered during calendar year 1986, and

(2) the aggregate quantity of nonrubber footwear, from all countries, classified under a nonrubber footwear category that is entered during calendar year 1987, and during each calendar year thereafter, shall not exceed an amount equal to—

(A) the aggregate quantity of nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986, and

(B) in the case of low priced nonrubber footwear, notwithstanding subparagraph (A), the aggregate quantity of low priced nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986.

(b) GROWTH ADJUSTMENT.—For calendar years after 1987, the aggregate quantity of textiles and textile products, from all countries, classified under each category that may be entered during each such calendar year shall be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year. If the aggregate quantity that could be entered under a category for a calendar year after 1987 is reduced under section 10(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 10(b) in previous calendar years.

(c) EXCEPTIONS.—

(1) The limitations in this Act on the aggregate quantity of articles of textiles and textile products and nonrubber footwear that may be entered during any calendar year do not apply to articles of that kind that are the product of any insular possession of the United States if the articles are—

(A) exempt from duty under general headnote 3(a) of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(B) manufactured or produced in such possession by individuals who are either—

(i) United States citizens;

(ii) United States nationals; or

(iii) permanent residents of such possession in accordance with its laws.

(2) Notwithstanding any other provision of law, the aggregate quantity of sweaters that are—

(A) made of cotton, wool, or manmade fibers; and

(B) assembled in Guam from otherwise completed knit-to-shape component parts; and that may be entered—

(i) during calendar year 1987, may not exceed 163,216 dozen; and

(ii) during any calendar year after 1987, may not exceed the aggregate quantity that is authorized to be entered under this paragraph during the preceding calendar year, increased by 1 per centum.

(d) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this Act, including regulations governing entry, or withdrawal from warehouse, for consumption of the products covered by this Act. Such regulations shall provide for reasonable spacing of imports over the calendar year.

(e) ALLOCATIONS FOR CERTAIN COUNTRIES.—Regulations may be prescribed under subsection (d) only if such regulations ensure that—

(1) an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products classified under each category entered during calendar year 1989 and during each succeeding calendar year (hereafter in this subsection referred to as the "applicable year") is allocated to such products of each country to which the total quantity of United States agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of United States agricultural products exported on commercial terms to such country during the calendar year before the calendar year preceding the applicable year; and

(2) the amount of textiles and textile products classified under each category entered during the applicable year that is allocated so each country under paragraph (1) exceeds the quantity of such products of such country classified under such category that entered during the calendar year preceding the applicable year.

SEC. 5. TARIFF COMPENSATION.

(a) COMPENSATION.—

(1) The President may (A) enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed under section 4 of this Act to maintain the general level of reciprocal and mutually advantageous concessions under such agreements; and (B) proclaim such modification or continuance of any existing duty on textiles and textile products and on nonrubber footwear as he determines to be required or appropriate to carry out such agreements.

(2) No proclamation shall be made under paragraph (1) deceasing any rate of duty to a rate of duty which is less than 90 per centum of the existing rate of duty.

(3) Before entering into any trade agreement under this subsection with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(b) STAGING REQUIREMENTS.—The aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to subsection (a) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of one-fifth of the total reduction under subsection (a) had taken effect on the effective date of the first reduction proclaimed to carry out such trade agreement, and at one-year intervals after such effective date.

(c) PROHIBITION.—Except as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear and may not decrease, or propose a decrease, in any such duty by any means, including an implementing bill under section 151 of the Trade Act of 1974 or a proclamation.

SEC. 6. ANNUAL REPORT.

Not later than March 15, 1989, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Act during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 4. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

SEC. 7. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this Act a review of the operation of this Act. The Secretary shall consult representatives of workers and companies in the textile and textile products and nonrubber footwear industries, the United States Trade Representative, the Secretary of Labor, and other appropriate Government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings.

SEC. 8. AUCTION OF IMPORT LICENSES.

(a) IMPORT LICENSES.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish and implement a pilot program for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products.

(b) IDENTIFICATION OF CATEGORIES SUBJECT TO LICENSES.—The categories of textiles, and the categories of textile products, to which the import licensing program under this section applies shall be selected by the Secretary of the Treasury, in consultation with the Secretary of Commerce. Such selection shall be made so that—

(1) the number of categories of textiles so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textiles entered; and

(2) the total number of categories of textile products so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textile products entered.

(c) AUCTIONING OF IMPORT LICENSES.—

(1) Each import license to be issued and sold pursuant to this section shall be sold by the Secretary of the Treasury at a public auction held no earlier than fifteen days after the date on which notice of such auction is published in the Federal Register.

(2) By no later than the date that is sixty days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph (1). Such regulations shall provide for—

(a) the auctioning of quotas, on a historical basis, among retailers, importers, and manufacturers of textiles and apparel;

(b) the transfer of auctioned imported licenses among importers; and

(c) a means of ensuring that no person obtains undue market power in the markets of the United States through the use of auctioned import licenses.

(3) The Secretary of the Treasury is authorized to prescribe, on an expedited basis, such regulations supplementing the regulations prescribed under paragraph (2) as are necessary to address factors involved in conducting the sale by auction of import licenses for any article that are unique to such article.

(d) DEPOSIT OF REVENUES.—Any revenues from the sale of import licenses under this section shall be paid into the general fund of the Treasury of the United States.

(e) DURATION.—The import licensing program under this section shall begin on January 1, 1989, and end at the close of December 31, 1989.

(f) REPORT.—Not later than March 31, 1990, the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall report to Congress on the administration of the import licensing program under this section and the advantages and disadvantages of auctioning import licenses demonstrated by the program.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) The term "textiles and textile products" includes, but is not limited to, all articles covered by a category.

(2) The term "nonrubber footwear" mean nonrubber footwear article classified under items 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95 of the Tariff Schedules of the United States (19 U.S.C. section 1202) (as in effect on January 1, 1987) and includes, but is not limited to, all articles covered by a footwear category.

(3) The term "category" means each of the following—

(A) each category identified by a three-digit number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1987, and in any amendments to such publication correcting clerical errors or omissions;

(B) each subdivision of a category described in subparagraph (A) with respect to which the United States has (i) an agreement with any country on the date of enactment of this Act limiting exports of textiles and textile products to the United States that includes a specific limit on such subdivision, or (ii) taken unilateral action to limit products from any country entered under such subdivision; and

(C) a category consisting of the manmade fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States.

(D) a category consisting of the products not covered by a category described in subparagraph A and classified under TSUSA items 373.0530, 373.2030, and 373.2230.

The Secretary of Commerce shall determine, after consultation with the United States Trade Representative and the United States International Trade Commission, whether comparable subdivisions described in subparagraph (B) are consistently defined; if the Secretary determines that such subdivisions are not consistently defined, then the Secretary shall prescribe by regulation an appropriate definition of the category covering such comparable subdivisions.

(4) The term "nonrubber footwear category" means each of the following—

(A) men's leather;
(B) men's vinyl/plastic;
(C) men's other;
(D) women's leather;
(E) women's vinyl/plastic;
(F) women's other;
(G) juvenile leather;
(H) juvenile vinyl/plastic
(I) juvenile other;
(J) athletic leather;
(K) athletic vinyl/plastic;
(L) leather work footwear;
(M) other leather footwear;
(N) miscellaneous vinyl/plastic; and
(O) miscellaneous other.

(5) The term "low priced nonrubber footwear" means nonrubber footwear with a customs value of $2.50, or less, per pair.

(6) The term "country" means a foreign country, a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship, political entity or foreign trade zone, whether affiliated with the United States or not, that is outside the customs territory of the United States.

(7) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(8) The term "existing" means the nonpreferential rate of duty (however established, and even through temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of schedules 1 through 7 of the Tariff Schedules of the United States (or the comparable rate of duty set forth in any law that may supersede such Tariff Schedules) existing on the day before the date of enactment of this Act.

(9) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

SEC. 10. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the provisions of this Act shall apply to textiles and textile products and to nonrubber footwear entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

(b) Calendar Years 1987 and 1988.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products and of nonrubber footwear that may be entered under section 4(a) under each category and each nonrubber footwear category during the period beginning on the date of enactment of this Act and ending on December 31, 1987. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products or of nonrubber footwear entered under a category or nonrubber footwear category after December 31, 1986, and before the date of enactment of this Act exceeds the quantity permitted entry for such products under such category during calendar year 1987 under section 4(a), then the limit that would otherwise apply under section 4(b), in the case of textiles or textile products, or under section 4(a), in the case of nonrubber footwear, for such category for calendar year 1988 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 4(b), or section 4(a), as appropriate, for such category for calendar year 1988, then the limit for such category for calendar years after 1988 shall be reduced until such excess is accounted for.

(c) 1988 Enactment.—If the date of enactment of this Act is after December 31, 1987, then (1) the term "1988" shall be substituted for the term "1987" each place it appears in subsection (a)(1) and (b) of section 4 and subsection (b) of this section; (2) the term "1987" shall be substituted for the term "1986" in subsection (a)(1) of section 4 and subsection (b) of this section; and (3) the term "1989" shall be substituted for the term "1988" each place it appears in subsection (b) of this section.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The closture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Hollings substitute amendment No. 2945 to H.R. 1154, a act to remedy injury to the United States textile and apparel industries caused by increased imports.
>
> Senators Ernest F. Hollings, Daniel K. Inouye, Terry Sanford, George J. Mitchell, Bill Cohen, Albert Gore, Jr., William Proxmire, Wyche Fowler, Jr., David Pryor, Sam Nunn, Paul Simon, Howell Heflin, J. Bennett Johnston, Thad Cochran, John C. Stennis, Richard Shelby, Jim Sasser, and Harry Reid.

My BYRD. Mr. President, I thank all Senators.

I yield the floor.

There will be the vote on Senate Resolution 468 yet today.

EXPRESSION OF REGRET OF THE DEATH OF PRESIDENT MOHAMMAD ZIA UL-HAQ

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on Senate Resolution 468, which the clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 468) to express the deep regret of the Senate of the United States over the death of President Mohammad Zia ul-Haq.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, in the death of President Mohammad Zia ul-Haq of Pakistan on August 17, the world has lost a courageous leader. The United States has lost a staunch ally and a bulwark against communism.

Were it not for President Zia's personal commitment to the Afghan resistance, the Soviet Union would not be today withdrawing its forces from Afghanistan. Were it not for President Zia, instead by now the Soviets would have dragged Afghanistan, bleeding, into the Soviet empire. And Southwest Asia would be seething with instability and Soviet influence.

When Soviet troops rolled into Afghanistan in December 1979, Pakistan faced serious danger. The United States had suspended all assistance to Pakistan at that time, and relations between Pakistan and India were hostile. And the Soviets—for the first time since the 1940's—demonstrated that they were willing to use raw military power to subjugate a neighboring nation.

But as the world community issued statements of condemnation, and the United States forbade athletes from participating in the Moscow Olympics of that year, President Zia—quietly but assuredly—lent his Nation's support to the emerging Afghan resistance.

Dr. Zbigniew Brzezinski, in a recent editorial, recalled his first meeting with President Zia following the Soviet invasion:

> It was clear from the very first conversation with him that Pakistan would not turn its back on the developing Afghan resistance, that it would reject Soviet blandishments and that it would not be intimidated by Soviet threats. I remember being deeply impressed by the man's quiet determination

> not to permit the Soviet Union to become the geopolitical master of Southwest Asia. It is easy to forget how paramount the Soviet Union looked at the time, how uncertain the constancy of the United States appeared, especially in light of the collapse of the pro-American regime in Iran. Yet Zia realized at once the stakes in the "great game" that was now unfolding as the result of the Soviet military plunge southward.

Mr. President, in the years following the Soviet invasion, when the Afghan issue was relegated to an annual vote of the United Nations General Assembly, President Zia sustained that "quiet determination." In the years when the Soviets were decimating a poorly armed and poorly trained resistance, Zia sustained his determination. In the years when Afghan jets were streaming over Pakistan's border and bombing Pakistanis and Afghan refugees alike, he sustained his determination. And in the weeks and months when Soviet-sponsored terrorism has claimed the lives of innocent Pakistanis on a daily basis, his commitment endured.

A lesser leader, faced with such overwhelming odds against success, would have taken the easy road. A lesser leader would have been intimidated by the brute force and viciousness of the Soviet attacks. A lesser leader clearly would have succumbed to the temptation to prematurely seek some flimsy international accord that would have permanently embedded a Soviet regime in Kabul. History has seen this tragic pattern time and again. Policies of weakness, vacillation, and intimidation have left enslaved peoples in their wake.

President Zia stood up to the intimidation. As millions of Afghan refugees streamed over the border into Pakistan, they were welcomed into refugee camps. In an era when desperate refugees are often forced back home or abandoned without aid, President Zia opened the borders between Pakistan and Afghanistan and welcomed all who could survive the harrowing journey into Pakistan. In an era when refugees so often have been detained in filthy camps behind barbed wire fences—away from international aid organizations—the Afghan refugees have been free to come and go as they wish, and even to work in the villages of Pakistan. At an enormous expense to the Government of Pakistan, the refugees have been housed, clothed, educated, fed, and in many cases rehabilitated.

For his principle and courage, President Zia faced great pressure. Pakistan has endured hundreds of direct air attacks, artillery attacks, and terrorist bombings, taking the lives of more than 1,000 innocent persons.

The recent State Department report on world terrorism clearly defines the threat President Zia and the people of Pakistan faced. The report indicates that in 1987 the level of international terrorism rose by more than 7 percent over 1986. According to the report.

> This increase resulted from a wave of high-casualty bombings in Pakistan carried out by agents of the Soviet-trained and organized Afghan Intelligence Service known as WAD. The campaign is designed to deter the Government of Pakistan from aiding the resistance fighters in Afghanistan. When the Pakistan numbers are subtracted, the number of incidents in the rest of the world declined by almost 10 percent from the 1986 statistics.

That trend has continued this year.

My last meeting with President Zia came at a time when it was clear that Pakistan and the United States were on the verge of signing the Geneva accords. At the time, I expressed to President Zia my deep concern that it would be extremely difficult for Pakistan to sustain her support for the Afghan resistance after signing the Geneva accords. President Zia expressed his determination that, despite any external threats, Pakistan would not be intimidated. In the weeks and months following that meeting, Pakistan and President Zia sustained mounting pressure from the Soviets. But Pakistan's commitment to the Afghan resistance continued to endure.

For that commitment, President Zia may have paid the ultimate price.

The world today is certainly a more uncertain place because of President Zia's death. Now, it is incumbent upon us to assure the new leadership of Pakistan that our commitment to Pakistan's security remains firm and that our commitment to the Afghan resistance remains firm. And, with respect to Afghanistan, we must ensure that the Soviets do not win through a campaign of intimidation and terrorism and attacks on Pakistan what they failed to win through outright military intervention in Afghanistan.

I commend the distiuished Senator from North Carolina, and the Senate leadership for supporting this important resolution. It is timely and appropriate for the Senate, in the first week after returning for recess, to take up, as a matter of the highest priority, this resolution to honor the contributions of President Zia, and to reaffirm our support for the security and independence of Pakistan.

At this most difficult time, it is the very least we can do.

Mr. EVANS. Mr. President, I rise to support this resolution. The tragic death of President Zia ul-Haq is a great loss to Pakistan. President Zia was a great statesman and ally of the United States. His death creates an uncertainty in South Asia that will not be easily settled.

I had the pleasure of meeting with President Zia during my trip to Pakistan in May of this year. My visit came on the eve of the initial Soviet troop withdrawals from Afghanistan, a time for rejoicing but also a time of uncertainty. During the last 8 years, our relationship with Pakistan had been viewed through the prism of the war in Afghanistan and it was time to begin to focus on our post-Afghanistan bilateral relationship. Our discussions covered the full gamut of issues and I was impressed by President Zia's strong commitment to the cause of freedom and his clear desire for peace.

President Zia played a remarkable role in the drive for freedom in Afghanistan. He responded to the Soviet occupation firmly and decisively. He welcomed more than 3 million Afghan refugees into Pakistan, extending his country's limited resources to ease their plight. He offered constant support to the Afghan Mujahidin, in spite of threats and cross border raids.

President Zia led Pakistan through many challenges with strength and sensitivity. Many challenges remain for the people of Pakistan and President Zia's counsel will be sorely missed. His legacy will be a free Afghanistan and a growing democracy in Pakistan.

PAKISTAN AFTER THE DEATH OF PRESIDENT ZIA

Mr. BYRD. Mr. President, this resolution addresses the tragedy of the untimely death of the President of Pakistan on August 17, 1988. On yesterday, the Senate agreed to a resolution addressing the deaths of two American officials, who perished with President Zia when his aircraft was destroyed, and expressing the condolences of the Senate to the families of those Americans who died. I was deeply saddened by the deaths of Ambassador Raphel and General Wassom. The loss of life in the line of duty is faced every day by American men and women in the foreign and military service. This tragic episode reminds us of the sacrifices these individuals and their families often must make. I extend my personal condolences to the families of these two brave and courageous men.

President Zia was a valuable friend of the United States. He persevered in a difficult and courageous course throughout the struggle to remove the Soviets from Afghanistan. He held firm during the final stages of the talks, when pressures from all sides were on him to make concessions to the Soviets and to their puppet regime in Afghanistan. His support for the resistance and his commitment to an independent Afghanistan paid off in the conclusion of the Geneva Accords mandating Soviet withdrawal.

Yesterday, however, there were news reports that the Pakistani Air Force has shot down an Afghan Mig-23 aircraft that was on a bombing raid over Pakistani territory. This is the third time in the past week that Soviet aircraft with Afghan markings have bombed Pakistan. Obviously, this is a Soviet-directed attempt to destabilize Pakistan when the political system has been shaken by the death of President Zia. It is highly improbable that the Afghan armed forces, which were created by and are controlled by Soviet authorities, would take such bold action unilaterally. It is, therefore, Soviet policy to destabilize Pakistan by violent means. This is a deplorable and dangerous policy. This also indicates that whatever glasnost means domestically, Soviet behavior on respecting the sovereign rights of other nations has not reached the age of pure enlightenment. This destabilization campaign ought to cease immediately.

More than ever, the United States stands behind its ally on the subcontinent. We continue to support the efforts to construct a democratic regime in Pakistan and to promote peace and stability in the region. We will be firm and united in our opposition to behavior which seeks to take advantage of a fragile political situation in the wake of the tragic death of Pakistan's President.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Louisiana [Mr. BREAUX], the Senator from Illinois [Mr. DIXON], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Nevada [Mr. HECHT], the Senator from Nebraska [Mr. KARNES], the Senator from Indiana [Mr. QUAYLE], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. WARNER], and the Senator from California [Mr. WILSON] are necessarily absent.

I also announce that the Senator from New Mexico [Mr. DOMENICI] is absent on official business.

I further announce that, if present and voting, the Senator from Nebraska [Mr. KARNES] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—85

Adams
Armstrong
Baucus
Biden
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Weicker
Wirth

NAYS—0

NOT VOTING—15

Bentsen
Bingaman
Breaux
Dixon
Domenici
Hatfield
Hecht
Karnes
Matsunaga
Metzenbaum
Quayle
Rudman
Stafford
Warner
Wilson

So the resolution (S. Res. 468) was agreed to.

The preamble was agreed to.

The resolution and its preamble are as follows:

S. RES. 468

Whereas, the Senate of the United States has learned with profound sorrow and deep regret of the tragic death of President Mohammad Zia ul-Haq of Pakistan; and

Whereas, President Zia has been a true friend of the United States and a stalwart defender of Pakistan's sovereignty and independence; and

Whereas, President Zia has earned the respect of the people of the United States for his historic leadership in the struggle of the Afghan people for freedom and for harboring more than four million Afghan refugees who fled the brutal Soviet occupation of Afghanistan; and

Whereas, President Zia's willingness to confront the Soviet Union helped make possible an historic Soviet commitment to withdraw all forces from Afghanistan; and

Whereas, President Zia has undertaken a leading role in promoting regional stability; and

Whereas, the untimely death of President Zia on August 17, 1988 is a great loss for the people of Pakistan and for the Afghan Resistance in their struggle for freedom:

Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deep sympathies to the family of President Zia and to the people of Pakistan for their tragic loss; and

(2) expresses its deep sense of sorrow for the loss of President Zia's leadership, courage, and commitment to the sovereignty and independence of Pakistan; and

(3) reaffirms its longstanding bipartisan commitment to the security and independence of Pakistan; and

(4) welcomes the commitment of the Government of Pakistan under the leadership of President Ghulam Ishaq Khan to follow the constitutional process, to proceed with free and fair parliamentary elections scheduled for November 16, and to continue Pakistan's support for the Afghan refugees and the Resistance in their struggle for freedom in Afghanistan.".

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The Senate continued with the consideration of H.R. 1154.

Mr. HOLLINGS. Mr. President, I have delayed so that we could get our colleagues moving.

The first item is to thank the distinguished majority leader for getting us to this particular point. I told him informally a moment ago, and I say it for the record, that I thought I knew something about presiding. I presided for 4 years in the State house of representatives under the Hymes rules of precedents. I presided as Lieutenant Governor and president of the State senate under the Jefferson manual.

I was totally discombobulated when I got here, and still am, except for ROBERT BYRD of West Virginia.

So I put my mind in neutral and do not worry about it and just let his good counsel guide us along. It has been under that counsel that we have reached this point, because otherwise we never would have gotten the bill up and the cloture motion and all these things.

I also thank Senator THURMOND and our other colleagues who worked on the coalition.

We should absolutely express our gratitude for every facet of apparel—manmade woolens, textiles, fabrics, the cotton growers; particularly the farmers, under TOM DASCHLE and his innovative approach that has allowed us to bring up the strong support of that group.

I thank Senator PACKWOOD, who has been most courteous and helpful, as well as Senator EVANS and Senator GRAMM for their very stimulating arguments and presentations.

I think we have had a good debate.

Talking about the veto—and I am laying it publicly on the record—veto or not, we will be back next year. I have been doing this for 25 years, and each year we pick up more and more strong support, because more and more we pick up understanding as to the exact dilemma that the United States finds itself in with respect to industrial competition.

Let me finally thank President Ronald Reagan. I have here a letter dated January 18, 1980, with the "Reagan For President" letterhead. I ask unanimous consent that this letter and two other letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

REAGAN FOR PRESIDENT,
Washington, DC, January 18, 1980.
Congressman CARROLL A. CAMPBELL,TJr.,
Longworth House Office Building,
Washington, DC.

DEAR CARROLL: I share your concern for the well-being and continued viability of the American textile-apparel-fiber industry, and its more than two million workers. I want to pledge my strong support for renewal of the Multifiber Arrangement, and for such other actions which will enhance the international competitive position of the industry.

The MFA has brought a vital measure of order to textile trade by setting a framework for bilateral agreements establishing quotas for imports from developing, low-wage nations. The instrument is not perfect, but its renewal is imperative. My administration would seek MPA renewal, hopefully in a strengthened form. We would consider, for instance, keying import growth to the growth of the American market. We should explore the possibility of setting global quotas or guidelines. We would bargain for the tightest possible bilateral agreements, particularly with the Peoples Republic of China. With developing countries relying on textile exports to help them cover rising oil costs, this MFA renegotiation will be even more difficult than it was in 1977. We need a strong President, who looks to the needs of this country, to handle negotiations.

The textile industry, of course, would also benefit from incentive-oriented business initiatives which I support, such as accelerated depreciation and new tax deductions designed to encourage job-creating capital formation. Business productivity and modernization must be stimulated, and we should look to our tax laws to provide incentives for growth.

The textile industry is an integral part of South Carolina's and the nation's economy. I look forward to working with you to keep the industry sound.

Sincerely,

RONALD REAGAN.

RONALD REAGAN,
September 3, 1980.
Hon. STROM THURMOND,
Russell Senate Office Building, Washington, DC.

DEAR STROM: The fiber/textile/apparel manufacturing complex provides 2.3 million vitally needed American jobs, including a high percentage of female and minority employees. As President, I shall make sure that these jobs remain in this country.

The Multifiber Arrangement (MFA), which is supposed to provide orderly international trade in fibers, textiles, and apparels, was first negotiated under a Republican Administration. The MFA expired at the end of 1981 and needs to be strengthened by relating import growth from all sources to domestic market growth. I shall work to achieve that goal.

Sincerely,

RONALD REAGAN.

THE WHITE HOUSE,
Washington, October 4, 1982.
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR STROM: You know that I share your concern about the unemployment and the decrease in production in the textile/apparel industry caused by imports and further exacerbated by the recession. As I mentioned during our recent discussion concerning textile industry problems, I have made a commitment that was reaffirmed last December by Jim Baker, to seek to relate total import growth to the rate of growth in the domestic market.

This year this Administration has concluded negotiations with our three largest suppliers that limit the growth in quota levels to well below the rate of growth in the domestic market for six years. These agreements compare favorably with any previously negotiated agreements.

Although significant progress has been made this year, I have instructed all agencies and departments which have responsibilities related to the textile program to continue their efforts to work vigorously towards that goal. This applies not only for the important ongoing negotiations with the Peoples Republic of China, but also in future negotiations and implementation decisions as well.

To that end I want to assure you that the United States will continue efforts to negotiate a new bilateral agreement with the Peoples Republic of China independent from other considerations.

Sincerely,

RONALD REAGAN.

Mr. HOLLINGS. Mr. President, referring specifically to the first letter, addressed to Congressman Carroll A. Campbell, Jr., who is now Governor Campbell in my State, President Reagan said he was for "keying import growth to the growth of the American market." He said, "We should explore the possibility of setting global quotas or guidelines."

The bill he vetoed did not do that. We have done that in accordance with his particular wish, as expressed then, as a candidate.

Then, on September 3, 1980, he addressed a letter to my distinguished senior colleague, Senator THURMOND, referring to "relating import growth from all sources domestic market growth."

Finally, on October 4, 1982, on the letterhead of the White House, President Ronald Reagan said: "I have made a commitment that was reaffirmed last December by Jim Baker, to seek to relate total import growth to the rate of growth in the domestic market."

That is what this bill does, Mr. President, I want to thank him for his support.

I heard a little comment a little while ago, something about a veto and an override.

I just want to make the colleagues aware of this commitment.

The big discussion now is whether these candidates for the Presidency are making these commitments and running on these platforms like railroad platforms where they use them to enter the train and then once on board they pull away from that platform and forget about them entirely.

I am confident President Reagan is not such a fellow. He is a great distinguished President, and I am confident he is not going to do that.

So I hope we can get this bill over to the House and have him approve it in accordance with his instructions.

I thank particularly our Presiding Officer, the Senator from Alabama, who has led the way also with many other colleagues on this side of the aisle.

I yield the floor.

Mr. BYRD. Mr. President, I see the distinguished Senator from Missouri awaiting recognition. I will not detain him.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business during which Senators may speak and that that period not extend beyond the hour of 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

MANDATORY TESTING

Mr. DANFORTH. Mr. President, there are only a few short weeks until the 100th Congress adjourns. It is time to get back to work on an issue of critical importance to public safety—mandatory random drug and alcohol testing for safety critical transportation workers.

Last October, the Senate approved a random testing provision as an amendment to an airline consumer bill by a vote of 83 to 7. That bill is in conference, but the House conference have refused to act on it.

Apparently, the conferees do not speak for their fellow House Members. In June, the House passed, 377 to 27, a nonbinding resolution directing conferees to concur with the Hollings-Danforth random testing provision. House conferees still will not meet with us.

Moreover, some of those same conferees have seen to it that the omnibus drug bill being considered by the House does not—and will not—contain the provision that 377 House Members sought for random testing of transportation workers.

Earlier this summer, the Washington Post reported on a recent study conducted by the Maryland Institute for Emergency Medical Services. According to the institute, over one-third of the trauma patients treated at the Maryland Shock Trauma Center between July 1985 and May 1986 had used marijuana within 4 hours of their admission to the center. Over one-third of the patients had consumed alcohol just prior to their admission. Sixteen and one-half percent had used both marijuana and alcohol. Two-thirds of the trauma patients found to have been using drugs or alcohol had been involved in vehicular crashes.

The study did not report what type of vehicles were driven so we do not know if any of these patients were operating the trains, buses, airplanes, and trucks which transport our families and the necessities of life. We do know that employees who use drugs are three to four times more likely to be injured in on-the-job accidents. If that work involves public transportation, we flirt with disaster by not taking measures to prevent drug use.

In 1985, the National Institute on Drug Abuse used flight simulators to study the effects of marijuana use by airplane pilots. Significant impairment of flying skills remained even 24 hours after smoking a single marijuana cigarette. This was true even when the test pilots reported feeling no drug effects and were unaware that they suffered from a marijuana hangover.

One pilot who had smoked a single marijuana cigarette completely missed the flight-simulated runway. Imagine the disastrous consequences if this pilot had been flying an actual airplane.

Sometimes the worst we can imagine actually happens. On January 19, 1988, a Trans-Colorado airplane crashed at Durango, CO. The pilot and eight others were killed. Although NTSB has not yet issued its findings, there is evidence that the pilot was using cocaine. If mandatory random testing had been in place, these deaths might not have occurred.

Alcohol abuse is another serious threat to aviation safety. In early 1987, the inspector general of the Department of Transportation reported that 10,300 pilots had their drivers' licenses suspended or revoked for driving while intoxicated during the previous 7 years. The Federal Aviation Administration requires that this information be reported. Almost 8,000 pilots did not report. Instead, they continued to fly.

Some of the offenders were commercial pilots, responsible for the lives of hundreds of passengers every day. They were considered unfit to drive private automobiles on our highways, yet they continued to pilot planes carrying innocent citizens. Mandatory random testing would help us keep pilots with alcohol problems out of the cockpit.

Mr. President, how many more tragic incidents must we witness? How many more injuries must be suffered? How many more lives must be lost? The effects of drugs and alochol have been clearly documented. Lost judgment, perception, and coordination cannot be tolerated in those responsible for so many lives.

Mandatory random drug and alcohol testing of safety sensitive transportation workers is an appropriate solution to this urgent problem. The random testing provisions that will be included in the Senate's omnibus drug abuse prevention initiative for 1988 can save lives.

The time to act is now.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSION OF THANKS TO THE STAFF

Mr. HOLLINGS. Mr. President, I take this opportunity to state my gratitude and appreciation to the policy committee staff on both sides who have been very, very helpful and attentive, and particularly to my own staff who have been working around the clock.

You must understand when you get a Daschle amendment on agriculture, when you get a quota auction amendment, it affects the entire spectrum of interests.

When they talked about the 1,500, we did not make 1,500 interviews and checks, but we made some 30 or 40; we had to reconcile matters with industry and then with a lot of our House colleagues. We tried to stay in lockstep with our House leadership over there and Congressman Derrick on the House side.

But I particularly want to thank Ashley Thrift of my staff, Loretta Dunn, Sally Susman, Jim Whitmire, all members of my staff both here and there, that have been on the floor because they worked around the clock, as you can see, to be able to handle the various amendments. Not a single amendment was adopted. That shows good staff work, really, and a good dedication on behalf of the coalition.

So I want to express to them my heartfelt thanks and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREVENTION OF GENOCIDE ACT OF 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2763, this having been cleared by the distinguished Republican leader.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2763) entitled "The Prevention of Genocide Act of 1988."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2946

Mr. PELL. I send to the desk an amendment on behalf of Senators Ford and Bradley and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island, Mr. Pell, for himself, Mr. Ford, Mr. Bradley, Mr. Proxmire and Mr. Helms, proposes an amendment numbered 2946.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After sec. 6 insert the following:

Sec. —. United Nations.—The Secretary of State is requested to immediately bring before the Security Council of the United Nations the matter of Iraq's use of poison gas against its own nationals, most of whom are defenseless civilians, and demand that, in accordance with U.N. Security Council Resolution 620, appropriate and effective measures be taken against Iraq for its repeated use of chemical weapons.

Mr. PELL. I ask unanimous consent that Senator Proxmire be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, the Record should show the principal cosponsors of the resolution are Senator Helms and myself.

Mr. FORD. Mr. President, the amendment Senator Proxmire and I propose this afternoon needs little elaboration. It directs Secretary of State Shultz to immediately bring the matter of Iraq's repeated use of poison gas against defenseless civilians before the Security Council of the United Nations.

Last month that body passed a resolution sponsored by four Western countries—Britain, West Germany, Italy, and Japan—which not only condemned, once again, the use of chemical weapons in the Iraq-Iran war, but also stated for the first time that "appropriate and effective measures will be taken" if such weapons are used again by anyone anywhere in the future. The time to take these measures, Mr. President, is now.

The bill before us imposes sanctions on Iraq that will remain in force as long as that country uses poisonous gas in violation of the 1925 Geneva protocols and as long as it continues to commit genocide against the Kurdish people. It is an excellent measure—I commend its author, Senator Pell, and it is the least we, the leader of the free world, a country founded upon the principle of the protection of individual rights, should do.

But expressing our deep outrage at the horrible crime that is being committed against the Kurdish people is not enough. This is a crime against the international community and that community must sit in judgment on it. The matter must be taken up by the Security Council so that the strongest international sanctions may be imposed upon Iraq. The United States and the world must not fail to speak out and act against the use of chemical weapons and the crime of genocide.

I ask unanimous consent that an article from yesterday's Washington Post by Jim Hoagland, entitled "Make No Mistake—This Is Genocide" be printed in the RECORD. I also ask unanimous consent that two appeals to the Security Council from Massoud Barzani, leader of the Kurdistan Democratic Party in Iraq, also be printed.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 8, 1988]

MAKE NO MISTAKE—THIS IS GENOCIDE—IRAQ'S FINAL SOLUTION FOR ITS KURDS

(By Jim Hoagland)

PARIS.—Iraq is committing step-by-step genocide against the Kurdish people in the remote Zagros Mountains. The evidence is now so clear that the world cannot shrink from branding Iraq's actions with that horrible word and demanding an end to this calculated massacre.

The Iraqi version of genocide is being conducted in military operation stretched out over years and launched against the Kurds as opportunities permit. It does not have the maniacal pace or organization of Hitler's Germany or Pol Pot's Cambodia. But this must not lessen the horror, condemnation and forceful opposition the world community and especially the Reagan administration must demonstrate if a similar tragedy is to be avoided.

Washington and the United Nations have responded with surprisingly mild rebukes as Iraq has taken advantage of the U.N.-sponsored cease-fire with Iran to intensify poison-gas attacks against Kurdish civilians, on a scale not known since World War I. More distressingly, the United States and other nations have taken no effective action to stop the slaughter of Kurdish civilians and the mass eviction of these Aryan tribal people from their mountain homes.

Such inactivity from an administration that has supposedly been building up American influence and leverage in the Persian Gulf is inexcusable. The United States spent $200 million to place a naval shield for the past year around the shipping of Iraq's Arab allies in the war against Iran. The White House also accepted with indecent haste an Iraqi apology for the attack on the USS Stark, which killed 37 American servicemen. In its grudge match with Iran the Reagan administration visibly tilted to Iraq's side—and at a high price.

But now Washington appears either unable or unwilling to use the leverage it said it was obtaining to help the Kurds or push the Iraqis to drop the hard-line positions that have driven the negotiations on ending the Iran-Iraq war into deadlock.

Secretary of State George Shultz has given several recent speeches mixing eloquence with hand-wringing about the horrors of chemical weapons. When confronted with their open use by the brutal Iraqi regime that he has chosen to cultivate rather than confront, Shultz folds his cards. As it stands now, other countries that would be tempted to use the "poor man's atomic bomb" against their enemies can conclude from the Iraqi example that they will have to pay no price internationally for doing so.

An estimated 120,000 Kurds have fled into neighboring Turkey in the past week. One measure of the atrocities being committed against the Kurds is the public outrage voiced by the leaders of Turkey, a Moslem country that places high value on its relations with Iraq and has a reputation for suppressing its own Kurds. Nonetheless, Prime Minister Turgut Ozal was quoted by the BBC as saying that "a massacre of innocent people" is occurring in Iraq.

Where are equivalent U.S. statements that might signal a serious international action to halt the Iraqis? In the midst of the election campaign, the Reagan White House and the State Department appear to have other things on their agendas. State Department officials speak instead of making "an expression of concern" to the Baghdad government.

History shows that such meekness will provide no comfort or protection for the Kurds—Moslems who are racially distinct from the Arab majority of Iraq. While their periodic rebellions against Baghdad in this century have been suppressed with brutality, it was only 13 years ago that "a final solution" seems to have been adopted as the option of choice for the troublesome Kurds.

In 1975, it was the shah of Iran who signed a border agreement with Iraq and give Iraqi ruler Saddam Hussein a free hand in Kurdistan rather than continue a costly frontier war. The United States went along with the decision of the shah, who had been funneling American-supplied weapons to the rebel Kurdish army led by the legendary warrior Mullah Mustafa Barzani.

I was with Barzani in the Zagros when the end came that March. Anger and sorrow consumed him as he told me that he had risked everything because he had trusted the United States. He had expected betrayal by the shah; that was why he had insisted that the United States be deeply involved in supporting the rebellion from the beginning. In defeat, he asked for American humanitarian help to prevent the destruction of his people.

But over the next year, the Iraqis faced no international opposition as they destroyed thousands of Kurdish villages and resettled as many of the Kurds in Arab-dominated regions as they could. After the Iran-Iraq war erupted in 1980, the surviving Kurdish fighters threw in their lot with Tehran.

This time it is a truce with the ayatollahs that has enabled Iraq to have another go at removing the Kurds from their homeland, with the new wrinkle of poison gas thrown in. This time Hussein's intention of depopulating Kurdistan may be within his grasp.

It is unthinkable that he will benefit once again from official American indifference and/or impotence that will be justified in the name of maintaining influence in the Arab world.

MASSOUD BARZANI APPEALS TO THE NATIONS OF THE SECURITY COUNCIL

Following the recent events in Northern Iraq, during which chemical weapons were used by the Iraqi military against the civilian Kurdish population, Mr. Massoud Barzani, leader of the Kurdistan Democratic party, wishes to lodge an appeal to the nations of the Security Council on behalf of the Kurdish people.

We request the Security Council to fulfill its recent resolution to take immediate action against any nation using chemical warfare. We feel it is imperative that the civilized world intervene in this issue which involves a violation of human rights amounting to genocide.

We are decimated in an atrocity such as has rarely been seen in modern times. We realize that the Security Council does not intervene in a country's internal affairs, and our request is in no way politically motivated, but it is a desperate appeal on behalf of the unarmed citizens who will die if the Iraqi government is allowed to continue its current onslaught.

This issue, we feel, has wider implications than those just affecting our beleaguered people. If Iraq is allowed to continue unchallenged, this may well act as a sanction for other nations who cannot resolve their conflicts by civilized means.

In the volatile atmosphere of the Middle East and other areas of the world, nations may take silence by the international community on this matter as permission to do likewise.

We trust, for the sake of our people and in the interest of world peace, our plea does not go unanswered, and we have every confidence that the Security Council will live up to its mandate in this matter.

MASSOUD BARZANI,
Leader of the Kurdistan Democratic Party,
Iraq, 1st September, 1988.

IRAQI KURDISTAN FRONT
POLITICAL LEADERSHIP,
Kurdistan, Iraq, August 15, 1988.

Memorandum to:
His Excellency, Mr. Javier Perez de Cuellar, Secretary General of the United Nations,
His Excellency, Representative of the U.S.S.R. at the Security Council,
His Excellency, Representative of the U.S.A. at the Security Council,
His Excellency, Representative of the United Kingdom at the Security Council,
His Excellency, Representative of the People's Republic of China at the Security Council,
His Excellency, Representative of France at the Security Council.
Subject: Escalation of the Racial War of Genocide against the Kurdish People of Iraq.

DEAR SIRS: We send you our greetings and would like to express our appreciation of your good efforts towards ending the Iraq-Iran war, and rescuing the peoples of these two countries from human and material catastrophies which have lasted almost eight years. We hope that a just and lasting peace will be accomplished between Iraq and Iran, and that the desire of the Iraqi people for liberty, democratic and human rights will be respected.

Allow us to remind you, as we have done in the past, of the fact that there is another war going on, which successive Iraqi governments have pursued since 1981, against the Kurdish people in Iraq. In this chauvinistic war which has taken the form of a total war of genocide since April, 1987, the Iraqi government uses different means of destruction, especially Chemical weapons, as the world witnessed in the Kurdish town of Halabja in the middle of last March. We would like to add that while this war goes on, the Iraqi authorities follow a policy of repression and terror against the people of Iraq, whether they are Arabs, Kurds, or from other ethnic minorities. The Iraqi government carries on this unnecessary bloody violence against a people deprived of its basic rights, and demands simple national rights which are legitimate according to many international and human rights conventions. It is noteworthy that while the international media were carrying information from United Nations experts reporting about the use of Chemical weapons by the Iraqi forces in the Gulf War, as well as against civilians in Halabja and other Iraqi Kurdish towns and villages, at the same time, the Iraqi government was using Chemical weapons against civilians in other Kurdish villages; e.g. on 30th and 31st of last July, Iraqi forces bombed the villages of the valley of Balisan, Heeron and Simaqooli, north east of Arbil, by Chemical weapons. It did the same thing on the 2nd of August in the villages of Arai, Sero and Zarwa near the Turkish border. Indeed, the use of Chemical weapons against our people by the Iraqi regime was going on until the time this memorandum was written. It seems that nothing will deter the Iraqi government from using Chemical weapons against the Kurdish people, at present and in the future, unless the world community, especially the Security Council, takes some serious measures in this respect.

We believe that the Iraqi government has committed grave crimes against the people of Kurdistan which can be considered crimes against humanity. They together make a war of genocide carried out by several different means, among them the following:

(A) Use of Chemical weapons extensively since 14 April, 1987 when they were used for the first time in the villages of Sheikhwassan and more than a dozen other villages.

(B) Declaration of the major part of the Kurdish villages and countryside as a "forbidden" area where the armed forces have been given instructions to kill any human being or even any animal on sight.

(C) Destruction of more than three thousand villages, towns and townships, and the deportation of their population by force. A group of these displaced people have been transferred to the deserts in the south and southwest parts of Iraq, where they have been detained in collective camps in very unsanitary and harsh social conditions.

(D) Burning of farms, orchards and forests in these areas.

(E) Tightening of the economic blockade around the "forbidden" areas with the purpose of destroying the people living there.

(F) Continuation of the policy of torture and mass executions where tens, indeed sometimes hundreds of people are killed, including children, for the simplest of reasons, such as political, religious or national affiliation.

During the military campaign on the Kurdish villages in the provinces of Kirkouk, Sulaimania and Arbil last spring, the authorities detained tens of thousands of families. Then they put old people and children in separate camps, while men were taken to an unknown destination. There is grave concern about their fate. Meanwhile, young women were transferred to other places, and we have received unmentionable news about their situation.

Mr. Secretary General,

Messr. Representatives of the permanent members of the Security Council,

Iraqi Kurdistan Front, which includes six parties, appeals to your Excellencies:

(1) To intervene with the Iraqi government to put an immediate end to the use of chemical weapons against the people of Kurdistan.

(2) To take measures to stop this racial war of genocide against our people, and to nullify all acts of deportation, Arabisation, and other forms of changing the national character of Kurdistan. The indigenous people of Kurdistan should be allowed to return to their villages. A democratic, just and peaceful solution should be found for the Kurdish problem.

Allow us to refer to the promise which the League of Nations gave to the Kurdish people to safeguard their national rights when southern Kurdistan was annexed to Iraq.

(3) To intervene with the Iraqi government to respect human rights, personal and civil liberties of Iraqi citizens, irrespective of their nationalities. All political detainees and prisoners should be released.

Please accept our deepest respect and appreciation.

Yours sincerely,

MASOUD BARZANI,

On behalf of the Political Leadership of the Iraqi Kurdistan Front.

Enclosed:

1. A list of the military operations carried out by the Iraqi forces in which they used chemical weapons between 15/4/87 and the beginning of August 1988.

2. An Iraqi government directive ordering its forces to kill any human being or animal on sight in the "forbidden" area of Kurdistan.

A LIST OF MILITARY OPERATIONS CARRIED BY THE IRAQI FORCES IN WHICH THEY USED CHEMICAL WEAPONS, BETWEEN 15/4/1987 AND THE BEGINNING OF AUGUST, 1988

Date of bombardment	Name of the area or village	Number of victims
15/4/1987	Sulaimania/Haladen, Kanitoo, Bargaloo, Awajia, Sairwan, Noolchka, Chemrarna, Yakhsamar, Chalawa, Sergaloo.	Tens of casualties.
16/4/1987	Arbil/Balisan, Kanibard, Zeenai, Balalookawa, Shaikhwassan, the mountains of Derasheer, area of Sawseewaken.	12 killed, 281 injured.
17/4/1987	Sulaimania/Qizler, Safger, Sewlaka	Tens of casualties.
10/4/1987	Sulaimania/Qaiwan, Gorenga	50 killed or injured.
19/4/1987	Peramagroon'/, Qaiwan, Mawat, Balisan valley.	Tens.
20/4/1987	Same places	Many.
21/4/1987	Sulaimania/Qaradagh, and the area around it.	Many.
25/5/1987	Arbil/Malakan, Korsheer, Kandoul, belai, Berdoon.	Many.
27/5/1987	Arbil/Malakan, Belai, Khwaroo, Belai seroo, Tarina, Kandouk, Gorashair, Nasaneen, Semaqooli valley.	8 killed, 23 injured.
5/6/1987	Dahok/Amadia area	One killed, 100 injured.
27/6/1987	Sulaimania/Zaiwa, Peramagroon	35 injured.
3/9/1987	Sulaimania/Bergaloo, Yakhsamar	4 killed, many injured.
14/9/1987	Sulaimania/Mergapan	Many injured.
25/2/1987	Sulaimania/Sergaloo, Yakhsamar, Haladen, Gweezeela.	Many injured.
26/2/1988	Same places	8 killed, 201 injured.
27/2/1988	Sulaimania/Halabja and the surrounding villages.	Over 5,000 killed, 1,000 injured, 5,000 displaced.
22/3/1988	Sulaimania/Shanakhsai, Swesinian, Dokan, Balakjar, Jafaran, Wilian.	75 killed.
23/3/1988	Same places	Many casualties.
24/3/1988	Sulaimania/Diwana, Qaradagh	Many casualties.
3/5/1988	Sulaimania/Goaptapa, Askar, Chamirezan, Shonkamahila, Sarchinar, Haji zhera Bara, Goaj Blakh, Zarzi.	120 killed.
15/5/1988	Arbil/Kamoosak, Spindara, Aliawa, Wartai, Berta, Kawakian, Hareer, Samaqooli, Mmaloak.	Many killed or injured.
20/7/1988	Arbil/Sarochaw, Semaqooli, Ganaw, Sharsaina, Khatai, Darash, Balisan, Garawan, Nazanlen.	Many killed or injured.
31/7/1988	Arbil/Semaqooli, Balisan, Heeran	5 killed, tens injured.
2/8/1988	Arbil/Arai, sairo, Zarwa	63 injured.

ARAB BAA'TH SOCIALIST PARTY LEADERSHIP OF ZAKHO SECTION COMMITTEE OF ORGANIZING, NATIONAL DEFENSE BATTALIONS,

Date 14/6/1987.

TOP SECRET AND PERSONAL

To all the Party Organizations.

Subject: A Decision.

Comradely greetings, With reference to the letter of Committee of Organization National Defense Battalions S/Sh/1175 dated 9/6/1987 which refers to the letters of the Bureau of the Organization of the North (top secret and personal) 28/2650 dated 3/6/1987 which include the following:

1. It is totally forbidden to let any foodstuff or person and/or machine to reach the forbidden villages which are included in the second stage of the collecting villages. Villagers are allowed to come to the national fold if they wish, but their relatives are not allowed to contact them without prior information of the Security Apparatus.

2. Existence is totally taboo in the forbidden villages of the first stage. It starts on 21/6/1987 for the second stage of collecting villages.

3. After harvesting the winter crops which ends before the 15th of July, cultivation is forbidden for the following summer and winter seasons.

4. Animal grazing is also forbidden in these areas.

5. It is the duty of military forces, everyone according to his section, to kill any human being or animal that exists in these areas which are considered totally forbidden.

6. Those who are included in the deportation orders should be informed and they will be responsible for any misbehavior towards fulfilling these orders.

For your information and to do accordingly every one according to his specialty.

With respect,

COMRADE, ALI MOASHNA KAZIM,

Secretary of the committee.

Mr. PELL. Mr. President, today the Senate will take up "The Prevention of Genocide Act of 1988" which I introduced yesterday and which has as its principal cosponsor the distinguished ranking minority member of the Foreign Relations Committee, Senator HELMS.

It is almost unprecedented for the Senate to take up a bill of this magnitude so swiftly. The situation in Iraqi Kurdistan, however, demands immediate action. As we speak, the Iraqi army is waging a campaign that can only be described as genocide against its Kurdish population. Kurdish villages in northeast Iraq are being dynamited, often with the people still there. Even more unspeakable, the Iraqi army has been using lethal gas in massive and effective attacks on defenseless Kurdish civilians.

Iraq's conduct is a crime against humanity. It must be met with the toughest possible response. The sanctions imposed on Iraq in this bill are tough. The United States will vote against loans to Iraq in international financial institutions. For a country that is some $60 billion in debt and which seeks international financing to help recover from a costly war, this can be a tough sanction.

The bill cuts off all credit and all credit guarantees from the United States to Iraq. These amount to some $800 million a year. The bill would prohibit the export of any item to Iraq, the export of which is controlled by any agency of the United States Government. Potentially this could deny Iraq equipment it needs to run its oil industry and to start up infrastructure that has been idled by the war. The bill also prohibits the importation of Iraqi oil.

Some American businesses will pay a price as a result of the enactment of this bill. However, this is a matter of life and death for hundreds of thousands, this is a moral issue of the greatest magnitude. To do the right thing the American people have in the past been willing to pay the price.

After the holocaust that consumed Europe's Jewish population, the world said "never again." Sadly, it is happening again in Iraqi Kurdistan. We must do whatever we can to let the Iraqi dictatorship know that the United States will not stand idly by while they massacre the Kurds. This bill sends that message.

Mr. PROXMIRE. Mr. President, I strongly applaud the Senator from Rhode Island [Mr. PELL] for the initiative he has taken with regard to the plight of the Kurdish people. His leadership and foresight on this issue have been remarkable.

The Kurds have often been the forgotten people—caught within national boundaries of hostile regimes, used by the superpowers for their own ends, with little or no constituency in the West. That is why it took the State Department so long to respond to the tragic events in northern Iraq—that and a fear that to speak out strongly would somehow undermine the peace effort.

That is just the latest in a long line of excuses and justifications for ignoring an entire culture, for looking the other way at repression, for failure to take action.

In the mid-1970's it was the policy of the United States to support the Kurdish resistance movement by supplying military equipment and other supplies to the Barzani front through Iran. Then Henry Kissinger reached an agreement with the shah of Iran that closed that border, forced a capitulation of the rebellion and crushed the very people we had supported.

Not a very pretty picture for a superpower but just another example of what has happened to the Kurds over the decades. The Russians, by the way, have treated the Kurds no better and in some ways worse.

Now the Iraqi Government is using chemical weapons against the Kurdish people—not only military forces but civilian groups, villages, refugees. This comes on top of massive relocation efforts plus attempts to stamp out the Kurdish culture and even systematic killings of Barzani family members.

Mr. President, this is genocide. This is the intent to destroy in whole or part a national, ethnic population. And it is occurring with the most ruthless of weaponry. With gasses and chemicals that sear the body, disfigure the young and old, and cause lingering, painful death; or if the victim is mercifully fortunate, a quick death by nerve agents.

We are witnessing the beginning of what I fear will become a weapon of choice in developing countries—chemical agents. Within the technological grasp of any nation producing pesticides or fertilizers, chemical agents have been proven to be tactical and strategic assets. They not only turned the tide in the Iran-Iraqi war and set the stage for the current truce but they have been found to be effective against national resistance populations.

How long will it be before that lesson is learned in Ethiopia or Libya or within the PLO or in Zaire, Burundi, Sri Lanka, Peru, or any other country with hostile domestic opposition groups?

Mr. President, if Nicaragua were using chemical agents against its own population or a neighboring state, the outcry by the public, politicians, and our own Government would drown out all other news. The President would be speaking out about such a barbarity as would the Secretary of State and certainly the Defense Department would not remain silent. We would be pounding the doors of the United Nations and the world community.

We should expect no less when genocide is being conducted against a people far away, of faint familiarity, who do not touch our daily lives, but who are no less victim to the inhumanity of chemical warfare.

I urge the passage of this bill and pray that in some small measure it will alleviate the suffering of the Kurdish people.

Mr. HELMS. Mr. President, during the past week, millions of Americans have become aware of the horrible efforts of the Iraqi Government in systematically eliminating its own citizens of Kurdish descent. This is a crime against humanity, and the United States must not sit by and idly watch it proceed.

It is appalling to contemplate how cruel and vicious radical regimes—such as the Saddam Hussein regime in Iraq—can be. Often utilizing chemical weapons, the Iraqi Government has killed literally thousands of Kurds, and has forced tens of thousands more to flee to neighboring countries.

This is by no means the first time the Iraqi regime—which, by the way, gets most of its arms from the Kremlin—has employed chemical weapons against its own civilians. In March of this year, Iraq dropped chemical weapons on a Kurdish city. According to U.S. News and World Report, this attack took the lives of 5,000 innocent civilians. News reports suggest that this attack was meant to punish Kurdish Iraqi citizens.

In the last month, however, the Iraqi regime's attack against its own Kurdish citizens intensified. According to the New York Times, the regime took advantage of its August 20 ceasefire with Iran to launch a military offensive against the Kurds.

Mr. President, the United States should not sit idly by and watch the Iraqi regime undertake an offensive against their 3 to 4 million Kurdish citizens. The American people do not want us to sit idly by. In fact, I am proud to say that the church Dot and I attend here in Virginia, the First Baptist Church in Alexandria, is currently giving shelter to three Kurds who are on a hunger strike to protest the actions of the Iraqi regime.

This legislation, of which I am proud to cosponsor with the distinguished chairman of the Foreign Relations Committee, will help demonstrate to the Iraqi regime just how serious our country views its campaign against the Kurds. In addition, it will help assure that United States tax dollars do not subsidize the Iraqi regime.

Specifically, the legislation would require that the United States representative to all international financial institutions—such as the World Bank—be instructed to vote against all loans to Iraq. In addition, all United States assistance, sales of military equipment, credits and credit guarantees to Iraq would be banned, and imports of oil from Iraq—which account for 1.3 percent of our oil imports would be prohibited.

These sanctions would continue until such time as the President certifies that Iraq has ceased its campaign of genocide against the Kurds and has stopped using chemical weapons.

Mr. President, I ask unanimous consent that an article from the Washington Post of September 7, reporting on the provision of sanctuary to three Kurds by the First Baptist Church in Alexandria be printed in the RECORD, in addition to a most insightful piece by William Safire which ran in the New York Times on September 9, 1988.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 7, 1988]

VIRGINIA CHURCH SHELTERS 3 KURDS PROTESTING CHEMICAL WEAPONS

(By Caryle Murphy)

The First Baptist Church in Alexandria, in what its pastor described as a humanitarian gesture, has given shelter to three Kurds who are on a hunger strike to protest the Iraqi Army's alleged use of chemical weapons against fellow Kurds in Iraq.

"From a Christian perspective," said the Rev. Jay Wolf, "we have offered some sort of sanctuary for these men, and want to stand with them against this crime against humanity. These are sincere and very good people."

Muhyeddin Adullah, 39, Dasko Shirwani, 31, and Yassim Barwari, 31, are living temporarily in a basement room of the church during their protest, which they said is aimed at focusing international attention on the Iraqi's treatment of Kurds in its territory.

"The Kurds are peace-loving people," said Adullah, explaining why he is on a hunger strike. "We don't want to hijack an airplane [to achieve] our goal. We don't want to hurt innocent people."

Adullah said that 500 Kurds have been killed by Iraqi chemical weapons since Aug. 25. The Iraqi government denies it is using poisonous gas in its latest offensive against the Kurds. The three hunger strikers said they have relatives in the area of the fighting.

Adullah, who is the local representative of the Kurdistan Democratic Party, said he began his hunger strike Aug. 25, taking only water and tea since then, He was joined Aug. 30 by Shirwani and Barwari, they said.

The pastor said the Kurds' plight came to his attention through the church's resident custodian, Mikhail Dosky, a Kurd whose in-laws are living in the affected Iraqi area. Wolf said his church is showing its solidarity with the Kurds and "is not trying to make a political statement."

[From the New York Times, Sept. 9, 1988]

STOP THE IRAQI MURDER OF THE KURDS

(By William Safire)

On the day the cease-fire began in the Iran-Iraq war, Saddam Hussein, dictator of Iraq, launched a new military offensive. This was for vengeance—to punish the Kurdish people living in northern Iraq who had dared to pursue their long struggle for autonomy during the dictator's war against Iran.

With his forces freed by the cease-fire, Saddam Hussein smashed the Kurds—possibly with mustard gas, which he has reintroduced in modern warefare. Ninety thousand Kurdish refugees are now huddled in tent cities along the Turkish border, with another 40,000 cut off from escape.

This is a campaign of extermination aimed against an ancient ethnic group that wants only to keep its own language and customs in sarbasti—freedom. A classic example of genocide is under way, and the world does not give a damn.

Three men are alive today who can boast of having made a major contribution to world depopulation: Idi Amin of Africa, Pol Pot of Asia and Saddam Hussein of the Middle East. The Iraqi trails the Asian in the number slaughtered only because his nuclear capability was curtailed by the Israelis; otherwise, he would surely have incinerated five million residents of Teheran. However, Saddam is still active, and with several million Kurds at his mercy, he may yet pass Pol Pot in megamurders.

The Iraqi dictator evidently sees a cease-fire as a time for getting even. He will one day turn his aggressive attention to Syria's Assad, the only Arab leader to have helped Iran, but first he is intent on bloodily crushing all self-determination aspirations within his own borders.

For a millenium, Kurdistan has been a place but not a nation. Today the nearly 20 million Kurds live under three flags in Iran, Iraq and Turkey, with some in Syria and the Soviet Union. The Iranians supplied the Iraqi Kurds with arms to harass Saddam, and the Iraqi dictator armed the Iranian Kurds to harass the Ayatollah's army. The Kurds, though split into factions and aware they were being used as pawns, saw the Iran-Iraq war as a chance to establish a kind of autonomy if not independence.

But Iran-Iraq peace means retribution and death. Let us marvel at the reaction:

United Nations peacemakers in Geneva are concerned only with the interests of member nations, not with the lives of the Kurdish people or with the proliferation of poison gas. Not even a cluck of sympathy comes out of the U.S. Secretary General, who does not want to offend Baghdad or Teheran.

The United States, in its Reagan-era assertiveness, did manage to issue one small cluck. The State Department spokesperson has said that *if* the reports of mass exodus of refugees are true, then what is going on *would be* "a grave violation of international human rights." How's that for taking action to stop slaughter of innocents? (Presumably a double-cluck, or even escalation to a loud harrumph, would cause us to lose influence with Saddam, whom we helped to wear down Iran; why waste an i.o.u.?)

The Turks, who severely repress their own Kurdish minority (they call the Kurds "mountain Turks" and forbid the Kurdish language) are accepting some refugees from Saddam's wrath. That's something; not much, but at least not the turning-away we get from the totalitarian Arab world or the amoral Soviet Union.

The world's film crews are too comfortable in Israel's West Bank, covering a made-for-TV uprising of a new "people," to bother with the genocidal campaign against a well-defined ethnic group that has been friendless throughout modern history and does not yet understand the publicity business. For television, inaccessibility is no excuse for ignoring the news; the ability of color cameras to bring home the horror of large-scale atrocities imposes a special responsibility on that medium to stake out murder scenes or get first-hand accounts from refugees.

What about the two candidates for leader of the free world? If ever asked about stopping this killing, Mr. Dukakis would propose mailing a stern postcard to the U.N. and Mr. Bush might offer a little homily on even-handedness.

We could stop the killing by (a) demanding a Security Council investigation and linkage of human rights to the Geneva peacemaking, (b) bringing Kurdish refugees to the U.S. for testimony, (c) encouraging wider Turkish aid and (d) leaning on Iraq by threatening an early pullout of Persian Gulf ships. If this gets no results quickly, we can slip Stinger missiles to Massoud Barzani in the hills to bring down the gassing gunships.

The Kurds say *Pesh Merga*—"Forward to Death." That is a slogan of defiance, but it has also been a description of their fate. People who want only peace and freedom deserve America's attention and support.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 2946) was agreed to.

Mr. **HELMS.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **PELL.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as "The Prevention of Genocide Act of 1988."

SEC. 2. FINDINGS.—The Congress finds:

(i) The Kurdish people constitute a distinct ethnic group of some 20 million, with an ancient history and a rich cultural heritage;

(ii) Three to four million Kurds are citizens of Iraq, residing in the northern part of that country;

(iii) The Iraqi army has undertaken a campaign to depopulate the Kurdish regions of Iraq by destroying all Kurdish villages in a large part of northern Iraq and by killing the civilian population;

(iv) Conclusive evidence exists that the Iraqi army has been and is continuing to use chemical weapons against Kurdish insurgents and unarmed Kurdish civilians;

(v) Tens of thousands of Kurdish survivors of the Iraqi army assaults have taken refuge in Turkey;

(vi) Iraq's use of chemical weapons is a gross violation of international law; and

(vii) Iraq's campaign against the Kurdish people appears to constitute an act of genocide, a crime abhorred by civilized people everywhere and banned under international law.

SEC. 3. SANCTIONS AGAINST IRAQ.—(a) The United States Executive Director or representative at all international financial institutions of which the United States is a member is instructed to vote against all loans to Iraq.

(b) The United States shall provide no assistance, shall make no sales of any kind of military equipment, shall provide no credits, and shall provide no guarantees of any credits to Iraq.

(c) No item subject to export controls by any agency of the United States shall be sold or otherwise transferred to Iraq.

(d) No oil or petroleum products produced in Iraq shall be imported into the United States.

Sec. 4. Waiver.—The President may waive the sanctions contained in section 3 if he determines and so certifies in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the United States Senate that:

(i) Iraq is not committing genocide against the Kurdish population of Iraq; and

(ii) Iraq is not using chemical weapons banned by the 1925 Geneva Conventions and has provided reliable assurances that it will not use such weapons.

Sec. 5. Commendation of Turkey. The Congress commends the Government of Turkey for its humanitarian decision to host thousands of Kurdish people fleeing extermination in Iraq. The President is requested to convey to the Government of Turkey this commendation.

Sec. 6. Assistance to Kurdish Refugees.—It is the sense of the Congress that the United States should provide assistance to Kurdish refugees in need of medical treatment and other humanitarian aid.

Sec. 7. United Nations.—The Secretary of State is requested to immediately bring before the Security Council of the United Nations the matter of Iraq's use of poison gas against its own nationals, most of whom are defenseless civilians, and demand that, in accordance with U.N. Security Council Resolution 620, appropriate and effective measures be taken against Iraq for its repeated use of chemical weapons.

Sec. 8. Effective Date.—This act shall take effect on enactment.

Mr. PELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. I thank the Chair. I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the morning business period be extended for an additional 30 minutes under the same conditions as heretofore.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT

Mr. DOLE. Mr. President, Americans will soon cast their ballots in the first Presidential election in our history in which elderly and disabled citizens are by law assured access to the voting booth. Congress mandated voting accessibility in Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act of 1984. I was proud to be a cosponsor of the Senate version of this legislation, which was authored by my distinguished colleague, Senator Dave Durenberger.

Passage of the Voting Accessibility Act was a major milestone in the campaign to extend voting rights to all Americans. Earlier constitutional and statutory measures struck down legal barriers which disenfranchised women, minorities, and young adults. The barriers which the voting accessibility act removes are physical. Yet these obstacles have blocked full participation in the political process just as effectively as the poll taxes and literacy tests of an earlier era. A polling place that can only be reached by climbing a flight of stairs is essentially off limits to a wheelchair user. And voting instructions that are only given orally are of little help to someone who is deaf.

The voting Accessibility Act mandates that Federal polling places be physically accessible and requires the provision of registration and voting aids. These aids include large-print instructions and information by telecommunications devices for the deaf. The act also requires that a reasonable number of accessible permanent registration sites be made available in those States without mail or door-to-door registration. A report on polling place accessibility must be submitted to Congress by the Federal Election Commission every 2 years.

As is sometimes the case, while our intentions were good, we could not foresee all the problems that might impede implementation of the Voting Accessibility Act. And in fact, oversight hearings held by the House last year on the act revealed that difficulties have arisen. At the time of passage, Congress recognized that some States had much further to go than others to improve voter accessibility, so it decided to build considerable flexibility into the law. We will learn how much headway has been made toward the goal of full accessibility when the Federal Election Commission reports to the Congress next spring. It may be that the process is right on track. Or we may find that we need to take another look at the act.

Mr. President, as many as 25 million Americans with disabilities are of voting age. We must ensure that their voice can be heard. I look forward to seeing the outcome of our efforts in the November elections and will be anxious to review the Commission's report next year. Finally, I want to commend the organizations—including the National Organization on Disability, Disabled but Able to Vote, the National Easter Seal Society, Paralyzed Veterans of America, and the American Foundation for the Blind—which have helped educate people about the act.

BICENTENNIAL MINUTE

SEPTEMBER 2, 1944: DEATH OF GEORGE NORRIS

Mr. DOLE. Mr. President, from time to time I have been talking about matters of importance in this 100th Congress, so-called bicentennial minutes.

Today, I would indicate that 44 years ago this month, on September 2, 1944, one of the most effective U.S. Senators, George Norris, died.

George Norris spent 40 years in Congress. The first 10, from 1903 to 1913 in the House of Representatives, and then 30, from 1913 to 1943 in the Senate. They were years jammed with activity and accomplishment. A progressive Republican, Norris led the forces of reform that reduced the power of "Uncle Joe" Cannon, the dictatorial Speaker of the House. In the Senate he fought for the rights of farmers and workers. In the 1920's he was the prime mover behind legislation enabling the Federal Government to buy American farm products and sell them abroad.

Norris was the author of the Tennessee Valley Authority Act. He put his efforts and his name on the Norris-La Guardia Act of 1932 to restrict the power of courts to break labor strikes through injunctions. He was a chief sponsor of the Rural Electrification Act, or the "electrical revolution" as some called it. Norris added his mark to the U.S. Constitution, by sponsoring what became its 20th amendment, setting the new dates for presidential inaugurations and the beginning of new sessions of Congress, eliminating the need for most "lame duck" sessions. He also held the respect of his colleagues, and the press, for his "100-percent integrity."

Norris's opposition to American involvement in international affairs prior to the Second World War finally led to his defeat for reelection in 1942. The next year, listening over the radio to the President's message to Congress, Norris imagined himself back at the Capitol, until his own applause awakened him that he was "just a private citizen, sitting in my home at McCook, NE." There he died in 1944, but his contributions to the Senate, the Constitution, and the Federal Government survive him today.

GOVERNOR DUKAKIS ON THE MIDDLE EAST IMPASSE

Mr. INOUYE. Mr. President, Governor Dukakis has just delivered what I consider to be a definitive and eloquent statement on the Middle East impasse. In it he reflects the consensus that has developed over the years in the United States supporting the closest possible relations between

Israel and the United States—for strategic as well as moral reasons. But in his remarks he reminds us that too often deeds of the present administration have belied and contradicted that national consensus. The record of Reagan-Bush support for sales of dangerous arms to Arab nations still at war with Israel is clearly pointed out.

I endorse heartily the most important and timely warning that Governor Dukakis included in his remarks. Lest there be any confusion or expectations in the Arab world, especially within the PLO, Mr. Dukakis has made it very clear indeed; he stated:

> A Dukakis Administration will never recognize a unilateral declaration of a Palestinian state or government in exile.

It is as simple as that: The Palestinian question can be resolved only as a result of negotiations between Israel and the appropriate Arab parties, not through a unilateral declaration by a group refusing to recognize Israel's right to exist and still engaged in hateful, brutal terrorism.

Mr. President, I request that the following statement by Governor Dukakis be printed in the Record in toto.

There being no objection, the statement was ordered to be printed in the Record as follows:

Michael S. Dukakis, B'nai B'rith International Convention, Baltimore, Md, September 7, 1988

Let me first thank my friend Phil Klutznick for that kind introduction—and for his lifetime of service to B'nai B'rith and to our country. Let me also commend two outstanding leaders whose dedicated efforts have advanced the causes we share—your President, Seymour Reich and your Executive Vice President, Tom Newmann.

Kitty and I are grateful for the opportunity to be with you tonight. And let me tell you how proud I am of the work she has done as an Executive Committee Member of ADL's New England Region in fighting against every form of prejudice and discrimination.

Whenever the security of Israel has been threatened, whenever the rights of people anywhere have been challenged, whenever citizens of any faith or race in America have needed help, whenever the principles of democracy and decency and tolerance have been under assault, B'nai B'rith has been there as a powerful force for freedom and justice.

I am proud to stand before you today; I have been proud to stand with you for many years, both in the State House in Boston and in private life. The principles you fight for are my principles; the causes you champion are my causes. I look forward to working with you—as President of the United States.

Last Saturday morning, I went with my mother to Ellis Island, where she arrived 75 years ago.

And my friends, you can't look at the Statue of Liberty, you can't read the words inscribed on its base, without feeling very good about America's past and about our future.

What an inheritance we have! And what a responsibility we have.

To keep America strong. Militarily and economically. To protect our security, defend our vital interests, and support our allies and friends.

To celebrate the magnificent diversity of our people—to draw strength from each other's wisdom and skills and cultures and pride; and to rid this land forever of the cancers of racism and anti-Semitism and discrimination.

Those who came to Ellis Island believed in the dream of liberty; and we must defend that dream against all adversaries—against those who would threaten us from abroad; against those strident voices from the radical right who would undermine the Constitutional principles of individual liberty and the separation of church and state here at home.

Those who came to Ellis Island sought economic opportunity, and we must work together to make that dream a reality, not just for the privileged few, but for every citizen in this land.

And some came to Ellis Island, some of you came to Ellis Island, to escape persecution, to escape political prisons and death camps and the threat of torture; you came to America seeking life itself; and we must never forsake our role as a place of refuge for the victims of terror and repression in other lands.

My friends, we must keep the trust we have been given; we must prove worthy of our inheritance; we must work together to bring opportunity and prosperity home to every citizen here in the United States; and we must stand shoulder to shoulder with democratic nations and peoples abroad.

America's place is not with dictators. It is with governments that trust and respect their own people. It is with democratic nations that are proud and strong and free. It is with nations like Israel.

From the day of Israel's rebirth four decades ago, we Americans have understood that Israel's fate is our fate. That when Israel is threatened, all those who cherish freedom are threatened. Israel—like the United States—is a special place. Born in conflict. Dedicated to freedom and democracy. Committed to peace. Resolute in defense of its people and our shared values.

I believe deeply in those values. That's why I was the first Governor to sign a comprehensive agreement with Israel to encourage joint economic development projects. And that's why I was the first Governor to insist that any company doing business with my state must reject the Arab boycott of Israel. That was 12 years ago, and the principle hasn't changed.

And in 1975, when the United Nations turned history on its head and declared that "Zionism is racism," I spoke out against it. And I was proud to join this year with the Governors of every state in the union—except the Governor of New Hampshire—to condemn and repudiate that action.

My commitment to these principles is deep and personal. They have guided me in the State House; they will determine the policies of my Administration in the White House. The United States has a special relationship with Israel. I want to strengthen that relationship; to build on it; and to work together with the leaders of Isreal, and with Arab leaders who are willing, to protect democracy and further the cause of peace throughout the Middle East.

As President, I will strengthen our strategic partnership with Israel; a partnership that makes both countries stronger; a partnership that provides a strong democratic presence to counter Soviet influence in the Middle East; a partnership that provides the United States with valuable intelligence information, and with cost-effective weapons like remotely-piloted vehicles and Popeye missiles for our B-52's. When the United States needs a place to store military equipment in the region to protect our national interests, Israel is there to help.

You know, for forty years, Israel has been tested every day and every week and every month. Tested economically by the challenge of building a nation. Tested militarily by the need to defend its borders against hostile neighbors and ruthless terrorists.

Today, Israel faces new dangers. Violence in the territories. King Hussein's withdrawal from the West Bank. A rise in radical Islamic fundamentalism. Enemies armed with ballistic missiles that can carry chemical and biological weapons. And new Soviet arms shipments to Syria that speak louder than the new Soviet rhetoric of peace.

These dangers will test not only the leaders of Israel, but of the United States, as well.

As President, I will work with Congress and with the leaders of Israel to maintain Israel's qualitative military edge.

We will not sell weapons that would threaten the security of Israel to any nation. And we will work to persuade our NATO allies to join us in that policy.

We're going to continue to help Israel defend itself by providing generous levels of military and economic aid; we'll work for a worldwide ban on chemical and biological weapons; and we're going to do all we can to protect Israel from the growing threat of tactical ballistic missiles.

We're going to tell the Soviet Union and China that if they want to join the international economic community, they will have to get out of the business of selling these deadly weapons. And we're going to help Israel defend against this threat by continuing to support the ARROW anti-missile system.

Last month, the President vetoed the bill that funds the ARROW. He vetoed it as a favor to George Bush, but that veto was no favor to Israel. Lloyd Bentsen and I will never play politics with Israel's security.

The Republicans have sold AWACS to Saudi Arabia, Mavericks to Kuwait, Stingers to Bahrain and billions of additional dollars worth of sophisticated arms to Arab countries that refuse to make peace with Israel. George Bush has supported those sales, and Dan Quayle has voted for them. Lloyd Bentsen and I are going to say "no" to Arab shopping lists that endanger the security of Israel.

Mr. Quayle has voted repeatedly against foreign assistance to Israel.

Yesterday, he told the Washington Post that George Bush was leaning on him for foreign policy advice. I'd rather listen to Lloyd Bentsen—and I'm sure you would, too.

The Republican ticket doesn't acknowledge Israel's sovereignty over its capital—an undivided Jerusalem. We do.

The Trade Representative in this Administration has turned common sense into nonsense by threatening Israel's trade with the U.S. and placing Israel in the company of Syria, Haiti and Burma—because of alleged violations of labor rights. That's absurd.

In a Dukakis Administration, we're going to have a Trade Representative who can tell the difference between right and wrong.

And there will be no trips to Bitburg.

Beginning on January 20, we're going to have a President who will work for peace in the Middle East from the day he takes office until that long awaited dream is fulfilled.

One of my first acts as President will be to appoint a special envoy with my instructions—"use every ounce of your energy to convince Arab leaders to negotiate peace with Israel."

Of course, we cannot—and should not try to—impose a solution on the region. Only the parties to the conflict can make peace. And that peace must come through direct negotiations. No settlement that is unacceptable to Israel will be acceptable to the United States.

But the United States *does* have a responsibility to help build that peace. A peace that will guarantee Israel's right to live within secure and defensible borders and provide, in the words of the Camp David accords, for the legitimate rights of the Palestinian people.

King Hussein's decision to withdraw from the West Bank and Gaza has changed the debate in the Middle East. But it has not changed the fact that Jordan must play a role in future negotiations.

Nor does it make the PLO a fit partner for peace. Only last month, the world once again saw the true face of the PLO—in a terrorist attack that injured 25 innocent people, some of them children, in Haifa. My friends, there can never be a role in negotiations for the PLO unless it renounces terrorism in word and deed; unless it accepts U.N. Resolutions 242 and 338; and unless it clearly and explicitly renounces its own covenant which states that peace can only come at the price of Israel's right to exist.

A Dukakis Administration will never recognize a unilateral declaration of a Palestinian state or government in exile. I met with the Israeli Ambassador in August and he posed an interesting question: "How can a government that has never existed declare itself to represent a state that has never existed?"

If there is to be peace in the Middle East, Arab leaders must follow the path of Anwar Sadat.

And if Mr. Gorbachev is serious about wanting to be constructive; if he wants to encourage lasting progress in U.S.-Soviet relations, he should take these simple steps. Establish full diplomatic relations with Israel. Stop voting to expel Israel from the United Nations. Use your influence with Syria to gain support for peace. Live up to your commitments under the Helsinki Accords to respect the rights of your own citizens to practice their faith and study their culture without fear. And grant Soviet Jews who wish to leave their country the right to do so.

After all, Mr. Gorbachev, if glasnost can open Soviet society, why can't it open the door to free emigration by Soviet Jews?

And a Dukakis Administration will stand by *Jackson-Vanik* to make sure those doors open wide—once and for all.

I know that many of you have devoted your lives to helping Soviet Jews. Over the years, Kitty and I have been grateful for the opportunity to work with you; to do our part; to be inspired by the courage and to rejoice in the freedom of people like Benjamin Charny and the Fuchs-Rabinovich family. We will never forget the long struggle of Michael, Marina and Mishka. We will never forget the joy in our hearts at Mishka's long-overdue Bar Mitzvah, where Kitty was called to the bimah for an aliyah. And it is an honor to have this brave family here with us this evening.

We will never forget their courage. And we will never forget the courage of those who still wait for freedom.

On November 9, the day after the presidential election, we will observe the fiftieth anniversary of one of the most tragic days in history: Kristallnacht, the "night of broken glass." On that night, the basic principles of civilized people were set aside—and the world would never be the same again.

The broken windows of Kristallnacht should have shattered the worldwide silence about what was happening to Germany's Jews. Instead, anti-Semitism had free reign while the world stood by indifferent to the fate of a doomed people.

History has shown us the cost of that indifference and taught us that no work so touches the human spirit as the work of remembrance. We advocate remembrance, as our friend Elie Wiesel has said, "as a means of redemption of the future."

Three years ago, Kitty and I hosted the first state dinner to benefit the United States Holocaust Museum. When that museum is completed, it will be a symbol of our determination to never again tolerate such unspeakable barbarity on any people.

It is up to all of us, public officials and private citizens, to speak out forcefully against anti-Semitism, racism, and every form of bigotry—whether it occurs in Boston, Chicago, Los Angeles or New York or anywhere else in America. That is a responsibility we all share, but it is especially the responsibility of the President of the United States.

Because silence is no substitute for leadership in the Oval Office.

Last month, I joined with thousands of Americans to commemorate the twenty-fifth anniversary of the March on Washington.

We came together to remember of work and the words of Martin Luther King. We came together to summon once again the spirit created in 1963 by Dr. King and Whitney Young and Rabbi Abraham Joshus Heschel and Father Theodore Hesburgh, and so many other Americans of every color and religion.

We came together at the Lincoln Memorial in 1988 because while America has made great progress in the last quarter century, we have miles to go before we fulfill the dream of equal opportunity for every American.

That dream is more powerful than any single course; it soars above all barriers of race and culture and creed; it is sustained by our belief that we Americans—for all our wonderful diversity—are *one* people, *one* nation, *one* community.

We know that opportunity for some is not good enough for this country; that we cannot rest until every single citizen in this land is a full shareholder in the American dream.

We cannot rest until all of our schools are good schools and American students are the best-skilled, best-prepared, and best-educated in the world.

Until we have ended the shame of homelessness in America and made good on Harry Truman's promise of basic health security for every American family.

We cannot rest until we bring prosperity home for all Americans—not just for the wealthy and the privileged.

And we cannot rest until apartheid is abolished and all the people of South Africa are free.

It is a tribute to B'nai B'rith and the Jewish community in America that you have always fought for the people who are struggling for basic rights and a decent life for themselves and their families. You have recognized and taught the basic truth that human rights are indivisible. You have supported Jews in the Soviet Union and shipyard workers in Poland and mineworkers in South Africa. You have fought for dignity and decent treatment and expanding opportunity for working men and women in the United States. And you understand how important the Constitutional separation of church and state is.

Your agenda, your aspirations and your achievements are America at its best. We have worked with you in the State House in Boston. We are going to work together in the White House. And let me say tonight, as we approach Rosh Hashanah, may we all be inscribed in the Book of Life for a happy, healthy, and sweet New Year. And may it be a year of compassion, moral courage, vision, justice, and opportunity for all Americans.

L'shanah Tova Tikatevu!

COBH CENTER FOR INVESTMENT AND ENTERPRISE

Mr. KENNEDY. Mr. President, I want to draw the attention of my colleagues to a worthwhile community-based development project in the Republic of Ireland, the Cobh Center for Investment and Enterprise, which aims to revive industry and stimulate culture in a once famous and thriving nautical town.

We are all familiar with the problems facing the Irish economy in recent years—high inflation, massive unemployment, the rising tide of immigration. Some optimistic indicators can be found in recent statistics showing a drop in unemployment and inflation, significant growth in the economy, and a more favorable balance of payments.

The Irish Government and the Irish people are to be congratulated for the initiative they have displayed in seeking to improve their economy. In particular, they are attracting new foreign investors and developing new industries that can take advantage of Ireland's highly educated young work force.

Last year I welcomed the Irish Government's decision to establish an International Finances Center in Dublin. Since that date several foreign banks and finance houses have located in that center. Other ongoing investment arrangments include those supported by the Industrial Development Board of Ireland, the Overseas Private Investment Corporation in the United States, and a number of private agencies.

Similar efforts are being made in Northern Ireland by its Industrial Development Board. The International Fund for Ireland, established under the Anglo-Irish Agreement of 1985 and supported by financial aid from the United States, awards grants for job-creating enterprises and community projects in those parts of Northern Ireland and the Republic of Ireland affected by the conflict in Northern Ireland.

Since the 1960's, the American business community has invested much time and money in establishing plants and developing industries in Ireland. Ireland, the Irish people and the Irish work force have much to offer American investors in terms of a highly educated English-speaking labor pool, excellent facilities and service backup. The ties of history and heritage continue to prove compatible with sound business interests.

In this respect, the recently announced investment proposals by the Cobh Center for Investment and Enterprise deserve full American support. Cobh is a small island off the Southern shore of the Irish Republic, connected by a bridge to County Cork. It is a short drive from Cork City, the second largest city in Ireland. The center's proximity to this major trading port with transportation and communication facilities and a highly developed service industry make Cobh an ideal base for foreign industry.

Cobh is also a town of great importance in Irish and American history. Throughout the 19th and early 20th centuries, it was the main embarkation point for millions of Irish emigrants who came to this country to seek a better life. In 1917, when the United States entered World War I, Cobh was a principal base of operations for the United States Navy in Europe. During the war, thousands of American sailors came to know and love this town.

The leaders responsible for the Cobh Enterprise Center comprise local businessmen, elected officials, and community representatives. They plan to open a heritage center where overseas visitors can trace their roots. Other plans include the restoration of many of the town's historic buildings. I urge American firms to take advantage of the incentives that the Cobh Enterprise Center offers, and I wish the Irish people well in this promising new enterprise.

RICHARD N. GARDNER ON THE DUKAKIS AND BUSH FOREIGN POLICIES

Mr. KENNEDY. Mr. President, last month, Richard N. Gardner, professor of international law at Columbia University, wrote an insightful article contrasting the foreign policy views of Gov. Mike Dukakis and Vice President George Bush.

Professor Gardner, who previously served as Deputy Assistant Secretary of State under President Kennedy, writes that it is the Vice President, and not Governor Dukakis, who is outside the mainstream of postwar American foreign policy, and that Governor Dukakis is squarely in the security policy tradition of Presidents Truman and Kennedy by calling for strong conventional forces combined with a modernized nuclear force.

Professor Gardner notes that an important distinction which sets Governor Dukakis apart from his opponent is the Governor's belief that "there is a fundamental difference between using force in self-defense, and using force to impose our will on others."

Professor Gardner also emphasizes the importance of the United Nations in U.S. foreign policy. Despite its shortcomings in some areas, the United Nations is playing an indispensable role in many of the world's war-torn regions.

The Reagan administration's failure to recognize the potential of the United Nations has cost the United States respect as a world leader, and led us into disaster in Beirut. Unfortunately, in recent weeks Vice President Bush has begun to join in the administration's disparaging attitude toward the United Nations—even though he took a wiser approach in the 1970's as President Nixon's Ambassador to the United Nations. As Professor Gardner points out, the Vice President "was right then. He is wrong now."

Mr. President, I believe that Professor Gardner's article will be of interest to all of us in the Senate, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 11, 1988]

One Mainstream Dukakis—And Two George Bushes

(By Richard N. Gardner)

In attacking Gov. Michael S. Dukakis for being "far outside" the "mainstream" of postwar American foreign policy, Vice President Bush has raised a campaign issue that may boomerang. For it is the Vice President who in recent speeches has not merely taken himself out of the mainstream but climbed way over on to the right bank.

According to Mr. Bush, Mr. Dukakis has broken with the bipartisan national security policies followed by such Democratic Presidents as John F. Kennedy and Harry S. Truman. In fact, Mr. Dukakis has not only called for strengthened conventional forces but also for necessary measures of nuclear modernization. He has also said flatly: "As President, I will not hesitate to use force to defend our territory, our citizens and our vital interests; to meet our treaty commitments; and to respond to, or to deter, terrorist attacks."

In these declarations, Mr. Dukakis is certainly within the mainstream of Presidents Kennedy and Truman. And so he is also when he adds significantly: "But there is a fundamental difference between using force in self-defense, and using force to impose our will on others."

Thus, Mr. Dukakis opposed military aid to the contras but supported the attack on terrorist bases in Libya and aid to the Afghan resistance. He favored involving other nations from the outset in escorting nonbelligerent shipping in the Persian Gulf.

Mr. Bush's other charge is that Mr. Dukakis wants to use multilateral diplomacy and international organizations. Here it is Mr. Bush who has left the mainstream and put himself at odds with his former self. "A President can't subordinate his decision-making to a multilateral body," he has declared. "He can't sacrifice one ounce of our sovereignty to any organization."

In making this extraordinary statement, the Vice President has repudiate the wise actions of every postwar President. Perhaps he is unaware that even President Reagan, our most unilateralist postwar president, has found it expedient to negotiate a trade agreement with Canada with binding arbitration of economic disputes and that even while terminating our acceptance of the World Court's general compulsory jurisdiction, he has reaffirmed our willingness to have the Court resolve disputes over the meaning of 60 bilateral and multilateral agreements to which we are a party.

To protect our interests in an increasingly interdependent world, we will be "subordinating" our "decision-making" to international bodies even more as we confront challenges such as nuclear proliferation and nuclear safety, the AIDS epidemic, international drug trafficking and threats to the world environment.

But, of course, the Vice President's main target is the United Nations. This is, he said, "a place torn by tensions. An unreal place where the Maldive Islands has the same votes as the United States."

The problem is that Mr. Bush fails to distinguish between the General Assembly, whose often fatuous resolutions have no binding force, and the serious peacemaking and peacekeeping work of the Secretary General, and the Security Council, where we have the veto.

As our experience in Lebanon demonstrates, this can be a dangerous misunderstanding. Because of its hostility to the United Nations, the Administration failed to seize the opportunity to send United Nations forces from other countries to Beirut in 1982. Instead, it sent marines on a mission impossible into the midst of a chaotic communal conflict, and we paid the price with the loss of 241 young men and a humiliating military withdrawal.

Everyone knows the deficiencies of the United Nations, but its men in blue helmets are right now helping reduce the risks of conflict by their presence in the Golan Heights, southern Lebanon and Cyprus. If Mr. Bush would prefer to have American boys taking casualties in those places, he should explain why.

Moreover, this "place torn by tensions"—this "unreal place"—is, after years of neglect, beginning to function as all our postwar Presidents hoped it would. It has brokered the Soviet withdrawal from Afghanistan and a cease-fire in the Iran-Iraq war. Within the next weeks, it has a good chance to end the war in western Sahara and make progress toward a settlement in Cyprus. In the next year, just possibly there may even be United Nations peacekeepers in Cambodia, Angola and Namibia.

It is this prudent, selective use of the United Nations and international organizations—supplementing but not replacing the use of American power and diplomacy—that Mr. Dukakis has called for in campaign statements. By taking a stand against such practical multilateralism, Mr. Bush has aligned himself with the forces of mindless unilateralism.

There was once a popular United States chief delegate to the United Nations who had a broader vision. "I am convinced," he said, "that the world needs—and we in the United States need, for our own security and well-being—an effective organization for peace and cooperation. If the U.N. is not effective enough in that role, we have only one reasonable option, and that is to make it more effective." The date was May 28, 1971, and the delegate was George Bush. He was right then. He is wrong now.

SUSPENSION OF UNITED STATES AID TO THE GOVERNMENT OF BURMA

Mr. MOYNIHAN. Mr. President, I rise today to call upon the President and the Secretary of State to take immediate action to withhold United States aid moneys from the current Government of Burma.

Rather, these moneys should be held until a new democratic government has been established in Burma. And at such time as a democratic government is established, we should release the moneys, and indeed offer increased support as well.

The facts are clear. The current government which has been controlled by Ne Win for the past 26 years has completely lost the confidence of the Burmese people. The people have chosen the path of insurrection and revolution. Their goal is clear: Democracy.

After all, the current government has its roots in a 1962 coup which overthrew a democratically elected government, a coup led by Ne Win. In the wake of the coup, a one-party socialist dictatorship was established under the Burma Socialist Program Party headed, until just recently, by Ne Win. Democracy was crushed, and Ne Win set his people on his own "Burmese Road To Socialism"—a road of dispair, economic decline, isolation, and inhumane government.

Despite the repugnance of this regime, we have provided a modest amount of humanitarian assistance. More significantly, we provide funds for an opium eradication program operated by the Burmese Army, and we provide training for Burmese Army officers under the International Military Education and Training Program.

Indeed, House Resolution 529, agreed to on September 7, suggested it may no longer be prudent or possible to continue existing U.S. aid programs. But, clearly, the time has come to withhold these moneys from the current regime.

The reports that we are receiving suggest that no functioning government exists in Burma. A clique of officials loyal to Ne Win, and supported by elements of the Burmese Army, hold the country hostage. But they no longer represent a government.

Indeed, a new provisional government has been declared by U Nu, the last democratically selected leader of Burma. Now is the time for United States to reinforce its commitment to the Burmese people. We must hold our financial assistance from the vestiges of the Ne Win regime and from those elements of the Armed Forces that continue to support it.

After all, since it is the Burmese Armed Forces that is the only institution that stands between democracy and dictatorship, it is now critical that the United States make clear its position.

We cannot provide training or assistance to an armed force that murders peaceful demonstrators in Rangoon, Sagaing, or any other city or town in Burma. After the slaughter of last month the United States Senate unanimously condemned the Burmese Armed Forces in Senate Resolution 464.

Regrettably, new instances of shooting by the Armed Forces are being reported. We cannot continue to sanction such action by training these military officers.

Likewise, the Burmese Armed Forces continues to use our assistance to spray 2,4-D herbicide, a carcinogenic compound according to the National Cancer Institute, on the ethnic minority peoples in the opium growing areas of northern Burma. While our intent is a war on drugs, it appears more likely that the Burmese Armed Forces has been using our aid to wage a war on its ethnic minorities.

Can we honestly accept the good intentions of a military establishment that machineguns its own civilians and threatens to launch air strikes against them? Can we honestly believe that these dangerous herbicides are being used in the prescribed manner to avoid danger to innocent civilians?

After all, the hill peoples are waging the same struggle for freedom against the Ne Win government that the ethnic Burman are now fighting. We should encourage national reconciliation and negotiation on the basis of democratic principles, as a way to combat the opium trade. Only the restoration of legitimate government authority in this region will permit a real war on opium trafficking to be waged.

Until a government is established in Rangoon that is prepared to offer democracy to these people, we should withhold our moneys from the eradication effort.

Mr. President, I state again, now is the time for the President and the Secretary of State to withhold our aid until a democratic government is restored in Burma. And at such time, we should commit ourselves to provide much greater assistance to these valiant people and their beautiful land.

DOUGLAS AIRCRAFT CO. SALES TO TAIWAN

Mr. CRANSTON. Mr. President, I am pleased to announce that Taiwan has signed an agreement with Douglas Aircraft Co. to purchase 4 MD-11's as a part of its 10-airplane fleet modernization program for the 1990's.

This is welcome news to the approximately 34,000 employees of Douglas located in Long Beach, CA. The MD-11, which will hold over 300 passengers and has a range of over 7,400 miles, is the state-of-the-art commercial transport for the Pacific rim. Californians are keenly aware that the Pacific rim has become increasingly important for the United States in terms of trade and exports. In addition, our country should seek to remain on the leading edge of providing fuel-efficient and affordable transport to the commercial centers of the Pacific rim.

More importantly, the MD-11 sale to Taiwan will contribute approximately $500 million to a positive balance of trade. In 1987 alone, the aerospace industry contributed $17 billion to a positive balance of trade and employed 1.3 million people across the country.

Once again, let me congratulate the employees of the Douglas Aircraft Co. for building a new bridge which links the American and Pacific rim communities. I wish them continued success in future endeavors.

THE ILLICIT DRUG PROBLEM

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, some insight gained from a recent trip to Colombia, Bolivia, and Peru may be of value to our colleagues in the Senate and House as we consider legislation on the drug problem in the remaining days of the 100th Congress.

While we should continue our efforts to curtail the supply of drugs, and there are specific important steps which can be taken on the problems in the countries I visited, my essential conclusion is that our main focus in the new legislation should be on reducing the demand for drugs because of the enormous, if not insurmountable, difficulties in significantly reducing the supply of drugs.

In the past, I have expressed concern about the substantial United States aid given to South America and other countries when I felt that insufficient efforts were being made by those recipient countries to combat the flood of drugs to the United States. I am pleased to report today, Mr. President, that I found significant, although only recent, efforts in Colombia, Bolivia, and Peru to combat the growing of coca leaves and the production of cocaine.

Those efforts should be supported by the United States. However, I believe more can be done on the supply side by intensifying our efforts and correcting certain specific problems.

An enormous threshold problem is posed by the power of the drug dealers exercised by violence, intimidation, and bribery. Although I had read about the violence, I was amazed by the breakdown of law, order, and governmental authority in Colombia. Considering that 12 Supreme Court Justices, the Attorney General, and the Minister of Justice have been assassinated by the drug dealers, it is apparent that the judicial system operates in a climate of abject fear.

Mr. President, it is hard to contemplate, given the system of justice in the United States—although we have some problems with corruption, brutality, and murder—that that kind of wholesale attack could occur on the judicial system of a country. Twelve Supreme Court Justices, the Attorney General, and the Minister of Justice assassinated. The U.S. Ambassador, Tony Gillespie, with a death warrant signed by the drug dealers.

To visit Colombia is an interesting and exhilarating, if not intimidating, experience, simply to be in the company of these people who were targeted by the drug dealers for death.

One Colombian senator estimated that the sale of cocaine from that country brings $15 billion. In that society, it is an open and notorious situation that bribes result in the release of major drug dealers. The administration of criminal justice hardly has a chance when judges are given a choice of wealth or death. That is the reality in Colombia.

These influences are said to be responsible for a recent Colombian Supreme Court decision invalidating implementing legislation on the United States-Colombian treaty which previously authorized the extradition to the United States of several Colombian drug traffickers including the notorious Carlos Lehder. The Colombian Congress could pass corrective legislation, but no effort is currently being made to do so because it is believed unlikely to pass. In the absence of valid extradition processes, major drug dealers cannot be brought to justice in the United States.

Regrettably, corruption among judges, police, and other public officials exists in the United States as well as in South American countries, but the scale appears much greater there because of the vast sums of money involved in the cocaine trade. It was reported that Bolivian police officials were willing to pay thousands of dollars to be assigned to the antidrug patrols because of the opportunities for bribes.

Key officials in all Latin American countries acknowledge the problem and articulate active programs to counter it; but, nonetheless, the level of corruption and incapacitation of major governmental functions has to be taken into account in evaluating the likelihood and level of success of their antidrug efforts.

In Chimore, Bolivia, we visited a very impressive center which has been established to train Bolivian officers in antidrug activities, specifically, raiding and destroying laboratories where coca leaves are turned into paste for final processing into cocaine. These and other training centers in Bolivia are administered jointly by the United States State Department, The Drug Enforcement Administration [DEA] personnel, and United States Army Special Forces.

In our war on drugs, it appears prudent to make a maximum effort to assist in training local police forces and to make available equipment, such as helicopters, to local police efforts. We were told that Colombia has sought to purchase $60 million in United States military equipment, but cannot do so because of provisions in United States law which prohibit financing certain military equipment through the Export-Import Bank.

Consideration should be given, I suggest, to modifying that provision. While it is appropriate to exclude such assistance generally on the purchase of military equipment, Congress should consider in the forthcoming drug legislation an exception which might be made that where equipment is used against drug traffickers. In this case it is realistically an internal police action, there may well be public policy justification for an exception to exclude the Export-Import Bank financial assistance.

Another sensitive issue was raised on the provision of U.S. law which prohibits DOD personnel from assisting foreign police efforts. The policy reasons for this limitation generally are sound. In a situation where DEA agents are permitted by U.S. law to assist in foreign drug raids and are invited by host countries to do so, a question is raised as to whether DOD special forces personnel would be more appropriate for that task than DEA agents.

As a matter of U.S. policy, it would be worthwhile to consider an exception for special forces personnel to assist on drug raids when DEA agents would otherwise be lawfully assigned, providing the host country agreed. It would be possible to make personnel substitutions by military discharges and DEA hirings. It could be done in a variety of ways, and some efforts are currently undertaken to comply with U.S. law by restructuring. However, I suggest that it is obviously cumbersome to restructure U.S. law. It would be preferable to face this policy situation head on and examine a policy which might permit limited use of special forces personnel, for example, in dealing with the drug dealers, where otherwise DEA personnel are now used, providing—and this is critical—that the host country agrees.

Even if permitted by U.S. law, there are very weighty and sensitive issues for the South American countries to have U.S. personnel, even if civilian, accompany host police actions. However, this might be worked out in specific situations depending on the seriousness of the action involved and the host country's decision. It may be sensible to revise U.S. law to provide flexibility to use DOD personnel in limited and well-defined circumstances.

Mr. President, for some time there has been consideration to having an international court of justice deal with international terrorism. This Senator advanced an amendment in 1986 legislation calling on the President to consult with our allies about that possibility.

It is my sense that we should consider the possibility of an international court to deal with drug dealers—where, for example, the law enforcement mechanism in some of these South American countries like Colombia has broken down, where a country like Colombia might be unwilling to extradite someone to the United States but might be willing to allow an international court to undertake such a prosecution.

These are ideas I have had, which have been developed as the result of the recent trip I made, and which I will be advancing during the course of discussion on the drug bill. Along a similar line to an international court, there is much to recommend an international police force.

Another option discussed during my tour is to expand special forces advisory assistance to DEA interdiction efforts. The special forces has great expertise in gathering intelligence, planning, operations, and providing logistical support. These traditionally military skills are pivotal in what is essentially a paramilitary mission. Such assistance would greatly improve operational efficiency and morale and would not require any change in current U.S. law.

We heard considerable South American sentiment that the United States was not doing enough on the drug problem and South American countries were being asked to do more than their share. I agreed with the complaints that the United States had not done enough on the demand side and told them of our plans to expand these activities.

In a meeting in Lima with Peruvian journalists, our hosts were quite blunt in suggesting that the United States should treat the coca crop as an industrial rather than an agricultural issue and compensate directly for the $800 million in lost revenues. I responded that I thought the U.S. Congress would not consider such payments for many reasons: First, the U.S. deficit is high and we have many competing demands for U.S. tax dollars; second, such payments would encourage more growth of the coca leaves on the expectation of equal payments; and even if Peru would cap its compensation at current production levels, the coca leaves would then be grown in Brazil or some other country; third, it is excessive and just not proper to expect dollar-for-dollar compensation on profit from an illegal and immoral activity; and fourth, Peru has good reasons in its own national self interest to stop growing coca leaves.

We heard from a Lima doctor that a Peruvian survey showed that 4 percent of Peruvians have tried cocaine, which would be about 800,000 people, and that approximately 200,000 are incurably addicted. Acknowledging the seriousness of the issue, the Lima journalists said that, nonetheless, Peru has so many more serious problems with its economy so that it would consider the addiction problem less serious than the loss of $800 million in revenue. As to the corrupting influence of cocaine on Peru's Government, there was serious concern expressed, but even that problem was considered secondary to the loss of export revenue.

One factor of major concern was the threat to governance caused by the alliance of certain political insurgents with dealers. In some areas, groups are taking increasing control and are being financed by the drug dealers. The combination of guerrillas and drug dealers poses a real threat to the government. This has caused Peru to consider the presence of drug trafficking as a political/military issue rather than a social/economic matter.

It may be that this threat to the governments of the South American countries is the one factor which has finally led them to show some real interest in cooperating with the United States in fighting drug trafficking. It has been less than 1 year since Colombia showed some real action and only slightly longer for Bolivia and Peru.

Other problems related to drug trafficking include the use of precursor chemicals needed to refine the coca leaves into paste and then cocaine. These chemicals are shipped illegally by West German and Brazilian companies into Peru, Bolivia and Colombia. I also was advised that American companies ship many of these chemicals into Panama that are then illegally transshipped into Colombia. Figures provided to me by Peruvian sources estimate that it takes 57 million liters of kerosene, 32 million liters of sulfuric acid, 16 metric tons of quicklime, 3,200 metric tons of carbide, 16,000 metric tons of toilet paper, 6,400,000 liters of acetone and a similar quantity of Toluene to produce the 6,400 metric tons of cocaine base production in Peru alone.

One governmental official in Colombia spoke of a visit by West German officials who urge increased action by Colombia to stem the flow of drugs to Europe, but then those West Germans expressed little interest in helping to stop the flow of precursor chemicals into Colombia. Further thought should be given to stopping the supply of such chemicals which could cripple the production of cocaine from the coca leaves. These chemicals must be monitored more carefully and where companies are found to be violating current laws, they should be vigorously prosecuted.

An additional problem is the way drug traffickers have laundered money obtained through their illegal activity. Panama and Costa Rica have experienced money laundering schemes. Further examination of our banking laws, as well as those of offshore chartered banks, could produce new rules to impede such laundering and limit the flow of money used for bribes.

As a result of major joint efforts, the United States, Colombia, Bolivia and Peru have initiated significant programs to eradicate crops and have undertaken para-military actions against drug laboratories. Colombia, which is the primary final stage processor and international trafficker of cocaine, has a manual eradication program underway, however, much of the coca crops are in territory occupied by violent insurgent groups. This has limited the eradication program to less than a thousand of the estimated 25,000 hectares grown in Colombia. At 2.2 acres to a hectare, this equates to 55,000 acres under cultivation. The Colombian Government is working with the United Nations to develop a crop substitution program.

The two largest producers of coca, Peru at 121,000 to 200,000 hectares (266,200 to 440,000 acres) in 1987 and Boliva at 40,300 hectares (88,660 acres) in 1987, also have taken significant steps to reduce coca cultivation. Bolivia has instituted a manual eradication program that, as of September 1988, has reduced coca production by 1,821 hectares (4,006 acres). This exceeds the 1987 figure of 1,000 hectares. Bolivia also has passed a new narcotics law which limits the legal cultivation of coca for traditional use to 12,000 hectares. This law also sets benchmarks for eradication of 5,000 hectares (11,000 acres) annually with an increase to 8,000 hectares (17,600 acres) if sufficient crop substitution funds are available.

Peru during 1987 eradicated only 357 hectares. Like Colombia, the major cultivation of coca is located in an area occupied by insurgents. However, the Peruvians have reorganized the program and provided better security to the workers. The result has been an eradication of 4,000 hectares (10,560 acres) as of September 1988. They plan to increase eradication to nearly 8,000 hectares (17,600 acres) in 1989. The Peruvians also are investigating the use of herbicides, which if used, would increase manual eradication to more than 42,000 hectares (92,400 acres).

Significant environmental concerns have been raised about the use of herbicides in Peru. This problem is to be studied by a Peruvian commission and results are expected in a few months. Peruvians are very sensitive to any pressure that would call for Peru to use herbicides which have been rejected for use in the United States. I stated my own personal, strongly felt view that the United States should not and would not ask Peru to use any herbicides which were unsafe or which would not be used in the United States.

Crop substitution programs are an important component of the eradication program. Therefore, consideration should be given by the Congress to revising a current requirement that 70 percent of a community or individual farmer's coca must be eradicated before U.S. Agency for International Development funds will be provided to facilitate the transition to noncoca crops. This rigid 70-percent figure has proved difficult for Latin American communities to meet and penalizes effective programs which have quickly reached 50 and 60 percent eradication. A more flexible program, where significant levels of eradication is awarded with AID funding, would provide the incentive to continue the eradication process and instill needed confidence to farmers that promised development assistance will be forthcoming.

In summary, my conversations and observations disclosed a very concerned attitude among Colombians, Bolivians, and Peruvians that action must be taken jointly with the United States and others to combat the flood of drugs from their countries. As noted, there are many systemic and endemic problems which confront such efforts. Nevertheless, the war against drugs must be intensified; and by taking specified corrective action, our joint efforts can be more successful. The difficulties in significantly reducing the supply of drugs buttresses my primary conclusion that any new legislation should concentrate on reducing the demand for drugs.

Mr. President, I see that other Senators have come to the floor to make statements.

I thank the Chair, and I yield the floor.

THE PRESIDENT'S AMERICAN LEGION SPEECH: SETTING THE RECORD STRAIGHT

Mr. NUNN. Mr. President, on Tuesday, September 6, President Reagan delivered a speech in Louisville, KY, at the 70th Annual National Convention of the American Legion. Although not officially billed as a political event, the speech was highly partisan in both tone and content. In addition to the inventive, and I suppose to some people amusing, hyperbole that we have come to expect from the Reagan administration during this campaign season, the speech also contained some extraordinary errors of fact with regard to the record of U.S. defense programs and policies over the past 12 years.

Regrettably, political rhetoric is as endemic to election campaigning as death and taxes are to our daily lives, and I do not propose that we can cure all that here today. However, while it may be too much to expect that the President will restrain himself from rhetorical excesses such as this during the next 8 weeks, I do not believe he should be granted a license to play fast and loose with established facts concerning our Nation's defense posture.

Mr. President, in my remarks today I would like to set the record straight on a number of inaccurate and misleading statements in the President's speech. While I did not agree with everything the Carter administration did in the area of national defense. And I never pretended that I did, and I certainly do not pretend that I agree with everything President Reagan has done, President Reagan's account of defense decisions taken during that period that he gave in his speech the other day is unlike anything that I remember during that period of time.

Today I will quote from the President's speech. At the beginning of that speech, the President said that 8 years ago, quoting him:

> We had an administration in Washington that, as one of its first acts in office, canceled or delayed a large part of the modernization of our strategic forces. The B-1 bomber, the Minuteman III and MX missiles, the Trident submarine and Trident I and II missiles, the entire Navy—all to a greater or lesser degree became casualties of its knife.

The fact is during the Carter administration's first full budget year which was fiscal year 1979, investment in U.S. strategic forces began a steep and sustained climb, from approximately $10.9 billion in fiscal year 1979 the first full Carter budget year, to $21.3 billion in its last budget, that was the fiscal year 1982 request, a growth rate of over 90 percent. This reversed the steady decline, in real terms, of spending on strategic forces during the Nixon and Ford administrations. Moreover, in real terms the percentage growth in funding for strategic forces under President Carter was actually about the same as it has been under President Reagan, and yet the President says that the Carter administration canceled or delayed a large part of the modernization of our strategic forces.

I do not know where he got that information. I hope that he will reexamine that.

As for specific programs cited by President Reagan in his speech, I find it ironic—to say the least—that an administration that for political reasons canceled President Carter's plan to deploy the MX in a highly survivable multiple protective shelter basing mode and instead chose to deploy the missiles in vulnerable silos came along in 1988 and criticize the Carter administration on the subject of the MX.

As I recall, when President Carter left office on the MX there was a survivable MX basing mode, there were 200 missiles that were going to be part of it and there was a general consensus on that, with certain, of course, objections from both Republicans and Democrats. I also recall very vividly, very vividly, when the former chairman of the Armed Services Committee, Senator Tower, found out that the Reagan administration was canceling the Carter administration MX Program he went straight to the White House and protested that very, very vigorously. And here we have 8 years later total revisionism going on a far as the historical account.

In fact, the "delay" in deploying MX to which President Reagan apparently alludes reflected the determination by Secretary of Defense Harold Brown that the Ford administration's plan for putting the missile in a "buried trench" was technically flawed and that more time would be needed to find a truly survivable basing mode, which was done, which was articulated by the Carter administration, and which was proposed by them. We finally were beginning to get an emerging consensus on MX, then President Reagan compaigned against it in certain Western States where there were objections, and then he came in and canceled the program, which his own strong supporters of national security, including Senator Tower, vigorously protested at the beginning of the Reagan administration.

Here we are in 1988, and under the Reagan administration, the MX has yet to find a home. Since 1981, we have witnessed a progression of proposals, from placing the MX missiles in vulnerable silos to bunching them together in the discredited Dense Pack scheme to deploying them on large aircraft to the current idea of putting them on trains, which most believe would not be able to survive at this stage a surprise attack.

The President also intimated in his speech that the Trident submarine program was unduly delayed by the Carter administration. The fact is that upon taking office, Secretary Brown wisely raised questions about the shipbuilder's ability to bring new facilities on line on the ambitious schedule set by the previous Secretary of Defense. When the Navy discovered problems with the way the contractor was doing business, Secretary Brown reduced the planned building rate from three every 2 years to one per year; in other words, they went from three submarines every 2 years to one submarine per year and, incidentally, that rate has been continued by the Reagan administration.

So, in the speech he says the program was delayed and in reality the program was slowed down slightly because of problems with the contractor being able to perform, and that rate has been continued on the Trident by this administration. It is precisely that kind of prudent management of major procurement programs that has been missing during the years the Reagan administration and Secretary of Defense Weinberger simply threw money at defense without insisting on strict accountability as to how the money was spent.

The President went on to criticize the Carter administration for canceling the B-1 bomber, a decision which President Reagan reversed. He failed to mention to the American Legion, however, that although over $28 billion has now been spent on the B-1, the bomber cannot perform to design requirements and cannot fully deal with the Soviet air defense threat. In fact, it will cost according to the Congressional Budget Office another $8 billion to try to make the necessary fixes and enhancements in the plane. The President also failed to note that in canceling the B-1, President Carter accelerated the air-launched cruise missile [ALCM] program and started both the advanced tactical bomber [Stealth] and advanced cruise missile [ACM] programs which are now a very important part of our overall deterrent plans.

In his speech, the President also stated that "we pay our service men and women what they very much deserve." President Reagan did not, however, tell the American Legion that the so-called "comparability gap" between military and private sector civilian pay that he criticized in 1980 is now larger than it was when he took office in 1980—not smaller, but larger.

The President claimed that "the Air Force today has better planes for every mission from tactical air support to transporting troops." He did not point out to the American Legion, though, that the Reagan administration has on average bought fewer fighter aircraft per year than did the Carter administration. He also failed to note that today a third of the Navy's A-6 medium bomber fleet is grounded or restricted because of a lack of funds to fix wing cracks, as is a third of the fleet of E-1 early warning aircraft. So we have some big maintenance problems that have not been able to be funded.

President Reagan told the Legionnaires that "We stopped the decline of the Navy and today are within striking distance of a 600-ship fleet. The President did not tell the American Legion, however, that today the Navy lacks the combat aircraft to fill the carrier decks in wartime because we built more ships than we can put aircraft on the ships, and unless you are going to use aircraft carriers to go around the ocean and ram other ships, you have to have airplanes on board; otherwise, the carriers do not serve their purpose. But we did not hear that kind of comment.

The President also failed to note that we have a Navy that is having to decommission 16 frigates because the money needed to operate them has been consumed by the administration's shipbuilding program. That happened in this year's budget at the request of the Secretary of Defense.

The President declared in his speech:

> We strengthened the Army, giving it new and better tanks, new and better helicopters, new and better air defense including Stinger missiles, new and better equipment of all kinds, including modern anti-tank weapons, as well as improved armor for our own tanks.

That is certainly partially true, and we have made some improvements and I think we ought to be very proud of improvements we have made.

What the President did not say, however, is that most of these Army programs were begun under the Carter administration or the Ford administration or the Nixon administration and have been stretched out and delayed in many instances by the Reagan administration. He also neglected to mention how his administration has failed to match the solid accomplishments of previous administrations—including previous Republican administrations—in encouraging a common allied approach to improving NATO's conventional defenses. Too many times this administration has behaved as if we were not part of an alliance. Upon taking office, the Reagan administration paid only lip service to two key Carter administration initiatives in this area, the NATO Long Term Defense Program and the 3-percent spending increase pledge, and then the administration decided to march off on its own—without a coordinate approach with our allies and without a coherent strategy for where we were going. Not surprisingly, several years later, when the Reagan administration looked around, they discovered that none of the allies were marching behind them.

Following that, the President went on to talk about other items. But he did not say that during his tenure the Department of Defense has done nothing to arrest the alarming erosion of our antiarmor capabilities or that recent developments in Soviet armor have wiped out most of the NATO Alliance's decade-long investment in modern antitank weapons. In hearings before the Armed Services Committee, we learned that if a war started tomorrow United States missiles in many cases would literally bounce off Soviet tanks, because the Soviets have fielded reactive armor on their tanks—even though this technological breakthrough was invented in the United States. It has gotten in there in the field in the Warsaw Pact although it was invented here. And that was not talked about, although I think most experts in land warfare would say this is one of our biggest deficiencies that has not been adequately addressed.

Finally, I find it particularly disappointing that the President chose to assert that under the Carter administration, "the Alliance, our most vital strategic relationship, was shaken to its very foundations by their unbelievable indecision on weapons modernizations." The fact is that were it not for the courage and persistence of both the Carter and the Reagan administrations, joined by the governments of our allies in Europe, to make the hard decisions on deploying Pershing II and ground-launched cruise missiles [GLCMs] in Europe, the INF Treaty would not have been signed and we would not be witnessing the destruction of Soviet SS-20 missiles today under the terms of that agreement.

This agreement came about because two administrations followed a continuous policy, and the President did not acknowledge that. It makes it very difficult to build a continuing policy or a consensus or any kind of bipartisan approach when you have this kind of one-sided presentation that does not in any way acknowledge previous administration's accomplishments, does not in any way talk about the importance of continuity, does not in any way set forth the fact that we are now today fighting, if we have a war, with the weapons that were developed by the Carter administration and the Ford administration and the Nixon administration. The next President will be using the Reagan administration's weapons and probably the following. But this is not the way to build any kind of consensus on defense. It is not the way to get any kind of bipartisan approach in foreign policy or defense.

If the alliance has been shaken to its foundation recently—and I think there are many who believe it has—it is primarily the result of President Reagan's incomprehensible willingness at the Reykjavik summit to agree to General Secretary Gorbachev's proposal to abolish all nuclear weapons. We are indeed fortunate that Mr. Gorbachev's intransigence on SDI saved the President from plunging into this abyss, which they later, fortunately, retreated from.

Mr. President, I strongly believe that the election year politics represented by this speech—and by the President's veto last month of the defense authorization bill—moves us further away from the spirit of bipartisanship that is essential if we are to establish and maintain a sound and enduring national security posture. As I have said before, America's defense and foreign policy can be successful only when it is supported by a bipartisan consensus in the Congress and only when we have continuity beyond one administration.

We are reminded of this truth not only by the ratification of the INF Treaty, but also by the withdrawal of Soviet forces from Afghanistan, which is occurring today. These achievements were not merely coincidences. The courageous Afghan resistance to Soviet invaders was supported by two Presidents—Carter and Reagan and by a strong bipartisan consensus in the Congress. The important steps leading to the INF Treaty were started by the Carter administration and pursued with determination and skill by the Reagan administration, with consistent support from Republicans and Democrats in Congress.

On the other hand, disarray in our defense and foreign policy has usually been the product of a divided Congress and a divided America and can often—not always, but can often—be traced to irresponsible positions taken during Presidential campaigns. And I must say that this has occurred on both sides of the political spectrum.

Our Nation's failure to deploy a survivable land-based missile is one example. Delays and costly mistakes made in deploying a new penetrating bomber is another example. And also our inconsistent and thus far unsuccessful policy in Central America is another example of how Presidential campaigns can often cause foreign policy and defense disasters.

As the campaign intensifies, I hope the administration may yet remember that our national security is too important to be the hostage of partisan politics. I hope the President will get his facts straight with regard to the management of defense policy in recent years. I hope his advisers will be more careful in giving him accurate information. I know everyone is going to put their own touches on things I do not object to that. But when we have distortions of this magnitude, they cannot go unanswered. They have to be answered. You cannot leave the record this way because it could be misconstrued by too many people who are sincerely trying to follow the overall picture with some degree of accuracy.

Our beloved, late colleague, Senator Scoop Jackson, said it best when he said: "In matters of national security, the best politics is no politics."

Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DASCHLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 555

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consulting with the minority leader, may at any time proceed to the consideration of Calendar Order No. 862, S. 555, the Indian gaming bill, that when the Senate considers the bill it be considered under the following time limitations; 40 minutes equally divided between Mr. INOUYE and Mr. EVANS on the bill and the committee substitute; 10 minutes equally divided on an Inouye-McCain amendment; 30 minutes for Senator EVANS for debate; provided further that no other amendments be in order, no motion to recommit the bill with or without instructions be in order, that the agreement be in the usual form and that no other motions be in order; provided further that provisions of rule XXII will not serve to bar consideration of the bill.

The PRESIDING OFFICER. Is there an objection?

Mr. DOLE. Mr. President, I have no objection but I do understand that it would not be taken up before Tuesday, September 13?

Mr. BYRD. Yes, that is agreed to.

Mr. DOLE. I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, if the Republican leader is in agreement, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 900 and 915 seriatim.

Mr. DOLE. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPENDITURES OF FUNDS FOR SENATE OFFICIAL MAIL

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution, (S. Res. 458) managing the expenditure of funds for Senate official mail during fiscal year 1989.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 458) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 458

Resolved, That for purposes of this resolution—

(1) the term "franked mail" has the meaning given to such term by section 3201(4) of title 39, United States Code;

(2) the term "mass-mailing" is a mass mailing (as defined in section 3210(a)(6)(E) of such title) which is to be mailed as franked mail; and

(3) the term "official mail costs" means the equivalent of—

(A) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege; and

(B) those portions of the fees and charges to be paid for handling and delivery by the Postal Service of Mailgrams considered as franked mail under section 3219 of such title;

(4) the term "Senate office" means the Vice President of the United States, a United States Senator, a United States Senator-elect, a committee of the Senate, the Joint Committee on Printing, the Joint Economic Committee, an officer of the Senate, or an office of the Senate authorized by section 3210(b)(1) of title 39 of the United States Code to send franked mail.

SEC. 2. (a) Notwithstanding any provision of law or of the Standing Rules of the Senate, the total amount which may be incurred by a Senate office for official mail costs for fiscal year 1989 shall not exceed the amount allocated to such Senate office for such period by the Committee on Rules and Administration in accordance with this resolution.

(b) As soon as practicable after this resolution is agreed to, the Committee on Rules and Administration shall determine:

(1) The total amount to be allocated for official mail costs for the Senate, which shall be one-half of the total amount appropriated for official mail costs for the Senate and the House of Representatives for fiscal year 1989.

(2) The total amount necessary for official mail costs for fiscal year 1989 for Senate offices other than Senators and Senators-elect.

(3) The total amount necessary for the official mail costs for Senators-elect for the period beginning on November 9, 1988 and ending on January 3, 1989: *Provided, however*, That such amount shall not include amounts for unsolicited mass-mail.

(4) The total amount necessary for the official mail costs of newly elected Senators for the period January 3, 1989 through September 30, 1989: *Provided, however*, That such amount shall not exceed three-fourths of the amount that such Senators would receive for a full fiscal year.

(5) The total amount necessary for the official mail costs for Senators whose service as Senators will end on January 3, 1989 (except Senators whose retirement from the Senate was announced prior to October 1, 1988), for the period beginning on November 9, 1988, and ending on April 3, 1989: *Provided, however*, That not more than one-sixth of the amount such Senators would receive for a full fiscal year shall be available for the period November 9, 1988, through January 3, 1989, and that no amounts shall be provided for unsolicited mass-mailings for the period January 3, 1989, through April 3, 1989.

(6) The total amount necessary for the official mail costs for Senators whose retirement from the Senate was announced prior to October 1, 1988, for the period October 1, 1988, and ending on April 3, 1989: *Provided, however*, That not more than one-fourth of the amount such Senator would receive for the full fiscal year shall be available for the period October 1, 1988, through January 3, 1989, and that no amount shall be provided for unsolicited mass-mailings for the period January 3, 1989, through April 3, 1989.

(7) The total amount necessary to be reserved for contingencies, which shall not exceed 10 per centum of the amount determined pursuant to paragraph A.

(8) The total amount available for allocation to Senators other than Senators whose terms of service as a Senator will begin or end on January 3, 1989, which shall be the amount determined pursuant to paragraph (1) minus the sum of the amounts determined pursuant to paragraphs (2) through (7).

(9) The allocation to a Senate office (other than a Senator or a Senator-elect) for fiscal year 1989 which shall be an amount equal to the product of the amount determined pursuant to paragraph (2) multiplied by the ratio that the official funds provided to such office bears to the sum of the official funds provided to all such offices, except that for purposes of this paragraph the funds provided to the Sergeant at Arms shall be considered to be equal to one-half of the funds provided to the Secretary of the Senate: *Provided*, That the official mail costs of the Joint Committee on the Library shall be charged to the amount allocated to the Committee on Rules and Administration.

(10) The allocation of a Senator-elect for official mail costs for that portion of fiscal year 1989 beginning on the date of the election of such Senator-elect and ending with the date such Senator-elect is appointed to the Senate, which shall be an amount equal to the product of the total amount determined pursuant to paragraph (3) multiplied by the ratio that the population of the State represented by the Senator-elect bears to the total population of States represented by Senators-elect.

(11)(A) Subject to the exception in subparagraph (B) of this paragraph, the allocation of a newly elected Senator for official mail costs for the period January 3, 1989, through September 30, 1989, which shall be an amount equal to the product of the total amount determined pursuant to paragraph (4), multiplied by the ratio that the population of the State represented by such Senator bears to the total population of the States represented by such Senators.

(B) Any Senator whose allocation pursuant to subparagraph (A) of this paragraph is less than $75,000 shall be granted such sums from the contingent fund provided for in section 2(b)(7) to bring such Senator's total allocation up to but not to exceed $75,000 upon request of such Senator to the Committee on Rules and Administration. Funds shall be withheld in the contingent fund during each fiscal year for the use of Senators referred to in this paragraph until each such Senator has indicated the total additional sums, if any, that will be needed by such Senator.

(12) The allocation of a Senator whose service as a Senator will end on January 3, 1989 (except a Senator who announced his retirement prior to October 1, 1988), for official mail costs for the period November 9, 1988 through April 3, 1989, which shall be an amount equal to the product of the total amount determined pursuant to paragraph (5), multiplied by the ratio that the population of the State represented by such Senators bears to the total population of the States represented by such Senators.

(13) The allocation of a Senator whose retirement from the Senate was announced prior to October 1, 1988, for official mail costs for the period October 1, 1988, through April 3, 1989, which shall be an amount equal to the product of the total amount determined pursuant to paragraph (6), multiplied by the ratio that the population of the State represented by such Senators bears to the total population of the States represented by such Senators.

(14)(A) Subject to the exception in subparagraph (B) of this paragraph, the allocation of a Senator whose term of service as a Senator does not begin or end on January 3, 1989, for official mail costs for fiscal year 1989 which shall be an amount equal to the product of the total amount determined pursuant to paragraph (8), multiplied by the ratio that the population of the State represented by such Senator bears to the total population of the States represented by such Senators.

(B) Any Senator whose allocation pursuant to subparagraph (A) of this paragraph is less than $100,000 shall be granted such sums from the contingent fund provided for in section 2(b)(7) to bring such Senator's total allocation up to but not to exceed $100,000 upon request of such Senator to the Committee on Rules and Administration. Funds shall be withheld in the contingent fund during each fiscal year for the use of Senators referred to in this paragraph until each such Senator has indicated the total additional sums, if any, that will be needed by such Senator.

(c) In determining official mail costs, and in making the allocations of Senate offices under this resolution, the Committee on Rules and Administration shall consult with the Postmaster General of the United States.

SEC. 3. The Senate urges the House of Representatives to limit the amounts which may be expended by Members of the House of Representatives, Delegates, Resident Commissioners, and committees, officers, and offices of the House of Representatives in a manner which is similar to the limitations on the expenditure of such amounts which are applicable to Senators during fiscal year 1989.

SEC. 4. The Committee on Rules and Administration shall prescribe a recordkeeping system to be used by Senate offices to ensure that the amounts allocated to such offices are not exceeded.

SEC. 5. The Committee on Rules and Administration shall prescribe a procedure whereby portions of an allocation made to a Senate office may be transferred to another Senate office: *Provided,* That each such transfer shall be approved by the Committee on Rules and Administration and that no Senate office shall acquire a total amount in excess of the amount that the office could use with the paper officially allotted to such office. The amount of each transfer together with the name of the transferring office, the name of the receiving office, and the date of the transfer shall set forth in the semiannual report of the Secretary of the Senate, immediately following the tabulation of Senators' quarterly mass-mail costs.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROVISION OF HEALTH SERVICES BY THE INDIAN HEALTH SERVICE

The PRESIDING OFFICER. The clerk will state the next bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2382) to delay the implementation of a certain rule affecting the provision of health services by the Indian Health Service.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consideration of the bill, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. The final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service of the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, shall not take effect before the day that is three years after the date of enactment of this Act, and no action may be taken before such day to implement or administer such rule or to prescribe any other rule or regulation that has a similar effect.

SEC. 2. During the three-year period described in subsection (a), the Indian Health Service shall provide services pursuant to the criteria for eligibility for Indian Health Service in effect prior to September 15, 1987.

SEC. 3. (a) The Office of Technology Assessment, acting in consultation with the Indian Health Service, shall conduct a study to determine the impact of the final rule described in subsection (a) and of any other proposed rules which would change the eligibility criteria for the services of the Indian Health Service.

(b) The study conducted under paragraph (1) shall include—

(1) full participation and consultation with Indian and Alaskan Native tribal governments, and representatives of urban Indian health care programs;

(2) statistics for each of the service areas of the Indian Health Service on the number of Indians who are currently eligible for the services of the Indian Health Service;

(3) statistics for each of the service areas of the Indian Health Service on the number of Indians who would be eligible for such services if the final rule described in subsection (a) or any alternative rules changing eligibility were implemented;

(4) consideration of the financial impact of such final rule or any other proposed rule on the contract health care budget and on the clinical services budget of the Indian Health Service;

(5) consideration of the health status, cultural, social, and economic impact on Indian reservations and urban Indian populations of such final rule or any other rule changing the eligibility criteria;

(6) consideration of the alternatives, if any, that would be available to those Indians who would not be eligible for such services by reason of any such final rule; and

(7) consideration of the program changes that the Indian Health Service would be required to make if the eligibility requirements for such services that were in effect on September 15, 1987, were modified.

(c) By no later than the date that is two years after the date of enactment of this Act, the Office of Technology Assessment shall submit to the Congress a report on the study conducted under paragraph (1).

(d) Before submitting to the Congress the report on the study conducted under paragraph (1), the Office of Technology Assessment shall provide Indian tribes, Alaska Native villages, and urban Indian health care programs an opportunity to comment on the report and shall incorporate the comments on such Indian groups into the report.

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill (S. 2382) was ordered to be engrossed for a third reading, was read a third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIAN FINANCING ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message for the House of Representatives on S. 1360.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1360) entitled "An Act to amend the Indian Financing Act of 1974, and for other purposes", do pass with the following amendments:

(1) Page 2, strike out all after line 17 over to and including line 2 on page 3, and insert:

"(f) If the Secretary determines that the amount in the fund is not sufficient to maintain an adequate level of reserves necessary to meet the responsibilities of the fund in connection with losses on loans or surety bonds guaranteed or insured under this title, the Secretary shall promptly submit a report notifying Congress of the deficiencies in the fund.".

(2) Page 3, strike out all after line 7 over to and including line 14 on page 7, and insert:

SUPPLEMENTAL SURETY BOND GUARANTEE

SEC. 5. (a) The Indian Financing Act of 1974 is amended by redesignating section 218 as section 219 and inserting the following new section 218:

"SEC. 218. (a) The Secretary is authorized to provide a supplemental surety bond guarantee, not to exceed 20 percent of any loss, for any Indian individual or economic enterprise eligible for a surety guarantee under section 411 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694b), so that the aggregate of the two guarantees is 100 percent.

"(b) The Secretary may provide a supplemental guarantee under this section only if the Secretary determines that—

"(1) the Indian individual or economic enterprise has secured or will likely secure a surety bond guarantee under section 411 of the Small Business Investment Act of 1958, as amended;

"(2) the supplemental guarantee is necessary for the Indian individual or economic enterprise to secure a surety bond;

"(3) no more than 25 percent of the surety's business is comprised of bonds guaranteed pursuant to this section; and

"(4) the surety will provide appropriate technical assistance and advice to, and monitor the performance of, the Indian individual or economic enterprise for the prevention or mitigation of a loss.

"(c) The rules and regulations promulgated by the Secretary to carry out this section shall include the setting of reasonable fees to be paid by the Indian individual or economic enterprise and reasonable premium charges to be paid by sureties. In setting fees and charges, the Secretary may take into consideration the cost to the surety of providing the services required by paragraph (4) of subsection (b). The receipts from the fees and charges shall be deposited in the Fund established by section 217(a) of this Act.".

(b) Section 3 of the Indian Financing Act of 1974 is amended by adding the following new paragraphs (h) and (i) at the end thereof:

"(h) 'Surety' has the same meaning as in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a).

"(i) 'Surety Bond' means a bid bond, payment bond, or performance bond as those terms are defined in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a).".

(c) Section 216 of the Indian Financing Act of 1974 is amended by:

(1) striking the phrase "of loans" in the first sentence and inserting, in lieu thereof, the phrase "of loans and surety bonds";

(2) striking the phrase "a loan" in paragraph (b) and inserting, in lieu thereof, the phrase "a loan or surety bond"; and

(3) striking the phrase "any loan" in paragraph (c) and inserting, in lieu thereof, the phrase "any loan or surety bond".

(d) Section 217 of the Indian Financing Act of 1974 is amended by striking the word "loans" each time it appears and inserting, in lieu thereof, the phrase "loans or surety bonds".

SEC. 6. The Indian Financing Act of 1974 is amended by adding the following new section at the end of title II:

"SEC. 220. (a) The Secretary may guarantee not to exceed 90 percent of the unpaid principal and interest due on an issue of bonds, debentures, or similar obligations issued by an organization satisfactory to the Secretary. Such an issue shall be deemed a loan for purposes of sections 202, 203, 204, 205, 206, 209, 210, 211, 213, 214, 215, 216, and 217 of this Act.

"(b) The method by which an issue of bonds guaranteed under this section may be sold shall be subject to approval by the Secretary.".

SEC. 7. The Indian Financing Act of 1974 is amended by adding a new section 504 as follows:

"SEC. 504. Notwithstanding any other provision of law, a contractor of a Federal agency under any Act of Congress may be allowed an additional amount of compensation equal to 5 percent of the amount paid, or to be paid, to a subcontractor or supplier, in carrying out the contract if such subcontractor or supplier is an Indian organization or Indian-owned economic enterprise as defined in this Act.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

DIRECTING THE SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

Mr. BYRD. Mr. President, on behalf of myself and Mr. DOLE I send to the desk a resolution, and I ask unanimous consent that the Senate proceed with its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 469) to authorize representation of Senator JEFF BINGAMAN and present and former members of his staff, and testimony and document production in, In the Matter of the Applications of the City of El Paso, etc.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, the city of El Paso, TX, has commenced a proceeding in a State court in New Mexico to challenge the denial by the New Mexico State engineer of applications by the city to appropriate ground water from the Hueco and Lower Rio Grande water basins in New Mexico. The case has been assigned to Judge Manuel Saucedo, and the city of El Paso has moved to disqualify Judge Saucedo for bias.

In 1983 and 1984, prior to his election as State judge, Manuel Saucedo worked on the staff of Senator JEFF BINGAMAN as an aide on banking, tax, and judiciary matters. In furtherance of its recusal motion, the city of El Paso has caused deposition subpoenas to be issued to Senator BINGAMAN and eight present or former Senate employees on his staff. One theory upon which the city of El Paso is seeking the recusal of Judge Saucedo is that Senator BINGAMAN's office participated in the consideration of legislation which the city believes would have been adverse to its efforts to obtain New Mexico water. In an effort to be of assistance to the State court and to the parties in considering the recusal motion, Senator BINGAMAN has offered, through Senate Legal Counsel, to provide an affidavit which establishes that Mr. Saucedo was not assigned responsibilities involving issues relating to access by the city of El Paso to New Mexico water resources. The attorneys for the city have insisted, however, on pursuing the multiple depositions which they have noticed and inquiring into matters which are subject to legislative privilege.

The following resolution will authorize the Senate Legal Counsel to represent Senator BINGAMAN, and present and former members of his staff, in these proceedings and to assert the privileges of the Senate if necessary. The resolution authorizes testimony and the production of documents only to the extent that can be done in a manner consistent with the privileges of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 469) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 469

Whereas, in or in connection with the case of In the Matter of the Applications of the City of El Paso, Texas, Nos. HU 12 through HU 71 and LRG 92 through LRG 357, to Appropriate Ground Water from the Hueco and Lower Rio Grande Underground Water Basins, Case No. CV-88-201, pending in the Third Judicial District, County of Dona Ana, State of New Mexico, counsel for the applicant City of El Paso has caused deposition subpoenas to be served for testimony and documents of Senator Jeff Bingaman, five present employees of the Senate on his staff (Mitchell Foushee, Edwin S. Jayne, Edward McGaffigan, Vincent Murphy, and Alice Salcido), and three former employees of the Senate who had served on his staff (Faith Roessel, Matthew R. Schneider, and Elizabeth Webber);

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members and present and former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, When it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Jeff Bingaman, and present and former employees of the Senate who are serving or who have served on his staff, in the case of In the Matter of the Applications of the City of El Paso, etc.

SEC. 2. That Senator Jeff Bingaman, and present and former employees of the Senate who are serving or who have served on his staff, are authorized to testify and produce documents, in the case of In the Matter of the Applications of the City of El Paso, etc., except concerning matters for which a privilege should be asserted.

SEQUENTIAL REFERRAL OF BILLS—S. 2384 OR H.R. 4124

Mr. BYRD. Mr. President, I ask unanimous consent that when S. 2384 or H.R. 4124, bills to amend and extend the Atlantic Striped Bass Conservation Act and for other purposes, is reported by the Committee on Environment and Public Works, it be sequentially referred to the Committee on Commerce, Science, and Transportation for a period not to extend beyond 14 calendar days; and that if S. 2384 or H.R. 4124 is not reported by the Committee on Commerce, Science, and Transportation within said time, the Committee on Commerce, Science, and Transportation shall immediately be discharged from further consideration of S. 2384 or H.R. 4124 and the bill shall be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEQUENTIAL REFERRAL OF A BILL—S. 2697

Mr. BYRD. Mr. President, I ask unanimous consent that when S. 2697, a bill to amend certain marine fisheries laws to promote effective fishery conservation and management, and for other purposes, is reported by the Committee on Commerce, Science, and Transportation, it be sequentially referred to the Committee on Environment and Public Works for a period not to extend beyond 14 calendar days to permit consideration of sections 4 and 5 of the bill; and that if S. 2697 is not reported by the Committee on Environment and Public Works within said time, the Committee on Environment and Public Works shall immediately be discharged from further consideration of S. 2697 and the bill shall be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION HELD AT DESK—HOUSE CONCURRENT RESOLUTION 351

Mr. BYRD. Mr. President, I ask unanimous consent that House Concurrent Resolution 351 received from the House be held at the desk for the time being.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination on the executive calendar of Joseph F. Salgado, of California, to be Deputy Secretary of Energy.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of Joseph F. Salgado of California to be Deputy Secretary of Energy.

Mr. McCLURE. Mr. President, I would like to indicate my enthusiastic support for the confirmation of Joseph F. Salgado to be Deputy Secretary of Energy.

Mr. Salgado has an extensive background with the Federal Government, including service at the White House, the Immigration and Naturalization Service, and the Department of Energy. Most recently, since his confirmation on May 15, 1985, he has held the position of Under Secretary of Energy. I am confident that Mr. Salgado, in his new capacity, will continue to perform his duties with the same competence and professionalism that he has in the past.

The Energy and Natural Resources Committee favorably reported his nomination on July 27, 1988, by a vote of 19 to 0. I urge my colleagues to join the committee members in supporting Mr. Salgado's confirmation today.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD OPEN UNTIL 5 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today for statements and the introduction of legislation entered in the record.

Mr. President, I ask unanimous consent that reports may be filed up until 5 o'clock p.m. today.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

The PRESIDING OFFICER. By Senate Resolution 456, agreed to on August 9, 1988, the Senate directed the issuance of a summons which commanded Judge Alcee L. Hastings to answer by September 8, 1988, the articles of impeachment which the House of Representatives has exhibited before the Senate. The Sergeant at Arms served the summons on Judge Hastings on August 10, 1988, and counsel for Judge Hastings submitted an answer to the Secretary of the Senate on September 8, 1988.

In accordance with section 6 of Senate Resolution 456, the answer of Alcee L. Hastings, judge of the U.S. District Court for the southern district of Florida, to the articles of impeachment should now be printed in the CONGRESSIONAL RECORD and in the Senate Journal.

So that the Senate may have a complete documentary record of the proceedings in this impeachment, without objection the following documents will be set forth in the RECORD:

First, the summons to Judge Hastings issued on August 9, 1988.

Second, the precept directing the Sergeant at Arms to serve the summons, dated August 9, 1988.

Third, the return executed by the Sergeant at Arms upon service of the summons, dated August 10, 1988.

Fourth, the appearance of Judge Hastings and appearances of his counsel, dated September 8, 1988.

Fifth, the answer of Judge Hastings, dated September 8, 1988.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC.

The United States of America, ss:

The Senate of the United States to Alcee L. Hastings, greeting:

Whereas the House of Representatives of the United States of America did, on the 9th day of August, 1988, exhibit to the Senate articles of impeachment against you, the said Alcee L. Hastings, in the words following:

"Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, in maintenance and support of its impeachment against him for misbehavior and for high crimes and misdemeanors.

ARTICLE I

"From some time in the first half of 1981 and continuing through October 9, 1981, Judge Hastings and William Borders, then a Washington, D.C. attorney, engaged in a corrupt conspiracy to obtain $150,000 from defendants in United States v. Romano, a case tried before Judge Hastings, in return for the imposition of sentences which would not require incarceration of the defendants.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE II

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that Judge Hastings and William Borders, of Washington, D.C., never made any agreement to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE III

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., to modify the sentences of defendants in United States v. Romano, a case tried before Judge Hastings, from a term in the Federal penitentiary to probation in return for a bribe from those defendants.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE IV

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., in connection with a payment on a bribe, to enter an order returning a substantial amount of property to the defendants in United States v. Romano, a case tried before Judge Hastings. Judge Hastings had previously ordered that property forfeited.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE V

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that Judge Hastings' appearance at the Fontainebleau Hotel in Miami Beach, Florida, on September 16, 1981, was not part of a plan to demonstrate his participation in a bribery scheme with William Borders of Washington, D.C., concerning United States v. Romano, a case tried before Judge Hastings, and that Judge Hastings expected to meet Mr. Borders at that place and on that occasion.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VI

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that Judge Hastings did not expect William Borders, of Washington, D.C., to appear at Judge Hastings' room in the Sheraton Hotel in Washington, D.C., on September 12, 1981.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VII

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

"The false statement concerned Judge Hastings' motive for instructing a law clerk, Jeffrey Miller, to prepare an order on October 5, 1981, in United States v. Romano, a case tried before Judge Hastings, returning a substantial portion of property ordered forfeited by Judge Hastings. Judge Hastings stated in substance that he so instructed Mr. Miller primarily because Judge Hastings was concerned that the order would not be completed before Mr. Miller's scheduled departure, when in fact the instruction on October 5, 1981, to prepare such order was in furtherance of a bribery scheme concerning that case.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VIII

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that Judge Hastings' October 5, 1981, telephone conversation with William Borders, of Washington, D.C., was in fact about writing letters to solicit assistance for Hemphill Pride of Columbia, South Carolina, when in fact it was a coded conversation in furtherance of a conspiracy with Mr. Borders to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

"Wherefore, Judge Alcee L. Hastings, is guilty of an impeachable offense warranting removal from office.

ARTICLE IX

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that three documents that purported to be drafts of letters to assist Hemphill Pride, of Columbia, South Carolina, had been written by Judge Hastings on October 5, 1981, and were the letters referred to by Judge Hastings in his October 5, 1981, telephone conversation with William Borders, of Washington, D.C.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE X

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath, make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that on May 5, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-758-8825 in Columbia, South Carolina.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XI

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that on August 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-782-9387 in Columbia, South Carolina.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XII

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that on September 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-758-8825 in Columbia, South Carolina.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIII

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that 803-777-7716 was a telephone number at a place where Hemphill Pride could be contacted in July 1981.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIV

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

"The false statement was, in substance, that on the afternoon of October 9, 1981, Judge Hastings called his mother and Patricia Williams from his hotel room at the L'Enfant Plaza Hotel in Washington, D.C.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XV

"From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact concerning his motives for taking a plane on October 9, 1981, from Baltimore-Washington International Airport rather than from Washington National Airport.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVI

"From July 15, 1985, to September 15, 1985, Judge Hastings was the supervising judge of a wiretap instituted under chapter 119 of title 18, United States Code (added by title III of the Omnibus Crime Control and Safe Streets Act of 1968). The wiretap was part of certain investigations then being conducted by law enforcement agents of the United States.

"As supervising judge, Judge Hastings learned highly confidential information obtained through the wiretap. The documents disclosing this information, presented to Judge Hastings as the supervising judge, were Judge Hastings' sole source of the highly confidential information.

"On September 6, 1985, Judge Hastings revealed highly confidential information that he learned as the supervising judge of the wiretap, as follows: On the morning of September 6, 1985, Judge Hastings told Stephen Clark, the Mayor of Dade County, Florida, to stay away from Kevin 'Waxy' Gordon, who was 'hot' and was using the Mayor's name in Hialeah, Florida.

"As a result of this improper disclosure, certain investigations then being conducted by law enforcement agents of the United States were thwarted and ultimately terminated.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVII

"Judge Hastings, who as a Federal judge is required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of his office impartially, did through—

(1) a corrupt relationship with William Borders of Washington, D.C.;

(2) repeated false testimony under oath at Judge Hastings' criminal trial;

(3) fabrication of false documents which were submitted as evidence at his criminal trial; and

(4) improper disclosure of confidential information acquired by him as supervisory judge of a wiretap; undermine confidence in the integrity and impartiality of the judiciary and betray the trust of the people of the United States, thereby bringing disrepute on the Federal courts and the administration of justice by the Federal courts.

"Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office." And demand that you, the said Alcee L. Hastings, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgements might be thereupon had as are agreeable to law and justice.

You, the said Alcee L. Hastings, are therefore hereby summoned to file with the Secretary of the United States Senate, S-208 The Capitol, Washington, D.C., 20510, an answer to the said articles of impeachment no later than the close of business on the 8th day of September, 1988, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States shall make in the premises according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness John C. Stennis, President pro tempore of the Senate, at Washington, D.C., this 9th day of August, 1988, the two hundred and twelfth year of the Independence of the United States.

WALTER J. STEWART,
Secretary of the Senate.

U.S. SENATE,
Washington, DC.

The United States of America, ss:

The Senate of the United States to Henry K. Giugni, Sergeant at Arms, United States Senate, greeting:

You are hereby commanded to deliver to and leave with Alcee L. Hastings, if conveniently to be found, or if not, to leave at his usual place of abode, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform the service, let it be done at least fifteen days before the answer day mentioned in the said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the day for answering mentioned in the said writ of summons.

Witness John C. Stennis, President pro tempore of the Senate, at Washington, D.C., this 9th day of August, 1988, the two hundred and twelfth year of the Independence of the United States.

WALTER J. STEWART,
Secretary of the Senate.

U.S. SENATE,
Washington, DC.

The foregoing writ of summons, addressed to Judge Alcee L. Hastings, and the foregoing precept, addressed to me, were duly served upon the said Alcee L. Hastings by my delivering true and attested copies of the same to the said Judge Alcee L. Hastings at 301 North Miami Avenue, Miami, Florida, on the 10th day of August, 1988, at 12:05 p.m.

HENRY K. GIUGNI,
Sergeant at Arms.

[In the United States Senate Sitting for the Trial of an Impeachment]

THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, PLAINTIFF, *v.* THE HONORABLE ALCEE L. HASTINGS, A JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, RESPONDENT

THE APPEARANCE OF THE HONORABLE ALCEE L. HASTINGS

The Secretary will please enter the appearance of the Honorable Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, the respondent in these proceedings, and the appearances of the following persons as counsel on his behalf:

JOHN W. KARR.
WILLIAM G. MCLAIN.
ANN B. RICHARDSON.
ROBERT S. CATZ.
TERENCE J. ANDERSON.
PATRICIA WILLIAMS.

The Secretary of the Senate and the Managers for the House of Representatives are also notified that Terence J. Anderson is designated as the counsel upon whom documents should be served and are requested to send or deliver copies of documents to be served upon Judge Hastings to Mr. Anderson at the University of Miami School of Law in Coral Gables, Florida, and to the law firm of Karr, Lyons & McLain in Washington, D.C., in order that copies may be available to him in both cities.

Respectfully submitted on September 8, 1988,

JOHN W. KARR.
TERENCE J. ANDERSON.

[In the Senate of United States Sitting for the Trial of an Impeachment]

THE HOUSE OF REPRESENTATIVES, OF THE UNITED STATES, PLAINTIFF, *v.* THE HONORABLE ALCEE L. HASTINGS, A JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, RESPONDENT

ANSWER TO ARTICLES OF IMPEACHMENT

The Honorable Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, as commanded by the summons of the Senate of the United States, answers the accusations made by the House of Representatives of the United States in the articles of impeachment it has exhibited to the Senate as follows:

ARTICLE I

Answer to Article I

Judge Hastings denies that he engaged in the corrupt conspiracy alleged in this article and states that at no time prior to October 9, 1981, did he know that William Borders had sought or was seeking improper payments from the defendants in *United States* v. *Romano.* Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

First Affirmative Defense to Article I

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution of the United States and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate fairly to judge the accusation made and intended.

Second Affirmative Defense to Article I

Prosecution by the House and trial by the Senate on the accusation made in this article, is and should be precluded by the 1983 trial and verdict of the jury in *United States* v. *Hastings,* a case in which Judge Hastings was tried and acquitted on an accusation of crime alleged in this article, and by the lapse of seven years since the information necessary to investigate the accusation made in this article was or should have been known to the House and more than five years since the substance of that accusation was fully tried and the evidence recorded in public records that were readily available to the House.

Third Affirmative Defense to Article I

The conduct of the investigations against Judge Hastings over the past seven years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLES II THROUGH IV

Answer to Article II

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he never made any agreement with William Borders to solicit a bribe from the defendants in *United States* v. *Romano,* a case that had been tried before him. Judge Hastings denies that the substance of this statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

Answer to Article III

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he had never agreed with William Borders to modify the sentences of defendants in *United States* v. *Romano,* a case that has been tried before him, from a term of imprisonment to probation in return for a bribe from those defendants. Judge Hastings denies that the substance of this statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

Answer to Article IV

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he never agreed with William Borders, in connection with a bribe, to enter an order returning a substantial amount of property to the defendants in *United States v. Romano,* a case tried before him in which he had previously ordered that property forfeit. Judge Hastings denies that the substance of this statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

First Affirmative Defense to Article II through IV

The accusations made in these articles fail to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far depart from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusations, are so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. These articles should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either amended articles or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusations made in these articles sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusations made and intended.

Second Affirmative Defense to Article II through IV

Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusations made in these articles, and by the lapse of more than five years since the information necessary to investigate and prosecute and accusations made in these articles was or should have been known and available to the House and since the trial at which those accusations were expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

Third Affirmative Defense to Articles II through IV

The conduct of the investigations against Judge Hastings over the past five years into the accusations made in these articles has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that these articles be dismissed by the Senate without trial.

ARTICLES V THROUGH IX

Answer to Article V

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of the case, he took the stand and testified under oath. He also admits that he testified, in substance, that his appearance at the Fontainebleu Hotel on September 16, 1981, was an innocent act and was not a part of a plan to demonstrate his participation in a bribery scheme with William Borders concerning *United States v. Romano,* a case tried before him. Judge Hastings admits that he testified that William Borders had told Judge Hastings that William Borders would be at the Fontainebleu on September 16, 1981, and had invited the judge to dine with him. Judge Hastings denies that the substance of his statements concerning the event described in this article was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

Answer to Article VI

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he did not expect William Borders to appear at Judge Hastings's room in the Sheraton Hotel on September 12, 1981. Judge Hastings denies that the substance of his statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

Answer to Article VII

Judge Hastings admits that he was the defendant in the criminal trial described in this article and that, in the course of that trial, he took the stand and testified under oath. Judge Hastings denies that his instructions to Mr. Miller on October 5, 1981 or his motives in giving those instructions were related to the furtherance of a bribery scheme concerning the *Romano* case. Judge Hastings denies that the substance of the statements on this topic was false or intended to mislead the triers of fact and states that they were true and were made to enable the jury to reach a true verdict. The remaining allegations set forth in this article are so vague and ambiguous as to preclude further response. In any event, Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

Answer to Article VIII

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that his October 5, 1981, telephone conversation with William Borders was in fact about writing letters to solicit assistance for Hemphill Pride of Columbia, South Carolina. Judge Hastings denies that his conversation concerned or was in furtherance of a conspiracy with William Borders to solicit a bribe from defendants in *United States v. Romano*, a case tried before Judge Hastings. Judge Hastings denies that the substance of his statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

Answer to Article IX

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that three documents, introduced into evidence at that trial, were drafts of letters he had written on October 5, 1981, telephone convervation with William Borders. Judge Hastings denies that the substance of his statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

First Affirmative Defense to Articles V through IX

The accusations made in these articles fail to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far depart from the standards of fair pleading, as established in prior impeachements and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusations are so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. These articles should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either amended articles or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusations made in these articles sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusations made and intended.

Second Affirmative Defense to Articles V through IX

Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings*, a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusations made in these articles, and by the lapse of more than five years since the information necessary to investigate and prosecute the accusations made in these articles was or should have been known and available to the House and since the trial at which those accusations were expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

Third Affirmative Defense to Articles V through IX

The conduct of the investigations against Judge Hastings over the past five years into the accusations made in these articles has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the articles be dismissed by the Senate without trial.

ARTICLES X THROUGH XIII

Answer to Articles X through XIII

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. Judge Hastings admits that, in the course of his testimony at trial, he testified, in substance, that:

a. On May 5, 1981, he had talked with Hemphill Pride by placing a telephone call to 803-758-8825 in Columbia, South Carolina (article X);

b. On August 2, 1981, Judge Hastings talked to Hemphill Pride by placing a call to 803-782-9387 in Columbia, South Carolina (article XI);

c. On September 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-758-8825 in Columbia, South Carolina (article XII); and

d. The telephone number 803-777-7716 was the number of a telephone at a place where Hemphill Prie could be contacted in July 1981 (article XIII). Judge Hastings admits that the statements that the specific telephone numbers identified in these articles were the numbers of telephones on which he talked with Hemphill Pride or that were at locations at which Hemphill Pride could be reached were false. He denies, however, that he had knowledge that any of the statements was false at the time he made it and states that he believed each of them to be true at the time he made it. He also denies that he intended any of these statements to mislead the triers of fact and states that they were intended, at the time they were made, to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

First Affirmative Defense to Articles X through XIII

The accusations made in these articles fail to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far depart from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusations are so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. These articles should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either amended articles or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusations made in these articles sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

Second Affirmative Defense to Articles X through XIII

Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings*, a case in which Judge Hastings was tried and acquitted and in which the prosecutors had a full and fair opportunity to develop the accusations made in these articles and argue to the triers of fact their relevence to the claim that Judge Hastings was guilty of the crime for which he was tried. The House should not be permitted to collaterally attack the verdict of the jury or to collaterally impeach Judge Hastings's testimony by now asserting claims that the prosecutors failed to present at the 1983 trial, whether for tactical reasons or through inadvertence or neglect. Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be further precluded by the lapse of more than five years since the information necessary to investigate and prosecute the accusations made in these articles was or should have been known and available to the House and since the trial at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

Third Affirmative Defense to Articles X through XIII

The conduct of the investigations against Judge Hastings over the past five years into the accusations made in these articles has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the articles be dismissed by the Senate without trial.

ARTICLE XIV

Answer to Article XIV

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the courage of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that, on the afternoon of October 9, 1981, Judge Hastings called his mother and Patricia Williams from his hotel room at the L'Enfant Plaza Hotel in Washington, D.C. Judge Hastings denies that the substance of these statements was false or intended to mislead the triers of fact and states that these statements were, at the time they were made, true to the best of his recollection and brief and were made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

First Affirmative Defense to Article XIV

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

Second Affirmative Defense to Article XIV

Prosecution by the House and trial by the Senate on the accusation made in this article is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusation made in this article, and by the lapse of more than five years since the information necessary to investigate and prosecute the accusation made in this article was or should have been known and available to the House and since the trial at which that accusation was expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

Third Affirmative Defense to Article XIV

The conduct of the investigations against Judge Hastings over the past five years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLE XV

Answer to Article XV

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified concerning his motives for taking a plane on October 9, 1981, from Baltimore-Washington International Airport rather than from Washington National Airport. Judge Hastings denies that the substance of his testimony on this point was false or intended to mislead the triers of fact and states that his testimony on this point, at the time it was given, was true to the best of his recollection and belief and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

First Affirmative Defense to Article XV

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, or the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

Second Affirmative Defense to Article XV

Prosecution by the House and trial by the Senate on the accusation made in this article is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusation made in this article, and by the lapse of more than five years since the information necessary to investigate and prosecute the accusation made in this article was or should have been known and available to the House and since the trial at which that accusation was expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

Third Affirmative Defense to Article XV

The conduct of the investigations against Judge Hastings over the past five years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLE XVI

Answer to Article XVI

Judge Hastings admits the allegations made in the first two paragraphs of this article. Judge Hastings denies the allegations set forth in the third paragraph of this article. Judge Hastings lack information sufficient to form a fair belief concerning the truth of the allegations set forth in the fourth paragraph of this article and, on that basis, but without conceding their relevance or materiality, he denies them. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

First Affirmative Defense to Article XVI

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established, in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to fairly judge the accusation made and intended.

Second Affirmative Defense to Article XVI

The conduct of the investigations against Judge Hastings over the past three years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLE XVII

Answer to Article XVII

Judge Hastings admits that he is a federal judge within the meaning of Article III, Section 1, of the Constitution. Judge Hastings admits that, by virtue of his oath and his office, he is required to uphold and obey the Constitution and laws of the United States. Judge Hastings states that the remaining allegations set forth in this article are defective in two ways—they fail to state the House's accusations with sufficient particularity to enable him to respond and they fail to state a separate offense constituting a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution. Without waiving his rights to challenge this article on the basis of the defects specified or otherwise, Judge Hastings denies the allegations of fact and the conclusions of law set forth in this article to the exent that they are inconsistent with the facts admitted in the first two sentences of his answer to this article.

First Affirmative Defense to Article XVII

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

Second Affirmative Defense to Article XVII

The inclusion of this article represents an improper attempt by the House to undermine the integrity and function of the Senate in the conduct and adjudication of trials of impeachments in two ways. The article asks the Senate to ignore the standard mandated by the Constitution, that removal of an article III judge shall only take place upon conviction for "Treason, Bribery, or other high Crimes and Misdemeanors", and to substitute therefore a nebulous political standard that would permit impeachment and removal upon a finding that a judge had failed "to avoid impropriety and the appearance of impropriety" and had acted "to undermine confidence in the integrity and impartiality of the judiciary" and thereby to substitute a form of political joint address that the framers rejected as inconsistent with maintaining "the necessary independence of a judicial character." Moreover, House seeks by this article to establish again its right to combine multiple accusations in a single article in a manner calculated to induce cumulative voting by Senate in order to obtain a single conviction in impeachments where the House fails to offer evidence sufficient to satisfy the Senate that the accused was guilty of any of the specific crimes alleged. The accusation made in this article so far departs from the standards mandated by the Constitution as to require that it be dismissed by the Senate without trial.

Third Affirmative Defense to Article XVII

The inclusion of this article provides further confirmation that the conduct of the investigations against Judge Hastings over the past seven years into the accusations subsumed and combined in this article and separately stated in the prior article have so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

Respectfully submitted on September 8, 1988,

The Honorable Alcee L. Hastings, a Judge of the United States District Court for the Southern District of Florida, by and through his counsel
John W. Karr.
Terence J. Anderson.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, may I inquire of the distinguished Republican leader if he has any further requests or any statement he would like to make?

Mr. DOLE. We have no further requests except I think the Senator from Arizona [Mr. McCain] would like 3 to 5 minutes in morning business.

Mr. BYRD. Very well. Mr. President, I ask unanimous consent that morning business be extended for 30 minutes and that Mr. McCain be recognized during that period so that he may speak therein, Mr. Levin may speak during that period, and that upon yielding of the floor by those two Senators not later than 3:30 p.m. today the Chair recess the Senate over until Monday under the order previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I would not want any Senator who came to the floor to be shut out by virtue of this order. If any Senator wishes to speak in morning business, I hope that he would call the cloakroom of his respective party and inform the leadership. Then I would ask unanimous consent that the order just entered be enlarged so as to accommodate that Senator for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without rejection, it is so ordered.

GAS WARFARE AND THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION: THE NEED FOR AMERICAN ACTION

Mr. McCAIN. Mr. President, I believe I join all my colleagues in condemning Iraq's use of poison gas. I do not believe that our opposition to Iran's fanatic ambitions in the Iran-Iraq war, and to dominate Islam, lead any of us to believe this Nation should excuse or ignore Iraq's use of poison gas.

THE IRAQI DRIFT TOWARD MURDER AND GENOCIDE

I do not believe that there is a single Member of the Senate who believes that Iraq was justified in using poison gas for military purposes. War is horrible enough without adding another weapon of mass destruction to the appalling total of killing mechanisms available to modern armies. This is particularly true when the weapon is one whose effects may last for decades and lead to a slow and painful death years after the conflict in question is over.

What is even more horrifying, however, is that Iraq has used poison gas in areas where it knew Iranian civilians would suffer, and is now using poison gas in a genocidal campaign against its Kurdish minority.

We already have seen a steady increase in the willingness of both Governments and armed movements to make civilians, including women and children, the target of military action and terrorism. We have only to think of Cambodia, the long agony of Lebanon, or the current atrocities in Burundi, to realize that the murderous heritage of World War II continues in many parts of the world.

The introduction of poison gas, however, adds a new and even more horrifying dimension to this process of total war. It is one thing to see ethnic and tribal conflicts explode into hatred and violence. It is another thing to see weapons of mass destruction used methodically in continuing acts of cold-blooded murder.

Iraq has plainly embarked upon this course. For all its evasions, and its night and fog approach to trying to hide the facts, it is patently clear that thousands of innocent people are being murdered solely because of their ethnic group.

Mr. President, I wonder if they were not Kurds whether we would not be a lot more exercised than we are at this time.

AMERICA'S STRATEGIC INTERESTS IN CONDEMNING THE USE OF POISON GAS AND THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

It is true that the Kurds are half a world away, it is true that some Kurds have conducted a state of civil war filled with acts of terrorism and the murder of other civilians, and it is true that the Kurds have become a pawn of history whose only strategic value lies in the ability to use them against the governments of the nations where they reside. This in no way, however, excuses what is happening or can lead us to turn away from the fact that mass murder is mass murder.

Further, we need to take a longer term view of the strategic threat that the use of poison gas and weapons of mass destruction pose to our interests. This is true whether we define that long term interest in terms of our relations with Iraq, our position in the gulf, or the search for stability and development within the Third World.

THE NEED FOR THE RIGHT KIND OF RELATIONS WITH IRAQ

In the most narrow sense, we want to establish friendly relations with Iraq. We have every interest in seeing a strong, independent, and secular buffer state in the northern gulf. We have every interest in encouraging Iraq to become more moderate, to expand its trade ties with the West, and to become a developed nation.

We will do nothing, however, to build a stable and lasting relationship by turning a blind eye to genocide. We must be prepared to confront Iraq every time it departs from a moderate course. We must not tolerate any return to the support of terrorism, and we must do everything in our power to deter it from its present use of poison gas.

THE NEED TO ENCOURAGE STRATEGIC STABILITY IN THE GULF REGION

As for our position in the gulf, we need to recognize that a strong and indpendent Iran is as important to our strategic interests as a strong and independent Iraq. Our quarrel with Iran is not its choice of governments, but the fact that Government has sought to subvert or conquer other states by force, and has perverted and twisted Islam into the glorification of fanaticism. The moment Iran turns away from subversion and conquest, it is in our interest to encourage the development of a state that is strong enough to preserve its own security and any relations that will lead to the development of a more moderate and less repressive regime.

We need to recognize that the end of the Iran-Iraq war leaves no pro-Western "pillars" in the region. Bahrain, Kuwait, Oman, and Saudi Arabia are friendly states, but they are relatively weak and cannot either formally grant us bases or assume the role of defending an area with over half the world's proven oil reserves. Our "over-the-horizon" reinforcement capabilities must be the last, not the first, resort in ensuring the flow of oil.

The key factor that can bring stability to the region is the kind of balance between Iraq and Iran that will checkmate any ambitions either state has to dominate its neighbor or the gulf. This, however, means that we must be as willing to condemn the use of poison gas by Iraq as we are to condemn Khomeini's butchery of hundreds of thousands of his own youth in a pointless attempt at conquest.

We cannot afford to isolate Iran, or let Iraq threaten any other nation with acts of genocide. The end result would be to give Sadam Hussein the same powers we have denied Khomeini, and risk changing Iran from an independent state that acts as a buffer between East and West and a checkmate to Iraq, to a nation which is forced to turn to the Soviet Union or which becomes too weak to help stabilize the region.

THE NEED TO FIGHT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION WHILE WE STILL CAN

We also need to realize that it we ignore limited use of poison gas now, or the broader proliferation of weapons of mass destruction, we will ultimately license massive threats to our friends, our strategic interests, our own forces, and ultimately our own territory.

Iraq's use of poison gas has already accelerated the efforts of other nations to create major stockpiles of such weapons. Iran is actively engaged in creating its own production facilities, as is Syria. Many nations throughout the Third World have reactivated research efforts in this area, and some may well be moving toward the production and stockpiling of such weapons.

There can be no question that the use of poison gas is also accelerating efforts to develop low cost biological weapons, and is interacting with efforts at nuclear proliferation. The moment the international community tolerates Iraq's use of poison gas, it tacitly tolerates the use of small nuclear weapons or biological agents like the mycotoxins. It also encourages every Third World nation to find its own cheapest path to obtaining weapons of mass destruction, regardless of type.

We also have already seen a friendly state like Saudi Arabia turn to the PRC for the kind of IRBM whose only military merit lies in the eventual acquisition of chemical, biological, and/or nuclear warheads. We have seen Israel, Egypt, and Syria all renew their own search for long-range missiles, and this is only the tip of the iceberg. For all its ritual denials, the PRC has become actively involved in selling long-range missiles and it has been joined by nations like Brazil.

If we let poison gas be used against the Kurds today, it will almost certainly be used against Israel or Saudi Arabia in the years to come, and eventually against our own forces in some low-level conflict. More broadly, however, we will repeat the mistakes the world made in tolerating Japanese use of poison gas against the Chinese, Italy's use of poison gas against Ethiopia, or Germany's experiments in the use of airpower to destroy civilians at Guernica, and Neville Chamberlain's indifference to the people of Czechoslovakia.

No part of the world has been far enough away for us to safely ignore for more than half a century. If we allow Iraq's example to fester and breed, and to contaminate the world, we will eventually reap the whirlwind. We will find ourselves in a world where every major regional conflict and tension leads to a new kind of proliferation. Ultimately, we will find ourselves thrust into one of these conflicts and ultimately, we will be the target.

Admittedly, we ourselves are still dependent on nuclear and chemical weapons for deterrence, and cannot ignore the need for research in biological warfare. We also, however, are beginning to make real progress in moving toward the reduction or elimination of these weapons and we have a quarter of a century's experience in guiding us to avoid their use. The proliferation of weapons of mass destruction is not a sane form of nationalism in the Third World, and it may ultimately destroy the validity of our own efforts at arms control.

TAKING ACTION TO HALT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

The question is what we can do about the process. It is obvious that mere protests and resolutions will do little, if anything. At the same time, we have learned through our efforts in regard to the Non-Proliferation Treaty that we cannot simply force our will on other nations through threats.

I believe, therefore, that we should adopt a three point program that does not single out Iraq, but which attacks the problem on a global basis and which addresses the proliferation of all the elements of weapons of mass destruction: chemical weapons, nuclear weapons, biological weapons, and advanced delivery systems.

COMPREHENSIVE REPORTING ON THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

The first step should be the kind of report on the proliferation of such weapons that goes far beyond the kind of summary report that is common in the U.S. Government. To be specific, the President should be required to issue an annual report on each country in the world that is deliberately designed to embarrass the buyers and sellers of mass destruction in detail.

In the case of the buyers, it should require that the President report on the current activities of each Third World country in trying to develop or acquire chemical weapons, nuclear weapons, biological weapons, and missiles or other delivery systems suited for the use of such weapons. This legislation should require the disclosure of any holding and stockpiles of such weapons, and that the U.S. name the responsible officials in each country. It should cut through the vagueness and hypocrisy in most such reports, and deliberately shame the nations involved in the eyes of world opinion.

Further, the President should be required to notify the Congress in unclassified form of any major development in acquiring weapons of mass destruction by any country in the world within 30 days of the confirmation of such developments.

In the case of the sellers, the President should be required to provide a similar report any country, company, or individual selling weapons or technology which can be, or is, used to develop weapons of mass destruction. Once again, this report should name names. It should name the responsible official or officials in any seller country, the firms involved, and the individuals involved. Further, the President should be required to provide notification to the Congress of such sales within 30 days.

SANCTIONS AGAINST NATIONS ACQUIRING WEAPONS OF MASS DESTRUCTION

The second step should be to take more tangible steps to act on this report. In the case of any Third World nation that is acquiring weapons of mass destruction, we should make it firmly clear that the United States will not extend any form of credit, aid, or technology transfer in any form to a nation that is acquiring such weapons for the first time, or adding to its present stockpile, for a period of 5 years after the most recent Presidential notification of such action, and will halt support to any international institution that will provide such aid.

Further, we should maintain a public international "blacklist" of the officials and individuals in a country that are involved in acquiring weapons of mass destruction, and permanently deny them visas to the United States. This would brand those responsible for life, and end the kind of personal secrecy that is an essential part of today's efforts at proliferation.

SANCTIONS AGAINST NATIONS SELLING WEAPONS OF MASS DESTRUCTION

Finally, we must take equally firm action against the seller. We cannot shut off all trade with other nations for selling such weapons and technology, but we can target several key aspects of our relations. One is to deny technology transfer for all military technology. Another is to deny all forms of aid and credits, including both civil and military.

We also can target the selling firms to force them to divest any holdings in the use and to prevent any goods containing any component they manufacture from being imported to the United States. We can demand that they be blacklisted from any overseas contracts involving U.S. aid or international aid to which we contribute, and we can demand that this blacklisting be so broadly defined that it includes the parent company, any company with any holding of any kind in the selling company, and any company with agreements for technical or financial cooperation on an international level.

We also should expand the international blacklist on entry to the United States to include sellers, and establish much harsher criminal penalties to any Americans that may violate U.S. law in these areas.

THE NEED TO BE FIRM WITH OUR FRIENDS AS WELL AS OUR ENEMIES

These measures may not prevent the proliferation of weapons of mass destruction, but they will make it far more difficult and put far more pressure on other nations to halt the new arms race toward weapons of mass destruction. They will establish a firm basis for seeking support for similar policies from our NATO allies, the PRC, and the Soviet bloc. They will greatly strengthen the many people in the Third World who fully recognize the dangers of such action, and that the Third World does not need to repeat the mistakes of the West and East.

We must, however, recognize that we cannot play favorites. We cannot condemn Iraq or the PRC and ignore the actions of Pakistan, Saudi Arabia, or Israel. We cannot deal in cliches or half truths, or excuse our own firms or the actions of our major Western allies. We must act firmly and decisively, and leave no ambuguity or uncertainty on the part of other nations as to the firmness of our response. We cannot hope to be successful in safeguarding our most vital long-term interests if we are willing to take short-term advantage of failing to be honest about what friendly nations are doing.

THE AGENDA FOR ACTION

We cannot hope to do more than acknowledge the problem as we move toward adjournment and a Presidential election. We lack the time for the kind of hearings and careful drafting of legislation that will be vital in making such legislation successful.

Nevertheless, as we move toward adjournment, I believe that as many Members of this body and the House as possible should condemn Iraq for what are clearly crimes against humanity. Further, regardless of the outcome of the Presidential election, I feel it is clear that we need to act early in the new year to hold hearings on the proliferation of weapons of mass destruction and to take firm and decisive legislative action. I will be discussing how to best take this action with Senator Nunn and Senator Warner of the Senate Armed Services Committee and I sincerely hope that the House will join us in this effort.

Mr. President, I ask to have printed in the Record, Senate Resolution 408, which I submitted.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Res. 408

Whereas the international community recognized the dangers of chemical warfare during World War One, in which at least 90,000 were killed and well over 1,000,000 wounded by chemical weapons;

Whereas the 1925 Geneva Protocol outlawed the use of chemical weapons;

Whereas United Nations investigators concluded in 1984, 1986, and 1987 that Iraq had employed chemical weapons, and the United Nations Security Council has condemned the use of chemical weapons in the Iran-Iraq war;

Whereas Iraq's chemical weapons attack on March 16, in which hundreds of Kurdish civilians were killed on Iraqi soil, underscores the horror of these weapons and their impact on noncombatants;

Whereas the United States condemned that Iraqi attack as a "particularly grave violation" of international law; and

Whereas it has been reported that Iran may be producing chemical weapons, and Iran has also used chemical weapons in retaliation for Iraqi use of such weapons: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the use of chemical weapons by Iraq and declares that such action violates international law;

(2) calls upon Iraq to halt immediately and permanently the use of all chemical weapons;

(3) commends the President for his prompt condemnation of Iraq's recent chemical weapons attack on civilians;

(4) urges the President to seek allied cooperation to further tighten controls on the export of chemical compounds to countries seeking to develop a chemical weapons capability;

(5) expresses concern about reported Iranian use of chemical weapons and urges the President to make appropriate diplomatic efforts to prevent Iran from developing or using chemical weapons; and

(6) urges the President to pursue American efforts at the Geneva Conference on Disarmament to reach an arms control agreement banning the use, production, development, stockpiling, transfer, and acquisition of chemical weapons.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SDI

Mr. LEVIN. Mr. President, on SDI, Star Wars, George Bush got it wrong again today. The issue is not who does or who does not believe in ballistic missile defense research. The question is does George Bush believe in scrapping the ABM Treaty.

Mike Dukakis' position on SDI is right on the mark: we should pursue a research effort to further explore antiballistic missile technologies and hedge against a Soviet breakout from the ABM Treaty.

What we cannot afford to do is to jump to the Vice President's conclusion that we must deploy SDI. He has flatly stated his commitment to deploy SDI three times in the last 7 months.

His position would force us to dump our most effective arms control treaty to date in the blind pursuit of a program whose own directors say will cost $45 billion over the next 5 years just to let us know whether or not it is technically feasible to proceed.

But maybe the Vice President does not understand that. Maybe he is confused.

If he cannot tell the difference between December and September, maybe he does not know that the ABM Treaty bans the deployment that has repeatedly committed himself to.

It appears that he does not, for in a March article in Arms Control Today, the Vice President wrote, "We must vigorously pursue development and testing of SDI and as soon as it is ready, it must be deployed. We should abide by the ABM Treaty," he wrote.

Let me repeat: Under either the broad or narrow interpretation of the ABM Treaty, deployment of SDI-type systems is not allowed. It is GEORGE BUSH who has some SDI explaining to do. Yes or no, Mr. President, yes or no. Are you going to abandon the ABM Treaty in pursuit of the deployment of SDI? And if so, how are you going to pay for the SDI Program, which you advocate?

As far as I can tell, GEORGE BUSH's SDI policy is full speed ahead, the ABM Treaty be damned and the budget be busted.

Mr. President, I yield the floor.

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 9:56 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day."

The enrolled joint resolution was subsequently signed by the Acting President pro tempore [Mr. REID].

At 10:41 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2641. An act to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1939) to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and for other purposes.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2999. An act to conserve the African elephant; to the Committee on Finance.

MEASURES HELD AT THE DESK

The following concurrent resolution, previously received from the House of Representatives for concurrence, was ordered held at the desk by unanimous consent:

H. Con. Res. 351. A concurrent resolution to correct errors in the enrollment in the bill S. 328.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3812. A communication from the Secretary of Agriculture transmitting, pursuant to law, the annual horse enforcement report; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3813. A communication from the Acting Deputy Assistant Secretary, Department of Defense, transmitting, pursuant to law, a notice that a study has been conducted with respect to converting the communication-computer operations and maintenance function at Dobbins Air Force Base, GA, to performance under contract; to the Committee on Armed Services.

EC-3814. A communication from the Acting Chief of Legislative Affairs, Department of the Navy, pursuant to law, notice that the Navy intends to offer for lease certain naval vessels to the Government of Pakistan; to the Committee on Armed Services.

EC-3815. A communication from the Assistant Secretary of the Navy transmitting, pursuant to law, a cost comparison study of the utility functions at the naval Submarine Base, Bangor; to the Committee on Armed Services.

EC-3816. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, the selected acquisition reports [SAR's] and summary tables for the quarter ending June 30, 1988; to the Committee on Armed Services.

EC-3817. A communication from the Assistant Secretary of the Army transmitting a draft of proposed legislation to authorize, when in the interest of the Government or under unusual circumstances, exempting certain categories of individuals from paying the full meal rate for a meal consumed in a dining facility of the Armed Forces; to the Committee on Armed Services.

EC-3818. A communication from the Director, of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a draft of proposed legislation to revise the statutes controlling the U.S. Soldiers' and Airmen Home to reflect Air Force participation and for other purposes; to the Committee on Armed Services.

EC-3819. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, a report on an action plan for the U.S. defense industrial base; to the Committee on Armed Services.

EC-3820. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a draft of proposed legislation to introduce a number of program amendments to the President's fiscal year 1989 budget; to the Committee on Banking, Housing and Urban Development.

EC-3821. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notification of an extension in the time period for acting on appeal on a certain railroad case; to the Committee on Commerce, Science, and Transportation.

EC-3822. A communication from the Chairman of the Federal Regulatory Energy Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-3823. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on energy security containing an overview of changes in the world oil market; to the Committee on Energy and Natural Resources.

EC-3824. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3825. A communication from the Deputy Associate Director for Collection and Disbursement, Mineral Management Services, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3826. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Services, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3827. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Services, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3828. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Services, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3829. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of Safeguards Information by the Commision for the quarter ending June 30, 1988; to the Committee on Environment and Public Works.

EC-3830. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a copy of a Report of Building Project Survey for Cleveland County, North Carolina; to the Committee on Environment and Public Works.

EC-3831. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, an informational copy of a lease prospectus; to the Committee on Environment and Public Works.

EC-3832. A communication from the Acting Assistant Attorney General (Legislative and Intergovernmental Affairs), Department of Justice, transmitting, a draft of proposed legislation entitled "EPA Law Enforcement Powers Act of 1988"; to the Committee on Environment and Public Works.

EC-3833. A communication from the Secretary of Commerce, transmitting, pursuant to law, the final report of the Federal Coal Export Commission; to the Committee on Finance.

EC-3834. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1987 report on the Consolidated Federal Programs under the Maternal and Child Health Services Block Grant; to the Committee on Finance.

EC-3835. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notification that the President has authorized the furnishing of up to $10.5 million in assistance from the Emergency Refugee and Migration Assistance Fund for the unexpected urgent refugee and migration needs in Africa; to the Committee on Foreign Relations.

EC-3836. A communication from the the Assistant Secretary of State, transmitting, pursuant to law, the twelfth 90-day report on the investigation into the death of Enrique Camarena; to the Committee on Foreign Relations.

EC-3837. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of the State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 1, 1988; to the Committee on Foreign Relations.

EC-3838. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Environmental Protection Agency protecting human health and the environment through improved management; to the Committee on Governmental Affairs.

EC-3839. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports issued or released in July 1988; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 2766. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Finance.

By Mr. BYRD (for Mr. BINGAMAN):

S. 2767. A bill to authorize a study of the history and culture of Warm Springs, New Mexico, in order to preserve its historic and cultural legacy for future generations; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 2768. A bill to increase and extend the authorization of appropriations for highway bridge replacement and rehabilitation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself, Mr. STAFFORD and Mr. DURENBERGER):

S. 2769. A bill to amend title V of the Public Health Service Act to provide for the development of comprehensive community prevention initiatives; to the Committee on Labor and Human Resources.

By Mr. NICKLES:

S. 2770. A bill entitled the "Oil Pipeline Regulatory Reform Act of 1988"; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself and Mr. DURENBERGER):

S. 2771. A bill to amend the Public Health Service Act to create a demonstration project that shall be administered by the Office of Substance Abuse Prevention, to provide treatment for babies born to women with substance abuse problems, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself and Mr. DURENBERGER):

S. 2772. A bill to amend the Public Health Service Act to improve the provision of drug treatment services for pregnant women; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself and Mr. DURENBERGER):

S. 2773. A bill entitled the Waste Minimization and Control Act of 1988, to amend the Solid Waste Disposal Act and extend the authorization through 1992; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself and Mr. DURENBERGER):

S. 2774. A bill entitled the Waste Minimization Revenue Act; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. BURDICK, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. INOUYE, Mr. STENNIS and Mr. STEVENS):

S.J. Res. 376. Joint resolution designating September 13, 1989, as "Uncle Sam Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 469. Resolution to authorize representation of Senator Jeff Bingaman and present and former members of his staff, and testimony and document production in, In the Matter of the Applications of the City of El Paso, etc; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 2766. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Finance.

LIBERALIZATION OF EARNINGS TEST

Mr. ROTH. Mr. President, America's seniors are an evermore important segment of our society. Today, Americans are living longer and remaining active well beyond what was once considered normal retirement age. In 1900, only 4 percent of the population was age 65 or older; in 1988, older citizens represent more than 12 percent of the total population. With longer life expectancies, our fellow citizens remain vital well past 65, and yet we have a tendency to cap their opportunity to participate and contribute once they reach retirement. While this tendency is wrong, I find it particularly disturbing that this Government has produced a policy which further condones the notion that seniors should virtually drop out once reaching the normal age of retirement. Mr. President, I am referring to the Social Security earnings limitation.

Under current law, if an individual continues to work for an employer after Social Security benefits start, that individual is subject to an earnings limitation until age 70. If a person earns more than the earnings limitation, which this year is $8,400 for those age 65 to 70, Social Security will reduce his or her benefits by $1 for every $2 earned over the limit. For a number of reasons, the earnings limitation is counterproductive and inequitable. Today I am introducing legislation that will provide for its gradual elimination.

Under my legislation, the earnings limit will be raised by $3,192 a year between 1990 and 1994, and then eliminated completely in 1995 for all those beneficiaries above normal retirement age, which presently is age 65. Furthermore, this measure would accelerate the effective date of the 8-percent delayed retirement credit as provided for in current law from 2009 to 1995.

This legislation is necessary because the earnings limitation is a work disincentive that makes little sense in this day and age. Whether it be to remain active or to simply make ends meet, more and more seniors want to continue working. But when faced with the consequences that the earnings limitation brings with it, many seniors choose full retirement rather than sacrificing 50 percent of the Social Security retirement benefits that they had earned over their working lifetime. In the end, it is society's loss—the earnings limitation forces the retirement of otherwise productive individuals whose experience and skills would be so valuable to this Nation's work force.

In addition to unfairly dictating the lives of our senior citizens, the earnings limitation is also incredibly shortsighted. Fundamental changes in the age distribution of our population today are likely to lead to shifts in the labor force as well. Declining birth rates since the baby boom and longer life expectancies have led to a drastic increase in the number of senior citizens relative to younger persons. If we do not offer incentives for seniors to continue working past age 65, I believe we will see a significant shrinking of the labor force. This, in turn, means fewer taxpayers and, therefore, less revenue with which to fund Government activities. Also, tighter labor markets might raise the cost of labor to employers, which would increase the cost of production. These increased costs more than likely would be passed on to the consumer.

The earnings limitation has become an anachronism. Today, we should look to our senior citizens for their guidance and wisdom, and one of the best ways to receive the benefits of their insight is on the job. Removal of the earnings limitation would give America's seniors the opportunity to remain active, contributing, productive members of society, and would promote a valuable interaction among generations. The elderly are a resource that I feel we should not encourage to sit idly by, yet this is the clear impact of the Social Security earnings test.

The concept of removing the earnings limitation has broad bipartisan support here in Congress, and for good reason. The earnings limitation creates a sizable number of overpayments and underpayments on which the Social Security Administration has to spend many millions of dollars annually to keep track of and correct.

Whether the senior citizen needs to continue working in order to pay medical bills, or in order to maintain a healthy sense of self-esteem, I do not think they should be inhibited in any way. America's seniors have contributed so much to this country in the past. I feel it is a mistake to discourage them from continuing to do so. I urge my colleagues to review this proposal and lend it their support.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIBERALIZATION OF EARNINGS TEST OVER THE PERIOD 1990-1994 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Effective with respect to taxable years ending after 1989, subparagraph (D) of section 203(f)(8) of the Social Security Act is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be increased by $3,192 in each taxable year over the exempt amount for the previous taxable year, beginning with any taxable year ending after 1989 and before 1995.".

(b) CONFORMING AMENDMENT.—The second sentence of section 223(d)(4) of such Act is amended by striking out "which is applicable to individuals described in subparagraph (D) thereof" and inserting in lieu thereof "which would be applicable to individuals who have attained retirement age (as defined in section 216(l)) without regard to any increase in such amount resulting from a law enacted in 1988".

SEC. 2. REPEAL OF EARNINGS TEST IN 1995 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Effective with respect to taxable years ending after 1994—

(1) clause (B) in the third sentence of section 203(f)(1) of the Social Security Act is amended by striking out "age seventy" and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(2) section 203(f)(3) of such Act is amended—

(A) by striking out "33½ percent" and all that follows through "other individual" and inserting in lieu thereof "50 percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)", and

(B) by striking out "age 70" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AND RELATED AMENDMENTS.

Effective with respect to taxable years ending after 1994—

(1) section 203(c)(1) of the Social Security Act is amended by striking out "is under the age of seventy" and inserting in lieu thereof "is under retirement age (as defined in section 216(l))";

(2) the last sentence of subsection (c) of section 203 of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(2) paragraphs (1)(A) and (2) of section 203(d) of such Act are each amended by striking out "under the age of seventy" and inserting in lieu thereof "under retirement age (as defined in section 216(l))";

(3) section 203(f)(1) of such Act is amended by striking out clause (D) and inserting in lieu thereof the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or";

(4) subparagraph (D) of section 203(f)(5) of such Act is amended—

(A) by striking out "(D) In the case of" and all that follows down through "(ii) an individual" and inserting in lieu thereof the following:

"(D) An individual";

(B) by striking out "became entitled to such benefits" and all that follows and inserting in lieu thereof "became entitled to such benefits, there shall be excluded from gross income any such other income."; and

(C) by shifting such subparagraph as so amended to the left to the extent necessary to align its left margin with that of subparagraphs (A) through (C) of such section;

(5) section 203(f)(8)(A) of such Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "the new exempt amount which is to be applicable";

(6) section 203(f)(8)(B) of such Act is amended—

(A) by striking out all that precedes clause (i) and inserting in lieu thereof the following:

"(B) The exempt amount which is applicable for each month of a particular taxable year shall be whichever of the following is the larger—";

(B) by striking out "corresponding" in clause (i); and

(C) by striking out "an exempt amount" in the matter following clause (ii) and inserting in lieu thereof "the exempt amount";

(7) section 203(f)(8)(D) of such Act (as amended by section 1(a) of this Act) is repealed;

(8) section 203(f)(9) of such Act is repealed;

(9) section 203(h)(1)(A) of such Act is amended by striking out "age 70" each place it appears and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(10) section 203(j) of such Act is amended to read as follows:

"Attainment of Retirement Age

"(j) For purposes of this section—

"(1) an individual shall be considered as having attained retirement age (as defined in section 216(l)) during the entire month in which he attains such age; and

"(2) the term 'retirement age (as defined in section 216(l))', with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.";

(11) section 202(w)(2)(B)(ii) of such Act is amended—

(A) by striking out "either"; and

(B) by striking out "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit"; and

(12) the second sentence of section 223(d)(4) of such Act (as amended by section 1(b) of this Act) is further amended by striking out "without regard to any increase in such amount resulting from a law enacted in 1988" and inserting in lieu thereof "but for the liberalization and repeal of the earnings test for such individuals in 1995".

SEC. 4. ACCELERATION OF 8 PERCENT DELAYED RETIREMENT CREDIT.

Effective with respect to taxable years ending after 1994, paragraph (6) of section 202(w) of the Social Security Act is amended—

(1) by striking out "2005" in subparagraph (C) and inserting in lieu thereof "1993"; and

(2) by striking out "2004" in subparagraph (D) and inserting in lieu thereof "1992".

By Mr. BYRD (for Mr. BINGAMAN):

S. 2767. A bill to authorize a study of the history and culture of Warm Springs, NM, in order to preserve its historic and cultural legacy for future generations; to the Committee on Energy and Natural Resources.

WARM SPRINGS STUDY ACT

● Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to authorize a study of the cultural history of the Warm Springs area of New Mexico. This bill would recommend appropriate means to ensure public use and continued preservation of an area that has special importance to the State of New Mexico and the American public. Warm Springs is an area that saw the development of important prehistoric cultures and significant historic events in American frontier military history.

Located in the foothills of the San Mateo Mountains in extreme southern Socorro County, NM, is a huge but little known warm spring. Its name is

Ojo Caliente—Spanish for Warm Spring—and it is the source of a 20-mile stretch of perennial stream named Canada Alamosa.

The area is steeped in southwestern history. The ruins of numerous Pueblo sites can be found, evidence of past use of the area by the Mibres Indian culture. Ojo Caliente and Canada Alamosa were occupied by the Warm Springs Apache who considered this area their traditional homeland until they were removed during the mid-1800's. The remains of Fort Harmony, another reminder of the American frontier era, are also to be found on the site of Ojo Caliente. Other evidence of the American homesteading—mining, ranching, outlaw period—remains. Many stories can be told about important historic and prehistoric events that occurred in the area. I will cite just one example for you.

The Warm Springs Apache Reservation was established by executive order in 1857. It included Ojo Caliente and Canada Alamosa, key parts of the tribe's traditional homeland. A short time later the Federal Government decided to consolidate the Warm Springs Apache Band with other Apaches on the San Carlos Reservation in Arizona.

The Warm Springs Apaches, however, simply could not adapt to the San Carlos Reservation. Passive resistance in the form of breakouts occurred, during which the Warm Springs Apaches would return to their homeland at Ojo Caliente. Following such a breakout, it was typical for the U.S. Army to grant permission for them to remain at Ojo Caliente. The Bureau of Indian Affairs, determined to consolidate its Indian charges, would later force them to return to San Carlos.

In 1879, when the order came from Washington to once again return the tribe to the reservation after a 2-year hiatus, the Warm Springs Apache Chief Victorio went to war. His force, consisting of no more than 75 men encumbered by women and children, was pitted against a quarter of the strength of the U.S. Army and elements of the Mexican Army. Looking back at this war, it could only be considered incredible: Victorio and his men consistently defeated both armies.

After a year and a half of battles, the War Department and Bureau of Indian Affairs decided that the Warm Springs Apache should not have been relocated to San Carlos. Plans were made to inform Victorio and his people that if he would vow to live in peace, they would be granted Ojo Caliente "forever." The message, however, was never received. In late 1880, the battle weary Victorio and most of his army were killed in an ambush by the Mexican Army at Tres Castillos.

We cannot afford to lose this unique cultural and historical heritage. My bill would authorize a study of the area to determine the importance of past events and make recommendations regarding how this heritage might best be preserved so as to be available to future generations.

It is for these reasons that I ask my colleagues to support this bill authorizing study of the cultural and historic importance of the Warm Springs area.●

By Mr. HEINZ:

S. 2768. A bill to increase and extend the authorization of appropriations for highway bridge replacement and rehabilitation, and for other purposes; referred to the Committee on Environment and Public Works.

BRIDGE IMPROVEMENT ACT

Mr. HEINZ. Mr. President, today I rise to introduce critically needed legislation to improve and repair our Nation's troubled bridges.

Earlier this year, the National Journal wrote, "One out of four bridges is considered unsafe. Every two days, a bridge collapses. More than 4,125 bridges are closed because of dangerous conditions." To twist the title of a famous song by Simon and Garfunkel, Mr. President, we are confronted with troubled bridges over water.

In my own State of Pennsylvania, the Southwestern Pennsylvania Regional Planning Commission reported in April of this year that despite the State's approximately $2 billion investment in bridge repair and replacement since 1982, it is still far short of addressing all of southwestern Pennsylvania's critical bridge problems.

Recognizing this, our Commonwealth has slated an additional 804 bridge rehabilitation and replacement projects in the State at a cost of nearly $500 million.

Yet, Mr. President, in spite of these initiatives, two out of five bridges are still deficient. For example, the Smithfield bridge, which crosses the Monongahela River, linking downtown Pittsburgh and the city's south side, has been identified as needing rehabilitation work for over a decade.

This bridge, and thousands like it across our Nation, should not have to wait 10 years for repair, or wait so long that they become closed to traffic. They are literally catastrophes waiting to happen. To illustrate the magnitude of the bridge crisis faced in this instance, by my constituents, I ask unanimous consent that the text of an article in the Pittsburgh Post Gazette on the Southwestern Pennsylvania Regional Planning Commission's report be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRIDGE REPAIR WAR BEING LOST—SPRPC REPORT SAYS FUNDING IS INSUFFICIENT TO PRESERVE INFRASTRUCTURE

(By Virginia Linn)

The conditions of the region's bridges will be as bad in 10 years as it is now if funding for repairs continues at the current level, a bridge study shows.

Despite the millions of state and federal dollars allocated, repairs "fall far short of what is needed to resolve southwestern Pennsylvania's bridge problem," according to the fifth annual bridge report by the Southwestern Pennsylvania Regional Planning Commission.

The report reviews the 4,789 bridges in Allegheny, Armstrong, Beaver, Butler, Washington and Westmoreland counties.

The state has implemented two Billion Dollar Bridge programs that are providing state and federal funding for repairs.

The first $1.4 billion plan launched in 1982 committed $449 million to this region. So far, $320 million has been spent here. The second plan for $1.7 billion approved in 1986, committed $342 million to the region, with $12 million already spent. More than 900 bridges in the region are to be replaced or repaired under these programs.

"We have to really compliment the commonwealth and PennDOT with what they've done with a limited amount of dollars," said Charles DiPietro, transportation planning director for the SPRPC.

"But the report concludes that even with this aggressive program, the governor and PennDOT still have a major problem," he said.

Almost four out of 10 of the region's bridges, or 39 percent, are still deficient. This is up from 37 percent in 1986.

The Billion Dollar Bridge plans address only 42 percent of the 1,866 deficient bridges in the region.

The SPRPC estimates that the region has $1 billion worth of needed bridge repairs. Moreover, 114 additional bridges are projected to become deficient each year, the study shows.

The condition of each bridge is rated on a scale of 1 to 100, with the highest number being in the best shape. A bridge rated 80 or below is eligible for federally funded repairs.

In Allegheny County, 556 of 1,535 bridges were deficient in 1987, the report shows. This was up from 485 in 1986 and a 20 percent increase from 1983.

In Beaver County, 41 percent of 424 bridges were deficient, up 21 percent since 1986.

More than half of the 538 bridges in Butler County were deficient; in Westmoreland County, 38 percent of 903 bridges needed repair—up 23 percent since 1986.

Repairs in Armstrong and Washington counties have slightly reduced the number of deficient bridges.

Past reports by the commission also have shown little progress on bridge conditions.

"We almost feel like we're 'crying wolf.' We keep saying the same thing every year," DiPietro said. "But the hard facts are we're facing a real infrastructure crisis."

One problem is that many of the bridges are owned by municipalities and require local matching funds to get federal repair dollars.

Even if a 5 percent match of $250,000 might be required on a $5 million project, "how does a Clairton come up with $250,000 to move a project?" DiPietro asked.

The commission did not recommend any solutions on how to accelerate bridge repairs.

DiPietro said the commission is exploring the possibility of convention a conference to review the problem.

A creative financing plan must be developed, DiPietro said. Federal budget cutbacks and increased demand on state dollars make it no longer feasible to rely on traditional financing for these repairs.

The commission, which focuses on planning for the six-county Pittsburgh metropolitan region, was established in 1962 under provisions of a state law. Such metropolitan commissions now are mandated by federal law.

Mr. HEINZ. Mr. President, our roads and bridges, waterways and railroads, streets and sidewalks are the economic lifelines that provide raw materials for manufacturers, carry goods to markets, allow workers to get to work and our children to school. Both America's economic future and our present necessities depend on a reliable and structurally sound infrastructure.

Mr. President, this is a problem that has long concerned me. In 1977, I introduced the Bridge Safety Act, which authorized an expansion of the Federal Bridge Program. This act was included in modified form into the 1978 Highway Act, which increased the Federal commitment to bridge repair and replacement from $200 to $300 million per year prior to 1978 to $1 billion per year from 1978 to 1982. Subsequent highway acts in 1982 and 1987 increased bridge funding to its present authorized level of $1.63 billion.

Mr. President, given the bridge crisis our Nation now faces, I think it is time that Congress again expand these efforts and do so in an innovative way.

For this reason, I am introducing the "Bridge Improvement Act of 1988." This legislation would increase authorizations for bridge replacement and rehabilitation by $2.5 billion over the next 5 years. This would raise the annual Federal commitment by $500 million, from the present $1.63 billion to $2.13 billion.

Mr. President, in many respects, this is a modest proposal when one considers that the Federal Government is already spending $570 million less in fiscal year 1988 than we authorized in fiscal year 1987. My legislation would bring total program spending up to slightly below the Highway Act levels. And, given the nearly $10 billion surplus in the Highway Trust Fund, we can certainly sustain this level of spending—for which motorists pay with the 9-cents-per-gallon Federal gas tax. Eight cents of that tax goes for highways and bridge repair. The tax is expected to generate $13.1 billion this year alone.

My legislation is also designed to help those States who help themselves. It requires the Department of Transportation to conduct a study of the efforts made by each State to fund bridge replacement and rehabilitation in the State. DOT would study the percentage of non-Federal money a State spends on bridge repairs, as well as the rate at which each State is reducing its number of deficient bridges. The latter would be measured as the number of bridges improved, less the number of bridges deteriorating on an annual basis.

Based on this study, the Department would be required to make recommendations for a new allocation formula which could be used to allocate the additional funds that are authorized to be appropriated under this legislation. Until and unless Congress develops an allocation formula based on DOT's recommendations, the additional funding would be spent under the existing formula.

Mr. President, this legislation will provide the resources needed to protect public safety and promote commerce. We cannot continue to identify deteriorating bridges and do nothing for lack of resources. The resources are there. My legislation will help ensure that we will actually be able to cross the bridge when we come to it. I urge my colleagues to support this effort.

By Mr. CHAFEE (for himself, Mr. STAFFORD, and Mr. DURENBERGER):

S. 2769. A bill to amend title V of the Public Health Service Act to provide for the development of comprehensive community prevention initiatives; to the Committee on Labor and Human Resources.

COMPREHENSIVE YOUTH ACTIVITIES ACT

● Mr. CHAFEE. Mr. President, today I am introducing the Comprehensive Community Substance Abuse Prevention Act, a bill to provide our young people with real and positive alternatives to the use and abuse of drugs and alcohol. I am joined in this effort by Senator STAFFORD and Senator DURENBERGER.

Prevention is the key to the drug and alcohol problem in this Nation and it is the underpinning of this legislation. More and more of our children are becoming substance abusers every day. The ages at which they begin to experiment with drugs and alcohol is much younger than we might ever have imagined. The percentage of students using drugs by the sixth grade is three times what it was in 1975. One out of every six 13-year-olds use marijuana and one out of every six high school seniors use cocaine.

Once a young person experiments for the first time he or she often ends up spiraling deeper and deeper into a morass of problems as if caught in a tornado. In one study, students taking marijuana were twice as likely to average D's and F's as nonusing students. The Department of Education estimates that high school seniors who are heavy drug users are more than three times as likely to drop out of school than nondrug users.

We must prevent our children from falling into this hole. We have to get to them early and provide them with alternatives to drug abuse that will motivate and excite them to excel in their endeavors. This legislation takes a giant step in precisely that direction.

My bill creates a block grant program within the Department of Health and Human Services to provide States and communities with the resources to develop recreational and educational alternatives to substance use which are attractive to children and youth.

The bill seeks to encourage the establishment of programs aimed at high risk children, such as those who are likely to drop out of school or who have already dropped out. The programs will focus on involving youth in community-based after school or weekend activities such as sports, theater or volunteer work. They may also develop training or employment opportunities. These programs will provide children with the opportunity to live a drug-free life from the start by giving them the tools and support they need to be successful.

The Community Youth Prevention Act would be authorized at $50 million in 1989, $55 million in 1990, $60 million in 1991, $66.55 million in 1992, and $73.2 million in 1993. Each State shall receive at least $250,000 each year for the program. The remaining funds shall be used by the Secretary for programs which target high-risk areas and populations which are at high-risk for drug and alcohol abuse.

A small business working together with the local school district and a job training program could apply for a grant through the Governor's office to provide an internship and training program for dropouts, those at risk of dropping out and those with low grades. The goal would be to help those young people learn job skills, explore areas of possible interest, and help them understand how their work in school can help prepare them for a job.

A YMCA might apply for a grant to begin an athletic program aimed at young people in a high school who might enjoy athletics but are not good enough to play on the school athletic teams. The program might also include some field trips.

A local theater group might apply for a grant to get young people involved in the performing arts through acting classes and production internships. Libraries might do something similar with reading or creative writing programs.

A local social services agency might work together with local musicians and artists to provide lessons to young people.

A local environmental protection group might develop a program to get kids interested in outdoor activities and preservation of the environment. Activities might include camping or sailing trips, hikes, and conservation projects.

It is time for us to send a message to the children and youth of our Nation that we care as parents, teachers, friends, and neighbors. It is time for us to help them develop self-esteem and find their individual strengths.

I believe that every young person has something to offer: a talent, a skill. Our responsibility is to help them identify that talent and develop it. Every step forward builds a child's self-esteem. Every word of encouragement builds hope and excitement for the future. Every success builds optimism.

My legislation will encourage the involvement of the entire community in helping to encourage and nurture our children.

Only through a good self-image and a sense of purpose can our young people find the power to avoid substance addiction. We can help them by showing them that exciting alternatives exist and by opening those alternatives to them.

Mr. President, I ask that my bill be printed in the RECORD at this point as if read.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Community Youth Activities Act of 1988".

SEC. 2. STATEMENT OF PURPOSE

It is the purpose of this Act to make financial assistance available to States to assist in the prevention of substance abuse by enabling States to develop recreational and educational alternatives to substance use which children and youth find attractive.

SEC. 3. COMPREHENSIVE COMMUNITY PREVENTION INITIATIVE.

Part D of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new section:

"SEC. 561. THE COMMUNITY YOUTH ACTIVITY PROGRAM.

"(a) BLOCK GRANT PROGRAM.—The Secretary shall make grants to States to enable such States to carry out the activities described in subsection (e).

"(b) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit to the Secretary an application that contains such information and is in such form as may be required by the Secretary.

"(2) DEMONSTRATION OF NEED.—In the application submitted under paragraph (1), the State shall demonstrate a need for the activities described in subsection (e) and provide a description of those programs that will receive assistance under this section.

"(c) AMOUNT OF GRANT.—

"(1) MINIMUM AMOUNT.—Each State that submits an application under subsection (b) that meets the requirements of the Secretary shall receive a grant in an amount that equals at least $250,000 in each fiscal year.

"(2) PROGRAMS OF NATIONAL SIGNIFICANCE.—Of amounts appropriated or otherwise available to carry out this section for any fiscal year, the Secretary shall reserve 5% of such amounts to be provided for projects of national significance, such as activities authorized in section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. Sec. 9910(a)(2)(F)) or other projects expected to have a significant impact in preventing use of drugs among youth.

"(3) SPECIFIED APPROPRIATIONS.—

"(A) IN GENERAL.—If the amount appropriated under subsection (f) is less than $50,000,000, the Secretary shall allot 25 percent of such amount equally among the 50 States with the remainder to be apportioned as described in subparagraph (B).

"(B) REMAINDER.—Amounts remaining after the allotment under subparagraph (A) shall be disbursed according to priorities developed by the Secretary that are designed to target funds to those States—

"(i) where the highest proportions of school aged children are at risk of substance abuse;

"(ii) where a tangible need has been identified by the State; and

"(iii) where the State has proposed the funding of additional programs targeted at the areas of highest need.

"(d) PRIORITY.—In making grants under this section, the Secretary shall give priority to—

"(1) projects aimed at youth not in school or who are at risk of dropping out of school;

"(2) projects that seek to reinvolve dropouts in educational programs, involve youth community-based activities, develop training or employment opportunities for dropouts, or provide youth with alternatives to substance abuse and gang involvement;

"(3) projects to provide after-school, vacation and weekend activities designed to give youth opportunities to actively participate in a variety of activities;

"(4) projects that include participation by the business community;

"(5) projects that provide outreach to individuals of all ages who are at high risk of involvement with substance abuse; and

"(6) projects targeted to communities with the most serious drug problems to enable such communities to develop programs that coordinate Federal, State, and local efforts to develop comprehensive, long-term, community-wide prevention and education strategies.

"(e) ACTIVITIES.—The following activities may be conducted with the assistance received under this section:

"(1) SUBSTANCE ABUSE EDUCATION CENTERS.—Funding may be provided for State regional substance abuse education and prevention centers designed to provide technical assistance, outreach, consultation, training, and referral services to schools, organization, community members and individual grantees under this program.

"(2) COMMUNITY SERVICES.—Funding may be provided for community services and partnerships designed to develop community activities targeted at substance abuse prevention through education, training, and recreation projects including local educational agencies, local or State health department or community health or mental health centers, law enforcement agencies, community-based organizations, community action agencies, local or State recreational departments, or business organizations. Priority should be given by the State to partnerships involving two or more of the above entities, and applications for grants under this paragraph shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.

"(3) OTHER PROJECTS.—Funding may be provided to other projects or proposals that are consistent with the intent of the program authorized under this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $50,000,000 for fiscal year 1989, $55,000,000 for fiscal year 1990, $60,000,000 for fiscal year 1991, $66,550,000 for fiscal year 1992, and $73,205,000 for fiscal year 1993.

"(g) PROJECT EVALUATIONS.—The Secretary shall evaluate projects conducted with assistance received under this section and applications for grants under this section shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.●

By Mr. NICKLES (by request):

S. 2770. A bill entitled the "Oil Pipeline Regulatory Reform Act of 1988"; to the Committee on Energy and Natural Resources.

OIL PIPELINE REGULATORY REFORM ACT

● Mr. NICKLES. Mr. President, I am pleased to introduce by request the administration's legislative proposal entitled the "Oil Pipeline Regulatory Reform Act of 1988." For a number of years, the administration has been working with the oil pipeline industry to fashion an appropriate reform bill. This legislation transmitted today by the Department of Energy is a significant step in the development of a consensus regulatory reform bill.

Shortly after entering the Senate in 1981, I introduced legislation to decontrol oil pipelines. Hearings were held on that bill, revealing significant problems associated with FERC regulation of oil pipeline rates. Since these hearings, economic studies, including one by the Antitrust Division of the Department of Justice, have shown that most oil pipelines can be deregulated without impact on consumers. Although a consensus has developed on the need for a more free market, common carriage approach to oil and petroleum product pipeline regulation to maintain effective service and reduce costs, there has not been a consensus on the appropriate methodology to achieve that goal.

The administration's new proposed legislation will serve as a useful starting point for serious and long overdue congressional consideration of oil pipeline regulatory reform. Of particular interest is that the bill provides both a means to eliminate unnecessary regulation in markets where adequate competition exists to protect consumers and also proposes reforms of the regulatory methodology for those pipelines serving particular markets which require continued regulation to best serve the public interest. It is my hope that all interested parties, including producers, consumers and States, will carefully review this administration proposal and develop their comments and recommendations for presentation to the administration and to Congress next year.

Mr. President, I ask unanimous consent that the transmittal letter from Secretary of Energy John Herrington, a short summary of the proposed legislation, and the text of the proposed legislation be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Oil Pipeline Regulatory Reform Act of 1988."

FINDINGS AND PURPOSES

SEC. 2. (a) THE CONGRESS FINDS AND DECLARES THAT—

(1) oil pipelines are of critical strategic and economic importance to the Nation;

(2) the Nation's interests are best served by encouraging the competitive and efficient operation of oil pipelines;

(3) economic regulation can impose unproductive costs, discourage and distort investment decisions, cause regulatory uncertainty, and often is only partially effective in achieving its goals;

(4) most markets served by oil pipelines are sufficiently competitive that, given application of the antitrust laws, economic regulation of such pipelines in such markets is unnecessary to ensure reasonable rates and adequate service;

(5) for those oil pipeline markets for which competition and antitrust enforcement are not sufficient to ensure their efficient operation, continued economic regulation may be necessary to prevent abuse of significant market power;

(6) where continued economic regulation of oil pipelines remains necessary, such regulation must be reformed to maximize reliance on competition to benefit consumers, reduce regulatory costs, and encourage the efficient use and development of existing and new pipelines;

(7) for those oil pipeline markets for which continued economic regulation is necessary, consumers can be best protected, costs of regulation can be best reduced, and efficiency can be best enhanced by regulating the maximum rates that pipelines may charge and adjusting the maximum rates to reflect price changes in competitive markets, while allowing pipelines freely to discount below such maximum rates; and

(8) such reformed rate regulation in markets in which there is significant market power will provide just compensation to a pipeline if the allowable rate is comparable to what that rate would be if the market were competitive and not subject to market power, as calculated by a method that establishes maximum rates, permits them to be revised if they had been enhanced by market power, and adjusts them over time by an index reflecting pipeline prices in competitive markets.

(b) IT THEREFORE IS THE POLICY OF THE FEDERAL GOVERNMENT—

(1) to remove the burden of economic regulation from those oil pipeline markets that operate under competitive circumstances or for which such regulation would not be an effective or efficient remedy to constrain the exercise of market power; and

(2) to provide for continued economic regulation of only those oil pipeline markets for which such regulation will increase economic efficiency and for which the benefits of such regulation outweigh its costs.

REGULATORY REFORM AND DEREGULATION

SEC. 3. The Department of Energy Organization Act (42 U.S.C. 7101-7352) is amended by adding the following new sections 408, 409, 410, and 411:

"SEC. 408. REGULATION OF PIPELINES.

"(a) DEFINITIONS.—As used in this section and sections 409 and 410—

"(1) the term 'pipeline' means any pipeline subject to existing Commission regulatory jurisdiction or which would be subject to existing Commission regulatory jurisdiction except for this section; *Provided,* That such term does not include the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.); or any pipeline directly or indirectly delivering oil to the Trans-Alaska Pipeline;

"(2) the term 'existing pipeline' means a pipeline brought into service on or before March 30, 1988, or that is under construction as of March 30, 1988;

"(3) the term 'new pipeline' means a pipeline brought into service after March 30, 1988, and that is not under construction as of March 30, 1988;

"(4) the term 'Attorney General' means the Attorney General of the United States or the Attorney General's designee;

"(5) the term 'existing Commission regulatory jurisdiction' means those functions and authorities transferred by sections 306 and 402(b) of the Department of Energy Organization Act (42 U.S.C. 7155, 7172(b));

"(6) the term 'Commission rate regulation' means those functions and authorities set forth in section 410;

"(7) the term 'adjudication' means an agency hearing, which may, in the discretion of the Secretary, be a hearing on the record as governed by section 554 of title 5, United States Code;

"(8) the term 'rate' means the price for transportation by pipeline, including all charges that the pipeline requires its customers to pay for the transportation and for any ancillary services set forth as part of that pipeline's tariff on file with the Commission on March 30, 1988, or approved by the Commission on March 30, 1988, or approved by the Commission thereafter; and

"(9) the term 'interested person' means a person whose economic or business interests would be substantially affected by a finding that Commission rate regulation is in the public interest or that a base rate should be revised.

"(b) TERMINATION OF EXISTING COMMISSION REGULATORY JURISDICTION AND INITIAL CONSIDERATION OF PIPELINE REGULATORY STATUS—

"(1) TERMINATION OF EXISTING COMMISSION REGULATORY JURISDICTION.—Existing Commission regulatory jurisdiction over pipelines shall terminate sixty days after the effective date of the Oil Pipeline Regulatory Reform Act of 1988. On that date, pipelines shall become subject to sections 408, 409, 410, and 411 of this Act.

"(2) PETITION BY THE ATTORNEY GENERAL OR INTERESTED PERSONS—

"(A) Within 120 days after the effective date of the Oil Pipeline Regulatory Reform Act of 1988, the Attorney General may petition the Secretary for an adjudication of whether Commission rate regulation of an existing pipeline in any market is in the public interest. Upon receipt of such a petition, the Secretary shall conduct an adjudication in accordance with subsection (b)(3). In bringing any such petition, the Attorney General shall be guided by the methods, assumptions, standards, and definitions underlying and set forth in the Report of the United States Department of Justice dated May 1986; *Provided, however,* That none of the findings and conclusions of the Report, and none of the methods, assumptions, standards, and definitions underlying and set forth in the Report shall be binding on the Secretary in any adjudications conducted under this section.

"(B) Within 180 days after the effective date of the Oil Pipeline Regulatory Reform Act of 1988, any interested person may petition the Secretary for an adjudication of whether Commission rate regulation of an existing pipeline in any market is in the public interest. Any person filing such a petition shall provide a reasonable basis for the conclusion that Commission rate regulation is in the public interest, and shall serve a copy on the Attorney General and on the pipeline for which Commission rate regulation is sought. Upon receipt of such a petition, the Secretary, for good cause shown, may conduct an adjudication in accordance with subsection (b)(3). The Secretary may consult with the Attorney General in deciding whether to conduct an adjudication, and shall conduct an adjudication in accordance with subsection (b)(3) if the Attorney General so recommends.

"(C) Not later than 270 days after the effective date of the Oil Pipeline Regulatory Reform Act of 1988, the Secretary shall publish a list of all adjudications that the Secretary has determined will be held pursuant to this subsection, identifying in each case the pipeline and the market for which Commission rate regulation is sought. Pipeline rates for service to markets which are not identified in the list published by the Secretary shall no longer be subject to Commission regulatory jurisdiction except as provided in Section 409 of this Act.

"(3) ADJUDICATION BY THE SECRETARY—

"(A) The Secretary shall find that Commission rate regulation of an existing pipeline in a market is in the public interest only if it is demonstrated that regulation is necessary to constrain the exercise of substantial market power in the supply or demand of products transported by the pipeline in that market. If the Secretary finds that Commission rate regulation of an existing pipeline in a market is in the public interest, Commission rate regulation shall continue. If the Secretary finds that Commission rate regulation of an existing pipeline in a market is not in the public interest, regulation shall terminate at a time the Secretary designates, but in no event shall that regulation continue beyond sixty days after the Secretary issues the finding.

"(B) A finding under subsection (b)(3)(A) shall be issued within one year after the Secretary decides to conduct the adjudication, unless the Secretary, in the event of unusual circumstances, determines that the finding cannot be issued within one year. In such a case, the Secretary shall make specific findings as to the unusual circumstances necessitating the delay, and shall specify a date certain by which the Secretary will issue the finding, but in no event shall the Secretary's finding be issued more than two years after the Secretary decides to conduct the adjudication.

"(C) If parties to an adjudication conducted by the Secretary reach a settlement of the issues prior to the Secretary's finding that Commission rate regulation of a pipeline in a market is in the public interest, it shall bind those parties. If all parties reach such a settlement, the Secretary shall terminate the proceeding by accepting the settlement.

"(c) Reconsideration of Pipeline Regulatory Status for Pipeline Subject to Commission Rate Regulation—

"(1) Upon petition of any interested person, the Secretary may conduct an adjudication of whether Commission rate regulation of an existing pipeline in any market subject to that regulation is in the public interest in accordance with subsection (b)(3). The Secretary shall notify the Attorney General of any petition for adjudication or decision to conduct an adjudication under this paragraph and may consult with the Attorney General in deciding whether to conduct an adjudication.

"(2) If the Secretary finds that Commission rate regulation of an existing pipeline in a market subject to that regulation is not in the public interest, Commission rate regulation over that pipeline in that market shall terminate when the Secretary designates, but in no event shall Commission rate regulation continue beyond sixty days after the Secretary issues the finding.

"(d) Participation by the Attorney General.—The Attorney General may participate in any adjudication initiated by petition from any interested person under this section, and shall participate upon the request of the Secretary; *Provided, however,* That in so doing the Attorney General shall be guided by the methods, assumptions, standards, and definitions set forth in the Report of the United States Department of Justice dated May 1986.

"(e) New Pipelines.—New pipelines shall not be subject to existing Commission regulatory jurisdiction or to Commission rate regulation, but shall be subject to section 409.

"(f) Extent of Commission Jurisdiction—

"(1) The termination pursuant to this section of existing Commission regulatory jurisdiction or Commission rate regulation does not apply to products transported before the termination.

"(2) Commission rate regulation of a pipeline in a market made subject to that regulation under this section shall be prospective only. Products transported by the pipeline before regulation becomes effective under this section shall not be subject to such regulation.

"(3) Existing Commission regulatory jurisdiction terminated under this section, including existing Commission regulatory jurisdiction over new pipelines, shall not revert back to, be delegated to, or otherwise transfer to, the Department of Energy, the Interstate Commerce Commission, or any other agency of the Federal Government.

"(4) Notwithstanding any other provision of law, and except as otherwise provided in sections 409 and 410, no state or political subdivision thereof, and no agency of the Federal Government may regulate any pipeline with respect to which existing Commission regulatory jurisdiction or Commission rate regulation has been terminated pursuant to this section, including existing Commission regulatory jurisdiction and Commission rate regulation over new pipelines, to the extent that such regulation is similar in nature to those functions and authorities constituting existing Commission regulatory jurisdiction or Commission rate regulation that are terminated under this section. *Provided, however,* That nothing in this Act shall be deemed to limit any authority vested in any state or political subdivision thereof to regulate pipelines engaged in intrastate commerce. Such provisions include, but are not limited to, subsections 5(e) and 5(f) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 (e) and (f)) and section 28(r) of the Mineral Leasing Act of 1920 (30 U.S.C. 185(r)).

"(g) Rules and Regulations.—Notwithstanding section 501 of this Act (42 U.S.C. 7191), the Secretary and the Attorney General each may promulgate in accordance with section 553 of title 5, United States Code, rules and regulations necessary or appropriate to carry out their respective responsibilities under this section. Rules and regulations proposed by the Secretary implementing this section or any other actions taken by the Secretary under this section shall not be subject to section 404 of this Act (42 U.S.C. 7174).

"(h) Judicial Review.—

"(1) Notwithstanding section 502 of this Act (42 U.S.C. 7192), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive original jurisdiction over any petition for judicial review under this section.

"(2) Any action of the Attorney General under this section, including without limitation any decision to petition or not to petition for any adjudication under this section, is an agency action committed to agency discretion by law, and shall not be subject to judicial review in any manner.

"SEC. 409. COMMON CARRIER STATUS; CONTRACTS.

"(a) Common Carriage.—In the public interest and the interest of the national defense, notwithstanding any other provision of this Act, pipelines subject to this section shall be required to operate as common carriers, as follows:

"(1) to provide transportation service to all persons upon reasonable demand and upon fair, equitable and nondiscriminatory terms and conditions and to establish through routes with other common carrier pipelines, *Provided however,* That nothing in this paragraph shall pertain to rates;

"(2) to establish and observe just and reasonable classifications of property for transportation and just and reasonable regulations and practices affecting that transportation, *Provided however,* That nothing in this paragraph shall pertain to rates;

"(3) to refrain from disclosing to any person, other than the shipper or consignee, without consent of the shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee or routing of any property tendered or delivered.

"(b) Publication of Terms and Conditions.—Pipelines shall publish and file with the Commission schedules setting forth applicable terms and conditions of carriage, but excluding the rates to be charged for such carriage.

"(c) Contracts.—Contracts between pipelines and other persons on terms and conditions other than those applicable to basic common carriage as filed pursuant to subsection (b) shall conclusively be presumed to be in the public interest as long as, in regulated markets, the regulated service is available at no more than the maximum rate.

"(d) Enforcement.—The Commission shall enforce compliance with the obligations set forth in this section, and may adopt rules and regulations necessary or appropriate for that purpose.

"SEC. 410. COMMISSION RATE REGULATION.

"(a) Market-By-Market Regulation.—Except as initially established pursuant to section 408(b)(1), rates of pipelines subject to this section shall be regulated only in markets in which the Secretary has found Commission rate regulation to be in the public interest pursuant to section 408.

"(b) Rate Caps.—Notwithstanding any other provision of law, the rates of any pipeline in any market subject to this section shall be regulated as follows:

"(1) Base rates.—The base rate of a pipeline in a market made subject to Commission rate regulation pursuant to section 408(b)(1) upon the termination of existing Commission regulatory jurisdiction shall be—

"(A) Those rates that were in effect and not subject to investigation by the Commission on March 30, 1988, increased or reduced by the percentage change in the Producer Price Index for total finished goods calculated by the Bureau of Labor Statistics (PPI) from that date to the date that Commission rate regulation commences pursuant to section 408(b)(1);

"(B) With respect to rates that were subject to investigation by the Commission on March 30, 1988, which investigation was not terminated as of the termination of existing Commission regulatory jurisdiction pursuant to section 408(b)(1), those rates that were in effect upon the last rate change prior to March 30, 1988, that was not made subject to an investigation by the Commission, or was settled or was finally adjudicated by the Commission, increased or reduced by the percentage change in the PPI from the effective date of that change to the date that Commission rate regulation commences pursuant to section 408(b)(1);

"(C) With respect to rate that were subject to investigation by the Commission on March 30, 1988, which investigation was terminated by a final adjudication or a settlement aprpoved by the Commission, prior to the termination of existing Commission regulatory jurisdiction pursuant to section 408(b)(1), those finally adjudicated or settled rates increased or reduced by the percentage change in the PPI from the effective date of the final adjudication or settlement to the date that Commission rate regulation commences pursuant to section 408(b)(1);

"(D) With respect to pipelines not in service on March 30, 1988, those rates initially established by those pipelines.

"(2) One-time revision of base rates—

"(A) Proceeding subsequent to public interest finding.—Upon any finding by the Secretary pursuant to section 408(b) that Commission rate regulation of any pipeline in any market is in the public interest ("public interest finding"), the Secretary may consider in a subsequent proceeding, in accordance with the procedures in this paragraph, whether any base rate then applicable for that pipeline in that market should be reduced.

"(B) Petition by the Attorney General or interested persons—

"(i) Within 120 days after a public interest finding, the Attorney General may petition the Secretary for an adjudication of whether any base rate of that pipeline in that market should be reduced. Upon receipt of such a petition, the Secretary shall conduct an adjudication in accordance with subsection (b)(2)(C).

"(ii) Within 180 days after a public interest finding, any interested person may petition the Secretary for an adjudication of whether any base rate of that pipeline in that market should be reduced. Such a petition shall provide a reasonable basis for the conclusion that the base rate should be reduced, and shall be served on the pipeline and on the Attorney General. Upon receipt of such a petition, the Secretary, for good cause shown, may conduct an adjudication in accordance with subsection (b)(2)(C). The Secretary may consult with the Attorney General in deciding whether to conduct an adjudication, and shall conduct an adjudication if the Attorney General so recommends.

"(iii) Not later than 270 days after any public interest finding, the Secretary shall publish a list of all adjudications that the Secretary has determined will be held pursuant to this paragraph, identifying in each case the pipeline, the market, and the base rate for which a reduction is sought.

"(C) ADJUDICATION BY THE SECRETARY—

"(i) The Secretary shall order a reduction if the petitioner demonstrates that the pipeline's market power has resulted in a base rate that is significantly higher than the rate likely would be if the relevant market were not subject to market power. In making this determination, the Secretary shall consider only statistical evidence of rates charged by that pipeline in competitive markets, with appropriate recognition of the effects of factors such as the distance of a movement. For purposes of this paragraph, a base rate shall be deemed significantly higher than the rate likely would be if the relevant market were not subject to market power only if the difference is statistically significant under commonly accepted standards.

"(ii) Any finding under clause (i) shall be issued within one year after the Secretary decides to conduct an adjudication, unless the Secretary, in the event of unusual circumstances, determines that the finding cannot be issued within one year. In such a case, the Secretary shall make specific findings as to the unusual circumstances necessitating the delay, and shall specify a date certain by which the Secretary will issue the finding, but in no event shall the Secretary's finding be issued more than two years after the Secretary decides to conduct the adjudication.

"(iii) If parties to an adjudication conducted by the Secretary reach a settlement of the issues prior to the Secretary's finding, it shall bind those parties. If all parties reach such a settlement, the Secretary shall terminate the proceeding by accepting the settlement.

"(D) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a base rate ordered under this subsection shall be effective as of the date of the Secretary's finding pursuant to subsection (b)(2)(C)(ii), or one year after the Secretary decides to conduct the adjudication, whichever comes first.

"(E) PARTICIPATION BY THE ATTORNEY GENERAL.—The Attorney General may participate in any adjudication initiated by petition from any interested person under this section, and shall participate upon the request of the Secretary.

"(3) MAXIMUM RATES; RATE ADJUSTMENTS; TRANSITION PERIODS; COMPETITIVE PIPELINE PRICE INDEX.—

"(A) The Commission shall calculate, for each rate subject to Commission rate regulation, a maximum rate. Maximum rates shall be adjusted periodically as set forth in this subsection, at intervals of not more than six months except as otherwise provided below.

"(B) Following commencement of Commission rate regulation pursuant to subsection 408(b)(1)—

"(i) For the first period, which shall be from the commencement of Commission rate regulation pursuant to subsection 408(b)(1) until the date of publication by the Secretary of the list of adjudications required by subsection 408(b)(2)(C), the maximum rate shall be the base rate.

"(ii) For each of the next two periods, which each shall be six months, the maximum rate for pipelines serving markets which are subject to adjudications shall be the base rate increased or reduced by the percentage change in the PPI from the date upon which the rate utilized as the base rate became effective.

"(iii) For all subsequent periods, the maximum rate shall be the prior maximum rate increase or reduced by the percentage change in the Competitive Pipeline Price Index ("CPPI") during the previous period. *Provided, however,* That, with respect to a settlement approved by the Commission after March 30, 1988, which expressly governs maximum rates for any future period, the settlement rate shall be the maximum rate until the conclusion of that period, at which time the rate in effect shall be the maximum rate to be increased or reduced by the percentage change in the CPPI pursuant to this section.

"(C)(i) The Secretary shall calculate a Competitive Pipeline Price Index ("CPPI") to reflect relative changes in prices charged by pipelines in competitive markets not subject to Commission rate regulation. The CPPI shall be derived from the average revenue per barrel-mile of a sample of pipelines in such markets. The Secretary shall select the sample of pipelines, markets, and revenues to be used in calculating the CPPI, and in the Secretary's discretion, may exclude data from pipelines not subject to Commission rate regulation but whose rates for any reason may not reflect effective competition. The Secretary may require reports from pipelines for the purpose of calculating the CPPI.

"(ii) The Secretary shall initially publish the CPPI one year after the termination of existing Commission regulatory jurisdiction, and shall publish changes in the CPPI at intervals of not more than six months.

"(iii) The Secretary may substitute an appropriate existing index for the CPPI if such substitute index accurately reflects increases in prices in competitive pipeline markets and if the Secretary determines that calculation of the CPPI would be unduly burdensome.

"(4) LAWFULNESS OF RATES.—

"(A) MAXIMUM RATES.—Any rate subject to Commission rate regulation under this section which does not exceed the maximum rate determined in accordance with subsection (b)(3) shall be presumed conclusively to be lawful and shall not be subject to protest, complaint, suspension, investigation or any other challenge or inquiry under Commission rate regulation.

"(B) RATES BELOW MAXIMUM RATES.—Nothing in this Act shall make it unlawful for a pipeline to charge a rate that is lower than the maximum rate determined in accordance with subsection (b)(3); *Provided, however,* That a pipeline charging such lower rates to any shipper with which it is affiliated, by means of common ownership or otherwise, shall be required to make such lower rates available to any shipper upon the same terms and conditions of service.

"(5) PUBLICATION AND MAXIMUM RATES.—The Commission shall publish base rates, rate adjustments, and maximum rates determined in accordance with this section and make them available for public inspection.

"(c) ADDITIONAL REQUIREMENTS IN REGULATED MARKETS.—A pipeline subject to Commission rate regulation in a market shall not condition pipeline services in that market on entering into any other transaction, or on taking or refraining from any action.

"(d) EXPANDED CAPACITY—

"(1) In any market subject to Commission rate regulation, if a pipeline expands its available capacity, it may petition the Commission for a determination of the preexisting capacity that will remain subject to Commission rate regulation. If such a determination is made, the additional capacity shall not be subject to Commission rate regulation. Interested persons may participate in the proceeding.

"(2) The Commission may promulgate any regulations necessary or appropriate to ensure that rights to use preexisting capacity at rates governed by Commission rate regulation are allocated to shippers in a manner that both preserves the efficacy of Commission rate regulation of preexisting capacity and is consistent with the requirements of section 409 of this Act.

"(e) ENFORCEMENT.—The Commission shall enforce compliance with the obligations set forth in this section, and may adopt rules and regulations necessary or appropriate for that purpose.

"(f) RULES AND REGULATIONS.—Notwithstanding section 501 of this Act (42 U.S.C. 7191), the Secretary and the Attorney General each may promulgate in accordance with section 553 of title 5, United States Code, rules and regulations necessary or appropriate to carry out their respective responsibilities under this section. Rules and regulations proposed by the Secretary implementing this section or any other actions taken by the Secretary under this section shall not be subject to section 404 of this Act (42 U.S.C. 7174).

"(g) JUDICIAL REVIEW—

"(1) Notwithstanding section 502 of this Act (42 U.S.C. 7192), the United States Court of Appeals for the District of Columbia Circuit shall have exlusive original jurisdiction over any petition for judicial review under this section.

"(2) Any action of the Attorney General under this section, including without limitation any decision to petition or not to petition for any adjudication under this section, is an agency action committed to agency discretion by law, and shall not be subject to judicial review in any manner.

"SEC. 411. REPORT TO CONGRESS.

"At the conclusion of the fifth year after the completion of all adjudications conducted under section 410 of this Act, the Secretary shall provide to the appropriate committees to Congress a report setting forth the findings and conclusions of the Secretary on the results of the Oil Pipeline Regulatory Reform Act of 1988 and its impact on the public interest. In such report, the Secretary shall make any recommendations that the Secretary deems to be appropriate."

CONFORMING AMENDMENTS

Sec. 4. (a) Section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)), is amended by striking out "There" and inserting in its place "Subject to sections 408, 409, 410, and 411 of this Act, there."

(b) Section 402(d) of the Department of Energy Organization Act (42 U.S.C. 7172(d)), is amended by inserting "or sections 408 and 410 of this Act" after "Act."

(c) Section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7174(a)), is amended by striking out "section 403" and by inserting in its place "sections 408 and 410."

(d) The Table of Contents of the Department of Energy Organization Act is amended by adding four new items to read: "Sec. 408. Regulation of pipelines.", "Sec. 409. Common carrier status continued; contracts." "Sec. 410. Commission rate regulation," and "Sec. 411. Report to Congress."

APPLICABILITY OF ANTITRUST LAWS

Sec. 5. All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade shall continue to be applicable to the transportation by pipeline of crude oil or refined oil or other products.

SEPARABILITY

Sec. 6. If any provision of this Act or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

Oil Pipeline Regulatory Reform Act of 1988

PURPOSE OF THE LEGISLATION

The Oil Pipeline Regulatory Reform Act of 1988 (OPPRA or the Act) is intended to eliminate unnecessary economic regulation of oil pipelines that operate in fully competitive markets. It also would reform in a procompetitive manner any regulation that remains necessary in the public interest. OPPRA would accomplish these goals by ending current Federal Energy Regulatory Commission (FERC) regulatory jurisdiction over all oil pipelines (other than the Trans-Alaska Pipeline System and the pipeline that lead into that system), and substituting new, simplified common carrier obligations and simplified rate regulation where necessary.

BACKGROUND

Oil pipelines have been regulated under the Interstate Commerce Act since 1906, first by the Interstate Commerce Commission (ICC) and, since 1977, by FERC. The original purpose of economic regulation was to simulate a workably competitive environment in an industry that was thought to have natural monopoly characteristics. Consequently, the Interstate Commerce Act instituted both rate and service regulation on oil pipelines to make sure that oil pipelines did not earn more than a competitive rate of return and to ensure nondiscriminatory access to them. Economic regulation at the ICC worked reasonably well for many years; FERC, however, primarily under court direction, altered the method of economic regulation of oil pipelines in the direction of a strict cost-of-service regime.

Cost-of-service regulation is ill suited to an industry that operates primarily in a competitive environment. Inefficiencies and distortions have developed because of cost-of-service regulation. Investment decisions have been distored so that the industry operates less efficiently and offers less service. The ultimate losers of the present regulatory system are consumers because the distribution system does not deliver products in the most efficient way.

In 1986, the Department of Justice completed a study that concluded that most oil pipelines operate in competitive markets so that continued economic regulation is not necessary. The study examined the markets in which oil pipelines operate to identify "high risk" markets where regulation would be needed to protect consumers from monopolistic pricing. The study concluded that, with the exception of some markets in five to eleven product pipelines, the industry was competitive and should be deregulated. Whle the Justice study examined the effects of oil pipeline market power in various markets, it assumed that the present form of cost-of-service regulation would not change. Thus, the report recommended continued regulation of an entire contiguous pipeline if it operated in any of the markets identified as "high risk."

The President proposed the Oil Pipeline Regulatory Reform Act of 1987 to implement the recommendations of the 1986 Department of Justice study. That proposed legislation would have deregulated all pipelines within 120 days of its effective date, unless, after an administrative hearing, continued regulation of a particular pipeline was found to be in the public interest.

Since that bill was proposed, the Administration has reexamined the assumption that cost-of-service should continue for those oil pipelines that remain regulated in the public interest. The reexamination led to the conclusion that the present regulatory system was leading to serious distortions in the oil pipeline industry, because under that system oil pipelines are reluctant to make the necessary investments to maintain efficient operations and to expand to meet new supply and demand requirements.

Better results are anticipated by a shift of economic regulation from a pipeline-by-pipeline basis to a market-by-market basis using price cap regulation in the "high risk" markets. Price cap regulation would permit market-by-market regulation, inasmuch as a rate can be established in each market without the cost allocation problems inherent in cost-of-service regulation applied to the entire pipeline. With this shift to a different mode of regulation, more deregulation can occur because only "high risk" markets need be regulated and not the entire pipeline.

THE PRESENT PROPOSAL

The enclosed draft bill is intended to correct the distortions, inefficiencies, and misallocations of the present regulatory system. It would permit market forces to operate to the maximum extent possible while at the same time protecting shippers and consumers from any residual substantial market power that may exist in some markets in the industry. The draft bill would establish a procedure administered by the Department of Energy with the full participation of the Department of Justice to distinguish between pipeline markets that are competitive and those where substantial market power exists. The procedure to be used would assure that all interested persons are given the opportunity to participate in the decisionmaking process, thereby ensuring a fair and open process. Under this procedure, if the Secretary of Energy determines that rate regulation of an existing pipeline in a market is in the public interest, FERC rate regulation would be continued. Future rate regulation, however, would be on a price cap basis for that market, rather than the current cost-of-service basis. The draft bill establishes a procedure, also open to interested persons, to determine this maximum rate. In this way all pipelines that operate in competiive markets will be free to charge a competitive rate, while oil pipelines that operate in those few "high risk" markets where substantial market power exists will be regulated under a price cap method of regulation that stimulates the competitive environment.

The purpose of the shift to a different form of economic regulation is to eliminate much of the needless and burdensome regulation to which pipelines are now exposed. This regulatory reform is much less burdensome because it would require very little regulatory oversight and could be implemented and maintained in a relatively easy and inexpensive fashion. This regulatory reform would ease the burden on the oil pipeline industry, saving millions of dollars in regulatory compliance, while at the same time relieving FERC from major aspects of its present regulatory costs, saving millions of dollars in government expenditures. New oil pipelines would be free from rate regulation altogether.

In addition to this shift in economic regulation, the draft bill maintains some of the procompetitive aspects and shipper protections of present economic regulation. Oil pipelines would continue to be common carriers that cannot discriminate on the terms and conditions of service (except rates) among those who use them. This element of regulation has three significant benefits. First, it is virtually cost-free, imposing very limited financial burdens on the industry and the government. Second, it ensures that all users of the pipelines are treated fairly and in a nondiscriminatory manner. Third, in the states that grant eminent domain to entities that have common carrier obligations, these obligations also ensure that existing pipelines can expand and that new pipelines can be built by enabling pipelines to avail themselves of the state eminent domain laws.

There are other benfits of this proposed change in regulation besides the monetary savings from regulatory compliance. The elimination of rate regulation for pipelines operating in competitive markets means that regulatory distortions will be eliminated, permitting them to operate and invest in a manner that will lower costs and increase economic efficiency. For pipelines whose markets continue to be regulated, the method of regulation will be certain, thereby permitting pipelines to make investment decisions that will increase their operating efficiency and better serve their customers. In the final analysis, a more efficient oil pipeline system means that consumers will realize benefits from a distribution system that gets the product to the right place, at the right time, and in the most efficient way.

Section-by-Section Analysis

SHORT TITLE

The bill's prefatory clause provides that it may be cited as the "Oil Pipeline Regulatory Reform Act of 1988".

FINDINGS AND PURPOSES

Section 2 of the Act contains findings and purposes. These findings and purposes will serve to guide the Secretary of Energy, the Attorney General, the FERC, and the courts in their implementation of the Act.

REGULATORY REFORM AND DEREGULATION

Section 3 of the Act adds new sections 408, 409, 410, and 411 to the Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101, et seq., entitled "Regulation of Pipelines", "Common Carrier Status: Contracts", "Commission Rate Regulation", and "Report to Congress". It is anticipated that these sections will be codified as new sections 7178, 7179, 7180, and 7181 of title 42 United States Code.

SECTION 408—REGULATION OF PIPELINES

Section 408 sunsets existing Commission regulatory jurisdiction and replaces it with new streamlined common carrier obligations contained in new section 409 and—where appropriate—with new competition-based price cap regulation contained in new section 410.

Section 408(a) defines several terms that are used in sections 408, 409, and 410.

Section 408(b) reforms basic pipeline regulation and provides for the initial consideration of the regulatory status of all existing pipelines (except for TAPS and TAPS feeder lines).

Section 408(b)(1) sunsets existing Commission regulatory jurisdiction sixty days after the Act's effective date. It also provides that on the day of sunset, the new, streamlined common carrier obligations contained in new section 409 become effective with respect to all pipelines. During the pendency of adjudications, the rates of pipelines subject to those adjudications will be regulated on an interim basis under the provisions of section 410.

Section 408(b)(2) gives the Attorney General and any interested person the opportunity to petition the Secretary for an adjudication that new price cap regulation, termed "Commission rate regulation" and set forth in section 410, of the rates of a particular pipeline in a particular market would be in the public interest. Such petitions must be filed within 120 days of the Act's effective date for the Attorney General and within 180 days for interested persons.

In determining within 120 days of the Act's effective date which pipelines and which markets should be the subject of his petition for an adjudication, the Attorney General will be guided by the methods, assumptions, standards, and definitions set forth in the economic study of the oil pipeline industry dated May 1986. Interested persons will have the opportunity directly to petition the Secretary for an adjudication regarding a particular pipeline in a particular market, as well. Interested persons will not be bound by the methods, assumptions, standards, and definitions set forth in the Department of Justice study in petitioning for adjudications, nor will the Secretary be bound by the study in the conduct of any adjudications.

In preparing petitions, the Attorney General will have to define relevant markets. The term "market" is not defined in the Act because the definition inherently must be based on the facts of each particular case. The Attorney General will use recognized antitrust standards for defining markets (e.g., as set forth in the Department of Justice Merger Guidelines). Depending on the relevant facts (such as availability and price for alternative sources of products), a relevant market could be as large as an entire economic region covering parts of several states or as small as a single jet-fuel terminal at an airport. As noted above, the basic structural methodology of the Department's 1986 Report on Oil Pipeline Deregulation will guide the Attorney General's recommendations under the Act.

Not later than 270 days after the effective date of the Act, the Secretary is to publish a list of all adjudications that he has decided to conduct. For each market for which an adjudication is to be conducted, price cap regulation of the subject pipeline in the subject market will continue in effect while the Secretary conducts the adjudicatory proceeding. If no petition is filed with respect to a particular pipeline in a particular market, of if the Secretary does not find sufficient cause to conduct a petitioned-for adjudication, that pipeline's pricing in that market is deregulated upon publication of the list.

Section 408(b)(3) contains additional provisions regarding the adjudication of a pipeline's regulatory status. Price cap regulation is to be found in the public interest only if it is demonstrated that "such regulation is necessary to constrain the exercise of substantial market power".

An adjudication of a pipeline's regulatory status is to be completed within one year following the Secretary's decision to conduct it, unless the Secretary determines that unusual circumstances necessitate a delay, in which case the Secretary may take a maximum of two years to issue his finding. However, the Secretary must support the need for delay with specific findings regarding the relevant unusual circumstances. If, after conducting the proceeding, the Secretary finds that price cap regulation of the pipeline in the subject market is in the public interest, such regulation will continue indefinitely. If the Secretary does not so find, price cap regulation will terminate promptly. These provisions would also allow for settlement by contract of disputes regarding whether a particular pipeline should be subject to price cap regulation in a particular market.

Section 408(c) contains provisions for reconsideration, in the light of changed circumstances, whether price cap regulation of a given pipeline in a regulated market is in the public interest.

Section 408(d) provides for participation by the Attorney General in any adjudicatory proceeding regarding the regulatory status of a pipeline under section 408, and provides that in so doing the Attorney General shall be guided by the underlying definitions and assumptions of the 1986 study.

Section 408(e) provides that new pipelines—those that are not in service and not under construction on March 30, 1988—will not be subject either to existing Commission regulatory jurisdiction or to the new price cap regulation contained in section 410. The term "under construction" is not defined in the bill; it is intended that this term be construed to cover pipelines for which ground has been broken, or which otherwise have progressed under expectation of regulation to the point of preempting the development of an alternative pipeline serving the same markets.

Section 408(f) clarifies that (1) FERC regulation of, and, impliedly, and any FERC regulatory proceedings related to, oil or other products transported prior to deregulation of a pipeline will not be affected by that deregulation, (2) price cap regulation of a pipeline will be prospective only and not apply to previous transportation, and (3) FERC pipeline regulation terminated under section 408, including regulation of new pipelines, will not revert back to DOE, the ICC, or any other agency. Section 408(f) futher provides that pipeline regulation terminated under section 408 will not revert to any state agency, with the proviso, however, that existing state authority over intrastate pipeline transportation remains unchanged.

Section 408(g) explicitly authorizes the Secretary of Energy and the Attorney General to promulgate rules and regulations necessary or appropriate to carry out their responsibilities under section 408.

Section 408(h) provides for original, exclusive review in the United States Court of Appeals for the D.C. Circuit of any petition for judicial review of any administrative action taken under section 408. This will expedite to the greatest extent possible such judicial review.

Section 408(h) also provides that any action for the Attorney General under section 408, including without limitation any decision to petition or not to petition for an adjudication of a pipeline's regulatory status, is deemed an action committed to agency discretion and not subject to judicial review.

SECTION 409—COMMON CARRIER STATUS: CONTRACTS

Section 409 contains the new, streamlined common carrier obligations that will be substituted for current, complex non-discrimination regulation under the Interstate Commerce Act when that regulation sunsets sixty days after the effective date of the Act. Section 409 also clarifies the authority of pipelines to enter into contracts for the transportation of oil and oil products.

Section 409(a) establishes the basic common carrier obligations of oil pipelines. It specifically provides that regulatory jurisdiction under this section does not extend to rate matters. While this section requires nondiscrimination as to access, terms and conditions under common carriage, it does not permit review of rates under that guise, in order to avoid "back-door" rate reregulation. Pipelines will be free to charge different rates to different shippers and may not be found to violate this section for that reason. Pipelines will be free to charge a rate that some shippers may be unwilling to pay, and these shippers may be "excluded" in that sense, but no rights are conferred by this section to change that situation in competitive markets. In competitive markets, customers have competitive alternatives to a particular pipeline; that is the best guarantee against any harm to consumers that might be caused by irrational price discrimination. In markets that are not competitive, price cap regulation will protect shippers. In addition, in all markets normal antitrust remedies remain available for anticompetitive actions.

Section 409(b) requires pipelines to publish and file the terms and conditions (other than rates) that apply to their standard common carriage transportation of oil and oil products.

Section 409(c) governs pipelines' contracts that differ from the standard common carriage terms and conditions. In order to ensure that businesses are free to enter into contracts that best meet their needs, without risk of intrusive regulation or challenges from disgruntled competitors, contracts are essentially removed from common carriage regulation. Common carriage remains as a "fall-back" or "base-line" option for all shippers; they will only use a contract if it better meets their needs.

Section 409(c) provides that in markets in which there is Commission rate regulation, contracts are permitted, but only so long as the regulated service is available at the maximum rate. This limitation is needed in order to prevent evasion of rate cap regulation. By "available" is meant freely available—shippers can obtain the regulated service at the maximum rate, free of capacity or other constraints.

For new pipelines, prospective customers and the prospective pipeline(s) are free to enter into contracts under this provision, since new pipelines will not be subject to Commission rate regulation. Such advance contracting can efficiently ensure that needed new pipelines will be built but will not harmfully exercise substantial market power over shippers, who will have competitive options at the contracting (pre-construction) phase and thus can protect themselves.

Section 409(d) authorizes the FERC to enforce compliance with section 409, and to promulgate any necessary rules and regulations.

SECTION 410—COMMISSION RATE REGULATION

Section 410 sets forth the new "price cap" regulatory scheme that will be substituted for current cost-of-service/rate-of-return regulation under the Interstate Commerce Act when such regulation sunsets sixty days after the effective date of the Act.

Section 410(a) provides that the new simplified price cap regulatory scheme is to be on a market-by-market basis.

Section 410(b) establishes the basics of price cap regulation. Section 410(b)(1) provides the first key component of price cap regulation—"base rates." These are established as recent rates that were not subject to FERC investigation (or that were finally adjudicated or were the subject of a settlement), increased by the Producer Price Index up to the effective date of the new price cap regulatory scheme.

Section 410(b)(2) allows for a one-time reduction of a base rate upon a showing that, due to pipeline market power, the base rate is "significantly higher" than would be predicted under competitive conditions. The Secretary shall only undertake a rate reduction in markets where the difference between the unadjusted base rate and the statistically predicted competitive rate is statistically significant (a commonly accepted standard for significance is that there should be less than a five percent probability that the difference was due to random fluctuations). In markets where rate reductions are appropriate according to this criterion, the Secretary would bring them in line with the rates that correspond to the statistically significant level (i.e., at 5%) rather than the statistically predicted rate.

A base rate adjustment proceeding can begin only after the Secretary has found that a pipeline has substantial market power under section 408. The procedures for such an inquiry parallel the section 408 procedures for determining whether a pipeline market will be subject to Commission rate regulation. Any such revision will be effective on the date the Secretary orders the reduction, or one year after the Secretary decides to conduct an adjudication, whichever comes first.

Section 410(b)(3) provides the other key component of price cap regulation—a new "Competitive Pipeline Price Index" ("CPPI") based on relative changes in pipeline rates in competitive unregulated markets. The Secretary will have discretion to select the data used to calculate the CPPI in order to create an index that accurately represents prices in markets with effective competition. The Secretary may use a substitute index, but only if he determines that calculation of the CPPI is unduly burdensome.

The Commission shall calculate, at least every six months, a maximum rate for each pipeline subject to price cap regulation based on base rates and cumulative changes in the CPPI. During a transition period, from the date of commencement of Commission rate regulation (sixty days after the effective date of the Act) until the date of publication of the list of adjudications required under section 408(b)(2)(C) (two hundred seventy days after the effective date of the Act) oil pipeline rate ceilings shall be frozen at base rate levels. The Producer Price Index will be used as the inflator/deflator of base rates for the next year, in order not to rely on changes in the CPPI during the early stages of deregulation, because such changes may be substantially influenced by an initial reaction to the termination of prior regulation.

Section 410(b)(4) establishes the lawfulness of all rates that do not exceed the maximum rates calculated in accordance with section 410(b)(3). This subsection also makes clear that any lower rate is also lawful. However, if a pipeline makes any such lower rate available to a shipper with which the pipeline is affiliated, then the pipeline is required to make the lower rate available to all shippers on the same terms and conditions.

Section 410(b)(5) requires FERC to publish base rates, rate adjustments, and maximum rates.

Section 410(c) contains an additional limitation on the actions of pipeline subject to price cap regulation in particular markets. This limitation is designed to prevent evasion of price cap regulation. Under this subsection, pipelines may not tie the taking of other products or services to pipeline services. This prevents pipelines from evading rate cap regulation by, e.g., charging an artificially high price for some unregulated good or service as a prerequisite for access to regulated pipeline service.

Section 410(d) provides for the non-regulation of expanded capacity in price-capped markets, in order to encourage such expansion. It also provides the Commission with explicit authority to promulgate regulations regarding allocation of rights to use pre-existing capacity in a manner consistent with effective Commission rate regulation and the common carrier requirements of section 409.

Section 410(e) authorizes the FERC to enforce section 410, and to promulgate any necessary rules and regulations.

Section 410(f) explicitly authorizes the Secretary and the Attorney General to promulgate any rules and regulations necessary or appropriate to carry out their responsibilities under section 410.

Section 410(g) provides for original, exclusive review in the United States Court of Appeals for the D.C. Circuit of any petition for judicial review of any administrative action taken under section 410. This will expedite to the greatest extent possible such judicial review.

Section 410(g) also provides that any action of the Attorney General under section 410, including without limitation any decision to petition or not to petition for a rate reduction, is deemed an action committed to agency discretion and not subject to judicial review.

Section 411 provides for a report to Congress by the Secretary five years after all adjudications under section 410 have been concluded. This is to assure informed oversight by Congress as to the status of oil pipeline regulatory reform.

CONFORMING AMENDMENTS

Section 4 of the act contains certain conforming amendments. It amends section 402(a) of the DOE Organization Act, 42 U.S.C. 7172(2), to clarify that the authorities and functions transferred by section 402(a) arte transferred subject to the Oil Pipeline Regulatory Reform Act. It also amends section 404(a) of the DOE Organization Act, 42 U.S.C. 7174(a), to clarify that the Secretary may issue regulations implementing the Oil Pipeline Regulatory Reform Act without referring the rule to the FERC under Section 404.

APPLICABILITY OF ANTITRUST LAWS

Section 5 of the Act clarifies the continuing applicability of the antitrust laws to oil pipelines. The Act is not intended to affect in any manner the applicability of the antitrust laws to transportation of oil or products.

SEPARABILITY

Section 6 of the Act provides for separability should any of the Act's provisions or their application be held invalid.

SECRETARY OF ENERGY,
Washington, DC.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit, on behalf of the Administration, a legislative proposal cited as the "Oil Pipeline Regulatory Reform Act of 1988." The enclosed draft bill would amend the Department of Energy Organization Act to reduce and improve the economic regulation of oil pipelines. This proposed legislation is an initiative of the Presidential Task Force on Regulatory Relief, and its enactment would be in accord with the President's legislative program.

The Oil Pipeline Regulatory Reform Act of 1988 represents a consensus approach to the reform of oil pipelines. It permits rapid deregulation of most oil pipelines that operate in competitive markets. It creates a fair procedure to determine whether the remaining oil pipelines should be deregulated, but only after an inquiry into their competitiveness. The Act also reforms any residual regulation in a manner that promotes competition and reduces government oversight. The oil pipeline industry supports this initiative since it lessens government intrusion into a competitive industry.

The Office of Management and Budget advises that the presentation of this proposal for the consideration of the Congress is in accord with the program of the President.

Yours truly,

JOHN S. HERRINGTON.●

By Mr. CHAFEE (for himself and Mr. DURENBERGER):

S. 2771. A bill to amend the Public Health Service Act to create a demonstration project that shall be administered by the Office of Substance Abuse Prevention, to provide treatment to babies born to women with substance abuse problems; to the Committee on Labor and Human Resources.

DEMONSTRATION PROJECTS FOR TREATMENT OF DRUG ADDICTED BABIES ACT

● Mr. CHAFEE. Mr. President, today I am joining with Senator DURENBERGER in introducing an act to provide for demonstration projects for the treatment of drug addicted babies. This bill would provide treatment to infants born of mothers who abused illegal substances during their pregnancy.

Every year an estimated 375,000 newborn infants suffer from drug-related health problems such as addiction. This is because at least 1 out of every 10 pregnant women use illegal drugs, and many more consume alcohol. Those who suffer the most are their newborn babies often born addicted to drugs, with low-birth weight, retardation, prenatal strokes, structural abnormalities and permanent brain damage.

Mother Clara Hale cares for some of these infants at the Hale House in Harlem. The Hale House provides care and medical treatment for infants and children whose addicted mother is seeking rehabilitation. The foundation of the Hale House is the family. Because of her efforts, mothers are able to successfully complete treatment and put their lives back together while their children receive medical treatment in a loving, homelike environment. Once the mother and child are well they are reunited. I have modeled my legislation on this program to provide other communities the chance to help drug addicted mothers and newborns.

Although it is ideal to treat mothers who are addicted to drugs at the earliest stages of pregnancy, it is not always possible. If we can't get to them beforehand, at least we can help these mothers and newborns, both of whom are physically addicted, after birth. This demonstration specifically addresses that need.

My legislation would provide grants to States to establish houses in between 3 and 5 cities for babies born of drug- and alcohol-addicted mothers. The purpose is to provide mothers with a safe place to leave their infants for treatment and medical care while they complete a separate rehabilitation program. Many women, particularly single mothers, would like to get help but cannot take their babies through rehabilitation with them and have no one else to care for the child. These babies have special treatment needs that residences, such as the Hale House, can handle in a homelike setting. This proposal would be authorized at $2 million in 1989 and $2 million in 1990.

Once mother and child have completed their respective treatment programs, the project requires coordination with other State and local agencies to provide the mother with job training and other skill development to help her successfully lead a drug free life. In addition, she will have received training in caring for the special needs of her child.

Mother Hale's efforts in Harlem are significant to every family she helps. Her efforts give families the ability to get back on track and provide infants with a better start in life. But there are too many who don't have access to that help. This bill will assist communities in establishing programs to target these families and help them get on the road to recovery.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "An Act to provide Demonstration Projects for Treatment of Drug Addicted Babies Act of 1988".

SEC. 2. ESTABLISHMENT OF DEMONSTRATION PROJECT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290a et seq.) is amended by adding at the end thereof the following new section:

SEC. 509D. MOTHER HALE DEMONSTRATION PROJECT FOR TREATMENT OF DRUG ADDICTED BABIES.

"(a) PURPOSE.—It is the purpose of this section to establish a demonstration project to provide grants to certain entities for projects that will—

(1) test the effects of providing mothers who are addicted to drugs appropriate respite care and treatment for their babies;

(2) provide training to such mothers to enable them to care for such babies; and

(3) provide further services to enable families with such mothers to gain a chance at a drug free life.

"(b) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a demonstration project to make grants to certain entities who submit applications to the Director in accordance with subsection (c).

"(c) PROJECT APPLICATION.—

"(1) IN GENERAL.—to be eligible to receive a grant under this section, an entity shall submit an application to the Secretary in such form and manner and containing such information as the Secretary may require.

"(2) REQUIREMENTS.—An application submitted under this section shall contain an assurance that the project to receive funds under this section will—

"(A) be implemented in a city with a high per capita incidence of drug abuse and AIDS cases;

"(B) be coordinated with other State and local entities providing similar services, including local hospital services, social services, child welfare services, child abuse services, job training services, drug abuse counseling and treatment services, and AIDS education services;

"(C) provide a house or residence in which congregate care will be provided for up to 12 drug addicted babies temporarily placed in such house or residence while the mother participates in a treatment program;

"(D) provide adequate medical staff and necessary medical services, including training for staff in the specific needs of drug addicted babies, psychological care for such babies, and occupational therapy for such babies, to appropriately treat the drug addicted babies and provide preventive health care;

"(E) give priority to low-income women in providing services;

"(F) permit the mother (and other family members) to regularly visit their drug addicted baby while the baby is receiving services;

"(G) provide, either directly or indirectly, training to mothers of drug addicted babies to enable such mother to—

"(i) resume a drug free life; and

"(ii) care for the special needs of their drug addicted child once such mother has completed substance abuse treatment and is ready to care for her child; and

"(H) provide any other information required by the Secretary.

"(d) NUMBER OF GRANTS.—The Secretary shall make at least three grants under this section but no more than five grants.

"(e) RESERVATION.—The Secretary shall make at least one grant to a project that will serve a city with a population of between 150,000 and 250,000.

"(f) PRIORITIES.—The Secretary shall give priority in making grants to project applications that—

"(1) demonstrate that State, city, or community funding will be provided for the project; and

"(2) encourage the use of senior citizen contributions in the care of drug addicted babies.

"(g) REPORT.—Not later than January 1, 1991 the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report that describes the projects receiving grants under this section and the impact of such projects on the problem of drug addicted mothers and babies.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 for each of the fiscal years 1989 and 1990, of which five percent of the amount so appropriated in each fiscal year shall be used to prepare and submit the report required under subsection (g).".●

By Mr. CHAFEE (for himself and Mr. DURENBERGER):

S. 2772. A bill to amend the Public Health Service Act to improve the provision of drug treatment services for pregnant women; to the Committee on Labor and Human Resources.

DRUG TREATMENT SERVICES FOR PREGNANT WOMEN

● Mr. CHAFEE. Mr. President, I am offering legislation to address the special treatment needs of substance abusing pregnant women.

Substance abuse in America has reached crisis proportions. The victims of this crisis who have been overlooked too often are the unborn children of alcohol or drug users. A recently completed study found that at least 11 percent of all hospitalized pregnant women, used illegal drugs during their pregnancies.

While some pregnant women do not seek treatment, many women who need assistance don't know where to turn or simply don't have the resources to get help. Even if they contact a treatment center, they are often put at the bottom of a 6- to 9-month waiting list. Why would a treatment center put a substance abusing woman with an affected unborn child at the bottom of the list? I'm told that the substance abuse treatment system is overflowing and treatment centers often shy away from taking on the liability risks and health problems of a pregnant woman.

The legislation I am introducing today approaches this problem in two ways: first, it mandates priority treatment for pregnant women; and second, it creates a demonstration project to create residential drug programs designed specificially for the needs of pregnant women.

My bill would require any drug treatment program which receives Federal assistance to give priority treatment to pregnant women. In other words, if there is a waiting list at a treatment center, a pregnant women must be moved to the top of that list and be given treatment when the next available slot is opened.

The residential drug program for pregnant women called for in my bill would provide a place for pregnant women to stay while obtaining treatment for their addiction and receiving prenatal care for their unborn children. The services would include outreach to identify substance abusing pregnant women and coordination with other State, local, and Federal programs designed to help the pregnant woman achieve independence and productivity such as job training and education. The authorization for this program would be $10 million for each year beginning in 1989 through 1991.

I believe it is imperative for us to address the needs of pregnant women who want help, but can't get it. We must make it clear that pregnant women deserve first priority for drug treatment. A future generation of unborn children depends on it.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRIORITY FOR PREGNANT WOMEN.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new part:

"PART E—DRUG TREATMENT FOR PREGNANT WOMEN

"SEC. 550. PRIORITY FOR PREGNANT WOMEN.

Any drug treatment progam that receives Federal assistance under this Act, or under any other provision of law, shall give priority to the treatment of pregnant women, and shall afford pregnant women the first opportunity to receive treatment under such programs notwithstanding any waiting lists that exist for such programs.".

SEC. 2. DRUG TREATMENT DEMONSTRATION PROJECT.

Part E of the Public Health Service Act (as added by section 1) is amended by adding at the end thereof the following new section:

"SEC. 551. DRUG TREATMENT DEMONSTRATION PROJECT.

"(a) ESTABLISHMENT.—The Secretary shall establish a demonstration project to make grants to public and private non-profit entities for the purpose of enabling such entities to provide pregnant women with various drug treatment services.

"(b) REQUIREMENTS.—To be eligible for a grant under subsection (a), an entity shall—

"(1) submit an application to the Secretary in such form and containing such information as the Secretary shall require; and

"(2) provide the Secretary with assurances that if the entity receives a grant under this section it shall—

"(A) promote outreach services to identify and attempt to offer treatment to pregnant women who are abusers of alcohol or illegal drugs, such as through the coordination of services with national or Statewide community hotlines;

"(B) provide substance abuse treatment and rehabilitation services to pregnant women;

"(C) provide prenatal care services to pregnant women who are abusers of alcohol or illegal drugs (the provision of such services may be coordinated with services provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(D) provide counseling to pregnant women on the effects of substance abuse, nutrition, and prenatal care on the unborn child of such women;

"(E) coordinate services provided with grants received under this section with other Federal, State, and local programs designed to assist pregnant women in achieving independence and productivity; and

"(F) continue to provide assistance to women and the infant children of such if such women received assistance under grants made under this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to enable the Secretary to make grants under this section, $10,000,000 for each of the fiscal years 1989 through 1991.".●

By Mr. BAUCUS (for himself and Mr. DURENBERGER):

S. 2773. A bill entitled the Waste Minimization and Control Act of 1988, to amend the Solid Waste Disposal Act and extend the authorization through 1992; to the Committee on Environment and Public Works.

WASTE MINIMIZATION AND CONTROL ACT

● Mr. BAUCUS. Mr. President I rise today to introduce for myself and Senator DURENBERGER, the Waste Minimization and Control Act of 1988. This legislation is needed to close a critical loophole in our Nation's environmental policy. This bill adds another chapter to our Nations commitment to environmental protection that Congress first began to tackle in the 1960's when we enacted the Solid Waste Act, and set Federal auto emission standards. That was more than two decades ago.

Since that time, we have seen a massive Federal regulatory commitment to air pollution control.

Since that time, we have witnessed a massive Federal regulatory and financial commitment to water pollution control.

Since that time, we have made a massive regulatory, financial and judicial assault on cleanup of hazardous waste dumps.

And since that time, America has become known as the world's largest producer of garbage—generating almost 12 billion tons of solid and hazardous waste every year;

A nation where the single largest export from the ports of New York State—nearly 44 percent—is waste;

A nation where we find hypodermic needles and vials of contaminated blood lining our beaches;

A nation that happily sends its most toxic waste to poison the soil and people of foreign lands;

And a nation that's home of the infamous garbage barge that wandered our coastal waters for months looking for a place to dump its load. It had to return home, just as the problem of solid waste has come home to us.

For too long Mr. President, Americans have viewed waste as useless junk. We've buried it until our "purple mountains" turn brown. We've burned it until our "spacious skies" rain toxins. And we've dumped it until infectious waste can be found from "sea to shining sea."

For America to be beautiful we need to change our ways. We must begin to treat our waste as a resource, not refuse. We must stop throwing away our future.

I believe America is ready for this change. Its time to change our wasteful habits. Its time to redirect our energies toward reducing waste, recycling more, and managing better.

It will be a difficult task. Just as the fight to clean the air and the water was long and difficult, so to will the fight to control solid waste.

We have to change habits. We have to devise whole new systems. And we have to better discipline ourselves.

The RCRA bill that I am introducing proposes many initiatives to start us in that new direction. It is not the final word. Only the first step in the process to reduce, recycle and better manage our wastes. It will set new standards for reducing and recycling waste. It will set tough minimum standards to ensure that the waste that we must produce is properly and safely managed. And it will provide the tools and resources to the States to help them achieve our goals.

The bill's recycling standards will be tough. It requires 25 percent recycling in 4 years. It sets a goal of 50 percent in 10 years. And it establishes waste minimization performance standards that certain manufacturers shall be required to meet in 10 years.

But simply establishing standards is not enough to ensure recycling. We must also create and expand our markets for recycled products. Thus, the bill requires the Federal Government to purchase more recycled paper, plastics and metals. Right now, purchases by the Federal Government account for about 8 percent of the GNP, so a Government-lead effort to use more recycled materials will create and expand the market for recycled products.

And finally, the bill will establish a Federal office within the Environmental Protection Agency to provide technical assistance on waste reduction and recycling opportunities and funds to States to carry out these opportunities.

To ensure that we properly manage the waste that we must produce or cannot recycle, the bill sets tough minimum standards for our most serious solid waste problems, including municipal garbage, incinerator ash, infectious waste and other industrial waste.

I recognize that many progressive States are already controlling many of these wastes. And I intend to take full advantage of these programs to avoid unnecessary duplication of controls. The minimum standards are, however, clearly intended to be a floor for those States which have sat on their hands.

Thus, rather than turning our beaches into a medical waste basket, the bill will set strict controls on the transportation, treatment, storage, and disposal of infectious wastes and other medical wastes.

And rather than having to live in a society that permits garbage barges from wandering our waterways, the bill will require every State to develop a comprehensive solid waste plan. Plans that ensure that there is a safe place to manage all waste generated in each State.

These plans will serve as a blueprint for implementing safe and effective State waste management programs. And will help us, for starters, to drydock every garbage barge carrying orphaned wastes.

And to ensure that our waste management practices are save and effective I propose to prohibit—by Federal law—any disposal or destruction of waste by landfill or combustion without a permit.

I will phase in this permit program for existing operations. And tie new permits to the creation of new programs to achieve our goals.

Finally, we need a mechanism to pay for this protection. The bill will establish a fee on virgin materials used for packaging at the rate of $7 per ton on packaging materials or seven-tenths of a cent per rigid container. This will encourage greater use of recycled materials and provide revenue that States and communities can use to develop and implement their programs.

The legislation avoids the "heavy hand of Washington" approach, but builds on the strength of State programs. Sure it sets tough goals for everyone. But it will also give the States what they need to make it work—the tools and resources to reach those goals.

And it gives States—in fact, it encourages States—to experiment with new options. To tap the creative strength of the Nation.

This is ambitious legislation. But our challenge is formidable. We are all now witnessing new serious environmental problems like global warming which is causing a national drought and higher crop prices, a garbage crisis that may bury us all, and the poorest air quality in years.

The legislation will help America put its new found awareness of the environment to work. Now. And it will pick up the torch of the environmental effort started in the 1960's.

The time has come for America to take the lead, not just to preserve the ozone layer or stop the destruction of our oceans. The time has come for America to dispose of the throw-away society. To make recycling a habit, not a hope. To provide incentives to stop disposing reusable materials and to penalize those commodities and products which by their nature cannot be recycled, reused or born again.

No country has the technology to do the job as do we. No country has the environmental movement which will insist that we do the job as do we. And no country has the incentive to find exportable ideas and technologies to do the job as effectively, as do we.

Mr. President, I ask unanimous consent that the text of the Waste Minimization and Control Act of 1988, and the Waste Minimization Revenue Act of 1988 and a summary of the provisions appear immediately following the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

WASTE MINIMIZATION AND CONTROL ACT OF 1988

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Waste Minimization and Control Act of 1988".

TABLE OF CONTENTS

TITLE I—GENERAL AMENDMENTS

Sec. 101. Congressional findings.
Sec. 102. Objectives and National Policy.
Sec. 103. General Authorization.
Sec. 104. Definitions.

TITLE II—SOLID WASTE MANAGEMENT

Sec. 201. Objectives of Subtitle.
Sec. 202. State and Regional Planning.
Sec. 203. Permits for Disposal of Solid Waste.
Sec. 204. Criteria for Solid Waste Management.
Sec. 205. Enforcement.
Sec. 206. Solid Waste Export.
Sec. 207. Federal Assistance.
Sec. 208. Rural Communities Assistance.

TITLE III—WASTE REDUCTION AND RECYCLING

Sec. 301. Waste Reduction and Recycling Goals.
Sec. 302. Office of Waste Minimization.
Sec. 303. Grants to States for Technical Assistance Programs.
Sec. 304. Waste Reduction and Recycling Clearinghouse.
Sec. 305. Waste Minimization Performance Standard.
Sec. 306. EPA Report.
Sec. 307. National Packaging Institute.
Sec. 308. Federal Agency Actions.
Sec. 309. Federal Contracts.
Sec. 310. Hazardous Constituents in Products.
Sec. 311. Federal Procurement.
Sec. 312. Duties of the Secretary of Commerce in Resource Recovery.

TITLE I—GENERAL AMENDMENTS

SEC. 101. CONGRESSIONAL FINDINGS.

(a) Section 1002(b) of the Solid Waste Disposal Act is amended by adding the following after paragraph (8):

"(9) the nation continues to generate enormous volumes of both hazardous and solid waste each year which present human health and environmental problems from hazardous substances in waste and leachate.

"(10) too many communities cannot site new solid waste facilities and are managing waste in existing units not designed with the best available environmental controls or are engaged in long distance uneconomic transportation of wastes to other communities and states.

(11) the generation of waste containing hazardous substances must be reduced and recycled to protect human health and the environment and to minimize capacity problems."

SECTION 102. OBJECTIVES AND NATIONAL POLICY.

(a) Section 1003(a)(4) of the Solid Waste Disposal Act is amended by inserting after "hazardous waste" the term "and solid waste".

(b) Section 1003(a)(5) of the Solid Waste Disposal Act is amended by inserting after "hazardous waste" the term "and solid waste".

(c) Section 1003(a)(6) of the Solid Waste Disposal Act is amended by inserting after "hazardous waste" each time it appears, the term "and solid waste".

(d) Section 1003(a) of the Solid Waste Disposal Act is amended by adding the following after paragraph (11):

"(12) establishing a Federal-State partnership that ensures waste management capacity protective of human health and the environment.

"(13) minimizing the need to transfer waste among jurisdiction to maximize local responsibility for solid waste management."

(e) Section 1003(b) of the Solid Waste Disposal Act is amended to read as follows:

"(b) NATIONAL POLICY.—The Congress hereby establishes a waste prevention and management policy that gives highest priority: first to source reduction, second, to recycling, third, to material and energy recovery, fourth, to waste treatment, and fifth, to contained disposal so as to minimize the present and future threat to human health and the environment. Congress further establishes as a national goal the recycling of waste to the maximum extent consistent with market demand for recycled materials, and the creation and strengthening of markets for recycled materials."

SEC. 103. GENERAL AUTHORIZATION.

(a) Section 2007 of the Solid Waste Disposal Act is amended by deleting "and $80,000,000 for the fiscal year 1988" and adding "$80,000,000 for the fiscal year ending September 30, 1988, $140,000,000 for the fiscal year ending September 30, 1989, $140,000,000 for the fiscal year ending September 30, 1990, $140,000,000 for the fiscal year ending September 30, 1991, and $140,000,000 for the fiscal year ending September 30, 1992,

SEC. 104. DEFINITIONS.

(a) Section 1004 of the Solid Waste Disposal Act is amended by inserting after paragraph (12) the following paragraph and renumbering the succeeding paragraphs accordingly;

"(13) The term 'modified municipal waste incineration unit' means a municipal waste incineration unit at which modifications have occurred after the effective date of a standard under section 4011 (a) or (d) if (A) the cumulative costs of the modifications, over the life of the unit, exceed 50 percent of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction of installation), or (B) the modification is a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under this section.

"(14) The term 'municipal waste incineration unit' means a distinct operating unit of any facility at which the combustion of any solid waste material collected from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels) occurs. Such term does not include incinerators or other facilities required to have a permit under section 3005 of the Solid Waste Disposal Act.

(b) Section 1004 of the Solid Waste Disposal Act is amended by inserting after paragraph (13) the following paragraph and renumbering the succeeding paragraphs accordingly;

"(15) The term 'new municipal waste incineration unit' means a municipal waste incineration unit (A) the construction or modification of which is commenced after the Administrator proposes requirements under this section establishing emissions standards or other requirements which would be applicable to such unit, or (B) effective January 1, 1992,

(i) which had commenced operation 20 years or more previously; or

(ii) which had reached the date of maturity for any long-term debt issued to finance the unit, whichever date occurs first.

(c) Section 1004 of the Solid Waste Disposal Act is amended by inserting after paragraph (33) the following paragraph and renumbering the succeeding paragraphs accordingly;

"(34) The term 'substantially completed unit' means a unit not in operation before January 1, 1989 for which the addition of required pollution control equipment will cost more than twice what such equipment would have cost had it been constructed as part of the permitted design.

(d) Section 1004 of the Solid Waste Disposal Act is amended by inserting after paragraph (3) the following paragraph and renumbering the succeeding paragraphs accordingly;

"(4) The term 'existing municipal waste incineration unit' means a municipal waste unit which is not a new or modified municipal waste incineration unit.

TITLE II—SOLID WASTE MANAGEMENT

SEC. 201. OBJECTIVES OF SUBTITLE.

(a) SUBTITLE D.—State or Regional Solid Waste Plans is amended by redesignating the title as "Solid Waste Management".

(b) Section 4001 of the Solid Waste Disposal Act is amended by replacing the first sentence as follows: "The objectives of this subtitle are—

(1) to assist in developing and encouraging methods for the disposal of solid waste that are environmentally sound and that maximize the utilization of valuable resources including energy and materials that are recoverable from solid waste;

(2) to assist in developing methods to encourage resource conservation;

(3) to assist in developing and encouraging permitted capacity pursuant to the permit requirements in section 4010 and the capacity demands pursuant to section 4003 to manage the nations solid waste recycling, treatment, storage and disposal needs;

(4) to use an integrated waste management hierarchy for solid waste management planning that is consistent with the policy and priority set forth in subsection 1003(b).

SEC. 202. STATE AND REGIONAL PLANNING.

(a) Section 4002 (b) is amended by striking "eighteen months after the date of enactment of this section" and inserting "six months after enactment of the Waste Minimization and Control Act of 1988", and by adding after "section 4001.", ", as amended by the Waste Minimization and Control Act of 1988".

(b) Section 4003 (a) is amended by inserting "and issue permits under section 4010, each state must develop a plan that complies with the following minimum requirements." after "4007,".

(c) Section 4003(a)(2) is amended by inserting "until the permitting program established under section 4010 goes into effect" before "all solid waste".

(d) Section 4003 (a)(5) is amended by inserting "permitting pursuant to section 4010" after "resource recovery facilities," and by inserting "permitted" after "facilities".

(e) Section 4003 (a)(6) is amended to read as follows: "The plan shall provide that the State, directly or through regional or local planning units as may be established under subsection 4002 (a)(1), shall identify the amount of solid wastes by waste type, including wastes from all categories listed in section 4011 and waste residuals that are reasonably expected to be generated within the State or accepted from another State during the ensuing 20 years period, and shall identify the volumes to be reduced through source reduction and recycling, and shall establish a process which assures the availability of solid waste treatment, storage, disposal and recycling facilities permitted pursuant to section 4010 with adequate capacity to manage all such solid wastes;"

(f) Section 4003 (a) is amended by adding the following new paragraphs:

"(7) The plan shall require laws, regulations and ordinances for development of new solid waste management facilities including agreements with other states necessary to provide the capacity requirements identified pursuant to subsection (a)(6), including the establishment of a process for the siting of such facilities and a schedule for the approval and construction of such facilities. The plan shall reserve to the State authority to take such actions on behalf of a regional or local planning unit as are necessary to assure the availability of such capacity when such planning unit has failed in a timely way to provide adequate capacity or other mechanisms for dealing with the waste for which such unit is responsible pursuant to subsection (a)(6).

"(8) The plan shall establish a hierarchy among solid waste management practices based on the state's environmental and economic conditions consistent with the waste reduction and recycling goals pursuant to section 1003(b) as amended by this Act. The plan shall also include a process for curbside pick-up of source separated material or source separation at facilities as may be necessary to achieve waste reduction and recycling goals."

(g) Section 4006 is amended by inserting in the section title after the word "development", ", submission,".

(h) Section 4006 is amended by adding the following new paragraphs after (c)(4), "(d) SUBMISSION OF PLANS.—No later than twenty four months after promulgation of regulations pursuant to section 4002(b) as amended by the Waste Minimization and Control Act of 1988, each state shall submit a state plan to the Administrator for approval, a solid waste management plan that complies with the requirements of section 4003(a)."

"(e) FAILURE TO SUBMIT A STATE PLAN.—Effective 30 months after promulgation of regulations under section 4002(b), no Federal agency shall make any grant or loan or loan guarantee or issue any license or permit for any activity in any State which fails to submit its state plan to the Administrator unless a Federal agency can demonstrate that such activity shall not cause or contribute to the generation of solid waste."

(i) Section 4007(a)(1) is amended by striking "and (5)" and inserting "(5), (6), (7) and (8)".

SEC. 203. PERMITS FOR DISPOSAL OF SOLID WASTE.

(a) Section 4010 is amended to read as follows: "(a) PERMIT REQUIREMENT.—Effective one year after enactment of the Waste Minimization and Control Act of 1988, storage (excluding transportation-related facilities including loading docks, parking areas, storage areas and other similar areas where shipments of solid waste are held during the normal course of transportation), treatment or disposal of solid waste except in accordance with a permit issued pursuant to this section is prohibited. Effective one year from the enactment of this Act, transportation of solid waste for storage, treatment or disposal, or arrangement for the storage, treatment or disposal of solid waste, at any facility that does not have a permit issued pursuant to this section is prohibited. Existing solid waste facilities shall be treated as having a permit if information required pursuant to section 4011(i) has been submitted in the time required.

(b) STATE CERTIFICATION.—Not later than one year after enactment of this Act, the Governor of each State shall submit to the

Administrator a statement certifying that the laws of such State provide such regulatory authority and such personnel as may be necessary to implement a permit requirement required by this section, including, but not limited to, authority to—

(1) Issue permits under state law that—

(A) meet the requirements of this section and assure compliance with any applicable standards promulgated by the Administrator under Section 4011 within eighteen months after such promulgation or such earlier date as the Administrator may by rule establish;

(B) can be revoked or modified for cause including, but not limited to, the violation of any condition of a permit or obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(2) Inspect, monitor, enter at reasonable times, and require reports to the extent necessary to assure compliance with this subtitle;

(3) Insure that the public receives notice of each application for a permit and provide an opportunity for public hearing before ruling on each such application; and

(4) Allow abatement of violations of a permit or this subtitle, including civil and criminal penalties and other ways and means of enforcement.

(c) State Authority To Issue Permits.—Except as provided in subsection (d), upon a determination that a solid waste management facility complies with the requirements of this section including protection of human health and the environment, and any other applicable requirements of State law, the State in which the facility is located may issue a permit for such facility pursuant to the authority certified under subsection (b).

(d)(i) Issuance of Permits by the Administrator.—The Administrator shall act in lieu of a State to issue or deny permits to solid waste management facilities within the State—

(1) if such State has failed to submit the certification required under subsection (b); or

(2) if, following notice and opportunity for a public hearing, the Administrator finds that the State lacks adequate regulatory powers under State law to implement the permitting requirement and enforce permit violations established by this section.

(3) if a State shall have failed to submit a plan pursuant to Section 4006 which meets the requirements of this Act.

(4) if following notice and opportunity for a public hearing, the Administrator finds that the State fails to exercise regulatory authority as required by this Act.

(ii) existing permits.—Any permit issued by a State prior to a finding pursuant to (d)(i) shall remain in effect until the Administrator acts.

(e) Permit Conditions.—Any permit issued pursuant to this section shall, within eighteen months of promulgation of any applicable standards by the Administrator pursuant to section 4011, contain such conditions as will assure compliance with such standards. In the absence of applicable standards under section 4011, the permit shall contain such conditions as the State (or Administrator), based on the exercise of its best professional scientific and engineering judgement taking into account appropriate regulations and requirements adopted by other States or solid waste management authorities and on consideration of the factors listed in this subsection, deems necessary to protect human health and the environment. Any permit issued under this section, the State (or the Administrator) shall, at a minimum, include provisions which specify—

(1) the types of wastes handled by the facility, their toxicity, mobility or other potential to adversely affect human health or the environment, and include measures to mitigate such potential, including but not limited to special handling requirements, liners and leachate collection systems;

(2) design of the facility in relation to the location of the facility, including its hydrogeologic and climatological settings, and its proximity to biological or cultural resources and sources of drinking water;

(3) air and groundwater monitoring necessary to identify any potential adverse effects on human health and the environment from discharge from such facility;

(4) any necessary corrective action to prevent adverse effects on human health and the environment;

(5) financial assurance for closure and post-closure care, recordkeeping and reporting and security;

(6) measures necessary to prevent unlawful disposal of hazardous waste;

(7) measures necessary to control precipitation run-on and run-off; and

(8) restrictions on the receipt of liquids or measures to mitigate the potential adverse effects of such receipt.

(f) Permit Term.—Any permit issued pursuant to State authority certified under subsection (b) or by the Administrator pursuant to subsection (d) shall be for a fixed term not to exceed ten years, and shall be modified to require compliance with any applicable standard promulgated under section 4011 within 18 months of promulgation of such standard. Nothing in this subsection shall preclude a State (or the Administrator) from reviewing and otherwise modifying a permit at any time during its term.

(h) Effect of Compliance With Permit—Compliance with a permit issued by a State pursuant to authority certified under subsection (b) or the Administrator pursuant to subsection (d) shall be deemed compliance with the requirements of this subtitle."

SEC. 204. SOLID WASTE MANAGEMENT GUIDELINES.

(a) Section 4011 is added to the Solid Waste Disposal Act to read as follows:

"(a)(i) In General.—The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and promulgate guidelines establishing minimum design and operating standards for facilities that manage solid waste in the following categories—

(1) for municipal solid waste, within 12 months of enactment of this Act;

(2) for municipal waste combustion residues, within 18 months of enactment of this Act;

(3) for emissions from municipal waste incineration facilities within 18 months of enactment of this Act.

(4) for medical wastes including infectious hospital and laboratory wastes, within 12 months of enactment of this Act;

(5) for materials generated from the exploration, development and processing of ores and minerals including heap and dump leach piles within 18 months of enactment of this Act;

(6) for industrial nonhazardous wastes handled in surface impoundments, within 24 months of enactment of this Act;

(7) for drilling fluids, produced waters and other wastes associated with the exploration, development and production of oil, gas and geothermal energy, within 30 months of enactment of this Act:

(8) for underground injection of non-hazardous wastes not otherwise covered by this title within 36 months of enactment of this Act;

(9) for other solid wastes including but not limited to no-hazardous industrial wastes, cement kiln dust waste, and materials generated from the combustion of coal and other fossil fuels within 24 months of enactment of this Act;

(ii) If the Administrator determines that regulations established for each solid waste category under this section will not adequately protect human health and the environment, the Administrator shall regulate such wastes under Subtitle C of RCRA.

(iii) Within 12 months of enactment of this Act, and from time to time thereafter, the Administrator shall publish a notice in the Federal Register identifying any other solid waste categories for which standards are necessary or appropriate and specifying a schedule for promulgation of those standards. The Governor of any State may petition the Administrator to propose guidance for a category of waste not described in this paragraph.

(iv) At the time the Administrator grants any petition under Section 3001 of Subtitle C to exclude a waste generated at a particular facility, the Administrator shall specify any design or additional operating standard appropriate for such waste.

(d) Guidelines.—The guidelines promulgated by the Administrator pursuant to Subsection (a) shall provide for the protection of human health and the environment from the solid wastes within each category and shall take into consideration the circumstances presented by the particular solid waste category, as well as—

(1) the sources and volumes of the solid wastes within the category, including their toxicity, mobility or other potential for adverse impacts on human health and the environment;

(2) the potential danger, if any, to human health and the environment from current management practices;

(3) documented cases of actual or threatened harm to human health or the environment;

(4) the types of solid waste management facilities and measures that can be used to mitigate any potential adverse effect on human health and the environment that are appropriate for the solid wastes generated within each source category and consistent with the climatological and hydrogeological setting of the facility and proximity to biological or cultural resources and sources of drinking water. The Administrator shall promulgate as appropriate for each solid waste category design and operating measures that include but are not limited to:

(A) requirements with respect to siting of any source in the category including its proximity and vulnerable or unmonitorable groundwater;

(B) requirements with respect to construction quality assurance with respect to installation of any source in the category;

(C) requirements with respect to licensing or training for persons who install or operate any source in the category;

(D) requirements with respect to design of any source in the category including liners, leachate collection systems and cover requirements;

(E) requirements with respect to operation and maintenance of any source in the category including requirements for treatment prior to disposal and collection and treatment of any discharge of contaminants for the source;

(F) requirements for taking corrective action in response to release;

(G) requirements for maintaining records of any leak detection, sampling or monitoring system associated with any source in the category;

(H) requirements for maintaining evidence of financial responsibility for closure, post-closure care, and corrective action;

(5) other Federal and state laws and regulations with a view toward avoiding duplication of effort.

(c)(1) MUNICIPAL SOLID WASTE LANDFILLS.—Regulations promulgated under subsection (a)(1) of this section shall include, at a minimum, for each new and existing landfill the following requirements—

(A) controls to detect and prevent the disposal of hazardous waste, non-hazardous bulk liquids and non-hazardous liquids in containers (other than household wastes). Such controls shall include random inspections of incoming loads, inspection of suspicious loads, records of inspections, training of facility personnel to recognize illegal materials, procedures for notifying the proper authorities if any regulated hazardous wastes, is found, and precautions and penalties to prevent such offenses.

(B) daily cover as necessary to control disease vectors, fires, odors, blowing litter and scavenging.

(C) landfill gas monitoring and controls to ensure that concentrations of explosive gases beneath, around or in facility structures (excluding gas control or recovery components) shall not exceed twenty-five percent of the lower explosive limit for methane, or such level as the Administrator finds will control and recapture emissions of landfill generated gases to the maximum extent feasible. Such concentrations shall not exceed the lower explosive limit at the property boundary (or perimeter of a dedicated buffer zone).

(D) access controls to protect human health and the environment and to prevent unauthorized vehicular traffic and to prevent illegal dumping of wastes.

(E) run-on and run-off controls that will accommodate a 24-hour, 25-year storm without overtopping and with sufficient freeboard to accommodate expected set-up and wave action; diversion of all run-on around the landfill by means of ditches, berms, dikes or grading, and relocation of surface water bodies to flow around the perimeter of the landfill.

(F) landfill closure that:

(i) minimizes the need for further maintenance

(ii) ensures no adverse effects will be caused from post-closure releases to the groundwater, surface water or atmosphere.

(G) closure and post-closure care plans which identify for each facility the steps necessary to ensure closure and post-closure, time estimates, modifications to monitoring and collection systems, final cover and cost estimates. The post-closure care period shall be determined by results from the monitoring in the landfill including leachate quality and quantity and methane gas generation.

(H) financial responsibility for closure and post-closure care.

(I) ground water monitoring provided that, the Administrator is authorized to promulgate regulations to allow a variance from ground water monitoring requirements if the owner or operator can demonstrate to the satisfaction of the Administrator that there is no potential for migration of hazardous constituents from the landfill to the uppermost aquifer. The demonstration shall be certified by a qualified geologist or geotechnical engineer and shall be based on site specific data.

(J) corrective action of releases to air, water and land to protect health and environment.

(2) At a minimum the regulations required under subsection (b) of this section shall require for each new landfill and lateral expansions to existing landfills for which new permits are required the following requirements—

(A) Liners (natural or man-made materials or both) or in-situ soil, or combination of both, capable of preventing the migration of wastes or leachate out of the landfill to the aquifer or surface water during the active life of the facility.

(B) Leachate collection and removal systems installed immediately above the liner, which shall be sufficiently permeable to allow the leachate collection and removal system to function, and designed and constructed to maintain less than 30 centimeters of leachate head from the landfill during the active life and post-closure care period.

(C) Construction quality assurance plan specifying the materials to be used in liner construction, the construction techniques, the engineering plan, the installation test procedures, and a description of the methods to be used to modify work which does not meet project specifications.

(D) Landfills shall not be located in the following locations:

(i) within the 100-year flood plain unless it can be demonstrated by the owner or operator that engineering measures have been incorporated into the landfill design to ensure the landfill shall not restrict the flow of the 100-year base flood, reduce the temporary water shortage capacity of the floodplain, or result in the washout of solid waste so as to pose a hazard to human health or the environment;

(ii) within a wetland except in accordance with section 301 of the Clean Water Act;

(iii) within 200 feet of a fault that has had displacement in Holocene time.

(iv) within a seismic impact zone and other unstable areas unless it can be demonstrated by the owner or operator that engineering measures have been incorporated into the landfill design to ensure the structural stability of the landfill capable of protecting human health and the environment.

(c)(1) MUNICIPAL INCINERATOR ASH.—Regulations promulgated under subsection (a)(2) of this section for facilities in which municipal ash is disposed shall require at a minimum—

(A) the installation of two or more liners and a leachate collection system above and between such liners, in accordance with paragraph (2) in this subsection; and

(B) groundwater monitoring.

(2) The requirement of paragraph (1)(A) of this subsection may be satisfied by the installation of an upper liner under the waste designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated, and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceding sentence, a lower liner shall be deemed to satisfy such requirement if it is constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than 1 × 10^{-7} centimeter per second.

(3) Notwithstanding the requirement of paragraph (1)(A), regulations promulgated under subsection (a)(2) may provide for the placement of ash from municipal waste incineration units in a monofill (containing only ash from such units) with a composite liner (including a synthetic liner constructed of high density polyethylene of 60-mil thickness or equivalent material and a lower liner in compliance with design requirements for lower liners under paragraph (2)), ground water monitoring and leachate collection. Requirements under this paragraph are minimum requirements and the Administrator shall promulgate more stringent requirements applicable where necessary to assure that releases from a monofill will not contaminate ground water or surface water or otherwise pose a threat of adverse effects on human health or the environment.

(4) Regulations promulgated under subsection (a)(2) shall allow disposal of ash from municipal waste incineration units in sanitary landfills meeting the requirements of revised criteria promulgated under subsection (a)(1), if such has undergone treatment in accordance with regulations for such treatment promulgated under subsection (5) and such ash is tested and does not fail any criteria established under subsection (5). For purposes of this section, treatment means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any ash so as to remove or fix in place any constituent of the ash which, in the event of mismanagement during transportation, storage, reuse or disposal, would pose a threat to human health or the environment. For the purposes of this section, the mixing of fly ash and bottom ash, or the mixing of such ash with other solid waste, without the introduction of chemical stabilization agents, does not constitute treatment.

(5)(A) For the purposes of developing regulations for the management, handling, storage, treatment, transportation, reuse, and disposal of ash from municipal waste incineration units under this section that protect the Administrator shall promulgate criteria and testing procedures for identifying the characteristics of ash from municipal waste incineration units that may pose a hazard to human health or the environment. In considering potential hazards to human health and the environment, the Administrator shall consider all potential pathways of human or environmental exposure to constituents of such ash, including, but not limited to, inhalation, ingestion as a consequence of incorporation of the ash or any constituent into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its constituents into groundwater or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash (including, for all such pathways, situations of disposal or reuse). At a minimum, the Administrator shall consider appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity. The criteria and accompaning testing procedures promulgated by the Administrator under this subsection shall reflect the heterogeneous characteristics of municipal solid waste and municipal incinerator ash, including seasonal variations in the constituents of such solid waste and ash. Leaching procedures established under this subsection shall include testing under acidic and native conditions. Test leachate from any ash containing a substance in concentrations exceeding the maximum contaminant level for such substance established pursuant to section 1412 of the Safe Drinking Water Act by a factor of one hundred or more shall constitute a failure of the test required by this section.

(B) The Administrator may require the owner or operator of any municipal waste incineration unit or any facility handling, transporting, storing, treating, reusing, recycling, or disposing (pursuant to subsection (4) of ash from such unit to test such ash in accordance with the criteria and testing procedures promulgated under this subsection. If fly ash and bottom ash are combined, such combined ash must also be tested in accordance with such criteria and testing procedures.

(C) Any ash which fails in any characteristic under the criteria and testing procedures promulgated by the Administrator under this subsection shall be disposed of in compliance with subsection (1), or shall be treated (as defined in section 1004(34)) in accordance with regulations promulgated under subsection (a) (2) and shall only be reused if such treated ash is determined to be nonhazardous as defined in section 3001.

(6) Regulations promulgated under subsection (a) (2) shall require an enforceable schedule for corrective action for all releases of hazardous constituents from any solid waste management unit at a facility seeking a permit under section 4010, regardless of the time at which waste was placed in such unit.

(7) Regulations promulgated under subsection (a)(2) shall establish requirements for the proper closure of facilities treating, storing, or disposing of ash from municipal waste incineration units, for the post-closure monitoring care of such facilities of not less than 30 years, and for assurances of financial responsibility for closure, post-closure care and corrective action.

(d)(1) MUNICIPAL INCINERATOR EMISSIONS.—Regulations promulgated under subsection (a)(3) of this section shall require performance standards to control emissions of air pollutants into the ambient air from each municipal waste incineration unit which begins operations after January 1, 1989 or which is not substantially completed before such date. The standards promulgated under subsection (a)(3) shall reflect the greatest degree of emission limitation achievable through application of the best available control technologies and practices which the Administrator determines at the time of promulgation (or revision, in the case of a revision of a standard) has been achieved in practice by 5 or more municipal waste incineration units excluding periods of malfunction or misoperation. In establishing standards under subsection (a)(3) the Administrator may distinguish between types and classes of municipal incineration units based on combustion technology or pollution control systems. In no event shall the standards promulgated under subsection (a)(3) permit such municipal waste incineration units to emit any pollutant in excess of the amount allowable under any applicable new source standards of performance. Standards shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate siting requirements that minimize, on a site-specific basis, to the maximum extent practicable, any potential risk to human health or the environment. The following practices and control technologies, used individually, in combination with one another, or in combination with other available practices or control technologies not identified in this paragraph, shall be deemed available for purposes of this paragraph: electrostatic precipitators, fabric filtration, flue gas scrubbers, spray dry scrubbers, negative air flow, and good combustion practices, including availability of auxiliary fuel to maintain specific temperatures. In adopting standards of performance, the Administrator may take into consideration other technologies and practices that, either by themselves or in combination with other technologies or practices, may achieve a greater degree of emission reduction for the pollutants specified in paragraph (2), (A) including the use of selective or non-selective catalytic reduction, wet flue gas denitrification, selective non-catalytic reduction, wet scrubbing, or catalytic oxidation. The Administration may require new facilities to be constructed according to designs which allow for addition of selective catalytic reduction, and other technologies, as they become available, except that selective catalytic reduction may not be required at units which have installed active control technologies for control of emissions of oxides of nitrogen prior to the date of enactment of this section.

"(2)(A) The regulations promulgated under subsection (a)(3) shall specify numerical emission limitations for the following substances or mixtures: particulate matter (total and fine), opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, halogenated organic compounds, dioxins, and dibenzofurans. In establishing such standards of performance the Administrator shall take into account the use of numerical standards or other methods to reduce the presence in air emissions or ash from a municipal waste incineration unit of each of the following additional substances: volatile organic compounds, beryllium, hydrogen fluoride, antimony, arsenic, barium, chromium, cobalt, copper, nickel, selenium, zinc, polychlorinated biphenyls, chlorobenzenes, chlorophenols, and polynuclear aromatic hydrocarbons.

"(B) The regulations promulgated under subsection (a)(3) may be expressed in terms of the post-combustion concentration of surrogate substances or periods of residence time in excess of stated temperatures. In no event shall any such standard allow an outlet gas carbon monoxide concentration greater than 50 parts per million on a 4-hour average; an outlet gas particulate concentration greater than 0.010 grains per dry standard cubic foot corrected to 7 percent oxygen, an outlet gas concentration of sulfur dioxide greater than 40 parts per million on a 3-hour average, unless uncontrolled emissions of sulfur dioxide are reduced by not less than 70 percent; an outlet gas concentration of hydrogen chloride greater than 30 parts per million on a 3-hour average, unless uncontrolled hydrogen chloride emissions are reduced by not less than 90 percent; or a retention temperature and time of less than 1800 degrees Fahrenheit or less than 1 second at fully mixed height (or the equivalent). Standards promulgated under subsection (a)(3) may allow an outlet gas carbon monoxide concentration greater than 50 parts per million during 1 per centum of the operating period in any month provided that such concentration shall not exceed 100 parts per million averaged over four years. Compliance with particulate standards promulgated under this subsection (a)(3) may be demonstrated by an average concentration calculated on the basis of three tests taken at intervals scheduled by the permitting authority. The Administrator may establish standards for combustion parameters (including temperature) other than those stated in this paragraph for units employing atmospheric-fluidized bed boilers for the control of oxides of nitrogen, provided that such standards achieve a combustion efficiency equivalent to that required of other units.

"(3)(A) The regulations promulgated under subsection (a)(3) shall control emissions of air pollutants into the ambient air from each municipal waste incineration unit which is in operation or which is substantially completed prior to January 1, 1989. Such standards of performance shall be established on the basis of the degree of emission limitation achievable through application of available control technologies and practices as determined under subsection (a)(1), and shall specify emission limitations for the substances required under subsection (a)(2). In no event shall any such standard allow an outlet gas carbon monoxide concentration greater than 100 parts per million on a 4-hour average; an outlet gas particulate concentration greater than 0.020 grains per dry standard cubic foot corrected to 7 percent oxygen; an outlet gas concentration of sulfur dioxide greater than 60 parts per million on a 3-hour average, unless uncontrolled emissions of sulfur dioxide are reduced by 70 percent; an outlet gas concentration of hydrogen chloride of 45 parts per million on a 3-hour average, unless uncontrolled emissions of hydrogen chloride are reduced by 90 percent; or a retention temperature and time of less than 1800 degrees Fahrenheit or less than 1 second at fully mixed height (or the equivalent). The Administrator is authorized to establish a standard allowing an outlet gas carbon monoxide concentration no greater than 200 parts per million on an 8-hour average, for any municipal waste incineration unit in operation before January 1, 1989 that controls emissions of dioxins and dibenzofurans using acid gas scrubber and fabric filtration control technology. Standards imposed under subsection (a)(3) may allow an outlet gas carbon monoxide concentration greater than 100 parts per million during 1 per centum of the operating period in any month provided that such concentration shall not exceed 200 parts per million averaged over four hours. Compliance with particulate standards promulgated under subsection (a)(3) may be demonstrated by an average concentration calculated on the basis of three tests taken at intervals scheduled by the permitting authority.

(B) The Administrator shall promulgate a schedule for compliance with the standards promulgated under subsection (a)(3). The schedule shall take into account the remaining useful life of the unit, the extent to which emissions from the unit threatens human health or the environment, and such other factors as the Administrator deems appropriate. In no event shall such schedule provide for compliance with such standards after a date—

(i) 8 years after the date of enactment, if the cost for the addition of required pollution control equipment will be more than 80 percent of the unit's actual and projected capital cost absent such equipment,

(ii) 7 years after the date of enactment, if the cost for the addition of required pollution control equipment will be more than 40 percent, but no greater than 80 percent, of the unit's actual projected capital cost absent such equipment,

(iii) 6 years after the date of enactment, if the cost of the addition of required pollution control equipment will be more than 20 percent, but no greater than 40 percent, of the unit's actual and projected capital cost absent such equipment, or

(iv) 5 years after the date of enactment, if the cost for the addition of required pollution control equipment will be 20 percent or less of the unit's actual and projected capital cost absent such equipment.

For purposes of this subsection, the term "actual and projected capital cost" includes any actual expenditures and funds obligated to be spent pursuant to binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator of the unit, for the construction and installation of the unit (not including the cost of any land purchased in connection with construction or installation). Each owner or operator of an existing municipal incineration unit shall submit to the Administrator within 24 months after the promulgation of regulation under subsection (a)(3) a statement of the amount of such actual and projected capital costs of the unit and estimated costs of pollution control equipment. For each unit, the Administrator shall review and audit such estimates and actual and projected costs as 2-year intervals following the 24-month period and revise the schedule under this subsection accordingly, taking into account changed circumstances.

(4) The regulations promulgated under subsection (a)(3) shall require the owner or operator of each municipal waste incineration unit (A) to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air and at such other points as necessary to protect human health and the environment (B) to monitor such other parameters relating to the operation of the unit and its pollution control technology as the Administrator determines are appropriate, (C) and to report the results of such monitoring. Such regulations shall contain provisions regarding the frequency of monitoring, test methods and procedures, and the form and frequency of reports containing the results of monitoring, and shall require that any monitoring reports or test results indicating exceedences of standards under this section shall be reported separately and in a manner that facilitates review for purposes of enforcement actions. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that such copies shall be made available for inspection and copying by interested members of the public during business hours.

(5)(A) Regulations promulgated under subsection (a)(3) shall, at a minimum, require continuous monitoring for the following: opacity, hydrogen chloride (if such monitoring device or method is available), sulfur dioxide, oxides of nitrogen, carbon monoxide, carbon dioxide, oxygen, stack temperature, and furnace temperature (or secondary combustion zone temperature, as appropriate).

"(B) For all emissions subject to standards under subsection (a)(3) that are not subject to continuous monitoring under subparagraph (A), the regulations promulgated under this subsection shall require periodic monitoring of such emissions at each municipal waste incineration unit not less frequently than—

"(i) every six months, or "(ii) six months after commencement of operations, and every 18 months thereafter if the owner or operator of such unit demonstrates that such unit has complied with all applicable emission standards as of the commencement of operations and during the previous periods of monitoring and maintains compliance with all applicable emissions standards during each interval between monitoring.

"(C) The initial monitoring under this subsection shall commence at the later of the following—

"(i) the date six months after the promulgation of regulations under this subsection; or

"(ii) the commencement of operation of the unit concerned.

"(6)(A) Regulations required by subsection (a)(3) may require the owner or operator of each municipal waste incineration unit to establish and operate, or to pay the costs of establishing and operating, a program to detect impacts of the unit, or any associated releases, on the environment of human health. Such program shall require periodic testing for and public reporting of the presence of waste constituents or contaminants (or indicators thereof) at statistically significant levels.

"(B) In any case in which exposure to municipal waste incineration unit emissions or ash may pose a potential risk to human health, the Administrator or the State may request the Administrator of the Agency for Toxic Substances and Disease Registry to conduct a health assessment in connection with the unit and such other health studies or surveillance as may be warranted, as authorized under section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980. Such studies may include programs to detect changes in the body burden of various pollutants including but not limited to lead, mercury, cadmium, halogenated hydrocarbons, and dioxins in any area affected by incineration unit emissions or ash.

(e)(1) INFECTIOUS WASTES.—For the purpose of promulgating regulations under subsection (a)(3), infectious wastes shall include surgical, biological, isolation, laboratory and such other waste materials as the Administrator determines that because of their nature, presence, or contact may result in potential contamination with infectious agents.

(2) Regulations promulgated under subsection (a)(3) for the storage and containment of infectious wastes shall require—

(A) segregation of infectious waste from other wastes in leakproof containers labeled with a warning sign, and of sufficient strength to prevent ripping, tearing or bursting under normal conditions. Reusable containers for infectious waste shall be washed and decontaminated each time they are emptied.

(B) Such containers shall be stored no more than 90 days at the producing facility and shall be stored in a manner to deny access by unauthorized persons.

(C) Trash chutes to transfer infectious waste between locations where it is stored are prohibited.

(3) Regulations promulgated under subsection (a)(3) for the treatment and disposal of infectious wastes shall require—

(A) Infectious wastes to be handled separately until treatment or disposal is accomplished.

(B) Treatment or disposal of infectious wastes by one of the following methods—

(i) Incineration in a controlled-air multichambered incinerator which provides complete combustion of the waste to carbonized or mineralized ash and provides best available controlled technologies to control emissions; or,

(ii) Sterilization by heating in a steam sterilizer, so as to render the waste non-infectious. Infectious wastes so rendered non-infectious, provided it is not a hazardous waste as defined in section 3001, and may be disposed in a permitted municipal landfill or discharged to a POTW if the waste is liquid or semi-liquid, except as otherwise prohibited by State or local law or regulation.

(4) Regulations promulgated under subsection (a)(3) for the transportation of infectious wastes shall require—

(A) transportation of infectious waste in a leakproof, fully enclosed container within a vehicle compartment, and segregated from other wastes.

(B) transportation by a registered hauler of infectious waste.

(C) a manifest for accountability and tracking of infectious wastes from their point of generation to point of disposal at a permitted facility.

(D) a prohibition on the transportation of infectious wastes in a vehicle that will be used to transport food and food products.

(f) MINING WASTES.—Regulations promulgated under subsection (a)(5) of this section shall apply to active and inactive mining operations and shall require the application of the best available control technology determined by the State (or the Administrator) on a site-specific basis to ensure protection of human health and the environment.

(g) OIL AND GAS WASTES.—The regulations promulgated under subsection (a)(6) shall apply to all wastes from oil and gas exploration, development and production operations including associated wastes and shall require the application of the best available control technology as determined by the State (or the Administrator to ensure protection of human health and the environment. The Administrator shall also require standards for bonding, plugging and abandonment of oil and gas wells.

(h)(1) INDUSTRIAL WASTES.—Except as provided in section 3005(j)(2), (3), or (4) each surface impoundment in existence on the date of enactment of this Act and qualifying for the authorization to operate under section 4010 of this Act shall not receive, store or treat solid waste after the date four years after such date of enactment unless such surface impoundment is in compliance with the requirements of section 3004(o)(1)(A) which would apply to such impoundments if it were new.

(i) Until regulations are promulgated pursuant to section 4011(a) existing solid waste facilities shall submit information demonstrating that the facility is not releasing hazardous substances into the environment or is controlling such releases through corrective action as required by Section 3004. Municipal solid waste landfills located in a statistical metropolitan areas shall be required to make this demonstration using groundwater monitoring within 12 months as a condition for a permit pursuant to section 4010(a). Municipal solid waste landfills located outside a statistical metropolitan area shall be required to submit to the State within 12 months, a schedule not to exceed 24 months for installing groundwater monitoring.

SEC. 205. FEDERAL ENFORCEMENT.

(a) Section 4012 is added to the Solid Waste Disposal Act to read as follows: "(a)(1) Compliance Orders.— Except as provided in paragraph (2), whenever, on the basis of any information, the Administrator determines that any person has violated or is in violation of any requirement of this subtitle or of any permit issued by a State pursuant to authority certified under section 4010(b) or by the Administrator pursuant to section 4010(d), the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) In the case of a violation of any requirement of this subtitle, or of any permit, where such violation occurs in a State that has certified its authority under section 4010(b) to issue permits, the Administrator shall give notice to the State in which such violation has occurred and to the alleged violator at least 60 days prior to issuing an order or commencing a civil action under this section. The Administrator shall take no further action under this section with respect to the violation if, within 60 days of the Administrator's notice, the State has commenced and is prosecuting, or has prosecuted, an administrative, civil or criminal action before a duly authorized State agency or before a court of the United States or a State to require compliance with such requirement.

(3) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator or a State under this subtitle and shall with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $10,000 per day of noncompliance for each violation of a requirement of this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b) Public Hearings.—Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and may promulgate rules for discovery procedures.

(c) Violation of Compliance Orders.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $10,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator (whether by the Administrator or the State).

(d) Civil Penalty.—Any person who violates any requirement of this subtitle or any permit issued pursuant to section 4010 shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation. Each day of violation shall, for purposes of this subsection, constitute a separate violation.

(e) Criminal Penalty.—Any person who knowingly or willfully violates any requirement of this subtitle or any permit issued pursuant to section 4010 shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (d) of this section for such violation, be subject, upon conviction, to a fine of not more than $10,000 for each day of violation, or to imprisonment for not more than one year, or both.

SEC. 206. WASTE EXPORT.

(a) Section 4013 is added to the Solid Waste Disposal Act to read as follows; "(a) Prohibition of International Waste Shipments.—Effective on enactment of this Act no person shall export any solid waste (including hazardous waste defined in Section 3001) for the purpose of disposal, storage or incineration, unless the United States and the government of the receiving country have entered into an agreement as provided for in subsection (b) and the shipment conforms with the terms of such agreement. This prohibition shall not apply to material exported for recycling identified under United States tariff codes as secondary recovery materials.

(b) International Agreements.—The United States and the government of the receiving country may enter into an agreement that establishes notice, export, and enforcement procedures and standards protective of human health and the environment for the transportation, treatment, storage, and disposal of solid wastes as defined by section 3001 of the Solid Waste Disposal Act. Any international agreement pursuant to which solid waste may be exported from the United States shall include, at a minimum:

(1) a provision for the notification of shipments of wastes;

(2) a provision for obtaining the consent of the receiving country to accept any waste shipment and a certification from the receiving country that any such shipment meets the terms of the agreement;

(3) a provision on information exchange on the manner in which the wastes will be managed in the receiving country, including mechanisms to provide the United States with the information necessary to ensure that transportation, treatment, storage and disposal of any waste shipment will be conducted in accordance with standards protective of human health and the environment; and

(4) a provision for periodic review of the effectiveness of the agreement.

(c) Registration of Exporters.—

(1) Requirement.—No person may export solid waste unless he exports the waste in compliance with the terms of the international agreement, unless he has registered with the Administrator as an exporter of solid waste, and unless the information filed as specified in subsection (c)(2), including any amendments thereto, is accurate as of the time that the export is made.

(2) Filing.—Any registration filed under this section shall contain the information specified below. The Administrator may augment or further define by regulation as he deems appropriate:

(i) the name and address of the exporter;

(ii) the composition, quantities, and concentrations of wastes to be exported to any foreign country;

(iii) the names and addresses of any persons on whose behalf the applicant intends to export waste (including persons who are the generators of such waste);

(iv) the estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported;

(v) the ports of entry;

(vi) the name and address of the ultimate treatment, storage or disposal facility or facilities and the manner in which such waste will be transported, treated, stored and disposed.

(d) Report.—Any person who registers for export of solid waste under subsection (c) of this section shall file with the Administrator no later than March 1 of each year, a report which summarizes exports of solid waste undertaken pursuant to such registration; the information reported shall address each of the items for registration set forth in subsection (c)(2) of this section. No later than September 30, 1989, and annually thereafter, the Administrator shall provide Congress with a report summarizing the information contained in the reports filed by registrants pursuant to this subsection.

SEC. 207. FEDERAL ASSISTANCE.

(a) Section 4008 (a) of the Solid Waste Disposal Act is amended by adding after "$10,000 for each of the fiscal years 1985 through 1988" the following "$400,000,000 in funds available from the "Waste Minimization Revenue Act of 1988", for each of the fiscal years 1989 through 1993,"

(a) Section 4008 (2)(A) of the Solid Waste Disposal Act is amended by deleting "and fiscal or economic investigations or studies" and inserting "installation and operation of monitoring devices, and fiscal or economic investigations or studies".

(c) Section 4008 (C) of the Solid Waste Disposal Act is amended by deleting "$10,000,000 for fiscal year 1982, and $10,000,000 for each year of the fiscal years 1985 through 1988" and inserting "$10,000,000 for fiscal year 1982 through 1988 and $400,000,000 in funds available from the "Waste Minimization Revenue Act of 1988", for each of the fiscal years 1989 through 1991."

SEC. 208. RURAL COMMUNITIES ASSISTANCE.

(a) Section 4009 (a) of the Solid Waste Disposal Act is amended by inserting after "The Administrator shall make grants to States to provide assistance" the following "including grants for the installation and operations of monitoring devices".

(b) Section 4009 (d) of the Solid Waste Disposal Act is amended by deleting "and $15,000,000 for each of the fiscal years 1981 and 1982 to carry out this section." and insert the following, "$15,000,000 for each of the fiscal years 1981 and 1982, and $100,000,000 from the "Waste Minimization Revenue Act of 1988" for each of the fiscal years 1989 through 1991 to carry out this section."

TITLE III—WASTE REDUCTION AND RECYCLING ACT OF 1988

SEC. 301. WASTE REDUCTION AND RECYCLING GOALS.

(a) Section 5001 of the Solid Waste Disposal Act is amended to read as follows: "(a) Waste Reduction and Recycling Goals.— The Administrator shall:

(1) establish a national performance efficiency standard for industrial waste generators in SIC's 20-39, requiring within 10 years that total hazardous residuals including emissions, effluents, spills and managed wastes will not exceed 5% of production throughput.

(2) establish a national goal of 25% municipal solid waste recycling within four years, 50% within 10 years where recycling constitutes least cost disposal, and 10% municipal solid waste reduction within four years.

(3) establish responsibility for waste reduction and recycling within the Environmental Protection Agency to provide outreach and technical assistance to the industrial community and states on waste reduction and recycling methods and opportunities, and to the educational community to promote the introduction of waste reduction and recycling principles into engineering and management curricula.

(4) ensure that the Environmental Protection Agency's existing and proposed programs, policies, regulations and guidelines are consistent with these waste reduction and recycling goals, by requiring the responsible office for waste reduction and recycling activities to review and sign-off on such agency actions.

(5) establish a national packaging institute to develop voluntary packaging standards to encourage waste reduction and recycling."

SEC. 302. OFFICE OF WASTE MINIMIZATION.

Section 5002 of the Solid Waste Disposal Act is amended to read as follows:

"(a) Authority.—The Administrator shall establish within the Office of the Administrator a multi-media Office of Waste Minimization with a separate section solely responsible for waste reduction activities.

(b) Functions—The Administrator is authorized to carry out the provisions of this Act to include specifically the following functions—

(1) assist States and industry in implementing the goals established in section 5001 as amended by this act.

(2) administer the waste reduction and recycling grants established under section 5003 as amended by this act.

(3) administer the waste reduction and recycling clearinghouse established under section 5004 as amended by this act.

(4) collect annual waste reduction and recycling information established under section 5007 as amended by this act.

(5) prepare and submit reporting on waste reduction and recycling established under section 5006 as amended by this act.

(6) coordinate with the Packaging Institute to carry out functions required under section 5007 as amended by this act.

(7) coordinate with the federal waste reduction officers required under section 5008 of this act.

(8) promulgate federal procurement guidelines required under section Subtitle F as amended by this act.

(9) coordinate with the Secretary of Commerce to carry out functions required under sections 5011 to 5016 of the Waste Reduction and Control Act of 1988."

SEC 303. GRANTS TO STATES FOR TECHNICAL ASSISTANCE PROGRAMS.

Section 5003 of the Solid Waste Disposal Act is amended to read:

"(a) General Authority.—Upon application of a state and from funds available from the waste disposal fund pursuant to section 4008 and section 4009, the Administrator shall make grants, subject to such terms and conditions as the Administrator considers appropriate, under this section to such state for the purpose of assisting the state in developing and implementing a program to promote the use of waste reduction and recycling techniques by businesses, local governments or regional waste management authorities.

(b) Applications.—An application for a grant under this section in any fiscal year shall be in such form and shall contain such other information as the Administrator may require.

(c) Federal Share.—The Federal share of the cost of assisting a state in carrying out waste reduction and recycling activities in any fiscal year under this section shall be no more than 50% of the funds made available to a state in each year of that states participation in the program.

(d) Criteria.—For each fiscal year beginning after September 30, 1989, the Administrator shall give consideration in determining the Federal share of any such grant, to states which have implemented or are proposing to implement waste reduction and recycling programs which will provide—

(1) specific technical assistance to businesses and communities seeking information about waste reduction and recycling opportunities, including funding for experts to provide on-site technical advice to businesses and communities seeking assistance.

(2) assistance to businesses and communities for whom lack of information is an impediment to waste reduction and recycling.

(3) training on waste reduction and recycling techniques, through local educational institutions and other appropriate programs.

(d) Effectiveness.—The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of waste reduction and recycling techniques.

(e) Satisfactory Progress.—No grant may be made under this section in any fiscal year to a state which in the preceding fiscal year received a grant under this section unless the Administrator determines that such state made satisfactory progress in promoting the use of waste reduction and recycling techniques.

(f) Request for Information.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

(g) Reporting.—Each state shall report to the Administrator on the progress in promoting waste reduction and recycling techniques and shall make other information generated under the grants available to the Administrator."

SEC. 304. WASTE REDUCTION AND RECYCLING CLEARINGHOUSE.

Section 5004 of the Solid Waste Disposal Act is amended to read:

"(a) Authority.—The Administrator shall establish a waste reduction clearinghouse to compile information generated by grant recipient states on management, technical, and operational approaches to waste reduction and recycling. The clearinghouse shall:

(1) serve as a center for waste reduction and recycling technology transfer,

(2) encourage active state outreach and education programs to further the adoption of waste reduction and recycling technologies; and

(3) collect, compile, evaluate and disseminate information reported by States receiving grants under section 4 on waste reduction and recycling techniques and effectiveness.

(b) Public Availability.—The Administrator shall make available to the public such information on waste reduction as is developed pursuant to this Act and other pertinent information and analysis regarding waste reduction on a cost reimbursable basis. The Administrator shall determine feasible methods, including the use of computers, to make such information available in a manner compatible with other information maintained by the EPA relevant to waste reduction and recycling."

SEC. 305. HAZARDOUS SUBSTANCES EFFICIENCY STANDARD.

(a) Section 5005 of the Solid Waste Disposal Act is amended to read as follows:

"(a) Efficiency Standard.—Except as provided in this section, effective 120 months after the enactment of this section, the release to the environment of more than 5% of production throughput of hazardous substances by any person required to file a toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986, shall be unlawful.

"(2) The Administrator shall, within 36 months of enactment of this Act and after notice and opportunity for public hearing, promulgate regulations specifying the manner in which any manufacturer subject to this provision shall calculate the production throughput of hazardous substances for the purpose of establishing a basis for the required percentage determination. Such regulations may distinguish among manufacturing processes and categories and among products produced.

"(3) The Administrator or a State authorized pursuant to section 3006 or a State with the permit program under section 4010 may waive this standard on a plant by plant basis if a determination is made that such a standard is technically infeasible; that such plant is in compliance with paragraph (b) of this subsection; that all available minimization procedures have been adopted; and that all releases from such plant are in the form of permitted managed waste or in compliance with an applicable clean air or clean water permit.

"(4) Effective 48 months after the date of enactment of this section, each owner or operator shall submit to the State or Administrator, a plan to quantify and report to ——— on the manner in which each hazardous substance subject to this provision is consumed, used and/or released. Unless disapproved within 9 months after the date required for submittal, such plan shall be implemented by such person.

"(5) Not later than one year after the date on which such plans have been submitted, the Administrator shall report to the Congress on waste efficiency rates by manufacturing category or process and shall estimate the efficiency levels that each industry can reasonably be expected to achieve within 5 years and the extent to which technical assistance may be needed. The Administrator shall include in such report any legislative recommendations to expand the scope and effectiveness of the waste efficiency program.

"(6) Any manufacturer subject to the provisions of this subsection which shall have installed, prior to the time required in paragraph (4), continuous emission and environmental monitoring equipment capable of detecting losses to the environment through spills, leaks, discharges, dumps, releases, or emissions of substances for which toxic chemical release forms are required under Section 313 of Superfund shall be deemed in compliance with this provision so long as such manufacturer continues in compliance with all applicable environmental permits and makes available data from such monitoring to the appropriate local, state and federal regulatory agencies pursuant to Section 313 of the Superfund Amendments and Reauthorization Act of 1986.

"(b)(1) Continuous Monitoring.—Any person required to file an annual toxic chemical release form under Section 313 of the Superfund Amendments and Reauthorization Act of 1986 who is unable to account for any 313 substances as product or permitted discharge or emissions or as managed wastes shall within one year of such failure install, operate and maintain continuous monitoring technology capable of detecting and reporting all emissions or discharges in excess of those set forth in permits or, in the case of 313 substances not subject to permits, in excess of threshold limit values. Failure to comply with this requirement shall be enforceable as a knowing violation pursuant to section 4012 (e). Information gathered pursuant to this section shall be submitted with toxic release forms required by Section 313 to the appropriate official designated pursuant to Section 313(a); such records shall be made available to state or federal enforcement agencies and to the public at reasonable times for inspection.

"(2) Any person required to file an annual toxic chemical release form under Section 313 of the Superfund Amendments and Reauthorization Act of 1986 who spills, leaks, or dumps such toxic chemicals or has an emission or discharge of such toxic chemical in violation of any Clean Air, NPDES, or waste management permit shall as a part of any enforcement action pursuant to federal or state law be required to install, operate and maintain continuous monitoring technology capable of detecting and reporting any emission or discharges in excess of those allowed by law, regulation, or in the absence of specific requirements, threshold limit values for such substances.

SEC. 306. EPA REPORT.

"(a) Section 5006 of the Solid Waste Disposal Act is amended to read as follows:

"(a) EPA BIENNIAL REPORT.—The Administrator shall provide Congress with a report by September 30, 1989, and biennialy thereafter, containing a detailed description of the actions taken to implement the strategy to promote waste reduction developed under section 302 and the results of such actions. The report shall include an assessment of the effectiveness of the programs established under this Act in promoting the goals of the strategy and shall include in the report recommendations to make the program more effective.

(b) Not later than 24 months after the enactment of this section, the Administrator shall prepare a report to the Senate Environment and Public Works Committee and the House Energy and Commerce Committee on the EPA's program to insure the consideration of multi-media impacts in EPA policies, regulations and guidance, with recommendations for a permanent location of an office of waste reduction and recycling.

(c) The Administrator shall conduct a waste reduction capability study to evaluate the capability of industry to reduce waste volume and toxicity taking into account technical, environmental and economnic feasibility by industry sector. The study shall include recommendations for modifying the efficiency standard. The Administrator shall submit this study to Congress no later than 36 months after the date of enactment of this act.

SEC. 307. NATIONAL PACKAGING INSTITUTE.

(a) Section 5007 of the Solid Waste Disposal Act is added to read as follows:

"(a) IN GENERAL.—The Administrator is authorized to charter a national organization on product packaging standards and practices. The organization shall be called the National Packaging Institute. The institute shall be incorporated in the District of Columbia and shall have a board of directors of not less than eleven members which shall be representative of the interests of industries manufacturing packaging materials and industries and commercial concerns which are major users of packaging materials. The board may also include representatives of the public interest, persons with expertise in solid waste management, and elected or appointed officials of state and local governments. The Administrator shall grant (or deny) a charter on the basis of a prospectus or other proposal from a prospetive board of directors.

(b) PURPOSE OF THE INSTITUTE.—It shall be the purpose of the institute to encourage and promote the use of packaging which, with due regard for the cost and convenience of consumer products, will—

(1) minimize the quantity of packaging material which enters the Nation's solid waste management system;

(2) minimize the consumption of scarce natural resources;

(3) maximize the recycling and reuse of packaging materials;

(4) reduce litter; and

(5) assure that human health and the environment (including impacts on wildlife from improper disposal of nondegradable packaging materials) will not be adversely affected as the result of the use or disposal of such packaging materials.

(c) POWERS OF THE INSTITUTE AND BOARD.—

(1) The institute shall have power to receive, purchase, hold, sell and convey real and personal property; to sue and be sued, complain and defend in courts of law and equity within the jurisdiction of the United States; to make, adopt and amend a constitution, by-laws, rules, and regulations for the conduct of its business; and to provide for the election of its officers and to define their duties: Provided, that such constitution, by-laws, rules and regulations are not inconsistent with the provisions of this section or any other law of the United States or of any of States thereof.

(2) All powers necessary to govern, direct and manage the institute, including the power to—

(A) establish packaging standards,

(B) design and license the use of a seal or symbol,

(C) appoint and replace members of the board, and

(D) hire personnel, enter into contracts and otherwise conduct all business necessary and appropriatae to carry out the purposes of the institute, shall be vested in the board of directors.

(d) PACKAGING STANDARDS.—The institute shall establish national packaging standards which address the design, compostion, volume, reuse, recyclability, degradability and disposal of product packages and packaing materials used in consumer products which shall further the purposes of subsection (b) when implemented on a voluntary basis by entities in the packaging industry and other commerce.

(e) USE OF THE SEAL.—

(1) The institute is authorized to design and license the use of a seal or symbol which may be employed by any licensed user or users on packages which satisfy the standards established under subsection (e). Any person may apply to the institute for a license to use the seal or symbol on a package of a particular type and shall submit with such application all evidence necessary to demonstrate that the package type on which the seal or symbol will be used meets such standards.

(2) The institute is authorized to charge a fee for licensing the seal or symbol and may use the revenues from such fee to offset the costs of operating the institute.

(3) The Administrator is authorized to conduct a program of public information and education, including a program of public service advertising, to encourage consumer understanding of the impact of packaging on natural resource consumption and the Nation's solid waste management system, the purposes of the institute, and the benefits which may be achieved by implementing the packaging standards which have been established by the institute in purchasing decisions of individual consumers.

(f) CRITERIA FOR GRANTING CHARTER.—In deciding whether to grant or extend a charter under this section, the Administrator shall take into account any information with respect to the following criteria as evidenced in the prospectus prepared and presented by the prospective board of the institute:

(1) the ability of the board to work with the packaging industry and its commercial clients to assure implementation of the standards established under subsection (e) to the fullest extent practicable;

(2) the expertise available to the board in solid waste management practices and the measures necessary to protect public health and the environment from any adverse effects which may result from such practices;

(3) financial support for the programs of the board committed to the board or through its affiliate organizations to carry out the programs of the institute; and

(4) the ability of the board to promote public understanding of the institute's purposes and application of the packaging standards established by the institute.

(g) PUBLIC PARTICIPATION.—The board shall conduct its business in open meetings (subject to the requirements for privacy in personnel matters and review of confidential business information) and shall, to the maximum extent practicable, seek public comment and participation in the development of its programs.

(h) RENEWAL OF CHARTER.—The initial charter of the National Packaging Institute shall extend for a period of not more than four years with an option for continuous renewal at seven-year intervals thereafter. The Administrator may establish a term of shorter duration or may grant a charter on specified conditions of performance, if it is necessary and appropriate to secure the purposes of this section.

(i) UNLAWFUL ACT.—It shall be unlawful for any person to use the seal or symbol of the institute unless explicitly licensed to do so. Any person violating the provisions of this subsection shall be subject to civil penalty of not more than $10,000 per violation which shall be imposed by the district court of the United States for the district in which such person does business or in which a package bearing such seal or symbol is distributed in commerce.

(j) AUTHORIZATION.—

(1) The Administrator is authorized to make grants to the institute in an amount not to exceed $1,000,000 in any fiscal year.

(2) There is authorized to be appropriated $2,500,000 in the fiscal year ending September 30, 1989 and $1,000,000 in each succeeding fiscal year through September 30, 1993 to carry out the purposes of subsection (f)(3) and $1,000,000 in each fiscal year ending prior to October 1, 1993 to carry out

the provisions of paragraph (1) of this subsection."

SEC. 308. FEDERAL AGENCY ACTIONS.

(a) Section 5008 of the Solid Waste Disposal Act is added to read as follows:

"(a)(i) WASTE REDUCTION PETITION.—Any person may petition a federal agency to undertake a waste reduction action, and such action shall be undertaken by the Agency if—

(1) undertaking the action which is the subject of the petition would bring about at least a 10 percent increase in recycled content of an item described in the petition or would reduce by at least 10 percent the total volume or toxic constituents of a solid waste described in the petition;

(2) undertaking the petitioned action would be consistent with existing law or, if not consistent with agency regulations or policy, that such regulations or policies can be modified to accommodate the petitioned act and remain in accordance with statutory requirements; and

(3) undertaking the petitioned action would bring about a net saving in true cost to the Federal government or would be neutral in effect or cost.

(4) For purposes of this subsection (a), a waste reduction action includes any action with this effect that is authorized, funded or carried out by a federal agency.

(ii) (1) PETITION NOTIFICATION.—Within 90 days after receipt of a petition, the federal shall notify the petitioner whether the petition presents substantial evidence warranting review. If the agency finds that the petition does not present such evidence, it would be required to notify the petitioner.

(2) If the agency finds that the petition presents substantial evidence in respect to the requirements of (a)(i), the agency shall notify the petitioner of the finding and conduct a review based upon the information in the petition and any other information available to the agency. No later than 12 months of the finding of substantial evidence, the agency shall deny the petition or grant the petition in whole or part and explain the steps that will be taken to implement any parts of the petition that are granted. If the agency denies the petition, the agency shall notify the petitioner and shall explain in writing the basis for concluding that the requirements of subsection (a)(i) are not met.

(b) FEDERAL WASTE REDUCTION OFFICER.—"Each federal agency shall designate a waste reduction officer to oversee compliance with federal agency waste reduction requirements of this Act. Each federal agency shall provide EPA with the name, title, address and phone number of its waste reduction officer. Waste reduction officers shall prepare agency waste reduction plans and shall report annually to EPA on implementation of the plans including estimates of any cost-savings achieved through waste reduction."

SEC. 309. FEDERAL CONTRACTS.

(a) Section 5009 of the Solid Waste Disposal Act is added to read as follows:

"(a) FEDERAL CONTRACTS.—Any federal agency which contracts with any private party or other Federal agency shall, with respect to any contract for $1 million or more, require such contractor to use recycled materials in performance of the contract. Such agency shall, in consultation with EPA and pursuant to EPA guidelines on recycled materials required under section 6005, include in specifications for such contract those aspects of contract performance which can be fulfilled with recycled materials. No requirement to use recycled materials may be imposed when the contractor certifies the material is not available or not available at a cost of not more than 10 percent more than non-recycled materials."

SEC. 310. HAZARDOUS CONSTITUENTS IN PRODUCTS.

(a) Section 5010 of the Solid Waste Disposal Act is added to read as follows:

"(a) INFORMATION COLLECTION ON HAZARDOUS CONSTITUENTS IN PRODUCTS.—The administrator shall determine the extent to which hazardous substances in section (101)(14) of the Superfund Amendments and Reauthorization Act of 1986 are contained in products distributed in commerce. Not later than one year after enactment of this Act, the Administrator shall publish and submit to Congress a list of no less than ten products, which identifies hazardous substances most frequently found in such products which present a risk to human health and the environment when incinerated or disposed of. The Administrator shall update this list with no less than ten new products each year, and publish and submit to Congress a revised list on an annual basis.

(b) STANDARDS FOR DISPOSAL OF HAZARDOUS CONSTITUENTS IN PRODUCTS.—The Administrator is authorized to promulgate regulations for the disposal or incineration of products containing hazardous substances listed under subsection (a) as may be necessary to protect human health and the environment from risks of disposal or incineration of such products.

(c) Not later than six months after date of submission of the information required in subsection (a) the Administrator shall determine whether to promulgate regulations under subsection (b). If the Administrator determines that regulation under subsection (b) will not adequately protect human health and the environment, he shall establish a schedule not to exceed 24 months for review pursuant to section 6 of the Toxic Substances Control Act to regulate the products in which the hazardous substances are contained.

(d) Effective 12 months after the date of enactment of this section, the land disposal and incineration of lead-acid batteries and mercury batteries is prohibited. Effective 12 months after date of enactment of this section land disposal of unshredded tires is prohibited.

(e) Not later than 12 months after the date of enactment of this section, the Administrator shall promulgate performance standards and other requirements as may be necessary to protect the public health and the environment from hazards associated with recycled lead-acid batteries and recycled mercury batteries. In development of such regulations, the Administrator shall conduct an analysis of the economic impact of the regulations on the lead-acid battery and mercury battery recycling industry. The Administrator shall ensure that such regulations do not discourage the recovery or recycling of lead-acid and mercury batteries consistent with protection of human health and the environment.

(f) No person may recover, under the authority of subsection (a)(3) or (a)(4) of section 107 of the Superfund Amendments and Reauthorization Act of 1986, from a lead-acid battery or mercury battery recycler for any response costs or damages resulting from a release or threatened release of recycled lead-acid batteries or mercury batteries, or use the authority of section 106 of the Superfund Amendments and Reauthorization Act of 1986, from a lead-acid battery or mercury battery recycler other than a person described in subsection (a)(1) or (a)(2) of section 107 of the Superfund Amendments and Reauthorization Act of 1986, if such recycled batteries—

(A) is not mixed with any other hazardous substance, and

(B) is stored, treated, transported, or otherwise managed in compliance with regulations or standards promulgated pursuant to subsection (g) of this section.

Nothing in this paragraph shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law, including common law for damages, injury, or loss resulting from a release or threatened release of any hazardous substance or for removal or remedial action or the costs of removal or remedial action."

SEC. 311. FEDERAL PROCUREMENT.

(a) Section 6002 (a) Subsection (c)(1)(C) of Subtitle F of RCRA is amended as follows—"(C) are only available at an unreasonable price. A price is unreasonable if it exceeds by more than 10 percent the price of alternative items. Any determination under subparagraph (B) shall be made in the basis of the guidelines of the Bureau of Standards in any case in which such material is covered by such guidelines."

(b) A new subsection 6005 is added to read as follows—

"(a) SPECIFIED EPA GUIDELINES.—Within 12 months after enactment of this Act, the Administrator shall re-issue its paper procurement guidelines to ensure that they are consistent with the requirement of section 6002(c)(1)(C). The Administrator shall also promulgate final procurement guidelines requiring the use of—

(1) recycled lead in lead-acid batteries;

(2) used tire fragments in road cover;

(3) compost from yard waste and sewage sludge;

(4) recycled plastic from discarded bottles;

(5) recycled steel from discarded cans;

(6) recycled glass from discarded containers;

(7) recycled aluminum from discarded cans;

Such final guidelines shall be promulgated no later than the dates after enactment of this Act which are at the close of the following periods: (1) 12 months, (2) 16 months, (3) 20 months, (4) 24 months, (5) 28 months, (6) 32 months, (7) 36 months.

(b) If EPA fails to issue a procurement guideline specified in subsection (a) within the time specified, federal agencies shall not authorize, fund, or carry out any action except in accordance with the conditions below insofar as they pertain to that guideline—

(1) any lead-acid batteries purchased shall contain a minimum of 50 percent recycled lead;

(2) at least 50 percent of road cover applications shall incorporate used tire fragments;

(3) any paper, plastics, steel, glass or aluminum purchased shall contain a minimum of 50 percent recycled content, unless such items are not available at a reasonable cost and of adequate quality;

(4) compost shall be used in lieu of alternative materials for plant nutrition, cover or fill on public land and interstate highways unless not available or capable of serving the purpose intended."

SEC. 312. DUTIES OF THE SECRETARY OF COMMERCE IN RESOURCE RECOVERY.

(a) Sections 5001 to 5006 are redesignated as sections 5011 to 5016.

SECTION-BY-SECTION SUMMARY OF THE WASTE MINIMIZATION AND CONTROL ACT OF 1988

TITLE I. GENERAL AMENDMENTS

Section 101. Congressional Findings

The Congress finds that as a nation we continue to generate large volumes of hazardous and solid wastes that present health and environmental problems when improperly managed. Congress also finds that many communities are managing their municipal waste in poorly designed existing units or are exporting their waste across state borders.

Section 102. Objectives and National Policy

Establishes a waste prevention and management policy that gives priority in the following order: (1) source reduction, (2) recycling, (3) waste treatment, and (4) contained disposal. Congress further establishes a national goal of recycling waste to the maximum extent consistent with market demand for recycled materials and for the creation and expansion of markets for recycled materials.

Section 103. General Authorization

This section provides an authorization of $140,000,00 for each of the fiscal years 1989 through 1992 for purposes of carrying out this act.

Section 104. Definition

This section provides definitions for the purpose of this Act for: municipal waste incineration unit, modified municipal waste incineration unit, new municipal waste incineration unit, substantially complete unit, and existing municipal waste incineration unit.

TITLE II. SOLID WASTE MANAGEMENT

Section 201. Objectives of Subtitle

Set forth the objectives to assist in developing and encouraging (1) environmentally sound disposal methods, (2) resource conservation, (3) permitted solid waste management capacity, and (4) use of a hierarchical approach to solid waste.

Section 202. State and Regional Planning

Requires State solid waste management plans to (1) identify the waste generation for a period of 20 years, (2) identify waste management capacity needs for the same period, (3) establish a state capacity siting process, (4) establish a hierarchy for solid waste management consistent with the goals established in section 102.

Section 203. Permits for Disposal of Solid Waste

This section establishes the following permit requirements. (1) Effective one year for date of enactment, storage, treatment or disposal of solid waste except in accordance with a permit issued by a State or EPA is prohibited. Existing facilities shall be treated as having a permit once they demonstrate that they are not releasing hazardous substances into the environment or are controlling such releases through corrective action. (2) States are required to certify that their laws provide such regulatory powers as necessary to implement a permit program. (3) States are provided authority to issue permits unless they fail to certify or if EPA finds that the State lacks permit and enforcement authority. In such cases EPA shall issue permits. (4) Permits shall be issued according to standards developed pursuant to section 204 not to exceed ten years.

Section 204. Criteria for Solid Waste Management

This section requires EPA to promulgate criteria for the management of (1) municipal solid waste, (2) municipal waste combustion residues, (3) emissions from municipal incineration, (4) infectious wastes, (5) mining wastes, (6) industrial non-hazardous wastes handled in surface impoundments, (7) oil, gas and geothermal wastes, (8) underground injection of non-hazardous wastes, and (9) other solid wastes.

Section 205. Enforcement

This section provides federal enforcement authority to issue compliance orders where a violation of any requirement pursuant to section 204 or a permit violation has occurred, if a State has failed to take such action. Also provides authority to invoke a civil penalties for violation of compliance orders, and a criminal penalty as appropriate.

Section 206. Solid Waste Export

This section prohibits the export of solid waste except where there is an international agreement between the United States and the government of the receiving country.

Section 207. Federal Assistance

This section provides grants to states for waste reduction and recycling, for developing and implementing the state plans.

Section 208. Rural Communities Assistance

This section provides grants to rural communities for waste reduction and recycling, for developing and implementing the state plans.

TITLE III. WASTE REDUCTION AND RECYCLING

Section 301. Waste Reduction and Recycling Goals

This section establishes the following goals: (1) a national performance efficiency standard for industrial waste generators in SIC's 20–39, requiring within 10 years total hazardous waste residuals do not exceed 5% of production throughput; (2) a national goal of 25% municipal solid waste recycling within four years and 50% within 10 years where recycling constitutes least cost disposal, and a 10% municipal solid waste reduction within four years; (3) waste reduction and recycling outreach and technical assistance; a national packaging institute to develop voluntary packaging standards to encourage waste reduction and recycling.

Section 302. Office of Waste Reduction and Recycling

This section establishes an office of waste reduction and recycling in EPA to implement the goals in section 301.

Section 303. Grants to States for Technical Assistance Programs

This section provides EPA authority to issue grants to states for implementing waste reduction and recycling programs. Such programs shall provide technical assistance to businesses and communities on waste reduction and recycling opportunities.

Section 304. Waste Reduction and Recycling Clearinghouse

This section establishes a clearinghouse in EPA to compile and maintain information on management, technical, and operational approaches to waste reduction and recycling.

Section 305. Waste Minimization Performance Standard

This section requires that (1) effective 120 months after the effective date, persons required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 can release hazardous substances into the environment no greater than 5% of their production throughout. (2) The EPA shall promulgate regulations specifying the manner in which any manufacturer shall calculate the production throughput, and may distinguish among manufacturing processes and products. (3) The EPA or state may waive this standard on a plant by plant basis if it is technically infeasible, if the plant has installed and is operating continuous monitoring, has adopted all available waste minimization procedures, and that all releases are in the form of managed waste or in compliance with applicable clean water, clean air, or waste management permits. (4) Effective 48 months, each owner or operator shall file with EPA a plan that quantifies and reports on how each hazardous substance is consumed, used and released. (5) Any person subject to this section that has installed continuous emissions and environmental monitoring equipment capable of detecting losses to the environment within 48 months shall be deemed in compliance with this section so long as the person continues in compliance with all appropriate environmental permits and reports monitoring data to local, state and federal regulatory agencies. (6) Any person subject to this section who is unable to account for any section 313 substance as product or permitted discharge or emissions or as managed waste shall within 12 months install, operate and maintain continuous monitoring technology. (7) Any person subject to this section who is in violation of any Clean Air, NPDES or waste management permit shall as part of any enforcement action install, operate and maintain continuous monitoring technology.

Section 306. EPA Report

This section requires EPA to submit to Congress by September 30, 1989 and biennially thereafter, a report containing the actions taken to implement the waste reduction and recycling goals.

Section 307. National Packaging Institute

This section authorizes EPA to charter a national organization on product packaging standards and practices.

Section 308. Federal Agency Actions

This section (1) authorizes any person to petition a federal agency to undertake waste reduction activities if such action would bring about at least a 10 percent increase in recycling of the petitioned item, reduce by at least 10 percent the total volume or toxic constituents of a waste described in the petition, or would bring about a net savings in true cost to the federal government of would be neutral in effect or cost. (2) Establishes a waste reduction officer at each federal agency.

Section 309. Federal Contracts

This section requires contractors with any federal agency to use recycled material in performance with any contract for $1 million or more, unless the contractor certifies that recycled material is not available or not available at a cost of 10 percent more than non-recycled materials.

Section 310. Hazardous Constituents in Products

This section (1) prohibits the disposal and incineration of lead-acid batteries and mercury batteries and provides for an exemption of certain liability requirements under sections 106 and 107 of the Superfund

Amendments and Reauthorization Act of 1986 for recyclers of these batteries. (2) Requires EPA to publish a list identifying hazardous substances most frequently found in products which present risk when incinerated or disposed of. (3) Requires EPA to promulgate regulations for the disposal or incineration of products containing hazardous substances of concern or conduct a review pursuant to section 6 of the Toxic Substances Control Act to regulate such products containing the hazardous substances.

Section 311. Federal Procurement

This section (1) requires the Federal procurement of recycled materials if the recycled materials are available at no more than 10 percent the price of alternative items. (2) Requires EPA to promulgate procurement guidelines for recycled lead in lead-acid batteries; used tire fragments in road cover; compost from yard waste and sewage sludge; recycled plastic from discarded bottles; recycled steel from discarded cans; and recycled glass from discarded containers, and recycled aluminum from discarded cans. (3) If EPA fails to promulgate such regulations federal agencies shall purchase the following items only if (a) any lead-acid battery contains a minimum of 50 percent recycled lead; (b) at least 50 percent or road cover applications shall incorporate tire fragments; (c) any paper, plastics, steel, glass or aluminum contains a minimum of 50 percent recycled content unless such items are not available at a reasonable cost and of adequate quality; and (d) compost shall be used in lieu of alternative materials for plant nutrition, cover or fill on public lands and interstate highways unless not available or capable of serving the intended purpose.

Section 312. Duties of the Secretary of Commerce in Resource Recovery

This section redesignates sections 5001 to 5006 as sections 5011 to 5016.

TITLE IV. WASTE MINIMIZATION REVENUE ACT OF 1988

Section 401. Short Title

This title may be cited as the Waste Minimization Revenue Act of 1988.

Section 402. Imposition of Fees

Chapter 38 of the Internal Revenue Code of 1954 is added as a new subchapter entitled "Subchapter Fee on Packaging Materials." A fee shall be imposed on virgin materials used for packaging at a rate of $7 per ton on packaging materials or .07 of a cent per rigid container.

Section 403. Definitions and Special Rules

This section defines "packaging material", "rigid container", "ton", and "fractional part of ton", and provides exceptions that exempts packaging materials comprised of recycled materials from this fee.

Section 404. Waste Disposal Assistance Trust Fund

This section establishes in the Treasury of the United States a trust fund known as the "Waste Disposal Assistance Trust Fund", allows for expenditures only for purposes described in sections 4008 and 4009 of the Solid Waste Disposal Act as amended by the Waste Minimization and Control Act of 1988.●

WASTE MINIMIZATION AND CONTROL ACT OF 1988

● **Mr. DURENBERGER.** Mr. President, I am pleased to join with Senator BAUCUS today to introduce the Waste Minimization and Control Act of 1988. The Senator from Montana is to be commended for the hard work and vision that is reflected in this legislation and for the leadership that he has shown here in the Congress on the solid waste disposal crisis.

And, Mr. President, there can be no doubt that the Nation is facing a solid waste disposal crisis. The volume of things we throw away in this society continues to increase rapidly each year, while our ability to locate and build secure disposal facilities diminishes. Although the crisis is not acute in every community in the country some States project that their waste disposal capacity will be completely exhausted in 5 years or less.

In other communities the crisis has already driven disposal costs to $100 or more per ton. Garbage is being shipped by truck on our highways for several hundred miles to reach landfills with capacity to handle the refuse of our urban centers.

In large part, this is a capacity crisis. More garbage than we have places to put it. So any effort we make here in the Congress to ease the crisis must recognize that more capacity and new options for treating, reusing and disposing of waste are a necessary part of the solution.

But underneath the volume issues—the high costs and long hauls—there are also environmental concerns that are driving the crisis. It's also a crisis of confidence. Our old landfills are not only filling up quickly, but we are unable to site and construct new units because the public does not have confidence that the environment and public health can be fully protected.

It is difficult for the Federal Government to play an effective role on these twin issues—capacity and safety. Local government has traditionally carried the responsibility for handling and disposing trash. And States have the lead role in establishing standards and processes for siting new facilities. Shaping a constructive Federal role in light of these traditional State and local responsibilities requires a careful and balanced approach. I believe that Senator BAUCUS has achieved that balance in this legislation.

It starts with a commitment to waste reduction and recycling as our preferred course of action. The bill sets a national goal of 25 percent recycling of the municipal waste stream within 4 years. And commits us to 10 percent waste reduction in that same period. That's a very ambitious goal.

The bill also includes standards for municipal waste incinerators, both for the air emissions from incinerators and for disposal of the ash which they generate. Incinerators are an important intermediate step in the waste disposal process between recycling and ultimate disposal because they can reduce the volume of the waste stream by 70 to 90 percent.

On the other side—the safety side—this legislation imposes stringent Federal requirements on landfills which handle municipal waste. These requirements would include liners, leachate collection and ground water monitoring. Less than 10 percent of the 6,000 landfills now receiving municipal waste currently meet these requirements. But our whole experience in this area suggests that they are minimum technology for secure landfill units. Hopefully, these new requirements will increase public confidence so that we can get on with the job of siting and constructing a new generation of solid waste facilities. The waste has to go somewhere and the environment damage done by expanding old units—poorly sited and ill-designed—is by orders of magnitude worse than any threat which may be posed by facilities meeting the standards outlined in this bill.

I am very pleased that Senator BAUCUS has included in this legislation my proposal for a National Packaging Institute. I think the public-private partnership which is reflected in the structure of this proposed institute could make a big contribution to easing the solid waste disposal crisis. Packaging, the containers and wrappers and minibillboards, that the American economy uses to add convenience and appeal to commercial products is one of the most rapidly increasing elements of the municipal waste stream. Statistics presented to the Environment Committee indicate that packaging volume has increased by 30 percent over the past 10 years. Something like 10 cents of every consumer dollar is now spent to cover the costs of packaging—not the product but the package it comes in. And the high cost of convenience doesn't end. The package must be disposed of, once the product is consumed.

But packaging is not amenable to straightforward government regulation. How much packaging is too much for a particular product? When does a retailer's right to use packaging to encourage sales or meet the convenience needs of a consumer become unreasonable in light of the public need to control the growth of the waste stream? These are not questions that governments can easily answer. Some States have tried but without significant success.

The National Packaging Institute proposed in this bill is an attempt to deal in a new way with the packaging explosion. The idea is to convince the consumer that smaller, recyclable packages made of nontoxic materials are better than the big, gaudy jumble of plastic, paper and metal that we have come to expect.

The institute—which will not be a government regulator, but a voluntary private-sector watchdog—will develop standards for a good package, one that appropriately conserves resources, is easy to handle in the waste stream, is recyclable or without negative environmental effect when disposed. Those selling products in packages which can meet these standards will be authorized to use a special symbol developed by the institute. EPA will use Government funds to sponsor public service advertising encouraging consumers to look for that symbol and to take packaging characteristics into account when making purchasing decisions.

As this legislation is considered by the Environment Committee and by the Senate, I will ask that we thoroughly consider some additional measures which would contribute to an easing of the solid waste crisis. I would mention three today. First, meeting the goals of this bill for recycling and waste reduction will surely require that households separate their wastes into several different streams and that each stream be collected separately. Experience indicates that voluntary source separation will not support the recycling goals of this bill and mandatory curbside programs will need to be adopted in our largest communities where collection of multiple streams is economic.

Second, we need to do more to remove the hazardous constituents from common household products. This legislation requires the Administrator to study the composition of household products which may contain hazardous substances to determine whether disposal of such products would present any threat to health. The Administrator may then take action under the Toxic Substances Control Act to remove any threat which is present. I think this language could be strengthened. Past experience demonstrates that we need to focus this work on specific threats and to set deadlines for EPA action. I favor an approach that would select a few of the most serious problems—for instance, lead and cadmium and other heavy metals—and require the Administrator to take action to remove risks within a 3- or 4-year period of time.

The other item I would mention is household hazardous waste collection programs. I hope that we will consider Federal incentives to local governments to encourage hazardous waste pickup programs. We also need to remove impediments—like liability for releases from disposal sites—for the communities which conduct such programs.

Mr. President, this is a very good start on RCRA reauthorization. We will need to add other elements on hazardous waste management and storage tanks as we move along. But this is a core for a very good RCRA reauthorization with waste reduction and recycling as the principal theme and I am pleased to join with Senator Baucus to introduce it.

Finally, Mr. President, I ask that a very thoughtful speech which the Senator from Montana gave to the National Solid Waste Management Association conference on Wednesday of this week be printed in the Record at this point.

The speech follows:

National Solid Waste Management Association

(Keynote Address by Senator Max Baucus)

I want to thank you for giving me the opportunity to speak to you this morning. And thank you Gene for that introduction.

I'm here today to talk about America's new sexy issue: garbage.

We know our issue has "arrived" when it becomes a focus of the Presidential campaign. And on the cover of the news weeklies. Who knows? Maybe the waste issue will lead to a new TV series: "Hazardous waste of the rich and famous . . ."

When you have a major network news organization—in this case ABC News—devoting an entire week of special segments on the environment, you can bet it is an issue they know will attract viewers. It is a good sign that people are concerned about the environment.

That's good news for all of us in this room. It means the public's attention is focused on the issue. That creates an opportunity for change. It is that opportunity that I intend to take advantage of.

For too long Americans have viewed waste as useless junk. We've buried it until our "purple mountains" turn brown. We've burned it until our "spacious skies" rain toxins. And we've dumped it until infectious waste can be found from "sea to shining sea."

For America to be beautiful we need to change our ways. We must begin to treat our waste as a resource, not refuse. We must stop throwing away our future.

I believe America is ready for this change.

We no longer want to be known as the world's largest producer of garbage. We Americans don't want the 12 billion tons of solid and hazardous waste we generate every year to become our next national monument.

We no longer want the single largest export—nearly 44 percent of the tonnage—from the ports of New York State to be waste.

We no longer want to find hypodermic needles and vials of contaminated blood lining our beaches.

And we no longer want America to be a nation that happily sends its most toxic waste to poison the soil and people of foreign lands.

Let's not forget the infamous garbage barge that wandered our coastal waters for months, looking for a place to dump its load. It had to return home, just as the problem of solid waste has come home to us.

Fortunately, all of these examples have helped Americans realize that today's waste problem effects all of us. It is no longer viewed as the other guy's problem. I am reminded of a favorite Pogo cartoon where its star says "I have met the enemy, and he is us!"

Much of our waste problems exist because we live in a consumption society and in a consumption world. Freedom of choice, private enterprise, rising levels of income and expectations, and lack of government leadership have yielded a society in which consumption—almost without regard to environmental costs—has become the rule.

However, our country does have a record of confronting environmental problems. It isn't perfect; but we have tried.

Over 30 years ago Congress first addressed the problem of solid waste by enacting the Solid Waste Act. That was in 1965. We all remember that at that time solid waste was a rat problem, a garbage problem, a litter problem.

Our nation also made a massive commitment to control air pollution. In 1963 we passed the Clear Air Act to study air pollution and to provide grants to state and local governments to control it. In 1970 Congress amended the Act to add tougher new controls of criteria air pollutants.

From air we turned to water, passing the Clean Water Act in 1972 to help restore and maintain the nation's waters.

Our most recent effort was a three pronged regulatory, financial and judicial assault to clean up hazardous waste dumps. Congress passed RCRA in 1976 and created Superfund in 1980.

Today we face the solid waste problem again—though it is not the same dragon of the 1960's. As we all know, this year America will bury about 85 percent of our garbage in about 6,000 currently operating municipal landfills. Unfortunately, over half of those landfills will run out of capacity within ten years.

We have come full circle. We must turn our attention from the air and water and focus on the land.

A new standard must be set to help America find ways to reduce the staggering volume and waste that it generates. To help us recycle more of what we cannot reduce, and better manage what we cannot recycle.

To do this, we need tough, new environmental legislation. When I return to Washington today I will introduce a comprehensive RCRA reauthorization bill to help our country tackle our mounting waste problem.

It will be a difficult task. Just as the fight to clean the air and clean the water was long and difficult, so too will be the fight to control solid waste.

We have to change habits. We have to devise whole new systems. In short, we have to better discipline ourselves.

The RCRA bill proposes many initiatives to start us in that new direction. In short, it will set new standards for reducing and recycling waste. It will set tough minimum standards to ensure that the waste that we must produce is properly and safely managed. And it will provide tools and resources to the states to help them achieve our goals.

The bill's recycling standards will be tough. It requires 25 percent recycling in four years. It sets a goal of 50 percent in ten years. And it establishes waste minimization performance standards that certain manufacturers shall be required to meet in 10 years.

It requires the federal government to purchase more recycled paper, plastics and metals. Right now government purchases account for about eight percent of the GNP. A government-lead effort to use more recycled materials will create and expand the market for recycled products.

And to further encourage recycling, my bill will establish a federal office within the Environmental Protection Agency to provide technical assistance on waste reduction and recycling opportunities, and funds to states to carry out these opportunities.

To ensure that we properly manage the waste that we produce or cannot recycle, my bill sets tough minimum standards for our most serious solid waste problems, including municipal garbage, incinerator ash, infectious waste, and other industrial waste.

Thus, rather than turning our beaches into a medical wastebasket, I intend to set strict controls on the transportation, treatment, storage and disposal of infectious and other medical wastes.

And, rather than having to live in a society that permits garbage barges from wandering our waterways, my bill will require every state to develop a comprehensive solid waste plan. Plans that ensure that there is a safe place to manage all waste generated in each state.

These plans will serve as a blueprint for implementing safe and effective state waste management programs. And they will help us to dry dock every garbage barge carrying orphaned wastes.

The standards will not create a burden for progressive states. They are, however, clearly intended to be a floor for those states which have sat on their hands.

To accomplish this ambitious agenda we need an effective way to assure a complete evaluation of available alternatives. We need a method to force careful review of the environmental implications and a structurally sound regulatory program.

To do that, I propose to prohibit—by federal law—any disposal or destruction of waste by landfill or combustion without a permit.

The permit will be used as a means to ensure safe and effective waste management.

I will phase in this permit program for existing operations. And tie new permits to the creation of new programs to achieve our goals.

Finally, we need a mechanism to pay for this protection. My bill will establish a fee on virgin materials used for packaging at the rate of seven dollars per ton on packaging materials or seven-tenths of a cent per rigid container. This will encourage greater use of recycled materials and provide revenue that states and communities can use to develop and implement their programs.

My legislation avoids the "heavy hand of Washington" approach. Sure, we'll set tough goals for everyone. But we also will give the states what they never had before—the tools and resources to reach these goals.

And we give states—in fact, we encourage states—to experiment with new options. To tap the creative strength of the Union.

This is ambitious legislation. But our challenge is formidable. We are all now witnessing new serious environmental problems like global warming which may be contributing to a national drought and higher crop prices, a garbage crisis that may bury us all, and the poorest air quality in years.

My legislation will help America put its new found awareness of the environment to work. Now. And it will pick up the torch of the environmental effort started in the 1960's.

It adds yet another chapter to America's environmental story. I expect resistance from those who will face inconvenience or costs associated with this initiative. But there has been resistance before.

Clearly, those who bear the responsibility for the ultimate resolution—elected officials and producers of products—will resist because my solution will cost money.

This has been the case in past environmental battles. It will be the case here.

The marginal cost of compliance by each company or community, industry or association will be marginally greater than the perceived value to protection of public health, and the environment. This has been argued against every environmental initiative for a quarter of a century and there is no reason to believe it will change here.

Equally difficult will be dealing with those who want no solution. Those who believe that no incineration is an acceptable alternative; that no landfilling is an acceptable alternative; that all waste must be either internalized or recaptured.

I find that approach politically appealing and a formula for doing nothing. As a politician, I can't have the best of both of those worlds. As a pragmatist, I want to see results. Advocates of extreme positions will find I have little time for oversimplification.

My bill won't achieve the level of recycling that some in the environmental community would desire in the near term. But it will go a long way toward better utilizing our resources.

We are so far from a minimally acceptable level of recapture, recovery and reuse of resources which are currently dumped, buried or burned, that any progress in this area should be saluted.

I will entertain any proposal which represents progress. I will consider any alternative which recognizes that it took us more than 50 years to create this mess and will probably take more than 5 to extricate ourselves.

The time has come for America to take the lead, not just to preserve the ozone layer or stop the destruction of our oceans. The time has come for America to dispose of the throw away society. To make recycling a habit, not a hope. To provide incentives to reduction of disposal of reuseable materials and to penalize those commodities and products which by their nature cannot be recycled, re-used or born again.

No country has the technology to do the job as do we. No country has the environmental movement which will insist that we do the job as do we. And no country has the incentive to find exportable ideas and technologies to do the job effectively, as do we.

I look forward to working with you on this issue in the days and months ahead. And I again thank you for listening to my views this morning.●

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. BURDICK, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. INOUYE, Mr. STENNIS, and Mr. STEVENS):

S.J. Res. 376. Joint resolution designating September 13, 1989, as "Uncle Sam Day"; to the Committee on the Judiciary.

UNCLE SAM DAY

● Mr. D'AMATO. Mr. President, I rise to introduce a joint resolution, sponsored and introduced in the other body by the distinguished leader of the New York delegation, the Honorable SAM STRATTON, who is retiring at the end of this Congress. This resolution designates September 13, 1989, as "Uncle Sam Day" to honor Samuel Wilson, of Troy, NY, the progenitor of the symbol "Uncle Sam"—perhaps a tribute from one all-American Sam to another.

All of us know Uncle Sam from the famous Army recruiting poster "I want you for the U.S. Army." Few, however, know the legend of his origin. The person behind this symbol of our country was one Samuel Wilson, affectionately known to the Troy community as "Uncle Sam." During the war of 1812, Wilson, a prominent meatpacker, was involved in supplying meat to the U.S. Army. At this time, "USA" was the only known abbreviated form of the United States. So when the initials "US" appeared on meat containers, Wilson's employees jokingly interpreted US to mean "Uncle Sam." The idea of Uncle Sam as a personification of the U.S. Government spread and the legend of Uncle Sam, a national symbol, was born.

Over the years, "Uncle Sam" has represented many images. He is generally thought of as representing the U.S. Government itself. While first thought "kindly but firm," his image toughened when an artist portrayed him as the stern World War I Army recruiter. His stars and stripes and red, white, and blue clothing symbolize his patriotism.

Mr. President, as a New York Senator, I am proud of Uncle Sam's New York origins. I also congratulate Troy, NY, on the occasion of its upcoming 200th anniversary in 1989. I urge my colleagues to join us in cosponsoring this joint resolution.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 376

Whereas Samuel Wilson of the City of Troy, New York, is accepted as the progenitor of our national symbol, Uncle Sam;

Whereas Uncle Sam, the embodiment of Samuel Wilson, represents the enterprising, idealistic, and strong spirit that is the backbone of our Nation;

Whereas the symbol of Uncle Sam remains important to the identity of our Nation among freedom-loving people of the world;

Whereas the people of the City of Troy have dedicated themselves to the remembrance of Samuel Wilson and his role in American history;

Whereas the City of Troy marks its 200th anniversary in 1989; and

Whereas September 13 is the birth date of Samuel Wilson: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1989, is designated as "Uncle Sam Day" in honor of Samuel Wilson of the City of Troy, New York on the occasion of the 200th anniversary of the City. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 581

At the request of Mr. Proxmire, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 581, a bill to amend title 10, United States Code, to increase the combat support assignments open to women in the Armed Forces.

S. 1738

At the request of Mr. Wilson, the names of the Senator from New Mexico [Mr. Domenici], and the Senator from New York [Mr. Moynihan] were added as cosponsors of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1863

At the request of Mr. DeConcini, the names of the Senator from Illinois [Mr. Simon], and the Senator from Alabama [Mr. Heflin] were added as cosponsors of S. 1863, a bill to amend the bankruptcy law to provide for special revenue bonds, and for other purposes.

S. 1961

At the request of Mr. Biden, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of S. 1961, a bill to amend title 28, United States Code, to provide Federal debt collection procedures.

S. 2122

At the request of Mr. Bradley, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 2122, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program, and for other purposes.

S. 2202

At the request of Mr. Wallop, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of S. 2202, a bill to amend section 3 of the act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision for lands devoted to solid waste disposal, and for other purposes.

S. 2325

At the request of Mr. Wallop, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 2325, a bill to amend the Mineral Lands Act of 1920 to improve the administration of the Federal Coal Management Program, and for other purposes.

S. 2330

At the request of Ms. Mikulski, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2367

At the request of Mr. Lautenberg, the name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of S. 2367, a bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2395

At the request of Mr. Wirth, the name of the Senator from West Virginia [Mr. Rockefeller] was added as a cosponsor of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2411

At the request of Mr. Mitchell, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 2411, a bill to amend the Internal Revenue Code of 1986 to extend the low-income housing credit through 1990.

S. 2499

At the request of Mr. Pryor, the names of the Senator from Wyoming [Mr. Wallop], the Senator from Delaware [Mr. Biden], and the Senator from Oklahoma [Mr. Nickles] were added as cosponsors of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 2478

At the request of Mr. Ford, the names of the Senator from Alabama [Mr. Heflin] and the Senator from Kentucky [Mr. McConnell] were added as cosponsors of S. 2478, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 2662

At the request of Mr. Hollings, the names of the Senator from New York [Mr. D'Amato], the Senator from West Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Bumpers], the Senator from Illinois [Mr. Dixon], the Senator from Georgia [Mr. Fowler], the Senator from Vermont [Mr. Leahy], the Senator from Wisconsin [Mr. Kasten], the Senator from New Hampshire [Mr. Rudman], the Senator from Tennessee [Mr. Gore], and the Senator from Maryland [Ms. Mikulski] were added as cosponsors of S. 2662, a bill to remedy injury to the U.S. textile and apparel industries caused by increased imports.

S. 2667

At the request of Mr. Wirth, the name of the Senator from Louisiana [Mr. Breaux] was added as a cosponsor of S. 2667, a bill to establish a national energy policy to reduce global warming, and for other purposes.

S. 2695

At the request of Mr. Bentsen, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 2695, a bill to amend title 5, United States Code, to provide for the payment of interest on delayed initial payments under the civil service retirement system and the Federal employees' retirement system and for other purposes.

S. 2721

At the request of Mr. Glenn, the name of the Senator from Pennsylvania [Mr. Heinz] was added as a cosponsor of S. 2721, a bill to amend the Federal Advisory Committee Act.

S. 2733

At the request of Mr. Thurmond, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 2733, a bill to amend title 18, United States Code, to prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis.

S. 2763

At the request of Mr. Pell, the names of the Senator from North Carolina [Mr. Helms], the Senator from Missouri [Mr. Bond], the Senator from Michigan [Mr. Levin], the Senator from Kentucky [Mr. Ford], the Senator from Wisconsin [Mr. Proxmire], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of S. 2763, a bill entitled the "Prevention of Genocide Act of 1988."

At the request of Mr. Lugar, his name was added as a cosponsor of S. 2763, supra.

SENATE JOINT RESOLUTION 181

At the request of Mr. Wilson, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of Senate Joint Resolution 181, a joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE JOINT RESOLUTION 278

At the request of Mr. Glenn, the names of the Senator from Maryland [Mr. Sarbanes], the Senator from New Jersey [Mr. Lautenberg], the Senator from Massachusetts [Mr. Kerry], the Senator from Washington [Mr. Adams], the Senator from South Carolina [Mr. Thurmond], the Senator from Iowa [Mr. Grassley], the Senator from Utah [Mr. Garn], the Senator from Arizona [Mr. McCain], the Senator from Kansas [Mrs. Kassebaum], the Senator from Idaho [Mr. McClure], the Senator from Connecticut [Mr. Weicker], and the Senator from New Mexico [Mr. Bingaman] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating November 20-26, 1988, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 301

At the request of Mr. Wirth, the names of the Senator from Washington [Mr. Adams], the Senator from Colorado [Mr. Armstrong], the Senator from Missouri [Mr. Bond], the Senator from Oklahoma [Mr. Boren], the Senator from Arkansas [Mr. Bumpers], the Senator from North

Dakota [Mr. Burdick], the Senator from West Virginia [Mr. Byrd], the Senator from North Dakota [Mr. Conrad], the Senator from California [Mr. Cranston], the Senator from New York [Mr. D'Amato], the Senator from Arizona [Mr. DeConcini], the Senator from Connecticut [Mr. Dodd], the Senator from Kansas [Mr. Dole], the Senator from New Mexico [Mr. Domenici], the Senator from Minnesota [Mr. Durenberger], the Senator from Washington [Mr. Evans], the Senator from Georgia [Mr. Fowler], the Senator from Ohio [Mr. Glenn], the Senator from Utah [Mr. Hatch], the Senator from Nevada [Mr. Hecht], the Senator from North Carolina [Mr. Helms], the Senator from New Hampshire [Mr. Humphrey], the Senator from Hawaii [Mr. Inouye], the Senator from Wisconsin [Mr. Kasten], the Senator from Massachusetts [Mr. Kerry], the Senator from New Jersey [Mr. Lautenberg], the Senator from Vermont [Mr. Leahy], the Senator from Michigan [Mr. Levin], the Senator from Indiana [Mr. Lugar], the Senator from Arizona [Mr. McCain], the Senator from Idaho [Mr. McClure], the Senator from Maine [Mr. Mitchell], the Senator from New York [Mr. Moynihan], the Senator from Oklahoma [Mr. Nickles], the Senator from Georgia [Mr. Nunn], the Senator from Oregon [Mr. Packwood], the Senator from South Dakota [Mr. Pressler], the Senator from Indiana [Mr. Quayle], the Senator from Nevada [Mr. Reid], the Senator from Michigan [Mr. Riegle], the Senator from West Virginia [Mr. Rockefeller], the Senator from Delaware [Mr. Roth], the Senator from North Carolina [Mr. Sanford], the Senator from Alabama [Mr. Shelby], the Senator from Wyoming [Mr. Simpson], the Senator from Vermont [Mr. Stafford], the Senator from Mississippi [Mr. Stennis], the Senator from Alaska [Mr. Stevens], the Senator from Idaho [Mr. Symms], the Senator from Virginia [Mr. Trible], the Senator from Wyoming [Mr. Wallop], and the Senator from California [Mr. Wilson] were added as cosponsors of Senate Joint Resolution 301, a joint resolution designating January 20, 1989, as "National Skiing Day."

SENATE JOINT RESOLUTION 321

At the request of Mr. Bradley, the names of the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Gore], the Senator from Michigan [Mr. Riegle], and the Senator from Kansas [Mrs. Kassebaum] were added as cosponsors of Senate Joint Resolution 321, a joint resolution to designate the period commencing February 19, 1989, and ending February 25, 1989, as "National Visiting Nurse Associations Week."

SENATE JOINT RESOLUTION 327

At the request of Mr. Glenn, the names of the Senator from New York [Mr. Moynihan], the Senator from Massachusetts [Mr. Kerry], the Senator from Wyoming [Mr. Simpson], the Senator from Nevada [Mr. Reid], the Senator from Missouri [Mr. Bond], the Senator from Arkansas [Mr. Bumpers], the Senator from North Dakota [Mr. Burdick], the Senator from Nebraska [Mr. Karnes], the Senator from Maine [Mr. Mitchell], the Senator from Oklahoma [Mr. Nickles], the Senator from South Carolina [Mr. Thurmond], the Senator from Minnesota [Mr. Durenberger], the Senator from Nevada [Mr. Hecht], the Senator from Oregon [Mr. Packwood], the Senator from Rhode Island [Mr. Pell], the Senator from Alaska [Mr. Stevens], the Senator from Rhode Island [Mr. Chafee], the Senator from Michigan [Mr. Riegle], the Senator from Illinois [Mr. Simon], the Senator from Georgia [Mr. Fowler], the Senator from Nebraska [Mr. Exon], the Senator from Colorado [Mr. Wirth], the Senator from New York [Mr. D'Amato], the Senator from Ohio [Mr. Metzenbaum], the Senator from California [Mr. Wilson], the Senator from North Carolina [Mr. Helms], the Senator from Virginia [Mr. Warner], the Senator from New Jersey [Mr. Bradley], and the Senator from Kansas [Mrs. Kassebaum] were added as cosponsors of Senate Joint Resolution 327, a joint resolution commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle *Challenger*.

SENATE JOINT RESOLUTION 346

At the request of Mr. Lautenberg, the names of the Senator from South Carolina [Mr. Thurmond], the Senator from Vermont [Mr. Leahy], the Senator from New Hampshire [Mr. Humphrey], the Senator from Idaho [Mr. McClure], the Senator from Minnesota [Mr. Boschwitz], the Senator from Virginia [Mr. Trible], the Senator from California [Mr. Wilson], the Senator from Alaska [Mr. Murkowski], the Senator from Wyoming [Mr. Simpson], the Senator from Colorado [Mr. Wirth], the Senator from Arkansas [Mr. Pryor], the Senator from Maine [Mr. Mitchell], the Senator from Illinois [Mr. Simon], the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Sasser], the Senator from Washington [Mr. Adams], the Senator from Minnesota [Mr. Durenberger], and the Senator from Pennsylvania [Mr. Heinz] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 352

At the request of Mr. Warner, the names of the Senator from Rhode Island [Mr. Pell], the Senator from Illinois [Mr. Dixon], the Senator from Wyoming [Mr. Wallop], the Senator from Illinois [Mr. Simons], the Senator from Alabama [Mr. Heflin], the Senator from Washington [Mr. Adams], the Senator from Iowa [Mr. Grassley], the Senator from Oklahoma [Mr. Boren], the Senator from Tennessee [Mr. Gore], the Senator from Vermont [Mr. Stafford], the Senator from New Mexico [Mr. Domenici], and the Senator from Florida [Mr. Graham] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating September 24, 1989, as "United States Marshals Bicentennial Day."

SENATE JOINT RESOLUTION 353

At the request of Mr. Hecht, the names of the Senator from Michigan [Mr. Levin], and the Senator from Wyoming [Mr. Simpson] were added as cosponsors of Senate Joint Resolution 353, a joint resolution to designate the period commencing September 25, 1988 ending October 2, 1988, as "National Angel Plane Week."

SENATE JOINT RESOLUTION 361

At the request of Mr. Pell, the names of the Senator from Florida [Mr. Graham], the Senator from Maryland [Ms. Mikulski], the Senator from Maryland [Mr. Sarbanes], the Senator from North Carolina [Mr. Sanford], the Senator from Pennsylvania [Mr. Specter], the Senator from Idaho [Mr. McClure], the Senator from Maine [Mr. Cohen], the Senator from New Mexico [Mr. Domenici], the Senator from Virginia [Mr. Trible], the Senator from Tennessee [Mr. Gore], and the Senator from Texas [Mr. Bentsen] were added as cosponsors of Senate Joint Resolution 361, a joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

SENATE JOINT RESOLUTION 363

At the request of Mr. Sarbanes, the names of the Senator from Mississippi [Mr. Stennis], the Senator from Louisiana [Mr. Breaux], the Senator from Indiana [Mr. Lugar], the Senator from Indiana [Mr. Quayle], the Senator from New Mexico [Mr. Bingaman], the Senator from West Virginia [Mr. Rockefeller], the Senator from North Dakota [Mr. Burdick], the Senator from Oklahoma [Mr. Nickles], the Senator from Louisiana [Mr. Johnston], the Senator from Alaska [Mr. Murkowski], the Senator from Florida [Mr. Chiles], the Senator from Alabama [Mr. Heflin], the Senator from North Carolina [Mr. Sanford], the Senator from Ohio [Mr. Glenn], the Senator from Nebraska [Mr. Karnes], the Senator from Idaho [Mr. McClure], the Senator from Nebraska [Mr. Exon], the Senator from West Virginia [Mr. Byrd], the Senator from Virginia [Mr. Warner], the Senator from Pennsylvania [Mr. Heinz], the Senator from Texas [Mr. Bentsen], the Senator from Georgia [Mr.

NUNN], the Senator from Georgia [Mr. FOWLER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Washington [Mr. ADAMS], the Senator from Virginia [Mr. TRIBLE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Oregon [Mr. HATFIELD], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. HELMS, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Louisiana [Mr. BREAUX], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

AMENDMENT NO. 2509

At the request of Mr. INOUYE, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Utah [Mr. HATCH], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Tennessee [Mr. SASSER], and the Senator from Utah [Mr. GARN] were added as cosponsors of amendment No. 2509 proposed to S. 430, a bill to amend the Sherman Act regarding retail competition.

SENATE RESOLUTION 469—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 469

Whereas, in or in connection with the case of *In the Matter of the Applications of the City of El Paso, Texas, Nos. HU 12 through HU 71 and LRG 92 through LRG 357, to Appropriate Ground Water from the Hueco and Lower Rio Grande Underground Water Basins*, Case No. CV-88-201, pending in the Third Judicial District, County of Dona Ana, State of New Mexico, counsel for the applicant City of El Paso has caused deposition subpoenas to be served for testimony and documents of Senator Jeff Bingaman, five present employees of the Senate on his staff (Mitchell Foushee, Edwin S. Jayne, Edward McGaffigan, Vincent Murphy, and Alice Salcido), and three former employees of the Senate who had served on his staff (Faith Roessel, Matthew R. Schneider, and Elizabeth Webber);

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members and present and former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Jeff Bingaman, and present and former employees of the Senate who are serving or who have served on his staff, in the case of *In the Matter of the Applications of the City of El Paso, etc.*

SEC. 2. That Senator Jeff Bingaman, and present and former employees of the Senate who are serving or who have served on his staff, are authorized to testify and produce documents, in the case of *In the Matter of the Applications of the City of El Paso, etc.*, except concerning matters for which a privilege should be asserted.

AMENDMENTS SUBMITTED

TEXTILE AND APPAREL TRADE ACT

SPECTER AMENDMENT NOS. 2942 AND 2943

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill (H.R. 1154) to remedy injury to the U.S. textile and apparel industries caused by increased imports; as follows:

AMENDMENT No. 2942

At the appropriate place in the bill insert the following:

SEC. . PRIVATE ACTIONS FOR RELIEF FROM UNFAIR FOREIGN COMPETITION.

(a) CLAYTON ACT.—Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting "section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (39 Stat. 798; 15 U.S.C. 72);" after "nineteen hundred and thirteen;".

(b) ACTION FOR DUMPING VIOLATIONS.—Section 801 of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) such article is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section—

"(1) Each of the terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(2) If—

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph),

the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.".

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(c) ACTION FOR SUBSIDIES VIOLATIONS.—Title VIII of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) the foreign country, any person who is a citizen or national of the foreign country, or a corporation, association, or other organization organized in the foreign country, is providing (directly or indirectly) a subsidy with respect to the manufacture, production, or exportation of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recovery damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 705 of the Tariff Act of 1930 (19 U.S.C. 1671d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section, each of the terms 'subsidy' and 'material injury' have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(d) ACTION FOR CUSTOMS FRAUD.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

(e) ACCORDANCE WITH GATT.—It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

AMENDMENT No. 2943

At the appropriate place in the bill insert the following:

SEC. —. PRIVATE ACTIONS FOR RELIEF FROM CUSTOMS FRAUD.

(a) IN GENERAL.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

"(b) ACCORDANCE WITH GATT.—It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

WEICKER AMENDMENT NO. 2944

Mr. WEICKER proposed an amendment to the bill H.R. 1154, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

"SEC. 315. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) AUTHORITY.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to the States for the purpose of assisting grantees in purchasing drugs for the treatment of acquired immune deficiency syndrome and related conditions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000.

"(c) PERIOD FOR GRANTS.—No grant may be made under this section after March 31, 1989.

"(d) REPEALER.—This section shall cease to exist on March 31, 1989.".

HOLLINGS AMENDMENT NO. 2945

Mr. HOLLINGS proposed an amendment to the bill H.R. 1154, supra; as follows:

Strike all after the enacting clause and insert the following: That this Act may be cited as the "Textile Apparel and Footwear Trade Act of 1988".

SEC. 2. POLICY.

The policy of this Act is to—

(1) relate the growth of textile and clothing imports to the growtn of the domestic market in order to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and clothing manufacturers, and loss of job opportunities for United States textile and clothing workers; and

(2) maintain a viable United States nonrubber footwear industry by preventing further damage to United States nonrubber footwear manufacturers and loss of job opportunities for United States nonrubber footwear workers.

SEC. 3. FINDING AND DETERMINATIONS.

(A) FINDINGS.—The Congress finds that—

(1) with respect to textiles and textile products—

(A) the current level of imports of textiles and textile products from all sources, more than one hundred and sixty-five countries, reached nearly 12.7 billion square yard equivalents in 1986, an increase of 17 per centum over 1985 imports; this level of imports is 2.5 times the level of imports in 1980, a rate of increase that was not foreseen when the United States granted trade concessions benefiting foreign suppliers of textiles and textile products, and represents over 1.2 million job opportunities lost to United States workers;

(B) imported textiles and textile products contain four million bales of cotton which is equivalent to 39 per centum of annual cotton production in the United States; eight out of every ten bales of cotton contained in imported textiles and clothing are foreign grown cotton; sustained massive increases in imports of cotton textile and clothing products are causing a declining market share for domestic cotton producers, depressed prices, and an average annual market revenue loss of over $1,000,000,000; another result is that a market development program voluntarily funded by United States cotton producers actually benefits foreign growners; finally, as imports of textiles and clothing increase, domestic cotton acreage is shifted to produce other agricultural products which are already in oversupply thereby adding to the problems of United States agriculture;

(C) imports of textiles and textile products made of wool have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; because import penetration in the domestic wool textile and clothing market is nearly 70 per centum, it is critical that action be taken to halt further erosion of the domestic industry's market share;

(D) imports of textiles and textile products made of manmade fiber and competing fibers, other than cotton or wool, have more than doubled since 1980 resulting in substantial reductions in domestic manmade fiber production capacity and job losses;

(E) the textile and clothing trade deficit of the United States exceeded $21,000,000,000 in 1986, an increase of 18 per centum over 1985, and accounted for 12 per centum of the Nation's overall merchandise trade deficit;

(F) import growth of clothing and clothing fabrics has averaged 8 per centum annually since 1973; over that same period, the domestic market for clothing and clothing fabrics has grown only 1 per centum annually; import growth has recently accelerated, and, since 1982, has average 21 per centum annually; the result is that import penetration in the domestic clothing and clothing fabric market has nearly doubled in the last six years, reaching a level of 52 per centum in 1986;

(G) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products competitive with those imported have been seriously damaged, many of them have been forced out of business, have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to the Federal and local governments;

(H) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring new measures;

(I) unless the import growth rate of textiles and textile products is slowed to the long-term rate of growth of the United States market, plant closings and job losses will continue to accelerate, leaving the United States with reduced competition benefiting domestic consumers and leaving the Nation in a less competitive international position;

(J) a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States; and

(K) actions taken by the United States under the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended (commonly referred to as the "Multi-Fiber Arrangement" or "MFA") have failed to avoid disruptive effects in the textiles and textile products markets in the United States; and

(2) with respect to nonrubber footwear—

(A) nonrubber footwear imports in 1986 reached a record level of nine hundred and forty-one million pairs; this volume of imports is 2.5 times that of 1981, the year that import relief for the nonrubber footwear industry terminated, and is 11.6 per centum above 1985 levels, the year in which the International Trade Commission issued its third finding that the domestic nonrubber footwear industry has been seriously injured by increased imports;

(B) since 1981, import growth of nonrubber footwear has averaged more than 20 per centum per year, gaining market share at the expense of the domestic industry; in 1981, import penetration of the domestic nonrubber footwear market was 51 per centum; by 1986, import penetration reached an unprecedented 80.7 per centum;

(C) as a direct result of imports, domestic nonrubber footwear production has declined every year since 1978, reaching two hundred thirty-four million pairs in 1986, a production level matched only during the Great Depression in the 1930's;

(D) domestic nonrubber footwear employment has steadily declined every year since 1981, and is down 37 per centum from 1981 levels and 7.3 per centum from 1985 levels; unemployment in the nonrubber footwear industry averaged 15.4 per centum in 1986, more than double the national average; and

(E) domestic nonrubber footwear production facilities are closing at an alarming rate, with three hundred and eighty factory closings since 1981 and seventy closings in 1986 alone.

(b) Determinations.—Congress determines that, for the foregoing reasons—

(1) textiles and textile products are being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of textiles and textile products in the United States, and

(2) nonrubber footwear is being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of nonrubber footwear in the United States,

within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 4. LIMITS ON IMPORTS.

(a) Calendar Year 1987.—Notwithstanding any other provision of law—

(1) the aggregate quantity of textiles and textile products, from all countries, classified under a category that is entered during calendar year 1987 shall not exceed on amount equal to 101 per centum of the aggregate quantity of such products classified under such category, from all countries, that entered during calendar year 1986, and

(2) the aggregate quantity of nonrubber footwear, from all countries, classified under a nonrubber footwear category that is entered during calendar year 1987, and during each calendar year thereafter, shall not exceed an amount equal to—

(A) the aggregate quantity of nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986, and

(B) in the case of low priced nonrubber footwear, notwithstanding subparagraph (A), the aggregate quantity of low priced nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986.

(b) Growth Adjustment.—For calendar years after 1987, the aggregate quantity of textiles and textile products, from all countries, classified under each category that may be entered during each such calendar year shall be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year. If the aggregate quantity that could be entered under a category for a calendar year after 1987 is reduced under section 10(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 10(b) in previous calendar years.

(c) Exceptions.—

(1) The limitations in this Act on the aggregate quantity of articles of textiles and textile products and nonrubber footwear that may be entered during any calendar year do not apply to articles of that kind that are the product of any insular possession of the United States if the articles are—

(A) exempt from duty under general headnote 3(a) of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(B) manufactured or produced in such possession by individuals who are either—

(i) United States citizens;

(ii) United States nationals; or

(iii) permanent residents of such possession in accordance with its laws.

(2) Notwithstanding any other provision of law, the aggregate quantity of sweaters that are—

(A) made of cotton, wool, or manmade fibers; and

(B) assembled in Guam from otherwise completed knit-to-shape component parts;

and that may be entered—

(i) during calendar year 1987, may not exceed 163,216 dozen; and

(ii) during any calendar year after 1987, may not exceed the aggregate quantity that is authorized to be entered under this paragraph during the preceding calendar year, increased by 1 per centum.

(d) Enforcement.—The Secretary of Commerce shall prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this Act, including regulations governing entry, or withdrawal from warehouse, for consumption of the products covered by this Act. Such regulations shall provide for reasonable spacing of imports over the calendar year.

(e) Allocations for Certain Countries.—Regulations may be prescribed under subsection (d) only if such regulations ensure that—

(1) an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products classified under each category entered during calendar year 1989 and during each succeeding calendar year (hereafter in this subsection referred to as the "applicable year") is allocated to such products of each country to which the total quantity of United States agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of United States agricultural products exported on commercial terms to such country during the calendar year before the calendar year preceding the applicable year; and

(2) the amount of textiles and textile products classified under each category entered during the applicable year that is allocated so each country under paragraph (1) exceeds the quantity of such products of such country classified under such category that entered during the calendar year preceding the applicable year.

SEC. 5. TARIFF COMPENSATION.

(a) Compensation.—

(1) The President may (A) enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed under section 4 of this Act to maintain the general level of reciprocal and mutually advantageous concessions under such agreements; and (B) proclaim such modification or continuance of any existing duty on textiles and textile products and on nonrubber footwear as he determines to be required or appropriate to carry out such agreements.

(2) No proclamation shall be made under paragraph (1) decreasing any rate of duty to a rate of duty which is less than 90 per centum of the existing rate of duty.

(3) Before entering into any trade agreement under this subsection with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(b) Staging Requirements.—The aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to subsection (a) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of one-fifth of the total reduction under subsection (a) had taken effect on the effective date of the first reduction proclaimed to carry out such trade agreement, and at one-year intervals after such effective date.

(c) Prohibition.—Except as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear and may not decrease, or propose a decrease, in any such duty by any means, including an implementing bill under section 151 of the Trade Act of 1974 or a proclamation.

SEC. 6. ANNUAL REPORT.

Not later than March 15, 1989, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Act during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 4. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

SEC. 7. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this Act a review of the operation of this Act. The Secretary shall consult representatives of workers and companies in the textile and textile products and nonrubber footwear industries, the United States Trade Representative, the Secretary of Labor, and other appropriate Government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings.

SEC. 8. AUCTION OF IMPORT LICENSES.

(a) Import Licenses.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish and implement a pilot program for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products.

(b) Identification of Categories Subject to Licenses.—The categories of textiles, and the categories of textile products, to which the import licensing program under this section applies shall be selected by the Secretary of the Treasury, in consultation with the Secretary of Commerce. Such selection shall be made so that—

(1) the number of categories of textiles so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textiles entered; and

(2) the total number of categories of textile products so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textile products entered.

(c) Auctioning of Import Licenses.—

(1) Each import license to be issued and sold pursuant to this section shall be sold by the Secretary of the Treasury at a public auction held no earlier than fifteen days after the date on which notice of such auction is published in the Federal Register.

(2) By no later than the date that is sixty days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph (1). Such regulations shall provide for—

(a) the auctioning of quotas, on a historical basis, among retailers, importers, and manufacturers of textiles and apparel;

(b) the transfer of auctioned imported licenses among importers; and

(c) a means of ensuring that no person obtains undue market power in the markets of the United States through the use of auctioned import licenses.

(3) The Secretary of the Treasury is authorized to prescribe, on an expedited basis, such regulations supplementing the regulations prescribed under paragraph (2) as are necessary to address factors involved in conducting the sale by auction of import licenses for any article that are unique to such article.

(d) Deposit of Revenues.—Any revenues from the sale of import licenses under this section shall be paid into the general fund of the Treasury of the United States.

(e) Duration.—The import licensing program under this section shall begin on January 1, 1989, and end at the close of December 31, 1989.

(f) Report.—Not later than March 31, 1990, the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall report to Congress on the administration of the import licensing program under this section and the advantages and disadvantages of auctioning import licenses demonstrated by the program.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) The term "textiles and textile products" includes, but is not limited to, all articles covered by a category.

(2) The term "nonrubber footwear" mean nonrubber footwear article classified under items 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95 of the Tariff Schedules of the United States (19 U.S.C. section 1202) (as in effect on January 1, 1987) and includes, but is not limited to, all articles covered by a footwear category.

(3) The term "category" means each of the following—

(A) each category identified by a three-digit number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1987, and in any amendments to such publication correcting clerical errors or omissions;

(B) each subdivision of a category described in subparagraph (A) with respect to which the United States has (i) an agreement with any country on the date of enactment of this Act limiting exports of textiles and textile products to the United States that includes a specific limit on such subdivision, or (ii) taken unilateral action to limit products from any country entered under such subdivision; and

(C) a category consisting of the manmade fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States.

(D) a category consisting of the products not covered by a category described in subparagraph A and classified under TSUSA items 373.0530, 373.2030, and 373.2230.

The Secretary of Commerce shall determine, after consultation with the United States Trade Representative and the United States International Trade Commission, whether comparable subdivisions described in subparagraph (B) are consistently defined; if the Secretary determines that such subdivisions are not consistently defined, then the Secretary shall prescribe by regulation an appropriate definition of the category covering such comparable subdivisions.

(4) The term "nonrubber footwear category" means each of the following—

(A) men's leather;
(B) men's vinyl/plastic;
(C) men's other;
(D) women's leather;
(E) women's vinyl/plastic;
(F) women's other;
(G) juvenile leather;
(H) juvenile vinyl/plastic
(I) juvenile other;
(J) athletic leather;
(K) athletic vinyl/plastic;
(L) leather work footwear;
(M) other leather footwear;
(N) miscellaneous vinyl/plastic; and
(O) miscellaneous other.

(5) The term "low priced nonrubber footwear" means nonrubber footwear with a customs value of $2.50, or less, per pair.

(6) The term "country" means a foreign country, a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship, political entity or foreign trade zone, whether affiliated with the United States or not, that is outside the customs territory of the United States.

(7) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(8) The term "existing" means the nonpreferential rate of duty (however established, and even through temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of schedules 1 through 7 of the Tariff Schedules of the United States (or the comparable rate of duty set forth in any law that may supersede such Tariff Schedules) existing on the day before the date of enactment of this Act.

(9) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

SEC. 10. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the provisions of this Act shall apply to textiles and textile products and to nonrubber footwear entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

(b) Calendar Years 1987 and 1988.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products and of nonrubber footwear that may be entered under section 4(a) under each category and each nonrubber footwear category during the period beginning on the date of enactment of this Act and ending on December 31, 1987. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products or of nonrubber footwear entered under a category or nonrubber footwear category after December 31, 1986, and before the date of enactment of this Act exceeds the quantity permitted entry for such products under such category during calendar year 1987 under section 4(a), then the limit that would otherwise apply under section 4(b), in the case of textiles or textile products, or under section 4(a), in the case of nonrubber footwear, for such category for calendar year 1988 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 4(b), or section 4(a), as appropriate, for such category for calendar year 1988, then the limit for such category for calendar years after 1988 shall be reduced until such excess is accounted for.

(c) 1988 Enactment.—If the date of enactment of this Act is after December 31, 1987, then (1) the term "1988" shall be substituted for the term "1987" each place it appears in subsection (a)(1) and (b) of section 4 and subsection (b) of this section; (2) the term "1987" shall be substituted for the term "1986" in subsection (a)(1) of section 4 and subsection (b) of this section; and (3) the term "1989" shall be substituted for the term "1988" each place it appears in subsection (b) of this section.

PREVENTION OF GENOCIDE ACT

FORD (AND OTHERS) AMENDMENT NO. 2946

Mr. PELL (for Mr. FORD, for himself, Mr. PROXMIRE, Mr. BRADLEY, and Mr. HELMS) proposed an amendment to the bill (S. 2763) entitled the "Prevention of Genocide Act of 1988"; as follows:

After section 6 insert the following:

SEC. . UNITED NATIONS.—The Secretary of State is requested to immediately bring before the Security Council of the United Nations the matter of Iraq's use of poison gas against its own nationals, most of whom are defenseless civilians, and demand that, in accordance with U.N. Security Council Resolution 620, appropriate and effective measures be taken against Iraq for its repeated use of chemical weapons.

TEXTILE AND APPAREL TRADE ACT

WEICKER AMENDMENT NO. 2947

(Ordered to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to the bill H.R. 1154, supra; as follows:

At the end of the pending amendment, add the following new section:

SEC. . GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

"SEC. 315. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) AUTHORITY.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to the States for the purpose of assisting grantees in purchasing drugs for the treatment of acquired immune deficiency syndrome and related conditions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000.

"(c) PERIOD FOR GRANTS.—No grant may be made under this section after March 31, 1989.

"(d) REPEALER.—This section shall cease to exist on March 31, 1989.".

CLEAN AIR STANDARDS ATTAINMENT ACT

WIRTH (AND ARMSTRONG) AMENDMENT NO. 2948

(Ordered to lie on the table.)

Mr. WIRTH (for himself and Mr. ARMSTRONG) submitted an amendment intended to be proposed by them to the bill (S. 1894) to amend the Clean Air Act to establish new requirements for areas that have not yet attained health-protective ambient air quality standards, to provide new deadlines for such attainment, to delay the imposition of sanctions, to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. . YEAR-ROUND DAYLIGHT SAVINGS TIME.

Section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a) is amended by adding at the end thereof the following subsection:

(d)(1) Notwithstanding any other provision of this Act or any other law, a State in the Pacific or Mountain time zone may, by law, in lieu of the provisions of subsection (a) of this section, provide for year-round daylight savings for that State by advancing the standard time or times in such State by one hour. When time is advanced pursuant to this subsection, that time or times, as so advanced, shall be, except to the extent otherwise provided in paragraph (2), the standard time or times for the State.

(2) Any State may, by law, provide for year-round daylight savings time for only a portion of the State if that State desires to match the standard time of that portion of the State with a bordering State which has, by law, provided for year-round daylight savings time pursuant to paragraph (1) of this subsection.

(3) Any time advanced pursuant to this subsection shall remain in effect during the period provided by State law. Upon the expiration or repeal of any such State law advancing the standard time or times in a State pursuant to this subsection, the standard time or times in such State, on and after such termination or repeal, shall be in accordance with the provisions of this Act and other applicable laws, other than this subsection.

(4) Notwithstanding the foregoing provisions of this subsection, no State shall advance the standard time in such State pursuant to paragraph (1) of this subsection unless—

(A) the State contains at least one nonattainment area for the national primary ambient air quality standard for carbon monoxide;

(B) the State has determined that attainment of the national primary ambient air quality standard for carbon monoxide is not likely despite the implementation of requirements of the Clean Air Act of 1977;

(C) the State has determined that year-round daylight savings time is a necessary part of its efforts to attain the national primary ambient air quality standard for carbon monoxide;

(D) the State has included in its implementation plan a provision setting forth its intention to adopt year-round daylight savings time; and

(E) the State has included with the implementation plan information to demonstrate that adoption of year-round daylight savings time may reduce carbon monoxide levels in a nonattainment area in such State.

● Mr. WIRTH. Mr. President, I was an original cosponsor of legislation introduced by Senator MITCHELL and many other Members of the Senate to clean up the air in urban areas across the country. That legislation, which was approved by the Environment and Public Works Committee and which is now part of S. 1894, would extend the deadline for cities to meet the national health standard for carbon monoxide and ozone. But the bill also requires these cities—from New York City to Denver to Los Angeles—to adopt tough new measures to reduce air pollution.

I strongly support this legislation and if the Congress enacts this legislation into law, we will see a steady improvement in air quality in the Nation's cities. But high-altitude cities across the Western States face special problems in their efforts to reduce air pollution.

We are making progress. Last year, Colorado became the first State in the country to require the use of oxygenated fuels during the winter. That reduced carbon monoxide pollution by nearly 10 percent. Next year's program will be even more effective since the oxygen content of fuels will increase.

And Colorado has been a national leader in encouraging people to drive less, especially on high pollution days. Our "Better Air Campaign" also cut carbon monoxide pollution by 10 percent.

But we can and must do more. Today, I am pleased to join the senior Senator from Colorado, Senator ARMSTRONG, in introducing an amendment to S. 1894 that will give States like ours another tool they can use to clean the air.

Our amendment, Mr. President, would give States like Colorado the option of switching to year-round daylight savings time if they can show that such a change would help reduce air pollution.

The problem in States like Colorado is that winter temperature inversions trap auto emissions near the ground. These winter air inversions occur frequently in the evening. As a result, cities like Denver typically experience this highest carbon monoxide levels on winter evenings. However, if Colorado were to stay on daylight savings time year round, evening rush hour would occur at warmer daylight hours, when pollution is more likely to disperse.

The Colorado Department of Health has carefully studied this proposal. They have concluded that shifting Colorado to year-round daylight savings time would reduce carbon monoxide air pollution by 9 percent. That represents a significant reduction, and it would be virtually cost free. There are very few, if any, other pollution reduction strategies that can make that claim.

Our amendment would streamline the process for States that want to shift to daylight savings time. It would not relieve the States from adopting other measures that they must take to reduce air pollution. And it would require the States to make a showing that such a change would reduce air pollution. But if the States can make that showing, this amendment would remove the procedural obstacles to getting that done.

Mr. President, S. 1894 is a good bill. It will protect the health of millions of Americans who live in cities across the country and who are exposed every day to dirty air. The amendment Senator ARMSTRONG and I are introducing strengthens the bill by giving Western States an additional tool to fight air pollution. I urge all Senators to join us in support of this amendment, and S. 1894.●

TEXTILE AND APPAREL TRADE ACT

WEICKER AMENDMENT NO. 2949

(Ordered to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to the bill H.R. 1154, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

"SEC. 315. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) AUTHORITY.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to the States for the purpose of assisting grantees in purchasing drugs for the treatment of acquired immune deficiency syndrome and related conditions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000.

"(c) PERIOD FOR GRANTS.—No grant may be made under this section after March 31, 1989.

"(d) REPEALER.—This section shall cease to exist on March 31, 1989.".

GRAMM AMENDMENT NOS. 2950 THROUGH 2974

(Ordered to lie on the table.)

Mr. GRAMM submitted 25 amendments intended to be proposed by him to the bill H.R. 1154, supra; as follows:

AMENDMENT NO. 2950

Section 9(a) is amended by inserting before the period the following: ", except that no provision of this Act shall apply to children's or infants' clothing or footwear".

AMENDMENT NO. 2951

Section 9(a) is amended by inserting before the period the following: ", except that the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would result in an economic burden on United States agriculture with regard to exports, employment, or income proportionately greater than that imposed on the population of the United States as a whole".

AMENDMENT NO. 2952

At the end of the Act insert the following new subsection:

"( ) EXEMPTION FOR LESS PROTECTIONIST COUNTRIES.

"Notwithstanding any other provision of this Act, any limitation imposed by this Act on the quantity of any article that may be entered, or withdrawn from warehouse, for consumption in the customs territory of the United States shall not apply to such articles of a country if—

"(1) the President, after consulting with the United States Trade Representative, determines that the tariffs and quotas that such country imposes on United States exports to such country (based on the weighted average of the value of such exports) are lower than tariffs and quotas the United States imposes on exports of such country to the United States (based on the weighted average of the value of such foreign exports), and

"(2) the President submits to the Congress a written statement certifying such determination within 90 days after the date of enactment of this Act.".

AMENDMENT NO. 2953

Section 9(a) is amended by inserting before the period the following: ", except that the provisions of this Act shall not apply to items imported from Israel".

AMENDMENT NO. 2954

At the end of the Act insert the following new subsection:

"( ) EXEMPTION FOR FREE TRADE AGREEMENTS.

"Notwithstanding any other provision of this Act, the application of limitations under this Act may be permanently suspended with regard to the products of a country pursuant to a free trade or expanded trade agreement with such country.".

AMENDMENT NO. 2955

Section 6 is amended by inserting after "under section 4." the following:

"Such report shall also include an estimate of the impact of the provisions of the Act on United States consumers, estimated in terms of aggregate costs for the population as a whole, as well as for various segments of the population, including the poor.".

AMENDMENT NO. 2956

At the end of the Act insert the following new section:

"SEC. . IMPACT ON UNITED STATES TREATY OBLIGATIONS.

"The Congress does not intend that any provisions of this Act supersede, violate, or suspend any treaties or treaty obligations of the United States.".

AMENDMENT NO. 2957

Section 9(a) is amended by inserting before the period the following: ", except that no provision of this Act shall apply to clothing or footwear for persons 65 years of age or older".

AMENDMENT NO. 2958

Section 9(a) is amended by inserting before the period the following: ", except that no provision of this Act shall apply to workers' coveralls, uniforms, workshoes, or workboots".

AMENDMENT NO. 2959

Section 6 is amended by inserting after "under section 4." the following:

"Such report shall also include an assessment of the employment impact of this Act, estimating the number of jobs lost and the number of jobs gained. The President may suspend the provisions of this Act if such report demonstrates that the number of jobs lost is more than 110 per centum of the number of jobs gained.".

AMENDMENT NO. 2960

At the end of the bill insert the following new section:

"SEC. . GATT LEGALITY.

"The provisions of this Act shall be repealed if the President certifies to the Congress in writing that, in accordance with the procedures of the General Agreement on Tariffs and Trade, the provisions of the Act are determined to be a violation of the General Agreement on Tariffs and Trade.".

AMENDMENT NO. 2961

Strike section 5(c).

AMENDMENT NO. 2962

Strike section 3(a)(F).

AMENDMENT NO. 2963

Section 9(a) is amended by inserting before the period the following: ", and, further, that the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would impose an economic burden on the poor proportionately greater than that imposed on the population of the United States as a whole".

AMENDMENT NO. 2964

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to bandages, medical dressings, surgical gowns, or any other item intended for medical use".

AMENDMENT NO. 2965

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to bandages, medical dressings, surgical gowns, or any other item intended for medical use".

AMENDMENT NO. 2966

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to diapers".

AMENDMENT NO. 2967

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to items intended for use in nursing homes".

AMENDMENT NO. 2968

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to shoes the wholesale price of which is less than $20.00 per pair".

AMENDMENT NO. 2969

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to items imported from the countries identified by the Secretary of State as being the twenty-five poorest countries in the world, measured on a basis of per capita share of gross domestic product".

AMENDMENT No. 2970

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to products imported from any country that on the date of enactment of this Act is a major source of illegal drugs imported into the United States that, as certified by the President, following the date of enactment of this Act ceases to be a major source of illegal drugs imported in the United States".

AMENDMENT No. 2971

Section 9(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to products imported from any country that on the date of enactment of this Act does not have in fact a constitutional democratic system of government that, as certified by the President, following the date of enactment of this Act implements in fact a constitutional democratic system of government."

AMENDMENT No. 2972

At the end of the Act insert the following new section:

"**SEC. . COUNTRIES WITH UNITED STATES MILITARY OR NAVAL INSTALLATIONS.**

"In no case shall the provisions of this Act apply to products imported from any country on the territory of which the United States operates a United States military or naval installation.".

AMENDMENT No. 2973

At the end of the Act insert the following new section:

"**SEC. . TERMINATION DATE.**

"This Act is repealed on January 1, 1999.".

AMENDMENT No. 2974

At the end of the Act insert the following new section:

"**SEC. . TERMINATION DATE.**

"This Act is repealed on January 1, 1994.".

SPECTER AMENDMENTS NOS. 2975 AND 2976

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to amendment No. 2945 proposed by Mr. HOLLINGS to the bill H.R. 1154, supra; as follows:

AMENDMENT No. 2975

At the end of the matter proposed to be inserted, add the following:

SEC. . PRIVATE ACTIONS FOR RELIEF FROM CUSTOMS FRAUD.

(a) IN GENERAL.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"**§ 1586. Private enforcement action for customs fraud**

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) a manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud."

(b) ACCORDANCE WITH GATT.—It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

AMENDMENT No. 2976

At the end of section 4 of the matter proposed to be inserted, add the following:

(e)(1) The provisions of subsection (d) shall not take effect unless the provisions of paragraph (2) are enacted.

(2) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(3) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

(4) ACCORDANCE WITH GATT.—It is the sense of the Congress that the provisions of this subsection are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

EVANS AMENDMENT NOS. 2977 THROUGH 2998

(Ordered to lie on the table.)

Mr. EVANS submitted 22 amendments intended to be proposed by him to the bill H.R. 1154, supra; as follows:

AMENDMENT No. 2977

"On page 14, beginning on line 15, strike all through line 23."

AMENDMENT No. 2978

"On page 14, beginning on line 24, strike all through line 3 on page 15."

AMENDMENT No. 2979

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, the quantitative limitation on the aggregate import quantity of textiles and textile products and nonrubber footwear prescribed in Section 4 shall not apply to any country during any calendar year which has signed an agreement with the United States Government, or the American Institute in Taiwan, that limits the importation of categories of textile and textile products, as long as such agreement remains in effect and both countries adhere to its provisions."

Amendment No. 2980

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, the quantitative limitation on the aggregate import quantity of textiles and textile products and nonrubber footwear prescribed in Section 4 shall not apply to those countries that are signatories to the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, and as extended by the Protocol of July 31, 1986, and any such succeeding international arrangement after July 31, 1991."

Amendment No. 2981

On page 14, beginning on line 15, strike all through line 3 on page 15.

Amendment No. 2982

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the quantitative limitations on the aggregate quantity of textiles and textile products, classified by a category, prescribed in Section 4 shall not apply to any country that has in force a Free Trade Agreement with the United States."

Amendment No. 2983

Add at the appropriate place:

"At the place in the bill where the growth adjustment factor is listed at 1 per centum, strike '1 per centum' and insert in lieu thereof '6 per centum.' "

Amendment No. 2984

Add at the appropriate place:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof '7 per centum.' "

Amendment No. 2985

Add at the appropriate place:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof '8 per centum.' "

Amendment No. 2986

Add at the appropriate place:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof '9 per centum.' "

Amendment No. 2987

Add at the appropriate place:

"At the place in the bill where the growth adjustment factor is listed as 1 per centum, strike '1 per centum' and insert in lieu thereof '10 per centum.' "

Amendment No. 2988

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the term "textiles and textile products" shall not include "textiles" as set forth in the Tariff Schedules of the United States and other U.S. Government publications."

Amendment No. 2989

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the term "category" described in Section 9(3) shall not include any textiles or textile products which are not produced, or are in short supply, in the United States: further, that the International Trade Commission shall make a determination of whether or not such product is in short supply in the United States."

Amendment No. 2990

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, the limitation on the importation of the aggregate quantity of textiles and textile products prescribed in Section 4 shall not apply to any country that, in calendar 1987, purchased more textiles and textile products produced in the United States than it exported such products to the United States."

Amendment No. 2991

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the limitations on the importation on the aggregate quantity of textiles and textile products, classified under a category, prescribed in Section 4 shall not apply to any product within such category that incorporates at least 50 per centum by weight of materials or fiber produced in the United States and exported to such country."

Amendment No. 2992

Add the following at the appropriate place:

"Notwithstanding any other provision of this Act, the level of imports of machinery for fabricating any category of 'textiles' that is manufactured overseas and imported into the United States shall not be increased by more than the growth adjustment factor of 1 per centum in Section 4 that applies to textiles and textile products, and that the cumulative value of such imports, calculated in U.S. currency, in calendar year 1987 shall be used as the base year for determining such adjustment factor."

Amendment No. 2993

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the limitations on the aggregate quantity of 'textiles' as defined in Section 8 of the bill shall not apply to the extent, calculated by the increase in value in U.S. currency from the preceding calendar year, that exports textile-manufacturing machinery from such country to the United States increased over the preceding year, taking calendar 1987 as the base year."

Amendment No. 2994

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the term 'category' is described in Section 8(3) shall not include the products included in Category 359-D, referred to as cotton diapers."

Amendment No. 2995

On page 8, line 17, after "1986," and before "and", insert the following: "Calendar year 1987, or calendar year 1988, whichever is greater."

Amendment No. 2996

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the President, under his existing authority, shall not implement the provisions of this Act if he determines that their implementation will have an adverse impact on the competitiveness of U.S. exporting industries other than textiles and textile products."

Amendment No. 2997

Add at the appropriate place:

"Notwithstanding any other provision of this Act, the President, under his existing authority, shall not implement the provisions of this Act if he determines that its implementation will substantially impede the progress of discussions at the current Round of Multilateral Trade Talks in Geneva, referred to as the Uruguay Round."

Amendment No. 2998

Add at the appropriate place:

The provisions of this Act shall not apply until the following provisions have been enacted into law:

"In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of each corporation described in section 532, an accumulated earnings tax equal to 28 percent of the accumulated taxable income."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code.

(3) The last sentence of section 1(g)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "and subparagraph (B) shall be applied as if a deduction for a personal exemption were allowable under section 151 to such individual for such individual's spouse."

(b) AMENDMENTS RELATED TO SECTION 102 OF THE REFORM ACT.—

(1) Paragraph (5) of section 63(c) of the 1986 Code is amended—

(A) by striking out "the standard deduction applicable" and inserting in lieu thereof "the basic standard deduction applicable", and

(B) by striking out "STANDARD DEDUCTION" in the paragraph heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION".

(2) Subclause (I) of section 6012(a)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or".

(3)(A) Subparagraph (A) of section 62(a)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies."

(B) Paragraph (2) of section 527(e) of the 1986 Code (defining exempt function) is amended by adding at the end thereof the following new sentence: "Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

(c) AMENDMENT RELATED TO SECTION 111 OF THE REFORM ACT.—Paragraph (3) of section 32(i) of the 1986 Code is amended to read as follows:

"(3) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) AMENDMENTS RELATED TO SECTION 123 OF THE REFORM ACT.—

(1)(A) Clause (ii) of section 4941(d)(2)(G) of the 1986 Code is amended to read as follows:

"(ii) scholarships and fellowship grants which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and are to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(B) Paragraph (1) of section 4945(g) of the 1986 Code is amended to read as follows:

"(1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(2)(A) The second sentence of section 1441(b) of the 1986 Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act and which are—

"(1) incident to a qualified scholarship to which section 117(a) applies, but only to the extent includible in gross income; or

"(2) in the case of an individual who is not a candidate for a degree at an educational organization described in 170(b)(1)(A)(ii), granted by—

"(A) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(B) a foreign government,

"(C) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(D) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia,

as a scholarship or fellowship for study, training, or research in the United States."

(B) Subsection (c) of section 871 of the 1986 Code is amended—

(i) by striking out "section 1441(b)(1) or (2)" and inserting in lieu thereof "the second sentence of section 1441(b)"; and

(ii) by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(C) The following provisions of the 1986 Code are each amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)":

(i) Section 3121(b)(19).

(ii) Section 3231(e)(1).

(iii) Section 3306(c)(19).

(D) Clause (i)(I) of section 7701(b)(5)(D) of the 1986 Code is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (F) or (M)".

(E) Section 210(a)(19) of the Social Security Act is amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(e) AMENDMENT RELATED TO SECTION 131 OF THE REFORM ACT.—Subsection (f) of section 86 of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(f) AMENDMENTS RELATED TO SECTION 132 OF THE REFORM ACT.—

(1) Section 67 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH OTHER LIMITATION.—This section shall be applied before the application of the dollar limitation of the last sentence of section 162(a) (relating to trade or business expenses)."

(2) Paragraph (4) of section 67(b) of the 1986 Code is amended—

(A) by striking out "deduction" and inserting in lieu thereof "deductions", and

(B) by inserting before the comma at the end thereof "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose)".

(3) Subsection (e) of section 67 of the 1986 Code is amended to read as follows:

"(e) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(1) the deductions for costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such trust or estate, and

"(2) the deductions allowable under sections 642(b), 651, and 661,

shall be treated as allowable in arriving at adjusted gross income. Under regulations, appropriate adjustments shall be made in the application of part I of subchapter J of this chapter to take into account the provisions of this section."

(4) Subsection (c) of section 67 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply—

"(1) with respect to cooperatives and real estate investment trusts, and

"(2) except as provided in regulations, with respect to estates and trusts."

(g) AMENDMENTS RELATED TO SECTION 142 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 274(n)(2) of the 1986 Code is amended to read as follows:

"(A) such expense is described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),".

(2) Paragraph (2) of section 274(k) of the 1986 Code is amended to read as follows:

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e), and

"(B) any other expense to the extent provided in regulations."

(3) Clause (ii) of section 274(m)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).".

(4)(A) Paragraph (2) of section 274(n) of the 1986 Code is amended—

(i) by striking "or" at the end of subparagraph (C),

(ii) by striking the period at the end of subparagraph (D) and inserting ", or", and

(iii) by adding at the end thereof the following:

"(E) in the case of an employer who pays or reimburses moving expenses of an employee, such expenses are includible in the income of the employee under section 82.

In the case of the employee, the exception of subparagraph (A) shall not apply to expenses described in subparagraph (E)."

(B) The following provisions of the 1986 Code are each amended by striking out "section 217" and inserting in lieu thereof "section 217 (determined without regard to section 274(n))":

(i) Section 3121(a)(11).

(ii) Section 3306(b)(9).

(iii) Section 3401(a)(15).

(C) Section 209(k) of the Social Security Act is amended by striking out "section 217 of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 217 of the Internal Revenue Code of 1986 (determined without regard to section 274(n) of such Code)".

(5) Paragraphs (1) and (2) of section 274(h) of the 1986 Code are each amended by striking out "trade or business that" and inserting in lieu thereof "trade or business and that".

(h) AMENDMENTS RELATED TO SECTION 143 OF THE REFORM ACT.—

(1) Paragraph (5) of section 280A(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any amount taken into account for any taxable year under the preceding sentence shall be subject to the limitation of the 1st sentence of this paragraph whether or not the dwelling unit is used as a residence during such taxable year."

(2) Clause (ii) of section 280A(c)(5)(B) of the 1986 Code is amended by striking out "trade or business" and inserting in lieu thereof "trade or business (or rental activity)".

SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE REFORM ACT.—

(1) Subsection (d) of section 1250 of the 1986 Code is amended by striking out paragraph (11).

(2) Subparagraph (B) of section 201(d)(14) of the Reform Act is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "within the meaning of section 168(c)(2)(F)".

(3) Paragraph (4) of section 312(k) of the 1986 Code is amended by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)".

(4) Paragraph (4) of section 46(e) of the 1986 Code is amended—

(A) by striking out "168(j)(6)" in subparagraph (B) and inserting in lieu thereof "168(i)(3)",

(B) by striking out "paragraphs (8) and (9) of section 168(j)" in subparagraph (D) and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)",

(C) by striking out "168(j)" in subparagraph (E) and inserting in lieu thereof "168(h)", and

(D) by striking out "168(j)(4)" in subparagraph (E) and inserting in lieu thereof "168(h)(2)".

(5) Clause (i) of section 168(d)(3)(A) of the 1986 Code is amended by striking out "and which are".

(6)(A) Subparagraph (B) of section 168(f)(5) of the 1986 Code is amended—

(i) by striking out "1st full taxable year" in clause (ii) and inserting in lieu thereof "1st taxable year", and

(ii) by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor."

(B) Paragraph (5) of section 168(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986."

(7)(A) Subparagraph (A) of section 168(i)(7) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In any case where this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect."

(B) Subparagraph (B) of section 168(i)(7) of the 1986 Code is amended to read as follows:

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B)."

(C) Subparagraph (D) of section 168(i)(7) of the 1986 Code is hereby repealed.

(8) Subparagraph (B) of section 168(h)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter."

(9) Subsection (a) of section 178 of the 1986 Code is amended by striking out "the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194" and inserting in lieu thereof "the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization".

(10) Subparagraph (A) of section 280F(d)(3) of the 1986 Code is amended by striking out "any recovery deduction" and inserting in lieu thereof "any depreciation deduction".

(11)(A) Paragraph (2) of section 168(b) of the 1986 Code is amended to read as follows:

"(2) 150 PERCENT DECLINING BALANCE METHOD IN CERTAIN CASES.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(A) any 15-year or 20-year property, or

"(B) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply."

(B) Paragraph (5) of section 168(b) of the 1986 Code is amended by striking out "under paragraph (3)(C)" and inserting in lieu thereof "under paragraph (2)(B) or (3)(C)".

(C) Subsection (c) of section 168 of the 1986 Code is amended to read as follows:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Residential rental property	27.5 years
Nonresidential real property	31.5 years.

"(2) PROPERTY FOR WHICH 150 PERCENT METHOD ELECTED.—In the case of property to which an election under subsection (b)(2)(B) applies, the applicable recovery period shall be determined under the table contained in subsection (g)(2)(C)."

(12) Clause (i) of section 56(a)(1)(C) of the 1986 Code is amended by striking out "do not apply" and inserting in lieu thereof "do not apply by reason of section 203, 204, or 251(d) of such Act".

(13) The heading of paragraph (24) of section 381(c) of the 1986 Code is amended by striking out "RECOVERY ALLOWANCE FOR RECOVERY PROPERTY" and inserting in lieu thereof "DEPRECIATION DEDUCTION".

(14) Paragraph (5) of section 48(a) of the 1986 Code is amended—

(A) by striking out "168(j)(4)(C)" and inserting in lieu thereof "168(h)(2)(C)",

(B) by striking out "168(j)(4)(A)(iii)" and inserting in lieu thereof "168(h)(2)(A)(iii)",

(C) by striking out "168(j)(4)(B)" and inserting in lieu thereof "168(h)(2)(B)",

(D) by striking out "168(j)(6)" and inserting in lieu thereof "168(i)(3)",

(E) by striking out "168(j)(3)(C)(ii)" and inserting in lieu thereof "168(h)(1)(C)(ii)",

(F) by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)", and

(G) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) CROSS REFERENCE.—

"For provision providing special rules for the application of this paragraph and paragraph (4), see section 168(h)."

(15) The last sentence of section 46(e)(3) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "present class life" and inserting in lieu thereof "class life", and

(C) by striking out "168(g)(2)" and inserting in lieu thereof "168(i)(1)".

(16)(A) Subsection (s) of section 48 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) TERMINATION.—This subsection shall not apply to any property placed in service after December 31, 1985, unless such property is transition property (as defined in section 49(e)(1))."

(B) Paragraph (4) of section 168(f) of the 1986 Code is amended to read as follows:

"(4) SOUND RECORDINGS.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied."

(17) Paragraph (7) of section 46(c) of the 1986 Code is amended—

(A) by striking out "recovery property" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "168(c)" each place it appears and inserting in lieu thereof "168(e)",

(C) by striking out "168(f)(3)(B)" and inserting in lieu thereof "168(f)(3)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)", and

(D) by striking out "RECOVERY PROPERTY" in the paragraph heading and inserting in lieu thereof "PROPERTY TO WHICH SECTION 168 APPLIES".

(18) Paragraph (1) of section 47(d) of the 1986 Code is amended by striking out "section 48(c)(8)(C)"
and inserting in lieu thereof "section 46(c)(8)(C)".

(19) Paragraph (1) of section 179(d) of the 1986 Code is amended by striking out "recovery property" and inserting in lieu thereof "tangible property (to which section 168 applies)".

(20) Section 48 of the 1986 Code is amended by redesignating the subsection (s) relating to cross references as subsection (t).

(21) Clause (v) of section 168(e)(3)(B) of the 1986 Code is amended by striking out "any property" and inserting in lieu thereof "any section 1245 property".

(22) The last sentence of section 167(l)(3)(G) of the 1986 Code is amended by striking out "section 168(e)(3)(C)" and inserting in lieu thereof "section 168(i)(9)(B)".

(23) Subparagraph (B) of section 168(d)(3) of the 1986 Code is amended to read as follows:

"(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any nonresidential real property and residential rental property, and

"(ii) any other property placed in service and disposed of during the same taxable year."

(24) Subsection (a) of section 167 of the 1986 Code is amended by striking out the last sentence.

(25) Subparagraph (B) of section 46(d)(1) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" in clause (i) and inserting in lieu thereof "property to which section 168 applies", and

(B) by striking out "which is not recovery property (within the meaning of section 168)" in clause (ii) and inserting in lieu thereof "to which section 168 does not apply".

(26)(A) Subparagraph (E) of section 47(a)(5) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) TREATMENT AS RECOVERY PROPERTY.—Any reference in this paragraph to recovery property shall be treated as including a reference to any property to which section 168 (as amended by the Tax Reform Act of 1986) applies."

(B) Subparagraph (D) of section 47(a)(5) of the 1986 Code is amended by striking out the last sentence.

(C) Clause (iii) of section 47(a)(5)(E) of the 1986 Code is amended by striking out "section 168(c)" and inserting in lieu thereof "section 168(e)".

(27) Subparagraph (A) of section 47(a)(9) of the 1986 Code is amended by striking out "section 168(j)(4)(C)" and inserting in lieu thereof "section 168(h)(2)".

(28) Clause (i) of section 47(d)(3)(C) of the 1986 Code is amended—

(A) by striking out "present class life (as defined in section 168(g)(2))" and inserting in lieu thereof "class life (as defined in section 168(i)(1))", and

(B) by striking out "no present class life" and inserting in lieu thereof "no class life".

(29) Paragraph (1) of section 48(a) of the 1986 Code is amended by striking out "recovery property (within the meaning of section 168)" in the material following subparagraph (G) and inserting in lieu thereof "property to which section 168 applies".

(30) Subparagraph (C) of section 48(1)(2) of the 1986 Code is amended by striking out "which is recovery property (within the meaning of section 168)" and inserting in lieu thereof "to which section 168 applies".

(31) Subsection (d) of section 167 of the 1986 Code is amended by striking out "recovery property defined in section 168" and inserting in lieu thereof "property to which section 168 applies".

(b) Amendments Related to Section 202 of the Reform Act.—

(1) Paragraph (3) of section 179(b) of the 1986 Code is amended to read as follows:

"(3) Limitation based on income from trade or business.—

"(A) In general.—The amount allowed as a deduction under subsection (a) for any taxable year (determined after the application of paragraphs (1) and (2)) shall not exceed the aggregate amount of taxable income of the taxpayer for such taxable year which is derived from the active conduct by the taxpayer of any trade or business during such taxable year.

"(B) Carryover of disallowed deduction.—The amount allowable as a deduction under subsection (a) for any taxable year shall be increased by the lesser of—

"(i) the aggregate amount disallowed under subparagraph (A) for all prior taxable years (to the extent not previously allowed as a deduction by reason of this subparagraph), or

"(ii) the excess (if any) of—

"(I) the limitation of paragraphs (1) and (2) (or if lesser, the aggregate amount of taxable income referred to in subparagraph (A)), over

"(II) the amount allowable as a deduction under subsection (a) for such taxable year without regard to this subparagraph.

"(C) Computation of taxable income.—For purposes of this paragraph, taxable income derived from the conduct of a trade or business shall be computed without regard to the deduction allowable under this section."

(2) Paragraph (1) of section 280F(d) of the 1986 Code is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a) and (b), and the limitation of paragraph (3) of this subsection,".

(c) Amendments Related to Section 203 of the Reform Act.—

(1) Subparagraph (B) of section 203(a)(1) of the Reform Act is amended by adding at the end thereof the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 would not apply by reason of section 168(f)(5) of such Code if such property were placed in service after December 31, 1986."

(2) Subsection (d) of section 203 of the Reform Act is amended—

(A) by striking out "the case of any taxable year" and inserting in lieu thereof "the case of any taxable year beginning before October 1, 1987", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

(3) Notwithstanding section 203 of the Reform Act, the amendments made by section 201 of the Reform Act shall apply to any real property which was acquired before January 1, 1987, and was converted on or after such date from personal use to a use for which depreciation is allowable.

(4) Paragraph (1) of section 203(b) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of this paragraph, all members of the same affiliated group of corporations (within the meaning of section 1504 of the Internal Revenue Code of 1986) filing a consolidated return shall be treated as one taxpayer."

(5) Paragraph (1) of section 203(c) of the Reform Act is amended by striking out "Subparagraph" and inserting in lieu thereof "Except as otherwise provided in this subsection or section 204, subparagraph".

(6) Clause (i) of section 203(b)(2)(C) of the Reform Act is amended by striking out "shall be the class life" and inserting in lieu thereof "applies shall be the class life".

(7) Paragraph (3) of section 203(b) of the Reform Act is amended—

(A) by inserting before the comma at the end of subparagraph (A) "(or would have met such requirements if placed in service by such person)", and

(B) by inserting ", or is leased to such person," before "not later than".

(8) Paragraph (2) of section 203(a) of the Reform Act is amended to read as follows:

"(2) Section 202.—

"(A) In general.—The amendments made by section 202 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

"(B) Special rule for fiscal years including January 1, 1987.—In the case of any taxable year (other than a calendar year) which includes January 1, 1987, for purposes of applying the amendments made by section 202 to property placed in service during such taxable year and after December 31, 1986—

"(i) the limitation of section 179(b)(1) of the Internal Revenue Code of 1986 (as amended by section 202) shall be reduced by the aggregate deduction under section 179 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for section 179 property placed in service during such taxable year and before January 1, 1987,

"(ii) the limitation of section 179(b)(2) of such Code (as so amended) shall be applied by taking into account the cost of all section 179 property placed in service during such taxable year, and

"(iii) the limitation of section 179(b)(3) of such Code shall be applied by taking into account the taxable income for the entire taxable year reduced by the amount of any deduction under section 179 of such Code for property placed in service during such taxable year and before January 1, 1987."

(d) Amendments Related to Section 204 of the Reform Act.—

(1) Subparagraph (B) of section 204(a)(1) of the Reform Act is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) described in subparagraph (F) or (H)."

(2) Subparagraph (C) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1994' for 'January 1, 1991' each place it appears."

(3) Subparagraph (E) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1998' for 'January 1, 1991' each place it appears."

(4) Subparagraph (F) of section 204(a)(1) of the Reform Act is amended—

(A) by striking out "paragraph" and inserting in lieu thereof "subparagraph",

(B) by striking out ", or" at the end of clause (iii) and inserting in lieu thereof a period, and

(C) by striking out so much of clause (iv) as precedes subclause (I) thereof and inserting in lieu thereof the following:

"A project is also described in this subparagraph if it is a mixed-use development which is—".

(5) The last sentence of section 204(a)(1)(F) of the Reform Act is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "section 203(b)(2)", and

(B) by striking out "1993" and inserting in lieu thereof "1998".

(6) Subparagraph (H) of section 204(a)(1) of the Reform Act is amended by striking out "July 1, 1986" and inserting in lieu thereof "June 30, 1986".

(7)(A) Paragraph (4) of section 204(a) of the Reform Act is amended to read as follows:

"(4) Property treated under prior tax acts.—The amendments made by section 201 shall not apply—

"(A) to property described in section 12(c)(2) (as amended by the Technical Corrections Act of 1988), 31(g)(5), or 31(g)(17)(J) of the Tax Reform Act of 1984,

"(B) to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984, and

"(C) to property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982."

(B) Paragraph (2) of section 12(c) of the Tax Reform Act of 1984 is amended by striking out "which is placed in service before January 1, 1988".

(8) Subparagraph (K) of section 204(a)(5) of the Reform Act is amended—

(A) by striking out "either" in the matter preceding clause (i),

(B) by striking out "super calendar" in clause (i) and inserting in lieu thereof "supercalendered",

(C) by striking out "were incurred" in clause (i) and inserting in lieu thereof "was incurred", and

(D) by inserting "the project" before "involves" in clause (v).

(9) Paragraph (5) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A project is described in this subparagraph if—

"(i) such project involves a fiber optic network of at least 475 miles, passing through Minnesota and Wisconsin; and

"(ii) before January 1, 1986, at least $15,000,000 was expended or committed for electronic equipment or fiber optic cable to be used in constructing the network."

(10)(A) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) a bond volume carryforward election was made for the facility and the facility is for Chattanooga, Knoxville, or Kingsport, Tennessee, or

"(E) such facility is to serve Haverhill, Massachusetts."

(B) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out ", and section 203(c),".

(11) Paragraph (10) of section 204(a) of the Reform Act is amended—

(A) by striking out "either" in the material preceding subparagraph (A),

(B) by striking out "wastewater treatment facility" in subparagraph (C) and inserting in lieu thereof "wastewater treatment facility serving Greenville, South Carolina", and

(C) by striking out "the letter of intent and service agreement described in subparagraph (A)(2) of this paragraph" in subparagraph (D) and inserting in lieu thereof "such letter of intent and service agreement".

(12) Paragraph (11) of section 204(a) of the Reform Act is amended—

(A) by striking out "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and inserting in lieu thereof "the United States",

(B) by striking out "the purchase" in subparagraph (C) and inserting in lieu thereof "the purchaser", and

(C) by striking out the last sentence.

(13) Paragraph (14) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by inserting after subparagraph (E) the following:

"(F) the project has a planned scheduled capacity of approximately 38,000 kilowatts, the project property is placed in service before January 1, 1991, and the project is operated, established, or constructed pursuant to certain agreements, the negotiation of which began before 1986, with public or municipal utilities conducting business in Massachusetts, or

"(G) the Board of Regents of Oklahoma State University took official action on July 25, 1986, with respect to the project.

In the case of the project described in subparagraph (F), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1991' for 'January 1, 1989'."

(14) Paragraph (15) of section 204(a) of the Reform Act is amended—

(A) by adding "located in New Mexico" after "to a project",

(B) by striking out "$72,000" and inserting in lieu thereof "$72,000,000", and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this paragraph, section 203(b)(2) shall be applied by substituting 'January 1, 1996' for 'January 1, 1991' each place it appears."

(15) Paragraph (24) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(E) The amendments made by section 201 shall not apply to the Muskegon, Michigan, Cross-Lake Ferry project having a projected cost of approximately $7,200,000.

"(F) The amendments made by section 201 shall not apply to a new automobile carrier vessel, the contract price for which is no greater than $28,000,000, and which will be constructed for and placed in service by OSG Car Carriers, Inc., to transport, under the United States flag and with an American crew, foreign automobiles to North America in a case where negotiations for such transportation arrangements commenced in 1985, and definitive transportation contracts were awarded before June 1986."

(16) Paragraph (25) of section 204(a) of the Reform Act is amended by striking out "wood energy products" and inserting in lieu thereof "wood energy projects".

(17) Paragraph (27) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "$400,000,000" and inserting in lieu thereof "$500,000,000", and

(ii) by striking out "letter of intent" and inserting in lieu thereof "memorandum of terms",

(B) in subparagraph (B), by striking out "525,000" and inserting in lieu thereof "540,000",

(C) in subparagraph (C)—

(i) by striking out "$32,000,000" and inserting in lieu thereof "$22,000,000", and

(ii) by striking out "before" and inserting in lieu thereof "on",

(D) in subparagraph (D), by striking out "and 7th Avenue", and

(E) in subparagraph (H), by striking out "$62,000" and inserting in lieu thereof "$62,600,000".

(18) Paragraph (27) of section 204(a) of the Reform Act is amended by adding at the end thereof the following:

"(I) A 600,000 square foot mixed use building known as Flushing Center with respect to which a letter of intent was executed on March 26, 1986.

In the case of the building described in subparagraph (I), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1993' for the applicable date which would otherwise apply."

(19) Paragraph (31) of section 204(a) of the Reform Act is amended by striking out "$10,200,000" and inserting in lieu thereof "$10,500,000".

(20) Paragraph (32) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "July 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "February 28, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on June 17, 1985" and inserting in lieu thereof "in May 1985",

(B) in subparagraph (B)—

(i) by striking out "August 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "May 4, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on July 3, 1985" and inserting in lieu thereof "in July 1985",

(C) in subparagraph (E)—

(i) by striking out "$2,200,000" and inserting in lieu thereof "$5,000,000",

(ii) by striking out "on January 27, 1986" and inserting "in 1986", and

(iii) by inserting "in Masontown, Pennsylvania," after "plant",

(D) by amending subparagraph (K) to read as follows:

"(K) A 250 megawatt coal-fired electric plant in northeastern Nevada estimated to cost $600,000,000 and known as the Thousand Springs project, on which the Sierra Pacific Power Company, a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate (and section 203(b)(2) shall be applied with respect to such plant by substituting 'January 1, 1995' for 'January 1, 1991'),",

(E) in subparagraph (L), by inserting "in connection with" after "housing",

(F) by amending subparagraph (M) to read as follows:

"(M) property which is part of the Kenosha Downtown Redevelopment Project and which is financed with the proceeds of bonds issued pursuant to section 1317(6)(W),",

(G) in subparagraph (O), by striking out "New Orleans, Louisiana" and inserting in lieu thereof "Pensacola, Florida", and

(H) in subparagraph (S)—

(i) by inserting "to be" before "placed",

(ii) by inserting "Coal" before "Company",

(iii) by inserting "(or any subsidiary thereof)" after "Company", and

(iv) by striking out "on December 31, 1985" and inserting in lieu thereof "by December 31, 1985".

(21) Subparagraph (T) of section 204(a)(32) of the Reform Act is amended to read as follows:

"(T) a portion of a fiber optics network placed in service by LDX NET after December 31, 1988, but only to the extent the cost of such portion does not exceed $25,000,000,".

(22) Subparagraph (U) of section 204(a)(32) of the Reform Act is amended by striking out "placed in service" and inserting in lieu thereof "constructed".

(23) Subparagraph (X) of section 204(a)(32) of the Reform Act is amended by striking out "the home rule city and the State housing finance agency adopted inducement resolutions on December 20, 1985" and inserting in lieu thereof "the home rule city on December 4, 1985, and the State housing finance agency on December 20, 1985, adopted inducement resolutions".

(24) Subparagraph (C) of paragraph (33) of section 204(a) of the Reform Act is amended to read as follows:

"(C)(i) a waste-to-energy project in Derry, New Hampshire, costing approximately $60,000,000, and

"(ii) a waste-to-energy project in Manchester, New Hampshire, costing approximately $60,000,000,".

(25) Paragraph (33) of section 204(a) of the Reform Act is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by inserting after subparagraph (K) the following:

"(L) a cogeneration facility to be built at a paper company in Turners Falls, Massachusetts, with respect to which a letter of intent was executed on behalf of the paper company on September 26, 1985."

(26) Subsection (a) of section 204 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(34) The amendments made by section 201 shall not apply to an approximately 240,000 square foot beverage container manufacturing plant located in Batesville, Mississippi, or plant equipment used exclusively on the plant premises if—

"(A) a 2-year supply contract was signed by the taxpayer and a customer on November 1, 1985,

"(B) such contract further obligated the customer to purchase beverage containers for an additional 5-year period if physical signs of construction of the plant are present before September 1986,

"(C) ground clearing for such plant began before August 1986, and

"(D) construction is completed, the equipment is installed, and operations are commenced before July 1, 1987.

"(35) The amendments made by section 201 shall not apply to any property which is part of the multifamily housing at the Columbia Point Project in Boston, Massachusetts. A project shall be treated as not described in the preceding sentence and as not described in section 252(f)(1)(D) unless such project includes a nonprofit community health center—

(A) which receives funds under section 330 of the Public Health Service Act (42 U.S.C. 254(c)),

(B) which covers at least 12,000 (but not more than 18,000) square feet, and

(C) which is granted a lease for a period not ending before the close of the 20th year after the project is placed in service and the rent under which per square foot cannot exceed the average rent per square foot payable for rent-restricted units in the project.

"(36) The amendments made by section 201 shall not apply to any ethanol facility located in Blair, Nebraska, if—

"(A) in July of 1984 an initial binding construction contract was entered into for such facility,

"(B) in June of 1986, certain Department of Energy recommended contract changes required a change of contractor, and

"(C) in September of 1986, a new contract to construct such facility, consistent with such recommended changes, was entered into.

"(37) The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if, prior to January 1, 1986, the City of Conyers, Georgia, selected a privatizer to construct such facility, received a guaranteed maximum price bid for the construction of such facility, signed a letter of intent and began substantial negotiations of a service agreement with respect to such facility.

"(38) The amendments made by section 201 shall not apply to—

"(A) a $28,000,000 wood resource complex for which construction was authorized by the Board of Directors on August 9, 1985,

"(B) an electrical cogeneration plant in Bethel, Maine which is to generate 2 megawatts of electricity from the burning of wood residues, with respect to which a contract was entered into on July 10, 1984, and with respect to which $200,000 of the expected $2,000,000 cost had been committed before June 15, 1986,

"(C) a mixed income housing project in Portland, Maine which is known as the Back Bay Tower and which is expected to cost $17,300,000,

"(D) the Eastman Place project and office building in Rochester, New York, which is projected to cost $20,000,000, with respect to which an inducement resolution was adopted in December 1986, and for which a binding contract of $500,000 was entered into on April 30, 1986,

"(E) the Marquis Two project in Atlanta, Georgia which has a total budget of $72,000,000 and the construction phase of which began under a contract entered into on March 26, 1986,

"(F) a 166-unit continuing care retirement center in New Orleans, Louisiana, the construction contract for which was signed on February 12, 1986, and is for a maximum amount not to exceed $8,500,000,

"(G) the expansion of the capacity of an oil refining facility in Rosemont, Minnesota from 137,000 to 207,000 barrels per day which is expected to be completed by December 31, 1990, and

"(H) a project in Ransom, Pennsylvania which will burn coal waste (known as 'culm') with an approximate cost of $64,000,000 and for which a certification from the Federal Energy Regulatory Commission was received on March 11, 1986.

"(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina."

(27) Subsection (b) of section 204 of the Reform Act is amended by inserting "(as amended by the Tax Reform Act of 1984)" immediately before the period at the end thereof.

(28) Subparagraph (A) of section 204(c)(1) of the Reform Act is amended by inserting "located in Pennsylvania and" before "constructed pursuant".

(29) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by striking out "for the applicable date" and inserting in lieu thereof "(or, in the case of a project described in subparagraph (B), by substituting 'April 1, 1992') for the applicable date",

(B) by striking out "before April 1, 1986" in subparagraph (A) and inserting in lieu thereof "on or before April 1, 1986", and

(C) by adding at the end thereof the following:

"In the case of an aircraft described in subparagraph (A), section 203(b)(1)(A) shall be applied by substituting 'April 1, 1986' for 'March 1, 1986' and section 49(e)(1)(B) of the Internal Revenue Code of 1986 shall not apply."

(30)(A) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that precedes subparagraph (L) and inserting in lieu thereof the following:

"(4) The amendments made by section 201 shall not apply to a limited amount of the following property or a limited amount of property set forth in a submission before September 16, 1986, by the following taxpayers:

"(A) Arena project, Michigan, but only with respect to $78,000,000 of investments.

"(B) Campbell Soup Company, Pennsylvania, California, North Carolina, Ohio, Maryland, Florida, Nebraska, Michigan, South Carolina, Texas, New Jersey, and Delaware, but only with respect to $9,329,000 of regular investment tax credits.

"(C) The Southeast Overtown/Park West development, Florida, but only with respect to $9,000,000 of investments.

"(D) Equipment placed in service and operated by Leggett and Platt before July 1, 1987, but only with respect to $2,000,000 of regular investment tax credits, and subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to such equipment.

"(E) East Bank Housing Project.

"(F) $1,561,215 of investments by Standard Telephone Company.

"(G) Five aircraft placed in service before January 1, 1987, by Presidential Air.

"(H) A rehabilitation project by Ann Arbor Railroad, but only with respect to $2,900,000 of investments.

"(I) Property that is part of a cogeneration project located in Ada, Michigan, but only with respect to $30,000,000 of investments.

"(J) Anchor Store Project, Michigan, but only with respect to $21,000,000 of investments.

"(K) A waste-fired electrical generating facility of Biogen Power, but only with respect to $34,000,000 of investments."

(B) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that follows subparagraph (L) and inserting in lieu thereof the following:

"(M) Interests of Samuel A. Hardage (whether owned individually or in partnership form).

"(N) Two aircraft of Mesa Airlines with an aggregate cost of $5,723,484.

"(O) Yarn-spinning equipment used at Spray Cotton Mills, but only with respect to $3,000,000 of investments.

"(P) 328 units of low-income housing at Angelus Plaza, but only with respect to $20,500,000 of investments.

"(Q) One aircraft of Continental Aviation Services with a cost of approximately $15,000,000 that was purchased pursuant to a contract entered into during March of 1983 and that is placed in service by December 31, 1988."

(31) Paragraph (29) of section 204(a) of the Reform Act is amended—

(A) by striking out "January 18" in subparagraph (A) and inserting in lieu thereof "January 25", and

(B) by striking out "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and inserting in lieu thereof "a law suit filed on October 25, 1985".

(32) Subparagraph (J) of section 204(a)(33) of the Reform Act, as amended by paragraph (25), is amended to read as follows:

"(J) A 25.85 megawatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986,".

(33) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by inserting "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(34) Subclause (II) of section 204(a)(5)(J)(ii) of the Reform Act is amended to read as follows:

"(II) the Board of Directors of an automobile manufacturer approved a written plan for the conversion of existing facilities to produce new models of a vehicle not currently produced in the United States, such facilities will be placed in service by July 1, 1987, and such Board action occurred in July 1985 with respect to a $602,000,000 expenditure, a $438,000,000 expenditure, and a $321,000,000 expenditure."

(35) Subparagraph (T) of section 204(a)(5) of the Reform Act is amended to read as follows:

"(T) A project is described in this subparagraph if it is a plant facility on Alaska's North Slope which is placed in service before January 1, 1988, and—

"(i) the approximate cost of which is $675,000,000, of which approximately $400,000,000 was spent on off-site construction, *"(ii) the approximate cost of which is $445,000,000, of which approximately $400,000,000 was spent on off-site construction and more than 50 percent of the project cost was spent prior to December 31, 1985, or*

"(iii) the approximate cost of which is $375,000,000, of which approximately $260,000,000 was spent on off-site construction."

(e) AMENDMENTS RELATING TO SECTION 211 OF THE REFORM ACT.—

(1) Paragraph (1) of section 49(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of periods after December 31, 1985, with respect to so much of the credit determined under section 46(a) with respect to transition property as is attributable to the regular investment credit (as defined in subsection (c)(5)(B))—

"(A) paragraphs (1), (2), and (7) of section 48(q) and section 48(d)(5) shall be applied by substituting '100 percent' for '50 percent' each place it appears, and

"(B) sections 48(q)(4) and 196(d) shall not apply."

(2) Subparagraph (B) of section 49(c)(4) of the 1986 Code is amended to read as follows:

"(B) NO CARRYBACK FOR YEARS STRADDLING JULY 1, 1987; GROSS UP OF CARRYFORWARDS.—In any case to which paragraph (3) applies—

"(i) the amount of the reduction under paragraph (3) may not be carried back to any taxable year, but

"(ii) there shall be added to the carryforwards from the taxable year (before applying paragraph (2)) an amount equal to the amount which bears the same ratio to the carryforwards from such taxable year (determined without regard to this clause) as—

"(I) the applicable percentage, bears to

"(II) 1 minus the applicable percentage."

(3) Clause (i) of section 49(c)(5)(B) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—The term 'regular investment credit' means the credit determined under section 46(a) to the extent attributable to the regular percentage."

(4) Paragraph (1) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new sentence: "Section 49(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to taxable years ending after June 30, 1987, and to amounts carried to such taxable years."

(5) Paragraph (4)(A) of section 211(e) of the Reform Act is amended—

(A) by striking out "Paragraphs (c) and (d) of section 49 of the Internal Revenue Code of 1954" and inserting in lieu thereof "Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986", and

(B) by striking out "1935" and inserting in lieu thereof "1985".

(6) Paragraph (4)(B) of section 211(e) of the Reform Act is amended by striking out "shall be treated as transition property" and inserting in lieu thereof "shall be treated as transition property and subsections (c) and (d) of section 49 of such Code shall not apply to such property".

(7) Paragraph (4) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(C) Any solid waste disposal facility which will process and incinerate solid waste of one or more public or private entities including Dakota County, Minnesota, and with respect to which a bond carryforward from 1985 was elected in an amount equal to $12,500,000 shall be treated as transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986.

"(D) For purposes of section 49 of such Code, the following property shall be treated as transition property:

"(i) 2 catamarans built by a shipbuilder incorporated in the State of Washington in 1964, the contracts for which were signed on April 22, 1986 and November 12, 1985, and 1 barge built by such shipbuilder the contract for which was signed on August 7, 1985.

"(ii) 2 large passenger ocean-going United States flag cruise ships with a passenger rated capacity of up to 250 which are built by the shipbuilder described in clause (i), which are the first such ships built in the United States since 1952, and which were designed at the request of a Pacific Coast cruise line pursuant to a contract entered into in October 1985. This clause shall apply only to that portion of the cost of each ship which does not exceed $40,000,000.

"(iii) Property placed in service during 1986 by Satellite Industries, Inc., with headquarters in Minneapolis, Minnesota, to the extent that the cost of such property does not exceed $1,950,000.

"(E) Subsections (c) and (d) of section 49 of such Code shall not apply to property described in section 204(a)(4) of this Act."

(8)(A) Subsection (d) of section 38 is amended to read as follows:

"(d) ORDERING RULES.—For purposes of sections 46(f), 47(a), 196(a), and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under any section referred to in subsection (b) are used in a taxable year or as a carryback or carryforward—

"(1) IN GENERAL.—The order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b) as of the close of the taxable year in which the credit is used.

"(2) COMPONENTS OF INVESTMENT CREDIT.—The order in which credits attributable to a percentage referred to in section 46(a) are used shall be determined on the basis of the order in which such percentages are listed in section 46(a) as of the close of the taxable year in which the credit is used.

"(3) CREDITS NO LONGER LISTED.—For purposes of this subsection—

"(A) the credit allowable by section 40, as in effect on the day before the date of the enactment of the Tax Reform Act of 1984, (relating to expenses of work incentive programs) and the credit allowable by section 41(a), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, (relating to employee stock ownership credit) shall be treated as referred to in that order after the last paragraph of subsection (b), and

"(B) the employee plan percentage (as defined in section 46(a)(2)(E), as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as referred to after section 46(a)(2)."

(B) Subparagraph (C) of section 49(c)(5) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(f) AMENDMENTS RELATED TO SECTION 212 OF THE REFORM ACT.—

(1) Paragraph (2) of section 212(f) of the Reform Act is amended by striking out so much of such paragraph as precedes subparagraph (A) and insert in lieu thereof the following:

"(2) SPECIAL RULE.—In the case of the LTV Corporation, in lieu of the requirements of paragraph (1)—".

(2) Subclause (I) of section 212(f)(2)(B)(i) of the Reform Act is amended by striking out "such involvement begins" and inserting in lieu thereof "when the corporation receives the refund".

(3) Subsection (g) of section 212 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR RESTRUCTURING.—In the case of any corporation, any restructuring shall not limit, increase, or otherwise affect the benefits which would have been available under this section but for such restructuring."

(4) Section 212 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(h) TENTATIVE REFUNDS.—Rules similar to the rules of section 6425 of the Internal Revenue Code of 1986 shall apply to any overpayment resulting from the application of this section."

(5) Subparagraph (B) of section 212(g)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(6) Paragraph (2) of section 212(f) of the Reform Act is amended by adding at the end thereof the following new sentence:

"In the case of the corporation referred to in the preceding sentence, no offset to any refund under this section may be made by reason of any tax imposed by section 4971 of the Internal Revenue Code of 1986 (or any interest or penalty attributable to any such tax), and the date on which any such refund is to be paid shall be determined without regard to such corporation's status under title 11, United States Code."

(g) AMENDMENT RELATED TO SECTION 213 OF THE REFORM ACT.—Subparagraph (B) of section 213(e)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(h) AMENDMENTS RELATED TO SECTION 231 OF THE REFORM ACT.—

(1) Subsection (g) of section 41 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the amount determined under subsection (a) for any taxable year exceeds the limitation of the preceding sentence, such amount may be carried to other taxable years under the rules of section 39; except that the limitation of the preceding sentence shall be taken into account in lieu of the limitation of section 38(c) in applying section 39."

(2) Subsection (c) of section 6411 of the 1986 Code is amended by striking out "unused research credit,".

(3) Section 936(h)(5)(C)(i)(IV)(c) of the 1986 Code is amended—

(A) by striking out "section 30" and inserting in lieu thereof "section 41", and

(B) by striking out "section 30(f)" and inserting in lieu thereof "section 41(f)".

(i) AMENDMENT RELATED TO SECTIONS 241 AND 242 OF THE REFORM ACT.—Section 167 of the 1986 Code is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) CERTAIN PROPERTY NOT TREATED AS DEPRECIABLE.—

"(1) IN GENERAL.—No depreciation deduction shall be allowable under this section (and no depreciation or amortization deduction shall be allowable under any other provision of this subtitle) with respect to—

"(A) any trademark or trade name expenditure, or

"(B) any railroad grading or tunnel bore.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) TRADEMARK OR TRADE NAME EXPENDITURE.—The term 'trademark or trade name expenditure' means any expenditure which is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name.

"(B) RAILROAD GRADING OR TUNNEL BORES.—The term 'railroad grading or tunnel bore' means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track."

(j) AMENDMENTS RELATED TO SECTION 243 OF THE REFORM ACT.—

(1) Section 243 of the Reform Act (related to deduction of bus and freight forwarder operating authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) APPLICATION OF SECTION 334(b)(2).—For purposes of subsections (a) and (b), the reference to section 334(b)(2) in section 266(c)(2)(A)(ii) of the Economic Recovery Tax Act of 1981 shall be a reference to such section as in effect before its repeal."

(2) The heading of subparagraph (A) of section 243(b)(2) of the Reform Act is amended by striking out "TO BEGIN IN 1987".

(k) AMENDMENTS RELATED TO SECTION 251 OF THE REFORM ACT.—

(1) Paragraph (2)(B) of section 251(d) of the Reform Act is amended by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(2) Subparagraph (P) of section 251(d)(3) of the Reform Act is amended by striking out "San Francisco" and inserting in lieu thereof "San Jose, California".

(3) Paragraph (4) of section 251(d) of the Reform Act is amended—

(A) by striking out "Lakeland marbel Arcade" in subparagraph (K) and inserting in lieu thereof "Marble Arcade office building",

(B) by striking out "and" at the end of subparagraph (Y), and

(C) by striking out subparagraph (Z) and inserting in lieu thereof the following:

"(Z) the Bigelow-Hartford Carpet Mill in Enfield, Connecticut,

"(AA) properties abutting 125th street in New York County from 7th Avenue west to Morningside and the pier area on the Hudson River at the end of such 125th Street,

"(BB) the Bristol Carpet Mill project rehabilitating 2 buildings for approximately 156 apartment units and accompanying commercial and office use,

"(CC) the City of Los Angeles Central Library project pursuant to an agreement dated December 28, 1983,

"(DD) the Warehouse Row project in Chattanooga, Tennessee,

"(EE) any project described in section 204(a)(1)(F) of this Act,

"(FF) the Wood Street Commons project in Pittsburgh, Pennsylvania,

"(GG) the John Fitch Court in Windsor, Connecticut,

"(HH) any project described in section 803(d)(6) of this Act,

"(II) Union Station, Indianapolis, Indiana,

"(JJ) the Mattress Factory project in Pittsburgh, Pennsylvania,

"(KK) Union Station in Providence, Rhode Island,

"(LL) South Pack Plaza, Asheville, North Carolina,

"(MM) Old Louisville Trust Project, Louisville, Kentucky,

"(NN) Stewarts Rehabilitation Project, Louisville, Kentucky,

"(OO) Bernheim Officenter, Louisville, Kentucky,

"(PP) Springville Mill Project, Rockville, Connecticut, and

"(QQ) the D.J. Stewart Company Building, State and Main Streets, Rockford, Illinois."

(4) Subsection (d) of section 251 of the Reform Act is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) EXPENSING OF REHABILITATION EXPENSES FOR THE FRANKFORD ARSENAL.—In the case of any expenditures paid or incurred in connection with improvements (including repairs and maintenance) of the Frankford Arsenal pursuant to a contract and partnership agreement during the 8-year period specified in the contract or agreement, all such expenditures to be made during the period 1986 through and including 1993 shall—

"(A) be treated as made (and allowable as a deduction) during 1986,

"(B) be treated as qualified rehabilitation expenditures made during 1986, and

"(C) be allocated in accordance with the partnership agreement regardless of when the interest in the partnership was acquired, except that—

"(i) if the taxpayer is not the original holder of such interest, no person (other than the taxpayer) had claimed any benefits by reason of this paragraph,

"(ii) no interest under section 6611 of the 1986 Code on any refund of income taxes which is solely attributable to this paragraph shall be paid for the period—

"(I) beginning on the date which is 45 days after the later of April 15, 1987, or the date on which the return for such taxes was filed, and

"(II) ending on the date the taxpayer acquired the interest in the partnership, and

"(iii) if the expenditures to be made under this provision are not paid or incurred before January 1, 1994, then the tax imposed by chapter 1 of such Code for the taxpayer's last taxable year beginning in 1993 shall be increased by the amount of the tax benefits by reason of this paragraph which are attributable to the expenditures not so paid or incurred.

"(7) SPECIAL RULE.—In the case of the rehabilitation of the Willard Hotel in Washington, D.C., section 205(c)(1)(B)(ii) of the Tax Equity and Fiscal Responsibility Act of 1982 shall be applied by substituting '1987' for '1986'."

(5) Subparagraph (B) of section 251(d)(3) of the Reform Act is amended by striking out "Pontabla" and inserting in lieu thereof "Pontalba".

(6) Subparagraph (T) of section 251(d)(4) of the Reform Act is amended by striking out "Louisville" and inserting in lieu thereof "Covington".

(l) AMENDMENTS RELATED TO SECTION 252 OF THE REFORM ACT.—

(1)(A) Subparagraph (A) of section 42(b)(2) of the 1986 Code is amended by striking out "for the month" and all that follows and inserting in lieu thereof "for the earlier of—

"(i) the month in which such building is placed in service, or

"(ii) at the election of the taxpayer—

"(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

"(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable."

(B) Clause (ii) of section 42(b)(2)(C) of the 1986 Code is amended by striking out "the month in which the building was placed in service" and inserting in lieu thereof "the month applicable under clause (i) or (ii) of subparagraph (A)".

(2)(A) Subparagraph (A) of section 42(c)(2) of the 1986 Code (defining qualified low-income building) is amended to read as follows:

"(A) which is part of a qualified low-income housing project at all times during the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and

"(ii) ending on the last day of the compliance period with respect to such building, and".

(B) Paragraph (1) of section 42(f) of the 1986 Code (defining credit period) is amended by striking out "beginning with" and all that follows and inserting in lieu thereof "beginning with—

"(A) the taxable year in which the building is placed in service, or

"(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable."

(3) Clause (ii) of section 42(d)(2)(D) of the 1986 Code is amended to read as follows:

"(ii) SPECIAL RULES FOR CERTAIN TRANSFERS.—For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

"(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

"(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

"(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation, or

"(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold *within 12 months after the date such building is placed in service by such person after such foreclosure."*

(4) Paragraph (3) of section 42(d) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE BASIS REDUCED WHERE DISPROPORTIONATE STANDARDS FOR UNITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

"(B) EXCEPTION WHERE TAXPAYER ELECTS TO EXCLUDE EXCESS COSTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

"(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

"(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

"(ii) EXCESS.—The excess described in this clause with respect to any unit is the excess of—

"(I) the cost of such unit, over

"(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs."

(5) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by inserting before the period "(increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II))".

(6)(A) Paragraph (5) of section 42(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELIGIBLE BASIS NOT TO INCLUDE EXPENDITURES WHERE 167(k) ELECTED.—The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k)."

(B) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(7) Subparagraph (A) of section 42(d)(6) of the 1986 Code is amended by inserting "or" at the end of clause (i), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period, and by striking out clause (iii).

(8) Clause (ii) of section 42(d)(6)(B) of the 1986 Code (defining federally assisted building) is amended by striking out "of 1934".

(9)(A) Paragraph (3) of section 42(f) of the 1986 Code is amended to read as follows:

"(3) DETERMINATION OF APPLICABLE PERCENTAGE WITH RESPECT TO INCREASES IN QUALIFIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if—

"(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

"(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to ⅔ of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

"(B) 1ST YEAR COMPUTATION APPLIES.—A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase."

(B) Paragraph (3) of section 42(b) of the 1986 Code is amended to read as follows:

"(3) CROSS REFERENCES.—

"(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

"(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

"(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(6)."

(10) Subparagraph (B) of section 42(g)(2) of the 1986 Code (defining gross rent) is amended by striking out "Federal rental assistance" and inserting in lieu thereof "rental assistance".

(11) Paragraph (2) of section 42(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

"(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

"(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

"(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

"(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made."

(12) Paragraph (3) of section 42(g) of the 1986 Code is amended to read as follows:

"(3) DATE FOR MEETING REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 12-month period beginning on the date the building is placed in service.

"(B) BUILDINGS WHICH RELY ON LATER BUILDINGS FOR QUALIFICATION.—

"(i) IN GENERAL.—In determining whether a building (hereinafter in this subparagraph referred to as the 'prior building') is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

"(ii) TREATMENT OF ELECTED BUILDINGS.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

"(iii) DATE PRIOR BUILDING IS TREATED AS PLACED IN SERVICE.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

"(C) SPECIAL RULE.—A building—

"(i) other than the 1st building placed in service as part of a project, and

"(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service."

(13) Paragraph (4) of section 42(g) of the 1986 Code is amended by inserting before the period "; except that, in applying such provisions (other than section 142(d)(4)(B)(iii)) for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection".

(14)(A) Paragraph (1) of section 42(h) of the 1986 Code is amended to read as follows:

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—

"(A) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

"(B) TIME FOR MAKING ALLOCATION.—Except in the case of an allocation which meets the requirements of subparagraph (C) or (D), an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

"(C) EXCEPTION WHERE BINDING COMMITMENT.—An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

"(D) EXCEPTION WHERE INCREASE IN QUALIFIED BASIS.—

"(i) IN GENERAL.—An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

"(ii) LIMITATION.—The limitation under this clause is the amount of credit allowable under this section (without regard to this

subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

"(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

"(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

"(iii) HOUSING CREDIT DOLLAR AMOUNT REDUCED BY FULL ALLOCATION.—Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2)."

(B) Clause (ii) of section 42(h)(6)(B) of the 1986 Code is hereby repealed.

(15) Subparagraph (A) of section 42(h)(4) of the 1986 Code is amended by striking out "financed" and all that follows and inserting in lieu thereof "financed by any obligation the interest on which is exempt from tax under section 103 if—

"(i) such obligation is taken into account under section 146, and

"(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing."

(16) Paragraph (5) of section 42(h) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (ii), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence."

(17)(A) Subparagraph (B) of section 42(h)(6) of the 1986 Code is amended by adding after clause (i) the following new clause:

"(ii) CARRYFORWARD WHERE SECRETARY DETERMINES UNFORESEEN DELAY IN PLACING BUILDING IN SERVICE.—A housing credit dollar amount which was allocated to a building for a calendar year after 1987 may be carried forward to the succeeding calendar year for such building if—

"(I) it was reasonable to believe that such building would be placed in service during the earlier calendar year but was not solely because of unforeseen conditions which, as determined by the Secretary, were not within the control of the taxpayer, and

"(II) such building is placed in service during such succeeding calendar year."

(B) Clause (i) of section 42(h)(6)(B) of the 1986 Code is amended by striking out "The portion" and inserting in lieu thereof "Except as provided in clause (ii), the portion".

(18) Subparagraph (D) of section 42(h)(6) of the 1986 Code is amended to read as follows:

"(D) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO PLACED IN SERVICE CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the housing credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

"(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

"(II) subsection (f)(3)(A) were applied without regard to 'the percentage equal to ⅔ of'."

(19) Paragraph (6) of section 42(h) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) HOUSING CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM QUALIFIED BASIS.—In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection."

(20)(A) Subparagraph (A) of section 42(i)(2) of the 1986 Code is amended—

(i) by inserting "or any prior taxable year" after "such taxable year",

(ii) by striking out "there is outstanding" and inserting in lieu thereof "there is or was outstanding", and

(iii) by striking out "are used" and inserting in lieu thereof "are or were used".

(B) Subparagraph (B) of section 42(i)(2) of the 1986 Code is amended to read as follows:

"(B) ELECTION TO REDUCE ELIGIBLE BASIS BY BALANCE OF LOAN OR PROCEEDS OF OBLIGATIONS.—A loan or tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d)—

"(i) in the case of a loan, the principal amount of such loan, and

"(ii) in the case of a tax-exempt obligation, the proceeds of such obligation."

(C) Paragraph (2) of section 42(i) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR SUBSIDIZED CONSTRUCTION FINANCING.—Subparagraph (A) shall not apply to any tax-exempt obligation or below market Federal loan used to provide construction financing for any building if—

"(i) such obligation or loan (when issued or made) identified the building for which the proceeds of such obligation or loan would be used, and

"(ii) such obligation is redeemed, and such loan is repaid, before such building is placed in service."

(D) Subparagraph (D) of section 42(i)(2) of the 1986 Code is amended by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph".

(21) Paragraph (4) of section 42(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) NO RECAPTURE WHERE DE MINIMIS CHANGES IN FLOOR SPACE.—The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if—

"(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1), and

"(ii) the building is a qualified low-income building after such change."

(22) Clause (i) of section 42(j)(5)(B) of the 1986 Code is amended to read as follows:

"(i) more than ½ the capital interests, and more than ½ the profit interests, in which are owned by a group of 35 or more partners each of whom is a natural person or an estate, and".

(23) Paragraph (6) of section 42(j) of the 1986 Code is amended—

(A) by inserting "(OR INTEREST THEREIN)" after "BUILDING" in the heading, and

(B) by inserting "or an interest therein" after "disposition of a building" in the text.

(24) Subparagraph (B) of section 42(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

(25)(A) Subsection (l) of section 42 of the 1986 Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor."

(B) The subsection heading of subsection (l) of section 42 is amended to read as follows:

"(l) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—".

(26) Paragraph (1) of section 42(n) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", and, except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989".

(27) Subsection (d) of section 39 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF LOW-INCOME HOUSING CREDIT BEFORE 1987.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 42 (relating to low-income housing credit) may be carried back

to a taxable year ending before January 1, 1987."

(28) Paragraph (1) of section 55(c) of the 1986 Code (defining regular tax) is amended by striking out "section 42(j)" and inserting in lieu thereof "subsection (j) or (k) of section 42".

(29) Subparagraph (A) of section 252(f)(1) of the Reform Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma, and by inserting after clause (ii) the following new clauses:

"(iii) the eligible basis of such building shall be treated, for purposes of section 42(h)(4)(A) of such Code, as if it were financed by an obligation the interest on which is exempt from tax under section 103 of such Code and which is taken into account under section 146 of such Code, and

"(iv) the amendments made by section 803 shall not apply."

(30) Subparagraph (E) of section 252(f)(1) of the Reform Act is amended by striking out "maximum annual additional credit" and inserting in lieu thereof "maximum present value of additional credits".

(31) Subparagraph (E) of section 252(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building."

(32) Subsection (f) of section 252 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE.—In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana—

"(A) the amendments made by this section shall not apply, and

"(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150."

(33) Subsection (g) of section 42 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

"(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

"(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted."

(m) AMENDMENTS RELATED TO SECTION 261 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 7518(g)(6) of the 1986 Code, is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

(2) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 172(d)(4) of the 1986 Code is amended by striking out ", (2)(B),".

(2) Paragraph (1) of section 3402(m) of the 1986 Code is amended by striking out "section 62) (other than paragraph (13) thereof)" and inserting in lieu thereof "section 62(a) (other than paragraph (10) thereof))".

(b) AMENDMENTS RELATED TO SECTION 302 OF THE REFORM ACT.—

(1) Section 302 of the Reform Act is amended by striking out subsection (c).

(2)(A) Paragraph (2) of section 904(b) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) IN GENERAL.—Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

"(B) SPECIAL RULES WHERE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of any taxable year for which there is a capital gain rate differential—

"(i) in lieu of applying subparagraph (A), the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

"(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

"(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain."

(B) Paragraph (3) of section 904(b) of the 1986 Code is amended by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year if—

"(i) in the case of a taxpayer other than a corporation, subsection (j) of section 1 applies to such taxable year, or

"(ii) in the case of a corporation, any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)).

"(E) RATE DIFFERENTIAL PORTION.—

"(i) IN GENERAL.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as—

"(I) the excess of the highest applicable tax rate over the alternative tax rate, bears to

"(II) the highest applicable tax rate.

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) of section 1 (whichever applies), or

"(II) in the case of a corporation, the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the alternative rate of tax determined under section 1(j), or

"(II) in the case of a corporation, the alternative rate of tax under section 1201(a)."

(3) Effective for taxable years beginning after December 31, 1987, paragraph (1) of section 1445(e) of the 1986 Code is amended by striking out "34 percent" and inserting in lieu thereof "34 percent (or, to the extent provided in regulations, 28 percent)".

(c) AMENDMENTS RELATED TO SECTION 311 OF THE REFORM ACT.—

(1) Subsection (a) of section 1201 of the 1986 Code is amended by striking out "831(a)" and inserting in lieu thereof "831 (a) or (b)".

(2) Subsection (c) of section 311 of the Reform Act is amended by inserting before the period at the end thereof the following: "; except that the amendment made by subsection (b)(4) shall apply to payments made after December 31, 1986".

(3) Subparagraph (D) of section 593(b)(2) of the 1986 Code is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year, by excluding from gross income the rate differential portion (within the meaning of section 904(b)(3)(E)) of the lesser of—

"(I) the net long-term capital gain for the taxable year, or

"(II) the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii)."

(d) AMENDMENT RELATED TO SECTION 321 OF THE REFORM ACT.—

(1)(A) Subsection (b) of section 422A of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term shall not include any option if (as of the time the option is granted) the terms of such option provide that it will not be treated as an incentive stock option."

(B) In the case of an option granted after December 31, 1986, and on or before the date of the enactment of this Act, such option shall not be treated as an incentive stock option if the terms of such option are amended before the date 90 days after such date of enactment to provide that such option will not be treated as an incentive stock option.

(2)(A) Section 422A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) $100,000 PER YEAR LIMITATION.—

"(1) IN GENERAL.—To the extent that the aggregate fair market value of stock with respect to which incentive stock options (determined without regard to this subsection) are exercisable for the 1st time by any individual during any calendar year (under all plans of the individual's employer corporation and its parent and subsidiary corporations) exceeds $100,000, such options shall

be treated as options which are not incentive stock options.

"(2) ORDERING RULE.—Paragraph (1) shall be applied by taking options into account in the order in which they were granted.

"(3) DETERMINATION OF FAIR MARKET VALUE.—For purposes of paragraph (1), the fair market value of any stock shall be determined as of the time the option with respect to such stock is granted."

(B) Subsection (b) of section 422A of the 1986 Code is amended by adding "and" at the end of paragraph (5), by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period, and by striking out paragraph (7).

(C) Paragraph (1) of section 422A(c) of the 1986 Code is amended by striking out "paragraph (7) of subsection (b)" and inserting in lieu thereof "subsection (d)".

SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 405 OF THE REFORM ACT.—

(1) Paragraph (1) of section 108(a) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or" and by adding at the end thereof the following new subparagraph:

"(C) the indebtedness discharged is qualified farm indebtedness."

(2) Paragraph (2) of section 108(a) of the 1986 Code is amended to read as follows:

"(2) COORDINATION OF EXCLUSIONS.—

"(A) TITLE 11 EXCLUSION TAKES PRECEDENCE.—Subparagraphs (B) and (C) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION.—Subparagraph (C) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (b) of section 108 of the 1986 Code is amended—

(A) by striking out "subparagraph (A) or (B)" in paragraph (1) and inserting in lieu thereof "subparagraph (A), (B), or (C)", and

(B) by striking out "IN TITLE 11 CASE OR INSOLVENCY" in the subsection heading.

(4) Subsection (g) of section 108 of the 1986 Code is amended to read as follows:

"(g) SPECIAL RULES FOR DISCHARGE OF QUALIFIED FARM INDEBTEDNESS.—

"(1) DISCHARGE MUST BE BY QUALIFIED PERSON.—

"(A) IN GENERAL.—Subparagraph (C) of subsection (a)(1) shall apply only if the discharge is by a qualified person.

"(B) QUALIFIED PERSON.—For purposes of subparagraph (A), the term 'qualified person' has the meaning given to such term by section 46(c)(8)(D)(iv); except that such term shall include any Federal, State, or local government or agency or instrumentality thereof.

"(2) QUALIFIED FARM INDEBTEDNESS.—For purposes of this section, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

"(B) 50 percent or more of the aggregate gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) AMOUNT EXCLUDED CANNOT EXCEED SUM OF TAX ATTRIBUTES AND BUSINESS AND INVESTMENT ASSETS.—

"(A) IN GENERAL.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the sum of—

"(i) the adjusted tax attributes of the taxpayer, and

"(ii) the aggregate adjusted bases of qualified property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

"(B) ADJUSTED TAX ATTRIBUTES.—For purposes of subparagraph (A), the term 'adjusted tax attributes' means the sum of the tax attributes described in subparagraphs (A), (B), (C), and (E) of subsection (b)(2) determined by taking into account $3 for each $1 of the attributes described in subparagraphs (B) and (E) of subsection (b)(2).

"(C) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' means any property which is used or is held for use in a trade or business or for the production of income.

"(D) COORDINATION WITH INSOLVENCY EXCLUSION.—For purposes of this paragraph, the adjusted basis of any qualified property and the amount of the adjusted tax attributes shall be determined after any reduction under subsection (b) by reason of amounts excluded from gross income under subsection (a)(1)(B)."

(5) Paragraph (4) of section 1017(b) of the 1986 Code is amended to read as follows:

"(4) SPECIAL RULES FOR QUALIFIED FARM INDEBTEDNESS.—

"(A) IN GENERAL.—Any amount which under subsection (b)(2)(D) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

"(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

"(ii) shall be applied to reduce the basis of qualified property in the following order:

"(I) First the basis of qualified property which is depreciable property.

"(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

"(III) Then the basis of other qualified property.

"(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' has the meaning given to such term by section 108(g)(3)(C).

"(C) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraph (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g)."

(6)(A) Paragraphs (6) and (7) of section 108(d) of the 1986 Code are each amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a), (b), and (g)".

(B) The subsection heading for section 108(d) of the 1986 Code is amended by striking out "SUBSECTIONS (a), AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(C) The headings for paragraphs (6) and (7)(A) of section 108(d) of the 1986 Code are each amended by striking out "SUBSECTIONS (a) AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(b) AMENDMENT RELATED TO SECTION 406 OF THE REFORM ACT.—Section 406 of the Reform Act is amended—

(1) by inserting "before October 1, 1987," after "from the sale", and

(2) by striking out "to the extent such gain" and all that follows down through the period at the end thereof and inserting in lieu thereof "to the extent such gain is properly taken into account under the taxpayer's method of accounting during 1987.".

(c) AMENDMENT RELATED TO SECTION 413 OF THE REFORM ACT.—Subsection (a) of section 1254 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENT FOR AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 617(b)(1)(A).—The amount of the expenditures referred to in paragraph (1)(A)(i) shall be properly adjusted for amounts included in gross income under section 617(b)(1)(A)."

SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF THE REFORM ACT.—

(1) Clause (ii) of section 469(e)(1)(A) of the 1986 Code (relating to certain income not treated as income from passive activity) is amended by inserting "not derived in the ordinary course of a trade or business which is" after "gain or loss".

(2)(A) Subparagraph (A) of section 469(g)(1) of the 1986 Code (relating to disposition of interests in passive activities in fully taxable transactions) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) the sum of—

"(I) any loss from such activity for such taxable year (determined after application of subsection (b)), plus

"(II) any loss realized on such disposition, over

"(ii) net income or gain for such taxable year from all passive activities (determined without regard to losses described in clause (i)),

shall be treated as a loss which is not from a passive activity."

(B) Subparagraph (C) of section 469(g)(1) of the 1986 Code is amended to read as follows:

"(C) INCOME FROM PRIOR YEARS.—To the extent provided in regulations, income or gain from the activity for preceding taxable years shall be taken into account under subparagraph (A)(ii) for the taxable year to the extent necessary to prevent the avoidance of this section."

(3) Subparagraph (A) of section 469(g)(2) of the 1986 Code is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "such losses" the first place it appears and inserting in lieu thereof "losses described in paragraph (1)(A)".

(4) Section 469(g)(3) of the 1986 Code is amended—

(A) by striking out "realized (or to be realized)" and inserting in lieu thereof "(realized or to be realized", and

(B) by inserting a closing parenthesis after "completed".

(5) Paragraph (4) of section 469(h) of the 1986 Code (relating to certain closely held C corporations and personal service corporations) is amended by inserting "only" before "if".

(6) Paragraph (1) of section 469(i) of the 1986 Code (relating to $25,000 offset for rental real estate activities) is amended by striking out "in the taxable year in which such portion of such loss or credit arose" and inserting in lieu thereof "in such taxable year (and if any portion of such loss or credit arose in another taxable year, in such other taxable year)".

(7) Subparagraph (C) of section 469(i)(6) of the 1986 Code (relating to interest as a limited partner) is amended by striking out "No" and inserting in lieu thereof "Except as provided in regulations, no".

(8) Subparagraph (A) of section 469(j)(6) of the 1986 Code (relating to special rule for gifts) is amended by inserting "with respect to which a deduction has not been allowed by reason of subsection (a)" before ", and".

(9) Section 469(j) of the 1986 Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(10) COORDINATION WITH SECTION 280A.—If a passive activity involves the use of a dwelling unit to which section 280A(c)(5) applies for any taxable year, any income, deduction, gain, or loss allocable to such use shall not be taken into account for purposes of this section for such taxable year.

"(11) AGGREGATION OF MEMBERS OF AFFILIATED GROUPS.—Except as provided in regulations, all members of an affiliated group which files a consolidated return shall be treated as 1 corporation."

(10) Section 501(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) INCOME FROM SALES OF PASSIVE ACTIVITIES IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987.—If—

"(A) gain is recognized in a taxable year beginning after December 31, 1986, from a sale or exchange of an interest in an activity in a taxable year beginning before January 1, 1987, and

"(B) such gain would have been treated as gain from a passive activity had section 469 of the Internal Revenue Code of 1986 (as added by this section) been in effect for the taxable year in which the sale or exchange occurred and for all succeeding taxable years,

then such gain shall be treated as gain from a passive activity for purposes of such section."

(11) Subsection (j) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(12) SPECIAL RULE FOR DISTRIBUTIONS BY ESTATES OR TRUSTS.—If any interest in a passive activity is distributed by an estate or trust—

"(A) the basis of such interest immediately before such distribution shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year."

(12) Subsection (m) of section 469 of the 1986 Code, as redesignated by section 10211 of the Revenue Act of 1987, is amended by striking all that precedes subparagraph (B) of paragraph (3) thereof and inserting in lieu thereof the following:

"(m) PHASE-IN OF DISALLOWANCE OF LOSSES AND CREDITS FOR INTEREST HELD BEFORE DATE OF ENACTMENT.—

"(1) IN GENERAL.—In the case of any passive activity loss or passive activity credit for any taxable year beginning in calendar years 1987 through 1990, subsection (a) shall not apply to the applicable percentage of that portion of such loss (or such credit) which is attributable to pre-enactment interests.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	*The applicable percentage is:*
1987	*65*
1988	*40*
1989	*20*
1990	*10.*

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-ENACTMENT INTERESTS.—For purposes of this subsection—

"(A) IN GENERAL.—The portion of the passive activity loss (or passive activity credit) for any taxable year which is attributable to preenactment interests is the lesser of—

"(i) the amount of the passive activity loss (or passive activity credit) which is disallowed for the taxable year under subsection (a) (without regard to this subsection), or

"(ii) the amount of the passive activity loss (or passive activity credit) which would be disallowed for the taxable year (without regard to this subsection and without regard to any amount allocable to an activity for the taxable year under subsection (b)) taking into account only pre-enactment interests."

(b) AMENDMENTS RELATED TO SECTION 502 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 502(d)(1) of the Reform Act (defining qualified investor) is amended to read as follows:

"(A) if—

"(i) in the case of a project placed in service on or before August 16, 1986, such person held an interest in such project on August 16, 1986, and such person made his initial investment after December 31, 1983, or

"(ii) in the case of a project placed in service after August 16, 1986, such person made his initial investment after December 31, 1983, and such person held an interest in such project on December 31, 1986, and".

(2) Subsection (d) of section 502 of the Reform Act (defining qualified investor) is amended by adding after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—In the case of any property which is held by a partnership—

"(A) which placed such property in service on or after December 31, 1985, and before August 17, 1986, and continuously held such property through the close of the taxable year for which the determination is being made, and

"(B) which was not treated as a new partnership or as terminated at any time on or after the date on which such property was placed in service and through the close of the taxable year for which the determination is being made,

paragraph (1)(A)(i) shall be applied by substituting 'December 31, 1988' for 'August 16, 1986' the 2nd place it appears."

(3) The subsection (d) of section 502 of the Reform Act which relates to special rules is redesignated as subsection (e).

(c) AMENDMENTS RELATED TO SECTION 511 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 163(d)(3) of the 1986 Code (defining investment interest) is amended by striking out "incurred or continued to purchase or carry" and inserting in lieu thereof "properly allocable to".

(2) Subparagraph (B) of section 163(d)(4) of the 1986 Code is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income (other than gain taken into account under clause (ii)) from property held for investment, and

"(ii) any net gain attributable to the disposition of property held for investment."

(3) Subparagraph (A) of section 163(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—The amount of interest paid or accrued during any such taxable year which is disallowed under this subsection shall not exceed the sum of—

"(i) the amount which would be disallowed under this subsection if—

"(I) paragraph (1) were applied by substituting 'the sum of the ceiling amount and the net investment income' for 'the net investment income', and

"(II) paragraphs (4)(E) and (5)(A)(ii) did not apply, and

"(ii) the applicable percentage of the excess of—

"(I) the amount which (without regard to this paragraph) is not allowable as a deduction under this subsection for the taxable year, over

"(II) the amount described in clause (i).

The preceding sentence shall not apply to any interest treated as paid or accrued during the taxable year under paragraph (2)."

(4) Subparagraph (A) of section 163(h)(2) of the 1986 Code is amended by striking out "incurred or continued in connection with the conduct of" and inserting in lieu thereof "properly allocable to".

(5) Subparagraph (C) of section 163(h)(3) of the 1986 Code (defining qualified residence interest) is amended to read as follows:

"(C) COST NOT LESS THAN BALANCE OF INDEBTEDNESS INCURRED ON OR BEFORE AUGUST 16, 1986.—

"(i) IN GENERAL.—The amount under subparagraph (B)(ii)(I) at any time after August 16, 1986, shall not be less than the outstanding principal amount (as of such time) of indebtedness—

"(I) which was incurred on or before August 16, 1986, and which was secured by the qualified residence on August 16, 1986, or

"(II) which is secured by the qualified residence and was incurred after August 16, 1986, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(ii) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (i) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (i)(I), or

"(II) if the principal of the indebtedness described in clause (i)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such refinancing)."

(6)(A) The heading for section 163(h)(5) of the 1986 Code is amended to read as follows:

"(5) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—".

(B) Paragraph (5) of section 163(h) of the 1986 Code is amended—

(i) by striking out "For purposes of this subsection—" in subparagraph (A), and

(ii) by striking out "For purposes of this paragraph, any" in subparagraph (B) and inserting in lieu thereof "Any".

(7) Clause (iii) of section 163(h)(5)(A) of the 1986 Code is amended by striking out "USED OR" in the heading thereof and by striking out "or use".

(8) Section 163(h)(5) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(C) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(D) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust."

(9) Paragraph (6) of section 163(h) of the 1986 Code is amended by striking out "subsection" the 3rd place it appears and inserting in lieu thereof "paragraph".

(10) Paragraph (2)(A) of section 511(d) of the Reform Act is amended to read as follows:

"(2)(A) Sections 467(c)(5) and 1255(b)(2) are each amended by striking out '163(d),'."

(11) If—

(A) any amount was disallowed as a deduction under section 163(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Reform Act),

(B) such amount would (but for this paragraph) be treated as investment interest paid or accrued by the taxpayer in the taxpayer's first taxable year beginning after December 31, 1986, and

(C) the taxpayer makes an election under this paragraph at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe,

to the extent such amount is attributable to an activity subject to the limitations of section 469 of the 1986 Code, such amount shall not be treated as investment interest but shall be treated as a deduction allocable to such activity for such first taxable year. Subsection (m) of section 469 of the 1986 Code and section 501(c)(2) of the Reform Act shall not apply to any amount so treated.

(12) Subparagraph (E) of section 163(h)(2) of the 1986 Code is amended by inserting before the period "or under section 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981)".

(13) For purposes of applying the amendments made by this subsection and the amendments made by section 10102 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(14)(A) For purposes of applying section 163(h) of the 1986 Code to any taxable year beginning during 1987, if, incident to a divorce or legal separation—

(i) an individual acquires the interest of a spouse or former spouse in a qualified residence in a transfer to which section 1041 of the 1986 Code applies, and

(ii) such individual incurs indebtedness which is secured by such qualified residence,

the amount determined under paragraph (3)(B)(ii)(I) of section 163(h) of the 1986 Code (as in effect before the amendments made by the Revenue Act of 1987) with respect to such qualified residence shall be increased by the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph shall be equal to the excess (if any) of—

(i) the lesser of the amount of the indebtedness described in subparagraph (A)(ii), or the fair market value of the spouse's or former spouse's interest in the qualified residence as of the time of the transfer, over

(ii) the basis of the spouse or former spouse in such interest in such residence (adjusted only by the cost of any improvements to such residence).

(15) Clause (i) of section 7872(d)(1)(E) of the 1986 Code is amended by striking out "section 163(d)(3)" and inserting in lieu thereof "section 163(d)(4)".

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 601 OF THE REFORM ACT.—Section 15 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REFERENCES TO HIGHEST RATE.—If the change referred to in subsection (a) involves a change in the highest rate of tax imposed by section 1 or 11(b), any reference in this chapter to such highest rate (other than in a provision imposing a tax by reference to such rate) shall be treated as a reference to the weighted average of the highest rates before and after the change determined on the basis of the respective portions of the taxable year before the date of the change and on or after the date of the change."

(b) AMENDMENTS RELATED TO SECTIONS 611 AND 612 OF THE REFORM ACT.—

(1) In the case of dividends received or accrued during 1987—

(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting "80 percent" for the percentage specified therein, and

(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting "$^{100}/_{80}$ths" for the fraction specified therein.

(2) Paragraph (3) of section 854(b) of the 1986 Code is amended to read as follows:

"(3) AGGREGATE DIVIDENDS.—For purposes of this subsection—

"(A) IN GENERAL.—In computing the amount of aggregate dividends received, there shall only be taken into account dividends received from domestic corporations.

"(B) DIVIDENDS.—For purposes of subparagraph (A), the term 'dividend' shall not include any distribution from—

"(i) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(ii) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(C) LIMITATIONS ON DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—In determining the amount of any dividend for purposes of this paragraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(c) AMENDMENTS RELATED TO SECTION 614 OF THE REFORM ACT.—

(1) Section 1059(d) of the 1986 Code (relating to extension to certain property distributions) is amended by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Section 1059(d)(5) of the 1986 Code (defining dividend announcement date), as redesignated by paragraph (1), is amended by inserting "amount or" before "payment".

(3) Section 1059(d)(6) of the 1986 Code (relating to exception where stock held during entire existence of corporation), as redesignated by paragraph (1), is amended to read as follows:

"(6) EXCEPTION WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any extraordinary dividend with respect to any share of stock of a corporation if—

"(i) such stock was held by the taxpayer during the entire period such corporation was in existence, and

"(ii) except as provided in regulations, no earnings and profits of such corporation were attributable to transfers of property from (or earnings and profits of) a corporation which is not a qualified corporation.

"(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term 'qualified corporation' means any corporation (including a predecessor corporation)—

"(i) with respect to which the taxpayer holds directly or indirectly during the entire period of such corporation's existence at least the same ownership interest as the taxpayer holds in the corporation distributing the extraordinary dividend, and

"(ii) which has no earnings and profits—

"(I) which were earned by, or

"(II) which are attributable to gain on property which accrued during a period the corporation holding the property was,

a corporation not described in clause (i).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply to any extraordinary dividend to the extent such application is inconsistent with the purposes of this section."

(4) Paragraph (1) of section 1059(e) of the 1986 Code (relating to treatment of partial liquidation) is amended by striking out "for purposes of this section (without regard to the holding period of the stock)" and inserting in lieu thereof: "to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock".

(5) Paragraph (2) of section 1059(e) of the 1986 Code (relating to qualifying dividends) is amended to read as follows:

"(2) QUALIFYING DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in regulations, the term 'extraordinary dividend' does not include any qualifying dividend (within the meaning of section 243).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any portion of a dividend which is attributable to earnings and profits which—

"(i) were earned by a corporation during a period it was not a member of the affiliated group, or

"(ii) are attributable to gain on property which accrued during a period the corporation holding the property was not a member of the affiliated group."

(6) Subparagraph (A) of section 1059(e)(3) of the 1986 Code (relating to qualified preferred dividends) is amended to read as follows:

"(A) IN GENERAL.—In the case of 1 or more qualified preferred dividends with respect to any share of stock—

"(i) this section shall not apply to such dividends if the taxpayer holds such stock for more than 5 years, and

"(ii) if the taxpayer disposes of such stock before it has been held for more than 5 years, the aggregate reduction under subsection (a)(1) with respect to such dividends shall not be greater than the excess (if any) of—

"(I) the qualified preferred dividends paid with respect to such stock during the period the taxpayer held such stock, over

"(II) the qualified preferred dividends which would have been paid during such period on the basis of the stated rate of return."

(7) Clause (i) of section 1059(e)(3)(C) of the 1986 Code is amended—

(A) by striking out "any dividend payable" and inserting in lieu thereof "any fixed dividend payable", and

(B) by adding at the end thereof the following new sentence:

"Such term shall not include any dividend payable with respect to any share of stock if the actual rate of return on such stock exceeds 15 percent."

(8) Subparagraph (B) of section 1059(e)(3) of the 1986 Code is amended—

(A) by striking out "subparagraph (A)" and the material preceding clause (i) and inserting in lieu thereof "this paragraph", and

(B) by striking out "subparagraph (B)(i)(II)" in clause (ii) and inserting in lieu thereof "clause (i)(II)".

(9) Subsection (f) of section 1059 of the 1986 Code is amended by inserting before the period at the end thereof the following: "and in the case of stock held by pass-thru entities".

(d) AMENDMENTS RELATED TO SECTION 621 OF THE REFORM ACT.—

(1)(A) Section 382(e)(2) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTION" after "REDEMPTION" in the heading thereof.

(B) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTIONS" after "REDEMPTIONS" in the heading thereof.

(C) Section 382(m) of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(D) The amendments made by this paragraph shall apply with respect to ownership changes after June 10, 1987.

(2) Section 382(g)(4)(C) of the 1986 Code is amended by inserting "rules similar to" before "the rules".

(3)(A) Section 382(h)(1)(C) of the 1986 Code is amended to read as follows:

"(C) SPECIAL RULES FOR CERTAIN SECTION 338 GAINS.—If an election under section 338 is made in connection with an ownership change and the net unrealized built-in gain is zero by reason of paragraph (3)(B), then, with respect to such change, the section 382 limitation for the post-change year in which gain is recognized by reason of such election shall be increased by the lesser of—

"(i) the recognized built-in gains by reason of such election, or

"(ii) the net unrealized built-in gain (determined without regard to paragraph (3)(B))."

(B) Paragraph (5) of section 382(h) of the 1986 Code is amended by striking out "recognized built-in gains and losses" and inserting in lieu thereof "recognized built-in gains to the extent such gains increased the section 382 limitation for the year (or recognized built-in losses to the extent such losses are treated as pre-change losses)".

(4) Section 382(i)(3) of the 1986 Code is amended—

(A) by inserting "the earlier of" before "the 1st day", and

(B) by inserting "or the taxable year in which the transaction being tested occurs" after "1st post-change year".

(5)(A) Section 382(k)(1) of the 1986 Code is amended by inserting "or having a net operating loss for the taxable year in which the ownership change occurs" after "carryover".

(B) Section 382(k)(2) of the 1986 Code is amended to read as follows:

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation—

"(A) with respect to which there is an ownership change, and

"(B) which (before the ownership change) was a loss corporation."

(6) Section 382(l)(3)(A) of the 1986 Code is amended by striking out "and" at the end of clause (iii), and by striking out clause (iv) and inserting in lieu thereof the following new clauses:

"(iv) except to the extent provided in regulations, an option to acquire stock shall be treated as exercised if such exercise results in an ownership change, and

"(v) in attributing stock from an entity under paragraph (2) of section 318(a), there shall not be taken into account—

"(I) in the case of attribution from a corporation, stock which is not treated as stock for purposes of this section, or

"(II) in the case of attribution from another entity, an interest in such entity similar to stock described in subclause (I)."

(7) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "immediately after such ownership change" and inserting in lieu thereof "after such ownership change and as a result of being shareholders or creditors immediately before such change".

(8) Section 382(l)(5)(F) of the 1986 Code is amended—

(A) by inserting "'1504(a)(2)(B)' for '1504(a)(2)' and" after "substituting" in clause (i)(I), and

(B) by striking out "deposits described in subclause (II)" in clause (ii)(III) and inserting in lieu thereof "the amount of deposits in the new loss corporation immediately after the change".

(9) Paragraph (6) of section 382(l) of the 1986 Code is amended by striking out "shall be the value of the new loss corporation immediately after the ownership change" and inserting in lieu thereof "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditors' claims in the transaction".

(10) Section 382(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) PREDECESSOR AND SUCCESSOR ENTITIES.—Except as provided in regulations, any entity and any predecessor or successor entities of such entity shall be treated as 1 entity."

(11) Paragraph (1) of section 621(f) of the Reform Act is amended to read as follows:

"(1) AMENDMENTS MADE BY SUBSECTIONS (a), (b), and (c).—

"(A) IN GENERAL.—

"(i) CHANGES AFTER 1986.—The amendments made by subsections (a), (b), and (c) shall apply to any ownership change after December 31, 1986.

"(ii) PLANS OF REORGANIZATION ADOPTED BEFORE 1987.—For purposes of clause (i), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted.

"(B) TERMINATION OF OLD SECTION 382.—Except in a case described in any of the following paragraphs—

"(i) section 382(a) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a) and the amendments made by section 806 of the Tax Reform Act of 1976) shall not apply to any increase in percentage points occurring after December 31, 1988, and

"(ii) section 382(b) of such Code (as so in effect) shall not apply to any reorganization occurring pursuant to a plan of reorganization adopted after December 31, 1986.

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

"(C) COORDINATION WITH SECTION 382(i).—For purposes of section 382(i) of the Internal Revenue Code of 1986 (as added by this section), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted."

(12)(A) Section 621(f)(2)(C) of the Reform Act is amended by inserting "and reincorporated in Delaware in 1987," after "1924,".

(B) Clause (ii) of section 621(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 shall not apply to such debt restructuring, except that the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984 (relating to qualified workouts) shall apply to such debt restructuring."

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended by striking out "or reorganization".

(14) Section 621(f)(3) of the Reform Act is amended by striking out "after December 31, 1986".

(15) Paragraph (4) of section 621(f) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"Any regulations prescribed under section 382 of the Internal Revenue Code of 1986 (as added by subsection (a)) which have the effect of treating a group of shareholders as a separate 5-percent shareholder by reason of a public offering shall not apply to any public offering before January 1, 1989, for the benefit of institutions described in section 591 of such Code. Unless the corporation otherwise elects, an underwriter of any offering of stock in a corporation before September 19, 1986 (January 1, 1989, in the case of an offering for the benefit of an institution described in the preceding sentence), shall not be treated as acquiring any stock of such corporation by reason of a firm commitment underwriting to the extent the stock is disposed of pursuant to the offering (but in no event later than 60 days after the initial offering)."

(16) Subparagraph (A) of section 621(f)(7) of the Reform Act is amended by striking out "the parent corporation referred to in section 203(d)(13)(B)" and inserting in lieu thereof "a parent corporation incorporated in March 1980 under the laws of Delaware".

(17)(A) Subsection (e) of section 382 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF FOREIGN CORPORATIONS.—Except as otherwise provided in regulations, in determining the value of any old loss corporation which is a foreign corporation, there shall be taken into account only items treated as connected with the conduct of a trade or business in the United States."

(B) The amendment made by subparagraph (A) shall apply to any ownership change after June 10, 1987. For purposes of the preceding sentence, any equity structure shift pursuant to a plan of reorganization adopted on or before June 10, 1987, shall be treated as occurring when such plan was adopted.

(18) Subparagraph (C) of section 382(l)(5) of the 1986 Code is amended to read as follows:

"(C) REDUCTION OF TAX ATTRIBUTES WHERE DISCHARGE OF INDEBTEDNESS.—

"(i) IN GENERAL.—In any case to which subparagraph (A) applies, 50 percent of the amount which, but for the application of section 108(e)(10)(B), would have been applied to reduce tax attributes under section 108(b) shall be so applied.

"(ii) CLARIFICATION WITH SUBPARAGRAPH (B).—In applying clause (i), there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(19) Subparagraph (E) of section 382(l)(5) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(E) ONLY CERTAIN STOCK TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock transferred to a creditor shall be taken into account only to the extent such stock is transferred in satisfaction of indebtedness and only if such indebtedness—".

(20) Paragraph (4) of section 382(h) of the 1986 Code is amended—

(A) by inserting before the comma at the end of subparagraph (A) the following: "(or to the extent the amount so disallowed is attributable to capital losses, under rules similar to the rules for the carrying forward of net capital losses)", and

(B) by striking out "TREATED AS A NET OPERATING LOSS" in the paragraph heading and inserting in lieu thereof "ALLOWED AS A CARRYFORWARD".

(21) Paragraph (1) of section 382(g) of the 1986 Code is amended—

(A) by striking out "new loss corporation" and inserting in lieu thereof "loss corporation", and

(B) by striking out "old loss corporation" and inserting in lieu thereof "loss corporation".

(22) Paragraph (6) of section 382(h) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENTS.—The amount of the net unrealized built-in gain or loss shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph."

(23) Paragraph (9) of section 382(h) of the 1986 Code is amended by striking out "is transferred" and inserting in lieu thereof "was acquired (or is subsequently transferred)".

(24) Subsection (m) of section 382 of the 1986 Code (as amended by paragraph (1)) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(5) providing, in the case of any group of corporations described in section 1563(a) (determined by substituting '50 percent' for '80 percent' each place it appears and determined without regard to paragraph (4) thereof), appropriate adjustments to value, built-in gain or loss, and other items so that items are not omitted or taken into account more than once."

(25) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "stock of controlling corporation" and inserting in lieu thereof "stock of a controlling corporation".

(26) Clause (ii) of section 382(h)(3)(B) of the 1986 Code is amended by striking out "there shall not" and inserting in lieu thereof "except as provided in regulations, there shall not".

(27) Subparagraph (B) of section 382(1)(5) of the 1986 Code is amended by striking out "the net operating loss deduction under section 172(a) for any post-change year shall be determined" and inserting in lieu thereof "the pre-change losses and excess credits (within the meaning of section 383(a)(2)) which may be carried to a post-change year shall be computed".

(28)(A) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended by striking out "determinations under clause (i)" and inserting in lieu thereof "to the extent provided in regulations, determinations under clause (i)".

(B) The amendment made by subparagraph (A) shall apply in the case of ownership changes on or after June 21, 1988.

(29) Subclause (I) of section 382(1)(5)(F)(iii) of the 1986 Code is amended by striking out "section 368(a)(D)(ii)" and inserting in lieu thereof "section 368(a)(3)(D)(ii)".

(e) AMENDMENTS RELATED TO SECTION 631 OF THE REFORM ACT.—

(1) Clause (ii) of section 336(d)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) CERTAIN ACQUISITIONS TREATED AS PART OF PLAN.—For purposes of clause (i), any property described in clause (i)(I) acquired by the liquidated corporation after the date 2 years before the date of the adoption of the plan of complete liquidation shall, except as provided in regulations, be treated as acquired as part of a plan described in clause (i)(II)."

(2) Paragraph (3) of section 336(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any distribution to the 80-percent distributee only if subsection (a) or (b)(1) of section 337 applies to such distribution."

(3) Subsection (e) of section 336 of the 1986 Code is amended by striking out "such corporation may elect" and inserting in lieu thereof "an election may be made".

(4) Subparagraph (B) of section 337(b)(2) of the 1986 Code is amended—

(A) by striking out "or 511(b)(2)" in clause (i),

(B) by striking out "in an unrelated trade or business (as defined in section 513)" in clause (i) and inserting in lieu thereof "in an activity the income from which is subject to tax under section 511(a)", and

(C) by striking out "an unrelated trade or business of such organization" in clause (ii) and inserting in lieu thereof "an activity referred to in clause (i)".

(5) Subsection (d) of section 337 of the 1986 Code is amended—

(A) by striking out "made to this subpart by the Tax Reform Act of 1986" and inserting in lieu thereof "made by subtitle D of title VI of the Tax Reform Act of 1986", and

(B) by inserting "or through the use of a regulated investment company, real estate investment trust, or tax-exempt entity" after "subchapter)" in paragraph (1).

(6) Subsection (b) of section 334 of the 1986 Code is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332(a) applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that, in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution.

"(2) CORPORATE DISTRIBUTEE.—For purposes of this subsection, the term 'corporate distributee' means only the corporation which meets the stock ownership requirements specified in section 332(b)."

(7)(A) Subparagraph (B) of section 453(h)(1) of the 1986 Code is amended by striking out "to one person" and inserting in lieu thereof "to 1 person in 1 transaction".

(B) Subparagraph (E) of section 453(h)(1) of the 1986 Code is amended by striking out "section 368(c)(1)" and inserting in lieu thereof "section 368(c)".

(8)(A) Part VII of subchapter C of chapter 1 of the 1986 Code is hereby repealed.

(B) Subsection (b) of section 311 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF PARTNERSHIP OR TRUST INTERESTS.—If the property distributed consists of an interest in a partnership or trust, the Secretary may by regulations provide that the amount of the gain recognized under paragraph (1) shall be computed without regard to any loss attributable to property contributed to the partnership or trust for the principal purpose of recognizing such loss on the distribution."

(C) The table of parts for subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to part VII.

(9) Paragraph (1) of section 267(a) of the 1986 Code is amended—

(A) by striking out "(other than a loss in case of a distribution in corporate liquidation)", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any loss of the distributing corporation (or the distributee) in the case of a distribution in complete liquidation."

(10) Paragraph (1) of section 301(b) of the 1986 Code is amended to read as follows:

"(1) GENERAL RULE.—For purposes of this section, the amount of any distribution shall be the amount of money received, plus the fair market value of the other property received."

(11) Subsection (d) of section 301 of the 1986 Code is amended to read as follows:

"(d) Basis.—The basis of property received in a distribution to which subsection (a) applies shall be the fair market value of such property."

(12) Section 301 of the 1986 Code is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(13)(A) Subsection (a) of section 367 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Paragraphs (2) and (3) not to apply to certain section 361 transactions.—Paragraphs (2) and (3) shall not apply in the case of an exchange described in section 361. Subject to such basis adjustments and such other conditions as shall be provided in regulations, the preceding sentence shall not apply if the transferor corporation is controlled (within the meaning of section 368(c)) by 5 or fewer domestic corporations. For purposes of the preceding sentence, all members of the same affiliated group (within the meaning of section 1504) shall be treated as 1 corporation."

(B) The amendment made by subparagraph (A) shall apply to exchanges on or after June 11, 1987.

(C) Section 367(e)(2) of the 1986 Code (as amended by the Reform Act) shall not apply in the case of any corporation completely liquidated before June 10, 1987, into a corporation organized in a country which has an income tax treaty with the United States.

(14)(A) Subsection (d) of section 1248 of the 1986 Code is amended by striking out paragraph (2).

(B) Subparagraph (B) of section 1248(f)(1) of the 1986 Code is amended to read as follows:

"(B) such domestic corporation distributes stock of such foreign corporation in a distribution to which section 311(a), 337, or 361(c)(1) applies,".

(C) Paragraph (1) of section 1248(f) of the 1986 Code is amended by striking out "distribution, sale, or exchange" in the last sentence and inserting in lieu thereof "distribution".

(D) Subsection (f) of section 1248 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(E) The subsection heading for section 1248(f) of the 1986 Code is amended by striking out "Section 311, 336, or 337 Transactions" and inserting in lieu thereof "Nonrecognition Transactions".

(15) Paragraph (1) of section 995(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C) and the sentence following subparagraph (C).

(16) Subsection (d) of section 245 of the 1986 Code is hereby repealed.

(17) Paragraph (14) of section 1223 of the 1986 Code is amended to read as follows:

"(14) Cross reference.—

"For special holding period provision relating to certain partnership distributions, see section 735(b)."

(18) Clause (ii) of section 341(e)(1)(C) of the 1986 Code is amended—

(A) by striking out "sale or exchange" the first place it appears and inserting in lieu thereof "liquidating sale or exchange", and

(B) by striking out ", gain or loss on which was not recognized to such other corporation under section 337(a),".

(19) Subsection (l) of section 897 of the 1986 Code is hereby repealed.

(20) Paragraph (7) of section 338(h) of the 1986 Code is hereby repealed.

(21)(A) The heading of subsection (b) of section 336 of the 1986 Code is amended by striking out "in Excess of Basis".

(B) The heading of paragraph (2) of section 311(b) of the 1986 Code is amended by striking out "in Excess of Basis".

(22) Section 453B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) Certain Liquidating Distributions by S Corporations.—If—

"(1) an installment obligation is distributed by an S corporation in a complete liquidation, and

"(2) receipt of the obligation is not treated as payment for the stock by reason of section 453(h)(1),

then, except for purposes of any tax imposed by subchapter S, no gain or loss with respect to the distribution of the obligation shall be recognized by the distributing corporation. Under regulations prescribed by the Secretary, the character of the gain or loss to the shareholder shall be determined in accordance with the principles of section 1366(b)."

(f) Amendments Related to Section 632 of the Reform Act.—

(1) Subsection (a) of section 1374 of the 1986 Code is amended by striking out "a recognized built-in gain" and inserting in lieu thereof "a net recognized built-in gain".

(2) Subsection (b) of section 1374 of the 1986 Code is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In general.—The amount of the tax imposed by subsection (a) shall be computed by applying the highest rate of tax specified in section 11(b) to the net recognized built-in gain of the S corporation for the taxable year.

"(2) Net operating loss carryforwards from C years allowed.—Notwithstanding section 1371(b)(1), any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed for purposes of this section as a deduction against the net recognized built-in gain of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the amount of the net recognized built-in gain shall be treated as taxable income. Rules similar to the rules of the preceding sentences of this paragraph shall apply in the case of a capital loss carryforward arising in a taxable year for which the corporation was a C corporation."

(3) Subparagraph (B) of section 1374(b)(4) of the 1986 Code is amended to read as follows:

"(B) the amount of the net recognized built-in gain shall be treated as the taxable income."

(4) Paragraph (2) of section 1374(c) of the 1986 Code is amended by striking out "recognized built-in gains" each place it appears and inserting in lieu thereof "net recognized built-in gain".

(5)(A) Section 1374 of the 1986 Code is amended by striking out all that follows paragraph (1) of subsection (d) and inserting in lieu thereof the following:

"(2) Net recognized built-in gain.—The term 'net recognized built-in gain' means, with respect to any taxable year in the recognition period, the amount which would be the taxable income of the S corporation for such taxable year if (except as provided in subsection (b)(2)) only recognized built-in gains and recognized built-in losses were taken into account. If the S corporation is treated as an S corporation by reason of an election made before March 31, 1988, the net recognized built-in gain for any taxable year shall not exceed such corporation's taxable income for such taxable year (determined as provided in section 1375(b)(1)(B)).

"(3) Recognized built-in gain.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent that the S corporation establishes that—

"(A) such asset was not held by the S corporation as of the beginning of the 1st taxable year for which it was an S corporation, or

"(B) such gain exceeds the excess (if any) of—

"(i) the fair market value of such asset as of the beginning of such 1st taxable year, over

"(ii) the adjusted basis of the asset as of such time.

"(4) Recognized built-in losses.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset to the extent that the S corporation establishes that—

"(A) such asset was held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3), and

"(B) such loss does not exceed the excess of—

"(i) the adjusted basis of such asset as of the beginning of such 1st taxable year, over

"(ii) the fair market value of such asset as of such time.

"(5) Treatment of certain built-in items.—

"(A) Income items.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the 1st taxable year for which the corporation was an S corporation shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) Deduction items.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the 1st taxable year referred to in subparagraph (A) shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) Adjustment to net unrealized built-in gain.—The amount of the net unrealized built-in gain shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph.

"(6) Treatment of certain property.—If the adjusted basis of any asset is determined (in whole or in part) by reference to the adjusted basis of any other asset held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3)—

"(A) such asset shall be treated as held by the S corporation as of the beginning of such 1st taxable year, and

"(B) any determination under paragraph (3)(B) or (4)(B) with respect to such asset shall be made by reference to the fair market value and adjusted basis of such other asset as of the beginning of such 1st taxable year.

"(7) Recognition period.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable *year for which the corporation was an S corporation.*

"(8) Treatment of transfer of assets from C corporation to S corporation.—

"(A) In general.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any asset, and

"(ii) the S corporation's basis in such asset is determined (in whole or in part) by reference to the basis of such asset (or any other property) in the hands of a C corporation,

then a tax is hereby imposed on any net recognized built-in gain attributable to any such assets for any taxable year beginning in the recognition period. The amount of such tax shall be determined under the rules of this section as modified by subparagraph (B).

"(B) Modifications.—For purposes of this paragraph, the modifications of this subparagraph are as follows:

"(i) In general.—The preceding paragraphs of this subsection shall be applied by taking into account the day on which the assets were acquired by the S corporation in lieu of the beginning of the 1st taxable year for which the corporation was an S corporation.

"(ii) Subsection (c)(1) not to apply.—Subsection (c)(1) shall not apply.

"(9) Reference to 1st taxable year.—Any reference in this section to the 1st taxable year for which the corporation was an S corporation shall be treated as a reference to the 1st taxable year for which the corporation was an S corporation pursuant to its most recent election under section 1362.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the appropriate treatment of successor corporations."

(B) Subparagraph (B) of section 1375(b)(1) of the 1986 Code is amended to read as follows:

"(B) Limitation.—The amount of the excess net passive income for any taxable year shall not exceed the amount of the corporation's taxable income for such taxable year as determined under section 63(a)—

"(i) without regard to the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures), and

"(ii) without regard to the deduction under section 172."

(C) Subsection (b) of section 1375 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Coordination with section 1374.—Notwithstanding paragraph (3), the amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374."

(D) Subsection (c) of section 1375 of the 1986 Code is amended to read as follows:

"(c) Credits Not Allowable.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 34) against the tax imposed by subsection (a)."

(E) Paragraph (2) of section 1366(f) of the 1986 Code is amended by striking out "as defined in section 1374(d)(2)" and inserting in lieu thereof "within the meaning of section 1374".

(6) Paragraph (3) of section 1362(d) of the 1986 Code is amended—

(A) by striking out clause (v) of subparagraph (D), and

(B) by adding at the end thereof the following new subparagraph:

"(E) Special rule for options and commodity dealings.—

"(i) In general.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

"(ii) Definitions.—For purposes of this subparagraph—

"(I) Options dealer.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) Commodities dealer.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) Section 1256 contract.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b)."

(7) The subsection (d) of section 1363 of the 1986 Code which relates to distributions of appreciated property, and subsection (e) of section 1363 of the 1986 Code, are hereby repealed.

(g) Amendments Related to Section 633 of the Reform Act.—

(1) Subsection (b) of section 633 of the Reform Act is amended to read as follows:

"(b) Built-In Gains of S Corporations.—

"(1) In general.—The amendments made by section 632 (other than subsection (b) thereof) shall apply to taxable years beginning after December 31, 1986, but only in cases where the return for the taxable year is filed pursuant to an S election made after December 31, 1986.

"(2) Application of prior law.—In the case of any taxable year of an S corporation which begins after December 31, 1986, and to which the amendments made by section 632 (other than subsection (b) thereof) do not apply, paragraph (1) of section 1374(b) of the Internal Revenue Code of 1954 (as in effect on the date before the date of the enactment of this Act) shall be applied as if it read as follows:

" '(1) an amount equal to 34 percent of the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or' ".

(2) Subparagraph (B) of section 633(c)(1) of the Reform Act is amended by striking out "50 percent or more" and inserting in lieu thereof "more than 50 percent".

(3) Paragraph (1) of section 633(d) of the Reform Act is amended—

(A) by striking out "this section" and inserting in lieu thereof "this subtitle",

(B) by striking out "would be recognized and inserting in lieu thereof "would be recognized by the liquidating corporation", and

(C) by adding at the end thereof the following new sentence: "Section 333 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall continue to apply to any complete liquidation described in the preceding sentence.".

(4) Subparagraph (C) of section 633(d)(2) of the Reform Act is amended to read as follows:

"(C) any gain on an asset acquired by the qualified corporation if—

"(i) the basis of such asset in the hands of the qualified corporation is determined (in whole or in part) by reference to the basis of such asset in the hands of the person from whom acquired, and

"(ii) a principal purpose for the transfer of such asset to the qualified corporation was to secure the benefits of this subsection."

(5)(A) Subparagraph (A) of section 633(d)(5) of the Reform Act is amended by striking out "10 or fewer qualified persons" and inserting in lieu thereof "a qualified group".

(B) Paragraph (6) of section 633(d) of the Reform Act is amended to read as follows:

"(6) Definitions and special rules.—For purposes of this subsection—

"(A) Qualified group.—

"(i) In general.—Except as provided in clause (ii), the term 'qualified group' means any group of 10 or fewer qualified persons who at all times during the 5-year period ending on the date of the adoption of the plan of complete liquidation (or, if shorter, the period during which the corporation or any predecessor was in existence) owned (or was treated as owning under the rules of subparagraph (C)) more than 50 percent (by value) of the stock in such corporation.

"(ii) 5-year ownership requirement not to apply in certain cases.—In the case of—

"(I) any complete liquidation pursuant to a plan of liquidation adopted before March 31, 1988,

"(II) any distribution not in liquidation made before March 31, 1988,

"(III) an election to be an S corporation filed before March 31, 1988, or

"(IV) a transaction described in section 338 of the Internal Revenue Code of 1986 where the acquisition date (within the meaning of such section 338) is before March 31, 1988,

the term 'qualified group' means any group of 10 or fewer qualified persons.

"(B) Qualified person.—The term 'qualified person' means—

"(i) an individual,

"(ii) an estate, or

"(iii) any trust described in clause (ii) or clause (iii) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986.

"(C) Attribution rules.—

"(i) In general.—Any stock owned by a corporation, trust (other than a trust referred to in subparagraph (B)(iii), or partnership shall be treated as owned proportionately by its shareholders, beneficiaries, or partners, and shall not be treated as owned by such corporation, trust, or partnership. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(ii) Family members.—Stock owned (or treated as owned) by members of the same family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) shall be treated as owned by 1 person, and shall be treated as owned by such 1 person for any period during which it was owned (or treated as owned) by any such member.

"(iii) Treatment of certain trusts.—Stock owned (or treated as owned) by the estate of any decedent or by any trust referred to in subparagraph (B)(iii) with respect to such decedent shall be treated as owned by 1 person and shall be treated as owned by such 1 person for the period during which it

was owned (or treated as owned) by such estate or any such trust or by the decedent.

"(D) SPECIAL HOLDING PERIOD RULES.—Any property acquired by reason of the death of an individual shall be treated as owned at all times during which such property was owned (or treated as owned) by the decedent.

"(E) CONTROLLED GROUP OF CORPORATIONS.—All members of the same controlled group (as defined in section 267(f)(1) of such Code) shall be treated as 1 corporation for purposes of determining whether any of such corporations met the requirement of paragraph (5)(B) and for purposes of determining the applicable percentage with respect to any of such corporations. For purposes of the preceding sentence, an S corporation shall not be treated as a member of a controlled group unless such corporation was a C corporation for its taxable year which includes August 1, 1986, or it was not described for such taxable year in paragraph (1) or (2) of section 1374(c) of such Code (as in effect on the day before the date of the enactment of this Act)."

(6) Subsection (d) of section 633 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) APPLICATION TO NONLIQUIDATING DISTRIBUTIONS.—The provisions of this subsection shall also apply in the case of any distribution (not in complete liquidation) made by a qualified corporation before January 1, 1989, without regard to whether such corporation is completely liquidated."

(7) Paragraph (8) of the section 633(d) of the Reform Act is amended by striking out "becomes an S corporation for a taxable year beginning before January 1, 1989" and inserting in lieu thereof "makes an election to be an S corporation under section 1362 of such Code before January 1, 1989, without regard to whether such corporation is completely liquidated".

(8) Section 633 of the Reform Act is amended by redesignating the subsections following the first subsection (d) as subsections (e), (f), and (g), respectively.

(9) Subsection (f)(2) of section 633 of the Reform Act (as so redesignated) is amended by striking out "May 9, 1929" and inserting in lieu thereof "May 9, 1929 (or any direct or indirect subsidiary of such corporation)".

(10) Paragraph (3) of section 633(f) of the Reform Act (as so redesignated) is amended by striking out "of such Code)" in the last sentence thereof and inserting in lieu thereof "of such Code".

(11) Subclause (I) of section 633(f)(4)(A)(i) of the Reform Act (as so redesignated) is amended by striking out "binding on the selling corporation to sell substantially all its assets" and inserting in lieu thereof "to sell substantially all of the assets of a selling corporation organized under the laws of Massachusetts on October 20, 1976,".

(12) Subparagraph (A) of section 633(f)(5) of the Reform Act (as so redesignated) is amended to read as follows:

"(A) a voting trust established not later than December 31, 1987, shall qualify as a trust permitted as a shareholder of an S corporation and shall be treated as only 1 shareholder if the holders of beneficial interests in such voting trust are—

"(i) employees or retirees of such corporation, or

"(ii) in the case of stock or voting trust certificates acquired from an employee or retiree of such corporation, the spouse, child, or estate of such employee or retiree or a trust created by such employee or retiree which is described in section 1361(c)(2) of the Internal Revenue Code of 1986 (or treated as described in such section by reason of section 1361(d) of such Code), and".

(h) AMENDMENTS RELATED TO SECTION 641 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1060(b) of the 1986 Code is amended by striking out "the Secretary may find necessary" and inserting in lieu thereof "the Secretary deems necessary".

(2) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF CERTAIN PARTNERSHIP TRANSACTIONS.—In the case of a distribution of partnership property or a transfer of an interest in a partnership—

"(1) the rules of subsection (a) shall apply but only for purposes of determining the value of goodwill or going concern value (or similar items) for purposes of applying section 755, and

"(2) if section 755 applies, such distribution or transfer (as the case may be) shall be treated as an applicable asset acquisition for purposes of subsection (b)."

(3)(A) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions)."

(B) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6721."

(i) AMENDMENTS RELATED TO SECTION 642 OF THE REFORM ACT.—

(1) Paragraph (1) of section 453(g) of the 1986 Code is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) subsection (a) shall not apply,

"(B) for purposes of this title—

"(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

"(ii) in the case of any payments which are contingent as to the amount but with respect to which the fair market value may not be reasonably ascertained, the basis shall be recovered ratably, and

"(C) the purchaser may not increase the basis of any property acquired in such sale by any amount before the time such amount is includible in the gross income of the seller."

(2)(A) Section 453(g) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) RELATED PERSONS.—For purposes of this subsection, the term 'related persons' has the meaning given to such term by section 1239(b), except that such term shall include 2 or more partnerships having a relationship to each other described in section 707(b)(1)(B)."

(B) Section 453(g)(1) of the 1986 Code is amended by striking out "(within the meaning of section 1239(b))".

(3) The heading of paragraph (2) of section 642(c) of the Reform Act is amended by striking out "TRADITIONAL" and inserting in lieu thereof "TRANSITIONAL".

(j) AMENDMENTS RELATED TO SECTION 643 OF THE REFORM ACT.—

(1)(A) Subsection (e) of section 171 of the 1986 Code is amended to read as follows:

"(e) TREATMENT AS OFFSET TO INTEREST PAYMENTS.—Except as provided in regulations, in the case of any taxable bond—

"(1) the amount of any bond premium shall be allocated among the interest payments on the bond under rules similar to the rules of subsection (b)(3), and

"(2) in lieu of any deduction under subsection (a), the amount of any premium so allocated to any interest payment shall be applied against (and operate to reduce) the amount of such interest payment.

For purposes of the preceding sentence, the term 'taxable bond' means any bond the interest of which is not excludable from gross income."

(B) Paragraph (5) of section 1016(a) of the 1986 Code is amended by striking out "allowable pursuant to section 171(a)(1)" and inserting in lieu thereof "allowable pursuant to section 171(a)(1) (or the amount applied to reduce interest payments under section 171(e)(2))".

(C) The amendments made by this paragraph shall apply in the case of obligations acquired after December 31, 1987; except that the taxpayer may elect to have such amendment apply to obligations acquired after October 22, 1986.

(2) Paragraph (2) of section 643(b) of the Reform Act is amended by striking out "issued after" and inserting in lieu thereof "acquired after".

(k) AMENDMENTS RELATED TO SECTION 646 OF THE REFORM ACT.—

(1) Paragraph (2) of section 646(b) of the Reform Act is amended to read as follows:

"(2) such entity is exclusively engaged in the leasing of mineral property and activities incidental thereto, and".

(2) Paragraph (3) of section 646(b) of the Reform Act is amended by inserting "as of October 22, 1986," after "publicly traded".

(3) Subparagraph (A) of section 646(c)(1) of the Reform Act is amended by inserting "before January 1, 1991" after "entity".

(4) Paragraph (2) of section 646(c) of the Reform Act is amended to read as follows:

"(2) AGREEMENT.—

"(A) IN GENERAL.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not acquire any additional property other than property described in subparagraph (B).

"(B) PERMISSIBLE ACQUISITIONS.—Property is described in this paragraph if it is—

"(i) surface rights to property the acquisition of which—

"(I) is necessary to mine mineral rights held on October 22, 1986, and

"(II) is required by a written binding agreement between the entity and an unrelated person entered into on or before October 22, 1986,

"(ii) surface rights to property which are not described in clause (i) and which—

"(I) are acquired in an exchange to which section 1031 applies, and

"(II) are necessary to mine mineral rights held on October 22, 1986,

"(iii) tangible personal property incidental to the leasing of mineral property and activities incidental thereto, or

"(iv) part of any required reserves of the entity."

(5) Paragraph (1) of section 646(d) of the Reform Act is amended by striking out subparagraph (B) and inserting in lieu thereof:

"(B) for purposes of section 333 of such Code (as so in effect)—

"(i) any person holding an income interest in such entity as of such time shall be treated as a qualified electing shareholder, and

"(ii) the earnings and profits, and the value of money or stock or securities, of such entity shall be apportioned ratably among persons described in clause (i).

The amendments made by subtitle D of this title and section 1804 of this Act shall not apply to any liquidation under this paragraph."

(6)(A) Paragraph (2) of section 646(d) of the Reform Act is amended to read as follows:

"(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), the entity shall, for purposes of the Internal Revenue Code of 1986, be treated as a corporation for the taxable year in which such cessation or violation occurs and for all subsequent taxable years."

(B) Paragraph (3) of section 646(c) of the Reform Act is amended to read as follows:

"(3) BEGINNING OF PERIOD FOR WHICH ELECTION IS IN EFFECT.—The period during which an election is in effect under this subsection shall begin on the 1st day of the 1st taxable year beginning after the date of the enactment of this Act and following the taxable year in which the election is made."

(7)(A) Subsection (e) of section 646 of the Reform Act is amended to read as follows:

"(e) SPECIAL RULE FOR PERSONS HOLDING INCOME INTERESTS.—In applying subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986 to any entity to which this section applies—

"(1) a reversionary interest shall not be taken into account until it comes into possession, and

"(2) all items of income, gain, loss, deduction, and credit shall be allocated to persons holding income interests for the period of the allocation."

(B) Section 646(d)(3) of the Reform Act is amended by striking out "or by reason of subsection (e)".

(l) AMENDMENTS RELATED TO SECTION 651 OF THE REFORM ACT.—

(1)(A) Paragraph (6) of section 852(b) of the 1986 Code (as added by section 651(b)(1)(A) of the Reform Act) is redesignated as paragraph (7).

(B) Subsection (b) of section 855 of the 1986 Code is amended by striking out "section 852(b)(6)" and inserting in lieu thereof "section 852(b)(7)".

(2) Paragraph (2) of section 4982(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company's taxable year).

"(B) REDUCTION BY NET ORDINARY LOSS FOR CALENDAR YEAR.—The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company's net ordinary loss for the calendar year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) NET CAPITAL GAIN.—The term 'net capital gain' has the meaning given such term by section 1222(11) (determined by treating the 1-year period ending on October 31 of the calendar year as the company's taxable year).

"(ii) NET ORDINARY LOSS.—The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(3) Paragraph (2) of section 852(c) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH TAX ON UNDISTRIBUTED INCOME.—For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss (or net foreign currency loss) attributable to transactions after October 31 of such year and with such other adjustments as the Secretary may by regulations prescribe. The preceding sentence shall apply—

"(A) only to the extent that the amount distributed by the company with respect to the calendar year does not exceed the required distribution for such calendar year (as determined under section 4982 by substituting '100 percent' for each percentage set forth in section 4982(b)(1)), and

"(B) except as provided in regulations, only if an election under section 4982(e)(4) is not in effect with respect to such company."

(4) Subparagraph (C) of section 852(b)(3) of the 1986 Code is amended—

(A) by striking out "net capital loss" each place it appears in the 3rd sentence and inserting in lieu thereof "net capital loss or net long-term capital loss", and

(B) by striking out "regulated investment company taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the regulated investment company".

(5) Subsection (e) of section 4982 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF FOREIGN CURRENCY GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—Any foreign currency gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the amount of the ordinary income of the regulated investment company for such calendar year but shall be taken into account in determining the ordinary income of the investment company for the following calendar year. In the case of any company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(6) Section 4982 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES.—This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was either—

"(1) a trust described in section 401(a) and exempt from tax under section 501(a), or

"(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)).

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding $250,000) made in connection with the organization of such company shall not be taken into account."

(7) Subsection (b) of section 852 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR TREATMENT OF CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net foreign currency loss attributable to transactions after October 31 of such year, and any such net foreign currency loss shall be treated as arising on the 1st day of the following taxable year."

(8) Subsection (a) of section 852 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982."

(9) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (7) of section 852(b) of the 1986 Code (as redesignated by paragraph (1)) is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(10) Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(m) AMENDMENTS RELATED TO SECTION 652 OF THE REFORM ACT.—

(1) Paragraph (1) of section 851(a) of the 1986 Code is amended to read as follows:

"(1) which, at all times during the taxable year—

"(A) is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2) as a management company or unit investment trust, or

"(B) has in effect an election under such Act to be treated as a business development company, or".

(2) Paragraph (1) of section 851(e) of the 1986 Code is amended by striking out "a registered management company or registered business development company" and inserting in lieu thereof "a management company or a business development company described in subsection (a)(1)".

(n) AMENDMENTS RELATED TO SECTION 653 OF THE REFORM ACT.—

(1) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Income derived from a partnership or trust shall be treated as described in paragraph (2) only to the extent such income is attributable to items of income of the partnership or trust (as the case may be) which would be described in paragraph (2) if realized by the regulated investment company in the same manner as realized by the partnership or trust."

(2)(A) Paragraph (3) of section 851(b) of the 1986 Code is amended to read as follows:

"(3) less than 30 percent of its gross income is derived from the sale or disposition of any of the following which was held for less than 3 months:

"(A) stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) options, futures, or forward contracts (other than options, futures, or forward contracts on foreign currencies), or

"(C) foreign currencies (or options, futures, or forward contracts on foreign currencies) but only if such currencies (or options, futures, or forward contracts) are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stocks or securities), and".

(B) Subsection (b) of section 851 of the 1986 Code is amended by striking out "which are not ancillary" in the material following paragraph (4), and inserting in lieu thereof "which are not directly related".

(C) Subparagraph (C) of section 851(b)(3) of the 1986 Code (as amended by subparagraph (A)), and the amendment made by subparagraph (B), shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Clause (i) of section 851(g)(2)(A) of the 1986 Code (defining designated hedge) is amended by striking out "contractual option" and inserting in lieu thereof "contractual obligation".

(5) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of the taxable year in which a regulated investment company is completely liquidated, there shall not be taken into account under paragraph (3) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(o) AMENDMENTS RELATED TO SECTION 654 OF THE REFORM ACT.—Subsection (q) of section 851 of the 1986 Code (as added by section 654 of the Reform Act)—

(1) is redesignated as subsection (h), and

(2) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR ABNORMAL REDEMPTIONS.—

"(A) IN GENERAL.—Any fund treated as a separate corporation under paragraph (1) shall not be disqualified under subsection (b)(3) for any taxable year by reason of sales resulting from abnormal redemptions on any day and occurring before the close of the 5th business day after such day if—

"(i) the sum of the percentages determined under subparagraph (B) for the abnormal redemptions on such day and for abnormal redemptions on prior days during such taxable year exceeds 30 percent; and

"(ii) the regulated investment company of which such fund is a part would meet the requirements of subsection (b)(3) for such taxable year if all the funds which are part of such company were treated as a single company.

"(B) ABNORMAL REDEMPTIONS.—For purposes of subparagraph (A), the term 'abnormal redemptions' means redemptions occurring on any day if the net redemptions on such day exceed 1 percent of the fund's net asset value.

"(C) DETERMINATION OF NET ASSET VALUE.—For purposes of this paragraph, net asset value for any day shall be determined as of the close of the preceding day.

"(D) LIMITATION.—For purposes of subparagraph (A), any sale or other disposition of stock or securities held less than 3 months occurring during any day shall be deemed to result from abnormal redemptions until the cumulative proceeds from such sales or dispositions occurring during such day, plus the cumulative net positive cash flow of the fund for preceding business days (if any) following the day with abnormal redemptions, exceed the amount of net redemptions on the day with abnormal redemptions."

(p) AMENDMENTS RELATED TO SECTION 662 OF THE REFORM ACT.—

(1) Subclause (I) of section 856(c)(6)(D)(i) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "debt instrument" and inserting in lieu thereof "debt instrument (within the meaning of section 1275(a)(1))".

(2) Notwithstanding section 669 of the Reform Act, the amendment made by section 662(c) of the Reform Act shall apply to taxable years beginning after December 31, 1986, but only in the case of obligations acquired after October 22, 1986.

(3) Subsection (c) of section 856 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF LIQUIDATING GAINS.—In the case of the taxable year in which a real estate investment trust is completely liquidated, there shall not be taken into account under paragraph (4) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(4)(A) Paragraph (6) of section 856(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF INCOME RECEIVED UNDER CERTAIN AGREEMENTS LIMITING INTEREST RATE RISK.—

"(i) IN GENERAL.—In the case of any agreement described in clause (ii)—

"(I) any payment to the real estate investment trust under such agreement (and any gain from the sale or other disposition of such agreement) shall be treated as income qualifying under paragraph (2), and

"(II) such agreement shall be treated as a security for purposes of paragraph (4)(A).

"(ii) DESCRIPTION OF AGREEMENT.—An agreement is described in this clause if such agreement is a bona fide interest rate swap or interest rate cap agreement which protects the real estate investment trust from interest rate fluctuations under any variable rate indebtedness of such trust incurred to acquire (or carry) real property or interests in real property or committed to such an acquisition."

(B) The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(5) Subclause (I) of section 856(c)(6)(D)(ii) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "stock in" and inserting in lieu thereof "stock (or certificates of beneficial interests) in".

(q) AMENDMENTS RELATED TO SECTION 663 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 856(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) a portion of the amount such tenant receives or accrues, directly or indirectly, from subtenants consists of qualified rents,

then the amounts which the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' by reason of being based on the income or profits of such tenant to the extent the amounts so received or accrued are attributable to qualified rents received or accrued by such tenant."

(2) Subsection (f) of section 856 of the 1986 Code is amended to read as follows:

"(f) INTEREST.—

"(1) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) where a real estate investment trust receives any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from the debtor will be excluded from the term 'interest'.

"(2) SPECIAL RULE.—If—

"(A) a real estate investment trust receives or accrues with respect to an obligation secured by a mortgage on real property or an interest in real property amounts from a debtor which derives substantially all of its gross income with respect to such property (not taking into account any gain on any disposition) from the leasing of substantially all of its interests in such property to tenants, and

"(B) a portion of the amount which such debtor receives or accrues, directly or indirectly, from tenants consists of qualified rents (as defined in subsection (d)(6)(B)),

then the amounts which the trust receives or accrues from such debtor shall not be excluded from the term 'interest' by reason of being based on the income or profits of such debtor to the extent the amounts so received are attributable to qualified rents received or accrued by such debtor."

(r) AMENDMENT RELATED TO SECTION 664 OF THE REFORM ACT.—Clause (i) of section 857(e)(2)(B) of the 1986 Code is amended by striking out "as original issue discount on instruments" and inserting "with respect to instruments".

(s) AMENDMENTS RELATED TO SECTION 668 OF THE REFORM ACT.—

(1) Paragraph (2) of section 4981(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—The term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust's taxable year).

"(B) REDUCTION FOR NET ORDINARY LOSS.—The amount determined under subparagraph (A) shall be reduced by the amount of the trust's net ordinary loss for the taxable year.

"(C) NET ORDINARY LOSS.—For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(2) Subparagraph (C) of section 857(b)(3) of the 1986 Code is amended by striking out "real estate investment trust taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the real estate investment trust".

(3) Subparagraph (A) of section 4981(c)(1) of the 1986 Code is amended by striking out "such calendar year" and inserting in lieu thereof "such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))".

(4) Subsection (a) of section 857 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the real estate investment trust establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4981."

(5) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (8) of section 857(b) of the 1986 Code is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(t) AMENDMENTS RELATED TO SECTION 671 OF THE REFORM ACT.—

(1) Paragraph (1) of section 860C(e) of the 1986 Code is amended to read as follows:

"(1) AMOUNTS TREATED AS ORDINARY.—Any amount taken into account under subsection (a) by any holder of a residual interest in a REMIC shall be treated as ordinary income or ordinary loss, as the case may be."

(2)(A) Paragraph (4) of section 860D(a) of the 1986 Code is amended—

(i) by striking out "4th month ending after" and inserting in lieu thereof "3rd month beginning after", and

(ii) by striking out "and each quarter ending thereafter" and inserting in lieu thereof "and at all times thereafter".

(B) The amendment made by subparagraph (A)(ii) shall take effect on January 1, 1988.

(3)(A) Clause (i) of section 860F(a)(2)(A) of the 1986 Code is amended to read as follows:

"(i) the substitution of a qualified replacement mortgage for a qualified mortgage (or the repurchase in lieu of substitution of a defective obligation),".

(B)(i) Paragraph (2) of section 860F(a) of the 1986 Code is amended by striking out the last sentence of subparagraph (A).

(ii) Subsection (a) of section 860F of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTIONS.—Notwithstanding subparagraphs (A) and (D) of paragraph (1), the term 'prohibited transaction' shall not include any disposition—

"(A) required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages, or

"(B) to facilitate a clean-up call (as defined in regulations)."

(C) Subparagraph (D) of section 860F(a)(2) of the 1986 Code is amended by striking out "described in subsection (b)".

(4) Subparagraph (A) of section 860F(b)(1) of the 1986 Code is amended by striking out "the transfer of any property to a REMIC" and inserting in lieu thereof "the transfer of any property to a REMIC in exchange for regular or residual interests in such REMIC".

(5)(A) Paragraph (1) of section 860G(a) of the 1986 Code is amended to read as follows:

"(1) REGULAR INTEREST.—The term 'regular interest' means any interest in a REMIC which is issued on the startup day with fixed terms and which is designated as a regular interest if—

"(A) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount), and

"(B) interest payments (or other similar amount), if any, with respect to such interest at or before maturity—

"(i) are payable based on a fixed rate (or to the extent provided in regulations, at a variable rate), or

"(ii) consist of a specified portion of the interest payments on qualified mortgages and such portion does not vary during the period such interest is outstanding.

The interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments."

(B) Paragraph (2) of section 860G(a) of the 1986 Code is amended to read as follows:

"(2) RESIDUAL INTEREST.—The term 'residual interest' means an interest in a REMIC which is issued on the startup day, which is not a regular interest, and which is designated as a residual interest."

(C) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "on or before the startup day" in subparagraph (A)(i) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC",

(ii) by inserting "if, except as provided in regulations, such purchase is pursuant to a fixed-price contract in effect on the startup day" before the comma at the end of subparagraph (A)(ii), and

(iii) by striking out "on or before the startup day" in subparagraph (C) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC".

(D) Subparagraph (A) of section 860G(a)(4) of the 1986 Code is amended to read as follows:

"(A) which would be a qualified mortgage if transferred on the startup day in exchange for regular or residual interests in the REMIC, and".

(E) Paragraph (9) of section 860G(a) of the 1986 Code is amended to read as follows:

"(9) STARTUP DAY.—The term 'startup day' means the day on which the REMIC issues all of its regular and residual interests. To the extent provided in regulations, all interests issued (and all transfers to the REMIC) during any period (not exceeding 10 days) permitted in such regulations shall be treated as occurring on the day during such period selected by the REMIC for purposes of this paragraph."

(F) The amendments made by this paragraph shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(6) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(A) by striking out "directly or indirectly," in subparagraph (A), and

(B) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property."

(7) Subparagraph (B) of section 860G(a)(7) of the 1986 Code is amended by inserting before the period at the end of the 1st sentence the following: "or lower than expected returns on cash flow investments".

(8)(A) Paragraph (8) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "section 856(e)" in subparagraph (A) and inserting in lieu thereof "section 856(e) (without regard to paragraph (5) thereof)", and

(ii) by striking out the last sentence and inserting in lieu thereof the following:

"Solely for purposes of section 860D(a), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4)."

(B) Section 860G of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each REMIC. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the REMIC's net income from foreclosure property under section 857(b)(4)(B) if the REMIC were a real estate investment trust."

(C) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the amount of the net income from foreclosure property (if any) shall be reduced by the amount of the tax imposed by section 860G(c)."

(9)(A) Section 860G of the 1986 Code (as amended by paragraph (8)) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TAX ON CONTRIBUTIONS AFTER STARTUP DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any amount is contributed to a REMIC after the startup day, there is hereby imposed a tax for the taxable year of the REMIC in which the contribution is received equal to 100 percent of the amount of such contribution.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any contribution which is made in cash and is described in any of the following subparagraphs:

"(A) Any contribution to facilitate a clean-up call (as defined in regulations) or a qualified liquidation.

"(B) Any payment in the nature of a guarantee.

"(C) Any contribution during the 3-month period beginning on the startup day.

"(D) Any contribution to a qualified reserve fund by any holder of a residual interest in the REMIC.

"(E) Any other contribution permitted in regulations."

(B) The amendment made by subparagraph (A) shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(10) Subsection (e) of section 860G of the 1986 Code (as redesignated by paragraph (9)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma, and by adding at the end thereof the following new paragraphs:

"(4) providing appropriate rules for treatment of transfers of qualified replacement mortgages to the REMIC where the transferor holds any interest in the REMIC, and

"(5) providing that a mortgage will be treated as a qualified replacement mortgage only if it is part of a bona fide replacement (and not part of a swap of mortgages)."

(11) Paragraph (6) of section 856(c) of the 1986 Code is amended by redesignating the last subparagraph as subparagraph (F) and by striking out the subparagraph (D) added by section 671(b)(1) of the Reform Act and inserting in lieu thereof the following:

"(E) A regular or residual interest in a REMIC shall be treated as a real estate asset, and any amount includible in gross income with respect to such an interest shall be treated as interest on an obligation secured by a mortgage on real property; except that, if less than 95 percent of the assets of such REMIC are real estate assets (determined as if the real estate investment trust held such assets), such real estate investment trust shall be treated as holding directly (and as receiving directly) its proportionate share of the assets and income of the REMIC. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest held by such REMIC in another REMIC shall be treated as a real estate asset under principles similar to the principles of the preceding sentence, except that, if such REMIC's are part of a tiered structure, they shall be treated as one REMIC for purposes of this subparagraph."

(12) Clause (xi) of section 7701(a)(19)(C) of the 1986 Code is amended by striking out "are loans described" and inserting in lieu thereof "are assets described".

(13) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended by striking out "issue price of residual interest" and inserting in lieu thereof "issue price of the residual interest".

(14) Clause (ii) of section 860F(b)(1)(D) of the 1986 Code is amended by striking out "the real estate mortgage pool" and inserting in lieu thereof "the REMIC".

(15) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this subsection, except that paragraph (2) shall be applied separately with respect to each corporation which is a member of such group and to which section 593 applies.

"(4) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, a corporation to which section 593 applies and each qualified subsidiary of such corporation shall be treated as a single corporation to which section 593 applies.

"(B) QUALIFIED SUBSIDIARY.—For purposes of this subsection, the term 'qualified subsidiary' means any corporation—

"(i) all the stock of which, and substantially all the indebtedness of which, is held directly by the corporation to which section 593 applies, and

"(ii) which is organized and operated exclusively in connection with the organization and operation of 1 or more REMIC's."

(16)(A) Subsection (a) of section 860D of the 1986 Code is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) with respect to which there are reasonable arrangements designed to ensure that—

"(A) residual interests in such entity are not held by disqualified organizations (as defined in section 860E(e)(5)), and

"(B) information necessary for the application of section 860E(e) will be made available by the entity."

(B) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) TAX ON TRANSFERS OF RESIDUAL INTERESTS TO CERTAIN ORGANIZATIONS, ETC.—

"(1) IN GENERAL.—A tax is hereby imposed on any transfer of a residual interest in a REMIC to a disqualified organization.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any transfer of a residual interest shall be equal to the product of—

"(A) the amount (determined under regulations) equal to the present value of the total anticipated excess inclusions with respect to such interest for periods after such transfer, multiplied by

"(B) the highest rate of tax specified in section 11(b)(1).

"(3) LIABILITY.—The tax imposed by paragraph (1) on any transfer shall be paid by the transferor; except that, where such transfer is through an agent for a disqualified organization, such tax shall be paid by such agent.

"(4) TRANSFEREE FURNISHES AFFIDAVIT.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1) with respect to any transfer if—

"(A) the transferee furnishes to such person an affidavit that the transferee is not a disqualified organization, and

"(B) as of the time of the transfer, such person does not have actual knowledge that such affidavit is false.

"(5) DISQUALIFIED ORGANIZATION.—For purposes of this section, the term 'disqualified organization' means—

"(A) the United States, any State or political subdivision thereof, any foreign government, any international organization, or any agency or instrumentality of any of the foregoing,

"(B) any organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter unless such organization is subject to the tax imposed by section 511, and

"(C) any organization described in section 1381(a)(2)(C).

For purposes of subparagraph (A), the rules of section 168(h)(2)(D) (relating to treatment of certain taxable instrumentalities) shall apply; except that, in the case of the Federal Home Loan Mortgage Corporation, clause (ii) of such section shall not apply.

"(6) TREATMENT OF PASS-THRU ENTITIES.—

"(A) IMPOSITION OF TAX.—If, at any time during any taxable year of a pass-thru entity, a disqualified organization is the record holder of an interest in such entity, there is hereby imposed on such entity for such taxable year a tax equal to the product of—

"(i) the amount of excess inclusions for such taxable year allocable to the interest held by such disqualified organization, multiplied by

"(ii) the highest rate of tax specified in section 11(b)(1).

"(B) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any regulated investment company, real estate investment trust, or common trust fund,

"(ii) any partnership, trust, or estate, and

"(iii) any organization to which part I of subchapter T applies.

Except as provided in regulations, a person holding an interest in a pass-thru entity as a nominee for another person shall, with respect to such interest, be treated as a pass-thru entity.

"(C) TAX TO BE DEDUCTIBLE.—Any tax imposed by this paragraph with respect to any excess inclusion of any pass-thru entity for any taxable year shall, for purposes of this title (other than this subsection), be applied against (and operate to reduce) the amount included in gross income with respect to the residual interest involved.

"(D) EXCEPTION WHERE HOLDER FURNISHES AFFIDAVIT.—No tax shall be imposed by subparagraph (A) with respect to any interest in a pass-thru entity for any period if—

"(i) the record holder of such interest furnishes to such pass-thru entity an affidavit that such record holder is not a disqualified organization, and

"(ii) during such period, the pass-thru entity does not have actual knowledge that such affidavit is false.

"(7) WAIVER.—The Secretary may waive the tax imposed by paragraph (1) on any transfer if—

"(A) within a reasonable time after discovery that the transfer was subject to tax under paragraph (1), steps are taken so that the interest is no longer held by the disqualified organization, and

"(B) there is paid to the Secretary such amounts as the Secretary may require."

(C) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 860E(e) (relating to taxes with respect to certain residual interests)."

(D)(i) The amendments made by subparagraph (A) shall apply in the case of any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code, as in effect on the day before the date of the enactment of this Act) is after March 31, 1988; except that such amendments shall not apply in the case of a REMIC formed pursu-

ant to a binding written contract in effect on such date.

(ii) The amendments made by subparagraphs (B) and (C) (except to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as added by such amendments) shall apply to transfers after March 31, 1988; except that such amendments shall not apply to any transfer pursuant to a binding written contract in effect on such date.

(iii) Except as provided in clause (iv), the amendments made by subparagraphs (B) and (C) (to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as so added) shall apply to excess inclusions for periods after March 31, 1988 but only to the extent such inclusions are—

(I) allocable to an interest in a pass-thru entity acquired after March 31, 1988, or

(II) allocable to an interest in a pass-thru entity acquired on or before March 31, 1988, but attributable to a residual interest acquired by the pass-thru entity after March 31, 1988.

For purposes of the preceding sentence, any interest in a pass-thru entity (or residual interest) acquired after March 31, 1988, pursuant to a binding written contract in effect on such date shall be treated as acquired before such date.

(iv) In the case of any real estate investment trust, regulated investment company, common trust fund, or publicly traded partnership, no tax shall be imposed under section 860E(e)(6) of the 1986 Code (as added by the amendment made by subparagraph (B)) for any taxable year beginning before January 1, 1989.

(17) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended—

(A) by inserting "(adjusted for contributions)" after "residual interest" the second place it appears, and

(B) by striking "decreased by" in clause (ii) and inserting in lieu thereof "decreased (but not below zero) by".

(18)(A) Subsection (e) of section 860F of the 1986 Code is amended by adding at the end thereof the following new sentences: "Such return shall be filed by the REMIC. The determination of who may sign such return shall be made without regard to the first sentence of this subsection."

(B) Unless the REMIC otherwise elects, the amendment made by subparagraph (A) shall not apply to any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before the date of the enactment of this Act.

(19) Subsection (a) of section 860D of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a qualified liquidation (as defined in section 860F(a)(4)(A)), paragraph (4) shall not apply during the liquidation period (as defined in section 860F(a)(4)(B)."

(20) Subsection (a) of section 860A of the 1986 Code is amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subtitle".

(21) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and in the same manner" and inserting in lieu thereof "and, except as provided in regulations, in the same manner".

(22) The following sections of the 1986 Code are each amended by striking out "real estate mortgage pool" and inserting in lieu thereof "REMIC":

(A) Section 382(l)(4)(B)(ii).

(B) Section 860F(a)(2)(A)(iii).

(C) Section 860F(a)(2)(C).

(D) Section 860F(b)(1)(C)(ii).

(E) Section 860F(b)(1)(D)(ii).

(23) Subsection (d) of section 860E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Rules similar to the rules of the preceding sentence shall apply also in the case of regulated investment companies, common trust funds, and organizations to which part I of subchapter T applies."

(24) Subparagraph (C) of section 6049(d)(7) of the 1986 Code is amended by striking out "the issue price" and inserting in lieu thereof "the adjusted issue price".

(25)(A) Paragraph (19) of section 7701(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi)."

(B) Paragraph (4) of section 593(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph."

(26) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Variable Insurance Contracts.—Except as provided in regulations, with respect to any variable contract (as defined in section 817), there shall be no adjustment in the reserve to the extent of any excess inclusion."

(27) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Coordination with section 172.—Any excess inclusion for any taxable year shall not be taken into account—

"(A) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(B) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2)."

(u) Amendments Related to Section 672 of the Reform Act.—

(1) Subparagraph (B) of section 163(e)(2) of the 1986 Code is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(2) Subparagraph (B) of section 1278(a)(4) of the 1986 Code is amended by striking out "section 1272(a)(6)" and inserting in lieu thereof "section 1272(a)(7)".

(3) Section 1288(a) of the 1986 Code is amended by striking out "paragraph (6)" each place it appears and inserting in lieu thereof "paragraph (7)".

(4) Sections 1271(a)(2)(A)(ii) and 1275(a)(4)(B)(ii)(I) of the 1986 Code are each amended by striking out "subsection (a)(6)" and inserting in lieu thereof "subsection (a)(7)".

(v) Amendment Related to Section 674 of the Reform Act.—Subparagraph (A) of section 6049(d)(7) of the 1986 Code is amended by inserting "(and such amounts shall be treated as paid when includible in gross income under section 860B(b))" before the period at the end thereof.

(w) Amendments Related to Section 675 of the Reform Act.—

(1) Subsection (a) of section 675 of the Reform Act is amended to read as follows:

"(a) General Rule.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on January 1, 1987."

(2) Section 675 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) Study.—The Secretary of the Treasury or his delegate shall conduct a study of the operation of the amendments made by this part and their competitive impact on savings and loan institutions and similar financial institutions. Not later than January 1, 1990, the Secretary shall submit a report of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (together with such recommendations as he may deem advisable)."

SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE REFORM ACT.

(a) Amendments to Section 55 of the 1986 Code.—

(1) Paragraph (1) of section 55(c) of the 1986 Code is amended by inserting before the period at the end of the first sentence the following: "and the section 936 credit allowable under section 27(b)".

(2) Paragraph (2) of section 55(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

(3) Effective with respect to taxable years ending after the date of the enactment of this Act, paragraph (3) of section 55(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer described in paragraph (1)(C)(i), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over $155,000, or (ii) $20,000.".

(b) Amendments to Section 56 of the 1986 Code.—

(1) Paragraph (3) of section 56(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

(2) Subparagraph (E) of section 56(b)(1) of the 1986 Code is amended to read as follows:

"(E) Standard deduction and deduction for personal exemptions not allowed.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed."

(3) Subparagraph (C) of section 56(b)(1) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and by

adding at the end thereof the following new clauses:

"(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term 'investment interest' shall not include any qualified housing interest (as defined in subsection (e)), and

"(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d)."

(4) Clause (iii) of section 56(b)(1)(C) of the 1986 Code is amended—

(A) by striking out "specified activity bond" and inserting in lieu thereof "specified private activity bond", and

(B) by striking out "section 56(a)(5)(B)" and inserting in lieu thereof "section 57(a)(5)(B)".

(5) Subparagraph (A) of section 56(d)(2) of the 1986 Code is amended—

(A) by striking out "(other than subsection (a)(6) thereof)", and

(B) by adding at the end thereof the following new sentence:

"An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c)."

(6)(A) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(i) by striking out "interest which is" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is", and

(ii) by striking out "section 163(h)(3)" in subparagraph (B) and inserting in lieu thereof "section 163(h)(4)".

(B) Paragraph (3) of section 56(e) of the 1986 Code is amended by striking out "interest paid or accrued" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued".

(7) The last sentence of section 56(f)(2)(B) of the 1986 Code is amended by striking out "any such taxes" and inserting in lieu thereof "any such taxes (otherwise eligible for the credit provided by section 901 without regard to section 901(j))".

(8) Clause (iii) of section 56(f)(3)(A) of the 1986 Code is amended by striking out "an income statement" and inserting in lieu thereof "an income statement for a substantial nontax purpose".

(9) Subparagraph (B) of section 56(f)(3) of the 1986 Code is amended by striking out "paragraph (3)(A)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (C) of section 56(f)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations."

(11)(A) Subparagraph (F) of section 56(f)(2) of the 1986 Code is amended to read as follows:

"(F) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

"(i) IN GENERAL.—For purposes of determining the alternative minimum tax foreign tax credit, 50 percent of any withholding tax or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

"(ii) LIMITATION.—If the aggregate amount of the dividends referred to in clause (i) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as a tax paid to a foreign country under clause (i) shall not exceed the amount which would be so treated without regard to this clause multiplied by a fraction—

"(I) the numerator of which is the excess referred to in paragraph (1), and

"(II) the denominator of which is the aggregate amount of such dividends.

"(iii) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated)."

(B) Clause (iii) of section 56(g)(4)(C) of the 1986 Code is amended by striking out "clause (ii)(I)" and inserting in lieu thereof "clause (i)".

(12) Clause (iii) of section 56(g)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a)."

(13) Paragraph (1) of section 56(c) of the 1986 Code is amended—

(A) by striking out "ADJUSTED EARNINGS AND PROFITS" in the paragraph heading and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS", and

(B) by striking out "ADJUSTED EARNINGS AND PROFITS" in the heading of subparagraph (B) and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS".

(14)(A) Subsection (b) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired (in a taxable year beginning after December 31, 1986) pursuant to the exercise of an incentive stock option (as defined in section 422A). The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by the preceding sentence."

(B) Paragraph (3) of section 57(a) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply with respect to options exercised after October 16, 1987.

(15) Clause (i) of section 56(a)(1)(A) of the 1986 Code is amended by striking out "REAL" in the heading and inserting in lieu thereof "PERSONAL".

(16) The heading of paragraph (1) of section 56(b) of the 1986 Code is amended by striking out "ITEMIZED".

(17) Subparagraph (A) of section 56(g)(4) of the 1986 Code is amended by adding at the end thereof the following new clauses:

"(vi) ELECTION TO HAVE CUMULATIVE LIMITATION.—

"(I) IN GENERAL.—In the case of any property placed in service during a taxable year to which an election under this clause applies, in lieu of applying clause (i), the depreciation deduction for such property for any taxable year shall be the lesser of the accumulated 168(g) depreciation or the accumulated book depreciation; reduced by the aggregate amount of the depreciation deductions determined under this subclause with respect to such property for prior taxable years.

"(II) ACCUMULATED 168(g) DEPRECIATION.—For purposes of this clause, the term 'accumulated section 168(g) depreciation' means the aggregate amount of the depreciation deductions determined under the alternative system of section 168(g) with respect to the property for all periods before the close of the taxable year.

"(III) ACCUMULATED BOOK DEPRECIATION.—For purposes of this clause, the term 'accumulated book depreciation' means the aggregate amount of the depreciation deductions determined under the method used for book purposes with respect to the property for all periods before the close of the taxable year.

"(IV) ELECTION.—The taxpayer may make an election under this clause for any taxable year beginning after 1989. Such an election, once made with respect to any such taxable year, shall apply to all property placed in service during such taxable year, and shall be irrevocable.

"(V) SIMILAR RULES FOR PROPERTY DESCRIBED IN CLAUSE (i), (iii), OR (iv).—Rules similar to the rules of the preceding provisions of this clause shall also apply in the case of property to which clause (ii), (iii), or (iv) applies.

"(vii) SPECIAL RULE FOR CERTAIN LEASED PROPERTY.—In the case of any property subject to a lease where the income of the taxpayer for book purposes with respect to such property is determined without an allowance for depreciation, the excess of—

"(I) the alternative minimum taxable income from the lease (determined without regard to this subsection and any allowance for depreciation), over

"(II) the income from such lease reported for book purposes,

shall be treated as the depreciation deduction determined with respect to such property determined for book purposes. In the case of property described in the preceding sentence, the rules of clause (vi) shall apply whether or not the taxpayer makes an election under such clause.

"(viii) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g)."

(18) Paragraph (4) of section 56(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph."

(19) Subsection (a) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply."

(c) AMENDMENTS TO SECTION 57 OF THE 1986 CODE.—

(1) Clause (iii) of section 57(a)(5)(C) of the 1986 Code is amended by inserting "(whether a current or advance refunding)" after "any refunding bond".

(2) Clause (i) of section 57(a)(5)(C) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—For purposes of this part, the term 'specified private activity bond' means any private activity bond (as defined in section 141) which is issued after August 7, 1986, and the interest on which is not includible in gross income under section 103."

(3) Subparagraph (A) of section 57(a)(6) of the 1986 Code is amended by inserting "or 642(c)" after "section 170".

(d) AMENDMENTS TO SECTION 58 OF THE 1986 CODE.—

(1) Paragraph (2) of section 58(a) of the 1986 Code is amended—

(A) by striking out "(as modified by section 461(i)(4)(A))", and

(B) by striking out "section 469(d), without regard to paragraph (1)(B) thereof" and inserting in lieu thereof "section 469(c)".

(2) Paragraph (3) of section 58(a) of the 1986 Code is amended by striking out "section 469(g)(1)(C)" and inserting in lieu thereof "section 469(j)(2)".

(3) Subsection (a) of section 58 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) DETERMINATION OF LOSS.—In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply."

(4) Subsection (b) of section 58 of the 1986 Code is amended by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) the adjustments of sections 56 and 57 shall apply,

"(2) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and

"(3) in lieu of applying section 469(j)(7), the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e))."

(e) AMENDMENTS TO SECTION 59 OF THE 1986 CODE.—

(1) Paragraph (2) of section 59(e) of the 1986 Code is amended by striking out "would have been allowable as a deduction" and inserting in lieu thereof "would have been allowable as a deduction (determined without regard to section 291)".

(2) Subsection (h) of section 59 of the 1986 Code is amended by striking out "taxable year—" and all that follows and inserting in lieu thereof "taxable year with the adjustments of sections 56, 57, and 58."

(3) Paragraph (1) of section 59(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1)(A) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies)."

(4) Subsection (i) of section 59 of the 1986 Code is amended—

(A) by striking out "of this subtitle" and inserting in lieu thereof "of this subtitle (other than this part)", and

(B) by striking out "by this title" and inserting in lieu thereof "by this subtitle".

(f) TRANSITIONAL PROVISIONS.—

(1) In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform Act of 1986) on such beneficiary for such beneficiary's taxable year in which such taxable year of the estate or trust ends.

(2) The last sentence of subparagraph (B) of section 701(f)(6) of the Reform Act is amended to read as follows: "The aggregate amount of investment tax credits with respect to the unit in Mississippi allowed solely by reason of being described in this subparagraph shall not exceed $141,000,000."

(3) Subsection (f) of section 701 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) AGREEMENT VESSEL DEPRECIATION ADJUSTMENT.—

"(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

"(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936, as amended, and if depreciation with respect to such vessel had been computed using the 25-year straight-line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed $100,000,000.

"(C) For purposes of this paragraph, the term 'qualified taxpayer' means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991."

(4)(A) If any property to which this paragraph applies is placed in service in a taxable year which begins before January 1, 1987, and ends on or after August 1, 1986, the item of tax preference determined under section 57(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) with respect to such property shall be the excess of—

(i) the amount allowable as a deduction for depreciation or amortization for such taxable year, over

(ii) the amount which would be determined for such taxable year under the rules of paragraph (1) or (5) (whichever is appropriate) of section 56(a) of the Internal Revenue Code of 1954 (as amended by the Tax Reform Act of 1986).

(B) This paragraph shall apply to any property—

(i) which is described in paragraph (4) or (12) of section 57(a) of the Internal Revenue Code of 1954 (as so in effect), and

(ii) to which paragraph (1) or (5) of section 56(a) of the Internal Revenue Code of 1986 would apply if the taxable year referred to in subparagraph (A) began after December 31, 1986.

(5) In determining the amount of the alternative minimum tax foreign tax credit under section 59 of the 1986 Code, there shall not be taken into account any taxes paid or accrued in a taxable year beginning after December 31, 1986, which are treated under section 904(c) of the 1986 Code as paid or accrued in a taxable year beginning on or before December 31, 1986.

(g) MISCELLANEOUS AMENDMENTS.—

(1) Subparagraph (K) of section 26(b)(2) of the 1986 Code is amended by striking out the comma at the end thereof and inserting in lieu thereof ").".

(2)(A) So much of section 38(c) as precedes paragraph (4) thereof is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of the taxpayer's net income tax over the greater of—

"(A) the tentative minimum tax for the taxable year, or

"(B) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000.

For purposes of the preceding sentence, the term 'net income tax' means the sum of the regular tax liability and the tax imposed by section 55, reduced by the credits allowable under subparts A and B of this part, and the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(2) REGULAR INVESTMENT TAX CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular investment tax credit not used against the normal limitation, or

"(ii) 25 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF REGULAR INVESTMENT TAX CREDIT NOT USED AGAINST NORMAL LIMIT.—For purposes of subparagraph (A), the portion of the regular investment tax credit for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the application of the regular percentage under section 46, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) LIMITATION.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(B) Subsection (c) of section 38 of the 1986 Code is amended—

(i) by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out "subparagraphs (A) and (B) of paragraph (1)" each place it appears in such paragraph and inserting in lieu thereof "subparagraph (B) of paragraph (1).

(3)(A) Subsection (c) of section 47 of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(B) Subparagraph (D) of section 42(j)(4) of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(4) The last sentence of clause (ii) of section 53(d)(1)(B) of the 1986 Code is amended by striking out "earnings and profits" and inserting in lieu thereof "current earnings".

(5) Sections 173(b), 174(e)(2), and 263(c) of the 1986 Code are each amended by striking out "section 59(d)" and inserting in lieu thereof "section 59(e)".

(6) Section 511 of the 1986 Code is amended by striking out subsection (d).

(7) Sections 616(e) and 617(j) of the 1986 Code are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(e)".

(8) Paragraph (4) of section 701(c) of the Reform Act is amended by striking out "section 631(a)" and inserting in lieu thereof "section 221(a)".

(9) Subparagraph (B) of section 1362(e)(5) of the 1986 Code is amended by striking out "Subsection (d)(2)" and inserting in lieu thereof "Subsection (d)".

(10) Subsection (a) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended by striking out "11, 59A" and inserting in lieu thereof "11, 55, 59A".

(11) Paragraph (1) of section 962(a) of the 1986 Code is amended—

(A) by striking out "section 1" and inserting in lieu thereof "sections 1 and 55", and

(B) by striking out "section 11" and inserting in lieu thereof "sections 11 and 55".

(12) Subsection (h) of section 32 of the 1986 Code is amended by striking out "for taxpayers other than corporations".

(13)(A) Subsection (d) of section 2 of the 1986 Code is amended by striking out "the tax imposed by section 1" and inserting in lieu thereof "the taxes imposed by sections 1 and 55".

(B) Subsection (d) of section 11 of the 1986 Code is amended by striking out "the tax imposed by subsection (a)" and inserting in lieu thereof "the taxes imposed by subsection (a) and section 55".

SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 801 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 448(d)(2) of the 1986 Code (defining qualified personal service corporation) is amended by striking out "or indirectly" and inserting in lieu thereof "(or indirectly through 1 or more partnerships, S corporations, or qualified personal service corporations not described in paragraph (2) or (3) of subsection (a))".

(B) Section 448(d) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) USE OF RELATED PARTIES, ETC.—The Secretary shall prescribe such regulations as may be necessary to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section."

(2) Subparagraph (C) of section 448(d)(4) of the 1986 Code (relating to special rules for application of paragraph (2)) is amended by striking out "all such members" and inserting in lieu thereof "such group".

(3) Paragraph (2) of section 461(i) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULE FOR SPUDDING OF OIL OR GAS WELLS.—

"(A) IN GENERAL.—In the case of a tax shelter, economic performance with respect to amounts paid during the taxable year for drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

"(B) DEDUCTION LIMITED TO CASH BASIS.—

"(i) TAX SHELTER PARTNERSHIPS.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term 'cash basis' shall be substituted for the term 'adjusted basis'.

"(ii) OTHER TAX SHELTERS.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

"(C) CASH BASIS DEFINED.—For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 465(b)(3)(C)), or

"(II) was secured by any asset of the partnership."

(4) Section 464 of the 1986 Code (relating to limitations on deductions for certain farming expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (f), subsections (a) and (b) shall not apply to any taxable year beginning after December 31, 1986."

(5) Paragraph (4) of section 801(d) of the Reform Act is amended by striking out "the completed contract method" and inserting in lieu thereof "a method of accounting for long-term contracts".

(6) Section 801(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR PARAGRAPHS (2) AND (3).—If any loan, lease, contract, or evidence of any transaction to which paragraph (2) or (3) applies is transferred after June 10, 1987, to a person other than a related party (within the meaning of paragraph (2)), paragraph (2) or (3) shall cease to apply on and after the date of such transfer."

(7) Paragraph (3) of section 448(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "An S corporation shall not be treated as a tax shelter for purposes of this section merely by reason of being required to file a notice of exemption from registration with a State agency described in section 461(i)(3)(A), but only if there is a requirement applicable to all corporations offering securities for sale in the State that to be exempt from such registration the corporation must file such a notice."

(8) Subparagraph (C) of section 448(d)(4) of the 1986 Code is amended by striking out "substantially all of" and inserting in lieu thereof "90 percent or more of".

(9) Paragraph (3) of section 448(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF PREDECESSORS.—Any reference in this subsection to an entity shall include a reference to any predecessor of such entity."

(b) AMENDMENTS RELATED TO SECTION 803 OF THE REFORM ACT.—

(1) Paragraph (2) of section 263A(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph."

(2) Section 263A(c) of the 1986 Code (relating to general exceptions) is amended—

(A) by striking out "263(c), 616(a), or 617(a)" and inserting in lieu thereof "263(c), 263(i), 291(b)(2), 616, or 617", and

(B) by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH SECTION 59(e).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof."

(3) Subparagraph (B) of section 263A(d)(2) of the 1986 Code (relating to special rule for person with minority interest who materially participates) is amended—

(A) by striking out "such grove, orchard, or vineyard" in clause (i) and inserting in lieu thereof "the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred", and

(B) by striking out "such grove, orchard, or vineyard during the 4-taxable year period beginning with the taxable year in which the grove, orchard, or vineyard was lost or damaged" and inserting in lieu thereof "the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred".

(4) Paragraph (3) of section 263A(f) of the 1986 Code (relating to interest relating to property used to produce property) is amended—

(A) by striking out "incurred or continued in connection with" and inserting in lieu thereof "allocable (as determined under paragraph (2)) to", and

(B) by inserting "(as so determined)" after "allocable".

(5) Section 447(b) of the 1986 Code is amended—

(A) by striking out "of" before "expenses", and

(B) by striking out "OF" before "EXPENSES" in the heading thereof.

(6) Section 447(g)(1) of the 1986 Code is amended by striking out "trade or business of farming" each place it appears and inserting in lieu thereof "qualified farming trade or business".

(7) Paragraph (4)(A)(i) of section 803(d) of the Reform Act is amended by striking out "203" each place it appears and inserting in lieu thereof "204".

(8) The allocation used in the regulations prescribed under section 263A(h)(2) of the Internal Revenue Code of 1986 for apportioning storage costs and related handling costs shall be determined by dividing the amount of such costs by the beginning inventory balances and the purchases during the year.

(c) AMENDMENTS RELATED TO SECTION 804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 460(b) of the 1986 Code is amended—

(A) by striking out "subparagraph" and inserting in lieu thereof "paragraph",

(B) by striking out "paragraph (1)" each place it appears in subparagraph (B) and inserting in lieu thereof "subparagraph (A)", and

(C) by striking out "paragraph (1)" in subparagraph (C) and inserting in lieu thereof "subparagraph (B)".

(2)(A) Section 460(b) of the 1986 Code (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES.—

"(A) SIMPLIFIED METHOD OF COST ALLOCATION.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

"(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (2)(B) and subsection (a)(2) shall not apply to any contract—

"(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

"(I) $1,000,000, or

"(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

"(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply."

(B) Section 460(b)(2) of the 1986 Code is amended by striking out "In" and inserting in lieu thereof "Except as provided in paragraph (4), in".

(3) Subparagraph (B) of section 804(d)(2) of the Reform Act is amended by striking out "section 263A(c)(5)" and inserting in lieu thereof "section 460(c)(5)".

(4)(A) Paragraph (3) of section 460(b) of the 1986 Code is amended by adding at the end thereof the following new sentences:

"For purposes of the preceding sentence, any amount received or accrued after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was received or accrued) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract."

(B) Subparagraph (B) of section 460(b)(2) of the 1986 Code is amended by striking out "completion of the contract" and inserting in lieu thereof "completion of the contract (or, with respect to any amount received or accrued after completion of the contract, when such amount is so received or accrued)".

(d) AMENDMENT RELATED TO SECTION 805 OF THE REFORM ACT.—

(1) Section 166(d)(1)(A) of the 1986 Code is amended by striking out "subsections (a) and (c)" and inserting in lieu thereof "subsection (a)".

(2) Subsection (b) of section 805 of the Reform Act is amended by inserting ", as amended by section 901(d)(4)," after "Section 166".

(3) Subsection (a) of section 582 of the 1986 Code is amended by striking out "subsections (a), (b), and (c) of section 166" and inserting in lieu thereof "subsections (a) and (b) of section 166".

(e) AMENDMENTS RELATED TO SECTION 806 OF THE REFORM ACT.—

(1)(A) Clause (i) of section 706(b)(1)(B) of the 1986 Code is amended to read as follows:

"(i) the majority interest taxable year (as defined in paragraph (4)),".

(B) Paragraph (4) of section 706(b) of the 1986 Code is amended to read as follows:

"(4) MAJORITY INTEREST TAXABLE YEAR; LIMITATION ON REQUIRED CHANGES.—

"(A) MAJORITY INTEREST TAXABLE YEAR DEFINED.—For purposes of paragraph (1)(B)(i)—

"(i) IN GENERAL.—The term 'majority interest taxable year' means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more partners having (on such day) an aggregate interest in partnership profits and capital of more than 50 percent.

"(ii) TESTING DAYS.—The testing days shall be—

"(I) the 1st day of the partnership taxable year (determined without regard to clause (i)), or

"(II) the days during such representative period as the Secretary may prescribe.

"(B) FURTHER CHANGE NOT REQUIRED FOR 3 YEARS.—Except as provided in regulations necessary to prevent the avoidance of this section, if, by reason of paragraph (1)(B)(i), the taxable year of a partnership is changed, such partnership shall not be required to change to another taxable year for either of the 2 taxable years following the year of change."

(2) Clause (iii) of section 706(b)(1)(B) of the 1986 Code is amended by striking out "or such other period as the Secretary may prescribe in regulations" and inserting in lieu thereof "unless the Secretary by regulations prescribes another period".

(3) Section 706(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) APPLICATION WITH OTHER SECTIONS.—Except as provided in regulations, for purposes of determining the taxable year to which a partnership is required to change by reason of this subsection, changes in taxable years of other persons required by this subsection, section 441(i), section 584(h), section 645, or section 1378(a) shall be taken into account."

(4) Paragraph (2) of section 441(i) of the 1986 Code (defining personal service corporation) is amended by adding at the end thereof the following:

"A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation."

(5)(A) Section 584 of the 1986 Code (relating to common trust funds) is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF COMMON TRUST FUND.—For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year."

(B) The amendment made by subparagraph (A) shall apply only to taxable years beginning after December 31, 1987. For purposes of section 806(e)(2) of the Reform Act—

(i) a participant in a common trust fund shall be treated in the same manner as a partner, and

(ii) subparagraph (C) thereof shall be applied by substituting "December 31, 1987" for "December 31, 1986".

(6) Section 806(c)(2) of the Reform Act is amended by striking out "Section 267(a)" and inserting in lieu thereof "Section 267(a)(2)".

(7) Subparagraph (C) of section 806(e)(2) of the Reform Act is amended—

(A) by striking out "(including such short taxable year)", and

(B) by striking out "short taxable year" the second place it appears and inserting in lieu thereof "the partner's or shareholder's taxable year with or within which the partnership's or S corporation's short taxable year ends".

(8) Section 806(e)(2) of the Reform Act is amended—

(A) by striking out "any taxable year" and inserting in lieu thereof "the taxpayer's first taxable year beginning after December 31, 1986", and

(B) by striking out "taxpayer" each place it appears and inserting in lieu thereof "partnership, S corporation, or personal service corporation".

(9) Nothing in section 806 of the Reform Act or in any legislative history relating thereto shall be construed as requiring the Secretary to permit an automatic change of a taxable year.

(10) Subsection (e) of section 806 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) BASIS, ETC. RULES.—

"(A) BASIS RULE.—The adjusted basis of any partner's interest in a partnership or shareholder's stock in an S corporation shall be determined as if all of the income to be taken into account ratably in the 4 taxable years referred to in paragraph (2)(C) were included in gross income for the 1st of such taxable years.

"(B) TREATMENT OF DISPOSITIONS.—If any interest in a partnership or stock in an S corporation is disposed of before the last taxable year in the spread period, all amounts which would be included in the gross income of the partner or shareholder for subsequent taxable years in the spread period under paragraph (2)(C) and attributable to the interest or stock disposed of shall be included in gross income for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'spread period' means the period consisting of the 4 taxable years referred to in paragraph (2)(C)."

(f) AMENDMENTS RELATED TO SECTION 811 OF THE REFORM ACT.—

(1) Paragraph (4) of section 453C(b) of the 1986 Code is amended—

(A) by striking out "at any time during" and inserting in lieu thereof "as of the close of", and

(B) by striking out "as of the close of such taxable year in lieu" and inserting in lieu thereof "as of the close of such taxable year (determined by not taking into account any indebtedness described in paragraph (3)(B)) in lieu".

(2) So much of paragraph (2) of section 453C(d) of the 1986 Code as precedes subparagraph (A) is amended to read as follows:

"(2) EXCESS ALLOCABLE INSTALLMENT INDEBTEDNESS.—If the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated under paragraph (1) to applicable installment obligations arising in (and outstanding as of the close of) such taxable year, such excess shall—".

(3) Subparagraph (A) of section 453C(e)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term also includes any obligation held by any person if the basis of such obligation in the hands of such person is determined (in whole or in part) by reference to the basis of such obligation in the hands of another person and such obligation was an applicable installment obligation in the hands of such other person."

(4) Paragraph (2) of section 453C(e) of the 1986 Code (relating to aggregation rules) is amended by striking out "For" and inserting in lieu thereof "Except as provided in regulations, for".

(5) Subparagraph (B) of section 453C(e)(4) of the 1986 Code is amended by striking out "or (3)".

(6) Paragraph (4) of section 811(c) of the Reform Act is amended by striking out the second subparagraphs (D) and (E).

(7) Paragraph (5) of section 811(c) of the Reform Act is amended by striking out "October 23, 1985" each place it appears and inserting in lieu thereof "October 23, 1984".

(8) Section 811(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) Special rules.—For purposes of section 453C of the 1986 Code (as added by subsection (a))—

"(A) Revolving credit plans, etc.—The term 'applicable installment obligation' shall not include any obligation arising out of any disposition or sale described in paragraph (1) or (2) of section 453(k) of such Code (as added by section 812(a)).

"(B) Certain dispositions deemed made on first day of taxable year.—In the case of a taxpayer's 1st taxable year ending after December 31, 1986, dispositions after February 28, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day."

(9) For purposes of applying the amendments made by this subsection and the amendments made by section 10202 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(g) Amendments Related to Section 812 of the Reform Act.—

(1) Section 453 of the 1986 Code is amended by redesignating the subsection (j) added by section 812 of the Reform Act as subsection (k).

(2) Subsection (c) of section 453A of the 1986 Code (as in effect on the date before the date of the enactment of the Revenue Act of 1987) is amended by striking out "453(j)" and inserting in lieu thereof "453(k)".

(3) Paragraph (1) of section 812(c) of the Reform Act is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(4) Subsection (c) of section 812 of the Reform Act is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) Sales of stock, etc.—Section 453(k)(2) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to sales after December 31, 1986, in taxable years ending after such date."

(5) Paragraph (3) of section 812(c) of the Reform Act (as so redesignated) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such change shall be treated as having been made with the consent of the Secretary,

"(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall be equal to 4 years, and

"(D) except as provided in paragraph (4), the amount taken into account in each of such 4 years shall be the applicable percentage (determined in accordance with the following table) of the net adjustment:

"In the case of the:	The applicable percentage is:
1st taxable year.......	15
2nd taxable year.....	25
3rd taxable year......	30
4th taxable year......	30.

If the taxpayer's last taxable year beginning before January 1, 1987, was the taxpayer's 1st taxable year in which sales were made under a revolving credit plan, all adjustments under section 481 of such Code shall be taken into account in the taxpayer's 1st taxable year beginning after December 31, 1986."

(6) Subsection (c) of section 812 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(4) Acceleration of adjustments where contraction in amount of installment obligations.—

"(A) In general.—If the percentage determined under subparagraph (B) for any taxable year in the adjustment period exceeds the percentage which would otherwise apply under paragraph (3)(D) for such taxable year (determined after the application of this paragraph for prior taxable years in the adjustment period)—

"(i) the percentage determined under subparagraph (B) shall be substituted for the applicable percentage which would otherwise apply under paragraph (3)(D), and

"(ii) any increase in the applicable percentage by reason of clause (i) shall be applied to reduce the applicable percentage determined under paragraph (3)(D) for subsequent taxable years in the adjustment period (beginning with the 1st of such subsequent taxable years).

"(B) Determination of percentage.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any taxable year in the adjustment period is the excess (if any) of—

"(i) the percentage determined by dividing the aggregate contraction in revolving installment obligations by the aggregate face amount of such obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, over

"(ii) the sum of the applicable percentages under paragraph (3)(D) (as modified by this paragraph) for prior taxable years in the adjustment period.

"(C) Aggregate contraction in revolving installment obligations.—For purposes of subparagraph (B), the aggregate contraction in revolving installment obligations is the amount by which—

"(i) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, exceeds

"(ii) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxable year involved.

"(D) Revolving installment obligations.—For purposes of this paragraph, the term 'revolving installment obligations' means installment obligations arising under a revolving credit plan.

"(E) Treatment of certain obligations disposed of on or before October 26, 1987.—For purposes of subparagraphs (B)(i) and (C)(i), in determining the aggregate face amount of revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, there shall not be taken into account any obligation—

"(i) which was disposed of to an unrelated person on or before October 26, 1987, or

"(ii) was disposed of to an unrelated person on or after such date pursuant to a binding written contract in effect on October 26, 1987, and at all times thereafter before such disposition.

For purposes of the preceding sentence, the term 'unrelated person' means any person who is not a related person (as defined in section 453(g) of the Internal Revenue Code of 1986).

"(5) Limitation on losses from sales of obligations under revolving credit plans.—If 1 or more obligations arising under a revolving credit plan and taken into account under paragraph (3) are disposed of during the adjustment period, then, notwithstanding any other provision of law—

"(A) no losses from such dispositions shall be recognized, and

"(B) the aggregate amount of the adjustment for taxable years in the adjustment period (in reverse order of time) shall be reduced by the amount of such losses.

"(6) Adjustment period.—For purposes of paragraphs (4) and (5), the adjustment period is the 4-year period under paragraph (3)."

(h) Amendment Related to Section 821 of the Reform Act.—Section 821(b)(3) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to any taxable year beginning after August 16, 1986, and before January 1, 1987, if the taxpayer treated such income in the same manner for the taxable year preceding such taxable year."

(i) Amendment Related to Section 822 of the Reform Act.—Paragraph (1) of section 703(b) of the 1986 Code is amended by striking out "or (d)(4)".

(j) Amendments Related to Section 824 of the Reform Act.—

(1) Section 6501(o) of the 1986 Code which relates to cross references is amended by striking out paragraph (3).

(2) Paragraph (4) of section 824(c) of the Reform Act is amended by striking out "an indemnity agreement" and inserting in lieu thereof "an underwriting agreement".

SEC. 109. AMENDMENTS RELATED TO TITLE IX OF THE REFORM ACT.

(a) Amendments Related to Section 901 of the Reform Act.—

(1) Subparagraph (C) of section 46(e)(4) of the 1986 Code is amended by adding at the end thereof the following new sentences: "Notwithstanding the preceding provisions of this subparagraph, any such election shall terminate effective with respect to the 1st taxable year of the organization making such election which begins after 1986 and during which such organization (or any successor organization) was not at any time the lessee under any lease of regular investment tax credit property. For purposes of the preceding sentence, the term 'regular investment tax credit property' means any section 38 property if the regular percentage applied to such property and the amount of qualified investment with respect to such property would have been reduced under paragraph (1) but for an election under this subparagraph."

(2)(A) Paragraph (5) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Election binding on all members of group.—Any election under this subsection made by a member of a parent-subsidiary controlled group shall be binding on all banks which are members of such group for the taxable year of the election."

(B) Subclause (I) of section 585(c)(3)(A)(iii) of the 1986 Code is amended by striking out "or such greater amount as the taxpayer may designate" and inserting in lieu thereof "or such higher percentage of such net amount as the taxpayer may elect".

(C) Clause (ii) of section 585(c)(3)(B) of the 1986 Code is amended by striking out "designates an amount" and inserting in lieu thereof "elects a higher percentage".

(3) Paragraph (4) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year."

(b) AMENDMENTS RELATED TO SECTION 902 OF THE REFORM ACT.—

(1) Paragraph (3) of section 902(f) of the Reform Act is amended—

(A) in subparagraph (F), by striking out "distribution company" and inserting in lieu thereof "distribution facility",

(B) in subparagraph (L), by striking out "waterfront project" and inserting in lieu thereof "2 Festival Market Place projects at Union Pier Terminal and 1 project at the Remount Road Container Yard, State Pier No. 15 at North Charleston Terminal",

(C) in subparagraph (M), by striking out "Pontabla" and inserting in lieu thereof "Pontalba",

(D) in subparagraph (P), by striking out "Birmingham, Alabama," and inserting in lieu thereof "Homewood, Alabama, the", and

(E) by adding at the end thereof the following new subparagraphs:

"(T) Bellows Falls, Vermont—building project.

"(U) East Broadway Project, Louisville, Kentucky.

"(V) O.K. Industries, Oklahoma."

(2) Paragraph (4) of section 902(f) of the Reform Act is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(3)(A) Paragraph (3) of section 265(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) IN GENERAL.—Any qualified tax-exempt obligation acquired after August 7, 1986, shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(B) QUALIFIED TAX-EXEMPT OBLIGATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation—

"(I) which is issued after August 7, 1986, by a qualified small issuer,

"(II) which is not a private activity bond (as defined in section 141), and

"(III) which is designated by the issuer for purposes of this paragraph.

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond—

"(I) any qualified 501(c)(3) bond (as defined in section 145), or

"(II) any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).

"(C) QUALIFIED SMALL ISSUER.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'qualified small issuer' means, with respect to obligations issued during any calendar year, any issuer if the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii)) which will be issued by such issuer during such calendar year does not exceed $10,000,000.

"(ii) OBLIGATIONS NOT TAKEN INTO ACCOUNT IN DETERMINING STATUS AS QUALIFIED SMALL ISSUER.—For purposes of clause (i), an obligation is described in this clause if such obligation is—

"(I) a private activity bond (other than a qualified 501(c)(3) bond, as defined in section 145),

"(II) an obligation to which section 141(a) does not apply by reason of section 1312, 1313, 1316(g), or 1317 of the Tax Reform Act of 1986 and which would (if issued on August 15, 1986) have been an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of such Act) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exception from such definition other than section 103(o)(2)(A)), or

"(III) an obligation issued to refund (other than to advance refund within the meaning of section 149(d)(5)) any obligation to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation.

"(iii) ALLOCATION OF AMOUNT OF ISSUE IN CERTAIN CASES.—In the case of an issue under which more than 1 governmental entity receives benefits, if—

"(I) all governmental entities receiving benefits from such issue irrevocably agree (before the date of issuance of the issue) on an allocation of the amount of such issue for purposes of this subparagraph, and

"(II) such allocation bears a reasonable relationship to the respective benefits received by such entities,

then the amount of such issue so allocated to an entity (and only such amount with respect to such issue) shall be taken into account under clause (i) with respect to such entity.

"(D) LIMITATION ON AMOUNT OF OBLIGATIONS WHICH MAY BE DESIGNATED.—

"(i) IN GENERAL.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

"(ii) CERTAIN REFUNDINGS OF DESIGNATED OBLIGATIONS DEEMED DESIGNATED.—Except as provided in clause (iii), in the case of a refunding (or series of refundings) of a qualified tax-exempt obligation, the refunding obligation shall be treated as a qualified tax-exempt obligation (and shall not be taken into account under clause (i)) if—

"(I) the refunding obligation was not taken into account under subparagraph (C) by reason of clause (ii)(III) thereof,

"(II) the average maturity date of the refunding obligations issued as part of the issue of which such refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue, and

"(III) the refunding obligation has a maturity date which is not later than the date which is 30 years after the date the original qualified tax-exempt obligation was issued.

Subclause (II) shall not apply if the average maturity of the issue of which the original qualified tax-exempt obligation was a part (and of the issue of which the obligations to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(iii) CERTAIN OBLIGATIONS MAY NOT BE DESIGNATED OR DEEMED DESIGNATED.—No obligation issued as part of an issue may be designated under this paragraph (or may be treated as designated under clause (ii)) if—

"(I) any obligation issued as part of such issue is issued to refund another obligation, and

"(II) the aggregate face amount of such issue exceeds $10,000,000.

"(E) AGGREGATION OF ISSUERS.—For purposes of subparagraphs (C) and (D)—

"(i) an issuer and all entities which issue obligations on behalf of such issuer shall be treated as 1 issuer,

"(ii) all obligations issued by a subordinate entity shall, for purposes of applying subparagraphs (C) and (D) to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(iii) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of subparagraph (C) or (D) and all entities benefiting thereby shall be treated as 1 issuer.

"(F) TREATMENT OF COMPOSITE ISSUES.—In the case of an obligation which is issued as part of a direct or indirect composite issue, such obligation shall not be treated as a qualified tax-exempt obligation unless—

"(i) the requirements of this paragraph are met with respect to such composite issue (determined by treating such composite issue as a single issue), and

"(ii) the requirements of this paragraph are met with respect to each separate lot of obligations which are part of the issue (determined by treating each such separate lot as a separate issue)."

(B) In the case of any obligation issued after August 7, 1986, and before January 1, 1987, the time for making a designation with respect to such obligation under section 265(b)(3)(B)(iii) of the 1986 Code shall not expire before January 1, 1989.

(C) If—

(i) an obligation is issued on or after January 1, 1986, and on or before August 7, 1986,

(ii) when such obligation was issued, the issuer made a designation that it intended to qualify under section 802(e)(3) of H.R. 3838 of the 99th Congress as passed by the House of Representatives, and

(iii) the issuer makes an election under this subparagraph with respect to such obligation,

for purposes of section 265(b)(3) of the 1986 Code, such obligation shall be treated as issued on August 8, 1986.

(D)(i) Except as provided in clause (ii), the following provisions of section 265(b)(3) of the 1986 Code (as amended by this subparagraph (A)) shall apply to obligations issued after June 30, 1987:

(I) subparagraph (C)(ii)(III),

(II) clauses (ii) and (iii) of subparagraph (D), and

(III) subparagraphs (E) and (F).

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the provisions referred to in clause (i) shall apply to such issuer as if included in the amendments made by section 902(a) of the Tax Reform Act of 1986.

(4) Subparagraph (B) of section 291(e)(1) of the 1986 Code is amended by redesignating the clause (iv) added by section 902(c)(2) of the Reform Act as clause (v).

(5) Clause (i) of section 291(e)(1)(B) of the 1986 Code is amended by striking out "section 582(a)(2)" and inserting in lieu thereof "section 585(a)(2)".

(6) Paragraph (1) of section 902(e) of the Reform Act is amended by striking out "Section 163(h)(12)" and inserting in lieu thereof "Section 163(i)(2) (as redesignated by section 511(b) of this Act)".

(7) Paragraph (4) of section 902(f) of the Reform Act is amended—

(A) by inserting "and qualified 501(c)(3) bonds designated by such Governor for purposes of this paragraph," after "1987),", and

(B) by striking out "subparagraph" in the last sentence and inserting in lieu thereof "paragraph".

(c) Amendments Related to Section 903 of the Reform Act.—

(1) Paragraph (1) of section 172(b) of the 1986 Code is amended by redesignating subparagraphs (L) and (M) as subparagraphs (K) and (L), respectively.

(2) Subparagraph (A) of section 172(b)(1) of the 1986 Code is amended by striking out "Except" and all that follows down through "a net operating loss" and inserting in lieu thereof "Except as otherwise provided in this paragraph, a net operating loss".

(3) Subparagraph (B) of section 172(b)(1) of the 1986 Code is amended to read as follows:

"(B) Except as otherwise provided in this paragraph, a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss."

(d) Amendments Related to Section 905 of the Reform Act.—

(1) Subsection (l) of section 165 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) Election to treat as ordinary loss.—

"(A) In general.—In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

"(B) Limitations.—

"(i) Deposit may not be federally insured.—No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

"(ii) Dollar limitation.—With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

"(6) Election.—Any election by the taxpayer under this subsection for any taxable year—

"(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and

"(B) may be revoked only with the consent of the Secretary."

(2) Paragraph (1) of section 905(c) of the Reform Act is amended to read as follows:

"(1) In general.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981, and, except as provided in paragraph (2), the amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1982."

(3) The subsection (f) of section 451 of the 1986 Code which was added by section 905(b) of the 1986 Reform Act is redesignated as subsection (g).

(4) If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment) credit or refund of any overpayment of tax attributable to amendments made by section 905 of the Reform Act or by this subsection (or the assessment of any underpayment of tax so attributable) is barred by any law or rule of law—

(A) credit or refund of any such overpayment may nevertheless be made if claim therefore is filed before the date 1 year after such date of enactment, and

(B) assessment of any such underpayment may nevertheless be made if made before the date 1 year after such date of enactment.

SEC. 110. AMENDMENTS RELATED TO TITLE X OF THE REFORM ACT.

(a) Amendments Related to Section 1011 of the Reform Act.—

(1) Paragraph (1) of section 813(a) of the 1986 Code (relating to foreign life insurance companies) is amended by striking out "the special life insurance company deduction and".

(2) Paragraph (1) of section 1011(d) of the Reform Act is amended—

(A) by striking out "any bond" and inserting in lieu thereof "any market discount bond (as defined in section 1278 of the Internal Revenue Code of 1986)",

(B) by striking out "28 percent" and inserting in lieu thereof "31.6 percent", and

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall apply only if the tax determined under the preceding sentence is less than the tax which would otherwise be imposed."

(3) Paragraph (2) of section 1011(d) of the Reform Act is amended to read as follows:

"(2) Qualified life insurance company.—For purposes of paragraph (1), the term 'qualified life insurance company' means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986."

(b) Amendments Related to Section 1012 of the Reform Act.—

(1) Clause (iv) of section 1012(c)(4)(C) of the Reform Act is amended to read as follows:

"(iv) dental benefit coverage provided by a Delta Dental Plans Association organization through contracts with independent professional service providers so long as the provision of such coverage is the principal activity of such organization."

(2) Clause (ii) of section 1012(c)(4)(C) of the Reform Act is amended by striking out "Association" and inserting in lieu thereof "Plan".

(3) The Secretary of the Treasury or his delegate may prescribe rules providing proper adjustments for taxpayers which become subject to subchapter L of chapter 1 of the 1986 Code by reason of the amendments made by section 1012 of the Reform Act with respect to short taxable years which begin during 1987 by reason of section 843 of such Code.

(4)(A) Paragraph (3) of section 501(m) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) charitable gift annuities."

(B) Subsection (m) of section 501 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Charitable gift annuity.—For purposes of paragraph (3)(E), the term 'charitable gift annuity' means an annuity if—

"(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

"(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property)."

(C) Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall revise the tables used in determining the amount of the charitable contribution in the case of annuity contracts so that such determination will reflect the value of such contribution based on market interest rates at the time such contract was issued and more recent mortality experience.

(c) Amendments Related to Section 1021 of the Reform Act.—

(1)(A) Subparagraph (C) of section 832(b)(7) of the 1986 Code (relating to special rules for determining premiums earned) is amended by striking out "this part" and inserting in lieu thereof "section 831(a)".

(B) The subparagraph heading for such subparagraph is amended by striking out "NONLIFE INSURANCE COMPANY" and inserting in lieu thereof "INSURANCE COMPANY TAXABLE UNDER SECTION 831(a)".

(2) Paragraph (7) of section 832(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(D) Treatment of companies which become taxable under section 831(a).—

"(i) Exception to phase-in for companies which were not taxable, etc., before 1987.—Subparagraph (C) of paragraph (4) shall not apply to any insurance company which, for each taxable year beginning before January 1, 1987, was not subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) by reason of being—

"(I) subject to tax under section 821(c) (as so in effect), or

"(II) described in section 501(c) (as so in effect) and exempt from tax under section 501(a).

"(ii) Phase-in beginning at later date for companies not 1st taxable under section 831(a) in 1987.—In the case of an insurance company—

"(I) which was not subject to the tax imposed by section 831(a) for its 1st taxable year beginning after December 31, 1986, by reason of being subject to tax under section 831(b), or described in section 501(c) and exempt from tax under section 501(a), and

"(II) which, for any taxable year beginning before January 1, 1987, was subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986),

subparagraph (C) of paragraph (4) shall apply beginning with the 1st taxable year beginning after December 31, 1986, for which such company is subject to the tax imposed by section 831(a) and shall be ap-

plied by substituting the last day of the preceding taxable year for 'December 31, 1986' and the 1st day of the 7th succeeding taxable year for 'January 1, 1993'.

"(E) TREATMENT OF CERTAIN RECIPROCAL INSURERS.—In the case of a reciprocal (within the meaning of section 835(a)) which reports (as required by State law) on its annual statement reserves on unearned premiums net of premium acquisition expenses, subparagraphs (B) and (C) of paragraph (4) shall be applied by treating unearned premiums as including an amount equal to such expenses."

(3) Paragraph (5) of section 832(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A) and by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma.

(d) AMENDMENTS RELATED TO SECTION 1022 OF THE REFORM ACT.—

(1) Section 832 of the 1986 Code (defining insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(g) DIVIDENDS WITHIN GROUP.—In the case of an insurance company subject to tax under section 831(a) filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group were not filing a consolidated return."

(2) Subclause (II) of section 832(b)(5)(B)(ii) of the 1986 Code (relating to losses incurred) is amended by inserting "(directly or indirectly)" after "attributable".

(3) For purposes of section 832(b)(5)(C)(i) of the 1986 Code, any stock or obligation acquired on or after August 8, 1986, by an insurance company subject to the tax imposed by section 831 of the 1986 Code (hereinafter in this paragraph referred to as the "acquiring company") from another insurance company so subject (hereinafter in this paragraph referred to as the "transferor company") shall be treated as acquired on the date on which such stock or obligation was acquired by the transferor company if—

(A) the transferor company acquired such stock or obligation before August 8, 1986, and

(B) at all times after the date on which such stock or obligation was acquired by the transferor company and before the date of the acquisition by the acquiring company, the transferor company and the acquiring company were members of the same affiliated group filing a consolidated return.

For purposes of the preceding sentence, the date on which the stock or obligation was acquired by the transferor company shall be determined with regard to any prior application of the preceding sentence. For purposes of this paragraph, if the acquiring corporation or transferor corporation was a party to a reorganization described in section 368(a)(1)(F) of the 1986 Code, any reference to such corporation shall include a reference to any predecessor thereof involved in such reorganization.

(e) AMENDMENTS RELATED TO SECTION 1023 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 846(f)(6) of the 1986 Code (relating to special rule for certain accident and health insurance lines of business) is amended by striking out "paid during the year" and inserting in lieu thereof "paid in the middle of the year".

(2) Subsection (g) of section 846 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing appropriate adjustments in the application of this section to a taxpayer having a taxable year which is not the calendar year."

(3) Subsection (e) of section 1023 of the Reform Act (relating to discounting of unpaid losses and certain unpaid expenses) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF FRESH START TO COMPANIES WHICH BECOME SUBJECT TO SECTION 831(a) TAX IN LATER TAXABLE YEAR.—If—

"(A) an insurance company was not subject to tax under section 831(a) of the Internal Revenue Code of 1986 for its 1st taxable year beginning after December 31, 1986, by reason of being—

"(i) subject to tax under section 831(b) of such Code, or

"(ii) described in section 501(c) of such Code and exempt from tax under section 501(a) of such Code, and

"(B) such company becomes subject to tax under such section 831(a) for any later taxable year,

paragraph (2) and subparagraphs (A) and (C) of paragraph (3) shall be applied by treating such later taxable year as its 1st taxable year beginning after December 31, 1986, and by treating the calendar year in which such later taxable year begins as 1987; and paragraph (3)(B) shall not apply."

(f) AMENDMENTS RELATED TO SECTION 1024 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 831(b)(2) of the 1986 Code (relating to companies to which alternative tax applies) is amended by adding at the end thereof the following new sentence:

"The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) Subsection (a) of section 835 of the 1986 Code (relating to election by reciprocal) is amended by striking out "section 821(a)" and inserting in lieu thereof "section 831(a)".

(3) Subsection (f) of section 835 of the 1986 Code is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(4) Paragraph (6) of section 243(b) of the 1986 Code (relating to special rules for insurance companies) is amended by striking out "or 821".

(5) Subsection (c) of section 543 of the 1986 Code (relating to gross income of insurance companies other than life or mutual) is amended—

(A) by striking out "OR MUTUAL" in the heading and inserting in lieu thereof "INSURANCE COMPANIES", and

(B) by striking out "life or mutual" in the text and inserting in lieu thereof "a life insurance company".

(6) Subsection (g) of section 816 of the 1986 Code (relating to burial and funeral benefit insurance companies) is amended by striking out "section 821 or".

(7) The table of sections for part II of subchapter L of chapter 1 of the 1986 Code (relating to other insurance companies) is amended by striking out the item relating to section 831 and inserting in lieu thereof the following new item:

"Sec. 831. Tax on insurance companies other than life insurance companies."

(8) Paragraph (1) of section 1024(d) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a company taxable under section 831(b) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any amount included in gross income under this paragraph shall be treated as gross investment income."

(g) AMENDMENTS RELATED TO SECTION 1031 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1031(a) of the Reform Act is amended by inserting "(whether made in a lump sum or a series of substantially equal payments over a period of not more than 6 years)" after "any initial payment".

(2) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "initial payment" each place it appears and inserting in lieu thereof "initial payment referred to in paragraph (1)".

(3) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "this title" each place it appears and inserting in lieu thereof "the Internal Revenue Code of 1986".

(h) SPECIAL RULE FOR MUTUAL LIFE INSURANCE COMPANY.—

(1) IN GENERAL.—Paragraph (2) of section 217(i) of the Tax Reform Act of 1984 is amended to read as follows:

"(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phaseout of small life insurance company deduction)."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

(3) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by this subsection shall not exceed $300,000 per taxable year.

(i) DELAY IN EFFECTIVE DATE FOR DIVERSIFICATION REQUIREMENTS WITH RESPECT TO ACCOUNTS FOR CERTAIN IMMEDIATE ANNUITIES.—Section 817(h) of the 1986 Code shall not apply until January 1, 1989, with respect to a variable contract (as defined in section 817(d) of the 1986 Code) if—

(1) such contract provides for the payment of an immediate annuity (as defined in section 72(u)(4) of the 1986 Code),

(2) such contract was outstanding on September 12, 1986, and

(3) the segregated asset account on which such contract is based was, on September 12, 1986, wholly invested in deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(j) TREATMENT OF ALTERNATIVE MINIMUM TAX WITH RESPECT TO SHAREHOLDERS SURPLUS ACCOUNT.—

(1) Paragraph (2) of section 815(c) of the 1986 Code (relating to shareholders surplus account) is amended by adding at the end thereof the following new sentence:

"If for any taxable year a tax is imposed by section 55, under regulations proper adjust-

ments shall be made for such year and all subsequent taxable years in the amounts taken into account under subparagraphs (A) and (B) of this paragraph and subparagraph (B) of subsection (d)(3)."

(2) Effective Date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(k) Treatment of Certain Items as Not Interest for Source Rules, Etc.—Subsection (f) of section 818 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Items described in section 807(c) treated as not interest for source rules, etc.—For purposes of part I of subchapter N, items described in any paragraph of section 807(c) shall be treated as amounts which are not interest."

SEC. 111. AMENDMENTS RELATED TO PARTS I AND II OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) Amendment Related to Section 1101 of the Reform Act.—

(1) Paragraph (4) of section 219(g) of the 1986 Code (relating to special rule for married individuals filing separately) is amended to read as follows:

"(4) Special rule for married individuals filing separately and living apart.—A husband and wife who—

"(A) file separate returns for any taxable year, and

"(B) live apart at all times during such taxable year,

shall not be treated as married individuals for purposes of this subsection."

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1987.

(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987.

(b) Amendments Related to Section 1102 of the Reform Act.—

(1) Sections 408(d)(2)(C) and 408(o)(4)(B)(iv) of the 1986 Code are each amended by striking out "with or within which the taxable year ends" and inserting in lieu thereof "in which the taxable year begins".

(2)(A) Section 408(d)(4) of the 1986 Code (relating to excess contributions returned before due date of return) is amended by striking out "to the extent that such contribution exceeds the amount allowable as a deduction under section 219".

(B) Section 408(d)(4) of the 1986 Code is amended—

(i) by striking out "excess" each place it appears, and

(ii) by striking out "Excess contributions" in the heading and inserting in lieu thereof "Contributions".

(3) Sections 408(d)(5) and 4973(b) of the 1986 Code are each amended by striking out all that follows "section 219" in the last sentence thereof and inserting in lieu thereof "shall be computed without regard to section 219(g).".

(4)(A) Section 6693(b) of the 1986 Code (relating to overstatement of designated nondeductible contributions) is amended to read as follows:

"(b) Penalties Relating to Nondeductible Contributions.—

"(1) Overstatement of designated nondeductible contributions.—Any individual who—

"(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

"(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

"(2) Failure to file form.—Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of $50 for each such failure unless it is shown that such failure is due to reasonable cause."

(B)(i) The heading for section 6693 of the 1986 Code is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(ii) The item relating to section 6693 in the table of sections for subchapter B of chapter 68 is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(c) Amendments Related to Section 1105 of the Reform Act.—

(1) Section 402(g)(2)(C) of the 1986 Code (relating to taxation of distribution) is amended—

(A) by striking out "(and no tax shall be imposed under section 72(t))" in clause (i),

(B) by striking out "such excess deferral is made" in clause (ii) and inserting in lieu thereof "such income is distributed", and

(C) by inserting at the end thereof the following new flush sentence:

"No tax shall be imposed under section 72(t) on any distribution described in the preceding sentence."

(2) Section 402(g)(2) is amended by striking out "Required distribution" in the heading thereof and inserting in lieu thereof "Distribution".

(3) Section 402(g)(2) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Partial distributions.—If a plan distributes only a portion of any excess deferral and income allocable thereto, such portion shall be treated as having been distributed ratably from the excess deferral and the income."

(4) Section 402(g)(3) of the 1986 Code (defining elective deferral) is amended by striking out "paragraph" and inserting in lieu thereof "subsection".

(5)(A) Clause (iii) of section 402(g)(8)(A) of the 1986 Code (relating to special rule for certain organizations) is amended by inserting "(determined in the manner prescribed by the Secretary)" after "taxable years".

(B) Section 402(g)(8) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Years of service.—For purposes of this paragraph, the term 'years of service' has the meaning given such term by section 403(b)."

(6)(A) Section 402(g) of the 1986 Code, as added by section 1852(b)(3)(A) of the Reform Act, is redesignated as subsection (i).

(B) Section 402(g) of the 1986 Code, as added by section 1854(f)(2) of the Reform Act, is redesignated as subsection (j).

(C) Section 1854(f)(4)(C) of the Reform Act is amended by striking out "section 402(g)" and inserting in lieu thereof "section 402(j)".

(7)(A) Section 401(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(30) Limitations on elective deferrals.—In the case of a trust which is part of a plan under which elective deferrals (within the meaning of section 402(g)(3)) may be made with respect to any individual during a calendar year, such trust shall not constitute a qualified trust under this subsection unless the plan provides that the amount of such deferrals under such plan and all other plans, contracts, or arrangements of an employer maintaining such plan may not exceed the amount of the limitation in effect under section 402(g)(1) for taxable years beginning in such calendar year."

(B) Section 403(b)(1) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a contract purchased under a plan which provides a salary reduction agreement, the plan meets the requirements of section 401(a)(30),".

(C) Subparagraph (A) of section 408(k)(6) of the 1986 Code, as amended by subsection (f)(1), is amended by adding at the end thereof the following new clause:

"(iv) Limitations on elective deferrals.—Clause (i) shall not apply to a simplified employee pension unless the requirements of section 401(a)(30) are met."

(D) Subparagraph (D) of section 501(c)(18) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) the requirements of section 401(a)(30) are met."

(E)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to plan years beginning after December 31, 1987.

(ii) In the case of a plan described in section 1105(c)(2) of the Reform Act, the amendments made by this paragraph shall not apply to contributions made pursuant to an agreement described in such section for plan years beginning before the earlier of—

(I) the later of January 1, 1988, or the date on which the last of such agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(II) January 1, 1989.

(8) Section 1105(c)(2)(A) of the Reform Act is amended by striking out "the last of such collective bargaining agreements" and inserting in lieu thereof "such agreement".

(9) Section 1105(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) Reporting requirements.—The amendments made by subsection (b) shall apply to calendar years beginning after December 31, 1986."

(10) Notwithstanding any other provision of law, a plan may incorporate by reference the dollar limitations under section 402(g) of the Internal Revenue Code of 1986.

(11) Section 402(g)(3) of the 1986 Code is amended by inserting at the end thereof the following new sentence: "An employer contribution shall not be treated as an elective deferral described in subparagraph (C) if under the salary reduction agreement such contribution is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(12) Subparagraph (A) of section 403(b)(12) of the 1986 Code is amended by inserting after clause (ii) the following new sentence:

"For purposes of clause (i), a contribution shall be treated as not made pursuant to a

salary reduction agreement if under the agreement it is made pursuant to a 1-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(d) AMENDMENTS RELATED TO SECTION 1106 OF THE REFORM ACT.—

(1) Section 404(l) of the 1986 Code (relating to limitation on amount of compensation which may be taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of clause (i), (ii), or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, any adjustment under the preceding sentence shall not be taken into account for any year before the year for which such adjustment first takes effect.".

(2) Section 415(b)(5)(D) of the 1986 Code (relating to application to changes in benefit structures) is amended by striking out "this paragraph" and inserting in lieu thereof "subparagraph (A)".

(3) Paragraph (2) of section 415(k) of the 1986 Code (relating to contributions to provide cost-of-living protection under defined benefit plans), as added by section 1106(c) of the Reform Act, is amended—

(A) by striking out "to the arrangement" in subparagraph (C)(ii) and inserting in lieu thereof "to such increase", and

(B) by striking out subparagraph (D) and inserting in lieu thereof:

"(D) ARRANGEMENT ELECTIVE; TIME FOR ELECTION.—An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may at least be made in the year in which the participant—

"(i) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

"(ii) separates from service."

(4) Sections 401(a)(17) and 404(l) of the 1986 Code are each amended by adding at the end thereof the following new sentence: "In determining the compensation of an employee, the rules of section 414(q)(6) shall apply, except that in applying such rules, the term 'family' shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the year."

(5) Paragraph (4) of section 1106(i) of the Reform Act is amended by striking the period at the end thereof and inserting in lieu thereof "(determined as if the amendments made by this section were in effect for such year).".

(6) Section 415(b)(5)(B) of the 1986 Code is amended by inserting "and subsection (e)" after "paragraphs (1)(B) and (4)".

(7) Subparagraph (A) of section 415(c)(6) of the 1986 Code is amended—

(A) by striking out "paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1))", and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "paragraph (c)(1)(A) (as so adjusted)" and inserting in lieu thereof "paragraph (1)(A)".

(8) Sections 414(q)(1)(D) and 416(i)(1)(A)(i) of the 1986 Code are each amended by striking out "150 percent of the amount in effect under section 415(c)(1)(A)" and inserting in lieu thereof "50 percent of the amount in effect under section 415(b)(1)(A)".

(e) AMENDMENTS RELATED TO SECTION 1107 OF THE REFORM ACT.—

(1) Section 457(c)(2) of the 1986 Code is amended by striking out "and paragraphs (2) and (3) of subsection (b)".

(2) Section 457(d)(1)(A) of the 1986 Code (relating to distribution requirements) is amended to read as follows:

"(A) under the plan amounts will not be made available to participants or beneficiaries earlier than—

"(i) the calendar year in which the participant attains age 70½,

"(ii) when the participant is separated from service with the employer, or

"(iii) when the participant is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary in regulations)."

(3) Paragraph (7) of section 401(k) of the 1986 Code (defining rural electric cooperative plan) is amended to read as follows:

"(7) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural electric cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural electric cooperative.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i), and

"(iii) an organization which is a national association of organizations described in clause (i) or (ii)."

(4) Section 414(o) of the 1986 Code is amended by inserting "or any requirement under section 457" after "(n)(3)".

(5)(A) Paragraph (6) of section 818(a) of the 1986 Code (defining pension plan contracts) is amended—

(i) by striking out "State" in subparagraph (A),

(ii) by inserting "or any organization (other than a governmental unit) exempt from tax under this subtitle," after "foregoing," in subparagraph (B),

(iii) by striking out "or" before "agency" in subparagraph (B), and

(iv) by inserting ", or organization" after "instrumentality" the second place it appears in subparagraph (B).

(B) The amendments made by this paragraph shall apply to contracts issued after December 31, 1986.

(6) Section 1107(c)(3) of the Reform Act is amended—

(A) by striking out "eligible" each place it appears, and

(B) by inserting at the end of subparagraph (B) the following new sentence: "This subparagraph shall only apply to individuals who were covered under the plan and agreement on August 16, 1986."

(7) Paragraph (5) of section 1107(c) of the Reform Act is amended—

(A) by striking out "to employees on August 1, 1986, of",

(B) by striking out "a deferred compensation plan" in subparagraph (A) and inserting in lieu thereof "to employees on August 16, 1986,",

(C) by inserting "maintaining a deferred compensation plan" after "Alabama" in subparagraph (A), and

(D) by striking out "a deferred compensation plan" in subparagraph (B) and inserting in lieu thereof "to individuals eligible to participate on August 16, 1986, in a deferred compensation plan".

(8) Section 3121(v)(3)(A) of the 1986 Code is amended by striking out "457(e)(1)" and inserting in lieu thereof "457(f)(1)".

(9) Effective for years beginning after December 31, 1988, paragraph (9) of section 457(e) of the 1986 Code is amended by inserting "after separation from service and" before "within 60 days".

(10) Subclause (I) of section 457(d)(2)(B)(i) of the 1986 Code is amended to read as follows:

"(I) the amounts payable with respect to the participant will be paid at times specified by the Secretary which are not later than the time determined under section 401(a)(9)(G) (relating to incidental death benefits),".

(11)(A) Subsection (e) of section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(B)(i) Subsection (d) of section 457 of the 1986 Code (as in effect on the day before the date of the enactment of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(10) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(ii) The amendments made by this subparagraph shall apply to fiscal years beginning after December 31, 1978.

(f) AMENDMENTS RELATED TO SECTION 1108 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 408(k)(6) of the 1986 Code (relating to salary reduction arrangements under simplified employee pensions) is amended to read as follows:

"(A) ARRANGEMENTS WHICH QUALIFY.—

"(i) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash.

"(ii) 50 PERCENT OF ELIGIBLE EMPLOYEES MUST ELECT.—Clause (i) shall not apply to a simplified employee pension unless an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer eligible to participate.

"(iii) REQUIREMENTS RELATING TO DEFERRAL PERCENTAGE.—Clause (i) shall not apply to a simplified employee pension for any year unless the deferral percentage for such year of each highly compensated employee eligible to participate is not more than the product of—

"(I) the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate, multiplied by

"(II) 1.25."

(2) Section 408(k)(6)(B) of the 1986 Code (relating to exception where more than 25 employees) is amended by inserting "who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained)" after "25 employees".

(3)(A) Section 408(k)(6)(D)(ii) of the 1986 Code (defining deferral percentage) is amended by striking out "(within the meaning of section 414(s))" and inserting in lieu thereof "(not in excess of the first $200,000)".

(B) Subparagraph (B) of section 408(k)(7) of the 1986 Code (defining compensation) is amended to read as follows:

"(B) COMPENSATION.—Except as provided in paragraph (2)(C), the term 'compensation' has the meaning given such term by section 414(s)."

(C) Subparagraph (C) of section 408(k)(3) of the 1986 Code is amended by striking out "total" before "compensation".

(D) Section 408(k)(8) of the 1986 Code is amended by striking out "paragraph (3)(C)" and inserting in lieu thereof "paragraphs (3)(C) and (6)(D)(ii)".

(4) Section 408(k)(6) of the 1986 Code (relating to employee may elect salary reduction arrangement) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

"(F) EXCEPTION WHERE PENSION DOES NOT MEET REQUIREMENTS NECESSARY TO INSURE DISTRIBUTION OF EXCESS CONTRIBUTIONS.—This paragraph shall not apply with respect to any year for which the simplified employee pension does not meet such requirements as the Secretary may prescribe as are necessary to insure that excess contributions are distributed in accordance with subparagraph (C), including—

"(i) reporting requirements, and

"(ii) requirements which, notwithstanding paragraph (4), provide that contributions (and any income allocable thereto) may not be withdrawn from a simplified employee pension until a determination has been made that the requirements of subparagraph (A)(iii) have been met with respect to such contributions."

(5) Section 408(d) of the 1986 Code (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TRANSFER OR ROLLOVER OF CONTRIBUTIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.

"(B) CERTAIN EXCLUSIONS TREATED AS DEDUCTIONS.—For purposes of paragraphs (4) and (5) and section 4973, any amount excludable or excluded from gross income under section 402(h) shall be treated as an amount allowable or allowed as a deduction under section 219."

(6) Subparagraph (C) of section 404(h)(1) of the 1986 Code is amended by inserting "(or during the taxable year in the case of a taxable year described in subparagraph (A)(ii))" after "taxable year" the second place it appears.

(7) Section 1108(h) of the Reform Act is amended to read as follows:

"(h) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

"(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs."

(8) Section 209(e)(8) of the Social Security Act is amended to read as follows:

"(8) under a simplified employee pension (as defined in section 408(k)(1) of such Code), other than any contributions described in section 408(k)(6) of such Code,".

(9) Section 3401(a)(12)(C) of the 1986 Code is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 402(h) (1) and (2)", and

(B) by striking out "a deduction" and inserting in lieu thereof "an exclusion".

(10) Section 408(k)(8) of the 1986 Code is amended by inserting ", except that in the case of years beginning after 1988, the $200,000 amount (as so adjusted) shall not exceed the amount in effect under section 401(a)(17)" after "section 415(d)".

(g) AMENDMENTS RELATED TO SECTION 1111 OF THE REFORM ACT.—

(1)(A) Section 401(l)(2)(B) of the 1986 Code (defining contribution percentages) is amended by inserting "by the employer" after "contributed" each place it appears.

(B) Clause (ii) of section 401(l)(3)(A) of the 1986 Code is amended by inserting "attributable to employer contributions" after "benefits".

(2) Section 401(l)(5)(C) of the 1986 Code (defining average annual compensation) is amended to read as follows:

"(C) AVERAGE ANNUAL COMPENSATION.—The term 'average annual compensation' means the participant's highest average annual compensation for—

"(i) any period of at least 3 consecutive years, or

"(ii) if shorter, the participant's full period of service."

(3) Section 401(l)(5)(E) of the 1986 Code (defining covered compensation) is amended—

(A) by striking out "age 65" each place it appears" and inserting in lieu thereof "the social security retirement age", and

(B) by adding at the end thereof the following new clause:

"(iii) SOCIAL SECURITY RETIREMENT AGE.—For purposes of this subparagraph, the term 'social security retirement age' has the meaning given such term by section 415(b)(8)."

(4) Section 1111(c)(3) of the Reform Act is amended by striking out "benefits pursuant to, and individuals covered by, any such agreement in".

(h) AMENDMENTS RELATED TO SECTION 1112 OF THE REFORM ACT.—

(1) Section 410(b)(4)(B) of the 1986 Code (relating to exclusion of employees not meeting age and service requirements) is amended—

(A) by striking out "do not meet" and inserting in lieu thereof "not meeting", and

(B) by striking out "and".

(2) Section 410(b)(6) of the 1986 Code (relating to definitions and special rules) is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—A plan maintained by an employer which has no employees other than highly compensated employees for any year shall be treated as meeting the requirements of this subsection for such year."

(3) Section 401(a)(26) of the 1986 Code (relating to additional participation requirements) is amended by redesignating subparagraph (F) as subparagraph (H) and by adding after subparagraph (E) the following new subparagraphs:

"(F) SPECIAL RULE FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—Rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this paragraph."

"(G) SEPARATE LINES OF BUSINESS.—At the election of the employer and with the consent of the Secretary, this paragraph may be applied separately with respect to each separate line of business of the employer. For purposes of this paragraph, the term 'separate line of business' has the meaning given such term by section 414(r) (without regard to paragraph (7) thereof)."

(4) Section 402(b)(2) of the 1986 Code (relating to failure to meet requirements of section 410(b)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) HIGHLY COMPENSATED EMPLOYEES.—If one of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1), include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraph (1) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan."

(5) Subsections (m)(4)(A) and (n)(3)(A) of section 414 of the 1986 Code are each amended by striking out "and (16)" and inserting in lieu thereof "(16), (17), and (26)".

(6) Clause (iii) of section 1112(e)(3)(A) of the Reform Act is amended by striking out "a plan or merger" and inserting in lieu thereof "the plan".

(7) Section 1112(e)(2) of the Reform Act is amended by striking out "employees covered by such agreement in".

(8) Subsection (e) of section 1112 of the Reform Act is amended by striking out paragraph (3)(C) and by adding at the end of such subsection the following new paragraph:

"(4) SPECIAL RULE FOR PLANS WHICH MAY NOT TERMINATE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a plan is prohibited from terminating under title IV of the

Employee Retirement Income Security Act of 1974 before the 1st year to which the amendment made by subsection (b) would apply, the amendment made by subsection (b) shall only apply to years after the 1st year in which the plan is able to terminate."

(9) Subparagraph (B) of section 1112(e)(3) of the Reform Act is amended to read as follows:

"(B) INTEREST RATE FOR DETERMINING ACCRUED BENEFIT OF HIGHLY COMPENSATED EMPLOYEES FOR CERTAIN PURPOSES.—In the case of a termination, transfer, or distribution of assets of a plan described in subparagraph (A)(ii) before the 1st year to which the amendment made by subsection (b) applies—

"(i) AMOUNT ELIGIBLE FOR ROLLOVER, INCOME AVERAGING, OR TAX-FREE TRANSFER.—For purposes of determining any eligible amount, the present value of the accrued benefit of any highly compensated employee shall be determined by using an interest rate not less than the highest of—

"(I) the applicable rate under the plan's method in effect under the plan on August 16, 1986,

"(II) the highest rate (as of the date of the termination, transfer, or distribution) determined under any of the methods applicable under the plan at any time after August 15, 1986, and before the termination, transfer, or distribution in calculating the present value of the accrued benefit of an employee who is not a highly compensated employee under the plan (or any other plan used in determining whether the plan meets the requirements of section 401 of the Internal Revenue Code of 1986), or

"(III) 5 percent.

"(ii) ELIGIBLE AMOUNT.—For purposes of clause (i), the term 'eligible amount' means any amount with respect to a highly compensated employee which—

"(I) may be rolled over under section 402(a)(5) of such Code,

"(II) is eligible for income averaging under section 402(e)(1) of such Code, or capital gains treatment under section 402(a)(2) or 403(a)(2) of such Code (as in effect before this Act), or

"(III) may be transferred to another plan without inclusion in gross income.

"(iii) AMOUNTS SUBJECT TO EARLY WITHDRAWAL OR EXCESS DISTRIBUTION TAX.—For purposes of sections 72(t) and 4980A of such Code, there shall not be taken into account the excess (if any) of—

"(I) the amount distributed to a highly compensated employee by reason of such termination or distribution, over

"(II) the amount determined by using the interest rate applicable under clause (i).

"(iv) DISTRIBUTIONS OF ANNUITY CONTRACTS.—If an annuity contract purchased after August 16, 1986, is distributed to a highly compensated employee in connection with such termination or distribution, there shall be included in gross income for the taxable year of such distribution an amount equal to the excess of—

"(I) the purchase price of such contract, over

"(II) the present value of the benefits payable under such contract determined by using the interest rate applicable under clause (i).

Such excess shall not be taken into account for purposes of sections 72(t) and 4980A of such Code.

"(v) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subparagraph, the term 'highly compensated employee' has the meaning given such term by section 414(q) of such Code."

(10) Section 413(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) PLANS COVERING A PROFESSIONAL EMPLOYEE.—Notwithstanding subsection (a), in the case of a plan (and trust forming part thereof) which covers any professional employee, paragraph (1) shall be applied by substituting 'section 410(a)' for 'section 410', and paragraph (2) shall not apply."

(11) Section 410(b)(4) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) REQUIREMENTS NOT TREATED AS BEING MET BEFORE ENTRY DATE.—An employee shall not be treated as meeting the age and service requirements described in this paragraph until the first date on which, under the plan, any employee with the same age and service would be eligible to commence participation in the plan.

(i) AMENDMENTS RELATED TO SECTION 1114 OF THE REFORM ACT.—

(1) Paragraph (1) of section 414(q) of the 1986 Code (defining highly compensated employee) is amended by adding at the end thereof the following new flush sentence:

"The Secretary shall adjust the $75,000 and $50,000 amounts under this paragraph at the same time and in the same manner as under section 415(d)."

(2) Section 414(q)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) RULES TO APPLY TO OTHER PROVISIONS.—

"(i) IN GENERAL.—Except as provided in regulations and in clause (ii), the rules of subparagraph (A) shall be applied in determining the compensation of (or any contributions or benefits on behalf of) any employee for purposes of any section with respect to which a highly compensated employee is defined by reference to this subsection.

"(ii) EXCEPTION FOR DETERMINING INTEGRATION LEVELS.—Clause (i) shall not apply in determining the portion of the compensation of a participant which is under the integration level for purposes of section 401(l)."

(3)(A) Section 414(q)(8) of the 1986 Code (relating to excluded employees) is amended—

(i) by inserting "and" at the end of subparagraph (D), by striking ", and" at the end of subparagraph (E) and inserting in lieu thereof a period, and by striking out subparagraph (F), and

(ii) by striking out "The" in the last sentence thereof and inserting in lieu thereof "Except as provided by the Secretary, the".

(B) Section 414(q) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection and subsection (r), employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)) shall not be treated as employees."

(4)(A) Paragraph (8) of section 414(q) of the 1986 Code is amended by inserting "or the number of officers taken into account under paragraph (5)" after "paragraph (4)".

(B) Section 416(i)(1)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining the number of officers taken into account under clause (i), employees described in section 414(q)(8) shall be excluded."

(5) Subparagraph (B) of section 408(k)(3) of the 1986 Code is amended to read as follows:

"(B) SPECIAL RULES.—For purposes of subparagraph (A), there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3)."

(j) AMENDMENTS RELATED TO SECTION 1115 OF THE REFORM ACT.—

(1) So much of section 414(s) of the 1986 Code as precedes paragraph (2) is amended to read as follows:

"(s) COMPENSATION.—For purposes of any applicable provision—

"(1) IN GENERAL.—Except as provided in this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s) of the 1986 Code is amended by striking out paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and by adding at the end thereof the following new paragraph:

"(4) APPLICABLE PROVISION.—For purposes of this subsection, the term 'applicable provision' means any provision which specifically refers to this subsection."

(3)(A) Section 416(i)(1) of the 1986 Code (defining key employee) is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of this paragraph, the term 'compensation' has the meaning given such term by section 414(q)(7)."

(B) The amendment made by this paragraph shall apply to years beginning after December 31, 1988.

(k) AMENDMENTS RELATED TO SECTION 1116 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 401(k)(2) of the 1986 Code (relating to distributions from a cash or deferred arrangement) is amended—

(i) by striking out subclauses (II), (III), and (IV) of clause (i) and inserting in lieu thereof:

"(II) an event described in paragraph (10),", and

(ii) by redesignating subclauses (V) and (VI) as subclauses (III) and (IV), respectively.

(B) Section 401(k) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTIONS UPON TERMINATION OF PLAN OR DISPOSITION OF ASSETS OR SUBSIDIARY.—

"(A) IN GENERAL.—The following events are described in this paragraph:

"(i) TERMINATION.—The termination of the plan without establishment or maintenance of another defined contribution plan.

"(ii) DISPOSITION OF ASSETS.—The disposition by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in a trade or business of such corporation, but only with respect to an employee who continues employment with the corporation acquiring such assets.

"(iii) DISPOSITION OF SUBSIDIARY.—The disposition by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)), but only with respect to an employee who continues employment with such subsidiary.

"(B) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

"(i) IN GENERAL.—An event shall not be treated as described in subparagraph (A) with respect to any employee unless the em-

ployee receives a lump sum distribution by reason of the event.

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4), without regard to clauses (i), (ii), (iii), and (iv) of subparagraph (A), subparagraph (B), or subparagraph (H) thereof.

"(C) TRANSFEROR CORPORATION MUST MAINTAIN PLAN.—An event shall not be treated as described in clause (ii) or (iii) of subparagraph (A) unless the transferor corporation continues to maintain the plan after the disposition."

(C)(i) Subparagraph (A)(i) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after October 16, 1987.

(ii) Subparagraph (B) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after March 31, 1988.

(2) Subparagraph (B) of section 401(k)(2) of the 1986 Code is amended—

(A) by inserting "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" after "under which",

(B) by striking out "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" in clause (i), and

(C) by striking out "amounts" in clause (ii).

(3)(A) Clause (ii) of section 401(k)(3)(A) of the 1986 Code is amended by inserting "eligible" before "highly compensated employees" each place it appears.

(B) Section 1116(b)(4) of the Reform Act is amended by striking out "any" the first place it appears and inserting in lieu thereof "an".

(4) Subparagraph (C) of section 401(k)(3) of the 1986 Code, as added by section 1116(e) of the Reform Act, is redesignated as subparagraph (D).

(5) Subclause (I) of section 401(k)(3)(D)(ii) of the 1986 Code, as redesignated by paragraph (4), is amended by striking out "meets" and inserting in lieu thereof "meet".

(6) Section 401(k)(4)(A) of the 1986 Code is amended by striking out "provided by such employer".

(7) Section 401(k)(8) of the 1986 Code (relating to arrangement not disqualified if excess contributions distributed) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of paragraph (2)(C), a matching contribution (within the meaning of subsection (m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under subparagraph (B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(8) Subparagraph (B) of section 1116(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "If clause (i) or (ii) applies to any arrangement adopted by a governmental unit, then any cash or deferred arrangement adopted by such unit on or after the date referred to in the applicable clause shall be treated as adopted before such date."

(9) Section 401(k)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"This subparagraph shall not apply to a rural electric cooperative plan."

(10) Clause (i) of section 1116(f)(2)(B) of the Reform Act is amended by striking out "(or political subdivision thereof)" and inserting in lieu thereof "or political subdivision thereof, or any agency or instrumentality thereof,".

(l) AMENDMENTS RELATED TO SECTION 1117 OF THE REFORM ACT.—

(1) Paragraph (1) of section 401(m) of the 1986 Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by striking out "A plan" and inserting in lieu thereof "A defined contribution plan".

(2) Paragraph (3) of section 401(m) of the 1986 Code (relating to requirements) is amended by adding at the end thereof the following new sentence: "If matching contributions are taken into account for purposes of subsection (k)(3)(A)(ii) for any plan year, such contributions shall not be taken into account under subparagraph (A) for such year."

(3) The last sentence of section 401(m)(2)(B) of the 1986 Code is amended by striking out "such contributions" the first place it appears and inserting in lieu thereof "contributions to which this subsection applies".

(4) Section 401(m)(4)(A) of the 1986 Code (defining matching contribution) is amended by striking out "the plan" each place it appears and inserting in lieu thereof "a defined contribution plan".

(5)(A) Section 401(m)(4)(B) of the 1986 Code (defining elective deferral) is amended by striking out "section 402(g)(3)(A)" and inserting in lieu thereof "section 402(g)(3)".

(B) The amendment made by this paragraph shall take effect as if included in the amendments made by section 1120 of the Reform Act.

(6) Subparagraph (C) of section 401(m)(6) of the 1986 Code is amended by striking out "EXCESS" in the subparagraph heading and inserting in lieu thereof "EXCESS AGGREGATE".

(7) Section 401(m)(7)(A) of the 1986 Code (relating to additional tax of section 72(t) not applicable) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(8) Section 4979(a)(1) of the 1986 Code (relating to tax on certain excess contributions) is amended by striking out "a cash or deferred arrangement which is part of".

(9) Section 4979(c) of the 1986 Code (defining excess contributions) is amended—

(A) by striking out "403(b),", and

(B) by striking out "408(k)(8)(B)" and inserting in lieu thereof "408(k)(6)(C)".

(10) Section 4979(d) of the 1986 Code (defining excess aggregate contribution) is amended by adding at the end thereof the following new sentence: "For purposes of determining excess aggregate contributions under an annuity contract described in section 403(b), such contract shall be treated as a plan described in subsection (e)(1)."

(11) Paragraph (2) of section 4979(f) of the 1986 Code (relating to inclusion in prior year) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year for which such contribution was made.

"(B) DE MINIMIS DISTRIBUTIONS.—If the total excess contributions and excess aggregate contributions distributed to a recipient under a plan for any plan year are less than $100, such distributions (and any income allocable thereto) shall be treated as earned and received by the recipient in his taxable year in which such distributions were made."

(12) Subsection (d) of section 1117 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) DISTRIBUTIONS BEFORE PLAN AMENDMENT.—

"(A) IN GENERAL.—If a plan amendment is required to allow a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140 shall be treated as made in accordance with the provisions of the plan.

"(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

"(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986.

"(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan."

(m) AMENDMENTS RELATED TO SECTION 1120 OF THE REFORM ACT.—

(1)(A) Section 403(b)(10) of the 1986 Code (relating to nondiscrimination requirements), as added by section 1120(b) of the Reform Act, is redesignated as paragraph (12).

(B) Subparagraph (D) of section 403(b)(1) of the 1986 Code is amended by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (12)".

(2) Clause (i) of section 403(b)(12)(A), as redesignated by paragraph (1), is amended—

(A) by inserting "(17)," after "(5),", and

(B) by inserting ", section 401(m)," after "section 401(a)" the first place it appears.

(3) Section 1120(c) of the Reform Act is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1988.

"(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

"(A) January 1, 1991, or

"(B) the later of—

"(i) January 1, 1989, or

"(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

SEC. 111A. AMENDMENTS RELATED TO PARTS III AND IV OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1121 OF THE REFORM ACT.—

(1) Subparagraph (F) of section 402(a)(5) of the 1986 Code (relating to transfer treated as rollover contribution under section 408) is amended by striking out "described in

subparagraph (A)" and inserting in lieu thereof "resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(2)(A) Section 408(d)(3)(A) is amended by striking out the last sentence thereof.

(B) The amendment made by subparagraph (A) shall apply to rollover contributions made in taxable years beginning after December 31, 1986.

(3) Section 1121(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) PLANS MAY INCORPORATE SECTION 401(a)(9) REQUIREMENTS BY REFERENCE.—Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the requirements of section 401(a)(9) of the Internal Revenue Code of 1986."

(4) Section 1121(d)(3) of the Reform Act is amended by striking out "plan years" and inserting in lieu thereof "years".

(5) Section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 shall not apply to distributions after October 22, 1986, and before the 1st taxable year beginning after 1986 which are attributable to benefits which accrued before January 1, 1985.

(b) AMENDMENTS RELATED TO SECTION 1122 OF THE REFORM ACT.—

(1)(A) Section 72(f) of the 1986 Code (relating to special rules for computing employees' contributions) is amended by striking out "for purposes of subsections (d)(1) and (e)(7), the consideration for the contract contributed by the employee,".

(B) Section 72(n) of the 1986 Code (relating to annuities under retired serviceman's family protection plan or survivor benefit plan) is amended by striking out "Subsections (b) and (d)" and inserting in lieu thereof "Subsection (b)".

(C) Sections 406(e) and 407(e) of the 1986 Code are each amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 72 of the 1986 Code (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by adding after subsection (c) the following new subsection:

"(d) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS AS SEPARATE CONTRACTS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(B) Section 72(e) of the 1986 Code is amended by striking out paragraph (9).

(3) Section 414(k)(2) of the 1986 Code (relating to certain plans treated as defined contribution plans) is amended by inserting "72(d) (relating to treatment of employee contributions as separate contract)," before "411(a)(7)(A)".

(4)(A) The amendment made by section 1122(e)(1) of the Reform Act is repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such amendment had not been enacted.

(B) Subclause (I) of section 402(a)(5)(D)(i) of the 1986 Code is amended by inserting "is payable as provided in clause (i), (iii), or (iv) of subsection (e)(4)(A) (without regard to the second sentence thereof) and" after "such distribution" the first place it appears.

(C) Section 402(a)(5)(D)(i) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any distribution described in section 401(a)(28)(B)(ii) shall be treated as meeting the requirements of subclauses (I) and (II)."

(D) Section 402(a)(5)(D)(iii) is amended by striking out "10-YEAR" in the heading.

(E) Section 402(a)(5)(D)(i)(II) of the 1986 Code (as in effect after the amendment made by subparagraph (A)) shall not apply to distributions after December 31, 1986, and before March 31, 1988.

(5) Clause (ii) of section 402(a)(6)(H) of the 1986 Code (relating to special rule for frozen deposits) is amended by adding at the end thereof the following new flush sentence:

"A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (5)(C) (without regard to this subparagraph) such deposit is described in the preceding sentence."

(6) Clause (i) of section 402(e)(4)(B) of the 1986 Code is amended by striking out "taxpayer" and inserting in lieu thereof "employee".

(7) The last sentence of section 402(e)(4)(J) of the 1986 Code (relating to unrealized appreciation on employer securities) is amended to read as follows: "In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a distribution is required to be included, not to have this subparagraph apply with respect to such distribution."

(8) Section 402 of the 1986 Code (relating to taxability of beneficiary of employees' trust) is amended as follows:

(A) Subsection (a)(1) is amended by striking out "paragraphs (2) and (4)" and inserting in lieu thereof "paragraph (4)".

(B) Subsection (a)(4) is amended by striking out "or (2)".

(C) Subsection (a)(6)(C) is amended by striking out "paragraph (2) of subsection (a), and".

(D) Subsection (a)(6)(E)(ii) is amended by striking out "paragraph (2) of subsection (a), and" and by striking out the comma after "subsection (e)".

(E) Subsection (e)(1)(A) is amended by striking out "ordinary income portion of a".

(F) Subsection (e)(4)(A) is amended—

(i) by striking out "Except for purposes of subsection (a)(2) and section 403(a)(2), a" and inserting in lieu thereof "A", and

(ii) by striking out "subsection (a)(2) of this section, and subsection (a)(2) of section 403,".

(G) Subparagraph (L) of subsection (e)(4) is hereby repealed.

(H) Subsection (e)(4)(M) is amended by striking out ", subsection (a)(2) of this section, and section 403(a)(2)".

(I) Subsection (e)(5) is amended by striking out "and paragraph (2) of subsection (a)".

(J) Subsection (e)(6)(C) is amended to read as follows:

"(C) SPECIAL LUMP-SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under this subsection by reason of an election under paragraph (4)(B)."

(9)(A) Section 72(e)(7) of the 1986 Code is hereby repealed.

(B) Section 72(e)(5)(D) is amended by striking out "paragraphs (7) and (8)" and inserting in lieu thereof "paragraph (8)".

(C) Section 72(e)(8)(A) is amended by striking out "(other than paragraph (7))".

(D) Section 72(q)(2)(E) of the 1986 Code is amended by striking out "(determined without regard to subsection (e)(7))".

(10) Section 402(e)(1)(B) of the 1986 Code (relating to amount of tax on lump-sum distributions) is amended by adding at the end thereof the following new flush sentence:

"For purposes of the preceding sentence, in determining the amount of tax under section 1(c), section 1(g) shall be applied without regard to paragraph (2)(B) thereof."

(11) Section 1122(h) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR STATE PLANS.—In the case of a plan maintained by a State which on May 5, 1986, permitted withdrawal by the employee of employee contributions (other than as an annuity), section 72(e) of the Internal Revenue Code of 1986 shall be applied—

"(A) without regard to the phrase 'before separation from service' in paragraph (8)(D), and

"(B) by treating any amount received (other than as an annuity) before or with the 1st annuity payment as having been received before the annuity starting date."

(12) Subparagraph (B) of section 1122(h)(2) of the Reform Act is amended by inserting ", except that section 72(b)(3) of the Internal Revenue Code of 1986 (as added by such subsection) shall apply to individuals whose annuity starting date is after July 1, 1986" after "1986".

(13) Sections 1122 (h)(3)(C) and (h)(4)(C) of the Reform Act are each amended by striking out "with respect to any other lump sum distribution" and inserting in lieu thereof "for purposes of such Code".

(14) Clause (i) of section 1122(h)(3)(C) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee", and

(B) by inserting "or by an individual, estate, or trust with respect to such an employee" after "1986".

(15) Section 1122(h)(5) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee",

(B) by inserting "and by including in gross income the zero bracket amount in effect under section 63(d) of such Code for such years" after "1986" in the last sentence, and

(C) by adding at the end thereof the following new sentence: "This paragraph shall also apply to an individual, estate, or trust which receives a distribution with respect to an employee described in this paragraph."

(c) AMENDMENTS RELATED TO SECTION 1123 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(t)(2) of the 1986 Code (relating to subsection not to apply to certain distributions) is amended by striking out "on account of early retirement under the plan" in clause (v).

(2) Subparagraph (C) of section 72(t)(2) of the 1986 Code (relating to certain plans) is amended to read as follows:

"(C) EXCEPTIONS FOR DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Any distribution made before January 1, 1990, to an employee from an employee stock ownership plan (as defined in section 4975(e)(7)) or a tax credit employee stock ownership plan (as defined in section 409) if—

"(i) such distribution is attributable to assets which have been invested in employer securities (within the meaning of section 409(l)) at all times during the 5-plan-year period preceding the plan year in which the distribution is made, and

"(ii) at all times during such period the requirements of sections 401(a)(28) and 409 (as in effect at such times) are met with respect to such employer securities."

(3) Subparagraph (A) of section 72(t)(3) of the 1986 Code (relating to certain exceptions not to apply to individual retirement plans) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(4) Subparagraphs (D) and (G) of section 72(q)(2) of the 1986 Code are each amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

(5) Subparagraph (B) of section 72(q)(3) of the 1986 Code (relating to change in substantially equal payments) is amended by striking out "employee" each place it appears and inserting in lieu thereof "taxpayer".

(6) Section 72(q)(2) of the 1986 Code (relating to subsection not to apply to certain dispositions) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) to which subsection (t) applies (without regard to paragraph (2) thereof),".

(7) Subparagraph (D) of section 72(q)(2) and clause (iv) of section 72(t)(2)(A) of the 1986 Code are each amended by inserting "designated" before "beneficiary".

(8) Paragraph (2) of section 72(o) of the 1986 Code (relating to additional tax if amount received before age 59½) is hereby repealed.

(9) Subparagraph (I) of section 402(e)(4) of the 1986 Code is amended by striking out "clause (ii) of".

(10) Section 26(b)(2) of the 1986 Code is amended—

(A) by striking out ", (o)(2)," in subparagraph (C), and

(B) by striking out "408(f) (relating to additional tax on income from certain retirement accounts)" in subparagraph (D) and inserting in lieu thereof "72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans)".

(11) Section 1123(e)(2) of the Reform Act is amended—

(A) by striking out "taxable", and

(B) by inserting ", but only with respect to distributions from contracts described in section 403(b) of the Internal Revenue Code of 1986 which are attributable to assets other than assets held as of the close of the last year beginning before January 1, 1989" after "1988".

(12) Section 1123(e) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for distributions under an annuity contract.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall not apply to any distribution under an annuity contract if—

"(A) as of March 1, 1986, payments were being made under such contract pursuant to a written election providing a specific schedule for the distribution of the taxpayer's interest in such contract, and

"(B) such distribution is made pursuant to such written election."

(13) Section 72(t) of the 1986 Code shall apply to any distribution without regard to whether such distribution is made without the consent of the participant pursuant to section 411(a)(11) or section 417(e) of the 1986 Code.

(d) Amendments Related to Section 1124 of the Reform Act.—

(1) Section 1124(a) of the Reform Act is amended to read as follows:

"(a) In General.—If an employee dies, separates from service, or becomes disabled before 1987 and an individual, trust, or estate receives a lump-sum distribution with respect to such employee after December 31, 1986, and before March 16, 1987, on account of such death, separation from service, or disability, then, for purposes of the Internal Revenue Code of 1986, such individual, estate, or trust may treat such distribution as if it were received in 1986."

(2) Section 1124(b) of the Reform Act is amended—

(A) by striking out "employee" each place it appears and inserting in lieu thereof "individual, estate, or trust", and

(B) by inserting "with respect to an employee" after "receives".

(3) Section 1124 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(c) Lump Sum Distribution.—For purposes of this section, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4)(A) of the Internal Revenue Code of 1986, without regard to subparagraph (B) or (H) of section 402(e)(4) of such Code."

(e) Amendments Related to Section 1131 of the Reform Act.—

(1) Subsection (c) of section 4972 of the 1986 Code (defining nondeductible contributions) is amended to read as follows:

"(c) Nondeductible Contributions.—For purposes of this section—

"(1) In general.—The term 'nondeductible contributions' means, with respect to any qualified employer plan, the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year by the employer to or under such plan, over

"(ii) the amount allowable as a deduction under section 404 for such contributions (determined without regard to subsection (e) thereof), and

"(B) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(i) the portion of the amount so determined returned to the employer during the taxable year, and

"(ii) the portion of the amount so determined deductible under section 404 for the taxable year (determined without regard to subsection (e) thereof).

"(2) Ordering rule for section 404.—For purposes of paragraph (1), the amount allowable as a deduction under section 404 for any taxable year shall be treated as—

"(A) first from carryforwards to such taxable year from preceding taxable years (in order of time), and

"(B) then from contributions made during such taxable year.

"(3) Contributions which may be returned to employer.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account any contribution for such taxable year which is distributed to the employer in a distribution described in section 4980(c)(2)(B)(ii) if such distribution is made on or before the last day on which a contribution may be made for such taxable year under section 404(a)(6).

"(4) Pre-1987 contributions.—The term 'nondeductible contribution' shall not include any contribution made for a taxable year beginning before January 1, 1987."

(2) Paragraph (1) of section 4972(d) of the 1986 Code (defining qualified employer plan) is amended to read as follows:

"(1) Qualified employer plan.—

"(A) In general.—The term 'qualified employer plan' means—

"(i) any plan meeting the requirements of section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), and

"(iii) any simplified employee pension (within the meaning of section 408(k)).

"(B) Exemption for governmental and tax exempt plans.—The term 'qualified employer plan' does not include a plan described in subparagraph (A) or (B) of section 4980(c)(1)."

(3) Section 1131(d) of the Reform Act is amended to read as follows:

"(d) Effective Dates.—

"(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

"(2) Special rules for collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to contributions pursuant to any such agreement for taxable years beginning before the earlier of—

"(A) January 1, 1989, or

"(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

(4)(A) Subparagraph (A) of section 404(a)(7) of the 1986 Code is amended—

(i) by striking out "provisions" and inserting in lieu thereof "paragraphs", and

(ii) by inserting "or in connection with trusts or plans described in 2 or more of such paragraphs" after "1 or more defined benefit plans".

(B) Paragraph (3) of section 404(h) of the 1986 Code is amended to read as follows:

"(3) Coordination with subsection (a)(7).—For purposes of subsection (a)(7), a simplified employee pension shall be treated as if it were a separate stock bonus or profit-sharing trust."

(5) In the case of any taxable year beginning in 1987, the amount under section 4972(c)(1)(A)(ii) of the 1986 Code for a plan to which title IV of the Employee Retirement Income Security Act of 1974 applies shall be increased by the amount (if any) by which, as of the close of the plan year with or within which such taxable year begins—

(A) the liabilities of such plan (determined as if the plan had terminated as of such time), exceed

(B) the assets of such plan.

(f) Amendments Related to Section 1132 of the Reform Act.—

(1) Section 4980(c)(1)(A) of the 1986 Code (defining qualified plan) is amended by striking out "this subtitle" and inserting in lieu thereof "subtitle A".

(2) Section 4980(c)(3)(A) of the 1986 Code (relating to exception for employee stock ownership plans) is amended—

(A) by inserting "or a tax credit employee stock ownership plan (as described in section 409)" after "section 4975(e)(7)", and

(B) by inserting ", except to the extent necessary to meet the requirements of section 401(a)(28)," after "must".

(3) Subparagraph (C) of section 4980(c)(3) of the 1986 Code is amended—

(A) by striking out "(by reason of the limitations of section 415)", and

(B) by adding at the end thereof the following new sentence:

"The amount allocated in the year of transfer shall not be less than the lesser of the maximum amount allowable under section 415 or ⅛ of the amount attributable to the securities acquired."

(4) Subparagraph (B) of section 1132(c)(2) of the Reform Act is amended by striking out "November 19, 1978" and inserting in lieu thereof "September 19, 1978".

(5) Section 1132(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for employee stock ownership plans.—Section 4980(c)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to reversions occurring after March 31, 1985."

(6) Section 4980(c)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(F) No credit or deduction allowed.—No credit or deduction shall be allowed under chapter 1 for any amount transferred to an employee stock ownership plan in a transfer to which this paragraph applies.

"(G) Amount transferred to include income thereon, etc.—The amount transferred shall not be treated as meeting the requirements of subparagraphs (B) and (C) unless amounts attributable to such amount also meet such requirements."

(7) Section 4980(c)(3)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of dividends on securities held in the suspense account, the requirements of this subparagraph are met only if the dividends are allocated to accounts of participants or paid to participants in proportion to their accounts, or used to repay loans used to purchase employer securities."

(g) Amendments Related to Section 1133 of the Reform Act.—

(1)(A) Section 4981A of the 1986 Code (as added by section 1133 of the Reform Act) is redesignated as section 4980A.

(B) The table of sections for chapter 43 of the 1986 Code is amended by redesignating section 4981A as section 4980A.

(2) Paragraph (1) of section 4980A(c) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking out "$112,500 (adjusted at the same time and in the same manner as under section 415(d))" and inserting in lieu thereof "the greater of—

"(A) $150,000, or

"(B) $112,500 (adjusted at the same time and in the same manner as under section 415(d))."

(3) Section 4980A(c)(2) of the 1986 Code (relating to exclusion of certain distributions), as redesignated by paragraph (1), is amended—

(A) by striking out "employee's" in subparagraph (C) and inserting in lieu thereof "individual's", and

(B) by adding after subparagraph (D) the following new subparagraphs:

"(E) Any retirement distribution with respect to an individual of an annuity contract the value of which is not includible in gross income at the time of the distribution (other than distributions under, or proceeds from the sale or exchange of, such contract).

"(F) Any retirement distribution with respect to an individual of—

"(i) excess deferrals (and income allocable thereto) under section 402(g)(2)(A)(ii), or

"(ii) excess contributions (and income allocable thereto) under section 401(k)(8) or 408(d)(4) or excess aggregate contributions (and income allocable thereto) under section 401(m)(6)."

(4)(A) Section 4980A of the 1986 Code, as redesignated by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) Exemption of Accrued Benefits in Excess of $562,500 on August 1, 1986.—For purposes of this section—

"(1) In general.—If an election is made with respect to an eligible individual to have this subsection apply, the individual's excess distributions and excess retirement accumulation shall be computed without regard to any distributions or interests attributable to the accrued benefit of the individual as of August 1, 1986.

"(2) Reduction in amounts which may be received without tax.—If this subsection applies to any individual—

"(A) Excess distributions.—Subsection (c)(1) shall be applied—

"(i) without regard to subparagraph (A), and

"(ii) by reducing (but not below zero) the amount determined under subparagraph (B) thereof by retirement distributions attributable (as determined under rules prescribed by the Secretary) to the individual's accrued benefit as of August 1, 1986.

"(B) Excess retirement accumulation.—The amount determined under subsection (d)(3)(B) (without regard to subsection (c)(1)(A)) with respect to such individual shall be reduced (but not below zero) by the present value of the individual's accrued benefit as of August 1, 1986, which has not been distributed as of the date of death.

"(3) Eligible individual.—For purposes of this subsection, the term 'eligible individual' means any individual if, on August 1, 1986, the present value of such individual's interests in qualified employer plans and individual retirement plans exceeded $562,500.

"(4) Certain amounts excluded.—In determining an individual's accrued benefit for purposes of this subsection, there shall not be taken into account any portion of the accrued benefit—

"(A) payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, or

"(B) attributable to the individual's investment in the contract (as defined in section 72(f)).

"(5) Election.—An election under paragraph (1) shall be made on an individual's return of tax imposed by chapter 1 or 11 for a taxable year beginning before January 1, 1989."

(B) Section 4980A(c) of the 1986 Code, as redesignated by paragraph (1), is amended by striking out paragraph (5).

(5) Section 4980A(d) of the 1986 Code (relating to increase in estate tax if individual dies with excess accumulation), as redesignated by paragraph (1), is amended—

(A) by striking out "section 2010" in paragraph (2) and inserting in lieu thereof "chapter 11", and

(B) by adding at the end thereof the following new paragraphs:

"(4) Rules for computing excess retirement accumulation.—The excess retirement accumulation of an individual shall be computed without regard to—

"(A) any community property law,

"(B) the value of—

"(i) amounts payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, and

"(ii) the individual's investment in the contract (as defined in section 72(f)), and

"(C) the excess (if any) of—

"(i) any interests which are payable immediately after death, over

"(ii) the value of such interests immediately before death.

"(5) Election by spouse to have excess distribution rule apply.—

"(A) In general.—If the spouse of an individual is the beneficiary of all of the interests described in paragraph (3)(A), the spouse may elect—

"(i) not to have this subsection apply, and

"(ii) to have this section apply to such interests and any retirement distribution attributable to such interests as if such interests were the spouse's.

"(B) De minimis exception.—If 1 or more persons other than the spouse are beneficiaries of a de minimis portion of the interests described in paragraph (3)(A)—

"(i) the spouse shall not be treated as failing to meet the requirements of subparagraph (A), and

"(ii) if the spouse makes the election under subparagraph (A), this section shall not apply to such portion or any retirement distribution attributable to such portion."

(6) Subparagraph (B) of section 4980A(d)(3) of the 1986 Code, as redesignated by paragraph (1), is amended to read as follows:

"(B) the present value (as determined under rules prescribed by the Secretary as of the valuation date prescribed in subparagraph (A)) of a single life annuity with annual payments equal to the limitation of subsection (c) (as in effect for the year in which death occurs and as if the individual had not died)."

(7) Section 2013 of the 1986 Code (relating to credit for tax on prior transfer) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Additional Tax Under Section 4980A.—For purposes of this section, the estate tax paid shall not include any portion of such tax attributable to section 4980A(d)."

(8) Paragraph (1) of section 1133(c) of the Reform Act is amended by inserting ", other than a distribution with respect to a decedent dying before January 1, 1987" after "1986".

(9) Section 4980A(d)(3)(A) of the 1986 Code is amended by inserting "(other than as a beneficiary, determined after application of paragraph (5))" after "the individual's interests".

(10) Section 691(c)(1) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Excess retirement accumulation tax.—For purposes of this subsection, no deduction shall be allowed for the portion of the estate tax attributable to the increase in such tax under section 4980A(d)."

(11) Section 2053(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any increase in the tax imposed by this chapter by reason of section 4980A(d)."

(12) Section 6018(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Return required if excess retirement accumulation tax.—The executor shall make a return with respect to the estate tax imposed by subtitle B in any case where such tax is increased by reason of section 4980A(d)."

(h) Amendments Related to Section 1134 of the Reform Act.—

(1) Section 72(p)(3)(A) of the 1986 Code (relating to denial of interest deductions in certain cases) is amended by inserting "to which paragraph (1) does not apply by reason of paragraph (2) during the period" after "loan".

(2) Subparagraph (B) of section 72(p)(3) of the 1986 Code is amended to read as follows:

"(B) PERIOD TO WHICH SUBPARAGRAPH (A) APPLIES.—For purposes of subparagraph (A), the period described in this subparagraph is the period—

"(i) on or after the 1st day on which the individual to whom the loan is made is a key employee (as defined in section 416(i)), or

"(ii) such loan is secured by amounts attributable to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3)."

(i) AMENDMENTS RELATED TO SECTION 1135 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(u)(1) of the 1986 Code (relating to annuity contracts not held by natural persons) is amended by inserting "(other than subchapter L)" after "subtitle".

(2) Subparagraph (D) of section 72(u)(3) of the 1986 Code (relating to exceptions) is amended by striking out "until such time as the employee separates from service" and inserting in lieu thereof "until all amounts under such contract are distributed to the employee for whom such contract was purchased or the employee's beneficiary".

(3) Subparagraphs (D) and (E) of section 72(u)(3) of the 1986 Code (relating to exceptions) are each amended by striking out "which".

(4) Paragraph (4) of section 72(u) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) which provides for a series of substantially equal periodic payments (to be made not less frequently than annually) during the annuity period."

(j) AMENDMENTS RELATED TO SECTION 1136 OF THE REFORM ACT.—

(1) Section 401(a)(27) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(B) PLAN MUST DESIGNATE TYPE.—In the case of a plan which is intended to be a money purchase pension plan or a profit-sharing plan, a trust forming part of such plan shall not constitute a qualified trust under this subsection unless the plan designates such intent at such time and in such manner as the Secretary may prescribe."

(2) Section 401(a)(27) of the 1986 Code is amended by striking out "(27)" and inserting in lieu thereof:

"(27) DETERMINATIONS AS TO PROFIT-SHARING PLANS.—

"(A) CONTRIBUTIONS NEED NOT BE BASED ON PROFITS.—".

(k) AMENDMENT RELATED TO SECTION 1139 OF THE REFORM ACT.—Clause (i) of section 1139(d)(2)(A) of the Reform Act is amended by striking out "before January" and inserting in lieu thereof "after January".

(l) AMENDMENT RELATED TO SECTION 1145 OF THE REFORM ACT.—Subparagraph (E) of section 401(a)(11) of the 1986 Code (relating to cross reference) is redesignated as subparagraph (F).

(m) AMENDMENTS RELATED TO SECTION 1147 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 7701(j)(1) of the 1986 Code (relating to tax treatment of Federal Thrift Savings Fund) is amended by inserting ", section 401(k)(4)(B)," after "paragraph (2)".

(2) Section 8440(a)(3) of title 5, United States Code, is amended by inserting ", 401(k)(4)(B) of such Code," after "subsection (b)".

SEC. 111B. AMENDMENTS RELATED TO SUBTITLES B AND C OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1151 OF THE REFORM ACT.—

(1) Paragraph (2) of section 89(a) of the 1986 Code (relating to year of inclusion) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the plan year ends.

"(B) ELECTION TO DELAY INCLUSION FOR 1 YEAR.—If an employer maintaining a plan with a plan year ending after September 30 and on or before December 31 of a calendar year elects the application of this subparagraph—

"(i) amounts included in gross income under paragraph (1) with respect to employees of such employer shall be taken into account for the taxable year of the employee following the taxable year determined under subparagraph (A), but

"(ii) any deduction of the employer which is attributable to such amounts shall be allowable for the taxable year with or within which the plan year following the plan year in which the excess benefits occurred ends."

(2) Paragraph (4) of section 89(b) of the 1986 Code (defining nontaxable benefits) is amended by adding at the end thereof the following new sentence: "Such term includes any group-term life insurance the cost of which is includible in gross income under section 79."

(3) Paragraph (1) of section 89(g) of the 1986 Code (relating to the aggregation of comparable health plans) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYEES COVERED BY MORE THAN 1 PLAN.—The Secretary may provide that 2 or more plans providing benefits to the same participant shall be treated as 1 plan for purposes of applying subsections (d)(1)(B), (d)(2), and (f)."

(4) Subparagraph (B) of section 89(g)(2) of the 1986 Code (relating to sworn statements) is amended by adding at the end thereof the following new sentence: "No statement shall be required under clause (ii) with respect to any individual eligible for coverage at no cost under a health plan which provides core health benefits and with respect to whom the employee does not elect any core health coverage from the employer."

(5) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by striking out "under such plan" and inserting in lieu thereof "under such plans".

(6) Section 89(g) of the 1986 Code is amended by striking out paragraph (6).

(7) Subparagraph (A) of section 89(h)(1) of the 1986 Code (relating to excluded employees) is amended by inserting "(or 1st day of a period of less than 31 days specified by the plan)" after "month".

(8) Section 89(j) of the 1986 Code (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—The requirements of subsections (d) and (e) shall not apply to any statutory employee benefit plan for any year for which the only employees of the employer maintaining the plan are highly compensated employees."

(9) Section 89(k) of the 1986 Code (relating to requirement that plan be in writing) is amended by adding at the end thereof the following new paragraph:

"(5) LOSS OF EXEMPTION FOR CERTAIN PLANS.—If a plan described in paragraph (2)(E) fails to meet the requirements of paragraph (1), the organization which is part of such plan shall not be exempt from tax under section 501(a)."

(10) Section 6652(l)(2)(B) of the 1986 Code (relating to amount of additional tax) is amended by striking out "subsection (g)(3)" and inserting in lieu thereof "subsection (g)(3)(C)(i)".

(11)(A) Subsection (a) of section 125 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan."

(B) Paragraph (1) of section 125(b) of the 1986 Code is amended by striking out "A plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "In the case of a highly compensated employee, subsection (a) shall not apply to any benefit attributable to a plan year".

(C) Paragraph (2) of section 125(b) of the 1986 Code is amended by striking out "a plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "subsection (a) shall not apply to any plan year".

(12) Subparagraph (B) of section 125(c)(1) of the 1986 Code (defining cafeteria plans) is amended to read as follows:

"(B) the participant may choose among 2 or more benefits consisting of cash and qualified benefits."

(13)(A) Paragraph (1) of section 125(e) of the 1986 Code (defining qualified benefits) is amended by inserting "and without regard to section 89(a)" after "subsection (a)".

(B) The last sentence of section 125(b)(2) of the 1986 Code is amended to read as follows: "For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income."

(14) Subsection (d) of section 129 of the 1986 Code is amended by redesignating paragraph (8) as paragraph (7).

(15) Paragraph (7) of section 129(d) of the 1986 Code (as so redesignated) is amended—

(A) by inserting "under all plans of the employer" after "employees" the 2nd and 3rd time it appears in subparagraph (A),

(B) by striking out "there shall be disregarded" in subparagraph (B) and inserting in lieu thereof "a plan may disregard", and

(C) by striking out "415(q)(7)" in subparagraph (B) and inserting in lieu thereof "414(q)(7)".

(16) Section 414(m)(4) of the 1986 Code is amended by inserting "and" at the end of subparagraph (A), by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraphs (C) and (D).

(17) Paragraph (2) of section 414(t) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(18) Paragraph (6) of section 129(e) of the 1986 Code is amended by striking out "of subsection (d)" and inserting in lieu thereof "of subsection (d) (other than paragraphs (4) and (7) thereof)".

(19) Subparagraph (C) of section 414(n)(3) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(20) Section 414(t)(1) of the 1986 Code (relating to application of controlled group rules to certain employees) is amended by striking out "of section 414" each place it appears.

(21) Section 89(j)(6) of the 1986 Code is amended by striking out "described in subparagraph (A), (B), or (C) of subsection (i)(2)".

(22)(A) Section 3121 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(x) Benefits Provided Under Certain Employee Benefit Plans.—Notwithstanding any paragraph of subsection (a) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(B) Section 3231(e) of the 1986 Code (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(8) Benefits provided under certain employee benefit plans.—Notwithstanding any other paragraph of this subsection (other than paragraph (2)), the term 'compensation' shall include any amount which is includible in gross income by reason of section 89."

(C) Section 3306 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) Benefits Provided Under Certain Employee Benefit Plans.—Notwithstanding any paragraph of subsection (b) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(D) Section 3401 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(g) Benefits Provided Under Certain Employee Benefit Plans.—Notwithstanding any paragraph of subsection (a), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(E) The third to last sentence of section 209 of the Social Security Act is amended—

(i) by striking out the period at the end of clause (2) and inserting in lieu thereof ", or", and

(ii) by inserting after clause (2) the following new clause:

"(3) Any amount required to be included in gross income under section 89 of the Internal Revenue Code of 1986."

(F) The amendments made by this paragraph shall not apply to any individual who separated from service with the employer before January 1, 1989.

(23)(A) Sections 3121(a)(5)(G) and 3306(b)(5)(G) of the 1986 Code are each amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "section 125)".

(B) Section 209(e)(9) of the Social Security Act is amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "1986)".

(24) Section 1151(h)(3) of the Reform Act is amended by striking out "Section 6039B(c)" and inserting in lieu thereof "Section 6039D(c)".

(25) Paragraph (1) of section 1151(k) of the Reform Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the amendments made by subsections (e)(1) and (i)(3)(C) shall, to the extent they relate to sections 106, 162(i)(2), and 162(k) of the Internal Revenue Code of 1986, apply to years beginning after 1986."

(26) Section 1151(k) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) Certain plans maintained by educational institutions.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act."

(27)(A) Section 4976 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Tax on Funded Welfare Benefit Funds Which Include Discriminatory Employee Benefit Plan.—

"(1) In general.—If—

"(A) an employer maintains a welfare benefit fund, and

"(B) a discriminatory employee benefit plan (within the meaning of section 89) is part of such fund for any plan year,

there is hereby imposed on such employer for the taxable year with or within which the plan year ends a tax in the amount determined under paragraph (2).

"(2) Amount of tax.—The amount of the tax under paragraph (1) shall be equal to the excess (if any) of—

"(A) the product of the highest rate of tax imposed by section 11, multiplied by the lesser of—

"(i) the aggregate excess benefits (as defined in section 89) for such plan year, or

"(ii) the taxable income of the fund for such plan year, over

"(B) the amount of tax imposed by chapter 1 on such fund for such plan year."

(B) Section 4976(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Limitation in case of benefits to which section 89 applies.—If section 89 applies to any post-retirement medical benefit or life insurance benefit provided by a fund, the amount of the disqualified benefit under paragraph (1)(B) with respect to such benefit shall not exceed the aggregate excess benefits provided by the plan (as determined under section 89)."

(C) Section 505(a)(1) of the 1986 Code is amended by adding at the end thereof the following new subsection: "This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies."

(28) Section 89(h)(4) of the 1986 Code is amended by striking out "subsection (h)(5)" and inserting in lieu thereof "subsection (g)(5)".

(29) Section 89(k)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentences:

"Such inclusion shall be coordinated (under regulations prescribed by the Secretary) with any inclusion under subsection (a) with respect to such plan. In the case of a statutory employee benefit plan described in subsection (i)(1)(B), any amount required to be included in gross income under this subsection shall be included in the gross income of the beneficiary."

(30) Section 129(d)(1)(B) of the 1986 Code is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(31)(A) Section 129(d) of the 1986 Code is amended—

(i) by striking out the last sentence of paragraph (3), and

(ii) by inserting at the end thereof the following new paragraph:

"(8) Excluded employees.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees who are excluded from consideration under section 89(h)."

(B) Sections 117(d)(4), 120(c)(2), 127(b)(2), 132(h)(1), and 505(b)(2) of the 1986 Code are each amended—

(i) by striking out "may" the first place it appears and inserting in lieu thereof "shall", and

(ii) by striking out "may be" the second place it appears and inserting in lieu thereof "are".

(32) Section 505(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) $200,000 compensation limit.—A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(33) Section 3401(a) of the 1986 Code is amended by inserting "or" at the end of paragraph (18), by striking out paragraph (19), and by redesignating paragraph (20) as paragraph (19).

(34)(A) Section 89(g)(3)(B) of the 1986 Code shall not apply to years beginning before the date which is 6 months after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans. The Secretary may provide in such rules a date which is later than the date determined under the preceding sentence.

(B) In the case of years beginning after December 31, 1988, and before the 1st year to which the rules described in subparagraph (A) apply—

(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 162(k)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, such value under clause (i) may be determined under any other reasonable method selected by the employer maintaining the plan.

(b) Amendments Related to Section 1161 of the Reform Act.—

(1) Section 162(m) of the 1986 Code (relating to special rules for health insurance costs of self-employed individuals) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Deduction not allowed for self-employment tax purposes.—The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employ-

ment (within the meaning of section 1402(a)) for purposes of chapter 2."

(2) Section 162(m) of the 1986 Code (relating to cross reference) as redesignated by section 1161(a) of the Reform Act, is redesignated as subsection (n).

(3) Section 162(m)(2)(A) of the 1986 Code is amended by inserting: "derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established" after "401(c))".

(4) Section 211(a) of the Social Security Act is amended by inserting after paragraph (13) the following new paragraph:

"(14) The deduction under section 162(m) (relating to health insurance costs of self-employed individuals) shall not be allowed."

(c) AMENDMENTS RELATED TO SECTION 1163 OF THE REFORM ACT.—

(1) Paragraph (8) of section 129(e) of the 1986 Code (relating to treatment of onsite facilities) is amended—

(A) by inserting "maintained by an employer" after "onsite facility",

(B) by inserting "of dependent care assistance provided to an employee" after "the amount",

(C) by inserting "of the facility by a dependent of the employee" after "utilization" in subparagraph (A), and

(D) by inserting "with respect to such dependent" after "provided" in subparagraph (B).

(2)(A) Paragraph (2) of section 129(a) of the 1986 Code is amended to read as follows:

"(2) LIMITATION OF EXCLUSION.—

"(A) IN GENERAL.—The amount which may be excluded under paragraph (1) for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

"(B) YEAR OF INCLUSION.—The amount of any excess under subparagraph (A) shall be included in gross income in the taxable year in which the dependent care services were provided (even if payment of dependent care assistance for such services occurs in a subsequent taxable year).

"(C) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(B) Section 6051(a) of the 1986 Code is amended by striking out the period at the end of paragraph (8) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129(d)."

(C)(i) Except as provided in this subparagraph, the amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987.

(ii) A taxpayer may elect to have the amendment made by subparagraph (A) apply to taxable years beginning in 1987.

(iii) In the case of a taxpayer not making an election under clause (ii), any dependent care assistance provided in a taxable year beginning in 1987 with respect to which reimbursement was not received in such taxable year shall be treated as provided in the taxpayer's first taxable year beginning after December 31, 1987.

(d) AMENDMENT RELATED TO SECTION 1164 OF THE REFORM ACT.—Section 119(d)(2) of the 1986 Code is amended—

(1) by striking out "(as of the close of the calendar year in which the taxable year begins)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following:

"The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins."

(e) AMENDMENTS RELATED TO SECTION 1166 OF THE REFORM ACT.—Section 7701(a)(20) of the 1986 Code (defining employee) is amended—

(1) by striking out "106, and 125" and inserting in lieu thereof "and 106", and

(2) by inserting "and for purposes of applying section 125 with respect to cafeteria plans," before "the term".

(f) AMENDMENTS RELATED TO SECTION 1168 OF THE REFORM ACT.—

(1) Paragraph (1) of section 134(b) of the 1986 Code is amended by striking out "or regulation thereunder" and inserting in lieu thereof ", regulation, or administrative practice".

(2)(A) Section 134(b)(1) of the 1986 Code is amended by inserting "(other than personal use of a vehicle)" after "in-kind benefit".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1986.

(3) Section 134(b)(3)(A) of the 1986 Code is amended by striking out "under any provision of law or regulation described in paragraph (1)".

(4) Section 1168(c) of the Reform Act is amended by striking out "1986" and inserting in lieu thereof "1984".

(g) AMENDMENTS RELATED TO SECTION 1172 OF THE REFORM ACT.—

(1) Section 1172(b)(1)(A) of the Reform Act is amended by inserting "each place it appears" before the comma.

(2) Paragraphs (2) and (3) of section 409(n) of the 1986 Code (relating to securities received in certain transactions) is amended by inserting "or section 2057" after "section 1042" each place it appears.

(3) Paragraph (1) of section 2057(b) of the 1986 Code (relating to qualified sale) is amended by striking out "is".

(h) AMENDMENTS RELATED TO SECTION 1173 OF THE REFORM ACT.—

(1) Section 133 of the 1986 Code (relating to exclusion of interest on securities acquisition loans) is amended by adding at the end thereof the following new subsection:

"(e) PERIOD TO WHICH INTEREST EXCLUSION APPLIES.—

"(1) IN GENERAL.—In the case of—

"(A) an original securities acquisition loan, and

"(B) any securities acquisition loan (or series of such loans) used to refinance the original securities acquisition loan,

subsection (a) shall apply only to interest accruing during the excludable period with respect to the original securities acquisition loan.

"(2) EXCLUDABLE PERIOD.—For purposes of this subsection, the term 'excludable period' means, with respect to any original securities acquisition loan—

"(A) IN GENERAL.—The 7-year period beginning on the date of such loan.

"(B) LOANS DESCRIBED IN SUBSECTION (b)(1)(A).—If the term of an original securities acquisition loan described in subsection (b)(1)(A) is greater than 7 years, the term of such loan. This subparagraph shall not apply to a loan described in subsection (b)(3)(B).

"(3) ORIGINAL SECURITIES ACQUISITION LOAN.—For the purposes of this subsection, the term 'original securities acquisition loan' means a securities acquisition loan described in subparagraph (A) or (B) of subsection (b)(1)."

(2)(A) Section 133(b) of the 1986 Code (defining securities acquisition loan) is amended—

(i) by striking out "or are used to refinance such a loan," in paragraph (1)(A),

(ii) by striking out ", except that this subparagraph shall not apply to any loan the commitment period of which exceeds 7 years" in paragraph (1)(B), and

(iii) by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF REFINANCINGS.—The term 'securities acquisition loan' shall include any loan which—

"(A) is (or is part of a series of loans) used to refinance a loan described in subparagraph (A) or (B) of paragraph (1), and

"(B) meets the requirements of paragraphs (2) and (3)."

(B) Subparagraph (B) of section 133(b)(3) of the 1986 Code is amended to read as follows:

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan, but only if allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of section 414(q))."

(3) Section 404(k) of the 1986 Code is amended—

(A) by inserting "(whether or not allocated to participants)" after "employer securities" in paragraph (2)(C), and

(B) by adding at the end thereof the following new sentence: "Paragraph (2)(C) shall not apply to dividends from employer securities which are allocated to any participant unless the plan provides that employer securities with a fair market value not less than the amount of such dividends are allocated to such participant for the year which (but for paragraph (2)(C)) such dividends would have been allocated to such participant."

(4) Subparagraph (C) of section 852(b)(5) of the 1986 Code (relating to interest on certain loans used to acquire employer securities) is amended by striking out "paragraph" and inserting in lieu thereof "section".

(5)(A) The amendments made by paragraphs (1) and (2) shall apply to—

(i) any loan used to acquire employer securities after July 18, 1984, and

(ii) loans made after July 18, 1984, which were used (or were part of a series of loans used) to refinance any loan which—

(I) was used to acquire employer securities after May 23, 1984 (July 18, 1984, in the case of a loan described in section 133(b)(3)(B) of the Internal Revenue Code of 1986), and

(II) met the requirements of section 133 (other than subsection (b)(2) thereof) of such Code as in effect as of the later of the date on which the loan was made, or July 19, 1984.

In no event shall such amendments apply to any loan described in section 133(b)(1)(B) of such Code which is made before October 22, 1986 (or loan used, or part of a series of loans used, to refinance such a loan).

(B) Subparagraph (B) of section 1173(c)(2) of the Reform Act is amended to read as follows:

"(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), shall apply to any loan used (or part of a series of loans used) to refinance a loan which—

"(i) was used to acquire employer securities after May 23, 1984, and

"(ii) met the requirements of section 133 of the Internal Revenue Code of 1986 as in effect as of the later of—

"(I) the date on which the loan was made, or

"(II) July 19, 1984."

(6) Section 404(k) of the 1986 Code is amended by striking out "merely by reason of any distribution" in the third sentence and inserting in lieu thereof "or as engaging in a prohibited transaction for purposes of section 4975(d)(3) merely by reason of any distribution or payment".

(i) Amendments Related to Section 1174 of the Reform Act.—

(1) Clause (ii) of section 409(o)(1)(A) of the 1986 Code (relating to distribution requirement) is amended by striking out "such year" and inserting in lieu thereof "distribution is required to begin under this clause".

(2) Section 1174(a)(2) of the Reform Act is amended by striking out "plan terminations" and inserting in lieu thereof "distributions".

(3) Section 409(o)(1)(A) of the 1986 Code is amended by striking out "unless the participant otherwise elects" and inserting in lieu thereof "if the participant and, if applicable pursuant to sections 401(a)(11) and 417, with the consent of the participant's spouse elects".

(j) Amendments Related to Section 1175 of the Reform Act.—

(1) Subclause (II) of section 401(a)(28)(B) of the 1986 Code (relating to method of meeting requirements) is amended by inserting "and within 90 days after the period during which the election may be made, the plan invests the portion of the participant's account covered by the election in accordance with such election" after "clause (i)".

(2) Clause (iv) of section 401(a)(28)(B) of the 1986 Code is amended to read as follows:

"(iv) Qualified election period.—For purposes of this subparagraph, the term 'qualified election period' means the 6-plan-year period beginning with the later of—

"(I) the 1st plan year in which the individual first became a qualified participant, or

"(II) the 1st plan year beginning after December 31, 1986.

For purposes of the preceding sentence, an employer may elect to treat an individual first becoming a qualified participant in the 1st plan year beginning in 1987 as having become a participant in the 1st plan year beginning in 1988."

(3) The last sentence of section 409(d) of the 1986 Code (relating to employer securities must stay in the plan) is amended by inserting "or to any distribution or reinvestment required under section 401(a)(28)" after "section 401(a)(9)".

(4) Section 4978(d) of the 1986 Code (relating to section not to apply to certain dispositions) is amended by adding at the end thereof the following new paragraph:

"(4) Dispositions to meet diversification requirements.—This section shall not apply to any disposition of qualified securities which is required under section 401(a)(28)."

(5) Section 409(h) of the 1986 Code (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraph:

"(7) Exception where employee elected diversification.—Paragraph (1)(A) shall not apply with respect to the portion of the participant's account which the employee elected to have reinvested under section 401(a)(28)(B)."

(6) Section 401(a)(28)(B) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) Coordination with distribution rules.—Any distribution required by this subparagraph shall not be taken into account in determining whether—

"(I) a subsequent distribution is a lump-sum distribution under section 402(e)(4)(A), or

"(II) section 402(a)(5)(D)(iii) applies to a subsequent distribution."

(k) Amendments Related to Section 1176 of the Reform Act.—

(1) Section 401(a)(22) of the 1986 Code is amended by striking out "is not publicly traded" each place it appears and inserting in lieu thereof "is not readily tradable on an established market".

(2) Section 401(a)(22) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, subsections (b), (c), (m), and (o) of section 414 shall not apply except for determining whether stock of the employer is not readily tradable on an established market."

(3) Section 409(l)(4) of the 1986 Code (relating to nonvoting common stock may be acquired in certain cases), as added by section 1176(b) of the Reform Act, is redesignated as paragraph (5).

(l) Amendments Related to Section 1177 of the Reform Act.—

(1) Paragraph (2) of section 1177(b) of the Reform Act is amended by striking out "section 143(d)(3)(C)" and inserting in lieu thereof "section 146(d)(3)(C)".

(2) Subsection (b) of section 1177 of the Reform Act is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by section 1175".

(3) If any newspaper corporation described in section 1177(b) of the Reform Act, as amended by this subsection, pays in cash a dividend within 60 days after the date of the enactment of this Act to the corporation's employee stock ownership plans and if a corporate resolution declaring such dividend was adopted before November 30, 1987, and such resolution specifies that such dividend shall be contingent upon passage by the Congress of technical corrections, then such dividend (to the extent the aggregate amount so paid does not exceed $3,500,000) shall be treated as if it had been declared and paid in 1987 for all purposes of the Internal Revenue Code of 1986.

SEC. 112. AMENDMENTS RELATED TO TITLE XII OF THE REFORM ACT.

(a) Amendments Related to Section 1201 of the Reform Act.—

(1)(A) Subparagraph (C) of section 904(d)(2) of the 1986 Code is amended to read as follows:

"(C) Financial services income.—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'financial services income' means any income which is received or accrued by any person predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, and which is—

"(I) described in clause (ii),

"(II) passive income (determined without regard to subclause (I) of subparagraph (A)(iii)), or

"(III) export financing interest which (but for subparagraph (B)(ii)) would be high withholding tax interest.

"(ii) General description of financial services income.—Income is described in this clause if such income is—

"(I) derived in the active conduct of a banking, financing, or similar business,

"(II) derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(III) of a kind which would be insurance income as defined in section 953(a) determined without regard to those provisions of paragraph (1)(A) of such section which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(iii) Exceptions.—The term 'financial services income' does not include—

"(I) any high withholding tax interest,

"(II) any dividend from a noncontrolled section 902 corporation, and

"(III) any export financing interest not described in clause (i)(III)."

(B) Clause (i) of section 864(d)(5)(A) of the 1986 Code is amended by striking out "(C)(iii)" and inserting in lieu thereof "(C)(iii)(III)".

(2) Subparagraph (D) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Such term does not include any dividend from a noncontrolled section 902 corporation and does not include any financial services income."

(3) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(H) Exception for certain high withholding tax interest.—This paragraph shall not apply to any amount which—

"(i) without regard to this paragraph, is high withholding tax interest (including any amount treated as high withholding tax interest under paragraph (2)(B)(iii)), and

"(ii) would (but for this subparagraph) be treated as financial services income under this paragraph.

The amount to which this paragraph does not apply by reason of the preceding sentence shall not exceed the interest or equivalent income of the controlled foreign corporation taken into account in determining financial services income without regard to this subparagraph."

(4) Subparagraph (E) of section 904(d)(3) of the 1986 Code is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following: "If a controlled foreign corporation meets the requirements of section 954(b)(3)(A) (relating to de minimis rule) for any taxable year, for purposes of this paragraph, none of its foreign base company income (as defined in section 954(a) without regard to section 954(b)(5)) and none of its gross insurance income (as defined in section 954(b)(3)(C)) for such taxable year shall be treated as income in a separate category, except that this sentence shall not apply to any income which (without regard to this sentence) would be treated as financial services income.", and

(B) by striking out "income (other than high withholding tax interest and dividends from a noncontrolled section 902 corporation)" and inserting in lieu thereof "passive income".

(5) Paragraph (2) of section 1201(e) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(J) Treatment of affiliated group filing consolidated return.—For purposes of this paragraph, all members of an affiliated group of corporations filing a consolidated return shall be treated as 1 corporation."

(6) Subparagraph (A) of section 904(d)(2) of the 1986 Code is amended—

(A) by striking out "The term" in clause (ii) and inserting in lieu thereof "Except as provided in clause (iii), the term", and

(B) by adding at the end thereof the following new clause:

"(iv) CLARIFICATION OF APPLICATION OF SECTION 864(d)(6).—In determining whether any income is of a kind which would be foreign personal holding company income, the rules of section 864(d)(6) shall apply only in the case of income of a controlled foreign corporation."

(7) Subparagraph (F) of section 904(d)(3) of the 1986 Code is amended to read as follows:

"(F) SEPARATE CATEGORY.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'separate category' means any category of income described in subparagraph (A), (B), (C), (D), or (E) of paragraph (1).

"(ii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—

"(I) In determining whether any income of a controlled foreign corporation is in a separate category, subclause (III) of paragraph (2)(A)(iii) shall not apply.

"(II) Any income of the taxpayer which is treated as income in a separate category under this paragraph shall be so treated notwithstanding any provision of paragraph (2); except that the determination of whether any amount is high-taxed income shall be made after the application of this paragraph."

(8) Clause (iii) of section 904(d)(2)(B) of the 1986 Code is amended to read as follows:

"(iii) REGULATIONS.—The Secretary may by regulations provide that—

"(I) amounts (not otherwise high withholding tax interest) shall be treated as high withholding tax interest where necessary to prevent avoidance of the purposes of this subparagraph, and

"(II) a tax shall not be treated as a withholding tax or other tax imposed on a gross basis if such tax is in the nature of a prepayment of a tax imposed on a net basis."

(9) Clause (ii) of section 904(d)(2)(I) of the 1986 Code is amended by striking out "except to the extent that" and all that follows down through "and" at the end thereof and inserting in lieu thereof the following:

"except that—

"(I) such taxes shall be treated as paid or accrued with respect to shipping income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income,

"(II) in the case of a person described in subparagraph (C)(i), such taxes shall be treated as paid or accrued with respect to financial services income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and

"(III) such taxes shall be treated as paid or accrued with respect to high withholding tax interest to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and".

(10) Clause (i) of section 904(d)(2)(E) of the 1986 Code is amended—

(A) by striking out "during which it was a controlled foreign corporation" and inserting in lieu thereof "during which it was a controlled foreign corporation and the taxpayer was a related person to such corporation", and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, the term 'related person' has the meaning given such term by section 954(d)(3), except that the Secretary may by regulation provide that such section be applied by substituting '10 percent' for '50 percent' each place it appears."

(11) Subparagraph (E) of section 904(d)(1) of the 1986 Code is amended by striking out "dividends" and inserting in lieu thereof "in the case of a corporation, dividends".

(b) AMENDMENT RELATED TO SECTION 1202 OF THE REFORM ACT.—

(1) Paragraph (7) of section 902(c) of the 1986 Code is amended—

(A) by striking out "secton 960" and inserting in lieu thereof "section 960", and

(B) by striking out "this section" the second place it appears and inserting in lieu thereof "this section and section 960".

(2) Paragraph (1) of section 902(c) of the 1986 Code is amended by striking out "sections 964 and 986" and inserting in lieu thereof "sections 964(a) and 986".

(3) For purposes of sections 902 and 960 of the 1986 Code, the increase in earnings and profits of any foreign corporation under section 1023(e)(3)(C) of the Reform Act shall be taken into account ratably over the 10-year period beginning with the corporation's first taxable year beginning after December 31, 1986.

(4) Paragraph (3) of section 404A(d) of the 1986 Code is amended by striking out "the amount determined" and inserting in lieu thereof "except as provided in regulations, the amount determined".

(c) AMENDMENT RELATED TO SECTION 1203 OF THE REFORM ACT.—Paragraph (5) of section 904(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) DISPOSITIONS.—If any separate limitation loss for any taxable year is allocated against any separate limitation income for such taxable year, except to the extent provided in regulations, rules similar to the rules of paragraph (3) shall apply to any disposition of property if gain from such disposition would be in the income category with respect to which there was such separate limitation loss."

(d) AMENDMENTS RELATED TO SECTION 1211 OF THE REFORM ACT.—

(1) Subsection (d) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (C).—

"(A) GAIN NOT IN EXCESS OF DEPRECIATION ADJUSTMENTS SOURCED UNDER SUBSECTION (C).—Notwithstanding paragraph (1), any gain from the sale of an intangible shall be sourced under subsection (c) to the extent such gain does not exceed the depreciation adjustments with respect to such intangible.

"(B) SUBSECTION (C)(2) NOT TO APPLY TO INTANGIBLES.—Paragraph (2) of subsection (c) shall not apply to any gain from the sale of an intangible."

(2) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "(d), or (f)" and inserting in lieu thereof "(d)(1)(B) or (3), or (f)".

(3)(A) Clause (ii) of section 865(g)(1)(A) of the 1986 Code is amended by striking out "partnership,".

(B) Subsection (h) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF PARTNERSHIPS.—In the case of a partnership, except as provided in regulations, this section shall be applied at the partner level."

(4) Subsection (f) of section 865 of the 1986 Code is amended to read as follows:

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate which is a foreign corporation,

"(2) such sale occurs in a foreign country in which such affiliate is engaged in the active conduct of a trade or business, and

"(3) more than 50 percent of the gross income of such affiliate for the 3-year period ending with the close of such affiliate's taxable year immediately preceding the year in which the sale occurred was derived from the active conduct of a trade or business in such foreign country,

any gain from such sale shall be sourced outside the United States. For purposes of paragraphs (2) and (3), the United States resident may elect to treat an affiliate and all other corporations which are wholly owned (directly or indirectly) by the affiliate as one corporation."

(5) Effective with respect to taxable years beginning after December 31, 1987, subparagraph (B) of section 865(e)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office or other fixed place of business of the taxpayer in a foreign country materially participated in the sale."

(6)(A) Subsection (g) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN STOCK SALES BY RESIDENTS OF PUERTO RICO.—Paragraph (2) shall not apply to the sale by an individual who was a bona fide resident of Puerto Rico during the entire taxable year of stock in a corporation if—

"(A) such corporation is engaged in the active conduct of a trade or business in Puerto Rico, and

"(B) more than 50 percent of its gross income for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year in which such sale occurred was derived from the active conduct of a trade or business in Puerto Rico.

For purposes of the preceding sentence, the taxpayer may elect to treat a corporation and all other corporations which are wholly owned (directly or indirectly) by such corporation as one corporation."

(B) Subsection (i) of section 865 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) providing that, subject to such conditions (which may include provisions comparable to section 877) as may be provided in such regulations, subsections (e)(1)(B) and (g)(2) shall not apply for purposes of sections 931, 933, and 936."

(7) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii) is derived from the sale or exchange (outside the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country participated materially in such sale."

(8) Section 865 of the 1986 Code is amended by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF GAINS FROM SALE OF CERTAIN STOCK OR INTANGIBLES AND FROM CERTAIN LIQUIDATIONS.—

"(1) IN GENERAL.—In the case of gain to which this subsection applies—

"(A) such gain shall be sourced outside the United States, but

"(B) subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such gain.

"(2) GAIN TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) GAIN FROM SALE OF CERTAIN STOCK OR INTANGIBLES.—Any gain—

"(i) which is from the sale of stock in a foreign corporation or an intangible (as defined in subsection (d)(2)) and which would otherwise be sourced in the United States under this section,

"(ii) which, under a treaty obligation of the United States (applied without regard to this section), would be sourced outside the United States, and

"(iii) with respect to which the taxpayer chooses the benefits of this subsection.

"(B) GAIN FROM LIQUIDATION IN POSSESSION.—Any gain which is derived from the liquidation of a corporation—

"(i) which is organized in a possession of the United States, and

"(ii) more than 50 percent of the gross income of which during the 3-taxable year period ending with the close of the taxable year immediately preceding the taxable year in which the liquidation occurs is from the active conduct of a trade or business in such possession."

(9) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "outside the United States" the first place it appears and inserting in lieu thereof "in a foreign country".

(10) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended—

(A) by striking out "(including any gain or loss realized on the sale or exchange of such property)" in clause (i), and

(B) by striking out ", or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness" in clause (ii).

(11) Clause (i) of section 865(g)(1)(A) of the 1986 Code is amended to read as follows—

"(i) any individual who—

"(I) is a United States citizen or a resident alien and does not have a tax home (as defined in section 911(d)(3)) in a foreign country, or

"(II) is a nonresident alien and has a tax home (as so defined) in the United States, and".

(12) Paragraph (2) of section 865(d) of the 1986 Code is amended by inserting "franchise," after "trade brand,".

(e) AMENDMENTS RELATED TO SECTION 1212 OF THE REFORM ACT.—

(1)(A) Paragraph (3) of section 883(c) of the 1986 Code is amended to read as follows:

"(3) SPECIAL RULES FOR PUBLICLY TRADED CORPORATIONS.—

"(A) EXCEPTION.—Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the requirements of such paragraph, or the United States.

"(B) TREATMENT OF STOCK OWNED BY PUBLICLY TRADED CORPORATION.—Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized."

(B) Paragraph (1) of section 883(c) of the 1986 Code is amended—

(i) by striking out "Paragraphs (1) and (2) of subsection (a)" and inserting in lieu thereof "Paragraph (1) or (2) of subsection (a) (as the case may be)", and

(ii) by striking out "such paragraphs (1) and (2)" and inserting in lieu thereof "such paragraph".

(2)(A) Paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "to citizens of the United States and".

(B) Paragraphs (1) and (2) of section 872(b) of the 1986 Code are each amended by striking out "to citizens of the United States and to corporations organized in the United States" and inserting in lieu thereof "to individual residents of the United States".

(3)(A) The section heading for section 863 of the 1986 Code is amended to read as follows:

"SEC. 863. SPECIAL RULES FOR DETERMINING SOURCE."

(B) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to section 863 and inserting in lieu thereof the following:

"Sec. 863. Special rules for determining source."

(4) Subsection (c) of section 862 is hereby repealed.

(5) Paragraphs (1) and (2) of section 872(b) of the 1986 Code and paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "operation" and inserting in lieu thereof "international operation".

(6) Paragraph (1) of section 887(b) of the 1986 Code is amended—

(A) by striking out "under section 863(c)" and inserting in lieu thereof "under section 863(c)(2)", and

(B) by adding at the end thereof the following new sentence: "To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply."

(f) AMENDMENT RELATED TO SECTION 1213 OF THE REFORM ACT.—Paragraph (2) of section 863(e) of the 1986 Code is amended by striking out "foreign country" each place it appears and inserting in lieu thereof "foreign country (or possession of the United States)".

(g) AMENDMENTS RELATED TO SECTION 1214 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1214(d) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendments made by this section shall apply to payments made in a taxable year of the payor beginning after December 31, 1986."

(2) Subparagraph (B) of section 1214(d)(2) of the Reform Act is amended by striking out "section 904(d)(2)(G)" and inserting in lieu thereof "section 904(d)(2)(H)".

(3) Subparagraph (B) of section 861(c)(1) of the 1986 Code is amended—

(A) by striking out "subchapter)" in clause (i) and inserting in lieu thereof "subchapter) or, in the case of a corporation, is attributable to income so derived by a subsidiary of such corporation",

(B) by striking out "or chain of subsidiaries of such corporation" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'subsidiary' means any corporation in which the corporation referred to in this subparagraph owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears)."

(4) Paragraph (1) of section 2105(b) of the 1986 Code is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1)".

(5) Paragraph (2) of section 864(c) of the 1986 Code is amended by striking out the last sentence.

(6) Paragraph (3) of section 907(c) of the 1986 Code is amended:

(A) by striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(B) by striking out "and dividends described in subparagraph (B)".

(7) Subsection (a) of section 1442 of the 1986 Code is amended—

(A) by striking out "and the references in" and inserting in lieu thereof "the references in", and

(B) by inserting before the period at the end thereof the following: ", and the reference in section 1441(c)(10) to section 871(i)(2) shall be treated as referring to section 881(d)".

(h) AMENDMENTS RELATED TO SECTION 1215 OF THE REFORM ACT.—

(1) Paragraph (4) of section 864(e) of the 1986 Code is amended to read as follows:

"(4) BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS ADJUSTED FOR EARNINGS AND PROFITS CHANGES.—

"(A) IN GENERAL.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any stock in a nonaffiliated 10-percent owned corporation shall be—

"(i) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(ii) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(B) NONAFFILIATED 10-PERCENT OWNED CORPORATION.—For purposes of this paragraph, the term 'nonaffiliated 10-percent owned corporation' means any corporation if—

"(i) such corporation is not included in the taxpayer's affiliated group, and

"(ii) members of such affiliated group own 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(C) EARNINGS AND PROFITS OF LOWER TIER CORPORATIONS TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—If, by reason of holding stock in a nonaffiliated 10-percent owned corporation, the taxpayer is treated under clause (iii) as owning stock in another corporation with respect to which the stock ownership requirements of clause (ii) are met, the adjustment under subparagraph (A) shall include an adjustment for the amount of the earnings and profits (or deficit therein) of such other corporation which are attributable to the stock the taxpayer is so treated as owning and to the period during which the taxpayer is treated as owning such stock.

"(ii) STOCK OWNERSHIP REQUIREMENTS.—The stock ownership requirements of this clause are met with respect to any corporation if members of the taxpayer's affiliated group own (directly or through the application of clause (iii)) 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(iii) STOCK OWNED THROUGH ENTITIES.—For purposes of this subparagraph, stock owned (directly or indirectly) by a corporation, partnership, or trust shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence, shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(D) COORDINATION WITH SUBPART F, ETC.—For purposes of this paragraph, proper adjustment shall be made to the earnings and profits of any corporation to take into account any earnings and profits included in gross income under section 951 or under any other provision of this title and reflected in the adjusted basis of the stock."

(2)(A) Paragraph (1) of section 864(e) of the 1986 Code is amended by striking out "from sources outside the United States".

(B) Subsection (h) of section 936 of the 1986 Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SECTION 864(E)(1) NOT TO APPLY.—This subsection shall be applied as if section 864(e)(1) (relating to treatment of affiliated groups) had not been enacted."

(C) The heading for part I of subchapter N of chapter 1 of the 1986 Code is amended to read as follows:

"PART I—SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME".

(D) The table of parts for subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Source rules and other general rules relating to foreign income."

(3) Paragraph (3) of section 864(e) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "A similar rule shall apply in the case of the portion of any dividend (other than a qualifying dividend as defined in section 243(b)) equal to the deduction allowable under section 243 or 245(a) with respect to such dividend and in the case of a like portion of any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined)."

(4)(A) Paragraph (5) of section 864(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF BANK HOLDING COMPANIES.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956), and

"(ii) any subsidiary of a financial institution described in section 581 or 591 or of any bank holding company if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (C)."

(B) Subparagraph (B) of section 864(e)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of paragraph (6)."

(5) Paragraph (6) of section 864(e) of the 1986 Code is amended by striking out "directly allocable and apportioned" and inserting in lieu thereof "directly allocable or apportioned".

(6)(A) Paragraph (7) of section 864(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) for direct allocation of interest expense in the case of indebtedness resulting in a disallowance under section 246A,

"(E) for appropriate adjustments in the application of paragraph (3) in the case of an insurance company, and

"(F) that this subsection shall not apply for purposes of any provision of this subchapter to the extent the Secretary determines that the application of this subsection for such purposes would not be appropriate."

(B) Subsection (e) of section 864 of the 1986 Code is amended by striking out "(except as provided in regulations)" in the material preceding paragraph (1).

(7) Paragraph (2) of section 1215(c) of the Reform Act is amended to read as follows:

"(2) TRANSITIONAL RULES.—

"(A) GENERAL PHASE-IN.—

"(i) IN GENERAL.—In the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the general phase-in amount.

"(ii) GENERAL PHASE-IN AMOUNT.—Except as provided in clause (iii), the general phase-in amount for purposes of clause (i) is the applicable percentage (determined under the following table) of the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985:

"In the case of the:	The applicable percentage is:
1st taxable year...	75
2nd taxable year..	50
3rd taxable year...	25.

"(iii) LOWER LIMIT WHERE TAXPAYER REDUCES INDEBTEDNESS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the general phase-in amount shall in no event exceed the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985. To the extent provided in regulations, the average amount of indebtedness outstanding during any month shall be used (in lieu of the amount outstanding as of the close of such month) for purposes of the preceding sentence.

"(B) CONSOLIDATION RULE NOT TO APPLY TO CERTAIN INTEREST.—

"(i) IN GENERAL.—In the case of the 1st 5 taxable years of the taxpayer beginning after December 31, 1986—

"(I) subparagraph (A) shall not apply for purposes of paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section), but

"(II) such paragraph (1) shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the special phase-in amount.

"(ii) SPECIAL PHASE-IN AMOUNT.—The special phase-in amount for purposes of clause (i) is the sum of—

"(I) the general phase-in amount as determined for purposes of subparagraph (A),

"(II) the 5-year phase-in amount, and

"(III) the 4-year phase-in amount.

For purposes of applying this subparagraph to interest expense attributable to any month, the special phase-in amount shall in no event exceed the limitation determined under subparagraph (A)(iii).

"(iii) 5-YEAR PHASE-IN AMOUNT.—The 5-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount reduced by paydowns:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year................	8⅓...............	10
2nd taxable year................	16⅔.............	25
3rd taxable year................	25................	50
4th taxable year................	33⅓.............	100
5th taxable year................	16⅔.............	100.

"(iv) 4-YEAR PHASE-IN AMOUNT.—The 4-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount reduced by paydowns to the extent such paydowns exceed the 5-year debt amount:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year................	5..................	6¼
2nd taxable year................	10................	16⅔
3rd taxable year................	15................	37½
4th taxable year................	20................	100
5th taxable year................	0..................	0.

"(v) 5-YEAR DEBT AMOUNT.—The term '5-year debt amount' means the excess (if any) of—

"(I) the amount of the outstanding indebtedness of the taxpayer on May 29, 1985, over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1983.

The 5-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985.

"(vi) 4-YEAR DEBT AMOUNT.—The term '4-year debt amount' means the excess (if any) of—

"(I) the amount referred to in clause (v)(II), over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1982.

The 4-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, reduced by the 5-year debt amount.

"(vii) PAYDOWNS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the term 'paydowns' means the excess (if any) of—

"(I) the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, over

"(II) the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985 (or, to the extent provided in regulations under subparagraph (A)(iii), the average amount of indebtedness outstanding during any such month).

"(C) COORDINATION OF SUBPARAGRAPHS (A) AND (B).—In applying subparagraph (B), there shall first be taken into account indebtedness to which subparagraph (A) applies.

"(D) SPECIAL RULES.—

"(i) In the case of the 1st 9 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the applicable percentage (determined under the following table) of the indebtedness described in clause (iii) or (iv):

"In the case of the:	*The applicable percentage is:*
1st taxable year ...	*90*
2nd taxable year..	*80*
3rd taxable year...	*70*
4th taxable year...	*60*
5th taxable year...	*50*
6th taxable year...	*40*
7th taxable year...	*30*
8th taxable year...	*20*
9th taxable year...	*10.*

"(ii) The provisions of this subparagraph shall apply in lieu of the provisions of subparagraphs (A) and (B).

"(iii) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

"(iv) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

"(E) TREATMENT OF AFFILIATED GROUP.—For purposes of this paragraph, all members of the same affiliated group of corporations (as defined in section 864(e)(5)(A) of the Internal Revenue Code of 1986, as added by this section) shall be treated as 1 taxpayer whether or not such members filed a consolidated return."

"(F) ELECTION TO HAVE PARAGRAPH NOT APPLY.—A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph not apply. In the case of members of the same affiliated group (as so defined), such an election may be made only if each member consents to such election."

(i) AMENDMENTS RELATED TO SECTION 1221 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 953(c)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a disqualified corporation for the taxable year for which the election was made or for any prior taxable year beginning after 1986."

(B) Clause (i) of section 953(c)(3)(D) of the 1986 Code is amended to read as follows:

"(i) PERIOD DURING WHICH ELECTION IN EFFECT.—

"(I) IN GENERAL.—Except as provided in subclause (II), any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(II) TERMINATION.—If a foreign corporation which made an election under subparagraph (C) for any taxable year is a disqualified corporation for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year."

(C) Paragraph (3) of section 953(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) DISQUALIFIED CORPORATION.—For purposes of this paragraph the term 'disqualified corporation' means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation for an uninterrupted period of 30 days or more during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such corporation at some time during such taxable year."

(2)(A) Paragraph (1) of section 953(c) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection."

(B) Subsection (c) of section 953 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DETERMINATION OF PRO RATA SHARE.—

"(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

"(i) the amount which would be determined under paragraph (2) of section 951(a) if—

"(I) only related person insurance income were taken into account,

"(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

"(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

"(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

"(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A)."

(3)(A) Paragraph (2) of section 953(c) of 1986 Code is amended by striking out "with respect to which the primary insured is" and inserting in lieu thereof "with respect to which the person (directly or indirectly) insured is".

(B) Subparagraph (A) of section 953(c)(3) of the 1986 Code is amended—

(i) by striking out "persons who are the primary insured" and inserting in lieu thereof "persons who are (directly or indirectly) insured", and

(ii) by striking out "to any such primary insured" and inserting in lieu thereof "to any such person".

(C) The amendments made by this paragraph to the extent such amendments add the phrase "(directly or indirectly)" shall apply only to taxable years beginning after December 31, 1987.

(4)(A) Subsection (c) of section 953 of the 1986 Code (as amended by paragraph (2)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by section 954(d)(3).

"(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons."

(B) Paragraphs (2) and (3)(A) of section 953(c) of the 1986 Code are each amended by striking out "(within the meaning of section 954(d)(3))".

(5) Paragraph (2) of section 953(c) of the 1986 Code is amended by striking out "insurance income attributable" and inserting in lieu thereof "insurance income (within the meaning of subsection (a)) attributable".

(6) For purposes of applying section 952(c)(1)(A) of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under section 1023(e)(3)(C) of the Reform Act.

(7) Subsection (b) of section 953 of the 1986 Code is amended—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subparagraph (A) of paragraph (1) (as so redesignated) and inserting in lieu thereof the following:

"(A) The small life insurance company deduction.", and

(C) by striking out "(other than those taken into account under paragraph (3))" in paragraph (3) (as so redesignated).

(8) Subparagraph (B) of section 953(c)(3) of the 1986 Code is amended—

(A) by striking out "related person insurance income" and inserting in lieu thereof "related person insurance income (determined on a gross basis)", and

(B) by striking out "its insurance income" and inserting in lieu thereof "its insurance income (as so determined)".

(9) Subclause (II) of section 953(c)(3)(C)(i) of the 1986 Code is amended—

(A) by striking out "all benefits" and inserting in lieu thereof "all benefits (other than with respect to section 884)", and

(B) by striking out "under any income tax treaty" and inserting in lieu thereof "granted by the United States under any treaty".

(10) Paragraph (7) of section 861(a) of the 1986 Code is amended to read as follows:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of, the United States, or

"(B) in connection with risks not described in subparagraph (A) as a result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to issuing (or reinsuring) any insurance or annuity contract in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, the United States."

(11) Subparagraph (A) of section 955(a)(2) of the 1986 Code is amended by striking out "beginning before 1987" and inserting in lieu thereof "beginning before 1987 (to the extent such amount exceeds the sum of the decreases in qualified investments determined under this paragraph for prior taxable years beginning after 1986)".

(12) Paragraphs (6) and (7) of section 954(b) of the 1986 Code are each amended by striking out "(determined without regard to the exclusion under paragraph (2) of this subsection)".

(13)(A) Subparagraph (C) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "July 9" and inserting in lieu thereof "June 9", and

(ii) by striking out "March 31, 1982" and inserting in lieu thereof "November 3, 1981".

(B) Subparagraph (D) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "as of August 16, 1986, under a reinsurance contract in effect on such date" and inserting in lieu thereof "under a reinsurance contract",

(ii) by striking out "the preceding sentence" and inserting in lieu thereof "this subparagraph", and

(iii) by adding at the end thereof the following: "For purposes of this paragraph, the amount of qualified reinsurance income shall not exceed the amount of insurance income from reinsurance contracts for calendar year 1985. In the case of controlled foreign corporations described in subparagraph (C)(ii), the preceding sentence shall not apply and the qualified reinsurance income of any such corporation shall not exceed such corporation's proportionate share of $27,000,000 (determined on the basis of respective amounts of qualified reinsurance income determined without regard to this subparagraph)."

(14)(A) Paragraph (3) of section 954(d) of the 1986 Code is amended by striking out "50 percent or more" each place it appears and inserting in lieu thereof "more than 50 percent".

(B) Clause (ii) of section 861(c)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) such section shall be applied by substituting '10 percent or more' for 'more than 50 percent' each place it appears."

(15) Subsection (b) of section 951 of the 1986 Code is amended by striking out "section 957(d)" and inserting in lieu thereof "section 957(c)".

(16) Subsection (c) of section 952 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation."

(17) Subparagraph (A) of section 881(c)(4) of the 1986 code is amended by striking out clauses (ii), (iii), (iv), and (v) and inserting in lieu thereof the following:

"(ii) Paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes).

"(iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons)."

(18) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) which is an interest in a trust, partnership, or REMIC, or".

(19)(A) Subsection (a) of section 6046 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and".

(B) Subsection (b) of section 6046 of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of subsection (a)".

(C) Subsection (a) of section 6046 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation."

(20) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In the case of any regular dealer in property, gains and losses from the sale or exchange of any such property or arising out of bona fide hedging transactions reasonably necessary to the conduct of the business of being a dealer in such property shall not be taken into account under this subparagraph. Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(1) also shall not be taken into account under this subparagraph."

(21) Subsection (c) of section 953 (as amended by this subsection) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) COORDINATION WITH SECTION 1248.—If any person is treated under paragraph (1) as a United States shareholder with respect to any foreign corporation, for purposes of section 1248, such person shall be treated as meeting the stock ownership requirements of section 1248(a)(2) with respect to such foreign corporation.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

"(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

"(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation."

(22) Subclause (III) of section 952(c)(1)(B)(iii) of the 1986 Code is amended by striking out "insurance income" and inserting in lieu thereof "insurance income or foreign personal holding company income,".

(23) Clause (iii) of section 952(c)(1)(B) of the 1986 Code is amended by redesignating subclauses (III) and (IV) as subclauses (V) and (VI), respectively, and by inserting after subclause (II) the following new subclauses:

"(III) foreign base company sales income,

"(IV) foreign base company services income,".

(24) Clause (ii) of section 952(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In determining the deficit attributable to qualified activities described in clause (iii)(III) or (IV), deficits in earnings and profits (to the extent not previously taken into account under this section) for taxable years beginning after 1962 and before 1987 also shall be taken into account. In the case of the qualified activity described in clause (iii)(II), the rule of the preceding sentence shall apply, except that '1982' shall be substituted for '1962'."

(25)(A) Paragraph (1) of section 952(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year which is attributable to any qualified activity by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation to the extent such deficit is attributable to such activity. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under subparagraph (B).

"(ii) QUALIFIED CHAIN MEMBER.—For purposes of this subparagraph, the term 'qualified chain member' means, with respect to *any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—*

"(I) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

"(II) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.

"(iii) Coordination.—This subparagraph shall be applied after subparagraphs (A) and (B)."

(B) Subparagraph (B) of section 954(c)(3) of the 1986 Code is amended by inserting before the period at the end thereof the following: "or creates (or increases) a deficit which under section 952(c) may reduce the subpart F income of the payor or another controlled foreign corporation".

(j) Amendment Related to Section 1224 of the Reform Act.—Paragraph (2) of section 901(g) of the 1986 Code and section 936(d)(3)(B) of the 1986 Code are each amended by striking out "section 957(c)" and inserting in lieu thereof "section 957(c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(k) Amendment Related to Section 1225 of the Reform Act.—Subsection (c) of section 1225 of the Reform Act is amended by striking out "March 1, 1986" and inserting in lieu thereof "January 1, 1986".

(l) Amendments Related to Section 1226 of the Reform Act.—

(1) Subsection (a) of section 246A of the 1986 Code is amended by striking out the last sentence.

(2)(A) Paragraph (8) of section 245 of the 1986 Code is amended to read as follows:

"(8) Disallowance of foreign tax credit.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation."

(B) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) Coordination with treaties.—If—

"(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

"(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

"(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend)."

(3) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) Coordination with section 1248.—For purposes of this subsection, the term 'dividend' does not include any amount treated as a dividend under section 1248."

(m) Amendments Related to Section 1228 of the Reform Act.—

(1) Subsection (a) of section 1228 of the Reform Act is amended by striking out "and" at the end of paragraph (3), and by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) the transfer, sale, exchange, or other disposition is part of a single integrated plan, whereby the stock of the corporation described in paragraph (1) becomes owned directly by the 2 corporations specifically referred to in subsection (b) or by such 2 corporations and by 1 or both of their jointly owned direct subsidiaries,

"(5) within 20 days after each transfer, sale, exchange, or other disposition, the person making such transfer, sale, exchange, or other disposition notifies the Internal Revenue Service of the transaction, the date of the transaction, the basis of the stock involved, the holding period for such stock, and such other information as the Internal Revenue Service may require, and

"(6) the integrated plan is completed before the date 4 years after the date of the enactment of the Technical Corrections Act of 1988.

In the case of any underpayment attributable to a failure to meet any requirement of this subsection, the period during which such underpayment may be assessed shall in no event expire before the date 5 years after the date of the enactment of the Technical Corrections Act of 1988."

(2) Subsection (c) of section 1228 of the Reform Act is hereby repealed.

(n) Amendments Related to Section 1231 of the Reform Act.—

(1) Subparagraph (A) of section 1231(g)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of any transfer (or license) which is not to a foreign person, the preceding sentence shall be applied by substituting 'August 16, 1986' for 'November 16, 1985'."

(2) Subparagraph (B) of section 1231(g)(2) of the Reform Act is amended by striking out "was made" and inserting in lieu thereof ", if any, was made".

(3) Subsection (g) of section 1231 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Transitional rule for increase in gross income test.—

"(A) In general.—If—

"(i) a corporation fails to meet the requirements of subparagraph (B) of section 936(a)(2) of the Internal Revenue Code of 1986 (as amended by subsection (d)(1)) for any taxable year beginning in 1987 or 1988,

"(ii) such corporation would have met the requirements of such subparagraph (B) if such subparagraph had been applied without regard to the amendment made by subsection (d)(1), and

"(iii) 75 percent or more of the gross income of such corporation for such taxable year (or, in the case of a taxable year beginning in 1988, for the period consisting of such taxable year and the preceding taxable year) was derived from the active conduct of a trade or business within a possession of the United States, such corporation shall nevertheless be treated as meeting the requirements of such subparagraph (B) for such taxable year if it elects to reduce the amount of the qualified possession source investment income for the taxable year by the amount of the shortfall determined under subparagraph (B) of this paragraph.

"(B) Determination of shortfall.—The shortfall determined under this subparagraph for any taxable year is an amount equal to the excess of—

"(i) 75 percent of the gross income of the corporation for the 3-year period (or part thereof) referred to in section 936(a)(2)(A) of such Code, over

"(ii) the amount of the gross income of such corporation for such period (or part thereof) which was derived from the active conduct of a trade or business within a possession of the United States.

"(C) Special rule.—Any income attributable to the investment of the amount not treated as qualified possession source investment income under subparagraph (A) shall not be treated as qualified possession source investment income for any taxable year."

(4) Subparagraph (B) of section 1231(a)(1) of the Reform Act is amended by striking out "at the end thereof" and inserting in lieu thereof "at the end of the material relating to payment of cost sharing".

(5)(A) Clause (ii) of section 936(d)(4)(A) of the 1986 Code is amended to read as follows:

"(ii) in accordance with a specific authorization granted by the Commissioner of Financial Institutions of Puerto Rico pursuant to regulations issued by such Commissioner."

(B) Clauses (i) and (ii) of section 936(d)(4)(C) of the 1986 Code are each amended by striking out "the Secretary of the Treasury of Puerto Rico" and inserting in lieu thereof "the Commissioner of Financial Institutions of Puerto Rico".

(o) Amendment Related to Section 1234 of the Reform Act.—Subsection (d) of section 6039E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence)."

(p) Amendments Related to Section 1235 of the Reform Act.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code is amended to read as follows:

"(1) In general.—This section shall not apply with respect to any distribution paid by a passive foreign investment company, or any disposition of stock in a passive foreign investment company, if such company is a qualified electing fund for each of its taxable years—

"(A) which begins after December 31, 1986, and for which such company is a passive foreign investment company, and

"(B) which includes any portion of the taxpayer's holding period."

(2) Subsection (c) of section 1296 of the 1986 Code is amended by striking out "owns at least" and inserting in lieu thereof "owns (directly or indirectly) at least".

(3) Paragraph (3) of section 1291(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 551(d), 959(a), or 1293(c)."

(4) Paragraph (2) of section 1294(c) of the 1986 Code is amended—

(A) by striking out "is disposed of" in subparagraph (A) and inserting in lieu thereof "is transferred",

(B) by striking out "such disposition or cessation" each place it appears and inserting in lieu thereof "such transfer or cessation", and

(C) by striking out "DISPOSITIONS" in the paragraph heading and inserting in lieu thereof "TRANSFERS".

(5) Paragraph (1) of section 1296(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c)."

(6)(A) Subsection (f) of section 1291 of the 1986 Code is amended to read as follows:

"(f) RECOGNITION OF GAIN.—To the extent provided in regulations, in the case of any transfer of stock in a passive foreign investment company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of any such stock for gain recognized under the preceding sentence."

(B) Subsection (e) of section 1291 of the 1986 Code is amended by striking out "Rules similar" and inserting in lieu thereof "Except to the extent inconsistent with the regulations prescribed under subsection (f), rules similar".

(7)(A) Paragraphs (4) and (5) of section 1291(a) of the 1986 Code are hereby repealed.

(B) Section 1291 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign investment company—

"(A) the amount of such distribution shall be determined for purposes of this section with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in subsection (a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904(d) and not below zero) the increase in tax determined under subsection (c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248."

(8) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this section, see section 6601."

(9) Paragraph (2) of section 1291(e) of the 1986 Code is amended by striking out "not" the second place it appears.

(10)(A) Subsection (a) of section 1297 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock."

(B) Paragraph (5) of section 1297(a) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)".

(11) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) LOOK-THRU APPLIES TO PASSIVE FOREIGN INVESTMENT COMPANY INCLUSION.—If—

"(i) a passive foreign investment company is a controlled foreign corporation, and

"(ii) the taxpayer is a United States shareholder in such controlled foreign corporation,

any amount included in gross income under section 1293 shall be treated as income in a separate category to the extent such amount is attributable to income in such category."

(12) Clause (ii) of section 1291(a)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any period in the taxpayer's holding period before the 1st day of the 1st taxable year of the company which begins after December 31, 1986, and for which it was a passive foreign investment company, and".

(13) Subparagraph (A) of section 1291(b)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B)."

(14) Subparagraph (A) of section 1291(a)(3) of the 1986 Code is amended by striking out "in the case of an excess distribution" and inserting in lieu thereof "for purposes of applying this section to an excess distribution".

(15) Subsection (b) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, if the fund establishes to the satisfaction of the Secretary that it uses a shorter period than the taxable year to determine shareholders' interests in the earnings of such fund, pro rata shares may be determined by using such shorter period."

(16) Subparagraph (B) of section 1296(b)(2) of the 1986 Code is amended by striking out "by a corporation which" and inserting in lieu thereof "by a corporation which is predominantly engaged in an insurance business and which".

(17) Paragraph (5) of section 1297(b) of the 1986 Code is amended to read as follows:

"(5) APPLICATION OF PART WHERE STOCK HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—Under regulations, in any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of subsection (a)—

"(i) any disposition by the United States person or the person owning such stock which results in the United States person being treated as no longer owning such stock, or

"(ii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign investment company.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) and to any amount included in gross income under section 1293(a) (or which would have been so included but for section 951(f)) in respect of stock which the taxpayer is treated as owning under subsection (a)."

(18) Subsection (e) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF EARNINGS AND PROFITS.—The earnings and profits of any qualified electing fund shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the qualified electing fund."

(19) Subsection (d) of section 1248 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 1293.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 1293 with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount under section 1293(c)."

(20) Paragraph (6) of section 1297(b) of the 1986 Code is amended by striking out "If a" and inserting in lieu thereof "Except as provided in regulations, if a".

(21) Section 1246 of the 1986 Code is amended by redesignating the subsection relating to information with respect to certain foreign investment companies as subsection (f), by redesignating the subsection relating to coordination with section 1248 as subsection (g), and by redesignating the subsection relating to cross reference as subsection (h).

(22) Subparagraph (A) of section 1297(b)(3) of the 1986 Code is amended to read as follows:

"(A) neither such corporation (nor any predecessor) was a passive foreign investment company for any prior taxable year,".

(23) Subsection (c) of section 1293 of the 1986 Code is amended by striking out "shall be treated as a distribution which is not a dividend" and inserting in lieu thereof "shall be treated, for purposes of this chapter, as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits".

(24) Subsection (b) of section 1297 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If—

"(i) a foreign corporation is subject to the tax imposed by section 531 (or waives any benefit under any treaty which would otherwise prevent the imposition of such tax), and

"(ii) such foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation,

for purposes of determining whether such foreign corporation is a passive foreign investment company, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust."

(25) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this section and section 1293, any loan by a qualified electing fund (directly or indirectly) to a shareholder of such fund shall be treated as a distribution to such shareholder.

(26)(A) Paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3)."

(B) The paragraph heading for paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "EXCEPTION FOR CERTAIN BANKS AND INSURANCE COMPANIES" and inserting in lieu thereof "EXCEPTIONS".

(27) Subsection (a) of section 1296 of the 1986 Code is amended by adding at the end thereof the following new sentences:

"A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(28) Paragraph (2) of section 1291(d) of the 1986 Code is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign investment company becomes a qualified electing fund for a taxable year which begins after December 31, 1986,

"(II) the taxpayer holds stock in such company on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation (as defined in section 957(a)),

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such company attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under subsection (a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of such company beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the company was a passive foreign investment company.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph."

(29)(A) Clause (ii) of section 904(d)(2)(A) of the 1986 Code is amended by striking out "or section 1293" and inserting in lieu thereof "or, except as provided in subparagraph (E)(iii) or paragraph (3)(I), section 1293".

(B) Subparagraph (E) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF INCLUSIONS UNDER SECTION 1293.—If any foreign corporation is a non-controlled section 902 corporation with respect to the taxpayer, any inclusion under section 1293 with respect to such corporation shall be treated as a dividend from such corporation."

(30) Clause (ii) of section 864(b)(2)(A) of the 1986 Code is amended by striking out "section 542(c)(7)" and inserting in lieu thereof "section 542(c)(7), 542(c)(10),".

(31) Paragraph (1) of section 1291(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year."

(32) Section 1293 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) OTHER SPECIAL RULES.—

"(1) EXCEPTION FOR CERTAIN INCOME.—For purposes of determining the amount included in the gross income of any person under this section, the ordinary earnings and net capital gain of a qualified electing fund shall not include any item of income received by such fund if—

"(A) such fund is a controlled foreign corporation (as defined in section 957(a)) and such person is a United States shareholder (as defined in section 951(b)) in such fund, and

"(B) such person establishes to the satisfaction of the Secretary that—

"(i) such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11, or

"(ii) such income is—

"(I) from sources within the United States,

"(II) effectively connected with the conduct by the qualified electing fund of a trade or business in the United States, and

"(III) not exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

"(2) PREVENTION OF DOUBLE INCLUSION.—The Secretary shall prescribe such adjustment to the provisions of this section as may be necessary to prevent the same item of income of a qualified electing fund from being included in the gross income of a United States person more than once."

(33) Paragraph (3) of section 1291(b) of the 1986 Code (as amended by paragraph (3)) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign investment company."

(34) Paragraph (2) of section 1294(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, the preceding sentence shall not apply in the case of a transfer in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the transferee in such transaction shall succeed to the treatment under this section of the transferor."

(35) Section 1297 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign investment company is owned (or treated as owned under subsection (a)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(1) section 1291 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1291) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(2) section 1293 shall not apply with respect to such stock, and

"(3) in determining whether section 1291 applies to any distribution in respect of such stock, subsection (d) of section 1291 shall not apply."

(36) Paragraph (1) of section 1297(b) of the 1986 Code is amended by striking out "passive foreign investment corporation" and inserting in lieu thereof "passive foreign investment company".

(q) AMENDMENTS RELATED TO SECTION 1241 OF THE ACT.—

(1)(A) Subparagraph (B) of section 884(b)(2) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—

"(i) IN GENERAL.—The increase under subparagraph (A) for any taxable year shall not exceed the accumulated effectively connected earnings and profits as of the close of the preceding taxable year.

"(ii) ACCUMULATED EFFECTIVELY CONNECTED EARNINGS AND PROFITS.—For purposes of clause (i), the term 'accumulated effectively connected earnings and profits' means the excess of—

"(I) the aggregate effectively connected earnings and profits for preceding taxable years beginning after December 31, 1986, over

"(II) the aggregate dividend equivalent amounts determined for such preceding taxable years."

(B) For purposes of applying section 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) and 1021(e)(2)(C) of the Reform Act or arising from section 823(b)(4)(C) of the 1986 Code.

(2)(A) Paragraph (1) of section 884(e) is amended to read as follows:

"(1) LIMITATION ON TREATY EXEMPTION.—No treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless—

"(A) such treaty is an income tax treaty, and

"(B) such foreign corporation is a qualified resident of such foreign country."

(B) Paragraph (3) of section 884(e) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH WITHHOLDING TAX.—

"(A) IN GENERAL.—If a foreign corporation is subject to the tax imposed by subsection (a) for any taxable year (determined after the application of any treaty), no tax shall be imposed by section 871(a), 881(a), 1441, or 1442 on any dividends paid by such corporation out of its earnings and profits for such taxable year.

"(B) LIMITATION ON CERTAIN TREATY BENEFITS.—If—

"(i) any dividend described in section 861(a)(2)(B) is received by a foreign corporation, and

"(ii) subparagraph (A) does not apply to such dividend,

rules similar to the rules of subparagraphs (A) and (B) of subsection (f)(3) shall apply to such dividend."

(C) Subsection (f) of section 884 of the 1986 Code is amended—

(i) by striking out the 2nd sentence of paragraph (1), and

(ii) by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TREATIES.—

"(A) PAYOR MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is paid or accrued by a foreign corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country.

"(B) RECIPIENT MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is received or accrued by any corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country."

(3) Paragraph (1) of section 884(f) of the 1986 Code is amended—

(A) by striking out "sections 871, 881, 1441, and 1442" and inserting in lieu thereof "this subtitle", and

(B) by adding at the end thereof the following new sentence:

"To the extent provided in regulations, subparagraph (A) shall not apply to interest in excess of the amounts reasonably expected to be deductible under section 882 in computing the effectively connected taxable income of such foreign corporation."

(4) Paragraph (4) of section 884(e) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CORPORATIONS OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such corporation is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) the stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States."

(5) Subparagraph (A) of section 884(e)(4) of the 1986 Code is amended—

(A) by striking out "more than 50 percent" in clause (i) and inserting in lieu thereof "50 percent or more", and

(B) by striking out "or the United States" in clause (ii) and inserting in lieu thereof "or citizens or residents of the United States".

(6) Subsection (e) of section 884 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR INTERNATIONAL ORGANIZATIONS.—This section shall not apply to an international organization (as defined in section 7701(a)(18))."

(7) Subparagraph (B) of section 861(a)(2) of the 1986 Code is amended by striking out "other than under section 884(d)(2)" each place it appears and inserting in lieu thereof "other than income described in section 884(d)(2)".

(8) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 884 (relating to branch profits tax)."

(9) Section 861 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCE.—

"For treatment of interest paid by the branch of a foreign corporation, see section 884(f)."

(10) The paragraph (6) of section 906(b) of the 1986 Code which was added by section 1241(c) of the Reform Act is redesignated as paragraph (7).

(11) Subsection (c) of section 2104 of the 1986 Code is amended by striking out "section 861(a)(1)(B), section 861(a)(1)(G), or section 861(a)(1)(H)" and inserting in lieu thereof "subparagraph (A), (C), or (D) of section 861(a)(1)".

(12) Subparagraph (A) of section 904(g)(9) of the 1986 Code is amended by striking out "861(a)(1)(B)" and inserting in lieu thereof "861(a)(1)(A)".

(13)(A) Paragraph (1) of section 4373 of the 1986 Code is amended to read as follows:

"(1) EFFECTIVELY CONNECTED ITEMS.—Any amount which is effectively connected with the conduct of a trade or business within the United States unless such amount is exempt from the application of section 882(a) pursuant to a treaty obligation of the United States."

(B) The amendment made by subparagraph (A) shall apply with respect to premiums paid after the date 30 days after the date of the enactment of this Act.

(14) Paragraph (1) of section 884(f) of the 1986 Code is amended by inserting "(or having gross income treated as effectively connected with the conduct of a trade or business in the United States)" after "United States" in the material preceding subparagraph (A) thereof.

(r) AMENDMENTS RELATED TO SECTION 1242 OF THE REFORM ACT.—

(1) Paragraph (7) of section 864(c) of the 1986 Code is amended to read as follows:

"(7) TREATMENT OF CERTAIN PROPERTY TRANSACTIONS.—For purposes of this title, if—

"(A) any property ceases to be used or held for use in connection with the conduct of a trade or business within the United States, and

"(B) such property is disposed of within 10 years after such cessation,

the determination of whether any income or gain attributable to such disposition is taxable under section 871(b) or 882 (as the case may be) shall be made as if such sale or exchange occurred immediately before such cessation and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year for which such income or gain is taken into account."

(2) Paragraph (6) of section 864(c) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN DEFERRED PAYMENTS, ETC.—For purposes of this title, in the case of any income or gain of a nonresident alien individual or a foreign corporation which—

"(A) is taken into account for any taxable year, but

"(B) is attributable to a sale or exchange of property or the performance of services (or any other transaction) in any other taxable year,

the determination of whether such income or gain is taxable under section 871(b) or 882 (as the case may be) shall be made as if such income or gain were taken into account in such other taxable year and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year referred to in subparagraph (A)."

(s) AMENDMENTS RELATED TO SECTION 1246 OF THE REFORM ACT.—

(1)(A) Section 1446 of the 1986 Code is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME.

"(a) GENERAL RULE.—If—

"(1) a partnership has effectively connected taxable income for any taxable year, and

"(2) any portion of such income is allocable under section 704 to a foreign partner,

such partnership shall pay a withholding tax under this section at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) AMOUNT OF WITHHOLDING TAX.—

"(1) IN GENERAL.—The amount of the withholding tax payable by any partnership under subsection (a) shall be equal to the applicable percentage of the effectively connected taxable income of the partnership which is allocable under section 704 to foreign partners.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) the highest rate of tax specified in section 1 in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners who are not corporations, and

"(B) the highest rate of tax specified in section 11(b) in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners which are corporations.

"(c) EFFECTIVELY CONNECTED TAXABLE INCOME.—For purposes of this section, the term 'effectively connected taxable income' means the taxable income of the partnership which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States computed with the following adjustments:

"(1) Paragraph (1) of section 703(a) shall not apply.

"(2) The partnership shall be allowed a deduction for depletion with respect to oil and gas wells but the amount of such deduction shall be determined without regard to sections 613 and 613A.

"(3) There shall not be taken into account any item of income, gain, loss, or deduction to the extent allocable under section 704 to any partner who is not a foreign partner.

"(d) TREATMENT OF FOREIGN PARTNERS.—

"(1) ALLOWANCE OF CREDIT.—Each foreign partner of a partnership shall be allowed a credit under section 33 for such partner's share of the withholding tax paid by the partnership under this section. Such credit shall be allowed for the partner's taxable year in which (or with which) the partnership taxable year (for which such tax was paid) ends.

"(2) CREDIT TREATED AS DISTRIBUTED TO PARTNER.—A foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the last day of the partnership's taxable year (for which such tax was paid).

"(e) FOREIGN PARTNER.—For purposes of this section, the term 'foreign partner' means any partner who is not a United States person.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for the application of this section in the case of publicly traded partnerships."

(B) Paragraph (2) of section 6401(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any credit so allowed by reason of section 1446."

(C) The table of sections for subchapter A of chapter 3 of the 1986 Code is amended by striking out the item relating to section 1446 and inserting in lieu thereof the following:

"Sec. 1446. Withholding of tax on foreign partners' share of effectively connected income."

(D) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987. No amount shall be required to be deducted and withheld under section 1446 of the 1986 Code (as in effect before the amendment made by subparagraph (A)).

(2)(A) Subsection (a) of section 872 of the 1986 Code is amended by striking out "the case of a nonresident alien individual" and inserting in lieu thereof "the case of a nonresident alien individual, except where the context clearly indicates otherwise".

(B) Subsection (b) of section 882 of the 1986 Code is amended by striking out the "the case of a foreign corporation" and inserting in lieu thereof "the case of a foreign corporation, except where the context clearly indicates otherwise".

(t) AMENDMENTS RELATED TO SECTION 1247 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 892(a)(2) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) derived from the disposition of any interest in a controlled commercial entity."

(2) Clause (ii) of section 892(a)(2)(A) of the 1986 Code is amended to read as follows:

"(ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity."

(3) Subsection (a) of section 892 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS RESIDENT.—For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligation of the United States if such government grants equivalent treatment to the Government of the United States."

(4) Section 893 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) LIMITATION ON EXCLUSION.—Subsection (a) shall not apply to—

"(1) any employee of a controlled commercial entity (as defined in section 892(a)(2)(B)), or

"(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government."

(u) AMENDMENT RELATED TO SECTION 1249 OF THE REFORM ACT.—Subsection (d) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) TREATMENT OF LOSSES OF SEPARATE BUSINESS UNITS.—To the extent provided in regulations, any loss of a separate unit of a domestic corporation shall be subject to the limitations of this subsection in the same manner as if such unit were a wholly owned subsidiary of such corporation.

"(4) INCOME ON ASSETS ACQUIRED AFTER THE LOSS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection by contributing assets to the corporation with the dual consolidated loss after such loss was sustained."

(v) AMENDMENTS RELATED TO SECTION 1261 OF THE REFORM ACT.—

(1)(A) So much of section 986 of the 1986 Code as precedes subsection (c) thereof is amended to read as follows:

"SEC. 986. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS.

"(a) FOREIGN TAXES.—

"(1) IN GENERAL.—For purposes of determining the amount of the foreign tax credit—

"(A) any foreign income taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

"(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.

"(b) EARNINGS AND PROFITS AND DISTRIBUTIONS.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate."

(B) Section 987 of the 1986 Code is amended by inserting "and" at the end of paragraph (2), by striking out ", and" at the end of paragraph (3) and inserting in lieu thereof a period, and by striking out paragraph (4).

(C) The table of sections for subpart J of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 986 and inserting in lieu thereof the following:

"Sec. 986. Determination of foreign taxes and foreign corporation's earnings and profits."

(2)(A) Subsection (c) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES WHERE TAXPAYER TAKES OR MAKES DELIVERY.—If the taxpayer takes or makes delivery in connection with any section 988 transaction described in paragraph (1)(B)(iii), any gain or loss (determined as if the taxpayer sold the contract, option, or instrument on the date on which he took or made delivery for its fair market value on such date) shall be recognized in the same manner as if such contract, option, or instrument were so sold."

(B) The amendment made by subparagraph (A) shall not apply in any case in which the taxpayer takes or makes delivery before June 11, 1987.

(3)(A) Subsection (b) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRACTS, ETC.—In the case of any section 988 transaction described in subsection (c)(1)(B)(iii), any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(B) Subclause (II) of section 988(c)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(II) any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(C) Paragraph (2) of section 988(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(D) Paragraph (3) of section 988(c) of the 1986 Code is amended to read as follows:

"(3) Payment date.—The term 'payment date' means the date on which the payment is made or received."

(4) The first sentence of paragraph (1) of section 988(d) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

(5) Subsection (b) of section 989 of the 1986 Code is amended—

(A) by striking out "951(a)" in paragraph (3) and inserting in lieu thereof "951(a)(1)(A)", and

(B) by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, any amount included in income under section 951(a)(1)(B) shall be treated as an actual distribution made on the last day of the taxable year for which such amount was so included."

(6) Clause (iii) of section 988(c)(1)(B) of the 1986 Code is amended to read as follows:

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year."

(7) Subparagraph (B) of section 988(a)(3) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) Special rule for partnerships.—To the extent provided in regulations, in the case of a partnership, the determination of residence shall be made at the partner level."

(8) Clause (i) of section 988(a)(3)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If an individual does not have a tax home (as so defined), the residence of such individual shall be the United States if such individual is a United States citizen or a resident alien and shall be a country other than the United States if such individual is not a United States citizen or a resident alien."

(9) Section 903 of the 1986 Code is amended by striking out "this subpart" and inserting in lieu thereof "this part".

(w) Amendments Related to Section 1274 of the Reform Act.—

(1) Subsection (e) of section 932 of the 1986 Code is amended to read as follows:

"(e) Special Rule for Applying Section to Tax Imposed in Virgin Islands.—In applying this section for purposes of determining income tax liability incurred to the Virgin Islands, the provisions of this section shall not be affected by the provisions of Federal law referred to in section 934(a)."

(2) Paragraph (4) of section 932(c) of the 1986 Code is amended to read as follows:

"(4) Residents of the virgin islands.—In the case of an individual—

"(A) who is a bona fide resident of the Virgin Islands at the close of the taxable year,

"(B) who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, and

"(C) who fully pays his tax liability referred to in section 934(a) to the Virgin Islands with respect to such income,

for purposes of calculating income tax liability to the United States, gross income shall not include any amount included in gross income on such return, and allocable deductions and credits shall not be taken into account."

(3) Paragraph (2) of section 932(c) of the 1986 Code is amended by striking out "his income tax return" and inserting in lieu thereof "an income tax return".

(4) Subsection (c) of section 1274 of the Reform Act is amended by striking out "this title" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(x) Amendment Related to Section 1275 of the Reform Act.—Section 1444 of the 1986 Code is amended by striking out "(as modified by section 934A)".

(y) Amendment Related to Section 1276 of the Reform Act.—Subsection (a) of section 7654 of the 1986 Code is amended by striking out "an individual to which" and inserting in lieu thereof "an individual to whom".

(z) Amendment Related to Section 1277 of the Reform Act.—

(1) Section 1277 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(f) Exemption From Withholding.—Notwithstanding subsection (b), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986."

(2) Subsection (e) of section 1277 of the Act is amended by striking out "The preceding sentence" and inserting in lieu thereof "Notwithstanding subsection (b), the preceding sentence".

(aa) Coordination With Treaties.—

(1) Treaty obligations.—(A) Subsection (d) of section 7852 of the 1986 Code is amended to read as follows:

"(d) Treaty Obligations—

"(1) In general.—For purposes of determining the relationship between a provision of a treaty and any law of the United States affecting revenue, neither the treaty nor the law shall have preferential status by reason of its being a treaty or law.

"(2) Savings clause.—No provision of this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 16, 1954."

(B) Section 7852(d)(1) of the 1986 Code, as added by subparagraph (A), shall apply to any taxable period with respect to which the time for assessment of any deficiency has not expired by reason of any law or rule of law before the date of the enactment of this Act.

(2) Certain amendments to apply notwithstanding treaties.—The following amendments made by the Reform Act shall apply notwithstanding any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1201 of the Reform Act.

(B) The amendments made by title VII of the Reform Act to the extent such amendments relate to the alternative minimum tax foreign tax credit.

(3) Certain amendments not to apply to the extent inconsistent with treaties.—The following amendments made by the Reform Act shall not apply to the extent the application of such amendments would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1211 of the Reform Act to the extent—

(i) such amendments apply in the case of an individual treated as a resident of a foreign country under a treaty obligation of the United States as so in effect, or

(ii) such amendments relate to income of a nonresident from the sale or exchange of inventory property which would otherwise be sourced under section 865(e)(2) of the 1986 Code.

(B) The amendments made by section 1212(a) of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(C) The amendments made by subsections (b) and (c) of section 1212 of the Reform Act.

(D) The amendments made by section 1214 of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(E) The amendment made by section 1241(a) of the Reform Act to the extent that, under a treaty obligation of the United States, interest described in section 884(f)(1)(A) of the 1986 Code (as added by such amendment) which is in excess of amounts deducted would be treated as other than United States source.

(F) The amendment made by section 1241(b)(2)(A) of the Reform Act.

(G) The amendment made by section 1241(a) of the Reform Act to the extent such amendment relates to section 884(f)(1)(B) of the 1986 Code.

(H) The amendments made by section 1242 of the Reform Act to the extent they relate to paragraph (7) of section 864(c) of the 1986 Code.

(I) The amendment made by section 1247(a) of the Reform Act.

(J) The amendments made by section 123 of the Reform Act.

(4) Treatment of technical corrections.—For purposes of paragraphs (2) and (3), any amendment made by this title shall be treated as if it had been included in the provision of the Reform Act to which such amendment relates.

(5) Reporting of certain treaty-based return positions.—

(A) Subchapter B of chapter 61 of the 1986 Code is amended by redesignating section 6114 as section 6115 and by inserting after section 6113 the following new section:

"SEC. 6114. TREATY-BASED RETURN POSITIONS.

"(a) In General.—Each taxpayer who, with respect to any tax imposed by this title, takes the position that a treaty of the United States overrules (or otherwise modifies) a law of the United States affecting revenue which was enacted after the provision of such treaty entered into force shall disclose (in such manner as the Secretary may prescribe) such position—

"(1) on the return of tax for such tax (or any statement attached to such return), or

"(2) if no return of tax is required to be filed, in such form as the Secretary may prescribe.

"(b) Waiver Authority.—The Secretary may waive the requirement under subsection (a) in cases in which the Secretary finds that the disclosure is not necessary for the administration of the internal revenue laws."

(B) Part I of subchapter B of chapter 68 of the 1986 Code is amended by adding at the end thereof the following new section:

"SEC. 6712. FAILURE TO DISCLOSE TREATY-BASED RETURN POSITIONS.

"(a) General Rule.—If a taxpayer fails to meet the requirements of section 6114, there is hereby imposed a penalty equal to $500

($5,000 in the case of a C corporation) on each such failure.

"(b) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by this section on a showing by the taxpayer that there was reasonable cause for the failure and that the taxpayer acted in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty imposed by law."

(C)(i) The table of sections for subchapter B of chapter 61 of the 1986 Code is amended by striking out the item relating to section 6114 and inserting in lieu thereof the following:

"Sec. 6114. Treaty-based return positions.

"Sec. 6115. Cross reference.

(ii) The table of sections for part I of subchapter B of chapter 68 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 6712. Failure to disclose treaty-based return positions."

(D) The amendments made by this paragraph shall apply to taxable periods the due date for filing returns for which (without extension) occurs after December 31, 1988.

(bb) MISCELLANEOUS FOREIGN TECHNICAL CORRECTIONS.—

(1) PROVISIONS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—

(A) Subsection (f) of section 551 of the 1986 Code is amended—

(i) by amending paragraph (1) to read as follows:

"(1) a foreign partnership or an estate or trust which is a foreign estate or trust, or", and

(ii) by striking out the last sentence and inserting in lieu thereof the following: "In any case to which the preceding sentence applies, the Secretary may by regulations provide that rules similar to the rules of section 1297(b)(5) shall apply, and provide for such other adjustments in the application of this subchapter as may be necessary to carry out the purposes of this subsection."

(B) Subsection (a) of section 551 of the 1986 Code is amended by striking out "(other than estates or trusts the gross income of which under this subtitle includes only income from sources within the United States)" and inserting in lieu thereof "(other than foreign estates or trusts)".

(C) Subsection (c) of section 552 of the 1986 Code is amended to read as follows:

"(c) LOOK-THRU FOR CERTAIN DIVIDENDS AND INTEREST.—

"(1) IN GENERAL.—For purposes of this part, any related person dividend or interest shall be treated as foreign personal holding company income only to the extent such dividend or interest is attributable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which would be foreign personal holding company income.

"(2) RELATED PERSON DIVIDEND OR INTEREST.—For purposes of paragraph (1), the term 'related person dividend or interest' means any dividend or interest which—

"(A) is described in subparagraph (A) of section 954(c)(3), and

"(B) is received from a related person which is not a foreign personal holding company (determined without regard to this subsection).

For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(D) The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TREATMENT OF CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

(A) Subparagraph (A) of section 3405(d)(13) of the 1986 Code is amended by striking out "the United States" and inserting in lieu thereof "the United States and any possession of the United States".

(B) Clause (i) of section 3405(d)(13)(B) of the 1986 Code is amended to read as follows:

"(i) a United States citizen or a resident alien of the United States, or".

(C) The heading of paragraph (13) of section 3405(d) of the 1986 Code is amended by striking out "UNITED STATES" and inserting in lieu thereof "UNITED STATES OR ITS POSSESSIONS".

(D) The amendments made by this paragraph shall apply to distributions made after the date of the enactment of this Act.

(3) CLARIFICATION OF DISCLOSURE UNDER CERTAIN AGREEMENTS.—

(A) Paragraph (4) of section 6103(k) of the 1986 Code is amended—

(i) by striking out "or other convention" and inserting in lieu thereof "or other convention or bilateral agreement", and

(ii) by striking out "such convention" and inserting in lieu thereof "such convention or bilateral agreement".

(B) Subparagraph (A) of section 6103(b)(5) of the 1986 Code is amended by striking out "the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau" and inserting in lieu thereof "and the Commonwealth of the Northern Mariana Islands".

(C) The amendments made by this paragraph shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(4) COORDINATION OF TREATIES WITH SECTION 904(g).—

(A) Subsection (g) of section 904 of the 1986 Code is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) COORDINATION WITH TREATIES.—

"(A) IN GENERAL.—If—

"(i) any amount derived from a United States-owned foreign corporation would be treated as derived from sources within the United States under this subsection by reason of an item of income of such United States-owned foreign corporation,

"(ii) under a treaty obligation of the United States (applied without regard to this subsection and by treating any amount included in gross income under section 951(a)(1) as a dividend), such amount would be treated as arising from sources outside the United States, and

"(iii) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such amount to the extent attributable to such item of income (but subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to such amount to the extent so attributable).

"(B) SPECIAL RULE.—Amounts included in gross income under section 951(a)(1) shall be treated as a dividend under subparagraph (A)(ii) only if dividends paid by each corporation (the stock in which is taken into account in determining whether the shareholder is a United States shareholder in the United States-owned foreign corporation), if paid to the United States shareholder, would be treated under a treaty obligation of the United States as arising from sources outside the United States (applied without regard to this subsection)."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 121 of the Tax Reform Act of 1984.

(5) TREATMENT OF ELECTION UNDER SECTION 338.—

(A) IN GENERAL.—Subsection (h) of section 338 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(16) COORDINATION WITH FOREIGN TAX CREDIT PROVISIONS.—Except as provided in regulations, this section shall not apply for purposes of determining the source or character of any item for purposes of subpart A of part III of subchapter N of this chapter (relating to foreign tax credit). The preceding sentence shall not apply to any gain to the extent such gain is includible in gross income as a dividend under section 1248 (determined without regard to any deemed sale under this section by a foreign corporation)."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to qualified stock purchases (as defined in section 338(d)(3) of the 1986 Code) after March 31, 1988, except that, in the case of an election under section 338(h)(10) of the 1986 Code, such amendment shall apply to qualified stock purchases (as so defined) after June 10, 1987.

(6) TREATMENT OF TAX-EXEMPT SHAREHOLDERS OF A DISC.—

(A) Section 995 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF TAX-EXEMPT SHAREHOLDERS.—If any organization described in subsection (a)(2) or (b)(2) of section 511 is a shareholder in a DISC—

"(1) any amount deemed distributed to such shareholder under subsection (b),

"(2) any actual distribution to such shareholder which under section 996 is treated as out of accumulated DISC income, and

"(3) any gain which is treated as a dividend under subsection (c),

shall be treated as derived from the conduct of an unrelated trade or business (and the modifications of section 512(b) shall not apply). The rules of the preceding sentence shall apply also for purposes of determing any such shareholder's DISC-related deferred tax liability under subsection (f)."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987.

(7) TREATMENT OF CERTAIN AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.—

(A) IN GENERAL.—Subsection (e) of section 959 of the 1986 Code is amended by striking out "such person under" and inserting in lieu thereof "such person (or, in any case to which section 1248(e) applies, of the domestic corporation referred to in section 1248(e)(2)) under".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in the case of transactions to which section 1248(e) of the 1986 Code applies and which occur after December 31, 1986.

(8) TREATMENT OF SHARED FSC'S.—

(A) IN GENERAL.—Section 927 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF SHARED FSC'S.—

"(1) IN GENERAL.—Except as provided in paragraph (2) , each separate account referred to in paragraph (3) maintained by a shared FSC shall be treated as a separate corporation for purposes of this subpart.

"(2) CERTAIN REQUIREMENTS APPLIED AT SHARED FSC LEVEL.—Paragraph (1) shall not apply—

"(A) for purposes of—

"(i) subparagraphs (A), (B), (D), and (E) of section 922(a)(1),

"(ii) paragraph (2) of section 922(a),

"(iii) subsections (b), (c), and (e) of section 924, and

"(iv) subsection (f) of this section, and

"(B) for such other purposes as the Secretary may by regulations prescribed.

"(3) SHARED FSC.—For purposes of this subsection, the term 'shared FSC' means any corporation if—

"(A) such corporation maintains a separate account for transactions with each shareholder (and persons related to such shareholder),

"(B) distributions to each shareholder are based on the amounts in the separate account maintained with respect to such shareholder, and

"(C) such corporation meets such other requirements as the Secretary may by regulations prescribe."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

(9) CLARIFICATION OF DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM A FSC.—

(A) Subsection (c) of section 245 of the 1986 Code is amended to read as follows:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

"(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

"(3) NO DEDUCTION UNDER SUBSECTION (a) OR (b).—No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) FOREIGN TRADE INCOME; EXEMPT FOREIGN TRADE INCOME.—The terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923.

"(B) EFFECTIVELY CONNECTED INCOME.—The term 'effectively connected income' means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

SEC. 113. AMENDMENTS RELATED TO TITLE XIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1301 OF THE REFORM ACT.—

(1) Clause (iii) of section 142(d)(4)(B) of the 1986 Code is amended by striking out "average rent" and inserting in lieu thereof "average gross rent".

(2) Clause (iii) of section 143(a)(2)(A) of the 1986 Code is amended by striking out "no bond which is part of such issue meets" and inserting in lieu thereof "such issue does not meet".

(3) Paragraph (4) of section 143(b) of the 1986 Code is amended by inserting "is part of an issue which" after "which".

(4)(A) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by inserting "(or series of bonds)" before "issued to refund".

(B)(i) Subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(ii) Subparagraph (A) of section 144(a)(12) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(iii) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code if such bond met the requirement of such subclause as in effect before the amendments made by this subparagraph.

(C) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

(5) Subparagraph (B) of section 144(b)(1) of the 1986 Code is amended—

(A) by striking out "to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply", and

(B) by striking out "of such Act" and inserting in lieu thereof "of the Higher Education Act of 1965", and

(C) by striking out "eligible" and all that follows in such subparagraph and inserting in lieu thereof the following: "eligible. A program shall not be treated as described in this subparagraph if such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is a part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a))."

(6) Subclause (I) of section 145(b)(2)(B)(ii) of the 1986 Code is amended by striking out "103(b)" and inserting in lieu thereof "103(b)(2)".

(7) Clause (i) of section 145(b)(2)(C) of the 1986 Code is amended by striking out "subparagraph (B)(ii)" and inserting in lieu thereof "subparagraph (B)".

(8) Paragraph (4) of section 145(b) of the 1986 Code is amended by striking out "subparagraphs (C) and (D)" and inserting in lieu thereof "subparagraphs (C), (D), and (E)".

(9) Subparagraph (A) of section 146(f)(5) of the 1986 Code (as in effect before the amendments made by section 10631 of the Revenue Act of 1987) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(10)(A) Paragraph (1) of section 146(k) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(B) Subsection (k) of section 146 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)—

"(A) for an output facility, or

"(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(11) Subsection (e) of section 147 of the 1986 Code is amended by striking out "treated as".

(12) Subsection (f) of section 147 of the 1986 Code (relating to public approval requirement for private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR SCHOLARSHIP FUNDING BOND ISSUES AND VOLUNTEER FIRE DEPARTMENT BOND ISSUES.—

"(A) SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond, any governmental unit which made a request described in section 150(d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150(d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

"(B) VOLUNTEER FIRE DEPARTMENT BONDS.—In the case of a bond of a volunteer fire department which meets the requirements of section 150(e), the political subdivision described in section 150(e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued."

(13)(A) Paragraph (1) of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue) is amended by striking out "aggregate face amount of the issue" and inserting in lieu thereof "proceeds of the issue".

(B) Paragraph (2) of section 147(g) of the 1986 Code is amended by striking out "aggregate authorized face amount of the issue does not" and inserting in lieu thereof "proceeds of the issue do not".

(C) The amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(14) Paragraph (2) of section 148(d) of the 1986 Code (relating to special rules for reasonably required reserve or replacement fund) is amended by striking out "any fund described in paragraph (1)" and inserting in lieu thereof "any reserve or replacement fund".

(15) Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence: "A series of issues which are redeemed during a 6-month period (or such longer period as the Secretary may prescribe) shall be treated (at the election of the issuer) as 1 issue for purposes of the preceding sentence if no bond which is part of any issue in such series has a maturity of more than 270 days or is a private activity bond."

(16)(A) Subclause (I) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax or revenue anticipation bonds are expended) is amended by striking out "aggregate face amount of such issue" and inserting in lieu thereof "proceeds of such issue".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(17)(A) Subparagraph (C) of section 148(f)(4) of the 1986 Code is amended—

(i) by striking out the heading and inserting in lieu thereof:

"(C) EXCEPTION FOR GOVERNMENTAL UNITS ISSUING $5,000,000 OR LESS OF BONDS.—

"(i) IN GENERAL.—",

(ii) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and moving the margins of such subclauses 2 ems to the right, and

(iii) by striking out the last sentence and inserting in lieu thereof the following new clauses:

"(ii) AGGREGATION OF ISSUERS.—For purposes of subclause (IV) of clause (i)—

"(I) an issuer and all entities which issue bonds on behalf of such issuer shall be treated as 1 issuer,

"(II) all bonds issued by a subordinate entity shall, for purposes of applying such subclause to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(III) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of such subclause (IV) and all other entities benefiting thereby shall be treated as 1 issuer.

"(iii) CERTAIN REFUNDING BONDS NOT TAKEN INTO ACCOUNT IN DETERMINING SMALL ISSUER STATUS.—There shall not be taken into account under subclause (IV) of clause (i) any bond issued to refund (other than to advance refund) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(iv) CERTAIN ISSUES ISSUED BY SUBORDINATE GOVERNMENTAL UNITS, ETC., EXEMPT FROM REBATE REQUIREMENT.—An issue issued by a subordinate entity of a governmental unit with general taxing powers shall be treated as described in clause (i)(I) if the aggregate face amount of such issue does not exceed the lesser of—

"(I) $5,000,000, or

"(II) the amount which, when added to the aggregate face amount of other issues issued by such entity, does not exceed the portion of the $5,000,000 limitation under clause (i)(IV) which such governmental unit allocates to such entity.

For purposes of the preceding sentence, an entity which issues bonds on behalf of a governmental unit with general taxing powers shall be treated as a subordinate entity of such unit. An allocation shall be taken into account under subclause (II) only if it is irrevocable and made before the issuance date of such issue and only to the extent that the limitation so allocated bears a reasonable relationship to the benefits received by such governmental unit from issues issued by such entity.

"(v) DETERMINATION OF WHETHER REFUNDING BONDS ELIGIBLE FOR EXCEPTION FROM REBATE REQUIREMENT.—If any portion of an issue is issued to refund other bonds, such portion shall be treated as a separate issue which does not meet the requirements of paragraphs (2) and (3) by reason of this subparagraph unless—

"(I) the aggregate face amount of such issue does not exceed $5,000,000,

"(II) each refunded bond was issued as part of an issue which was treated as meeting the requirements of paragraphs (2) and (3) by reason of this subparagraph,

"(III) the average maturity date of the refunding bonds issued as part of such issue is not later than the average maturity date of the bonds to be refunded by such issue, and

"(IV) no refunding bond has a maturity date which is later than the date which is 30 years after the date the original bond was issued.

Subclause (III) shall not apply if the average maturity of the issue of which the original bond was a part (and of the issue of which the bonds to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(vi) REFUNDINGS OF BONDS ISSUED UNDER LAW PRIOR TO TAX REFORM ACT OF 1986.—If section 141(a) did not apply to any refunded bond, the issue of which such refunded bond was a part shall be treated as meeting the requirements of subclause (II) of clause (v) if—

"(I) such issue was issued by a governmental unit with general taxing powers,

"(II) no bond issued as part of such issue was an industrial development bond (as defined in section 103(b)(2), but without regard to subparagraph (B) of section 103(b)(3)) or a private loan bond (as defined in section 103(o)(2)(A), but without regard to any exception from such definition other than section 103(o)(2)(C)), and

"(III) the aggregate face amount of all tax-exempt bonds (other than bonds described in subclause (II)) issued by such unit during the calendar year in which such issue was issued did not exceed $5,000,000.

References in subclause (II) to section 103 shall be to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986. Rules similar to the rules of clauses (ii) and (iii) shall apply for purposes of subclause (III). For purposes of subclause (II) of clause (i), bonds described in subclause (II) of this clause to which section 141(a) does not apply shall not be treated as private activity bonds."

(B) Subclause (IV) of section 148(f)(4)(C)(i) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "(and all subordinate entities thereof)".

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the amendments made by this paragraph shall apply to such issuer as if included in the amendments made by section 1301(a) of the Tax Reform Act of 1986.

(18) Clause (i) of section 148(f)(4)(D) of the 1986 Code is amended—

(A) by inserting "for a program" before "described in section 144(b)(1)(A)",

(B) by striking out "such a program" and inserting in lieu thereof "such program", and

(C) by adding at the end thereof the following: "Amounts designated as interest on student loans shall not be taken into account in determining whether the issuer is reimbursed for such costs. Except as otherwise hereafter provided in regulations prescribed by the Secretary, costs described in subclause (I) paid from amounts earned as described in the first sentence of this clause may also be taken into account in determining the yield on the student loans under a program described in section 144(b)(1)(A)."

(19) Subparagraph (B) of section 148(f)(7) of the 1986 Code is amended by striking out "due to reasonable cause and not" and inserting in lieu thereof "not due".

(20) Clause (iii) of section 149(b)(3)(A) of the 1986 Code is amended by striking out "with respect to any bond issued before July 1, 1989".

(21) Subparagraph (A) of section 149(b)(4) of the 1986 Code is amended by striking out "a qualified student loan bond, and a qualified redevelopment bond" and inserting in lieu thereof "and a qualified student loan bond".

(22) Paragraph (3) of section 149(e) of the 1986 Code (relating to information reporting) is amended by striking out "there is reasonable cause for the failure to file such statement in a timely fashion" and inserting in lieu thereof "the failure to file in a timely fashion is not due to willful neglect".

(23)(A) Subparagraph (B) of section 150(b)(4) of the 1986 Code (relating to change in use of facilities financed with tax-exempt private activity bonds) is amended by inserting before the period "or a qualified small issue bond".

(B) The heading for paragraph (4) of section 150(b) of the 1986 Code is amended by inserting "AND SMALL ISSUE BONDS" after "EXEMPT FACILITY BONDS".

(C) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting "tax-exempt" before "qualified mortgage bond".

(24)(A) Subsection (e) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS PRIVATE ACTIVITY BONDS ONLY FOR CERTAIN PURPOSES.—Bonds which are part of an issue which meets the requirements of paragraph (1) shall not be treated as private activity bonds except for purposes of sections 147(f) and 149(d)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(25) Clause (ii) of section 1301(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) Clause (ii) of section 25(c)(2)(A) is amended by striking out all that follows 'an amount of' and inserting in lieu thereof 'private activity bonds which it may otherwise issue during such calendar year under section 146,'."

(26) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages) is amended by striking out "1987" and inserting in lieu thereof "1988".

(27) The date contained in section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such 103A(c)(1) applies.

(28)(A) Subparagraph (A) of section 146(i)(2) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or".

(B) Subparagraph (A) of section 146(i)(3) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or".

(C) Subsection (i) of section 146 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) AVERAGE MATURITY.—For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(29) Subparagraph (D) of section 147(f)(2) of the 1986 Code is amended by striking out "the maturity date" and all that follows and inserting in lieu thereof "the average maturity date of the issue of which the refunded bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A)."

(30) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting before the period "and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing".

(31) Subparagraph (A) of section 150(b)(2) of the 1986 Code is amended by striking out "described paragraph" and inserting in lieu thereof "described in paragraph".

(32) Paragraph (2) of section 150(b) of the 1986 Code is amended by adding at the end thereof the following: "If the provisions of prior law corresponding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond."

(33) Subsection (b) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SMALL ISSUE BONDS WHICH EXCEED CAPITAL EXPENDITURE LIMITATION.—In the case of any financing provided from the proceeds of any bond which, when issued, purported to be a qualified small issue bond, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period such bond is not a qualified small issue bond."

(34)(A) Paragraph (7) of section 103(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking out "necessary" and inserting in lieu thereof "necessary".

(B) Subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which Treasury regulation section 1.103-13 (1979) was provided to apply.

(35) VALIDATION OF SINKING FUND REGULATIONS.—

(A) Treasury Regulation section 1.103-13(g) (1979) is hereby enacted into positive law.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply.

(ii) Treasury Regulation section 1.103-13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.

(36) Clause (i) of section 147(f)(2)(E) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term."

(37) The table of sections for part III of subchapter B of chapter 1 of the 1986 Code is amended by striking out the items relating to sections 103 and 103A and inserting in lieu thereof the following new item:

"Sec. 103. Interest on State and local bonds."

(38) Subparagraph (B) of section 141(b)(5) of the 1986 Code is amended by striking out "which would cause bond" and inserting in lieu thereof "which would cause a bond".

(39) Clause (ii) of section 142(b)(1)(B) of the 1986 Code is amended by striking out "(as defined in 168(i)(3))" and inserting in lieu thereof "(as defined in section 168(i)(3))".

(40) Subparagraph (B) of section 146(d)(4) of the 1986 Code is amended by striking out "with respect a possession" and inserting in lieu thereof "with respect to a possession".

(41) Clause (ii) of section 48(l)(11)(A) of the 1986 Code is amended by striking out "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(42) Subsection (a) of section 7478 of the 1986 Code is amended—

(A) by striking out "whether prospective obligations are described in section 103(a)" in paragraph (1) and inserting in lieu thereof "whether interest on prospective obligations will be excludable from gross income under section 103(a)", and

(B) by striking out "whether such prospective obligations are described in section 103(a)" and inserting in lieu thereof "whether interest on such prospective obligations will be excludable from gross income under section 103(a)".

(43)(A) Subsection (b) of section 148 of the 1986 Code (defining higher yielding investments) is amended by adding at the end thereof the following new paragraph:

"(3) ALTERNATIVE MINIMUM TAX BONDS TREATED AS INVESTMENT PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'investment property' does not include any tax-exempt bond.

"(B) EXCEPTION.—With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C)), the term 'investment property' includes a specified private activity bond (as so defined)."

(B) Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking the last sentence.

(C) The amendments made by this paragraph shall apply to obligations issued after March 31, 1988.

(44) Subparagraph (B) of section 46(c)(5) of the 1986 Code is amended—

(A) by striking out "INDUSTRIAL DEVELOPMENT BONDS" in the heading and inserting in lieu thereof "PRIVATE ACTIVITY BONDS", and

(B) by striking "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(b) AMENDMENTS RELATED TO SECTION 1311 OF THE REFORM ACT.—

(1) Section 1311 of the Reform Act is amended by redesignating subsection (d) as subsection (f), and by inserting after subsection (c) the following new subsections:

"(d) PUBLIC APPROVAL AND INFORMATION REPORTING.—Sections 147(f) and 149(e) of the 1986 Code shall apply to bonds issued after December 31, 1986.

"(e) REBATE REQUIREMENT FOR QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 150(d) of the 1986 Code shall apply to payments made after August 15, 1986."

(2) Paragraph (2) of section 1311(b) of the Reform Act (relating to effective date for section 1301(f)) is amended by inserting "with respect to non-issued bond amounts elected" after "issued".

(c) AMENDMENTS RELATED TO SECTION 1313 OF THE REFORM ACT.—

(1) Clause (i) of section 1313(a)(1)(B) of the Reform Act is amended by striking out "the proceeds" and inserting in lieu thereof "the net proceeds".

(2)(A) Subparagraph (C) of section 1313(a)(3) of the Reform Act is amended by striking out "section 148" and inserting in lieu thereof "sections 143(g) and 148".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(3) Subparagraph (E) of section 1313(a)(3) of the Reform Act is amended by striking out "of such Code".

(4) Paragraph (3) of section 1313(a) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a refunding bond described in paragraph (1) with respect to a qualified bond described in paragraph (2)(B), the requirements of section 1312(b)(1) which applied to such qualified bond shall be treated as specified in this paragraph with respect to such refunding bond."

(5) Subparagraph (A) of section 1313(a)(4) of the Reform Act is amended by inserting "and by substituting 'September 1, 1986' for 'August 16, 1986'" before the comma at the end thereof.

(6) Paragraph (2) of section 1313(b) of the Reform Act is amended by adding at the end thereof "For purposes of the preceding sentence, the determination of whether a bond is described in such subsection (o)(2)(A) shall be made without regard to any exception other than section 103(o)(2)(C) of such Code."

(7) Subparagraph (F) of section 1313(b)(3) of the Reform Act is amended by striking out "of such Code".

(8) Paragraph (3) of section 1313(b) of the Reform Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds)."

(9) Paragraph (5) of section 1313(b) of the Reform Act is amended by striking out "are to be" and inserting in lieu thereof "are or will be".

(10)(A) The heading for subsection (c) of section 1313 of the Reform Act is amended by striking out "Current" and inserting in lieu thereof "Certain".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended—

(i) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)", and

(ii) by striking out "law do not" and inserting in lieu thereof "law did not".

(11)(A) Subparagraph (A) of section 1313(c)(1) of the Reform Act is amended to read as follows:

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code."

(C) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(D) Subparagraph (B) of section 1313(c)(2) of the Reform Act is amended by striking out "and (D)" and inserting in lieu thereof "and (C)".

(E) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subparagraph (A) of section 1313(c)(1) of the Reform Act if such bond met the requirement of such subparagraph as in effect before the amendments made by this paragraph.

(12)(A) Subparagraph (N) of section 103(b)(6) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act (relating to termination dates), is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by striking out clause (i) and inserting in lieu thereof the following new clauses:

"(i) In general.—Except as provided in clause (ii), this paragraph shall not apply to any obligation issued after December 31, 1986.

"(ii) Certain refundings.—This paragraph shall apply to any obligation (or series of obligations) issued to refund an obligation issued on or before December 31, 1986, if—

"(I) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(II) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(III) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of subclause (I), average maturity shall be determined in accordance with subsection (b)(14)(B)(i)."

(B) The date applicable under section 144(a)(12)(B) of the 1986 Code shall be treated as contained in section 103(b)(6)(N)(iii) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such section 103(b)(6)(N)(iii) applies.

(13) Paragraph (2) of section 1313(c) of the Reform Act is amended—

(A) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)",

(B) by striking out "subsection does not" and inserting in lieu thereof "subsection did not", and

(C) by striking out "the proceeds" in subparagraph (A)(i) and inserting in lieu thereof "the net proceeds".

(14)(A) Section 1313 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) Mortgage and Student Loan Targeting Rules To Apply to Loans Made More Than 3 Years After the Date of the Original Issue.—Subsections (a)(3) and (b)(3) shall be treated as including the requirements of subsections (e) and (f) of section 143 and paragraphs (3) and (4) of section 144(b) of the 1986 Code with respect to bonds the proceeds of which are used to finance loans made more than 3 years after the date of the issuance of the original bond."

(B) The amendment made by subparagraph (A) shall apply with respect to refunding bonds issued after October 16, 1987.

(15) A bond issued to refund an obligation described in section 103(o)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall not be treated as described in section 144(b) of the 1986 Code unless it is described in section 144(b)(1)(A) of the 1986 Code.

(d) Amendments Related to Section 1314 of the Reform Act.—

(1) Subsection (a) of section 1314 of the Reform Act is amended by adding at the end thereof the following: "The treatment under the preceding sentence shall also apply to a bond issued before September 26, 1985, but only for purposes of determining whether any bond issued after June 10, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(2) Subsection (f) of section 1314 of the Reform Act is amended by striking out "December" and inserting in lieu thereof "August".

(3) Section 1314 of the Reform Act is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) Termination of Mortgage Bond Policy Statement Requirement.—Paragraph (5) of section 103A(j) of the 1954 Code (relating to policy statement) shall not apply to any bond issued after August 15, 1986, and shall not apply to nonissued bond amounts elected under section 25 of the 1986 Code after such date.

"(h) Arbitrage Restriction on Investments in Investment-Type Property.—In the case of a bond issued before August 16, 1986 (September 1, 1986 in the case of a bond described in section 1312(c)(2)), section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to investment-type property but only for purposes of determining whether any bond issued after October 16, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(e) Amendments Related to Section 1315 of the Reform Act.—

(1) Subsection (c) of section 1315 of the Reform Act is amended—

(A) by inserting "for calendar year 1986" after "1954 Code" each place it appears,

(B) by striking out "before August 16" each place it appears and inserting in lieu thereof "on August 15", and

(C) by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to the extent section 1313(b)(5) treats any bond as a private activity bond for purposes of section 146 of the 1986 Code."

(2)(A) Subsection (e) of section 1315 of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any bond which (if issued on August 15, 1986) would have been an industrial development bond (as defined in section 103(b)(2) of the 1954 Code)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 10, 1987.

(f) Amendments Related to Section 1316 of the Reform Act.—

(1)(A) Subsections (a)(1), (b)(1), (c)(1), and (f)(1) of section 1316 of the Reform Act are each amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(2) Subsection (c) of section 1316 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) Application of section 147(b).—A bond to which this subsection applies (other than a refunding bond) shall be treated as meeting the requirements of section 147(b) of the 1986 Code if the average maturity (determined in accordance with section 147(b)(2)(A) of such Code) of the issue of which such bond is a part does not exceed 20 years. A bond issued to refund (or which is part of a series of bonds issued to refund) a bond described in the preceding sentence shall be treated as meeting the requirements of such section if the refunding bond has a maturity date not later than the date which is 20 years after the date on which the original bond was issued."

(3) Paragraph (1) of section 1316(e) of the Reform Act is amended—

(A) by inserting "(and section 103(h)(2)(B)(ii) of the 1954 Code)" after "1986 Code" the first place it appears, and

(B) by inserting "(and section 103(b)(16) of the 1954 Code)" after "1986 Code" in the last sentence.

(4) Paragraph (2) of section 1316(g) of the Reform Act is amended—

(A) by striking out "described in the paragraph (3)" in subparagraph (A) and inserting in lieu thereof "issued to provide a facility described in paragraph (3)", and

(B) by striking out "which paragraph (3)" in subparagraph (C) and inserting in lieu thereof "which such paragraph (3)".

(5) Paragraph (6) of section 1316(g) of the Reform Act is amended by inserting "(and the provisions of section 1314)" after "section 1301".

(6) Paragraph (7) of section 1316(g) of the Reform Act is amended to read as follows:

"(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984—

"(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and paragraphs (4) and (5) of subsection (b),

"(B) paragraphs (1) and (2) of section 141(b) of the 1986 Code shall be applied by

substituting '25 percent' for '10 percent' each place it appears, and

"(C) section 149(b) of the 1986 Code shall not apply.

This paragraph shall not apply to any bond issued after December 31, 1990."

(7)(A) Subparagraph (A) of section 1316(g)(8) of the Reform Act is amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(8) Paragraph (2) of section 1316(j) of the Reform Act is amended to read as follows:

"(2) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not to exceed $100,000,000 issued after October 21, 1986, by Dade County, Florida, for the purpose of advance refunding its Aviation Revenue Bonds (Series J), the first sentence of this paragraph shall be applied by substituting "the date which is 1 year after the date of the enactment of the Technical Corrections Act of 1988" for "December 31, 1984" and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply.' "

(9) Paragraph (2) of section 1316(k) of the Reform Act is amended by striking out "$55,000,000 must be redeemed no later than November 1, 1987" and inserting in lieu thereof "no more than $55,000,000 shall be outstanding later than November 1, 1987".

(10) Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end of subsection (r) the following new sentence:

"Section 148(f) of the Internal Revenue Code of 1986 and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply to any bonds described in paragraph (1) which may be issued as a result of the amendments made by the Tax Reform Act of 1986."

(11) Subsection (l) of section 1316 of the Reform Act is hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 1317 OF THE REFORM ACT.—

(1) Subparagraph (J) of section 1317(2) of the Reform Act is amended by striking out "began construction in 1980" and inserting in lieu thereof ", a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate".

(2) Subparagraph (C) of section 1317(3) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if—

"(i) it is one or more stadiums to be used either by an American League baseball team or a National Football League team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code,

"(ii) the bonds to be used to provide financing for one or more such stadiums are issued by a political subdivision or a State agency pursuant to a resolution approving an inducement resolution adopted by a State agency on November 20, 1985, as it may be amended (whether or not the beneficiaries of such issue or issues are the beneficiaries (if any) specified in such inducement resolution and whether or not the number of such stadiums and the locations thereof are as specified in such inducement resolution) or pursuant to P.A. 84-1470 of the State in which such city is located (and by an agency created thereby), and

"(iii) such stadium or stadiums are located in the city described in (i).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of any carryforward of volume cap for one or more stadiums described in the first sentence of this subparagraph, such carryforward shall be valid with respect to bonds issued for such stadiums notwithstanding any other provision of the 1986 Code or the 1954 Code, and whether or not (i) there is a change in the number of stadiums or the beneficiaries or sites of the stadium or stadiums and (ii) the bonds are issued by either of the state agencies described in the first sentence of this subparagraph."

(3)(A) Subparagraph (P) of section 1317(3) of the Reform Act is amended—

(i) by striking out "approved" and inserting in lieu thereof "authorized", and

(ii) by striking out "December 9, 1985" and inserting in lieu thereof "December 2, 1985".

(B) Section 1317(3)(A) of the Reform Act is amended by striking out "domed".

(C) Section 1317(3)(U) of the Reform Act is amended by deleting "coliseum complex." and inserting in lieu thereof "coliseum complex, or is a renovation of an existing stadium located in Oakland, California, and used by an American League baseball team."

(D) Section 1317(3)(W) of the Reform Act is amended by striking out "$225,000,000" and inserting "$25,000,000".

(4) Paragraph (3) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A facility is described in this subparagraph if—

"(i) such facility was a redevelopment project that was approved in concept by the city council sitting as the redevelopment agency in October 1984, and

"(ii) $20,000,000 in funds for such facility was identified in a 5-year budget approved by the city redevelopment agency on October 25, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000."

(5) Paragraph (4) of section 1317 of the Reform Act is amended—

(A) by striking out "1986. The bonds" and inserting in lieu thereof "1986, and the bonds",

(B) by striking out "and" at the end the subparagraph (A), and

(C) by adding "and" at the end of subparagraph (B).

(6) Subparagraph (W) of section 1317(6) of the Reform Act is amended to read as follows:

"(W) A project is described in this subparagraph if such project is—

"(i) a part of the Kenosha Downtown Redevelopment project, and

"(ii) located in an area bounded—

"(I) on the east by the east wall of the Army Corps of Engineers Confined Disposal Facility (extended),

"(II) on the north by 48th Street (extended),

"(III) on the west by the present Chicago & Northwestern Railroad tracks, and

"(IV) on the south by the north line of Eichelman Park (60th Street) (extended).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000."

(7) Paragraph (6) of section 1317 of the Reform Act is amended by redesignating subparagraph (X) as subparagraph (Z) and by inserting after subparagraph (W) the following new subparagraphs:

"(X) A project is described in this subparagraph if a redevelopment plan for such project was approved by the city council of Bell Gardens, California, on June 12, 1979. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(Y) Nothing in this paragraph shall be construed as having the effect of exempting from tax interest on any bond issued after June 10, 1987, if such interest would not have been exempt from tax were such bond issued on August 15, 1986."

(8) The last sentence of subparagraph (A) of section 1317(7) of the Reform Act is amended by inserting before the period "and section 149(d)(2) of the 1986 Code shall not apply to bonds so treated".

(9) Subparagraph (D) of section 1317(7) of the Reform Act is amended to read as follows:

"(D) A facility is described in this subparagraph if—

"(i) it is a convention, trade, or spectator facility,

"(ii) a regional convention, trade, and spectator facilities study committee was created before March 19, 1985, with respect to such facility, and

"(iii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed the excess of $175,000,000 over the amount of bonds to which paragraph (48)(B) applies."

(10) Clause (ii) of section 1317(7)(G) of the Reform Act is amended to read as follows:

"(ii) such facility's location was approved in December 1985 by a task force created jointly by the Governor of the State within which such facility will be located and the mayor of the capital city of such State, and".

(11) Subparagraph (J) of section 1317(7) of the Reform Act is amended—

(A) by striking out "civic festival" in clause (i) and inserting in lieu thereof "aquafestival",

(B) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) a referendum was held on April 6, 1985, in which voters permitted the city council to lease 130 acres of dedicated parkland for the purpose of constructing such facility, and", and

(C) by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

(12) Subparagraph (E) of section 1317(9) of the Reform Act is amended by striking out "March 5, 1985" and inserting in lieu thereof "March 6, 1985".

(13) Clause (iii) of section 1317(9)(J) of the Reform Act is amended by striking out all that precedes "by the governor" and inserting in lieu thereof the following:

"(iii) such facility's location was approved in December 1985 by a task force created jointly".

(14) Subparagraph (A) of section 1317(11) of the Reform Act is amended by striking out "and section 142(a)" and inserting in lieu thereof "in section 142(a)".

(15) Subparagraph (C) of section 1317(11) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if it is described in section 1865(c)(2)(C) of this Act."

(16) Subparagraph (X) of section 1317(13) of the Reform Act is amended by striking out the last sentence.

(17) Paragraph (13) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(AA) A residential rental property project is described in this subparagraph if it is the Carriage Trace residential rental project in Clinton, Tennessee. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(BB) A residential rental property project is described in this subparagraph if—

"(i) a contract to purchase such property was dated as of August 9, 1985,

"(ii) there was an inducement resolution adopted on September 27, 1985, for the issuance of obligations to finance such property,

"(iii) there was a State court final validation of such financing on November 15, 1985, and

"(iv) the certificate of nonappeal from such validation was available on December 15, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $27,750,000."

(18) Paragraph (14) of section 1317 of the Reform Act is amended by striking out "$90,000,000" and inserting in lieu thereof "$130,000,000" and by inserting "incorporated on February 20, 1985" before the period at the end of the 1st sentence.

(19) Subparagraph (B) of section 1317(15) of the Reform Act is amended—

(A) by striking out all that follows "agreement with" in clause (i) and inserting in lieu thereof "an underwriter to provide planning and financial guidance for a possible bond issue, and", and

(B) by striking out "certificates" in clause (ii) and inserting in lieu thereof "bond issue"

(20) Paragraph (16) of section 1317 of the Reform Act is amended by striking out the last sentence.

(21) Clause (i) of section 1317(19)(D) of the Reform Act is amended by striking out "light rail transitway" and inserting in lieu thereof "fixed guideway".

(22) Paragraph (20) of section 1317 of the Reform Act is amended by striking out "Section 148(f)" and inserting in lieu thereof "Subsections (c)(2) and (f) of section 148".

(23) Subparagraph (B) of section 1317(21) of the Reform Act is amended—

(A) by striking out "Subsection (c)" and inserting in lieu thereof "Subsections (c)(2)", and

(B) by striking out "103A(g)(5)(C)l" and inserting in lieu thereof "103A(g)(5)(C)".

(24) Paragraph (22) of section 1317 of the Reform Act is amended to read as follows:

"(22) DOWNTOWN REDEVELOPMENT PROJECT.—Subsection (b) of section 626 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"'(7) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

"'(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

"'(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

"'(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992.'"

(25) Subparagraph (A) of section 1317(24) of the Reform Act is amended by adding at the end thereof the following: "The last paragraph of this section shall not apply to the treatment under the preceding sentence."

(26)(A) Clause (i) of section 1317(25)(A) of the Reform Act is amended by striking out "3 counties" and inserting in lieu thereof "1 or more of 3 counties".

(B) Clause (i) of section 1317(25)(B) of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of applying section 146(k) of the 1986 Code, the public utility facility described in subparagraph (A) shall be treated as described in paragraph (2) of such section and such paragraph shall be applied without regard to the requirement that the issuer establish that a State's share of the use of a facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(27) Subparagraph (I) of section 1317(27) of the Reform Act is amended by adding at the end thereof the following: "For purposes of determining whether any bond to which this subparagraph applies is a qualified small issue bond, there shall not be taken into account under section 144(a) of the 1986 Code capital expenditures with respect to any facility of the United States Government and there shall not be taken into account any bond allocable to the United States Government."

(28) Clause (i) of section 1317(29)(B) of the Reform Act is amended by striking out all that follows "1993" and inserting in lieu thereof ", by the State of Connecticut, and".

(29) Subparagraph (D) of section 1317(29) of the Reform Act is amended by striking out "the net proceeds" and inserting in lieu thereof "the proceeds".

(30) Section 1317(33)(A)(ii) of the Reform Act is amended—

(A) by striking out "on" and inserting in lieu thereof "dated" each place it appears, and

(B) by inserting "dated on December 1, 1985" after "(Series 1985A and 1985B)" in subclause (III).

(31) Subparagraph (B) of section 1317(33) of the Reform Act is amended—

(A) by striking out "and before August 7, 1988,", and

(B) by adding at the end thereof the following new sentence: "The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000."

(32) Subparagraph (G) of section 1317(33) of the Reform Act is amended by striking out "subparagraph (H)" and inserting in lieu thereof "subparagraph (F)".

(33) Subparagraph (H) of section 1317(33) of the Reform Act is amended—

(A) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) the proceeds of the issue are to be used to finance projects (to be determined by such university and the issuer) which are similar to those projects intended to be financed by bonds that were the subject of a request transmitted to Congress on November 7, 1985", and

(B) by adding at the end thereof the following: "Bonds to which this subparagraph applies shall be treated as qualified 501(c)(3) bonds if such bonds would not (if issued on August 15, 1986) be industrial development bonds (as defined in section 103(b)(2) of the 1954 Code), and section 147(f) of the 1986 Code shall not apply to the issue of which such bonds are a part. Bonds issued to finance facilities described in this subparagraph shall be treated as issued to finance such facilities notwithstanding the fact that a period in excess of 1 year has expired since the facilities were placed in service."

(34) Subparagraph (K) of section 1317(33) of the Reform Act is amended—

(A) by striking out "the issue is" in clause (i) and inserting in lieu thereof "the issue or issues are",

(B) by inserting "at least" before "900 units",

(C) by striking out "2,000 square feet" and inserting in lieu thereof "245,000 square feet", and

(D) by striking out "$150,000,000" and inserting in lieu thereof "$112,000,000".

(35) Paragraph (33) of section 1317 of the Reform Act is amended by striking out subparagraphs (M), (N), and (O) and inserting in lieu thereof the following new subparagraphs:

"(M) Proceeds of an issue are described in this subparagraph if such issue is issued on behalf of the Society of the New York Hospital to finance completion of a project commenced by such hospital in 1981 for construction of a diagnostic and treatment center or to refund bonds issued on behalf of such hospital in connection with the construction of such diagnostic and treatment center or to finance construction and renovation projects associated with an inpatient psychiatric care facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

"(N) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this paragraph (other than subparagraph (A) thereof) shall be taken into account in determining whether such section applies to any later issue.

"(O) In the case of any refunding bond—

"(i) to which any subparagraph of this paragraph applies, and

"(ii) to which the last sentence of section 1313(c)(2) applies,

such bond shall be treated as having such subparagraph apply (and the refunding bond shall be treated for purposes of such section as issued before January 1, 1986, and as not being an advance refunding) unless the issuer elects the opposite result."

(36) Paragraph (36) of section 1317 of the Reform Act is amended by striking out "$80,000,000" and inserting in lieu thereof "$400,000,000".

(37) Paragraph (38) of section 1317 of the Reform Act is amended by striking out "and sections 148 and 149".

(38) Paragraphs (39) and (40) of section 1317 of the Reform Act are amended to read as follows:

"(39) CERTAIN BONDS TREATED AS QUALIFIED 501(C)(3) BONDS.—A bond issued as part of an issue shall be treated for purposes of part IV of subchapter B of chapter 1 of the 1986 Code as a qualified 501(c)(3) bond if—

"(A) such bond would not (if issued on August 15, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

"(B) such issue was approved by city voters on January 19, 1985, for construction or renovation of facilities for the cultural and performing arts.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $5,000,000.

"(40) CERTAIN LIBRARY BONDS.—In the case of a bond issued before January 1, 1986, by *the City of Los Angeles Community Redevelopment Agency to provide the library and related structures associated with the City of Los Angeles Central Library Project, the ownership and use of the land and facilities associated with such project by persons which are not governmental units (or payments from such persons) shall not adversely affect the exclusion from gross income under section 103 of the 1954 Code of interest on such bonds."*

(39) Paragraph (41) of section 1317 of the Reform Act is amended to read as follows:

"(41) CERTAIN REFUNDING OBLIGATIONS FOR CERTAIN POWER FACILITIES.—With respect to 2 net billed nuclear power facilities located in the State of Washington on which construction has been suspended, the requirements of section 147(b) of the 1986 Code shall be treated as satisfied with respect to refunding bonds issued before 1992 if—

"(A) each refunding bond has a maturity date not later than the maturity date of the refunded bond, and

"(B) the facilities have not been placed in service as of the date of issuance of the refunding bond.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000. Section 146 of the 1986 Code and the last paragraph of this section shall not apply to bonds to which this paragraph applies."

(40) Paragraph (43) of section 1317 of the Reform Act is amended by inserting before the period "and the Internal Revenue Code of 1986 shall be applied without regard to section 149(d)(2)."

(41) Paragraph (44) of section 1317 of the Reform Act is amended—

(A) by inserting after "1986 Code" the following: "and the temporary period limitation of section 148(c)(2) of the 1986 Code",

(B) by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000", and

(C) by striking out "Hospitals Bond Pool" in the second item in the table and inserting in lieu thereof "Hospital Equipment Loan Council".

(42) Paragraph (48) of section 1317 of the Reform Act is amended by striking out "either" in the material preceding subparagraph (A) and inserting in lieu thereof "any".

(43) Subparagraph (B) of section 1317(48) of the Reform Act is amended by striking out "subparagraph (O)" and inserting in lieu thereof "paragraph (6)(U)".

(44) Paragraph (48) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) A facility which is part of a project described in paragraph (6)(O). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000."

(45) Paragraph (49) of section 1317 of the Reform Act is amended—

(A) by striking out "149(d)" and inserting in lieu thereof "149(d)(2)", and

(B) by inserting "United States" before "Housing Act of 1937".

(46) Paragraph (50) of section 1317 of the Reform Act is amended to read as follows:

"(50) TRANSITIONED BONDS SUBJECT TO CERTAIN RULES.—In the case of any bond to which any provision of this section applies, except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of sections 147(g), 148, and 149(d) of the 1986 Code were included in each such section."

(47) Paragraph (51) of section 1317 of the Reform Act is amended—

(A) by striking out "Section 141(a)" and inserting in lieu thereof "Section 141(b)", and

(B) by striking out "141(a)(3)" and inserting in lieu thereof "141(b)(3)".

(48) Paragraph (52) of section 1317 of the Reform Act is amended by striking out "This section" and inserting in lieu thereof "Except as otherwise provided in this section, this section".

(49) The material preceding subparagraph (A) of section 1317(2) of the Reform Act is amended by striking out "section 103(b)(4)(C)" and inserting in lieu thereof "section 103(b)(4)(F)".

(50) Clause (ii) of section 1317(27)(H) of the Reform Act is amended by striking out "November 14, 1985" and inserting in lieu thereof "November 13, 1985".

(51) Subparagraph (I) of section 1317(33) of the Reform Act is amended by striking out "November 11, 1985" and inserting in lieu thereof "November 1, 1985".

(52) Subparagraph (J) of section 1317(3) of the Reform Act is amended by striking out "October 29" in clause (iv) and inserting in lieu thereof "November 5".

(h) AMENDMENTS RELATED TO SECTION 1318 OF THE REFORM ACT.—Section 1318 of the Reform Act (relating to definitions, etc., relating to effective dates and transitional rules) is amended—

(1) by inserting "(a) DEFINITIONS.—" before "For purposes of this subtitle—", and

(2) by adding at the end thereof the following new subsections:

"(b) MINIMUM TAX TREATMENT.—

"(1) IN GENERAL.—Any bond described in paragraph (2) shall not be treated as a private activity bond for purposes of section 57 of the 1986 Code unless such bond would (if issued on August 7, 1986) be—

"(A) an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), or

"(B) a private loan bond (as defined in section 103(o)(2)(A) of the 1954 Code, without regard to any exception from such definition other than section 103(o)(2)(C) of such Code).

"(2) BONDS DESCRIBED.—For purposes of paragraph (1), a bond is described in this paragraph if—

"(A) the amendments made by section 1301 do not apply to such bond by reason of section 1312 or 1316(g),

"(B) any provision of section 1317 applies to such bond, or

"(C) the proceeds of such bond are used to refund any bond referred to in subparagraph (A) or (B) (or any bond which is part of a series of refundings of such a bond) if the requirements of paragraphs (1), (2), and (3) of subsection (c) are met with respect to the refunding bond.

"(c) CURRENT REFUNDINGS NOT TAKEN INTO ACCOUNT IN APPLYING AGGREGATE LIMIT ON BONDS TO WHICH TRANSITIONAL RULES APPLY.—The limitation on the aggregate face amount of bonds to which any provision of section 1316(g) or 1317 applies shall not be reduced by the face amount of any bond the proceeds of which are to be used exclusively to refund any bond to which such provision applies (or any bond which is part of a series of refundings of such bond) if—

"(1) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(3) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of paragraph (1), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code. Sections 1316(g)(5) and 1317(52) shall not apply to any refunding bond which meets the requirements of this subsection.

"(d) SPECIAL RULE PERMITTING CARRYFORWARD OF VOLUME CAP FOR CERTAIN TRANSITIONED PROJECTS.—A bond to which section 1312 or 1317 applies shall be treated as having a carryforward purpose described in section 146(f)(5) of the 1986 Code, and the requirement of section 146(f)(2)(A) of the 1986 Code shall be treated as met if such project is identified with reasonable specificity. The preceding sentence shall not apply so as to permit a carryforward with respect to any qualified small issue bond."

SEC. 114. AMENDMENTS RELATED TO TITLE XIV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1401 OF THE REFORM ACT.—

(1) Subsection (e) of section 672 of the 1986 Code is amended to read as follows:

"(e) GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.—

"(1) IN GENERAL.—For purposes of this subpart, a grantor shall be treated as holding any power or interest held by—

"(A) any individual who was the spouse of the grantor at the time of the creation of such power or interest, or

"(B) any individual who became the spouse of the grantor after the creation of such power or interest, but only with respect to periods after such individual became the spouse of the grantor.

"(2) MARITAL STATUS.—For purposes of paragraph (1)(A), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married."

(2) Paragraph (3) of section 675 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this paragraph to the grantor shall be treated as including a reference to such individual."

(3) Subsection (c) of section 674 of the 1986 Code is amended by adding at the end thereof the following new sentence: "For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this subsection to the grantor shall be treated as including a reference to such individual."

(b) AMENDMENT RELATED TO SECTION 1402 OF THE REFORM ACT.—Section 673 of the 1986 Code is amended by adding at the end thereof the following new subsections:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion in favor of the grantor.

"(d) POSTPONEMENT OF DATE SPECIFIED FOR REACQUISITION.—Any postponement of the date specified for the reacquisition of possession or enjoyment of the reversionary interest shall be treated as a new transfer in trust commencing with the date on which the postponement is effective and terminating with the date prescribed by the postponement. However, income for any period shall not be included in the income of the grantor by reason of the preceding sentence if such

income would not be so includible in the absence of such postponement."

(c) Amendments Related to Section 1403 of the Reform Act.—

(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act.

(B) For purposes of subparagraph (A), the term "pass-thru entity" means any trust, partnership, S corporation, or common trust fund.

(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act, such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.

(d) Amendments Related to Section 1404 of the Reform Act.—

(1) Subsection (a) of section 1404 of the Reform Act is amended—

(A) by striking out "Subsection (k) of section 6654" and inserting in lieu thereof "Subsection (l) of section 6654, as amended by section 1841 of this Act", and

(B) by striking out " '(k) Trusts" and inserting in lieu thereof " '(l) Trusts".

(2) Subsection (l) of section 6654 of the 1986 Code is amended to read as follows:

"(l) Estates and Trusts.—

"(1) In general.—Except as otherwise provided in this subsection, this subsection shall apply to any estate or trust.

"(2) Exception for estates and certain trusts.—With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

"(A) the estate of such decedent, or

"(B) any trust—

"(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will.

"(3) Exception for charitable trusts and private foundations.—This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

"(4) Special rule for annualizations.—In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting 'ending before the date 1 month before the due date for the installment' for 'ending before the due date for the installment'."

(3) Subsection (g) of section 643 of the 1986 Code is amended—

(A) by striking out the last sentence of paragraph (1), and

(B) by amending paragraph (2) to read as follows:

"(2) Time for making election.—An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe."

(4) Subsection (g) of section 643 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Extension to last year of estate.—In the case of a taxable year reasonably expected to be the last taxable year of an estate—

"(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

"(B) the fiduciary of the estate shall be treated as the trustee."

(e) Amendments Related to Section 1411 of the Reform Act.—

(1) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Coordination with section 644.—If tax is imposed under section 644(a)(1) with respect to the sale or exchange of any property of which the parent was the transferor, for purposes of applying subparagraph (A) to the taxable year of the parent in which such sale or exchange occurs—

"(i) taxable income of the parent shall be increased by the amount treated as included in gross income under section 644(a)(2)(A)(i), and

"(ii) the amount described in subparagraph (A)(ii) shall be increased by the amount of the excess referred to in section 644(a)(2)(A)."

(2) The last sentence of subparagraph (A) of section 1(i)(3) of the 1986 Code is amended by striking out "any deduction or credit" and inserting in lieu thereof "any exclusion, deduction, or credit".

(3) Subparagraph (A) of section 1(i)(4) of the 1986 Code is amended—

(A) by striking out "gross income for the taxable year which is not earned income" in clause (i) and inserting in lieu thereof "adjusted gross income for the taxable year which is not attributable to earned income",

(B) by striking out "his deduction" in clause (ii)(II) and inserting in lieu thereof "his deductions",

(C) by striking out "the deductions allowed" in clause (ii)(II) and inserting in lieu thereof "the itemized deductions allowed", and

(D) by striking out "gross income" in clause (ii)(II) and inserting in lieu thereof "adjusted gross income".

(4) Clause (iv) of section 6103(e)(1)(A) of the 1986 Code is amended by striking out "section 1(j)" and inserting in lieu thereof "section 1(i) or 59(j)".

(5) Section 59 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) Certain Unearned Income of Minor Children Taxed as if Parent's Income.—

"(1) In general.—In the case of any child to whom section 1(i) applies, the tax imposed by section 55 shall be equal to the greater of—

"(A) the tax imposed by section 55 without regard to this subsection, or

"(B) the sum of—

"(i) the tax which would be imposed by section 55 if—

"(I) the alternative minimum taxable income of such child for the taxable year were reduced by the net unearned minimum taxable income of such child, and

"(II) the regular tax of such child for the taxable year were reduced by the portion of such tax attributable to net unearned income (as defined in section 1(i)(4)), plus

"(ii) such child's share of the allocable parental minimum tax.

"(2) Allocable parental minimum tax.—For purposes of this subsection—

"(A) In general.—The term 'allocable parental minimum tax' means the excess of—

"(i) the tax which would be imposed by section 55 on the parent's alternative minimum taxable income if—

"(I) such income included the net unearned minimum taxable income of all children of the parent to whom section 1(i) applies, and

"(II) the amount of the parent's regular tax were increased by the amount of the aggregate of the regular taxes of all children of the parent to whom section 1(i) applies to the extent such taxes are attributable to net unearned income (as defined in section 1(i)(4)) of such children, over

"(ii) the tax imposed by section 55 on the parent without regard to this subsection.

For purposes of clause (i), the net unearned minimum taxable income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

"(B) Child's share.—A child's share of any allocable parental minimum tax shall be determined under rules similar to the rules of section 1(i)(3)(B).

"(C) Coordination with section 644.—Rules similar to the rules of subparagraph (C) of section 1(i)(3) shall apply.

"(3) Net unearned minimum taxable income.—For purposes of this subsection, the term 'net unearned minimum taxable income' means net unearned income (as defined in section 1(i)(4) computed with the adjustments provided in sections 56, 57, and 58; except that, notwithstanding section 56(b)(1)(E), the deduction under section 63(c) shall be allowed.

"(4) Other rules made applicable.—For purposes of this subsection, rules similar to the rules of paragraphs (5) and (6) of section 1(i) shall apply."

(6) Subparagraph (A) of section 1(i)(5) of the 1986 Code is amended by striking out "custodial parent" and inserting in lieu thereof "custodial parent (within the meaning of section 152(e))".

(7) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Special rule where parent has different taxable year.—Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year."

(f) Amendment Related to Section 1421 of the Reform Act.—Subsection (a) of section 1421 of the Reform Act is amended by striking out "within the time prescribed for filing such return (including extensions thereof)".

(g) Amendments Related to Section 1431 of the Reform Act.—

(1) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "generation-skipping transfers" and inserting in lieu thereof "generation-skipping transfer".

(2) Subsection (b) of section 2611 of the 1986 Code is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES FOR CHARITABLE LEAD ANNUITY TRUSTS.—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio for any charitable lead annuity trust, the applicable fraction shall be a fraction—

"(A) the numerator of which is the adjusted GST exemption, and

"(B) the denominator of which is the value of all of the property in such trust immediately after the termination of the charitable lead annuity.

"(2) ADJUSTED GST EXEMPTION.—For purposes of paragraph (1), the adjusted GST exemption is an amount equal to the GST exemption allocated to the trust increased by interest determined—

"(A) at the interest rate used in determining the amount of the deduction under section 2055 or 2522 (as the case may be) for the charitable lead annuity, and

"(B) for the actual period of the charitable lead annuity.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE LEAD ANNUITY TRUST.—The term 'charitable lead annuity trust' means any trust in which there is a charitable lead annuity.

"(B) CHARITABLE LEAD ANNUITY.—The term 'charitable lead annuity' means any interest in the form of a guaranteed annuity with respect to which a deduction was allowed under section 2055 or 2522 (as the case may be).

"(4) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) The amendment made by subparagraph (A) shall apply for purposes of determining the inclusion ratio with respect to property transferred after October 13, 1987.

(4)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR CERTAIN INTER VIVOS TRANSFERS.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio, if—

"(A) an individual makes an inter vivos transfer of property, and

"(B) the value of such property would be includible in the gross estate of such individual under chapter 11 if such individual died immediately after making such transfer (other than by reason of section 2035),

any allocation of GST exemption to such property shall not be made before the close of the estate tax inclusion period (and the value of such property shall be determined under paragraph (2)). If such transfer is a direct skip, such skip shall be treated as occurring as of the close of the estate tax inclusion period.

"(2) VALUATION.—In the case of any property to which paragraph (1) applies, the value of such property shall be—

"(A) if such property is includible in the gross estate of the transferor (other than by reason of section 2035), its value for purposes of chapter 11, or

"(B) if subparagraph (A) does not apply, its value as of the close of the estate tax inclusion period (or, if any allocation of GST exemption to such property is not made on a timely filed gift tax return for the calendar year in which such period ends, its value as of the time such allocation is filed with the Secretary).

"(3) ESTATE TAX INCLUSION PERIOD.—For purposes of this subsection, the term 'estate tax inclusion period' means any period after the transfer described in paragraph (1) during which the value of the property involved in such transfer would be includible in the gross estate of the transferor under chapter 11 if he died. Such period shall in no event extend beyond the earlier of—

"(A) the date on which there is a generation-skipping transfer with respect to such property, or

"(B) the date of the death of the transferor.

"(4) TREATMENT OF SPOUSE.—Except as provided in regulations, any reference in this subsection to an individual or transferor shall be treated as including a reference to the spouse of such individual or transferor.

"(5) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) Paragraph (2) of section 2642(a) of the 1986 Code is amended by striking out the last sentence.

(C) Subparagraph (A) of section 2642(b)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the distribution concerned."

(D) Subsection (b) of section 2642 of the 1986 Code is amended by inserting "Except as provided in subsection (f)—" immediately after the subsection heading.

(E) Subparagraph (B) of section 2642(b)(2) of the 1986 Code is amended—

(i) by striking out "at or after the death of the transferor" and inserting in lieu thereof "to property transferred as a result of the death of the transferor"; and

(ii) by striking out "AT OR AFTER DEATH" in the subparagraph heading and inserting in lieu thereof "TO PROPERTY TRANSFERRED AT DEATH".

(F) Paragraph (3) of section 2642(b) of the 1986 Code is amended—

(i) by striking out "to any property is made during the life of the transferor but is" and inserting in lieu thereof "to any property not transferred as a result of the death of the transferor is"; and

(ii) by striking out "INTER VIVOS ALLOCATIONS" in the subparagraph heading and inserting in lieu thereof "ALLOCATIONS TO INTER VIVOS TRANSFERS".

(5)(A) Paragraph (1) of section 2613(a) of the 1986 Code is amended by striking out "a person assigned" and inserting in lieu thereof "a natural person assigned".

(B) Subsection (c) of section 2612 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) LOOK-THRU RULES NOT TO APPLY.—Solely for purposes of determining whether any transfer to a trust is a direct skip, the rules of section 2651(e)(2) shall not apply."

(6) Subsection (c) of section 2652 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN SUPPORT OBLIGATIONS DISREGARDED.—The fact that income or corpus of the trust may be used to satisfy an obligation of support arising under State law shall be disregarded in determining whether a person has an interest in the trust, if—

"(A) such use is discretionary, or

"(B) such use is pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act."

(7) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property."

(8) Paragraph (2) of section 2652(c) of the 1986 Code is amended—

(A) by striking out "NOMINAL INTERESTS" in the paragraph heading and inserting in lieu thereof "INTERESTS", and

(B) by striking out "the tax" and inserting in lieu thereof "any tax".

(9) Paragraph (1) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "a transfer of a kind" each place it appears and inserting in lieu thereof "any property", and

(B) by adding at the end thereof the following new sentence:

"An individual shall be treated as transferring any property with respect to which such individual is the transferor."

(10) Section 2663 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing for such adjustments as may be necessary to the application of this chapter in the case of any arrangement which, although not a trust, is treated as a trust under section 2652(b)."

(11) Paragraph (3) of section 2651(e) of the 1986 Code is amended to read as follows:

"(3) TREATMENT OF CERTAIN CHARITABLE ORGANIZATIONS AND GOVERNMENTAL ENTITIES.—Any—

"(A) organization described in section 511(a)(2),

"(B) charitable trust described in section 511(b)(2), and

"(C) governmental entity,

shall be assigned to the transferor's generation."

(12) Paragraph (2) of section 2654(a) of the 1986 Code is amended—

(A) by striking out "any increase" and inserting in lieu thereof "any increase or decrease", and

(B) by striking out "such increase" and inserting in lieu thereof "such increase or decrease (as the case may be)".

(13) Subsection (b) of section 2654 of the 1986 Code is amended to read as follows:

"(b) CERTAIN TRUSTS TREATED AS SEPARATE TRUSTS.—For purposes of this chapter—

"(1) the portions of a trust attributable to transfers from different transferors shall be treated as separate trusts, and

"(2) substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

Except as provided in the preceding sentence, nothing in this chapter shall be construed as authorizing a single trust to be treated as 2 or more trusts."

(14) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for the preceding sentence."

(15) Paragraph (3) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "any property" in subparagraphs (A) and (B) and inserting in lieu thereof "any trust", and

(B) by striking out "may elect to treat such property" and inserting in lieu thereof

"may elect to treat all of the property in such trust".

(16) Paragraph (2) of section 2612(a) of the 1986 Code is amended to read as follows:

"(2) CERTAIN PARTIAL TERMINATIONS TREATED AS TAXABLE.—If, upon the termination of an interest in property held in trust by reason of the death of a lineal descendant of the transferor, a specified portion of the trust's assets are distributed to 1 or more skip persons (or 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property."

(17) Paragraph (2) of section 2632(b) of the 1986 Code is amended by striking out "paragraph (1)) with respect to a prior direct skip" and inserting in lieu thereof "paragraph (1) with respect to a prior direct skip)".

(18)(A) Subsection (c) of section 2642 of the 1986 Code is amended to read as follows:

"(c) TREATMENT OF CERTAIN DIRECT SKIPS WHICH ARE NONTAXABLE GIFTS.—

"(1) IN GENERAL.—In the case of a direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) EXCEPTION FOR CERTAIN TRANSFERS IN TRUST.—Paragraph (1) shall not apply to any transfer to a trust for the benefit of an individual unless—

"(A) during the life of such individual, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such individual, and

"(B) if such individual dies before the trust is terminated, the assets of such trust will be includible in the gross estate of such individual.

"(3) NONTAXABLE GIFT.—For purposes of this subsection, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e)."

(B) Paragraph (1) of section 2642(d) of the 1986 Code is amended by striking out "(other than a nontaxable gift)".

(C) The amendments made by this paragraph shall apply to transfers after March 31, 1988.

(19) Clause (i) of section 2642(d)(2)(B) of the 1986 Code is amended to read as follows:

"(i) the value of the property involved in such transfer reduced by the sum of—

"(I) any Federal estate tax or state death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property, and".

(20) Paragraph (2) of section 2651(b) of the 1986 Code is amended by striking out "a spouse of the transferor" and inserting in lieu thereof "a spouse (or former spouse) of the transferor".

(h) AMENDMENTS RELATED TO SECTION 1433 OF THE REFORM ACT.—

(1) Subsection (a) of section 1433 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(2) Paragraph (2) of section 1433(b) of the Reform Act is amended—

(A) by striking out "this part" in the material preceding subparagraph (A) and inserting in lieu thereof "this subtitle",

(B) by inserting before the comma at the end of subparagraph (A) the following: "(or out of income attributable to corpus so added)", and

(C) by inserting "or revocable trust" after "a will" in subparagraph (B).

(3)(A) Subsection (b) of section 1433 of the Reform Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) TREATMENT OF CERTAIN TRANSFERS TO GRANDCHILDREN.—

"(A) IN GENERAL.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the term 'direct skip' shall not include any transfer before January 1, 1990, from a transferor to a grandchild of the transferor to the extent the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

"(B) TREATMENT OF TRANSFERS IN TRUST.—For purposes of subparagraph (A), a transfer in trust for the benefit of a grandchild shall be treated as a transfer to such grandchild if (and only if)—

"(i) during the life of the grandchild, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such grandchild,

"(ii) the assets of the trust will be includible in the gross estate of the grandchild if the grandchild dies before the trust is terminated, and

"(iii) all of the income of the trust for periods after the grandchild has attained age 21 will be distributed to (or for the benefit of) such grandchild not less frequently than annually.

"(C) COORDINATION WITH SECTION 2653(a) OF THE 1986 CODE.—In the case of any transfer which would be a generation-skipping transfer but for subparagraph (A), the rules of section 2653(a) of the Internal Revenue Code of 1986 shall apply as if such transfer were a generation-skipping transfer.

"(D) COORDINATION WITH TAXABLE TERMINATIONS AND TAXABLE DISTRIBUTIONS.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for subparagraph (A).

"(4) DEFINITIONS.—Terms used in this section shall have the same respective meanings as when used in chapter 13 of the Internal Revenue Code of 1986; except that section 2612(c)(2) of such Code shall not apply in determining whether an individual is a grandchild of the transferor."

(B) Clause (iii) of section 1443(b)(3)(B) of the Reform Act (as amended by subparagraph (A)) shall apply only to transfers after June 10, 1987.

(4) Subsection (d) of section 1433 of the Reform Act is amended—

(A) by striking out "shall be treated as a direct skip" and inserting in lieu thereof "shall be treated as a direct skip to such grandchild",

(B) by striking out "would be a direct skip" in subparagraph (B) and inserting in lieu thereof "would be a direct skip to a grandchild", and

(C) by adding at the end thereof the following new sentence: "Unless the grandchild otherwise directs by will, the estate of such grandchild shall be entitled to recover from the person receiving the property on the death of the grandchild any increase in Federal estate tax on the estate of the grandchild by reason of the preceding sentence."

SEC. 115. AMENDMENTS RELATED TO TITLE XV OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF THE REFORM ACT.—Subparagraph (B) of section 6724(d)(2) of the 1986 Code is amended by striking out "6031(b)" and inserting in lieu thereof "6031(b) or (c)".

(b) AMENDMENTS RELATED TO SECTION 1503 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 6013(b)(5) of the 1986 Code is amended to read as follows:

"(A) COORDINATION WITH SECTION 6653.—For purposes of section 6653, where the sum of the amounts shown as tax on the separate returns of each spouse is less than the amount shown as tax on the joint return made under this subsection—

"(i) such sum shall be treated as the amount shown on the joint return,

"(ii) any negligence (or disregard of rules or regulations) on either separate return shall be treated as negligence (or such disregard) on the joint return, and

"(iii) any fraud on either separate return shall be treated as fraud on the joint return."

(2)(A) Paragraph (1) of section 6653(a) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to negligence (or disregard of rules or regulations), there shall be added to the tax an amount equal to 5 percent of the underpayment."

(B) Paragraph (1) of section 6653(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud."

(C) Paragraph (2) of section 6601(e) of the 1986 Code is amended by striking out "6659" each place it appears and inserting in lieu thereof "6653, 6659".

(3) Subsection (g) of section 6653 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a)."

(4) The amendments made by this subsection (other than paragraph (3)) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988.

(c) AMENDMENT RELATED TO SECTION 1504 OF THE REFORM ACT.—The repeal made by section 8002(c) of the Omnibus Budget Reconciliation Act of 1986 shall take effect as if the Tax Reform Act of 1986 had been enacted on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(d) AMENDMENTS RELATED TO SECTION 1511 OF THE REFORM ACT.—Section 6621 of the 1986 Code is amended—

(1) by striking out "short-term Federal rate" each place it appears in subsections (a) and (b)(1) and inserting in lieu thereof "Federal short-term rate", and

(2) by striking out "SHORT-TERM FEDERAL RATE" in the heading of subsection (b) and inserting in lieu thereof "FEDERAL SHORT-TERM RATE".

(e) AMENDMENTS RELATED TO SECTION 1521 OF THE REFORM ACT.—

(1)(A) Paragraph (1) of section 6045(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

(2)(A) Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Prohibition of separate charge for filing return.—It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1)."

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(3) Subsection (e) of section 6045 of the 1986 Code is amended—

(A) by striking out "real estate broker" each place it appears in the text and inserting in lieu thereof "real estate reporting person", and

(B) by striking out "Real estate broker" in the heading of paragraph (2) and inserting in lieu thereof "Real estate reporting person".

(f) Amendment Related to Section 1522 of the Reform Act.—Section 6050M of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Exception for Certain Classified or Confidential Contracts.—

"(1) In general.—Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

"(2) Reporting requirement.—Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

"(A) the information required under this section with respect to such person, and

"(B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

"(3) Description of contract.—For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

"(A) the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

"(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(g) Amendments Related to Section 1523 of the Reform Act.—Section 6676 of the 1986 Code is amended—

(1) by striking out "6049, or 6050N" in subsection (a)(3) and inserting in lieu thereof "or 6049",

(2) by striking out "6049, or 6050N" in subsection (b)(1)(A) and inserting in lieu thereof "or 6049", and

(3) by striking out ", Dividends, and Royalties" in the heading for subsection (b) and inserting in lieu thereof "and Dividend".

(h) Amendments Related to Section 1542 of the Reform Act.—Subsection (h) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended—

(1) by striking out "subject to the tax imposed by section 4940" in paragraph (1),

(2) by amending paragraph (2) to read as follows:

"(2) any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11, and", and

(3) by adding at the end thereof the following new sentence:

"In the case of an organization described in paragraph (1), subsection (c) of section 6655 shall be applied by substituting '5th month' for 'third month' and subsection (d)(3)(A) of section 6655 shall be applied by substituting '2 months' for '3 months' in clause (i), by substituting '4 months' for '5 months, in clause (ii), by substituting '7 months' for '8 months' in clause (iii), and by substituting '10 months' for '11 months' in clause (iv)."

(i) Amendment Related to Section 1551 of the Reform Act.—Clause (iii) of section 7430(c)(2)(A) of the 1986 Code is amended to read as follows:

"(iii) meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect)."

(j) Provision Related to Section 1556 of the Reform Act.—To the extent the salary recommendations submitted by the President on January 5, 1987, are inconsistent with the provisions of section 7443A(d)(1) of the 1986 Code, such recommendations shall not be effective for any period.

(k) Amendment Related to Section 1557 of the Reform Act.—

(1) Subsection (d) of section 7447 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge."

(2) The amendment made by paragraph (1) shall apply for purposes of determining the amount of retired pay for months beginning after the date of the enactment of this Act regardless of when the services under section 7447(c) of the 1986 Code were performed.

(l) Amendments Related to Section 1561 of the Reform Act.—

(1) Subsection (e)(2) of section 7609 of the 1986 Code is amended—

(A) by inserting "or the summoned party's response to a summons described in subsection (f)," after "the summons described in subsection (c),", and

(B) by striking out "the summons is issued other" and inserting in lieu thereof "the summons is issued".

(2) Subsection (i) of section 7609 of the 1986 Code is amended—

(A) by striking out "the third-party recordkeeper" in paragraph (4) and inserting in lieu thereof "the summoned party", and

(B) by inserting "And Summoned Party" after "Recordkeeper" in the subsection heading.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(m) Amendment Related to Section 1562 of the Reform Act.—Subsection (d) of section 6212 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding."

(n) Amendment Related to Section 1563 of the Reform Act.—Subparagraph (B) of section 6404(e)(1) of the 1986 Code is amended—

(1) by inserting "error or" before "delay", and

(2) by inserting "erroneous or" before "dilatory".

(o) Amendment Related to Section 1565 of the Reform Act.—Effective with respect to levies made after December 31, 1988, paragraph (10) of section 6334(a) of the 1986 Code is amended—

(1) in subparagraph (A)—

(A) by striking out "IV" and inserting in lieu thereof "III, IV, V,", and

(B) by adding "or" at the end thereof,

(2) in subparagraph (C) by striking out "21," and inserting in lieu thereof "13, 21, 23," and

(3) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(p) Amendment Related to Section 1581 of the Reform Act.—Subsection (c) of section 1581 of the Reform Act is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply if its application would result in an increase in the number of withholding allowances for the employee."

(q) General Requirement of Return, Statement, or List.—

(1) Subsection (a) of section 6011 of the 1986 Code is amended by striking out "for the collection thereof" and inserting in lieu thereof "with respect to the collection thereof".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(r) Certain Refundable Credits To Be Assessed Under Deficiency Procedures.—

(1) Subsection (a) of section 6203 of the 1986 Code is amended by striking out paragraph (4).

(2) Paragraph (4) of section 6211(b) is amended to read as follows:

"(4) For purposes of subsection (a)—

"(A) any excess of the sum of the credits allowable under sections 32 and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

"(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax."

(3) Subsection (h) of section 6213 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) The amendments made by this subsection shall apply to notices of deficiencies mailed after the date of the enactment of this Act.

SEC. 116. AMENDMENTS RELATED TO TITLE XVI OF THE REFORM ACT.

(a) Amendments Related to Section 1603 of the Reform Act.—

(1)(A) Subparagraph (A) of section 501(c)(25) of the 1986 Code is amended by

adding at the end thereof the following new sentence:

"For purposes of clause (iii), the term 'real property' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest."

(B) The amendment made by subparagraph (A) shall apply with respect to property acquired by the organization after June 10, 1987, except that such amendment shall not apply to any property acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(2) Subparagraph (D) of section 501(c)(25) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) and inserting in lieu thereof the following:

"(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—"

(3)(A) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E)(i) For purposes of this title—

"(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

"(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

"(ii) For purposes of this subparagraph, the term 'qualified subsidiary' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

"(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock."

(B) Subparagraph (C) of section 501(c)(25) of the 1986 Code is amended by inserting "or" at the end of clause (iii), by striking out ", or" at the end of clause (iv) and inserting in lieu thereof a period, and by striking out clause (v).

(4) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of subparagraph (A), the term 'real property' includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease."

(5)(A) Paragraph (9) of section 514(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULES FOR ORGANIZATIONS DESCRIBED IN SECTION 501(C)(25).—

"(i) IN GENERAL.—In computing under section 512 the unrelated business taxable income of a disqualified holder of an interest in an organization described in section 501(c)(25), there shall be taken into account—

"(I) as gross income derived from an unrelated trade or business, such holder's pro rata share of the items of income described in clause (ii)(I) of such organization, and

"(II) as deductions allowable in computing unrelated business taxable income, such holder's pro rata share of the items of deduction described in clause (ii)(II) of such organization.

Such amounts shall be taken into account for the taxable year of the holder in which (or with which) the taxable year of such organization ends.

"(ii) DESCRIPTION OF AMOUNTS.—For purposes of clause (i)—

"(I) gross income is described in this clause to the extent such income would (but for this paragraph) be treated under subsection (a) as derived from an unrelated trade or business, and

"(II) any deduction is described in this clause to the extent it would (but for this paragraph) be allowable under subsection (a)(2) in computing unrelated business taxable income.

"(iii) DISQUALIFIED HOLDER.—For purposes of this subparagraph, the term 'disqualified holder' means any shareholder (or beneficiary) which is not described in clause (i) or (ii) of subparagraph (C)."

(B) The amendment made by subparagraph (A) shall apply with respect to interests in the organization acquired after June 10, 1987, except that such amendment shall not apply to any such interest acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(6) The last sentence of section 514(c)(9)(B) of the 1986 Code is amended by striking out "clause (vi)" and inserting in lieu thereof "this paragraph".

(b) REPEAL OF SECTION 1608 OF THE REFORM ACT.—Section 1608 of the Reform Act is hereby repealed.

SEC. 117. AMENDMENTS RELATED TO TITLE XVII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1701 OF THE REFORM ACT.—Clause (i) of section 51(d)(12)(B) of the 1986 Code is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(b) AMENDMENT RELATED TO SECTION 1702 OF THE REFORM ACT.—Subsection (j) of section 6652 of the 1986 Code, as added by section 1702(b) of the Reform Act and as in effect before its repeal by the Revenue Act of 1987, is amended by inserting "(and the corresponding provision of section 4041(d)(1))" after "section 4041(a)(1)".

(c) AMENDMENTS RELATED TO SECTION 1703 OF THE REFORM ACT.—

(1)(A) Subsection (a) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by redesignating paragraph (2) as paragraph (3) and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

"(A) the removal, or

"(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent a gallon."

(B) Subsections (b) and (c) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (a)".

(C) Subsection (e) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended—

(i) by striking out "subsection (d)(2)(A)" in paragraph (1) and inserting in lieu thereof "subsection (a)(2)", and

(ii) by striking out "subsection (d)(2)(B)" each place it appears in paragraph (2) and inserting in lieu thereof "subsection (a)(2)".

(D) Section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking out "section 6421(i) or 6427(j)" and inserting in lieu thereof "section 6421(j) or 6427(k)".

(3) Sections 4041(b)(1)(C) and 6427(m)(3) of the 1986 Code are each amended by striking out "section 6421(d)(2)" and inserting in lieu thereof "section 6421(e)(2)".

(4) Paragraph (3) of section 4041(f) of the 1986 Code is amended to read as follows:

"(3) TERMINATION.—Except with respect to the taxes imposed by subsection (d), paragraph (1) shall not apply on and after October 1, 1993."

(5) The amendment made by section 10502(d)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that the reference to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(6) Section 6421 of the 1986 Code is amended by redesignating subsection (i) (relating to income tax credit in lieu of payment) and subsection (j) (relating to cross references) as subsections (j) and (k), respectively.

(7) Subsections (a) and (b)(1) of section 6421 of the 1986 Code are each amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(8) Paragraph (2) of section 6421(j) of the 1986 Code (as redesignated by paragraph (6)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)(2)".

(9) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) of the 1986 Code are each amended by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

(10) Paragraph (2) of section 6427(k) of the 1986 Code is amended by striking out "subsection" and all that follows and inserting in lieu thereof "paragraph (2) or (3) of subsection (i)."

(11) Paragraph (6) of section 6511(i) of the 1986 Code is amended by striking out "section 6421(c)" and inserting in lieu thereof "section 6421(d)".

(12) Subparagraph (G) of section 1703(e)(2) of the Reform Act is amended by striking out all that follows "are amended" and inserting in lieu thereof "by striking out '6427(i)(2)' and inserting in lieu thereof '6427(j)(2)'."

(13) Paragraph (2) of section 1703(f) of the Reform Act is amended by adding at the end thereof the following new sentence: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue

Code of 1986 shall apply to the floor stocks taxes imposed by this section."

(14) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out "3 cents" and inserting in lieu thereof "3⅓ cents".

(15) Subsection (d) of section 6421 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) APPLICATION TO SALES UNDER SUBSECTION (c).—For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose."

SEC. 118. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1801 OF THE REFORM ACT.—Clause (iii) of section 1801(a)(2)(A) of the Reform Act is amended to read as follows:

"(iii) a person became a partner in such partnership (or a beneficiary in such trust) after its formation but before September 26, 1985,".

(b) AMENDMENTS RELATED TO SECTION 1802 OF THE REFORM ACT.—

(1) The last sentence of section 31(g)(17)(L) of the Tax Reform Act of 1984, as added by section 1802(a)(10)(G) of the Reform Act, is amended—

(A) by striking out "Registry of Deeds" each place it appears and inserting in lieu thereof "Register of Deed", and

(B) by striking out "May 7, 1985" and inserting in lieu thereof "May 7, 1984".

(2) Subparagraph (E) of section 168(j)(9) of the 1986 Code (as amended by section 1802(a)(2) of the Reform Act and as in effect before the amendments made by section 201 of the Reform Act) is amended—

(A) by striking out "this paragraph" in clauses (i) and (ii)(I) and inserting in lieu thereof "this paragraph and paragraph (8)", and

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—

"(I) IN GENERAL.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

"(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (7)) shall be treated as 1 entity.

"(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof)."

(c) AMENDMENT RELATED TO SECTION 1803 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1803(a)(8) of the Reform Act is amended by striking out "September 27, 1985" and inserting in lieu thereof "December 31, 1985".

(2) Subsection (c) of section 1278 of the 1986 Code is amended by inserting before the period ", including regulations providing proper adjustments in the case of a bond the principal of which may be paid in 2 or more payments".

(d) AMENDMENTS RELATED TO SECTION 1804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1804(b) of the Reform Act is amended by striking out "Paragraph (3) of section 54" and inserting "Paragraph (3) of section 54(d)".

(2) Clause (i) of section 54(d)(3)(D) of the Tax Reform Act of 1984 is amended by striking out "subtitle D of title VI" and inserting "subtitle D of title VI of the Tax Reform Act of 1986".

(3) Clause (ii) of section 54(d)(3)(D) of the Tax Reform Act of 1984 (as added by section 1804(b)(3) of the Tax Reform Act of 1986) is amended—

(A) by striking out "December 9, 1968," each place it appears and inserting in lieu thereof "December 10, 1968,", and

(B) by striking out "October 5, 1981" and inserting in lieu thereof "March 2, 1978,".

(4) Subsection (b) of section 312 of the 1986 Code is amended by striking out "of any property" and inserting in lieu thereof "of any property (other than an obligation of such corporation)".

(5)(A) Section 361 of the 1986 Code is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO CORPORATIONS; TREATMENT OF DISTRIBUTIONS.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a corporation if such corporation is a party to a reorganization and exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

"(b) EXCHANGES NOT SOLELY IN KIND.—

"(1) GAIN.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of stock or securities permitted by subsection (a) to be received without the recognition of gain, but also of other property or money, then—

"(A) PROPERTY DISTRIBUTED.—If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

"(B) PROPERTY NOT DISTRIBUTED.—If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized.

The amount of gain recognized under subparagraph (B) shall not exceed the sum of the money and the fair market value of the other property so received which is not so distributed.

"(2) LOSS.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of property permitted by subsection (a) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

"(3) TREATMENT OF TRANSFERS TO CREDITORS.—For purposes of paragraph (1), any transfer of the other property or money received in the exchange by the corporation to its creditors in connection with the reorganization shall be treated as a distribution in pursuance of the plan of reorganization. The Secretary may prescribe such regulations as may be necessary to prevent avoidance of tax through abuse of the preceding sentence or subsection (c)(3).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation a party to a reorganization on the distribution to its shareholders of property in pursuance of the plan of reorganization.

"(2) DISTRIBUTIONS OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of this subsection, the term 'qualified property' means—

"(i) any stock in (or right to acquire stock in) the distributing corporation or obligation of the distributing corporation, or

"(ii) any stock in (or right to acquire stock in) another corporation which is a party to the reorganization or obligation of another corporation which is such a party if such stock (or right) or obligation is received by the distributing corporation in the exchange.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) TREATMENT OF CERTAIN TRANSFERS TO CREDITORS.—For purposes of this subsection, any transfer of qualified property by the corporation to its creditors in connection with the reorganization shall be treated as a distribution to its shareholders pursuant to the plan of reorganization.

"(4) COORDINATION WITH OTHER PROVISIONS.—Section 311 and subpart B of part II of this subchapter shall not apply to any distribution referred to in paragraph (1)."

(B) Section 358 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF NONRECOGNITION PROPERTY IN CASE OF SECTION 361 EXCHANGE.—For purposes of this section, the property permitted to be received under section 361 without the recognition of gain or loss shall be treated as consisting only of stock or securities in another corporation a party to the reorganization."

(C) Section 355 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—Section 311 shall apply to any distribution—

"(1) to which this section (or so much of section 356 as relates to this section) applies, and

"(2) which is not in pursuance of a plan of reorganization,

in the same manner as if such distribution were a distribution to which subpart A of part I applies; except that subsection (b) of section 311 shall not apply to any distribution of stock or securities in the controlled corporation."

(D) Subsection (c) of section 336 of the 1986 Code (as amended by section 631 of the Reform Act) is amended to read as follows:

"(c) Exception for Liquidations Which Are Part of a Reorganization.—

"For provision providing that this subpart does not apply to distributions in pursuance of a plan of reorganization, see section 361(c)(4)."

(E) Subsection (a) of section 311 of the 1986 Code is amended by striking out "distribution, with respect to its stock," and inserting in lieu thereof "distribution (not in complete liquidation) with respect to its stock".

(F) The table of sections for subpart C of part III of subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to section 361 and inserting in lieu thereof the following new item:

"Sec. 361. Nonrecognition of gain or loss to corporations; treatment of distributions."

(G) Effective with respect to transfers on or after June 21, 1988, section 351 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Controlled Corporation.—If—

"(1) property is transferred to a corporation (hereinafter in this subsection referred to as the 'controlled corporation') in an exchange with respect to which gain or loss is not recognized (in whole or in part) to the transferor under this section, and

"(2) such exchange is not in pursuance of a plan of reorganization,

section 311 shall apply to any transfer in such exchange by the controlled corporation in the same manner as if such transfer were a distribution to which subpart A of part I applies."

(6) Subparagraph (A) of section 280G(b)(5) of the 1986 Code is amended—

(A) in clause (i) by striking out "section 1361(b))" and inserting in lieu thereof "section 1361(b) but without regard to paragraph (1)(C) thereof)", and

(B) by adding at the end thereof the following: "Stock described in section 1504(a)(4) shall not be taken into account under clause (ii)(I) if the payment does not adversely affect the shareholder's redemption and liquidation rights."

(7) Subparagraph (B) of section 280G(b)(5) of the 1986 Code (relating to shareholder approval requirements) is amended by adding at the end thereof the following new sentence:

"The regulations prescribed under subsection (e) shall include regulations providing for the application of this subparagraph in the case of shareholders which are not individuals (including the treatment of nonvoting interests in an entity which is a shareholder) and where an entity holds a de minimis amount of stock in the corporation."

(8) Paragraph (5) of section 280G(d) of the 1986 Code is amended by striking out "officer or any member" and inserting in lieu thereof "officer of any member".

(9) Paragraph (3) of section 338(e) of the 1986 Code is amended by striking out "which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3)" and inserting in lieu thereof "which meet the requirements of section 1504(a)(2)".

(10)(A) Paragraph (7) of section 1504(b) of the 1986 Code is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1))."

(B) Section 1504 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Special Rule for Certain Amounts Derived From a Corporation Previously Treated as a DISC.—In determining the consolidated taxable income of an affiliated group for any taxable year beginning after December 31, 1984, a corporation which had been a DISC and which would otherwise be a member of such group shall not be treated as such a member with respect to—

"(1) any distribution (or deemed distribution) of accumulated DISC income which was not treated as previously taxed income under section 805(b)(2)(A) of the Tax Reform Act of 1984, and

"(2) any amount treated as received under section 805(b)(3) of such Act."

(e) Provision Related to Section 1806 of the Reform Act.—If—

(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954,

(2) such trusts would have been required to be so treated but for the amendment made by section 1806(b) of the Reform Act, and

(3) such trusts did not accumulate any income during such taxable year and did not make any accumulation distributions during such taxable year,

then, notwithstanding the amendment made by section 1806(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.

(f) Amendments Related to Section 1807 of the Reform Act.—

(1) Paragraphs (1)(A) and (2)(E) of section 468B(d) of the 1986 Code are each amended by striking out "the taxpayer" and inserting in lieu thereof "the taxpayer (or any related person)".

(2) Subparagraph (A) of section 468B(d)(2) of the 1986 Code is amended to read as follows:

"(A) which is established pursuant to a court order and which extinguishes completely the taxpayer's tort liability with respect to claims described in subparagraph (D),".

(3) Clause (i) of section 1807(a)(7)(C) of the Reform Act is amended to read as follows:

"(i) any portion of such fund which is established pursuant to a court order and with qualified payments, which meets the requirements of subparagraphs (C) and (D) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph), and with respect to which an election is made under subparagraph (F) thereof, shall be treated as a designated settlement fund for purposes of section 468B of such Code,"

(4) Paragraph (2) of section 468B(b) of the 1986 Code is amended—

(A) by striking out "the corporation," and inserting in lieu thereof "a corporation.", and

(B) by striking out "no other" and inserting in lieu thereof "No other".

(5)(A) Section 468B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Clarification of Taxation of Certain Funds.—Nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise."

(B) Subparagraph (D) of section 1807(a)(7) of the Reform Act is hereby repealed.

(g) Amendments Related to Section 1810 of the Reform Act.—

(1) Paragraph (5) of section 1810(a) of the Reform Act is amended by striking out "section 125(b)(5)" each place it appears and inserting in lieu thereof "section 121(b)(5)".

(2) Section 133(d)(3)(B)(iii) of the Tax Reform Act of 1984, as amended by section 1810(i)(2) of the Reform Act, is amended by striking out "Tax Reform Act of 1985" and inserting in lieu thereof "Tax Reform Act of 1986".

(3) Clause (iv) of section 7701(b)(5)(A) of the 1986 Code is amended by striking out "section 274(k)(2)" and inserting in lieu thereof "section 274(l)(1)(B)".

(h) Amendment Related to Section 1821 of the Reform Act.—

(1) Subsection (e) of section 812 of the 1986 Code (relating to dividends from certain subsidiaries not included in gross investment income) is amended to read as follows:

"(e) Dividends From Certain Subsidiaries Not Included in Gross Investment Income.—

"(1) In general.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100 percent dividend.

"(2) 100 percent dividend defined.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(B) Certain dividends out of tax-exempt interest, etc.—The term '100 percent dividend' does not include any distribution by a corporation to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this subparagraph).

"(C) Certain dividends received by foreign corporations.—The term '100 percent dividends' does not include any dividend described in section 805(a)(4)(E) (relating to certain dividends in the case of foreign corporations)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 211 of the Tax Reform Act of 1984.

(i) Amendment Related to Section 1822 of the Reform Act.—Clause (i) of section 216(b)(4)(C) of the Tax Reform Act of 1984 (relating to section 818(c) elections made by certain acquired companies) is amended by striking out "clause (i)" and inserting in lieu thereof "subclause (I)".

(j) Amendment Related to Section 1825 of the Reform Act.—Paragraph (4) of section 1825(a) of the Reform Act (relating to amendments related to section 221 of the Tax Reform Act of 1984) is amended by striking out "Section 7702(e)(2)" and inserting in lieu thereof "Effective with respect to contracts entered into after October 22, 1986, section 7702(e)(2)".

(k) Amendments Related to Section 1826 of the Reform Act.—

(1) Paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(D) which is a qualified funding asset (as defined in section 130(d), but without regard to whether there is a qualified assignment)."

(2) The paragraph heading of paragraph (5) of section 72(s) of the 1986 Code is

amended by striking out "ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS" and inserting in lieu thereof "CERTAIN ANNUITY CONTRACTS".

(l) AMENDMENTS RELATED TO SECTION 1842 OF THE REFORM ACT.—

(1) Subsection (c) of section 425 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(A) such transfer shall not be treated as a disposition for purposes of this part, and

"(B) the same tax treatment under this part with respect to the transferred property shall apply to the transferee as would have applied to the transferor."

(2) Paragraph (1) of section 425(c) of the 1986 Code is amended by striking out "paragraph (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(3) Effective with respect to transfers after June 21, 1988, subsection (d) of section 1041 of the 1986 Code is amended—

(A) by striking out "Paragraph (1) of subsection (a)" and inserting in lieu thereof "Subsection (a)", and

(B) by striking out "the spouse" and inserting in lieu thereof "the spouse (or former spouse)".

(m) AMENDMENTS RELATED TO SECTION 1866 OF THE REFORM ACT.—

(1) Section 1866 of the Reform Act is amended by striking out "obligation issued to refund" and inserting in lieu thereof "obligation (or series of obligations) issued to refund".

(2)(A) Paragraph (1) of section 1866 of the Reform Act is amended to read as follows:

"(1) the average maturity of the issue of which the refunding obligation is a part does not exceed the average maturity of the obligations to be refunded by such issue,".

(B) Section 1866 of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), average maturity shall be determined in accordance with subsection (b)(14)(B)(i) of such Code."

(3) Paragraph (4) of section 1866 of the Reform Act is amended by striking out "30 days" and inserting in lieu thereof "90 days".

(4) Section 1866 of the Reform Act is amended by adding "and" at the end of paragraph (2), by striking out paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(5) A refunding obligation issued before July 1, 1987, shall be treated as meeting the requirement of paragraph (1) of section 1866 of the Reform Act if such obligation met the requirement of such paragraph as enacted by the Reform Act.

(n) AMENDMENTS RELATED TO SECTION 1869 OF THE REFORM ACT.—

(1) Clause (ii) of section 1869(c)(3)(A) of the Reform Act is amended by striking out "pursuant to the exercise of eminent domain" and inserting in lieu thereof "(by a governmental unit having the power to exercise eminent domain)".

(2) Subparagraph (C) of section 1869(c)(3) of the Reform Act is amended by inserting "(or similar issues)" after "resulting from the issue".

(o) AMENDMENTS RELATED TO SECTION 1875 OF THE REFORM ACT.—

(1) Clause (ii) of section 6230(a)(2)(A) of the 1986 Code is amended by striking out "nonpartnership items" and inserting in lieu thereof "nonpartnership items (other than by reason of section 6231(b)(1)(C))".

(2) Subsection (g) of section 1246 of the 1986 Code (as redesignated by this Act) is amended by striking out "1248(g)(3)" and inserting in lieu thereof "1248(g)(2)".

(3) Subsection (f) of section 6229 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner."

(p) AMENDMENT RELATED TO SECTION 1878 OF THE REFORM ACT.—Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(q) AMENDMENTS RELATED TO SECTION 1879 OF THE REFORM ACT.—

(1) Subclause (II) of section 28(b)(2)(A)(ii) of the 1986 Code is amended to read as follows:

"(II) before the date on which an application with respect to such drug is approved under section 505(b) or 507 of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act; and".

(2) The last sentence of section 1361(d)(3) of the 1986 Code is amended by striking out "treated as a separate trust under section 663(c)" and inserting in lieu thereof "within the meaning of section 663(c)".

(3) Subsection (p) of section 1879 of the Reform Act is amended—

(A) by striking out "Subsection (a)" in paragraph (2) and inserting "Paragraph (1)", and

(B) by striking out "subsection (a)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "paragraph (1)".

(4)(A) Subsection (d) of section 1286 of the 1986 Code is amended to read as follows:

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

"(A) the amount of the original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon—

"(i) shall be treated as original issue discount on a tax-exempt obligation to the extent such discount does not exceed the tax-exempt portion of such discount, and

"(ii) shall be treated as original issue discount on an obligation which is not a tax-exempt obligation to the extent such discount exceeds the tax-exempt portion of such discount,

"(B) subsection (b)(1)(A) shall not apply, and

"(C) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the sum of—

"(i) the interest accrued but not paid before such bond or coupon was disposed of (and not previously reflected in basis), plus

"(ii) the amount included in gross income under subsection (b)(1)(B).

"(2) TAX-EXEMPT PORTION.—For purposes of paragraph (1), the tax-exempt portion of the original issue discount determined under subsection (a) is the excess of—

"(A) the amount referred to in subsection (a)(1), over

"(B) an issue price which would produce a yield to maturity as of the purchase date equal to the lower of—

"(i) the coupon rate of interest on the obligation from which the coupons were separated, or

"(ii) the yield to maturity (on the basis of the purchase price) of the stripped obligation or coupon.

The purchaser of any stripped obligation or coupon may elect to apply clause (i) by substituting 'original yield to maturity of' for 'coupon rate of interest on'."

(B)(i) Except as provided in clause (ii), the amendment made by subparagraph (A) shall apply to any purchase or sale after June 10, 1987, of any stripped tax-exempt obligation or stripped coupon from such an obligation.

(ii) If—

(I) any person held any obligation or coupon in stripped form on June 10, 1987, and

(II) such obligation or coupon was held by such person on such date for sale in the ordinary course of such person's trade or business,

the amendment made by subparagraph (A) shall not apply to any sale of such obligation or coupon by such person and shall not apply to any such obligation or coupon while held by another person who purchased such obligation or coupon from the person referred to in subclause (I).

(5) Clause (ii) of section 368(a)(2)(F) of the 1986 Code is amended—

(A) by striking out the two parenthetical phrases in the first sentence, and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, a person holding stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause shall, except as provided in regulations, be treated as holding its proportionate share of the assets held by such company or trust."

(6)(A) Subparagraph (A) of section 126(b)(1) of the 1986 Code is amended by inserting "or the Secretary of the Interior (whoever is appropriate)" after "Agriculture".

(B) For purposes of applying section 126(a)(10) of the 1986 Code to grants made after September 30, 1979, a State surface mining reclamation program which is primarily for 1 or more purposes specified in such section shall be treated as such a program primarily for such purposes whether or not such program is denoted as a program for public health and safety.

(r) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(1) Subsection (b) of section 1895 of the Reform Act is amended by striking out paragraphs (1) and (2).

(2)(A) Clause (ii) of section 3121(u)(2)(B) of the 1986 Code is amended by striking out "or" at the end of subclause (IV), by striking out the period at the end of subclause (V) and inserting in lieu thereof ", or", and by inserting after subclause (V) the following new subclause:

"(VI) by an individual in a position described in section 1402(c)(2)(E)."

(B) The amendment made by subparagraph (A) shall apply to services performed after March 31, 1986.

(s) MISCELLANEOUS PROVISIONS.—

(1) Subsection (a) of section 8021 of the 1986 Code is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(2)(A) Section 2503 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOANS OF ARTWORKS.—

"(1) IN GENERAL.—For purposes of this subtitle, any loan of a qualified work of art shall not be treated as a transfer (and the value of such qualified work of art shall be determined as if such loan had not been made) if—

"(A) such loan is to an organization described in section 501(c)(3) and exempt from tax under section 501(c) (other than a private foundation), and

"(B) the use of such work by such organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(2) DEFINITIONS.—For purposes of this section—

"(A) QUALIFIED WORK OF ART.—The term 'qualified work of art' means any archaeological, historic, or creative tangible personal property.

"(B) PRIVATE FOUNDATION.—The term 'private foundation' has the meaning given such term by section 509, except that such term shall not include any private operating foundation (as defined in section 4942(j)(3))."

(B) The amendment made by subparagraph (A) shall apply to loans after July 31, 1969.

(3)(A) Subparagraph (B) of section 1563(d)(1) of the 1986 Code is amended by striking out "subsection (e)(1)" and inserting in lieu thereof "paragraphs (1), (2), and (3) of subsection (e)".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after the date of the enactment of this Act.

(t) ADDITIONAL AMENDMENTS RELATED TO PENSION PLANS.—

(1) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(A) Section 72(s)(7) of the 1986 Code is amended by striking out "primary annuity" and inserting in lieu thereof "primary annuitant".

(B) Section 72(q)(2)(B) of the 1986 Code is amended by striking out the last parenthesis.

(C) Section 419A(f)(5) of the 1986 Code is amended by striking out "accounts" and inserting in lieu thereof "account".

(D) Section 1826(c) of the Reform Act is amended by striking out "made" and inserting in lieu thereof "commencing".

(2) AMENDMENTS RELATED TO SECTION 1851 OF THE REFORM ACT.—

(A) Section 1851(a) of the Reform Act is amended by striking out paragraph (4) thereof.

(B) Subclause (II) of section 512(a)(3)(E)(ii) of the 1986 Code is amended, (i) by striking out "subclause (II)" and inserting in lieu thereof "subclause (I)", and (ii) by striking out the comma at the end thereof and inserting in lieu thereof a period.

(C) Section 419(a)(1) of the 1986 Code is amended by striking out "subchapter" and inserting in lieu thereof "chapter".

(D) Subparagraph (B) of section 1851(a)(3) of the Reform Act is amended by inserting ", section 505, and section 4976(b)(1)(B)" after "section 419A".

(3) AMENDMENTS RELATED TO SECTION 1852 OF THE REFORM ACT.—

(A) Paragraph (4) of section 1852(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) An individual whose required beginning date would, but for the amendment made by subparagraph (A), occur after December 31, 1986, but whose required beginning date after such amendment occurs before January 1, 1987, shall be treated as if such individual had become a 5-percent owner during the plan year ending in 1986."

(B) Section 1852(h)(2) of the Reform Act is amended by striking out "section 416(l)" and inserting in lieu thereof "section 415(l)".

(C) Section 1852(h)(1) of the Reform Act is amended by striking out "Subsection" and inserting in lieu thereof "Effective for years beginning after December 31, 1985, subsection".

(D) Subparagraph (E) of section 408(d)(3) of the 1986 Code is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(4) AMENDMENTS RELATED TO SECTION 1854 OF THE REFORM ACT.—

(A) Section 404(k) of the 1986 Code is amended by striking out "avoidance" in the 4th sentence and inserting in lieu thereof "evasion".

(B) Section 409(h)(2) of the 1986 Code (relating to plan may distribute cash) is amended by striking out "section 409(o)" and inserting in lieu thereof "paragraph (1)(B)".

(C) Subparagraph (C) of section 409(n)(3) of the 1986 Code (defining nonallocation period) is amended to read as follows:

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the period beginning on the date of the sale of the qualified securities and ending on the later of—

"(i) the date which is 10 years after the date of sale, or

"(ii) the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(D) Subparagraph (A) of section 1042(c)(4) of the 1986 Code (defining qualified replacement property) is amended by inserting "(as in effect immediately before the Tax Reform Act of 1986)" after "section 954(c)(3)".

(E) Clause (i) of section 1042(c)(4)(B) of the 1986 Code (relating to operating corporation) is amended by striking out "placement period" and inserting in lieu thereof "replacement period".

(F) Section 1854(a)(3)(B) of the Reform Act is amended by striking out "1042(b)(3)" and inserting in lieu thereof "1042(b)".

(G) Subparagraph (C) of section 1854(a)(3) of the Reform Act is amended to read as follows:

"(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

"(ii) A taxpayer or executor may elect to have section 1042(b)(3) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subparagraph (B)) apply to sales before the date of the enactment of this Act as if such section included the last sentence of section 409(n)(1) of the Internal Revenue Code of 1986 (as added by subparagraph (A))."

(H) Section 409(e)(5) of the 1986 Code is amended by striking out "(2) or".

(5) AMENDMENT RELATED TO SECTION 1875 OF THE REFORM ACT.—Section 1875(c)(7)(B) of the Reform Act is amended by striking out "and section 405(c)".

(6) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subparagraph (B) of section 125(c)(2) of the 1986 Code (relating to exception for cash and deferred arrangements) is amended by inserting "or rural electric cooperative plan (within the meaning of section 401(k)(7))" after "stock bonus plan".

(7) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(A) Section 106(b)(1) of the 1986 Code (relating to exception for highly compensated individuals where plan fails to provide certain continuation coverage) is amended—

(i) by striking out "any amount contributed by an employer" and inserting in lieu thereof "any employer-provided coverage", and

(ii) by striking out "to a group" and inserting in lieu thereof "under a group".

(B) Section 1895(d)(5)(A) of the Reform Act is amended by striking out "section 162(k)(2)" and inserting in lieu thereof "section 162(k)(5)".

(8) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(A) Subparagraph (G) of section 402(a)(6) of the 1986 Code (relating to treatment of potential future vesting), as added by section 1898(a)(3) of the Reform Act, is redesignated as subparagraph (I).

(B) Subparagraph (A) of section 411(a)(11) of the 1986 Code is amended by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(C) Section 402(f)(1) of the 1986 Code is amended by striking out "a eligible" and inserting in lieu thereof "an eligible".

(D) Section 1899A of the Reform Act is amended by striking out paragraph (13).

(E) Subparagraph (B) of section 414(p)(4) of the 1986 Code is amended—

(i) by striking out "means earlier of" and inserting in lieu thereof "means the earlier of", and

(ii) by striking out "in" each place it appears.

(F) Section 414(p)(10) of the 1986 Code (relating to waiver of certain distribution requirements) is amended by inserting ", 403(b)," after "section 401".

(G) Section 414(p)(9) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of this title, except as provided in regulations, any distribution from an annuity contract under section 403(b) pursuant to a qualified domestic relations order shall be treated in the same manner as a distribution from a plan to which section 401(a)(13) applies."

(u) ADDITIONAL CLERICAL AMENDMENTS.—

(1) Paragraph (5) of section 104(b) of the Reform Act is amended by striking out "1222(b)" and inserting in lieu thereof "1122(b)".

(2) The amendment made by section 122(c)(2) of the Reform Act shall be applied as if it also struck out the comma at the end of section 274(b)(1)(B) of the 1986 Code.

(3) Clause (i) of section 280F(b)(3)(B) of the 1986 Code is amended by striking out "recovery deductions" and inserting in lieu thereof "depreciation deductions".

(4) Subparagraph (A) of section 803(b)(3) of the Reform Act is amended by inserting closing quotation marks after "section 189)" and by striking out the closing quotation marks following "subparagraph (B)".

(5) Paragraph (1) of section 823(b) of the Reform Act is amended to read as follows:

"(1) Paragraph (5) of section 461(h), as amended by section 805(c)(5), is amended by striking out subparagraph (B) and by redesignating subpargraph (C) as subparagraph (B)."

(6) The amendment made by section 1122(b)(2)(B)(iii) of the Reform Act shall be applied as if it struck out "Initial separate tax".

(7) The amendment made by section 1122(b)(2)(C) of the Reform Act shall be applied as if it did not strike out "the".

(8) Paragraph (2) of section 72(q)(2) of the 1986 Code is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a comma.

(9) Subparagraph (A) of section 417(e)(3) of the 1986 Code is amended by striking out "subclause (II)" and inserting in lieu thereof "clause (ii)".

(10) Subparagraph (A) of section 246(c)(1) of the 1986 Code is amended by striking out "Which" and inserting in lieu thereof "which".

(11) Subsection (a) of section 164 of the 1986 Code is amended by striking out "the GST tax" and inserting in lieu thereof "The GST tax".

(12) Subparagraph (B) of section 1851(a)(6) of the Reform Act is amended by striking out "Subsection (b)" and inserting in lieu thereof "Subsection (a)".

(13)(A) Paragraph (1) of section 1878(e) of the Reform Act is amended by striking out "last sentence of section 514(c)(9)(B) (relating to exceptions)" and inserting in lieu thereof "second to the last sentence of section 514(c)(9)(B) (as amended by paragraph (3))".

(B) Paragraph (3) of section 1878(e) of the Reform Act is amended by striking out "is amended" and inserting in lieu thereof ", and the last sentence of such section, are amended".

(14) Paragraph (23) of section 501(c) of the 1986 Code is amended by striking out "any association" and inserting in lieu thereof "Any association".

(15) Paragraph (1) of section 501(c) of the 1986 Code is amended by striking out "any corporation organized" and inserting in lieu thereof "Any corporation organized".

(16) The table of chapters for subtitle E of the 1986 Code is amended by inserting "smokeless tobacco," after "cigarettes," in the item relating to chapter 52.

(17) Paragraph (4) of section 3321(c) of the 1986 Code is amended by adding a period at the end thereof.

(18) Paragraph (3) of section 521(b) of the Superfund Revenue Act of 1986 is amended by striking out "Paragraph (1) of section 9506(b)" and inserting in lieu thereof "Subsection (b) of section 9506".

(19) Paragraph (2) of section 5054(a) of the 1986 Code is amended by adding a period at the end thereof.

(20) Paragraph (3) of section 9507(b) of the 1986 Code is amended by striking out "Deep Water" each place it appears and inserting in lieu thereof "Deepwater".

(21) Subparagraph (I) of section 231(d)(3) of the Reform Act is amended by striking out "section 6511(d)(6)" and inserting in lieu thereof "section 6511(d)(4)".

(22) Subsection (a) of section 1016 of the 1986 Code is amended by striking out all that follows paragraph (20) and inserting in lieu thereof the following:

"(21) to the extent provided in section 48(q), in the case of expenditures with respect to which a credit has been allowed under section 38;

"(22) for amounts allowed as deductions under section 59(e) (relating to optional 10-year writeoff of certain tax preferences);

"(23) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends); and

"(24) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d)."

(23) Paragraph (1) of section 7518(g) of the 1986 Code is amended by striking out "not qualified withdrawal" and inserting in lieu thereof "not a qualified withdrawal".

(24) The table of sections for part IV of subchapter P of chapter 1 of the 1986 Code is amended by striking out the item relating to section 1254 and inserting in lieu thereof the following:

"Sec. 1254. Gain from disposition of interest in oil, gas, geothermal, or other mineral properties."

(25) Paragraph (1) of section 453(f) of the 1986 Code is amended by striking out "subsection (g)" and inserting in lieu thereof "subsections (g)".

(26) Paragraph (8) of section 453(f) of the 1986 Code is amended by striking out "payment to be" and inserting in lieu thereof "payments to be".

(27) Subparagraph (B) of section 668(b)(1) of the Reform Act is amended by striking out "section 856" and inserting in lieu thereof "section 858".

(28) The second to the last sentence of section 857(b)(3)(C) of the 1986 Code is amended by striking out "such capital loss such" and inserting in lieu thereof "such capital loss shall".

(29) Subsection (a) of section 669 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(30) The table of parts for subchapter M of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Part IV. Real estate mortgage investment conduits."

(31) Subsection (c) of section 1277 of the 1986 Code is amended by inserting a closing parenthesis after "section 585(a)(2)".

(32) The table of parts for subchapter L of chapter 1 of the 1986 Code is amended by striking out the items relating to parts II, III, and IV and inserting in lieu thereof the following:

"Part II. Other insurance companies.

"Part III. Provisions of general application."

(33) Paragraph (7) of section 6051(a) of the 1986 Code is amended by adding a comma at the end thereof.

(34) Paragraph (14) of section 1114(b) of the Reform Act is amended—

(A) by striking out "section 501(c)(17)" and inserting in lieu thereof "section 501(c)(17)(A)", and

(B) by striking out "duties consists" and inserting in lieu thereof "duties consist".

(35) Subparagraph (C) of section 3121(v)(3) of the 1986 Code is amended by striking out "Saving" and inserting in lieu thereof "Savings".

(36) Paragraph (4) of section 6652(k) of the 1986 Code is amended by striking out "or section 6678" and inserting in lieu thereof "or part II of subchapter B of this chapter".

(37) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 865. Source rules for personal property sales."

(38) The amendment made by section 1221(b)(3)(B) of the Reform Act shall be construed as striking out paragraph (3) of section 954(e) of the 1986 Code.

(39) The heading of section 861(a)(6) of the 1986 Code is amended by striking out "personal property" and inserting in lieu thereof "inventory property".

(40) Subsection (a) of section 1296 of the 1986 Code is amended by inserting a comma after "this subpart".

(41) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(42) Paragraph (3) of section 1404(c) of the Reform Act is amended by striking out "section 6601" and inserting in lieu thereof "section 6601(b)".

(43) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "mean" and inserting in lieu thereof "means".

(44) Subparagraph (D) of section 3406(h)(5) of the 1986 Code is amended by adding a period at the end thereof.

(45) The table of sections for part III of subchapter C of chapter 76 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7475. Practice fee."

(46) The paragraph added to section 1276(b) of the 1986 Code by section 1803(a)(13)(A)(iii) of the Reform Act is amended—

(A) by inserting "(3)" before "SPECIAL" in the paragraph heading,

(B) by inserting a 1 em dash after "PAYMENTS." in the heading, and

(C) by adding a period at the end thereof.

(47) Subparagraph (C) of section 809(d)(4) of the 1986 Code is amended by striking out "the Secretary—" and inserting in lieu thereof "The Secretary—".

(48) Subsection (f) of section 7872 of the 1986 Code is amended by redesignating the paragraph (11) added by section 1854 of the Reform Act as paragraph (12).

(49) Paragraph (5) of section 7611(i) of the 1986 Code is amended by striking out "the title" and inserting in lieu thereof "this title".

(50) Section 13303(a) of Public Law 99-272 is amended (in the matter proposed to be inserted in section 3306(c) of the Internal Revenue Code of 1954), effective as of the date of its enactment, by inserting a comma immediately after "1988".

(51) Subsection (f) of section 6511 of the 1986 Code is amended—

(A) by striking out "chapter 42" in the text and inserting in lieu thereof "section 4912, chapter 42,", and

(B) by striking out "CERTAIN CHAPTER 43 TAXES" in the subsection heading and inserting in lieu thereof "SIMILAR TAXES".

(52) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(53) Section 2503(e)(2)(B) of the 1986 Code is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)".

SEC. 119. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if included in the provision of the Reform Act to which such amendment relates.

TITLE II—AMENDMENTS RELATED TO TAX PROVISIONS IN OTHER LEGISLATION

SEC. 201. AMENDMENTS RELATED TO SUPERFUND REVENUE ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Subsection (e) of section 4662 of the 1986 Code is amended by redesignating paragraph (3) as paragraph (4) and by in-

serting after paragraph (2) the following new paragraph:

"(3) Refunds directly to exporter.—The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under section 4661 shall be allowed or made to the person who exported the taxable chemical or taxable substance, where—

"(A) the person who paid the tax waives his claim to the amount of such credit or refund, and

"(B) the person exporting the taxable chemical or taxable substance provides such information as the Secretary may require in such regulations."

(2) Subparagraph (A) of section 4662(b)(10) of the 1986 Code is amended by striking out "a mixture of" and inserting in lieu thereof "one or more".

(b) Amendments Related to Section 515 of the Act.—

(1) Subparagraph (B) of section 4672(a)(2) of the 1986 Code is amended by inserting "(or more than 50 percent of the value)" after "more than 50 percent of the weight".

(2) Paragraph (2) of section 4672(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed."

(3) Paragraph (4) of section 4672(a) of such Code is amended to read as follows:

"(4) Modifications to list.—The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B) and may remove from such list only substances which meet neither of such tests."

(c) Amendments Related to Section 516 of the Act.—

(1) Section 59A of the 1986 Code (relating to environmental tax) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Exception for RIC's and REIT's.—The tax imposed by subsection (a) shall not apply to—

"(1) a regulated investment company to which part I of subchapter M applies, and

"(2) a real estate investment trust to which part II of subchapter M applies."

(2) Paragraph (1) of section 882(a) of the 1986 Code is amended by inserting "59A," after "55,".

(3)(A) Paragraph (2) of section 59A(b) of the 1986 Code (defining modified alternative minimum taxable income) is amended by striking out "section 164(a)(5)" and inserting in lieu thereof "section 164(a)(6)".

(B) The paragraph (5) of section 164(a) of the 1986 Code added by section 516(b) of the Superfund Revenue Act of 1986 is redesignated as paragraph (6).

(d) Amendments Related to Section 521 of the Act.—

(1)(A) The amendments made by subsections (b)(3) and (d)(17) of section 10502 of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 521 of the Superfund Revenue Act of 1986 except that the last sentence of paragraphs (2) and (3) of section 4041(d) of the Internal Revenue Code of 1986 (as amended by such subsection (b)(3)) and the reference to section 4091 of such Code in section 9508(c)(2)(A) of such Code (as amended by such subsection (d)(1)) shall not apply to sales before April 1, 1988.

(B) Paragraph (2) of section 6416(b) of the 1986 Code is amended by striking out "(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)" and inserting in lieu thereof "(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)".

(2) Paragraph (3) of section 4041(c) of the 1986 Code is amended by striking out "the rate at which" and inserting in lieu thereof "the Highway Trust Fund financing rate at which".

(3)(A) Subparagraph (A) of section 4041(b)(1) of the 1986 Code is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (d)(1)".

(B) Subparagraph (B) of section 4041(b)(1) of the 1986 Code is amended by inserting before the period "and by the corresponding provision of subsection (d)(1)".

(C) Subsection (b) of section 4041 of the 1986 Code is amended by striking out paragraph (3).

(D) Subparagraph (A) of section 4041(b)(2) of the 1986 Code is amended to read as follows:

"(A) In general.—In the case of any qualified methanol or ethanol fuel—

"(i) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(ii) subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to the sales and uses to which clause (i) applies."

(E) Subsection (f) of section 6421 of the 1986 Code is amended by striking out all that follows paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(2) Gasoline used in aviation.—This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

"(A) in noncommercial aviation (as defined in section 4041(c)(4)), or

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

"(3) Leaking underground storage tank trust fund tax on gasoline used in trains.—This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used as a fuel in a train."

(F) The second sentence of section 6421(a) of the 1986 Code is amended by striking out "paragraph (3) of subsection (e)" and inserting in lieu thereof "paragraph (2) of subsection (f)".

(4)(A) Paragraph (1) of section 1703(f) of the Reform Act (relating to floor stock taxes) is amended by striking out "9 cents" and inserting in lieu thereof "9.1 cents".

(B) Paragraph (4) of section 1703(f) of the Reform Act is amended to read as follows:

"(4) Transfer of floor stock tax revenues to trust funds.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this section shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

"(A) at the Highway Trust Fund financing rate under such section to the extent of 9 cents per gallon, and

"(B) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cent per gallon."

(5)(A) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by inserting "and by substituting '⅑ cent' for '0.1 cent'" before "in the case of the removal".

(B) The last sentence of section 4081(c)(2) of the 1986 Code, as amended by such section 1703, is amended by striking out "5⅔ cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel".

(6)(A) Paragraph (1) of section 4091(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅑ cent per gallon."

(B) Paragraph (4) of section 4091(b) of the 1986 Code is amended by inserting "except as provided in subsection (c)," after "paragraph (1),".

(C) The last sentence of section 4091(c)(2) of the 1986 Code is amended by striking out "5 cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel".

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(7)(A) The amendment made by section 10502(c)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(B) Subparagraph (A) of section 6427(f)(1) of the 1986 Code is amended—

(i) by striking out "regular Highway Trust Fund financing rate" each place it appears and inserting in lieu thereof "regular tax rate", and

(ii) by striking out "incentive Highway Trust Fund financing rate" and inserting in lieu thereof "incentive tax rate".

(C) Subparagraph (B) of section 6427(g)(1) of the 1986 Code is amended to read as follows:

"(B) Definitions.—For purposes of subparagraph (A)—

"(i) Regular tax rate.—The term 'regular tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof.

"(ii) Incentive tax rate.—The term 'incentive tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(D) Paragraph (2) of section 6427(l) of the 1986 Code is amended by inserting "under section 4041" after "exempt".

(E) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(e) Effective Date.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the provision of the Superfund Revenue Act of 1986 to which it relates.

SEC. 202. AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) ORDER OF ENACTMENTS.—

(1) For purposes of section 4042 of the 1986 Code, the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 shall be treated as enacted after the amendment made by section 1404(a) of the Harbor Maintenance Revenue Act of 1986.

(2) Paragraph (2) of section 4042(b) of the 1986 Code is amended to read as follows:

"(2) RATES.—For purposes of paragraph (1)—

"(A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

If the use occurs:	*The tax per gallon is:*
Before 1990	*10 cents*
During 1990	*11 cents*
During 1991	*13 cents*
During 1992	*15 cents*
During 1993	*17 cents*
During 1994	*19 cents*
After 1994	*20 cents.*

"(B) The Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon."

(b) CARGO TRANSPORTED BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) of the 1986 Code is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(c) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSION.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "October 1, 1988".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

SEC. 203. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 1011 OF THE ACT.—

(1) Subparagraph (B) of section 501(c)(12) of the 1986 Code is amended by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(2) Subparagraph (C) of section 501(c)(12) of the 1986 Code is amended to read as follows:

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from qualified pole rentals, or

"(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(3) The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) AMENDMENTS RELATED TO SECTION 8011 OF THE ACT.—

(1) The following provisions of the 1986 Code are each amended by striking out "the 14th day after the date on which" and inserting in lieu thereof "the 14th day after the last day of the semimonthly period during which":

(A) Subparagraphs (A) and (B) of section 5061(d)(2).

(B) Paragraph (3) of section 5061(d).

(C) Clauses (i) and (ii) of section 5703(b)(2)(B).

(D) Subparagraph (C) of section 5703(b)(2).

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986.

(c) AMENDMENT RELATED TO SECTION 8041 OF THE ACT.—

(1) IN GENERAL.—Paragraph (3) of section 901(j) of the 1986 Code is amended—

(A) by striking out "Section 275" and inserting in lieu thereof "Sections 275 and 78", and

(B) by inserting ", ETC." after "DEDUCTION" in the paragraph heading.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 1987.

(d) AMENDMENT RELATED TO SECTION 9002 OF THE ACT.—Paragraph (3) of section 3509(d) of the 1986 Code is amended by striking out "subsection (d)(3)" and inserting in lieu thereof "subsection (d)(4)".

SEC. 204. AMENDMENTS RELATED TO THE REVENUE ACT OF 1987.

(a) AMENDMENT RELATED TO SECTION 10101 OF THE ACT.—Section 10101(b) of the Revenue Act of 1987 is amended to read as follows:

"(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

"(2) SPECIAL RULE FOR CAFETERIA PLANS.—For purposes of section 125 of the Internal Revenue Code of 1986, a plan shall not be treated as failing to be a cafeteria plan solely because under the plan a participant elected before January 1, 1988, to receive reimbursement under the plan for dependent care assistance for periods after December 31, 1987, and such assistance included reimbursement for expenses at a camp where the dependent stays overnight."

(b) AMENDMENTS RELATED TO SECTION 10102 OF THE ACT.—

(1) Subsection (h) of section 163 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (5).

(2) Clause (ii) of section 56(b)(1)(C) of the 1986 Code is amended by striking out "163(h)(6)" and inserting in lieu thereof "163(h)(5)".

(3) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(A) by striking out "substantially rehabilitating" and inserting in lieu thereof "substantially improving", and

(B) by striking out "or is paid" in subparagraph (A).

(c) AMENDMENT RELATED TO SECTION 10103.—Paragraph (1) of section 10103(a) of the Revenue Act of 1987 is amended by inserting "in a plan established for its employees by the United States" after "participant".

(d) AMENDMENTS RELATED TO SECTION 10202 OF THE ACT.—

(1) Subparagraph (A) of section 453(l)(1) of the 1986 Code, is amended by striking out "disposes of personal property" and inserting in lieu thereof "disposes of personal property of the same type".

(2) Section 453A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(1) disallowing the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related persons, pass-thru entities, or intermediaries, and

"(2) providing that the sale of an interest in a partnership or other pass-thru entity will be treated as a sale of the proportionate share of the assets of the partnership or other entity."

(3) Paragraph (3) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DISPOSITIONS DEEMED MADE ON 1ST DAY OF TAXABLE YEAR.—If the taxpayer makes an election under subparagraph (A), in the case of the taxpayer's 1st taxable year ending after December 31, 1986—

"(i) dispositions after August 16, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day, and

"(ii) subsections (b)(2)(B) and (c)(4) of section 453A of such Code shall be applied separately with respect to such dispositions by substituting for '$5,000,000' the amount which bears the same ratio to $5,000,000 as the number of days after August 16, 1986, and before such 1st day bears to 365."

(4) Paragraph (2) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN RULES MADE APPLICABLE.—For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (5) of section 812(c) of the Tax Reform Act of 1986 (as added by the Technical Corrections Act of 1988) shall apply."

(5) Subsection (k) of section 453 of the 1986 Code is amended by striking out "and section 453A".

(6) Subparagraph (A) of section 10202(e)(2) of the Revenue Act of 1987 is amended by striking out "section 453A of the Internal Revenue Code of 1986" and inserting in lieu thereof "section 453(l)(1) of the Internal Revenue Code of 1986 as added by this section".

(7) Paragraph (2) of section 453A(b) of the 1986 Code is amended by striking out "for purposes of this paragraph" and inserting in lieu thereof "for purposes of this paragraph and subsection (c)(4)".

(8) Paragraph (3) of section 453A(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)."

(e) AMENDMENTS RELATED TO SECTION 10206 OF THE ACT.—

(1)(A) Subsection (a) of section 444 of the 1986 Code is amended by striking out "as provided in subsections (b) and (c)" and inserting in lieu thereof "as otherwise provided in this section".

(B) Paragraph (3) of section 444(d) of the 1986 Code is amended to read as follows:

"(3) TIERED STRUCTURES, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) no election may be under subsection (a) with respect to any entity which is part of a tiered structure, and

"(ii) an election under subsection (a) with respect to any entity shall be terminated if such entity becomes part of a tiered structure.

"(B) EXCEPTIONS FOR STRUCTURES CONSISTING OF CERTAIN ENTITIES WITH SAME TAXABLE YEAR.—Subparagraph (A) shall not apply to any tiered structure which consists only of partnerships or S corporations (or both) all of which have the same taxable year."

(C) Subparagraph (B) of section 444(d)(2) of the 1986 Code is amended by striking out "under subparagraph (A)" and inserting in lieu thereof "under subparagraph (A) or paragraph (3)(A)".

(2)(A) Section 444 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) PERSONAL SERVICE CORPORATION.—For purposes of this section, the term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(B) Subsection (f) of section 280H of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(3) Paragraph (2) of section 280H(f) of the 1986 Code is amended by striking out "section 296A(b)(2)" and inserting in lieu thereof "section 269A(b)(2) (as modified by section 441(i)(2))".

(4)(A) Paragraph (2) of section 7519(b) of the 1986 Code is amended to read as follows:

"(2) the net required payment balance."

(B) Subsection (e) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years, over

"(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years."

(5) Subsection (c) of section 7519 of the 1986 Code is amended to read as follows:

"(c) REFUND OF PAYMENTS.—

"(1) IN GENERAL.—If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

"(2) TERMINATION OF ELECTIONS, ETC.—If—

"(A) an election under section 444 is terminated effective with respect to any year, or

"(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

"(3) DATE ON WHICH REFUND PAYABLE.—Any refund under this subsection shall be payable on later of—

"(A) April 15 of the calendar year following—

"(i) in the case of the year referred to in paragraph (1), the calendar year in which it begins,

"(ii) in the case of the year referred to in paragraph (2), the calendar year in which it ends, or".

"(B) the day 90 days after the day on which claim therefor is filed with the Secretary."

(6) Subsection (g) of section 7519 of the 1986 Code is amended by striking out "including regulations" and all that follows down through the period at the end thereof and inserting in lieu thereof

"including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

"(1) 2 or more applicable election years begin in the same calendar year, or

"(2) the base year is a taxable year of less than 12 months."

(7) Subparagraph (B) of section 7519(d)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))".

(8) Subsection (d) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF GUARANTEED PAYMENTS.—

"(A) IN GENERAL.—Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

"(B) GUARANTEED PAYMENT.—For purposes of subparagraph (A), the term 'guaranteed payment' means any payment referred to in section 707(c)."

(9) Paragraph (4) of section 7519(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income."

(10) Subparagraphs (A) and (B) of section 7519(d)(2) of the 1986 Code are each amended by striking out "(other than credits)" and inserting in lieu thereof "(other than credits and tax-exempt income)".

(11) Paragraph (4) of section 10206(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only in the case of an election under section 444 of such Code made for a taxable year beginning before 1989."

(12) Subparagraph (A) of section 444(d)(2) of the 1986 Code is amended by inserting "or otherwise terminates such election" before the period at the end of the first sentence thereof.

(13) Paragraph (4) of section 444(b) of the 1986 Code is amended by striking out "the term" and inserting in lieu thereof "except as provided in regulations, the term".

(14)(A) Paragraph (4) of section 280H(f) of the 1986 Code is amended to read as follows:

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income determined without regard to—

"(A) any amount paid to an employee-owner which is includible in the gross income of such employee-owner, and

"(B) any net operating loss carryover to the extent such carryover is attributable to amounts described in subparagraph (A)."

(B) Subparagraph (A) of section 7519(d)(3) of the 1986 Code is amended by striking out "or incurred".

(C) Subsections (c)(1)(A)(i) and (d)(1) of section 280H of the 1986 Code are each amended by striking out "or incurred".

(f) AMENDMENTS RELATED TO SECTION 10211 OF THE ACT.—

(1) Paragraph (4) of section 7704(e) of the 1986 Code is amended by striking out "as may be required" and inserting in lieu thereof "or to pay such amounts as may be required".

(2) Paragraph (2) of section 10211(c) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH PASSIVE-TYPE INCOME REQUIREMENTS.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for 'December 31, 1987' the earlier of—

"(i) December 31, 1997, or

"(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B)."

(3) Paragraph (1) of section 7704(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership."

(4) Paragraph (1) of section 7704(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'mineral or natural resource' means any product of a character with respect to which a deduction for depletion in allowable under section 611."

(5) Paragraph (3) of section 7704(d) of the 1986 Code is amended to read as follows:

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if—

"(A) such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements), and

"(B) stock owned, directly or indirectly, by or for a partner would not be considered as owned under section 318(a)(3)(A) by the partnership unless 5 percent or more (by value) of the interests in such partnership are owned, directly or indirectly, by or for such partner."

(g) AMENDMENT RELATED TO SECTION 10212 OF THE ACT.—Subsection (k) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (g).—For purposes of subsection (g), a taxpayer shall not be treated as having disposed of his entire interest in an activity of a publicly traded partnership until he disposes of his entire interest in such partnership."

(h) AMENDMENTS RELATED TO SECTION 10214 OF THE ACT.—

(1) Subparagraph (E) of section 514(c)(9) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations which may provide for exclusion or segregation of items."

(2) Clause (i) of section 514(c)(9)(E) of the 1986 Code is amended by striking out subclause (I) and by redesignating subclauses (II) and (III) as subclauses (I) and (II), respectively.

(i) Amendments Related to Section 10221 of the Act.—

(1) Paragraph (2) of section 10221(e) of the Revenue Act of 1987 is amended by striking out "amendments made by subsection (b)" and inserting in lieu thereof "amendments made by subsection (c)".

(2) Subsection (b) of section 244 of the 1986 Code is amended by striking out "section 243(c)(4)" and inserting in lieu thereof "section 243(d)(4)".

(j) Amendments Related to Section 10222 of the Act.—

(1)(A) Paragraph (1) of section 1503(e) of the 1986 Code is amended by striking out so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof the following:

"(1) In general.—Solely for purposes of determining gain or loss on the disposition of intragroup stock and the amount of any inclusion by reason of an excess loss account, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year (and in determining the amount in such account)—"

(B) Paragraph (2) of section 10222(a) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) Treatment of certain excess loss accounts.—

"(i) In general.—If—

"(I) any disposition on or before December 15, 1987, of stock resulted in an inclusion of an excess loss account (or would have so resulted if the amendments made by paragraph (1) had applied to such disposition), and

"(II) there is an unrecaptured amount with respect to such disposition,

the portion of such unrecaptured amount allocable to stock disposed of in a disposition to which the amendment made by paragraph (1) applies shall be taken into account as negative basis. To the extent permitted by the Secretary of the Treasury or his delegate, the preceding sentence shall not apply to the extent the taxpayer elects to reduce its basis in indebtedness of the corporation with respect to which there would have been an excess loss account.

"(ii) Special rules.—For purposes of this subparagraph—

"(I) Unrecaptured amount.—The term 'unrecaptured amount' means the amount by which the inclusion referred to in clause (i)(I) would have been increased if the amendment made by paragraph (1) and applied to the disposition.

"(II) Coordination with binding contract exception.—A disposition shall be treated as occurring on or before December 15, 1987, if the amendment made by paragraph (1) does not apply to such disposition by reason of subparagraph (B)."

(2) Subsection (e) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Adjustments.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of paragraph (1)—

"(A) in the case of any property acquired by the corporation before consolidation, for the difference between the adjusted basis of such property for purposes of computing taxable income and its adjusted basis for purposes of computing earnings and profits, and

"(B) in the case of any property, for any basis adjustment under section 48(q)."

(3)(A) Paragraph (2) of section 1503(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Application of section 312(n)(7) not affected.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(B) Subsection (e) of section 301 of the 1986 Code (as redesignated by section 106(e)(12) of this Act) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Application of section 312(n)(7) not affected.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(4) Subparagraph (B) of section 10222(b)(2) of the Revenue Act of 1987 is amended to read as follows:

"(B) Exception.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition of stock after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contact, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987."

(k) Amendments Related to Section 10223 of the Act.—

(1) Subparagraph (D) of section 355(b)(2) of the 1986 Code is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B) and was not acquired by the distributing corporation directly (or through 1 or more corporations) within such period, or

"(ii) was so acquired by any such corporation within such period, but, in each case in which such control was so acquired, it was so acquired, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of such period."

(2) Subparagraph (A) of section 304(b)(4) of the 1986 Code is amended by striking out "stock of 1 member" and inserting in lieu thereof "stock from 1 member".

(3) Paragraph (2) of section 10223(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(D) Treatment of certain members of affiliated group.—

"(i) In general.—For purposes of subparagraph (A), all distributees which were in existence on the designated date and were members of the same affiliated group on such date shall be treated as 1 distributee.

"(ii) Limitation to stock held on designated date.—Clause (i) shall not exempt any distribution from the amendments made by this section if such distribution is with respect to stock not held by the distributee (determined without regard to clause (i)) on the designated date, directly or indirectly, through a corporation which goes out of existence in the transaction.

"(iii) Designated date.—For purposes of this subparagraph, the term 'designated date' means the later of—

"(I) December 15, 1987, or

"(II) the date on which the acquisition meeting the requirements of subparagraph (A) occurred."

(4) Subparagraph (B) of section 10223(d)(2) of the Revenue Act of 1987 is amended—

(A) by striking out "before January 1, 1993" and inserting in lieu thereof "on or before March 31, 1988", and

(B) by striking out "before January 1, 1989,".

(l) Amendment Related to Section 10224 of the Act.—Sections 1201(a) and 1561(a) of the 1986 Code, and section 904(b)(3)(D)(ii) of the 1986 Code (as amended by section 106(b)(2) of this Act), are each amended by striking out "section 11(b)" and inserting in lieu thereof "section 11(b)(1)".

(m) Amendments Related to Section 10226 of the Act.—

(1)(A) Subsection (a) of section 384 of the 1986 Code is amended to read as follows:

"(a) General Rule.—If—

"(1)(A) a corporation acquires directly (or through 1 or more other corporations) control of another corporation, or

"(B) the assets of a corporation are acquired by another corporation in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(2) either of such corporations is a gain corporation,

income for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss (other than a preacquisition loss of the gain corporation)."

(B) Subsection (c) of section 384 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (8) and by inserting after paragraph (3) the following new paragraphs:

"(4) Gain corporation.—The term 'gain corporation' means any corporation with a net unrealized built-in gain.

"(5) Control.—The term 'control' means ownership of stock in a corporation which meets the requirements of section 1504(a)(2).

"(6) Treatment of members of same group.—Except as provided in regulations and except for purposes of subsection (b), all corporations which are members of the same affiliated group immediately before the acquisition date shall be treated as 1 corporation. To the extent provided in regulations, section 1504 shall be applied without regard to subsection (b) thereof for purposes of the preceding sentence.

"(7) Treatment of predecessors and successors.—Any reference in this section to a corporation shall include a reference to any predecessor or successor thereof."

(C) Paragraph (2) of section 384(c) of the 1986 Code is amended to read as follows:

"(2) Acquisition date.—The term 'acquisition date' means—

"(A) in any case described in subsection (a)(1)(A), the date on which the acquisition of control occurs, or

"(B) in any case described in subsection (a)(1)(B), the date of the transfer in the reorganization."

(D) Paragraph (1) of section 384(c) of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(1)(B)".

(2) Paragraph (2) of section 384(e) of the 1986 Code is amended by striking out "the gain corporation" and inserting in lieu thereof "a corporation".

(3) Subsection (b) of section 384 of the 1986 Code is amended to read as follows:

"(b) Exception Where Corporations Under Common Control.—

"(1) In general.—Subsection (a) shall not apply to the preacquisition loss of any cor-

poration if such corporation and the gain corporation were members of the same controlled group at all times during the 5-year period ending on the acquisition date.

"(2) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means a controlled group of corporations (as defined in section 1563(a)); except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears,

"(B) the ownership requirements of section 1563(a) must be met both with respect to voting power and value, and

"(C) the determination shall be made without regard to subsection (a)(4) of section 1563.

"(3) SHORTER PERIOD WHERE GAIN CORPORATION NOT IN EXISTENCE FOR 5 YEARS.—If the gain corporation was not in existence throughout the 5-year period referred to in paragraph (1), the period during which the gain corporation was in existence shall be substituted for such 5-year period."

(4) Section 384 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ORDERING RULES FOR NET OPERATING LOSSES, ETC.—

"(1) CARRYOVER RULES.—If any preacquisition loss may not offset a recognized built-in gain by reason of this section, such gain shall not be taken into account in determining under section 172(b)(2) the amount of such loss which may be carried to other taxable years. A similar rule shall apply in the case of any excess credit or net capital loss limited by reason of subsection (d).

"(2) ORDERING RULE FOR LOSSES CARRIED FROM SAME TAXABLE YEAR.—In any case in which—

"(A) a preacquisition loss for any taxable year is subject to limitation under subsection (a), and

"(B) a net operating loss from such taxable year is not subject to such limitation,

taxable income shall be treated as having been offset 1st by the loss subject to such limitation."

(5) In any case where the acquisition date (as defined in section 384(c)(2) of the 1986 Code as amended by this subsection) is before March 31, 1988, the acquiring corporation may elect to have the amendments made by this subsection not apply. Such an election shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe and shall be made not later than the later of the due date (including extensions) for filing the return for the taxable year of the acquiring corporation in which the acquisition date occurs or the date 120 days after the date of the enactment of this Act. Such an election, once made, shall be irrevocable.

(n) AMENDMENTS RELATED TO SECTION 10227 OF THE ACT.—Paragraph (4) of section 1363(d) of the 1986 Code (relating to recapture of LIFO benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as provided in regulations, the corporation referred to in paragraph (1) shall not be treated as a member of an affiliated group with respect to the amount included in gross income under paragraph (1)."

(o) AMENDMENTS RELATED TO SECTION 10228 OF THE ACT.—

(1)(A) Subsection (a) of section 5881 of the 1986 Code is amended by striking out "gain realized by such person on such receipt" and inserting in lieu thereof "gain or other income of such person by reason of such receipt".

(B)(i) Subsection (b) of section 5881 of the 1986 Code is amended by striking out "a corporation to directly or indirectly acquire its stock" and inserting in lieu thereof "a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation".

(ii) The amendment made by clause (i) shall apply to transactions occurring on or after March 31, 1988.

(C) Subsection (d) of section 5881 of the 1986 Code is amended—

(i) by striking out "the gain" and inserting in lieu thereof "the gain or other income", and

(ii) by striking out "GAIN RECOGNIZED" in the subsection heading and inserting in lieu thereof "AMOUNT RECOGNIZED".

(2) Section 5881 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(p) AMENDMENTS RELATED TO SECTION 10241 OF THE ACT.—

(1) Paragraph (1) of section 811(d) of the 1986 Code is amended by striking out "the prevailing State assumed interest rate for the contract" and inserting in lieu thereof "the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract".

(2) Paragraph (2) of section 812(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A)."

(q) AMENDMENTS RELATED TO SECTION 10242 OF THE ACT.—

(1) Subsection (h) of section 816 of the 1986 Code is amended by striking out "section 842(c)(1)(A)" and inserting in lieu thereof "section 842(b)(2)(B)(i)".

(2)(A) Subparagraph (B) of section 842(b)(3) of the 1986 Code is amended by striking out "held for the production of such income".

(B) Subparagraph (B) of section 842(b)(4) of the 1986 Code is amended by striking out "held for the production of investment income".

(3) Subparagraph (d) of section 842 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) which may provide that, in the case of companies taxable under part II of this subchapter, determinations under subsection (b) will be made separately for categories of such companies established in such regulations."

(r) AMENDMENT RELATED TO SECTION 10301 OF THE ACT.—Paragraph (3) of section 6655(g) of the 1986 Code is amended by striking the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month', and subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' and in clause (i)(I), by substituting '4 months' for '5 months' in clause (i)(II), by substituting '7 months' for '8 months' in clause (i)(III), and by substituting '10 months' for '11 months' in clause (i)(IV)".

(s) AMENDMENTS RELATED TO SECTION 10512 OF THE ACT.—

(1) Section 5276 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR UNITED STATES.—Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States."

(2) Subsection (a) of section 5113 of the 1986 Code is amended—

(A) by inserting "taxpaid wine bottling house," after "bonded wine cellar," each place it appears, and

(B) by striking out "DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, OR BREWERIES" in the heading and inserting in lieu thereof "CONTROLLED PREMISES".

(3) Section 5123 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) COORDINATION OF TAXES UNDER SECTION 5121.—No tax shall be imposed by section 5121(a) with respect to a person's activities at any place during a year if such person has paid the tax imposed by section 5121(b) with respect to such place for such year."

(t) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

SEC. 205. AMENDMENTS RELATED TO PENSION PROTECTION ACT AND FULL FUNDING LIMITATIONS.

(a) AMENDMENT RELATED TO SECTION 9303.—

(1) Section 4972(c) of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), if—

"(A) the amount which is required to be contributed to a plan under section 412 on behalf of an individual who is an employee (within the meaning of section 401(c)(1)), exceeds

"(B) the earned income (within the meaning of section 404(a)(8)) of such individual derived from the trade or business with respect to which such plan is established,

such excess shall be treated as an amount allowable as a deduction under section 404."

(2)(A) Subparagraph (C) of section 412(1)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (C) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(b) AMENDMENTS RELATED TO SECTION 9307.—

(1) The last sentence of section 404(a)(1)(D) of the 1986 Code is amended by striking out "For purposes of this subparagraph" and inserting in lieu thereof "For purposes of determining whether a plan has more than 100 participants".

(2) Section 404(a)(7)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if paragraph (1)(D) applies to a defined benefit plan for any plan year, the amount necessary to satisfy the minimum funding standard provided by section 412 with respect to such plan for such plan year shall not be less than the unfunded current liability of such plan under section 412(l).".

(3) Section 404(a)(1)(D) of the 1986 Code is amended by striking out "(without regard to any reduction by the credit balance in the funding standard account)".

(c) AMENDMENTS RELATED TO SECTION 9301.—

(1) Section 414(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(2) ALLOCATION OF ASSETS IN PLAN SPIN-OFFS, ETC.—

"(A) IN GENERAL.—In the case of a plan spin-off of a defined benefit plan, a trust which forms part of—

"(i) the original plan, or

"(ii) any plan spun off from such plan,

shall not constitute a qualified trust under this section unless the applicable percentage of excess assets are allocated to each of such plans.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means, with respect to each of the plans described in clauses (i) and (ii) of subparagraph (A), the percentage determined by dividing—

"(i) the excess (if any) of—

"(I) the full funding limitation applicable to the plan under section 412(c)(7), over

"(II) the amount of the assets required to be allocated to the plan after the spin-off (without regard to this paragraph), by

"(ii) the sum of the excess amounts determined separately under clause (i) for all such plans.

"(C) EXCESS ASSETS.—For purposes of subparagraph (A), the term 'excess assets' means an amount equal to the excess (if any) of—

"(i) the fair market value of the assets of the original plan immediately before the spin-off, over

"(ii) the amount of assets required to be allocated after the spin-off to all plans (determined without regard to this paragraph).

"(D) PLANS OUTSIDE CONTROLLED GROUPS.—

"(i) IN GENERAL.—This paragraph shall not apply to any plan involved in a spin-off if, after such spin-off, such plan is maintained by an employer who is not a member of the same controlled group as the employer maintaining the original plan. The amount determined under subparagraph (C)(ii) shall be increased by the amount of any assets allocated to a plan described in the preceding sentence in excess of the amount described in subparagraph (C)(ii).

"(ii) CONTROLLED GROUP.—For purposes of this subparagraph, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(E) PARAGRAPH NOT TO APPLY TO MULTIEMPLOYER PLANS.—This paragraph does not apply to any multiemployer plan with respect to any spin-off to the extent that participants either before or after the spin-off are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.

"(F) APPLICATION TO SIMILAR TRANSACTION.—Except as provided by the Secretary, rules similar to the rules of this paragraph shall apply to transactions similar to spin-offs."

(2) Section 414(l) of the 1986 Code is amended by striking out the heading and inserting in lieu thereof:

"(l) MERGER AND CONSOLIDATIONS OF PLANS OR TRANSFERS OF PLAN ASSETS.—

"(1) IN GENERAL.—".

(3)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to transactions occurring after July 26, 1988.

(B) The amendments made by this subsection shall not apply to any transaction occurring after July 26, 1988, if on or before such date the board of directors of the employer approves such transaction or the employer took similar binding action.

SEC. 206. AMENDMENTS RELATED TO SECTION 9201 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) Subsection (c) of section 4132 of the 1986 Code (relating to imposition of tax on certain vaccines) is amended by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (as so redesignated) the following new paragraphs:

"(1) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a vaccine which uses such vaccine before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

"(2) TREATMENT OF VACCINES SHIPPED TO UNITED STATES POSSESSIONS.—Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States."

(b) Subsection (a) of section 9510 of the 1986 Code is amended—

(1) by inserting "appropriated or" before "credited", and

(2) by inserting "this section or" before "section 9602(b)".

(c) The amendments made by this section shall take effect as if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987.

SEC. 207. ADDITIONAL PENSION TECHNICAL CORRECTIONS.

(a) AMENDMENT OF ERISA.—For purposes of this section, the term "ERISA" means the Employee Retirement Income Security Act of 1974.

(b) AMENDMENTS RELATED TO TAX REFORM ACT OF 1986.—

(1) AMENDMENTS RELATED TO TITLE XI OF THE REFORM ACT.—

(A) AMENDMENTS RELATED TO SECTION 1113 OF THE REFORM ACT.—

(i) Section 203(a)(2) of ERISA is amended—

(I) by striking out "following" the first place it appears, and

(II) by striking out "414(f)(1)(B)" in subparagraph (C)(ii)(I) and inserting in lieu thereof "3(37)(A)(ii)".

(ii) Section 1113(e)(3) of the Reform Act is amended by striking out "Section 202(B)(i)" and inserting in lieu thereof "Section 202(a)(1)(B)(i)".

(iii) The second subsection (e) of section 1113 of the Reform Act is redesignated as subsection (f).

(iv) Section 1113(f) of the Reform Act, as redesignated by clause (iii), is amended by adding at the end thereof the following new paragraph:

"(4) REPEAL OF CLASS YEAR VESTING.—If a plan amendment repealing class year vesting is adopted after October 22, 1986, such amendment shall not apply to any employee for the 1st plan year to which the amendments made by subsections (b) and (e)(2) apply (and any subsequent plan year) if—

"(A) such plan amendment would reduce the nonforfeitable right of such employee for such year, and

"(B) such employee has at least 1 hour of service before the adoption of such plan amendment and after the beginning of such 1st plan year.

This paragraph shall not apply to an employee who has 5 consecutive 1-year breaks in service (as defined in section 411(a)(6)(A) of the Internal Revenue Code of 1986, which include the 1st day of the 1st plan year to which the amendments made by subsections (b) and (e)(2) apply."

(v)(I) Section 411(a)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—A matching contribution (within the meaning of section 401(m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(II) Paragraph (3) of section 203(a) of ERISA is amended by adding at the end thereof the following new subparagraph:

"(F) A matching contribution (within the meaning of section 401(m) of the Internal Revenue Code of 1986) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B) of such Code, an excess deferral under section 402(g)(2)(A) of such Code, or an excess aggregate contribution under section 401(m)(6)(B) of such Code."

(vi)(I) Section 411(a)(4)(A) of the 1986 Code is amended to read as follows:

"(A) years of service before age 18,".

(II) Subparagraph (A) of section 203(b)(1) of ERISA is amended to read as follows:

"(A) years of service before age 18,".

(B) AMENDMENTS RELATED TO SECTION 1140 OF THE REFORM ACT.—

(i) Subsection (a) of section 1140 of the Reform Act is amended by striking out "or subtitle C" and inserting in lieu thereof ", subtitle C, or title XVIII of this Act".

(ii) Section 1140(c) of the Reform Act is amended by inserting "on or" after "beginning" the second place it appears.

(iii) Section 1140(c) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (1)(B) and any other provision of this title, an agreement shall not be treated as terminated merely because the plan is amended pursuant to such agreement to meet the requirements of any amendment made by this title or title XVIII of this Act."

(C) AMENDMENTS RELATED TO SECTION 1145 OF THE REFORM ACT.—

(i) Subsection (f) of section 303 of the Retirement Equity Act of 1984 is amended by striking out "July 24, 1984" and inserting in lieu thereof "July 17, 1984".

(ii) Paragraph (3) of section 205(b) of ERISA, as added by section 1145(b) of the

Reform Act, is redesignated as paragraph (4).

(2) AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.—

(A) AMENDMENT RELATED TO SECTION 1852 OF THE REFORM ACT.—Paragraph (1) of section 4402(h) of ERISA is amended by striking out "January 12, 1982" the second place it appears and inserting in lieu thereof "January 16, 1982".

(B) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subsection (u) of section 1879 of the Reform Act is amended—

(i) by striking "206(h)" each place it appears in paragraphs (1) and (4)(B) and inserting in lieu thereof "204(h)";

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting after paragraph (3) the following:

"(4) CORRECTION OF CROSS REFERENCE.—Section 4218(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1398(1)(A)) is amended by striking out 'section 4062(d)' and inserting in lieu thereof 'section 4069(b)'."

(C) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(i)(I) Section 106(b)(2) of the 1986 Code (relating to exception to certain plans) is amended by striking out the last sentence thereof.

(II) Sections 601(b) of ERISA and 2201(b) of the Public Health Service Act are each amended by striking out the last sentence thereof.

(III) The amendments made by this clause shall apply to years beginning after December 31, 1986.

(ii)(I) Section 162(k)(7)(A) of the 1986 Code is amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))."

(II) Sections 607(2) of ERISA and 2208(2) of the Public Health Service Act are each amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986)."

(III) Section 4980B(f)(7) of the 1986 Code, as added by this Act, is amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))."

(IV) The amendments made by this clause shall apply to plan years beginning after December 31, 1988.

(iii)(I) Clause (iv) of section 162(k)(2)(B) of the 1986 Code is amended to read as follows:

"(iv) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(II) Sections 602(2)(D) of ERISA and 2202(2)(D) of the Public Health Service Act are each amended to read as follows:

"(D) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in section 607(3)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(III) Clause (iv) of section 4980B(f)(2)(B) of the 1986 Code, as added by this Act, is amended to read as follows:

"(iv) MEDICARE ELIGIBILITY.—In the case of a qualified beneficiary other than a qualified beneficiary described in subsection (g)(1)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(IV) The amendments made by this clause shall apply to events occurring after December 31, 1988, in plan years ending after such date.

(iv)(I) The last sentence of section 162(k)(2)(C) of the 1986 Code is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(II) The last sentence of sections 602(3) of ERISA and 2202(3) of the Public Health Service Act are each amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(III) The last sentence of section 4980B(f)(2)(C) of the 1986 Code, as added by this Act, is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(IV) The amendment made by subclause (III) shall take effect as if included in the amendments made by section 431 of this Act.

(v)(I) Subclause (II) of sections 162(k)(2)(B)(i) and 4980B(f)(2)(B)(i) of the 1986 Code are each amended by striking out "paragraph (3)(F)" and inserting in lieu thereof "paragraph (3)(B) or (3)(F)".

(II) Clause (ii) of section 602(2)(A) of ERISA is amended by striking out "section 603(6)" and inserting in lieu thereof "section 603(2) or 603(6)".

(III) Clause (ii) of section 2202(2)(A) of the Public Health Service Act is amended by striking out "section 2303(6)" and inserting in lieu thereof "section 2303(2) or 2303(6)".

(IV) The amendments made by this clause shall apply to plan years beginning after December 31, 1988.

(D) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(i)(I) Clause (ii) of section 417(a)(3)(B) of the 1986 Code (defining applicable period) is amended by striking out subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(II) Clause (ii) of section 205(c)(3)(B) of ERISA is amended by striking out subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(ii) Section 1898(b)(8) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to distributions after the date of the enactment of this Act."

(iii) Paragraph (12) of section 1898(b) of the Reform Act is amended by striking out all of subparagraph (B) from "(B) AMENDMENT" through "follows:" and inserting the following:

"(B) AMENDMENT TO ERISA.—Section 205(h) of the Employee Retirement Income Security Act of 1974 is amended—

"(i) by striking out 'the term' in paragraphs (1) and (3) and inserting in lieu thereof 'The term';

"(ii) by striking out the comma in paragraph (1) and inserting in lieu thereof a period; and

"(iii) by striking out paragraph (2) and inserting in lieu thereof the following:".

(iv) Subparagraph (B) of section 1898(d)(1) of the Reform Act is amended by striking out "Paragraph (1)" and inserting in lieu thereof "Subsection (e)(1)".

(v) Subsection (e)(1) of section 203 of ERISA is amended—

(I) by inserting "(e)" before "(1)", and

(II) by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(vi) Subclause (IV) of section 205(c)(3)(B)(ii) of ERISA is amended by striking out "401(a)(11)" and inserting in lieu thereof "205".

(vii) Subparagraph (B) of section 1898(b)(7) of the Reform Act is amended by striking out "Subparagraph (C) of section 205(b)(1)" and inserting in lieu thereof "Clause (i) of section 205(b)(1)(C)".

(viii) Section 205(e)(2) of ERISA is amended by striking out "nonforfeitable accrued benefit" and inserting in lieu thereof "nonforfeitable right (within the meaning of section 203)".

(3) EFFECTIVE DATE.—Except as otherwise provided in this subsection, any amendment made by this subsection shall take effect as if included in the provision of the Reform Act to which such amendment relates.

(c) AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.—

(1) AMENDMENTS RELATED TO SECTION 9202 OF THE ACT.—

(A) Section 411(b)(2) of the 1986 Code and section 204(b)(2) of ERISA are each amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) Section 411(b)(2)(C) of the 1986 Code, as redesignated by subparagraph (A), is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(C) Section 204(b)(2)(C) of ERISA, as redesignated by subparagraph (A), is amended by striking out "(C) and (D)" and inserting in lieu thereof "(B) and (C)".

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 9202 of the Omnibus Budget Reconciliation Act of 1986.

(2) AMENDMENTS RELATED TO SECTION 9203 OF THE ACT.—

(A) Sections 411(a)(8)(B) of the 1986 Code and 3(24)(B) of ERISA are each amended to read as follows:

"(B) the later of—

"(i) the time a plan participant attains age 65, or

"(ii) the 5th anniversary of the time a plan participant commenced participation in the plan."

(B) The amendments made by this paragraph shall take effect as if included in the amendments made by section 9203 of the Omnibus Budget Reconciliation Act of 1986.

(d) AMENDMENTS RELATED TO PENSION PROTECTION ACT.—

(1) AMENDMENTS RELATED TO SECTION 9303.—

(A)(i) Subclause (II) of section 412(l)(3)(C)(ii) of the 1986 Code is amended by inserting "(but not below zero)" after "reducing".

(ii) Subclause (II) of section 302(d)(3)(C)(ii) of ERISA is amended by inserting "(but not below zero)" after "reducing".

(B)(i) Clause (i) of section 412(l)(4)(B) of the 1986 Code is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(ii) Clause (i) of section 302(d)(4)(B) of ERISA is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(C)(i) Section 412(l)(5)(C) of the 1986 Code is amended by striking out "October 17, 1987" and inserting in lieu thereof "the first plan year beginning after December 31, 1988".

(ii) Section 302(d)(5)(C) of ERISA is amended by striking out "October 17, 1987" and inserting in lieu thereof "the first plan year beginning after December 31, 1988".

(D)(i) Section 412(l)(7)(D) of the 1986 Code is amended—

(I) by striking out "and" at the end of clause (iii)(I), by striking out the period at the end of clause (iii)(II) and inserting in lieu thereof ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(II) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary."

(ii) Section 302(d)(7)(D) of ERISA is amended—

(I) by striking out "and" at the end of clause (iii)(I), by striking out the period at the end of clause (iii)(II) and inserting in lieu thereof ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(II) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary of the Treasury."

(E)(i) Section 412(l)(8) of the 1986 Code is amended—

(I) by striking out "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(II) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary may provide for such reduction for purposes of any other provision which references this subsection."

(ii) Section 302(d)(8) of ERISA is amended—

(I) by striking out "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(II) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary of the Treasury may provide for such reduction for purposes of any other provision which references this subsection."

(F)(i) Section 412(c)(9) of the 1986 Code is amended—

(I) by striking out "3 years" and inserting in lieu thereof "year", and

(II) by striking out "3-YEAR" in the heading and inserting in lieu thereof "ANNUAL".

(ii) Section 302(c)(9) of ERISA is amended by striking out "3 years" and inserting in lieu thereof "year".

(G) Subclause (II) of section 9303(e)(3)(C)(ii) of the Pension Protection Act is amended by inserting "(and any income allocable to such amount)" after "clause (i)".

(H)(i) Subparagraph (C) of section 412(1)(3) of the 1986 Code is amended—

(I) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(II) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(ii) Subparagraph (C) of section 302(d)(3) of ERISA is amended—

(I) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(II) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(2) AMENDMENTS RELATED TO SECTION 9304.—

(A)(i) Subparagraph (A) of section 412(c)(10) of the 1986 Code is amended—

(I) by inserting "defined benefit" before "plan other", and

(II) by striking out "PLANS" in the heading and inserting in lieu thereof "DEFINED BENEFIT PLANS".

(ii) Subparagraph (A) of section 302(c)(10) of ERISA is amended by inserting "defined benefit" before "plan other".

(B)(i) Subparagraph (B) of section 412(c)(10) of the 1986 Code is amended—

(I) by striking out "multiemployer plan" and inserting in lieu thereof "plan not described in subparagraph (A)", and

(II) by striking out "MULTIEMPLOYER" in the heading and inserting in lieu thereof "OTHER".

(ii) Subparagraph (B) of section 302(c)(10) of ERISA is amended by striking out "multiemployer plan" and inserting in lieu thereof "plan not described in subparagraph (A)".

(C)(i) Section 412(m)(1) of the 1986 Code is amended by inserting "defined benefit" before "plan (other".

(ii) Section 302(e)(1) of the 1986 Code is amended by inserting "defined benefit" before "plan (other".

(D)(i) Subparagraph (D) of section 412(m)(4) of the 1986 Code is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (l) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (l)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (l)(8)(B)) for the plan year to 100 percent."

(ii) Subparagraph (D) of section 302(e)(4) of ERISA is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (d) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (d)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (d)(8)(B)) for the plan year to 100 percent."

(E)(i) Section 101(d)(1) of ERISA is amended by striking out "an employer of a plan" and inserting in lieu thereof "an employer maintaining a plan".

(ii) Section 502(c) of ERISA is amended by adding at the end thereof the following new paragraph:

"(3) Any employer maintaining a plan who fails to meet the notice requirement of section 101(d) with respect to any participant or beneficiary may in the court's discretion be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure, and the court may in its discretion order such other relief as it deems proper."

(iii) Section 9304(d) of the Pension Protection Act is amended by striking out "Section" and inserting in lieu thereof "Effective with respect to plan years beginning after December 31, 1987, section".

(F)(i)(I) Subparagraph (B) of section 412(m)(1) of the 1986 Code is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(II) Clause (ii) of section 412(d)(1)(A) of the 1986 Code is amended by inserting "(including adjustments under subsection (b)(5)(B))" after "costs".

(ii)(I) Subparagraph (B) of section 302(e)(1) of ERISA is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(II) Section 303(d) of ERISA is amended by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), and by inserting "(including adjustments under section 302(b)(5)(B))" after "costs" in paragraph (1)(B) (as so redesignated).

(3) AMENDMENTS RELATED TO SECTION 9306.—

(A) The last sentence of section 412(f)(4)(A) of the 1986 Code is amended by striking out "the benefit liabilities" and inserting in lieu thereof "for benefit liabilities".

(B) The last sentence of section 303(e)(1) of ERISA is amended by striking out "the benefit liabilities" and inserting in lieu thereof "for benefit liabilities".

(C) Section 9306(f)(3) of the Pension Protection Act is amended to read as follows:

"(3) SUBSECTION (b).—The amendments made by subsection (b) shall apply to waivers for plan years beginning after December 31, 1987. For purposes of applying such amendments, the number of waivers which may be granted for plan years after December 31, 1987, shall be determined without regard to any waivers granted for plan years beginning before January 1, 1988."

(4) AMENDMENTS RELATED TO SECTION 9307.—

(A)(i) Clause (iii) of section 412(b)(5)(B) of the 1986 Code is amended by striking out "for purposes of this section and for purposes of determining current liability,".

(ii) Clause (iii) of section 302(b)(5)(B) of ERISA is amended by striking out "for purposes of this section and for purposes of determining current liability,".

(B)(i) Section 302(b)(5)(B) of ERISA is amended by inserting the following matter after the heading and before clause (i): "For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 302(d) for any plan year—".

(ii) Section 302(b)(5) of ERISA is amended by striking out the matter following the heading thereof and preceding subparagraph (A).

(iii) Subclause (I) of section 302(b)(5)(B)(ii) of ERISA is amended by striking out "average rate" and inserting in lieu thereof "the weighted average of the rates".

(C) Section 9307(f) of the Pension Protection Act is amended to read as follows:

"(f) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1987.

"(2) AMORTIZATION OF GAINS AND LOSSES.—Sections 412(b)(2)(B)(iv) and 412(b)(3)(B)(ii) of the Internal Revenue Code of 1986 and sections 302(b)(2)(B)(iv) and 302(b)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by paragraphs (1)(A) and (2)(A) of subsection (a)) shall apply to gains and losses established in years beginning after December 31, 1987. For purposes of the preceding sentence, any gain or loss determined by a valuation occurring as of January 1, 1988, shall be treated as established in years beginning before 1988."

(5) AMENDMENTS RELATED TO SECTION 9311.—

(A) Section 9311(a)(2) of the Pension Protection Act is amended by striking out "plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "residual plan assets upon termination".

(B) Section 9311(d) of the Pension Protection Act is amended—

(i) by striking out "section 4041(c)" and inserting in lieu thereof "section 4041" in paragraph (1), and

(ii) by adding at the end thereof the following new flush sentence:

"Except as provided in subsection (a)(2), the amendments made by subsection (a) shall apply to any provision of the plan or plan amendment adopted after December 17, 1987."

(C) Section 9311(a)(2) of the Pension Protection Act is amended by striking out the last sentence.

(6) AMENDMENTS RELATED TO SECTION 9312.—

(A) Section 9312(b)(3)(B)(i) of the Pension Protection Act is amended—

(i) by striking out "section 4022(c)(1)" in subclause (I) and inserting in lieu thereof "section 4022(c)(3)", and

(ii) by striking out "subparagraph (B) of section 4022(c)(1)" and inserting in lieu thereof "subparagraph (C) of section 4022(c)(3)".

(B) Section 9312(b)(3)(B)(ii) of such Act is amended by striking out "section 4022(c)(1)(B)" and inserting in lieu thereof "section 4022(c)(3)(C)".

(C) Section 4062(a) of ERISA is amended—

(i) by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2), and

(ii) by striking out "subsection (d)" in paragraph (2) (as so redesignated) and by inserting in lieu thereof "subsection (c)".

(D)(i) Section 4064(b) of ERISA is amended by striking out "and clauses (i)(II) and (ii) of section 4062(b)(1)(A)" and inserting in lieu thereof "and section 4068(a)".

(ii) Section 4068(a) of ERISA is amended by striking out the last sentence.

(E) Section 4022(c)(1) of ERISA is amended by striking out "(or in the case of a deceased participant)".

(F) Section 4022(c)(3)(B)(ii) of ERISA is amended by inserting ", and during the 5-Federal fiscal year period ending with the fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate with respect to the plan termination for which the recovery ratio is being determined" after "1987".

(G) Section 9312(b)(3)(B) of the Pension Protection Act is amended by striking out clause (ii).

(H) Section 4041(c) of ERISA is amended—

(i) by striking out "(or its designee under section 4049(b))" in paragraph (2)(A)(iii)(II),

(ii) by striking out "section 4049" in paragraph (2)(A)(iii)(II) and inserting in lieu thereof "section 4022(c)", and

(iii) by striking out the last sentence of paragraph (3)(C)(i).

(I) Section 4070(a) of ERISA is amended by striking out "4049,".

(J) Section 9312(d)(1) of the Pension Reform Act is amended by striking out "section 4041(c)" and inserting in lieu thereof "section 4041".

(7) AMENDMENTS RELATED TO SECTION 9313.—

(A) Section 4041(d)(1) of ERISA is amended by striking out "sufficient for benefit commitments" and inserting in lieu thereof "sufficient for benefit liabilities".

(B) Section 4041(c)(2)(B) of ERISA is amended by inserting "proposed" before "termination" in the parenthetical in the second sentence.

(C) Clause (ii) of section 4041(c)(2)(A) of ERISA is amended—

(i) by inserting "unless the corporation determines the information is not necessary for purposes of paragraph (3)(A) or section 4062," before "certification",

(ii) by inserting "and, if applicable, the proposed distribution date" after "termination date" in subclause (I), and

(iii) by striking out "date" and inserting in lieu thereof "dates" in subclauses (II) through (V).

(8) AMENDMENT RELATED TO SECTION 9331.—Subparagraph (E) of section 4006(a)(3) of ERISA is amended by adding at the end thereof the following new clause:

"(v) No premium shall be determined under this subparagraph for any plan year if, as of the close of the preceding plan year, contributions to the plan for the preceding plan year were not less than the full funding limitation for the preceding plan year under section 412(c)(7) of the Internal Revenue Code of 1986."

(9) AMENDMENTS RELATED TO SECTION 9341.—

(A)(i) Section 401(a)(29)(C)(i)(II) of the 1986 Code is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment" after "amendment".

(ii) Section 307(c)(1)(B) of ERISA is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment".

(B) Section 307(d) of ERISA is amended by inserting "of the Treasury" after "Secretary".

(C)(i) Section 307 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE.—A contributing sponsor which is required to provide security under subsection (a) shall notify the Corporation within 30 days after the amendment requiring such security takes effect. Such notice shall contain such information as the Corporation may require."

(ii) Section 4071 of ERISA is amended—

(I) by striking out "or subtitle A, B, or C" and inserting in lieu thereof ", subtitle A, B, or C, as section 302(f)(4) or 307(e)", and

(II) by inserting "or such section" after "such subtitle".

(D)(i) Clause (i) of section 401(a)(29)(A) of the 1986 Code is amended by inserting "to which the requirements of section 412 apply" after "multiemployer plan)".

(ii) Section 307(a)(1) of ERISA is amended by inserting "to which the requirements of section 302 apply" after "multiemployer plan)".

(E) Section 9341(c) of the Pension Protection Act is amended by inserting "(without regard to any extension, amendment, or modification of such agreements on or after such date of enactment)" after "ratified before the date of enactment".

(10) AMENDMENTS RELATED TO SECTION 9342.—

(A) Paragraph (11) of section 103(d) of ERISA is amended—

(i) by striking out "60 percent" and inserting in lieu thereof "70 percent", and

(ii) by striking out "such percentage" and inserting in lieu thereof "the percentage which such value is of such liability.".

(B) Section 502(a)(6) of ERISA is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (c)(2) or (i)".

(C) Section 502(c)(2) of ERISA is amended—

(i) by inserting "against any plan administrator" after "civil penalty", and

(ii) by striking out "a plan administrator's" and inserting in lieu thereof "such plan administrator's".

(11) AMENDMENT RELATED TO SECTION 9343.—Section 403(c) of ERISA is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(12) AMENDMENTS RELATED TO SECTION 9345.—

(A) Section 407(d)(9) of ERISA is amended by striking out "such arrangement" and inserting in lieu thereof "such individual account plan".

(B) Section 407(f) of ERISA is amended by striking out paragraph (3).

(13) AMENDMENTS RELATED TO SECTION 9346.—

(A)(i) Clause (iii) of section 411(c)(2)(C) of the 1986 Code is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year) for the period beginning with the 1st plan year to which subsection (a)(2) applies (by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 417(e)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age."

(ii) Subparagraph (B) of section 411(c)(2) of the 1986 Code is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 417(e)(3) (as of the determination date)."

(iii) Section 411(c)(2) of the 1986 Code is amended by striking out subparagraph (E).

(iv) Section 411(a)(7) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) ACCRUED BENEFIT ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—The accrued benefit of an employee shall not be less than the amount determined under subsection (c)(2)(B) with respect to the employee's accumulated contributions."

(B)(i) Clause (iii) of section 204(c)(2)(C) of ERISA is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of a plan year for the period beginning with the 1st plan year to which subsection (a)(2) applies by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 205(g)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age."

(ii) Subparagraph (B) of section 204(c)(2) of ERISA is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 205(g)(3) (as of the determination date)."

(iii) Section 204(c)(2) of ERISA is amended by striking out subparagraph (E).

(iv) Paragraph (23) of section 3 of ERISA is amended by adding at the end thereof the following new flush sentence: "The accrued benefit of an employee shall not be less than the amount determined under section 204(c)(2)(B) with respect to the employee's accumulated contribution."

(C) If—

(i) during the period beginning December 22, 1987, and ending June 21, 1988, a plan was amended to reflect the amendments made by section 9346 of the Pension Protection Act, and

(ii) such plan is amended to reflect the amendments made by this paragraph,

any plan amendment described in clause (ii) shall not be treated as reducing accrued benefits for purposes of section 411(d)(6) of the 1986 Code or section 204(g) of ERISA.

(14) EFFECTIVE DATE.—Except as otherwise provided in this subsection, any amendment made by this subsection shall take effect as if included in the provision of the Pension Protection Act to which such amendment relates.

TITLE III—CORRECTIONS TO DIESEL FUEL EXCISE TAX COLLECTION AND EXEMPTION PROCEDURES

SEC. 301. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) IN GENERAL.—Subsection (c) of section 4093 of the 1986 Code (relating to exceptions; special rule) is amended to read as follows:

"(c) EXEMPTION FOR NONTAXABLE USES AND BUS USES.—

"(1) IN GENERAL.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)) or a use described in section 6427(b)(1).

"(2) EXCEPTIONS.—

"(A) CERTAIN LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—In the case of fuel sold for use in—

"(i) a diesel-powered train, and

"(ii) an aircraft,

paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.

"(B) CERTAIN BUS USES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is not refundable by reason of the application of section 6427(b)(2)(A).

"(3) REGISTRATION REQUIRED.—Except to the extent provided by the Secretary, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) INFORMATION REPORTING.—

"(A) RETURNS BY PRODUCERS AND IMPORTERS.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) STATEMENTS TO PURCHASERS.—Every person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return, the registration number under section 4101 of such person, and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) RETURNS BY PURCHASERS.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)(2)) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

"(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) REDUCED-TAX SALE.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1) (other than sales described in subsections (a) and (b) of this section)."

(b) PENALTY FOR FAILING TO PROVIDE INFORMATION.—

(1) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) of the 1986 Code (defining payee statement) is amended by striking out "or" at the end of subparagraph (S), by striking out the period at the end of subparagraph (T) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1988.

(2) REFUNDS WITH INTEREST FOR PRE-EFFECTIVE DATE PURCHASES.—

(A) IN GENERAL.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on September 30, 1988, and

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l)(2) of the 1986 Code), the Secretary of the Treasury or the Secretary's delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than December 31, 1988. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of the 1986 Code.

(B) Interest.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that—

(i) the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month, and

(ii) the rate of such interest shall be the underpayment rate determined under section 6621(a)(2) of the 1986 Code.

No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

(C) Registration procedures required to be specified before effective date.—Not later than October 1, 1988, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).

SEC. 302. EXPEDITED REFUND OR INCOME TAX CREDIT ALLOWED FOR RETAIL SALES OF CERTAIN FUELS USED IN NONTAXABLE USES.

(a) Expedited Refund.—Section 6427(i) of the 1986 Code (relating to time for filing claims; period covered) is amended by adding at the end thereof the following new paragraph:

"(4) Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091.—

"(A) In general.—Except as provided in subparagraph (B), a claim may be filed under subsection (l) by any person with respect to fuel used for any period for which $750 or more is payable under such subsection (l) (disregarding any amount for which a claim has been previously filed under this subsection).

"(B) Exception for certain uses.—Subparagraph (A) shall not apply with respect to any use of fuel—

"(i) by any agency of the United States,

"(ii) described in subsection (b),

"(iii) described in subsection (e), or

"(iv) described in section 4093(c).

"(C) Time for filing claim.—A claim may be filed under this paragraph on or after the last day of the quarter during which a period described in subparagraph (A) occurs."

(b) Claim Paid With Interest.—

(1) In general.—Section 6427(l) of the 1986 Code (relating to refunds for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091) is amended by adding at the end thereof the following new paragraph:

"(4) Interest.—The amount of interest payable under paragraph (1) shall be determined under section 6611 except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month."

(2) Conforming amendment.—Paragraph (1) of section 6427(l) of the 1986 Code is amended by striking out "(without interest)" and inserting in lieu thereof "(with interest)".

(c) Allowance of Income Tax Credit.—Paragraph (2) of section 6427(k) of the 1986 Code (relating to income tax credit in lieu of payment) is amended by striking out "subsection (i)(2) or (h)(3)" and inserting in lieu thereof "subsection (i)(2), (i)(3), or (i)(4)".

(d) Conforming Amendments.—

(1) Paragraph (1) of section 6427(i) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(2) Paragraph (2)(A) of section 6427(i) of the 1986 Code is amended by striking out "(l),".

(e) Effective Date.—The amendments made by this section shall apply to fuel purchased for use in a nontaxable use (as defined in section 6427(l)(2) of the 1986 Code) after September 30, 1988.

SEC. 303. MARINE RETAILERS TREATED AS PRODUCERS.

(a) In General.—Subparagraph (B) of section 4092(b)(1) of the 1986 Code (relating to certain persons treated as producers) is amended by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or" and by adding at the end thereof the following new clause:

"(iii) a retailer selling diesel fuel exclusively to purchasers as supplies for commercial and noncommercial vessels."

(b) Effective Date.—The amendments made by this section shall apply to sales after September 30, 1988.

TITLE IV—OTHER CORRECTIONS AND MODIFICATIONS

Subtitle A—Corporate Estimated Tax Payments

SEC. 401. AMOUNT OF CORPORATE ESTIMATED TAX INSTALLMENT REDUCTION RECAPTURE INCREASED.

(a) In General.—Section 6655(e)(1) of the 1986 Code (relating to lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)) is amended—

(1) by striking out "90 percent" and inserting in lieu thereof "the applicable percentage", and

(2) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

"In the case of any required installment in:	The applicable percentage is:
1989, 1990, or 1991	94.25
1992	95.00
1993 or thereafter	95.50."

(b) Effective Date.—The amendments made by this section shall apply to installments required to be made after December 31, 1988.

Subtitle B—Indian Fishing Rights

SEC. 411. FEDERAL TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY TREATY, ETC.

(a) General Rules.—Subchapter C of chapter 80 of the 1986 Code (relating to provisions affecting more than one subtitle) is amended by adding at the end thereof the following new section:

"SEC. 7873. INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.

"(a) In General.—

"(1) Income and self-employment taxes.—No tax shall be imposed by subtitle A on income derived—

"(A) by a member of an Indian tribe directly or through a qualified Indian entity, or

"(B) by a qualified Indian entity,

from a fishing rights-related activity of such tribe.

"(2) Employment taxes.—No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

"(b) Definitions.—For purposes of this section—

"(1) Fishing rights-related activity.—The term 'fishing rights-related activity' means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.

"(2) Recognized fishing rights.—The term 'recognized fishing rights' means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.

"(3) Qualified Indian entity.—

"(A) In general.—The term 'qualified Indian entity' means, with respect to an Indian tribe, any entity if—

"(i) such entity is engaged in a fishing rights-related activity of such tribe,

"(ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,

"(iii) except as provided in regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and

"(iv) substantially all of the management functions of the entity are performed by members of qualified Indian tribes.

For purposes of clause (iii), equity interests owned by a member (or the spouse of a member) of a qualified Indian tribe shall be treated as owned by the tribe.

"(B) Qualified Indian tribe.—For purposes of subparagraph (A), an Indian tribe is a qualified Indian tribe with respect to an entity if such entity is engaged in a fishing rights-related activity of such tribe.

"(c) Special Rules.—

"(1) Distributions from qualified Indian entity.—For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of an Indian tribe to a member of such tribe shall be treated as derived by such member from a fishing rights-related activity of such tribe to the extent such distribution is attributable to income derived by such entity from a fishing rights-related activity of such tribe.

"(2) De minimis unrelated amounts may be excluded.—If, but for this paragraph, all but a de minimis amount—

"(A) derived by a qualified Indian tribal entity, or by an individual through such an entity, is entitled to the benefits of paragraph (1) of subsection (a), or

"(B) paid to an individual for services is entitled to the benefits of paragraph (2) of subsection (a),

then the entire amount shall be entitled to the benefits of such paragraph."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter C is amended by adding at the end thereof the following new item:

"Sec. 7873. Income derived by Indians from exercise of fishing rights."

SEC. 412. STATE TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY TREATY, ETC.

Section 2079 of the Revised Statutes (25 U.S.C. 71) is amended by adding at the end thereof the following new sentence: "Such treaties, and any Executive orders and Acts of Congress under which the rights of any Indian tribe to fish are secured, shall be construed to prohibit (in addition to any other prohibition) the imposition under any law of a State or political subdivision thereof of any tax on any income derived from the exercise of rights to fish secured by such treaty, Executive order, or Act of Congress if section 7873 of the Internal Revenue Code of 1986 does not permit a like Federal tax to be imposed on such income."

SEC. 413. CONFORMING AMENDMENTS RELATING TO COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) EXCLUSION FROM WAGES OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended—

(1) in subsection (r), by striking out "or" at the end;

(2) in subsection (s), by striking out the period and inserting in lieu thereof "; or"; and

(3) by inserting after subsection (s) the following new subsection:

"(t) Remuneration consisting of income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(b) EXCLUSION FROM NET EARNINGS FROM SELF-EMPLOYMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(1) in paragraph (12), by striking out "and" at the end;

(2) in paragraph (13), by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) There shall be excluded income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(c) CROSS-REFERENCES IN SECA AND FICA TO APPLICABLE INDIAN FISHING RIGHTS PROVISIONS.—

(1) SECA.—Subsection (a) of section 1402 of the 1986 Code (relating to net earnings from self-employment) is amended by striking out "and" at the end of paragraph (13), by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and", and by inserting after paragraph (14) the following new paragraph:

"(15) in the case of a member of an Indian tribe, the special rules of section 7873 (relating to income derived by Indians from exercise of fishing rights) shall apply."

(2) FICA.—Subsection (a) of section 3121 of the 1986 Code (relating to wages) is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) in the case of a member of an Indian tribe, any remuneration on which no tax is imposed by this chapter by reason of section 7873 (relating to income derived by Indians from exercise of fishing rights)."

SEC. 414. EFFECTIVE DATE; NO INFERENCE CREATED.

(a) EFFECTIVE DATE.—The amendments made by this subtitle shall apply to all periods beginning before, on, or after the date of the enactment of this Act.

(b) NO INFERENCE CREATED.—Nothing in the amendments made by this subtitle shall create any inference as to the existence or non-existence or scope of any exemption from tax for income derived from fishing rights secured as of March 17, 1988, by any treaty, law, or Executive Order."

Subtitle C—Repeal of Limitation on Treasury Long-Term Bond Authority

SEC. 421. REPEAL OF LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is hereby repealed.

Subtitle D—Simplification and Clarification Provisions

SEC. 431. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

(a) IN GENERAL.—Chapter 43 of the 1986 Code (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980B. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a qualified beneficiary shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the earlier of—

"(i) the date such failure is corrected, or

"(ii) the last day in the period applicable to the qualified beneficiary under subsection (f)(2)(B) (determined without regard to clause (iii) thereof).

"(3) MINIMUM TAX FOR NONCOMPLIANCE PERIOD WHERE FAILURE DISCOVERED AFTER NOTICE OF EXAMINATION.—Notwithstanding paragraphs (1) and (2) of subsection (c)—

"(A) IN GENERAL.—In the case of 1 or more failures with respect to a qualified beneficiary—

"(i) which are not corrected before the date a notice of examination of income tax liability is sent to the employer, and

"(ii) which occurred or continued during the period under examination,

the amount of tax imposed by subsection (a) by reason of such failures with respect to such beneficiary shall not be less than the lesser of $2,500 or the amount of tax which would be imposed by subsection (a) without regard to such paragraphs.

"(B) HIGHER MINIMUM TAX WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—

"(i) IN GENERAL.—To the extent violations by the employer (or the plan in the case of a multiemployer plan) for any year are more than de minimis, subparagraph (A) shall be applied by substituting '$15,000' for '$2,500' with respect to the employer (or such plan).

"(ii) PERSONS OTHER THAN EMPLOYER OR PLAN.—In any case where the tax under subsection (a) is imposed on a person described in subsection (e)(2), only violations by such person shall be taken into account under clause (i) in determining the amount of tax to be imposed on such person.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) $100 LIMIT ON AMOUNT OF TAX FOR FAILURES ON ANY DAY WITH RESPECT TO A QUALIFIED BENEFICIARY.—The maximum amount of tax imposed by subsection (a) on failures on any day during the noncompliance period with respect to a qualified beneficiary shall be $100.

"(4) SPECIAL RULE WHERE MORE THAN 1 QUALIFIED BENEFICIARY.—For purposes of determining the amount of tax imposed by this section, if there is more than 1 qualified beneficiary with respect to a qualifying event for an employee, all failures with respect to such qualified beneficiaries shall be treated as occurring with respect to 1 beneficiary.

"(5) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect—

"(A) SINGLE EMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to plans other than multiemployer plans, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

"(II) $500,000.

"(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(B) MULTIEMPLOYER PLANS.—In the case of failures with respect to a multiemployer plan, the tax imposed by subsection (a) for failures during the taxable year of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

"(i) 10 percent of the amount paid or incurred by such trust during such taxable year to provide medical care (as defined in section 213(d)) directly or through insurance, reimbursement, or otherwise, or

"(ii) $500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as 1 plan.

"(6) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) Tax Not To Apply To Certain Plans.—This section shall not apply to—

"(1) any failure of a group health plan to meet the requirements of subsection (f) if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(2) any governmental plan (within the meaning of section 414(d)), or

"(3) any church plan (within the meaning of section 414(e)).

"(e) Liability for Tax.—

"(1) In general.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(2) Failure to cover qualified beneficiaries where current employees are covered.—A person shall be liable for the tax imposed by subsection (a) on a failure with respect to a qualified beneficiary if—

"(A) such person provides coverage under a group health plan for any similarly situated beneficiary under the plan with respect to whom a qualifying event has not occurred, and

"(B) the employer, plan administrator, or such qualified beneficiary submits to such person a written request that such person provide to such qualified beneficiary the same coverage which such person provides to the beneficiary referred to in subparagraph (A).

"(f) Continuation Coverage Requirements of Group Health Plans.—

"(1) In general.—A group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) Continuation coverage.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) Type of benefit coverage.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.

"(B) Period of coverage.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) Maximum required period.—

"(I) General rule for terminations and reduced hours.—In the case of a qualifying event described in paragraph (3)(B), except as provided in subclause (II), the date which is 18 months after the date of the qualifying event.

"(II) Special rule for multiple qualifying events.—If a qualifying event (other than a qualifying event described in paragraph (3)(F)) occurs during the 18 months after the date of a qualifying event described in paragraph (3)(B), the date which is 36 months after the date of the qualifying event described in paragraph (3)(B).

"(III) Special rule for certain bankruptcy proceedings.—In the case of a qualifying event described in paragraph (3)(F) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in subsection (g)(1)(D)(iii)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee.

"(IV) General rule for other qualifying events.—In the case of a qualifying event not described in paragraph (3)(B) or (3)(F), the date which is 36 months after the date of the qualifying event.

"(ii) End of plan.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) Failure to pay premium.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. The payment of any premium (other than any payment referred to in the last sentence of subparagraph (C)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.

"(iv) Group health plan coverage or medicare eligibility.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(I) covered under any group health plan (as an employee or otherwise), or

"(II) in the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv) entitled to benefits under title XVIII of the Social Security Act.

"(C) Premium requirements.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) No requirement of insurability.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) Conversion option.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) Qualifying event.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary—

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(F) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

In the case of an event described in subparagraph (F), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in subsection (g)(1)(D) within one year before or after the date of commencement of the proceeding.

"(4) Applicable premium.—For purposes of this subsection—

"(A) In general.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) Special rule for self-insured plans.—To the extent that a plan is a self-insured plan—

"(i) In general.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) Determination on basis of past cost.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) Clause (ii) not to apply where significant change.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) Determination period.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) Election.—For purposes of this subsection—

"(A) Election period.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of subsection (g)(1) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

"(6) NOTICE REQUIREMENT.—In accordance with regulations prescribed by the Secretary—

"(A) The group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection.

"(B) The employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event.

"(C) Each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3) within 60 days after the date of the qualifying event.

"(D) The plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(g) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in subsection (f)(3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) EXCEPTION FOR NONRESIDENT ALIENS.—Notwithstanding subparagraphs (A) and (B), the term 'qualified beneficiary' does not include an individual whose status as a covered employee is attributable to a period in which such individual was a nonresident alien who received no earned income (within the meaning of section 911(d)(2)) from the employer which constituted income from sources within the United States (within the meaning of section 861(a)(3)). If an individual is not a qualified beneficiary pursuant to the previous sentence, a spouse or dependent child of such individual shall not be considered a qualified beneficiary by virtue of the relationship of the individual.

"(D) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in subsection (f)(3)(F), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(i) as the spouse of the covered employee,

"(ii) as the dependent child of the covered employee, or

"(iii) as the surviving spouse of the covered employee.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 162(i)."

"(3) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

"(4) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the qualified beneficiary is placed in a financial position which is as good as such beneficiary would have been if such failure had not occurred.

For purposes of applying subparagraph (B), the qualified beneficiary shall be treated as if he had elected the most favorable coverage in light of the expenses he incurred since the failure 1st occurred.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 of the 1986 Code (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"Gross income of an employee does not include employer-provided coverage under an accident or health plan."

(2) Subsection (i) of section 162 of the 1986 Code (relating to group health plans) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 162 of the 1986 Code is amended by striking out subsection (k) and by redesignating—

(A) the subsection relating to stock redemption expenses as subsection (k),

(B) the subsection relating to special rules for health insurance costs of self-employed individuals as subsection (l), and

(C) the subsection relating to cross references as subsection (m).

(4) Subparagraph (C) of section 414(n)(3) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "and 505" and inserting in lieu thereof "505, and 4980B".

(5) Paragraph (2) of section 414(t) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "or 505" and inserting in lieu thereof "505, or 4980B".

(6) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(7) Paragraph (1) of section 2208 of the Public Health Service Act is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 4980B. Failure to satisfy continuation coverage requirements of group health plans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988, but shall not apply to any plan for any plan year to which section 162(k) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) did not apply by reason of section 10001(e)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 432. MODIFICATIONS TO DISCRIMINATION RULES APPLICABLE TO CERTAIN EMPLOYEE BENEFIT PLANS.

(a) MODIFICATIONS TO SECTION 89.—

(1) DETERMINATIONS BASED ON TESTING YEAR.—

(A) Section 89 of the 1986 Code (as amended by title I) is amended by striking out "plan year" each place it appears and inserting in lieu thereof "testing year".

(B) Subsection (j) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(13) TESTING YEAR.—The term 'testing year' means—

"(A) any 12-month period beginning with the calendar month designated in the plan for purposes of this section, or

"(B) if there is no such designation, the plan year.

Any designation under subparagraph (A) may be changed only with the consent of the Secretary."

(C) Subsection (c) of section 4976 of the 1986 Code (as added by title I) is amended—

(i) by striking out "any plan year" in paragraph (1) and inserting in lieu thereof "any testing year (as defined in section 89(j)(13))"; and

(ii) by striking out "such plan year" each place it appears in paragraph (2)(A) and inserting in lieu thereof "such testing year".

(2) TIME FOR TESTING.—

(A) IN GENERAL.—Subsection (g) of section 89 is amended by adding at the end thereof the following new paragraph:

"(6) TIME FOR TESTING.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the determination of whether any plan is a discriminatory employee benefit plan for any testing year shall be made on the basis of the facts as of the testing day.

"(B) ADJUSTMENT WHERE BENEFIT OF HIGHLY COMPENSATED EMPLOYEE CHANGES.—If the employer-provided benefit (actually provided or available) of a highly compensated employee changes during the testing year by reason of any change in the terms of the plan or the making of an election by such employee, the amount taken into account as such employee's employer-provided benefit shall be adjusted to take into account such change and the portion of the testing year during which the changed benefit is provided (or made available).

"(C) TREATMENT OF NON-HIGHLY COMPENSATED EMPLOYEES WHERE CHANGE IN PLAN.—Rules similar to the rules of subparagraph (B) shall apply in the case of employees who are not highly compensated employees and who are affected by any change in the terms of the plan, except that the determination of such employees' employer-provided benefits (actually provided or made available) shall be determined as of the date after such change selected by the employer and permitted under regulations prescribed by the Secretary.

"(D) TESTING DAY.—For purposes of this paragraph, the term 'testing day' means—

"(i) the day designated in the plan as the testing day for purposes of this paragraph, or

"(ii) if there is no day so designated, the last day of the testing year.

"(E) LIMITATIONS.—

"(i) DESIGNATION MUST BE CONSISTENT FOR ALL PLANS OF SAME TYPE.—No day may be designated under subparagraph (D)(i) with respect to any plan unless the same day is so designated with respect to all other plans of the employer of the same type.

"(ii) DESIGNATION BINDING.—Any designation under subparagraph (D)(i) shall apply to the testing year for which made and all subsequent years unless revoked with the consent of the Secretary.".

(B) DESIGNATIONS FOR 1989 NOT BINDING.—Any designation of a testing day for a year beginning in 1989 shall be disregarded in determining the day which may be designated as the testing day for years beginning after 1989.

(3) SAMPLING.—Subsection (g) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) SAMPLING.—For purposes of determining whether a plan is a discriminatory employee benefit plan (but not for purposes of identifying the highly compensated employees who have a discriminatory excess or the amount of any such excess), determinations under this section may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if—

"(A) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

"(B) the statistical method and sample size result in a 95 percent probability that the results will have a margin of error not greater than 3 percent."

(4) SPECIAL VALUATION RULE FOR MULTIEMPLOYER PLANS.—Paragraph (3) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—Except as provided in regulations and clause (ii), an employer may treat the contribution such employer makes to a multiemployer plan on behalf of an employee as the employer-provided benefit of such employee under such plan.

"(ii) ADJUSTMENT.—If the allocation of plan benefits between highly compensated employees and other employees under a multiemployer plan varies materially from the allocation of employer contributions to such plan, the employer-provided benefit determined under clause (i) shall be appropriately adjusted to take into account such material variation."

(5) SPECIAL RULE FOR MULTIEMPLOYER PLANS UNDER EXCLUDED EMPLOYEE REQUIREMENTS.—Subsection (h) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR MULTIEMPLOYER PLAN.—Except as provided in regulations, any multiemployer plan shall not be taken into account in applying subparagraph (A), (B), (C), or (D) of paragraph (1) with respect to other plans of the employer.".

(6) COMPARABILITY RULES.—Paragraph (1) of section 89(g) of the 1986 Code, as amended by section 111B(a)(3), is amended by adding at the end thereof the following new subparagraphs:

"(D) SPECIAL RULES FOR APPLYING SUBSECTION (f).—

"(i) IN GENERAL.—For purposes of applying subsection (f)—

"(I) except as provided in clause (ii), subparagraph (B) shall be applied by substituting '90 percent' for '95 percent', and

"(II) a group of plans of the same type shall be treated as comparable plans if the requirements of subparagraph (E) are met.

"(ii) ELECTION TO USE LOWER PERCENTAGE IN DETERMINING COMPARABILITY.—If an election by the employer under this clause applies for the testing year—

"(I) subclause (I) of clause (i) shall not apply,

"(II) for purposes of applying subsection (f), subparagraph (B) of this paragraph shall be applied by substituting '80 percent' for '95 percent', and

"(III) subsection (f) shall be applied with respect to all health plans maintained by the employer by substituting '90 percent' for '80 percent'.

"(E) PLANS TREATED AS COMPARABLE IF EMPLOYEE COST DIFFERENCE IS $100 OR LESS.—

"(i) IN GENERAL.—A group of plans of the same type shall be treated as comparable with respect to a group of employees if—

"(I) such plans are available to all employees in the group on the same terms, and

"(II) the difference in annual cost to employees between the plans with the lowest and highest annual employee cost is not greater than $100.

"(ii) COORDINATION WITH SUBPARAGRAPH (B).—A plan not in the group of plans described in clause (i) shall be treated as part of such group if, under subparagraph (B) (without regard to clause (iii) of this subparagraph), such plan is comparable to the plan in such group with the largest employer-provided benefit.

"(iii) OTHER PLANS.—A plan not in the group of plans described in clause (i) shall be treated as part of such group with respect to an employee if—

"(I) in the case of an employee who is not a highly compensated employee, such employee is eligible to participate in the plan in such group with the largest employer-provided benefit (without regard to clause (ii)),

"(II) in the case of an employee who is not a highly compensated employee, the annual cost to such employee under such plan is not lower or higher than the lowest and highest costs within such group.

"(III) the employer-provided benefit under such plan is less than the employer-provided benefit under the plan in such group with the largest such benefit (without regard to clause (ii)).

"(iv) SEPARATE APPLICATION OF REQUIREMENTS.—If an employer elects the application of paragraph (2)(A)(ii), the amount under clause (i) shall be allocated among plans covering spouses and dependents and plans covering employees in such manner as the employer specifies.

"(v) COST-OF-LIVING ADJUSTMENT.—In the case of testing years beginning after 1989, the $100 amount under clause (i) shall be increased by the percentage (if any) by which—

"(I) the CPI for the calendar year preceding the year in which the testing year begins, exceeds

"(II) the CPI for 1988.

For purposes of this clause, the CPI for any calendar year shall be determined under section 1(f).".

(7) OTHER COVERAGE.—

(A) Subparagraph (A) of section 89(g)(2) of the 1986 Code is amended—

(i) by striking out "subsection (e)" each place it appears and inserting in lieu thereof "subsection (e) or (f)", and

(ii) by adding at the end thereof the following new sentence: "The provisions of the preceding sentence shall not apply for purposes of applying subsection (f) unless the requirements of subsection (f) would be met if such subsection were applied without regard to the preceding sentence and on the basis of eligibility to participate rather than coverage."

(B) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by adding at the end thereof the following sentence: "The Secretary shall make such adjustments as are necessary in applying the rules of the preceding sentence to subsection (f)."

(8) SWORN STATEMENTS.—Paragraph (2) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE.—No employee who is not a highly compensated employee may be disregarded under subparagraph (A)(i) with respect to any health plan of the employer unless under such plan such employee is entitled, when the coverage under the other health plan referred to in subparagraph (A)(i) ceases, to elect coverage under the plan of the employer (whether or not an election is otherwise available). Such election is to be on the same terms as if such employee was making such election during a subsequent open season. Rules similar to the rules of the preceding sentences of this subparagraph shall apply in the case of an employee treated as not having a spouse or dependents or having a spouse or dependents covered by a health plan of another employer providing core benefits.".

(9) DEFINITION OF PLAN.—Paragraph (11) of section 89(j) of the 1986 Code is amended by striking out "Each option" and inserting in lieu thereof "Except as provided in subsection (g)(1), each option".

(10) MODIFICATION OF PENALTY.—Subparagraph (B) of section 6652(k)(2) of the 1986 Code is amended to read as follows:

"(B) the amount which bears the same ratio to the employer-provided benefit (within the meaning of section 89 without regard to subsection (g)(3)(C)(i) thereof) with respect to the employee to whom such failure relates as the amount of such benefit required to be but not shown on timely statements under sections 6051(a) and 6051(d) bears to the amount required to be shown.".

(11) CAFETERIA PLANS.—Subparagraph (D) of section 89(g)(3) of the 1986 Code is amended to read as follows:

"(D) SALARY REDUCTIONS.—

"(i) IN GENERAL.—Except for purposes of subsections (d)(1)(A)(ii) and (j)(5), any salary reduction shall be treated as an employer-provided benefit.

"(ii) SPECIAL RULE FOR SUBSECTION (d)(1)(A)(ii).—Notwithstanding clause (i), any salary reduction under a cafeteria plan shall be treated as an employer-provided benefit for purposes of subsection (d)(1)(A)(ii) if—

"(I) the percentage of employees who are not highly compensated employees eligible to participate in the plan is not greater than the percentage of highly compensated employees so eligible,

"(II) all employees eligible to participate in the plan are eligible under the same terms and conditions, and

"(III) no highly compensated employee eligible under the plan is eligible to participate in any other plan maintained by the employer for any benefit of the same type under terms and conditions different from the terms and conditions available under the plan to employees who are not highly compensated employees.".

(12) TESTING OF PLANS OF DIFFERENT TYPES.—Paragraph (4) of section 89(g) of the 1986 Code is amended to read as follows:

"(4) ELECTION TO TEST PLANS OF DIFFERENT TYPES TOGETHER.—The employer may elect to treat all plans of the types specified in such election as plans of the same type for purposes of applying subsection (e).".

(13) PART-TIME EMPLOYEES.—Paragraph (5) of section 89(j) of the 1986 Code is amended by striking out the last sentence thereof.

(14) ACQUISITIONS AND DISPOSITIONS.—

(A) Clause (ii) of section 89(j)(8)(A) of the 1986 Code is amended to read as follows:

"(ii) either—

"(I) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members in such group), or

"(II) such plan meets such other requirements as the Secretary may prescribe by regulation.".

(B) Subclause (II) of section 410(b)(6)(C)(i) of the 1986 Code is amended by inserting "or such plan meets such other requirements as the Secretary may prescribe by regulation" before the end period.

(15) DEPENDENT CARE ASSISTANCE.—Subparagraph (B) of section 129(d)(7) of the 1986 Code (as redesignated and amended by section 111B of this Act) is amended—

(A) by striking out "(within the meaning of section 414(q)(7))", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'compensation' has the meaning given such term by section 414(q)(7), except that, under rules prescribed by the Secretary, an employer may elect to determine compensation on any other basis which does not discriminate in favor of highly compensated employees.".

(16) REPORTING REQUIREMENTS.—

(A) Section 6039D(d) of the 1986 Code is amended—

(i) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, the plan shall be required to provide any information required by this section which the Secretary determines, on the basis of the agreement between the plan and employer, is held by the plan (and not the employer)", and

(ii) by inserting "AND SPECIAL RULES" after "DEFINITIONS" in the heading thereof.

(B) The amendments made by this paragraph shall apply to years beginning after 1984.

(b) MODIFICATION TO DEFINITIONS OF HIGHLY COMPENSATED AND COMPENSATION AND TO SEPARATE LINE OF BUSINESS RULES.—

(1) DEFINITION OF HIGHLY COMPENSATED.—Subsection (q) of section 414 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SIMPLIFIED METHOD FOR DETERMINING HIGHLY COMPENSATED EMPLOYEES.—If an election by the employer under this paragraph applies to any year, in determining whether an employee is a highly compensated employee for such year—

"(A) subparagraph (B) of paragraph (1) shall be applied by substituting '$50,000' for '$75,000', and

"(B) subparagraph (C) of paragraph (1) shall not apply.".

(2) LINE OF BUSINESS REQUIREMENTS.—

(A) SAFE HARBOR RULE.—Paragraph (3) of section 414(r) of the 1986 Code is amended to read as follows:

"(3) SAFE HARBOR RULE.—

"(A) IN GENERAL.—The requirements of subparagraph (C) of paragraph (2) shall not apply to any line of business if the highly compensated employee percentage with respect to such line of business is—

"(i) not less than one-half, and

"(ii) not more than twice,

the percentage which highly compensated employees are of all employees of the employer. An employer shall be treated as meeting the requirements of clause (i) if at least 10 percent of all highly compensated employees of the employer perform services solely for such line of business.

"(B) DETERMINATION MAY BE BASED ON PRECEDING YEAR.—The requirements of subparagraph (A) shall be treated as met with respect to any line of business if such requirements were met with respect to such line of business for the preceding year and if—

"(i) no more than a de minimis number of employees were shifted to or from the line of business after the close of the preceding year, and

"(ii) the employees shifted to or from the line of business after the close of the preceding year contained a substantially proportional number of highly compensated employees.".

(B) SEPARATE OPERATING UNITS.—Section 89(g)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In applying section 414(r)(7) for purposes of this section, an operating unit shall be treated as in a separate geographic area from another unit if such units are at least 35 miles apart.".

(3) COMPENSATION FOR GROUP-LIFE INSURANCE PLANS.—

(A) Paragraph (4) of section 89(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of applying this paragraph—

"(i) 1989 AND 1990.—IN THE CASE OF TESTING YEARS BEGINNING IN 1989 OR 1990, THE TERM 'COMPENSATION' MEANS, AT THE ELECTION OF THE EMPLOYER, BASE COMPENSATION OR COMPENSATION DEFINED IN 414(S).

"(ii) 1991 AND THEREAFTER.—In the case of testing years beginning after 1990, compensation shall be determined on any basis determined by the employer which does not discriminate in favor of highly compensated employees.".

(B) Subparagraph (A) of section 89(j)(4) of the 1986 Code is amended by striking out "(within the meaning of section 414(s))".

(c) TRANSITIONAL PROVISIONS FOR PURPOSES OF SECTION 89.—

(1) TEMPORARY VALUATION RULES.—In the case of testing years beginning before the later of January 1, 1991, or the date 1 year after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans—

(A) Section 89(g)(3)(B) of the 1986 Code shall not apply.

(B)(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, value under clause (i) may be determined under any other reasonable method selected by the employer.

(2) FORMER EMPLOYEES.—The amendments made by section 1151 of the Reform Act shall not apply to former employees who separated from service with the employer before January 1, 1989 (and were not reemployed on or after such date), and such former employees shall not be taken into account in determining whether the requirements of section 89 of the 1986 Code are met with respect to other former employees. The preceding sentence shall not apply to the extent that the value of employer-provided benefits provided to any such former employee exceeds the value of such benefits which were provided under the terms of the plan as in effect on December 31, 1988. Any excess value under the preceding sentence shall be determined without regard to any increase required by Federal law, regulation or rule or any increase which is the same for employees separating on or before December 31, 1988, and employees separating after such date and which does not discriminate in favor of highly compensated employees who separated from service after December 31, 1988.

(3) WRITTEN PLAN REQUIREMENT.—The requirements of section 89(k)(1)(A) of the 1986 Code shall be treated as met with respect to any testing year beginning in 1989, if—

(A) the plan is in writing before the close of such year,

(B) the employees had reasonable notice of the plan's essential features on or before the beginning of such year, and

(C) the provisions of the written plan apply for the entire year.

(4) RULES TO BE PRESCRIBED BEFORE OCTOBER 1, 1988.—Not later than October 1, 1988, the Secretary of the Treasury or his delegate shall issue such rules as may be necessary to carry out the provisions of section 89 of the 1986 Code.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986; except that the amendment made by subsection (a)(8) shall apply to testing years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1986.

SEC. 433. ESTATE TAX VALUATION FREEZES.

(a) DEEMED GIFT.—

(1) IN GENERAL.—Paragraph (4) of section 2036(c) of the 1986 Code is amended to read as follows:

"(4) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—For purposes of this subtitle, if, before the death of the original transferor—

"(i) the original transferor transfers all (or any portion of) the retained interest referred to in paragraph (1), or

"(ii) the original transferee transfers all (or any portion of) the transferred property referred to in paragraph (1) to a person who is not a member of the original transferor's family,

the original transferor shall be treated as having made a transfer by gift of property to the original transferee equal to the paragraph (1) inclusion (or proportionate amount thereof). Proper adjustments shall be made in the amount treated as a gift by reason of the preceding sentence to take into account prior transfers to which this subparagraph applied.

"(B) COORDINATION WITH PARAGRAPH (1).—In any case to which subparagraph (A) applies, nothing in paragraph (1) or section 2035(d)(2) shall require the inclusion of the transferred property (or proportionate amount thereof).

"(C) SPECIAL RULE WHERE PROPERTY RETRANSFERRED.—In the case of a transfer described in subparagraph (A)(ii) from the original transferee to the original transferor, the paragraph (1) inclusion (or proportion thereof) shall be reduced by the excess (if any) of—

"(i) the fair market value of the property so transferred, over

"(ii) the amount of the consideration paid by the original transferor in exchange for such property.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) ORIGINAL TRANSFEROR.—The term 'original transferor' means the person making the transfer referred to in paragraph (1).

"(ii) ORIGINAL TRANSFEREE.—The term 'original transferee' means the person to whom the transfer referred to in paragraph (1) is made. Such term includes any member of the original transferor's family to whom the property is subsequently transferred.

"(iii) PARAGRAPH (1) INCLUSION.—The term 'paragraph (1) inclusion' means the amount which would have been included in the gross estate of the original transferor under subsection (a) by reason of paragraph (1) (determined without regard to sections 2032 and 2032A) if the original transferor died immediately before the transfer referred to in subparagraph (A). The amount determined under the preceding sentence shall be reduced by the amount (if any) of the taxable gift resulting from the transfer referred to in paragraph (1)(B).

"(E) CONTINUING INTEREST IN TRANSFERRED PROPERTY MAY NOT BE RETAINED.—A transfer (to which subparagraph (A) would otherwise apply) shall not be taken into account under subparagraph (A) if the original transferor or the original transferee (as the case may be) retains a direct or indirect continuing interest in the property transferred in such transfer."

(2) CROSS REFERENCE.—Subsection (d) of section 2501 of the 1986 Code is amended by adding at the end thereof the following:

"(3) For treatment of certain transfers related to estate tax valuation freezes as gifts to which this chapter applies, see section 2036(c)(4)."

(b) EXCEPTIONS.—Subsection (c) of section 2036 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(6) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to a transaction solely by reason of 1 or more of the following:

"(i) The receipt (or retention) of qualified debt.

"(ii) Except as provided in regulations, the existence of an agreement for the sale or lease of goods or other property to be used in the enterprise or the providing of services and—

"(I) the agreement is an arm's length agreement for fair market value, and

"(II) the agreement does not otherwise involve any change in interests in the enterprise.

"(iii) An option or other agreement to buy or sell property at the fair market value of such property as of the time the option is (or the rights under the agreement are) exercised.

"(B) LIMITATIONS.—

"(i) SERVICES PERFORMED AFTER TRANSFER.—In the case of compensation for services performed after the transfer referred to in paragraph (1)(B), clause (ii) of subparagraph (A) shall not apply if such services were performed under an agreement providing for the performance of services over a period greater than 3 years after the date of the transfer. For purposes of the preceding sentence, the term of any agreement includes any period for which the agreement may be extended at the option of the service provider.

"(ii) AMOUNTS MUST NOT BE CONTINGENT ON PROFITS, ETC.—Clause (ii) of subparagraph (A) shall not apply to any amount determined (in whole or in part) by reference to gross receipts, income, profits, or similar items of the enterprise.

"(C) QUALIFIED DEBT.—For purposes of this paragraph, except as provided in subparagraph (D), the term "qualified debt' means any indebtedness if—

"(i) such indebtedness—

"(I) unconditionally requires the payment of a sum certain in money in 1 or more fixed payments on specified dates, and

"(II) has a fixed maturity date not more than 15 years from the date of issue,

"(ii) the only other amount payable under such indebtedness is interest determined at—

"(I) a fixed rate, or

"(II) a rate which bears a fixed relationship to a specified market interest rate,

"(iii) the interest payment dates are fixed,

"(iv) such indebtedness does not grant voting rights to the person to whom the debt is owed or place any limitation (other than in a case where the indebtedness is in default as to interest or principal) on the exercise of voting rights by others, and

"(v) such indebtedness—

"(I) is not (directly or indirectly) convertible into an interest in the enterprise which would not be qualified debt, and

"(II) does not otherwise grant any right to acquire such an interest.

The requirement of clause (i)(I) that the principal be payable on 1 or more specified dates and the requirement of clause (i)(II) shall not apply to indebtedness payable on demand if such indebtedness is issued in return for cash to be used to meet normal business needs of the enterprise.

"(D) SPECIAL RULE FOR STARTUP DEBT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified debt' includes any qualified startup debt.

"(ii) QUALIFIED STARTUP DEBT.—For purposes of clause (i), the term 'qualified startup debt' means any indebtedness if—

"(I) such indebtedness unconditionally requires the payment of a sum certain in money,

"(II) such indebtedness was received in exchange for cash to be used in any enterprise involving the active conduct of a trade or business,

"(III) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) transferred any property (including goodwill) which was not cash to the enterprise or transferred customers or other business opportunities to the enterprise,

"(IV) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) held any interest in the enterprise (including an interest as an officer, director, or employee) which was not qualified startup debt,

"(V) any person who (but for subparagraph (A)(i)) would have been an original transferee (as defined in paragraph (4)(C)) participates in the active management (as defined in section 2032A(e)(12)) of the enterprise, and

"(VI) such indebtedness meets the requirements of clauses (iv) and (v) of subparagraph (C).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including such regulations as may be necessary or appropriate to prevent avoidance of the purposes of this subsection through distributions or otherwise."

(c) TREATMENT OF SPOUSE.—Subparagraph (C) of section 2036(c)(3) of the 1986 Code is amended by striking out "An individual" and inserting in lieu thereof "Except as provided in regulations, an individual".

(d) RIGHT OF RECOVERY.—

(1) IN GENERAL.—Subchapter C of chapter 11 of the 1986 Code is amended by inserting after section 2207A the following new section:

"SEC. 2207B. RIGHT OF RECOVERY WHERE DECEDENT RETAINED INTEREST.

"(a) ESTATE TAX.—

"(1) IN GENERAL.—If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

"(A) the value of such property, bears to

"(B) the taxable estate.

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will specifically referring to this section.

"(b) GIFT TAX.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

"(1) the value of such property for purposes of chapter 12, bears to

"(2) the total amount of the taxable gifts for such year.

"(c) MORE THAN ONE RECIPIENT.—For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

"(d) PENALTIES AND INTEREST.—In the case of penalties and interest attributable to the additional taxes described in subsections (a) and (b), rules similar to the rules of subsections (a), (b), and (c) shall apply."

(2) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 11 of the 1986 Code is amended by inserting after the item relating to section 2207A the following new item:

"Sec. 2207B. Right of recovery where decedent retained interest."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

(2) SUBSECTION (a).—The amendments made by subsection (a) shall apply in cases where the transfer referred to in section 2036(c)(1)(B) of the 1986 Code is on or after June 21, 1988.

(3) SUBSECTION (d).—If an amount is included in the gross estate of a decedent under section 2036 of the 1986 Code other than solely by reason of section 2036(c) of the 1986 Code, the amendments made by subsection (d) shall apply to such amount only with respect to property transferred after the date of the enactment of this Act.

TITLE V—RAILROAD UNEMPLOYMENT AND RETIREMENT PROGRAMS

SEC. 501. SHORT TITLE.

This title may be cited as the "Railroad Unemployment Insurance and Retirement Improvement Act of 1988".

SEC. 502. REFERENCES TO RAILROAD UNEMPLOYMENT INSURANCE ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Railroad Unemployment Insurance Act.

Subtitle A—Financing Provisions

SEC. 511. AMENDMENTS RELATING TO DEFINITION OF "COMPENSATION".

(a) IN GENERAL.—Section 1(i) is amended—

(1) by inserting "(1) IN GENERAL.—" after "(i)";

(2) by striking out ": Provided, however, That in computing" and all that follows through "1983, shall be recognized." and inserting in lieu thereof ", except that in computing the compensation paid to any employee, no part of any month's compensation in excess of the monthly compensation base (as defined in subdivision (2)) for any month shall be recognized."; and

(3) by adding at the end thereof the following new subdivision:

"(2) MONTHLY COMPENSATION BASE.—

"(A) IN GENERAL.—For purposes of subdivision (1), the term 'monthly compensation base' means the amount—

"(i) of $400 for calendar months before January 1, 1984;

"(ii) of $600 for calendar months after December 31, 1983 and before January 1, 1989; and

"(iii) computed under subparagraph (B) for months after December 31, 1988.

"(B) COMPUTATION.—

"(i) IN GENERAL.—The amount of the monthly compensation base for each calendar year beginning after December 31, 1988, is the greater of—

"(I) $600; or

"(II) the amount, as rounded under clause (iii) if applicable, computed under the formula:

$$B=600\left(1+\frac{A-37{,}800}{56{,}700}\right)$$

"(ii) MEANING OF SYMBOLS.—For the purposes of the formula in clause (i)—

"(I) 'B' is the dollar amount of the monthly compensation base; and

"(II) 'A' is the amount of the applicable base with respect to tier 1 taxes, for the calendar year for which the monthly compensation base is being computed, as determined under section 3231(e)(2) of the Internal Revenue Code of 1986.

"(iii) ROUNDING RULE.—If the monthly compensation base computed under this formula is not a multiple of $5, it shall be rounded to the nearest multiple of $5, with such rounding being upward in the event the amount computed is equidistant between two multiples of $5.".

(b) CONFORMING AMENDMENT WITH RESPECT TO SUBSIDIARY REMUNERATION RULE.—Section 1(k) is amended by striking out "$1,500" and inserting in lieu thereof "an amount that is equal to 2.5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act".

(c) CONFORMING AMENDMENT WITH RESPECT TO LIMITATION ON TAKING ACCOUNT OF MONEY REMUNERATION.—Section 2(c) is amended by striking out "not in excess of $775 in any month shall be taken into account:" and inserting in lieu thereof "shall be taken into account that is not in excess of $775 in any month before 1989 and, in any month in a base year after 1988, is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600:".

(d) CONFORMING AMENDMENTS WITH RESPECT TO REQUIRED COMPENSATION AMOUNT.—Section 4(a-2)(i)(A) is amended by striking out the semicolon at the end and inserting in lieu thereof "and before 1989 or, if any part of such compensation is paid in a calendar year after 1988, not less than an amount that is equal to 2.5 times the monthly compensation base for months in such calendar year, as computed under section 1(i) of this Act;".

(e) DUTY OF BOARD TO MAKE CERTAIN COMPUTATIONS.—Section 12 is amended by adding at the end the following new subsection:

"(r) DUTY OF BOARD TO MAKE CERTAIN COMPUTATIONS.—

"(1) COMPENSATION BASE.—On or before December 1, 1988, and on or before December 1 of each year thereafter, the Board shall compute—

"(A) in accordance with section 1(i), the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

"(B) the amounts described in section 1(k), section 2(c), section 3, and section 4(a-2)(i)(A) that are related to changes in the monthly compensation base.

"(2) MAXIMUM DAILY BENEFIT RATE.—On or before June 1, 1989, and on or before June 1 of each year thereafter, the Board shall compute in accordance with section 2(a)(3) the maximum daily benefit rate which shall be applicable with respect to days of unemployment and days of sickness in registration periods beginning after June 30 of that year.

"(3) NOTICE IN FEDERAL REGISTER AND TO EMPLOYERS.—Not later than 10 days after each computation made under this subsection, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 512. CONTRIBUTION ADJUSTMENTS.

(a)(1) EMPLOYER CONTRIBUTIONS AND EXPERIENCE RATING.—Section 8 is amended by striking out "(a) Every employer" and all that follows through the end of subsection (a) and inserting in lieu thereof the following:

"(a) EMPLOYER CONTRIBUTION.—

"(1) IN GENERAL.—

"(A) GENERAL RULE.—

"(i) CONTRIBUTION RATE GENERALLY.—Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined under subparagraph (B), (C), or (D), whichever is applicable, of so much of the compensation paid in any calendar month by such employer to any employee as is not in excess of the monthly compensation base for that month as computed under section 1(i).

"(ii) MULTIPLE EMPLOYER LIMITATION.— If compensation is paid to an employee by more than one employer in any calendar month—

"(I) the contributions required by this subsection shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calendar month which is in excess of such monthly compensation base; and

"(II) each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee bears to the total compensation paid in such month by all such employers to such employee.

In the event that the compensation paid by such employers to the employee in such month is less than such monthly compensation base, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

"(B) TRANSITIONAL RULE.—

"(i) 1ST, 2D, AND 3D CALENDAR YEARS.— Except as provided in clause (vi), with respect to compensation paid in calendar years 1988, 1989, and 1990, the contribution rate shall be 8 percent.

"(ii) 4TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1991, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R=\frac{2A+B.}{3}$$

"(iii) 5TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1992, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R=\frac{A+2C.}{3}$$

"(iv) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A' is the contribution rate determined under clause (i);

"(III) 'B' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1991; and

"(IV) 'C' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1992.

"(v) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), if more than the maximum contribution limit computed under paragraph (20) shall not be reduced to that limit; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or a 12-quarter period ending on a given June 30 shall be made on the basis of a period beginning on January 1, 1990, and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

"(vi) SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS.—With respect to each of calendar years 1989 and 1990, the contribution of an employer which on the date of the enactment of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 is a publicly funded and publicly operated carrier providing rail commuter service shall be equal to the amount of benefits attributable to such carrier, plus an amount equal to 0.65 percent of the total compensation paid by that employer in that year on which that employer's contribution would be based under clause (i) if such employer's contribution were determined under that clause.

"(C) EXPERIENCE-RATED CONTRIBUTIONS.—With respect to compensation paid in a calendar year that begins after December 31, 1992, the contribution rate for each employer shall be determined as follows:

"(i) STEP 1.—Compute the employer's benefit ratio as of the preceding June 30 to 4 decimal points in accordance with paragraph (2).

"(ii) STEP 2.—Subtract the employer's reserve ratio as of the preceding June 30 as computed to 4 decimal points in accordance with paragraph (4).

"(iii) STEP 3.—Subtract the pooled credit ratio for the calendar year, if any, as computed to 4 decimal points in accordance with paragraph (12).

"(iv) STEP 4.—Multiply by 100 the total arrived at under the steps set forth in clauses (i) through (iii) so as to obtain a percentage rate, which shall be rounded to the nearest 100th of 1 percent. If the total arrived at under such steps is 0 or less than 0, the percentage rate as so computed shall be 0.

"(v) STEP 5.—Add 0.65 to the percentage rate arrived at under clause (iv), representing the portion of the employer's contribution which is to be deposited to the credit of the fund under subsection (i).

"(vi) STEP 6.—Add the surcharge rate for the calendar year, if any, as computed under paragraph (14).

"(vii) STEP 7.—Add the pooled charge ratio for the calendar year, if any, as computed to 4 decimal points under paragraph (13) and multiplied by 100.

"(viii) STEP 8.—Reduce the percentage rate computed in accordance with the preceding steps to the maximum contribution limit computed under paragraph (20), if such rate is higher than such limit. The rate computed in accordance with the preceding steps, after any reduction under this clause, is the contribution rate.

"(D) NEW-EMPLOYER CONTRIBUTION RATES.—Notwithstanding subparagraphs (B) and (C), the contribution rate applicable to a new employer who does not become subject to this Act until after December 31, 1989, shall be determined as follows:

"(i) 1ST CALENDAR YEAR.—With respect to compensation paid in calendar months before the end of the first full calendar year in which the employer is subject to this Act, the contribution rate shall be the average contribution rate paid by all employers during the 3 calendar years preceding the calendar year before the calendar year in which the compensation is paid. The average contribution rate shall be determined—

"(I) by dividing the aggregate contributions paid by all employers under this subsection in those 3 calendar years by the aggregate compensation with respect to which such contributions were paid; and

"(II) by multiplying the resulting ratio as computed to 4 decimal points by 100.

"(ii) 2D CALENDAR YEAR.—With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R=\frac{2(A2)+B}{3}$$

"(iii) 3D CALENDAR YEAR.—With respect to compensation paid in calendar months in the third full calendar year in which the employer is subject to the coverage of this Act, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R=\frac{A3+2C}{3}$$

"(iv) SUBSEQUENT CALENDAR YEARS.—With respect to all calendar months in calendar years subsequent to that calendar year, the contribution rate shall be determined under subparagraph (C).

"(v) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A1' is the contribution rate determined under clause (i) for such employer's first full calendar year;

"(III) 'A2' is the contribution rate which would have been determined under clause (i) if the employer's second calendar year had been its first full calendar year;

"(IV) 'A3' is the contribution rate which would have been determined under clause (i) if the employer's third calendar year had been such employer's first full calendar year;

"(V) 'B' is the contribution rate for the employer as determined under subparagraph (C) for the employer's second full calendar year; and

"(VI) 'C' is the contribution rate for the employer as determined under subparagraph (C) for the employer's third full calendar year.

"(vi) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), shall not be reduced under clause (viii) of that subparagraph; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the first calendar quarter that begins after the date on which the employer first commenced paying compensation subject to this Act and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

"(2) BENEFIT RATIO.—An employer's benefit ratio as of any given June 30 shall be determined by dividing all benefits charged to the employer under paragraph (15) during the 12 calendar quarters ending on such June 30 by the employer's 3-year compensation base as of such June 30 as computed under paragraph (3).

"(3) 3-YEAR COMPENSATION BASE.—An employer's 3-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 12 calendar quarters ending on such June 30.

"(4) RESERVE RATIO.—An employer's reserve ratio as of any given June 30 shall be computed by dividing the employer's reserve balance as of such June 30, as computed under paragraph (6), by that employer's 1-year compensation base as of such June 30, as computed under paragraph (5). The employer's reserve ratio may be either a positive or a negative figure, depending upon whether the employer's reserve balance is a positive or negative figure.

"(5) 1-Year Compensation Base.—An employer's 1-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 4 calendar quarters ending on such June 30.

"(6) Reserve Balance.—An employer's reserve balance as of any given June 30 shall be determined by subtracting the employer's cumulative benefit balance as of such June 30, computed under paragraph (7), from the employer's net cumulative contribution balance as of such June 30, computed under paragraph (8). An employer's reserve balance may be either positive or negative, depending upon whether or not that employer's net cumulative contribution balance exceeds the employer's cumulative benefit balance.

"(7) Cumulative Benefit Balance.—An employer's cumulative benefit balance as of any given June 30 shall be determined by adding—

"(A) the net amount of the benefits charged to the employer under paragraph (15) on or after January 1, 1990; and

"(B) the cumulative amount of the employer's unallocated charges for the same period, if any, as computed under paragraph (9).

"(8) Net Cumulative Contribution Balance.—An employer's net cumulative contribution balance as of any given June 30 shall be determined as follows:

"(A) Step 1.—Compute the sum of

"(i) all contributions paid by the employer pursuant to this subsection;

"(ii) that portion of the tax imposed under section 3321(a) of the Internal Revenue Code of 1986 that is attributable to the surtax rate under section 516(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988; and

"(iii) any taxes paid by the employer pursuant to section 3321(a) of the Internal Revenue Code of 1986 (after the outstanding balance of loans made under section 10(d) before October 1, 1985, plus interest, have been paid);

on or after January 1, 1990.

"(B) Step 2.—Subtract an amount equal to the amount of such contributions deposited to the credit of the fund under subsection (i).

"(C) Step 3.—Add an amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under paragraph (1)(C)(iii).

"(9) Unallocated Charge.—An employer's unallocated charge as of any given June 30 is the amount that as of such June 30 bears the same ratio to the system unallocated charge balance, computed under paragraph (10), as the employer's 1-year compensation base, computed under paragraph (5), bears to the system compensation base computed under paragraph (11).

"(10) System Unallocated Charge Balance.—The system unallocated charge balance as of any given June 30 shall be determined as follows:

"(A) Step 1.—Compute the aggregate amount of all interest paid by the account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to section 10(d), during the 4 calendar quarters ending on that June 30.

"(B) Step 2.—Add the aggregate amount of any additions to the system unallocated charge balance specified in paragraphs (15) and (16), during that period.

"(C) Step 3.—Add the aggregate amount of any other expenditures by the account during that period not chargeable to any individual employer under paragraph (15) or to the fund under section 11.

"(D) Step 4.—Subtract the aggregate amount of all income to the account, under section 10(a)(iv) or section 10(a)(vii), during that period.

"(E) Step 5.—Subtract the aggregate amount of all transfers to the account, pursuant to section 11(d), during that period.

"(F) Step 6.—Subtract the aggregate amount of all other income and receipts of the account, during that period, which are not assigned to individual employer balances.

"(G) Step 7.—Subtract the net cumulative contribution balance of each employer whose balance has been cancelled pursuant to paragraph (16), during that period, calculated as of the date of such cancellation.

"(11) System Compensation Base.—The system compensation base as of any given June 30 shall be determined by adding together the amounts of the 1-year compensation bases of all employers and employee representatives subject to this Act, computed in accordance with paragraph (5), as of such June 30.

"(12) Pooled Credit Ratio.—The pooled credit ratio, if any, for a calendar year shall be determined as follows:

"(A) Step 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. In determining such balance as of June 30 of any year, so much of the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date as is in excess of $6,000,000 shall be deemed to be part of the balance to the credit of such account. There will be a pooled credit ratio for the calendar year only if that balance is in excess of the greater of $250,000,000 or of the amount that bears the same ratio to $250,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (11).

"(B) Step 2.—If there is such an excess amount, divide that excess amount by the system compensation base as of the June 30 preceding the calendar year. The result is the pooled credit ratio for the calendar year.

"(13) Pooled Charge Ratio.—The pooled charge ratio, if any, for a calendar year shall be determined as follows:

"(A) Step 1.—With respect to each employer whose contribution rate for that calendar year as computed through step 6 under paragraph (1)(C) was greater than the maximum contribution limit computed under paragraph (20), multiply the employer's 1-year compensation base as of the preceding June 30, as computed in accordance with paragraph (5), by the difference between—

"(i) the percentage rate determined under subparagraph (B), (C), or (D) of paragraph (1) before the reduction to the maximum contribution limit; and

"(ii) the maximum contribution limit.

"(B) Step 2.—Add the amounts arrived at under step 1 so as to obtain an aggregate amount for all such employers.

"(C) Step 3.—For each employer whose contribution rate as computed through step 3 under paragraph (1)(C) was less than 0, the percentage rate by which such employer's rate was raised in order to bring that rate to 0 shall be multiplied by that employer's 1-year compensation base as of the preceding June 30. Subtract the total of the amounts computed under the preceding sentence for all employers from the amount arrived at in step 2.

"(D) Step 4.—Divide the aggregate amount arrived at under step 3 by the system compensation base as of the preceding June 30 as computed under paragraph (11) minus the one-year compensation base of those employers whose rates computed through step 6 of paragraph (1)(C) exceeded the maximum contribution rate computed under paragraph (20). The result is the pooled charge ratio for the calendar year.

"(14) Surcharge Rate.—The surcharge rate for a calendar year, if any, shall be determined as follows:

"(A) Step 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. In determining such balance as of June 30 of any year, so much of the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date as is in excess of $6,000,000 shall be deemed to be part of the balance to the credit of such account. There will be a surcharge rate for the calendar year only if that balance is less than the greater of $100,000,000 or of the amount that bears the same ratio to $100,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (11).

"(B) Step 2.—(i) If the balance to the credit of the account is less than the greater of the amounts referred to in the 2nd sentence of step 1 but is equal to or more than the greater of $50,000,000 or of the amount that bears the same ratio to $50,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, then the surcharge rate for the calendar year shall be 1.5 percent.

"(ii) If the balance to the credit of the account is less than the greater of the amounts referred to in the clause (i), but greater than or equal to zero, then the surcharge rate for the calendar year shall be 2.5 percent.

"(iii) If the balance to the credit of the account is less than zero, the surcharge rate for the calendar year shall be 3.5 percent.

"(15) Chargeable Benefits.—

"(A) In General.—Beginning January 1, 1990, all benefits paid to an employee for days of unemployment or days of sickness shall be charged to that employee's base year employer by adding amounts equal to the amounts of such benefits to the employer's cumulative benefit balance except that benefits paid by reason of strikes or work stoppages growing out of labor disputes shall not be added to the employer's cumulative benefit balance but instead shall be added to the system unallocated charge balance.

"(B) Adjustments.—A sum equal to each amount realized in recovery for overpayment, erroneous payment, or reimbursement of benefits and credited to the account pursuant to section 10(a)(v) or 10(a)(viii) shall be subtracted from the cumulative benefit balances of the employers of the employees to whom such an amount was paid as a benefit in the proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit.

"(C) MULTIPLE EMPLOYERS.—

"(i) IN GENERAL.—All benefits paid to an employee who had more than 1 base-year employer shall be charged to the cumulative benefit balances of the employee's base year employers—

"(I) in reverse chronological order of the employee's employment with each such employer in the base year if the employer at the time of the claim was the last base year employer, and the amount charged to each employer shall not exceed the compensation paid by that employer to the employee in the base year; and

"(II) in all other cases, in the same ratio as the compensation paid to such employee by the employer bears to the total of such compensation paid to such employee by all such employers in the base year.

"(ii) SPECIAL RULE FOR EMPLOYER WITH CANCELLED BALANCES.—All benefits chargeable under this subparagraph to an employer for which the Board has cancelled balances under paragraph (16) shall be added to the system unallocated charge balance.

"(16) DEFUNCT EMPLOYER.—Whenever the Board determines, pursuant to such regulations as the Board may prescribe, that an employer has permanently ceased to pay compensation with respect to which contributions are payable pursuant to this subsection, the Board shall, effective on the date of the Board's determination, transfer the employer's net cumulative contribution balance as a subtraction from, and cumulative benefit balance as an addition to, the system unallocated charge balance and cancel all other accumulations of the employer.

"(17) INDIVIDUAL EMPLOYER RECORD.—

"(A) IN GENERAL.—As of January 1, 1990, the Board shall commence maintaining an individual employer record with respect to each employer, and the records necessary to determine pooled charges, pooled credits and unallocated charge balances for the system. Whenever a new employer begins paying compensation with respect to which contributions are payable pursuant to this subsection, the Board shall establish and maintain an individual employer record for such employer.

"(B) DEFINITION.—As used in this paragraph, the term 'individual employer record' means a record of an individual employer's benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, reserve balance, net cumulative contribution balance, and cumulative benefit balance.

"(18) JOINT EMPLOYER RECORDS.—Pursuant to regulations prescribed by the Board, the Board may allow 2 or more employers, upon application, to establish and maintain, or to discontinue, a joint individual employer record for such employers as though such joint record constituted a single employer's individual employer record.

"(19) MERGERS, CONSOLIDATIONS, OR OTHER CHANGES IN EMPLOYER IDENTITY.—

"(A) WITH OTHER EMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another employer and the combination entails no partitioning of the property of the employer, the individual employer records of the 2 employers shall be combined into a joint individual employer record if the parties request such joint treatment pursuant to paragraph (18) or if the Board otherwise determines, pursuant to regulations prescribed by the Board, that such joint treatment is desirable.

"(B) WITH NONEMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another entity that is not an employer, the employer's individual employer record shall attach to the combined entity.

"(C) SALE OF ASSETS.—In the event property of an employer is sold or transferred to another employer or other entity, or is partitioned among 2 or more employers or entities, the cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of the employer shall be prorated among the employers which receive the property, including any entities which become employers by virtue of such transfer or partition, in such equitable manner as the Board by regulation shall prescribe.

"(D) REINCORPORATION.—The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification shall attach to the reincorporated or altered entity.

"(E) ABANDONMENT.—If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subsection without retroactive adjustment.

"(20) MAXIMUM CONTRIBUTION LIMIT.—The maximum contribution limit with respect to a calendar year is 12 percent, unless a 3.5 percent surcharge under paragraph (14) is in effect with respect to that calendar year. If such a surcharge is in effect the maximum contribution limit with respect to that calendar year is 12.5 percent.

"(21) SPECIAL RULES FOR CERTAIN COMPUTATIONS UNDER PARAGRAPH (1)(C).—(A) Any computation that is to be made under paragraph (1)(C) on the basis of a 12-quarter period ending on a given June 30 shall be made on the basis of a period—

"(i) beginning on the later of—

"(I) January 1, 1990;

"(II) the first day of the first calendar quarter that begins after the date on which the employer first began to pay compensation subject to this Act; or

"(III) July 1 of the third calendar year preceding that June 30; and

"(ii) ending on that June 30.

"(B) The amount computed under subparagraph (A) shall be increased to an amount that bears the same ratio to the amount so computed as 12 bears to the number of calendar quarters on which the computation is based.".

(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Subsection (b) of section 8 is amended to read as follows:

"(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative as is not in excess of the monthly compensation base computed in accordance with section 1(i), at a rate which shall be determined under subsection (a) in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.".

(c) EXTENSION OF REMEDIES.—Section 8(h) is amended by adding at the end the following: "The remedies available under the first sentence of this subsection for an employer or employee representative who contests the amount of contributions payable by him shall also apply with respect to a contention that the contribution rate determined by the Board under subsection (a) or (b) to be applicable to such employer or employee representative is inaccurate or otherwise improper.".

(d) BOARD PROCLAMATION OF BALANCE.—Section 8 is amended—

(1) by redesignating subsections (c) through (h) as subsections (f) through (k), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c) BOARD PROCLAMATION OF BALANCE.—

"(1) IN GENERAL.—Not later than October 15, 1990, and October 15 of each year thereafter the Board shall proclaim—

"(A) the balance to the credit of the account as of the preceding June 30 for purposes of paragraphs (12) and (14) of subsection (a);

"(B) the balance of any advances to the account under section 10(d) after September 30, 1985, that has not been repaid with interest as provided in such section as of September 30 of that year;

"(C) the system compensation base as of that June 30 as computed in accordance with paragraph (11) of that subsection;

"(D) the system unallocated charge balance as of that June 30, as computed in accordance with paragraph (10) of that subsection; and

"(E) the pooled credit ratio, the pooled charge ratio, and the surcharge rate, if any, as determined under paragraph (12), (13), or (14) of that subsection and applicable in the following calendar year.

"(2) PUBLICATION OF NOTICE.—As soon as is practicable after such proclamation, the Board shall publish notice in the Federal Register of the amounts so determined and proclaimed.

"(d) NOTIFICATIONS BY BOARD.—(1) Not later than the last day of any calendar quarter that begins after March 31, 1990, the Board shall notify each employer and employee representative of its net cumulative contribution balance and cumulative benefit balance as of the end of the preceding calendar quarter, as computed in accordance with paragraphs (7) and (8) of subsection (a) as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30.

"(2) Not later than October 15, 1990, and October 15 of each year thereafter, the Board shall notify each employer and employee representative of its benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, and reserve balance as of the preceding June 30 as computed in accordance with paragraphs (2), (3), (4), (5), (6), and (9) of subsection (a), and of the contribution rate applicable to the employer or employee representative in the following calendar year as computed under paragraphs (1) (B), (C), or (D) of that subsection.

"(e) INFORMATION TO VERIFY ACCURACY TO BE MADE AVAILABLE.—Notwithstanding any other provision of law, upon request by an employer or employee representative, the Board shall make available to such employer or employee representative any information available to the Board which may be necessary to verify the accuracy of a contribution rate determined by the Board to be applicable to such employer or employee representative, or of any component of that contribution rate including the accuracy of the employer's individual employer record, upon payment by such employer or employee representative to the Board of the cost incurred by the Board in making such infor-

mation available. The amounts so paid to the Board shall be credited to and deposited in the fund.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 513. ADMINISTRATIVE EXPENSES.

(a) CHANGE IN PERCENTAGE TO BE DEPOSITED IN FUND.—Section 8(i), as so redesignated by section 512(d), is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(b) CONFORMING AMENDMENTS.—(1) Section 10(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(2) Section 11(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid in months beginning after September 30, 1988.

SEC. 514. NOTIFICATION TO EMPLOYER.

(a) IN CONNECTION WITH CLAIM.—Section 5(b) is amended by adding at the end thereof the following: "When a claim for benefits is filed with the Board, the Board shall provide notice of such claim to the claimant's base-year employer or employers and afford such employer or employers an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the Board initially determines to pay benefits to a claimant under this Act, the Board shall provide notice of such determination to the claimant's base-year employer or employers.".

(b) IN CONNECTION WITH ADMINISTRATIVE REVIEW.—Section 5(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting at the end of the first paragraph the following: "In any such case the Board or the person or reviewing body so established or assigned shall, by publication or otherwise, notify all parties properly interested of their right to participate in the hearing and of the time and place of the hearing.";

(3) by inserting "(2)" at the beginning of the second paragraph;

(4) by inserting after the second paragraph the following:

"(3) Any base-year employer of a claimant whose claim for benefits has been granted in whole or in part, either in an initial determination with respect thereto or in a determination after a hearing pursuant to paragraph (1), and who contends that the determination is erroneous for a reason or reasons other than a reason that is reviewable under paragraph (4), may appeal to the Board for review of such determination. Despite such an appeal, the benefits awarded shall be paid to such claimant, subject to recovery by the Board if and to the extent found on the appeal to have been erroneously awarded. The Board shall take such action as is appropriate to recover the amount of such benefits including if feasible adjustment in subsequent payments pursuant to the first two paragraphs of section 2(d) of this Act. Upon an appeal, the Board shall review the determination appealed from and for such review may designate one of its officers or employees to receive evidence and report to the Board thereof together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.";

(5) by inserting "(4)" at the beginning of the third paragraph;

(6) by inserting "(5)" at the beginning of the fourth paragraph;

(7) by striking out "two" in the first sentence of the fourth paragraph and inserting in lieu thereof "three";

(8) by inserting before the final paragraph the following:

"(6) For purposes of this subsection and subsections (d) and (f), any base-year employer of the claimant is a properly interested party."; and

(9) by inserting "(7)" at the beginning of the final paragraph.

(c) IN CONNECTION WITH JUDICIAL REVIEW.—Section 5(f) is amended—

(1) by inserting after "member," in the first sentence "or any base-year employer of the claimant,"; and

(2) by inserting after the second sentence the following: "A copy of such petition also shall forthwith be served upon any other properly interested party, and such party shall be a party to the review proceeding.".

(d) CONFORMING AMENDMENTS WITH RESPECT TO LIMITATION ON ADMINISTRATIVE DISCLOSURE.—Section 12(d) is amended—

(1) by striking out "and" where it appears before "(iii)"; and

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 5 of this Act.".

(e) CONFORMING AMENDMENT WITH RESPECT TO COURT PROCEEDINGS LIMITATION.—Section 12(n) is amended by striking out "court" in the proviso to the second paragraph.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 515. ANNUAL REPORT.

On or before July 1 of 1989, and of each calendar year thereafter, the Railroad Retirement Board shall submit to the Congress a report on the financial status of the railroad unemployment insurance system under various economic and employment assumptions. Such report shall include any recommendation for financing changes which might be advisable, including any adjustment the Railroad Retirement Board recommends regarding the rates of employer contributions.

SEC. 516. AMENDMENTS RELATING TO RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) IN GENERAL.—Chapter 23A of the 1986 Code (relating to railroad unemployment repayment tax) is amended to read as follows:

"CHAPTER 23A. RAILROAD UNEMPLOYMENT REPAYMENT TAX

"Sec. 3321. Imposition of tax.
"Sec. 3322. Definitions.

"SEC. 3321. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

"(b) TAX ON EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

"(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

"(c) TERMINATION IF LOANS TO RAILROAD UNEMPLOYMENT FUND REPAID.—The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

"(1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(2) no unpaid interest on such transfers.

"SEC. 3322. DEFINITIONS.

"(a) RAIL EMPLOYER.—For purposes of this chapter, the term 'rail employer' means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.

"(b) RAIL WAGES.—For purposes of this chapter, the term 'rail wages' means, with respect to any calendar month, so much of the remuneration paid during such month which is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act.

"(c) EMPLOYEE REPRESENTATIVE.—For purposes of this chapter, the term 'employee representative' has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

"(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of section 3307 and 3308 shall apply."

(b) CONTINUATION OF SURTAX RATE THROUGH 1990.—

(1) IN GENERAL.—In the case of any calendar month beginning before January 1, 1991—

(A) there shall be substituted for "4 percent" in subsections (a) and (b) of section 3321 of the 1986 Code the percentage equal to the sum of—

(i) 4 percent, plus

(ii) the surtax rate (if any) for such calendar month, and

(B) subsection (c) of such section shall not apply to so much of the tax imposed by such section as is attributable to the surtax rate.

(2) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

(A) 3.5 percent for each month during a calendar year if, as of September 30, of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

(B) zero for any other calendar month.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6157 of the 1986 Code (relating to quarterly payment of railroad unemployment repayment tax) is hereby repealed.

(2) Paragraph (2) of section 6201(b) of the 1986 Code (relating to amount not to be assessed) is amended by striking out "or tax imposed by section 3321".

(3) Section 6317 of the 1986 Code (relating to payments of Federal unemployment tax for calendar quarter) is amended—

(A) by striking out "or tax imposed by section 3321", and

(B) by striking out "and 23A, as the case may be,".

(4) Subsection (e) of section 6513 of the 1986 Code (relating to payments of Federal unemployment tax) is amended by striking out the last sentence.

(5) Subsection (i) of section 6601 of the 1986 Code (relating to exception as to Federal unemployment tax) is amended by striking out "or 3321".

(6) Subparagraph (A) of section 232(a)(2) of the Railroad Retirement Revenue Act of 1983 is amended by striking out "is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954" and inserting in lieu thereof "is not attributable to the surtax rate under section 516(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988".

(7) Subparagraph (B) of section 232(a)(2) of such Act is amended by striking out "section 3321(c)(1)(B) of such Code" and inserting in lieu thereof "section 516(b) of such Act".

(d) Effective Date.—The amendments made by this section, and the provisions of subsection (b), shall apply to remuneration paid after December 31, 1988.

SEC. 517. GAO STUDY OF FRAUD AND PAYMENT ERRORS.

The Comptroller General shall study the frequency of fraud and payment errors in the railroad unemployment compensation program. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to Congress the results of such study. Such report shall include—

(1) estimates of rates and amounts of annual losses due to fraud and overpayment;

(2) comparisons of such rates with the rates of losses in other Federal programs which experience such losses;

(3) recommendations for legislative measures that could be taken to reduce the losses in the railroad unemployment compensation program arising from fraud and payment errors; and

(4) such other matters relating to such fraud and payment errors as the Comptroller General determines are appropriate.

Subtitle B—Benefit and Other Adjustments

SEC. 521. WAITING PERIOD FOR BENEFITS AND BENEFIT INCREASES.

(a) In General.—Section 2(a) is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out the first paragraph and inserting in lieu thereof:

"Benefits shall be payable to any qualified employee for each day of unemployment in excess of four during any registration period: Provided, however, That no benefits shall be payable for days of unemployment during the first registration period within a benefit year in which the employee has more than four days of unemployment: Provided further, That in any case in which the Board finds that an employee's unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work, however, for subsequent days of unemployment due to such stoppage of work benefits shall be payable for days in excess of four during any registration period. Benefits shall be payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness, but excluding four days of sickness in any registration period: Provided, however, That no benefits shall be payable for days of sickness in the first registration period within a benefit year in which the employee has both four consecutive days of sickness and more than four days of sickness. A period of continuing sickness means (i) a period of consecutive days of sickness, whether from one or more causes, or (ii) a period of successive days of sickness due to a single cause without interruption of more than ninety consecutive days which are not days of sickness.".

(3) by inserting "(2)" at the beginning of the second paragraph;

(4) by striking out "and" after "shall not exceed $24 per day of such unemployment or sickness" in the second paragraph and inserting in lieu thereof a comma;

(5) by inserting "but before July 1, 1988," after "June 30, 1976," in the second paragraph;

(6) by striking out the period at the end of the first sentence of the second paragraph and inserting in lieu thereof ", that for registration periods beginning after June 30, 1988, but before July 1, 1989, such amount shall not exceed $30 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1989, such amount shall not exceed the maximum daily benefit rate provided in paragraph (3) of this subsection.";

(7) by inserting after the second paragraph the following new paragraph:

"(3)(A) The maximum daily benefit rate which the Board is required to compute under section 12(r)(2) shall be the amount computed pursuant to the following formula, but shall be not less than $30:

$$BR=25\left(1+\frac{A-600}{900}\right)$$

"(B) For purposes of such formula—

"(i) 'BR' represents the maximum daily benefit rate; and

"(ii) 'A' represents the amount obtained by dividing the amount of the 'applicable base' with respect to tier 1 taxes as determined under section 3231(e)(2) of the Internal Revenue Code of 1986 for the calendar year in which the benefit year begins by 60, with this quotient being rounded down to the nearest multiple of $100.

"(C) If the maximum daily benefit rate computed under such formula is not a multiple of $1, it shall be rounded to the nearest multiple of $1, with such rounding being upward in the event the amount computed is equidistant between two multiples of $1."; and

(8) by inserting "(4)" at the beginning of the last paragraph.

(b) Effective Dates.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendments made by paragraph (2) of subsection (a) shall apply with respect to registration periods beginning after June 30, 1988.

SEC. 522. QUALIFYING CONDITION.

(a) In General.—Section 3 is amended—

(1) by inserting "with respect to the base year" after "his compensation"; and

(2) by striking "$1,500 with respect to the base year" and inserting in lieu thereof "2.5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 523. INCREASE IN MAXIMUM PERMITTED SUBSIDIARY REMUNERATION.

(a) In General.—The second paragraph of section 1(k) is amended by striking out "$10" and inserting "$15" in lieu thereof.

(b) Effective Date.—The amendment made by this section shall take effect on July 1, 1988.

Subtitle C—Retirement Act Amendments

SEC. 531. ADDITIONAL LUMP SUM PAYMENT IN CERTAIN CASES.

Section 6 of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subsection:

"(e)(1) Every individual who will have completed ten years of service at the time of his retirement or death, who will have received compensation in the nature of separation or severance pay on or after January 1, 1985, and who would have been credited with additional months of service pursuant to section 3(i)(4) of this Act except for the fact that such individual was not in an employment relation to one or more employers nor an employee representative in such months, shall, at the time his annuity under section 2(a)(1) of this Act begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If the full amount of a lump sum under this subsection cannot be determined at the time an individual's annuity under section 2(a)(1) begins to accrue, such lump sum shall be payable at such time thereafter as such amount can be determined. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1), or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

"(2) The lump sum provided under subdivision (l) of this subsection shall be in an amount equal to the product of (A) the compensation attributable to the additional months of service which would have been credited to the individual due to the receipt of payments in the nature of separation or severance pay pursuant to section 3(i)(4) of this Act if such individual had remained in an employment relation to one or more employers or had continued to be an employee representative and (B) the rate of tax, or rates of tax, imposed on the compensation described in clause (A) of this subdivision by section 3201(b) of the Internal Revenue Code of 1986.".

SEC. 532. DELETION OF LAST PERSON SERVICE AS A DISQUALIFICATION.

(a) In General.—Section 2(e) of the Railroad Retirement Act of 1974 is amended—

(1)(A) in subdivision (1), by striking out "any person, whether or not"; and

(B) by striking out "(but with the" and all that follows through "political subdivision of a State";

(2) in subdivision (2), by striking out "and of the person, or persons, by whom he was last employed"; and

(3) in subdivision (3), by striking out "or to the last person, or persons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue".

(b) Deduction for Work.—Section 2(f) of such Act is amended by adding at the end thereof the following new subdivision:

"(6)(A) Except as provided in subparagraph (B)—

"(i) that portion of the annuity for any month of an individual as is computed under section 3(b) and as adjusted under section 3(g), plus any supplemental amount for such month under section 3(e), and that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d), shall each be subject to a deduction of $1 for each $2 of compensation received by such individual from compensated service rendered in such month to the last person, or persons, by whom such individual was employed before the date on which the annuity of such individual under subsection (a)(1) began to accrue; and

"(ii) that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d) shall be subject to a deduction of $1 for each $2 of compensation received by such spouse from compensated service rendered in such month to the last person, or persons, by whom such spouse was employed before the date on which the annuity of such spouse under subsection (c)(1) began to accrue.

"(B) Any deductions imposed by this subdivision for any month shall not exceed 50 percent of the annuity amount for such month to which such deductions apply.".

(c) Effective Date.—The amendments made by this section shall apply to annuities payable under the Railroad Retirement Act of 1974 for months beginning after the date of enactment of this Act.

SEC. 533. EARNINGS OF DISABILITY ANNUITANTS.

(a) In General.—Section 2(e)(4) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "$200 in earnings" and inserting in lieu thereof "$400 in earnings (after deduction of disability related work expenses)";

(2) by striking out "$2,400" each place it appears and inserting in lieu thereof "$4,800 (after deduction of disability related work expenses)";

(3) by striking out "$200" each place it appears and inserting in lieu thereof "$400"; and

(4) by striking out "$100" and inserting in lieu thereof "$200".

(b) Effective Date.—The amendments made by this section shall apply with respect to months in calendar years beginning after December 31, 1987.

SEC. 534. ALLOWANCE OF CREDIT FOR MILITARY SERVICE.

(a) In General.—Section 1(g)(2) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following:

"For purposes of section 3(i)(2) of this Act, the period beginning on June 15, 1948, and ending on December 15, 1950, shall be deemed to be a war service period with respect to any individual who without intervening employment not covered by this Act rendered service as an employee to an employer under this Act in the year such individual was released from active military service or in the year immediately following such year.".

(b) Effective Date.—The amendment made by this section shall apply with respect to annuities accruing in months after the date of enactment of this Act.

TITLE VI—AMENDMENTS RELATING TO SOCIAL SECURITY ACT PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance and Related Provisions

SEC. 601. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(iii), by striking "June 1989" and inserting "June 1990"; and

(2) in paragraph (3)(B), by striking "January 1, 1989" and inserting "January 1, 1990".

SEC. 602. CONSOLIDATION OF REPORTS ON CONTINUING DISABILITY REVIEWS.

(a) In General.—Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)) is amended by striking "semiannually" and inserting "annually".

(b) Effective Date.—The amendment made by this section shall apply to reports required to be submitted after the date of the enactment of this Act.

SEC. 603. DENIAL OF BENEFITS TO INDIVIDUALS DEPORTED OR ORDERED DEPORTED ON THE BASIS OF ASSOCIATIONS WITH THE NAZI GOVERNMENT OF GERMANY DURING WORLD WAR II.

(a) In General.—Section 202(n)(1) of the Social Security Act (42 U.S.C. 402(n)(1)) is amended by striking "or (18)" in the matter preceding subparagraph (A) and inserting "(18), or (19)".

(b) Time of Deportation.—Section 202(n) of such Act is further amended by adding at the end the following new paragraph:

"(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of deportation has been issued under paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19) as of the date on which such order became final.".

(c) Effective Date.—The amendments made by this section shall apply only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment of this Act, and only to benefits for months beginning (and deaths occurring) on or after such date.

SEC. 604. REQUIREMENT OF SOCIAL SECURITY ACCOUNT NUMBER AS A CONDITION FOR RECEIPT OF SOCIAL SECURITY BENEFITS.

(a) In General.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i) in the matter preceding subclause (I), by inserting "and subparagraph (E)" after "subparagraph (A)"; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) The Secretary shall require, as a condition for receipt of benefits under this title, that an individual furnish satisfactory proof of a social security account number assigned to such individual by the Secretary or, in the case of an individual to whom no such number has been assigned, that such individual make proper application for assignment of such a number.".

(b) Effective Date.—The amendments made by this section shall apply to benefits entitlement to which commences after the sixth month following the month in which this Act is enacted.

SEC. 605. SUBSTITUTION OF CERTIFICATE OF ELECTION FOR APPLICATION TO ESTABLISH ENTITLEMENT FOR CERTAIN REDUCED WIDOW'S AND WIDOWER'S BENEFITS.

(a) Widow's Insurance Benefits.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widow's insurance benefits,

"(ii) was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by her with the Secretary, in accordance with regulations prescribed by the Secretary, in which she elects to receive widow's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62.".

(b) Widower's Insurance Benefits.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widower's insurance benefits,

"(ii) was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by him with the Secretary, in accordance with regulations prescribed by the Secretary, in which he elects to receive widower's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which he attains age 62.".

(c) Effective Date.—The amendments made by this section shall apply to benefits payable under section 202(e) or section 202(f) of the Social Security Act on the basis of the wages and self-employment income of an individual who dies after the month in which this Act is enacted.

SEC. 606. TECHNICAL CORRECTIONS IN OASDI PROVISIONS.

(a) Technical Corrections.—(1) Section 205(c)(2)(C)(iii) of the Social Security Act is amended by striking "the Social Security Act" and inserting "this Act".

(2) Section 211(a)(7) of such Act (as amended by section 9023(b)(1) of Public Law 100-203) is amended by inserting "of the Internal Revenue Code of 1986" before the semicolon at the end.

(3) The last sentence of section 226(b) of such Act (as added by section 9010(e)(3) of Public Law 100-203) is amended to read as follows: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term '36 months' in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section 202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read '15 months'.".

(4)(A) Subsection (d) of section 3121 of the Internal Revenue Code of 1986 (as amended by section 9002(b)(2) of Public Law 99-509) is amended—

(i) by redesignating paragraph (3) as paragraph (4), by striking "; or" at the end of such paragraph and inserting a period, and by moving such paragraph (as so redesignated and amended) to the end of the subsection; and

(ii) by redesignating paragraph (4) as paragraph (3), and by striking the period at the end and inserting "; or".

(B) Section 3306(i) of such Code (as amended by section 9002(b)(2) of Public Law 99-509) is amended by striking "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)" and inserting "paragraph (4) and subparagraphs (B) and (C) of paragraph (3)".

(5) Section 13303(c)(2) of Public Law 99-272 is amended—

(A) by striking "312(b)" and inserting "3121(b)";

(B) by striking "is amended" and inserting ", and paragraph (20) of section 210(a) of the Social Security Act, are each amended"; and

(C) by striking "after 'service' " and inserting "before 'performed' ".

(6) Section 9006(b)(1) of Public Law 100-203 is amended by striking "3111(a)" and inserting "3111".

(b) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.

Subtitle B—Public Assistance and Unemployment Compensation

SEC. 611. IMPLEMENTATION OF PROPOSED REGULATION RELATING TO ASSISTANCE TO HOMELESS AFDC FAMILIES DELAYED.

Section 9118 of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "October 1, 1988" and inserting "October 1, 1989".

SEC. 612. DISREGARD OF CERTAIN HOUSING ASSISTANCE PAYMENTS IN DETERMINING INCOME AND RESOURCES UNDER SSI PROGRAM.

(a) Income.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) assistance paid, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959.".

(b) Resources.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) the value of assistance referred to in section 1612(b)(14), paid with respect to the dwelling unit occupied by such individual (or such individual and spouse).".

(c) Effective Date.—The amendments made by this section shall be effective as though they had been included in section 162 of the Housing and Community Development Act of 1987 at the time of its enactment.

Subtitle C—National Commission on Children

SEC. 621. DELAY IN REPORTING DATE FOR NATIONAL COMMISSION ON CHILDREN.

Section 1139 of the Social Security Act (42 U.S.C. 1320b-9) is amended—

(1) by striking "September 30, 1988" in subsection (d) and inserting "September 30, 1989";

(2) by striking "March 31, 1989" in subsection (d) and inserting "March 31, 1990";

(3) by striking "March 31, 1989" in subsection (e)(1)(A) and inserting "April 30, 1990";

(4) by striking "March 31, 1989" in subsection (e)(4)(B) and inserting "March 31, 1990"; and

(5) by inserting "for each of fiscal years 1989 and 1990" after "section" in subsection (j).

GRAMM AMENDMENT NOS. 2999 THROUGH 3023

(Ordered to lie on the table.)

Mr. GRAMM submitted 25 amendments intended to be proposed by him to the bill H.R. 1154, supra; as follows:

Amendment No. 2999

Section 10(a) is amended by inserting before the period the following: ", except that no provision of this Act shall apply to children's or infants' clothing or footwear".

Amendment No. 3000

Section 10(a) is amended by inserting before the period the following: ", except that the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would result in an economic burden on United States agriculture with regard to exports, employment, or income proportionately greater than that imposed on the population of the United States as a whole".

Amendment No. 3001

At the end of the amendment insert the following new subsection:

"( ) Exemption for Less Protectionist Countries.—Notwithstanding any other provision of this Act, any limitation imposed by this Act on the quantity of any article that may be entered, or withdrawn from warehouse, for consumption in the customs territory of the United States shall not apply to such articles of a country if—

"(1) the President, after consulting with the United States Trade Representative, determines that the tariffs and quotas that such country imposes on United States exports to such country (based on the weighted average of the value of such exports) are lower than tariffs and quotas the United States imposes on exports of such country to the United States (based on the weighted average of the value of such foreign exports), and

"(2) the President submits to the Congress a written statement certifying such determination within 90 days after the date of enactment of this Act.".

Amendment No. 3002

Section 10(a) is amended by inserting before the period the following: ", except that the provisions of this Act shall not apply to items imported from Israel".

Amendment No. 3003

At the end of the amendment insert the following new subsection:

"( ) Exemption for Free Trade Agreements.—Notwithstanding any other provision of this Act, the application of limitations under this Act may be permanently suspended with regard to the products of a country pursuant to a free trade or expanded trade agreement with such country.".

Amendment No. 3004

Section 6 is amended by inserting after "under section 4." the following: "Such report shall also include an estimate of the impact of the provisions of the Act on United States consumers, estimated in terms of aggregate costs for the population as a whole, as well as for various segments of the population, including the poor.".

Amendment No. 3005

At the end of the amendment insert the following new section:

"SEC. . IMPACT ON UNITED STATES TREATY OBLIGATIONS.

"The Congress does not intend that any provision of this Act supersede, violate, or suspend any treaties or treaty obligations of the United States.".

Amendment No. 3006

Section 10(a) is amended by inserting before the period the following: ", except that no provision of this Act shall apply to clothing or footwear for persons 65 years of age or older".

AMENDMENT NO. 3007

Section 10(a) is amended by inserting before the period the following: ", except that no provision of this Act shall apply to workers' coveralls, uniforms, workshoes, or workboots".

AMENDMENT NO. 3008

Section 6 is amended by inserting after "under section 4." the following: "Such report shall also include an assessment of the employment impact of this Act, estimating the number of jobs lost and the number of jobs gained. The President may suspend the provisions of this Act if such report demonstrates that the number of jobs lost is more than 110 per centum of the number of jobs gained.".

AMENDMENT NO. 3009

At the end of the amendment insert the following new section:

"SEC. . GATT LEGALITY.

"The provisions of this Act shall be repealed if the President certifies to the Congress in writing that, in accordance with the procedures of the General Agreement on Tariffs and Trade, the provisions of the Act are determined to be a violation of the General Agreement on Tariffs and Trade.".

AMENDMENT NO. 3010

Strike section 5(c).

AMENDMENT NO. 3011

Strike section 3(a)(F).

AMENDMENT NO. 3012

Section 10(a) is amended by inserting before the period the following: ", and, further, that the President may suspend the application of the provisions of this Act if he determines that application of the provisions of this Act would impose an economic burden on the poor proportionately greater than that imposed on the population of the United States as a whole".

AMENDMENT NO. 3013

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to bandages, medical dressings, surgical gowns, or any other item intended for medical use".

AMENDMENT NO. 3014

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to bandages, medical dressings, surgical gowns, or any other item intended for medical use".

AMENDMENT NO. 3015

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to diapers".

AMENDMENT NO. 3016

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to items intended for use in nursing homes".

AMENDMENT NO. 3017

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to shoes the wholesale price of which is less than $20.00 per pair".

AMENDMENT NO. 3018

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this act apply to items imported from the countries identified by the Secretary of State as being the twenty-five poorest countries in the world, measured on a bases of per capita share of gross domestic product".

AMENDMENT NO. 3019

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to products imported from any country that on the date of enactment of this Act is a major source of illegal drugs imported into the United States that, as certified by the President, following the date of enactment of this Act ceases to be a major source of illegal drugs imported into the United States".

AMENDMENT NO. 3020

Section 10(a) is amended by inserting before the period the following: ", and in no case shall the provisions of this Act apply to products imported from any country that on the date of enactment of this Act does not have in fact a constitutional democratic system of government that, as certified by the President, following the date of enactment of this Act implements in fact a constitutional democratic system of government".

AMENDMENT NO. 3021

At the end of the amendment insert the following new section:

SEC. . COUNTRIES WITH UNITED STATES MILITARY OR NAVAL INSTALLATIONS.

"In no case shall the provisions of this Act apply to products imported from any country on the territory of which the United States operates a United States military or naval installation.".

AMENDMENT NO. 3022

At the end of the amendment insert the following new section:

"SEC. . TERMINATION DATE.

"This Act is repealed on January 1, 1999.".

AMENDMENT NO. 3023

At the end of the amendment insert the following new section:

"SEC. . TERMINATION DATE.

"This Act is repealed on January 1, 1994.".

PACKWOOD AMENDMENT NOS. 3024 THROUGH 3026

(Ordered to lie on the table.)

Mr. PACKWOOD submitted three amendments intended to be proposed by him to the bill H.R. 1154, supra; as follows:

AMENDMENT NO. 3024

At the appropriate place add the following:

Notwithstanding any other provision of this Act, the limitations imposed by this Act on the aggregate quantity of textiles and textile products that may be entered in any calendar year shall not apply if the Secretary of Commerce, under his existing authority, determines that the average before-tax return on equity of firms in the United States that manufacture textiles, or of firms that manufacture textile products, for the calendar year preceding such calendar year exceeds 25 percent.

AMENDMENT NO. 3025

At the appropriate place add the following:

EXEMPTION FOR FREE TRADE AGREEMENTS

This Act shall not apply to products from countries with which the United States has entered into a free trade agreement.

AMENDMENT NO. 3026

At the appropriate place add the following:

Notwithstanding any other provision of this Act, the provisions of this Act (other than this section) shall not apply if the President, under this existing authority, determines that the provisions of this Act violate the international obligations of the United States.

WASTE MINIMIZATION AND CONTROL ACT

BAUCUS AMENDMENT NO. 3027

(Ordered referred to the Committee on Environment and Public Works.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill (S. 2773) entitled the Waste Minimization and Control Act of 1988, to amend the Solid Waste Disposal Act and extend the authorization through 1992; as follows:

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

This title may be cited as the "Waste Minimization Revenue Act of 1988".

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 3. IMPOSITION OF FEES.

(a) IN GENERAL.—Champter 38, as added by Section 211, is amended by adding at the end thereof the following new subchapter: "Subchapter Fee on Packaging Materials"

(b) AMOUNT OF FEE.—There is hereby imposed a fee on virgin materials used for packaging of $7 dollars per ton on packaging materials or .07 cents per rigid container.

SEC. 4. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purpose of this subchapter—

"(1) PACKAGING MATERIAL.—Except 'rigid containers,' the term packaging material" means any virgin material used in packaging which is manufactured by an industry classified in the following industrial classifications: SIC Code 2621 (except building paper), 2631, 3221, 3079, 2821, 3353, 3411, and 3466.

"(2) RIGID CONTAINER.—The term 'rigid container' means any plastic, glass, or metal container with a volume greater than sources used to market either liquid or solid consumer products.

"(3) TON.—The term 'ton' means 2,000 pounds.

"(4) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the fee imposed by Section 403 shall be the same fraction of the amount of such fee imposed on a whole ton.

"(b) EXCEPTIONS; OTHER SPECIAL RULES.—For purposes of this subchapter—

"(1) RECYCLED MATERIALS.—

"(A) IN GENERAL.—In the case of materials used in packaging otherwise subject to this subchapter comprised of recycled materials shall not be subject to such fee."

SEC. 5. WASTE DISPOSAL ASSISTANCE TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund known as the "Waste Disposal Assistance Trust Fund," consisting of such amounts as may be appropriated, credited, or transferred to such Trust Fund.

(b) EXPENDITURES FROM WASTE DISPOSAL ASSISTANCE TRUST FUND.—Amounts in the Waste Disposal Assistance Trust Fund shall be available only for the purposes described in sections 4008 and 4009 of this Act.

(c) TRANSFERS TO WASTE DISPOSAL ASSISTANCE TRUST FUND.—

(1) AMOUNTS EQUIVALENT TO CERTAIN FEES.—There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the Waste Disposal Assistance Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") to be equivalent to the amounts received in the Treasury pursuant to the Internal Revenue Code of 1954.

NOTICES OF HEARINGS

GOVERNMENTAL AFFAIRS COMMITTEE

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Wednesday, September 14, at 10 a.m., in SD-342 Dirksen on the subject of regulatory reform: Federalism and the Regulatory Flexibility Act. For further information, please call Len Weiss, staff director, at 224-4751.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Senate Committee on Energy and Natural Resources.

The hearing will take place Monday, September 19, 1988, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony concerning the effect of global atmospheric change on domestic forest resources.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-364, Senate Dirksen Office Building, Washington, DC 20510-6150.

For further information, please contact Leslie Black, professional staff member at (202) 224-9607.

Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, September 20, 1988, at 9 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony concerning titles XIV, XV, and XVI of S. 2667, the National Energy Policy Act of 1988, and the relationship of international deforestation and development policies to global atmospheric change.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-364, Senate Dirksen Office Building, Washington, DC 20510-6150.

For further information, please contact Leslie Black, professional staff member at (202) 224-9607.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Friday, September 9, 1988, at 10 a.m. to conduct hearings on community reinvestment, check cashing, lifeline and branch closing provisions of the Housing Banking Bill, H.R. 5094.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 9, 1988, at 10 a.m. to hold a hearing on the nomination of B. Kent Burton, of Virginia, to be Assistant Secretary for Oceans and Atmosphere and Deputy Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, September 9, 1988, at 10 a.m. to conduct a hearing to consider the nomination of Lauro F. Cavazos to be Secretary of Education.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. The Committee on Veterans' Affairs would like to request unanimous consent to hold an oversight hearing on issues relating to VA health care, on Friday, September 9, 1988, at 8 a.m. in SH-216.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

JACK COCHRAN

● Mr. PRYOR. Mr. President, one of the mainstays of Arkansas' rural electric cooperative system is embarking on a new career, the career called retirement.

Jack Cochran has served the North Arkansas Electric Cooperative as its general manager for 38 years. The "dean" of cooperative managers in Arkansas, Jack has left his mark on a system that has literally brought thousands of Arkansans out of the darkness and into the light.

No one has captured the contribution that Jack Cochran has made to our State better than Carl Whillock, president of the Arkansas Electric Cooperatives, Inc. I would like to share with my colleagues his tribute to Jack Cochran and to join Jack's many friends and colleagues throughout the State in wishing him a long and relaxing retirement.

The article follows:

[From Rural Arkansas, August 1988]

ARKANSAS' "DEAN OF COOPERATIVE MANAGERS"

(By Carl S. Whillock, President AECI–AECC)

One of the major news stories coming from the electric cooperatives this year will be the retirement of Jack Cochran as manager of North Arkansas Electric Cooperative. Simply saying he has made a significant contribution to the rural electric program would be a gross understatement.

Arkansas has had a number of managers who have made significant contributions to the rural electric program. There isn't space here to name them all. Jack Cochran, however, is the "Dean of Cooperative Managers" in our state. He has earned this distinction through 38 years as general manager of North Arkansas. This service is longer than anyone else in such a position in Arkansas.

As with any program that endures the test of time there comes a point when the early pioneers begin to turn the reins over to the second generation. In the electric cooperative movement that process is nearing an end. Jack Cochran wasn't a part of North Arkansas' incorporation, but he became a part of the system in 1942, two years after the first lines were energized.

For 46 years he has been an employee of the electric cooperative. His work on the local, state and national level has been tremendous.

He will be leaving his mark. Four individuals who have trained under him have been selected as cooperative managers. Every person in this group has superior talents. This demonstrates Jack's ability to recognize capable people and encourage their development.

Describing Jack Cochran can be summed up in one word—"innovator." He was one of the first, if not the first, in the nation to promote power use. He started slow, giving away light bulbs at numerous community meetings held in cooperative territory. Soon North Arkansas was selling small appliances and later larger ones. It developed a finance program so consumers could pay for their purchases over a period of time.

Another method of building the load was organizing dairy farms. Starting from scratch without a single Grade A dairy in its territory, North Arkansas soon had 16 dairies on its lines.

Without a paved road in the cooperative area, Jack began looking for industrial development to help the cooperative grow. This was another first. The long term plan was to develop water and sewer facilities, locate buildings or help finance the buildings of plant facilities and even promoting the development of hospitals to make the area more attractive. Looking across the area served by North Arkansas Electric Cooperative today, at the quality of life enjoyed by the members, at the opportunities being created, we can readily see that his leadership was successful.

Fortunately for all of us he didn't confine his work to just his home cooperative. While he was leading North Arkansas Cooperative he was also lending his assistance to the statewide association. He was president in 1956 and was a member of the incorporating board for Arkansas Electric Cooperative Corporation. When the extremely vital territorial integrity law was being proposed, drafted and passed, he played an active role.

Later he served on the board of directors of National Rural Electric Cooperative Association and helped develop the program to the point today that it is recognized as one of the most effective lobbyist groups in Washington.

Looking back it would be difficult to judge where we would be if it had not been for a person like Jack Cochran. All to often we take their leadership for granted. Quite true they are seldom alone in what they do. There are always others sharing the commitment and dedication. Whenever we look back, however, there is always one who seems to grasp the situation first and sets about doing the necessary job.

Perhaps the real legacy of Jack Cochran will be that when it came time for him to step aside, he had developed those who would follow along to take the program a notch higher. He will be missed in his retirement, but I think we should all be thankful he was a part of us.

Our best wishes to Jack. He has earned his place in the sun, and our hearts.●

THE TEXTILE AND APPAREL TRADE ACT

● Mr. KARNES. Mr. President, I rise in opposition to the Textile and Apparel Trade Act. As my colleagues know, this legislation would impose global quotas on imports of textiles, apparel, and nonrubber footwear. There are many aspects of this legislation that I find disturbing, and which I believe will move the trade policy of this country in the wrong direction. It is important to point out, however, that I believe it is appropriate for the United States to provide interim relief for domestic industries that are being unduly harmed by imports. There are provisions for such interim protection programs under GATT and domestic law. Unfortunately, the legislation before the Senate is inconsistent with existing practice for providing relief to distressed domestic industries. Let me now turn to the specific aspects of the legislation before us that I find troubling.

Whenever there is a question about providing a domestic industry protection against imports, it is important to make a determination about whether the industry in question is being damaged by import competition. While there was a downturn in textile and apparel production earlier in this decade, more recent statistics show that domestic production of these products has rebounded. Also, recent statistics on wool, cotton, and manmade fibers show that mill consumption of these materials is up and that the textile industry's capacity utilization rate is up. Finally, the textile industry is experiencing an upturn in profitability. In the view of this Senator, it may well be the case that we are considering this measure at just the wrong time. The fact is that the textile and apparel market may well be starting to stabilize.

As I stated at the outset, I believe that the legislation before us is inconsistent with accepted standards for providing relief to domestic industries that are being harmed by imports. What I find most distrubing about the remedy sought here is its permanent nature. In the course of the deliberations on the omnibus trade bill, we closely examined the existing law governing what are referred to as section 201 cases. The focus of that debate was, and always has been, on how to provide interim relief for distressed industries in order to make them competitive after the predetermined time for import relief expires. The term of art used to describe this process was "positive adjustment." The trade bill as signed by the President provided that no import relief provided under section 2012 was to last longer than 8 years.

Mr. President, the Textile and Apparel Trade Act contains no provision for positive adjustment. There are no provisions in the bill that establish a program for making the textile, apparel, and nonrubber shoe industries competitive, assuming the industries are in fact noncompetitive. In fact, no references are made as to what would be considered a competitive position. While the bill does establish a review of the quota program that would occur after 10 years, there is no guarantee that the import relief would ever be removed. This sort of permanent protection represents an abandonment of the traditional goal of our trade policy, which is to make our industries competitive in the world marketplace. This is ironic in the view of this Senator because I believe that these industries can be competitive without special relief under the current system.

As I have stated, I believe the textile and apparel industries are competitive under the existing system of international trade. It is important to explain what I mean by the term "existing system of international trade." We must recognize that the textile and apparel industries already receive considerable protection against imports through international agreements. The overall system is governed by the Multi-Fiber Arrangement [MFA]. Under MFA, the United States has bilateral agreements with over 30 countries. Thus, the domestic textile and apparel industries are assured that they are not vulnerable to market disrupting imports. Given this system of international agreements, the domestic industries should be able to compete. It is also important to point out that this international system will be undermined if this bill is enacted into law.

Mr. President, current practice under international agreements governing trade requires that compensation be provided if quotas of the sort contemplated by this bill are enacted. The bill establishes such compensation by authorizing the President to reduce existing duties on textiles, apparel, and nonrubber footwear to no less than 90 percent of the existing rates. According to Ambassador Yeutter, this compensation program is grossly inadequate. This means that the textile exporting countries are likely to retaliate against U.S. exports in response to the establishment of the quotas contemplated by this bill. It is almost inevitable that U.S. agricultural exports will be subject to retaliation. While the Daschle amendment has been incorporated into this bill in an attempt to lessen the risks of retaliation against U.S. agricultural exports, I believe the amendment is inadequate to fully protect our access to foreign markets in agriculture. I will discuss the Daschle amendment in more detail in a moment.

There is another provision related to the compensation program that is also disturbing. This bill prohibits the President from even entering into negotiations, let alone concluding an agreement, to lower import duties on the affected items that fall outside the duty reductions specifically allowed for under the bill. Legislation that prohibits the President from entering into negotiations with foreign countries must be considered constitutionally suspect. The Constitution lodges the responsibility for representing the United States abroad in the office of the President. The Congress must be very careful about attempting to prohibit the President from discussing any specific subject with foreign countries or instrumentalities. The prohibition established in this bill comes very close to the line, if it does not cross it, of intruding into Executive functions.

Mr. President, earlier I alluded to the Daschle amendment, which has been incorporated into this bill. This amendment will increase the quota allocation of those countries that increase purchases of U.S. agricultural products. Specifically, the administration will be required to allocate a higher portion of the global quota on textiles and textile products to each country that increased the quantity of its commercial purchases of U.S. agricultural products over the 2 preceding calendar years. The quantity of any special textile and textile product quota allocation for a qualifying year must be greater than the quantity of those particular products that a country exported to the United States during the preceding year. The administration may, however, allocate portions of the global quota on covered products of countries that do not increase their purchases of U.S. agricultural products, provided the total quota increases stay within the legal aggregate quantity.

This Senator supports the Daschle amendment because it does improve the bill. Compared with the unamended version of the bill, it will make it somewhat less likely that retaliation undertaken by the textile exporting countries will not be directed at U.S. agricultural exports. Also, the amendment changes the bill so that the quotas will take effect prospectively, as opposed to imposing a quota that rolls back imports to levels experienced in prior years. Overall, the Daschle amendment makes modest improvements in the bill.

Unfortunately, the effect of the Daschle amendment is too limited in order to persuade this Senator that it is prudent from the viewpoint of U.S. agriculture and U.S. trade policy to enact this bill. While the amendment will require the President to increase the quota allocations for countries that increase their purchases of U.S. agricultural products, it will do so only within the aggregate quota limitation of 1 percent annual growth. Thus, the system to be established by the Daschle amendment is a zero-sum game. An increase in the quota of a country that increased agricultural purchases would have to come at the expense of other countries. In the event a large percentage of the textile-producing countries increase their imports of U.S. agricultural products, there will be very little room for a large increase in any individual country's textile quota allocation.

The fact is that even with the Daschle amendment the scope of the compensation program in the bill is too small. Agriculture is likely to remain a target for retaliation, particularly with regard to the European countries. The requirement of the Daschle amendment to consider purchases of U.S. agricultural commodities in allocating the quota offers little likelihood of real relief to individual textile producing countries. It is this zero sum quality of the Daschle amendment, compounded by the fact that the compensation program is inadequate, that leads me to conclude that this bill still should not be adopted.

While the Daschle amendment reduces the risk of foreign retaliation against U.S. agricultural exports, the basic proposition set forth by this bill remains the same. The proposition is that the Government provide special protection to the textile and apparel industries on the assumption that the risk of foreign retaliation against U.S. exports, especially agricultural exports, will not be that great. Even with the Daschle amendment, I believe that this is too risky a proposition for American agriculture. Why should American agriculture risk losing export markets in order to give special protection to the textile and apparel industries? When the United States took action to reduce textile imports from China under the multi-fiber arrangement, China threatened to reduce U.S. agricultural imports. In fact, China reduced its purchases of United States wheat by 40 percent from 1982-83 to 1983-84. In this case, the dispute occurred in the context of bilateral negotiations. One can only imagine what the Chinese will do in response to the quotas that would be imposed by this measure. The bottom line is that bill makes it likely that productive and competitive farmers will be forced out of farming in order to protect textile workers whose own industry is asserting are not competitive. Assuming that the textile industry is not competitive, although this is an assumption I do not hold, this measure essentially proposes rewarding noncompetitive textile workers by punishing productive and competitive farmers. It certainly seems to this Senator that this bill, despite the Daschle amendment, puts U.S. agricultural exports at risk in order to benefit the textile and apparel industries.

Thus, Mr. President, for all the reasons stated above, reasons that include: The timing of the bill; the fact that the textile and apparel industries can compete; the fact that there is no positive adjustment program under the bill; the fact that the quotas are to be permanent; the fact that the bill would undermine the existing international agreement in this area; the fact that the bill would tie the President's hands in terms of future trade negotiations; and the fact that the bill is likely to induce foreign retaliation, I must vote against the Textile and Apparel Trade Act. I urge my colleagues, as well, to vote against this legislation.●

McDONNELL DOUGLAS CORP. SALE TO CHINA AIRLINES

● Mr. BOND. Mr. President, China Airlines and the McDonnell Douglas Corp. recently signed a contract under which CAL will purchase four MD-11 jet airliners. The four planes will be a significant part of a planned 10-plane purchase aimed at modernizing the airline's long-range fleet.

This is a significant sale which will bring long-term benefits for both the United States and the Republic of China. Not only will the sale have a positive impact on employment in both countries, it will have a positive impact on our bilateral relations.

The U.S. aerospace industry is critical to our national and economic security, and it plays a major role in our effort to expand exports and bring our trade deficit under control. McDonnell Douglas has long played a significant role in this industry. It is a pleasure to offer my congratulations to the company's workers on this most recent success. In addition, I congratulate China Airline officials on their decision to purchase American-made aircraft.●

MARION GRAY

● Mr. LEAHY. Mr. President, we all know that without interns from our home States, life in the Senate would be a great deal more hectic than it already is.

I have had an intern program operating in my office for more than a decade. It provides a unique opportunity for young Vermonters to learn about their Government through direct participation.

But why just young Vermonters? It occurred to me some time ago that some of our older Vermonters might very much enjoy this same experience.

Marion Gray, of Barre, the Granite Center of the World, recently spent a busy day in my office, in a program sponsored by the Close-Up Foundation.

Marion listened and participated in discussions with other Senators and staffers on subjects ranging from health care to the debate over the INF Treaty.

When we finished the day together, we were both tired but filled with a feeling of accomplishment.

On her return to Vermont, Marion wrote a report for the Senior Herald, a newspaper that does a marvelous job of informing senior citizens on important issues affecting their interests.

Mr. President, I ask that Marion's observations, which were printed in the August edition of this publication, be reprinted in the CONGRESSIONAL RECORD. I would especially recommend it for reading by those Senators who do not have a senior intern program at the present time. As you can see from

Marion's experience, it is certainly worth doing.

The article follows:

VERMONTER GOES TO WASHINGTON, GETS A LESSON IN GOVERNMENT

(By Marion Gray)

I was chosen by Senator Leahy to be his senior intern in Washington for 1988. I was one of 200 interns, the only Vermonter. We interns were from all parts of the U.S. and held a multitude of deeply felt convictions. Seemingly the only thing we had in common was our age.

Every congressman may, if he or she chooses, participate in the Senior Intern Program, in which the chosen seniors are taken to Washington to study the working of our government. The program has been cosponsored by Senator Cochran and Representative Coelho; this year they decided to get the Close-Up Foundation to run the program. Close-Up Foundation's purpose is to give high school students an intensive week studying the federal government. We were shepherded around Washington by a wonderful group of Close-Up's young adults who know and love Washington, its buildings, policies and politics. The young adults were geared to the pace of their unusual 18-year-old students, and some of the seniors were huffing and puffing. Vermonters will be glad to hear that I never faltered!

The Close-Up Foundation is aware the most important issue for seniors is health care; therefore, that was the issue we spent most of our time discussing. We heard from senators and representatives or their staffs who are committed to health care issues.

Our first speaker was Senator Dole, who emphasized how necessary it is for Congress to work together and make compromises; otherwise no laws could be passed.

I sat in the Senate Visitor's Gallery one day and watched the last struggle the Senate was having to ratify the INF treaty before it could go to the Soviet Union. The polite iciness had evaporated and the rebuilding of a working Senate was in progress. It was a great lesson in government for me to watch because some of our senior interns were pushing for things I thought unconstitutional and highly distasteful. I had been thinking, "I could never work with those particular individuals." Compromise does it (and numbers help!)

I had never been in such an all-American cross-section of people since I was 18 and a 4-H Club Delegate to Washington. What a variety of dreams and plans we have here in America.

In Senator Leahy's office I met his dedicated staff and was again impressed by the important work our senator is doing for all of the U.S.A.

Because women can't live by politics alone I saw the musical "Cats" and spent one day at the National Gallery until my feet said "enough."

Thank you, Senator Leahy, and everyone who made my trip possible. I loved it!●

NATIONAL BIBLE WEEK, NOVEMBER 20-27

● Mr. DANFORTH. Mr. President, in 1940, 11 New York businessmen founded the Laymen's National Bible Association out of concern for the spiritual well being of the United States on the brink of world war. Now in its 48th year, the association is once again sponsoring "National Bible Week" with the concerns for the values and spirit of America just as pertinent today.

The Laymen's National Bible Association is an interfaith, nonsectarian organization wholly directed by laymen and women with no official sponsorship from or ties with any faith group, denomination, or church. Its current national chairman is Wiliam S. Kanaga, chairman of the advisory board for Arthur Young & Co. and chairman-elect of the Chamber of Commerce of the United States. Marian Anderson, Joe Gibbs, the Reverend Dr. Billy Graham, the Reverend Dr. Theodore Hesburgh, and Dr. Michael Wyschogrod are among the honorary cochairpersons with Representative G.V. (SONNY) MONTGOMERY, of Mississippi and myself as congressional cochairmen.

Although National Bible Week, November 20-27, 1988, will be heralded by a public service media campaign as well as local observances in over 7,500 communities conducted by civic groups, schools, libraries, churches, and synagogues, we can also add our support from the Senate. I urge you to join me in reaching out to constituents with information and encouragement as "National Bible Week" approaches.

It is a fitting time in our Nation's history to recall for ourselves and our fellow citizens, the words of Isaiah: "Search the Book of the Lord and see all that He will do. * * *"●

JAMES A. MICHENER ARTS CENTER OF BUCKS COUNTY

● Mr. HEINZ. Mr. President, I rise today to join the citizens of Bucks County in celebrating the opening of the James A. Michener Arts Center of Bucks County. This facility will certainly be a vital addition to the Bucks County Cultural Complex, with the Arts Center, the Mercer Museum and the Bucks County Library Center all in this immediate area. This complex constitutes an enclave of learning and art for which the people of Bucks County should be justifiably proud.

On behalf of the residents of Doylestown and Bucks County, I would like to offer my appreciation and gratitude to James and Mari Michener for their commitment to that area. James Michener is, without question, one of the finest American novelists of his time. He has received world-wide acclaim for his work, which has educated and entertained tens of millions. Yet, he has not forgotten where his success all began. For some 30 years James and Mari Michener have been committed to making this day possible. Because of their strong sense of the importance of roots, there will now be a haven so that the arts can continue to grow and flourish in Bucks County.

Mr. President, it is indeed a pleasure to join in congratulations and best wishes for a successful opening and many years of productive use in this exciting new facility within the very special community of Bucks County, PA.●

COLORADO'S CLEAN AIR EFFORTS

● Mr. ARMSTRONG. Mr. President, 100 years ago doctors recommended patients with respiratory problems move to the dry air of Denver, CO. But, today a doctor might recommend patients move from Denver because of the aggravating effects of air pollution on heart and lung diseases.

Fortunately, Coloradans are tackling head on the complex and challenging task of cleaning Colorado's air. As one example, the Denver Post reports on innovative advances in electric car technology by Coloradans, and I ask that the article be printed in the CONGRESSIONAL RECORD.

The article follows:

ENGLEWOOD FIRM CHARGES AHEAD TO SPARK REALITY OF ELECTRIC CAR

(By John Eaton)

Convinced that environmental worries eventually will force us out of conventional cars, a small Englewood company is forging ahead with revolutionary new designs that may make the idea of an electric car more practical.

How about an electric car that would outperform current race cars? Or a van that could deliver goods all day at a fraction of the cost of conventional, internal-combustion vehicles?

Unique Mobility Inc., 3700 S. Jason St., believes it's possible.

The company, which pioneered the design of early electric vehicles, has developed a new electric-motor drive system that a few years ago would have been considered futuristic.

SMALL, LIGHT, EFFICIENT

It is small, light, efficient, cuts pollution, doesn't need lots of heavy batteries and contains enough new ideas that Unique has applied for patents in 40 countries. The motors could be fed by small, low-pollution gas engines turning electric generators.

Unique plans to embark on a 3½-year, $4 million research and development project to further develop electric drive systems and vehicles. The work is being made possible by a recent agreement with Alcan Aluminum Limited, which recently purchased 7.5 percent of Uniques' current outstanding common stock.

Unique plans to build the revolutionary car using methods similar to those used to create a special vehicle for ABC Television for use during the 1984 Olympic marathon races. That vehicle carried the cameras and had to be non-polluting because it was driven immediately ahead of the runners.

The company began making battery-powered electrical cars in the late '70s, reasoning they were the vehicles of the future. But the ensuing oil glut and plentiful gasoline—plus the fact that early battery-powered electric cars were impractical—forced Unique to refocus its research on new motor designs.

Ray Geddes, Unique's chairman, and John Gould, president, say the concept they use isn't new. In fact, they scaled down the same technology that has been used for years in the common diesel-powered railroad engine: The train's diesel engine powers a generator that, in turn, supplies electric power to the drive wheels.

But Unique has shaved literally tons off the weight and invented an electric drive system that eliminates virtually all the heavy components common to all conventional vehicles—heavy internal-combustion engines, transmissions, axles, drive shafts and brakes.

To describe the system fully would require a treatise, understood only by electrical engineers, but the key to Unique's plan is its new down-sized, but powerful motor. Currently, Unique is working on a 20-pound motor equal to a conventional motor weighing 255 pounds. A major manufacturer, Gould says, has estimated that the Unique system would subtract 800 pounds from that company's current 4-by-4 full-sized utility vehicle.

Unique's plan is to use the motors to provide a separate power source inside each wheel. Each motor would not only power the wheel, but also would serve as a brake. Power to each motor would be instantaneous and controlled by an "accelerator" that would operate similar to a volume control on a radio.

A small internal-combustion engine would operate the generator, which supplies electrical power to the wheel motors and a flywheel.

Both Geddes and Gould envision a car that could do 0-100 mph in 10 seconds. That kind of vehicle particularly appeals to Geddes, who has a long record of involvement with high-performance cars. He was with Ford for many years and was instrumental in developing the 427SC Ford, Cobra, the Shelby Mustang and the Ford Pantera.

But the concept could apply equally to lawnmowers, delivery vans, trains, specialized military vehicles, to say nothing of uses yet to be devised for aerospace.●

SPACE LEADERSHIP

● Mr. ARMSTRONG. Mr. President, the U.S. space program has largely been on hold the 2½ years since the *Challenger* accident, and other nations are eagerly filling the gap left by the United States. Europeans launch satellites once scheduled for the shuttle, and the Soviets are proceeding on more ambitious long-term space exploration goals.

Recent editorials and articles question the implications for the United States. The Denver Post asks, "Are we really ready to be designated No. 2 in expanding the frontiers of space?"

The Washington Times headlines, "The Space Race: We're Number Two!," and concludes, " * * * the Soviet space program should be seen as a continuation of their quest for world domination, only in another place. If we fail to counter these efforts, self-congratulatory phrases about our superior concerns for global problems will be of little consolation when we awake one day to discover we have been outflanked."

Mr. President, I ask that recent articles and editorials about other nation's space activities from the Denver Post, Washington Times, and Time magazine be printed in the RECORD.

The material follows:

[From the Washington Times]

THE SPACE RACE: WE'RE NUMBER TWO!

Since the Soviet Union launched Sputnik 31 years ago, the United States has responded with a hare-like bound to the moon, an abortive anti-ballistic missile program, an on-again off-again shuttle program, a meagerly funded Strategic Defense Initiative and a Hamlet's approach to a permanently manned space station. Last week's Senate approval of a piddling $200 million for the space station will do more to kill it than keep it alive.

Meanwhile, moved by a clear vision of the dawning strategic necessity of first dominating space as an overturn to dominating the earth, the Soviets are capturing the lead in virtually every category of space program:

BALLISTIC MISSILE DEFENSE

In the late '60s and early '70s the United States conceived, debated and discarded the idea of a ground-based nationwide defense against intercontinental ballistic missiles. In 1966, however, the Soviets began incremental deployment of just such a system, surrounding Moscow with ABMs. A few years ago, they began upgrading the system with two new classes of missiles moved into underground silos. The Soviet capital now enjoys a two-tiered strategic defense: One set of rockets, nuclear-armed, will attack incoming missiles in space and can double as an anti-satellite weapon; another set of rockets will destroy warheads after re-entry.

Despite the ABM Treaty, by which the United States traded off its own program of anti-missile defense, the Soviets are building six new phased array Krasnoyarsk-type radars which, when paired with existing Hen House radars, will give them the ability to battle-manage a nationwide strategic defense.

ANTI-SATELLITE SYSTEMS

In 1963, the United States deployed anti-satellite rockets capable of knocking out some Soviet reconnaissance and communications satellites. The program was suspended in 1976. Meanwhile, the Soviets began testing anti-satellite weapons in 1965 and now have deployed or are developing a variety of means for destroying U.S. satellites in orbits as high as 1,000 kilometers. These include a "co-orbiter" that moves into orbit beside the target satellite and explodes, and a "direct ascent" rocket such as the Galosh ABM that doubles in protecting Moscow. In the testing phase are two ground-based anti-satellite laser beams at Sary Shagan and a "directed energy" beam at Dushanbe just north of the Afghanistan border.

The United States has resumed development of anti-satellite weapons but has not yet deployed any. With their large reserves of launchers, the Soviets could do significant damage to U.S. space-based intelligence and communications assets at the outbreak of a conflict.

Space shuttles: Until the Challenger disaster, the space shuttle was a symbol of U.S. technological superiority. But as the next launch suffers from chronic postponement, the Soviets are developing two separate shuttle systems. In 1982, they began test flights of a small space plane that looks much like a mini-shuttle, and they also are developing a large-scale space plane, presumably to be used in connection with their space station program, to be deployed sometime in the next decade.

Expendable launch vehicles: The United States has four expendable launch systems. The Titan, which is the largest, can lift 15,000 tons to an altitude of 185 kilometers. The Soviet Union has nine different expendable launch vehicles, tailored to a wide variety of payloads. The largest and newest is the Energiya, a monster that perhaps can launch a whopping 100,000 tons to 185 kilometers.

In the future, heavy lifters such as the Energiya will be crucial to rocketing the massive components of a space station into orbit. NASA and the Defense Department are currently working on an advanced Titan that will launch 17,800 tons to 185 kilometers. It will be technologically superior to the Energiya, but less then one-fifth as effective in boosting cargo into space.

Space stations: Starting in 1971, the Soviets tried to orbit a series of seven Solyut space stations. Three men died returning from the first; one failed on launch, and two more fizzled before ever receiving cosmonauts. The other three featured the standard Soviet technical and operational glitches. But in 1986 they launched a new, expandable model, the Mir; and the Soviets are now approaching the capability of maintaining a permanent manned presence in space.

Manned planetary exploration: Less than two weeks ago, the Soviets launched an unmanned probe to the Martian moon Phobos. It is the first of a series of unmanned reconnaissance and scientific research programs that will prepare the Soviets for placing men on the red planet by the year 2010.

The United States is not expected to launch another unmanned mission to Mars until 1992. In that year the Soviets are planning to map the planet for prospective landing sites. With a space station and the heavy-lift Energiya, the Soviets are well on their way to being able to build a manned Marscraft, which because of bulk must be constructed in space. With or without U.S. cooperation, the Soviets are going to Mars.

This brings us back to the Senate's scuttling of the U.S. space station. Just as Clausewitz concluded that war is a continuation of politics by other means, the Soviet space program should be seen as a continuation of their quest for world domination, only in another place. If we fail to counter these efforts, self-congratulatory phrases about our superior concerns for global problems will be of little consolation when we awake one day to discover we have been outflanked.

[From The Washington Times]

EUROPEANS STEAL A MARCH ON SPACE-LAUNCH INDUSTRY

(By Warren Strobel)

KOUROU, FRENCH GUIANA.—Europe's ambitious attempt to dominate the world space-launch industry has emerged from nearly a decade of ups and downs, boosting satellites into orbit as predictably as tropical rains pelt this South American space center.

While the United States struggles to rebound from the shuttle disaster and build, almost from scratch, commercially available expendable rockets, the Ariane program has been quietly racking up an impressive—and lucrative—string of successes.

In June, it launched the first Ariane 4, a large and adaptable new rocket that will be the program's workhorse through the mid-1990s. Preparations are under way here for construction of a third launch-pad to accommodate an even larger booster.

"Due to the circumstances, we are now the leader, it is clear," Frederic d'Allest, president of Arianespace Inc., the French-dominated firm that produces, markets and launches the rockets, said in an interview.

His wary confidence was widely shared here last week during preparations for Ariane's latest successful launch, which carried Indian and European communications satellites into orbit.

As the countdown progressed methodically, launch team and VIPs watched from a control room, reminiscent of similar NASA facilities, in a four-story, white-orange building, one of a cluster that make up the Guiana Space Center.

A few miles up the French Guianese coast and just 16 minutes behind schedule, the Ariane 3 rocket struggled skyward over the Atlantic Ocean in a dramatic nighttime launch, accompanied by cheers and whistles from the space center.

It was the sixth Ariane booster to lift off from here since September and a launch that an American aerospace industry official said privately offers final proof that the design flaw, which caused a 1986 launch failure and an 18-month shutdown in the program, is fixed. Four more launches are on tap for 1988.

The company's order books, fattened by spacecraft once destined for U.S. shuttles, show 40 satellites worth $2.4 billion—a whopping two-thirds of the world market and enough to keep its rockets busy until sometime in 1991.

Arianespace insists its goal is not a chokehold on the industry, but a 50 percent market share and a steady 10 to 11 launches per year.

"They have a not-bad chance of doing that," said Jerry Grey, director of science and technology policy at the American Institute of Astronautics and Aeronautics, a Washington-based professional group.

But even as Ariane reaches the peak of its profitability, its long-term future is less clear.

The company, which snapped up 17 launch contracts between May 1986 and December 1987, has won just four in 1988—one from France, one from West Germany and two more from India.

"It was a question of the availability of the launch schedule and the price," said Pramod Kale, director of the Indian Space Research Organization's space applications center. India will pay more than $100 million for its first two Insat 2 satellites to ride on Ariane in the early 1990s.

Even as the demand for space launches flags, Ariane faces increasing competition for the remaining business from the United States and, more ominously, nations such as the Soviet Union and China that are offering their rockets at bargain-basement prices.

Both European and U.S. officials say they fear the latter more than they do each other.

Few here doubt that longtime U.S. rocket makers, freed from competing with the NASA-owned space shuttle, will challenge Ariane's primacy after beginning private launches of their own next year.

Even as he acknowledged Ariane's No. 1 status, Mr. d'Allest said: "It is clear the U.S. companies will catch up."

Already, U.S. aerospace giants such as McDonnell Douglas have begun winning contracts that two years ago would have gone to Ariane. They have booked 20 payloads, although some of the craft belong to the U.S. government and others are double-booked on Ariane.

The U.S. expendable-rocket industry "will come back in force," predicted Max A. Hauzeur, the European Space Agency's top representative in Kourou. ESA developed the Ariane program in the 1970s and then turned it over to the private sector.

But Arianespace appears to have several competitive edges, not the least of which is the launch site itself. Kourou, on South America's northeast coast, has more predictable weather than the Cape Canaveral, Fla., is far from population centers, and is just 6 degrees north of the equator where, because of Earth's rotation, it takes less fuel to get into space.

Another important advantage, Mr. d'Allest said, is that the Ariane family was designed specifically for commercial missions, while U.S. launchers were first built for military ones.

"We are building rockets . . . because we have identified the wishes and needs of our customers," he said. "It is not extraordinary. It is a normal approach for a business-oriented company. . . . But it was new in this business. And we were the first to do it."

The Ariane 4, which Arianespace will buy en masse to reduce costs, is an example of the company's pragmatic, relatively low-tech philosophy.

Based largely on previous models, it comes in six configurations, created by simply strapping on liquid- and solid-fueled boosters. The rocket, Ariane's sole launcher between 1989 and 1995, can lift small commercial payloads as well as the larger satellites of the future.

The Europeans also have unfailingly learned from American mistakes.

With an older launch pad scheduled for retirement next year and the new one still on the drawing board, Ariane's success will depend, as have many U.S. space programs, on a single pad.

To ensure that an on-the-pad explosion doesn't wipe out its ability to launch for several years, the European Space Agency has specially hardened the pad, stockpiled spare parts and created launch tables that can be replaced within a day.

"If there is a blow-up, we should be able to have it operational in six to eight months," Mr. Hauzeur said.

[From the Denver Post, July 26, 1988]

Are We Being Left Behind?

Soviet scientists have decided to go to Mars all by themselves, regardless of whether their United States counterparts decide to join them.

The USSR launched a robot mission to Phobos, a Martian moon, two weeks ago and a second one last week. Eleven nations are participating in that exploration, with the U.S. relegated to a ground-based role. America has been cool to suggestions of joint U.S.-USSR future missions to the ironically nicknamed Red Planet. The Soviets, nonetheless, are planning unmanned missions to Mars in 1994 and 2000 and then the climax—a manned mission to Earth's neighboring planet in 2010.

The Soviet effort is getting a great deal of attention in the U.S. because of the apparent dormancy of our space program. The Soviets were the first into space, orbiting a satellite in 1957. But the U.S. was the first to put humans on another celestial body—just 12 years later, in 1969. Almost 20 years have passed since the U.S. went to the moon; its space progress since then has been marked in less dramatic, but nonetheless important, technological feats. Now the Soviets are ahead of us, 3-1, in astronaut hours in space.

A recently released seven-volume report on NASA priorities extending into the next century lists several goals, but most of them involve robots, not humans:

Return soil samples to Earth from Mars, Venus and the moon (as part of planning a permanent lunar base).

Probe Jupiter's thick atmosphere and place landers on the moons of Jupiter and Saturn.

Increase the space-based observation of Earth with more sophisticated satellites sensitively attuned to ecology and geology.

Human exploration of Mars and return visits to the moon are also on the list, but the timetable isn't as solid as the Soviets'.

And none of this has quite the drama of putting men and women from this planet on another planet—a planet that might possibly have had living creatures on its surface in the distant past.

The lunar missions captured the imagination and fired the ambition of many Americans—but that was a generation ago. Now we are beginning to wonder whether we're being left behind.

Plans change, of course. Whether our next president is George Bush or Michael Dukakis, it will be a different administration in Washington, with perhaps a different philosophy about the place of interplanetary space exploration in our national priorities.

While the nation welcomes the easing of competitive pressure with the Soviets in one area—the race to have more and bigger planet-cracking nuclear weapons—are we really ready to be designated No. 2 in expanding the frontiers of space?

[From Time Magazine, July 18, 1988]

Onward to Mars—A Dramatic Launch Heralds a New Era of Missions to the Red Planet

(From the Kennedy Space Center and the Soviet Union's Bailonur Cosmodrome, powerful shuttles and unmanned rockets lift off week after week, bearing construction modules and fuel supplies to a giant space station in earth orbit. There, skilled workers have been assembling the ship that will take the first humans to Mars. After more than a year of construction, the million-pound, ungainly looking spacecraft is ready. With a crew of eight, it separates from the space station and heads for Mars, following the Hohmann ellipse, a space trajectory that may one day be as familiar as a great-circle route over the North Atlantic.

(Twenty days later, the blue-white earth has shrunk to a bright dot of light against the background of stars in the eternal night of outer space. Looking back, the crew members are filled with a sense of isolation, a feeling that will never quite leave them during the 280-day outbound leg of their journey. A busy schedule provides some distraction. The space travelers perform scientific experiments, practice taking shelter against solar-flare radiation, tend vegetables in their hydroponic greenhouses, exercise vigorously for several hours each day and tap into digital libraries for music, light reading matter and courses in Martian meteorology and geology.

(At first they are able to communicate easily with controllers on earth. But as they head farther into space, the time required for their radio signals to reach earth lengthens to minutes, and the ever widening gap between questions and answers makes conversation difficult. Now, with the earth more than 100 million miles away, Mars is looming in the spacecraft portholes, and the crew begins preparing for a yearlong adventure on another world.)

A manned trip to Mars, long the stuff of science fiction, now appears to be just a matter of time. The mystic planet, glowing red and ever brighter in the night skies, is heading toward its closest approach to the earth in 17 years this September, tantalizingly near and beckoning. After a hiatus of a dozen years, during which neither the U.S. nor the Soviet Union mounted missions to Mars, a spacecraft is once again on its way, opening a new era in the exploration of the earth's closest planetary neighbor. During the next decade or so, the Soviets will launch a series of increasingly sophisticated unmanned Mars probes that they hope will culminate in a joint U.S.-Soviet manned mission to the Red Planet by the year 2010.

Last week that trip moved a step closer to reality. From its launching pad at the Baikonur space complex, near Tyuratam in the Soviet republic of Kazakhstan, a Proton rocket carrying an unmanned spacecraft rose on an orange and blue column of fire that illuminated the night sky. Turning lazily eastward, the rocket sent the craft off on an ambitious mission: to scout Mars and probe Phobos, one of its two tiny moons. Far below at the sprawling complex, technicians swarmed over a sister ship that is scheduled to be launched this week on a similar mission. Exulted Roald Sagdeyev, director of the Soviet Space Research Institute: "Now we can go and drink champagne!"

Even as the celebration went on, the thoughts of space experts turned to future Mars odysseys. Scientists and engineers in both the U.S. and the Soviet Union are involved in the design of complex unmanned craft that will travel to the planet. Some American scientists are even conducting tests on a model of the robotic vehicle that may one day rove the Martian surface. Others are considering the ships that will carry human crews to Mars, the orbiting space station needed to launch them, the size and safety of the crews and the most practical routes through space. Though some formidable problems remain, many Soviet and U.S. experts see no insurmountable obstacles to landing humans on Mars early in the 21st century.

While the American space program has been crippled since the Challenger disaster in Janaury 1986, Soviet cosmonauts have been gaining invaluable experience aboard the orbiting Salyut and Mir space stations. And though U.S. astronauts are scheduled to return to space this September in the shuttle Discovery, which was wheeled to its Kennedy Space Center launching pad last week, NASA Administrator James Fletcher concedes that the Soviets are now "way ahead of us in manned flight." If each nation goes its own way, he predicts, the Soviets could land humans on Mars at least five year before the U.S. could.

Stifled by budget cuts and foundering without clear-cut goals, NASA has scheduled only one Mars probe, the Mars observer, which will go into orbit around the planet in 1993 to collect data on climate and geology. And while President Reagan agreed at the recent Moscow summit to a cautious joint communiqué describing "scientific missions to the moon and Mars" as "areas of possible bilateral and international cooperation," the Administration has been at best lukewarm to the concept of exploring Mars, jointly or otherwise.

Among other Americans, however, the idea of a manned Mars mission is gaining momentum, despite the estimated $100 billion price tag for the undertaking. The venture has been endorsed by a dozen major publications, ranging from the New York Times to the New Republic. In a recent full-page advertisement in the Washington Post, the 125,000-member Planetary Society urged support for a manned mission. The ad listed the names of a glittering array of such prominent Americans as Walter Cronkite, Jimmy Carter, Utah Senator Jake Garn, Nobel Laureate Physicist Hans Bethe and Notre Dame's former president, the Rev. Theodore Hesburgh. All of them have signed the Society's "Mars declaration," which advocates a U.S. space program that would lead to the human exploration of Mars.

In Congress, too, support is growing, despite strong opposition from those who fear that a manned Mars trip would soak up funds needed for social programs, unmanned scientific space probes and military projects, among other things. Democratic Senator Spark Matsunaga of Hawaii has even written a book, The Mars Project, that strongly advocates the space journey.

While the U.S. space program languishes, scientists from twelve European nations, the European Space Agency and the U.S. are participating in the phobos mission, contributing technical expertise, instrumentation and onboard experiments to the Mars-bound ships. The U.S. is lending a hand with its superior Deep Space Tracking Network, which will aid the Soviets in navigating and keeping tabs on their craft. Another U.S. contribution, aboard one of the Phobos probes: a plaque honoring Astronomer Asaph Hall of the U.S. Naval Observatory, who in 1877 discovered Phobos and the other little Martian moon, Deimos (both named after the sons of the Greek god of war, and meaning fear and terror).

U.S. space watchers are impressed by the boldness, originality and scope of the Phobos operation. The twin Soviet probes will arrive at Mars in January 1989, easing into orbit about 4,000 miles above the planet's surface, or 140 miles higher than the orbit of Phobos. For four months the two probes will circle Mars in various orbits, peering down at possible future landing sites and using remote-sensing devices to investigate the landscape and weather.

Their scrutiny of Mars completed, first one probe and then the other will be sent by controllers to rendezvous with potato-shaped Phobos, which, like Deimos, is believed to be an errant asteroid that was captured by Martian gravity. Each craft, in turn, will descend as low as 100 ft. above Phobos. Maneuvering like cruise missiles, they will follow the contours of the landscape as their television cameras pick out surface features.

All the while, the versatile craft will be anlyzing the composition of Phobos with two Buck Rogers-like devices. One, a laser beam only a millimeter in diameter, will vaporize first one spot and then another on the tiny moon, which is only 17 miles at its widest point, while an onboard instrument determines the chemical makeup of the vapor spewing up from each spot. Another beam consisting of krypton ions will bombard the moonlet, and an onboard mass spectrometer will identify the ions given off by the blasted surface materials.

Eventually each of the probes will release a lander that will rocket down onto the moonlet and shoot an attached "penetrator" into the surface as an anchor, essential because of the weak gravity (one-thousandth of the earth's gravitational pull). The solar-powered landers will then radio directly back to earth data on changes in the moon's gravitational field, thermal expansion and seismic noise. As if that were not enough, the frenetic probes will each drop a two-legged, domed "hopper" onto Phobos. After examining surface material and searching for magnetic fields at their landing sites, the hoppers will draw up spring-loaded, metal-alloy legs and, like giant frogs, leap about 20 yards to a new location, where the observations will be repeated. Each hopper is expected to make about ten leaps, reporting back each time by radio, until its battery runs out.

"These missions are novel and trail-blazing," says Cornell University Astronomer Carl Sagan, president of the Planetary Society and the man who first proposed a joint manned mission to Mars. "In terms of science, we'll all find out a lot about Phobos." Furthermore, he says, "in the long run, Phobos could act as a staging platform for human missions to Mars. It could also be a place where humans could live and work while they control robotic explorers on the surface of Mars."

Ever since they first peered into the night skies, humans have been awed and intrigued by Mars' baleful red glare. Ancient civilizations bestowed on the planet the name of their god of war. It was named Ares by the Greeks, Mars by the Romans. When the first telescopes revealed that the planets were neither specks of light nor gods but worlds, perhaps like earth, the notion grew that Mars might harbor life. Noting variations between the bright and dark areas of the planet, British Astronomer Sir William Herschel in 1784 attributed them to "clouds and vapors" and concluded that Mars had an atmosphere and that "its inhabitants probably enjoy a situation in many respects similar to our own."

German Mathematician Karl Gauss assumed that those inhabitants were intelligent. In 1820 he proposed growing a huge wheat field in Siberia in the form of a right triangle, surrounded by pine trees, that could be seen from afar. That would demonstrate to the Martians, Gauss figured, that earthlings not only existed but understood mathematics.

But was there any real evidence that Martians existed? After peering through his telescope in 1877, Italian Astronomer Giovanni Schiaparelli (an uncle of the celebrated Paris couturiere) reported that he had charted several dozen *canali* linking dark areas on the surface of Mars. These *canali*, the astronomer wrote, "present an indescribable simplicity and symmetry that cannot possibly be the work of chance."

No one was more excited by this revelation than a wealthy American mathematician, diplomat and astronomer, Percival Lowell of Boston, who established an observatory in Arizona and dedicated it to the study of Mars. By 1908, influenced in part by optical illusions and wishful thinking, Lowell had counted and named hundreds of canals, which he believed were part of a large network conveying water from the polar ice caps to the parched cities of an arid and dying planet. Lowell's observations and musings, in turn, inspired British novelist H.G. Wells to write The War of the Worlds, a dramatic account of an invasion of the earth by octopus-like Martians. In 1938 a radio adaptation of that novel by another man named Welles—Orson, that is—panicked many Americans who believed that a real Martian invasion was under way.

Even after the mighty 200-in. Mount Palomar telescope revealed no evidence at all of networks of straight lines or other manifestations of intelligent life on Mars, the fascination continued. Fredric Brown's novel Martians, Go Home, Ray Bradbury's The Martian Chronicles, Robert Heinlein's novel Stranger in a Strange Land, and the popular Buck Rogers comic strip all involved encounters with Martians of various sizes, shapes and consistencies.

Finally, in 1965, the triumphant mission of the U.S. spacecraft Mariner 4 brought some reality to musings about Mars. The craft flew past the planet at a distance of only 6,100 miles, transmitting 22 television pictures of a bleak, moonlike landscape, pockmarked by craters and showing no signs of life. Even so, hope persisted. To demonstrate that a Mariner flyby at a distance of thousands of miles might completely overlook a thriving civilization, a young and still unknown Carl Sagan that same year sifted through a thousand pictures of earth shot by a weather satellite orbiting only 300 miles up. In a paper entitled "Is There Life on Earth?" he reported that only one photograph, of a snow-covered superhighway cutting a straight line through a forest, showed any evidence of man's presence on this planet.

When Mariner 9 was successfully inserted into low orbit around Mars in 1971, a planetwide dust storm obscured its vision for six weeks. After the dust settled, Mariner's cameras revealed a fascinating landscape: towering volcanoes, great canyons, lava flows and a multitude of craters in the red-hued plains. What excited scientists and Mars buffs the most, however, was the unmistakable traces of dry riverbeds and deltas etched into the rock, evidence that water had once flowed freely on the Martian surface. Had life evolved on Mars while water was still ample? And might living organisms still exist there, perhaps in microscopic form?

It was in part to answser such questions that the U.S. Viking 1 and 2 spacecraft, each consisting of an orbiter and a lander, were dispatched to Mars. When they arrived, 45 days apart, in 1976, cameras abroad the orbiters snapped away and remote-sensing devices searched for water vapor in the thin atmosphere and sought out frozen water in the polar ice caps. On the surface, the landers began providing the most accurate measurements yet of Martian surface temperatures, atmospheric density and wind velocity, while the cameras shot more than 4,500 spectacular close-up pictures of the surrounding, rock-strewn landscape. Each lander was also equipped with an arm that scooped up soil samples and fed them to a little onboard biological laboratory, where they were analyzed for any signs of metabolic activity, which would signify life.

The first soil sample briefly breathed new life into the Mars mystique. After being moistened inside the lab, it suddenly released an unexpectedly high burst of oxygen, setting off a flurry of speculation among scientists on earth. Did the oxygen come from some tiny form of Martian life in the soil? After the further tests failed to confirm those first results, scientists reluctantly concluded that the large amount of oxygen had probably been produced by a simple chemical reaction between water vapor and some unidentified oxygen-rich compound in the soil sample.

Some scientists, Soviet and American alike, have still not abandoned hope of finding life or its remnants deeper in the Martian soil. There life forms might have access to water and be protected from the fierce solar ultraviolet radiation that rains down on the surface, virtually unobstructed by the Martian atmosphere. Sedimentary rocks in the ancient riverbeds would be an ideal place to hunt for fossils of organisms that may have lived when Mars was more benign, with a thicker atmosphere, warmer climate and running water on its surface.

For these reasons alone, Mars enthusiasts say, further exploration of the Red Planet, both unmanned and manned, is scientifically justified. "There is a growing sense of purpose being attached to a manned flight to Mars, both in the Soviet Union and the U.S.," says Vyacheslav Balebanov, a deputy director of the Space Research Institute of the Soviet Academy of Sciences. Like most of his counterparts in the U.S., he would prefer a measured, logical, step-by-step program to a more hazardous, hastily mounted manned mission. "We must start to explore Mars in detail before such a flight is possible," he says.

That is just what the Soviets plan to do. In 1992, when America's Mars Observer is scheduled to fly, they hope to send a third Phobos spacecraft into Mars orbit carrying advanced remote-sensing devices, including a radar mapper that will seek out the best landing sites for future missions. Two years later, the Soviets intend to launch a pair of highly sophisticated landers to Mars. Each will carry a small computer-controlled surface rover, a six-wheeled vehicle capable of traveling as far as 60 miles from the lander. It will be equipped with TV cameras, scoops and drills to sample materials and a minilab to analyze them. With information gained from this mission, the Soviets hope to launch as early as 1998 a larger Mars lander-rover that could return soil samples to earth.

While the U.S. lacks a strong commitment to sending humans to Mars, the Administration's space policy, announced by President Reagan in February, does envision eventual "human exploration of the solar system." Toward that end, NASA has launched Project Pathfinder, a program to develop 18 new space technologies. They include compact nuclear reactors for powering lunar or Martian bases, in-space construction and assembly of spacecraft, and orbiting fuel depots for moon and Mars ships. "You can talk about going to Mars," says Pathfinder Leader Robert Rosen, "but you can't do it without these technologies." Congress appropriated $40 million for the project's first year.

Pathfinder did not start from scratch. NASA and the aerospace industry have long planned a variety of Mars missions that could lead to a manned flight. At NASA's Jet Propulsion Laboratory in Pasadena, Calif., scientists are designing an unmanned rover with six wheels, each more than 3 ft. in diameter, to accommodate the rocky Martian terrain. In a still unapproved mission, the rover, imbued with artificial intelligence and television eyes, would seek out appropriate rock samples and stow them in a craft designed to return them to earth for analysis. At NASA's Marshall Space Flight Center in Huntsville, Ala., experts are designing living quarters for the space station that the U.S. hopes to begin assembling in earth orbit in the mid-1990s. Plans call for private sleeping cubicles, each equipped with a TV, sound systems and a computer. Mars enthusiasts point out that approval of a manned Mars mission as a goal would finally provide a compelling rationale for the projected $30 billion space station that NASA has had trouble selling to a reluctant Congress. "The station would be needed to serve as an assembly point," says NASA's Brian Pritchard, who has studied the feasibility of such a plan. "We don't have the power to lift from 1 million to 3 million lbs. [the weight of the Mars ship] into orbit from the earth."

Why so huge a craft? In addition to carrying a million or more pounds of fuel, the ship must accommodate and sustain human beings for as long as three years. Just to exist in space for one day, for example, each crew member will require several pounds of oxygen, 4 lbs. of water and 3 lbs. of food. Consequently, for a crew of eight on a 900-day mission, a Mars spacecraft would have to carry as much as 40 tons of provisions alone. Any added weight would require using—and carrying—even more fuel, both for pulling away from the earth and launching from Mars for the return trip.

There is an alternative to a fully stocked larder: recycling, the recovery of water and oxygen from waste products. NASA has developed prototypers for reclaiming pure water from urine and wash waters, and oxygen from the carbon dioxide exhaled by astronauts. For their part, the Soviets have been retrieving some of their water for years, condensing it from the exhaled, humid air in the spacecraft. But Arkadi Ushakov, of the Soviet Academy of Sciences, concedes that the recovery systems in use today cannot meet the demands of two- or three-year missions. He believes a Mars ship will have to contain its own biosphere of renewable plant and water resources.

Toward that goal, Soviet researchers are investigating natural recovery systems: plants that will not only serve as food but also, in the process of metabolizing, absorb carbon dioxide and produce oxygen. The best performers so far, Uskakov says, are traditional food plants like carrots, sugar beets, and salad greens. At the Kennedy Space Center, NASA scientists are trying to develop what they call a "self-contained bioregenerative support system." It will include a chamber for growing plants; a food-processing module for extracting the maximum edible content from all plant parts; and waste management modules for capturing and recycling the solids, liquids and gases necessary to support life on a space journey.

In most of the manned Mars scenarios envisioned by NASA planners, the spacecraft would be constructed and fueled at a space station orbiting the earth at 17,500 m.p.h. Compared with blasting off from earth, considerably less fuel is needed to launch the craft from this speeding platform and boost it toward Mars at a velocity perhaps as great as 50,000 m.p.h. At that velocity, says Space Consultant and Author James Oberg, the "earth's gravity pulls on you a little, but it's like brushing your way through cobwebs." Following the path of the Hohmann ellipse,[1] the craft would coast in a leisurely course halfway around the sun, then begin to accelerate as it come under the gravitational sway of Mars.

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[1] The Hohmann ellipse is an ideal trajectory requiring a minimum of energy for a journey between any two plants, named after the German engineer who calculated it in 1925.

To save fuel that would otherwise be used by firing retrorockets to ease the ship into orbit around Mars, the craft will be equipped with an aerobrake. This saucer-shaped structure, as large as 80 ft. in diameter, will slow the craft as it encounters the thin Martian atmosphere. A short burst from the rockets will then boost the craft just above the atmosphere and into orbit. From the orbiting craft, part of the crew will descend to the surface in a lander. After piling sand on the vehicle to shield it from the radiation that bombards the Martian surface, they will use the lander as a base for exploration.

How long the voyagers stay on Mars will depend in part on the homewardbound route. To await the proper alignment of Mars and the earth for an economical Hohmann-ellipse return, the crew would have to remain on Mars for more than a year—increasing the mission length to what now seems an unbearably long 1,100 days. But with the expenditure of more fuel, the explorers could blast off earlier, head toward Venus and loop around it, using the planet's gravity to whip their craft toward earth at a higher speed. That would cut the mission time to 600 to 700 days.

But the Venus route would also cause the craft to re-enter the earth's atmosphere at 80,000 m.p.h., in contrast to the returning Apollo's 25,000 m.p.h. "We're not sure we know how to build the appropriate heat shields," says Oberg. Also, at that speed, the astronauts would have a much smaller "window" for re-entering the atmosphere. "Come in too low, and you burn up," says Oberg. "Come in too high, and you overshoot. You miss the earth, and you'll never see it again." Other plans call for an unmanned cargo ship to precede the manned craft to Mars and for even higher velocities that would cut mission times down to a year.

Yet the problems of sending a spacecraft to Mars and bringing it back to earth pale when compared with the challenge of keeping its human cargo safe and in peak physical and mental condition. The medical consequences of long periods of weightlessness are still not fully understood. And radiation, says NASA's Michael Bungo, "is going to be a showstopper." Once beyond the earth's atmosphere and magnetic field, which protects terrestrial life from most lethal radiation, crew members would be vulnerable to cosmic rays. These highly energetic particles travel through space at close to the speed of light and can produce hazardous secondary radiation when they strike atoms in the aluminum walls of a spacecraft. During a single Mars mission, says Frank Sulzman, chief of NASA's space-medicine and biology branch, unprotected astronauts could receive an unacceptably high dose of radiation—more than is now allowed workers in a lifetime on jobs that expose them to radioactivity.

Even more dangerous are solar flares, which usually blossom on the sun around the peak of the eleven-year solar cycle. During these massive explosions, which astronomers can spot in the form of extra-bright splotches suddenly appearing on the sun, bursts of X rays and charged particles are hurled outward at high velocities. Because protons from a large flare can easily penetrate the walls of a spacecraft and fatally riddle the body of an astronaut in half an hour, planners envision an onboard shelter into which the crew could repair as soon as a solar-flare warning was sounded. One idea is to build the shelter with the heavy-walled oxygen and water tanks that must be brought along anyway. Soviet scientists are experimenting with generating strong electrically charged fields around the spacecraft. These would have an effect similar to that of the earth's magnetic field, deflecting the speeding particles around the ship.

Another possible hazard on a long space journey has its source on planet earth: human nature. Soviet flights have demonstrated that performance levels begin to decrease as the days stretch into months. Cosmonaut Yuri Romanenko, whose 326 days aboard the space station Mir set a space endurance record last year, was down to only two hours of productive work a day toward the end of his eleven-month flight and had become decidely peevish. "Leave me alone." he once snapped to mission control. "I have a lot of work to do."

Both American and Soviet behavioral scientists have begun to investigate small-group dynamics, which are likely to asume considerable significance during extended spaceflight. "There are always minor irritations involved in working with other people," says Psychologist Clay Foushee, of NASA's Ames Research Center. "Normally, these are not a problem because you can get up and move away. The trouble occurs when you can't leave a situation." That trouble can become catastrophic. Long Antarctic expeditions, which involve small groups isolated for months, have been marred by fights and occasional violence.

Other questions about group dynamics abound. Among the foremost: Should women be included on a Mars expedition? If so, what about sex? No one likes to talk publicly about that, admits NASA Flight Surgeon Patricia Santy. "There's no reason, even in a highly motivated professional crew, that the same kind of sexual tensions that develop here in offices aren't going to develop in space." Santy believes women should be included in the crew. If they are, she says, there should be at least two—both for mutual support and to avoid disruptive sexual entanglements aloft. Former Astronaut Micheal Collins has suggested an even simpler remedy: send up a crew of four married couples. "But eight is a bad number," he concedes, "because you want an off number; in arguments, you don't want to risk a 4-to-4 tie vote."

For all the enthusiastic talk about a manned mission to Mars, many influential voices have been raised against it. None is more formidable than that of University of Iowa Physicist James Van Allen, the discoverer in 1958 of the earth-girding radiation belts that today bear his name. With other scientists he has long been critical of the shuttle, the space station and other programs that draw funds away from space science. "Any serious talk of a manned Mars mission at this time is grossly inappropriate," he says arguing that the top priority of the U.S. should be to develop and build expendable rockets to launch satellites and space probes. "To talk about manned missions to Mars when we can't even launch a 500-lb. satellite is totally off the wall."

Van Allen believes a manned Mars mission would be "monstrously" expensive, further draining money from more economical unmanned scientific probes. The Mars mission does have a certain appeal, he concedes, because "it is a matter of high adventure. But if you want to put it on any practical basis, it's totally uncompetitive with unmanned spacecraft by a factor of ten."

The idea of a joint U.S.-Soviet Mars mission is galling to other Americans who, glasnost notwithstanding, simply do not trust the Soviets. Their view was summarized in a recent op-ed piece in the Los Angeles Times by Space Writer Alcestis Oberg, the wife of James Oberg. "A joint mission," she wrote, "completely and utterly ignores reality." Among the concerns raised by the proposed mission, she wrote, are the "potential for spying, for technology transfer, for interference in our political system, for the 'hostage holding' effect it would have on our space program and on our future." Her conclusion: "A complex, expensive, 25-year-long joint research program is like a marriage. It should be entered into soberly, advisedly for better or for worst—and only after a very long engagement during which trust is built and loyalty tested."

Even proponents believe the U.S. should approach a joint effort with the Soviets in gradual steps, perhaps starting with an unmanned mission to bring back soil samples from Mars in 1998. Many, like Sagan, are convinced that the advantages of a cooperative mission would override the possible risks. Besides sharply reducing the enormous costs of going to Mars alone, such a venture, says Sagan, "Would revitalize a dispirited and unraveling NASA" and provide a "coherent focus for the U.S. space program."

Even more important, in his view, a joint mission might help draw the U.S. and the Soviet Union closer together. He dismisses fears that such a mission would risk giving away U.S. technology to the Soviets, pointing out that the Soviets are a decade ahead of the U.S. in several areas of spaceflight. "Technology transfer," Sagan concludes, "is likely to flow both ways."

The rising sentiment in the U.S. to return to space and eventually send men to Mars has not escaped the attention of politicians, including presidential candidates. Says Democratic Contender Michael Dukakis: "We should explore with the Soviet Union and other nations the feasibility and practicality of joint space-engineering activities that might pave the way to a joint manned mission to Mars." In a Huntsville, Ala., speech, Vice President George Bush urged a "long-term commitment to manned and unmanned exploration of the solar system. There is much to be done—further exploration of the moon, a mission to Mars . . ."

If the U.S. is to mount or even play a meaningrul role in a manned Mars mission early in the 21st century, the next President will have to make a commitment to a coherent national space policy sooner rather than later. Enormous problems remain to be solved, and two decades is precious little time for developing a program that would land humans on another planet. The clock is running, and to NASA Ames Scientist Carol Stoker, the message from the Soviets is coming across loud and clear: "We're going to Mars, and the bus is leaving." And like her, more and more Americans are asking: Will the U.S. be aboard?

The Perils of Zero Gravity

As imposing as the problems of extended space flight seem, most experts are confident that humans can survive the journey to Mars. But in what shape will they be when they get there? Says NASA Physicist Wendell Mendell: "It doesn't do you much good to deliver a human to the Martian surface if that human is inert for a time after landing."

Despite the experience gained from Apollo moon shots and the longer Skylab missions, U.S. doctors have some doubts about the ability of humans to withstand the effects not only of prolonged weightlessness but also of the transitions from gravity on earth (one G) to zero G in space to 0.38 G on Mars. "We're nowhere near ready to send a human to Mars," says Dr. Michael Bungo, director of NASA's Space Biomedical Research Institute at the Johnson Space Center. "We've got years more of basic research to do."

Soviet space doctors seem more sanguine. While no American has stayed in space for more than three months, the Soviets have repeatedly staged manned flights of longer duration, capped by the 326-day stay of Cosmonaut Yuri Romanenko last year aboard the orbiting space station Mir. "The experience of that flight," says Dr. Arkadi Ushakov of the Soviet Academy of Sciences, "testifies that we should be optimistic about long-duration space flight. Our knowledge in the field of weightlessness is growing, and we are learning what counter-measures need to be taken to ensure health and safety."

Ushakov believes that two effects of prolonged weightlessness, calcium loss in bones and muscle atrophy, can be largely prevented by exercise. A strict regimen on a treadmill helped keep Romanenko's muscle tone and reduced the calcium loss to a degree that Ushakov calls insignificant. But other effects attributed to weightlessness are still cause for concern. "There is a general weakening of the immune system in a long-duration flight," Ushakov says. "When this happens, there is a danger that every microorganism present in the ship can cause infection."

The Soviets have also detected changes in metabolic rates, which they say accelerate arteriosclerosis. Then there is the problem of neuromuscular control. Cosmonauts returning to earth after long flights have had trouble performing simple tasks like throwing a ball. Arriving on Mars, space travelers might be unable to carry out assignments.

The solution, many scientists believe, is to impart artificial gravity—in the form of centrifugal force—to the spacecraft. This might be accomplished by spinning a very large craft around its own axis. Other schemes envision three ships hooked together in a cartwheel-like arrangement that makes three revolutions per minute, or two vehicles attached by a half-mile-long tether rotating through space as the entire system speeds toward Mars. Still another idea is to schedule a daily workout for each crew member inside an on-board centrifuge, where resisting the centrifugal force would simulate working in gravity.

Appolo 11 Astronaut Michael Collins forsees some technical difficulties in such simulation. "Spinning wouldn't take that much power," he says. "But it still complicates things immeasurably from an engineering point of view." He notes that imparting spin to a Mars-bound craft could make both navigation and communication more difficult.

Space Scientist Carol Stoker, at NASA's Ames Research Center in California, points out that there would be benefits of artifical gravity beyond the physiological ones. "Toilets would flush properly, things wouldn't float in the air, and just think of surgery in zero gravity," she muses. Malcolm Cohen, chief of the neuroscience branch at Ames, worries about the possible physiological effects of rotation. "Weightlessness is the devil we know," he says, "and we have some idea how to overcome its effects. But artifical gravity in space is a devil we don't know well." Still, he concludes, "it's certainly an option we can't reject."●

THE NEXT ERA OF HIGHWAYS

● Mr. ARMSTRONG. Mr. President, Federal Highway Administrator Robert Farris recently raised some timely observations and questions regarding the future of our highway programs:

> The era of the Interstate is ending. As the final gaps of this 42,000-mile system close around the Nation, a historic period in highway history is coming to a conclusion * * * it is time to look ahead to the next era of highway transportation * * * where do we go from here?

The future appears to have a high and a low road. The high road, as exemplified in the Interstate System, "discreetly balances the Federal interest on the one hand and proper State prerogatives on the other," the Highway Administrator points out.

We may, however, already be headed down the low road by degenerating our National System of Highways into a mish-mash of pork barrel projects for Members of Congress. The number of pork projects increased from 12 in 1982 to 150 in 1987, and in the 1992 highway bill, "we should not be surprised to see 535—one for each Member of Congress," warns Mr. Farris.

Mr. President, as Senators consider the future of highway programs, I think they will find Mr. Farris' clear thinking helpful. I ask that his article in Constructor magazine be printed in the CONGRESSIONAL RECORD.

The article follows:

HIGHWAYS: THE BEGINNING OF A NEW ERA

The era of the Interstate is ending. As the final gaps of this 42,000-mile system close around the nation, a historic period in highway history is coming to a conclusion. This magnificent Interstate Highway System, often called the single greatest public works project in the history of the world, is the result of more than 30 years of cooperative partnership between the federal government, the states, and private industry. It has also been a masterpiece of planning, foresight, and engineering ingenuity resulting from a national consensus about our country's transportation needs.

The vision of a nation unified by a vast highway system linking states and communities together came after years of debate about those needs and the resources that would be necessary to meet them. Now that this vision has been realized, it is time to look ahead to the next era of highway transportation. A new debate must be joined and we must encourage all Americans to contemplate some very important questions. Where do we go from here? What are the future transportation needs of the nation and how should they be prioritized? What resources are available to meet those needs? How should those resources be allocated? An important part of this debate will include an assessment of the proper federal role in any future highway program.

During the Interstate era, the federal role was one of strong leadership and aggressive management. In the coming era, I see that federal role evolving, with the private sector and local governments becoming more active players in many aspects of the highway program. I am particularly encouraged to see the private sector, through such forums as "Transportation 2020," taking a lead role in the debate about the future of this program.

There are three basic needs the highway program of the future must address:

We must maintain our existing system in the face of its inevitable aging.

We must do all that we can to improve the capacity of that system in the face of growing congestion.

We must provide for the extension of current "state-of-the-art" highways to those communities which are not now adequately served.

The debate about the new national agenda needs to include how these objectives will be met, the extent of the work to be done, and how it will be financed, given our limited resources.

One of my greatest concerns is how we resolve the important question of resource allocation. We must recognize that the answers to our very difficult future transportation problems do not lie in grandiose calls for more and more federal dollars.

Yes, we can easily document the need for more money in a host of areas ranging from pavement rehabilitation to bridge replacement to new highway facilities. Under certain optimistic scenarios we might even see some significant projects. I believe our traditional approach to apportioning federal dollars to the states in broad categories and reserving to them the responsibility of selecting projects has worked exceedingly well over the years. It is a method which discreetly balances the federal interest on the one hand and proper state prerogatives on the other. I believe we should change this approach only after the most careful consideration, and only after we can assure ourselves that whatever we might replace it with is an improvement for all of the interests involved.

It is unfortunate that such a careful consideration has not accompanied the trend of recent years, in which Congress has begun to incrementally assert itself in the project selection business. Prior to this decade—and contrary to popular belief—federal highway legislation was largely devoid of specific project designations. The 1982 Act included approximately a dozen so-called "demonstration projects." The 1987 Act contained over 150 such projects. Unless constrained by the kind of consensus on resource allocation of which I am speaking, we should not be surprised to see 535 projects (one for each member of Congress) listed in the 1992 Act. I am convinced that this trend needs to be high on our agenda as the debate over the future direction of this program goes forward.

I believe it is also important for us to recognize that the Highway Trust Fund has been a most effective and reliable funding mechanism. This user-fee system has generated billions of dollars for the construction and rehabilitation of our nation's most important highways and bridges. The gasoline tax has proven to be a fair and equitable method of raising the resources necessary to meet our national goals in this highway program.

The Highway Trust Fund is scheduled to expire after 1993, and its renewal will be largely dependent upon the articulation of a clear and compelling purpose for its continued existence. We must also meet head-on the combined threats to which the Trust Fund has been subjected in recent years: the evasion of taxes and the diversion of funds to non-transportation purposes. Clearly, our work is cut out for us.

Looking ahead, my guess is that one thing will remain unchanged: We will continue to drive rubber-tired vehicles well into the 21st century, though the method of propulsion may be different. Superconductivity may be the breakthrough under which we will propel vehicles more efficiently in the future. However, I do not see us taking off in any "Buck Rogers"-type flying machines which will serve to make our roads and bridges obsolete. They, it seems, will be with us for a long, long time to come.

I also see a dispersal of the population across the country, as pressing demands on water and waste disposal push the population away from the cities. This will certainly mean there will be a need for roads and new corridors of access.

In conclusion, let me offer this challenge to the construction industry: Maintain high standards, perform quality work ever more efficiently, and, most importantly, do enter this debate over America's future. If America is going to be competitive in this new era, we need to do even better in the century ahead. We need your ideas and your expertise. Let us work together and find a transportation program for America that will preserve for future generations the freedom, mobility, and standard of living our children and their children deserve. ●

"UNREPEATABLE HISTORIC CHANCE" FOR POLAND

● Mr. DECONCINI. Mr. President, last month, for the second time this year, Poland was gripped by widespread strikes and worker unrest. Like the strikes in April and May, workers' demands in August revolved around two central issues: the legalization of Solidarity and the political gains which that implies; and wage increases to offset price hikes and a staggering 50-60 percent inflation rate.

The Polish Government managed to get through the April-May strikes intact, without having to resort to violence or make any major political concessions. But it did not resolve the issues which drove the workers to strike in the first place: the call for trade union pluralism and economic self-determination. Those issues came back to haunt the Government this past month.

If Polish officials are smart, they will have learned two important things from this year's strikes. First, the regime must come to grips with the fact that these problems cannot be swept under the rug. As one striking worker said, "In May, it took us 6 hours to shut [the factory] gates. This time it took us 1 hour and 15 minutes. The next time it will take a half-hour." Each time the authorities skirt the real issues, they run the risk of an escalation of violence—and the stakes involved—come the next, inevitable eruption of Polish workers' anger.

Second, the Government made the mistake in April and May of making promises it was not prepared to keep. Workers were promised two things: wage increases and freedom from prosecution for their strike activities. The latest strikes were triggered when the authorities went back on their word, failed to deliver the promised raises, and dismissed workers who had taken part in the strikes. The lesson for the Polish regime is this: Each time it fails to keep its promises, it diminishes its own credibility. This in turn only serves to radicalize the workers, who will demand more and more from the Government as evidence that it is, in fact, bargaining in good faith.

Talks between Lech Walesa and Minister of Interior Czeslaw Kiszczak this week were a positive step forward, one for which Poland has waited for 7 long years. I welcome and encourage the progress of such talks. As General Jaruzelski said recently, Poland now has an "unrepeatable historic chance" to extract itself from a cycle of crisis. History will condemn those who fritter away such an opportunity.●

TIES BETWEEN SOUTH AFRICA AND ISRAEL

● Mr. SIMON. Mr. President, recently, Newsweek magazine had an article about South Africa's defense capabilities and in the article it had this sentence: "South Africa and Israel had a close relationship a decade ago; there is evidence that they maintain covert ties today."

After that appeared in Newsweek, I sent a letter to the Honorable Moshe Arad, the Ambassador of Israel to the United States, in which I said:

U.S. SENATE,
Washington, DC, May 5, 1988.

His Excellency MOSHE ARAD,
Ambassador of Israel,
Embassy of Israel,
Washington, DC.

DEAR MR. AMBASSADOR: I'm enclosing a page from Newsweek magazine where I have circled one small item.

I'm a strong supporter of Israel, and I shall continue to be.

But I believe that any ties between Israel and South Africa are ultimately not in Israel's best interest nor in the best interest of stability in that region of the world.

I'm not making any public statement on this and I shall not, but I hope you will convey my concern to Jerusalem.

Cordially,

PAUL SIMON,
U.S. Senator.

TOP GUN: PRETORIA'S INTIMIDATING ARTILLERY

"At 20 miles, you can hit a fly on the wall with one of these—and take out the whole house," says the South African army lieutenant. In recent months Pretoria began using an intimidating new gun in Angola: the G-6, a wheeled, self-propelled artillery system. The mobile 46-ton gun can accurately fire at ranges up to 25 miles—six miles farther than NATO's 155-mm guns. The G-6 and its towable predecessor, the G-5, could not themselves tip the balance in Angola. But for "shoot and scoot," high-mobility warfare, says one Western expert, the G-6 "is very deliberately designed to outgun anything else around."

U.S. defense officials worry about South Africa's possible plans to market the G-6. Pretoria has reportedly sold the G-5 to Iraq and Iran. When South African forces began pulling out of Angola, intelligence sources say, they left a battery of G-5s with their partner, UNITA.

South Africa has not developed the G-6 by itself. "It's pretty clear they've had some outside assistance and the finger points to Tel Aviv," says one Washington arms expert. South Africa and Israel had a close relationship a decade ago; there is evidence that they maintain covert ties today. But the key G-6 technology was invented by a Canadian working for the U.S. government. The mystery now is: who authorized passing that data to Pretoria?

Mr. SIMON. Mr. President, I think it is important that my colleagues see the answer. At this point, I ask that Ambassador Arad's response be printed in the RECORD.

The letter follows:

EMBASSY OF ISRAEL,
Washington, DC, May 20, 1988.

Hon. PAUL SIMON
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: Thank you for your letter of May 5, enclosing a clipping from Newsweek of May 2, alleging possible ties between Israel and South Africa.

As you probably know, Israel has since its inception been forthright in its unqualified condemnation of the policy of apartheid in South Africa, and last year gave practical expression to its position by joining the relatively small group of countries which have imposed sanctions on South Africa. In a resolution adopted by the Cabinet on 18.3.1987, the Government decided to refrain from new undertakings between Israel and South Africa in the realm of defence.

If you should so wish, I would be happy to discuss this and other topics with you at your convenience.

Sincerely,

MOSHE ARAD,
Ambassador.

Mr. SIMON. Mr. President, what is significant is that Israel is one of the few nations that is imposing sanctions on South Africa, and is providing leadership and is seeking to push South Africa away from the sins of apartheid, which really do make for a grim future for South Africa.

Let me add, in South Africa today there are approximately 105,000 Jews out of a total population of 33 million.

The Jewish community, as well as any community in South Africa, has taken a strong stand against apartheid.

Since there is some misinformation going around about Israel's ties to South Africa, I thought it was important to set the record straight. I commend Israel for leadership in this matter, and I hope the United States will provide more leadership.●

CHANGE UP FOR CHANNEL ONE

● Mr. BOSCHWITZ. Mr. President, Channel One, Inc., has been a leader in food assistance efforts in southeastern Minnesota. The Channel One Food Bank serves 12 counties in southeastern Minnesota and parts of Iowa and Wisconsin. Channel One also provides several programs for the residents of Olmsted County, including a senior citizen co-op, an emergency food shelf, a supplemental food shelf, and a green garden program. Furthermore, Channel One is one of two Commodity Supplemental Food Programs [CSFP] sites that just began operating in Minnesota this year. CSFP is similar to the WIC Program and provides low-income women and children with a package of foods such as infant formula, cereal, juice, and canned fruits and vegetables.

Barlow Foods in Rochester, MN, has recently initiated a unique program to raise funds for Channel One. I am impressed with the Barlow Foods management which approached Channel One with this plan to benefit the hungry in southeastern Minnesota. Under this program, called "Change Up for Channel One," customers may donate their change to Channel One when they purchase groceries at Barlow's. The customer receives the grocery tape which indicates their donation to Channel One. Barlow's will keep track of the amount donated and maintain a special account for Channel One. In turn, Channel One will use these funds to purchase products from Barlow's at a discount. Barlow's will also seek local corporations to match the donations 1 week per month.

The first week of the program was an impressive success. Beginning on July 25, in the first week alone shoppers donated over $1,300. Channel One is delighted with the new program, which will provide them with fresh produce, meat, and dairy products for their food shelf clients. I commend Barlow's for initiating this very important program to benefit Channel One and to assist in the continuing fight against hunger in southeastern Minnesota.

I ask that an article from the Rochester Post-Bulletin, which further describes "Change Up for Channel One," be printed in the RECORD.

The article follows:

[From the Rochester Post-Bulletin, July 25, 1988]

NEW PROGRAM BENEFITS CHANNEL ONE

(By Aleta Capelle)

A new program that could raise tens of thousands of dollars for the benefit of Channel One was announced today by Stephen Barlow during a press conference at Barlow Foods, sponsor of the program.

Called "Change Up for Channel One," the year-round program is designed to provide perishable products needed by Olmsted County's hungry, said Barlow, vice-president of Barlow Foods.

Barlow customers will have the opportunity to "change up," to the nearest dime, dollar or any amount they wish when shopping at Barlow Foods, he said.

For example, a shopper with a grocery bill of $21.67 could ask the cashier to increase the bill to $21.70, $21.75 or $22, thereby donating 3 cents, 8 cents or 33 cents to Channel One.

Customers will receive a receipt tape that identifies the donation for their records and the money will be credited to Channel One's open account.

Channel One then has full use of the account to purchase products carried by or accessible to Barlow Foods, discounted to eliminate profit to the store, Barlow said.

Barlow Foods will administrate the account and Channel One can use its buying network to provide the desired product.

In addition, corporate sponsors are being asked to support the program.

Once a month, a corporate sponsor will match the total weekly donations collected on behalf of Channel One. Four sponsors have already been found, Barlow said. They are First Bank Rochester, which will match donations this week, Marigold Dairy, the Kahler Corporation and a sponsor who wished to remain anonymous.

Barlow said it is difficult to predict how many people will participate in the program or how much money will be raised until the program is in operation.

"I think we're talking a substantial amount of money," he said. If cooperation is strong, the amount over a year's time could be "well into the tens of thousands of dollars," he said.

Barlow said customers have made generous donations in the past three years, during the Channel One and Barlow Foods Thanksgiving Food Drives, but that is not enough.

"The food drives themselves are not going to solve the problem of the hungry in Olmsted County," he said. "Please, use your change to make a change," he said.

Marge Allen, executive director of Channel One, said dwindling government commodity surpluses have created a greater need at the food shelf for perishable products such as milk and cheese.●

CHILDREN'S INN AT NATIONAL INSTITUTES OF HEALTH

● Mr. HATCH. Mr. President, I would like to recognize an important event which took place recently and which will have great significance for many American families. On July 29, ground was broken for the Children's Inn, a facility that will provide housing for families with seriously ill children at the Magnuson Clinical Center of the National Institutes of Health in Bethesda, MD.

Each year, 8,000 young children and teenagers are treated at the Magnuson Center. Often, their families must stay for weeks at a time and return for outpatient visits. They deserve decent accommodations while their sons and daughters undergo treatment for rare and difficult-to-treat diseases. Other children, suffering from cancer or genetic problems, often must spend months at NIH with the skilled researchers. The majority of the patients at the Magnuson Center do not reside in the Washington, DC, area and their families are already forced to bear the burden of high travel costs.

I also want to recognize the involvement of the private sector in this important project. The Merck Co., for example, has generously donated $2.3 million to construct the inn, and I salute their efforts. Thanks to Merck and other private donors, there will soon be a place for as many as 36 families to stay on the NIH campus without significant expenses to the Federal Government aside from the donation of land.

This project is not one ruled by partisan politics. I, along with my wife, Elaine, and nearly three dozen Members of Congress and their spouses, serve on the honorary advisory board of the Children's Inn. I am pleased to be a part of this worthy program and, once again, wish to express my heartfelt appreciation to both the private donors and Merck on this noteworthy occasion.●

YAKIMA ENHANCEMENT PROJECT

● Mr. EVANS. Mr. President, I have come to the conclusion that it is not possible at this time to reach a consensus on legislation to authorize the Yakima Enhancement project. So with great reluctance I have decided to forgo any further attempts to pass legislation this Congress to settle water claims in the Yakima River basin. I am convinced that every effort has been made given the climate that currently exists to resolve the competing claims to water in the Yakima basin. Unfortunately the parties were not ready or willing to settle their differences.

It now appears that the competing claims to water in the Yakima River basin will be left for the courts to resolve. The first premise of Western water law is that "first in time is first in right." Given the nature of water rights in our State, I doubt that the Yakima County Superior Court can effect an equitable distribution of water. Instead, the courthouse steps probably will resemble a bread line from an earlier era. The court will be forced to parcel out water rights. The first in line will have all they need; the last in line will have nothing if supplies run out.

In the adjudication, there will be winners and there will be losers. I don't think that anyone can be certain at present who will be in each category. In any event, it is important to remember that the Acquavella court is capable of resolving competing claims. With all due respect to the superior court judge handling the case, however, the court cannot provide a single drop of additional water. Judge Stauffacher will have no choice but to allocate the water supplies that currently exist among those whose collective needs are far in excess of currently available water supplies by providing for those who are first in line and denying the claims of those with more junior rights.

I am dismayed by the shortsightedness of those who see the current allocation of Yakima River water as a future they can rely on. They ignore the fact the maybe, just maybe, the Yakima tribe will be successful in the assertion of its claims. Unfortunately, the attitude of some non-Indians may result in the complete loss of water to their neighbors whose water rights are less secure.

Just as the Yakima project is operated in an integrated fashion, the economy of the Yakima Basin is an interrelated whole. All the Yakima water users are dependent on each other for a healthy, viable economy. If this controversy is left to the court to resolve, the economy of the entire region will suffer.

There are many whose efforts brought us very close to agreement. Congressman Sid Morrison has valiantly tried to bring the affected parties together. The study team of experts from the Washignton Department of Ecology and the Bureau of Reclamation deserve medals for their untiring efforts. Those who served voluntarily on our Policy Study Team performed in the best tradition of citizen involvement. I also think the people of the Yakima Indian Nation deserve special mention. Throughout this effort they have been willing to consider and accept compromise, and to consider the affect their position may have on other water users.

I am convinced that it is only a matter of time before the Yakima Indians are provided more water to meet their needs. Our Nation's highest courts have already ruled that the Yakima Indian Nation has a treaty right to water for the protection of salmon and steelhead runs. It is entirely plausible that the courts will also find that the Yakima Indian Nation has a treaty right to more irrigation water for use on the Yakima Indian Reservation. In my opinion the desires of the Yakima Indian Nation as expressed in this bill are modest in light of the claims the United States Justice Department will soon assert on their behalf.

In spite of the near certainty of Yakima tribal claims, the tribe has shown a willingness to compromise to avoid disrupting delivery of water to non-Indian irrigators. Unfortunately, the same cannot be said for some irrigation districts who are motivated only to preserve their theoretical right to divert their 'entitlements', which incidentally are nothing more than the amount of water they agreed to divide among themselves back in 1945. Recently, the Federal courts decided that since the Yakima Indian Nation was not a party to the 1945 agreement, it had no effect upon the tribe's water rights. I am deeply disappointed by the lack of concern of some senior districts of the impact of this ruling and the effect this ruling may have upon their neighbors with junior water rights.

I caution those with senior water rights not to rely too heavily on the status quo. The second premise of Western water law is that water must be put to beneficial use in order to preserve the right to divert it. I am convinced that there will come a time when those who are not using water with the utmost efficiency will lose their right to divert it. When they do, they will be forced to become more efficient, regardless of whether they receive any Federal financial assistance at all to do so.

In the very near future I will be introducing legislation which I believe represents a fair and reasonable compromise of the competing claims. The bill I intend to introduce is essentially a composite of the proposals made this week to the irrigation districts as our best effort to provide water supplies which satisfsty present and future needs. Many will be startled to see how far we have come, and how close we were to achieving a consensus. I am hopeful that someday the people of the Yakima Basin will decide to support this legislation, and that their representatives in Congress will be able to enact it into law."●

ORDERS FOR MONDAY, SEPTEMBER 12, 1988

RECESS UNTIL 3 P.M.

Mr BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 3 o'clock p.m. on Monday, next.

The PRESIDING OFFICER (Mr. Daschle). Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders have been recognized under the standing order, there be a period for morning business not to extend beyond the hour of 3:30 p.m. and that Senators may speak during that period for morning business for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on Monday next there will be no rollcall votes prior to the hour of 6 o'clock p.m. in observance of the Jewish religious holiday. I anticipate that the conference report on the Labor-HHS appropriations bill would be before the Senate on Monday. It may very well be that no rollcall vote would be required on the adoption of that conference report. But if a rollcall vote is required on the adoption of the conference report or on any other matter, such rollcall vote will not occur prior to the hour of 6 o'clock p.m. So there may be rollcall votes on Monday.

RECESS UNTIL MONDAY, SEPTEMBER 12, 1988. AT 3 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 3 o'clock on Monday, September 12.

Thereupon, at 3:26 p.m., the Senate recessed until Monday, September 12, 1988, at 3 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 9, 1988:

DEPARTMENT OF ENERGY

JOSEPH F. SALGADO, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF ENERGY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, September 9, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Protect us, we pray O God, all the day long, until the evening is gone and the shadows flee. May Your Spirit of peace rest upon our lives so that we will gain the confidence of Your presence and Your abiding love. Though we may fall away from Your path, O God, may You never depart from us, but continue to be our present guide and strength all our days. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. OBEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 277, nays 97, not voting 57, as follows:

[Roll No. 302]

YEAS—277

Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coats
Coelho
Coleman (TX)
Combest
Conte
Cooper
Costello
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Donnelly
Dorgan (ND)
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Lott
Lowry (WA)
Luken, Thomas
Manton
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Porter
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Rinaldo
Ritter
Robinson
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Volkmer
Walgren
Walker
Watkins
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Martin (NY)
McCandless
McDade
McGrath
Meyers
Miller (OH)
Molinari
Moorhead
Murphy
Oxley
Pashayan
Penny
Pursell
Ridge
Roberts
Rogers
Roukema
Saxton
Schuette
Sensenbrenner
Shays
Sikorski
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Visclosky
Vucanovich
Weber
Whittaker
Young (FL)

NAYS—97

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Clay
Clinger
Coble
Coleman (MO)
Coughlin
Craig
Crane
Dannemeyer
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gregg
Hefley
Henry
Herger
Holloway
Hunter
Hyde
Inhofe
Jacobs
Kolbe
Kyl
Latta
Leach (IA)

NOT VOTING—57

Ackerman
Alexander
Badham
Boulter
Cheney
Collins
Conyers
Courter
Daub
Dingell
Dixon
Dowdy
Downey
Fascell
Fish
Flake
Florio
Garcia
Gephardt
Gray (PA)
Green
Houghton
Jones (NC)
Jones (TN)
Kemp
Konnyu
Leland
Lipinski
Lujan
MacKay
Markey
Marlenee
Martin (IL)
Martinez
Mica
Michel
Miller (WA)
Morella
Nichols
Packard
Parris
Pickle
Regula
Rodino
Roe
Roth
Schroeder
Smith (IA)
Spence
Stark
Towns
Waxman
Weldon
Wheat
Wolf
Wortley
Young (AK)

☐ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, yesterday on rollcall No. 295, the conference report on Interior appropriations for fiscal year 1989, I was unavoidably detained from the House floor.

Had I been here, I would have cast a "yes" vote. The conference report represents responsible public lands planning for the Nation and, in particular, for the Delaware Water Gap National Recreation Area in my district.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 1270. An act to award a congressional medal to Mrs. Jesse Owens, and for other purposes;

H.R. 2701. An act to amend the Natural Gas Policy Act of 1978 to remove certain

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

contract duration and right of first refusal requirements;

H.R. 5143. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds; and

H.J. Res. 453. Joint resolution designating September 16, 1988, as "National POW/MIA Recognition Day."

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. KYL. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Mr. Kyl moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. FOLEY. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. Foley] to lay on the table the motion offered by the gentleman from Arizona [Mr. Kyl].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 232, noes 158, not voting 41, as follows:

[Roll No. 303]

AYES—232

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—158

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—41

Alexander
Badham
Boulter
Cheney
Collins
Courter
Daub
Dixon
Dowdy
Fascell
Fish
Garcia
Green
Houghton
Jones (NC)
Jones (TN)
Kemp
Leland
Lipinski
Lowry (WA)
Lujan
MacKay
Martin (IL)
Mica
Michel
Miller (WA)
Murphy
Nichols
Packard
Pickle
Regula
Roth
Schroeder
Smith (IA)
Spence
Stark
Towns
Waxman
Weldon
Wheat
Wolf

□ 1043

The Clerk announced the following pairs:

On this vote:

Mr. Leland for, with Mrs. Martin of Illinois against.

Mr. Jones of North Carolina for, with Mr. Roth against.

Mr. Towns for, with Mr. Boulter against.

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DAUB. Mr. Speaker, I was unavoidably absent. Had I been present, I would have voted "no".

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, yesterday, I unavoidably missed rollcall No. 301, on the Lungren amendment, limiting the fourth amendment exclusionary rule to allow a good faith exception for law enforcement officers. The amendment passed 254-132. Had I been present, I would have voted "yea."

APPOINTMENT AS MEMBERS OF DELEGATION TO ATTEND CONFERENCE OF THE INTERPARLIAMENTARY UNION IN SOFIA, BULGARIA

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276A-1 the Chair appoints to the delegation to attend the Conference of the Interparliamentary Union, to be held in Sofia, Bulgaria, on September 19 through September 24, 1988, the following Members on the part of the House: Messrs: Pepper of Florida, chairman; Hamilton of Indiana, vice chairman; Brown of California; Scheuer of New York; Latta of Ohio; Wortley of New York; and Blaz of Guam.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would state to Members seeking recognition for 1-minute speeches today that given the two votes already conducted, and the lapse of time and the fact that we intend to finish business today at 3 o'clock, and that there are several matters, including a conference committee report, to be approved and a bill relating to the strike in the Midwest having to be attended to prior to completion of business today, the Chair would like to confine 1-minute speeches prior to legislative business today to eight on each side.

NATIONAL TRAGEDY

(Mr. de la GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. de la GARZA. Mr. Speaker, I would like to advise the membership that may not be acquainted with the fact that the House and Senate last night approved legislation to assist in the firefighting efforts in the Northwest that this is a national tragedy.

Mr. Speaker, we are seeing the splendor of those forests and stands of pine that are being burned that will not be seen again for two or three generations. We would like the American people to know that we in the Congress care, that we are concerned, and this legislation in part will assist in the endeavor at this time to try and suppress the fires.

ACID RAIN

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, one morning a couple of weeks ago I was shook by newspaper headlines reading, "South Carolina Rain Among Most Acid." During the month of July the Ph of South Carolina's rainfall averaged less than 4. This means that our typical rainfall for the month was more than 50 times as acidic as normal. Neither my State nor our country can continue to survive the devastation wrought by this insidious enemy. Once bountiful streams and lakes are now devoid of life, lush mountain forests have been devastated, and human health is being compromised every day. By signing the Vento-Green letter on acid rain, our good friend, Floyd Spence, recently made South Carolina's condemnation of this tragic situation unanimous. Our Energy and Commerce Committee must realize that America cannot endure another year of congressional inaction on acid rain. Come on Energy and Commerce, report out H.R. 2666.

□1045

MRS. AQUINO WORE YELLOW ROSES, TODAY WE WEAR RED FACES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, 2 years ago Corazon Aquino came to Washington. She needed money. She wore yellow. Most of the Members of the House wore yellow. When it was all over, she got an additional $100 million, even though she had already gotten half a billion dollars that year.

I warned back then, and I was in the minority, that we should get some commitment before giving any more money.

Congress said, "Don't worry."

Now those bases seem to be at stake. We have offered to double our current aid. The lady in yellow simply said, "No way." She wants triple the amount.

Two years ago we wore yellow roses. Today we wear red faces.

Mr. Speaker, we need those bases, but this is not aid. This is ransom, and all the yellow has turned to blackmail.

I think it is time that Congress ends the honeymoon with Corazon Aquino and treats her just like everyone else.

THE PROLIFERATION OF "SPEED" LABS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I am hopeful that our efforts in crafting this drug bill will pay long-term benefits in moving us toward a drug-free society. The goal is to provide the tools necessary to shut down illicit drug dealers, discourage users, and rehabilitate offenders.

One issue I am particularly concerned with is the proliferation of so-called speed labs. My own State of Texas last year ranked second in the number of seizures of these clandestine drug factories.

We must not ignore the fact that methamphetamine, or speed, is being manufactured literally in our own back yards.

This year's drug bill will establish new requirements for reporting sales of the more than 20 chemicals used in concocting speed—but only when they are sold in large quantities.

I have proposed an amendment to close this loophole. My amendment would make it a crime to intentionally buy or sell smaller amounts of these chemicals in order to avoid the new reporting and recordkeeping requirements.

THE COURAGEOUS FIREFIGHTERS OF THE PARK SERVICE AND THE FOREST SERVICE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, I represent that area in Yellowstone National Park where the fires are threatening the cities of West Yellowstone, Cook City, and Silvergate. There is now 1 million acres in the Yellowstone ecosystem that have been burned. Another fire has started in the northern part of the district which I represent in Glacier National Park. That fire, too, has now begun to get away from the firefighters.

It is an anguishing thing to see the fires in two of America's great national parks. It is, of course, a great tragedy; and yes, the fairly reasonable Forest Service and Park Service policy of contained fires does need reappraisal and reevaluation by the Congress and by the American people. However, I encourage my colleagues in both the House and the Senate to avoid accusatory rhetoric toward the Park Service and the Forest Service, to refrain from demagoguery.

There is no more courageous, effective or knowledgeable firefighter, in an election year, than a Member of Congress 2,200 miles away from the flames. It is like fighting the Vietnam war from Indiana.

ATROCITIES OF THE SANDINISTA GOVERNMENT

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I would like to draw to the attention of my colleagues the latest report on the atrocities of the Sandinista government in Nicaragua. Today, the Washington Post reports that Americas Watch, a human rights organization, certainly not known as a Reagan administration supporter, has accused the Sandinista militia of a series of murders of suspected Contra collaborators. Americas Watch has stated that these findings are numerous enough to "suggest tolerance or complicity by higher authorities" in the Sandinista government.

I would also like to draw to the attention of my colleagues to the timing of many of these murders. During talks in Sapoa in March between Contra and Sandinista leaders, a "platoon" of Sandinista soldiers arrested five lay leaders of the Catholic Church, mutilated and partially burned their bodies. They also remembered to remove two gold fillings from one of their victims. Who else have these cowards chosen as victims? Socorro Mejia, a mentally handicapped farmer, Cruz Castillo, a withered farmer who suffered from a birth defect, and 12-year-old Pablo Manzanarez. I wonder Mr. Speaker, did these people pose such a serious threat to the Sandinista revolution?

Why such barbarous behavior during so-called peace negotiations? I believe the reason is clear. The Sandinistas do not want peace, or democracy or human rights, they want power. While they talk about shared political power, they are aware of and apparently tolerate these brutal acts aimed at crushing the will of those in Nicaragua who wish to be free.

RUNWAY DISTANCE MARKERS COULD SAVE LIVES

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I was recently alerted to the fact that very few commercial airports have distance-to-go markers on their runways and that such markers are not required by the FAA. These markers let pilots know how many thousands of feet are remaining to the end of the runway, and help pilots judge the efficiency of their takeoff roll. Through conversations with a number of commercial pilots, I have come to the conclusion that such markers could have helped avert or at least lessened the likelihood of the recent Delta Airlines accident at the Dallas-Fort Worth Airport, which did not have these markers. Perhaps if the pilot had known he had used an extraordinary amount of runway without achieving adequate speed, he would have stopped the takeoff attempt and many lives would have been saved. In recent years, Congress has urged the FAA to accelerate the placement of distance to go markers at commercial airports, but the FAA has not responded with deliberate speed.

Today I am sending a letter to FAA Administrator McArtor urging the FAA to require all airports which handle jet aircraft to install distance-to-go markers on their runways. These markers are already in use and required at military airports and airports jointly used by both military and civilian aircraft.

Mr. Speaker, how many more lives must be lost in air accidents which could be preventible? The American flying public should not have to wait for another tragedy to occur before we take this very simple step.

DUKAKIS EDUCATION LOAN PLAN FLAWED

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, today's edition of the Washington Post indicates the education community's tepid reception of Governor Dukakis' proposed new student loan program. As the Post points out, questions have already surfaced as to the plan's feasibility and its fairness. Katherine Hanson, executive director of the Consortium on Financing Higher Education is stated to have questioned whether the program unwisely shifts responsibility from parents to their children. Bruce M. Carnes, Deputy Undersecretary at the Department of Education, rightly questions whether any knowledgeable student would want to commit to a plan without knowing what the true consumer cost of the student loan would be.

But there are other weaknesses in the Dukakis proposal, as well. This is particularly true when compared with a much simpler and direct form of relief to middle-income households proposed by Vice President BUSH, namely the College Savings Bond Act which I and many other Members of Congress from both sides of the aisle have introduced.

College savings bonds encouraging saving and capital formation. The Dukakis proposal is but yet another attempt to shift the costs of current consumption onto the next generation. The college savings bond proposal encourages colleges and universities to remain cognizant of market-cost impacts. The Dukakis proposal releases inflationary pressures in the education marketplace since costs of education are subsequently tied to graduate earnings as opposed to actual marketplace cost.

The college savings bond proposal guarantees ownership of savings investments toward college education on a fixed return basis. The Dukakis proposal is a "pig in the poke," a blind lottery-type speculation as to whether or not it is, indeed, a wise investment from a strictly economic point of view.

The college savings bond proposal encourages savings so as to avoid indebtedness. The Dukakis proposal encourages and promotes indebtedness.

The college savings bond proposal creates no new paperwork, no new bureaucracy, no political debates on income redistribution. It rewards and encourages those very disciplines by which a free society prospers. The Dukakis proposal creates the spectrum of encumbered management, paperwork, political intervention, and reformulation.

The college savings bond proposal enjoys a broad and bipartisan range of support. Since I first introduced the proposal in the House, similar proposals have been introduced and advocated by the Democratic leadership as well. One can only speculate why Governor Dukakis has veered away from a much simpler, workable college savings bond proposal which already enjoys a high degree of support, and instead has only clouded the waters and perhaps inadvertently delayed implementation of reforms which promise to open the doors of opportunity for the next generation of Americans.

IS MR. QUAYLE PLAYING FAIR?

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, speaking of education, it seems that those who are privileged in our great Nation have forgotten or perhaps never understood what it means to play fair to succeed.

In an article in the Plain Dealer, my hometown paper, we find that the candidate for Vice President from Indiana, Mr. QUAYLE, now aspires to lead us in the second highest office in our land, entered law school in 1970 through a program intended to offer equal opportunity to minorities and the disadvantaged.

The director of the program says that the goal of the program was designed to help the very disadvantaged students.

I find it supremely ironic that while taking up a minority slot for the disadvantaged, Mr. QUAYLE has supported reductions of continuous student loans for our young people, opposed the Civil Rights Restoration Act, an act to provide equal access for education to women and minorities in particular, and ironically opposed a similar program that was a precursor of the program of which he found a loophole—a program for the disadvantaged.

Mr. Speaker, this is the man who wants to be a heartbeat away from the President of the United States.

CONGRESS SHOULD SET PUBLIC EXAMPLE BY RECITING PLEDGE OF ALLEGIANCE

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, each day all across our Nation in schools, at sporting events, at civic functions and even in State legislatures, we pause for a moment to pay tribute to the flag. And I've often wondered why we do not recite the pledge here in the House.

All too often, we in Congress are criticized because we pass laws and mandates that we are unwilling to abide by ourselves.

□ 1100

Mr. Speaker, I think it is about time that we set a good public example of our love and patriotism for our great Nation by reciting the Pledge of Allegiance each morning in this Chamber. After all, the House Chaplain leads us in a spoken prayer each morning. Why not the Pledge of Allegiance? Would it not be nice to adopt this wonderful tradition during the 100th Congress in celebration of 200 years of freedom and democracy?

EXPRESSING SADNESS ON THE DEATH OF OTTO PASSMAN, FORMER MEMBER

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, it is with sadness that I mark the news of the death of our former colleague, Otto Passman of Louisiana.

Following distinguished service as a naval officer in World War II, Otto was elected to this House in November of 1946 and served here for 28 years, 22 of which he served as the chairman of the Foreign Operations Committee of Appropriations. In that capacity, he traveled the length and breadth of this globe making certain that the U.S. taxpayers' moneys were properly spent in our foreign operations abroad.

It is with great sadness that we mark his death, and we extend to his family our deepest sympathy.

TOO MUCH RHETORIC ON THE PART OF CONSUMER GROUPS

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, earlier this week I warned my colleagues that well-meaning but obviously misguided consumer groups were actually recommending farm program changes that could undermine the long-overdue recovery we are having in farm country.

Using this summer's drought as some kind of a justification they have chosen to play Chicken Little, warning that we may actually run out of grain. Not to worry, America's consumers, we have a steady, reliable supply of 666 million bushels, and that is 9.7 billion loaves of bread above what was normally consumed. That means 160 extra loaves of bread for every family of four in this country.

Skyrocketing prices? If you pass that cost on, the recent price increase at the local elevator is about a dollar, and goodness knows we have needed it all of this time, and that means that an average family of four who consumes two loaves of bread per week is going to pay $1.46 for the entire year. Too much to pay for the farm recovery? No. Too little grain? No. Too much rhetoric on the part of some Chicken Little consumer groups? Yes.

POVERTY DATA

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, Vice President BUSH says that all is well in today's economy. His prescription for the future is simple—more of the same. However, recent census data clearly supports what Gov. Michael Dukakis has been telling the American people—that despite 5 years of economic recovery, many Americans are still being left behind.

Is Mr. BUSH really satisfied when 46 percent of all black children and 40 percent of all Hispanic children live in poverty? More than one in every five children in America is poor. Should we be satisfied with this type of economic performance? No, Mr. Speaker, we should be ashamed. Economic growth alone cannot solve the problem of poverty alone. The last 8 years make this abundantly clear.

It is disturbing that we have heard nothing from Vice President BUSH about how he would alleviate the suffering of the growing numbers of poor children. After playing the good soldier for 8 years as President Reagan cut the programs which lifted so many of these families out of poverty and gave them hope for the future, Mr. BUSH now has the opportunity to tell us what he thinks. Mr. Speaker, the silence is deafening.

THE FAILURE OF THE DUKAKIS FURLOUGH

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, the furlough program of Mike Dukakis in Massachusetts has set the example of the country's most dangerous prisoner release program in modern history. Dukakis' failed policies have cost people their lives—as in the Willie Horton case.

Dukakis fought to continue the furlough program for first degree murderers even after the people of Massachusetts mobilized to change the law. This reckless disregard for victim's rights and community safety is inexcusable.

On average, a first degree murderer was let out on furlough each day for the past seven years. (Lawrence, MA, Eagle-Tribune, December 30, 1987.)

I would like to place in the RECORD the following articles and facts about the Massachusetts furlough program:

FURLOUGHS—JUNE 29, 1988 (REVISED)

Michael Dukakis has actively supported the Massachusetts furlough program since it was enacted in 1972.

Until the law was changed in April 1988, Massachusetts was the only state to permit furloughs for first-degree murderers serving life sentences without parole.

In other states which permit furloughs for first-degree murderers, the furloughs are granted after the inmate is deemed eligible for parole, not before. In Massachusetts, the situation was reversed.

"On average, a first degree murderer was let out on furlough each day for the past seven years." (Lawrence, Mass., Eagle-Tribune, December 30, 1987.)

Presently there are 80 prisoners who are missing from pre-release centers, furloughs, and work-release programs. 62 of these escaped under Dukakis Administrations.

These escapees include 58 violent criminals: including 10 murderers, 9 rapists, and 25 armed robbers. And 12 criminals were serving sentences for drug-related crimes, including 9 for distribution or intent to distribute.

Willie Horton committed his crime in Maryland—terrorizing a couple in their home, stabbing the man and raping the woman—on April 3, 1987, after escaping from Massachusetts during a June 1986 furlough.

Not until March 22, 1988—nearly a year later—did Gov. Dukakis reluctantly agree to sign a bill prohibiting furloughs for first-degree murderers.

Dukakis defended his system all through 1987: "Look, we're running a very tough, strong, well-defined furlough program in this state which by and large has been very successful." (July 7, 1987; quoted in Lawrence Eagle-Tribune, January 31, 1988.)

In fact, at the time Dukakis agreed to sign the bill, he was faced with both a hostile legislature and a potential referendum on furloughs on the November ballot—not something he would like voters to see at the same time he's running for President.

This is a state issue, but Vice President BUSH opposes furlough programs for first-degree murderers like Horton who are sentenced to life without parole and drug dealers.

Let's say what furlough programs really are—weekend passes and "get out of jail free" cards.

MASSACHUSETTS ESCAPEES CASE HISTORIES—JUNE 29, 1988 (REVISED)

Eighty prisoners remain at large having escaped from Massachusetts pre-release centers, furloughs, work release, halfway houses, and prisons. (One was recently recaptured in Escondido, California, 3,000 miles away.) Sixty-two of these escaped during Dukakis Administrations. Here are some case histories of the prisoners, as reported in the Lawrence (Mass.) Eagle-Tribune, January 10, 1988.

Willie Horton

Horton was serving a sentence of life without the possibility of parole for first-degree murder. On his tenth furlough, in June 1986, he escaped. On April 3, 1987, he terrorized a Maryland couple in their home, stabbing the man and raping the woman. He was later apprehended and sentenced in Maryland to two consecutive life terms plus 85 years. Somewhat incredibly, Massachusetts requested his extradition. The judge, however, ruled that he should not be sent back to Massachusetts, where he could become eligible for furlough once again.

Brendan Boyd

Boyd was a convicted rapist who was also serving a life sentence for murdering a prison inmate. He was, however, released on furlough in 1986, during which he raped a woman in Mattapan and then shot himself to death.

Armand Therrien

Therrien was a former New Hampshire state trooper who shot a police officer and another man to death. He was permitted a work detail at a Worcester hospital which had been approved by a Massachusetts corrections commissioner and escaped.

Charles Costa

Costa was serving 3 to 5 years for the rape of a child by force in Everett. A career criminal, he had a record of burglary and escapes in other states, yet he was placed on work release from the South Middlesex Pre-Release Center, from which he escaped on February 27, 1987.

Michael D. Jones

Jones was serving 10-12 years for rape and armed robbery. He walked away from the Northeast Corrections Center, a pre-release center, in January 1983.

Eugenio Torres

Torres was convicted in 1986 for the unlawful possession of a controlled substance. A few months later, he was permitted work release from the Massachusetts Corrections Institution at Shirley, from which he escaped and stabbed his wife and another male at home.

Robert E. Jeffreys

Jeffreys had a criminal record including burglaries, drugs, assault with a dangerous weapon, and assault on a police officer. Nevertheless, he was permitted to take furloughs at his mother-in-law's home while serving 6-10 years for a 1980 armed robbery. He escaped from the Boston Pre-Release Center January 30, 1986.

THE HORTON CASE

The case of William Horton, Jr., spurred the public outcry and legislative initiatives which ultimately forced Dukakis to accept a ban on furloughs for first-degree murderers earlier this year.

November 1, 1974

During an armed robbery of a gas station, in Lawrence, Mass., Horton held at gunpoint a 17-year old gas station attendant, Joseph Fournier. After robbing the youth, Horton brutally stabbed him 19 times, and stuffed his body into a 30 gallon trash can.

For this crime, Horton was sentenced to life imprisonment, without the benefit of parole.

June 12, 1986

Horton escapes from Massachusetts while on a weekend pass from the state prison in Concord. Horton was on his *tenth* furlough when he escaped.

April 3, 1987

Horton breaks into the home of a Maryland couple, Clifford and Angela Barnes, and terrorizes them for 12 hours, During the night of terror, he tied Mr. Barnes up in the basement, stabbed him repeatedly and robbed him, and waited for Mrs. Barnes to return home. Upon her entrance, Horton dragged her upstairs and raped her twice. Eventually, the couple managed to escape. Panicked, Horton stole their car, and after a high-speed auto chase, was recaptured after being shot twice.

For this and other offenses Horton committed during the hours of terror, he was charged with 13 different crimes, including: 2 counts of kidnapping, 2 counts of false imprisonment, 5 counts of assault with intent to murder; 2 counts of first-degree rape, 2 counts of second-degree rape, 1 count of malicious cutting of a person, 1 count of possession of a firearm by a felon, 1 count of breaking and entering, 1 count of burglary, 2 counts of theft, 4 counts of discharge of loaded weapon to avoid arrest, and 1 count of possession of a firearm by a felon.

Horton was found guilty of these crimes in Maryland, and sentenced to two life terms plus 85 years. The sentencing judge, Vincent Femia, stated at the close of the trial, "With all due respect to the citizens of our sister state, the Commonwealth of Massachusetts * * * I'm not prepared to take the chance that Mr. Horton might again be furloughed or otherwise released * * * He [Horton] now belongs to the state of Maryland."

Horton committed his crimes on April 3, 1987. Not until March 22, 1988—nearly a year later—did Dukakis reluctantly agree to sign a bill prohibiting furloughs for first-degree murderers.

DUKAKIS ON FURLOUGHS

Dukakis defended the furlough program during his first term:

1976

After vetoing a bill to ban furloughs for first-degree murderers, Dukakis said: "This bill would have cut the heart out of efforts at inmate rehabilitation. With 98 percent of those committed to our institutions eventually returning to society, it is essential that we retain what has proven to be a successful tool for breaking the cycle of crime which our prison systems used to encourage." (Lawrence Eagle-Tribune.)

After the Horton case came to light, Dukakis continued to defend the program on a number of occasions:

June 7, 1987

"I am a supporter of the furlough program because I think it is an important part of any modern and any effective correctional system. There is always a risk and our job is to make that furlough program as strong and as well administered and as responsible as possible." (Lawrence Eagle-Tribune.)

June 30, 1987

"The furlough program over the past ten years has been quite successful and it's something I rely on very heavily when it comes to making decisions about commutations." (Lawrence Eagle-Tribune.)

July 7, 1987

"Look, we're running a very tough, strong, well-defined furlough program in this state which by and large has been very successful." (Lawrence Eagle-Tribune.)

November 23, 1987

"I * * * just don't like the idea of absolutely prohibiting the possibility of a furlough program in these cases. I don't see how a governor responsibly exercises his commutation power under these circumstances." (Lawrence Eagle-Tribune.)

December 17, 1987

"I think a good, strong, aggressive corrections system requires a well-managed furlough program." (Lawrence Eagle-Tribune.)

January 6, 1988

"We recognize this is a serious problem of great concern to people and it is of great concern to me. We have brought all the lifers back into more secure settings. As a practical matter the furlough program for lifers is on hold." (quoted in Lawrence Eagle-Tribune, January 31, 1988.)

Eventually, though, Dukakis was faced with a legislature hostile on the issue and a citizens' initiative which was gathering signatures for a referendum on the furlough program for the November ballot—presumably not something he would like voters to see at the same time he ran for President. So he reluctantly agreed to sign a bill prohibiting furloughs for first-degree murderers.

March 22, 1988

"Dukakis announces that he will not oppose a ban on furloughs for killers: 'I try to listen, I try to learn. Ralph Waldo Emerson said that foolish consistency is the hobgoblin of little minds. The fact of the matter is that the people of this commonwealth and the legislature * * * and my job as governor is to try to build and create the best correction system I can.' " (Washington Post, March 23, 1988.)

Mr. Speaker, Michael Dukakis' program of furloughs for murderers, rapists, and now his new furlough program for liars, such as John Sasso, further endangers truth as his other furlough endangers public safety.

UNITED STATES ON DANGEROUS CREDIT BINGE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the United States is on a dangerous credit binge. Our national public debt is now upward of $2.44 trillion. We owe nearly $288 billion of this debt to foreign creditors. The United States is borrowing more and more from abroad to pay for goods and services we insist on importing from abroad. The United States has a dire need for promoting domestic savings.

We have an excellent program in this country to provide domestic dollars for domestic investment—domestic dollars for domestic government expenditures. It is called the U.S. savings bonds program. Our citizens' purchases of savings bonds in the past year alone saved us $560,000 by reducing the cost of financing the national debt. Treasury estimates that the taxpayers save approximately $60 million for every $1 billion in savings bond sales.

I am sorry to report that this great program is in danger. The Treasury has embarked upon an experiment to streamline the sale of savings bonds by discontinuing their sale in banks and making them available only through mail or phone orders. My home State of Ohio was chosen for this pilot program. The citizens of Ohio can no longer walk into their local bank and walk out with a savings bond. They must fill out a form or place a phone order, and wait 3 weeks for the bond to be mailed to them. If bonds are bought as a gift they must be mailed directly to the person receiving the gift, for they are registered under that person's name, and there is no chance for the sender to enclose a card or any explanation of the gift. It has recently been brought to my attention that gift certificates are available in the banks, but my constituents want to give a gift, not a gift certificate. A mail order program is a beneficial supplement to the sale of bonds in our banks, but not a substitute for it.

I have received nothing but complaints about this pilot program. Last

Christmas, several of my constituents missed sending their grandchildren savings bonds for the first time in years because of the new procedure. Many of my constituents now go to Michigan to buy their savings bonds from Michigan banks, rather than facing the cumbersome and inflexible mail order system. They are crying out that they should be encouraged, not discouraged, from buying savings bonds.

I oppose the Treasury's pilot program for mail order of U.S. savings bonds. It is not fair that my constituents must travel to another State to purchase a gift of a U.S. savings bond. I want to encourage all Americans to buy bonds. This means we must make bonds conveniently available to all Americans. I do not oppose a mail order program as a supplement to sales in our Nation's banks, but I firmly believe that banks have an important role to play in promoting sales of U.S. savings bonds. I ask the Treasury to closely revise its pilot program to promote the effect on sales of bonds. Let us not ruin a good Savings Bond program in the name of bureaucratic efficiency.

THE GASSING OF THE KURDS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, Iraq has stooped to new lows in human rights by using mustard gas to strike down its Kurdish minority. Secretary of State Shultz has appropriately informed the Iraqis that the continued use of these weapons and the other human rights violations will come at the expense of improved United States-Iraqi relations.

This latest Iraqi chemical atrocity is a symptom of a much larger problem. Today, at least 15 nations, including Iran, Libya, Iraq, Syria, and North Korea, have obtained chemical weapons. Apparently, many nations of the world have forgotten the horrors of mustard phosgens and chlorine gas used in World War I. It is imperative that the international community takes steps to stop the proliferation of these weapons.

IKE SKELTON and I introduced H.R. 2880, to establish a new U.S. chemical and biological weapons nonproliferation regime to help direct attention to the importance of controlling the spread of these weapons. I urge Members to cosponsor this legislation.

In the meantime we must ensure that countries like Iraq which use these illegal weapons face the full weight of international condemnation—and, if necessary, isolation.

PRIVILEGES OF THE HOUSE—RECITATION OF THE PLEDGE OF ALLEGIANCE EACH LEGISLATIVE DAY IN THE HOUSE OF REPRESENTATIVES

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. —

Whereas many educational, athletic, and social events, as well as numerous legislative bodies, are convened with a formal recitation of the Pledge of Allegiance to the Flag;

Whereas Members of the House are not presently afforded the opportunity to formally salute the Nation's Flag through a recitation of the Pledge of Allegiance to the Flag at the commencement of each legislative day; and

Whereas such recitation would enhance the dignity and integrity of the proceedings of the House: Now, therefore, be it

Resolved, That the Speaker or his designee shall lead the House in the recitation of the Pledge of Allegiance to the Flag each legislative day immediately after calling the Members to order.

The SPEAKER pro tempore. The Chair has examined the resolution and believes that it would change the rules of the House. Therefore under the precedents of the House it is not in order under the guise of a question of the privileges of the House.

Mr. ROWLAND of Connecticut. Mr. Speaker, I respectfully appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. HOYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 168, not voting 38, as follows:

[Roll No. 304]

YEAS—226

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Clement
Coelho
Coleman (TX)
Conyers
Cooper
Costello
Coyne
Crockett
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Savage
Sawyer
Scheuer
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Solarz
Spratt
St Germain
Staggers
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wright
Wyden
Yates
Yatron

NAYS—168

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Hubbard
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack

Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Parris
Pashayan
Patterson
Petri
Porter
Price
Pursell
Quillen
Ravenel
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stallings
Stangeland
Stump
Sundquist
Sweeney
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—38

Alexander
Badham
Boulter
Cheney
Collins
Courter
Daub
de la Garza
Dowdy
Fascell
Fish
Garcia
Houghton
Jones (NC)
Jones (TN)
Kemp
Lantos
Leath (TX)
Leland
Lipinski
Lujan
MacKay
Martin (IL)
Mica
Michel
Nichols
Packard
Regula
Roth
Roybal
Schroeder
Smith (IA)
Spence
Stark
Swindall
Towns
Waxman
Williams

□ 1131

Messrs. BILBRAY, HEFNER, and WHITTEN changed their vote from "nay" to "yea."

So the ruling of the Chair was sustained.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DAUB. Mr. Speaker, I was unavoidably absent. Had I been present, I would have voted "no".

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4586, MILITARY CONSTRUCTION APPROPRIATION, 1989

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, tonight, September 9, 1988, to file a conference report on the bill (H.R. 4586) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT MONDAY, SEPTEMBER 12, 1988, TO FILE CONFERENCE REPORT ON H.R. 4794, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Monday, September 12, 1988, to file a conference report on the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON H.R. 4783, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION ACT, 1989

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 4783) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 11, 1988.)

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 mintues and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and the amendments in disagreement on the bill, H.R. 4783.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report which we present to the House today provides 1989 appropriations for the Departments of Labor, Health and Human Services, and Education, and for 20 related agencies. There were 256 Senate amendments in conference. We have resolved 255 of these differences with agreements which we believe are acceptable to the House and Senate and to the President. We have one amendment in true disagreement and that relates to the issue of Federal funding for abortions.

Mr. Speaker, let me again state that it is a distinct honor and a privilege to work on this bill with my distinguished colleague from Massachusetts, SILVIO CONTE. Mr. CONTE is the ranking minority member on our subcommittee, as well as being the ranking minority member on the full Appropriations Committee. He has played a vital role in getting this conference report to the floor today. At this time I want to, personally, thank him for his efforts with respect to this bill and the programs which it funds.

Mr. Speaker, I would especially like to extend my gratitude to our distinguished full committee chairman, the gentleman from Mississippi, JAMIE WHITTEN, the dean of the Congress. Mr. WHITTEN has helped us, as he always does, in getting this bill through the House and through conference.

Finally, I would like to thank each of the other members of our subcommittee, all of whom have participated in our successful effort to bring this conference report to the House floor at this time.

Mr. Speaker, the conference agreement on H.R. 4783 that we are presenting to the House today provides a total of $140,374,129,000 for the Departments of Labor, Health and Human Services and Education and related agencies. This amount includes $6,462,681,000 for the Department of Labor, $111,147,857,000 for the Department of Health and Human Services, $21,724,362,000 for the Department of Education and $1,039,229,000 for related agencies. The conference agreement includes $101,051,519,000 for mandatory programs, principally Medicaid, Medicare, aid to families with dependent children, supplemental security income and guaranteed student loans, as well as $39,322,610,000 for discretionary programs where spending levels are set through the annual appropriations process.

The total funding recommended by the conferees for Labor, Health and Human Services and Education activities is $11,190,130,000 above the fiscal year 1988 appropriations. It is $1,773,065,000 over the President's budget, $4,579,437,000 over the House bill, and $55,112,000 under the Senate bill. Mr. Speaker, it should be noted that the large increase over the House bill is primarily the result of the inclusion in the bill of $3,242,600,000 for programs which were not considered at the time of House passage due to lack of authorizing legislation. Of the increase of $11,190,130,000 over fiscal year 1988, $9,536,332,000, or 85 percent is accounted for by entitlement programs over which the Appropriations Committee has no control.

Mr. Speaker, many of the Members may be concerned about how the conference compares to the subcommittee's current 302(b) ceiling under the fiscal year 1989 budget resolution. Let me assure Members that these totals are within our ceilings, both for budget authority and outlays. This is based upon new ceilings which reconcile differences between the original House and Senate 302(b) allocations at the midpoint. For discretionary programs the conference agreement is exactly at our ceiling for outlays and $264 million below for budget authority. Reaching agreement on these differences was very difficult. After resolving each of the individual amendments, the conferees were required to make a reduction of 1.2 percent in all discretionary programs in order to stay within our outlay target. This reduced outlays by $244 million.

We have one amendment in disagreement and that relates to the abortion issue. On this issue the House bill includes language identical to current law. This language allows for abortions only where the life of the mother would be endangered if the fetus were carried to term. The Senate bill contains additional language allowing abortions for the victims of rape or incest, as well as other exceptions not permitted under current law. The President has indicated that he will veto the bill if this Senate language were to be agreed to. At the proper time I will offer a motion to insist on the House language in this matter.

H.R. 4783 includes funding for hundreds of separate programs in 3 Cabinet departments and 20 related agencies. Obviously, I cannot review each of the recommendations here today. Nevertheless, some of the more important ones include:

The sum of $1,223.7 million for AIDS research and prevention. This amount is $297.4 million over the fiscal year 1988 funding level, reaffirming the commitment of the Congress to eradicating this tragic disease as quickly as possible. Included in this amount is $607 million for research at the various institutes of the National Institutes of Health.

The sum of $7,152.2 million for biomedical research at the National Institutes of Health. This figure is $485.5 million over the fiscal year 1988 amount.

The sum of $1,383.2 million for low-income home energy assistance, an increase of $196.2 million over the budget request but a reduction of $148.6 million below fiscal year 1988.

The sum of $4.570.2 million for chapter 1 grants for the disadvantaged, an increase of $243.3 million over fiscal year 1988.

The sum of $5,814 million for student financial assistance, including $4,483.9 million for Pell grants. This will fund a maximum grant of $2,300.

Mr. Speaker, and important matter has come to our attention since the conference of this bill concerning the interpretation of section 124 of the Order Americans Act Amendments of 1987. We believe that the Department of Health and Human Services has incorrectly interpreted that section with respect to the question of locating area agencies on aging within an umbrella agency, such as a regional development commission or a planning and development district. The committee has already expressed itself on this matter in our committee report accompanying this bill (H. Rept. 100-689). I will quote part of that statement found on page 111 of that report:

> The committee believes that umbrella agencies such as regional development commissions, regional planning districts, and councils of government have been effective vehicles for the delivery of quality services to the elderly at the local level. The committee supports the statutory intent on this matter permitting the continued inclusion of area agencies within an umbrella agency, and believes that continuation of this existing service delivery system is fully consistent with the intent of the statute.

The Department is directed to revise its interpretation of this section to reflect congressional intent and to revise its regulations accordingly.

Mr. Speaker, we call the Department's attention to language included on pages 14 and 15 of the conference report to accompany the Treasury-Postal Service Appropriations Act for 1989 (H. Rept. 100-881). This concerns the matter of executive branch compliance with congressional intent as expressed in committee reports. I quote from page 15:

> Executive branch wishes cannot substitute for Congress' own statements as to the best evidence of congressional intentions—that is, the official reports of the Congress.

Mr. Speaker, these are just some of the major items included in H.R. 4783 as agreed to in conference. The full agreement is described in the statement of the managers accompanying this conference report. Included in the conference report (H. Rept. 100-880 printed in part II of the RECORD of August 11, 1988), is a detailed table with appropriate comparisons. We believe that this is a good bill, a good compromise between the House and Senate, and a good compromise with the administration. We urge the adoption of the conference report.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the 5th of our 13 bills to come to the floor in its final form. Two more bills will go into conference today, and we appoint conferees on the remainder today.

The Members can take this as good news that the Appropriations Committee continues on its path of the best pace of bringing out individual appropriations bills in a quarter century.

I am personally gratified at the diligence of the committee and its exercise of responsibility and leadership in following up on the historic budget summit agreement last fall.

And I have indicated my readiness to roll up my sleeves and work night and day in the days ahead to produce conference agreements on all the remaining bills. Passing individual bills in broad daylight, as opposed to a gigantic continuing resolution passed in the dim of the night, is the right thing to do. This is how the process should work, and how the chairman of the full committee, the subcommittee chairmen and ranking Republican members and all the Members are making it work this year.

However, we must be aware of the constraints we face. The latest word from the Office of Management and Budget is that there is only a $400 million cushion before Gramm-Rudman-Hollings sequestration goes into effect. I am inserting that recent letter from OMB into the RECORD. That will cut a minimum of $10 billion across the board from all the programs we have worked so hard to reach the proper level of funding. Individual appropriations bills do impact on that Gramm-Rudman-Hollings deficit calculation. The Treasury bill we passed Wednesday will subtract approximately $200 million; the Interior bill passed yesterday will add approximately $100 million. This Labor-HHS-Education bill will subtract approximately $12 million.

That speaks to the necessity of doing all that we can to hold our bills in line. Since we are playing Russian roulette with Gramm-Rudman-Hollings, let's at least remove as many bullets from the chamber as we possibly can. We've done a great job up until now. Down the stretch, I just ask everyone to remember, now more than ever, a little restraint will go a long way.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 8, 1988.

Hon. SILVIO CONTE,
Committee on Appropriations, House of Representatives, Washington, DC.

DEAR SIL: As we approach the end of the fiscal year, I want to be as helpful as possible to you and your colleagues in order to make sure that we avoid a Gramm-Rudman-Hollings (G-R-H) sequester.

As you know, the G-R-H Report published on August 25th concluded that as of the August 15th snapshot the G-R-H deficit baseline was $144.0 billion—only $2.0 billion below the sequester level of $146.0 billion. As shown in the first table, subtracting from that figure the $0.6 billion excess over its G-R-H baseline level of the HUD/Independent Agencies Appropriations bill, $0.4 billion for the trade bill, and $0.3 billion for the emergency hunger relief bill, puts the deficit figure within $0.7 billion of a sequester.

In addition, the G-R-H law requires that final regulations be incorporated into the baseline estimates. As required by G-R-H, for certain Medicare regulations (only), the sequester report of August 25th included in the baseline the outlay estimate corresponding to the preliminary figures contained in an earlier Notice of Proposed Rulemaking. However, we have recently been advised that this and other final Medicare regulations—based largely on more recent data—will add some $0.2 billion to the baseline deficit. This means that as of the issuance of these final regulations, and after taking into account changes to debt service and the spendout adjustment for legislation signed after August 15th, we will be within $0.4 billion of a sequester.

With this in mind, I must stress the necessity of finding offsets for additional spending measures such as the drug bill. I must also stress the importance of conference action to restrain individual domestic appropriations bills, many of which exceed their G-R-H baselines (see table 2).

I realize that it will not be easy to find offsets or pare back domestic appropriations. But we cannot resort to expedients such as waiving scoring requirements that avoid budget discipline.

I look forward to working with you in order to conclude this year's legislation in a timely fashion and at levels that avoid a sequester.

Sincerely yours,

JAMES C. MILLER III,
Director.

TABLE 1. LEGISLATIVE AND REGULATORY CHANGES AND THREATS TO THE FY 1989 GRAMM-RUDMAN-HOLLINGS DEFICIT

[In billions of dollars]

	Fy 1989
July 28 midsession Gramm-Rudman-Hollings deficit	140.1
Changes between July 28 and Aug. 15 "snapshot" (for Aug. 25 OMB report):	
Drought assistance	3.9
Energy and water appropriations	.2
Dire supplemental	.2
Other (debt service and spendout adjustments)	−.4
Aug. 15 deficit	144.0
Changes between Aug. 15 and Aug. 25 (but not included in Aug. 25 baseline):	
Trade bill (mandatory)	.4
HUD appropriations	.6
Emergency hunger	.3
Other (debt service)	.1
Aug. 25 deficit	145.3
Changes between Aug. 25 and Sept. 8:	
HHS Medicare regulations	.2
Other (debt service and spendout adjustments due to legislation signed after Aug. 15.)	.1
Sept. 8 deficit	145.6
Potential changes for Oct. 15 report: [1]	
Fiscal year 1989 appropriations: [2]	
Domestic discretionary (remaining bills)	.4
International	−.2
Defense (remaining bills)	−.7
Mandatory items in appropriations bills	([3])
Subtotal, pending appropriations	−.6
Pending mandatory spending:	
Textile and Apparel Trade Act	.1
Canada free trade	.1
Welfare reform (mandatory) [2]	.1
Technical Corrections to the Tax Reform Act [2]	−.4
Postal Service reorganization	−.1
Manassas Park	([3])
Subtotal, mandatory	−.1
Pending authorizations requiring appropriations:	
Omnibus antidrug bill [4]	1.3
Child care	1.4
McKinney homeless reauthorization [2]	([3])
Welfare reform (discretionary) [2]	([3])
Subtotal, items requiring appropriations	2.7
Total, potential changes	1.9
Potentials Gramm-Rudman-Hollings deficit	147.5
Gramm-Rudman-Hollings trigger	146.0

[1] Does not include debt service and spendout adjustments.

[2] Based on conference action or the average of House and Senate action to date.

[3] Amounts are less than $50,000,000.

[4] Fiscal year 1989 antidrug funds are also included in the fiscal year 1988 emergency supplemental appropriations bill. The deficit impact is assigned to the omnibus antidrug bill since this authorization, and subsequent appropriations, are more likely to be enacted by Oct. 15 than the emergency supplemental bill.

TABLE 2.—SUMMARY OF FISCAL YEAR 1989 APPROPRIATIONS HOUSE AND SENATE VERSUS GRAMM-RUDMAN-HOLLINGS

[In billions of dollars]

Bill	Gramm-Rudman-Hollings Baseline		Latest House action		Latest Senate action		Difference House action versus Gramm-Rudman-Hollings		Difference Senate action versus Gramm-Rudman-Hollings	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Domestic discretionary:										
Commerce, Justice, and State—excludes function 150.	10.699	10.454	10.538	10.407	10.883	10.728	−0.161	−0.047	0.184	0.274
District of Columbia	.583	.585	.562	.564	.552	.554	−.021	−.021	−.031	−.031
Energy and water, excludes atomic energy [1]	9.788	9.817	9.946	9.934	9.946	9.934	.158	[2].125	.158	[2].125
HUD, independent agencies [1]	43.235	47.894	43.380	40.482	43.380	48.482	.145	.588	.145	.588
Interior [3]	10.416	10.233	10.088	10.373	10.088	10.373	−.328	.140	−.320	.140
Labor, HHS, and Education [2]	39.197	46.219	39.344	46.207	39.344	46.207	.147	−.012	.147	−.012
Legislative branch	1.837	1.817	1.765	1.755	1.778	1.767	−.072	−.062	−.059	−.050
Rural development, Agriculture	17.620	9.049	17.844	9.312	18.060	9.290	.224	.263	.440	.241
Transportation	10.277	26.328	10.421	26.593	10.190	26.295	.144	.265	−.087	−.033
Treasury-Postal Service [2]	8.997	8.730	8.756	8.519	8.756	8.519	−.241	−.211	−.241	−.211
Domestic in other bills	0	0	.060	.051	.106	.068	.060	.051	.106	.068
Total domestic discount	152.649	171.126	152.704	172.197	153.083	172.217	.055	1.079	.434	1.099
International:										
Foreign operations	13.598	10.856	13.320	10.738	13.316	10.633	−.278	−.118	−.282	−.223
Commerce, Justice, and State—Function 150	3.835	3.883	3.787	3.857	3.788	3.858	−.048	−.026	−.047	−.025
Function 150 in all other bills	1.159	1.205	1.065	1.125	1.145	1.197	−.094	−.080	−.014	−.008
Unallocated	0	0	0	0	0	0	0	0	0	0
Total, international	18.592	15.944	18.172	15.720	18.249	15.688	−.420	−.224	−.343	−.256
Defense:										
Defense	290.101	277.551	282.543	276.531	282.514	277.013	−7.558	−1.020	−7.587	−.538
Atomic energy defense [1]	8.046	7.942	8.100	7.975	8.100	7.975	.054	.033	.054	.033
Military construction	8.995	8.899	9.039	8.897	8.796	8.855	.044	−.002	−.199	−.044
Function 050 in all other bills	.375	.374	.516	.455	.516	.455	.141	.081	.141	.081
Offsetting collections	−.739	−.728	−.739	−.728	−.739	−.728	0	0	0	0
Total, Defense	306.778	294.038	299.459	293.130	299.187	293.570	−7.319	−.908	−7.591	−.468
Memorandum: Latest House and Senate action to date:										
Domestic	152.649	171.126	152.704	172.197	153.083	172.217	.055	1.079	.434	1.099
International	18.592	15.944	18.172	15.720	18.249	15.688	−.420	−.244	−.343	−.256
Defense	306.778	294.038	299.459	293.130	299.187	293.570	−7.319	−.908	−7.591	−.468
Total	478.019	481.108	470.335	481.047	470.519	481.474	−7.684	−.053	−7.500	.375

[1] The amounts shown under House and Senate reflect enacted legislation.

[2] The Gramm-Rudman-Hollings change of $125,000,000 includes the effect of MRC governmental receipts.

[3] The amounts shown under House and Senate reflect conference action.

Note.—Latest House and Senate action reflect scoring of the bills under Gramm-Rudman-Hollings scoring rules.

Mr. Speaker, I am delighted to join with my good friend and subcommittee chairman, BILL NATCHER of Kentucky, in bringing to the House floor the conference report on H.R. 4783, the fiscal year 1989 Labor, Health and Human Services, and Education appropriations bill.

After having had to include this bill in the omnibus continuing resolution for the past 2 years, I am pleased that once again the Labor, HHS, and Education bill has a good chance of becoming law on its own.

For 3 straight years prior to fiscal year 1987, BILL NATCHER and I, together with the other members of the subcommittee, sent the President bills providing for the human resource needs of the American people. Those bills exceeded the President's budget recommendations, because we heard directly from the American people that they needed more help from their Government.

The President recognized that, and signed those bills, and he has said that he will sign this one if we can work out the one item in disagreement.

The fact that the President will sign this bill is tribute to my friend, BILL NATCHER, who is without peer in the Congress in his compassion for the disadvantaged, sick, unemployed, young, and older Americans whose needs he understands and looks after. There isn't a better team in the entire Congress than BILL NATCHER and SIL CONTE.

The countless hours of effort that he has devoted to this bill will pay off when the President signs the bill—and the payoff will be to those American people in need.

Our full committee chairman, JAMIE WHITTEN, also has been most helpful in bringing us to this point, and I want to acknowledge that fact. I also want to salute the efforts of all the members of the subcommittee, particularly my friends on this side of the aisle—CARL PURSELL, JOHN PORTER, BILL YOUNG, and VIN WEBER.

The conference agreement that we are presenting today provides $140.3 billion in new budget authority—$139.2 billion for the current year—including $39.3 billion in discretionary funding and $99.8 billion in current year mandatory spending.

H.R. 4783 is $4.5 billion over the bill that the House passed in July, $3.2 billion of which is to provide funding for programs that were unauthorized when the House considered the bill, such as mental health research, job training, and health care for the homeless, health professions training, refugee assistance, and others.

But, despite the fact that we are over the original House bill, we are still under our 302(b) allocation for discretionary budget authority by $264 million and equal to our allocation for discretionary outlays.

As the chairman has stated, the conference agreement proposes an increase of $11.1 billion over the fiscal year 1988 level and $1.7 billion over the President's request. The priorities in the conference report remain the same as those proposed in the House bill and the President's budget—AIDS research, biomedical research, compensatory education for disadvantaged children, and student financial assistance.

For AIDS research and prevention, we provide $1.223 billion, $312 million more than the fiscal year 1988 level. This is slightly below the amount requested by the President because we had to apply an across-the-board reduction to all programs in our conference report in order to meet our new 302(b) allocation. The new 302(b) is the midpoint between the original House allocation and the Senate level which was $332 million below the House for discretionary budget authority. That caused reductions in all of the priority areas contained in the House bill.

The conference report provides increases for biomedical research of $346 million at the National Institutes of Health and $188 million at the Alcohol, Drug Abuse, and Mental Health Administration. Significant increases are provided for the National Institutes of Mental Health where the conference report will fund major expansions in research into the neurosciencies, schizophrenia, and Alzheimer's disease.

Compensatory education will receive an increase of $242 million, for a total appropriation of $4.579 billion. These programs help to meet the special educational needs of disadvantaged young people by providing remedial instruction to improve their basic skills in reading and mathematics. Included in our appropriation are new initiatives for concentration grants, even start, capital expenses for nonpublic students, and rural education.

The bill also increases college student aid by $269 million, to a total of $5.814 billion—slightly below the administration's request—plus an additional $3.1 billion for guaranteed student loans. Without these programs, millions of young Americans would not have the opportunity to attend college.

I'd like to mention one other program contained in the conference report—low-income home energy assistance.

The conference agreement provides $1.383 billion, $196 million above the administration's request and the Senate amount, and $184 million below what was contained in the House bill. I wish we could have maintained at least the House level. Although the conference report reflects a reduction from last year's level and previous appropriations, we were able keep the cuts for this program from reaching the disastrous levels proposed by the administration and the Senate.

We have done our best to meet the human services needs of the American people while also facing up to the realities of our Federal budget deficit situation. This conference report reflects historic levels of spending for the Departments of Labor, Health and Human Services, and Education.

If we can resolve the one item in disagreement satisfactorily, this will be a great bill for the American people, and one which we can all be proud of. I urge adoption of the conference report.

Let me highlight the conference agreements for some of the other program areas that are of particular interest to me.

For the Labor Department, the conference report provides $6.462 billion, $190.6 million over the fiscal year 1988 level, and $318.7 million over the administration's request.

One of the most important activities of the Labor Department is administering the Job Training and Partnership Act, which we propose to fund at $3.728 billion. Included in that amount is $709 million for the Summer Youth Program, $283 million for dislocated workers, $68.5 million for migrants and seasonal farmworkers, $741.8 million for the Job Corps, and the Training, Job Search, and Relocation Program authorized by the Trade Act at a $47.8 million level. In addition, the conference report continues both the prohibition on closing any Job Corps centers and the policy begun last year to construct six new centers.

I am pleased that the conference agreement proposes a $12.5 million increase over the fiscal year 1988 level for title V, Community Service Employment for Older Americans, to cover expected minimum wage increases and to expand the number of jobs available. My amendment to expand funding for the Displaced Homemaker's Network within the Women's Bureau is contained in the conference agreement, together with funding for the permanent mass layoffs and plant closings survey conducted by the Bureau of Labor Statistics. For veterans' employment and training. I am pleased that the bill provides an increase of $17.8 million over the fiscal year 1988 level.

Under the Department of Health and Human Services, the conference agreement provides $1.2236 billion for AIDS activities throughout HHS. This amount is roughly $10 million less than the administration requested for AIDS. However, the conferess did not include the $22 million that the administration had requested to conduct nationwide seroprevalence surveys intended to document the rate of HIV infection around the country. Pilot studies performed by the Centers for Disease Control suggest that these surveys will not be accurate. Therefore, the conferees deleted funding for that particular item, and the administration did not request that it be restored. For all of the remaining AIDS-related activities considered, the conference report provides an amount that is roughly $10 million above the administration's request.

In the Health Resources and Services Administration, the conference report provides almost a $20 million increase over last year's figures for the Community Health Centers basic funding, and also maintains last year's major initiative to combat infant mortality, with a small increase, to $20.5 million. Health care for the homeless is maintained throughout fiscal year 1989 at the same level as provided in fiscal year 1988, albeit at a lower dollar amount because so much of the fiscal year 1988 money remains unallocated to date.

For the National Health Service Corps, field placement strength is essentially maintained at last year's level, while a significant increase is provided for the new loan repayment program aimed at recruiting doctors, nurses, and other health professionals into service with the corps. Health professions training programs, which help to draw practitioners into specialties that face a shortage in supply, were protected against the administration's proposed cut from $217 million to $40 million. And the maternal and child health block grant was given a substantial increase, from $527 million in fiscal year 1988 to $554 million for fiscal year 1989.

Within the Centers for Disease Control, an increase was provided, first, to the Sexually Transmitted Disease Program to address those diseases that are once again on the rise, and which put their victims at greater risk of contracting AIDS. A significant increase, from $86 million to $127 million, was provided for the Childhood Immunization Program. This increase is necessary if we are to keep the immunization rate high while accommodating the increases in vaccine prices and the tax per dose that is used to fund the 1986 vaccine compensation legislation. The Chronic and Environmental Disease Prevention Program also receives an increase, from $43 million to $66 million, which is necessary to maintain the 3-year-old Injury Control Program, which had previously been funded in part by the Transportation Department.

For biomedical research at the National Institutes of Health, not including AIDS, an increase of $346 million is provided for a total of $6.545 billion for fiscal year 1989. This is more than a 5-percent increase and, in order to allow NIH to maximize the productivity of this increase, it has been given to NIH with a minimum of congressional direction or micromanagement—the bill does not include restrictions on the number of new grants to be awarded or the size of the adjustments that can be made to awards when they receive future-year installment amounts. These decisions have been left to the best scientific judgment of the Institute directors.

One NIH initiative that I am particularly proud of is a new learning disabilities initiative that will be conducted by the National Institute of Child Health and Human Development. I included funding for this initiative at our subcommittee markup, and I am glad that the conference agreement provides almost my original amount to undertake this initiative. With this funding, close to $2 million, NICHD should be able to set up several centers of concentrated research on learning disabilities around the country; 200 institutions have already expressed interest in hosting those research centers.

I am also proud that the conferees retained $14 million to fund the first stage of construction on a new building at NIH which will house both child health and neuroscience research projects. I have been working since 1979 to attain funding for this building. I am convinced that its construction will contribute greatly to the quality of intramural research that can be conducted in the future. NIH is the premiere biomedical research facility in the world; it's about time its research facilities were, if not made state-of-the-art, then at least brought up to date. The need for new facilities at NIH will be an issue of growing importance in the next few years, but I am glad that we are beginning to tackle the most critical area of need right now.

I am also pleased that this conference report prepares for the creation of a National Institute on Deafness and Other Communicative Disorders. While it is not within the jurisdiction of this committee to go ahead and create the Institute in this act, the conferees have decided to go further than ever before in anticipating the creation of this Institute and mapping out a procedure for making funding available to it as quickly as possible, so that it does not have to await another appropriations bill before it can begin operation.

I am also proud that the funding for the National Institute of Environmental Health Sciences includes $500,000 which is intended to continue supporting the important work of the Environmental Health Institute located in Pittsfield, MA. This unique research facility, which has produced impressive work on individuals' genetic susceptibility to disease, is studying issues that are on the cutting edge of science.

Within the Alcohol, Drug Abuse, and Mental Health Administration, increases are provided for the continuing fight against substance abuse, through the activities of the National Institute on Drug Abuse; the National Institute on Alcoholism and Alcohol Abuse; the Alcohol, Drug Abuse, and Mental Health block grant; and the substance abuse grants to States.

In addition, ADAMHA-supported researchers will in the future have access to the same kind of support for small instrumentation that NIH researchers have had. And a major increase, from $254 million to $297 million, is provided for research through the National Institute of Mental Health. This is the second largest research increase that NIMH has ever received, and it will allow the Institute to make important expansions in its research into the neurosciences, as recommended by its report on the "Decade of the Brain," into schizophrenia, and into Alzheimer's disease. I am proud that the Institute's "Decade of the Brain" report, which I requested, has resulted in widespread recognition of the fact that we stand on a threshold of opportunity in these areas, and has resulted in a funding increase commensurate with that opportunity.

I am also pleased to have included in the conference report language regarding NIMH activities on the needs of survivors of traumatic brain injury. This will be an important step in its work to help the head-injured population.

If the omnibus drug abuse bill is enacted during the remainder of this session, I hope that, in conference, it will be structured so as to give ADAMHA, and particularly NIDA, the clearest possible statement of Congress' intent on whether or how their role is to change in the future. I hope that we will see expansions in demonstrations and evaluations without jeopardizing the basic research programs. Finally, I hope that the administration will work closely with the Congress to tailor the fiscal year 1989 funding levels to any revised authorization that may be passed.

For the Medicare contractors, the conferees have provided the amount estimated by the Health Care Financing Administration to be necessary to administer the new catastrophic benefits, which will begin phasing in next year.

An increase of $270 million has been provided for the operation of the Social Security Administration. This will enable SSA to expand and improve their telephone service, to maintain their network of local offices for beneficiaries who prefer to conduct their business in person, to start up their new "800" service, to begin mailing out statements of personal earnings and estimated benefits, and to continue a variety of other ongoing program improvements.

In addition, the responsibility of hearing Medicare appeals will be retained by administrative law judges located in Social Security offices around the country, rather than being transferred to a corps of ALJ's who would operate over the phone from HCFA. I believe that this is important if Medicare appeal rights are to remain a valuable safeguard for Medicare beneficiaries.

Within the Office of Human Development, modest increases were provided for programs for children, seniors, and the disabled. And I'm pleased that the new Comprehensive Child Development Centers Program, authorized in the higher education reauthorization bill in order to fill the gaps in, and maximize the effectiveness of other children's programs, will be funded for the first time.

Finally, I'm proud that, for the Low Income Home Energy Assistance Program, our conferees were able to do better than simply splitting the difference. This important program keeps low-income families from being evicted from their rented homes. It reaches a population largely comprised of children, seniors, and disabled people who are greater risk than others of health complications from extreme heat or cold. With the Senate and the administration pushing hard for only $1.187 billion, our conferees brought back $1.383 billion; if we hadn't had a 1.2 percent across-the-board cut, this figure would have been $1.4 billion.

I fought hard for LIHEAP in the fiscal year 1988 bill, and even harder in preparing for fiscal year 1989. I think that that hard work has begun to pay off, and that we're finally getting across the House's commitment to this vital safety-net program.

For the Education Department, H.R. 4783 provides $21.9 billion, $1.48 billion over the fiscal year 1988 level and $640 million more than the administration requested.

In addition to the compensatory education increases, the conference report proposes a $24.6 million increase for impact aid over the fiscal year 1988 level, $141 million more than was proposed by the administration. This level continues category "b" payments to school districts at $135.3 million.

For School Improvement Programs, we provided an $78.8 million increase over the fiscal year 1988 level, $17 million below the amount requested by the administration. H.R. 4783 provides increases of $739,000 for the Inexpensive Book Distribution Program and $822,000 for the national diffusion network, and $964,000 for the Ellender fellowships.

I am pleased that we were able to fund a number of new initiatives that were created in the extension of the Elementary and Secondary Education Act and the Trade and Competitiveness Act, including $3 million for first-time funding for the Comprehensive School Health Education Program, $7.9 million for the Javits Gifted and Talented Education Program, and $5.9 million for the Fund for the Improvement and Reform of Schools and Teaching. In addition, we provided $250,000 for a program to make grants available to high school students for congressional and diplomatic seminars in Washington. I hope the Secretary would give every consideration to the Washington Workshops Foundation as sponsor of the seminars, so that the funds can go to the Claude and Mildred Pepper Scholarship Program for disabled disadvantaged youth.

For vocational and adult education, the conference report provides a $58.3 million increase over the fiscal year 1988 level, $42.3 million more than the President requested. We also provide substantial increases for handicapped education and rehabilitation services in the amounts of $97.4 million and $77.6 million, respectively. Included in the handicapped education amount is $247 million for preschool grants and $5.2 million for technology-related assistance for individuals with disabilities.

For student financial assistance, the conference report provides increases for Pell grants, supplemental grants, and college work-study, in order to continue our effort to redress the imbalance that currently exists between grant and loan programs. The Pell Grant Program will receive an increase of yet another $100 in the maximum for the second straight year, after no increase in the maximum for the preceding 3 years.

I am particularly pleased that the conferees agreed with my effort to provide a substantial increase in the supplemental educational educational grants, a more flexible program with a $4,000 maximum award and an institutional matching requirement that also is targeted on the lowest income and those who already receive Pell grants. SEOG will receive a $29.5 million increase. In addition, we were able to maintain a viable State Student Incentive Grant Program at $72 million, in the face of administration and Senate proposals to gut this valuable program. And Perkins loans will receive new capital contributions of $183.5 million.

The conference report provides funding for virtually all of the existing categorical higher education programs, with an overall increase of $29.3 million.

For title III, the Institutional Development Program, the conferees agreed to provide $174.5 million, an increase of $22.2 million over the fiscal year 1988 level, which would provide funding for all parts of the title in fiscal year 1989 and restore funding for last year's part A continuation awards at 4-year institutions that inadvertently faced 40 percent reductions as a result of the mix of set-asides in the authorizing statute.

For TRIO, although I wish we could have maintained the House level, the conferees provide a $13.4 million increase over the fiscal year 1988 level and the administration request for this program that does so much to reach out and help disadvantaged young people succeed in school and in college. The agreement does provide $2 million for the Ronald McNair Program.

In the graduate education area, the conference agreement provides $66.7 million, an increase of $7.9 million over the fiscal year 1988 level and more than double what the administration requested.

The conference agreement continues the College Housing and Academic Facilities Program at $29.6 million, $32.5 million below last year's level. This program is virtually the only working program to help our colleges and universities meet their renovation and new construction needs, yet it receives very little support among other Members of the House or Senate.

I urge my colleagues to take a look at this program for the benefit it can provide our higher education system and hope that other supporters will emerge next year to maintain this vital program.

The conference agreement also contains a $2.1 million increase in support for libraries, including increases for public library services, interlibrary cooperation, and college library technology.

For the special institutions, the conferees provided a $12.3 million increase, including increases for Howard University and both of the institutions that deal with the hearing impaired: Gallaudet University will increase by $3.8 million over the fiscal year 1988 level, and the National Technical Institute for the Deaf will increase $1.7 million over last year's level.

Among the related agencies, ACTION receives a $5.3 million increase, including increases for VISTA and all three of the Older Americans Volunteer Programs: Foster Grandparents, Senior Companions, and the Retired Senior Volunteer Program. In addition, the conference agreement continues the successful VISTA Literacy Corps Program.

The conference agreement provides a $66.2 million increase for the Corporation for Public Broadcasting, including funds for the satellite interconnection fund needed to replace the existing satellite by 1991.

We also have provided funding for five new commissions to deal with railroad retirement reform, children's issues, migrant education, the financing of postsecondary education, and infant mortality.

Mr. Speaker, this conference agreement is a careful balance between our responsibilities to the American people's needs and our responsibilities under the current Federal budget deficit situation. It meets our targets and limitations under last year's budget summit agreement and this year's budget resolution, and it meets the training, health, education, and human services needs of the American people.

I urge adoption of the conference report.

□ 1145

I urge the adoption of the conference report and urge everyone, when we get into the conference amendments, to support the gentleman from Kentucky [Mr. NATCHER] and myself in regard to the abortion issue.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Speaker, I thank the gentleman from Kentucky for yielding time to me.

I rise in support of the conference committee agreement even though I am disappointed at the numbers, the inadequate numbers, for the greatest facility in the world, the National Health Institutes, but due to the restriction of the moneys that were available to the chairman, that is the most we could get.

Mr. Speaker, I desire to engage in a colloquy with my distinguished chairman, the gentleman from Kentucky.

Mr. Speaker, I would like to clarify the intent of the conferees with regard to the Cardiac Energetics Program at the National Heart, Lung, and Blood Institute. We have included, in the appropriation for the National Heart, Lung, and Blood Institute, an additional $3.3 million for the development of a cardiac energetics laboratory. Am I correct that it is the conferees intent that the Institute use these funds, as appropriate, to cover all costs for the purchase and installation of a state-of-the-art magnetic resonance instrument. Including renovation and construction as necessary to meet the special siting requirements of the instrument?

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, the gentleman's understanding is correct.

Mr. EARLY. I thank the chairman.

Mr. NATCHER. Mr. Speaker, I have no further requests for time, and I reserve the balance of our time.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of this bill and in strong support of the words of my friend, the gentleman from Massachusetts [Mr. CONTE] as he compliments the chairman and the leadership of this committee. The gentleman from Kentucky, and the gentleman from Massachusetts and the members of this committee have worked long and hard together to fashion a bill that provides important dollars for health and educational matters in the United States.

Mr. Speaker, after freedom there are very few things more important than our health and education, and this bill deals with that, and, while we were limited in the amounts of moneys available, I think we funded the programs to the best of our ability.

I just want to add my very strong compliments to the gentleman from Kentucky [Mr. NATCHER] and to the gentleman from Massachusetts [Mr. CONTE] because they do provide real honest, genuine, effective leadership.

Mr. Speaker, this bill includes an awful lot of items that are interesting to the American people, and I just want to mention one or two briefly.

We have funded in this bill the National Youth Sports Program, a very important program for disadvantaged young Americans who in the summer are able to go to the campus of junior colleges and other type institutions throughout America and get some exposure to higher education. In addition to having organized, disciplined programs through the summer, this program is designed to help encourage young Americans to continue their education, to stay in school, and it is an extremely important program. Our subcommittee has fought valiantly for the money for that program, and it is in this conference report today.

Additionally, Mr. Speaker, I would like to call attention to one particular item in the health field. Many of us; all of us, I think, at one time or another, have been exposed to a young person or young adult who died of leukemia, of blood cancer. Recently a very dramatic new procedure has been developed to successfully save the lives of people with leukemia. The problem that we face is that in order, and it is a transplant of bone marrow, a procedure, by the way, which was pioneered by a doctor in St. Petersburg, Dr. Robert Good at St. Petersburg Children's Hospital, but in the transplanting of the bone marrow the very critical part of this procedure is having a donor whose bone marrow is an identical match to the recipient. Unfortunately, although the procedure is dramatic, many young persons have died while waiting to find a matched donor. In this bill we provide the funding for and the direction for a bone marrow registry which is already in effect now because of the work of the Committee on Appropriations and this House of Representatives, a bone marrow registry where someone needing a bone marrow transplant, a life-saving procedure, can go to the registry and hopefully find a donor. This is an excellent program, one that will mean an awful lot to an awful lot of Americans in the future.

Mr. Speaker, I would like to go on and relate many other things we have done in the field of health and education in this bill, but, since the Speaker has his gavel in his hand, obviously my time is expired.

I just want to say this is a good bill. My chairman, the gentleman from Kentucky [Mr. NATCHER] and my ranking member, the gentleman from Massachusetts [Mr. CONTE] are good leaders and have put together a good bill. I would like to add that my Senator from Florida who is retiring this year, LAWTON CHILES, who is the chairman of the same committee on the Senate side, also has been a major player in the work of this committee.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentleman from Kentucky [Mr. NATCHER], the chairman, yielding, and let me first say what a wonderful job I think the chairman and the ranking member have done on this legislation. All of us appreciate their diligent and hard work.

Mr. Speaker, the conference report accompanying H.R. 4783, fiscal year 1989 Labor-HHS-Education appropriations, affirms the House position in support of new construction and rehabilitation for Jobs Corps centers. May I ask the chairman if he believes that it is the purpose of this funding to develop Job Corps centers in areas not presently served, such as North Dakota?

□ 1200

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, I would like to say to the gentleman from North Dakota [Mr. DORGAN] that all down through the years since the gentleman has been here, he has worked with us on our bill. He has been a diligent Member of the House who has worked with us at all times.

Mr. Speaker, as the gentleman knows, in this bill we have $36 million for 6 new centers. That appears, I believe, on page 12 of the conference report.

The total amount in the bill for the Job Corps is $741,825,000.

In answer to the gentleman's question, States that do not have a center currently should certainly be considered along with any other States that might have some difficulty or might have additional needs, but those

States that do not have centers certainly should be considered.

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentleman's response, and while both of us understand that the Labor Department will make final decisions on site selection, and that is as it should be, it is as I understand it the chairman's intention that the Department take maximum advantage of locations that have suitable facilities in areas which are underserved or which do now have locations.

As the chairman knows, North Dakota's Governor and its entire congressional delegation have joined in a common effort to support a new Jobs Corps center in the city of Minot. The Air Force is vacating the John Moses Hospital, which has been reviewed by the Labor Department as a candidate site for a new center. Existing law directs that the hospital be leased to the Labor Department cost free if the Department chooses it as a Jobs Corps site.

This is the project on which I have been working with the chairman for 2 years. While the Labor Department will make the final decision on site selection, is it the chairman's intention that the Department take maximum advantage of locations like Minot which have suitable, existing Federal facilities available, which already have a comprehensive plan for implementation, and which enjoy unanimous support in the State.

Mr. NATCHER. Mr. Speaker, the gentleman is correct.

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Let me just clarify what the chairman, the gentleman from Kentucky [Mr. NATCHER] just said.

I do not know the details of the Air Force Base hospital in North Dakota, but I do know, having had hearings on this matter, that in some cases—and I emphasize some cases—it costs more to renovate an existing facility than to build a whole new one.

I am sure we want to leave it to the discretion of a Secretary of Labor to make a cost-effective decision about whether it is going to cost more or less for an existing facility.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield to me?

Mr. CONTE. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Absolutely. It is the Labor Department's responsibility to make the decisions. They have in fact visited this site and find it to be an interesting and useful site.

My only purpose was to suggest that new locations should be in areas that are underserved or not served now or where a location would be appropriate. We have one that we think is, but it is the Labor Department's determination of exactly where those facilities will be.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume, to my good friend, the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the conference agreement on H.R. 4783.

This is the fifth conference report to reach the House floor, so we have only eight left. It is an impressive record of accomplishment to date.

All 13 spending bills first passed through the House on time. All 13 were cleared separately by the Senate.

This is a good record, but it is not good enough. We cannot rest on our laurels, Mr. Speaker, we must see our task through to the end by sending 13 separate conference reports to the President for his signature.

I trust that the Committee on Appropriations is committed to this goal, and I trust that you too, Mr. Speaker, will do all you can to guarantee that 13 spending bills arrive separately and on time—prior to October 1—on the President's desk.

Mr. Speaker, this is a very reasonable piece of legislation—to those who were concerned that this bill was too fat when it first passed the House, I would point out that it contains considerably less discretionary money now than it did at that time. It adds about $340 million to the amount requested by the President—that is less than a 1-percent addition to the amount sought by the President for discretionaries.

The bulk of the rise in funding, of course, is for mandatories—entitlements—and we all know the broken record story of how entitlement programs are driving this Nation into the service of Japanese bond buyers.

Mr. Speaker, I commend and thank my chairman, BILL NATCHER, and my ranking member, SILVIO CONTE, for their leadership and assistance on this bill. The entire Nation is indebted to the leadership and expertise of these two men.

Mr. Speaker, as Congress comes perilously close to triggering Gramm-Rudman, it is incumbent on the appropriators to make up for what is done through authorization.

Gramm-Rudman, Mr. Speaker, says that we must have priorities. If we want drought relief, so be it. If we want free trade with Canada, so be it. If we want welfare reform, so be it.

But if we want all these things, Mr. Speaker, things which cost money, then we will have to find that money somewhere else—we will have to take it out of appropriations because Gramm-Rudman says you have to set priorities. If not, Gramm-Rudman will set those priorities for us. And the priorities represented in a Gramm-Rudman automatic cut are not my priorities, and I daresay they are not the priorities of the House.

So we have trimmed the Labor/HHS bill as part of the committee to setting priorities, as part of the need to avoid a massive sequester which would do substantial harm to these programs.

We have trimmed the bill, but we have been able to provide for some important increases—increases for handicapped education, chapter 1, impact aid; increases for medical research.

There is never enough money in this bill to go around, of course, and as always we are disappointed that we cannot do more. But, the bill does as much with as little as any I have ever seen and I commend it to the House for approval.

Mr. Speaker, the conference report on H.R. 4783 includes an important amendment which I was happy to work to retain. The amendment relieves the Illinois Library System of liability for three audits conducted under the auspices of the Department of Education.

While this may seem an unusual action, I believe that this situation merited such intervention. In my 3 years of work on this subject, I have become absolutely convinced that the Department is wrong on the issue and not willing to reach the logical and correct conclusion. The lawyers, and I can say this because I am a lawyer, did what lawyers sometimes do—they lost sight of the big picture and became lost in the technicalia of seeking victory.

The big picture is a model library system in Illinois which provides access to the public for books from numerous sources, at no benefit to private libraries. That is and always has been considered the definition of public library services. And this view, incidentally, was supported by an outside auditor hired by the Department of Education. The auditor's initial report confirmed that the Illinois system did not violate the law and benefit the public. That auditor was subsequently encouraged to change his point of view.

The legal game was to redefine network systems as nonpublic, to ignore relevant statutes of limitation, and to bury the State of Illinois in a blizzard of paperwork. In the process, they scared many other States away from updating and improving their library systems through networking—networking has always been recognized by program personnel as an effective way to improve the provisions of library services to the public.

I hope that this amendment will encourage the Department to rethink their viewpoint on this matter. They need to recognize that computer networks which allow a public library to reach into a college library to find a book for a public citizen are systems which serve the public and only the public. Such activity doesn't benefit the college, it only benefits the public. It is a title I LSCA function—to improve public library services.

Mr. MAZZOLI. Mr. Speaker, I rise in support of the motion to insist that the strict House version of the Hyde prohibition on the use of Labor/Health and Human Services funds for abortions, except in cases to save the life of the mother, be included in the fiscal year 1989 conference report.

Rape and incest cases are extremely difficult, but difficult cases make bad law. The overriding consideration today must be protecting the lives of the most innocent of society, the unborn.

The 1973 abortion ruling was incorrect law and unwise public policy. And, I have worked since 1973 to overturn that ruling. Though that goal has thus far been elusive, much to the chagrin of all of us who value the sanctity of human life, we can take solace in having at least been successful in strictly cutting back on the expenditure of tax dollars for abortion services and saving countless innocent lives. Now is not the time to retreat. We must insist on the strictest possible prohibition on the use of Labor/Health and Human Services funds in this Appropriations measure before us today and we must redouble our efforts to overturn the disastrous 1973 Supreme Court ruling.

I pledge my continuing and unwavering support for a human life constitutional amendment as well as for legislation to put the strict Hyde prohibition in place governmentwide. Until we reach those goals, unfortunately, we must continue to add strict abortion prohibitions to all appropriate legislative vehicles coming before the House.

I strongly encourage my House colleagues to support this motion today.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Michigan [Mr. PURSELL] a valuable member of the committee.

Mr. PURSELL. Mr. Speaker, I, too, want to congratulate two outstanding Americans and two great leaders in education and health, the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE].

I especially want to pay tribute to our great staff, nonpartisan, bipartisan, just terrific constructive policymakers, who have helped me and all the other members of the committee.

I just wanted to make two brief points this morning, because the time is short on a Friday.

I want to congratulate the committee for recognizing the nursing research community in the United States. They do not have a strong voice sometimes in the House, as we see with the medical profession and the dental profession and other groups that do. I just think the committee has done an outstanding job in recommending new nursing research centers for the United States, and I want to congratulate our leadership for taking that major step forward in policy decisions this year.

Also, I want to thank the committee for accepting my recommendations on chronic disease. We increased the appropriation there because we are having more deaths in the field of heart, lung, and cancer, geriatrics, diabetes problems, hypertension and strokes, more than we are in AIDS.

I think it is an appropriate compliment to the committee that we recognize the older Americans who die of these chronic illnesses, that we are recognizing the need for better research and breakthroughs so that we can have some cure for some of these chronic diseases.

Lastly, I want to congratulate the committee in light of the deficit for increasing the education budget by $1.5 billion this year, with the two national candidates for President recommending education as a national priority. We have known that for many years, and even though we respect local control of our educational systems and State responsibility, we are funding student aid, VoTech and other education components to help support our local school systems.

So I congratulate the committee for an outstanding piece of work in increasing the educational components for those of us who have supported education over the years. So I want to thank the committee and recommend endorsement of the bill for passage by the House today.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of our committee, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I take this occasion to pay my respects and my thanks to the members of this subcommittee. As we know, on our Appropriations Committee we have 13 subcommittees.

I want to say that no subcommittee does a better job or has a harder job to handle than our friends who head this committee, the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE], and all the members of the subcommittee.

Whatever our problems are, we have got to look at our own country first. We have got to put first things first. Health and labor and all these things that are involved here are important, including the National Institutes of Health, Education and all the rest certainly is important, because unless we take care of our people in our own country, we cannot do many of the other things that we try to do.

With the cooperation of the subcommittee, I hope we can get an investigation of what might be done to save small town hospitals. Eighty-four percent of the area of this country is said to consist of rural areas, including cities of 50,000 or less. Place after place, town after town, including county seat towns, are losing their hospitals because of the difference in payments from Medicaid and Medicare, and because the manufacturers of those things that are so necessary to run a hospital are charging small hospitals much higher rates than they charge the larger hospitals. The excuse is that in the process, because they are large hospitals and, they buy many more of these various units that are essential to run a hospital, that they are giving them a break.

The effect is to keep the people in rural towns and small city areas from getting the same quality treatment and the same health protection that is available to them in our major cities.

In other words, we are driving a wedge between our cities and rural areas.

I expect, with the support of this committee, to have an investigation to see what may be done. It may require a law to see what we can do there.

Again, without going into detail here, I want to thank each and everyone, particularly my good friend, the gentleman from Kentucky, Mr. BILL NATCHER, with whom I have served since I came here. I came earlier to get ready for him, may I say. The same might go for my friend, the gentleman from Massachusetts, Mr. SILVIO CONTE.

Mr. Speaker, this is a bill which is supported by all of the members of the Committee on Appropriations. When you deal with the health and education of the citizens of this country, nothing deserves more attention and the committee agreed that these programs are so important that an adequate allocation must be made in order to support them.

Let us look at some of the programs that are funded in the bill, including our junior colleges and many programs for senior colleges.

I shall not mention all the programs because they have been discussed by the chairman and the ranking minority member.

I am pleased that we provide $911,256,000 for vocational education;

For job training, $1,787,772,000;

For summer youth employment, $709,433,000;

For the Job Corps, $741,825,000;

For acquired immune deficiency syndrome—AIDS, $1,223,692,000 for research, education, and other activities directed at the prevention and treatment of this fatal disease;

For maternal and child health, $554,268,000;

For Head Start, $1,235,000;

For the National Institutes of Health, excluding AIDS, $6,545,215,000; and

For developing institutions, $174,577,000 which includes assistance to historically black colleges, as well as newer ones including Mississipi Valley State University.

Mr. NATCHER. Mr. Speaker, I have no further requests for time on this side, and I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, this Member from California will at the conclusion of the debate on the conference report offer a motion to recommit with instructions. Since that is not debatable and there will be no time, I thank the gentleman from Massachusetts [Mr. CONTE] for giving me this time now to discuss what the instructions will be in this motion to recommit.

There are three parts.

1. *Conscience Clause Amendment:* None of the funds made available under this Act shall be used to require any person or entity to perform, or facilitate in any way the performance of any abortion.

This was unanimously adopted by the Senate on a voice vote. It was modified in the conference to reflect current law, which does not give the protection that is needed. Hence its conclusion in this motion to recommit with instructions.

2. *Homosexuality Amendment:* None of the funds made available by this Act shall be used in materials, curriculums, or programs that promote or encourage homosexuality or to use words stating that homosexuality is "normal," "natural," or "healthy."

This was unanimously adopted by the Senate on a voice vote. It was dropped in the conference.

The third element:

3. *Fetal Research Amendments:*

i. None of the funds appropriated under this Act shall be used to perform an abortion on a woman for the sole purpose of providing fetal organs or tissue for medical transplantation to any animal or person.

ii. (a) None of the funds appropriated under this Act shall be used to knowingly acquire, receive or otherwise transfer any human (including that acquired from a fetus) organ or organ subpart for valuable consideration for use in human or animal transplantation.

(b) None of the funds appropriated under this Act shall be used to knowingly acquire, receive or otherwise transfer any human organ or organ subpart derived from a fetus that has been aborted for the sole purpose of medically transplanting such organs or organ subparts to any animal or person.

iii. None of the funds appropriated under this Act shall be used to offer any inducement, monetary or otherwise, for a woman to have an abortion for the purpose of providing fetal organs or tissue for medical transplantation to any animal or person.

iv. None of the funds shall be used to waive the minimal risk standard for fetal research.

These three elements will be in the motion to recommit with instructions. I ask for your vote on the rollcall that this Member intends to ask, and I thank the gentleman from Massachusetts [Mr. CONTE] for the time.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I am reluctant to break up this love feast between the admirers of the bill, but I suppose there is a point in every discussion where the curmudgeons must be heard.

I yield to no one in my respect for the chairman of this distinguished subcommittee, nor its distinguished ranking member. Nevertheless, I feel it is important to point out that this bill is going to cost the taxpayers $11 billion more than last year's bill, if I am reading the numbers on page 101 of the report of the manager's correctly. That is an increase some several times greater than the CPI increase for this year.

Even though we are informed that the President will sign the bill, the increase seems to me to be unnecessarily large. I note that in the labor section, the increase is restricted to approximately a freeze, a nominal freeze, that is, something a little more than 3 percent.

In Education, I think many Members of this House, including myself, do not mind going beyond cost of living increases, but when one looks at the HHS portion which has the lion's share of the increases, as it should because it is the lion's share of the bill, one finds increases of better than 10 percent, which seems to me unreasonable in a time of fiscal difficulty.

So again, Mr. Speaker, I have to say that the increases in the related agencies and in HHS make it impossible for me to vote for the bill, in spite of the fact that I would agree with much of the previous conversation that relates to the wonderful work of the subcommittee and of the conferees on the other side of the Capitol.

I shall vote "no."

Mr. JEFFORDS. Mr. Speaker, I rise in strong support of the conference report on H.R. 4783, the fiscal year 1989 Appropriations bill for the Departments of Labor, Health and Human Services, and Education. As ranking Republican of the Committee on Education and Labor, I want to commend Chairman NATCHER, the ranking member Mr. CONTE, and the Members of the Labor-HHS-Education Subcommittee, for having so successfully defended the priorities of this House in the vital policy and programmatic areas encompassed by this bill. Moreover, I believe they should be further congratulated for having achieved this success within the rigorous parameters set forth by both the 1987 Economic Summit and the fiscal year 1989 budget resolution's tight 302(b) allocations.

Some months ago I was given the opportunity to appear before the Appropriations Subcommittee to discuss the programmatic and funding issues which have concerned my committee this year. We had more than the usual number of these since this was a year which has seen my committee reauthorize some of the major legislation under our jurisdiction and, in so doing, both strengthen existing programs and launch new initiatives. In particular, since this past spring my committee concluded an in-depth revision of our elementary and secondary education programs—Public Law 100-297, the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988—I was most eager to persuade the subcommittee to provide appropriate levels of funding for both the familiar and the new programs in our legislation.

The Appropriations Committee and this body did indeed once again express their steadfast commitment to the funding of elementary and secondary, education programs. And, as one who has always viewed ESEA's chapter 1 as the flagship of Federal support to our Nation's schools, I was especially pleased to learn how well the conference report supports chapter 1's various programmatic components. Not only are chapter 1's basic grants and—for the first time since 1981—its concentration grants well provided for, but it is clear that our conferees fought to preserve funding for one chapter 1 initiative, Even Start, and agreed to the funding of another new component, the Rural Educational Opportunities Program.

Developed by our distinguished colleague, Bill Goodling, Even Start seeks to encourage schools to offer programs that will have the dual effect of helping parents who have not completed their high school education gain literacy skills and simultaneously become active partners in their children's educational development.

Aware along with many other Members of the special problems faced by small, rural schools, I was delighted to find that the conference report provides almost $4 million to get the Rural Educational Opportunities Program underway. Under this program, at least 10 regional rural assistance centers will be established to provide technical assistance to rural schools with chapter 1 children in attendance with the view of improving the quality of the education such children receive.

I also want to particularly commend and thank our conferees for preserving the greater part of the modest 2-year funding they and the House had earlier provided to launch the National Commission on Responsibilities for Financing Postsecondary Education.

When my committee was preparing to reexamine and reauthorize the Higher Education Act [HEA], it occurred to me that if at one time each of the usual participants in financing postsecondary education—students, parents, colleges, the States, and the Federal Government—had held a reasonably clear grasp of their respective financial responsibilities, this was no longer the case. Today students have greatly increased loan debt burdens at graduation. Some parents refuse to help their children finance their education. A few States have increased higher education appropriations while others have cut them. Congress and the executive branch are debating the appropriate magnitude of Federal student assistance in light of our deficit burden.

With these factors in mind, I successfully sponsored an amendment to HEA (now section 1321 of the act) which would establish a national commission of highly respected individuals. Their tasks would be to study the impact of the changing roles of the various participants in the financing of postsecondary education and, within 2 years, provide useful guidance on who should be expected to pay what share of a student's education. I am sure that the modest cost of this commission will be repaid back to the taxpayer as it moves forward to create a new national consensus over who benefits from a college education and who should pay.

In the course of reauthorizing and amending the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 this year, my committee contributed to the development of two new Adoption Opportunities Program initiatives: the Minority Children Placement Program and the Postlegal Adoption Services

Program. I'm pleased that the conference has seen fit to launch these programs by providing each of them with $500,000. Even these modest levels of funding make good humanitarian and fiscal sense—it is far more expensive to maintain these children in temporary foster care or in long-term institutional settings than to place them in homes where they are desired and loved.

The conference report also makes it clear, Mr. Speaker, that thanks primarily to the levels of support our Appropriations Committee recommended and the House endorsed, as well as to the agreements reached by our conferees, four key postsecondary education programs have been provided with funding levels above their fiscal year 1989 baselines: the group of special programs for the disadvantaged known as TRIO, the Supplemental Educational Opportunity Grants [SEOG], the Pell Grants, and the Income Contingent Loan Program. I was also especially pleased to find that in the area of our special education concerns, the early intervention components of our Education for the Handicapped Act programs as well as the Rehabilitation Act programs received funding above their respective fiscal year 1989 baseline levels.

One of the funding issues which concerned my committee earlier this year was that our Budget Resolution's assumptions were not responsive to the needs of the Older Americans Act (OAA) programs. I expressed these concerns to our Appropriations Committee, noting that if the funding of supportive services to seniors and of the senior congregate and home-delivered meal programs were frozen at fiscal year 1988 levels, we could expect to see these programs cut back in the number of services and meals provided, or in the quality of what was provided, or both. I was very pleased, consequently, to find that the conference report provides these three OAA title III programs with funding levels that will at least partially cushion the erosion of inflation on their service levels.

Our conferees also deserve our thanks for having fought to prevent truly drastic reductions in the funding of the State Student Incentive Grants [SSIG] program. Their support for this program, an important one in the educational effort of my State, serves to further correct the current imbalance between student loans and grants.

As generally pleased as I am by this finely crafted conference report, I would not be candid if I did not express my disappointment with the funding cuts it imposes on the Low Income Home Energy Assistance Program [LIHEAP] and on the Job Training Partnership Act [JTPA] titles II-A Basic Grant and II-B Summer Youth Employment Programs, and with its response to my committtee's concerns in the area of worker safety and health.

In the case of LIHEAP, it appears that despite our common efforts to increase or at least sustain its funding levels, this conference report continues to victimize this program with perhaps the largest percentage cuts inflicted upon any of our low-income programs since 1982. Consider what has happened over the past two fiscal years and will now happen in the coming one: the fiscal year 1987 LIHEAP appropriation was $126 million or 6.3 percent less than the fiscal year 1986 appropriation; the fiscal year 1988 appropriation was $350 million or 18.6 percent less than that for fiscal year 1987; and now the fiscal year 1989 appropriation will be $149 million or 9.7 percent less than last year's. Thus, just in this 3-year period, LIHEAP's level of funding has been cut by $625 million or 31.1 percent.

I keep wondering, Mr. Speaker, when the other body will finally stop believing that LIHEAP is awash with money due to oil overcharge funds, and will start grasping the fact that the shrinking supply of those funds is not available to States as a supplemental source of low-income energy assistance.

The fiscal year 1989 funding level proposed for the two JTPA programs is the second lowest each has received since JTPA was enacted in 1982. We now know that the present problems of the unemployed, the underemployed, and of disadvantaged youth are not just tragic current concerns. They are a preview of what we will have to respond to in order to assure our future workforce has the needed capabilities to sustain our future economic strength and standard of living. Given this understanding, these cuts are very difficult to comprehend and accept.

Along with my committee chairman, Mr. HAWKINS, and the chairman and ranking minority member of our Subcommittee on Health and Safety, earlier this year I communicated two major concerns to our Appropriations Committee which stemmed from oversight hearing findings. Our oversight hearings had revealed that the Occupational Safety and Health Administration [OSHA] was woefully lacking in inspectors in general and in well-trained construction inspectors in particular. They had also made it clear that because the National Institute for Occupational Safety and Health's [NIOSH] increases in funding in recent years had barely covered the erosion of inflation, NIOSH was in danger of losing its state-of-the-art capability to analyze hazards connected with the roughly 5,000 new toxic substances coming on the market every year as well as part of its professional staff. The fiscal year 1989 funding the conference report provides for OSHA and NIOSH is once again below the respective fiscal year 1989 baseline levels for the two agencies; hence service levels in the critical arena of worker safety and health will continue to be eroded.

On balance, Mr. Speaker, our conferees have brought us a careful and thoughtful compromise in funding priorities and funding levels in this conference report that will benefit a broad range of Americans of all ages. I encourage my colleagues to give it their full support.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Minnesota, my friend, Mr. BILL FRENZEL, is an able Member of this House.

□ 1215

I have listened to him carefully on the statement he just made, and I think, Mr. Speaker, he should hear what the President of the United States says about this bill. I had not intended to call it up but I believe Members should be aware of what the President has said about the conference agreement. This letter was directed, Mr. Speaker, to the Speaker of the House on September 7, 1988, from the President.

Here is what the letter says:

> DEAR MR. SPEAKER: The committee of conference on the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1989 (H.R. 4783) reported a bill that I can sign if it does not contain the Senate's proposed abortion provisions. I understand that the conferees did not reach agreement on the abortion issue and the two Houses will vote on it again.

That, as you know, Mr. Speaker, will take place today.

> The House passed the Hyde Amendment language that provides:
>
> "None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."
>
> The House provision protects the lives of America's unborn children and I strongly support it.
>
> The Senate amended the bill to permit use of funding for abortions in cases in which the life of the mother would not be endangered if the fetus were carried to term. The Senate language would permit the use of Federal funds for the slaughter of unborn children, depriving the innocent of the most basic of civil rights—the right to life.
>
> I will veto the bill if it is presented to me with the Senate language. If it is instead presented to me only with the House language, the bill will merit my approval.
>
> I urge the Congress to vote to protect the lives of America's unborn children.
>
> Sincerely,
>
> RONALD REAGAN.

Mr. Speaker, the President of the United States, Ronald Reagan, has signed this bill every time that it has been presented to him, and he will sign it when it goes down this time, but I thought I ought to call it to the attention of the Members of the House. That is what the President says.

We are a little bit over his budget request, but as far as the numbers are concerned, Mr. Speaker, as far as the amounts are concerned in this bill, the President of the United States will sign it.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join my good chairman, the gentleman from Kentucky [Mr. NATCHER], in answering my good friend, the gentleman from Minnesota [Mr. FRENZEL].

I think that he should look at the President's request. The President's request on research on AIDS is $315 million over last year. The President's request for biomedical research is $336 million more than last year. In compensatory education, the President's request is $230 million over what we appropriated last year, and in student aid, the President requests $555 million more than we appropriated last year. So we cannot just blame the Congress that this bill is over last year because of what the Congress did. There is about $1.4 billion that the President requested over what we appropriated last year.

Mr. Speaker, I yield back the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DANNEMEYER. Mr. Speaker, I am opposed to the conference report.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DANNEMEYER moves to recommit the conference report on the bill H.R. 4783 to the committee of conference with instructions to the managers on the part of the House to agree to the amendments of the Senate numbered 49, 135, 252, 253, 254, and 255.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 183, nays 212, not voting 36, as follows:

[Roll No. 305]

YEAS—183

Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boggs
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chapman
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Crockett
Dannemeyer
Davis (IL)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Donnelly
Dornan (CA)
Dreier
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Gallegly
Gallo
Gekas
Gephardt
Gingrich
Glickman
Grandy
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (SD)
Kaptur
Kasich
Kleczka
Kyl
LaFalce
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Nielson
Oxley
Parris
Pashayan
Patterson
Penny
Petri
Porter
Quillen
Ray
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roukema
Rowland (CT)
Russo
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
St Germain
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Weldon
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—212

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bilbray
Boehlert
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Darden
Davis (MI)
DeFazio
Dellums
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Horton
Hoyer
Hughes
Jacobs
Jeffords
Johnson (CT)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowery (CA)
Lowry (WA)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Rahall
Rangel
Ravenel
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schumer
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slaughter (NY)
Smith (FL)
Solarz
Spratt
Staggers
Stokes
Stratton
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Visclosky
Walgren
Watkins
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—36

Alexander
Badham
Boland
Boulter
Cheney
Collins
Daub
de la Garza
Dowdy
Dymally
Fish
Garcia
Houghton
Jones (NC)
Jones (TN)
Kemp
Leath (TX)
Leland
Lipinski
Lujan
MacKay
Martin (IL)
Mica
Michel
Nichols
Packard
Payne
Regula
Roth
Schroeder
Smith (IA)
Spence
Stark
Towns
Vento
Waxman

□ 1244

Messers. BENNETT, DINGELL, OWENS of New York, MARTINEZ, and BERMAN, changed their vote from "yea" to "nay."

Messrs. VANDER JAGT, ROBINSON, QUILLEN, SWEENEY, YOUNG of Alaska, GLICKMAN, and ERDREICH, Mrs. PATTERSON, Messrs. HARRIS, MOLLOHAN, BEVILL, and YOUNG of Florida, Mrs. BOGGS, Ms. KAPTUR, Messrs. MONTGOMERY, FLIPPO, GALLO, RAY and DERRICK, Ms. SNOWE, Mr. FAWELL, and THOMAS A. LUKEN changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Mr. DAUB. Mr. Speaker, I was unavoidably absent. Had I been present, I would have voted "yes".

□ 1245

(By unanimous consent, Mr. WRIGHT was allowed to speak out of order.)

RECITATION OF THE PLEDGE OF ALLEGIANCE

Mr. WRIGHT. Mr. Speaker, earlier today one of the Members of the House sought recognition and, having gained recognition, offered a motion to require the daily recitation of the Pledge of Allegiance to the Flag.

The Chair ruled on that occasion that the motion was not in order and I think most Members on both sides, parliamentarians that they are, recognize that the ruling of the Chair was correct. Under the rules of the House, that motion was not in order.

In order to amend the daily proceedings of the House, we should amend the rules of the House that are applicable. And so the vote which ensued on the question of sustaining the ruling of the Chair was not a question of whether a Pledge of Allegiance is a good thing, not a question of whether we ought to say the Pledge of Allegiance; it was a question of whether the Chair had correctly ruled.

Now I think a great many of the Members seriously were sorry that a vote should have occurred on that question because, obviously, the Chair was correct. The Parliamentarian sustains it, all the precedents of the House sustain it.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. No, I will not yield at this time. I have a statement that I want to make and when I have concluded my statement, the gentleman can be recognized if he wishes. I do have something that I think Members will be interested in hearing.

The Pledge of Allegiance to the Flag if a part of our precious heritage as a nation. I do not think any of us finds fault with the Pledge of Allegiance to the Flag. Surely, no Member would have any objection to reciting the Pledge of Allegiance since each of us, in effect, recites that very pledge when he takes his oath of office to uphold and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic, to bear true faith and allegiance to the same.

And so none of us objects to the Pledge of Allegiance; all of us embrace the Pledge of Allegiance. But I think it is very important that all of us recognize that the Pledge of Allegiance to the Flag is something intended to unite us, not intended to divide us.

I think all of us and each of us in his heart of hearts would subscribe to the belief that patriotism knows no political party. I think each of us will rightly concede that those of the other political party are equally patriotic; all of us believe in America; all of us want to defend this country. And surely nothing would be more reprehensible than for any of us to suggest that another Member or another citizen simply by reason of adhering to the principles of the other political party, was less patriotic than ourselves.

Judge Learned Hand said it well; he said that "society is already in the process of dissolution where neighbors begin to view one another with suspicion or where non-conformity with accepted creed becomes a mark of disaffection." Let that not be the epitaph of this civilization.

And so on next Tuesday, the next day of convening, I just would like to announce that following the recitation of the prayer by our Chaplain, following the approval of the Journal, the Chair will call upon Mr. MONTGOMERY, the gentleman from Mississippi, to lead a Pledge of Allegiance.

And on a subsequent day, the Chair would like the privilege of calling upon, let us say, the gentleman from California, if Mr. LEWIS would lead us on Wednesday in the Pledge of Allegiance.

So let us, let us reaffirm, let us seriously reaffirm that the rules of the House are important and that the rules of the House are not subject to temporary emotions and sudden whims and that whoever he be, who sits in the Chair, has the responsibility to rule and uphold the rules of the House and that the rest of us have the responsibility to sustain him when rightly he rules and that all of us embrace the flag and the Constitution of the United States, one Nation, under God, indivisible, and that we recite it as a deed of our unity and never may it be used as an instrument of disunity.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NATCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind Members that this will be a 5-minute vote.

The vote was taken by electronic device and there were—yeas 335, nays 60, not voting 36, as follows:

[Roll No. 306]

YEAS—335

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Mack
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—60

Archer
Armey
Baker
Bartlett
Barton
Brown (CO)
Bunning
Burton
Combest
Craig
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fields
Frenzel
Gekas
Gregg
Hansen
Hefley
Herger
Hunter
Inhofe
Ireland
Kyl
Latta
Leach (IA)
Lightfoot
Lukens, Donald
Lungren
Marlenee
McCandless
McCollum
McEwen
Moorhead
Nielson
Parris
Petri
Roberts
Schaefer
Sensenbrenner
Shumway
Shuster
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Upton
Walker

NOT VOTING—36

Alexander
Badham
Boulter
Cheney
Collins
Daub
de la Garza
Dowdy
Dymally
Fish
Garcia
Houghton
Jones (NC)
Jones (TN)
Kemp
Leath (TX)
Leland
Lipinski
Lujan
MacKay
Martin (IL)
Mica
Michel
Nichols
Packard
Payne
Rangel
Regula
Roth
Schroeder
Smith (IA)
Spence
Stark
Towns
Vento
Waxman

☐ 1307

The Clerk announced the following pair:

On this vote:

Mr. Houghton for, with Mr. Boulter against.

Mr. DAVIS of Illinois and Mr. GALLEGLY changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DAUB. Mr. Speaker, I was unavoidably absent. Had I been present, I would have voted "yes".

PROCEDURE FOR PLEDGE OF ALLEGIANCE IN THE HOUSE

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Chair desires to be eminently fair. Therefore, without objection, the gentleman from California [Mr. LEWIS] is recognized for 1 minute to speak out of order.

There was no objection.

Mr. LEWIS of California. Mr. Speaker, it was my intention, when all the Members were present in the body and the Speaker was before us, to make an inquiry of the Speaker and request that he ask unanimous consent to change the rules of the House to make it standard operating procedure that we have the Pledge of Allegiance following the prayer before each session. The Speaker at the time of applause left the Chamber, so that is not feasible.

It is my understanding, Mr. Speaker, that in order to discharge a bill before the Rules Committee—and there is such a bill, H. Res. 501, introduced by the gentleman from New York [Mr. SOLOMON], which is in print—in order to discharge that bill so it could come to the floor where we could debate it here and have a vote yes or no on the Pledge of Allegiance question, I would have to have previously gotten the approval of the majority leader and the majority whip on that, as well as the approval of the minority leader and the minority whip.

Would the Chair clarify precisely for me what kind of exercise I must go through to get that approval?

The SPEAKER pro tempore. In answer to the gentleman's inquiry, the Chair would state that the Speaker's announcement is in accordance with the rules of the House, and that that procedure will be followed next Tuesday.

The Chair will further state to the gentleman from California, that to make any unanimous-consent request now would require the approval of both sides, to bring up the resolution to which he alluded.

Mr. LEWIS of California. Mr. Speaker, would the Chair clarify this for me?

The SPEAKER pro tempore. Is the gentleman propounding a parliamentary inquiry?

Mr. LEWIS of California. Yes, Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

PARLIAMENTARY INQUIRIES

Mr. LEWIS of California. Mr. Speaker, is the Speaker's ruling essentially this, that I would have to get the approval of the majority leader and the majority whip—I already have the approval of the minority leader and the minority whip—in order to seek recognition for that purpose? Is that correct?

The SPEAKER pro tempore. The Chair would state that the Speaker's announced guidelines on making a unanimous-consent request to consider an unreported measure, regardless of what committee is involved, require that it be cleared on both sides of the aisle, floor and committee leadership, including the chairman. In this case it would be the chairman of the Rules Committee. That is why the Chair was stating to the gentleman, in response to his inquiry, that all of the Speaker's guidelines must be followed by contacting both the minority leader and the majority leader and the chairman and ranking minority member of the Rules Committee. The Chair could then recognize a Member for that purpose once it had been cleared.

Mr. LEWIS of California. Mr. Speaker, I appreciate the latter comment. The Chair has indicated that once I have gotten the permission essentially or had gotten the approval of the Speaker, the chairman of the Rules Committee, the majority leader, and the majority whip to request withdrawal of House Resolution 501, which would bring this issue of a Pledge of Allegiance to us, then unanimous consent could be requested for that item to come to the floor and to be debated and voted upon?

The SPEAKER pro tempore. The gentleman has stated the situation accurately. It would be handled in the ordinary fashion that we handle resolutions here on the floor that have been cleared on both sides with the floor leadership and the leadership of the committee. The gentleman states it correctly.

Mr. LEWIS of California. Mr. Speaker, I might mention to the Members of the House that the Speaker has helped us a lot by, first of all, indicating that he was going to call upon a Member to lead the Pledge of Allegiance on the first legislative day of next week, and then upon myself for the second legislative day. I presume that means Tuesday and Wednesday of next week.

Beyond that point, let it be said that it is my intention to seek their approval for a request to withdraw House Resolution 501 from the Rules Committee so that we can bring this issue to the floor and have a full-scale debate on the question of a Pledge of Allegiance and a vote up or down on the measure.

The SPEAKER pro tempore. The gentleman knows that this body has that right.

Mr. SOLOMON. Mr. Speaker, if the gentleman would yield, I would just like to say that House Resolution 501 has been in print for about 6 weeks. There is, therefore, cosponsorship, and if there is any Member who would like to cosponsor it between now and next Tuesday, when we would be asking for it to come up, we would ask that they just notify the Speaker and we will put it in.

Mr. LEWIS of California. I thank the Chair.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 2, line 24, after "Act" insert "$12,000,000 shall be used to begin acquisition, rehabilitation, and construction of six new Job Corps centers and $2,500,000 shall be for programs serving American Samoans under the Job Training Partnership Act".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "and $36,000,000 shall be used to continue acquisition, rehabilitation, and construction of six new Job Corps centers; and, in addition, $9,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, of which $1,900,000 shall be for carrying out section 738 of the Act".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 3, line 8, strike out "$50,000,000" and insert "$47,870,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

MR. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$47,870,000, in accordance with section 1424 of H.R. 4848 as passed the Senate on August 3, 1988".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that Senate amendments Nos. 12, 28, 33, 36, 40, 41, 42, 45, 47, 50, 53, 57, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 74, 78, 84, 87, 105, 115, 117, 120, 121, 127, 151, 166, 172, 173, 186, 199, 200, 208, 218, 225, 228, 231, 232, 244, 248, and 249 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the amendments in disagreement.

The text of the amendments is as follows:

Senate amendment No. 12: Page 3, after line 21, insert:

The Congress recognizes the need to prepare the Nation's workforce for the more complex work environment of the United States post-industrial economy. The Congress is concerned with the findings of the Office of Technology Assessment that 25 million workers will have to upgrade their job skills by the end of this century. Accordingly, the Congress directs the Secretary to give priority to funding pilots and demonstrations and research, development, and evaluation programs that will address this urgent National priority.

Further, in recognition that upgrading the skills of 25,000,000 workers cannot be achieved with current methods of teaching, the Congress directs the Secretary to fund from the available National activities program funds research and development projects using interactive laser-videodisc technology course materials that are specifically designed to upgrade "workplace literacy".

Senate amendment No. 28: Page 18, line 8, after "VII," insert "VIII, X,".

Senate amendment No. 33: Page 18, line 21, after "patients" insert "and of which $20,800,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers".

Senate amendment No. 36: Page 20, line 3, after "III" insert, "XVII, XIX,".

Senate amendment No. 40: Page 21, line 12, after "Survey" insert, ": *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision".

Senate amendment No. 41: Page 21, line 12, after "Survey" insert ": *Provided further,* That the office building at the Centers for Disease Control (CDC) Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, referred to in the Centers for Disease Control—Disease Control, Research and Training Appropriation appearing in Title II of the Departments of Labor, Health and Human, Services, and Education, and Related Agencies Appropriation Act for the fiscal year ending September 30, 1988, Public Law 100-202, December 22, 1987, 101 Stat. 1329-264—1329-265, shall be constructed in conformity with design plans prepared by the CDC, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to GSA from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed 30 years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriations to the Centers for Disease Control—Disease Control, Research, and Training (or any other appropriation hereafter made available to the CDC for construction of facilities) and such appropriations shall be hereafter available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. sections 1502 and 1341(a)(1)(B)".

Senate amendment No. 42: Page 21, line 15, after "301" insert "and title IV".

Senate amendment No. 45: Page 21, line 18, after "1105" insert "and title IV".

Senate amendment No. 47: Page 21, line 23, after "301" insert "and title IV".

Senate amendment No. 50: Page 22, line 3, after "301" insert "and title IV".

Senate amendment No. 53: Page 22, line 8, after "301" insert "and title IV".

Senate amendment No. 57: Page 22, line 13, after "301" insert "and title IV".

Senate amendment No. 59: Page 22, line 17, after "301" insert "and title IV".

Senate amendment No. 60: Page 22, line 19, strike out "$623,087,000" and insert "$690,653,000".

Senate amendment No. 61: Page 22, line 22, after "301" insert "and title IV".

Senate amendment No. 62: Page 22, line 24, strike out "$407,650,000" and insert "$431,388,000".

Senate amendment No. 63: Page 23, line 2, after "301" insert "and title IV".

Senate amendment No. 64: Page 23, line 4, strike out "$228,235,000" and insert "$234,218,000".

Senate amendment No. 65: Page 23, line 7, after "311" insert "and title IV".

Senate amendment No. 67: Page 23, line 11, after "301" insert "and title IV".

Senate amendment No. 68: Page 23, line 12, strike out "$202,096,000" and insert "$225,578,000".

Senate amendment No. 69: Page 23, line 15, after "301" insert "and title IV".

Senate amendment No. 70: Page 23, line 17, strike out "$156,174,000" and insert "$161,931,000".

Senate amendment No. 71: Page 23, line 19, after "301" insert "and title IV".

Senate amendment No. 74: Page 24, line 2, after "301" insert "and title IV".

Senate amendment No. 78: Page 24, line 10, after "301" insert "and title IV".

Senate amendment No. 84: Page 24, line 21, after "expanded." insert:

"Notwithstanding any other provision of this Act, AIDS education programs funded by the Centers for Disease Control and other education curricula funded under this Act dealing with sexual activity—

"(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual, and

"(2) in addition, with regard to AIDS education programs and curricula—

"(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information, and

"(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.".

Senate amendment No. 87: Page 26, line 9, after "III" insert "; XVII, and XX".

Senate amendment No. 105: Page 33, line 8, insert:

"WORK INCENTIVES

"For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.".

Senate amendment No. 115: Page 34, line 9, after "provided," insert "the Runaway and Homeless Youth Act,".

Senate amendment No. 117: Page 34, line 15, after "opportunities)", insert "title II of the Children's Justice and Assistance Act of 1986,".

Senate amendment No. 120: Page 34, line 22, after "$2,531,808,000" insert ": *Provided*, that appropriations to carry out the Comprehensive Child Development Program under chapter 8, subchapter E of the Omnibus Budget Reconciliation Act of 1981, shall be available notwithstanding section 670T(b) of that Act".

Senate amendment No. 121: Page 34, line 26, strike out "$1,074,907,000" and insert "$1,119,907,000".

Senate amendment No. 127: Page 41, line 10, strike out all after "als" down to and including "4111" in line 13 and insert "using pay, schedule options, benefits, and other authorities as provided for the nurses of the Veterans' Administration under 38 U.S.C. chapter 73".

Senate amendment No. 151: Page 42, line 13, after "1405" insert ": *Provided further*, That no State shall receive less than $340,000 under section 1006 from the amounts made available under this appropriation for section 1006".

Senate amendment No. 166: Page 43, line 23, after "B" insert "including $1,000,000 for national school volunteer programs".

Senate amendment No. 172: Page 44, line 8, after "III," insert "$9,000,000 shall be for section 2012".

Senate amendment No. 173: Page 44, line 14, strike out "section 4601" and insert "part F of title IV of which not less than $1,000,000 shall be for activities authorized by section 4603".

Senate amendment No. 186: Page 45, after line 17 insert:

Of the funds provided under the heading "Rehabilitation Services and Handicapped Research" in fiscal year 1987 in Public Law 99-500 and Public Law 99-501, for carrying out the rehabilitation Act of 1973, which are unobligated, the sum of $500,000 is reappropriated for an allotment under section 100(b)(1) of the Rehabilitation Act of 1973 to Montana for obligations incurred by Montana during fiscal year 1987.

Senate amendment No. 199: Page 46, line 20, after "$2,300" insert ": *Provided further*, That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: Provided further, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section".

Senate amendment No. 200: Page 46, line 20, after "$2,300" insert ": *Provided further*, That notwithstanding section 484 of the Higher Education Act of 1965, as amended (20 US.C. 1001 et seq.), in order for a student to be eligible to receive grant, loan, or work assistance under title IV of that Act, that student shall be required to have earned a high school diploma or its recognized equivalent if (1) that student is enrolled or accepted for enrollment in a course of study of less than one year in preparation for an occupation for which the student must be certified by an agency other than the eligible institution or institution of higher education in order to begin practice or service, and (2) a high school diploma or its recognized equivalent is a requirement for that certification.

Senate amendment No. 208: Page 48, line 4, after "Program" insert ": *Provided further*, that the Secretary shall, in carrying out section 802 of the Higher Education Act of 1965, give special consideration to applications from private urban institutions of higher education, or combinations thereof, with minority student enrollment exceeding 66 percent of total student enrollment, and with plans to develop from a traditional academic curriculum to a universal cooperative education program applicable to all undergraduate four year major fields of study".

Senate amendment No. 218: Page 50, line 11, after "expended" insert ": *Provided further*, that the State of Illinois is relieved of all liability to repay the United States the sum of $14,547,769 representing payments made to Illinois under the Library Services and Construction Act for fiscal years 1977 through 1986 which were disallowed because of a pioneering nature of the program for libraries in that State and, in the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this proviso".

Senate amendment No. 225: Page 51, line 23, after "1984" insert "of which $5,600,000 shall be available for necessary expenses of the National Student Loan Data System upon enactment of amendments to section 485B of the Higher Education Act which will decrease student loan and default costs by more than the cost of the system on an annual basis".

Senate amendment No. 228: Page 55, after line 6, insert:

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1991, $302,500,000 of which $57,500,000 shall be available for section 396(k)(10) of said Act: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further*, That funds provided herein for fiscal year 1991 shall be available pending authorization.

Senate amendment No. 231: Page 56, after line 11, insert:

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, $800,000, which shall remain available until expended.

Senate amendment No. 232: Page 56, after line 11, insert:

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $500,000, which shall remain available until expended. Notwithstanding any other provision of law, the Commission shall be composed of sixteen members, including seven at large members. Furthermore, the Commission has the power to accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, and shall continue operating, notwithstanding sections 208 and 209 of Public Law 99-660.

Senate amendment No. 244: Page 61, line 17, after "expended" insert ": *Provided further*, That funds provided under this paragraph as well as $15,000,000 provided for Capital Outlay in Public Law 100-202 shall, immediately upon enactment of this Act, be made available for the construction of a 200-bed Intermediate Care Facility on the grounds of the LaGarde building".

Senate amendment No. 248: Page 66, after line 3, insert:

SEC. 513. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Senate amendment No. 249: Page 66, after line 3, insert:

SEC. 514. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendments of the Senate numbered 12, 28, 33, 36, 40, 41, 42, 45, 47, 50, 53, 57, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 74, 78, 84, 87, 105, 115, 117, 120, 121, 127, 151, 166, 172, 173, 186, 199, 200, 208, 218, 225, 228, 231, 232, 244, 248, and 249 and concur therein.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. NATCHER] desire to take time on this motion?

Mr. NATCHER. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] is recognized for 30 minutes.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume, and I yield to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Speaker, I would just like to rise and express my strong support for the work of the subcommittee and the work of the conference on the question of the Job Corps Centers. I commend the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE] for their hard work in expanding the Job Corps Center Program, and, Mr. Speaker, I just want to rise in strong support of that.

I particularly appreciate the fact that we are committing $12 million more for acquisition and planning for fiscal years 1988, 1989, and 1990. We are committing the necessary resources, in the neighborhood of $6 million, for six new centers, and I hope that with the location of the centers in selected sites, under the Department of Labor, they will make the decisions that need to be made. I would point out that the State of Kansas and several other States do not currently have a Job Center, and, for example, the Job Corps is currently contracting to recruit some 900 new youth to participate in the Job Corps Program. I would make the point that I believe Kansas can still make an argument that they are deserving of a Job Corps Center.

Mr. Speaker, I thank the chairman of the subcommittee again and the gentleman from Massachusetts for their work. I also thank the gentleman from Wisconsin with whom I have worked on this particular issue.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

□ 1315

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 10, line 8, strike out "$246,517,000" and insert "$246,851,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$247,517,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 30: Page 18, line 11, strike out "$769,554,000" and insert "$1,642,685,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$1,632,584,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 37: Page 20, line 9, strike out "$819,941,000" and insert "$979,357,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$993,830,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 21, line 16, strike out "$1,489,897,000" and insert "$1,591,036,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$1,593,536,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 21, line 16, after "$1,489,897,000" insert "; of which at least $75,000,000 shall be available only for cancer prevention and control".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "; of which at least $75,000,000 shall be available only for cancer prevention and control and $2,500,000, to remain available until expended, shall be available only for the Frederick Cancer Research Facility".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 46: Page 21, line 21, strike out "$1,018,983,000" and insert "$1,056,003,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$1,059,303,000".

Mr CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 48: Page 21, line 24, strike out "$127,315,000" and insert "$130,578,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$132,578,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 49: Page 21, after line 24, insert:

Sec. 200. None of the funds made available under this Act shall be used to require any person or entity to perform, or facilitate in any way the performance of any abortion.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

Sec. 200. None of the funds contained in this Act shall be used to compel any action in violation of section 401 (b) and (c) of Public Law 93-45.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 51: Page 22, line 5, strike out "$546,902,000" and insert "$565,908,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$567,158,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 55: Page 22, line 10, strike out "$557,046,000" and insert "$477,878,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$573,978,000 of which up to $96,100,000, as the Secretary may determine to be appropriate, shall be transferred to the National Institute on Deafness and Other Communication Disorders upon being enacted into law".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 58: Page 22, line 15, strike out "$732,453,000" and insert "$758,352,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$754,084,000."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 66: Page 23, line 9, strike out "$216,985,000" and insert "$223,168,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$226,168,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 72: Page 23, line 21, strike out "$355,767,000" and insert "$367,987,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$362,988,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 73: Page 23, line 21, after "$355,767,000" of which $10,000,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$5,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 75: Page 24, line 3, strike out "$27,417,000" and insert "$28,107,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$29,500,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 79: Page 24, line 12, strike out "$64,836,00" and insert "$70,626,00".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$74,626,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 80: Page 24, line 15, strike out "$71,578,000" and insert "$65,578,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$73,078,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 82: Page 24, line 21, strike out "$20,000,000" and insert "$12,500,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$39,000,000."

Mr. CONTE [during the reading]. Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 85: Page 25, line 1, strike out "$507,594,000" and insert "and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,583,191,000, of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 85 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,581,691,000 of which $4,787,000 shall be available, on a pro rate basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797),".

Mr. CONTE [during the reading]. Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 88: Page 26, line 10, strike out "$67,144,000" and insert "$69,903,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 88 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$70,167,000.".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 100: Page 32, line 12, after "States" insert": *"Provided further,* That notwithstanding any other provision of law, amounts appropriated by this Act for the Social Security Administration shall be used to maintain not less than 66,545 full-time equivalent positions".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "*Provided further,* That not to exceed $170,000,000 shall be available for automatic data processing and telecommunication activities".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 104: Page 33, after line 8, insert:

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $400,000,000.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 104 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$387,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 33, line 12, strike out "$354,398,000" and insert "$385,864,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "and the Stewart B. McKinney Homeless Assistance Act, $382,185,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 118: Page 34, line 22, strike out "$2,531,808,000" and insert "$2,575,465,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 118 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$2,574,808,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 126: Page 38, line 14, after "term" insert ", or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; nor are payments prohibited for drugs to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of ectopic pregnancy: *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate, except where the life of the mother would be endangered if the fetus were carried to term".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House insist on its disagreement to the amendment of the Senate numbered 126.

Mr. HOYER. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. Is the gentleman from Massachusetts opposed?

Mr. CONTE. No, Mr. Speaker, I am not opposed to the motion.

PARLIAMENTARY INQUIRY

Mr. CONTE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CONTE. Mr. Speaker, what is the motion before the House Clerk?

The SPEAKER pro tempore. The motion before the House is by the gentleman from Kentucky [Mr. Natcher]. It is to amendment 126, and the question the Chair asks the gentleman from Massachusetts is, is he opposed to the motion offered by the gentleman from Kentucky?

Mr. CONTE. No, I am not.

Mr. HOYER. Mr. Speaker, the chairman and the ranking member are in favor of the motion which I oppose. I would ask, pursuant to clause 2 of rule XXVIII, that the time be equally divided.

The SPEAKER pro tempore. The Chair will state that the gentleman from Maryland [Mr. Hoyer] will be recognized for 20 minutes, the gentleman from Kentucky [Mr. Natcher] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Kentucky [Mr. NACHER].

Mr. NATCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the chairman, the gentleman from Kentucky [Mr. NATCHER], for yielding this time to me.

Mr. Speaker, a few weeks ago while driving along I saw a bumper sticker on a car that said, "A fetus is a little human." I think that goes to the essence of this debate. Mr. Speaker, what we are talking about is a human being.

America has come to be known as the disposable society, but that should not include people, the elderly in their senset years; it should not include the retarded, nor the handicapped, and we certainly should not discard children before they are born.

Dr. Bernard Nathanson, a New York obstetrician-gynecologist, was a founder of the National Abortion Rights League. He was a militant abortion rights supporter before the U.S. Supreme Court decision. Nathanson founded and served as director of the first and largest abortion clinic in the United States. A year and a half and 60,000 abortions later, he resigned as head of that clinic. He wrote:

> I am deeply troubled by my own increasing certainty that I have in fact presided over 60,000 deaths. There is no longer serious doubt in my mind that human life exists within the womb from the very onset of pregnancy.
>
> The infinitely agonizing truth is that in an abortion we are taking life.

Mr. Speaker, a few years ago I conducted a hearing in which a doctor recounted the story of a patient who in his words was poor, raped, black, pregnant, and teenaged.

□ 1330

"As I talked with her," he said, "she made it very clear that abortion was not ever a consideration."

She said, "I couldn't do that to something that is half of me."

What public policy question could be more vital to the well-being of society than whether a fetus is human. It is an established biological fact that the existence of a human being begins at conception and that the individual so created remains a human being throughout every stage of biological development thereafter.

But there are some forms of life that people are concerned about enough to protect, to change the law so that vulnerable life can be protected. In Arizona a person can be fined $300 for destroying a Gila monster egg. In that same State, there is no fine for destroying a 28-week-old unborn human being.

The focus of this debate, however, is language to provide for Federal funding of abortion in cases of rape or incest. This issue must be addressed with dignity, with sensitivity and respect for the victims, both mother and potentially unborn child.

Rape is a violent crime against a woman, an innocent victim, a defenseless woman. Abortion is also a violent destruction of equally innocent human life, the unborn, including the unborn resulting from rape, but it is also a fact that prompt medical treatment following rape prevents pregnancy. In correspondence with the former chairman of the subcommittee on then HEW, Mr. Flood, a physician wrote: "As an emergency room physician, I would like to share with you my knowledge about treatment of rape and incest victims, rape treated in the emergency room of hospitals. No competent doctor would expose a woman to the hazards of an abortion when a simple medical curettage is available to prevent pregnancy in rape. The patient is given estrogen for 5 days, which makes it impossible for the woman to conceive."

Life must not become a privilege reserved for the strong and denied to the old, to the retarded, to the handicapped or to the voiceless and the voteless among us, the unborn.

In this throwaway society of ours, what we ought to throw away is the junk ethic that dismisses the unborn simply as a mass of cells, simply a collection of tissue that can be discarded without remorse, as a hindrance or as a nuisance. That ethic and the legal framework provided by the Supreme Court decision in Roe versus Wade does more than destroy unborn human life. It literally has a corrosive effect upon the very fabric of society and demoralizes society itself.

We should resolve to show a strength of principle that will restore meaning to life, the right to life of the unborn, including those who may be the progeny of a pregnancy that results tragically from rape or incest.

Taking innocent unborn life will not ease the abuse of rape, ease the abuse created when an innocent female victim is brutalized. It will not apprehend the rapist. It will not heal the emotional scars of that violent crime.

Mr. Speaker, we should stay with the House position and reject the position of the other body.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the gentleman from Massachusetts for yielding this time to me.

Let me at the outset say that I understand the depth of feeling of those who support the motion and who feel that abortion should be permitted only when the life of the mother is in danger. I understand the sincerity with which those who advocate that position come to the floor.

I wish they would understand that there are some of us who feel with equal fervor that to force a woman who has been raped to carry to term the fetus that is the product of that rape is an act of horrible cruelty second only to the rape itself.

Now, I know that obviously that position is one that morally is inconsistent with the position of those who are supporting the motion, but I suggest to you it is certainly an understandable, defensible position, and one which I would hope those who do not like abortion would nonetheless understand.

So recognizing the terrible dilemma that we face when a woman is raped and a pregnancy results from that, I would hope that they would at least acknowledge that there is enough moral controversy, that that is a decision as to what should happen to the product of that rape that is best left to the woman's own conscience, the woman's own relationship to God. If you belive that, as I do, I would only hope that you would vote no, so that we can sustain the Senate position.

Mr. HOYER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this is an issue on which the opinions of Members are deeply held and on which the consequences to individuals are very substantial. Those on both sides of this issue will talk about the consequences to other human beings.

First of all, let me take a brief time to explain what this is. The other body added an amendment overwhelmingly to their bill which said in the instances—the sole instances—where a pregnancy results as the result of the rape of a woman, or where a pregnancy results from an incestuous attack, in that instance and in the other instances which are presently in the law where the life of the mother is in the balance, in those instances alone, poor women will like other women who do not need public assistance, allowed to use public funds for abortion services.

There was an additional provision in that bill, interestingly, and language that we have adopted some four times between 1980 and 1982, which says that a State will have the option still to opt out to say no not even in these instances of vicious sexual attack will we exempt a woman from carrying the child of her attacker however psychologically damaging that may be, however permanently damaging that may be.

This amendment simply makes those sole exceptions, and no broader.

I think, Mr. Speaker, this is the appropriate and sensitive and humane step for us to take. We disagree, we understand. I would ask, therefore, that the motion be defeated.

Mr. WEBER. Mr. Speaker, I yield 3 minutes to our colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend, the gentleman from Minnesota, for yielding this time to me.

Mr. Speaker, clearly rape and incest are unconscionable assaults on women and children. While abortion likewise is a violent assault on an innocent unborn child, I believe that the Federal Government should not be paying for any person to be assaulted, whether he or she is born or unborn.

Mr. Speaker, as I have listened to this debate, and especially as it has proceeded over the years on rape and incest, I am always struck by how the abortion proponents have attempted to frame the debate. We have, of course, in America, abortion on demand, a million and a half children killed each and every year, a staggering and overwhelming number.

It is deeply regrettable that not one of these little persons are to the abortion proponents worth legally protecting. Clearly, this position of supporting abortion on demand from fertilization throughout the total 9 months of pregnancy has scant support in our Nation. So the abortion proponents are not focusing on their extreme position of destroying unborn children for any reason any time prior to birth. No, they are focusing on advocating abortion where pregnancy results from rape or incest. They focus on a situation which rarely occurs, but which is so emotionally laden that they appear to have a reasonable position, while their opponents are painted as being unreasonable.

The fact of the matter is, Mr. Speaker, the proabortion position, notwithstanding its surface appeal, is the unreasonable position and is also the unjust position.

Since 1973, those who promote the violence of abortion have had their season of child deaths, a straggering 22 million have perished. I believe this is a national scandal.

Mr. Speaker, I am encouraged that in the last few years and months that the truth seems to be penetrating society. There seems to be a growing recognition of what abortion is and what it does to the woman, as well as what it does to the baby.

Mr. Speaker, those of us who support life care and we care deeply for both the women and their children. We care, regardless of the circumstances of a persons beginning or his race or creed or whether or not that child is handicapped or suffers some other anomaly, because all human life is so precious.

Mr. Speaker, it is not odd that when we talk about human rights so often in this Chamber that the most basic and most fundamental of all human rights, the right to life, is the one that this country does not respect?

Mr. Speaker, to be sure, we care, those of us in the prolife movement, and we are absolutely repelled by the fact that each day in America some 4,000 unborn children are killed. They are torn apart. They are cut apart. They are poisoned and they are asphyxiated by abortion procedures. This indeed is a national scandal.

We care, Mr. Speaker, and publicly stand for the unborn child, not only when it is convenient to do so, like when the child is wanted or when the child is planned or when the child is perfect, but we also stand for the child when it is most difficult to do so. Clearly, a child is a child and his or her worth is not diminished one iota by the circumstances of that beginning. That again is the truest definition of human rights.

Mr. Speaker, finally, if Members vote to reverse the current Hyde language, children will surely die. I urge a "yes" vote, sustain the House position, sustain the Hyde amendment.

Mr. NATCHER. Mr. Speaker, I yield 5 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, one of the frustrations of debating the larger issue of abortion is that the two opposing sides are not usually divided over questions of logic. After many years of debate over the general issue of abortion, only a few still question the existence of life before birth. Life begins at conception.

The opposing sides reach their respective positions on abortion based on what value they place on human life at any particular stage of development. Debate over this fundamental question can be difficult, because we do not always agree on the logical framework we should use to answer the question.

The more narrow question before us today, however, is different, whether to allow Medicaid funding of abortion in cases of rape and incest can, regardless of one's views on abortion, be logically answered in only one way, in the negative. It is not a difficult analysis.

Mr. Speaker, those of us who vote on the prolife side have determined that life is worth protecting at every stage of development. Abortion is wrong. It is the taking of human life, life that the sovereign, the Government, has an interest in protecting. The majority of Members of both Houses share this view, as evidence by repeated adoption of the Hyde amendment. We believe abortion is wrong, and consequently we believe that Federal money should not be used to support it. If you adopt our premise that unborn life is valuable, and therefore abortion is fundamentally wrong, there is no logical reason for allowing exceptions in cases of rape and incest.

Regardless of the tragic circumstances of conception, exceptions in cases of rape and incest.

Regardless of the tragic circumstances of conception, abortion remains the taking of human life. Concede us that point and you must reject an effort to carve out a rape and incest exception.

As an individual Member you may disagree with our premise, but Congress as a whole by adopting the Hyde amendment adopts our premise as its starting point. A prolife Member and a Member who supports abortion should agree logically on this point. There is no basis for compromising the integrity of the Hyde amendment. You either vote for the Hyde amendment or you vote against it. You do not, however, search for some middle ground that logically cannot exist, and you do not vote for the Exon amendment.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Speaker, I thank the gentleman for yielding to me.

Does the gentleman feel there ought to be an exception for life of the mother if the life of the mother is endangered, then it is permissible to grant an abortion to the woman?

Mr. MOLLOHAN. Indeed, and that is implicit—explicit in the Hyde amendment, because, if the gentlewoman will allow me to finish my answer, when we have two competing lives in being, it is logical to opt for the mature life in being.

Mrs. BOXER. There are two competing lives, and the gentleman comes down on the side of the life of the mother rather than the life of the fetus?

Mr. MOLLOHAN. Indeed, as the Hyde amendment does, and the Congress has affirmed numerous times.

Mrs. BOXER. Let me ask my friend this question. Let us take a situation where a husband and a wife are in the privacy of their own home. An intruder comes in, a rapist, rapes the woman, almost kills her, murders the husband. The woman survived is pregnant, and this gentleman is saying that that woman should be forced to have that child of the murderer; is that correct?

□ 1345

Mr. MOLLOHAN. We have equally tragic situations that the gentlewoman is describing presenting extremely tough choices, the tragic situation of destroying by dismembering the unborn life and shattering the life of the mother who has been raped by that person. What I am simply saying is that I am answering the question and that is the proposition that the gentlewoman is proposing creates these tremendously difficult choices.

Just to make one point which can be answered based upon what premise the gentlewoman starts with, and that is if we have a life and how much value we place on that life.

Mrs. BOXER. Mr. Speaker, I respect the gentleman, and I respect his opinion, I honestly do.

Mr. MOLLOHAN. We express our opinions on this very difficult issue.

Mrs. BOXER. But I just want to make the point so that there is no misunderstanding that a woman who is raped by the murderer of her husband will be forced to have that child, and I just want to make that the point for the record.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], a member of the subcommittee.

Mr. OBEY. Mr. Speaker, I have voted on this issue about 60 times, and I have to say that I have come to accept and agree with the legitimacy of the argument that in almost all circumstances Federal dollars should not be used to finance abortions.

The question is what happens to a woman who is raped or who is the victim of incest. This amendment deals only with the question of rape or incest. It does not endorse or recommend in any way abortions in those circumstances. If it did, I could not personnally support it.

My wife and I lost two babies, and I do not believe that abortion in the case of rape or incest is the answer. But as a man that is easy for me to say.

All this amendment says is that when a woman is raped or is the victim of incest, she, not I or you, should be able to make the choice in accordance with her own conscience without regard to whether she is rich or poor, if the State in which she resides allows the choice. That is all this amendment does, and reasonable people ought to be able to agree on that.

Mr. WEBER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the National Right to Life Committee has called this vote the most important prolife vote of the 100th Congress. We should ask ourselves why that is, because we have cast other votes on this important and emotional issue. I suggest there are a few reasons why this vote, of all of those votes that we have cast in this Congress, is considered the most important prolife vote.

First of all, because it would make a shift in a longstanding existing policy. Particularly Members who have not had to vote on this in the past, and there are many, should understand that fact. The Hyde amendment has been the law of the land since it was passed in 1977. We have not had to vote on it in about 5 years.

We are talking about upsetting a long, well-established, and, in my judgment, proven policy.

The second reason why it is the most important prolife vote of this Congress is because the Hyde amendment is, indeed, working as planned. We used to pay, in this country, for over 300,000 abortions per year. Taxpayers, many of whom were deeply opposed to abortion for moral reasons, were forced to use their taxpayer dollars to pay for abortions. That is not happening anymore.

Furthermore, the terrible effects that were predicted by many on the initial passage of the Hyde amendment have not come to pass. Large numbers of women have not been forced to seek back-alley abortions or lose their lives because of the passage of the Hyde amendment as was predicted on its initial passage in 1977. Those problems simply did not arise.

Third, the same problems that were foreseen by many at the attempt to pass the exceptions for rape and incest back in 1977 would arise if those exceptions were written into law today.

Law enforcement officials from many parts of the country opposed the insertion of a rape-and-incest exception in 1977, and since then, because they believe it would cause large numbers of people to report false rapes, false cases of incest, in order to have the Government pay for their abortions. Even Gloria Steinem on the other side of the issue obviously said that a rape-and-incest exception alone would make many women liars. We do not want to complicate that situation, as the Congress wisely decided not to complicate it back in 1977.

Finally, this is the most important prolife vote of the year because the issue is not really rape and incest, and the issue is not really even tax dollars. The issue is life itself. After all, we do not really expect to see a large number of cases paid for under this particular provision that are genuinely the result of rape and incest.

Medical procedures are available, legal in every State, to prevent the woman recently raped or the victim of incest from conceiving a child. That is the answer to the question of the gentlewoman from California who was just involved in the debate.

All in all, it is expected that perhaps the number of abortions resulting from rape and incest may well be in the hundreds, not even in the thousands every year, and certainly not all of those wish to abort. We are talking about a very small number of cases.

The larger issue, here again, is simply the issue of life, the issue of availability of abortion, and the issue of forcing taxpayers to pay for abortions. It is against the standard of taking of a human life that all other actions, even actions as horrible as cases of rape and incest, must be judged, so we urge support for the chairman's position. We urge maintaining a standard that has been established in this country for over 10 years that says that the taxpayers are not going to be forced to pay for abortions against their will.

Mr. Speaker, I am including in the RECORD a letter from the National Right to Life Committee dated August 23, 1988:

NATIONAL RIGHT
TO LIFE COMMITTEE, INC.,
Washington, DC, August 23, 1988.

Hon. VIN WEBER,
Cannon House Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE WEBER: The House will vote on the issue of Medicaid funding of abortions soon after Labor Day. The National Right to Life Committee (NRLC)—made up of 3,000 local right-to-life organizations—urges you to vote in support of the Hyde Amendment, which prohibits Medicaid funding of abortion "except where the life of the mother would be endangered if the fetus were carried to term."

The National Right to Life Committee regards the upcoming vote on the Hyde Amendment as the most important pro-life House vote of the 100th Congress.

Because five years have passed since the House last voted on the Hyde Amendment, and because substantial distortions have been disseminated regarding recent Senate action, allow me to sketch the background of the upcoming vote.

The Hyde Amendment was first enacted, at the House's insistence, in 1976. Opponents warned that the amendment would result in many deaths and injuries at the hands of non-physician abortionists—but subsequent studies by the C.D.C. found no statistically significant increase in abortion-related mortality or morbidity attributable to the Hyde Amendment. Thanks to the Hyde Amendment, hundreds of thousands of children are alive today who would otherwise have suffered violent deaths.

When the House passed the FY 1989 Labor/HHS appropriations bill (HR 4783) on June 15, there was no challenge to the Hyde Amendment. However, on June 23 the Senate Appropriations Committee voted 15 to 14 in favor of a weakening amendment offered by Senator Weicker, to add exceptions "for the victims of rape or incest." On July 27, the full Senate voted 73 to 19 to accept an amendment offered by Sen. Exon, which narrowed the Weicker language by adding a requirement that rape or incest be "reported promptly to a law enforcement agency or public health service" in order to qualify.

Dozens of pro-life senators voted for the Exon Amendment because it was less permissive than the committee-reported language, but these senators continue to support the undiluted Hyde Amendment. Therefore, it is misleading to represent the 73 to 19 margin as evidence of "overwhelming" Senate support for weakening the Hyde Amendment, as some pro-abortion groups have done in recent form letters to House members.

The Senate-passed language is unacceptable to NRLC, because it would require the federal government to subsidize the taking of the life of an innocent human being, for reasons less grave than saving another human life. In an August 8 letter to the conferees, OMB Director James C. Miller III warned that the President's senior advisors will recommend a veto of the bill if the Senate-passed rape/incest language is not removed.

It is important to understand that the Hyde Amendment already permits emergency anti-pregnancy treatments for genuine victims of sexual assault. The current push to fund rape/incest abortions is instigated by organizations, such as the "Religious Coalition for Abortion Rights," which openly advocate unlimited federal funding of abortion. Such organizations will not be satisfied unless the federal government resumes funding abortion on demand. Prior to enactment of the Hyde Amendment in 1976, the federal Medicaid program was funding 300,000 abortions a year.

Most Americans reject the position of these pro-abortion groups that abortion is simply another "medical procedure" which should be included in tax-funded health programs. Numerous polls by major public opinion firms have demonstrated that solid majorities of Americans are opposed to taxpayer funding of abortion.

For these reasons, and others summarized on the enclosed fact sheet, please support the Hyde Amendment by voting against the motion to recede to the Senate position.

Respectfully submitted,

DOUGLAS JOHNSON,
Legislative Director.

NATIONAL RIGHT TO
LIFE COMMITTEE, INC.,
Washington, DC, August 23, 1988.

SHOULD MEDICAID FUND ABORTIONS "FOR VICTIMS OF RAPE AND INCEST"?

Since 1981, the "Hyde Amendment" to the annual Labor/Health and Human Services appropriations bill has permitted federal Medicaid funding of abortions only "where the life of the mother would be endangered if the fetus were carried to term. The Senate-passed FY 1989 Labor/HHS appropriations bill (HR 4783) would add exceptions for rape and incest.

The Senate-passed language should be rejected for these reasons:

The current Hyde Amendment already permits prompt anti-pregnancy treatment for victims of sexual assault.

The current "life of the mother" exception allows abortion only when one life is balanced against another. All other "exceptions" permit taking a life for reasons less weighty than saving a life.

In cases of incest, pregnancy is usually not acknowledged until well into the second trimester—when abortion itself is a dangerous and frequently traumatic procedure. The victim of incest needs professional intervention and proper emotional support—not abortion.

When a "rape exception" was first proposed in 1977, it was opposed by the International Association of Chiefs of Police and by the National Sheriffs' Association because it would encourage false claims of rape. This would be a disservice to law enforcement agencies, and would engender skepticism regarding rape claims, to the detriment of rape victims. As feminist leader Gloria Steinem put it in a 1985 interview, "to make abortion legal only in cases of rape and incest would force women to lie" (USA Today, May 20, 1985).

In a September 6, 1984 letter to Sen. Weicker, HHS Secretary Margaret Heckler wrote: "Extending coverage for abortion to cases of rape or incest would impose new and time-consuming administrative requirements on three levels: Federal, State and provider. Additionally, administration of such a law would be extremely difficult . . . whether a pregnancy resulted from rape or incest is a legal question, not a medical determination which can be made by a physician. In sum, the amendment could impose upon the Medicaid program an onerous legal and judgmental dimension, not congruent with the program's purpose."

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. WEBER. Mr. Speaker, I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I wish to commend the gentleman for his remarks, especially in regard to the question on law enforcement.

What we have here is a potential of making law enforcement look at people, ladies, when they come in, and/or girls when they come in and complain of a rape, the question of whether there actually was rape, whether they should go out and investigate, or is this just for the purposes of getting an abortion funded, that has been something that law enforcement has been very concerned about, and I think everyone should be concerned about, because I think rape is one of the most heinous crimes there is. Yet to then turn around and say that we should relegate that to the fact that is a way to get an abortion because that is what is going to happen, as the gentleman said, even Gloria Steinem has commented what we are trying to do basically with the opposition is to make liars out of women so that they can get an abortion funded by the Government.

I commend the gentleman, and I, too, urge the Members of the House to vote "aye" on the motion of the gentleman from Kentucky.

Mr. HOYER. Mr. Speaker, I yield 1¾ minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of the Exon amendment, to allow Medicaid funding for abortion services in cases of rape and incest. This amendment would allow Federal funding of abortions only in promptly reported cases of rape and incest and contains a State's rights provision to allow each State to determine whether it will fund abortions in cases of sexual assault.

The justice campaign, a national campaign to secure public funding for abortion for the victims of rape and incest, is made up of representatives of a number of religions, including Hebrew, Episcopal, Baptist, Methodist, Unitarian, and Presbyterian congregations. The vast majority of the American public supports this coverage—even many who support the Roe versus Wade decision. Polls taken over the last 15 years indicate that 8 in 10 Americans believe abortion should be an available option for women who have been the victims of sexual assault.

Poor women who are pregnant as a result of rape or incest—victims of brutal acts—should have access to the same health care options as more affluent women. I urge my colleagues to join the justice campaign to preserve the Senate language in supporting the Exon amendment to H.R. 4783.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the Senate's position.

Mr. Speaker, earlier this summer, our colleagues in the other body did a courageous thing.

By voting to provide Federal funding for abortions in promptly reported cases of rape and incest, the other body was only trying to put into law the views of the vast majority of Americans. The time has come for the House of Representatives to do the same thing.

Recent surveys show that 81 percent of Americans believe abortion services should be available to women who become pregnant as a result of sexual assault.

As today's Washington Post's editorial points out,

> Even among those who disagree with the Supreme Court's decision in Roe versus Wade, a majority would probably accept an exception for cases of rape and incest. And for poor women in 36 States, finding the money to exercise their rights when they have been the victims of brutality is a terrible problem. A vote to allow the use of Federal funds in these special cases would provide a modest and badly needed assistance to women in great need.

Mr. Speaker, for the first time since 1979, we have the opportunity to do the decent and humane thing.

I urge a "no" vote.

Mr. WEBER. Mr. Speaker, I yield 4 minutes to our good friend, the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I want to congratulate all of my colleagues for the high tone of this debate. We do not seem to be talking past one another any longer on this issue. We seem to be reaching out to understand one another's position.

One of the most incredible acts of political courage I have ever seen was on America's most-watched television show "60 Minutes." Our current President, Ronald Reagan was pressed forcefully but politely by one of the star interviewers of our era, Mike Wallace on this issue of rape/incest and abortion. It was not a direct question. Mike Wallace simply was probing for one of those confessions from a politician. He said: "Mr. President, what is the biggest mistake you have ever made in political life?" I immediately, as a politician, like a baseball player will anticipate a move, I answered in my mind: "Oh, that is for my opponents to tell you. I would rather talk about some of the good things I have done." The President did not say that. He said, and this is almost verbatim: "Mike, that is easy. The biggest mistake I ever made was my first year as Governor of California when I did not really understand in depth the issue of abortion." President Reagan was refering to a bill that bore the name of one of our distinguished colleagues here, Mr. BEILENSON, a good friend of mine who is on the opposite side of the issue. Mr. BEILENSON was in the State senate in California at that time. President Reagan went on and said: "The Beilenson bill came up in California. I signed it to allow abortion for rape and incest.

"And I didn't realize what I was doing. I opened a Pandora's box." And he said: "And what's happened ever since has been a national scandal." He said it was used as an excuse for unlimited abortion on demand for every cause, and that is the problem that faces this House today.

□ 1400

The rape problem is as tough as we can get on this issue. I happen to have a personal friend whose daughter was raped at noon on a college campus. I believe it was at the instigation of one of America's slimiest pornographers, who offered $400 the night before the rape to anybody who could get a story on my friend's daughter. She was pulled off of the parking lot and into the bushes, and she was raped by three or four students, she cannot remember exactly. The next night her father, who is a nationally known official, held a press conference and said that we have done everything that we can to avoid this pregnancy that our church will allow. He said that: "If my daughter ends up pregnant, she told me from the hospital that she wants to have the baby. She will not commit an act of violence when there is no capital punishment for the men who raped her in an act of violence."

I applaud the cause of Joan Andrews, who I think is a martyr. She is taking her legal punishment for unplugging one of these suction pieces of equipment in modern American life that tears a living child from its mother's womb, and spins the aborted baby into a gel in one of these whirling, razor blade machines.

At a press conference on behalf of Joan Andrews, our colleague, CHRIS SMITH spoke so eloquently that I would like to repeat his beautiful words:

> I believe that abortion on demand is a national scandal, that historians will some day come to regard as an odd mixture of curiosity, of sorrow, of incredulity, and contempt for they will wonder how a society that paid so much attention to civil rights at home and to human rights abroad on both sides of our aisle, that this Nation would allow, even promote the deaths of millions of preborn young children. They will wonder how an ostensibly sane, enlightened and compassionate society could have been so thoroughly fooled, and they will marvel at the congressional acquiescence in this gristly business.

Not this House, Mr. Speaker, Maybe the other body, the U.S. Senate, but not in this Chamber, not on September 9. We will overwhelmingly reject the Senate's elitist approach to this tragic, complicated aspect of the prolife abortion problem.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the motion to insist on the House position.

And I do so, Mr. Speaker, as a Member who has opposed Federal funding of abortion on demand. I subscribed to the notion that the Federal Government should not bear the responsibility to fund abortions for women who chose—who chose—not to take proper precautions.

Rather, it is a question of a woman taking responsibility for her own actions, no matter what income level.

But instances occur, tragic instances, when the choice is taken out of the woman's hands—more accurately, when it is violently and brutally taken from her. A woman who has been raped, or who is the victim of incest, faces enormous physical and emotional consequences. And these are consequences that simply are not of her own making.

Yet women of economic means who have thus suffered have options which we currently deny to low-income women. They have choices in this hideous circumstance that are now withheld. We have made income and economic status the basis by which women contend with the aftermath of rape or incest—as if falling victim to those crimes were not degrading enough.

In this debate, Mr. Speaker, we have spoken in the dispassionate terminology of legislatures as to what lower-income women are being forced to do and contend with. Yet the cruel and agonizing reality of their fate is far removed from such debate.

Further, there is a great deal of talk about "rights," about who has what kind and what take precedence. I would suggest, rather, that we should speak not of rights but of obligations. And there is an obligation in our society toward a rape victim, toward the victim of incest, to provide the basic array of choices in these horrifying circumstances regardless of income.

To preclude women, in the wake of the crudest and most degrading of crimes, from recovering from those crimes simply on the basis of economics goes from the realm of unfairness toward base cruelty.

I urge my colleagues to defeat the motion to insist on the House position.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in strong support of the centrist Senate compromise on this matter, and it is important for Members to realize that the 19 opponents in the Senate were made up of Members on both sides of this issue who could not compromise.

This is really an opportunity to add a small element of compassion to the Hyde amendment, and I mean a small one. Statistics show us that in 1986, 90,000 cases of rape occurred in the United States, and over 100,000 cases of child abuse, some of which were incest. Yet in 1979, the last year in which we were able to gather data on this prior to the enactment of the Hyde amendment, only 72 people qualified for this form of Federal assistance. So we are not talking about an awful lot of people.

But we are talking about a very important principle, and that is why I think the demeanor of this debate is so important.

As the gentlewoman from Maryland [Mrs. MORELLA] said, we are requiring prompt reporting of the crime. This is not a new loophole that people will be able to use to violate the broader Hyde amendment. We are giving the States local control to make decisions about whether they wish to use their State Medicaid funds for this purpose.

But I think we have overlooked one fundamental issue, and that is the question of economic justice. We all know that under the law currently in this country women who wish to have an abortion can have one. I do not think very many of us who are in the affluent element of our society realize what a burden this can be to poor people. An abortion today could cost half the family's monthly income for people who qualify for AFDC, the people we are talking about here today, that 20 percent of our society or less who will fall into the lower-income bracket.

We are talking about economic justice. If the Constitution says that is one of our purposes of being here, if we have said in adherence to the Supreme Court rulings like Roe versus Wade that this abortion concept can exist in our society, we cannot allow this disparity to continue. I ask my colleagues to support the Senate compromise.

Mr. CONTE. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in strong support of the House-passed version of the Hyde amendment in the Labor-Health and Human Services-

Education appropriations bill. Since 1981, the House has steadfastly stood by its stated belief that abortion should not be federally funded. The sole exception is a circumstance in which the life of the mother would be endangered by the pregnancy or the birth. The House should not reverse its position today.

I stand firmly committed to protecting the rights of the unborn. There is a certain dignity in human life which we must respect, for it is the foundation of each and every basic value we hold dear, and the Federal Government should not fund a practice which directly contradicts our respect for life.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, it has been mentioned a number of times on the floor that this is a very narrow kind of compromise. It applies in a very limited number of cases, only on two occasions, after reporting, and the States can undo everything that we might do here today.

I would like to suggest that this is not abortion on demand. It has nothing to do with abortion rights. That matter is determined elsewhere. What we are talking about is whether a poor woman has the same opportunity in the United States as a rich woman. All we are talking about is whether there is an opportunity for the poor to be treated the same way as the rich.

It seems to me that if we have any dedication to equality in this House that we have no other course than to support the Senate amendment.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me as I rise today in support of Senate language providing Medicaid funded abortions for women whose pregnancy results from rape or incest.

It is ironic and tragic that Medicaid, the very program which was created to provide necessary medical care to poor women, has been transformed into a program that denies poor women who are pregnant access to all available medical options. Poor women who are victims of the brutal crimes of rape or incest should have access to the same legal rights to abortion as other women in our society. Denying them access to these services is nothing but a policy of discrimination against the poor.

In 36 States in this country, no public funds are available to help women whose pregnancies are the result of violence and assault. In an ideal world, abortions would not be necessary. Unfortunately, in the real world, the brutal realities of crimes of aggression such as rape and incest occur with alarming frequency. We have the opportunity today to assist some women on the long road to regaining control of their lives. It is unfair, unreasonable and inhumane to deny them this assistance. I urge my colleagues to oppose any measures to weaken the Senate language restoring Medicaid funding for abortions for women victimized by rape and incest.

Mr. Speaker, I come from a culture as an Italian American, Roman Catholic mother of 5 children of my own who worships children. This has nothing do, as the gentleman from Minnesota [Mr. FRENZEL] said, with the question of abortion, but it is a question of fairness, and a question of not denying people their rights.

I ask every Member of this body to examine his or her conscience and say if any one of our children or spouses of male Members were confronted with this circumstance of rape or incest, would they deny that member of their family the opportunity to every medical option. I do not think the time is now for hypocrisy, but it is a time to really face the reality and truth of the situation, and not deny to women, just because they lack the financial resources, the same medical options we reserve for our own families and our own spouses.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentlewoman from Connecticut [Mrs. JOHNSON].

Mr. HOYER. Mr. Speaker, I also yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 4 minutes.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank my colleagues from both sides of the aisle for this opportunity to speak on what I consider to be a very, very important matter. Preceding speakers have spoken eloquently to the fact that this is not abortion on demand that we are talking about. This is rather an issue of equity and a deeply human right, which at times life demands that we be allowed to exercise from the deepest reservoirs of our own individual being.

This amendment does not offer abortion on demand. It talks only about incest and rape. It is narrowly drawn. It is thoughtfully drawn with the States rights provisions and the other sections that have been mentioned today.

But what it talks about is not narrow. Rape is not a narrow experience.

Rape is being in fear for your life. Rape is being violently subdued.

Picture your daughter, picture your own wife, picture the terror, picture the pain. I ask Members to take unto yourselves the full responsibility for this vote. I ask Members to know that with a knife at your throat, with fear in your heart, maybe an hour, maybe over an hour, an experience of such extraordinary brutality, and under those circumstances to be penetrated. Yes, we are not talking about assault and battery. Rape is not assault and battery. It is penetration.

Men and women experience this situation very differently. Penetration is different than penetrating.

□ 1415

And that is part of what this is all about. I will tell you that if your 13-year-old daughter—I have three daughters—but picture your sobbing 13-year-old daughter in your arms convulsed in terror and anguish, are you going to ask her day after day to relive that experience? Are you going to make that decision for her? Can every man in the House of Representatives take upon themselves as this moment the right and responsibility to make this kind of decision for every poor woman and child—yes, child—in America?

This bill is about incest. Now, who commits incest? Who is the victim of incest? Female children.

I appreciate the time allotted to me, because I do think this is no ordinary matter. I think—I hope that I have made that plain. We are only asking that under extraordinary, brutal, deeply human situations that that woman, that child, be allowed the same choice as your wife, or your child, because you can pay for it, and because you have the power to choose.

Believe me, rape is not something that is over when it is finished. It is not done when it is done. It is with you the rest of your life. These choices are not choices than can be taken on in the well of the House.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Massachusetts [Mr. CONTE] has 5 minutes remaining, the gentleman from Maryland [Mr. HOYER] has 3 minutes remaining, and the gentleman from Kentucky [Mr. NATCHER], of course, has his 10 minutes to close.

Does the gentleman from Massachusetts desire to yield time?

Mr. CONTE. Mr. Speaker, I will reserve my 5 minutes.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, the last 4 minutes during which we heard the statement of the lady from Connecticut [Mrs. JOHNSON] constitutes the 4 most deeply moving minutes that I have spent in this Congress in the last 20 years. I must say that all of the debate from both sides of this issue has been thoughtful, has been deeply felt and has dignified this Congress.

Mr. Speaker, I only have a minute. We have heard that abortion is an assault on an innocent unborn life, we have heard that abortion is the taking of a human life, that the issue of life itself is what we are talking about, and that the fetus is a human being.

We have heard that abortion has a corrosive effect on the fabric of society, it takes an innocent life.

However, there is another view to consider. There is the view that I adhere to, the view that abortion is not the taking of human life but a sublime humanitarian act that, in this case, will ease the suffering of human beings.

This does not mean that I am antilife. I and my colleagues who support a woman's right to choose also support life-sustaining legislation. My colleagues, when you are asked if you are prolife, give them the record of life-sustaining legislation you have supported this year.

Tell them what you are doing to lower the abysmally high infant mortality rate in this country. Point to the health care programs you have supported to curb fatal diseases among the Nation's 37 million citizens without basic health services.

The Children's Defense Fund cited 10 House votes this year as being critical to the physical, mental, and spiritual health of the Nation's children. The bills provided for food, clothing, shelter, education, and health care for children. These are true life-sustaining bills.

Many religious organizations, including the U.S. Presbyterian Church, the Union of American Hebrew Congregations, and the United Church of Christ, support the Exon amendment. Seventy percent of Americans in a Lou Harris poll, commissioned by Planned Parenthood, believe that abortion in this circumstance is acceptable. Our colleagues in the Senate passed the amendment by an overwhelming vote of 73 to 19.

Furthermore, in every single developed nation in the world, with the exception of Ireland, abortion for rape and incest victims is legal. This includes Spain, Italy, and France, three of the most Catholic countries in the world. Not only is abortion legal in this instance, but it has been since the early 1930's.

If a victim of sexual assault wants to terminate her pregnancy she should have that right—regardless of her financial circumstances. Congress should not stand between a woman and her body, especially in cases of rape and incest.

The SPEAKER pro tempore. The gentleman from Maryland [Mr. HOYER] has 2 minutes remaining.

Mr. HOYER. Mr. Speaker, in fairness, we only have two minutes to close. The distinguished chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER] is going to have 10 minutes to close and I, therefore, would like to have the balance of the time of the gentleman from Massachusetts [Mr. CONTE] yielded first so that I could then recognize the gentleman from Oregon [Mr. AUCOIN].

Mr. CONTE. I was reserving my five minutes for the gentleman from Illinois [Mr. HYDE] so that he may close, and I do not intend to yield to any other Member.

Mr. HOYER. I understand the gentleman from Massachusetts and appreciate the attempt of the gentleman to be fair.

The SPEAKER pro tempore. Is that agreeable to the gentleman from Maryland?

Mr. HOYER. It is, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Maryland [Mr. HOYER] is recognized for 2 minutes.

Mr. HOYER. Mr. Speaker, to close debate on our side, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, for the last 15 years in virtually ever public opinion poll in this country, the overwhelming majority of Americans have supported the right of rape and incest victims to choose to end the pregnancy that results from that rape or that incest. That is what the polls say.

But today the law of the land is not in step with nor does it represent the mainstream thinking of the American public. The law that this Congress has mistakenly created says that a victim of criminal rape must bear the rapist's child. I think, Mr. Speaker, that not only a majority of Americans, but a majority of the Members of this House honestly, in the bottom of their hearts, believe that is a gross denial of justice.

Rape and incest cases are increasing across this country. Many of those victims of violent sexual assault are young women who are poor and who depend on the Federal Government for their well being and the health care.

Now some of my colleagues have said that a woman who has been victimized once by conceiving against her will should be also victimized again by her own government and be forced to deliver against her will. Mr. Speaker, I ask, and my colleagues on our side ask for simple compassion. Surely Members of this body think that women are more than incubators for rapists and criminals and perpetrators of incest. If you do believe as we do, you will accept the Senate revision. It exempts rape and incest victims and it requires cases of rape and incest to be promptly reported and that states agree to accept the funds.

These provisions assure that claims of rape and incest are legitimate and that the opportunity for fraud is minimized. These provisions give State governments the option to participate in the policy decisions. And most importantly, it leaves to a violently impregnated woman the moral right to choose for herself whether or not she will deliver the criminal rapist's child.

In the name of compassion, in the name of justice for woman who have suffered enough, I urge my colleagues to vote "no" on the motion and to accept the Senate provision.

Mr. NATCHER. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. CONTE. Mr. Speaker, I yield my remaining 5 minutes to the gentleman from Illinois [Mr. HYDE].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] is recognized for 15 minutes.

Mr. HYDE. Mr. Speaker, I just want to say parenthetically something that the last speaker said about bearing the child of a criminal rapist, that strikes me as the Scarlet Letter, as though the innocent child, the second victim of the rape, somehow must bear the stigma of the criminal act of the father. I have difficulty following the logic of that.

Now we have heard in some painful detail the emotional trauma of what a rape can mean. Let me also say that incest is a form of rape, only it is within the family. Let me say also abortion does not cure that family's situation. Something more has to be done to get the poor victim of the incest away from the perpetrator of the incest and abortion does not go to that at all.

But I think to understand fully this soul-wrenching issue, let us focus for a moment away from the woman, just for a moment, and look at the other victim, the unborn child, and let us try to figure out what an abortion does to that child.

Now it is not a tonsillectomy, it is not an appendectomy; by definition, by intention it is the killing, the killing of an innocent, an innocent human life.

Thomas More when he was beheaded by Henry VIII is noted for a famous line. He said to the axman, "Be careful of my beard, it hath committed no treason." So as his head was cut off, he wanted his beard to maintain its dignity; "it hath committed no treason."

The little baby has not committed a crime, a rape, the little baby is an innocently inconvenient victim along with the victimized woman.

The law protected the rapist. The Supreme Court has said, "You may not impose capital punishment on a rapist." This is cruel and unusual punishment. But you are saying to exterminate, not terminate, a pregnancy—every pregnancy terminates at the end of nine months—exterminate this innocently inconvenient residual of the rape, the product of the rape, the consequence of the rape. Visit on that innocent child the penalty the law will not visit on the rapist. This is really, really what you are saying.

Now let us stipulate on compassion. Let us stipulate—I will, I stipulate that Mr. Hoyer, Nancy Johnson, Vic Fazio, everybody has an abundance of compassion. How can you not? We are talking about one of the most traumatic situations in literature, in life. But stipulate, please, that we have compassion too. We have what we like to think is more than a one-dimensional compassion, a compassion that extends beyond sympathy and bleeding for and with and weeping with the victim of the rape, but extends to the innocently inconvenient consequence of that rape.

We want to enlarge the circle of persons for whom society will be responsible, to include within that circle of protection the little stranger, the little intruder who through no fault of his or her own has been made a party to this terribly criminal act. Rape is not over when it is finished, that is right, oh, that is right. But neither is abortion.

Abortion is terminal, abortion is killing.

Now no one, not even a woman who has been raped, God bless her and help her, and we help her and bless her, but nobody has the right to kill another innocent life, nobody. And no circumstances give that God-like power to anybody.

I have heard "picture your own wife or daughter." OK, fair enough. Now I am going to give you a picture, a little newborn baby that you are holding in your arms, think of that when you vote on this issue and ask yourself if you can be an accessory to exterminating that little child because his father committed a crime.

That is as real a picture for you to form in your mind as anything else. It is a matter of focus, of emphasis.

I ask you to extend your compassion to that abstraction that you cannot see, you cannot touch it because it is in the mother's womb, that tiny child of transcendent human value surrounded by a woman who has been victimized but who indeed is a mother.

In the fullest sense of the term, this is a human rights issue and you have in all of these situations conflicting rights, conflicting rights. You have the right of the first victim to have her body free from the consequences of a criminal act of rape. That is over here.

And over here you have the very right to life, itself, the right to live of the second victim, the unborn.

Now when rape and incest occur, a great injustice occurs, an enormous, monstrous, inhumane, humiliating, brutal injustice occurs. In all honesty, I cannot say other than that forcing a woman to carry to term the child of the rapist is anything but a terrible injustice.

□ 1430

But that having been said, must we visit another injustice on top of that? Must we superimpose that on this crime of rape by destroying in the womb an innocent preborn child? It is not a tumor, it is not a bad tooth or swollen tonsils. That little microscopic entity is a tiny member of the human family that has committed no treason, has committed no crime, and we must perform an act of virtue, some act of will to transfer due process and the equal protection of the law to the second victim, because that is the second victim. But it is a far greater injustice to kill the child, superimposing that injustice on the injustice of the rape.

We cannot avoid injustice in a rape situation. We cannot avoid injustice in an incest situation. We can ameliorate, we can mitigate, we can help, we can nurture, we can alleviate, but we cannot escape injustice. But why must we compound the injustice by adding to it the extermination of an innocent human life, one that cannot rise up on the street, cannot speak out, cannot defend himself or herself, and cannot escape?

The injustice of rape lasts at least nine months. It is a terrible injustice, but it can be helped psychologically, financially, and spiritually. But abortion is the second injustice. There is the taking of a life, and there is no help for that. There is no remedy for that.

Interestingly enough, we have heard very few statistics on this. We have heard some from the gentleman from Oregon, ambiguous, I must say, and the reason is that there are not any. It is very hard to find out from anybody how many pregnancies result from rape and incest. The answer is that there are very, very few.

Now, on the economic argument that a poor woman should have the advantages of a rich woman, may I suggest that Planned Parenthood gets millions of taxpayer dollars from this Government. Let them pick up the cost for the very few who insist on exterminating their young. They should not make us accessories. They should not make us a part of that double tragedy of rape and exterminating an unborn child.

There are very, very few such pregnancies in this country. We cannot get the statistics. There are studies I can quote for the Members that say it almost never happens. But I must suggest to Members that we should let Planned Parenthood pay for those who insist on punishing the child for the crime of the father. Why must the Federal Government supply the only answer and be an accessory in the extermination of an innocent life?

These are poor women, yes. But there are poor babies. They are defenseless, defenseless babies.

Ethel Waters was a great black actress who passed away a few years ago. She played a famous role in "Cabin in the Sky." I do not know whether many remember it; perhaps only I do, but perhaps some who are a little older will remember it also. She was a great lady, a great person, and she wrote a book about her life that she called "His Eye is on the Sparrow." She said, "My father raped by mother when she was 12, and now they are dedicating a park to me in Chester, Pennsylvania."

Out of great, great tragedy some good can come.

Let me just leave the Members with something that was said by Sam Levinson, the comedian, some years ago. Levinson said, "I believe that each newborn child arrives on Earth with a message to deliver to mankind. Clenched in his little fist is some particle of yet unrevealed truth, some missing clue which may solve the enigma of man's destiny." He has a limited amount of time to fulfill his mission, and he will never get a second chance. Nor will we. He may be our last hope. He must be treated as top sacred.

So as the Members vote on this—and it is not easy—let us not accuse anybody of lacking compassion. Let us consider focusing our compassion beyond what we see and touch and hear and take into consideration the abstract, this little atom of humanity, defenseless and innocent, and let us know that while rape is a terrible thing, an abortion is worse, because rape, with all of its horror, is not killing. Where there is life surely there is hope. But abortion terminates a life, and one of those little lives might have found the secret to cancer, to multiple sclerosis, to world peace; one of those little lives that is now thrown out like a crushed empty beer can.

Mr. Speaker, it is a tough vote. But I plead with the Members to support the gentleman from Kentucky [Mr. Natcher] and support the gentleman from Massachusetts [Mr. Conte], who have been like Gibraltars on this issue for years. They are responsible for saving many babies. Yes, the unborn of the rich are at risk. We cannot save them if their mother's want an abortion, because they can go out and buy one. But if we can save the unborn of the poor, occasionally, that is no small achievement.

Mr. DeFazio. Mr. Speaker I want to commend the Senate for adopting the Exon amendment which allows Medicaid funding to terminate a pregnancy that is the result of rape or incest in cases that are promptly reported to a law enforcement agency or public health service.

It is an outrage that the victims of brutal physical and mental assault have to carry an unwanted pregnancy to term because they are dependent upon the Federal Government for their health care. For most economically disadvantaged women health care options and choices about abortion are available only if they are financed through programs such as Medicaid.

While the Exon amendment would be a step forward in what has been a backward approach to this issue, the "promptly" reported language in the amendment is a disservice to a majority of the women it's supposed to benefit. We are just beginning to realize the alarmingly high incidence of incest. These cases are rarely "promptly" reported. The young victims live in a daily environment of fear, confusion, anger and helplessness. They are unable to defend themselves from the perpetrator and are often led to believe that the situation is their fault. We cannot expect these young women to come forward seeking assistance when we send a message, "don't come knocking on the door of the Federal Government for help if you're poor."

The overwhelming majority of public opinion polls over the past 15 years have found that eight in 10 Americans support availability of abortions for sexually assaulted women. In 1978, my home State of Oregon was the first State to vote on a ballot initiative that would have prohibited the use of public funds for abortions. That measure was defeated. In 1986, the question again appeared on the ballot and the voters again opposed it. Clearly, restricting the availability of abortions for these victims is not the policy that most Americans want.

Mr. Speaker, I urge my collegues to reconsider this discriminatory policy and, at the very least, allow the use of Federal funds to provide abortion services to poor women who are the victims of sexual assault. I urge my colleagues to vote no on the House language.

Mr. WEISS. Mr. Speaker, I want to express my strong support of the motion to agree to the Senate provision on abortion funding to the Labor, Health and Human Services, Education appropriations conference report for fiscal year 1989. By restoring Federal funding to abortion in the cases of rape and incest, this provision would begin to redress the gross injustices of our current abortion laws.

In 1973, the Supreme Court affirmed that it is a woman's constitutional right to end a pregnancy in its early stages. Yet over the 15 years since then, the Congress has enacted a series of measures that have denied poor women this constitutional right. We cannot continue a policy that condemns women to the trauma of bringing an unwanted child into the world, or to a back alley abortionist, simply because she does not have enough money for a safe abortion.

Mr. Speaker, a woman should have the freedom to make her own decision about a pregnancy that is the result of violence and assault. The highest court in our land has affirmed that right. But the issue before us today is a question of resources and rights. Our Government is straddled with an abortion policy that discriminates against the poor, and we are now presented with the opportunity to remedy this travesty.

Congress has an obligation to assure equality of health care to all our citizens, and I urge my colleagues to join in supporting the motion to restore Federal funding for abortion in the case of rape and incest.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 216, nays 166, not voting 49, as follows:

[Roll No. 307]

YEAS—216

Anderson
Annunzio
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Borski
Bosco
Broomfield
Bruce
Buechner
Bunning
Burton
Byron
Callahan
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Costello
Courter
Craig
Crane
Dannemeyer
Darden
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Dyson
Early
Edwards (OK)
Emerson
English
Fields
Flake
Gallegly
Gaydos
Gingrich
Gradison
Grandy
Grant
Gray (IL)
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Jenkins
Johnson (SD)
Kanjorski
Kaptur
Kasich
Kildee
Kleczka
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Manton
Marlenee
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCollum
McDade
McEwen
McGrath
McHugh
McMillan (NC)
Miller (OH)
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Natcher
Nelson
Nielson
Oakar
Oberstar
Ortiz
Oxley
Parris
Pashayan
Payne
Penny
Pepper
Perkins
Petri
Porter
Quillen
Rahall
Ravenel
Ray
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rostenkowski
Rowland (CT)
Russo
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sikorski
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Traxler
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whitten
Wolf
Wortley
Yatron
Young (AK)
Young (FL)

NAYS—166

Ackerman
Akaka
Andrews
Anthony
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Boehlert
Bonker
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bryant
Bustamante
Campbell
Cardin
Carper
Chandler
Clay
Coelho
Coleman (TX)
Conyers
Cooper
Coughlin
Coyne
Crockett
DeFazio
Dellums
Dickinson
Dicks
Dingell
Dixon
Downey
Dwyer
Dymally
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallo
Gejdenson
Gekas
Gephardt
Gilman
Glickman
Gonzalez
Gordon
Green
Gregg
Guarini
Harris
Hatcher
Hawkins
Hayes (IL)
Horton
Hoyer
Hughes
Jacobs
Johnson (CT)
Jontz
Kastenmeier
Kennedy
Kennelly
Kolbe
Kostmayer
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
Matsui
McCloskey
McCurdy
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Nagle
Neal
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pickett
Pickle
Price
Pursell
Ridge
Rodino
Rose
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schumer
Sharp
Shays
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Snowe
Solarz
Spratt
Stokes
Swift
Synar
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Udall
Upton
Valentine
Walgren
Weiss
Wheat
Whittaker
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NOT VOTING—49

Alexander
Badham
Boulter
Carr
Cheney
Collins
Daub
de la Garza
Derrick
Dowdy
Fish
Garcia
Gibbons
Goodling
Gray (PA)
Hefner
Houghton
Ireland
Jeffords
Jones (NC)
Jones (TN)
Kemp
Leath (TX)
Leland
Lipinski
Lott
Lujan
MacKay
Madigan
Martin (IL)
McCrery
Mica
Michel
Murphy
Nichols
Nowak
Packard
Rangel
Regula
Roth
Schroeder
Smith (IA)
Spence
Stark
Studds
Towns
Vento
Waxman
Wylie

☐ 1457

The Clerk announced the following pairs:

On this vote:

Mr. Michel for, with Mr. Derrick against.
Mr. Hefner for, with Mr. Leland against.

Mr. Nichols for, with Mr. Garcia against.

Mr. Vento for, with Mr. Towns against.

Mr. McCrery for, with Mrs. Collins against.

Mr. Kemp for, with Mr. Houghton against.

Mrs. Martin of Illinois for, with Mr. Jeffords against.

Mr. RICHARDSON and Mr. MARTINEZ changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Mr. DAUB. Mr. Speaker, I was unavoidably absent. Had I been present, I would have voted "yes".

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 130: Page 41, after line 13, insert:

SEC. 217. NIH Building Numbered 31 is hereby named the Claude Denson Pepper Building.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The CLERK read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 130 and concur therein with an amendment, as follows: In lieu of the section designation in said amendment insert the following: "216".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

Mrs. MARTIN of Illinois. Mr. Speaker, on rollcall vote No. 307, I was inadvertently paired for the motion when I should have been paired against.

☐ 1500

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 134: Page 41, after line 13, insert:

SEC. 221. (a)(1) In enacting this section Congress hereby—

(A) recognizes the national and international legal protection granted chimpanzees under the Endangered Species Act and the Convention of International Trade of Endangered Species, to which the United States is a signatory, and also the World Health Organization's Policy Statement on Use of Primates for Biomedical Purposes, all of which acknowledges the threatened or endangered status of the chimpanzee; and

(B) acknowledges that substantial public monies are already being expended on a National Chimpanzee Breeding and Research Program in the United States.

(2) No funds appropriated under this Act or any other provisions of law shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds and be expended on any project that entail the capture or procurement of chimpanzees obtained from the wild.

(3) For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 134 and concur therein with an amendment, as follows: In lieu of the section designation in said amendment insert the following: "218".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 137: Page 41, after line 13, insert:

SEC. 224. During the 12-month period beginning October 1, 1988, none of the funds made available under this Act may be used to impose any reductions in payments, or to seek repayment from or to withhold any payment to any State pursuant to sections 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1989, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 137 and concur therein with an amendment, as follows: In lieu of the section designation in said amendment insert the following: "219".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 152: Page 42, line 15, strike out "$8,900,000" and insert "$8,776,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 152 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$92,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 153: Page 42, line 18, strike out "$715,000,000" and insert "$714,036,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 153 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$717,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 155: Page 42, line 22, strike out "$690,000,000" and insert "$699,036,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 155 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$702,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 157: Page 42, line 24, after "Act" insert ": *Provided*, That any school district that received an overpayment under section 2 in fiscal year 1984 funds and also received 30.13 per centum of such sum in an overpayment of the subsequent fiscal year's funds, is relieved of the liability to repay those sums, together with interest on such sums".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 157 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That any school district that received an overpayment under section 2 in fiscal year 1984 funds and also received, through administrative offset, 30.13 per centum of such sum in an overpayment of the subsequent fiscal year's funds, is relieved of the liability to repay those sums, together with interest on such sums."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 162: Page 43, line 18, strike out "$1,118,538,000" and insert "$1,088,180,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 162 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$1,123,075,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 165: Page 43, line 23, strike out "$27,930,000" and insert "$28,300,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 165 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$29,100,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 176: Page 44, line 22, after "VII" insert "of which no funds shall be used for activities authorized by section 7043".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 176 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", except that no funds shall be used for activities authorized by section 7043 until an interim report is submitted to the House and Senate Appropriations Committees which the Secretary shall submit no later than eight months following the enactment of this Appropriations Act in partial compliance with section 6212 of Public Law 100-297 and such sums are released under further statutory act of Congress,".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 177: Page 45, line 3, strike out "$1,921,882,000" and insert "$2,008,623,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 177 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$1,990,321,000 of which $5,231,000 shall be for carrying out title I of S. 2561, as enacted, and".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 201: Page 47, line 3, strike out "$1,180,000,000" and insert "$169,978,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 201 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$176,697,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The **SPEAKER**. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 203: Page 47, line 6, strike out "$82,500,000" and insert "$84,978,000".

MOTION OFFERED BY MR. NATCHER

Mr. **NATCHER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 203 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following "$85,447,000".

Mr. **CONTE** (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The **SPEAKER**. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The **SPEAKER**. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 204: Page 47, line 8, after "versities" insert ", of which $4,500,000 is available until expended under section 403 of H.J. Res. 90, as passed the Senate, if enacted".

MOTION OFFERED BY MR. NATCHER

Mr. **NATCHER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 204 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", of which $4,500,000 is available until expended for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina, when an authorization for such Center is enacted into law".

Mr. **CONTE** (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The **SPEAKER**. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The **SPEAKER**. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 209: Page 48, line 4, after "Program" insert ": *Provided further,* That an additional amount of $10,000,000 shall be made available for part D of title I of the Higher Education Act of 1965, relating to the student literacy corps program, to become available on July 1, 1989, and remain available until September 30, 1990".

MOTION OFFERED BY MR. NATCHER

Mr. **NATCHER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 209 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further,* That an additional amount of $5,750,000 shall be made available, of which $5,000,000 shall be made available for part D of title I of the Higher Education Act of 1965, relating to the student literacy corps program, to become available on July 1, 1989, and remain available until September 30, 1990, and $750,000 shall be made available for section 6261 of the Omnibus Trade and Competitiveness Act of 1988, relating to international business education centers".

Mr. **CONTE** (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The **SPEAKER**. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The **SPEAKER**. The Clerk will designate the next amendment is disagreement.

The text of the amendment is as follows:

Senate amendment No. 220: Page 50, line 21, strike out "$33,231,000" and insert "$33,031,000, of which $200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided,* That none of the funds provided herein may be used to subsidize the tuition of foreign students".

MOTION OFFERED BY MR. NATCHER

Mr. **NATCHER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 220 and concur therein with an amendment, as follows: In lieu of the first sum proposed in said amendment insert the following: "$33,731,000".

Mr. **CONTE** (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The **SPEAKER**. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The **SPEAKER**. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 222: Page 51, line 8, strike out all after "seq.)," down to and including "500,000" in line 10 and insert "$176,147,000, of which $1,500,000".

MOTION OFFERED BY MR. NATCHER

Mr. **NATCHER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate Numbered 222 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$180,647,000: *Provided,* That of the funds appropriated under this head in the Department of Education Appropriations Act, 1988, not to exceed $500,000 together with $1,500,000 provided herein".

Mr. **CONTE** (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The **SPEAKER**. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The **SPEAKER**. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 233: Page 56, line 21, strike out "$2,000,000" and insert "$1,000,000".

MOTION OFFERED BY MR. NATCHER.

Mr. **NATCHER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 233 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$2,000,000 to become available on April 1, 1989 and".

Mr. **CONTE** (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The **SPEAKER**. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The **SPEAKER**. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 245: Page 61, after line 17, insert:

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, H.R. 2470, as passed the Senate on June 8, 1988, $1,046,000, which shall remain available until expended.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 245 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, $1,046,000, which shall remain available until expended.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 246: Page 61, after line 17, insert:

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $8,000,000.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 246 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$7,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 250: Page 66, after line 3, insert:

SEC. 515. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 250 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

SEC. 515. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

(d) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the increase in rates of pay in such department, agency, or instrumentality made under this Act.

(e) The limitations contained in subsection (a) shall not apply to the Offices of Inspector General of the departments, agencies, and instrumentalities of the United States Government receiving appropriated funds under this Act. Neither shall the limitations in subsection (a) apply to routine, on-going activities which departments, agencies and instrumentalities provide through contract as part of their regular mission.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 256: Page 66, after line 3 insert:

SEC. 521. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 256 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 516. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by 1.2 per centum.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to advise the Members of the House on the schedule for the remainder of the day.

We had hoped to conclude business by 3 o'clock this afternoon, but that has not been possible. We do have an important bill relating to the Chicago rail situation involving a labor dispute which must be acted on today. That will be the next order of business.

The gentleman from Ohio [Mr. THOMAS A. LUKEN] will ask unanimous consent to consider the matter in the House, and although a vote is possible, we assume that there will not be a vote on that, but that is again a matter that has to be determined by floor action.

Following that, there will be motions to go to conference on a public health block grant from the Committee on Energy and Commerce and two bills from the Appropriations Committee, the fiscal year 1989 foreign operations export financing, and related program appropriation bill, and the Rural Development Agriculture appropriation bill for fiscal year 1989. That will conclude the business of the House for today and for the week.

Members should be advised again that there is a possibility of a vote coming up on the rail bill. We hope that it will not occur. We do not expect any votes that we know of. We have consulted with the Republican side on this matter with relation to those bills that are being sent to conference.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, may I say to the gentleman from Washington, I would hope that the gentleman could communicate to us or suggest to us that the debate on the railroad bill will be a very brief debate if the Members cooperate.

Mr. FOLEY. It is our expectation that it will be very brief, indeed. I know of no controversy about the legislation.

APPOINTMENT OF CONFEREES ON S. 1579, PREVENTIVE HEALTH BLOCK GRANTS REAUTHORIZATION

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1579) to amend the Public Health Service Act to revise and extend the Block Grant Program, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees: Messrs. DINGELL, WAXMAN, SCHEUER, LENT, and MADIGAN.

REQUEST FOR CONSIDERATION OF SENATE JOINT RESOLUTION 374, PROVIDING FOR SETTLEMENT OF LABOR-MANAGEMENT DISPUTE BETWEEN CHICAGO & NORTHWESTERN TRANSPORTATION CO. AND UNITED TRANSPORTATION UNION

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 374) to provide for a settlement of the labor-management dispute between the Chicago & Northwestern Transportation Co., and the United Transportation Union, and ask for its immediate consideration in the House and that the previous question be ordered to final passage without intervening motion.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. CRANE. Reserving the right to object, Mr. Speaker, it is not my intention to object any more than I intended to object last time we took this up for debate. I will not make my comments prolix, but I do want to register an objection in the form of opposition to what we are doing here.

It is a face-saving device for a union leader who has refused to make concessions, and that union leader is going to get off the hook by blaming the Federal Government for intervening to resolve an issue that should have found its resolution in the private sector between labor and management.

I think everyone is conversant with the concessions that the Chicago & Northwestern have already made. They agreed to the terms that the Emergency Board set forth and those terms are going to effect still a cost of about $35 million to the Chicago & Northwestern Railway, which has been losing $50 million a year because of the featherbedding practices; but I do want to alert my colleagues that it is my intention, after others have spoken to this issue, to ask for a recorded vote on it.

Mr. CRANE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. WHITTAKER. Reserving the right to object, Mr. Speaker, I will not object to the gentleman's request; however, I would like to ask the distinguished chairman of the Transportation Subcommittee for an explanation of the legislation that is before us, and I yield to the gentleman for that purpose.

Mr. THOMAS A. LUKEN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the purpose of Senate Joint Resolution 374, which the House is now considering, is to settle a long-standing labor-management dispute between the Chicago & Northwestern Railroad and the United Transportation Union. This dispute is over "crew consist"; that is, the size of train crews.

The Chicago & Northwestern currently operates with four-man crews—an engineer, a conductor, the two brakemen. The railroad has contended that it can in most cases operate with only two-man crews, just as many of its competitors' trains are operated. Most importantly, CNW's financial condition is such that it must have relief from current crew consist rules in order to survive in the long run.

However, the reduction in crew size was opposed by the UTU, which insisted on maintaining four-man crews.

The CNW initiated formal collective bargaining on its crew size proposal on May 15, 1987. It followed the procedures mandated by the Railway Labor Act, including collective bargaining, mediation, and, finally, submission of the dispute to a Presidential Emergency Board, which was appointed in an attempt to resolve the issue.

In a decision issued on July 1, 1988, the Emergency Board issued its report and recommendations. The Board ruled that CNW could reduce to three-man crews under certain circumstances. The Emergency Board also granted to employees who resign voluntarily a severance payment of $50,000. Employees who are laid off involuntarily would receive $45,000.

The Emergency Board's ruling is not binding, however. Following the Board's decision, the parties had 30 days to continue to negotiate. Negotiations failed, and on August 4, 1988, when the statutory cooling-off period ended, the UTU went on strike.

On the same day, the House passed Senate Joint Resolution 356, which extended the cooling off period to midnight, last night. Unfortunately, the dispute is still not settled and at 9 this morning CNW management unilaterally cut the size of its train crews. The UTU promptly went on strike, and the entire railroad was shut down.

Some 40,000 commuters in the Chicago area have been stranded without rail service. And shippers along thousands of miles of rail lines in the Midwest are without alternative transportation. This is particularly a hardship for grain farmers who have no other economical way to get their product to market.

The effect of the resolution we are now considering would be to end the strike and to make binding on the parties the recommendations of the Presidential Emergency Board. It is a last resort, and is being considered only after all other avenues for settlement have been exhausted.

This legislation is important to thousands of people and businesses in the Midwest. It enjoys strong bipartisan support I urge my colleagues to support this resolution.

Mr. WHITTAKER. Further reserving the right to object, Mr. Speaker, the resolution before us, already approved by the other body, is intended to resolve the continuing labor dispute on a major midwestern railroad, the Chicago & Western. At the outset, I want to commend my colleague, the gentleman from Ohio, chairman of the Transportation Subcommittee, and the gentleman from Michigan, chairman of the Energy and Commerce Committee, for their efforts to assure prompt consideration of this legislation.

In early August, the Congress enacted legislation to provide an additional cooling off period, beyond the normal procedures of the Railway Labor Act, to allow every possible opportunity for a private sector settlement of this matter through collective bargaining. Unfortunately, no agreement has been forthcoming, and the cooling off period expired this morning. We are therefore again faced with the prospect of a rail strike that will strand thousands of Chicago commuters and halt critically needed rail service to many midwestern farm communities at the height of the harvest season. In these circumstances, the preference of many Members, myself included, for private sector resolution of labor disputes must yield to the broader public interest in preserving essential rail service for the Midwest.

Frankly, Mr. Speaker, I had sincerely hoped that this legislation would be unnecessary, because the Presidential Emergency Board's report, issued in July, had provided the parties with the basic outlines of a sensible compromise on the key issue of crew size. Nevertheless, there appear to be elements who, for whatever reason, want Congress to take them "off the hook" through legislation, and who therefore have prevented the reaching of any final agreement. If it were not for the consequences of a strike on innocent third parties—shippers, commuters, farmers—I would rather have those who have frustrated the collective bargaining process bear the consequences of their own irresponsibility. I cannot take that course, however, because too much of the price would be paid by innocent bystanders who have had no control over the bargaining process.

This legislation, Mr. Speaker, follows the pattern adopted by the Congress in 1986 when the New England region was threatened by a loss of rail service during the Maine Central strike. After cooling off legislation had failed to produce a settlement, the Congress adopted the recommendations of the Presidential Emergency Board as a binding settlement, with a backup arbitration procedure to settle any differences over the meaning or implementation of the Board's recommendations. That pattern is essentially repeated in the resolution we are considering today.

This legislation is a narrowly targeted solution to a specific dispute. The settlement terms mandated by this resolution were not created out of whole cloth by the Congress, but were instead recommended by an expert body, the Presidential Emergency Board appointed this past spring. Therefore, I believe that the legislation represents the bare minimum of Federal involvement in developing the actual terms of the collective-bargaining settlement.

Finally, Mr. Speaker, I want to note that legislation such as this should be the rare exception, not the rule. If both sides act responsibly in the collective-bargaining process, action by the Congress should be unnecessary in most instances. It is my fervent hope that, as the railroads and their employees continue to adjust to their new, less regulated environment, they will make the changes that are dictated by economic necessity through genuine bargaining, not by mere posturing in front of a perceived congressional backstop.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois [Mr. BRUCE].

Mr. HAYES of Illinois. Mr. Speaker, I reserve the right to object to this resolution.

The SPEAKER. There is a reservation pending on the part of the gentleman from Kansas, and as soon as that is resolved, the Chair will recognize the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I do not want to lose my right to object.

The SPEAKER. The gentleman's right will be protected.

Mr. BRUCE. Mr. Speaker, I thank the gentleman for yielding.

Today in Chicago, a labor strike is presently existing on the Chicago & Northwestern Railroad which imposes an unfair burden on commuters and the commuter rail system with whom there is really no dispute.

This Congress previously has granted a 36-day cooling-off period to allow both sides to reach an amicable settlement. They were afforded adequate time to do that. They recognized their own interests, and they recognized the responsibility they had to the citizens and businesses of northeastern Illinois. We are all disappointed that there was not a settlement reached by both parties, but we are pleased that in negotiations throughout last evening, both labor and management agreed to postpone the operation of the strike until 9 o'clock in Chicago so that the morning commuter trains could run.

The CNW initiated formal collective-bargaining on this concept of crew size on May 15, 1987, and both the CNW and the UTU have followed procedures mandated by the Rail Labor Act including bargaining, mediation, and submission of this dispute to the Presidential Emergency Board, all required by law.

On July 1, 1988, the Emergency Board issued its report and its recommendations, and both parties have worked since then to resolve whatever disputes there were.

Thirty-six days ago this Congress gave additional time. What does the Presidential Board allow? For those who are concerned about the labor union's interest in this particular agreement, 350 jobs are maintained by the PEB agreement. From the original call of more than 1,100 lost jobs, we saved 350. For every person separated involuntarily, $45,000 cash payment will be made by the railroad. For each gentleman that leaves this railroad voluntarily, a $50,000 one-time cash payment.

We have worked with everyone from Fred Hardin, the international president, to Don Margraf, the general chairman, Bob Schmiege, the president of Chicago & Northwestern, and no one likes the agreement, but everyone has a resigned attitude that this is the only way they are going to resolve their dispute. The gentleman from Michigan [Mr. Dingell], the gentleman from Ohio [Mr. Thomas A. Luken], the gentleman from Illinois [Mr. Porter], Mr. Paul Simon in the Senate, the gentleman from Illinois [Mr. Michel], and the Governor called from Europe this week trying to maintain the negotiations, Fred Hardin, the international president, everyone is resigned to the fact that it is up to the Congress of the United States to implement the Emergency Board recommendations.

Do that today and make sure that 41,000 commuters tomorrow morning can go back to work in Chicago.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object——

Mr. HAYES of Illinois. Mr. Speaker, I reserve the right to object to the adoption of this resolution.

The SPEAKER. The gentleman from Kansas is reserving the right to object.

Mr. WHITTAKER. Mr. Speaker, I had a reservation. I have not released my reservation of objection.

The SPEAKER. The gentleman's right will be protected. The gentleman from Kansas is proceeding under a reservation earlier expressed.

Mr. WHITTAKER. Mr. Speaker, that is correct.

Mr. Speaker, I yield to the chairman of the committee, the gentleman from Michigan [Mr. Dingell].

Mr. DINGELL. Mr. Speaker, I support the resolution.

Mr. Speaker, I rise in support of Senate Joint Resolution 374, which will end the pending dispute between the United Transportation Union [UTU] and the Chicago & Northwestern Railroad [CNW].

Today's action is necessary if we are to avert a substantial and costly disruption of vital commerce. If we fail to act, we will cripple more than 40,000 commuters in the Chicago area who rely on CNW to get to work every day. We will also impose terrible hardship on thousands of farmers who, as the harvest season begins, are relying on CNW to get their grain to market.

Several members of the Committee on Energy and Commerce deserve recognition for their efforts over the last 6 weeks to avert an interruption of rail service in the Midwest. Foremost among them is the gentleman from Illinois [Mr. Bruce], who should be commended for his tireless efforts in encouraging the parties to reach an agreement and, when the parties were not able to do so, in obtaining swift congressional action. I also want to recognize the gentleman from Iowa [Mr. Tauke], the gentleman from Illinois [Mr. Madigan], and his colleague from Illinois [Mr. Collins] for their efforts. Finally, the leadership of the chairman and ranking minority member of the subcommittee, Messrs. Luken and Whittaker, should also be noted.

It is regrettable that Congress once again has been required to step into the collective-bargaining process and impose a settlement on the parties. Thus, I believe it is important for the Members to understand the peculiar circumstances that have led us to this point.

As many of you know, a three-member Presidential Emergency Board recommended terms for settlement of this dispute in early July. Ordinarily, had the parties not been able to reach agreement by the time a 30-day moratorium on self-help expired in early August, Congress would have acted immediately to impose the terms of that Board's recommendation. Instead, at the request of the UTU, we extended that cooling-off period for another 36 days in the hope that an agreement could finally be reached.

The best way in which an agreement could have been reached would have been for UTU's general chairman on the CNW to request the assistance of the international president in negotiating a settlement—which the general chairman has the right to do under the UTU constitution. However, that request was never made, and in the absence of a request, the union's president had no authority to intervene. This is unfortunate, because I have good reason to believe that an agreement could have been reached which would have been more favorable to the employees of the CNW than that recommended by the Emergency Board.

By imposing the Board's recommendations, we continue our longstanding and important tradition of not allowing the parties to a rail labor dispute to expect that they can get a better deal from Congress than from the Emergency Board or from negotiations amongst themselves. I hope that in the future other carriers and employee organizations will bear this in mind.

Mr. FLORIO. Mr. Speaker, I wanted to take this opportunity to make a few observations on what we are about to do. We are about to legislate a specific solution to a collective bargaining dispute between a company and one of its unions.

Now, while it would perhaps be unprecedented for Congress to take such action with respect to most industries, it has become almost routine policy for Congress to intervene in rail labor disputes.

Indeed, Congress has intervened in rail labor disputes several times during the current administration—an administration that has fervently preached the gospel of free enterprise free of government intervention. This is especially so in the labor-management area, a gospel perhaps best exemplified by the administration's opposition to plant closing legislation.

For example, in 1982, Congress imposed a contract to resolve a labor dispute between the Nation's railroads and the Brotherhood of Locomotive Engineers. Congress intervened in response to fervent pleas to do so from the administration's then Secretary of Transportation.

In 1986, Congress acted to impose a settlement in the dispute between Guilford Transportation and the Brotherhood of Maintenance of Way Employees. We extended the cooling-off period in a dispute in early 1987 involving the Long Island Railroad and its union and we probably would have imposed a legislative solution in that case had not the parties settled at the last minute.

And, as the saying goes, here we go again, as we vote shortly to impose the recommendations of the Presidential Emergency Board upon the parties to this dispute as a labor contract. In effect, we are making the advisory Presidential Emergency Board process one of binding arbitration, after the fact.

Now, I'm not really sure whether or not I like this developing policy. I realize that, as a practical matter, there is sometimes little alternative to doing what we are about to do, and I have sometimes supported and sometimes opposed similar legislation.

But, whether you support or oppose this joint resolution, I hope everyone understands the new policy that is developing, a policy of labor dispute resolution by legislation.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman from Michigan for bringing this matter to the floor promptly and for his candor and honesty throughout the entire matter from start to finish.

Mr. Speaker, it is now almost 3:30 p.m. Within half an hour or 40 minutes there will be tens of thousands of commuters waiting for the trains in Chicago for the chance to get home.

I will submit my remarks for the Record.

Mr. Speaker, I understand that the gentleman, my colleague from Illinois on the other side of the aisle, is thinking of objecting to the consideration of this matter at this time. I would only urge the gentleman not to do so, that all that will do is to delay consideration of it and cause hundreds of thousands of people not to be able to get to work to do their jobs and to earn their livings and ultimately the matter will have to be settled in any case by congressional action.

I would urge my colleague not to take that action.

Mr. Speaker, I rise in support of this legislation that will mandate the recommendation of the Presidential Emergency Board to solve the crew consist dispute between the Chicago & Northwestern Transportation Co. [CNW] and the United Transportation Union [UTU].

Labor and management are in disagreement over the number of brakemen needed to operate the CNW freight trains. Collective bargaining was initiated in May 1987 and neither party has been able to reach a satisfactory settlement in almost 18 months of negotiations. In July of this year the Presidential Emergency Board issued its recommendations.

On August 4 when the railroad issued new crew consist rules and labor decided in strike, Congress passed legislation that would extend the cooling-off period for an additional 36 days and keep the freight and commuter trains running. Now that this deadline has expired. Congress is again called on to settle this dispute.

The legislation before this body now is exactly the same as that I introduced before the first strike on August 4. It will protect the public interest and keep the trains running and will prevent commuters being held hostage to a freight dispute.

Certainly no member of this body wants Congress to become involved is settling labor disputes. It is labor's right to strike when they find management rules unsatisfactory. It is a precious right that we value happily in a free society. But there are times, fortunately few in number, when that right crashes aganist the public interest. Unfortunately, this is one of those times when that right must be weighed against the right of tens of thousands of commuters to go to work and earn their living.

Ample time has been given to both parties to negotiate the dispute, but they have failed to reach an accord. The Presidential Emergency Board Recommendations are the views of unbiased experts based on a careful review of the entire dispute and are the only way—fair to both sides—to resolve this matter and lay it to rest. I am pleased that the House is taking up this legislation now and that the right of commuters will be protected. I commend the gentleman from Michigan for bringing this matter properly to the floor and for his candor and honesty in dealing with this matter from start to finish. The gentlemen from Ohio and Kansas have been most diligent as well, and deserve our commendation. I urge that this bill, mandating the provisions of the Presidential Emergency Board, be passed and signed into law.

Mr. WHITTEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. HAYES of Illinois. Mr. Speaker, I object to the consideration of this issue for several reasons. One, I do not like this process of collective bargaining. I do not know what is involved in it. Some of these people who are going to be affected in one way or another are constituents of mine, and I want to be in a position to at least explain it to them. I know there are a number of people who are going to lose their jobs. I cannot tell them, and I am going to object to this regardless of what is said.

The SPEAKER. The Chair understands the gentleman from Illinois [Mr. HAYES] objects to the present consideration.

Mr. HAYES of Illinois. That is right, Mr. Speaker, I do.

The SPEAKER. Objection is heard.

APPOINTMENT OF CONFEREES ON H.R. 4784, RURAL DEVELOPMENT, AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Messrs. WHITTEN, TRAXLER, MCHUGH, NATCHER, AKAKA, WATKINS, DURBIN, and SMITH of Iowa, Mrs. SMITH of Nebraska, and Messrs. MYERS of Indiana, SKEEN, WEBER, and CONTE.

APPOINTMENT OF CONFEREES ON H.R. 4637, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION ACT, 1989

Mr. OBEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Messrs. OBEY, YATES, MCHUGH, LEHMAN of Florida, WILSON, DIXON, GRAY of Pennsylvania, MRAZEK, WHITTEN, EDWARDS of Oklahoma, KEMP, LEWIS of California, PORTER, and CONTE.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., MONDAY, SEPTEMBER 12, 1988, TO FILE REPORT ON H.R. 3345, OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS OF 1988

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. Monday, September 12, 1988, to file the legislative report on H.R. 3345, the Office of Federal Procurement Policy Act Amendments of 1988. This request has been cleared with the minority.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

INDIAN SELF-DETERMINATION AMENDMENTS OF 1987

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1223) entitled the "Indian Self-Determination Amendments of 1987," with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment as follows:

House amendment to the Senate amendment: In lieu of the Senate amendment, strike out all after the enacting clause and insert, in lieu thereof, the following:

TITLE I—ADMINISTRATIVE PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Indian Self-Determination and Education Assistance Act Amendment of 1988".

TABLE OF CONTENTS

TITLE I—ADMINISTRATIVE PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.
Sec. 104. Reporting and audit requirements.
Sec. 105. Carryover funding.

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

Sec. 201. Self-Determination contracts.
Sec. 202. Technical assistance and grants to tribal organizations.
Sec. 203. Personnel.
Sec. 204. Administrative provisions.
Sec. 205. Contract funding and indirect costs.
Sec. 206. Contract appeals.
Sec. 207. Promulgation of rules and regulations.
Sec. 208. Reports.
Sec. 209. Tribal self-governance demonstration project.
Sec. 210. Savings provisions.
Sec. 211. Severability.

SEC. 102. DECLARATION OF POLICY.

Section 3 of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203, 25 U.S.C. 450 et seq.) is amended by striking subsection (b) and inserting the following new subsection in lieu thereof:

"(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In accordance with this policy, the United States is committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities.".

SEC. 103. DEFINITIONS.

Section 4 of the Indian Self-Determination and Education Assistance Act is amended to read as follows—

"SEC. 4. For purposes of this Act, the term—

"(a) 'construction programs' means programs for the planning, design, construction, repair, improvement, and expansion of buildings or facilities, including, but not limited to, housing, law enforcement and detention facilities, sanitation and water systems, roads, schools, administration and health facilities, irrigation and agricultural works, and water conservation, flood control, or port facilities;

"(b) 'contract funding base' means the base level from which contract funding needs are determined, including all contract costs;

"(c) 'direct program costs' means costs that can be identified specifically with a particular contract objective;

"(d) 'Indian' means a person who is a member of an Indian tribe;

"(e) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(f) 'indirect costs' means costs incurred for a common or joint purpose benefiting more than one contract objective, or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved;

"(g) 'indirect costs rate' means the rate arrived at through negotiation between an Indian tribe or tribal organization and the appropriate Federal agency;

"(h) 'mature contract' means a self-determination contract that has been continuously operated by tribal organization for three or more years, and for which there are no significant and material audit exceptions in the annual financial audit of the tribal organization: *Provided*, That upon the request of a tribal organization or tribal governing body, a contract of the tribal organization in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 which meets this definition shall be considered to be a mature contract;

"(i) 'Secretary', unless otherwise designated, means either the Secretary of Health and Human Services or the Secretary of the Interior or both;

"(j) 'self-determination contract' means a contract entered into pursuant to this Act between a tribal organization and the appropriate Secretary the planning, conduct and administration of programs or services which are otherwise provided to Indian tribes and their members pursuant to Federal law: *Provided*, That no contract entered into pursuant to this Act shall be construed to be a procurement contract;

"(k) 'State education agency' means the State board of education or other agency or officer primarily responsible for supervision by the State of Public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

"(l) 'tribal organization' means the recognized governing body of any Indian tribe; and legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.".

SEC. 104. REPORTING AND AUDIT REQUIREMENTS.

(a) Subsection (a) of section 5 of the Indian Self-Determination and Education Assistance Act is amended to read as follows:

"(a)(1) Each recipient of Federal financial assistance under this Act shall keep such records as the appropriate Secretary shall prescribe by regulation promulgated under section 552 and 553 of title 5, United States Code, including records which fully disclose—

"(A) the amount and disposition by such recipient of the proceeds of such assistance,

"(B) the cost of the project or undertaking in connection with which such assistance is given or used,

"(C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and

"(D) such other information as will facilitate an effective audit.

"(2) For the purposes of this subsection, such records for a mature contract shall consist of quarterly financial statements for the purpose of accounting for federal funds, the annual single-agency audit required by the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.), and a brief annual program report.".

(b) Section 5 of the Indian Self-Determination and Education Assistance Act is further amended by adding the following new subsection:

"(e) The Secretary shall report annually in writing to tribes regarding projected and actual staffing levels, funding obligations, and expenditures for programs operated directly by the Secretary serving that tribe.".

SEC. 105. CARRYOVER FUNDING.

Section 8 of the Indian Self-Determination and Education Assistance Act is amended to read as follows:

"CARRYOVER FUNDING

"SEC. 8. Notwithstanding any other provision of law, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated or expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation or expenditures during such succeeding fiscal year. In the case of amounts made available to a tribal organization under a self-determination contract, if the funds are to be expended in the succeeding fiscal year for the purpose for which they were originally appropriated, contracted or granted, or for which they are authorized to be used pursuant to the provisions of section 106(a)(3), no additional justification or documentation of such purposes need be provided by the tribal organization to the Secretary as a condition of receiving or expending such funds.".

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

SEC. 201. SELF-DETERMINATION CONTRACTS.

(a) Section 102 of the Indian Self-Determination Act is amended to read as follows:

"SEC. 102. (a)(1) The Secretary is directed, upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof, including construction programs,—

"(A) provided for in the Act of April 16, 1934 (48 Stat. 596), as amended;

"(B) which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208), and any Act subsequent thereof;

"(C) provided by the Secretary of Health and Human Services under the Act of August 5, 1954 (68 Stat. 674), as amended;

"(D) administered by the Secretary for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and

"(E) for the benefit of Indians because of their status as Indians without regard to the agency or office of the Department of Health and Human Services or the Department of the Interior within which it is performed.

"(2) If so authorized by an Indian tribe under paragraph (1) of this subsection, a tribal organization may submit a proposal for a self-determination contract to the Secretary for review. The Secretary shall, within ninety days after receipt of the proposal, approve the proposal unless, within sixty days of receipt of the proposal, a specific finding is made that—

"(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted will not be satisfactory;

"(B) adequate protection of trust resources is not assured; or

"(C) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract.

"(3) Upon the request of a tribal organization that operates two or more mature self-determination contracts, those contracts may be consolidated into one single contract.

"(b) Whenever the Secretary declines to enter into a self-determination contract or contracts pursuant to subsection (a) of this section, the Secretary shall—

"(1) state any objections in writing to the tribal organization,

"(2) provide assistance to the tribal organization to overcome the stated objections, and

"(3) provide the tribal organization with a hearing on the record and the opportunity for appeal on the objections raised, under such rules and regulations as the Secretary may promulgate.

"(c)(1) Beginning in 1990, the Secretary shall be responsible for obtaining or providing liability insurance or equivalent coverage, on the most cost-effective basis, for Indian tribes, tribal organizations, and tribal contractors carrying out contracts, grant agreements and cooperative agreements pursuant to this Act. In obtaining or providing such coverage, the Secretary shall take into consideration the extent to which liability under such contracts or agreements are covered by the Federal Tort Claims Act.

"(2) In obtaining or providing such coverage, the Secretary shall, to the greatest extent practicable, give a preference to coverage underwritten by Indian-owned economic enterprises as defined in section 1425, title 25, United States Code, except that, for the purposes of this subsection, such enterprises may include non-profit corporations.

"(3)(A) Any policy of insurance obtained or provided by the Secretary pursuant to this subsection shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of an Indian tribe from suit, but that such waiver shall extend only to claims that amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage or limits of the policy of insurance.

"(B) No waiver of the sovereign immunity of an Indian tribe pursuant to this paragraph shall include a waiver to the extent of any potential liability for interest prior to judgment or for punitive damages or for any other limitation on liability imposed by the law of the State in which the alleged injury occurs.".

(b)(1) Subsection (a) and (b) and the first sentence of subsection (c) of section 103 of the Indian Self-Determination Act are hereby repealed. Subsection (c) of section 103 of the Indian-Self-Determination Act is redesignated as subsection (d) of section 102 of that Act and is amended by striking out "103 and 104(b)" and inserting, in lieu thereof, "102 or 103".

(2) Any reference to section 103(c) contained in an Act making appropriations for the Department of the Interior and Related Agencies for fiscal year 1989 shall be deemed to apply to section 102(d) of such Act as amended by this Act.

SEC. 202. TECHNICAL ASSISTANCE AND GRANTS TO TRIBAL ORGANIZATIONS.

Section 104 of the Indian Self-Determination Act is amended—

"(a) by redesignating such section as section 103;

"(b) by inserting the word "or" at the end of paragraph (2) of subsection (a) of such section, striking the semicolon and the word "or" at the end of paragraph (3) of such subsection and inserting, in lieu thereof, a period, and by striking all of paragraph (4);

(c) by striking the phrase "Health, Education, and Welfare" in subsection (b) of such section and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(d) by adding the following new subsections (d) and (e) at the end thereof:

"(d) The Secretary is directed, upon the request of any tribal organization and subject to the availability of appropriations, to provide technical assistance on a nonreimbursable basis to such tribal organization—

"(1) to develop any new self-determination contract authorized pursuant to this Act;

"(2) to provide for the assumption by such tribal organization of any program, or portion thereof, provided for in section 102(a)(1) of this Act, or

"(3) to to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 102 of the Act.

"(e) The Secretary is authorized, upon the request of an Indian tribe, to make a grant to any tribal organization for——

"(1) obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates; and

"(2) the planning, designing, monitoring, and evaluating of Federal programs serving the tribe, including Federal administrative functions.".

SEC. 203. PERSONNEL.

Section 105 of the Indian Self-Determination Act is amended by—

(a) redesignating such section as section 104;

(b) striking the phrase "section 4(c)" in subsection (a) of such section, amending section 3371(2) of title 5, U.S.C., and inserting, in lieu thereof, the phrase "section 4(m)";

(c) striking the phrase "section 102, 103, and 104" in subsection (b) of such section, amending section 8 of the Act of August 5, 1954 (68 Stat. 674), and inserting, in lieu thereof, the phrase "sections 102 and 103".

(d) deleting the words "on or before December 31, 1988" in subsection (e) of such section;

(e) in paragraph (2) of subsection (e) of such section—

(1) inserting "or chapter 84 ('Federal Employees Retirement System')" after "chapter 83 ('Retirement')" and before "of title 5" and

(2) striking out "Notwithstanding any other law," and inserting in lieu thereof "Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5, United States Code,"; and

(f) by adding the following new subsections (k), (l), and (m):

"(k) Section 3372(a) of title 5, United States Code, is further amended to add the following to the end thereof: 'If the assigned employee fails to complete the period of assignment and there is another employee willing and available to do so, the Secretary may assign the employee to complete the period of assignment and may execute an agreement with the tribal organization with respect to the replacement employee. That agreement may provide for a different period of assignment as may be agreed to by the Secretary and the tribal organization.'.

"(1) Section 3372 of title 5, United States Code, is further amended by adding a new subsection (d) as follows:

'(d) Where the employee is assigned to a tribal organization, the employee shall be eligible for promotions, periodic step-increases, additional step-increases, merit pay, and cash awards, as defined in chapters 53 and 54 of this title, on the same basis as other federal employees.'.

"(m) The status of an Indian appointed to the Federal service under an excepted appointment under the authority of section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or any other provision of law granting a preference to Indians in personnel actions, shall be converted to a career appointment in the competitive service after three years of continuous service and satisfactory performance. The conversion shall not alter the Indian's eligibility for preference in personnel actions.".

SEC. 204. ADMINISTRATIVE PROVISIONS.

Section 106 of the Indian Self-Determination Act is amended—

(a) by redesignating such section as section 105;

(b) by striking the phrase "section 102 and 103" in subsection (a) of such section and inserting, in lieu thereof, the phrase "section 102";

(c) by changing the period at the end of subsection (a) of such section to a colon and adding the following new proviso at the end thereof: "*Provided, further,* That, except for construction contracts (or sub-contracts in such cases where the tribal contractor has sub-contracted the activitiy), the Office of Federal Procurement Policy Act (88 Stat. 796; 41 U.S.C. 401 et seq.) and Federal acquisition regulations promulgated thereunder shall not apply to self-determination contracts.";

(d) by striking the phrase "section 102, 103, and 104" in subsection (b) of such sectrion and inserting, in lieu thereof, the phrase "section 102 and 103";

(e) by striking subsections (c), (d), and (e) of such section and inserting, in lieu thereof, the following:

"(c)(1) A self-determination contract shall be—

"(A) for a term not to exceed three years in the case of other than a mature contract, unless the appropriate Secretary and the tribe agree that a longer term would be advisable, and

"(B) for an indefinite term in the case of a mature contract.

The amounts of such contracts shall be subject to the availability of appropriations.

"(2) The amounts of such contracts may be renegotiated annually to reflect changed circumstances and factors, including, but not limited to, cost increases beyond the control of the tribal organization.

"(d)(1) No later than fiscal year 1990, the Secretary shall begin using the calendar year as the basis for contracts and agreements under this Act except for instances where the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall submit a report to the Congress within ninety days of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 on the amounts of any additional obligational authority needed to implement this subsection in fiscal year 1989.

"(e) Whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective one year from the date of the request by the Indian tribe or at such date as may be mutually agreed by the Secretary and the Indian tribe.

"(f) In connection with any self-determination contract or grant made pursuant to section 102 or 103 of this Act, the appropriate Secretary may—

"(1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance;

"(2) donate to an Indian tribe or tribal organization the title to any personal property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, including property and equipment purchased with funds under any self-determination contract or grant agreement; and

"(3) acquire excess or surplus Government personal property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this Act.";

(f) by redesignating subsection (f) of such section as subsection (g) and by striking the phrase "sections 102 and 103 of this Act and grants pursuant to section 104 of this Act" in such subsection and by inserting, in lieu thereof, the phrase "section 102 of this Act and grants pursuant to section 103 of this Act";

(g) by redesignating subsection (g) of such section as subsection (h); by striking the phrase "sections 102, 103, and 104" in such subsection and inserting, in lieu thereof, the phrase "sections 102 and 103"; and by striking the phrase "Health, Education, and Welfare" and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(h) by striking all of the existing subsection (h) of such section.

SEC. 205. CONTRACT FUNDING AND INDIRECT COSTS.

Title I of the Indian Self-Determination and Education Assistance Act is further amended by adding the following new section 106:

"SEC. 106. (a)(1) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract.

"(2) There shall be added to the amount required by paragraph (1) contract support costs which shall consist of the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management, but which—

"(A) normally are not carried on by the respective Secretary in his direct operation of the program; or

"(B) are provided by the Secretary in support of the contracted program from resources other than those under contract.

"(3) Any savings in operation under a self-determination contract shall be utilized to provide additional services or benefits under the contract or be expended in the succeeding fiscal year as provided in section 8 of this Act.

"(b) The amount of funds required by subsection (a)—

"(1) shall not be reduced to make funding available for contract monitoring or administration by the Secretary;

"(2) shall not be reduced by the Secretary in subsequent years except pursuant to—

"(A) a reduction in appropriations from the previous fiscal year for the program or function to be contracted;

"(B) a directive in the statement of the managers accompanying a conference report on an appropriation bill or continuing resolution;

"(C) a tribal authorization,

"(D) a change in the amount of pass-through funds needed under a contract, or

"(E) completion of a contracted project, activity, or program;

"(3) shall not be reduced by the Secretary to pay for Federal functions, including, but not limited to, Federal pay costs, Federal employee retirement benefits, automated data processing, contract technical assistance or contract monitoring;

"(4) shall not be reduced by the Secretary to pay for the costs of Federal personnel displaced by a self-determination contract; and

"(5) may, at the request of the tribal organization, be increased by the Secretary if necessary to carry out this Act or as provided in section 105(c).

Notwithstanding any other provision in this Act, the provision of funds under this Act is subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe to make funds available to another tribe or tribal organization under this Act.

"(c) The Secretary shall provide an annual report in writing on or before March 15 of each year to the Congress on the implementation of this Act. Such report shall include—

"(1) an accounting of the total amounts of funds provided for each program and budget activity for direct program costs and indirect costs of tribal organizations under self-determination contracts during the previous fiscal year;

"(2) an accounting of any deficiency of funds needed to provide required indirect costs to all contractors for the current fiscal year;

"(3) the indirect costs rate and type of rate for each tribal organization negotiated with the appropriate Secretary;

"(4) the direct cost base and type of base from which the indirect cost rate is determined for each tribal organization;

"(5) the indirect cost pool amounts and the types of costs included in the indirect cost pools;

"(d)(1) Where a tribal organization's allowable indirect cost recoveries are below the level of indirect costs that the tribal organizations should have received for any given year pursuant to its approved indirect cost rate, and such shortfall is the result of lack of full indirect cost funding by any Federal, State, or other agency, such shortfall in recoveries shall not form the basis for any theoretical over-recovery or other adverse adjustment to any future years' indirect cost rate or amount for such tribal organization, nor shall any agency seek to collect such shortfall from the tribal organization.

"(2) Nothing in this subsection shall be construed to authorize the Secretary to fund less than the full amount of need for indirect costs associated with a self-determination contract.

"(e) Indian tribes and tribal organizations shall not be held liable for amounts of indebtedness attributable to theoretical or actual under-recoveries or theoretical over-recoveries of indirect costs, as defined in Office of Management and Budget Circular A-87, incurred for fiscal years prior to fiscal year 1988.

"(f) Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to enactment of the Single Agency Audit Act of 1984 (chapter 75 of title 31, United States Code), any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 110. Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476).

"(g) Upon the approval of a self-determination contract and at the request of an Indian tribe or tribal organization, the Secretary shall add the indirect cost funding amount awarded for a self-determination contract to the amount awarded for direct program funding for the first year and, subject to adjustments in the amount of direct program costs for the contract, for each subsequent year that the program remains continuously under contract.

"(h) In calculating the indirect costs associated with a self-determination contract for a construction program, the Secretary shall take into consideration only those costs associated with the administration of the contract and shall not take into consideration those moneys actually passed on by the tribal organization to construction contractors and subcontractors.

"(i) Within one month after enactment of this section, the Secretary is mandated to establish a team in each area of the Bureau of Indian Affairs which consists of agency personnel and tribal representatives for the purpose of analyzing the "Indian Priority System" and other aspects of the budgeting and funding allocation process of the Bureau of Indian Affairs for the purpose of making a report to Congress with appropriate recommendations for changes and legislative actions to achieve greater tribal decision-making authority over the use of funds appropriated for the benefit of the tribes and their members. The report along with the analysis, findings and recommendations of the area teams shall be submitted to Congress within six months of enactment of this provision. The Secretary may submit to Congress separate comments on the information and recommendations on the report.".

SEC. 206. CONTRACT APPEALS.

Title I of the Indian Self-Determination and Education Assistance Act is further amended—

(a) by adding the following new section 110:

"SEC. 110. (a) The United States district courts shall have original jurisdiction over any civil action or claim against the appropriate Secretary arising under this Act and, subject to the provisions of subsection (d) of this section and concurrent with the United States Court of Claims, over civil action or claim against the Secretary for money damages arising under contracts authorized by this Act. In an action brought under this paragraph, the district courts may order appropriate relief including money damages, injunctive relief against any action by an officer of the United States or any agency thereof contrary to this Act or regulations promulgated thereunder, or mandamus to compel an officer or employee of the United States, or any agency thereof, to perform a duty provided under this Act or regulations promulgated hereunder.

"(b) Unless otherwise agreed to by the resolution of an Indian tribe, the Secretary shall not revise or amend a self-determination contract with such tribe.

"(c) The Equal Access to Justice Act (P.L. 96-481, Act of October 1, 1980; 94 Stat. 2325, as amended) shall apply to administrative appeals by tribal organizations regarding self-determination contracts.

"(d) The Contract Disputes Act (P.L. 95-563, Act of November 1, 1978; 92 Stat. 2383, as amended) shall apply to self-determination contracts.

"(e) Subsection (d) of this section shall apply to any case pending or commenced on or after March 17, 1986, before the Boards of Contract Appeals of the Department of the Interior or the Department of Health and Human Services except that in any such cases finally disposed of before the date of enactment of these amendments, the thirty-day period referred to in section 504(a)(2) of title 5, United States Code, shall be deemed to commence on the date of enactment of this subsection."; and

(b) by redesignating existing section 110 as section 111.

SEC. 207. PROMULGATION OF RULES AND REGULATIONS.

(a) Section 107(a) of the Indian Self-Determination Act is amended by—

(1) striking the phrase "Health, Education, and Welfare" and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(2) striking the period at the end thereof and inserting, in lieu thereof, a semi-colon and the following: "*Provided, however,* That all Federal requirements for self-determination contracts and grants under this Act shall be promulgated as regulations in conformity with sections 552 and 553 of title 5, United States Code.".

(b) Section 107(b) of the Indian Self-Determination Act is amended to read as follows:

"(b)(1) Within three months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall consider and formulate appropriate regulations to implement the provisions of this Act, with the participation of Indian tribes. Such proposed regulations shall contain all Federal requirements applicable to self-determination contracts and grants under this Act.

"(2) Within six months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall present the proposed regulations to the Select Committee on Indian Affairs of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(3) Within seven months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall publish proposed regulations in the Federal Register for the purpose of receiving comments from tribes and other interested parties.

"(4) Within ten months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall promulgate regulations to implement the provisions of such Act.".

SEC. 208. REPORTS.

Section 108 of the Indian Self-Determination act is redesignated as subsection 5(f) of the Indian Self-Determination and Education Assistance Act and is amended by deleting the period at the end and inserting, in lieu thereof, the following: "through regulations promulgated under the sections 552 and 553 of title 5, United States Code".

SEC. 209. TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT.

The Indian Self-Determination and Education Assistance Act is further amended by adding a new title III, as follows:

"TITLE III—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

"SEC. 301. The Secretary of the Interior shall, for a period not to exceed five years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title.

"SEC. 302. (a) The Secretary shall select twenty tribes to participate in the demonstration project, as follows:

"(1) A tribe that successfully completes a Self-Governance Planning Grant, authorized by Conference Report 100-498 to accompany H.R. Res. 395, One Hundredth Congress, first session shall be selected to participate in the demonstration project; and

"(2) The Secretary shall select, in such a manner as to achieve geographic representation, the remaining tribal participants from the pool of qualified applicants. In order to be in the pool of qualified applicants—

"(A) the governing body of the tribe shall request participation in the demonstration project;

"(B) such tribe shall have operated two or more mature contracts and

"(C) such tribe shall have demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by such tribe having no significant and material audit exceptions in the required annual audit of such tribe's self-determination contracts.

"SEC. 303. (a) The Secretary is directed to negotiate, and to enter into, an annual written funding agreement with the governing body of a participating tribal government which—

"(1) shall authorize the tribe to plan, conduct, consolidate, and administer programs, services, and functions authorized under the Act of April 16, 1934 (48 Stat. 596), as amended, and the Act of November 2, 1921 (42 Stat. 208);

"(2) subject to the terms of the written agreement authorized by this title, shall authorize the tribe to redesign programs, activities, functions, or services and to reallocate funds for such programs, activities, functions, or services;

"(3) shall not include funds provided pursuant to the Tribally Controlled Community College Assistance Act (P.L. 95-471), for elementary and secondary schools under the Indian School Equalization Formula pursuant to title XI of the Education Amendments of 1978 (P.L. 95-561, as amended), or for either the Flathead Agency Irrigation Division or the Flathead Agency Power Division: *Provided further,* That nothing in this section shall affect the contractability of such divisions under section 102 of this Act.

"(4) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to this agreement;

"(5) shall specify the authority of the tribe and the Secretary, and the procedures to be used, to reallocate funds or modify budget allocations within any project year;

"(6) shall, except as provided in paragraphs (1) and (2), provide for payment by the Secretary to the tribe of funds from one or more programs, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically related to the provision by the Secretary of services and benefits to the tribe and its members: *Provided, however,* That funds for trust services to individual Indians are available under this written agreement only to the extent that the same services which would have been provided by the Secretary are provided to individual Indians by the tribe;

"(7) shall not allow the Secretary to waive, modify, or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exist under treaties, Executive orders, and Acts of Congress;

"(8) shall allow for retrocession of programs or portions thereof pursuant to section 105(e) of this Act; and

"(9) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to each tribe which is served by the agency which is serving the tribe which is a party to the funding agreement and to the Congress for review by the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

"(b) For the year for which, and to the extent to which, funding is provided to a tribe pursuant to this title, such tribe—

"(1) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under this title.

"(c) At the request of the governing body of the tribe and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

"(d) For the purpose of Sec. 110 of this Act the term "contract" shall also include agreement authorized by this title.

"(e) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the agreements authorized by this title.

"SEC. 304. The Secretary shall identify, in the President's annual budget request to the Congress, any funds proposed to be included in the Tribal Self-Government Project. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations Acts.

"SEC. 305. The Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Government Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and participating tribes, and shall separately include the views of the tribes.

"SEC. 306. Nothing in this title shall be construed to limit or reduce in any way the services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law and the provisions of Sec. 110 of this Act shall be available to any tribe or Indian organization which alleges that a funding agreement is in violation of this section.".

SEC. 110. SAVING PROVISIONS.

Nothing in this Act shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or

"(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indian people.

SEC. 211. SEVERABILITY.

If any provision of this Act or the application thereof to any Indian tribe, entity, person or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other Indian tribes, entities, persons, or circumstances, shall be affected thereby.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Arizona?

Mr. RHODES. Mr. Speaker, reserving the right to object, and I will not object, but I yield to the chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, to explain the request.

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 1223 is a bill to amend the Indian Self-Determination Act of 1975. The bill passed the House by voice vote on October 27, 1987 and after substantial hearings and revisions by the Senate Select Committee on Indian Affairs, it passed the Senate by unanimous consent on June 7, 1988.

The purpose of the Indian Self-Determination Act is to promote tribal self-government by encouraging tribes to contract for the administration of programs previously administered by the Indian Health Service and the Bureau of Indian Affairs.

Many tribes felt that the contracting process needed to be revised and streamlined. It was also felt that such contracts should not be considered as "procurement contracts" but should be viewed as intergovernmental agreements. This is what these amendments accomplish. The bill specifically states that these contracts are not procurement contracts and that except for construction contracts, none of the Federal procurement and acquisitions laws and regulations shall apply to these contracts.

The bill as amended also makes many needed substantive additions and improvements to the original bill.

Today, we are proposing to send the bill back to the other side with an amendment in the nature of a substitute. The amendment is mostly a technical rewrite of the Senate amendment. The House amendment also deletes some of the Senate additions which I believe went beyond the scope of the original bill as introduced in the House.

The more important changes made to the Senate amendments by the House amendments are explained below. The reference to the sections are to the sections as numbered in the Self-Determination Act, hereinafter, the act, and not to the sections as numbered in the bill.

Paragraph (3) of subsection (a) of section 102 of the act was deleted. This section provided that authorized Indian tribes and tribal organizations were entitled to contract as provided in this section. I am not sure this paragraph was included since other paragraphs in the section already direct the Secretary to enter into such contracts, thereby conferring upon tribal organizations a right to contract under the act. While Indian tribal organizations do have a right to enter into such contracts, the Secretary can always decline to enter into such contracts if he makes a specific finding as provided in paragraph (2) of subsection (a) of section 102.

Paragraph (4) of subsection (a) of section 102 was not amended. Inasmuch as this subsection had been the source of some confusion, it is my understanding that while this subsection allows a tribal organization to consolidate two or more mature contracts into one single contract, it does not anuthorize the tribal organization to reprogram or transfer funds from one contract to another.

While paragraph (2) of subsection (c) of section 102 was deleted, this delection was not made because of an objection to having Federal Tort Claims Act apply to tribal contractors but because it was felt that Federal Tort Claims Act coverage has been adequately addressed by the Interior, Appropriation Committees in their conference report for fiscal year ending September 30, 1989.

Subsection (d) of section 104 was revised to make technical assistance provided by the Secretary in the development of self-determination contracts subject to the availability of appropriations.

Subsections (n) and (o) of section 105 have been deleted. Subsection (n) provided for the payments of additional compensation to Federal employees whose employment was negatively impacted by the issuance of a self-determination contract.

Subsection (o) authorized the Secretary to pay cash bonuses to Federal employees whose positions were terminated because of the issuance of a self-determination contract or who made a contribution toward the successful issuance of a self-determination contract.

It was felt that the benefits to be awarded under subsection (n) were unwarranted and that the lack of standards in subsection (o) opened the subsection for abuse of discretion.

Subsection (a) of section 105 was amended so as to exclude construction contracts from the provision which exempted other types of self-determination contracts from the application of the Office of Federal Procurement Policy Act and regulations promulgated thereunder. By their nature, construction contracts, unlike other self-determination contracts, are akin to other Federal acquisition contracts and should be subjected to the same types of regulations.

Subsection (a) of section 106 was rewritten so as to delete paragraph (1). This paragraph provided that a self-determination contract shall include all allowable contract costs incurred by a tribal organization in connection with such contract. Instead, the House amendment included a provision which stated that such self-determination contracts shall be funded at an amount which shall be no less than what the appropriate Secretary would have otherwise provided for his direct operation of the program being contracted. In addition, to such amounts shall be added contract support costs.

The new language is identical to a provision which was included in H.R. 1223 as originally passed by the House. The Senate language was deleted because it was felt that such language was more appropriate to define funding for a program rather than a mechanism for the assumption of such program by a tribal contractor.

Subsection (f) of section 106 was deleted. I recognize that improvements need to be made in the administration of the Indian priority system. However, since the committee did not have an opportunity to study implementation of the Indian priority system, I believe that this legislation is not the proper vehicle to address these concerns.

The last sentence of subsection (g) of section 106 was deleted. This sentence provided that if, at tribal option, the amount for direct program funds and the amount awarded for indirect costs on a contract are combined, such combined amount shall be carried in the Secretary's budget at the specific budget location of the contracted program. While unsure about the reason for or the impact of such language, I nevertheless tend to believe that it amounts to an undue invasion of the executive branch's prerogatives.

Paragraphs (2)(A) and (2)(B) of subsection (d) of section 110 were deleted. These sections provided that notwithstanding certain sections of the Contract Dispute Act, tribal contractors were given an option to appeal either to the U.S. district court or to the U.S. court of claims. No good reasons were provided or given to provide tribal contractors with such options and therefore the House amendment deleted such options.

In paragraph (1) of subsection (a) of section 303, the provision which allowed tribes not to provide the same programs, services, functions or activities as the Secretary would have provided to the tribes and its members was deleted. Under the self-governance project, a tribe is allowed, subject to the funding agreement, to redesign such programs, activities, functions or services and is also allowed to reallocate funds for such programs, activities, functions or services. However, it is not believed that the tribes can use such funds for programs, activities, functions or services which the Secretary himself would not have been authorized to provide or administer had he administered such funds directly.

In paragraph (4) of subsection (a) of section 303, the word "functionally" was deleted. Therefore, under the House amendment, a tribe which entered into a funding agreement authorized under this title shall be eligible to receive in addition to funds which it would have been eligible to receive under contracts and grants under this Act, such funds which are specifically related to the provision by the Secretary of services and benefit to the tribe and it members. However, the tribe will not be eligible to also receive funds which are functionally related to the provisions by the Secretary of such programs, activities, functions or services, whatever such funds might consist of.

Paragraph (6) of subsection (a) of section 303 was deleted and replaced by a new subsection (e) which provided that to the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the agreements authorized by this title. The Senate language provided for the Secretary to interpret Federal laws in a manner that will not prohibit or restrict such agreements. While a comprehensive survey of the laws which might conflict with or retrict such agreements has not been done, it is my understanding that such agreements will be different from each other. Therefore, each will have to have its legality determined independently.

Paragraph (8) of subsection (a) of section 303 was renumbered as paragraph (9) and amended to provide that in addition to the Senate Select Committee and the Interior and Insular Affairs Committee, such funding agreements shall also be submitted to each tribe which is served by the agency which is serving the tribe which is a party to the funding agreement.

Subsection (d) of section 303 was rewritten to provide that agreements entered pursuant to this title shall be considered as contracts for the purpose of section 110 of the act. Section 110 outlines appeals rights under the act. The Senate language provided that disputes arising in the course of the negotiation and implementation of agreements shall be resolved pursuant to section 110 of the act. The Senate language was amended because it was felt that section 110 may not be tailored to the resolution of disputes arising during such negotiations. If section 110 does lend itself to such resolution, then its mechanism should be followed. Nevertheless, it was felt that tribal organizations which are entering or have entered into such funding agreements should have as much appeal rights as tribal contractors who are negotiating or have negotiated a contract or grant under the act.

Section 306 was amended so as to give standing to appeal under section 110 of the act to any Indian tribe which alleges that a funding agreement entered pursuant to this title has limited or reduced services, contracts or funds that such tribe was eligible to receive under section 102 of the act.

Mr. RHODES. Mr. Speaker, further reserving the right to object, I thank the chairman, and agree with his explanation. H.R. 1223 passed the House on October 27, 1987, without objection. The other body passed the bill on May 27, 1988, with amendments. The major change in the bill was the addition of an innovative demonstration project for block grants to no more than 20 Indian tribes. This proposal first came from the administration, and I believe with the committee's perfecting amendments, the demonstration projects will be beneficial to the tribes and in our examination of the future relationship with Indian tribes.

I support the further amendments suggested by the chairman and I urge my colleagues to support the motion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1223.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

GEOTHERMAL STEAM ACT AMENDMENTS OF 1988

Mr. RAHALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1889) to amend the Geothermal Steam Act of 1970 to provide for lease extensions, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Senate amendment to House amendments: In lieu of the matter proposed to be inserted by the House amendments to the text of the bill, insert:

SECTION 1. SHORT TITLE.

This Act may be known as the "Geothermal Steam Act Amendments of 1988".

SEC. 2. DEFINITIONS.

(a) Section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001) is amended by adding the following at the end of the section:

"(f) 'Significant thermal features within units of the National Park System' shall include, but not be limited to, the following:

"(1) Thermal features within units of the National Park System listed in Section 28(a)(1) and designated as significant in the Federal Register notice of August 3, 1987 (Vol. 52, No. 148 Fed. Reg. 28790).

"(2) Crater Lake National Park.

"(3) Thermal features within Big Bend National Park and Lake Mead National Recreation Area proposed as significant in the Federal Register notice of February 13, 1987 (Vol. 52, No. 30 Fed. Reg. 4700).

"(4) Thermal features within units of the National Park System added to the significant thermal features list pursuant to section 28(a)(2) of this Act.

(b) Section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) is amended to read as follows:

"(d) Except as otherwise provided for in this section, for purposes of this section the term 'produced or utilized in commercial quantities' means the completion of a well producing geothermal steam in commercial quantities. Such term shall also include the completion of a well capable of producing geothermal steam in commercial quantities so long as the Secretary determines that diligent efforts are being made toward the utilization of the geothermal steam.".

SEC. 3. LEASE EXTENSIONS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended by adding the following new subsections:

"(g)(1) Any geothermal lease issued pursuant to this Act for land on which, or for which under an approved cooperative or unit plan of development or operation, geothermal steam has not been produced or utilized in commercial quantities by the end of its primary term, or by the end of any extension provided by subsection (c), may be extended for successive 5-year periods, but totaling not more than 10 years, if the Secretary determines that the lessee has met the bona fide effort requirement of subsection (h), and either of the following:

"(A) the payment in lieu of commercial quantities production requirement of subsection (i).

"(B) The significant expenditure requirement of subsection (j).

"(2) A lease extended pursuant to paragraph (1) shall continue so long thereafter as geothermal steam is produced or utilized in commercial quantities, but such continuation shall not exceed an additional 25 years, for a total of 50 years, if such lease was also the subject of an extension under subsection (c) or an additional 30 years, for a total of 50 years, if such lease is only extended pursuant to paragraph (1).

"(3) If, at the end of either 50-year term referred to in paragraph 2, geothermal steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second term in accordance with such terms and conditions as the Secretary deems appropriate. For purposes of this paragraph only, the term 'produced or utilized in commercial quantities' means a bona fide sale or the use of geothermal steam by the lessee to generate electricity in marketable quantities.

"(g) To meet the bona fide effort requirements referred to in subsection (g)(1) the lessee must submit a report to the Secretary demonstrating bona fide efforts (as determined by the Secretary) to produce or utilize geothermal steam in commercial quantities for such lease, given the then current economic conditions.

"(i)(1) To meet the payments in lieu of commercial quantities production requirement referred to in subsection (g)(1)(A) the lessee must agree to the modification of the terms and conditions of the lease to require annual payments to the Secretary in accordance with this subsection.

"(2) Payments under this subsection shall commence with the first year of the extension. Payments shall equal to the following:

"(A) In each of the first through the fifth payment years, at least $3.00 per acre or fraction thereof, of lands under lease.

"(B) In each of the sixth through the tenth payment years, at least $6.00 per acre or fraction thereof, of lands under lease.

"(3) Failure to make the payments required by this subsection shall subject the lease to cancellation.

"(4) No payments made pursuant to this subsection shall be required after the earlier of the following:

"(A) The date of termination of the lease.

"(B) The date of relinquishment of the lease.

"(C) The date geothermal steam is produced or utilized in commercial quantities from the lease.

"(5) No payments made pursuant to this subsection shall be used to reduce rentals or future production royalties.

"(j)(1) To meet the significant expenditure requirement referred to in subsection (g)(1)(B) the lessee must demonstrate to the Secretary on an annual basis during an extension that a significant expenditure of funds is being made on the lease.

"(2) The following expenditures made by the lessee shall qualify as meeting the requirement of this subsection:

"(A) Expenditures to conduct actual drilling operations on the lease, such as for exploratory or development wells, or geochemical or geophysical surveys for exploratory or development wells.

"(B) Expenditures for road or generating facilities construction on the lease.

"(C) Architectural or engineering services procured for the design of generating facilities to be located on the lease.

"(D) Environmental studies required by State or Federal law.

"(3) Expenditure shall be equal to the following:

"(A) In each of the first through the fifth years, at least $15.00 per acre or fraction thereof of lands under lease.

"(B) In each of the sixth through the tenth years, at least $18.00 per acre or fraction thereof, of lands under lease.

"(4) Failure to make the expenditures required by this subsection shall subject the lease to cancellation.

"(5) No expenditures made pursuant to this subsection shall be required after the date geothermal steam is produced or utilized in commercial quantities from the lease.

"(6) Expenditures made pursuant to this subsection shall be in lieu of any minimum per acre diligent exploration expenditure requirement in effect for the lease at the end of its primary term, or at the end of any extension provided by subsection (c), as the case may be.".

SEC. 4. REVIEW OF COOPERATIVE OR UNIT PLAN OR DEVELOPMENT.

Section 18 of the Geothermal Steam Act of 1970 as amended (30 U.S.C. 1017) is amended by inserting the following new paragraph after the first full paragraph of that section:

"No more than five years after approval of any cooperative or unit plan of development or operation, and at least every five years thereafter, the Secretary shall review each such plan and, after notice and opportunity for comment, eliminate from inclusion in such plan any lease or part of a lease not regarded as reasonably necessary to cooperative or unit operations under the plan. In the case of a cooperative or unit plan approved before the enactment of the Geothermal Steam Act Amendments of 1988, the Secretary shall complete such review and elimination within 5 years after the enactment of such Act. Such elimination shall be based on scientific evidence, and shall occur only when it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any lease or part of a lease so eliminated shall be eligible for an extension under subsection (c) or (g) of section 6 if it separately meets the requirements for such an extension.".

SEC. 5. CONFORMING AMENDMENTS.

(a) Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

"SEC. 20. All moneys received from the sales, bonuses, royalties and rentals under the provisions of this Act, including the payments referred to in section 6(i), shall be disposed of in the same manner as such moneys received pursuant to section 35 of the Mineral Leasing Act or pursuant to section 6 of the Mineral Leasing Act for Acquired Lands, as the case may be.".

(b) Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended by striking "notwithstanding the provisions of section 20 thereof,".

(c) Section 43 of the Mineral Leasing Act (30 U.S.C. 226-3) is amended as follows:

(1) In subsection (a) strike out "oil and gas", and after "this Act" insert "or under the Geothermal Steam Act of 1979".

(2) In subsection (b) after "oil and gas" insert ", coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources".

(d) The Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) is amended by adding the following new section:

"SEC. 29. The Secretary shall not issue any lease under this Act on those lands subject to the prohibition provided under section 43 of the Mineral Leasing Act.".

SEC. 6. SIGNIFICANT THERMAL FEATURES.

The Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025) is amended by adding the following new section 28:

"SEC. 28. (a)(1) The Secretary shall maintain a list of significant thermal features, as defined in section 2(f), within units of the National Park System, including but not limited to the following units:

"(A) Mount Rainier National Park.

"(B) Crater Lake National Park.

"(C) Yellowstone National Park.

"(D) John D. Rockefeller, Jr. Memorial Parkway.

"(E) Bering Land Bridge National Preserve.

"(F) Gates of the Arctic National Park and Preserve.

"(G) Katmai National Park.

"(H) Aniakchak National Monument and Preserve.

"(I) Wrangell-St. Elias National Park and Preserve.

"(J) Lake Clark National Park and Preserve.

"(K) Hot Springs National Park.

"(L) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park).

"(M) Lassen Volcanic National Park.

"(N) Hawaii Volcanoes National Park.

"(O) Haleakala National Park.

"(P) Lake Mead National Recreation Area.

"(2) The Secretary may, after notice and public comment, add significant thermal features within units of the National Park System to the significant thermal features list.

"(3) The Secretary shall consider the following criteria in determining the significance of thermal features:

"(A) Size, extent and uniqueness.

"(B) Scientific and geologic significance.

"(C) The extent to which such features remain in a natural, undisturbed condition.

"(D) Significance of thermal features to the authorized purposes for which the National Park System unit was established.

"(b)(1) The Secretary shall maintain a monitoring program for significant thermal features within units of the National Park System.

"(2) As part of the monitoring program required by paragraph (1), the Secretary shall establish a research program to collect and assess data on the geothermal resources within units of the National Park System with significant thermal features. Such program shall be carried out by the the National Park Service in cooperation with the U.S. Geological Survey and shall begin with the collection and assessment of data for significant thermal features near current or proposed geothermal development and shall also include such features near areas of potential geothermal development.

"(c)(1) Upon receipt of an application for a lease under this Act, the Secretary shall determine on the basis of scientific evidence if exploration, development or utilization of the lands subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the the National Park System. Such determination shall be subject to notice and public comment.

"(2) If the Secretary determines that the exploration, development or utilization of the land subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the the National Park System, the Secretary shall not issue such lease.

"(3) The Secretary shall not issue any lease under this Act for those lands, or portions thereof, which are the subject of a determination made pursuant to subparagraph (2).

"(d) With respect to all leases or drilling permits issued, extended, renewed or modified under this Act, the Secretary shall include stipulations in such leases and permits necessary to protect significant thermal features within units of the the National Park System where the Secretary determines that, based on scientific evidence, the exploration, development or utilization of the land subject to the lease or drilling permit is reasonably likely to adversely affect any such significant thermal feature. Stipulations shall include, but not be limited to—

"(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

"(2) requiring the lessee to report annually to the Secretary on activities taken on the lease;

"(3) requiring the lessee to continuously monitor geothermal steam and associated geothermal resources production and injection wells; and

"(4) requiring the lessee to suspend activity on the lease if the Secretary determines that ongoing exploration, development or utilization activities are having a significant adverse effect on a significant thermal feature within a unit of the the National Park System until such time as the significant adverse effect is eliminated. The stipulation shall provide for the termination of the lease by the Secretary if the significant adverse effect cannot be eliminated within a reasonable period of time.

"(e) The Secretary of Agriculture shall consider the effects on significant thermal features within units of the the National Park System in determining whether to consent to leasing under this Act on national forest lands or other lands administered by the Department of Agriculture available for leasing under this Act, including public, withdrawn, and acquired lands.

"(f) Nothing in this Act shall affect the ban on leasing under this Act with respect to the Island Park Geothermal Area, as designated by the map in the 'Final Environmental Impact Statement of the Island Park Geothermal Area' (January 15, 1980, p. XI), and provided for in Public Law 98-473.".

SEC. 7. CRATER LAKE NATIONAL PARK REPORT.

On March 1, 1989, or 6 months after the date of enactment of this section (whichever is later), the Secretary shall submit to Congress a report on the presence or absence of significant thermal features within Crater Lake National Park.

SEC. 8. CORWIN SPRINGS KGRA STUDY.

(a) The United States Geological Survey, in consultation with the National Park Service, shall conduct a study on the impact of present and potential geothermal development in the vicinity of Yellowstone National Park on the thermal features within the park. The area to be studied shall be the lands within the Corwin Springs Known Geothermal Resource Area as designated in the July 22, 1975, Federal Register (Fed. Reg. Vol. 40, No. 141). The study shall be transmitted to Congress no later than December 1, 1990.

(b) Any production from existing geothermal wells or any development of new geothermal wells or other facilities related to geothermal production is prohibited in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in subsection (a) of this section.

(c) The Secretary may not issue, extend, renew or modify any geothermal lease or drilling permit pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in section 8(a) of this Act. This section shall not be construed as requiring such leasing activities subsequent to the 180 days after study submittal.

(d) If the Secretary determines that geothermal drilling and related activities within the area studied pursuant to subsection (a) of this section may adversely affect the thermal features of Yellowstone National Park, the Secretary shall include in the study required under subsection (a) of this section recommendations regarding the acquisition of the geothermal rights necessary to protect such thermal resources and features.

SEC. 9. CONSISTENCY PROVISION.

To the extent that any provision in this Act is inconsistent with the provisions of section 115(2) of title I of section 101(h) of Public Law 99-591 (100 Stat. 3341-264 through 100 Stat. 3341-266), this Act shall be deemed to supersede the provisions of such section.

□ 1530

Mr. RAHALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from West Virginia?

Mr. CRAIG. Mr. Speaker, reserving the right to object, I would ask the gentleman from West Virginia to explain what is involved in S. 1889.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I am happy to yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, the purpose of S. 1889 as amended is to provide for the orderly development of Federal geothermal resources, and to ensure the protection of significant thermal features within units of the National Park System from potential geothermal development activities.

As the gentleman is aware, the Senate originally passed the Geothermal Steam Act Amendments of 1988 back in February. The House then substantially modified the Senate bill with language developed by the Mining Subcommittee and passed it on June 13.

In early August, the Senate considered the House version and in consultation with the gentleman from Idaho and myself made some very minor modifications. As such, I am pleased to report to my colleagues that the bill before us is the House version with only a few changes.

These modifications entail a more detailed definition of those items which would qualify under the significant expenditures requirement for a lease extension, and, an identification of specific thermal features within the list of national park units adopted by the House that are the subject of the monitoring and parks protection program established by the legislation.

I might add that we have represented by this bill a dovetailing of interests between the environmental community and the geothermal industry.

Mr. CRAIG. I would like to thank my colleague for that explanation and associate myself with his remarks.

Mr. Speaker, I rise in support of S. 1889, the Geothermal Steam Act Amendments of 1988, as amended by the Senate. This bill is essentially the same as H.R. 2794 that passed the House on June 13, 1988.

This bill allows geothermal resources to be developed while at the same time protecting thermal features within national parks.

This is a bill that benefits both geothermal producers and those who have environmental concerns resulting from geothermal development. I recommend that my colleagues vote to pass S. 1889.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONTINENTAL SCIENTIFIC DRILLING AND EXPLORATION ACT

Mr. RAHALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 52) to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program; with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Senate amendment to House amendment: Page 6, line 8 of the House engrossed amendment, after "paragraph (5)," insert "a report".

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. CRAIG. Mr. Speaker, reserving the right to object, I would like to ask my colleague, the gentleman from

West Virginia [Mr. RAHALL] if he would explain what is involved in S. 52?

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I am happy to yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, the purpose of S. 52 is to provide a national commitment to deep continental drilling by establishing a Continental Scientific Drilling Program that would coordinate the drilling programs of the U.S. Geological Survey, the Department of Energy, the National Science Foundation, and interested universities so as to avoid duplication of effort.

Continental scientific drilling is an important endeavor in that it provides information related to the causes of earthquakes and volcanic eruptions, the occurrence of energy and mineral resources, and other areas of National importance.

It should also be noted that S. 52 is budget neutral in that no appropriation is authorized.

This legislation, originally passed by the Senate, was acted on by the House on May 23, 1988. The Senate subsequently added a two-word technical amendment to clarify one provision of the legislation.

Mr. CRAIG. Mr. Speaker, I rise in support of S. 52, the continental scientific drilling and exploration bill, as amended by the Senate. This bill is essentially the same as H.R. 2737 that was passed as S. 52 by the House on May 23, 1988.

I would like to thank Representative CLAUDINE SCHNEIDER for her foresight in introducing this legislation and Chairman RAHALL for the important work he did in seeing that this legislation becomes law.

I recommend that my colleagues vote to pass S. 52, as amended.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to inform the Members of the schedule for next week.

On Monday, September 12, the House will not be in session in observance of Rosh Hashanah.

On Tuesday, September 13, the House will meet at noon and consider the conference report on H.R. 4783, the Intelligence Authorization Act, and 24 bills under suspension of the rules. They are:

H.R. 5073, Aviation Whistleblowers Protection Act of 1988;

H.R. 4064, the Bankruptcy Judges Act of 1988;

H.R. 4807, Court Reform and Access to Justice Act of 1988;

H.R. 4994, Federal Prison Industries Reform Act;

H.R. 4970, Transgenic Animal Patent Reform Act;

H.R. 3345, Office of Federal Procurement Policy;

H.R. 5049, GSA representational expenses reauthorization;

H.R. 5104, to improve the management and disposal of real property;

H.R. 4213, the Montgomery GI Bill Amendments of 1988;

H.R. 5133, Insider Trading and Securities Fraud Enforcement Act of 1988;

H.R. 5150, Clinical Laboratory Improvement Amendments of 1988;

S. 945, Abandoned Infants Assistance Act;

H.R. 4983, Health Professions Reauthorization Act of 1988;

H.R. 5155, Protection and Advocacy Program for mentally ill individuals;

H.R. 2290, Indian Health Care Act Amendments;

H.R. 4102, Salt River Pima-Maricopa Indian Community Water Rights Settlement Act;

H.R. 3408, Colorado River Storage Project Authorization Increase;

H.R. 4818, to establish the National Park of Samoa;

H.R. 4554, to remove restrictions on land acquisitions for Antietam National Battlefield;

H.R. 775, Poverty Point National Monument Act;

S. 1914, to designate a segment of the Wildcat River in New Hampshire as a component of the National Wild and Scenic Rivers System;

H.R. 3957, Delaware and Lehigh Navigation Canal National Heritage Corridor Act;

S. 2057, to establish the Coastal Heritage Trail in the State of New Jersey; and

H.R. 3680, Omnibus Public Lands Act of 1987.

On Wednesday, Thursday, and Friday, September 14, 15, and 16, the House will meet at 10 a.m. on Wednesday and Friday and at noon at Thursday to consider the conference report on H.R. 2342, the Coast Guard Authorization Act, and recorded votes on suspension postponed from Tuesday, September 13.

The remainder of the week the House will consider H.R. 5210, the omnibus drug bill, which also will be considered, I might say, on Wednesday, and H.R. 5142, the AIDS Federal Policy Act of 1988, modified rule, one hour of debate.

Conference reports, of course, may be brought up at any time, and a further program may be announced later.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for yielding and have asked him to yield just to answer a couple of questions.

On Tuesday, September 13, the gentleman indicated the House will be taking up the conference report on H.R. 4783. Later you indicated that when we come back on Wednesday we will have votes on any suspensions on which votes were ordered on Tuesday, and I wonder if the gentleman could tell us when the House might expect to vote on the conference report to H.R. 4783? Would that be on Wednesday?

Mr. FOLEY. I thank the gentleman for pointing that out. That too will be postponed until Wednesday.

Mr. EDWARDS of Oklahoma. Mr. Speaker, let me also ask, a number of Members have been concerned about a bill on the Chicago railroad strike. What is the intention of the gentleman in terms of that coming back and the possibility of a vote on that issue?

Mr. FOLEY. We are still discussing that matter in hopes we might renew the request yet this evening.

Mr. EDWARDS of Oklahoma. When would be the earliest that Members might expect a vote on that issue?

Mr. FOLEY. It could be this evening if we obtain unanimous consent to consider a bill.

Mr. EDWARDS of Oklahoma. So at what point might Members believe that we are finally through for the evening and safely leave without facing the possibility of another vote?

Mr. FOLEY. We will notify both Cloakrooms. It should be a matter where we will advise the Members on very shortly if there is any opportunity to renew the request.

Mr. EDWARDS of Oklahoma. If I might pursue that or might inquire of the Speaker, is there a time, say 4 o'clock, or 4:30, or a time when we would be assured that if it has not happened by then it will not happen?

Mr. FOLEY. I would expect that we would notify the Cloakrooms by 4 o'clock as to whether any further action is expected.

Mr. EDWARDS of Oklahoma. But at this point our Cloakrooms should let Members know that there is still a possibility of a vote this evening?

Mr. FOLEY. Yes. I think as a practical matter it would have to be considered by unanimous consent if it is going to be considered, and if there is any other disposition I think it would be difficult to consider it this evening.

Mr. EDWARDS of Oklahoma. I thank the gentleman.

Mr. FOLEY. Before the gentleman from Oklahoma leaves the microphone, perhaps as the acting Republican leader I could ask the gentleman to help us advise the Members whether there are any procedural motions expected next Tuesday to discharge any committees or any other procedural motions to be offered on his side?

Mr. EDWARDS of Oklahoma. I can tell the gentleman I am not aware of any at this moment, but there is always that possibility.

I might ask, does the gentleman know of any that might be coming from his side of this aisle?

Mr. FOLEY. We have told the gentleman what we expect in the way of business for the next 4 days, and we would hope in the spirit of comity that for the remainder of the session when the leadership on our side announces the program that we would have the help of the Republican side in advising us of any undertakings that they intend to make on which Members would need to be informed.

Mr. EDWARDS of Oklahoma. I can tell the gentleman that I am not aware of any plans to get any votes at that time. If we in the leadership learn of any, we will be glad to convey that, but I might also add we have been telling our own Members who have the same needs to be back in their districts as the Members on the gentleman's side of the aisle have that they should not expect any votes on Tuesday. So any Member on our side who tries to get any will be doing damage to our colleagues over here as well as to those of the gentleman.

Mr. FOLEY. The gentleman's impression is there will be no such matters raised next Tuesday?

Mr. EDWARDS of Oklahoma. That is my impression at the moment.

Mr. FOLEY. For the remainder of the week, does the gentleman have any advice he can give me as to motions that may be offered on the Republican side that would draw votes in the House?

Mr. EDWARDS of Oklahoma. I do not know of any. I certainly yield to any of my colleagues who might, but I can tell the gentleman there always remains open the option of continuing to have the kinds of procedural votes that we have in the last couple of days.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the only thing I am aware of is that we are probably going to continue our effort to discharge the Armed Services Committee on the veto message. But that is something that we have kept the gentleman's side informed of, and I expect that that would be something that would happen as a matter of regular procedure. But I would not expect that to happen, would not expect that to be voted on on Tuesday where the Members have not been given notice of any votes.

Mr. FOLEY. But the gentleman would expect that such procedural motion might well be offered on Wednesday, Thursday, and Friday of next week?

Mr. WALKER. I would expect that that will be the case, that some Members probably will offer, probably members of the Armed Services Committee probably will offer a motion.

Mr. FOLEY. Are there any other privileged motions that might draw rollcalls that the gentleman's side knows about that we should be advised of?

Mr. WALKER. We are not aware of anything on Tuesday, and I am not aware of anything that is being planned for any of the other days either. But again, that is just my understanding of the situation.

Mr. FOLEY. We understand that neither side can predict with absolute accuracy what individual Members may do. But we are trying, in the spirit of comity on our side, to advise the House of all pending actions that we know about at this time, and I appreciate the gentleman's willingness to do the same.

ADJOURNMENT TO TUESDAY, SEPTEMBER 13, 1988, AND HOUR OF MEETING ON THURSDAY, SEPTEMBER 15, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, September 13, 1988, and that when the House adjourns on Wednesday, September 14, 1988, it adjourns at noon on Thursday, September 15, 1988.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, that pursuant to section 3 of Senate Resolution 456, 100th Congress, the Secretary of the Senate communicate to the House of Representatives a copy of the answer of Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida, to the articles of impeachment.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

□ 1545

PROVIDING FOR SETTLEMENT OF LABOR-MANAGEMENT DISPUTE BETWEEN CHICAGO AND NORTHWESTERN TRANSPORTATION CO. AND UNLIMITED TRANSPORTATION UNION

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 374) to provide for a settlement of the labor-management dispute between the Chicago & Northwestern Transportation Co. and the United Transportation Union, and ask for its immediate consideration in the House, and that the previous question be ordered to final passage without intervening motion.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. HAYES of Illinois. Mr. Speaker, reserving the right to object, if I may, I would like to remove my reservation of objection which I made just a little while ago and permit the resolution that is being proposed to go through and this weekend I will attempt to talk to some of the parties involved.

The SPEAKER. The gentleman from Illinois [Mr. HAYES] does not object.

Mr. HAYES of Illinois. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 374

Whereas the labor dispute between the Chicago and Northwestern Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union threatens to interrupt essential transportation services of the United States;

Whereas it is essential to the national interest, particularly in health and defense, that essential transportation services be maintained;

Whereas Congress finds that emergency measures are essential to maintaining the security and continuity of transportation. services provided by the Chicago and Northwestern Transportation Company;

Whereas the President, by Executive Order 12636 of April 20, 1988, and pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), created Presidential Emergency Board 213 to investigate the dispute and report findings;

Whereas the recommendations of the Emergency Board 213 issued on July 1, 1988, have not resulted in a settlement of the dispute;

Whereas all the procedures provided under the Railway Labor Act for resolving the dispute have been exhausted and have not resulted in settlement of the dispute;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONS FOR RESOLVING DISPUTE.

The following conditions shall apply to the dispute referred to in Executive Order 12636 of April 20, 1988, between Chicago and Northwestern Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union:

(1) The parties to such dispute shall take all necessary steps to restore or preserve the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on August 4, 1988, except as provided in paragraphs (2) and (3).

(2) The report and recommendations of the Emergency Board 213 shall be binding on the parties upon the enactment of this joint resolution and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), except that nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by this joint resolution.

SEC. 2. ARBITRATION.

(a) Unresolved Issues.—If there are any unresolved issues as to the initial implementation of the report and recommendations or agreement under section 1(a)(2) after 10 days after the date of the enactment of this joint resolution, on request of either party the parties to the dispute shall enter into binding arbitration to provide for a resolution of such issues.

(b) Appointment of Arbitration Board.—The National Mediation Board established by section 4 of the Railway Labor Act (45 U.S.C. 154), shall appoint an arbitration board composed of three neutral members experienced in the resolution of railroad disputes to resolve the issues described in subsection (a).

(c) Conduct of Arbitration Board.—Except as provided in this joint resolution, the arbitration required under this section shall be conducted in accordance with section 7 of the Railroad Labor Act (45 U.S.C. 157).

(d) Enforcement and Review of Arbitration Award.—The arbitration award shall be enforceable and reviewable as if it were under section 9 of the Railway Labor Act (45 U.S.C. 159).

(e) Jurisdiction for Judicial Review of Arbitration Award.—The United States District Court for the Northern District of Illinois, Eastern Division, is designated as the court in which the award is to be filed and reviewed.

SEC. 3. TIME LIMIT FOR ARBITRATION.

Not later than 30 days after the date of the enactment of this joint resolution, the binding arbitration entered into pursuant to subsection (a) shall be completed.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter therein, on Senate Joint Resolution 374, the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OMB REPORT RELATIVE TO REQUIREMENT OF AGGREGATE OUTLAYS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with section 252(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law No. 99-177), as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law No. 100-119), I hereby note that the initial report of the Director of the Office of Management and Budget dated August 25, 1988, and my initial order of the same date, based thereon, indicated that no aggregate outlay reduction is required at this time. Accordingly, there is no further information to be provided pursuant to section 252(a)(5).

Ronald Reagan.

The White House, *September 9, 1988.*

TRIBUTE TO LATE HON. OTTO PASSMAN

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana [Mr. Holloway] is recognized for 5 minutes.

Mr. HOLLOWAY. Mr. Speaker, I rise today to pay tribute to a distinguished former Member of this body, the late Otto Passman, long-time representative of Louisiana's Fifth Congressional District. During Representative Passman's 28-year tenure in Congress, the Fifth District of Louisiana included portions of today's Eighth District—areas of rural Louisiana which experienced great problems. Mr. Passman served his district with great energy and dedication. Today, let us remember his efforts and extend to his family our deepest sympathies on his recent passing.

FEDERAL ENERGY EFFICIENCY AWARD

The SPEAKER. Under a previous order of the House, the gentleman from Illinois [Mr. Gray] is recognized for 5 minutes.

Mr. GRAY of Illinois. Mr. Speaker, on October 28, the Federal Government will be awarding the Federal Energy Efficiency Award, and since Congress will be in adjournment on this date, I want to rise now and congratulate Mr. William M. Quinlan for receiving this award. Mr. Quinlan is an air-conditioning mechanic, responsible for the Federal Building in Carbondale, IL, in my district.

William Quinlan's dedication, professionalism and competency enabled him to extend his talents in such a manner as to enhance the heating and cooling efficiency of the facility for which he is responsible. This not only represents a saving to the Government, but it provides for greater efficiency and a more protective environment for the offices and the personnel located in the Carbondale Federal Building. Mr. Speaker, I am hopeful Mr. Quinlans efforts are copied by other federal workers.

As the enclosed documents for the Record verify, William Quinlan personifies the career professional which our Government is seeking and wishing to retain. His contribution demonstrates that our Federal employees are prevailing upon their talents to serve in an exemplary manner the needs of the public.

I call your attention to the nomination document which demonstrates Mr. Quinlan's accomplishment:

Section 1. Total Energy Saved. This section identifies the amount of energy saved in FY 1987 as compared to FY 1986, expressed as an absolute amount of energy in BTU's and as an incremental percentage change

Building—FB, Carbondale:

Fiscal year 1986 BTU/GSF	71,721
Fiscal year 1987 BTU/GSF	67,626
Percent (+/−) 1987 versus 1986	(5.7)

Section 2. Description of Actions Taken.

Technical efforts/hardware modifications employed: The Federal Building in Carbondale, Illinois is one of two buildings within Region 5 which has a solar system. This solar system provides heating, cooling, and preheats domestic hot water for the building occupants. The system is a totally hydronic system which incorporates 6,700 square feet of evacuated tube collectors comprising 5,200 individual tubes. This system was designed in 1977.

Mr. Quinlan has maintained the solar system in an excellent state of repair and has operated it in a highly efficient manner. He is the only operating individual at this building. This facility is located approximately 160 miles from the Director of Facilities in Springfield, Illinois.

The biggest obstacle to the efficient operation of this type of solar system is leaks within the solar collector tubes. The presence of leaks within the solar array results in air entering the system and chemically treated water leaving the system. Air within the system reduces heat transfer and could result in air pockets which could cause the solar collector tubes to break. Water leaking from the tubes results in increased water and chemical consumption. The chemicals are used for corrosion control of the piping associated with the solar system. Mr. Quinlan has made a conscientious effort to eliminate leaks from the solar system by replacing leaking headers in the solar array and maintaining the solar tube seals in good condition. Maintaining the solar array is a time consuming task which requires great effort. Mr. Quinlan accomplished this feat while simultaneously providing excellent service to the building tenants.

Mr. Quinlan also investigated and solved a problem with interlocks on the solar water circulating pumps for the rapid heat up control system. The rapid heat up system is used to heat the water in the solar collector water storage tanks. Prior to correcting the problem with the interlocks, the rapid heat up system did not work, and the building was heated with the electric boiler instead of the solar collector tanks. After the interlock problem was solved by Mr. Quinlan, the electric boiler was used less frequently. Approximately 75 percent of the building's heating and cooling requirements are now being met by energy from the sun in accordance with the system design. Before Mr. Quinlan came to this building, only approximately 25 percent of these requirements were provided by solar energy.

Additionally, Mr. Quinlan recalibrated all of the building's pneumatic and electronic controls for the heating, ventilating, and air conditioning (HVAC) system. This action enhanced the ability of the solar system to provide heating and cooling to the building. This action also enabled the HVAC system to provide a comfortable environment for the tenants while simultaneously keeping the temperatures in accordance with GSA's temperature guidelines.

Mr. Quinlan also installed light controllers which activate or deactivate the light in the building's four toilet rooms based on occupancy.

Degree to which nominee got others actively involved: Mr. Quinlan is the only GSA representative assigned to this building. He got the tenants involved in the energy conservation program to help him reduce the building's energy consumption. He has received their cooperation in turning lights off when they leave their offices. Mr. Quinlan also keeps the tenants informed about energy conservation retrofit projects implemented within the building.

Section 3. Project Life. The energy conservation actions identified in Section 2 and their annual savings are expected to stay in effect throughout the lifetime of the installed equipment. Mr. Quinlan's vigilance and expertise will be required to detect and repair any future leaks which may develop in the solar array throughout the remaining life of the building.

Section 4. Transferability. The installation of the light controller and the tenant involvement in the energy conservation program described in Section 2 can be applied to other public buildings throughout the General Services Administration and government-wide. Those actions dealing with the performance of the solar array may potentially be applied to other buildings which utilize solar energy to heat, cool, or provide domestic hot water to the building. Representatives from the Veterans' Administration Hospital in Marion, Illinois have met with Mr. Quinlan and toured the Federal Building in Carbondale, Illinois to observe the operation of the solar system. The purpose of their visit was to determine how they could improve the operation of the solar system located at the Veterans' Administration Hospital complex in Marion, Illinois. Thus, Mr. Quinlan has demonstrated his willingness to share his knowledge and experience with others to benefit the Federal Government.

Section 5. Innovation. The Federal Building in Carbondale, Illinois is an innovative building. It is one of the few public buildings within our nation which obtains energy from the sun to heat, cool, and preheat domestic hot water. Therefore, because this building's mechanial systems are so atypical; Mr. Quinlan must operate and maintain this building unlike the vast majority of public buildings. His innovation and specialized skills are required to operate this facility in a highly efficient manner.

Section 6. Energy Saved Compared To Dollars Spent. Approximately $4,100 have been expended in FY 1987 to accomplish the projects described in Section 2. As a result of Mr. Quinlan's efforts, it is estimated that over $3,400 will be saved annually due to reduced energy, water, and chemical consumption by the Federal Building.

Section 7. Outreach and Education. The Federal Building in Carbondale, Illinois is a solar energy demonstration project. As a result of the unusual features of this building, people have requested tours of the facility. In addition to the representatives of the Veterans' Administration Hospital described in Section 4, Mr. Quinlan has provided tours of the building to students of Southern Illinois University; intellectually gifted students of the Brehm Preparatory School located in the vicinity of Carbondale, Illinois; members of Five Star Industries; Boy Scouts; and Girl Scouts. Mr. Quinlan described the features of the solar system to these individuals and thereby was able to provide them with information about conserving depleting energy sources by utilizing the sun's energy.

Section 8. User Behavior. Mr. Quinlan's efficient operation and excellent maintenance of this building's solar system has had a tremendously positive effect on the 95 tenants which occupy this facility and on the public in Carbondale, Illinois area. As a result of Mr. Quinlan's efforts, the solar system operates properly, energy consumption has decreased, the HVAC system provides a comfortable environment for the tenants, and the leaks in the solar collectors have been repaired. As a result of Mr. Quinlan's interest in the solar system and his achievements, the image and operation of the Federal Building in Carbondale, Illinois has vastly improved in both the eye of the tenants and of the general public.

A POTENTIAL BREAKTHROUGH IN THIRD WORLD DEBT

The SPEAKER. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 10 minutes.

Mr. LAFALCE. Mr. Speaker, we are now embarking upon the seventh year of the Third World debt crisis and the $30 billion a year in net resource transfers from debtor to industrialized countries continues. Since 1982, economic conditions in most debtor countries have declined substantially as average purchasing power has been slashed and standards of living have fallen precipitously. Moreover, these countries have been required to export much more and import much less from the United States in order to meet their debt servicing obligations. This process has greatly contributed to our record trade deficits.

Despite all their efforts and sacrifice, however, the debt burden of the developing countries has not decreased; rather it continues to grow. Indeed, the two point increase in international interest rates over the past few months will add close to $8 billion to the debt servicing costs of these countries.

Clearly this situation is not sustainable much longer—a blunt message is being sent through the results of the recent Mexican national elections and the ongoing political campaigns in Argentina and Brazil, where opposition-party candidates are currently favored to win the Presidency, largely based on their pledge to remove the debt burden from their countries.

Under these circumstances, it is imperative that the annual meeting of the World Bank and the IMF in Berlin later this month examine new approaches to reducing the devastating burden of Third World debt, which continues to threaten the economic and political stability of developing countries as well as the health of the international trading system. I would hope that discussions will focus on the findings and recommendations of a pathbreaking report recently issued by a distinguished panel of senior bankers and representatives of debtor countries brought together under the auspices of the United Nations Association.

This report is particularly important because it represents, to my knowledge, the first time that major commercial banks—such as Citi-Corp and Chemical Bank—have publicly agreed that debt reduction can be a useful tool in resolving the debt crisis.

Ever since the crisis exploded in August of 1982, debtor nations and creditor financial institutions have been inextricably linked in this web of debt. Since commercial banks used the past 6 years to reduce their exposure and the risk to the world financial system, the time has now come to focus on the other side of the equation—the economies of the debtor countries and the broader consequences for international trade.

But it has taken a long time to get to this point. The initial response of the Reagan administration to the debt crisis was to abandon its policy of relying on the "magic of the marketplace" and to engage in an international effort to manage the crisis. In return for IMF short-term financing, debtor countries were told to reduce trade and fiscal deficits and to implement "market-oriented" economic reforms. According to the theory, creditworthiness would return, capital would again flow "south" and economic growth would resume.

Unfortunately, the scenario was wrong. Instead, output contracted; debt-servicing burdens grew heavier; and financial flows were reversed.

Recognizing that this combination of domestic austerity and a substantial transfer of wealth was both economically and politically unsustainable over the long run, a new and pragmatic Secretary of the Treasury, James Baker, outlined a new and pragmatic plan in October 1985. With a much greater emphasis on growth, the basic objective of the "Baker Plan" was to induce private commercial banks to increase their lending to heavily indebted countries.

The plan met with an enthusiastic response from everywhere except where it counted most—the banks. Additional lending has been extracted by applying great pressure, and usually only when default appeared imminent. Innovative ideas and techniques such as debt-for-equity swaps and zero-coupon treasury bonds have become part of an expanded "menu of options," but they have helped only at the margin.

After 6 years, banks are understandably tired of the endless cycle of negotiations which serve only to push the mountain of debt temporarily forward. Debtor countries no longer see any light at the end of the tunnel. Initiated as a bold new approach, the Baker Plan has been reduced to an exercise in "muddling through," a luxury no longer affordable for fragile democracies with declining standards of living, hyper-inflation, and national elections.

Debt fatigue has set in and we run the risk of allowing events to outstrip our ability to manage this crisis. This is why the analyses and prescriptions outlined by the UNA report are so timely.

The distinguished panel—chaired by Anthony Solomon, former president of the New York Federal Reserve Bank, and Rodney Wagner, cochairman of Morgan Guaranty Trust—has recognized the current deadlock. Their report calls for the consideration of "voluntary debt service reduction" to help relieve the crisis.

The report draws some important conclusions, foremost of which is that "debt service reduction can be a legitimate tool for reducing the resource gap of debtor countries." The approach favored by the panel involves a "debt-for-debt exchange" which would permit banks to swap old debt for new debt at a discount-either reduced principal or lowered interest payments. For those of us who have been engaged in this sometimes acrimonious debate for some years, it is a hopeful sign that such a wide cross-section of participants were able to agree on direction U.S. debt policy should take in the future.

I believe that the principles put forth by this panel are consistent with those that I, and several other Members of Congress have been suggesting. In fact, I would like to take this opportunity to expand upon my previous proposals in light of recommendations made by James Robinson of American Express, Eugene Rotberg of Merrill Lynch, and other experts over the last 18 months.

I believe that the time is right for the establishment of a special facility, affiliated with, and jointly administered by the World Bank and the IMF, in order to implement the orderly reduction of Third World debt.

The primary tasks of the facility would be as follows:

First, to help negotiate on a voluntary, country-by-country basis the transformation of current debt into long-term bonds, freeing countries and creditors alike from the endless cycle of short-term negotiations and reschedulings.

Second, in exchange for agreeing to sell existing loans at a discount, banks would receive a guarantee of both principal and some portion of the interest on the new debt instrument. The extent of the guarantee would be negotiable, perhaps depending upon the size of the discount.

Third, debtor countries would be required to adhere to appropriate conditionality programs. They would have to implement economic policy reforms similar to those currently required for World Bank and IMF loans.

Fourth, in addition, the facility would be encouraged to explore various other innovative debt reduction mechanisms such as debt-for-equity swaps, exit bonds, and the like.

Fifth, funding for the facility would come primarily from countries with sizable trade surpluses. Presumably, most of the money required for the guarantee would take the form of contingent liabilities, given that debt reduction would actually enhance the resources and creditworthiness of debtor countries.

In my opinion, such a facility would be of enormous value in helping to stabilize the political and economic systems of developing countries and promoting more balanced international trading relationships. A separate facility would also accomplish two important goals. First, it would not affect the credit ratings of the multilateral institutions and, second, it would allow the World Bank and the IMF to get back to their original mandate—fostering development.

Clearly, there is a new consensus emerging on what our debt strategy should be and the UNA panel's report adds new momentum to this vital debate. I would hope that Members of Congress as well as officials at the Treasury Department would study the UNA report carefully and that its recommendations will stimulate fruitful discussions at the upcoming meetings in Berlin.

Mr. Speaker, I insert the introduction and conclusions of the report in full in the RECORD:

INTRODUCTION

In January 1988 the Economic Policy Council of the United Nations Association (UNA-USA) invited a distinguished panel of experts to review the international debt situation. Among the panelists and participants were executives of commercial and investment banks, debtor governments and multilateral institutions, legal and accounting firms, and labor unions, as well as members of the press and academe.

It was not the intention of the group to reach agreement on one comprehensive plan or to add to the long menu of debt restructuring options now available. Rather, the panel sought to identify a core set of approaches that best meet the needs of debtor countries, creditor banks, and official institutions. The group met regularly over a period of six months before drafting its final report and recommendations.

Despite the great diversity of interests represented on the panel and many disagreements on specific issues, there was in the end a convergence of views on the nature of the obstacles to a successful resolution of the debt problem and on the general direction future debt policies should take. Not every panel member subscribes to every point in the final report, but its analysis and broad thrust are accepted by the panel as a whole.

The EPC embarked on this project with a sense of urgency, aware that the fragile consensus among debtor countries, commercial banks, and major creditor countries built since 1982 could well fracture and that the costs to both creditor and debtor countries would be high.

Some debtor countries have shown signs of economic recovery, with back-to-back years of substantial growth and increased exports and imports. But all troubled debtor countries remain vulnerable to changes in the world economy. The two percentage point rise in LIBOR[1] since the beginning of this year will add at least $8 billion per year to the debt servicing costs of capital-importing developing countries,[2] and further increases may be in store. Rising commodity prices—one of the sources of inflationary pressures pushing up interest rates—will offset the rise in debt servicing for some countries, but not for all. Recession in the industrial countries could curtail demand for exports of the least-developed countries (LDCs). Further interest increases or a slowing of industrial country growth could make it difficult for even some of the stronger troubled debtor countries to make their payments. The international financial community must prepare for such a possibility.

Even assuming favorable global economic circumstances, the current outlook is for sporadic progress for some debtors, periodic interruption of payments by others, and increasing reluctance on the part of many commercial banks to lend to troubled debtors.

The political climate in some debtor countries is becoming more uncertain. A radicalization of politics revolving around the economy and what to do about the debt is apparent in several countries. Even as these governments are seeking negotiated solutions to their debt problems, they face growing popular frustration with continued austerity and resistance to continuing an accomodative stance toward foreign creditors.

Over time, a situation in which a significant number of countries are in intermittent arrears or on the brink, can undermine the integrity of undercapitalized banks and weaken the fabric of the international financial system as a whole.

Ultimately, the debt is not just a problem for banks and debtors but for the global community. A massive payments imbalance between the United States and other industrial countries has introduced an element of fragility in the world economy. As the industrial countries begin to adjust these imbalances, the unrealized growth potential in the troubled debtor countries takes on much greater significance for the rest of the world.

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[1] London Inter-bank Offered Rate.

[2] Excluding the high-income oil-exporting developing countries.

The global consequences of the Third World's economic strains were held in check to an extent by the strong performance of the U.S. economy after 1982. The industrial countries lost export markets and jobs because of the debt crisis, but strong demand for imports by the U.S. more than offset these losses. U.S. exports to Latin America fell by roughly a fourth after 1982, but the jobs lost were replaced by new jobs created in our domestic sector. The European Community, which exported $20 billion less to Latin America in 1986 than in the peak year 1981, exported $34 billion more to the United States in the same year. Japan exported $1.4 billion less to Latin America but shipped $43 billion more to the United States.

There were opportunity costs associated with the debt crisis: The individuals and companies losing jobs and exports were not always those benefiting from U.S. growth;[3] unemployment might have been lower and growth higher in Europe if demand had been stronger in developing countries. Nevertheless, the economic reversal in the Third World was not as sharply felt in the industrial countries in this decade as it might have been had the U.S. economy grown more slowly and pulled in fewer imports.

It was U.S. demand, of course, that helped some developing countries generate the large surpluses that enabled them to service their debts despite sharply diminished capital inflows. While most of these trade surpluses were a consequence of sharply curtailed imports, Latin America has increased exports to the U.S. while exports to Europe and Japan in the period 1985-87 dropped.

This could all change as the U.S. comes to grips with its own debt problem. A reduction in U.S. demand will almost certainly be necessary to shrink its trade and payments deficit, and unless this is offset by a corresponding rise in European and Japanese demand—an uncertain prospect—developing countries will find it more difficult to maintain the level of exports necessary to service their debt.

At the same time, Third World markets will become more important for industrial countries: Increased demand for imports by developing countries can be a much needed stimulus to global growth. But Brazil, Mexico, the Philippines, et al. cannot act even as a small "locomotive" until their debt problem is eased. The economic self-interest of the developed countries is therefore to be counted among the compelling reasons for seeking more rapid progress on the debt front.

CONCLUSIONS AND RECOMMENDATIONS

1. We urge the governments of the major financial centers to exert strong leadership on the debt issue and to move decisively to forge a consensus among the key players on a set of approaches that not only preserves a stable banking system but allows the debtor countries to resume stable growth and economic development benefiting all their people. Current policy has so far failed to achieve the second of these goals in most cases.

Strong official leadership is necessary, not to substitute public funds for private credit, public risk for private risk, but to restore a sound and sustainable credit relationship between debtor countries and the international financial markets. There are vital economic and political, as well as financial, issues at stake.

Banks and debtors are open to new approaches to the debt problem. But the industrial countries and, to a degree, the official multilateral institutions as well have sometimes failed to encourage—indeed, on occasion, have resisted—the trend toward flexibility and the search for innovative solutions to the debt problem.

2. The panel strongly supports the emphasis given by creditor governments, official institutions, and banks to the need for structural reforms in debtor countries. Virtually all suggested debt plans require that debtor countries reform various segments of their national economies. There was no serious disagreement among panel members on this point: Domestic reforms are the key to sustained economic recovery for even the most troubled debtor countries.

Any easing of the debt burden by external measures without parallel domestic efforts will yield only temporary relief: The additional resources freed up for domestic use are likely to be squandered or redeployed abroad through capital flight, eventually resulting in a new debt crisis.

3. The panel recognizes that the current gap between debt servicing outflows and financial inflows from all sources—commercial banks, official lenders, and direct investors—may be too great for some debtor countries to bridge even with effective economic reforms. And indeed, heavy external debt servicing requirements may create conflicting economic and political pressures that make the adoption of fundamental reforms extremely difficult—or, if undertaken, can overwhelm the potential benefits. Under these circumstances, creditor banks and governments must act in concert to help close the gap.

4. The panel very strongly urges the U.S. Congress to approve the U.S. contribution to the World Bank's General Capital Increase and encourages expanded and more imaginative use of co-financing and parallel financing techniques by the World Bank and regional development banks to catalyze the aggregate flow of new funds.

5. For the reasons outlined in the report, large new lending programs may be difficult to secure under current market conditions. The panel believes that voluntary debt service reduction should be pursued as a serious alternative or complement to more lending. It may be the only alternative for many smaller debtors that have already been written off by the banks. But this approach, alone or in combination with other measures, may also be an effective technique for easing the financial constraints on larger debtors.

Despite the losses entailed, debt service-reduction transactions can have considerable benefits for creditor banks as well, if the asset transformation or exchange enhance the quality of their loan portfolios.

Debt service-reduction schemes should be supported by creditor governments, bilaterally or multilaterally. Although the panel thinks a government buy-up of sovereign commercial debt is neither necessary nor desirable, it believes that government support for debt service-reduction transactions between debtors and commercial lenders can be catalytic. Official banking, perhaps including partial official guarantees, would lead to much wider use of this approach and would enhance its effectiveness as a tool for solving the debt problem. Governments also need to implement more compatible and consistent supervisory rules to facilitate a resolution of the debt situation.

6. Concerns have been raised that debt service reduction in any form would discourage future lending. On the contrary, most panel members believe: If debt service reduction is carried out cooperatively and voluntarily through negotiation and mutual agreement by the principal parties, and has the desired effect not only of reducing outstanding claims against the country but of aiding economic recovery, then "credit-worthiness" will come sooner rather than later.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1989

(Mr. DERRICK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DERRICK. Mr. Speaker, on behalf of Chairman William H. Gray III, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the Congressional Record the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1989. This is the first comprehensive report for fiscal year 1989 in the second session of the 100th Congress.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution, and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority, and credit authority made to a committee pursuant to subsection 302(a) of the Budget Act. This report compares the spending, credit, and revenue levels in current level with those assumed in the budget resolution for fiscal year 1989, (H. Con. Res. 268), adopted on June 6, 1988.

Current level reports provide information that is necessary for enforcing section 311 of the Budget Act. Subsection 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set in the budget resolution.

Subsection 311(b) provides an exception to the 311(a) point of order for measures that would breach the ceilings on total spending set in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of discretionary spending authority made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the budget resolution for fiscal year 1985. (House Concurrent Resolution 280, 98th Congress). The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, Gramm-Rudman-Hollings). This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. For fiscal year 1989, the 320(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 268 were printed in House Report 100-662, June 1, 1988.

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[3] Statistics published by the U.S. Bureau of Labor, for example, show a net reduction in manufacturing sector jobs from June 1981 through June 1988, alongside substantial gains in most other sectors over the same period. (See *Employment, Hours and Earnings: U.S. 1901-84*, Volumes I and II, March 1985, Bulletin 1312-12 and *The Employment Situation: June 1988*, July 1988, Table B-1.)

Section 311(c) of the Budget Act provides that, for purposes of enforcing section 311, the levels of new budget authority, entitlement authority, outlays, and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues, and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction and the allocation of spending authority made to that committee.

The estimates in this report are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, House Concurrent Resolution 268, on June 6, 1988. This is intended to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution for a fiscal year that alters the assumptions about legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do otherwise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative process, penalize committees that are unable to complete work on legislation within a short period after adoption of a budget resolution, and undermine respect for budget enforcement procedures.

In addition to section 311, the Budget Act contains another point of order that requires Budget Committee estimates for enforcement. Section 302(f)(1) of the Budget Act prohibits the consideration of a measure providing new budget authority, new entitlement authority, or new credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, new entitlement, and new credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This point of order was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee fulfills this responsibility by providing, as necessary, a separate section 302 status report to the Speaker.

For information purposes only, current level reports will continue to include a comparison of the budget and credit authority divided among the appropriations subcommittees by that committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, September 7, 1988.

Hon. JAMES C. WRIGHT, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974, as amended, to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under H. Con. Res. 268, the Concurrent Resolution on the Budget for Fiscal Year 1989.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total budget authority and total outlays) is affected by section 311(b) of the Congressional Budget Act of 1974, as amended by Public Law 99-177. Enforcement against possible breaches of the spending ceilings under 311(a) of the Budget Act would not apply when a measure would not cause a committee to exceed its "appropriate allocation" of "new discretionary budget authority" or "new entitlement authority" made pursuant to Section 302(a) of the Budget Act. It should be noted that under this procedure the committee's outlay allocation is not considered.

The intent of Section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 268 were printed in H. Rept. 100-662 (June 1, 1988).

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the fiscal year 1989 budget resolution, House Concurrent Resolution 268.

The Energy and Commerce Committee and the Ways and Means Committee have exceeded their targets because of the enactment of Public Law 100-360, the Medicare Catastrophic Coverage Act. The Concurrent Resolution on the Budget for fiscal year 1989 assumed enactment of such legislation but made no allocations for it. The House report on the Budget Resolution explained that such legislation, if deficit-neutral, would be appropriate even though it exceeded the Resolution's Section 302 allocations or spending aggregates.

Revenues exceed the revenue floor established by the Concurrent Resolution on the Budget for Fiscal Year 1989 for two reasons. First, the Budget Resolution assumes $350 million in revenue losses from the Omnibus Trade bill (enacted) and the United States-Canada Free Trade Agreement which is not yet enacted and therefore not reflected in the current level. Second, the enactment of Public Law 100-360, The Medicare Catastrophic Coverage Act, increasing revenues, was assumed in the Budget Resolution but not reflected in the revenue floor. The Budget Resolution assumed deficit-neutral catastrophic health legislation, but not a specific dollar amount. As explained in the House report on the Budget Resolution, the revenue increase in Public Law 100-360 was intended to offset and make deficit neutral the multiyear spending in that bill. Therefore, it would not be consistent with the assumptions in the Budget Resolution to enact additional revenue-losing legislation.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1989 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 268—REFLECTING COMPLETED ACTION AS OF AUG. 11, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,231,700	1,099,700	964,400
Current level	827,913	857,134	964,804
Amount under ceilings	403,787	242,566	
Amount over ceilings			
Amount under floor			
Amount over floor			404

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $403,787 million in budget authority for fiscal year 1989, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 268 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $242,566 million in outlays for fiscal 1989, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 268 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate and that exceeds $404 million in revenues for fiscal year 1989, if adopted and enacted, would cause revenues to be less

than the appropriate level for that year as set forth in H. Con. Res. 268.

FISCAL YEAR 1989 BUDGET AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE PURSUANT TO SEC. 302

[In millions of dollars]

House Committee	Current level budget authority
Agriculture	
Appropriations [1]	(−405,084)
Armed Services	
Banking, Finance, and Urban Affairs	
District of Columbia	
Education and Labor	
Energy and Commerce	
Foreign Affairs	
Government Operations	
House Administration	
Interior and Insular Affairs	
Judiciary	
Merchant Marine and Fisheries	
Post Office and Civil Service	
Public Works and Transportation	
Science and Technology	
Small Business	
Veterans' Affairs	(−4)
Ways and Means [2]	+321

Committees are over (+) or under (−) their 302(a) allocation for "discretionary action".

[1] See next table for detail.

[2] The Ways and Means Committee has exceeded its target because of the enactment of P.L. 100–360, the Medicare Catastrophic Coverage Act. The Fiscal Year 1989 Budget Resolution assumed enactment of such legislation but made no allocation for it. The House report on the Budget Resolution explained that such legislation, if deficit neutral, would be appropriate even though it exceeded the Resolution's 302 allocations or spending aggregates.

FISCAL YEAR 1989 HOUSE APPROPRIATIONS COMMITTEE DISCRETIONARY ACTION—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SEC. 302

[In millions of dollars]

House Appropriations Subcommittee subdivisions	Current level budget authority	Direct loans	Primary loan guarantees
Commerce, State, Justice	(−14,684)	(−450	(−3,066
Defense	(−282,272)		
District of Columbia	(−570)		
Energy and Water	(−53)	(−2)	
Foreign Operations	(−13,292)	(−4,772	(−9,500
HUD/Independent Agencies	(−326)	(−68)	
Interior	(−9,780)	(−15)	(−35)
Labor, HHS, Education	(−39,752)	(−63)	
Legislative Branch	(−1,812)		
Military Construction	(−8,796)		
Rural Development and Agriculture	(−14,473)	(−6,348	(−2,867
Transportation	(−10,395)	(−46)	
Treasury, Postal Service	(−8,879)		
Total	(−405,084)	(−11,764	(−15,468

Subcommittees are over (+) or under (−) their 302(b) subdivisions of discretionary action.

FISCAL YEAR 1989—ALLOCATION OF NEW ENTITLEMENT AUTHORITY [NEA] PURSUANT TO SEC. 302

[In millions of dollars]

Committee	Allocation	Reported [1]	Enacted [2]	Enacted over(+)/under(−) allocation
Agriculture		+611	+540	+540
Energy and Commerce		+75	+45	+45
Interior and Insular Affairs		+1		
Judiciary		+41		
Veterans' Affairs	+408	+416	+40	−368
Ways and Means		+1,624	+1,318	+1,318
Undistributed to committees	+125			

[1] These figures are used for 401(b)(2) of the Budget Act.

[2] These figures are used for 302(f) points of order.

Note.—The Energy and Commerce and the Ways and Means Committees have exceeded their targets because of the enactment of Public Law 100–360, the Medicare Catastrophic Act. The Fiscal Year 1989 Budget Resolution assumed enactment of such legislation but made no allocations for it. The House report on the budget resolution explained that such legislation, if deficit-neutral, would be appropriate even though it exceeded the resolution's section 302 allocations or spending aggregates.

Further, H.R. 4848, the Omnibus Trade and Competitiveness Act, provided $111 million of NEA that is scored in the "enacted" column against the Ways and Means Committee allocation. This amount can be counted against the undistributed $125 million in NEA that was assumed by the budget conferees to be available for programs in functions 500, 550, and 600.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., September 7, 1988.

Hon. WILLIAM H. GRAY III,
Chairman,
Committee on the Budget,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1989 budget (H. Con. Res. 268). This report for fiscal year 1989 is tabulated as of close of business August 11, 1988. A summary of this tabulation is as follows:

[In millions of dollars]

	Current level	Budget resolution H. Con. Res. 268	Current level +/− resolution
Budget authority	827,913	1,231,700	−403,787
Outlays	857,134	1,099,700	−242,566
Revenues	964,804	964,400	404
Direct loan obligations	16,536	28,300	−11,764
Guaranteed loan commitments	94,482	110,950	−15,468

Sincerely,

JAMES L. BLUM,
Acting Director.

PARLIAMENTARIAN STATUS REPORT, 100TH CONG., 2D SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS AUG. 11, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			964,750
Permanent appropriations and trust funds	854,987	707,967	
Other appropriations		210,305	
Offsetting receipts	−180,826	−180,826	
Total enacted in previous sessions	674,161	737,446	964,750
II. Enacted this session:			
Veterans Home Loan Program Emergency Amendments (Public Law 100–253)		1	
Nevada-Florida Land Exchange Act (Public Law 100–275)	−3	−3	
Assistance and Support for Central America (Public Law 100–276)		−17	
Atomic Veterans Compensation Act (Public Law 100–321) [1]			
Veterans Benefits and Services Act of 1988 (Public Law 100–322)	−4	3	−6
College-aid Annual Appropriation for Territories (Public Law 100–339)	*	*	
Catastrophic Health Care (Public Law 100–360)	321	101	315
Energy-Water Development Appropriations Act (Public Law 100–371)	16,556	10,177	
Disaster Assistance Act of 1988 (Public Law 100–387)	410	410	
Dire Emergency Supplemental Appropriations (Public Law 100–393)		75	
HUD Independent Agencies Appropriations (Public Law 100–404)	59,536	34,773	
Offsetting receipts	−150	−150	
Relief for the Coushatta Tribe (Public Law 100–411)	1	1	
Omnibus Trade and Competitiveness Act (Public Law 100–418)			−255
Total enacted this session	76,668	34,372	54
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses: Reservation for Grande Ronde Tribes (H.R. 4143)	2	2	
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Salaries of Judges	109	109	
Compensation of the President	*	*	
Payment to Foreign Service Retirement and Disability	(148)	(148)	
Dairy Indemnity Program	*	*	
Special Milk	24	18	
Food Stamps	12,830	12,575	
Child Nutrition	4,547	3,872	
Nutrition Assistance for Puerto Rico	908	885	
Federal Crop Insurance Corporation Fund	256		
Compact of Free Association	33	33	
Range Improvements	9	5	
Miscellaneous Trust Funds	*	*	
Federal Unemployment Benefits and Allowances	165	163	
Worker Training	80	80	
Advances to U.I. Trust Fund	(43)	(43)	
Special Benefits	261	260	
Payment of Government Losses In Shipment	1	1	
Payments to the Farm Credit System	210	210	
Black Lung Disability Trust Fund	676	676	
Payment to the Civil Service Retirement and Disability Trust Fund	(4,944)	(4,944)	
Government Payments for Annuitants	2,374	2,099	
Payment to the C.I.A. Retirement and Disability Fund	145	145	
Payments to the Railroad Retirement Accounts	3	3	
Coast Guard Retired Pay	382	381	
PHS Officers Benefits	93	90	
Payments to the Social Security Trust Fund	(94)	(94)	
Supplemental Security Income	9,675	9,675	
Special Benefits for Disabled Coal Miners	632	576	
Medicaid	26,281	26,281	
Payment to the Health Care Trust Fund	(31,227)	(31,227)	
Family Support Payments to States	8,559	8,559	
Social Services Block Grants	2,700	2,591	
Payments to States for Foster Care	1,087	859	
Medical Facilities Guarantee and Loan Fund	22	*	
Guaranteed Student Loans	3,174	2,711	
Rehabilitation Services	1,661	1,279	
Claims, Defense	187	179	
Total entitlement authority	77,083	74,315	
Total current level as of Aug. 11, 1988	827,913	857,134	964,804
1989 budget resolution H. Con. Res. 268	1,231,700	1,099,700	964,400
Amount remaining:			
Over budget resolution			404
Under budget resolution	403,787	242,566	

*Less than $500 thousand.

[1] This act increases the current law estimate for veterans compensation, which requires an appropriation. The amount is shown in section V.

Notes.—Numbers may not add due to rounding.

CONFERENCE REPORT ON H.R. 4586

Mr. HEFNER submitted the following conference report and statement on the bill (H.R. 4586) making appropriations for the military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes:

CONFERENCE REPORT (H.REPT. 100-912)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4586) making appropriations for the military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 6, 10, 21, 26, 32, 36, 39, 42, 43, 44, and 46.

That the House recede from its disagreement to the amendments of the Senate numbered 14, 16, 23, 30, and 33, and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$95,000,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$129,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$112,000,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$679,553,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$55,000,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-202, $19,548,000 is hereby rescinded; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$229,158,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$158,508,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$85,958,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$60,900,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$70,600,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$175,685,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$910,951,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 4, 7, 8, 22, 24, 25, 27, 28, 34, 35, 37, 38, 40, 41, and 45.

W.G. HEFNER,
BILL ALEXANDER,
RONALD D. COLEMAN,
LINDSAY THOMAS,
TOM BEVILL,
JOSEPH D. EARLY,
NORMAN D. DICKS,
VIC FAZIO,
JAMIE L. WHITTEN,
BILL LOWERY,
MICKEY EDWARDS,
JIM KOLBE,
TOM DELAY,
SILVIO O. CONTE,
Managers on the Part of the House.

JIM SASSER,
DANIEL INOUYE,
WILLIAM PROXMIRE,
JOHN C. STENNIS,
ARLEN SPECTER,
JAKE GARN,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4586) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

ITEMS OF GENERAL INTEREST

Foreign Currency Fluctuation.—The conferees are concerned with the excessive burden being placed on military construction and family housing accounts as a result of foreign currency fluctuation. The conferees have included $70,829,000 to help alleviate the immediate shortfall due to currency fluctuation. The conferees however are displeased that the Department has not requested foreign currency fluctuation funds but instead requested large increases in overseas construction. Thus, the conferees have reduced overseas construction to help alleviate the current shortfall.

The conferees also agree that no more than five percent of the fiscal year 1989 funds for projects within the United States can be deferred for purposes of funding foreign currency shortfalls.

With regard to the Senate report language dealing with increased contributions by the government of Japan, the conferees support constructive negotiations to that end. However, the conferees do not agree at this time that projects in Japan should be cancelled unless the government of Japan agrees to finance all negative variances caused by the yen-dollar exchange rate. The conferees believe that much of the problem with currency shortfalls can be avoided if a more realistic or more likely conversion rate is used. The Department should reflect the most appropriate rate in the fiscal year 1990 budget.

Exercise-Related Construction.—The conferees have agreed that $4,000,000 for the Army, $1,000,000 for the Navy and $2,000,000 for the Air Force in the respective unspecified minor construction accounts be available, if required, for exercise-related construction outside the United States.

The conferees are displeased that the Department has not requested specific line item funding for exercise-related construction as previously directed. Therefore, no fiscal year 1989 funds shall be obligated for exercise-related construction until the Department formally notifies the Committees on Appropriations that a specific line item for exercise-related construction will be included in the Defense Agencies fiscal year 1990 budget.

Philippines—Various Projects.—The conferees have agreed to funding of $70,290,000 of the requested $81,400,000 for Navy and Air Force military construction and family housing projects in the Philippines. The conferees continue to recognize the importance of the United States military presence in the Philippines; however, there is concern with the apparent negotiating posture of the Philippine Government regarding possible unreasonable concessions in exchange for base rights. Therefore, the Department is directed to defer obligation of funds until such time as the Secretary of

Defense has provided to the Committees on Appropriations a report on the status of base rights negotiations and a certification that based on the negotiation status, it is prudent to proceed with the projects.

Ground Launched Cruise Missile and Pershing II Bases.—The conferees are concerned with the future use of Cruise Missile and Pershing II bases which will be vacated under the terms of the INF Treaty. Therefore, the Department is directed to provide a report to the Committee by March 15, 1989 which outlines the future use of these installations.

Construction Agency.—The conferees question whether financial economies and construction execution enhancements could be derived if the Air Force were to act as its own construction agent. The Department should review the feasibility of the Air Force assuming such responsibility and advise the Committees on Appropriations of its findings by December 1, 1988.

Medical Facilities.—The conferees are concerned that Defense Medical Facilities Office (DMFO) budget submissions may not reflect the priorities of the individual military services. While the DMFO should continue to be the lead agency for Department-wide medical policy, the conferees are concerned that program budgeting and execution of medical facilities may be sacrificed because of competing demands in the Defense Agencies budget. Therefore the Secretary of Defense should reconsider whether it is still appropriate to program medical facilities in the Defense Agencies budget or include the projects in the individual military Services budget and report the Department's findings and recommendations to the Committees on Appropriations by January 30, 1989.

Biennial Budget.—The conferees agree with the Senate report language regarding biennial budgeting for military construction and family housing. Experience has demonstrated that two-year line item budgeting is impractical and misleading and should be limited to one year. Therefore, the conferees direct that the construction Annex (C-1) and forms DD 1391 in support of the next budget submission will provide line item detail and justification for projects requested for fiscal year 1990, and that any information submitted for subsequent years will be aggregated at the appropriation account level.

Family Housing—Construction Improvements.—The conferees are concerned about the lack of consistency and different approaches to repair and improvement of family housing facilities adopted by each of the Services. Therefore, the Department is directed to develop uniform standards and criteria for the "whole-house" concept of upgrading existing housing facilities. In addition, the Department together with each of the Services is directed to develop a master plan which lays out the maintenance, repair and improvements requirements for existing units and the timeframe over which that plan would be accomplished. This study should be submitted to the Committees on Appropriations by March 1, 1989.

General and Flag Officer Quarters.—The conferees are concerned about the large number of out-of-cycle notifications that continue to be submitted for maintenance and repair of general and flag officer quarters. Therefore, each Service is directed to limit its notification submission to one per year except those situations which are considered emergency or safety related.

Computer Simulated Design.—The conferees direct the Air Force to do a study that compares the estimates developed from parametric cost modeling system with estimates developed based on 35 percent design status.

Matters Addressed by Only One Committee.—The language and allocations set forth in House Report 100-620 and Senate Report 100-380 should be complied with unless specifically addressed to the contrary in this conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, the Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

Conforming Authorization.—The conferees direct the Department to submit, at the earliest possible time, a supplemental authorization request which conforms to the projects funded in this Bill.

Program, Project, and Activity.—For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term "Program, Project, and Activity" will continue to be defined as the appropriation account, consistent with the definition as stated in the fiscal year 1988 conference agreement.

The conferees direct that the Committees be notified 21 days prior to the proposed deferral or cancellation of any project resulting from a sequestration order. In addition, the Department is to submit a report within three months of a sequestration order showing how the reductions have been applied to affected line items and projects. Reductions to projects will not affect the reprogramming base.

MILITARY CONSTRUCTION, ARMY

Amendment No. 1. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $927,292,000 for Military Construction, Army instead of $877,630,000 as proposed by the House and $924,551,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Arkansas—Pine Bluff Arsenal: Binary Munition Production FAC PH III ..	+$4,450,000
California—Fort Ord: Maneuver Training Range ...	−1,600,000
Hawaii—Schofield Barracks: NCO Academy	+8,500,000
Illinois—Fort Sheridan: Child Development Center	+2,400,000
Illinois—Rock Island Arsenal: Facility Modernization, Phase IV	+10,000,000
Utah—Tooele Army Depot: Ammunition Demilitarization Facility	+49,600,000
Virginia—Fort A.P. Hill: Utilities and Training Facility Upgrade..............	+4,000,000
Germany—Hohenfels Training Area:	
Education Center Addition	−510,000
Physical Fitness Training Center	−3,050,000
Training Support Center	−1,250,000
Warehouse........................	−3,300,000
Germany—Various Sites: Wartime Host Nation Support	+5,000,000
Germany—Vilseck:	
Battalion Headquarters ..	−1,750,000
Post Office........................	−1,200,000
Germany—Wildflecken:	
Hardstand.........................	−11,400,000
Korea—Camp Stanley: Brigade/Battalion Headquarters............................	−1,200,000
Worldwide Locations: Intermediate Staging Facility..................................	+11,300,000
Worldwide Unspecified:	
Planning and Design	−3,328,000
Foreign Currency Fluctuation	−17,000,000
Total..............................	+49,662,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alaska—Ft. J.M. Wainwright:	
Consolidated Fuel Facility...................................	0
Utilities Expansion	0
Arizona—Fort Huachuca: Test and Evaluation Center	$5,400,000
Illinois—Savanna Army Depot: Transportability Test Center	4,350,000
Maryland—Aberdeen Proving Ground: Metal Work Training Facility (Proj. No. 124)..................	8,600,000
New York—U.S. Military Academy: Camp Natural Bridge Modernization......	0
Pennsylvania—New Cumberland Army Depot: Access Road.....................	5,300,000
Texas—Fort Bliss:	
Barracks Modernization .	7,100,000
Tactical Equipment Shop	3,800,000
Virginia—Fort Eustis: Emergency Services Building	2,500,000
Virginia—Fort Lee: Petroleum Field Training Facility..................................	4,800,000
Washington—Fort Lewis: Special Needs School.......	10,000,000
Germany—Bad Kreuznach: Facility Modernization...............................	10,200,000
Germany—Hohenfels Training Area:	
Barracks Complex...........	13,600,000
Child Development Center	1,550,000
Dining Facility.................	2,550,000
Operations Facility	1,750,000
Tactical Equipment Shop	9,400,000
Germany—Vilseck: Barracks	1,050,000
Germany—Wiesbaden: Hardstand........................	2,550,000
Honduras—Upgrade Facilities—Site 5—Palmerola ...	3,050,000

Korea—Camp Page: Battalion Headquarters.........	670,000
Worldwide Locations: RDT&E Related Construction............................	0

Arizona—Fort Huachuca: Test and Evaluation Center.—The conferees note that each Committee has provided appropriations for this project due to the relationship of the facility to the losses incurred from the fire at Fort Huachuca in July, 1987. The conferees agree that there is authority for this project in existing statute and, as a result, have not provided a separate line item in the fiscal year 1989 Authorization Act.

The conferees feel that the provision of the direct funding in this bill, along with the confirmation of authorization, removes any hindrance from the Army accomplishing this project as planned. The Army is therefore directed to proceed with this project with all possible haste.

Arizona—Fort Huachuca: Headquarters Addition.—The conferees have agreed with Senate report language directing the Army to provide $620,000 through unspecified minor construction for construction of a new headquarters building addition.

Arizona—Fort Huachuca: Replacement of Destroyed Facilities.—The conferees direct the Secretary of the Army to analyze the storage and administrative support deficit created by the catastrophic fire at Fort Huachuca on July 5, 1987, and to include construction funds for replacement facilities in the fiscal year 1990 budget request.

Hawaii—Kapalama Military Reservation.—The conferees will expect the Department to delay any further public sale of lands at the Kapalama Military Reservation until the legitimate interests of the State of Hawaii in acquiring this land have been addressed.

Utah—Tooele Army Depot: Ammunition Demilitarization Facility.—The conferees have agreed to provide construction funding of $49,600,000 for this project. Any funding request in fiscal year 1990 and future years for construction of demilitarization facilities should be requested in the military construction budget for the purposes of assuring that the current plan for site-specific destruction of weapons is maintained. In addition, the conferees believe the Army is premature in selecting the disassembly disposal concept for use at all disposal sites prior to the operation of the first full-scale plant at Johnston Atoll. The conferees agree that cryofracture offers the possibility of significant cost savings. The Army is therefore directed to proceed expeditiously to design and construct a full-scale cryofracture facility. The conferees believe full scale operational verification of both approaches is necessary and construction at mixed munition sites, other than Tooele Depot, should be minimized until verification is complete.

Germany—Hohenfels: Combat Maneuver Training Center Facilities.—The conferees have agreed to provide funding of $35,500,000 for various facilities at Hohenfels, including family housing. The funding is provided with the understanding that the German Army will only use the training area terrain and not the Combat Maneuver Training Center Facilities.

Germany—Various Sites: Wartime Host Nation Support.—The conferees have agreed to funding of $5,000,000 for Wartime Host Nation Support operations facilities. The conferees disagree with the Department that this commitment should be a United States responsibility but understand that the cost-sharing requirement is part of a bilateral agreement and have agreed to funding only for that reason.

Germany—Vilseck: Post Office.—The conferees agree that the Post Office project at Vilseck should be downscoped if necessary to be funded under minor construction.

Honduras—Palmerola: Upgrade Facilities Site 5.—The conferees have agreed to funding in the amount of $3,050,000 requested to upgrade facilities at Palmerola. However, no funds should be obligated until the next Administration certifies its position on funding of this project by April 15, 1989. In addition, the conferees agree to the fiscal year 1988 reprogramming request of $4,600,000 contingent upon the same certification by the next Administration.

Amendment No. 2. Earmarks $95,000,000 for study, planning, design, architect and engineer services instead of $98,328,000 as proposed by the House and $91,000,000 as proposed by the Senate.

Amendment No. 3. Deletes language proposed by the Senate which earmarks $36,529,000 to be available for research and development-related facilities and equipment.

MILITARY CONSTRUCTION, NAVY

Amendment No. 4. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $1,576,516,000 for Military Construction, Navy instead of $1,591,850,000 as proposed by the House and $1,565,318,000 as proposed by the Senate as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$1,576,516,000, of which amount, $38,080,000 for the TACAMO mission shall not be available for obligation or expenditure before October 15, 1988, and, of the amount appropriated, funds allocated for homeporting at Everett, Washington may be obligated and expended for any homeporting military construction activity at that installation, except actual dredging and disposal of contaminated sediment, and that such funds may be expended for actual dredging and disposal of contaminated sediments once requirements of the Federal Water Pollution Control Act have been satisfied,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Naval Air Station Adak: Dependent Schools............................	+$23,000,000
California—Naval Air Station North Island: Maintenance Hangar................	−5,710,000
California—Naval Construction Battalion Center Port Hueneme: Sealift Support Storage Facilities..........................	−3,900,000
California—Naval Shipyard Mare Island: Dredged Materials Handling Facility....................	−2,400,000
Florida—Naval Technical Training Center Pensacola: Administrative Facility Modernization........	−2,840,000
Mississippi—Naval Station Pascagoula: BEQ Rehabilitation..........................	+6,000,000
Tennessee—NAS Memphis: Training Facility....	+10,090,000
Guam—Fleet Surveillance Support Command: Electronic Installation............	−5,308,000
Guam—Naval Station: Road Improvements........	−2,820,000
Philippines—Navy Public Works Center Subic Bay: Hazardous and Flammable Storage Facility..........	−570,000
Worldwide Unspecified—Planning and Design.......	−9,276,000
Worldwide Various—Unspecified General Reduction....................................	−21,600,000
Total..............................	−15,334,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Naval Air Rework Facility Alameda: Aircraft Acoustical Enclosure..........................	$8,290,000
California—Naval Shipyard Mare Island:	
Drydock Refueling Complex..............................	3,950,000
Fire Station......................	2,500,000
California—Naval Station Treasure Island San Francisco: Industrial Support Complex............	5,000,000
California—Naval Supply Center Oakland: Gas Cylinder Storage.............	1,550,000
California—Navy Public Works Center San Francisco: Electric Power System Improvements.....	9,010,000
California—Personnel Support Activity San Diego: Personnel Support Facility.....................	1,180,000
California—Submarine Training Facility San Diego: Submarine Training Facility.......................	4,770,000
District of Columbia—Commandant Naval District Washington: Administrative Office Modernization.........................	10,000,000
Florida—Naval Aviation Depot Jacksonville: Aircraft Engine Processing Facility............................	14,180,000
Illinois—NAS Glenview: BEQ..................................	0
Louisiana—Naval Station Lake Charles: Ship Support Complex (Increment II)...........................	3,700,000
Mississippi—Naval Station Pascagoula: Ship Support Complex (Increment II)...........................	17,520,000
New York—Naval Station New York: Battleship Support Complex (Increment IV)...........................	23,395,000
Pennsylvania—Naval Shipyard Philadelphia: Water Distribution System Phase II..............	10,300,000
Rhode Island—Naval Justice School Newport: Legal Training Building..	2,060,000
Texas—Naval Station Galveston: Ship Support Complex (Increment II)..	8,110,000

Virginia—Atlantic Fleet Hqtrs Support Activity Norfolk: Administrative Building Addition	1,700,000
Washington—Naval Station Everett: Carrier Support Complex (Increment IV)	38,400,000
Italy—Naval Support Activity Naples: Cmd Control Comms & Intel Complex, Phase I	21,600,000
Panama—Naval Station Panama: Special Warfare Unit	0
Philippines—Navy Public Works Center Subic Bay: Power Plant	27,770,000
Worldwide Various—RDT&E Related Construction	0

Alaska—Naval Air Station Adak: Dependent Schools.—The conferees have agreed to funding of $23,000,000 for a 200 student school at Naval Air Station Adak, rather than $29,000,000 for a 400 student school as requested. This reduction is based upon reduced enrollment and lower than anticipated student/family housing unit ratio, which together eliminate the requirement for approximately 17,000 square feet of school space. However, the modified design should allow for future expansion.

California—Marine Corps Base Camp Pendleton.—The conferees direct the Secretary of the Navy to report to the Committees by November 15, 1988 on the site selection process for construction of approximately 1,750 housing units at Camp Pendleton on currently leased land. Plans and alternatives to provide the housing without disturbing prime agricultural land should be addressed. In addition the report should include actions taken, and planned, to meet the concerns of the entire agricultural community.

California—Naval Station Treasure Island San Francisco: Industrial Support Complex.—The conferees have agreed to funding $5,000,000 for the Industrial Support Complex at Treasure Island. However, no funds may be obligated until the Navy submits a report on alternative strategic homeporting of the U.S.S. Missouri.

California—San Diego Naval Regional Medical Center.—The conferees direct the Department to report to the Committees on Appropriations by December 1, 1988 on the status of resolving the parking problems at this hospital.

Hawaii—Naval Station Pearl Harbor: Ford Island Causeway.—The conferees have been advised of the Navy's interest in negotiating an agreement with the State of Hawaii, whereby the State would fund and construct for the Navy a causeway between mainside Pearl Harbor and Ford Island, Hawaii. This project would provide much needed access to Ford Island and allow for its proper development. The Navy would, in turn, convey certain lands to the State which would no longer be required due to the causeway construction. Navy facilities on the lands no longer required would also be replaced by the State. This project would be accomplished at no cost to the Navy, and would be of great benefit to both the State and the Navy. The Secretary of the Navy should advise the Committees of the results of such negotiations.

Washington—Naval Station Everett: Carrier Support Complex (Increment IV).—The conferees have provided $38,400,000 for the strategic homeporting project at Everett, Washington. The conferees are concerned that judicial disputes over the procedures followed in the issuance of dredging and other permits have resulted in a stop and start pattern for construction of aspects of the homeport not directly related to the dredging question. Debate over the meaning of earlier restrictions on Everett funding has been a contributing factor to this situation, which has resulted in delays and added costs to the taxpayer.

The conferees remain committed to making certain that necessary dredging is conducted in a manner consistent with proper environmental considerations. To this end, the Navy is encouraged to continue its efforts to resolve these issues as expeditiously as possible. However, construction, including the carrier pier, that is necessary for the homeport, but not impacted by a final decision on how to deal with contaminated dredge sediments, should not be subject to the changing tides of conflicting judicial interpretations. Therefore, the Navy is directed to utilize the funds provided in fiscal year 1989 to execute this construction consistent with the phased funding direction provided in the fiscal year 1988 Continuing Resolution conference report, in order to complete the homeport in a cost effective manner.

Italy—Naval Support Activity Naples: Command Control Communications and Intelligence Complex, Phase I.—The conferees have agreed to funding $21,600,000 for relocation of a portion of the Navy Complex at Agnano to Capodichino Airport. Prior to obligation of funds, the Secretary of Defense is directed to report to the Committees on Appropriations the United States proposals for the use of all the Ground Launched Cruise Missile sites in Europe. The report is to also include how the funds will be utilized and what facilities will remain at Agnano together with the Navy's plans for relocation of the school. In order to provide funding for this project, the conferees have agreed to apply a general reduction of $21,600,000 to the overall Navy construction account.

Panama—Naval Station: Special Warfare Unit.—The conferees have denied funding of this project because of lack of authorization. However, because this project is considered to be one of high importance, the Department is directed to submit a reprogramming request under 10 U.S.C. 2803 Emergency Authority.

Philippines—Navy Public Works Center Subic Bay: Power Plant.—The conferees understand that over $20,000,000 of the $27,770,000 for this project is for generators which can be relocated if necessary. Because of the long-lead time for procurement of such generators, the conferees have no objections to early obligation of funds; however, for the construction portion of the project, obligation of funds should be contingent on certain conditions being met as cited earlier in this statement.

Various Locations—Land Acquisition.—The conferees have agreed to funding $36,895,000 as requested for land acquisition, provided that no funds in this Bill shall be expended by the Navy for the purchase of land in McIntosh County, Georgia.

Amendment No. 5. Earmarks $129,000,000 for study, planning, design, architect and engineer services instead of $138,276,000 as proposed by the House and $120,000,000 as proposed by the Senate.

Planning and Design.—The conferees agree with Senate report language which earmarks funds in the amount of $300,000 for initiation of a replacement for a breakwater and for dredging of the San Jose Harbor on Tinian Island in the Northern Marianas Islands.

Amendment No. 6. Deletes language proposed by the Senate which earmarks $27,784,000 to be available for research and development-related facilities and equipment. The conferees have taken this position for jurisdictional reasons. However, the conferees understand the project for the large cavitation channel at Memphis, Tennessee will be fully funded in the Defense Appropriations Bill.

Amendment No. 7. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

COAST GUARD SHORE FACILITIES

For construction, rebuilding and improvement of shore facilities of the United States Coast Guard, $50,300,000 to remain available until September 30, 1993.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to provide $50,300,000 for shore facilities of the Coast Guard as proposed by the Senate. This action is taken without intent to set precedent for future funding of Coast Guard facilities. Following is a list of projects to be accomplished with these funds:

Kodiak, AK: Comm Station Fire Restoration	$3,700,000
Petaluma, CA: Training Center Clinic add	3,200,000
Cortez, FL: Main Building Replacement	2,200,000
Panama City, FL: Rebuild Station	2,400,000
Savannah, GA: Hangar Construction	3,900,000
South Portland, ME: Imrove Base Moorings	8,600,000
Toledo, OH: Barracks	1,000,000
Yorktown, VA: Reserve Center Administration Building	2,700,000
Various Locations: Southeast United States, Air Interdiction Shore Facilities	2,600,000
Family Housing, Quarters: St. Ignace, MI (12 units).	1,100,000
Cape Cod, MA (restore 25 units)	1,000,000
Los Angeles/Long Beach (15 units)	2,300,000
Survey and Design (shore facilities)	3,500,000
Minor AC&I Shore Construction	6,300,000
Storage Tank Cleanup and Support Services	5,800,000
Total	50,300,000

MILITARY CONSTRUCTION, AIR FORCE

Amendment No. 8. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $1,225,926,000 for Military Construction, Air Force, instead of $1,293,406,000 as proposed by the House and $1,227,599,800 as proposed by the Senate as follows:

In lieu of the matter stricken and inserted by said amendment insert: ***$1,225,926,000***

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to delete language proposed by the Senate that earmarks $12,800,000 for a construction project at Scott Air Force Base. However, funding for this project is included in the line item detail shown below. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Elmendorf AFB: OTH-B Operations Building	+$17,500,000
California—Palmdale (AF Plant 42): Access Road	−5,600,000
California—Vandenberg AFB: Titan IV Launch Pad	−25,000,000
Florida—Cape Canaveral AFS: Pier	−7,600,000
Michigan—Wurtsmith AFB: Heat Plant	+5,700,000
Missouri—Whiteman AFB: Undistributed Reduction	−18,000,000
New Hampshire-Pease AFB: Alter Electrical System	+8,850,000
South Carolina—Charleston AFB: Add/Alter Child Development Center	−490,000
Belgium—Kleine Brogel: Alter Munitions Storage Facilities	+1,900,000
Germany—Einsiedlerhof: Alter Transient Dormitory	−1,500,000
Germany—Hahn AB:	
Alter Munitions Storage Facilities	+9,900,000
Alternate Combat Runway	−5,200,000
Germany—Norvenich AB: Alter Munitions Storage Facilities	+2,300,000
Germany—Rhein-Main AB:	
Add/Alter Squadron Operations Facility	−800,000
Aircraft Parking	−2,000,000
Widen Aircraft Taxiway	−2,200,000
Germany—Spangdahlem AB: Field Training Facility	−2,100,000
Guam—Andersen AFB: Add to/Upgrade Physical Fitness Center	−3,400,000
Japan—Yokota AB: Control Tower Cab	−500,000
Korea—Kunsan AB:	
Alter Aircraft Shelters	−3,000,000
Alter Munitions Storage Facilities	+1,300,000
F16—Jet Engine Maintenance Facility	−680,000
Korea—Osan AB:	
F16—Aircraft Maintenance Unit Facility	−2,800,000
Munitions Preload EQ Storage Facility	−570,000
Netherlands—Volkel: Alter Munitions Storage Facilities	+2,300,000
Philippines—Clark AB:	
Add to/Upgrade Maintenance Control Facility	−940,000
Add/Alter Fuel System Maintenance Dock	−1,500,000
Aeromedical Evacuation Squadron Facility	−1,500,000
Combat Repair Equipment Storage Facility	−1,600,000
Flow Thru Shelters—Phase I	−4,200,000
Munitions Equipment Maintenance Facility	−800,000
Portugal—Lajes Field: Transient Dormitory	−2,200,000
United Kingdom—RAF Alconbury: Dormitories	−2,650,000
United Kingdom—RAF Bentwaters:	
Add to/Upgrade Fire Station	−920,000
Central Post Office	−800,000
United Kingdom—RAF Fairford: Add/Alter Physical Fitness Center	−1,700,000
United Kingdom—RAF Lakenheath: Chemical Warfare Protection—Squad Operations Facility	−1,750,000
United Kingdom—RAF Upper Heyford:	
Combat Ammunition Control Center	−930,000
Passive Defense Equipment Storage Warehouse	−500,000
Overseas Classified—Base 119: F15 Flight Simulator Training Facility	−2,050,000
Overseas Classified—Base 74:	
F16—Egress Shop	−490,000
F16—Hydrazine Facility	−260,000
Unspecified Worldwide Locations:	
Planning and Design	−3,000,000
Foreign Currency Fluctuation	−8,000,000
Total	−67,480,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alaska—Eielson AFB: Upgrade Munition Access Road	0
Arkansas—Blytheville AFB:	
Add/Alter Community Religious Education Facility	$1,600,000
Organizational Maintenance Shop	3,536,000
Vehicle Maintenance Shop	1,100,000
Arkansas—Little Rock AFB: Apron Lighting	700,000
California—Castle AFB:	
Add to Jet Fuel Storage/Dispensing Facilities	10,800,000
Base Civil Engineering Complex	8,600,000
Flood Control Cost Share	500,000
California—George AFB:	
Air Warrior Support Complex	3,650,000
F4—Flying Training Facility	3,400,000
Replace Runway	16,500,000
California—Mather AFB: Base Flight Operations Facility	2,300,000
California—Travis AFB: Alter Dormitories	10,400,000
Colorado—Peterson AFB: Add/Alter Physical Fitness Center	0
Florida—Eglin AFB Auxiliary Field 9: Consolidated Support Center	7,300,000
Indiana—Grissom AFB: Traffic Management Facility	1,850,000
Kansas—McConnell AFB: Relocate Main Gate	680,000
New Hampshire—Pease AFB: Energy Plant Conversion	0
Texas—Brooks AFB: Vehicle Maintenance Shop	2,750,000
Texas—Lackland AFB: DLI—Language Training Laboratory	10,000,000
Washington—Fairchild AFB: Survival School BEQ	8,100,000
Wyoming—FE Warren AFB:	
Peacekeeper—Missile Assembly Facility	0
Peacekeeper—Railroad Extension	0
Peacekeeper—Roads and Utilities	0
Germany—Spangdahlem AB:	
Post Office	1,300,000
Security Police Operations Facility	1,250,000
Italy—Aviano AB: Dormitory	4,250,000
Korea—Kunsan AB:	
Dormitories	4,400,000
Vehicle Operations and Maintenance Complex	5,000,000
Netherlands—Camp New Amsterdam: Dormitories	5,000,000
Philippines—Clark AB:	
Aircraft Operational Apron—PH I	4,950,000
Dormitories	5,200,000
Intelligence Facility—Phase II	2,250,000
Security Police Operations Facility	3,200,000
United Kingdom—RAF Bentwaters:	
Airman Community Center	2,600,000
Security Police Operations Facility	1,300,000
United Kingdom—RAF Welford: Fire Station	870,000
Overseas Various: Canadian Forward Operating Location/DOB	600,000
Worldwide Various: RDT&E Related Construction	0

California—George AFB, Various Projects.—The conferees have provided funds for three projects as requested for George AFB. However, the funds may not be obligated until the Committees on Appropriations receive a report that outlines the method by which the United States Government will be reimbursed for facility construction used to support training of foreign military or civilian personnel at George AFB. The report should include any documentation of funds currently being collected from foreign countries together with plans to increase payments based on availability of newly constructed facilities.

California—Palmdale (AF Plant 42) Access Road.—The conferees have not included funds for an access road to Air Force Plant 42 due to lack of authorization. However, the conferees believe the requirement is valid and urgent. Therefore the Department is directed to immediately submit an emergency reprogramming request for the Palmdale Access Road under authority provided in 10 U.S.C. 2803.

California—Vandenberg AFB: Titan IV Launch Pad.—The conferees support the Senate report language which directs the Air Force to provide the Committees on Appropriations with a report by December 15, 1988, on the extent and value of potential incompatible development rights, including a proposal for assuring land use in the surrounding area is fully compatible with SLC-7 mission profiles. The conferees have agreed to defer funding the initial phase of a new Titan IV launch complex, due to lack of authorization. The conferees will reconsider this project without prejudice, if it is resubmitted in a future budget request.

Missouri—Whiteman AFB: B-2 (Advanced Technology Bomber Beddown.—The conferees have agreed to a general reduction of $20,000,000 to be specifically applied against projects at Whiteman AFB, which support the beddown of the B-2 bomber. This reduction is made in belief that it is impractical to construct 34 projects (which includes projects funded in fiscal year 1988) at the same time at Whiteman AFB. Prior to obligation of fiscal year 1989 funds for construction, the Air Force is to report to the Committees on Appropriations which projects will be deferred as a result of the reduction.

Texas—Lackland AFB: DLI-Language Training Laboratory.—The conferees have agreed to funding of $10,000,000 for this project as recommended by the House, which is $2,000,000 below the President's request. With over 75 percent of the student population coming from other countries, the conferees feel strongly that the foreign countries should, at least, pay for $2,000,000 of the $12,000,000 programmed cost. Prior to obligating funds for the Language Training Laboratory, the Department is to report to the Committees on Appropriations proposed plans for sharing of costs for this project.

Wyoming—F.E. Warren: Peacekeeper Rail Garrison.—The conferees have agreed to defer funding of $31,200,000 for the rail garrison system at F.E. Warren AFB pending approval on deployment of the system by the next Administration and the Congress. However, the conferees feel that planning for these projects should proceed at a moderate pace so as to not exceed 35 percent design status until the Administration and the Congress have approved deployment of the system.

Japan—Yokota AB: Control Tower Cab.—The conferees have denied funding for the Control Tower Cab and recommend that the project be constructed utilizing unspecified minor construction funds.

Portugal—Lajes Field: Transient Dormitory.—The conferees have deferred funding of this project without prejudice. However, the Department should consider submitting a reprogramming request for this project utilizing funds from savings.

Turkey—Ankara: Chapel.—The conferees have agreed that the proposed chapel at Ankara, Turkey be funded with unspecified minor construction funds.

Overseas Various—Canadian Forward Operating (FOLs) and Dispersed Operating Bases (DOBs).—The conferees have agreed to funding of $600,000 for the U.S. proportional share of upgrade costs for these bases. The Department is directed to submit a report to the Committees on Appropriations by January 30, 1989 on long term plans and costs for essential upgrades of other FOLs and DOBs.

Various Overseas Locations—Alter Munitions Storage Facilities.—The conferees have agreed to funding $16,400,000 for munitions storage facilities in Europe with the understanding that NATO has agreed to U.S. prefinancing and later recoupment. The conferees agree that future requirements for munitions storage facilities should be funded directly by NATO rather than through prefinancing arrangements.

Amendment No. 9. Earmarks $112,000,000 for study, planning, design, architect and engineer services instead of $115,000,000 as proposed by the House and $109,000,000 as proposed by the Senate.

Amendment No. 10. Deletes language proposed by the Senate which earmarks $61,697,000 to be available for research and development-related facilities and equipment.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

Amendment No. 11. Appropriates $679,533,000 for Military Construction, Defense Agencies, instead of $777,500,000 as proposed by the House and $537,972,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

New Mexico—Kirtland AFB: Dental Clinic	+$2,550,000
Oklahoma—Fort Sill: Hospital Phase II	−27,000,000
CONUS Classified Location: Rescission, 1988	+10,000,000
Japan—Yokota Air Base: DCA-NWP Communications Operations Center..	−785,000
Korea—Seoul:	
Elementary School Addition	−7,332,000
Hospital Replacement	−55,000,000
Unspecified Worldwide Locations:	
Planning and Design	−7,229,000
Foreign Currency Fluctuation	−3,171,000
Total	−87,967,000

The conferees agree to fund all other items in conference at the level proposed by the House as shown below:

Colorado—Falcon Air Station: National Test Facility	$65,000,000
Distict of Columbia—Fort McNair: Academic Facility/Library	26,000,000
CONUS Classified Location: Classified Project	20,000,000
Germany/Downs Barracks: Dispensary/Dental Clinic	4,200,000
Germany—Erlangen: Elementary School Addition	3,890,000
Germany—Geissen: Middle School Addition ..	2,197,000
Germany—Hahn Air Force Base: Composite Medical Facility Addition/Alteration	18,500,000
Germany—Patch Barracks: Dispensary/Dental Clinic	4,700,000
Germany—Rhein—Main Air Base: Dispensary/Dental Clinic Replacement	14,200,000
Germany—Smith Barracks: Dental Clinic Replacement	5,100,000
Germany—Wildflecken: Dispensary/Dental Clinic	4,800,000
Elem and Middle School Additions	2,752,000
Guam—Naval Station: Fleet Hospital Support Facilities	11,000,000
Italy—Aviano: Elementary and High School Additions	9,450,000
Korea—Pusan: Elementary and High School Additions	1,980,000
Korea—Taegu Air Base: Medical/Dental Clinic Replacement	4,400,000
Netherlands—Brunssum: AFCENT International School	8,863,000
United Kingdom—RAF Lakenheath: Composite Medical Facility Addition/Alteration	41,000,000
Overseas Classified—Base 54: Medical Contingency Complex	12,800,000

Pennsylvania—Medical Facilities.—The conferees will expect the Department to study and report on the feasibility of utilizing the Medical College of Pennsylvania as a partial replacement for the Naval Regional Medical Center in Philadelphia, or as a Center for Mental Health and the Aging Process.

Japan—Yokota Air Base: DCA-NWP Communications Operations Center.—The conferees have deferred funding of $785,000 for this center and recommend that it be constructed utilizing unspecified minor construction funds.

Korea—Pusan: Elementary and High School Additions.—The conferees have agreed to funding $1,980,000 for school additions at Pusan, provided the additions are not associated with an increase in accompanied tours.

Korea—Seoul: Hospital Replacement and Elementary School Addition.—The conferees have deferred funding of $62,332,000 for a hospital replacement and a school addition in Seoul, Korea. The projects were deferred, without prejudice, pending a Departmental review of the urgency for such projects. The conferees will reconsider funding these projects in fiscal year 1990, if requested. The conferees note that all of the other dependent schools projects requested in the budget have been funded in the conference agreement (13 projects, totaling $62.3 million). The conferees have deferred the Seoul project based on concern about future base and force structure requirements in Korea, as discussed later in this report in connection with Amendment Number 35.

Amendment No. 12. Earmarks $55,000,000 for study, planning, design, architect and engineer services instead of $62,229,000 as proposed by the House and $47,000,000 as proposed by the Senate.

Amendment No. 13. Restores House language stricken by the Senate, amended to rescind $19,548,000 instead of $29,548,000 as proposed by the House. The conferees agreed not to rescind $10,000,000 of the $29,548,000 proposed by the House to allow the funds to be used as a reprogramming source to meet unanticipated needs.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Amendment No. 14. Appropriates $492,000,000 for North Atlantic Treaty Organization Infrastructure as proposed by the Senate, instead of $502,100,000 as proposed by the House.

The conferees take note that no funds were requested for foreign currrency fluctuation under this account, and that no funds have been provided for this purpose. The conferees would strongly object to any proposal by the Department to transfer additional current or prior year resources from military construction and family housing in order to finance NATO Infrastructure currency fluctuation.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Amendment No. 15. Appropriates $229,158,000 for Military Construction, Army National Guard, instead of $163,500,000 as proposed by the House and $248,414,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Anchorage:	
Armory/Emergency Operations Center/Organizational Maintenance Shop	+$21,917,000
Georgia—Metter: Armory	−15,000
Mississippi—Camp McCain:	
Army Air Field	+6,113,000
Multi-Purpose Training Complex	+904,000
SIMNET Multi-Purpose Training Complex	+929,000
Tank Roads	+525,000
Mississippi—Camp Shelby: Training Area Complex	+5,500,000
Nevada—Stead: Aviation Support Facility	+1,115,000
New Mexico—Central: Armory	+1,070,000
New Mexico—Grants: Armory	+800,000
New Mexico—Santa Rosa: Armory	−19,000
New Mexico—Tucumcari: Armory	+807,000
North Dakota—Minot: Armory-Reserve Center	+7,920,000
Ohio—McConnelsville:	
Organizational Maintenance Shop	+1,153,000
Training Site	+914,000
Tennessee—Trenton: Armory	+1,500,000
West Virginia—Buckhannon: Property Office Addition	+325,000
Various CONUS Locations: General Reduction	+200,000
Unspecified Worldwide Locations:	
Armory Storage Buildings	+5,000,000
Indoor Range Modernization	+5,000,000
Planning and Design	+2,900,000
Unspecified Minor Construction	+1,100,000
Total	+65,658,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Illinois—Urbana: Armory Rehabilitation	0
New Hampshire—Concord: OMS Addition	0

Kansas—Topeka.—The conferees direct the Army National Guard to expedite design of a property and fiscal office in Topeka, Kansas, and to include construction funds for the project in the fiscal year 1990 budget request.

Maryland—Prince Georges County: Armory.—The conferees direct the Army National Guard to initiate design of an armory in Prince Georges County, Maryland and to include funds for construction in the fiscal year 1990 budget.

Mississippi—Camp McCain.—The conferees direct the Army National Guard to review all projects currently programmed for construction in the State of Mississippi, and to report on steps taken to assure that planning and construction is equitably distributed throughout the State. This report shall be submitted to the Committees on Appropriations by February 15, 1989.

The conferees agree with the House position regarding equitable distribution of Army National Guard projects throughout the State of Mississippi. Therefore the conferees have agreed to fund the following projects at Camp McCain, Mississippi and direct that balance to continue:

Army Air Field	$6,113,000
Multi-Purpose Training Complex	904,000
SIMNET Multi-Purpose Training Complex	929,000
Tank Roads	525,000
Unit Training Equipment Site Expansion/Upgrade	600,000

Pennsylvania—Butler County.—The conferees direct the Army National Guard to expedite design of an armory in Connoquenessing Township, Butler County, Pennsylvania, and to include construction funds for the project in the fiscal year 1990 budget request.

Pennsylvania—Fort Indiantown Gap.—The conferees direct the Army National Guard to take immediate action to correct the existing safety and health deficiency in the hangar area of the Army Aviation Support Facility at the Fort Indiantown Gap Military Reservation by installing a fire suppression/detection system, either as a minor construction project or as an emergency reprogramming under authority provided in 10 U.S.C. 2803, at a total cost of approximately $773,000.

Tennessee—Jackson.—The conferees direct the Army National Guard to work with the Tennessee National Guard toward the design and construction of facilities to support an Army Aviation Flight Activity in Jackson, Tennessee, and to provide the Committees on Appropriations with a report by April 7, 1989.

Armory Storage Buildings.—The conferees have agreed to provide $5,000,000 for construction of storage buildings at various locations. Prior to obligation of any funds, the National Guard is to report on how the funds will be allocated to various States.

Amendment No. 16. Deletes language proposed by the House that earmarks $100,000 for design of an armory at Clovis, New Mexico. However, the conferees direct that design of the armory be initiated and that $100,000 be available for such design. The conferees see no need to include this earmarking in legislative language.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Amendment No. 17. Appropriates $158,508,000 for Military Construction, Air National Guard instead of $152,170,000 as proposed by the House and $177,728,000 as proposed by the Senate. The conferees have agreed to the following additions to the amounts and line items as proposed by the House:

Maine—S. Portland A.F. Station: Comm/Elec Training Facility	+$988,000
Mississippi—Key Field:	
Civil Engineering Facility	+1,450,000
Medical Administration Facility	+1,000,000
West Virginia—E WV Regional APT (Martinsburg): Alter Vehicle Maintenance Facility	+200,000
Wisconsin—Volk Field: ACMI Range Support Facility	+1,500,000
Unspecified Worldwide Locations:	
Planning and Design	+500,000
Unspecified Minor Construction	+700,000
Total	+6,338,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alaska—Kulis ANGB: Add/Alter Aircraft Parking Apron	0
Florida—Camp Blanding: Site Preparation and Utilities	$800,000
Mississippi—Allen C. Thompson Field: Aerial Port Training/AGE Facility	0
Nevada—Reno IAP: Dispensary	0
West Virginia—Yeager APT (Charleston); Aircraft Parking Ramp/Holding Pad	0
Wisconsin—Mitchell Field: Taxiway	0
Unspecified Worldwide Locations: Deficiency Allowance	0

Alaska—Anchorage Kulis ANGB: Add/Alter Aircraft Parking Apron.—The conferees hereby approve the pending reprogramming request of $3,500,000 for this project.

California—Mather AFB.—The conferees direct the Department to expedite the relocation of the 162nd Combat Communications Group and the 149th Combat Communications Squadron from McClellan AFB to Mather AFB during fiscal year 1989, and to include construction funds in the fiscal year 1990 budget request.

Mississippi—Allen C. Thompson Field: Aerial Port Training/AGE Facility.—The conferees hereby approve the pending reprogramming request of $2,000,000 for this project.

Nevada—Reno IAP.—The conferees have denied funding of $250,000 for a dispensary as proposed by the Senate. However, the Air National Guard is directed to begin and expedite design for a combined mess/dispensary and to include the project in the fiscal year 1990 budget submission.

West Virginia—Yeager Airport (Charleston): Aircraft Parking Apron/Holding Pad.—The conferees hereby approve the pending reprogramming request of $3,300,000 for this project.

Wisconsin—Mitchell Field: Support Facilities.—The House and Senate bills each included $2,970,000 for support facilities at Mitchell Field. The conferees agree that this project provides for a fire station, upgrade of the water storage/fire suppression system, upgrade of a nose dock for fuel cell/corrosion control, and additional POL storage. This project continues the work funded in 1988, which provided for alert crew facilities, a ramp/taxiway/POL hydrant system, utilities expansion, and a vehicle maintenance facility.

MILITARY CONSTRUCTION, ARMY RESERVE

Amendment No. 18. Appropriates $85,958,000 for Military Construction, Army Reserve, instead of $81,702,000 as proposed by the House and $87,303,000 as proposed by the Senate. The conferees have agreed to the following additions to the amounts and line items as proposed by the House:

New Hampshire—Concord: Land Acquisition	+$150,000
New Hampshire—Laconia: Land Acquisition	+350,000
New Hampshire—Manchester: Hardstand	+125,000
West Virginia—Parkersburg: Reserve Center	+3,306,000
West Virginia—Morgantown: Land Acquisition	+150,000
West Virginia—Beckley: Land Acquisition	+175,000
Total	+4,256,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Missouri—Kirksville: Land Acquisition	0
Unspecified Worldwide Locations:	
Planning and Design	$11,030,000
Unspecified Minor Construction	1,700,000

West Virginia—Land Acquisitions.—The conferees are agreed that, within the funds available, an amount of $125,000 is for land acquisition for a new Army Reserve Center at Elkins, West Virginia and $50,000 is for land acquisition for a Center at Kingwood, West Virginia.

MILITARY CONSTRUCTION, NAVAL RESERVE

Amendment No. 19. Appropriates $60,900,000 for Military Construction, Naval Reserve, instead of $54,400,000 as proposed by the House and $72,075,000 as proposed by the Senate. The conferees have agreed to the following addition to the amounts and line items as proposed by the House:

Mississippi—Gulfport: Seabee Center	+$6,500,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Illinois—NAS Glenview: BEQ	0
New Hamsphire—Manchester: Reserve Center	0
Unspecified Worldwide Locations:	
Planning and Design	$5,440,000
Unspecified Minor Construction	1,985,000
Deficiency Allowance	6,000,000

MILITARY CONSTRUCTION, AIR FORCE RESERVE

Amendment No. 20. Appropriates $70,600,000 for Military Construction, Air Force Reserve, instead of $65,800,000 as proposed by the House and $72,675,000 as proposed by the Senate. The conferees have agreed to the following addition to the amounts and line items as proposed by the House:

Indiana—Grissom AFB: A-10 Facility	+$4,800,000

The conferees agreed to fund all other items in conference at the level proposed by the House, as shown below:

Unspecified Worldwide Locations:	
Planning and Design	$6,223,000
Unspecified Minor Construction:	2,852,000
Deficiency Allowance:	7,000,000

Amendment No. 21. Deletes language proposed by the Senate which would have prohibited the use of funds for planning, design, or construction of certain facilities until the Secretary of the Air Force reported the specific schedule for transferring additional C-141 aircraft from the Air Force to the Air National Guard. The conferees support increasing strategic airlift assets assigned to the Air National Guard. The conferees direct that no funds appropriated in this Act for construction of new facilities to support reserve component C-141s may be obligated or expended until the Committees on Appropriations are notified of the specific schedule for transferring additional C-141s to the Air National Guard.

FAMILY HOUSING, ARMY

Amendment No. 22. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $197,278,000 for Construction, Family Housing, Army, instead of $170,278,000 as proposed by the House and $179,778,000 as proposed by the Senate as follows:

In lieu of the sum stricken and inserted by said amendment, insert: ***$197,278,000***

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to the following addition to the amounts and line items as proposed by the House:

Alaska: Fort Wainwright (150 units)	+$27,000,000

The conferees agree to fund the other items in conference at the level proposed by the House, as shown below:

Texas: Fort Bliss (108 units)	$9,100,000
Germany: Hohenfels (88 units)	8,400,000

Amendment No. 23. Appropriates $1,330,324,000 for Operation and maintenance, Family Housing, Army as proposed by the Senate, instead of $1,340,093,000 as proposed by the House. The conferees agree to provide $130,000,000 for furnishings as proposed by the Senate instead of $139,769,000 as proposed by the House.

Amendment No. 24. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating a total of $1,527,602,000 for Family Housing, Army, instead of $1,510,371,000 as proposed by the House and $1,510,102,000 as proposed by the Senate as follows:

In lieu of the sum stricken and inserted by said amendment, insert: ***$1,527,602,000***

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This sum is derived from the conference agreement on amendments number 22 and 23.

FAMILY HOUSING, NAVY AND MARINE CORPS

Amendment No. 25. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $244,181,000 for Construction, Family Housing, Navy and Marine Corps, instead of $240,440,000 as proposed by the House and $211,445,000 as proposed by the Senate as follows:

In lieu of the sum stricken and inserted by said amendment, insert: ***$244,181,000***

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

District of Columbia: Naval District Washington (2 units)	$330,000
Illinois: Naval Air Station Glenview (100 units)	+10,000,000
Construction Improvements	−6,589,000
Total	+3,741,000

The conferees agreed to fund the other item in conference at the level proposed by the House, as shown below:

California: Public Works Center San Francisco (300 units)	$35,736,000

Amendment No. 26. Appropriates $554,988,000 for Operation and maintenance, Family Housing, Navy and Marine Corps as proposed by the House, instead of $552,988,000 as proposed by the Senate. The conferees agree to provide $241,950,000 for maintenance of real property as proposed by the House instead of $239,950,000 as proposed by the Senate.

Amendment No. 27. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating a total of $799,169,000 for Family Housing, Navy and Marine Corps, instead of $795,428,000 as proposed by the House and $764,433,000 as proposed by the Senate as follows:

In lieu of the sum stricken and inserted by said amendment, insert: ***$799,169,000***

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This sum is derived from the conference agreement on amendments number 25 and 26.

Amendment No. 28. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that not to exceed $50,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1987. The conferees have agreed to this language in order to correct a deficiency due to obligations incurred for mortgage debt payment which exceed the amount requested and appropriated for fiscal year 1987.

FAMILY HOUSING, AIR FORCE

Amendment No. 29. Appropriates $175,685,000 for Construction, Family Housing, Air Force, instead of $195,685,000 as proposed by the House and $132,000,000 as proposed by the Senate. The conferees have agreed to the following deletion to the amounts and line items as proposed by the House:

Construction Improvements	−$20,000,000

The conferees agree to fund the other item in conference at the level proposed by the House, as shown below:

Philippines: Clark AFB (260 units)	$19,920,000

Construction Improvements, Air Force.—The conferees have agreed to provide funding of $148,765,000 for construction improvements instead of $168,765,000 as provided by the House and $125,000,000 as provided by the Senate. Within the funds provided, the Air Force is directed to obligate $8,925,000 to initiate a three-phase project for the improvement of 830 Capehart housing units at Blytheville Air Force Base, Arkansas.

Amendment No. 30. Appropriates $735,266,000 for Operation and maintenance, Family Housing, Air Force as proposed by the Senate, instead of $741,766,000 as proposed by the House. The conferees have agreed to the following deletions to the amounts and line items as proposed by the House:

Furnishings	-$3,000,000
Maintenance of Real Property	-3,500,000
Total	-6,500,000

Amendment No. 31. Appropriates a total of $910,951,000 for Family Housing, Air Force, instead of $937,451,000 as proposed by the House and $867,266,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments number 29 and 30.

GENERAL PROVISIONS

Amendment No. 32. Deletes language proposed by the Senate which makes split-year funding applicable only during fiscal year 1989. While the conferees have agreed to reinstate split-year funding, it is expected that the abuses that previously occurred with split-year funding will no longer occur and that split-year funding will be minimized in program execution. Therefore, this authority will be reviewed annually by the Committees on Appropriations.

Amendment No. 33. Deletes House language stricken by the Senate dealing with the funding for a workplace that is not free of illegal controlled substances.

The conferees strongly agree with the intent of the provision included by the House. However, the conferees have agreed to strike this language since this issue was addressed on a government-wide basis in Section 628 of the conference report for the Treasury-Postal Service-General Government Appropriations Bill for 1989 (H. Rept 100-881).

Amendment No. 34. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 126. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $30,000,000 may be obligated for contract cleaning of family housing units.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees believe strongly that current costs for contract cleaning are excessive and that management improvement is needed. According to estimates, the Department is spending about $50,000,000 annually or an average of about $350 per household move. Therefore, the conferees have established a limitation of $30,000,000 which equates to an average cost of about $200 to $220 per household move. The Department is directed to issue guidelines that are consistent with such average threshold costs. The Department should also enforce a policy that requires families who are moving out of Government quarters to clean them to standards common in the private rental market. The Department is directed to report by January 30, 1989 on what corrective steps have been taken.

Amendment No. 35. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that this general provision is required to prohibit increasing accompanied tours in Korea beyond the number of tours in effect as of June 6, 1988. The conferees believe any decision to increase accompanied tours in Korea should be deferred pending a review of future United States base and force structure requirements in that country. However, the conferees agree to permit execution of lease units for tours previously authorized but not under contract, as well as the planning and design of replacement or new family housing units for tours previously authorized.

Amendment No. 36. Deletes language proposed by the Senate which expresses the sense of the Senate calling on the Administration during the Toronto Economic Summit to urge our NATO allies and Japan to end certain financial practices, such as making untied loans to the Soviet bloc. However, the conferees are concerned that many United States allies are engaged in banking practices with the Soviet Union and Soviet client states which are adding to the defense burden of the United States. The conferees believe the Administration should especially take a strong stand against allied banks making untied, general purpose loans to the Soviets.

The conferees direct the Department to take a leading role working with the Departments of Treasury and State to submit a coordinated report to the Committees on Appropriations by December 15, 1988, outlining the efforts undertaken by the Administration and the allies to end financial practices which are detrimental to Western security.

The report should identify the public and private sector financial practices and policies of NATO countries and Japan which the Administration believes contribute to the military capabilities of Warsaw Pact countries, Soviet foreign assistance programs, and the ability of countries such as Cuba, Vietnam, and Libya to promote and/or sustain regional conflicts.

The report should also discuss whether the flow of new credits to the Soviet bloc is warranted in view of the lack of progress, to date, in the negotiations of the Conference on Security and Cooperation in Europe. Finally, the report shall discuss the adequacy of data collection on East-West financial relations and the phasing out of untied Western lending to Warsaw Pact countries, and other countries such as Cuba, Vietnam and Libya.

Amendment No. 37. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert the following: *128*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to retain language proposed by the Senate which prohibits the use of funds for transferring any equipment, operation, or personnel from Edgewood Arsenal, Maryland to any other facility. Section number is changed from 129 to 128.

Amendment No. 38. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert the following: *129*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to retain language proposed by the Senate which prohibits the use of planning and design activities to design the Pentagon Annex. Section number is changed from 130 to 129. The conferees believe that if the Department of Defense space needs in the Washington metropolitan area are so critical, consideration should be given to relocating specific functions to other localities.

Amendment No. 39. Deletes language proposed by the Senate which would require notification if the President or Secretary utilize premobilization construction authority.

Amendment No. 40. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 130. None of the funds appropriated in this Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: Provided, That the goal of the National Test Bed should be to simulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost-effective at the margin, and survivable.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41. Reported in disagreement.

Amendment No. 42. Deletes language proposed by the Senate that would transfer $19,548,000 from "Military Construction, Defense Agencies" for 1988 to "Research, Development, Test, and Evaluation, Air Force" for 1988.

Amendment No. 43. Deletes language proposed by the Senate that authorizes the use of funds from settlement of the pending Rossmoor litigation to be used for constructing family housing at Marine Corps Air Station, Tustin, California.

Amendment No. 44. Deletes language proposed by the Senate prohibiting the use of funds to initiate agricultural leases on land in and around Naval Air Station Fallon, Nevada.

Amendment No. 45. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 131. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46. Deletes language proposed by the Senate which denies funds for projects that use the services of any foreign country that denies fair market opportunities.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1989 recommended by the Committee of Conference, with comparisons to the fiscal year 1988 amount, the 1989 budget estimates, and the House and Senate bills for 1989 follow:

New budget (obligational) authority, fiscal year 1988	$8,500,000,000
Budget estimates of new (obligational) authority, fiscal year 1989	9,011,900,000
House bill, fiscal year 1989	9,009,895,000
Senate bill, fiscal year 1989	8,796,359,000
Conference agreement, fiscal year 1989	9,011,000,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1988	+511,000,000
Budget estimates of new (obligational) authority, fiscal year 1989	−900,000
House bill, fiscal year 1989	+1,105,000
Senate bill, fiscal year 1989	+214,641,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ALABAMA				
ARMY				
ANNISTON ARMY DEPOT				
CHEMICAL AREA SECURITY UPGRADE	6,000	6,000	6,000	6,000
FORT MCCLELLAN				
CONSOLIDATED FIELD MAINTENANCE SHOP	7,900	7,900	7,900	7,900
REDSTONE ARSENAL				
TEST FACILITY MODERNIZATION	14,800	14,800	14,800	14,800
FORT RUCKER				
LAND ACQUISITION	410	410	410	410
UNACCOMPANIED OFFICER HOUSING	1,700	1,700	1,700	1,700
NAVY				
NAVAL STATION MOBILE				
SHIP SUPPORT COMPLEX (INCREMENT II)	8,345	19,745	19,745	19,745
AIR FORCE				
GUNTER AFB				
CONSOLIDATED SUPPORT FACILITY	3,700	3,700	3,700	3,700
PRECISION MEASUREMENT EQUIPMENT LAB	1,050	1,050	1,050	1,050
SECURITY POLICE OPERATIONS FACILITY	1,300	1,300	1,300	1,300
STUDENT DORMITORY	2,100	2,100	2,100	2,100
MAXWELL AFB				
ADD TO/UPGRADE ACADEMIC FACILITY	3,200	3,200	3,200	3,200
ADD TO/UPGRADE HISTORICAL RESEARCH CENTER	2,500	2,500	2,500	2,500
ALTER STUDENT DORMITORIES	1,750	1,750	1,750	1,750
BASE ENGINEERING COMPLEX	8,400	8,400	8,400	8,400
FIRE STATION	1,950	1,950	1,950	1,950
ARMY NATIONAL GUARD				
AUBURN				
ARMORY	---	937	937	937
FORT MCCLELLAN				
UNIT TRAINING EQUIPMENT SITE	---	459	459	459
GROVE HILL				
100 PERSON ARMORY	932	932	932	932
MONTGOMERY				
ARMORY ADDITION	789	789	789	789
COMBINED SUPPORT MAINTENANCE SHOP	---	3,652	3,652	3,652
TUSKEGEE				
ARMORY	---	651	651	651
AIR NATIONAL GUARD				
DANNELLY FIELD				
ALTER AVIONICS SHOP	600	600	600	600
POWER CHECK PAD WITH SUPPRESSOR	890	890	890	890
ARMY RESERVE				
GORDO				
60 MEMBER RESERVE CENTER	---	1,547	1,547	1,547
TOTAL, ALABAMA	68,316	86,962	86,962	86,962
ALASKA				
ARMY				
FT J M WAINWRIGHT				
BATTALION HEADQUARTERS	2,300	2,300	2,300	2,300
BATTALION HEADQUARTERS	7,600	7,600	7,600	7,600
COLD STORAGE WAREHOUSE	1,900	1,900	1,900	1,900
CONSOLIDATED FUEL FACILITY	2,300	---	2,300	---
MAINTENANCE COMPLEX	15,000	15,000	15,000	15,000
MILITARY CLOTHING SALES STORE	690	690	690	690
SPECIAL SECURITY OFFICE	2,250	2,250	2,250	2,250
UTILITIES EXPANSION	3,450	---	3,450	---
VEHICLE MAINTENANCE FACILITY	9,000	---	---	---
FORT RICHARDSON				
BATTALION HEADQUARTERS	4,200	4,200	4,200	4,200
HARDSTAND/TACTICAL EQUIPMENT SHOP	2,050	2,050	2,050	2,050
NAVY				
DAVID TAYLOR RESEARCH CTR DET KETCHIKAN				
ACOUSTIC RANGE OPERATIONS CENTER	12,000	12,000	12,000	12,000
NAVAL AIR STATION ADAK				
DEPENDENT SCHOOLS	29,000	---	29,000	23,000
AIR FORCE				
EIELSON AFB				
ALTER DORMITORIES	2,750	2,750	2,750	2,750
SQUADRON OPERATIONS FACILITY	4,900	4,900	4,900	4,900
UPGRADE MUNITION ACCESS ROAD	7,600	---	7,600	---
ELMENDORF AFB				
AIRCRAFT SUPPORT EQUIPMENT FACILITY	890	890	890	890
DIESEL MAINTENANCE SHOP	2,150	2,150	2,150	2,150
OTH-B OPERATIONS BUILDING	17,500	---	17,500	17,500
KING SALMON AFB				
COMMUNICATIONS FACILITY	2,850	2,850	2,850	2,850

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SHEMYA AFB				
ADD TO AND UPGRADE CHAPEL	1,100	1,100	1,100	1,100
ADD TO FIRE STATION	910	910	910	910
ADD/ALTER ACFT SUPPORT EQUIPMENT SHOP	2,850	2,850	2,850	2,850
COMPOSITE AIRMAN COMMUNITY CENTER	10,000	10,000	10,000	10,000
DEFENSE AGENCIES				
DEFENSE FUEL SUPPORT POINT ADAK				
FUEL TANKAGE	19,000	19,000	19,000	19,000
ARMY NATIONAL GUARD				
ANCHORAGE				
ARMORY/EMERGENCY OPERATIONS CENTER/OMS	---	---	25,000	21,917
ARMY AVIATION SUPPORT FACILITY ADD/ALT	7,500	7,500	7,500	7,500
BREVIG MISSION				
SCOUT ARMORY	252	252	252	252
CHEFORNAK				
SCOUT ARMORY	252	252	252	252
NAPAKIA				
SCOUT ARMORY	252	252	252	252
AIR NATIONAL GUARD				
KULIS ANGB				
ADD/ALTER AIRCRAFT PARKING APRON	---	---	3,500	---
EIELSON AFB				
BASE SUPPLY AND EQUIPMENT WAREHOUSE	2,750	2,750	2,750	2,750
TOTAL, ALASKA	175,246	106,396	194,746	168,813
ARIZONA				
ARMY				
FORT HUACHUCA				
TEST AND EVALUATION CENTER 1/	5,400	5,400	5,400	5,400
TEST FACILITY MODERNIZATION	1,200	1,200	1,200	1,200
NAVY				
MARINE CORPS AIR STATION YUMA				
AIRCRAFT ACOUSTICAL ENCLOSURE	6,580	6,580	6,580	6,580
COMMUNICATIONS CENTER ADDITION	580	580	580	580
TACTICAL VEHICLE MAINTENANCE FACILITY	4,610	4,610	4,610	4,610
AIR FORCE				
DAVIS-MONTHAN AFB				
TROOP SUBSISTENCE WAREHOUSE	980	980	980	980
HOLBROOK				
STR-COMPOSITE SUPPORT FACILITY	1,400	1,400	1,400	1,400
LUKE AFB				
F15-WING HEADQUARTERS	1,550	1,550	1,550	1,550
F16-FIELD TRAINING DETACHMENT FACILITY	3,000	3,000	3,000	3,000
WILLIAMS AFB				
ADD TO AIRCRAFT MAINTENANCE FACILITY	1,900	1,900	1,900	1,900
CONSOLIDATED SUPPORT FACILITY	4,100	4,100	4,100	4,100
F16-AIRCRAFT COVERED WASHRACK	770	770	770	770
F16-BAK 12/14 ACFT ARRESTING SYSTEM	2,100	2,100	2,100	2,100
F16-FUEL SYSTEM MAINTENANCE DOCK	1,150	1,150	1,150	1,150
F16-HYDRAZINE STORAGE AND SERVICE FAC	320	320	320	320
F16-SOUND SUPPRESSOR SUPPORT	790	790	790	790
ARMY NATIONAL GUARD				
PHOENIX				
STATE MILITARY ACADEMY ADDITION/ALTERATION	264	264	264	264
AIR NATIONAL GUARD				
SKY HARBOR IAP				
MEDICAL TRAINING AND ADMINISTRATION FAC	1,100	1,100	1,100	1,100
TUCSON IAP				
COMPOSITE AIRCRAFT MAINTENANCE HANGAR	6,000	6,000	6,000	6,000
AIR FORCE RESERVE				
TUCSON IAP				
FLIGHT SIMULATOR FAC-JOINT WITH ANG	1,000	1,000	1,000	1,000
TOTAL, ARIZONA	44,794	44,794	44,794	44,794
ARKANSAS				
ARMY				
PINE BLUFF ARSENAL				
BINARY MUNITION PRODUCTION FAC PH III	4,450	---	4,450	4,450
CHEMICAL AREA SECURITY UPGRADE	3,050	3,050	3,050	3,050
AIR FORCE				
BLYTHEVILLE AFB				
ADD/ALTER COMMUNITY RELIGIOUS EDUCATION FACILITY	---	1,600	---	1,600
ORGANIZATIONAL MAINTENANCE SHOP	---	3,536	---	3,536
VEHICLE MAINTENANCE SHOP	---	1,100	---	1,100
LITTLE ROCK AFB				
APRON LIGHTING	---	700	---	700
C130-AIRCRAFT MAINTENANCE FACILITY	3,850	3,850	3,850	3,850

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
CAMP ROBINSON				
RANGE, MOUT ASSAULT COURSE	352	352	352	352
STUTTGART				
ARMORY	---	936	936	936
AIR NATIONAL GUARD				
FT SMITH MAP				
ADD/ALTER ENGINE INSPECTION & REPAIR SHOP	265	265	265	265
AVIONICS/BCM POD SHOP/STORAGE FACILITY	900	900	900	900
ARMY RESERVE				
PINE BLUFF				
ARMS ROOM ADDITION	50	50	50	50
TOTAL, ARKANSAS	12,917	16,339	13,853	20,789
CALIFORNIA				
ARMY				
FORT ORD				
AMMUNITION STORAGE	9,900	9,900	9,900	9,900
COMPANY OPERATIONS FACILITY	3,150	3,150	3,150	3,150
MANEUVER TRAINING RANGE	---	1,600	---	---
SIERRA ARMY DEPOT				
AMMUNITION CONTAINER LOADING YARD	380	380	380	380
NAVY				
MARCORP AIR-GRND COMB CTR TWENTYNINE PALMS				
BACHELOR ENLISTED QUARTERS	13,600	13,600	13,600	13,600
CHILD CARE CENTER	1,930	1,930	1,930	1,930
ELECTRONIC AND COMMUNICATION MAINT SHOP	2,500	2,500	2,500	2,500
REMOTE PILOTED VEHICLE OPERS MAINT FAC	3,950	3,950	3,950	3,950
ROAD IMPROVEMENTS	4,650	4,650	4,650	4,650
MARINE CORPS AIR STATION CAMP PENDLETON				
AIRCRAFT INTERMEDIATE MAINTENANCE ACT CPX	3,060	3,060	3,060	3,060
HANGAR MODIFICATIONS	2,250	2,250	2,250	2,250
REFUELING VEHICLE MAINTENANCE SHOP	610	610	610	610
STATION OPERATIONS FACILITY	1,930	1,930	1,930	1,930
TACTICAL SUPPORT VAN PADS	1,600	1,600	1,600	1,600
MARINE CORPS AIR STATION EL TORO				
ARMING PADS	1,240	1,240	1,240	1,240
CHILD CARE CENTER	2,730	2,730	2,730	2,730
MARINE CORPS AIR STATION TUSTIN				
BACHELOR ENLISTED QUARTERS	8,370	8,370	8,370	8,370
CHILD CARE CENTER	1,970	1,970	1,970	1,970
GROUND SUPPORT EQUIPMENT SHOP	650	650	650	650
MARINE CORPS BASE CAMP PENDLETON				
ACADEMIC INSTRUCTION BUILDING	7,940	7,940	7,940	7,940
BACHELOR ENLISTED QUARTERS	16,000	16,000	16,000	16,000
FIELD MAINTENANCE SHOP FACILITIES	11,850	11,850	11,850	11,850
INFANTRY SCHOOL	3,810	3,810	3,810	3,810
MARINE AIR SUPPORT COMPLEX	6,490	6,490	6,490	6,490
TACTICAL VEHICLE MAINTENANCE FACILITY	8,270	8,270	8,270	8,270
TACTICAL VEHICLE MAINTENANCE FACILITY	10,100	10,100	10,100	10,100
MARINE CORPS LOGISTICS BASE BARSTOW				
CHILD CARE CENTER	800	800	800	800
VEHICLE MAINTENANCE SHOP	390	390	390	390
MOUNTAIN WARFARE TRAINING CTR BRIDGEPORT				
MULTIPURPOSE FACILITY	3,200	3,200	3,200	3,200
NAVAL AIR REWORK FACILITY ALAMEDA				
AIRCRAFT ACOUSTICAL ENCLOSURE	---	8,290	---	8,290
NAVAL AIR STATION MOFFETT FIELD				
CONSTRUCTION MANAGEMENT FACILITY	650	650	650	650
NAVAL AIR STATION NORTH ISLAND				
INTERMEDIATE MAINTENANCE FACS IMPROVEMENTS	3,390	3,390	3,390	3,390
MAINTENANCE HANGAR	5,710	5,710	---	---
TARGET MAINTENANCE FACILITY	2,760	2,760	2,760	2,760
NAVAL AMPHIBIOUS BASE CORONADO				
OPEN STORAGE AREA	870	870	870	870
NAVAL AMPHIBIOUS SCHOOL SAN DIEGO				
SEAL TEAM FACILITIES	10,100	10,100	10,100	10,100
NAVAL AVIATION DEPOT NORTH ISLAND				
HAZARDOUS MATERIAL STOREHOUSE	2,110	2,110	2,110	2,110
NAVAL CONSTRUCT BATTALION CTR PORT HUENEME				
DATA PROCESSING FACILITY	4,000	4,000	4,000	4,000
SEALIFT SUPPORT STORAGE FACILITIES	6,900	6,900	6,900	3,000
NAVAL CONSTRUCTION TRNG CTR PORT HUENEME				
SEABEE FLEET SUPPORT TRAINING FACILITIES	3,330	3,330	3,330	3,330
SEABEE TRAINING BUILDINGS	6,750	6,750	6,750	6,750
NAVAL HOSPITAL LEMOORE				
AVIATION PHYSIOLOGY TRAINING FACILITY	2,160	2,160	2,160	2,160

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVAL HOSPITAL SAN DIEGO				
REGIONAL MEDICAL CENTER SUPPORT FACILITIES	11,350	11,350	11,350	11,350
NAVAL OCEAN SYSTEMS CENTER SAN DIEGO				
CMD CTRL COMM SURVEILLANCE INTEGRATION LAB	8,660	8,660	8,660	8,660
NAVAL POST GRADUATE SCHOOL MONTEREY				
MUNICIPAL SEWER CONNECTION	240	240	240	240
STEAM LINE IMPROVEMENTS	2,900	2,900	2,900	2,900
NAVAL SCH CIVIL ENGR CORPS OFF PT HUENEME				
PROCUREMENT AND MANAGEMENT BUILDING	7,420	7,420	7,420	7,420
NAVAL SECURITY GROUP DETACHMENT SAN DIEGO				
CLASSIFIED MATERIALS ISSUE OFFICE ADDITION	1,950	1,950	1,950	1,950
NAVAL SHIPYARD MARE ISLAND				
DREDGED MATERIALS HANDLING FACILITY	---	2,400	---	---
DRYDOCK REFUELING COMPLEX	3,950	3,950	---	3,950
FIRE STATION	---	2,500	---	2,500
NAVAL SPACE SURVEIL FIELD STA SAN DIEGO				
SPACE SURVEILLANCE FACILITY	3,760	3,760	3,760	3,760
NAVAL STATION TREASURE IS SAN FRANCISCO				
INDUSTRIAL SUPPORT COMPLEX	5,000	5,000	---	5,000
NAVAL SUBMARINE BASE SAN DIEGO				
TORPEDO SHOP	3,150	3,150	3,150	3,150
NAVAL SUPPLY CENTER OAKLAND				
GAS CYLINDER STORAGE	---	1,550	---	1,550
NAVAL SUPPLY CTR SAN DIEGO ANNEX NORTH IS				
EQUIPMENT MAINTENANCE BUILDING	1,695	1,695	1,695	1,695
NAVAL TRAINING CENTER SAN DIEGO				
FIRE FIGHTING TRAINEE FACILITY	7,980	7,980	7,980	7,980
NAVAL WEAPONS CENTER CHINA LAKE				
AIRCRAFT SYSTEMS INTEGRATION LABORATORY	6,900	6,900	6,900	6,900
DETECTION SYSTEMS LABORATORY ADDITION	5,360	5,360	5,360	5,360
NAVAL WEAPONS STATION SEAL BEACH				
MISSILE ASSEMBLY AND TEST FACILITY	10,800	10,800	10,800	10,800
MISSILE MAGAZINES	3,090	3,090	3,090	3,090
NAVY PUBLIC WORKS CENTER SAN DIEGO				
SEWERAGE SYSTEM IMPROVEMENTS	500	500	500	500
NAVY PUBLIC WORKS CENTER SAN FRANCISCO				
ELECTRIC POWER SYSTEM IMPROVEMENTS	9,010	9,010	---	9,010
SEWERAGE SYSTEM IMPROVEMENTS	6,800	6,800	6,800	6,800
PACIFIC MISSILE TEST CENTER POINT MAGU				
MISSILE SYSTEMS EVALUATION LABORATORY	20,470	20,470	20,470	20,470
PERSONNEL SUPPORT ACTIVITY SAN DIEGO				
PERSONNEL SUPPORT FACILITY	1,180	1,180	---	1,180
SHORE INTERMEDIATE MAINT ACT SAN DIEGO				
SHORE INTERMEDIATE MAINTENANCE FACILITY	10,720	10,720	10,720	10,720
SUBMARINE TRAINING FACILITY SAN DIEGO				
OPERATIONAL TRAINER FACILITY	5,531	5,531	5,531	5,531
SUBMARINE TRAINING FACILITY	4,770	4,770	---	4,770
AIR FORCE				
BEALE AFB				
ADD TO AND UPGRADE POWER PLANT-PAVE PAWS	8,900	8,900	8,900	8,900
DORMITORY	5,400	5,400	5,400	5,400
CASTLE AFB				
ADD TO JET FUEL STORAGE/DISPENSING FACS	10,800	10,800	---	10,800
BASE CIVIL ENGINEERING COMPLEX	---	8,600	---	8,600
FLOOD CONTROL COST SHARE	---	500	---	500
EDWARDS AFB				
ADD/ALTER FLIGHT TEST MISSION CONTROL	5,200	5,200	5,200	5,200
GEORGE AFB				
AIR WARRIOR SUPPORT COMPLEX	3,650	3,650	---	3,650
F4-FLYING TRAINING FACILITY	3,400	3,400	---	3,400
REPLACE RUNWAY	16,500	16,500	---	16,500
MARCH AFB				
ADD TO AND UPGRADE DORMITORIES	3,900	3,900	3,900	3,900
EXPANDED CLEAR ZONE LAND ACQUISITION	1,000	1,000	1,000	1,000
MATHER AFB				
BASE FLIGHT OPERATIONS FACILITY	---	2,300	---	2,300
SECURITY IMPROVEMENTS	440	440	440	440
MCCLELLAN AFB				
FIRE SPRINKLER SYSTEMS	2,200	2,200	2,200	2,200
VEHICLE REFUELING STATION	880	880	880	880
ONIZUKA AFS				
ALTER TECHNICAL SPACE COMPLEX	4,300	4,300	4,300	4,300
PALMDALE (AF PLANT 42)				
ACCESS ROAD	---	5,600	---	---
TRAVIS AFB				
ALTER DORMITORIES	10,400	10,400	---	10,400
VANDENBERG AFB				
HYPERGOLIC MAINTENANCE CHECKOUT FACILITY	2,300	2,300	2,300	2,300
MISSILE CREW TRAINING FACILITIES	6,250	6,250	6,250	6,250
TITAN IV LAUNCH PAD	25,000	25,000	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DEFENSE AGENCIES				
CAMP PENDLETON MARINE CORPS BASE				
MEDICAL STORAGE SUPPORT	5,000	5,000	5,000	5,000
DEFENSE DEPOT TRACY				
IMPROVE LIGHTING	590	590	590	590
HUNTERS POINT ANNEX TREASURE ISL NAVAL STA				
MEDICAL/DENTAL FACILITY	5,000	---	---	---
MARCH AFB				
HOSPITAL SEISMIC UPGRADE	3,000	3,000	3,000	3,000
NORTH ISLAND NAVAL STATION				
MEDICAL CLINIC	7,200	7,200	7,200	7,200
TREASURE ISLAND NAVAL STATION				
MEDICAL/DENTAL CLINIC REPLACEMENT	11,000	11,000	11,000	11,000
AIR NATIONAL GUARD				
CHANNEL ISLANDS ANGB				
AERIAL PORT TRAINING FACILITY	2,600	2,600	2,600	2,600
AIRCRAFT PARKING APRON/SITE PREPARATION	1,300	1,300	1,300	1,300
BASE SUPPLY AND EQUIPMENT WAREHOUSE	3,900	3,900	3,900	3,900
COMPOSITE OPERATIONS & TRAINING FACILITY	5,000	5,000	5,000	5,000
COMPOSITE SUPPORT FACILITY	3,300	3,300	3,300	3,300
VEHICLE MAINTENANCE SHOP	1,650	1,650	1,650	1,650
FRESNO ANGB				
MUNITIONS MAINTENANCE FACILITY	1,400	1,400	1,400	1,400
POWER CHECK PAD WITH SUPPRESSOR	600	600	600	600
ARMY RESERVE				
GARDEN GROVE				
ADD/ALTER USARC/MAINT FAC/STORAGE BUILDING	3,425	3,425	3,425	3,425
REDDING				
LAND ACQUISITION	275	275	275	275
STOCKTON				
ARMED FORCES RES CTR/MAINT FAC/MARINE FAC	3,596	3,596	3,596	3,596
NAVY RESERVE				
MCRC HAYWARD				
TRAINING BUILDING REHAB	1,000	1,000	1,000	1,000
NCS STOCKTON				
RESERVE TRAINING BUILDING	2,800	2,800	2,800	2,800
AIR FORCE RESERVE				
MARCH AFB				
MEDICAL TRAINING AND ADMINISTRATION	1,000	1,000	1,000	1,000
MATHER AFB				
COMPOSITE MEDICAL TRAINING FACILITY	850	850	850	850
TOTAL, CALIFORNIA	500,242	528,582	395,872	484,372
COLORADO				
ARMY				
PUEBLO DEPOT ACTIVITY				
CHEMICAL AREA SECURITY UPGRADE	3,200	3,200	3,200	3,200
AIR FORCE				
BUCKLEY ANG BASE				
ADD/ALTER AEROSPACE DATA FACILITY PH-II	18,500	18,500	18,500	18,500
UPGRADE EMERGENCY POWER PLANT	7,300	7,300	7,300	7,300
CHEYENNE MT COMPLEX AFB				
NORAD COMMAND POST	6,500	6,500	6,500	6,500
LOWRY AFB				
STUDENT DORMITORY	12,000	12,000	12,000	12,000
PETERSON AFB				
ADD/ALTER PHYSICAL FITNESS CENTER	3,800	---	3,800	---
FIRE TRAINING AREA	2,200	2,200	2,200	2,200
SPACE OPERATIONS INTELLIGENCE CENTER	7,300	7,300	7,300	7,300
US AIR FORCE ACADEMY				
ADD TO/UPGRADE COMMUNITY CENTER GYMNASIUM	1,750	1,750	1,750	1,750
ADD/ALTER BASE ENGINEERING FACILITIES	990	990	990	990
ALTER CADET DORMITORY	4,000	4,000	4,000	4,000
DORMITORY	3,500	3,500	3,500	3,500
DEFENSE AGENCIES				
FALCON AIR STATION				
NATIONAL TEST FACILITY	72,500	65,000	72,500	65,000
AIR NATIONAL GUARD				
BUCKLEY ANGB				
PERIMETER FENCE	700	700	700	700
AIR FORCE RESERVE				
PETERSON AFB				
CIVIL ENGINEERING TRAINING FACILITY	750	750	750	750
TOTAL, COLORADO	144,990	133,690	144,990	133,690

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
CONNECTICUT				
NAVY				
NAVAL SECURITY GROUP ACTIVITY GROTON				
ELECTRONICS MAINTENANCE SHOP MODIFICATIONS	1,170	1,170	1,170	1,170
NAVAL SUBMARINE BASE NEW LONDON				
WEAPONS FACILITIES	6,660	6,660	6,660	6,660
ARMY NATIONAL GUARD				
CAMP O'NEILL				
TRNG SITE, TRAINING FACILITIES PH I	2,997	2,997	2,997	2,997
TOTAL, CONNECTICUT	10,827	10,827	10,827	10,827
DELAWARE				
AIR FORCE				
DOVER AFB				
ADD TO TAXIWAY	1,000	1,000	1,000	1,000
AIR NATIONAL GUARD				
GREATER WILMINGTON AIRPORT				
ADD/ALTER AVIONICS SHOP	410	410	410	410
TOTAL, DELAWARE	1,410	1,410	1,410	1,410
DISTRICT OF COLUMBIA				
ARMY				
WALTER REED ARMY MED CTR				
PURCHASE WALTER REED INN	1,600	1,600	1,600	1,600
NAVY				
COMMANDANT NAVAL DISTRICT WASHINGTON				
ADMINISTRATIVE OFFICE MODERNIZATION	10,000	10,000	---	10,000
ELECTRICAL SWITCHING STATION	1,500	1,500	1,500	1,500
TRANSPORTATION MAINTENANCE FACILITY	5,600	5,600	5,600	5,600
WHITE HOUSE SUPPORT COMPLEX	21,000	21,000	21,000	21,000
NAVAL INTELLIGENCE CMD HDQTRS WASHINGTON				
HEADQUARTERS BUILDING (INCREMENT I) 2/	58,952	---	---	---
NAVAL RESEARCH LABORATORY WASHINGTON				
ELECTRONIC SYSTEMS LABORATORY	19,800	19,800	19,800	19,800
DEFENSE AGENCIES				
ANACOSTIA NAVAL STATION				
WHCA SUPPORT COMPLEX	25,200	25,200	25,200	25,200
FORT MCNAIR - NDU				
ACADEMIC FACILITY/LIBRARY	28,000	26,000	28,000	26,000
ARMY NATIONAL GUARD				
FORT BELVOIR				
60 PERSON ARMORY	2,102	2,102	2,102	2,102
NAVY RESERVE				
NAVAL AIR FACILITY WASHINGTON				
AIRCRAFT GROUND SUPPORT EQUIPMENT FAC	1,050	1,050	1,050	1,050
TOTAL, DISTRICT OF COLUMBIA	174,804	113,852	105,852	113,852
FLORIDA				
NAVY				
NAVAL AIR STATION CECIL FIELD				
MISSILE INTEGRATION FACILITY	340	340	340	340
NAVAL AIR STATION JACKSONVILLE				
HELICOPTER OPERATIONAL TRAINER BLDG ADDN	8,810	8,810	8,810	8,810
NAVAL AIR STATION KEY WEST				
ELECTRICAL DISTRIBUTION SYSTEM	850	850	850	850
NAVAL AIR STATION PENSACOLA				
SHIP SUPPORT COMPLEX (INCREMENT II)	25,600	25,600	25,600	25,600
NAVAL AVIATION DEPOT JACKSONVILLE				
AIRCRAFT ENGINE PROCESSING FACILITY	14,180	14,180	---	14,180
NAVAL HOSPITAL PENSACOLA				
AVIATION PHYSIOLOGY TRAINING FACILITY	2,250	2,250	2,250	2,250
NAVAL LEGAL SERVICE OFFICE MAYPORT				
LEGAL SERVICES OFFICE	1,450	1,450	1,450	1,450
NAVAL STATION MAYPORT				
INDUSTRIAL WASTE TREATMENT FACILITY	3,060	3,060	3,060	3,060
NAVAL SUPPLY CENTER PENSACOLA				
HAZARDOUS & FLAMMABLE STOREHOUSE	2,640	2,640	2,640	2,640
NAVAL TECHNICAL TRAINING CENTER PENSACOLA				
ADMINISTRATIVE FACILITY MODERNIZATION	2,840	2,840	---	---
NAVAL TRAINING CENTER ORLANDO				
BARRACKS	20,000	20,000	20,000	20,000
ROADS AND UTILITIES	3,810	3,810	3,810	3,810
AIR FORCE				
AVON PARK				
EW OPERATIONS/VEHICLE MAINT FAC	3,700	3,700	3,700	3,700
CAPE CANAVERAL AFS				
ADD TO/REPAIR SEWAGE PLANT	380	380	380	380
LAUNCH OPERATIONS CONTROL CENTER	19,000	19,000	19,000	19,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
EGLIN AFB				
ADD TO AND UPGRADE CORROSION CONTROL FAC	620	620	620	620
DORMITORY	10,400	10,400	10,400	10,400
EGLIN AFB AUXILIARY FIELD 9				
CONSOLIDATED SUPPORT CENTER	---	7,300	---	7,300
SOF-ADD TO VEHICLE MAINTENANCE FACILITY	1,700	1,700	1,700	1,700
SOF-ADDITION TO PARKING APRON	3,150	3,150	3,150	3,150
SOF-AIRCRAFT MAINTENANCE COMPLEX	1,700	1,700	1,700	1,700
SOF-COMBAT CONTROL SQUADRON OPS FACILITY	1,250	1,250	1,250	1,250
SOF-DORMITORY	4,200	4,200	4,200	4,200
SOF-DORMITORY	4,600	4,600	4,600	4,600
SOF-SIMULATOR FACILITY	3,500	3,500	3,500	3,500
HOMESTEAD AFB				
F16-ALERT SHELTER COMPLEX	6,200	6,200	6,200	6,200
MACDILL AFB				
ALTER DORMITORIES	4,200	4,200	4,200	4,200
FLIGHTLINE SECURITY LIGHTING	380	380	380	380
PATRICK AFB				
ALTER/UPGRADE HEADQUARTERS DATA CENTER	576	576	576	576
ARM/DISARM PAD	550	550	550	550
TYNDALL AFB				
COMBAT TRAINING COMPLEX	6,000	6,000	6,000	6,000
DEFENSE AGENCIES				
TYNDALL AIR FORCE BASE				
MEDICAL WRM FACILITY	800	800	800	800
ARMY NATIONAL GUARD				
AVON PARK				
UNIT TRAINING EQUIPMENT SITE	852	852	852	852
CAMP BLANDING				
BACHELOR OFFICER QUARTERS	---	886	886	886
TRNG SITE, BRIGADE HEADQUARTERS COMPLEX	1,429	1,429	1,429	1,429
AIR NATIONAL GUARD				
CAMP BLANDING				
SITE PREPARATION AND UTILITIES	---	800	800	800
JACKSONVILLE IAP				
ADD TO JET FUEL STORAGE	750	750	750	750
MUNITIONS MAINTENANCE STORAGE FACILITY	2,700	2,700	2,700	2,700
AIR FORCE RESERVE				
HOMESTEAD AFB				
FUEL SYSTEMS MAINTENANCE HANGAR	2,100	2,100	2,100	2,100
TOTAL, FLORIDA	174,167	183,153	158,833	172,713
GEORGIA				
ARMY				
FORT BENNING				
INSTALL THERMOSTATIC CONTROLS	350	350	350	350
US ARMY SCHOOL OF THE AMERICAS	24,000	24,000	24,000	24,000
NAVY				
MARINE CORPS LOGISTICS BASE ALBANY				
BACHELOR ENLISTED QUARTERS MODERNIZATION	900	900	900	900
PAINTING FACILITY	4,250	4,250	4,250	4,250
TANK AND AUTOMOTIVE TEST TRACK	590	590	590	590
NAVAL SUBMARINE BASE KINGS BAY				
REFIT WHARF	27,325	27,325	27,325	27,325
DIKES/DREDGING	9,336	9,336	9,336	9,336
UTILITIES AND SITE IMPROVEMENTS	4,496	4,496	4,496	4,496
BACHELOR OFFICER QUARTERS	5,028	5,028	5,028	5,028
EDUCATIONAL SERVICES ADDITION	398	398	398	398
COMMUNITY IMPACT ASSISTANCE	9,747	9,747	9,747	9,747
AIR FORCE				
MOODY AFB				
LANTIRN AVIONICS FACILITY	800	800	800	800
ROBINS AFB				
ADD-ALTER ENGINEERING TEST FACILITY	7,500	7,500	7,500	7,500
AIRCRAFT CORROSION CONTROL FACILITY	11,400	11,400	11,400	11,400
WEAPON SYSTEM SUPPORT CENTER	---	12,600	12,600	12,600
DEFENSE AGENCIES				
FORT BENNING				
HOSPITAL EMERGENCY ROOM ALTERATIONS	700	700	700	700
ROBINS AFB				
OCCUPATIONAL HEALTH CARE CLINIC REPLACEMENT	---	3,600	3,600	3,600
ARMY NATIONAL GUARD				
ATLANTA				
800 PERSON ARMORY	3,210	3,210	3,210	3,210

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
METTER				
ARMORY	---	838	823	823
ARMY RESERVE				
SAVANNAH				
ADD/ALTER USARC W/MAINT FAC	2,126	2,126	2,126	2,126
TOTAL, GEORGIA	112,156	129,194	129,179	129,179
HAWAII				
ARMY				
FORT SHAFTER				
AUTOMATED DATA PROCESSING FACILITY	7,200	7,200	7,200	7,200
SCHOFIELD BARRACKS				
NCO ACADEMY	---	---	8,500	8,500
NAVY				
MARINE CORPS AIR STATION KANEOHE BAY				
AIRFIELD PAVEMENTS IMPROVEMENT	8,760	8,760	8,760	8,760
COMBAT VEHICLE MAINTENANCE SHOP	6,570	6,570	6,570	6,570
COMBINED ARMS STAFF TRAINER FACILITY	1,790	1,790	1,790	1,790
ELECTRONICS COMMUNICATIONS MAINT SHOP	1,810	1,810	1,810	1,810
ELECTRONICS COMMUNICATIONS MAINT SHOP	2,910	2,910	2,910	2,910
INTEGRATED SIGNALS INTELLIGENCE SYSTEM FAC	2,430	2,430	2,430	2,430
NAVAL LEGAL SERVICE OFFICE PEARL HARBOR				
LEGAL SERVICES OFFICE	2,380	2,380	2,380	2,380
NAVAL STATION PEARL HARBOR				
BRIG	8,370	8,370	8,370	8,370
NAVAL SUBMARINE BASE PEARL HARBOR				
CONTROLLED INDUSTRIAL FACILITY	11,250	11,250	11,250	11,250
NAVAL SUBMARINE TRNG CTR PAC PEARL HARBOR				
SUBMARINE TRAINING BUILDING ADDITION	1,780	1,780	1,780	1,780
NAVAL SUPPLY CENTER PEARL HARBOR				
FIRE PROTECTION SYSTEM IMPROVEMENTS	2,540	2,540	2,540	2,540
HAZARDOUS AND FLAMMABLE STORAGE FACILITY	5,810	5,810	5,810	5,810
NAVY PUBLIC WORKS CENTER PEARL HARBOR				
ELECTRICAL SYSTEM IMPROVEMENTS	3,760	3,760	3,760	3,760
AIR FORCE				
HICKAM AFB				
F15-MUNITIONS MAINT AND STORAGE FACS	4,250	4,250	4,250	4,250
DEFENSE AGENCIES				
DEF FUEL SPT POINT PEARL CITY				
FIRE PROTECTION	1,900	1,900	1,900	1,900
ARMY NATIONAL GUARD				
HILO				
RANGE, KNOWN DISTANCE UPGRADE	257	257	257	257
AIR NATIONAL GUARD				
HICKAM AFB				
COMPOSITE AVIONICS/WEAPONS RELEASE FAC	4,250	4,250	4,250	4,250
KOKEE AIR STATION				
BASE CIVIL ENGR MAINTENANCE/MEDICAL FAC	220	220	220	220
AIR FORCE RESERVE				
HICKAM AFB				
CIVIL ENGINEERING TRAINING FACILITY	990	990	990	990
TOTAL, HAWAII	79,227	79,227	87,727	87,727
IDAHO				
AIR FORCE				
MOUNTAIN HOME AFB				
ELEC WARFARE OPS AND MAINT FACILITIES	1,400	1,400	1,400	1,400
ARMY NATIONAL GUARD				
GOWEN FIELD				
REGIONAL TRAINING SITE - MAINTENANCE	1,579	1,579	1,579	1,579
AIR NATIONAL GUARD				
BOISE AIRPORT				
ADD TO ENGINE I AND R SHOP	450	450	450	450
ADD/ALTER AVIONICS/ECM PODS	2,300	2,300	2,300	2,300
TOTAL, IDAHO	5,729	5,729	5,729	5,729
ILLINOIS				
ARMY				
FORT SHERIDAN				
ALTER DINING FACILITY	---	880	880	880
CHILD DEVELOPMENT CENTER	---	---	2,400	2,400
ROCK ISLAND ARSENAL				
CHILD DEVELOPMENT CENTER	980	980	980	980
FACILITY MODERNIZATION, PHASE IV	---	---	10,000	10,000
SAVANNA ARMY DEPOT				
AIR CONDITION AMMUNITION CENTER	470	470	470	470
TRANSPORTABILITY TEST CENTER 3/	---	4,350	---	4,350

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY				
NAVAL TRAINING CENTER GREAT LAKES				
APPLIED INSTRUCTION BUILDING ALTERATIONS	750	750	750	750
APPLIED TRAINING FACILITIES IMPROVEMENT	2,690	2,690	2,690	2,690
NAVY PUBLIC WORKS CENTER GREAT LAKES				
WATER STORAGE TANKS	1,930	1,930	1,930	1,930
NAS GLENVIEW				
BEQ	---	---	4,900	---
AIR FORCE				
CHANUTE AFB				
UPGRADE STUDENT DORMITORIES	6,500	6,500	6,500	6,500
SCOTT AFB				
HEADQUARTERS US TRANSPORTATION COMMAND	12,800	12,800	12,800	12,800
IN-FLIGHT MEAL PREPARATION FACILITY	600	600	600	600
RADAR APPROACH CONTROL FACILITY	1,100	1,100	1,100	1,100
ARMY NATIONAL GUARD				
KANKAKEE				
ARMED FORCES RESERVE CENTER	807	807	807	807
PEORIA				
ARMED FORCES RESERVE CENTER	574	574	574	574
SPARTA				
100 PERSON ARMORY	1,457	1,457	1,457	1,457
URBANA				
ARMORY REHABILITATION	---	---	800	---
AIR NATIONAL GUARD				
CHICAGO-OHARE IAP				
POWER CHECK PAD WITH SUPPRESSOR	400	400	400	400
GREATER PEORIA AIRPORT				
OPERATIONS & MAINTENANCE COMPLEX PHASE III	12,900	12,900	12,900	12,900
ARMY RESERVE				
KANKAKEE				
ARMED FORCES RESERVE CENTER W/MAINT FAC	1,928	1,928	1,928	1,928
PEORIA				
ARMED FORCES RESERVE CENTER W/MAINT FAC	5,921	5,921	5,921	5,921
NAVY RESERVE				
NAS GLENVIEW				
P-3 TACTICS TRAINER	670	670	670	670
BEQ	---	---	4,900	---
TOTAL, ILLINOIS	52,477	57,707	76,357	70,107
INDIANA				
AIR FORCE				
GRISSOM AFB				
TRAFFIC MANAGEMENT FACILITY	---	1,850	---	1,850
ARMY NATIONAL GUARD				
CAMP ATTERBURY				
RANGE, MODIFIED RECORD FIRE	334	334	334	334
TRNG SITE, TRAINING FACILITIES PH 6A	2,732	2,732	2,732	2,732
AIR NATIONAL GUARD				
HULMAN FIELD				
UPGRADE HANGAR AND SHOPS	900	900	900	900
FT WAYNE MAP				
ADD/ALTER AVIONICS SHOP FOR ECM	670	670	670	670
ARMY RESERVE				
TERRE HAUTE				
ARMY RESERVE CENTER/ADD/ALTER MAINT FAC	3,018	3,018	3,018	3,018
AIR FORCE RESERVE				
GRISSOM AFB				
AGE SHOP/STORAGE	1,150	1,150	1,150	1,150
A-10 FACILITY	---	---	4,800	4,800
TOTAL, INDIANA	8,804	10,654	13,604	15,454
IOWA				
ARMY NATIONAL GUARD				
BOONE				
ARMY AVIATION SUPPORT FACILITY	2,490	2,490	2,490	2,490
CAMP DODGE				
COMBINED SUPPORT MAINTENANCE SHOP	2,176	2,176	2,176	2,176
ORGANIZATIONAL MAINTENANCE SHOP	866	866	866	866
RANGE, MODIFIED RECORD FIRE	532	532	532	532
MASON CITY				
200 PERSON ARMORY	1,139	1,139	1,139	1,139
ORGANIZATIONAL MAINTENANCE SHOP	317	317	317	317
AIR NATIONAL GUARD				
SIOUX CITY MAP				
POL COMPLEX	2,500	2,500	2,500	2,500
TOTAL, IOWA	10,020	10,020	10,020	10,020

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
KANSAS				
AIR FORCE				
MCCONNELL AFB				
RELOCATE MAIN GATE	---	680	---	680
VISITING OFFICER QUARTERS	---	2,200	2,200	2,200
ARMY NATIONAL GUARD				
LENEXA				
200 PERSON ARMORY	1,266	1,266	1,266	1,266
NICKELL BARRACKS				
100 PERSON ARMORY	866	866	866	866
OLATHE				
60 PERSON ARMORY	1,194	1,194	1,194	1,194
AIR NATIONAL GUARD				
MCCONNELL AFB				
ALTERNATE FUELS FACILITY	270	270	270	270
FLIGHT SIMULATOR FACILITY	1,250	1,250	1,250	1,250
MUNITIONS MAINTENANCE & TRAINING COMPLEX	1,700	1,700	1,700	1,700
POWER CHECK PAD WITH SUPPRESSOR	890	890	890	890
NAVY RESERVE				
NMCRC WICHITA				
RESERVE CENTER ADDITION	2,100	2,100	2,100	2,100
TOTAL, KANSAS	9,536	12,416	11,736	12,416
KENTUCKY				
ARMY				
FORT CAMPBELL				
AIRCRAFT MAINTENANCE HANGAR	14,000	14,000	14,000	14,000
CHAPEL	1,400	1,400	1,400	1,400
HARDSTAND/TACTICAL EQUIPMENT SHOP	5,100	5,100	5,100	5,100
LEXINGTON-BLUEGRASS DEP ACT				
CHEMICAL AREA SECURITY UPGRADE	770	770	770	770
NAVY				
NAVAL ORDNANCE STATION LOUISVILLE				
MACHINE SHOP AND WASTEWATER TREATMENT FAC	19,000	19,000	19,000	19,000
DEFENSE AGENCIES				
DEF REUTILIZATION & MKTG OFC FT CAMPBELL				
COVERED AND OPEN STORAGE	1,600	1,600	1,600	1,600
NAVY RESERVE				
MCRC FORT KNOX				
RESERVE TRAINING BUILDING	1,600	1,600	1,600	1,600
TOTAL, KENTUCKY	43,470	43,470	43,470	43,470
LOUISIANA				
NAVY				
NAVAL STATION LAKE CHARLES				
SHIP SUPPORT COMPLEX (INCREMENT II)	3,700	3,700	5,000	3,700
AIR FORCE				
BARKSDALE AFB				
DORMITORY	7,300	7,300	7,300	7,300
ENGLAND AFB				
CONSOLIDATED BASE PERSONNEL OFFICE	3,100	3,100	3,100	3,100
ARMY NATIONAL GUARD				
COLUMBIA				
60 PERSON ARMORY	1,054	1,054	1,054	1,054
AIR NATIONAL GUARD				
NEW ORLEANS NAS				
ALTER HANGAR	750	750	750	750
MISSILE MAINTENANCE FACILITY	1,900	1,900	1,900	1,900
ARMY RESERVE				
SHREVEPORT				
CLASSROOM/STORAGE ADDITION	375	375	375	375
NAVY RESERVE				
NAVAL AIR STATION NEW ORLEANS				
MAGAZINE ACCESS BRIDGE	290	290	290	290
RESERVE TRAINING BUILDING	900	900	900	900
AIR FORCE RESERVE				
NEW ORLEANS NAS				
MOBILITY STORAGE FACILITY	390	390	390	390
TOTAL, LOUISIANA	19,759	19,759	21,059	19,759
MAINE				
NAVY				
NAVAL AIR STATION BRUNSWICK				
AIR EMISSIONS CONTROL	530	530	530	530
AIR FORCE				
LORING AFB				
ALTER HEADQUARTERS COMMAND POST	2,100	2,100	2,100	2,100
CONTROL TOWER CAB	900	900	900	900

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
GARDINER				
RANGE, M-16 BAFFLED RIFLE........................	241	241	241	241
AIR NATIONAL GUARD				
BANGOR IAP				
CONSTRUCT CREW READINESS FACILITY.................	600	600	600	600
S. PORTLAND AF STATION				
COMM/ELEC TRAINING FAC............................	---	---	988	988
TOTAL, MAINE......................................	4,371	4,371	5,359	5,359
MARYLAND				
ARMY				
ABERDEEN PROVING GROUND				
CHEMICAL DEMILITARIZATION TRNG FAC................	8,400	8,400	8,400	8,400
METAL WORK TRAINING FACILITY (PROJ. NO. 124)......	---	8,600	---	8,600
FORT DETRICK				
UTILITIES EXTENSION...............................	6,500	6,500	6,500	6,500
FORT RITCHIE				
POWER ENHANCEMENT FACILITY - PH II................	9,100	9,100	9,100	9,100
NAVY				
DAVID TAYLOR NAV SHP RSCH/DEV CTR ANNAPOLIS				
WELDING AND MATERIALS LABORATORY..................	1,860	1,860	1,860	1,860
NAV EXPLOSIVE ORD DISP TECH CTR INDIAN HD				
MUNITIONS DISASSEMBLY FACILITY....................	7,380	7,380	7,380	7,380
NAVAL ACADEMY ANNAPOLIS				
FAMILY SERVICES CENTER............................	540	540	540	540
NAVAL AIR TEST CENTER PATUXENT RIVER				
OIL SPILL PREVENTION..............................	1,250	1,250	1,250	1,250
NAVAL INTELLIGENCE COMMAND HEADQUARTERS SUITLAND				
HEADQUARTERS BUILDING (INCREMENT I) 4/............	---	58,952	58,952	58,952
NAVAL MEDICAL DATA SERVICES CTR BETHESDA				
MEDICAL DATA SERVICES FACILITY....................	5,930	5,930	5,930	5,930
NAVAL ORDNANCE STATION INDIAN HEAD				
MESS HALL...	1,270	1,270	1,270	1,270
NAVAL SURFACE WEAPONS CENTER DET WHITE OAK				
FABRICATION SHOP CONSOLIDATION....................	2,540	2,540	2,540	2,540
AIR FORCE				
ANDREWS AFB				
DORMITORY...	2,550	2,550	2,550	2,550
DEFENSE AGENCIES				
DMA HYDROGRAPHIC/TOPOGRAPHIC CENTER				
PRODUCTION FACILITY UPGRADES......................	5,209	5,209	5,209	5,209
FORT MEADE				
DEFENSE ACCESS ROAD...............................	---	12,000	12,000	12,000
SPRINKLERS OPS/HQ.................................	2,230	2,230	2,230	2,230
ARMY NATIONAL GUARD				
HAVRE DE GRACE				
COMBINED SUPPORT MAINTENANCE SHOP ALT.............	200	200	200	200
AIR FORCE RESERVE				
ANDREWS AFB				
ALTER AERIAL PORT FACILITY........................	360	360	360	360
TOTAL, MARYLAND...................................	55,319	134,871	126,271	134,871
MASSACHUSETTS				
AIR FORCE				
HANSCOM AFB				
SYSTEM MANAGEMENT ENGINEERING FACILITY............	12,400	12,400	12,400	12,400
ARMY RESERVE				
ATTLEBORO				
ADD/ALTER USARC W/MAINT FAC.......................	1,509	1,509	1,509	1,509
BROCKTON				
ADD/ALTER USARC W/MAINT FAC.......................	1,573	1,573	1,573	1,573
DEVENS				
REGIONAL MEDICAL TRAINING CENTER..................	1,655	1,655	1,655	1,655
NAVY RESERVE				
MCRC CAMP EDWARDS				
COMBAT VEHICLE MAINTENANCE FACILITY...............	330	330	330	330
NAVAL AIR STATION SOUTH WEYMOUTH				
MAINTENACE TRAINING FACILITY......................	1,230	1,230	1,230	1,230
AIR FORCE RESERVE				
WESTOVER AFB				
ADD/ALTER RESERVE OPERATIONAL TRAINING............	2,495	2,495	2,495	2,495
ALTER AIRCRAFT MAINTENANCE SHOPS..................	2,650	2,650	2,650	2,650
TOTAL, MASSACHUSETTS..............................	23,842	23,842	23,842	23,842

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MICHIGAN				
AIR FORCE				
WURTSMITH AFB				
ALERT TAXIWAY BARRIER	640	640	640	640
FIRE STATION	3,000	3,000	3,000	3,000
KC135-COCKPIT PROCEDURES TRAINER SPT FAC	1,350	1,350	1,350	1,350
HEAT PLANT	---	---	5,700	5,700
ARMY NATIONAL GUARD				
CAMP GRAYLING				
TRNG SITE, MEDICAL UNIT TRAINING FACILITY	456	456	456	456
TAYLOR COUNTY				
ARMORY	---	2,353	2,353	2,353
YPSILANTI				
ARMORY COMPLEX	---	3,091	3,091	3,091
AIR NATIONAL GUARD				
SELFRIDGE ANGB				
ALTER AIRCRAFT ENGINE I & R SHOP	910	910	910	910
ALTER JET FUEL OPERATIONS STORAGE	1,200	1,200	1,200	1,200
FUEL SYSTEM MAINTENANCE DOCK	2,300	2,300	2,300	2,300
ARMY RESERVE				
KALAMAZOO				
ADD/ALTER USARC W/MAINT FAC	2,491	2,491	2,491	2,491
PONTIAC				
ADD/ALTER USARC W/MAINT FAC	1,596	1,596	1,596	1,596
TOTAL, MICHIGAN	13,943	19,387	25,087	25,087
MINNESOTA				
ARMY NATIONAL GUARD				
CAMP RIPLEY				
RANGE, COMBAT PISTOL	241	241	241	241
RANGE, TANK GUNNERY TABLE VIII	1,242	1,242	1,242	1,242
REGIONAL TRAINING SITE - MAINTENANCE	1,619	1,619	1,619	1,619
TRNG SITE, TRAINING FACILITIES	3,656	3,656	3,656	3,656
AIR NATIONAL GUARD				
DULUTH ANGB				
ADD TO AIRCRAFT ENGINE I & R SHOP	265	265	265	265
ARMY RESERVE				
FT SNELLING (MINNEAPOLIS)				
BAND ROOM	200	200	200	200
NAVY RESERVE				
NMCRC ST. PAUL				
RESERVE CENTER ADDITION	2,000	2,000	2,000	2,000
AIR FORCE RESERVE				
MINN-ST PAUL IAP				
AVIONICS SHOP	1,150	1,150	1,150	1,150
BASE CIVIL ENGINEERING COMPLEX	2,800	2,800	2,800	2,800
TOTAL, MINNESOTA	13,173	13,173	13,173	13,173
MISSISSIPPI				
NAVY				
NAVAL AIR STATION MERIDIAN				
BEQ UPGRADE	---	3,100	3,100	3,100
NAVAL CONSTRUCTION TRAINING CTR GULFPORT				
BUILDERS INSTRUCTION BUILDING	1,880	1,880	1,880	1,880
STEELWORKERS TRAINING BUILDING	2,190	2,190	2,190	2,190
NAVAL STATION PASCAGOULA				
SHIP SUPPORT COMPLEX (INCREMENT II)	17,520	17,520	25,700	17,520
BEQ REHABILITATION	---	---	6,000	6,000
AIR FORCE				
COLUMBUS AFB				
MISSION SUPPORT COMPLEX	2,950	2,950	2,950	2,950
KEESLER AFB				
ADD TO/UPGRADE DATA AUTOMATION CENTER	2,400	2,400	2,400	2,400
SECURITY POLICE OPERATIONS FACILITY	2,150	2,150	2,150	2,150
ARMY NATIONAL GUARD				
CAMP MCCAIN				
ARMY AIR FIELD	---	---	---	6,113
MULTI-PURPOSE TRAINING COMPLEX	---	---	---	904
SIMNET MULTI-PURPOSE TRAINING COMPLEX	---	---	---	929
TANK ROADS	---	---	---	525
UNIT TRAINING EQUIPMENT SITE EXPANSION/UPGRADE	---	600	600	600
CAMP SHELBY				
TRAINING AREA COMPLEX	---	---	9,500	5,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR NATIONAL GUARD				
ALLEN C THOMPSON FIELD				
FUEL CELL MAINTENANCE CORROSION FAC	3,500	3,500	3,500	3,500
AERIAL PORT TRAINING/AGE FAC	---	---	2,000	---
KEY FIELD				
CIVIL ENGINEERING FACILITY	---	---	1,450	1,450
MEDICAL ADMINISTRATION FACILITY	---	---	1,000	1,000
ARMY RESERVE				
BROOKHAVEN				
ARMY RESERVE CENTER W/MAINT FAC	2,307	2,307	2,307	2,307
GREENWOOD				
ADD/ALTER USARC W/MAINT FAC	1,336	1,336	1,336	1,336
WAYNESBORO				
LAND ACQUISITION	100	100	100	100
NAVY RESERVE				
GULFPORT				
SEABEE CENTER	---	---	6,500	6,500
AIR FORCE RESERVE				
KEESLER AFB				
COMPOSITE TRAINING FACILITY	2,450	2,450	2,450	2,450
TOTAL, MISSISSIPPI	38,783	42,483	77,113	71,404
MISSOURI				
AIR FORCE				
WHITEMAN AFB				
ATB-AIRCRAFT PARTS CONTROL STORE	1,450	1,450	1,450	1,450
ATB-AIRCRAFT PAVEMENTS-PHASE I	1,500	1,500	1,500	1,500
ATB-AIRCRAFT SUPPORT EQUIPMENT FACILITY	5,900	5,900	5,900	5,900
ATB-ALTER MAINTENANCE HANGAR	12,800	12,800	12,800	12,800
ATB-CONVOY ROAD	1,250	1,250	1,250	1,250
ATB-EXPAND UTILITY SYSTEM-PHASE I	18,800	18,800	18,800	18,800
ATB-HELICOPTER SUPPORT COMPLEX	3,200	3,200	3,200	3,200
ATB-HYDRANT FUELING DISTRIBUTION	14,100	14,100	14,100	14,100
ATB-HYDRANT FUELING OUTLETS-MAINT DOCKS	4,000	4,000	4,000	4,000
ATB-MAINTENANCE CONTROL COMPLEX	4,200	4,200	4,200	4,200
ATB-MAINTENANCE DOCK	4,500	4,500	4,500	4,500
ATB-MISSION OPERATIONS CENTER	5,700	5,700	5,700	5,700
ATB-RADAR APPROACH CONTROL FACILITY	1,600	1,600	1,600	1,600
ATB-SOUND SUPPRESSOR SUPPORT	500	500	500	500
CONSOLIDATED MISSILE WING MAINT CTRL CTR	4,800	4,800	4,800	4,800
UNDISTRIBUTED REDUCTION	---	-2,000	-10,000	-20,000
DEFENSE AGENCIES				
FORT LEONARD WOOD				
EMERGENCY ROOM ALTERATIONS	1,450	1,450	1,450	1,450
ARMY NATIONAL GUARD				
BOONEVILLE				
60 PERSON ARMORY	848	848	848	848
FESTUS				
200 PERSON ARMORY	1,783	1,783	1,783	1,783
JEFFERSON CITY				
U.S. PROPERTY & FISCAL OFFICER OFFICE	436	2,036	2,036	2,036
MONETT				
60 PERSON ARMORY	955	955	955	955
ARMY RESERVE				
KIRKSVILLE				
LAND ACQUISITION	75	---	75	---
AIR FORCE RESERVE				
RICHARDS-GEBAUR				
TACTICAL CLINIC	1,600	1,600	1,600	1,600
TOTAL, MISSOURI	91,447	90,972	83,047	72,972
MONTANA				
AIR FORCE				
MALMSTROM AFB				
KC135R-AIRCRAFT MAINTENANCE SHOPS	7,300	7,300	7,300	7,300
KC135R-ALTER WEAPONS SYS MAINT CTRL FAC	1,250	1,250	1,250	1,250
KC135R-VEHICLE READINESS FACILITY	2,400	2,400	2,400	2,400
KC135R-ADD/ALT PRECISION MEASUREMENT LAB	1,800	1,800	1,800	1,800
KC135R-ADD/ALTER AIRCRAFT PARTS STORAGE	910	910	910	910
KC135R-ALERT CREW SUPPORT FACILITY	400	400	400	400
KC135R-BASE ENGINEER FACILITIES	1,250	1,250	1,250	1,250
KC135R-MISSION OPERATIONS FACILITIES	700	700	700	700
KC135R-TRANSIENT AIRCRAFT MAINTENANCE FAC	410	410	410	410
KC135R-UPGRADE UTILITIES	3,050	3,050	3,050	3,050

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
CULBERTSON				
ORGANIZATIONAL MAINTENANCE SHOP	556	556	556	556
GLASCOW				
RANGE, MULTI-PURPOSE INDOOR	336	336	336	336
LIVINGSTON				
60 PERSON ARMORY	764	764	764	764
MISSOULA				
ORGANIZATIONAL MAINTENANCE SHOP	607	607	607	607
TOTAL, MONTANA	21,733	21,733	21,733	21,733
NEBRASKA				
AIR FORCE				
OFFUTT AFB				
PHYSIOLOGICAL TRAINING FACILITY	2,450	2,450	2,450	2,450
DEFENSE AGENCIES				
DEF REUTILIZATION & MKTG OFC OFFUTT AFB				
COVERED STORAGE	430	430	430	430
ARMY NATIONAL GUARD				
HASTINGS				
RANGE, MOUT ASSAULT COURSE	266	266	266	266
TOTAL, NEBRASKA	3,146	3,146	3,146	3,146
NEVADA				
NAVY				
NAVAL AIR STATION FALLON				
AIRCRAFT MAINTENANCE FACILITIES	1,500	1,500	1,500	1,500
MAINTENANCE HANGAR	6,120	6,120	6,120	6,120
WAREHOUSE	1,850	1,850	1,850	1,850
AIR FORCE				
INDIAN SPRINGS				
MUNITIONS LOADING/REVETMENT	3,150	3,150	3,150	3,150
NELLIS AFB				
AIRCRAFT MUNITIONS LOADING APRON	5,700	5,700	5,700	5,700
FLIGHTLINE SECURITY FENCING	1,000	1,000	1,000	1,000
ARMY NATIONAL GUARD				
STEAD				
AVIATION SUPPORT FACILITY	---	---	1,115	1,115
AIR NATIONAL GUARD				
RENO IAP				
FIRE SUPPRESSION SYSTEM	800	800	800	800
DISPENSARY	---	---	250	---
TOTAL, NEVADA	20,120	20,120	21,485	21,235
NEW HAMPSHIRE				
AIR FORCE				
NEW BOSTON AIR FORCE STATION				
EMERGENCY ELECTRIC POWER PLANT	4,500	4,500	4,500	4,500
PEASE AFB				
ADD-ALTER COMBAT ARMS TRAINING FACILITY	1,050	1,050	1,050	1,050
SECURITY IMPROVEMENTS	1,050	1,050	1,050	1,050
ALTER ELECTRICAL SYSTEM	---	---	8,850	8,850
ENERGY PLANT CONVERSION	---	---	500	---
ARMY NATIONAL GUARD				
CONCORD				
OMS ADDITION	---	---	344	---
AIR NATIONAL GUARD				
PEASE AFB				
ADD/ALTER HANGAR FOR AIRCRAFT MAINT	5,000	5,000	5,000	5,000
ARMY RESERVE				
CONCORD				
LAND ACQUISITION	---	---	150	150
LACONIA				
LAND ACQUISITION	---	---	350	350
MANCHESTER				
HARDSTAND	---	---	125	125
NAVY RESERVE				
MANCHESTER				
RESERVE CENTER	---	---	5,300	---
TOTAL, NEW HAMPSHIRE	11,600	11,600	27,219	21,075
NEW JERSEY				
ARMY				
FT DIX				
RANGE MODERNIZATION	6,200	6,200	6,200	6,200

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY				
NAVAL WEAPONS STATION EARLE				
DREDGING	18,600	30,400	30,400	30,400
AIR FORCE				
MCGUIRE AFB				
ADD TO/UPGRADE PHYSICAL FITNESS CENTER	1,250	1,250	1,250	1,250
SECURITY POLICE COMPLEX	2,300	2,300	2,300	2,300
ARMY NATIONAL GUARD				
FT DIX				
ORGANIZATIONAL MAINTENANCE SHOP	710	710	710	710
TOMS RIVER				
TRNG SITE, AVIATION TRAINING SITE	988	988	988	988
WASHINGTON				
ARMORY ADDITION/ALTERATION	1,629	1,629	1,629	1,629
AIR NATIONAL GUARD				
ATLANTIC CITY				
ADD/ALTER ROCKET CHECK OUT/STORAGE FAC	1,800	1,800	1,800	1,800
ALTER ELECT DISTRIBUTION SYSTEM	340	340	340	340
WARREN GROVE RANGE				
RANGE TOWERS/GUNNERY RANGE	300	300	300	300
TOTAL, NEW JERSEY	34,117	45,917	45,917	45,917
NEW MEXICO				
NAVY				
NAVAL ORD MISSILE TEST STA WHITE SANDS				
MISSILE TEST FACILITY	8,090	8,090	8,090	8,090
AIR FORCE				
CANNON AFB				
F111-AIRCRAFT FUEL SYSTEM MAINT DOCKS	2,800	2,800	2,800	2,800
F111-AVIONICS FACILITY	1,300	1,300	1,300	1,300
HOLLOMAN AFB				
DORMITORIES	2,900	2,900	2,900	2,900
KIRTLAND AFB				
ADD TO OPERATIONAL TEST AND EVAL COMPLEX	3,100	3,100	3,100	3,100
HIGH ENERGY RESEARCH AND TECH FACILITY	9,900	9,900	9,900	9,900
DEFENSE AGENCIES				
KIRTLAND AFB				
DENTAL CLINIC	---	---	2,550	2,550
ARMY NATIONAL GUARD				
CENTRAL				
ARMORY	---	---	1,070	1,070
GRANTS				
ARMORY	---	---	800	800
LAS VEGAS				
ARMORY	---	1,313	1,313	1,313
SANTA FE				
ORGANIZATIONAL MAINTENANCE SHOP	405	405	405	405
U.S. PROPERTY & FISCAL OFFICER OFFICE BLDG	848	848	848	848
SANTA ROSA				
ARMORY	---	819	800	800
TUCUMCARI				
ARMORY	---	---	807	807
TOTAL, NEW MEXICO	29,343	31,475	36,683	36,683
NEW YORK				
ARMY				
FORT DRUM				
10TH MOUNTAIN DIVISION FACS PH III (PRIOR YEAR ADVANCE APPROPRIATION)	(214,000)	(214,000)	(214,000)	(214,000)
U S MILITARY ACADEMY				
ACADEMIC FACILITY MODERNIZATION PHASE IV	5,900	5,900	5,900	5,900
CAMP NATURAL BRIDGE MODERNIZATION	8,600	---	8,600	---
RECORD FIRE RANGE MODERNIZATION	2,750	2,750	2,750	2,750
REGIONAL SEWAGE SYSTEM CONNECTION	2,500	2,500	2,500	2,500
NAVY				
NAVAL STATION NEW YORK				
BATTLESHIP SUPPORT COMPLEX (INCREMENT IV)	33,395	23,395	33,395	23,395
AIR FORCE				
GRIFFISS AFB				
ALERT TAXIWAY BARRIERS	700	700	700	700
UPGRADE ELECTRICAL DISTRIBUTION SYSTEM	10,400	10,400	10,400	10,400
ARMY NATIONAL GUARD				
ALBANY				
ARMY AVIATION SUPPORT FACILITY ADDITION	371	371	371	371
AIR NATIONAL GUARD				
HANCOCK FIELD				
AIRCRAFT ARRESTING SYSTEM	950	950	950	950
POWER CHECK PAD WITH SUPPRESSOR	760	760	760	760
SPECIAL FUELS FACILITY	270	270	270	270

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
STEWART AIRPORT				
AUTOMOTIVE MAINTENANCE SHOP	3,100	3,100	3,100	3,100
AIR FORCE RESERVE				
NIAGARA FALLS IAP				
ADD/ALTER MEDICAL TRAINING FACILITY	900	900	900	900
TOTAL, NEW YORK	70,596	51,996	70,596	51,996
NORTH CAROLINA				
ARMY				
FORT BRAGG				
APPLIED INSTRUCTION FACILITY	3,802	3,802	3,802	3,802
COMPANY OPERATIONS FACILITIES	7,900	7,900	7,900	7,900
SEWAGE TREATMENT PLANT UPGRADE	7,900	7,900	7,900	7,900
SPECIAL FORCES OPERATIONS COMPLEX	17,000	17,000	17,000	17,000
NAVY				
MARINE CORPS AIR STATION CHERRY POINT				
AIRCRAFT GUNNERY RANGE MODIFICATION	1,880	1,880	1,880	1,880
BACHELOR ENLISTED QUARTERS	16,910	16,910	16,910	16,910
CHILD CARE CENTER	1,740	1,740	1,740	1,740
CONTROL TOWER	3,010	3,010	3,010	3,010
FORWARD TRAINING AREA	8,280	8,280	8,280	8,280
SHOP VENTILATION IMPROVEMENTS	560	560	560	560
MARINE CORPS AIR STATION NEW RIVER				
COMBAT AIRCRAFT ORDNANCE LOADING AREA	2,350	2,350	2,350	2,350
MAINTENANCE HANGAR MODERNIZATION	5,550	5,550	5,550	5,550
ORDNANCE OPERATIONS BUILDING	500	500	500	500
MARINE CORPS BASE CAMP LEJUENE				
AIR EMISSIONS CONTROL	600	600	600	600
BACHELOR ENLISTED QUARTERS	16,220	16,220	16,220	16,220
CHILD CARE CENTER	1,040	1,040	1,040	1,040
COMBINED ARMS STAFF TRAINER FACILITY	1,640	1,640	1,640	1,640
INFANTRY SCHOOL	2,210	2,210	2,210	2,210
REMOTE PILOTED VEHICLE OPERS MAINT FAC	1,740	1,740	1,740	1,740
AIR FORCE				
SEYMOUR JOHNSON AFB				
ADD TO/UPGRADE CORROSION CONTROL FACILITY	3,050	3,050	3,050	3,050
DEFENSE AGENCIES				
SEYMOUR JOHNSON AIR FORCE BASE				
COMPOSITE MED FACILITY LIFE SAFETY UPGRADE	3,700	3,700	3,700	3,700
ARMY NATIONAL GUARD				
TAYLORSVILLE				
60 PERSON ARMORY	683	683	683	683
AIR NATIONAL GUARD				
DOUGLAS MAP				
AIRCRAFT PARKING APRON	4,800	4,800	4,800	4,800
AIR FORCE RESERVE				
SEYMOUR JOHNSON AFB				
RESERVE OPERATIONAL AND TRAINING (KC-10)	2,000	2,000	2,000	2,000
TOTAL, NORTH CAROLINA	115,065	115,065	115,065	115,065
NORTH DAKOTA				
AIR FORCE				
GRAND FORKS AFB				
ALERT AIRCRAFT SECURITY SCREENS	4,350	4,350	4,350	4,350
ALERT TAXIWAY BARRIER	340	340	340	340
ALTER DORMITORIES	2,350	2,350	2,350	2,350
B1B-ADD TO AND UPGRADE EQUIP CORROSN CTRL	2,150	2,150	2,150	2,150
B1B-MUNITIONS LOAD CREW TRAINING FAC	1,700	1,700	1,700	1,700
B52-AIRCRAFT PARTS STORAGE FACILITY	2,400	2,400	2,400	2,400
MINOT AFB				
COMMUNICATIONS FACILITY	3,050	3,050	3,050	3,050
EDUCATION CENTER	3,200	3,200	3,200	3,200
ARMY NATIONAL GUARD				
BISMARCK				
ORGANIZATIONAL MAINTENANCE SHOP	1,232	1,232	1,232	1,232
MINOT				
ARMORY-RESERVE CENTER	---	---	7,920	7,920
TOTAL, NORTH DAKOTA	20,772	20,772	28,692	28,692
OHIO				
AIR FORCE				
WRIGHT-PATTERSON AFB				
ADD TO/UPGRADE AFLC HEADQUARTERS CMD POST	1,650	1,650	1,650	1,650
ADD TO/UPGRADE SPECIAL OPS INTEL FAC	7,717	7,717	7,717	7,717
ADD-ALTER AIRCRAFT MODIFICATION CENTER	2,088	2,088	2,088	2,088

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
MCCONNELLSVILLE				
ARMORY	---	4,669	4,669	4,669
ORGANIZATIONAL MAINTENANCE SHOP	---	---	1,153	1,153
TRAINING SITE	---	---	914	914
AIR NATIONAL GUARD				
TOLEDO EXPRESS AIRPORT				
ADD TO BASE SUPPLY	300	300	300	300
ARMY RESERVE				
CHILLICOTHE				
ADD/ALTER USARC W/MAINT FAC	1,266	1,266	1,266	1,266
DELAWARE				
ADD/ALTER USARC W/MAINT FAC	1,355	1,355	1,355	1,355
ZANESVILLE				
MAINT FAC/PARKING	275	275	275	275
NAVY RESERVE				
NMCRC TOLEDO				
RESERVE TRAINING BUILDING	3,900	3,900	3,900	3,900
AIR FORCE RESERVE				
YOUNGSTOWN MAP				
MEDICAL TRAINING FACILITY	1,850	1,850	1,850	1,850
UPGRADE DINING HALL	1,000	1,000	1,000	1,000
TOTAL, OHIO	21,401	26,070	28,137	28,137
OKLAHOMA				
ARMY				
FORT SILL				
MAINTENANCE FACILITY	3,700	3,700	3,700	3,700
NAVY				
NAVAL AIR DETACHMENT TINKER AIR FORCE BASE				
NAVAL SPECIAL WARFARE UNIT	38,080	38,080	38,080	38,080
AIR FORCE				
ALTUS AFB				
LAND ACQUISITION	---	2,300	2,300	2,300
TINKER AFB				
B1B-AVIONICS FAC/LAND ACQUISITION	11,400	11,400	11,400	11,400
SECURITY POLICE OPERATIONS FACILITY	1,250	1,250	1,250	1,250
DEFENSE AGENCIES				
FORT SILL				
HOSPITAL PHASE II	---	54,000	27,000	27,000
ARMY NATIONAL GUARD				
HUGO				
ARMORY	---	700	700	700
TULSA				
ORGANIZATIONAL MAINTENANCE SHOP	400	400	400	400
AIR NATIONAL GUARD				
TULSA IAP				
FIRE SUPPRESSION SYSTEM	800	800	800	800
ARMY RESERVE				
MIDWEST CITY				
ADD/ALTER AFRC	3,727	3,727	3,727	3,727
PONCA CITY				
ADD/ALTER USARC W/MAINT FAC	1,336	1,336	1,336	1,336
NAVY RESERVE				
NMCRC OKLAHOMA				
RESERVE CENTER ADDITION	2,350	2,350	2,350	2,350
AIR FORCE RESERVE				
TINKER AFB				
ADD FIRE PROTECTION FUEL SYSTEM HANGAR	660	660	660	660
CIVIL ENGINEERING TRAINING FACILITY	780	780	780	780
TOTAL, OKLAHOMA	64,483	121,483	94,483	94,483
OREGON				
ARMY				
UMATILLA ARMY DEPOT				
CHEMICAL AREA SECURITY UPGRADE	3,600	3,600	3,600	3,600
ARMY NATIONAL GUARD				
REDMOND				
UNIT TRAINING EQUIPMENT SITE ADD/ALT	693	693	693	693
AIR NATIONAL GUARD				
PORTLAND IAP				
ADD TO AIRCRAFT ENGINE I & R SHOP	300	300	300	300
ALERT FACILITIES	2,000	2,000	2,000	2,000
AVIONICS FACILITY	1,600	1,600	1,600	1,600
POWER CHECK PAD WITH SUPPRESSOR	990	990	990	990

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY RESERVE				
CORVALLIS				
UPGRADE KITCHEN	150	150	150	150
AIR FORCE RESERVE				
PORTLAND IAP				
CIVIL ENGINEERING TRAINING FACILITY	750	750	750	750
TOTAL, OREGON	10,083	10,083	10,083	10,083
PENNSYLVANIA				
ARMY				
LETTERKENNY ARMY DEPOT				
INDUSTRIAL WASTE TREATMENT PLANT	1,900	1,900	1,900	1,900
NEW CUMBERLAND AD				
ENERGY CONSERVATION ALTERATIONS	1,800	---	---	---
ACCESS ROAD	---	5,300	---	5,300
NAVY				
NAVAL AIR DEVELOPMENT CENTER WARMINSTER				
BACHELOR ENLISTED QUARTERS IMPROVEMENTS	1,270	1,270	1,270	1,270
NAVAL SHIPYARD PHILADELPHIA				
WATER DISTRIBUTION SYSTEM PHASE II	---	10,300	8,200	10,300
NAVY AVIATION SUPPLY OFFICE PHILADELPHIA				
FLEET SUPPORT MANAGEMENT OFFICE ADDITION	1,400	1,400	1,400	1,400
NAVY SHIPS PARTS CONTROL CTR MECHANICSBURG				
ADMINISTRATIVE OFFICE	2,050	2,050	2,050	2,050
DEFENSE AGENCIES				
DEFENSE DEPOT MECHANICSBURG				
TRAILER LOADING/PARKING AREA/PAVING	460	460	460	460
ARMY NATIONAL GUARD				
FINLEYVILLE				
RANGE, 25 METER BASIC BAFFLED	188	188	188	188
FT INDIANTOWN GAP				
HELICOPTER PARKING AREA	269	269	269	269
LEWISBURG				
ARMORY ADDITION ALTERATION	944	944	944	944
AIR NATIONAL GUARD				
GREATER PITTSBURGH IAP				
ACCESS ROAD	5,000	5,000	5,000	5,000
ARMY RESERVE				
MEADVILLE				
ADD/ALT USARC W/MAINT FAC	1,602	1,602	1,602	1,602
STATE COLLEGE				
ADD/ALTER USARC W/MAINT FAC	1,509	1,509	1,509	1,509
NAVY RESERVE				
NAS WILLOW GROVE				
AIR OPERATIONS AND TERMINAL BUILDING	1,900	1,900	1,900	1,900
RES ASW TRA CEN ADDITION	2,300	2,300	2,300	2,300
AIR FORCE RESERVE				
GREATER PITTSBURGH IAP				
IMPROVE BASE ACCESS ROAD	1,650	1,650	1,650	1,650
TOTAL, PENNSYLVANIA	24,242	38,042	30,642	38,042
RHODE ISLAND				
NAVY				
NAVAL EDUCATION & TRAINING CENTER NEWPORT				
ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMENTS	7,600	7,600	7,600	7,600
WATER DISTRIBUTION SYSTEM IMPROVEMENTS	3,960	3,960	3,960	3,960
NAVAL JUSTICE SCHOOL NEWPORT				
LEGAL TRAINING BUILDING	2,060	2,060	---	2,060
SURFACE WARFARE OFFICERS SCH CMD NEWPORT				
COMBAT SYSTEMS TRAINER BUILDING	4,750	4,750	4,750	4,750
AIR NATIONAL GUARD				
COVENTRY AGS				
ADD/ALTER BUILDINGS PHASE III	1,350	1,350	1,350	1,350
TOTAL, RHODE ISLAND	19,720	19,720	17,660	19,720
SOUTH CAROLINA				
NAVY				
NAVAL HOSPITAL BEAUFORT				
BACHELOR ENLISTED QUARTERS	2,260	2,260	2,260	2,260
NAVAL SHIPYARD CHARLESTON				
FIRE PROTECTION SYSTEMS	640	640	640	640
NAVAL SUPPLY CENTER CHARLESTON				
BULK FUEL LOADING AND UNLOADING FACILITY	1,090	1,090	1,090	1,090

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVAL WEAPONS STATION CHARLESTON				
ELECTRICAL DISTRIBUTION SYSTEM	2,900	2,900	2,900	2,900
INERT STOREHOUSE	470	470	470	470
MISSILE FACILITY	9,400	9,400	9,400	9,400
MISSILE MAGAZINES	3,620	3,620	3,620	3,620
TORPEDO MAINTENANCE FACILITY	3,390	3,390	3,390	3,390
VERTICAL LAUNCH MISSILE FACILITY	2,470	2,470	2,470	2,470
AIR FORCE				
CHARLESTON AFB				
ADD/ALTER CHILD DEVELOPMENT CENTER	---	490	---	---
C17-FLIGHT SIMULATOR TRAINING FACILITY	5,000	5,000	5,000	5,000
DEFENSE AGENCIES				
PARRIS ISLAND MARINE CORPS RECRUIT DEPOT				
DENTAL CLINIC ADDITION/ALTERATION	4,100	4,100	4,100	4,100
ARMY NATIONAL GUARD				
FORT JACKSON				
NONCOMMISSIONED OFFICER ACADEMY	1,176	1,176	1,176	1,176
AIR NATIONAL GUARD				
MCENTIRE				
BASE ENGINEER MAINTENANCE FACILITY	1,150	1,150	1,150	1,150
FIRE SUPPRESSION SYSTEM	900	900	900	900
FUEL SYSTEMS MAINT CORROSION CONTROL FAC	1,100	1,100	1,100	1,100
ARMY RESERVE				
GREENWOOD				
ADD/ALTER USARC W/MAINT FAC	1,850	1,850	1,850	1,850
AIR FORCE RESERVE				
CHARLESTON AFB				
CIVIL ENGINEERING TRAINING FACILITY	620	620	620	620
TOTAL, SOUTH CAROLINA	42,136	42,626	42,136	42,136
SOUTH DAKOTA				
AIR FORCE				
ELLSWORTH AFB				
B1B-MUNITIONS LOAD CREW TRAINING FAC	1,700	1,700	1,700	1,700
IMPROVE BASE TRAFFIC FLOW	1,650	1,650	1,650	1,650
STRATEGIC WARFARE CENTER	5,300	5,300	5,300	5,300
ARMY NATIONAL GUARD				
RAPID CITY				
200 PERSON ARMORY	1,614	1,614	1,614	1,614
TOTAL, SOUTH DAKOTA	10,264	10,264	10,264	10,264
TENNESSEE				
NAVY				
NAS MEMPHIS				
TRAINING FACILITY	---	---	10,090	10,090
AIR FORCE				
ARNOLD ENGINEERING DEV CENTER				
INDEPENDENT WIND TUNNEL DRIVE SYSTEM	23,000	23,000	23,000	23,000
LARGE ROCKET TEST FACILITY (J-6)	50,000	50,000	50,000	50,000
UPGRADE STEAM PLANT	7,800	7,800	7,800	7,800
ARMY NATIONAL GUARD				
MILAN				
TRNG SITE, TRAINING FACILITIES PH II	1,556	1,556	1,556	1,556
TRENTON				
ARMORY	---	---	1,500	1,500
AIR NATIONAL GUARD				
MCGHEE-TYSON AIRPORT				
PROFESSIONAL MILITARY EDUC CENTER PHASE II	4,300	4,300	4,300	4,300
NAVY RESERVE				
NAS MEMPHIS				
AIRCRAFT RINSE FACILITY	1,100	1,100	1,100	1,100
RESERVE TRAINING AND ADMIN BUILDING	3,800	3,800	3,800	3,800
TOTAL, TENNESSEE	91,556	91,556	103,146	103,146
TEXAS				
ARMY				
CORPUS CHRISTI ARMY DEPOT				
AIRCRAFT MAINTENANCE SHOP ADDITION	2,500	2,500	2,500	2,500
AIRFRAMES SUPPORT FACILITY	4,900	4,900	4,900	4,900
FORT BLISS				
BARRACKS MODERNIZATION	---	7,100	---	7,100
TACTICAL EQUIPMENT SHOP	---	3,800	---	3,800
FORT HOOD				
BATTLE SIMULATION FACILITY	9,000	9,000	9,000	9,000
CHILD DEVELOP/CHAPEL/RELIGIOUS ED FAC	6,900	6,900	6,900	6,900

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
RED RIVER ARMY DEPOT				
CENTRAL DISTRIBUTION CENTER - PHASE II............	10,000	10,000	10,000	10,000
WEATHERIZE BUILDINGS..............................	400	400	400	400
FORT SAM HOUSTON				
CHILD DEVELOPMENT CENTER/RELIGIOUS ED CTR.........	3,250	3,250	3,250	3,250
NAVY				
NAVAL STATION GALVESTON				
SHIP SUPPORT COMPLEX (INCREMENT II)...............	8,110	8,110	14,500	8,110
NAVAL STATION INGLESIDE				
SHIP SUPPORT COMPLEX (INCREMENT II)...............	31,850	31,850	31,850	31,850
AIR FORCE				
BERGSTROM AFB				
NCO PROFESSIONAL EDUCATION CENTER.................	2,800	2,800	2,800	2,800
BROOKS AFB				
VEHICLE MAINTENANCE SHOP..........................	---	2,750	---	2,750
CARSWELL AFB				
DINING FACILITY...................................	3,500	3,500	3,500	3,500
DYESS AFB				
B1B-ADD/ALTER ACFT MAINT MACHINE SHOP.............	520	520	520	520
B1B-DIVISION OPERATIONS FACILITY..................	950	950	950	950
CONTROL TOWER.....................................	2,000	2,000	2,000	2,000
GOODFELLOW AFB				
VEHICLE MAINTENANCE FACILITY......................	2,350	2,350	2,350	2,350
KELLY AFB				
ADD TO HAZARDOUS MATERIAL STORAGE FAC.............	3,000	3,000	3,000	3,000
AIRCRAFT CORROSION CONTROL FACILITY...............	8,800	8,800	8,800	8,800
DEPOT WAREHOUSE...................................	17,500	17,500	17,500	17,500
LACKLAND AFB				
DLI-LANGUAGE TRAINING LABORATORY..................	12,000	10,000	---	10,000
EMERGENCY POWER PLANT.............................	2,039	2,039	2,039	2,039
LAUGHLIN AFB				
ADD TO VEHICLE MAINTENANCE COMPLEX................	980	980	980	980
PETROLEUM OPERATIONS COMPLEX......................	930	930	930	930
RANDOLPH AFB				
ALTER TECHNICAL TRAINING MGMT FACILITY............	1,750	1,750	1,750	1,750
MANPOWER ANALYSIS FACILITY........................	2,400	2,400	2,400	2,400
STUDENT DORMITORIES...............................	4,400	4,400	4,400	4,400
REESE AFB				
SURVIVAL EQUIPMENT SHOP...........................	990	990	990	990
SHEPPARD AFB				
FUEL CELL REPAIR FACILITY.........................	1,200	1,200	1,200	1,200
STUDENT DORMITORY.................................	9,500	9,500	9,500	9,500
DEFENSE AGENCIES				
CORPUS CHRISTI				
HOSPITAL LIFE SAFETY UPGRADE......................	6,100	6,100	6,100	6,100
DEF REUTILIZATION & MKTG OFC CARSWELL AFB				
COVERED STORAGE...................................	350	350	350	350
DYESS AIR FORCE BASE				
HOSPITAL LIFE SAFETY UPGRADE......................	950	950	950	950
FORT SAM HOUSTON ARMY BASE				
HOSPITAL REPLACEMENT PHASE I......................	23,000	23,000	23,000	23,000
ARMY NATIONAL GUARD				
ELLINGTON ANG BASE (HOUSTON)				
200 PERSON ARMORY.................................	2,293	2,293	2,293	2,293
ARMY AVIATION SUPPORT FACILITY....................	1,960	1,960	1,960	1,960
ORGANIZATIONAL MAINTENANCE SHOP...................	395	395	395	395
AIR NATIONAL GUARD				
DALLAS NAS				
WEAPONS SYSTEM SECURITY/MEDICAL TNG/ADMIN.........	2,100	2,100	2,100	2,100
ELLINGTON ANGB				
ADD/ALTER BLDG 1380 AGE FACILITY..................	350	350	350	350
ALTER BLDG 1358 FOR BCE & ADMIN...................	340	340	340	340
ARMY RESERVE				
AMARILLO				
UPGRADE KITCHEN...................................	200	200	200	200
HARLINGEN				
ARMED FORCES RESERVE CENTER W/MAINT FAC...........	2,739	2,739	2,739	2,739
FORT HOOD				
REGIONAL MAINTENANCE TRAINING SITE................	2,504	2,504	2,504	2,504
HOUSTON (OLD SPANISH TRAIL)				
PURCHASE USARC W/MAINT FAC........................	2,500	2,500	2,500	2,500
SEAGOVILLE				
ADD/ALTER USARC W/MAINT FAC.......................	5,003	5,003	5,003	5,003
LOCAL TRAINING AREA...............................	2,184	2,184	2,184	2,184
NAVY RESERVE				
NAVAL AIR STATION DALLAS				
FIRE & RESCUE STATION STORAGE ADDITION............	355	355	355	355
NMCRC DALLAS				
RESERVE CENTER ADDITION...........................	3,300	3,300	3,300	3,300
NMCRC HARLINGEN				
RESERVE TRAINING BUILDING.........................	2,600	2,600	2,600	2,600

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE RESERVE				
CARSWELL AFB				
ALTER AVIONICS SHOP	2,100	2,100	2,100	2,100
ALTER MAINTENANCE SHOPS	1,000	1,000	1,000	1,000
COMPOSITE MAINTENANCE SHOPS	3,550	3,550	3,550	3,550
FUEL SYSTEMS MAINTENANCE HANGAR	2,550	2,550	2,550	2,550
MUNITIONS STORAGE	310	310	310	310
KELLY AFB				
COMPOSITE MAINTENANCE FACILITY	2,700	2,700	2,700	2,700
OUTDOOR WASHRACK	1,200	1,200	1,200	1,200
TOTAL, TEXAS	227,152	238,802	221,542	238,802
UTAH				
ARMY				
DUGWAY PROVING GROUND				
CHEMICAL LABORATORY FACILITY	12,800	12,800	12,800	12,800
TOOELE ARMY DEPOT				
AMMUNITION DEMILITARIZATION FACILITY	49,600	---	49,600	49,600
CHEMICAL AREA SECURITY UPGRADE	5,700	5,700	5,700	5,700
CONSOLIDATED MAINTENANCE FACILITY MOD	37,000	37,000	37,000	37,000
AIR FORCE				
HILL AFB				
ADD TO/UPGRADE METAL PROCESSING SHOP	1,600	1,600	1,600	1,600
COMBAT LOGISTICS SUPPORT FACILITY	3,700	3,700	3,700	3,700
LANTIRN AVIONICS FACILITY	810	810	810	810
SOUND SUPPRESSOR SUPPORT FACILITY	880	880	880	880
TACTICAL AIRCRAFT CONTROL OPERATIONS FAC	3,750	3,750	3,750	3,750
DEFENSE AGENCIES				
DEFENSE DEPOT OGDEN				
ADP FACILITY	6,000	6,000	6,000	6,000
AIR NATIONAL GUARD				
SALT LAKE CITY IAP				
ELECTRONICS SECURITY COMPLEX	2,800	2,800	2,800	2,800
AIR FORCE RESERVE				
HILL AFB				
ADD/ALTER RESERVE OPERATIONAL TRAINING	1,540	1,540	1,540	1,540
TOTAL, UTAH	126,180	76,580	126,180	126,180
VERMONT				
ARMY NATIONAL GUARD				
ETHAN ALLEN				
400 PERSON ARMORY	4,001	4,001	4,001	4,001
TOTAL, VERMONT	4,001	4,001	4,001	4,001
VIRGINIA				
ARMY				
FORT A P HILL				
UTILITIES AND TRAINING FACILITY UPGRADE	5,900	5,900	9,900	9,900
FORT EUSTIS				
APPLIED INSTRUCTION FACILITY	2,500	2,500	2,500	2,500
EMERGENCY SERVICES BUILDING	---	2,500	---	2,500
FORT LEE				
PETROLEUM FIELD TRAINING FACILITY	---	4,800	---	4,800
FORT PICKETT				
CENTRAL WASH FACILITY	4,000	4,000	4,000	4,000
VINT HILL FARMS STATION				
WAREHOUSE ADDITION	800	800	800	800
NAVY				
ATLANTIC FLEET HQTRS SUPPORT ACT NORFOLK				
ADMINISTRATIVE BUILDING ADDITION	1,700	1,700	---	1,700
FLEET COMBAT TRAIN CTR ATLANTIC DAM NECK				
RADARMAN TRAINING BUILDING ADDITION	4,700	4,700	4,700	4,700
MARINE CORPS COMBAT DEC COMMAND QUANTICO				
APPLIED INSTRUCTION BUILDING	1,790	1,790	1,790	1,790
BACHELOR ENLISTED QUARTERS	7,700	7,700	7,700	7,700
TRAINING RANGE IMPROVEMENTS	4,800	4,800	4,800	4,800
MARINE CORPS DETACHMENT CAMP ELMORE				
AMPHIBIOUS BRIGADE SUPPORT COMPLEX	1,690	1,690	1,690	1,690
MARINE ENVIRONMENTAL SYSTEMS FAC DAM NECK				
BOAT STORAGE FACILITIES	5,000	5,000	5,000	5,000
NAVAL AIR STATION OCEANA				
STORAGE BUILDING ADDITIONS	790	790	790	790
TACTICAL AIRCREW TRAINING SYSTEM COMPLEX	1,900	1,900	1,900	1,900
NAVAL AMPHIBIOUS BASE LITTLE CREEK				
BOAT SHOP	8,270	8,270	8,270	8,270
NAVAL AMPHIBIOUS SCHOOL LITTLE CREEK				

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
TRAINING FACILITIES	640	640	640	640
NAVAL AVIATION DEPOT NORFOLK				
MATERIALS AND STANDARDS LABORATORY	8,950	8,950	8,950	8,950
NAVAL GUIDED MISSILES SCHOOL DAM NECK				
FIRE FIGHTING TRAINER FACILITY	4,450	4,450	4,450	4,450
NAVAL LEGAL SERVICE OFFICE NORFOLK				
NAVAL LEGAL SERVICE BUILDING ADDITION	1,080	1,080	1,080	1,080
NAVAL MEDICAL CLINIC NORFOLK				
AVIATION PHYSIOLOGY TRAINING FACILITY	2,470	2,470	2,470	2,470
NAVAL OPHTHALMIC SPT & TRNG ACT YORKTOWN				
OPTHALMIC SUPPORT BLDG ADDN & ALTERATIONS	1,970	1,970	1,970	1,970
NAVAL SECURITY GROUP ACT NW CHESAPEAKE				
GYMNASIUM	1,090	1,090	1,090	1,090
PERSONNEL SUPPORT FACILITIES	4,310	4,310	4,310	4,310
NAVAL SUPPLY CENTER NORFOLK				
DRUM STORAGE AND ISSUE FACILITY	4,600	4,600	4,600	4,600
LARGE COMPONENT STORAGE	2,060	2,060	2,060	2,060
NAVAL SUPPLY CENTER WILLIAMSBURG				
MUNICIPAL SEWER CONNECTION	3,300	3,300	3,300	3,300
NAVAL SURFACE WEAPONS CENTER DAHLGREN				
AEGIS EDUCATION CENTER ADDITION	8,470	8,470	8,470	8,470
TARGET SUPPORT FACILITY	10,132	10,132	10,132	10,132
WEAPONS SYSTEM LABORATORY	6,840	6,840	6,840	6,840
NAVAL WEAPONS STATION YORKTOWN				
MISSILE FACILITY	9,100	9,100	9,100	9,100
MISSILE MAGAZINES	4,890	4,890	4,890	4,890
MISSILE MAGAZINES	7,470	7,470	7,470	7,470
PIER MODERNIZATION	7,870	7,870	7,870	7,870
NAVY PUBLIC WORKS CENTER NORFOLK				
STEAM PLANT IMPROVEMENTS	4,410	4,410	4,410	4,410
AIR FORCE				
LANGLEY AFB				
TACTICAL AIRCRAFT CONTROL COMPLEX	2,250	2,250	2,250	2,250
DEFENSE AGENCIES				
ARLINGTON SERVICE CENTER				
DCA HQS ALTERATIONS BLDG 12	742	742	742	742
FT BELVOIR				
BUILDING CONVERSION	3,000	3,000	3,000	3,000
CHEATHAM ANNEX				
COLD STORAGE FACILITY	450	450	450	450
ARMY NATIONAL GUARD				
ARLINGTON HALL STATION				
NATIONAL GUARD CENTER	21,900	21,900	21,900	21,900
COVINGTON/CLIFTON FORGE				
100 PERSON ARMORY	1,071	1,071	1,071	1,071
GATE CITY				
ORGANIZATIONAL MAINTENANCE SHOP ADDITION	349	349	349	349
HARRISONBURG				
ARMORY ADDITION/ALTERATION	830	830	830	830
PETERSBURG				
ARMORY ADDITION/ALTERATION	1,031	1,031	1,031	1,031
SANDSTON				
200 PERSON ARMORY	2,504	2,504	2,504	2,504
WARRENTON				
ARMORY ADDITION/ALTERATION	445	445	445	445
WEST POINT				
ARMORY	---	1,420	1,420	1,420
ARMY RESERVE				
FORT EUSTIS				
STORAGE/MAINT FAC	3,163	3,163	3,163	3,163
AIR FORCE RESERVE				
LANGLEY AFB				
AERIAL PORT TRAINING FACILITY	530	530	530	530
TOTAL, VIRGINIA	183,907	192,627	187,627	196,627
WASHINGTON				
ARMY				
FORT LEWIS				
HARDSTAND/TACTICAL EQUIPMENT SHOPS	9,800	9,800	9,800	9,800
SPECIAL NEEDS SCHOOL	---	10,000	---	10,000
NAVY				
NAVAL AIR STATION WHIDBEY ISLAND				
AIRCRAFT INTERMEDIATE MAINTENANCE FACILITY	8,370	8,370	8,370	8,370
AIRCRAFT PARKING APRON	2,640	2,640	2,640	2,640
NAVAL STATION EVERETT				
CARRIER SUPPORT COMPLEX (INCREMENT IV)	52,950	38,400	---	38,400
NAVAL SUPPLY CENTER BREMERTON				
BULK STORAGE FACILITY	5,740	5,740	5,740	5,740

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
STRATEGIC WEAPONS FACILITY PAC SILVERDALE				
STRATEGIC WEAPONS FACILITIES	15,060	15,060	15,060	15,060
TRIDENT REFIT FACILITY BANGOR				
MAINTENANCE STORAGE FACILITY	990	990	990	990
AIR FORCE				
FAIRCHILD AFB				
ADD/ALTER ALERT CREW SUPPORT FACILITIES	2,350	2,350	2,350	2,350
SURVIVAL SCHOOL BEQ	---	8,100	---	8,100
COMBAT ARMS TRAINING AND MAINT FACS	1,400	1,400	1,400	1,400
CRUISE MISSILE SUPPORT FACILITIES	4,800	4,800	4,800	4,800
KC135-COCKPIT PROCEDURES TRAINER SPT FAC	930	930	930	930
MCCHORD AFB				
ALTER DORMITORIES	9,300	9,300	9,300	9,300
DINING FACILITY	3,800	3,800	3,800	3,800
DEFENSE AGENCIES				
FT LEWIS				
MADIGAN ARMY MEDICAL CENTER PHASE V	72,000	72,000	72,000	72,000
ARMY NATIONAL GUARD				
KENT				
400 PERSON ARMORY	3,619	3,619	3,619	3,619
AIR NATIONAL GUARD				
FAIRCHILD AFB				
COMPOSITE MAINTENANCE FACILITY	1,500	1,500	1,500	1,500
FOUR LAKES				
COMM ELECTRONICS TRAINING FACILITY	300	300	300	300
ARMY RESERVE				
TUMWATER				
UPGRADE KITCHEN	150	150	150	150
YAKIMA				
EXPAND ARMY RESERVE CENTER	125	125	125	125
NAVY RESERVE				
NAS WHIDBEY ISLAND				
ADMINISTRATIVE/TRAINING BUILDING	5,400	5,400	5,400	5,400
TOTAL, WASHINGTON	201,224	204,774	148,274	204,774
WEST VIRGINIA				
ARMY NATIONAL GUARD				
BUCKHANNON				
PROPERTY OFFICE ADDITION	---	---	325	325
CAMP DAWSON				
TRNG SITE, TRAINING FACILITIES PH III	1,474	1,474	1,474	1,474
TRNG SITE, TRAINING FACILITIES PH II	2,237	2,237	2,237	2,237
PARKERSBURG				
ARMY AVIATION SUPPORT FACILITY	5,048	5,048	5,048	5,048
AIR NATIONAL GUARD				
E WV REGIONAL APT (MARTINSBURG)				
ALTER VEHICLE MAINTENANCE FACILITY	---	---	200	200
COMPOSITE AVIONICS/NDI	740	740	740	740
OPERATIONAL TRAINING FACILITY	3,000	3,000	3,000	3,000
KANAWHA COUNTY AIRPORT				
ADD/ALTER JET FUEL STORAGE COMPLEX	1,700	1,700	1,700	1,700
SQUADRON OPERATIONS ADDITION	870	870	870	870
YEAGER APT (CHARLESTON)				
AIRCRAFT PARKING RAMP/HOLDING PAD 5/	---	---	3,300	
ARMY RESERVE				
PARKERSBURG				
RESERVE CENTER	---	---	3,306	3,306
MORGANTOWN				
LAND ACQUISITION	---	---	150	150
BECKLEY				
LAND ACQUISITION	---	---	175	175
AIR FORCE RESERVE				
MORGANTOWN				
CIVIL ENGINEERING TRAINING FACILITY	600	600	600	600
TOTAL, WEST VIRGINIA	15,669	15,669	23,125	19,825
WISCONSIN				
ARMY				
FORT MCCOY				
ELECTRICAL SUBSTATION	2,100	2,100	2,100	2,100
AIR NATIONAL GUARD				
MITCHELL FIELD				
SUPPORT FACILITIES	---	2,970	2,970	2,970
TAXIWAY	---	---	2,470	---
VOLK FIELD				
ACMI RANGE SUPPORT FACILITY	---	---	1,500	1,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE RESERVE				
BILLY MITCHELL FIELD				
COMPOSITE TRAINING FACILITY	1,700	1,700	1,700	1,700
TOTAL, WISCONSIN	3,800	6,770	10,740	8,270
WYOMING				
AIR FORCE				
FE WARREN AFB				
MISSILE OPERATIONS FACILITY	4,000	4,000	4,000	4,000
PEACEKEEPER-MISSILE ASSEMBLY FACILITY	24,000	---	24,000	---
PEACEKEEPER-RAILROAD EXTENSION	5,100	---	5,100	---
PEACEKEEPER-ROADS AND UTILITIES	2,100	---	2,100	---
UPGRADE DORMITORY	2,000	2,000	2,000	2,000
ARMY NATIONAL GUARD				
CAMP GUERNSEY				
WATER TOWER	275	275	275	275
AIR NATIONAL GUARD				
CHEYENNE MAP				
BASE ENGINEERING FACILITY	1,900	1,900	1,900	1,900
DINING HALL/FIRE STATION	2,150	2,150	2,150	2,150
TOTAL, WYOMING	41,525	10,325	41,525	10,325
CONUS CLASSIFIED				
AIR FORCE				
CLASSIFIED LOCATION				
MILSTAR CMD/COMMUNICATIONS/MAINT FACILITY	4,000	4,000	4,000	4,000
DEFENSE AGENCIES				
CLASSIFIED LOCATION				
CLASSIFIED PROJECT	4,200	4,200	4,200	4,200
CLASSIFIED PROJECT	20,000	20,000	---	20,000
RESCISSION, 1988	---	-29,548	---	-19,548
TOTAL, CONUS CLASSIFIED	28,200	-1,348	8,200	8,652
CONUS VARIOUS				
ARMY				
ACCESS ROADS				
DEFENSE ACCESS ROADS	1,000	1,000	1,000	1,000
VARIOUS CONUS LOCATIONS				
CLASSIFIED PROJECT	3,600	3,600	3,600	3,600
AIR FORCE				
BASE 80				
SPECIAL SUPPORT FACILITIES	987	987	987	987
BASE 81				
SPECIAL ACTIVITY FACILITIES	2,800	2,800	2,800	2,800
ARMY NATIONAL GUARD				
VARIOUS CONUS LOCATIONS				
GENERAL REDUCTION	---	-200	---	---
TOTAL, CONUS VARIOUS	8,387	8,187	8,387	8,387
ANTIGUA				
NAVY				
NAVAL SUPPORT FACILITY				
NAVAL SUPPORT FACILITY UPGRADE	6,470	6,470	6,470	6,470
TOTAL, ANTIGUA	6,470	6,470	6,470	6,470
BELGIUM				
AIR FORCE				
KLEINE BROGEL				
ALTER MUNITIONS STORAGE FACILITIES	1,900	---	1,900	1,900
TOTAL, BELGIUM	1,900	---	1,900	1,900
GERMANY				
ARMY				
ANSBACH				
AIRCRAFT PARKING APRON	15,000	15,000	15,000	15,000
BAD KREUZNACH				
FACILITY MODERNIZATION	10,200	10,200	---	10,200
BAUMHOLDER				
ORGANIZATIONAL VEHICLE PARKING	10,800	---	---	---
FRIEDBERG				
CHILD DEVELOPMENT CENTER	1,300	1,300	1,300	1,300
GIESSEN				
HARDSTAND/FACILITY UPGRADE	6,300	6,300	6,300	6,300
GRAFENWOEHR TNG AREA				
CLASS 1 STORAGE FACILITY	7,000	7,000	7,000	7,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
HOHENFELS TNG AREA				
BARRACKS COMPLEX	13,600	13,600	---	13,600
CHILD DEVELOPMENT CENTER	1,550	1,550	---	1,550
DINING FACILITY	2,550	2,550	---	2,550
EDUCATION CENTER ADDITION	510	510	---	---
OPERATIONS FACILITY	1,750	1,750	---	1,750
PHYSICAL FITNESS TRAINING CENTER	3,050	3,050	---	---
TACTICAL EQUIPMENT SHOP	9,400	9,400	---	9,400
TRAINING SUPPORT CENTER	1,250	1,250	---	---
WAREHOUSE	3,300	3,300	---	---
KARLSRUHE				
CHILD DEVELOPMENT CENTER	2,550	2,550	2,550	2,550
MAINZ				
AIRCRAFT MAINTENANCE FACILITY	10,000	10,000	10,000	10,000
AMMUNITION STORAGE	1,850	1,850	1,850	1,850
ORGANIZATIONAL VEHICLE PARKING	1,100	1,100	1,100	1,100
UTILITIES SYSTEM EXPANSION	7,700	7,700	7,700	7,700
MANNHEIM				
HARDSTAND/FACILITY UPGRADE	14,400	---	---	---
RHEINBERG				
INDUSTRIAL OPERATIONS FACILITY	6,600	6,600	6,600	6,600
PHYSICAL FITNESS TRAINING CENTER	5,800	5,800	5,800	5,800
SCHWEINFURT				
HARDSTAND/FACILITY UPGRADE	9,700	9,700	9,700	9,700
STUTTGART				
CHILD DEVELOPMENT CENTER	1,800	1,800	1,800	1,800
CHILD DEVELOPMENT CENTER	3,350	3,350	3,350	3,350
VARIOUS SITES				
RANGE MODERNIZATION	13,000	---	---	---
WARTIME HOST NATION SUPPORT	5,000	---	5,000	5,000
VILSECK				
BARRACKS	9,000	9,000	9,000	9,000
BARRACKS	1,050	1,050	---	1,050
BATTALION HEADQUARTERS	1,750	1,750	---	---
FACILITIES ENGINEER COMPLEX	13,600	13,600	13,600	13,600
GENERAL PURPOSE WAREHOUSE	2,000	2,000	2,000	2,000
HARDSTAND/TACTICAL EQUIPMENT SHOP	16,000	16,000	16,000	16,000
POST OFFICE	1,200	1,200	---	---
WIESBADEN				
AIRCRAFT MAINTENANCE HANGER	8,800	8,800	8,800	8,800
HARDSTAND	2,550	2,550	---	2,550
HARDSTAND/TACTICAL EQUIPMENT SHOP	2,550	2,550	2,550	2,550
WILDFLECKEN				
HARDSTAND	11,400	11,400	---	---
WORMS				
CHILD DEVELOPMENT CENTER	1,300	1,300	1,300	1,300
WUERZBURG				
CHAPEL AND RELIGIOUS EDUCATION FACILITY	1,850	1,850	1,850	1,850
COMBAT AVIATION COMPLEX	18,000	18,000	18,000	18,000
HARDSTAND/FACILITY UPGRADE	13,800	---	---	---
AIR FORCE				
BITBURG AB				
ADD/ALTER AEROSPACE GROUND EQ FACILITY	510	510	510	510
COMBAT REPAIR EQUIP STORAGE FACILITY	550	550	550	550
EINSIEDLERHOF				
ALTER TRANSIENT DORMITORY	1,500	1,500	---	---
HAHN AB				
ALTER MUNITIONS STORAGE FACILITIES	9,900	---	9,900	9,900
ALTERNATE COMBAT RUNWAY	5,200	5,200	---	---
COMBAT REPAIR EQUIP STORAGE FACILITY	1,050	1,050	1,050	1,050
PASSIVE DEFENSE EQUIP STORAGE WAREHOUSE	500	500	500	500
HESSISCH				
SECURITY POLICE OPERATIONS FACILITY	740	740	740	740
NORVENICH AB				
ALTER MUNITIONS STORAGE FACILITIES	2,300	---	2,300	2,300
PRUEM AS				
TACTICAL OPERATIONS FACILITY	620	620	620	620
RAMSTEIN AB				
ADD TO/UPGRADE AIRMAN COMMUNITY CENTER	4,800	---	---	---
COMBAT AMMUNITION CONTROL CENTER	1,600	1,600	1,600	1,600
COMBAT REPAIR EQUIP STORAGE FACILITY	1,100	1,100	1,100	1,100
MUNITIONS EQUIPMENT MAINTENANCE FACILITY	1,550	1,550	1,550	1,550
PASSIVE DEFENSE EQUIP STORAGE FACILITY	450	450	450	450
UNINTERRUPTABLE BACKUP POWER SUPPLY SPT	1,300	1,300	1,300	1,300
RHEIN-MAIN AB				
ADD/ALTER SQUADRON OPERATIONS FACILITY	800	800	---	---
AIRCRAFT PARKING	2,000	2,000	---	---
WIDEN AIRCRAFT TAXIWAY	2,200	2,200	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SEMBACH AB				
COMBAT REPAIR EQUIP STORAGE FACILITY	550	550	550	550
UPGRADE WATER STORAGE AND DIST SYSTEM	3,000	3,000	3,000	3,000
SPANGDAHLEM AB				
AIRCRAFT CORROSION CONTROL FACILITY	2,750	2,750	2,750	2,750
COMBAT ARMS TRAINING FACILITY	670	670	670	670
FIELD TRAINING FACILITY	2,100	2,100	---	---
MUNITIONS STORAGE IGLOOS	2,200	2,200	2,200	2,200
POST OFFICE	1,300	1,300	---	1,300
SECURITY POLICE OPERATIONS FACILITY	1,250	1,250	---	1,250
WENIGERATH				
AIR BASE GROUND DEFENSE MUNITIONS IGLOOS	1,700	1,700	1,700	1,700
ZWEIBRUCKEN AB				
COMBAT REPAIR EQUIP STORAGE FACILITY	520	520	520	520
DIGITAL EUROPEAN BACKBONE FACILITY	780	780	780	780
DEFENSE AGENCIES				
ASCHAFFENBURG				
ELEMENTARY & JUNIOR HIGH ADDITIONS	8,151	8,151	8,151	8,151
BAD KISSINGEN				
ELEMENTARY SCHOOL ADDITION	1,620	1,620	1,620	1,620
BAUMHOLDER				
ELEMENTARY SCHOOL ADDITION	1,940	1,940	1,940	1,940
DEF REUTIL & MARKETING OFC KAISERSLAUTERN				
ADMINISTRATIVE FACILITY	500	500	500	500
DEF REUTILIZATION & MARKETING OFC BITBURG				
COVERED STORAGE	800	800	800	800
DOWNS BARRACKS				
DISPENSARY/DENTAL CLINIC	4,200	4,200	---	4,200
ERLANGEN				
ELEMENTARY SCHOOL ADDITION	3,890	3,890	---	3,890
GEILENKIRCHEN AIR BASE				
SECOND ECHELON MEDICAL LOGISTICS STORAGE	450	450	450	450
GEISSEN				
HIGH SCHOOL ADDITION	5,430	5,430	5,430	5,430
MIDDLE SCHOOL ADDITION	2,197	2,197	---	2,197
GELNHAUSEN				
ELEMENTARY SCHOOL ADDITION	1,482	1,482	1,482	1,482
HAHN AIR FORCE BASE				
COMPOSITE MED FACILITY ADDITION/ALTERATION	18,500	18,500	---	18,500
PATCH BARRACKS				
DISPENSARY/DENTAL CLINIC	4,700	4,700	---	4,700
RHEIN-MAIN AIR BASE				
DISPENSARY/DENTAL CLINIC REPLACEMENT	14,200	14,200	---	14,200
SMITH BARRACKS				
DENTAL CLINIC REPLACEMENT	5,100	5,100	---	5,100
SPANGDAHLEM AIR BASE				
SECOND ECHELON MEDICAL LOGISTICS STORAGE	1,250	1,250	1,250	1,250
WILDFLECKEN				
DISPENSARY/DENTAL CLINIC	4,800	4,800	---	4,800
ELEM AND MIDDLE SCHOOL ADDITIONS	2,752	2,752	---	2,752
TOTAL, GERMANY	412,712	338,712	214,113	319,652
GREENLAND				
AIR FORCE				
SONDRESTROM AB				
ADD/ALTER FIRE STATION	3,850	3,850	3,850	3,850
SUPPLY STORAGE AREA	2,100	2,100	2,100	2,100
THULE AB				
INSTALL CIRCULATION FANS	1,050	1,050	1,050	1,050
THRESHOLD LIGHTS	780	780	780	780
TOTAL, GREENLAND	7,780	7,780	7,780	7,780
GUAM				
NAVY				
FLEET SURVEILLANCE SUPPORT COMMAND				
ELECTRONIC INSTALLATION	26,280	26,280	26,280	20,972
NAVAL SECURITY GROUP DETACHMENT GUAM				
RADOME UPGRADE	400	400	400	400
NAVAL STATION				
ROAD IMPROVEMENTS	2,820	2,820	---	---
NAVAL SUPPLY DEPOT				
FIRE PROTECTION SYSTEM	1,950	1,950	1,950	1,950
TRANSIT SHED	5,710	5,710	5,710	5,710
NAVY PUBLIC WORKS CENTER GUAM				
BOILER SAFETY IMPROVEMENTS	1,820	1,820	1,820	1,820
WHARVES ELECTRIC POWER IMPROVEMENT	4,900	4,900	4,900	4,900

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE				
ANDERSEN AFB				
ADD TO/UPGRADE PHYSICAL FITNESS CENTER	3,400	3,400	---	---
SOUND SUPPRESSOR SUPPORT FACILITY	900	900	900	900
DEFENSE AGENCIES				
NAVAL STATION				
FLEET HOSPITAL SUPPORT FACILITIES	12,600	11,000	12,600	11,000
TOTAL, GUAM	60,780	59,180	54,560	47,652
HONDURAS				
ARMY				
HONDURAS				
UPGRADE FACILITIES - SITE 5 - PALMEROLA	3,050	3,050	---	3,050
TOTAL, HONDURAS	3,050	3,050	---	3,050
ICELAND				
NAVY				
NAVAL AIR STATION KEFLAVIK				
FUEL FACILITIES	12,000	12,000	12,000	12,000
AIR FORCE				
KEFLAVIK				
F15-AIRCRAFT PARTS WAREHOUSE	1,100	1,100	1,100	1,100
DEFENSE AGENCIES				
KEFLAVIK				
A.T. MAHAN ELEMENTARY SCHOOL	5,434	5,434	5,434	5,434
TOTAL, ICELAND	18,534	18,534	18,534	18,534
ITALY				
ARMY				
CAMP EDERLE				
CHILD DEVELOPMENT CENTER	1,250	1,250	1,250	1,250
NAVY				
NAVAL AIR STATION SIGONELLA				
AIRCRAFT PARKING APRON	3,900	3,900	3,900	3,900
ENGINE TEST CELL	4,050	4,050	4,050	4,050
NAVAL SUPPORT ACTIVITY NAPLES				
AIRCRAFT PARKING APRON	1,400	1,400	1,400	1,400
CMD CTRL COMMS & INTEL COMPLEX, PHASE I 6/	21,600	21,600	---	21,600
COLD STORAGE FACILITY	1,150	1,150	1,150	1,150
AIR FORCE				
AVIANO AB				
CHEM WARFARE PROTECTION-AVIONICS FACILITY	2,750	2,750	2,750	2,750
COMBAT REPAIR EQUIP STORAGE FACILITY	600	600	600	600
DORMITORY	4,250	4,250	---	4,250
DEFENSE AGENCIES				
AVIANO				
ELEM AND HIGH SCHOOL ADDITIONS	9,450	9,450	---	9,450
TOTAL, ITALY	50,400	50,400	15,100	50,400
JAPAN				
ARMY				
JAPAN VARIOUS				
AMMUNITION STORAGE FACILITY	7,900	7,900	7,900	7,900
COMMUNICATIONS FACILITY - OKINAWA VARIOUS	5,300	5,300	5,300	5,300
NAVY				
MARINE CORPS AIR STATION FUTENMA OKINAWA				
AIRCRAFT OPERATIONS BUILDING ADDITION	860	860	860	860
MAINTENANCE HANGAR ADDITION	2,420	2,420	2,420	2,420
MARINE CORPS BASE CAMP BUTLER OKINAWA				
COMBAT TRAINING FACILITIES	890	890	890	890
ELECTRONICS AND COMMUNICATIONS MAINT SHOP	1,950	1,950	1,950	1,950
AIR FORCE				
KADENA AB				
FIRE PROTECTION-VARIOUS FACILITIES	1,850	1,850	1,850	1,850
MISAWA AB				
CHEMICAL/BIOLOGICAL WARFARE PROTECTION	2,050	2,050	2,050	2,050
F16-FUEL TANK STORAGE/BUILDUP FACILITY	2,500	2,500	2,500	2,500
YOKOTA AB				
CONTROL TOWER CAB	500	500	---	---
DEFENSE AGENCIES				
YOKOTA AIR BASE				
DCA-NWP COMMUNICATIONS OPERATIONS CENTER	785	785	---	---
TOTAL, JAPAN	27,005	27,005	25,720	25,720

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
JOHNSTON ISLAND				
DEFENSE AGENCIES				
DNA HDQTRS FIELD COMMAND				
COLD STORAGE FACILITY	1,372	1,372	1,372	1,372
VEHICLE MAINTENANCE FACILITY	1,272	1,272	1,272	1,272
TOTAL, JOHNSTON ISLAND	2,644	2,644	2,644	2,644
KOREA				
ARMY				
CAMP CASEY				
TACTICAL EQUIPMENT SHOP MOD/ADDN	3,700	3,700	3,700	3,700
CAMP GARY OWEN				
BARRACKS	1,150	1,150	1,150	1,150
CAMP GREAVES				
EXPLOSIVES TRAINING RANGE	810	810	810	810
GRENADE LAUNCHER RANGE	730	730	730	730
CAMP HOVEY				
BARRACKS	3,200	3,200	3,200	3,200
CAMP KITTYHAWK				
COMPANY OPERATIONS FACILITY	1,350	1,350	1,350	1,350
CAMP LIBBY				
TACTICAL EQUIPMENT SHOP	1,150	1,150	1,150	1,150
CAMP PAGE				
BATTALION HEADQUARTERS	670	670	---	670
CAMP SEARS				
BARRACKS	1,100	1,100	1,100	1,100
CAMP STANLEY				
BRIGADE/BATTALION HEADQUARTERS	1,200	1,200	---	---
CAMP STANTON				
UNACCOMPANIED OFFICER HOUSING	1,400	1,400	1,400	1,400
K-16 ARMY AIRFIELD				
TACTICAL EQUIPMENT SHOP	670	670	670	670
KOREA VARIOUS				
CAMP LONG	6,200	6,200	6,200	6,200
AVIATION SUPPORT COMPLEX	9,200	9,200	9,200	9,200
TAEGU				
CHILD DEVELOPMENT CENTER	990	990	990	990
YONGSAN				
UPGRADE TACTICAL EQUIPMENT SHOP	1,400	1,400	1,400	1,400
AIR FORCE				
CAMP HUMPHREYS				
DORMITORY	3,350	3,350	3,350	3,350
KUNSAN AB				
ALTER AIRCRAFT SHELTERS	3,000	3,000	---	---
ALTER MUNITIONS STORAGE FACILITIES	1,300	---	1,300	1,300
DORMITORIES	4,400	4,400	---	4,400
F16-AIRCRAFT MAINTENANCE UNIT FACILITY	2,950	2,950	2,950	2,950
F16-JET ENGINE MAINTENANCE FACILITY	680	680	---	---
VEHICLE OPERATIONS AND MAINT COMPLEX	5,000	5,000	---	5,000
OSAN AB				
CONTINGENCY MATERIEL WAREHOUSE	1,250	1,250	1,250	1,250
F16-ADD TO AVIONICS FACILITY	460	460	460	460
F16-AIRCRAFT MAINTENANCE SHOPS	3,000	3,000	3,000	3,000
F16-AIRCRAFT MAINTENANCE UNIT FACILITY	2,800	2,800	---	---
F16-FLIGHT SIMULATOR TRAINING FACILITY	1,800	1,800	1,800	1,800
JET FUEL STORAGE	870	870	870	870
MUNITIONS PRELOAD EQ STORAGE FACILITY	570	570	---	---
DEFENSE AGENCIES				
CAMP HOWZE 2ND INFANTRY DIVISION				
TROOP AID STATION	780	780	780	780
PUSAN				
ELEMENTARY AND HIGH SCHOOL ADDITIONS	1,980	1,980	---	1,980
SEOUL				
HOSPITAL REPLACEMENT	55,000	55,000	---	---
ELEMENTARY SCHOOL ADDITION	7,332	7,332	---	---
TAEGU AIR BASE				
MEDICAL/DENTAL CLINIC REPLACEMENT	4,400	4,400	---	4,400
TOTAL, KOREA	135,842	134,542	48,810	65,260
KWAJALEIN				
ARMY				
KWAJALEIN				
COMMUNICATIONS EQUIPMENT BUILDINGS	530	530	530	530
DRY DOCK FACILITIES	12,800	12,800	12,800	12,800
TRANSMITTER BUILDING	660	660	660	660

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
UPGRADE WATER STORAGE SYSTEM......................	1,500	1,500	1,500	1,500
DEFENSE AGENCIES				
MISSILE RANGE				
RADAR COMPLEX....................................	16,000	16,000	16,000	16,000
TOTAL, KWAJALEIN.................................	31,490	31,490	31,490	31,490
NETHERLANDS				
AIR FORCE				
CAMP NEW AMSTERDAM				
COMBAT READINESS CENTER..........................	4,800	4,800	4,800	4,800
DORMITORIES......................................	5,000	5,000	---	5,000
PASSIVE DEFENSE EQUIP STORAGE FACILITY...........	500	500	500	500
VOLKEL				
ALTER MUNITIONS STORAGE FACILITIES...............	2,300	---	2,300	2,300
DEFENSE AGENCIES				
BRUNSSUM				
AFCENT INTERNATIONAL SCHOOL......................	8,863	8,863	---	8,863
TOTAL, NETHERLANDS...............................	21,463	19,163	7,600	21,463
OMAN				
AIR FORCE				
MASIRAH AB				
APPROACH LIGHTING SYSTEM.........................	2,800	2,800	2,800	2,800
SEEB AB				
JET FUEL STORAGE.................................	7,100	7,100	7,100	7,100
TOTAL, OMAN......................................	9,900	9,900	9,900	9,900
PANAMA				
NAVY				
NAVAL STATION PANAMA				
SPECIAL WARFARE UNIT.............................	7,140	---	6,200	---
AIR FORCE				
HOWARD AFB				
ALTER DORMITORY..................................	2,600	2,600	2,600	2,600
TOTAL, PANAMA....................................	9,740	2,600	8,800	2,600
PHILIPPINES				
NAVY				
NAVY PUBLIC WORKS CENTER SUBIC BAY				
HAZARDOUS AND FLAMMABLE STORAGE FACILITY..........	570	570	---	---
POWER PLANT......................................	27,770	27,770	---	27,770
AIR FORCE				
CLARK AB				
ADD TO/UPGRADE MAINTENANCE CONTROL FAC............	940	940	---	---
ADD/ALTER FUEL SYSTEM MAINTENANCE DOCK............	1,500	1,500	---	---
AEROMEDICAL EVACUATION SQUADRON FACILITY..........	1,500	1,500	---	---
AIRCRAFT OPERATIONAL APRON-PH I...................	4,950	4,950	---	4,950
COMBAT REPAIR EQUIP STORAGE FACILITY..............	1,600	1,600	---	---
DORMITORIES......................................	5,200	5,200	---	5,200
FLOW THRU SHELTERS-PHASE I........................	4,200	4,200	---	---
INTELLIGENCE FACILITY-PHASE II....................	2,250	2,250	---	2,250
MUNITIONS EQUIPMENT MAINTENANCE FACILITY..........	800	800	---	---
SECURITY POLICE OPERATIONS FACILITY...............	3,200	3,200	---	3,200
SOF-HANGAR/NOSE DOCK..............................	2,100	2,100	2,100	2,100
SOF-HELICOPTER MAINTENANCE FACILITY...............	4,100	4,100	4,100	4,100
SOF-HYDRANT FUELING SYSTEM........................	800	800	800	800
TOTAL, PHILIPPINES................................	61,480	61,480	7,000	50,370
PORTUGAL				
AIR FORCE				
LAJES FIELD				
TRANSIENT DORMITORY...............................	2,200	2,200	---	---
UPGRADE DINING FACILITY...........................	2,650	2,650	2,650	2,650
TOTAL, PORTUGAL...................................	4,850	4,850	2,650	2,650
PUERTO RICO				
DEFENSE AGENCIES				
FORT BUCHANAN				
MIDDLE SCHOOL.....................................	9,110	9,110	9,110	9,110
ARMY NATIONAL GUARD				
ARROYO				
200 PERSON ARMORY.................................	1,304	1,304	1,304	1,304
TOA BAJA				
200 PERSON ARMORY.................................	1,305	1,305	1,305	1,305

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY RESERVE				
FORT BUCHANAN				
MAINT FAC	1,254	1,254	1,254	1,254
YAUCO				
ADD/ALTER USARC W/MAINT FAC	1,052	1,052	1,052	1,052
TOTAL, PUERTO RICO	14,025	14,025	14,025	14,025
SPAIN				
NAVY				
NAVAL COMMUNICATION STATION ROTA				
OPERATIONAL STORAGE	400	400	400	400
TOTAL, SPAIN	400	400	400	400
TURKEY				
AIR FORCE				
INCIRLIK AB				
DORMITORY	3,200	3,200	3,200	3,200
JET FUEL STORAGE	5,000	5,000	5,000	5,000
POST OFFICE	550	550	550	550
SOUND SUPPRESSOR SUPPORT FACILITY	840	840	840	840
PIRINCLIK				
COMBAT READINESS CENTER	1,500	1,500	1,500	1,500
TOTAL, TURKEY	11,090	11,090	11,090	11,090
UNITED KINGDOM				
AIR FORCE				
RAF ALCONBURY				
DORMITORIES	2,650	2,650	---	---
RAF BENTWATERS				
ADD TO/UPGRADE FIRE STATION	920	920	---	---
AIRMAN COMMUNITY CENTER	2,600	2,600	---	2,600
CENTRAL POST OFFICE	800	800	---	---
SECURITY POLICE OPERATIONS FACILITY	1,300	1,300	---	1,300
SOUND SUPPRESSOR SUPPORT FACILITY	610	610	610	610
RAF FAIRFORD				
ADD/ALTER PHYSICAL FITNESS CENTER	1,700	1,700	---	---
RAF FELTWELL				
PASSIVE DEFENSE EQUIP STORAGE FACILITY	500	500	500	500
RAF LAKENHEATH				
CHEM WARFARE PROTECTION-SQUAD OPS FAC	1,750	1,750	---	---
DIGITAL EUROPEAN BACKBONE FACILITY	440	440	440	440
DORMITORY	7,200	7,200	7,200	7,200
SEMIHARDENED COMMUNICATIONS FACILITY	780	780	780	780
RAF MILDENHALL				
ADD/ALTER OPERATIONS FACILITY	2,100	2,100	2,100	2,100
CHILD DEVELOPMENT CENTER	850	850	850	850
UPGRADE WATER STORAGE AND DIST SYSTEM	4,200	4,200	4,200	4,200
RAF UPPER HEYFORD				
ADD TO/UPGRADE VEHICLE MAINTENANCE SHOP	2,400	2,400	2,400	2,400
COMBAT AMMUNITION CONTROL CENTER	930	930	---	---
PASSIVE DEFENSE EQUIP STORAGE WAREHOUSE	500	500	---	---
RAF WELFORD				
FIRE STATION	870	870	---	870
MUNITIONS STORAGE IGLOOS	2,850	2,850	2,850	2,850
DEFENSE AGENCIES				
ROYAL AIR FORCE HIGH WYCOMBE				
MEDICAL AID STATION REPLACEMENT	720	720	720	720
ROYAL AIR FORCE LAKENHEATH				
COMPOSITE MED FACILITY ADDITION/ALTERATION	41,000	41,000	---	41,000
TOTAL, UNITED KINGDOM	77,670	77,670	22,650	68,420
OVERSEAS CLASSIFIED				
NAVY				
OVERSEAS CLASSIFIED				
SEAL TEAM OPERATIONS FACILITIES	4,990	4,990	4,990	4,990
AIR FORCE				
BASE 119				
F15-FLIGHT SIMULATOR TRAINING FACILITY	2,050	2,050	---	---
BASE 30				
TR1-EQUIPMENT MAINTENANCE FACILITY	2,350	2,350	2,350	2,350
TR1-OPERATIONS FACILITY	1,500	1,500	1,500	1,500
BASE 74				
F16-EGRESS SHOP	490	490	---	---
F16-HYDRAZINE FACILITY	260	260	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
BASE 79				
SPECIAL SUPPORT FACILITIES	1,900	1,900	1,900	1,900
BASE 82				
SPECIAL ACTIVITY FACILITIES	2,800	2,800	2,800	2,800
OVERSEAS CLASSIFIED				
CLASSIFIED PROJECT	1,000	1,000	1,000	1,000
CLASSIFIED SUPPORT	12,000	12,000	12,000	12,000
OPERATIONS FACILITY	3,473	3,473	3,473	3,473
DEFENSE AGENCIES				
BASE 54				
MEDICAL CONTINGENCY COMPLEX	12,800	12,800	11,000	12,800
CLASSIFIED LOCATION				
CLASSIFIED PROJECT	950	950	950	950
CLASSIFIED PROJECT	2,000	2,000	2,000	2,000
OPERATIONS BUILDING 36 ADD	8,300	8,300	8,300	8,300
OVERSEAS CLASSIFIED				
CLASSIFIED PROJECT	8,500	8,500	8,500	8,500
TOTAL, OVERSEAS CLASSIFIED	65,363	65,363	60,763	62,563
OVERSEAS VARIOUS				
AIR FORCE				
OVERSEAS VARIOUS				
CANADIAN FORWARD OPERATING LOC/DOB	600	600	---	600
TOTAL, OVERSEAS VARIOUS	600	600	---	600
NATO				
NATO INFRASTRUCTURE	502,100	502,100	492,000	492,000
WORLDWIDE UNSPECIFIED				
ARMY				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	98,328	98,328	91,000	95,000
UNSPECIFIED MINOR CONSTRUCTION	16,200	16,200	16,200	16,200
FOREIGN CURRENCY FLUCTUATION	---	60,000	80,000	43,000
NAVY				
UNSPECIFIED WORLDWIDE LOCATIONS				
ACCESS ROADS	11,819	11,819	11,819	11,819
PLANNING AND DESIGN	148,276	138,276	120,000	129,000
UNSPECIFIED MINOR CONSTRUCTION	16,300	16,300	16,300	16,300
UNSPECIFIED REDUCTION	---	---	---	-21,600
AIR FORCE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	124,800	115,000	109,000	112,000
UNSPECIFIED MINOR CONSTRUCTION	16,500	16,500	16,500	16,500
FOREIGN CURRENCY FLUCTUATION	---	27,000	50,000	19,000
DEFENSE AGENCIES				
UNSPECIFIED WORLDWIDE LOCATIONS				
CONTINGENCY CONSTRUCTION	8,000	8,000	8,000	8,000
PLANNING AND DESIGN	62,229	62,229	47,000	55,000
UNSPECIFIED MINOR CONSTRUCTION (STR DEF INIT)	2,000	2,000	2,000	2,000
UNSPECIFIED MINOR CONSTRUCTION	4,000	4,000	4,000	4,000
FOREIGN CURRENCY FLUCTUATION	---	12,000	12,000	8,829
ARMY NATIONAL GUARD				
UNSPECIFIED WORLDWIDE LOCATIONS				
ARMORY STORAGE BUILDINGS	---	---	10,000	5,000
INDOOR RANGE MODERNIZATION	---	---	15,000	5,000
PLANNING AND DESIGN	10,624	11,100	15,000	14,000
UNSPECIFIED MINOR CONSTRUCTION	6,900	6,900	10,000	8,000
AIR NATIONAL GUARD				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	12,600	13,500	15,000	14,000
UNSPECIFIED MINOR CONSTRUCTION	2,300	2,300	5,000	3,000
DEFICIENCY ALLOWANCE	---	---	6,200	---
ARMY RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	10,700	11,030	12,000	11,030
UNSPECIFIED MINOR CONSTRUCTION	1,700	1,700	2,000	1,700
NAVY RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	5,440	5,440	6,000	5,440
UNSPECIFIED MINOR CONSTRUCTION	1,985	1,985	2,200	1,985
DEFICIENCY ALLOWANCE	---	6,000	6,200	6,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	6,223	6,223	6,750	6,223
UNSPECIFIED MINOR CONSTRUCTION	2,852	2,852	3,000	2,852
DEFICIENCY ALLOWANCE	---	7,000	8,400	7,000
TOTAL, WORLDWIDE UNSPECIFIED	569,776	663,682	706,569	606,278
WORLDWIDE VARIOUS				
ARMY				
VARIOUS LOCATIONS				
COMMAND AND CONTROL FACILITY UPGRADE	7,900	---	---	---
INTERMEDIATE STAGING FACILITY 7/	17,500	---	17,500	11,300
OPERATIONS FACILITY	5,300	5,300	5,300	5,300
PRE-POSITIONED WAR MATERIEL FACILITIES	4,450	4,450	4,450	4,450
RDT&E RELATED CONSTRUCTION	---	---	36,529	---
NAVY				
VARIOUS LOCATIONS				
LAND ACQUISITION	36,895	36,895	36,895	36,895
HOST NATION INFRASTRUCTURE SUPPORT	500	500	500	500
RDT&E RELATED CONSTRUCTION	---	---	27,784	---
COAST GUARD				
VARIOUS LOCATIONS				
COAST GUARD SHORE FACILITIES	---	---	50,300	50,300
AIR FORCE				
VARIOUS LOCATIONS				
RDT&E RELATED CONSTRUCTION	---	---	61,697	---
DEFENSE AGENCIES				
VARIOUS LOCATIONS				
CONFORMING STORAGE FACILITIES	9,300	9,300	9,300	9,300
TOTAL, WORLDWIDE VARIOUS	81,845	56,445	250,255	118,045
FAMILY HOUSING, ARMY				
ALASKA				
FORT WAINWRIGHT (150 UNITS)	27,000	---	27,000	27,000
CALIFORNIA				
FORT IRWIN (263 UNITS)	24,000	24,000	24,000	24,000
HAWAII				
HELEMANO (100 UNITS)	11,400	11,400	11,400	11,400
SCHOFIELD BARRACKS (40 UNITS)	4,450	4,450	4,450	4,450
KANSAS				
FORT LEAVENWORTH (272 UNITS)	20,000	20,000	20,000	20,000
NEW YORK				
FORT DRUM (100 UNITS)	10,000	10,000	10,000	10,000
TEXAS				
FORT BLISS (108 UNITS)	---	9,100	---	9,100
GERMANY				
HOHENFELS (88 UNITS)	8,400	8,400	---	8,400
CONSTRUCTION IMPROVEMENTS	72,300	72,300	72,300	72,300
PLANNING	10,628	10,628	10,628	10,628
SUBTOTAL	188,178	170,278	179,778	197,278
OPERATING EXPENSES				
FURNISHINGS ACCOUNT	139,769	139,769	130,000	130,000
MANAGEMENT ACCOUNT	83,137	83,137	83,137	83,137
MISCELLANEOUS ACCOUNT	1,510	1,510	1,510	1,510
SERVICES ACCOUNT	55,200	55,200	55,200	55,200
UTILITIES ACCOUNT	284,265	284,265	284,265	284,265
SUBTOTAL	563,881	563,881	554,112	554,112
LEASING	227,700	227,700	227,700	227,700
MAINTENANCE OF REAL PROPERTY	548,061	548,061	548,061	548,061
INTEREST PAYMENTS	49	49	49	49
MORTGAGE INSURANCE PREMIUMS	31	31	31	31
SUBTOTAL, NET BUDGET AUTHORITY	1,339,722	1,339,722	1,329,953	1,329,953
PLUS APPROPRIATION FOR DEBT REDUCTION	371	371	371	371
TOTAL, FAMILY HOUSING, ARMY	1,528,271	1,510,371	1,510,102	1,527,602

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FAMILY HOUSING, NAVY				
CALIFORNIA				
MARINE CORPS AIR-GRND COMB CTR TWENTYNINE PALMS (100 UNITS)	9,470	9,470	9,470	9,470
MARINE CORPS AIR STATION EL TORO (100 UNITS)	8,660	8,660	8,660	8,660
MARINE CORPS AIR STATION EL TORO (80 TRAILER PADS)	1,460	1,460	1,460	1,460
MARINE CORPS BASE CAMP PENDLETON (ACCESS ROADS)	970	970	970	970
MARINE CORPS BASE CAMP PENDLETON (332 UNITS)	27,540	27,540	27,540	27,540
NAVAL COMPLEX SAN DIEGO (356 UNITS)	31,830	31,830	31,830	31,830
NAVAL STATION LONG BEACH (300 UNITS)	26,110	26,110	26,110	26,110
PUBLIC WORKS CENTER SAN FRANCISCO (300 UNITS)	35,736	35,736	---	35,736
DISTRICT OF COLUMBIA				
NAVAL DISTRICT WASHINGTON (2 UNITS)	---	---	330	330
GEORGIA				
NAVAL SUBMARINE SUPPORT BASE KINGS BAY (250 UNITS)	19,860	19,860	19,860	19,860
ILLINOIS				
NAS GLENVIEW (100 UNITS)	---	---	23,000	10,000
NEW YORK				
NAVAL STATION NEW YORK (150 UNITS)	14,900	14,900	14,900	14,900
CONSTRUCTION IMPROVEMENTS	61,589	61,589	45,000	55,000
PLANNING	2,315	2,315	2,315	2,315
SUBTOTAL	240,440	240,440	211,445	244,181
OPERATING EXPENSES				
FURNISHINGS ACCOUNT	15,910	15,910	15,910	15,910
MANAGEMENT ACCOUNT	42,513	42,513	42,513	42,513
MISCELLANEOUS ACCOUNT	401	401	401	401
SERVICES ACCOUNT	32,323	32,323	32,323	32,323
UTILITIES ACCOUNT	179,127	179,127	179,127	179,127
SUBTOTAL	270,274	270,274	270,274	270,274
LEASING	42,416	42,416	42,416	42,416
MAINTENANCE OF REAL PROPERTY	241,950	241,950	239,950	241,950
INTEREST PAYMENTS	2	2	2	2
MORTGAGE INSURANCE PREMIUMS	218	218	218	218
SUBTOTAL, NET BUDGET AUTHORITY	554,860	554,860	552,860	554,860
PLUS APPROPRIATION FOR DEBT REDUCTION	128	128	128	128
TOTAL, FAMILY HOUSING, NAVY	795,428	795,428	764,433	799,169
FAMILY HOUSING, AIR FORCE				
PHILIPPINES				
CLARK AFB (260 UNITS)	19,920	19,920	---	19,920
CONSTRUCTION IMPROVEMENTS	154,280	168,765	125,000	148,765
PLANNING	7,000	7,000	7,000	7,000
SUBTOTAL	181,200	195,685	132,000	175,685
OPERATING EXPENSES				
FURNISHINGS ACCOUNT	56,460	56,460	53,460	53,460
MANAGEMENT ACCOUNT	34,447	34,447	34,447	34,447
MISCELLANEOUS ACCOUNT	5,648	5,648	5,648	5,648
SERVICES ACCOUNT	24,461	24,461	24,461	24,461
UTILITIES ACCOUNT	234,503	234,503	234,503	234,503
SUBTOTAL	355,519	355,519	352,519	352,519
LEASING	90,881	90,881	90,881	90,881
MAINTENANCE OF REAL PROPERTY	295,199	295,199	291,699	291,699
INTEREST PAYMENTS	1	1	1	1
MORTGAGE INSURANCE PREMIUMS	100	100	100	100
SUBTOTAL, NET BUDGET AUTHORITY	741,700	741,700	735,200	735,200
PLUS APPROPRIATION FOR DEBT REDUCTION	66	66	66	66
TOTAL, FAMILY HOUSING, AIR FORCE	922,966	937,451	867,266	910,951

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FAMILY HOUSING, DEFENSE AGENCIES				
OVERSEAS CLASSIFIED				
OVERSEAS CLASSIFIED	400	400	400	400
CONSTRUCTION IMPROVEMENTS	113	113	113	113
SUBTOTAL	513	513	513	513
OPERATING EXPENSES				
FURNISHINGS ACCOUNT	1,364	1,364	1,364	1,364
MISCELLANEOUS ACCOUNT	700	700	700	700
SERVICES ACCOUNT	137	137	137	137
UTILITIES ACCOUNT	256	256	256	256
SUBTOTAL	2,457	2,457	2,457	2,457
LEASING	17,179	17,179	17,179	17,179
MAINTENANCE OF REAL PROPERTY	551	551	551	551
TOTAL, FAMILY HOUSING, DEFENSE AGENCIES	20,700	20,700	20,700	20,700
HOMEOWNERS ASSISTANCE FUND				
OPERATING EXPENSES	2,000	2,000	2,000	2,000
GRAND TOTAL	8,798,465	8,796,460	8,582,924	8,797,565
RECAPITULATION				
ARMY	930,300	877,630	924,551	927,292
NAVY	1,611,200	1,591,850	1,515,018	1,576,516
COAST GUARD	---	---	50,300	50,300
AIR FORCE	1,300,600	1,293,406	1,240,387	1,225,926
DEFENSE AGENCIES	712,000	747,952	537,972	659,985
NATO INFRASTRUCTURE	502,100	502,100	492,000	492,000
ARMY NATIONAL GUARD	138,300	163,500	246,914	229,158
AIR NATIONAL GUARD	147,500	152,170	179,228	158,508
ARMY RESERVE	79,900	81,702	87,303	85,958
NAVAL RESERVE	48,400	54,400	72,075	60,900
AIR FORCE RESERVE	58,800	65,800	72,675	70,600
TOTAL MILITARY CONSTRUCTION	5,529,100	5,530,510	5,418,423	5,537,143
FAMILY HOUSING, ARMY	1,528,271	1,510,371	1,510,102	1,527,602
PORTION APPLIED TO DEBT REDUCTION	-371	-371	-371	-371
FAMILY HOUSING, NAVY	795,428	795,428	764,433	799,169
PORTION APPLIED TO DEBT REDUCTION	-128	-128	-128	-128
FAMILY HOUSING, AIR FORCE	922,966	937,451	867,266	910,951
PORTION APPLIED TO DEBT REDUCTION	-66	-66	-66	-66
FAMILY HOUSING, DEFENSE AGENCIES	20,700	20,700	20,700	20,700
HOMEOWNERS ASSISTANCE FUND	2,000	2,000	2,000	2,000
GRAND TOTAL	8,797,900	8,795,895	8,582,359	8,797,000

1/ AUTHORIZED UNDER 10 USC 2854, REPLACEMENT OF DESTROYED FACILITIES.

2/ PROJECT AUTHORIZED IN MARYLAND.

3/ $2.55 MILLION AUTHORIZED IN FY 1988, $1.8 MILLION AUTHORIZED IN FY 1989.

4/ PROJECT REQUESTED IN WASHINGTON, DC.

5/ AUTHORIZED TO BE CONSTRUCTED WITH FY 1987 SAVINGS.

6/ $19.4 MILLION AUTHORIZED IN FY 1988, $2.2 MILLION AUTHORIZED IN FY 1989.

7/ AUTHORIZED UNDER 10 USC 2803, EMERGENCY CONSTRUCTION.

W.G. Hefner,
Bill Alexander,
Ronald D. Coleman,
Lindsay Thomas,
Tom Bevill,
Joseph D. Early,
Norman D. Dicks,
Vic Fazio,
Jamie L. Whitten,
Bill Lowery,
Mickey Edwards,
Jim Kolbe,
Tom DeLay,
Silvio O. Conte,
Managers on the Part of the House.

Jim Sasser,
Daniel Inouye,
William Proxmire,
John C. Stennis,
Arlen Specter,
Jake Garn,
Ted Stevens,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Alexander (at the request of Mr. Foley), for today, on account of illness.

Mr. Fish (at the request of Mr. Lott), for today, on account of the marriage of his 99-year-old father.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hastert) to revise and extend their remarks and include extraneous material:)

Mr. Walker, for 5 minutes, today.

Mr. Holloway, for 5 minutes, today.

Mr. Dornan of California, for 5 minutes, today.

Mr. Coleman of Missouri, for 60 minutes, each day on September 22 and 29.

Mr. McCollum, for 60 minutes, on September 27.

Mr. Gingrich, for 5 minutes, today.

Mr. Gingrich, for 60 minutes, September 13.

(The following Members (at the request of Mr. Gray of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gray of Illinois, for 5 minutes, today.

Mr. LaFalce, for 10 minutes, today.

Mr. Wyden, for 30 minutes, today.

Mr. Schumer, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hastert) and to include extraneous matter:)

Mr. Clinger.

Mr. Rhodes.

Mr. Broomfield.

Mr. Chandler.

Mr. McEwen.

Mr. Boehlert.

Mr. Gilman.

Ms. Snowe.

(The following Members (at the request of Mr. Gray of Illinois) and to include extraneous matter:)

Mr. Fuster.

Mr. Dellums in two instances.

Mr. Bates in two instances.

Mr. Martinez.

Mr. Mavroules.

Mr. Rahall.

Mr. Levin of Michigan.

Mr. McMillen of Maryland.

Mr. Garcia.

Mr. Fazio.

Mr. Brooks.

Mr. Dymally.

Mr. Kanjorski..

Mr. Torres.

Mr. Jontz.

Mr. Leland.

Mrs. Lloyd.

Mr. Miller of California.

Mr. LaFalce.

Mr. Dorgan of North Dakota.

Ms. Oakar.

Mr. Hoyer.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4775. An Act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2641. An act to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

ADJOURNMENT TO TUESDAY, SEPTEMBER 13, 1988

Mr. GRAY of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 52 minutes p.m.), under its previous order, the House adjourned until Tuesday, September 13, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4287. A letter from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting the annual report of the National Advisory Council on International Monetary and Financial Policies for fiscal year 1987, pursuant to 22 U.S.C. 284b, 285(b), 286(b)(5), (6), 286b-1, 190i-3; to the Committee on Banking, Finance and Urban Affairs.

4288. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 9-88 concerning the Department of the Navy's proposed lease of defense articles to Pakistan, pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

4289. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a report on patterns of global terrorism for 1987, pursuant to 22 U.S.C. 2656f; to the Committee on Foreign Affairs.

4290. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Robert B. Oakley, Ambassador Extraordinary and Plenipotentiary-designate to the Islamic Republic of Pakistan, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4291. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for John Randolph Hubbard, Ambassador Extrodinary and Plenipotentiary-designate to India, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4292. A letter from the Commissioner, Bureau of Reclamation, transmitting notification of a proposed contract with the Central Arizona Irrigation and Drainage District, Central Arizona Project, AZ, pursuant to 43 U.S.C. 505; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. H.R. 5049. A bill to amend section 603(a) of the Federal Property and Administrative Services Act of 1949 to authorize the expenditure of moneys for official reception and representation expenses (Rept. 100-896). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 5104. A bill to improve the efficiency and effectiveness of the management and disposal of Federal real and personal property; with an amendment (Rept. 100-897). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 5052. A bill to amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office; with an amendment (Rept. 100-898, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5150. A bill to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories, and for other purposes; with an amendment (Rept. 100-899). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 3048. A bill to establish a national Federal program effort in close collaboration with the private sector to develop as rapidly as possible the applications of superconductivity to enhance the Nation's economic competitiveness and strategic well-being, and for other purposes; with an amendment (Rept. 100-900). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4642. A bill to provide for the reinstatement of the canceled entry of William A. Wright to certain lands in Lamar County, AL; with an amendment (Rept. 100-901). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5059. A bill to quiet title and possession with respect to a certain private land claim in Sumter County, AL; with an amendment (Rept. 100-902). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5155. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize appropriations for activities under such act, and for other purposes; with an amendment (Rept. 100-903). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1914. An act to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes; with an amendment (Rept. 100-904). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2057. An act to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes; with amendments (Rept. 100-905). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3957. A bill to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania; with an amendment (Rept. 100-906). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 775. A bill to provide for the establishment of the Poverty Point National Monument, and for other purposes; with an amendment (Rept. 100-907). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4181. A bill to amend the Mineral Leasing Act for Acquired Lands to permit a portion of Federal mineral revenues to be used to expand opportunities for sport fishing and hunting; with amendments (Rept. 100-908, Pt.1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4554. A bill to remove certain restrictions on land acquisitions for Antietam National Battlefield, with an amendment (Rept. 100-909). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5133. A bill to improve the procedures and remedies for the prevention of insider trading, and for other purposes; with an amendment (Rept. 100-910). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 3345. A bill to amend and extend the Office of Federal Procurement Policy Act, and for other purposes; with an amendment (Rept. 100-911). Referred to the Committee of the Whole House on the State of the Union.

Mr. HEFNER: Committee of conference. Conference report on H.R. 4586 (Rept. 100-912). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ASPIN: Committee on Armed Services. H.R. 4213. A bill to amend title 38, United States Code, with respect to the Montgomery GI Bill; with amendments referred to the Committee on Appropriations for a period not to exceed 15 legislative days, with instructions to report back to the House as provided in section 401(b) of Public Law 93-344 (Rept. 100-586, Pt. 2). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4140. Referral of H.R. 4140 to the Committee on Energy and Commerce extended for a period ending not later than September 26, 1988.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATES (for himself, Mr. Hunter, and Mr. Coelho):

H.R. 5269. A bill to provide Federal assistance for planning and construction of waste water treatment works which are necessary for providing secondary treatment for the city of San Diego, CA; to the Committee on Public Works and Transportation.

By Mr. LANTOS (for himself, Mr. DioGuardi, Mr. Frank, Mr. Grant, and Ms. Pelosi):

H.R. 5270. A bill to repeal the reinsurance requirement under the life insurance program for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. LANTOS (for himself and Mr. Porter):

H.R. 5271. A bill condemning Iraqi use of chemical weapons and imposing sanctions against Iraq, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs; Foreign Affairs; and Ways and means.

By Mr. LUNGREN (for himself, Mr. Armey, Mr. Badham, Mr. Bilirakis, Mr. Brown of Colorado, Mr. Crane, Mr. Herger, Mr. Donald E. Lukens, Mr. Boulter, Mr. Smith of New Hampshire, Mr. Sundquist, Mr. Dornan of California, Mr. Nielson of Utah, Mr. Smith of New Jersey, Mrs. Vucanovich, Mr. Miller of Ohio, Mr. Gallo, Mr. Ballenger, Mr. Moorhead, Mr. Hansen, Mr. Wylie, Mr. Gallegly, Mr. Bliley, Mr. Schuette, Mr. McCollum, Mr. Walker, Mr. Shaw, Mr. Emerson, Mr. Burton of Indiana, Mr. Lent, Mr. Chandler, Mr. Gingrich, Mr. Swindall, Mr. McEwen, Mr. DioGuardi, Mr. Thomas of California, Mr. Craig, Mr. Hyde, Mr. DeWine, Mr. Buechner, Mr. Stangeland, Mr. Hunter, Mr. Clinger, Mr. Davis of Illinois, Mr. Kyl, Mr. Hammerschmidt, and Mr. Lagomarsino):

H.R. 5272. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require as a condition of eligibility to receive funds under parts D and E that States certify that individuals who are convicted of first degree murder and sentenced to imprisonment for life without possibility of parole are not granted any unescorted release from imprisonment; to the Committee on the Judiciary.

By Mr. McCOLLUM:

H.R. 5273. A bill to award a congressional gold medal to the family of Brig. Gen. Herbert Wassom in honor of the late Brig. Gen. Herbert Wassom; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5274. A bill to award a congressional gold medal to the family of Arnold Raphel in honor of the late Arnold Raphel, the former U.S. Ambassador to Pakistan, to the Committee on Banking, Finance and Urban Affairs.

By Ms. SNOWE:

H.R. 5275. A bill to amend title XIX of the Social Security Act to require States to adopt and enforce certain guardianship laws providing protection and rights to wards and individuals subject to guardianship proceedings as a condition of eligibility for receiving funds under the Medicaid Program, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. VUCANOVICH:

H.R. 5276. A bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State; to the Committee on the Judiciary.

By Mr. WELDON (for himself, Mr. Walgren, Mr. Boehlert, and Mr. Upton):

H.J. Res. 649. Joint resolution designating October 15, 1988, as "National Fire Fighters Day"; to the Committee on Post Office and Civil Service.

By Mrs. BENTLEY (for herself, Mr. Burton of Indiana, Mr. Weldon, Mr. Gunderson, Mr. Green, Mrs. Roukema, Mr. Hunter, Mr. Clinger, Mr. Molinari, Mrs. Byron, Mr. Grandy, Mrs. Vucanovich, Mrs. Meyers of Kansas, Mrs. Martin of Illinois, Ms. Kaptur, Mrs. Patterson, Mr. Mfume, Mr. Dornan of California, Mrs. Johnson of Connecticut, Mrs. Morella, Mr. Upton, and Mr. Lightfoot):

H. Con. Res. 362. Concurrent resolution expressing the sense of the Congress that the Secretary of Labor, in cooperation with the ACTION Agency, should publicize and promote projects under the Retired Senior Volunteer Program and the Older American Community Service Employment Program that encourage and recruit older individuals to provide child care services in community-based child care centers; to the Committee on Education and Labor.

By Mr. BILIRAKIS:

H. Con. Res. 363. Concurrent resolution recognizing the 100th anniversary of the Loyal Order of Moose and commending the accomplishments of its members in providing civic, charitable, and benevolent service to their fellow citizens in the finest spirit of American voluntarism; to the Committee on Post Office and Civil Service.

By Mr. BATES (for himself, Mr. Berman, Mr. Downey of New York, Mr. Frank, Mr. Coleman of Texas, Mr. Rahall, Mr. Donnelly, Mr. Hughes, Mr. Sharp, Mr. Foley, Mr. Atkins, Mr. Lantos, Mr. Frenzel, Mr. Dellums, Mr. Gray of Pennsylvania, Mr. Weiss, Mr. Savage, Mr. Mollohan, Mr. Gephardt, Mrs. Boxer, Ms. Oakar, Mr. Glickman, Mr. Williams, Mr. Fazio, Mr. Clay, Mr. Traficant, Mr. Gray of Illinois, Mr. Levin of Michigan, Mr. Stallings, Mr. Costello, Mr. Crockett, Mr. Owens of New York, Mr. Gibbons, Mr. Kennedy, Mr. Feighan, Mr. Sawyer, Mr. Eckart Mr. Schumer, Mr. Volkmer, Mr. Traxler, Mr. Chandler, Mr. Anthony, Mr. Hertel, Mrs. Kennelly, Mr. Borski, Mr. Andrews, Mr. Akaka, Mr. Rowland of Georgia, Mr. Valentine, Mr. Darden, Mr. Penny, Mr. Huckaby, Mr. Bilbray, Mr. Kastenmeier, Mr. Hall of Texas, Mr. Hunter, Mr. Barton of Texas, Mr. Dannemeyer, Mr. Rowland of Connecticut, Mr. Foglietta, Mr. Gordon, Mr. Wise, Mr. Carper, Mr. Montgomery, Mr. Bryant, Mr. Bevill, Mr. Flippo, Mr. Bartlett, Mr. Tauke, Mr. Porter, Mr. Roberts, Mr. Dornan of California, Mr. Walker, Mr. Roybal, Mr. Solomon, Mr. Rose, Mr. Gekas, Mr. Livingston, Mr. Lewis of Georgia, Mr. Herger, Mr. DioGuardi, Mr. Murtha, Mr. Gaydos, Mr. Whittaker, Mr. Conte, Mr. Chappell, Mr. Wilson, Mrs. Boggs, Mrs. Patterson, Ms. Kaptur, Mr. Durbin, Mr. McHugh, Mr. Mrazek, Mr. Hoyer, Mr. Jontz, Mr. Boehlert, Mr. Bonior of Michigan, Mr. Kildee, Mr. Swift, Mr. Gejdenson, Mr. Miller of Washington, Mr. Hayes of Illinois, Mr. Mfume, Mr. Gallo, Mr. Wyden, Mr. Lancaster, Mr. Sabo, Mr. Donald E. Lukens, Mr. Thomas A. Luken, Mr. Ackerman, Mr. Richardson, Mr. Sisisky, Mr. McCloskey, Mr. Skelton, Mr. Robert F. Smith, Mr. Smith of New Jersey, Mr. Miller of California, Mr. Nagle, Mr. Studds, Mr. Annunzio, Mr. Markey, Mr. Lungren, Mr. Florio, Mr. Wolpe, Mr. Ford of Tennessee, Mr. Crane, Mr. Ortiz, Mr. Torres, Mr. Kostmayer, Mr. LaFalce, Mr. Moody, Mr. Levine of California, Mr. Coelho, Mr. Nielson of Utah, Mr. Burton of Indiana, Mr. Young of Florida, Mr. Udall, Mr. Espy, Mr. Panetta, Mr. Mineta, Mr. Synar, Mr. Rodino, Ms. Pelosi, Mr. Guarini, Mr. Edwards of Oklahoma, Mrs. Lloyd, Mr. Craig, Mr. Moorhead, Mr. Dymally, Mr. Shaw, Mr. Madigan, Mr. Lent, Mr. Coughlin, Mr. Early, Mrs. Byron, Mr. Yates, Mr. Pease, Mrs. Johnson of Connecticut, Mr. Chapman, Mr. Fascell, Mr. Applegate, Mr. Bosco, Mr. Upton, Mr. Kleczka, Mr. Skaggs, Mr. AuCoin, Mr. Scheuer, Mr. Stratton, Mr. Cooper, Mr. Hatcher, Mr. Dorgan of North Dakota, Mr. Hawkins, Mr. Martinez, Mr. Brown of California, Mr. Slattery, Mr. Evans, Mr. Harris, Ms. Slaughter of New York, Mr. Ritter, Mr. Walgren, Mr. Staggers, Mr. Nelson of Florida, Mr. Frost, Mr. Aspin, Mr. Leach of Iowa, Mr. Hochbrueckner, Mr. Edwards of California, Mr. Derrick, Mr. Spratt, Mr. Mavroules, Mr. Olin, Mr. Perkins, Mr. Boucher, Mr. Brennan, Mr. Hamilton, Mr. Kanjorski, Mr. Boulter, Mr. Erdreich, Mr. Lewis of California, Mr. Brooks, Mr. Lowery of California, Mr. Dyson, Mr. Wheat, Mr. Thomas of Georgia, Mr. Schaefer, Mr. Campbell, Mr. Hall of Ohio, Mr. Yatron, Mr. Weber, Mr. Flake, Mr. Moakley, Mr. McMillen of Maryland, Mr. Sikorski, Mr. Ridge, Mr. Kemp, Mr. Solarz, and Mr. Waxman):

H. Res. 532. Resolution to express a sense of outrage toward Iraq for its usage of poison gas toward the Kurdish minority; to the Committee on Foreign Affairs.

By Mr. DORNAN of California:

H. Res. 533. Resolution expressing the sense of the House regarding United States goals with respect to Lebanon; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 190: Mr. Frank.

H.R. 245: Mr. Brennan.

H.R. 303: Mr. Sweeney, Mr. Evans, Mr. Smith of Texas, Mr. Mollohan, and Mr. Hubbard.

H.R. 639: Mr. MacKay.

H.R. 696: Mr. Holloway.

H.R. 2727: Mr. Roe, Mr. Owens of New York, and Mr. Eckart.

H.R. 3461: Mr. Gordon.

H.R. 3462: Mr. Gordon.

H.R. 3607: Mr. Lowry of Washington and Mr. Frank.

H.R. 3723: Mr. Grandy and Mr. Williams.

H.R. 3814: Mr. McEwen.

H.R. 3978: Mrs. Morella.

H.R. 4116: Mr. Saxton and Mr. Garcia.

H.R. 4178: Ms. Slaughter of New York.

H.R. 4390: Mr. Erdreich, Mr. Lagomarsino, Mr. Vento, and Mrs. Bentley.

H.R. 4441: Mrs. Schroeder and Mr. Wolpe.

H.R. 4454: Mr. Solomon.

H.R. 4576: Mr. Michel.

H.R. 4590: Mr. Hyde, Mr. Herger, Mr. Ireland, Mr. Hunter, Mr. Swindall, Mr. Shumway, Mr. Edwards of Oklahoma, Mr. Davis of Illinois, Mr. Lewis of Florida, and Mr. Bunning.

H.R. 4649: Mr. Dreier of California, Mr. Coelho, Mr. Fazio, and Mr. Torres.

H.R. 4758: Mr. Spratt.

H.R. 4900: Mr. Dicks, Mrs. Schroeder, Mr. Eckart, Ms. Pelosi, Mr. Clarke, Mr. Jacobs, Mr. Dixon, and Mr. Bryant.

H.R. 4967: Mr. Boucher.

H.R. 4991: Mr. Armey and Mr. Combest.

H.R. 5048: Mr. Dwyer of New Jersey, Mr. Morrison of Connecticut, and Mr. Eckart.

H.R. 5150: Mr. Madigan.

H.R. 5172: Mr. McEwen.

H.R. 5225: Mr. Courter.

H.J. Res. 330: Mr. Kemp, Mr. Smith of Iowa, Mr. Payne, Mr. Quillen, Mr. Bartlett Mr. Foley, Mr. Morrison of Washington, Mr. Stark, Mr. Holloway, Mr. Wylie, and Mr. Jontz.

H.J. Res. 396: Mr. Annunzio, Mr. Boucher, Mr. Burton of Indiana, Mr. Bliley, Mr. Brown of Colorado, Mr. Bustamante, Mr. Chandler, Mr. Darden, Mr. Dreier of California, Mr. Emerson, Mr. Fawell, Mr. Ford of Tennessee, Mr. Frank, Mr. Frenzel, Mr. Gilman, Mr. Gonzalez, Mr. Goodling, Mr. Grant, Mr. Guarini, Mr. Hansen, Mr. Hyde, Mr. Gray of Illinois, Mr. Hammerschmidt, Mr. Hastert, Mr. Holloway, Mr. Hopkins, Mr. Huckaby, Mr. Hunter, Mr. Ireland, Mr. Jenkins, Mr. Lancaster, Mr. Leach of Iowa, Mr. Lehman of Florida, Mr. Lewis of California, Mr. Lott, Mr. McDade, Mr. McEwen, Mr. McGrath, Mr. Mack, Mr. Manton, Mr. Marlenee, Mrs. Martin of Illinois, Mr. Matsui, Mr. Moody, Mr. Moorhead, Mr. Nichols, Mr. Ortiz, Mrs. Patterson, Mr. Pashayan, Mr. Porter, Mr. Quillen, Mr. Ravenel, Mr. Ritter, Mr. Roberts, Mr. Shaw, Mr. Skelton, Mr. Smith of New Jersey, Mr. Denny Smith, Mr. Smith of Texas, Mr. Smith of New Hampshire, Mr. Spence, Mr. Swindall, Mr. Tallon, Mr. Tauke, Mr. Tauzin, Mr. Taylor, Mr. Traficant, Mr. Traxler, Mr. Vento, Mr. Walgren, Mr. Wolf, and Mr. Young of Alaska.

H.J. Res. 467: Mr. Akaka, Mr. Berman, Mr. Bennett, and Mr. Dwyer of New Jersey.

H.J. Res. 598: Ms. Kaptur, Mr. Crockett, Mr. Anderson, Mr. Clinger, Mr. Kastenmeier, Mr. Schulze, Mr. McCloskey, Mr. Valentine, Mr. Lowery of California, Mr. Clay, and Ms. Oakar.

H.J. Res. 623: Mr. Rowland of Connecticut, Mr. Grant, Mr. Ford of Tennessee, Mr. Crane, Mr. Lewis of California, Mr. Mfume, Mr. Gregg, Mr. Schaefer, and Mr. Boucher.

H.J. Res. 627: Mr. Rinaldo, Mr. Saxton, Mr. Wolf, Mr. Levine of California, Mr. Stangeland, Mr. Stratton, Mr. Roe, Mr. Blaz, Mr. Feighan, Mr. Young of Alaska, Mr. Kolter, Mr. Torricelli, Mr. Perkins, Mr. Payne, Mr. Weber, Mr. Daub, Mr. Dwyer of New Jersey, Mr. Bevill, Mr. Gunderson, Mr. English, Mr. Lipinski, Mr. Schaefer, and Mr. Sisisky.

H.J. Res. 629: Mr. Stratton, Mr. Martin of New York, Mr. Wortley, Mr. Annunzio, Mr. Fawell, and Mr. Dornan of California.

H.J. Res. 642: Mr. Hansen, Mr. Emerson, and Mrs. Martin of Illinois.

H. Con. Res. 115: Mr. Hammerschmidt, Mr. Courter, Mr. Dannemeyer, Mr. Burton of Indiana, Mr. Derrick, Mr. Evans, Mr. Fauntroy, Mr. Gray of Illinois, Mr. Gunderson, Mr. Dorgan of North Dakota, Mr. Kolter, Mr. Lehman of Florida, Mr. Chapman, Mr. Coelho, Mr. Alexander, Mr. Daub, Mr. Upton, Mr. Brown of California, Mr. Clinger, Mr. Emerson, Mr. Borski, Mr. Annunzio, Mr. McDade, Mr. Lantos, Mr. Mica, Mr. Thomas A. Luken, Mr. Bateman, Mr. Jeffords, Mr. Hayes of Illinois, and Mr. McEwen.

H. Con. Res. 276: Mr. Kyl, Mr. Miller of Washington, and Mr. Morrison of Connecticut.

H. Con. Res. 317: Mrs. MORELLA, Mr. PENNY, Mr. KOSTMAYER, Mr. MURTHA, Mr. IRELAND, and Mr. SWINDALL.

H. Con. Res. 326: Mr. SOLOMON, Mr. BAKER, Mr. BUECHNER, Mr. LIGHTFOOT, and Mr. MARLENEE.

H. Con. Res. 348: Mr. GILMAN, Mr. DANNEMEYER, Mr. LAGOMARSINO, Mr. FRENZEL, and Ms. KAPTUR.

H. Res. 516: Mr. CHAPMAN.

EXTENSIONS OF REMARKS

TRIBUTE TO OHIO'S GREAT OAKS VOCATIONAL EDUCATION PROGRAM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. McEWEN. Mr. Speaker, vocational education has a rich heritage in our Nation, and we are proud of the many achievements and accomplishments of Ohio's vocational education program.

In the May 1988 issue of the Smithsonian magazine, Ohio's Great Oaks vocational system was recognized for its unique program and impressive education record. Under the able leadership of Great Oaks District superintendent, Dr. Harold Carr, the students and teachers of this school system have compiled an exemplary record of success. Great Oaks attracts dedicated instructors, and motivates and encourages their students to use their individual gifts and talents to their maximum potential.

Mr. Speaker, it is my privilege to share this article with my colleagues in the Congress because it vividly illustrates the benefits afforded by Great Oaks Vocational Education to students and communities throughout Ohio.

THERE'S NEVER A DULL MOMENT WHERE TEENS LEARN A TRADE—OHIO'S GREAT OAKS VOCATIONAL SYSTEM HAS COME UP WITH AN ASTUTE MIXTURE OF ACADEMICS, TRAINING AND PERSONAL SUPPORT—AND IT WORKS.

(By Jake Page)

Listen for a minute to Angie Smith.

She spoke with me just before graduating last year from the Scarlet Oaks School in Sharonville, Ohio, north of Cincinnati. As she talked she made graceful arcs around herself with her hands. At the time, she was holding down two consecutive jobs after school—both in clothing stores—and she was explaining how she got one of them.

"I went in and gave them my resume and, of course, I had dressed right, like I wasn't wearing anything wild. . . . I was tidy, and I had an interview. And what I was really saying to the lady during the interview was: 'Look, I'm not just your average high school student. I'm a vocational cooperative student and that means I'm superior.' " This is a revolutionary attitude.

Among other things, one doesn't normally connect Ohio with revolutions. The big American one was largely an East Coast affair, that being where the Colonies were. And today it is a given that new ideas blow eastward on the prevailing California winds. But in a particular school system in the Cincinnati area—a district serving 37 high schools—20 percent of all juniors and seniors, 3,000 in all, are engaged in an educational program that is revoluntionary by virtue of its concentration on some old, simple ideas—and a few new ones.

This is the Great Oaks Joint Vocational School District, which includes Angie's Campus, Scarlet Oaks, along with three others—Diamond Oaks, Laurel Oaks and Live Oaks—and here they practice vocational education with a vengeance.

Jail. The awful dark, sooty place of old brick with greasy antiquated machines and dank halls. That has long been the image of the trade school. "If you don't shape up," the mythological schoolmaster's voice intones, "you're going to go to. . . ." Right. The vocational school. The place for dead-enders.

There has been an opposite way of thinking about vocational education, of course. During the Lincoln Administration, the United States Government made a powerful commitment to the idea, establishing the land-grant colleges—the A & Ms (for agricultural and mechanical). It was evident then that for the country to succeed, it would need a lot of people with a working understanding of new technologies. And there has long been a federal role as well as a state and local one in providing technical education for those who seemed destined to go into trades rather than completing an academic high school or college career. Nevertheless, vocational education has generally taken a backseat in education budgets and in the dreams of parents for upwardly mobile offspring.

"In some parts of the academy," said William Bennett, U.S. Secretary of Education, to the members of the American Vocational Association in 1985, "there is sometimes condescension, sometimes a patronizing attitude, toward those who know how to do things." But not at Great Oaks. Here's Angie again, a year and a half into studying business management and marketing: "I decided to buy a new car. So I went down to the lot and told the salesman, 'Look, I've learned all the tricks and gimmicks you're going to use on me. I learned them at my school, so don't bother. I want that car over there and this is what I'm going to pay you for it every month. No more and no less.' "

After frantic discussions between the salesman and the manager in the back room, she drove off in her new car to the bank, walked in and talked her way into a $600 down payment for the car. No tricks, no con. Just knowing how to do things, and confidence.

Self-confidence and self-esteem seem everywhere as one wanders the halls of Scarlet Oaks School, a light-filled building of 310,000 square feet. It is an open place with many appealing aromas. One walks past the area set aside for chefs and bakers—an enormous kitchen, bigger itself than most cafeterias—and there is the smell of bread baking. Beyond is perfume: the beauticians' shop, set up complete with a waiting room. Elsewhere, there is the smell of newly cut lumber from the cabinetmakers' area and a pungent whiff of ozone in the electricians' shop.

A group of students emerge from a door and move cheerfully down the hallway. Its walls are painted in primary-color supergraphics. They are clean as a whistle; no graffiti, no peeling paint. A visitor wonders if he is seeing the results of some kind of subtle mind-control techniques.

In the automotive laboratory, a handful of young men are up to their elbows dismantling a diesel engine. They look up. One of them, who seems to be in charge, says "Good morning" and they all return to work. "That's the foreman for the day," explains Tom Wyatt, the Scarlet Oaks principal. "They take turns. It's important that they know from the start what it's like. They won't be foremen right away once they're out in the real world, but they'll do better work if they know what a foreman's problems are firsthand."

Wyatt goes on to explain that the school receives many visitors, often people from local business and industry. "There are two things about that," he says. "When these kids are out of school, there are going to be plenty of distractions wherever they are working. We want them to get used to people coming and going. That's why all these learning areas and labs are wide open. And also, we keep telling them that any stranger walking around here might be a future employer. You don't want to be goofing off if the guy standing there might see you next across an employment desk."

THE VISITOR HIRED A STUDENT ON THE SPOT

On one occasion, Wyatt says, a General Motors dealer walked through and stopped to watch an auto-repair class for a while. Then he picked out one student, a senior, hired him on the spot, and spent $10,000 of his company's money to send him off for advanced training in computer diagnostics. That, one realizes, is the subtle mind control at work.

Outside the cafeteria, on an easel, is a large, red sign announcing the "Emperor of the Month." It is the Bonnie Lynn Bakery, and a few people have been asked to sit down for lunch to honor Bob Larson, the small chain's founder and president.

Preluncheon introductions are made by a dashing-looking man with a handlebar mustache and cowboy boots. This is Dr. Harold Carr, the superintendent of the entire Great Oaks district. He introduces two student bakers to Bob Larson and guilelessly describes to all the strategy of the occasion: "We like to honor our employers with these little lunches, to let them know how much we appreciate their help. It also helps keep them interested in us, and keeps their minds focused on our efforts here."

The meal, catered by student chefs and served by a senior in food services, is a modest affair. Larson converses quietly with two baking students and the only hitch is when the serving cart erupts with several trays of crockery, and dishes hit the floor with an endless clatter. Larson looks over at the superintendent and says, "Don't worry, Harold. That only happens when there's a guest like me."

There is a friendly collusion here, quite obviously, between industry and school. And it is a collusion that Harold Carr has fostered since his arrival in 1970, two years after the Ohio Legislature mandated that all high school students have available to them comprehensive vocational education. Carr was himself a product of vocational education—auto repair and machine trades—but he went on to college to study vocational ed. In 1975 he become superintendent.

"In those days," he says, "vocational education was the plague around here. We needed the cooperation of industry, but we simply had to prove ourselves before we could ask them for any help." With an annual levy called millage (a tiny—one could say acorn size—tax on the assessed property value of homeowners in the district), what would later become the Great Oaks district was created in 1970 to serve as the vocational department for 20 school districts in Hamilton County and 15 in nearby counties. On land from the U.S. Health, Education and Welfare Department, as well as from an idle Air Force base and other sources, four campuses were built and operating by 1973. Today, they serve an area spreading across 2,200 square miles of southwestern Ohio. An educational octopus, its tentacles reach into the lives of students at 37 "home" high schools in 12 counties. Students are bused to one of the four campuses each day for their vocational and academic curriculum, returning to their home schools for extracurricular activities.

LOCAL BUSINESSES BEGAN TO NOTICE

Over the past decade the new vocational system has gradually proved itself, as students won national competitions in areas like cosmetology. A digital computer was installed at one campus; today, virtually no Great Oaks student escapes without being computer literate. (No one graduates without knowing CPR and Red Cross techniques, either.) Businesses in the area began to take notice, not only of the high school program but of the rapidly growing adult education efforts.

In the afternoon around 3 o'clock, when the high school students have gone home, there is about an hour of quiet in the laboratories and work spaces of the campuses. Then they fill up with adult classes, men and women learning new trades, new careers. Assistant superintendent Rosemary Kolde explains that the key to success has been flexibility. "When we found that people who wanted to retrain in one field or another would get off work at 2 a.m., we located instructors who would teach at those hours," she says. "We have to adapt our service to the needs of the community, whatever they are at any time of day."

Today, some 60,000 adults enroll annually in courses ranging from practical nursing to motorcycle safety to beekeeping to microcomputer accounting. There's a police academy run by retired Cincinnati cop Jim Combs. Local law enforcement agencies send recruits and veterans to Combs for training.

The Great Oaks system backs up its huge training investment by helping people find jobs. Next door to the Scarlet Oaks school is the Center for Employment Resources. For $85 (it costs about $300 privately) one can take a battery of tests and find out what kinds of jobs one may be suited for and where to look for them. The center, presided over by James E. Frasier, works both ends of the street. Its counselors hustle contracts with industry, often looking into a new job category and developing tests to find out what sort of person would function best in it. Then they find the people and, as needed, train them.

There's also an intelligent plan at Great Oaks to provide training for the vocational teachers themselves. Many of them were recruited from industry, and periodically they are sent back out on an "industry exchange," a week or so of work in their field to keep them in touch with the real world.

"For my last industry exchange I chose the hair salon at Saks Fifth Avenue in Cincinnati," says Mary Williams, who has been teaching cosmetology at Scarlet Oaks since 1973. "It's a high-tech, high-fashion place; everything is really up-to-date." Williams worked there for a week, at the end of which the manager surprised her by announcing, "We'd like to keep you." She was flattered but, with the soul of a true teacher, had other ideas about who might end up where.

"At that time I had a student who I knew would fit in there; she had all the assets," Williams says. After reporting to the whole class about the salon and what was happening in the market, she asked the girl privately if she'd be interested in working there. "She was awed," says Williams. "Her response was, 'Omigosh, that's a big step! You think I'm that good, huh?' And I said, 'Yes, you're that good.' She's been working there two or three years now, and it's going really great. Now she comes back to talk to my classes about her work there."

Great Oaks' "real world" attitude is found in the Scarlet Oaks approach to academics as well. In 1978, Carr and his associates persuaded the high schools to approve a major change in the school's program. Basically, the idea is to tailor the academic courses to the needs and interests of the students. Teachers are recruited who can teach math, science and English in synchrony with what the students are learning in their vocational programs.

The fundamentals of physics, for example, are taught when they apply to the work at hand. Most high school physics students learn about coefficients of heat expansion in a canned lab situation with a beaker of water. "Someone who is a welder confronting a steel pipe that is about to be heated to 1,000 degrees thinks about these formulas a lot differently," says Carr. "And he remembers it. There is absolutely nothing any student can't learn once he realizes he needs to know it."

David Nellis teaches science this way at Scarlet Oaks. Today, he's giving a class of chefs-to-be a bit of basic biology—cell organization and such, sometimes aided by computerized course work. Then he relates this information to the biology of nutrition, bringing in examples from fast-food chains like Wendy's, where there is a move toward whole-grain breads and certain kinds of health food. Next comes kitchen maintenance: the kids learn to Graham-stain cultures and are sent around the kitchen—which they are responsible for cleaning—collecting samples from the stoves, counters, refrigerators. "It's a very powerful lesson to see a culture grow under your eyes, when it was taken from a place you thought you had cleaned," he comments.

Nellis says that a lot of the kids he teaches were shortchanged in the home high schools, left behind academically and often socially. Here, chiefly because they are in the hands of their vocational teacher for two and a half hours a day, they simply don't get left on the side. It's not, he says, because of smaller class size—there are 20 juniors in food services, all working at the same time with a single instructor. The key seems to be the master-apprentice relationship that builds up, with the teacher helping at a more personal level when necessary.

"You never know with these kids what their needs are going to be on a given day," says Mary Williams. "They can't concentrate if they're into fighting with their moms and their boyfriends." On some days she goes in keyed up to do a fantastic job of teaching, and then someone comes in with a problem that has to be dealt with. "I have a good feel for my students," says Williams; "I know when something is going on with them." So she'll ask them if they'd like to talk, and they usually say yes. Her advice is thoughtful. For instance, to a student who has lost interest in a course and wants to drop it, she'll say, "Somewhere down the road you'll use this. It's OK to be successful at something you don't want; it's kind of a discipline. Get yourself into a pattern of success."

"We know from the employers that they want kids with skills, sure, but mainly they're interested in good work attitudes," says Pete Kaufman, the commercial baking instructor. "We spend a lot of time in every program on safety and good work habits. We have incentives. If a senior keeps a B or A average and his attendance is 95 percent, he can go on early placement, get a job and still graduate. I keep hearing the work ethic is dead . . . . it doesn't need to be."

But the emphasis on work attitudes doesn't mean there's a shortage of fun. Student chef Eric Leasure will tell you, for example, that the hardest thing he's had to learn was ice carving—"where to cut with the chain saw, how much to take off with the ice pick." Last December he and a friend were assigned to do one in the shape of an animal. "We did what was supposed to be a donkey and it got messed up," he says; "it turned out to be a dog. But we used it at the Christmas banquet that we throw every year, and people thought it was neat."

Of course it is not all rosy at Great Oaks. Kids can and do flunk. Rarely is someone expelled—the two grounds for expulsion are dealing in drugs and physical contact with a staff member. Like any group of teenagers, many are troubled to one degree or another. "It's hard to be a teenager today," says Kenneth Kay, the student advocate coordinator at the Scarlet Oaks campus. "There's 20 times the information there used to be, but the same lack of wisdom. A 15-year-old is still 15. It's not surprising so many kids are depressed." Kay used to work nearby in the juvenile court system where, he says, "I'd see kids who were already in deep. I wanted to work where I had a chance to keep them out of that situation, so I came here.

MORE INCOME AND HIGHER EMPLOYMENT LEVELS

How well does vocational education work? Five years ago, a state-commissioned study by Ohio University, the first to use data from the Internal Revenue Service, found that graduates of Ohio vocational education programs earn 2 percent more money four years after graduation than high school graduates without such training. Further, unemployment is lower—especially in electronics, auto mechanics and health occupations—for vocational graduates than for those in the general work force who are the same age and have the same number of years of schooling.

Aside from statistics, success can also be claimed every time an individual student gets a strong start in his or her chosen career. One such is a recent graduate of Royal Oaks named Joe Vilvens. "My father was a trucker," he says. "I grew up with trucks, with diesels. Diesels aren't that complicated, but they're big. All the parts are enlarged." Joe, himself diesel-size, was uncomfortable at his home high school. He was something of a cutup; he once went to a

Halloween party dressed as the Grim Reaper—and the teachers were unhappy.

Joe got his first job about a year ago after a phone call from a 1974 graduate of the diesel program at Great Oaks. This was Jay Goyert, a 28-year-old mechanic-entrepreneur who is now certified in three states to weld, plumb, electrify and otherwise maintain and rebuild such heavy equipment as the monstrous machines that retail in six figures and are used for road building. Goyert is a member of the Great Oaks Advisory Council, a large group of people who work in industries that range from standard-bred horse breeding and training to the Ford Motor Company. These advisers are asked to make sure that the school is teaching what the job markets—that is, they themselves—need. And, often as not, the advisers hire Great Oaks graduates. Goyert needed some help, so he called his alma mater.

"You know me," Ghoyert had said on the phone, and of course they did. "You know what I want in a mechanic." Scarlet Oaks selected Joe and sent him over for an early-placement interview. He was hired on the spot.

The arrangement was that Joe would attend his vocational and academic classes in the morning and report for work in the afternoon. His first day on the job, Joe recalls ruefully, he mismaneuvered a truck and "bent" a fence.

His second day was better. I followed him around that day to get a feel for the life of a vocational-ed student, and I was bushed by the time I bade him goodbye that evening. The day began at a few minutes before 8 a.m. in the diesel "lab," actually a section of the hangarlike garage at Scarlet Oaks. He spent a while helping to rebuild a ruined Cummins engine that was loaned to the school by an old trucker who didn't care when it was fixed but wanted it to be in working order eventually. The engine looked more like a piece of petrified wood than like a precision machine. Three student teams had been working on it for several months, taking it apart and reassembling it, learning the techniques of replacing ring seals with a tolerance of five-thousands of an inch. "By now," Joe told me, speaking of the work in the lab, "a lot of this is kind of boring."

Later that morning in a classroom upstairs, Joe was at the end of his English class. He had put the finishing touches on a research paper (most students tend to write about their vocational specialty, but Joe chose to write about musicians, being a drummer in his off time) and was doodling on a crossword puzzle in a workbook called "Building World Skills." In a soft voice he chatted with me for a few moments about deregulation and less personal income for truckers and less money for maintenance, which is why, he says some trucks aren't as safe as they should be.

His classes finished, Joe headed out to run several errands for his new employer. At 1 o'clock he pulled his 1978 Chevy truck into a large fenced yard behind a row of residential buildings. In the dusty yard there was a barnlike garage and an array of machines lazing about like an oversize Pleistocene football team waiting for the training staff. Joe surveyed the patients. Among them was a 941 Caterpillar dozer, disabled; and a Richman diesel auger machine that couldn't, for the time being, dig 250-foot-long holes horizontally through the ground because of electrical problems. It costs $85,000 to buy one of these augers and a lot more than that to obtain another rare species lolling in the yard, a cement-curb sculpturing device. There was an assortment of dump trucks and pickups that needed attention, including one that had had an electrical fire in the cab. Joe went into the garage. His employer had told him that the garage and the yard were his office—he was to put in 40 hours a week there after school.

"They need this one first," said Joe, hopping up onto the front bumper of a GMC dump truck, opening the dusty hood with a clank and peering in at the rusty engine. Then he disappeared into the shadow under the hood, and sat on top of the engine. When I asked him about the problem, he said he didn't know yet. "But I wonder," he added, "why this wire isn't connected to anything."

Astride the diesel engine in the GMC, Joe was at home. He stayed in the yard till dusk, getting paid, getting school credit and getting things back on the road, a young man doing what he'd always wanted.

THE SAN DIEGO SEWAGE TREATMENT IMPROVEMENT ACT OF 1988

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. BATES. Mr. Speaker, today I am introducing legislation to assist the city of San Diego in its requirement under the Clean Water Act to achieve secondary treatment of its sewage. Since 1977, public officials at the Federal, State, and local levels have tried to grapple with San Diego's vexing sewage problems with one objective in mind, to seek the best solution for the people of San Diego. This legislation, I believe, is a step in that direction.

Today the city of San Diego is in noncompliance with section 301(i) of the Clean Water Act. This section requires the city of San Diego to treat its sewage to the secondary level by July 1, 1988. On July 27, 1988, the Environmental Protection Agency [EPA] and the State of California Water Resources Control Board filed suit in U.S. District Court against the city of San Diego for violations of the Clean Water Act. The complaint against the city of San Diego is for violating State water quality standards for coliform bacteria at the city's Point Loma wastewater treatment plant.

Currently, the city of San Diego treats its sewage at the primary level at the Point Loma wastewater treatment facility before discharging the effluent into the Pacific Ocean. This facility serves the entire city of San Diego and 14 surrounding communities, or a total of 1.5 million residents. As a result, the city discharges 224 million gallons per day of primary treated sewage into the Pacific Ocean. By the year 2000, sewage-treatment volume is expected to double.

According to the officials from the EPA, no other city in the State of California has as far to go as the city of San Diego to come into compliance with the Clean Water Act. Experts estimate that for the city of San Diego to come into compliance with the Clean Water Act, it will have to spend $1.5 billion to $2.4 billion. This would make it the most expensive public works project in California after the San Onofre Nuclear Powerplant.

Along with my colleagues Representative DUNCAN HUNTER and Representative TONY COELHO, I am introducing the San Diego Sewage Treatment Improvement Act of 1988. The legislation earmarks a total of $10 million to complete the planning phase of the project. Initially, the city of San Diego received $10 million for planning construction of a secondary treatment works, however, an additional $10 million is needed to complete this phase of the project which is expected to be completed by early 1991.

In addition, the bill states that money earmarked for planning must be used for planning water reclamation projects for San Diego and surrounding communities. The benefits derived from reclaimed water are two-fold. First, reclaimed water could be used for irrigation—both agriculture and landscape—recharge of nonpotable aquifers, industrial uses, and creation of riparian environments. Second, wastewater reclamation projects is a viable alternative to the advanced ocean dumping system currently under consideration by the Environmental Protection Agency.

The bill also requires the Environmental Protection Agency to make grants to the city for the purpose of constructing wastewater treatment works that would provide secondary wastewater treatment. The Federal share is established at 55 percent.

I am introducing this bill for several reasons. First, the cost of constructing new facilities and upgrading the existing Point Loma plant is $1.5 billion to $2.4 billion, all to be financed at the local level. The Federal Government, acting through the Environmental Protection Agency, will cease awarding sewage construction grants after fiscal year 1990. After fiscal year 1990, States will be required to set up a State-operated loan program. In San Diego's case, the average ratepayer bill would more than quadruple.

Second, clean water attainment is not just the city of San Diego's problem. Nationally, 188 major municipalities do not meet current Clean Water Act standards. Some communities may be spending billions or even trillions of dollars to improve their sewer infrastructures. The question that comes to mind is, "How can cities be asked to finance such high capital projects out of local revenues?"

I believe it is important for all cities to meet the standards established in the Clean Water Act. In San Diego's case, the environmental impact from dumping primary treated sewage into the Pacific Ocean has a profound affect. Secondary treatment protects the public from the disease potential of human waste and also protects fish and other aquatic life. Recent studies have revealed high bacteriological counts in the Point Loma kelp beds. High bacteria levels are harmful to divers, people who eat shellfish and, in general, degrade the marine environment.

In summary, my bill seeks to rectify a problem with a solution that other cities have enjoyed, financial assistance at the Federal level. The San Diego Sewage Treatment Improvement Act of 1988 is actually modeled after a provision in H.R. 1, the Clean Water

Act, that essentially required the Federal Government to pay 75 percent for planning and construction of Boston's secondary treatment works. The bill I have introduced seeks only a 55-percent Federal share.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. CLINGER. Mr. Speaker, I was absent from the Chamber yesterday afternoon when a recorded vote was taken on the Broomfield amendment to the omnibus drug bill. Had I been present at that time I would have voted "aye."

A TRIBUTE TO ED DAVIS

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. SAWYER. Mr. Speaker, I rise today to pay tribute to an extraordinary man, Ed Davis. Ed Davis has served and served in the Akron City Council for more than 30 years, and in that time, no one has worked harder or better served the people of Akron, nor stood as finer example of all that is good in a free and open government. I speak for an entire community when I offer thanks to Ed Davis for an outstanding career in public service. He is a mentor and model to all who share his commitment to community.

I've known Ed Davis since I was a boy. I learned to play tennis on Akron's public courts under his gentle tutelage and by the example of his wily and deceptively aggressive game. I didn't know very much about politics, but I did know that the man who had been elected to Akron's City Council in 1957, and its first black member, prevailed quietly over the courts he loved. It may have been the only quiet place in his public life.

This was the 1950's, and Ed Davis' pursuit of issues in city government placed him in the vanguard of change. He had come to Akron politics the way many young tennis stars burst into prominence: with a force and energy and impatience that refuses to acknowledge risk. He had already come far. From the coal mines of Pennsylvania to the presidency of a small UAW local in northeast Ohio, Ed Davis had developed an impulse toward leadership.

That leadership became his hallmark. In Akron City Council and in forums everywhere, Ed Davis fought for integrated public housing, sound urban development and relocation policies, public mass transit, and tax reform. He was ahead of his time in his understanding of the effect of changing technology on the economy of a city and the lives of its working people. Throughout, he met issues large and small, from world peace to parks and playgrounds, with an even-handed force and fairness and commitment to principle. And no small amount of courage.

Brave, principled leadership was never needed more in recent memory than in 1968. In Akron that summer, Ed Davis stood alone, a leader by word and deed. His force of will in a city divided by fear, anger, and paralysis was a signal example to all: from council chambers to city streets, from classrooms to executive boardrooms, he brought reason and reconciliation to a time of enormous frustration and hostility.

From leadership in need, Ed Davis assumed leadership in fact as president of Akron City Council from 1969 until his retirement from elective office three terms later. From that dais, he gave practical life in law and policy to the enlightened vision of a city he had preached of and fought for thoughout his public career. He shared that vision, and with it he moved the votes of his colleagues and the direction of a community in transition. He left the council a stronger institution than he had found it, and the city a better place for his effort.

As clerk of council since that time, Ed Davis has continued to lead. He has been mentor to his successors as president and to their colleagues as he had been to his own. As loyal adversary or available advisor, he has become and remained an institutional asset to each of the six mayors who have enjoyed concurrent service with Ed Davis through his career.

All of us have benefited from the job Ed Davis has done these many years. And through it all, from the difficult beginnings back in the late 1950's, to the presidency of the Akron City Council, Ed Davis' family has always stood proudly beside him. At this time, I would like to pay special tribute to his wife, Glendalyn, and his two sons, Keith and Robert. Every elected official knows how important the strong support of a good family is in sustaining political success in the public arena. When the phone rings at 3 in the morning or a headline blares the controversies of the day, the whole family feels the strain and makes accommodation to the demand of office.

And now, after more than 30 years of unparalleled, dedicated service to the Akron City Council—first as councilman, then as council president, and finally as council clerk—Ed Davis has decided to retire. On behalf of an entire community, I welcome the opportunity before this Congress to say thanks to Ed Davis for a job well done. But don't you believe for a minute that this is the last we'll hear from Ed Davis.

He may have retired, but he hasn't relinquished the constitutional rights for which he's fought throughout his career. I have no doubt he'll make ample use of the Bill of Rights, starting with the first amendment, for a long time to come. And with it, he'll continue to win points just as he always has: with a carefully placed topspin lob here, or with a viciously cut drop volley there, or with a ringing defense of the rights of all Americans at all times and everywhere.

H.R. 5178

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. GARCIA. Mr. Speaker, I rise in full support of H.R. 5178, the closed-captioned television services for the hearing-impaired. This legislation will expand our national telecommunications system for the benefit of the hearing-impaired population. Currently, there are approximately 24 million Americans with hearing impairments, many of whom by virtue of their disability cannot communicate by speech and hearing with the rest of the world.

H.R. 5178 places closed-captioned requirements on a variety of federally funded facilities and educational institutions which must ensure that those who use their services and facilities have access to closed-captioned television viewing.

Closed-captioning is a form of subtitling that enables those person unable to hear verbal communication with or without the assistance of amplification devices to see the written dialog at the bottom of the screen. This closed-captioning is accomplished through the use of a decoder that is attached to an individual television set. The cost of a decoder is approximately $200. The technology continues to improve as several television manufacturers recently indicated that newly manufactured sets can have preinstalled decoder modules at a minimal cost of $10 per set.

To fulfill the mandate of the Federal Communications Act of 1934, Congress should enact legislation that addresses the needs of the hearing-impaired population. This legislation offers both opportunity and access for a large segment of our society to participate in a medium that will significantly improve the quality of their lives.

H.R. 4846, a bill closely aligned with the purposes of H.R. 5178, also has my total support. This second measure amends the 1986 Internal Revenue Code to provide a 50 percent investment tax credit for expenses incurred by individual taxpayers for the purchase of television subtitling equipment. The legislation would include a cap of $250 per tax credit. The Joint Committee on Taxation estimates that this proposal would cost less than $6 million per year.

The new technology is now readily available. The tax credit will help offset the cost of closed-captioning devices and make these more affordable to hearing-impaired individuals. This is particularly important because hearing-impaired people have on average significantly lower income than do the rest of the population. The National Captioning Institute estimates that 4.8 million households with hearing-impaired individuals are in need of such devices. In 1985 there were only 80,000 decoders in use.

H.R. 5178 and H.R. 4846 will help bring the hearing-impaired individuals more completely into the mainstream of American life. I urge my colleagues to consider these measures carefully and to lend their complete support.

LUZERNE COUNTY SPORTS HALL OF FAME INDUCTEES

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to 21 new inductees to the Luzerne County Chapter of the Pennsylvania Sports Hall of Fame. These individuals, selected from an application list of more than 160 applicants, were chosen by a committee comprised of community leaders and area sports enthusiasts, and will later be considered for full induction into the Pennsylvania Sports Hall of Fame. These new inductees exemplify the best spirit of sports accomplishment in Luzerne County, and I would like to take this opportunity to name the new inductees, their hometowns and the talent they contributed to sports in the Wyoming Valley:

Neilson Andrews, of Kingston, an outstanding all-around athlete that went on to play for the St. Louis Cardinals and the New York Giants; Lou "Allen" Brominski, of Swoyersville, a local football and baseball legend who played semipro baseball—with Wilkes-Barre Barons; Agnes Hushelpeck Defazio, of Duryea, All-American basketball player best remembered for scoring an amazing 67 points in one game; Rocco English, of Wilkes-Barre, a local high school athlete who took his baseball and basketball skills to Holy Cross, later became athletics director at King's College; Tom Kelly, of Duryea, high School basketball notable who later became coach of Duryea High School; Joe Gries, of Dallas, a radio and television sportscater who broadcast hundreds of high school, college, and pro sporting events, including the Super Bowl; Stanley "Packy Rodgers" Harzinski, of Swoyersville, a high school and college legend who went on to become a starter for the Brooklyn Dodgers; Thomas E. Heffernan, of Wilkes-Barre, former owner/publisher of the Sunday Independent who was know for his pioneering efforts in the field of sports promotion; George "Nippy" Nowakowski of Pittston, the only athlete in Pittston High School history who lettered in baseball and football his freshman year, went on to pitch for the New York Yankees minor league system; Frank "Red" Pendergast, of Wilkes-Barre, championship coach of Coughlin—then Wilkes-Barre—High School from 1922–46; John Mellus, of Hanover Township, a high school football powerhouse who went on to play for the New York Giants championship team of 1938; he also played with the NFL All-Stars in a game against the champion Chicago Bears in 1942 before retiring from the Baltimore Colts in 1949; Dennis "Dinny" Noonan, of Plymouth, known for his expertise as a sports official, went on to officiate for 18 seasons at the University of Pennsylvania State Championships and the 1976 Summer Olympics in Montreal; Vince "Lefty" Stukowski, of Swoyersville, a throwing ace who went on to become a starting pitcher for the Cleveland Indians before entering the military in 1943; James Martin, of Wilkes-Barre, an eighth-degree black belt who went on to capture many karate awards, including region 10's Black-Belt of the Year, a tow-time bronze medalist in the National Karate Championships, and a silver medalist at the 1986 and 1987 East Coast Karate Championships; Walter Pupa, of Pittston, a football and baseball notable who declined an offer to play with the New York Yankess in order to accept a scholarship to the University of North Carolina, where he was named to the All-State Collegiate football team in 1946 and 1947; Tony Sabol, of Luzerne, played some 1,500 professional baseball games with Kansas City and the New York Yankees under such great managers as Casey Stengel and Joe McCarthy; Gene "Shaker" Shaskas, of Wilkes-Barre, the boy wonder of bowling who excelled against the best of the Pro Bowling Tour throughout his long career; Clem Stralka, of Glen Lyon, an outstanding football player who started his career at New High School and ended it with the Washington Redskins in 1942; John Hopkins, of Pittston, an athlete who made his mark as a championship coach; Lou Tomasetti, of Old Forge, who went on to be a professional football player with the Pittsburgh Steelers, the Philadelphia Eagles, and the Buffalo Bills; in 1949, during Yankee Stadium's "Lou Tomasetti Day," he scored three touchdowns for the Bills; and Tony Baldoni, of Wilkes-Barre, a professional boxer who compiled a record of 48–13–2, including 31 wins by knockout; in 1982, he was inducted into the Maryland Boxing Hall of Fame.

Mr. Speaker, I am proud to share with my colleagues the accomplishments of the athletic stars of Luzerne County, PA. We can all certainly benefit from the examples of excellence and dedication shown by this year's inductees into the Luzerne County Sports Hall of Fame.

GEORGE BUSH ON THE ENVIRONMENT

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. BOEHLERT. Mr. Speaker, I have listened with pleasure this week as several of my colleagues spoke to the House concerning Vice President BUSH's recent statements on environmental protection. I want to add my voice to the chorus of those who are saying, "right on."

In Seattle before a business group, on the beaches of New Jersey, at Boston Harbor and Lake Erie Metropark, GEORGE BUSH has offered both a broad and caring vision, and specific proposals to improve our handling of the EPA, Superfund, acid rain, parks, wetlands, oceans, and the global environment. I can assure you the Vice President will continue to emphasize the needs of the environment in his campaign.

That's good news. And while the Governor of Massachusetts may talk about "election year conversions," I've had the privilege of knowing GEORGE BUSH for many years. When BUSH says he is an environmentalist, you can believe him. The Vice President stands in the tradition of Teddy Roosevelt, who told us we must leave our children a natural heritage improved, not impaired.

As evidence of my optimism, I insert in the RECORD following my remarks a copy of a letter I have sent today to the Vice President, along with 127 of my Republican colleagues. This letter demonstrates that as President, GEORGE BUSH could count on the support of his party in pushing a responsible wide-ranging, action-oriented program of environmental protection.

As chairman of the House Group on Acid Rain, I would finally like to point out that GEORGE BUSH says he will ask Congress for legislation to reduce acid rain pollution by millions of tons annually by the end of this century. He said, "The waiting period for action on acid rain is over, and I—as President—will be ready to move." Will my friends on the other side of the aisle—particularly those in the Committee on Energy and Commerce—be ready to move with us?

HOUSE OF REPRESENTATIVES,
Washington, DC, September 8, 1988.

DEAR MR. VICE PRESIDENT: Your Michigan speech expressing your intention to protect the U.S. and global environment was simply "dynamite."

Historians will write that America's commitment to environmental conservation, begun under the Republican administration of Theodore Roosevelt, was given new energy and direction on August 31, 1988, when the next President of the United States pledged to integrate environmental considerations into all U.S. policy decisions.

From the global problems of clean air and water, to local concerns like waste disposal and outdoor recreation, you have offered a broad and caring vision, specific policy proposals, and the experienced, inclusive leadership that can get the job done.

For this, your fellow partisans and all Americans thank you.

Sincerely yours,

Sherwood Boehlert, Bob Lagomarsino, Bob Walker, Marge Roukema, Pat Roberts, Nancy L. Johnson, Guy V. Molinari, Tom Tauke, George Wortley, Denny Smith, Dan Schaefer, Fred Upton, Jim Courter, Bill Schuette, Steve Gunderson, Bill Dannemeyer, Ron Marlenee, Lynn Martin, John G. Rowland, Tom Ridge, Ray McGrath, Robert K. Dornan,

Carl Pursell, Gene Taylor, Paul B. Henry, Larry Combest, Guy Vander Jagt, Andy Ireland, Bill Goodling, Cass Ballenger, Arlen Stangeland, Bill Gradison, Bob Whittaker, Dick Armey, Connie Morella, Tom Lewis, Vin Weber, Christopher Shays, Jim McCrery, Bob Smith (OR), Harris W. Fawell, Richard Baker, Jim Kolbe,

Bob Michel, Jerry Lewis, John J. Rhodes III, Bill Thomas, Robert C. Smith (NH), Joe Skeen, Hamilton Fish, Jr., Steve Bartlett, Curt Weldon, Pat Saiki, Jack Buechner, Jim Lightfoot, Howard Coble, E. Clay Shaw, John Edward Porter, Silvio Conte, Jim Sensenbrenner, Don Ritter, Doug Bereuter, Olympia Snowe, Alex McMillan, David O'B. Martin,

Duncan Hunter, James Saxton, D. French Slaughter, Jr., Bill Frenzel, Frank R. Wolf, Bill Lowery, Judd Gregg, Wally Herger, John Paul Hammerschmidt, Manuel Lujan, Jr., Chalmers Wylie, Toby Roth, Mike Bilirakis, James H. Quillen, James Inhofe, Tom Petri, Sid Morrison,

Helen D. Bentley, Chris Smith, Matt Rinaldo, Robert Davis,
Bill Green, Hank Brown, Al McCandless, Jerry Solomon, Dean Gallo, Ben Gilman, Frank Horton, Newt Gingrich, Mickey Edwards, Barbara Vucanovich, John Miller, Fred Grandy, Carlos Moorhead, Dan Lungren, Norman F. Lent, Dennis Hastert, Don Sundquist, Bill McCollum, Joseph J. DioGuardi, Larry E. Craig, Jack Davis,
Bill Broomfield, Jan Meyers, Claudine Schneider, George Gekas, John R. Kasich, Tom Coleman, Amory Houghton, Clyde C. Holloway, Arthur Ravenel, Jr., Bill Emerson, Jim Leach, Bill Lowery, Herbert Bateman, Jim Jeffords, Rod Chandler, Stan Parris, Joel Hefley, Joe McDade, Jack Kemp.

THE HIGHWAY TRUST FUND

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. CLINGER. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent article by Cyril Malloy in this month's Concrete Pipe News.

The article, "Public Works Funding—The Highway Trust Fund," outlines the history of the highway trust fund. Mr. Malloy points out that a sound knowledge of highway finance is vital in order to meet future transportation needs. In addition, he points out that the trust fund is a pay-as-you-go fund and should not be used as a tool to balance the budget.

This is worthwhile reading and I urge my colleagues to seriously review Mr. Malloy's examination of the highway trust fund.

PUBLIC WORKS FUNDING—THE HIGHWAY TRUST FUND (PART 2)

(By Cyril I. Malloy)

The creation of the Federal Highway Trust Fund (HTF) was a turning point in transportation history. It was the most important development in highway financing since establishment of federal-aid for highways a half-century ago. The Federal-Aid Highway Act did not provide funds for financing but was paired with the Highway Revenue Act of 1956. It completely changed the official philosophy of financing the federal share of highway costs. The previous attitude had been the federal excise taxes on motor vehicles, motor fuel or other products closely associated with highway commerce were general revenues. They were in no way associated with federal aid for highways and the authorized federal aid funds were appropriated from general treasury funds. In other words, cash to liquidate previously incurred obligations for the federal-aid highway program came from the general fund of the U.S. Treasury.

The Federal-Aid Highway Act of 1956, coupled with the Highway Revenue Act of that same year, increased authorizations for the primary and secondary systems, authorized significant funding of the Interstate System, and established the Highway Trust Fund as a mechanism for financing the accelerated highway program. In order to finance the increased authorizations, the Revenue Act increased some of the existing user taxes, established new ones, and provided that the revenues from most of these user fees be credited to the trust fund.

The life of the Highway Trust Fund must be extended periodically by Congress since it is not enacted permanently. The 1956 Highway Revenue Act set an expiration date of 1971 which has been extended several times by subsequent legislation. Highway-user taxes dedicated to the fund and expenditures from the fund are now scheduled to terminate on September 30, 1993 (Public Law 100-17, Section 503).

USER FEES

The trust fund was created as a user-supported fund. The revenues of the trust fund were intended for financing highways with the taxes dedicated to the fund paid by the users of our highways. This principle is still in effect, but the tax structure has changed since 1956. Major revisions occurred most recently as a result of the 1982 Act and the Deficit Reduction Act of 1984. The following table shows the types of taxes placed in the fund and the rates currently in effect:

USER-FEE STRUCTURE

Tax type	Rate
Gasoline/special fuels/diesohol	9 cents/gal.
Gasohol/special fuels with 10 percent alcohol.	3 cents/gal.
Ethanol/methanol (not made from petroleum or natural gas).	3 cents/gal.
Ethanol/methanol (made from natural gas).	4.5 cents/gal.
Diesel	15 cents/gal.[1]
Tires	0-40 lb: No tax.
	40-70 lb: 15 cents/lb.
	70-90 lb: $4.50 plus 30 cents/lb over 70 lb.
	Over 90 lb: $10.50 plus 50 cents/lb over 90 lb.
Truck sales	12 percent retail—all tractors.
	12 percent retail—trucks over 33,000 lb GVW.
	12 percent retail—trailers over 26,000 lb GVW.
Use tax	Up to 55,000 lb—no tax.
	55,000 lb and over—$100 plus $22/1,000 lb over.
	55,000 to a maximum of $550 over 75,000 lb.
	Logging trucks—75 percent of the rates above.
	Canadian and Mexican trucks—75 percent of the rates above.

[1] One-time tax credit given to diesel vehicles under 10,000 lbs and 1979 or later model year.

COLLECTION

Most of the excise taxes credited to the trust fund are not collected by the federal government directly from the consumer. They are instead paid to the Internal Revenue Service (IRS) by the producer or importer of the taxable product. Exceptions are diesel and special fuels taxes which are paid by the retailer or consumer, the tax on trucks and trailers which is paid by the retailer, and the federal use tax which is paid by the heavy vehicle owner.

Tabulations showing taxes paid into the trust fund by states are estimates of what is paid by users in those states and do not mean that the taxes were actually collected in the States. As a point of interest, because of the home office locations of major producers of taxable products, over one-half of all federal gasoline tax revenues are received from just three states—New York, Pennsylvania, and Texas; most of the tax on tires is paid in Ohio; and most of the new motor vehicle tax payments come from Michigan. Therefore, the existing nine-cent federal gasoline tax charged at the pump is in effect a reimbursement for taxes already paid.

Since there is considerable interest in the amount of contributions to the trust fund made by each state, estimates are made of the amount of taxes paid by the consumers of each state on the basis of motor vehicle registrations and state motor fuel tax collection data. Highway users in some states pay more in user taxes than they receive back in federal-aid highway apportionments. In an effort to compensate for this, a minimum allocation provision in Title 23 (23 U.S.C 157) guarantees that a state's percentage of total apportionments and allocations shall not be less than 85 percent of its percentage of total payments into the fund. This calculation is to be made annually for the fiscal years 1987-1991 and a minimum allocation grant is made to qualifying states. The apportionments included in the calculation are those for Interstate construction, Interstate 4R, Interstate substitution, primary, secondary, urban, bridge, and safety construction categories. Allocations made in the prior year also are included, except for federal lands programs and several safety programs. Allocations made from Interstate construction discretionary and emergency relief funds will not be included in the calculation of minimum allocation amounts for fiscal years 1987 and 1988.

User taxes are deposited in the general funds of the Treasury and the amounts equivalent to these taxes are then transferred on paper to the trust fund. (As a result of the 1982 Act, a special Mass Transit Account was established in the trust fund. It receives one-cent of the motor fuel tax, approximately $1.1 billion yearly). Transfers are made at least monthly on the basis of estimates by the Secretary of the U.S. Treasury and later adjusted on the basis of actual tax receipts (IRS Code, Section 9503(b)). Amounts in the trust fund in excess of current expenditure requirements are invested in public debt securities and interest from these securities is credited to the fund (IRS Code, Section 9602 (b)).

PAY-AS-YOU-GO

Another important characteristic of the trust fund is that it was created as a pay-as-you-go fund. In other words, there must be enough money in the trust fund to make reimbursements. The control mechanism that ensures this is called the Byrd Amendment. Under the Byrd Amendment, as modified by the 1982 Act, unpaid authorizations (unpaid commitments in excess of amounts available in the fund) at the end of the fiscal year in which the apportionment is to be made must be less than the revenues anticipated to be earned in the following 24-month period. For example, at the close of fiscal year 1987 the Secretary of the Treasury must determine whether the sum of the balance of the trust fund as of September 30, 1987, plus the anticipated revenues in fiscal years 1988, 1989, and 1990, will be greater than the sum of the authorizations for fiscal 1988 and the authorizations apportioned, but not paid, as of September 30, 1987. If there will be a shortfall in funds, then all trust funded program apportionments for that fiscal year will be reduced proportionately (IRS Code, Section 9503(d)).

EXPENDITURES

As stated before, the trust fund exists to support the federal-aid highway program plus the new transit capital assistance from the Mass Transit Account. Even though the program does for the most part have contract authority, the cash to reimburse the states for the federal share of project costs still must be released from the trust fund by an appropriations act. In other words, the federal government does not have the ability to pay the states without an appropriation of cash from the trust fund. Any amounts that have been appropriated but not used during the year can be carried over for use in the next fiscal year. Conversely, as noted before, supplemental appropriations are enacted when insufficient amounts were appropriated in the annual DOT Appropriations Act.

Provisions have been made in several recent laws for several exemptions from highway user fees. Exemptions currently in effect are shown in the following table:

FEDERAL FUEL TAX EXEMPTION

Tax type	Rate
Gasoline (90 percent gasoline, 10 percent ethanal).	6 cents.
Neat ethanol/methanol (at least 85 percent ethanal/methanol):	
Made from natural gas	4.5 cents.
Not made from petroleum or natural gas.	6 cents.
Special fuel with 10 percent alcohol	6 cents.
Special Exemptions:	
State and local governments and nonprofit educational organizations.	All highway user taxes.
Buses (intercity, local and school)	Motor fuel [1] and tire taxes.
Energy conserving taxicabs	4 cents/gallon/motor fuel tax.
Farm use/off highway businesses	Motor fuel taxes.

[1] For intercity and certain intracity bus use, the exemption for diesel and special fuels cannot exceed 12 cents/gallon.

It is estimated that these exemptions will reduce trust fund revenues in fiscal 1988 by over $1 billion as compared to the revenue that would have been received if all highway users paid the full amount of the applicable highway user taxes.

The balance of the Highway Trust Fund has long been a point of controversy. Because of the nature of a reimbursable program like the federal-aid highway program, there will always be cash in the fund that is not needed for immediate use. As discussed earlier, this cash is invested in federal securities. It is important to understand that this is not excess cash, but will be needed to reimburse the states as vouchers are submitted.

Although there was a cash balance of over $9 billion at the close of fiscal 1986, there were also, at the same time, unpaid commitments (authorizations already apportioned/allocated to the states) against the trust fund totaling about $29 billion. Therefore, the $9 billion balance is not excess cash.

If highway revenues were to have stopped completely at the close of fiscal 1986, the debts (unpaid obligations and authorizations) would exceed the cash on hand by about $20 billion. Since the highway program functions as a reimbursable program, with cash outlays following obligations at a later date, this situation is quite proper. The Revenue Act did not state that obligations should not exceed the balance in the fund, but that they should not exceed the anticipated amounts that could be liquidated from trust fund revenues at a future date, i.e., when vouchers are submitted for payment.

From fiscal 1987 through the life of the trust fund, it is estimated that about $100 billion in revenue will be raised for highways.

SUMMARY

The preceding traces the flow of fiscal authority for the federal-aid highway program from authorization through reimbursement. In capsule form, the cycle can be considered to begin with the authorizing legislation. These Acts set the upper limits on liabilities the federal government can incur for federal-aid highways. Deductions from the authorized levels are then made for administration of the program and for urban transportation planning, the total normally amounting to less than 3 percent of the authorization.

The remaining amounts are then apportioned or allocated among the states. Apportionments and allocations are considered "new obligation authority" and, when added to the unobligated balances of previous apportionments and allocations, constitutes the total amount of obligation authority available to the states. It must be remembered that what is made available is not money but authority to incur obligations: a "line of credit." A state does not receive this authority in one lump sum, but in some 20 or more different funding categories, each with a defined purpose and set of conditions and rules for using the funds (e.g., Interstate, primary, secondary, urban, rural, bridges, etc.).

Interstate apportionments including Interstate 4R funds are made one year in advance of the beginning of the fiscal year for which they were authorized. Interstate construction funds remain available until that fiscal year ends, or two years (funds apportioned on or after October 1, 1989, are available until expended), and Interstate 4R funds remain available for a total of three years. Non-Interstate apportionments are made on the first day of the fiscal year for which authorized and remain available until three years after that fiscal year ends, or four years in total.

States request the Federal Highway Administration to obligate specified amounts of this authority (i.e., acquire rights-of-way, award construction contracts, etc.) for specific highway projects, subject to the availability of apportionments and allocations and to any limitations on obligations which may have been imposed for that fiscal year. Limitations regulate the rate of obligations by imposing a maximum amount of total authority which can be committed during a given fiscal year. Federal approval of each request is a contractual agreement to pay the state the federal share of work completed on that project.

Once the funds are obligated and a project is under way, progress payments may be made to the states for completed work. This liquidating cash is appropriated annually by Congress and is derived from revenues accruing to the Highway Trust Fund.

A sound knowledge of highway finance is essential in understanding how to meet future transportation needs and attempts to use these funds for federal budget deficit reduction.

REAR ADM. RONALD F. MARRYOTT

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, it is my honor and privilege to bring to your attention a distinguished member of the military who is finishing his tour of duty in my district. I refer to Rear Adm. Ronald F. Marryott who will soon complete his tour as superintendent of the U.S. Naval Academy in Annapolis, MD. During his 2 year tour he has provided the unique and superlative leadership that has resulted in the Naval Academy flourishing during his tenure.

During his time at the Academy he has directed the most comprehensive changes in more than 30 years in the Military Performance System. This has led to more clearly defining the standards of superior accomplishment we've come to expect from our midshipman. His unwavering commitment to excellence has dramatically improved the level of performance, morale, and most importantly the quality of officers which are being provided to the fleet.

Rear Admiral Marryott has also made curriculum review a high priority during his 2 years at the Academy. He was responsible for the first internal review of curriculum in more than 15 years, supervising an intensive examination of the core curriculum and major programs. In addition, he reinstated an admissions policy that is directly responsive to the needs of the naval service in providing the strong technical foundation needed by graduates who must fight with the most technologically advanced weapons in history.

In every respect, Rear Admiral Marryott's stewardship as superintendent has been marked by excellence and achievement. His 2 years have been characterized by superior accomplishments and extraordinary growth and improvement in every phase of Naval Academy life. His unswerving dedication to the principles of the Academy and his vision of dynamic leadership are qualities which have transformed the Naval Academy.

IN RECOGNITION OF REAR ADM. JAMES B. WHITTAKER, SUPPLY CORPS, U.S. NAVY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to honor and recognize Rear Adm. James B. Whittaker, Supply Corps, U.S. Navy.

On September 13, Rear Admiral Whittaker will retire after 31 years of outstanding service to the Navy and the Nation. A distinguished professional, he is credited with delivering the Navy logistics system into the age of modern information systems.

Rear Admiral Whittaker led the Navy's supply organization from an environment of problematic inventory management to that of high inventory accuracy, stringent accountability, and increased productivity. He also conceived, developed, and institutionalized an integrated corporation management system throughout the Naval Supply Systems Command. The face of Navy logistics has been permanently improved as a result of his exemplary efforts.

In the past several years, Rear Admiral Whittaker, who is equally expert in the fields of Federal acquisition and contracting, has personally participated in some 40 congressionally sponsored procurement seminars and, in this capacity, has been of great assistance to me, many of my colleagues, and thousands of our constituents.

A man of Rear Admiral Whittaker's talent and integrity is rare indeed and, while his honorable service will be genuinely missed, it gives me great pleasure today to recognize him before my colleagues and to wish him "fair winds and following seas" as he brings to a close a long and distinguished career in the U.S. naval service.

TRIBUTE TO HASAN EL-KHATIB

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. RAHALL. Mr. Speaker, it is with great pleasure that I pay tribute to a dear friend of mine, Hasan El-Khatib, on the occasion of the 20th anniversary of his company, Dena Corp., of Oak Grove, IL. His life story is the embodiment of the American dream. Born in Palestine he came to this country and built his company into one of the giants of the hair care products industry.

Yet, the true measure of Hasan El-Khatib lies not in his business success but in the tremendous contribution he has made to his community and to mankind. He plays a major role in many local and civic organizations and he has undertaken numerous charitable endeavors, always looking to help those who are less fortunate.

Perhaps Hasan's greatest service is the tireless work he does as a member of the board of directors of St. Jude Children's research Hospital. Located in Memphis, TN, St. Jude's is the leading hospital in cancer and leukemia research. St. Jude's founder, Danny Thomas, ensured that all treatment at the hospital would be free of charge and the families of the patients would be cared for while the patient was in the hospital. Hasan's dedication to this cause has helped make St. Jude the success it is today.

I am honored to join with those honoring Hasan in Chicago tonight, although I am unable to be there in person. I hope that more of my colleagues will get to know this outstanding humanitarian.

RETIREMENT SECURITY THREATENED

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. DIOGUARDI. Mr. Speaker, I rise today to bring a very important matter to my colleagues' attention. Unfortunately, to the detriment of both American workers and private businesses, our Nation's pension laws have become a political pawn for unwarranted Federal intrusion and lawmaking. Misguided congressional attempts to overregulate private pensions is creating a situation where the retirement security of all working Americans is threatened.

The latest threatening action occurred in the Senate where a sense of the Senate measure calling for increased taxes on defined benefit plan reversions has found its way into the Senate Technical Corrections Act.

To better educate Members of Congress on this issue, the American Society of Pension Actuaries and the Small Business Council of America prepared a paper explaining the dangers of the Senate's resolution. At this time, I would like to submit this paper for the RECORD and urge my colleagues to give it the serious attention it deserves.

STATEMENT ON PROPOSED INCREASE IN EXCISE TAX ON DEFINED BENEFIT PLAN REVERSING FROM 10 TO 60 PERCENT

The Sense of the Senate Resolution (the "Resolution") passed on July 26, 1988 would increase the existing 10% excise tax on asset reversions from defined benefit plans to 60% through May 1, 1989. The SBCA believes implementation of this resolution would be both unwise and particularly disadvantageous for all concerned for the following reasons:

1. The Resolution is diamentrically counter to the whole concept embodied in defined benefit pension plans. A defined benefit pension plan constitutes a contractual obligation on the part of an employer to provide its employees with a stated level of pension entitlement for each year of covered service, culminating in a specifically delineated pension entitlement (calculated pursuant to a formula) upon the reaching of a stated retirement age. The pension fund is intended to assure the presence of the financial wherewithal with which to honor that contractual obligation on an ongoing basis. Contributions are made to the plan in amounts calculated by an actuary. This, in turn, provides employers with a degree of flexibility that enables them to fund this obligation to the minimum extent necessary to comply with ERISA or up to the legally permissible funding maximum. In this sense, a defined benefit pension trust is analogous to a bond sinking fund pursuant to which the issuer of the bond is required to periodically set aside money in a sinking fund so as to assure the presence of adequate liquidity with which to retire the bonds when they mature.

While ERISA properly prevents an employer from retroactively abrogating pension entitlements already earned by its employees, virtually all pension plans are subject to prospective termination by employers that, for one reason or another, decide that they no longer choose to provide that level of benefit. Remember, the private pension system in this country is, and has always been, voluntary in nature. In the event that an employer decides, for whatever, reason, that it no longer desires to sponsor a particular defined benefit pension plan, the law has always recognized the entitlement of such an employer to terminate that plan and recover amounts remaining in its supporting trust after all plan participants have been paid the full amount of their contractual entitlements pursuant to the terms of the plan involved. There is no more logic in concluding that such excess funds belong to plan participant than there is to requiring that amounts remaining in a bond sinking fund after the bonds have been paid in full be paid to the bondholders rather then revert to the obligor that has already sufficed its total bond obligation.

2. Denying an employer's right to a reversion from a terminated defined benefit plan that has otherwise sufficed the full extent of participants' contractual entitlements will not produce the desired result providing our workforce with more generous pension entitlements. The Resolution has been prompted by a perceived need to take action to provide employees with more generous pension entitlements, particularly in situations where, for one reason or another, the fund created to pay those benefits contains assets in excess of the aggregate entitlements of plan participants. Inherent in this Country's private pension system is the determination by each employer to the extent to which it chooses, on a voluntary basis, to adopt a retirement system for its employees. ERISA then requires that whatever system is adopted by fully and completely communicated to employees at least annually and funded on a current basis sufficient to reasonably assure the wherewithal of funds sufficient to provide the benefits promised. Benefits promised, in turn, are essentially those which are earned on a year-to-year basis, with no expectancy intended regarding future benefits. To mandate a greater benefit expectancy would encroach upon the very heart of the private pension system—its voluntary nature.

To a large degree, the competitive market place dictates the level of retirement benefits which employers promise their employees. There is nothing in the law (nor should there be) which compels employers to provide any specified level of retirement benefits over and above that mandated by the Social Security System. Until recent years, when a constant onslaught of pension legislation has made it exceptionally difficult and costly for employers to maintain private pension plans, the private pension system has expanded quite rapidly, with different employers providing varying types of retirement arrangements within the broad panoply of alternatives available through our qualified deferred compensation system. Then, within the minimum and maximum parameters enacted in ERISA and frequently embellished in subsequent legislation, it is common to find employer plans providing analogous benefits, but which are, for one reason or another, funded more or less rabidly. Accordingly, little, if anything, will be accomplished in a broad policy sense by legislatively prohibiting particular employers that either through design or furtunate happenstance end up with overfunded defined benefit plans from ultimately reclaiming those unneeded funds. Instead, actions such as those called for pursuant to this Resolution (which will impose what amounts to a confiscatory [94% federal, plus state] tax on plan reversions) can be relied upon to produce three very disadvantageous consequences: (a) the purposeful funding of existing defined benefit plans only to the minimal level necessary to avoid underfunding penalties, (b) the termination of many existing defined benefit plans, and (c) a virtual moratorium on the adoption of new defined benefit plans. There would, we believe, be little disagreement with the conclusion that these alternatives would be quite detrimental to the well-being of our workforce. In other words, we believe that the perceived evils of permitting employers to recapture funds in excess of those necessary to provide promised benefits are isolated, rather than symptomatic, and will produce detrimental effects that far outweigh any benefit that may inure to but a minor segment of our overall workforce.

3. Congress has repeatedly focused upon and legislatively rectified both (a) the ability of employers to purposefully overfund defined benefit pension plans and (b) provide inadequate benefits for rank-and-file employees in comparison to those provided

for their more highly compensated counterparts. These changes were well-conceived and will, if this system is not cut out from under them, produce the benefits contemplated at the time of their enactment. The Tax Reform Act of 1986 (TRA '86) and the Omnibus Budget Reconciliation Act of 1987 (OBRA) incorporated the following changes dealing with qualified plan overfunding and the adequacy of plan benefits provided for non-highly-compensated employees in relation to highly-compensated employees:

Qualified plan overfunding—

Ten percent excise tax on reversions from defined benefit plans. IRC Section 4980.

Ten percent excise tax on non-deductible contributions to pension plans. IRC Section 4972.

Ten to thirty percent penalty on overstating pension liabilities. IRC Section 6659A.

Reduction in full funding limitation to 150% of current liability. IRC Section 412(1).

Expansion of the pension benefits of non-highly compensated employees—

Expanded coverage requirements. IRC Section 410(b).

Faster vesting. IRC Section 411(a)(2).

Limits on benefit exclusion due to integration with social security. IRC Section 401(1).

Faster accrual and funding of benefits. IRC Section 412(b).

Restrictions of employer entitlement to terminate underfunded defined benefit pension plans. ERISA Section 4041(b).

Increase in the PBGC premium. ERISA Section 4006(a)(3).

The changes enumerated above will result in the providing of enhanced benefits which vest more rapidly—the basic objective desired by the proponents of this Resolution. Moreover, these recent changes will, within a relatively few years, reduce the perceived problem of plan overfunding to the level of minimal consequence. Accordingly, the consistent position of the Administration, the Internal Revenue Service, the Department of Labor and the Pension Benefit Guaranty Corporation (PBGC) against any form of moratorium on defined benefit plan reversions is proper governmental policy and should not be changed at this time.

4. This Country's fiscal policy will be better served by encouraging employers to restore previously deducted (or never-taxed) funds which exceed those needed to properly fund promised benefits into the taxable revenue stream than by leaving them to continue to grow, tax free, as a part of unneeded pension funding. In these deficit-ridden times, good fiscal policy should encourage, rather than discourage the extraction of excess funding from defined benefit plans when the end result of that process results in the enhancement of the revenues to the extent of a normal corporate tax of 34% plus a 10% excise tax, totalling 44%. We suggest that, for this reason, reversions should be made easier to accomplish, rather than more difficult. It would not, we submit, be difficult to provide a more than adequate funding cushion (e.g. permissible reversion of plan assets in excess of 125% of accrued liabilities) as being fiscally beneficial while still providing adequately insured (especially when coupled with a strengthened PBGC) retirement entitlements for this Country's workforce.

CONCLUSION

Congressional efforts to prevent employers from gaining access to excess pension funds (which have always been recognized to be their property) by means of superimposing upon the concept of a defined benefit pension plan some form of compulsory enhancement of employee benefits on an isolated and haphazard basis is conceptually wrong, unwise, and will be counterproductive.

Louis H. Diamond, *Director,*
Small Business Council of America.

H.R. 4867—THE FISCAL YEAR 1989 INTERIOR APPROPRIATIONS BILL

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. BROOKS. Mr. Speaker, the fiscal year 1989 Interior appropriations bill, H.R. 4867, creates a new entity, the National Film Preservation Board. This Board was included in the House version of H.R. 4867 and I was active in negotiating the amendment. I understand the Senate bill did not include any provision for a Board of any type. After much negotiating during the conference on H.R. 4867, a compromise was reached on the creation of a Board.

During the House consideration of the conference report on H.R. 4867, my good friend Representative MRAZEK made several statements which do not reflect my understanding of the agreement reached by the conference committee. Of particular concern are Representative MRAZEK's remarks with regard to the definition of a material alteration to a film. His comments as to the restrictive interpretation of practices exempted from the definition of material alteration are not in line with my understanding of the conference agreement.

In this regard, I would bring to the attention of my colleagues statements made by Senator DECONCINI with regard to the same issue. Senator DECONCINI, as chairman of the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks, has the authorizing jurisdiction for this Board and, as a conferee, he was very much involved in the negotiations resulting in the conference compromise. Senator DECONCINI's statements with regard to the definition of material alteration differ significantly from Representative MRAZEK's statements.

Mr. DECONCINI. Mr. President, motion pictures are a significant part of our Nation's historical and cultural heritage which uniquely reflect their time. Through the eyes of the filmmakers, we relive moments in history, gaining insight into the time depicted in the film. The motion picture is a significant art form worthy of recognition and protection. To this end, the Interior Appropriations bill contains language establishing a National Film Preservation Board within the Library of Congress to protect this art form from alteration.

As a member of the Interior Subcommittee and, coincidentally the chairman of the Senate Subcommittee on Patents, Copyrights, and Trademarks, I was very concerned about the inclusion of this provision in the Interior appropriations bill. It seems obvious to me that the proper forum for consideration of these issues is the subcommittees with jurisdiction over copyright in the House and Senate. Because I serve on both subcommittees, the subcommittee considering the legislation and the subcommittee that should have jurisdiction over the legislation, I believe that I was in an excellent position to affect the legislation. Along with my friend and colleague, Senator LEAHY of Vermont, who also sits on both subcommittees, I attempted to improve the legislation presented to us by the House.

Substantial changes were made in the legislation at every step of its consideration, including the House-Senate conference. At one time, the legislation would have created a wholly unprecedented and I think unworkable and unwise copyright infringement remedy for parties who were not copyright holders. Although the legislation was improved by the time it was considered by the conferees, major substantive changes were still necessary. I am still of the opinion that the legislation should not be included in the Interior appropriations bill. I believe that if the Congress is going to enact moral rights legislation, it should do it in a comprehensive and thoughtful manner. If I am chairman of the appropriate subcommittee in the 101st Congress, I intend to initiate such a thoughtful and thorough examination. However, because I was able to achieve substantial modifications of the National Film Preservation Act including sunsetting it after 3 years, I did not stand in the way of its adoption. In its present form, the National Film Preservation Act does little more than honor a small number of films as being culturally significant and require that a very few colorized films be labeled as such. Since the owners of colorized films are perfectly willing, if not eager to publicize the fact that these films are colorized, then this requirement is rather superfluous.

The bill provides for labeling requirements of films nominated for inclusion in a National Film Registry. With regard to films that are on the registry, a requirement is made that if they are materially altered, a specified label must be affixed to the film. With respect to such films aired for cable or broadcast television viewing, the appropriate label specified in the bill would be displayed.

I note that during consideration of this legislation in the House, a colloquy took place in which it was stated that the National Film Preservation Act requires that on the designated films, labels be placed at both the beginning and at the end of a colorized or materially altered film. In addition, it was stated that when such a label is shown, no other audio or video information be broadcast. There was no such agreement by the conferees for such a requirement. In fact, section 4 of the act defines the required label as appearing "immediately preceding the commencement of the film." I know of no reason why the plain language of the statute on this point should not be controlling.

Section 11(a)(5) of the bill provides a definition for the term "material alteration." The term is defined to mean colorizing or otherwise making fundamental changes in a film after it has been publicly released. The term does not apply to those changes made in accordance with "customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast." By the inclusion of this language excepting these normal practices, the conferees intended to grandfather-in the standard procedures used to prepare a film for broadcast television videocassette sale and rental, and cable viewing. For example, practices such as panning and scanning, time compression, time expansion, and customary editing to meet time formats are common in the preparation of films for broadcast television, videocassette sale and rental, and cable viewing. These practices, as well as editing designed to remove materials that the broadcaster is concerned may offend community sensibilities such as nudity, profane language, and inappropriate and excessive violence are not intended to be "material alteration" under this definition.

When in the broadcasters opinion, in the course of preparing a film included in the National Film Registry for broadcast, it has been subjected to alteration that the broadcaster believes would constitute material alteration, the broadcaster may voluntarily place a label on the film without submitting to the regulatory process that would require such placement. In other words, if a broadcaster knows that he is going to have to put the label on a film, he can do so voluntarily without submitting the film to the Commission for an opinion.

Retail video dealers who receive copies of registry films from their distributors without the proper labeling may have no way of knowing if material alterations have occurred. Retail dealers also have no way of affixing the required label on the film itself and therefore the films would have to be labeled by the distributor. The retail video dealers should not be held liable under these circumstances.

The committee empowered the Librarian to appoint alternate members of the Board for those instances when a member of the Board is unable to fulfill his or her responsibilities to the Board. While we hope that board members will have very few instances when they cannot attend Board meetings, it is the intent of the conferees that the alternates have similar expertise as the Board members that they replace. It is the conferees intent that the alternates have full voting rights.

The amendment provides that a National Film Board Collection of those films selected for inclusion in the National Film Registry will be created by the Librarian of Congress. The Librarian is entrusted with obtaining copies of the films from their owners by gift. The films are for archival purposes, so it is anticipated that the Librarian would obtain archival quality copies, and that he would use his expertise to properly preserve and maintain copies in a special collection in the Library of Congress. It is the understanding of the managers that the copies so received by the Librarian would become the property of the U.S. Government.

I understand that there is some misunderstanding about the intent and meaning of some of the provisions of the National Film Preservation Act. Because of the time pressures of the last days of the Congress before the Republican Convention recess, it was not possible for the conferees to agree to a detailed or specific conference report. I have attempted to explain my understanding of the legislation because it was important that certain modifications be made in the legislation in order for me to acquiesce to its enactment. It is my belief that the statutory language is clear and should be interpreted on its face.

Mr. JOHNSTON. I concur with the comments of the Senator from Arizona on the conference report and I appreciate his clarification of the agreement between the conferees.

The Judiciary Committees of the House and Senate have the long-term jurisdictional responsibility for this program in addition to the legislative expertise in this area. Therefore, as a member of the House Judiciary Committee who has been actively involved with this matter, I want to express that I agree with Senator DECONCINI's interpretation of the definition of material alteration.

IRAQI USE OF CHEMICAL WEAPONS AGAINST THE KURDS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. GILMAN. Mr. Speaker, today's newspapers reveal that the Department of State has concluded that Iraq is using chemical weapons against Kurdish civilians and armed insurgents inside Iraq.

If the Iraqis ever felt the Kurds were a threat, in that many Iraqi Kurds had allied themselves with Iran, the time for such a concern has passed; and Iraq and Iran have agreed to a cease-fire. In any event, the use of chemical weapons is prohibited by the 1925 Geneva Convention. With respect to civilians within Iraq who have not joined in any uprising, the use of chemical weapons against Kurdish civilians is all the more offensive.

I applaud the administration for its forthright declaration on this matter, and for its prior, repeated condemnation of Iraq—as well as Iran—using these weapons in the Iran-Iraq war. We cannot allow the use of weapons of mass killing, such as chemcial weapons and long range missiles, to become a matter of routine. The implication of their routine use for the peace and stability of the world are too horrible to contemplate. Many countries around the world—and in the unstable Middle East in particular—are in the process of stockpiling such weapons. We cannot allow this trend to continue without interruption.

We should certainly continue to evaluate the evidence of the use of chemical weapons and other kinds of weapons against the Kurds, and we should consider the use of various kinds of pressure against the Iraqi Government in order to affect a change in current practices.

The American people applaud the Turkish Government for giving sanctuary to Kurds fleeing Iraq and hope that it will continue this humanitarian gesture for as long as necessary.

Mr. Speaker, for humanitarian reasons, and for the sake of the peace and stability of the world, the Iraqi Government must reverse its current policies.

SETTING THE RECORD STRAIGHT

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. FAZIO. Mr. Speaker, I want to set the record straight on a matter that received some attention in a recent Washington Post article. That story reported that the Capitol Power Plant, which supplies heating and cooling to the buildings in the Capitol complex, has been, at times, in violation of Environmental Protection Agency emission standards. While that finding has been documented by EPA, the implication of the story that the Congress has not provided the funds requested for emission control, or that there is a double standard being applied, is not supportable.

I have herein included the Post article, a letter from JERRY LEWIS and myself to the Architect of the Capitol concerning this matter, and the Architect's clarification.

[From the Washington Post, Aug. 8, 1988]

OFT-TARGETED EPA FINDS CONGRESS IS AIR POLLUTER—CAPITOL HILL POWER PLANT EMISSIONS EXCEED LIMIT

(By Chris Adams)

It was a sweet temptation.

The Environmental Protection Agency, target of many a congressional criticism, found Congress' own power plant in violation of the agency's emissions standards.

"Because the EPA has taken its share of flak from some critics on the Hill, it is tempting in a case like this to consider returning the favor," EPA spokesman Dave Cohen said. But the agency decided not to make it a major public issue.

The EPA's regional office in Philadelphia served notice last week that the Capitol Power Plant, a 60-person operation near the Southwest Freeway that provides Capitol Hill with heat and air conditioning, has been exceeding emission limits whenever the third of its three boilers is running. The plant is operated by the Architect of the Capitol, the office responsible for tending to all legislative branch buildings and grounds, and was found to exceed emissions levels during tests last year.

It was then that the EPA first warned the plant to clean up its act. Although the third boiler doesn't run all that often, Capitol Power was repeatedly told during the year to get it into compliance.

But power plant officials couldn't afford to fix it. Congress didn't give the plant enough money.

"Do you know how long it takes to ask for money from Congress?" asked Elliott Carroll of the Capitol Architect's office, who added that he would ask again soon. "As soon as the money becomes available, we will install that new equipment."

To fully understand the EPA's source of potential delight in serving the Capitol Power Plant with the violation, Cohen points to a recent lambasting as typical of the "flak" the agency takes from Congress. Two months ago, Sen. Frank R. Lautenberg (D-N.J.), delivering the Democratic party's response to President Reagan's weekly radio address, dubbed the EPA the "Environmental Procrastination Agency", saying it was "AWOL" and "was, at its worst, corrupt and, [at] its best, timid and slow".

"I guess it all seems a bit ironic," said Daniel Weiss, Washington representative for the Sierra Club. "Now if only the EPA would go after industrial polluters the way it went after Congress, we might have clear air."

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, August 10, 1988.

Hon. GEORGE M. WHITE,
Architect of the Capitol,
Washington, DC.

DEAR GEORGE: On Monday, August 8, 1988, the Washington Post carried a story concerning the power plant operated by the Architect of the Capitol that serves the Capitol, House and Senate office buildings, and several other buildings including the Library of Congress, Supreme Court, and the City Post Office. That story, to some extent, appears to be based upon interviews with senior members of your staff, and contains inaccurate and misleading information which, if not corrected, conveys an unfair characterization of the actions of Congress in supporting funding for power plant operations.

We have confirmed with your budget office that the Legislative Branch Appropriation bill has consistently, year after year, provided the funding requested for the equipment and maintenance necessary to control power plant emissions. Although it is true that the Legislative branch appropriation has been constrained due to the limitations imposed by the Congressional Budget Act and last year's economic summit agreement, made necessary by the effort to reduce the Federal deficit, the Committee on Appropriations has been very careful to insure that high priority items are provided for. Over the years, we have taken that responsibility very seriously.

With funding provided in the Legislative bill, the power plant was expanded several years ago. Part of that expansion included an extensive emission control device, a "bag plant." On several occasions we have asked in public appropriations hearings with the Architect of the Capitol and staff, and on numerous occasions informally, whether or not the power plant met EPA standards. On every occasion the response from you and your staff was that we were in compliance. We have had no funding requests for this purpose that have been denied.

It is regrettable that your staff feels obliged to complain about how long it takes to ask for money from Congress. We are not sure that observation reflects a deficiency in your own internal process, or the Congressional appropriations process. If the former, you and your staff have ample opportunity to change that situation; if the latter, we follow the normal and routine constitutional process that has not varied much in over 100 years. It is probably true that, because of the necessity to deal with the deficit together with the scrutiny which the Committee must apply to the myriad construction and maintenance projects that are presented to us, we act in a calculated and deliberative manner. We have insisted upon thorough planning and complete analysis in order to avoid the recurrence of cost overruns that have been encountered in several projects. And we will continue to do so.

So, Mr. White, with respect to the allegations in the Post story, this is the first time that this subcommittee has been informed the power plant is in violation of emission standards, and the first time we have been informed that we have not provided "enough money."

It is also lamentable that the impression is given that we have a double standard for the Congress. That is not our intent, nor do we subscribe to that characterization.

Under the circumstances, we believe you should set the record straight with the Washington Post, their staff writer, and with the Sierra Club.

Sincerely,

JERRY LEWIS,
Ranking Minority Member, Subcommittee on Legislative Branch.

VIC FAZIO,
Chairman, Subcommittee on Legislative Branch.

WASHINGTON, DC,
August 22, 1988.

Hon. VIC FAZIO,
Chairman.
Hon. JERRY LEWIS,
Ranking Minority Member, Subcommittee on Legislative Branch Appropriations, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR VIC AND JERRY: Your concerns regarding the Capitol Power Plant, as expressed in your recent letter, are quite correct and valid. The reporter's interpretation of Elliott Carroll's remarks was indeed unfortunate. In fact, the Appropriations Committees have, as you state, furnished, on a timely basis, all of the funds requested for equipment needed in order to meet the EPA requirements.

The present condition arises as a result of an earlier and perhaps inadequate engineering judgment. At the time of the request for funding for the bag-house filters, the third coal-fired boiler was used only in emergencies which seldom occurred, and then only for a few days at a time. It was therefore judged unnecessary to seek funds amounting to approximately $3 million to provide for a bag-house filter for the third boiler and associated modifications to the oil-fired boilers. We should have foreseen that any shut-down of either of the other coal-fired boilers would require full time use of the third boiler, particularly if the oil-fired boilers were also in repair. Such shut-downs did in fact occur when repairs to the stacks and other maintenance was required which thus occasioned the violation of EPA regulations. In addition, an increase in heat load made the existing capacity marginal during those repair periods, thus requiring additional boilers to be placed in service.

I accept full responsibility for this error in judgment. Fortunately, the violations are not occurring at this time, nor will they occur unless and until some emergency arises. Nevertheless, it is imperative that the possibility of a violation be positively prevented. As you know from prior testimony, it is our position that we must comply with the law and, indeed, should set an example for compliance as representative of what I know to be the Congress' policy that such be done.

Because the design and construction of a bag-house filter for boiler #3 will involve a period of time of approximately three years, we intend to convert the boiler to a dual fuel system, i.e., we will immediately begin conversion to enable the use of either oil or natural gas. We intend to utilize gas initially and will thus be using the cleanest fuel available until such time as the bag-house filter can be constructed and made operational at which point we will re-convert to coal.

Although gas is a more expensive fuel, since it will not be used on a continual basis the increased fuel cost should be minimal and, in any event, is necessary in order that we meet the regulations on an interim basis. Converting to oil may create some other problems with particulate emissions; in other to overcome those, the burning of #2 oil might be necessary, the cost of which is comparable to gas. It is our intention, therefore, to proceed with the better option available.

It is my intention to seek your approval to reprogram funds presently available in the Capitol Power appropriation for FY 1988 in the amount of $900,000 in order that we may proceed immediately to implement the program described above. Sufficient funds are available for this purpose in the account for purchase of electrical energy. I propose to expend the funds as follows:

1. Conversion to gas or oil	$500,000
2. Design of bag house	400,000
Total	900,000

Thus, no change in current requests for appropriations appears necessary at this time. We expect to request construction funds for the new bag-house filter in the FY 1989 Supplemental or FY 1990 Legislative Branch Appropriations Bill.

I apologize for the inadvertent impression that was created by a response to a reporter's questions. In fact, our office did not receive the EPA letter until several days after the reporter called. Apparently EPA saw fit to notify the press prior to notifying us. The response to the reporter should thus have simply indicated that when we received the letter, we would be pleased to reply.

In my judgment, to respond to the press now would simply offer additional opportunities for misunderstanding or misinterpretation on the part of the press and reopen an issue for which a responsible solution is well under way.

I suggest therefore that we respond to EPA, as we are obliged to do, and presume that EPA will inform the press as they have done in the past. It might also be useful to set the record straight by publishing this response in the Congressional Record.

I shall be pleased to discuss these proposals further if you deem that desirable; in the meantime we shall proceed as outlined.

Cordially,

GEORGE M. WHITE, FAIA,
Architect of the Capitol.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. LEVIN of Michigan. Mr. Speaker, next week, Jews all over the world will celebrate Rosh Hashanah, the Jewish New Year. For many Jews in the Soviet Union this has been a year of mixed blessings. Over 200,000 people attended the Freedom Sunday rally for Soviet Jews last December, ensuring that the issue of Jewish emigration remained at the top of the summit agenda. Since then, over 9,000 Soviet Jews have been allowed to emigrate—a significant increase over the number allowed to leave last year. While this is encouraging news, this number is only a fraction of the thousands of Jews who wish to leave. Indeed, no concrete steps have yet been taken to dismantle the many restrictions on emigration. Applicants are still denied permission to leave because of alleged "state secrets" or because a relative refuses to sign a waiver of consent. The arbitrary application of the emigration policy adds to the atmosphere of uncertainty surrounding the emigration process.

For some, the promise of freedom has been fulfilled. Long-term refuseniks such as Joseph Begun, Aleksandr Lerner, and Lev Shapiro, as well as some very recent applicants have been released and we celebrate their newfound freedom. Leonid, Ludmilla and Kira Volvosky had been denied permission to leave since 1974. After many appeals on their behalf, Kira was finally allowed to leave earlier this year. I was delighted to learn that her parents have recently joined her in Israel. For those of us who had been pressing for their release, these joyful occasions remind us that our letters, phone calls, press conferences, our efforts until all are free—free to learn about their culture and heritage, to practice their religion, and free to live where they choose.

I would like to call attention to the tragic plight of a little-known family from Moscow, Rita and Aleksandr Vinokurov and their children Andrei and Oleg. Andrei, 17, suffers from progressive muscular dystropy, and yet the emigration authorities have refused to grant them permission to seek medical treatment in the West. The reason: Aleksandr's father has refused to sign a written consent for his son to emigrate even though his "child" is a grown man with children of his own.

After 10 years of refusal, their hopes were raised when they were given permission to apply without their parent's permission last December. In a cruel, and all too common reversal, the authorities are again demanding parental permission. When Rita tried to apply for only herself and her son, she was told she would have to divorce her husband in order to obtain permission. Almost every day for the past 4 weeks, Dr. Rita Vinokurov has demonstrated at different government offices demanding an exit visa for her family. She is often detained for several hours and threatened with repressive actions against herself and her family.

The Vinokurovs have sacrificed much in their struggle for freedom. Since applying to emigrate, Rita has lost her job as a pediatrician and is now working as a manicurist. Aleksandr, a neurologist, has also been demoted from his position as head of his department. They also endure the pain of watching their son suffer from a disease without the proper medical treatment. I cannot understand why Dr. Vinokurov's father would endanger his grandson's health in refusing to sign the waiver. It is equally unconscionable that the Soviet Government is holding the grandson hostage to such a senseless procedure.

To General Secretary Gorbachev: I call upon you to recognize the suffering of the Vinokurov family and to act in a humane and decent manner by granting them permission to emigrate. To the Vinokurov family and to the thousands of Jews struggling for their rights in the Soviet Union: I send my heartfelt wishes that the New Year bring you peace, happiness, and your long-awaited freedom.

LEGISLATION TO REQUIRE WARNING LABELS ON ALCOHOLIC BEVERAGES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. CONYERS. Mr. Speaker, as we consider antidrug legislation, we cannot forget that alcohol is also a drug capable of destroying thousands of lives and hurting our society and economy. Our efforts to fight the "war on drugs" should include this drug. This year I have introduced H.R. 4441, a bill requiring alcohol companies to put five warning labels on alcoholic beverage containers. Warning labels work by educating the public about possible risks, and allowing them to make informed decisions about whether or not to drink. I am including my testimony of August 10, 1988 before the Senate Commerce Subcommittee on Consumer Affairs. I am also including a list of national, State and local organizations endorsing this legislation:

TESTIMONY OF CONGRESSMAN JOHN CONYERS, JR., ON H.R. 4441 AND S. 2047: LEGISLATION TO REQUIRE WARNING LABELS ON ALCOHOLIC BEVERAGES

Mr. Chairman, members of the subcommittee, thank you for holding hearings today on legislation which Senator Strom Thurmond and I have introduced to require warning labels on alcoholic beverage containers.

Alcohol is a drug. The sooner we accept this reality, the better we can develop and implement strategies, such as requiring health and safety warnings on all alcoholic beverage containers, and preventing and treating alcohol problems. This year, we have committed ourselves to fight drugs, but we are ignoring probably the most costly drug of all in economic and human health terms.

Alcohol-related problems are life threatening and pervasive. They afflict individuals from all races, socioeconomic and educational backgrounds, and religious and political persuasions.

Over 100,000 Americans die each year from alcohol-related deaths. Over 25,000 deaths occur on highways. Thousands of children will be born yearly with the only preventable form of birth defects because of alcohol abuse. 18 million families are destroyed each year because a member became addicted. Cancers, cirrhosis, hypertension, liver disease also number in the tens of thousands due to abuse. The economic costs alone are over $100 billion each year.

For black Americans, who are the regular and disproportionate targets of alcohol manufactures, alcohol problems are especially serious. Despite an overall lower rate of drinking in the black community, the diseases are more severe: cirrhosis mortality is twice as common among black men as it is among white men; in some urban areas the rate shoots up to twelve times higher than for white males. The rate of cancer of the esophagus, strongly related to alcohol consumption, among black males 35-44 years old is a staggering ten times that of their white counterparts. That list goes on.

Alcohol abuse is one of the greatest health problems in both the black and white communities. But what is so extraordinary and different in this case is the lack of information and warnings available to consumers. Public health announcements are now regular about cardiovascular disease and smoking. Warning labels are accepted as modest public health protections for aspirin, bubble bath, ladders, and a host of consumer products. But when it comes to the more dangerous and costly alcohol, little if anything is done.

That's why I had hoped that the alcoholic beverage industry would agree to voluntarily label their containers with the health and safety information consumers need. The alcohol producers have rejected recommendations for warning labels from the Food and Drug Administration, from the former First Lady Betty Ford and the White House Conference for a Drug-Free America.

They reject those recommendations and this legislation because they argue that somehow this violates the consumers' "right-to-know", or that the labels are ineffective.

For any industry that spends over two billion dollars each year glamorizing alcohol to say that Americans know about the health and safety risks of their products is simply inaccurate and self-serving.

Enormous evidence shows that Americans are largely unknowledgeable about the risks of alcohol and addiction. Evidence also shows that warning labels are the quickest, cheapest and probably most effective means of imparting the necessary knowledge.

In the 1985 Health Interview Survey conducted by the National Center for Health Statistics, only 57 percent of persons under 45 years of age had ever heard of Fetal Alcohol Syndrome. Traffic related deaths are up nearly each year, and surveys show that school aged youth are largely uninformed about the many hazards of abused alcohol, and that most do not know alcohol is a drug. 4.6 million youths, each year, before they graduate high school experience serious problems with alcohol abuse.

Studies have shown that warning labels on products such as cigarettes and aspirin have been effective in educating the public about risks and in creating serious modifications in habits. Per capita consumption of smoking in the United States started to decline in the early 1970s, just after warning labels were put on cigarette containers.

In this year when we have declared our resolve in the war against drugs we can surely elevate our public education efforts for the most costly of them.

COALITION FOR HEALTH AND SAFETY WARNINGS ON ALCOHOLIC BEVERAGES

Adventist Health Network.
Alcohol and Drug Problems Association.
American Academy of Pediatrics.
American Association of Mental Retardation.
American Cancer Society.
American College of Preventive Medicine.
American Council on Alcohol Problems.
Alabama Citizens Action Program.
Alaska Council on Prevention of Alcohol and Drug Abuse.
Christian Civic Foundation (Arkansas).
Arizona Council on Alcohol Problems.
California Council on Alcohol Problems.
Colorado Alcohol Drug Education.
United Christian Action (Florida).
Georgia Council on Moral and Civic Concerns.
Illinois Church Action on Alcohol Problems.
Iowa Council on Alcohol Problems.
Kansas for Life at Its Best.

Temperance League of Kentucky.
Louisiana Moral and Civic Foundation.
Massachusetts Council on Alcohol Concerns.
Michigan Interfaith Council on Alcohol Problems.
Christian Action Commission (Mississippi).
Christian Civic Foundation (Missouri).
Nebraska Council on Alcohol and Drug Education.
New Hampshire Christian Civic League.
New Jersey Council for Alcohol and Drugs.
Christian Action League of North Carolina.
Ohio Council on Alcohol Problems.
Sooner Alcohol Narcotics Education.
Oregon Council on Alcohol Problems.
Pennsylvania Council on Alcohol Problems.
United Tennessee League.
Texas Alcohol Narcotics Education.
Health and Safety Through Education (Washington).
Alcohol Problems Council of Wisconsin.
American Heart Association.
American Licensed Practical Nurses Association.
American Liver Foundation.
American Medical Society on Alcoholism and Other Drug Dependencies (AMSAODD).
American Medical Association.
American Medical Students Association.
American Nurses Association.
American Paralysis Association.
American Public Health Association.
American Youth Work Center.
Americans for Democratic Action, Consumer Affairs Committee.
Americans for Substance Abuse Prevention and Treatment.
Association for Retarded Citizens of the United States.
Association of Junior Leagues.
Association of Schools of Public Health.
Association of Teachers of Preventive Medicine.
Center for Science in the Public Interest.
Children's Foundation.
Child Welfare League of America.
Christian Life Commission of the Southern Baptist Convention.
Church of Jesus Christ of Latter Day Saints.
Coalition for Scenic Beauty.
Committee for Children.
Consumer Federation of America.
Consumers Union.
Council on Alcohol Policy of the National Association for Public Health Policy.
Doctors Ought to Care.
Drug and Alcohol Nursing Association.
International Commission for the Prevention of Alcoholism and Drug Dependency.
The Just Say No Foundation.
Legal Action Center.
Make Today Count.
March of Dimes.
Missouri Advisory Council on Alcohol and Drug Abuse.
Mothers Against Drunk Driving (MADD).
National Alliance for the Mentally Ill.
National Association for Children of Alcoholics.
National Association of Alcoholism and Drug Abuse Counselors.
National Association of Children's Hospitals and Related Institutions.
National Association of Lesbian and Gay Alcoholism Professionals.
National Association of State Alcohol and Drug Abuse Directors.
National Black Alcoholism Council.
National Council of Catholic Women.
National Council on Alcoholism.
National Council on the Aging, Inc.
National Education Association.
National Federation of Parents for Drug-Free Youth.
National Health Federation.
National PTA.
National Parents' Resources Institute for Drug Education (PRIDE).
National Perinatal Association.
National Society of Genetic Counselors.
National Spinal Cord Injury Association.
National Women's Christian Temperance Union.
National Women's Health Network.
Presbyterian Church U.S.A.
Public Citizens' Congress Watch.
Remove Intoxicated Drivers.
South Carolina Commission on Alcohol and Drug Abuse.
Southern Perinatal Association.
Therapeutic Communities of America.
United Methodist Church, General Board of Church and Society.
US PIRG.

PUERTO RICO SPARKS CARIBBEAN DEVELOPMENT

HON. JAMIE B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. FUSTER. Mr. Speaker, I rise today to make my colleagues aware of a remarkable joint program being undertaken by Puerto Rico and other countries in the area designed to support economic development and democracy in the Caribbean Basin.

The demonstrable progress and the innovation shown by my island of Puerto Rico, and by our Governor, Rafael Hernández-Colón, is an object lesson for us in the Congress when we again debate the future of the Caribbean Basin Initiative.

To that end, I would like to share with you some thoughts about a meeting that Governor Hernández-Colón and President Oscar Arias of Costa Rica had in San Jose late last month when they inaugurated a new, Puerto Rican-promoted factory in the Costa Rican capital.

Both Arias and Hernández-Colón were in strong agreement that peace in Central America and in the hemisphere depends heavily on achieving economic progress and eliminating social injustice. Hernández-Colón lauded the Nobel Peace Prize winner for his work to bring peace to the war-torn region and for "his efforts to take the dignity, liberty and solidarity that bless Costa Rica to all of Central America."

He added: "The responsibility of all nations in this hemisphere should be eradicating hunger, inadequate housing, ignorance and social injustice if we are to end the constant threat of communism and totalitarian regimes."

A major Puerto Rican contribution to economic development of Costa Rica and other Caribbean Basin countries is that "we are in a position to move significant resources for the development of industries that will create jobs and opportunities for economic growth," said the Puerto Rican governor.

The new million-dollar industrial plant in Costa Rica is an example. It is owned and operated by Merck, Sharpe and Dohme to process pharmaceuticals made in Puerto Rico, and is only one of 51 "twin plants" in 11 Caribbean countries created by Puerto Rico's twin—or complementary—plant program in the last 3 years.

Other twin plants now located in Costa Rica include an Avon costume jewelry plant, a medical products plant of Baxter, S.A., an apparel assembly plant of CBI Uniforms Co., a Pfizer, Inc. plant for making surgical sutures, and a passion fruit project by Campofresco Co. Together, these industrial installations are estimated to cost $4.5 million; they will create nearly 800 jobs in Costa Rica and 70 in Puerto Rico.

President Arias praised Governor Hernández-Colón for his leadership in fostering economic development in the Caribbean, and cited the important contribution being made by creation of twin plants throughout the region. He viewed Hernández's trip to Costa Rica as a particular opportunity for the two governments committed to democracy to work together for the common good. He described Costa Rica as an "island of democracy" in the region.

Quite coincidentally, Prime Minister Edward Seaga, of Jamaica, also praised Governor Hernández-Colón and Puerto Rico's contribution to development in the Caribbean. Recently, he said in Kingston:

> Governor Hernández-Colón and his administration have worked tirelessly to extend the provisions of the Caribbean Basin Economic Recovery Act and the United States Tax Information Exchange Agreement to enable Caribbean countries to take advantage of the relatively low cost financing available in Puerto Rico through the use of 936 funds.
>
> In this exercise I have the privilege of working with Governor Hernández-Colón in developing this concept and no commendation can be too high for the vision, initiative and drive which he has brought to bear on the project.

During his visit to Costa Rica, Governor Hernández-Colón stated:

> Puerto Rico is profoundly committed to the cause of democracy and peace * * * and is anxious to collaborate in the development of the Caribbean Basin, because if there is a war to be fought it is the war against underdevelopment and injustice.

At the same time, he warned:

> Democracy is vulnerable before the despair of the dispossessed and the uncertainty of those who fear losing everything. The strenghening of the economic health of the State is therefore an indispensible premise for maintaining the civil and social liberties of its citizens. Even more, it is the best weapon against the attacks of totalitarian regimes.

In a region of severe unemployment, the 51 new industrial plants established throughout the Caribbean Basin by Puerto Rico's initiative and efforts have already created 9,000 badly-needed jobs in the Basin and another 3,000 jobs in Puerto Rico. The twin plant program has also resulted in new investment of more than $55 million in the Caribbean. In addition to those plants already set up and in operation, there are about 100 other twin-plant projects "in the pipeline," which give promise that the program will further accelerate.

A twin plant project works this way: a Puerto Rico-based firm, usually the subsidiary of an important American corporation, establishes a complementary plant in a Caribbean Basin country. This plant performs the labor-intensive work on a product which is then shipped to Puerto Rico for technology-intensive finishing, prior to marketing the product in the United States.

Thus, Puerto Rico is playing a unique role in Caribbean economic development. I hope this information will be helpful as we in the Congress continue to focus on national interests in the vital Caribbean Basin region.

THE DEATH OF U.S. AMBASSADOR ARNOLD RAPHEL

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. RICHARDSON. Mr. Speaker, it is with great sorrow that I rise today to comment on the sudden passing of one of our Nation's most talented and dedicated servants. Arnold Raphel, the United States Ambassador to Pakistan whose life was tragically ended last month, was also a man who I had the honor of knowing, whose work I respected, and whose career in the Foreign Service was more than exemplary. His passing is a loss not only for the Foreign Service but for every American who values patriotism and dedicated service in the name of our Nation.

Ambassador Raphel was born in Troy, NY, in 1943. After receiving his B.A. from Hamilton College in 1964 and his M.A. from the Maxwell School at Syracuse University in 1966, he joined the Foreign Service and was assigned to Isfahan, Iran from 1967 to 1969. This was to be the beginning of a brilliant career during which Ambassador Raphel would serve in our Nation's most crucial posts in the Middle East and Southern Asia. His many notable accomplishments include negotiating for the release of the American hostages in Tehran in 1979 and his relentless advocacy on behalf of the Mujahedin in their struggle against Soviet occupation of Afghanistan. Surely much of the credit for the overwhelming success of the Mujahedin is due to the efforts of Arnold Raphel.

But as great a role as Ambassador Raphel played in the visible aspects of diplomacy, his personal legacy in the Foreign Service is no less important. He will long be remembered as a man of integrity who treated those in his charge fairly and with warmth. Moreover, his efforts to promote the equal consideration of women in the Foreign Service's promotions and assignments was exemplary. Arnold Raphel will be missed not only for his skilled diplomacy but for his admirable demeanor toward all who worked with him and in the Foreign Service.

Mr. Speaker, I extend my deepest sympathies to Arnold Raphel's wife Nancy and his entire family and join them in mourning his passing. Through his dedication, expertise, and accomplishments cannot be easily measured, his absence is readily felt. Our Nation has lost one of its best.

THE 50TH WEDDING ANNIVERSARY OF CARL AND VALERIE MACK

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. DELLUMS. Mr. Speaker, Carl Mack, Sr. and Valerie Mack have been outstanding members of the Berkeley and Bay Area community for many years. On September 10, 1988, they will celebrate their 50th wedding anniversary at the Henry J. Kaiser Center in Oakland, CA. Hundreds of their friends and relatives will join them in this august celebration.

Carl and Valerie have been friends of this Member for many years. I know firsthand of their notable accomplishments in the fields of education and community improvement. They are eminently warm, loving and selfless human beings. It pleases me to send my most heartfelt and sincere congratulations on the occasion of their extraordinary, golden wedding anniversary, and to wish them many years of continued happiness and good health.

NICARAGUA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. BROOMFIELD. Mr. Speaker, I direct my colleagues' attention to the front page of the Washington Post, an article by Julia Preston, graphically depicting the atrocities the Sandinistas are committing upon the people of Nicaragua. The silence is deafening. Where is the righteous condemnation now? Where is the outrage?

I suggest to my colleagues that instead of having hearings of the AID delivery of humanitarian assistance to the Nicaraguan freedom fighters, the House should expend its resources in investigating the atrocities and human rights abuses committed by the Sandinistas against the people of Nicaragua. The Sandinistas troops are committing political murders. All freedom-loving Nicaraguans are at risk. Clearly, the House must act before adjournment to provide humanitarian and military assistance to the Nicaraguan freedom fighters.

THE SUPER COLLIDER

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. RHODES. Mr. Speaker, there is an investment that we must make for the future of mankind. We must commit ourselves to preventing the technological drought which will occur if the Superconducting Super Collider [SSC] is not built in America.

Mr. Speaker, the Super Collider project is of paramount importance to the future of American science and technology. Like the scientific complex at Los Alamos and the industrial community of Silicon Valley, the SSC site will become a magnet for innovative thinkers. Instead of trading their degrees from American universities for foreign research positions, the brightest science graduates will remain in the United States, drawn to the most advanced scientific instrument in the world. In addition, since the Super Collider will be about 20 times as powerful as the next largest collider, the SSC site will attract the finest foreign-educated minds.

The Super Collider will also be a tremendous catalyst for technological spinoffs and American industry. By exploring the farthest reaches of "inner space" within the atom, SSC scientists will acquire unprecedented information about the four fundamental forces of nature and the relationship between matter and energy. This knowledge, and that gleaned from searching for it, will inevitably lead to advances in a vast number of fields such as medicine, nuclear energy, cryogenics, ceramics, and computer technology.

In addition, Mr. Speaker, the Super Collider will become a symbol to the world and to the American people of our firm resolve to retain global leadership in basic scientific research. This will translate into greater scientific literacy in the general public, greater enthusiasm for science education in our classrooms, and an increase in international respect for this great Nation.

Mr. Speaker, if we fail to fulfill our commitment to build the Super Collider due to political parochialism, budgetary concerns, or for any other reason, we will be betraying our duty to future Americans. As the University of Arizona's distinguished physics chair, Dr. Peter Carruthers has warned: "History will think poorly of America if it gives up its lead in science because it didn't think that a Trident submarine was of lesser or equal importance to a project like [the SSC]."

In determining the list of best qualified sites for constructing the Super Collider, the Department of Energy identified several technical evaluation criteria. Among these, the criterion which was singled out as the most important was geology and tunneling. That makes sense. After all, Mr. Speaker, why invest billions of dollars in a facility if it is going to be rendered inoperable for months or even years by water seepage? And why not choose a site whose geology permits inexpensive, shallow tunneling? I submit there is no reason.

Mr. Speaker, it is widely recognized that in terms of geology Arizona is the most suitable site for the Super Collider. The geologic setting of the Maricopa site offers exceptional flexibility: flexibility in siting of the collider ring itself; flexibility in construction methods employed; flexibility in scheduling; and flexibility in the use of time- and cost-saving approaches.

The ideal geologic conditions at the Arizona site not only allow construction of the collider ring in a preferable near-surface plane tilted

0.3 degrees from the horizontal, but also provide considerable flexibility for relocation of the proposed ring alignment or for location of future additions to the facility if desired by DOE.

The geology of the Maricopa site is also shallow. Compared to an average depth of 250 feet and maximum of 500 feet for the other sites, excavation at the Arizona site would average a mere 100 feet. This would allow an unusually large portion of the project to be built using inexpensive cut-and-fill surface methods.

In addition, the ring path at the Arizona site is dry, lying entirely in the unsaturated materials well above the groundwater table. This means that of the remaining sites, Maricopa is the least likely to experience construction or operational problems due to geotechnical factors such as collapse-susceptible soils, seismic events, ground water, regional subsidence, expansive clays, or naturally occurring gases.

The geology of the Arizona site is also simple and predictable. Mr. Speaker, I would like to quote from the Site Evaluation Committee's report on the best qualified list:

> Much of the planned ring would be in fanglomerate (a lightly cemented sedimentary rock resulting from coalescing alluvial fans), which allows rapid [construction] advance rates * * *. The remainder of the tunnel would pass through a mixture of fanglomerate, granitic rocks, and interbedded volcanic and sedimentary rocks; here, too, tunneling is easily accomplished.

Reliable geotechnical data has also shown that the geology of the Maricopa site is well known and that surprise complications such as the discovery of hidden valleys are highly improbable.

Mr. Speaker, the shallow, flexible, predictable, and uniquely dry nature of the Maricopa site in addition to the special Arizona climate and talented labor pool have enabled project engineers to construct detailed models showing that the Maricopa site can be built at a cost savings of more than 22 percent and a time savings of 2 years compared to standard DOE models. The Arizona site will also allow more efficient operation than any of the other sites on the best qualified list.

Mr. Speaker, I believe strongly that construction of the Super Collider is absolutely vital if the United States is to exert scientific leadership over the next two decades. High energy physics is a root science which bears upon many other scientific disciplines. Mr. Speaker, this Nation is blessed with the technological expertise and the resources to stand at the forefront of this field. However, absent American commitment, the leadership vacuum will be filled by allies and adversaries. The field will not remain static. The question is, who will serve as the agent for change? That is why an American Super Collider must be built. For the reasons I have articulated, I believe it should be built in Arizona. However, no matter where it is placed, it is essential that the project be pursued with a vigor worthy of a national imperative.

PERSONAL EXPLANATION

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. MARTINEZ. Mr. Speaker, I was unavoidably absent on official business in my district yesterday and consequently missed rollcall votes 298-301, on amendments to H.R. 5210—the Omnibus Drug Initiative Act. Had I been present I would have voted "aye" on the Gekas amendment, "aye" on the Rangel amendment, "aye" on the McCollum amendment, and "nay" on the Lungren amendment.

THE DEATH OF A HOMELESS CHILD AND NATIONAL RESPONSIBILITY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. LELAND. Mr. Speaker, today's Washington Post reports the death of a 4-year-old girl, Shaconna Kelly, living in a city shelter for the homeless here in Washington, DC. This tragedy serves as a reminder of the terrible, insecure, and dangerous living conditions of this Nation's children, one-fifth of whom live in poverty and thousands of whom are homeless.

The death of any child is poignant, a life snuffed out before its potential can be fulfilled. As sympathy is extended to Shaconna's mother, consider there situation that makes her plight so heart rending, a woman adrift in the city without a home and routine to assuage the pain of the loss of her firstborn child.

Little Shaconna appears to have incurred fatal injuries when a nonfunctioning stove in the motel room rell on her as she played. The stove didn't work and the family goes by bus to another motel dining room for meals. What a dreadful, ironic symbol of the horrors of hunger and homelessness? The reality is that families with small children sleep in one place, eat in another miles away in many cities in this country. They are shuttled about to meet their most basic needs.

How long must families endure these unhealthy and unsuitable conditions because our Government fails to provide support for low-income housing? They are powerless to participate in an economy which pushes them further and further into poverty. Where are the guarantees of equal opportunity or the concept of a Federal responsibility for the general welfare? Where is the moral outrage we should feel when an innocent child dies because society placed her in danger?

Mr. Speaker, the Congress passed the Stewart B. McKinney Urgent Relief for the Homeless Act in 1987. Legislation reauthorizing that act for 3 years has passed the House and is waiting action in the Senate. The death of Shaconna Kelly reminds us that relief for the homeless is indeed urgent. The obligation does not end with this emergency aid. A long-term effort is required to provide sufficient low-income housing to make up for the losses incurred by cuts in Federal support during the past decade. Let us commit ourselves to assuring that every child, rich or poor, has a safe and decent place to live.

TAIWAN'S NATIONAL DAY

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. CHANDLER. Mr. Speaker, in April this year, I visited the Republic of China on Taiwan. During my visit, I met with President Lee Teng-hui in the Presidential office in downtown Taipei.

President Lee, who assumed the presidency after the death of President Chiang Ching-Kuo on January 13, was indeed gracious. He listened attentively to my questions regarding trade and politics, and he answered my questions with deliberation and thought.

President Lee pointed out that Taiwan would continue to send more procurement missions to the United States, and would voluntarily limit her exports to the United States. He also cited other steps taken by his government, most notably the sharp appreciation of the new Taiwan dollar vis-a-vis the United States dollar.

President Lee also spoke of his government's political liberation, which included the abolition of martial law, the increasingly active role of the opposition party, the lifting of foreign exchange controls and the removal of the travel ban which forbade Taiwan citizens from visiting their relatives in the Peoples' Republic of China. It was a very productive discussion.

I have confidence, Mr. Speaker, that President Lee can lead the Republic of China on Taiwan into full democrcy. This Cornell-educated President appears open to new ideas and new concepts in dealing with a changing world.

As the P.R.C. becomes more interdependent on the Western world, the threat it poses on Taiwan decreases exponentially. Like the Republic of Korea, Argentina, and Brazil, Taiwan can prosper even more under full, democratic rule without political prisoners or restrictions on opposition activities.

In my meetings with other officials of the R.O.C. Government, I learned that they were seriously thinking of revamping their parliament to make room for more local representation and of returning to some of the world organizations such as the Organization for Economic Cooperation and Development [OECD].

I also had the opportunity to chat with some businessmen, a great many of whom seemed confident of Taiwan's economic and political future, while others were anxious to increase their business contacts with the P.R.C. I was told that for the first time in 40 years a film produced in mainland China, "The Last Emperor," played to packed houses in Taiwan's movie theaters.

Taiwan, is in a phase of transition. Her rapid economic growth, democratization, and wealth have created economic, political, and social dislocations. In the last few months, we have read reports of farmers and others demonstrating against the government and other government institutions. As Taiwan reaches for new heights of economic prosperity, political liberty, and equitable distribution of wealth, similar incidents of unrest will most likely occur from time to time.

But these are the growing pains of an even stronger and more truly unified nation. What is vital is for the leadership on Taiwan to understand that unpleasantness is a part of growth, and that no one should become discouraged.

All in all, I share former Ambassador Chien's positive assessment that Taiwan, after a transitional period of trial and error, can achieve "a bright future with a per capita annual income of $18,000 before the end of this century and that Taiwan will continue to be a beacon to the world signaling the fact that free enterprise works."

Mr. Speaker, on the forthcoming National Day for the Republic of China, I wish to join my colleagues in the House to wish President Lee and his people every success and good luck. He has our full support.

A TRIBUTE TO HOME HEALTH CARE PROVIDERS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. DYMALLY. Mr. Speaker, it is with great pleasure that I rise to pay tribute to the thousands of nurses, therapists, home health care aides, physicians, and others who have dedicated their lives to provide in-home care and supportive services to the Nation's chronically ill children, the disabled, and infirm older Americans. Every year, thousands of Americans look forward to receiving comprehensive home care from the Nation's health care providers who offer assistance to facilitate the daily needs of patients. In addition, these dedicated individuals devote much time in providing special guidance, patience, and understanding to the ill.

The health, social, and supportive services offered by the Nation's home health care providers are an invaluable necessity to our Nation's home care beneficiaries and to the maintenance of our health care system. I would like to take this moment and thank our Nation's health care providers for the extraordinary job they have done. Today, we recognize them for their long hours of hard work, patience, and commitment in providing badly needed home health care services for the chronically ill of our Nation.

UNNECESSARY LOSSES: COSTS TO AMERICANS OF THE LACK OF FAMILY AND MEDICAL LEAVE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. MILLER of California. Mr. Speaker, families and society are paying a very high price for the lack of a national family and medical leave policy. According to the report, "Unnecessary Losses: Costs to Americans of the Lack of Family and Medical Leave," prepared by the Institute for Women's Policy Research, men and women who do not have the right to return to their jobs after caring for a newborn or adopted child lose $607 million annually in foregone earnings. In addition, taxpayers must spend another $108 million in public income assitance.

The report analyzes the economic costs to working families, to employers, to taxpayers and to society as a whole of three different family experiences: caring for a newborn or newly adopted child, caring for oneself or a family member during illness, and caring for elderly parents.

At a recent hearing before the Select Committee on Children, Youth, and Families, we learned that more and more families—especially the women in these families—are spending double days juggling careers, households, and the caring of children and elderly parents. The social and economic toll that this "double duty" takes on families is exacerbated by the failure of employment policies to support working families. A significant proportion of family members are forced to quit their jobs to cope with a family illness or the care of a child or elder dependent. The Institute's study estimates that workers who are absent from work due to the extended illness of a child or elder parent or a temporary medical disability lose $105 billion annually in earnings.

Mr. Speaker, working families with newborns, or chronically ill dependents, or who are disabled themselves, should not be forced to shoulder these responsibilities alone. A national policy of family and medical leave would ensure that employers carry their fair share as well as create better options for working families.

TRIBUTE TO MAI BELL HURLEY

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mrs. LLOYD. Mr. Speaker, I would like to pay tribute to Mai Bell Hurley, a dear friend, and valued member of the Third Congressional District of Tennessee.

Mrs. Hurley is the personification of community service. Throughout her life, she has selflessly contributed her time and talents to committees, boards and advisory councils—all of whom have greatly benefited from her hard work and dedication. She is known for her intelligence, youthfulness, sense of humor, and enduring optimism. She has my tremendous respect and admiration and I am privileged to know her and represent her in the Congress.

Mai Bell truly cares about the programs she works with and is committed to volunteering her time and talents to many worthwhile efforts. At present, she handles more than a dozen voluntary assignments that range from president of the Child Welfare League of America to trustee of the girls preparatory school. She was the first woman to assume leadership of the United Way fundraising drive—one of the most demanding volunteer roles in any area.

In recent years she has sat on national panel on urban revitalization with David Rockefeller, attended a youth unemployment workshop at which Prince Charles presided and listened to an address by Pope John Paul II at a San Antonio meeting convened by Catholic Charities of America.

One of Mai Bell's first community tasks was supervising an arts festival on Lake Chickamagua—an event that might be viewed as a precursor to our annual Riverbend Celebration. Shortly thereafter, she was chairwoman of the committee that supervised the delicate merger of three agencies into the city's foremost local services organization, Family and Children's Services.

Mai Bell recently seved with distinction as chairwoman of Chattanooga Venture, the citizens' planning group that has inspired or supported a host of community projects, from the Tivoli Theater renovation to the Tennessee Riverpark.

Mai Bell is a dedicated and loving wife, mother and grandmother. She is married to Bernard T. Hurley, Jr., and is the mother of two grown children, Tal Hurley and Marie Blair—all of whom are very successful in their own right.

We need more Mai Bells in this world. Her life is properly characterized as a life spent for others. I salute her and wish her Godspeed in all her pursuits.

PERSONAL EXPLANATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes Nos. 293, 294, 295, and 297 on Thursday, September 8. Had I been present on the House floor, I would have cast my votes as follows:

Roll No. 293—"yes" on approval of the Journal.

Roll No. 294—"aye" on Foley motion on DOD bill.

Roll No. 295—"yea" on Interior appropriations conference report.

Roll No. 297—"aye" on Rangel amendment to omnibus drug bill.

URBAN COMMUNITY SCHOOL

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Ms. OAKAR. Mr. Speaker, it is an honor today to pay tribute to an outstanding educational institution located on the near west side in Cleveland, OH. Urban Community School has been chosen by the U.S. Department of Education, as one of the Catholic elementary schools to receive the "1988 Exemplary School Award."

The award ceremony, to be held at the White House on September 15, 1988, will include a presentation by President Reagan to the principal of Urban Community School, Sr. Maureen Doyle, along with the other recipients. Each school will receive a special flag proclaiming this award, which can then be displayed along with the American flag on its school grounds.

Urban Community School, founded in 1968, has achieved the goals it had set for itself 20 years ago. Its purpose was to provide education for children and families in a neighborhood that struggles with many urban problems. The school is run by the outstanding Ursuline Order, who together with its lay teachers do an outstanding job.

Over the years, Urban Community School has experienced a successful growth pattern in enrollment figures, community involvement and corporate and foundation support. Approximately 28 percent of the school's income comes from tuition payments which range on a sliding scale from $6 to $152 a month, depending on the family's ability to pay. The balance of its income is received from grants and contributions.

Evidence of the Urban Community School's success is apparent by the following: The addition of a Montessori Preschool, a motor perception program, swimming instructions for students at a neighborhood pool, Spanish instructions, a sports program, a guidance program and an intensive parent education program. The development of minicourses, including outreach to senior citizens and other schools, community field trips and alternatives to violence with a mediation component also help students in the achievement of a fulfilled adulthood and a sense of pride in themselves.

The emphasis on the student's healthy self-concept and the nongraded curriculum, using individualized instructions, is the key to the success rate at Urban Community School. As a result, many graduates win scholarships and academic honors in private high schools. Although most of the graduates are the first in their family to graduate from high school, many have completed college. (Williams College, University of Notre Dame, Howard University, Haverford, Skidmore College, Gannon University, Purdue University, Vassar, Case Western Reserve University, Fordham University and State universities are examples.)

It is with a great sense of pride and honor that I congratulate the Urban Community School today, as they receive the "1988 Exemplary School Award."

DISMANTLED MISSILES

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Mr. JONTZ. Mr. Speaker, yesterday the United States dismantled two Pershing missiles. Twenty-one more missiles will be dismantled in the next 2 weeks. This will continue until 859 missiles have been disassembled. In return, the Soviet Union is dismantling 1,831 missiles.

As my colleagues know, this action is a result of the INF Treaty signed last December by President Reagan and General Secretary Gorbachev. I would like to commend the President for his courage and wisdom in this first step toward arms control. I'd also like to commend the Senate for ratifying this important treaty. Undertaken with the determination to maintain our country's security, arms control is the foundation which has kept the nuclear peace for 40 years. With these steps to dismantle intermediate range missiles, we come closer to a world of stable coexistence and genuine security.

THE GUARDIANSHIP RIGHTS AND RESPONSIBILITIES ACT OF 1988

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 9, 1988

Ms. SNOWE. Mr. Speaker, today I am introducing legislation that will establish a bill of rights for adults who, either because of physical or mental status, are adjudicated incompetent and become wards or conservatees of the courts.

As you know, much discussion in this Congress has centered on long-term care. And yet, in thinking about the needs of our older citizens for home health, respite and nursing home care, a large and growing group of individuals has been almost invisible—those who will become part of the long-term care system through decisions made on their behalf by court appointed guardians.

Wards are individuals whose legal rights, decisionmaking authority, and/or possessions have been transferred to the control of a guardian or conservator based on a judgment that the ward is no longer able to take care of these matters. Today, across the country, conservatively, from 300,000 to 500,000 adults have been made wards under court guardianship/conservationship programs. While guardianships can be a positive way of protecting the well-being of those incapable of protecting themselves the current fragmented system provides few safeguards to assure that only those most in need of guradianships are affected, and then only to the extent of their need.

In a recent 50-State survey conducted by the Associated Press, it was concluded that wards lose their basic civil rights, often without the protections afforded criminal defendents. For example, there are few due process protections and the rules of evidence often do not apply: In 44 percent of the cases studied, the alleged ward was not represented by an attorney; in 49 percent of the cases the wards were not even present at their hearings; and in 34 percent of the cases, the files contained no medical evidence supporting the need for a guardian.

Further, because few courts grant limited guardianships, an individual who may have difficulty managing his or her checkbook and needs assistance in this area only, will also lose such basic civil rights as the right to vote, to decide where to live, to marry or divorce, or to determine the kind of medical help he or she will receive. And those who only need temporary assistance may find it difficult, if not impossible, to have their ward status removed. In 35 States, advanced old age alone is an adequate reason for placing a person under a guardianship.

Guardians are often well meaning family members who are seeking to protect an older relative. But guardianships are also granted to virtually any competent person, meaning that many wards are supervised by those who have little or no specialized training which will enable them to deal with the financial, psychological and biological problems that caring for an older ward will present.

In some States, businesses have developed which provide guardianships for those without families. Given the limited or complete absence of supervision or control, it is not surprising that there are many stories of guardians who embezzle assets, provide substandard care, or force unnecessary nursing home care on those over whom they are responsible. Only five States prohibit convicted felons from being appointed as guardians.

The legislation I am introducing today amends Medicaid to establish minimum standards through a Guardianship Rights and Responsibilities Act. As a condition for participation in the Medicaid Program, States would have 2 years in which to alter their State plans to assure protection of the basic rights identified in this legislation. Since many wards will be placed in nursing homes, Medicaid will ultimately finance their long-term care and, as such, will be an important vehicle for protecting their civil rights.

Because all wards must be assured of one standard of care, this bill of rights will apply to all alleged wards and wards, regardless of place of residence. States will have latitude in determining how they will meet the minimum rights, with the Secretary of Health and Human Services maintaining oversight as to whether the State has substantially complied with the spirit and letter of the Federal provisions.

Among the key elements of this legislation are guarantees to assure due process, the use of clear and convincing evidence in determining the need for a guardian, the use of the least restrictive guardianship and the establishment of standards for training and monitoring guardians.

I am, indeed, pleased to point to Maine as an example of a State that has led the way in revising its own standards for guardianships and conservatorships. In many States, however, much needs to be done. And all States carry the same burden of an overloaded court system that would like to do a better job on behalf of those who come before them as alleged wards.

In order to assist States, this legislation proposes to establish a $5 million 2-year demonstration grant which will enable States to develop and implement a Guardianship Advocates Program [GAP]. The Guardianship Advocates Program will fill gaps in the present system by providing an advocacy and monitoring function. These court advocates would be responsible to the judges and work within the court system to handle guardianship and conservatorship cases. In addition to advocating on behalf of proposed wards and adjudicated wards, advocates would be responsible for periodic monitoring and review of reports relating to the physical and financial well-being of wards.

Guardianship advocates would inform proposed wards of their rights and assure their understanding of these rights to the best of their ability, would make recommendations to judges, assist with termination proceedings and in general, be the eyes and ears of the court system. It is my hope that the success of these demonstration projects will assure that, ultimately, such systems are established in every State to assist wards, guardians, and judges in their efforts to provide the best possible care and protection to those in need.

As we look forward to the work of the next Congress on the issues of accessibility and affordability of long-term care, we must also recognize the importance that continued personal autonomy plays in assuring the health and well-being of our elderly. This legislation will address the rights of those who are the least able to speak for themselves and the most vulnerable to exploitation. On their behalf, we can be silent no longer.

The text of the Guardianship Rights and Responsibilities Act of 1988 follows:

H.R. 5275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guardianship Rights and Responsibilities Act of 1988".

SEC. 2. GUARDIANSHIP REQUIREMENTS FOR STATE MEDICAID PLANS.

(a) Guardianship Requirements as Condition of Eligibility.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by—

(1) striking "and" at the end of paragraph (50);

(2) striking the period at the end of paragraph (51) and inserting "; and"; and

(3) by inserting immediately after paragraph (51) the following new paragraph:

"(52) not later than 2 years after the date of the enactment of this paragraph, include assurances that the State has adopted, and assumed responsibility for enforcing, laws relating to guardianship which meet the requirements of section 1925.".

(b) Reduction of Payments to States for Failure to Adopt and Enforce Certain Laws Relating to Guardianship.—Section 1903 of the Social Security Act (42 U.S.C. 1396(b)) is amended by adding at the end the following new subsection:

"(w)(1) In order to receive payments under paragraphs (2)(A) and (7) of subsection (a) without being subject to per centum reductions set forth in paragraph (2) of this subsection, a State must provide that it has adopted, and assumed responsibility for enforcing, laws relating to guardianship which meet the requirements of section 1925 on or before the expiration of the 2-year period beginning on the date of the enactment of this subsection.

"(2) If a State fails to meet the deadline established under paragraph (1), the per centums specified in paragraphs (2)(A) and (7) of subsection (a) with respect to the State shall each be reduced 5 percentage points for the first two quarters beginning on or after such deadline, and shall be further reduced an additional 5 percentage points after each period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of paragraph (1) of this subsection, except that—

"(A) neither such per centum may be reduced more than 25 percentage points by reason of this paragraph; and

"(B) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of paragraph (1).".

"(c) Description of Requirements.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1925 as section 1926 and by inserting after section 1924 the following new section:

"REQUIREMENTS FOR STATE GUARDIANSHIP LAWS

Sec. 1925. (a) In General.—For purposes of sections 1902(a)(52) and 1903(w), a State has adopted laws relating to guardianship which meet the requirements of this section if the State has adopted laws or issued regulations which include the rights, standards, and duties described in subsections (b) through (1) or, in the determination of the Secretary, which protect individuals in the State as effectively as laws or regulations which include the rights standards, and duties described in such subsections.

"(b) Rights of Individuals Subject to Guardianship Petitions.—The laws of the State shall provide that—

"(1) each individual in the State who is the subject of a guardianship petition shall be provided with an adequate and timely notice, in large print and plain language, of all pending guardianship proceedings, including a copy of the guardianship petition, a clear description of such proceedings, all rights afforded such individual in the course of such proceedings, and a summary of the possible consequences of a determination of incapacity (or, in the case of a blind or illiterate individual, an oral description of such rights and information);

"(2) a copy of the notice provided under paragraph (1) shall be provided to the individual filing a guardianship petition and to the spouse, child, sibling, nearest relative, or custodian of the individual who is the subject of such guardianship petition;

"(3) each individual in the State who is the subject of a guardianship petition has the right to counsel who will act as an advocate for such individual with respect to such petition unless such individual knowingly and voluntarily waives such right, and the court shall appoint counsel for such individual at public expense if such individual is indigent or if such individual lacks the capacity to waive the right to counsel;

"(4) each individual in the State who is the subject of a guardianship petition has the right to have the question of incapacity heard by a jury upon request; and

"(5) each individual in the State against whom a determination of incapacity and guardianship order is issued may file an appeal contesting such determination and order in the appropriate court of appeal not later than 30 days after such determination and order is issued, and may at any time petition the court issuing such determination and order to modify or dismiss such determination or order.

"(c) Standards for Determinations of Incapacity.—The laws of the State shall provide that—

"(1) no determination of incapacity shall be made at a guardianship hearing unless the individual who is the subject of the guardianship petition is present at such hearing, unless the court determines, on the basis of information provided by a physician, social worker, or other person trained to work with the elderly, the developmentally disabled, or the mentally retarded (whichever is appropriate in the case of a particular individual), that such individual has knowingly and voluntarily waived the right to be present at the hearing or cannot be present because of physical incapacity; and

"(2) no determination of incapacity shall be made at a guardianship hearing on the basis of the age of the individual who is the subject of the guardianship petition but shall instead be made on the basis of clear and convincing evidence that such individual is incapable of administering his own affairs.

"(d) Standards for Personnel Involved in Guardianship Hearings.—Court personnel in the State involved in guardianship hearings shall be trained to work with the elderly, the developmentally disabled, and the mentally retarded, and shall be briefed on general issues facing such groups, and shall provide necessary visual aids, interpreters, and other devices in order to assist these individuals during guardianship hearings, and shall make reasonable efforts to schedule each guardianship hearing at a time and location convenient for the individual who is the subject of the guardianship petition.

"(e) Effect of Determination of Incapacity.—A determination of incapacity in a guardianship hearing in the State shall not be considered prima facie evidence that the individual in question is insane or is unable to function in a non-institutionalized setting.

"(f) Rights of Wards.—The laws of the State shall provide that—

"(1) each ward in the State shall, when feasible, have his personal preferences taken into account by the court in the appointment of a guardian; and

"(2) during the period of guardianship, each ward in the State shall be entitled to participate in all decisions affecting such ward to the maximum extent possible commensurate with such ward's functional limitations, and shall retain all rights not ordered by the court to be transferred to the guardian.

"(g) Standards for Guardianships.—Each guardianship imposed in the State shall be imposed on the ward in the least restrictive manner commensurate with the ward's functional limitations.

"(h) Standards for Appointment of Guardians.—The laws of the State shall provide that—

"(1) no person may be appointed to serve as a guardian in the State unless such person certifies that he has completed, or agrees to enroll in and complete, a program of court-supervised training, based upon standards developed by the governor of the State or his designee, in the legal, economic, and psychosocial needs of wards, and a guardian shall be removed from his position as guardian if the court determines that he has failed to complete such a program;

"(2) no person who has been convicted of a felony may be appointed to serve as a guardian in the State unless the court determines that an exception to such prohibition is appropriate in a particular case; and

"(3) no person may be appointed to serve as a guardian in the State unless such person has filed, and the court conducting the guardianship hearing has approved, a guardianship plan which includes at least a description of the ward's proposed living arrangements, a plan for meeting the ward's financial, medical, and other remedial needs, and provisions for maintaining contact between the ward and the ward's family and friends.

"(i) Duties of Guardians.—The laws of the State shall provide that—

"(1) each guardian in the State shall file an annual report with the court which issued the order giving such guardian control over the ward's affairs which includes at least a description of the management of the ward's finances during the previous year, a physician's report on the health and physical well-being of the ward, and a recommendation of whether the guardianship should be continued, terminated, or modified;

"(2) each guardian in the State may use funds from the estate of the ward over whose affairs he has control only for the administration of the guardianship and the benefit of the ward, and shall repay to the ward's estate any funds used by such guardian for any purpose determined to be improper by the court which issued the order giving such guardian control over such ward's affairs; and

"(3) each guardian in the State shall keep the court which issued the order giving such guardian control over the ward's affairs informed of the whereabouts of such ward, and shall notify such court whenever such guardian moves such ward to a new residence.

"(j) Standards Regarding Wards Moving to and From State.—The laws of the State shall provide that—

"(1) if the court which issued a guardianship order receives notice pursuant to subsection (i)(3) that a ward has been moved to a new residence in another State, the court shall notify the appropriate court in that State of the existence of the guardianship and shall provide that court with necessary files and background information on the guardianship; and

"(2) upon receiving notice from a court in another State that a ward subject to a guardianship order has been moved into the State, a court in the State shall assume jurisdiction over such guardianship, and may require the guardian to submit a new petition for guardianship or any other supplementary information to enable the court to exercise such jurisdiction.

"(k) Court Review of Guardianship Orders.—Each court in the State which issues a guardianship order shall conduct an annual review of the guardianship to determine whether the guardian is performing his duties in accordance with the appropriate laws and whether the guardianship should be continued, modified, or terminated.

"(l) Standards for Private Professional Guardians.—Each private professional guardian in the State may operate in the State only if such guardian is bonded and licensed or certified in accordance with requirements consistent with the provisions of this section developed by the governor of the State or his designee.

"(m) Definitions.—For purposes of this section—

"(1) the term 'guardian' means a person vested by law with the power and duty of taking care of the person or property of another 18 years or older who is adjudged incapable of administering his own affairs, except that such term does not include a guardian ad litem;

"(2) the term 'guardianship' means any legal relationship, including a conservatorship, in which a person is vested by law with the power and duty of taking care of the person or property of a ward, except that such term does not include a guardianship ad litem; and

"(3) the term 'ward' means a person 18 years or older adjudged incapable of administering his own affairs and placed by a court under the care of a guardian.".

SEC. 3. DEMONSTRATION GRANTS FOR GUARDIANSHIP ADVOCATE PROGRAMS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall award 2-year demonstration grants to eligible States for the establishment and operation of guardianship advocate programs, including the hiring and training of individuals to serve as guardianship advocates and investigators in such programs.

(b) Duties of Advocates and Investigators.—Individuals hired and trained to serve as guardianship advocates and investigators with funds provided under subsection (a) shall serve as employees of the courts within the State which conduct guardianship hearings and issue determinations of incapacity and guardianship orders, and shall provide information and services to wards and to individuals who are the subjects of guardianship petitions, including—

(1) making reports to the court on individuals who are the subjects of guardianship petitions;

(2) notifying such individuals of their rights under State guardianship law;

(3) monitoring wards and guardians and notifying the court of possible violations of State guardianship law;

(4) investigating complaints of improper conduct by guardians;

(5) providing advice and assistance to guardians in carrying out their guardianships;

(6) evaluating reports from guardians;

(7) performing other services to assist the courts in conducting and monitoring guardianships; and

(8) investigating and evaluating the movement of wards to new residences.

(c) Eligibility.—A State shall be eligible to receive a grant under subsection (a) if it submits an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require, including an assurance that the State shall prepare and submit to the Secretary an evaluation of each program in such State funded with a grant received under subsection (a).

(d) Preference to Self-Financing Programs.—In awarding grants under subsection (a), the Secretary shall give preference to those States which provide assurances to the Secretary that the program funded with such a grant will, without Federal financial assistance, continue to operate after the expiration of such grant.

(e) Report to Congress.—Not later than 3 years after the final grant is awarded under subsection (a), the Secretary shall submit a report to Congress describing the programs funded with such grants, evaluating the effect of such programs on the guardianship process and on the protection of the rights of wards and individuals subject to guardianship petitions, and containing recommendations on the desirability of continuing the funding of such programs on a permanent basis.

(f) Authorization of Appropriations.—There are authorized to be appropriated for grants under subsection (a) $5,000,000.

(g) Definition.—In this section, the term "State" means each State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SENATE—*Monday, September 12, 1988*

(*Legislative day of Wednesday, September 7, 1988*)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable Alan J. Dixon, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up. And thou shalt bind them for a sign upon thine hand, and they shall be as frontlets between thine eyes. And thou shalt write them upon the posts of thy house, and on thy gates.—Deuteronomy 6:4-9.

God of Abraham, Isaac and Israel, sovereign Lord of history and the nations, we join with the Old Testament people of God in celebrating Rosh Hashanah, this 5,747th Jewish year. May this be for all of us, as it is for them, a time for penitence and spiritual renewal. Help us all to recognize our profound need to love God with all our being and to manifest this love in deed as well as in word.

To the glory of Thy name, for our sakes and for the sake of the Nation and the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, September 12, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Alan J. Dixon, a Senator from the State of Illinois, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. **DIXON** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

Mr. **BYRD**. I thank the Chair.

THE CHAPLAIN'S PRAYER

Mr. **BYRD**. Mr. President, I thank the Chaplain for his invigorating, refreshing, thoughtful, and timely prayer.

THE FOREST FIRES IN THE WEST

Mr. **BYRD**. Mr. President, extreme weather conditions have created a critical problem in our Nation's forests, as evidenced by the critical forest fire situation in the West. As of today, there were 27 major forest fires in the West, across six Western States. Fifty-eight new fires were reported in the last 24 hours.

At the present time, there are crews totaling over 17,000 individuals fighting forest fires in the West—the largest firefighting crew ever assembled by the U.S. Forest Service. These crews include regular Forest Service personnel, State employees, and private individuals who have been trained to fight forest fires in emergency conditions.

West Virginia is not without its own problems because of the danger the drought has posed to our own forest lands. Yet, four crews of firefighters of about 100 West Virginians from Elkins, Parsons, Marlinton, Richwood, White Sulphur Springs, Petersburg, Morgantown, and other areas of the State have answered the call and were sent to fight forest fires in Idaho and Montana. These men and women worked side by side with crews from all over the country in trying to contain those forest fires.

Firefighters are working around the clock, with little or no rest, and are putting their lives on the line. I commend those valiant souls for their untiring efforts and for their courage in facing—what must seem at times—insurmountable odds.

RECOGNITION OF THE MINORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the Republican leader is recognized.

Mr. **DOLE**. Mr. President, I yield first to the distinguished Senator from Wisconsin, then I would yield 5 minutes from leader time, following the Senator from Wisconsin, to the Senator from Vermont, and then I will reclaim the remainder of my time.

Mr. **PROXMIRE**. I thank the Republican leader.

The **ACTING PRESIDENT** pro tempore. The Senator from Wisconsin is recognized.

WHY IS NUCLEAR ARMS CONTROL A FORGOTTEN ISSUE?

Mr. **PROXMIRE**. Mr. President, what has happened to arms control as a concern of the American people and as a leading issue in the great American Presidential campaign? We still live in the nuclear age. Nuclear weapons more than ever constitute the prime threat to human life. The international competition to produce ever more destructive and deadly weapons races on. But as a burning political issue arms control has disappeared. In the two great national conventions, few words were spoken about arms control. Is this because the superpowers have at long last begun to agree not only to limit arms but—as in the now ratified INF Treaty and the START Treaty—now in the process of negotiation, the superpowers are making such progress with overwhelming bipartisan support that we have reached an agreement on nuclear weapons arms control within our country as well as internationally? No way.

The grim fact, Mr. President, is that the nuclear weapons arms race rushes on more dangerously than ever. The American people, Members of the Congress and even the administration itself are being deceived by a giant nuclear weapons numbers game. The great majority of people in our country and virtually all Members of the Congress believe that arms control has been reducing the nuclear threat by U.S.-U.S.S.R. agreements to eliminate all intermediate range nuclear missiles from the arsenal of both superpowers, and by working toward an agreement to slash all strategic missiles in the arsenal of both superpowers by about 50 percent—the START Treaty. Most Americans believe that these agreements will significantly reduce the deadly force of the world's nuclear stockpile. President Reagan and his administration and both Democratic and Republican leaders in the Congress emphatically and loudly support this view. There has been little publicly expressed disagreement from the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

arms control community. So what is there to argue about? Indeed in this country of widely divergent editorial views vigorously expressed in hundreds of widely read newspapers and scores of nationally circulated periodicals, arms control and the international nuclear arms race that used to be the hottest of subjects has almost disappeared. Even the mavericks in our great universities of the country, those who are noted for their affection for vivid disagreement with the status quo on every subject of significance, have fallen silent on arms control. Why is this? It is because we are all bewitched by the numbers. If Gorbachev and Reagan can agree how can anyone disagree? The challenge to the skeptical is even stronger. Disagreement with the shared opinion of the American President and the top cop in the Soviet Union might be an inviting exercise for some skeptics. But how can they disagree with the numbers? How can any sane person who wants to live and wants their children and grandchildren to carry on, resist a superpower agreement that would retire and destroy 50 percent of all the nuclear weapons in the superpower arsenals?

Let me tell you how. The reason the agreements with the Soviet Union should not be the occasion for celebration of the success of arms control is that we have reduced the number of warheads before and sharply reduced them while massively "improving" the deadly power of our arsenal. From a peak of 32,000 nuclear warheads in 1967, the U.S. stockpile diminished by nearly 25 percent to about 26,000 in 1983 according to the State Department, the Defense Department, and other sources. Meanwhile, the Congress was approving nuclear weapons budgets that increased from $2.8 billion in 1980 to $6.8 billion in 1984. These included by far the largest single year increases in the nuclear weapons program in history.

Now, as anyone who served in the Congress for more than a few years knows, there is no group in the world more skilled at wasting money than the U.S. Department of Defense. But, Mr. President, no one can tell this Senator that when the number of nuclear warheads are sharply declining and the appropriations for those warheads are rising by more than 150 percent in 5 short years that we are reducing the deadly capability of our nuclear weapons. So what is the explanation? The explanation is that the nearly 10,000 strategic warheads now in the U.S. arsenal are more potent and far more potent than the larger number of a few years ago. Sure the numbers decline, but the technology races on. Each warhead is more reliable. Each warhead can be delivered with greater accuracy. Each warhead can penetrate more surely. Each warhead has a surer kill capacity. Each warhead is far less vulnerable.

Consider the significance of the finding by the National Academy of Science that if 1 percent of the Soviet nuclear arsenal should strike American cities we would have between 35 and 55 million dead Americans. The key phrase is—if the Soviet missiles should strike their targets. So what is the increased U.S. billions of dollars poured into nuclear weapons going for if it is not to increase the number of nuclear weapons? It is going to make sure that a higher percent of our nuclear weapons will strike their Soviet targets. And of course the Soviets are feverishly pursuing the same technology arms race, pushing all-out to greatly refine and vastly improve the capability of their arsenal finding its American targets.

Arms control as a means of reducing the numbers of nuclear weapons on both sides is an illusion of progress while both sides pursue a technological strategy that not only nullifies the significance of the mutual reduction in the number of nuclear weapons but builds far more destructive nuclear arsenals than ever.

So what is the answer? The answer is to insist on an arms control strategy that stops the technological nuclear arms race. I repeat, the technological, get that, the technological arms race. How do we do that? As any child who has taken high school physics or chemistry can tell you, you negotiate verifiable agreements to stop testing nuclear weapons. We end testing, we stop the technology race. Competent scientists and military experts assure us we can rely on a technology that can detect and accurately monitor any tests. Until we negotiate such agreements, arms control by numerical reduction is an illusion, and a terribly dangerous illusion.

MITCHELL AND COHEN, MAINE'S AND THE NATION'S STARS

Mr. PROXMIRE. Mr. President, many Wisconsin people have commented to me about the remarkable fact that two of the stars of the Senate come from one little State tucked away in the far Northeast corner of the country. Of course, they are right. George Mitchell and Bill Cohen are two special reasons why we can take pride in this body.

On August 29 the Boston Globe carried an editorial hailing the recent Mitchell and Cohen book, "Men of Zeal." I ask unanimous consent that that editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Boston Globe, Aug. 29, 1988]

MAINE AND THE NATION

Should any proof be needed that the classiest delegation in the United States Senate—at least the classiest bipartisan delegation—is the one that represents the state of Maine, it can be found in "Men of Zeal, a candid inside story of the Iran-contra hearings."

The book's co-authors are Maine's two senators, William S. Cohen, a Republican, and George J. Mitchell, a Democrat.

Both men, products of a small state that is well out of the political mainstream but that cherishes a lively political tradition, were among the heroes of the hearings.

It was never in doubt that Cohen's loyalties were to the nation rather than to his political party; Mitchell was the man whose persistent and unflappable questioning of Oliver North finally showed him up as a self-righteous and self-indulgent impostor.

As the hearings unfolded, the initial dismay at the antics of North, John Poindexter and the other "men of zeal"—the title comes from Justice Louis Brandeis remark that "the greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding"—gradually abated.

There was then time to consider, and take heart from, the strengths of the American political system. It can, the hearings proved, produce—countering, and eventually overcoming, the insidious encroachments of men of zeal—men of honor and dignity who respect the nation and its liberty, and hold a dedication to serve it.

In the acknowledgments, after thanks have been expressed to editors, agents and the other people whose help is necessary to produce a book, Cohen and Mitchell "express gratitude to the people of Maine who have extended to us their patience, trust, and support, especially during this time of challenge to us and to the nation."

Maine—and the entire nation—should be grateful to Senators Cohen and Mitchell.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

ATMOSPHERIC CONTAMINATION—I

Mr. STAFFORD. Mr. President, as I near the end of 28 years of service in the U.S. Congress, including 17 in the Senate, I look back on those years with much satisfaction and gratification.

Much of that good feeling results from my membership, which began when I came to the Senate, on the Committee on Environment and Public Works, which has occupied so much of my time and energy throughout the years.

I take pride in the many environmental accomplishments that have been recorded during that period through the efforts of so many other Senators and through their willingness to let me share in those efforts. While I will retire with some regrets, those regrets are few in number.

One of those regrets, however, is that I have been unable to convince the Congress to take the steps I feel are necessary to have our Nation lead the world in the kind of action needed to recapture the purity of our air.

Because of that regret, I ask the Senate to permit me to take a few minutes today and in the remaining days of this session of the Congress to discuss some matters of vital importance regarding the quality of our planet's air.

Mr. PROXMIRE. Mr. President, will the distinguished Senator yield for a minute for a comment? I want to congratulate my good friend from Vermont. He is certainly Mr. Environment in this body. He has done a marvelous job over the years. Again and again he has done much for the environment.

I can think of no issue more important for the American people than the environment. The Senator has led the way.

Mr. STAFFORD. Mr. President, I deeply appreciate what my friend just said, especially because of his career in the Senate and his sensitivities to environmental problems.

I refer to this subject as atmospheric contamination. Others call it by a variety of different names—acid rain, smog, global warming, and ozone depletion, to cite just a few.

Typically, these are viewed as separate and individual manifestations of air pollution, but, they are not separate.

They are connected to each other just as are the fever and chills and upset stomach of a sick child. Just as a sick child may have a variety of symptoms, so the environmental illness that now infects our planet's air is displaying itself in different, and sometimes confusing, ways.

It is one of my remaining hopes that, before this Senator leaves this Chamber for the last time, the groundwork will have been laid here that will help the United States, and the world, to respond to this threat. To counter the threat to humanity posed by atmospheric contamination will require the human race to change some of its ways. But, those changes need not require significant sacrifices.

We have accepted the changes in public health programs that have brought us the vaccines that have eradicated smallpox and conquered polio. We have adjusted to the changes required to use electricity, refrigeration, jet airplanes, and even computers without much sacrifice. Indeed, the argument can be made that we live richer and longer lives because of those changes.

If we can only recognize this circumstance for what it is—an opportunity to redirect ourselves toward a brighter future—then setting ourselves to the task ahead will be not a burden, but a joy.

We humans have degraded the environment of our world, and now we must set ourselves on the path of reversing that course. It will not be an easy task to accomplish, but it is a necessary one.

The threat is the result of the massive infusion of billions upon billions of pounds of pollutants into the air of our planet.

If humanity ever understood the role the atmosphere plays in the life of this planet, we seem to have forgotten it in recent years.

Air does not occur naturally. It was not here when the Earth was formed. The atmosphere on this planet is the product of living things. Animals, like ourselves, produce the carbon dioxide. Plants, like trees, produce the oxygen.

Once present on the planet, the atmosphere traps heat, allowing life to continue and to evolve. The atmosphere also screens out the radiation of the Sun, which otherwise would literally incinerate every living thing it touched. The air is also a nutrient, like the food on our table. We take our food one bite at a time. We take our air one breath at a time. They sustain our lives.

But, poison either and our lives are threatened.

Clearly, we have allowed pollution to poison our air in many ways. The result has been that trees, fish, and human beings have been caused to fall ill and die.

Pollution has also altered the ability of the atmosphere to allow just the right amounts of life-sustaining heat from the Sun to enter and to leave our environment. As a consequence, the Earth is becoming hotter, which threatens to cause shifts in climate that will alter life on this globe.

At the same time, manmade chemicals have thinned the ozone shield that protects us from the ultraviolet radiation from the Sun.

And, of course, we are more familiar with the various forms of air pollution closer to the ground—the pollution that irritates our eyes and our lungs and that threatens our health more directly.

Tomorrow, I will present to this body a more detailed outline of the unfinished air pollution agenda that must be addressed in the immediate future.

I propose not only to set down the challenges we face, but also to offer some solutions. It is not too late to correct our errors of the past.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

COMMENDATION OF ROBERT T. STAFFORD

Mr. DOLE. Mr. President, first I commend and congratulate the distinguished Senator from Vermont for his leadership. He indicated much has been done and needs to be done on environmental issues. Certainly he has been the point man, so to speak, in this body, along with other of our colleagues. But I think everyone will agree Senator STAFFORD has provided the real leadership on some of the major issues. I commend him for that and look forward to hearing his report tomorrow morning and the following morning.

BICENTENNIAL MINUTE

OTOBER 19, 1943: FIRST WOMAN PRESIDES OVER SENATE

Mr. DOLE. Mr. President, on October 19, 1943, 45 years ago, Senator Hattie Caraway, a Democrat from Arkansas, approached the Presiding Officer's chair, took her seat, and made history. When she assumed the chair, in the absence of Vice President Henry Wallace and the President pro tempore, Senator Carter Glass of Virginia, Mrs. Caraway became the first woman to preside over this body.

Senator Caraway holds other important Senate distinctions as well. She was the first woman ever elected to the Senate, and the first to chair a committee. How she arrived at these historic firsts was due to an unlikely twist of fate, all the more ironic because of her traditional background and beliefs. The first elected woman Senator was not a feminist. As a Senate wife, spouse of Arkansas Senator Thaddeus Caraway, she had adhered closely to the belief that a woman's place was in the home and she rarely made public appearances.

When the Governor of Arkansas suggested Mrs. Caraway as a compromise candidate to fill the vacancy created by her husband's death in 1931, he never dreamed that she would decide to run for a full term in the regular election the next year. In fact, she had promised him she would not. However, Mrs. Caraway had enjoyed her brief taste of power and wished to continue. She won in 1932 with a vote that equaled the combined total of her six opponents, and she won reelection in 1938.

In her two terms in the Senate, Mrs. Caraway served on the Agriculture and Forestry, and Commerce Committees. She exhibited strong interest in farm relief, flood control, and commercial aviation safety. In 1944, Mrs. Caraway was defeated in her bid for a third full term by J. William Fulbright.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate is conducting morning business for a period not to extend beyond 3:30 p.m. and Senators are permitted to speak for 5 minutes each.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

PRAISE FOR BICENTENNIAL MINUTE

Mr. REID. Mr. President, prior to the distinguished Republican leader leaving the Chamber, I would like to take this opportunity to tell him how much I have enjoyed his 1 minute vignettes on historical matters. Being an old historian myself, at least I think I am, I look forward each day to these.

I think the manner in which the topics are chosen is exciting, the research done in coming up with the anecdotes, and the general factual material that you give us is exciting and will go down in history, I am sure, as something that the Senate will treasure for years to come.

Mr. DOLE. I thank my colleague from Nevada.

BITING THE BULLET

Mr. REID. Mr. President, in my part of the country we have a common saying that we use when things become difficult or unpleasant. We call it biting the bullet. While people from all parts of the country now use this phrase, I doubt if many outside the West understand the origin of the phrase "biting the bullet."

In the old days of the West before frontier doctors had access to anesthesia, patients who were in pain were urged to bite on a bullet consisting of soft lead to help them bear the pain while immediate medical treatment was being accomplished. I believe it is time for the Congress and the administration to bite the bullet on Federal budget deficits.

According to the Office of Management and Budget's initial sequester report issued this past August 25, we may have gotten lucky enough to avoid a sequester for fiscal year 1989 spending.

Under the budget agreement reached last fall, the deficit target for fiscal year 1989 was set at $136 billion. With the $10 billion cushion permitted under Gramm-Rudman, there will be no sequester required as long as spending does not exceed $146 billion. The Office of Management and Budget now predicts a 1989 deficit of $145.3 billion so we may be a squeak or two under the limit.

Before we spend too much time patting ourselves on the back over avoiding a sequester, we should take note of the financial markets. They are not very impressed. They see that we continue to be unable to reduce the Government's budget deficit below $150 billion.

We have not seen a budget deficit below $150 billion for 7 years and the results are beginning to show in the economy. The prime interest rate is back up to double-digit figures. Increasing interest rates are already dampening the housing market, as indicated by the figures we received this month, and may well start affecting the rest of our economy in the very near future.

As I heard it said in this Chamber once so well, Mr. President, by the senior Senator from Arkansas, anybody can spend and have a good time if they are using a credit card. That is basically what we have been doing in this country the past 7 years. We have been having our pleasures, buying anything we wanted, but we have been doing it with a credit card. It is time, as I said, Mr. President, to bite the bullet. The budget reforms so greatly touted in 1974 are broken and cannot do the job of ending the Government's deficit spending binge. Our meager success this year only came about as a result of an emergency ad hoc budget summit, not through the normal budget process.

We must turn to stronger medicine to reduce our budget deficits than that contained in the current budget process. It was this realization that led me this past April to introduce the Spending Control and Programs Evaluation Act of 1988. The essence of this legislation is to force Congress to reexamine spending programs on a regular and systematic basis and specifically reauthorize such spending as it deems justified. This would put an end to automatic spending by eliminating any spending that Congress did not specifically authorize. There are adequate safeguards built in so that a minority cannot kill previously authorized programs by delaying tactics.

I knew when I introduced this bill earlier this year that there would not likely be time in this Congress for full consideration of this idea. However, I wanted to get it on the table for Senators to begin considering, and today I want to make it clear that I intend to begin pushing hard for this proposal in the early days of the 101st Congress. I encourage my colleagues to start looking into this idea. The congressional budget process is simply not doing the job. We need a new approach, and I am convinced that the only way that we are ever going to really get spending under control is to bite the bullet and start setting real priorities for spending. That can be best accomplished by requiring periodic evaluation and reauthorization for every program in the Federal budget.

RADON

Mr. BURDICK. Mr. President, the Environmental Protection Agency has just released new information about the serious health threats posed to millions of Americans by exposure to radon.

Radon is a naturally occurring gas. It can build up inside homes and other structures and can cause lung cancer.

The EPA estimates that up to 20,000 Americans each year die of lung cancer, attributable to radon.

For the past year, EPA has been working with several States, including my home State of North Dakota, to determine the extent of the radon problem.

About 1 in 3 of the homes tested in 7 States has radon above EPA's recommended action level. Some 200,000 homes in these States have very high radon levels needing immediate response.

In North Dakota, 63 percent of all homes surveyed have radon levels above the EPA recommended action level.

EPA indicates that the State is a radon "hot spot" similar to the area on the Pennsylvanian/New Jersey border called the Prong.

While North Dakota takes pride in being first among the States in many things, being first in radon is not a distinction we want to have for long.

The State is already working with homeowners to understand and assess the radon problem.

It is essential that the Federal Government assist and support radon programs in North Dakota and other States.

The Environment and Public Works Committee, which I chair, has been working on the radon problem for several years.

I held a hearing of the committee in Fargo last year to learn more about the radon problem in North Dakota. Witnesses described the radon problem in the State and offered valuable comments and suggestions.

We developed legislation in the Environment Committee to assist States in responding to radon contamination. The Senate passed the bill last year and it was recently reported out of the House Energy and Commerce Committee. Passage in the House is expected shortly.

The bill would provide $10 million a year for grants to States to develop radon programs. Grants could be used to set up response programs, to train staff, to buy needed equipment, and to purchase radon measurement devices.

The bill would expand the program for testing the proficiency of private firms engaged in radon measurement and mitigation. It also directs the EPA to assess the radon problem in our Nation's schools.

I urged my colleagues in the House to consider and approve this legislation as soon as possible.

Evidence of the serious health threats posed by radon is mounting each day. We need to assure that we have the best possible response program.

I look forward to working with my colleagues to assure final passage of radon legislation in the near future.

I thank the Chair.

EXTENSION OF MORNING BUSINESS

Mr. GORE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is advised that there are only about 2 or 3 minutes remaining for morning business. Does the Senator want to ask for an extension of time as he rises for the purpose of speaking in morning business?

Mr. GORE. I ask unanimous consent, if it is appropriate to do so, that the period for morning business be extended by 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, that is the order.

The Senator from Tennessee.

Mr. GORE. I thank the Chair.

IRAQ'S USE OF CHEMICAL WEAPONS

Mr. GORE. Mr. President, according to extensive and apparently well-documented reports, the Government of Iraq may right now be in the midst of trying to impose a final solution on its Kurdish population. Upward of 100,000 Kurds have already fled the Iraqi Army by crossing over the border into Turkey. Something on the order of 50,000 Kurds remain trapped inside a forbidden zone said to have been marked by the Government of Iraq for depopulation. These people are now the object of a military program, which, according to many reports, includes the use of chemical weapons.

If the world does not respond to these developments, we may again be forced to look on as yet another act of mass atrocity is committed by yet another government whose behavior will yet again stain the honor of humanity and of civilization. At such times, there can be no such thing as innocent bystanders. For governments to have knowledge of such events, and not to cry out, is to become complicit with them.

Last week, the United States finally broke the silence, cynicism and indifference which, until then, typified the world's response to repeated charges of inhumane behavior by Iraqi forces, involving the use of chemical weapons. The Secretary of State—convinced by information at his disposal—bluntly laid it on the line for Iraq. Thanks to Senator PELL, the Senate did likewise, by approving legislation aimed at cutting off United States aid to Iraq, and ending United States imports of Iraqi oil.

It is a beginning, but it is not enough. To achieve results, we should focus world opinion on a demand that Iraq desist from the use of chemical weapons; that it allow international inspection to followup on claims that chemical weapons have been used; and that it conform its behavior toward the Kurdish population within its borders to norms acceptable under the U.N. Charter and international law.

To that end, Mr. President, there are certain actions I urgently recommend:

First, our Government should immediately issue a statement which presents the evidence against Iraq in the fullest possible detail.

Second, we should request an immediate session of the Security Council to address the charge that Iraq is in the process of carrying out a genocidal policy.

Third, we should call upon our allies, some of whom are deeply involved with Iraq as trading partners and/or military suppliers, to demand that Iraq be responsive to these charges.

Fourth, we should directly confront the nations of the neutral-nonaligned movement with their silence in the face of the evidence and demand that they speak out.

Fifth, we should ask the Soviet Union to speak out in the same manner as have we. Parallel United States and Soviet approaches will do more than anything else to signal Iraq's leaders that they must change course.

Sixth, we should communicate with every nation that is a party to the Geneva Protocol on the Prohibition of the Use of Chemical Weapons, to advise that silence in the presence of such a challenge to this agreement will make it a dead letter.

Seventh, we should move speedily to determine the needs of Kurdish refugees in Turkey, and of agencies seeking to aid them, including both the United Nations and the Government of Turkey itself. We should make sure that these needs are met.

To promote these actions, Mr. President, there are certain steps which we in this body can take.

First, the Senate should call upon the Secretary of State to provide public testimony as to the nature of information at his disposal, and as to the administration's ongoing plans.

Second, I suggest that both parties through their leaders consider setting up a clearinghouse process to collect and analyze information on behalf of the Senate as a whole.

Third, we can communicate with the Turkish Government through its ambassador here, to express appreciation for what it has done so far to provide refuge for Kurdish refugees, and to indicate that the Senate is ready to respond to their material needs for our part in this process.

Fourth, we can communicate with the Soviet Government through its ambassador here, urging them to join the United States in public condemnation of Iraqi behavior.

Fifth, we can and should communicate with governments of Iraq's trading partners, suppliers, and supporters; appealing to them to speak out and to use their influence.

Sixth, we can and should make sure that the American people are alerted to what is going on. To this end, we can use not only our own resources, but we ought to ask the two Presidential candidates to speak out.

Mr. President, ruthless as it may be, the Government of Iraq is not irrational. Its leaders are aware of world opinion, and understand that their vital interests can be damaged by a hardening of that opinion against them. Recognizing this, we can influence the outcome of these events. But only if we shake world opinion awake.

I yield the remainder of my time.

EXTENSION OF MORNING BUSINESS

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that there be an extension of the time for morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROPOSED UNANIMOUS-CONSENT REQUEST

Mr. WEICKER addressed the Chair.

The ACTING PRESIDENT pro tempore. Has the majority leader yielded the floor.

Mr. BYRD. Mr. President, I yield to the distinguished Senator.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I would like to address, if I could, a few questions to my good friend, the distinguished majority leader. I have before me a proposed unanimous-consent request relative to the Labor, Health and Human Services conference report. I agree with everything contained therein. The only question that I have is, if I agree to the procedure that we are going to have a motion, to insist that also I be permitted by those on the other side, if I fail, to have the opportunity to make a motion to recede.

Having said that, I think I would certainly not want to be tabled in my motion any more than I think the motion to recede should be tabled. Let us have a motion to insist, and a motion to recede; and up-and-down votes.

That is my only inquiry of the distinguished majority leader as to why we cannot have that procedure followed where we choose to have our day in court. We cannot agree all the time. But I agree to the motions, and I just want to make sure that I have a full presentation of my side of the issue. I want to also guarantee that the others on the other side have a full presentation of their point of view.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EVANS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senator from Washington.

Mr. EVANS. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the Senator from Washington is recognized for 5 minutes.

STEWART BLEDSOE

Mr. EVANS. Mr. President, last weekend I returned to the State of Washington to celebrate the life and to mourn the death of a remarkable man and dear friend.

His name was not known nationally, but remembering his life may well help us in the future to resolve our increasingly bitter environmental conflicts.

Stewart Bledsoe was a football player, naval aviator, cattle rancher, and a politician of consummate skill. I first met him almost 30 years ago when he decided that it was not enough to complain about Government, but it was imperative to take an active part.

He ran for the Washington State House of Representatives and came to the Republican caucus in the mid-1960's as a surprise addition—the first Republican elected in that district in years and years. It did not take long for all of us to listen when he spoke, for he cut through the complexities of issues and personalities with what became famous as "Bledsoe-isms."

He used to speak of somebody going fast by saying he was at "Mach 2 with his hair on fire."

He used to talk about someone who was tired out in what only a horseman could say: "He was rode hard and put away wet."

Some of his "Bledsoe-isms" were much earthier than that and probably cannot be repeated on the Senate floor, but all of them helped us learn, and they added joy to our understanding.

He quickly rose to leadership in the legislature, and when I had an opportunity, I was quick to appoint him as director of the Washington State Department of Agriculture. He served in a distinguished fashion there, expanding markedly Washington's markets overseas acting as a good will representative across the Pacific and a fine administrator in the State of Washington.

When our administration ended, Stu helped initiate and then led the Washington Forest Protective Association. Although that organization represented timber operators, Stu recognized that competing interests in the use of forests somehow had to be reconciled.

Perhaps his most lasting legacy will be the timber, fish, and wildlife process, which brought together one-time combatants to resolve environmental challenges in the management of our forest economy. State and Federal fisheries agencies, Indian tribes, environmentalists, timber managers, and other governmental representatives joined in taking these contentious issues out of the courtroom and into cooperative management.

The year before this organization was established, there were more than 20 lawsuits filed in Washington State courts on the management of fisheries and timber and their conflicts. A year after the organization was started, there were no lawsuits filed. This concept of reconciliation rather than retribution is spreading nationally; and through its success, Stu Bledsoe's influence still lives.

His professional career was only a small part of his extraordinary life. Stu was a middle-aged motorcyclist careening down Washington's back roads with the joy of that speed, just as he lived life—right at the edge. He was a fanatic sailor who roared with joy. I was with him on more than one occasion when he would haul his catamaran alongside a power boat and dare them to a flat-out race and then beat the socks off them.

His real passion, however, was his family—Betsy, his wife and partner of 45 years, and their two sons and two daughters and a growing number of grandchildren. He loved them all, separately and collectively.

Last Saturday was a remarkable occasion, for it was a family service—a family service at which each of the four children of the Bledsoes spoke. Laughter brushed away our tears, as we rejoiced in his life much more than sorrowed at this early death. Pride, respect, and comradship in each of their comments made us all realize that Stu lives through them.

Each of us is blessed with many acquaintances and with hundreds of friends. Only a handful qualify as best friends. I lost a best friend last week. But how glad I am that I was privileged to share part of his life for the past 30 years!

Mr. President, I ask unanimous consent to have printed in the RECORD an article on Stewart Bledsoe which appeared in the Seattle Times of Wednesday, September 7.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STU BLEDSOE: A TOUCH OF HOMESPUN CLASS

(By Richard W. Larsen)

Stu Bledsoe was that rare character on the public scene who added a great dash of zest, color and focus to many of the complex, often-gray "big issues" that rolled through an era of Washington politics.

Herb Robinson, top-dog editor of this page, remembers the first time he met Bledsoe. "It must have been in the 1950s. I was working for KOMO-TV, and I was trying to organize a debate on the economic issues of the state."

The Republicans recommended Bledsoe—"a young guy from Ellensburg who was a rancher. He'd speak from agriculture's point of view."

Robinson remembers the moment Bledsoe arrived at the curb in front of the KOMO studios: "He pulled up in something like a white Lincoln or Cadillac. He was wearing this big cowboy hat and boots and an expensive suit."

Robinson blinked at the sight, then received Bledsoe's great grin and "Howdy." It turned out the cowboy knew his stuff, and from that moment on, through ensuing decades, Robinson says, "I discovered that underneath all the glitter, there was this very real guy."

Back home in Kittitas County and elsewhere around central Washington, neighbors came to admire the onetime fighter pilot out of Los Angeles who, they discovered, knew how to operate a cattle ranch. At his Flying B spread, Bledsoe did some impressive new things such as selective breeding to improve herd quality. In 1965 he was elected to the Legislature.

In the House, Bledsoe became the colorful Republican Majority Leader who, with cowboy style and bunkhouse wit, often served as "trail boss" for the programs of Gov. Dan Evans and the GOP. When votes were needed on a bill, Bledsoe called on the band of loyalists to "saddle up and round up the strays."

On a tough, close vote, he exhorted everyone to "Circle the wagons!" and ignore the speeches of critics ("the rattle of small-arms fire"). Solid things, both conservative and progressive, happened in education, environmental protection, and other areas of state policy.

Even his opponents liked Bledsoe. Democrats enjoyed the verbal shootouts, though they usually were no match for Bledsoe's quick draw and rapid fire. Once they slyly prepared an ambush when Bledsoe was moving to bring a tax bill onto the floor. It was a measure that would exempt certain agricultural products from the state sales tax, including—of all things—semen for the artificial insemination of cattle.

A dozen or more raucous, offcolor speeches were readied to needle and embarrass

Bledsoe—on issues such as cruelty to bulls. But, remembers Bledsoe's seat mate, Sid Morrison, "at the moment the bill came up, a group of nuns filed into the visitor gallery and sat down." Democrats swallowed their speeches. The bill passed quickly, quietly.

"Stu had Divine Providence on his side," Morrison reflects.

In the early 1970s Bledsoe ran for Congress in the 4th District. Probably there wasn't time for folks in that sprawling district, especially around Vancouver, to fully fathom the remarkable brain and abilities behind the corral-fence, shucks-and-golly exterior. Bledsoe lost to incumbent Mike McCormack.

Later, though, Bledsoe helped Republican Morrison win that seat. "Stu would have made a spectacular congressman," Morrison reflects. True. But based in Olympia, Bledsoe ran the state Agriculture Department for four years and did other important policy things.

In 1977 Bledsoe turned up as executive director of the Washington Forest Protective Association, an organization mostly made up of the big timber companies—Weyerhaeuser, Simpson, and others. At the time, Washington's woods were full of warring factions. Environmentalists, Indian tribes, small timber-lot operators, the industry giants, sportsmen, farmers and others were often locked in disputes over tree harvest and land- and water-management practices.

"Stu's enthusiasm was his hallmark," says Bob Austin, a long-time associate. "He always figured a way to win, saying there's no such thing as losing. If we can't win, we figure out a way we can."

Bledsoe helped nudge everyone into understanding the goals they had in common. It was the crucible in which there began to form TFW, the Timber-Fish-Wildlife agreement. I remember the early meetings, with longtime political enemies all sitting around the table, at which Bledsoe argued persuasively that "everyone has a chance for a win-win situation here."

It turned out that way. There emerged historic agreements on timber-harvest methods that promise to give lasting protection to land, streams and wildlife across the state. Washington's TFW is being copied by other states. Under Bledsoe's herding, this State's big timber corporations came to be respected neighbors instead of hated ogres.

Last year, at a retreat of directors of the forest group, Bledsoe was honored on his 64th birthday. His admirers introduced a game of charades based on all the folksy "Bledsoe-isms." There was plenty of material, like:

Bledsoe, putting himself down after a major accomplishment: "Even a blind hog finds an acorn once in awhile." And, "No use being dumb if you can't show it."

On someone who'd had a tough day: "He looks like he was rode hard and put away wet."

Referring to Boeing, when it tended to be politically pompous: "The kite factory down the road."

On his silver years: "Too old for a paper route, too young for Social Security, and too tired for an affair."

In fact, Bledsoe had a 45-year love affair with his wife, Betsy. In recent weeks he's been battling a spreading cancer. An unusual operation wasn't able to check it. Bledsoe died early yesterday.

There has been a stampede of tributes. "Stu was an experience," said longtime associate Austin.

There was no one like him. Congressman Morrison mourned him but concluded, "Somebody must have had a need for him somewhere else."

Or, put another way, there was a need for a top hand to ride on a higher trail.

TIME LIMITATION AGREEMENT—CONFERENCE REPORT—H.R. 4783

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate considers the conference report on the Labor-HHS appropriations bill it be considered under the following time limitation:

Ten minutes on the conference report to be equally divided between Mr. Chiles and Mr. Weicker and 10 minutes on the conference report for Senator Hatch;

Provided, further, that all amendments in disagreement be considered en bloc with the exception of the amendment in disagreement dealing with abortion;

Provided, further, that there be 2 hours equally divided between Mr. Weicker and Mr. Helms on a Weicker motion to insist on the Senate amendment No. 126 with respect to the abortion amendment in disagreement and that there be 15 minutes for Mr. Exon on the motion by Mr. Weicker;

Provided, further, that no other amendments or motions be in order other than a possible motion to recede from the Senate abortion position should the Weicker motion be tabled or defeated on which there shall be 10 minutes to be equally divided between Mr. Chiles and Mr. Weicker.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the majority leader?

Mr. CHILES. Mr. President, reserving the right to object, nothing in there precludes a tabling motion, does it?

Mr. BYRD. No.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Reserving the right to object. The time requested by the distinguished Senator from Florida was not mentioned, was it? Is there 15 minutes for him?

Mr. BYRD. No, there is not.

Mr. HELMS. So that would be included in the time allotted to me?

Mr. WEICKER. Well, I will also give him time.

Mr. HELMS. Mr. President, we are not going to have any difficulty about working out the time.

Mr. BYRD. So Mr. Chiles would be assured of 15 minutes overall?

Mr. WEICKER. Absolutely.

Mr. HELMS. I can assure that, one way or the other, the Senator from Florida will have adequate time to discuss it. I do not object.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina does not object. Is there objection? Without objection, the unanimous-consent request of the majority leader is agreed to.

Mr. BYRD. Mr. President, I thank Mr. Weicker, Mr. Helms, and Mr. Chiles. I thank the Republican leader and all other Senators.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference on H.R. 4783 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4783) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of August 11, 1988.)

Mr. CHILES. Mr. President, the conference agreement is within the final 302B allocation ceilings. The conference agreement totals are at the discretionary outlay ceiling of $44.877 billion, and we are $264 million under the discretionary budget authority ceiling of $39.587 billion. To bring these totals into conformance with the 302B ceilings we were required to make a 1.2-percent across-the-board cut as our final action in conference.

On an overall basis, the Senate passed bill totaled $140,429,241,000. The conference agreement that we have brought back is $55.1 million, or 0.04 percent, below the Senate bill. In other words, we feel we have sustained, in a very substantial way, the position of the Senate in this bill.

We have also been able to maintain most of the special items of interest to the Senate and the various Members.

Mr. President, I ask unanimous consent to submit highlights of the conference agreement for the Record at this point.

There being no objection, the highlights were ordered to be printed in the Record, as follows:

Highlights of the Conference Agreement

For AIDS, the conference total is $1.2 billion, slightly below—$20.8 million below—

the Senate passed figure, due primarily to the 1.2-percent across-the-board cut.

For the Social Security Administration, we were able to retain an increase of 1,000 positions over the President's request.

The conference agreement provides an 8-percent increase for biomedical research at the National Institutes of Health [NIH], and the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA]; a 9-percent increase for the health promotion activities of the Public Health Service; and all the drug programs—drug abuse research, drug education, and drug treatment—are increased 15.2 percent. The conference agreement for these several programs is essentially at the Senate level, but for the 1.2-percent across-the-board cut.

The conference agreement provides over $78 million for programs for the homeless, including primary and mental health care, job training, and education. This total is almost 18 percent above 1988 levels.

The Senate funding levels have been maintained—except for the across-the-board reduction—on all major mental health and substance abuse programs. Mental health research will see a 16-percent increase over 1988; the substance abuse block grant is increased by $22 million; substance abuse research will go up by 15 percent.

Our commitment to education for the handicapped is maintained, with almost a $100 million increase for these programs over 1988 levels, including a 23-percent hike in funding for preschool grants.

Chapter I compensatory education programs for the disadvantaged are funded at $4,570,246,000, or just slightly less—$19.5 million less—than the Senate passed level. This is over $240 million more than the fiscal year 1988 level.

Student financial assistance programs total $5,814,056,000—just slightly less than the Senate passed levels.

The trio programs, which help disadvantaged students acquire the skills to gain admission to college and to graduate school, are slated for a $13 million increase.

Last year's infant mortality initiative is continued, and the conference agreement adds $14.7 million to expand that initiative. These add-ons will fund additional doctors and nurses for our system of community health care centers and provide them with malpractice insurance.

The conference agreement provides $554.3 million for the maternal and child health block grant, and $142 million for the Childhood Immunization Program, representing very small reductions to the Senate passed levels for these two important programs.

For the job training programs, the conference agreement of $3,785,687,000 is only $31,499,000 below the Senate passed level, and includes sufficient funds for opening six new Job Corps centers. Also included is $343,824,000 for older workers jobs programs; although this is less than the original Senate recommendation, it will still allow expansion of existing services.

The conference agreement retains most of the Senate increase for refugee and entrant assistance, and for the Head Start Program, we were able to provide $1,235,000,000—an increase of $28,676,000 over fiscal year 1988.

Mr. CHILES. Mr. President, as the Members know, the House has insisted on its position regarding Medicaid funding of abortions by a 50-vote margin. The House has insisted on maintaining current law permitting Medicaid funding for abortions only in those cases in which the life of the mother would be endangered if the fetus were carried to term. This is an item in disagreement. The first order of business, however, is the conference report which is not controversial and I hope we can adopt with a voice vote.

Mr. President, before we move to adopt the conference report, I would like to express my appreciation to Senator WEICKER, the ranking member of this subcommittee, for his leadership and cooperation. He has provided important advice on AIDS and many other critical issues, especially all those issues involving the handicapped and education. His familiarity and experience with this bill have been very helpful to us. I yield to Senator WEICKER for any opening statement that he might wish to make at this time.

Mr. WEICKER. Mr. President, first, I commend my colleague, Senator CHILES, for his handling of the Labor, Health and Human Services appropriation bill. I think he has done an outstanding job under very difficult circumstances—circumstances that, simply put, mean too little money for education, too little money for health, and too little money for the concerns of labor. But all of this was arrived at in a leadership budget agreement between the White House and the Congress—an agreement I might add, which included the leadership of both the Democrats and the Republicans. As a result, Mr. President, a good portion of the ball game was decided before it even came to our committee.

Within those parameters, I believe LAWTON CHILES has been eminently fair in allocating those minimal resources to the areas covered by the jurisdiction of his committee.

Mr. President, I hope that in the new Congress, the American people will have spoken; that health care and the education of our children, and safety in the workplace will be the matters of prime importance to the Nation. I hope that defense spending will not be exempt from the budget process. Defense can no longer occupy the position which it does to the exclusion of all the other elements that contribute to the quality of life here in the United States.

Senator CHILES is leaving the Senate this year. I cannot think of a finer note to go out on than this conference report which reflects his contribution to the education and health concerns of our citizens.

Mr. President, as far as the Labor-HHS bill is concerned it is not a question of Senator CHILES' agenda on the Democratic side or Senator WEICKER's agenda on the Republican side, but what is the agenda of the United States of America to be? So far in the political debate between both sides all I hear is who is patriotic and who is not. I do not hear them talking health. I do not hear them talking science, I do not hear them talking education. Unless these things are discussed now, believe me, when we come to the next session of Congress, everything will be the same. And the same is not all right.

The efforts of the Senator from Florida are magnificent, but the result was predestined, to a great extent. And the result should be different. I might add, when I was chairman, I suffered under the same budgetary constraints. The result has to be different if, indeed, the health of our children, the education of our children, are to take turns for the better.

The word "children" to me is synonymous with the future. If the money is not there on their behalf, the future is not going to be there for any of us.

I hope that the conference report will be adopted without debate, because it is a fine piece of work. I hope it will be adopted by voice vote. We have cleared adoption of the report, I might add, with Senator HATCH and all Members on this side.

Mr. President, before I yield the floor, there is report language included in this conference agreement that I think deserves some commentary. We have a problem. Many of my colleagues have read about it in the press, and this problem is fast coming upon us. It has a September 30 deadline and something needs to be done.

Sometime before the end of this month, we have to face up to the fact that 6,000 Americans are going to die unless Congress acts. These are the Americans who at the present time receive the drug AZT because of the availability of Federal funds. They are Americans who are unable to pay for the drug out of their own pockets.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WEICKER. I ask unanimous consent for an additional 4 minutes.

The PRESIDING OFFICER. Without objection, an additional 4 minutes is allocated the Senator from Connecticut.

Mr. WEICKER. These are Americans who have been the beneficiary of Federal funds appropriated over a year ago to ensure that those who needed AZT would receive it even if they could not afford to pay for it. These funds expire on September 30. There are no Federal moneys to continue it. Likewise, in many of the States, there are no State or local moneys to continue it. Indeed, there are other situations where the individual would have to spend down to the poverty level to make themselves Medicaid eligible in order to pay for the drug. There are many ramifications to the problem, but the worst is that if the drug is not received, the person dies.

I intend on this floor through some piece of legislation to introduce authorizing language to keep the present program going for an additional 6 months. I do not intend for this to be an entitlement program, but we are in no position right now with a deadline facing us, being in the middle of an election year, to decide such an issue of life and death. We need 6 months' breathing space. This will at least assure those individuals whose lives are being prolonged at the present time that during the recess they will not die. And that is not an overexaggeration. That is a simple statement of fact.

Mr. President, there are those who feel that part of the problem is that the price of AZT is too high. I have been in communication with the Burroughs Wellcome Co. which manufactures the drug, and I hope discussions would be advanced in the direction of making this treatment more available in terms of cost to the people it serves. And obviously, nothing can be achieved without the agreement of the Secretary of Health and Human Services. The Secretary has been unavailable for the last several weeks but I understand he will be back in Washington in the next few days, and I hope we can sit down and talk about how to take care of this problem.

I understand all the arguments this raises. If we can do this for those who suffer from AIDS, why not for some other disease? In fact, as many of my colleagues know, we have an ongoing program where the Federal Government does pay for kidney dialysis. If for kidney dialysis, why not for AIDS? Mr. President, all I know is there are many here who are trying to fight a fire now, and I really do not believe we can afford to get into a prolonged debate, a debate which can only lead to the deaths of an inordinate number of our neighbors.

I wanted to use the few minutes allotted to me for my opening statements, not on the conference report or the good work of the distinguished Senator from Florida. It is a good conference report and he did a good job, but I wanted to use my time to talk about the AZT problem. It is mentioned in the conference report but I wanted to highlight it here again. We will have a chance to debate the authorizing language I intend to offer and all aspects of it. It should be debated but, most important, we should make a decision, no later than September 30. If we pass the authorizing language, then we can fund the program in a continuing resolution or by administrative means in the Department of Health and Human Services.

I alert my colleagues to the problem and the Nation to the problem because, believe me, nobody in good conscience gets out of this place until these 6,000 have been cared for.

I thank the Chair.

JOB CORPS PROGRAM: FUNDING FOR NEW CENTERS

Mr. DOLE. Mr. President, the fiscal year 1989 Labor-HHS-Education conference report contains $36 million in funding for the acquisition, rehabilitation, and construction of six new Job Corps centers. These funds are intended to be targeted on States that do not already have Job Corps centers.

Funding for new Job Corps centers has been on hold for the past few years because of budget constraints. The Department of Labor has needed most of the available funds to cover maintenance and repairs of existing centers, and there were no funds left over to create new centers.

JOB CORPS CENTER FOR KANSAS

My distinguished colleague in the Senate, NANCY KASSEBAUM, and I have reminded Secretary of Labor Ann McLaughlin that a new Job Corps center for Kansas is still a top priority. We believe any new Labor Department funding included in this bill should go to finance a center in Kansas. It is one of only six States that do not currently have a center, and Congress has clearly indicated its intent that new centers be located in States that have been left out in the past.

Our interest in this issue began back in 1982 when we began a campaign to bring Kansas into the National Job Training Program. We saw results when, in 1984, Secretary of Labor Ray Donovan telephoned me to say that Kansas was in line to receive its first Job Corps center. With this news, we then established a 12-member site selection committee to make certain that the State selection process was fair, independent of politics, and subject to statewide competition. The result of this process was that Manhattan, KS, was selected as an ideal site. I believe this site is an excellent location, and it remains available. In fact, it can be purchased at a significantly reduced price as compared with the 1984 bid. When Bill Brock took over as Labor Secretary, we reiterated our interest in this project, and he was in agreement that this was a top priority.

CAPACITY OF NEW CENTER

According to past indicators, Kansas should produce more than enough students to keep 300 slots in a job center filled to capacity with trainees. Under the current situation, Kansas sends its Job Corps students to centers in other States, including Utah, Missouri, and Kentucky. Having a center in Kansas would allow these students to be served in closer proximity to their home environments.

Mr. President, community support for a Job Corps center in Manhattan continues to be at an all-time high. The program has an outstanding track record in training disadvantaged young people, and it is my hope that the Manhattan community will soon be able to participate in this very worthwhile program.

Mr. SASSER. Mr. President, I rise to call the attention of my Senate colleagues to the $225 million allotted to the National Institute on Aging in the conference report to accompany H.R. 4783, the Labor, Health and Human Services, Education, and related agencies appropriations bill. I would like to receive assurances from subcommittee chairman CHILES that this appropriated amount includes funding for the establishment of up to two national centers for geriatric excellence and training.

Last year, I introduced a bill, S. 1112, to establish 10 centers of geriatric excellence and training over a period of 3 years. I was pleased to see language authorizing the establishment of these centers of geriatric excellence and training included in S. 2222, the reauthorization of programs funded under title IV of the Public Health Service Act. I was further pleased to note that the Labor, Health and Human Services Appropriations Subcommittee included language in the Senate report to accompany H.R. 4783 to provide for the establishment of up to two centers of geriatric education and research. Based on the economic assumptions used in preparing cost estimates for S. 1112, the cost of funding these two centers should not exceed $3 million.

Allow me to take a minute to explain why I believe that obtaining adequate funding for these centers for geriatric excellence and research is so important. Mr. President, it is my hope that these centers of excellence will fill an enormous gap in the delivery of health care services in America. This gap is the result of an absence of trained physicians having the medical background necessary to meet the special health care needs of our Nation's elderly. A recently released study by the Institute of Medicine underscores the extent of this problem. Just last year, the Institute of Medicine found that of 450,000 practicing physicians in the United States, only 450, or one in every thousand, has completed a postgraduate fellowship in geriatrics. And this is not a promising figure, particularly in view of the fact that a number of elderly Americans is expected to increase exponentially in the years to come. Indeed, this same Institute of Medicine study points out that our yearly output of geriatric specialists must double in order to meet the projected need of 2,100 geriatric specialists by the year 2000.

Mr. President, it is my hope that the establishment of centers of geriatric training and excellence will constitute an important first step in meeting the projected needs of our ever expanding elderly population. Furthermore, I hope that additional centers of geriatric excellence and training will be established in future years.

However, Mr. President, in order to be effective in meeting the needs of our elderly population, these centers for geriatric excellence must be assured of adequate levels of financial support. I know that the Senator from Massachusetts, Mr. KENNEDY, shares my concern that these centers for geriatric excellence are funded at an adequate level, and I would like to ask him to express his concerns at this time.

Mr. KENNEDY. The Senator from Tennessee is correct. As chairman of the Committee on Labor and Human Resources, to which Mr. SASSER's original proposal, S. 1112, was referred, I have long supported the establishment of geriatric centers for excellence. I was proud to include authorizing language for these centers in S. 2222, which reauthorized programs related to the National Research Institutes of the Public Health Service. I certainly support the funding included for these centers in H.R. 4783, and I know that this concern is shared by my Republican colleague, Senator HEINZ, and I would like to ask the distinguished Senator from Pennsylvania to address this matter.

Mr. HEINZ. The Senator from Massachusetts is correct. As ranking majority member of the Senate Committee on Aging, I was an original cosponsor of Senator SASSER's S. 1112, which would have established 10 centers of geriatric excellence. In light of the aging of our society, it is imperative that we have enough trained clinical specialists to care for our elderly and counsel our entire medical cadre about the special characteristics of elderly patients. At present, there are not enough geriatricians to build a basic teaching backbone for the specialty, let alone provide substantial clinical services or consulting. It is extremely important that these new centers of excellence have a clear budget authority and a stable base of funding support if we are to meet the minimum objectives spelled out by the IOM report. I would like to take this opportunity to call upon the distinguished Senator form Florida, Mr. CHILES, to confirm his support for these new geriatric centers of excellence.

Mr. CHILES. Mr. President, as chairman of the Labor, Health, and Human Services Subcommittee of the Senate Appropriations Committee, I share the support voiced by my colleagues for the centers for geriatric excellence. I am confident that the National Institute on Aging should be able to fund up to two new centers of geriatric excellence within the appropriated level of $225 million. Moreover, I am not the only member of the subcommittee who is interested in securing adequate funding for this initiative. The distinguished Senator from Connecticut and ranking member of the subcommittee [Mr. WEICKER], has been instrumental in this matter, and I would like to call upon Mr. WEICKER to express his views on this issue.

Mr. WEICKER. Thank you, Senator CHILES. As ranking minority member on the Labor, Health, and Human Services Subcommittee of the Senate Committee on Appropriations, and as one who, over the years, has fought to ensure adequate geriatric training and research funds I have a special interest in ensuring that sufficient levels of funding are provided for these two new centers for geriatric excellence. In fact, it was at my request that the centers were included in the Senate passed bill. I assure my colleagues that I will carefully monitor the establishment of these centers by the National Institute on Aging.

DIVISION OF RESEARCH RESOURCES, NATIONAL INSTITUTES OF HEALTH

Mr. SPECTER. Mr. President, I wish to acknowledge and applaud the distinguished chairman, and the distinguished ranking member of the Labor, Health and Human Services and Education Appropriations Subcommittee for their unyielding efforts and excellent work in producing this conference report.

I believe Senator CHILES and I share a common concern of vital interest to the health care and research community: the future of the research programs and organizations currently funded through the Division of Research Resources at the National Institutes of Health designed as alternatives to using animals as research and experimental resources. Such excellent organizations as the National Disease Research Interchange and the American Type Culture Collection and programs conducted at facilities such as the MIT Cell Culture Center, the Yeast Genetic Stock Center at the University of California Berkeley and the matrix of biological knowledge pilot project at the Unisys Corp., do outstanding work with funding through the Division of Research Resources. We would not, for example, be benefiting today from the accelerated gains made in diabetes and cancer research and treatment were it not for the alternatives the Division of Research Resources has developed to animal research resources.

In light of the success rate of these existing programs and organizations, I urge that the Division of Research Resources allocate at least $10 million to enhance the current programs and organizations it currently funds, as well as new programs that are designed as alternatives to using animals as a research resource. Furthermore, I urge that of this amount, at least $3 million be allocated for the National Disease Research Interchange.

The National Disease Research Interchange is a prototype system, the only one of its kind in the world, coordinating the retrieval, processing and supplying of human tissues and organs, both healthy and diseased, to scientists throughout the United States. In our committee report, we recognize that the National Disease Research Interchange's mission is to "ensure regular access to human tissues and organs for biomedical researchers throughout the country. Breakthroughs in the treatment and cure of many diseases can be expected through the development of these alternative resources."

To date, some 35,000 tissues and organs have been retrieved, processed and delivered to over 300 researchers, 90 percent of whom are funded by the National Institutes of Health. These tissues and organs have been used in the research of over 70 diseases, including cancer, diabetes mellitus, cardiovascular disease, cystic fibrosis, glaucoma, and AIDS. Given the fact that the NIH has charged the National Disease Research Interchange with the unique mission of serving all 13 institutes of the NIH, it is more important now than ever that we ensure proper funding for this fine organization.

Mr. CHILES. I would like to thank my distinguished colleague, the Senator from Pennsylvania for his kind words. It has been an honor to serve as chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee during my last term in office and to have him on my Subcommittee. I concur completely with the thrust of my colleague's statement and would like to add simply that we are on the cutting edge of medical breakthroughs with the use of biotechnologies such as magnetic resonance imaging, spectroscopic analysis, and electronic scientific bulletin boards to rapidly disseminate information on newly acquired research resources.

Mr. CHILES. Mr. President, if there is no further debate, I urge the adoption of the conference report.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I ask unanimous consent that the amendments of the House to the amendments in disagreement, except for amendment No. 126, to considered and agreed to en bloc.

Mr. President, amendment 126 is the amendment that has to do with abortion funding, and that is the amendment on which there is a unanimous-consent agreement we will take up in debate.

The PRESIDING OFFICER. Is there further discussion?

Mr. WEICKER. I beg the indulgence of the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments of the House to the Senate amendments in disagreement were agreed to as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: "and $36,000,000 shall be used to continue acquisition, rehabilitation, and construction of six new Job Corps centers; and, in addition, $9,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, of which $1,900,000 shall be for carrying out section 738 of the Act".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "$47,870,000, in accordance with section 1424 of H.R. 4848 as passed the Senate on August 3, 1988".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "$247,517,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "$1,632,584,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$993,830,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,593,536,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: "; of which at least $75,000,000 shall be available only for cancer prevention and control and $2,500,000, to remain available until expended, shall be available only for the Frederick Cancer Research Facility".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,059,303,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$132,578,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert:

SEC. 200. None of the funds contained in this Act shall be used to compel any action in violation of section 401(b) and (c) of Public Law 93-45.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$567,158,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows: "$573,978,000 of which up to $96,100,000, as the Secretary may determine to be appropriate, shall be transferred to the National Institute on Deafness and Other Communication Disorders upon being enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$754,084,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$226,168,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$362,987,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum named in said amendment, insert "$5,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum inserted by said amendment, insert "$29,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum inserted by said amendment, insert "$74,626,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum inserted by said amendment, insert "$73,078,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum inserted by said amendment, insert "$39,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 85 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum inserted by said amendment, insert "and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,581,691,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797),".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum inserted by said amendment, insert "$70,167,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That not to exceed $170,000,000 shall be available for automatic data processing and telecommunication activities".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of sum inserted by said amendment, insert "$387,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken by said amendment, and insert "and the Stewart B. McKenney Homeless Assistance Act, $382,185,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 118 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$2,574,808,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "216".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "218".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "219".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "$9,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "$717,000,000".

Resolved, That the House recede from its disagreement to the amendment of the

Senate numbered 155 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "$702,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 157 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert: ": *Provided,* That any school district that received an overpayment under section 2 in fiscal year 1984 funds and also received, through administrative offset, 30.13 per centum of such sum in an overpayment of the subsequent fiscal year's funds, is relieved of the liability to repay those sums, together with interest on such sums".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 162 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "$1,123,075,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 165 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section designation in said amendment, insert "$29,100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ", except that no funds shall be used for activities authorized by section 7043 until an interim report is submitted to the House and Senate Appropriations Committees which the Secretary shall submit no later than eight months following the enactment of this Appropriations Act in partial compliance with section 6212 of Public Law 10-297 and such sums are released under further statutory act of Congress,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 177 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken by said amendment, and insert "$1,990,321,000 of which $5,213,000 shall be for carrying out title I of S. 2561, as enacted, and".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 201 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$176,696,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 203 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$85,447,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 204 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ", of which $4,500,000 is available until expended for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina, when an authorization for such Center is enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 203 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That an additional amount of $5,750,000 shall be made available, of which $5,000,000 shall be made available for part D of title I of the Higher Education Act of 1965, relating to the student literacy corps program, to be available on July 1, 1989, and remain available until September 30, 1990, and $750,000 shall be made available for section 6261 of the Omnibus Trade and Competitiveness Act of 1988, relating to international business education centers".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 220 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first sum named in said amendment, insert "$33,731,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 222 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken by said amendment, and insert "$180,647,000: *Provided,* That of the funds appropriated under this head in the Department of Education Appropriations Act, 1988, not to exceed $500,000 together with $1,500,000 provided herein".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 233 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the sum stricken by said amendment, and insert "$2,000,000 to become available on April 1, 1989, and".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 245 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, $1,046,000, which shall remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 246 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$7,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 250 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 515. (a)(1) Nothwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instruction or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Mangement and Budget Circular A-120, dated January 4, 1988.

(d) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the increase in rates of pay in such department, agency, or instrumentality made under this Act.

(e) The limitations contained in subsection (a) shall not apply to the Offices of Inspector General of the departments, agencies, and instrumentalities of the United States Government receiving appropriated funds under this Act. Neither shall the limitations in subsection (a) apply to routine, on-going activities which departments, agencies and instrumentalities provide through contract as part of their regular mission.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 256 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 516. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by 1.2 per centum.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the Senate agreed to the House amendments.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 126 IN DISAGREEMENT

The **PRESIDING OFFICER.** The clerk will report the amendment in disagreement.

The assistant legislative clerk read as follows:

The House insist on its disagreement to Senate amendment numbered 126.

The PRESIDING OFFICER. The pending question is the amendment in disagreement.

Mr. WEICKER. Mr. President, I move the Senate further insist on amendment No. 126, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There will be 2 hours of debate on the motion.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on September 9, 1988, received a message from the President of the United States submitting a nomination; which was referred to the Committee on Labor and Human Resources.

(The nomination received on September 9, 1988, is printed in today's Record at the end of the Senate proceedings.)

NOTICE ON AGGREGATE OUTLAY REDUCTION—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 154

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on September 9, 1988, during the recess of the Senate, received the following message from the President of the United States; which, pursuant to the order of the Senate of January 30, 1975, as modified on April 11, 1986, was referred jointly to the Committee on the Budget, the Committee on Governmental Affairs, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence:

To the Congress of the United States:

In accordance with section 252(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law No. 99-177), as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law No. 100-119), I hereby note that the initial report of the Director of the Office of Management and Budget dated August 25, 1988, and my initial order of the same date, based thereon, indicated that no aggregate outlay reduction is required at this time. Accordingly, there is no further information to be provided pursuant to section 252(a)(5).

Ronald Reagan.

The White House, *September 9, 1988.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on September 9, 1988, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following joint resolution, without amendment:

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union.

The message also announced that the House insists upon its amendments to the bill (S. 1579) to amend the Public Health Service Act to revise and extend the block grant program, and for other purposes, disagreed to by the Senate; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Dingell, Mr. Waxman, Mr. Scheuer, Mr. Lent, and Mr. Madigan as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, appoints Mr. Obey, Mr. Yates, Mr. McHugh, Mr. Lehman of Florida, Mr. Wilson, Mr. Dixon, Mr. Gray of Pennsylvania, Mr. Mrazek, Mr. Whitten, Mr. Edwards of Oklahoma, Mr. Kemp, Mr. Lewis of California, Mr. Porter, and Mr. Conte as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4784) making appropriations for rural development, agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Whitten, Mr. Traxler, Mr. McHugh, Mr. Natcher, Mr. Akaka, Mr. Watkins, Mr. Durbin, Mr. Smith of Iowa, Mrs. Smith of Nebraska, Mr. Myers of Indiana, Mr. Skeen, Mr. Weber, and Mr. Conte as managers of the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4783) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 12, 28, 33, 36, 40, 41, 42, 45, 47, 50, 53, 57, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 74, 78, 84, 87, 105, 115, 117, 120, 121, 127, 151, 166, 172, 173, 186, 199, 200, 208, 218, 225, 228, 231, 232, 244, 248, and 249 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 8, 10, 20, 30, 37, 43, 44, 46, 48, 49, 51, 55, 58, 66, 72, 73, 75, 79, 80, 82, 85, 88, 100, 104, 106, 118, 130, 134, 137, 152, 153, 155, 157, 162, 165, 176, 177, 201, 203, 204, 209, 220, 222, 233, 245, 246, 250, and 256 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate No. 126 to the bill.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 52) to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1889) to amend the Geothermal Steam Act of 1970 to provide for lease extensions, and for other purposes.

The message also announced that pursuant to the provisions of section 276a-1 of title 22, United States Code, the Speaker appoints to the delegation to attend the Conference of the Interparliamentary Union, to be held in Sofia, Bulgaria, on September 19 through September 24, 1988, the following Members on the part of the House: Mr. Pepper, Chairman, Mr. Hamilton, Vice Chairman, Mr. Brown of California, Mr. Scheuer, Mr. Latta, Mr. Wortley, and Mr. Blaz.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 2641. An act to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildlife protection;

H.R. 4775. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes; and

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management disputes between the Chicago and North Western Transportation Company and the United Transportation Union.

Under the authority of the order of the Senate of February 3, 1987, the enrolled bills and joint resolution were signed on September 9, 1988, during the recess of the Senate, by the President pro tempore, Mr. Stennis.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on September 9, 1988, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2641. An act to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection;

S.J Res 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day"; and

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Co. and the United Transportation Union.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3840. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, copies of two new system reports and three altered system reports under the Privacy Act; to the Committee on Governmental Affairs.

EC-3841. A communication from the Director of Benefits, Farm Credit Bank of Texas, transmitting, pursuant to law, a report on the pension plan for the year ended December 31, 1987; to the Committee on Governmental Affairs.

EC-3842. A communication from the Director (Administration and Management), Department of Defense, transmitting, pursuant to law, copies of two new systems of records and one altered system submitted by the Department of the Army under the Privacy Act; to the Committee on Governmental Affairs.

EC-3843. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, revised routine uses for systems of records under the Privacy Act; to the Committee on Governmental Affairs.

EC-3844. A communication from the President of the United States, transmitting, pursuant to law, notifications of pay adjustments; to the Committee on Governmental Affairs.

EC-3845. A communication from the Director of the U.S. Marshals Service, Department of Justice, transmitting, pursuant to law, a report on the review of the Marshals Service for fiscal year 1987; to the Committee on the Judiciary.

EC-3846. A communication from the Secretary of Education, transmitting pursuant to law, a copy of a document entitled "Final Regulations for the Student Assistance General Provisions;" to the Committee on Labor and Human Resources.

EC-3847. A communication from the Chairman of the Advisory Committee on Student Financial Assistance, transmitting, pursuant to law, a study into the structure and costs of the Pell multiple data entry processing; to the Committee on Labor and Human Resources.

EC-3848. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled "Final Priorities for the National Adult Education Discretionary Program;" to the Committee on Labor and Human Resources.

EC-3849. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, a report on the 1990 budget submission; to the Committee on Labor and Human Resources.

EC-3850. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled "Final Regulations—Debt Collection;" to the Committee on Labor and Human Resources.

EC-3851. A communication from the Inspector General of the Railroad Retirement Board, transmitting, pursuant to law, a report on the inspector general's 1990 budget submission; to the Committee on Labor and Human Resources.

EC-3852. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report for the fiscal year 1987 on the Operations of the Office of General Counsel of the Commission; to the Committee on Labor and Human Resources.

EC-3853. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the fiscal year 1990 budget request of the Commission; to the Committee on Rules and Administration.

EC-3854. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals pursuant to the order of January 30, 1975 as amended by the order of April 11, 1986; referred jointly to the Committee on the Budget; the Committee on Appropriations, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry; the Committee on Armed Services; the Committee on Energy and Natural Resources; the Committee on Labor and Human Resources; the Committee on the Judiciary; the Committee on Commerce, Science, and Transportation; and the Committee on the Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

H.R. 517: A bill to designate Soldier Creek Diversion Unit in Topeka, Kansas, as the "Lewis M. Paramore Diversion Unit" (Rept. No. 100-501).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1792: A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1987, 1988, and 1989 (Rept. No. 100-502).

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 3911: A bill to amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States (Rept. No. 100-503).

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary, without amendment:

H.R. 439: A bill for the relief of Thomas Wilson.

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary, with an amendment:

H.R. 1490: A bill for the relief of Jean DeYoung.

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary, without amendment:

S. 2637: A bill for the relief of Gillian Lesley Sackler.

ADDITIONAL COSPONSORS

S. 99

At the request of Mr. Inouye, the name of the Senator from New Jersey [Mr. Lautenberg] was added as a cosponsor of S. 99, a bill to allow the Internal Revenue Code of 1986 to be applied and administered as if the 3-year basis recovery rule applicable to employees' annuities had not been repealed.

S. 708

At the request of Mr. Proxmire, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 2246

At the request of Mr. Bumpers, the name of the Senator from New Jersey [Mr. Bradley] was added as a cosponsor of S. 2246, a bill to establish the

Lower Mississippi Delta Development Commission.

S. 2367

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2367, a bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2411

At the request of Mr. MITCHELL, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2411, a bill to amend the Internal Revenue Code of 1986 to extend the low-income housing credit through 1990.

S. 2549

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2549, a bill to promote highway traffic safety encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2669

At the request of Mr. BOREN, the names of the Senator from California [Mr. CRANSTON], the Senator from Missouri [Mr. BOND], the Senator from Oklahoma [Mr. NICKLES], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Montana [Mr. MELCHER] were added as a cosponsors of S. 2669, a bill to amend section 1388 of the Internal Revenue Code of 1986.

SENATE JOINT RESOLUTION 337

At the request of Mr. COCHRAN, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Idaho [Mr. MCCLURE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Delaware [Mr. ROTH], the Senator from Alabama [Mr. SHELBY], the Senator from New York [Mr. D'AMATO], the Senator from Virginia [Mr. TRIBLE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maine [Mr. MITCHELL], the Senator from Illinois [Mr. DIXON], the Senator from Washington [Mr. ADAMS], the Senator from Alaska [Mr. STEVENS], the Senator from Rhode Island [Mr. PELL], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Georgia [Mr. NUNN], the Senator from North Carolina [Mr. SANFORD], the Senator from Nevada [Mr. REID], the Senator from Maryland [Mr. SARBANES], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 337, a joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 21, 1988, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 355

At the request of Mr. HEFLIN, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Maine [Mr. MITCHELL], the Senator from Mississippi [Mr. STENNIS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Missouri [Mr. BOND], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day".

SENATE JOINT RESOLUTION 357

At the request of Mr. CRANSTON, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 357, a joint resolution designating the week beginning November 6, 1988, as "National Women Veterans Recognition Week".

SENATE JOINT RESOLUTION 361

At the request of Mr. PELL, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], the Senator from Alabama [Mr. SHELBY], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 361, a joint resolution designating the week of September 25, 1988, as "Religious Freedom Week".

SENATE JOINT RESOLUTION 363

At the request of Mr. SARBANES, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. D'AMATO], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week".

SENATE JOINT RESOLUTION 364

At the request of Mr. HELMS, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. MCCLURE] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

SENATE JOINT RESOLUTION 369

At the request of Mr. KERRY, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Jersey [Mr. BRADLEY], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. COCHRAN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Connecticut [Mr. DODD], the Senator from Delaware [Mr. ROTH], the Senator from North Carolina [Mr. SANFORD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Connecticut [Mr. WEICKER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Mississippi [Mr. STENNIS], the Senator from Maine [Mr. COHEN], the Senator from Washington [Mr. EVANS], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. FOWLER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 369, a joint resolution to designate the period of September 17 through October 10, 1988, as "Coastweeks '88."

SENATE RESOLUTION 385

At the request of Mr. HEINZ, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. QUAYLE], the Senator from Maine [Mr. COHEN], the Senator from Kansas [Mr. DOLE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. LEVIN], the Senator from Alaska [Mr. STEVENS], the Senator from Utah [Mr. HATCH], the Senator from Ohio [Mr. METZENBAUM], the Senator from California [Mr. WILSON], the Senator from Nebraska [Mr. EXON], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 385, a resolution expressing the opposition of the Senate to the continued control of the cathedral of Vilnius, Lithuania, by the Union of Soviet Socialist Republics.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Monday, September 12, 1988, in Senate Russell 485, beginning at 2 p.m., on S. 2752, lands held in trust for the Quinault Indian Tribe.

On Wednesday, September 14, 1988, in Senate Russell 485, beginning at 9:30 a.m., the committee will be holding a markup on S. 187, the Native American Cultural Preservation Act, H.R. 3621, Southern California Indian Land Transfer Act; S. 2672, the Federal recognition of the Lumbee Tribe of North Carolina; and for other purposes, to be followed by a hearing on S. 2723, the Hoopa-Yurok Indian Reservation.

Those wishing additional information should contact the Indian Affairs Committee at 224-2251.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that two additional measures will be heard before the Subcommittee on Public Lands, National Parks and Forests on September 14, 1988. The measures are: S. 2750, a bill to authorize a study on methods to commemorate the nationally significant contributions of Georgia O'Keeffe; and S. 2767, a bill to authorize a study of the history and culture of Warm Springs, NM, in order to preserve its historic and cultural legacy for future generations.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry will hold a joint hearing with the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture, to receive testimony on the critical challenges facing agricultural research. The hearing will be held on September 29, 1988, at 10 a.m., in room 332 Russell Senate Office Building.

Senator KENT CONRAD will preside. For further information please contact Suzy Dittrich of the subcommittee staff at 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on Monday, September 12, 1988, at 2 p.m., to hold a hearing on S. 2752, lands held in trust for the Quinault Indian Tribe.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

ACID RAIN

● Mr. MOYNIHAN. Mr. President, I hope my colleagues can take the time to read the article I will enter into the RECORD today from the Schenectady Gazette regarding some of the ongoing research on acid rain. As the story points out, this and most of the other acid rain research going on around the country is being sponsored by NAPAP—the National Acid Precipitation Assessment Program—a creature of our own creation. It is the child of the only legislation on acid rain that this body has ever approved. And if the research it has brought about has the desired result, we will be able to use the data it has amassed to prove that acid rain does exist, that it is damaging our streams and forests and lakes, and that something need be done.

Mr. President, I ask that the text of the attached article appear in the RECORD at this point.

The article follows:

[From the Schenectady Gazette, Sept. 3, 1988]

ACID RAIN: WHO SHOULD PROVE WHAT TO WHOM?

(By Donella H. Meadows)

Every weekday morning this summer, six college students set out from the Ravine Lodge on Mt. Moosilauke in New Hampshire to spend the day measuring trees. They brushwack through the forest to 15 marked plots on the east side of the mountain. Each plot is 20 meters square; some are at low altitude, some medium, some high. There are 15 more plots on the west side; the two sides are studied in alternate years. The students carry rain gear, lunches, insect repellent, and small computers into which they enter data about every red spruce and balsam fir in the plots.

If you have ever wondered what it takes to prove that acid rain is destroying the forests, this is what it takes.

The students tag every tree and log its position, so it can be identified again two years from now. They classify it—is it dominant with its crown topping the forest, or intermediate or low, suppressed in the shade of others? How much needle loss does it show? If it's a sapling, how tall is it, what is its needle condition, how has it grown over the last two years?

When you're measuring trees, you have to be careful where you step so you don't disturb the fragile mountain soil. On some plots there are so many sapplings it takes days of tedious work to measure them all. The ground is sloping and uneven—making grid measurements is not easy. You can get into arguments about whether a half-defoliated tree is in Decline Class 2 (10-50 percent needle loss) or Decline Class 3 (50-99 percent needle loss).

Back at the lodge in the evening, the students transfer their data from the field computers to diskettes for storage and statistical processing at Dartmouth College.

At other sites on Moosilauke, researchers take core samples from tree trunks to measure growth rings. A meteorological station measures humidity, temperature, wind, ozone, and the acidity of rain, fog, and cloud (pollutants can be five to 10 times more concentrated in clouds than in rain). Altogether, nine professors from four universities are doing acid-rain studies on the mountain, with the help of 16 students and two lab assistants.

The smokestacks and tailpipes of this nation emit over 20 million tons of sulfur dioxide and nearly the same amount of nitrogen oxides each year. In the atmosphere, these pollutants form sulfuric and nitric acid, which come back to earth in fog, cloud, snow, rain. You might think it obvious that a steady wash of acid would harm structures, statues, streams, soils and forests. But the government and the polluting industries need proof before taking corrective steps that may cost billions of dollars.

Moosilauke is one of six study sites for spruce-fir forests (the others are in Virginia, Tennessee, North Carolina, Maine, and New York). Other studies are going on in southern commercial forests, western conifer forests, and eastern hardwood forests. The meteorological station is part of a multi-state Mountain Cloud Chemistry Program. All field studies are coordinated with remote sensing data from satellites. This network of forest research is just one part of a national effort called NAPAP, the National Acid Precipitation Assessment Program.

NAPAP was mandated by Congress in 1980 and funded through 1990. Many of its research projects didn't get under way until halfway through the 10-year period (the Moosilauke work began in 1986). This year NAPAP is costing the nation $83.5 million. That's a lot or a little, depending on how you look at it. It's one of the most complex environmental research programs the nation has ever undertaken. It's 1 percent of the cost of correcting the faults of the B1B bomber.

Whether you consider NAPAP a big deal or a small one, it is not enough to prove that acid rain kills forests. It has proved that the rain is acid. (Moosilauke registered a pH 2.85 rain on Aug. 20—that's nearly 1,000 times more acid than normal.) There's no doubt that trees are dying. In some places on Moosilauke, 30 percent of the red spruce are standing dead; in places on Whiteface Mountain, 60-70 percent are dead. Growth rings show that tree growth slowed 20 years ago—just when high smokestacks became a fashionable way to ease local air pollution.

But that doesn't prove that acid rain is the cause of tree damage, or that the observed damage is unusual. Scientists aren't even sure how long a dead spruce stays standing. It may be normal on Moosilauke for 30 percent of the spruce to be dead. The slowdown in growth may be due to climate change, or ozone pollution, or insect infestations, or some combination. Sorting out the possibilities will take more than $80 million a year and longer than 10 years.

Experienced foresters say they have never before seen the kind of damage now evident in the spruce-fir forests. But that subjective testimony is not enough for scientists, nor for politicians, nor for a nation that likes cheap electricity and internal combustion engines.

So we have challenged ecologists to prove that air pollution is damaging the forests, not pollution emitters to prove that it isn't. We all pay the research bill, which is large enough to be politically impressive, but not large enough, soon enough, to produce unsettling results while present politicians are still in power. While the studies go on, we make no special effort to reduce emissions. That would put the burden of uncertainty on the people who make their living in coal-burning industries. Instead, the burden of uncertainty is borne by all creatures whose lives depend on the integrity of the streams and soils and forests—and that includes us all.●

CAPITAL GAINS TAX

● Mr. KASTEN. Mr. President, the economic case for cutting the tax rate on capital gains has never been more compelling. Countries all over the world have followed America's lead in favoring progrowth investment by cutting their capital gains tax. Some countries don't tax capital gains at all.

Holding out against the American example over the last few years has been—of all countries—America. We've actually increased this tax over the last couple of years, through the 1986 Tax Reform Act.

If we want to preserve and extend the American miracle of the 1980's—the historic economic expansion and record-setting creation of new jobs—it is essential that we promote investment and venture capital. An article in the Wall Street Journal of September 8 sheds important new light on the case for a capital gains cut, and I ask that it be included in the Record.

The article follows:

[From the Wall Street Journal, Sept. 8, 1988]

Hardly Anyone Seems To Understand Capital Gains

(By Lindley H. Clark, Jr.)

In another attack on George Bush last week, Michael Dukakis said, "He's propposed a five-year, $40 million capital-gains giveaway. Most of it will go to people making more than $200,000 a year. That's not building an economy; that's feathering a nest."

It's too much to expect a great deal of logic in political discussions, especially when they're about business and economics. Perhaps it's best to recall that special treatment of capital gains was an effort to make our economy function better—it prospers in large part because some people are willing to risk money developing products and processes.

Our ordinary income-tax system discourages risk-taking. Paul A. Samuelson of the Massachusetts Institute of Technology put it this way in his textbook. "Economic": "Taxing a retired innovator's income may seem to have no distorting effects. But we must not forget the young innovator who can then no longer look forward to reaping a tidy sum from his new ideas. He may decide to take the civil service job or remain thirteenth vice-president of a bank. You cannot tax the result of an old innovation without somewhat affecting the prospect of an as-yet unborn innovation.

"If Congress taxes risky activities more heavily than routine activities, what can any reasonable person expect to happen? People will naturally tend to avoid venturous fields and to gravitate toward routine, steady ones."

Some other industrial nations have attacked this problem by taxing capital gains lightly or not at all. The U.S. for many years taxed capital gains less heavy than ordinary income but imposed a strict limt on the deduction of the losses that normally go along with risk-taking.

But the 1986 revenue act, which was advertised as monumental tax reform, taxed capital gains as ordinary income. Well, that's not quite true. The law retained limitations on the deduction of losses, so, as matters now stand, capital gains are taxed more heavily than ordinary income. It's a good plan to steer more young people toward careers as 13th vice presidents.

The 1986 act was supposed to be a Reagan administration achievement, but the Republicans seem to recognize that it had its limitations. The GOP campaign platform doesn't refer to the 1986 act when it calls for a cut in the tax rate on long-term capital gains "to promote investment in jobs and to raise revenue for the federal government." Instead, in a nice bit of bipartisanship, it refers to a Carter-era capital-gains rate cut as well as the cut adopted in the first year of the Reagan administration. As a result of these cuts, the platform says, capital-gains tax revenues rose 184% from 1978 to 1985.

Even some friends of Gov. Dukakis appear to believe that something went wrong. Investment banker Felix Rohatyn, who might be treasury secretary in a Dukakis administration, has suggested a lower tax rate on long-term capital gains.

The 1986 act did promote a short-term burst of revenue. The law went into effect Jan. 1, 1987, and there was a rush to realize gains before that higher rate took effect. The rate for the average capital-gains taxpayer jumped to 21% from 9%, and realizations in 1986 were nearly double the 1985 level.

In fact, the revenue increase from the capital-gains tax rise looks like a one-shot affair, due entirely to the rush to beat the increase. Lawrence Lindsey of Harvard examined several economic models and concluded. "The prospects that the higher marginal tax rates on capital gains in the new tax law will produce more capital-gains-tax revenue seem remote. . . . The response of gains to permanent tax-rate changes produces a smaller amount of revenue in four of the five models and static revenue in the fifth."

What tax planners often seem to forget is that realization and taxation of capital gains are largely at the discretion of the taxpayer. In an average year, only a small portion of the accrued gain will actually be realized. Faced with what Prof. Lindsey says may well have been the largest capital-gains tax-rate increase since the advent of the income tax in 1913, it would be normal for many taxpayers to opt to hold onto their assets a bit longer.

The capital-gains tax-rate increase, ironically enough, came at a time when increasing U.S. competitiveness had seemed to have become a bipartisan cause. Last October's stock-market crash led to a variety of proposals for discouraging "speculation," which is usually the villain when the market drops. Most such proposals were aimed at discouraging speculation without deterring long-term investment.

Gov. Dukakis may be right when he says that most of the benefits of Mr. Bush's capital-gains tax cut would go to taxpayers with income over $200,000. However, he may have a hard time selling that argument politically. As Prof. Lindsey says, most of the individual recipients of capital gains have incomes of less than $50,000 a year. Taxpayers with incomes under $30,000 generally saw a tripling of their capital-gains tax rates.

The politicians who drafted the 1986 act thus committed one error their predecessors avoided. Experimentation with capital-gains law had been common for many years. In another study. Prof. Lindsey considered the period 1965–1982. Changes in the law occurred, on the average, every other year. However, "in the case of taxpayers earning under $50,000 . . . the variation in tax rates was quite small.

"Over that 18-year period, the average marginal tax rate on capital gains for these taxpayers varied between a high of 13.8% in 1969 and a low of 10.6% in 1979." Thus, for the vast majority of capital-gains recipients, tax-rate rises such as they saw in 1986 were without precedent.

The 1986 act thus was bad politics as well as bad economics. Norman Ture, who was an architect of the Reagan administration supply-side tax cuts, summed it up this way at a Cato Institute conference:

"Implementation of the entrepreneurial zest for starting new businesses and for risky, innovative ventures requires the infusion of capital, very often supplied by outside investors. For both outside investors and entrepreneurs, the reward sought is primarily an incrase in the value of the equity investment in the venture.

"For outside investors, in particular, it is important to be able to realize the appreciated capital and to transfer it into promising new ventures. Raising the tax on capital gains blunts the inducement for undertaking these ventures in the first place."

It's surely no way to make the U.S. more competitive.●

LAND AND WATER CONSERVATION FUND

● Mr. ADAMS. Mr. President, today I rise again to express my support for the land and water conservation fund [LWCF]. As my colleagues are aware, the LWCF provides many tangible benefits to our communities. The State grants funding of the LWCF has often provided localities with the necessary seed money to acquire, develop, or repair recreational facilities. Earlier this year, I spoke about some of the communities that have benefited from such grants. In order to further demonstrate the importance of the LWCF to my State of Washington, I would like to take this opportunity to list other particular projects located in our eight congressional districts which were made possible by LWCF funds. It is my hope that these additional examples will further demonstrate the importance of the LWCF State Grants Program and that its contribution will be kept in mind during congressional consideration of the American heritage trust fund legislation and other measures to provide increased funding for recreational development. I should add that the following information was provided to me by Robert Wilder, who is the director of the Interagency Committee for Outdoor Recreation in Washington State. Mr. Wilder has done outstanding work in the recreational field and I commend him for his leadership on this issue.

EDMONDS FISHING PIER

First Congressional District

Project sponsor: Washington Department of Fisheries and City of Edmonds.

Project funding:

LWCF (33%)	$282,735
State funding (67%)	475,043
Total project cost	707,778

Since its completion in 1980, the Edmonds fishing pier has attracted over 1 million visitors for both fishing purposes and to enjoy its view of Puget Sound. Construction of the pier also triggered substantial public and private investment in the rebirth of the city of Edmonds' waterfront as a public attraction. The Edmonds waterfront continues to evolve with new waterfront parks and several shops and restaurants replacing older commercial/light industrial uses.

The fishing pier itself is used virtually 24 hours per day by those who don't have the luxury of a boat to fish the waters of Puget Sound. The 500-foot-long pier reaches deep water to an artificial reef that is home to a variety of fish. The success of the Edmonds Pier has led to construction of similar piers in Seattle, Tacoma, and Bremerton.

BOULEVARD PARK

Second Congressional District

Project sponsor: City of Bellingham.

Project cost:

LWCF (50%)	$631,800
Local (50%)	361,800
Total project cost	723,600

The city of Bellingham fronts miles of beautiful Bellingham Bay with very little public access. In 1976, the city purchased a 5-acre abandoned industrial site for a waterfront park. This acquisition was possible only because of the availability of Land and Water Conservation Fund moneys. In 1980, following a second land and water conservation fund program grant, construction began on what is now Bellingham's only major waterfront park. The park itself is a wonderful combination of pathways, lawns, viewpoints, and guest boater docks on Bellingham Bay.

This project is a prime example of a community's use of Land and Water Conservation Fund Program funds to meet a critical need for the acquisition and development of park facilities. Additionally, through the availability of Land and Water Conservation Fund moneys, the city of Bellingham was able to transform the unpleasant remains of an industrial site into a much-needed waterfront park, thereby revitalizing valuable waterfront property.

SALMON CREEK GREENWAY

Third Congressional District

Project sponsor: Clark County.

Project funding:

LWCF (50%)	$487,246
State funding (10%)	100,000
Local funding (40%)	387,246
Total project cost	974,492

The Clark County Salmon Creek Greenway is a 2-mile river trail and park corridor located in the rapidly growing edge of Vancouver, WA. The availability of Federal Land and Water Conservation Fund moneys for this project has resulted in the donation of over 100 acres of private property. These valuable donations have not only provided public parkland, but also served as the local matching share for the project.

The Salmon Creek Greenway provides a river trail for canoes on Salmon Creek, as well as property for both intensely developed park areas and undeveloped trail and habitat areas. Now considered a model project, the Salmon Creek Greenway is a living testimonial to the ability of Land and Water Conservation Fund moneys to create local investment, including private land donations for public parklands.

SWIMMING POOLS IN WASHINGTON'S FOURTH CONGRESSIONAL DISTRICT

Fourth Congressional District

Project sponsors: Douglas County, City of Ellensburg, City of Kennewick, City of Grandview, City of Richland, City of Okanogan, City of Cashmere, City of Wenatchee.

Project cost:

LWCF (40%)	$1,384,853
State (10%)	322,839
Local (50%)	1,685,956
Total project cost	3,393,648

For small, rural communities in Eastern Washington, few public facilities are more treasured than the community swimming pool. Summers are hot and the local pool is often one of the few available recreation activities. While most communities have a pool, many are 20 to 50 years old and in need of repair or replacement. The Land and Water Conservation Fund program is critical to these communities as a fund source for the renovation and replacement of swimming pools in small towns which, with help from programs like the LWCF, are willing to make great sacrifices to fund, operate, and maintain their community pools. This joint effort results not only in an enjoyable and safe place for residents to swim, but also creates a facility that is important to the vitality and quality of life of many communities.

RIVERFRONT PARK

Fifth Congressional District

Project sponsor: City of Spokane.

Project cost: (LWCF/IAC grant projects only.)

LWCF (7%)	$500,166
State (21%)	1,528,515
Local (72%)	5,085,711
Total project cost	7,114,392

The acquisition and development of Riverfront Park in Spokane, WA, is an outstanding example of what the investment of LWCF funds can do to revitalize a city.

Prior to the late 1960's, Havermale Island and the area surrounding the Spokane River in the heart of city of Spokane, was inhabited by railroad yards and deteriorating industrial sites. The people of Spokane did not have access to a major feature of their city, the Spokane River. In the early 1960's Spokane's leaders began considering construction of a major downtown riverfront park complex and the development and sponsorship of a World Exposition. In order to make these plans become a reality, major public investment was needed to acquire Havermale Island and the surrounding riverfront properties. Between 1967 and 1978, the Land and Water Conservation Fund proivded matching grants to the city of Spokane to assist in the accomplishment of that goal. Spokane now has one of finest major park and tourist attractions in the Pacific Northwest—Riverfront Park. This relatively small investment of funds helped serve as a catalyst for major investment of state and local funds.

FIFE COMMUNITY SWIMMING POOL

Sixth Congressional District

Project sponsor: City of Fife.

Project funding:

LWCF	$241,000
State	222,000
Local	937,000
Total project cost	1,400,000

The city of Fife's Community Swimming Pool is a powerful example of the ability of the LWCF program to encourage local initiative to meet local needs. A Federal investment of $241,000 led to a State and local investment of over $1.1 million. This "leveraging capability" is not uncommon for projects using Land and Water Conservation moneys and is, in fact, one of its major strengths. The Fife pool is a modern, indoor pool that is serving the needs of all segments of the population in Fife and beyond.

GREEN LAKE PARK

Seventh Congressional District

Project sponsor: City of Seattle.

Project funding:

LWCF (50%)	$308,376
Local (50%)	308,376
Total project cost	616,752

Green Lake Park, located in north Seattle, may well be the most heavily used park in the State of Washington. This 87-acre park with its pathways, fields, and play areas is used by walkers, joggers, bicyclists, ball players, swimmers, and other numerous park enthusiasts. Green Lake has been a city park for many years and is in consent danger of being used to death. In 1980, the city of Seattle was able, with assistance from the LWCF, to renovate and improve this park. The use of LWCF moneys for renovation is critical to local governments managing heavily used parks in urban areas.

NEWCASTLE BEACH

Eighth Congressional District

Project sponsor: City of Bellevue.

Project cost:

LWCF (14%)	$294,000
State (3%)	72,150
Local (83%)	1,699,590
Total project cost	2,066,033

The city of Bellevue is a rapidly growing urban area with very little public access to its waterfront. Fortunately, in 1971 the city was able to acquire 11 acres of property with 330 feet of frontage on Lake Washington. The acquisition cost $288,600 and was made possible only by a grant to the city of LWCF funds.

After years of planning, in July 1988, the city of Bellevue dedicated a $1.6 million waterfront park development known as Newcastle Beach Park. The Land and Water Conservation Fund contributed $150,000 toward the completion of this beautiful, multiuse park. Newcastle Beach Park is a prime example of the importance of the LWCF toward meeting local governments' critical need to acquire afforable land in rapidly growing urban areas to meet current and future park and open space needs.●

SENATOR HUMPHREY'S PRO LIFE LEADERSHIP

● Mr. ARMSTRONG. Mr. President, our colleague Senator Gordon Humphrey is one of America's foremost leaders in the fight to give unborn babies the right to life. Senator Humphrey was invited to be the major speaker at the annual National Right-to-Life Convention. His remarks were preceded by the moving testimony of a young woman who regrets an abortion she had years before.

Both speeches are well-worth reading. I ask their remarks be inserted at this point in the Congressional Record.

The remarks follow:

Remarks of Cathy Clark, National Right to Life Convention, July 23, 1988

Thank you. First of all, I'm supposed to say I'm from Ohio. Thank you, and I'm really happy to be here, and I just want to quickly give you a little story about this song.

When I was seventeen years old I was pregnant and very much alone. My boyfriend left me, he moved to Finland—far away, needless to say. I didn't know his phone number and I couldn't get a hold of him. He was gone and I was all by myself.

I went to see my family doctor. My father, when I told him I was pregnant, took me to see our family doctor. He said, yes, that I was six weeks pregnant and he would send me for counseling. So I went to see a clergymen in our area for counseling. He listened to me for forty-five minutes tell him why at the age of seventeen I didn't want to be pregnant. I didn't want to have a baby and everything I told him started with "I" or "me."

When he listened to me he didn't have anything to say until the end. Then he said, "Yes, I believe that you are a good candidate to have an abortion." He gave me the name of women's services in New York City, and the phone number. I called and I made an appointment, and I did go and have an abortion there. I won't go into all the details because we don't have time, but I want you to know that this didn't bother me.

For ten long years I didn't tell anybody. I didn't listen to the pro-life talks that were starting to come on the issues. I didn't listen, I didn't watch T.V., I didn't want to hear about babies. This is when live births were starting to be shown on T.V., more graphic pictures, and I didn't want to see it. I just totally ignored it until I had two little ones running around at my feet and it started to bother me, and I started to look at them. Crystal's got brown eyes and brown hair and she's just so precious, and Michael's got blond hair and blue eyes and he's just a rascal. I thought "Which one would this child have been like?" Would it have been like my little angel Crystal? Or would it have been like Michael?

It just really haunted me, and I prayed, and I said, "God, you know, help me, help me, heal me, forgive me for what I've done." I felt that God couldn't forgive someone who had done this terrible, terrible thing. I thought that I had finally committed the unforgivable sin.

My husband, who was not the father of that child, would come home at night after work and I could be sitting at the kitchen table, crying my eyes out. He would say, "Oh Cathy," he would say, "God loves you and I love you and you're an important person." He would pray with me until I felt like I really reached heaven and the next day he would come home and the same thing would be happening. At night I would go to bed and I would cry and he didn't condemn me. He rolled over and he put his arm around me, and he let me cry myself to sleep. He's a good man.

I prayed and I prayed, and you know God forgives you the very first time you ask him, but a gift is not yours until you accept it. He was offering me his forgiveness but I wasn't taking it because I felt so unworthy.

Then one day I decided God really did forgive me, and I could feel it. I was just so warm all over because I finally felt God healing my life.

When he brought me this healing he brought me the words to a song. I wrote the words down and realized that this song was about this little baby that's in heaven with Jesus. You know, I'm going to see the baby some day and I'm looking forward to a family reunion.

But, you know, even more than that, God completed the healing in my heart with these words. That's what I'm going to sing for you now. It's called "Two Little Hands."

Two Little Hands

Two little hands that I'll never hold.
Two little feet I can't keep from the cold.
One little soul that will have no years.
Two little eyes, but I'll not dry your tears.
Searching for love, I let your love go.
I didn't know
Little child of mine.
I was alone, and I was so blind.
I was so young
Little child of mine.
Beautiful smile that I'll never see.
Little fingers reaching for me.
One little heart that needed me so.
One little life that I just let go.
Searching for freedom I let you die.
And I don't know why,
Little child of mine.
I'll never heal sweet little boy.
You had no choice.
Little child of mine.
I'll never see you when you're at play.
Or help you take your first step someday.
I can't see you now
I can't watch you grow, or help you decide
which way you should go.
Searching for love I let your love go
I didn't know
Little child of mine.
I was alone and I was so blind
I was so young.
Little child of mine.
Jesus deliver this message please.
Tell him I'm sorry for what I have done.
Hold him real close and don't let him cry.
Please won't you sing him a sweet lullabye.
Rock-a-bye, and good night.

Remarks of Senator Gordon J. Humphrey, Right to Life Convention, July 23, 1988

Thank you very much. I will confess to you that at times I wonder if it is really so wise for me to be so outspoken against abortion, and to subject myself and my family to the kind of criticism which comes my way, and your way. But after listening to Cathy Clark tell of her heartbreak and her ultimate forgiveness, I know that what I'm doing and what you are doing is absolutely right, and we're going to keep right on going.

We're going to keep right on going until every American citizen understands that the off-spring of human beings are human beings. And that abortion kills human beings. That's our only quarrel. If it weren't so, we'd have better things to be doing than meeting here tonight. But abortion kills human beings, and that's the bottom line with us. We cannot rest until the slaughter is brought to an end.

Mike Dukakis did us a little bit of a favor last night, in spite of himself. I didn't watch it I must confess, but I was told about something he said. At the very end of his remarks, Mike Dukakis made an emotional pitch to our family sensibilities—talking about his family, and talking about how they're all looking forward to a blessed event in January when "a baby," will be born. This baby is now three months old, three months in gestation, and Michael Dukakis is calling it "a baby." So you see the truth will get out even in spite of our opponents sometimes.

Well, I have a question for Mike Dukakis: Mike, if you believe it's a baby, if you believe they're babies at three months, then why aren't you doing something about abortion? Why do you propose to lead this country and ignore the slaughter of babies? That's my question, and I don't think he can answer it.

Those who were watching the news ten or twelve days ago, were shocked when it was reported that a young woman had given birth to a baby aboard a commercial airliner. What was shocking about it was that she had given birth in the lavatory of that airliner on a coast to coast flight early in the flight, and upon giving birth she stuffed the baby into the trash bin. What was shocking is that she went back to her seat and in the ensuing three or four hours during the flight to the West Coast she told no one about that baby back there in the trash. What was so shocking is when the airplane landed she got off the plane and left the airport, and told no one about the baby in the trash. Thank God that plane was scheduled for a quick turnaround, and the cleaning crew came aboard, and thank God one of the cleaners in cleaning the lavatory heard the baby, and there he found her under some dirty paper towels.

About a year ago, in another locality, a young woman gave birth to an infant in the lavatory adjacent to the waiting room of a hospital emergency room. After having given birth she attempted to drown the child by stuffing it head first into the commode. Thank God someone heard the struggle and intervened and saved the baby's life.

Last fall, up in my part of the country, in Vermont actually, but just a mile or two across the border from New Hampshire, very early one frosty September morning—believe me it gets frosty in September, you get a clear night it gets mighty cold up there—a delivery man stopped his truck at a rest area on an interstate highway. Walking by a trash can, you guessed it, another baby in the trash. A brand new baby girl, almost died from hyperthermia. In fact, the doctors were utterly amazed that she survived.

We have entered the era of throw-away babies. Should anyone be surprised? We certainly are not surprised. Because if it's OK to treat a baby as garbage before that baby passes through the birth canal, then why isn't it OK to treat a baby as garbage, and dispose of it as garbage, after the passage through the birth canal? Far as I can see it's OK. I mean, if it's OK to treat a baby as garbage before birth why not after birth? For that matter, if it's OK to kill a baby before birth why isn't it OK to kill a baby after the birth has taken place? I can't answer that question. By the same token, if it's wrong, as almost everyone in our society will insist, if it's wrong to kill a baby after he is born, then it's also wrong to kill a baby before he is born. We are not transformed from garbage into human beings merely by the process of birth. Neither are we transformed from garbage into human beings simply by attaining some nice round-numbered month of gestation, like three months or six months.

To argue that we are transformed into human beings merely by birth or attainment of some certain stage of gestation is illogical. Not only that it's dishonest. Because of this massive dishonesty in our society, a vast, hideous slaughter is taking place in every large community of our country. Human life is a continuant from the beginning to the natural end. How could it be otherwise? That's self-evident, perfectly self-evident. The off-spring of human beings are human beings. They can't be cows or chickens or pigs; they're not toothpaste tubes or coke bottles. The off-spring of human beings are human beings, and that's evident even to Mike Dukakis.

Now we come to the catch: it is convenient to modern society to deny the humanity of prenatal infants. A recent case illustrates the point. A young lady in Indiana found out that she was pregnant. She did not want to be pregnant just now because it would mean she could not wear her favorite bathing suit this summer. She couldn't cut quite the figure at the beach that she had planned for this summer. So she decided to have an abortion. The child's father sought an injunction and, thanks to the help of Jim Bopp and his law firm, an injunction was secured. But the woman was determined that she was going to have her way. Indeed she did, and no doubt she looks very svelte on the beach this summer. God only knows what her child looks like.

So it seems that whether it is prior to birth or following birth, more and more babies are ending up as garbage. Ending up as garbage. But there is hope. There is hope. That's why we're here. So many wonderful people here tonight. Cathy Clark and all of you. I've met people from the West Coast, from the South, the East and the Middle. From every part of this country, you've come all the way out to Washington, let's face it, at considerable expense. It wasn't paid by the government, was it, as when I travel? You had to pay it yourself, and it hurt in most cases. You've given up family activities, and other things that are pretty important to come here. But there's hope because of you, and thank God for you. Thanks to each and every one of you there's hope.

That's why I'm so very honored to speak with you this evening. Because truly, I say this with the greatest sincerity as a student of history, you are the leaders of the most important grassroots movement in the nation's history. We have had other important grassroots movements. The revolution for the independence of this country was a grassroots movement. Remember, it began as a minority movement. Remember that the rebels, if you will, the disaffected, were sneered at and probably spat upon and ridiculed and in many cases much worse, in the case of those who suffered at the hands of the Tories. But the point is they were a minority. All great revolutions begin amongst a minority.

The great struggle against that other ugly institution, human slavery, began as a minority movement. It took decades and it took generations and people were told to be quiet and not to raise an impolite subject that makes people uncomfortable.

So people believe me, American patriots ave been through before what you're going through today, notwithstanding all that they accomplished for this country. And likewise those who fought for civil rights in this century, indeed, in this generation have been through it. Notwithstanding the great accomplishments of all of those grassroots movements, by far this is even more important and more significant in the history of our country and indeed the history of our civilization.

Each of these grassroots movements has brought forward leaders, previously unknown, previously untested, just as this one has. What a great honor it is for me to be amongst them, to be amongst you here tonight. You're giving yourselves unsparingly like our forebears, to secure justice for all humans. In our time, I assure you, in our time, in our cause, we too shall succeed. We shall succeed because, like the earlier causes, our cause is just. We shall overcome. Yes, we, too, shall overcome. We shall win in the end.

Our adversaries are clever. The National Abortion Rights Action League, NARAL, has chosen the figure of the statue of liberty as its emblem. How desperately they want to associate themselves with cherished symbols and yet how ironic they should have chosen the Statue of Liberty. For no group is more cruel or more callous toward those littlest of all immigrants who "yearn to breathe free," than is NARAL and its members.

Unfortunately, those who advocate abortion and those who, just as unfortunately, accommodate abortion—and to accommodate is as bad as to advocate—unfortunately, those who advocate and accommodate abortion have put liberty at war with life. What a strange concept, liberty at war with life! It runs against everything on which this nation is founded. Certainly our forefathers never meant liberty to be at war with life. They often used that phrase in the early day of this country. Life and liberty. Not one, not the other, not one without the other, not one or the other, but together. Coequal and inseparable, life and liberty.

How strange it is that so many contemporary politicians will stand up on the Fourth of July and rise to the greatest heights of patriotic oratory in proclaiming the wisdom of the Declaration of Independence and the eternal truths which it so beautifully enunciates, not the least of which is that life and liberty are rights in which we are endowed by our Creator. And that it is the purpose of government to secure to protect those rights. Then on July 5 they stand up and make excuses for the killing of innocent, helpless prenatal human beings. How ironic, how dishonest, how tragic, how cynical, how cowardly.

The founding fathers saw that liberty and life are inseparable rights in which we are endowed by our creators. Of course, even they weren't perfect men. There was one grievous exception to their concept of liberty as it was put into practice. We don't want to pretend it wasn't there. It was there, let's acknowledge it, because it's important to our struggle. They made an exception for black human beings. They permitted the enslavement of human beings, allowed human beings to be treated like animals—bought and sold like property. That was a grievous chapter in our nation's history, but we overcame it. Thank God, we brought justice at last through a grassroots movement just like this.

I would say that abortion is even worse than slavery. Slavery was despicable, but at least slavery offered life—not much more, but life—and where there is life there is hope. But abortion offers only death and despair. The abortion advocates and the abortion apologists have put liberty at war with life. Because of this grim, ghastly war twenty million innocent, helpless human beings have been slaughtered. Twenty million prenatal infants.

But we shall make peace, you and I. That's our ultimate purpose. We shall make peace between liberty and life. That's what we're struggling for, each of us in this room and every one of our comrades across this country and around this world. We seek to restore peace between liberty and life so the slaughter of prenatal infants will stop.

We're making progress. We're making progress by relentlessly beating against this edifice, this ugly, hideous edifice of abortion. Let me just recount some of the highpoints of that progress. The annual Hyde Amendments to the various appropriations bills have by now saved literally millions of human lives. The Dornan amendment, which put the Department of Defense out of the business of performing abortions in military facilities, has saved at least 10,000 lives per year for the last decade.

We now have federal consicence clauses that protect professional personnel and other personnel who don't want to be involved in abortion. We've confirmed three Supreme Court Justices who we think and hope and believe are likely to vote to overturn *Roe* v. *Wade* when the right case presents itself. Justice O'Connor encourages us when she says "there is no justification in law or logic"—that covers the bases pretty well—"there is no justification in law or logic for the trimester framework adopted in Roe."

We have a pro-life President, who is the first President ever to author right to life legislation. A President who frequently upholds the right to life movement and its leaders and workers in national addresses and ceremonies. We have a growing number of states with informed consent and/or parental consent laws. We've got thousands—this is one I know really makes you feel good because it makes me feel so good—we've got thousands of crisis pregnancy centers around this country manned by tens of thousands of wonderful volunteers. Tens of thousands of wonderful volunteers bringing practical alternatives to women with difficulties.

We even have, if you can believe it, the beginnings, according to a *Time* magazine article of July 4, the beginnings of a reconsideration of their pro-abortion positions of many mainline Protestant churches.

Yes, we are relentless, and we will remain relentless and we will beat relentlessly against this edifice of abortion until it falls. One day soon, my friends, it shall fall. It will come crashing down in a cloud of dust. Whether that historic event happens sooner or later depends perilously, precariously, on the election coming in November.

In Michael Dukakis, the abortion party has found their ideal candidate. Mike Dukakis is a committed advocate of abortion on demand as a matter of public policy. It dosn't matter what he says about how he feels personally. If he doesn't have the guts and the principles to put his beliefs into action, then he is something less than the kind of man that we want for President of this country.

In 1970, three years before *Roe* v. *Wade*, so eager was Mike Dukakis to begin the slaughter, that as a state legislator in Massachusetts he introduced a bill, at the request of the arch-abortionist Bill Baird, that would have overturned all of the abortion laws in Massachusetts which restricted and banned that practice. In 1970. Eighteen years ago. So proud was he of that association with Bill Baird, that the bill which Dukakis introduced bears at the top "introduced at the request of William Baird."

My friends, no party has ever nominated a candidate more committed to abortion than this Michael Dukakis. Even Jimmy Carter managed to emit a few pro-life squeaks every now and then. In 1980, the Democrats tried to write a plank into their platform that would have committed the federal government to full funding of abortion on demand for everyone and anyone who wanted such an abortion. To his credit, Jimmy Carter put that one to rest before it became published. But get this: do you know who wrote it? Do you know who wrote that plank? Does anyone know? Can I hear a name? Susan Estrich. Do you know who Susan Estrich is? She's a bright young Harvard graduate of the kind that Mike Dukakis would like to flood into the executive and judicial departments of this government, and she is functioning today ever so effectively as Mike Dukakis' campaign manager.

Mike Dukakis, as governor, once held up the entire state budget because the legislature had sent him a bill with a Hyde-like provision that would ban abortion funding. On January 22, 1986, just two years ago, he marked the anniversary of the *Roe* v. *Wade* decision at a pro-abortion party in Boston by declaring, "I don't know when life begins. I'm not sure I ever will."

We, too, doubt that he ever will. Were he to be elected President, we doubt that his attorney ever would. We doubt his secretary of HHS ever would. We know his nominees to the Supreme Court never would. We know that they never would.

Therefore, for pro-lifers, the number one priority in this season must be defeat of this dedicated pro-abortion candidate. The next President will, like all Presidents, have the power to name a great many members of the federal judiciary, the lower courts. The next President almost certainly, I can't see how it can be avoided, will name two or three members of the Supreme Court. The next President will also have the power, as do all Presidents, to shape public opinion on the issue of respect for human life, just as President Reagan has used the bully pulpit of the White House to recognize and to encourage us in the pro-life movement.

But contrary to what President Reagan has done, if Mike Dukakis floods the executive and the judiciary with the Susan Estriches of this world, you can be sure that all of the hard-won gains of the last fifteen years will be very quickly swept away.

Michael Novak calls the choice of President "electing our King." In a sense that's true, because when we elect this person, we are saying a lot about our beliefs, our values, as well as about what specific programs and policies we wish pursued.

I gave Mike Dukakis some time, I think out of fairness I should give George Bush some time. Just to be balanced, you know. Fairness doctrine. Bearing in mind, of course, that I'm a Republican. George Bush and the Republican platform are of one mind on the sanctity of prenatal life and the sanctity of life. They proclaim unequivocally, clearly, and publicly for the record: "The unborn child has a fundamental individual right to life which cannot be infringed. We therefore reaffirm our support for a human life amendment to the Constitution."

For good or bad, that election is coming and we can't know the outcome just yet. Whatever the outcome, a new chapter will be opened in the right to life struggle. Whatever may be written in that chapter, good or ill, our commitment is a long term commitment. Our commitment is an unshakable commitment. We will continue relentlessly. We shall succeed. We shall succeed because our cause is just, and we shall never rest until we succeed.

Let me close by sharing a little insight from an earlier civil rights struggle—the struggle against slavery, and the great war which arose out of that struggle. In May of 1865, President Lincoln boarded a steamer here in Washington and steamed down the Potomac. The war was coming to a close. Richmond would soon fall, and six days after that at Appomatox, General Lee's forces would agree to an end to the hostilities. Lincoln steamed down the Potomac, out into the Chesapeake Bay, down the Bay quite some way, and then turning north again up the James River to the headquarters camp of his forces.

General Grant who reported the incident said that Lincoln seemed more solemn than usual that night as he sat around the campfire, occasionally brushing the smoke away from his face. The President, General Grant said, spoke of the appalling difficulties the nation had met in bringing the war close to a successful conclusion.

After Lincoln had recounted these appalling difficulties, General Grant looked him in the eye and said: "Mr. President, did you at any time ever doubt the final success of the cause?" Lincoln, leaning forward in his camp chair, and with an emphatic gesture of his hand replied: "Never, never for one moment."

Never for one moment. My colleagues, we in our time, and we in our struggle, despite the appalling difficulties, have that same firm, unshakable faith. We have that same unshakable faith in the final success of our cause. Our cause, too, will triumph. We will bring peace. Peace will come. Peace will come between liberty and life. Human babies will be safe once again. Thank you and God bless you in your work.●

CAPITAL GAINS TAX RESTRICTS GROWTH

● Mr. BOSCHWITZ. Mr. President, I rise today to describe for my colleagues a recent column by Lindley H. Clark, Jr., entitled "Hardly Anyone Seems To Understand Capital Gains," which appeared in the Wall Street Journal. The column relates the common stereotype that reduced capital gains tax rates benefit only the wealthy. Recently Gov. Michael Dukakis criticized proposals to reduce the tax on capital gains as "feathering a nest" for the rich. Of course, this characterization is absurd.

As Mr. Clark notes in his column, a recent study by Prof. Lawrence Lindsey of Harvard University found that most recipients of capital gains tax have incomes of $50,000 or less. According to the Lindsey study, taxpayers with incomes under $30,000 saw their tax on capital gains triple under the Tax Reform Act.

The primary argument used by opponents of reduced capital gains tax rates is that tax revenues are lost. While capital gains tax revenues skyrocketed just before the Tax Reform Act took effect while rates were low, most studies indicate that because of higher rates, future tax revenues attributable to capital gains will be flat. The tax revenues in several States, including Massachusetts, New York, and California, have been lower than projected because of a decline in the taxes from capital gains

As Mr. Clark notes, realization and taxation of capital gains are at the discretion of taxpayers. Confronted with the substantial increase in the tax rate for capital gains included in the Tax Reform Act, many investors will hold onto their assets in hopes the rates will decline in a future year.

The real irony of the increase in the tax on capital gains is the effect it will have on entrepreneurs and other risk-takers. When all forms of income are taxed alike, there is no incentive to take risks on an investment with long-term potential. When much of the gains from a long-term investment is eroded by inflation, it is particularly unfair to pay an excessive capital gains tax, as well.

Entrepreneurs also suffer from higher tax rates on capital gains. Clark notes, the taxpayer is better off taking a nice safe management position with a steady income, rather than gamble on starting a new business where the tax consequence of succeeding is so punitive. This circumstance cannot help but reduce our competitiveness. Moreover, it will open the way to more foreign investment since most of our major trading partners do not tax capital gains at all.

Mr. President, slowly but surely the adverse consequence of our decision eliminating the capital gains exclusion from the Tax Code is becoming clear. Although it is too late this year to act on this issue, I am hopeful that Congress will move quickly on this issue when a new session begins in January. We owe it not only to those people who have invested time and capital in businesses built over a lifetime, but also to those budding entrepreneurs who are weighing the advantages and disadvantages of starting a new business.

Mr. President, I ask that a copy of the Clark column be inserted in the RECORD at the end of my statement.

The article follows:

HARDLY ANYONE SEEMS TO UNDERSTAND CAPITAL GAINS

(By Lindley H. Clark, Jr.)

In another attack on George Bush last week, Michael Dukakis said, "He's proposed a five-year, $40 billion capital-gains giveaway. Most of it will go to people making more than $200,000 a year. That's not building an economy; that's feathering a nest."

It's too much to expect a great deal of logic in political discussions, especially when they're about business and economics. Perhaps it's best to recall that special treatment of capital gains was an effort to make our economy function better—it prospers in large part because some people are willing to risk money developing products and processes.

Our ordinary income-tax system discourages risk-taking. Paul A. Samuelson of the Massachusetts Institute of Technology put it this way in his textbook, "Economics": "Taxing a retired innovator's income may seem to have no distorting effects. But we must not forget the young innovator who can then no longer look forward to reaping a tidy sum from his new ideas. He may decide to take that civil service job or remain thirteenth vice-president of a bank. You cannot tax the results of an old innovation without somewhat affecting the prospects of an as-yet-unborn innovation.

"If Congress taxes risky activities more heavily than routine activities, what can any reasonable person expect to happen? People will naturally tend to avoid venturesome fields and to gravitate toward routine, steady ones."

Some other industrial nations have attacked this problem by taxing capital gains lightly or not at all. The U.S. for many years taxed capital gains less heavily than ordinary income but imposed a strict limit on the deduction of the losses that normally go along with risk-taking.

But the 1986 revenue act, which was advertised as monumental tax reform, taxed capital gains as ordinary income. Well, that's not quite true. The law retained limitations on the deduction of losses, so, as matters now stand, capital gains are taxed more heavily than ordinary income. It's a good plan to steer more young people toward careers as 13th vice presidents.

The 1986 act was supposed to be a Reagan administration achievement, but the Republicans seem to recognize that it had its limitations. The GOP campaign platform doesn't refer to the 1986 act when it calls for a cut in the tax rate on long-term capital gains "to promote investment in jobs and to raise revenue for the federal government." Instead, in a nice bit of bipartisanship, it refers to a Carter-era capital-gains rate cut as well as the cut adopted in the first year of the Reagan administration. As a result of these cuts, the platform says, capital-gains tax revenues rose 184% from 1978 to 1985.

Even some friends of Gov. Dukakis appear to believe that something went wrong. Investment banker Felix Rohatyn, who might be treasury secretary in a Dukakis administration, has suggested a lower tax rate on long-term capital gains.

The 1986 act did promote a short-term burst of revenue. The law went into effect Jan. 1, 1987, and there was a rush to realize gains before the higher rate took effect. The rate for the average capital-gains taxpayer jumped to 21% from 9%, and realizations in 1986 were nearly double the 1985 level.

In fact, the revenue increase from the capital-gains tax rise looks like a one-shot affair, due entirely to the rush to beat the increase. Lawrence Lindsey of Harvard examined several economic models and concluded, "The prospects that the higher marginal tax rates on capital gains in the new tax law will produce more capital-gains-tax revenue seem remote. . . . The response of gains to permanent tax-rate changes produces a smaller amount of revenue in four of the five models and static revenue in the fifth."

What tax planners often seem to forget is that realization and taxation of capital gains are largely at the discretion of the taxpayer. In an average year, only a small portion of the accrued gain will actually be realized. Faced with what Prof. Lindsey says may well have been the largest capital-gains tax-rate increase since the advent of the income tax in 1913, it would be normal for many taxpayers to opt to hold onto their assets a bit longer.

The capital-gains tax-rate increase, ironically enough, came at a time when increasing U.S. competitiveness had seemed to have become a bipartisan cause. Last October's stock-market crash led to a variety of proposals for discouraging "speculation," which is usually the villain when the market drops. Most such proposals were aimed at discouraging speculation without deterring long-term investment.

Gov. Dukakis may be right when he says that most of the benefits of Mr. Bush's capital-gains tax cut would go to taxpayers with incomes over $200,000. However, he may have a hard time selling that argument politically. As Prof. Lindsey says, most of the individual recipients of capital gains have incomes of less than $50,000 a year. Taxpayers with incomes under $30,000 generally saw a tripling of their capital-gains tax rates.

The politicians who drafted the 1986 act thus committed one error their predecessors avoided. Experimentation with capital-gains law had been common for many years. In another study, Prof. Lindsey considered the period 1965-1982. Changes in the law occurred, on the average, every other year. However, "in the case of taxpayers earning under $50,000 . . . the variation in tax rates was quite small.

"Over that 18-year period, the average marginal tax rate on capital gains for these taxpayers varied between a high of 13.8% in 1969 and a low of 10.6% in 1979." Thus, for the vast majority of capital-gains recipients, tax-rate rises such as they saw in 1986 were without precedent.

The 1986 act thus was bad politics as well as bad economics. Norman Ture, who was an architect of the Reagan administration supply-side tax cuts, summed it up this way at a Cato Institute conference:

"Implementation of the entrepreneurial zest for starting new businesses and for risky, innovative ventures requires the infusion of capital, very often supplied by outside investors. For both outside investors and entrepreneurs, the reward sought is primarily an increase in the value of the equity investment in the venture.

"For outside investors, in particular, it is important to be able to realize the appreciated capital and to transfer it into promising new ventures. Raising the tax on capital gains blunts the inducement for undertaking these ventures in the first place."

It's surely no way to make the U.S. more competitive.●

ADDITIONAL TECHNICAL AND OTHER CORRECTIONS TO TECHNICAL CORRECTIONS ACT

● Mr. BAUCUS. Mr. President, Senator PACKWOOD and I are offering an amendment to S. 2238, the Technical Corrections Act of 1988, on behalf of the Committee on Finance. This amendment provides a number of significant improvements in the tax law. The amendment extends or improves many important expiring tax incentive provisions, including provisions designed to stimulate education, housing, research, and jobs. It makes a number of substantive corrections and improvements in the tax system, including adoption of a taxpayer bill of rights. As the Finance Committee drafted this bill, we made sure that the package was revenue neutral both in fiscal year 1989 and over a 3-year budget period. We worked in a consensus, bipartisan manner, and we have produced a balanced package that we believe merits the support of the Senate. We hope that we can act promptly to pass this bill on the floor in the limited time that is likely to be available.

Mr. President, I ask that the text of the amendment, along with a staff explanation of the amendment, be printed in the RECORD.

The material follows:

On page 758, strike lines 9 through 15.

On page 758, line 16, strike "(B)" the first place it appears and insert "(A)".

On page 758, line 19, strike "(C)" the first place it appears and insert "(B)".

On page 758, line 24, strike "(D)" the first place it appears and insert "(C)".

On page 759, line 1, strike "(E)" and insert "(D)".

On page 780, line 16, strike "Paragraph (2) of section" and insert "Section".

On page 780, line 18, strike "sentence" and insert "paragraph".

On page 780, line 19, insert "(3)" before "In".

On page 780, lines 19 and 20, strike "the corporation referred to in the preceding sentence" and insert "a qualified corporation".

On page 857, strike lines 17 through 19, and insert:

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended—

(A) by striking out "or reorganization", and

(B) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in applying section 382 (as so in effect), warrants shall not be treated as stock.".

On page 865, line 7, insert "(A)" after "(5)".

On page 865, line 9, strike "(A)" and insert "(i)".

On page 865, line 13, strike "(B)" and insert "(ii)".

On page 865, between lines 16 and 17, insert:

(B) The amendment made by subparagraph (A)(ii) shall not apply to any reorganization if before June 10, 1987—

(i) the board of directors of a party to the reorganization adopted a resolution to solicit shareholder approval for the transaction, or

(ii) the shareholders or the board of directors of a party to the reorganization approved the transaction.

On page 868, line 25, strike "June 11, 1987" and insert "June 22, 1988, except that such amendment shall not apply to any exchange pursuant to any reorganization for which a plan of reorganization was adopted before June 22, 1988".

On page 909, line 13, strike the end quotation marks.

On page 909, between lines 13 and 14, insert:

"(iii) Regulations.—Under regulations, payments to the real estate investment trust under an agreement described in clause (ii) which relates to indebtedness incurred to acquire or carry real estate assets may be treated as income which qualifies under paragraph (2) and as security for purposes of paragraph (4)(A).".

On page 945, lines 14 and 15, strike "(in a taxable year beginning after December 31, 1986)".

On page 945, line 24, strike "October 16, 1987" and insert "December 31, 1987".

On page 974, strike lines 4 through 7, and insert:

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 806 of the Reform Act, except that section 806(e)(1) shall be applied by substituting "December 31, 1987" for "December 31, 1986". For purposes of section 806(e)(2) of the Reform Act—

On page 986, strike lines 14 through 19, and insert:

"(C) Election made by each member.—In the case of a parent-subsidiary controlled group, any election under this section shall be made separately by each member of such group."

On page 1013, between lines 7 and 8, insert:

"(9) Section 831(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"'(3) Limitation on use of net operating losses.—For purposes of this part, except as provided in section 844, a net operating loss (as defined in section 172) shall not be carried—

"'(A) to or from any taxable year for which the insurance company is not subject to the tax imposed by subsection (a), or

"'(B) to any taxable year if, between the taxable year from which such loss is being carried and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by subsection (a).'"

On page 1070, between lines 16 and 17, insert:

(16) Sections 406(c) and 407(c) of the 1986 Code are each amended—

(A) by striking out "subsections (a)(2) and (e) of section 402, and section 403(a)(2)" and inserting in lieu thereof "section 402(e)", and

(B) by striking out "of Capital Gain Provisions and" in the headings thereof.

On page 1097, line 11, strike "Section 6652(l)(2)(B)" and insert "Section 6652(k)(2)(B)".

On page 1107, beginning with line 12, strike all through page 1108, line 9, and insert:

(34) Section 89(l)(2) of the 1986 Code is amended by striking out "6652(l)" and inserting in lieu thereof "6652(k)".

On page 1138, line 13, strike "the" and insert "the receipt of any distribution in liquidation in".

On page 1138, line 21, strike "liquidation occurs" and insert "distribution is received".

On page 1201, after line 24, insert:

(37)(A) Paragraph (2) of section 1295(b) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, such an election may be made later than as required by the preceding sentence in cases where the company failed to make a timely election because it reasonably believed it was not a passive foreign investment company."

(B) The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of enactment of this Act.

On page 1209, between lines 6 and 7, insert:

(15) Section 861(a)(2)(C) of the 1986 Code is amended by striking out "section 243(d)" and inserting in lieu thereof "section 243(e)".

On page 1279, strike lines 3 through 8.

On page 1279, line 9, strike "(D)" and insert "(C)".

On page 1324, between lines 7 and 8, insert:

(21) Section 2652 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) Executor.—For purposes of this chapter, the term 'executor' has the meaning given such term by section 2203."

On page 1339, between lines 10 and 11, insert the following new subsections:

(s) Notice of Lien on Personal Property.—

(1) Subsection (f) of section 6323 of the 1986 Code is amended—

(A) by inserting ", except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State" after "situated" in paragraph (1)(A)(ii), and

(B) by adding at the end thereof the following new paragraph:

"(5) National filing systems.—The filing of a notice of lien shall be governed solely by this title and shall not be subject to any other Federal law establishing a place or places for the filing of liens or encumbrances under a national filing system."

(2) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(t) Effect of Honoring Levy.—

(1) Subsection (d) of section 6332 of the 1986 Code is amended by inserting "and any other person" after "delinquent taxpayer".

(2) The amendment made by this subsection shall apply to levies issued after the date of the enactment of this Act.

(u) Collection After Commencement of Judicial Proceedings.—

(1) The last sentence of section 6502(a) of the 1986 Code is amended to read as follows: "If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes enforceable."

(2) The amendment made by this subsection shall apply to levies issued after the date of the enactment of this Act.

On page 1352, between lines 11 and 12, insert:

(3) Section 1278(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Basis adjustment.—The basis of any bond in the hands of the taxpayer shall be increased by the amount included in gross income pursuant to this subsection."

On page 1375, strike lines 1 through 11.

On page 1426, line 23, strike "distributees" and insert "corporations".

On page 1427, line 1, insert "which included the distributees" after "group".

On page 1427, lines 9 and 10, strike the commas.

On page 1431, strike lines 11 through 16, and insert:

"(3) Shorter period where corporations not in existence for 5 years.—If either of the corporations referred to in paragraph (1) was not in existence throughout the 5-year period referred to in paragraph (1), the period during which such corporation was in existence (or if both, the shorter of such periods) shall be substituted for such 5-year period."

On page 1436, between lines 18 and 19, insert the following new subsection:

(s) Amendments Related to Section 10502 of the Act.—

(1) Section 4093 of the 1986 Code is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Certain Aviation Fuel Sales.—Under regulations prescribed by the Secretary, the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3))."

(2) Subparagraph (B) of section 6427(l)(3) of the 1986 Code (relating to no refund of Leaking Underground Storage Tank Trust Fund financing tax) is amended by inserting "(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))" after "aircraft".

On page 1441, strike lines 1 through 3 and insert:

"(I) the amount determined under section 412(c)(7)(A)(i) with respect to the plan, over".

On page 1441, beginning with line 20, strike out through page 1442, line 12, and insert:

"(D) Certain spun-off plans not taken into account.—

"(i) In general.—A plan involved in a spin-off which is described in clause (ii), (iii), or (iv) shall not be taken into account for purposes of this paragraph, except that the amount determined under subparagraph (C)(ii) shall be increased by the amount of assets allocated to such plan.

"(ii) Plans transferred out of controlled groups.—A plan is described in this clause if, after such spin-off, such plan is maintained by an employer who is not a member of the same controlled group as the employer maintaining the original plan.

"(iii) Plans transferred out of multiple employer plans.—A plan as described in this clause if, after the spin-off, any employer maintaining such plan (and any member of the same controlled group as such employer) does not maintain any other plan remaining after the spin-off which is also maintained by another employer (or member of the same controlled group as such other employer) which maintain the plan in existence before the spin-off.

"(iv) Terminated plans.—A plan is described in this clause if, pursuant to the transaction involving the spin-off, the plan is terminated.

"(v) Controlled group.—For purposes of this subparagraph, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

On page 1443, between lines 15 and 16, insert:

(3)(A) Subparagraph (C) of section 412(l)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (B) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

On page 1444, beginning with line 17, strike out all through page 1484, line 3.

On page 1493, beginning with line 14, strike through page 1494, line 5, and redesignate subtitles B, C, and D as subtitles A, B, and C, respectively.

On page 1536, line 17, strike "shall" and insert "may".

On page 1540, line 5, strike "(11)" and insert "(12)".

On page 1543, line 11, insert "(or if later the effective date of such rules)" after "plans".

On page 1546, line 23, insert "and to take into account any right of recovery (whether or not exercised) under section 2207B" after "applied".

On page 1551, strike lines 12 through 14 and insert:

"(II) has a fixed maturity date,

On page 1551, line 24, insert "except in a case where such indebtedness is in default as to interest or principal," before "such indebtedness".

On page 1552, lines 1, 2, and 3, strike "(other than in a case where the indebtedness is in default as to interest or principal)".

On page 1555, line 16, insert "(or a revocable trust)" after "will".

On page 1556, line 9, strike the end quotation marks.

On page 1556, between lines 9 and 10, insert:

"(e) No Right of Recovery Against Charitable Remainder Trusts.—No person shall be entitled to recover any amount by reason of this section from a trust to which section 664 applies (determined without regard to this section)."

On page 1556, between lines 13 and 14, insert:

(e) Treatment of Consideration.—

(1) In general.—Section 2036(c)(5) of the 1986 Code is amended by striking out "the value of the retained interest" and inserting in lieu thereof "any consideration received".

(2) Study.—The Secretary of the Treasury or his delegate shall conduct a study as to the manner in which the consideration taken into account under section 2036(c)(5) of the 1986 Code is computed. The Secretary shall report the results of such study not later than January 1, 1990, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

On page 1556, line 14, strike "(e)" and insert "(f)".

On page 1557, between lines 4 and 5, insert:

(4) Correction period.—If section 2036(c)(1) of the 1986 Code would (but for this paragraph) apply to any interest arising from a transaction entered into during the period beginning after December 17, 1987, and ending before January 1, 1990, such section shall not apply to such interest if during such period actions are taken as are necessary to have such transaction (and any such interest) included in the exceptions under section 2036(c)(6) of the 1986 Code (as added by subsection (b)).

On page 1622, after line 16, add the following new titles:

TITLE VII—ADDITIONAL CORRECTIONS AND MODIFICATIONS

Subtitle A—Provisions That Close Loopholes

SEC. 700. AMOUNT OF CORPORATE ESTIMATED TAX INSTALLMENT REDUCTION RECAPTURE INCREASED.

(a) In General.—Section 6655(e)(1) of the 1986 Code (relating to lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)) is amended by striking out "90 percent" and inserting in lieu thereof "100 percent".

(b) Effective Date.—The amendments made by this section shall apply to installments required to be made after September 30, 1988.

SEC. 701. TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.

(a) Distribution Rules.—

(1) In general.—Subsection (e) of section 72 of the 1986 Code (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph:

"(10) Treatment of modified endowment contracts.—

"(A) In general.—Notwithstanding paragraph (5)(C), in the case of any modified endowment contract (as defined in section 7702A)—

"(i) paragraphs (2)(B) and (4)(A) shall apply, and

"(ii) in applying paragraph (4)(A), 'any person' shall be substituted for 'an individual'.

"(B) Treatment of certain burial contracts.—Notwithstanding subparagraph (A), paragraph (4)(A) shall not apply to any assignment (or pledge) of a modified endowment contract if such assignment (or pledge) is solely to cover the payment of expenses referred to in section 7702(e)(2)(C)(iii).

"(C) Treatment of amounts retained by insurer under the contract.—Any amount payable or borrowed under a modified endowment contract shall not be included in gross income under paragraph (2)(B)(i) to the extent such amount is retained by the insurer as a premium or other consideration paid for the contract or as principal or interest paid on a loan under the contract."

(2) Technical amendment.—Subparagraph (C) of section 72(e)(5) is amended by striking out "Except to the extent" and inserting in lieu thereof "Except as provided in paragraph (10) and except to the extent".

(b) Additional Tax.—

(1) In general.—Section 72 of the 1986 Code (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (v) as subsection (w) and by inserting after subsection (u) the following new subsection:

"(v) 10-Percent Additional Tax for Taxable Distributions From Modified Endowment Contracts.—

"(1) Imposition of additional tax.—If any taxpayer receives any amount under a modified endowment contract (as defined in section 7702A), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

"(2) Subsection not to apply to certain distributions.—Paragraph (1) shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) which is attributable to the taxpayer's becoming disabled (within the meaning of subsection (m)(7)), or

"(C) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his beneficiary."

(2) Technical amendment.—Subparagraph (C) of section 26(b)(2) of the 1986 Code is amended by striking out "or (q)" and inserting in lieu thereof "(q), or (v)".

(c) Modified Endowment Contract Defined.—

(1) In general.—Chapter 79 of the 1986 Code is amended by inserting after section 7702 the following new section:

"SEC. 7702A. MODIFIED ENDOWMENT CONTRACT DEFINED.

"(a) General Rule.—For purposes of section 72, the term 'modified endowment contract' means any contract meeting the requirements of section 7702—

"(1) which—

"(A) is entered into on or after June 21, 1988, and

"(B) fails to meet the 7-pay test of subsection (b), or

"(2) which is received in exchange for a contract described in paragraph (1).

"(b) 7-Pay Test.—For purposes of subsection (a), a contract fails to meet the 7-pay test of this subsection if the accumulated amount paid under the contract at any time during the 1st 7 contract years exceeds the sum of the net level premiums which would have been paid on or before such time if the contract provided for paid-up future benefits after the payment of 7 level annual premiums.

"(c) Computational Rules.—

"(1) In general.—Except as provided in this subsection, the determination under subsection (b) of the 7 level annual premiums shall be made—

"(A) as of the time the contract is issued, and

"(B) by applying the rules of section 7702(b)(2) and of section 7702(e) (other than paragraph (2)(C) thereof), except that—

"(i) the death benefit provided for the 1st contract year shall be deemed to be provided until the maturity date without regard to any scheduled reduction after the 1st 7 contract years, and

"(ii) except as otherwise provided by the Secretary, the mortality charges used in such determination shall be the mortality charges specified in the prevailing commissioners' standard tables (as defined in section 807(d)(5)) as of the time the contract is issued or materially changed.

"(2) REDUCTION IN BENEFITS DURING 1ST 7 YEARS.—

"(A) IN GENERAL.—If there is a reduction in benefits under the contract within the 1st 7 contract years, this section shall be applied as if the contract had originally been issued at the reduced benefit level.

"(B) REDUCTIONS ATTRIBUTABLE TO NONPAYMENT OF PREMIUMS.—Any reduction in benefits attributable to the nonpayment of premiums due under the contract shall not be taken into account under subparagraph (A) if the benefits are reinstated within 180 days after the reduction in such benefits.

"(3) TREATMENT OF MATERIAL CHANGES.—

"(A) IN GENERAL.—If there is a material change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination under this section, for purposes of this section—

"(i) such contract shall be treated as a new contract entered into on the day on which such material change takes effect, and

"(ii) appropriate adjustments shall be made in determining whether such contract meets the 7-pay test of subsection (b) to take into account the cash surrender value under the contract.

"(B) TREATMENT OF CERTAIN INCREASES IN FUTURE BENEFITS.—For purposes of subparagraph (A), the term 'material change' includes any increase in future benefits under the contract. The preceding sentence shall not apply in the case of any increase—

"(i) which is attributable to the payment of premiums necessary to fund the lowest level of future benefits payable in the 1st 7 contract years or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, or

"(ii) which the Secretary provides in regulations is a de minimis increase which is not to be taken into account as a material change.

"(4) SPECIAL RULE FOR CONTRACTS WITH DEATH BENEFITS UNDER $10,000.—In the case of a contract—

"(A) which provides an initial death benefit of $10,000 or less, and

"(B) which requires at least 20 nondecreasing annual premium payments,

each of the 7 level annual premiums determined under subsection (b) (without regard to this paragraph) shall be increased by $75. For purposes of this paragraph, all contracts issued by the same insurer shall be treated as one contract.

"(d) DISTRIBUTIONS AFFECTED.—If a contract fails to meet the 7-pay test of subsection (b), such contract shall be treated as failing to meet such requirements only in the case of—

"(1) distributions during the contract year in which the failure takes effect and during any subsequent contract year, and

"(2) under regulations prescribed by the Secretary, distributions (not described in paragraph (1)) in anticipation of such failure.

For purposes of the preceding sentence, any distribution which is made within 2 years before the failure to meet the 7-pay test shall be treated as made in anticipation of such failure.

"(e) DEFINITIONS.—For purposes of this section—

"(1) AMOUNT PAID.—

"(A) IN GENERAL.—The term 'amount paid' means—

"(i) the premiums paid under the contract, reduced by

"(ii) amounts to which section 72(e) applies (other than amounts includible in gross income).

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED.—If, in order to comply with the requirements of subsection (b), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of such contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such contract year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) CONTRACT YEAR.—The term 'contract year' means the 12-month period beginning with the 1st month for which the contract is in effect, and each 12-month period beginning with the corresponding month in subsequent calendar years.

"(3) OTHER TERMS.—Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in section 7702."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 79 of the 1986 Code is amended by inserting after the item relating to section 7702 the following new item:

"Sec. 7702A. Modified endowment contract defined."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to contracts entered into on or after June 21, 1988.

(2) CERTAIN MATERIAL CHANGES TAKEN INTO ACCOUNT.—A contract entered into before June 21, 1988, shall be treated as entered into after such date if—

(A) on or after June 21, 1988, 1 or more of the future benefits under the contract are increased (or a qualified additional benefit is increased or added) and before June 21, 1988, the owner of the contract did not have a unilateral right under the contact to obtain such increase or addition without providing additional evidence of insurability, or

(B) the contract is converted after June 20, 1988, from a term life insurance contract to a life insurance contract providing coverage other than term life insurance coverage without regard to any right of the owner of the contract to such conversion.

(3) CERTAIN EXCHANGES PERMITTED.—In the case of a modified endowment contract which—

(A) is entered into after June 20, 1988, and before the date of the enactment of this Act, and

(B) is exchanged within 3 months after such date of enactment for a life insurance contract which meets the requirements of section 7702A(b),

the contract which is received in exchange for such contract shall not be treated as a modified endowment contract if gain (if any) is recognized on such exchange.

SEC. 702. REPEAL OF RULES PERMITTING LOSS TRANSFERS BY ALASKA NATIVE CORPORATIONS.

(a) GENERAL RULE.—Nothing in section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986)—

(1) shall allow any loss (or credit) of any corporation which arises after April 26, 1988, to be used to offset the income (or tax) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended, or

(2) shall allow any loss (or credit) of any corporation which arises on or before such date to be used to offset disqualified income (or tax attributable to such income) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended.

(b) EXCEPTION FOR NATIVE CORPORATIONS NOT TRANSFERRING LOSSES (OR CREDITS) BEFORE APRIL 26, 1988.—

(1) IN GENERAL.—Subsection (a) shall not apply to any loss (or credit) of any qualified corporation which arises before January 1, 1989, and which is used to offset income assigned (or attributable to property contributed) after April 26, 1988, and before January 1, 1989.

(2) $5,000,000 LIMITATION.—The aggregate amount of losses (and the deduction equivalent of credits as determined in the same manner as under section 469(j)(5)) to which paragraph (1) applies with respect to any qualified corporation shall not exceed $5,000,000. For purposes of this paragraph, a Native Corporation and all other corporations all of the stock of which is owned directly by such corporation shall be treated as 1 qualified corporation.

(3) QUALIFIED CORPORATION.—For purposes of this subsection, the term "qualified corporation" means any Native Corporation which was in existence on April 26, 1988, and any other corporation of which all the stock is owned directly by such Native Corporation if, on or before April 26, 1988, neither—

(A) the Native Corporation, nor

(B) any other corporation with respect to which the Native Corporation at any time owned directly all of the stock of such other corporation,

has engaged in any transaction which would allow any loss or credit (whether arising before, on, or after April 26, 1988) to be used in the manner described in subsection (a)(1).

(c) DISQUALIFIED INCOME DEFINED.—For purposes of subsection (a), the term "disqualified income" means any income assigned (or attributable to property contributed) after April 26, 1988, by a person who is not a Native Corporation or a corporation of which all the stock is owned directly by a Native Corporation.

SEC. 703. MODIFICATION OF DISTILLED SPIRITS TAX CREDIT FOR FLAVORS CONTENT.

(a) IN GENERAL.—Subparagraph (B) of section 5010(c)(2) of the 1986 Code (defining flavors content) is amended by striking out the "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) alcohol derived from flavors distilled at a distilled spirits plant, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to distilled spirits withdrawn from bond after the date of the enactment of this Act.

SEC. 704. DENIAL OF DEDUCTION FOR CERTAIN RESIDENTIAL TELEPHONE SERVICE.

(a) General Rule.—Section 262 of the 1986 Code (relating to personal, living, and family expenses) is amended to read as follows:

"SEC. 262. PERSONAL, LIVING, AND FAMILY EXPENSES.

"(a) General Rule.—Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.

"(b) Treatment of Certain Phone Expenses.—For purposes of subsection (a), in the case of an individual, any charge (including taxes thereon) for basic local telephone service with respect to the 1st telephone line provided to any residence of the taxpayer shall be treated as a personal expense."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 705. VALUATION TABLES.

(a) General Rule.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. VALUATION TABLES.

"(a) General Rule.—For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

"(1) under tables prescribed by the Secretary, and

"(2) by using an interest rate (rounded to the nearest $\frac{2}{10}$ths of 1 percent) equal to 120 percent of the Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

The taxpayer may elect to use such rate for either of the 2 months preceding the month in which the valuation date falls. In the case of transfers of more than 1 interest in the same property with respect to which such taxpayer is permitted to use the same rate under this subsection, such taxpayer shall use the same rate with respect to each interest.

"(b) Tables.—

"(1) In general.—The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

"(2) Initial table.—Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.

"(3) Revision for recent mortality charges.—Not later than December 31, 1989, the Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years thereafter to take into account the most recent mortality experience available as of the time of the revision.

"(c) Valuation Date.—For purposes of this section, the term 'valuation date' means the date as of which the valuation is made.

"(d) Tables To Include Formulas.—For purposes of this section, the term 'tables' includes formulas."

(b) Clerical Amendment.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Valuation tables.".

(c) Effective Date.—The amendments made by this section shall apply in cases where the valuation date on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act.

Subtitle B—Substantive Provisions

PART I—CORRECTIONS AFFECTING AGRICULTURE

SEC. 706. TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A.

(a) General Rule.—Subparagraph (A) of secton 2032A(b)(5) of the 1986 Code (relating to special rules for surviving spouse) is amended by adding at the end thereof the following new sentence: "For purposes of subsection (c), such surviving spouse shall not be treated as failing to use such property in a qualified use solely because such spouse rents such property to a member of such spouse's family on a net cash basis."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

(2) Waiver of statute of limitations.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

SEC. 707. CERTAIN DISCHARGES OF INDEBTEDNESS NOT TREATED AS INCOME FOR PURPOSES OF SECTION 501(c)(12).

(a) In General.—Section 501(c)(12) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) Subparagraph (A) shall be applied without taking into account any income received or accrued from the sale of notes or other obligations held in the Rural Development Insurance fund pursuant to section 1001 of the Omnibus Budget Reconciliation Act of 1986 (as in effect on January 1, 1987)".

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales before, on, or after the date of the enactment of this Act.

SEC. 708. ONE-YEAR DEFERRAL OF PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) In General.—Paragraph (1) of section 451(e) of the 1986 Code (relating to special rule for proceeds from livestock sold on account of drought) is amended by striking out "(other than livestock described in section 1231(b)(3))".

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales or exchanges occurring after December 31, 1987.

SEC. 709. CERTAIN CASH WAGES PAID TO SEASONAL AGRICULTURAL LABORERS EXCLUDED FROM OASDI COVERAGE.

(a) Social Security Act Amendment.—Paragraph (2) of section 209(h) of the Social Security Act is amended to read as follows:

"(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

"(A) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that subparagraph (B) shall not apply with respect to any expenditures for agricultural labor performed by any employee described in section 13(a)(6)(C) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(C));".

(b) FICA Amendment.—Subparagraph (B) of section 3121(a)(8) of the 1986 Code (relating to wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calender year to an employee for agricultural labor unless—

"(i) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that clause (ii) shall not apply with respect to any expenditures for agricultural labor performed by an employee described in section 13(a)(6)(C) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(C));".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 9002 of the Omnibus Budget Reconciliation Act of 1987.

PART II—PENSION AND EMPLOYEE BENEFIT PROVISIONS

SEC. 710. PROVISIONS RELATING TO BENEFITS UNDER DISCRIMINATORY PLANS.

(a) Provisions Not to Apply to Church Plans.—Section 89(i) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Church plans.—The term 'statutory employee benefit plan' shall not include a plan maintained by a church for church employees. For purposes of this paragraph, the term 'church' has the meaning given such term by section 3121(w)(3)(A), including a qualified church controlled organization (as defined in section 3121(w)(3)(B))."

(b) Cafeteria Plans Maintained by Educational Institutions.—Section 125(c)(2)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In applying section 89 to a plan described in this subparagraph, contributions under the plan shall be tested as of the time the contributions were made."

SEC. 711. MODIFICATIONS OF DISCRIMINATION RULES APPLICABLE TO CERTAIN ANNUITY CONTRACTS.

(a) Excluded Employees.—The last sentence of section 403(b)(12)(A) of the 1986 Code is amended to read as follows: "Subject to the conditions applicable under section 410(b)(4), there may be excluded for purposes of this subparagraph employees who are students performing services described in section 3121(b)(10) and employees who normally work less than 20 hours per week."

(b) Sampling.—In the case of plan years beginning in 1989, 1990, or 1991, determinations as to whether a plan meets the requirements of section 403(b)(12) of the 1986 Code may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if—

(1) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

(2) the statistical method and sample size result in a 95 percent probability that the results will have a margin of error not greater than 3 percent.

SEC. 712. MINIMUM PARTICIPATION STANDARDS.

Section 401(a)(26) of the 1986 Code, as amended by this Act, is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) Special rule for certain police or firefighters.—

"(i) In general.—An employer may elect to have this paragraph applied separately with respect to qualified public safety employees who are—

"(I) policemen, or

"(II) firemen.

"(ii) Qualified public safety employee.—For purposes of this subparagraph, the term 'qualified public safety employee' means any full-time employee of any police department or fire department organized and operated by a State or political subdivision if the employee provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision."

SEC. 713. CLARIFICATION OF TREATMENT OF JOINT AND SURVIVOR ANNUITIES UNDER QTIP RULES.

(a) Estate Tax.—Paragraph (7) of section 2056(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Treatment of survivor annuities.—In the case of an annuity where only the surviving spouse has the right to receive payments before the death of such surviving spouse—

"(i) the interest of such surviving spouse shall be treated as a qualifying income interest for life, and

"(ii) the executor shall be treated as having made an election under this subsection with respect to such annuity unless the executor otherwise elects on the return of tax imposed by section 2001.

An election under clause (ii), once made, shall be irrevocable."

(b) Gift Tax.—Subsection (f) of section 2523 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) Treatment of joint and survivor annuities.—In the case of a joint and survivor annuity where only the donor spouse and donee spouse have the right to receive payments before the death of the last spouse to die—

"(A) the donee spouse's interest shall be treated as a qualifying income interest for life,

"(B) the donor spouse shall be treated as having made an election under this subsection with respect to such annuity unless the donor spouse otherwise elects on or before the date specified in paragraph (4)(A),

"(C) paragraph (5) and section 2519 shall not apply to the donor spouse's interest in the annuity, and

"(D) if the donee spouse dies before the donor spouse, no amount shall be includible in the gross estate of the donee spouse under section 2044 with respect to such annuity.

An election under subparagraph (B), once made, shall be irrevocable."

(c) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection—

(A) the amendment made by subsection (a) shall apply with respect to decedents dying after December 31, 1981, and

(B) the amendment made by subsection (b) shall apply to transfers after December 31, 1981.

(2) Not to apply to extent inconsistent with prior return.—In the case of any estate or gift tax return filed before the date of the enactment of this Act, the amendments made by this section shall not apply to the extent such amendments would be inconsistent with the treatment of the annuity on such return unless the executor or donor (as the case may be) otherwise elects under this paragraph before the day 2 years after the date of the enactment of this Act.

(3) Extension of time for election out.—The time for making an election under section 2056(b)(7)(C)(ii) or 2523(f)(6)(B) of the 1986 Code (as added by this subsection) shall not expire before the day 2 years after the date of the enactment of this Act (and, if such election is made within the time permitted under this paragraph, the requirement of such section 2056(b)(7)(C)(ii) that it be made on the return shall not apply).

SEC. 714. RURAL TELEPHONE COOPERATIVES PERMITTED TO HAVE QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

(a) In General.—Paragraphs (1) and (2) of section 401(k) of the 1986 Code (relating to cash or deferred arrangements) are each amended by striking out "or a rural electric cooperative plan" and inserting in lieu thereof "or a rural cooperative plan".

(b) Rural Cooperative Plan Defined.—

(1) Paragraph (7) of section 401(k) of the 1986 Code (as amended by title I) is amended to read as follows:

"(7) Rural cooperative plan.—For purposes of this subsection—-

"(A) In general.—The term 'rural cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural cooperative.

"(B) Rural cooperative defined.—For purposes of subparagraph (A), the term 'rural cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i),

"(iii) a cooperative telephone company described in section 501(c)(12), and

"(iv) an organization which is a national association of organizations described in clause (i), (ii), or (iii)."

(2) Subparagraph (B) of section 401(k)(4) of the 1986 Code (as amended by title I) is amended by striking out "rural electric cooperative plan" and inserting in lieu thereof "rural cooperative plan".

(c) Amendments to Section 457.—Section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by striking out "rural electric cooperative plan" in subsection (c)(2) and inserting in lieu thereof "rural cooperative plan".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 715. EMPLOYEE LEASING.

Section 414(n)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) De minimis rule.—

"(i) In general.—In the case of a recipient—

"(I) which has no top-heavy plans (within the meaning of section 416(g)), and

"(II) which uses the services of persons other than employees for less than 10 percent of such recipient's total workload,

any leased employee described in clause (ii) shall not be treated as an employee of such recipient.

"(ii) Leased employees to whom subparagraph applies.—A leased employee is described in this clause if—

"(I) the leased employee did not perform 3,000 or more hours of service for the recipient in any 2-consecutive plan year period beginning after 1986, and

"(II) did not perform services for the recipient within the same geographic area at any time during the plan year preceding any period referred to in subclause (I)."

SEC. 716. SECTION 415 LIMITATION FOR STATE AND LOCAL PLANS.

(a) Modified Limitations.—Section 415(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) Special rule for state and local government plans.—

"(A) Limitation to equal accrued benefit.—In the case of a plan maintained for its employees by any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, the limitation with respect to a qualified participant under this subsection shall not be less than the accrued benefit of the participant under the plan (determined without regard to any amendment of the plan made after October 14, 1987).

"(B) Qualified participant.—For purposes of this paragraph, the term 'qualified participant' means a participant who first became a participant in the plan maintained by the employer before January 1, 1990.

"(C) Election.—This paragraph shall not apply to any plan unless each employer maintaining the plan elects before the close of the 1st plan year beginning after December 31, 1989, to have this subsection (other than paragraph (2)(G)) applied without regard to paragraph (2)(F)."

(b) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendment made by this subsection apply to years beginning after December 31, 1982.

(2) Election.—Section 415(b)(10)(C) of the 1986 Code (as added by paragraph 1) shall not apply to any year beginning before January 1, 1990.

SEC. 717. CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE.

(a) In General.—Section 7702 of the 1986 Code (defining life insurance contract) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Certain Church Self-Funded Death Benefit Plans Treated as Life Insurance.—

"(1) In general.—In determining whether any plan or arrangement described in paragraph (2) is a life insurance contract, the requirement of subsection (a) that the contract be a life insurance contract under applicable law shall not apply.

"(2) Description.—For purposes of this subsection, a plan or arrangement is described in this paragraph if—

"(A) such plan or arrangement provides for the payment of benefits by reason of the death of the individuals covered under such plan or arrangement, and

"(B) such plan or arrangement is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii).

"(3) Definitions.—For purposes of this subsection—

"(A) Church.—The term 'church' means a church or a convention or association of churches.

"(B) Employee.—The term 'employee' includes an employee described in section 414(e)(3)(B)."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984.

SEC. 718. STUDY OF EFFECT OF MINIMUM PARTICIPATION RULE ON EMPLOYERS REQUIRED TO PROVIDE CERTAIN RETIREMENT BENEFITS.

(a) Study.—The Secretary of the Treasury or his delegate shall conduct a study on the application of section 401(a)(26) of the Internal Revenue Code of 1986 to Government contractors who—

(1) are required by Federal law to provide certain employees specified retirement benefits, and

(2) establish a separate plan for such employees while maintaining a separate plan for employees who are not entitled to such benefits.

Such study shall consider the Federal requirements with respect to employee benefits for employees of Government contractors, whether a special minimum participation rule should apply to such employees, and methods by which plans may be modified to satisfy minimum participation requirements.

(b) Report.—The Secretary of the Treasury or his delegate shall report the results of the study under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than September 1, 1989.

SEC. 719. PROHIBITION ON COLLECTIBLES NOT TO INCLUDE STATE COINS.

(a) In General.—Paragraph (3) of section 408(m) of the 1986 Code is amended to read as follows:

"(3) Exception for certain coins.—In the case of an individual retirement account, paragraph (2) shall not apply to—

"(A) any gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31,

"(B) any silver coin described in section 5112(e) of title 31, or

"(C) any coin issued under the laws of any State."

(b) Effective Date.—The amendments made by subsection (a) shall apply to acquisitions after the date of the enactment of this Act.

SEC. 720. 1-YEAR DELAY IN DISTRIBUTION REQUIREMENT FOR GOVERNMENT AND TAX-EXEMPT PLANS.

In the case of a plan maintained by—

(1) a State or local government or political subdivision thereof, or

(2) an organization described in section 501(c)(3) of the 1986 Code which is exempt from tax under section 501(a) of such Code,

the requirement of section 401(a)(9)(c) of such Code (as in effect after the amendment made by section 1121(b) of the Reform Act) or any provision determined by reference to such section shall not apply to any year beginning before January 1, 1990.

SEC. 721. APPLICATION OF FUNDING RULES TO MULTIPLE EMPLOYER PLANS.

(a) In General.—Paragraph (4) of section 413(c) of the 1986 Code is amended to read as follows:

"(4) Funding.—

"(A) In general.—In the case of a plan established after December 31, 1988, each employer shall be treated as maintaining a separate plan.

"(B) Other plans.—In the case of a plan not described in subparagraph (A), the requirements of section 412 shall be determined as if all participants in the plan were employed by a single employer unless the plan administrator elects not later than the close of the first plan year of the plan beginning after the date of enactment of the Technical Corrections Act of 1988 to have the provisions of subparagraph (A) apply. An election under the preceding sentence shall take effect for the plan year in which made and, once made, may be revoked only with the consent of the Secretary."

(b) Deduction Limitations.—Paragraph (6) of section 413(c) of the 1986 Code is amended to read as follows:

"(6) Deduction limitations.—

"(A) In the case of a plan established after December 31, 1988, each applicable limitation provided by section 404(a) shall be determined as if each employer were maintaining a separate plan.

"(B) Other plans.—

"(i) In general.—In the case of a plan not described in subparagraph (A), each applicable limitation provided by section 404(a) shall be determined as if all participants in the plan were employed by a single employer, except that if an election is made under paragraph (4)(B), subparagraph (A) shall apply to such plan.

"(ii) Special rule.—If this subparagraph applies, the amounts contributed to or under the plan by each employer who maintains the plan (for the portion of the taxable year included within a plan year) shall be considered not to exceed any such limitation if the anticipated employer contributions for such plan year (determined in a reasonable manner not inconsistent with regulations prescribed by the Secretary) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary."

(c) Conforming Amendment.—Section 413(c) of the 1986 Code is amended by striking out the last sentence and by inserting after paragraph (6) the following new paragraph:

"(7) Allocations.—

"(A) In general.—Except as provided in subparagraph (B), allocations of amounts under paragraphs (4), (5), and (6) among the employers maintaining the plan shall not be inconsistent with regulations prescribed for this purpose by the Secretary.

"(B) Asset and liabilities of plan.—For purposes of applying paragraphs (4)(A) and (6)(A), the assets and liabilities of each plan shall be treated as the assets and liabilities which would be allocated to a plan maintained by the employer if the employer withdrew from the multiple employer plan."

(d) Effective Date.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 722. WITHDRAWAL LIABILITY OF MULTIEMPLOYER PLANS.

(a) Study.—

(1) In general.—The Pension Benefit Guaranty Corporation shall complete the study required by section 412(a)(1)(B) of the Multiemployer Pension Plan Amendments Act of 1980 (relating to union-mandated withdrawal from multiemployer pension plans) and shall report the results of such study to Congress not later than March 1, 1989.

(2) Factors considered.—The study under paragraph (1) shall include an analysis of—

(A) the effect of union-mandated withdrawals on employer withdrawal liability, and

(B) whether employer liability should be initiated by an illegal strike or illegal bargaining by an employee representative.

(b) Payment of Withdrawal Liability.—Notwithstanding any other provision of law, in the case of any employer withdrawal liability under title IV of the Employee Retirement Income Security Act of 1974 which is attributable to striking or picketing in violation of the National Labor Relations Act (as determined by the National Labor Relations Board) and which—

(1) has not been paid before September 8, 1988, or

(2) arises after such date and before January 1, 1990,

shall not be payable before January 1, 1990.

SEC. 723. STUDY OF TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

The Secretary of the Treasury or his delegate shall conduct a study of the treatment provided by section 1706 of the Reform Act (relating to treatment of certain technical personnel). The report of such study shall be submitted not later than September 1, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART III—EXEMPT ORGANIZATIONS

SEC. 724. CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

Section 1834 of the Reform Act is amended by adding at the end thereof the following new sentence: "The amendment made by this section shall apply to games of chance conducted after October 22, 1986, in taxable years ending after such date".

SEC. 725. PURCHASE OF INSURANCE BY COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS.

(a) In General.—Subparagraph (A) of section 501(e)(1) of the 1986 Code is amended by inserting "(including the purchasing of insurance on a group basis)" after "purchasing".

(b) Effective Date.—The amendment made by subsection (a) shall apply to purchases before, on, or after the date of the enactment of this Act.

SEC. 726. DONATED CARGO EXEMPT FROM HARBOR MAINTENANCE TAX.

(a) General Rule.—Section 4462 of the 1986 Code (relating to definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Exemption for Humanitarian and Development Assistance Cargos.—No tax shall be imposed under this subchapter on any nonprofit organization or cooperative for cargo which is owned or financed by such nonprofit organization or cooperative and which is certified by the United States Customs Service as intended for use in humanitarian or development assistance overseas."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on April 1, 1987.

SEC. 727. CERTAIN EDUCATIONAL INSTITUTIONS EXEMPT FROM USER FEES ON PERMITS FOR INDUSTRIAL USE OF SPECIALLY DENATURED DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5276 of the 1986 Code (relating to occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) EXEMPTION FOR CERTAIN EDUCATIONAL INSTITUTIONS.—Subsection (a) shall not apply with respect to any scientific university, college of learning, or institution of scientific research which—

"(1) is issued a permit under section 5271(a)(2), and

"(2) with respect to any calendar year during which such permit is in effect, procures less than 25 gallons of specially denatured distilled spirits for experimental or research use but not for consumption (other than organoleptic tests) or sale."

(b) CONFORMING AMENDMENT.—Section 5276(a) of the 1986 Code is amended by striking out "A permit" and inserting in lieu thereof "Except as provided in subsection (c), a permit".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1989.

SEC. 728. TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF AN INSTITUTION OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 170 of the 1986 Code is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

"(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (b)(1)(A)(ii), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of section 170(m) of the 1986 Code (as added by subsection (a)) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 729. CLARIFICATION OF MEANING OF MANUFACTURE UNDER TRUCK EXCISE TAX.

(a) IN GENERAL.—Paragraph (1) of section 4052(a) of the 1986 Code (defining first retail sale) is amended by striking out "manufacture, production" and inserting in lieu thereof "production, manufacture".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1988.

SEC. 730. AUTHORITY TO PRESCRIBE TOLERANCES FOR THE VOLUME OF WINE IN BOTTLES FOR PURPOSES OF THE EXCISE TAX ON WINE.

(a) IN GENERAL.—Section 5041 of the 1986 Code (relating to imposition and rate of tax on wine) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TOLERANCES.—Where the Secretary finds that the revenue will not be endangered thereby, he may by regulation prescribe tolerances (but not greater than ½ of 1 percent) for bottles and other containers, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a bottle or other container are within the limit of the applicable tolerance prescribed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wine removed after December 31, 1988.

SEC. 731. WHOLESALE DISTRIBUTORS TO ADMINISTER CLAIMS FOR REFUND OF GASOLINE TAX.

(a) IN GENERAL.—Subsection (a) of section 6416 of the 1986 Code (relating to certain taxes and services) is amended by adding at the end thereof the following new paragraph:

"(4) WHOLESALE DISTRIBUTORS TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, a wholesale distributor who purchases any product on which tax imposed by section 4081 has been paid and who sells the product to its ultimate purchaser shall be treated as the person (and the only person) who paid such tax.

"(B) WHOLESALE DISTRIBUTOR.—For purposes of subparagraph (A), the term 'wholesale distributor' has the meaning given such term by section 4092(b)(2) (determined by substituting 'any product taxable under section 4081' for 'a taxable fuel' therein)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988.

SEC. 732. ELECTION TO BE TREATED AS QUALIFIED ELECTING FUND TO BE MADE BY TAXPAYER.

(a) GENERAL RULE.—Section 1295 of the 1986 Code (defining qualified electing fund) is amended to read as follows:

"SEC. 1295. QUALIFIED ELECTING FUND.

"(a) GENERAL RULE.—For purposes of this part, any passive foreign investment company shall be treated as a qualified electing fund with respect to the taxpayer if—

"(1) an election by the taxpayer under subsection (b) applies to such company for the taxable year, and

"(2) such company complies with such requirements as the Secretary may prescribe for purposes of—

"(A) determining the ordinary earnings and net capital gain of such company, and

"(B) otherwise carrying out the purposes of this subpart.

"(b) ELECTION.—

"(1) IN GENERAL.—A taxpayer may make an election under this subsection with respect to any passive foreign investment company for any taxable year of the taxpayer. Such an election, once made with respect to any company, shall apply to all subsequent taxable years of the taxpayer with respect to such company unless revoked by the taxpayer with the consent of the Secretary.

"(2) WHEN MADE.—An election under this subsection may be made for any taxable year at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believed that the company was not a passive foreign investment company."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code (as amended by title I) is amended by striking out "for each" in the material preceding subparagraph (A) and inserting in lieu thereof "with respect to the taxpayer for each".

(2) Subparagraphs (A)(i) and (B)(i) of section 1291(d)(2) of the 1986 Code (as amended by title I) are each amended by striking out "for a taxable year" and inserting in lieu thereof "with respect to the taxpayer for a taxable year".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 1235 of the Reform Act.

(2) TIME FOR MAKING ELECTION.—The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of the enactment of this Act.

SEC. 733. ELECTION TO CLAIM CERTAIN UNEARNED INCOME OF CHILD ON PARENT'S RETURN.

(a) IN GENERAL.—Section 6012 of the 1986 Code (relating to persons required to make returns of income) is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

"(e) ELECTION TO CLAIM CERTAIN UNEARNED INCOME OF CHILD ON PARENT'S RETURN.—

"(1) IN GENERAL.—Any child who—

"(A) has only qualified unearned income for the taxable year,

"(B) such unearned income is more than $500 and less than $5,000, and

"(C) the parent of such child (as determined under section 1(i)(5)) elects to claim such income on his return,

shall not be required to file a return under this section.

"(2) NO ELECTION IF ESTIMATED TAXES PAID IN CHILD'S NAME.—Paragraph (1) shall not apply in any taxable year in which estimated tax payments for such year are made in the name and TIN of the child.

"(3) QUALIFIED UNEARNED INCOME.—For purposes of this section, the term 'qualified unearned income' means—

"(A) interest payments,

"(B) dividend payments, and

"(C) Alaska Permanent Fund dividends.

"(4) Income included in parent's gross income.—In the case of any parent making an election under this subsection, any qualified unearned income of the child for the taxable year shall be included in such parent's gross income for such year (and not in such child's gross income) in an amount equal to the excess (if any) of—

"(A) such qualified unearned income, over

"(B) the lesser of—

"(i) $500, or

"(ii) the taxable portion of such qualified unearned income.

"(5) Regulations.—The Secretary shall issue such regulations as may be necessary to carry out the purposes of this subsection."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 734. REPORT ON THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

Subsection (a) of section 6 of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638, note) is amended by striking out "December 31, 1988" and inserting in lieu thereof "July 1, 1989".

SEC. 735. EXCHANGE OF INFORMATION.

Clause (i) of section 6103(b)(5)(B) of the 1986 Code (defining State) is amended by striking out "2,000,000" and inserting in lieu thereof "250,000".

SEC. 736. STUDY ON HEALTH CARE COSTS RESULTING FROM SMOKING.

(a) In General.—The Secretary of the Treasury or his delegate shall, in consultation with the Surgeon General of the Public Health Service, conduct an ongoing study of—

(1) the public and private health care costs incurred (with respect to smokers, their spouses, and others) as a result of cigarette smoking in the United States,

(2) the incidence of cigarette smoking in the United States by adults and by teenage and younger children, and

(3) the impact of the rate of the excise tax imposed by section 5701 of the Internal Revenue Code of 1986 on cigarette smoking by adults and by teenage and younger children.

(b) Reports.—Reports of the study required by subsection (a) shall be submitted every 2 years, with the 1st such report to be submitted by January 1, 1989. Each such report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART V—TAX-EXEMPT BONDS

SEC. 737. AMENDMENT TO MORTGAGE BOND PURCHASE PRICE REGULATIONS.

The Secretary of the Treasury or his delegate shall amend the regulations relating to mortgage bond purchase price requirements, with respect to any lease with a remaining term of at least 35 years and a specified ground rent for at least the first 10 years of such term but not for the entire term, to provide for a capitalized value of such lease equal to the present value of the current ground rent projected over the remaining term of the lease and discounted at 3 percent or such other discount rate as the Secretary establishes. If such amendment is not made before the date of the enactment of this Act, such regulations shall be considered to include such amendment with respect to bonds issued after such date.

SEC. 738. APPLICATION OF SECURITY INTEREST TEST TO BOND FINANCING OF HAZARDOUS WASTE CLEAN-UP ACTIVITIES.

Before January 1, 1989, the Secretary of the Treasury or his delegate shall issue guidance concerning the application of the private security or payment test under section 141(b)(2) of the Internal Revenue Code of 1986 to tax-exempt bond financing by State and local governments of hazardous waste clean-up activities conducted by such governments where some of the activities occur on privately owned land.

SEC. 739. CALCULATION OF INCOME LIMITS FOR QUALIFIED MORTGAGE BOND FINANCED HOMES IN HIGH HOUSING COST AREAS.

(a) In General.—Section 143(f) of the 1986 Code (relating to income requirements) is amended by adding at the end thereof the following new paragraph:

"(5) Adjustment of income requirement based on relation of high housing costs to income.—

"(A) In general.—If the residence (for which financing is provided under the issue) is located in a high housing cost area, the percentage described in this paragraph shall be determined under subparagraph (B) and without regard to paragraph (4)(B).

"(B) Income requirements for residences in high housing cost area.—The percentage determined under this subparagraph for a residence located in a high housing cost area is the percentage (not greater than 140 percent) equal to the product of—

"(I) 115 percent, and

"(II) the amount by which the housing cost/income ratio for such area exceeds 0.2.

"(C) High housing cost areas.—For purposes of this paragraph, the term 'high housing cost area' means any statistical area for which the housing cost/income ratio is greater than 1.2.

"(D) Housing cost/income ratio.—For purposes of this paragraph—

"(i) In general.—The term 'housing cost/income ratio' means, with respect to any statistical area, the number determined by dividing—

"(I) the applicable housing price ratio for such area, by

"(II) the ratio which the area median gross income for such area bears to the median gross income for the United States.

"(ii) Applicable housing price ratio.—For purposes of clause (i), the applicable housing price ratio for any area is the new housing price ratio or the existing housing price ratio, whichever results in the housing cost/income ratio being closer to 1.

"(iii) New housing price ratio.—The new housing price ratio for any area is the ratio which—

"(I) the average area purchase price (as defined in subsection (e)(2)) for residences described in subsection (e)(3)(A) which are located in such area bears to

"(II) the average purchase price (determined in accordance with the principles of subsection (e)(2)) for residences so described which are located in the United States.

"(iv) Existing housing price ratio.—The existing housing price ratio for any area is the ratio determined in accordance with clause (iii) but with respect to residences described in subsection (e)(3)(B)."

(b) Conforming Amendment.—Section 143(f)(1) of the 1986 Code is amended by striking out "whose family income is 115 percent or less of the applicable median family income" and inserting in lieu thereof "whose family income is the greater of—

"(A) 115 percent or less of the applicable median family income, or

"(B) the percentage described in paragraph (5)."

(c) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued, and nonissued bond amounts elected, after December 31, 1988.

(2) Special rules relating to certain requirements and refunding bonds.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before January 1, 1989, the amendments made by this section shall apply to financing provided after the date of issuance of the refunding issue.

SEC. 740. TAX-EXEMPT FINANCING FOR CERTAIN RAIL FACILITIES.

(a) In General.—Subsection (a) of section 142 of the 1986 Code (relating to exempt facility bonds) is amended—

(1) by striking out "or" at the end of paragraph (9),

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:

"(11) high-speed intercity rail facilities."

(b) Definition and Special Rules for High-Speed Intercity Rail Facilities.—

(1) In general.—Section 142 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(i) High-Speed Intercity Rail Facilities.—

"(1) For purposes of subsection (a)(11), the term 'high-speed intercity rail facilities' means any facility (not including rolling stock) for the fixed guideway rail transportation of passengers and their baggage between metropolitan statistical areas (within the meaning of section 143(k)(2)(B)) using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops, but only if such facility will be made available to members of the general public as passengers.

"(2) Election by nongovernmental owners.—A facility shall be treated as described in subsection (a)(11) only if any owner of such facility which is not a governmental unit irrevocably elects not to claim—

"(A) any deduction under section 167 or 168, and

"(B) any credit under this subtitle,

with respect to the property to be financed by the net proceeds of the issue.

"(3) Use of proceeds.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless any proceeds not used within a 3-year period of the date of the issuance of such bond are used (not later than 6 months after the close of such period) to redeem bonds which are part of such issue."

(2) Use of facilities.—Subsection (c) of section 142 of the 1986 Code (relating to special rules for airport, docks and wharves, and mass commuting facilities) is amended—

(A) by striking out "paragraph (1), (2), or (3) of subsection (a)" each place it appears in paragraphs (1) and (2) thereof and inserting in lieu thereof "paragraph (1), (2), (3) or (11) of subsection (a)", and

(B) by striking out "And Mass Commuting Facilities" in the heading thereof and inserting in lieu thereof "Mass Commuting

Facilities and High-Speed Intercity Rail Facilities".

(3) Partial exclusion from volume cap.—Paragraph (3) of section 146(g) of the 1986 Code (relating to an exception for certain bonds) is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and

(C) by adding at the end thereof the following new paragraph:

"(3) 75 percent of any exempt facility bond issued as part of an issue described in paragraph (11) of section 142(a) (relating to high-speed intercity rail facilities."

(4) Limitation removed on use of bond proceeds for land acquisition.—Paragraph (3) of section 147(c) of the 1986 Code (relating to limitation on use for land acquisition) is amended by inserting "high-speed intercity rail facility" after "mass commuting facility" each place it appears.

(5) Special rule for public approval.—Paragraph (3) of section 147(f) of the 1986 Code (relating to public approval required for private activity bonds) is amended—

(A) by inserting "or high-speed intercity rail facilities" after "airport" each place it appears, and

(B) by inserting "OR HIGH-SPEED INTERCITY RAIL FACILITIES" after "AIRPORTS" in the heading thereof.

(c) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 741. RULES RELATING TO REBATE ON EARNINGS ON BONA FIDE DEBT SERVICE FUND.

(a) No Rebate Where Earnings Do Not Exceed $100,000.—Clause (ii) of section 148(f)(4)(A) of the 1986 Code is amended by striking "unless the issuer otherwise elects,".

(b) $100,000 Limit Not To Apply To Certain Issues.—Subparagraph (A) of section 148(f)(4) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of an issue no bond of which is a private activity bond, clause (ii) shall be applied without regard to the dollar limitation therein if the average maturity of the issue (determined in accordance with section 147(b)(2)(A)) is at least 5 years and the rates of interest on bonds which are part of the issue do not vary during the term of the issue."

(c) Effective Date; Special Rules.—

(1) In general.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

(2) Election for outstanding bonds.—Any issue of bonds other than private activity bonds outstanding as of the date of the enactment of this Act shall be allowed a 1-time election to apply the amendments made by subsection (b) to amounts deposited after such date in bona fide debt service funds of such bonds.

(3) Definition of private activity bond.—For purposes of this section and the last sentence of section 148(f)(4)(A) of the 1986 Code (as added by subsection (b)), the term 'private activity bond' shall include any qualified 501(c)(3) bond (as defined under section 145 of the 1986 Code).

PART VI—MISCELLANEOUS PROVISIONS

SEC. 741. APPLICATION OF NET OPERATING LOSS LIMITATIONS TO BANKRUPTCY REORGANIZATIONS.

(a) Time for Determining Whether Ownership Change Occurs.—Section 621(f)(5) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: "The determination as to whether an ownership change has occurred during the period beginning January 1, 1987, and ending on the final settlement of any reorganization or proceeding described in the preceding sentence shall be redetermined as of the time of such final settlement."

(b) Election to Have New Rules Apply.—Section 621(f)(5) of the Tax Reform Act of 1986 is amended by striking out "In" and inserting in lieu thereof "Unless the taxpayer elects not to have the provisions of this paragraph apply, in".

(c) Effective Date.—The amendments made by this section shall take effect as if included in section 621(f)(5) of the Tax Reform Act of 1986.

SEC. 742. DEFINITION OF LARGE BANK.

(a) In General.—Paragraph (2) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If all the stock of a member of a parent-subsidiary controlled group is held by such group, is sold to one or more unrelated persons, the taxable years for which such member was treated as a large bank under subparagraph (B) by reason of membership in such group shall not be taken into account under this paragraph for taxable years beginning after such sale."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 901(a)(2) of the Reform Act.

SEC. 743. INTEREST EARNED BY BROKERS OR DEALERS NOT TAKEN INTO ACCOUNT AS PERSONAL HOLDING COMPANY INCOME.

(a) In General.—Paragraph (1) of section 543(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and" and by adding at the end thereof the following new subparagraph:

"(D) interest received by a broker or dealer (within the meaning of section 3(a)(4) or (5) of the Securities and Exchange Act of 1934) in connection with—

"(i) any securities or money market instruments held as property described in section 1221(1),

"(ii) margin accounts, or

"(iii) any financing for a customer secured by securities or money market instruments."

(b) Effective Date.—The amendments made by this section shall apply to interest received after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 744. TREATMENT OF CERTAIN INSTRUMENTS UNDER FOREIGN CURRENCY RULES.

(a) General Rule.—Clause (iii) of section 988(c)(1)(B) of the 1986 Code (as amended by title I) is amended by striking out "unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year".

(b) Technical Amendments.—

(1) Paragraph (1) of section 988(a) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Application of subparagraph (B) in the case of certain traders.—In the case of any instrument—

"(i) which would be marked to market under section 1256 if held on the last day of the taxable year, and

"(ii) which was entered into or acquired by the taxpayer in the active conduct of the trade or business of trading such instruments,

to the extent provided in regulations, subparagraph (B) shall be applied without regard to the requirement that the instrument not be part of a straddle and without regard to the identification requirement contained therein."

(2) Paragraph (1) of section 988(d) of the 1986 Code is amended by striking out the second sentence and inserting in lieu thereof the following: "For purposes of the preceding sentence, the term 'section 988 transaction' shall not include any transaction with respect to which an election is made under subsection (a)(1)(B)."

(c) Effective Date.—The amendments made by this section shall apply with respect to forward contracts, future contracts, options, and similar financial instruments entered into or acquired after September 8, 1988.

SEC. 745. DUAL RESIDENT COMPANIES.

(a) General Rule.—In the case of a transaction which—

(1) involves the transfer after the date of the enactment of this Act by a domestic corporation, with respect to which there is a qualified excess loss account, of its assets and liabilities to a foreign corporation in exchange for all of the stock of such foreign corporation, followed by the complete liquidation of the domestic corporation into the common parent, and

(2) qualifies, pursuant to Revenue Ruling 87-27, as a reorganization which is described in section 368(a)(1)(F) of the 1986 Code,

then, solely for purposes of applying Treasury Regulation section 1.1502-19 to such qualified excess loss account, such foreign corporation shall be treated as a domestic corporation in determining whether such foreign corporation is a member of the affiliated group of the common parent.

(b) Treatment of Income of New Foreign Corporation.—

(1) In general.—In any case to which subsection (a) applies, for purposes of the 1986 Code—

(A) the source and character of any item of income of the foreign corporation referred to in subsection (a) shall be determined as if such foreign corporation were a domestic corporation,

(B) the net amount of any such income shall be treated as subpart F income (without regard to section 952(c) of the 1986 Code), and

(C) the amount in the qualified excess loss account referred to in subsection (a) shall—

(i) be reduced by the net amount of any such income, and

(ii) be increased by the amount of any such income distributed directly or indirectly to the common parent described in subsection (a).

(2) Limitation.—Paragraph (1) shall apply to any item of income only to the extent that the net amount of such income does not exceed the amount in the qualified excess loss account after being reduced under paragraph (1)(C) for prior income.

(3) Basis adjustments not applicable.—To the extent paragraph (1) applies to any item of income, there shall be no increase in

basis under section 961(a) of such Code on account of such income (and there shall be no reduction in basis under section 961(b) of such Code on account of an exclusion attributable to the inclusion of such income).

(4) Recognition of gain.—For purposes of paragraph (1), if the foreign corporation referred to in subsection (a) transfers any property acquired by such foreign corporation in the transaction referred to in subsection (a) (or transfers any other property the basis of which is determined in whole or in part by reference to the basis of property so acquired) and (but for this paragraph) there is not full recognition of gain on such transfer, the excess (if any) of—

(A) the fair market value of the property transferred, over

(B) its adjusted basis,

shall be treated as gain from the sale or exchange of such property and shall be recognized notwithstanding any other provision of law. Proper adjustment shall be made to the basis of any such property for gain recognized under the preceding sentence.

(c) Definitions.—For purposes of this section—

(1) Common parent.—The term "common parent" means the common parent of the affiliated group which included the domestic corporation referred to in subsection (a)(1).

(2) Qualified excess loss account.—The term "qualified excess loss account" means any excess loss account (within the meaning of the consolidated return regulations) to the extent such account is attributable—

(A) to taxable years beginning before January 1, 1988, and

(B) to periods during which the domestic corporation was subject to an income tax of a foreign country on its income on a residence basis or without regard to whether such income is from sources in or outside of such foreign country.

The amount of such account shall be determined as of immediately after the transaction referred to in subsection (a) and without, except as provided in subsection (b), diminution for any future adjustment.

(3) Net amount.—The net amount of any item of income is the amount of such income reduced by allocable deductions as determined under the rules of section 954(b)(5) of the 1986 Code.

(4) Second same country corporation may be treated as domestic corporation in certain cases.—If—

(A) another foreign corporation acquires from the common parent stock of the foreign corporation referred to in subsection (a) after the transaction referred to in subsection (a),

(B) both of such foreign corporations are subject to the income tax of the same foreign country on a residence basis, and

(C) such common parent complies with such reporting requirements as the Secretary of the Treasury or his delegate may prescribe for purposes of this paragraph,

such other foreign corporation shall be treated as a domestic corporation in determining whether the foreign corporation referred to in subsection (a) is a member of the affiliated group referred to in subsection (a) (and the rules of subsection (b) shall apply (i) to any gain of such other foreign corporation on any disposition of such stock, and (ii) to any other income of such other foreign corporation except to the extent it establishes to the satisfaction of the Secretary of the Treasury or his delegate that such income is not attributable to property acquired from the foreign corporation referred to in subsection (a)).

SEC. 746. TREATMENT OF INSURANCE COMPANIES UNDER CHAIN DEFICIT RULE.

(a) In General.—Subparagraph (B) of section 952(c)(1) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(vii) Special rules for insurance income.—

"(I) In general.—An election may be made under this clause to have section 953(a) applied for purposes of this title without regard to the same country exception under paragraph (1)(A) thereof. Such election, once made, may be revoked only with the consent of the Secretary.

"(II) Special rules for affiliated groups.—In the case of an affiliated group of corporations (within the meaning of section 1504 but without regard to section 1504(b)(3) and by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears), no election may be made under subclause (I) for any controlled foreign corporation unless such election is made for all other controlled foreign corporations who are members of such group and who were created or organized under the laws of the same country as such controlled foreign corporation. For purposes of clause (v), in determining whether any controlled corporation described in the preceding sentence is a qualified insurance company, all such corporations shall be treated as 1 corporation."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 1221(f) of the Reform Act.

SEC. 747. INVESTMENT IN QUALIFIED CARIBBEAN BASIN COUNTRIES.

(a) In General.—Subparagraph (B) of section 936(d)(4) of the 1986 Code is amended by inserting "and the Virgin Islands" after "section 274(h)(6)(A)".

(b) Effective Date.—The amendment made by this section shall apply to investments made after the date of the enactment of this Act.

SEC. 748. TREATMENT OF CERTAIN INSURANCE BRANCHES OF FOREIGN CORPORATIONS.

(a) General Rule.—Section 964 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) Treatment of Certain Branches.—

"(1) In general.—For purposes of this chapter, section 6038, section 6046, and such other provisions as may be specified in regulations—

"(A) a qualified insurance branch of a controlled foreign corporation shall be treated as a separate foreign corporation created under the laws of the foreign country with respect to which such branch qualifies under paragraph (2), and

"(B) except as provided in regulations, any amount directly or indirectly transferred or credited from such branch to one or more other accounts of such controlled foreign corporation shall be treated as a dividend paid to such controlled foreign corporation.

"(2) Qualified insurance branch.—For purposes of paragraph (1), the term 'qualified insurance branch' means any branch of a controlled foreign corporation which is licensed and predominantly engaged on a permanent basis in the active conduct of an insurance business in a foreign country if—

"(A) separate books and accounts are maintained for such branch,

"(B) the principal place of business of such branch is in such foreign country,

"(C) such branch would be taxable under subchapter L if it were a separate domestic corporation, and

"(D) an election under this paragraph applies to such branch.

An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(3) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1988.

SEC. 749. TREATMENT OF CERTAIN UNITED STATES OBLIGATIONS HELD BY POSSESSION BANKS.

(a) In General.—Subsection (e) of section 882 of the 1986 Code is amended—

(1) by inserting "which is not portfolio interest (as defined in section 881(c)(2))" before "shall", and

(2) by striking out the last sentence thereof.

(b) Exclusion From Branch Profits Tax.—Paragraph (2) of section 884(d) of the 1986 Code is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or" and by inserting after subparagraph (D) the following new subparagraph:

"(E) income treated as effectively connected with the conduct of a trade or business within the United States under section 882(e)."

(c) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1988.

SEC. 750. NONCONVENTIONAL FUELS CREDIT.

(a) In General.—Section 53(d)(1)(B) of the 1986 Code (relating to credit not allowed for exclusion preferences) is amended by adding at the end thereof the following new clause:

"(iii) Special rule.—The adjusted net minimum tax for the taxable year shall be increased by the amount of the credit not allowed under section 29 (relating to credit for producing fuel from a nonconventional source) solely by reason of the application of section 29(b)(5)(B)."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 701 of the Tax Reform Act of 1986.

SEC. 751. ONE-YEAR EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Clauses (i) and (ii) of section 29(f)(1)(A) of the 1986 Code (relating to application of section) are each amended by striking out "January 1, 1990" and inserting in lieu thereof "January 1, 1991".

SEC. 752. SMALL PRODUCERS EXEMPT FROM OCCUPATIONAL TAX ON DISTILLED SPIRITS PLANTS.

(a) In General.—Section 5081 of the 1986 Code (relating to imposition and rate of occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) Exemption for Small Producers.—Subsection (a) shall not apply with respect to any taxpayer who is a proprietor of an eligible distilled spirits plant (as defined in section 5181(c)(4)."

(b) Conforming Amendment.—Paragraph (1) of section 5081(b) of the 1986 Code (relating to reduced rates for small proprietors) is amended by inserting "not described in subsection (c)" after "taxpayer".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1989.

SEC. 753. CERTAIN REPLEDGES PERMITTED.

(a) GENERAL RULE.—For purposes of section 453A(d) of the 1986 Code (relating to pledges, etc., of installment obligations), the refinancing of any indebtedness which was outstanding on December 17, 1987, and which was secured on that date and all times thereafter before such refinancing by a pledge of an installment obligation shall be treated as a continuation of the refinanced indebtedness if—

(1) the taxpayer is required by the creditor of the indebtedness to be refinanced to refinance such indebtedness, and

(2) the refinancing is not with such creditor or a person related to such creditor.

(b) LIMITATION ON PRINCIPAL AMOUNT.—Subsection (a) shall not apply to the extent that the principal amount of the indebtedness resulting from the refinancing exceeds the principal amount of the refinanced indebtedness immediately before the refinancing.

(c) LIMITATION ON EXTENSION OF TERM OF REFINANCING.—Notwithstanding subsection (a), if the term of the indebtedness resulting from the refinancing exceeds the term of the refinanced indebtedness, upon the expiration of the term of the refinanced indebtedness as in effect before the refinancing, the outstanding balance of the indebtedness resulting from the refinancing shall be treated as a payment received on any installment obligation which secures such indebtedness.

(d) EFFECTIVE DATE.—This section shall apply as if included in the provisions of section 10202 of the Revenue Act of 1987.

SEC. 754. TREATMENT OF INDIRECT HOLDINGS THROUGH TRUSTS UNDER SECTION 448 OF THE 1986 CODE.

(a) GENERAL RULE.—Paragraph (2) of section 448(d) of the 1986 Code (defining qualified personal service corporation) is amended by adding at the end thereof the following new sentence:

"To the extent provided in regulations which shall be prescribed by the Secretary, indirect holdings through a trust shall be taken into account under subparagraph (B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 755. JURY DUTY PAY REMITTED TO AN INDIVIDUAL'S EMPLOYER ALLOWED AS A DEDUCTION IN COMPUTING GROSS INCOME.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the 1986 Code (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. JURY DUTY PAY REMITTED TO EMPLOYER.

"If—

"(1) an individual receives payment for the discharge of jury duty, and

"(2) the employer of such individual requires the individual to remit any portion of such payment to the employer in exchange for payment by the employer of compensation for the period the individual was performing jury duty,

then there shall be allowed as a deduction the amount so remitted.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of the 1986 Code (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph:

"(13) JURY DUTY PAY REMITTED TO EMPLOYER.—The deduction allowed by section 220.".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the 1986 Code is amended by striking out the item relating to section 220 and inserting in lieu thereof the following new items:

"Sec. 220. Jury duty pay remitted to employer.

"Sec. 221. Cross references.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the amendments made by section 132 of the Tax Reform Act of 1986.

SEC. 756. EXCLUDE STRUCTURED SETTLEMENT ARRANGEMENTS FROM MINIMUM TAX.

(a) IN GENERAL.—The last sentence of section 56(g)(4)(B)(iii) of the 1986 Code (as amended by title I) is amended to read as follows: "The preceding sentence shall not apply to any annuity contract which is held under a plan described in section 403(a) or which is described in section 72(u)(3)(C)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701 of the Reform Act.

SEC. 757. CERTAIN CREDITOR RIGHTS PERMITTED UNDER STRUCTURED SETTLEMENT RULES.

(a) IN GENERAL.—Subsection (c) of section 130 of the 1986 Code (relating to certain personal injury liability assignments) is amended—

(1) by striking out subparagraph (C) of paragraph (2) and redesignating subparagraphs (D) and (E) of paragraph (2) as subparagraphs (C) and (D), respectively, and

(2) by adding at the end thereof the following new sentence:

"The determination for purposes of this chapter of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to assignments after the date of the enactment of this Act.

SEC. 758. NONPROFIT HOSPITAL INSURERS.

(a) IN GENERAL.—In the case of taxable years beginning after December 31, 1986, and before January 1, 1989, for purposes of determining the amount of the deduction under section 832(b)(5)(A)(ii) of the 1986 Code of any qualified nonprofit hospital insurer who elects the application of this section shall be increased by an amount equal to 20 percent (10 percent in the case of a taxable year beginning in 1988) of the excess (if any) of—

(1) the undiscounted unpaid losses determined under section 846(b) of the 1986 Code for such taxable year, over

(2) the discounted paid losses determined under section 846(a) of the 1986 Code for such taxable year.

(b) QUALIFIED NONPROFIT HOSPITAL INSURER.—For purposes of this section, the term "qualified nonprofit hospital insurer" means any domestic corporation if for the taxable year to which the election under subsection (a) applies—

(1) 75 percent or more of the value or the voting rights of such corporation are owned, or considered as owned under section 267(c) of the 1986 Code, by nonprofit health care facilities or by a trade association of such facilities,

(2) a majority of the insurance or reinsurance provided by such corporation covers risk of nonprofit health care facilities, and

(3) at least 75 percent of the insurance business of such corporation is medical malpractice or general liability insurance.

For purposes of this subsection, the term "voting rights" includes voting rights exercisable by policyholders of a mutual or reciprocal insurer or reinsurer.

(c) ELECTION.—An election under this section shall be made on the return of income tax for the taxpayer's first taxable year beginning after December 31, 1986.

(d) FRESH START PROVISIONS.—If an election is made under this section by an insurer, then paragraphs (2) and (3) of section 1023(e) of the Tax Reform Act of 1986 shall be applied with respect to such insurer by substituting for each date or calendar year contained therein the date or year which is 2 years later.

SEC. 759. APPLICATION OF SECTION 912 TO JUDICIAL EMPLOYEES.

(a) IN GENERAL.—Section 912(2) of the 1986 Code is amended by inserting "(or in the case of judicial officers or employees of the United States, in accordance with rules similar to such regulations)" after "President".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allowances received after October 12, 1987, in taxable years ending after such date.

SEC. 760. BUSINESS USE OF AUTOMOBILES BY RURAL MAIL CARRIERS.

(a) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route, such employee shall be permitted to compute the amount allowable as a deduction under chapter 1 of the Internal Revenue Code of 1986 for the use of an automobile in performing such services by using a standard mileage rate for all miles of such use equal to 150 percent of the basic standard rate.

(b) SUBSECTION (a) NOT TO APPLY IF EMPLOYEE CLAIMS DEPRECIATION DEDUCTIONS FOR AUTOMOBILE.—Subsection (a) shall not apply with respect to any automobile if, for any taxable year beginning after December 31, 1987, the taxpayer claimed depreciation deductions for such automobile.

(c) BASIC STANDARD RATE.—For purposes of this section, the term "basic standard rate" means the standard mileage rate which is prescribed by the Secretary of the Treasury or his delegate for computing the amount of the deduction for the business use of an automobile and which—

(1) is in effect at the time of the use referred to in subsection (a),

(2) applies to an automobile which is not fully depreciated, and

(3) applies to the first 15,000 miles (or such other number as the Secretary of the Treasury or his delegate may hereafter prescribe) of business use during the taxable year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1987.

SEC. 761. ETHYL ALCOHOL AND MIXTURES FOR FUEL USE.

Section 1910 of the Omnibus Trade and Competitiveness Act of 1988 is amended by adding at the end thereof the following new subsection:

"(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to ethyl alcohol, and mixtures of ethyl alcohol, entered—

"(1) during the period beginning on August 23, 1988, and ending on the date of enactment of the Technical Corrections Act of 1988, and

"(2) after the date, if any, on which the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Treasury, acting jointly, submit to the Congress, and publish in the Federal Register, a written statement certifying that the domestic ethyl alcohol production industry is not fully meeting demand for ethyl alcohol in the United States and that the quantity of ethyl alcohol, and mixtures of ethyl alcohol, that would be imported into the customs territory of the United States free of duty by reason of the amendments made by this section is necessary to maintain adequate supplies of ethyl alcohol for consumers in the United States.".

SEC. 762. CERTAIN EMPLOYER PENSION CONTRIBUTIONS NOT INCLUDED IN FICA WAGE BASE.

Any State or political subdivision thereof which—

(1) has relied in good faith on any letter ruling of the Internal Revenue Service issued after December 31, 1983, maintaining that any amount treated as an employer contribution under section 414(h)(2) of the Internal Revenue Code of 1986 is excluded from the definition of "wages" for purposes of tax liability under section 3121(v)(1)(B) of such Code, and

(2) has not paid such taxes based on such reliance,

shall be relieved of any such liability for the period ending with the earlier of the date of the enactment of this Act or receipt of a notice of revocation of the letter ruling by the Internal Revenue Service.

Subtitle C—Extension of Expiring Provisions and Other Substantive Provisions

PART I—TAXPAYER BILL OF RIGHTS

SEC. 763. SHORT TITLE.

This part may be cited as the "Omnibus Taxpayer Bill of Rights".

Subpart A—Taxpayer Rights

SEC. 764. DISCLOSURE OF RIGHTS OF TAXPAYERS.

(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare a statement which sets forth in simple and nontechnical terms—

(1) the rights of a taxpayer and the obligations of the Internal Revenue Service (hereinafter in this section referred to as the "Service") during an audit;

(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day. Any draft (or any revision of a draft) of the statement may not be distributed under subsection (c) until 90 days after the date it was transmitted to such committees.

(c) DISTRIBUTION.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers the Secretary contacts with respect to the determination or collection of any tax (other than by providing tax forms). The Secretary shall take such actions as the Secretary deems necessary to ensure that such distribution does not result in multiple statements being sent to any one taxpayer.

SEC. 765. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

"(a) RECORDING OF INTERVIEWS.—

"(1) RECORDING BY TAXPAYER.—Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

"(2) RECORDING BY IRS OFFICER OR EMPLOYEE.—An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

"(A) informs the taxpayer of such recording prior to the interview, and

"(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

"(b) SAFEGUARDS.—

"(1) EXPLANATIONS OF PROCESSES.—An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

"(A) in the case of an audit interview, an explanation of the audit process and the taxpayer's rights under such process, or

"(B) in the case of a collection interview, an explanation of the collection process and the taxpayer's rights under such process.

Such officer or employee shall notify the taxpayer at such interview if the case has been referred to the Criminal Investigation Division of the Internal Revenue Service.

"(2) RIGHT OF CONSULTATION.—If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

"(c) REPRESENTATIVES HOLDING POWER OF ATTORNEY.—Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee, with the consent of the immediate supervisor of such officer or employee, may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

"(d) SECTION NOT TO APPLY TO CERTAIN INVESTIGATIONS.—This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service."

(b) REGULATIONS WITH RESPECT TO TIME AND PLACE OF EXAMINATION.—The Secretary of the Treasury or the Secretary's delegate shall issue regulations to implement subsection (a) of section 7605 of the 1986 Code (relating to time and place of examination) within 1 year after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Procedures involving taxpayer interviews."

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall apply to interviews conducted on or after the date which is 30 days after the date of the enactment of this Act.

SEC. 766. TAXPAYERS MAY RELY ON WRITTEN ADVICE OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 of the 1986 Code (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(f) ABATEMENT OF ANY PENALTY OR ADDITION TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE.—

"(1) IN GENERAL.—The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

"(2) LIMITATIONS.—Paragraph (1) shall apply only if—

"(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

"(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to advice requested on or after the date of the enactment of this Act.

SEC. 767. TAXPAYER ASSISTANCE ORDERS.

(a) In General.—Subchapter A of chapter 80 of the 1986 Code (relating to general rules for application of the internal revenue laws) is amended by adding at the end thereof the following new section:

"SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

"(a) Authority To Issue.—Upon application filed by a taxpayer with the Office of Ombudsman (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Ombudsman may issue a Taxpayer Assistance Order if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary.

"(b) Terms of a Taxpayer Assistance Order.—The terms of a Taxpayer Assistance Order may require the Secretary—

"(1) to release property of the taxpayer levied upon, or

"(2) to cease any action, or refrain from taking any action, with respect to the taxpayer under—

"(A) chapter 64 (relating to collection),

"(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

"(C) chapter 78 (relating to discovery of liability and enforcement of title), or

"(D) any other provision of law which is specifically described by the Ombudsman in such order.

"(c) Authority To Modify or Rescind.—Any Taxpayer Assistance Order issued by the Ombudsman under this section may be modified or rescinded only by the Ombudsman, a district director, or superiors of such director.

"(d) Suspension of Running of Period of Limitation.—The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

"(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the Ombudsman's decision with respect to such application, and

"(2) any period specified by the Ombudsman in a Taxpayer Assistance Order.

"(e) Independent Action of Ombudsman.—Nothing in this section shall prevent the Ombudsman from taking any action in the absence of an application under subsection (a).

"(f) Ombudsman.—For purposes of this section, the term 'Ombudsman' includes any designee of the Ombudsman."

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 80 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7811. Taxpayer Assistance Orders."

(c) Issuance of Regulations.—The Secretary of the Treasury or the Secretary's delegate shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act in order to carry out the purposes of section 7811 of the 1986 Code (as added by this section) and to ensure taxpayers uniform access to administrative procedures.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 768. OFFICE OF INSPECTOR GENERAL.

(a) In General.—Paragraph (1) of section 2 of the Inspector General Act of 1978 (5 U.S.C. App. 3) (relating to the purpose and establishment of offices of inspector general and the departments and agencies involved) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) Addition of Department of the Treasury to List of Covered Establishments.—Section 11 of such Act (relating to definitions) is amended—

(1) by striking out "or Transportation" in paragraphs (1) and (2) and inserting in lieu thereof "Transportation, or the Treasury",

(2) by inserting "or the Commissioner of Internal Revenue" before "as the case may be", and

(3) by inserting "Internal Revenue Service" before "as the case may be".

(c) Transfer of Existing Audit and Investigation Units.—Paragraph (1) of section 9(a) of such Act (relating to transfer of functions) is amended—

(1) by redesignating subparagraphs (I), (J), (K), (L), (M), and (N) as subparagraphs (K), (L), (M), (N), (O), and (P), respectively, and

(2) by inserting after subparagraph (H) the following new subparagraphs:

"(I) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;

"(J) of the Department of the Treasury, in the Internal Revenue Service of such department, the office of that service referred to as the 'Office of Assistant Commissioner (Inspection), Internal Revenue Service';".

(d) Special Provisions Relating To Department of the Treasury.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new section:

"SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

"Sec. 8B. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall report to the Inspector General the significant investigative activities being carried out by such office.

"(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct an investigation of any officer or employee of such Department (other than the Internal Revenue Service) if—

"(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury requests the Inspector General to conduct an investigation;

"(2) the investigation concerns senior officers or employees of the Department of the Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-15 of the General Schedule or above or classified at a grade equivalent to such grade or above such equivalent grade; or

"(3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

"(c) If the Inspector General of the Department of the Treasury initiates an investigation under subsection (b), and the officer or employee of the Department of the Treasury subject to investigation is employed by or attached to a bureau or service referred to in subsection (a), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (a) with written notice that the Inspector General has initiated such an investigation. If the Inspector General issues a notice under the preceding sentence, no other investigation shall be initiated into the matter under investigation by the Inspector General and any other investigation of such matter shall cease.

"(d)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury and the Inspector General of the Internal Revenue Service shall be under the authority, direction, and control of the Secretary of the Treasury and the Commissioner of Internal Revenue, respectively, with respect to audits or investigations, or the issuance of subpenas, which require access to information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) sensitive undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 8, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

"(2) With respect to the information described in paragraph (1), the Secretary of the Treasury or the Commissioner of Internal Revenue may prohibit the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service, respectively, from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary or the Commissioner determines that such prohibition is necessary to preserve the confidentiality of or prevent the disclosure of any information described in paragraph (1).

"(3)(A) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing of such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Joint Committee on Taxation, together with any comments the Inspector General deems appropriate.

"(B) If the Commissioner of Internal Revenue exercises any power under paragraph (1) or (2), the Commissioner shall notify the Inspector General of the Internal Revenue Service in writing of such exercise. Within 30 days after receipt of such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs and the Committee on Finance of the Senate and to the Committee on Government Operations and the Committee on Ways and Means of the House of Representatives.

"(e) In addition to the standards prescribed by the first sentence of section 3(a), the Inspector General of the Internal Revenue Service shall at the time of appointment be in a career reserved position in the Senior Executive Service in the Internal Revenue Service as defined under section 3132(a)(8) of title 5, United States Code, with demonstrated ability in investigative techniques or internal audit functions with respect to the programs and operations of the Internal Revenue Service.

"(f)(1) In addition to the duties and responsibilities specified in this Act, the Inspector General of the Internal Revenue Service shall perform such duties and exercise such powers as may be prescribed by the Commissioner of Internal Revenue, to the extent such duties and powers are not inconsistent with the purposes of this Act.

"(2) No audit or investigation conducted by the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service shall affect a final decision of the Secretary of the Treasury or his designee made pursuant to section 6201 of the Internal Revenue Code of 1986 or described in section 6406 of such Code."

(e) Disclosure of Tax Returns and Return Information.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

(f) Conforming Amendment.—Section 5315 of title 5, United States Code (relating to positions of level IV) is amended by adding at the end thereof the following new items:

"Inspector General, Department of the Treasury.

"Inspector General, Internal Revenue Service."

(g) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 769. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) In General.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate enforcement officers, appeals officers, or reviewers, or

(2) to impose or suggest production quotas or goals.

(b) Application of IRS Policy Statement.—The Internal Revenue Service shall not be treated as failing to meet the requirements of subsection (a) if the Service follows the policy statement of the Service regarding employee evaluation (as in effect on the date of the enactment of this Act) in a manner which does not violate subsection (a).

(c) Certification.—Each district director shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(c) Effective Date.—The provisions of this section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 770. PROCEDURES RELATING TO INTERNAL REVENUE SERVICE REGULATIONS.

(a) In General.—Section 7805 of the 1986 Code (relating to rules and regulations) is amended by adding at the end thereof the following new subsections:

"(e) Temporary Regulations.—

"(1) Issuance.—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

"(2) 2-year duration.—Any temporary regulation shall expire within 2 years after the date of issuance of such regulation.

"(f) Impact of Regulations on Small Business Reviewed.—After the publication of any proposed regulation or before the promulgation of any final regulation by the Secretary, the Secretary shall submit such regulation to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business. The Administrator shall have 4 weeks from the date of submission to respond."

(b) Effective Date.—The provisions of this section shall apply to any regulation issued after the date of the enactment of this Act.

SEC. 771. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

(a) In General.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions), as amended by section 765(a), is further amended by adding at the end thereof the following new section:

"SEC. 7521. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

"Any tax due notice or deficiency notice, including notices described in sections 6155, 6212, and 6303, shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice."

(b) Clerical Amendment.—The table of sections for chapter 77 of the 1986 Code, as amended by section 765(c), is further amended by adding at the end thereof the following new item:

"Sec. 7521. Content of tax due and deficiency notices."

(c) Effective Date.—The amendment made by subsection (a) shall apply to mailings made after the date which is 180 days after the date of enactment of this Act.

SEC. 772. INSTALLMENT PAYMENT OF TAX LIABILITY.

(a) In General.—Subchapter A of chapter 62 of the 1986 Code (relating to place and due date for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

"(a) Authorization of Agreements.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

"(b) Extent To Which Agreements Remain in Effect.—

"(1) In general.—Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall remain in effect for the term of the agreement.

"(2) Inadequate information or jeopardy.—The Secretary may terminate any agreement entered into by the Secretary under subsection (a) if—

"(A) information which the taxpayer provided (upon request of the Secretary) to the Secretary prior to the date such agreement was entered into was inaccurate or incomplete, or

"(B) the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

"(3) Subsequent change in financial conditions.—

"(A) In general.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

"(B) Notice.—Action may be taken by the Secretary under subparagraph (A) only if—

"(i) notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

"(ii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.

"(4) Failure to pay an installment or any other tax liability when due or to provide requested financial information.—The Secretary may alter, modify, or terminate an agreement entered into by the Secretary under subsection (a) in the case of the failure of the taxpayer—

"(A) to pay any installment at the time such installment payment is due under such agreement,

"(B) to pay any other tax liability at the time such liability is due, or

"(C) to provide a financial condition update as requested by the Secretary."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 6601(b) of the 1986 Code (relating to last day prescribed for payment) is amended by inserting "or any installment agreement entered into under section 6159" after "time for payment".

(2) The table of sections for subchapter A of chapter 62 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 6159. Agreements for payment of tax liability in installments."

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 773. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.

(a) In General.—Section 7802 of the 1986 Code (relating to Commissioner of Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations) is amended by adding at the end thereof the following new subsection:

"(c) Assistant Commissioner (Taxpayer Services).—There is established within the Internal Revenue Service an office to be known as the 'Office for Taxpayers Services' to be under the supervision and direction of an Assistant Commissioner of the Internal Revenue. The Assistant Commissioner shall be responsible for telephone, walk-in, and educational services, and the design and production of tax and informational forms."

(b) Annual Reports to Congress.—The Assistant Commissioner (Taxpayer Services) and the Taxpayer Ombudsman for the Internal Revenue Service shall jointly make an annual report regarding the quality of taxpayer services provided. Such report shall be made to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subpart B—Levy and Lien Provisions

SEC. 774. LEVY AND DISTRAINT.

(a) Notice.—Section 6331(d) of the 1986 Code (relating to levy and distraint) is amended—

(1) by striking out "10 days" in paragraph (2) and inserting in lieu thereof "30 days",

(2) by striking out "10-DAY REQUIREMENT" in the heading of paragraph (2) and inserting in lieu thereof "30-DAY REQUIREMENT", and

(3) by adding at the end thereof the following new paragraph:

"(4) Information included with notice.—The notice required under paragraph (1)—

"(A) shall cite the sections of this title which relate to levy on property, sale of property, release of lien on property, and redemption of property, and

"(B) shall include a description of—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

"(v) the provisions of this title relating to redemption of property and release of liens on property, and

"(vi) the procedures applicable to the redemption of property and the release of a lien on property under this title."

(b) Effect of Levy on Salary and Wages.—

(1) In general.—Subsection (e) of section 6331 of the 1986 Code (relating to levy and distraint) is amended to read as follows:

"(e) Continuing Levy on Salary and Wages.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343."

(2) Cross reference.—Section 6331(f) of the 1986 Code (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For release and notice of release of levy, see section 6343."

(c) Property Exempt From Levy.—

(1) Fuel, provisions, furniture, personal effects, books, tools, and machinery.—Section 6334 of the 1986 Code (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(e) Adjustments for Inflation for Certain Property.—In the case of calendar years 1989 and 1990, each dollar amount contained in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(1) such dollar amounts, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year.

In the case of any calendar year after 1990, such dollar amounts shall be such dollar amounts in effect in 1990."

(2) Wages, salary, and other income.—

(A) Increase in amount exempt.—Paragraph (1) of section 6334(d) of the 1986 Code (relating to exempt amount of wages, salary, or other income) is amended to read as follows:

"(1) Individuals on weekly basis.—In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount."

(B) Exempt amount defined.—Subsection (d) of section 6334 of the 1986 Code (relating to property exempt from levy) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Exempt amount.—For purposes of paragraph (1), the term 'exempt amount' means an amount equal to—

"(A) the sum of—

"(i) the standard deduction, and

"(ii) the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs, divided by

"(B) 52."

(3) Property exempt in absence of approval or jeopardy.—

(A) In general.—Subsection (a) of section 6334 of the 1986 Code (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(12) Property exempt in absence of certain approval or jeopardy.—Except to the extent provided in subsection (f)—

"(A) the principal residence of the taxpayer (within the meaning of section 1034), and

"(B) any tangible personal property essential in carrying on the trade or business of the taxpayer, but only if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business."

(B) Levy permitted in case of jeopardy or approval by certain officials.—Section 6334 of the 1986 Code, as amended by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) Levy Allowed on Certain Property in Case of Jeopardy or Certain Approval.—Property described in subsection (a)(12) shall not be exempt from levy if—

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

"(2) the Secretary finds that the collection of tax is in jeopardy."

(d) Uneconomical Levy; Levy on Appearance Date of Summons.—Section 6331 of the 1986 Code (relating to levy and distraint) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsections:

"(f) Uneconomical Levy.—No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

"(g) Levy on Appearance Date of Summons.—

"(1) In general.—No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

"(2) No application in case of jeopardy.—This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy."

(e) Surrender of Bank Accounts Subject to Levy Only After 21 Days.—

(1) In general.—Section 6332 of the 1986 Code (relating to surrender of property subject to levy) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Special Rule for Banks.—Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy."

(2) Conforming amendments.—

(A) Subsection (a) of section 6332 of the 1986 Code is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)"

(B) Subsection (e) of section 6332 of the 1986 Code, as redesignated by subsection (a), is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)(1)"

(f) Release of Levy.—Subsection (a) of section 6343 of the 1986 Code (relating to release of levy) is amended to read as follows:

"(a) Release of Levy and Notice of Release.—

"(1) In general.—Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

"(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

"(B) release of such levy will facilitate the collection of such liability,

"(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

"(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

"(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

"(2) Subsequent levy.—The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property."

(g) Effective Date.—The amendments made by this section shall apply to levies issued 90 days after the date of the enactment of this Act.

SEC. 775. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES.

(a) In General.—Subsection (a)(1) of section 7429 of the 1986 Code (relating to review of jeopardy assessment procedures) is amended—

(1) by inserting "or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a)," after "6862,", and

(2) by inserting "or levy" after "such assessment".

(b) Administrative Determinations.—Paragraph (3) of section 7429(a) of the 1986 Code (relating to redetermination by the Secretary) is amended to read as follows:

"(3) Redetermination by secretary.—After a request for review is made under paragraph (2), the Secretary shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances."

(c) Tax Court Review Jurisdiction.—Subsection (b) of section 7429 of the 1986 Code is amended to read as follows:

"(b) Judicial Review.—

"(1) Proceedings permitted.—Within 90 days after the earlier of—

"(A) the day the Secretary notifies the taxpayer of the Secretary's determination described in subsection (a)(3), or

"(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States for a determination under this subsection in the court with jurisdiction determined under paragraph (2).

"(2) Jurisdiction for determination.—

"(A) In general.—Except as provided in subparagraph (B), the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

"(B) Tax court.—If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment or levy that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court also shall have jurisdiction over any civil action for a determination under this subsection with respect to all the taxes and taxable periods included in such written statement.

"(3) Determination by court.—Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances. If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

"(4) Order of court.—If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate."

(d) Venue.—Section 7429(e) of the 1986 Code (relating to venue) is amended to read as follows:

"(e) Venue.—

"(1) District court.—A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code.

"(2) Transfer of actions.—If a civil action is filed under subsection (b) with the Tax Court and such court finds that there is want of jurisdiction because of the jurisdiction provisions of subsection (b)(2), then the Tax Court shall, if such court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed. Any civil action so transferred shall proceed as if such action had been filed in the district court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred."

(e) Conforming Amendments.—

(1) Section 7429(c) of the 1986 Code (relating to extension of 20-day period where taxpayer so requests) and section 7429(f) (relating to finality of determination) are amended by striking out "district" each place it appears.

(2) Section 7429(g) of the 1986 Code (relating to burden of proof) is amended—

(A) by inserting "the making of a levy described in subsection (a)(1) or" after "whether" in paragraph (1),

(B) by striking out "termination" in the heading of paragraph (1) and inserting in lieu thereof "levy, termination,", and

(C) by striking out "an action" and inserting in lieu thereof "a proceeding" in paragraphs (1) and (2).

(3) The heading of section 7429 of the 1986 Code is amended by inserting "levy or" after "jeopardy".

(4) The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by inserting "levy or" after "jeopardy" in the item relating to section 7429.

(f) Effective Date.—The amendments made by this section shall apply to jeopardy levies issued and assessments made after the date of the enactment of this Act.

SEC. 776. ADMINISTRATIVE APPEAL OF LIENS.

(a) Establishment of Administrative Appeal for Disputed Liens.—Subchapter C of chapter 64 of the 1986 Code (relating to lien for taxes) is amended by redesignating section 6326 as section 6327 and inserting after section 6325 the following new section:

"SEC. 6326. ADMINISTRATIVE APPEAL OF LIENS.

"(a) In General.—In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien."

"(b) Certificate of Release.—If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall immediately issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous."

(b) Regulations.—The Secretary of the Treasury or the Secretary's delegate shall prescribe the regulations necessary to implement the administrative appeal provided for in the amendment made by subsection (a) within 180 days after the date of the enactment of this Act.

(c) Clerical Amendment.—The table of sections for subchapter C of chapter 64 of the 1986 Code is amended by striking out the item relating to section 6326 and inserting in lieu thereof the following:

"Sec. 6326. Administrative appeal of liens.

"Sec. 6327. Cross references."

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subpart C—Proceedings by Taxpayers

SEC. 777. AWARDING OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

(a) In General.—Section 7430 of the 1986 Code is amended to read as follows:

"SEC. 7430. AWARDING OF COSTS AND CERTAIN FEES.

"(a) In General.—In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

"(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

"(2) reasonable litigation costs incurred in connection with such court proceeding.

"(b) Limitations.—

"(1) Requirement that administrative remedies be exhausted.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) in any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(2) Only costs allocable to the United States.—An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

"(3) Exclusion of declaratory judgment proceedings.—

"(A) In general.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) Exception for section 501(c)(3) determination revocation proceedings.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(4) Costs denied where party prevailing protracts proceedings.—No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

"(c) Definitions.—For purposes of this section—

"(1) Reasonable litigation costs.—The term 'reasonable litigation costs' includes—

"(A) reasonable court costs, and

"(B) based upon prevailing market rates for the kind or quality of services furnished—

"(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

"(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for such proceeding, justifies a higher rate.

"(2) Reasonable administrative costs.—The term 'reasonable administrative costs' means—

"(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

"(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(B) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after the earlier of (i) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals, or (ii) the date of the notice of deficiency.

"(3) Attorney's fees.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(4) Prevailing party.—

"(A) In general.—The term 'prevailing party' means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

"(i) with respect to which the United States fails to establish that the position of the United States was substantially justified,

"(ii) which—

"(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

"(iii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

"(B) Determination as to prevailing party.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made by agreement of the parties or—

"(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

"(ii) in the case where such final determination is made by a court, the court.

"(5) Administrative proceedings.—The term 'administrative proceeding' means any procedure or other action before the Internal Revenue Service.

"(6) Court proceedings.—The term 'court proceeding' means any civil action brought in a court of the United States (including the Tax Court and the United States Claims Court).

"(7) Position of united states.—The term 'position of the United States' means the position taken by the United States in the proceeding to which subsection (a) applies as of the later of—

"(A) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals (or if earlier, the date of the notice of deficiency), or

"(B) the date by which the taxpayer has presented the relevant evidence within the control of the taxpayer and legal arguments with respect to such proceeding to examination or service center personnel of the Internal Revenue Service.

"(d) Special Rules for Payment of Costs.—

"(1) Reasonable administrative costs.—An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(2) Reasonable litigation costs.—An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

"(e) Multiple Actions.—For purposes of this section, in the case of—

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

"(f) Right of Appeal.—

"(1) Court proceedings.—An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, shall be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

"(2) Administrative proceedings.—A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to appeal to the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute)."

(b) Conforming Amendment.—Section 504 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) No award may be made under this section for costs, fees, or other expenses which may be awarded under section 7430 of the Internal Revenue Code of 1986."

(c) Clerical Amendment.—The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by striking out "court" in the item relating to section 7430.

(d) Effective Date.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 778. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO FAILURE TO RELEASE LIEN.

(a) In General.—Subchapter B of chapter 76 of the 1986 Code (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7432 as section 7433 and by inserting after section 7431 the following new section:

"SEC. 7432. CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

"(a) In General.—If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, or

"(B) $100 per day for each day occurring after the date which is 10 days after the taxpayer has notified the Secretary in writing (in such form and manner as the Secretary may provide) of such failure after the end of the period described in section 6325, and

"(2) the costs of the action.

"(c) Tax Court Jurisdiction.—The Tax Court shall have jurisdiction of any action brought under subsection (a) in the same manner as a claim for refund.

"(d) Settlement and Payment Authority.—The Secretary may settle any claims that could have been filed under this section. Such claims shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(e) Limitations.—

"(1) Requirement that administrative remedies be exhausted.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) Mitigation of damages.—The amount of damages awarded under subsection (b)(1)(A) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(3) Limitation on per diem damages.—No award for damages described in subsection (b)(1)(B) shall exceed $1,000.

"(4) Period for bringing action.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the failure to release a lien under section 6325 by the defendant."

SEC. 782. JURISDICTION TO REVIEW CERTAIN SALES OF SEIZED PROPERTY.

(a) Jurisdiction To Review Certain Sales of Property.—Section 6863(b)(3) of the 1986 Code (relating to stay of sale of seized property pending Tax Court decision) is amended by adding at the end thereof the following new subparagraph:

"(C) Review by tax court.—If, but for the application of subparagraph (B), a sale would be prohibited by subparagraph (A)(iii), then the Tax Court shall have jurisdiction to review the Secretary's determination under subparagraph (B) that the property may be sold. Such review may be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court."

(b) Effective Date.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 783. JURISDICTION TO REDETERMINE INTEREST ON DEFICIENCIES.

(a) In General.—Section 7481 of the 1986 Code (relating to date when Tax Court decision becomes final) is amended by adding at the end thereof the following new subsection:

"(c) Jurisdiction Over Interest Determinations.—Notwithstanding subsection (a), if—

"(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

"(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court."

(b) Conforming Amendments.—

(1) Section 6512(a) of the 1986 Code (relating to effect of petition to Tax Court) is amended by inserting after "section 6213(a)" the following: "(or 7481(c) with respect to a determination of statutory interest)".

(2) Subsection (a) of section 7481 of the 1986 Code is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)".

(c) Effective Date.—The amendments made by this section shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act.

SEC. 784. JURISDICTION TO MODIFY DECISIONS IN CERTAIN ESTATE TAX CASES.

(a) In General.—Section 7481 of the 1986 Code (relating to date when Tax Court decision becomes final), as amended by section 783(a), is further amended by adding at the end thereof the following new subsection:

"(d) Decisions Relating To Estate Tax Extended Under Section 6166.—If with respect to a decedent's estate subject to a decision of the Tax Court—

"(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

"(2) there is treated as an administrative expense under section 2053 either—

"(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

"(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) Conforming Amendments.—

(1) Section 6512(a) of the 1986 Code (relating to effect of petition to Tax Court), as amended by section , is further amended by striking out "interest)" and inserting in lieu thereof "interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court)".

(2) Subsection (a) of section 7481 of the 1986 Code, as amended by section 783(b)(2), is further amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(c) Effective Date.—The amendments made by this section shall be effective with respect to Tax Court cases for which the decision is not final on the date of the enactment of this Act.

SEC. 785. REFUND JURISDICTION FOR THE UNITED STATES TAX COURT.

(a) In General.—Section 7442 of the 1986 Code (relating to jurisdiction of the Tax Court) is amended to read as follows:

"SEC. 7442. JURISDICTION.

"(a) General Rule.—The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10-87), or by laws enacted subsequent to February 26, 1926.

"(b) Refund Jurisdiction.—Subject to the provisions of subsection (c), the Tax Court and its divisions shall have original jurisdiction of any civil action against the Secretary for the recovery of any tax, addition to the tax, additional amount, or penalty (including interest thereon) which would be subject to the deficiency procedures of subchapter B of chapter 63 if the Secretary determined a deficiency therein. The jurisdiction shall include any counterclaim, set-off, or equitable recoupment against (or for) the taxpayer.

"(c) Limitations.—No civil action shall be commenced by a taxpayer in the Tax Court under subsection (b) unless—

"(1) there is then pending and awaiting submission in the Tax Court an action commenced by the taxpayer to contest a deficiency determined by the Secretary for a taxable period or type of tax different from the taxable period or type of tax which would be the subject of a civil action under subsection (b), and

"(2)(A) one or more issues in the civil action under subsection (b) is related by subject matter to one or more issues in the pending case, or

"(B) the result in the civil action under subsection (b) would affect the amount in controversy in the pending case, or the result in the pending case would affect the amount in controversy in a civil action under subsection (b).

"(d) Stay of Proceedings Where No Prior Audit.—If—

(1) a civil action is filed in the Tax Court under subsection (b), and

(2) the Secretary shows to the satisfaction of a judge of the Tax Court or a special trial judge of the Court that the Secretary has not examined books and witnesses under section 7602 for the taxable period or periods or type of tax involved in the civil action filed under subsection (b),

all proceedings in the Tax Court in both the pending case and the civil action under subsection (b) shall be stayed for a period of 180 days. The stay of proceedings under this subsection may be extended for an additional period or periods under extraordinary circumstances for good cause shown. During any stay of proceedings in a civil action under subsection (b), the provisions of chapter 78 (relating to discovery of liability and enforcement of title) shall be applied with regard to the tax liabilities in dispute in such civil action as though the civil action had not been brought in the Tax Court.

"(e) Transfer of Actions.—If a civil action is filed under subsection (b) with the Tax Court and such Court finds that there is want of jurisdiction because of the provisions of subsection (c), then the Tax Court shall, if such Court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed or to the United States Claims Court, at the election of the taxpayer. Any civil action so transferred shall proceed as if such action had been filed in the court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred."

(b) Conforming Amendments.—

(1) Amendment of section 6212.—Paragraph (1) of section 6212(c) of the 1986 Code (relating to further deficiency letters restricted) is amended by inserting "or if the taxpayer has commenced a proceeding under section 7442(b)," after "section 6213(a),".

(2) Amendment of section 6214.—Subsection (a) of section 6214 of the 1986 Code (relating to determinations by Tax Court) is amended to read as follows:

"(a) Jurisdiction as to Increase of Deficiency, Additional Amounts, or Additions to the Tax.—

"(1) Jurisdiction to determine.—Except as provided by paragraph (2) and by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or any addition to the tax should be assessed, if claim therefor is asserted by the Secretary at or before the hearing or a rehearing.

"(2) Limit on determination.—In the case of any proceeding under section 7442(b), no deficiency shall be determined unless the Tax Court determines as part of the Court's decision that such deficiency was asserted by the Secretary in an appropriate pleading filed with the Tax Court within the period of limitations provided in section 6501."

(3) Amendment of section 6228.—Paragraphs (1)(B) and (2)(A)(i) of section 6228(b) of the 1986 Code (relating to certain requests for administrative adjustment) are each amended by inserting "or 7442(b)" after "section 7422".

(4) Amendment of section 6512.—Paragraph (1) of section 6512(b) of the 1986 Code (relating to overpayment determined by Tax Court) is amended by inserting "if the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes), if the taxpayer files a petition with the Tax Court within the time prescribed by section 6213(a), and" after "section 7463,".

(5) Amendments of section 7422.—

(A) The first sentence of paragraph (1) of section 7422(f) of the 1986 Code (relating to limitation on right of action for refund) is amended by striking out "A suit" and inserting in lieu thereof "Except as provided in section 7442(b), a suit"

(B) Section 7422 of the 1986 Code (relating to civil actions for refund) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Special Rule in Case of Notice of Deficiency.—If the Secretary has sent a notice of deficiency with respect to income tax for a taxable year, gift tax for a calendar year or calendar quarter, estate tax in respect to the taxable estate of a decedent, tax imposed by chapters 41, 42, 43, or 44 with respect to an act (or failure to act), or tax imposed by chapter 45 for a taxable period, no proceeding under section 7442(b) may be commenced in the Tax Court with respect to any such tax for so long as the taxpayer is permitted to file a petition with the Tax Court for a redetermination of such deficiency."

(6) Amendments of section 7423.—

(A) Section 7423 of the 1986 Code (relating to repayments to officers or employees) is amended to read as follows:

"SEC. 7423. RECOVERIES AGAINST OFFICERS OR EMPLOYEES.

"(a) Repayments to Officers or Employees.—The Secretary, subject to regulations prescribed by the Secretary, is authorized to repay—

"(1) Collections recovered.—To any officer or employee of the United States the full amount of such sums of money as may be recovered against such officer or employee in any court, for any internal revenue taxes collected by such officer or employee, with the cost and expense of suit.

"(2) Damages and costs.—All damages and costs recovered against any officer or employee of the United States in any suit brought against such officer or employee by reason of anything done in the due performance of such officer's or employee's official duty under this title.

"(b) No Execution Against Secretary.—Execution shall not issue against the Secretary for a refund on a final decision of the Tax Court in a proceeding under section 7442(b), but any amount payable as a result of such decision shall be payable in the same manner as such an award by a district court."

(B) The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by striking out the item relating to section 7423 and inserting in lieu thereof the following new item:

"Sec. 7423. Recoveries against officers or employees."

(7) Amendments of section 7451.—

(A) Section 7451 of the 1986 Code (relating to fee for filing petition) is amended by striking out "petition" and inserting in lieu thereof "initial pleading", and by inserting "or for the recovery of any amount under section 7442(b)" after "section 6228(a)".

(B) The heading of section 7451 of the 1986 Code is amended by striking out "petition" and inserting in lieu thereof "initial pleading".

(C) The table of sections for part II of subchapter C of chapter 76 of the 1986 Code is amended by striking out "petition" in the item relating to section 7451 and inserting in lieu thereof "initial pleading".

(8) Amendment of section 7459.—The first sentence of subsection (c) of section 7459 of the 1986 Code (relating to reports and decisions) is amended by inserting "or overpayment" after "amount of the deficiency".

(9) Amendment of section 7463.—The first sentence of subsection (a) of section 7463 of the 1986 Code (relating to disputes involving $10,000 or less) is amended by striking out "petition" and inserting in lieu thereof "pleading", and by inserting "or for a refund," after "of a deficiency".

(10) Amendments of section 7482.—

(A) Subparagraph (A) of section 7482(b)(1) of the 1986 Code (relating to venue) is amended by inserting "or a refund" after "tax liability".

(B) Subparagraph (B) of section 7482(b)(1) of the 1986 Code is amended by inserting "or a refund" after "tax liability", and by inserting "or refund" after "the liability".

(C) The last sentence of section 7482(b)(1) of the 1986 Code is amended by striking out "petition" the first time it appears and inserting in lieu thereof "initial pleading", and by inserting "or a refund" after "tax liability".

(c) Effective Date.—The amendments made by this section shall apply with respect to proceedings commenced in the United States Tax Court on or after the date which is 6 months after the date of the enactment of this Act.

PART II—EXTENSION OF EXPIRING TAX PROVISIONS

SEC. 786. CARRYOVER OF POST-1987 LOW-INCOME HOUSING CREDIT DOLLAR AMOUNTS PERMITTED.

(a) In General.—Section 42(h)(6) of the 1986 Code (relating to housing credit dollar amount may not be carried over, etc.), as amended by section 102(l)(14)(A), is amended by adding at the end thereof the following new subparagraph:

"(E) Exception where 10 percent of cost incurred in 1st year.—

"(i) In general.—An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which ends the taxable year to which the allocation will 1st apply.

"(ii) Qualified building.—For purposes of clause (i), the term 'qualified building' means a building—

"(I) more than 10 percent of the reasonably anticipated cost of which is incurred before the close of the calendar year in which ends the taxable year to which the allocation will 1st apply, and

"(II) which is a new building (or is treated under subsection (e) as a new building) when placed in service."

(b) Conforming Amendment.—Section 42(h)(6)(B) of the 1986 Code, as amended by section 102(l)(14)(A), is amended by striking out "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)".

(c) Effective Date.—The amendments made by this section shall apply to amounts allocated in calendar years after 1987.

SEC. 787. EXTENSION OF AUTHORITY TO ISSUE MORTGAGE REVENUE BONDS AND MORTGAGE CREDIT CERTIFICATES.

(a) Bonds.—

(1) In general.—Subparagraph (B) of section 143(a)(1) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "June 30, 1989".

(2) Special rule.—The date contained in section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such section 103A(c)(1) applies.

(b) Certificates.—Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages), as amended by section 113(a)(26) of this Act, is amended by striking out "for any calendar year after 1988" and inserting in lieu thereof "after June 30, 1989".

SEC. 788. EXTENSION AND MODIFICATION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) Extension.—Subsection (d) of section 127 of the 1986 Code (relating to educational assistance programs) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1988".

(b) Restrictions Relating to Education at the Graduate Level.—

(1) In general.—Paragraph (1) of section 127(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree."

(2) Exception for teaching and research assistants.—

(A) Paragraph (8) of section 127(c) of the 1986 Code is amended to read as follows:

"(8) Special rules for teaching and research assistants.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, the last sentence of paragraph (1) of this subsection shall not apply."

(B) Subsection (d) of section 117 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Special rules for teaching and research assistants.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, paragraph (2) shall be applied as if it did not contain the phrase '(below the graduate level)'. The preceding sentence shall not apply to taxable years beginning after December 31, 1988."

(c) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

SEC. 789. EXTENSION AND MODIFICATION OF EXCLUSION OF AMOUNTS RECEIVED UNDER GROUP LEGAL SERVICES PLANS.

(a) Extension.—Section 120(e) of the 1986 Code is amended by striking out striking out "1987" and inserting in lieu thereof "1988".

(b) Limitation on Value of Insurance Protection Which May Be Excluded.—

(1) In general.—Section 120(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"No exclusion shall be allowed under this section with respect to an individual for any taxable year to the extent that the value of insurance (whether through an insurer or self-insurance) against legal costs incurred by the individual (or his spouse or dependents) provided under a qualified group legal services plan exceeds $70."

(2) Conforming amendment.—Subparagraph (A) of section 125(e)(2) of the 1986 Code is amended by inserting "or any insurance under a qualified group legal services plan the value of which is so includable only because it exceeds the limitation of section 120(a)" after "section 79".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1987.

SEC. 790. EXTENSION OF SPECIAL STUDENT LOAN POOL ARBITRAGE RULES.

Subsection (c)(2)(B) of section 148 of the 1986 Code (relating to arbitrage) is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

SEC. 791. EXTENSION OF CERTAIN BUSINESS ENERGY CREDITS.

Each of the following provisions in the table under section 46(b)(2)(A) of the 1986 Code are amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989":

(1) The item relating to the 10 percent credit in clause (viii).

(2) The item relating to the 10 percent credit in clause (ix).

(3) Clause (x).

SEC. 792. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 6-Month Extension.—Paragraph (4) of section 51(c) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(b) Extension of Authorization.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "and 1988" and inserting in lieu thereof "1988 and 1989".

(c) Reduction in Percentage of Credit for Summer Youth Employees.—

(1) In general.—Subparagraph (B) of section 51(d)(12) of the 1986 Code is amended by striking out clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(2) Effective date.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1988.

SEC. 793. EXTENSION OF RESEARCH CREDIT.

Subsection (h) of section 41 of the 1986 Code (relating to credit for increasing research activities) is amended—

(1) by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "March 31, 1989",

(2) by striking out "January 1, 1989" each place it appears and inserting in lieu thereof "April 1, 1989", and

(3) by adding at the end thereof the following new paragraph:

"(3) Computation of research expenditures.—

"(A) In general.—Notwithstanding paragraph (1), in the case of a taxable year which begins before April 1, 1989, and ends after December 31, 1988, the amount of the qualified research expenditures and basic research payments taken into account under subsection (a) for such taxable year shall be the applicable percentage of the amount of such expenditures and payments made during calendar year 1989.

"(B) Applicable percentage.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage determined by dividing the number of months in the taxable year which occur during the period beginning January 1, 1989, and ending March 31, 1989, by 12."

SEC. 794. EXTENSION AND MODIFICATIONS OF PROVISIONS RELATING TO FINANCIAL INSTITUTIONS.

(a) 6-Month Extension.—

(1) Reorganizations.—Paragraph (1) of section 902(c) of the Reform Act is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(2) FSLIC financial assistance.—Paragraph (2)(A) of section 902(c) of the Reform Act is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(3) Net operating loss rules.—The last sentence of section 382(l)(5)(F) of the 1986 Code is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(b) Application of Certain Provisions to Banks.—

(1) Special rules for reorganizations and net operating losses.—

(A) Section 368(a)(3)(D) of the 1986 Code (as in effect before the amendment made by section 904(a) of the Reform Act) is amended by adding at the end thereof the following new clause:

"(iv) In the case of a financial institution to which section 585 applies—

"(I) the term 'title 11 or similar case' means only a case in which the applicable authority (which shall be treated as the court in such case) makes the certification described in subclause (II), and

"(II) clause (ii) shall apply to such institution, except that for purposes of clause (ii)(III), the applicable authority must certify that the grounds set forth in such clause (modified in such manner as the Secretary determines necessary because such institution is not an institution to which section 593 applies) exist with respect to such transferor or will exist in the near future in the absence of action by the applicable authority.

For purposes of this clause, the term 'applicable authority' means the Comptroller of the Currency or the Federal Deposit Insurance Corporation, or if neither has the supervisory authority with respect to the transfer, the equivalent State authority."

(B) Subclause (I) of section 382(l)(5)(F)(iii) of the 1986 Code is amended by inserting "(as modified by section 368(a)(D)(iv))" after "section 368(a)(D)(ii)".

(C)(i) The amendment made by subparagraph (A) shall apply to acquisitions after December 31, 1988, and before July 1, 1989.

(ii) The amendment made by subparagraph (B) shall apply to any ownership change occurring after December 31, 1988, and before July 1, 1989.

(2) Assistance payments.—

(A) Section 597(a) of the 1986 Code (as in effect before the amendments made by section 904(b) of the Reform Act) is amended by adding at the end thereof the following new sentence: "Gross income of a bank does not include any amount of money or other property received from the Federal Deposit Insurance Corporation pursuant to section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)), regardless of whether any note or other instrument is issued in exchange therefor."

(B) Section 597(b) of the 1986 Code (as so in effect) is amended by inserting "or bank" after "association".

(C)(i) The heading for section 597 of the 1986 Code (as so in effect) is amended by inserting "or FDIC" after "FSLIC".

(ii) The item relating to section 597 in part II of subchapter H of chapter 1 of the 1986 Code (as so in effect) is amended by inserting "or FDIC" after "FSLIC".

(D) The amendments made by this paragraph shall apply to transfers after December 31, 1988, and before July 1, 1989, except that such amendments shall also apply to transfers after June 30, 1989, pursuant to acquisitions after December 31, 1988, and before July 1, 1989.

(c) Certain Tax Attributes Reduced by 50 Percent of Financial Assistance of FSLIC and FDIC.—

(1) In general.—Section 597 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) Reduction of Tax Attributes by 50 Percent of Amounts Excludable Under Subsection (a).—

"(1) In general.—50 percent of any amount excludable under subsection (a) for any taxable year shall be applied to reduce the tax attributes of the taxpayer as provided in paragraph (2).

"(2) Tax attributes reduced; order of reduction.—The reduction referred to in paragraph (1) shall be made in the following tax attributes in the following order:

"(A) NOL.—Any pre-assistance net operating loss for the taxable year.

"(B) Interest.—The amount of any interest with respect to which a deduction is allowable for the taxable year.

"(C) Built-in portfolio losses.—Recognized built-in portfolio losses for the taxable year.

"(3) Pre-assistance net operating loss.—For purposes of paragraph (2)(A)—

"(A) In general.—The pre-assistance net operating loss shall be determined in the same manner as a pre-change loss under section 382(d), except that—

"(i) the applicable financial institution shall be treated as the old loss corporation, and

"(ii) the determination date shall be substituted for the change date.

"(B) Ordering rule.—The reduction under paragraph (2)(A) shall be made in the carryovers in the order in which carryovers are taken into account under this chapter for the taxable year.

"(4) RECOGNIZED BUILT-IN PORTFOLIO LOSSES.—For purposes of paragraph (2)(C), recognized built-in portfolio losses shall be determined in the same manner as recognized built-in losses under section 382(h), except that—

"(A) the only assets taken into account shall be the loan portfolio of the applicable financial institution,

"(B) the rules of clauses (i) and (ii) of paragraph (3)(A) shall apply, and

"(C) there shall be no limit on the number of years in the recognition period.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) APPLICABLE FINANCIAL INSTITUTIONS.—The term 'applicable financial institutions' means the domestic building and loan association or bank the financial condition of which was determined by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation to require the financial assistance described in subsection (a).

"(B) DETERMINATION DATE.—The term 'determination date' means the date of the determination under subparagraph (A). Except as provided by the Secretary, any subsequent revision or modification of such determination shall be treated as made on the original determination date.

"(C) TAXABLE ASSET ACQUISITIONS.—In the case of any acquisition of the assets of any applicable financial institution to which section 381 does not apply, paragraph (1) shall not apply to any amount excludable under subsection (a) which are payments made at the time of the acquisition to the person acquiring such assets to make up the difference between the value of such assets and the liabilities assumed.

"(D) CARRYOVERS.—If 50 percent of the amount excludable under subsection (a) for any taxable year exceeds the amount of the tax attributes described in paragraph (2) for such taxable year, then, for purposes of this subsection, the amount excludable under subsection (a) for the succeeding taxable year shall be increased by an amount equal to twice the amount of such excess.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers after December 31, 1988, and before July 1, 1989 (except that such amendments shall also apply to transfers pursuant to acquisitions or determinations made during such period).

PART III—OTHER SUBSTANTIVE PROVISIONS

SEC. 795. AMENDMENTS TO UNIFORM CAPITALIZATION RULES.

(a) TREATMENT OF CERTAIN PRODUCERS OF CREATIVE PROPERTY.—Section 263A of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

"(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

"(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term 'qualified creative expense' means any expense—

"(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

"(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) WRITER.—The term 'writer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

"(B) PHOTOGRAPHER.—The term 'photographer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

"(C) ARTIST.—

"(i) IN GENERAL.—The term 'artist' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition.

"(ii) CRITERIA.—In determining whether any expense is paid or incurred in the trade or business of being an artist, the following criteria shall be taken into account:

"(I) The originality and uniqueness of the item created (or to be created).

"(II) The predominance of aesthetic value over utilitarian value of the item created (or to be created).

"(D) TREATMENT OF CERTAIN PERSONAL SERVICE CORPORATIONS.—

"(i) IN GENERAL.—In the case of a personal service corporation, this subsection shall apply to any expense of such corporation which directly relates to the activities of the qualified employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—The term 'qualified employee-owner' means any individual who is an employee-owner of the personal service corporation and who is a writer, photographer, or artist, but only if substantially all of the stock of such corporation is owned by such individual and members of his family (as defined in section 267(c)(4)).

"(iii) PERSONAL SERVICE CORPORATION.—For purposes of this subparagraph, the term 'personal service corporation' means any personal service corporation (as defined in section 269A(b))."

(b) TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.—

(1) IN GENERAL.—Subparagraph (A) of section 263A(d)(1) of the 1986 Code (relating to exception for farming businesses) is amended to read as follows:

"(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(2) CONFORMING AMENDMENTS.—

(A) The heading of paragraph (1) of section 263A(d) of the 1986 Code is amended to read as follows:

"(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—".

(B) Subsections (d)(3) and (e) of section 263A of the 1986 Code are each amended by striking out "or animal" each place it appears.

(c) TREATMENT OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.—

(1) IN GENERAL.—Paragraph (3) of section 168(e) of the 1986 Code (relating to classification of property) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraphs:

"(D) 10.5-YEAR PROPERTY.—The term '10.5-year property' means any single purpose agricultural or horticultural structure (within the meaning of section 48(p))."

(2) TECHNICAL AMENDMENTS.—

(A) The table contained in paragraph (1) of section 168(c) of the 1986 Code (as amended by title I) is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

10-year property............	10 years
10.5-year property.........	10.5 years".

(B) Subparagraph (C) of section 168(e)(3) of the 1986 Code is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(C) The table contained in subparagraph (B) of section 168(g)(3) of the 1986 Code is amended by striking out all that follows the item relating to subparagraph (C)(i) and inserting in lieu thereof the following new items:

"(D)................................	10.5
(E)(i)...............................	24
(E)(ii)..............................	24
(F)...................................	50."

(D) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by striking out the item relating to 10-year property and inserting in lieu thereof of the following new items:

10-year property............	10 years
10.5-year property.........	10.5 years".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to property placed in service after December 31, 1988.

(B) EXCEPTION.—The amendments made by this subsection shall not apply to any property if such property is placed in service before January 1, 1990, and if such property—

(i) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(ii) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

(d) TREATMENT OF PROPERTY USED IN A FARMING BUSINESS.—

(1) IN GENERAL.—Paragraph (2) of section 168(b) of the 1986 Code (as amended by title I) is amended by striking out "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) any property used in a farming business (within the meaning of section 263A(e)(4)), or".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(B) Exception.—The amendments made by this section shall not apply to any property if such property is placed in service before July 1, 1989, and if such property—

(i) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(ii) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

(e) Effective Dates.—

(1) In general.—Except as otherwise provided in subsections (c) or (d) or this paragraph, the amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) Subsection (b).—

(A) In general.—The amendments made by subsection (b) shall apply to costs incurred after December 31, 1988, in taxable years ending after such date.

(B) Revocation of election.—If the taxpayer made an election under section 263A(d)(3) of the 1986 Code for a taxable year beginning before January 1, 1989, such taxpayer may, without the consent of the Secretary of the Treasury or his delegate, revoke such election effective for the taxpayer's 1st taxable year beginning after December 31, 1988.

SEC. 796. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) General Rule.—For purposes of sections 861(b), 862(b), and 863(b) of the 1986 Code, qualified research and experimental expenditures shall be allocated and apportioned as follows:

(1) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

(2) In the case of any qualified research and experimental expenditures (not allocated under paragraph (1)) to the extent—

(A) that such expenditures are attributable to activities conducted in the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(B) that such expenditures are attributable to activities conducted outside the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from such income in determining the amount of taxable income from sources outside the United States.

(3) The remaining portion of qualified research and experimental expenditures (not allocated under paragraphs (1) and (2)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall be at least 30 percent of the amount which would be so apportioned on the basis of gross sales.

(b) Qualified Research and Experimental Expenditures.—For purposes of this section, the term "qualified research and experimental expenditures" means amounts which are research and experimental expenditures within the meaning of section 174 of the 1986 Code. For purposes of this subsection, rules similar to the rules of subsection (c) of section 174 of the 1986 Code shall apply.

(c) Special Rules for Expenditures Attributable to Activities Conducted in Space, Etc.—

(1) In general.—Any qualified research and experimental expenditures described in paragraph (2)—

(A) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

(B) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

(2) Description of expenditures.—For purposes of paragraph (1), qualified research and experimental expenditures are described in this paragraph if such expenditures are attributable to activities conducted—

(A) in space,

(B) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

(C) in Antarctica.

(d) Affiliated Group.—

(1) Except as provided in paragraph (2), the allocation and apportionment required by subsection (a) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5) of section 864 of the 1986 Code) were a single corporation.

(2) For purposes of the allocation and apportionment required by subsection (a)—

(A) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E) of the 1986 Code); and

(B) dividends from an electing corporation,

shall not be taken into account, except that this paragraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) of the 1986 Code is not in effect.

(3) The qualified research and experimental expenditures taken into account for purposes of subsection (a) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I) of the 1986 Code).

(4) The Secretary of the Treasury or his delegate may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by paragraph (3).

(5) Paragraph (6) of section 864(e) of the 1986 Code shall not apply to qualified research and experimental expenditures.

(e) Years to Which Section Applies.—

(1) In general.—Except as provided in this subsection, this section shall apply to the taxpayer's 1st taxable year beginning after August 1, 1987.

(2) Reduction in amounts to which section applies.—Notwithstanding paragraph (1), this section shall only apply to that portion of the qualified research and experimental expenditures for the taxable year referred to in paragraph (1) which bears the same ratio to the total amount of such expenditures as—

(A) the lesser of 4 months or the number of months in the taxable year, bears to

(B) the number of months in the taxable year.

SEC. 797. ELECTION TO BE TREATED AS DOMESTIC CORPORATION.

(a) In General.—Section 953 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) Election by Foreign Insurance Company To Be Treated as Domestic Corporation.—

"(1) In general.—If—

"(A) a foreign corporation is a controlled foreign corporation (as defined in section 957(a) by substituting '25 percent or more' for 'more than 50 percent' and by using the definition of United States shareholder under 953(c)(1)(A)),

"(B) such foreign corporation would qualify under part I or II of subchapter L for the taxable year if it were a domestic corporation,

"(C) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid, and

"(D) such foreign corporation makes an election to have this paragraph apply and waives all benefits to such corporation granted by the United States under any treaty,

for purposes of this title, such corporation shall be treated as a domestic corporation.

"(2) Period during which election is in effect.—

"(A) In general.—Except as provided in subparagraph (B), an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(B) Termination.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraphs (A), (B), and (C), of paragraph (1) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

"(3) Treatment of losses.—If any corporation treated as a domestic corporation under this subsection is treated as a member of an affiliated group for purposes of chapter 6 (relating to consolidated returns), any loss of such corporation shall be treated as a dual consolidated loss (as defined in section 1503(d)).

"(4) Effect of election.—

"(A) In general.—For purposes of section 367, any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

"(B) Exception for pre-1988 earnings and profit.—

"(i) In general.—Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 1988, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A).

"(ii) Treatment of distributions.—For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be treated as a distribution made by a foreign corporation.

"(iii) Certain rules to continue to apply to pre-1988 earnings.—The provisions specified in clause (iv) shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be taken into account.

"(iv) Specified provisions.—The provisions specified in this clause are:

"(I) Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

"(II) Subpart F of part III of subchapter N to the extent such subpart relates to earnings invested in United States property or amounts referred to in clause (ii) or (iii) of section 951(a)(1)(A).

"(III) Section 884 to the extent the foreign corporation reinvested 1987 earnings and profits in United States assets.

"(5) Effect of termination.—For purposes of section 367, if—

"(A) an election is made by a corporation under paragraph (1) for any taxable year, and

"(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

"(6) Additional tax on corporation making election.—

"(A) In general.—If a corporation makes an election under paragraph (1), the amount of tax imposed by this chapter for the 1st taxable year to which such election applies shall be increased by the amount determined under subparagraph (B).

"(B) Amount of tax.—The amount of tax determined under this paragraph shall be equal to the lesser of—

"(i) ¾ of 1 percent of the aggregate amount of capital and accumulated surplus of the corporation as of December 31, 1987, or

"(ii) $1,500,000."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 798. REPEAL OF SECRETARIAL AUTHORITY TO PRESCRIBE CLASS LIVES.

Paragraph (1) of section 168(i) of the 1986 Code is amended—

(1) by adding at the end of subparagraph (B) the following new sentence: "Nothing in this subparagraph shall authorize the Secretary to prescribe class lives which are longer than the lives determined under subparagraph (A).", and

(2) by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

SEC. 799. REVERSION OF QUALIFIED PENSION PLAN ASSETS.

(a) Temporary Increase in Excise Tax on Reversion.—

(1) In general.—In the case of any employer reversion from a qualified plan received after July 26, 1988, and before May 1, 1989, section 4980(a) of the Internal Revenue Code of 1986 shall be applied by substituting "60 percent" for "10 percent".

(2) Cases where notice given.—Paragraph (1) shall not apply to any reversion pursuant to a plan termination if—

(A) with respect to plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate required under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before July 27, 1988;

(B) with respect to plans subject to title I of such Act, a notice of intent to reduce future accruals required under section 204(h) of such Act was provided to participants in connection with the termination before July 27, 1988; or

(C) with respect to plans not subject to title I or title IV of such Act, the board of directors of the employer approved the termination or the employer took other binding action before July 27, 1988.

(b) Time for Payment of Tax.—

(1) In general.—Section 4980(c) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(4) Time for payment of tax.—For purposes of subtitle F, the time for payment of the tax imposed by subsection (a) shall be the last day of the month following the month in which the employer reversion occurs."

(2) Effective date.—The amendment made by this subsection shall apply to reversions received on or after May 1, 1989.

TITLE VIII—MEDICARE AND MEDICAID MINOR AND TECHNICAL AMENDMENTS

SEC. 801. HOSPITAL PAYMENTS FOR CATASTROPHIC ILLNESS.

(a) In General.—Section 104(c)(2) of the Medicare Catastrophic Coverage Act of 1988 is amended—

(1) by striking "cost reporting periods beginning on or after October 1, 1988" and inserting "portions of cost reporting periods occurring on or after January 1, 1989"; and

(2) by inserting before the period at the end the following: ", without regard to whether such a hospital is paid on the basis described in subparagraph (A) or (B) of section 1886(b)(1) of such Act".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

SEC. 802. TREATMENT OF CERTAIN HOSPITALS AS RURAL HOSPITALS FOR CERTAIN PURPOSES.

(a) In General.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8)) is amended by adding at the end of subparagraph (C) the following new sentence: "For purposes of computing the wage indices under this section, hospitals to which subparagraph (B) applies shall be treated as rural hospitals.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

SEC. 803. DEMONSTRATION PROJECTS WITH RESPECT TO CHRONIC VENTILATOR-DEPENDENT UNITS IN HOSPITALS.

(a) In General.—Section 429(a) of the Medicare Catastrophic Coverage Act of 1988 is amended by striking "up to" each place it appears and inserting in lieu thereof "at least".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

SEC. 804. ELECTION OF PERSONNEL POLICY FOR COMMISSION EMPLOYEES.

(a) In General.—With respect to employees of the Prospective Payment Assessment Commission as described in section 1886(e)(2) of the Social Security Act (42 U.S.C. 1395ww(e)(2)) hired before December 22, 1987, such employees shall have the option to elect within 60 days of the date of enactment of this Act to be covered under either the personnel policy in effect with respect to such employees before December 22, 1987 or under the employees coverage provided under section 1886(e)(6)(D) of the Social Security Act.

(b) Effective Date.—The provisions of this section shall take effect on the date of enactment of this Act.

SEC. 805. INCREASE IN AUTHORIZA'TION FOR THE PATIENT OUTCOME ASSESSMENT RESEARCH PROGRAM.

(a) In General.—Section 1875(c)(3) of the Social Security Act (42 U.S.C. 1395ll(c)(3)) is amended to read as follows:

"(3)(A) For purposes of carrying out the research program, there are authorized to be appropriated—

"(i) from the Federal Hospital Insurance Trust Fund two-thirds of the amount specified in subparagraph (B), and

"(ii) from the Federal Supplementary Medical Insurance Trust Fund one-third of the amount specified in subparagraph (B).

"(B) The amount specified in this subparagraph is—

"(i) $7,500,000 for fiscal year 1988,

"(ii) $10,000,000 for fiscal year 1989,

"(iii) $20,000,000 for fiscal year 1990, and

"(iv) $30,000,000 for fiscal year 1991.".

(b) Effective Date.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 806. PAYMENT ADJUSTMENT TO ORGANIZATIONS WITH RISK-SHARING CONTRACTS.

(a) In General.—Any organization having a risk-sharing contract in effect under section 1876(g) of the Social Security Act on or after January 1, 1988, and before December 31, 1988, may submit to the Secretary of Health and Human Services a revised adjusted community rate for calendar year 1988, reflecting any increase in such rate resulting from the Secretary's manual transmission clarifying eligibility guidelines for extended care services. If the Secretary approves such revised rate, the Secretary shall make additional payment to such eligible organization equal to the increase in such rate for such year. The Secretary shall make a determination with respect to such revised rate within 90 days after the revised rate is submitted by the eligible organization.

(b) Effective Date.—Subsection (a) shall become effective with respect to risk-sharing contracts in effect on or after January 1, 1988.

SEC. 807. FEE SCHEDULE FOR PAYMENTS TO CERTIFIED REGISTERED ANESTHETISTS.

(a) In General.—Section 1833(l)(3)(B) of the Social Security Act (42 U.S.C. 1395(l)(3)(B)) is amended by inserting "plus applicable coinsurance" after "would have been paid".

(b) Effective Date.—The amendment made by subsection (a) shall become effective as if included in the amendments made by section 9320 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 808. CLARIFICATION OF COVERED CERTIFIED NURSE-MIDWIFE SERVICES.

(a) In General.—Section 1861(gg)(1) of the Social Security Act (42 U.S.C.

1395x(gg)(1)) is amended by adding at the end thereof ", whether or not such services are provided during the maternity cycle".

(b) Effective Date.—The amendment made by subsection (a) shall become effective as if included in the amendments made by section 4073 of the Omnibus Budget Reconciliation Act of 1987.

SEC. 809. COVERAGE OF PSYCHOLOGIST SERVICES WHEN PROVIDED ON-SITE AT A COMMUNITY HEALTH CENTER OR OFF-SITE AS PART OF A TREATMENT PLAN.

(a) In General.—Subsection (ii) of section 1861 of the Social Security Act (42 U.S.C. 1395x(ii)) is amended by striking "(as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act)" and inserting in lieu thereof "(as defined by the Secretary) on-site at a community mental health center (as such term is used in the Public Health Service Act), and such services necessarily furnished off-site (other than at an off-site office of such psychologist) as part of a treatment plan".

(b) Effective Date.—The amendment made by subsection (a) shall become effective as if included in the amendments made by section 4077(b) of the Omnibus Budget Reconciliation Act of 1987.

SEC. 810. TRIP FEES FOR CLINICAL LABORATORIES.

(a) In General.—Section 1833(h)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence:

"In establishing a fee to cover the transportation and personnel expenses for trained personnel to travel to the location of an individual to collect a sample, the Secretary shall allow a laboratory to bill for such expenses on the basis of either (i) a flat fee per sample collection or (ii) the number of miles traveled and the personnel costs associated with the collection of each individual sample.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1989.

(c) Budget Neutrality.—The Secretary shall instruct carriers to modify fees in accordance with the amendment made by subsection (a) in such a manner that the total cost of such fees is the same as would have been the case without such amendment.

SEC. 811. REQUIREMENT OF PHYSICIAN CARE AND PLAN WITH RESPECT TO OUTPATIENT PHYSICAL THERAPY SERVICES LIMITED TO THE PROVISION OF SUCH SERVICES TO MEDICARE RECIPIENTS.

(a) In General.—Section 1861(p) of the Social Security Act (42 U.S.C. 1395x(p)) is amended by adding at the end thereof the following new sentence: "The requirements of this subsection that an individual be under the care of a physician, and that the services be provided pursuant to a plan that is established and reviewed by a physician, shall apply only to individuals with respect to whom payment may be made under this title.

(b) Effective Date.—The amendment made by subsection (a) shall become effective with respect to services provided after December 31, 1988.

SEC. 812. DELAY IN ISSUANCE OF FINAL REGULATIONS CONCERNING THE USE OF VOLUNTARY CONTRIBUTIONS OR PROVIDER-PAID TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS.

The Secretary of Health and Human Services shall not issue any final regulation prior to February 15, 1989, changing the treatment of voluntary contributions or provider-paid taxes utilized by States to receive Federal matching funds under title XIX of the Social Security Act.

SEC. 813. FORMULA MODIFICATION FOR DETERMINING STATE EXPENDITURES UNDER THE MEDICAID LONG-TERM CARE WAIVER PROGRAM.

(a) In General.—Section 1915(d)(5)(B) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by adding a new paragraph (6) as follows:

"(6) The Secretary shall adjust the projected amount determined under paragraph (5)(B) with respect to the State's expenditure for medical assistance under this title for skilled nursing facility services, intermediate care facility services, and home and community-based services for individuals who have attained the age of 65 for the base year to reflect the enactment of any amendment to this title which results in increased costs of providing such services, or requires additional long-term care services, under this title subsequent to the end of such base year.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective with respect to the determination of State expenditures beginning in waiver year 1989.

SEC. 814. EXTENSION OF TIME PERIOD FOR CERTAIN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED TO SUBMIT PLANS OF CORRECTION OR REDUCTION.

(a) In General.—Section 1922 of the Social Security Act (42 U.S.C. 1396r-3) is amended—

(1) in the first sentence by striking "residents" and inserting in lieu thereof "residents (including failure to provide active treatment),";

(2) in subsection (c)(5) by inserting ", and to provide active treatment for," after "safety of"; and

(3) in subsection (f) by striking "within 3 years" and all that follows through the period and by inserting in lieu thereof "by January 25, 1991.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective upon the date of enactment of this Act.

SEC. 815. NURSING FACILITY DECERTIFICATION HEARING PROCEDURES.

(a) In General.—Paragraph (2) of section 1910(b) of the Social Security Act (42 U.S.C. 1396i(b)) is amended by striking out the first sentence thereof and inserting in lieu thereof:

"Any skilled nursing facility or intermediate care facility which is dissatisfied with a determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b). At such hearing, the facility may submit to the Secretary evidence of compliance based on Federal or State surveys conducted after the determination under paragraph (1). The Secretary shall take into account such evidence, but such compliance shall not preclude a finding that the facility's eligibility be terminated. The Secretary shall also take into account the facility's record of noncompliance and the extent and likely duration of such compliance. Such facility shall also be entitled to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to any proceeding where there has not yet been a final determination by the Secretary (as defined for purposes of judicial review) as of the date of enactment of this Act.

TITLE IX—MISCELLANEOUS INCOME SECURITY AMENDMENTS

Subtitle A—National Academy of Social Insurance

SEC. 901. CHARTER.

The National Academy of Social Insurance, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

SEC. 902. POWERS.

The National Academy of Social Insurance (in this subtitle referred to as the "Academy") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 903. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes for which the Academy is organized shall be those provided in its articles of incorporation and shall include—

(1) promoting an informed and nonpartisan study of, and education with respect to, social insurance,

(2) bringing together experts with diverse backgrounds to consider social insurance issues in an interdisciplinary way,

(3) assisting in the development of social insurance scholars and administrators,

(4) encouraging research and studies on topics of relevance to social insurance, and

(5) sponsoring seminars and other public meetings.

SEC. 904. SERVICE OF PROCESS.

With respect to service of process, the Academy shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 905. MEMBERSHIP.

Eligibility for membership in the Academy and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 906. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The board of directors of the Academy and the responsibilities thereof shall be as provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States in which it is incorporated.

SEC. 907. OFFICERS OF CORPORATION.

The officers of the Academy, and the election of such officers, shall be as is provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States wherein it is incorporated.

SEC. 908. RESTRICTIONS.

(a) In General.—

(1) No part of the income or assets of the corporation shall inure to any member, officer, or director of the Academy or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers and members of the Academy or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(2) The Academy shall not make any loan to any officer, director, or employee of the corporation.

(3) The Academy and any officer and director of the corporation, acting as such officer or director, shall not contribute to,

support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(4) The Academy shall have no power to issue any shares of stock nor to declare or pay any dividends.

(5) The Academy shall not claim congressional approval or Federal Government authority for any of its activities, other than by mutual agreement.

(b) Status.—The Academy shall retain and maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

SEC. 909. LIABILITY.

The Academy shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 910. BOOKS AND RECORDS; INSPECTION.

The Academy shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the Academy involving any of its members, the board of directors, or any committee having authority under the board of directors. The Academy shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 911. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal laws", approved August 30, 1964 (36 U.S.C. 1101), is amended by inserting after paragraph (70) the following:

"(71) National Academy of Social Insurance.".

SEC. 912. ANNUAL REPORT.

The Academy shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 911 of this subtitle. The report shall not be printed as a public document.

SEC. 913. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this subtitle is expressly reserved to the Congress.

SEC. 914. DEFINITION OF "STATE".

For purposes of this subtitle, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 915. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 916. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this subtitle the charter granted hereby shall expire.

Subtitle B—Foster Care Independent Living Initiatives

SEC. 921. FOSTER CARE INDEPENDENT LIVING INITIATIVES.

(a) Extension of Independent Living Program.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended—

(1) by striking "1987 and 1988" in subsections (a) and (e)(1) and inserting "1987, 1988, and 1989";

(2) by striking "for fiscal years 1988" and all that follows in subsection (c) and inserting "for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to January 1 of such fiscal year.";

(3) by striking "Not later than March 1, 1988" in subsection (g)(1) and inserting "Not later than the first January 1 following the end of each fiscal year";

(4) by inserting "during such fiscal year" in subsection (g)(1) after "carried out";

(5) by striking "(2) Not later than July 1, 1988," in subsection (g)(2) and inserting the following:

"(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

"(B) Not later than March 1, 1989,"; and

(6) by striking "the fiscal year 1987" in subsection (g)(2) and inserting "fiscal years 1987 and 1988".

(b) Permission To Expend Unobligated Funds Appropriated for 1987 in 1988 and 1989.—Subsection (f) of section 477 of such Act (42 U.S.C. 677(f)) is amended by inserting after and below paragraph (3) the following:

"Notwithstanding paragraph (3), payments made to a State under this section for fiscal year 1987 and unobligated may be expended by such State in fiscal years 1988 and 1989.".

(c) Inclusion in Independent Living Program of Non-AFDC Foster Care Children.—Subsection (a) of section 477 of such Act (42 U.S.C. 677(a)) is amended—

(1) by inserting "(1)" before "Payments";

(2) by striking "children" and all that follows through "age 16," and inserting "children described in paragraph (2) who have attained age 16"; and

(3) by adding at the end the following new paragraph:

"(2) A program established and carried out under paragraph (1)—

"(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part, and

"(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State.".

(d) Inclusion in Independent Living Program of Certain Former Foster Care Children.—Paragraph (2) of section 477(a) of such Act (42 U.S.C. 677(a)(2)) (as added by subsection (c) of this section) is further amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) may at the option of the State also include any child to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.".

(e) Determination of Services Needed for Transition to Independent Living.—Subparagraph (C) of section 475(5) of such Act (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living" before the semicolon.

(f) Limitation on Use of Funds.—Paragraph (3) of section 477(e) of such Act (42 U.S.C. 677(e)(3)) is amended by adding at the end the following: "Amounts payable under this section may not be used for the provision of room or board".

(g) Effective Date.—(1) The amendments made by subsections (a), (b), and (e) shall become effective on October 1, 1988, but only to the extent that funds therefor are provided in Appropriation Acts.

(2) The amendments made by subsections (c), (d), and (f) shall become effective on the date of the enactment of this Act.

I. ADDITIONAL TECHNICAL CORRECTIONS AND MODIFICATIONS TO TECHNICAL CORRECTIONS

Corporate Tax Provisions

1. *Outbound liquidations.* Provide that the technical correction relating to transfers of property to a foreign corporation that would otherwise qualify as a tax-free reorganization would apply only to transactions occurring after June 21, 1988, except that such technical correction would not apply to reorganizations for which a plan of reorganization had been adopted before June 22, 1988.

2. *Mirror subsidiary transition rule.* Clarify that, for purposes of the exception from the effective date provision concerning mirror subsidiary transactions in cases where 80 percent of the stock of the distributing corporation is acquired by the distributee, the ownership of distributees which are members of the same affiliated group may be aggregated in certain cases.

3. *Section 384 and common control exception.* Provide that if the gain corporation, the loss corporation or both were not in existence throughout the five year period, the exception will be applied by substituting the shorter of the periods during which the gain corporation, the loss corporation, or both were in existence.

4. *Section 384 and treatment of affiliated corporations.* Clarify in legislative history that not only post-affiliation gains or losses, but also pre-affiliation gains or losses which were not limited under section 384, are not subject to the limitations of section 384 upon the merger of members of the same affiliated group.

5. *General Utilities repeal and reorganizations of RICs and REITs.* Provide that the technical correction clarifying that the Treasury's regulatory authority to ensure that the purposes of *General Utilities* repeal is not circumvented through the use of REITs or RICs would not apply to any reorganization involving a RIC or REIT if by June 10, 1987: 1) the board of directors of one of the parties to the reorganization adopted a resolution to solicit shareholder approval for the transaction; or 2) the shareholders or the board of directors of one of the parties to the reorganization approved the transaction.

6. *General Utilities repeal and reorganizations involving RICs and REITs.* The Internal Revenue Service announced that it intends to issue regulations which would require, as of June 10, 1987, that a RIC or REIT disposing of built-in gain assets would not only have to pay a corporate-level tax

on the built in gain but also distribute the proceeds in excess of the corporate-level tax to shareholders. Provide legislative history indicating that the Committee expects the Internal Revenue Service to use its section 7805(b) authority to provide relief to adversely affected taxpayers.

7. *Special rule relating to 1976 Act net operating loss limitations.* Clarify that warrants would not be treated as stock under section 382 of the 1976 Act.

8. *Real Estate Investment Trusts.* The provision in the bill treating certain interest rate swap and cap agreements as giving rise to income qualifying under the 95-percent test and as securities under the 30-percent test would not be treated as creating a negative inference as to whether other interest rate swap and cap agreements should be similarly treated.

Capital Cost Provisions

1. *Delete technical correction.* Delete a provision in the technical corrections bill relating to the Riverwalk project in New York City.

2. *Offset of investment tax credit refunds.* Clarify that refunds payable under section 212 of the 1986 Act (providing for cash-out of investment tax credits) generally may not be offset by the IRS with the excise tax imposed by section 4971 for failure to meet minimum funding rules for qualified plans.

Minimum Tax Provisions

1. *Incentive Stock Options.* The bill clarifies that for all purposes of the individual minimum tax, stock acquired pursuant to the exercise of an incentive stock option will be treated as a nonqualified stock option. Provide that the provision in the bill applies only to options exercised after December 31, 1987 (as opposed to October 16, 1987).

Accounting Provisions

1. *Taxable years of common trust funds.* The amendment would clarify that the effective date rules applicable to entities required by the 1986 Act to adopt a calendar year would also apply to common trust funds for taxable years beginning after December 31, 1987.

Financial Institutions

1. *Limitations on bad debt reserves.* Delete the technial correction which provides that, in the case of a large bank, an election made by a member of a parent-subsidairy controlled group concerning the method of recapturing an existing bad debt reserve is binding on all banks that are members of such parent-subsidary controlled group for the taxable year of the election. Instead, the amendment provides that each such member of a parent-subsidiary controlled group may make a separate election concerning the method of recapturing its existing bad debt reserve.

Insurance Provisions

1. *Property and Casualty Insurance Companies.* Clarify that the rule of former section 825(g), eliminating loss carryovers of corporations electing to be taxed only on investment income, continues to apply. The provision is effective as if enacted with the Tax Reform Act of 1986.

Pensions and Deferred Compensation

1. *Retirement bond distributon rules.* Under the amendment, permissible rollovers from retirement bonds (sec. 409) could be delayed under rules similar to temporary Treasury rules delaying the application of the required distribution rules to IRAs. (Title XI of the 1986 Act)

2. *Reporting of dependent care assistance.* The bill modifies an employer's obligation to report dependent care assistance. Under the bill, the amount required to be reported for a year with respect to an employee is the amount such employee incurs for dependent care assistance during the year. Under the amendment, an employer may treat an amount electively contributed by an employee under a cafeteria plan for dependent care assistance for a year as an amount incurred for dependent care assistance by such employee for such year. (Revenue Act of 1987)

3. *Treatment of plan spin-offs, transfers, etc.* The bill provides that, in the case of plan spin-offs and similar transactions (within a controlled group (involving defined benefit plans, assets in excess of the benefits that would have been provided immediately before the transaction (if the plan then terminated) are allocated on a proportional basis. The amendment would provide two exceptions to this rule. First, if pursuant to the plan spin-off or similar transaction, one or more of the defined benefit plans is terminated, such plan or plans would be treated like a plan transferred outside the controlled group and thus would be exempt from the proportional allocation rule. Second, the proportional allocation rule would not apply to a plan that is spun off from a multiple employer plan if, after the spin-off, no employer (or member of the same controlled group) maintaining the multiple employer plan maintains the spun-off plan. (Revenue Act of 1987)

4. *Variable rate premium.* Under the bill, if the deductible contributions cannot be made to a plan for a plan year because of the full funding limitation, no additional PBGC premium would be required with respect to the plan in the following plan year. The amendment would limit this relief from the additional PBGC premium to situations in which no deductible contributions can be made because of the new 150 percent of current liability component of the full funding limitation. (Pension Protection Act)

5. *ERISA, etc., amendments.* Under the agreement, generally technical amendments to Titles I and IV of the Employee Retirement Income Security Act of 1974 (ERISA) or to the Public Health Service Act, as well as corresponding amendments to the Internal Revenue Code, and a correction of a date in a transition rule with respect to the effective date of the Multiemployer Pension Plan Amendments Act of 1980 would be deleted from the bill.

Foreign Provisions

1. *Liquidation of possession corporation.* Clarify the technical correction in the bill which treats gains derived from the liquidation of certain possession corporations as foreign source, so that the three-year testing period would be applied by reference to the year in which the liquidating distribution occurs, rather than the year in which the liquidation is deemed to occur.

2. *Effective date of qualified electing fund election.* Provides that, notwithstanding the normal deadline provided in the Code by which a passive foreign investment company must make a qualified electing fund election, the period for making the election will in no event expire before the date 60 days after the date of the enactment of the bill. This technical correction was in the introduced version of S. 2238 and was inadvertently omitted from the committee-passed bill.

3. *Retroactive qualified electing fund election.* Provide regulatory authority to allow a passive foreign investment company (PFIC) to make a late qualified electing fund election where the foreign corporation reasonably believed, as of the normal due date for making the election with respect to an earlier taxable year, that it was not a PFIC in that year. This technical correction was in the introduced version of S. 2238 and was inadvertently omitted from the committee-passed bill.

Tax Exempt Bond Provisions

1. *Deletion of Technical Correction.* The amendment would delete section 113(g)(3)(C) from the bill.

Estate and Gift Taxes

A. Estate Freezes

1. *Qualified debt.* The provision in the bill requiring that the fixed maturity date of qualified debt be within 15 years of the date of issue would be eliminated. In addition, the requirement that qualified debt not grant voting rights would be clarified so as to permit voting rights when there is a default as to payment of interest or principal.

2. *Consideration.* The provision directing that appropriate adjustments be made for the value of the retained interest would be clarified to provide for adjustments for consideration received by the transferor. In addition, the Secretary of the Treasury would be directed to study how much adjustments should best be made.

3. *Exceptions.* The bill would be amended to allow taxpayers to modify (prior to 1/1/90) their debt instruments, agreements, or other retained interests in order to fall within the statutory exceptions.

4. *Right of contribution.* The bill would be amended to that there would be no right of contribution against a charitable remainder trust for gift and estate tax attributable to the operation of the provision. In addition, there would be no right of contribution if a decedent lacking a will so directs in a provision of a trust which serves as a substitute for a will.

5. *Deemed gift.* The amount of a gift deemed by virtue of a later transfer by either the original transferor or transferee would be reduced by the value of the original transferor's right to recover such tax from the transferee. A subsequent failure to recover such tax would give rise to a gift even if recovery is impossible.

B. Generation Skipping Transfer Tax

1. *Definition of executor.* If there is no executor or administrator appointed, qualified and acting within the United States, then any person in actual or constructive possession of any property of the decedent would be treated as the executor for generation-skipping transfer tax purposes.

Compliance

1. *Section 6323.* Provide that State legislation merely conforming to or reenacting Federal law establishing a national filing system for instruments affecting interests in personal property does not constitute a second office designated by the State or filing notices of Federal tax liens.

2. *Section 6332.* Extend the immunity from liability of a person honoring an IRS levy to apply not only with respect to the delinquent taxpayer but also any other person.

3. *Section 6503.* Conform the statute of limitations rule for levies to that for liens so that if a timely proceeding in court for the collection of tax is commenced, the period during which such tax may be collected by levy shall not expire as long as the tax is still collectible.

Excise Taxes

1. *Aviation fuel used in international flights not subject to LUST tax.* Under the Superfund Reauthorization and Amendments Act of 1986, aviation fuel used as supplies in an aircraft in foreign trade was exempt from the LUST tax. The provisions relating to the collection of the diesel fuel excise tax in the Revenue Act of 1987 inadvertently terminated this exemption. The amendment would restore this exemption.

Miscellaneous Provisions

1. *Treatment of payments from certain mining reclamation programs.* Section 118(g)(6) of the bill clarifies the present law exclusion from gross income, under section 126 of the Code, of certain payments received under environmental and conservation programs. The amendment would delete this provision.

2. *Basis adjustment for market discount currently included in income.* Taxpayers electing to include market discount currently in income would be allowed a basis adjustment for amounts so included.

II. PROVISIONS THAT CLOSE LOOPHOLES

A. Corporate Estimated Tax Speedup (Sec. 700) [1]

Under present law, corporations are required to make estimated tax payments four times a year. For small corporations, each installment is required to be based on an amount equal to the lesser of (1) 90 percent of the tax shown on the return or (2) 100 percent of the tax shown on the preceding year's return. For large corporations, each installment is required to be based on an amount equal to 90 percent of the tax shown on the return (except that the first payment may be based on 100 percent of the tax shown on the preceding year's return). For both large and small corporations, the amount of any payment is not required to exceed an amount which would be due if the total payments for the year up to the required payment equal 90 percent of the tax which would be due if the income already received during the current year were placed on an annual basis. Any reduction in a payment resulting from using this annualization rule must be made up in the subsequent payment if the corporation does not use the annualization rule for that subsequent payment. However, if the subsequent payment makes up at least 90 percent of the earlier shortfall, no penalty is imposed.

The provision would require a corporation that uses the annualization method for a prior payment to make up the entire shortfall (rather than 90 percent of the shortfall) in the subsequent payment in order to avoid an estimated tax penalty. This provision would change the provision relating to corporate estimated taxes included in S. 2238 as reported by the Finance Committee. The provision would be effective for estimated tax payments required to be made after September 30, 1988.

B. Treatment of Single Premium and Other Investment-Oriented Life Insurance Contracts (Sec. 701)

Under present law, the undistributed investment income earned on premiums credited under a contract that satisfies a statutory definition of life insurance is not subject to current taxation to the owner of the contract. Death benefits under a life insurance contract are excluded from the gross income of the recipient. Amounts received under a life insurance contract prior to the death of the insured generally are not includible in gross income to the extent that the amounts received are less than the taxpayer's investment in the contract. Amounts borrowed under a life insurance contract generally are not treated as received under the contract and, consequently, are not includible in gross income.

The provision would modify the treatment of loans and other amounts received under a class of life insurance contracts that are statutorily defined as modified endowment contracts. First, amounts received under modified endowment contracts would be treated first as income and then as recovered basis. In addition, loans under modified endowment contracts and loans secured by modified endowment contracts would be treated as amounts received under the contract. An additional 10-percent income tax would be imposed on certain amounts received that are includible in gross income.

Under the provision, a modified endowment contract would be defined as any contract meeting the present-law definition of life insurance but failing to satisfy a 7-pay test. A modified endowment contract would also include any life insurance contract received in exchange for a modified endowment contract. A contract that is materially changed would be considered a new contract that is subject to the 7-pay test as of the date that the material change takes effect.

The provision would apply to contracts that are entered into or that are materially changed on or after June 21, 1988.

The provision is the same as the provision contained in H.R. 4333 as passed by the House with the following clarifications and modifications:

1. Distribution rules

a. The assignment or pledge of a modified endowment contract would not be treated as an amount received under the contract if the assignment or pledge is solely to cover the payment of burial expenses or prearranged funeral expenses and the policyholder does not receive cash directly or indirectly in connection with the assignment.

b. Any amount payable or borrowed under a modified endowment contract would not be included in gross income to the extent that the amount is retained by the insurance company as a premium or other consideration paid for the contract or as interest or principal paid on a loan under the contract.

c. For purposes of the distribution rules, the cash surrender value of a modified endowment contract would be reduced by the amount of any loan that is treated as received under the contract under the revised income inclusion rules. In addition, the investment in the contract and the cash surrender value of the contract would be increased by the amount of payments on a loan to the extent attributable to loans treated as received under the contract under the revised income inclusion rules.

d. A contract would be considered a modified endowment contract for (1) distributions that occur during the contract year that the contract fails (whether due to a death benefit reduction or otherwise) to satisfy the 7-pay test and all subsequent contract years, and (2) distributions that are made in anticipation of the contract failing to satisfy the 7-pay test as determined by the Treasury Department.

2. 7-pay test

a. The mortality charges taken into account in computing the 7-pay premiums would equal the mortality charges specified in the prevailing commissioners' standard table (as defined in sec. 807(d)(5)) at the time the contract is issued or materially changed (currently 1980 CSO) except to the extent provided otherwise by the Treasury Department (e.g., with respect to substandard risks).

b. In the case of a contract that provides an initial death benefit of $10,000 or less and that requires at least 20 nondecreasing annual premium payments, the amount of the 7-pay premium for each year would be increased by an expense charge of $75. All contracts issued by the same insurance company would be treated as a single contract for purposes of applying this rule.

c. Riders to contracts would be considered part of the base insurance contract for purposes of the 7-pay test.

d. The complete surrender of a life insurance contract during the first 7 years of the contract would not in itself cause the contract to be treated as a modified endowment contract.

e. The lapse of a contract resulting in paid-up insurance in a reduced amount due to the nonpayment of premiums would not be considered in applying the 7-pay test if the contract is reinstated to the original face amount within 180 days after the lapse.

f. The amount paid under a contract would be reduced by nontaxable distributions to which section 72(e) applies whether or not attributable to a reduction in the originally scheduled death benefit.

3. Material change rules

a. The rule that a death benefit increase must be required in order to satisfy the statutory definition of life insurance would be eliminated.

b. The definition of necessary premium for guideline premium contracts would be modified to allow aggregate premium payments equal to the greater of (1) the guideline single premium or (2) the sum of the guideline level premiums to date (without regard to the deemed cash value). For this purpose, the guideline single premium and the guideline level premiums would be based on the lowest death benefit payable during the first 7 contract years.

c. A decrease in future benefits under a contract would not be considered a material change.

d. Policyholder dividends would be considered other earnings that may increase the death benefit without triggering a material change.

e. The Treasury Department would be granted authority to provide circumstances under which a de minimis death benefit increase is not a material change (e.g., a death benefit increase that is attributable to a reasonable cost of living adjustment determined under an established index specified in the contract).

f. In the case of a contract that is materially changed, the new 7-pay premium would be adjusted to take into account only the cash surrender value of the contract as of the date of the material change.

4. Effective date

a. The provision would apply to contracts entered into on or after June 21, 1988. A contract would be considered entered into on or after June 21, 1988, if (1) on or after June 21, 1988, one or more of the future benefits under the contract are increased or a qualified additional benefit is increased or added to the contract and, prior to June 21, 1988, the owner of the contract did not have a unilateral right under the contract to obtain such increase or addition without providing additional evidence of insurability, or (2) the contract has been converted from a term life insurance contract into a life insurance contract providing coverage other than term insurance coverage after June 20, 1988, without regard to any right of the owner under the contract to obtain such conversion.

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[1] Sections refer to the committee amendment (e.g., additional, nontechnical tax provisions are in new title VII).

b. A modified endowment contract that is entered into on or after June 21, 1988, and before the date of enactment and that is exchanged (within 3 months after the date of enactment) for a life insurance contract that satisfies the 7-pay test would not be considered a modified endowment contract if gain (if any) is recognized on the exchange.

C. Repeal of Special Rules Allowing Loss Transfers by Alaska Native Corporations (Sec. 702)

Corporations established under the Alaska Native Claims Settlement Act may, for taxable years beginning before 1992, file consolidated returns with subsidiary corporations under rules more liberal than the generally applicable rules. In addition, during this period no provision or principle of law may be applied to prevent use of losses or credits of an Alaska Native Corporation by its consolidated group. The effect of these provisions is to allow Alaska Native Corporations to transfer the benefit of their tax losses and credits to other corporations, which use the losses or credits to reduce their tax liability.

Under the provision, the special consolidation rules applicable to Alaska Native Corporations (including the rule prohibiting denial of the use of losses or credits through application of any provision or principle of law) would be repealed.

The provision would be effective for losses and credits arising after April 26, 1988. In addition, losses and credits of an Alaska Native Corporation arising before that date could not be used to offset income assigned (or attributable to property contributed) on or after that date, unless such use would be allowable without regard to the special consolidation rules.

In addition, if an Alaska Native Corporation has not engaged in any loss transfer transaction prior to April 26, 1988, up to $5 million of losses and credits of such Alaska Native Corporation arising on or before December 31, 1988, may be used to offset income assigned (or attributable to property contributed) on or before December 31, 1988. The intention is to provide a period during which Alaska Native Corporations that have never undertaken a loss transfer transaction under the special rules may do so, subject to a limitation on the amount of losses that may be transferred.

D. Modification of Distilled Spirits Flavors Credit (Sec. 703)

Credit is allowed against the distilled spirits excise tax for the alcohol content of a taxable beverage that is derived from wine or from flavor components (sec. 5010). The wine credit is equal to the difference between the distilled spirits tax rate ($12.50 per proof gallon) and the tax rate applicable to wine (based on alcohol content). The flavors credit may not exceed 2.5 percent of the alcohol content of the beverage, and is equal to the amount of the distilled spirits tax. The provision would limit the flavors credit to cases where the flavors remain in the distilled spirits beverage after completion of all distillation. (No change would be made to the wine credit.)

The provision would be effective for distilled spirits removed after the date of enactment.

E. Denial of Deduction for Certain Residential Telephone Service (Sec. 704)

Under the provision, any otherwise allowable deduction would not be allowed to an individual taxpayer for any charge (including any sales or excise taxes imposed on such charge) required to be paid by the taxpayer in order to obtain local telephone service with respect to the first telephone line in a taxpayer's residence (whether or not the taxpayer's principal residence). The provision would not affect the deductibility of charges for long-distance calls, nor would it affect the deductibility of charges for equipment rental, optional services offered by the telephone company (e.g., call waiting or call forwarding), or charges attributable to additional telephone lines to a taxpayer's residence other than the first telephone line.

The provision would be effective for taxable years beginning after December 31, 1988.

F. Update IRS Valuation Tables (Sec. 705)

The IRS publishes tables that are used to value annuities, life estates, terms of years, remainders and reversions. Last published in 1984, these tables assume a 10 percent interest rate and are based on mortality assumptions published in 1969-71. On a monthly basis, the IRS publishes an applicable Federal rate, which is based on the average market yield of obligations of the United States.

The provision would require the value of any annuity, interest for life or term of years, remainder or reversionary interest to be determined under tables (or formulas) prescribed by the Secretary of the Treasury and by using an interest rate (rounded to the nearest 2/10ths of one percent) equal to 120 percent of the Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls. At the taxpayer's election, such property would be valued by reference to the Federal mid-term rate in effect for either of the two months preceding the valuation date.

The provision would apply to interests valued after the first date of the sixth calendar month beginning after the date of enactment.

III. NONCONTROVERSIAL, LOW-COST PROVISIONS

A. Corrections Affecting Agriculture

1. Special use valuation of farm property for estate tax purposes (sec. 706)

Under present law, if the executor so elects, the value of real property used as a farm or in another trade or business is its value in such use. A recapture tax is imposed if the property ceases to be used in its qualified use within 10 years (15 years for individuals dying before 1982) after the death of the person in whose estate the property was specially valued. Under the provision, a surviving spouse's cash rental of specially valued real property to a member of the spouse's family would not result in imposition of the recapture tax.

The provision would be effective for rentals occurring after December 31, 1976.

2. Discharge of indebtedness income of rural mutual or cooperative utility companies (sec. 707)

Under present law, a mutual or cooperative telephone, electric or water company qualifies for exemption from Federal income taxation if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses of providing service to its members. Gross income of a taxpayer generally includes income from discharge of indebtedness (sec. 61(12)). Under the provision, the 85-percent test of section 501(c)(12) is to be determined without regard to any discharge of indebtedness income arising pursuant to sales of indebtedness under section 1001 of the Budget Reconciliation Act of 1986.

3. Treatment of livestock sold on account of drought (sec. 708)

Under present law, a cash method taxpayer whose principal trade or business is farming and who is forced to sell certain livestock due to drought conditions may elect to include any income from the sale of the livestock in the taxable year following the taxable year of the sale. This one-year elective deferral of income is available only if the livestock would not have been sold in the taxable year but for the drought and the drought conditions resulted in the area being designated as eligible for Federal assistance. The provision would extend the present-law provision to cattle, horses, and other livestock held for draft, breeding, dairy or sporting purposes.

The provision would apply to sales and exchanges occurring after December 31, 1987.

4. Exemption from payroll tax for certain agricultural workers (sec. 709)

The provision would exclude wages paid to certain individuals who are paid less than $150 in annual cash wages by an agricultural employer. The provision would be effective as if included in the Omnibus Budget Reconciliation Act of 1987.

To be eligible for the FICA tax exclusion the individual must (1) be employed in agriculture, (2) be a hand harvest laborer, (3) be paid on a piece-rate basis, (4) be paid piece-rates in an operation which has been, and is customarily and generally recognized as having been paid on a piece-rate basis in the region of employment, (5) commutes daily from his permanent residence to the farm on which he is so employed, and (6) has been employed in agriculture less than 13 weeks during the preceding calendar year.

B. Pensions and Employee Benefits

1. Employee benefit nondiscrimination rule modifications: church plans and cafeteria plans (sec. 710)

The Tax Reform Act of 1986 provided nondiscrimination rules applicable to statutory employee benefit plans maintained by any employer, including an employer that is a tax-exempt organization (sec. 89). The proposal would provide that the nondiscrimination requirements of section 89 do not apply to statutory employee benefit plans maintained by a church for church employees. For purposes of this proposal, the definition of a church would be the same definition that applies for purposes of exclusion from FICA taxes (sec. 3121(w)(3)). Thus, the term "church" would include (1) a convention or association of churches, (2) an elementary or secondary school that is controlled, operated, or principally supported by a church or by a convention or association of churches, and (3) any church-controlled tax-exempt organization that does not receive substantial support from governmental sources or sales of goods or services. The proposal would be effective as if included in the Tax Reform Act of 1986.

Under present law, life insurance that is funded prior to retirement under a cafeteria plan but provided after retirement is tested for discrimination when provided. Under the proposal, such life insurance would be tested for discrimination when it is funded, based on the amount of life insurance that could at that time be purchased (assuming section 79(c) table costs) with the cafeteria plan elective contributions. This proposal would be effective as if it were part of the provision added by the Tax Reform Act of 1986 allowing post-retirement life insurance to be funded under a cafeteria plan.

Under present law, available elective contributions under a cafeteria plan may not be taken into account for purposes of the 90-percent/50-percent test under section 89. The prior committee amendment allows an employer, under certain circumstances, to take into account all available elective contributions for this purpose. The requirement that an employer either take into account all available elective contributions or none of such contributions can create unintended difficulties in certain situations. Thus, under the proposal, an employer may establish a limit on the amount of available elective contributions taken into account with respect to each employee covered under a cafeteria plan. This is consistent with the original intent of the 90-percent/50-percent test, i.e., that it be focused on available nonelective contributions. This provision would be effective as if it were enacted as part of section 89 in the Tax Reform Act of 1986.

The bill provides that for purposes of applying the nondiscrimination rules of section 89, an employer generally may treat the contribution it makes to a multiemployer plan on behalf of an employee as the benefit provided to the employee under such multiemployer plan. Under the proposal, it would be clarified that an employer may value benefits provided under a multiemployer plan under the generally applicable valuation rules without regard to the special rule provided under the prior committee amendment. This provision would be effective as if it were enacted as part of section 89 in the Tax Reform Act of 1986.

The provision would clarify in legislative history that under present law the nondiscrimination tests that apply to dependent care assistance programs, other than the concentration test (sec. 129(d)(4)) and the benefits test (sec. 129(d)(8)), apply only to the availability of the program, not to the utilization of the program. This provision would be a clarification of present law retroactive to the addition of the relevant nondiscrimination tests.

2. Modification of section 403(b) nondiscrimination rules (sec. 711)

The Tax Reform Act of 1986 generally applied the qualified pension plan coverage and nondiscrimination rules to the nonelective and matching contributions or benefits of tax-sheltered annuity programs, generally effective for plan years beginning after December 31, 1988. The provision would modify these nondiscrimination rules in the following manner: (1) student employees who are not taken into account for employment tax purposes may be disregarded; (2) adjunct professors and other part-time employees could be disregarded if they normally work less than 20 hours per week; and (3) the nondiscrimination tests could be applied by testing at the level of the institution that maintains the plan, as long as the institution functions as, and has been historically recognized as, a separate employer. The provision also would clarify that the special rules applicable to multiple employer pension plans (sec. 413(c)) for purposes of determining whether certain rules are required to be satisfied on an employer-by-employer or on an aggregate basis are applicable to multiple employer tax-sheltered annuity programs. In addition, for plan years beginning before January 1, 1992, the nondiscrimination rules could be applied by testing with respect to a statistically valid sample of employees.

The provision would be effective as if included in the Tax Reform Act of 1986.

3. Provide that plans of police or firefighters are tested separately for purposes of the minimum participation rule (sec. 712)

Under present law, a pension plan is not a tax-qualified plan unless it benefits no fewer than the lesser of (1) 50 employees of the employer, or (2) 40 percent of all employees of the employer. Under the provision, a plan maintained by a governmental employer for police or firefighters, which is structured generally to take into account the early retirement ages of such employees, would satisfy the minimum participation rule if the plan satisfied the rule taking into account only the employees of the employer who are police or firefighters. Similarly, police or firefighters would not be taken into account in applying the minimum participation rule to coverage of employees of the employer who are not police or firefighters.

The provision would be effective as if included in the Tax Reform Act of 1986.

4. Gift tax treatment of joint and survivor annuities (sec. 713)

Under present law, a taxable gift occurs with respect to a joint and survivor annuity when the donor irrevocably designates a beneficiary. A gift of such an annuity to a spouse may not qualify for the marital deduction because the spouse's interest may terminate and pass to the donor without incurring transfer tax. Under the provision, the transfer to a spouse of an interest in a joint and survivor annuity in which no person other than a spouse has the right to receive any payments prior to the death of the last spouse to die would, unless otherwise elected, qualify for a marital deduction for Federal estate and gift tax purposes under the rules governing qualified terminable interest property.

The provision generally would be effective for decedents dying, and transfers made, after December 31, 1981.

5. Allow rural telephone cooperatives to establish section 401(k) plans (sec. 714)

Under present law, State and local governments and other tax-exempt organizations (other than rural electric cooperatives) may not maintain section 401(k) plans (cash or deferred arrangements). The provision would permit rural telephone cooperatives to maintain section 401(k) plans on the same basis as rural electric cooperatives, effective for years beginning after the date of enactment.

6. Employee leasing safe harbor rule (sec. 715)

Under present law, certain employees of a leasing organization are considered employees of the service recipient for purposes of certain pension and employee benefit rules. Under a safe harbor rule, a service recipient is not required to maintain records with respect to leased employees if, among other things, less than 5 percent of the recipient's workforce are leased employees (determined in a simplified manner). Under the provision, certain individuals would not be considered leased employees of a service recipient that would satisfy the 5-percent test if the percentage were raised from 5 percent to 10 percent. The exempted individuals would include any individual who (1) is credited with less than 3,000 hours of service for the service recipient over any two consecutive calendar years, and (2) did not perform services (as an employee or otherwise) for the service recipient within the same geographic area at any time within the calendar year immediately preceding the two-calendar-year period.

The provision would be effective as if included in the Tax Reform Act of 1986.

7. Limitations on contributions and benefits under qualified pension plans maintained by public employers (sec. 716)

Present law (sec. 415) provides overall limits on contributions and benefits under qualified pension plans maintained by any private or public employer or by related employers. Present law provides special rules applicable to a governmental pension plan and special rules applicable to benefits provided to police and firefighters. Under the provision, in the case of a plan maintained by a State or local government, the limitation on benefits under a defined benefit pension plan would be the greater of (1) the normal limit on benefits (sec. 415(b)) or (2) the accrued benefit of a participant determined without regard to any benefit increases adopted after October 14, 1987. The provision would only apply to individuals who are participants before January 1, 1990. In addition, to qualify for this special limitation, the employer maintaining the plan would be required to elect to satisfy the general requirements of section 415 without regard to the special rules for public plans (other than the special rules for police and firefighters). This election could be made indirectly through the modification of the plan maintained by governmental employers.

The provision would be effective with respect to years beginning after December 31, 1982, and the employer's election would be required by the close of the first plan year beginning after December 31, 1989.

8. Treatment of church self-insured death benefit plans as life insurance (sec. 717)

The definition of life insurance created as part of the Deficit Reduction Act of 1984 called into question the income tax exclusion for death benefits that some churches provide for their ministers and lay workers. Under the provision, the term life insurance generally includes certain church self-funded death benefit arrangements otherwise satisfying the definition of life insurance, even if the arrangements do not constitute life insurance under applicable State law.

The provision would be effective as if included in the Deficit Reduction Act of 1984.

9. Study of effects of minimum participation rule (sec. 718)

Under the Tax Reform Act of 1986, a qualified retirement plan must cover at least the lesser of (1) 50 employees, or (2) 40 percent of the employees of the employer (sec. 401(a)(26)). Federal law requires government contractors to provide certain employees specified retirement benefits or make a specified level of contributions to retirement plans. In some cases where these requirements apply, such as the construction industry, individuals change employers frequently. In order to provide the specified benefits and address the problem of frequent job changes, some employers have established a multiple employer plan covering the affected employees, while maintaining other qualified retirement plans for employees not subject to the Federal requirements. The provision would require the Treasury Department to perform a study of the effects of the new minimum participation rule on arrangements of this type. The study should consider (1) the Federal requirements with respect to employee benefits for employees of government contractors, (2) whether a special minimum participation rule should apply to multiple employer plans where such Federal requirements apply, and (3) ways in which the plans of employers subject to such requirements could be modified to satisfy the minimum participation rule.

The study would be required to be completed by September 1, 1989.

10. Permit IRA acquisitions of State-issued coins (sec. 719)

Under present law, the acquisition by an individual retirement account (IRA) of any collectible is treated as a distribution from the IRA equal to the cost of the collectible and is includible in the IRA owner's income for the year in which the cost is deemed distributed. Under the Tax Reform Act of 1986, coins issued by the United States government are not treated as collectibles.

Under the provision, coins issued under the laws of any State would not be treated as collectibles for purposes of the IRA prohibition on investments in collectibles, as long as the coins are held by a person independent of the IRA owner. The provision would be effective for State coins acquired by an IRA after the date of enactment.

11. Age 70-1/2 required beginning date for qualified plan distributions (sec. 720)

The Tax Reform Act of 1986 provides that distribution of benefits under all qualified plans (secs. 401(a) and 403(a)), individual retirement arrangements (IRAs), tax-sheltered annuities and custodial accounts (sec. 403(b)), and eligible deferred compensation plans of State and local governments and tax-exempt employers (sec. 457 plans) is required to commence by April 1 of the calendar year following the calendar year in which the participant or owner attains age 70½, without regard to the actual date of separation from service. This required beginning date is effective with respect to years beginning after December 31, 1988, with a special effective date for collectively bargained plans. Prior to the Tax Reform Act of 1986, the required beginning date generally was the April 1 of the calendar year following the later of (1) the calendar year in which the participant or owner attains age 70½, or, in the case of an employer-maintained plan (2) the calendar year in which the participant retires.

Under the provision, there would be a one-year delay in the general effective date of the required beginning date under the Tax Reform Act for distributions from plans maintained by State or local governments, or tax-exempt organizations that are described in section 501(c)(3).

12. Application of funding rules to multiple employer plans (sec. 721)

Under present law, the minimum funding requirement with respect to a multiple employer plan and the maximum permissible deductible contribution to a multiple employer plan are calculated at the plan level.

The provision would provide that, for purposes of calculating the required or permissible contribution to a pension plan pursuant to the minimum funding rules and the full funding limitation, each employer participating in a multiple employer pension plan is deemed to be maintaining a separate plan. The assets and liabilities of each such plan are deemed to be those that would be transferred to a successor plan if the employer were to withdraw from the multiple employer plan, determined in accordance with section 414(l) and the terms governing the multiple employer plan.

The provision would be effective on the date of enactment, with respect to plans established after December 31, 1988. In the case of a multiple employer plan established on or before December 31, 1988, the plan administrator is permitted to elect to have the new rule apply to the plan. The election is required to be made on or before the last day of the first plan year beginning after the date of enactment and applies to the plan year during which the election is made and all subsequent plan years. The election may be revoked only with the consent of the Secretary.

13. Liability for withdrawal from a multiemployer plan in the case of an illegal strike (sec. 722)

Under present law, an employer may be liable to a multiemployer plan for withdrawal liability even though the withdrawal was the result of action by employee representatives rather than by the employer.

Under the provision, the Pension Benefit Guaranty Corporation (PBGC) would be required to study whether withdrawal liability should be triggered by an illegal strike or other illegal bargaining by an employee representative. The report to Congress pursuant to the study would be required to be issued by March 1, 1989. This provision would be effective on the date of enactment.

In addition, under the provision, and notwithstanding any other provision of law, certain withdrawal liability that has not been paid as of September 8, 1988, or that arises after such date would not be payable prior to January 1, 1990. The affected withdrawal liability is liability related directly or indirectly to striking or picketing in violation of the National Labor Relations Act, as determined by the National Labor Relations Board.

14. Study of employment tax treatment of certain technical services personnel (sec. 723)

Under present law, in general, the determination of whether an employer-employee relationship exists for Federal tax purposes is made under a common law test. Under this test, an employer-employee relationship generally exists if the person contracting for services has the right to control not only the result of the services, but also the means by which that result is accomplished. Section 530 of the Revenue Act of 1978 generally allows a taxpayer to treat a worker as not being an employee, regardless of the individual's actual status under the common law test, unless the taxpayer has no reasonable basis for such treatment. Section 1706 of the Tax Reform Act of 1986 provided that section 530 of the Revenue Act of 1978 does not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work.

Under the provision, the Treasury Department would be required to conduct a study of section 1706 and report to the House Committee on Ways and Means and the Senate Committee on Finance by September 1, 1989. The study is to include evaluation of the following issues: (1) the difficulty of administration of the provisions of section 1706; (2) whether there are any abuses in the reporting of income by independent contractors that justify the adoption of section 1706 (including any evidence of greater noncompliance with the tax laws by independent contractors as compared to employees); (3) the effect that section 1706 has had on the ability of technical services personnel to get work; (4) the administrability of the present-law standards for determining whether an individual is an employee or an independent contractor; and (5) the equity of providing rules that distinguish between independent contractors who work through brokers and those who do not. The provision would be effective on the date of enactment.

C. Exempt Organizations

1. Effective date for UBIT treatment of income from certain games of chance (sec. 724)

The Deficit Reduction Act of 1984 provided that the unrelated business income tax (UBIT) does not apply to income of a tax-exempt organization derived from conducting a game of chance in a State having a statute, in effect as of October 5, 1983, providing that only nonprofit organizations could conduct such activities; this provision applied to such income derived after June 30, 1981. However, the technical corrections title of the Tax Reform Act of 1986 specified that the only State law to which the 1984 Act provision was intended to apply was a particular North Dakota law. Accordingly, such income derived in other States that tax-exempt organizations had treated as not subject to UBIT pursuant to the 1984 Act was retroactively treated as taxable.

The provision would make the 1986 Act technical correction effective beginning October 22, 1986 (the date of enactment of the technical correction). As a result, the treatment of income derived by tax-exempt organizations from games of chance conducted prior to that date would be governed by the provision of the 1984 Act as originally enacted.

2. Purchasing of insurance by tax-exempt hospital service organizations (sec. 725)

Section 501(e) provides tax-exempt status for hospital service organizations operated solely to perform, on a centralized basis, one or more specifically enumerated services. The specifically enumerated services are: data processing, purchasing, warehousing, billing and collection, food, clinical, industrial engineering, laboratory, printing, communications, record center, and personnel services.

The provision would clarify that purchasing by a hospital service organization includes the acquisition, on a group basis, of insurance (such as malpractice and general liability insurance) for its hospital members. The provision would apply to such purchases made before, on, or after the date of enactment.

3. Exempt charitable relief cargo from harbor maintenance tax (sec. 726)

Under present law, the harbor maintenance tax is 0.04 percent of the value of the commercial cargo loaded or unloaded at a U.S. port. Under the provision, there would be an exemption from the harbor maintenance tax for cargo donated for humanitarian and development assistance overseas, where such cargo is owned or financed by a non-profit organization or cooperative and where the Customs Service certifies that the cargo is, in fact, intended for donation overseas.

The provision would be effective on April 1, 1987 (the effective date of the tax).

4. Exemption from BATF distilled spirits occupational tax for certain persons receiving spirits tax-free for research purposes (sec. 727)

An annual occupational tax of $250 is imposed on persons dealing in specially denatured distilled spirits (and ethyl alcohol), including persons using these distilled spirits for research purposes. The provision would exempt from this occupational tax State and local government and section 501(c)(3) educational organizations that purchase 25 gallons or less of these spirits in the year for which tax otherwise would be due.

The provision would be effective on July 1, 1989.

5. Treatment of certain payments to colleges for right to purchase athletic tickets (sec. 728)

Pursuant to IRS guidelines, if a payment to or for a college (e.g., to the college's athletic scholarship program) entitles the payor to purchase seating at the college's athletic stadium, the payment is not deductible as a charitable contribution if such tickets would not have been readily available to the taxpayer without making the payment.

Under the provision, if a taxpayer makes a payment to or for a college that would be deductible as a charitable contribution but for the fact that the taxpayer thereby receives (directly or indirectly) the right to purchase seating in the college's athletic stadium, 80 percent of such payment would be treated as a charitable contribution, whether or not tickets would have been readily available to the taxpayer without making the payment. No amount paid for the actual purchase of tickets would be deductible as a charitable contribution; the provision would not apply if the taxpayer receives tickets or seating (rather than the right to purchase tickets) in return for the payment.

The provision would apply to amounts paid in taxable years beginning after December 31, 1983 (i.e., beginning with the year in which the original IRS ruling on this issue was published).

D. Administrative Provisions

1. Definition of manufacturing for retail excise tax on trucks (sec. 729)

A 12-percent excise tax is imposed on the first retail sale or use after manufacture, production, or importation of any heavy truck, tractor, or trailer. Extensive repairs on a truck or trailer after it has been in use for several years can trigger the tax because the repairs are considered to have resulted in manufacture of a new vehicle.

The provision clarifies that the criteria, related to three categories of repair operations, presently employed by the Treasury to determine whether manufacture of a new truck has occurred is consistent with the intent of the statute. The committee, however, wishes to emphasize that in cases of the third category, i.e., repair or manufacture that extends the useful life of a vehicle, a higher ratio of repair costs to the full retail price of a comparable new truck should be applied. Thus, a ratio of 75 percent is to be used as a safe harbor, but the IRS is to administer the criterion with caution so that ordinary repairs to a two or three year old vehicle are not treated as having extended its useful life. On the other hand, the provisions of Code section 4051(b) are to apply in the case of a vehicle that has been repaired. In applying this section, the IRS is to aggregate the costs of nonemergency repairs, modifications, or upgrades to a vehicle over any 6-month period, and to use the total cost of such repairs in determining whether the 75 percent test is met.

2. Certain tolerances permitted in determination of wine excise tax (sec. 730)

An excise tax ranging from $0.17 cents per wine gallon to $3.40 per wine gallon is imposed on wine. The applicable rate depends on the alcohol content of the beverage. The provision would authorize the Treasury Department to prescribe *de minimis* tolerances for the amount of wine contained in commercial containers. If the amount of wine in a container was within these tolerances, tax would not be collected for any excess wine actually in the container. (An identical rule currently applies to the beer excise tax.)

The provision would be effective on January 1, 1989.

3. Gasoline wholesalers permitted to claim refunds on behalf of certain exempt users (sec. 731)

The gasoline excise tax is imposed on removal of gasoline blend stocks from the refinery or bonded pipeline terminal. Exemptions from the tax generally are realized by means of refunds (or credits against other taxes) following tax-paid sales. Refiners and terminal operators (as taxpayers) are allowed to claim the refunds on behalf of many exempt users.

The provision would allow wholesale distributors (defined as under the diesel fuel tax provisions) to claim gasoline tax refunds for exempt users on the same basis as refiners and terminal operators may do under present law.

The provision would be effective after September 30, 1988.

4. Election to treat passive foreign investment company (PFIC) stock as stock in a qualified electing fund (sec. 732)

A taxpayer's gain from the sale of stock in a passive foreign investment company (PFIC) and certain income received from a PFIC are generally treated as if earned over the period that the stock was held by the taxpayer. An interest charge is imposed on any deferred taxes: that is, taxes attributable to income that is treated as earned in previous years. Under present law, income and gains with respect to PFIC stock are not subject to deferred tax and interest rules if the PFIC has elected to be treated as a qualified electing fund and certain other requirements are met.

Under the provision, the election to be subject to the qualified electing fund rules would be made at the U.S. shareholder level, on a shareholder by shareholder basis, rather than at the company level. The shareholder election would be available, however, only where the PFIC complied with appropriate requirements (as prescribed by regulation) to determine the income of the company and other information necessary to carry out the PFIC provisions.

The provision would be effective for taxable years beginning after December 31, 1986.

5. Election by parent to claim unearned income of dependent on return (sec. 733)

Under present law, the unearned income of a child under the age of 14 in excess of a specified amount is taxed to the child at the top marginal rate of his or her parents. A dependent child with any unearned income must file a tax return if his or her total income exceeds $500. Under the provision, a parent generally would be permitted to elect to include certain unearned income of a child under the age of 14 on the parent's income tax return if the income of the child is less than $5,000 and consists entirely of specified types of unearned income (interest, dividends, and Alaska Permanent Fund dividends). The election could not be made if estimated tax payments for the taxable year are made in the child's name and social security number.

The provision would be effective for taxable years beginning after December 31, 1988.

6. Change in due date of GAO trade study (sec. 734)

Section 8008 of the Omnibus Trade Act of 1988 requires the General Accounting Office (GAO) to complete a study of four aspects of the Small Business Innovation Research Program by December 31, 1988. The provision would give the GAO six additional months, until July 1, 1989, to complete this study.

7. Disclosure of return information to certain cities (sec. 735)

Present law provides that the IRS can disclose otherwise confidential tax returns and return information to local tax administrators of any city with a population in excess of 2 million that imposes an income (or wage) tax. The provision would apply this provision to cities that impose an income (or wage) tax with populations in excess of 250,000. The provision would be effective on the date of enactment.

8. Study of cigarette excise tax and effects of smoking on health care costs (sec. 736)

Excise taxes are imposed on cigars, cigarettes, cigarette paper and tubes, and on snuff and chewing tobacco. The excise tax on small cigarettes is 16 cents per pack of 20 cigarettes. Most taxable cigarettes are small cigarettes.

The provision would require an ongoing study by the Secretary of the Treasury Department, after consulting with the Surgeon General, of:

(1) The public and private health care costs incurred (with respect to smokers, their spouses, and others) as a result of cigarette smoking in the United States;

(2) The incidence of cigarette smoking in the U.S. by teenage and younger children; and

(3) The impact of the rate of the cigarette excise tax on smoking by adults and by teenage and younger children.

Reports of the results of the study would be required to be submitted every two years to the House Committee on Ways and Means and the Senate Committee on Finance, with the first such report to be submitted by January 1, 1989.

E. Tax-Exempt Bonds

1. Calculation of qualified mortgage bond purchase price limit for residences located on certain land subject to ground leases (sec. 737)

Residences financed with tax-exempt qualified mortgage bonds must have purchase prices of 90 percent or less of the average area purchase price, determined including the acquisition cost of land. The value of land held subject to a ground lease is determined by capitalizing the value of the lease payments, discounted by the yield on the underlying tax-exempt bonds.

The provision would direct the Treasury Department to amend its regulations to provide a method of determining a capitalized value for ground leases where the lease term has at least 35 years remaining and the rent is known for at least the first 10 years of the remaining term, but not the entire term.

The provision would be effective on the date of the bill's enactment, for bonds issued after the date of the bill's enactment.

2. Application of the security interest test to bond financing of hazardous waste clean-up funds

State and local governments may issue tax-exempt bonds to finance governmental activities, but may issue tax-exempt private activity bonds only for specified purposes. Several States are considering issuance of tax-exempt bonds to finance hazardous waste clean-up activities. Present law is unclear as to when these bonds are governmental bonds if the proceeds are used to finance activities on private property and if reimbursement may be sought from private parties. The provision would direct the Treasury Department to issue guidance concerning the application of the private activity bond test to tax-exempt bond financing for State programs. The guidance would be provided before January 1, 1989.

3. Calculation of income limits for qualified mortgage bond financed homes in high housing cost areas (sec. 738)

Purchasers of houses financed with tax-exempt qualified mortgage bonds must have incomes of 115 percent or less of the higher of area or State median income in statistical areas other than targeted areas of economic distress.

The provision would provide a third alternative for establishing the income limit in high housing cost areas. In these areas, this alternative would adjust the income limit upward from 115 percent of area median income by one percent for each percent that the ratio of local housing cost to income exceeds 120 percent of the same ratio determined nationally. The maximum adjusted income limit would be 140 percent of area median income.

The provision would apply to bonds issued after December 31, 1988.

4. Tax-exempt financing for certain high-speed rail facilities (sec. 739)

Exempt-facility bonds are tax-exempt bonds issued to finance airports, docks and wharves, mass commuting facilities, and sewage facilities among other facilities. With the exception of bonds for airports and docks and wharves, exempt-facility bonds are subject to State private activity volume limitations.

The provision would create a new category of exempt-facility bonds: bonds to finance intercity high-speed rail facilities. These bonds would receive treatment similar to that currently accorded to bonds issued for airports. The proceeds of such bonds could be used to finance the construction or purchase of terminal facilities, roadbed, rails or other fixed guideway, and any necessary right of way. The proceeds could not be used to purchase rolling stock or other facilities for which tax-exempt bonds are prohibited for airports, ports, and mass commuting facilities.

To qualify as a high-speed rail facility it would have to be reasonably expected that trains carrying passengers on the financed property will be able to operate at average speeds in excess of 150 miles per hour between scheduled stops. The provision defines a high-speed rail facility to include high-speed ground transportation systems which employ magnetic levitation technology. Twenty-five percent of the bonds issued must receive State private activity volume cap allocation. Also, high-speed rail facilities need not be governmentally owned, but any private owner would have to make an irrevocable election not to claim depreciation or any tax credit with respect to the bond financed property. In addition, any proceeds not spent within three years of the date of issue would have to be used to redeem outstanding bonds.

The provision would be effective for bonds issued after the date of the bill's enactment.

5. Application of arbitrage rebate requirement to bona fide debt service funds (sec. 740)

Issuers of tax-exempt bonds are required to rebate to the Federal Government arbitrage earnings on investments unrelated to the purpose of the borrowing. At the election of the issuer, no rebate is required with respect to arbitrage earnings on certain small current debt service funds (i.e., funds where gross earnings are less than $100,000).

The provision would eliminate the $100,000 earnings limit for fixed-rate governmental bonds having a weighted average maturity of five years or more. Additionally, the present-law elective provision for small current debt service funds would be made mandatory.

The provision would apply to bonds issued after the date of the bill's enactment. Issuers of outstanding governmental fixed rate bonds would be allowed a one-time election to apply the new rule in the provision to amounts deposited after the date of the bill's enactment in bona fide debt service funds issued after August 31, 1986.

F. Miscellaneous Provisions

1. Net operating loss rules for bankruptcy: certain ownership changes not counted (sec. 741)

The net operating loss limitations of the 1986 Act do not apply to an ownership change resulting from certain bankruptcy reorganizations or proceedings if a petition in the case was filed with a court before August 14, 1986. When stock of a corporation is acquired during the pendency of a bankruptcy, an ownership change may occur and losses may be limited. Under the provision, under regulations to be prescribed by the Treasury, if any stock that was acquired by shareholders during the proceeding in a transaction that triggered an ownership change does not in fact represent more than 50 percent of the value of the corporation (based on the value of the stock immediately after the completion of the bankruptcy proceeding), an amended return could generally be filed with respect to prior years for which losses were limited (without regard to the otherwise applicable statute of limitations).

The provision would be effective as if included in the Tax Reform Act of 1986.

2. Reserves for losses on loans of banks: Exception for small banks (sec. 742)

Under present law, a large bank is not allowed a deduction for an addition to a reserve for bad debts. A bank is a large bank if for the taxable year, or any preceding taxable year beginning after December 31, 1986, the bank (or the parent-subsidiary controlled group of which it was a member) exceeds a certain size. The provision would provide that, if a bank which is a member of an affiliated group is sold to persons who did not, directly or indirectly, own any interest in any member of the affiliated group, the determination of whether a bank is a large bank for this purpose would be made without regard to the size of the bank before such sale.

The provision would be effective as if included in the Tax Reform Act of 1986.

3. Personal holding company income: Application to broker-dealers (sec. 743)

Under present law, personal holding company income of a broker-dealer includes interest income. The provision would exclude from the definition of personal holding company income interest received by broker-dealers with respect to: (1) any securities or money market instruments held as inventory; (2) margin accounts; or (3) any financing for a customer secured by securities or money market instruments.

The provision would be effective with respect to interest received after the date of enactment of the Act.

4. Foreign currency transactions (sec. 744)

Under present law, uniform residence-based sourcing and ordinary income and loss characterization rules apply to certain gains and losses on foreign currency-related forward contracts, futures contracts, options, and similar financial instruments, unless those instruments are marked to market under section 1256 at year-end. At the taxpayer's election, gain or loss on a forward, futures, or option which is a capital asset in the hands of the taxpayer, is not part of a straddle, and is identified by the taxpayer before the close of the day on which it is entered into, is capital, and not ordinary.

Under the provision, foreign currency gains and losses from transactions in forwards, futures, options, and similar financial instruments would be sourced on the basis of the taxpayer's residence, and unless the capital gain election were applicable, would be treated as ordinary income, without regard to whether the instruments are or would be marked to market under section 1256 if held at year end. The provision would relax the identification and anti-straddle conditions on making the capital gain election in the case of certain traders.

The provision would be effective for transactions acquired or entered into after September 8, 1988.

5. Dual resident companies (sec. 745)

Prior to the 1986 Act, certain U.S. corporations subject to income tax in a foreign country on their income without regard to its source or on a residence basis (so-called "dual resident companies") could consolidate with one set of affiliates in the United States and another set in a foreign country simultaneously. In these cases, a dual resident company with a net loss could use that loss to reduce the taxes on two separate streams of income.

The 1986 Act prevents the double use of losses that prior law allowed. Thus, a loss of a dual resident company may in some cases be used to reduce the taxes on income of other members of its foreign affiliated group, but not of its U.S. affiliated group. Under U.S. and U.K. law, however, there are cases in which the loss of a dual resident company with U.K. residence may not be used to offset the income of any other affiliate, U.S. or foreign. In order to restore the use of its losses in the United Kingdom, such a company must reorganize as a U.K. corporation. However, such a reorganization may be a taxable event if the U.S. parent of the dual resident company has an "excess loss account" with respect to the stock of the dual resident company. An excess loss account is created in the stock of a U.S. corporation when losses derived by, and distributions from, that U.S. corporation are in excess of its parent's basis in its stock.

Under the provision, a U.S. corporation with respect to whose stock there is an excess loss account which arose prior to January 1, 1988 and while the corporation was a dual resident company would be allowed to reorganize as a new foreign corporation without triggering the potential tax associated with the excess loss account. Instead, the excess loss account would be suspended until the stock in the new foreign corporation is disposed of outside of the affiliated group. In addition, rules would be provided so that the new foreign corporation's income is subject to full U.S. tax jurisdiction until the excess loss account is reduced to zero or is recaptured.

The provision would be effective for transactions occurring after date of enactment.

6. Controlled foreign corporations: chain deficit rule (sec. 746)

Under present law, deficits generated by a controlled foreign corporation cannot reduce the subpart F income of any other controlled foreign corporation. S. 2238 as reported by the committee contains a "chain deficit rule" under which deficits would be so usable in limited circumstances. This treatment would not be available for deficits attributable to categories of business activities the income from which is not subject to current tax under Subpart F, or for deficits from categories of business activities that are not carried on by the corporation whose subpart F income is sought to be reduced by the chain member's deficit. Insurance income is subject to current tax under subpart F unless it is attributable to the insurance of risks in the same country in which the corporation is organized. Under S. 2238, subpart F income of one controlled foreign corporation remains ineligible for reduction by insurance deficits of a related controlled foreign corporation if either corporation is not a "qualified insurance company."

Under the provision, a per-country election would be available to treat same-country insurance income as subpart F income eligible for reduction under the deficit rules of subpart F. The deficit rules of subpart F would be applied by characterizing certain investment income as if it were derived by a qualified insurance company. The provision would be effective as if included in the 1986 Act.

7. Qualified possession source investment income (sec. 747)

Under present law, a possession tax credit is available on qualified possession source investment income (QPSII) of certain electing domestic corporations engaged in a trade or business in Puerto Rico or the U.S. Virgin Islands. In order to be QPSII, investment income generally must be, among other things, attributable to investment in a possession where a trade or business is conducted, for use in that possession.

Under the 1986 Act, investments in certain financial intermediaries are treated as investments for use in Puerto Rico if the intermediary makes appropriate investments in qualified Caribbean Basin countries. Qualified Caribbean Basin countries are those "beneficiary countries" under the Caribbean Basin Economic Recovery Act that have entered into tax information exchange agreements with the United States and whose tax laws have not been found by the Treasury to discriminate against conventions held in the United States. The U.S. Virgin Islands do not constitute a beneficiary country under the Caribbean Basin Economic Recovery Act.

Under the provision, the U.S. Virgin Islands would be treated as a qualified Caribbean Basin country for purposes of determining whether investments in financial intermediaries give rise to QPSII. The provision would be effective for investments made after date of enactment.

8. Treatment of foreign branch as controlled foreign corporation (sec. 748)

Subject to exceptions, income earned by a U.S.-controlled foreign corporation is not taxed by the United States until that income is distributed to the U.S. persons owning the stock of the foreign corporation. Under present law, such deferral of current U.S. tax is not available for insurance income derived by U.S.-controlled foreign corporations, except in the case of underwriting income attributable to risks of property or activities in, or the lives or health of residents of, the country in which the controlled foreign corporation is organized.

Under the provision, a qualified insurance branch of a controlled foreign corporation would be treated as a separate corporation for purposes of applying the same-country exception to insurance income derived by controlled foreign corporations. Rules would be provided to treat remittances by the branch to its head office as a dividend for purposes of imposing current U.S. tax on the remitted earnings. The provision would be effective for taxable years of foreign corporations beginning after December 31, 1988.

9. Banks organized in possessions (sec. 749)

Under present law, certain non-Guamanian possession banks are subject to net-basis U.S. income tax and to branch level taxes with respect to interest from U.S. government obligations, regardless of whether such banks have an actual trade or business in the United States. By contrast, other foreign banks without U.S. trades or businesses are generally not subject to U.S. tax on interest from U.S. government obligations.

Under the provision, effective for taxable years beginning after December 31, 1988, possession banks would not be subject to net-basis U.S. tax on U.S. government interest they receive, and possession banks would not be subject to branch level taxes on earnings that arise from, and interest expense that is allocated against, interest income from U.S. obligations derived by those banks (unless those banks are engaged in a U.S. trade or business and the interest is actually effectively connected therewith).

10. Carryover of nonconventional fuels credit under minimum tax (sec. 750)

Under present law, the nonconventional fuels credit (sec. 29) may not reduce the taxpayer's net income tax to less than the amount of the minimum tax. Carryovers of unused credits are not allowed. Under the provision, the minimum tax credit allowable in future years against the regular tax will be increased by the amount of the nonconventional fuels credit not allowed for the taxable year solely by reason of the limitation based on the taxpayer's minimum tax liability.

The provision would apply to taxable years beginning after December 31, 1986.

11. One-year extension of placed in service rule for nonconventional fuels production credit (sec. 751)

Qualified fuels are eligible for the production credit for nonconventional fuels, if the fuel is produced from a well drilled after December 31, and before January 1, 1990, or produced from a facility placed in service after December 31, 1979, and before January 1, 1990.

The provision would be amended to extend eligibility for the production credit to qualified fuels that are produced from a facility placed in service or a well drilled before January 1, 1991.

12. Exception from distilled spirits occupational tax for certain small plants producing exclusively for fuel uses (sec. 752)

An annual occupational tax of $1,000 per premise is imposed on each proprietor of a distilled spirits plant. The tax is $500 per year for businesses with gross receipts of less than $500,000 in the preceding taxable year (taxable year is July 1-June 30 for the occupational tax).

The provision would exempt from the annual distilled spirits producer occupational tax plants which (1) produce distilled spirits exclusively for fuel use and (2) produce no more than 10,000 proof gallons per year.

The provision would be effective on July 1, 1989.

13. Treatment of certain pledged installment obligations (sec. 753)

Under present law, if any indebtedness is secured directly by an installment obligation that arises out of the sale of non-farm real property that is used in a taxpayer's trade or business or that is held for the production of rental income where the selling price of the real property exceeds $150,000 (a "nondealer real property installment obligation"), the net proceeds of the secured indebtedness are treated as a payment on the installment obligation. This rule generally applies to nondealer real property installment obligations that are pledged as security for a loan after December 17, 1987.

Under the provision, the refinancing of an indebtedness that was outstanding on December 17, 1987, and that was secured by a nondealer real property installment obligation on such date is to be treated as a continuation of the indebtedness and, consequently, will not result in a deemed payment with respect to the installment obligation if (1) the taxpayer is required by the creditor to refinance the loan, and (2) the refinancing is provided by a person other than the creditor or a person related to the creditor. This exception to the deemed payment rule would not apply to the extent that the principal amount of the indebtedness resulting from the refinancing exceeds the principal amount of the refinanced indebtedness immediately before the refinancing. In addition, if the term of the indebtedness resulting from the refinancing exceeds the term of the refinanced indebtedness, upon the expiration of the term of the refinanced indebtedness, the outstanding balance of the indebtedness resulting from the refinancing is to be treated as a deemed payment with respect to the installment obligation.

14. Treatment of stock held in trust in determining whether certain corporations may use the cash method of accounting (sec. 754)

Under present law, qualified personal service corporations are excepted from the general rule denying the use of the cash method of accounting to a C corporation or a partnership with a C corporation as a partner. A qualified personal service corporation is a corporation that satisfies both a function test and an ownership test. The ownership test is satisfied if substantially all (i.e., 95 percent or more) of the value of the outstanding stock is owned, directly or indirectly, by certain employees, certain retired employees, the estates of such employees or retired employees, and other persons who acquire stock in the corporation by reason of the death of such employees or retired employees.

The provision would require the Treasury Department to issue regulations that provide to what extent stock owned by nongrantor trusts is to be treated as indirectly owned by the beneficiaries of the trust for purposes of the ownership test.

The provision would be effective as if included in the Tax Reform Act of 1986.

15. Above-the-line deduction for jury pay that employee must surrender to employer (sec. 755)

Under present law, unreimbursed employee business expenses generally are allowed only as itemized deductions. Also, the total of all miscellaneous itemized deductions, including such unreimbursed employee business expenses, is deductible only to the extent exceeding two percent of the taxpayer's adjusted gross income. If an employer requires its employees to surrender to the employer amounts received as jury pay, in return for continuing the employee's normal salary while on jury service, the amount of surrendered jury pay is deductible only by itemizers, and only to the extent exceeding the two-percent floor.

The provision would provide an above-the-line deduction for jury pay surrendered to the employer as described above. Thus, the deduction would be available to both itemizers and nonitemizers, and would not be subject to the two-percent floor.

The provision would be effective for taxable years beginning after December 31, 1986 (the effective date of the 1986 Act provisions relating to employee business expenses).

16. Minimum tax treatment of structured settlement arrangements (sec. 756)

Under present law, the income earned on annuity contracts that are qualified funding assets under structured settlement arrangements is included in the adjusted current earnings of a corporation, under the corporate alternative minimum tax. Under the provision, an exclusion from the adjusted current earnings of a corporation would be provided for income on annuity contracts that are qualified funding assets (without regard to whether there is a qualified assignment).

The provision would be effective for taxable years beginning after December 31, 1989.

17. Repeal of general creditor requirement for certain personal injury liability assignments (sec. 757)

Under present law, an exclusion from gross income is provided for amounts received for agreeing to a qualified assignment to the extent that the amount received does not exceed the aggregate cost of any qualified funding asset. The terms of the liability assignment are required to satisfy certain qualifications, for the assignment to be a qualified assignment. The qualifications include, among others, the requirement that the assignee does not provide to the recipient of the periodic payments under the liability assignment any rights against the assignee which are greater than those of a general creditor.

Under the provision, a liability assignment is treated as a qualified assignment notwithstanding that the recipient is provided creditor's rights against the assignee greater than those of a general creditor. The provision provides that no amount is currently includible in the recipient's income solely because the recipient is provided creditor's rights that are greater than the rights of a general creditor.

The provision would be effective for liability assignments after the date of enactment.

18. Phase-in of property and casualty insurance company discounting rules for certain hospital insurers (sec. 758)

Present law limits the deduction for unpaid losses of property and casualty insurance companies to the amount of discounted unpaid losses. The amount of discounted unpaid losses is determined by applying a discount factor, which is calculated on a line of business basis by applying a historical loss payment pattern for the line of business and the applicable interest rate. The applicable interest rate is 100 percent of the average of the applicable Federal mid-term rates effective as of the beginning of each of the calendar months in the most recent 60-month period. The discounting rules are effective for taxable years beginning after December 31, 1986, with a fresh start transition rule.

The provision provides an elective phase-in of the discounting rules for taxable years beginning in 1987 and 1988 for qualified nonprofit hospital insurers. A qualified nonprofit hospital insurer is any domestic insurance company other than a life insurance company if, for the taxable year for which an election is in effect, (1) at least 75 percent of the value and voting power of the company is owned by nonprofit health care facilities or trade associations of such facilities, (2) a majority of the insurance or reinsurance provided by the company covers risks of nonprofit health care facilities, and (3) at least 75 percent of the insurance provided by the company is medical malpractice or general liability insurance.

Under the phase-in, the amount of the discounted unpaid losses of an electing company is to be increased by 20 percent of the amount of the discount for a taxable year beginning in 1987. For a taxable year beginning in 1988, the amount of the discounted unpaid losses of an electing company is to be increased by 10 percent of the amount of the discount. The fresh start and reserve strengthening provisions contained in the Tax Reform Act of 1986 apply for each taxable year of an electing company beginning in 1987, 1988, and 1989.

19. Cost of living allowances for judicial branch employees (sec. 759)

Under present law, civilian officers or employees of the U.S. government stationed outside the contiguous 48 states and the District of Columbia can exclude from gross income cost-of-living allowances received in accordance with regulations approved by the President. Cost-of-living allowances paid to federal court employees of the U.S. government (after October 12, 1987) are not received under regulations approved by the President and are not excludable from gross income.

Under the provision, judicial branch employees stationed outside the contiguous 48 states and the District of Columbia would exclude from gross income cost-of-living allowances received after October 12, 1987, if they were received either under regulations approved by the President or under certain other approved pay scales or salary plans.

20. Business use of automobiles by rural letter carriers (sec. 760)

An employee of the U.S. Postal Service could compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate applicable to the first 15,000 miles of business use of an automobile that is not fully depreciated. However, this computation method could not be used if the taxpayer claimed depreciation deductions for the automobile for any taxable year beginning after December 31, 1987.

The provision would apply to taxable years beginning after December 31, 1987.

21. Medical expense deduction for costs of service animals to assist handicapped individuals

IRS rulings specifically provide that amounts paid to acquire, train, and maintain a dog for the purpose of assisting a blind or deaf taxpayer or dependent are eligible for the itemized deduction for medical expenses (Rev. Rul. 55-261, 1955-1 C.B. 307; Rev. Rul. 68-295, 1968-1 C.B. 92). The legislative history of the bill would clarify that under present law, similar costs incurred with respect to a dog or other service animal in order to assist individuals with other physical disabilities similarly would be eligible for the medical expense deduction.

22. Retroactive application of IRS change of position relative to employer pickups of retirement contributions

The 1983 Social Security Amendments provided that the payment by a State and local employer of employee contributions under a State or local retirement plan would be treated as wages subject to social security tax. The Deficit Reduction Action of 1984 modified this provision to allow the exclusion from wages for social security tax purposes of any such "pickups" by the employer of employee contributions unless the pickups were made pursuant to a salary reduction agreement. On the basis of this 1984 change in the legislation, some States undertook to implement pickups of this type after obtaining letter rulings from the Internal Revenue Service to the effect that the pickups would not be considered as wages. A subsequent review of the issue, in the light of statement of managers language in the conference report on the 1984 Act, led the Internal Revenue Service to reverse its position and to revoke the earlier letter rulings. In revoking the earlier letter rulings, the Service indicated that the States affected could apply for relief from liability for FICA taxes on the pickups with respect to the retroactive period prior to the issuance of the letter ruling.

The provision would relieve States from FICA liability for employer pickups subsequent to the effective date of the 1984 amendments to the extent that the State did not pay the FICA taxes in good faith reliance on a letter ruling of the Internal Revenue Service. The relief would apply only to pickups for which taxes were not paid and only for the period ending with the earlier of the date of enactment of this provision or the receipt by the State from the Internal Revenue Service of a notice of revocation of the letter ruling.

23. Limitation on CBI ethanol imports

Section 1910 of the Omnibus Trade Act of 1988 permits five companies to import 20 million gallons apiece of ethanol that does not meet the rules of origin of the Caribbean Basin Economic Recovery Act, as amended, in that the ethanol dehydrated in those plants is not fermented from vegetable matter grown in the region at plants located in the region.

The provision would bar the application of the provisions of the Trade Act after the enactment of this bill until the Secretaries of Agriculture, Energy, and the Treasury acting jointly certify that the domestic ethanol industry is not fully meeting domestic demand for ethyl alcohol and that imported ethanol is necessary to maintain adequate supplies for consumers.

IV. EXTENSION OF EXPIRING TAX PROVISIONS AND OTHER SUBSTANTIVE PROVISIONS

A. Taxpayer Bill of Rights (Secs. 763-785) [2]

(1) *Disclosure of rights of taxpayers*

Under present law, there is no statutory requirement that the IRS provide a written explanation of the rights of the taxpayer and the obligations of the IRS during the tax dispute resolution process. The provision would require the IRS, when it contacts a taxpayer concerning the determination or collection of any tax, to provide a written explanation of the rights of the taxpayer and the obligations of the IRS during the audit, appeals, refund, and collection processes. The IRS would be required to prepare the written explanation not later than 180 days after enactment.

(2) *Procedures involving taxpayer interviews*

Under present law, the IRS is required to select a reasonable time and place for an examination of a taxpayer (but no regulations have been promulgated elaborating on this provision), and there is no statutory provision governing audio recordings of IRS interviews. The provision would require the IRS to publish within one year of enactment regulations enumerating standards for determining whether the selection of a time and place for interviewing a taxpayer is reasonable. Prior to initial audit or collection interviews, IRS employees would be required to explain the audit or collection process and taxpayers' rights under that process. A taxpayer would be permitted, upon advance notice to the IRS, to make an audio recording of any in-person interview at the taxpayer's own expense. Taxpayers also would be permitted to be represented during an interview by any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person currently permitted to represent the taxpayer before the IRS. If a taxpayer clearly states during an interview that he or she wishes to consult with a representative, the interview would have to be suspended to afford the taxpayer a reasonable opportunity to consult with the representative. Absent an administrative summons, a taxpayer could not be required to accompany the representative to an interview. The provision would apply to interviews conducted on or after 30 days after enactment.

(3) *Taxpayers may rely on written advice of the IRS*

Under present law, the IRS may abate administratively some penalties. The provision would require the IRS to abate any portion of any penalty that is attributable to erroneous written advice furnished by the IRS to a taxpayer, where such advice was specifically requested in writing by the taxpayer and reasonably relied upon, unless the taxpayer failed to provide adequate or accurate information when requesting the advice. The provision would be effective for advice requested on or after enactment.

(4) *Taxpayer assistance orders*

The Taxpayer Ombudsman administers the IRS Problem Resolution Program, which is designed to resolve a wide range of tax administration problems that are not remedied through normal operating procedures or administrative channels. The provision would provide the Taxpayer Ombudsman with statutory authority to issue a taxpayer assistance order (e.g., requiring release from levy of property of the taxpayer) if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the IRS is administering the internal revenue laws. The provision would be effective upon enactment.

(5) *Office of Inspector General*

The Treasury Department has a nonstatutory Inspector General with internal audit and investigative responsibilities for the Department, except for its four law enforcement agencies: IRS, Secret Service, Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms. These functions are performed at the IRS by the Inspection Division, which reports directly to the IRS Commissioner. The provision would establish a statutory Inspector General within the IRS. It would in addition establish a separate statutory Inspector General within the Treasury Department (with oversight responsibility over all other agencies within the Department). The provision would be effective upon enactment. (The provision was passed by the Senate on February 2, 1988, as part of S. 908, The Inspector General Act Amendments of 1988. The House of Representatives passed a modified version of this legislation on July 26, 1988.)

(6) *Basis for evaluation of IRS employees*

The IRS Manual prohibits the use of production quotas or goals based upon sums collected to evaluate IRS enforcement officers, appeals officers, and reviewers. The provision would statutorily prohibit the IRS from using records of tax enforcement results to evaluate enforcement officers, appeals officers, and reviewers or to impose or suggest production quotas or goals. The provision would be effective for evaluations conducted on or after enactment.

(7) *Procedures relating to IRS regulations*

Under present law, the IRS publishes all regulations in the Federal Register. Before final regulations are promulgated, proposed regulations are issued and comments are invited from the public and Government agencies. The IRS also issues some regulations as temporary regulations, which generally are effective upon publication and remain in effect until replaced by final regulations. The provision would require the IRS to solicit comments from the Small Business Administration (SBA) after the publication of proposed regulations or before the promulgation of final regulations. The SBA would be allowed four weeks to provide its comments on the impact of the regulations on small businesses. Each time the IRS issued temporary regulations, it would be required to simultaneously issue those regulations in proposed form. Temporary regulations would be permitted to remain in effect for no more than two years after issuance. The provision would be effective for regulations issued after enactment.

(8) *Explanation of tax liability and penalties*

The IRS currently is not required to explain the basis for assessing penalties. The provision would require that all tax due notices or deficiency notices contain both a description of the basis for, and an identification of the amounts (if any) of, tax due, interest, and penalties. The provision would apply to mailings made after 180 days after enactment.

(9) *Installment payment of tax liability*

Under present law, the IRS is not required to enter into installment payment agreements with taxpayers, but generally does so if a taxpayer who is unable to pay the delinquency in full is able to make payments on the delinquent taxes and pay current taxes as they become due. The provision would grant the IRS statutory authority to enter into a written installment payment agreement if the IRS determines that an agreement will facilitate collection of tax owed. The IRS would have authority to modify or terminate an installment payment agreement if the IRS determines that the financial condition of the taxpayer has significantly changed and if notice is given to the taxpayer at least 30 days prior to the date of action. The provision would apply to installment agreements entered into after enactment.

(10) *Assistant Commissioner for Taxpayer Services*

There is currently within the IRS an Assistant Commissioner (Taxpayer Services and Returns Processing). This position is not provided by statute. The provision would establish an Assistant Commissioner for Taxpayer Services who, jointly with the Taxpayer Ombudsman, would be required to report annually to Congress concerning the quality of taxpayer services provided by the IRS. The provision would be effective upon enactment.

(11) *Levy and distraint*

Notice to taxpayers.—Present law provides that, at least 10 days before collecting a tax by levy, the IRS must provide the taxpayer written notice of its intent to levy. If the IRS finds that collection of tax is in jeopardy, it may collect the tax by levy without providing notice or waiting 10 days. The provision would extend the 10-day notice and waiting period to 30 days. As under present law, the notice and waiting period requirements would not apply if the collection of tax is in jeopardy.

Property subject to levy.—Property subject to levy includes any property belonging to the taxpayer, except property specifically excluded, which includes (1) fuel, provisions, furniture, and personal household effects, not exceeding $1,500 in aggregate value; and (2) books and tools necessary for the trade, business, or profession of the taxpayer, not exceeding $1,000 in aggregate value. The provision would index for inflation through 1990 the dollar value of both of these exclusions. The provision also would exempt from levy a taxpayer's principal residence and tangible personal property essential to the taxpayer's trade or business, unless an IRS district director or assistant director personally approves the levy in writing or the collection of tax is found to be in jeopardy. The provision also would prohibit levies in cases where the estimated expenses of levy and sale exceed the fair market value of the property.

Levy on wages.—Present law provides that the IRS may instruct the taxpayer's employer to pay directly to the IRS wages payable to the taxpayer, except (1) wages necessary to comply with a prior judgment of a court for support of minor children, and (2) a minimum amount of wages or other income (in general, $75 per week plus $25 per week for each dependent). The provision would increase the amount of wages exempt from levy for each week to an amount equal to the taxpayer's standard deduction and personal exemptions allowable for the taxable year in which the levy occurs, divided by 52.

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[2] These provisions are modifications to S. 2223 as reported by the Finance Committee. The Finance Committee held markup sessions on the Taxpayer Bill of Rights (S. 2223) on March 18 and 21, 1988, and reported the bill on March 29, 1988 (S. Rept. 100-309).

Release of levy.—The IRS currently has authority to release a levy if it determines that this will facilitate the collection of tax. The provision would require the IRS to release a levy on property if (1) the liability for which the levy was made is satisfied, (2) the IRS determines that release will facilitate the collection of the liability, (3) an installment payment agreement has been executed with respect to such liability, (4) the IRS has determined that the levy is creating an economic hardship due to the taxpayer's financial condition, or (5) the fair market value of the property exceeds the liability and partial release would not hinder collection of the tax and related costs owed to the IRS. The provision would be effective for levies issued more than 90 days after enactment.

(12) *Review of jeopardy levy and assessment procedures*

Present law provides special rules relating to administrative review and judicial review (by Federal district courts) of jeopardy assessments. These rules do not apply to jeopardy levies. The provision would extend the existing rules relating to review of jeopardy assessments to review of jeopardy levies. The Tax Court would be provided jurisdiction concurrent with Federal district courts with respect to the challenges to a jeopardy assessment or jeopardy levy if the taxpayer has filed a petition with the Tax Court prior to the making of the assessment or levy with respect to any deficiency covered by the jeopardy assessment or jeopardy levy notice. The provision would apply to jeopardy levies issued and jeopardy assessments made after enactment.

(13) *Administrative appeal of liens*

Under present law, although a taxpayer can obtain a review within the IRS of an initial determination of tax deficiency, there is no statutory procedure for the administrative appeal of IRS decisions concerning the collection of a tax liability. The provision would require the IRS to promulgate regulations within 180 days after enactment that provide taxpayers with an administrative procedure to obtain review of the filing of a notice of lien in the public record and an opportunity to petition for the release of such lien.

(14) *Awarding of costs and certain fees in administrative and civil actions*

Recoverable costs.—Under present law, any person who is a prevailing party in a tax case in any Federal court may be awarded reasonable litigation costs if the position of the United States was not substantially justified, but costs incurred during the IRS administrative process generally are not recoverable. The provision would provide that any person who substantially prevails in any tax case brought by or against the United States may be awarded reasonable litigation costs incurred in connection with any court proceeding and reasonable administrative costs incurred before the IRS, but only if such administrative costs were incurred after the earlier of (1) the date of the first notice of proposed deficiency that allows the person an opportunity for administrative review in the IRS Office of Appeals, or (2) the date of the notice of deficiency described in section 6212 of the Code.

Burden of proof.—Under present law, in order to obtain reasonable litigation costs, the taxpayer must establish that the position of the United States in the case was not substantially justified. The provision would shift the burden of proof to the Government to establish that its position was substantially justified in order to prevent a prevailing taxpayer from recovering costs.

Position of the United States.—Under present law, in determining whether the position of the United States was substantially justified, the position is determined beginning with the position in the civil proceeding, or, if applicable, the position taken by the IRS district counsel administratively. This generally does not include positions taken in the audit or appeals process. The provision would provide that in determining whether the position of the United States was substantially justified, the position of the United States is any position taken after the later of (1) the date of the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Appeals Office, or (2) the date by which the relevant evidence under the control of the taxpayer, as well as relevant legal arguments, with respect to such action have been presented by the taxpayer to IRS examination or Service Center personnel.

Administrative settlement of claims for litigation costs.—The Code presently does not provide explicit authority to the IRS to settle administratively claims for litigation costs prior to the commencement of the civil action. The provision would provide the IRS with authority to settle claims for administrative costs and litigation costs. The provision would apply to actions commenced after enactment.

(15) *Civil cause of action for damages due to failure to release lien*

Under present law, the Code does not grant taxpayers a right to bring an action for damages resulting from the wrongful failure to remove a lien on a taxpayer's property. The provision would grant taxpayers the right to sue the Federal Government in Federal district court or Tax Court if any IRS employee knowingly or negligently fails to release a lien on the taxpayer's property as required under the Code. Taxpayers would be permitted to recover the costs of the action and damages equal to the greater of (1) the actual direct economic damages sustained by the taxpayer which, but for the actions of the IRS, would not have been sustained, or (2) $100 per day (up to $1000) for each day the failure continues during the period that begins ten days after the taxpayer provides written notice to the IRS of the failure to release the lien. The provision would apply to taxpayer notices provided and damages arising after enactment.

(16) *Civil cause of action for damages due to unreasonable action by the IRS*

Under present law, taxpayers do not have a specific right to bring an action against the Government for damages sustained due to unlawful actions taken by an IRS employee. The provision would grant taxpayers the right to sue the Federal Government in Federal district court or Tax Court for damages if in connection with the determination or collection of any Federal tax, an officer or employee of the IRS carelessly, recklessly, or intentionally disregards any provision of Federal law or any regulation promulgated under the Internal Revenue Code. The taxpayer could recover the costs of the action plus actual direct economic damages sustained by the taxpayer as a proximate result of the unlawful actions or inaction of the IRS employee. The provision would apply to actions of IRS officers or employees that occur after enactment.

(17) *Jurisdiction to restrain certain premature assessments*

Under present law, jurisdiction to restrain IRS assessment and collection of tax rests solely with the Federal district courts. The provision grants the Tax Court jurisdiction (concurrent with Federal district courts) to restrain the assessment and collection of any tax by the IRS if the tax is the subject of a timely filed petition pending before the Tax Court. The provision would apply to orders entered after enactment.

(18) *Jurisdiction to enforce overpayment determinations*

Under present law, if the IRS fails to refund an overpayment determined by the Tax Court, the taxpayer must seek relief in another court. The provision would grant the Tax Court jurisdiction to order the refund of an overpayment plus interest if, within 120 days after a Tax Court decision has become final, the IRS fails to refund to a taxpayer an overpayment determined by the Tax Court. The provision would apply to overpayments determined by the Tax Court which have not been refunded by the 90th day after enactment.

(19) *Jurisdiction to review certain sales of seized property*

Under present law, if a taxpayer wishes to contest an IRS determination to sell property seized pursuant to a jeopardy assessment, the only recourse is to bring suit in Federal district court. The provision would grant the Tax Court jurisdiction during the pendency of proceedings before it to review the IRS' determination to sell property seized pursuant to a jeopardy assessment. The provision would be effective on the 90th day after enactment.

(20) *Jurisdiction to redetermine interest on deficiencies*

Under present law, if, following a decision by the Tax Court, a taxpayer disagrees with the IRS' interest computation, the Tax Court does not have jurisdiction to resolve that dispute. The provision would permit a taxpayer, within one year from the date the Tax Court decision becomes final, to move to reopen the Tax Court proceeding for a determination of interest due. The provision would apply to assessments of deficiencies made after enactment.

(21) *Jurisdiction to modify decisions in certain estate tax cases*

Under present law, certain estates which consist largely of an interest in a closely held business may elect to pay Federal estate tax over an extended-payment period. If such an election is made, the amount of the estate tax deduction for interest to which an estate is entitled cannot be determined until the interest is paid, and the Tax Court may not enter a final judgment in the case until the extended-payment period has expired. The provision would grant the Tax Court authority to enter a final decision in an estate tax case in which an extended-payment period is elected and subsequently, if necessary, modify the decision at the end of the extended-payment period to reflect interest actually paid by the estate. The provision would apply to Tax Court cases for which the decision is not final on the date of enactment.

(22) *Refund jurisdiction for the Tax Court*

Under present law, the Tax Court has no jurisdiction to determine whether a taxpayer has made an overpayment except in the context of a deficiency proceeding. If the IRS rejects a taxpayer's refund claim, or does not act within six months, then the taxpayer may bring an action for refund in Federal district court or the United States Claims Court, but not in the Tax Court. The provision would grant the Tax Court jurisdiction over tax refund actions against the IRS where there is already pending and awaiting submission for disposition by a judge a deficiency action in the Tax Court, and where the issue in the refund action is related by subject matter to the deficiency action or the result in either of the two actions will affect the amount in controversy in the related action. All proceedings in the Tax Court would be stayed for 180 days if a refund action is filed in the Tax Court and there is a showing by the IRS that there has been no audit of the taxpayer's return for the period or type of tax involved in the refund action. The general prerequisites governing the commencement of tax refund actions would apply to refund actions filed in the Tax Court. A taxpayer would continue to have the option of filing a claim for refund in the appropriate Federal district court or the United States Claims Court. The provision would apply to proceedings commenced in the Tax Court six months after enactment.

B. Modification of Low-Income Housing Credit Provisions (Sec. 786)

In general, a building must be placed in service in the year in which a credit allocation is received from the applicable State housing agency. The provision permits the building to be placed in service in the year in which the credit allocation is received or in either of the two succeeding years provided that at least 10 percent of the project costs were paid by the end of the year in which the credit allocation was received. The provision defines project costs to include the total costs budgeted to acquire and develop the project. The provision applies only to credit allocations for new construction and substantial rehabilitations (as defined under current law). The provision is effective for all credit allocations made after December 31, 1987.

C. Extend Mortgage Revenue Bonds Through June 30, 1989 (Sec. 787)

Qualified mortgage bonds (QMBs) are tax-exempt bonds the proceeds of which generally are used to make mortgage loans to first-time homebuyers. QMBs are issued subject to the State private activity volume limitations. As an alternative to QMBs, States and local governments may elect to trade bond authority available under the State's private activity volume limitation and issue mortgage credit certificates (MCCs). MCCs may be issued to the same persons who qualify for QMB financing. Authority to issue QMBs and to trade bond authority to issue MCCs expires after December 31, 1988. The provision would extend the QMB and MCC for six months, through June 30, 1989.

The provision would be effective on the date of the bill's enactment.

D. Extension of Exclusion for Employer-Provided Educational Assistance Through 1988 (Sec. 788)

Under present law, an individual may (subject to the two-percent floor on nonreimbursed employee expenses) deduct from income amounts expended for education if the education is job-related (sec. 162). Education generally is job-related if it (1) maintains or improves skills required for the employee's job, or (2) meets the express requirements of the individual's employer that are imposed as a condition of continued employment in the same job. Job-related education expenses that are reimbursed by an individual's employer are excludable from gross income. Educational assistance provided by the employer that is not job-related is includible in income.

Under prior law (taxable years beginning before January 1, 1988), an employee's gross income for income and employment tax purposes did not include amounts paid or incurred by the employer for educational assistance provided to the employee (without regard to whether the education was job-related) if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements (sec. 127). This exclusion, which expired for taxable years beginning after December 31, 1987, was limited to $5,250 of educational assistance with respect to an individual during a calendar year and did not apply to education involving sports, games, or hobbies.

Under the provision, the exclusion under section 127 for educational assistance would be restored retroactively to the date of expiration and would be extended so that it would expire for taxable years beginning after December 31, 1988. However, the exclusion under section 127 would not apply to any payment for, or the provision of any benefits with respect to, any graduate level courses of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or similar advanced academic or professional degree. For this purpose, the phrase "graduate-level course" means a course taken by an individual who (1) has received a bachelor's degree (or the equivalent thereof), or (2) is receiving credit toward a more advanced degree. This graduate education rule would not apply to graduate teaching or research assistants who receive tuition reduction under section 117(d), i.e., the scholarship rules. This graduate education rule also would not affect an employee's ability to exclude from income employer-provided job-related educational assistance.

In addition, the provision would clarify the definition of education ineligible for the section 127 exclusion—i.e., education involving sports, games, or hobbies. Under this clarification, education with respect to a subject commonly considered a sport, game, or hobby, such as photography or gardening, would be ineligible for the exclusion unless such education (1) has a reasonable relationship to an activity maintained by the employee for profit; (2) has a reasonable relationship to the business of the employer; or (3) is required as part of a degree program. Of course, education meeting these criteria may fail to be eligible for the exclusion for other reasons (such as the graduate education rule described above).

Also, it was unclear under prior law whether the prohibition on providing employees with a choice between nontaxable educational assistance benefits under section 127 and other remuneration includible in gross income prohibited the provision of taxable and nontaxable educational assistance benefits from a single trust. The provision would clarify in legislative history the prior-law rules so that it is permissible to pay taxable and nontaxable educational assistance benefits from the same trust.

The provision generally would be effective as of the date of the expiration of the exclusion. However, the provisions with respect to hobbies and payments from the same trust would be considered retroactive clarifications of prior law.

E. Extension of Exclusion for Employer-Provided Group Legal Services Through 1988 (Sec. 789)

Under prior law, amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) were excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion also applied to any services received by an employee (or the employee's spouse or dependents) or any amounts paid to an employee under such a plan as reimbursement for the cost of legal services for the employee (or the employee's spouse or dependents). In order for the exclusion to apply, the group legal services plan was required to fulfill certain requirements. The exclusion for group legal services benefits expired for taxable years ending after December 31, 1987.

In addition, under prior law, an organization, the exclusive function of which was to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan, was entitled to tax-exempt status (sec. 501(c)(20)). The tax exemption for such an organization expired for taxable years ending after December 31, 1987.

Under the provision, the exclusion for group legal services and the section 501(c)(20) exemption would be restored retroactively to the date of expiration and would be extended so that they would expire for taxable years ending after December 31, 1988. However, under the provision, the exclusion of the premium value of any insurance-type protection against legal expenses for any individual in a taxable year would be limited to $70. This limit would apply to the premium value of a plan (whether insured or self-insured) but not to the reimbursements or services provided under the plan.

In addition, under the provision, the provision under a tax-exempt trust of group legal services benefits that are in excess of the $70 limit and taxable solely for that reason would not cause the trust to lose its tax-exempt status.

Also, for taxable years ending before January 1, 1989, the provision under a cafeteria plan of a group legal services benefit that is taxable solely because of the $70 cap would be considered the provision of a qualified benefit (sec. 125(e)) and thus would not disqualify the cafeteria plan.

The provision would be effective as of the date of the expiration of the exclusion and exemption.

F. Extension of Special Student Loan Bond Arbitage Rules through June 30, 1989 (Sec. 790)

Generally, arbitrage profits earned on nonpurpose investments acquired with the gross proceeds of any tax-exempt bond must be rebated to the United States. In addition, temporary periods when bond proceeds may be invested in higher yielding investments are statutorily limited for pooled financing bonds. The Tax Reform Act of 1986 provided an exemption from these requirements for certain qualified student loan bonds issued before January 1, 1989.

The provision would provide a 6-month extension of these special rules, for bonds issued before July 1, 1989. The provision would be effective on the date of the bill's enactment.

G. Extension of Business Energy Tax Credits for Solar, Geothermal and Ocean Thermal Property Through June 30, 1989 (Sec. 791)

Under present law, three business energy tax credits are scheduled to expire after December 31, 1988:

(1) Business solar—10% credit

(2) Geothermal—10% credit

(3) Ocean thermal—15% credit.

These credits were extended in the Tax Reform Act of 1986 through 1988, with the tax credit rates effective in 1988 as shown above.

Under the provision, these credits would be extended through June 30, 1989, at the present (1988) tax credit rates. The extension of the present energy tax credit rates would become effective on January 1, 1989.

H. Extension Of Modified Targeted Jobs Tax Credit Through June 30, 1989 (Sec. 792)

The present-law targeted jobs tax credit provides a tax credit to employers for hiring individuals from nine targeted groups. The credit is 85 percent of the first $3000 of wages paid to disadvantaged summer youth employees, and 40 percent of the first $6000 of wages paid to all other qualified individuals. The credit is available for individuals who begin work before January 1, 1989.

The provision would extend the credit for individuals who begin work before July 1, 1989. In addition, the provision would reduce the disadvantaged summer youth credit percentage from 85 percent to 40 percent.

The provision would be effective for individuals who begin work after December 31, 1988 and before July 1, 1989.

I. Extension of Tax Credit for Research Expenditures (Sec. 793)

The present-law research credit (including the university basic research credit), which is scheduled to expire after December 31, 1988, would be extended for three additional months, i.e., through March 31, 1989. A pro rata rule would apply for purposes of computing the extended credit, pursuant to which the taxpayer's qualified research expenditures (or basic research payments) for January 1, 1989 through March 31, 1989 would be deemed equal to one-quarter of the taxpayer's qualified research expenditures (or basic research payments) for calendar year 1989.

J. Financially Troubled Thrift Institutions: Reorganizations, NOLs, and FSLIC Assistance Payments (Sec. 794)

Under present law, three special rules enacted in the Economic Recovery Tax Act of 1981, and repealed as of December 31, 1988, by the Tax Reform Act of 1986, apply to financially troubled thrift institutions:

(1) Under section 597 of the Code, gross income of a domestic savings and loan association does not include amounts received from the Federal Savings and Loan Insurance Corporation ("FSLIC") under its financial assistance program, and no basis reduction is required on account of the receipt of such assistance payments;

(2) Under section 368(a)(3)(D) of the Code, certain FSLIC assisted acquisitions of financially troubled thrift institutions are permitted to qualify as tax-free reorganizations, without regard to the continuity of interest requirement; and

(3) Under section 382(l)(5)(F), special rules apply to the carryover of net operating losses, built-in losses, and excess credits of a thrift institution that has certain ownership changes.

The provision would generally extend the special present law rules for financially troubled thrift institutions for six months, through June 30, 1989, and would expand these provisions to include financially troubled banks and payments made to such banks by the Federal Deposit Insurance Corporation ("FDIC").

In general, assistance payments made by FSLIC and FDIC would be tax exempt by reason of section 597. However, to the extent of 50 percent of such assistance payments, there would be a reduction in deductions for net operating losses existing at the time of the regulatory assistance, interest expense, and loan portfolio built-in losses.

In the case of taxable asset acquisitions, there will be no reduction in any deductions on account of any payments made to make up the difference between the fair market value of the assets transferred and the liabilities assumed. However, in all other cases involving FSLIC or FDIC assistance payments, including, for example, periodic maintenance payments and lump sum payments made in the context of a reorganization, there would be a reduction of the losses or the interest deduction equal to 50 percent of the assistance payments.

The provision would be effective as follows:

(1) The extension of section 368(a)(3)(D) would apply to acquisitions after December 31, 1988, and before July 1, 1989;

(2) The extension of section 597 and the 50 percent cutback would apply to assistance payments made pursuant to acquisitions occurring after December 31, 1988 and before July 1, 1989; and

(3) The extension of section 382(l)(5)(F) would apply to any equity structure shifts or transactions occurring after December 31, 1988, and before July 1, 1989.

K. Repeal Uniform Capitalization Rules for Free-Lance Authors, Photographers, and Artists (Sec. 795(a))

Under present law, uniform capitalization rules generally apply to the production of all tangible personal property and to the purchase and holding of property for resale. The provision would exempt from the uniform capitalization rules any otherwise deductible expense that is paid or incurred by an individual engaged in the business of being a writer, photographer, or artist. The exemption would apply only to the individual whose personal efforts create or may reasonably be expected to create a literary manuscript, musical composition, dance score, photograph, photographic negative or transparency, picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition. The exemption would also apply to expenses of a personal service corporation that directly relate to the activities of a qualified employee-owner if such expenses would qualify for the exemption had they been paid or incurred directly by the employee-owner.

The provision would be effective as if included in the Tax Reform Act of 1986.

L. Repeal Uniform Capitalization Rules for Certain Producers of Animals; Depreciation of Certain Farm Property

1. Uniform capitalization rules for producers of animals (sec. 795(b))

Under present law, the uniform capitalization rules apply to the production of an animal in a farming business if (1) the animal has a preproductive period of more than two years or (2) the taxpayer engaged in the farming business is a corporation, partnership or tax shelter that is required to use an accrual method of accounting. The provision would exempt from the uniform capitalization rules otherwise deductible expenses that are incurred by a taxpayer in connection with the production of animals in any farming business other than a farming business of a corporation, partnership or tax shelter that is required to use an accrual method of accounting.

The provision would apply to costs incurred after December 31, 1988.

2. Depreciation of certain farm property (sec. 795(b))

Under present law, property with recovery periods of less than 15 years may be depreciated using the 200 percent declining balance method. A special rule for farming businesses subject to the capitalization rules on preproductive expenses which elect to deduct these pre-productive expenses requires them to depreciate assets using the alternative depreciation system. Also, single-purpose agricultural structures are assigned a 7-year recovery period. The provision would make the 150-percent declining balance method the applicable depreciation method for property used in a farming business. The exception requiring farming businesses still subject to the pre-productive capitalization rules which elect to deduct these expenses to use the alternative depreciation system would still apply. In addition, the recovery period for single-purpose agricultural structures would be ten-and-one-half years.

The provision would generally apply to property placed in service after December 31, 1988. An exception is provided for any property placed in service before January 1, 1990 if such property (1) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract that was binding on September 8, 1988, or (2) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

M. Extension and Modification of Allocation and Apportionment Rules for R&D Expenses (Sec. 796)

The degree to which a U.S. taxpayer that pays foreign income taxes can take advantage of the foreign tax credit depends, in part, on the proportion of its entire worldwide taxable income that is from foreign sources. Expenses that may relate to both U.S. source and foreign source *gross* income (such as R&D expenses) must be allocated and apportioned among U.S. and foreign sources in order to arrive at the relevant proportion of foreign source *taxable* income to worldwide *taxable* income. For certain taxable years beginning before August 14, 1981 and for taxable years beginning after August 1, 1987, R&D expenses were and are allocated under detailed Treasury regulations promulgated for this purpose in 1977. The regulation is designed to allocate and apportion R&D expenses on the basis of their respective contributions to U.S. source and foreign source net income.

For the intervening taxable years indicated above, R&D expenses were allocated and apportioned under statutory rules designed with particular emphasis on encouraging the conduct of R&D in the United States. This result was accomplished by enacting temporary rules that generally allocated more U.S. incurred R&D expenses to U.S. source gross income than would have been allocated under the 1977 regulation. The statutory methods thus tended to boost any taxpayer's proportion of foreign source taxable income to worldwide taxable income, in many cases allowing the foreign tax credit for foreign income taxes that otherwise would not have been creditable.

Under the provision, a new statutory allocation method, designed to provide an additional tax incentive to perform R&D in the United States, would be temporarily effective for the first four months of the taxpayer's first taxable year beginning after August 1, 1987. (In determining which R&D expenses were incurred in which four-month period of that taxable year, R&D expenses would be treated as if incurred ratably throughout the taxable year.) The proposed method would allow U.S. persons to allocate 64 percent of U.S. R&D expenses (other than any such amounts allocated to one geographical source because of legal requirements) to U.S. source income. Similarly, U.S. persons would allocate 64 percent of expenses for R&D conducted outside the United States (other than any such amount allocated to one geographical source because of legal requirements) to foreign source income. The remainder of U.S. and foreign R&D expenses would be allocated on the basis of gross sales or (subject to a limit) gross income. The amount of R&D expense allocated to foreign source income on the basis of gross income would in all cases be at least 30 percent of the amount allocated to foreign source income on the basis of gross sales.

N. Controlled Foreign Insurance Corporations Owned by U.S. Persons (Sec. 797)

Under present law, foreign corporations engaged in the insurance business in the United States are subject to the branch level taxes even where those corporations are controlled by U.S. persons. If such corporations were reorganized as U.S. corporations they could avoid the branch tax, but would potentially be subject to a tax on accumulated earnings and profits. This tax results from the general rule that when a U.S.-controlled foreign corporation is reorganized as a U.S. corporation, certain accumulated earnings and profits of the foreign corporation must be taxed in order for the reorganization to be considered a nonrecognition event.

Under the provision, controlled foreign corporations engaged in the insurance business could make an election to be treated as a U.S. corporation, thereby avoiding the branch level taxes, so long as certain conditions and requirements are met. Dividends paid by an electing corporation would be eligible for the dividends received deduction to the extent paid out of earnings and profits for periods that the election is in effect. In lieu of paying an immediate U.S. tax on earnings and profits accumulated prior to the election, the provision would provide for a tax equal to three-quarters of one percent of capital and surplus (but limited to $1,500,000.) of any foreign corporation that elects to be treated as a U.S. corporation.

The provision would be effective for taxable years beginning after December 31, 1987.

O. Elimination of Treasury Authority to Lengthen Depreciable Lives (Sec. 798)

Under present law, the Treasury Department generally has the authority to establish or change the class lives of depreciable assets. The Tax Reform Act of 1986 established an office in Treasury to monitor and analyze actual experience of tangible depreciable assets and to report its findings to the Secretary who can then prescribe new depreciable lives for these assets. Certain assets may not have their lives adjusted or lengthened before January 1, 1992.

The provision would remove Treasury's authority to lengthen the depreciable life of an asset. Treasury would still retain authority to shorten an asset's depreciable life. The Committee expects the Treasury to continue to undertake and expeditiously to complete studies of the actual experience of tangible depreciable assets. The provision would require the findings of these studies to be reported to Congress. The provision would be effective on the date of enactment.

P. Pension Reversions of Qualified Plan Assets (Sec. 799)

Under present law, a 10-percent excise tax is imposed on an employer reversion from a qualified plan (sec. 4980). The provision would temporarily increase the excise tax from 10 percent to 60 percent. Present-law exceptions to the excise tax, such as the exception for certain transfers of reversions to an employee stock ownership plan, would continue to be exempt from the increased excise tax. In addition, the provision would require that the excise tax be paid by the employer by the end of the month following the month in which the reversion occurs.

The increase in the excise tax would apply with respect to reversions received after July 26, 1988, and before May 1, 1989. However, the increase in the excise tax would not apply to reversions pursuant to a plan termination if (1) with respect to plans subject to Title IV of ERISA, a notice of intent to terminate required under section 4041(b) of ERISA was provided to participants before July 27, 1988, or, if there are no participants, a notice of intent to terminate was provided to the PBGC before July 27, 1988, (2) with respect to plans subject to Title I of ERISA, a notice of intent to reduce future accruals required under section 204(h) of ERISA was provided to participants in connection with the termination before July 27, 1988, or (3) with respect to plans not subject to Title I or Title IV of ERISA, the board of directors of the employer approved the termination or the employer took similar binding action before July 27, 1988. The acceleration of time for payment of the tax would apply to reversions received on or after May 1, 1989.

V. OTHER, NONTAX PROVISIONS

TITLE VIII—MEDICARE AND MEDICAID MINOR AND TECHNICAL AMENDMENTS

Hospital Payments for Catastrophic Illness

(Section 801 of the Amendment)

Prior to the enactment of the Medicare Catastrophic Coverage Act of 1988, Medicare beneficiaries were eligible for a limited number of hospital days each year; charge for hospital days beyond the limits were the responsibility of the beneficiary. The catastrophic legislation makes beneficiaries eligible for 365 days of hospital care annually.

Medicare payments to most hospitals are made under the prospective payment system (PPS), which pays hospitals a fixed amount for each case. Some hospitals (long-term care, childrens', rehabilitation and psychiatric) are exempt from PPS and are paid their costs, subject to target rate-of-increase limits created in the Tax Equity and Fiscal Respsonsibility Act of 1982 (TEFRA), and can receive bonuses if their costs remain below the limits. Payments to both types of hospitals are based on the average costs of providing Medicare covered services during a base year, indexed forward. These costs did not include the costs of caring for partients beyond their available Medicare days.

Under the catastrophic legislation, hospitals will no longer be paid by patients for very long hospital stays, but by Medicare. However, Medicare's current rates do not accommodate the costs of newly available days. The catasrophic legislation requires the Secretary of HHS to make certain changes in Medicare hospital payment rules to reflect lower beneficiary payments to hospitals resulting from the elimination of a day limit on Medicare hospital services. These requirements are meant to ensure that hospitals are not adversely affected by the expansion of Medicare benefits.

For PPS hospitals, the Secretary is required to take into account as appropriate reduced beneficiary cost-sharing for hospital services under the Act in setting payments rules. For PPS-exempt (TEFRA) hospitals, the Secretary is required to adjust the cost limits for each hospital.

The amendment clarifies that adjustments in cost limits for TEFRA hospitals should be made beginning January 1, 1989. As drafted, the conference agreement compensates TEFRA hospitals during hospital fiscal years beginning on or after October 1, 1988; some hospitals would receive compensation before they incurred additional costs and others would recieve no compensation for as long as nine months. The amendment also clarifies that TEFRA hospitals must be protected, not only from exceeding the cost limits as a result of catastrophic, but also from any reduction in bonus payments.

Treatment of Certain Hospitals as Rural Hospitals for Certain Purposes

(Section 802 of the Amendment)

Under the Prospective Payment system (PPS), Medicare pays different rates to urban and rural hospitals. A hospital is urban, and qualifies for higher rates, if it is located in a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget. Under the Omnibus Budget Reconciliation Act of 1987, hospitals in rural counties meeting certain criteria are considered to be located in an adjacent urban area and qualify for higher Medicare rates, beginning October 1, 1988. Under OBRA, higher payments to hospitals in these redesignated counties are to be financed through an across-the-board payment reduction to rates for all urban hospitals.

The Department of Health and Human Services has issued proposed rules setting Medicare hospital payment policy for FY1989. As a result of the changes described above, some hospitals located in urban areas (prior to OBRA) to which new urban hospitals have been added, as well as some rural hospitals, will experience payment reductions (above and beyond the across-the-board adjustment described above) beginning October 1st, 1988.

This effort occurs in areas where the addition of new hospitals to an urban area, or the deletion of hospitals from a rural area, substantially changed the calculation of the area wage index used in computing PPS payments.

The amendment requires the Secretary, effective October 1, 1989, to compute the area wage index as though hospitals who qualify for urban status under OBRA's redesignation were still paid as rural hospitals.

Demonstration Projects With Respect to Chronic Ventilator-Dependent Units in Hospitals

(Section 803 of the Amendment)

The Medicare Catastrophic Coverage Act of 1988 requires the Secretary of HHS to conduct up to five demonstration projects, for up to three years each, of the appropriateness of classifying hospital units that treat chronic ventilator-dependent patients as rehabilitation units for the purposes of the prospective payment system (PPS). (Rehabilitation units are exempt from PPS and are reimbursed on a reasonable cost basis.)

The amendment clarifies that the Secretary is required to conduct at least five demonstration projects for at least three years each.

Election of Personnel Policy for Commission Employees

(Section 804 of the Amendment)

The Omnibus Budget Reconciliation Act of 1987 provided that employees of the Prospective Payment Assessment Commission (PROPAC) and the Physician Payment Review Commission (PHYSPRC) should be treated as Senate employees for administrative purposes.

The amendment clarifies that, with respect to PROPAC, this provision is effective only for employees hired on or after December 22, 1987. Personnel hired before this date would have the option to elect to continue under personnel policies in effect previously. All personnel would be required to make a one-time election no later than 60 days after enactment of this amendment.

Increase in Authorization for the Patient Outcome Assessment Research Program

(Section 805 of the Amendment)

The Omnibus Budget Reconciliation Act of 1986 authorized a program of research on patient outcomes of selected medical treatments and surgical procedures for the purpose of assessing their appropriateness, necessity, and effectiveness. The amounts authorized to be appropriated from the Medicare Trust Funds for the Program are $6 million for fiscal year 1987, and $7.5 million for each of the fiscal years 1988 and 1989.

The amendment increases the authorization to $10 million for fiscal year 1989, and authorizes $20 million for fiscal year 1990 and $30 million for fiscal year 1991.

Payment Adjustments to Organizations With Risk-sharing Contracts

(Section 806 of the Amendment)

When Medicare contracts with a health maintenance organization (HMO) on a risk sharing basis, the amount of the Medicare payment to the HMO is determined prospectively, based on the estimated average cost of providing all covered Medicare services to a beneficiary in the area. Risk sharing contracts are annual contracts. During the calendar year 1988, the Secretary issued a guideline that changed the eligibility guidelines for extended care services. As a result of the change, more individuals were eligible for extended care services than had been anticipated at the time the payment levels for 1988 were established.

The amendment provides that any HMO that experiences increased costs in 1988 due to the change in the extended care benefit eligibility criteria, may submit to the Secretary a revised adjustment community rate for 1988. The Secretary shall review the revised rate within 90 days of submittal, and if he approves the revision he shall make additional payments to the HMO equal to the increase in the adjusted community rate.

While this amendment applies only to the change in the extended care criteria, the Committee urges the Secretary to take steps to modify the HMO contracting process and cycle to allow HMOs some relief in similar situations in the future. Because HMOs are locked into a pre-established rate, the Secretary must be sensitive to their special needs when actions are taken that may have an impact on the cost of providing Medicare services.

Fee Schedule for Payments to Certified Registered Anesthetists

(Section 807 of the Amendment)

Payment for the services of a certified registered nurse anesthetist (CRNA) are currently made under part A on a cost pass-through basis to hospitals who employ or contract with them, or under part B to physicians who employ or contract with them. The Omnibus Budget Reconciliation Act of 1986 provided for direct Medicare reimbursement for the services of a CRNA, beginning January 1, 1989. Payment would be made only under part B and would be equal to 80 percent of a fee schedule established by the Secretary. The Secretary was directed to establish the fee schedule at a level such that the total amount paid under the Medicare program for CRNA services, plus applicable coinsurance, would be the same as total payments under the Medicare program would have been under the reimbursement rules as in effect in 1986. The Secretary was further directed to reduce the fee schedule, or the payments to physicians for medical direction of CRNAs, or both, to the extent necessary to ensure that total Medicare payments plus applicable coinsurance for CRNA services and medical direction would be the same as total Medicare payments for those services would have been under the reimbursement rules as in effect in 1986.

The amendment clarifies that the comparison between payment levels under the fee schedule and the 1986 reimbursement rules for payment for medical direction and CRNA services should take coinsurance into account on both sides of the equation. Thus the second comparison described above would be between (A) total Medicare payments, plus applicable coinsurance, for CRNA services and medical direction under the 1986 rules, and (B) total Medicare payments for CRNA services and medical direction, plus applicable coinsurance, under the new 1989 rules.

Clarification of Covered Certified Nurse Midwife Services

(Section 808 of the Amendment)

Section 4073 of the Omnibus Budget Reconciliation Act of 1987 provided coverage under the Medicare program for services furnished by a certified nurse-midwife. Covered services are defined as services that are authorized under State law to be furnished by a certified nurse-midwife, and that would be covered by Medicare if furnished by a physician. The definition of a nurse-midwife refers to a nurse who "performs services in the area of management of the care of mothers and babies throughout the maternity cycle". The proposed regulations promulgated by the Health Care Financing Administration to implement this provision limit covered services to services furnished during the maternity cycle, although some State laws allow nurse-midwives to furnish other gynecological services that are not within the maternity cycle.

The amendment clarifies that the definition of who qualifies as a nurse-midwife does not limit the covered services to those furnished during the maternity cycle.

Coverage of Psychologist Services When Provided On-Site at a Community Mental Health Center or Off-Site as Part of a Treatment Plan

(Section 809 of the Amendment)

The Omnibus Budget Reconciliation Act of 1987 provided for direct payment under the Medicare program for the services of a psychologist furnished at a community mental health center.

The amendment clarifies that services of a psychologist will be covered under the OBRA 87 provision when provided on-site at the community mental health center, and then provided necessarily off-site under the auspices of the clinic as part of the treatment plan. Services provided by a psychologist at his private office away from the clinic would not be covered.

Trip Fees for Clinical Laboratories

(Section 810 of the Amendment)

Section 1833(h)(3) of the Social Security Act requires the Secretary to make special payments with respect to lab specimens that must be collected and brought to the lab. A fee is authorized under 1833(h)(3)(A) for the cost of collecting the specimen, and a trip fee is authorized under 1833(h)(3)(B) for travel expenses of trained personnel who must travel to collect a specimen. Trip fees are allowed only for specimens collected from a patient who is homebound or an inpatient in a nursing facility. Most carriers have established trip fees based on average costs, or on the number of miles, or a combination of the two methods.

The amendment requires that, in establishing trip fees, all carriers that use a flat fee per trip must also allow the lab the option to bill on the basis of actual mileage. Each carrier would have to implement this requirement in a budget neutral manner.

Requirement of Physician Care and Plan with Respect to Outpatient Physical Therapy Services Limited to the Provisions of Such Services to Medicare Beneficiaries

(Section 811 of the Amendment)

Medicare covers outpatient physical and occupational therapy services provided by a provider of services, clinic, rehabilitation agency, or public health agency, and services by a physical or occupational therapist in his office or at the patient's home. The statute requires that the services be provided to individuals who are under the care of a physician, and that the physician establish and periodically review a plan for furnishing the services. The regulations implementing the provision require that the entity furnishing the services must meet the requirements relating to physician care and to the establishment and review of the plan of care by a physician for all its patients, not just for Medicare beneficiaries.

Some States have enacted physical therapy and occupational therapy practice laws that allow a therapist to provide services independently, without a physician referral. However, because the Medicare requirements apply to all patients, the State laws have been in effect superseded by the Medicare requirements.

The amendment clarifies that the requirements relating to physician care and establishment and review of the plan of care by a physician apply only to Medicare beneficiaries, and State law would apply to other patients.

Delay in Issuance of Final Regulations Concerning the Use of Voluntary Contributions or Provider-paid Taxes by States to Receive Federal Matching Funds

(Section 812 of the Amendment)

The Medicaid program is a Federal-State program under which federal matching funds are available to States for medical assistance programs that meet specified federal requirements. The federal matching rate varies by State based on State per capita income. Under current law, some States use donated funds to provide a portion of the State share, which are then matched by federal funds. Some States also use funds that are generated from taxes on health care providers to draw federal matching funds.

In the President's proposed budget for fiscal year 1989, the administration indicated that it would issue regulations to limit the use of donated funds as part of the State share. The regulations have not yet been published.

The amendment prohibits the Secretary from issuing final regulations that change the policy governing the use of donated funds or the use of revenues generated from provider taxes until after February 15, 1989. Proposed regulations could be published before that date.

Formula Modification for Determining State Expenditures Under the Medicaid Long-term Care Waiver Program

(Section 813 of the Amendment)

Section 1915(d) of the Social Security Act provides States an option to receive Medicaid funding for home and community-based services for the elderly, subject to limits based on long-term care expenditures (including nursing facility services) during a base year. The base year amount is updated to take into account growth in the elderly population and increases in the cost of services. However, the base year amount is not adjusted to take into account new mandated services or program expansions, such as the spousal impoverishment protections enacted in the Medicare Catastrophic Coverage Act of 1988.

The amendment provides that the base year amounts would be adjusted to take into account new services and program expansions mandated by Federal law.

Extension of Time Period for Certain Intermediate Care Facilities for the Mentally Retarded to Submit Plans of Correction or Reduction

(Section 814 of the Amendment)

Section 9516 of the Consolidated Omnibus Budget Reconciliation Act of 1985 allowed an intermediate care facility for the mentally retarded (ICF/MF) that was subject to a termination action under the Medicaid program to submit a 6-month plan of correction or 36-month plan of reduction as an alternative to decertification. The Department of Health and Human Services did not issue regulations implementing the section until January 25, 1988. The provision is scheduled to sunset on April 6, 1989, three years after the date of enactment of COBRA. The final regulations did not allow the use of the plan of correction or reduction in the case of a facility that was subject to decertification because of failure to provide active treatment.

The amendment provides that the option to submit a plan of correction or reduction would be available in any case where there was no immediate threat to the health or safety of the facility residents, including failure to provide active treatment. However, during a plan of reduction, active treatment would have to be provided for the residents who remain in the facility. The sunset date would be extended to January 25, 1991, three years after the final regulations were actually issued.

Nursing Facility Decertification Hearing Procedures

(Section 815 of the Amendment)

Section 1910 of the Social Security Act provides that a nursing facility that is a party to a decertification proceeding based on a federal look-behind review may continue to participate in the Medicaid program while a hearing on the issue is pending. The Department of Health and Human Services has taken the position that evidence of compliance based on a later federal or State survey may not be admitted at such hearing. Thus a facility may be terminated on the basis of noncompliance that has subsequently been corrected.

The amendment provides that in a decertification proceeding, nursing facilities would be allowed to submit evidence of correction of deficiencies based on federal or State surveys conducted after the initial finding of noncompliance. This provision would not apply in the case of intermediate sanctions. While the amendment allows the results of a subsequent survey to be admitted as evidence, such evidence does not preclude a decertification finding. The ALJ would also take into account the facility's record of noncompliance and the extent and likely duration of the compliance exhibited in such subsequent survey.

Charter for the National Academy of Social Insurance

(Sections 901-916 of the Amendment)

The amendment authorizes the granting of a Federal charter for the National Academy of Social Insurance. The National Academy is a nonprofit, nonpartisan organization devoted to furthering knowledge and understanding of Social Security and related programs. The provision requires the Academy, as a condition of maintaining its charter, to meet various qualifications generally required of Federally chartered institutions such as maintaining its status as a nonprofit corporation and operating within the scope of the powers granted to it by its bylaws and articles of incorporation in the State or States in which it is incorporated. (The National Academy is incorporated in the District of Columbia.)

Foster Care Independent Living Initiatives

(Section 921 of the Amendment)

The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) authorized funds for State independent living programs for fiscal year 1987 and fiscal year 1988. These programs are to provide services to help children age 16 or over in the AFDC foster care program make the transition from foster care to independence. Children eligible for services under the program are those who are receiving assistance under the Title IV-E foster care program (which provides Federal assistance for foster care maintenance payments). Title IV-E assistance is limited to those foster care children who would have been eligible for AFDC before they were removed from their home and placed in foster care. The Secretary of Health and Human Services is required to provide Congress with a report on the program by July 1, 1988. The authorization level for this entitlement is $45 million for each of the two fiscal years. States did not begin receiving funds under the program until July 1987.

Under the amendment, the current authority for State independent living initiatives is extended for one year (through fiscal year 1989), with an authorization level of $45 million. The following additional changes are made:

1. States will be permitted to spend fiscal year 1987 carry-over funds in fiscal years 1988 and 1989.

2. States will be permitted to use funds under the foster care independent living program for services for two groups of children in addition to those authorized under current law (i.e., children who are receiving assistance under the Title IV-E foster care maintenance payment program): any or all children in foster care who are at least age 16; and, for up to 6 months after foster care payments or foster care ends, children previously in foster care and whose care or payments ended after the child attained age 16.

3. Independent living initiative funds may not be used for the provision of room and board.

4. The definition of case review system under Title IV-E is modified to clarify that the 18-month dispositional hearing also must include, with respect to a child who has reached age 16, the services needed to assist the child in making the transition from foster care to independent living.

5. State reports would be due on January 1, 1989, and a Federal report would be due on March 1, 1989.

The authority for States to include non-AFDC foster care children in the independent living program and the prohibition on the use of funds for room and board are effective on enactment. The remaining provisions take effect on October 1, 1988 contingent upon appropriation of funds.●

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS—LABOR-HHS APPROPRIATIONS CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, there be a period for morning business to extend until the hour of 10 a.m., and that Senators may speak during that period for morning business for not to exceed 5 minutes each; that at the hour of 10 o'clock a.m. the Senate continue consideration of the Labor-HHS Appropriations Conference Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUR UNDER CLOTURE TO BEGIN AT 2 P.M.

Mr. BYRD. Mr. President, the Republican leader is agreeable to this request. I ask unanimous consent that the hour under the cloture rule on tomorrow begin running at 2 p.m., and that the hour be equally divided between Mr. HOLLINGS and Mr. PACKWOOD or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that the mandatory quorum under the rule be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended and that Senators may speak therein, and that at the conclusion of Mr. Dodd's remarks the Chair recess the Senate over under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

TRIBUTE TO SENATOR ROBERT BYRD

Mr. DODD. Mr. President, I rise today to pay tribute to our distinguished majority leader. It is well known that Senator Robert Byrd will not seek reelection to the office of majority leader in the 101st Congress, but rather will assume, we all hope, the chairmanship of the Appropriations Committee, and become the President pro tempore of the Senate.

Mr. President, I rise to pay tribute to Bob Byrd for a number of reasons. It is common knowledge in this Chamber and across this country that he has served with great distinction as majority leader, minority leader, and then majority leader again of the U.S. Senate. He has consistently provided solid leadership, a commitment to fairness and an unsurpassed knowledge of the parliamentary rules and procedures.

Furthermore, Mr. President, he has demonstrated genuine kindness and compassion towards his colleagues, towards his constituents, and towards the American people.

Mr. President, Senator Byrd has served, as you well know, as the Democratic leader in the Senate for 12 years. And as I mentioned earlier, he will move on to become President pro tempore of the Senate and chair the Appropriations Committee.

It is fitting that Robert Byrd, the son of a West Virginia coal miner, would find a home in the Democratic Party. From this Chamber, for the past 30 long years, he has voiced the concerns of millions of Americans who rely on good public servants.

Furthermore, it is a fitting chapter in the history of the American dream that the senior Senator from West Virginia rose to prominence from a very humble background, served in Washington for 30 years as a U.S. Senator, and never once forgot his roots, his people, or his duty.

Senator Byrd graduated valedictorian from his high school in Stotesbury, WV. He pumped gas, sold groceries, worked as a produce salesman, a butcher, and a welder before being elected a member of the West Virginia House of Delegates.

For the past 12 years, the Nation has confidently heard the reassuring sound of his voice as leader in the Senate. This year alone, he has guided the Senate through issues as diverse and as important as the omnibus trade bill, the INF Treaty, the catastrophic health insurance bill, and the Civil Rights Restoration Act. Senator Byrd led the fight to grant workers the right to plant closing notification and he championed the need to reform our campaign financing laws.

But the hallmark or his career in politics has not been the overwhelming margins of victory he has won in his home State nor the leadership positions he has held in the U.S. Senate.

The other half of the story is the man behind the headlines: His fairness, his sense of honor, his hard work, his honesty, and his devotion to giving his fellow citizen a fair shake. His unmatched political instincts, honed during his formative period as a young man whose struggle to earn a living during the Great Depression amid the West Virginia coal mines, have served him well under this Capitol dome.

His political career began when he won a seat to the West Virginia House of Delegates, and includes two terms in the West Virginia House, one term in the West Virginia Senate, three terms in the U.S. House of Representatives, and five terms in the U.S. Senate.

Mr. President, I should point out that Senator Byrd has served with two people in my family. He was elected in 1958 with my father, came to the Senate in the same year, served for 12 years with him, and I have had the privilege of serving with him for 8 years.

So my family has known Bob Byrd for many, many years and during his entire 30 years in the Senate. It is not just as a colleague, or as a fellow Democrat that I rise to pay tribute to him. He is a dear family friend, a personal friend, someone who has been very kind and thoughtful to me during my 8 years in the Senate, and who was extremely gracious to my father during his 12 years in the Senate.

And it is with a sense of sadness that I rise to report that he will not be seeking a leadership position in the 101st Senate. But I look forward to working with him in his new roles as chairman of the Appropriations Committee and President pro tempore of the Senate.

One of the facts about Bob Byrd that I know is known by many, but not by as many as should know. In 1963 Bob Byrd had already been in the Senate 4 years, but in that year he graduated cum laude from American University's School of Law, earning his JD after a decade of attending night school while working as a Member of Congress. In fact, at that commencement address in 1963, President Kennedy gave the address at American University. It was on the whole issue of nuclear arms, and on that day he presented to Senator Bob Byrd his juris doctorate degree.

I know it is a source of great pride to him, but it is something all of us take note of. In the midst of his congressional duties, he went to night school 10 years and graduated cum laude from law school.

Through his work to ensure an America that guarantees opportunity and equality, Senator Byrd has not only advanced the fortunes of all but also has written his own chapter in the American history of the honest and the great. He has set an example for all of us in this body, regardless of party. It has truly been an honor for me to serve with a man of Senator Byrd's compassion and depth. I join my other colleagues in wishing him all the best in the future, and I look forward to serving with him for many years to come.

PROGRAM

Mr. BYRD. Mr. President, the vote on or in relation to the Weicker motion would occur at around 12 o'clock, and then if there is a motion to recede, the vote on that motion would occur subsequent thereto, and those votes should all be disposed of by the time the two party conferences take place. Then at 2 o'clock when the party conferences have run their course, the 1 hour on the motion to invoke cloture on the House textile bill will begin running.

There is a vote on the motion to invoke cloture which would occur then at 3 o'clock p.m.

RECESS FOR THE PARTY CAUCUSES

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the Senate stand in recess between the hours of 12:45 p.m. and 2 p.m. to accommodate the two-party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there will be no rollcall votes today. I indicated on Friday last that if a time agreement could be gotten today on the Labor, HHS appropriations bill, I would have no problem with putting over the votes until tomorrow. That agreement was gotten this afternoon, and consequently it is satisfactory to have the vote on tomorrow. That is the understanding, and that is when they will occur. There will be no rollcall votes today.

I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

The **PRESIDING OFFICER**. Under the previous order, the Senate will stand in recess until 9:30 a.m. tomorrow.

Thereupon, at 4:40 p.m., the Senate recessed until tomorrow, Tuesday, September 13, 1988, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Secretary of the Senate September 9, 1988, after the recess of the Senate, under authority of the order of the Senate of February 3, 1987:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EARL ROGER MANDLE, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1994, VICE RAYMOND J. LEARSY, TERM EXPIRED.

Executive nominations received by the Senate September 12, 1988:

INTER-AMERICAN DEVELOPMENT BANK

LARRY K. MELLINGER, OF CALIFORNIA, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF THREE YEARS, VICE JOSE MANUEL CASANOVA, RESIGNED.

FEDERAL ENERGY REGULATORY COMMISSION

CHARLES A. TRABANDT, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING OCTOBER 20, 1992. (REAPPOINTMENT.)

JERRY JAY LANGDON, OF TEXAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 20, 1988, VICE ANTHONY G. SOUSA, RESIGNED.

JERRY JAY LANGDON, OF TEXAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING OCTOBER 20, 1992. (REAPPOINTMENT.)

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4 agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 13, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 14

9:30 a.m.

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on a staff report on the proposed National Affordable Housing Act.
SD-538

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Select on Indian Affairs
Business meeting, to mark up S. 187, Native American Cultural Preservation Act, H.R. 3621, Southern California Indian Lands Transfer Act, S. 2672, Lumbee Recognition Act, and S. Con. Res. 76, to acknowledge the contribution of the Iroquois Confederacy of Nations to the Development of the U.S. Constitution and to reaffirm the continuing government relationship between Indian tribes and the United States established in the Constitution; to be followed by hearings on S. 2723, to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds.
SD-406

Select on Intelligence
To resume hearings to review the conduct of the Federal Bureau of Investigation inquiry into activities of the Committee on Solidarity with the People of El Salvador [CISPES].
SH-216

10:00 a.m.

Environment and Public Works
Environmental Protection Subcommittee
Hazardous Wastes and Toxic Substances Subcommittee
To hold joint hearings on the greenhouse effect and policies to mitigate adverse climate change.
SD-406

Foreign Relations
Business meeting, to resume consideration of S. 2756, to prohibit investments in and certain other activities with respect to apartheid in South Africa, and other pending calendar business.
SD-419

Governmental Affairs
To hold hearings on regulatory reform.
SD-342

10:30 a.m.

Armed Services
To hold hearings on the nomination of Milton L. Lohr, of California, to be Deputy Under Secretary of Defense for Acquisition.
SR-222

2:00 p.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 4068, to strengthen the enforcement provisions of the Archaeological Resources Protection Act of 1979, S. 1314, to prohibit attempted excavation, removal, or defacing, and to reduce the felony threshold value of illegally removed artifacts to $500, S. 1985, to improve the protection and management of archaeological resources on Federal land, S. 2545, to redesignate Salinas National Monument in New Mexico, S. 2617, to revise the boundary of Aztec Ruins National Monument in New Mexico, S. 2750, to authorize a study on wetlands to commemorate the nationally significant contributions of Georgia O'Keefe, and S. 2767, to authorize a study of the history and culture of Warm Springs, New Mexico, in order to preserve its historic and cultural legacy for future generations.
SD-366

SEPTEMBER 15

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2657, Campaign Cost Reduction Act.
SD-562

Foreign Relations
War Powers Subcommittee
To resume hearings to review the War Powers Resolution of 1973 (P.L. 93-148).
SD-419

Judiciary
Technology and the Law Subcommittee
To resume hearings to discuss the assessment of the threat presented by high technology terrorism and the Government's response to that threat.
SD-266

SEPTEMBER 16

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on state taxation of interstate transportation.
SD-628

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

10:00 a.m.
Foreign Relations
War Powers Subcommittee
To continue hearings to review the War Powers Resolution of 1973 (P.L. 93-148).
SD-419

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
Hazardous Wastes and Toxic Substances Subcommittee
To resume joint hearings on the greenhouse effect and policies to mitigate adverse climate change.
SD-406

2:00 p.m.
Governmental Affairs
To hold hearings on the nominations of James H. Atkins, of Arkansas, Stephen E. Bell, of Virginia, and John D. Davenport, of Oklahoma, each to be a Member of the Federal Retirement Thrift Investment Board, and Bert H. Mackie, of Oklahoma, to be a Governor of the U.S. Postal Service.
SD-342

SEPTEMBER 19

2:00 p.m.
Energy and Natural Resources
To hold hearings on the effect of global atmospheric change on domestic forest resources.
SD-366

SEPTEMBER 20

9:00 a.m.
Energy and Natural Resources
To resume hearings on S. 2667, to establish a national energy policy to reduce the generation of carbon monoxide and trace gases in order to slow the pace and degree of atmospheric warming and global climate change, focusing on titles XIV, XV, and XVI, and the relationship of international deforestation and development policies to global atmospheric change.
SD-366

9:30 a.m.
Governmental Affairs
To hold hearings on S. 2298, to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the GSA inventory for supply to Federal agencies.
SD-342

Rules and Administration
Business meeting, to consider a report on the operation of the Senate, and a report on impeachment proceedings pursuant to instructions of the Senate.
SR-301

1:30 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings to review the U.S. and foreign commercial service.
SD-562

SEPTEMBER 21

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on a staff report on the proposed National Affordable Housing Act.
SD-538

SEPTEMBER 22

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on a staff report on the proposed National Affordable Housing Act.
SD-538

Commerce, Science, and Transportation
To hold hearings to examine airline concentration at hub airports.
SD-562

2:30 p.m.
Finance
To hold hearings to examine the role of the Federal Government on child care services, and to review proposed changes to current law relating to child care issues.
SD-215

SEPTEMBER 27

9:30 a.m.
Governmental Affairs
To resume hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.
SD-342

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative priorities of the American Legion.
SD-106

SEPTEMBER 28

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
S-146, Capitol

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on a staff report on the proposed National Affordable Housing Act.
SD-538

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on S. 2728, to permit coal to be transported in foreign flag vessels between the States of Alaska and Hawaii without regard to section 27 of the Merchant Marine Act of 1920, and S. 2729, to allow certain foreign-flag vessels to carry passengers among ports in Alaska and between points in Alaska and Seattle, Washington.
SD-562

Governmental Affairs
To continue hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.
SD-342

SEPTEMBER 29

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee
To hold joint hearings with the House Committee on Agriculture's Subcommittee on Department Operations, Research, and Foreign Agriculture on critical challenges facing agricultural research.
SR-332

OCTOBER 3

2:00 p.m.
Governmental Affairs
To resume hearings on regulatory reform.
SD-342

OCTOBER 5

10:00 a.m.
Governmental Affairs
To hold hearings on S. 2721, Federal Advisory Committee Act Amendments of 1988.
SD-342

CANCELLATIONS

SEPTEMBER 13

2:00 p.m.
Governmental Affairs
To hold hearings on the nomination of John Alderson, of Virginia, to be Administrator of General Services.
SD-342

SENATE—*Tuesday, September 13, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TOM HARKIN, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same: For he is the minister of God to thee for good * * *. Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.*—Romans 13:3,4,6,7.

Eternal God, infinite in truth and justice, thank you for leaders who see themselves as "ministers of God for good" and are, therefore, worthy of all honor. Grant that every leader may be motivated by this fundamental reality.

One whom we remember this morning, Senator Jennings Randolph, certainly deserves our honor and our concern in light of his recent accident for which he is hospitalized. We commend him to your loving care and healing. May he be assured of our respect, admiration and affection and be restored to fullness of health and strength.

In the name of Him who is the Great Physician. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 13, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM HARKIN, a Senator from the State of Iowa, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. **HARKIN** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. **BYRD.** Mr. President, I thank my friend, the Chaplain, for making reference to our former colleague, Jennings Randolph.

I was in Elkins a few days ago in Randolph County and saw Jennings. He had gotten out of the hospital. He had had a fall and hurt his arm and his hand. But he seemed to be feeling better at that time.

So I am most appreciative and I am sure that Jennings will be delighted to hear that the Chaplain has remembered Jennings.

Mr. President, the Chaplain in his prayer, also, spoke of leaders and paying tribute where tribute is due. And I think he was saying that we should give our best, remembering to walk in communion with God, to do our work, and to not be too concerned about who gets credit, give it where it is due. I compliment him on his reading of the Scriptures.

Someone wrote a bit of verse which I thought about as the Chaplain gave his prayer.

It makes no difference who sang the song,
  If only the song was sung;
It makes no difference who did the deed,
  Be they old in years or young;

If the song was sweet and helped a soul,
What matters the singer's name?
The worth was in the song itself,
  And not in the world's acclaim.

The song and the deed are one.
  If each be done for love;
Love of the work, not love of self,
  And the "score" is kept above.

Mr. President, I yield the floor.

RESERVATION OF LEADER'S TIME

Mr. **BYRD.** Mr. President, I ask that the Republican leader's time be reserved to him.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

(Under the previous order, the Senate conducted a period for the transaction of morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.)

The Senator from Wisconsin.

WHAT'S GOOD ABOUT AMERICA'S FUTURE—PART I

Mr. **PROXMIRE.** Mr. President, this Senator has fallen into the trap of searching for what's wrong with our Federal Government policies and what dangers those policies may have for our country's future while ignoring what's right about our policies and what's rosy and bright about the Nation's future. This "look for what's wrong" approach is one way to solve our country's problems. You look for what's wrong. You dwell on it. You consider the gloomy implications, the price you pay unless you change and correct the policies. Certainly this is necessary. But in doing this you tend to overlook and ignore what's right and bright and promising for a better future.

Let's face it. This Senator has been complaining loud and long about the deficit, about the failure to stop the technological arms race that pushes the world closer toward the massive destruction of a nuclear war. The huge overhanging Federal deficit and the grim prospect of nuclear war are too very real threats that we must not ignore. But let's consider all the developments moving us toward a better life in a better world.

Slowly and erratically we are beginning to face the fact that we have a literacy problem in this heterogeneous American society of ours. The education ethic that is so strong in Japan and some European countries is weak among some Americans. But it is beginning now to catch on a little, but only a little. Not nearly enough. Objective test scores of American high school students show scores down in the 1970's and rising only a little since then. We are, however, bringing along a still small but growing generation of computer literate high school graduates. We have just begun to use television as an effective educational tool. Television is already a dazzlingly successful entertainment media that for all its conspicuous weaknesses has enormously enhanced the lives of tens of millions of Americans. Television may also have improved the informational level of our fellow citizens in the democracy. But we are falling behind our international competition. The great economic progress of Japan

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and the remarkable gains made by European countries have shown us the fruits that can be gained by more intensive education. Japanese and many European children attend school far more days per year and hours per day than American children. Parents impose a much stronger educational discipline in other countries than in America. We can gain from this healthy international competition that is sure to pay off in greater productivity in the work place and a higher standard of living for foreign countries.

Scientific developments to advance our standard of living have been coming on with a rush. In addition to the magic of television and the enormous information revolution ushered in by the computer age, we live in the oncoming age of robotics. Again the Japanese and a few other nations are ahead of us. But we are learning from their success. It takes only a little imagination to foresee an America able to afford a far better life for all. Think of it: Our own American history tells us how ingenious management was able to bring on the construction of automobiles through assembly line production. Autos were fabricated by simplifying each step in production to a single, repetitive task. Those assembly lines made autos cheap enough so a nation rode away on wheels. Now we can take the next step in building autos and building homes, radios, TV's, furniture, clothing, and virtually everything else of tangible utility we can and will bring on robots to do much of our work far cheaper and better. This will free millions of workers for tasks that require human judgment.

The merging of advancing technology and progress in education have specially benefited from the practical form much education has taken in this country. In my State of Wisconsin, for instance, one of the most exciting developments has been in technical education. Wisconsin is justly proud of its great State university system. It includes some 150,000 students. Far larger, however, is a remarkable technical and vocational educational system distributed statewide that can promptly train skilled welders, computer operators, typists, auto mechanics, or whatever other employees business may require. And with all this training of industrial and commercial management specialists in universities throughout our country has provided the basis for the economic leadership that understands how to bring a group of competent workers together and made it an efficient and effective team.

All this is why the future of America is far brighter than our past or our present. Whichever party wins the Presidential election in 1988, come recession or depression, America will enjoy a better, more abundant life. We—and especially our children and grandchildren—are very lucky. We are living at exactly the right time.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

ATMOSPHERIC CONTAMINATION—II

Mr. STAFFORD. Mr. President, the 20th century has produced staggering increases in world population and in technological development and economic activity around this planet.

That combination of circumstances has changed—mostly for the better—both the quality and the style of life for billions of inhabitants of Earth.

That combination of circumstances has also changed—mostly for the worse—the quantity and the nature of the pollutants that we have pumped into the atmosphere that sustains all life on this planet.

For the most part, we have used fossil fuels as the major energy source that has driven our engine of change. And, fossil fuel combustion has produced some of the major pollutants that threaten life on Earth as we know it.

We have also released scores of industrial chemicals into our air, with similar results—new threats to all living things on Earth.

All inhabitants of this planet are at risk, and it is my hope that the United States will lead the nations of the world on a course of action that will reverse this pattern of pollution and that will enable us to recapture the purity of our air.

It is my hope that the Senate will permit me to take a few minutes during each of the remaining mornings of this session of Congress to discuss atmospheric contamination and some proposals for reversing that trend.

In the days to come, I would propose to discuss the following subjects that are key parts of the unfinished agenda regarding atmospheric contamination:

An overview of the various pollutants and other chemicals that are overwhelming the global environment.

Carbon dioxide and the role it plays in global warming.

Chlorofluorocarbons (freons) and the role they play in the depletion of the ozone layer.

Sulphur dioxide and the role it plays in acid rain as well as its impact on human health.

Oxides of nitrogen and ground level ozone and the threat they pose to human health and the environment.

Other pollutants, such as carbon monoxide and methane, and the catalytic role they play with other air pollutants.

I also intend to examine the following:

The evidence that the climate of the globe has started to change. This evidence is so compelling that prudence dictates that we begin to consider the possibility that it may be a major reason for worldwide drought, crop failures, a record number of forest fires throughout North America and even flooding in Bangladesh.

The accumulating mass of evidence that ground level ozone—we call it smog—is responsible for crop and forest damage and that breathing it at concentrations that occur commonly in the United States is the same as smoking a cigarette.

The now conclusive proof that industrial chemicals have destroyed huge quantities of stratospheric ozone, just as scientists warned us nearly 15 years ago.

The equally well-established proof that clouds, fog, rain and snow are now so acidic in many places that a morning mist or a summer shower can have the characteristics of lemon juice, vinegar, or even approach acidity of battery acid.

And, finally, the linkages of each of these to one another. How these chemicals form a soup that attacks our health and our environment. How a hotter climate increases ground level ozone, which then traps more heat, thus speeding up ozone depletion in the stratosphere.

I shall also discuss some possible solutions to the dangers that result from atmospheric contamination.

It is also my intention to examine two fundamental alternatives available to the human race in dealing with atmospheric contamination.

We stand, literally, at a fork in the road.

Down one path is a bright new future for ourselves and for our children and for their children.

Down the other path is a future that this Senator would rather not contemplate—a future that we can avoid once the alternatives are known and understood.

Mr. President, I will be back tomorrow. I yield the floor.

Mr. LEVIN. Mr. President, let me thank our friend from Vermont on behalf of all of us for what he is about to do. Launching on this series of remarks on the floor is going to benefit all of us and, more important, the country. The environment has had no greater friend and champion than the Senator from Vermont. This plan of his to leave us with his thoughts is part of a very great legacy of the Senator from Vermont and we are very much in his debt.

Mr. STAFFORD. Mr. President, if the Senator will yield, I just wish to tell him how much I appreciate the very kind words of the Senator from Michigan. I have long admired him, and for that reason I particularly appreciate what he has said this morning.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

(The remarks of Mr. Levin pertaining to the introduction of legislation are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

(The remarks of Mr. Cochran pertaining to the introduction of legislation are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Dixon). Without objection, it is so ordered.

HUMAN RIGHTS AND PRO BONO SERVICE BY ATTORNEYS

Mr. PRESSLER. Mr. President, freedom is a precious thing. To Americans, the value of freedom is incomparable because it has been achieved at the cost of many lives. Many have sacrificed so that we in the United States might enjoy the civil liberties which anchor our democracy.

As precious as freedom is in America, it is doubly so in countries where it is rare. Today the world's population is an estimated 5 billion people living in 167 sovereign states. Only 38.3 percent of these people live in countries that are considered free. Another 24 percent live in countries that are partially free. The remaining 1.9 billion people, or 37.7 percent of the world's population, live in countries that are not free.

Citizens' liberties in many countries are in constant jeopardy. For example, last year Fiji's democracy was destroyed. This small island country had been a respected successful democracy because of its unique ability to balance the interests of its minority ethnic populations.

Another setback to freedom over the last few years has occurred in Panama, where the military has interfered in elections and the media are restricted. A decline in freedom also has occurred in Kenya. Not even a semblance of competition exists in Kenya's one-party system. Haiti's dictatorship and poverty were marked by a violently suppressed election. A coup in Lesotho demolished the civilian government and left the current leadership unable to explain its opponents' mysterious deaths.

In Communist countries, the human rights situation is even worse. Despite constitutional guarantees that specific rights will be respected, Communist governments systematically deny all but the most limited freedoms to which Americans are accustomed. Tight control of communications media in those countries makes it difficult for the rest of the world to know the true magnitude of human rights violations.

Increasingly, however, world public opinion has become more sensitive to the human rights situation, and much more inclined to express its condemnation of known violations. Human rights advocacy groups have played a major role in this regard.

Human rights advocacy groups have played a major role in the advance of freedom. They call public attention to human rights violations by repressive governments. Literally hundreds of these nongovernmental civil rights organizations are located around the globe. Some of the larger and more well-known U.S. advocacy groups include Amnesty International, Lawyers Committee for Human Rights, and Human Rights Watch. These privately funded groups have done excellent work advocating human rights and should be commended for their dedication to this invaluable service. Much more work can and must be done in this area.

Reports of human rights violations must be fair and impartial in order to gain bipartisan support for the fight against tyranny. The perception that a human rights complaint is biased can generate controversy that detracts from the effectiveness of the human rights cause.

Some nongovernmental human rights organizations are perceived as having a liberal bias. Whether this perception can be remedied by actions that go beyond futile argument and conflicting rhetoric. I propose that conservatives become more active in the work of the major human rights advocacy groups. Those who are best qualified to serve in this capacity are the senior attorneys of prestigious law firms throughout the United States. The talent of some of our Nation's best legal minds would be invaluable to the work of human rights groups.

The Latin work pro bono means "for the good" and describes legal service done for free. Currently, U.S. law firms encourage pro bono work by their attorneys within the United States. There is less experience in the U.S. legal tradition with the concept or practice of pro bono service beyond our Nation's borders. Yet, a vast area of human rights abuses overseas offers a fertile field for pro bono work by American attorneys. Legal knowledge, communication skills, and articulate manpower are necessary to strengthen respect for human rights. Attorneys are needed to defend political prisoners and present to the court of world public opinion the facts about repression and denial of human rights.

Until each repressive regime truly respects basic human rights, many people will continue to live in fear. I strongly urge prestigious U.S. law firms to become directly involved in the struggle for human rights around the globe. No service is more noble, or more crucial to the battle for freedom. We Americans should not be satisfied until all human beings can share the same freedoms we enjoy.

The senior attorneys of our Nation can help advance this cause by offering pro bono service to established human rights organizations. The public interest of our Nation is served to the extent that they help to improve respect for human rights both at home and abroad.

LLOYD H. ELLIOT TRIBUTE

Mr. PRESSLER. Mr. President, on July 31, 1988, Lloyd H. Elliot, one of America's finest higher education leaders, stepped down from his post as president of George Washington University. His presence surely will be missed.

Throughout his 23 years as president of George Washington University, Lloyd Elliot served with distinction. His low-key, but effective management style turned around a university that some once considered second-rate.

Just prior to assuming the presidency of George Washington University, Elliot served as president of the University of Maine for 7 years. Lloyd Elliot is a native of West Virginia. At the age of 19, he graduated from a State teacher's college in a coal county. He then taught history in a public school until be became a principal. Since Elliot was a naval officer during World War II, he was able to take advantage of the GI bill to earn a doctorate in educational administration from the University of Colorado. Elliot also spent 10 years as a faculty adviser at Cornell.

With this experience, Lloyd Elliot came to George Washington University in 1965. Elliot had a sharp mind and a positive outlook. He saw potential in what others called the high school on G street. In Lloyd Elliot's opinion, the university was "a seat on the 50 yard line." Elliot saw opportunities in both directions. Soon, he began planning how to utilize the resources available in the university's Foggy Bottom neighborhood just west of the White House. Combining ingenuity and practicality, President Elliot inspired great improvements not only at the university, but also for the neighborhood and city.

Under Elliot's administration, George Washington University's endowment rose from $9 million to $247 million. This astonishing increase was largely a result of Elliot's ingenious real estate investment proposals.

George Washington University experienced a vast improvement in facilities under his leadership—including a new student center, law school, medical school, and library. The Smith Center was erected to replace the former "tin tabernacle" gymnasium and to provide students with a facility for basketball, women's athletics, and lifetime sports.

In addition, Elliot's administration spearheaded a proposal to attract first rate faculty. The number of endowed professorships grew from 3 to 27. Five prestigious scholars were hired. Among these were Marcus Cunliffe, an Oxford-educated scholar of American studies; and Alex Zwerding, an English professor from the University of California, Berkeley.

All of these accomplishments only hint of the impeccable character of this outstanding man. Lloyd Elliot is regarded with great warmth by all who know him. He is a humble man with a positive attitude. He does not demand credit for his accomplishments; glamour is not his style. President Elliot does not even boast of the university of which he surely must be proud. Instead, he prefers to let the university's high quality academic reputation speak for itself. Maybe that is why he has been so effective.

I highly admire Lloyd Elliot, the outgoing president of George Washington University, and wish him much happiness and well being. In this, our farewell, I believe we should practice Lloyd Elliot's modest style. For if we let his accomplishments speak for themselves, we will understand why he is a man who will be greatly missed.

HEALTH CARE SERVICES IN THE HOME

Mr. HATCH. Mr. President, I would like to acknowledge the Herculean effort put forth by the Senate members of the conference to reach agreement on the Labor, Health and Human Services, Education appropriations bill. However, I am disappointed that after all of the hard work in this body and by Senator WEICKER, Senator INOUYE, and Senator CHILES in conference, that the conferees had to accede to the low figure offered by the House for health care services in the home—almost 50 percent less than the Senate-passed appropriation.

Perhaps our colleagues in the House need to be reminded that each day 5,200 Americans join the ranks of our senior citizens. While we enjoy the prospect of longer lives, we must also cope with new issues. One of these is how to provide affordable quality long-term health care.

Several months ago I held a hearing in Salt Lake City on women and health issues. Mr. President, I would like to share with the Members of this body the testimony of two witnesses who testified at that hearing on the importance of home health care. Let me cite first the statement of Mrs. Shauna O'Neil, director of Salt Lake County Aging Services.

Mrs. O'Neil provided the committee with a very comprehensive picture of what home health care is today and what it can be in the future. It is provided by a wide variety of health care professionals, including doctors, nurses, aides, dieticians, and technicians. In addition, the services of homemakers and drivers are utilized. Today, even more complex procedures, such as kidney dialysis, can be performed at home.

For more than 10 years, Utah's Alternatives Program has given people in our State a choice. Institutional care is expensive, and despite the best efforts of an institution's management and staff, it is often impersonal. For many families home health care has been the answer.

But, as Mrs. O'Neil pointed out, family caregivers need support. The Alternatives Program was designed to provide badly needed assistance to relieve the stress of caring for a loved one 24 hours a day. This assistance comes in the form of Meals on Wheels, transportation, and other services. And, as Mrs. O'Neil testified, "Case management is the glue which holds this system of services together" so each patient gets the proper care and the family gets the right services at the right time.

I would also like to share the testimony of Mrs. Marian Lewis. She came to our Salt Lake hearing on the same day she was released from a convalescent center following surgery to replace a knee joint. Her husband, Bert, was released the same day. Bert is a victim of Alzheimer's disease, and Mrs. Lewis cares for him at home. I admit to being moved by her statement that all she wanted was for her husband "to live out the reminder of his days with peace and dignity." She asked if there was something we could do to help people in situtions like hers—people trying to care for a parent, spouse, or child in their own homes. "The assistance we need," she said, "is simple, but so hard to find."

The Alternatives Program, and others like it around the country, however, suffer from a lack of resources. Services cannot always be provided to those who need them with the consequence that many people end up in nursing homes who could be—and would rather be—at home.

So, what does Congress do, It cuts the already rock bottom Senate recommendation for home health care services in half. Last year, we started out with a Senate-passed authorization for the program in the Older Americans Act of $100 million. Even that modest budget for a program which could save many times more in Medicare and Medicaid costs was whittled down by the House. I just cannot believe that at a time when our Nation is struggling with the problem of how to make a long-term care more affordable as well as more effective, we short change the home health care program.

At this point, I ask unanimous consent that a letter from Dr. Philip Brickner, director of the department of community medicine at St. Vincent's Hospital in New York, be inserted in the RECORD. Dr. Brickner is an acknowledged expert in community health services and makes several salient points in this letter, which is addressed to our House colleague, Congressman CLAUDE PEPPER.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ST. VINCENT'S HOSPITAL,
New York, NY, July 11, 1988.

Congressman CLAUDE PEPPER,
Select Committee on Aging, Subcommittee on Health and Long Term Care, Washington, DC.

DEAR MR. PEPPER: This is to seek your support for an appropriation to continue "The Health Care Services in the Home Act of 1987" [Public Law 100-17] for an additional two years. In its first year of funding this legislation provided $5 million for grants to show the feasibility of helping disabled persons remain independent in their own homes and out of institutions. The first grantees will be announced shortly, and the monies for year one are authorized. However, I understand that funding of $5 million each for years two and three has not as yet been approved, and is in fact threatened.

For those of us who have been working in the field of long term care for many years, this legislation, in its own small way, is a landmark. It is the first long term care bill ever to emerge from Congress with a funding authorization; and thus the only federal legislative opportunity to date designed to help relieve the long term care crunch which our country's demographic changes now impose. The number of very old persons in our population is growing much larger. Nursing home placement is anathema to many of them. Dependence on institutions for their care is beyond practical consideration. Beyond the issue of money, warehousing the aged behind these walls carries a social cost too great to bear. Care at home is probably the answer, but many technical questions about home care remain unresolved: what sorts of service are needed; what are the right program designs; what about safety issues; who needs home care most; how shall costs be controlled; what is the role of family, of friends and neighbors; what is the appropriate relationship of home care programs to hospitals and to other community organizations?

The demonstrations funded under this legislation will attempt to find answers; and these answers are critically important to care of the disabled among us in the next decades. Our country is not prepared at this moment to meet the need. It seems unfortunate, indeed unwise, to start these several demonstrations and fund them for one year, only to let them die before they can fulfill their purposes.

I hope that you will be able to help sustain this important effort for the additional two years originally foreseen in the legislative proposal.

Thank you for your consideration.

Sincerely,
PHILIP W. BRICKNER, M.D.,
Director, Department of Community Medicine.

Mr. HATCH. I would say to the distinguished managers of the bill, Mr. President, that I was tempted to offer a motion to recommit this bill to conference with instructions to restore the appropriation for home health care to at least its Senate-passed level. But I know a dedicated effort was made by the Senate conferees to obtain the additional funds, and I will not press the issue. Rest assured, however, that I will be back advocating for this program and the freedom for families to choose this long-term care option every chance I get.

Let me conclude by thanking the chairman and ranking member as well as Senator INOUYE for their support of this program. I look forward to working with them next year to improve the availability of home health services in every State and community and to provide all American families with this choice if someone in their family needs long-term care.

THE FUND FOR INNOVATION IN EDUCATION

Mr. HATFIELD. Mr. President, I would like to briefly discuss with the distinguished chairman of the Labor-HHS-Education Subcommittee a new initiative contained in the conference report to H.R. 4783. The statement of the managers accompanying conference report H.R. 100-880 directs that $250,000 of the amount provided for discretionary activities within the Fund for Innovation in Education be made available for the purpose of administering a program to make grants to secondary school students from across the Nation to participate in congressional and diplomatic seminars in the Nation's Capital. Furthermore, that these grants shall be made available to students who are hearing impaired or otherwise disadvantaged or disabled.

As the chairman is aware, the Washington Workshops here in the Nation's Capital is a nonprofit, nonpartisan organization whose Congressional Seminar Program was the first program of its kind. Since its founding in 1968, the workshops has expanded its activities to include seminars on diplomacy and global affairs. The workshops has now developed the Claude and Mildred Pepper Scholarship Program which will provide hearing impaired or otherwise disadvantaged or disabled students with the opportunity to participate in both the workshops' congressional and diplomatic seminar programs.

Would the chairman agree with me that the Claude and Mildred Pepper Scholarship Program would be ideally suited to receive the funds earmarked in the conference report for the purposes discussed above.

Mr. CHILES. Yes, I would most definitely agree with my good friend from Oregon that the activities of the Washington Workshops and specifically, its Claude and Mildred Pepper Scholarship Program, would be ideally suited to carry out the $250,000 initiative contained in the conference report. The Washington Workshops has offered an invaluable and unique educational experience for young Americans from my State and many other States. I would strongly urge that the funds the conferees have provided for this initiative be made available to the Pepper Scholarship Program.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business has expired.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1989—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senate will now resume consideration of the conference report on H.R. 4783. The clerk will report the pending motion.

The assistant legislative clerk read as follows:

A motion to further insist on Senate amendment No. 126 to H.R. 4783, an act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I know the answer to this question, but just to make it a matter of record, will the Chair state the pending business?

The PRESIDING OFFICER. The pending business is the motion to insist on Senate amendment No. 126 to H.R. 4783.

Mr. HELMS. I thank the Chair.

What is likely to happen today, as I understand it, Mr. President, is that there will be a motion to table the Weicker motion to insist upon the Senate amendment. As I understand it, the distinguished Senator from Florida [Mr. CHILES] will make that motion, and I will wholeheartedly support it. I hope other Senators will as well.

Let us get to the basic underlying question of what is at issue here. This Senator is exceedingly glad that the House of Representatives has rejected what is known as the Exon amendment. If the Exon amendment should become law, it will weaken, if not destroy, the 7-year-old restrictions on federally funded abortions which the Hyde amendment has wisely provided.

I felt obliged to oppose the amendment of the distinguished Senator from Nebraska when it was approved by the Senate some weeks back. Then it went to conference with the House, and the House conferees refused to agree to the Exon amendment. If the House position prevails, which I pray it will, the Hyde amendment will continue to be the law of the land. This past Friday, the full House rejected the Exon amendment by a vote of 166 to 216.

Mr. President, I support the Hyde amendment and always have. I have offered it on this floor a number of times. It has been the law of the land for 7 years now because so many Senators and Members of the House oppose Federal funding of abortions for a number of reasons—the most important of them being that despite denials to the contrary, scientific research continues to show that an unborn child is not just a glob of tissue, but a human being, separate and distinct from his or her mother—a live, growing child, a human being, with its own heartbeat, brain waves, and responsive to sensory impressions.

Mr. President, if I may inject a personal note, back in April, my daughter-in-law and son were blessed with the birth of a little girl, Amelia Jean Helms, who was born a little more than 3 months prematurely. She weighed 2½ pounds. I might add that she now weighs more than 9 pounds. She is home now and doing well.

If the Chair will forgive a bit of grandfatherly pride, she is a precious little thing. During the recess I held her in my arms. She smiled; and she perceives things going on around her. I went to see her, back in April, at the Premature Intensive Care Division of Baptist Hospital in Winston-Salem when she was about 4 or 5 days old. There she was, lying on her stomach with all of the little tubes and monitors, and so forth. The doctors and nurses scrubbed me down, put a gown on me and a mask, took me over to the little incubator and sat me down on a little stool beside it. Then they opened a little window, and the doctor said, "Senator, stick your hand in there and love that child. See if she doesn't respond." I did. I rubbed her tiny head; I patted her back, little legs, and arms. The doctor said, "Now, then, put your forefinger under her hand." When I did that, that tiny hand grasped that forefinger. She also grabbed my heart forever.

The point is that there is a widespread predisposition in this country to suggest that little ones like Amelia, or smaller, or sometimes larger, are not human beings. I reject that. I offer as exhibit A, Amelia Jean Helms.

The right to life, Mr. President, is an inalienable right of all mankind, from one end of the age spectrum to the other. Innocent human life should not be destroyed because of the circumstances of the child's inception. Whether that child is conceived by force or consent, the child does not deserve to be put to death. The Hyde amendment, which is now present law, stipulates that the taxpayers should not be required to pay for the deliberate, intentional termination of innocent human life.

At this point, Mr. President, let me reflect upon a book that I wish all Senators would read. It is a poignant book, a biography. The name of it is "His Eye Is On the Sparrow." This book provides an excellent illustration of what we are debating today. A woman years ago became pregnant from a rape. Immediately, when she discovered she was pregnant, there were voices all around her saying, "Get an abortion, get an abortion." And she said, "No." She insisted that the child she was carrying was innocent, the child she was carrying was a human life, and she was not going to destroy it. She insisted that the child she was carrying deserved to live and to love and to be loved, and she was not going to destroy it.

Now, Mr. President, just suppose that mother had followed the advice and exhortations given her. Suppose she had gone ahead and, as a matter of convenience, had the child destroyed. None of us would ever have been blessed with the remarkable life and the perfectly beautiful voice of Ethel Waters—that splendid, talented, black lady about whom the biography I have just mentioned was written.

Now, Mr. President, the Exon amendment would ensure that this Nation would not be blessed with thousands of other human beings who could contribute so much to the betterment of mankind during their lifetime.

I am not a lawyer, but I have often heard lawyers say that hard cases make bad law. I think if there ever was a perfect example of what that really means, it is the proposal to change the Hyde amendment. That is what we are talking about today, the Exon amendment which the House has rejected, and which the Senate should now abandon.

Let me say very quickly, for the women who conceive a child as a result of rape, my heart goes out to them. They deserve compassion and help, and they are going to get every bit I can give them.

Notwithstanding the Hyde amendment, Federal funds continue to be used to provide adequate treatment for victims of rape or incest including DES. Other nonabortion procedures are provided, so we are not talking denying medical treatment to women who have experienced the disgusting crime of rape.

So, we are talking about the deliberate destruction of the most innocent, most helpless of humanity, the unborn child.

We are not talking about an epidemic of pregnancies resulting from rape, because there is no such thing. Contrary to what is so often published and broadcast and orated by politicians who want to add to or take away from the Hyde amendment, pregnancies in fact resulting from rape are exceedingly rare.

Back in 1984, I believe it was, Senator Denton reviewed a few of the studies. There was a Washington, DC, study that indicated only one pregnancy resulted out of a total of 300 rapes. There were no pregnancies from confirmed rape in Buffalo, NY, over a 30-year period. There were no pregnancies from confirmed rape in St. Paul, MN, for more than 10 years. A Chicago study showed that there were no pregnancies from rape for more than 9 years.

Other studies, Mr. President, showed overall less than 2 percent of rapes resulted in pregnancy. So describe it as you may wish. The shameful truth is that enactment of the amendment of my good friend from Nebraska, Mr. Exon, will simply open the floodgates for taxpayer-funded abortions far beyond the few pregnancies that actually result from rape.

Mr. President, if you want to know somebody who has in fact verified what I have just said, it is Gloria Steinhem. In an interview in USA Today, she candidly acknowledged that making "abortion legal only in cases of rape and incest would force women to lie."

Mr. President, two leading law enforcement associations have opposed the exception for this precise reason. In a letter dated July 18 of 1977 the director of the Bureau of Governmental Relations and Legal Counsel for the International Association of Chiefs of Police wrote the following:

> If this Senate provision ultimately becomes law, the Federal Government will have created a situation whereby a woman wishing to obtain a free abortion at Government expense would be required to report that a crime of rape or incest had occurred. Obviously, if the reporting of a crime becomes financially profitable, we can expect innumerable false reports. Each such report would have to be investigated requiring considerable manhours of already overburdened police departments.

In any case, Mr. President, the Exon amendment will not resolve these problems; it will simply exacerbate them. Under the Exon amendment, to obtain a taxpayer-funded abortion a woman would simply report, to law enforcement or to a public health service, that she has been raped. She must make that report "promptly," whatever that means. The word is not defined.

Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina is advised that he has 44 minutes remaining.

Mr. HELMS. I thank the Chair.

Ms. MIKULSKI. Will the Senator from North Carolina yield for a question?

Mr. HELMS. For a question. Yes.

Ms. MIKULSKI. Is it the Senator's intention to speak for the entire 44 minutes?

Mr. HELMS. No. I am expecting other Senators who have indicated they also want to speak.

Mr. President, it is clear that reporting the rape to a public health service within some undefined time period makes a mockery of any attempt to limit federally funded abortions to cases of legitimate rape.

Finally, by opening Federal funding of abortions in cases of rape and incest—even real cases of rape and incest—will send this country down a slippery slope of no return. This year Senators will vote on the hard cases of rape and incest. Senators know as well as I do that the proabortion lobby and the social engineers of this country will not be satisfied with federally funded abortions only in cases of rape and incest. Their goals are much more far reaching than that. If we agree that the American taxpayer should fund the murder of innocent human life conceived by force, there will be efforts to justify withholding Federal funds for abortion of children with a physical abnormality, and on and on.

These are the difficult issues we must face. As I said earlier, hard cases make bad law. My heart goes out to women who are, in fact, raped and those who conceive a child as a result of that rape. They deserve our compassion and our help. Their assailants must be punished severely. But one atrocity does not justify another. Rape does not justify murder of an innocent unborn child. Americans should not be forced to subsidize the termination of innocent human life.

I urge Senators to vote to table the motion of the Senator from Connecticut.

Mr. President, one other thing, and then I will yield the floor.

If the motion to table, which I understand will be made by the distinguished Senator from Florida, Mr. CHILES, is defeated, this bill is going to be vetoed by the President of the United States. I have before me a letter from President Reagan dated September 7 in which he says:

> The committee of conference on the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1989 (H.R. 4783) reported a bill that I could sign if it does not contain the Senate's proposed abortion provisions.

That means the Exon amendment. Then the President's letter continues:

> I understand the conferees did not reach agreement on the abortion issue and the two Houses will vote on it again.
>
> The House passed the Hyde Amendment language that provides:
>
> "None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."
>
> The House provision protects the lives of America's unborn children and I strongly support it.
>
> The Senate amended the bill to permit use of funding for abortions in cases in which the life of the mother would not be endangered if the fetus were carried to term. The Senate language would permit the use of Federal funds for the slaughter of unborn children, depriving the innocent of the most basic of civil rights—the right to life.
>
> I will veto the bill if it is presented to me with the Senate language. If it is instead presented to me only with the House language, the bill will merit my approval.
>
> I urge the Congress to vote to protect the lives of America's unborn children.

Mr. President, I ask unanimous consent that this letter from President Reagan and a letter dated September 13, 1988, from National Right to Life Committee, Inc. to me be printed in the RECORD at the conclusion of my remarks.

Mr. President, I yield the floor and I reserve the remainder of my time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL RIGHT TO LIFE
COMMITTEE, INC.,
Washington, DC, September 13, 1988.

Senator JESSE HELMS,
U.S. Senate,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR HELMS: As you know, on September 9 the House reaffirmed its support for the Hyde Amendment by a 50-vote margin, rejecting the "Exon Amendment" adopted by the Senate on July 27. The House vote followed a September 7 communication from President Reagan, who promised, "I will veto the bill if it is presented to me with the Senate language. If it is instead presented to me only with the House language, the bill will merit my approval."

There has been some confusion regarding the July 27 Senate roll call by which the Exon Amendment was adopted. Some press reports represented the 73 to 19 vote as evidence of overwhelming Senator support for weakening the Hyde Amendment. In fact, however, the language was offered by Sen. EXON, on his own initiative, as a substitute for the much *more* permissive Weicker-Mikulski language which had earlier been approved in the Senate Appropriations Committee. Forced to choose between two bad options, many pro-life senators voted for the least permissive alternative, the Exon Amendment. Given the context, the National Right to Life Committee (NRLC) approved of such votes, but NRLC will not publish the July 27 roll call because it was meaningless as an indicator of a senator's position on Medicaid funding of abortion.

Today's vote, however, poses a clear choice between the Hyde Amendment and the more permissive Exon language. Thus, NRLC intends to publish today's roll call, with a vote against the Hyde Amendment fairly reported as a pro-abortion vote.

Under ordinary circumstances, it would hardly be necessary to state that the National Right to Life Committee opposes any weakening of the Hyde Amendment. However, a badly distorted report on the July Senate vote appeared in a pro-life newsletter, stating that NRLC "full approved" of the Exon Amendment. This report reflected a gross misunderstanding by the publisher of this New York-based newsletter regarding the July 27 vote, but there is reason to believe that pro-abortion lobbyists are attempting to exploit his confusion. There should be no confusion: NRLC regards today's vote on the Hyde Amendment as the most important vote of the 100th Congress on Federal funding of abortion.

Please accept our heartfelt thanks for your ceaseless efforts on behalf of the most defenseless members of the human family.

Respectfully submitted,

DOUGLAS JOHNSON,
Legislative Director.

THE WHITE HOUSE,
Washington, DC, September 7, 1988.

Hon. JIM WRIGHT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: The committee of conference on the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1989 (H.R. 4783) reported a bill that I could sign if it does not contain the Senate's proposed abortion provisions. I understand that the conferees did not reach agreement on the abortion issue and the two Houses will vote on it again.

The House passed the Hyde Amendment language that provides:

"None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

The House provision protects the lives of America's unborn children and I strongly support it.

The Senate amended the bill to permit use of funding for abortions in cases in which the life of the mother would not be endangered if the fetus were carried to term. The Senate language would permit the use of Federal funds for the slaughter of unborn children, depriving the innocent of the most basic of civil rights—the right to life.

I will veto the bill if it is presented to me with the Senate language. If it is instead presented to me only with the House language, the bill will merit my approval.

I urge the Congress to vote to protect the lives of America's unborn children.

Sincerely,

RONALD REAGAN.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you, Mr. President.

I rise in very strong support of the Weicker motion to mandate that the Senate not accede to the House position. I supported in the Appropriations Committee along with Senator WEICKER the amendment, and in fact was the cosponsor to add the amendment to include rape and incest as one of the criteria that would enable women to qualify for federally-funded abortions for poor women.

During the course of the debate on the Senate floor I was a reluctant supporter of the Exon amendment allowing States the choice of whether to fund abortions in case of rape or incest, and only if promptly reported. I supported the Exon amendment to the Weicker-Mikulski amendment reluctantly because I think it should be a national policy, but during these debates and on other occasions we were always told if you give the States the right to decide we will support it.

So, for the people who are antichoice, antigiving people the right to decide this without Government intruding in their lives, we supported the Exon amendment. Now it comes back and no matter how much flexibility the prochoiced advocates have given, it still is not good enough.

Now we are faced with this situation on the Labor-HHS bill. There is no doubt that there are many wonderful things in the Labor-HHS appropriation. Being on the committee, I know what it contains. But we are talking about an issue of principle here, and it is that poor women should have the right to control their own destinies, particularly in these very narrow circumstances.

Under current law, a woman who is the victim of sexual assault, rape—sexual assault is a nice word. But we are talking about rape. We are talking about incest—cannot get Medicaid to help her pay for an abortion unless her life is in danger. The amendment we are voting on, or the concept we are voting on today, gives States the choice of whether they want to fund abortions in the case of rape or incest, and only if promptly reported to law enforcement officials.

Under current law, we are telling these women that, if we do not adopt the Weicker motion, they must bear the child of their attacker. If you think about this, it is grotesque and inhumane. Let us talk about rape. Sexual assault on women is widespread. FBI reports indicate that 90,000 women in the United States of America are raped annually. And the number is actually much, much higher because of the trauma that a woman must go through when she reports being a rape victim, and the fact that while her rapist is often given a free lawyer at taxpayers' expense, is given counseling, is given help, the victim will bear that scar all of her life.

Of course, we are not telling all women this. We are only telling women who are too poor to take advantage of the full range of medical options available to them. Abortion is a legal medical procedure that is now available to women who are well off. Denying this option to poor women is discrimination, pure and simple.

So I say these victims are doubly victimized: once by their attackers and second by the system that will not allow them to receive a medically necessary procedure.

We have fought this battle time and time again in the Senate. We won it in 1986 but lost the provision to the House. We won it again this year in subcommittee, behind the able leadership of my colleague Senator LOWELL WEICKER.

We have public opinion behind us. An ABC-Washington Post poll found that 84 percent of Americans support abortion in cases of rape or incest.

We can no longer allow this Government-sanctioned discrimination against poor women to continue. I urge that we stand firm on the Weicker motion.

Let us deal now with some of the questions and answers.

First, to my distinguished colleague form North Carolina, when he spoke about his lovely grandchild. I thought that story was touching. But we are not dealing with the issue of prematurity here. We are dealing with the issues of rape and incest and abortions for poor women. I am not going to minimize the Senator's comments, but he is not saying that his grandchild was born of rape or incest.

He said Ethel Waters was a child born of rape. I am not saying what a person would decide under those circumstances, but we are saying that she should be given the constitutional right to decide and she should not be denied that opportunity because of her economic situation.

What about the argument that this would set up a big loophole to say who gets expanded Federal abortions?

Will women lie and come in and say, "I've been raped, so I can get an abortion"; say, "I'm a victim of incest, so I can get an abortion"?

That is an argument that is brutal in terms of understanding what happens to a rape victim.

I would challenge every Senator here to spend at least 2 hours on a weekend in a rape crisis center. I would challenge any Senator here to spend 2 hours on a weekend in the emergency ward of any hospital, to see what a rape victim looks like, sounds like, and what she is feeling, what she is experiencing after she has been brutalized.

No woman in America will lie about the fact that she has been raped in order to get a free abortion. After you have been raped, after you have to go through the kind of interrogatory with the police to say that you have been raped, after you have been examined not for medical treatment but for evidentiary reasons, I do not think that is what you are going to do.

Then, if you do report it, there has to be some kind of action. The trauma of the incident is such that often their marriages come apart, and they are haunted by it for the rest of their lives.

Does the public oppose abortions in these circumstances? No. Virtually every public opinion poll shows that it does not.

Let me conclude by saying this: I am a social worker, and I worked in the streets and neighborhoods of Baltimore. I have worked in foster care and was affiliated with the field of adoption, so I know how important adoption and foster care are. But I also worked as a child abuse worker. I also worked in child neglect. I would like to tell you one story I faced.

By the way, I am from the generation that was before Roe versus Wade. I am from the generation which knows about coathanger abortions. I am from the generation which knows how the rich girls could always fly somewhere, or there always was a society doctor who could take care of them. But while the society doctors were taking care of them, I was in the neighborhoods during segregation in Maryland, and I remember an AFDC mother who had a coathanger abortion on her kitchen table in a public housing project. She was rushed to the hospital, and because of segregation she was not admitted and was sent to a public hospital and barely survived.

Then there was one of the most heart-rending cases I ever had, for which there was no solution, because this was before Roe versus Wade. It was a terrible situation involving child neglect in a family under my supervision. We had a situation where there was a victim of incest. Let me tell you what that case was.

A 17-year-old retarded boy, living with his family of nine in a public housing project, committed incest with his 13-year-old sister who was a victim of cerebral palsy and was deaf. I will never forget that case. It is seared in my memory because that little child was born and eventually died. I remember the trauma in the family.

Do you know what it is like to try to tell a 13-year-old child with multiple handicaps, who has been sexually molested by her brother—to try to even explain this to her? Under the circumstances, we could not take her to Johns Hopkins Hospital nor to the University of Maryland for medical advice or for counseling, to see what her circumstances were.

Mr. President, those are the kinds of circumstances we are talking about here. The lives of the poor are brutal anyway, and often the lives of the poor are doubly brutalized by what happens to them and what happens to them in the system.

I would like to close my argument with the most impassioned plea that we stand firm on the Weicker motion. Let us stew a little bit in conference. Let the House feel the pinch of this. Frankly, I think this is a very important principle, and I hope the Senate will stand firm.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the House, in its vote insisting on its position on this provision of the Health and Human Services appropriations bill, insisted by a vote greater than expected. I think it was in the neighborhood of 50 votes. I think the House is right and the Senate is wrong, in my view.

We are not talking about whether abortion is available to women in any circumstance, as some of the debate seems to suggest so far. This provision does not strike Roe versus Wade. It will not end the availability of abortion for women in any circumstances.

The matter we are talking about is whether the taxpayers will be obliged by the Senate to pay for certain abortions. In the past, we have attached Hyde amendment language to many bills that had some bearing on abortion. Such language restricted Federal funding of abortions only to those cases where the life of the mother is in danger. That has now become a long-standing precedent in this body, which the amendment now under consideration would overturn and would have overturned in such a way as to widen the exception from life of the mother only to also include rape and incest. This Senator believes it would be a mistake.

Mr. President, I strongly oppose the Senate amendment adding an exception for rape and incest to the Hyde amendment.

When a number of prolife Senators, including this Senator, voted for the Senate amendment earlier this summer, we did so solely because it represented an improvement, however slight, over the committee's language. In no way should my vote be construed as supporting a rape-incest exception in any form. So those who referred to the earlier vote should be reminded that many of us supported that floor amendment only because it constituted a tiny improvement over the language which came out of the committee.

This Senator cannot support an amendment that provides for abortion in cases other than those cases where the life of the mother is at stake for a very fundamental reason which I will address in just a moment.

Since 1981, Congress has restricted the use of Department of Health and Human Services funds for abortion, except where the life of the mother would be endangered if the child were carried to term.

Under that restriction, Medicaid and other HHS programs are restricted to funding only abortions performed to prevent death of the mother.

In 1981 Congress eliminated the rape-incest exception and did so I argue because of the recognition that abortion takes the life of a human being, an innocent prenatal infant.

It is an elementary, self-evident, and undeniable fact of biology that bears repeating over and over again that the offspring of human beings are human beings, irrespective of the circumstances of conception. If they are human beings, they are human beings and clearly they are human beings, and abortion kills human beings and that is why we have objections to that procedure, and that is why we object on behalf of the taxpayers to enforced taxpayer funding of abortion except in the case where the life of the mother is endangered.

A rape-incest exception strikes at the heart of these principles. The rape-incest exception also has serious practical effects. The exception before us would encourage a flood of spurious rape claims such that enforcement of bona fide claims would be very difficult.

Mr. President, I ask unanimous consent that two letters to this effect from law enforcement associations be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. HUMPHREY. Moreover, the administrative burden accompanying this amendment is testified to by the Department of Health and Human Services which throughout this decade has opposed similar rape-incest exceptions.

I ask unanimous consent that a letter from Secretary Bowen of HHS, detailing the Department's continuing objections to such exceptions be printed in the Record again following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. HUMPHREY. Finally, the President has made clear that he will veto this bill and it is an important bill, if it contains a rape-incest exception.

I ask unanimous consent that the President's veto message be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 3.]

Mr. HUMPHREY. Mr. President, this whole debate over abortion and abortion funding would be a waste of time except for one fact of life and that is that the offspring of human beings are human beings. If that were not the case, then those of us who fight this fight would have other more important things to do. It is an important fight, a difficult fight, to be sure, but a fight in which we have made important progress.

One of the measures of that important progress is that we have eliminated wholesale Federal funding of abortion step by step, bill by bill, over the years to the point where the taxpayers are obliged to fund abortion only in cases where the life of the mother is at stake.

We know that there are hard cases. The Senator from Maryland has related some of those very difficult cases.

But as the lawyers are fond of saying and the courts are fond of saying, hard cases make bad law.

We are not foreclosing the option of abortion for any woman under any circumstances. There is abortion on demand today in reality, in any month of pregnancy, including the ninth month, for any reason, including convenience, and that is the most common reason abortion is resorted to, unfortunately.

The question before us is whether we are going to oblige the taxpayers to pay for abortions in cases of rape and incest.

We have declined to do so in the past for good reason, for sound ethical reasons, not fiscal reasons—that is not our concern in this matter—it is ethical reasons. There is only one basis for ethical concern and that is that the offspring of a human being is a human being. It cannot be otherwise. The offspring of human beings are not coke bottles or toothpaste tubes. They do not become human beings at some magical moment in the third trimester or in the second or even first. They are human beings from the moment of conception. There is no way to get around it.

But nonetheless, let us remember in casting our votes that we are voting on a much narrower issue here, and that is a question of Federal funding, of taxpayer funding of abortions.

I believe and I think many Senators believe that the House is right, that indeed the Senate ought to recede to the House position and should not insist upon its own position.

I thank the Chair.

Exhibit 1

National Sheriffs' Association,
Washington, DC, 18 July 1977.

Hon. Henry J. Hyde, M.C.,
Longworth House Office Building,
Washington, DC.

Dear Mr. Hyde: The National Sheriff's Association does not want to place itself on record as commenting on federal funding for abortions per se. We do not feel this issue is germain to our association.

We do however wish to comment on the proposed Senate provision that would allow federal funds to be paid for abortions performed for the treatment of rape or incest victims only.

We feel this provision undesirable from several viewpoints. Firstly, the wording would lead a person desirous of an abortion to make false reports to law enforcement agencies which would have to be checked and investigated at some length. These crimes are not easy ones to prove or disprove and resultantly require many manhours of investigation. American law enforcement agencies are presently overburdened and do not have this vast amount of time available.

If the complaint is, in the end, proved to be false, much additional time must be consumed in filing charges against the complaining individuals which can also further cause backlogs in our already overburdened courts.

Thirdly, we do not feel that legislation which induces a citizen to make a false statement merely to obtain benefits can be considered a just law. If we are truly to seek justice for all, I feel this type of wording should be avoided.

Cordially,

Ferris B. Lucas,
Executive Director.

International Association of
Chiefs of Police, Inc.,
Gaithersburg, MD, July 18, 1977.

Hon. Henry J. Hyde,
House of Representatives, Longworth House Office Building, Washington, DC.

Dear Congressman Hyde: Thank you for your inquiry of July 13, 1977. We understand that within the next two weeks, a Senate-House Conference Committee will be meeting to resolve the differences between both chambers' versions of the 1978 Labor/HEW Appropriations Bill. Section 209 of the bill deals with the matter of federal funding of abortions. The House version completely prohibits such funding, while the Senate version allows funding under certain circumstances. We believe of definite relevance from a law enforcement perspective, is the proposed Senate provision that would allow federal funds to be paid for abortions performed for the treatment of rape or incest victims.

If this Senate provision ultimately becomes law, the federal government would have created a situation whereby a woman wishing to obtain a free abortion (at government expense) would be required to report that a crime of rape or incest had occurred. Obviously if the reporting of a crime becomes financially profitable, we can expect innumerable false reports. Each such report would have to be investigated requiring considerable man-hours of already overburdened police departments.

Furthermore, if it were found that the complaint was false, then further police time could be invested in charging the individual with making a false report.

While the International Association of Chiefs of Police takes no position on the issue of federal funding of abortions, the Association opposes the inclusion of the language regarding rape and incest in the Senate version of H.R. 7555 for the aforementioned reasons.

Sincerely,

GLEN R. MURPHY,
Director, Bureau of Governmental Relations and Legal Counsel.

EXHIBIT 2

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, March 31, 1988.

Hon. GORDON J. HUMPHREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUMPHREY: I am responding to your letter in which you ask if the Department continues to oppose an expansion of Medicaid funding for abortion. You referred to the September 6, 1984 letters which former Secretary Heckler sent to Congressman Christopher Smith and Senator Lowell Weicker describing the Department's opposition to the Weicker amendment to H.R. 6028, which would have permitted Medicaid funding of abortion in cases where pregnancy resulted from rape or incest. I apologize for the delay in my response.

This Department does indeed continue to oppose funding for Medicaid abortion except where the life of the mother would be endangered if the fetus were carried to term. Our opposition to the Weicker amendment was both philosophical and administrative. While our philosophical viewpoint will not change, I must emphasize that our administrative concerns might increase, depending on the substantive details of any new legislation which might be proposed.

At the time of the proposed amendment, as now, Federal Financial Participation (FFP) was available to States for Medicaid expenditures for abortion only when the physician had certified in writing to the State Medicaid agency that the pregnancy would endanger the mother's life if the fetus were carried to term.

We believed then, and still believe, that extending coverage for abortion to cases of rape or incest would impose new and time-consuming administrative requirements on three levels: Federal, State and provider. Additionally, administration of such a law would be extremely difficult, because we do not believe that there is a reliable administrative mechanism for verifying that the alleged rape or incest occurred.

Specifically, enforcement of an amendment such as the Weicker amendment to H.R. 6028 would require a number of policy judgments about the nature and extent of notice, certification and recordkeeping. The Department would have to determine, presumably through regulation, the procedure for ascertaining that a rape or incest has occurred. Also, new State procedures might be necessary to implement such a law and related Federal regulations. Furthermore, to ensure appropriate use of Federal funds, documentation would have to be obtained by the State to prove that rape or incest occurred. Without further definition in the law, we could only assume that physicians would be required to make that determination and provide that documentation. However, we believe that the question of whether a pregnancy resulted from rape is a legal one, and not a medical determination which can, or should, be made by a physician. In sum, an amendment such as the Weicker amendment to H.R. 6028 would impose upon the Medicaid program an onerous legal and judgmental dimension not consistent with its purpose, and would burden State Medicaid agencies and providers of services with additional administrative requirements. Furthermore, apart from our opposition to the technical effects of an amendment such as the Weicker amendment, this Department continues to firmly believe that Federal coverage for abortion should only be provided in the case of a pregnancy which endangers the life of the mother.

Sincerely,

OTIS R. BOWEN, M.D.,
Secretary.

EXHIBIT 3

THE WHITE HOUSE,
Washington, DC, September 7, 1988.

Hon. ROBERT. H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: The committee of conference on the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1989 (H.R. 4783) reported a bill that I could sign if it does not contain the Senate's proposed abortion provisions. I understand that the conferees did not reach agreement on the abortion issue and the two Houses will vote on it again.

The House passed the Hyde Amendment language that provides: "None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

The House provision protects the lives of America's unborn children and I strongly support it.

The Senate amended the bill to permit use of funding for abortions in cases in which the life of the mother would not be endangered if the fetus were carried to term. The Senate language would permit the use of Federal funds for the slaugther of unborn children, depriving the innocent of the most basic of civil rights—the right to life.

I will veto the bill if it is presented to me with the Senate language. If it is instead presented to me only with the House language, the bill will merit my approval.

I urge the Congress to vote to protect the lives of America's unborn children.

Sincerely,

RON.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. May I inquire of the Chair, how is the time for the quorum call being charged?

The PRESIDING OFFICER. The Senator has now recovered the floor. The time was being charged against his side. There are 31 minutes and 42 seconds remaining on the side of the Senator from North Carolina.

Mr. HELMS. I am quite certain that Senator CHILES and Senator WEICKER would agree to this, and I ask unanimous consent that the time be charged equally for the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I rise in favor of the Senate insisting on its position relative to Federal Medicaid funding of abortions. I would like to drop back just a bit in order to bring up to speed those that might be attending to this debate and remind my colleagues and the Nation of several facts.

Abortion in this country is legal. It is not a matter of one's individual position or the Senate position or the House position or the position of any particular religious faith. The law of the land is that, under certain conditions, abortion is legal.

Basically, in the first trimester, 3 months, it is a matter of personal decision. In the second trimester, those laws of the States are applicable. In the last trimester, abortion is virtually illegal. That is the law of the land.

Point two: The policy of the land, as enacted into law, is that serious medical procedures are taken care of through our various health programs, Medicaid among them.

Finally, nobody would disagree with the fact that abortion is certainly a serious medical procedure. We are not talking about a cosmetic activity or activity as a result of some whim. And we are certainly not talking, insofar as either the law of the land nor this amendment, about abortion on demand.

Over the years, the legislative branch of Government has enacted legislation which in no way changes the legal status of abortion in this Nation. It only has affected the matter of to whom the law shall apply.

The legislative branch of Government has said we will not fund Medicaid abortions except under certain circumstances. And those circumstances dwindled to the point where now it is only the life of the mother being in danger that is a valid circumstance to fund Medicaid abortions. And, indeed, at the convention of my political party in New Orleans several weeks ago, even that exception was eliminated from the party platform. It used to be, for example, that the law permitted an exception, where the pregnancy was the result of rape or incest. That was eliminated. And that is what brings us together in this debate this morning.

The Senate voted 73 to 19 in favor of the Exon amendment which states:

> None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; nor are payments prohibited for drugs to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of ectopic pregnancy: *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate, except where the life of the mother would be endangered if the fetus were carried to term.

This is the most narrow of exceptions under the most extraordinary and dismal of circumstances. That is the issue before the U.S. Senate. It defies, I think, not just a matter of precedents but all common sense that such should not be the case.

Now, to move to the position of the President of the United States on this matter. The President wrote a letter to the minority leader, a copy of which I have, saying:

> DEAR BOB: The committee of conference on the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1989 (H.R. 4783) reported a bill that I could sign if it does not contain the Senate's proposed abortion provisions. I understand that the conferees did not reach agreement on the abortion issue and the two Houses will vote on it again.
>
> The House passed the Hyde Amendment language that provides: "None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."
>
> The House provision protects the lives of America's unborn children and I strongly support it.
>
> The Senate amended the bill to permit use of funding for abortions in cases in which the life of the mother would not be endangered if the fetus were carried to term. The Senate language would permit the use of Federal funds for the slaughter of unborn children, depriving the innocent of the most basic of civil rights—the right to life.
>
> I will veto the bill if it is presented to me with the Senate language. If it is instead presented to me only with the House language, the bill will merit my approval.
>
> I urge the Congress to vote to protect the lives of America's unborn children.

Over this issue, to provide for the poor women of this Nation, Medicaid funds for an abortion where their pregnancy is the result of rape or incest—over this issue—the President threatens to veto a $139 billion appropriations bill.

Common sense and logic dictate how we should handle ourselves in the situation of the woman who is pregnant by virtue of rape or incest, and I do not expect to spend a great deal of time on it, except to once again say that in this Nation a wealthy woman can get an abortion. As long as it is within the parameters set by the Supreme Court, she can get it; a poor woman cannot.

But what is absolutely amazing to me and tragic is that finally that piece of legislation, which encompasses all the hopes, the aspirations, the relief insofar as this Nation is concerned as it applies to education and science and health, it all comes down, in the President's mind, to one matter—not the education of children, not the health of the citizenry, not the conquering of diseases, or safety in the workplace—it comes down to one issue over which he is willing to veto this legislation: Whether a poor woman can have a legal abortion when she is pregnant by virtue of rape or incest.

And, I might add, it is not just the President of the United States. The House has lent its name to that inanity and the Senate is now being asked to do the same.

You know what is ironic? For all the years that I have either been the chairman or the ranking member of the Appropriations Committee on Labor, Health and Human Services, this administration has expended all of its energy and all of its veto threats on the moneys that we appropriate to the children after they are born. If these same concerns had been the concern of the administration—whether special education or the National Institutes of Health—and the same energy and clout expended on behalf of children after they were born that is being expended in this situation, we would not have so many tragedies living among us and around us every day of the year.

Year after year, veto threat after veto threat, bargaining session after bargaining session, to get a few pennies for health, a few pennies for science, a few pennies for education, I am always expending whatever political capital I have with my colleagues on both sides of the aisle, to make sure that these matters represented a fair allocation of the Nation's priorities. There would be no AIDS Program at all today in the United States had the administration had its way. Instead, thank goodness, Congress had its way.

The National Institutes of Health would be nothing in terms of cancer, heart, diabetes and arthrists research—nothing in terms of research into children's diseases had the administration had its way.

Student loans would be gone. Pell grants gone. Safety in the work place gone. The administration fought like the dickens to make sure that when it came to the quality of life of every American, young and old, the least government was the best government.

Is it not ironic that this amendment is on this bill drawing all the fire of the administration. Now all the administration wants is to defeat this amendment because we have come close to finally passing a piece of logic. We agreed to the Exon amendment. We came close, too close for the administration. Now they realize they have got to expand their last gasp, and their last piece of political capital, to preserve this contradiction, this inanity relative to Medicaid abortions for poor women. The issue this year is not the dollars. For the first time since I can remember, the funding for everybody else has been forgotten and Congress will have its way without dispute from the White House.

What a legacy for an outgoing President. I respect everybody's belief on the matter of abortion. I have no problems with us arguing the basic issue.

But I know this, and I have said it for years: I am tired of the abortion argument dominating the debate on any issue here in the U.S. Senate. We spend minutes on foreign policy. We spend minutes on the quality of life in this Nation. Minutes on the environment. Minutes on education. But far more on an abortion amendment. I do not think anything brings that into clearer focus than today when we have a $139 billion bill covering all education, science, health, and labor in this Nation and it comes to an abortion debate, again, and a potential Presidential veto on the subject of abortion.

I think the Nation is fed up with abortion debates while we have deficits that are bankrupting our children and grandchildren; while we have a drug program that will wipe out this generation and the next generation of children; while the waters of this Nation are being polluted to the extent they are going to be useless in a matter of years instead of lasting for 1,000 years; while we have a foreign policy at our back door relative to Central America and South America, that is embroiled in scandal and the incursion of communism into our hemisphere. But we do not debate these matters. We debate abortion.

And now, when the agenda of the United States of America is being set for the next 4 years, what are we talking about? We are talking about the patriotism of the Democratic Presidential candidate or the patriotism of the Republican Vice Presidential candidate, or we are talking about this wart or that wart.

I do not care whether it is on the floor of the Senate or whether it is on the floors of America, the man on the street understands far better than we what needs to be done. It is to pay our bills. It is to educate our children so they understand that if they touch drugs or come near them they are dead. It is to come to the sides of those that are dying from AIDS. It is to clean up our waters, providing the equipment needed to do the job. It is providing housing programs in a nation where so many young couples cannot afford do buy a house. It is the transportation of the Nation. It is all these things.

It is not the intangible of who is patriotic. I assume everybody is, otherwise they would not be the highest officeholders in the land, or those seeking the highest office. And certainly the issue is not the matter of personal belief as it relates to abortion.

Last, I have been asked: Should we have a rollcall vote on this? We have the action of the House. We have the threat of a Presidential veto, in which case all this good work contained in the bill would be hung up, either for subsequent legislation or as part of a continuing resolution. We have the chairman of the committee, who is a dear friend of mine with whom I work closely, who is going to make the tabling motion on the motion to insist. And there are those who have been speaking eloquently on behalf of a woman's right, saying we do not want to get beat. I understand that emotion. I learned it a long time ago on many issues, from my friend Jake Javits, when he was in the minority. He would sit there and agonize.

No politician likes to get beat. And right now with the House and the President and the chairman of the committee, I would say that we are probably going to get beat.

But I think it is important that the record be established and it be established now so that people understand how they can respond on election day. It is election day that sets the agenda for the next 4 years. If we are silent on the issue of rape and incest today, then the public should not expect their Congressman or Senator to speak out after election day.

If that man or woman gets elected and they have been silent, then they can continue to be silent for 2 or 6 years. Or, if they have spoken against the position to allow Medicaid funding for an abortion when a woman is pregnant by virtue of rape or incest, then so be it, but let it be on the record. Let that vote defying common sense and logic and decency be on the record because certainly nobody is going to change, if they get elected without any accountability.

The record will not change in the next 2 years or 6 years and that to me is the issue before us now.

Yes, I hope the Senate will vote to insist on the Exon amendment because then it becomes clear that this wrong will have been righted. It has been waiting now for 2 and 4 and 6 years and we are so close.

It was not even close the last time the Senate voted—73 to 19. The time has come to establish the record from which there is going to be accountability. Only with accountability will the wrong be righted in the next session of the Congress.

I hope the vote is again 73 to 19 but, most important, let us establish the record and not allow anyone to wander around in a fog on this most tragic of issues to so many people. No silence now, no illogic now. We are finally, face to face with the reality of this tragedy and this amendment and we must act on it.

I hope the Senate will insist on its position. If the President's veto has to be overridden, so be it. But at least before this day is over, there is going to be an accounting, either here or on November 8. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GORE). The Senator from Nebraska.

Mr. EXON. Mr. President, I believe 15 minutes was set aside for the Senator from Nebraska under the agreement entered into yesterday.

The PRESIDING OFFICER. That is correct. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, the amendment that we are debating today carries the name of this Senator from Nebraska, and I am proud of that fact. I simply want to state that what is known on the floor of this Senate, but might not be known by the press who write about these things, is that there is no one in the U.S. Senate on either side of the aisle that long before I came to the U.S. Senate and all the time that I have been here has been more against abortion on demand than this Senator. Yet, many of my colleagues, in whom I have great respect, do not see things my way. Therefore, I first would like to try and put into perspective the Exon amendment.

It was widely reported in the press as a major breakthrough to liberalize abortion for rape or incest, and hardly ever once was it mentioned by the members of the press that the Exon amendment, that the Senator from Connecticut who just spoke knows very well, was a restricting amendment on the funding of abortions for rape or incest. The bill that came out of the committee simply said that the Government would fund abortions for rape or incest. I thought that was too broad. I honestly felt, Mr. President, that if we put that language in the measure, that it would open up a gaping loophole where abortions could be funded by just the statement, "Well, I was subject to a rape." I thought that was wrong.

The amendment we are debating today was offered by this Senator from Nebraska to make the funding of abortions as a result of rape or incest narrower. The House of Representatives, in its wisdom, did not see fit to go along with that. Yes, in fact, there were many people who were in the 73 for and 19 against the amendment, like this Senator who has always been against abortion. In fact, I took the time to look at the 19 Members of the U.S. Senate who voted in opposition to the Exon amendment, and I think any fair review of those 19 Members would indicate that about half of them have always been for more liberal funding of abortions and the other half have been against any funding of abortions at all beyond that to save the life of a mother.

So, Mr. President, having put that in perspective, let me say that I hope that the Exon amendment will prevail. I am not sure it will, because I understand that there will be some motions made and some of those 73 who supported this in the original instance will say, "Well, we have to move ahead; we have to pass this appropriations bill, and the President has said he is going to veto it. So why don't we just go along and get along?"

If we take that approach, we Members of the U.S. Senate will forget our obligation. We are supposed to be the more deliberative body than the other body. We are going to find out in the next 45 minutes whether we are or whether we are not, and whether we will vote for expediency after voting for this amendment 73 to 19. We are going to see how politically expedient we want to be. If we do so and if we reverse our vote, it will be clearly on record as to those who decided to change their vote for whatever good or not good reason that they had.

I know this is an emotional issue and I for one, Mr. President, have tried to stay away from emotional issues all during my service in representing my great State.

What I will simply say, Mr. President, is it concerns me and it worries me and my conscience bothers me when I see supposedly deliberative bodies, like the House of Representatives and the U.S. Senate, mishmashing, sliding over this very vital issue. So I am not going to get emotional. I simply want to cite one case that I am sure has happened in the past, and I am sure that it will happen in the future.

This is why, despite my opposition to abortion, I have always said that if we are going to fund abortions to save the life of the mother, we should also agree, to promptly reported cases of rape or incest, to fund those also because, Mr. President, I cannot think of anything worse than a little girl, 14, 15 or 16 years of age who becomes pregnant, let us say, through incest or through rape and she may not even have known for sure what happened or what caused this. But when the authorities take her case under consideration and when she comes in for help and she unfolds her story that she became pregnant through criminal activity, whether it was incest or whether it was rape, we say to her, "Honey, give me your doll, but we're not going to finance the abortion, if that is what you want, because it is against the law."

True, there may be other ways, and probably will be other ways, that an abortion might be able to be performed in the happening that I just cited, but that does not make it right, Mr. President. If the President of the United States is against this, he has every right to cast his veto and we would let the will of the House and the Senate work. That is our process.

But I rise today in strong support of the Senate language on abortion, language that is contained in this Labor-HHS appropriations bill. I think all will recall that when this bill came up on the floor of the Senate the bill included committee language, as I said earlier, that none of the funds could be used to perform abortions except when the life of the mother would be threatened or in cases of rape or incest.

It was my opinion upon reviewing that language that it could and should be drafted more carefully so that the rape and incest exception would not be a serious loophole in the law. As a result, I offered an amendment that would allow the funding of abortions only for instances of rape or incest that have been promptly reported—I emphasize again "that have been promptly reported." That is the heart of the Exon amendment—to the appropriate public authority. With such an amendment, the language reflects what has long been my position on this issue.

My amendment also contained a provision that allowed each State to determine whether it would allow the funding of abortions for instances of promptly reported rape or incest. That amendment passed the Senate, as has been referred to on several occasions, by an overwhelming vote of 73 to 19. I guess the question might arise, why and what would motivate us to change our mind?

I oppose abortion and the funding of abortion, yet I find that abortions may be warranted in the narrow cases of where it is necessary to protect the life of the mother or in cases of promptly reported rape or incest. That position on this most difficult issue, in my opinion, stakes out a morally acceptable middle ground between the competing argments on both sides of this issue. Indeed, this is an emotional issue and both sides have proven capable of heated debate. I have no quarrel with those who honestly do not agree with me. I simply stand by my conscience, Mr. President.

With that background, I was extremely pleased to have the Senate so overwhelmingly adopt my amendment, not because it reflected my view but because it sought and found a consensus that could achieve broad bipartisan support. I was equally as disappointed to hear that the other body has chosen to disregard that consensus and to insist on a position that takes a cruel, in my view, and a heartless approach to the innocent victims of rape and incest. How my friends over there can live with their conscience on this vote is their problem. I hope that we will not create the same problem for the Senate.

I urge my colleagues, particularly those who may be inclined not to allow a rape and incest promptly reported exception at all, to give serious consideration to the effect of the Senate language with my amendment. First of all, with the promptly reported provision, the rape and incest exception will not be a loophole to be used as an excuse. This narrow exception will only be used in legitimate instances where a woman or a very young girl has been the victim of criminal conduct.

The Senate language with my amendment acknowledges that a woman or a female child who has been raped or has been subject to incest is, indeed, a victim. We have the responsibility, it seems to me, to recognize that fact. Should we compound that crime by forcing the victim to carry a child that in no way is reflective of the will of that mother, regardless of her age? I think not. The decision to allow the funding of an abortion should be made only under the most extreme circumstances, yet I believe that legitimate cases of promptly reported rape and incest warrant such consideration. Such an exception is separated by only very minor and narrow distinctions from the general exceptions of when the life of the mother is threatened.

Although my position on this issue is reflected by the Senate language allowing abortions to be funded in the cases of promptly reported rape and incest, I recognize that reasonable people may differ on even that point. For that reason, I included language in my amendment that would allow each State to determine if it would allow abortions in these instances or not, and each State should choose to allow abortions only when the life of the mother was threatened. In other words, it is a State option.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. EXON. I ask unanimous consent for 3 additional minutes.

Mr. HELMS. Mr. President, I yield such time as the Senator may need.

Mr. EXON. I thank my friend from North Carolina.

Those of my colleagues who favor "States' rights" should give extra consideration to the Senate language.

One of my colleagues talked to me about this in great detail, and I think I convinced that colleague to stick with us.

One of my concerns about my amendment in this bill has been the inaccurate reports in the news media about its effect. Those reports of this issue did not even mention the requirement that instances of rape or incest be promptly reported in order for the exception to apply. As a result, this issue has been blown completely out of proportion with regard to my intentions and my motives.

In closing, Mr. President, let me say, rather than opening the floodgates for Federal funding of abortions, my Senate language will allow such funding only in very narrow circumstances. While I agree that without that requirement the Senate language may have been open to all kinds of manipulation, I find that with my restrictive language the Senate will apply only where the cases are legitimate and the possibility for fraud is minimized. We will truly be aiding the victims of vicious crimes.

This is a most difficult and emotional issue for the Senate and for the Nation. However, the Senate language clearly reflects a middle ground and one with which neither side can be entirely happy.

That is the definition of a compromise. While it is based upon the sound principle that abortions are wrong, it recognizes that in very few and narrow criminal situations abortions may be allowed under the circumstances that we have discussed.

I urge my colleagues to support the Senate language, and to vote in favor of the Weicker motion.

Mr. President, I thank my colleagues, and I yield the floor.

Mr. HELMS. Mr. President, will the Senator yield for a question or two?

Mr. EXON. I am happy to yield for a question from my friend.

Mr. HELMS. The Senator has a record of being against abortion. He has stated several times this morning that he is. I wonder just for the record if he would state why he is against abortion.

Mr. EXON. Mr. President, I am against abortion.

Mr. HELMS. Let me ask a question so maybe we can make it easy.

Mr. EXON. That is easy enough, but if the Senator wants to make it a little tougher, go ahead.

Mr. HELMS. Is one of the reasons because the Senator considers an unborn child a human being?

Mr. EXON. I think the Senator from North Carolina with his questioning is a typical line that the Senator from North Carolina has always taken, and that is try to define the abortion issue strictly on when life begins. I answer that question by saying I am not wise enough to know the answer to that question. I say to my friend from North Carolina that I suspect when a life begins may be somewhat of a judgment call and that very moral, very religious, and very proper people can legitimately disagree upon. Therefore, I would say to my friend from North Carolina in response to his question that rape and incest are criminal activities. I happen to feel in my mind we should have the narrow option the Exon amendment gives.

I know my friend from North Carolina does not agree with that, and he is one of the people I had in mind during my talk when I said I have no quarrel with those who do not agree with me. I do not think and I do not mean to imply that the Senator from North Carolina is not humane or understanding. He just happens to see this issue from a slightly different point of view than does the Senator from Nebraska.

Mr. HELMS. I thank the Senator.

Mr. President, let me say I always find the Senator from Nebraska very sincere, even when I think he is wrong. But I think the question is: Is a child conceived by rape any less of a human being than one who is not? Is this child any less innocent? Is this child any less helpless? I referred, I say to my friend from Nebraska, to the likes of Ethel Waters, the wonderful, talented, black lady who enriched us all with her marvelous voice. She was the product of rape and her mother was invited, encouraged, exhorted to have an abortion. She said, "No, that is a child inside of me."

If the Senator and his amendment prevailed, and if those who had exhorted that momma had prevailed, we would never have had the blessing of Ethel Waters' life.

But I do not know how you draw a line. I happen to believe that the moment of conception is the beginning of life because there is no life if there is not a moment of conception. So how do you arrive at this conclusion that it is somehow fuzzy to try to figure out when life begins?

Mr. President, the Senator from Nebraska stated that rape and incest are criminal activities. That is true. But one atrocity does not justify another. Rape does not justify murder. And I certainly do not think the taxpayers should be required to pay for the deliberate destruction of innocent, helpless human life.

I thank the Senator.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator? The Senator from North Carolina has 24 minutes remaining.

Mr. HELMS. I yield such time as the Senator may need.

Mr. NICKLES. I thank my friend, the Senator from North Carolina.

I wonder while the Senator from Nebraska, the author, is here, if I might ask a question or two about this amendment.

I first should tell the Senator from Nebraska that I voted for his amendment although I was not particularly excited about it. I felt it was better than the language we had pending. It was a small improvement, but not totally satisfactory, at least in this Senator's mind. I have a couple of questions concerning the Senator's amendment. One is about the term "promptly reported." Is that 10 days, 30 days, 60 days? Does the Senator know how long? Is that defined under the amendment?

Mr. EXON. In answer to my friend and colleague from Oklahoma, I thank him for voting for the amendment in the first instance. I think he had very good reason for voting for it at that time. I hope he will hold to that position.

To answer the question specifically, I think that is a matter regarding time that is going to have to be left to the courts for an eventual determination. I turn around and ask this question: In my view "promptly reported" rape or incest for a mature woman and regardless of that woman's age is I think 24 hours, and maybe 8 hours would be adequate time for reporting.

But let us take another case. Let us take a case where a mature adult woman is abducted—and there have been cases like this, I presume—raped, became pregnant, and held as a hostage for weeks. In an event like that, I would think since that particular individual did not have the opportunity to report it that maybe the court would take a little different position.

So intentionally it is not that closely drawn.

Mr. NICKLES. I thank the Senator. Also under the amendment the Senator says "promptly reported to a law-enforcement agency or a public health service." I understand the law-enforcement agency, but it seems like that would be a possible big loophole, as reporting to a public health service. Why not have it at least always reported to a law-enforcement agency?

Mr. EXON. The reasoning behind that would be, and I think it is a very reasonable one, is let us suppose a very young girl finds something is wrong and does not have the wherewithal but she is recommended to some health service, her doctor, or somebody else. I would think reporting it to one family physician would be just as effective and probably just as natural as the 15- or 16-year-old girl going down to the police station.

Mr. NICKLES. Mr. President, I thank the Senator from Nebraska. I am going to oppose the position of the Senator from Nebraska. Again I think his amendment is an improvement on where we were in the pending language. The pending language was rape and incest. He said, well, it at least has to be promptly reported but as just stated he does not define what "promptly reported" means. It could mean up to 60 days. The Secretary of HHS under President Carter in the regulations defined the term to mean 60 days. So it is what I would call a loophole or gap.

I would question a couple of other things. When the amendment talks about rape, everybody automatically assumes forcible rape. The word "forcible" is not in the Senator's amendment. So we could be talking about consensual sex. Basically we are going to pay for an abortion if there has been statutory rape of a person under the age of 18. I consider that a pretty large loophole.

I hope other Senators will think about it. When you visualize rape or incest you think of these terrible tragedies, and they are.

In effect, if we adopted the Senate's position, we would be talking about funding abortions in many cases where the sex was consensual. I find that regrettable, and I think it is something we should not do.

Mr. President, I compliment the President of the United States for taking a strong, steadfast position against Federal funding of abortions except in cases where necessary to protect the life of the mother.

I compliment the Senator from North Carolina for his position and the Senator from New Hampshire. I also compliment the Senator from Florida, because I have read his letter, wherein he states his position that the Senate should recede to the House if we want to get a bill.

I heard the Senator from Connecticut talk about some of the wonderful things in this bill. It has $140 billion, and we are fighting today over the issue of whether the Federal Government should be funding abortions in cases of rape and incest. It may be a very small amount of money. If you look at $140 billion, it is a small amount of money. One might say, "Why would the Senate be so consumed?" I am sure the Senator from Ohio would say, "We have had so many votes on abortion; why are we spending so much time on this issue, because we have many other things to do?"

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. NICKLES. Let me talk for 5 or 10 minutes more.

Mr. WEICKER. I want to address a point the Senator made.

Mr. NICKLES. All right.

Mr. WEICKER. The Senator speaks of the numbers involved here. Is the Senator aware of the latest statistics on this point, which would be 1979, regarding the number of Medicaid-funded abortions for women pregnant by rape or incest?

Mr. NICKLES. I have the figure, but I do not have it in front of me.

Mr. WEICKER. Seventy-two.

Mr. NICKLES. I appreciate the Senator's comment, and I think he makes an interesting comment.

Those who are insisting on the Senate position are jeopardizing this bill, because they say, "We want to expand Medicaid Government funding of abortions."

I have heard the other argument: The President is going to veto this entire bill if we do not keep to the same language we have had for the last 7 years. It works both ways. Those insisting on expanding Government abortion are threatening a $140 billion bill. Why? Because they want to expand the incidence where the Federal Government would fund abortions, and again we think of rape and incest.

This Senator happens to think it is much broader than explained or possibly even intended by the Senator from Nebraska.

With respect to the amendment of the Senator from Nebraska, the Senate's position voted on in the Senate, by an overwhelmingly large margin, there was a large margin because many of us thought it was an improvement over the pending language, not that we supported it in its concept.

If anybody looks at the votes, a lot of people who considered themselves strongly opposed to abortion voted for the Senator's amendment because it was a slight improvement over the language in the bill by the Senator from Connecticut, which just said rape and incest. The Senator from Nebraska said it had to be promptly reported.

With respect to the language we are voting on, are we going to insist on the Senate's position, which broadens Federal funding for abortion, or are we going to recede to the House, which maintains basically the Hyde language and says that the only time we will have Federal funding of abortion is when it is necessary to save the life of the mother—in other words, to save the life of another human being? That has been the law since 1981.

The new Senate position expands that and allows it for rape and incest. It does not say forcible rape. So you can think of lots of cases where nobody was forced into anything, where we would have Federal funding for the abortion; Federal funding for taking the life of an unborn child because two people made a mistake. They did not want to have a baby. It was not in their plans. It was not something they thought would actually happen. So we are going to remedy that mistake by having the Federal Government fund the termination of a child's life.

I do not want to see it expanded to where the Federal Government will pay for more cases of abortion. Abortion is a serious issue. It is an issue we voted on many times, and we will vote on it many more times, probably because we have over a million abortions per year.

My friend the Senator from Connecticut is not here, but I have heard him on the floor and have debated and discussed, and I have agreed with him in many cases on the need to fight and combat AIDS. I am concerned about it. I see AIDS as a very serious problem. My guess is that in 3 or 4 years, it will take about 50,000 American lives per year. It is unbelievable. By the turn of the century, 12 years from now, my guess is that AIDS will take over a million American lives, and I am concerned about it. But I am also concerned about abortions, because we are talking about a million lives a year. We are talking about 1.4 or 1.5 million unborn babies per year losing their lives. To compound that, in my opinion, would be to have the Federal Government financing the destruction of unborn children.

So, no, we do not want to be expanding or broadening it.

In this case, under the language in the Senate's position, we expand it to cover rape and incest. It does not say "forcible," so that means statutory rape could be covered. We say it could be reported to law enforcement agencies or the Public Health Service. That is not defined. Maybe it could be just to the doctor or maybe to the county clinics or medical clinics, or maybe to the health clinics at the school.

I do not think that is very good policy. Maybe it was an improvement over the language we had pending at the time, but I do not think it is good policy.

I heard the Senator from Maryland say that people were not going to lie about being raped. I beg to differ. I am afraid a lot of people would.

As a matter of fact, I do not know if too many people have heard of Norma McCorbin. That name does not ring a bell. But if you think of it, you might remember the case of Roe versus Wade. Norma McCorbin brought the case of Roe versus Wade in Texas all the way to the Supreme Court—a so-called case of legalized abortion in 1973. She admitted she lied about being raped. She was never raped. That whole case was based upon a lie. She was never raped. She wanted to have an abortion.

Lots of people will lie. It is one reason why a lot of law enforcement agencies and officials do not want the rape and incest amendment to be included, because they know a lot of people will lie about it. They will say: "Yes, I became a victim; I was raped"; or, "I was a victim of incest."

Maybe they have problems. I know there are lots of cases of rape and incest, and I am not trying to minimize those, but I also do not believe that the solution to those terrible tragedies is another tragedy of taking an unborn life, and that is exactly what will happen if we insist on the Senate position. If we insist on the Senate position, we will not have an HHS bill. The President would veto it.

The Senator from Connecticut is right: He said they are going to lose, and I think they are. The President has the right to veto a bill, and I believe he has the votes to sustain the veto. I believe he has the votes in the House and in the Senate as well.

I congratulate the House of Representatives for their vote, an overwhelming vote, I think 216 to 166. I think that the Members of the House looked at this amendment and they said, "No, we really don't want to broaden the circumstances where the Federal Government is funding or subsidizing abortions."

Some people call this a basic right. In Washington, DC, you can get an abortion probably for $75, maybe $100, in some cases $200. It depends on how far along the pregnancy is. Yet some people are saying, "Well, this is an American right, and we don't want to deprive it to anybody regardless of their financial wellbeing."

It is the right, if you want to call it that, it is the right to take and destroy an unborn child.

Again, what we are debating today is not the fundamental question of abortion. What we are debating today is whether or not out of this bill, a bill that we have appropriated $140 billion, are we going to greatly expand the instances where the Federal Government subsidizes or pays for abortions? I would hope that we would not.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair will advise that the Senator from Connecticut has 24 minutes remaining; the Senator from North Carolina has a little over 7 minutes remaining. Time is controlled.

Mr. WEICKER. Mr. President, I have what, 24 minutes remaining?

The PRESIDING OFFICER. Yes.

Mr. WEICKER. I yield 10 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HELMS. Mr. President, I think the Senator wanted 15, and I yield 5 of mine even though I have only 2 minutes remaining.

Mr. CHILES. I thank both Senators. I may not use all of the 15 minutes.

Mr. HELMS. Whatever.

Mr. CHILES. Mr. President, I have been listening to the debate on this issue, and it is an issue that is tough for the Senator from Florida because on merits I support the amendment of the Senator from Nebraska. It is a position that I have had for a long period of time.

On merits—and I have listened to all of the arguments—I still think the merits are basically where there is a rape or incest that certainly is an exception to whether we are having funding, and maybe I need to just speak just for 1 minute because on my beliefs in this—we have all been wrestling with this issue for a long period of time—I have never agreed with the Supreme Court decision that says you can have abortion on demand. That has always bothered me, that at any time during a pregnancy a woman can just decide she wanted to abort that child. In fact, many times during pregnancy I have seen an awful lot of women who said, "I wish I wasn't pregnant," and at times I am sure some women go and do something that they regret very much later.

So I think there should be barriers to keep some quick decision from being made, but again it has always bothered me when we were going to say it is against the law for parents perhaps to decide in a minor child who is pregnant or something that they think is best for that minor child if an abortion takes place, and we are going to make them criminals and put it against the law. Those kinds of decisions have to take place sometimes in families. That has always bothered me.

When it gets to rape and incest, again what troubles the Senator from Florida on the merits of the case is the law of the land is basically that you can have this wide-open abortion, abortion on demand. That is the law of the land.

We are saying when it comes to public funding, where the Federal Government is involved and taxpayers' moneys are involved, we do not think it should be abortion on demand. I am not troubled with that overall because, even though people can have eyeglasses and anybody can go buy eyeglasses, we have not agreed now that we are going to publicly give indigent people eyeglasses with the taxpayers' dollar.

So we certainly do not have to agree that we are going to publicly give anybody who wants an abortion on demand, even though that is the law of the land, if we had not agreed on these other things.

But now let us come to rape and incest. That is a little different. Now we are going to say it will be against the law and you will be guilty of a crime if you decide that your daughter should have an abortion even though she is 12 years old and has been raped, or if we say even though she is pregnant at the hands of her father. That troubles the Senator from Florida very much, that we are going to say it is a class distinction that we are making. It is all right if you have funds to do this; it is not all right if you are poor.

So I have consistently voted that way every time I have had the opportunity to vote.

Having said that now, so I agree with the Senate's position that we took earlier. I upheld that position the best I could as we went to conference. We were with the House in the conference. The House was adamant on their position. We said, "We force you to take this back and have a vote on the floor of the House. So we make you take this back in true disagreement." And that has happened. That vote has taken place, and the House voted with some 50 votes that they would not change their position, they would not yield to the Senate position.

So the Senator from Florida now finds himself as the chairman of the subcommittee with what I think is a tremendously important bill and one that I think there is no disagreement that the Senate won almost all of the funding priority items that we sought, most of the special items, not this one, but most of the items, and did much to change direction, fought off cuts that the administration wanted to make, and yet we have brought our bill in within the monetary figures which were very restrictive on us, but we are within that, and now we find ourselves at this deadlock, dogfall over this question.

I listened to the Senator from Nebraska, and he said we are going to determine in a few minutes whether this is truly a deliberative body. It is again one of those words that reasonable men can maybe differ as to what makes a deliberative body.

Let me say this. The Senator from Florida has been at this process 30 years now, 12 in the State legislature and 18 here, and my belief that has grown over that period of time is that one of the requisites of a deliberative body, and I believe very strongly in that, is it must be able to come to a conclusion. It must be able to produce a product and if you do not have that I would say to my good friend from Nebraska you can stand on principle forever and you have nothing if you cannot ultimately know when you have to come to that and close that gap.

If this was the only question, if we were dealing with just this item, I would stand, and I think we should. We are dealing with this item among many items, including items that I know the Senator from Connecticut dearly cares about, handicapped children; items the Senator from Nebraska cares about, education; all of the health funding; all of that is in here.

Now what happens when we cannot reach an agreement? What happens is, Mr. President, we will be caught up in some kind of maelstrom that leads us to a continuing resolution at best, and that is again if we ultimately come to a conclusion in a continuing resolution, a continuing resolution in which we are going to give all kind of authority and power to the White House, that cares little about much of what we have funded in this, would like to do much to change a lot of the funding priorities in this, and we are going to find ourselves losing many of the hard-fought battles that we have put in here if we go into that process.

I need remind no Senators that the clock is ticking on us, that we find ourselves up against a deadline of time; and I need to remind none of the tide that we are swimming against in trying to change this. We are trying to change what has been the position, in effect the law, over the last—well, I do not know how many years, whether it is 4, 5, 6 years, or longer—7 years.

I think we took a good stand. I would like to see us be able to isolate this issue into some way that we can try to not yield. But I do not believe that there is any way that we want to go all the way through this, knowing, one, we are not within a few votes of the House.

The Senator from Connecticut wants to make the House vote on this issue. That is one of his prime things. That is what he started off to do, to force the House to have to face this issue, come up with a vote on the floor, a vote in which they would have to disagree. And I stood with him on that and in the conference; in effect, told Congressman NATCHER and the others, we would never change. They would have to take it back in disagreement. We did that.

We have now looked at that vote and, Mr. President, it is not 3 or 4 votes difference, it is 50 votes difference. it is more than I anticipated, and I think that most of us felt was going to be out there.

So I do not like to use the rhetoric others use, in effect saying the President said he is going to veto the bill. It just happens to be a fact. He has put that in a letter.

So we are talking about a House that we are 50 votes short in; we are talking about an administration that says they will veto the bill; we are talking about a clock that is ticking and we know we have to get out of here because of the election, and at some stage we are.

So I want to say to Senators, and I hope some of them are listening on their speakers, or if not I hope their staffs are listening because we are going to vote before too much longer:

if we do not move this bill, and next to the defense bill it is the biggest appropriation we have, then all of the funding for NIH (National Institutes of Health), and whether you are interested there in AIDS, whether you are interested in cancer research, whether you are interested in the kidney work that we are doing, whether you are interested in a new institute for the deaf, a new initiative that is in this bill for the first time, infant mortality which the Senator from Florida happens to feel very strongly about—we have some initiatives in there.

We have that in child development. We have that in some dropout prevention. We have that down the line, those items that we thought were terribly important are in here. They are going to be sacrificed in a continuing resolution, or many of them will and much of that funding will be changed because that continuing resolution is talking about where you are and where you were and where you are going to continue to.

I do not know how long that continuing resolution will fly. If it goes past January 4, the Senator from Florida is not going to be here and doesn't get a chance to participate any more in trying to set some of those priorities. I believe that our subcommittee has worked hard and I believe that we have evinced basically what the Senate is seeking in those areas. That is why I find myself in this position of feeling very strongly that the position of the Senator from Nebraska is right; the position that the Senator from Connecticut has taken in this is right. I believe that very strongly.

But I think at this stage, and everybody wants to keep their record sort of pure on this, but we have the vote that we have taken. But I would just urge the Senate to look at the fact that we are not going to reverse that decision in this bill this year. It is not going to happen. It will not happen.

I have looked the Senator from Connecticut in the face and told him he knows it will not happen. I look the Senator from Nebraska in the face and say he knows it will not happen.

You can stand and say, "I am going to stand on principle and it is time we stand on principle." You can stand on it if you you want to. But you better trust that the rest of the Senate needs to be responsible and help this bill become law. Because if you do not, it will not happen. We will not make the change, but we are going to lose many, many items that are very dear to us.

I do not know whether the time is right to make that decision. I hope it is now. I think it is a decision that we are going to have to make.

I urge every Senator to look at that full in the face and to realize that we are now talking about all of the good items that are in this bill and whether we want them to become law and that we have that opportunity now for that to happen and whether we have a chance, a chance to reverse this.

I do not think, I know at this stage, 50 votes against us in the House, the President looking for an opportunity to make an issue by vetoing this bill, that we do not have a chance to reverse this position in this bill.

Maybe we can isolate it in some other thing. I hope that we can. I think we should. I feel very strongly about it. I think the side which is saying rape or incest should be the exception is valid and right.

But I also know that there are many, many lives. Let us not say it this way. Lives depend on this bill passing.

Look at the research money that we have for AIDS. Look at the funding that we have in this bill. We are talking about I do not know how many problems there will be in the rape or incest. We all know that they are small. But when we start talking about the increases that we have in the different areas of cancer research, in the different areas of heart research, in the areas of AIDS, we are talking about hundreds and hundreds of lives that are there that we can prolong, that we can save if we can pass this bill.

I think Senators are going to have to look at that and examine their consciences on that. I hope they will agree; at the proper time I will make a motion to table the provision, and I hope that we can have support for that.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Will my colleague from Connecticut yield to me for 5 minutes?

Mr. WEICKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 13 minutes, plus 10 seconds.

Mr. WEICKER. I yield 4 minutes to the distinguished Senator from Nebraska.

Mr. EXON. I thank my friend. I have been listening to the Senator from Florida for whom I have a great deal of respect. I know full well the position the chairmen of the committees are placed in. I think that is well known to the Senator from Connecticut as well as the Senator from Nebraska.

In fact we have said, I think, over and over again that our position very likely will not prevail today for the reasons outlined by the Senator from Florida.

I appreciate very much his forthright stand, his support as 1 of the 73 out of the 73-to-13 vote in the U.S. Senate. I know that he is very sincere in this. I also know that he is correct that, given the situation that confronts us, we probably are not going to prevail on this bill. I still hope that he will agree that the Senator from Connecticut, who fought very hard for this, and the Senator from Nebraska, who was the author of the restricting mechanism on the amendment that came out of the committee, have a right to stand up and tell their side of the story, possibly to set actions for another time and another date.

I would simply conclude by saying that sometimes I think we quiver and retreat all too soon in the face of the 50-vote majority the other way in the House of Representatives. Certainly the 73-to-19 vote in the U.S. Senate was by far a higher percentage of votes in support of this amendment than the 50-vote defeat in the House of Representatives.

I think it is also appropriate at this time to say that one of the reasons that this cannot be resolved right now is because there is a Presidential election campaign on and the matter that we are dealing here with today is being hotly debated in the Presidential area today. I think that it is good that these debates take place.

I hope that they can continue to take place in the Presidential area, as they have here on the floor of the U.S. Senate, which is a legitimate, somewhat intelligent, understanding debate between individuals of good will. I hope the Senate will maintain its position and see if we cannot get the House of Representatives, or send a signal to them very loud and very clear that they cannot always have their way on all things. All too often it happens on measures like this.

I reserve the remainder of the time and yield back to the Senator from Connecticut.

Mr. HELMS. Mr. President, what is the time situation?

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from North Carolina inquires of the time situation. Senator HELMS has has 2 minutes 1 second and Senator WEICKER has 9 minutes and 35 seconds.

Mr. WEICKER. Mr. President, I am just going to make a few more remarks, and unless others want to speak, I am prepared to yield back the remainder of my time.

I want to clarify once again the law of the land because the emphasis placed by my good friend from Florida might mislead my colleagues as to the status of the law. Any time there is abortion on demand it is in the first trimester, period, just as there is virtually an absolute prohibition against abortion in the last trimester. State law governs the middle trimester. Let us stop these claims of "abortion on demand." It does not exist, except in the first trimester.

Point No. 2: Many Members, I say to my friend from Nebraska, were absent in the House which is the difference between the two sides. It has been stated that there was a 50-vote difference. There were 50 Members in the House absent on this issue. There is no great mandate over on the House side, nowhere near the mandate the Senator from Nebraska got from the U.S. Senate on his amendment.

Lastly, as a matter of principle, we are not talking about some isolated principle as to the right of a woman to have a Medicaid abortion if she is pregnant by virtue of rape or incest. The fact remains that the heavy majority, and I mean the heavy majority, of the entire United States of America believes that should be available. The fact remains that we have been put into a parliamentary procedural process here for the last several years that has frustrated the will of the American people. We have the threat of a Presidential veto, we have to overcome filibusters here on the floor, and we have to get into conference and get tied up into knots over a whole bill.

There is no magic to this. This is not an isolated principle. What is expressed in the amendment of the Senator from Nebraska happens to be the will of the American people. So let us understand that if we back away from this, we do so for whatever reason, but in taking that course of action we have allowed parliamentary procedure to take precedence over substance.

I have not spent my time in emphasizing the terrible tragedy that is involved here because I think we have discussed that time and again. I cited the numbers to my good friend from Oklahoma. The last time statistics were kept on the number of Medicaid-funded abortions for pregnancies that resulted from rape or incest was in 1979 and there were 72 such Medicaid-funded abortions. It certainly is not the expense of the matter involved here. Rather, it is how we view the tragedy inflicted on the human being, whether by incest or whether by rape. And now we are going to get into arguments as to whether it is forcible or not, even though the Exon amendment requires reporting to a law enforcement agency.

This is a very real tragedy, a very real human tragedy. I have seen moralizing go on day after day here, whether it is on this matter or whether it is on AIDS.

I do not think any one of us in this Chamber can in any way comprehend the tragedy of rape and incest, certainly not the male Members of this body. Yet, it is our values that we impose. We are not even going to get to a vote up and down on this issue, instead there will be a tabling motion. But make no mistake about it, those who vote to table the Exon amendment feel that a poor woman should not have a Medicaid-funded abortion if she is pregnant as a result of either rape or incest. That is what this vote is about. And I repeat what I said earlier, in my party platform, it goes beyond this. Even when the life of the mother is in danger, a poor woman would not be able to get a Medicaid-funded abortion. That is the next step. That is the final moralistic judgment to be imposed upon a nation that disagrees.

The only way to settle this issue, because I have not been able to get it settled on the floor of the Senate and I have not been able to get it settled in committee, is to have the American people settle it in this election. That is what this vote is about. It is stand up and get counted time, and let each one of us be accountable. I am up for reelection—let us each be accountable to our constituency on this issue. And let the American people stand up then and get counted so when we convene again, if this amendment does not pass here now, the body will truly reflect what every poll has told us about where the vast majority of the American people stand.

What has been thrust upon us is the narrowest of morals. It imposes a harsh judgment on those who have no control over their destiny in this matter but who have been violated physically once and now are being violated twice by the inequity of the laws passed by this body. It is to that which I hope when the motion to table arises this body will say no. I yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be deducted equally from each side.

Mr. HELMS. Mr. President, I yield back such time as I may here.

Mr. WEICKER. Mr. President, I yield back the remainder of my time.

Mr. HELMS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. On the motion to insist, the yeas and nays have been ordered.

Mr. WEICKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent the call for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KARNES. Mr. President, I appreciate this opportunity to clear up any ambiguity regarding my position on abortion funding that may have arisen due to various votes during debate of the Labor-HHS appropriation bill, H.R. 4783.

I am proud to be supporting what I feel is the full package of prolife legislative concepts under consideration in the Senate in the 100th Congress. Let there be no doubt that I consider myself a prolife Senator, and a quick glance at my cosponsorships will bear this out.

I was disturbed several weeks ago when H.R. 4783 came to the Senate floor containing provisions that sought to expand Federal funding for abortions relative to the current law that only permits such funding when the life of the mother is in danger. The version of the bill we considered would have allowed funding for abortions in cases of rape and incest. Personally, I strongly prefer the current, more restrictive language that more firmly restricts Federal tax money from funding abortions. Had I been on the Appropriations Committee, I would have voted to keep the more restrictive Hyde language.

Not being presented with that opportunity, however, I voted for the Exon amendment that sought to further restrict the definition of the rape and incest language that the committee approved, and which appeared headed for approval with final passage of H.R. 4783. I joined with many of my staunch prolife colleagues, including one of the great champions of the prolife movement, Senator HUMPHREY, in voting for the Exon amendment. Again, my intent was to limit abortion as much as possible.

In the intervening weeks, I have heard many people criticize the Exon amendment as inartfully drafted and even a mistake in prolife tactics. I will not align my name with those comments, but I will say that the tactical position in which we find ourselves today is substantially different than that which existed a few weeks ago. The House has sent a strong signal that it supports the Hyde language. I think the majority of truly prolife Senators feel the same way. We have here an opportunity to restore the Hyde language at this time. I intend to do what I can to restore that language.

Mr. President, I expect many who supported the Exon amendment a few weeks ago to switch their votes today based on the new situation. Had this situation existed at that time, I would have opposed the Exon amendment. I hope my colleagues will not succumb to the politics of barebones, superficial consistency when to do so would place them at odds with their true prolife considerations. All I ask is that my colleagues throw political considerations aside and simply vote their conscience. Human life principles are far more important than political expediency of maintaining what appears on the surface to be a consistent voting record. That is what I intend to do, and I will oppose the Exon language today.

I yield the floor.

Mr. CHILES. Mr. President, I understand all time has been yielded back.

Mr. President, then, I move to table the pending motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Arizona [Mr. DECONCINI], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "yea."

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] and the Senator from Michigan [Mr. LEVIN] would each vote "nay."

Mr. SIMPSON. I announce that the the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Indiana [Mr. QUAYLE] are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri [Mr. BOND] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 46, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—44

Armstrong
Biden
Boschwitz
Breaux
Byrd
Cochran
Conrad
D'Amato
Danforth
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Helms
Humphrey
Johnston
Karnes
Kasten
Lugar
McCain
McConnell
Melcher
Nickles
Nunn
Pressler
Proxmire
Reid
Sanford
Stennis
Symms
Thurmond
Trible
Wallop
Warner

NAYS—46

Adams
Baucus
Bentsen
Bingaman
Boren
Bumpers
Burdick
Chiles
Cohen
Cranston
Daschle
Dodd
Evans
Exon
Glenn
Gore
Harkin
Heinz
Hollings
Inouye
Kassebaum
Kennedy
Lautenberg
Leahy
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pryor
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Weicker
Wilson
Wirth

NOT VOTING—10

Bond
Bradley
Chafee
DeConcini
Kerry
Levin
Matsunaga
McClure
Murkowski
Quayle

So the motion to lay on the table was rejected.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes equally divided on the motion to reconsider, the time to be controlled by Mr. CHILES and Mr. WEICKER.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. CHILES. I yield myself 3 minutes.

Mr. BYRD. May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. This is a very close matter. Senators should pay attention and cease their conversations on the floor.

Mr. BYRD. Mr. President, may we have order in the Senate?

I ask unanimous consent that the time required in securing order not come out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will not proceed until there is order in the Senate, in the view of the Chair.

There is not order in the Senate. Senators continue to talk.

Mr. BYRD. Mr. President, I ask unanimous consent, also, that the automatic recess not occur until the conclusion of the 10 minutes, which would mean the vote will not occur until after the conference.

I ask unanimous consent that the time for the conferences not begin until 1 o'clock p.m., the recess to be from 1 to 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. I thank the Chair.

Mr. President, we have had a vote that was going to be a tie vote, 45 to 45, and the Senator from Florida switched his vote in order to make a motion to reconsider.

I want to make clear that in the earlier vote on the Exon amendment, I supported the Exon amendment first. In theory and philosophy, I believe in the Exon amendment. I would like to see that become the law.

Mr. BYRD. Mr. President, there are too many conversations going on.

The PRESIDING OFFICER. The majority leader is correct.

The Senate will come to order.

Mr. BYRD. Mr. President, there are still too many conversations.

The PRESIDING OFFICER. The majority leader is correct. The Chair will wait until there are no more conversations on the floor except the conversation of the Senator from Florida. That will not take place until all the conversations have ceased.

Mr. CHILES. Mr. President, I urge the Senate to look at where we find ourselves now, and this is the situation: We went to conference. We argued the Senate position in conference. We told the House we would not yield to their position, and we made the House take this back in true disagreement, and they did. They had a vote on the floor of the House, and by 50 votes, the Members of the House voted to sustain their position.

Mr. President, the Senator from Florida finds himself, as chairman of the subcommittee, trying to pass this bill. We are not going to get the good items we have in this bill and get it passed if we cannot come to an agreement on this. I am convinced that the Senate is not going to be able to prevail in this bill on this issue at this time because of where we stand. There are 50 votes against us in the House, plus the President's statement that he will veto the bill on this particular issue.

I would like to see us single this issue out some way and go to the wall on it. I happen to believe very strongly in the position we have taken in the Exon amendment, and I think that would be good. But the Senate has tried to put itself on record in this and the vote on the Exon amendment.

I urge Senators to consider all the good things we have in this bill, all the funding we have for NIH, all the funding we have for education, all the funding we have for AIDS research—all these particular areas.

If we do not resolve this, what happens? We get caught up in a maelstrom and eventually a continuing resolution of some kind. That continuing resolution will probably not have a lot of priorities we have.

I can tell you from the conference that we won almost every battle in our funding levels, or at least in the priorities. I think of the increased funding we had as to research for mental disease, research for alcoholism, research for many of the other diseases we face. All those are in this bill, and all those are opportunities we have if we can pass this bill.

If we cannot win this—and I am convinced that we cannot on this bill, on this issue—then we ought to make the wise decision and get this bill wrapped up so that it will become law. If we do not have it, if it does not become law, all of us are going to greatly regret the opportunity we have in this funding bill. To lose that into some continuing resolution is to literally play into the hands of the President, play into the hands of those who would like to cut funding in many of these research and critical areas: infant mortality, early childhood education. All those items are protected and taken care of in the bill.

I urge Senators to recognize that and to let us get this bill passed; and the only way we are going to do it is if we can table this amendment.

Mr. WEICKER. Mr. President, the passage of a separate Labor, Health and Human Services appropriations bill means as much to this Senator as to anyone on this floor.

I have to point out that after a long drought, it was under the chairmanship of this Senator and continuing through the chairmanship of the Senator from Florida that it has been possible to have separate bills rather than always being a part of a continuing resolution. I understand the importance of a separate bill and all that it does for those who are diseased and afflicted and ignorant and hungry and homeless and jobless.

I want a separate bill. But I have also seen this matter that visits a tragedy on many women in our society overwhelm all other considerations.

First, we were bluffed out of this position that we vote on today and then filibustered and now bullied. The answer is no, whether the bullying is from the House or from the President.

The time has come to stand up and be counted on this logical, commonsense issue. There is plenty of time to iron out this difference. If I did not think that, I would not be pushing this amendment now. But the fact is that for the first time, the Senate stood up overwhelmingly and said women who are pregnant by virtue of rape or incest have the right to a Medicaid abortion. The last time the law permitted them to do so in 1979, 72 of them received these funds. The Senate stood up; the chairman stood up in committee.

Has anybody ever heard of a President of the United States sending a letter threatening to veto a $139 billion bill that entails the quality of life for America because he does not want to see Medicaid-funded abortions for women pregnant from rape or incest?

For years now the White House has tried to cut all the funding for disease and for health research, for education and for students; and for the first time you are not hearing a word about that. So to the extent that this amendment is a lightning rod, it has taken the pressure off the needs of our society. What a commentary.

I would hope the Senate would stand firm. This is not the day before adjournment. We still have work to do. The work that has been accomplished in this legislation is excellent. It does address the quality of life in America in so many ways.

But it is also time for the U.S. Senate not to turn its back on those involved in the tragedy nor to bow down to those trying to impose the tragedy.

Last, the reason that I was asked not to have this come to a vote was so that we could have "an agreement" between Democrats and Republicans during an election year that would not affect our political fortunes.

Since we have been unwilling to speak and the House has been unwilling to speak in the face of what is overwhelming opinion throughout the American population, then maybe the time has come for the American people to speak, to look at this record and to make those creating the record accountable so that when the next Congress comes into session there will be a mandate on behalf of compassion, there will be a mandate on behalf of those who have been made to live in tragedy for years. There will be a mandate on behalf of common sense and decency.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida has 40 seconds.

The Senator from Nebraska.

Mr. EXON. Mr. President, would the Chair advise the Senator, are there time constraints that have been agreed to?

The PRESIDING OFFICER. Yes.

Mr. EXON. How much remains to those of use who are supporting maintaining our position?

The PRESIDING OFFICER. Nineteen seconds, eighteen seconds, and seventeen seconds.

Mr. EXON. Will the Senator yield me 19 seconds?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I was proud of what the Senate just did. I hope that we will hold to our position, send a message loud and clear back to the House of Representatives, have them listen to the statements made by the Senator from Connecticut and have them vote on this another time if necessary, when all of them are there in hopes that we can get a resolution of this matter.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that I might proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. I thank all Senators on the floor for yielding me this time.

I had thought and I think we had a little mixup that I was going to be reminded when I had used 3 minutes and that time turned into approximately 5 minutes.

I just renew my plea that we get an opportunity to pass this very important bill. I think it upholds the priorities of the Senate, and I would say that I know this issue is strong in the minds and consciences of many, many Senators in here.

I do remind Senators that what happens if we table this is we have what has been the existing law for the last 7 years.

So, the Senate has strongly gone on record as wanting to make that change. I think we should make that change. I hope we can find a way to isolate that in an attempt to make that change. But we are only talking about whether we come down with the existing law and we have an opportunity to do all of the good things, to pass all of the good things that we have in this bill and not leave this, the second largest appropriation next to defense, out there hanging to be caught up in a continuing resolution to see all of the priorities that we have set forth in education, in health research, in AIDS matters, at sacrifice. With 50 votes against us in the House and the President taking his position on veto, we are not going to win this battle on this bill. I wish I thought we were. But we are not.

So we ought to allow this bill to become law.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the veto if it begins now is going to be cut into both conferences. Would there be an objection to putting the vote over until after the conferences?

RECESS UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess now until the hour of 2 o'clock.

There being no objection, the Senate, at 12:56 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

The PRESIDING OFFICER. The question is on the motion to reconsider the vote by which the motion to table was not agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the call for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I ask unanimous consent that I might have a dialog with the distinguished majority leader and the distinguished chairman of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. It is my understanding that we would now go to a motion to reconsider.

Mr. BYRD. Vote on a motion to reconsider.

Mr. WEICKER. And then, if that prevailed, have another vote on the tabling of the Exon amendment.

Mr. BYRD. Yes.

Mr. WEICKER. As far as I am concerned, if we want to pass the motion to reconsider by voice vote, I have no objection to that, but then I would want a rollcall vote on the motion to talbe the motion to insist.

Mr. CHILES. That will save some time.

Mr. BYRD. Very well. Mr. President, I ask unanimous consent that the motion to reconsider be considered as having been adopted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. The yeas and nays have already been ordered on the motion to table so that will be automatic.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. So the vote occurs on the motion by Mr. CHILES to table the motion by Mr. WEICKER.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOSCHWITZ (after having voted in the affirmative). Mr. President, I have already voted "aye" on this vote. I have a pair with the Senator from Rhode Island [Mr. CHAFEE]. If he were present and voting, he would vote "no." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "yea."

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] and the Senator from Michigan [Mr. LEVIN] would each vote "nay."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Indiana [Mr. QUAYLE], are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri [Mr. BOND] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 43, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—47

Armstrong
Biden
Breaux
Byrd
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Helms
Humphrey
Inouye
Johnston
Karnes
Kasten
Lugar
McCain
McConnell
Melcher
Nickles
Nunn
Pressler
Proxmire
Reid
Rockefeller
Sanford
Stennis
Symms
Thurmond
Trible
Wallop
Warner

NAYS—43

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Bumpers
Burdick
Cohen
Daschle
Dodd
Evans
Exon
Glenn
Gore
Harkin
Heinz
Hollings
Kassebaum
Kennedy
Lautenberg
Leahy
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pryor
Riegle
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Weicker
Wilson
Wirth

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Boschwitz, for.

NOT VOTING—9

Bond
Chafee
DeConcini
Kerry
Levin
Matsunaga
McClure
Murkowski
Quayle

The PRESIDING OFFICER. Upon reconsideration, the motion to table the motion to insist on Senate amendment No. 126 is agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I move that the Senate recede from its position on amendment No. 126.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CHILES. All time is yielded back.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing on the motion to recede.

The motion was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The Senate resumed consideration of H.R. 1154.

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 1154) to remedy injury to the U.S. textile and apparel industries caused by increased imports.

Pending: Hollings amendment No. 2945, in the nature of a substitute.

The PRESIDING OFFICER. Under the previous order, there will be an hour for debate, evenly divided, on the pending motion to invoke cloture.

Mr. PACKWOOD. Mr. President, I cannot hear the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD. Are we back on the textile bill now for an hour?

The PRESIDING OFFICER. We are.

Mr. PACKWOOD. Time equally divided, and then we vote on cloture about a quarter to 4. Is that roughly it?

The PRESIDING OFFICER. That is correct.

Mr. PACKWOOD. I thank the Chair.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, let me explain what we are up to.

I think—I hope—we are going to get an agreement, maybe before cloture, maybe not—I am not sure—to agree, by unanimous consent, to vote on final passage of the textile bill sometime Thursday. Those negotiations will be going on between the majority leader and the minority leader, between now and the time of roughly a quarter to 4, when the vote will occur, if the matter has not been laid aside.

So far as I am concerned, speaking for the leader of the opposition to this bill, I realize that we have had a good debate, a fair debate, with two honest differences of opinion, and Senator HOLLINGS and his side have won. There is no attempt to string this out with filibuster. So I am willing to vote on Thursday, at a time acceptable to the two leaders.

Mr. HOLLINGS. Mr. President, I am very much indebted to Senator PACKwood for his graciousness. The truth of the matter is that we would like to do that on Thursday or any time the distinguished Senator can arrange for that vote.

We are also concerned about a point of order and keeping all the troops here. We have the horses, but to keep them in the stable of the U.S. Senate is a very difficult thing.

Some, too, think it would be a bad precedent, applying maybe to the House and not the Senate measure; but, be that as it may, let us see if we can agree.

Pending that, I will await the return to the Chamber of the distinguished Senator from Oregon, so I suggest the absence of a quorum. I ask unanimous consent that the time apply equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I yield 5 minutes to my distinguished senior colleague.

Mr. THURMOND. Mr. President, in considering this textile bill, I want the Senate to understand that the Defense Department has declared that textiles rank only next to steel in the matter of national defense.

There has been a study made lately by Lt. Col. Joseph W. Kernodle, entitled, "Clothing, Individual Equipment, and Textile Support Capabilities During Mobilization." Many people believe that if the United States had to mobilize its Armed Forces during a national emergency, there would be no problem concerning uniforms and shoes for the military. That is a mistake, and if any Senators may have that view, I wish to disabuse their minds of it.

This study showed—and this is very important—that imported products have seriously jeopardized the preparedness of our Armed Forces in times of national crisis.

And this report was published by the Industrial College of the Armed Forces, and the Industrial College of the Armed Forces is a very important institution. It is a very high college that is conducted by the Armed Forces.

I want to say to you, here are some excerpts from their report. This is official, and Senators ought to know this.

More than 80 percent of the footwear sold in the United States is imported, actually 82 percent it was shown.

Most tents sold in America today are produced offshore. Only 10 or 11 domestic companies now produce tents for the U.S. military.

This study also shows that imports have reduced the capacity of the textile industry 10 percent and have severely reduced the capability of the apparel industry to manufacture certain types of military clothing.

This report also shows that from a list of 500 domestic apparel manufacturers identified for military production 80 went out of business in 1985.

It also shows that there are only four domestic manufacturers of protective clothing needed by the military.

Mr. President, this is very important. Suppose we entered the war and we are trying to protect against the gas that might be used.

It is estimated that in times of military mobilization 50 manufacturers, each employing 500 workers, would be needed.

Mr. President, the colonel who prepared this report—this is an official report—also says:

> The industrial base for clothing, individual equipment and textiles is less capable of supporting mobilization today than at any time in the past. Imports and offshore products have reduced the tentage, woolen and footwear industries to the point where they are not capable of providing sufficient products.

Mr. President, the reality is that "The Textile and Apparel Trade Act that we are considering now would slow the growth of textile and apparel imports into the United States and freeze the 1987 level of nonrubber footwear imports. Our military preparedness will suffer further setbacks if imports continue"—now catch that—"if imports continue to bombard American shores."

That is what the Army says.

Are we going to listen to them?

"It's time to respond to the invasion of textile, apparel, and footwear imports."

Mr. President, another thing that is amazing that I am not too sure the Senate is familiar with: The U.S.S.R., the Soviet Union, has stated its intention to focus on more and more exports of textiles and apparel to the United States. Their huge investment in the state-of-the-art shuttleless looms, and that is the most modern looms—the third highest expenditure in the world—confirms this. Their exports to the United States, virtually all of which is fabric, are shockingly increasing. And listen to these figures:

In 1985 they shipped in 21,000 square yards; in 1986, 383,000 square yards; in 1987, 24 million square yards. This is the U.S.S.R.

Now, Mr. President, are we going to let the Soviet Union take these jobs from the American people? That is exactly what is being done.

It jumped from 21,000 square yards in 1985 to 24 million square yards in 1987.

Mr. President, this will continue unless we pass this bill.

I want to say that much of the fabric shipped by the Soviets was sold at prices so low that massive subsidy and/or intentional dumping at as much as 40 cents a square yard below the United States market price was indicated.

I want to say further that between 1977 and 1986 the Soviet Union purchased 38,492 state-of-the-art shuttleless looms. The Soviet Union was the third largest buyer of such textile weaving machinery, surpassed only by Japan with 44,536 looms and the United States with 41,907.

Mr. President, the Senate can take this matter lightly if they want to, but again I repeat that the Defense Department has held that textiles rank second only to steel in the matter of national defense, and this study that has been made here that I just told you about, I think, reveals the true facts that the American people should be acquainted with, and I hope the Senate will see fit to pass this bill and protect the defense of this country.

The PRESIDING OFFICER. The Senator form South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the distinguished Senator from Michigan [Mr. Riegle] be recognized for 5 minutes and that it not be allocated to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair and I thank very much the Senator from South Carolina [Mr. Hollings] and appreciate his leadership on this textile bill.

MEDICAL WASTE IN GREAT LAKES

Mr. RIEGLE. Mr. President, I asked for this time to bring to the attention of the Senate a major problem that has developed in my State of Michigan. We have had just within the last several days a large amount of medical waste material wash out of the Great Lakes onto the western shore of the lower peninsula of Michigan. The problem is severe enough that a 12-mile stretch of beach has been closed in one area and the Grand Haven State Park beach has been closed. In this medical debris are syringes and other materials that clearly pose a hazard to the public health.

We have discussed here previously in the Senate and have acted upon legislation to deal with ocean dumping, and in particular the terrible problem that has arisen with medical wastes washing up on ocean beaches. Now we are finding, in this magnificent body of fresh water that is such a treasure to our country, the Great Lakes, that medical materials have been dumped there which are now washing up on these public beaches and creating a public hazard.

I wish to indicate the area in Michigan where this is occurring. I have circled the area in red along the western side of the State. It runs down from the Grand Haven area just north of Holland, MI, up to an area near Silver Lake, which is where the greatest amount of medical waste has washed ashore just within the last few days. Of course, the beaches are cleared as the waste comes in. More waste material is coming in periodically and is being cleaned up as it does. It has created not only a public hazard, but it is very difficult for the public safety officials and health officials to clean up this material.

You wonder who would ever do this kind of thing. Who are the medical installations that are producing these kinds of wastes? How it is that they are finding their way into the hands of disposal people who are in turn putting these things in the Great Lakes?

But it clearly is a crime by any definition one wants to use, and we have to find a way to stop it.

Since Friday, five beaches have been closed after these wastes were washed ashore. The beaches are in the Silver Lake State Park and the Charles Meir State Park and other small local beaches and, as I mentioned, the Grand Haven State Park.

We have also had medical waste wash ashore in Cleveland on Lake Erie just last month.

So this problem is occurring in other areas around the Great Lakes. There are others that I could cite.

The Governor of Michigan has moved very rapidly. He has set up a special task force that is at work now to investigate the extent and the source of the illegal dumping. The task force is made up of the Governor's office, the Department of Natural Resources, the State police and the attorney general in our State who I have spoken with today. He intends to take a very aggressive posture in tracking down who has done this dumping and to prosecute them to the full extent of the law.

But I think we need additional steps here at the national level to protect the Great Lakes and all of us who border on the Great Lakes and who want to protect that body of water for the Nation.

So today I will be submitting later in the afternoon a sense-of-the-Senate resolution which proposes the tracking of medical waste in the Great Lakes region. That sense-of-the-Senate resolution would ask that that concept be incorporated in any medical waste disposal act that is adopted by the Congress this year.

We have previously acted on that issue in the Senate. The House is in the process of acting. There will be a conference. And this would be an instruction to conferees to ask them to include specific provisions that would prohibit the disposal of medical waste in the Great Lakes.

Later today, I am also joining as a cosponsor of a bill that my colleague, Senator Levin, will be introducing. That bill will require tracking of medical waste in the Great Lakes region. I think that is another initiative we need to take.

Also, I intend to work very closely with State officials who are in charge of bringing to an end this illegal dumping and to determine with them how we can best create a Federal-State approach to solving this problem because clearly there has to be an iron prohibition against the dumping of any medical waste in the Great Lakes at any point.

It is clearly a hazard to the public health, and not just in terms of debris washing up on the beach. We just cannot afford to have contaminated medical or hospital-type materials making their way into any part of the Great Lakes. So I bring this matter to the attention of my colleagues because I think this is an urgent matter of concern. It is something that I want us to respond to immediately. I think we have the vehicles available to us in the forms that I have just laid out.

As I continue to follow this problem, I will make further reports to the Senate. Mr. President, I ask unanimous consent to have printed in the Record various articles on this major problem.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Medical Junk on Lakeshore Shuts Beaches

(By Georgea Kovanis)

Four Lake Michigan beaches have been closed after hypodermic syringes and other medical debris washed up along a 12-mile stretch of shoreline in and near Pentwater, officials said Sunday.

Oceana County public health officials ordered the beach at Charles Mears State Park in Pentwater closed Sunday. The 2½-mile-long beach at Silver Lake State Park south of Pentwater, where most of the medical debris was found, was closed Saturday.

Two small local beaches between the state parks also were closed.

It marked the second time in about a month that medical debris had washed up on the shore of one of the Great Lakes. In August, used hypodermic syringes were discovered on Lake Erie beaches in Cleveland.

Earlier in the summer, several East Coast beaches were closed after discovery of medical debris, including syringes that contained blood with the AIDS virus. Health officials, however, say the virus dies quickly outside the body and they are more concerned that someone could step on a dirty needle and become infected with hepatitis.

The extent of the Lake Michigan problem was not immediately clear, officials said. At least 50 syringes have been discovered on shore since Friday, said Peter LundBorg, Silver Lake State Park manager.

LundBorg said sheriff's deputies removed two garbage bags containing debris early in the weekend. He said some of the syringes and attached needles appear to be bloody. Searchers also found some tubing, but it was unclear whether it was a medical product.

"We don't know what's in" the syringes, LundBorg, adding that he expected more answers today.

It was the first time medical debris had washed up on the Oceana County shoreline, said Lowell Rinker, public information officer for Oceana County's emergency preparedness office.

The origin of the debris is unknown.

"All of this stuff is suddenly appearing in the same fell swoop," Rinker said. "We always think that we're isolated from that kind of thing. I guess we're not."

Dr. David Nolan, an officer of the regional health department that includes Oceana County, said closing the beaches "is based more on prudence and seeing that we've taken adequate precautions."

He said it's unlikely that the debris could breed disease but added: "It's not possible at this point to say that such a thing could not happen. It's prudent not to put oneself in the situation where it could occur."

Representatives from the Department of Natural Resources, the Oceana County Sheriff's Department and the regional health department spent much of Sunday patrolling the beaches and searching for debris.

Employes were trying to remove debris from the sand by sifting if through a beach cleaner.

Jon Grand, a spokesman with the U.S. Environmental Protection Agency regional office in Chicago, said that the dumping of medical wastes in the Great Lakes is a fairly new problem.

"The stuff along the east coast is an old phenomenon," he said, "Some people just figure, 'Well, we'll save a few bucks and dump it.'"

He said he doesn't know why it's showing up in the Great Lakes.

Medical Junk: Sharp Laws Should Needle Those Who Dump in Our Lakes

You are walking barefooted on a beach. It is, say, on Lake Michigan near Pentwater, and you are bewildered by the beauty of it all: the play of clouds over the horizon, the restlessness of waves pounding the shoreline, the crisp wind, the mind-boggling stoicism of sand dunes. Suddenly, a sharp pain shatters your serenity: You've stepped on a needle in the sand. Attached to it is a hypodermic syringe half-filled with something that looks like blood.

What a dreaded possibility even to ponder. Unfortunately, medical waste washing ashore is not something that you only hear about on the national news now. Someone's been dumping such debris into the Great Lakes, too. Over the weekend, public health officials had to close four beaches in the western part of the state because of it, while last month, similar wastes washed ashore near Cleveland.

These incidents should ring an alarm for Michigan's top political leaders and the state's well-organized medical providers. Together, they must find a way to defend our state's natural treasures and prevent this repulsive abuse from spreading.

The task certainly won't be easy. We are dealing here with low-volume dumping that can be done stealthily, for example, at night from a recreational craft. It is not impossible, though, to provide strong disincentives for doing it. State leaders should take a hint from the federal government—the U.S. Senate already has passed (unanimously) a bill that would authorize money for developing programs to track down dumped hospital waste—and telegraph to law-enforcement agencies their sense of urgency. Making sure that there are no loopholes in environmental protection laws and instituting stiff penalties for such dumping is another obvious step.

Enlisting the help of the Michigan Hospital Association would also help. If the hospital lobby recognizes the benefits of attacking the problem early on, before it causes more public outcry and criticism of the provider's practices, perhaps the bad apples can be identified quickly. Without investigating, it is impossible to establish who is causing the problem; the providers—hospitals or individual clinics—some of whom might want to save dollars on the expensive waste destruction service, or some of the companies they hire to do this.

In any case, medical providers hold the key to this mystery; it is not unfair to ask for their co-operation in this ugly situation. If we do not act promptly and decisively, the price we may pay later can be stiff indeed; the inability to play safely on our beaches.

BLANCHARD FORMS TASK FORCE TO PROBE MEDICAL WASTE FOUND ON LAKE SHORELINE

LANSING.—Gov. James J. Blanchard and Attorney General Frank Kelley Monday announced formation of an interagency task force to study the problem of medical debris which prompted the indefinite closing of five Lake Michigan beaches near Pentwater and Grand Haven.

Oceana County health authorities ordered the beach at Charles Mears State Park in Pentwater closed Sunday. The beach at Silver Lake State Park south of Pentwater was closed Saturday. Two small local beaches between the parks also were closed.

On Monday, the beach at Grand Haven State Park was closed after a couple of hypodermic needles washed ashore there as well. Coast Guard officials said it was not known how long the park would be closed.

Blanchard said the incident "has dramatized the need for speedy and effective action to assist local units of government in their investigations to find the responsible parties."

Kelley vowed his office would "bring the full weight of the law against those responsible."

The task force will include representatives of the State Police, Public Health and Natural Resources departments.

Initiatives already are underway to write legislation on the issue.

A spokeswoman for U.S. Rep. Bill Schuette said the Michigan Republican would tour affected beaches Tuesday after meeting with the Oceana County sheriff and other county officials. She said Schuette has been in touch with Environmental Protection Agency Administrator Lee Thomas and will be briefing him following the tour.

The beaches are not actually in Schuette's central lower Michigan district, but the congressman is "concerned about Great Lakes dumping," she said.

Peter LundBorg, manager of the Silver Lake State Park, said at least 50 syringes have been discovered since Friday. The origin of the debris was not immediately known.

This marks the second time in about a month that medical debris has been discovered on a Great Lakes shore. In August, syringes were found on Lake Erie beaches near Cleveland.

Authorities described the closings as precautionary measures.

Dr. David Nolan of the regional health department which includes Oceana County said it is not likely the debris could breed disease.

OTTAWA BEACH OPEN; OCEANA CLEANS UP

(By Ben Beversluis)

GRAND HAVEN—After briefly closing a 2.3-mile stretch of Grand Haven beachfront because of a small amount of medical waste found there, patrols were to continue scouring Ottawa County beaches today for more junk washing ashore.

Further north, between 100 and 150 syringes were among the five barrels of waste found at spots along Oceana County's 23-mile shoreline, Sheriff Fred Korb said Monday.

The Oceana County Sheriff's Department posse and other volunteers were expected to search Lake Michigan beaches again today to determine whether strong winds overnight washed up more medical waste.

"We had a strong west wind and heavy rain," said Oceana County Civil Defense Director John Merten. "It might have thrown more stuff on shore. We're most anxious to hit the beach and see what we've got."

More than 20 posse members and volunteers were expected to conduct the search on all-terrain vehicles, Merten said.

Most of the debris is scattered, although an unspecified number of garbage bags floating offshore also have been reported by Coast Guard officials.

All public beaches in Oceana County, including the beaches at Charles Mears State Park in Pentwater, Silver Lake State Park in Mears and four county beaches, remain closed today. Property owners with private beaches along the county's 23-mile shoreline also were advised to stay off the sand.

Meanwhile, Gov. James Blanchard and Attorney General Frank Kelley announced Monday the formation of an interagency "strike force" to investigate the extent and causes of the illegal dumping.

"The discovery of medical debris along the Lake Michigan shore in Oceana County has dramatized the need for speedy and effective action to assist local units of government in their investigations to find the responsible parties," Blanchard said in a prepared statement.

The strike force includes representatives of the Department of Public Health, the DNR and state police. Blanchard requested acting Public Health Director Raj Wiener to coordinate the body.

"As soon as the evidence is examined and a source identified, I will bring the full weight of the law against those responsible," Kelley said.

But Korb said his immediate concern was in cleaning up the beaches.

"The bureaucrats are sitting around trying to come up with a plan, but meanwhile, what about the poor little innocent kid who could step on a needle and get hurt?" said Korb.

U.S. Sen. Carl Levin and U.S. Rep. William Schuette were expected to survey the beaches today.

The Grand Haven beach was closed for 2½ hours Monday morning after two syringes were discovered a day earlier.

It was reopened after foot and helicopter searches Monday by the Coast Guard turned up only a single rubber glove similar to a surgical glove.

While officials were not ruling out the possibility the material came from the same unknown source that has littered Oceana County beaches, other causes were also suggested, including pranksters.

Richard Label, manager at Grand Haven State Park, said all three items were found 75 to 100 feet from the water's edge.

"They were so far away, they were not washed up there," he pointed out.

Neither syringe had a needle attached. One contained a dark material that might have been blood, but the other was clear, as was a third syringe found south of Port Sheldon Saturday.

Label pointed out fishermen often use such syringes to inject air in worms to make them float.

James Szejda, supervising sanitarian of the Ottawa County Environmental Health Department, also cited that as a possibility. "Or it could be just coincidental, or it could be part of the material that showed up in Oceana that separated itself out," he said.

As a precautionary move, state and county park officials intend to continue patrolling the beach.

"If anything else is discovered, they would contact us and we will make a decision whether to close them," Szejda said.

Lt. Commander Larry Mizell, Coast Guard Group Muskegon commander and captain of the Grand Haven port, ordered the beaches closed Monday about 8:30 a.m. while the search was conducted. They were reopened by 11 a.m.

"If we get any more reports of larger quantities, we'll be closing beaches again, no matter where," said Petty Officer Don Johnson.

Grand Haven camper Pete Visser went swimming at the Grand Haven beach Sunday. On Monday, rangers stapled a "Beach Closed Until Further Notice" sign near his motor home.

But the retired Grand Rapids resident was not worried about his swim. "I really don't think it (the waste) amounts to a whole lot," he said.

In Oceana County, Civil Defense Director Merten said Monday that cleaning the beaches has been a slow process. A sand-cleaning machine covers about one-eighth of a mile in an hour.

"Every time the waves go up, up pops another needle," Merten said. "The debris is constantly changing."

Alan Howard, chief of the DNR's waste management division, said there was no indication where the medical waste came from, its level of contamination or the amount of time it had been in the water. He said that after the waste is examined, it probably will be placed in landfills.

The five barrels of medical waste and a dump truck filled with sand mixed with various medical items was being held for examination by the state Department of Public Health and the state police crime lab.

Local authorities were to meet with state and federal officials from the Environmental Protection Agency to develop a cleanup plan, Korb said. The dumping was compared with similar contamination of beaches along the East Coast this summer and in Lake Erie near Cleveland last month.

J.D. Snyder, an environmental advisor to Gov. Blanchard, said the Michigan incident highlights the need for tougher regulations on disposal of infectious medical wastes, including stricter landfill standards for burial of medical trash.

U.S. Rep. Bob Davis, R-Gaylord, added a proposal last Wednesday to prohibit dumping medical waste in the Great Lakes to legislation banning dumping of medical waste in the oceans.

Under the amendment, anyone knowingly dumping medical waste in the Great Lakes would be liable for a $250,000 fine and up to five years in jail.

State legislation to impose criminal penalties on illegal dumpers and to better control disposal of medical wastes will be introduced by early October, said a spokesman for Rep. Perry Bullard, D-Ann Arbor, who announced his intent to sponsor the bills in August following the Lake Erie dumping incident.

The report of a state interagency committee, which last spring recommended steps to toughen control of medical wastes, has languished with virtually no action by the Health Department or DNR. Michigan is one of only six states without specific laws covering medical waste disposal, according to the Council of State Governments.

"We'll be taking that report down off the shelf and moving forward on its recommendations," Snyder promised. "No doubt there is a regulatory gap here. We intend to fill it."

MEDICAL WASTE CLOSES FIFTH STATE BEACH

The beach at Grand Haven State Park was closed today, the fifth Lake Michigan beach closed indefinitely during a cleanup of medical wastes that washed ashore, authorities said.

The wastes discovered on a 12-mile stretch of Lake Michigan shoreline since Friday from Pentwater to Silver Lake in Oceana County included needles, feminine napkins, syringes—some containing blood—pills and other medical supplies.

Late last week the Traverse City office of the state Department of Natural Resources also received an informal report from a vacationer that a couple of syringes were found on the beaches of South Fox Island north of Leelanau County.

DNR officials said it was not clear if the syringes found on South Fox were the result of dumping, as is suspected in the Pentwater area, or simply local litter.

No action has been taken to close any beaches in the Grand Traverse area, U.S. Coast Guard and DNR officials said this morning.

The beach at Grand Have, about 45 miles south of Silver Lake and one of the state's most popular was closed this morning after two syringes were found on the public beach and one was found on private property about 12 miles south of the park, said Lt. Larry Beld of the Ottawa County Sheriff's Department.

He said the beaches were closed indefinitely as a precautionary measure and that hourly patrols also were being conducted at Holland State Park.

Authorities in Muskegon County along the coast between Grand Haven and Pentwater said they had no reports of medical wastes washing ashore.

The beaches will be off-limits to the public "until they find out what's going on," Officer Gary Potter of the Oceana County Sheriff's Department said. "We have no idea where it's from. There's quite a bit of it."

County public health authorities on Sunday ordered the beach at Charles Mears State Park in Pentwater closed. The beach at Silver Lake State Park, where most of the debris was found, was closed Saturday.

The state has no formal regulations covering the disposal of infectious medical waste. Hospitals operate under guidelines from the Department of Public Health. Most waste is burned or sent to regular garbage dumps.

State officials believe most hospitals comply with the guidelines, which don't carry the force of law. But some waste haulers complain that garbage handlers occasionally are pricked by used needles.

Infectious medical wastes from Munson Medical Center and Traverse City Osteopathic Hospital are burned in a Munson-owned incinerator, said Munson Vice President Ralph Cerny. The ashes are taken to Glen's Landfill in Leelanau County.

Ottawa County authorities today reported small quantities of medical wastes washing ashore about two miles north of Holland State Park, one of the state's most popular. The wastes were reported by area residents, a sheriff's dispatcher said.

Authorities in Allegan and Muskegon counties along the coast between Holland and Pentwater said they had no reports of medical wastes washing ashore.

County public health authorities on Sunday ordered the beach at Charles Mears State Park in Pentwater closed. The beach at Silver Lake State Park, where most of the debris was found, was closed Saturday.

Two small local beaches also have been closed.

The contamination of the beaches was similar to medical waste spills that have marred beaches in Ohio, New Jersey and elsewhere along the East Coast this summer.

"When this happened in New Jersey it was one thing. but geez, here in Hart?" said John Morton, the county's emergency preparedness coordinator.

[From the Detroit Free Press, Sept. 13, 1988]

MEDICAL DEBRIS CLOSES OCEANA COUNTY COAST

(By Chris Christoff and Georgea Kovanis)

All public beaches along the 23-mile Lake Michigan coastline in Oceana County were ordered closed Monday as the hunt continued for the source of used hypodermic needles, blood vials, surgical gloves and other medical waste that has washed up along the shore.

Officials said they feared the waste was scattered along a much larger area than they earlier believed, though there was no hard evidence of the kind of wash ups that littered a 12-mile stretch from Silver Lake State Park to Charles Mears State Park over the weekend.

State officials made plans to sift through five barrels of medical waste, including at least 150 used syringes, and a dump truck load of sand mixed with medical items scooped up from the two state park beaches that were ordered closed over the weekend. The load will be examined for disease and for any signs of its origin.

In other developments:

In Grand Haven, about 50 miles south of the worst wash up at Silver Lake Park, the U.S. Coast Guard Monday ordered Grand Haven State Park in Ottawa County closed after three syringes and a rubber glove were found.

The park was reopened two hours later after a Coast Guard helicopter found no evidence of floating wastes. Park officals concluded the syringes had not washed up, but were brought there by people or possibly sea gulls.

Muskegon County emergency crews searched the shoreline in a boat, but found no evidence of medical wastes. Some people called in false alarms after spotting plastic bags or Styrofoam pieces on the water or shore, said Muskegon County emergency services director Bernard Brondyk.

Gov. James Blanchard announced a strike force to investigate the waste, and named state public health director Raj Wiener to co-ordinate the effort with the Department of Natural Resources and State Police.

State Attorney General Frank Kelley vowed to "bring the full weight of the law against those responsible," and called the beach closures a "terrible nuisance to the people of Michigan."

But Ocean County Sheriff Fred Korb said not enough had been done to search the coastline for possibly dangerous debris. He said he will take out a posse of deputies and reserve officers today to begin scouring the 23-mile county shoreline. He ordered the county's coast closed to visitors.

"We've wasted a whole day doing nothing," Korb said, "Everyone's saying we've got to check this and check that, and you have people in Lansing making decisions who haven't even been here. Well, somebody's got to take the bull by the horns, and I'm tired of screwing around.

"I'm sure there are things out there. No one's ever physically walked this beach" outside of the state parks.

J.D. Snyder, environmental health adviser to the governor, said the debris found on the Oceana County beaches would be tested for infectious diseases.

In August used hypodermic needles were found on Lake Erie beaches in Cleveland.

Dr. Kenneth Rowe, interim deputy director for programs for the Michigan Department of Public Health, said the debris washing up on the shore of Lake Michigan poses little danger.

"With the relatively small number of debris and the nature of the debris, we don't feel there is a significant public health threat.

Donald Potter, president of the Southeast Michigan Hospital Council, said the news media is blowing out of proportion the hazard to the public. "There has not yet been a documented case of human disease associated with improper disposal of medical waste. It's very easy to get sensational, to get the public stirred up.

The waste wash ups have given additional import to actions by U.S. Rep. Bob Davis, R-Mich., who Wednesday added a proposal to prohibit dumping medical waste in the Great Lakes to legislation banning dumping of medical waste in the oceans.

Davis' amendment would impose on violators a civil penalty of $50,000 for each offense, and $50,000 per day for continuing violations. A criminal penalty of a $250,000 fine and up to five years in jail could be imposed against anyone who knowingly dumps medical waste in the Great Lakes under the bill.

[From the Detroit News, Sept. 13, 1988]

TASK FORCE TO BATTLE BEACHED MEDICAL WASTE

(By Eric Freedman)

SILVER LAKE, MICH.—Four Lake Michigan beaches contaminated by medical wastes remained closed today, and Gov. James J. Blanchard and Atty. Gen. Frank J. Kelley announced the creation of a special strike force to investigate the extent and source of the illegal dumping.

Blanchard said the washing ashore of medical wastes primarily in Ocean County—where five barrels of wastes, plus a dump truck of waste mixed with sand, were recovered—"dramatized the need for speedy and effective action to assist local governments in their investigation to find the responsible parties."

Kelley added, "As soon as the evidence is examined and the source identified, I will bring the full weight of the law against those responsible."

U.S. Rep. Bob Davis, R-Gaylord, last Wednesday added a proposal that would prohibit dumping medical waste in the Great Lakes to federal legislation banning dumping of medical waste in the oceans.

The Davis amendment would impose on violators a civil penalty of $50,000 for each offense, and $50,000 per day for continuing violations. Anyone knowingly dumping medical waste in the Great Lakes would be liable to a $250,000 fine and up to five years in jail.

The governor's strike force includes representatives of the Departments of Public Health, the DNR and State Police. Blanchard requested acting Public Health Director Raj Wiener to coordinate the group.

Hypodermic syringes, vials with traces of blood, pills, surgical gloves and other used medical supplies began washing ashore in Ocean County on Friday and Saturday, prompting the closing of the beaches at Charles Mears State Park in Pentwater and Silver Lake State Park in Mears, plus two smaller beaches.

Grand Haven State Park in Ottawa County, about 45 miles south of Pentwater, closed about 8:30 a.m. Monday after three syringes and a surgical glove were found. But after authorities searched the shoreline, the beach was reopened three hours later.

"There's no evidence of great risk to the public, but we're taking it seriously," said Dr. Kenneth Rowe, deputy director of the Michigan Public Health Department. "We're erring on the side of extreme caution."

He said at least one of the recovered syringes was reported to contain blood, and lake water will be tested for possible contamination.

Investigators have not determined if the medical wastes found since Friday between Pentwater and Grand Haven are from one source or the result of separate dumping incidents.

John Merten, Oceana County civil defense director, said Monday that cleaning up the beaches has been a slow process. A sand-cleaning machine covers about one-eighth of a mile in an hour.

"Every time the waves go up, up pops another needle," Merten said. "The debris is constantly changing."

Local officials expressed relief that the medical wastes did not appear during the summer's prime tourist season.

Visitors to the dunes and beaches along Lake Michigan are accustomed to discovering arrowheads and pieces of "petrified lightning"—known as fulgurites—as well as an occasional lost lure or disposable lighter.

"It was pretty disgusting," said Jim Foster, the tour guide who discovered the first batch of syringes and a bottle of pills with the label washed off.

"We're used to people looking at how beautiful Lake Michigan is," said Foster, who was driving a dune buggy with tourists when he chanced on the debris Friday.

"They wondered where it was coming from," he said. "It was embarrassing, like taking someone into your house when it's dirty."

Oceana County Sheriff Fred Korb said, "We've never dealt with this before. We're getting into something bigger here than littering."

Korb said between 100 and 150 syringes were among the five barrels of medical waste recovered from the shoreline. A dump truck filled with sand mixed with various medical items also was being held for examination by health officials and the state police crime lab.

Said Department of Natural Resources Ranger Phil Weiler, who worked on clean-up all-weekend, "We went through picking up anything plastic. I've spent a lot of time on the lakes but never found anything like this before."

The dumping was compared with similar contamination of beaches along the East Coast this summer and in Lake Erie near Cleveland last month.

A hand-printed sign tacked to a tree at the tiny Golden Township park warns: "Beach closed, possible health hazard, litter garbage." It is one of six public beaches in Oceana County.

In addition, Korb said the sheriff's department went door-to-door to warn property owners along the shore of the litter.

Preliminary testing at the Public Health Department laboratory in Lansing is not expected to yield results until the end of the week.

Beyond the worry about health and environmental hazards, there also was concern over the potential negative impact on tourism, an economic mainstay of lakeshore communities in western Michigan.

Rinker, who is also secretary of the Hart-Silver Lake Area Chamber of Commerce, said, "It would definitely be a big blow if it's a continuing and lingering problem, but it doesn't seem to be."

Tourism is the area's second-biggest industry behind agriculture, he said.

MEDICAL WASTE DISPOSAL RULES VOLUNTARY

(By Kathleen Bohland)

Hospitals, clinics and private doctors are trusted to adhere to voluntary guidelines in disposing of medical waste.

Infectious and toxic wastes, syringes and sharp instruments should be put in sealed plastic containers before disposal, said Dr. Kenneth Rowe, the state health department's interim deputy director and chief medical executive.

"These should be impervious containers that are sealed and disposed of in a way that doesn't constitute a risk to health," he said.

There are no requirements for incineration, but the state recommends that pathological waste, blood and surgical specimens be incinerated, he said.

The guidelines are voluntary and constantly changing, based on the constant need to protect health care workers and others from disease, he said.

He said the waste found in recent days on Michigan beaches should not present a health danger to the public.

"It is our feeling that the threat of infectious disease is minimal but that doesn't rule out us making a serious effort to document that," he said.

"We certainly feel it is a very unsettling and disgusting feeling for people on the beaches to have medical waste washing up on the shore."

Waste from the University of Michigan Medical Center in Ann Arbor is broken down by category and disposed of depending on its contents, said U-M spokeswoman Toni Shears.

Syringes and needles are placed in special containers and transported by truck to Chicago, where they are incinerated, Shears said.

Hazardous chemicals, including drugs used to treat cancer patients and pathology waste also are incinerated in Chicago, along with body samples, including blood and urine.

Radioactive wastes from the radiology department are transported by truck to a federal waste dump in Washington state, she said.

About 700 cubic yards of compacted trash, which includes left over food, paper, gowns, and other waste are trucked to the Wayne County landfill in nearby Belleville, Shears said.

"No one requires us to ship off needles," she said. "We just do that because we feel it is a better idea."

Mr. RIEGLE. I thank my colleague very much for yielding this time for this purpose.

The PRESIDING OFFICER (Mr. FOWLER). The time of the Senator has expired.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 20 minutes remaining.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point, Mr. President, a letter from then-Senator John F. Kennedy. It is dated August 30, 1960, some 28 years ago. In this letter, Senator Kennedy writes then-Governor Hollings about the distress confronted by the textile industry, having lost 400,000 jobs in the preceding decade. Senator Kennedy outlines his program for textiles under the section 22 of the Agricultural Adjustment Act.

Mr. President, a number of our colleagues have expressed interest in this letter, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 30, 1960.

Hon. ERNEST HOLLINGS,
Governor of the State of South Carolina, State Capitol Building, Columbia, South Carolina.

DEAR GOVERNOR HOLLINGS: I would, of course, be delighted to discuss with you and with textile industry leaders the problems of the textile industry and the development of constructive methods for showing the growth and prosperity of the industry in the future. The critical import situation that confronts the textile industry which you so eloquently describe in your letter is one with which I am familiar. My own State of Massachusetts has suffered and is suffering from the same conditions. The past few years have been particularly difficult for this industry. There seems to have been a basic unwillingness to meet the problem and deal constructively with it. During the first six months of this year imports of cotton cloth are twice what they were during the same period in 1959, the highest year on record. Similarly alarming increases are occuring on other textile and apparel products. Since 1958 imports have exceded exports by constantly increasing margins. There are now 400,000 less jobs in the industry than there were 10 years ago. It is no longer possible to depend upon makeshift policies and piecemeal remedies to solve the problems which the industry faces.

As you know, I supported the establishment of the Special Senate Subcommittee for the Textile Industry, under the chairmanship of Senator Pastore, of which Senator Strom Thurmond is a member. In an effort to help develop suggestions to improve the competitive position of the industry in the United States and world markets, this Subcommittee for the first time undertook a broad investigation of the problems of the United States textile industry and offered a number of constructive recommendations. With only minor exceptions, the Eisenhower Administration has failed to implement these recommendations.

I agree with the conclusions of the Pastore Committee that sweeping changes in our foreign trade policies are not necessary. Nevertheless, we must recognize that the textile and apparel industries are of international scope and are peculiarly susceptible to competitive pressure from imports. Clearly the problems of the industry will not disappear by neglect nor can we wait for large scale unemployment and shutdown of the industry to inspire us to action. A comprehensive industry-wide remedy is necessary.

The outline of such a remedy can be found in the Report of the Pastore Commitee. Imports of textile products, including apparel, should be within limits which will not endanger our own existing textile capacity and employment, and which will permit growth of the industry in reasonable relationship to the expansion of our over-all economy.

We are pledged in the Democratic Platform to combat sub-standard wages abroad through the development of international fair labor standards. Effort along this line is of special importance to the United States textile industry.

The office of the Presidency carries with it the authority and influence to explore and work out solutions within the framework of our foreign trade policies for the problems peculiar to our textile and apparel industry. Because of the broad ramifications of any action and because of the necessity of approaching a solution in terms of total needs of the textile industry, this is a responsibility which only the President can adequately discharge. I can assure you that the next Democratic Administration will regard this as a high priority objective.

Additionally, we shall make vigorous use of the procedures provided by Congress such as Section 22 of the Agricultural Adjustment Act and the Escape Clause in accordance with the intention of Congress in enacting these laws.

Lastly, I assure you that should further authority be necessary to enable the President to carry out these objectives, I shall request such authorization from the Congress.

I hope that these thoughts are helpful to you in your own deliberations and I reaffirm my interest in discussing problems of mutual concern with you.

With all good wishes, I am

Sincerely yours,

JOHN F. KENNEDY.

Mr. HOLLINGS. Mr. President, Senator PACKWOOD, the distinguished manager of the bill on the other side of the aisle commented on Friday that there is no organized constituency for the cause of free trade.

I'll tell you where that constituency is. It resides behind the ivy walls and in the ivory towers of academia. It is championed by antiquarians and economics professors in every State of America, including campuses in South Carolina. They love to reminisce about David Ricardo and those lovely 19th century theories of comparative advantage. It is because of the free-trade lobby that we are broke, with a deficit in our balance of trade and a deficit in our Federal budget. We have been bewitched and reduced by their singsong about how grand our economic miracle is. We have been on a debt binge, and they claim that it is an economic miracle.

So let us look at the economists, let us look at the Japanese lobbyists. And, incidentally, it is against the law for us to lobby in Japan, but their lobbyists have been all over the Hill. I have seen them for years.

We have 27 former House and Senate colleagues all on their payrolls downtown. They swarm on the Hill like June bugs. There are more people in this city representing Japan than we have in Congress representing the American people. And they apparently do a better job for Japan than we do for our own constituents, because the United States has become the world's dumping ground.

We receive more than 50 percent of the Pacific Rim's textile products. While the Asians manufacture and dump, our ivory-tower economists whistle that happy singsong of free market, free market, free trade, and "let us not start a trade war" while Asian nations swamp us with a monsoon of cheap goods produced at near-slave wages.

And, of course, there is another lobby for "free trade": the retailers. The retailers are cleaning up with their huge profit margins and mark-ups on Asian-produced goods. As I have shown in example after example, for instance with the two identical shirts here from Sears Roebuck, one made in Taiwan and one in the United States, both selling for $18, and the one in Taiwan manufactured for $3 less but the retailers make a greater profit.

But let us identify the really potent lobby for so-called free trade. You know, there are two things the United States does not import. One is politicians; we've got a surfeit of them. We are fully protected against politician-imports, other than the Senator from Connecticut. He was born in Paris, but we made him a citizen.

The second thing we do not import is newspapers. I look forward to the day when we can import newspapers, and all our smug scribes and puffed-up publishers will learn what competition is all about. I have suffered the barbs and gigs of this lobby, of the newspapers. We have heard their scurrilous charges to the effect that supporters of this bill have been bought.

HOLLINGS and THURMOND and that whole crowd, they are just paid; they get a bunch of money from the textile industry.

Listen to how the New York Times editorialized on the 8th of September: "But $4 million in campaign contributions seems to be all the justification Congress needs. That is how much the textile and apparel lobbies have contributed in the last two congressional elections."

But the Times is talking about peanuts. Four million dollars spread across all the Senators and all the Congressmen over a 4-year period amounts to peanuts, relatively speaking. That is less than $1 million a year. You can look at my own records. I received only $130,000 from textiles out of the $2.4 million in campaign funds I collected in 1986.

The whole disgraceful thrust of the Times is that we are not really for the bill. We are only responding to a payoff. In my hometown on September 9, the Charleston News and Courier charges that "we are in debt to the textile magnates." I wish that it were so. Truth be told, I cannot get their contributions. They are all Republicans.

I have to repeat the charges: "textile sugar daddies, the cosseted textile tycoons. It is all paid." And that is in my hometown.

I am up here struggling to protect an industry and American jobs, the bottom-line question is this: Having reached that 55 percent saturation point with textile imports, do we continue the way of the footwear industry? In 1982 footwear imports were at 50 percent of the U.S. market. Today they are at 84 percent. Do we go to 84 percent import control of textiles, and tell the U.S. textile workers they have got full employment?

Opponents of this bill have the audacity to say we have have full employment in the footwear industry. They say there is no unemployment. In reality, there are no shoe jobs. But here it is, Mr. President, a Greenville News editorial dated August 12. They give me a fit. They say we need free trade, and that is in the heart of textile country.

And then there is the honest and independent Washington Post in their editorial of September 7: "But in the end this bill will not save jobs. Protectionist bills never do. They only shift the impact of change from one industry to another. While legislation can save some jobs in textiles, clothing and shoe production, it will cost jobs in importing and retailing."

The relevant question is: How much do they get for the retail ads they run in the newspapers? I never heard of a texile manufacturer running a newspaper ad in the Atlanta Constitution or Washington Post. But the retailers do.

For display advertising from retailers, Mr. President, the best figure I can find from the Newspaper Advertising Bureau last year was $15,227,000,000 in 1987. One year. Compare that to 4 years and $4 million as cited in the New York Times for all Congressmen and all the Senators. All the Congressmen and all the Senators.

The newspapers tapped retailers for $15 billion. According to the Washington Post annual report, display advertising revenue was a whopping $893 million. So who is getting paid? The total Post revenue was only $1 billion. Ninety percent of their revenue comes from the retailers.

Senator Packwood says he cannot find a free trade lobby. Come on over with me I will find it for you. It is in my office beating me up.

So let us understand exactly what is happening with the newspapers' lockstep chorus against the bill. It is they who have been paid off.

I think we ought to run a contest. If you can find an editorial in favor of the textile bill—somebody said they saw one in Dallas, I could not confirm it—we ought to give them the Good Government Award. I cannot find such an editorial.

On the other hand, I am still looking for an editorial complaining that one cannot, as a member of the free press, get into meetings of Japan's Ministry of International Trade and Industry. They do not cover the Japanese decisionmaking process.

Newspapers will never write an outraged editorial about that. The Japanese bow and scrape and say how wonderful we are for paying for their defense. Meanwhile, their income is $19,000 a year per capita income compared to our $18,600. So much for equity.

We have suffered the Senator from Texas' talk about the Asian economic miracle. Well, I saw that miracle. It is not the result of unrestrained free enterprise. It is not a matter of "I think I can, I think I can," the power of positive thinking as preached by my good friend "Norman Vincent Packwood."

Here are American industries competing overseas. Do you know how they are competing? They have left America. Everywhere I went in Asia, the Americans have a big chamber of commerce, big breakfasts, big dinners. They are over there making money like gangbusters with cheap Asian labor.

This is the official handbook from Indonesia of American industry there. Here is the American Chamber of Commerce of Thailand. That is a big booklet. Look at the industries listed here. Then we have the Directory of American Business in Hong Kong.

United States firms in Taiwan. Look at them all in here. Goodness gracious, they have all transplanted abroad because they knew those foreign governments would protect them when they got there. It is a guaranteed profit. They have the government on their side over there. Yet here we are competing against ourselves. I am shocked to listen here in the Senate to this economic bunkology about "I think I can" and the "power of positive thinking."

U.S. businesses have moved overseas to take advantage of the lower manufacturing costs and foreign government support. As a result, they have been gutting our standard of living in the United States.

So the economic miracle is to transplant U.S. industry overseas. Speaking on the Today program yesterday, Dr. Richard Belous of the National Planning Association said that out of those 17 million new jobs—Mr. President, listen to this—50 percent are part time. Fifty percent of them are part time. Can you imagine such a thing? And those part-time jobs have no health benefits; there is no retirement; there is no annual leave; there is no job security; no chance to advance.

So in order to maintain the family standard of living, what has happened? The poor housewife is shoved out of the home to earn money along with Daddy to make the house payments. And that is why we have a day care crisis. The poor minority population in South Carolina has been caught up in this crisis for years. I visited a church cellar in Greenville where three or four black mothers were taking care of 60 or 70 little kids. Sixty or 70 mothers who had gone to work. It was an economic necessity.

Now, under this great Reagan miracle, they are boasting about giving American mothers part-time jobs and shoving them out of the home. They are running around saying we have to strengthen the family but we cannot have anything for day care or child care because that is against the family.

Well, what caused it? They ought to ask themselves why 62 percent of married women are now in the work force.

And consider the bankruptcies. Did you know that we had in 1987, 568,430 bankruptcies under this Reagan miracle? In 1988, they will have 610,000 bankruptcies and, by gosh, under this economic miracle, we have had to appropriate money for 284 additional bankruptcy judges. So under the economic miracle, we are going to pay out this fiscal year 211 million bucks just to go broke in this Reagan economic miracle.

Mr. President, I think of the time that that boxer, around the 9th round, was just as beat up as he could be. He went back to his corner before the last round. His trainer said, "You're doing great, doing great. They haven't laid a glove on you." He replied, "Well, if they haven't, you better watch that referee out there because somebody is knocking the daylights out of me." [Laughter.]

I can tell you right now, we better watch that referee. The referee in this case is the foreign government. That is what we are trying to do. We should learn from the Europeans, they put in a globalization of their quotas and held the line on imports.

Mr. President, I ask unanimous consent that these editorials be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 8, 1988]

Who'll Pay To Fatten Textile Profits?

With textile factories running full tilt and profits booming, it's hard to imagine an industry less able to justify extra protection from foreign competition. But $4 million in campaign contributions seems to be all the justification Congress needs. That's how much the textile and apparel lobbies have contributed in the last two Congressional elections, and the investment is on the verge of paying off—at consumers' expense.

A bill tightening import quotas and guaranteeing windfall profits for apparel and textile makers passed the House last year. A similar bill seems sure to pass the Senate today or tomorrow. The best hope is that enough Senators will now recognize the need to side with consumers, even if that means voting to sustain a certain Presidential veto.

Domestic textile and clothing manufacturers have lost ground to imports in the last decade. Much of the growth in demand has been met by foreign producers. Roughly a quarter of America's clothing dollar is now spent on foreign-made goods.

That's not surprising. Unlike steel or autos, the business doesn't require much capital to enter. But it does use a lot of unskilled labor, making it an ideal start-up industry for developing countries.

Nor should the degree of import penetration trouble Americans. Foreign competition has tempered price increases, particularly for cheaper clothing. The competition, moreover, has forced notoriously backward American textile firms to increase productivity.

In the process, some 350,000 workers—roughly one in five—have been replaced by a machine. But the jobs lost paid less than $7 an hour, well below the average for the economy. And the overall employment effect has been minimal; most workers have been absorbed by other industries.

Domestic production of cloth and apparel has reached record levels and the textile industry is operating at capacity. Textile profits, measured as the return on stockholders' investment, far exceeded the average for all manufacturing in 1986 and 1987. Yet textile and apparel makers and their unions are demanding more protection, seeking to limit import growth to 1 percent a year.

William Cline of the Institute for International Economics estimates that existing quota and tariff protection for textile and apparel costs consumers $20 billion annually in higher prices. To limit import growth to 1 percent, he says, would double this cost of protection by 1996. There is no reason to believe, meanwhile, that employers will ever pay more than they must to attract unskilled workers—currently just $14,000 a year.

In fact, the net effect on employment and wages could prove to be negative. Last year the Common Market threatened to retaliate against further limits on textile and apparel imports from Europe, which it justifiably interprets as a violation of U.S. treaty obligations. The most likely targets: American farm products and machinery, which now enjoy a competitive edge in Europe.

Unfortunately, these arguments in the national interest didn't deter 68 senators yesterday from voting to limit debate, setting the stage for a showdown this week. Everyone expects a solid majority in favor of more protection. The question is whether one senator in three will have the courage to stand up, now and later, to the textile lobby, allowing the promised Presidential veto to carry the day.

[From the Washington Post, Sept. 7, 1988]

THE TEXTILE GIVEAWAY

Protectionist trade bills are usually bad news, but the Senate's textile legislation is flagrantly, recklessly, almost comically wrongheaded. Since half the Senate has signed on as cosponsors, it will certainly be passed. Equally certainly, President Reagan will veto it. One question is whether there are enough votes to override a veto. Another is why the Senate is seized with this passion to pass another squalid giveaway to the textile producers.

The bill would allow imports of textiles and clothing to increase 1 percent a year, on grounds that the market is expanding only that fast. No matter how attractive the imports might be, or how competitive, Americans would be forbidden by law to buy more than the current proportion of them. The bill also freezes shoe imports at the present level. The American producers lost most of the market for women's shoes because they didn't keep up with the fashions as deftly as shoemakers in Italy and Brazil did. But in fashion or out, the American producers would be guaranteed their present share of the market under this law. No matter how poorly they performed, they would be protected.

The textile industry is already one of the most heavily protected industries in this country, and has been for more than 30 years. It is profitable and even does some exporting. But it likes having a captive market, and no amount of protection is ever enough.

The purpose of the bill is to preserve jobs. Senator Ernest F. Hollings, the chief sponsor, says that 350,000 jobs have been lost in textile and clothing production since 1980. True, some were lost to imports. Equally true but not mentioned by the senator, many of those jobs were lost to rising productivity. The same thing is happening throughout American industry.

You can probably think of a good many senators who are urgent and forceful in arguing that the United States must make itself more competitive in world markets. That means pushing steadily for higher productivity. You would be astonished to see that many of those same senators are cosponsors of this bill, the central purpose of which is to take the competitive pressure off this favored industry.

But in the end this bill won't save jobs. Protectionist bills never do. They only shift the impact of change from one industry to another. While legislation can save some jobs in textiles, clothing and shoe production, it will cost jobs in importing and retailing. On balance, the losses to the country will be greater than the gains. If the Senate is trying to make the American economy less efficient and less competitive, this textile bill is the way to go.

[From the Greenville News, Aug. 12, 1988]

TEXTILE BILL RHETORIC SHADES REAL ISSUE

This week's verbal battle over trade legislation in Congress isn't helpful to the textile and apparel industries or to public understanding of their most legitimate grievance with the Reagan administration.

The word battle was touched off by an editorial article against the textile import bill written for the Washington Post by White House Trade Representative Clayton Yeutter. In the face of mounting support for the bill, the article sharply accused the industries of seeking to limit imports in order to reduce market competition and drive up prices that American consumers pay for clothing.

And the sting of that argument provoked South Carolina's Sen. Fritz Hollings to deliver a blustering floor speech denouncing Yeutter and rebutting his debatable points with statistics at least as questionable.

Meanwhile, the Reagan administration continues to show little or no concern about episodes of import dumping of some categories of textiles and apparel which disrupt competitive manufacturing and orderly marketing.

As reported by the industry publication Women's Wear Daily, the Reagan Administration has repeatedly thwarted efforts to mandate timely reporting to the Commerce Department of domestic factory shipments, data that can be quickly matched with import flows to prove the disruptive effect of dumping for purposes of curbing it under existing trade rules.

The administration's excuse is its ideological opposition to more business regulation and paperwork requirements. Its unwitting ally has been the American Textile Manufacturers Institute, the textile industry's lobby, that has so often cried wolf that the reliable data it collects on dumping is widely regarded as suspect.

It appears that as a matter of strategy the textile and apparel industries are going for broke with the congressional trade bill to limit all competitive imports, a tack that could indeed assure them of more market order and less price competition. And the continuing word battle about it obscures both the administration's indifference to intermittent import dumping, and the industry's legitimate grievance about these violations of existing trade laws.

[From the Charleston (SC) News and Courier, Sept. 9, 1988]

TEXTILE PROTECTION: WHY AND HOW?

Georgetown University economist Gary Hufbauer estimates that protecting the U.S. textile industry from foreign competition costs American consumers about $27 billion a year. He argues that restrictions on clothing imports hit low-income families hardest. The poorest 20 percent of American households sacrificed an estimated 3.6 percent of their income last year to protect U.S. textile manufacturers. High tariffs and low quotas on imported cloth and clothing make textiles America's most protected industry.

Why, you might ask, should American consumers subsidize an industry that is making fat profits? There is a more important question. The question to ask is how textile manufacturers manage to have so much clout.

The answer is that the textile industry protects its protectors. Textile PAC money keeps incumbent senators and representatives in Congress. In turn, congressional textile protectionists join forces with other colleagues who have other protectionist irons in the fire.

The result, of course, is an increasingly uncompetitive industry that will, if allowed to continue milking American consumers, eventually sink into obsolescent torpor.

Senators who are in the debt of the textile magnates who contribute so much to their campaign chests will be painting the problems of the industry in a very different light this week as they attempt to garner enough votes for a new textile-protection bill to override a presidential veto. The House has already passed its bill to protect textile manufacturers by 263 to 156. To sustain President Reagan's veto, the administration needs 34 votes from the Senate.

There should be enough members of the upper house who do not have to repay textile sugar daddies to provide those veto sustaining votes. It simply makes no sense to go on coddling an industry that seems bent on self-destruction. Congressional crusaders for protectionism try to delude their constituents—and themselves—into believing that they are trying to save jobs.

In voting for more tariffs and quotas (which already provide the textile industry with a hefty 18 percent subsidy at the expense of taxpayers), Congress would be placing a straitjacket on American industry as a whole. A competitive textile industry would have job openings as the result of export-led expansion. Restrictions on imports merely lead to retaliation from America's foreign customers.

Free trade means more trade, more jobs, more prosperity. Trade restrictions mean shrinking returns and benefit only those like long-serving senators and cosseted textile tycoons—who have forgotten that competition is the spark that fires the engines of excellence.

I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina has 4 minutes and 50 seconds remaining. The Senator from Oregon [Mr. PACKWOOD] has 27 minutes.

Mr. PACKWOOD. How much, Mr. President?

The PRESIDING OFFICER. Twenty-seven.

Mr. PACKWOOD. I thank the Chair. I hardly know where to start. Let us start with the non sequiturs first. How much? One hundred and thirty thousand dollars over 4 years, was that the argument? Four million you got? It is a moot point. That charge is made that my good friend got $130,000 from the textile industry, therefore, he is in their pocket.

First, I do not buy the argument. Second, it is a non sequitur. It has nothing to do with the substance of this debate. It has nothing to do with the merits of the New York Times' argument, and he made it again today. I will quote it:

> Let me say something about those bigger profits. The New York Times inveighs against the textile bill. Retailers are naming that tune, because textile factories do not advertise in the New York Times, but retailers do. * * *
>
> In contrast, the newspapers know that the retailers are their bread and butter, their most lucrative advertisers. So is anyone surprised that the Times opposes the textile bill?

Translated, Mr. President, my good friend from South Carolina is saying the New York Times is bought.

Mr. HOLLINGS. Right.

Mr. PACKWOOD. Right, he says. Of all the papers that I hold in high regard in this country, I hold high regard for the Times. Apart from the argument as to whether they are bought or not, that is not the issue. I do not think they are. That is not the issue. Is what they say in their editorial valid?

Not the non sequitur that my good friend received $130,000, therefore, his argument against the textile bill is bad; or the New York Times has lots of retail revenues and, therefore, their arguments against the textile bill are good.

What are the merits? My good friend talks about 600,000 bankruptcies. I think his figure is high, but I will take his word for it. As I recall, there were 3 million new starts last year. Three million new businesses formed in this country; six hundred thousand bankruptcies. The free enterprise system does not guarantee you a profit; it gives you a guarantee of a chance to compete. Not to win. I remember when Professor Kahn, who I do not think my good friend cites too often—he was the architect of both our airline and our trucking deregulation under President Carter; I think he was one of the best people I have seen in government—I remember when he was on one of the morning talk shows.

The moderator said, "Well, Professor, under this new bill to deregulate trucking, some of the trucking companies are going to go bankrupt." He said, "Precisely. That is what we intended. We did not intend that they would all stay in business if they were not well run, if they were not well managed."

Indeed, under trucking deregulation, consumers and shippers have benefited tremendously in this country. Transportation costs in terms of what we call constant dollars, uninflated dollars are down tremendously in this country. You cannot find a shipper of any consequence that does not like the trucking industry deregulation. He has more companies to pick from. They will haul more different kinds of goods to different places that they did not want to haul them to before. No wonder the shippers like it. No wonder the consumers like it. But I also know that it is a natural understanding of all free enterprisers—maybe not all. There may be some exceptions. Most free enterprisers are genuinely for free enterprise. They are not hypocrites, but they have a conscious mental block when it comes to their industry. Their industry is different, and the normal rules of competition do not apply because—and then you can add dot dot dot—because of foreign competition, because of high labor costs, because of a shortage of raw materials, because dot dot dot, and therefore their industry and their industry only needs help—Government supervision, Government guarantee, Government protection—that no other industry needs.

I emphasize again the people who believe this are not hypocrites. Hypocrites are the Elmer Gantrys of the world. They consciously know that they are frauds. These businesses do not. They honestly believe they are different, and so the textile industry is just like the American Trucking Association, which did not want any trucking deregulation; just like the Teamsters Union, which did not want any trucking deregulation because they had organized all the trucking companies, major trucking companies in the United States, and they had a sweetheart deal.

It did not matter what the trucking companies paid in wages so long as they all paid the same wages, because under the law prior to trucking deregulation if your wages went up 20 percent, all the trucking companies came to the Interstate Commerce Commission and they said, "Gosh, our wages have gone up 20 percent." The Interstate Commerce Commission by law was required to allow the trucking companies to increase the rates that they charged to haul things that went to all the consumers in the country.

So what happened under that system is very badly managed companies made some profit and very well managed companies made a bundle. After deregulation, the very badly managed ones have gone bankrupt, and the very well managed ones are still making a good profit. That is what the competitive system is all about.

Now you come to the textile industry. I understand why they do not want foreign competition. My hunch would be, given their druthers, they probably would not like domestic competition because my good friend from South Carolina can well remember the arguments that were made by the unions, more by the unions than by the owners, when the textile industry was moving from New England to Georgia, North Carolina, South Carolina—lower wages, right-to-work laws, no union shops.

The then-existing textile industry, which was mainly in New England, wanted us to pass laws at the Federal level to some how, some way prohibit that kind of competition, prohibit them moving. But move they did, and interestingly now in New England they have replaced those industries with higher paying jobs, and New England as a core—Connecticut, New Hampshire, Vermont,—when you look at the other States, has sensational economies, low unemployment, jobs of a much higher technical nature and higher paying than the jobs that they lost.

But there was a transition period, Mr. President. And for those who have a job, for those who run a business, they do not see beyond today or tomorrow. They do not see the possibility of what might be done, and only competition forces you to that.

Now, my good friend has held up two shirts. He has done this frequently during debate. Here is a shirt made in the United States. Here is a shirt made overseas. The one made overseas costs infinitely less money, but they are both selling for $18, $20. It is the retailers who are gouging the public. Retailers are not passing along the cost of this low-priced garment. They are keeping it themselves.

Now, Mr. President, we well know about supply and demand. Any time you turn around, you will find clothing on sale where there is much more clothing than there is demand, and when there is more demand than there is clothing, you do not find any sales. The retailers are not any different than any other industry. They are going to charge as much as they can get for their product, and that is also the free enterprise system. But they cannot charge any more than they can get.

Rather than holding up those two shirts and saying here is one that is made overseas and cost $9 and being sold for $18, here is one made in the United States costing $15, being sold for $18, the question really ought to be, what would be the price of that American shirt if there was no foreign competition? I wager it would be more than $18, because it is the competition that keeps those costs down.

Mr. President, I have cited studies during this debate indicating what the cost of this bill will be to the consumers. By "consumers" I mean the purchasers of clothing and shoes. Some studies say $285 per family per year, some studies say it is as high as $500 or $600 per family per year that you are going to pay more for apparel and shoes because this bill is passed.

But let us take the low side. Let us assume the $300, rounding off the $285. Assume $300 that every family in America is going to pay more for clothing and shoes than they now pay because of this bill. That is a transfer of $300 from every family in this country to the textile industry. Is there a constituency for that?

My good friend from South Carolina confuses the word "constituency" with "lobby." There is a lobby on every conceivable interest in America of which you can think. One of the interesting pastimes is to look through the yellow pages of the Washington metropolitan area phone directory under "associations." You will run across dozens, scores, hundreds of organizations you and I have ever heard of and cannot even tell from their name what it is they might do. They are lobbyists. By "constituency" we mean broad-based public interest or support, the kind of questions you get at the coffee shack.

Now, when we go to the coffee shack, I do not mean a textile coffee shack asking about textiles. I understand that. That is their interest. In my State it would be lumber, so let us go to the lumber coffee shack. Do I get any questions about the textile bill? No. These people are lumber workers. They buy clothes, but they do not know much about the textile business. They are unaware that they are going to pay $300 more per family per year for clothing.

There is no constituency among them for opposition to this bill. They do not know about it. But if instead of imposing these quotas, Mr. President, what we did was to levy a tax of $300 per year on every family in America and transfer that money to the textile industry, there would be a whale of a constituency against it. But by cloaking it in the guise of a quota, the average American does not know what is going to hit him.

Now, if I were in the textile industry and the textile unions, would I support this bill? I hope not, but again I understand and emphasize, Mr. President, these people are not hypocrites. You are 42 years old. You are working in a textile factory in Raleigh or Asheville. You are making $16,000, $18,000, $19,000 a year. You have been working in the textile factory for 8, 9, 10, 12 years, maybe 20 years. You have lived there all your life. The boss of the textile factory comes to you and says, "Sally, Jim, sorry about this; we are going to have to close the factory because of that competition from Thailand, Bangladesh, Japan, Korea. We can't compete with those wages and we are going to close the factory."

That is an argument which every textile owner uses. The automobile industry has used it. The steel industry uses it. Every industry uses it for the reason they are going to reduce employment or close a factory. They blame it on somebody overseas. You immediately form a constituency, and the constituency is the factory owner, the union that has the textile workers organized and the textile workers all banding together to say, "Pass some kind of legislation that ensures that this factory does not close."

Clearly there is a constituency for the bill to keep out the foreign products, let the prices go up, let us keep the wages we have, let us keep working, do not close the factory, and no constituency in opposition.

What the factory owner does not tell you is that reduction in employment in a particular industry, in every particular industry almost without exception, has been continuing since the time this country was founded as our productivity increased.

My good friend from South Carolina kidded me the other day when I talked about the downturn in farm employment. Mr. President, I do not have the figures in front of me. I will take a guess at this. But I would wager that at the turn of the century we probably had—this is a guess—40 million, maybe 50 million farmers in this country. The farmers probably produced enough that they could feed their family and maybe two or three other families—maybe. I am not sure.

Now, almost 80 years later, we have about 5 million farmers in the country—not 50 million. They produce enough food not for 2 or 3 families but 20 or 30 families. They have become more productive, and we do not need as many farmers as we needed in 1900 to feed the country.

We normally say that is progress. We say the United States is the most productive agricultural country in the world; by that meaning we can produce more goods with fewer people, more wheat, more corn, more soybeans, more cotton, with fewer people than any other country, and we are proud about that, and we should be proud about it.

Take a look at my lumber industry that I talked about.

Yes, 1987 was the best year in terms of total production of any year in the history of the timber industry. It was not as good in terms of the total sales because the prices were not as high as they were in the previous banner year of 1978 but in terms of the quantity of lumber turned out—more than we have ever turned out, and we did it with about 65 percent of the employees that we had in 1978, the previous banner year, because the lumber factories like the farms have become more productive, and more efficient.

The same is true in the steel industry. The same is true in the auto industry. The same is true in most industries.

As I indicated the other day, if we really want to go back to full employment in the textile industry, we can adopt the Luddite philosophy we had in England around 1800 at the start of the industrial revolution when the new factory machines were coming in. The Luddites started breaking up the machines, and said these machines are going to cause unemployment. We could probably have 10 times the employment in the textile industry we now have if we did not choose to be productive.

The test should not be how many people can we keep at work regardless of whether they are working efficiently or not. The standard we ought to be striving for is to have the best equipment, the lowest unit cost, the most productivity, and turn out the best product of any company in the world.

Our good friend and colleague, Senator BRADLEY from New Jersey, put it very well to me privately the other day. He voted with me on this bill. He said, "You know, in the business I was in"—he was a professional basketball player and a star of the New York Knicks—"I wanted the best shoe I could get because the best piece of equipment meant five-tenths of 1 second. And that is the difference between two points and a block shot." That is what American industry ought to understand, that they want the best equipment, and they want to turn out the greatest quantity of goods they can with the fewest number of employees.

Mr. President, that is not going to lead to unemployment in this country. If that were the case, if we were worried that because we had the best piece of equipment we could find, and we could turn out 1,000 yards of textile with 100 people instead of 200, it does not mean 100 people are out of work. It means they go to work making the machines that will turn out the textiles more quickly and more productively; they go to work in the telecommunications industry which put together wired connections between factories all over the country and make them operate almost simultaneously; they go to work in 100 other industries; and, consequently employment in this country continues to grow, grow, grow, and grow.

According to the Bureau of Labor Statistics the jobs that are growing the most are those jobs in the upper two-thirds of the income categories, and the jobs that are shrinking and we are losing are in the lower income categories.

Those ought to be the goals, Mr. President. This textile bill flies in the face of all those goals. It is a desire to restrain competition from overseas. It is a desire to keep things as they are.

Mr. President, the only constant in history is change. The future is going to come with or without us, and I would prefer to be a part of it rather than not being a part of it. But it is coming whether we like it or not. That future is competition and productivity. If we are willing to face up to it, then there is no reason why we cannot beat—I use that in the best sense of the word—any other producers in any other country. But if we think we cannot, then indeed we will not. And this textile bill means that we will not even have to try.

I thank the Chair.

How much time do I have left?

The PRESIDING OFFICER. The Senator from Oregon has 6 minutes and 27 seconds.

Mr. PACKWOOD. I yield the remainder of my time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington, Mr. Evans, is recognized for 6 minutes.

Mr. EVANS. I thank the Senator from Oregon.

Mr. President, let me be brief. We have debated this textile bill for days now. There is not really very much new information to come along, but we ought to correct some impressions, and make sure that the Members understand very clearly what the current situation is and what the future holds.

There has been a lot of talk about import penetration, about markets collapsing, about the flood of imports which are going to overwhelm us, about 60, 70, 80 percent imports. Let us look at the facts as they exist. The apparel industry is subject to import penetration. Thirty-four percent of the apparel in this country is imported. That means that two-thirds of current apparel in this country is manufactured here in the United States. But the textile industry, which wrings their hands in such horror about imports, has much less in the way of penetration. Household and industrial fabrics has 13 percent. There are an awful lot of industries in this country that would love it if all they had of import penetration was 13 percent of their sales. Broad-woven knit fabrics is 12 percent, and yarn fabrics a little over 5 percent—hardly a massive import flood.

Furthermore, imports are declining. For the first 6 months of 1988, in quantity they are down almost 9 percent, hardly an increasing flood. In fact, the tide is receding. Exports are up.

The United States is more competitive, and why? Because the textile industry itself woke up a decade ago, made the necessary investments in modernization, and ended up better able to compete against imports. But more importantly, they are better able to compete with American exports going overseas.

Let me spend the rest of my time talking about protectionism.

The Senator from South Carolina, as part of his debate a day or two ago, said: "I am a protectionist in the tradition of Franklin Roosevelt. He passed not only the Reciprocal Trade Act but also the Agricultural Adjustment Act."

Mr. President, the Reciprocal Trade Act was passed in order to react against what then was the Republican Party as the party of protectionism. The Smoot-Hawley Act was written during a Republican administration, by Republican Members of Congress. Oh, how things have changed! It is now the Democratic Party which is the party of protectionism, and it was Franklin Roosevelt who was reacting to Republican protectionism with an act that gave him greater authority at the executive level to undo much of what Smoot and Hawley had written into law a few years before.

Protectionism is not new in this industry. Protectionism is 200 years old. Let me read what some of the predecessors of the Senator from South Carolina have said in the Halls of this Congress over that 200 years of history.

In one of the very first acts of Congress, on July 4—an interesting date—1789, Congress established tariffs on imports of raw cotton, hemp, yarn, and leather, ready-made clothing, and millinery—the first in 200 years of history which we will celebrate next July 4, special protection for the textile industry.

In 1827, dissatisfied because protection was not enough, Representative Mallery, just across the Hall from this body, told his colleagues:

> Now it is certain that they must surrender, unless the Government will afford its aid. Already a part has relinquished. It cannot go on. Sacrifices have been made already. They have been endured, in the hope, in the confidence, that this session would not pass by without an effort on their behalf. If this hope is abandoned, the manufacturer abandons his business. . . .

Time went on. Little by little, protectionism was added, but it was never enough. In 1956, Senator Payne, in this Chamber, said:

> The textile industry does not seek favors, but does ask, Mr. President, that the additional burden of ever-increasing imports not be added to its other troubles. The industry seeks a chance to adjust, to work out its problems, so that once again it can stand strong against all competition from whatever source.

Mr. President, that is not enough. The years went on. In 1970, the situation for Congressman Mendell Rivers looked equally bleak:

> We are going out of business, and fast. The Mills bill is the only thing that is going to save us.

Mr. President, not long ago, on March 19, 1985, the textile and apparel industry introduced the predecessor of this bill; and in a news release accompanying that, they said:

> If we do not act now to curb imports, in five years our entire industry and four million jobs that depend on it will simply cease to exist.

Well, Mr. President, 3½ years of those 5 years are up, and where are we? The industry is in an alltime high in terms of production. It is not at an alltime high in terms of jobs, for the very reasons the Senator from Oregon has pointed out. They are more efficient and, as a result, more competitive than they have ever been.

The PRESIDING OFFICER. All time yielded to the Senator from Washington has expired.

All time of the Senator from Oregon has expired.

Mr. PACKWOOD. Mr. President, I think that by unanimous consent we may have an extension of time while the two leaders are working out an agreement. Senator HOLLINGS has 2 or 3 minutes.

Mr. EVANS. I will interrupt my speech in midbreath and be happy to resume, if only for 2 or 3 minutes, to convince the remaining few Senators who have not already been convinced.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that we extend the time 3 minutes, and the Senator from Washington may proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recongized for 3 additional minutes.

Mr. EVANS. I thank the Senator from South Carolina for his courtesy and help.

Mr. President, I have spoken of the comments made during that 200-year period. Listed along with it are scores of occasions during that 200 years when we have provided extra help, extra protection, extra support for this one industry, far beyond that offered to other industries.

Let me turn to the existing laws which we now have—existing laws which provide alternatives, if the industry felt it was still under fire, noncompetitive, unable to survive, as the predecessors of the Senator from South Carolina have said in this Chamber and the other Chamber for almost 200 years.

Mr. President, there are a number of alternatives. Without the passage of this act, without the passage of any new legislation, we can do this: use section 232 of the Department of Commerce, if there are national security dangers. The senior Senator from South Carolina pointed out the national security interests of the textile and apparel industry, but there are existing laws which can be utilized for that protection under the national security dangers.

If there is a feeling that foreign countries are selling below cost in this Nation, there are the antidumping provisions which can be mobilized and utilized.

If there is injury from imports to the domestic textile or apparel industry, section 201 can be utilized to offer the temporary relief necessary until further action can be taken.

If there is a feeling that somehow the competition from overseas is unfair to American industry, then section 301 can be utilized.

Mr. President, there is a whole litany, a whole listing, of numerical provisions which could be utilized by the textile and apparel industry if they really felt they needed immediate and substantial protection. That industry has chosen not to use those existing pieces of legislation but, instead, to seek once again the special, the unusual help—in this time of broadening of international trade, in this time of an America resurgence again in its competitive posture overseas—that would do nothing to really help the textile and apparel industry but could do an awful lot to deter American competitive industries from penetrating overseas markets.

If this act is passed and it becomes law, there is little question that retaliation will set in and that retaliation will be against America's best and brightest hopes for jobs, for a new economy, for the very revenue that will support this Government and the many benefits we like to vote for on the floor of the Senate.

Mr. President, I hope my colleagues will finally and decisively vote down this bill and allow America to truly be competitive both here and abroad.

Mr. HOLLINGS. Mr. President, the point should not be missed that retaliation is what we are fighting—the nontariff barriers that they have erected against the U.S. textile industry.

Here are 228 pages of foreign regulations standing in the way of U.S. textiles and apparel exports. The Europeans removed such barriers by enacting globalization of quotas, and that is why we seek to go that route.

I am delighted to hear the arguments against this bill. Indeed, I will just go ahead and put all the arguments in the Record. Here is the Retail Industry Trade Action Coalition's publication, "Politics of U.S. Textile Trade Policy, 2 Centuries Plus 2 Years of Temporary Protection." It is glossy and very expensive. I ask unanimous consent to have it printed in its entirety in the Record.

Mr. PACKWOOD. With the color?

Mr. HOLLINGS. Well, you cannot get the color in but I refer to it that way.

Mr. PACKWOOD. I just want to make sure we were not making the Congressional Record too expensive.

Mr. HOLLINGS. No; let us not make the Congressional Record too expensive.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Politics of U.S. Textile Trade Policy—Two Centuries Plus 2 Years of Temporary Protection

PREFACE

Following the President's veto of the Textile and Apparel Trade Enforcement Act of 1985, the retail industry commissioned a study of the U.S. Government's efforts to protect the domestic textile and apparel industry from competition. That study, "The Politics of U.S. Textile Trade Policy: Two Centuries of Temporary Protection," chronicled those historical efforts and offered suggestions for improving the formulation of our textile trade policy. With this update, we hope to sharpen the debate as Congress again is asked to provide additional import protection.

Much has happened since 1985. Textile industry profits have continued to increase, production and capacity utilization have hit record levels, and employment is increasing, not declining. Moreover, recently negotiated bilateral agreements effectively will put a halt to disruptive rates of import growth in future years. Indeed, in 1987 textile and apparel import growth from all sources was a paltry 2.3 percent. Nonetheless, the domestic industry continues to press for further relief.

To help put the industry's plea in perspective, this update answers the 10 most frequently asked questions about the domestic industry and our nation's textile import control program. After reviewing the facts, we hope Congress will reject the domestic industry's latest textile quota bill.

Joseph P. O'Nell,
President,
American Retail Federation.

March 1, 1988.

1. Is this year's textile quota bill (S. 549/H.R. 1154) "better" than the bill vetoed by the President in the 99th Congress?

No.

Like its predecessor, this sector-specific quota legislation would have severe ramifications for the country:

Consumers would be forced to pay billions more annually for textile and apparel goods (see Question 5);

Over 52,000 Americans in the retail sector alone would lose their jobs as a result of reduced consumer spending;

Approximately 47,000 textile and apparel worker jobs would be "saved," but at staggering cost to consumers of $223,000 per job; and

Sensitive U.S. exports, in particular agricultural commodities, would face an increased risk of retaliation (see Question 7).

Like its predecessor, this bill violates the Multifibre Arrangement (MFA), the General Agreement on Tariffs and Trade (GATT), and the 43 bilateral restraint agreements that already limit imports into the United States.

Notwithstanding assertions to the contrary, the bill will force substantial rollbacks in trade for many countries (see Question 9).

More onerous than its predecessor, the bill would apply quotas to the exports of most developed-country suppliers, including Canada and the European Community, for the first time. These countries have never posed a real threat to the domestic industry and do not threaten it now. Changes in the value of the dollar already are reducing growth potential from these countries, even as U.S. exports to them are growing again. Including these countries under global quotas thus would jeopardize both the U.S.-Canada Free Trade Agreement (FTA) and the Uruguay Round of Multilateral Trade Negotiations.

In short, this bill in many respects is worse than the bill vetoed by the President in 1985.

2. Does the domestic industry face extinction if Congress fails to enact this year's textile quota bill?

No.

Justifying further protection for the domestic industry strains credulity. The textile and apparel industry has been one of the strongest sectors in the U.S. manufacturing economy over the past three years. Improved competitiveness at home and abroad is apparent throughout the industry in the form of higher production, profits, employment, and an improving trade picture. The industry's own positive assessment of its business in 1988 and beyond should help put these statistics in perspective.

Production

Textile production has risen sharply since 1985, more than two times faster than manufacturing generally. Output and productive capacity reached the highest levels ever recorded at the end of last year, according to the Federal Reserve Board. Capacity utilization hit 93.3 percent in the 4th quarter, 1987, second highest among all U.S. manufacturing industries and substantially above the all-industry average of 82.2 percent.

Total U.S. apparel production increased in 1986 and again in 1987, with output reaching record levels last year (according to the Federal Reserve Board). Data published by the industry-supported Textile Organon also document the industry's strong performance. Textile fiber consumption by domestic apparel manufacturers rose to record levels in 1986. Preliminary data show a further increase in 1987.

As the Commerce Department's most current "U.S. Industrial Outlook" states: "Particularly noteworthy has been the industry's record in improving productivity. The rise in textile industry productivity has been higher than in most other U.S. manufacturing industries and also higher than in the textile industries of most other industrialized nations."

Profits

High demand and a more competitive manufacturing base combined to raise total pre-tax textile industry profits by over $900 million between 1985 and 1987 (based on January–September data), an increase of nearly 70 percent. In contrast, the profitability of all manufacturing industries increased by only 25 percent during the same period.

The Government's latest figures on industry profits show textile manufacturers exceeding the all-manufacturing average in terms of operating income ratio, return on stockholders equity, and return on total assets. In the third quarter of 1987, textile makers earned a whopping 26 percent pretax return on equity.

Employment

Textile and apparel manufacturing employment has been increasing, not decreasing, since 1985. In fact, 20,000 more Americans were working in these industries in December 1987 than in March 1985, when the domestic industry's last quota bill was introduced.

Instead of layoffs and unemployment, the textile industry's chief headache today is finding enough workers to staff production lines that are straining at the limits of capacity. As one recent headline put it, "Worker Shortage New for Textiles." The most recent figures (November 1987) show unemployment in the major textile producing states substantially below the national average of 5.9 percent: Virginia, 3.6 percent; North Carolina, 4.0 percent; South Carolina, 4.5 percent; and Georgia, 5.4 percent.

Trade

Total textile and apparel imports from all sources increased just 2.3 percent by volume in 1987 compared to 1986.

Exports increased by more than 15 percent in value last year as the industry began to take advantage of its enhanced international competitiveness.

Industry Comments

"Over the past several years, textiles have been referred to as a sunset industry—an industry on the way out. In fact, we are now entering . . . a period of potential strength and progress that may be greater than we have seen over the last 100 years."—W. Paul Tippett, President, Springs Industries, Inc., Annual Meeting Report to Stockholders, May 12, 1987.

"We are looking forward to 1988 with considerable encouragement . . . [W]e anticipate another strong year in sales and earnings for fiscal 1988."—Charles A. Hayes, Chairman of Board and CEO, Guildford Mills, Inc., 1987 Annual Report to Stockholders.

"The man-made fiber industry is putting final touches on a banner year—one that saw sales soar. . . . [F]iber executives predict another good year could be in the making for 1988 with all major man-made fibers . . . enjoying torrid demand."—"Banner Year Ahead for Fibers," Women's Wear Daily, December 8, 1987.

3. Using the 1985 Textile quota bill as a lever, did the domestic industry achieve its import-limiting objectives?

Yes.

In 1986, the U.S. Government negotiated the toughest renewal ever of the Multifibre Arrangement, extending its coverage to virtually all fibers and hence to virtually all textile and apparel products.

In 1986, the U.S. Government separately negotiated tougher, more restrictive bilateral restraint agreements with Hong Kong, Taiwan, Korea, and Japan (four of our major suppliers), limiting growth on average to a mere 1.5 percent per year.

In 1987, the U.S. Government extended a bilateral restraint agreement with China, the remaining major supplier. Annual growth is now limited to an average of 3 percent per year.

In 1987, the U.S. Government also negotiated new group limits with a number of other large suppliers—including Pakistan, India, and Malaysia—that will further restrict potential import growth.

Throughout 1985-87, the Administration "called" numerous product categories to establish 330 new quota limits (126 in 1985, 146 in 1986, and 58 in 1987).

At the end of 1986, the Commerce Department was embargoing 39 categories to prevent overshipments. At the end of 1987, 62 product embargoes were in effect.

The U.S. Government's more aggressive administration of the textile quota program was a major factor in limiting aggregate textile and apparel import growth to just 2.3 percent in 1987.

4. Is the United States nearing total, global control over imports of textile and apparel products?

Yes.

With renegotiation of the MFA and the bilateral restraint agreements with our major suppliers, the United States has effectively put controls in place to limit disruptive import growth.

All the major developing country suppliers to the U.S. market are now subject to bilateral restraint agreements. With the exception of Japan, the United States does not have bilateral agreements with developed countries, including Canada and the European Community. These countries have never posed a real threat to the U.S. industry, which has always been able to compete with them, particularly when the dollar was not artificially overvalued (as is the case today).

Approximately 85 percent of all textile and apparel imports from all non-OECD countries, plus Japan, are now subject to an annual growth cap through specific, group, or aggregate quota limits contained in 43 bilateral agreements. The trade-weighted average rate of annual quota growth permitted in all trade now subject to a growth cap is estimated to be just 3.1 percent.

In a recently published study, the International Trade Commission found that at the end of 1986 nearly 89 percent of all cotton imports and 68 percent of all manmade fiber imports were subject to government-imposed restraints.

The U.S. Government's more aggressive administration of the textile quota program was a major factor in limiting aggregate textile and apparel import growth to just 2.3 percent in 1987.

5. Would enactment of S. 549/H.R. 1154 hurt consumers?

Yes.

Consumers already are forced to pay billions extra on cloths and textile products as a result of the existing restrictions placed on imports. Economists may disagree on the precise numbers, but the costs are no less staggering.

In 1985, a study published by the Federal Reserve Bank of New York calculated that these restrictions cost consumers from $8½ to $12 billion annually;

In 1986, the Institute for International Economics issued a study quantifying this estimated annual burden on consumers to be even greater—$27 billion; and

In 1987, in his book, "The Future of World Trade in Textile and Apparel," William R. Cline estimated that total consumer costs of protection amount to $17.6 billion annually in apparel and $2.8 billion annually in textiles, at a cost per job saved of $82,000 and $135,000, respectively.

Enactment of the domestic industry's bill would raise these annual costs for consumers even higher.

The President's Council of Economic Advisors estimates that the legislation would add $25-$37 billion over the next 5 years to the hidden price tag consumers already pay for clothing.

The International Business and Economic Research Corporation estimates these costs in the first year alone after enactment would reach $10 billion and over 10 years would hit $88 billion.

In addition to raising prices, if the legislation were enacted the availability of certain kinds of clothing, such as children's wear, would be reduced substantially; lower-income customers would be hurt the most.

By artificially increasing prices, reducing the availability of clothing, shoes, and textile goods would also spur inflation.

6. Has the U.S. Government taken many of the steps requested by the domestic industry over the past 2 years to limit the flow of imports?

Yes.

In 1987, the U.S. Government's more aggressive administration of the textile quota program was a major factor in limiting aggregate textile and apparel growth to a mere 2.3 percent.

As the most recent U.S. Industrial Outlook on textiles, sums up 1987, "[i]n terms of quantity, imports showed little, if any, growth."

The mechanisms already are in place to ensure a continuation of this moderate trend. In the past two years alone, for example, the Administration negotiated new bilateral restraint agreements with some of our largest suppliers—Hong Kong, Taiwan, and South Korea—under which import growth is restricted to an average of only 1½ percent per year. Moreover, the Administration just completed negotiations with China, capping its growth at only 3 percent per year.

Enactment of even more restrictive restraints cannot be justified and can only result in further harm to consumers, farmers, and others throughout the country.

7. Would enactment of the textile quota bill reduce our nation's trade deficit?

No.

With U.S. exporters poised to recapture lost markets, the textile and apparel industry would have Congress invite retaliation against exports of agricultural, manufactured, and other goods.

In December, 1987, U.S. exports hit their highest level ever—$24.8 billion, a $1 billion increase over the previous high established just one month earlier. A continued expansion of exports means more jobs and more hours per worker in factories producing for export markets. Those expanded jobs would be at great risk if nations retaliate by closing their markets to goods we are now exporting in increasing quantities.

An agricultural amendment that has been proposed for amending the bill would only increase the likelihood and severity of retaliation. Ostensibly designed to reward countries for increasing their purchases of U.S. agricultural products, this pernicious amendment would probably cause a loss—not a gain—of total export sales.

By explicitly linking agriculture and textile trade, Congress will subject U.S agriculture policy to the politics of textile negotiations. Congress will give foreign governments unacceptable leverage over our agricultural export trade.

Like the bill it would amend, the provision violates our international obligations in specifying that certain countries should receive preferential treatment, while others would face even more discrimination.

Congress should be focusing on ways to increase exports, not inviting other nations to refuse to buy competitively priced U.S. goods.

8. Have textile and apparel imports captured 50 percent of the U.S. market?

No.

Imports of textile and apparel products from all sources accounted for only 25 percent of total U.S. textile and apparel fiber consumption in 1986 according to a recent study of the global competitivenes of the U.S. textile industry published by the U.S. International Trade Commission (ITC). Similarly, data published by Textile Organon indicate an import penetration rate of 26 percent in 1986.

The rate of import penetration for finished apparel was about 30 percent in 1986—well below the 50 percent level alleged by the domestic industry.

According to the ITC, the domestic industry dominates many facets of the market. Some examples:

Product:	*U.S. Dominance (Percent of market)*
Knit fabrics	99
Man-made filament yarns	99
Carpets and rugs	96
Man-made textile yarns	95
Man-made broadwoven fabrics	95
Sheets and pillowcases	93

Not surprisingly, nearly one-third of the textile industry respondents to a recent ITC questionnaire said imports are not a problem.

In short, no reputable study provides any basis for assertions that imports control more than half of the total U.S. market for textile and apparel products. In fact, what imports dominate is not the textile and apparel market, but the textile machine industry market. In 1986, according to the ITC, U.S. textile mills bought 84.4 percent of their fabric formation machinery abroad, 75 percent of their fiber-to-fabric machinery from foreign suppliers, and 48.1 percent of their finishing equipment from non-U.S. suppliers.

9. Would enactment of this sector-specific legislation violate our international obligations?

Yes.

In articulating its opposition to the textile quota bill, the Administration has stated unequivocally that enactment would violate the General Agreement on Tariffs and Trade.

Under Article XIX of the GATT, relief can only be provided after a determination has been made that a particular product is causing injury to a specific industry;

The relief imposed must be temporary, not pemanent as under the bill; and

The United States must be prepared to provide compensation for blocking imports; the compensation in the bill, however, is inadequate to meet our international obligations.

The legislation violates a fundamental principle of the MFA that import quotas should be imposed only after negotiations have been undertaken to deal with disruptive imports.

The legislation would violate our obligations under Article 3 of the MFA, for example, which provides that "no new restrictions on trade in textile products shall be introduced by participating countries nor shall existing restrictions be intensified, unless such action is justified under the provisions of this Article."

The legislation also would force the abrogation of our bilateral restraint agreements because the global quotas established under the bill permit less import growth than provided for under those agreements.

Additionally, enactment would have severe ramifications on the conduct of U.S. trade policy. The United States simply cannot expect other nations to negotiate seriously during the Uruguay Round of multilateral trade talks or take other actions to reduce international barriers to trade if the United States cavalierly breaches its own international obligations.

10. Has the United States really provided two centuries of "temporary" protection for the domestic textile and apparel industry?

Yes.

1789. In one of its first acts, on July 4, 1789, Congress established tariffs on imports of raw cotton, hemp, yarn, tanned leather, ready-made clothing and millinery, shoes, boots, slippers, hats (of beaver, fur, wool, or any combination thereof), gloves, shoe and knee buckles, and buttons.

1816. The first time the U.S. tariff schedules were rewritten, the domestic cotton textile industry in New England received additional, special protection from imports: a 25 percent duty applied to expensive cotton imports, coupled with a "minimum valuation provision" applied to cheaper imports.

1824. Congress raised duties on raw wool and woolen goods to complement the duties it had established on cotton goods. Looking back, one historian commented: "Despite the protection * * * granted, spokesmen for the woolens industry remained dissatisfied. Three years later they were back in Washington, promoting a woolens bill to raise the protective walls still higher."

1827. Dissatisfied with the relief provided in 1824, woolens industry lobbyists approached Congress once again. Articulating the industry's unrepenting (and since then unrelenting) refrain, Representative Mallery told his colleagues: "Now it is certain that they must surrender, unless the Government will afford its aid. Already a part has relinquished. It cannot go on. Sacrifices have been made already. They have been endured, in the hope, in the confidence, that this session would not pass by without an effort on their behalf. If this hope is abandoned, the manufacturer abandons his business. * * *"

1828. Congress satisfied their wishes and others, passing the "Tariff of Abominations."

1832. Congress again raised the duty on wool and woolen products.

1842. Congress added a duty to cheap wool imports.

1967. Congress further increased duties on wool and woolen products.

1883. Congress created a tariff commission, the first head of which was John L. Hayes, a lobbyist for the woolens industry.

1897. Congress reversed its decision of three years earlier to eliminate tariffs on woolen goods, completely rebuilding the tariff walls that had been erected throughout the 19th Century.

1922. Congress again raised tariffs on cotton and woolen goods.

1930. Congress passed the Smoot-Hawley Act, raising tariffs substantially on a variety of products, including textiles and apparel—even on buttons, which apparently posed a threat to someone. In 1930, the average U.S. tariff on cotton goods was 46 percent and on woolen goods 60 percent, well above average for all other manufactured products (which remains the case today).

1936. Pursuant to a "gentlemen's agreement," Japan "voluntarily" limited its exports to the U.S. market.

1955. Japan again "voluntarily" agreed to limited exports of certain cotton products.

1956. Congress gave the President the authority to negotiate limits with exporting countries, as well as to take unilateral action, to limit textile and apparel imports. Explaining the rationale for this legislation, Senator Payne of Maine stated: "The textile industrty does not seek favors, but does ask, Mr. President, that the additional burden of ever-increasing imports not be added to its other troubles. The industry seeks a chance to adjust, to work out its problems, so that once again it can stand strong against all competition from whatever source."

1957. Under pressure once again from the U.S. Government, Japan again "voluntarily" agreed to restrain exports.

1957. Italy also announced that it would "voluntarily" limit exports of velveteen to the United States.

1961. Following pledges made during the campaign, President Kennedy announced a seven-point program of assistance, including convening a conference to address ways to avoid undue disruption caused by imports.

This relief was said to be needed, even though as the President of J.P. Stevens stated at the time, "the predicted collapse of the industry [has] arrived."

1961. The first of the forerunners to the MGA was negotiated: The Short-Term Arrangement Regarding International Trade in Cotton Textiles (STA).

1962. The second of the forerunners to the MFA was negotiated: The Long-Term Arrangement Regarding International Trade in Cotton (LTA).

These two arrangements established the right of importing countries to negotiate restrictions on low-cost textile imports. For the Board of Directors of the American Textile Manufacturers Institute (ATMI), however, the LTA was seen only as "a first step toward a solution." The Board called for the future inclusion of wool, silk, and man-made fibers and tough administration of the pact.

1967. Shortly after the Kennedy Round of GATT tariff cuts were agreed upon, legislation was introduced to mandate quotas on textile and apparel products of all fibers.

1968. Presidential candidate Richard Nixon made a campaign promise to "promptly take the steps necessary to extend the concepts of international trade agreements to all other textile articles involving wool, man-made fibers and blends."

Emphasizing the need for this type of help, Representative Dorn of South Carolina warned his colleagues that the industry "just barely" had its head above water.

1970. At the urging of the domestic industry, Congress considered a new textile quota bill, H.R. 16920.

The American Apparel Manufacturers Association claimed that "only prompt congressional action such as that embodied in H.R. 16920 can save the domestic apparel industry from the current severe damage and possible ultimate liquidation."

For Congressman L. Mendell Rivers, the situation looked equally bleak: "We are going out of business, and fast. The Mills bill is the only thing that is going to save us."

1971. U.S. Government concluded bilateral restraint agreements covering trade in wool and man-made fiber textile and apparel products with our four largest suppliers—Japan, Hong Kong, Taiwan, and South Korea—and Malaysia, a smaller supplier.

1972. The GATT Working Party on Textiles called for a new international arrangement covering cotton, man-made fibers, and wool textile and apparel products.

1974. The Multifibre Arrangement (MFA I), signed by roughly 50 countries, went into effect.

1974. Congress established the Generalized System of Preferences (GSP), but specifically precluded the President from designating as eligible articles for duty-free treatment textile or apparel articles subject to a textile agreement.

1977. The Arrangement (MFA II) was extended again, resuting in a significant tightening of restrictions on imports from developing countries.

1978. When the Carter Administration was prepared to make tariff concessions on textiles and apparel as part of the Tokyo Round of GATT Multilateral, Congress enacted legislation that not only would have blocked implementation of the then-proposed concessions, but also threatened the status of the entire negotiations as they were moving toward a successful conclusion.

1978. President Carter vetoed the bill, but agreed to provide relief in the form of an Administration "white paper" that pledged a more restrictive policy on imports.

1981. The Arrangement (MFA III) was extended once more, which the ATMI president called "better" than the earlier versions because it "appears to include permissive language which will enable our government to negotiate more effective bilateral agreements."

1981. The Administration established 18 new quotas against 5 supplying countries.

1982. The U.S. Government set out to negotiate new, even more restrictive bilateral agreements with our three largest suppliers—Hong Kong, Korea, and Taiwan. Whereas the MFA III assumed that growth would be limited to 6 percent only in "exceptional circumstances," the Administration used this as a rule, limiting growth to between ½ and 1½ percent per year on a wide range of products.

1982. The Administration imposed 38 new quotas against the previously uncontrolled products of 8 supplying countries.

1983. As part of its concerted effort to assist the domestic industry, the Reagan Administration expanded the "call" mechanism to take effect if there existed a presumption—rather than proof—of market disruption. (A "call" is a governmental action to restrict imports from a country in a category not already subject to quota restraints.)

1983. Congress passed the Caribbean Basin Initiative (CBI), but as under the GSP program specifically precluded duty-free treatment for textile and apparel products.

1984. Congress implemented the U.S.-Israeli Free Trade Agreement, which subjected textile import duties to a 10-year phase out rather than the immediate phase out applicable to other products.

1984. Congress also passed legislation requiring more conspicuous labeling of imported textile and apparel goods and mandating that retail catalogs show whether the advertised item was made here or abroad.

1984. On Christmas Eve, the Administration announced—effective Janaury 1, 1985—new limits on the introduction into commerce of previously embargoed textiles and apparel.

1985. The Administration announced new country-of-origin regulations, purportedly to prevent evasion of existing textiles.

1985. On March 19, 1985, the textile and apparel industry introduced H.R. 1662, the Textile and Apparel Trade Enforcement Act of 1985. In a news release accompanying introduction of the bill, the industry boldly asserted (emphasis added): "If we do not act now to curb imports, in five years our entire industry and four million jobs that depend on it will simply cease to exist."

1985. The Administration imposed 126 new quotas on previously uncontrolled imports of textile and apparel products.

1985. On December 17, 1985, President Reagan vetoed H.R. 1562, stating in his veto message that he was "directing the Office of the U.S. Trade Representative to most aggressively renegotiate the Multi-Fibre Arrangement (MFA) on terms no less favorable than present."

1985. By the close of the year, the Administration was administering approximately 650 separate quotas on textile and apparel products from 31 countries.

1986. The Administration imposed an additional 146 new quotas on previously uncontrolled textile and apparel products.

1986. On July 31, the President announced agreement on further extending the Arrangement (MFA IV) another 5 years, with coverage expanded to reach virtually all known and conceivable fibers that might ever be used to manufacture textile or apparel products. Nonetheless, textile industry lobbyists sharply criticized the new agreement, complaining that it would not control import surges and that it contained too many "loopholes."

1986. On August 6, Congress sustained the President's veto of the domestic industry's textile quota bill by an 8-vote margin, 276 to 149.

1987. The Administration imposed an additional 58 new quotas on textile and apparel products and negotiated new group limits on a number of major suppliers, including Pakistan, India, and Malaysia.

1987. As part of the Continuing Resolution, Congress gave the industry two of its wished-for gifts: One requires the Pentagon to buy suspenders and other canvas products only from domestic manufacturers. The other directs the Secretary of Commerce to provide a monthly report to the House and Senate Appropriations Committees on its diligence in imposing additional quotas to limit imports. It also must tell Congress which, if any, agencies voted against imposing additional import restraints.

Mr. HOLLINGS. In this publication you will see where the coalition stands. It makes a mockery of my distinguished friend from Oregon's claim that he cannot find any support for free trade. He did not mention the coalition. He mentioned the trucking industry. That is really a nonsequitur. And then he likened the textile bill advocates to the Luddites.

I have never seen a more competitive crowd than the U.S. textile industry.

I have seen the foreign textile industries. I have been into Korea, Pusan, Dae Woo, and the young ladies were fine. They are very productive. They get $1.35 a day, 6 days a week, and they work from 18 to 22, 2 or 3 years. They get their dowry and go back to the village.

Is that what the Senator wants for Pendleton in Oregon, to have the young ladies come and work 6 days a week, 10 hours a day, earn their dowry and go on back and get married?

Or how about Thailand, where they have 40,000 in the plant outside of Bangkok, four bowls of rice and $3 a day. Is that what the Senator wants Pendleton Woolen Industries in Oregon to do?

No wonder U.S. companies are moving offshore.

You can manufacture anything anywhere in the world, electric subassemblies in Singapore. We heard the argument that we will get rid of the low-paying jobs and gain high-paying jobs. Hooey!

The high-paying telephone industry of Durham, NC, Western Electric, is now making its telephones in downtown Singapore.

Up on Highway No. 128 outside of Boston where they are supposed to have had an economic miracle, Atari left for Taiwan. Digital has expanded in Mexico. We have got what they call a maquiladora system down there, 1,500 to 2,000 American industries moving to Mexico. I brought them to our State, and now they've moved abroad.

The competition internationally is moving our industry offshore.

Mr. President, I asked for cloture so we could move this bill and get a policy allowing the United States to compete, government to government. That is what our competitors are doing. Do like the European Economic Community did with the globalization of their quotas. We need to get the U.S. Government on our side.

Mr. President, the U.S. textile industry has invested $18.6 billion since 1980 in new plant and equipment. Productivity increases in the U.S. textile industry are higher than increases for U.S. industry overall. So don't talk down to the U.S. worker about "getting a positive attitude."

The American worker is eager to compete. American industry is eager to compete. They deserve a government that is as eager to compete as they are.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

TEXTILE AND APPAREL TRADE ACT

Mr. BINGAMAN. Mr. President, I rise to explain my position on the Textile and Apparel Trade Act.

I was not present for the vote on this bill last Friday, but had I been, my vote would have been against the legislation. Nevertheless, I have mixed emotions on this issue.

We have come to this situation because of the failure of this administration to take our trade deficit seriously. I hear claims from the administration that there is nothing wrong with the textile and apparel industry, that we need not do anything. This is the same administration that through some convoluted logic actually claimed that our huge record trade deficits were a sign of economic strength. It is the same administration that had to be dragged kicking and screaming every step of the way toward the final enactment of the Omnibus Trade and Competitiveness Act—and then tried to claim the credit when they saw it was politically useful.

Had the administration acted years ago to help the textile and apparel industry restructure and meet the competition in a positive fashion, we would not be debating this bill. But the administration chose to ignore the plight of the textile and apparel industry, just as it chose to ignore the problems of the steel industry, the automobile industry, the electronics industry and the semiconductor industry.

I believe the claims from the administration and the opponents of this bill that everything is just fine in the textile industry are wrong. The industry suffered from massive import penetration between 1982 and 1986 and has gone through a period of structural adjustment and technological improvements. Yet, imports continue to grow and every indication is that this will continue for the foreseeable future. The problem has not been solved, just given a temporary breather.

While I believe the textile and apparel industry has a problem, I do not believe that this bill is the solution. I am concerned that the cure proposed in this bill may be more damaging than the disease.

The bill, I believe, is in direct contradiction to the trade policy we set out in the Omnibus Trade and Competitiveness Act. In that legislation, we established the policy that the purpose of import relief is structural adjustment. This bill does nothing to promote structural adjustment. Thus, I believe it will do little to solve the underlying problems of the textile and apparel industry.

I am especially concerned that this is a permanent quota with a review in 10 years. While the proponents of the bill say quite correctly that Congress can remove the quota any time it wishes, all of us around here know that it is much harder to remove protection for an industry than it is to grant it.

Nor does the bill address the problem of closed markets in other nations. It is true that other nations restrict U.S. textile and apparel products. But this bill does nothing in the spirit of reciprocity to force others to remove unfair trade practices. It does not impose specific reciprocal restriction on the products of those countries which discriminate against American exports. Nor does it contain mechanisms for removing any restrictions should the unfair trade practices be halted.

For these reasons, I reluctantly oppose this bill.

While I oppose this particular bill, I would be willing to support a more comprehensive solution. Such legislation might contain temporary import relief for the industry. It might require a mandatory positive adjustment plan from the industry as encouraged under the new trade laws. And it might provide the International Trade Commission with the mandate that it recommend whether the quota should be retained or other actions taken as required under section 201 of the trade laws.

Mr. SPECTER. Mr. President, the statement which I intend to make relates to the textile bill and to two amendments which I filed on Friday, amendments numbered 2975 and 2976, which relate to a private right of action.

After some consideration, Mr. President, I have decided not to press these amendments at this time. I have decided not to do so for a variety of reasons, principally that there is a decisive movement to move ahead on the textile bill and that these provisions for private right of action were unlikely to be successful at this time.

Mr. President, I would like to note for the record that these amendments constitute a continuation of efforts which this Senator has made going back to the 97th Congress on Senate bill 2167; in the 98th Congress on Senate bill 418; in the 99th Congress on Senate bill 236; which was perfected by Senate bill 1655; and in the 100th Congress on Senate bill 361, perfected by Senate bill 1396 on issues which were voted upon by the Senate on June 25, 1987, and July 10, 1987.

I believe, Mr. President, that the provisions for a private right of action are very, very important and issues which I intend to pursue in the future. On the private rights of action, they have involved subsidies and dumping where I think there is an urgent necessity to have these private rights of action. There was another private right of action on custom fraud which was introduced by my distinguished colleague from Pennsylvania, Senator HEINZ, myself and others, and it is this measure which was embodied within the amendments which I had filed, amendments numbered 2975 and 2976, last week.

It may be that it would be appropriate to propose these amendments on the Technical Corrections Act where I understand there would be appropriate jurisdiction on the finance bill. I am not certain whether it would be best to offer those at that time or not and that depends on the tactics of that moment.

But I do believe it is very important that there be in the law private rights of action as to a variety of remedies, customs fraud, dumping and subsidies, for reasons which I have put in the record on the referenced bills. But I do not think it would be likely to be fruitful to offer these amendments at this time to the textile bills which will come before the Senate. I wanted to make that public statement at this time so that I would be on record as having advanced the policy of those bills but not offering them at this time for tactical reasons and reserving the right to offer them at a later day.

Mr. BYRD. Mr. President, the distinguished Republican leader is on the floor.

If it is agreeable with the two managers, I understand that some time is needed for discussions off the floor, which may in the long run save time and result in an agreement of some kind, would it be agreeable then to put the Senate in recess until 4:45 p.m. today?

Mr. DOLE. Yes.

Mr. PACKWOOD. That is fine from our standpoint.

As I said at the start, I think we are going to get an agreement to vote on Thursday and there are some other interim matters unrelated to this bill that have to be resolved, but I think they are going to be resolved.

I am perfectly happy to take a 45-minute recess.

Mr. BYRD. Mr. President, I will ask unanimous consent that the Senate stand in recess until the hour of 4:45 p.m. today. This is with the understanding that the vote on cloture is to occur at that time, but in the meantime an agreement might be reached which would delay that vote or preclude the necessity for it.

RECESS UNTIL 4:45 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 4:45 p.m.

There being no objection, the Senate, at 3:56 p.m., recessed until 4:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HOLLINGS).

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. Daschle). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I have a unanimous-consent request which has been agreed upon among the two leaders and two managers and some other Senators who are principally interested.

I ask unanimous consent that the vote on cloture be vitiated; provided further that the vote on passage of the House bill dealing with textiles occur on Thursday next at the hour of 4:30 p.m., paragraph 4 of rule XII being waived; provided further that there be 1 hour of debate beginning at 3:30 p.m. on Thursday, that it be equally divided between Mr. Hollings and Mr. Packwood, that no points of order be in order, that no amendments that are not germane or relevant be in order; provided further that upon the disposition of the bill no motion to intervene or motion to reconsider be in order; provided further that upon the disposition of the House bill the Senate proceed to vote on the motion to proceed on the minimum wage bill.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I will not object, as I understand, during that time or prior to that time between 3:30 and 4:30 on Thursday germane and relevant amendments could be offered; is that correct?

Mr. BYRD. No.

Mr. DOLE. No amendments?

Mr. BYRD. No nongermane or nonrelevant amendments will be in order at any time.

Mr. DOLE. But if they were germane and relevant?

Mr. BYRD. If they are germane and relevant they certainly would be in order as they would under cloture.

Mr. DOLE. Correct.

Then, too, I think we have hotlined on this side and I think we can go into agreement, that immediately upon the disposition of the textile bill, the House bill, there would be a record vote on moving to proceed to minimum wage? As I understand it from previous conversation with the majority leader, there would not be any intention of the majority leader to file cloture without some reasonable time for debate on that?

Mr. BYRD. Certainly not this week.

I would also want to include in this request that regardless of what may be before the Senate on next Monday that the Senate proceed to consideration of the United States-Canada Trade Agreement with a time limitation of 4 hours instead of 20.

Mr. PACKWOOD. We will vote on this Monday night?

Mr. BYRD. If that is a problem, let me limit that to a motion to proceed to consideration of the United States-Canada Trade Agreement. That motion is not debatable.

Mr. DOLE. We can take it up.

Mr. PACKWOOD. I am delighted to take it up. Try to take it up Monday. I do not want the leader to say vote on Monday night.

Mr. BYRD. Hopefully, dispose of it by 6 o'clock.

Mr. PACKWOOD. I thank the leader.

Mr. THURMOND. Could I propound a question to the majority leader?

Mr. BYRD. Yes.

May I remove that from this request for a moment so we can talk about this later?

Mr. THURMOND. As I understand now what the Senate is about to agree to is not to have a cloture vote and Thursday, as a point of order, the majority leader fixed 4:30 to vote on the textile bill up or down.

Mr. BYRD. Yes.

Mr. THURMOND. And there will be no amendments. It will just be a final vote.

Mr. BYRD. There may be amendments before then, but there could not be any nongermane or nonrelevant amendments.

Mr. THURMOND. This would be on the House bill?

Mr. BYRD. No point of order. It would be on the House bill.

Mr. THURMOND. On the minimum wage I understand it would be subject to amendment, of course, when it comes up.

Mr. BYRD. It would be. The only thing is that we would proceed to vote on the motion to proceed to the minimum wage bill upon the disposition of the House textile bill on Thursday.

Mr. DOLE. If the majority leader will yield further, we can clear 6 hours on this side now if he wants to do this separately.

Mr. BYRD. Mr. President, if the Republican leader will allow me to proceed with the request minus any reference to the United States-Canada Trade Agreement.

The PRESIDING OFFICER. If there is no objection to the request propounded by the majority leader, it is so ordered.

The text of the agreement is as follows:

Ordered, That on Thursday, Sept. 15, 1988, at the hour of 3:30 p.m., there be 1 hour debate on H.R. 1154, an act to remedy injury to the United States textile and apparel industries caused by increased imports, to be equally divided and controlled by the Senator from South Carolina (Mr. Hollings) and the Senator from Oregon (Mr. Packwood).

Ordered further, That at the hour of 4:30 p.m. on Thursday, Sept. 15, 1988, the Senate proceed to vote on final passage of H.R. 1154. Ordered further, That no points of order be in order.

Ordered further, That no amendments that are not germane and relevant to the bill shall be in order, with the exception of the Hollings substitute.

Ordered further, That it not be in order to enter a motion to reconsider.

Ordered, That on Thursday, Sept. 15, 1988, following the disposition of H.R. 1154, the Textile and Apparel Trade Act, the Senate proceed to vote on the motion to proceed to the consideration of S. 837, a bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equatable rate, and for other purposes.

Ordered, That on Monday, Sept. 19, 1988, when the Senate proceeds to the consideration of H.R. 5090, the U.S.-Canada Trade Agreement Bill, there be 6 hours debate thereon, to be equally divided and controlled by the Senator from Texas (Mr. Bentsen) and the Senator from Kansas (Mr. Dole), or his designee, with an additional hour under the control of the Senator from Maine (Mr. Mitchell), and an additional 30 minutes under the control of the Senator from Maine (Mr. Cohen).

Ordered further, That the vote on final passage of H.R. 5090 begin on Monday, Sept. 19, 1988, at 5:30 p.m. and conclude at 6:30 p.m.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that on the United States-Canada Trade Agreement there be a limitation of 6 hours to be equally divided between Mr. Bentsen and Mr. Packwood.

Mr. PACKWOOD. We are on the same side, I believe.

Mr. BYRD. That there is 6 hours to be equally divided between Mr. Bentsen and, under the usual form, the minority leader or his designee.

Mr. DOLE. I will designate the Senator from Oregon. If there are opponents, he can make certain they are treated fairly.

Mr. BYRD. If there are some opponents, they will be treated fairly. I would think they ought to have an equal amount of time.

Mr. PACKWOOD. Yes.

Mr. BYRD. If that is agreeable.

Mr. PACKWOOD. Yes, I think Mr. Bentsen will give me some of his time to speak.

Mr. BYRD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object again, and I will not object, could we leave open at this point the vote might come late on Monday or early on Tuesday? The majority leader may want to wrap that in.

Mr. BYRD. I would like that vote to be on Monday.

Mr. DOLE. All right.

Mr. BYRD. Mr. President, I ask unanimous consent that as to the portion of the order that rules out nongermane and nonrelevant amendments, that that does not apply to the Hollings substitute.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I was asking unanimous consent that that provision that precludes nongermane and nonrelevant amendments would not preclude the Hollings substitute, which is what it is all about anyway.

Mr. HOLLINGS. The Senate-passed bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, on Monday we will come in at an hour that will accommodate the 6 hours for debate on the United States-Canada Trade Agreement, but I will ask unanimous consent that the vote on the United States-Canada Trade Agreement begin at 5:30 on Monday. I believe the Republican leader has a problem on his side. But may I say, if it will assist the Republican leader, and it does me, to say this, but for those who may be listening or contemplating giving him a problem, the motion to proceed on that measure is not debatable, and we have already agreed to the 6 hours, and no amendments are in order.

So I was at the point now of trying to accommodate a lengthy rollcall vote so that Senators who want to vote at 5:30 can vote at 5:30 or can vote at 6 can do so, and if they cannot vote at 6, it is fine with me. It is a very important agreement.

Mr. President, I think we made great headway. For the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, included in the unanimous-consent request that was made a Senate order was a provision that no points of order be in order on the textile bill, am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, until the Republican leader is ready to proceed further with a discussion on the United States-Canada Trade Agreement, there be a period for morning business for not to exceed 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF FORMER SENATOR ALAN BIBLE, NEVADA

Mr. REID. Mr. President, it is with profound grief that I speak today of one of our outstanding leaders of the Senate, Senator Alan Bible of Nevada. Senator Bible, a beloved and respected Nevadan, died yesterday after a lengthy illness at the age of 78.

Alan Bible was born in Lovelock, Pershing County, NV, on November 20, 1909. He was graduated from the University of Nevada-Reno in 1930 and received his law degree from Georgetown University in 1934. He practiced law and served in several State posts including that of attorney general, where he was responsible for important gaming control opinions and Nevada's completion of the interstate Colorado River water case. He was elected to the Senate in 1954 to fill the unexpired term of Senator Pat McCarran.

For the next 20 years—through the Eisenhower, Kennedy, Johnson, Nixon, and Ford administration—Alan Bible established himself as a very effective, but low-profile, Senator. He fought for civil rights legislation and took an intense, active interest in policy on land management and parks and recreation. In fact, he was a leading figure in the 1960's in the effort to establish Nevada's first national park—an effort that we saw come to fruition just a little more than a year ago, with the dedication of the Great Basin National Park, the United States' newest, and one of its most beautiful, national parks. I am proud to have been instrumental in creating that park.

Mr. President, I also am proud to note that my legislation naming one of the Federal buildings in Las Vegas as the Alan Bible Federal Building became law in June. I can think of no more fitting way to honor a man who has done so much for our country, and for the great State of Nevada. Alan Bible was such a man, and I, along with the rest of Nevada and the country mourn his death.

BICENTENNIAL MINUTE

JANUARY 13, 1978: HUBERT HUMPHREY DIES

Mr. DOLE. Mr. President, 10 years ago, on January 13, 1978, the Senate and the Nation lost one of its most popular political figures. Although Hubert H. Humphrey never achieved his dream of the Presidency, he won a special place in the hearts of his colleagues and his countrymen.

Hubert Humphrey was elected to the Senate in 1948, after having served as mayor of Minneapolis. He burst onto the national political scene at the Democratic Convention where he led a surprisingly successful platform fight in favor of civil rights. As a result, many Southern Democrats walked out of the convention and ran their own candidate, STROM THURMOND, for President that year.

Later, Humphrey, was befriended by the freshman Senator from Texas, Lyndon Johnson, who taught him about the art of compromise. When Johnson became majority leader, Humphrey became his chief liberal lieutenant, later serving as his party's whip. Humphrey's energy, and his good nature, won him popularity among even those who had at first shunned him, and he became an effective proponent of a multitude of issues, especially civil rights and nuclear arms control.

In 1964, Johnson chose Humphrey as his Vice Presidential running mate; that position gave Humphrey both the advantage in winning the Democratic nomination 4 years later, and the disadvantage in the general election. Defeated for President, he returned to the Senate. Once again he won national admiration and respect, as demonstrated by the enourmous crowds that ringed the Capitol Rotunda when he lay in state, 10 years ago.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

At the moment, we are awaiting the final agreement as to precisely what hour we will begin voting on Monday next on the United States-Canada Trade Agreement. As of now, the Senate will be back on the textile bill tomorrow because debate is still in order and amendments that are relevant and germane are in order.

I thought that explanation should be made for those who may be listening and watching at this point. Let me say again that there will be no more rollcall votes today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GAO REPORT ON UNITED STATES COMMERCIAL BANKS' SECURITIES ACTIVITIES IN LONDON

Mr. DIXON. Mr. President, on September 8, the General Accounting Office reported to the House Energy and Commerce Committee on how United States commercial banks performed their securities activities in London during 1986 and 1987. I am often an admirer of the GAO's work, but in this instance, I am forced to conclude that the GAO did an incomplete and sloppy job.

The GAO's analysis of U.S. banking organizations' securities activities was not inaccurate, although I do not share all of their conclusions. My main criticism of the report is that it lacks any context. It does not compare banking organizations' London activities with the activities of affiliates of United States securities firms in London, or with the activities of foreign banks in London, or even with the activities of London-based securities firms.

It does not take a genius to conclude that United States banking organizations would have problems and experience some losses in London in 1986 and 1987. The London financial markets were going through revolutionary changes during this period. As the GAO report points out, London's "big bang" market deregulation occurred in 1986, the Eurobond market suffered a significant contraction, the perpetual floating rate note market collapsed, and the major financial markets themselves crashed last October.

The relevant question, therefore, is not did U.S. banking organizations have problems in this tumultuous period; rather, it is whether United States banking organizations problems were any different in kind or degree from the problems experienced by other participants in the London markets?

The GAO report dismisses this most fundamental question in one sentence, stating that "It is important to note that foreign and U.S. investment banks as well as foreign commercial banks were also hard hit during 1986 and 1987."

Mr. President, what the GAO deals with in one sentence, in my view, should have been the entire focus of their report. Without knowing in detail what was happening to the rest of the industry, there is no good basis to judge whether the criticisms of United States banking organizations' performance in the London markets are something more than 20-20 hindsight; there is no good basis to judge whether the problems they experienced in London could have and should have been avoided.

This report purports to have some value in the context of the current debate on modifying the current Glass-Steagall provisions prohibiting banking organizations from engaging in most securities activities in the U.S. market, but it contributes virtually nothing useful to that discussion.

The report identifies a number of management and internal control problems U.S. banking organizations experienced in London, but does not say whether any of these problems were also experienced by other market participants or whether they were unique to U.S. banking organizations. The report states that other market participants were hard hit, but does not detail the kind of management and control problems they experienced. The report states that some U.S. banking organization securities affiliates had to go to their parent organizations for support during the crash, but does not indicate whether other market participants were also experiencing a need for capital. The report does not provide any real indication to what degree the problems were due to internal factors, and to what degree they were due to inadequate regulation of the securities markets by the British financial regulators.

S. 1886, the Senate banking reform bill that passed by an overwhelming 94-to-2 vote, separates the securities activities of banking organizations from their banking activities, and establishes elaborate firewalls to protect the bank from any risks inherent in the securities activities. The London experience of United States banking organizations may, indeed, have something useful to tell us as we attempt to reach final action on a sound bill this year.

Unfortunately, because the GAO report is so incomplete and superficial, it does not add to the store of information we already have on the London experience. I, therefore, hope my colleagues on the House Energy and Commerce Committee will give this report the minimum weight it deserves as they work to put their contribution to the banking legislation together.

Mr. President, I thank the Senate, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADDITIONAL TIME—UNITED STATES-CANADA TRADE AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that with reference to the agreement which has been entered on the United States-Canada Trade Agreement, there be an additional hour under control of Mr. MITCHELL and an additional half-hour under the control of Mr. COHEN, but that the rollcall vote begin at 5:30 p.m. and that it close at 6:30 p.m. So there will be 1 hour on that vote, it will be the only vote that day, and it is a very important vote. I have no compunctions about asking for an hour on the vote.

Mr. DOLE. Just to thank the majority leader. That will take care of some problems on this side, and it will also give additional time for Senators COHEN and MITCHELL who have some problems with the agreement.

Mr. BYRD. I thank the Republican leader.

I put the request now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair. I thank the Republican leader.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 2:14 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 52. An act to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program;

S. 1360. An act to amend the Indian Financing Act of 1974, and for other purposes;

S. 1889. An act to amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes;

H.R. 1270. An act to award a congressional medal to Mrs. Jesse Owens, and for other purposes;

H.R. 1939. An act to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and to establish a National Center for the United States Constitution within the Independence National Historical Park in Philadelphia, Pennsylvania;

H.R. 2701. An act to amend the Natural Gas Policy Act of 1978 to remove certain contract duration and right of first refusal requirements;

H.R. 5143. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds; and

H.J. Res. 453. Joint resolution designating September 16, 1988, as "National POW/MIA Recognition Day".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. Stennis].

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 13, 1988, he had presented to the President of the United States the following enrolled bills:

S. 52. An act to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program;

S. 1360. An act to amend the Indian Financing Act of 1974, and for other purposes;

S. 1889. An act to amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes;

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 10. A bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes (Rept. No. 100-504).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Nicholas F. Brady, of New Jersey, to be Secretary of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN (for himself and Mr. Karnes):

S. 2775. A bill to create a Commission on the American Family and Employment; to the Committee on Labor and Human Resources.

By Mr. KERRY (for himself, Mr. Lugar, and Mr. Lautenberg):

S. 2776. A bill to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes; to the Committee on Foreign Relations.

By Mr. STEVENS:

S. 2777. A bill to authorize a certificate of documentation for the vessel *Gipsy*; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN (for himself and Mr. Riegle):

S. 2778. A bill to establish a pilot program for the tracking of medical wastes in the States bordering the Great Lakes; to the Committee on Environment and Public Works.

By Mr. JOHNSTON:

S. 2779. A bill to redirect existing programs in nuclear fission research at the Department of Energy and establish a program for research, development, and demonstration of advanced technologies for the generation of commerical electric power from nuclear fission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HECHT:

S. 2780. A bill entitled the "Federal Wilderness and National Park Firefighting Act of 1988"; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself and Mr. Matsunaga):

S. 2781. A bill to change the name of the Pacific Tropical Botanical Garden, a federally chartered organization, to the National Tropical Botanical Garden, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. Bradley, Mr. Durenberger, Mr. Rockefeller, Mr. Pryor, Mr. Baucus, Mr. Matsunaga, Mr. Riegle, and Mr. Chafee):

S. 2782. A bill to amend title XIX of the Social Security Act to provide coverage for certain outreach activities undertaken at the option of a State for the purpose of identifying pregnant women and children who are eligible for medical assistance and assisting them in applying for and receiving such assistance, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. Hollings, Mr. Heflin, and Mr. Weicker):

S. 2783. A bill to amend title XVIII of the Social Security Act to provide coverage for certain screening examinations and cancer detection tests under part B, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 2784. A bill to amend the Internal Revenue Code of 1986 to provide that the denial of the deduction for interest on indebtedness with respect to certain life insurance policies shall not apply to indebtedness to fund postretirement medical benefits; to the Committee on Finance.

By Mr. HEINZ (for himself and Mr. Trible):

S. 2785. A bill to ensure the proper budgetary treatment of credit transactions of Federal agencies and to improve management of Federal credit programs; pursuant to the order of August 4, 1977; referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. RIEGLE (for himself and Mr. Levin):

S. Res. 470. A resolution relating to Great Lakes medical waste; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ (for himself, Mr. Pell, Mr. Sarbanes, Mr. McConnell, Mr. Mitchell, Mr. Durenberger, Mr. Gore, Mr. D'Amato, Mr. Simon, Mr. Chafee, Mr. Kerry, Mr. Specter, Mr. Bradley, Mr. Dole, Mr. Metzenbaum, Mr. Pressler, Mr. Lautenberg, Mr. Lugar, Mr. DeConcini, Mr. Bond, Mr. Leahy, Mr. Trible, Mr. Boren, Mr. Nickles, Mr. Inouye, Mr. Bumpers, Mr. Moynihan, Mr. Reid, Mr. Matsunaga, Mr. Levin, Mr. Riegle, Mr. Kennedy, and Mr. Biden):

S. Con. Res. 142. A concurrent resolution congratulating Israel and Egypt on the 10th anniversary of the Camp David accords; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN (for himself and Mr. Karnes):

S. 2775. A bill to create a Commission on the American Family and Employment; to the Committee on Labor and Human Resources.

COMMISSION ON THE AMERICAN FAMILY AND EMPLOYMENT ACT

Mr. COCHRAN. Mr. President, I have noticed reports that the Senate may soon take up legislation reported from the Labor Committee dealing with the minimum wage, parental leave, child care legislation, and mandated health benefits. Before we get to the point of voting on these proposals, it might be appropriate for us to take a look at the impact all of these bills, or any one of them, might have on our ability to compete effectively in the international marketplace; what the impact might be on the other employee benefits not mandated by law but available and in some businesses routinely made available to employees, such as onsite child care, vacation and leave, flexible working hours, even wages and salary benefits themselves, which might be affected by the enactment of these pieces of legislation.

I am suggesting that, rather than just take a look at the implications of these bills, we ought formally to review and study the benefit packages already available to American workers.

Although I do not have the exact figures with me right now, I understand that billions of dollars are being spent today in the United States to make available to employees a wide range of benefits in addition to pay, vacation, and insurance.

It is in this environment that the Labor Committee is suggesting that the Senate should substitute its wisdom for that of the employees and the employers who are working together to develop benefit packages that are designed to suit the needs of individual employees.

I am introducing today, Mr. President, legislation to establish the Commission on the American Family and Employment. This Commission would review in a careful way all of the proposals before the Senate on these subjects, look at other benefits already available to workers throughout the United States, and assess the impact of the passage of any one of these bills on competitiveness, on the availability of these other benefit packages, and on salary and wages. I think it is important for us to have this information before we are called upon to make choices for employees or for employers about the nature and extent of benefit packages available in the American workplace.

I send the bill to the desk, Mr. President, and ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on the American Family and Employment Act of 1988".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission on the American Family and Employment (hereinafter in this Act referred to as the "Commission").

SEC. 3. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) all existing and proposed policies relating to the benefits of employment provided to American workers whether such benefits are provided voluntarily by employers or required by law; and

(B) the potential costs, benefits, and impact on productivity of such policies on employers;

(2) include in the study conducted under paragraph (1), a review of all pending Congressional legislative proposals that are designed to require employers to provide workers with additional benefits, including legislation involving parental and medical leave and minimum health benefits;

(3) include in the study conducted under paragraph (1)—

(a) a review of all pending Congressional legislative proposals that are designed to require the provision of child care services, including—

(i) requiring Federal funding of child care providers;

(ii) the provision of incentives to employers to encourage such employers to provide child care benefits for their employees;

(iii) the provision of tax benefits to working parents for child care services; and

(iv) the provision of child tax credits or other tax benefits to families in which a parent may choose to stay at home to provide care for their children; and

(B) an analysis of the need for additional child care services, the potential costs of such services, the benefits to be derived from such services, and the impact proposals for such services would have on domestic productivity; and

(4) within 2 years after the date on which the Commission first meets, submit a report to Congress that outlines the findings of the Commission under paragraphs (1) through (3).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 13 voting members appointed not more than 60 days after the date of the enactment of this Act as follows:

(A) One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C) Six members shall be appointed by the President, at least two of whom shall be representatives of private sector employers, including small business, and at least two shall be representatives of organized labor. Such members shall be appointed by virtue of demonstrated experience in relevant family, temporary disability, and labor-management issues.

(D) Three members shall be—

(i) the Secretary of Health and Human Services;

(ii) the Secretary of Labor; and

(iii) the Director of the Office of Personnel Management.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, while performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which all members are appointed. The Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of the agency shall furnish the information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) USE OF SERVICES AND FACILITIES.—On the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of the agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of the agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

By Mr. KERRY (for himself, Mr. LUGAR, and Mr. LAUTENBERG):

S. 2776. A bill to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes; to the Committee on Foreign Relations.

ANTITERRORISM AND ARMS EXPORT AMENDMENTS ACT

• Mr. KERRY. Mr President, today Senator RICHARD LUGAR, Senator FRANK LAUTENBERG, and myself are introducing legislation which would close major loopholes in existing laws governing arms sales to countries that support international terrorism.

This measure, which passed the House of Representatives with strong bipartisan support on March 24, 1988, represents a long overdue revision of the arms export control laws. The principal sponsors of the measure on the House side, which passed by a voice vote, were HOWARD L. BERMAN and HENRY J. HYDE.

Basically, this measure adds new prohibitions on arms sales to countries found by the Secretary of State to support international terrorism. Currently, Cuba, Iran, Libya, North Korea, South Yemen, and Syria are on the Secretary's list.

In addition, while U.S. Government arms sales to terrorist countries have been prohibited by law since 1986, this legislation would extend that prohibition to sales by private companies, including those located overseas but owned by U.S. citizens. Private companies also would be barred from making an arms sale if they have reason to know that the weapons will reach a terrorist-supporting country.

This legislation does provide flexibility to the President. The President could waive, on a case-by-case basis, the ban on arms sales to terrorist countries if he makes a determination that it is in the national security interests of the United States to do so. Congress would have to be notified by the President 15 days in the advance of such a sale.

However, if the 15-day advance notification inhibits the President's ability to respond to an emergency situation, our legislation allows the President to use existing special authority in section 614 of the Foreign Assistance Act to avoid the 15-day advance notice.

The legislation stipulates that under exceptional circumstances where time is of the essence the President would have to notify the Congress about the planned sale at least 24 hours in advance of such a sale.

The major provisions of the bill include the following:

Section 40 of the Arms Export Control Act, which prohibits exports of arms to terrorist states is significantly strengthened by this legislation. Prohibited transactions are listed in detail, both with respect to U.S. Government activities and private transactions.

Section 3(f) of the Arms Export Control Act is repealed. This is the original antiterrorism provision of the Act, which would be superseded by the revised section 40 prohibition.

Section 38(a)(2) of the Arms Export Control Act is amended to further obligate the Director of the Arms Control and Disarmament Agency to evaluate how a sale of munitions items by the Government would or would not support international terrorism.

Section 6(j) of the Export Administration Act, which regulates the export of goods and technology of significant military or of terrorist value to terrorist states, is amended in two ways. First, to remove the current $1 million annual threshold amount under which the Executive currently does not have to report to Congress exports of such goods and technology to terrorist states. Second, to require validated licenses for all such exports to terrorist states and 30-day prior notification to Congress of the proposed issuance of a validated license. Section 6(j) also is amended to conform to the recission authority under that section with the recission authority available under new section 620A of the Foreign Assistance Act of 1961.

Section 6(j)(1)(B) of the Export Administration Act of 1979 is amended to require that the Secretary of State's second determination be one regarding which the export of the goods and technology could make a significant contribution to the military potential of a terrorist country or could enhance the ability of such country to support acts of international terrorism.

Section 620A of the Foreign Assistance Act of 1961 is amended to conform it with other changes in the law, particularly the revision of section 40 of the Arms Export Control Act. There is a classification that the President cannot use humanitarian reasons to justify a waiver of the antiterrorism prohibition for the purpose of providing any security assistance under part II of the Foreign Assistance Act of 1961 or by the Export-Import Bank.

Section 36 of the Arms Export Control Act, which requires certain reports to the Congress about commercial and governmental military exports is amended to add two provisions. First, quarterly reports listing all Presidential consents to transfers of munitions list items, exceeding $1 million in value, from a recipient country to a third country under the authority of sections 3(a) or 38 of the Arms Export Control Act or section 505 of the Foreign Assistance Act of 1961.

Second, quarterly reports—classified if necessary—of interagency transfers of munitions list items which will not ultimately be disposed of within the United States but excluding from the report those munitions list items which are used solely in connection with intelligence activities and are subject to other reporting requirements under the National Security Act.

This bill is the same as H.R. 3651 which passed the House by a voice vote on May 24 of this year. The Office of Management and Budget issued a statement stating that the administration did not oppose H.R. 3651 at the time the legislation was scheduled for full House action.

As Congressman HYDE noted during the House debate on this measure:

> As serious terrorist acts proliferate and the global community struggles to respond effectively, it is now more important than ever that the United States have a consistent, clearly stated terrorist policy. This legislation is designed to help fill this need.

Finally, this legislation, as was pointed out in the floor debate, does not intrude upon the responsibilities of either the House or Senate select committee's oversight responsibilities for intelligence or covert activities.

Those of us who are sponsoring the Senate companion measure to H.R. 3651 urge our colleagues to move expeditiously on this legislation to assure that it becomes law before the end of this session of the U.S. Congress.●

● Mr. LUGAR. Mr. President, I am introducing the Antiterrorism and Arms Export Amendments Act of 1988, which would prohibit the exports of military equipment to countries supporting international terrorism. I am pleased to join Senators KERRY and LAUTENBERG as original sponsors of this legislation.

This legislation has already passed the House by a strong bipartisan vote of 411 to 20 on May 24. This bill is intended to accomplish several objectives: It will close many of the loopholes now in the law pertaining to selling and transferring defense articles to third countries; it provides stiff penalties for violators of the law against the sale of military goods to countries on the Secretary of State's terrorist list; and it streamlines the conflicting, overlapping and sometimes contradictory provisions on the law dealing with military exports to terrorist states. The bill also mandates a new reporting and informing requirement on arms sales, including covert sales and transfers. Because there are always unanticipated circumstances and exceptions, the bill retains existing Presidential waiver authority if time is limited and the relevant committees are consulted.

Mr. President, I noted that the House has already passed H.R. 3651. They have done the hard work, hearings were held in the Foreign Affairs Committee and the Permanent Select Committee on Intelligence, there was extensive consultation between the Congress and the executive branch and with various interested parties in the private sector. This legislation, as passed in the House, was not opposed by the administration because it did not and is not intended to limit the President's discretionary authority in this area.

Our laws dealing with U.S. antiterrorist policy are included in four major statutes: The Arms Export Control Act, the Export Administration Act, the Foreign Assistance Act, and the Hostage Act. Regrettably, there are nations and groups supported by these nations who are bent on committing acts of terrorism. This is an unfortunate fact of life. This legislation will not prevent international terrorist acts, but it will clarify the boundaries of what is permissible and what is prohibited in U.S. law with regard to terrorist states. It will ensure sufficient clarity in the law against the sale of military goods to terrorist states so that those who seek to violate this prohibition cannot claim ambiguity, uncertainty and inconsistency in the statutes.

This bill will go a long way in deterring U.S.-origin military and military-related sales to terrorist states. In the absence of effective deterrence against international terrorism, this bill provides stiff criminal and civil penalties to violators of our law against military sales to terrorist states.

Mr. President, this is a well-researched bill, it deserves and has received careful consideration and merits immediate approval in the Senate. I would hope that the Senate acts quickly and decisively to pass this bill and send it to the President prior to adjournment.●

By Mr. STEVENS:

S. 2777. A bill to authorize a certificate of documentation for the vessel *Gipsy*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL GIPSY

● Mr. STEVENS. Mr. President, I am introducing today a bill to authorize issuance of a certificate of documentation for the sailing vessel *Gipsy* so that this Danish-built wooden ketch can be used for charter cruising in the waters of southeast Alaska.

Section 27 of the Merchant Marine Act of 1920, commonly known as the Jones Act, coupled with the Coast

Guard documentation provisions of title 46 of the United States Code, require that vessels engaged in the domestic coastwise trade be built and documented in the United States. A vessel may not be documented if it was built abroad, or has been owned by a person other than a citizen of the United States.

The vessel *Gipsy*—official No. 903276—is a 65-foot gaff rigged ketch. Built of solid oak in 1932 at Skagen, Denmark, the 66-ton *Gipsy* was constructed when wooden boat building was at its peak for vessels of this type and size. Bill and Toni Shattenberg of Juneau, AK, are the first American owners of the *Gipsy*, and currently use the vessel as their office and home. The *Gipsy* received the Slocum Award for outstanding sailing feats for her passage through the Straits of Magellan, and was on display as an historic vessel in the 1986 World's Fair in Vancouver. The Shattenbergs would like to charter the *Gipsy* for pleasure cruises so that others might have the chance to experience sailing on a traditional gaff rigged ketch.

The problem is that the chartering of the *Gipsy*, as the Shattenberg's propose, constitutes coastwise trade under the Jones Act. In order to obtain the necessary documentation for such trade, the law requires that the vessel be built in the United States and be owned throughout its history by U.S. citizens.

As the *Gipsy* was built in Denmark, and the Shattenbergs are the first U.S. owners in the vessel's 56-year history, a legislative waiver is needed to allow them to share this unique nautical treasure with the American public. This bill provides the requisite legislative waiver, and I look forward to its adoption.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this time.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the vessel Gipsy, United States official number 903276.●

By Mr. LEVIN (for himself and Mr. Riegle):

S. 2778. A bill to establish a pilot program for the tracking of medical wastes in the States bordering the Great Lakes; to the Committee on Environment and Public Works.

GREAT LAKES STATES MEDICAL WASTE TRACKING ACT

Mr. LEVIN. Mr. President, on a very important environmental matter, we in the Great Lakes region—a unique region not only in this country but in the world—were appalled to learn that medical wastes had been found along the beaches on the western side of Michigan over this past weekend. In Oceana County near Pentwater, about 200 syringes were found in one area, and more syringes, surgical gloves, and other wastes were found in another area. Because of the uncertainty of the origin of this waste and whether it was diseased, these findings necessitated closing the contaminated beaches.

The Coast Guard found more debris, still floating off-shore during surveillance flights over the area. Concern about water contamination from the debris prompted officials to ask boaters to stay one-half mile away from shore over a stretch of beach 6 miles long.

While we have all been aware of the problem of medical wastes washing up on the shores of the Atlantic Ocean, this is the first time that such wastes have washed up from Lake Michigan. About a month ago, medical wastes were also found near Cleveland, OH, on Lake Erie beaches.

Like the incidents on the Atlantic coast, the origin of the waste is unknown. Michigan health department officials have indicated that they are in a quandry about how to trace the waste. I am introducing legislation today that will help track the waste so we can put an end to a despicable and potentially deadly practice. Identical legislation is being introduced in the House by Congressman Dennis Hertel.

The legislation I am introducing is modeled after legislation introduced by Senator Lautenberg, S. 2680, and passed by the Senate in early August, before the Great Lakes problem appeared. That bill would establish a pilot program for the tracking of medical wastes in the States of New York, New Jersey, and Connecticut. My bill establishes an identical pilot program for the tracking of medical wastes in the Great Lakes.

My bill directs the Administrator of the Environmental Protection Agency [EPA] establish a demonstration program for the tracking of medical waste generated and disposed of in the Great Lakes region. The demonstration program will establish a system for accountability of medical wastes from their point of generation to their point of disposal.

Like S. 2680, my bill provides for inspections, compliance orders, and civil and criminal penalties to assure compliance with the demonstration program. It also allows States or localities to adopt regulations for the control of medical wastes that are even stricter than those in this bill. It will require EPA to report to Congress on the progress of the demonstration program.

I invite all of my colleagues from whatever part of the country they happen to have to join me in supporting this legislation. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act may be cited as the "Great Lakes States Medical Waste Tracking Act of 1988".

SEC. 2. REGULATION OF MEDICAL WASTES.

(a) Regulations.—Not later than nine months after the date of enactment of this Act, and after notice and opportunity for public hearings, the Administrator shall promulgate regulations which establish a demonstration program for the tracking of medical waste generated and disposed of in the States bordering the Great Lakes. Such regulation shall—

(1) define medical waste;

(2) apply to generators of medical waste, and owners and operators of facilities for the treatment, storage, transport, and disposal of medical waste;

(3) establish a manifest system for accountability and tracking of medical wastes from their point of generation to point of disposal; and

(4) include such other requirements as may be necessary to protect human health and the environment, including monitoring of beaches in the States bordering the Great Lakes, where there have been reported incidences of medical waste being washed up on shore. Such monitoring shall include an assessment of Lake currents, wind, and other environmental factors which may be responsible for the migration of medical waste in coastal areas of the Great Lakes. In conducting such monitoring the Administrator shall consult and coordinate activities with the Administrator of the National Oceanic and Atmospheric Administration. The Administrator shall also consult with the International Joint Commission to determine how to monitor the disposal of medical waste emanating from Canada.

(b) Inspection.—(1) For purposes of developing any regulation under this section, or to assure compliance with such regulations, any person who generates, stores, treats, transports, or disposes of medical waste shall upon, request of any authorized and designated representative of the Environmental Protection Agency, permit access to and provide copies of all records relating to such wastes to any designated representative of the Environmental Protection Agency.

(2) Any representative of the Environmental Protection Agency who obtains samples of medical waste from any facility under the authority of this section shall furnish a receipt describing such sample to the owner or operator of such facility prior to leaving the premises.

(c) Compliance Orders.—(1) Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement under this section the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) Any order issued pursuant to this subsection may include a suspension or revovation of any permit issued by the Administrator under this section and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this section. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(3) PUBLIC HEARING.—Any order issued under this section shall become final unless, no later than thirty days after the order or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(4) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued non-compliance with the order and the Administrator may suspend or revoke any permit issued to the violator.

(5) CRIMINAL PENALTIES.—Any person who—

(A) knowingly transports or causes to be transported any medical waste in violation of regulations promulgated under this section;

(B) knowingly treats, stores, or disposes of any medical waste in violation of regulations promulgated under this section;

(C) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator under this section;

(D) knowingly generates, stores, treats, transports, disposes of, exports or otherwise handles any medical waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or files for purposes of compliance with regulations promulgated by the Administrator under this section;

(E) knowingly transports without a manifest, or causes to be transported without a manifest, any medical waste required by regulations promulgated under this section to be accompanied by a manifest;

shall upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of subparagraph (A) or (B), or both). If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

(6) KNOWING ENDANGERMENT.—Any person who knowingly transports, treats, stores, disposes of, or exports any medical waste in violation of subparagraph (A), (B), (C), (D), or, (E) of paragraph (5) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than fifteen years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine or not more than $1,000,000.

(7) SPECIAL RULES.—For the purposes of paragraph (6)—

(A) A person's state of mind is knowing with respect to—

(i) his conduct, if he is aware of the nature of his conduct;

(ii) an existing circumstance, if he is aware or believes that the circumstances exists; or

(iii) a result of his conduct, if he is aware or believes that his conduct is substantially certain to cause danger or serious bodily injury.

(B) In determining whether a defendant who is a natural person knew that his conduct placed another person in imminent danger of death or serious bodily injury—

(i) the person is responsible only for actual awareness or actual belief that he possesed; and

(ii) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant:

Provided, That in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information.

(C) It is an affirmative defense to a prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

(i) an occupation, a business, or a profession; or

(ii) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subsection by a preponderance of the evidence.

(D) All general defenses, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under paragraph (6) and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience.

(E) The term "organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(F) The term "serious bodily injury" means—

(i) bodily injury which involve a substantial risk of death;

(ii) unconsciousness;

(iii) extreme physical pain;

(iv) protracted and obvious disfigurement; or

(v) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(8) CIVIL PENALTY.—Any person who violates any requirement of this section shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this section, constitute a separate violation.

(d) RELATIONSHIP TO STATE LAW.—(1) Nothing in this section shall be construed to prohibit any State or political subdivision of a State from imposing any requirements for the control or monitoring of medical waste that are more stringent than those imposed by this section.

(2) Nothing in this section (or in any regulation adopted under this section) shall be construed to prohibit any State from requiring that the State be provided with a copy of each manifest used in connection with medical waste which is generated within that State or transported to a treatment, storage, or disposal facility within that State.

(e) REPORT.—Three years after the date of enactment of this section, the Administrator shall report to the Congress on the progress and success of the program outlined in this section.

(f) AUTHORIZATIONS.—There are authorized to be appropriated $300,000 for each of the fiscal years between 1989, 1990, and 1991 for the purpose of carrying out activities under this section.

(g) RELATIONSHIP TO THE SOLID WASTE DISPOSAL ACT.—Nothing in this section shall be construed to affect or modify the authorities or requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)

SEC. 3 APPLICABILITY OF SECITON 7003 OF THE SOLID WASTE DISPOSAL ACT.

(a) The Congress finds that:

(1) Large quantities of medical waste, including syringes, hypodermic needles, vials containing contaminated blood specimens, and surgical gloves have washed up on beaches states bordering the great lakes;

(2) beaches in New York and New Jersey have been closed as a result of medical waste washing up on shore, and the imminent and substantial endangerment to human health and the environment presented by such waste;

(3) the improper disposal of medical waste is presenting an imminent and substantial endangerment to public health and the environment in certain coastal areas of the great lakes.

(b) Based on the finding in subsection (a), the Administrator is empowered and, in appropriate cases, directed to use the authority provided in section 7003 of the Solid Waste Disposal Act to immediately address and correct such improper disposal of medical waste. In addition, the Administrator is empowered and directed to use the authorities of this Act to seek the imposition of criminal penalties where appropriate.

By Mr. JOHNSTON:

S. 2779. A bill to redirect existing programs in nuclear fission research at the Department of Energy and establish a program for research, development, and demonstration of advanced

technologies for the generation of commercial electric power from nuclear fission, and for other purposes; to the Committee on Energy and Natural Resources.

ADVANCED NUCLEAR REACTOR RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

● Mr. JOHNSTON. Mr. President, today I am introducing the Advanced Nuclear Reactor Research, Development, and Demonstration Act of 1988. The text of this bill is based on the provisions of title VII of S. 2667, the National Energy Policy Act of 1988, introduced by Senator WIRTH in July with 17 cosponsors, including me. S. 2667 seeks to develop responses to the threat of rapid climate change driven by increasing levels of production of greenhouse gases, principally carbon dioxide from the combustion of fossil fuels. I feel strongly that nuclear power has an important role in our response to the greenhouse effect and therefore ought to be a part of that bill as introduced.

I also feel strongly that the legislation I am introducing today can stand on its own. We need a new beginning in our research, development, and demonstration program in nuclear fission. There currently is no demonstration program in nuclear fission—there hasn't been one since the cancellation of the Clinch River Breeder Reactor. As for research and development, funding has dropped dramatically, and the program is in a kind of limbo born of the interaction of a funding squeeze with a failure of leadership. And, in the meantime we are trying to support some very expensive facilities whose contribution to the future of nuclear power is no longer obvious.

It is not a situation that we should tolerate. We need nuclear power. Nuclear power is an essential part of our energy future, with or without the greenhouse effect. We need electricity now and we will need more in the future. Even if the alternatives were benign in their impact—which they are not—nuclear power would be the system of choice. It would simply be irrational to fail to fully develop a safe, nonpolluting, economical, and essentially inexhaustible source of electricity. The nuclear fission research and development program we have now is failing in this regard. The legislation I am introducing today is intended to stimulate debate on how to devise a program that can succeed.

Our feature that I believe must be a part of this program is a determined effort to develop and convincingly demonstrate a new product. I do not believe that our current nuclear reactors are unsafe or inherently uneconomical. But, unfortunately, many, many of my fellow Americans, some of them in very responsible positions, do hold such a belief. This belief has spawned a whole sea of troubles for the nuclear option. It has produced a largely unjustified, but nevertheless very real, explosion in the cost of constructing and operating nuclear reactors. This cost explosion has traumatized utility regulators and the financial community, I fear irreversibly. It has engendered a deep distrust in the utility industry of the predictability of the regulatory system that governs nuclear plants. It has produced incredibly lengthy licensing proceedings and an almost lurid fascination with the prospect of a catastrophic nuclear accident.

We are not going to turn this situation around by simply offering the same 1000 megawatt reactors that were under construction in the 1970's before the Three Mile Island accident with a few safety gimmicks attached. We need to present the public, utility decisionmakers, the financial community, utility regulators, and the environmental community with a technology that represents a clear break with the past. We need to be looking at modularity, to deal with the lower increments in capacity needs and with financing uncertainties. We need to offer standardization to provide predictability in construction cost and to address licensing uncertainties. We need to incorporate passive safety features in plant design. No technology can be inherently safe, but the confidence we can have in the safety of nuclear reactors can be made much more obvious to the public by including passive safety features. We need to put some real emphasis on recovering some of the public acceptance that has been lost in recent years.

We will have to do all of this with less money. As I noted, funding for nuclear fission research and development has declined sharply in the 1980's, as has funding for other research and development programs—solar energy, energy conservation and fossil energy—in response to the Reagan administration's reluctance to invest in the commercialization of energy technologies. The Reagan administration has preferred long-term, high-risk research over the kind of applied research and development that leads to marketable products in the near term. So funding for basic science and fusion has remained high, while funding for nuclear fission, solar energy, energy conservation has fallen off significantly.

I do not believe that this aversion to Federal assistance for the commercialization of new energy technologies will survive the departure of Mr. Reagan. We will see a shift back towards the development and demonstration part of research, development, and demonstration. But we cannot return to the funding levels of the 1970's. There is a budget crisis out there, and it is a real one. We may be able to get modest additional amounts in certain particularly popular technologies, but in the main, and particularly in the case of nuclear fission research and development, we need to do better with the kinds of funding levels we have now.

This will mean fundamental restructuring of our nuclear fission research and development bill. The bill I am introducing is intended to force the hard decisions about this program by enforcing hard funding decisions. This is not a program that adds on to what is already there. It replaces what is there. Facilities that were built to serve the Clinch River Breeder Reactor will have to find a new mission or a new source of money. We cannot afford to carry nonproductive elements in the program. Productivity should be measured in terms of contribution to the goal of the program: the timely availability to the utility industry of a nuclear reactor technology that can pass the tough test of public acceptance when new nuclear capacity will be needed—in the 1990's. We will not pass that test until we convincingly demonstrate, I believe with an actual facility, that the problems that have plagued the nuclear option in the past have been put behind us and a truly new approach is available.

I look forward to the comment this bill should stimulate. We need to begin this debate by laying out all the cards where they can be seen clearly. That is what I have tried to do with this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2779

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. SHORT TITLE.—This Act may be cited as the "Advanced Nuclear Reactor Reseach, Development and Demonstration Act of 1988".

FINDINGS, PURPOSES AND DEFINITIONS

SEC. 2. (a) FINDINGS.—Congress finds that energy generated from nuclear fission could potentially supplant the burning of fossil fuels in an economical fashion and thereby contribute substantially to the provision of needed supplies of electricity while reducing the rate and scope of global climate change.

(b) PURPOSES.—(1) The purposes of this Act are to—

(A) ensure the timely availability to persons engaged in the generation of commercial electric power of acceptable technologies for the generation of such power from nuclear fission; and

(B) redirect programs carried out by the Secretary in existence on the date of the enactment of this Act for research, development, and demonstration of technologies for the generation of commercial electric power from nuclear fission.

(2) Notwithstanding any other provision of law, this Act shall be the exclusive source of authority for appropriations for programs described in paragraph (1)(b), and

the limitations on appropriations under section 4 shall apply to such programs.

(c) Definitions.—For purposes of this Act, the term

(1) "programs carried out by the Secretary in existence on the date of the enactment of this Act for research, development, and demonstration of technologies for the generation of commercial electric power from nuclear fission" includes programs of the Secretary designated in appropriations acts for the fiscal year beginning on October 1, 1988, as Advanced Reactor Research and Development, Advanced Nuclear Systems, Facilities, and Program Direction;

(2) "Secretary" means the Secretary of energy; and

(3) "Commission" means the Nuclear Regulatory Commission.

PROGRAM

Sec. 3. (a) Research, Development, and Demonstration Program.—The Secretary shall carry out a comprehensive program of research and development of technologies for the generation of commercial electric power from nuclear fission that to the maximum extent practicable—

(1) are cost-effective in comparison to alternative sources of electricity of comparable availability, reliability, and impact on the rate and scope of global climate change;

(2) permit modular design;

(3) minimize the volume of nuclear waste produced and the cost of nuclear waste disposal;

(4) prevent diversions of radioactive material for use in nuclear weapons;

(5) are adabtable to standardized construction and licensing; and

(6) exhibit passive safety features.

(b) Solicitation of Proposals.—The Secretary shall—

(1) solicit proposals for an advanced nuclear power reactor demonstration project that exhibits the characteristics set forth in subsection (a); and

(2) participate in the project if an acceptable proposal is submitted.

(c) Project Criteria.—The project under subsection (b) shall show potential to generate economical electric power at kilowatt capacities of 400 to 600 megawatts and shall be reasonably anticipated to maximize acceptance by the public, the financial community, utilities, State electric utility regulators, and the Commission.

(d) Disposition of Existing Programs and Facilities.—(1) Within six months after the date of the enactment of this Act the Secretary shall report to Congress on the recommendations of the Secretary as to the disposition of programs and facilities of the Secretary in existence on such date of enactment for research, development and demonstration of technologies for the generation of commercial electric power from nuclear fission that will be replaced by the program under subsections (a) and (b).

(2) The Secretary may implement any of the recommendations under paragraph (1) that have not been disapproved by Congress by law within one year after the report under paragraph (1) is received by Congress.

FUNDING

Sec. 4. (a) Appropriations.—There is authorized to be appropriated to carry out the purposes of this Act for the fiscal year beginning on October 1, 1990, not more than $100 million; for the fiscal year beginning October 1, 1991, not more than $200 million, and for the fiscal year beginning October 1, 1992, not more than $200 million.

(b) Project Funding.—An appropriate portion of the funds under subsection (a) shall be used to support construction of a commercial-scale advanced civilian nuclear power reactor demonstration project to be chosen from proposals under section 3(b) and connected to a utility grid by the year 2000. The demonstration project under this section shall exemplify technology and design features that can be adopted and deployed by the utility industry for the nuclear generating capacity reasonably expected to be required over at least the next 40 years.

(c) Draft Request.—The Secretary shall issue a draft request for porposals under section 3(b) within 6 months after the date of the enactment of this Act and a final request for proposals no later than 12 months after such enactment. The Commission shall comment on the draft request for proposals. The Secretary shall consider and respond to any such comments received within three months after issuance of the draft request for proposals.

(d) Final Proposals.—Final proposals under sections 3(b) may be submitted to the Secretary no later than one year after the final request under subsection (c) is issued. The Secretary may provide technical assistance to persons with proposals the Secretary considers meritorious.

(e) Selection.—The Secretary shall select an acceptable proposal within one year after the deadline for final proposals under subsection (d). If at any time it appears that no project will be able to meet the Secretary's criteria by the time of such deadline, the Secretary may amend and reissue the request for proposals in accordance with section 3 of this title. The deadline under subsection (d) may be extended by the Secretary once for no more than one year if the Secretary finds that the extension is likely to permit acceptable proposals to be submitted.

LIMITATIONS ON FUNDING

Sec. 5. Limitations.—Funds under this Act may be expended for construction of a demonstration project under section 4(b) only if—

(a) the proposal accepted by the Secretary provides for—

(1) at least 50 per centum of project costs to be provided from non-federal sources;

(2) non-Federal financial responsibility for any and all payments in excess of the amounts authorized by this title; and

(3) the project will be managed by the non-Federal participants.

(b) the Commission finds that there is no compelling reason to believe that the demonstration project could not receive the necessary license, if built to the specifications set forth in the proposal.

LICENSING

Sec. 6. (a) Licensing.—The demonstration project under section 4(b) shall be subject to licensing requirements of the Atomic Energy Act of 1954, as amended, as if such project were a commerical utilization facility under such Act.

(b) Commission Report.—Within one year after acceptance by the Secretary of a proposal under section 4(f), the Commission shall identify changes in Commission regulations that would improve, consistent with the public health and safety, prospects for the successful licensing of the demonstration project under section 4(b).

ONGOING RESEARCH AND DEVELOPMENT

Sec. 7. Research and Development.—Pending acceptance of a proposal by the Secretary, the Secretary is authorized to carry out such research and development as is necessary to prepare for the demonstration project under section 4(b).

REPORTS

Sec. 8. (a) Report by the Secretary.—(1) Within two years after the date of the enactment of this Act the Secretary, after consultation with the Commission and opportunity for public comment, shall submit to Congress specific recommendations for changes in law and in the regulations of the Commission and of other appropriate Federal agencies that the Secretary finds necessary for the timely licensing, consistent with the public health and safety, of commercial nuclear power reactors whose design is based on the demonstration project under section 4(b).

(2) The Commission shall provide Congress with the comments on the recommendations of the Secretary submitted under paragraph (1).

(b) Report by the Commission.—(1) In order to assess the extent to which the purposes of this Act may be achieved by adopting nuclear reactor technologies already available in other nations, within two years after the date of the enactment of this Act, the Commission shall report to Congress on the licensibility under the Atomic Energy Act of 1954, as amended, of commercially available nuclear reactor technologies in use in nations other than the United States.

(2) Before submitting the report under paragraph (1) the Commission shall make available to the public a draft report and provide opportunity for comment on the draft report.

(3) The report of the Commission under paragraph (1) shall identify specific impediments to licensing under the Atomic Energy Act of 1954, as amended, for each technology considered and shall indicate how, or if, such impediments might be removed by amendments to law or regulation consistent with the public health and safety.●

By Mr. HECHT:

S. 2780. A bill entitled the "Federal Wilderness and National Park Firefighting Act of 1988"; to the Committee on Energy and Natural Resources.

FEDERAL WILDERNESS AND NATIONAL PARK FIREFIGHTING ACT

● Mr. HECHT. Mr. President, large portions of the west have been subjected to a holocaust this summer, our lands have been ravaged by fires that would rival the worst that might result from a nuclear firestorm. Tragically, all this destruction was unnecessary. These were self-inflicted wounds, Mr. President. Congress and Federal bureaucrats have together conspired to foolishly sacrifice our most precious heritage, our national parks and forests, on the altar of a misguided Federal wilderness policy known as "let burn."

The "let burn" policy has been tragically and dramatically exposed for the sad fraud that it is. Millions of acres were sacrificed to appease the liberal eastern gurus who espouse the principle that we ought to let nature do her thing, regardless of the toll on our environment, regardless of the property destroyed, the lives lost, the recreational opportunities forfeited for decades.

I hope some good will come from this summer's blazes, Mr. President. I hope that people will learn some wisdom from this suffering. I hope we have seen the end of this sort of irrational application of the "let burn" policy. I hope that a saner public policy will rise from the ashes of Yellowstone National Park.

Today I am introducing a bill that I hope will be the first step forward along the road to that saner national policy. My bill amends the Wilderness Act of 1964 to force the Federal Government to take immediate and aggressive action with all the means available to it and the States to fight fire inside Federal wilderness areas. The bill will also require the Department of the Interior to rethink its "let burn" policy for the National Park System generally, not just Federal wilderness within the National Park System. The new policy that flows from this review will have the benefit of considerable public comment, and I am confident that the good, solid common sense of the American people will point the way to a new, more responsible fire policy for our national parks.

Mr. President, if they were alive today, I am sure that both John Muir and Gifford Pinchot would be shaking their heads in sadness and disgust at the twisted and misguided approach that the Federal Government took to the fires this summer. As for myself, I can only wonder how much needless destruction was visited upon our Nation this summer, and I can only pledge that this Senator will never acquiesce in the "let burn" policy being applied to the Great Basin National Park in Nevada, or to any Federal wilderness that may eventually augment the 64,000 acres currently within my State. I will never let the State of Nevada and its land be ravaged as mere tinder to be hurled into the flames to appease the insane desires of ignorant ideologues who worship the false god of "let burn" on Federal lands.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2781. A bill to change the name of the Pacific Tropical Botanical Garden, a federally chartered organization, to the National Tropical Botanical Garden, and for other purposes; to the Committee on the Judiciary.

NATIONAL TROPICAL BOTANICAL GARDEN

● Mr. INOUYE. Mr. President, I rise to introduce a bill which would rename the "Pacific Tropical Botanical Garden," a congressionally chartered corporation, the "National Tropical Botanical Garden." This bill will allow the garden to reorganize and operate tropical botanical gardens in all 50 States, the District of Columbia, and in any commonwealth, territory, or possession of the United States.

In 1964, Congress created and chartered the "Pacific Tropical Botanical Garden." Since that time, the garden has significantly progressed to the limits of its charter. Hawaii houses the gardens headquarters in Lawai, on the Island of Kauai. The garden also maintains satellite preserves on other islands which contain not only tropical horticulture, but rare and endangered species as well.

The garden maintains extensive plant collections, offers a tropical botany course, summer internships to students, and is an active publisher on tropical-related materials.

The late David Fairchild, a botanist and son-in-law of Alexander Graham Bell, donated 9 acres of property in Florida and $2.5 million in support. The garden cannot currently use these lands or funds due to the localized nature of its charter.

Senate bill 2781 is simple, straightforward, and costs only a few moments of our time. The original charter was productive and wisely created. We should let the garden continue to grow.

Mr. President, I urge my colleagues to support S. 2781.

Mr. President, I request unanimous consent that the text of the bill be printed in the RECORD as follows:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGE OF NAME.

Upon the enactment of this Act, the Pacific Tropical Botanical Garden, created by the Act entitled "An Act to charter by Act of Congress the Pacific Tropical Botanical Garden", approved August 19, 1964 (Public Law 88-449; 78 Stat. 496), shall be known as the "National Tropical Botanical Garden", and any reference in that Act to the Pacific Tropical Botanical Garden shall be deemed to be a reference to the National Tropical Botanical Garden.

SEC. 2. ACTIVITIES PERMITTED IN TERRITORIES AND POSSESSIONS OF THE UNITED STATES.

Section 7(a) of the Act of August 19, 1964 is amended by adding at the end thereof the following: "For purposes of this subsection, the term 'United States' includes any commonwealth, territory, or possession of the United States."●

● Mr. MATSUNAGA. Mr. President, I rise in support of the measure introduced by my colleague. The senior Senator from Hawaii [Mr. INOUYE], which would change the name of the Pacific Tropical Botanical Garden, as a federally chartered organization, to the National Tropical Botanical Garden.

I am proud to have been instrumental in securing the garden's original charter as a Member of the House in 1964. This organization, which is privately supported, has worked to preserve biological diversity in tropical climes, a cause of increasingly recognized importance worldwide. Guided by a distinguished national board of trustees and an international Scientific Advisory Committee, the garden's dedicated staff has developed a 186-acre site of great natural beauty into a renowned botanical collection which attracts visitors and tourists from around the globe. The setting is the Lawai Valley on my home island of Kauai, not far from the plantation camp where I was born. Originally a private estate, this garden actually began under the green thumb of Kamehameha IV's consort, Queen Emma. Today the organization operates satellite gardens and preserves at Hana, Maui, as well as in the Limahuli Valley on Kauai's northern coast, and conducts research, education, and publication programs.

As Senator INOUYE has pointed out, recently the garden received as a gift the fee interest to a unique and important parcel of real estate in Coconut Grove, FL, and plans to operate it as a satellite garden in accordance with the organization's statutory purposes. This Florida property was the home of the late noted botanist David Fairchild, son-in-law of Alexander Graham Bell. Mr. President, this bill would recognize the nationwide scope not only of this federally chartered organization, but also of our country's stake—on its own soil—in tropical biological preservation, and I urge my colleagues to support its speedy adoption.●

By Mr. DASCHLE (for himself, Mr. BRADLEY, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. PRYOR, Mr. BAUCUS, Mr. MATSUNAGA, Mr. RIEGLE, and Mr. CHAFEE):

S. 2782. A bill to amend title XIX of the Social Security Act to provide coverage for certain outreach activities undertaken at the option of a State for the purpose of identifying pregnant women and children who are eligible for medical assistance and assisting them in applying for and receiving such assistance, and for other purposes; to the Committee on Finance.

MEDICAID ENROLLMENT IMPROVEMENT ACT

● Mr. DASCHLE. Mr. President, I rise today to introduce the Medicaid Enrollment Improvement Act of 1988. This bill would offer States financial incentives to seek out Medicaid-eligible pregnant women, infants, and children, inform them of the benefits of health services available to them, and assist them in enrolling in the Medicaid Program. The ultimate goal of this measure is to assure that each and every baby born in the United States has the best chance possible of surviving and living a healthy, productive life.

We have all heard the dismal facts and figures related to infant mortality and childhood illnesses: Over 40,000 infants in the United States each year do not live to celebrate their first birthday; over one-third of pregnant women receive little or no prenatal care; and a child born in Singapore, Hong Kong, Ireland, Australia, Canada, or Japan has a better chance of surviving his or her first year than a child born in the United States.

Put simply, too many infants in this country are born too small, too many are born premature, and too many mothers get little or no prenatal care while they are pregnant. Unless we act to reverse this situation, in the next decade we will lose more American infants than we have lost soldiers in all the wars fought by the Nation in this century. This is a shameful condition, given our wealth and advanced medical technology.

But unlike most other social problems whose solutions have baffled policymakers for years, we know the key to conquering infant mortality and childhood illness. In fact, it can be summed up in three words: preventive health care.

The cost effectiveness and positive results of preventive care are indisputable. A single low-birthweight baby, the factor most commonly associated with death of newborns, costs society between $14,000 and $30,000, and the lifetime costs of caring for these infants can reach $400,000. On the other hand, care that might prevent the low-birthweight condition in the first place can be as little as $400. Overall, every $1 spent on prenatal care for high-risk women saves our Nation over $3, an impressive return on investment.

Clearly, prenatal and pediatric care are effective and inexpensive compared to the high-tech care needed to sustain at-risk babies. Yet we continue to spend the lion's share of our health dollars on caring for the sick rather than assuring that our infants are born healthy and stay healthy.

Unfortunately, the barriers poor pregnant women and their children face in pursuit of preventive health care services are monumental. Recognizing these barriers, Congress over the last several years has enacted a series of important bills that have expanded pregnant women and children's access to the Medicaid Program. I applaud these measures.

However, as important and promising as these initiatives are, they are only a first step. For a simple broadening of income levels does not guarantee that women will take advantage of the opportunity to receive early prenatal care. Nor does it ensure that children will seek crucial well-child care checkups that prevent future illnesses.

In fact, evidence indicates that States' efforts to identify and enroll newly eligible children and pregnant women have not kept pace with eligibilty expansions. Without changes in the administration of this benefit designed to facilitate enrollment in the program, the full potential of expanded opportunities will never be met.

One reason for the low enrollment levels in the Medicaid Program among pregnant women and children is that eligible people simply are not aware that they are entitled to Medicaid benefits. Consequently, they often delay seeking medical services and then needlessly struggle to pay for services out-of-pocket when they fall ill.

Lack of transportation is another problem; many applicants cannot easily get a ride to the benefits office. In a sparsely populated, rural State like South Dakota, this problem is particularly acute. And for women and children who are eligible for Medicaid but do not receive AFDC, there is no reason to go to the county welfare office and little chance of encountering eligibility workers at all.

These barriers to application have led some observers to conclude that the process seems to be set up to deny people benefits.

It simply defeats efforts to boost people's access to health care if we cannot get the benefits to them. That is why I am introducing this bill, today, a measure that attempts to break down some to the barriers to enrollment in the Medicaid Program.

My bill would offer States a 75-percent Federal matching rate to engage in efforts designed to educate women and children about the preventive health services available to them, and help them to apply for these benefits.

Numerous studies have shown that current efforts to inform women and children about their eligibility for Medicaid and help them through the application process are sparse and uneven. My bill addresses this problem by offering an enhanced matching rate to States that "outstation" eligibility workers and engage in "outreach" efforts.

Outstationing means placing eligibility workers outside of the county welfare office and in locations that are more accessible to Medicaid-eligible patients; places like public health clinics, courthouses, and hospitals. This addresses one key weakness in the eligibility process by moving eligibility workers to sites where pregnant women and their children are likely to go.

Outreach means systematically seeking out eligible children and expectant mothers and informing them of the health benefits available to them. With more outreach efforts, we can urge eligible people to get into the Medicaid Program before problems develop.

Finally, providing a higher matching rate gives States an immediate return for their enrollment efforts. Only by encouraging these kinds of efforts can we hope to improve our record in the area of infant mortality and morbidity.

I believe that we must make the health and well-being of mothers and infants a national priority and give them the public attention and resources that they deserve. After all, maternity and infant care are matters of life and death.

I urge my colleagues to support this innovative approach to improving the health of our young ones.●

By Mr. DURENBERGER (for himself, Mr. HOLLINGS, Mr. HEFLIN, and Mr. WEICKER):

S. 2783. A bill to amend title XVIII of the Social Security Act to provide coverage for certain cancer screening examinations and cancer detection tests under part B, and for other purposes; to the Committee on Finance.

MEDICARE EARLY CANCER DETECTION ACT

● Mr. DURENBERGER. Mr. President, I rise to introduce the Medicare Early Cancer Detection Act of 1988. The time has come to further direct Federal health policy toward early cancer detection and treatment. The passage of the Medicare Catastrophic Coverage Act of 1988 with the mammography provision for early breast cancer detection was a major step in the right direction. We must now continue that effort to assure that all Medicare beneficiaries have access to all effective early cancer screening tests.

It is estimated by the American Cancer Society that 174,000 people with cancer will probably die in 1988 who might have been saved by earlier diagnosis and prompt treatment. This year 494,000 people will die of cancer. Mr. President, we must address the very real possibility that 35 percent of these cancer deaths could be prevented each year by early detection of cancer. We must direct more of our resources in Medicare payment to cancer prevention. All too long our health policy has directed most of our resources to the treatment of the terminal stages of disease, a policy which has helped generate the modern technologic medical revolution, focused around acute care, crisis care, and hospital intensive care units—all with incredible expense.

Early cancer detection is important for everyone; however, it is especially important for women. It is estimated that there will be 490,000 new cases of cancer in women during 1988. If properly used, the early cancer detection tests could discover as many as 290,000 cases of cancer in women this year. Most of these women would be Medicare beneficiaries. As a cause of death, cancer is No. 1 among women age 35 to 54, No. 2 among women age 55 to 74, and No. 3 among women over age 75. Breast cancer is a leading cause of death among American women. One in every eleven women in the United States will develop this disease during her life time. Regular breast self-examination and mammography are the most effective and proven means of early detection of breast cancer.

During the past 20 years, significant advances have been made in the capability of early cancer detection. We must make these scientific advances accessible to the elderly and disabled. Mr. President, instead of rhetoric about health promotion and disease prevention, we need action. It is unconscionable to waste precious lives and scarce resources by continuing a national health policy that pays everything for treating the patient with advanced cancer and very little for early cancer detection and prevention.

Patients with advanced cancer require radiation therapy, chemotherapy, surgery, immunotherapy, and a team of health care providers. The cancer team includes a physicist for monitoring radiation, radiotherapist, radiologist, medical oncologist for treatment with chemotherapeutic agents, surgical oncologist for radical cancer surgery, and highly specialized teams of nurses. In spite of the massive expenditure of Medicare dollars, the treatment, and the team's heroic efforts, the end result is often great suffering and death.

Each year, 7,000 women die of uterine cervical cancer; nearly half of these women are over 60 years old. Lack of a prior pap smear is the most common reason for nondetection of invasive cervical cancer. Medicare does not pay for routine pap smear testing. Tragically, women over 60 are least likely to have annual pap smears, or to have ever had this screening.

An estimated 147,000 new cases of colon and rectal cancer will be diagnosed this year. Early detection of colon and rectal cancer is possible with digital rectal examination and testing the stool for occult blood. The specimen is obtained by the patient at home, and returned to the physician's office or clinic for examination. When colon and rectal cancer is detected and treated in an early, localized stage, the 5-year survival rate is 87 percent for colon cancer and 79 percent for rectal cancer compared to 40 percent and 31 percent respectively, after the cancer has spread to other parts of the body. Mr. President, early detection of colon cancer for all people in 1988 would save nearly 50,000 lives. Early cancer detection is an important health issue for us all and a matter of life or death for many elderly.

President Reagan had the benefit of early colon cancer detection and treatment. Our First Lady, Nancy Reagan, former First Lady Betty Ford both benefited from early breast cancer detection and treatment. Since receiving early cancer detection and therapy, these three people have continued to make major contributions to our Government and our society. All Medicare beneficiaries should have the same right to life.

This legislation will provide payment for Medicare patients for clinical examinations and tests demonstrated to be effective in the early detection of the following cancers in individuals who otherwise may be asymptomatic: breast cancer, cervical cancer, colorectal cancer, prostate cancer, uterine and ovarian cancer.

Examinations for the early detection of these cancers are: clinical breast examination, pelvic examination including obtaining cytology smear for analysis for cervical cancer, and clinical digital rectal examination including obtaining stool for analysis for occult blood. The examinations must include patient education, taking an appropriate health history, written orders of tests specified, and counseling. Results of the tests and examination must be recorded in the patient's health record.

The tests for the early detection of these cancers authorized for payment in this legislation are stool for occult blood test, and pap test. The Secretary may substitute other early cancer detection methodologies as they become available and may set payment limits for such methodologies.

Mr. President, this legislation continues a new direction for national health policy for all Americans toward early cancer detection and cancer prevention. This legislation also sets a new requirement for pap testing that is based on outcome measurements and performance, and that will ultimately lead to national standards for all laboratory testing. It is an axiom of science that results of tests be reproducible. The time has come for all Medicare beneficiaries to have the scientific assurance and peace of mind that laboratories performing pap testing have test results that are accurate, repreducible, and based on high standards.

Mr. President, I urge my colleagues to join me in working to make this a national policy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF CERTAIN CANCER SCREENING EXAMINATIONS AND CANCER DETECTION TESTS UNDER PART B.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively,

(B) by striking "and" at the end of paragraph (12),

(C) by striking the period at the end of paragraph (13) and inserting "; and", and

(D) by inserting after paragraph (13) the following new paragraph:

"(14) qualified cancer detection procedures (as defined in subsection (mm)).''; and

(2) by adding at the end the following new subsection:

"Qualified Cancer Detection Procedures

"(mm)(1) The term 'qualified cancer detection procedures' means each of the cancer screening examinations described in paragraph (2) and each of the cancer detection tests described in paragraph (3).

"(2) The cancer screening examinations described in this paragraph are—

"(A) a clinical pelvic screening examination (including obtaining cytologic smear for analysis for cervical cancer);

"(B) a clinical digital rectal screening examination; and

"(C) such other cancer screening examinations as the Secretary may by regulation provide (but only if related to screening for any of the cancers to which either of the screening examinations described in subparagraph (A) or (B) relate).

"(3) The cancer detection tests described in this paragraph are—

"(A) stool occult blood test;

"(B) a papanicolau (pap) test; and

"(C) such other cancer detection tests as the Secretary may by regulation provide (but only if related to the detection of any of the cancers to which either of the detection tests described in subparagraph (A) or (B) relate).".

(b) PAYMENT AND COVERAGE.—Section 1834 of such Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(f) PAYMENTS AND STANDARDS FOR QUALIFIED CANCER DETECTION PROCEDURES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part (except as provided in section 1833(c)), with respect to expenses incurred for qualifed cancer detection procedures (as defined in section 1861(mm))—

"(A) payment may not be made for any such procedure if payment has been made under this part for that procedure in the preceding 12 months (or, in the case of the procedure described in section 1861 (mm)(3)(A), more than twice in the preceding 12 months);

"(B) payment may be made for any such procedure only to the individual or entity performing the procedure;

"(C) payment may be made for such procedure only if—

"(i) the procedure meets the quality standards established under paragraph (2); and

"(ii) in the case of the procedure described in section 1861(mm)(3)(B), the procedure meets the requirements established under paragraph (3); and

"(D) the amount of the payment under this part shall, subject to the deductible established under section 1833(b), be equal to the amount determined under a relative value scale established by the Secretary to serve as the basis for payment for qualified cancer detection procedures under this part.

"(2) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety, accuracy, and effectiveness of qualified cancer detection procedures. Such standards shall include the requirements that—

"(A) any such procedure is performed by an individual who—

"(i) is licensed by a State to perform the procedure, or

"(ii) is certified as qualified to perform the procedure by such an appropriate organization as the Secretary specifies in regulations;

"(B) any of the procedures described in section 1861(mm)(2) include—

"(i) the taking of an appropriate health history,

"(ii) patient education in self-examination (where appropriate), and

"(iii) counseling about the procedure performed;

"(C) the individual or entity performing any of the procedures described in section 1861(mm)(3) (or, where the procedure is performed upon the order or request of another individual or entity, such other individual or entity) provides counseling on the results of any such procedure and (where necessary) offers to arrange for a referral for treatment; and

"(D) with respect to the procedure described in section 1861(mm)(3)(B), the results of the procedure are interpreted by a physician who—

"(i) is certified as qualified to interpret the results of the procedure by such an appropriate board as the Secretary specifies in regulations, or

"(ii) is certified by the Secretary as qualified to interpret the results of the procedure.

"(3) Outcome Measurement Program.—

"(A) National and regional agreements.—

"(i) In general.—The Secretary shall enter into—

"(I) an agreement with a national laboratory having expertise in conducting pap smear cancer detection tests, and

"(II) agreements with various regional laboratories having such expertise;

for the purpose of carrying out an outcome measurement program for individuals and entities conducting the qualified cancer detection procedure described in section 1861(mm)(3)(B).

"(ii) Performance requirements.—The Secretary shall not enter into or renew any agreement under subparagraph (A) unless the Secretary finds that any such laboratory is able to perform its obligations under the agreement efficiently and effectively and will meet such requirements that the Secretary finds pertinent.

"(B) Outcome measurement program.—Under the outcome measurement program established under this section—

"(i) any individual or entity performing the qualified cancer detection procedure described in section 1861(mm)(3)(B) shall, as a condition for receiving payment under this part for the performance of such procedure, submit to the appropriate regional laboratory with an agreement under subparagraph (A)(i)(II) (in such frequency as the Secretary shall by regulation provide) a random sample of all pap smear tests performed by such individual or entity;

"(ii) each such regional laboratory shall—

"(I) review the accuracy of the random sample of tests submitted by an individual or entity and report to the Secretary on the results of each such review, and

"(II) submit to the national laboratory with an agreement under subparagraph (A)(i)(I) a random sample of the tests reviewed by such regional laboratory; and

"(iii) such national laboratory shall—

"(I) re-evaluate the accuracy of the random sample of tests submitted by a regional laboratory and report to the Secretary on the results of each such re-evaluation, and

"(II) submit to the Secretary periodic reports summarizing the performance of the regional laboratories and recommending (as appropriate) adjustments to the standards established under subparagraph (C)(i).

"(C) Standards of accuracy.—

"(i) In general.—The Secretary shall by regulation establish standards for determining the appropriate level of accuracy required for the performance of the qualified cancer detection procedure described in section 1861(mm)(3)(B).

"(ii) Payment condition.—No payment may be made to any individual or entity for the performance of the qualified cancer detection procedure described in section 1861(mm)(3)(B) unless such individual or entity meets (as determined by the Secretary) the standards established under clause (i).

"(D) No financial relationship.—No regional laboratory with an agreement under subparagraph (A)(i)(II) shall perform the review function described in subparagraph (B)(ii)(I) with respect to any pap smear cancer detection test performed by a laboratory with respect to which such regional laboratory has a financial relationship.".

(c) Certification of Quality Standards for Qualified Cancer Detection Procedures.—(1) Section 1863 of such Act (42 U.S.C. 1395z) is amended by inserting "or whether qualified cancer detection procedures meet the standards established under section 1834(f)(2)," after "1834(e)(3),".

(2) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting ", or whether qualified cancer detection procedures meet the standards established under section 1834(f)(2)" before the period.

(3) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by inserting "1834(f)(2)," after "1834(e)(3),".

(d) Conforming Amendments.—(1) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (F);

(ii) by striking the semicolon at the end of subparagraph (G) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of qualified cancer detection procedures, which do not meet the standards established under section 1834(f)(2);"; and

(B) in paragraph (7), by inserting "or (1)(G)" after "(1)(F)".

(2) Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (14) and (15)" and inserting "paragraphs (15) and (16)".

(e) Effective Date; Implementation.—(1) The amendments made by this section shall apply with respect to qualified cancer detection procedures performed on or after January 1, 1989.

(2) The Secretary shall enter into the agreements required to carry out the outcome measurement program established under section 1834(f)(3) of the Social Security Act, as added by the amendment made by subsection (b), by not later than January 1, 1989.●

By Mr. LEAHY:

S. 2784. A bill to amend the Internal Revenue Code of 1986 to provide that the denial of the deduction for interest on indebtedness with respect to certain life insurance policies shall not apply to indebtedness used to fund post-retirement medical benefits; referred to the Committee on Finance.

FUNDING OF RETIREE HEALTH PLANS

● Mr. LEAHY. Mr. President, I rise today to introduce legislation to help ensure that working Vermonters and millions of working Americans will receive the health benefits they are promised when they retire.

The problem of underfunded retiree health benefit plans caught the attention of the American people during the recent bankruptcy of the LTV Corp. More than 75,000 workers discovered that LTV's reorganization left them with little or none of the health benefits, including insurance and HMO care, they were promised. LTV failed to finance the thousands of promises it had made to its workers and, in the end, the workers suffered.

This problem is not limited to one company or industry. According to the U.S. Department of Labor, American companies are short $1 to $3 trillion—that is trillions of dollars short—of the amount needed to fund the retiree health benefits of their workers.

The underfunded nature of retiree health benefits is a problem recognized by leaders in business and Government, including the distinguished chairman of the Senate Finance Committee, who has demonstrated great leadership on this issue.

The legislation I am introducing today will not provide all the answers. It is, however, a step in the right direction.

My bill will encourage employers to put away money now and invest it wisely to ensure that they will be able to provide health care to their workers when they retire.

Specifically, my bill would remove the current $50,000 borrowing limit against Corporately Owned Life Insurance [COLI] for those employers who use such borrowing to fund retiree health plans. The bill makes it clear that the new financing plans it creates must be nondiscriminatory and provide benefits to all workers regardless of whether they are rank-and-file workers or highly paid executives.

Congressman Daub has introduced companion legislation in the House of Representatives.

Mr. President, the next Congress will likely debate comprehensive legislation to strengthen our Nation's pension and retirement laws. I introduce this bill today in the hope that it will be considered in the context of this larger debate. The time is fast approaching when Congress will have to deal in a meaningful way with the problem of underfunded retiree health benefit plans.

Mr. President, I ask that a copy of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF INDEBTEDNESS INCURRED OR CONTINUED TO FUND POST-RETIREMENT MEDICAL BENEFITS

(a) IN GENERAL.—Section 264 of the Internal Revenue Code of 1986 (relating to certain amounts paid in connection with insurance contracts) is amended by adding at the end thereof the following new subsection:

"(d) INDEBTEDNESS FOR POST-RETIREMENT MEDICAL BENEFITS.—Subsection (a)(4) shall not apply to interest paid or accrued by the taxpayer during the taxable year on any indebtedness incurred or continued for the purpose of funding post-retirement medical benefits pursuant to a plan which meets the nondiscrimination requirements of section 505(b)."●

By Mr. HEINZ (for himself and Mr. TRIBLE):

S. 2785. A bill to ensure the proper budgetary treatment of credit transactions of Federal agencies and to improve management of Federal credit programs; pursuant to the order of August 4, 1977, referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

FEDERAL CREDIT REFORM ACT

● Mr. HEINZ. Mr. President, I am pleased to join my colleague Senator TRIBLE in introducing the administration's revised credit reform proposals. I sponsored the administration's original proposal last year and, as one who has been pursuing credit budget reform in the last two Congresses, I am gratified by the continuing efforts of the administration and many in Congress to craft a sensible approach to credit in the Federal budget process.

As I have said many times before, I believe credit reform is a vital part of any effort to reduce the budget deficit. Total Federal credit outstanding now exceeds $1.2 trillion and affects nearly every sector of the U.S. economy. We manage those programs based on accounting rules that provide only the vaguest notion of what the programs cost. In search of budget savings over the last few years, we have substituted loans for direct spending programs and guarantees for direct loans. We have reconfigured the Federal Government without ever knowing if the savings were real.

Such misrepresentation and misdirection of credit in the budget cannot be allowed to continue. The process demands a more uniform basis for measuring the cost of credit that permits accurate tradeoffs among credit programs and between credit and direct spending programs. By hiding costs and subverting the budget process, the present system serves both our constituents and the welfare of the American people poorly.

The major change made by the administration in its revised credit plan is dropping the requirement for massive asset sales and reinsurance. The forced asset sales component of the plan had produced skepticism that the entire effort was simply a budget gimmick rather than real reform. This change brings the revised plan very much into line with my original 1986 proposal and removes one of the major points of disagreement with the credit reform plan that passed the Senate last year.

The administration and the Senate are now squarely on record in favor of subsidy-based budgeting for credit programs—no gimmicks, just honest accounting. The administration's revised proposal is a solid workable plan that I support. Whether the ultimate outcome is my bill, this proposal, the Senate-passed version, or any other, I urge my colleagues to consider the merits of credit reform and support this vitally needed improvement in the budget process.

I ask unanimous consent that the text of the bill and section-by-section analysis be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Credit Reform Act of 1988".

SEC. 2. PURPOSES.

The purposes of this Act are to:

(a) measure accurately the benefits of Federal credit programs;

(b) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

(c) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries;

(d) improve the allocation of resources among credit programs and between credit and other Federal spending;

(e) establish in the Department of the Treasury two Federal credit revolving funds;

(f) modify the legislative and executive budgetary processes to carry out these purposes.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(a) "Federal agency" means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress that is owned in whole or in part by the United States. The term does not include the Board of Governors of the Federal Reserve System or any "government-sponsored enterprise".

(b) "Direct loan" means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. This term includes the purchase of, or participation in, a loan made by another lender as well as disbursements on behalf of a Federal agency by the Direct Loan Fund as required under section 12(c) of this Act. This term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims. For the purpose of carrying out the provisions of this Act, direct loans may be grouped and treated as a single loan as agreed to by the Secretary and the head of the affected agency.

(c) "Direct loan obligation" means a binding agreement entered into by a Federal agency for the Government under which a Federal agency agrees to make a direct loan once specified conditions are fulfilled by the borrower.

(d) "Loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender in the event the borrower defaults. This term also shall include any agreement or contract made by an agency, the primary purpose or result of which, as determined by the Secretary, is to make private credit availabile, or available on more favorable terms than in the absence of the agreement or contract, to a non-Federal entity by indirectly or directly assuming the risk involved. This term does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions. For the purposes of carrying out the provisions of this Act, loan guarantees may be grouped and treated as a single loan as agreed to by the Secretary and the head of the affected agency.

(e) "Loan guarantee commitment" means a binding agreement entered into by a Federal agency for the Government under which a Federal agency agrees to guarantee a loan once specified conditions are fulfilled by the borrower, the lender, and any other parties to the guarantee agreement.

(f) "Subsidy" means the measure of financial assistance provided to the borrower of Federal credit as determined by estimating the net present value, based on a comparable market discount rate, of the difference in cost to the borrower between the direct loan or guaranteed loan and alternative private financing potentially available to the same or a similar borrower for the same or a similar purpose. For loan guarantees with an interest payment by the Government, the subsidy calculation shall include the present value, based on a comparable market discount rate, of the difference between the interest paid by the borrower and the interest that would be charged by a private lender for such loan. To the extent that fees are charged to beneficiaries, such fees will be taken into account in estimating the subsidies. An increase in the subsidy associated with a direct or guaranteed loan that results from any modification of the terms of such direct or guaranteed loan terms shall be subject to the requirements of this Act in the same manner as the original estimate of the subsidy.

Estimates made by the Secretary or by agencies under rules prescribed by the Secretary shall constitute the appropriate computation of the subsidy.

In the event that newly made direct loans are sold without recourse, the difference between the face amount of the loans and the gross proceeds from their sale shall be taken into consideration in estimating the subsidy. Similarly, in the event that any newly made guaranteed loans are reinsured, these estimates of the subsidy may take into consideration the cost of reinsurance, net of fees and premiums.

(g) "Direct Loan Fund" means the Federal Credit Direct Loan Fund, as established by section 6(a) of this Act.

(h) "Guaranteed Loan Fund" means the Federal Credit Guaranteed Loan Fund, as established by section 6(c) of this Act.

(i) "Secretary" means the Secretary of the Treasury.

SEC. 4. DIRECT LOAN PROGRAMS.

(a) Beginning October 1, 1988, an obligation by any Federal agency to make a direct loan to non-Federal borrowers shall be an obligation of the Direct Loan Fund and shall be executed in accordance with the same terms and conditions as would otherwise apply to the obligations of that agency but for the provisions of this act.

(b) For each fiscal year beginning with FY 1989, the Federal agency shall include in its budget proposal (1) the planned level of new direct loan obligations, and (2) the estimated amount of the subsidy associated with the proposed level of direct loan obligations.

(c) Beginning October 1, 1988, a Federal Agency shall not obligate the Direct Loan Fund to make a direct loan obligation unless funds have been appropriated or are available on a permanent indefinite basis to the Federal agency for the subsidy or a limitation has been enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the subsidy.

(d) At the time a direct loan obligation is incurred, the Federal agency shall obtain an estimate of the subsidy of the loan from the Secretary or, at the discretion of the Secretary, shall make such an estimate based upon guidelines established by the Secretary. For purposes of section 1501 of Title 31, United States Code, (1) the amount of such estimate shall constitute a direct obligation of the Federal agency and a reimbursable obligation of the Direct Loan Fund; and (2) the difference between such estimate and the face value of the loan shall constitute a direct obligation of the Direct Loan Fund.

(e) The subsidy associated with the direct loan as determined in subsection (d) shall be paid by the Federal agency to the Direct Loan Fund as the loan is disbursed by such Fund, unless the Secretary determines otherwise.

(f) Nothing in this Act shall be construed as amending the authority of a Federal agency to administer, or to determine the terms and conditions of, the eligibility for, or the amount of assistance provided by direct loans made by the Federal Government.

SEC. 5. LOAN GUARANTEE PROGRAMS.

(a) Beginning October 1, 1988, a commitment by any Federal Agency to guarantee a loan shall be a commitment of the Guaranteed Loan Fund and shall be executed in accordance with the same terms and conditions as would otherwise apply to the commitments of that agency but for the provisions of this act.

(b) For each fiscal year beginning with FY 1989, a Federal agency authorized to make loan guarantee commitments shall include in its budget proposal (1) the level of new loan guarantee commitments and (2) the estimated amount of the subsidy associated with the proposed level of loan guarantee commitments.

(c) Beginning October 1, 1988, a Federal agency shall not commit the Guaranteed Loan Fund to guarantee a loan unless funds have been appropriated, or are available on a permanent indefinite basis, to the Federal agency for the subsidy or a limitation has been enacted in an annual appropriations Act on the use of funds otherwise to the Federal agency for the subsidy.

(d) At the time a loan guarantee commitment is made, the Federal agency shall obtain an estimate of the subsidy of the loan guarantee from the Secretary or, at the discretion of the Secretary, shall make an estimate of the subsidy based upon guidelines provided by the Secretary. The amount of such estimate shall constitute an obligation of the Federal agency for the purposes of section 1501 of Title 31, United States Code.

(e) The subsidy associated with the loan guarantee determined in subsection (d) shall be paid by the Federal agency to the guranteed Loan Fund at the time the underlying loan agreement is executed, unless the Secretary determines otherwise.

(f) Nothing in this Act shall be construed as amending the authority of a Federal agency to administer, or to determine the terms and conditions of, the eligibility for, or the amount of assistance provided by loan guarantees made by the Federal Government.

SEC. 6. ESTABLISHMENT OF FEDERAL CREDIT REVOLVING FUNDS WITHIN THE DEPARTMENT OF THE TREASURY.

(a) There is hereby established within the Department of the Treasury a Federal Credit Direct Loan Fund.

(b) Beginning on October 1, 1988, the Direct Loan Fund will serve as a central revolving fund and financing mechanism for all new Federal direct loans in accordance with the terms and conditions of this Act. Amounts received pursuant to subsection 7(a)(4) of this Act shall be credited to the Fund and shall be available for the purposes of subsections 7(a)(5), 7(c)(4), and 7(c)(5) of this Act.

(c) There is hereby established within the Department of the Treasury a Federal Credit Guaranteed Loan Fund.

(d) Beginning on October 1, 1988, the Guaranteed Loan Fund will serve as a central revolving fund and financing mechanism for all new Federal loan guarantees in accordance with the terms and conditions of this Act. Amounts received pursuant to subsection 7(b)(3) of this Act shall be credited to the Fund and shall be available for the purposes of the subsections 7(b)(4), 7(b)(5), 7(c)(3), and 7(c)(4) of this Act.

SEC. 7. AUTHORITY OF THE SECRETARY TO MANAGE THE FUNDS.

(a) With regard to direct loans obligated on or after October 1, 1988, the Secretary shall:

(1) estimate the subsidy, or require estimates to be made by the Federal agencies, for each new direct loan or for groups of similar new direct loans taking into account the risk and other costs of the program;

(2) furnish the appropriate Federal agency with the subsidy estimates or with instructions for making subsidy estimates in a timely fashion;

(3) if he deems necessary for the purpose of validating the subsidy estimate, and after consultation with the agency, direct the Federal agencies to sell newly made loans without recourse;

(4) receive into the Direct Loan Fund the following collections:

(A) direct loan subsidy payments from the Federal agencies;

(B) payments of principal, interest, fees, and other monies received by the Federal Government for direct loans obligated on or after October 1, 1988;

(C) proceeds from the sale of direct loans obligated on or after October 1, 1988, and the proceeds of the sale of any collateral received as the result of defaults of such loans; and

(5) disburse direct loans to the borrowers.

(b) With regard to guaranteed loan commitments made on or after October 1, 1988, the Secretary shall:

(1) estimate the subsidy, or require estimates to be made by the Federal agencies, for each loan guarantee or for groups of similar loan guarantees, taking into account the risk and other costs of the program;

(2) furnish the appropriate Federal agency with the subsidy estimates or with instructions for making subsidy estimates in a timely fashion;

(3) receive into the Guaranteed Loan Fund the following collections:

(A) loan guarantee subsidy payments from the Federal agencies;

(B) fees and other monies due the Federal Government for loan guarantees for which commitments were made on or after October 1, 1988;

(C) proceeds from the sale of any collateral received as the result of defaults on such loan guarantees and repayments of principal and interest on loans acquired as a result of defaults;

(4) in accordance with agency loan agreements, make claim payments for those guaranteed loans in default;

(5) maintain reserves to cover loan guarantee defaults for these loan guarantees;

(6) credit interest to cover loan guarantee defaults for these loan guarantees;

(6) credit interest to the Fund periodically on the average amount of the undisbursed cash balances of the Fund during the preceding month at a rate determined by the Secretary, taking into consideration the average time such funds are anticipated to be held in reserve and the current average market yields on outstanding marketable obligations of the United States of comparable maturities;

(c) The Secretary shall, with regard to each Fund:

(1) ensure full accountability for the credit activity of each Federal agency by identifying separately the credit activity of each credit program of such agency on the Fund's books;

(2) ensure that the funds associated with each credit program are not comingled and, subject to subsection 7(c)(6), are available for the purposes of operating that program;

(3) require timely uniform reporting from Federal agencies on loan performance, borrower characteristics, and such other information as the Secretary may require to make subsidy estimates;

(4) monitor due diligence debt collection efforts, assess Federal agency performance, and otherwise study and undertake improvements in Federal agency credit management;

(5) borrow, as necessary to finance the transactions of the Fund as authorized under subsection 10(a), and repay such borrowing with interest, using collections credited to the Fund or funds appropriated pursuant to subsection 10(b);

(6) transfer from time to time to the general fund of the Treasury such balances of funds associated with each credit program as the Secretary determines are in excess of the needs of that program.

(d) The Secretary is authorized to appoint such officers, attorneys, employees, agents, consultants, and financial advisors as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof, to carry out the functions of the Federal credit revolving funds.

(e) The Secretary is authorized to issue such regulations as he deems appropriate to carry out his functions under this Act.

SEC. 8. AGENCY RESPONSIBILITIES.

The head of each Federal agency authorized to make or guarantee loans covered by this Act shall:

(a) provide the Secretary in a timely fashion with information about the Federal agency's direct loan or loan guarantee programs sufficient to enable the Secretary to calculate the estimated subsidy, or shall, as required by the Secretary, estimate the subsidy in accordance with the Secretary's guidance;

(b) request annual appropriations, or limitations on funds otherwise available, for the amount of the subsidies attributable to that Federal agency's direct loan or loan guarantee program in each fiscal year;

(c) carry out the Federal agency's direct loan or loan guarantee programs within the lower of (1) applicable appropriations Act limitations on direct loan obligations or loan guarantee commitments, or (2) annual appropriations or funds otherwise available to cover subsidy costs for the program;

(d) take such action as may be necessary to ensure that loan contracts executed by such agency make explicit the procedural and substantive rights of borrowers and require any purchaser of such loan to afford the borrower those procedural and substantive rights.

(e) except as provided in subsection (f), collect and credit to the Direct Loan Fund all sums received with respect to any direct loan that is an obligation of that Fund and collect and credit to the Guaranteed Loan Fund all sums received with respect to any guaranteed loan that is a commitment of that Fund;

(f) to the extent authorized prior to the enactment of this Act and subject to such limitations as provided in annual appropriations Acts, retain and use sums collected, for the purpose of paying the salaries and expenses of the agency in administering direct loan or loan guarantee programs.

SEC. 9. BUDGETARY TREATMENT.

(a) For the purposes of Chapter 11, Title 31, United States Code, as amended, concerning the executive budget process, and of Titles III and IV of the Congressional Budget Act of 1974, as amended, in the case of any (1) direct loan obligation, or (2) loan guarantee commitment, made by a Federal agency beginning October 1, 1988, the subsidy shall be treated as an obligation of such agency.

(b) For the purposes of Chapter 11, Title 31, United States Code, as amended, concerning the executive budget process, and of Titles III and IV of the Congressional Budget Act of 1974, as amended, obligations for Federal direct loans or for honoring loan guarantees shall be treated as obligations of the Direct Loan Fund or the Guaranteed Loan Fund, as appropriate.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) The Secretary is authorized, at his discretion, to use the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act: (1) to finance direct loans from the Direct Loan Fund to the extent not covered by the monies received under section 7(a)(4) of this Act; and (2) to pay claims, resulting from federally guaranteed loans, in excess of the reserves of the Guaranteed Loan Fund. Interest shall be paid from the borrowing Fund to the Treasury on any borrowing to meet such purposes at rates determined under section 7(b)(6) of this Act.

(b) In the event that either Fund sustains losses on its operations, there are authorized to be appropriated to such Fund such sums as may be necessary for the purposes of liquidating debt.

(c) There are authorized to be appropriated to each Federal agency otherwise authorized to make obligations for direct loans, such sums as may be necessary for the subsidies associated with proposed direct loan obligations, including current indefinite budget authority for the subsidies associated with entitlements.

(d) There are authorized to be appropriated to each Federal agency otherwise authorized to make guaranteed loan commitments, such sums as may be necessary for the subsidies associated with proposed loan guarantee commitments, including current indefinite budget authority for the subsidies associated with entitlements.

(e) There are authorized to be appropriated to the Secretary such sums as may be necessary for the salaries and expenses incurred to carry out his responsibilities under the Act.

SEC. 11. TREATMENT OF DEPOSIT INSURANCE AGENCIES.

(A) Notwithstanding any other provision of this Act, the credit activities directly related to the insurance operations of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, and the Securities and Exchange Commission shall be treated as follows:

(1) Obligations to make direct loans to the public or to assume loan assets shall remain obligations of the agencies.

(2) Commitments to guarantee a loan shall remain commitments of the agencies.

(3) For each fiscal year beginning with FY 1989, such agency shall include in its budget proposal the estimated subsidy cost associated with proposed direct loan obligations, including acquisitions of loan assets.

(4) For each fiscal year beginning with FY 1989, such agency shall include in its budget proposal the estimated subsidy cost associated with proposed loan guarantee commitments. The estimated subsidy costs associated with proposed loan guarantee commitments shall constitute an obligation of the agency.

(5) No appropriations or limitations on the use of funds otherwise available shall be required for subsidies.

(b) Nothing in this section shall be construed as amending the authority of such agencies to determine the terms and conditions of, eligibility for, or the amount of assistance provided by these agencies.

SEC. 12. EFFECT ON OTHER LAWS AND CONFORMING AMENDMENTS.

(a) Nothing in this Act shall be construed as limiting the authority of any Federal agency to enter into agreements to make or to guarantee loans under statutes that existed prior to the enactment of this Act or that may be enacted subsequently, or to administer such direct loans or loan guarantees: Provided, That all such agreements shall be contingent upon meeting the requirements of this Act.

(b) This Act shall supersede, modify, or repeal any provision of law heretofore enacted to the extent such provision is inconsistent with this Act.

(c)(1) A Federal agency other than the Department of the Treasury may not issue, sell, or guarantee an obligation of a type that is ordinarily financed in investment securities markets, as determined by the Secretary, unless the terms of the obligation provide that it may not be held by any person or entity other than the Secretary. The Secretary may waive this requirement with respect to the obligations that the Secretary determines are (1) not suitable investments because of the risks entailed in such obligations, (2) financed in a manner that is least disruptive of private financial markets and institutions, or (3) financed in a manner that is least disruptive of Government securities markets. To the extent that the head of a Federal agency other than the Department of the Treasury is authorized by any law other than this Act to issue, sell, or guarantee such obligations, the head of such agency is authorized to issue, sell, or guarantee such obligations to the Secretary. Any purchases by the Secretary under this subsection shall be upon such terms and conditions as to yield a rate of return which shall not be less than a rate determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(c)(2) Any obligation guaranteed by a Federal agency and financed by the Secretary pursuant to this section shall be deemed to be a direct loan of the Direct Loan Fund, not withstanding any other provision of law, and shall be subject to section 4 of this Act.

(d)(1) Notwithstanding any other provision of this Act, the purchase by the Secretary under subsection (c) of this section of the obligations of any local public body or agency within the United States shall be made upon such terms and conditions as may be necessary to avoid an increase in borrowing costs to such local public body or agency as a result of the purchase of the Secretary of its obligations. The head of the Federal agency guaranteeing such obligations, in consultation with the Secretary, shall estimate the borrowing costs that would be incurred by the local public body or agency if its obligations were not sold to the Secretary.

(d)(2) The Federal agency guaranteeing obligations purchased by the Secretary under subsection (c) of this section may contact to make periodic payments to the Secretary that shall be sufficient to offset the costs to the Secretary of purchasing obligations of local public bodies or agencies upon terms and conditions as prescribed in this section. Such contracts may be made in advance of appropriations therefor, and appropriations for making payments under such contracts are hereby authorized.

(e) Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1988 shall be credited to the same accounts to which collections would have been credited prior to this Act. Amounts so credited shall be available, to the same extent that they were available prior to the enactment of this Act, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1988, including repayment of any obligations held by the Secretary or the Federal Financing Bank. From time to time, the unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury.

(f) Section 3(a)(2) of the Congressional Budget and Impoundment Control Act of 1974, as amended, is amended by adding thereto the following: "Such term includes the subsidy for direct loan and loan guarantee programs, as those terms are defined by the Credit Reform Act of 1988."

SEC. 13. EFFECTIVE DATE.

This Act shall take effect upon enactment.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The popular title of this Act is the "Federal Credit Reform Act of 1988."

SECTION 2. PURPOSES

This section lists the purposes of the Federal Credit Reform Act of 1988.

(a) The Act will result in an accurate measurement of the major benefit of Federal credit programs, which is the provision of a subsidy to borrowers. In the absence of a Federal loan program, borrowers would either face less favorable loan terms, or would not be able to obtain a loan at all. Some portion of virtually all Federal loans is actually a subsidy. To the borrower, the credit subsidy he receives is equivalent to a cash grant. For example, suppose a $10,000 loan contains an implicit subsidy of $2,000, which means the savings to the borrower from taking out a Federal loan instead of a private loan is $2,000. If instead of a Federal loan the borrower were to receive a grant of $2,000, the borrower could increase the down payment on a private loan so that the principal and interest costs to him were equal to the Federal loan. The borrower would see the $10,000 loan and a $2,000 grant as being equivalent, and would be indifferent between receiving the loan and the grant.

The Act would require the subsidy to borrowers to be estimated by comparing the terms and conditions on a direct or guaranteed loan with comparable private terms and conditions and discounting the difference between the two cash flows by the internal rate of return on a comparable of the private loan. It has been suggested that, instead, the cash flow of the direct or guaranteed loan be compared to a comparable Government loan with interest at the current cost of Treasury borrowing for comparable maturities and the difference between these two cash flows be discounted at the Treasury rate. This Treasury rate approach, however, would understate the cost of the loans to the taxpayers. Under this approach, an allowance for expected defaults, but not for the uncertainty of the default forecast, is included. If defaults turn out to be greater than forecast, taxpayers bear this cost and meanwhile they bear the risk that it will occur.

Moreover, the Treasury rate is always lower than private borrowers would pay due to the Government's sovereign power to tax, which provides safety to Treasury securities, and to the great liquidity of the enormous market for these securities. If the Treasury borrowing rate were used to estimate the subsidy instead of the comparable private rate, distortions would be created. The resulting subsidy would be smaller than the subsidy produced using a comparable private rate, which is the equivalent of a grant to the borrower. Thus, the budget would continue to favor credit programs over direct spending programs. It would not give policy makers and the public the information they need to compare fairly those two kinds of programs and to determine which form of assistance is more cost effective. Furthermore, using the Treasury rate would not take full account of the loan's riskiness, which would skew the allocation of resources toward the most risky loans among borrowers, among credit programs, and between credit and other spending.

Measuring the subsidy in the way that is proposed is particularly important in the case of programs that the Administration and Congress agree are candidates for gradual privatization. In such cases, the subsidy would be reduced (through laws enacted apart from credit reform) in steps, until there is no difference in the terms and conditions of credit obtained through a Federal agency and those that can be obtained through private financing, at which point there would be no reason for the program to continue as a Federal program. Estimating the difference in benefits to the borrower by comparing the terms and conditions on a direct or guaranteed loan and comparable private terms best measures the progress toward privatization.

(b) The Act will also put the cost of credit programs on a budgetary basis equivalent to other Federal spending. Under current practices in the credit budget, the gross amount of direct loan obligations and guaranteed loan commitments is recorded, rather than the subsidy portion of the loans. This means that, in the example described in the explanation of part (a), a $10,000 loan with a $2,000 subsidy and a $2,000 cash grant would not currently be recorded equivalently in the budget. Under the Act, the agency granting the loan would request an appropriation for the subsidy value associated with the loan, and that subsidy would be counted as an outlay of the agency. Thus, spending for credit programs could be compared to direct spending programs; the subsidy of $2,000 for a $10,000 loan and a $2,000 cash grant would be treated equivalently in the budget.

(c) The Act would encourage the delivery of benefits in the form most appropriate to the needs of the beneficiaries. The current differences in accounting procedures for credit and non-credit programs often distort the agencies' choices as to whether credit or direct spending is the best form of assistance to the public. Direct spending programs require appropriations and result in outlays of the agency. On the other hand, loan guarantees do not require appropriations or result in outlays except in the case of default. Direct loans are generally financed by repayments of previous loans, interest, and other collections credited to revolving funds; thus, only net appropriations and outlays are recorded for the program. By treating loan and direct spending programs the same way in the budget, the choice between credit and direct spending programs would be based on programmatic reasons, not differences in scorekeeping.

(d) The Act would improve the allocation of resources between credit programs and other spending. Because there would no longer be any reason to favor direct loans, loan guarantees, or direct spending programs due to differences in scorekeeping, Federal resources would flow to the public in an economically more efficient manner, rather than to the program that it is more advantageous to use from an accounting standpoint.

(e) To finance the unsubsidized portion of Federal credit programs, two Federal credit revolving funds (the Funds)—one for direct loans and one for guaranteed loans—would be established in the Department of the Treasury. The functions of the Funds are described in sections 6 and 7.

(f) The Credit Reform Act would modify existing law and current Congressional and executive budgetary processes to enable the goals of the Act to be accomplished.

SECTION 3. DEFINITIONS

This section defines, clarifies and explains terms relevant to the Federal Credit Reform Act of 1988. Some of these terms are new or have been modified from previously published definitions as necessitated by the requirements of the Act. The terms are:

(a) FEDERAL AGENCY.—This term includes executive departments, independent Federal establishments, and corporations or other entities established by the Congress that are owned in whole or in part by the United States.

This term does not include the Board of Governors of the Federal Reserve System or government-sponsored enterprises (GSE's). The Federal Reserve Board has never been treated as a Federal agency for budget purposes, and therefore should not be included for purposes of credit reform. The GSE's are non-Federal agencies; since it is not the intent of credit reform to change the nature or operation of existing programs, the GSE's should not be included in this definition. GSE's are identified in the Appendix of the "Budget of the United States Government."

(b) DIRECT LOAN.—A direct loan is a disbursement of funds by a Federal agency to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. This term includes the purchase of, or participation in, a loan made by another lender, as well as disbursements on behalf of a Federal agency by the Secretary of the Treasury as described in section 12(c) of the Act.

The acquisition of a federally guaranteed loan in satisfaction of default claims is deliberately excluded. Previously, the Administration's definition of direct loans included agency obligations and disbursements for defaulted guaranteed loans when the default resulted in acquiring the loan paper. For the purposes of credit reform, such acquisitions will not be treated as new direct loans, because they do not provide a new subsidy to the public (see definition below) beyond the subsidy calculated for the original guarantee.

The definition of direct loans excludes the following Federal programs:

VA, National service life insurance;

VA, U.S. government life insurance;

VA, special life insurance;

VA, reopened insurance;

VA, service disabled veterans insurance;

VA, insurance and indemnities.

Individuals who participate in VA life insurance policies are permitted to borrow against their equity. The loans are financed with the participants' own premiums or investments and, in the case of the VA life insurance policies, there is no requirement for them to be repaid.

The definition of direct loans also excludes the following programs:

Low rent public housing;

Price support loans of the Commodity Credit corporation;

Federal-aid highways right-of-way revolving fund;

Loans made by AID or P.L. 480 that are converted to grants;

National direct student loans;

Foreign military sales forgiven loans;

TVA loans to Seven States Energy Corporation.

Most of these programs are excluded because their activities do not include a contractual obligation for the recipient to repay the funds. Instead, they operate as grant programs and their economic costs are recognized up-front as the assistance is provided. In the case of TVA, the activity is used to finance TVA's operations rather than provide a subsidy to the public. Since the programs do not provide a hidden subsidy to the public, they should be excluded from credit reform.

The definition of direct loans provides that the terms may be interpreted to include the pooling or grouping of individual direct loans into larger packages and treating them as a single loan in order to facilitate estimation of subsidies and accounting for transactions between agencies and the Fund. For example, ten $10,000 small business disaster loans obligated in the same period could be grouped into a $100,000 loan pool.

The definition of direct loans applies to any new direct loan obligated on or after October 1, 1988, by any Federal agency through an existing program or a new program. Loans obligated prior to that date will be liquidated under existing authorities.

(c) Direct Loan Obligation.—A direct loan obligation is a binding agreement by a Federal agency to make a direct loan once specified conditions are fulfilled by the borrower.

(d) Loan Guarantee.—A loan guarantee is any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any obligation. The Secretary may extend the coverage of this term to include financial agreements and contracts—such as, agreements to pay all or part of the principal or interest on the debt obligation of a non-Federal entity (debt service payments), lease-purchase agreements, and project financing and repayment arrangements—if the Secretary determines that the primary purpose of such agreements or contracts is to make private credit available, or available on more favorable terms than in the absence of the agreement or contract, to a non-Federal entity. This provision is included because the economic effect of such arrangements is the equivalent of a loan guarantee, and, thus the borrower receives a subsidy in the form of a lower interest rate or other favorable terms and conditions. The definition deliberately excludes the insurance of deposits, shares, or other withdrawable accounts in financial institutions—for example, bank accounts that are insured by the Federal Deposit Insurance Corporation. The Administration definition of a loan guarantee has not explicitly recognized excluded items in the past.

The term "loan guarantee" includes the pooling of individual loan guarantees into a larger package and treating them as a single loan guarantee in order to facilitate estimation of subsidies and accounting.

(e) Loan Guarantee Commitment.—A loan guarantee commitment is a binding agreement by a Federal agency to guarantee a loan once specified conditions are fulfilled by the borrower and the lender.

(f) Subsidy.—The subsidy is the measure of financial assistance provided to the borrower of Federal credit as determined by estimating the net present value, based on a comparable market discount rate, of the difference in cost to the borrower between the direct loan or guaranteed loan and alternative private financing potentially available to the same or similar borrower for the same or similar purpose. For loan guarantees with an interest payment by the Government, the subsidy calculation would include the present value, based on a comparable market discount rate, of the difference between the interest paid by the borrower and the interest that would be charged by a private lender for such loan. To the extent that fees are charged to beneficiaries, such fees will be taken into account in estimating the required appropriations for subsidies.

The Secretary of the Treasury, working with the individual agencies, will determine subsidy values, using comparable private loans, benchmark sales, and other techniques. Alternatively, the Secretary may require the agencies to determine subsidy values following his instructions.

(g) Direct Loan Fund.—the Federal Credit Loan Fund, as established by section 6(a) of the Act.

(h) Guaranteed Loan Fund.—the Federal Credit Guaranteed Loan Fund, as established by section 6(c) of the Act.

(i) Secretary.—the Secretary of the Treasury or his designated representative.

SECTION 4. DIRECT LOAN PROGRAMS

Section 4 establishes the procedures for the budgetary treatment and financing of Federal direct loan programs including: requirements of material to be included in the budget; provision for appropriation of subsidies; and procedures for estimation of subsidies and payment of subsidies to the Direct Loan Fund. Section 4 further states that nothing in the Act is intended to change the legal authority of Federal agencies to select borrowers of Federal direct loans or establish terms of such loans.

(a) Subsection (a) provides that beginning in FY 1988 all direct loans of the Federal government will be direct loans of the Direct Loan Fund. Federal agencies will, through their subsidy accounts, obligate the subsidy portion of the loan, which will be payable to the Direct Loan Fund. The agencies, acting as agents for the Direct Loan Fund, will simultaneously enter into obligations of the Direct Loan Fund to disburse the subsidized and nonsubsidized portions of the loan. Payments of principal and interest by the borrower will be made to the Fund through the agencies as agents of the Fund. All direct loan transactions will be executed and implemented in accordance with the same terms and conditions as would have applied in the absence of this Act.

(b) The budget proposals for all direct loan programs will, beginning in FY 1989, contain both a program level measure—total direct loan obligations—and an estimate of the subsidies to be provided.

The President's Fiscal Year 1989 Budget reflects the effects of the proposed Act. The Act requires both a program level limitation and a subsidy appropriation to provide for continued use of the credit budget controls and to add the grant-equivalent subsidy measure. The subsidy estimates in the President's Budget are consistent with the program levels requested. Should the subsidy estimate change before a direct loan obligation is made due to changes in the economy such as increased interest rates, the more restrictive measure—subsidy appropriation or program level—would limit the direct loan obligations. Once a direct loan obligation is made, there would be no retroactive adjustment of the subsidy obligation for that loan.

(c) Beginning in FY 1989, all Federal agencies are prohibited from obligating direct loans unless appropriations have been made to a Federal agency for the subsidies. Both existing revolving funds and general fund appropriation accounts will be prohibited from using funds otherwise available to obligate new direct loans unless an appropriation has been made explicitly providing funds for subsidies. For most discretionary programs, the Administration will request current definite appropriations of monies from the general fund for subsidies. For agencies with budgetary resources from sources other than loan repayments, limitations will be proposed on the use of such funds for the subsidies for new direct loans. For credit entitlement programs, current indefinite appropriations will be proposed; that is, the language would appropriate "such sums as may be necesary" for the purposes of the subsidy payments for such programs. Those programs that currently do not have loan limits enacted in appropriations acts will not have appropriated subsidy limits, unless the President proposes and the Congress adopts limits as the result of policy changes that are independent of credit reform.

(d) Subsection (d) establishes the accounting mechanism for recognizing the subsidized portion of a loan as an obligation of the Federal agency initiating the loan and the unsubsidized portion as an obligation of the Direct Loan Fund. The language provides that the Federal agency is to obtain an estimate of the subsidy at the time the direct loan obligation is incurred or to make an estimate of the subsidy based upon regulations established by the Secretary of the Treasury.

Under the Act, the Secretary of the Treasury and the Federal agencies will develop procedures for estimating subsidies that are consistent with the nature of the individual programs. For some programs with large numbers of small transactions, the Federal agency may estimate the subsidy based on regulations issued by the Secretary. Loan documentation may be provided to the Secretary on a periodic basis—all the loans obligated over the period of a month, for example. The subsidy estimate may be agreed to in advance given specified loan characteristics. In such an instance the Secretary would only modify the subsidy estimate if economic conditions changed or if the mix of the group of loans differed from the assumed mix. In contrast, the Secretary might review large discrete loans on a loan-by-loan basis to determine the subsidy.

The subsidy estimates will be recorded by the Federal agency as obligations for the purpose of accounting for the use of budgetary resources. These obligations will be treated as obligated balances of the subsidy account until the loan is disbursed. Simultaneously, an obligation for the full amount of the loan will be recorded as an obligation of the Direct Loan Fund, since the entire amount of the loan will be disbursed from the Fund. However, the subsidized portion will be an obligation financed by a reimbursement to be received from the agency and the unsubsidized portion will be an obligation against the Fund's authority to borrow from the Treasury.

(e) The subsidy amounts are to be paid when the loan is disbursed. For most programs, obligation of the loan and its disbursement are almost simultaneous. Some, like the direct loans of the Export-Import Bank are disbursed over a number of years. In some instances the borrowers do not fulfill all conditions of the loan resulting in a deobligation. Tying payment of subsidies to disbursements will ensure that all loan conditions have been fulfilled prior to payment of subsidies.

In other programs, such as loans for housing for the elderly and handicapped under section 202 of the Housing Act of 1959, the disbursement may not place until years after loan funds are reserved for a project. For programs of this kind, agencies frequently treat the loans as obligated for most purposes whenever a funding reservation is made. This practice would not be changed by this Act. In situations where there is a relatively long time period between a reservation of funds for a loan and its disbursement, agencies budget for the probable amendment amounts to be added before closing the loan, and will be expected similarly to budget their subsidy amounts. Thus, in the section 202 program for example, at that time HUD makes a fund reservation for loans, HUD would also reserve a subsidy amount in anticipation of the actual subsidy amount that would be needed to close the loan.

(f) Subsection (f) states that nothing in the Act amends the authority of a Federal agency to determine the terms and conditions of, eligibility for, or the amount of assistance provided by direct loans made by the Federal Government. The grant-equivalent provided by Federal loans is the subsidy. The legal authority that governs the eligibility of borrowers and loan terms is provided in program authorizations. The Act is not intended to change these authorizations in any way.

SECTION 5. LOAN GUARANTEE PROGRAMS

Section 5 establishes the procedures for the budgetary treatment and financing of Federal loan guarantee programs including: requirements for material to be included in the budget; provision for appropriation of subsidies; and procedures for estimation of subsidies and payment of subsidies to the Guaranteed Loan Fund. Section 5 further states that nothing in the Act is intended to change the legal authority of Federal agencies to select beneficiaries of Federal guaranteed loans or establish terms of such guarantees.

(a) Subsection (a) provides that beginning in FY 1989 all loan guarantees by the Federal Government will be guarantees of the Guaranteed Loan Fund. Federal agencies will, through their subsidy accounts, obligate the subsidy inherent in the guarantee. The obligation of the subsidy by the agency will commit the Guaranteed Loan Fund to guarantee the loan. The loan guarantee commitment will be recorded on the books of the Fund. Payments of loan guarantee fees by the borrower will be made to the Fund, less administrative expenses of the Federal agency otherwise authorized by law and subject to limitation in appropriation acts. All loan guarantee transactions will be executed and implemented in accordance with the same terms and conditions as would have applied in the absence of this act.

(b) The budget proposals for all loan guarantee programs will, beginning in FY 1989, contain both a program level measure—total loan guarantee commitments—and an estimate of the subsidies to be provided.

The President's Fiscal Year 1989 Budget reflects the effects of the proposed Act. The Act requires both credit budget controls on the volume of loan guarantee commitments and subsidy appropriations. The subsidy estimates in the President's Budget are consistent with the program levels requested. Should the subsidy estimates change before a loan guarantee commitment is made due to changes in the economy such as increased interest rates, the more restrictive measure—the subsidy appropriation or the progream level—would limit the loan guarantee commitments. Once a loan guarantee commitment is made, there would be no retroactive adjustment of the subsidy obligation for that loan guarantee.

(c) Beginning in FY 1989, all Federal agencies will be prohibited from making loan guarantee commitments unless appropriations have been made to the Federal agency for the subsidies. Both existing revolving funds and general fund appropriation accounts will be prohibited from using funds otherwise available to make loan guarantee commitments unless an appropriation has been made explicitly providing funds for subsidies. For most discretionary programs, the Administration will request current definite appropriations of monies from the general fund for subsidies. For agencies with budgetary resources from sources other than loan guarantee fees, limitations will be proposed on the use of such funds for the subsidies for loan guarantees. For credit entitlement programs, current indefinite appropriations will be proposed; that is, the language would appropriate "such sums as may be necessary" for the purposes of the subsidy payments for such programs. As is the case for direct loans, those programs that currently do not have guaranteed loan limits enacted in appropriations acts will not have appropriated subsidy limits, unless the President proposes and the Congress adopts limits as the result of policy changes that are independent of credit reform. Those programs that do not currently have guaranteed loan limits enacted in appropriation acts are the Veteran's Administration loan guaranty program and the Department of Education guaranteed student loan program.

(d) Subsection (d) establishes the accounting mechanism for recognizing the subsidy associated with loan guarantees as an obligation of the Federal agency initiating the loan guarantee. The language provides that the Federal agency is to obtain an estimate of the subsidy at the time the loan guarantee commitment is made or to make an estimate of the subsidy based upon guidelines established by the Secretary of the Treasury.

Under the Act, the Secretary of the Treasury and the Federal agencies will develop procedures for estimating subsidies that are consistent with the nature of the individual programs. For some programs with large numbers of small transactions the Federal agency may estimate the subsidy based on guidance and under the oversight of the Secretary. Loan documentation may be provided to the Secretary on a periodic basis, all the loans for which commitments are made over the period of a month for example. The subsidy estimate may be agreed to in advance given specified loan characteristics. In such an instance the Secretary would only modify the subsidy estimate if economic conditions changed or if the mix of the group of loans differed from the assumed mix. In contrast, the Secretary might review large discrete loans on a loan by loan basis to determine the subsidy.

The subsidy estimates will be recorded by the Federal agency as obligations for the purposes of accounting for the use of budgetary resources. These obligations will be treated as obligated balances of the subsidy account until the guaranteed loan is disbursed.

(e) The subsidy amounts are to be paid by the agency to the Guaranteed Loan Fund when the guaranteed loan is disbursed by the lender. For most programs, the commitment to guarantee the loan and its disbursement are almost simultaneous. Some loans, like those guaranteed by the Rural Electrification Administration, are disbursed over a number of years. In some instances the borrowers do not fullfill all conditions of the guarantee agreement, resulting in a lapse in the commitment. Tying payment of subsidies to disbursements will ensure that all loan guarantee conditions have been fulfilled prior to payment of subsidies.

(f) Subsection (f) states that nothing in the Act amends the authority of a Federal agency to determine the terms and conditions of, eligibility for, or the amount of, assistance provided by loan guarantees made by the Federal Government. The legal authority that governs the eligibility of borrowers and loan terms is provided in program authorizations. The Act is not intended to change these authorizations in any way.

SECTION 6. ESTABLISHMENT OF THE FEDERAL CREDIT REVOLVING FUNDS WITHIN THE DEPARTMENT OF THE TREASURY

This section provides for the creation of two new revolving funds—the Direct Loan Fund and the Guaranteed Loan Fund—to serve as the central financing mechanism for all new Federal credit beginning October 1, 1988.

The Funds are intended to perform functions now performed by the Federal Financing Bank and by existing agency revolving funds that finance loans, guarantees and default payments. Operationally, the Funds will finance the unsubsidized portion of credit, while the responsible agency will finance the subsidized portion only, generally with appropriated funds.

The Funds will be credited with agency subsidy payments, fees charged and repayments due for new credit extended, proceeds from the sale of direct loans, interest on undisbursed balances, and proceeds from the sale of collateral acquired as a result of defaults. The Funds will also have permanent indefinite authority to finance the unsubsidized portion of Federal credit. Specific functions of the Funds are described in the next section.

SECTION 7. AUTHORITY OF THE SECRETARY TO MANAGE THE FUNDS

This section describes generally the responsibilities of the Secretary or his designated representative to carry out the functions of the Funds beginning on October 1, 1988. The Secretary will work with the heads of the agencies to establish procedures that fit their programs' characteristics. The language in section 7 is drafted to provide enough flexibility to the Secretary to respond to the substantial differences among programs and to manage the central Funds.

Subsection (a) specifies the Secretary's responsibilities and authorities with regard to the Direct Loan Fund. Paragraphs (1) and (2) provide the Secretary with final responsibility for the subsidy estimates of new Federal direct loans. The Secretary would have the discretion either to make subsidy estimates based on information provided by the agencies or to have the agencies make the estimates in accordance with his instructions, whichever is most appropriate and timely for a particular program.

This authority of the Secretary is proposed to ensure the best possible subsidy estimates. The Direct Loan Fund will be staffed by experts in loan value and market pricing. The Fund will also be one step removed from the interest group pressures faced by the agencies. Given the volume of some programs' transactions, such as the Agricultural credit farm operating loan program or the Small Business Administration's disaster loan program, subsidy estimates may be made by the agencies under the guidance and at the discretion of the Secretary of the Treasury.

Paragraph (3) permits the Secretary to direct the agency to sell loans without recourse for benchmarking purposes—to determine the differences between the market price and the face value of the loan. Such benchmark sales would be appropriate if either the Secretary or the agency felt additional data were required to determine the appropriate subsidy, but this does not provide authority for large continuing amounts of loan asset sales.

Under paragraph (4) the Secretary is authorized to credit the Fund with agencies' subsidy payments related to direct loans. The Fund will also receive borrowers' interest payments, fees charged, repayments on loan principal, and the proceeds from any loan asset or collateral sales (agency heads would retain their authority under present law to conduct the sales). If loans are sold pursuant to paragraph (3) or other authority, the proceeds will be credited to the Direct Loan Fund. These sums may be collected by the Federal agencies and credited to the Fund on the Secretary's behalf.

Paragraph (5) authorizes the Secretary to disburse direct loans to the borrowers.

Subsection (b) specifies the Secretary's responsibilities and authorities with regard to the Guaranteed Loan Fund. Paragraphs (1) and (2) provide the Secretary with final responsibility for the subsidy estimates of new Federal loan guarantees. The Secretary will exercise this authority in the same manner as described for direct loans.

Under paragraph (3) the Secretary is authorized to credit the Guaranteed Loan Fund with subsidy payments related to guaranteed loans. The Fund will also receive fees, premiums, proceeds from the sale of any collateral received as the result of defaults and repayments of principal and interest on loans acquired as a result of default.

Paragraph (4) authorizes the Secretary to make claim payments for those guaranteed loans in default.

Paragraph (5) authorizes the Secretary to maintain funding reserves to cover defaults on loan guarantees. The reserve requirement is essential to the future financial status of the Fund.

Under paragraph (6), the Secretary is authorized to credit the Fund with interest on the undisbursed cash balances of the Fund earned at a rate equivalent to the Treasury's cost of borrowing. Since the subsidy payments received by the Fund are determined on a discounted present value basis, the balances must earn interest to ensure fund levels adequate to meet the future cost of defaults.

Subsection (c) specifies the Secretary's responsibilities and authorities that are common to both the Direct Loan Fund and the Guaranteed Loan Fund.

Paragraph (1) requires the Secretary to identify separately each agency's credit activity on the Funds' books. Separate recordkeeping is essential to evaluation of each program's performance and to setting subsidy estimates.

Paragraph (2) prohibits the Secretary from using the funds from one credit fund for the purposes of another.

Paragraph (3) requires the Secretary to routinely collect data and information from the agencies on their credit portfolios and programs.

Paragraph (4) requires the Secretary to study other methods to improve both the credit subsidy estimates and credit program management. Any credit program management improvement efforts undertaken by the Secretary must be consistent with the nature and purpose of individual programs as prescribed under their authorizing statutes.

Paragraph (5) authorizes the Secretary to borrow from the general fund of the Treasury on behalf of the Funds and use the collections of the Funds to repay the borrowing with interest. In the case of the Direct Loan Fund, borrowed funds will be needed to finance the unsubsidized portion of direct loan disbursements. Repayments of principal and interest by borrowers to the Fund will be used to repay the Fund's borrowing from the general fund, and to pay interest to the general fund. The Secretary is authorized to borrow on behalf of the Guaranteed Loan Fund as a contingency measure. The Fund will only need to borrow if reserves of subsidy payments from the Federal agencies and other collections are insufficient to cover default claims. If collections to the Funds are insufficient to repay borrowing, the Secretary is authorized to seek appropriations for that purpose. This situation could occur if subsidy estimates prove to be inaccurate or economic conditions change. Since the purpose of the subsidy payments from the agencies is to measure estimated subsidies at the time that credit levels are being authorized, make-up payments from the agencies for losses would be inappropriate after the point at which direct loans have been obligated or loan guarantees committed.

Paragraph (6) provides the Secretary with the authority to transfer excess balances of the Funds, if any, to the general fund of the Treasury. It is not anticipated that the Funds will accumulate excess balances. In the Direct Loan Fund, it is expected that most or all of the collections in any year would be used to finance new lending, repay borrowing from the general fund, and to pay interest on borrowing from the general fund. In the Guaranteed Loan Fund, it is expected that balances will accumulate and be retained as reserve against claim payments in the future. However, excess balances of collections could accumulate. For example, balances would accumulate if the actual losses on direct or guaranteed loans over a sustained period were not as great as assumed when the subsidies were estimated because of errors in estimating or changes in economic conditions. The presence of excess balances would be likely to give rise to pressures to reduce the subsidy payments by the Federal agencies in excess of correcting future subsidies for past experience. This would be inappropriate because the purpose of the subsidy payments is to measure the best estimate of the cost of the credit programs at the time the decision is made to fund them and such decisions should be made without regard to the financial status of the central Funds. Determination of excess balances must be based on the examination of the needs of the individual credit programs. The transfer of excess balances would be a non-expenditure capital transfer and would have no affect on the deficit.

Section (d) enables the Secretary to appoint or hire the personnel needed to carry out the functions of the Funds.

Section (e) authorizes the Secretary to issue regulations as required to carry out his functions under this Act.

SECTION 8. AGENCY RESPONSIBILITIES

Section 8 assigns certain responsibilities to the head of each Federal agency authorized to make or guarantee loans covered by the Act. Specifically, agency heads are required to provide the Secretary with the information needed to make loan subsidy calculations or to make such calculations, propose annual appropriations for the subsidized portion of their loans, conduct credit programs within the limitations placed on the volume of credit and amounts appropriated for subsidies in annual appropriations acts, safeguard borrower rights, and credit all relevant loan collections to the Funds.

Subsection (a) requires the agency heads to provide loan documentation to the Secretary of the Treasury on a timely basis. The Secretary is charged with estimating the present value of loan subsidies. In order to do this, the Secretary will need timely information from the agencies. Alternatively, the Secretary may require an agency head to calculate the subsidy subject to approval by the Secretary.

Subsection (b) requires agency heads to request annual appropriations sufficient to cover the subsidy portion of their direct loan or loan guarantee programs. The budget requests will be the basis for the President's budget, as required by the Budget and Accounting Act of 1921, as amended. In most cases, the appropriations will be proposed as current definite appropriations, available for one year only. Where appropriate to program requirements, funding of subsidies will not be limited to one year. Permanent indefinite amounts will be requested for entitlement programs that are currently financed with permanent indefinite appropriations, e.g., the Veteran's Administration's loan guaranty program. However, specific estimates of the indefinite amounts expected to be obligated will be included in the budget.

Subsection (c) requires the agency head to operate the program within the lesser of program volume (credit budget) limitation or the appropriation for subsidies. The amount subsidy appropriation should be based on the program level limitation. If in implementing the program during the year, the subsidy payments required are less than expected, the volume of credit could not exceed the limitation; either some of the subsidy appropriation would lapse or the limitation would have to be raised in supplemental legislation. If the subsidy payments required are greater than expected, the volume of credit could not reach the level of the limitation unless a supplemental appropriation were provided. This is another way in which the financing of credit would be made consistent with direct expenditures, grants, and other forms of assistance. That is, budgets are made and appropriations provided based on the best estimate of the program's cost at the time. If the estimate proves to be incorrect and more funding is required, the President and the Congress will decide whether supplemental appropriations should be provided. Programs that currently do not have limits enacted in appropriations acts, such as entitlement programs, need not have them under this Act, and the subsidy appropriations would be for an indefinite amount (i.e., "such sums as may be necessary").

Subsection (d) requires the agency to modify the programs, loan or guarantee contracts to make explicit borrowers' rights and to ensure their protection in the event of sale or reinsurance of the loan agreement. The credit reform initiative will not alter current credit programs or alter the existing authority of agencies to operate credit programs. This provision of the law insures that the procedural and substantive contractual rights of all borrowers will be protected.

Subsection (e) requires the agency heads to pay to the Fund all amounts received with respect to any loan that is obligated or guaranteed by the Funds. This requirement is limited to the extent that the agencies retain fees for administrative purposes. Agencies are required to act as an agent for the Fund in the collection of payments of principal, fees, and interest on direct loans and fees and premiums on guaranteed loans as well as to credit these loan collections to the Fund as they are received.

Subsection (f) authorizes the agency heads to retain fees for administrative costs of the direct or guarantee loan program. This authorization is restricted to those programs currently authorized to use fees for program costs because the Administration does not intend to extend such authority through this Act. Agencies that currently seek appropriations for the administrative expense of credit programs will continue to have to do so. Fees not currently authorized to be retained by the agency are credited to the general fund and, under the Act, they would be credited to the general fund through the Treasury funds.

SECTION 9. BUDGETARY TREATMENT

One of the most important features of the proposed Federal Credit Reform Act of 1988 is the separation of the funding of the subsidized portion of any credit transaction, which will be funded from program agency resources, from the funding of the unsubsidized portion, which will be funded from the Funds. The purpose of this section is to stipulate the budgetary treatment to be followed by the President in this budget submission to the Congress and by the Congress in considering budget resolutions, appropriations, new authorizing legislation, and related matters. These provisions would take effect for direct loans obligated and guaranteed loans committed on or after October 1, 1988.

Section 9(a)(1) specifies that when a Federal agency obligates the Government to make a direct loan, only the subsidy value of the direct loan is to be regarded as an obligation of the agency. The unsubsidized portion of the direct loan will not be considered an obligation of the agency, and the agency will not be credited with any income associated with the loans (except that the agency may retain fees necessary to pay for the administration of direct loans). For any direct loan program, therefore, budget authority and outlays related only to the subsidy value will be recorded for the applicable agency and budget function.

It also specifies that when a Federal agency commits the Government to guarantee a loan, the subsidy value of the loan guarantee is to be regarded as an obligation of the agency. The agency will not require budgetary resources for defaults, and it will not be credited with any fees charged in connection with the guarantee (except that the agency may retain fees necessary to pay for the administration of loan guarantees). For any loan guarantee program, therefore, budget authority and outlays related to the subsidy value will be recorded for the applicable agency and budget function.

Section 9(b) specifies that the Funds will be obligated to finance direct loans and any outlays associated with loan guarantees. Therefore, any budget authority or outlays associated with these obligations will be recorded in the accounts of the Funds. A separate budget function has been created to keep these financing transactions separate from the program functions.

SECTION 10. AUTHORIZATION OF APPROPRIATIONS

Section 10(a) authorizes the Secretary, as manager of the Funds, to borrow from the general fund of the Treasury to (1) finance direct loans to the extent that they cannot be financed by subsidy payments from federal agencies and other collections; and (2) pay claims resulting from defaults on guaranteed loans to the extent that reserves created from subsidy payments from Federal agencies and borrowers' fees and premiums are not sufficient. The amounts borrowed will be repaid from repayments of loans, other collections, and to the extent there are losses, amounts appropriated pursuant to subsection 10(b).

Section 10(b) authorizes appropriations to the Funds for the purpose of repaying their debts to the Treasury. Such appropriations would be necessary only to the extent that losses were substained by the Funds.

Section 10(c) authorizes appropriations to agencies for the purpose of making obligations for the subsidies associated with direct loans.

Section 10(d) authorizes appropriations to agencies for the purpose of making obligations for the subsidies associated with loan guarantees.

Section 10(e) authorizes appropriations to cover the Treasury Department's costs associated with the reform proposal.

SECTION 11. TREATMENT OF DEPOSIT INSURANCE AGENCIES

This section discusses proposed special treatment under credit reform for Federal deposit insurance agencies: the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, and the Securities Exchange Commission.

Subsection (a) provides that under credit reform, these agencies would be required to estimate their subsidies but would not be required to seek a limitation for their subsidies, thereby not limiting the total obligations that they may incur to assist troubled financial institutions or pension plans. Credit activity of these agencies will not be required to be financed through the Funds. They would retain responsibility for estimating subsidies and financing their loans, rather than transfer these responsibilities to the Secretary. This special treatment would apply only to credit related to the insurance operations of these agencies. Credit extended for other purposes would be subject to general requirements of the Act. For example, the special provisions of this section would not apply to community development loans made by the National Credit Union Administration, because such loans are not related to the NCUA's insurance function.

Subsection (b) affirms the Administration's intent is to recognize that these agencies provide a subsidy to the public, but not to limit flexibility of their responses to financial crises.

SECTION 12. EFFECT ON OTHER LAWS

Subsection 12(a) of the bill reaffirms that the existing substantive authority of Federal agencies to make and guarantee loans, as well as any modifications or additional authority enacted subsequent to the bill, and to otherwise administer loan programs, remains intact. The requirements of the bill relate to budgetary treatment, and modify the underlying statutes only for such purpose.

In order to permit the operation of the new budget treatment prescribed by the bill, it is necessary to set aside numerous provisions in exising credit program authorization statutes to the extent they are inconsistent with the bill. For example, most credit programs are financed through revolving funds established by law for that purpose. This bill would shift the financing of all but the subsidy portion of credit programs to the Funds. Substantive authorities would not be set aside by this bill and are explicitly preserved by various other sections of the bill which state that agencies would otherwise continue to administer their programs on the same basis they do now.

Subsection 12(c)(1) provides that Federal agencies that are authorized to issue, sell, or guarantee securities that are market type obligations would issue, sell, or guarantee such obligations only to the Secretary. Even though a number of agencies are authorized to borrow from the public, few do. Instead, most borrowing by Federal agencies is from the Federal Financing Bank or directly from the Treasury under existing law, because it is less expensive than issuing their own securities and borrowing directly from financial markets. Other agencies are authorized to borrow only from the Treasury. This law would simplify the existing situation by providing a single source of borrowing—the Treasury. However, the Secretary could waive this requirement if specific circumstances warranted, for example, where borrowing is inherent in the operation of a program.

Subsection 12(c)(2) specifies that a direct loan disbursed by the Federal Government pursuant to the authority of an agency to guarantee loans will be subject to the same treatment as direct loans made pursuant to explicit authority for the agency to make direct loans.

Subsection 12(d)(1) provides that purchases by the Secretary under subsection 12(c) of obligations issued by State or local public bodies and guaranteed by a Federal agency shall be upon such terms as may be necessary to avoid an increase in borrowing costs of the State or local body.

Subsection 12(d)(2) would authorize Federal grantee agencies to make payments to the Secretary on behalf of State or local public bodies to avoid increasing borrowing costs to such bodies as a result of purchases by the Secretary under subsection 12(c). Appropriations for such payments would be authorized.

Subsection 12(e) clarifies that repayments and other fees received from direct loan guarantees made before October 1, 1988 are not affected by this bill and are to be treated as they would be prior to enactment of this bill.

SECTION 13. EFFECTIVE DATE

The provisions of the Act would be in effect immediately upon enactment. This would permit the Secretary and the agencies to take such preparatory actions as are necessary to begin operations under the new procedures on October 1, 1988.●

ADDITIONAL COSPONSORS

S. 182

At the request of Mr. Riegle, the name of the Senator from Wisconsin [Mr. Proxmire] was added as a cosponsor of S. 182, a bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections.

S. 232

At the request of Mr. Wilson, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of S. 232, a bill to permit placement of a privately funded statue of Haym Salomon in the Capitol Building or on the Capitol Grounds and to erect a privately funded monument to Haym Salomon on Federal land in the District of Columbia.

S. 1522

At the request of Mr. Riegle, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1738

At the request of Mr. Wilson, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1810

At the request of Mr. Pell, the name of the Senator from Georgia [Mr. Nunn] was added as a cosponsor of S. 1810, a bill to extend until October 1, 1988, the existing suspension of duty on p-Hydroxybenzoic acid.

S. 1961

At the request of Mr. Biden, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 1961, a bill to amend title 28, United States Code, to provide Federal debt collection procedures.

S. 2199

At the request of Mr. Chafee, the names of the Senator from Illinois [Mr. Simon], the Senator from Vermont [Mr. Stafford], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2305

At the request of Mr. Mitchell, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of S. 2305, a bill to amend title XVIII of the Social Security Act to provide for long-term care benefits, and for other purposes.

S. 2367

At the request of Mr. Lautenberg, the name of the Senator from Pennsylvania [Mr. Heinz] was added as a cosponsor of S. 2367, a bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2445

At the request of Mr. Heinz, the names of the Senator from Delaware [Mr. Roth], and the Senator from Indiana [Mr. Lugar] were added as cosponsors of S. 2445, a bill to amend the National Trails System Act to designate the Kosciuszko Trail as a study trail.

S. 2449

At the request of Mr. Pryor, the names of the Senator from New Hampshire [Mr. Humphrey], and the Senator from Utah [Mr. Hatch] were added as cosponsors of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 2584

At the request of Mr. Lautenberg, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 2584, a bill to eliminate drug-related crime in public housing projects.

S. 2664

At the request of Mr. Moynihan, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 2664, a bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property.

S. 2693

At the request of Mr. Baucus, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 2693, a bill entitled the PCB Control Act of 1988.

S. 2694

At the request of Mr. DeConcini, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 2694, a bill to amend the Internal Revenue Code of 1986 to provide that contracts for residential construction which are completed in less than 12 months shall be exempt from the requirement to use the percentage completion method.

S. 2698

At the request of Mr. Dodd, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 2698, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 2707

At the request of Mr. Symms, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 2707, a bill to provide for the transfer of certain monkeys to the animal sanctuary known as Primarily Primates, Inc.

S. 2734

At the request of Mr. Thurmond, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 2734, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict.

SENATE JOINT RESOLUTION 280

At the request of Mr. Hatch, the names of the Senator from Rhode Island [Mr. Pell], the Senator from Rhode Island [Mr. Chafee], the Senator from Pennsylvania [Mr. Heinz], the Senator from Virginia [Mr. Warner], the Senator from South Dakota [Mr. Daschle], and the Senator from Washington [Mr. Adams] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

SENATE JOINT RESOLUTION 314

At the request of Mr. Boschwitz, the names of the Senator from New Hampshire [Mr. Humphrey] the Senator from Nevada [Mr. Hecht], the Senator from Virginia [Mr. Warner], the Senator from Utah [Mr. Hatch], the Senator from New Mexico [Mr. Domenici], the Senator from Pennsylvania [Mr. Specter], the Senator from Colorado [Mr. Armstrong], the Senator from Idaho [Mr. Symms], the Senator from Louisiana [Mr. Breaux], the Senator from Ohio [Mr. Metzenbaum], the Senator from Arizona [Mr. McCain], the Senator from Missouri [Mr. Danforth], and the Senator from Connecticut [Mr. Dodd] were added as cosponsors of Senate Joint Resolution 314, a joint resolution designating October 1988 as "Pregnancy and Infant Loss Awareness Month."

SENATE JOINT RESOLUTION 327

At the request of Mr. Glenn, the names of the Senator from Oklahoma [Mr. Boren] and the Senator from New Hampshire [Mr. Rudman] were added as cosponsors of Senate Joint Resolution 327, a joint resolution commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle *Challenger.*

SENATE JOINT RESOLUTION 337

At the request of Mr. COCHRAN, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 337, a joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 21, 1988, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 346

At the request of Mr. LAUTENBERG, the names of the Senator from Utah [Mr. GARN], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 355

At the request of Mr. HEFLIN, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 362

At the request of Mr. EXON, the name of the Senator from Hawaii [Mr. INOUYE] was added as cosponsor of Senate Joint Resolution 362, a joint resolution proposing an amendment to the Constitution relating to the election of the President and Vice President of the United States.

SENATE JOINT RESOLUTION 364

At the request of Mr. HELMS, the names of the Senator from Texas [Mr. GRAMM], and the Senator from Nevada [Mr. HECHT] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

SENATE JOINT RESOLUTION 372

At the request of Mr. HATCH, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], the Senator from Delaware [Mr. ROTH], the Senator from Texas [Mr. GRAMM], the Senator from Indiana [Mr. LUGAR], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 372, a joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week."

SENATE JOINT RESOLUTION 373

At the request of Mr. BYRD, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the names of the Senator from New York [Mr. D'AMATO], the Senator from Arkansas [Mr. PRYOR], the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Arizona [Mr. MCCAIN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE CONCURRENT RESOLUTION 142—RELATING TO THE 10TH ANNIVERSARY OF THE CAMP DAVID ACCORDS

Mr. BOSCHWITZ (for himself, Mr. PELL, Mr. SARBANES, Mr. MCCONNELL, Mr. MITCHELL, Mr. DURENBERGER, Mr. GORE, Mr. D'AMATO, Mr. SIMON, Mr. CHAFEE, Mr. KERRY, Mr. SPECTER, Mr. BRADLEY, Mr. DOLE, Mr. METZENBAUM, Mr. PRESSLER, Mr. LAUTENBERG, Mr. LUGAR, Mr. DECONCINI, Mr. BOND, Mr. LEAHY, Mr. TRIBLE, Mr. BOREN, Mr. NICKLES, Mr. INOUYE, Mr. BUMPERS, Mr. MOYNIHAN, Mr. REID, Mr. MATSUNAGA, Mr. LEVIN, Mr. RIEGLE, Mr. KENNEDY, and Mr. BIDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 142

Whereas September 17, 1988 marks the tenth anniversary of the Camp David Accords between Israel and Egypt;

Whereas those Accords provided a framework for peace between Israel and Egypt that stands as a landmark, ending a generation of war and violence;

Whereas the Accords have proven to be an enduring achievement, furthering the interests of peace and stability in a volatile region of the world;

Whereas the Accords were made possible through the courageous acts of Egyptian President Anwar al-Sadat, in his brave trip to Jerusalem, and of Israeli Prime Minister Menachem Begin, in his willingness to propose the return of the entire Sinai Peninsula, an oil-rich area twice the size of Israel; and through the diligence and persistence of President Jimmy Carter, who brought the two men together at Camp David;

Whereas the Camp David Accords are based on UN Security Council Resolutions 242 and 338, the only internationally-recognized and accepted bases for the establishment of peace between Israel and her Arab neighbors;

Whereas the United States Government has proudly supported the participants of this historic agreement, Israel and Egypt, throughout this decade of peace between them;

Whereas direct bilateral negotiations, as conducted in the Camp David Accords, are the most effective way to resolve the Arab-Israeli conflict;

Whereas the other parties to the conflict have been unwilling to enter into direct bilateral negotiations but continue to maintain a state of war against Israel;

Whereas the perpetuation of the conflict has exacted a terrible cost in human lives and human suffering for both Israelis and Arabs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(a) the Congress—

(1) congratulates Israel and Egypt for a decade of peace based on the Camp David Accords;

(2) calls upon other Arab states and Palestinians to follow the example of Israel and Egypt, to join in the peace process, to renounce the state of war and acts of violence, and to enter into direct negotiations with Israel to achieve a just and lasting peace.

● Mr. BOSCHWITZ. Mr. President, in a few short days, we will mark the 10th anniversary of a historic event: the signing of the Camp David accords that served as the foundation of peace between Israel and Egypt. On September 17, 1978, after 12 days at Camp David, the President of Egypt, Anwar al-Sadat, and the Prime Minister of Israel, Menachem Begin, signed the accords at the White House in the presence of the President of the United States, Jimmy Carter.

A decade later, the peace between Israel and Egypt still persists, ending a generation of war between them. The accords stand as a beacon and as a demonstration of what can be accomplished through the diligence and persistence of national leaders committed to the peaceful resolution of conflict. To achieve the peace took acts of great courage. President Sadat journeyed to Jerusalem, breaking a psychological and physical barrier that changed the way people for decades had viewed the Arab-Israeli conflict. Prime Minister Begin reciprocated this act by proposing the return of the entire Sinai Peninsula, an oil-rich area twice the size of Israel. Together, they paved the path to peace.

These two men were then called to Camp David, where for 12 days, President Carter brought them together to negotiate the Camp David accords—a comprehensive plan to bring peace to the region. The accords laid out a blueprint to provide for Israel's security, and to resolve the Palestinian problem "in all its aspects." It called for negotiations by the parties to the conflict, including the Palestinians, that would decide final borders, make security arrangements, and over a 5-year transition period, settle the final status of the West Bank and the Gaza Strip. Through these negotiations, the "legitimate rights of the Palestinian people" would be recognized.

Unfortunately, the other parties to the conflict have yet to see the wisdom that was charted in the Camp David accords. The region remains in turmoil and negotiations remain untested. Had others joined in the peace process, years of violence could have been avoided and the Palestinian "uprising" might never have occurred. Even today, Palestinian and other Arab leaders continue to reject the clearest and straightest way to resolve the conflict: recognition of Israel's right to exist, followed by direct negotiations with Israel.

Nevertheless, I am convinced that someday, hopefully soon, such negotiations will occur. And the Camp David accords will provide the example and the direction for the inevitable turn to peace that is essential to all the inhabitants of the region. I am delighted, therefore, to submit, along with Senator PELL and many other colleagues, a concurrent resolution commemorating the 10th anniversary of the signing of the Camp David accords.●

● Mr. PELL. Mr. President, this afternoon I am pleased to join with Senator BOSCHWITZ in submitting a concurrent resolution to commemorate the 10th anniversary of the signing of the Camp David peace accords. It is also gratifying to note that already some 34 of our colleagues have agreed to cosponsor this resolution.

This Saturday, September 17, 1988, marks the 10th anniversary of the historic peace agreement that was hammered out between the leaders of Israel and Egypt, Prime Minister Menachem Begin and the late President Anwar Sadat, under the careful guidance and persuasive ability of President Jimmy Carter.

Ten years later the achievement that Camp David represents is even more remarkable, and enduring, than was understood in 1978. The peace between Israel and Egypt has withstood the strains of territorial disputes between the parties, the invasion of Lebanon, the assassination of President Sadat, and the orchestrated boycott of Egypt by her Arab brethren. Ten years later, the peace persists, Egypt is once again welcome into the Arab fold—without any concessions having been exacted by the opponents of Camp David—and Israel debates the terms and conditions under which it will negotiate with other Arab neighbors. The foresight and courage that was exercised by these three men 10 years ago at the Presidential retreat in Maryland's Catoctin Mountains serves as a model for others to emulate.

If the last 10 years have produced any disappointment, it is the failure to broaden participation in the peace process. The events of this last year—the violence associated with the "intifada," or uprising, on the West Bank and in the Gaza, the decision by King Hussein to sever his government's responsibilities in the territories, and continuing unrest in Lebanon—serve to remind us of the urgent and pressing need to bring the warring parties together to negotiate a just, enduring peace. The Middle East needs peace, and the world needs to remember that, as Camp David shows, peace, however elusive, is not an impossible dream. It takes will, it takes courage. Sadat, Begin and Carter possessed both of these qualities, and in great measure.●

SENATE RESOLUTION 470—RELATING TO GREAT LAKES MEDICAL WASTE

Mr. RIEGLE (for himself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 470

Whereas the Senate has passed an ocean dumping bill which includes a provision prohibiting dumping of medical waste in the oceans and navigable waters;

Whereas the Senate has passed a Medical Waste Tracking Act to establish a pilot program for the tracking of medical waste in the States of New York, New Jersey, and Connecticut;

Whereas the House of Representatives is expected to take up an ocean dumping bill and medical waste legislation;

Whereas medical waste, including used syringes, surgical gloves, and bottles of pills, has now been found on several Great Lakes beaches, including Lake Michigan and Lake Erie; and

Whereas the dumping of medical waste poses a health hazard to people who might come into contact with it: Now, therefore, be it

Resolved, That it is that sense of the Senate that the conferees on legislation dealing with the medical waste issue should include therein protections for the Great Lakes States, and that Congress should complete action on legislation to control medical waste this calendar year.

AMENDMENTS SUBMITTED

TEXTILE AND APPAREL TRADE ACT

HOLLINGS AMENDMENT NOS. 3028 THROUGH 3036

(Ordered to lie on the table)

Mr. HOLLINGS submitted nine amendments intended to be proposed by him to the bill (H.R. 1154) to remedy injury to the U.S. textile and apparel industries caused by increased imports; as follows:

AMENDMENT No. 3028

At the end of the pending amendment, add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3029

At the end of the pending amendment, add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3030

At the end of the pending amendment, add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3031

Strike all after the first word, and add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3032

Strike all after the first word, and add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3033

Strike all after the first word, and add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3034

In lieu of the matter proposed to be inserted, add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3035

In lieu of the matter proposed to be inserted, add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

AMENDMENT No. 3036

In lieu of the matter proposed to be inserted, add the following:

Notwithstanding any provision of this Act, no program herein authorized for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products shall take effect.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Monday, September 19, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Jerry G. Langdon, Charles Stalon, and Charles Trabandt, President Reagan's nominees to be members of the Federal Energy Regulatory Commission.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Friday, September 16, at 2 p.m., in SD-342 Dirksen on the nominations of James H. Atkins, Stephen E. Bell, John David Danvenport, nominees for member of the Federal Retirement Thrift Investment Board; and Bert H. Mackie, nominee to be Governor of the U.S. Postal Service. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Tuesday, September 20, at 9:30 a.m., on S. 2298, Agricultural Commodity-Based Plastics Development Act of 1988. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Tuesday, September 27, and Wednesday, September 28, at 9:30 a.m. and 10 a.m., respectively, on the subject of "Alcoholism Prevention." For further information, please call Len Weiss, staff director, at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 13, 1988, to hold a hearing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 13, 1988, to hold a hearing on and to consider the nomination of Nicholas F. Brady to be Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTE AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, September 13, 1988, to conduct a markup of S. 2693, a bill to regulate PCB's.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on September 13, 1988, to hold a hearing on consultation fiscal year 1989, refugee admissions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AVIATION SUBCOMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Aviation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 13, 1988, to hold an oversight hearing on the recent initiatives of the Federal Aviation Administration [FAA] to improve aviation safety and security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, September 13, 1988, to hear James R. Curtiss, nominated by the President to be a member of the U.S. Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER SUBCOMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 13, 1988, to hold a hearing on legislation (S. 2213, S. 2326, and H.R. 4101) regarding telemarketing fraud and other types of consumer fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, September 13, 1988, to consider the nominations of George J. Benston, John R. Dahl, Derryl J. McLaren, Gordon C. Southern, and Edward C. Williamson, Jr. to be members of the Board of Directors of the Federal Agricultural Mortgage Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on September 13, 1988, to oversight on Cosmos 1900 and the future of space nuclear power.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LARRY MARSH, OUTSTANDING FEDERAL EMPLOYEE OF 1988

● Mr. BINGAMAN. Mr. President, I rise with pleasure today to commend an individual from my home State of New Mexico whose hard work and perseverance has earned him the honor of being named the Department of the Interior's Outstanding Handicapped Employee for 1988. The individual I am referring to is Mr. Larry Marsh who has been a teacher with the Bureau of Indian Affairs for 22 years.

Determined to overcome the physical limitations of a handicap that resulted from an accident in 1958, Mr. Marsh has reached achievements that know no bounds. Throughout the years, he has encouraged and supported other individuals stricken with handicaps and has personally manifested the belief that the future is not necessarily hindered by physical restriction. He has not allowed his handicap to interfere with his strong commitment to education and is considered by many, one of the Bureau's most dedicated and talented individuals. Through skill and personality, Mr. Marsh has motivated his students into expanding their horizons. As a result, many commendations and honors have been bestowed upon him. In 1981, and again in 1986, his colleagues named him "Teacher of the Year." In 1986, he received the Navajo Nation Handicapped Employee of the Year Award.

Larry Marsh has generously dedicated his time, talents, and resources and has contributed to the lives of the Navajo children he teaches. It is because of his selfless service and outstanding professional and personal contributions that Larry Marsh has been selected as the Department of the Interior's Outstanding Handicapped Federal Employee for 1988.

Larry Marsh is a credit to his profession, to New Mexico and to our country. It is with due recognition that we honor Larry Marsh today.●

EXPANDED FACILITIES AND SERVICES FOR VETERAN PATIENTS

● Mr. DURENBERGER. Mr. President, I rise today to bring to the attention of my colleagues a success story for veterans health care in my State of Minnesota.

This past spring, the VA medical center in Minneapolis, MN, in an effort to upgrade and expand its facilities and services, moved to a new location. The move is of particular benefit to 40 percent of the patients who suffer from psychiatric illnesses. The importance of this statistic cannot be overemphasized. The needs of veterans suffering from mental illness, especially from posttraumatic stress disorder, have long been overlooked and underfunded. In addition, many veterans suffer from alcoholism, substance abuse, depression and other dementia.

The American Legion in Minneapolis has served as an advocate for mentally ill veterans and recognized the need for adequate research funding. Now the American Legion has undertaken a fundraising effort to support a brain sciences research professorship at the VA medical center. They have raised $700,000 of their $1 million goal which will be matched with an additional $1 million from the University of Minnesota. The endowment for the American Legion/Legion Auxiliary brain sciences research professorship—University of Minnesota—will be located at the new Minneapolis VA Medical Center, which is equipped with the latest diagnostic technology.

Such an effort is a perfect example of what can be accomplished through an increased understanding and awareness of the causes, treatments and importance of mental illness. I want to applaud the American Legion's leadership and generosity and acknowledge the value of the Minneapolis VA program. I ask to print in the RECORD an article by Richard Magraw, M.D., chief, psychiatry service, Minneapolis VA Medical Center.

The article follows:

[From the Minnesota Legionnaire, April 1988]

BRAIN SCIENCE CENTER IS A ONCE-IN-A-LIFETIME OPPORTUNITY FOR FANTASTIC MEDICAL ADVANCEMENT

(By Richard Magraw, M.D.)

The biggest move in VA history takes place this spring when patients in the existing Minneapolis VA Medical Center are moved into the beautiful new VA Medical Center.

As the new Medical Center moves into full operation, unusual opportunities for improved medical care will be available to veterans. At the same time, all of the people in Minnesota will reap a harvest of expanding scientific knowledge.

No group of patients is likely to receive greater benefit from the new facility than the mentally ill, and particularly the chronically mentally ill. (Chronically mentally ill persons suffer from a variety of illness such as schizophrenia, manic depressive disorder, Alzheimer's disease. etc.

Relative to other kinds of illness, persons with these disorders have received little benefit from the scientific revolution of medicine in this century and from the improved medical care of the past 40 years.

Once a person becomes ill with some of these disorders, he or she may never be well. In such cases, the patients and their families are often destined to suffer endless disability and pain.

Veterans with these and related disorders make up 40% of the patients in the 172 hospitals in the VA system. Schizophrenia alone accounts for 25% of all beds occupied in all of the public and private hospitals in the United States.

The study of these diseases of the mind and the brain has lagged behind other medical research because the brain—locked in its bony skull—has been inaccessible to study. Research has lagged because the brain is "off limits" ethically and psychologically as the organ of the mind, and because we have no animal models of diseases such as schizophrenia. If we could only find a strain of rats or pigs or any animal with schizophrenia, we could study them in order to learn about this disease in human beings.

Another reason we don't know enough about these diseases is because of the enormous complexity of the brain. Nothing else in the body compares to it. There are from 100 billion to 1,000 billion individual nerve cells in the brain.

Other organs, such as the liver, have a lot of cells too, but they function as a mass and not as individual elements. These nerve cells each have an average 2,000 to 3,000 connections with other cells, and it is these connections called "synapses" that are the actual switches or gates which determine the flow of information, thought, behavior and movement. (Almost all of the drugs used to treat the conditions, such as haloperidol, amitriptylene, alprazolam and many others, act at the synapses.).

Because of both this inaccessibility and complexity, we have had to await the development of new technologies such as the PET scanner (Positron Emissions Tomography), BEAM (Brain Electrical Activity Mapping), MRI (Magnetic Resonance Imaging) and other new technologies to understand better how the brain works.

These new technologies have just been developed (and more are being developed) in recent years. We in Minnesota are fortunate that the new VA Medical Center has been built and equipped at the time these new technologies are coming into full flower.

As I believe every member of the American Legion and American Legion Auxiliary knows by now, we are lucky here in that the funding for this hospital has permitted installing the very state-of-the-art technology so as to make this the finest facility in the entire VA system.

The extraordinary instruments now becoming available around the world mean that we will be seeing major progress in our knowledge about and our ability to treat these terribly disabling disorders.

The American Legion/American Legion Auxiliary have understood that if patients coming to the VA Medical Center are to realize the full potential of this extraordinary equipment provided, we will need to attract outstanding scientists to the Minneapolis VAMC. The Legion and Auxiliary have undertaken to raise funds to endow a professorship in order to exploit this opportunity fully.

In contrast to the American Legion Heart Research Professor, who has been physically located in the University since that professorship was established in 1950, this Brain Research professor will be located at the new VA Medical Center when the new equipment is in place.

It is important to emphasize that it was in large part because of the American Legion's previous success in funding at the University, the American Legion Heart Research Professorship, endowed in 1950, that it has been possible to obtain a commitment from the University for a $1 million matching endowment from University funds for a professorship to be located at the VAMC. It is important that all Legionnaires and Auxiliary members understand what far-reaching effects the earlier success had.

That earlier endowment for the heart research has played a large role in the increased knowledge and improved care of heart disease in Minnesota and throughout the world for the past 40 years, and in the University becoming an international center for cardiac surgery.

Now, as we approach the last decade of the 20th century, another branch of medical science is standing on the threshold of making "a giant step for all mankind."

Because understanding of these terrible illnesses has lagged far behind other parts of medical scientific knowledge, the coming of new technology makes the potential for major breakthroughs here greater than in any part of medicine. Even small increases of knowledge are likely to have large effects in helping persons who suffer from schizophrenia, depression, epilepsy, Alzheimer's, Parkinson's diseases, etc.

While we may anticipate there will be major individual discoveries of the kind that lead to scientific prizes, all involved in this effort need to understand that we won't need to wait for a prize-winning discovery for the center to be of benefit to patients at the VA Medical Center or the people of Minnesota, or the whole world.

The presence of a new Brain Science Center, staffed by leading scientists and eager young associates, would bring a flood of enthusiasm and new ideas which will "raise all the boats" on an incoming tide of new knowledge.

All VA patients will benefit. It isn't possible to guess which of these conditions—Alzheimer's, Schizophrenia, Depression, Parkinson's, etc., will benefit the first or the most. For my part, I have to acknowledge a particular concern for the chronic schizophrenics as they tend to be severely disabled for a long time. I hope they are greatly benefited, but all of these conditions will ultimately benefit.

The current efforts of the Minnesota American Legion and Auxiliary to raise money for endowing the Brain Research Professorship, have been attracting favorable notice not only in the state but around the nation.

There is widespread recognition for the need for additional scientific information for the treating of the sufferers from these severe conditions. The physicians privileged to meet with American Legion members in smaller or larger groups to discuss the project have enjoyed many personal contacts with Minnesota Legionnaires and Auxiliary members, and have been inspired by the community service which they have seen in action. As far as we are aware, no other Legion group anywhere has undertaken a similar project of this scope or potential.

A number of my medical colleagues have observed that an unusual combination of circumstance and timing are affording the American Legion what is literally a once-in-a-lifetime opportunity for public service.

It is to the great credit of the American Legion/American Legion Auxiliary that they have acted on this opportunity and that the Brain Sciences Research Professorship is coming closer to reality.●

THE FLOODING IN BANGLADESH

● Mr. KERRY. Mr. President, one of the world's poorest countries, Bangladesh, continues to be hit by disastrous flooding, causing untold misery and economic damage which will surpass the $1.5 billion in losses from last year's monsoon season floods.

Since June, Bangladesh has been inundated by floods caused by the summer monsoons. Today, three-quarters of the country is under water, leaving nearly 30 million people homeless. Telephone communications have been disrupted. Thousands of miles of roads and bridges have been washed away. Millions of people are stranded in remote areas, clinging to rooftops and trees. Hundreds, if not thousands, have died from snake bites and drowning.

The ability of the Government of Bangladesh to address these overwhelming problems is limited by the lack of sufficient helicopters to deliver food and medical relief supplies to the affected areas.

While the Government has stated that it does not anticipate mass starvation, there are serious concerns that many of Bangladesh's people will suffer from malnutrition, as well as life-threatening diseases such as cholera and dysentery.

The immediate requirement for Bangladesh is the need for small boats and helicopters to ferry the delivery of urgently needed food and medical supplies. There is also an urgent need for water purification tablets, rehydration salts, kerosine oil, dried high-protein food such as biscuits, building materials, and construction materials for roads.

The international community has rallied to Bangladesh's plight with a generous outpouring of assistance. The combined pledges of Australia, Great Britain, Pakistan, Canada, and Denmark, together with the $13 million pledge from Japan, total nearly $20 million. Additionally, both Saudi Arabia and India have offered to loan Bangladesh eight helicopters which will be of significant assistance to Bangladesh. This assistance meets part of the short-term needs of the Government as it grapples with the enormous task of providing for its citizens during this time of crisis.

The United States has sent a mission to Bangladesh to assess what must be done to assist the people of that nation. As a first measure the United States has released some of the food currently held by the Government of Bangladesh as a result of the sale of United States commodities. In addition, the United States has promised the early provision of fiscal year 1989 food assistance.

The United States has pledged $3.6 million, of which $2.5 million is a transfer of Public Law 480 title I wheat to title II. The Office of Disaster Assistance is providing another $1 million for 1,000 tons of wheat seed. Other assistance includes $40,000 to Save the Children Fund, $50,000 to Care, and $25,000 from the Ambassador's discretionary fund. The United States is also providing amphibious equipment from Department of Defense surplus stocks.

A special food aid assessment task force from the Agency for International Development will be going to Bangladesh within the next 10 days to assess the long-term food situation. More assistance from the United States must be forthcoming as expeditiously as possible once these shortfalls have been assessed.

For the long term, Bangladesh will require large amounts of assistance from the international community. The floods have reduced any chance for planting next season's crops, which needs to be accomplished within the next 2 weeks. For the next several months, Bangladesh will need to rely on the international community for extra wheat, rice and wheat seeds to augment its crop shortage until the next harvest. Moreover, they will require assistance to rebuild its ravaged infrastructure and housing.

Last year, Bangladesh experienced flooding, although not on the scale of this summer's disaster. The cost of the reconstruction at that time was estimated at $1.5 billion. Much more will be needed to enable Bangladesh to recover from the most recent flooding.

Mr. President, the American people are known for their generosity and compassion toward the less fortunate of the world in times of crisis. We await the recommendations of AID and pledge to do all we can to help the flood-ravaged people of Bangladesh to begin the ardous task of rebuilding their country.●

U.S. ATTORNEY IN SACRAMENTO IS LEADER IN WAR AGAINST DRUGS

● Mr. WILSON. Mr. President, today I would like to bring to the attention of the Senate the thoughts of someone intimately involved in the fight against drug abuse.

David Levi is the U.S. attorney for the eastern district of California and is very familiar with the problems we are facing. While he understands that it will be a difficult process to eliminate drugs in the United States, he is convinced that we must continue the fight.

Mr. Levi made a speech in May on winning this fight, and I ask that his speech be printed in the RECORD at this time.

The remarks follow:

STATEMENT OF DAVID F. LEVI, U.S. ATTORNEY, EASTERN DISTRICT OF CALIFORNIA, LAW ENFORCEMENT COORDINATING COMMITTEE MEETING, SACRAMENTO, CA, MAY 31, 1988

WINNING THE WAR AGAINST DRUGS

Thank you for coming today to attend this meeting of the Law Enforcement Co-ordinating Committee for the Eastern District of California.

Our meeting today focuses on the drug problem in the district—particularly the problem of crack and the crack gangs—and on two of the many ways in which law enforcement can attack the drug problem—by involvement in prevention, that is, demand reduction, and through asset seizure, our effort to take the profit out of drugs.

We acknowledge as we must that there is a serious drug problem in this district as there is throughout the State. We are what I call the drug basket for the region. Here in the central valley and up north we manufacture much of the marijuana, PCP, and methamphetamine that is consumed in the State and Nation. We have collectively prosecuted more illegal drug laboratories in this district than have been prosecuted anywhere in the country.

In addition to illegal production in this area, all of us who live near the Interstate 5 corridor share the dubious distinction of being at the crossroads for major traffickers who are coming into and going out of the metropolitan markets in San Francisco and Los Angeles. Mexican drug traffickers bring heroin from Mexico up I-5 into California and the Northwest. On their return trip they take back home guns and money. Cocaine is brought into LA, and from LA the cocaine is taken into the San Joaquin Valley from were it is distributed regionally. And as we learned last week, marijuana is imported from abroad in huge quantities destined for river towns along the inland waterway.

Our indictments mirror this reality. Over the past few weeks we have indicted dealers in Porterville who had some 500 pounds of cocaine in a mini-storage facility; and PCP manufacturers in Fresno county who took their product to Washington D.C. where it was distributed.

But I do not wish to talk today about how bad the drug problem is. We all know that. In fact, I think we have become so adept at describing how terrible the drug problem is that we are in danger of convincing the public that all our past efforts have been for nought. This weeks Time Magazine asks on its cover "Should Drugs Be Made Legal?" And the lead-in to the story states, "As frustration mounts over a failed policy serious people are asking: Why not end the crime and profits by making drugs legal?" The article suggests that the proponents of legalization are once again making a comeback in large part because of the perception that our drug enforcement policies and efforts have abysmally failed. For some the death of drug enforcement agents has been a catalyst to rethink this question. Perhaps, they suggest, the cost of enforcement is simply too high.

Certainly the crime rate would drop dramatically if we simply legalized all of the various anti-social activities that we have failed to stamp out. Assault with a deadly weapon would not be a law enforcement problem if beating the daylights out of someone were no crime. But it would not be very healthy to live in that crime free society. And if drugs were legalized we would still be faced with all of the many problems that drugs bring to the society and which I believe would be worsened by opening the floodgates.

Of course the backbone of the legalization argument is that illegality raises the cost of drugs, and that it is the high price of drugs that leads to other crimes and violence. This is a strange argument to make at a time when cocaine is selling at an all time low-some $10,000 a kilo in some parts of the country—and when drugs like crack and methamphetamine go for cheap hits.

But I do not think that I need to poke holes in the legalization argument before this crowd. The interesting thing to me is that the argument is being made now when it seemed to be a dead issue over the past few years.

I think in part we have ourselves to blame. We have been so concerned to arouse public support and attention to the dimensions and seriousness of the problem that we have not taken sufficient care that the public understand that our message of concern is not one of despair and hopelessness.

In fact, we have much to be proud of. Over the past few years we have been creative, effective, and innovative, and we have begun to fight the problem on a variety of fronts—demand as well as supply, domestic as well as international producers, users as well as dealers.

The asset forfeiture program which we celebrate today at our luncheon is one excellent example of an innovative program that can go a long way toward taking the profit out of drug dealing at the same time that it funds further law enforcement efforts. Consider as well that we can not detain drug criminals prior to trial, that very high mandatory nonparolable penalties are now in place against drug dealers and manufacturers, that financial transactions with illegal drug proceeds is now a separate and serious offense, that the analogue drugs are illegal, and that through legal assistance treaties we are now in a much better position to prosecute foreign dealers.

We have had successful international operations in Bolivia and Peru. We have seen the number of countries with eradication programs go from 2 in 1981 to over 20 now.

Federal spending on drug related matters has gone from $1 billion in 1981 to about $4 billion this past year.

We have seen the success to domestic eradication efforts, like the CAMP program. We have seen the appropriate use of drug testing become a reality in government and business and we have seen a huge proliferation of local drug education programs some of which involve law enforcement officials. Our own LECC summer camps in Sacramento and Bakersfield are excellent examples.

Finally, returning to where I began, we now have the public's attention and support. Through the efforts of law enforcement groups, citizens, the First Lady and others the public is now alive to the problem, and I think that it is fair to say that there is a heightened sense that drugs are evil and that those who use them—if not evil—are at least not alluring role models.

I think that over the past few years we have done quite a lot. I am proud of what the United States Department of Justice, the State of California Bureau of Narcotics Enforcement, and local law enforcement have achieved in the last 7 years. We have gained new tools. We have had remarkably successful investigations and prosecutions. As we continue to think about the problem we will develop new ways of prosecuting suppliers and dampening the demand.

What we need now is patience and determination. We need time to use our tools. A disease which has been growing over the past twenty five years is not going to be cured in a few years, and there will probably always be some kind of a drug problem, some need for drug enforcement in this country.

All of us have asked from time to time, "Are we winning the war on drugs." The "war on drugs" is probably not a very good metaphor for a variety of reasons, but that is what we are asked and how we sometimes talk. Now, some will say, in response, that we are not winning the war on drugs. But that is just a question of perspective. If you had asked Lincoln in 1861 whether we were winning the war against slavery he might have hesitated to answer. Ask the same question in 1863, were we winning the war in 1861 and the answer is clear that we were. We are glad he did not embrace legalization during the rough going.

So if we are clear in our own minds that eventually over time we will make great headway against the drug problem, because we must and because we can, then it is equally clear that our efforts now and our efforts over the past few years are part of that winning effort and will not go for nought.

It would be tragic, I think, that just when we had the understanding and public support to really do something the country should be convinced that nothing can be done.

In the meeting today we will learn more about the problem and more about successful ways in which the problem can be met and contained, even if it can never be entirely cured.●

NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY

Mr. BINGAMAN. Mr. President, I would like to publicly congratulate the New Mexico Institute of Mining and Technology for the outstanding ratings it recently received from the Gourman Report of Undergraduate Engineering Curricula.

New Mexico Tech is a highly regarded technical institute and research center located in Socorro. Originally founded nearly a century ago as the School of Mines of Territorial New Mexico, New Mexico Tech is devoted to the study of the Earth, its physical properties, atmosphere, raw materials, and water resources. Among its research activities is the Petroleum Recovery Research Center, which has won international prominence for its studies on new and improved methods of recovering oil and gas.

New Mexico Tech offers specializations for some 1,050 undergraduate and 250 graduate students in the physical sciences, mathematics, computer science, technical communications, and the minerals-related engineering fields. According to the highly respected Gourman Report, the institution ranked "strong" in all of it's undergraduate engineering programs: Geological Engineering, Metallurgical Engineering, Mining Engineering, and Petroleum Engineering.

I hope that my colleagues will join me in applauding this achievement by that outstanding teaching and research center in my State.●

BALDWIN PARK ACHIEVES SOME SUCCESS AGAINST CRIMINAL YOUTH GANGS

● Mr. WILSON. Mr. President, I rise today to recognize the efforts of the city of Baldwin Park to combat the gang problem in southern California. As we all know, the escalation of gang violence can be attributed in large part to increased drug trafficking by these gangs.

The city of Baldwin Park has been quite successful in reducing gang violence by more than 50 percent in 2 years. They have done this through both law enforcement and education. The results they have achieved are certainly commendable.

To better explain the city's achievement, I ask that a letter I received from Baldwin Park's police chief, Richard Hoskin, be printed in the Record.

The letter follows:

City of Baldwin Park
Civic Center,
Baldwin Park, CA.

Hon. Peter Wilson,
Senate Hart Building, Constitution Avenue,
Washington, DC.

Dear Senator Wilson: I'm sure you join me in recognizing the growing incidents of gang violence in Los Angeles County, and the important task of law enforcement to confront this problem.

As law enforcement agencies work closely together on the gang situation, I am pleased to inform you that the City of Baldwin Park Police Department has achieved tremendous success in preventing gang violence in the past two years.

The police department has introduced a gang prevention program in the elementary schools to teach our children to say no to joining a gang. Moreover, a well organized enforcement program developed in 1986 to apprehend gang offenders has reduced gang violence in our community by 53 percent. The development of a close and harmonious working relationship with other criminal justice agencies has led to an increase in prosecutions of known gang offenders by 76 percent.

The California Youth Authority has recognized our success and recently presented a Distinguished Service Award to our department for this outstanding contribution to juvenile justice and to the youth of California. Our program was selected from the programs of 18 competing California law enforcement agencies.

We are truly dedicated to our goal to stop gang violence. Recongition or acknowledgement of our important achievement from your office will be gratefully received.

With kindest regards, I am,
Sincerely,
RICHARD A. HOSKIN,
Chief of Police.●

IN PRAISE OF IBM'S WRITING TO READ PROGRAM

● Mr. McCONNELL. Mr. President, I rise today to commend the work of the International Business Machine Corp. [IBM] and its Writing to Read Program. IBM recently announced that it would join with the Appalachian Regional Commission [ARC] in providing writing to read laboratories in 40 schools in 20 southeastern Kentucky counties.

Writing to Read has grown from its first U.S. installation in 1982, to a leading position in the technology-based educational market. According to a recent report issued by the Office of Technology Assessment, it is now "one of the most widely marketed computer-based educational programs using digitized speech." As that report also indicates, Writing to Read is an effective, as well as popular, program.

Writing to Read was developed by Dr. John Henry Martin, a leading expert in the area of children's learning. Dr. Martin recognized that writing develops many of the same skills which later lead to reading. Writing to Read is a computer-based interactive program designed to introduce young students to the skills and concepts involved in reading by building on their present development in oral communication.

A writing to read center consists of five work stations. The computer station consists of an IBM personal computer equipped with a speech attachment. This device couples the computer to talk to children as they work with the computer.

Next, children visit a work journal station in which taped lessons reinforce sounds learned at the computer. Children mark off their progress in journals, which the children take home to discuss with their parents. Parental involvement in the early stages of reading and writing learning can pay real dividends later in classroom performance.

In the listening library station, children follow the written text of recordings of children's literature as they listen. Although the remainder of the program utilizes a set of letters and letter combinations called phonemes to represent the sounds of spoken English, this station allows children to associate sounds and written English.

The writing and typing station utilizes two learning methods to teach children to recognize and write letters. In the typing area, children concentrate on the discrete skills of letter recognition and word formation, without the additional burden of hand lettering. Writing skills are developed in the writing area through a number of writing tools, and an attractive area in which to practice.

Finally, in the make words station, children combine letters into new words. Introduction to the word building concept is eased through the use of games and hands-on materials. The Writing to Read Program concentrates throughout on making the learning experience enjoyable as well as informative.

Writing to Read is a sophisticated program of proven effectiveness. Thus, I was particularly pleased to see that IBM and ARC were joining to provide writing to read laboratories in 40 schools in 20 southeastern Kentucky counties. This area is desperately in need of educational assistance.

According to the 1980 census, Kentucky ranks 51st in percent of population 18 or older who have completed high school. Significantly, of 435 congressional districts nationally, Kentucky's Fifth and Seventh Districts rank 435th and 432d respectively in percent of high school graduates. Clearly we need to make a concerted effort to keep these children in school.

As I have noted previously, one out of every three Kentucky high school students drops out before completing school. Only 53 percent of Kentucky's population 25 and older have high school degrees. Not surprisingly, many of these people wind up on the welfare rolls. In Kentucky, only 2.3 percent of the fathers and 10.2 percent of the mothers on welfare are high school graduates.

Early intervention efforts, such as Head Start, as well as IBM's Writing to Read, can keep our children in school by making the learning experience enjoyable from the first day on. I am encouraged by the potential the computer-based learning programs like Writing to Read, and its counterpart for adult literacy education, the principle of the alphabet literacy system [PALS] have for combating the literacy and dropout prevention problems. The partnership effort here between a proven industry leader, and a leader in development, will place 40 Writing to Read laboratories in 20 southeastern Kentucky counties. Mr. President, I believe this is encouraging not only for education in Kentucky, but for education nationwide as well.

Fighting persistent problems in education will not be an easy task. I am encouraged by the partnership of efforts here, Mr. President, because the twin problems of illiteracy and dropouts must be fought at many levels. I am convinced that the combined efforts of industry leaders, sustained involvement by parent organizations, and a concerted effort by Government at all levels, can make all the difference in supporting education. Mr. President, I urge my colleagues to join me in supporting this effort.●

HISPANIC HERITAGE WEEK

● Mr. RIEGLE. Mr. President, September 16 marks the 178th anniversary of Mexican Independence. In addition, this week Hispanic-Americans celebrate National Hispanic Heritage Week.

My own State of Michigan is proud of its strong and vibrant Hispanic community, and I rise today to pay special tribute to them and to all Hispanic-Americans in this country, as well as to the people of Mexico on the anniversary of their independence. The spirit of freedom and the pursuit of human rights, equality and justice which are identified with the Mexican independence movement continue to inspire the Hispanic community today.

Celebrating National Hispanic Heritage Week each year provides an important opportunity for Americans of all ethnic backgrounds to focus attention on the special contributions which Hispanic-Americans have made to the growth of our Nation, on their special strengths, and on the ways in which all Americans can help them overcome the difficulties which they continue to face in our society.

As the most decorated group of ethnic Americans in World War II, Hispanic-Americans can be proud of their record of service to this country. In addition to their bravery in battle, Hispanic-Americans have added diversity and creativity to our Nation in the fields of music, the arts, architecture, literature, business, and politics.

Through their steadily increasing participation in the political arena, Hispanic-Americans are playing a critical role in shaping the future of our country. The election of Hispanic-Americans to mayoral, gubernatorial, and congressional seats in recent years has been made possible, in part, by the support provided by the growing number of Hispanic-Americans who have been exercising their right to vote. It is clear that, as a voting bloc, Hispanic-Americans can play a critically important role in determining the outcome of elections.

In acknowledging the important contributions and achievements of Hispanic-Americans, we must not overlook the many problems which threaten to prevent Hispanic-Americans from participating fully in our society.

Hispanics are still victims of inadequate opportunity in employment, housing, and education. While their incomes have increased and their poverty level has decreased since the 1981-82 recession, family incomes of Hispanics are still about one-third lower than the national average, and about one-quarter of Hispanics live below the poverty line. They remain one of the least educated groups in our country, with only a bare majority of Hispanic-Americans ever graduating from high school. Of those who do, only a small number continue on to college.

As the fastest-growing minority group in our country today, we must pay special attention to the challenges facing Hispanic-Americans. As we work together to overcome the obstacles which make it difficult for Hispanic-Americans to participate fully in our society, we build an America which can offer greater opportunity to all of its citizens.●

NEW YORK UNIVERSITY HONORS AMBASSADOR MAX M. KAMPELMAN AND CONGRESSMAN CHARLES B. RANGEL

● Mr. MOYNIHAN. Mr. President, may I take this opportunity to note a significant event last summer in New York State. The Honorable Max M. Kampelman, the distinguished chief arms control negotiator for the United States and counselor, Department of State, was the principal speaker at the 156th commencement of New York University. Ambassador Kampelman's address on that occasion marked his first public appearance following the summit meeting in Moscow between President Reagan and General Secretary Gorbachev.

Ambassador Kampelman, an alumnus of New York University, received an honorary degree on this occasion as did another alumnus of that university, our distinguished colleague and fellow New Yorker, the Honorable Charles B. Rangel. Presiding at the commencement, held in Washington Square Park, was our distinguished former colleague in the House of Representatives, Dr. John Brademas, president of New York University.

Other distinguished Americans who were awarded honorary degrees by President Brademas on this occasion were Mr. Edward S. Finkelstein, chairman and chief executive officer of R.H. Macy & Co.; and Martin E. Segal, chairman of the board emeritus of Lincoln Center for the Performing Arts and chairman of the New York International Festival of the Arts.

I note as well the presentation on this occasion of the 1988 Albert Gallatin Medal, awarded annually to a member of the New York University family who has made an outstanding contribution to society, to the Honorable Preston Robert Tisch, cochairman of Loews Corp. and the distinguished former Postmaster General of the United States.

A TRIBUTE TO CONGRESSMAN CHARLES B. RANGEL

Mr. President, I should like at this point in the RECORD to include the text of the tribute to Congressman Rangel on the occasion of his having received the honorary degree of Doctor of Laws from New York University:

The tribute follows:

THE HONORABLE CHARLES B. RANGEL, ATTORNEY, LEGISLATOR, ALUMNUS, U.S. REPRESENTATIVE, 16TH DISTRICT, NEW YORK.

For nearly two decades United States Representative in Congress, you have risen to positions of power in our national legislature but remain rooted in the 16th district of New York and your native Harlem. A decorated veteran of the Korean War, lawyer, Assistant United States Attorney, you were first elected to Congress in 1970. Eight times re-elected, you have become one of the nation's most influential lawmakers. Your path to prominence on Capitol Hill includes these milestones: Chairman of the Congressional Black Caucus, first black member of the Committee on Ways and Means, first black appointed.

Deputy Whip by the House Leadership, first black Chairman of a select committee * * * on narcotics abuse and control. Skilled legislative craftsman, a man of warmth and wit, you have forged alliances across the political spectrum to advance your ambitious agenda: to combat drugs, create jobs and ensure opportunity and justice for all Americans.

Charles B. Rangel—Valued friend and former colleague, leading Member of Congress, a 1957 graduate of New York University, you have built a record of public service that brings honor to your alma mater and to the citizens of this city and state. By virtue of the authority vested in me, I am pleased to confer upon you the degree of Doctor of Laws, honoris causa.

REMARKS OF MAX M. KAMPELMAN

Mr. MOYNIHAN. I also ask that the Commencement Address by Max M. Kampelman at New York University, on June 3, 1988, be printed in the RECORD.

The remarks follow:

COMMENCEMENT ADDRESS BY MAX M. KAMPELMAN, AT NEW YORK UNIVERSITY

Chairman Tisch, President Brademas, Reverend Clergy, Fellow honorees, fellow alumni, members of the faculty, members of the class of 1988, their families, ladies and gentlemen:

I am immensely proud to be among you this morning. The degree you confer on me will be among my most cherished possessions. New York University means a great deal to me. It will assume even greater importance for you, as you increasingly appreciate having been able to study, learn and grow in one of our country's most illustrious educational institutions, presided over by a scholar, administrator and leader of extraordinary talent, Dr. John Brademas.

THE CHALLENGE: LASTING PEACE

Each generation faces its own unique challenges. But through the ages they appear to have one common characteristic. Men and women seem capable of mobilizing their talents to unravel the mysteries of their physical environment. We have learned to fly through space like birds and move in deep waters like fish. But how to live and love on this small planet as brothers and sisters still eludes us. In every age, that has been the essence of the challenge. The immense challenge to your generation—and my generation has made a good beginning—is to find the basis for lasting peace among the people of the world so that they might live in dignity. In this nuclear age, the significance of that goal is overwhelming.

I have just returned from participating in the fourth meeting between President Reagan and Soviet leader Mikhail Gorbachev, the first visit of an American president to Moscow in fourteen years. Formalities were then completed putting into effect a treaty which will, for the first time since the dawn of the nuclear age, eliminate two entire categories of nuclear missiles. Other events surrounded the Summit, which just three years ago were unthinkable. I note these events to put them in the broader context of change.

CHANGE IN THE WORLD

The pace of change in the world today is so rapid that any statement we make about tomorrow is likely to be obsolete even today. Henry Adams wrote in 1909 that "the world did not double or treble its movement between 1800 and 1900, but, measured by any standard known, * * * the tension and vibration and volume and so-called progression of society were fully a thousand times greater in 1900 than in 1800".

Using that measure, the pace of change between 1900 and today is beyond calculation, probably greater than has taken place in all of mankind's previous history put together. And newer scientific and technological developments on the horizon will probably make all similar discoveries, from the discovery of fire through the industrial and commerical revolutions, dwarf by comparison. During my lifetime, medical knowledge available to physicians has increased more than ten-fold. More than 80% of all scientists who ever lived are alive today. The average life span is now nearly twice as great as it was when my grandparents were born. The average world standard of living has, by one estimate, quadrupled in the past century. New computers, new materials, new biotechnological processes are altering every phase of our lives, deaths, even reproduction. These developments are stretching our minds and our grasp of reality to the outermost dimensions of our capacity to understand them. Moreover, as we look ahead, we must agree that we have only the minutest glimpse of what our universe really is, for as Adams said, "Our science is a drop, our ignorance a sea."

These changes in science and technology are producing fundamental changes in our material lives and in our social and political relationships. It is not just that necessity is the mother of invention. It is that invention is the mother of necessity. Global economic changes have made interdependence a reality. Economic power and industrial capacity are ever more widely dispersed around the globe. Our political and economic institutions are feeling the stress of these pressures as they try to digest their implications. We have yet to come to grips with a world in which the combined gross national product of Europe, for example, exceeds that of the United States; and the gross national product of Japan exceeds that of the Soviet Union; while small countries such as Korea, Taiwan, and Singapore have moved, in the space of a generation, to international influence far beyond their relative size.

GLOBAL TREND TOWARD DEMOCRACY

Alongside these developments there is a global trend toward democracy which holds the promise of great forward movement toward freedom and human rights. Almost unnoticed, the numbers of people and the numbers of nations now freely electing their governments or vitally moving in that direction are greater than ever in the history of the human race. Indeed, according to Freedom House, in the past fifteen years the number of countries which can be called "free" or "partly free" has climbed from 92 to 116, while the number of "not free" declined from 71 to 51. While democracy is still under attack throughout Latin America, more than 90% of its people today live in democracies or countries on their way to it. When permitted, and sometimes even when not, people are choosing freedom.

This trend is prompted not only by an abstract love of justice—although this is undoubtedly present—but by the growing realization that democracy works best. Governments and societies everywhere are discovering that keeping up with change requires openness to information, new ideas, and the freedom which enables ingenuity to germinate and flourish. State controlled centralized planning cannot keep up with the pace of change. Even in China and the Soviet Union, there is growing recognition of the relationship between freedom and economic dynamism, a realization that a closed, tight-controlled society cannot compete in a world experiencing an information explosion that knows no national boundaries.

SECURITY FOR ALL

We are already on the verge of the day when no society will be able to isolate itself or its people from new ideas and new information anymore than one can escape the winds whose current affect us all. National boundaries can keep out vaccines, but those boundaries cannot keep out germs. One essential geo-political consequence of the new reality is that there can be no true security for any one country unless there is security for all. Unilateral security will not come from either withdrawing from the world or attempting national impregnability. Instead, we must learn to accept in each of our countries a mutual responsibility for the peoples in all other countries. There can be no real security for the people of Iran, unless there is security for the people of Iraq. There can be no security for the people of Lebanon unless there is security for the people of Israel.

The lessons for the United States and the Soviet Union—the most important security relationship in the present era—are evident. We cannot escape from one another. We are bound together in an equation that makes the security of each of us dependent on that of the other. We must learn to live together on this small planet. Our two countries must come to appreciate that just as the two sides of the human brain, the right and the left, adjust their individual roles within the body to make a coordinated and functioning whole, so must hemisphere of the body-politic, north and south, east and west, right and left, learn to harmonize their contributions to a whole that is healthy and constructive in the search for lasting peace with liberty.

It is easy to verbalize these verities. It is much more difficult to obtain them, given our cultural, political and social differences. Since the end of World War II, we and the Soviet Union have looked at international affairs through the prism of our relations with one another. It has been the central focus of our foreign policy. Today, the Soviet Union remains the only country which can seriously threaten our security. But, as it must under the laws of nature, today will soon be yesterday; and tomorrow will soon be with us. How will an evolving world cause us to change the prism through which we look at the world and our place in it?

It is my profound hope that through the process of internal transformation that is demanded by the new technologies, the time is at hand when Soviet authorities comprehend that repressive societies in our day cannot achieve inner stability or true security; that it is in their best interest to permit a humanizing process to take place so that it can show the rest of us that cruelty is not indispensable to their survival. I hope that leadership comes to realize that its historic requirement to achieve Communism through violence is an abomination in this nuclear age; and that their security as well as ours depends on a willingness to be governed by rules of responsible international behavior.

CHANGE IN THE SOVIET UNION

We can hope, but we cannot yet trust. There are significant and dramatic changes taking place in the Soviet Union, potentially massive changes, but we must see if the rhetoric turns into reality. We can welcome Soviet use of words such as "democracy" and "glasnost," but we dare not forget that the words are too often contradicted by deeds. It is interesting in this connection to note some recent words from General Secretary Gorbachev:

"We are now, as it were, going through the school of democracy afresh. We are learning that our political culture is still inadequate. Our standard of debate is inadequate; our ability to respect the point of view of even our friends and comrades—even that is inadequate."

Mr. Gorbachev's task is a formidable one. The USSR is not apt quickly to undergo what Jonathan Edwards called a "great awakening," or see a blinding light on the road to Damascus. The fundamental nature of its system is that fact that he and we must still face. But there is the beginning of change. We must be open to that change and evaluate its effect with open eyes and an open mind.

STANDARD FOR COMPARISON

Our ability to influence Soviet internal developments is likely to be limited, but we are not totally without influence. We have long been aware of a love-hate fascination the Soviets have for the West. The Soviet Union and its people in many ways measure themselves by Western standards. The United States is the Soviet Union's principal rival, but we are also its standard for comparison. Language used by us to characterize our values, such as "human right" and "democracy" are adopted by the Soviets, because they satisfy the deepest aspirations of the Soviet peoples as well. The words "glasnost" and "perestroika" are being repeated so extensively in the Soviet Union that they may well take on a meaning and dynamism of their own which could become difficult to reverse.

HUMAN RIGHTS

When I began negotiating with the Soviet Union in 1980, under President Carter, human rights was beginning to be injected as a major item on our country's international agenda. We prevailed in that negotiation, but the Soviet Union stubbornly insisted that the discussion of the subject was an improper interference in their internal affairs. When President Reagan asked me in 1985 to return to government service as head of our nuclear arms reduction negotiating team, an extraordinary change became apparent. Under the leadership of the President and the careful guidance of Secretary of State George Shultz, the United States enlarged upon what President Carter initiated, and incorporated the concept of human rights as a necessary and ever-present ingredient in the totality of our relations with the Soviet Union. The events of this past week in Moscow were a dramatic and effective illustration of this commitment.

ARMS REDUCTION

Yes, we are prepared to reduce arms, and we want to normalize and stabilize our relations with the Soviet Union. But, we insist, the pursuit of arms reductions must be accompanied by attention to the serious problems that cause nations to take up arms. Arms are the symptoms of a disease. Let's treat the disease: regional conflicts, bilateral tensions, and, of course, human rights violations. The latter, we explained, are at the root of much of our hostility toward the Soviet system, and undermine the very essence of trust and confidence between nations.

In his 1975 Nobel Prize speech that he was not permitted to present in person, Dr. Andrei Sakharov, who was a guest of the President on Tuesday night, along with much of the Soviet leadership, said:

"I am convinced that international trust, mutual understanding, disarmanent, and international security are inconceiveable without an open society with freedom of information, freedom of conscience, the right to publish, and the right to travel and choose the country in which one wishes to live."

The United States negotiates with the Soviet Union in that context. We have faith in these principles as we intensify our efforts, through our negotiations, to find a basis for understanding, stability, and peace with dignity. To negotiate is risky. It is, in the words of Hubert Humphrey, something like crossing a river by walking on slippery rocks. The possibility of disaster is on every side, but it is the way to get across. The object of our diplomacy and the supreme achievement of statesmanship, is patiently, through negotiation, to pursue the peace we seek, always recognizing the threat to that peace and always protecting with fully adequate military strength our vital national interests and values.

We want our negotiating efforts to produce results. We have begun a historic process. With the totalitarian nature of our adversary and the complex issues we face, however, coupled with our own internal political stresses, even with full arms reduction agreements, we will still be nearer to the beginning than to the end of that process.

Alexis de Tocqueville wrote in the nineteenth century that "it is especially in the conduct of their foreign relations that democracies appear to be decidedly inferior to other governments." With that observation in mind, can we achieve the firm sense of purpose, steadiness, and strength that is indispensable for effective foreign affairs decision making? Can our political coummunity resist the temptation of partisan politics and institutional rivalry to develop the consensus adequate to meet the challenge of de Tocqueville's criticism?

LAST GREAT HOPE

Abraham Lincoln in his day said that "America is the last great hope of mankind." It still is. Our political values have helped us build the most dynamic and open society in recorded history, a source of inspiration to most of the world. It is a promise of a better tomorrow for the hundreds of millions of people who have never known the gifts of human freedom. The future lies with liberty, human dignity, and democracy. To preserve and expand these values is our special responsibility. You cannot escape that burden. I urge you to look upon it as an exciting opportunity.

Thank you and my congratulations to all of you receiving degrees today on your achievements and the extraordinary future that awaits you.●

MIKE JWANOUSKOS, PARALYMPIAN

● Mr. DURENBERGER. Mr. President, in the next few weeks, Americans will watch with anticipation our sons and daughters who have worked so hard to be entered into Olympic competition. Each athlete has trained for years, and awaits the real test of his or her personal strengths. There is no doubt that in the next few weeks, there is going to be a lot of soul in Seoul

As the eyes of the world focus on Seoul, though, it is important that this view include the Paralympic Games, which will be held 2 weeks after the XXIV Olympiad. My home State of Minnesota has produced a great many Olympic athletes for previous summer and winter games, and we will never forget the "Miracle on Ice" hockey team which brought home the gold in 1980.

To that list of fine young men and women, I am proud to add the name of Mike Jwanouskos. As Mike prepares to travel to Seoul to participate in the paralympics archery competition, he takes with him the love and support of 4 million Minnesotans. From Caledonia in the south, to Hallock in the north, we are pulling our Homer Hankies out of retirement to cheer for this remarkable young man.

Mike Jwanouskos has been a fighter and a winner since birth. To overcome the physical limitations resulting from cerebral palsy, Mike has fought to perform and master functions which are taken for granted by most able-bodied people. After hundreds of hours of physical therapy, Mike was introduced to archery by a Teamster friend. Testing his bones and muscles rivalled the challenge of trying something new and at first difficult. Mike Jwanouskos came through his first outing as a winner.

Mike has come a long way since that first day with his bow and arrow. He has won the Minnesota State Adaptive Equipment Championship, setting five records in the process, and recently has achieved scores which rank within points of records for able-bodied archers. Last year, Mike was rated the 10th best archer in the United States for youth his age, and is the only handicapped shooter to ever gain that honor.

I wish to have these comments placed in the RECORD, for he is a young man of whom all Americans can be proud. He is a typical sophomore at St. Agnes High School in St. Paul, perhaps a little shy around the girls and glad that football season has started. But, as Mike takes the field in Seoul in the coming weeks, his story and message will be far from typical. My colleagues and I wish Mike and his teammates the very best as they prepare for the Paralympic Games.●

S. 2651 AND H.R. 5090 REFERRED TO THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I believe there is a little business here, but not much. If the Republican leader is ready, I ask unanimous consent that the Committee on Governmental Affairs be considered to have had referred to it S. 2651 and H.R. 5090 at the time such bills were jointly referred pursuant to 19 United States Code 2191.

Mr. BENTSEN. Mr. President, I will not object to the majority leader's request, but I would like to make a statement with respect to the referral of the legislation to implement the free-trade area agreement.

The reason I do not object to the referral of the bill to the Governmental Affairs Committee is that it has already been referred to a number of other committees as well. If one assumes that the referral to many committees was correct, then the Governmental Affairs Committee has as good a claim to jurisdiction over this matter as any other committee.

However, I believe the mistake was in failing to follow the precedent of 1979, where a trade agreement implementation bill involving the jurisdiction of a number of Senate committees, including the Committee on Governmental Affairs, was referred to one—and only one—committee, the Committee on Finance.

As in 1979, the Finance Committee was prepared this year to include in its report the views of all of the committees which had jurisdiction over matters within the scope of the legislation to approve and implement the trade agreement that is in question. Therefore, I believe that the appropriate precedent to have followed in this case was to refer the bill to the Committee on Finance.

I would hope that in the future the Chair would look to the 1979 precedent rather than to what we have done this year for purposes of referral of trade agreement implementing bills. But with that observation, Mr. President, I have no objection to the referral to the Governmental Affairs Committee.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

RETIREMENT AND SURVIVORS' ANNUITIES FOR BANKRUPTCY JUDGES AND MAGISTRATES

Mr. BYRD. Mr. President, on behalf of Senator BIDEN, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1630.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 1630) entitled "An Act to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Rodino, Mr. Kastenmeier, Mr. Synar, Mr. Moorhead, and Mr. Hyde be the managers of the conference on the part of the House.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendments, disagree to the House amendments, and agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. DASCHLE) appointed Mr. BIDEN, Mr. HEFLIN, Mr. DECONCINI, Mr. THURMOND, and Mr. GRASSLEY conferees on the part of the Senate.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for not to exceed 5 minutes, that Mr. PELL be recognized therein, and that upon the conclusion of Mr. PELL's remarks the Chair put the Senate out over until tomorrow under the recess order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

U.N. FUNDING

Mr. PELL. Mr. President, I applaud President Reagan's decision announced today finally to live up to the U.S. financial obligation to the United Nations. President Reagan has announced four steps that he is taking, as follows: First, he is certifying that reforms have been made in the U.N. budget process, thus allowing release of the $44 million which has been withheld from our 1987 assessment; second, he is instructing the State Department to prepare a determination on U.N. budgetary reform for fiscal year 1989 to allow early release of the $144 million for calendar year 1988; third, his budget proposal for fiscal year 1990, the first fiscal year during which he is out of office, will recommend full funding for the U.S. contribution to the regular U.N. budget; and fourth, he is directing the State Department to prepare a study on the feasibility of repaying the U.S.-U.N. arrearages totaling some $323 million at the present time.

I do, however, deeply regret that this administration has found it necessary to wait to act until the United Nations is near the brink of financial disaster and U.S. credibility has been severely damaged.

Article 17 of the U.N. Charter states that "the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly." When the United States signed the charter in 1945, we accepted that obligation.

I remember clearly the day the charter was approved as I was the clerk in charge of collecting the voting slips of the various governmental representatives there.

The Congress shared the administration's belief that some strong external pressures were needed in order to set the current administrative and budgetary reform process in motion. In 1985, both Houses of Congress adopted the Kassebaum-Solomon amendment by wide margins. But it is now late 1988. Substantial reform has been achieved since 1986. There is no evidence to support the administration's continuing position until today that financial pressure is what is driving reform and making the United Nations a better organization.

In fact, the evidence points the other way. The United Nations is now on the verge of being the kind of peacemaking institution for which its founders had such high hopes—hopes I recall so vividly as all of us worked in San Francisco for those 4 months to create an organization that would not make the mistakes that the League of Nations did, but would open the day to a new organization and a new era.

Clearly today's actions by the President will ease the present financial crisis. But just as clearly, they will not definitively address future financial stability of the organization.

If the situation in the western Sahara actually moves toward settlement, as there is increasing reason to believe it will, the United Nations may not be able to afford to monitor the settlement. It the Vietnamese do indeed fully withdraw from Kampuchea, as they have begun to do, the United Nations may not have the resources to send a peacekeeping force. Nor could it monitor elections in Namibia or oversee an armistice in Angola.

Mr. President, President Reagan's actions today breathe new life into our hopes for world peace. The release of $188 million in regular payments to the United Nations between now and the end of this calendar year will enable the United Nations to carry out its planned regular budget activities and enter the new year with a small cash balance.

I urge my colleagues to view favorably these efforts to pay up at the United Nations. As Ambassador Walters stated earlier this year:

> The United Nations is engaged in a major way on key issues where there is a strong consensus in the United States: getting the Soviets out of Afghanistan and the Vietnamese out of Cambodia; bring peace to the Persian Gulf and a settlement in Cyprus; and promoting respect for human rights and fundamental freedoms. These are issues that will remain high on our list of foreign policy priorities for the rest of this administration and beyond. Amen.

This will once again put the United Nations on the main road on which we thought we had embarked in those days in San Francisco, now more than 40 years ago.

ORDERS FOR WEDNESDAY

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders, or their designees, have been recognized on tomorrow under the standing order there be a period for morning business to extend until the hour of 10 o'clock a.m.; that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, at the conclusion of morning business on tomorrow, would not the Senate resume consideration of the House textile bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

Mr. President, there will be debate on that bill tomorrow. Amendments, germane amendments, and relevant amendments, will be in order on that bill but under the order no nongermane or irrelevant amendments will be in order, and no points of order will be in order.

So there may be rollcall votes on amendments tomorrow on that bill.

Does the distinguished Republican leader have anything further he would like to say or any business he would like to transact?

Mr. DOLE. Only to thank the majority leader. And we have notified Members on this side that amendments are in order. It is going to be pending. I assume if there are no amendments we may be able to find some other bills. We might get consent to act on those tomorrow, part of Thursday, and hopefully one thing we might be able to act on as quickly as possible—I know it has just been reported out of the committee at 4:30 p.m.—is the nomination of Nicholas Brady to be Treasury Secretary. it was reported out at 4:30 by unanimous vote, 14 to 0 as I understand it. Hopefully we can dispose of that this week.

Mr. BYRD. Mr. President, I presently see no reason why we could not do that. I would certainly hope that we can. Certainly there is no problem on this side. If the other side wishes, we will try to do that.

Mr. DOLE. That will be a record vote, I assume.

Mr. BYRD. That will be a record vote, yes.

Mr. President, it may be that conference reports from the House on appropriation bills, one or more, will be coming along tomorrow, and the next day or the next day. And I hope we will be able to dispose of the conference report on that bill.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until tomorrow at 9:30 a.m.

Thereupon, at 5:49 p.m., the Senate recessed until tomorrow, Wednesday, September 14, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 13, 1988:

FEDERAL INSURANCE TRUST FUNDS

SUZANNE DENBO JAFFE, OF NEW YORK, TO BE A MEMBER OF THE BOARDS OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND; THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND; AND THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS (REAPPOINTMENT).

MARY FALVEY FULLER, OF CALIFORNIA, TO BE A MEMBER OF THE BOARDS OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND; THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND; AND THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS (REAPPOINTMENT).

SECURITIES AND EXCHANGE COMMISSION

MARY L. SCHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 1989, VICE AULANA L. PETERS, RESIGNED.

DEPARTMENT OF THE INTERIOR

BECKY NORTON DUNLOP, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE, DEPARTMENT OF THE INTERIOR, VICE WILLIAM P. HORN, RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, September 13, 1988*

The House met at 12 noon.

The Reverend Campbell Gillon, senior pastor, Georgetown Presbyterian Church, Washington, DC, offered the following prayer:

O God of truth and order, Whose word of light predates the Sun and stars, bringing purpose out of chaos, shine upon us with Thy light of truth that our ordered living may confess Thee.

We are created equal in Thy love, if not in gift and talent. Grant this House so to order the common good, that equality of justice, care, and opportunity for all, may reflect Thy constant concern for each.

We are created free to love or reject Thee. If we have turned the freedom that was meant to be a way to life into a way of life, and the road of responsible choosing into a goal of unbridled liberty, good God, forgive us.

Grant us grace, in unity under Thee, to choose that righteousness which alone exalts a nation.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Mississippi [Mr. MONTGOMERY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. MONTGOMERY. Mr. Speaker, let me thank you for this great honor. I would ask the Members and also the staff to face the flag and place their hands over their hearts and recite with me the Pledge of Allegiance.

Mr. MONTGOMERY delivered the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2772. An act to authorize the Lyman-Jones, West River, and Oglala Sioux Rural Water Development Projects;

H.R. 2858. An act to provide for refunds pursuant to rate decreases under the Federal Power Act; and

H.R. 4833. An act to amend the Public Health Service Act to revise and extend the programs of nurse education established in title VIII of such Act, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4833) "An act to amend the Public Health Service Act to revise and extend the programs of nurse education established in title VIII of such act, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. HARKINS, Mr. MATSUNAGA, Mr. HATCH, and Mr. QUAYLE to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1360) "An act to amend the Indian Financing Act of 1974, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1613. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, Oregon, and for other purposes;

S. 2662. An act to remedy injury to the U.S. textile and apparel industries caused by increased imports.

S. 2763. An act entitled the "Prevention of Genocide Act of 1988";

S. 2764. An act to provide for a Health and Human Resources Center at Voorheers College in Denmark, SC; and

S. Con. Res. 141. Concurrent Resolution authorizing the rotunda of the U.S. Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

THE REVEREND CHARLES COLIN CAMPBELL GILLON

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute.)

Mr. HAMMERSCHMIDT. Mr. Speaker, the opening prayer for our deliberations today was offered by the Reverend Charles Colin Campbell Gillon, senior pastor of the Georgetown Presbyterian Church here in our National Capital.

Reverend Gillon and his wife Audrey are natives of Scotland, where he was educated and ministered from the Church of Scotland for 28 years following service in World War II.

A graduate of Glasgow University, he envisaged and built the Renfield Church Center, Glasgow—the first of its kind in Scotland—incorporating a community-run restaurant, concert hall, and gymnasium as well as the offices of the Presbytery of Glasgow.

In 1980, he left the 800-year-old foundation of Cathcart Old Parish Church, Glasgow, to become senior pastor of Georgetown Presbyterian Church, which claims the longest unbroken witness in the Washington area, with a charter signed by Thomas Jefferson in 1780.

Last year, Campbell and Audrey Gillon were naturalized as U.S. citizens.

We are grateful for the many contributions Campbell Gillon makes to this community and for his ministry here in our Nation's Capital. It is an honor for me to join my colleagues in welcoming to this Chamber an outstanding spiritual leader.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. WALKER moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. FOLEY. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to lay on the table the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The motion was agreed to.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Wednesday, September 14, 1988.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Friday, September 9, 1988:

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago & North Western Transportation Co. and the United Transportation Union.

APPOINTMENT OF MEMBERS FROM PRIVATE LIFE TO COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

The SPEAKER. Pursuant to the provisions of section 225(b) of Public Law 90-206, the Chair appoints on the part of the House the following members from private life to the Commission on Executive, Legislative, and Judicial Salaries:

Mr. William R. Ratchford, of Arlington, VA; and

Mr. John Creedon, of Larchmont, NY.

THE HONORABLE ROBERT W. KASTENMEIER, OF WISCONSIN, RECOGNIZED FOR OUTSTANDING ACHIEVEMENT

(Mr. BROOKS asked and was given permission to address the House for 1 minute.)

Mr. BROOKS. Mr. Speaker, I rise today to bring the Members' attention to a high honor that has been bestowed on our colleague from Wisconsin, ROBERT KASTENMEIER. On August 5, the American Judicature Society gave BOB its most prestigious award, the Justice Award, for his many contributions to improving the administration of justice in the United States. In presenting this award, the society noted BOB'S long commitment to the American judicial system—his support for the Civil Rights Acts of 1964 and 1968. The Voting Rights Act of 1965. The equal rights amendment, and his sponsorship of the Jury Systems Improvements Act, the Witness Fees Act. The Magistrate Act, the Judicial Councils Reform and Judicial Conduct and Disability Act, the Federal Courts Improvement Act, as well as many other important measures in the area of judicial administration.

I applaud BOB'S achievement and am proud to serve with him on the Judiciary Committee, where he chairs the Subcommittee on Courts, Civil Liberties, and the Administration of Justice. BOB, I believe I speak for all your colleagues today when I say—congratulations for a great achievement.

THE PLEDGE OF ALLEGIANCE IN THE HOUSE—A HISTORIC OCCASION

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, it is not every day that we witness a historic event in this Chamber, but today is one such day. A few moments ago, the Pledge of Allegiance to the Flag was recited by our very distinguished colleague and chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY], and indeed the integrity and dignity of this Chamber would be enhanced by simply making it a part of our procedure each legislative day.

Mr. Speaker, our effort to make this a permanent part of our day should not be confrontational. Mr. Speaker, you said it very well last week when you said, "The Pledge of Allegiance to the Flag is something intended to unite us, not intended to divide us."

Let it be just that.

PLEDGE OF ALLEGIANCE INTENDED TO BE MADE A PERMANENT PART OF HOUSE PROCEEDINGS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I think the membership might be interested in the comments made by the Speaker to the press today at this daily press conference. The Speaker corrected a misimpression in some of the press reports that the Pledge of Allegiance would only be recited today and tomorrow and emphasized that it was his intention as Speaker under his power of recognition to recognize a Member alternatively, a Democrat and a Republican Member, for each day that the House is in session, following the prayer and the approval of the Journal, to recite in public the Pledge of Allegiance.

So the Members have assurance that for the remainder of this session every day we will see the recitation of the Pledge of Allegiance. I think this meets with the approval of Members on both sides of the aisle.

The Speaker has further indicated that he has instructed the Committee of the Democratic Caucus which is responsible for preparing rule changes—and I assume the same will be done in the Republican conference—to prepare for next year's rules adoption the consideration of a rule requiring the statement of the Pledge of Allegiance on each business day of the Congress.

It is the practice of the Congress, as Members will note, to make rules changes of a permanent character at the beginning of each Congress and not at random times during the year. So I think it is clear that for the remainder of this session each day we will see the appropriate recitation of the pledge, and that we will have the assurance—and I think I can speak for both parties—that there will be proposals to incorporate it into the rules for the 101st Congress.

THE DUKAKIS RECORD ON PRISON FURLOUGHS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, maybe it should not be surprising that the Governor of Massachusetts, while furloughing first degree murderers, was also pardoning drug dealers, but this fact certainly flies in the face of all his talk about getting tough on drugs.

Here is what we now know about the Dukakis record on crime: First degree murderers serving life terms without parole were routinely given weekend furloughs in a program heavily supported by the Governor. Twenty-one drug dealers were issued pardons by the Governor between 1983 and 1987, meaning there is no longer a record of their criminal activities.

Does this sound like someone who would be a tough-on-crime, tough-on-drugs President? It does not sound that way to me.

PRISON FURLOUGHS IN MASSACHUSETTS AND CALIFORNIA

(Mr. ANTHONY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANTHONY. Mr. Speaker, I note that my colleague, the gentleman from Pennsylvania [Mr. WALKER], just talked about the record of Governor Dukakis. I would like for him to know that the State statute under which he operates is also a State statute in the State of California. It was operated by then-Governor Ronald Reagan, who is now President of the United States.

So the same State law that operated in Massachusetts is also in operation for the State of California, as in some 22 other States.

I would also call the attention of the gentleman from Pennsylvania to the fact that the President of the United States, Ronald Reagan, also operates the identical policy for Federal prisoners, and I would ask the gentleman from Pennsylvania to go back and double-check his facts in terms of the furlough and the situation in terms of our Federal Bureau of Prisons.

Mr. Speaker, I insert for the RECORD the following statistics:

In 1987, U.S. Bureau of Prisons officials gave social furloughs to 2,681 inmates imprisoned for drug offenses. Of these, about 1,100 went to inmates serving time for "creating, manufacturing, or distributing" illegal narcotics.

In addition, in 1987, officials gave social furloughs to: 12 inmates serving time for manslaughter, negligent homicide, or homicide; 6 inmates serving time for national security offense; 908 inmates convicted of extortion, fraud, or bribery; and the rest of the list includes hundreds convicted for robbery, firearms violations, property crimes, and white-collar crimes.

Even as Governor, Ronald Reagan furloughed violent criminals. And there were tragic results: In 1971, Governor Reagan gave a 72-hour pass to an inmate who then killed a Los Angeles police officer while on furlough.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ANTHONY. I do not yield.

Mr. WALKER. Mr. Speaker, the gentleman raised my name.

The SPEAKER. The time of the gentleman from Arkansas [Mr. ANTHONY] has expired.

JUSTICE ON FURLOUGH

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, our colleague, the gentleman from Arkansas [Mr. ANTHONY], simply is not correct. The furlough program in Massachusetts was for lifetime convictions without parole. It is the only State in the country that did that, and for Members who want to see more about that, there is a new video tape called Justice on Furlough available for $19.95 from Fairmount Productions, Box 4095, Alton, IL 62002, or by calling (618) 462-5415. It makes clear that Dukakis is the only Governor who ever had a program for furloughed murderers who were sentenced to lifetime without parole. There is no other State which ever had a program for murderers such as the Dukakis program which released Willie Horton.

□ 1215

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow, Wednesday, September 14, 1988.

AVIATION WHISTLEBLOWER PROTECTION ACT OF 1988

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5073) to amend the Federal Aviation Act of 1958 to provide protection for aviation whistleblowers, as amended.

The Clerk read as follows:

H.R. 5075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Whistleblower Protection Act of 1988".

SEC. 2. PROTECTION OF AVIATION WHISTLEBLOWERS.

(a) GENERAL RULES.—Title XI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1501-1519) is amended by adding at the end the following new section:

"SEC. 1119. PROTECTION OF EMPLOYEES MAKING CERTAIN DISCLOSURES.

"(a) DISCRIMINATION AGAINST CERTAIN EMPLOYEES.—

"(1) PROHIBITION.—It shall be unlawful for the employer of any covered employee to discharge or otherwise discriminate against such employee with respect to compensation or terms or conditions of employment by reason of such employee (or any person acting pursuant to a request of such employee)—

"(A) disclosing to an appropriate Federal, State, or local government official information concerning any matter which such employee reasonably believes evidences (i) a danger to the safe operation of civil aircraft, or (ii) a violation of a Federal, State, or local criminal law;

"(B) participating in a proceeding under this section, a proceeding or hearing relating to air carrier safety or security, or a proceeding relating to enforcement of a Federal or State criminal law; or

"(C) refusing to perform a task which, if performed, would allow immediate operation of an aircraft if such employee has a reasonable basis for believing that such operation would likely result in serious injury to himself or the public and if such employee promptly notifies the Federal Aviation Administration of such refusal and the reasons therefor.

"(2) EXCLUSION.—This subsection shall not apply to any covered employee who, acting without the knowledge and consent of the employer of the employee, knowingly violates (A) a requirement of this Act or a regulation issued under this Act, or (B) a Federal or State criminal law.

"(b) DOL COMPLAINT PROCEDURE.—

"(1) FILING OF COMPLAINT.—Any covered employee who believes he or she has been discharged or otherwise discriminated against by a person in violation of subsection (a) may, within 180 days after such alleged violation occurs or after such employee learns or reasonably should have learned of the violation, whichever is later, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such violation. The complaint may be filed without regard to exhaustion of any other remedies.

"(2) SERVICE.—On receipt of a complaint filed under this subsection, the Secretary of Labor shall cause a copy of the complaint to be served on the person named in the complaint and the Secretary of Transportation.

"(3) INVESTIGATION.—Within 60 days of the receipt of a complaint filed under this subsection, the Secretary of Labor shall conduct an investigation to determine whether there is reasonable cause to believe the complaint has merit and shall issue an order setting forth the findings. If the Secretary of Labor finds that there is reasonable cause to believe a violation of subsection (a) has occurred, the Secretary shall accompany the findings with an order providing relief under paragraph (8). If the Secretary of Labor finds that the violation has contributed to the termination of the employee's employment and reinstatement is sought, the Secretary shall provide in the order for the employee's immediate reinstatement. Any order issued by the Secretary under this paragraph shall include a statement of the right of the parties to request a hearing pursuant to paragraph (4).

"(4) ALJ HEARING.—

"(A) REQUEST AFTER FAILURE OF SECRETARY TO MEET INVESTIGATION DEADLINE.—If the Secretary of Labor fails to issue an order within the 60-day period referred to in paragraph (3), any party may request a hearing before an administrative law judge as provided in this paragraph.

"(B) FINALITY; REQUEST AFTER ISSUANCE OF ORDER.—Any findings or order issued pursuant to paragraph (3) shall be the final order of the Secretary of Labor subject to judicial review pursuant to subsection (c) unless the complainant or the person named in the complaint requests a hearing before an administrative law judge within 15 days of receipt of the findings or order. Such a request shall not operate to stay any reinstatement remedy contained in the Secretary's order.

"(C) DEADLINE FOR COMPLETION.—A hearing requested under this paragraph shall be completed by an administrative law judge within 180 days after the date on which the Secretary of Labor receives the request for the hearing under this paragraph.

"(D) DISCOVERY AND NOTICE.—The parties to a hearing under this paragraph shall have a reasonable opportunity for prehearing discovery and shall be given written notice of the time and place of the hearing at least 15 days prior to the hearing.

"(E) ADMINISTRATIVE PROCEDURE.—A hearing under this paragraph shall be subject to the requirements of section 554 of title 5, United States Code.

"(F) BASIS OF DECISION.—A hearing under this paragraph shall be decided on the basis of evidence presented at such hearing, and the administrative law judge conducting the hearing shall give no legal effect to any findings or orders of the Secretary of Labor under paragraph (3).

"(G) DEADLINE FOR ISSUANCE OF DECISION; SERVICE.—Within 60 days after the conclusion of a hearing under this paragraph, the administrative law judge shall issue a decision containing findings of fact, conclusions of law, and the remedy ordered, if any. The decision shall be served on the Secretary of Labor and on all parties to the hearing and shall include a statement to the parties of their right to appeal pursuant to paragraph (6).

"(5) ADMINISTRATIVE POWERS.—

"(A) SUBPOENA POWER.—The Secretary of Labor or administrative law judge assigned to conduct the hearing on a complaint under this subsection shall have authority to issue subpoenas or other orders for the purpose of conducting investigations and hearings pursuant to this subsection.

"(B) RULEMAKING AUTHORITY.—The Secretary of Labor may issue regulations with re-

spect to investigative and adjudicatory procedures and all other matters pertaining to the administration and enforcement of this section.

"(6) ADMINISTRATIVE APPEAL.—

"(A) FINALITY; REVIEW BY SECRETARY.—A decision of an administrative law judge under paragraph (4) shall be the final order of the Secretary of Labor subject to judicial review pursuant to subsection (c) unless a party petitions the Secretary of Labor for review or the Secretary issues an order of review within 15 days after the date of issuance of the decision.

"(B) DEADLINE FOR COMPLETION OF REVIEW.—Within 60 days after receipt of the petition for review, the Secretary of Labor shall issue a final order, based on the record and the decision of the administrative law judge, which shall be served on all parties. If the Secretary does not issue a final order within the period prescribed by this subsection, the decision of the administrative law judge shall become the final order of the Secretary.

"(7) MANDATORY PARTICIPATION OF FAA.—In any investigation, hearing, or other proceeding under this section to which there is an issue of the reasonableness of a covered employee's belief under subsection (a)(1)(A) or (a)(1)(C)—

"(A) the Administrator shall participate in the investigation, hearing, or proceeding with respect to such issue; and

"(B) the Secretary of Labor or the administrative law judge, as the case may be, shall give great weight to the views of the Administrator with respect to such issue.

"(8) RELIEF.—If, in response to a complaint filed under this subsection, the Secretary of Labor or administrative law judge determines that a violation of subsection (a) occurred, the Secretary or administrative law judge shall issue an order requiring the person who committed the violation—

"(A) to take such action to terminate the violation as the Secretary or the administrative law judge considers appropriate, including the rehiring or reinstatement, with back pay, of the complainant to his former position and compensation; and

"(B) if requested by the complainant, to pay to the complainant the aggregate amount of all costs and expenses (including attorneys' fees) as determined by the Secretary or administrative law judge to have been reasonably incurred by the complainant for and in connection with the proceeding.

"(9) SETTLEMENT OR ALTERNATIVE DISPUTE RESOLUTION.—On receipt of a complaint under this subsection, the Secretary of Labor shall attempt to reach a settlement between the complainant and the person named in the complaint. The Secretary of Labor is encouraged to use alternative means of dispute resolution to resolve the complaint, except that the parties must consent, in writing, before the Secretary may employ such means. The Secretary or administrative law judge shall not enter into a settlement terminating a proceeding on a complaint under this subsection without the participation and written consent of the complainant. Any settlement order issued pursuant to this subsection shall be a final order of the Secretary and shall include findings that the settlement is in the best interests of the complainant and of the public.

"(10) BAD FAITH COMPLAINTS.—If the Secretary of Labor finds that a complaint under this subsection has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $5,000.

"(c) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the complainant resided on the date of the violation. The petition for review must be filed within 60 days after the issuance of the order. The review shall be conducted in accordance with chapter 7 of title 5, United States Code. The filing of a petition for review under this subsection shall not, unless ordered by the court, operate as a stay of the order.

"(d) ENFORCEMENT.—

"(1) BY THE SECRETARY.—Whenever a person has failed to comply with an order issued under subsection (b) (including a subpoena), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation is alleged to have occurred to enforce such order. In an action brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive and declaratory relief.

"(2) BY THE PARTIES.—Any person on whose behalf an order is issued under subsection (b) may commence a civil action to require compliance with the order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order. On issuance of an order on behalf of any person seeking enforcement under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the person seeking enforcement.

"(e) POSTING OF NOTICE.—Each employer of a covered employee shall post and keep posted in a conspicuous place on the premises of such employer a notice to be prepared or approved by the Secretary of Labor setting forth such information as the Secretary considers appropriate to carry out this section. Each employer of a covered employee shall also post and keep posted in a conspicuous place on the premises of the employer the safety hotline telephone number administered by the Federal Aviation Administration.

"(f) FAA RESPONSIBILITY.—Whenever an official of the Federal Aviation Administration receives from a covered employee information relating to a danger to the safe operation of a civil aircraft, the Administrator shall take such action as may be necessary to ensure that the employer of such employee is immediately made aware of such danger. If such employee requests that the identity of such employee not be disclosed to such employer, the Administrator shall take such measures as may be necessary to ensure that such identity is not disclosed.

"(g) COVERED EMPLOYEE DEFINED.—As used in this section, the term 'covered employee' means—

"(1) an individual who is employed by any United States person (other than the United States or a State or local government) as a member of an aircraft flight or cabin crew, check airman, chief or standardization aircraft pilot, aircraft mechanic, aircraft repairman, aircraft dispatcher, or aircraft fueler; and

"(2) an individual who is employed by any United States person (other than the United States or a State or local government) and whose employment responsibilities relate to—

"(A) manufacture of aircraft, aircraft engines, propellers, appliances, or spare parts;

"(B) control of air traffic; or

"(C) manufacture, installation, or maintenance of equipment or computer programs to be provided, directly or indirectly, to the Federal Aviation Administration for use in the air traffic control and navigation system.

"(h) TREATMENT OF BAGGAGE AND AIR FREIGHT PERSONNEL.—For purposes of this section, an individual who is employed by an air carrier or subsidiary corporation of an air carrier and whose employment responsibilities relate primarily to physically handling baggage or other cargo for transportation by aircraft shall be treated as a covered employee with respect to a disclosure described in subsection (a)(1)(A)(ii) and with respect to participation in a proceeding or hearing described in subsection (a)(1)(B).

"(i) IMPROVEMENT OF FAA SAFETY TELEPHONE HOTLINE.—The Administrator shall take such action to ensure that the aviation safety telephone hotline is adequately staffed and operated so that all calls are received by on-duty personnel of the Federal Aviation Administration 24 hours daily, 7 days a week. The Administrator shall report to Congress no later than 6 months after the date of the enactment of this section on the steps that have been taken to fulfill the requirements of this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in section 1 of the Federal Aviation Act of 1958 relating to title XI of such Act is amended by adding at the end the following:

"Sec. 1119. Protection of employees making certain disclosures.

"(a) Discrimination against certain employees.

"(b) DOL complaint procedure.

"(c) Judicial review.

"(d) Enforcement.

"(e) Posting of notice.

"(f) FAA responsibility.

"(g) Covered employee defined.

"(h) Treatment of baggage and air freight personnel.

"(i) Improvement of FAA safety telephone hotline.".

SEC. 3. CIVIL PENALTY FOR POSTING OF NOTICE REQUIREMENT.

(a) PENALTY.—Section 901(a)(1)(A) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(1)(A)) is amended by striking out "or of section" and all that follows through "1115(e)(2)(B)" and inserting in lieu thereof "or of section 1101, 1114, 1115(e)(2)(B), or 1119(e)".

(b) COMPROMISE.—Section 901(a)(2) of such Act is amended by striking out "or 1115(e)(2)(B)" and inserting in lieu thereof "1115(e)(2)(B), or 1119(e)".

The SPEAKER. Under the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 5073, the Aviation Whistleblower Protection Act of 1988, a bill reported by the Committee on Public Works and Transportation.

This bill amends the Federal Aviation Act of 1958 to provide protection for aviation employees who bring safety concerns and information to the Government's attention.

In the vast majority of cases, there is a free and unhindered flow and exchange of safety information between aviation employers and employees. However, as labor/management relations have deteriorated in some companies, there has also been a growing sense of fear and intimidation on the part of employee's about bringing safety issues to the company's attention.

Over the past year, there have been a number of instances of company retaliation or dismissal of employees who have provided safety information to the Government. In fact, our committee has found that there have been instances of disciplinary action taken against employees who have brought information to the attention of the Committee on Public Works and Transportation.

Because of these abuses, we feel that it is imperative that employees feel they can come to the FAA or to the Congress with their safety concerns so that the traveling public can be protected.

This bill makes it unlawful for an employer to discipline or dismiss an employee who has provided safety information to the Government. The bill further provides that if an employee believes he or she has been improperly dismissed or disciplined in violation of the law, the employer's action can be appealed to the Department of Labor. The bill also establishes the procedures by which the Department of Labor must process an employee's appeals.

In order to ensure that this new process not be abused or used to harass employers, the bill provides no protection for employers making bad faith complaints about safety problems.

In sum, Mr. Speaker, this bill addresses a significant air safety problem.

I urge my colleagues to join in passing H.R. 5073.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are over a dozen Federal laws that protect employees who disclose unsafe practices by their employers. Nuclear powerplant workers, miners, truckers, and farm workers, are protected against discharge or discrimination when acting as whistleblowers.

There is no reason why aviation workers should not receive similar protections.

Providing whistleblower protection to airline employees would help to improve aviation safety.

These laws create an environment in which an employee can bring a dangerous situation to the attention of the Government and the public without fear of retaliation by the company he works for.

Such disclosures could provide a valuable source of information to the FAA, NTSB, and the Congress.

In developing this legislation, however, we were concerned that its protections could be used as a cover for harassment or incompetence. There have been allegations in a recent labor dispute that employees were filing bogus safety claims simply to harass their employer. I do not know whether these allegations are true.

But this bill is certainly not meant to condone such activity. Therefore, the bill provides that if the Secretary of Labor finds that a whistleblower complaint is frivolous, the Secretary may award the employer reasonable attorney's fees, not to exceed $5,000, to be assessed against the employee. This will help to ensure that employees are acting in good faith when they raise safety problems.

In sum, Mr. Speaker, I believe this bill represents a balanced approach that protects the legitimate interests of both employers and employees as well as the safety interests of airline passengers. Therefore, I urge my colleagues to support this bill.

Mr. ANDERSON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA], the chairman of the Subcommittee on Aviation.

Mr. MINETA. Mr. Speaker, I strongly support the bill now before us, the Aviation Whistleblower Protection Act of 1988. The bill will protect aviation employees against management retaliation when employees give safety information to the Government or take other steps to promote safety. The bill was reported by the Committee on Public Works and Transportation by voice vote.

Similar whistleblower legislation has been enacted to cover employees in a number of other industries and Government agencies, including employees of defense contractors, employees furnishing information about violation of the Clean Water Act, nuclear powerplant workers, miners, and truckers.

H.R. 5073 will help ensure that the aviation industry operates at the highest levels of safety. In the overwhelming majority of cases, the management of aviation companies is fully committed to safety. However, the competitive pressures of operating in a deregulated environment create temptations to cut costs at the expense of safety. At the hearings which the Aviation Subcommittee held on whistleblower legislation, it was revealed that in a number of cases, management had threatened to retaliate against employees who contacted the Government with safety informatiion or who were unwilling to perform tasks which the employees believed created a threat to safety.

H.R. 5073 will help ensure that threats of retaliation do not deter employees from doing everything possible to promote safety. Basically, the bill protects employees against discharge or discriminatory treatment when the employee discloses safety information to the Government, participates in safety-related proceedings, or refuses to perform a task which the employee believes would create a serious threat to safety.

To ensure that employees do not abuse these protections, the bill requires that to be protected an employee must have a reasonable basis for believing that a safety problem exists. The bill also provides that if an employee acts in bad faith in filing a complaint against his employer, the employee may be held liable for the employer's legal fees, up to $5,000. With these reasonably and in good faith. But employees will not be able to use the protections of this act to shield actions which are not motivated by safety concerns.

The bill provides that an employee who believes that he or she has been dismissed improperly for taking a safety-related action can appeal the dismissal to the Department of Labor. Any party who is dissatisfied with the conclusion reached by the Secretary's preliminary investigation has a right to an evidentiary hearing. If the Secretary finds that an employee has been improperly discharged, the Secretary may order the employee to be reinstated with back pay.

Mr. Speaker, the bill we are considering today can make an important contribution to furthering aviation safety. I urge my colleagues to join me in passing this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH], the ranking member of the Subcommittee on Aviation.

Mr. GINGRICH. Mr. Speaker, I simply want to commend my colleagues on a bipartisan basis, the gentleman from California [Mr. ANDERSON], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from California [Mr. MINETA].

Mr. Speaker, it was clear from the hearings we held that it was vital to have the Government step in to make sure that employees understood that safety and public aviation is an important enough item that the Government will protect them if they report a safety violation. We had clear evidence in the hearings that there were occasions when some managements that were, frankly, either misguided or more worried about profits than about safety, or for whatever reason, that some managements were literally discharging and even punishing those employees who were reporting safety problems.

Mr. Speaker, this legislation is very important. It will lead to safer public aviation.

I think everyone who flies, everyone who is concerned about safe aviation, should support this bill. I think it is a fine effort on a bipartisan basis to produce the kind of safety related changes that guarantee that employees know that their Government is sending them the signal that fully tells about a safety violation that we will protect their right to be concerned about public safety.

Mr. Speaker, I thank the gentleman from Arkansas for yielding me this time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 5073, the Aviation Whistleblower Protection Act of 1988.

As chairman of the Public Works and Transportation Committee's Subcommittee on Investigations and Oversight, I have become convinced of the urgent need for this legislation.

In too many cases, I have learned of aviation employees being intimidated, suspended, or fired for reporting unsafe conditions to the FAA or to Congress. For example, airline employees, who were concerned about losing their jobs, have been afraid to provide even background material to subcommittee staff. A pilot who appeared as a witness before the subcommittee was later reprimanded by management officials. Two mechanics were fired from a major airline after problems with aircraft on which they had worked prompted calls to the FAA's hotline. And finally, this same airline suspended a worker for 10 days because he encouraged fellow mechanics to report safety violations to the FAA.

On at least two occasions, Federal courts have suggested that Congress adopt whistleblower protection provisions for airline employees. In one case, Pavolini vs. Bard-Air Corp., the U.S. Court of Appeals, Second Circuit, wrote: "Congress may well wish to consider protecting in an appropriate way those who help prevent the loss of life from improper operation or maintenance of aircraft."

We know the FAA simply does not have enough inspectors to be looking at every airline on a round-the-clock basis. We know those who work daily on the aircraft guarantee the best line of defense possible. We know these workers can provide the FAA and the Congress with another set of eyes and ears. By calling the hotline or offering vital testimony before Congress, we know these employees can play a critical role in ensuring air safety.

However, for this legislation to be truly effective, the FAA must take steps to improve its hotline reporting system. Currently, the hotline only operates during a Washington workday. Consequently, many, many flight operations occur during a time when the hotline is inoperative. I was pleased the Public Works Committee adopted my amendment to require the FAA to staff its hotline with on-duty personnel 24 hours a day, 7 days a week. According to the Congressional Budget Office, FAA can operate its hotline on a full-time basis without additional significant costs.

Mr. Speaker, we have an opportunity today to take a big step in improving the safety of our aviation system. By approving this legislation, airline employees will have the same protections afforded nuclear powerplant workers, miners, truckers, and employees of defense contractors. This legislation should be overwhelmingly adopted—not only for the sake of these employees, but for the sake of the air traveling public as well.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. Anderson] that the House suspend the rules and pass the bill, H.R. 5073, as amended.

The question was taken; and (two-thirds have voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

BANKRUPTCY JUDGES ACT OF 1988

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4064) to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges, as amended.

The Clerk read as follows:

H.R. 4064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 152(a) of title 28, United States Code, is amended—

(1) in the item relating to the district of Alaska by striking "1" and inserting "2",

(2) in the item relating to the district of Colorado by striking "4" and inserting "5",

(3) in the item relating to the district of Kansas by striking "3" and inserting "4",

(4) in the item relating to the eastern district of Kentucky by striking "1" and inserting "2", and

(5) in the item relating to the eastern district of Texas by striking "1" and inserting "2".

The SPEAKER. Under the rule, a second is not required on this motion.

The gentleman from Texas [Mr. Brooks] will be recognized for 20 minutes and the gentleman from New York [Mr. Fish] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, H.R. 4064 authorizes new bankruptcy judgeship positions in five judicial districts across the country. The districts that will gain a new judge are Colorado, eastern Texas, Kansas, Alaska, and eastern Kentucky. As will all other bankruptcy judgeships, these positions will be filled by the U.S. Court of Appeals for a 14-year term.

The Committee on the Judiciary believes that a critical situation exists in these five districts because of quickly rising caseloads or extremely heavy travel demands on existing judges. Because of the importance of an efficient bankruptcy system to the Nation's economy, the committee believes that it is important to authorize these new judgeships. The judges authorized by H.R. 4064 are necessary to permit the bankruptcy system in these five districts to function efficiently.

The situation confronting my constituents in the eastern district of Texas illustrates the emergency that exists in certain districts. Last year, I introduced H.R. 4160 to provide for an additional bankruptcy judge in eastern Texas because the caseload down there is critical, and the bill before us, H.R. 4064, was amended by the Judiciary Committee to include my bill. Presently, there is only one bankruptcy judge in the eastern district, which stretches from Beaumont to Texarkana and over to Tyler. Statistics collected by the Administrative Office of the U.S. Courts indicate that the eastern district experienced a 41-percent increase in bankruptcy filings during fiscal year 1987. New filings in 1988 are running about 20 percent ahead of those for 1987. The eastern district's one bankruptcy judge is handling over three times the national average of chapter 11 bankruptcy cases per judge. These facts prompted the Judicial Conference of the United States to recommend a new bankruptcy judge for the eastern district of Texas.

Mr. Speaker, it is important to note that in 1986, Congress enacted legislation authorizing the creation of 52 new bankruptcy judgeships (Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Public Law 99-554). But none of the districts that would receive new judgeships under H.R. 4064 received judges under this earlier legislation.

The Subcommittee on Monopolies and Commercial Law held a hearing on legislation to authorize additional bankruptcy judgeships on April 28, 1988. At this hearing, the need for new judges in these five districts was established. Additionally, in response to concerns raised during the 99th Congress by the subcommittee, the Judicial Conference of the United States advised the subcommittee that it is developing a comprehensive work management study of the bankruptcy caseload. This will produce a more accurate measure of the workload of bankruptcy judges and aid Congress in its evaluation of the need for future additional judgeships. The Judicial Conference anticipates that this study will be completed by January 1989.

Mr. Speaker, I urge my colleagues to support H.R. 4064.

□ 1230

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I welcome this opportunity to speak in support of legislation authorizing additional bankruptcy judgeships for districts facing urgent needs.

During the 99th Congress, the Committee on the Judiciary reviewed requirements for additional bankruptcy judgeships nationwide. Public Law 99-554—the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986—authorized 52 new judgeships. In the current Congress, the Judiciary Committee sought to identify districts facing special problems and recommended relief that cannot wait until we have the opportunity again to review judgeship needs throughout the United States.

The Subcommittee on Monopolies and Commercial Law, in a hearing this April on additional bankruptcy judgeships, received testimony from U.S. District Judge Morey L. Sear, appearing on behalf of the Judicial Conference of the United States, and Bankruptcy Judge William E. Anderson, representing the National Conference of Bankruptcy Judges. Judge Sear conveyed the Judicial Conference's recommendations for an additional judgeship for the district of Colorado and an additional judgeship for the eastern district of Texas—expressing the belief of the Judicial Conference that "these districts face true judicial emergencies." He cited statistics on bankruptcy filings that documented crisis situations. Judge Anderson added his support for the additional positions recommended by the Judicial Conference.

Between the date of our hearing and the subcommittee markup, the Judicial Conference endorsed a second judgeship for Alaska. I was pleased when the subcommittee adopted my amendment authorizing the new position. The vast distances in that State have rendered the task of holding court at a number of locations particularly burdensome for the single judge in regular active service.

The other two new bankruptcy judgeships authorized by H.R. 4064 are a second position for eastern Kentucky and a fourth position for Kansas. Eastern Kentucky faces a very heavy caseload of total petitions filed and a very heavy backlog of total petitions pending—suggesting that the recent part-time availability of a judge from the western district, sitting by designation, is not an adequate solution. Kansas faces a substantial total caseload of petitions filed, an above-average volume of business petitions, and a significant number of family farmer cases.

But, Mr. Speaker, today we are responding to immediate needs. Nationwide, we face a continuing increase in numbers of new bankruptcy cases, a situation that—in my opinion—will require attention. I suggest a multifaceted response to the problem. We must consider the appropriateness of Bankruptcy Code changes designed to discourage excessive filings. We need to monitor the implementation of case management techniques designed to facilitate more expeditious treatment of cases. We should seek to ensure that the services of all bankruptcy judges are fully utilized. The importance of recruiting outstanding lawyers and retaining experienced judges must never be overlooked.

Although there is no single solution to the problem of growing bankruptcy caseloads, we cannot neglect to authorize new judicial positions in situations of necessity. Today, I urge my colleagues in this body to join me in supporting relief for districts confronting special circumstances.

Mr. BROOKS. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I do not disagree with anything that has been said here. The gentleman from Texas will be chairman of the Judiciary Committee next year, but I want to point out a few things.

We are not getting the budget goal increases in our budget resolutions that are necessary for increases in the Justice Department.

Nothing could be more basic, really, than establishing justice. I mean, even the Preamble to the Constitution puts that first. After you establish a more perfect union, you establish justice.

Everything the gentleman has said is right, but somehow they have got to have more money for the Justice Department and for the courts. Our budget resolutions are not providing it.

Now, the next bill that comes up I understand is H.R. 4807. That is an exception. In that bill, the diversity of citizenship threshold is raised. That will save some money.

Somehow we have either got to save money or increase fees that can be used by the courts or get increases in the budget resolution we have, or else get some relief under Gramm-Rudman. We have to do this. We cannot just pass laws and continue to think they will be funded, because the funds are not there.

We are given a freeze level in this year's budget resolution. There is no way that we can do what we need to do with a freeze level.

I just want to point this out to the gentleman. I think the gentleman understands this, but I want to make clear on the record that we cannot continue to do this. It is not just the Judiciary Committee that has these bills. There are other committees around here that set up programs. They say, "Well, let the Judiciary administer the program," and give them no money. We cannot even do that with Social Security. Out of the Social Security fund, we take the cost of administration.

We cannot continue to have programs that increase the cost without having someplace to get the money.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I want to thank my friend, the gentleman from Iowa, and say that I look forward to working with him in the future on this problem. I appreciate all the effort the gentleman has made to make justice a reality in this country, realizing that when we add to the responsibility of judges and magistrates and bailiffs and secretarial staff that you have got to provide the money for it or they cannot do their jobs for the American people.

I appreciate the gentleman's concern about that, his awareness of it, and look forward to working with the gentleman on it.

Mr. SMITH of Iowa. And if we do not do it, just passing an authorization just means you have to take it out of something else or else the money will not be there.

Mr. FISH. Mr. Speaker, will the gentleman from Iowa yield to me?

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I have always enjoyed a very good relationship with the gentleman from Iowa and his position on the Appropriations Committee.

I think what I was talking about at the end of my remarks in keeping with the gentleman's desires where I talked about code changes designed to discourage excessive filings or more expeditious treatment of cases or fully utilizing the services of existing sitting judges, all these would go to the idea of economy and savings of cost in the administration of justice.

Mr. SMITH of Iowa. And that is very important. I was not referring to the gentleman's statement, but I am referring to some laws that come out of other committees, especially that are always giving the courts sometimes nonjudicial functions that they should not be administering, anyway, and then no money to pay for it.

We have just got to curb those kinds of situations.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Moorhead].

Mr. MOORHEAD. Mr. Speaker, I think that the gentleman from Iowa has raised a very good point. We have been assured that the Subcommittee on Courts is going to consider that.

Along with the drug bill that we have, we are going to need more prosecutors if we really carry out the intention of the drug bill.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. In this drug bill, we have increases in penalties, increases in prisons and prisoner time that would have to be served, but no money for it. The drug bill is hollow unless we have money to do the things that need to be done.

With regard to the courts, they need a $300 million increase this year, and at most they will get a $100 million increase, and they cannot handle more drug cases if they do not have more money.

Mr. MOORHEAD. I think exactly what the gentleman desires is going to be done.

I had an amendment that I was going to offer in committee that would raise the amount of money that they had for the operation of the Department of Justice, but it was the consensus that we had better wait until we had hearings and we would be able to get something of that sort into the budget early next year and be able to accomplish just what the gentleman is talking about.

I certainly agree with the gentleman that without the money in the Department of Justice, without the money for the prosecutors, without the money to carry out their functions, they cannot do a very good job.

Mr. Speaker, I am pleased to speak in support of H.R. 4064, legislation that authorizes five additional bankruptcy judgeships. The bill provides one new judicial position for each of the following five Federal judicial districts: The district of Alaska, the district of Colorado, the district of Kansas, the eastern district of Kentucky, and the eastern district of Texas.

Today, some districts face emergency situations that require a prompt congressional response. Judge Morey Sear, who appeared on behalf of the Judicial Conference of the United States at a Judiciary subcommittee hearing, submitted a detailed statement discussing striking statistical data relating to caseloads in Colorado and eastern Texas, two of the districts covered by this bill. "Colorado," he noted, "had the second highest total number of case filings per judge in the Nation during 1987," ranked first in "chapter 7 (liquidation) business filings per judge," and had the third highest number of motions per judge to lift the automatic stay. The eastern district of Texas had the Nation's highest number of reorganization case filings per judge—and had large numbers of business filings, adversary proceedings, and lift stay motions.

This year, we focus on the requirements of a small number of Federal judicial districts. We need to wait a little longer before attempting to assess the nationwide impact of Public Law 99-554, the Bankruptcy Judges, U.S. Trustees, and Family Farmer Bankruptcy Act of 1986. We also need additional guidance from the Judicial Conference on appropriate standards for assessing judgeship needs—guidance we hope to receive next year.

In the meantime, however, we must address urgent problems. H.R. 4064 is designed to accomplish that limited objective. It merits the support of my colleagues in this body.

Mrs. SCHROEDER. Mr. Speaker, the past few years have seen a tremendous increase in the number of individuals and business owners filing for bankruptcy as a result of the collapse in the energy business, the recession, and the drought. Last March, Congressman Glickman and I introduced H.R. 4064, which creates new bankruptcy judge positions in the districts of Colorado, eastern Texas, Alaska, Kansas, and eastern Kentucky.

I thank Chairman Rodino of the Judiciary Committee for bringing this measure to the House floor. It is very important to Colorado.

Currently throughout the Nation, there are 283 bankruptcy judges in 90 judicial districts. Only four of these judges are in Colorado.

During calendar year 1987, 575,000 cases were filed nationwide, producing an average of 2,031 filings per judge. In Colorado, however, 15,934 cases were filed, meaning that each Colorado bankruptcy judge averaged 3,984 cases, or nearly twice the national average. In terms of total 1987 filing per judge, Colorado ranked second (in a virtual tie) to the eastern district of Kentucky out of the 90 districts.

The bankruptcy cases which take the most judicial time are the business filings. In this category, Colorado ranked first by a wide margin. One-third of all bankruptcy filings in Colorado are business filings, compared with a national average of 14 percent. Nationally, 1987 business filings per judge average 290. In Colorado, there were 1,320 business filings per judge, or five times the national average.

To demonstrate how bad the situation in Colorado is, consider the fact that even two additional bankruptcy judges will not take Colorado out of first place in business filings per judge. Indeed, it would take an additional 14 bankruptcy judges to bring Colorado to the national average in business filings per judge.

While Colorado ranked first nationally in terms of number of business bankruptcy filings in 1984 and fourth in terms of total filings, there were 15 judicial districts with more judges. Indeed, the central district of California has 19 judges, as compared to Colorado's 4, and 1,000 fewer business filings.

The bankruptcy judges in Colorado tell me that the current inadequate staffing means unacceptable backlogs and delays. The Judicial Conference has formally recommended that Colorado be provided with an additional bankruptcy judge.

I urge my colleagues to support his bill and vote to pass it.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from Texas [Mr. Brooks] that the House suspend the rules and pass the bill, H.R. 4064, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4064, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRANSGENIC ANIMAL PATENT REFORM ACT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4970) to amend title 35 of the United States Code relating to animal patents, as amended.

The Clerk read as follows:

H.R. 4970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transgenic Animal Patent Reform Act".

SEC. 2. INFRINGEMENT OF PATENT.

Section 271 of the title 35, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) It shall not be an act of infringement for a person whose occupation is farming to reproduce a patented transgenic farm animal through breeding, use such animal in the farming operation, or sell such animal or the offspring of such animal.

"(2) Notwithstanding the provisions of paragraph (1), it shall be an act of infringement for a person to sell the germ cells, semen, or embryos of a patented transgenic farm animal.

"(3) For purposes of paragraphs (1) and (2)—

"(A) the term 'transgenic farm animal' means a farm animal whose germ cells contain genetic material originally derived from another animal other than the parent of the farm animal; and

"(B) the term 'farm animal' means any animal used or intended for use as food or fiber.".

SEC. 3. SPECIFICATION FOR PATENT APPLICATION.

Section 112 of title 35, United States Code, is amended by adding at the end the following new paragraph:

"With respect to an invention involving biological material, the Commissioner may accept a deposit of biological material to satisfy any requirement of this section if made accessible under such conditions as the Commissioner may require.".

SEC. 4. PATENTABILITY OF HUMAN BEINGS.

Section 101 of title 35, United States Code, is amended by adding before the period at the end a comma and the following: "except that human beings are not patentable subject matter".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I am pleased to offer a bill, Transgenic Animal Patent Reform Act, aimed at responding to availability of patent protection for transgenic animals. As my colleagues know, as of April 1, 1988, because of a decision of the Patent Office it is possible to obtain patent protection for genetically altered animals.

Consideration of this bill represents the conclusion of the hearings held by the committee, and other factual inquiries undertaken by the Office of Technology Assessment and the Library of Congress. The subcommittee conducted 4 days of hearings on this subject over the last 14 months. The subcommittee heard testimony from over 30 witnesses and the hearing record is over 930 pages.

As my colleagues know, the gist of the controversy about patenting animals is the result of a decision of the Patent and Trademark Office last April 1987 to assert that genetically altered animals—other than human beings—are patentable subject matter. In April of this year the PTO granted the first patent for a genetically altered animal useful in cancer research. The Patent Office considered that it was legally sound to permit the patenting of animals that have been substantially altered through human intervention. The result reached by the Patent Office was based on the Supreme Court decision in the 1980 Chakrabarty case.

The Chakrabarty case ruled that living matter is patentable.

The Committee on the Judiciary concluded that the current patent law should be amended, however, in three important respects. The bill H.R. 4970 does just that.

First, the patent law should be amended to provide for an exemption from liability for farmers who reproduce patented animals. In addition, we should amend title 35 in two other respects: First, to clarify the Patent Commissioner authority to require deposits of biological materials; second, to statutorily exclude human beings from "patentable subject matter." I hope that after full and fair consideration of the matter that my colleagues will support this bill.

BACKGROUND

PATENTING ANIMALS

Three months ago the Patent Office made headlines by issuing a patent for a genetically altered mouse. Harvard researchers—with funding by DuPont—had succeeded in altering the genetic makeup of a mouse so that it could be used in medical research on breast cancer. That simple act has produced hundreds of news articles around the world and storms of protest.

Pending before the Congress have been two proposals dealing with the patentability of genetically altered animals. Congressman ROSE proposed that there be a 2-year moratorium on the issuance of any patents on genetically altered animals. That measure was defeated in committee by a 2-to-1 vote. The measure before us today is a bill that would exempt from patent liability farmers for the international reproduction of patented animals.

The controversy about this issue has been extensive. Opponents of patenting animals have raised questions about the morality of patents on animals. They have also claimed that patent protection will produce economic concentration, despoil the environment, increase animal suffering and stifle research. Proponents of patent protection argue that the grant of a limited right to exclude others from copying your research is a necessary incentive for the research community. The business community and many in the medical and academic community favor extending patent protection to this area of science. Opponents have included religious leaders, some environmentalists and some farm organizations.

Sorting out the facts of this controversy has been the business of the subcommittee I chair. Over the past year we have held 4 days of hearings on this subject, hearing from over 30 witnesses and compiling over 900 pages of testimony. In addition, the committee commissioned research papers by the science advisers to the Congress and legal experts. Evaluation of competing claims produces the following answers:

WHAT IS A TRANSGENIC ANIMAL?

It is now possible to transfer from one animal to another a single gene. Using a variety of techniques scientists can now alter animals to produce certain types of desired results. For example, transgenic animals include a mouse that has been modified to make it useful in the treatment of breast cancer. Other research as resulting the production of human medical drugs by animals through their mammary glands. Finally, researchers hope to alter certain animals to produce leaner, healthier meat.

WHAT IS A PATENT?

A patent is a Government-granted right to exclude others from making, using, or selling your invention. To obtain a patent the inventor must prove that the invention is useful and not an obvious extension of the existing technology. A patent exists only for 17 years, after which the technology is available to everyone in the public domain.

WHY DID THE PATENT OFFICE DECIDE TO PATENT ANIMALS?

The Supreme Court of the United States decided in 1980 that living matter (a micro-organism that ate oil spills) was protectible under the patent law. The Court reasoned that there was no legal reason to differentiate between machines and arrangements of proteins. Thus, they concluded that any invention under the Sun that was the product of significant human intervention was patentable.

WHAT ARE THE LIMITS OF PATENT PROTECTION FOR ANIMALS?

The Patent Office will not grant patents on human beings, but will evaluate all other claims for other animals using traditional patent criteria. Some question remains about whether farmers who reproduce patented animals would be committing an act of patent infringement. The Kastenmeier bill answers that question by exempting reproduction by farmers from liability.

IS OWNERSHIP OF ANIMALS ETHICAL?

Mere ownership of animals has not traditionally been considered immoral. Nor has the breeding of animals. Proponents of biotechnology argue that the use of this technology to alter animals is just a more precise—albeit scientifically more difficult—method of achieving changes through breeding. Opponents of this type of research argue that animal suffering will inevitably increase. Researchers claim that the opposite is true because with better animal models fewer test animals will be required. They also assert that genetic engineering can make animals more disease resistant.

WILL PATENTING ANIMALS PRODUCE UNDESIRABLE CONSEQUENCES FOR FARMERS?

Even without patented animals the average family farmer in the United States faces an uncertain future. One congressional study has already predicted a loss of 1 million farms as a result of factors largely separate from biotechnology. The availability of more efficient livestock poses a difficult challenge for the agricultural community. We all know of the existing dairy surpluses and must question how much more we need. There are two important steps we can take to help farmers.

First, we can avoid the intrusion of the patent law enforcement process by passing a farmer's exemption.

Second, we should adopt a regulatory process similar to that I recently offered (H.R. 4971) that calls on the U.S. Department of Agriculture to issue permits before this research hits the agricultural economy. Similar regulatory authority should also be given to the Environmental Protection Agency to regulate the release of genetically altered animals into the wild.

WHY SHOULDN'T THERE BE A MORATORIUM ON PATENTS FOR ANIMALS?

We have already had a moratorium for the last year. In April 1987 the Patent Office announced that they would accept applications for patent protection for genetically altered animals. Through my intervention no such patent issued for the last year. During that time we have endeavored to study the serious issues presented by this controversy. It is my sense that a moratorium bill can not pass the Congress. Moreover, a moratorium bill begs the important questions. A moratorium does not answer the fundamental questions. In my view a more responsive approach is to resolve the conflicting views in a permanent legislative bill.

SUMMARY OF THE BILL

1. The granting of patents for transgenic animals by the Patent Office is left unaffected, but the rights patent owners obtain are more limited than those applicable to other types of inventions. The bill adopts a number of limitations similar to those applicable to patented plants in the Plant Variety Protection Act. The bill creates an exemption to protect farmers from the intrusion of Federal patent law into the reproduction or use activities that occur on a family farm. Under current patent law, a farmer who obtains a patented animal would likely also obtain the right to use the animal for the intended use such as milking or slaughter. It is uncertain, however, whether the farmer would be liable for an act of patent infringement if the farmer reproduced the patented animal. Therefore, the legislation proposes that on-farm reproduction is not an act of patent infringement. In addition, the bill makes two other policy decisions affecting farmers. First, it prevents direct competition by the farmer against the patentholder by making the sale of embryo, germ cells, or semen of a patented animal an act of patent infringement. Second, the bill recognizes the reality of agricultural practice by providing that the sale of a patented animal or its offspring is not an act of infringement. In many instances farmers as a routine but incidental part of their business sell the offspring of their animals. This type of activity should not become a part of the patent law infringement process.

PROPONENTS OF GRANTED PATENTS FOR GENETICALLY ALTERED ANIMALS

Reagan administration.—

Medical organizations: National Coalition for Cancer Research, American Medical Association, and the American Society for Microbiology, Infectious Diseases Society of America.

Business Organizations: Industrial Biotechnology Association, Association of Biotechnology Companies, Pharmaceutical Manufacturers Association, Chemical Manufacture Association, and the Animal Health Institute.

Legal organizations; American Bar Association, Intellectual Property Owners, and the American Intellectual Property Law Association.

Universities: University of Wisconsin, and the University of Ohio.

CONCLUSION

This bill is a fair balance between the needs of the industry and the farm community. It has the support of the Committee on the Judiciary and the entire agricultural community. I urge my colleagues to support this measure.

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Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4970. The subcommittee chairman, the gentleman from Wisconsin [Mr. KASTENMEIER] worked long and hard on the drafting of this complicated legislation. I want to commend him again for his leadership. The only part of this bill which I am concerned about is that we may have gone too far in drafting the "farmers exemption." I can support in principle a limited exemption for farmers, but I believe the provision contained in H.R. 4970 is too broad. It is important to preserve the economic incentive for the biotech industry to develop genetically improved animals for farmers. If a farmer can purchase a single transgenic animal and then reproduce and sell that animal in perpetuity then we may well have diminished the value of patents for farm animals and established a precedent for weakening other parts of our patent law.

Aside from the broad farmers exemption, H.R. 4970 is a good bill. I would like to ask the gentleman from Wisconsin, the chairman of the subcommittee, as this bill moves down the legislative road will we be able to modify this exemption either in the other body or in conference?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. Mr. Speaker, I am happy to yield to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I am pleased to reply.

As the gentleman from California, with his own considerable efforts in this connection, and he was at every hearing on the matter, knows, this formulation was arrived at after consultation with many people. I believe that the bill in its present form is supportable. It certainly is urgently needed, because patenting will go forward, and the whole agricultural community will find they will not have in place the exemption that they would have every right to expect. The overwhelming burden of testimony was to that effect.

We have included provisions making it infringement to sell semen and other generative materials. The farmer exemption also, as the gentleman knows, is to farm animals which are used with respect to food and fiber alone, so there are substantial limitations in this act.

Having said that, and I say, the bill in its present form is, I think, eminently supportable. I do realize that the industry may not in the final analysis want this version. They have been consulted, and I think the gentleman from California knows that last Friday, for example, earlier last week, they declined to continue our discussions, so that we are left, frankly, with no further alternative at this point but to proceed in this fashion. I think it is quite supportable that we do.

The gentleman from California and I have dealt with the Senate on many occasions with respect to patents, copyrights and other matters, and we, of course, will need to entertain their views on this question, and so long as the basic legislative purposes of this bill remain, we would certainly consider obviously whatever modifications the Senate might care to make.

Mr. MOORHEAD. Mr. Speaker, reclaiming my time, I thank the gentleman.

Mr. Speaker, our technology is such that we can create things never before thought possible. In so doing we are advancing through unchartered waters. I understand why animal rights groups are concerned, they do not want to see more abuse and misuse directed toward animals. Although there is no indication that there will be any more abuse toward animals, however, we can't guarantee that. I also understand the concern of our church groups. They too are concerned with where this type of research may lead. But even the church groups are hard pressed to give reasons for their opposition. We are tinkering with the very concept of creation. And to be honest, that makes me a little nervous, too. However, if we were to ban this research, if we were to declare a moratorium, I don't believe it would stop it because this research is worldwide. All we would accomplish is to make such development more difficult in this country and hurt our industry and put them at a serious disadvantage.

Our hearings and research have not produced any information that would indicate that this type of research and experimentation is dangerous, or that it's unethical or evil. That's not to say that some day it might take a turn in the wrong direction. Congress has the ability to monitor research and development in this area and as soon as we detect abuse we can move in and remedy the situation—what we are talking about here is genetically improved farm animals for food and genetically altered laboratory animals for research and treatment of human diseases. In the area of human medicine, the goal is the development of model animals for pharmaceuticals and medical research. For example, a Japanese company has genetically engineered silkworms to produce a hepatitis vaccine. American scientists are presently engineering strains of laboratory mice that can be affected with the AIDS virus, so that cures for the disease can be tested in mice, instead of primates because chimps and humans are the only known species that are susceptible to AIDS.

On April 12, 1988, the U.S. Patent Office awarded Harvard University a patent for a genetically engineered mouse, the first patent ever for an animal. This special mouse would involve inserting a gene from another animal into the mouse embryo in order to give the mouse characteristics that mice don't naturally have. These mice are extremely sensitive to cancer causing chemicals and will develop tumors quickly if exposed to even small amounts. This research is thought to be extremely helpful in early detection of breast cancer in women. In the food area, research is directed at producing leaner meat, more productive cows, and disease resistant animals. The same type of gains that breeders have been working on for 10,000 years.

Improved source of food and medical research to combat the human hunger and disease in the world are so important. If we are ever to find the cure for cancer and other dreaded diseases we must support this type of research.

I urge my colleagues to vote favorably for H.R. 4970.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], ranking member on the full Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I rise in support of H.R. 4970. I also would like to commend the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from California [Mr. MOORHEAD] for the hard work and leadership they devoted to this legislation. The incentives provided by our patent system are an important inducement to our inventors and to companies investing in research and development. H.R. 4970 would permit the present practice of issuing patents for the development of new transgenic animals but it would also provide an exemption from infringement for farmers. This bill is particularly important to the biotechnology industry. Mr. Speaker, biotechnology is not a product you can patent, but rather it's a group of processes that have in common the use of genetically altered living organisms to produce new medical, agricultural, chemical, energy and waste cleanup products that will enhance our future. Biotechnology was invented in America. The U.S. industry's 1986 revenues exceeded $600 million. Their 1988 revenues are projected to be at least $900 million. Thousands of new, high-paying jobs are being produced as a result. Because so many of the biotech inventions are protected by patents, the future of that industry depends greatly on what Congress does to protect U.S. patents from unfair foreign competition.

Research in the biotechnology area has the potential of providing great benefits to the human race. The world's population of almost 5 billion people is projected by the World Bank to double within the next 50 years. The National Academy of Sciences estimates currently that some 20 million people in the developing world starve to death each year and that over 500 million more suffer from severe malnutrition. In view of these sobering realities, it is an ethical imperative, to provide every reasonable incentive to those entities which conduct agricultural research and development and that is the primary purpose of H.R. 4970. A Public Perception Survey on Science, Biotechnology, and Genetic Engineering, conducted by the Congressional Office of Technology Assessment ending last year showed strong public support for such research. For instance, 83 percent favor using genetically engineered organisms on a small scale for medical research, 42 percent favored use on a large scale basis; 86 percent would be willing to have their child undergo human gene therapy if the child had a disease that was usually fatal; and 82 percent favored continued research in genetic engineering and biotechnology.

This is important legislation and I urge a favorable vote.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to say in conclusion that I would like to thank members of the subcommittee, particularly the gentleman from California [Mr. MOORHEAD], for their contribution to this bill, and the gentleman from Oklahoma [Mr. SYNAR], who offered an important amendment, as well as others whom we have consulted with, including members of other committees with important jurisdiction in this field.

Mr. ROSE. Mr. Speaker, I rise in support of this legislation, and I commend you for the hard work that you have put into drafting legislation that exempts farmers from patent liability for breeding genetically altered farm animals, using them in farming operations or selling the animals or their offspring. This exemption answers one of my major concerns about the patentability of life and should adequately insulate family farms from many of the negative economic impacts that are anticipated as large chemical and pharmaceutical corporations play a more dominant role in our Nation's agricultural industry.

Mr. Speaker, as you know, I have voiced several other concerns about the direction that animal patenting can and may take. I still have very strong feelings about the need to provide legislation that will provide patent liability exemptions that will allow badly needed medical and scientific research to proceed with a minimal amount of litigation and impediment. The current patent law makes little or no concessions between the difficulty of protecting a slight, and often barely detectable, change in a patented research animal's genetic code for 17 years and the need for all researchers to have all of the best tools, whether animal, vegetable or mineral, to pursue cures for AIDS, cancer, and many other diseases that plague our society.

In turn, I think Congress must have a better definition of how much genetic material constitutes the legal definition of what constitutes a human being. Should an animal that contains one-half of a human code be considered human? How about one-quarter human genetic material? Should genetically altered fetuses be considered patentable subject matter under current patent law? Although such animals are not currently being patented, I am certain that such technology will exist in the near future.

On a separate but related issue, somewhere down the line, hopefully in the near future, some efforts must be taken to properly regulate the release of genetically engineered animals into the work environment, into the home environment and, perhaps, into the wild.

Mr. Speaker, I understand that you too have been drafting a more comprehensive animal patenting and generic engineering bill that addresses many of the concerns that I have mentioned and many other issues. I encourage you to continue your work with this issue, and I hope that you will continue to give myself, our colleagues, and the American public adequate opportunity to address their concerns about these issues and to reach a consensus on what amendments are, or might be, necessary to our Nation's present patent law and genetic engineering policies to properly introduce this new era in science to the American public.

Mr. SYNAR. Mr. Speaker, Chairman KASTENMEIER has done a tremendous job handling a very emotional and controversial issue in a thorough and thoughtful way.

I am convinced that fears of turning the animal kingdom upside down or handing the ownership of future breeding rights to corporate America are unfounded.

When the bill came before the committee, I was concerned about its effect on America's farmers, many of whom are barely surviving. New royalty requirements for use of patented animals could dramatically increase their costs.

The bill includes an amendment I offered in the Judiciary Committee that exempts farmers from any requirement that royalties be paid for the use of patented animals.

The farmers exemption is supported by all of the major farm groups. It will reduce the recordkeeping burdens on American farmers, and will eliminate any uncertainty about whether farmers who intentionally reproduce a patented animal would be committing an act of patent infringement.

Animal patents offer great hope for advancement in medicine and agriculture. This bill ensures patent protection for researchers in this new field, while also protecting farmers from the burdens of royalty payments for farm animals.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4970, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4970, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FEDERAL PRISON INDUSTRIES REFORM ACT OF 1988

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4994) to amend title 18, United States Code, to permit Federal Prison Industries to borrow from the Treasury, and for other purposes.

The Clerk read as follows:

H.R. 4994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Prison Industries Reform Act of 1988".

SEC. 2. AUTHORITY OF FEDERAL PRISON INDUSTRIES TO BORROW AND INVEST FUNDS.

(a) GRANT OF AUTHORITY.—Chapter 307 of title 18, United States Code, is amended by inserting after section 4128 the following new section:

"§ 4129. Authority to borrow and invest

"(a)(1) As approved by the board of directors, Federal Prison Industries, to such extent and in such amounts as are provided in appropriations Acts, is authorized to issue its obligations to the Secretary of the Treasury, and the Secretary of the Treasury, in the Secretary's discretion, may purchase or agree to purchase any such obligations, except that the aggregate amount of obligations issued by Federal Prison Industries under this paragraph that are outstanding at any time may not exceed 25 percent of the net worth of the corporation. For purchases of such obligations by the Secretary of the Treasury, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after the date of the enactment of this section, and the purposes for which securities may be issued under that chapter are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. For purposes of the first sentence of this paragraph, the net worth of Federal Prison Industries is the amount by which its assets (including capital) exceed its liabilities.

"(2) The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(b) Federal Prison Industries may request the Secretary of the Treasury to invest excess moneys from the Prison Industries Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the corporation as determined by the board of directors, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

"4129. Authority to borrow and invest.".

SEC. 3. USE OF FUNDS.

Section 4126 of title 18, United States Code, is amended—

(1) by designating the first through fifth paragraphs as subsections (a) through (e), respectively;

(2) by amending subsection (c), as designated by paragraph (1) of this section, to read as follows:

"(c) The corporation, in accordance with the laws generally applicable to the expenditures of the several departments, agencies, and establishments of the Government, is authorized to employ the fund, and any earnings that may accrue to the corporation—

"(1) as operating capital in performing the duties imposed by this chapter;

"(2) in the lease, purchase, other acquisition, repair, alteration, erection, and maintenance of industrial buildings and equipment;

"(3) in the vocational training of inmates without regard to their industrial or other assignments;

"(4) in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution in which the inmates are confined.

In no event may compensation for such injuries be paid in an amount greater than that provided in chapter 81 of title 5."; and

(3) by adding at the end the following:

"(f) Funds available to the corporation may be used for the lease, purchase, other acquisition, repair, alteration, erection, or maintenance of facilities only to the extent such facilities are necessary for the industrial operations of the corporation under this chapter. Such funds may not be used for the construction or acquisition of penal or correctional institutions, including camps described in section 4125.".

SEC. 4. REPORTS TO CONGRESS.

Section 4127 of title 18, United States Code, is amended to read as follows:

"The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year. Such report shall include a statement of the amount of obligations issued under section 4129(a)(1) during such fiscal year, and an estimate of the amount of obligations that will be so issued in the following fiscal year.".

SEC. 5. GUIDELINES AND PUBLIC COMMENT ON NEW OR EXPANDED PRODUCTION BY FEDERAL PRISON INDUSTRIES.

Section 4122(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "all physically fit inmates in the United States penal and correctional institutions" and inserting in lieu thereof "the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible"; and

(3) by adding at the end thereof the following:

"(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible.

"(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

"(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation. Before the board of directors makes a final decision, the corporation shall do the following:

"(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

"(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

"(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

"(iii) the size of the Federal Government and non-Federal Government markets for the product;

"(iv) the projected growth in the Federal Government demand for the product; and

"(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

"(B) The corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or expanded production.

"(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify of the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

"(D) The corporation shall provide to the board of directors—

"(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product,

"(ii) comments submitted to the corporation on the proposal, and

"(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or other representatives to present comments directly to the board of directors on the proposal.

"(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

"(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-month period. Such list shall be made available to all interested parties.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 4994, the Federal Prison Industries Reform Act of 1988.

H.R. 4994 would authorize Federal Prison Industries, or Unicor as it is more commonly known, to borrow funds from the Federal Government for purposes of expansion of its industrial programs. This bill, which was cosponsored with me by the ranking minority member of my subcommittee, the gentleman from California [Mr. MOORHEAD], has enjoyed bipartisan support among the members of the Judiciary Committee, as well as the support of the administration.

By providing Federal Prison Industries with borrowing authority, this bill recognizes the invaluable role the Unicor plays in our penal institutions. Not only does Unicor provide inmates with steady employment and educate them in certain job skills, but it also has proven to be an indispensable tool in managing the staggering problem of prison overcrowding. When inmates are working, they are not idle, and inmate idleness, according to the Director of the Bureau of Prisons, poses one of the most significant threats to the security of overcrowded prisons.

Last week and this week, we in this body, have been working on a drug bill aimed at identifying and punishing drug offenders. This drug bill is just one of several legislative measures that we have undertaken in the last few years designed to take criminals off of our streets and put them into our jails. At the same time that we are enacting laws to send more criminals to prisons, however, we are faced with a Federal prison overcrowding rate of approximately 160 percent over capacity. This means that in some of our Federal penal institutions where overcrowding is at its worst, two or three inmates are being housed in spaces designed for one. If we are going to enact laws that contribute to the overcrowding of our prisons, then we must give our prison officials the means to house and supervise these inmates. This bill provides them with one of those means, by granting Federal Prison Industries the borrowing authority it needs to enable it to continue to employ a substantial number of prison inmates.

It is currently estimated that the number of inmates in our Federal penal institutions could double over the course of the next 10 years. At present, UNICOR employs approximately one-third of the 44,000 inmates incarcerated in Federal penal institutions. Just to maintain this ratio, UNICOR will need to significantly expand its industries in the future.

Because Federal Prison Industries is a self-supporting corporation, it must fund this rapid expansion either through direct appropriations or through borrowing funds from the Government. This bill would enable UNICOR to do the latter, thus alleviating the need to fund UNICOR's growth through appropriations.

I understand that there are problems with our providing UNICOR with the tools to expand. There are some private industries that compete with UNICOR in the Federal market, that fear that UNICOR's growth will have a negative impact on private industry. Indeed, UNICOR has been charged with the statutory mandate to operate in such a way that "no single private industry shall be forced to bear an undue burden of competition" from Prison Industries.

In recognition of this mandate, as well as in response to the concerns of private industry, H.R. 4994 contains a set of guidelines to be followed by UNICOR when adding a new product or significantly expanding production of an existing product line. The guidelines are intended to provide more formal guidance to Prison Industries as to what constitutes an "undue burden" and to ensure the least amount of competition between UNICOR and the private sector.

The guidelines represent a joint effect among the Bureau of Prisons, the Coalition for Common Sense in Government Procurement—a group representing private industry that testified at the hearing on this bill—and the subcommittee. The effort of both the Bureau and the coalition were vital to the development of the guidelines and I thank all of those involved for working so hard and, even more important, for sustaining such a spirit of cooperation.

The Federal Prison Industries Reform Act strikes the necessary balance between the concomitant needs to provide a secure environment in our Federal prisons and to respond to the concerns of private industry. I strongly urge my colleagues to support this bill.

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Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4994, which would authorize Federal Prison Industries to borrow from the U.S. Treasury, originated with and is supported by the administration. To its credit, Federal Prison Industries has been self-sustaining from its earnings since its creation in 1934. The primary reason that it is now seeking borrowing authority is the rapidly expanding Federal inmate population. For example, the number of Federal inmates has increased over 85 percent since 1981 from 24,252 to over 44,200 and projections indicate that the population will continue to grow significantly over the next several years. In order for Federal Prison Industries to expand existing factories and establish new factories to keep pace with the growing inmate population it needs additional resources.

During the Subcommittee on Courts, Civil Liberties and the Administration of Justice's hearings on H.R. 4994 we heard testimony from David Ladensohn who testified on behalf of the Coalition for Common Sense in Government Procurement. The coalition is a nonprofit membership organization representing firms and industries that share an interest in doing business with the Federal Government. It was the coalition's position that while it supported the purpose of Federal Prison Industries, Congress should institute a system of checks and balances on the borrowing authority being advocated by Federal Prison Industries to expand its operations.

At the conclusion of the hearing, officials from the Bureau of Prisons met with representatives of the coalition and negotiated a series of guidelines to minimize Federal Prison Industries' impact on the private sector. At the subcommittee markup the gentleman from Wisconsin [Mr. KASTENMEIER], who is to be commended for his leadership on this issue, successfully offered an amendment that made the guidelines part of the legislation.

In my opinion the proposed borrowing authority coupled with the carefully crafted guidelines contained in H.R. 4994 will help the Bureau successfully manage its inmate population, while at the same time ensuring that the interests of the private sector are protected. I urge my colleagues' support for the legislation.

Mr. Speaker, I yield 9 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I want to, if I can, try to understand the legislation before us. If I understand correctly, we are going to give UNICOR the ability to borrow directly from the Federal Treasury, is that right?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. I am glad to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, the gentleman is correct.

Mr. WALKER. And we are going to give them the authority to borrow something on the order of $16 million?

Mr. KASTENMEIER. The limitation on the borrowing authority, and there is a limitation, is 25 percent of net worth of the corporation, and 25 percent of the net worth is currently about $40 million.

There is also a limitation as to how much at any point in time, any year, they can borrow. So there are taps on the borrowing authority.

Mr. WALKER. They would be able to borrow this money then at the Government bound rate, is that correct? They will not have to pay market rates of interest, prime rates, and so on, they can borrow at the Government borrowing rate?

Mr. KASTENMEIER. That is my understanding, I say to the gentleman.

Mr. WALKER. The idea behind giving them this borrowing authority is so that they can expand the production capability in the prison system, is that right?

Mr. KASTENMEIER. The gentleman is correct.

Mr. WALKER. By expanding their production capability they, therefore, will be producing more products to sell to Federal agencies, is that right?

Mr. KASTENMEIER. The Federal agencies are their primary customer, I would say to the gentleman, yes.

Mr. WALKER. It is my understanding they cannot sell to the private sector; is that right?

Mr. KASTENMEIER. The gentleman is correct.

Mr. WALKER. So what we have is an increased production capability which is going to result in more products produced by the prison industries, which in turn is going to mandate more buying by the Federal Government from the prison industries. Is that a logical conclusion?

Mr. KASTENMEIER. I would say to the gentleman that the Federal Government is not going to buy or order anything it does not require. I assume that we will not be ordering, I am talking about the Federal Government, goods that are in fact not necessary to order and to purchase.

Mr. WALKER. I assume that is the case too, but my concern is we are already doing, as I understand it, about $316 million worth of business with UNICOR, the Federal Government is, and that was the figure for 1987, and I assume it may be somewhat higher today. That is a significant amount of procurement that comes from that particular industry.

All of that procurement comes out of the hide of private enterprise in this country, because if the Federal Government were not buying it from UNICOR they would be buying it from private industries, largely small businesses, because if we look at the list of things that are made, leather, textiles, metal, wood, electronics, plastics, optics, data and graphics, and so on, most of these things are offered by small businesses in this country. So we have a competition here which is inherent in the system.

As I understand it, the wages paid by UNICOR are something on the order of 15 cents an hour to $1.10 an hour. That compares with the minimum wage law in this country that says that they have to pay at least $3.35 an hour. So right away we have the situation where only a third as much is being paid for labor at the maximum as small business is required to pay, and in addition, if I understand correctly, we are then allowing this company or this corporation to borrow at Government rates which are far lower than small business would be able to borrow at. So in terms of capitalization of small business, we are imposing an additional burden on them, and yet cutting back on the amount that they can compete for, because we are going to expand the market that UNICOR is going to be in.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, there is no question they are expanding the market, but there are carefully designed protections for industry that are built into this bill that are not there now. There are guidelines that we put in that are not presently there.

Mr. WALKER. Can the gentleman from California tell me what the protection is for small business that has them at least at a $3.35 an hour wage rate versus as low as 15 cent an hour as a wage rate when they are competing with UNICOR? What is it that balances that out?

Mr. KASTENMEIER. Mr. Speaker will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, of course that disparity has always been the case with prison systems wherever found, Federal and local systems. But in this case, UNICOR must sell at market price. It is not there to undercut private industry.

Mr. WALKER. How is market price determined?

Mr. KASTENMEIER. The market price is determined by consultation with industry, by guidelines, the guidelines which we adopted as a result of the hearings we had on the subject.

Mr. WALKER. If I understand that correctly, we are manufacturing this stiff at a very low cost because the labor rates are obviously pretty low, but we are requiring them to get fair market price for it. Where does the difference in the money go? Does that go back into UNICOR? The difference between 15 cents an hour and $3.35 an hour could be a substantial help to UNICOR. Does UNICOR in fact get, because they are setting a fair market price, that difference paid back to it?

Mr. KASTENMEIER. UNICOR has a number of other costs, including maintenance of security and other costs besides just wages rates that they may pay prison inmates.

Mr. WALKER. But there is still likely to be a difference, there is likely to be a major difference here at least between 15 cents an hour and $3.35 an hour. There has to be a major difference, UNICOR has to be making this product at substantially a lower rate than anybody can make it in small business in this country. What I am wondering is does the money flow back into UNICOR?

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Califorina.

Mr. MOORHEAD. Mr. Speaker, to begin with, there is a lot of featherbedding in prison industries. In other words, we are interested in training these people to do a job after they get out of prison. There is no question but what it probably costs more for production if we take out the support factor. But it helps support the prisoners that are there. There is less burden on the general public than there would otherwise be.

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We have a responsibility. We are government dealing with government. Are we going to let these people who are in prison stagnate there and not try to rehabilitate them, not try to train them for anything? Is there not a major social purpose there?

What we do in this bill is this: We have limitations on these new areas where it is determined they are going to produce products. They have to be diversified among as many industries as is practically possible. Probably some of the items the gentleman mentioned are made overseas, and otherwise they may be bought by us.

Mr. WALKER. Mr. Speaker, we are about to pass a bill in the Senate, I think, trying to protect the textile industry in this country. We are going to go overboard and do that, and yet here, if I understand it correctly, is one of the areas where we have the prisons competing for Federal Government business.

Now, that is certainly not an area where the problem is lack of competition. The problem there, according to the industry, is too much competition. I would say the same is true in electronics. I hear that all the time, that there is too much competition, not too little. It is an area where there is competition going on here.

The leather industry, we have heard about the problems of shipping of hides overseas, that if both people are in too much competition with us in this country, and yet these are specifically the areas that the prison industry seem to be working in.

Now, what I am trying to determine is, how are we protecting the small businessmen in my district, who have put their capital up front, who would like to sell to the Federal Government, and not have another burden imposed on him by giving this company the ability to borrow at lower interest markets than he can possibly borrow.

Mr. MOORHEAD. Proposed section 4122 provides the Federal prison industries shall concentrate on manufacturing products that are labor intensive, and shall take no more than a reasonable share of the Federal Government market for any given product.

Mr. WALKER. What is a reasonable share?

Mr. MOORHEAD. That is spelled out in the guidelines.

Mr. GRAY of Illinois. The time for the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. MOORHEAD. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. Speaker, if the gentleman will yield, the Coalition For Common Sense in Government Procurement that negotiated on the part of industry, are satisfied that the guidelines we have placed in the bill protect their interests.

Mr. WALKER. We do not know what percentage. Five percent, ten percent, twenty percent?

Mr. MOORHEAD. We do not know the exact percent that will be adopted, as it will vary from industry to industry.

Mr. WALKER. That gives me the problem, I say to the gentleman from California, because we will expand the production capacity, which means that by expanding production capacity with this borrowing, you will give them more units to sell.

If there is not any real guideline as to how much that is, the fact is, that it will come out of the hide of some small businesses out there.

How are we protecting the small business?

Mr. MOORHEAD. There are guidelines in the legislation to prevent that very thing from happening. The alternative, the thing you do if you do away with prison industries, and if you do not have work for these people to do, is you will throw people right back on the street, in the same situation that they were in before they were incarcerated. They are not going to be rehabilitated, and not able to work, but instead will end up selling drugs and committing crimes. We will not accomplish one thing.

Mr. WALKER. I do not think anybody is proposing doing away with prison industries. What we are doing is something which has never been done before, and that is, we are giving this company, the prison industries, the ability now to tap the Treasury, which means that this company, on its own, will have the ability to increase the Federal deficit. They are going to be able to add $16 million to the Federal deficit.

I suggest that that is a clear signal that we want to be very careful about what we are doing, and I am not very satisfied that I am getting answers that we have protected adequately small business.

Mr. MOORHEAD. Five percent is the figure that was proposed.

However, the amount adopted was a reasonable share of the Government market for any given item.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

The alternative historically used is to fund the UNICOR Corp. by appropriations. We have not elected to do that. We want them self-sustaining.

Now, we were quite well aware that there is competition with private industry, and we went through elaborate meetings and hearings to try to establish reasonable relationships between industries and individual entrepreneurs who might be in competition in the future. We have tried to do that conscientiously, but that is a necessary concomitant.

We have 44,000 in the Federal prisons. We had 24,000 8 years ago, and I suspect 5 or 6 years from now we will have 64,000 or more, and the fact is that they have to have productive work to do.

Those of us in this body who are concerned about law enforcement and about the problems we have in society, wherein we are willing to send more and more people to prison, have to take this as one of the necessary concomitants. What are these people going to do? We have tried to balance off by notices, by consultations with trade associations, by deliberate limitations and percentages on certain activities, and by enabling private entrepreneurs to join with UNICOR, to join with them as a joint enterprise so that both of them can survive.

All these and other things we have tried to provide, so that there is a decent balancing. We do not want to do it through appropriating more money for UNICOR. We want them to be self-sustaining, and I think the gentleman from Pennsylvania made a very good argument on why they ought to be self-sustaining, because he talks about differentials and wages as one factor. There are other factors, which mitigate against that, but that is a factor.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. I have just a couple of questions.

First of all, was a group like NFIB included in this group that came in to testify on the business position? They represent an awful lot of small businesses across the country, the small businesses that are likely to have the most problems. Was NFIB one of the people that was included in that group?

Mr. KASTENMEIER. I am not aware of NFIB.

Mr. WALKER. Was the chamber of commerce included?

Mr. KASTENMEIER. I am not sure if they were consulted or had a position, but the Coalition for Common Sense in Government Procurement is a trade association of those who are potentially competitive with prison industries, and they are private entrepreneurs. Those are the ones who are directly affected.

Mr. WALKER. The point is, it is a question of small businesses. NFIB was not; was the chamber of commerce included?

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from California.

Mr. MOORHEAD. Members of the Coalition for Common Sense in Government Procurement are the National Association of Wholesaler Distributors, National Association of Manufacturers, Business & Institutional Furniture's Association, National Association of Photographic Manufacturers, Scientific Apparatus Makers Association, National Office Products Association, International Communications Industries Association, Association for Information & Image Management, and Computer & Business Equipment Manufacturers Association. The people from those various organizations are on the board of directors.

Mr. WALKER. If the gentleman will yield further, those are the gentlemen that testified on this matter, not a small business group as such.

Mr. MOORHEAD. A representative testified for them.

Mr. WALKER. Who was that?

Mr. MOORHEAD. David Ladensohn, representing the coalition.

Mr. WALKER. But the small business was not included.

Second, I am concerned about the business of taking this whole thing off budget. If I understand correctly what you are attempting to do is make certain that we do not appropriate money for this, but rather that they borrow the money, instead of us appropriating the money.

Is that something that OMB came up with to move this off budget?

Mr. KASTENMEIER. That is not the purpose. The purpose is not to rely on appropriations. It requires that this UNICOR, this corporation, manage its growth and its activities just like other corporations do, and for capitalizing and funding of it, by borrowing, just like other corporations do.

Mr. WALKER. They will pay this all back to the Federal Government?

Mr. KASTENMEIER. That is correct.

Mr. Speaker, I strongly urge that the House do approve this measure. We are concerned about private industry, but we are also concerned about the future of this country in terms of who are in prison, and what they are doing in prison constructively. This bill answers that question.

Mr. BUSTAMANTE. Mr. Speaker, I rise in support of H.R. 4994, the Federal Prison Industries Reform Act. This bill does more than extend to Federal Prison Industries the authority to borrow from the U.S. Treasury, so that FPI can expand and update its facilities to meet the vocational needs of a growing inmate population within our Federal Prison System.

In crafting this bill Subcommittee Chairman KASTENMEIER and ranking member Mr. MOORHEAD addressed the concerns of business interests who perceive a competitive threat from FPI in the Government marketplace.

As a result of their hard work, this bill contains guidelines that will govern Federal Prison Industries' introduction or expansion of a given product for Government purchase. As statutorily required, Government agencies, in their procurement decisions, give preference to products manufactured by FPI. Private-sector government vendors of labor-intensive goods on occasion have found it difficult to get their foot in the door with contracting officers when trying to sell products which compete directly with those manufactured by FPI.

What the bill does is address this problem by striking a careful balance between the legitimate interests of small- and medium-sized businesses in the Government marketplace. Section 5 of this bill provides greater definition to the issue of what constitutes an undue burden on the private sector.

First, FPI shall take no more than a reasonable share of the Federal Government market for any given product. Reasonable share is to be determined by FPI's Board of Directors after it has taken into account the following factors:

The number of vendors currently meeting the requirements of the Federal Government for the product;

The proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

The size of the Federal Government and non-Federal Government markets for the product;

The projected growth in the Federal Government demand for the product; and

The projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

By working in concernt with private industry and industry associations, FPI will arrive at a mutually agreeable percentage figure to determine a reasonable market share.

In cases where disagreements occur, the corporation is required to submit a recommendation to the Board with the dissenting views of industry associations.

Second, Federal Prison Industries is required to diversify its product lines in order to minimize the impact of its activities on any one industry. FPI will report to Congress on its efforts to diversify its products.

Third, before FPI can add a new product or significantly increase its market share of an existing product, approval must be granted by FPI's Board. One of the responsibilities of the Board—which includes a representative from the private sector—is to balance the interests of the corporation with those of the affected private industry. Another important factor is that before the FPI Board acts on a decision to allow FPI to introduce a new product or expand marketshare of an existing one, FPI must publish its intentions in the commerce business daily.

Fourth, if affected industry associations object to the corporation's recommendation, they have the right to petition the FPI Board and the opportunity to address the Board directly.

Fifth, FPI is required to publish lists semiannually of the corporation's sales. The listing will breakout FPI sales by product and specify the market share that FPI product occupies in the Government marketplace.

In setting these guidelines, representatives of small- and medium-sized businesses gained everything they sought and more.

Mr. KASTENMEIER and Mr. MOORHEAD were sensitive to the concerns of the business community when they considered this bill. Their staffs worked closely and diligently with small business associations to craft a fair bill.

Mr. Speaker this is a pro-business measure. It brings the activities of FPI under public scrutiny, and if we don't approve this measure, we will allow FPI to continue to operate in the closet with little or no scrutiny of its activities by competing private-sector vendors.

I urge my colleagues to join me in voting to approve H.R. 4994.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4994.

The question was taken.

Mr. WALKER. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceeding on this motion will be postponed.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The **SPEAKER** pro tempore. Is there objection of the request of the gentleman from Wisconsin?

There was no objection.

COURT REFORM AND ACCESS TO JUSTICE ACT OF 1988

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4807) to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Court Reform and Access to Justice Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Reference to title 28, United States Code.

TITLE I—RULES ENABLING ACT

Sec. 101. Rules Enabling Act Amendments.
Sec. 102. Compilation and review of local rules.
Sec. 103. Rules by certain courts and orders by circuit judicial councils and the judicial conference.
Sec. 104. Conforming and other technical amendments.
Sec. 105. Tax court rule making not affected.
Sec. 106. Savings provision.
Sec. 107. Effective date.

TITLE II—ARBITRATION

Sec. 201. Arbitration authorization by district courts.
Sec. 202. Model procedures.
Sec. 203. Reports.
Sec. 204. Effect on judicial rule making powers.
Sec. 205. Authorization of appropriations.
Sec. 206. Repeal.
Sec. 207. Appeals under title 9, United States Code.
Sec. 208. Effective date.

TITLE III—FEDERAL JURISDICTION REFORM

Subtitle A—Multiparty, Multiforum Jurisdiction

Sec. 301. Jurisdiction of district courts.
Sec. 302. Venue.
Sec. 303. Multidistrict litigation.
Sec. 304. Removal of actions.
Sec. 305. Choice of law.
Sec. 306. Service of process.
Sec. 307. Effective date.

Subtitle B—Diversity Reform

Sec. 311. Amount in controversy.

TITLE IV—FEDERAL JUDICIAL CENTER

Sec. 401. Federal Judicial Center Foundation.
Sec. 402. Authority to implement history program.
Sec. 403. Authority to provide for training for persons outside the judicial branch.
Sec. 404. Appointment and compensation of the Deputy Director of the Center.

TITLE V—JURISDICTION OF THE FEDERAL CIRCUIT

Sec. 501. Interlocutory appeals.
Sec. 502. Effective date.

TITLE VI—STATE JUSTICE INSTITUTE AMENDMENTS

Sec. 601. Rule making.
Sec. 602. Civil service retirement.
Sec. 603. Use of funds under grants and contracts.
Sec. 604. Interim funding.
Sec. 605. Procedures for suspension of funding; restrictions on disclosure of information.
Sec. 606. Authorization of appropriations.

TITLE VII—COURT INTERPRETERS AMENDMENTS

Sec. 701. Short title.
Sec. 702. Authority of the Director.
Sec. 703. Certification of interpreters; other qualified interpreters.
Sec. 704. Lists of interpreters; responsibility for securing services of interpreters.
Sec. 705. Authorization of appropriations; payment for services of interpreters.
Sec. 706. Approval of compensation and expenses.
Sec. 707. Definitions.
Sec. 708. Technical amendment.

TITLE VIII—JURY SELECTION AND SERVICE

Sec. 801. Excuse of jurors.
Sec. 802. Jury selection plan.
Sec. 803. Master jury wheel.
Sec. 804. Technical amendment.
Sec. 805. Application of amendments.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. Divisional venue in civil cases.
Sec. 902. Registration of foreign judgments.
Sec. 903. Circuit judicial conference amendments.
Sec. 904. Judicial disqualification amendment.
Sec. 905. Court security.
Sec. 906. Court fees.
Sec. 907. Corporate venue.
Sec. 908. Method of recording.
Sec. 909. Improvements in removal procedure.
Sec. 910. Incentive awards.
Sec. 911. Waiver of claims for overpayment of judicial pay and allowances.
Sec. 912. Administrative office and circuit executive salaries.
Sec. 913. Cost-of-living adjustments for judicial survivors' annuities.
Sec. 914. Elimination of circuit executive board of certification procedure.
Sec. 915. Location of chambers of circuit judges.
Sec. 916. Changes in judicial districts of Florida.
Sec. 917. Miscellaneous technical amendments.

SEC. 2. REFERENCE TO TITLE 28, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

TITLE I—RULES ENABLING ACT

SEC. 101. RULES ENABLING ACT AMENDMENTS.

(a) IN GENERAL.—Chapter 131 is amended by striking out section 2072 and all that follows through section 2076 and inserting in lieu thereof the following:

"§ 2072. Rules of procedure and evidence; power to prescribe

"(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases (including all bankruptcy matters) in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

"(b) Such rules shall not abridge, enlarge, or modify any substantive right. Such rules may only supersede a rule of practice or procedure or evidence—

"(1) in effect on the day before the date of the enactment of the Court Reform and Access to Justice Act of 1988;

"(2) prescribed under this chapter; or

"(3) consisting of an amendment (including a new rule) made by Act of Congress to the rules described in paragraph (1) or (2) of this subsection.

"§ 2073. Rules of procedure and evidence; method of prescribing

"(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

"(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under section 2072 of this title. Each such committee shall consist of a balanced cross section of bench and bar, and trial and appellate judges.

"(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed

by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

"(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

"(2) Any meeting for the transaction of business under this chapter by a committee appointed under this section shall be preceded by sufficient notice to enable all interested persons to attend.

"(d) In making a recommendation under this section or under section 2072, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views.

"(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 of this title.

"§ 2074. Rules of procedure and evidence; submission to Congress; effective date

"(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings would not be feasible or would work injustice, in which event the former rule applies.

"(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.".

(b) ADVISORY COMMITTEES FOR COURTS.—Section 2077(b) is amended—

(1) by striking out "of appeals" the first place it appears and inserting in lieu thereof ", except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title"; and

(2) by striking out "the court of appeals" the second place it appears and inserting in lieu thereof "such court".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 is amended by striking out the item relating to section 2072 and all that follows through the item relating to section 2076 and inserting in lieu thereof the following:

"2072. Rules of procedure and evidence; power to prescribe.
"2073. Rules of procedure and evidence; method of prescribing.
"2074. Rules of procedure and evidence; submission to Congress; effective date.".

SEC. 102. COMPILATION AND REVIEW OF LOCAL RULES.

(a) COMPILATION.—Section 604(a) is amended—

(1) by redesignating paragraph (18) as paragraph (19); and

(2) by inserting after paragraph (17) the following:

"(18) Periodically compile—

"(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

"(B) the rules which are prescribed under section 372(c)(11) of this title; and

"(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;".

(b) REVIEW.—Section 331 is amended by inserting after the fifth paragraph the following:

"The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.".

SEC. 103. RULES BY CERTAIN COURTS AND ORDERS BY CIRCUIT JUDICIAL COUNCILS AND THE JUDICIAL CONFERENCE.

(a) RULES BY CERTAIN COURTS.—(1) Section 2071 is amended—

(A) by inserting "(a)" before "The";

(B) by striking out "by the Supreme Court" and inserting in lieu thereof "under section 2072 of this title"; and

(C) by adding at the end the following:

"(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

"(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

"(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

"(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

"(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

"(f) No rule may be prescribed by a district court other than under this section.".

(2) Section 332(d) is amended by adding at the end the following new paragraph:

"(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.".

(b) ORDERS BY CIRCUIT JUDICIAL COUNCILS.—Section 332(d)(1) is amended by inserting after the first sentence the following new sentence: "Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.".

(c) RULES BY JUDICIAL CONFERENCE AND CIRCUIT JUDICIAL COUNCILS.—Section 372(c)(11) is amended by inserting before "Any rule promulgated" the following new sentence: "Any such rule shall be made or amended only after giving appropriate public notice and an opportunity for comment.".

SEC. 104. CONFORMING AND OTHER TECHNICAL AMENDMENTS.

(a) CONFORMING REPEAL OF CRIMINAL RULES ENABLING PROVISIONS.—(1) Chapter 237 of title 18, United States Code, and the item relating to chapter 237 in the table of chapters for part II of such title, are repealed.

(b) CONFORMING AMENDMENTS RELATING TO MAGISTRATES.—(1) Section 636(d) is amended by striking out "section 3402 of title 18, United States Code" and inserting in lieu thereof "section 2072 of this title".

(2) Section 3402 of title 18, United States Code, is amended by striking out the second paragraph.

(c) CROSS REFERENCE TECHNICAL AMENDMENT.—Section 9 of the Act entitled "An Act to provide an adequate basis for the administration of the Lake Mead National Recreation Area, Arizona and Nevada, and for other purposes" approved October 8, 1964 (Public Law 88-639; 16 U.S.C. 460n-8) is amended by striking out the sentence beginning "The provisions of title 18, section 3402".

SEC. 105. TAX COURT RULE MAKING NOT AFFECTED.

The amendments made by this title shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986.

SEC. 106. SAVINGS PROVISION.

The rules prescribed in accordance with law before the effective date of this title and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title.

SEC. 107. EFFECTIVE DATE.

This title shall take effect December 1, 1988.

TITLE II—ARBITRATION

SEC. 201. ARBITRATION AUTHORIZATION BY DISTRICT COURTS.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after chapter 43 the following new chapter:

"CHAPTER 44—ARBITRATION

"Sec.
"651. Authorization of arbitration.
"652. Jurisdiction.
"653. Powers of arbitrator; arbitration hearing.
"654. Arbitration award and judgment.
"655. Trial de novo.
"656. Certification of arbitrators.
"657. Compensation of arbitrators.
"658. District courts that may authorize arbitration.

"§ 651. Authorization of arbitration

"(a) AUTHORITY OF CERTAIN DISTRICT COURTS.—Each United States district court described in section 658 may authorize by local rule the use of arbitration in any civil action, including an adversary proceeding in bankruptcy. Such arbitration shall be conducted in accordance with the provisions of this chapter.

"(b) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9.

"§ 652. Jurisdiction

"(a) ACTIONS THAT MAY BE REFERRED TO ARBITRATION.—(1) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, a district court that authorizes arbitration under section 651 may—

"(A) allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it if the parties consent to arbitration, and

"(B) require the referral to arbitration of any civil action pending before it if the relief sought consists only of money damages not in excess of $100,000 or such lesser amount as the district court may set, exclusive of interest and costs.

"(2) For purposes of paragraph (1)(B), a district court may presume damages are not in excess of $100,000 unless counsel certifies that damages exceed such amount.

"(b) ACTIONS THAT MAY NOT BE REFERRED WITHOUT CONSENT OF PARTIES.—Referral to arbitration under subsection (a)(1)(B) may not be made—

"(1) of an action based on an alleged violation of a right secured by the Constitution of the United States, or

"(2) if jurisdiction is based in whole or in part on section 1343 of this title.

"(c) EXCEPTIONS FROM ARBITRATION.—Each district court shall establish by local rule procedures for exempting, sua sponte or on motion of a party, any case from arbitration in which the objectives of arbitration would not be realized—

"(1) because the case involves complex or novel legal issues,

"(2) because legal issues predominate over factual issues, or

"(3) for other good cause.

"(d) SAFEGUARDS IN CONSENT CASES.—In any civil action in which arbitration by consent is allowed under subsection (a)(1)(A), the district court shall by local rule establish procedures to ensure that—

"(1) consent to arbitration is freely and knowingly obtained, and

"(2) no party or attorney is prejudiced for refusing to participate in arbitration.

"§ 653. Powers of arbitrator; arbitration hearing

"(a) POWERS.—An arbitrator to whom an action is referred under section 652 shall have, within the judicial district of the district court which referred the action to arbitration, the power—

"(1) to conduct arbitration hearings,

"(2) to administer oaths and affirmations, and

"(3) to make awards.

"(b) TIME FOR BEGINNING ARBITRATION HEARING.—An arbitration hearing under this chapter shall begin within a time period specified by the district court, but in no event later than 180 days after the filing of an answer, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 180-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown.

"(c) SUBPOENAS.—Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

"§ 654. Arbitration award and judgment

"(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall, promptly after the arbitration hearing is concluded, be filed with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo under section 655. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

"(b) SEALING OF ARBITRATION AWARD.—The district court shall provide by local rule that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case—

"(1) except as necessary for the court to determine whether to assess costs or attorney fees under section 655,

"(2) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

"(3) except for purposes of preparing the report required by section 203(b) of the Court Reform and Access to Justice Act of 1988.

"(c) TAXATION OF COSTS.—The district court may by rule allow for the inclusion of costs as provided in section 1920 of this title as a part of the arbitration award.

"§ 655. Trial de novo

"(a) TIME FOR DEMAND.—Within 30 days after the filing of an arbitration award with a district court under section 654, any party may file a written demand for a trial de novo in the district court.

"(b) RESTORATION TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration. In such a case, any right of trial by jury that a party otherwise would have had, as well as any place on the court calendar which is no later than that which a party otherwise would have had, are preserved.

"(c) LIMITATION ON ADMISSION OF EVIDENCE.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

"(1) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence, or

"(2) the parties have otherwise stipulated.

"(d) TAXATION OF ARBITRATOR FEES AS COST.—(1)(A) A district court may provide by rule that, in any trial de novo under this section, arbitrator fees paid under section 657 may be taxed as costs against the party demanding the trial de novo.

"(B) Such rule may provide that a party demanding a trial de novo under subsection (a), other than the United States or its agencies or officers, shall deposit a sum equal to such arbitrator fees as advanced payment of such costs, unless the party is permitted to proceed in forma pauperis.

"(2) Arbitrator fees shall not be taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) shall be returned to the party demanding the trial de novo, if—

"(A) the party demanding the trial de novo obtains a final judgment more favorable than the arbitration award, or

"(B) the court determines that the demand for the trial de novo was made for good cause.

"(3) Any arbitrator fees taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) that is not returned to the party demanding the trial de novo, shall be paid to the Treasury of the United States.

"(3) Any rule under this subsection shall provide that no penalty for demanding a trial de novo, other than that provided in this subsection, shall be assessed by the court.

"(e) ASSESSMENT OF COSTS AND ATTORNEY FEES.—In any trial de novo demanded under subsection (a) in which arbitration was done by consent of the parties, a district court may assess costs, as provided in section 1920 of this title, and reasonable attorney fees against the party demanding the trial de novo if—

"(1) such party fails to obtain a judgment, exclusive of interest and costs, in the court which is substantially more favorable to such party than the arbitration award, and

"(2) the court determines that the party's conduct in seeking a trial de novo was in bad faith.

"§ 656. Certification of arbitrators

"(a) STANDARDS FOR CERTIFICATION.—Each district court listed in section 658 shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

"(1) shall take the oath or affirmation described in section 453, and

"(2) shall be subject to the disqualification rules of section 455.

"(b) TREATMENT OF ARBITRATOR AS INDEPENDENT CONTRACTOR AND SPECIAL GOVERNMENT EMPLOYEE.—An arbitrator is an independent contractor and is subject to the provisions of sections 201 through 211 of title 18 to the same extent as such provisions apply to a special Government employee of the executive branch. A person may not be barred from the practice of law because such person is an arbitrator.

"§ 657. Compensation of arbitrators

"(a) COMPENSATION.—The district court may, subject to limits set by the Judicial Conference of the United States, establish and pay the amount of compensation, if any, that each arbitrator shall receive for services rendered in each case.

"(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

"§ 658. District courts that may authorize arbitration

"The district courts for the following judicial districts may authorize the use of arbitration under this chapter:

"(1) Northern District of California, District of Connecticut, Middle District of Florida, Western District of Michigan, Western District of Missouri, District of New Jersey, Eastern District and Southern District of New York, Middle District of North Carolina, Western District of Oklahoma, Eastern District of Pennsylvania, and Southern District and Western District of Texas.

"(2) Ten additional judicial districts, which shall be approved by the Judicial Conference of the United States. The Judicial Conference shall give notice of the 10 districts approved under this paragraph to the Federal Judicial Center and to the public.".

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of part III is amended by inserting after the item relating to chapter 43 the following new item:

"44. Arbitration.. 651".

(c) EXCEPTION TO LIMITATION ON MONEY DAMAGES.—Notwithstanding section 652 of title 28, United States Code (as added by subsection (a) of this section), establishing a limitation of $100,000 in money damages with respect to cases referred to arbitration, a district court listed in section 658 of title 28, United States Code (as added by subsection (a) of this section), whose local rule on the date of the enactment of this Act provides for a limitation on money damages, with respect to such cases, of not more than $150,000, may continue to apply the higher limitation.

SEC. 202. MODEL PROCEDURES.

The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44 of title 28, United States Code, as added by section 201 of this Act. No model rule may supersede any provision of such chapter 44, this title, or any law of the United States.

SEC. 203. REPORTS.

(a) ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3) of title 28, United States Code, statistical information about the implementation of chapter 44 of title 28, United States Code, as added by section 201 of this Act.

(b) REPORT BY FEDERAL JUDICIAL CENTER.—Not later than 5 years after the date of the enactment of this Act, the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44 of title 28, United States Code, as added by section 201 of this Act, which shall include the following:

(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

(5) Recommendations to the Congress on whether to terminate or continue chapter 44 of title 28, United States Code, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.

(c) IMPACT ANALYSIS BY FEDERAL JUDICIAL CENTER.—Not later than 5 years after the date of the enactment of this Act, the Federal Judicial Center shall submit to the Congress an analysis of issues relating to the satisfaction of litigants, particularly women, low-income persons, and minority group members, who have participated in arbitration under chapter 44 of title 28, United States Code, and an examination of the participation of persons as arbitrators under such chapter, setting forth a list of such arbitrators by sex, age, and race.

SEC. 204. EFFECT ON JUDICIAL RULE MAKING POWERS.

Nothing in this title, or in chapter 44 of title 28, United States Code, as added by section 201 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1989, to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44 of title 28, United States Code, as added by section 201 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended, except that such funds may not be expended for the arbitration of actions referred to arbitration after the date of repeal set forth in section 206 of this Act.

SEC. 206. REPEAL.

Effective 5 years after the date of the enactment of this Act, chapter 44 of title 28, United States Code, as added by section 201 of this Act, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, are repealed, except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 207. APPEALS UNDER TITLE 9, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Appeals

"(a) An appeal may be taken from—

"(1) an order—

"(A) refusing a stay of any action under section 3 of this title,

"(B) denying a petition under section 4 of this title to order arbitration to proceed,

"(C) denying an application under section 206 of this title to compel arbitration,

"(D) confirming or denying confirmation of an award or partial award, or

"(E) modifying, correcting, or vacating an award;

"(2) an interlocutory order granting, continuing, or modifying an injunction against an arbitration that is subject to this title; or

"(3) a final decision with respect to an arbitration that is subject to this title.

"(b) Except as otherwise provided in section 1292(b) of title 28, an appeal may not be taken from an interlocutory order—

"(1) granting a stay of any action under section 3 of this title;

"(2) directing arbitration to proceed under section 4 of this title;

"(3) compelling arbitration under section 206 of this title; or

"(4) refusing to enjoin an arbitration that is subject to this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"15. Appeals.".

SEC. 208. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect 180 days after the date of the enactment of this Act.

(b) EFFECTIVE DATE FOR SECTION 207.—The amendments made by section 207 shall take effect on the date of the enactment of this Act.

TITLE III—FEDERAL JURISDICTION REFORM

SUBTITLE A—MULTIPARTY, MULTIFORUM JURISDICTION

SEC. 301. JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—Chapter 85 is amended by adding at the end the following new section:

"§ 1367. Multiparty, multiforum jurisdiction

"(a) The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single event or occurrence, where it is alleged in good faith that any 25 persons have either died or incurred injury in the event or occurrence and that, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

"(1) a defendant resides in a State and a substantial part of the event or occurrence took place in another State;

"(2) any two defendants reside in different States; or

"(3) substantial parts of the event or occurrence took place in different States.

"(b) For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business; and

"(3) 'injury' means physical harm to a natural person and physical damage to or destruction of tangible property.

"(c) In any action in a district court under this section, any person with a claim arising from the event or occurrence described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(d) A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 is amended by adding at the end the following new item:

"1367. Multiparty, multiforum jurisdiction.".

SEC. 302. VENUE.

Section 1391 is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1367 of this title may be brought in any district in which any defendant resides or in which a substantial part of the event or occurrence giving rise to the action took place.".

SEC. 303. MULTIDISTRICT LITIGATION.

Section 1407 is amended by adding at the end the following:

"(i)(1) In actions transferred under this section when jurisdiction is based in whole or in part on section 1367 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(3) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.".

SEC. 304. REMOVAL OF ACTIONS.

Section 1441 is amended—

(1) in subsection (e) by striking out "(e) The court to which such civil action is removed" and inserting in lieu thereof "(f) The court to which a civil action is removed under this section"; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) A defendant in a civil action in a State court may remove the action to the United States district court for the district and division embracing the place where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1367 of this title, or

"(B) the defendant is a party to an action under section 1367 in a United States district court arising from the same event or occurrence as the action in State court.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a petition for removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1367 in a United States district court arising from the same event or occurrence, or at a later time with leave of the district court.

"(2) Whenever an action is removed under this subsection and the district court to which it was removed has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

"(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand some or all of the removed actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) An action removed under this subsection shall be deemed to be an action under section 1367 and an action in which jurisdiction is based on section 1367 of this title for purposes of this section and sections 1367, 1407, 1658, 1697, and 1785 of this title.".

SEC. 305. CHOICE OF LAW.

(a) DETERMINATION BY THE COURT.—Chapter 111 is amended by adding at the end the following new section:

"§ 1658. Choice of law in multiparty, multiforum actions

"(a) In an action under section 1367 of this title, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

"(1) the law that might have governed if the jurisdiction created by section 1367 of this title did not exist;

"(2) the forums in which the claims were or might have been brought;

"(3) the location of the event or occurrence on which the action is based and the location of related transactions among the parties;

"(4) the place where the parties reside or do business;

"(5) the desirability of applying uniform law to some or all aspects of the action;

"(6) whether a change in applicable law in connection with removal or transfer of the action would cause unfairness;

"(7) the danger of creating unnecessary incentives for forum shopping;

"(8) the interest of any jurisdiction in having its law apply;

"(9) any reasonable expectation of a party or parties that the law of a particular jurisdiction would apply or would not apply;

"(10) any agreement or stipulation of the parties concerning the applicable law; and

"(11) whether a change in applicable law in connection with removal or transfer of the action would cause unfairness.

"(b) The district court making the determination under subsection (a) shall enter an order designating a single jurisdiction whose substantive law is to be applied in all other actions under section 1367 arising from the same event of occurrence as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to all such actions before the court, and to all elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to an action or an element of an action.

"(c) In an action remanded to another district court or a State court under section 1407 or 1441(e)(2) of this title, the district court's choice of law under subsection (b) shall continue to apply.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 is amended by adding at the end the following item:

"1658. Choice of law in multiparty, multiforum actions.".

SEC. 306. SERVICE OF PROCESS.

(a) OTHER THAN SUBPOENAS.—(1) Chapter 113 is amended by adding at the end the following new section:

"§ 1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1367 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 113 is amended by adding at the end the following new item:

"1697. Service in multiparty, multiforum actions.".

(b) SERVICE OF SUBPOENAS.—(1) Chapter 117 is amended by adding at the end the following new section:

"§ 1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1367 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 117 is amended by adding at the end the following new item:

"1785. Subpoenas in multiparty, multiforum actions.".

SEC. 307. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to a civil action if the event or occurrence giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

SUBTITLE B—DIVERSITY REFORM

SEC. 311. AMOUNT IN CONTROVERSY.

(a) INCREASE IN AMOUNT IN CONTROVERSY TO $50,000.—Subsections (a) and (b) of section 1332 are each amended by striking out

"$10,000" and inserting in lieu thereof "$50,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

TITLE IV—FEDERAL JUDICIAL CENTER

SEC. 401. FEDERAL JUDICIAL CENTER FOUNDATION.

(a) ESTABLISHMENT.—Chapter 42 is amended by adding at the end the following new section:

"§ 629. Federal Judicial Center Foundation

"(a) ESTABLISHMENT AND PURPOSE.—There is established a private nonprofit corporation which shall be known as the Federal Judicial Center Foundation (hereafter in this section referred to as the 'Foundation') and which shall be incorporated in the District of Columbia. The purpose of the Foundation shall be to have sole authority to accept and receive gifts of real and personal property and services made for the purpose of aiding or facilitating the work of the Federal Judicial Center. The Foundation shall not accept conditional or otherwise restricted gifts, except for gifts that are designated for the support of specific projects previously approved by the Board of the Center. The Foundation shall have no authority to administer or otherwise determine the use of gifts accepted under this section.

"(b) BOARD OF THE FOUNDATION.—The business of the Foundation shall be conducted by a Board that shall have seven members, including a chairman. Three members, including the chairman, shall be appointed by the Chief Justice of the United States, two by the President pro tempore of the Senate, and two by the Speaker of the House of Representatives. The term of office of each member of the Board shall be five years, except that the initial terms shall be five years for the chairman, one member appointed by the President pro tempore and one member appointed by the Speaker, three years for the other member appointed by the President pro tempore and the other member appointed by the Speaker, and two years for the two other members appointed by the Chief Justice. Members of the Board shall serve without compensation but, upon authorization of the Director of the Center, shall be reimbursed by the Federal Judicial Center for actual and necessary expenses incurred in the performance of their official duties. No person who is a Federal or State judge in regular active service or otherwise eligible to perform judicial duties shall be eligible for membership on the Board. The Center shall provide all administrative support and facilities necessary for the operation of the Board.

"(c) USE OF GIFTS BY THE CENTER.—The Federal Judicial Center is authorized to administer and use gifts received by the Foundation under this section. The gifts shall be used to further the goals of the Center as determined by the Board of the Center.

"(d) DEPOSIT OF GIFTS IN THE TREASURY; DISBURSEMENTS.—Gifts of money and proceeds from sales of other property received as gifts shall be deposited in a separate fund in the Treasury of the United States and disbursed on the order of the Director of the Center, in accordance with policies established by the Board of the Center.

"(e) ANNUAL REPORTS.—The Board of the Foundation shall, not later than October 1 of each year, submit to the Committees on the Judiciary of the Senate and the House of Representatives a report with respect to gifts received under this section during the preceding 12-month period, including the source of each such gift, the amount of each gift of cash or cash equivalent, and a description of any other gift. The Center shall include in its annual report of the activities of the Center under section 623(a)(3) a description of the purposes for which gifts were used during the year covered by the report.

"(f) TREATMENT OF GIFTS FOR PURPOSES OF TAX LAWS.—For the purpose of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.".

(b) CONFORMING AMENDMENT.—The item relating to section 629 in the table of sections for chapter 42 is amended to read as follows:

"629. Federal Judicial Center Foundation.".

SEC. 402. AUTHORITY TO IMPLEMENT HISTORY PROGRAM.

Section 623(a) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States Government.".

SEC. 403. AUTHORITY TO PROVIDE FOR TRAINING FOR PERSONS OUTSIDE THE JUDICIAL BRANCH.

Section 620(b)(3) is amended to read as follows:

"(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government and other persons whose participation in such programs would improve the operation of the judicial branch, including, but not limited to, judges, United States magistrates, clerks of court, probation officers, and persons serving as mediators and arbitrators;".

SEC. 404. APPOINTMENT AND COMPENSATION OF THE DEPUTY DIRECTOR OF THE CENTER.

(a) APPOINTMENT BY THE BOARD.—Section 624, relating to powers of the Board of the Federal Judicial Center, is amended in paragraph (1) by inserting "and the Deputy Director" after "Director".

(b) COMPENSATION.—(1) Section 626 is amended by adding at the end the following new sentence: "The compensation of the Deputy Director of the Federal Judicial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts.".

(2) The section heading for section 626 is amended to read as follows:

"§ 626. Compensation of the Director and Deputy Director".

(3) The item relating to section 626 in the table of sections at the beginning of chapter 42 is amended to read as follows:

"626. Compensation of the Director and Deputy Director.".

(c) BUDGET ACT COMPLIANCE.—The amendment made by subsection (b) shall be effective for fiscal years beginning on or after October 1, 1988.

TITLE V—JURISDICTION OF THE FEDERAL CIRCUIT

SEC. 501. INTERLOCUTORY APPEALS.

Section 1292(d) is amended by adding at the end the following new paragraph:

"(4)(A) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of an appeal from an interlocutory order of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, granting or denying, in whole or in part, a motion to transfer an action to the United States Claims Court under section 1631 of this title.

"(B) When a motion to transfer an action to the Claims Court is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion. If an appeal is taken from the district court's grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Claims Court pursuant to the motion shall be carried out.".

SEC. 502. EFFECTIVE DATE.

The amendment made by section 501 shall apply to any action commenced in the district court on or after the date of the enactment of this Act.

TITLE VI—STATE JUSTICE INSTITUTE AMENDMENTS

SEC. 601. RULE MAKING.

Section 203(f) of the State Justice Institute Act of 1984 (42 U.S.C. 10702(f)) is amended—

(1) by striking out ", at least thirty days prior to their effective date,"; and

(2) by adding at the end the following: "The publication of a substantive rule shall be made not less than thirty days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.".

SEC. 602. CIVIL SERVICE RETIREMENT.

Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by striking out "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

SEC. 603. USE OF FUNDS UNDER GRANTS AND CONTRACTS.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (3) by inserting "judicial and" after "using";

(2) by striking out paragraph (4); and

(3) by redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

SEC. 604. INTERIM FUNDING.

Section 207(a) of the State Justice Institute Act of 1984 (42 U.S.C. 10706(a)) is amended—

(1) in paragraph (1)(B) by adding "and" after the semicolon;

(2) in paragraph (2) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 605. PROCEDURES FOR SUSPENSION OF FUNDING; RESTRICTIONS ON DISCLOSURE OF INFORMATION.

Section 209 of the State Justice Institute Act of 1984 (42 U.S.C. 10708) is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"SEC. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended *unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.*

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under this title, may use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $15,000,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989. Amounts appropriated under this section may remain available until expended.".

TITLE VIII—COURT INTERPRETERS AMENDMENTS

SEC. 701. SHORT TITLE.

This title may be cited as the "Court Interpreter Amendments Act of 1988".

SEC. 702. AUTHORITY OF THE DIRECTOR.

Section 1827(a) is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 703. CERTIFICATION OF INTERPRETERS; OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit, the Director shall certify interpreters for that circuit in the language requested. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Court Reform and Access to Justice Act of 1988.

"(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and shall report to the Judicial Conference periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States, and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters in proceedings instituted by the United States. In prescribing such fees, the Director shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

SEC. 704. LISTS OF INTERPRETERS; RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file, in the office of the clerk, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters available upon request.

"(2) The clerk of the court is responsible for securing the services of interpreters required for judicial proceedings instituted by the United States, except that the United States attorney is responsible for securing the services of interpreters for Government witnesses.".

SEC. 705. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES OF INTERPRETERS.

Section 1827(g) is amended to read as follows:

"(g)(1) This section may be carried out only with funds appropriated to carry out this section.

"(2) There are authorized to be appropriated to the Federal judiciary such sums as may be necessary to carry out this section. Expenses incurred in carrying out this section shall be paid by the Director of the Administrative Office of the United States Courts.

"(3) Such salaries, fees, expenses, and costs that are incurred under this section with respect to Government witnesses (including grand jury proceedings) shall, except for those paid pursuant to paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.

"(4) Upon the request of any person in any action for which interpreting services are not otherwise provided under this section, the Director, upon the request of the presiding judicial officer, may make such services available to that person on a cost-reimbursable basis. The judicial officer may also require the prepayment of the estimated expenses of providing such services.

"(5) Any monies collected for the services of interpreters under this section may be used to reimburse the appropriations obligated and disbursed in payment for such services.".

SEC. 706. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters pursuant to the schedule of fees prescribed by the Director under subsection (b)(3).".

SEC. 707. DEFINITIONS.

Section 1827 is amended—

(1) by striking out subsections (i) and (j);

(2) by redesignating subsection (k) as subsection (i); and

(3) by inserting after subsection (i), as so redesignated, the following:

"(j) As used in this section—

"(1) the term 'presiding judicial officer' means any judge of a United States district court, including a bankruptcy judge, a United States magistrate, and, in the case of grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney;

"(2) the term 'judicial proceedings instituted by the United States' means all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator), instituted by the United States and conducted in, or pursuant to the lawful authority and jurisdiction of, a United States district court; and

"(3) the term 'United States district court' includes any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title.".

SEC. 708. TECHNICAL AMENDMENTS.

(a) CONFORMING AMENDMENTS TO CHAPTER 119.—

(1) Section 1828, and the item relating to such section in the table of sections at the beginning of chapter 119, are repealed.

(2) Section 1827(d) is amended—

(A) by striking out "competent" and inserting in lieu thereof "qualified";

(B) by striking out "any criminal" and all that follows through "relator)" and inserting in lieu thereof "judicial proceedings instituted by the United States"; and

(C) by striking out "such action" and inserting in lieu thereof "such judicial proceedings".

(3) Section 1827(e)(2) is amended by striking out "criminal or civil action in a United States district court" and inserting in lieu thereof "judicial proceedings instituted by the United States".

(b) DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS.—Section 604(a) is amended—

(1) in paragraph (10)—

(A) by striking out clause (B) and inserting in lieu thereof "and";

(B) in clause (C)—

(i) by redesignating such clause as clause (B); and

(ii) by striking out ", for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title" and inserting in lieu thereof "and for the interpretation of proceedings";

(2) by striking out the paragraph (14) which begins "Pursuant to section 1828"; and

(3) in paragraph (15)(C) by striking out "sections 1827 and 1828" and inserting in lieu thereof "section 1827".

(c) TAXATION AS COSTS.—Section 1920(6) is amended—

(1) by striking out "experts," and inserting in lieu thereof "experts and"; and

(2) by striking out ", and salaries" and all that follows through "title".

TITLE VIII—JURY SELECTION AND SERVICE

SEC. 801. EXCUSE OF JURORS.

Section 1866(c)(1) is amended to read as follows: "(1) excused by the court, or by the clerk under supervision of the court if the court's jury selection plan so authorizes, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person either shall be summoned again for jury service under subsections (b) and (c) of this section or, if the court's jury selection plan so provides, the name of such person shall be reinserted into the qualified jury wheel for selection pursuant to subsection (a) of this section, or".

SEC. 802. JURY SELECTION PLAN.

(a) CLERK DEFINED FOR PURPOSES OF FUNCTIONS UNDER PLAN.—Section 1869(a) is amended to read as follows:

"(a) 'clerk' and 'clerk of the court' shall mean the clerk of the district court of the United States, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter;".

(b) OPTIONAL JURY SERVICE BY VOLUNTEER PUBLIC SAFETY PERSONNEL.—Paragraph (5) of section 1863(b)(5) is amended—

(1) by inserting "(A) except as provided in subparagraph (B)," after "(5)", and

(2) by adding at the end the following:

"(B) specify that volunteer safety personnel, upon individual request, shall be excused from jury service. For purposes of this subparagraph, the term 'volunteer safety personnel' means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.".

(c) PERSONS EXEMPTED FROM JURY SERVICE.—Paragraph (6) of section 1863(b) is amended to read as follows:

"(6) specify that the following persons are barred from jury service on the ground that they are exempt: (A) members in active service in the Armed Forces of the United States; (B) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.".

SEC. 803. MASTER JURY WHEEL.

(a) ALPHABETICAL LIST NOT MANDATORY.—The second sentence of section 1864(a) is amended to read as follows:

"The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title.".

(b) CONFORMING AMENDMENT.—The second sentence of section 1865(a) is amended by striking out "the alphabetical" and inserting in lieu thereof "in any alphabetical".

SEC. 804. TECHNICAL AMENDMENT.

Section 1869(f) is amended to read as follows:

"(f) 'district court of the United States', 'district court', and 'court' shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title;".

SEC. 805. APPLICATION OF AMENDMENTS.

The amendments made by this title shall not apply with respect to service on any grant or petit jury empanelled before the date of the enactment of this Act.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. DIVISIONAL VENUE IN CIVIL CASES.

(a) REPEAL.—Section 1393, relating to divisional venue in civil cases, and the item relating to section 1393 in the table of sections at the beginning of chapter 87, are repealed.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 902. REGISTRATION OF FOREIGN JUDGMENTS.

(a) JUDGMENTS OF DISTRICT COURTS AND COURT OF INTERNATIONAL TRADE.—Section 1963 is amended by amending the first sentence to read as follows: "A judgment in an action for the recovery of money or property entered in any district court or in the Court of International Trade may be registered by filing a certified copy of such judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown.".

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 1963 is amended to read as follows:

"§ 1963. Registration of judgments of the district courts and the Court of International Trade".

(2) Section 1963A is repealed.

(3)(A) The item relating to section 1963 in the table of sections at the beginning of chapter 125 is amended to read as follows:

"1963. Registration of judgments of the district courts and the Court of International Trade.".

(B) The table of sections at the beginning of chapter 125 is amended by repealing the item relating to section 1963A.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 903. CIRCUIT JUDICIAL CONFERENCE AMENDMENTS.

Section 333 is amended in the first paragraph—

(1) in the first sentence by striking out "annually" and inserting in lieu thereof "biennially, and may summon annually,";

(2) in the last sentence by striking out "the United States District Court for the District of the Canal Zone,"; and

(3) in the last sentence by striking out "and the District Court of the Virgin Islands shall also be summoned annually" and inserting in lieu thereof "the District Court of the Virgin Islands, and the District Court for the Northern Mariana Islands shall also be summoned biennially, and may be summoned annually,".

SEC. 904. JUDICIAL DISQUALIFICATION AMENDMENT.

Section 455 is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate, bankruptcy judge, spouse, or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.".

SEC. 905. COURT SECURITY.

Section 604(a), as amended by section 102 of this Act, is further amended—

(1) by redesignating paragraph (19) as paragraph (20); and

(2) by inserting after paragraph (18) the following:

"(19) Receive and expend, either directly or by transfer to the United States Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the courts in courtrooms and adjacent areas, including building ingress and egress control, inspection of packages, directed security patrols, and similar activities;".

SEC. 906. COURT FEES.

(a) INCREASE IN CLAIMS COURT FILING FEES.—(1) Section 2520 is amended by striking out "$60" and inserting in lieu thereof "$120".

(2) The amendment made by this subsection takes effect 30 days after the date of the enactment of this Act.

(b) REPORT ON OTHER FEES.—Not later than 180 days after the date of the enactment of this Act, the Judicial Conference of the United States shall submit a report to the Congress on the actual costs of filing actions in the district courts of the United States.

SEC. 907. CORPORATE VENUE.

(a) IN GENERAL.—Section 1391(c) is amended to read as follows:

"(c) For purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect 90 days after the date of the enactment of this Act.

SEC. 908. METHOD OF RECORDING.

Paragraph (7) of section 636(c) is amended to read as follows:

"(7) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.".

SEC. 909. IMPROVEMENTS IN REMOVAL PROCEDURE.

(a) ACTIONS REMOVABLE GENERALLY.—Section 1441(a) is amended by adding at the end thereof the following new sentence: "For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.".

(b) Procedure for Removal.—Section 1446 is amended—

(1) by amending subsection (a) to read as follows:

"(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.";

(2) in subsection (b)—

(A) by striking out "petition for removal" each place it appears and inserting in lieu thereof "notice of removal"; and

(B) in the second paragraph by striking out the period at the end thereof and inserting in lieu thereof ", except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than one year after commencement of the action."; and

(3) by striking out subsection (d) and redesignating subsections (e) and (f) as subsection (d) and (e), respectively.

(c) Procedure After Removal Generally.—Section 1447 is amended—

(1) by amending subsection (c) to read as follows:

"(c) A motion to remand the case on the basis of any defect in removal procedure must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case."; and

(2) by adding at the end thereof the following new subsection:

"(e) If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.".

SEC. 910. INCENTIVE AWARDS.

Section 604(a), as amended by sections 102 and 905 of this Act, is further amended—

(1) by redesignating paragraph (20) as paragraph (21); and

(2) by inserting after paragraph (19) the following:

"(20) Establish a program of incentive awards for employees of the judicial branch of the United States Government; and".

SEC. 911. WAIVER OF CLAIMS FOR OVERPAYMENT OF JUDICIAL PAY AND ALLOWANCES.

(a) Amendments to Title 5, United States Code.—Section 5584 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the Director of the Administrative Office of the United States courts when the claim is in an amount aggregating not more than $10,000 and involves an officer or employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or any of the courts set forth in section 610 of title 28.";

(2) in subsection (g)—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) the Administrative Office of the United States courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28.

For purposes of this section, the Director of the Administrative Office of the United States courts shall be the head of the agency in the case of those entities set forth in paragraph (6) of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply with respect to any claim arising before the date of the enactment of this Act which is pending on such date, and to any claim which arises on or after such date of enactment.

SEC. 912. ADMINISTRATIVE OFFICE AND CIRCUIT EXECUTIVE SALARIES.

(a) Administrative Office Salaries.—Section 603 is amended in the second sentence by striking out "three" and inserting in lieu thereof "six".

(b) Circuit Executive Salaries.—Section 332(f) is amended in the second paragraph by striking out "level V" and inserting in lieu thereof "level IV".

SEC. 913. COST-OF-LIVING ADJUSTMENTS FOR JUDICIAL SURVIVORS' ANNUITIES.

(a) In General.—Section 376(m) is amended to read as follows:

"(m) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, each annuity payable from the Judicial Survivors' Annuities Fund shall be increased at the same time by the same percentage by which annuities are increased under that section.".

(b) Increase for Existing Annuitants.—Each annuity payable from the Judicial Survivors' Annuities Fund under section 376 of title 28, United States Code, on the date of the enactment of this Act shall be increased by 10 percent, effective on such date of enactment.

(c) Effective Date.—The amendment made by subsection (a) shall apply with respect to increases in annuities which are made under section 8340(b) of title 5, United States Code, on or after the date of the enactment of this Act.

SEC. 914. ELIMINATION OF CIRCUIT EXECUTIVE BOARD OF CERTIFICATION PROCEDURE.

Section 332 is amended—

(1) in subsection (e) by striking out "executive from among persons who shall be certified by the Board of Certification." and inserting in lieu thereof "executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training."; and

(2) in subsection (f) by striking out the first paragraph and by designating the remaining paragraphs as paragraphs (1), (2), (3), and (4), respectively.

SEC. 915. LOCATION OF CHAMBERS OF CIRCUIT JUDGES.

Section 462(c) is amended by striking out "where Federal facilities are available" and inserting in lieu thereof "other than where regular sessions of court are authorized by law to be held,".

SEC. 916. CHANGES IN JUDICIAL DISTRICTS OF FLORIDA.

(a) Middle and Southern Districts.—Section 89 is amended—

(1) in subsection (b)—

(A) by inserting "Collier," after "Clay,";

(B) by inserting "Glades," after "Flagler,"; and

(C) by inserting "Hendry" after "Hardee,"; and

(2) in subsection (c) by striking out "Collier," "Glades," and "Hendry,".

(b) Effective Date.—

(1) In general.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

(2) Pending actions.—The amendments made by this section shall apply to any action commenced in the United States District Court for the Middle District of Florida, or in the United States District Court for the Southern District of Florida, on or after the effective date of this section, and shall not affect any action pending in either such court on such effective date.

(3) Juries.—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving on the effective date of this section.

SEC. 917. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) Amendments to Title 28.—Title 28, United States Code, is amended as follows:

(1) Section 1295(a)(1) is amended by inserting ", exclusive rights in mask works," after "copyrights".

(2)(A) Section 1338 is amended by adding at the end the following:

"(c) Subsections (a) and (b) apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsection apply to copyrights.".

(B) The section heading for section 1338 is amended to read as follows:

"**§ 1338. Patents plant variety protection, copyrights, mask works, trade-marks, and unfair competition**".

(3) Section 1400(a) is amended by inserting "or exclusive rights in mask works" after "copyrights".

(4) Section 1498 is amended by adding, at the end the following:

"(e) Subsections (b) and (c) of this section apply to exclusive rights is mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.".

(5) The table of sections at the beginning of chapter 85 is amended—

(A) in the item relating to section 1330 by striking out "Action" and inserting in lieu thereof "Actions";

(B) in the item relating to section 1331 by inserting a period after "question";

(C) by amending the item relating to section 1338 to read as follows:

"1338. Patents, plant variety protection, copyrights, mask works, trademarks, and unfair competition."; and

(D) by amending the item relating to section 1343 to read as follows:

"1343. Civil rights and elective franchise.".

(6) The item relating to section 1914 in the table of sections at the beginning of chapter 123 is amended by striking out "courts" and and inserting in lieu thereof "court".

(7) Section 332(c) is amended by striking out "semi-annually" and inserting in lieu thereof "semiannual";

(8) Section 604(a)(2) is amended by striking out "quarterly" and inserting in lieu thereof "semiannually".

(b) Other Amemdments.—

(1) Section 912 of title 17, United States Code, is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. Gray of Illinois). Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. Kastenmeier] will be recognized for 20 minutes and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this afternoon the House is considering H.R. 4807, the Court Reform and Access to Justice Act of 1988. This omnibus bill is designed to improve the administration of justice nationwide. It has the strong support of the Judicial Conference of the United States and U.S. Department of Justice and indeed is the product of a cooperative effort between the judicial, executive, and legislative branches.

The bill is the continuation of a process begun more than a decade ago. In 1977 when my subcommittee—the Subcommittee on Courts, Civil Liberties and the Administration of Justice—held hearings on the state of the judiciary and access to justice, we found the picture to be bleak. Federal courts were overloaded with cases, the costs of litigation were skyrocketing and access to justice suffered as a result. In the intervening years the Congress has made modest steps to ameliorate the twin demons of costs and delays, which are not merely judicial branch problems but are problems that affect us as a nation. We have dramatically increased the number of judges. We have authorized the use of new forms of adjunct personnel—magistrates, bankruptcy judges, and various other support staff. We have acted to alleviate the burden of appellate courts by creating two new circuit courts: the court of appeals for the Federal court and the eleventh Circuit. We have improved the treatment of citizens who participate in our justice system, as jurors and witnesses. And we have taken steps to consolidate and solidify the partnership inherent in federalism between Federal and State courts.

Despite these concrete legislative actions, much remains to be done. The Federal court rulemaking process is out of date. Alternative forms of dispute resolution such as arbitration are not sufficiently encouraged. Some minor State law cases are heard in Federal court while major multiparty/multistate cases are excluded. Congress and the courts should work more in concert to promote structured experiments. And the administrative structure of the Federal judiciary is in need of strengthening.

Perhaps most importantly, H.R. 4807 proposes many improvements to our judicial machinery. Some of these improvements cost money. Most do not. And several save taxpayer dollars. On balance, the bill—as noted by the Congressional Budget Office—will save the Government approximately $20 million annually.

In short, the bill is an attempt at furthering the agenda of court reform and access to justice. It is my hope that enactment of the legislation will better able us to pay homage next year to the 200th anniversary of the Federal judiciary.

Before describing the bill, I would like to thank the ranking minority member of the subcommittee, Mr. Moorhead, for his cooperation and support. I also would be remiss if I did not mention the assistance of the entire membership of my subcommittee. Last, but not least, this afternoon at the Supreme Court the Judicial Conference of the United States will pay tribute to the chairman of the full Judiciary Committee, Mr. Rodino. That tribute is well-deserved. Without the continuing support of Chairman Rodino over the years, many of the initiatives in the bill would not have been possible.

In addition, I would like to thank the House Committee on Appropriations, particularly the gentleman from Iowa [Mr. Smith], who chairs the Subcommittee on Commerce, Justice, State and the Judiciary, for signing off on sections 1012 and 1013 of the bill. Both of these sections created entitlements and, although de minimus in terms of budgetary effect, were referred to the Appropriations Committee. Chairman Smith strongly supports the increase in the amount-in-controversy requirement in diversity of citizenship cases, and the consequent cost savings to the U.S. Government.

Let me now turn to a brief discussion of the nine titles in the bill. For further analysis of each title, I recommend a reading of the House report that has been available to all Members.

Title I modernizes the process by which the Federal courts promulgate rules of practice and procedure. It provides several improvements to the rulemaking partnership that exists between the Congress and the judicial branch of government. Title I has also passed the House on two previous occasions.

Title II authorizes the Federal courts to conduct court-annexed arbitration programs on an experimental basis. This title sets forth rules for the conduct of such programs and requires the judiciary to evaluate court-annexed arbitration and report to the Congress on its success or failure. Title II also modifies the appeal process for arbitration cases.

Title III modifies Federal court jurisdiction in two important ways.

First, this title expands Federal court jurisdiction to allow many multiparty/multiforum cases to be heard in Federal court. This jurisdictional authorization will be helpful in consolidating mass disaster litigation.

Second, this title increases the amount-in-controversy requirement in Federal diversity of citizenship cases from $10,000 to $50,000. The last time the statutory amount level was raised was in 1958. Today, an amount of $35,000 would be required to bring us back, in real dollars, to the 1958 level. Proponents of this amendment—including Representatives Morrison of Connecticut and Glickman—claimed that this modification would reduce the current diversity caseload of the Federal courts by 40 percent. This is true, in part, because of the availability of sanctions. See generally *Hudson* v. *Moore Business Forms,* 827 F.2d 450, amended 836 F.2d 1156 (9th Cir. 1987) (granting sanctions under rule 11, Fed.R.Civ.P., on a counterclaim).

Title IV provides amendments, suggested by the Judicial Conference of the United States, to improve the Federal Judicial Center. The center would be authorized to create a foundation and to receive gifts for the purpose of aiding or facilitating its work.

Title V makes an amendment to the jurisdiction of the court of appeals for the Federal circuit.

Title VI makes procedural reforms to the statutory charter of the State Justice Institute. This title also reauthorizes the institute for 1 additional year, fiscal year 1989.

Title VII provides improvements to the court interpreters program authorized under current law. By expanding the availability of court interpreter services to grand jury proceedings and by authorizing circuit councils to identify the need for certification of a language on a regional basis, title VII will provide meaningful access to justice for persons who do not speak English as their primary language. I hope that title VII will spawn efforts by our judicial and diplomatic representatives to engage in bilateral agreements with foreign governments to establish reciprocal arrangements. Such an arrangement may be possible between the United States and Japanese Governments, and I hope that this might occur.

Title VIII modernizes jury selection procedures and make other technical changes.

Title IX makes miscellaneous amendments relating to division venue, registration of foreign judgments, elimination of annual circuit judicial conferences, judicial disqualification, court security, a Claims Court filing fee increase, changes in corporate venue, authorization for magistrates to use electronic recording, changes in removal procedure and technical changes in the authority of the Administrative Office of U.S. Courts.

In sum, this bill is a significant and complex undertaking. Some of the bills provisions are the product of previous congressional deliberations whereas other provisions are offered here for the first time. I hope that those marathon runners who are committed to court reform will stay with this effort long enough to develop the kind of consensus required to achieve enactment of meaningful reforms. Passage of the Court Reform and Access to Justice Act of 1988 is a necessary step in achieving that consensus.

I urge Members' support.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I rise in strong support of H.R. 4807, a bill which contains a plan I helped conceive and develop with respect to the configuration of the middle and southern districts of Florida and on behalf of many of my constituents.

First, allow me to compliment the chairman of the subcommittee, Mr. KASTENMEIER of Wisconsin, for bringing this sorely needed legislation to the floor and also the ranking member, the gentleman from California [Mr. MOORHEAD]. About 3 years ago I began the task of forming a coalition of hardworking and persistent people who all had one goal in mind—to make Federal court more accessible to the residents of the fastest growing area in the United States. Today we have reason to be optimistic that we will soon realize that objective.

Legislative, judicial, bar, and civic leaders in southwest Florida worked long hours to develop a plan that was cost-effective and manageable and one that would eliminate the many problems associated with traveling great distances to Miami or Tampa to serve in Federal court. The plan contained in this bill meets those goals.

The southern district of Florida has jurisdiction over Collier, Hendry, and Glades Counties, while De Soto, Charlotte, and Lee are in the middle district. The new jury division would consolidate these counties into a single district.

The middle district would be best suited to manage this new division for a variety of reasons. One, the middle district presides over the existing but underutilized Federal courthouse in Fort Myers. More importantly, the middle district had previously initiated a vigorous expansion of its services to meet the demands of the rapidly growing southwest Florida area.

The plan set forth in H.R. 4807 is supported by the benches of the middle and southern district courts and the Eleventh Circuit Court of Appeals in Atlanta. It also has the support of the U.S. Court Administrator's Office in Washington and law enforcement, Government officials and bar association leaders in the six counties affected.

Mr. Speaker, action on this southwest Florida Federal court plan is long overdue. Thank you for the opportunity to speak on behalf of this much needed and strongly supported legislation.

The people spoke, Congress listened and acted in response to the people.

Mr. KASTENMEIER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 4807. I want to thank the chairman of the Subcommittee on Courts, Civil Liberties, and Administration of Justice, Mr. KASTENMEIER, for his work on the bill. I also want to commend the ranking member of the subcommittee, Representative CARLOS MOORHEAD, as well as Mr. RODINO, chairman of the full committee, and Mr. FISH, the ranking member of the full committee. They worked hard to resolve concerns raised about parts of this legislation, and they were successful. As a result, we have a good bill here today.

Earlier this year I offered legislation, H.R. 3358, which increased the benefits formula for widows of retired Federal judges who are not covered under the Judicial Survivors Annuities System. The action affects a very small number of people, but it is something that should have been done years ago.

Under present law, annuitants will receive benefit increases only if judicial salaries are increased by 5 percent or more. Since the law was enacted in 1976, salaries have not reached the 5-percent figure required to kick in an increase for these affected annuitants. As a result, increases have not been given for quite some time.

My legislation provides a one-time 10-percent increase, and then mandates that they receive a cost-of-living adjustment each year in the same amount as judicial salary increases.

As I said earlier, the bill affects only a small number of people. But these few have been left out for too long. This legislation will change that, and I appreciate the help given me by the members of the Judiciary Committee and their staffs in getting this provision included in the legislation we are considering today.

I also want to thank Representative NEAL SMITH, chairman of the Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary. Some jurisdictional questions were raised about the provision I authored. NEAL SMITH and his staff worked with me to resolve those questions and make it possible to keep this provision in the bill. I appreciate his help.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is fitting that this morning we had the gentleman from Mississippi [Mr. MONTGOMERY] speaking on this bill because he was honored today as being the first Member of the House of Representatives to lead our body in the flag salute, and, if I could pick someone from the House, I do not know of a more patriotic, a more honorable, a more decent gentleman to do that job than the gentleman from Mississippi, Mr. SONNY MONTGOMERY.

Mr. Speaker, I rise in support of H.R. 4807, the Court Reform and Access to Justice Act of 1988. As the gentleman from Wisconsin [Mr. KASTENMEIER] indicated, the legislation continues the process of attempting to improve the Federal judiciary that was begun by the courts subcommittee in the late seventies. One lesson that we have learned as a result of these efforts is that progress in the court reform area is often very slow. A good example is the proposal to abolish the mandatory jurisdiction of the Supreme Court which was originally title I of this bill. With virtually no opposition since its introduction in 1977, it wasn't until earlier this year that that measure passed as a separate bill. It is to the gentleman from Wisconsin [Mr. KASTENMEIER] credit that he preservered on this issue in much the same fashion that he has sustained his interest in and dedication to issues affecting the courts.

There are many worthwhile noncontroversial improvements in H.R. 4807 that will impact positively on the Federal courts. The Administrative Office on behalf of the Judicial Conference and the Office of Legal Policy on behalf of the Justice Department are to be commended for working together with the House Judiciary Committee as part of the overall effort to produce a meaningful court reform bill. I think that it is important to note that H.R. 4807 is an extremely cost-effective measure, as evidenced by the Congressional Budget Office's estimate that it will save the government $20 million annually.

The gentleman from Wisconsin [Mr. KASTENMEIER] has provided a good summary of the nine titles embodied in H.R. 4807. Rather than reiterate what he has said I would just like to highlight two of the titles that I think are noteworthy for differing reasons. Title II of the bill authorizes certain U.S. district courts to use arbitration in civil actions for a 5-year period. For some time now, the judiciary has been conducting 10 arbitration programs in various districts around the country and results to date indicate that those pilot projects have worked well. I am hopeful that the Federal courts will build on this experience and eventually expand their use of arbitration as a cost-effective dispute resolution alternative that will enhance access to justice.

Finally, I would like to note that title IV makes amendments to the charter of the Federal Judicial Center. These amendments evolved from work done by Prof. Leo Levin, the former director of the Federal Judicial Center. During his tenure as director, Prof. Levin worked closely with the courts subcommittee and I would like to commend him for his fine work on behalf of the Federal Judicial Center.

Mr. Speaker, H.R. 4807 is an important court reform measure that is noncontroversial and cost-effective and I urge its passage.

Mr. Speaker, I have an additional question.

When the gentleman from Wisconsin moved to suspend the rules, he called up H.R. 4807, as amended. He is referring in part to an amendment that is at the Speaker's desk. For purposes of clarity, could he explain that amendment?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Wisconsin for his answer.

Mr. KASTENMEIER. Yes, I would be glad to explain the amendment. In fact, I perhaps should have done so at the outset.

The amendment accomplishes three goals.

First, it deletes title V from the bill, regarding the elimination of the Temporary Emergency Court of Appeals [TECA]. I believe that we were on firm ground in proposing that TECA be abolished, but that proposition—as was found by the House Parliamentarian—falls within the jurisdiction of the House Committee on Energy and Commerce. Rather than wait for Commerce Committee consideration of title V, which would have occurred prior to September 23, and lose several critical legislative days in the process, we deemed it wise to delete the provision from the bill. I note for my colleagues that a similar provision is in companion legislation in the Senate. Therefore, I would be very interested in knowing the views of the Commerce Committee on whether TECA should be abolished, and if so, under what circumstances. In this regard, the chairman of the Commerce Committee [Mr. DINGELL] sent a letter dated September 9, 1988, to the chairman of House Committee on the Judiciary [Mr. RODINO], reflecting this understanding.

Second, the amendment reconfigures the geographic boundaries between the middle and southern districts of Florida.

Third, the amendment modifies current law pertaining to the location of Chambers of circuit judges.

These latter two changes were the subject of subcommittee hearings last month. The hearings revealed support from the judicial and executive branches and no known opposition. Rather than processing the proposals on the Consent Calendar, they are contained in the amendment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, in conclusion I would merely like to refer to a letter just received by me and dated today stating as follows:

SUPREME COURT OF THE UNITED STATES,
Washington, DC, September 13, 1988.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Judicial Conference of the United States, I write to express both the Conference's and my personal support for H.R. 4807. This bill represents the most significant legislation affecting the Federal courts since the early part of the decade. It represents a compilation both of ideas you have developed and others which have been transmitted to Congress by the Judicial Conference. Its passage will have a substantially beneficial impact on the administration of the courts.

Earlier this year, the Congress adopted S. 952, a bill eliminating the mandatory jurisdiction of the Supreme Court. Passage of that bill was welcomed by the Court and will have far-ranging benefits to the way we conduct our business. In like fashion, passage of the Court Reform and Access to Justice Act will also have a most positive impact on the other entities that make up the Judicial Branch.

We appreciate your efforts and those of your colleagues in taking the time and effort to develop and support this legislation.

Sincerely,

WILLIAM H. REHNQUIST.

Mr. BEREUTER. Mr. Speaker, I rise today in support of H.R. 4807 and commend the leadership on both sides of the aisle for the cooperative effort in moving this bill to the House floor for consideration by the Members.

I strongly support the provisions of this act that authorize $15 million in fiscal year 1989 for the State Justice Institute. Congress established the Institute in 1984 as a nonprofit corporation charged with the objective of improving the quality of justice in the State courts. To accomplish that mission, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, national judicial organizations, law schools, and researchers, among others.

According to Judge Janice Gradwohl, Nebraska Lancaster County judge, member of the board of directors of the State Justice Institute, and a supporter of H.R. 4807, during fiscal year 1987, the Institute received 326 concept papers seeking over $48 million for a variety of projects. Given the large number of requests and the availability of only $6.5 million in grant funds, the award process was extremely competitive. The State of Nebraska, for example, has been the beneficiary of three approved projects including:

First. A trial judges' writing improvement project for the States of Colorado, Georgia, and Nebraska;

Second. A companion trial judges' writing improvement project for the same three States; and

Third. A regional training and technology transfer project for the States of Kansas, Iowa, Missouri, and Nebraska.

One of the fundamental justifications for the creation of the Institute was that the financial assistance it would provide to State courts and their affiliated organizations would also benefit the Federal courts and help the State courts enforce Federal constitutional and legislative requirements. The Institute in 1987 funded a number of projects that are intended to reduce the workload burdens of the Federal courts, educate State judges and other court personnel, and help State courts implement the requirements of Federal law.

I urge my colleagues to support this bill.

□ 1345

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4807, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4807, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS OF 1988

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3345) to amend and extend the Office of Federal Procurement Policy Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1988".

SEC. 2. POLICY; FINDINGS AND PURPOSE.

(a) Policy.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended by striking out "the Congress" and inserting "the United States Government".

(b) Findings and Purpose.—Section 3 of the Office of Federal Procurement Policy Act (41 U.S.C. 402) is amended in subsection (a) by inserting "Government-wide" before "procurement policies".

SEC. 3. AUTHORITY AND FUNCTIONS OF THE OFPP ADMINISTRATOR.

(a) In General.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended—

(1) in subsection (a), by striking out "which shall be implemented in the single system of Government-wide procurement regulations and shall be" and inserting a period and the following: "Except as otherwise prohibited by law, these policies shall be implemented by the Federal Acquisition Regulatory Council and";

(2) in subsection (b)—

(A) by inserting after "General Services Administration" the following: ", acting through the Federal Acquisition Regulatory Council,"; and

(B) by striking out "may" and inserting "shall";

(3) in subsection (d)—

(A) by striking out paragraphs (4) and (5) and inserting the following:

"(4)(A) providing for and directing the activities of the computer-based Federal Procurement Data System (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to adequately collect, develop, and disseminate procurement data; and

"(B) ensuring executive agency compliance with the record requirements of section 19;

"(5) providing for and directing the activities of the Federal Acquisition Institute (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to—

"(A) foster and promote Government-wide career management programs for a professional procurement work force; and

"(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to procurement by the executive agencies;";

(B) by striking out "and" at the end of paragraph (7);

(C) by striking out the period at the end of paragraph (8) and inserting "; and"; and

(D) by adding at the end the following:

"(9) issuing and maintaining regulations, in accordance with section 27, to establish standards of conduct and post-employment limitations for employees of the Federal Government involved in procurement or procurement systems."; and

(4) in subsection (f) by striking out "The Director of the Office of Management and Budget" and inserting "The Administrator, with the concurrence of the Director of the Office of Management and Budget,".

(b) Reauthorization.—Section 11 of such Act (41 U.S.C. 410) is amended by striking out "for each of the three succeeding fiscal years" and inserting "such sums as may be necessary for each succeeding fiscal year".

(c) Conforming Amendment.—Section 4 of such Act is amended by striking out paragraph (4) and redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

SEC. 4. FEDERAL ACQUISITION REGULATORY COUNCIL.

The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATORY COUNCIL

"Sec. 25. (a) There is established a Federal Acquisition Regulatory Council (hereinafter in this section referred to as the 'Council') to assist in the direction and coordination of Government-wide procurement policy and Government-wide procurement regulatory activities in the Federal Government.

"(b)(1) The Council shall consist of the Administrator for Federal Procurement Policy and—

"(A) the Secretary of Defense,

"(B) the Administrator of National Aeronautics and Space; and

"(C) the Administrator of General Services.

"(2) Notwithstanding section 205(d) of the Federal Property and Administrative Services Act of 1949, the officials specified in subparagraphs (A), (B), and (C) of paragraph (1) may designate to serve on and attend meetings of the Council in place of that official (A) the official assigned by statute with the responsibility for acquisition policy in each of their respective agencies; or (B) if no official of such agency is assigned by statute with the responsibility for acquisition policy for that agency, the official designated pursuant to section 16(3) of this Act. No other official or employee may be designated to serve on the Council.

"(c)(1) Acting through the Council, the Administrator, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration, pursuant to their respective authorities under section 6 of this Act (41 U.S.C. 405), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451, et seq.), and subject to section 6(b) of this Act, shall jointly issue and maintain a single Government-wide procurement regulation, to be known as the 'Federal Acquisition Regulation'.

"(2) Any other regulations relating to procurement issued by an executive agency shall be limited to (A) regulations essential to implement Government-wide policies and procedures within the agency, and (B) additional policies and procedures required to satisfy the specific and unique needs of the agency.

"(3)(A) To the extent that any regulation issued by an executive agency relating to procurement is, or would be, inconsistent with a provision of the Federal Acquisition Regulation, the provision of the Federal Acquisition Regulation shall govern, except that, if the head of an executive agency, at the recommendation of the official identified in subsection (b)(2)(A) or (B), determines that there is an urgent and compelling need for a regulation that is inconsistent with a provision of the Federal Acquisition Regulation, the head of such agency may, subject to subparagraph (B) of this paragraph, issue such regulation. Any such inconsistent regulation may be in effect for no more than 6 months and may not be reissued in the same or any different form or variation without the written approval of the Administrator. The authority to make determinations and grant approvals under this subparagraph may not be delegated.

"(B) Nothing in this paragraph shall be construed—

"(i) to permit a regulation by an executive agency that is, or would be, inconsistent with a provision of any Federal statute (including this Act) or any standard (or modification thereof) promulgated by the Cost Accounting Standards Board under section 25 of this Act; or

"(ii) to exempt a regulation issued by an executive agency under the authority of subparagraph (A) of this paragraph from section 6(f) of this Act.

"(d) Subject to the authority, direction, and control of the head of the agency concerned, each official who represents an agency on the Council pursuant to subsection (b) shall—

"(1) approve or disapprove all regulations that are, after the date of enactment of this section, proposed for public comment, promulgated in final form, or otherwise made effective by such agency relating to procurement before such regulation may be proposed for public comment, promulgated in final form, or otherwise made effective;

"(2) carry out the responsibilities of such agency set forth in chapter 35 of title 44, United States Code, for each information collection request (as that term is defined in section 3502(11) of title 44, United States Code) that relates to procurement; and

"(3) eliminate or reduce (A) any redundant or unnecessary levels of review and approval, in the procurement system of such agency, and (B) redundant or unnecessary procurement regulations which are unique to that agency.

"(e) All actions of the Council and of members of the Council shall be in accordance with and furtherance of the policies of section 2 and the policies prescribed under section 6(a) of this Act.

"(f) Subject to section 6(b), the Council shall manage, direct, coordinate, control, and monitor the maintenance of, and issuance of changes in, the Federal Acquisition Regulation.

"(g) The Administrator for Federal Procurement Policy shall—

"(1) publish a report within 6 months after the date of enactment of this section and every 6 months thereafter relating to the development of procurement regulations by the Council and, to the extent appropriate, by the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration;

"(2) include in each report published under paragraph (1)—

"(A) the status of each such regulation;

"(B) a description of those regulations which are required by statute;

"(C) a description of the methods by which public comment was sought with regard to each proposed regulation in accordance with section 22 of this Act, and to the extent appropriate, sections 3504(h) and 3507 of title 44, United States Code;

"(D) regulatory activities completed and initiated since the last report;

"(E) regulations, policies, procedures, practices, and forms that are under consideration or review by the Office of Federal Procurement Policy;

"(F) whether the regulations have paperwork requirements;

"(G) the progress made in promulgating and implementing the Federal Acquisition Regulation; and

"(H) such other matters as the Administrator determines would be useful; and

"(3) report to Congress within 180 days after the date of the enactment of this section, in consultation with the Administrator of the Office of Information and Regulatory Affairs, regarding—

"(A) the extent of the paperwork burden created by the Federal procurement process, and

"(B) the extent to which the Federal procurement system can be streamlined to reduce unnecessary paperwork while at the same time maintaining recordkeeping and reporting requirements necessary to ensure the integrity and accountability of the system.".

SEC. 5. COST ACCOUNTING STANDARDS BOARD.

The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"COST ACCOUNTING STANDARDS BOARD

"SEC. 26. (a)(1) There is established within the Office of Federal Procurement Policy an independent board to be known as the 'Cost Accounting Standards Board' (hereinafter referred to as the 'Board'). The Board shall consist of 7 members, including the Administrator, who shall serve as Chairman, and 6 members, all of whom shall have experience in Government contract cost accounting, and who shall be appointed as follows:

"(A) two representatives of the Federal Government—

"(i) one of whom shall be a representative of the Department of Defense and be appointed by the Secretary of Defense; and

"(ii) one of whom shall be a representative of civilian agencies and be appointed by the head of a civilian agency designated by the Administrator;

"(B) two representatives of industry, each of whom shall be appointed by the Administrator, and one of whom shall have substantial experience and knowledge of problems of small businesses;

"(C) two individuals from the private sector, each of whom shall be appointed by the Administrator and shall have substantial accounting experience and—

"(i) one of whom shall be a member of an academic institution; and

"(ii) neither of whom is employed by, or affiliated with (I) a Government contractor, or (II) any accounting, legal, consultant, or other professional services firm, a substantial part of whose business is providing services to any Government contractor or contractors with respect to Government procurement.

"(2)(A) The term of office of each of the members of the Board, other than the Administrator for Federal Procurement Policy, shall be 4 years, except that—

"(i) of the initial members, two shall be appointed for terms of two years, two shall be appointed for terms of three years, and two shall be appointed for terms of four years;

"(ii) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed; and

"(iii) no individual who is appointed under paragraph (1)(A) of this subsection shall continue to serve after ceasing to be an officer or employee of the Government.

"(B) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

"(C) The initial members of the Board shall be appointed within 90 days after the date of enactment of this section.

"(b) The Administrator, after consultation with the Board, may appoint an executive secretary and two additional staff members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"(c) The Administrator may appoint, fix the compensation, and remove additional employees of the Board under the applicable provisions of title 5, United States Code.

"(d)(1) The Board may use, without reimbursement, any personnel of a Federal agency (with the consent of the head of the agency concerned) to serve on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(2) The Administrator, after consultation with the Board, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, of personnel for the purpose of serving on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(e) Except as otherwise provided in subsection (a), the members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are used under subsection (d)(1), shall receive no additional compensation for services, but shall continue to be compensated by the employing Department or agency of such officer or employee. Each member of the Board appointed from private life shall receive compensation at a rate not to exceed the daily equivalent of the rate prescribed for level IV of the Executive Schedule for each day (including travel time) in which the Member is engaged in the actual performance of duties vested in the Board. Individuals hired under subsection (d)(2) may receive compensation at rates fixed by the Administrator, but not to exceed the daily equivalent of the rate prescribed for level V of the Federal Executive Salary Schedule under section 5316 of title 5, United States Code, for each day (including travel time) in which such appointees are properly engaged in the actual performance of duties under this section. While serving away from homes or the regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

"(f)(1) The Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations thereof designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States.

"(2) Cost accounting standards promulgated under this section shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States in excess of $100,000, other than contracts or subcontracts where the price negotiated is based on (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulation.

"(3) No regulation of an executive agency may be inconsistent with a cost accounting standard promulgated or amended under this section. Costs which are the subject of cost accounting standards promulgated by the Board shall not be subject to regulations established by any executive agency that differ from such standards, by being either inconsistent or more or less restrictive. In any case in which any such regulation established by an executive agency is determined to differ from cost accounting standards promulgated by the Board, contracts and subcontracts subject to the conflicting regulations shall be controlled only by the cost accounting standards promulgated by the Board.

"(4) Not later than 180 days after the date of enactment of this section, the Administrator, after consultation with the Board, shall prescribe rules and procedures governing actions of the Board under this section. Such rules and procedures shall require that any cost accounting standard promulgated, amended, or rescinded (and interpretations thereof) shall be adopted by majority vote of the Board members.

"(5) The Board is authorized—

"(A) to exempt classes or categories of contractors and subcontractors from the requirements of this section; and

"(B) to establish procedures for the waiver of the requirements of this section with respect to individual contractors and subcontractors.

"(g)(1) Prior to the promulgation under this section of cost accounting standards and interpretations thereof, the Board shall—

"(A) take into account, after consultation and discussions with the Comptroller General and professional accounting organizations, contractors, and other interested parties—

"(i) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

"(ii) the advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

"(iii) the scope of, and alternatives available to, the action proposed to be taken;

"(B) prepare and publish a report in the Federal Register on the issues reviewed under paragraph (1)(A);

"(C)(i) publish an advanced notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to subparagraph (B);

"(ii) provide all parties affected a period of not less than 60 days after such publica-

tion to submit their views and comments; and

"(iii) during this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make; and

"(D) publish a notice of such proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

"(2) Cost accounting standards promulgated or amended by the Board shall have the full force and effect of law, and shall become effective at such time as is specified in the implementing regulations prescribed by the Council for such cost accounting standard. Implementation dates for contractors and subcontractors will be determined by agreement with the cognizant Federal agency, but in no event later than the beginning of the contractor's or subcontractor's next fiscal year. Cost accounting standards and modifications thereof promulgated by the Board will be accompanied by prefatory comments, and by illustrations where deemed necessary.

"(3) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

"(h)(1) The Federal Acquisition Regulatory Council (established under section 25 of this Act), after consultation with the Board, shall promulgate rules and regulations for the implementation of cost accounting standards promulgated or interpreted under subsection (f). Such regulations shall require contractors and subcontractors as a condition of contracting with the United States to—

"(A) disclose in writing their cost accounting practices, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs; and

"(B) agree to a contract price adjustment, with interest, for any increased costs paid to such contractor or subcontractor by the United States by reason of a change in the contractor's or subcontractor's cost accounting practices or by reason of a failure by the contractor or subcontractor to comply with applicable cost accounting standards.

"(2) If the United States and a contractor or subcontractor fail to agree on a contract price adjustment, including whether the contractor or subcontractor has complied with the applicable cost accounting standards, the disagreement will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

"(3) Any contract price adjustment undertaken pursuant to paragraph (1)(B) shall be made, where applicable, on relevant contracts between the United States and the contractor that are subject to the cost accounting standards so as to protect the United States from payment, in the aggregate, of increased costs. Any contract price adjustment undertaken pursuant to paragraph (1)(B) on a firm fixed price contract shall be made only when the contractor makes a change in its cost accounting practices of which it was aware or should have been aware at the time of the price negotiation and which it failed to disclose to the Government.

"(4) The interest rate applicable to any contract price adjustment shall be the annual rate of interest established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. section 6621) for such period. Such interest shall accrue from the time payments of the increased cost were made to the contractor or subcontractor to the time the United States receives full compensation for the price adjustment.

"(i) The Board shall report to the Congress not later than one year after the date of enactment of this section, and annually thereafter, with respect to the activities and operations of the Board under this section, together with such recommendations as it considers appropriate.

"(j)(1) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations promulgated by the Cost Accounting Standards Board under section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to this section.

"(2) Existing cost accounting standards referred to in paragraph (1) shall be subject to the provisions of this Act in the same manner as if promulgated by the Board under this Act.

"(3) The Administrator, under the authority set forth in section 6 of this Act, shall ensure that no regulation of an executive agency is inconsistent with a cost accounting standard promulgated or amended under this section. Costs which are the subject of cost-accounting standards promulgated under this section shall not be subject to regulations that are established by another executive agency that differ from such standards with respect to the measurement, assignment, and allocation of such costs.

"(k) For the purpose of determining whether a contractor or subcontractor has complied with cost-accounting standards promulgated under this section and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned, of the offices of inspector general established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost-accounting standards.

"(l) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

SEC. 6. PROCUREMENT INTEGRITY.

(a) AMENDMENT.—The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"PROCUREMENT INTEGRITY

"SEC. 27. (a) During the conduct of any Federal agency procurement of property or services, it shall be unlawful—

"(1) for any officer, employee, agent, or representative of any competing contractor knowingly to make, directly or indirectly, any offer or promise of future employment or business opportunity to, or knowingly to engage in any discussion of future employment or business opportunity with, any procurement official or employee of such agency;

"(2) for any officer, employee, agent, or representative of any competing contractor knowingly to offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official or employee of such agency;

"(3) for any procurement official or employee of such agency knowingly to ask, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value (including an offer of future employment) from any officer, employee, agent, or representative of any competing contractor for such procurement;

"(4) for any procurement official or employee of such agency knowingly to disclose, directly or indirectly, to any unauthorized person (as defined in regulations prescribed by the Federal Acquisition Regulatory Council to carry out this section), prior to the award of a contract and with regard to the bids or proposals of competing contractors—

"(A) any confidential or proprietary data of the competing contractors for such procurement; or

"(B) any other information the disclosure of which to a competing contractor would give that contractor an unfair competitive advantage with respect to that procurement, or would otherwise undermine or harm the Government's negotiating position with regard to the procurement concerned;

"(5) for any officer, employee, agent, or representative of any competing contractor or any other such unauthorized person knowingly to solicit or obtain any information described in clause (A) or (B) of paragraph (4) prior to the award of a contract; or

"(6) for any person who is given authorized or unauthorized access to information described in clause (A) or (B) of paragraph (4) prior to the award of a contract knowingly to disclose such information to any unauthorized person (as defined in regulations prescribed by the Federal Acquisition Regulatory Council to carry out this section).

"(b)(1) A Federal agency may not award any contract, or agree to any modification or extension of any contract, for the procurement of any property or services to any competing contractor unless—

"(A) the officer or employee of such competing contractor who is responsible for the offer or bid for the contract certifies in writing to the contracting officer for such procurement that—

"(i) to the best of that officer's or employee's knowledge and belief, there has been no violation, with respect to such contract, of the requirements of subsection (a), this subsection, or the regulations issued by the Federal Acquisition Regulatory Council to carry out this section; and

"(ii) each officer, employee, agent, and representative of such contractor who has participated personally and substantially in the conduct of the agency procurement has—

"(I) signed an agreement with such contractor to comply with this section; or

"(II) complied with the requirements of paragraph (2) of this subsection;

"(B) each procurement official and employee of such agency certifies in writing to the contracting officer that neither the competing contractor nor the official or employee, as applicable, has, to the best of that procurement official's or employee's knowledge and belief, violated the requirements of subsection (a), this subsection, or the regulations issued by the Federal Acquisition Regulatory Council to carry out this section; and

"(C) the contract specifies that if the contractor violates the requirements of subsection (a), the contractor shall be in default.

"(2) For purposes of enforcing the requirements of clause (ii) of paragraph (1)(A), if a competing contractor has in place an ethics program which—

"(A) is updated periodically;

"(B) provides written materials to its officers, employees, agents, and representatives

that contain specific references to the prohibitions of this section and regulations issued pursuant to this section; and

"(C) requires such officers, employees, agents, and representatives to certify that they have read such materials and that they will comply with the requirements of such ethics program,

then any officer, employee, agent, or representative making that certification shall be considered to have complied with the requirements such clause (ii) of paragraph (1)(A).

"(3)(A) If a procurement official or employee ceases to serve in that capacity with respect to a procurement, the certification required by paragraph (1)(B) shall be required both from such official or employee (at the time of ceasing to so serve) and from any procurement official or employee who assumes responsibility with respect to such procurement.

"(B) If a procurement official or employee refuses to make the certification required by paragraph (1)(B), or agrees to make the certification only with a qualification or restriction, the head of the agency concerned shall conduct a hearing to determine—

"(i) whether such official or employee shall be ineligible for service as a procurement official or employee on any future procurement;

"(ii) whether any other personnel action should be taken in accordance with procedures required by applicable law or regulation for personnel actions taken against employees of the agency concerned; and

"(iii) whether, in light of the requirements of subsection (e), the procurement should proceed or be recompeted and whether debarment proceedings should begin.

"(4) For the purposes of enforcing the requirements of this section, the contracting officer responsible for the conduct of a procurement shall maintain, as part of the procurement file—

"(A) all certifications made by agency procurement officials or employees as required by this subsection;

"(B) a record (including dates of involvement in the procurement) of all individuals serving as procurement officials or employees with respect to such procurement; and

"(C) a record of all other persons who have been given access to information described in clause (A) or (B) of subsection (a)(4).

"(5) Any person making a certification required by paragraph (1) shall be notified of the applicability of section 1001 of title 18, United States Code, to false, fictitious, or fraudulent statements in such certification.

"(c) It shall be unlawful for any individual who, during the conduct of any Federal agency procurement, was engaged as a procurement official or employee of such agency in the conduct of such procurement and who made a certification under subsection (b)(1)(B) with respect to such procurement—

"(1) to participate in any manner, as an officer, employee, agent, or representative of a competing contractor, in any negotiations leading to the award, modification, or extension of a contract for such procurement, or

"(2) to participate personally and substantially on behalf of the competing contractor in the performance of such contract,

during the 3-year period beginning on the date such individual ceases to be a procurement official or employee with respect to such procurement.

"(d) Any individual who is or was a procurement official or employee, and who is found, after notice and opportunity for a hearing in accordance with procedures required by applicable law or regulation for personnel actions taken against employees of the agency concerned, to have violated knowingly any of the requirements of this section, shall be ineligible for any service as a Federal procurement official or employee for any future procurements. The head of a Federal agency may waive, in whole or in part, such ineligibility if the head determines that such waiver is necessary in the public interest. The authority of the head of a Federal agency under the preceding sentence may not be delegated.

"(e)(1) If an agency receives or obtains information providing a reasonable basis to believe that an officer, employee, agent, or representative of a competing contractor has knowingly violated the requirements of this section—

"(A) in the case of a procurement that is pending, the agency shall determine, in accordance with regulations issued by the Federal Acquisition Regulatory Council, whether such a knowing violation has occurred and, if such a violation has occurred, whether to terminate the procurement;

"(B) in the case of a procurement with respect to which a contract has been awarded, the agency shall determine, after notice and opportunity for a hearing, whether such a knowing violation has occurred and, if such a violation has occurred, whether to void or rescind the contract, to terminate the contract for default, to impose other authorized sanctions upon the contractor, or to permit the contractor to continue to perform the contract, subject to review in accordance with the Contract Disputes Act of 1978; and

"(C) if the agency determines (under subparagraph (A) or (B), or otherwise) that such a knowing violation has occurred, the agency—

"(i) may, in accordance with regulations issued by the Federal Acquisition Regulatory Council, impose an immediate suspension of the competing contractor; and

"(ii) shall initiate a debarment proceeding in accordance with paragraph (2) to determine whether, and for what period of time, the contractor shall be ineligible for award of any contract with, and for participation in any future procurement by, the Government.

"(2)(A) A debarment proceeding subject to this paragraph shall be conducted by the board of contract appeals of the agency which conducts the procurement. The board of contract appeals shall (i) resolve all issues of fact, (ii) determine whether a basis exists for debarment of the contractor, or of a subsidiary, division, affiliate, officer, employee, agent, or representative of the contractor, and (iii) issue a final decision for or against debarment, and (if the decision is for debarment) specify the period (not to exceed 3 years) that the contractor will be ineligible for award of any contract with, or for participation in a future procurement by, the Government.

"(B) In the case of an agency that does not have a board of contract appeals, the General Services Administration Board of Contract Appeals shall make all determinations and issue final decisions under subparagraph (A) for each such agency.

"(C) Sections 8(g), 10(b), and 10(c) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g), 609(b), and 609(c)) shall apply to determinations and decisions of the board of contract appeals of each agency under this paragraph to the same extent as such sections apply to decisions of an agency board of contract appeals under that Act. In applying such sections to a determination or decision under this paragraph, the term 'contractor' as used in those sections shall include any subsidiary, division, affiliate, officer, employee, agent, or representative to whom the determination or decision applies.

"(3) Upon issuance of any final decision under this subsection requiring debarment of a contractor (or subsidiary, division, affiliate, officer, or employee thereof), such contractor, subsidiary, division, affiliate, officer, or employee shall be ineligible for award of any contract with, and for participation in any future procurement by, the Government for a period specified in the decision, not to exceed 3 years, except that the head of an agency may permit such participation if the head determines in writing, on a contract-by-contract basis, that such participation is necessary in the public interest. The authority to make such determination may not be delegated. Upon issuance of any final decision against debarment of the contractor and its subsidiaries, divisions, affiliates, officials, and employees, the contractor may be compensated as provided by law or regulation.

"(4) The requirements, sanctions, and remedies established by this section are in addition to, and not in lieu of, any requirements, sanctions, and remedies established by any other law. Nothing in this subsection shall be construed to limit the applicability of the requirements, sanctions, and remedies established by any other law, but no agency shall be relieved of the obligation to carry out the requirements of this section because such agency has also applied such other requirements, sanctions, or remedies.

"(f) For purposes of this section—

"(1) the term 'conduct' means, with respect to a Federal agency procurement—

"(A) preparation and issuance of the procurement solicitation,

"(B) evaluation of proposals,

"(C) selection of sources, and

"(D) conduct of negotiations for the award, modification, or extension of a contract;

"(2) the term 'competing contractor', with respect to any procurement (including any procurement using procedures other than competitive procedures) of property or services, means any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under such procurement, and includes any consultant, expert, adviser, and any other person acting on behalf of such an entity;

"(3)(A) the term 'procurement official or employee' means any official or employee of an agency who has participated personally and substantially in the conduct of the agency procurement concerned, including all officials and employees who are responsible for reviewing or approving the procurement, as further defined by the regulations issued by the Federal Acquisition Regulatory Council to carry out this section; and

"(B) for purposes of subparagraph (A), the term 'employee of an agency' includes a contractor, subcontractor, consultant, expert, or adviser employed to conduct, or any other person acting (directly or indirectly) on behalf of the agency with respect to, any phase of the agency procurement concerned;

"(4) the term 'contracting officer' means any official or employee of a Federal agency who has been authorized by the agency head or his or her designee to enter into, administer, or terminate contracts and make related determinations and findings; and

"(5) the term 'Federal agency' has the meaning provided by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)) which includes the Postal Service, the Tennessee Valley Authority, and other government corporations.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

(c) Implementing Regulations and Guidelines.—The Federal Acquisition Regulatory Council shall prescribe regulations and guidelines deemed appropriate to carry out section 27 of such Act (as added by subsection (a) of this section) as soon as practicable after the date of enactment of this Act. The chairman of each board of contract appeals shall prescribe rules and procedures governing actions under such section 27.

SEC. 7. PROFIT METHODOLOGY STUDY.

(a) In General.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

(b) Contractors' Financial Data.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors' financial data.

SEC. 8. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Section 901 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541) is amended by striking out paragraph (3) and inserting the following:

"(3) The term 'architectural and engineering services' means—

"(A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

"(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

"(C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.".

SEC. 9. ESTABLISHMENT OF THE COMMERCIAL PRODUCTS ADVOCATE.

The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"ADVOCATE FOR THE ACQUISITION OF COMMERCIAL PRODUCTS

"Sec. 28. There is established in the Office of Federal Procurement Policy the position of Advocate for the Acquisition of Commercial Products. The Advocate shall report directly to the Administrator. The Advocate for Acquisition of Commercial Products shall—

"(1) review all proposed procurement regulations and report to the Administrator as to whether such regulations will encourage or discourage the acquisition of commercial products by Federal agencies;

"(2) provide recommendations to the Administrator as to which procurement regulations should be rescinded or modified to encourage the acquisition of commercial products; and

"(3) provide recommendations to the Administrator as to methods of simplifying procurement regulations governing acquisition of commercial products.".

SEC. 10. STUDY AND REPORT BY THE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

No later than April 1, 1989, the Administrator for Federal Procurement Policy, in consultation with the Comptroller General, shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives—

(1) on the extent to which the data collected by the Federal Procurement Data System is adequate for the management, oversight, and evaluation of Federal procurement; and

(2) which shall include any appropriate recommendations for improvements of such system.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Brooks] will be recognized for 20 minutes and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, H.R. 3345 provides a permanent authorization for the office of Federal Procurement Policy [OFPP]. This office has served a worthwhile purpose in promoting efficiency and economy in the Federal procurement process. Over the years, it has vigorously pursued its mandate of: First, promoting full and open competition; second, reducing the extensive volume of agency regulations; and third, simplifying the Government's procurement process. However, considerably more work needs to be done to achieve the goals envisioned by the Procurement Commission and the Congress. This is particularly true in view of the recent revelations about the Department of Defense procurement scandal.

H.R. 3345 was originally considered by the committee on September 29, 1987. However, concerns were raised by the Armed Services, Judiciary, and Banking Committees over several provisions. For the last several months, we have been working closely with those committees to forge a consensus on this legislation. Through these efforts, agreement has generally been reached in a number of critical areas.

OFPP AUTHORITY

OFPP is given a permanent authorization to oversee and direct the Government's procurement process. The amendment also creates a single "Federal Acquisition Regulatory Council," to manage and control the issuance of Governmentwide procurement regulations. Agency heads will retain control over the issuance of agency unique regulations.

COST ACCOUNTING STANDARDS

This provision would transfer the Cost Accounting Standards Board function to OFPP as an independent entity chaired by the Administrator. The Board has been dormant for about 7 years and there is a general consensus within Government and industry that it should be reestablished.

PROCUREMENT INTEGRITY

The amendment contains sanctions for contractors offering Government procurement officials jobs or other things of value during the conduct of a procurement. It also creates rules governing the release of inside procurement information, and prohibits a Federal procurement official from becoming an employee of the contractor on that contract for a period of 3 years after ceasing to work on the contract.

Finally, the amendment contains provisions: First, directing OFPP to conduct a study to develop a profit policy methodology; second, clarifying the definition of A&E services in the Brooks Act; third, establishing in OFPP the position of advocate for the acquisition of commercial products; and fourth, requiring the OFPP Administrator to conduct a study of the Federal procurement data system.

When enacted, H.R. 3345 will significantly strengthen the oversight and management of the Federal procurement process. Given the recent DOD procurement scandal, it is critical that we adopt this legislation now. It will, in my view, go a long way toward cleaning up the system and making Government and contractor officials accountable for their actions.

I urge all my colleagues to support this important legislation.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 3345, the Office of Federal Procurement Policy Reauthorization Amendments of 1988.

H.R. 3345 would permanently authorize funding for the Office of Federal Procurement Policy. This bill is the result of recommendations of the Commission on Government Procurement on which I served as a member. The Commission found after an exhaustive 2-year study that a central high level office was needed to provide direction and leadership to reform the

Government's procurement system. OFPP was established by Congress in 1974 and originally authorized for 5 years. It has been reauthorized periodically, and its last authorization, which was for a period of 4 years, expired on September 30, 1987.

OFPP, over the years, has served a valuable purpose. In promoting efficiency and economy in the procurement process it has pursued its mandate of promoting full and open competition, reducing the volume of agency regulations, and simplifying the Government's procurement process.

Mr. Speaker, in H.R. 3345 we have maintained both OFPP's ability to meet those goals, and enhance its ability to fully achieve those goals. Federal procurement has become one of, it not the most, highly visible issues before the Congress today. Almost on a daily basis we are confronted with new allegations of procurement fraud and abuses. With this bill we are seeking to strengthen the procurement process and to build within that process additional safeguards to prevent these abuses.

We are all aware of the waste that results from excessive regulation. I think it has been proven that too much regulation is harmful to Government and to industry. In fact, it is well documented that many vendors refrain from doing business with the Government because of the so-called red tape. H.R. 3345 creates a single Federal Acquisition Regulatory Council to manage and control the issuance of Governmentwide procurement regulations. In addition to the Council, the bill would also transfer the cost accounting standards function to OFPP where it would be administered by an independent entity chaired by the Administrator.

We reauthorized OFPP in 1983 and expanded its regulatory authority. H.R. 3345 builds on the 1983 reauthorization. A new section has been added to this bill.

Section 6, procurement integrity, was specially designed to address procurement fraud and abuses of which we read almost every day. This section contains sanctions for contractors, subcontractors, or their representatives who offer Government procurement officials jobs or other things of value during the conduct of a procurement. It also contains rules against the release of inside procurement information, and it prohibits a Federal procurement official from becoming an employee of a contractor on a contract for a period of 3 years after ceasing to work for the Government on that contract. The bill also requires that prior to contract award, all participants must certify that the requirements of the section have been followed.

Mr. Speaker, this bill contains additional provisions which: First, direct OFPP to conduct a study to develop profit policy methodology; second, clarify the definition of architect and engineering services in the Brooks Act (P.L. 92-582); third, establish in OFPP the position of advocate for the acquisition of commercial products; and fourth, require the OFPP administrator to conduct a study of the Federal procurement data system.

Mr. Speaker, the Government Operations Committee has devoted many resources in efforts to improve the Federal procurement process. Two of our major successes have been the Inspectors General Act and the Competition in Contracting Act. These laws have greatly improved the process. But, as with any dynamic environment, we must continually make adjustments to meet different situations. We believe that by permanently reauthorizing OFPP and expanding its authorities we have provided the tools necessary to promote a fair and competitive Federal procurement system.

Mr. Speaker, I strongly support this legislation and urge my colleagues to join me in voting in favor of its passage.

Mr. ST GERMAIN. Mr. Speaker, I rise in support of H.R. 3345, the Office of Federal Procurement Policy Act Amendments of 1988. The Committee on Banking, Finance and Urban Affairs has worked closely with the Committee on Government Operations to fashion this excellent legislation. This close cooperation and the understanding reached between the two committees concerning consideration of legislation relating to this subject matter, allows the Committee on Banking, Finance and Urban Affairs to waive its consideration of H.R. 3345 without prejudice.

The understanding between the two committees which governs the jurisdiction over this subject matter is described in two documents contained in the committee's report on this bill. The first is a letter from my distinguished colleague, Chairman BROOKS:

> H.R. 3345, as amended, contains certain provisions regarding the Cost Accounting Standards Board which fall within the jurisdiction of your Committee. Inclusion of these provisions is not in any way intended to diminish the jurisdiction of the Committee on Banking, Finance and Urban Affairs over these issues.

The second document, also contained in the committee's report, is a letter Congresswoman OAKAR and I sent to Speaker WRIGHT waiving the committee's consideration of H.R. 3345:

> We have reached an understanding with the Government Operations Committee that the Committee on Banking, Finance and Urban Affairs would retain jurisdiction over the Board to the extent that the new Cost Accounting Standards Board promulgates regulations on matters that were within the jurisdiction of the Committee on Banking, Finance and Urban Affairs when that Board was authorized through the Defense Production Act. In short, the agreement with the Government Operations Committee is that Section 5 of H.R. 3345 does not in any way diminish the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

As the largest single purchaser of goods and services in the economy, the U.S. Government, and the American taxpayer, can no longer afford to be without the protections contained in this legislation. Chairman BROOKS and his committee, in cooperation with other committees, has brought us legislation which deserves the support of the membership of the House. I urge my colleagues to support the much needed legislation.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rule and pass the bill, H.R. 3345, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3345, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2215) to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reauthorization of the Office of Federal Procurement Policy Act of 1988".

REAUTHORIZATION OF THE OFFICE OF FEDERAL PROCUREMENT POLICY

SEC. 2. Section 11 of the Office of Federal Procurement Policy Act (41 U.S.C. 410) is amended by striking out "for the fiscal year ending September 30, 1984, and for each of the three succeeding fiscal years" and inserting in lieu thereof "for each fiscal year".

GOVERNMENT-WIDE PROCUREMENT REGULATIONS

SEC. 3. Section 6(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(b)) is amended by inserting after "timely manner," the following: "including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a),”.

FEDERAL ACQUISITION REGULATORY COUNCIL

SEC. 4. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new sections:

“FEDERAL ACQUISITION REGULATORY COUNCIL

“SEC. 25. (a) There is established a Federal Acquisition Regulatory Council (hereinafter in this section referred to as the ‘Council’) to assist in the direction and coordination of procurement regulatory activities in the Federal Government.

“(b) The members of the Council shall be the Administrator and the official assigned by statute with the responsibility for acquisition policy in each of the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration. If no official in any of such agencies is assigned by statute with the responsibility for acquisition policy for such agency, the head of such agency or any official designated by the head of such agency shall represent the agency on the Council.

“(c) Subject to the provisions of section 6 of this Act, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration, pursuant to the respective authority of each such agency under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.), shall jointly issue and maintain a single Government-wide procurement regulation, to be known as the ‘Federal Acquisition Regulation’. An executive agency may promulgate a procurement regulation only to the extent that such regulation is appropriate to a ‘single system of Government-wide regulations’ as such term is defined under section 4(4) of this Act. The Administrator, in consultation with the Council, shall ensure that procurement regulations promulgated by executive agencies are consistent with the Federal Acquisition Regulation.

“(d) Subject to the authority, direction, and control of the head of the agency concerned, each official described or appointed under subsection (b) shall—

“(1) approve or disapprove all proposed and all final regulations of the department or agency of such official relating to procurement;

“(2) carry out the responsibilities of the department or agency set forth in chapter 35 of title 44, United States Code, for each information collection request (as defined in section 3502(11) of title 44, United States Code) that relates to procurement rules or regulations; and

“(3) eliminate or reduce the redundant or unnecessary levels of regulatory review in the procurement system of the department or agency of such official.

“(e) All actions of the Council and of members of the Council shall be in accordance with and in furtherance of the policies of sections 2 and 6(a) of this Act.

“(f) Subject to the provisions of section 6(b), the Council shall—

“(1) manage, direct, coordinate and monitor the maintenance and issuance of modifications of the Federal Acquisition Regulation;

“(2) publish a report 6 months after the date of enactment of this section and every 6 months thereafter relating to the development of procurement regulations to be issued jointly by members of the Council and to the extent appropriate, by each of the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration;

“(3) include in each report published under paragraph (2)—

“(A) the status of each such regulation;

“(B) a description of the regulations which are required by statute;

“(C) whether public comment in accordance with section 22 of this Act, and to the extent appropriate, sections 3504(h) and 3507 of title 44, United States Code, was sought with regard to each proposed regulation;

“(D) regulatory activities completed and initiated since the most recently published report;

“(E) regulations, policies, procedures, practices, and forms under consideration or review by the Office of Federal Procurement Policy;

“(F) whether the regulations have paperwork requirements;

“(G) the progress made in promulgating and implementing the Federal Acquisition Regulation; and

“(H) such other matters as the Administrator determines useful; and

“(3) within 180 days after the date of the enactment of this section, submit a report to the Congress, after consultation with the Administrator of the Office of Information and Regulatory Affairs, regarding—

“(A) the extent of the paperwork burden created by the Federal procurement process; and

“(B) the extent to which the Federal procurement system can be streamlined to reduce unnecessary paperwork while maintaining recordkeeping and reporting requirements necessary to ensure the integrity of the system.

“COST-ACCOUNTING STANDARDS BOARD

“SEC. 26. (a)(1) There is established within the Office of Federal Procurement Policy the ‘Cost-Accounting Standards Board’ (hereinafter referred to as the ‘Board’), which shall consist of 5 members, including the Administrator, who shall serve as Chairman, and 4 other members, all of whom shall have experience in Government contract cost accounting and who shall be appointed as follows:

“(A) two shall be appointed who are officers or employees of the Federal Government—

“(i) one of whom shall be an officer or an employee of the Department of Defense and shall be appointed by the Secretary of Defense; and

“(ii) one of whom shall be an officer or an employee of the General Services Administration appointed by the Administrator of General Services.

“(B) one shall be appointed by the Administrator from private industry; and

“(C) one shall be appointed by the Administrator from the accounting profession.

“(2)(A) The term of office of each of the members of the Board, other than the Administrator, shall be 4 years, except that—

“(i) any member appointed to fill a vacancy on the Board shall serve for the remainder of the term for which his predecessor was appointed; and

“(ii) no individual who is appointed under paragraph (1)(A) of this section shall continue to serve on the Board after ceasing to be an officer or employee of the agency from which appointed.

“(B) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

“(C) The initial members of the Board shall be appointed no later than 90 days after funds are appropriated under subsection (l)(1) of this section.

“(3) Each member of the Board who is not an officer or employee of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the rate prescribed for level V of the Executive Schedule for each day (including traveltime) in which the member is properly engaged in the actual performance of duties vested by law in the Board.

“(b) The Administrator, after consultation with the Board, may appoint an executive secretary and two additional staff members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

“(c) The Administrator may appoint, fix the compensation, and remove additional employees of the Board under the applicable provisions of title 5, United States Code.

“(d)(1) The Board may use, without reimbursement, any personnel of a Federal agency (with the consent of the head of the agency concerned) to serve on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

“(2) The Administrator, after consultation with the Board, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, of personnel for the purpose of serving on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section. Any individual so hired may be paid at rates for individuals not to exceed the daily equivalent of the rate of pay payable for level V of the Executive Schedule for each day (including traveltime) in which such an individual is properly engaged in the actual performance of duties under this section.

“(e) Except as otherwise provided in subsection (a), the members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are utilized under subsection (d) shall receive no additional compensation for services, but shall continue to be compensated by the employing Department or agency of such officer or an employee. Appointees under subsection (d) from private life may receive compensation at rates fixed by the Administrator, but not to exceed the daily equivalent of the rate prescribed for level V of the Federal Executive Salary Schedule under section 5316 of title 5, United States Code, for each day (including traveltime) in which such appointees are properly engaged in the actual performance of duties under this section. While serving away from homes or the regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

“(f)(1) The Administrator, after consultation with the Board, shall have the exclusive authority to make, promulgate, amend, and rescind cost-accounting standards and interpretations designed to achieve uniformity and consistency in the measurement, assignment, and allocation of costs to contracts with the United States.

"(2) Subject to the provisions of paragraph (3) and subsection (j)(1), the cost-accounting standards, promulgated by the Administrator after consultation with the Board, shall be used by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing, administration, and settlement of all prime contracts with the United States in excess of $500,000 entered into using procedures other than sealed bid procedures, and subcontracts in excess of $500,000 thereunder, other than contracts or subcontracts in which the price is based on—

"(A) established catalog or market prices of commercial items sold in substantial quantities to the general public;

"(B) prices set by statute or regulation; or

"(C) fixed price contracts entered into based on adequate price competition.

"(3)(A) The Administrator, after consultation with the Board, may exempt classes or categories of contractors and subcontractors from the requirements of this section;

"(B) The Administrator, after consultation with the Board, shall establish procedures and criteria for the waiver of the requirements of this section with respect to individual contracts and subcontracts; and

"(C) Under the procedures and criteria established under subparagraph (B), the head of any executive agency may waive the requirement of this section with respect to individual contracts or subcontracts if such a waiver is in the public interest.

"(g)(1) The single system of Government-wide procurement regulations shall include regulations for the implementation of cost-accounting standards promulgated under subsection (f). Such regulations shall require any contractor or subcontractor as a condition of contracting with the United States to—

"(A) disclose in writing the cost-accounting practices of such contractor or subcontractor, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs; and

"(B) agree to a contract price adjustment, with interest, for any increased costs paid to such contractor by the United States because of the failure of the contractor to comply with duly promulgated cost-accounting standards or to consistently follow the disclosed cost-accounting practices of such contractor.

"(2) The interest rate applicable to the price adjustment shall be the annual rate of interest established under section 6621 of the Internal Revenue Code of 1986 for such period. Such interest shall accrue from the time payments of the increased costs are made to the contractor or subcontractor to the time the United States receives full compensation for the price adjustment. If the parties fail to agree as to whether the contractor or subcontractor has complied with cost-accounting standards, the rules and regulations relating thereto, and cost adjustments demanded by the United States, such disagreements shall constitute a dispute under the Contract Disputes Act (41 U.S.C. 601 et seq.).

"(h)(1) Except as provided in paragraph (3), prior to the promulgation under this section of cost-accounting standards, and modifications thereof, the Administrator, following consultation with the Board, shall—

"(A) take into account—

"(i) the probable costs of implementation including inflationary effect, if any, compared to the probable benefits;

"(ii) the advantages, disadvantages, and improvements anticipated in the pricing, administration, and settlement of contracts; and

"(iii) the scope of, and alternatives available to, the action proposed to be taken;

"(B) prepare and publish a report in the Federal Register on the issues reviewed under paragraph (1)(A);

"(C)(i) publish an advanced notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to paragraph (1)(B);

"(ii) provide all parties affected a period of not less than 60 days after such publication to submit views and comments;

"(iii) during such 60-day period, consult with the Comptroller General and consider any recommendation of the Comptroller General; and

"(D) publish a notice of proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit views and comments.

"(2) Rules, regulations, cost-accounting standards, and modifications thereof shall have the full force and effect of law, and, except as provided in paragraph (3), shall become effective no sooner than 120 days after publication in the Federal Register in final form. Implementation dates for contractors and subcontractors shall be determined by agreement with the applicable Federal agency, but in no event later than the beginning of the second fiscal year of the contractor or subcontractor after a standard becomes effective. Rules, regulations, cost-accounting standards, and modifications promulgated by the Administrator shall be accompanied by prefatory comments, and by illustrations if necessary.

"(3) The requirements of paragraph (1) and the effective dates in paragraph (2) shall be waived if the Administrator determines that urgent and compelling circumstances make compliance with such requirements impracticable. A cost-accounting standard or modification of a cost-accounting standard for which the requirements of paragraphs (1) and (2) are waived shall be effective on a temporary basis provided that the Administrator—

"(A) publishes a notice of such cost-accounting standard or modification of a cost-accounting standard in the Federal Register and includes a statement that the cost-accounting standard or modification of a cost-accounting standard is temporary;

"(B) provides for a public comment period of not less than 30 days beginning on the date that the notice is published;

"(C) takes into account—

"(i) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

"(ii) the advantages, disadvantages, and improvements anticipated in the pricing, administration, and settlement of contracts; and

"(iii) the scope of, and alternatives available to, the action proposed to be taken; and

"(D) prepares and publishes a report in the Federal Register on the issues reviewed under paragraph (C) as part of the notice of final rulemaking.

"(4) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

"(i) The Administrator, after consultation with the Board, shall report to the Congress no later than 1 year after the date of enactment of this section, and annually thereafter, with respect to the activities and operations of the Board under this section, together with any appropriate recommendations.

"(j)(1) All cost-accounting standards, interpretations, modifications, rules, and regulations (including exemptions) promulgated by the Cost-Accounting Standards Board under section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall remain in effect unless amended, superseded, or rescinded by the Administrator pursuant to this section.

"(2) Cost-accounting standards in effect before the date of enactment of this section referred to in paragraph (1) shall be subject to the provisions of this section in the same manner as if promulgated by the Administrator under this section.

"(3) The Administrator, under the authority set forth in section 6 of this Act, shall ensure that costs which are the subject of cost-accounting standards promulgated under this section shall not be subject to regulations that are established by another executive agency that differ from such standards with respect to the measurement, assignment, and allocation of such costs.

"(k) For purposes of determining whether a contractor or subcontractor has complied with cost-accounting standards and has followed consistently the disclosed cost-accounting practices, any authorized representative of the head of the agency concerned, of the offices of inspector general established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States may examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to, and solely for the purpose of ensuring compliance with such cost-accounting standards.

"(l)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"(2) Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) is repealed.".

PROFIT METHODOLOGY STUDY

SEC. 5. (a) The Administrator shall conduct a study to develop a consistent methodology which executive agencies may use for measuring the profits earned by Government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

(b) The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of financial data of contractors.

STUDY AND REPORT BY THE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY

SEC. 6. No later than April 1, 1989, the Administrator for Federal Procurement Policy, in consultation with the Comptroller General, shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives—

(1) on the extent to which the data collected by the Federal Procurement Data System is adequate for the management,

oversight and evaluation of Federal procurement; and

(2) which shall include any appropriate recommendations for improvements of such system.

ELEVATION OF PRESIDENTIAL APPOINTEES WITHIN THE OFFICE OF MANAGEMENT AND BUDGET

SEC. 7. (a) Section 5312 of title 5, United States Code, is amended by adding at the end thereof "The Director of the Office of Management and Budget.".

(b) Section 5313 of title 5, United States Code, is amended—

(1) by adding at the end thereof "Deputy Director of the Office of Management and Budget."; and

(2) by striking out "The Director of the Office of Management and Budget.".

(c) Section 5314 of title 5, United States Code, is amended by—

(1) adding at the end thereof "Administrator for Federal Procurement Policy" and "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget."; and

(2) striking out "Deputy Director of the Office of Management and Budget.".

(d) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator for Federal Procurement Policy."; and

(2) by striking out "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.".

(e) The amendments made by this section shall be effective on January 20, 1989.

TRAVEL EXPENSES UNDER CERTAIN GOVERNMENT CONTRACTS

SEC. 8. Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended—

(1) by redesignating such section as subsection (a) of section 24; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The provisions of subsection (a) shall not apply to any agreement between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose for conducting federally sponsored research and related activities.

"(2) Under any agreement described under paragraph (1), costs incurred by personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent that such costs do not exceed—

"(A) charges normally allowed by the respective institution in its regular operations as a result of an institutional policy; and

"(B) the limits and principles as are provided for by government-wide regulation of such costs established by the Director of the Office of Management and Budget.

"(3) The regulation under paragraph (2)(B) shall specifically provide that in the absence of an institutional policy regarding travel costs, the rates and amounts established under subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provisions of such subchapter shall apply to agreements between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose of conducting federally sponsored research and related activities.".

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of the Senate bill S. 2215, and insert in lieu thereof the provisions of H.R. 3345 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to amend and extend the Office of Federal Procurement Policy Act, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3345) was laid on the table.

GSA REPRESENTATIONAL EXPENSES REAUTHORIZATION

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5049) to amend section 603(a) of the Federal Property and Administrative Services Act of 1949 to authorize the expenditure of monies for official reception and representation expenses.

The Clerk read as follows:

H.R. 5049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 603(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 475(a)) is amended by inserting "official reception and representation expenses (subject to limitations contained in appropriation Acts) and" after "including".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, H.R. 5049 amends the section of the Federal Property and Administrative Services Act that authorizes the appropriation of funds to carry out the act. The bill will add as a purpose for which funds may be expended, official reception and representation expenses. The bill establishes such authority subject to limitations contained in appropriation acts. It is based on the opinion of the Committee on Appropriations that this particular purpose requires specific authorization in the law.

At hearings before our Government Activities and Transportation Subcommittees, the witness for GSA indicated that official functions would include such activities as receptions, building dedication ceremonies, and receiving foreign dignitaries. The committee understands that some administrators have paid such costs out of their personal funds.

GSA testified that it would include the figure of $5,000 in its budget request for this purpose for the next fiscal year.

Mr. Speaker, H.R. 5049 is in line with the practices of other agencies of the executive branch. The language of the bill making such spending authority subject to limitations and appropriations acts will be a safeguard to prevent any misuse or excessive use of this authority. I urge adoption of H.R. 5049.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5049, GSA representational expenses reauthorization, is a simple and straightforward piece of legislation that enables the General Services Administration to carry out some of its more routine ceremonial activities at no personal expense to its employees.

As the chairman indicated, the bill was reported out by the Government Operations Committee by a unanimous voice vote, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5049.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5049, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1400

FEDERAL PROPERTY MANAGEMENT IMPROVEMENT ACT OF 1988

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5104) to improve the efficiency and effectiveness of the management and disposal of Federal real and personal property, as amended.

The Clerk read as follows:

H.R. 5104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal Property Management Improvement Act of 1988".

SEC. 2. Section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)) is amended by adding at the end thereof the following new sentence: "Sales of property pursuant to this subsection shall be governed by section 3709 of the Revised Statutes (41 U.S.C. 5), except that fixed price sales may be conducted in the same manner and subject to the same conditions as are applicable to the sale of property pursuant to section 203(e)(5) of this Act.".

SEC. 3. Section 203(e)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(5)) is amended—

(1) by inserting "(A)" after "(5)"; and

(2) by adding at the end thereof the following:

"(B) Under regulations and restrictions to be prescribed by the Administrator, property to be sold pursuant to this paragraph may be offered to organizations specified in paragraph (3)(H) of this subsection that have expressed an interest in the property to permit such an organization a prior opportunity to purchase at the prices fixed for such property.".

SEC. 4. (a) Section 203(e)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(6)) is amended to read as follows:

"(6)(A) Except as otherwise provided by subparagraph (C) of this paragraph, an explanatory statement shall be prepared of the circumstances of each disposal by negotiation of—

"(i) any personal property which has an estimated fair market value in excess of $15,000;

"(ii) any real property that has an estimated fair market value in excess of $100,000, except that any real property disposed of by lease or exchange shall only be subject to clauses (iii) through (v) of this subparagraph;

"(iii) any real property disposed of by lease for a term of 5 years or less, if the estimated fair annual rent is in excess of $100,000 for any of such years;

"(iv) any real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is in excess of $100,000; or

"(v) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

"(B) Each such statement shall be transmitted to the appropriate committees of the Congress in advance of such disposal, and a copy thereof shall be preserved in the files of the executive agency making such disposal.

"(C) No such statement need be transmitted to any such committee with respect to any disposal of personal property made under paragraph (5) at a fixed price, or to property disposals authorized by any other provision of law to be made without advertising.

"(D) The annual report of the Administrator under section 212 shall contain or be accompanied by a listing and description of any negotiated disposals of surplus property having an estimated fair market value of more than $15,000, in the case of real property, or $5,000, in the case of any other property, other than disposals for which an explanatory statement has been transmitted under this paragraph.".

(b) Section 203(e)(3)(E) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(3)(E)) is amended by striking out "$1,000" and inserting "$15,000".

SEC. 5. Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended to read as follows:

"(o)(1) With respect to real and related personal property transferred or conveyed under subsection (p) of this section and real property disposed of under subsection (k) of this section and section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)), the head of each executive agency disposing of such property shall submit during the calendar quarter following the close of each fiscal year a report to the Congress and to the Administrator showing the acquisition cost and the sale or lease value of all real and related personal property so disposed of during the preceding fiscal year. Such reports shall also show transfers or conveyances of property according to State, and may include such other information and recommendations as the Administrator or other executive agency head concerned deems appropriate.

"(2) Six months after the end of the first full fiscal year after the date of enactment of this paragraph, and biennially thereafter, the Administrator shall transmit a report to the Congress that covers the initial period from such effective date and each succeeding biennial period and contains—

"(A) a full and independent evaluation of the operation of programs for the donation of Federal surplus personal property,

"(B) statistical information on the amount of excess personal property transferred to Federal agencies and provided to grantees and non-Federal organizations and surplus personal property approved for donation to the State Agencies for Surplus Property and donated to eligible non-Federal organizations during each succeeding biennial period, and

"(C) such recommendations as the Administrator determines to be necessary or desirable.

"(3) A copy of each report made under paragraph (2) shall also be simultaneously furnished to the Comptroller General of the United States. The Comptroller General shall review and evaluate the report and make any comments and recommendations to the Congress thereon, as he deems necessary or desirable.".

SEC. 6. Section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)) is amended—

(1) by striking out "Bureau of the Budget" each place it appears and inserting "Office of Management and Budget";

(2) by inserting "for costs of environmental and historic preservation services," after "realty brokers," in the second sentence.

SEC. 7. Section 207(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 488(c)) is amended to read as follows:

"(c) This section shall not apply to the disposal of—

"(1) real property, if the estimated fair market value is less than $3,000,000; or

"(2) personal property (other than a patent, process, technique, or invention), if the estimated fair market value is less than $3,000,000.".

SEC. 8. Section 10 of Public Law 94-519 (40 U.S.C. 493, 90 Stat. 2457) is repealed.

The SPEAKER pro tempore. Is a second demanded?

Mr. NIELSON of Utah. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognized the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, H.R. 5104 is intended to improve the General Services Administration's management of the utilization and disposal of Federal real and personal property. It amends current law to bring certain dollar figures that trigger or limit disposal procedures more into line with current values and experience. In addition, H.R. 5104 streamlines and consolidates certain reporting requirements of GSA and GAO regarding utilization and disposal actions.

The bill raises the statutory dollar threshold for submitting explanatory statements of proposed negotiated sales to House and Sente committees. Under current law, every proposed negotiated disposal of surplus property with a value over $1,000 requires the submission of an explanatory statement for advance review and comment. This bill would lift that threshold to $100,000.

All disposal by exchange, regardless of their value, would still require explanatory statements. GSA would have to report annually on all other negotiated transactions.

The new threshold will reduce the total number of explanatory statements that are submitted each year by about 30 percent. These eliminated cases represent less than 5 percent of the total dollar value of transactions currently subject to explanatory statements.

GSA estimates that H.R. 5104 will have no net cost impact, although reducing the number of explanatory statements that must be submitted will lead to small savings in administrative costs.

Mr. Speaker, I urge adoption of H.R. 5104.

Mr. Speaker, I reserve the balance of my time.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, originally, I had some reservations about this legislation, because it amends the Federal Property and Administrative Services Act of 1949 by raising the dollar threshold that triggers congressional reporting requirements on negotiated sales of surplus real property.

The Government Operations Committee is the only body that effectively exercises congressional oversight of the Negotiated Sales Program, so I was somewhat reluctant to agree to any changes that may impact that effort.

Also, because some parties may believe it is to their advantage to bring outside pressure to bear on the General Services Administration in order to successfully complete a negotiated sale, I was reluctant to cut back on the reporting requirements, which in effect provide GSA personnel with a shield to deflect this pressure. However, in subsequent meetings and through correspondence, GSA was able to allay most of my concerns.

H.R. 5104 was approved by both the Government Activities and Transportation Subcommittee and the Committee on Government Operations by a unanimous voice vote, and has the support of the Administration. I recommend its adoption.

Mr. Speaker, I would like to commend Chairman BROOKS and Chairman COLLINS and the subcommittee, and I recommend the adoption of H.R. 5104.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5104, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5104, the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INSIDER TRADING AND SECURITIES FRAUD ENFORCEMENT ACT OF 1988

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5133) to improve the procedures and remedies for the prevention of insider trading, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Insider Trading and Securities Fraud Enforcement Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the rules and regulations of the Securities and Exchange Commission under the Securities Exchange Act of 1934 governing trading while in possession of material, nonpublic information are, as required by such Act, necessary and appropriate in the public interest and for the protection of investors;

(2) the Commission has, within the limits of accepted administrative and judicial construction of such rules and regulations, enforced such rules and regulations vigorously, effectively, and fairly; and

(3) nonetheless, additional methods are appropriate to deter and prosecute violations of such rules and regulations.

SEC. 3. CIVIL PENALTIES OF CONTROLLING PERSONS FOR ILLEGAL INSIDER TRADING BY CONTROLLED PERSONS.

(a) AMENDMENT.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 21(d)—

(A) by striking out paragraph (2); and

(B) by redesignating subsection (d)(1) as subsection (d); and

(2) by inserting after section 21 the following new section:

"CIVIL PENALTIES

"SEC. 21A. (a) AUTHORITY TO IMPOSE CIVIL PENALTIES.—

"(1) JUDICIAL ACTIONS BY COMMISSION AUTHORIZED.—Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder by purchasing or selling a security while in possession of material, nonpublic information in, or has violated any such provision by communicating such information in connection with, a transaction on or through the facilities of a national securities exchange or from or through a broker or dealer, and which is not part of a public offering by an issuer of securities other than standardized options, the Commission—

"(A) may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, a civil penalty to be paid by the person who committed such violation; and

"(B) may, subject to subsection (b)(1), bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, a civil penalty to be paid by a person who, at the time of the violation, directly or indirectly controlled the person who committed such violation.

"(2) AMOUNT OF PENALTY FOR PERSON WHO COMMITTED VIOLATION.—The amount of the penalty which may be imposed on the person who committed such violation shall be determined by the court in light of the facts and circumstances, but shall not exceed three times the profit gained or loss avoided as a result of such unlawful purchase, sale, or communication.

"(3) AMOUNT OF PENALTY FOR CONTROLLING PERSON.—The amount of the penalty which may be imposed on any person who, at the time of the violation, directly or indirectly controlled the person who committed such violation, shall be determined by the court in light of the facts and circumstances, but shall not exceed the greater of $1,000,000, or three times the amount of the profit gained or loss avoided as a result of such controlled person's violation. If such controlled person's violation was a violation by communication, the profit gained or loss avoided as a result of the violation shall, for purposes of this paragraph only, be deemed to be limited to the profit gained or loss avoided by the person or persons to whom the controlled person directed such communication.

"(b) LIMITATIONS ON LIABILITY.—

"(1) LIABILITY OF CONTROLLING PERSONS.—No controlling person shall be subject to a penalty under subsection (a)(1)(B) unless the Commission establishes that—

"(A) such controlling person knew or recklessly disregarded the fact that such controlled person was likely to engage in the act or acts constituting the violation and failed to take appropriate steps to prevent such act or acts before they occurred; or

"(B) such controlling person knowingly or recklessly failed to establish, maintain, or enforce any policy or procedure required under section 15(f) of this title or section 204A of the Investment Advisers Act of 1940 and such failure substantially contributed to or permitted the occurrence of the act or acts constituting the violation.

"(2) ADDITIONAL RESTRICTIONS ON LIABILITY.—No person shall be subject to a penalty under subsection (a) solely by reason of employing another person who is subject to a penalty under such subsection, unless such employing person is liable as a controlling person under paragraph (1) of this subsection. Section 20(a) of this title shall not apply to actions under subsection (a) of this section.

"(c) AUTHORITY OF COMMISSION.—The Commission, by such rules, regulations, and orders as it considers necessary or appropriate in the public interest or for the protection of investors, may exempt, in whole or in part, either unconditionally or upon specific terms and conditions, any person or transaction or class of persons or transactions from this section.

"(d) PROCEDURES FOR COLLECTION.—

"(1) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall (subject to subsection (e)) be payable into the Treasury of the United States.

"(2) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(3) REMEDY NOT EXCLUSIVE.—The actions authorized by this section may be brought in addition to any other actions that the Commission or the Attorney General are entitled to bring.

"(4) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(5) STATUTE OF LIMITATIONS.—No action may be brought under this section more than 5 years after the date of the purchase or sale. This section shall not be construed to bar or limit in any manner any action by the Commission or the Attorney General under any other provision of this title, nor shall it bar or limit in any manner any action to recover penalties, or to seek any other order regarding penalties, imposed in an action commenced within 5 years of such transaction.

"(e) Authority To Award Bounties to Informants.—Notwithstanding the provisions of subsection (d)(1), there shall be paid from amounts imposed as a penalty under this section and recovered by the Commission or the Attorney General, such sums, not to exceed 10 percent of such amounts, as the Commission deems appropriate, to the person or persons who provide information leading to the imposition of such penalty. Any determinations under this subsection, including whether, to whom, or in what amount to make payments, shall be in the sole discretion of the Commission, except that no such payment shall be made to any member, officer, or employee of any appropriate regulatory agency, the Department of Justice, or a self-regulatory organization. Any such determination shall be final and not subject to judicial review.

"(f) Definition.—For purposes of this section, 'profit gained' or 'loss avoided' is the difference between the purchase or sale price of the security and the value of that security as measured by the trading price of the security a reasonable period after public dissemination of the nonpublic information.".

(b) Amendments Concerning Supervision.—

(1) Brokers and dealers.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end thereof the following new subsection:

"(f) Every registered broker or dealer shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such broker's or dealer's business, to prevent the misuse in violation of this title, or the rules or regulations thereunder, of material, nonpublic information by such broker or dealer or any person associated with such broker or dealer. The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to prevent misuse in violation of this title (or the rules or regulations thereunder) of material, nonpublic information.".

(2) Investment advisers.—The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by adding after section 204 the following new section:

"PREVENTION OF MISUSE OF NONPUBLIC INFORMATION

"Sec. 204A. Every investment adviser subject to section 204 of this title shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such investment adviser's business, to prevent the misuse in violation of this Act or the Securities Exchange Act of 1934, or the rules or regulations thereunder, of material, nonpublic information by such investment adviser or any person associated with such investment adviser. The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to prevent misuse in violation of this Act or the Securities Exchange Act of 1934 (or the rules or regulations thereunder) of material, nonpublic information.".

(c) Commission Recommendations for Additional Civil Penalty Authority Required.—The Securities and Exchange Commission shall, within 60 days after the date of enactment of this Act, submit to each House of the Congress any recommendations the Commission considers appropriate with respect to the extension of the Commission's authority to seek civil penalties or impose administrative fines for violations other than those described in section 21A of the Securities Exchange Act of 1934 (as added by this section).

SEC. 4. INCREASES IN CRIMINAL PENALTIES.

Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—

(1) by striking "$100,000" and inserting "$1,000,000";

(2) by striking "five years" and inserting "10 years";

(3) by striking "is an exchange" and inserting "is a person other than a natural person"; and

(4) by striking out "$500,000" and inserting "$2,500,000".

SEC. 5. LIABILITY TO CONTEMPORANEOUS TRADERS FOR INSIDER TRADING.

The Securities Exchange Act of 1934 is amended by inserting after section 20 the following new section:

"LIABILITY TO CONTEMPORANEOUS TRADERS FOR INSIDER TRADING

"Sec. 20A. (a) Private Rights of Action Based on Contemporaneous Trading.—Any person who violates any provision of this title or the rules or regulations thereunder by purchasing or selling a security while in possession of material, nonpublic information shall be liable in an action in any court of competent jurisdiction to any person who, contemporaneously with the purchase or sale of securities that is the subject of such violation, has purchased (where such violation is based on a sale of securities) or sold (where such violation is based on a purchase of securities) securities of the same class.

"(b) Limitations on Liability.—

"(1) Contemporaneous trading actions limited to profit gained or loss avoided.—The total amount of damages imposed under subsection (a) shall not exceed the profit gained or loss avoided in the transaction or transactions that are the subject of the violation.

"(2) Offsetting disgorgements against liability.—The total amount of damages imposed against any person under subsection (a) shall be diminished by the amounts, if any, that such person may be required to disgorge, pursuant to a court order obtained at the instance of the Commission, in a proceeding brought under section 21(d) of this title relating to the same transaction or transactions.

"(3) Controlling person liability.—No person shall be liable under this section solely by reason of employing another person who is liable under this section, but the liability of a controlling person under this section shall be subject to section 20(a) of this title.

"(4) Statute of limitations.—No action may be brought under this section more than 5 years after the date of the last transaction that is the subject of the violation.

"(c) Joint and Several Liability for Communicating.—Any person who violates any provision of this title or the rules or regulations thereunder by communicating material, nonpublic information shall be jointly and severally liable under subsection (a) with, and to the same extent as, any person or persons liable under subsection (a) to whom the communication was directed.

"(d) Authority Not To Restrict Other Express or Implied Rights of Action.—Nothing in this section shall be construed to limit or condition the right of any person to bring an action to enforce a requirement of this title or the availability of any cause of action implied from a provision of this title.

"(e) Provisions Not To Affect Public Prosecutions.— This section shall not be construed to bar or limit in any manner any action by the Commission or the Attorney General under any other provision of this title, nor shall it bar or limit in any manner any action to recover penalties, or to seek any other order regarding penalties.".

SEC. 6. INVESTIGATORY ASSISTANCE TO FOREIGN SECURITIES AUTHORITIES.

(a) Definition of Foreign Securities Authority.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following:

"(50) The term 'foreign securities authority' means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.".

(b) Authority To Provide Assistance to Foreign Securities Authorities.—Section 21(a) of such Act (15 U.S.C. 78u(a)) is amended—

(1) by redesignating subsection (a) as subsection (a)(1); and

(2) by adding at the end thereof the following:

"(2) On request from a foreign securities authority, the Commission may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws or rules relating to securities matters that the requesting authority administers or enforces. The Commission may, in its discretion, conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States. In deciding whether to provide such assistance, the Commission shall consider whether (A) the requesting authority has agreed to provide reciprocal assistance in securities matters to the Commission; and (B) compliance with the request would prejudice the public interest of the United States."

SEC. 7. SECURITIES LAWS STUDY.

(a) Findings.—The Congress finds that—

(1) recent disclosures of securities fraud and insider trading have caused public concern about the adequacy of Federal securities laws, rules, and regulations;

(2) Federal securities laws, rules, and regulations have not undergone a comprehensive and exhaustive review since the advent of the modern international, institutionalized securities market;

(3) since that review, the volume of securities transactions and the nature of the securities industry have changed dramatically; and

(4) there is an important national interest in maintaining fair and orderly securities trading, assuring the fairness of securities transactions and markets and protecting investors.

(b) Study and Investigation Required.—

(1) General requirement.—The Securities and Exchange Commission shall, subject to the availability of funds appropriated pursuant to subsection (d), make a study and investigation of the adequacy of the Federal securities laws and rules and regulations

thereunder for the protection of the public interest and the interests of investors.

(2) REQUIRED SUBJECTS FOR STUDY AND INVESTIGATION.—Such study and investigation shall include an analysis of—

(A) the extent of improper trading while in possession of insider information, such as trading with advance knowledge of tender offers or forthcoming announcements of material financial information;

(B) the adequacy of surveillance methods and technologies of brokers, dealers, and self-regulatory organizations;

(C) the adequacy of cooperation between the Federal, State, and foreign enforcement authorities concerning securities laws enforcement; and

(D) impediments to the fairness and orderliness of the securities markets and to improvements in the breadth and depth of the capital available to the securities markets, and additional methods to promote those objectives.

(3) CONDUCT OF STUDY AND INVESTIGATION.—In conducting the study and investigation required by this section, the Commission—

(A) may exercise any existing authority to gather information, including all power and authority the Commission would have if such investigation were being conducted pursuant to section 21 of the Securities Exchange Act of 1934;

(B) may consult with and obtain such assistance and information from other agencies in the executive and legislative branches of the Government (including the Department of Justice) as is necessary to enable the Commission to carry out this section;

(C) may appoint, without regard to the civil service laws, rules, and regulations, such personnel as the Commission deems advisable to carry out such study and investigation and to fix their respective rates of compensation without regard to such laws, rules, and regulations, but no such rate shall exceed the rate payable pursuant to section 5314 of title 5, United States Code; and

(D) may, on a reimbursable basis, use the services of personnel detailed to the Commission from any Federal agency.

(4) SUPPORT FROM OTHER AGENCIES.—(A) The head of any Federal agency—

(i) may detail employees to the Commission for the purposes of this section; and

(ii) shall provide to the Commission such information as it requires for the performance of its functions under this section, consistent with applicable law.

(B) The Comptroller General and the Director of the Office of Technology Assessment are authorized to assist the Commission in the performance of its functions under this section.

(c) REPORTS AND INFORMATION TO CONGRESS.—

(1) GENERAL REPORT.—The Commission shall report to the Congress on the results of its study and investigation within 18 months after the date funds to carry out this section are appropriated under subsection (d). Such report shall include the Commission's recommendations, including such recommendations for legislation as the Commission deems advisable.

(2) INTERIM INFORMATION TO CONGRESS.—The Commission shall keep the Committee on Energy and Commerce of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the members thereof, fully informed on the progress of, and any impediments to completing, the study and investigation required by this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out the study and investigation required by this section.

(e) DEFINITIONS.—As used in this section—

(1) the term "Commission" means the Securities and Exchange Commission; and

(2) the term "Federal securities laws" has the meaning given the term securities laws by section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)).

SEC. 8. COOPERATION WITH FOREIGN AUTHORITIES AND INTERNATIONAL ORGANIZATIONS IN ENFORCEMENT.

Section 35 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) Funds appropriated pursuant to this section are authorized to be expended—

"(1) for official reception and representation expenses, not to exceed $10,000 per year; and

"(2) for the purpose of maintaining membership in and contributing to the operating expenses of the International Organization of Securities Commissions, not to exceed $10,000 per year.".

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act, except for section 6, shall not apply to any actions occurring before the date of enactment of this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5133, the Insider Trading and Securities Fraud Enforcement Act of 1988.

Mr. Speaker, I originally introduced this legislation with the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, and my colleague, the gentleman from New York [Mr. LENT], the ranking minority member of the full committee, and the gentleman from New Jersey [Mr. RINALDO], the ranking minority member of the Subcommittee on Telecommunications and Finance.

We now have before the House a strong bipartisan reform measure which significantly increase penalties against insider trading and puts the securities industry itself on the front lines in the fight against this behavior. This bill, through not merely words but through action, represents a powerful congressional assault on insider trading, a deplorable practice that has undermined the public trust in the fundamental fairness and integrity of our securities markets. Its consideration by the full House of Representatives today is only possible due to the extraordinary bipartisan efforts of my honorable colleagues, the chairman, the gentleman from Michigan [Mr. DINGELL], the gentleman from New Jersey [Mr. RINALDO], the gentleman from New York [Mr. LENT], as well as their staffs. The efforts of the chairman, the gentleman from Michigan [Mr. DINGELL], in this area have been particularly extensive, involving numerous hearings in the last several years, and because of his commitment to the task of addressing this problem of conducting the oversight hearings of unearthing the problems, working together with the legislative subcommittee with the gentleman from New Jersey [Mr. RINALDO], with whom I worked, and our staffs worked together in a concerted effort over the last several months in order to produce a piece of legislation which would get to the guts of the problem while at the same time maintaining the bipartisan coalition which was going to be necessary in order to send a piece of legislation to the President's desk that had the support of Democrats and Republicans, liberals and conservatives that it was possible for us to be here today.

Under the leadership of the gentleman from Michigan [Mr. DINGELL] and the willingness of the gentleman from New Jersey [Mr. RINALDO] to work with us, the minority has, in fact, produced the piece of legislation which we have before us here today.

The incessant drumbeat of insider-trading violations has continued nearly unabated for over 2 years. The stunning stories of greed in the cases of Dennis Levine, Ivan Boesky, Martin Siegel, and others have made clear the potential for massive fraud throughout even the highest levels of the securities profession. The U.S. attorney stated in a presentencing memorandum in the Boesky case that Boesky's cooperation "revealed that criminal conduct is at the heart of a substantial amount of market activity by established securities industry professionals."

Incredibly enough, despite all of these egregious examples of fraudulent activity, Wall Street apparently has failed to get the message, and the drumbeat of wrongdoing has continued to pound in the ears of the investing public. This summer Stephen Wang, a junior analyst with the investment firm of Morgan Stanley, pleaded guilty to criminal charges in connection with an alleged $19 million insider trading scheme. Another figure pleaded guilty in the unraveling scenario of insider trading surrounding confidential prepublication information in Business Week magazine, and just last week the SEC filed an array of charges against Drexel Burnham

Lambert, the director of its junk-bond operations, Michael Milken, and others, in what the Commission has identified as the most sweeping case ever filed against a major Wall Street firm.

The single drumbeat that began 2 years ago has threatened to become a deafening symphony of illegality that would drown out the voices of those honest, small investors and market professionals who seek to be heard in our securities markets. The litany of Wall Street horrors in the last few years has made it clear that present law is not doing its job. It is time for a tighter and tougher legal framework.

H.R. 5133 recognizes that the war against insider trading must be fought on many fronts. The legislation is comprised of three main elements. First, it would expose to massive civil penalties up to three times the amount of the ill-gotten gains those security firms and others who knowingly or recklessly fail to establish, maintain, and enforce a proper system of supervision designed to prevent and detect insider trading violations by their employees.

As the scandals of the last few years demonstrate, the problem of insider trading goes beyond the transgressions of a few individuals. It requires an institutional, not merely an individual, response. We seek not strict liability but strict responsibility for those in the securities business who must share in the burden of keeping our marketplace a fair one.

This provision demands construction of the highest and sturdiest possible Chinese walls. In response to the difficulty of investigating and improving complex insider trading cases, this legislation would grant the SEC the authority to award bounty payments to whistleblowers who provide information leading to the prosecution of insider trading violations. Thus, it provides a clear and direct incentive for individuals to step forward with information that might be impossible to be obtained in any other manner. And, finally, H.R. 5133 would also increase the maximum jail terms from 5 to 10 years creating, in effect, a de facto minimum jail term. To the cushy insider trader who values his opulent lifestyle above all else, a still jail term strikes closest to home. The bill also raises the maximum criminal fine for individuals from $100,000 to $1 million and the maximum fine for corporations or partnerships to $2.5 million.

The legislation takes other steps including codification of certain private rights of action and expanded SEC authority to assist international enforcement of securities laws violations which will further sharpen the tools in the construction of a strengthened deterrent against insider trading.

Mr. Speaker, in summary, in the aftermath of the October crash of the stock market and the endless tales of Wall Street greed running amok, the public has demanded that its representatives respond. H.R. 5133 is dramatic proof that the public's waiting is over, and the time for congressional action has arrived.

The average investor must be assured that the securities marketplace is above all else a fair and level playing field and not a steep, rigged incline.

Mr. Speaker, I urge my colleagues to support this legislation and to help us achieve this goal. I urge the Members to join with the Committee on Energy and Commerce and with the Telecommunications-Finance Subcommittee, those of us who have worked to draft this thing, and I urge the Members to understand that there is no partisan solution to this problem, and that the gentleman from New Jersey [Mr. RINALDO] and I, working with the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT], have crafted a response which we believe suits the problem and will, in fact, begin to convince the investing public that the Congress is taking action that can give them some reason to believe that insider trading is something that will not be tolerated by the Congress or by the courts.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my strong support for the Insider Trading and Securities Fraud Enforcement Act of 1988. In recent years, Wall Street has been plagued by a series of insider trading scandals that has undermined the public's confidence in the integrity of our markets. The SEC and the Department of Justice have acted with great diligence and resolve to track down these lawbreakers.

While Federal law enforcement officials, the self-regulatory organizations, and the securities industry have worked hard to stop insider trading, I believe that the time has come for new legislation. This bill augments current enforcement efforts in several meaningful ways. I want to outline some of the bill's important provisions.

The bill requires broker-dealers and investment advisers to establish, maintain, and enforce a surveillance sytem designed to prevent insider trading. If the surveillance system fails and that failure substantially contributed to, or substantially permitted, insider trading by a controlled person, or if the firm knew of or recklessly disregarded an imminent violation and failed to takes appropriate steps to prevent it, the broker-dealer or investment adviser may be subject to a substantial civil penalty. These requirements will place the surveillance burden of detecting insider trading squarely, but fairly, on the shoulders of brokerage firms and advisers.

In addition, under appropriate circumstances the bill also would subject controlling persons to a civil penalty when the controlled person's violation involves tipping. However, in these situations, the amount of the profit gained, or loss avoided, to be used in calculating the civil penalty shall be limited to the profit or loss of the tippee to whom the controlled person directed his or her communication. This limitation is intended to make controlling persons subject to a penalty with respect to direct tippees but not for an endless chain of remote tippees. The provision also recognizes that an illegal tip can be made through a conduit, as well as directly. A similar restriction is added in the private rights section of the bill. These limitations will ensure that the civil penalty does not become disproportionate to the violation.

Furthermore, this bill is not intended to alter the underlying standards for establishing tipper or tippee liability set forth in the Dirks case. While the legislation increases the sanctions for insider trading, by not altering the underlying standards for determining what constitutes insider trading, it is my belief that this legislation will not curtail the flow of information to the securities markets.

The bill also includes a provision allowing the SEC to pay bounties to persons who provide information about insider trading, under certain circumstances. This provision will make insider trading exceedingly difficult to hide and should bring more cases to the SEC's door step. The provision grants the SEC broad discretion as to when to pay bounties to informants. It is my view that the Commission should not pay bounties to compliance officials and other employees of broker-dealers and investment advisers, except under extraordinary circumstances. If the SEC were to pay bounties routinely to these firm's employees, the bounties would create economic incentives that would undermine the surveillance system requirements of the bill.

The bill allows the SEC to assist foreign securities authorities in investigating insider trading and other frauds. The purpose of this provision is to encourage foreign authorities to cooperate with the SEC when one of its investigations leads abroad. This provision was recommended by the SEC and is very similar to a provision that originally appeared in the Republican securities bill, H.R. 2668.

Finally, I am very proud of the provision in the bill that directs the SEC to undertake a new special study of the securities markets. In 1961, Congress enacted legislation requiring the Commission to make a comprehensive study of the markets. That study was completed in 1963 and became a landmark effort that set the stage for the

1964 amendments to the securities laws.

I have been a vigorous proponent of enacting legislation for a new study. The study contemplated by this bill may examine insider trading and any other subject affecting the fairness, orderliness, breadth, and depth of the securities markets. As a consequence, this study should be at least as far reaching as the 1963 study, and can be more extensive, if the Commission deems it appropriate. Such an effort will give the Congress a long-term plan for the future of our securities markets into the next century.

This legislation would not have become a reality without the tenacity and leadership of several members of the committee. I commend Chairman DINGELL and Chairman MARKEY for their leadership and cooperation, and the ranking Republican member of the full committee, Mr. LENT, for his statesmanship and skill. In addition, I want to commend the SEC staff for its technical assistance and the securities industry for its important contributions. The Office of the Legislative Counsel was extraordinarily helpful. And finally, I want to commend the staffs of the full committee, subcommittee, and the minority for their excellent work.

This bill sends a clear message to Wall Street and Main Street, that insider trading will not be tolerated in our markets. I urge all of my colleagues to support this bill.

Thank you, Mr. Speaker.

□ 1415

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I am pleased to yield to the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Speaker, I thank the gentleman for yielding and am happy to support this piece of legislation. I too would like to rise in commendation of the gentleman from Michigan [Mr. DINGELL], chairman of the full committee, the gentleman from Massachusetts [Mr. MARKEY], yourself, and the gentleman from New York [Mr. LENT], the ranking minority member, for a very very good bill. The Subcommittee on Telecommunications and Finance worked very hard on this piece of legislation.

The revelations about Dennis Levine and Ivan Boesky and the recent SEC filing of 17 counts against Drexel Burnham should give a clue, a strong signal, that we need to have tougher enforcement and tougher laws. This bill does this admirably. I commend the group mentioned, and I also commend the members of that subcommittee who have held several important hearings in the last few months, and I look forward to a lot of additional legislation to see if we cannot control the Wall Street gyrations that have occurred in the last several months, and I pledge my support to the four Members I mentioned and to the rest of the committee.

Mr. RINALDO. Mr. Speaker, I thank the gentleman for his contribution, and I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

Mr. DINGELL. Mr. Speaker, I wish to commend the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the subcommittee, and the gentleman from New Jersey [Mr. RINALDO], the ranking minority member of the Subcommittee on Telecommunications and Finance, for the important role that they have played in the development of this legislation. The efforts of the gentleman from New York [Mr. LENT], the ranking minority member, as usual, provided distinguished and capable leadership in the handling of this legislation. The legislation is bipartisan. It was reported unanimously by the subcommittee and the full committee, and it is a part of the continuing and ongoing effort of this committee to see to it not only that the capital markets of this country have the trust of the people who invest there, but it is also an attempt to see to it that the capital generation markets of this country are able to function to provide the growth, the economic development, and the opportunity that is so important to our people.

Mr. Speaker, this bill is an urgently needed piece of legislation. It follows on other stern legislation adopted by this Congress under the leadership of the Committee on Energy and Commerce several years ago to increase the penalties.

House action on this bill is urgent. Insider trading is becoming too commonplace in our securities markets and threatens to undermine investor confidence and the integrity of our markets. Last week the SEC filed an 184-page complaint against Drexel Burnham Lambert, Michael Milken, and others alleging insider trading, market manipulation, and numerous other violations in connection with 16 takeover-related deals. While the facts in this case have not been litigated, the committee is nontheless concerned with the adequacy and types of procedures Wall Street firms have in place to prevent insider trading and related crimes.

Despite the stiffer penalties enacted in 1984, the last few years have seen a dramatic increase in insider trading-related cases, many involving complex and pervasive schemes involving other violations of the law as well. These include Dennis Levine, Ivan Boesky, the so-called Yuppie Five, Martin Siegel, the firm of Kidder Peabody, and others. All subsequently pleaded guilty and were sentenced or otherwise sanctioned, or are awaiting sentencing.

Underlying the explosion of this type of conduct is a certain economic and social Darwinism which holds that the strong were meant to prevail over the weak, and that the strong have no accountability. They are free to do what they want and their success proves the rightness of their course of conduct. In 1985, Boesky told a gathering of business school students: "Greed is all right, by the way. I want you to know that. I think greed is healthy. You can be greedy and still feel good about yourself." Well, this bill will, in a limited way, control and restrain greed.

Boesky and the other fallen insider traders would have been better served to have heeded the lessons of Greek mythology and William Shakespeare. The Greeks tell the story of Icarus who, ignoring his father's advice, flew toward the Sun on wings of wax only to crash to the Earth when the gods, insulted by his hubris, melted his wings. Similarly, a line from Shakespeare's "Henry VIII" cautions: "Cromwell, I charge thee, fling away ambition, by that sin fell the angels." When Boesky was sentenced he observed, too late in the learning: "My life will be forever changed."

This bill will help the honest and, with proper enforcement, punish, and deter those who would do wrong.

There are many honest men and women on Wall Street performing important and productive work for the sustained growth of our economy.

In order to promote the necessary behavior modification of those not of a similar honest frame of mind, H.R. 5133 would increase the maximum jail sentence from 5 years to 10 years and increase maximum criminal fines from $100,000 to $1 million for individuals and to $2.5 million for corporations and partnerships.

The SEC is given the discretion to award bounties to sources of information leading to successful prosecutions, and authority to invoke its investigatory powers on behalf of foreign governments pursuing enforcement matters. H.R. 5133 expressly codifies a private right of action for certain "contemporaneous traders" harmed by the insider trader.

H.R. 5133 creates a new free-standing statutory requirement for broker-dealer firms and investment advisers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent misuse of material, nonpublic information in violation of the securities laws. They may be sanctioned by the SEC for failure to do so.

For the first time, securities firms and investment advisers are brought under the coverage of the Insider Trading Sanctions Act's triple penalty provisions, subject to the liability standards set out in the bill:

First. The firm knew or recklessly disregarded the fact that its employee was likely to engage in the act or acts constituting the violation and failed to take appropriate steps to prevent such act or acts before they occurred, or

Second. The firm knowingly or recklessly failed to establish, maintain, or enforce any policy or procedure required under section 15(f) of the Securities Exchange Act of section 204A of the Investment Advisers Act and such failure substantially contributed to or permitted the occurrence of the act or acts constituting the violation.

The committee has endeavored to strike a balance that recognizes the need to foster the flow of legitimate market information in order to maintain the efficiency of our markets and to avoid unwarranted punishment. For example, if an investment adviser to an investment company directed trades on behalf of the investment company while the adviser was in possession of material nonpublic information, the investment adviser and not the investment company shareholders should be subject to civil penalties under section 21A or damages under section 20A as a direct violator.

The Committee on Energy and Commerce, by its unanimous action by Members on both sides of the aisle, has offered this body a piece of legislation which affords us an opportunity to further correct abuses in this marketplace and protect our capital generation mechanisms and assure that our citizens will not have their wealth stolen from them by malefactors and wrongdoers in high places.

I would urge the House to adopt this legislation without delay, and I would hope that our colleagues on the other end of this building would also recognize their responsibility to move this legislation forward, to halt abuses that scream for correction.

Mr. RINALDO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. LENT], the ranking minority member of the full committee.

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding time to me, and I appreciate his leadership in this particular bill.

Mr. Speaker, as an original cosponsor of this legislation, I want to express my strong support for the Insider Trading and Securities Fraud Enforcement Act of 1988. In recent years the SEC and Department of Justice have done a remarkable job in uncovering insider trading cases ranging from experienced and well-known participants in the markets, such as Ivan Boesky, young trainees, such as Stephen Wang.

Despite the successful prosecution of these cases, I believe that it is time for Congress to add new weapons to the fight against insider trading.

When there is a national problem, such as this, there is a natural tendency to overreact and look for easy solutions to complex problems. In my view, this bill avoids that pitfall. Instead the legislation balances the need to deter insider trading with the need to protect the depth, liquidity, and vitality of our securities markets and its participants.

This bill achieves that balance and does a number of important things. I want to highlight a few of the bill's provisions. First, the bill allows the SEC to seek the imposition of a civil penalty against controlling persons for failing to prevent insider trading of a controlled person. Such penalties will force broker-dealers and investments advisors to keep a close eye on their employees. But the bill specifically establishes a rigorous test that the SEC must meet before it can impose the civil penalty. The Commission must show that the controlling person knew of or recklessly disregarded an imminent violation and failed to take appropriate steps to prevent violations, or that a controlling person which is a broker-dealer or investment advisor knowingly or recklessy failed to establish, maintain, or enforce its surveillance systems and that failure substantially contributed to or substantially permitted that violation.

The bill requires a causual nexus between the failure of the controlling person's surveillance system and the controlled person's violation, but the bill does not impose absolute liability on controlling persons for violations by their controlled persons. The bill also rejects the standards of respondeat superior and section 20(a) of the Securities Exchange Act.

Second, the bill creates a new private cause of action in favor of certain contemporaneous traders. It is well known that in certain circumstances private parties have been an important supplement to Commission action by suing wrongdoers for violations of the securities laws based on express and implied rights of action. In furtherance of that effort, the bill creates a new express private right of action for certain contemporaneous traders against insider traders. Insider traders will be liable under this new provision to persons on the opposite side of trades from the insider trader, for the amount of the insider trader's profits gained or losses avoided. Controlling persons may be liable pursuant to this new private right under the standard of section 20(a) of the Securities Exchange Act. But controlling persons will not be liable pursuant to this section, under the doctrine of respondeat superior for the insider trading of controlled persons.

I also wish to note that the committee considered and rejected another new express private right action because it created serious substantive and technical problems. However, this deletion does not affect any existing express or implied private right of action.

Another new provision of the bill is the requirement that broker-dealers and investment advisers have effective surveillance systems to prevent insider trading. This new obligation will make it more likely that any insider trading will be detected by firms themselves. Moreover this provision will allow the SEC to inspect firms for the adequacy of their surveillance systems.

As important as these provisions are, I want to point out something we are not doing: The bill makes no change to the substantive law of insider trading. That body of law should continue to evolve without any influence from this bill.

This bill is a major milestone in the effort to eradicate insider trading. We would not have produced this strong and balanced bill without the diligent efforts of the members of the Energy and Commerce Committee. I particularly want to compliment the chairman of the full committee, Mr. DINGELL, and the chairman of the Telecommunications and Finance Subcommittee, Mr. MARKEY, as well as my colleague, the ranking Republican on the subcommittee, Mr. RINALDO. I also want to commend the staffs of the full committee, subcommittee, and the minority for their fine work. The SEC staff provided excellent technical assistance, and the securities industry and its attorneys provided useful input. Finally, the Office of the Legislative Counsel offered invaluable assistance.

This bill demonstrates our commitment to enacting strong and carefully crafted legislation to stop insider trading. I urge my colleagues on both sides of the aisle to join me in supporting this bill.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, this bill would increase the penalties for one type of the unfair and illegal use of information in our securities markets, so-called insider trading. This abuse has received much attention recently and, due to the frequency with which it has been found on Wall Street, these tougher penalties are necessary and in fact, overdue.

It is important to realize that we still have been unable to specifically define the precise crime for which we will be punishing people and companies. As the Wall Street Journal delights in pointing out, this means that, at least in a technical sense, we are answering one injustice with another.

But show me the insider trader who did not know in his heart of hearts that he had done wrong. And it is of the utmost importance that we in Congress are on the side of preserving public confidence in the securities markets.

Sometimes the insider trading discussions include the term "Chinese Wall" the name of the theoretical barrier to illegal information flows within the same firm. These Chinese walls are supposed to be as big and impenetrable as the great wall of China; too often they have been porous and see-through. I look forward to working with the committee to make sure that all Chinese walls are in place and impenetrable so that we can put these insider trading scandals behind us.

I urge my colleagues to support this bill. It is a tough bill, but we need a tough bill to correct recent insider trading abuses in the market. I share my committee chairman's wish that our colleagues in the other body finally decide to act on this important issue.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, as an original cosponsor of this bill, I rise in support of H.R. 5133, the "Insider Trading and Securities Fraud Enforcement Act of 1988." It is high time that Congress took an active stand against this unlawful, but seemingly rampant, activity that erodes public confidence and the integrity of our securities markets.

Over the years, the number of insider trading cases have increased dramatically from 1934 to 1984, 11 people were convicted of insider trading while just over the past 4 years, 46 people were indicted of insider trading. This does not include the numerous cases still under investigation.

Members from both sides of the aisle have worked together to create a piece of legislation that will expand insider trading regulations that were established originally in 1984 by the Insider Trading Sanctions Act. This bill expands the extent of and the severity of criminal and civil penalties, and increases the liability of employers to include unlawful activities of their employees. To enhance the access to information abroad, there is a provision in this bill that would ease the strict restrictions between countries and build mutual cooperation between other nations.

One would believe that after the highly publicized Levine and Boesky cases, illegal securities activities would decrease. But everyday, we hear of another broker or trader biting the dust.

Right now, securities firms are not monitoring employees' actions as strictly as they should, and this bill will hopefully act as an incentive to boost firms to survey activities of their employees. This bill would serve as a deterrent to the brokers, dealers, traders, and investors that if you participate in illegal trading practices you will pay.

Mr. Speaker, I urge my colleagues to support this bill. It will send a powerful message to Wall Street that Congress will not stand idly by while the integrity of our national markets are jeopardized by unethical trading activities.

□ 1430

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself 1 one minute.

I would like to again in conclusion thank sincerely Mr. RINALDO and all the minority and their staffs for working closely together with us. I would like to thank the full committee chairman, the gentleman from Michigan [Mr. DINGELL] and his staff, but especially Consuela Washington. I would like to thank the members of our Democratic majority for working closely together with us and the staff, especially my own staff, Howard Homonoff and Lawrence Sidman who made this product finally possible.

The SEC has publicly stated that the charges which they have brought in the last week are the most serious in the history of the Securities and Exchange Commission. It does, in fact, require a response that is suitable to the occasion in the history of the marketplace in which we find ourselves now.

I think this bill is that response.

I am very glad that we were able to put this bill together on a bipartisan basis and I would hope that the House would see fit to give it an overwhelming vote of support as we send it off to the Senate in hopes that we can produce a bill out of both bodies to send to the President's desk before the conclusion of this year.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, one of the reasons this country is so strong is because we, as citizens, have a great sense of fair play. Another reason this Nation is so strong is because of our dynamic stock market system. This system allows everyone from businesses to housekeepers to invest in our Nation's companies, thus providing them with capital to provide services and products to all of us.

When someone tampers with these two strengths, fair play and investments, all of us are rightly outraged. That is why it is so important that we enact the Insider Trading and Securities Fraud Enforcement Act of 1988. No one should have an advantage over another when investigating resources in the development of a company. And for those who temporarily get away with it, their punishment should be so strong that they would never attempt it again. And equally important, the punishment of this white collar crime should be strong and so well known that it would deter those dreaming of an insider trading "get rich quick" scheme. We should let them know that the glamour of their schemes will tarnish with a lengthy stay in a jail cell.

That is why I support the bill's increase of the maximum jail sentence to 10 years. That is why I support increasing the criminal fines to $1 million for individuals and to $2.5 million for corporations and partnerships. That is why we need to encourage securities firms and investment advisers to strengthen their procedures to prevent insider trading.

Mr. Speaker, we need to discourage the dishonest actions of insider traders and reassure the American public that all investments will be made from a level playing field. By enacting this bill we will be sending the right message to would-be criminals.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 5133, the Insider Trading and Securities Fraud Enforcement Act of 1988.

Mr. Speaker, I am the chairman of the Subcommittee on Telecommunications and Finance and the principle author of this legislation. I originally introduced this legislation with the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce; my colleague from New York [Mr. LENT], the ranking minority member of the full committee; and the gentleman from New Jersey [Mr. RINALDO], the ranking minority member of the Subcommittee on Telecommunications and Finance.

We now have before the House a strong bipartisan reform measure which significantly increases penalties against insider trading and puts the securities industry itself on the front lines in the fight against this behavior. This bill, through not merely words, but through action, represents a powerful congressional assault on insider trading, a deplorable practice which has undermined the public trust in the fundamental fairness and integrity of our securities markets. Its consideration by the full House of Representatives today is only possible due to the extraordinary bipartisan efforts of my honorable colleagues Chairman DINGELL, Mr. RINALDO, and Mr. LENT, as well as their staffs. I want to commend all of them for their support and perseverance. This bill enjoys not only unanimous bipartisan support within the committee, but has also been supported by the Chairman of the SEC, David Ruder.

The incessant drumbeat of insider trading violations has continued nearly unabated for over 2 years. The stunning stories of greed in the cases of Dennis Levine, Ivan Boesky, Martin Siegel and others have made clear the potential for massive fraud throughout even the highest levels of the securities profession. The U.S. attorney stated in a pre-sentencing memorandum in the Boesky case that Boesky's cooperation "revealed that criminal conduct is at the heart of a substantial amount of market activity by established securities industry professionals."

Incredibly enough, despite all of these egregious examples of fraudulent activity, Wall Street has apparently failed to get the message, and the drumbeat of wrongdoing has continued to pound in the ears of the investing public. This summer, Stephen Wang, a junior analyst with the investment firm of Morgan Stanley, pleaded guilty to criminal charges in connection with an alleged $19 million insider trading scheme. Another figure pleaded guilty in the unraveling scenario of insider trading surrounding confidential prepublication information in Business Week magazine. And just last week the SEC filed an array of charges against Drexel Burnham Lambert; the director of its junk bond operations, Michael Milken; and others in what the Commission has identified as the most sweeping case ever filed against a major Wall Street firm. The single drumbeat that began 2 years ago has threatened to become a deafening symphony of illegality that would drown out the voices of those honest small investors and market professionals who seek to be heard in our securities markets.

The litany of Wall Street horrors in the last few years has made it clear that present law is not doing its job. It is time for a tighter and tougher legal framework. H.R. 5133 recognizes that the war against insider trading must be fought on many fronts. The legislation is comprised of three main elements. First, it would expose to massive civil penalties, up to three times the amount of the ill-gotten gains, those securities firms and others who knowingly or recklessly fail to establish, maintain, and enforce a proper system of supervision designed to prevent and detect insider trading violations by their employees. As the scandals of the last few years demonstrate, the problem of insider trading goes beyond the transgressions of a few individuals. It requires an institutional, not merely an individual response. We seek not strict liability, but strict responsibility, for those in the securities business who must share in the burden of keeping our marketplace a fair one. This provision demands construction of the highest and sturdiest possible Chinese walls.

In response to the difficulty of investigating and proving complex insider trading cases, this legislation would grant the SEC the authority to award bounty payments to whistle blowers who provide information leading to the prosecution of insider training violations. Thus it provides a clear and direct incentive for individuals to step forward with information that might be impossible to obtain in any other manner.

Finally, H.R. 5133 would also increase the maximum jail terms from 5 to 10 years, creating in effect a de facto minimum jail term. To the cushy insider trader who values his opulent life-style above all else, a stiff jail term strikes closest to home. The bill also raises the maximum criminal fine for individuals from $100,000 to $1,000,000 and the maximum fine for corporations or partnerships to $2,500,000.

The legislation takes other steps, including codification of certain private rights of action and expanded SEC authority to assist international enforcement of securities law violations, which will further sharpen the tools in the construction of a strengthened deterrent against insider trading. As the chairman of the Subcommitee on Telecommunications and Finance, and the legislation's primary author, I would now like to take this opportunity to discuss several of the provisions in detail.

One of the issues surrounding discussion of "insider trading" has been the need for a definition of that term. The term is not defined in this act, but the case law in this area provides clear parameters. One area in which there is strong congressional consensus is the validity of the "misappropriation" theory of insider trading. That was the theory underlying the case of *United States* v. *Carpenter,* 791 F.2d 1024 (2d Cir. 1986), affirmed securities law counts by an equally divided court, 108 S.Ct. 316 (1987).

The Supreme Court addressed the "misappropriation" theory of insider trading last November, in the appeal of the Carpenter case, and reached no definitive decision. The U.S. attorney in that case had alleged a violation of section 10(b) and rule 10(b) by R. Foster Winans, a former Wall Street Journal reporter, based on Winans' disclosure to others of information concerning various corporations which was later to appear in his column. After the column appeared, the information contained in them would allegedly influence the price of the stock which was discussed. The Court split 4 to 4 on the question of whether Winans' "misappropriation" of information rightfully belonging to his employer amounted to a violation of insider trading, even absent any direct fiduciary duty owed from Winans to the issuers of purchasers and sellers of the securities. Thus the misappropriation theory clearly remains valid in the second circuit, the lower court in the Winans case, but is unresolved nationally. In my view, and in the view of the Energy and Commerce Committee, however, this type of securities fraud is encompassed within section 10(b) and rule 10b–5.

The centerpiece of this legislation is the expansion of liability for civil penalties to brokerage firms, investment advisers, and others who fail to take the appropriate steps to prevent insider trading violations by their employees.

The expansion of the scope of civil penalties beyond primary violators links firm liability to the concept of "controlling person" liability currently contained in section 20(a) of the Exchange Act. "Controlling Person" includes not only employers, but any person with power to influence or control the direction or the management, policies, or activities of another person. A number of court cases have been cited in the committee report to support this proposition. "Control" is inferred from possession of such power, whether or not it is exercised. This point is addressed in the case of *First Interstate Bank of Nevada* v. *National Republic Bank of Chicago,* [1984–85] Fed. Sec. L. Rep. (CCH) (N.D. Ill. 1985). As court cases demonstrate, the statutory language of section 20(a) makes clear that proof of culpability or participation in the offense is not required to find "control," since lack of culpability and participation is part of the affirmative defense. The case of *G.A. Thompson and Co.* v. *Partridge,* 636 F. 2d 945 (5th Cir. 1981) is particularly instructive on this point. The committee expects the Commission and courts to continue to interpret the term "controlling person" on a case-by-case basis according to the factual circumstances.

The committee carefully crafted the standard of liability for controlling person, who must act in a "knowing" or "reckless" manner in failing to supervise their controlled persons and prevent violations by their employees. As the committee report makes clear, this "reckless" standard falls well below the standard of "actual knowledge" of circumstances suggesting violation by a controlling person. For example, the Commission need not establish that a broker-dealer "deliberately closed his eyes" to facts suggesting that a controlled person was committing these violations. Rather, "recklessness" encompasses a heedless indifference as to whether circumstances suggesting employee violations actually exist. The report of the Senate Committee on the Judiciary accompanying S. 1722, the Criminal Code Reform Act of 1979 (S. Rep. No. 96–553), and *U.S.* v. *Jacobs* (470 F. 2d 270, 287 n. 37 (2d Cir.)) detail these points well. The committee's overriding concern is with an objective standard of supervision which, if breached, will result in the imposition of substantial civil fines.

As the backbone of increased firm responsibility, the legislation creates a new affirmative statutory requirement for broker-dealers and investment advisers to establish, maintain, and enforce written supervisory procedures to prevent the misuse of material, nonpublic informaton. The "misuse of material, nonpublic information" is intended to be broad enough to include market abuses such as insider trading, "scalping" by investment advisers and "front-running" by broker-dealers.

I would also like to clarify the intent on the bounty provision. The committee rejected an attempt to bar explicitly any payments to employees of broker-dealer firms. Although the committee is sympathetic to the concern that the bounty system not be indiscriminately operated, employees if broker-dealers may well be able to provide valuable information for which they should receive a bounty under appropriate circumstances.

The remaining elements of this legislation are fully and precisely explained in the report of the Committee on Energy and Commerce accompanying this legislation.

In summary, Mr. Speaker, in the aftermath of the October crash of the stock market and the endless tales of Wall Street greed run amok, the public has demanded that its representatives respond. H.R. 5133 is dramatic proof that the public's waiting is over, and the time for congressional action has arrived. The average investor must be assured that the securities marketplace is above all else a fair and level playing field, and not a steep, rigged incline. I urge my colleagues to support this legislation and help us to achieve this goal.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 5133, as amended.

The question was taken.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule

I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5133, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5150) to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories and for other purposes, as amended.

The Clerk read as follows:

H.R. 5150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinical Laboratory Improvement Amendments of 1988".

TITLE I—CLINICAL LABORATORIES UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 101. REVISION OF AUTHORITY.

Section 353 of the Public Health Service Act (42 U.S.C. 263a) is amended to read as follows:

"CERTIFICATION OF LABORATORIES"

"Sec. 353. (a) Definition.—As used in this section, the term 'laboratory' or 'clinical laboratory' means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

"(b) Certificate Requirement.—No person may solicit or accept materials derived from the human body for laboratory examination or other procedure unless there is in effect for the laboratory a certificate issued by the Secretary under this section applicable to the category of examinations or procedures which includes such examination or procedure.

"(c) Issuance and Renewal of Certificates.—

"(1) The Secretary may issue or renew a certificate for a laboratory only if the laboratory meets the requirements of subsection (d).

"(2) A certificate issued under this section shall be valid for a period of 2 years or such shorter period as the Secretary may establish.

"(d) Requirements for Certificates.—A laboratory may be issued a certificate or have its certificate renewed only if—

"(1) the laboratory submits (or if the laboratory is accredited under subsection (e), the accreditation body which accredited the laboratory submits) an application—

"(A) in such form and manner as the Secretary shall prescribe,

"(B) that describes the characteristics of the laboratory examinations and other procedures performed by the laboratory including—

"(i) the number and types of laboratory examinations and other procedures performed,

"(ii) the methodologies for laboratory examinations and other procedures employed, and

"(iii) the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures, and

"(C) that contains such other information as the Secretary may require to determine compliance with this section, and

the laboratory agrees to provide to the Secretary (or if the laboratory is accredited, to the accreditation body which accredited it) a description of any change in the information submitted under subparagraph (B) not later than 6 months after the change was put into effect,

"(2) the laboratory provides the Secretary—

"(A) with satisfactory assurance that the laboratory will be operated in accordance with standards issued by the Secretary under subsection (f), or

"(B) with proof of accreditation under subsection (e),

"(3) the laboratory agrees to permit inspections by the Secretary under subsection (g),

"(4) the laboratory agrees to make records available and submit report to the Secretary as the Secretary may require, and

"(5) the laboratory agrees to treat proficiency testing samples in the same manner as it treats materials derived from the human body referred to it for laboratory examinations or other procedures in the ordinary course of business.

"(e) Accreditation.—

"(1) A laboratory may be accredited for purposes of obtaining a certificate if the laboratory—

"(A) meets the standards of an approved accreditation body, and

"(B) authorizes the accreditation body to submit to the Secretary (or such State agency as the Secretary may designate) such records or other information as the Secretary may require.

"(2)(A) The Secretary may approve a private nonprofit organization to be an accreditation body for the accreditation of laboratories if—

"(i) the accreditation body agrees to collect from the laboratories it accredits and to forward to the Secretary such information and documentation as may be required to receive a certificate under subsection (d),

"(ii) the accreditation body agrees to inspect a laboratory for purposes of accreditation with such frequency as determined by the Secretary,

"(iii) the standards applied by the body in determining whether or not to accredit a laboratory are equal to or more stringent than the standards issued by the Secretary under subsection (f),

"(iv) there is adequate provision for assuring that the standards of the accreditation body continue to be met by the laboratory,

"(v) the accreditation body agrees to collect from the laboratories it accredits and to forward to the Secretary the fees established by the Secretary under subsection (m),

"(vi) in the case of any laboratory accredited by the body which has had its accreditation denied, suspended, withdrawn, or revoked or which has had any other action taken against it by the accrediting body, the accrediting body agrees to submit to the Secretary the name of such laboratory within 30 days of the action taken,

"(vii) the accreditation body agrees to notify the Secretary at least 30 days before it changes its standards, and

"(viii) if the accreditation body has its approval withdrawn by the Secretary, the body agrees to notify each laboratory accredited by the body of the withdrawal within 10 days of the withdrawal.

"(B) The Secretary shall promulgate criteria and procedures for approving an accreditation body and for withdrawing such approval if the Secretary determines that the accreditation body does not meet the requirements of subparagraph (A).

"(C) If the Secretary withdraws the approval of an accreditation body under subparagraph (B), the certificate of any laboratory accredited by the body shall continue in effect for 60 days after the laboratory receives notification of the withdrawal of the approval, except that the Secretary may extend such period for a laboratory if it determines that the laboratory submitted an application for accreditation or a certificate in a timely manner. If an accreditation body withdraws or revokes the accreditation of a laboratory, the certificate of the laboratory shall continue in effect for 60 days after the laboratory receives notice of the withdrawal or revocation of the accreditation.

"(D) The Secretary shall evaluate annually the performance of each approved accreditation body by conducting inspections under subsection (g) of the laboratories accredited by such body and by such other means as the Secretary determines appropriate.

"(3) The Secretary shall annually prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that describes the results of the evaluation conducted under paragraph (2)(D).

"(f) Standards.—

"(1) The Secretary shall issue standards to assure consistent performance by laboratories issued a certificate under this section of valid and reliable laboratory examinations and other procedures. Such standards shall require each laboratory issued a certificate under this section—

"(A) to maintain a quality assurance and quality control program adequate and appropriate for the validity and reliability of the laboratory examinations and other procedures of the laboratory and to meet requirements relating to the proper collection, transportation, and storage of specimens and the reporting of results.

"(B) to maintain records, equipment, and facilities necessary for the proper and effective operation of the laboratory,

"(C) in performing and carrying out its laboratory examinations and other procedures, to use only personnel meeting such qualifications as the Secretary may establish for the direction, supervision, and performance of examinations and procedures within the laboratory, which qualifications shall take into consideration competency, training, experience, job performance, and education and which qualifications shall be different on the basis of the type of examinations and procedures being performed by the laboratory and the risks and consequences of erroneous results associated with such examinations and procedures,

"(D) to qualify under a proficiency testing program meeting the standards established by the Secretary under paragraph (3), and

"(E) to meet such other requirements relating to the health and safety of patients as the Secretary may prescribe.

"(2) In developing the standards to be issued under paragraph (1), the Secretary shall, within the flexibility provided under subparagraphs (A) through (E) of paragraph (1), reduce the burden of compliance with such standards on laboratories which only perform simple laboratory examinations and procedures that have an insignificant risk of an erroneous result.

"(3)(A) The Secretary shall establish standards for the proficiency testing programs for laboratories issued a certificate under this section which are conducted by the Secretary, conducted by an organization approved under subparagraph (C), or conducted by an approved accrediting body. The standards shall require that a laboratory issued a certificate under this section be tested for each examination and procedure conducted within a category of examinations or procedures for which it has received a certificate, except for analytes for which the Secretary has determined that a proficiency test cannot reasonably be developed. The testing shall be conducted on a quarterly basis, except where the Secretary determines for technical and scientific reasons that a particular analyte may be tested less frequently (but not less often than twice per year).

"(B) The standards established under subparagraph (A) shall include national criteria for acceptable performance under a proficiency testing program, based on the available technology and the clinical relevance of the laboratory examination or other procedure subject to such program. The criteria shall be established for all analytes and shall be uniform for each analyte. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory has performed acceptably for a particular quarter and acceptably for a particular analyte or category of analytes over a period of successive quarters.

"(C) The Secretary may approve a proficiency testing program offered by a private nonprofit organization if the program meets the standards established under subparagraph (A) and the organization provides training and technical assistance to laboratories seeking to qualify under the program. The Secretary shall evaluate each program approved under this subparagraph annually to determine if the program continues to meet the standards established under subparagraph (A).

"(D) The Secretary shall peform, or shall direct a program approved under subparagraph (C) to perform, onsite proficiency testing to assure compliance with the requirements of subsection (d)(5). The Secretary shall perform, on an onsite or other basis, proficiency testing to evaluate the performance of a proficiency testing program approved under subparagraph (C) and to assure quality performance by a laboratory.

"(E) The Secretary may, in lieu of or in addition to actions authorized under subsection (h), (i), or (j), require any laboratory which fails to perform acceptably on an individual analyte or a category of analytes to undertake training and to obtain technical assistance to meet the requirements of the proficiency testing program.

"(F) The Secretary shall establish a system to make the results of the proficiency testing programs subject to the standards established by the Secretary under subparagraph (A) available, on a reasonable basis, upon request of any person. The Secretary shall include with results made available under this subparagraph such explanatory information as may be appropriate to assist in the interpretation of such results.

"(4)(A) The Secretary shall establish national standards for quality assurance in cytology services designed to assure consistent performance by laboratories of valid and reliable cytological services.

"(B) The standards established under subparagraph (A) shall include—

"(i) the maximum number of cytology slides that any individual may screen in a designated period,

"(ii) requirements that clinical laboratories maintain a record of the number of cytology slides screened during the period designated under clause (i) by each cytotechnologist employed by or under contract with the laboratory,

"(iii) criteria for requiring rescreening of cytological preparations,

"(iv) periodic confirmation and evaluation of the proficiency of cytotechnologists and pathologists involved in screening or interpreting cytological preparations, including on-site proficiency testing of such cytotechnologists and pathologists,

"(v) procedures for detecting inadequately prepared slides, for assuring that no cytological diagnosis is rendered on such slides, and for notifying referring physicians of such slides, and

"(iv) requirements that all cytological screening be done on the premises of a laboratory which has been issued a certificate under this section.

"(g) INSPECTIONS.—

"(1) The Secretary may, on an announced or unannounced basis, enter and inspect, during regular hours of operation, laboratories which have been issued a certificate under this section. In conducting such inspections the Secretary shall have access to all facilities, equipment, materials, records, and information that the Secretary determines have a bearing on whether the laboratory is being operated in accordance with this section. As part of such an inspection the Secretary may copy any such material or require it to be submitted to the Secretary. An inspection under this paragraph may be made only upon presenting identification to the owner, operator, or agent in charge of the laboratory being inspected.

"(2) The Secretary shall conduct inspections of laboratories under paragraph (1) to determine their compliance with the requirements of subsection (d) and the standards issued under subsection (f). Inspections of laboratories not accredited under subsection (e) shall be conducted on a biennial basis or with such other frequency as the Secretary determines to be necessary to assure compliance with such requirements and standards. Inspections of laboratories accredited under subsection (e) shall be conducted on such basis as the Secretary determines is necessary to assure compliance with such requirements and standards.

"(h) INTERMEDIATE SANCTIONS.—

"(1) If the Secretary determines that a laboratory which has been issued a certificate under this section no longer substantially meets the requirements for the issuance of a certificate, the Secretary may impose intermediate sanctions in lieu of the actions authorized by subsection (i).

"(2) The intermediate sanctions which may be imposed under paragraph (1) shall consist of—

"(A) directed plans of correction,

"(B) civil money penalties in an amount not to exceed $10,000 for each violation listed in subsection (i)(1) or for each day of substantial noncompliance with the requirements of this section,

"(C) payment for the costs of onsite monitoring, or

"(D) any combination of the actions described in subparagraphs (A), (B), and (C).

"(3) The Secretary shall develop and implement procedures with respect to when and how each of the intermediate sanctions is to be imposed under paragraph (1). Such procedures shall provide for notice to the laboratory and a reasonable opportunity to respond to the proposed sanction and appropriate procedures for appealing determinations relating to the imposition of intermediate sanctions.

"(i) SUSPENSION REVOCATION, AND LIMITATION.—

"(1) Except as provided in paragraph (2), the certificate of a laboratory issued under this section may be suspended, revoked, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

"(A) has been guilty of misrepresentation in obtaining the certificate,

"(B) has performed or represented the laboratory as entitled to perform a laboratory examination or other procedure which is not within a category of laboratory examinations or other procedures authorized in the certificate,

"(C) has failed to comply with the requirements of subsection (d) or the standards prescribed by the Secretary under subsection (f),

"(D) has failed to comply with reasonable requests of the Secretary for—

"(i) any information or materials, or

"(ii) work on materials, that the Secretary concludes is necessary to determine the laboratory's continued eligibility for its certificate or continued compliance with the Secretary's standards under subsection (f),

"(E) has refused a reasonable request of the Secretary, or any Federal officer or employee duly designated by the Secretary, for permission to inspect the laboratory and its operations and pertinent records during the hours the laboratory is in operation,

"(F) has violated or aided and abetted in the violation of any provisions of this section of any regulation promulgated thereunder, or

"(G) has not complied with an intermediate sanction imposed under subsection (h).

"(2) If the Secretary determines that the failure of a laboratory to comply with the standards of the Secretary under subsection (f) presents an imminent and serious risk to human health or if a laboratory has engaged in an action described in subparagraph (D) or (E) of paragraph (1), the Secretary may suspend or limit the certificate of the laboratory before holding a hearing under paragraph (1) regarding such failure or refusal. The opportunity for a hearing shall be provided no later than 60 days from the effective date of the suspension or limitation. A suspension or limitation under this paragraph shall stay in effect until the decision of the Secretary made after the hearing under paragraph (1).

"(3) No person who has owned or operated a laboratory which has had its certificate revoked may, within 2 years of the revocation of the certificate, own or operate a laboratory for which a certificate has been issued under this section. The certificate of a laboratory which has been excluded from participation under the medicare program under title XVIII of the Social Security Act because of actions relating to the quality of the laboratory shall be suspended for the period the laboratory is so excluded.

"(j) INJUNCTIONS.—Whenever the Secretary has reason to believe that continuation of any activity by a laboratory would constitute a significant hazard to the public health the Secretary may bring suit in the district court of the United States for the district in which such laboratory is situated to enjoin continuation of such activity. Upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this subsection shall be granted without bond by such court.

"(k) JUDICIAL REVIEW.—

"(1) Any laboratory which has had an intermediate sanction imposed under subsection (h) or has had its certificate suspended, revoked, or limited under subsection (i) may at any time within 60 days after the date the action of the Secretary under such subsection becomes final file a petition with the United States court of appeals for the circuit wherein the laboratory has its principal place of business for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other office designated by the Secretary for that purpose. The Secretary thereupon shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

"(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

"(3) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(l) SANCTIONS.—Any person who intentionally violates any requirement of this section or any regulation promulgated thereunder shall be imprisoned for not more than one year or fined under title 18, United States Code or both, except that if the conviction is for a second or subsequent violation of such a requirement such person shall be imprisoned for not more than 3 years or fined in accordance with title 18, United States Code or both.

"(m) FEES.—The Secretary shall require payment of fees for the issuance and renewal of certificates in such amount as the Secretary may establish to carry out this section based on the volume and scope of the testing being performed by the laboratories. The Secretary shall establish such fees at lower rates for laboratories which are accredited under subsection (e).

"(n) INFORMATION.—On April 1, 1990 and annually thereafter, the Secretary shall compile and make available to physicians and the general public information, based on the previous calendar year, which the Secretary determines is useful in evaluating the performance of a laboratory, including—

"(1) a list of laboratories which have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks,

"(2) a list of laboratories—

"(A) which have had their certificates revoked, suspended, or limited under subsection (i), or

"(B) which have been the subject of a sanction under subsection (l),

together with a statement of the reasons for the revocation, suspension, limitation, or sanction,

"(3) a list of laboratories subject to intermediate sanctions under subsection (h) together with a statement of the reasons for the sanctions,

"(4) a list of laboratories whose accreditation has been withdrawn or revoked together with a statement of the reasons for the withdrawal or revocation,

"(5) a list of laboratories against which the Secretary has taken action under subsection (j) together with a statement of the reasons for such action, and

"(6) a list of laboratories which have been excluded from participation under title XVIII or XIX of the Social Security Act.

The information to be compiled under paragraphs (1) through (6) shall be information for the calendar year preceding the date the information is to be made available to the public and shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraphs.

"(o) DELEGATION.—In carrying out this section, the Secretary may, pursuant to agreement, use the services or facilities of any Federal or State or local public agency or nonprofit private organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"(p) STATE LAWS.—

"(1) Except as provided in paragraph (2), nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with this section or with the regulations issued under this section.

"(2) Where a State enacts laws relating to matters covered by this section which provide for requirements equal to or more stringent than the requirements of this section or than the regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.".

SEC. 102. EFFECTIVE DATE.

Subsections (g)(1), (h), (i), (j), (k), (l), and (m) of section 353 of the Public Health Service Act, as amended by section 101, shall take effect January 1, 1989, except that any reference in such subsections to the standards established under subsection (f) shall be considered a reference to the standards established under subsection (d) of such section 353, as in effect on December 31, 1988. The remaining subsections of such section 353, as so amended, shall take effect January 1, 1990, except that subsections (f)(1)(C) and (g)(2) shall take effect July 1, 1991, with respect to laboratories which were not required to have a license under such section 353 as in effect on December 31, 1988.

TITLE II—STUDIES

SEC. 201. STUDIES.

The Secretary of Health and Human Services, acting through the Public Health Service, shall conduct studies of the following:

(1) The validity, reliability, and accuracy of proficiency testing of clinical laboratories under section 353 of the Public Health Service Act.

(2) The correlation between established standards for personnel employed in clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories which are subject to such standards.

(3) The correlation between internal quality assurance and quality control programs for clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories.

(4) The extent and nature of problems in the diagnosis and treatment of patients caused by inaccurate laboratory test results.

(5) The effects on laboratory test accuracy of errors in each of the components of the clinical testing process, including the communication between the attending physician and the clinical laboratory which is to conduct the tests, the selection of the tests to be performed, the limits applicable to the tests selected, the acquisition of the material to be tested, the transportation of the material to the laboratory, the storage of the material by the laboratory, the analysis of the material by the laboratory, and the reporting of the results by the laboratory.

The Secretary shall report to the Congress the results of the studies not later than May 1, 1990.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. NIELSON of Utah. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, two decades ago the Congress enacted the Clinical Laboratory Improvement Act, a statute designed to protect the public from inaccurate and unreliable medical test results. For nearly 10 years this Nation has confronted glaring deficiencies in that law, but until this time efforts to correct them have failed.

Over the past year, the urgency of action has become clear. As a result of this, the legislation before us today takes a long step forward in providing patients with assurances that laboratory tests will be done accurately and reliably.

This bill, which I authored, and which was supported by my colleagues on both the Subcommittee on Health and the Environment and the full Committee on Energy and Commerce, comprehensively reforms Federal regulation of clinical laboratories. It responds to defects in the existing statute, changes in technology, and problems uncovered by the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce. It reflects months of hard work with nearly every organization which has an interest in medical testing, and its provisions have the support of major consumer, medical, and industry groups.

The distinguished gentleman from Utah [Mr. NIELSON], the manager of the bill on the other side of the aisle, is to be commended. Commendation is also due to Mr. WAXMAN, my distinguished colleague and friend, and his staff for helping to refine and move this important bill. Mr. WYDEN deserves particular praise. His bill, H.R. 4325, contributed significantly to certain provisions of this bill. Mr. MADIGAN's deep interest in promoting accurate testing has helped to demonstrate the seriousness of the problems we faced and has allowed us to bring to the floor a bipartisan, compromise bill which we can all support. Indeed, all members of the committee deserve recognition for their support.

Recognition, is also due to Senators COHEN and LEVIN, whose diligent and steadfast investigation helped uncover a number of the abuses we seek to correct and whose own bill provided a basis for important sections of earlier versions of this very legislation. Finally, Senators ADAMS, and MIKULSKI have worked hard to craft similar legislation in the Senate.

The committee has found that 5 billion tests, costing American consumers more than $20 billion annually, were being performed in a system that did little or nothing to assure accurate testing. The result for some was human tragedy; for others it was uncertainty or unnecessary anxiety and expense.

The legislation essentially directs the Department of Health and Human Services to regulate all laboratories under a single statute. It should end duplicative and confused regulation under a tangled web of statutory authorities.

There will now be Federal oversight and quality standards for all laboratories. If there was any question about the obligation of health maintenance organizations, ambulatory surgery centers, or other facilities to meet the same standards as independent laboratories doing similar tests they should be answered by this legislation. And patients will take comfort in knowing that tests performed in physician office laboratories will meet high quality standards. One hopes that mortality and morbidity rates which may have been affected by bad testing will be reduced, and that the peril to our population will be significantly reduced.

The bill responds to atrocious abuses in the area of pap smear screening by requiring strict standards to assure high-quality testing. No woman should suffer or die from cervical cancer because of sloppy testing practices that lead to false negative results. This legislation will finally force laboratories to take seriously a matter of life and death.

In addition, the bill clarifies and strengthens quality standards. It replaces a confused and unworkable proficiency testing policy with a coherent program designed to improve the quality of testing done on virtually every test. Good science is fused with a rational enforcement mechanism to monitor the performance of laboratories, to help those in need of assistance, and to penalize those requiring or deserving punishment.

The absence of useful information about laboratory quality has slowed the improved accuracy and reliability of testing. This legislation attempts to fill that vacuum by requiring that useful data on laboratory performance be disseminated to physicians and the public. It commissions studies on the links between laboratory quality, regulation, and patient health and it requires that data on proficiency testing be compiled and analyzed.

The bill strengthens a weak and limited enforcement mechanism in a number of different ways. The ability to obtain injunctive relief against a laboratory whose operations pose a threat to public health is bolstered. A range of intermediate sanctions are introduced which would allow a laboratory to continue operating while it corrects deficiencies which do not significantly threaten patient health. Finally, the criminal provisions of current law are strengthened and clarified.

I want to thank the Judiciary Committee for its help in structuring the criminal provisions to conform to the criminal code. I would note that subsection (l) of the bill here considered is therefore modified from the committee-passed bill in the following ways: Paragraph (2) which relates to false and fractious statements is omitted to allow section 1001 of title XVIII, a similar provision of the United States Code, to govern. The references to fine amounts are changed to refer to title XVIII which contains the governing fine schedules established by the Congress. The language of the provisions establishing tougher penalties for recidivists is clarified to state precisely that it applies to second and subsequent convictions. Finally, technical changes to the phraseology regarding imprisonment have been made, and the word "intentionally" has been substituted for "willfully," to assure consistency with title XVIII.

The bill strengthens the relationship between private accrediting bodies and the Federal Government. It first clarifies the obligations of such entities and then reinforces the link between Federal and private oversight. No longer will the Federal Government be able to abdicate its ultimate responsibility to enforce the law.

In sum, the legislation strikes a balance. It protects the public health by bringing every laboratory under Federal regulation. At the same time, it recognizes that different kinds of testing may require different standards and it vests the Secretary of Health and Human Services with substantial flexibility. The flexibility in standards and in enforcement are accompanied by new authority to enforce the law with vigor. This legislation is intended to help the Department awaken from a slumber that has allowed laboratory regulation to become lax and ineffective and to reinvigorate a regulatory program which has fallen into disarray.

Obviously any regulations issued by the Department would need to conform to the requirements of congressionally passed legislation. I expect that final efforts at regulatory reform emanating from the Department will capture both the spirit and letter of this legislation.

Passage of this legislation presents us with a rare opportunity to improve our health care system at virtually no cost to the taxpayer. Fewer inaccurate tests means fewer unnecessary tests and lower costs. Even more important, we offer patients renewed confidence in the system of medical testing and will eliminate some of the gross human suffering that false laboratory results have caused.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 5150, the Clinical Laboratory Improvement Amendments of 1988. This bill would establish a laboratory certification program with minimum standards that would apply to virtually all laboratories.

At the present time, about 12,000 hospital and independent laboratories are subject to Federal oversight in conjunction with their participation in the Medicare and Medicaid programs and another 1,300 are licensed due to their participation in interstate commerce. Regulation of clinical laboratories by States varies considerably in its scope and intensity. Most inspection and certification activities are conducted by private accrediting bodies such as the College of American Pathologists or by State agencies.

One benefit of this legislation will be to unity the regulation of clinical labs by implementing a uniform set of minimum standards. The bill will also provide for the regulation of physician office laboratories which are currently exempt from Federal regulation. It is estimated that the volume of physician office-based testing is growing at the rate of 16 percent per year and that currently, according to some estimates, half of all tests occur in physician labs. Also, some laboratories have exhibited problems, especially in cytology procedures, like PAP smears. Evidence before the Energy and Commerce Committee indicated that false negative PAP smears have resulted in undiagnosed cervical cancer in many women. Clearly, one goal of H.R. 5150 is to require the development of appropriate standards for cytology to eliminate such problems.

H.R. 5150 requires all clinical laboratories to apply for certification either directly to the Secretary or through a private accrediting body. The laboratory must meet minimum standards set by the Secretary that govern virtually all aspects of quality control and must maintain its certificate through periodic inspections and proficiency testing.

I am pleased to report that most of the concerns which had been raised regarding the practical implementation of this bill have been resolved. For example, the provision prohibiting physician referral to a laboratory in which the physician has a financial interest and the section requiring direct billing of the patient were deleted. In addition, the bill includes a provision that gives the Secretary the flexibility to reduce the burden upon a physician having to comply with standards, that may not be relevant, if the physician only performs the most simple tests in his office.

Finally, it is important to note that this program allows and promotes the role of private accrediting bodies so that the certification process may remain in the private sector.

Strong evidence has been presented to suggest that it is time for the uniform regulation of all clinical laboratories. I am pleased to support this bill, and I urge my colleagues to join me in voting for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 6 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, too many medical labs are making too many mistakes and too many Americans are being hurt as a result.

The present system for regulating medical laboratories is dangerously inadequate and haphazard.

Each year, thousands of Americans have millions of medical tests performed on them in labs that are subject to no Government oversight or regulation whatsoever.

This gross lack of accountability has produced frightening results and a totally unacceptable level of inaccuracy.

The legislation before us today—a combination of my bill H.R. 4325 and Chairman DINGELL's bill H.R. 4927—protects consumers. Because this legislation includes all health care settings, they will be able to enter any medical establishment—large or small—and rest assured that the lab test on which their health depends will meet certain minimum standards.

As more and more information has surfaced about the inadequacies of quality assurance programs and the severity of the problems this has caused, more and more groups—even those previously opposing comprehensive regulation—have joined in supporting an improved regulatory framework.

This legislation provides a comprehensive framework for regulation—a vast improvement to the piecemeal, patchwork system that has existed for the last 21 years. This framework includes all labs—of all sizes and in all settings.

I have spent a great deal of time looking into the problems created by the lack of oversight and accountability. What I found was story after story about the devastating effects of poor quality lab work and report after report indicating the broad scope of inadequacies in our present system—a system filled with cracks and crevices.

First, the Small Business Subcommittee which I chair, held hearings March 2 and May 3 of this year on the present laboratory quality standards used by labs today. What we learned was that the current voluntary grading system is a virtual stamp of approval for 95 percent of all labs.

Despite this giveaway standard, labs consistently fail to perform routine tests adequately. One in ten hospital labs fell outside the voluntary organization's acceptable accuracy range for platelet counts. These tests can mean the difference of life or death for some individuals, and yet the present error rate remains high.

AIDS testing is a traumatic experience. However, as the Office of Technology Assessment pointed out in hearings before my subcommittee last year, 9 out of 10 low-risk individuals could be misdiagnosed with the AIDS virus.

Obviously, these results have dire human consequences. OTA confirmed its findings of high false positive rates in low risk populations before the Presidential Commission on AIDS.

Another report showed deficiencies in cholesterol testing. Under the present system, the range of what is considered an "acceptable" test is so broad that contradictory indications on the same sample will pass the test.

For example, Mr. Smith's blood sample is sent to two labs in a cholesterol test. One lab reports his cholesterol at 161—which means he is in good health. The second lab reports his level at 250—which could mean the man has serious problems. Yet, both results are acceptable.

In hearings before Chairman DINGELL's Subcommittee on Oversight and Investigation, on which I serve, we heard witnesses describe a 20- to 40-percent error rate in PAP smear tests. As the New York Times pointed out in May of this year, careless reading of PAP smears often delays the discovery of cervical cancer, resulting in needless deaths.

Over the past 7 years, the limited Federal efforts to assure quality testing have been noticeably retcheted down. In 1981, the Health Care Financing Administration cut its budget for inspectors by 30 percent. In 1986, the Centers for Disease Control eliminated its proficiency testing lab. On March 4, 1988, HCFA had only three fulltime equivalents [FTE's] of personnel working on laboratory regulation.

Suddenly, the same week that the Energy and Commerce Health Subcommittee approved our legislation, and after months of foot-dragging, HCFA published a set of proposed laboratory rules. While the proposed rules offer some improvements for proficiency testing and cytology requirements, they do not go far enough. In fact they do not even address the fastest growing sector—physician office labs.

Physician office labs are multiplying at a rate of 16 percent each year with no end in sight. Presently, there are somewhere between 100,000 and 200,000 physician office labs.

Why is there such a large range? Because we don't really know how many there are. Only 14 States have standards for physician office labs. In the other States the physician office labs are accountable to no one.

The inspector general has estimated that roughly 25 percent of all lab tests performed in the country are done in physician office labs—to the tune of about $5 billion a year and yet, there is no public accountability for poor performance.

In fact, many patients assume that the testing performed in physician office labs is accurate.

However, according to a recent report done by the American Public Health Association, less than half of all physicians have formally trained their employees to do the tests or have any kind of quality assurance programs. This is an alarming revelation to patients who have relied on the sacred relationship they have with their doctors.

H.R. 5150, which includes proficiency testing standards and personnel standards for all labs, as well as inspections to verify compliance, provides the quality assurance and peace of mind the public deserves.

I urge my colleagues to support the bill and its passage.

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Mr. Speaker, again, I want to commend my colleague, the chairman of the full committee, and I thank him for yielding this time to me.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL] and the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN], along with the ranking minority member, the gentleman from Illinois [Mr. MADIGAN], and the gentleman from Oregon [Mr. WYDEN] for their interest in the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me echo the words of my dear friend the gentleman from Utah, [Mr. NIELSON] about the labors of my colleagues on the committee, the gentleman from New York [Mr. LENT] the gentleman from Oregon [Mr. WYDEN], the gentleman from Illinois [Mr. MADIGAN], the gentleman from Utah [Mr. NIELSON], and other members of the committee who have worked so hard to make this possible.

This is a good piece of legislation, and I hope my colleagues will support it. It will do much to save lives and make people feel safe and be safe with high-quality testing instead of the dangerous, shoddy, inaccurate, and inadequate testing procedures we have become all to common.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL] that the House suspend the rules and pass the bill, H.R. 5150, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5133 and H.R. 5150, the two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ABANDONED INFANTS ASSISTANCE ACT OF 1988

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 945) to require the Secretary of Health and Human Services to make grants to local governments for demonstration projects to provide respite homes and other assistance for infants abandoned in hospitals, and for other purposes, as amended.

The Clerk read as follows:

S. 945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

(2) the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

(3) the vast majority of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

(4) hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

(5) training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

(6) a particularly devastating development is the increase in the number of cases of acquired immune deficiency syndrome in infants and young children, and the number of such cases has doubled within the last 13 months;

(7) more than 80 percent of infants and young children with acquired immune deficiency syndrome have at least one parent who is an intravenous drug abuser;

(8) infants and young children with acquired immune deficiency syndrome are particularly difficult to place in foster homes, and are being abandoned in hospitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

(9) there is a need for comprehensive services for such infants and young children, including foster family care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services; and

(10) there is a need for the development of funding strategies that coordinate and make the optimal use of all private resources, and Federal, State, and local resources, to establish and maintain such services.

TITLE I—FOSTER CARE AND RESIDENTIAL CARE OF INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS

SEC. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to demonstrate methods—

(1) to prevent the abandonment of infants and young children;

(2) to identify and address the needs of abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(3) to assist abandoned infants and young children, particularly those with acquired immune deficiency syndrome, to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(5) to carry out residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(6) to carry out programs of respite care for families and foster families of infants and yong children with acquired immune deficiency syndrome; and

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome.

(b) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential setting away from their parents, the applicant will ensure that—

(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

(c) ADMINISTRATION OF GRANT.—The Secretary may not make a grant under subsection

(a) unless the applicant for the grant agrees—

(1) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (d);

(2) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

(3) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and

(4) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of siginficantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

(d) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) TECHNICAL ASSISTANCE TO GRANTEES.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

(f) TECHNICAL ASSISTANCE WITH RESPECT TO PROCESS OF APPLYING FOR GRANT.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants.

SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) EVALUATIONS OF DEMONSTRATION PROJECTS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects.

(b) STUDY AND REPORT ON NUMI OF ABANDONED INFANTS AND YOUNG CHILDR.

(1) The Secretary shall conduct a study for the purpose of determining—

(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants who have acquired immune deficiency syndrome; and

(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

(2) The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(c) STUDY AND REPORT ON EFFECTIVE CARE METHODS.—

(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

(2) The Secretary shall, not later than April 1, 1991, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 103. Definition.

For purposes of this title, the term "abandoned infants and young children" means infants and young children who are medically cleared for discharge form acute care hospital setting, but who remain hospitalized becuse of a lack of appropriate out-of-hospital placement alternatives.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants under section 101, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $15,000,000 for fiscal year 1991.

SEC. 105. TERMINATION OF PROGRAM.

No grant may be made under section 101 after September 30, 1991.

TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. STUDY AND REPORT ON ASSISTANCE.

(a) STUDY.—The Secretary shall conduct a study for the purpose of—

(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

(2) the extent to which federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

TITLE III—GENERAL PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this Act:

(1) The term "acquired immune deficiency syndrome" includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

(2) The term "Secretary" means the Secretary of Health and Human Services.

The SPEAKER pro tempore. Is a second demanded?

Mr. NIELSON of Utah. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that I be permitted to yield 10 minutes of my time to the gentleman from New York [Mr. OWENS] for purposes of controlling that time at the end of my presentation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. WALGREN. Mr. Speaker, the Senate bill, S. 945, the Abandoned Infants Assistance Act of 1988, as amended, is for all practical purposes identical to the legislation authored by the gentleman from New York [Mr. OWENS], and reported by the Committee on Energy and Commerce.

Mr. Speaker, I particularly want to congratulate the gentleman from New York [Mr. OWENS] for the work he has done on this bill in bringing the attention of the Congress to such an important problem as the children who are abandoned in medical facilities across the country.

This bill is intended to address the problem of those children who are hospitalized not because of their medical needs but because they have no other place to go. Babies with AIDS or with the AIDS infection are not easy foster care placements. This legislation establishes demonstration programs to provide foster care for such children. This bill will certainly not care for all abandoned children, but it will create models of how these hard-to-place children can be humanely and efficiently cared for.

The bill is cosponsored by the gentleman from Illinois [Mr. MADIGAN]. It was reported by voice vote. I know of no opposition to the bill, and I urge its passage.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today as the chief sponsor of H.R. 4843, which will amend the Senate bill we are preparing to pass today. I would like to commend Senator METZENBAUM for his vision and sense of compassion reflected in S. 945 as well as my colleague, Congressman HENRY WAXMAN, whose Health and Environment Subcommittee was so instrumental in ensuring that this legislation received floor action today. I welcome also the support this bill has received from the Presidential Commission on the Human Immunodeficiency Virus Epidemic, as well as my colleagues on the other side of the aisle.

In the next 3 years the number of children infected with AIDS is projected to rise from the current 1,154 cases to between 3,500 to 20,000 cases, depending on whether those who are simply sero-positive are counted or just those with full blown symptoms of the disease are counted.

One in 61 babies in parts of New York City tests positive for the AIDS antibodies, at least 40 percent of these children will come down with the disease, and many of their parents will be unable to care for them since about four-fifths of the children with AIDS have a parent who is infected with the virus.

S. 945 is one of the few belated Federal responses to the problem of how to take care of children whose parents are either too sick or unavailable to perform their parenting role. The crisis in New York City is projected to affect other urban areas in the coming years; areas already struggling to cope with intense poverty and drug addiction. It is becoming more obvious that our health care as well as our foster care systems will be unable to cope with the extraordinary new demands that the pediatric AIDS epidemic places on them.

The bill we are passing today authorizes a series of demonstration projects to fund models of care around the country. In this manner we will be better able to identify care arrangements for children infected with the HIV virus that stand the best chance of working and so make possible the future replication of successful models.

The ultimate goal will be to help States and localities devise their own policies of quality care and efficient treatment of HIV infected children. The present "nonsystem," whereby infants wait an undue length of time in hospitals after they have been medically cleared for discharge, is both inhumane and absurdly wasteful. It costs up to $237,000 for annual inpatient care without any ancillary services or intervention. On the other hand, costs for good quality foster care attuned to the needs of these infants are considerably less, in the range of $80,000 to $100,000.

This bill would provide foster care incentives to help place children with families, as well as a range of support services for those families, currently in danger of falling through the cracks of an unprepared medical and social service delivery system. However short the lifespan of infants infected with AIDS, the goal of our national policy should be to allow these children to lead as normal a life as possible.

We should be cognizant of the fact that new drug therapies particularly the use of AZT, holds the promise of further extending life, which means that we need to try even harder to make sure that a complete range of services are provided to HIV infected children as they grow. The demonstration programs we are authorizing today will help us to better identify the nature of these services and how many of them can be made available under present Federal and State laws.

While Federal intervention cannot be the complete answer to a situation that States and localities will have to manage, there is a clear need for a strong Federal leadership role to help the severely affected urban areas make the transition from a nonresponsive or a partially responsive system to one that is capable of fully meeting the medical, social and other needs of children and their parents. Although this particular piece of legislation does not directly address the issue of prevention, we cannot forget the need for comprehensive education programs as an effective means of attempting to slow this looming crisis.

Mr. Speaker, in place of hysteria and ignorance about the AIDS epidemic's causes and consequences, this legislation represents Congress at its best. Today we send a message of caring and compassion to those least able to tell us of their needs, the children infected with this terrible disease. Although they do not have the support and protection of a powerful lobby or interest group we can at least say that today their voice has been heard and the machinery of our national Government is making its first tentative steps to take notice. I urge the quick passage of the bill into law.

I am submitting in addition to my prepared remarks an op-ed piece that appeared last week in the Washington Post, that underlines the seriousness of the explosion in pediatric AIDS cases. I commend the article to my colleagues' attention.

[From the Washington Post, Sept. 10, 1988]

CHILDREN WITH AIDS

(By Carl T. Rowan)

When you let your heart go out to the suffering and the doomed, say a special prayer for the children who, in growing numbers, are afflicted with AIDS.

We need to focus more on the innocents among us who face cruel accidents of birth and life. I refer to:

A 3½-year-old boy in Philadelphia who got AIDS from his mother, an intravenous drug user who died last year.

A baby in Utah whose mother got AIDS through a blood transfusion.

A 19-year-old girl from a middle-class family who was raped by four men before she was 13 and then ran away to New York, where she became a prostitute and IV drug user. She has had two children, the second of whom is AIDS positive.

A 12-year-old hemophiliac, infected with the AIDS virus, who had to be withdrawn from his public school in Tennessee after angry parents surrounded the pickup truck in which he was riding to class and screamed, "Kill him! Kill him!"

As of last February, 839 cases of AIDS had been reported among children under age 13 in America and 271 cases among 13- to 19-year-olds. These may not sound like dramatic numbers, but experts say that for every child with active AIDS, several others are infected. And they note that children are currently developing AIDS at a faster rate than adults.

The number of children with AIDS rose 60 percent last year, leading some health officials to warn of an impending "crisis." If the percentage of pediatric AIDS cases in the total U.S. caseload remains constant, we could have 3,500 young victims by 1991.

Once a baby or a child gets the disease, the outlook is grim. The average life expectancy is just two years following diagnosis—years of sickness, pain, suffering, huge medical bills. AIDS children often require prolonged hospitalization because their families cannot provide care.

Large numbers of children who have been exposed to the disease come from poor inner-city areas. High-risk behavior, such as intravenous drug abuse and prostitution, is common there, while prenatal and other health care is not easily available.

About four-fifths of children with AIDS have a parent who is infected with the disease or is at risk. Many women who have the human immuno-deficiency virus (HIV) that causes AIDS show no sign of AIDS and become pregnant, passing the disease on to their babies during either pregnancy or delivery. The remainder of children with AIDS have gotten it through contaminated blood in transfusions (before screening measures were effective).

So far, adolescents account for less than 1 percent of reported cases of AIDS, but public health officials say that teen-agers run a high risk of infection because of their experimentation with sex and drugs.

Greater attention must be paid to pediatric AIDS. The March of Dimes Birth Defects Foundation has launched a national campaign to raise public awareness about the problem. It is urging women who suspect they may have been exposed to the AIDS virus to get tested before becoming pregnant. Women infected with HIV have more than a 50 percent chance of passing it to their unborn babies, warns the foundation.

A new organization of child advocacy and health groups has been formed, known as the Pediatric AIDS Coalition. It is seeking money from government and private sources for research, treatment and, most of all, education.

Education is critical. It must be directed at both adults and children and supported by all sectors of society—parents, schools, churches and synagogues, community agencies, health organizations. Programs should be offered in schools from elementary grades through high school, and should also be targeted to adolescents who are not in school.

"We realize that AIDS may not be the most frequently encountered health problem children face today in our country," says Dr. Edward O'Connor, spokesman for the Pediatric AIDS Coalition, "but it is the newest, and has the potential for exploding into the largest problem we have ever faced."

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to comment on the statement of the gentleman from New York [Mr. OWENS] and commend him for his work on this bill, and I also wish to commend the gentleman from California [Mr. WAXMAN] and the gentleman from Illinois [Mr. MADIGAN].

I would like to indicate that the administration shares the concern of Congress about the tragedy of infants born who are addicted to drugs or with AIDS who are abandoned in hospitals. The Department of Health and Human Services has already initiated a grant program, using available funds, for demonstration projects to address this problem. However, they do not object to H.R. 4843. They think that will work very well with foster family care and innovative community-based alternatives to hospitalization. So the administration does not object to H.R. 4843.

Mr. Speaker, I am pleased to speak in support of the Abandoned Infants Assistance Act, which addresses one of our most tragic health care problems, babies born with AIDS or other critical ailments who are abandoned in the hospital because their parents cannot care for them or they have no home.

The Public Health Service has estimated that by 1991 there may be some 10,000 children infected with AIDS. The CDC is conducting a newborn AIDS study in 1989 that will provide more accurate estimates of the infants infected with AIDS.

The birth of AIDS babies to IV drug users in New York, Massachusetts, and New Jersey has been well publicized. The State health departments have estimated that in 1988 the HIV infection rate for newborns in Boston is 8 per 1,000 live births and 16 per 1,000 in New York City. The pediatric AIDS problem is centered in the urban areas on the east coast because this is where the AIDS epidemic has made the greatest infiltration of the IV drug user populations. It has been estimated that 25 to 33 percent of the infants born with AIDS will not be cared for by their biological parents.

This bill will help provide foster care for babies with AIDS or other life threatening diseases who are well enough to be discharged from the hospital but have no place to go. Often the mother is an IV drug user with AIDS who either rejects her baby or whose health problems prevent her from caring for her baby.

The Surgeon General's Workshop on Pediatric AIDS in 1987 made a number of recommendations concerning abandoned babies and most of them are reflected in the House substitute to S. 945. Specifically, the House substitute authorizes $10, $12, and $15 million in fiscal year 1989 through fiscal year 1991 for demonstration grants to study the scope of the problem and how it might be prevented; to provide support so that babies may be able to remain with their natural families; to recruit, train, and provide support to foster families; to provide residential care and respite care programs; and to recruit and train health and social service personnel in dealing with this problem. In addition, this legislation will mandate a number of studies to determine the best means and costs involved in providing residential, health and other care to abandoned babies; a study of the cost impact on public payors; and a study on how to finance these services for babies in foster care.

We can no longer tolerate babies infected with AIDS to be abandoned in hospitals. Some States have responded to this problem by providing augmented payments to foster families willing to accept HIV-infected infants and the Medicare catastrophic bill passed this year provides for waivers so these infants may receive Medicaid services. However, we must do more to relieve the suffering of these innocent victims of the AIDS epidemic. I urge each of you to join me in support of this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I rise in support of S. 945 as amended by H.R. 4843, the Abandoned Infants Assistance Act of 1988. This act addresses the needs of a rapidly growing segment of our population: Infants and children of drug addicted or HIV infected parents who, tragically, are born suffering the consequences of their parents' afflictions.

In many cases, these infants are abandoned in the hospitals by their sick or dying parents who are unwilling or unable to care for them. Because of their short life expectancies, and the lack of health insurance coverage in a nonhospital setting, these children can not be adopted or cared for by foster care families or residential care facilities. Thus, they are forced to spend the duration of their short lives in a nonnurturing, yet prohibitively expensive, hospital environment.

Within the past year, the number of infants born with AIDS has doubled, and it has been predicted that pediatric AIDS cases will increase about 10 times in the next 5 years, amounting to more than 3,000 cases nationwide by the close of 1991. In my home State of Texas, the numbers of infants born with the AIDS virus has increased by 41 percent within the past year. Currently, Texas ranks fifth nationally in reported cases of pediatric AIDS. Clearly, legislation to meet the complex social and medical needs of these infants is desperately needed now, before the problems grows to unmanageable proportions.

The primary emphasis of this bill is to serve the best interests of the child, and, when possible, to support families—and foster care families—who wish to care for the child in their own homes. S. 945 as amended will maximize existing funding sources to bring in-home resources to families and foster care workers. Respite or foster care is far less expensive and more compassionate for the child than a sterile hospital setting.

Under this bill grants will be made available to both public and nonprofit private organizations to demonstrate methods to prevent the abandonment of infants, identify and address the needs of such infants, and recruit and train health and social service workers to work with such infants and their families or foster families. Although the program is intended primarily to respond to the needs of abandoned infants and young children with AIDS, grantees are free to create programs for abandoned children regardless of their medical diagnoses.

This legislation will also assist in identifying gaps in existing service and financial aid programs, thus facilitating future remedial action. In addition, this bill requires a study to determine the most cost effective methods for assisting in the payment of the health care of persons with AIDS, including the feasibility of risk-pool health insurance.

The bill authorizes $10 million in 1989, $12 million in 1990, and $15 million in 1991 and the administration does not object to passage of this bill. Because this legislation will result in a decrease in inpatient hospital spending for children with AIDS, it should reduce overall health care spending.

Mr. Speaker, it is vital that we, as legislators do everything possible to help these children by assisting State, local, and private sector agencies to develop the most effective solutions to the truly devastating problems created by pediatric AIDS. I urge my colleagues to support this legislation.

Mr. HAWKINS. Mr. Speaker, today, I rise in support of S. 945, as amended, a bill to create a program of demonstration projects for foster and residential care for infants and young children who have been abandoned in hospitals. These children either have an infectious medical condition which renders regular placement processes inadequate, or come from environments which increase the risk of such a condition, leading to fear and ostracism on the part of the community.

Most, though not all, of the children who would be covered by this legislation are the innocent victims of acquired immune deficiency syndrome. These are infants and children whose mothers are infected with the AIDS virus. This infection is passed on at birth. In many instances, these mothers are unable, due to the disease, or unwilling, due to various social factors, to take responsibility for the babies. In other cases, the infants or children, once they manifest symptoms of the disease, need special care which cannot be provided by the parents. In most cases, normal family support is withdrawn from these children, either from fear of the disease or the reaction of society. Perhaps the saddest cases are infants who really do not have the infection, but who test positive at birth because of the presence in their body of antibodies to the disease produced by the mother. By the time it can be determined that the children do not have the infection, they are so stigmatized that they are not accepted, regardless of medical condition.

All of these children are innocent victims of circumstances beyond their understanding and control. They are abandoned in hospitals which do not have the facilities or programs to properly attend to their needs. They are caught in a trap; they cannot be turned away, but they are not being properly nurtured. These children, doomed to a life-expectancy which, in most cases, will be no more than 2 years, are institutionalized, even when there is no medical reason for being in the hospital.

The record of the Subcommittee on Select Education is replete with instances where hospitals and individual doctors and nurses have reached out and tried to compensate for the sterile atmosphere in which these children must live. However, the cost in social and human terms is enormous. Many of these children have never seen the outside of the hospital, or known the simple pleasures of childhood. They are owed this much, for what time is given to them.

The cost to society, in financial terms, is also staggering. Keeping these children in hospital settings, particularly when it is unnecessary, is extremely expensive, and the majority of this expense is covered by Medicaid or other welfare payments. This means that all alternatives which improve the quality of life for the children, while cutting down on the financial costs, must be explored.

Sadly, this problem is growing. As more and more women of child-bearing age become infected, more and more children are being born infected with the AIDS virus. This is a problem which does not just affect a few areas of the country. It is a widespread and growing problem which affects us all. We must "get ahead of the curve" and begin to handle it now.

For this reason, I am so happy that S. 945 has received such bipartisan and widespread support. Building on current Federal and local efforts, it seeks to coordinate services and fill in the gaps. It recognizes that outreach and education programs can reach the families and individuals who are willing to take these infants and children into foster care situations, and makes this an eligible activity. For those infants and children who require additional care, or for whom foster placement is impossible or inappropriate, it authorizes small, residential programs, away from hospitals but providing all necessary services. Most important, the bill requires careful monitoring and evaluation and reporting. This will allow us to learn from these programs.

I want to congratulate Mr. OWENS, the chairman of the Select Education Subcommittee, for his work on this legislation, and recognize the support of Mr. BARTLETT and the entire subcommittee membership. I also want to recognize Mr. WAXMAN, a leader in the field of Federal response to the AIDS issue, and Mr. MADIGAN for his invaluable support. The time for inaction has passed. I urge all of my colleagues to support S. 945.

Mr. GILMAN. Mr. Speaker, I rise in support of the Abandoned Infants Assistance Act of 1988 and strongly commend the gentleman from New York [Mr. OWENS] for helping to bring this measure to the floor. The legislation will allocate $37 million over 3 years to allow the Department of Health and Human Services to make grants to public and nonprofit private institutions. The grants will go toward training foster parents to provide for the special needs of infants with AIDS, toward promoting residential-care programs for those who cannot be placed in foster homes and toward demonstration projects designed to prevent abandonment.

Assisting abandoned babies is an exceedingly worthy cause. These days too many children are born with AIDS or addicted to drugs. Through no fault of their own they are brought into the world with the odds already against them with their very lives already in jeopardy. Just when these infants need the love and support of their parents most dearly, they find themselves abandoned and alone. These border babies are in dire need of help.

However, there is a bright side of this issue. As often happens, the most heart-wrenching tragedies can touch the soul and bring out the very best in people. Some families have shown great moral courage and love of life by taking these abandoned babies into their homes as their own. This legislation will help ensure the new foster parents are able to give their adopted child the care which his or her particular situation requires.

Mr. Speaker, I urge my colleagues to support this compassionate legislation which will offer hope to children desperately in need of it.

Mr. WALGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NIELSON of Utah. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the Senate bill, S. 945, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1500

INDIAN HEALTH CARE AMENDMENTS OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5261) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

The Clerk read as follows:

H.R. 5261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Health Care Amendments of 1988".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Indian Health Care Improvement Act.
Sec. 3. Appropriation; availability.

TITLE I—INDIAN HEALTH MANPOWER

Sec. 101. Health professions recruitment program for Indians.
Sec. 102. Health professions preparatory scholarship program.
Sec. 103. Indian Health Service extern programs.
Sec. 104. Indian health professions scholarship program.
Sec. 105. Continuing education allowances.
Sec. 106. Native Hawaiian health professions scholarship program.
Sec. 107. Community health representatives.
Sec. 108. Indian Health Service clinical staffing.

TITLE II—HEALTH SERVICES

Sec. 201. Improvement of Indian health status.
Sec. 202. Catastrophic health program.
Sec. 203. Health promotion and disease prevention.
Sec. 204. Reimbursement of certain expenses.

TITLE III—HEALTH FACILITIES

Sec. 301. Consultation; closure of facilities; reports.
Sec. 302. Safe water and sanitary waste disposal facilities.
Sec. 303. Use of non-Service funds for renovation.
Sec. 304. Bethel, Alaska, hospital.

TITLE IV—URBAN INDIAN HEALTH SERVICES

Sec. 401. Revision of program.
Sec. 402. Urban Indian organization.

TITLE V—ORGANIZATIONAL IMPROVEMENTS

Sec. 501. Establishment of the Indian Health Service as an agency of the Public Health Service.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Leasing and other contracts.
Sec. 602. Arizona as a contract health service delivery area.
Sec. 603. Eligibility of California Indians.
Sec. 604. California as a contract health service delivery area.
Sec. 605. Contract health facilities.
Sec. 606. National Health Service Corps.
Sec. 607. Health services for ineligible persons.
Sec. 608. Infant and maternal mortality; fetal alcohol syndrome.
Sec. 609. Contract health services for the Trenton Service Area.

Sec. 610. Indian Health Service and Veterans' Administration health facilities and services sharing.
Sec. 611. Reallocation of base resources.
Sec. 612. Provision of services in Montana.
Sec. 613. Tohono O'Odham demonstration project.
Sec. 614. Pueblo substance abuse treatment project for San Juan Pueblo, New Mexico.
Sec. 615. Study with respect to nuclear resource development health hazards.
Sec. 616. Restriction on the use of depo-provera.
Sec. 617. Limitation on use of funds appropriated to the Indian Health Service.

SEC. 2. REFERENCES TO THE INDIAN HEALTH CARE IMPROVEMENT ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 3. APPROPRIATION; AVAILABILITY.

Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE I—INDIAN HEALTH MANPOWER

SEC. 101. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

Subsection (c) of section 102 (25 U.S.C. 1612(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $600,000 for fiscal year 1989,

"(2) $650,000 for fiscal year 1990,

"(3) $700,000 for fiscal year 1991, and

"(4) $750,000 for fiscal year 1992.".

SEC. 102. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM.

(a) DENIAL; AUTHORIZATION.—Section 103 (25 U.S.C. 1613) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution.

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $3,000,000 for fiscal year 1989,

"(2) $3,700,000 for fiscal year 1990,

"(3) $4,400,000 for fiscal year 1991, and

"(4) $5,100,000 for fiscal year 1992.".

(b) GRANTEE EXPENSES.—Subsection (c) of section 103 is amended by striking out "expenses" and inserting in lieu thereof "expenses of a grantee while attending school full time".

SEC. 103. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

Subsection (d) of section 105 (25 U.S.C. 1614) is amended to read as follows:

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $300,000 for fiscal year 1989,

"(2) $350,000 for fiscal year 1990,

"(3) $400,000 for fiscal year 1991, and

"(4) $450,000 for fiscal year 1992.".

SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Section 104 is amended to read as follows:

"SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

"(a) GENERAL AUTHORITY.—In order to provide health professionals to Indian communities, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full time in appropriately accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health and engineering, nursing, optometry, public health, and allied health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254(l)), except as provided in subsection (b) of this section.

"(b) CONDITIONS SPECIFIC TO INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.—(1) The Secretary, acting through the Service, shall determine who shall receive scholarships under subsection (a) and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

"(2) An individual shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full time in a health profession school referred to in subsection (a).

"(3) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by a recipient of an Indian Health Scholarship by service—

"(A) in the Indian Health Service;

"(B) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(C) in a program assisted under title V of this Act; or

"(D) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(c) DEFINITION.—For the purpose of this section, the term 'Indian' has the same meaning given that term by subsection (c) of section 4 of this Act, including all individuals described in clauses (1) through (4) of that subsection.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $5,100,000 for fiscal year 1989,

"(2) $6,000,000 for fiscal year 1990,

"(3) $7,100,000 for fiscal year 1991, and

"(4) $8,234,000 for fiscal year 1992.".

(b) CONFORMING AMENDMENT.—Section 338I of the Public Health Service Act (42 U.S.C. 254r) is repealed.

(c) TRANSITION RULE.—Scholarships provided under section 338I of the Public Health Service Act (42 U.S.C. 254r) shall continue under section 104 of the Indian Health Care Improvement Act (added by subsection (a) of this section), and each such scholarship shall be subject to the same terms and conditions to which such scholarship was subject before the date of enactment of this Act.

SEC. 105. CONTINUING EDUCATION ALLOWANCES.

Subsection (b) of section 106 (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $500,000 for fiscal year 1989,

"(2) $526,300 for fiscal year 1990,

"(3) $553,800 for fiscal year 1991, and

"(4) $582,500 for fiscal year 1992.".

SEC. 106. NATIVE HAWAIIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.

The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 104(b) of this Act, is further amended by inserting after section 338H the following new section:

"SEC. 338I. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

"(a) GENERAL AUTHORITY.—Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide scholarship assistance to students who—

"(1) meet the requirements of section 338A(b), and

"(2) are Native Hawaiians.

"(b) TERMS AND CONDITIONS.—

"(1) The scholarship assistance provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A.

"(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"(c) DEFINITION.—For purposes of this section, the term 'Native Hawaiian' means any individual who is—

"(1) a citizen of the United States, and

"(2) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,800,000 for fiscal years 1989, 1990, 1991, and 1992, for the purpose of funding the scholarship assistance provided under subsection (a).".

SEC. 107. COMMUNITY HEALTH REPRESENTATIVES.

Title I is amended by adding at the end thereof the following new section:

"SEC. 107. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

"(a) PROGRAM.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary shall maintain a Community Health Representative Program under which the Service—

"(1) provides for the training of Indians as health paraprofessionals, and

"(2) uses such paraprofessionals in the provision of health care, health promotion, and disease prevention services to Indian communities.

"(b) TRAINING.—The Secretary, acting through the Community Health Representative Program of the Service, shall—

"(1) provide a high standard of training for paraprofessionals to Community Health Representatives to ensure that the Community Health Representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program,

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care, and

"(B) provides instruction and practical experience in health promotion and disease prevention activities,

"(3) develop a system which identifies the needs of Community Health Representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for such continuing education,

"(4) develop and maintain a system that provides close supervision of Community Health Representatives,

"(5) develop a system under which the work of Community Health Representatives is reviewed and evaluated, and

"(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.".

SEC. 108. INDIAN HEALTH SERVICE CLINICAL STAFFING.

Title I is amended by adding at the end thereof the following new sections:

"SEC. 108. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the 'Loan Repayment Program') in order to assure an adequate supply of trained physicians, dentists, nurses, nurse practitioners, physician assistants, and other health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

"(2) For the purposes of this section—

"(A) the term 'Indian health program' means any health program or facility funded, in whole or in part, by the Service for the benefit of Indians and administered—

"(i) directly by the Service;

"(ii) by any Indian tribe or tribal or Indian organization pursuant to a contract under—

"(I) the Indian Self-Determination Act, or

"(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the 'Buy-Indian' Act; or

"(iii) by an urban Indian organization pursuant to title V of this Act; and

"(B) the term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

"(b) ELIGIBILITY.—To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) as a full-time student in the final year of a course of study or program in an accredited institution, as determined by the Secretary, within any State; or

"(ii) in an approved graduate training program in medicine, osteopathy, dentistry, or other health profession; or

"(B) have—

"(i) a degree in medicine, osteopathy, dentistry, or other health profession;

"(ii) completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and

"(iii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State;

"(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

"(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

"(C) meet the professional standards for civil service employment in the Indian Health Service; or

"(D) be employed in an Indian health program without a service obligation;

"(3) submit an application to participate in the Loan Repayment Program; and

"(4) sign and submit to the Secretary, at the time of submission of such application, a written contract (described in subsection (f)) to accept repayment of educational loans and to serve (in accordance with this section) for the applicable period of obligated service in an Indian health program.

"(c) APPLICATION, CONTRACT, AND INFORMATION REQUIREMENTS.—

"(1) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract.

"(2) The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

"(3) The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) PRIORITY AND PREFERENCE.—

"(1) The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

"(A) identify the positions in each Indian Health program for which there is a need or a vacancy, and

"(B) rank those positions in order of priority.

"(2) Consistent with the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall give priority to applications made by—

"(A) Indians; and

"(B) individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.

"(e) APPROVAL REQUIRED FOR PARTICIPATION.—

"(1) An individual becomes a participant in the Loan Repayment Program only on the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) The Secretary shall provide written notice to an individual promptly on—

"(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; or

"(B) the Secretary's disapproving an individual's participation in such Program.

"(f) WRITTEN CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

"(1) an agreement under which—

"(A) subject to paragraph (3), the Secretary agrees—

"(i) to pay loans on behalf of the individual in accordance with the provisions of this section, and

"(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe or Indian organization as provided in subparagraph (B)(iii), and

"(B) subject to paragraph (3), the individual agrees—

"(i) to accept loan payments on behalf of the individual;

"(ii) in the case of an individual described in subsection (b)(1)—

"(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training, and

"(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

"(iii) to serve for a time period (hereinafter in this section referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

"(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

"(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

"(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

"(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

"(g) PAYMENTS.—

"(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

"(C) reasonable living expenses as determined by the Secretary.

"(2)(A) Except as provided in subparagraph (B) and paragraph (3), for each year of obligated service for which an individual contracts to serve under subsection (f), the Secretary may pay up to $25,000 on behalf of the individual for loans described in paragraph (1).

"(B) Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

"(3) In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.

"(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

"(h) EMPLOYMENT CEILING.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department of Health and Human Services.

"(i) RECRUITMENT.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other Service manpower programs at educational institutions training health professionals or specialists identified in subsection (a).

"(j) DETAIL OF PERSONNEL.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

"(k) EQUAL TREATMENT OF STAFFING NEEDS OF INDIAN HEALTH PROGRAMS.—The Secretary shall ensure that the staffing needs of Indian health programs administered by any Indian tribe or tribal or Indian organization receive consideration on an equal basis with programs that are administered directly by the Service.

"(l) BREACH OF CONTRACT.—

"(1) An individual who has entered into a written contract with the Secretary under this section and who—

"(A) is enrolled in the final year of a course of study and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

"(ii) voluntarily terminates such enrollment; or

"(iii) is dismissed from such educational institution before completion of such course of study; or

"(B) is enrolled in a graduate training program, fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii), shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

"(2) If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which—

"(A) 'A' is the amount the United States is entitled to recover;

"(B) 'φ' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

"(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

"(D) 's' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.

"(3)(A) Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

"(B) If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

"(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

"(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

"(C) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

"(m) TERMINATION OF OBLIGATION.—

"(1) Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

"(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

"(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

"(4) Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

"(n) REPORTS.—

"(1) By not later than the first of March of each year, the Secretary shall, beginning with fiscal year 1990, submit to the Congress an annual report for the preceding fiscal year setting out—

"(A) the number of such applications filed with respect to each type of health profession;

"(B) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(C) the number of contracts described in subsection (f) that are entered into with respect to each health profession; and

"(D) the amount of loan payments made in total and by health profession.

"(2) Not later than the first of July of each year, beginning in 1989, the Secretary shall submit to Congress a report on—

"(A) the number of providers of health care that will be needed by Indian health programs by location and profession, during the three fiscal years beginning after the date the report is filed; and

"(B) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.

"(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the provisions of this section.

"SEC. 109. TRAVEL EXPENSES FOR RECRUITMENT.

"(a) REIMBURSEMENT.—The Secretary may reimburse health professionals seeking positions in the Service, including individuals considering entering into a contract under section 108, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

"(b) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $100,000 for each fiscal year for the purpose of carrying out the provisions of this section.

"SEC. 110. TRIBAL RECRUITMENT AND RETENTION PROGRAM.

"(a) GRANTS.—The Secretary, acting through the Service, shall fund, on a competitive basis, projects to enable Indian tribes and tribal and Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 108(a)(2)).

"(b) SELECTION AND EVALUATION.—

"(1) Any Indian tribe or tribal or Indian organization may submit an application for funding of a project pursuant to this section.

"(2) Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity with programs that are administered directly by the Service to compete for, and receive, grants under subsection (a) for such projects.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $1,000,000 for each of the fiscal years 1989, 1990, and 1991 for the purpose of carrying out the provisions of this section.

"SEC. 111. ADVANCED TRAINING AND RESEARCH.

"(a) IN GENERAL.—The Secretary, acting through the Service, shall establish a program to enable health professionals who have worked in an Indian health program (as defined in section 108(a)(2)) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists.

"(b) Obligated Service.—An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to 3 times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. The Secretary shall develop standards for appropriate recoupment for such remaining service.

"(c) Equal Opportunity To Participate in Program.—Health professionals from Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity to participate in the program under subsection (a).

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

TITLE II—HEALTH SERVICES

SEC. 201. IMPROVEMENT OF INDIAN HEALTH STATUS.

(a) In General.—Section 201 (25 U.S.C. 1621) is amended to read as follows:

"SEC. 201. IMPROVEMENT OF INDIAN HEALTH STATUS.

"(a) General Authority.—The Secretary is authorized to expend funds which are appropriated pursuant to subsection (h), through the Service, for the purposes of—

"(1) raising the health status of Indians to zero deficiency;

"(2) eliminating backlogs in the provision of health care services to Indians;

"(3) meeting the health needs of Indians in an efficient and equitable manner; and

"(4) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health resources deficiency:

"(A) Clinical care (direct and indirect) including clinical eye and vision care.

"(B) Preventive health.

"(C) Dental care (direct and indirect).

"(D) Mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional Indian practitioners.

"(E) Emergency medical services.

"(F) Treatment and control of, and rehabilitative care related to, alcoholism and substance abuse (including fetal alcohol syndrome) among Indians.

"(G) Accident prevention programs.

"(H) Home health care.

"(I) Community health representatives.

"(J) Maintenance and repair.

"(b) Treatment of Appropriated Funds.—

"(1) Any funds appropriated pursuant to subsection (h) shall not be used to offset or limit any appropriations made to the Service under the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other provision of law.

"(2) Funds which are appropriated pursuant to subsection (h) may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated pursuant to subsection (h) to raise all Indian tribes to health resources deficiency level II.

"(3) Funds appropriated pursuant to subsection (h) may be allocated on a service unit basis but such allocation shall be made in a manner which ensures that the requirement of paragraph (2) is met. The funds allocated to each service unit under this paragraph shall be used by the service unit (in accordance with paragraph (2)) to raise the deficiency level of each tribe served by such service unit.

"(c) Health Resources Deficiency Levels.—For purposes of this section—

"(1) The health resources deficiency levels of an Indian tribe are as follows:

"(A) Level I—0 to 20 percent health resources deficiency.

"(B) Level II—21 to 40 percent health resources deficiency.

"(C) Level III—41 to 60 percent health resources deficiency.

"(D) Level IV—61 to 80 percent health resources deficiency.

"(E) Level V—81 to 100 percent health resources deficiency.

"(2) Under regulations, the Secretary shall establish procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of such tribe.

"(d) Tribal Programs.—

"(1) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination Act shall be eligible for funds appropriated pursuant to subsection (h) on an equal basis with programs that are administered directly by the Service.

"(2) If any funds allocated to a tribe or service unit under the authority of this section are used for a contract entered into under the Indian Self-Determination Act, a reasonable portion of such funds may be used for health planning, training, technical assistance, and other administrative support functions.

"(e) Report to the Congress.—By no later than the date that is 60 days after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit to the Congress the current health services priority system report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

"(1) the methodology then in use by the Service for determining tribal health resources deficiencies, as well as the most recent application of that methodology;

"(2) the level of health resources deficiency for each Indian tribe served by the Service;

"(3) the amount of funds necessary to raise all Indian tribes served by the Service below health resources deficiency level II to health resources deficiency level II;

"(4) the amount of funds necessary to raise all tribes served by the Service below health resources deficiency level I to health resources deficiency level I;

"(5) the amount of funds necessary to raise all tribes served by the Service to zero health resources deficiency; and

"(6) an estimate of—

"(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit;

"(B) the number of Indians eligible for health services in each service unit; and

"(C) the number of Indians using the Service resources made available to each service unit.

"(f) Matters To Be Included in Budget Submissions.—

"(1) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the amount of funds requested to carry out the provisions of this section for such fiscal year.

"(2) Funds appropriated under authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(g) Rule of Construction.—Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve parity among Indian tribes.

"(h) Authorizations of Appropriations.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $19,000,000 for fiscal year 1990,

"(2) $19,000,000 for fiscal year 1991, and

"(3) $20,000,000 for fiscal year 1992.

Any funds appropriated under the authority of this subsection shall be designated as the 'Indian Health Care Improvement Fund'.".

(b) Definitions.—Section 4 (25 U.S.C. 1603) is amended by striking out subsections (i), (j), and (k), and by inserting in lieu thereof the following new subsections:

"(i) 'Area office' means an administrative entity, including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

"(j) 'Service unit' means—

"(1) an administrative entity within the Indian Health Service, or

"(2) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act,

through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.".

SEC. 202. CATASTROPHIC HEALTH PROGRAM.

Title II is amended by adding at the end thereof the following new section:

"SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

"(a) Establishment; Administration.—

"(1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'Fund') consisting of—

"(A) the amounts deposited under subsection (d), and

"(B) the amounts appropriated under subsection (e).

"(2) The Fund shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

"(3) The Fund shall not be allocated, apportioned, or delegated on a service unit, area office, or any other basis.

"(4) No part of the Fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination Act.

"(b) Regulations Promulgated by Secretary.—The Secretary shall, through the promulgation of regulations consistent with the provisions of this section—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the Fund;

"(2) provide that a service unit shall not be eligible for reimbursement for the cost of treatment from the Fund until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at not less than $10,000 or not more than $20,000;

"(3) establish a procedure for the reimbursement of the costs incurred by—

"(A) service units or facilities of the Service, or

"(B) whenever otherwise authorized by the Service, non-service facilities or providers,

in rendering treatment that exceeds such threshold cost;

"(4) establish a procedure for payment from the Fund in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

"(5) establish a procedure that will ensure that no payment shall be made from the Fund to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement.

"(c) Funds Not To Offset or Limit Certain Appropriations.—Funds appropriated under subsection (e) shall not be used to offset or limit appropriations made to the Service under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other law.

"(d) Deposits Into Fund.—There shall be deposited into the Fund all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the Fund.

"(e) Authorization of Appropriations.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $12,000,000 for fiscal year 1989, and

"(2) for each of the fiscal years 1990, 1991, and 1992, such sums as may be necessary to restore the Fund to a level of $12,000,000 for such fiscal year.

Funds appropriated under the authority of this subsection shall remain available until expended.".

SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.

(a) Definitions.—Section 4 (25 U.S.C. 1603) is amended by adding at the end thereof the following new subsections:

"(k) 'Health promotion' includes—

"(1) cessation of tobacco smoking,

"(2) reduction in the misuse of alcohol and substances,

"(3) improvement of nutrition,

"(4) improvement in physical fitness,

"(5) family planning, and

"(6) control of stress.

"(l) 'Disease prevention' includes—

"(1) immunizations,

"(2) control of high blood pressure,

"(3) control of sexually transmittable diseases,

"(4) prevention and control of diabetes,

"(5) pregnancy and infant care (including prevention of fetal alcohol syndrome),

"(6) control of toxic agents,

"(7) occupational safety and health,

"(8) accident prevention,

"(9) fluoridation of water, and

"(10) control of infectious agents.".

(b) Health Promotion and Disease Prevention Services.—Title II (25 U.S.C. 1621, et seq.) is further amended by adding at the end thereof the following new sections:

"SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

"(a) In General.—The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians.

"(b) Items To Be Included in Health Services Priority System Report.—The Secretary shall include in each report which is required under section 201(f) an identification of—

"(1) the health promotion and disease prevention activities which would best meet such needs,

"(2) the internal capacity of the Service to meet such needs, and

"(3) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

"SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

"(a) Determination; Report.—

"(1) The Secretary, in consultation with the tribes, shall determine—

"(A) by tribe and by service unit of the Service, the incidence of, and the types of complications resulting from, diabetes among Indians; and

"(B) based on subparagraph (A), the measures (including patient education) each Service unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among tribes within that service unit.

"(2) Within 18 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made and measures taken under paragraph (1) and making recommendations for additional funding to prevent, treat, and control diabetes among Indians.

"(b) Diabetes Screening.—The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act.

"(c) Model Diabetes Projects.—

"(1) The Secretary shall continue to maintain during fiscal years 1988 through 1991 each of the following model diabetes projects which are in existence on the date of enactment of the Indian Health Care Amendments of 1987:

"(A) Claremore Indian Hospital in Oklahoma;

"(B) Fort Totten Health Center in North Dakota;

"(C) Sacaton Indian Hospital in Arizona;

"(D) Winnebago Indian Hospital in Nebraska;

"(E) Albuquerque Indian Hospital in New Mexico;

"(F) Perry, Princeton, and Old Town Health Centers in Maine; and

"(G) Bellingham Health Center in Washington.

"(2) The Secretary shall establish in fiscal year 1989, and maintain during fiscal years 1989 through 1991, a model diabetes project in each of the following locations:

"(A) Ft. Berthold Reservation;

"(B) the Navajo Reservation;

"(C) the Papago Reservation;

"(D) the Zuni Reservation; and

"(E) the States of Alaska, California, Minnesota, Montana, Oregon, and Utah.

"(d) Area Office Diabetes Control.—The Secretary shall—

"(1) employ in each area office of the Service at least one diabetes control officer who shall coordinate and manage on a full-time basis activities within that area office for the prevention, treatment, and control of diabetes; and

"(2) establish in each area office of the Service a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area.

"(e) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Funds appropriated under subsection (c) in any fiscal year shall be in addition to base resources appropriated to the Service for that year.".

"SEC. 205. NATIVE HAWAIIAN HEALTH PROMOTION AND DISEASE PREVENTION.

"(a) Establishment of Program.—

"(1) The Secretary shall, acting through the Public Health Service, establish in the State of Hawaii, as a demonstration project, a Native Hawaiian Program for Health Promotion and Disease Prevention for the purpose of exploring ways to meet the unique health care needs of Native Hawaiians.

"(2) The demonstration program that is to be established under paragraph (1) shall—

"(A) provide necessary preventive-oriented health services, including health education and mental health care,

"(B) develop innovative training and research projects,

"(C) establish cooperative relationships with the leadership of the Native Hawaiian community,

"(D) ensure that a continuous effort is made to establish programs which can be of direct benefit to other Native American people, and

"(E) assure a comprehensive effort to reduce the incidence of diabetes among Native Hawaiians.

"(3) The Secretary is authorized to enter into contracts with Native Hawaiian organizations for the purpose of assisting the Secretary in meeting the objectives of the demonstration program that is to be established under paragraph (1).

"(b) Determination of Situation.—

"(1) In fulfillment of the objective set forth in subsection (a)(2)(E), the Secretary shall enter into a contract with a Native Hawaiian organization to conduct a study to determine—

"(A) the incidence of diabetes among Native Hawaiians;

"(B) activities which should be undertaken—

"(i) to reduce the incidence of diabetes among Native Hawaiians,

"(ii) to provide Native Hawaiians with guidance in the prevention, treatment, and control of diabetes,

"(iii) to provide early diagnosis of diabetes among Native Hawaiians, and "(iv) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as diabetic.

"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of preparing an inventory of all health care programs (public and private) within the State of Hawaii that are available for the treatment, prevention, or control of diabetes among Native Hawaiians.

"(3) By no later than the date that is two years after the date of enactment of this section, the Native Hawaiian organization with whom the Secretary has entered into a contract, shall prepare and transmit to the Secretary a report describing the determinations made under paragraph (1), containing the inventory prepared under paragraph (2), and describing the research activities conducted under this subsection. The Secretary shall submit the report to the Congress and the President.

"(c) IMPLEMENTATION OF PROGRAM.—

"(1) By no later than the date that is three years after the date of enactment of this section, the Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of implementing a program designed—

"(A) to establish a diabetes control program;

"(B) to screen those Native Hawaiian individuals that have been identified as having a high risk of becoming diabetic;

"(C) to effectively treat—

"(i) individuals diagnosed as diabetics in order to reduce further complications from diabetes,

"(ii) individuals who have a high risk of becoming diabetic in order to reduce the incidence of diabetes, and

"(iii) short-term and long-term complications of diabetes;

"(D) to conduct for Federal, State, and other Native Hawaiian health care providers (including Native Hawaiian community health outreach workers), training programs concerning current methods of prevention, diagnosis, and treatment of diabetes and related complications among Native Hawaiians;

"(E) to determine the appropriate delivery to Native Hawaiians of health care services relating to diabetes;

"(F) to develop and present health education information to Native Hawaiian communities and schools concerning the prevention, treatment, and control of diabetes; and

"(G) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as being diabetic.

"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—

"(A) promoting coordination and cooperation between all health care providers in the delivery of diabetes related services to Native Hawaiians; and

"(B) encouraging and funding joint projects between Federal programs, State health care facilities, community health centers, and Native Hawaiian communities for the prevention and treatment of diabetes.

"(3)(A) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of establishing a model diabetes program to serve Native Hawaiians in the State of Hawaii.

"(B) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of developing and implementing an outreach program to ensure that the achievements and benefits derived from the activities of the model diabetes program established under subparagraph (A) are applied in Native Hawaiian communities to assure the diagnosis, prevention, and treatment of diabetes among Native Hawaiians.

"(4) The Secretary shall submit to the Congress an annual report outlining the activities, achievements, needs, and goals of the Native Hawaiian diabetes care program established under this paragraph.

"(d) DATA REGARDING DIABETES AMONG NATIVE HAWAIIANS.—The Secretary shall enter into a contract with a Native Hawaiian organization, for the purpose of developing a standardized system to collect, analyze, and report data regarding diabetes and related complications among Native Hawaiians. Such system shall be designed to facilitate dissemination of the best available information on diabetes to Native Hawaiian communities and health care professionals.

"(e) RESEARCH.—The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—

"(1) conducting research concerning the causes, diagnosis, treatment, and prevention of diabetes and related complications among Native Hawaiians, and

"(2) coordinating such research with all other relevant agencies and units of the government of the State of Hawaii and the Department of Health and Human Services which conduct research relating to diabetes and related complications.

"(f) REPORT TO CONGRESS.—The Secretary shall submit to the Congress an annual report on the status and accomplishments of the progress established under this section during each of the fiscal years 1990, 1991, and 1992.

"(g) ADMINISTRATION OF CONTRACTS.—

"(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this subsection such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.

"(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this subsection.

"(3) The Secretary shall conduct an annual onsite evaluation of each Native Hawaiian organization which has entered into a contract under this subsection for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

"(4) If, as a result of the evaluations conducted under paragraph (3) the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this subsection, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under this subsection with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this subparagraph.

"(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under this subsection, the Secretary shall—

"(A) review the records of the Native Hawaiian organization, and

"(B) shall consider the results of the onsite evaluations conducted under paragraph (3).

"(6) All contracts entered into by the Secretary under this subsection shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

"(7) Payments made under any contract entered into under this subsection may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.

"(8) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this subsection as necessary to carry out the purposes of this subsection.

"(9)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this subsection, such organization shall submit to the Secretary a quarterly report on—

"(i) activities conducted by the organization under the contract,

"(ii) the amounts and purposes for which Federal funds were expended, and

"(iii) such other information as the Secretary may request.

"(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this subsection shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(10) The Secretary shall allow as a cost of any contract entered into under this subsection the cost of an annual private audit conducted by a certified public accountant.

"(11) The authority of the Secretary to enter into contracts under this subsection shall be to the extent, and in amounts, provided for in appropriation Acts.

"(h) NATIVE HAWAIIAN.—For purposes of this subsection—

"(1) the term 'Native Hawaiian' means any individual who—

"(A) is a citizen of the United States,

"(B) is a resident of the State of Hawaii, and

"(C) is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii; and

"(2) the term 'Native Hawaiian organization' means any organization—

"(A) which serves and represents the interests of Native Hawaiians,

"(B) which is recognized by the Office of Hawaiian Affairs of the State of Hawaii and E Ola Mau for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act for Native Hawaiians, and

"(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated

$750,000 for each of the fiscal years 1989, 1990, 1991, and 1992, for the purpose of carrying out the provisions of this subsection.

"(j) Program Not To Be Administered by or Through Indian Health Service.—The programs and services established by this section shall not be administered by or through the Indian Health Service nor shall any funds appropriated to the Indian Health Service be used to supplement funding of such programs and services.".

SEC. 204. REIMBURSEMENT OF CERTAIN EXPENSES.

Title II is amended by adding at the end thereof the following new sections:

"SEC. 206. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

"(a) United States Right To Recover.—The United States shall have the right to recover the reasonable expenses incurred by the Secretary in providing health services, through the Service, to any individual to the same extent that such individual, or any non-governmental provider of such services, would be eligible to receive reimbursement or indemnification for such expenses if—

"(1) such services had been provided by a nongovernmental provider, and

"(2) such individual had been required to pay such expenses and did pay such expenses.

"(b) Limitation on Recovery Against a State.—Subsection (a) shall provide a right of recovery against any State, or any political subdivision of a State, only if the injury, illness, or disability for which health services were provided is covered under—

"(1) workers' compensation laws, or

"(2) a no-fault automobile accident insurance plan or program.

"(c) Federal Preemption.—No law of any State, or of any political subdivision of a State, and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States under subsection (a).

"(d) Right of Person to Damages.—No action taken by the United States to enforce the right of recovery provided under subsection (a) shall affect the right of any person to any damages other than damages for the cost of health services provided by the Secretary through the Service.

"(e) Enforcement of Right of Recovery.—The United States may enforce the right of recovery provided under subsection (a) by—

"(1) intervening or joining in any civil action or proceeding brought—

"(A) by the individual for whom health services were provided by the Secretary, or

"(B) by any representative or heirs of such individual, or

"(2) instituting a separate civil action, after providing to such individual, or to the representative or heirs of such individual, notice of the intention of the United States to institute a separate civil action.

"SEC. 207. CREDITING OF REIMBURSEMENTS.

"(a) Credit to Provider.—Except as provided in section 202(d), title IV, and section 713 of this Act, all reimbursements received or recovered, under authority of this Act or any other provision of law, by reason of the provision of health services by the Service or by a tribe or tribal organization under a contract pursuant to the Indian Self-Determination Act shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

"(b) Credit Not Made Against Funds Obligated for a Provider.—The Service may not offset or limit the amount of funds obligated to any service unit or any entity under contract with the Service because of the receipt of reimbursements under subsection (a).

"SEC. 208. HEALTH SERVICES RESEARCH.

"Of the amounts appropriated for the Service in any fiscal year, other than amounts made available for the Indian Health Care Improvement Fund, not less than $200,000 shall be available only for research to further the performance of the health service responsibilities of the Service. Indian tribes and tribal organizations contracting with the Service under the authority of the Indian Self-Determination Act shall be given an equal opportunity to compete for, and receive, research funds under this subsection.".

TITLE III—HEALTH FACILITIES

SEC. 301. CONSULTATION; CLOSURE OF FACILITIES; REPORTS.

Section 301 (25 U.S.C. 1631) is amended to read as follows:

"SEC. 301. CONSULTATION; CLOSURE OF FACILITIES; REPORTS.

"(a) Consultation.—Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or major renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, acting through the Service, shall—

"(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

"(2) ensure, whenever practicable, that such facility meets the standards of the Joint Commission on Accreditation of Hospitals by not later than one year after the date on which the construction or renovation of such facility is completed.

"(b) Closure of Facilities.—

"(1) Notwithstanding any provision of law other than this subsection, no Service hospital or other outpatient health care facility of the Service, or any portion of such a hospital or facility, may be closed if the Secretary has not submitted to the Congress at least one year prior to the date such hospital or facility (or portion thereof) is proposed to be closed an evaluation of the impact of such proposal which specifies, in addition to other considerations—

"(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

"(B) the cost effectiveness of such closure;

"(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

"(D) the availability of contract health care funds to maintain existing levels of service; and

"(E) the views of the Indian tribes served by such hospital or facility concerning such closure.

"(2) Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

"(c) Matters To Be Included in Budget Submissions.—The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992, program justification documents for the construction of ten inpatient and ten outpatient Indian health facilities which—

"(1) comply with applicable construction standards, and

"(2) have been approved by the Secretary.

"(d) Annual Report.—

"(1) The Secretary shall submit to the Congress an annual report which sets forth—

"(A) the current health facility priority system of the Service,

"(B) the planning, design, construction, and renovation needs for the ten top-priority inpatient care facilities and the ten top-priority ambulatory care facilities (together with required staff quarters),

"(C) the justification for such order of priority,

"(D) the projected cost of such projects, and

"(E) the methodology adopted by the Service in establishing priorities under its health facility priority system.

"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.

"(3) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall—

"(A) consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act, and

"(B) review the needs of such tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

"(4) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

"(e) Integration of Facilities Into Health Facility Priority System.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act are fully and equitably integrated into the development of the health facility priority system.

"(f) Snyder Act Funds Subject to Indian Self-Determination Act.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of sections 103 and 104(b) of the Indian Self- Determination Act.".

SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

Section 302 (25 U.S.C. 1632) is amended to read as follows:

"SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

"(a) FINDINGS AND DECLARATIONS.—The Congress hereby finds and declares that—

"(1) the provision of safe water supply systems and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

"(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such systems;

"(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;

"(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; and

"(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible.

"(b) RESPONSIBILITY AND AUTHORITY OF SERVICE.—

"(1) In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(2) The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

"(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;

"(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

"(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities.

"(c) 10-YEAR PLAN.—Beginning in fiscal year 1990, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitary sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

"(d) CAPABILITY TO OPERATE AND MAINTAIN SANITATION FACILITY.—The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

"(e) USER FEES AND FUNDS.—The provisions of this section shall not diminish the primary responsibility of the Indian tribe or community to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities.

"(f) TRIBAL PROGRAMS.—Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination Act shall be eligible for—

"(1) any funds appropriated pursuant to subsection (h), and

"(2) any funds appropriated for the purpose of providing water supply or sewage disposal services,

on an equal basis with programs that are administered directly by the Service.

"(g) REPORT.—

"(1) The Secretary shall submit to the Congress an annual report which sets forth—

"(A) the current Indian sanitation facility priority system of the Service;

"(B) the methodology for determining sanitation deficiencies;

"(C) the level of sanitation deficiency for each sanitation facilities project of each Indian tribe or community;

"(D) the amount of funds necessary to raise all Indian tribes and communities to a level I sanitation deficiency; and

"(E) the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.

"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.

"(3) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act) to determine the sanitation needs of each tribe.

"(4) The methodology used by the Secretary in determining sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

"(5) For purposes of this subsection, the sanitation deficiency levels for an Indian tribe or community are as follows:

"(A) Level I is an Indian tribe or community with a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws, and

"(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs.

"(B) Level II is an Indian tribe or community with a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws, and

"(ii) in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities.

"(C) Level III is an Indian tribe or community with a sanitation system which—

"(i) has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or

"(ii) has no solid waste disposal facility.

"(D) Level IV is an Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system.

"(E) Level V is an Indian tribe or community that lacks a safe water supply and a sewage disposal system.

"(6) For purposes of this subsection, any Indian tribe or community that lacks the operation and maintenance capability to enable its sanitation system to meet pollution control laws may not be treated as having a level I or II sanitation deficiency.

"(h) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $3,000,000 for the purpose of providing funds necessary to implement the responsibilities of the Service described in subsection (b)(2).

"(2) In addition to the amount authorized under paragraph (1), there are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $850,000 for the sanitation service account of the Service which shall be used to carry out the responsibilities of the Service described in subsection (b)(2).".

SEC. 303. USE OF NON-SERVICE FUNDS FOR RENOVATION.

(a) RENOVATION AND MODERNIZATION.—Section 305 (25 U.S.C. 1634) is amended to read as follows:

"SEC. 305. EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION.

"(a) ACCEPTANCE BY SECRETARY.—Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(1) any plans or designs for such renovation or modernization, and

"(2) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) are met.

"(b) REQUIREMENTS.—The requirements of this subsection are met with respect to any renovation or modernization if the renovation or modernization—

"(1) does not require or obligate the Secretary to provide any additional employees or equipment,

"(2) is approved by the appropriate area director of the Service, and

"(3) is administered by the Indian tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) CERTAIN RENOVATIONS AND MODERNIZATIONS NOT AUTHORIZED.—A renovation or modernization shall not be authorized by this section if such renovation or modernization would require the diversion of funds appropriated to the Service from any project which has a higher priority under the health facility priority system of the Service.

"(d) RECOVERY OF CERTAIN AMOUNTS IF FACILITY CEASES TO BE USED AS A SERVICE FACILITY.—If any Service facility which has been renovated or modernized by an Indian tribe with its own funds under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.".

(b) REPEAL.—The paragraph relating to administrative provisions of the Health Services Administration under the heading "Department of Health and Human Services" in title II of the matter contained in section 101(c) of Public Law 98-473 (98 Stat. 1864) is amended by striking out the sixth proviso.

SEC. 304. BETHEL, ALASKA, HOSPITAL.

Title III is amended by adding at the end thereof the following new section:

"SEC. 306. BETHEL, ALASKA, HOSPITAL.

"(a) FINAL ADMINISTRATIVE RULING.—If a final administrative ruling by the Department of the Interior holds that the Bethel Native Corporation is entitled to conveyance under the Alaska Native Claims Settlement Act of the title to the real property described in subsection (d)(1), such ruling shall not be subject to judicial review.

"(b) EXCHANGE.—The Secretary is authorized to enter into an agreement with Bethel Native Corporation for an exchange of the real property described in subsection (d)(1) for—

"(1) the lands described in subsection (d)(2), or

"(2) any other Federal property which Bethel Native Corporation would have been able to select under the Alaska Native Claims Settlement Act.

"(c) PURCHASE.—If an agreement for the exchange of land is not entered into under subsection (b) by the date that is 90 days after the date of the ruling described in subsection (a), the Secretary shall purchase the lands described in subsection (d)(1) at fair market value.

"(d) LAND DESCRIPTION.—(1) The real property referred to in subsection (a) is United States Survey Numbered 4000, other than the lands described in paragraph (2).

"(2) The lands referred to in subsection (b)(1) are the lands identified as tracts A and B in the determination AA-18959 of the Bureau of Land Management issued on September 30, 1983, pursuant to the Alaska Native Claims Settlement Act.".

TITLE IV—URBAN INDIAN HEALTH SERVICES

SEC. 401. REVISION OF PROGRAM.

Title V (25 U.S.C. 1651 et seq.) is amended to read as follows:

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"SEC. 501. PURPOSE.

"The purpose of this title is to establish programs in urban centers to make health services more accessible to urban Indians.

"SEC. 502. CONTRACTS WITH URBAN INDIAN ORGANIZATIONS.

"Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with urban Indian organizations to assist such organizations in the establishment and administration, within the urban centers in which such organizations are situated, of programs which meet the requirements set forth in this title. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with any urban Indian organization pursuant to this title.

"SEC. 503. CONTRACTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

"(a) PROVISION OF HEALTH CARE AND REFERRAL SERVICES.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with urban Indian organizations for the provision of health care and referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract shall include requirements that the urban Indian organization successfully undertake to—

"(1) estimate the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

"(2) estimate the current health status of urban Indians residing in such urban center;

"(3) estimate the current health care needs of urban Indians residing in such urban center;

"(4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;

"(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

"(6) assist such health services resources in providing services to urban Indians;

"(7) assist urban Indians in becoming familiar with and utilizing such health services resources;

"(8) provide basic health education, including health promotion and disease prevention education, to urban Indians;

"(9) establish and implement training programs to accomplish the referral and education tasks set forth in paragraphs (6) through (8) of this subsection;

"(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

"(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

"(12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

"(b) CRITERIA FOR SELECTING ORGANIZATIONS WITH WHICH TO ENTER INTO CONTRACTS.—The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts under this section. Such criteria shall, among other factors, include—

"(1) the extent of unmet health care needs of urban Indians in the urban center involved;

"(2) the size of the urban Indian population in the urban center involved;

"(3) the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;

"(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate—

"(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this title; or

"(B) any project funded under this title;

"(5) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary under this section;

"(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center; and

"(8) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"SEC. 504. CONTRACTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

"(a) DETERMINATION OF UNMET HEALTH CARE NEEDS.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 503. The purpose of a contract under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 503 with the urban Indian organization with which the Secretary has entered into a contract under this section.

"(b) REQUIREMENTS.—Any contract entered into by the Secretary under this section shall include requirements that—

"(1) the urban Indian organization successfully undertake to—

"(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

"(B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (8) of section 503(b); and

"(2) the urban Indian organization complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract.

"(c) CONTRACTS NOT RENEWABLE.—The Secretary may not renew any contract entered into under this section.

"SEC. 505. EVALUATIONS; CONTRACT RENEWALS.

"(a) PROCEDURES.—The Secretary, through the Service, shall develop procedures to evaluate compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

"(b) ANNUAL EVALUATION.—The Secretary, through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract under section 503 for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

"(c) UNSATISFACTORY PERFORMANCE.—If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract is not renewed under this section.

"(d) Contract Renewal Determination.—In determining whether to renew a contract with an urban Indian organization under section 503 which has completed performance of a contract under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract under section 503, shall consider the results of the onsite evaluations conducted under subsection (b).

"SEC. 506. OTHER CONTRACT REQUIREMENTS.

"(a) Application of Other Federal Laws.—Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

"(b) Method of Payment.—Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

"(c) Revision and Amendment of Contracts.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

"(d) Use of Existing Federal Facilities.—In connection with any contract entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

"(e) Fair and Uniform Provision of Services and Assistance.—Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

"(f) Certain Urban Indians Eligible.—Urban Indians, as defined in section 4(f) of this Act, shall be eligible for health care or referral services provided pursuant to this title.

"SEC. 507. REPORTS AND RECORDS.

"(a) Quarterly Report.—For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into pursuant to this title, such organization shall submit to the Secretary a quarterly report including—

"(1) in the case of a contract under section 503, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

"(2) information on activities conducted by the organization pursuant to the contract;

"(3) an accounting of the amounts and purposes for which Federal funds were expended; and

"(4) such other information as the Secretary may request.

"(b) Audit.—The reports and records of the urban Indian organization with respect to a contract under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(c) Cost of Private Audits.—The Secretary shall allow as a cost of any contract entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.

"SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

"The authority of the Secretary to enter into contracts under this title shall be to the extent, and in an amount, provided for in appropriation Acts.".

SEC. 402. URBAN INDIAN ORGANIZATION.

Subsection (h) of section 4 (25 U.S.C. 1603(h)) is amended by inserting "urban" after "governed by an".

TITLE V—ORGANIZATIONAL IMPROVEMENTS

SEC. 501. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

(a) Amendment.—Title VI (25 U.S.C. 1661) is amended to read as follows:

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

"(a) Establishment; Administration.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the Secretary. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services.

"(b) Agency Status.—The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

"(c) Duties.—The Secretary shall carry out through the Director of the Indian Health Service—

"(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day;

"(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians; and

"(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including (but not limited to) programs under—

"(A) this Act;

"(B) the Act of November 2, 1921 (25 U.S.C. 13);

"(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);

"(D) the Act of August 16, 1957 (25 U.S.C. 2005 et seq.); and

"(E) the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(d) Authority of Director.—

"(1) The Secretary, acting through the Director of the Indian Health Service, shall have the authority—

"(A) except to the extent provided in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

"(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

"(C) to manage, expend, and obligate all funds appropriate for the Service.

"(2) Notwithstanding any other law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

"SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

"(a) Establishment.—

"(1) The Secretary shall establish an automated management information system for the Service.

"(2) The information system established under paragraph (1) shall include—

"(A) a financial management system,

"(B) a patient care information system for each area served by the Service,

"(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and

"(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

"(3) By no later than September 30, 1989, the Secretary shall submit a report to Congress setting forth—

"(A) the activities which have been undertaken to establish an automated management information system,

"(B) the activities, if any, which remain to be undertaken to complete the implementation of an automated management information system, and

"(C) the amount of funds which will be needed to complete the implementation of a management information system in the succeeding fiscal years.

"(b) Tribal Systems.—

"(1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

"(A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service, and

"(B) meet the management information needs of the Service.

"(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.

"(3) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organizations providing health services in California by no later than September 30, 1989.

"(c) Patient Records.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.".

(b) Transfers.—All personnel, records, equipment, facilities, and interests in property that are administered by the Indian

Health Service on the day before the date on which the amendments made by this section take effect shall be transferred to the Indian Health Service established by the amendment made by subsection (a) of this section. All transfers must be accomplished within 9 months of the date of enactment of this section. The Secretary is authorized to waive the Indian preference laws on a case-by-case basis for temporary transfers involved in implementing this section during such 9-month period.

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section.

(2) Notwithstanding subsections (b) and (c)(1), any action which carries out such section 601 that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.

(d) POSITION AT EXECUTIVE LEVEL V.—Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following:

"Director, Indian Health Service, Department of Health and Human Services.".

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. LEASING AND OTHER CONTRACTS.

Section 704 (25 U.S.C. 1674) is amended—

(1) by striking out "Notwithstanding", and inserting in lieu thereof "(a) Notwithstanding", and

(2) by adding at the end thereof the following new subsection:

"(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.".

SEC. 602. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

(a) IN GENERAL.—Subsection (a) of section 708 (25 U.S.C. 1678 (a)) is amended—

(1) by striking out "1984" and inserting in lieu thereof "1991", and

(2) by striking out "Indians in such State" and inserting in lieu thereof "members of federally recognized Indian tribes of Arizona".

(b) TECHNICAL AMENDMENT.—Section 708 (25 U.S.C. 1678(c)) is amended by striking out subsection (c).

SEC. 603. ELIGIBILITY OF CALIFORNIA INDIANS.

Section 709 (25 U.S.C. 1679) is amended to read as follows:

"SEC. 709. ELIGIBILITY OF CALIFORNIA INDIANS.

"(a) REPORT.—

"(1) In order to provide the Congress with sufficient data to determine which Indians in the State of California should be eligible for health services provided by the Service, the Secretary shall, by no later than the date that is 3 years after the date of enactment of this section, prepare and submit to the Congress a report which sets forth—

"(A) a determination by the Secretary of the number of Indians described in subsection (b)(2), and the number of Indians described in subsection (b)(3), who are not members of an Indian tribe recognized by the Federal Government,

"(B) the geographic location of such Indians,

"(C) the Indian tribes of which such Indians are members,

"(D) an assessment of the current health status, and health care needs, of such Indians, and

"(E) an assessment of the actual availability and accessibility of alternative resources for the health care of such Indians that such Indians would have to rely on if the Service did not provide for the health care of such Indians.

"(2) The report required under paragraph (1) shall be prepared by the Secretary—

"(A) in consultation with the Secretary of the Interior, and

"(B) with the assistance of the tribal health programs providing services to the Indians described in paragraph (2) or (3) of subsection (b) who are not members of any Indian tribe recognized by the Federal Government.

"(b) ELIGIBLE CALIFORNIA INDIANS.—Until such time as the Congress by any subsequent amendment to this Act may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

"(1) Any member of a federally recognized Indian tribe.

"(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

"(A) is living in California,

"(B) is a member of the Indian community served by a local program of the Service, and

"(C) is regarded as an Indian by the community in which such descendant lives.

"(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

"(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

"(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.".

SEC. 604. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

Section 710 (25 U.S.C. 1680) is amended to read as follows:

"SEC. 710. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.".

SEC. 605. CONTRACT HEALTH FACILITIES.

Title VII is amended by adding at the end thereof the following new section:

"SEC. 711. CONTRACT HEALTH FACILITIES.

"The Service shall provide funds for health care programs and facilities operated by the tribes and tribal organizations under contracts with the Service entered into under the Indian Self-Determination Act—

"(1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,

"(2) for employee training,

"(3) for cost-of-living increases for employees, and

"(4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Service.".

SEC. 606. NATIONAL HEALTH SERVICE CORPS.

Title VII is amended by adding at the end thereof the following new section:

"SEC. 712. NATIONAL HEALTH SERVICE CORPS.

"The Secretary of Health and Human Services shall not—

"(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act, or

"(2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.".

SEC. 607. HEALTH SERVICES FOR INELIGIBLE PERSONS.

Title VII is amended by adding at the end thereof the following new section:

"SEC. 713. HEALTH SERVICES FOR INELIGIBLE PERSONS.

"(a) IN GENERAL.—

"(1) Any individual who—

"(A) has not attained 19 years of age,

"(B) is the natural or adopted child, stepchild, foster child, legal ward, or orphan of an eligible Indian, and

"(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service, on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

"(2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all such spouses are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe of the eligible Indian. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(b) PROVISION OF HEALTH SERVICES.—

"(1)(A) The Secretary is authorized to provide health services under this subsection through health facilities operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

"(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals, and

"(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

"(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians, and

"(II) there is no reasonable alternative health facility or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

"(B) In the case of health facilities operated under a contract entered into under the Indian Self-Determination Act, the governing body of the Indian tribe or tribal organization providing health services under such contract is authorized to determine whether health services should be provided under such contract to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

"(2)(A) Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880(c) of the Social Security Act, section 402(c) of this Act, or any other provision of law, amounts collected under this subsection, including Medicare or Medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the facility providing the service and shall be used solely for the provision of health services within that facility. Amounts collected under this subsection shall be available for expenditure within such facility for not to exceed one fiscal year after the fiscal year in which collected.

"(B) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

"(3)(A) In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

"(B) In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

"(c) Certain Other Health Services.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other provision of law in order to—

"(1) achieve stability in a medical emergency,

"(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard,

"(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or

"(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

"(d) Hospital Privileges.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims), only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

"(e) Definition.—For purposes of this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.".

SEC. 608. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.

Title VII is amended by adding at the end thereof the following new section:

"SEC. 714. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.

"(a) Plan.—By no later than January 1, 1989, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1993:

"(1) reduction of the rate of Indian infant mortality in each area office of the Service to the lower of—

"(A) 12 deaths per 1,000 live births, or

"(B) the rate of infant mortality applicable to the United States population as a whole;

"(2) reduction of the rate of maternal mortality among Indians served by or through the Service to the lower of—

"(A) 5 deaths per 100,000 live births, or

"(B) the rate of maternal mortality applicable to the United States population as a whole; and

"(3) reduction of the rate of fetal alcohol syndrome among Indians served by or through the Service to one per one thousand live births.

"(b) Matters To Be Included in Budget Submissions.—The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a).".

SEC. 609. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

Title VII is amended by adding at the end thereof the following new section:

"SEC. 715. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

"(a) General Authority.—The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

"(b) Rule of Construction.—Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.".

SEC. 610. INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH FACILITIES AND SERVICES SHARING.

Title VII is amended by adding at the end thereof the following new section:

"SEC. 716. INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH FACILITIES AND SERVICES SHARING.

"(a) Feasibility.—The Secretary shall examine the feasibility of entering into an arrangement for the sharing of medical facilities and services between the Indian Health Service and the Veterans' Administration and shall, in accordance with subsection (b), prepare a report on the feasibility of such an arrangement and submit such report to the Congress by no later than September 30, 1990.

"(b) Limitation on Authority.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

"(1) the priority access of any Indian to health care services provided through the Indian Health Service;

"(2) the quality of health care services provided to any Indian through the Indian Health Service;

"(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

"(4) the quality of health care services provided to any veteran by the Veterans' Administration;

"(5) the eligibility of any Indian to receive health services through the Indian Health Service; or

"(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration.

"(c) Model Program.—

"(1) Within 30 days after the date of enactment of this section, the Director of the Indian Health Service and the Administrator of Veterans' Affairs are authorized and directed to implement an agreement under which—

"(A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the Veterans' Administration could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and

"(B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the Veterans' Administration medical center located in Salt Lake City, Utah.

"(2) Not later than 2 years after the date of enactment of this section, the Secretary and the Administrator of Veterans' Affairs shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).

"(d) Rule of Construction.—Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service except as provided in an agreement under subsection (c).".

SEC. 611. REALLOCATION OF BASE RESOURCES.

(a) Limitation.—Notwithstanding any other provision of law, any allocation of Indian Health Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a Service unit (as such term is defined under section 4(j) of the Indian Health Care Improvement Act) may be implemented only after the Secretary of Health and Human Services has submitted to the Congress a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

(b) Applicability of Limitation.—Subsection (a) shall not apply if the total amount appropriated to the Indian Health Service for a fiscal year is less than the amount appropriated to the Indian Health Service for previous fiscal year.

SEC. 612. PROVISION OF SERVICES IN MONTANA.

(a) In General.—The Secretary of Health and Human Services, through the Indian Health Service, shall provide services and benefits for Indians in Montana in a manner consistent with the current policy as allowed by the stay during the pending litigation in McNabb against Heckler (628 F. Supp. 544; D. Mont. 1986); affirmed, McNabb against Bowen (829 F.2d 787; 9th Cir. 1987).

(b) Disclaimer.—The provisions of this section shall not be considered to be an expression of the sense of the Congress on the merits of the district and appellate court decisions referred to in subsection (a).

SEC. 613. TOHONO O'ODHAM DEMONSTRATION PROJECT.

(a) Health Care Delivery System.—The Secretary, acting through the Service, shall make grants to the Tohono O'odham Tribe of Arizona to establish a demonstration project under which such tribe may develop and test a phased approach to assumption by such tribe of the health care delivery system of the Service for members of such tribe living on or near the reservations of such tribe through the use of Service, tribal, and private sector resources.

(b) Contracts.—During the period in which the demonstration project established under subsection (a) is being conducted, the Secretary shall award health care contracts, including community, behavioral and preventive health care contracts, to the tribe in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act (as modified as necessary by agreement entered into between the Secretary and such tribe to achieve the purposes of the demonstration project under subsection (a)) shall apply.

(c) Waiver of Certain Federal Procurement Provisions.—The Secretary may waive such provisions of Federal procurement law as are necessary to enable the Tohono O'odham tribe to develop and test administrative systems under the demonstration project, but only if such waiver does not diminish or endanger the delivery of health care services to Indians.

(d) Termination.—The demonstration project established under subsection (a) shall terminate 4 years after the date it is established. Within a reasonable time thereafter, the Secretary shall submit a report to the Congress evaluating the performance of the tribe under such project.

(e) Authorization of Appropriations.—There is authorized to be appropriated $275,000 for each of the fiscal years 1989 and 1990 and $75,000 for fiscal year 1991 for the purposes of this section.

SEC. 614. PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO.

Title VII is amended by adding at the end thereof the following new section:

"SEC. 717. PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO.

"(a) Grants.—The Secretary, through the Service, shall make grants to the Eight Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

"(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $250,000 for each of the fiscal years 1990 and 1991.".

SEC. 615. STUDY WITH RESPECT TO NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS.

(a) Study.—The Secretary of Health and Human Services (acting through the Director of the Indian Health Service), the Secretary of the Interior (acting through the Bureau of Indian Affairs), and the Secretary of Energy shall jointly conduct a study for the purpose of determining—

(1) the number of active nuclear resource development sites on Indian lands in the United States;

(2) the Federal agencies that carry out Federal responsibilities with respect to each such site;

(3) the health hazards that exist as a result of such sites;

(4) the remedial actions which have been undertaken with respect to such health hazards;

(5) remedial actions that are needed with respect to such health hazards; and

(6) the amount of funds that would be necessary each year to implement and maintain such needed remedial actions and the date by which the remedial actions would be implemented if sufficient funds were to provide for the remedial actions.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, a report shall be submitted to the Congress describing the findings and conclusions made as a result of carrying out the study required in subsection (a).

SEC. 616. RESTRICTION ON THE USE OF DEPO-PROVERA.

(a) Contraceptive Purposes.—The Indian Health Service may not, directly or through any contract with an Indian tribe or tribal or Indian organization, prescribe or otherwise use Depo-Provera for contraceptive purposes in patients for whom another form of contraception could be used.

(b) Prohibition.—The Indian Health Service may not directly or through any contract with an Indian tribe or a tribal or Indian organization, prescribe or otherwise use Depo-Provera to stop menses in mentally retarded or developmentally disabled women unless and until the Food and Drug Administration specifically authorizes such use.

SEC. 617. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.

The SPEAKER pro tempore (Mr. Gray of Illinois). Is a second demanded?

Mr. NIELSON of Utah. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. Udall] will be recognized for 20 minutes and the gentleman from Utah [Mr. Nielson] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. Udall].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the passage of H.R. 5261. My committee has worked very hard on this badly needed legislation for the last 6 years.

Let me first commend the gentleman from New Mexico [Mr. Richardson], for his able assistance in the development of this legislation and in committee action taken on the bill. I want also to commend Congressmen Young and Rhodes of my committee for their strong support of this bill.

In addition, I want to thank Mr. Waxman, chairman of the Subcommittee on Health and the Environment, for all that he has done to bring about enactment of this bill.

Mr. Speaker, we have delayed too long in providing the Indian health programs, efforts, and tools made available by this legislation. I urge the House to pass the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 5261, the Indian health care amendments. This bill represents a compromise that I cosponsored with Chairman Udall and Chairman Waxman. Like all compromises, this one reflects a significant amount of give and take on the part of all the sponsors. I believe the end result is fair and balanced and will do much to improve the health status of the Indian populations in this country.

The bill before us today is much improved over the initial bills reported by the Energy and Commerce and the Interior Committees. H.R. 5261 does not include the provisions in the orginal bills that would have required Presidential appointment and Senate confirmation of the nomination of the Director of the Indian Health Service and would have provided the IHS Director with authorities independent of the Secretary of the Department of Health and Human Services. In addition, the compromise deleted the mandate that tribal specific health plans be developed for each tribe. The development of these detailed plans would have cost in excess of $20 million and would have yielded little benefit to the health status of our Indian population.

The Indian Health Care Improvement Act was first enacted in 1976. It was designed to bring the health status of American Indians and Alaskan Natives up to a level equal to that of the general population. We have made some progress in reaching that goal but must continue to fund specific programs to full succeed. Passage of this bill will go a long way in helping such progress.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr Speaker, I thank the gentleman from Arizona [Mr. UDALL] for yielding me this time, and I commend him for his excellent work.

Mr. Speaker, I rise in strong support of the Indian Health Care Amendments of 1988, H.R. 5261. This is a long overdue bill designed to address the health needs of one of our most vulnerable populations. The bill has strong bipartisan support, and is a high priority for the Indian community. I urge its adoption.

I'd like to make a few observations on behalf of my colleague, Congressman WAXMAN, the Chairman of the Subcommittee on Health and the Environment. The chairman was unavoidably absent today due to a serious illness. I know that the Members join me in wishing him a speedy recovery.

The bill before us today represents a compromise between the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs. Last year, both committees ordered reported H.R. 2290, the Indian Health Care Amendments of 1987, with differing amendments. As a result of negotiations over the last few months, we now have a bill, H.R. 5261, that both committees, on a bipartisan basis, can support.

Because H.R. 5261 was not considered by either committee, it does not have its own committee report. However, most of the provisions in H.R. 5261 are either identical to, or highly similar to, the provisions of H.R. 2290 as reported by the committees. Where the provisions are identical or highly similar, it is the understanding and intent of the chairman of the Subcommittee on Health and Environment that the views set forth in House Report 100-222, part 2, pages 6 through 43 would apply for purposes of administrative or judicial interpretation. For example, the committee views on sections 603 and 604 of H.R. 5261, relating to eligibility and contract care for California Indians, would be found at pages 30 through 33 of House Report 100-222, part 2.

The basic thrust of this bill is to raise the health status of the Indian people to parity with that of the general U.S. population. As the Office of Technology Assessment concluded in its 1986 report:

> The health of American Indians on average has improved on many measures over the past 15 years, but in almost every IHS service area and on almost every measure it is still far behind that of the U.S. all races population."

OTA found that Indians are more likely to die of tuberculosis, chronic liver disease and cirrhosis, accidents, diabetes, pneumonia and influenza, homicide, and suicide.

To improve the inferior health status of Indians, the bill would extend the existing Indian health manpower programs and authorize new initiatives to address the growing shortage of doctors, nurses, dentists, and other health professionals faced by the IHS and by tribal contractors. The bill would also direct the IHS to expand its health promotion and disease prevention activities, with an emphasis on diabetes prevention, treatment, and control. In addition, the bill would establish a fund to increase allocations to those tribes that are most deficient in health care providers, facilities, and other resources. Finally, the bill would direct the IHS to implement a plan to reduce infant and maternal mortality and fetal alcohol cyndrome among American Indians and Alaska Natives.

This bill contains budget authority of $73.8 million in fiscal year 1989; $105.5 million in fiscal year 1990; $110.7 million in fiscal year 1991; $112.1 million in fiscal year 1992; and $72.4 million in fiscal year 1993. The large majority of this funding—over 60 percent—represents extensions of existing programs, such as community health representatives and urban Indian health projects. The major new initiatives are: First, the fund for improving allocations to resource-deficient tribes; second, provisions for upgrading IHS clinical staffing; and third, the program for diabetes prevention, treatment, and control. Each of these new initiatives is essential to enabling the IHS to meet its most basic responsibilities for the health of the Indian people.

Mr. Speaker, the Indian Health Care Improvement Act, which this bill would extend, expired in 1984. We have been trying for the last three Congresses to revise and extend it. I believe that we now have a package with strong support on both sides of the aisle and in the Indian community. I urge that we suspend the rules and pass H.R. 5261.

Mr. NIELSON of Utah. Mr. Speaker, I yield 10 minutes to the gentleman from Arizona [Mr. RHODES], a member of the Committee on Interior and Insular Affairs.

Mr. RHODES. Mr. Speaker, I rise in support of H.R. 5261, the Indian Health Care Amendments of 1988.

H.R. 5261 would reaffirm our commitment to Indian tribes to work toward the improvement of health care for Indian people, providing overall direction to the Indian Health Service in meeting the health needs of Indian tribes, and helping to coordinate existing and new health programs.

In April 1986, the Office of Technology Assessment issued a report on the status of Indian health. The OTA noted "(t)he health of American Indians and Alaska Natives has improved substantially * * *, but Indians still lag behind the general U.S. population, and wide variations exist in mortality rates among Indians served by the IHS." Generally, the mortality rate is 1.4 times that of the national population, and 37 percent of the Indian deaths occur before the age of 45. It is within this context that we are considering H.R. 5261.

H.R. 5261 would reauthorize and amend certain programs which are important to those of us representing areas in or near Indian country—such as the Community Health Representatives Program, and the urban health centers. These two examples, addressing two different Indian populations, epitomize the type of programs the legislation is meant to address. The CHR's are the hands-on, frontline health care providers in the remote areas of Indian country. Without the CHR's many Indians would have no health care. The urban centers assist those Indians that have gone to cities in search of employment but have difficulty with cultural shock or are financially unable to obtain help. Reauthorization of these programs help maintain the safety net for these and many other Indian people. These are but two examples of this worthy legislation.

I must commend the chairman, Mr. UDALL, and the ranking minority member of the committee, Mr. YOUNG, for their perseverance. With hearings, they have been involved for almost 6 years in this reauthorization process. Similar legislation was pocket-vetoed by the President in the 98th Congress. The various committees of jurisdiction addressed the major concerns of the administration in the 99th Congress only to have the bill "die" in the last hours of that Congress. We are here again, late in the 100th Congress, trying to address the unmet needs of the Indian people and the unmet commitments of the Federal Government.

It is time for the Congress and the administration to work together to enact this reauthorization, and I urge my colleagues to do their part and support passage of H.R. 5261, the Indian Health Care Amendments Act of 1988.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise today in support of H.R. 5261, the Indian Health Care Improvement Act Amendments, and I urge my colleagues to suspend the rules and pass this important and long-overdue legislation.

This bill is the product of efforts begun in the 98th Congress to improve health care programs for Indian people that are generally authorized under the Snyder Act. It is important to remember that the legislation before us today contains not only routine changes and adjustments but also some new and urgently needed additions as well.

For example, H.R. 5261 contains a new catastrophic illness fund of $12 million which is designed to protect Indian Health Service clinical and direct care budgets from sudden depletion in the event of an emergency. There are compelling reasons to protect funds reserved for routine and ongoing medical care from the demands of a catastrophic event. Let me illustrate my point.

In August 1982, a terrible explosion at the Santee Sioux Reservation in this Member's district in Nebraska seriously injured eight children. Medical care for the children drained not only the Santee's health care funds, but part of the regionalized health care funds also used for the Yankton Sioux and the Rosebud Sioux. Care for the injured children—which, by the way, is an ongoing expense still today—reduced the regular health care funds for those three tribes by nearly 25 percent. That precipitous drop meant that many more routine health care services could not be provided. In theory, and as demonstrated by the Santee tragedy, such tragic events could easily spell greater costs and tragedies for the future. Indian people must not have to face such a medical and financial crisis again.

Indian people generally experience greater degrees of poor health than their non-Indian counterparts. This bill reflects the efforts of many Members who represent Indian people and wish to see their health care enhanced to meet the health standards of the rest of the American society. The legislation that Indian people want, need, and deserve has been pending far too long. Please join this Member and the excellent members of the Interior Committee who bring this bill to the floor today in passing the Indian Health Care Improvement Act Amendments.

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Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON], who has really been one of the leaders in this effort.

Mr. RICHARDSON. Mr. Speaker, I am pleased to support H.R. 5261, the Indian Health Care Amendments of 1988.

This legislation—

Reauthorizes funding for certain Indian health programs established by the Indian Health Care Improvement Act of 1976;

Makes basic reforms in the administration of clinical care and facilities construction programs by the Indian Health Service;

Elevates the Indian Health Service within the Department of Health and Human Services; and

Establishes several miscellaneous programs and efforts in the field of Indian health care.

Mr. Speaker, I will not go into detail on the various provisions of this bill. Legislation very similar to this bill has passed the House and the Senate in the last two Congresses.

In the 98th Congress, the bill was vetoed primarily because of a provision elevating the Indian Health Service in the Department. As some Members are aware, the administration has subsequently elevated IHS administratively.

In the 99th Congress, the House passed a bill by a vote of 308 ayes to 70 nays. On the last day of the Congress, the House failed to concur in Senate amendments to the legislation for matters wholly unrelated to the bill.

Mr. Speaker, the United States has assumed a special responsibility to insure that Indian tribes and their members have available adequate health care services. Despite this obligation, Indians suffer the worst health care conditions in the Nation.

In 1976, Congress recognized that it had defaulted on this obligation and passed the Indian Health Care Improvement Act. Under this act, significant progress was made in bringing Indian health standards to a parity with the rest of the Nation. But a wide gap still remains.

H.R. 5261 is the second installment in meeting our health obligations to the Indian tribes.

Mr. Speaker, on May 5, 1987, Chairman UDALL introduced the Indian health care amendments legislation as H.R. 2290. This bill was jointly referred to the Interior Committee and the Committee on Energy and Commerce. Both committees have reported the bill, but with amendments which were significantly different.

Our committees have worked over the past few months to come up with a compromise bill. In doing so, we have tried to accommodate the concerns of various Members and of the administration. H.R. 5261 is the product of that effort.

I am pleased to advise the House that this bill enjoys the general support of the Republican members of the Interior Committee. Congressman YOUNG, the ranking Republican, and Congressman RHODES, Republican leader on Indian matters, are both cosponsors of the bill as is the gentleman from California [Mr. LAGOMARSINO]. The gentleman from Utah [Mr. NIELSON], the ranking Republican on the Subcommittee on Health and the Environment of the Energy Committee is also a cosponsor. I believe they should be commended for their support of this important legislation.

I would also like to commend the chairman of the Subcommittee on Health and the Environment, the gentleman from California [Mr. WAXMAN], for his hard work and support for this legislation during the past 6 years.

Mr. Speaker, the Indian tribes have had to wait for 6 years for us to meet the second installment on our health obligation to them. I urge the Members to vote aye on this bill and send it on to the Senate for speedy action.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 5261, the Indian Health Care Amendments Act of 1988.

Great progress has been made since the passage of the 1976 Indian Health Care Improvement Act. Unfortunately, cracks have developed leaving many Indians without the benefits of the act. H.R. 5261 is designed to fill the cracks and provide better health care service to all Indians, whether reservation or urban.

Indians in my district reside both on reservation, at the Santa Ynez Reservation, and in various urban areas, such as Santa Barbara and Ventura. This legislation is designed to assist both groups in an effort to improve the health of all Indians.

I have been here in Congress during the previous reauthorization efforts, and I am encouraged by the bipartisan support the bill enjoys. Therefore, I urge my colleagues to support H.R. 5261.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 5261, the Indian Health Care Amendments Act of 1988.

It has been frustrating for those of us who have worked 6 years in the Congress to reauthorize the Indian Health Care Improvement Act.

The Indian Health Service has been asked to perform a monumental task, that of raising health care standards of all native peoples in this country to that of the national average. Frontline personnel do yeoman work in helping people. In Alaska, the IHS is the only health care provider in many rural areas. Without proper clinics patients must be transported, by air usually, hundreds of miles for health care. The Indian Health Care Improvement Act, the 1980 amendments, and these amendments before us today, are intended to improve that situation. I want my colleagues to know that to most Alaska Natives, without the benefits of the act and the amendments, health care as we know would not exist.

The situation is the same in many areas of the lower 48. Indian reservations are generally in remote rural areas, far removed from modern conveniences. This legislation will assist those people in enjoying some of what modern technology gives us today—a longer, healthier life.

Congress listened to the administration's concerns after the President's veto in 1984. This bill reflects a careful reading of the veto statement. What I wish the administration would do is to listen to our witnesses and to our pleas for assistance in improving this important health care delivery system. This bill is important to Native people from Bethel in Alaska, to the Indians who live at the bottom of the Grand Canyon in Arizona, to the Sioux still on the upper Great Plains.

This has been a bipartisan effort in our committee. Great credit on this bill should go to the chairman, Mr. UDALL, and our colleague from Arizona, Mr. RHODES. JAY RHODES has taken on the role of chairman of the Republican Task Force on Indian Affairs. It is apparent that he does his homework, and that he does not back down from any issue. I want to commend the gentleman from Arizona for his efforts in the committee on behalf of the Republicans, and commend him for his role in bringing this legislation to the floor.

Mr. Speaker, I strongly urge my colleagues to support H.R. 5261, the Indian Health Care Amendments of 1988.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise today in support of H.R. 5261, the Indian Health Care Amendments of 1987. I wish to commend Chairmen UDALL and WAXMAN for their leadership in bringing this vitally needed bill to the floor.

It remains a shame that so many of our citizens, in the wealthiest Nation in the world, lack ready access to basic health care. On Indian reservations, this problem is compounded by difficulties in recruiting health care professionals, improper nutrition, and sometimes alarming levels of diseases.

Last year, I joined colleagues on the Select Committee on Hunger in conducting a hearing on the nutrition and health programs of Native Americans in North Dakota. The committee learned tribes in the region have some of the most severe health problems of any groups in the Nation. The diabetes and infant mortality rates of area reservations are twice the national average.

The Fort Berthold Reservation itself, where the hearing was held, was found to have diabetes, infant, and alcohol-related mortality rates of 12, 10, and 5 times greater than the respective national averages. Some experts would properly characterize this as a health emergency.

The bill before us today is a response to life-threatening problems at Fort Berthold and reservations across the country. Generally, the amendments will help to increase the supply of Indian health professionals, construct and renovate Indian health facilities, operate and maintain sanitary facilities, and put in place innovative approaches to improve the presently unacceptable state of Indian health in our Nation.

I am especially pleased to report to my colleagues and to tribal members in North Dakota that this bill not only reauthorizes an existing model diabetes center at the Devils Lake Sioux Reservation, but that it authorizes a new diabetes center for the Three Affiliated Tribes at Fort Berthold—the site of perhaps the highest incidence of diabetes in the entire Nation. These centers will coordinate a comprehensive diabetes control program which includes nutrition education, counseling, prevention, and treatment. With these resources we can begin to eliminate this dread killer of so many Indian people.

May I also underscore that sound health is the foundation of Indian self-determination. Without it, we simply cannot expect to make progress on improved education, social cohesion, and economic growth—the other building blocks of self-determination. That is why this bill warrants our enthusiastic support.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 5261.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5261, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4102) to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian community in Maricopa County, AZ, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency largely depend on development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 14, 1879, the United States Government established a reservation for the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, at the confluence of the Salt and Verde Rivers tributary to the Gila River;

(5) the United States, as trustee for the Community, obtained water entitlements for the Community pursuant to the Kent Decree of 1910 and the Bartlett Dam Agreement of 1935; however, continued uncertainty as to the full extent of the Community's entitlement to water has severely limited the Community's access to the water and financial resources necesssary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and economic self-sufficiency;

(6) litigation to determine the full extent and nature of the Community's water rights and those of its allotted land owners, and damages thereto, is currently pending before the United States District Court in Arizona and in the United States Claims Court. The United States, as trustee for the Community, also has filed claims for the Community's water rights in the General Adjudication of the Gila River System and Source currently pending in the Superior Court of the State of Arizona in and for the County of Maricopa;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Community's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Community and neighboring non-Indian communities have sought to settle their disputes to water and reduce the burdens of litigation;

(8) after more than two years of negotiations, which included participation by representatives of the United States Government, the Community and neighboring non-Indian communities of the Salt River Valley, who all are party to the General Adjudication of the Gila River System and Source, the parties have entered into an agreement to resolve all water rights claims between and among themselves, to quantify the Community's entitlement to water, to provide for the orderly development of the Community's lands, and to prescribe a procedure for resolving such remaining claims which the Community and its allottees may have against the United States;

(9) pursuant to the agreement, the neighboring non-Indian communities will transfer rights to approximately thirty-two thousand acre-feet of surface water to the Com-

munity, provide for the means of firming existing water supplies of the Community, and make substantial additional contributions to carry out the agreement's provisions.

(10) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Community, it is appropriate that the United States participate in the implementation of the agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Community to utilize fully its water entitlements in developing a diverse, efficient reservation economy.

(b) Therefore, it is the purpose of this Act (1) to approve, ratify and confirm the agreement entered into by the Community and its neighboring non-Indian communities, (2) to authorize and direct the Secretary to execute and perform such agreement, and (3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Community as provided in the agreement and this Act.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(a) "Agreement" means that agreement dated February 12, 1988, among the Salt River Pima Maricopa Indian Community; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Roosevelt Irrigation District; the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe, and the Arizona town of Gilbert; and the Central Arizona Water Conservation District, together with all exhibits thereto.

(b) "Allottees" means owners of allotted land within the Salt River Pima-Maricopa Indian Reservation.

(c) "Bartlett Dam Agreement" means the agreement between the United States and the Salt River Valley Water Users' Association dated June 3, 1935, relating to Verde River storage works.

(d) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(e) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(f) "Community" means the Salt River Pima-Maricopa Indian Community, a community of Pima and Maricopa Indians organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(g) "Kent Decree" means the decree dated March 1, 1910, entered in Patrick T. Hurley versus Charles F. Abbott, and others, Case Numbered 4564, in the District Court of the Third Judicial District of the Territory of Arizona, in and for the county of Maricopa, and all decrees supplemented thereto.

(h) "Plan 6 Agreement" means the agreement among the United States; the CAWCD; the Flood Control District of Maricopa County; SRP; the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe; the State of Arizona; and the City of Tucson, for funding of Plan 6 facilities of the CAP, and for other purposes, dated April 15, 1986, together with Exhibits A, B, C, and D thereto.

(i) "RID" means the Roosevelt Irrigation District, an irrigation district organized under the laws of Arizona.

(j) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(k) "Secretary" means the Secretary of the United States Department of the Interior.

(l) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona corporation.

SEC. 4. KENT DECREE REREGULATION.

(a) The Secretary is authorized and directed to designate seven thousand acre-feet (hereinafter referred to as "Designated Space") of the additional active conservation capacity which will result from the modifications to Roosevelt Dam on the Salt River previously authorized by the Reclamation Safety of Dams Act of 1978, as amended (43 U.S.C. 506 et seq.), the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501 et seq.), and the relevant provisions relating to "Construction Program" contained in title II of the Act making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes (Public Law 100-202), to be used for the reregulation of the Community's entitlement to water under the Kent Decree. The Designated Space shall be used for seasonal reregulation only, with no annual carry-over past October 1.

(b) The costs associated with the Designated Space shall be nonreimbursable, and the non-Federal funding obligation associated with the Designated Space under the Plan 6 Agreement and any supplement thereto is hereby forgiven.

SEC. 5. BARTLETT DAM AGREEMENT.

(a) The Secretary is directed to amend the Bartlett Dam Agreement to provide that the Salt River Valley Water Users' Association shall increase the total Community allotment of developed water to twenty thousand acre-feet on December 31 of any calendar year in which all of the following three conditions occur:

(1) for at least two hundred and ninety-two days of the calendar year the total water stored in Salt River Valley Water Users' Association reservoirs on the Verde River is more than the storage capacity of Bartlett Dam Reservoir, which, for the purposes of this Act, is deemed to be one hundred seventy-eight thousand, one hundred eighty-six acre-feet, as periodically adjusted by the Salt River Valley Water Users' Association for silt losses;

(2) the total Community allotment of developed water under the Bartlett Dam Agreement generated during the calendar year is less than seven thousand acre-feet;

(3) the total Community allotment of developed water under the Bartlett Dam Agreement existing at the end of the calendar year is less than twenty thousand acre-feet.

(b) Article 4 of the Bartlett Dam Agreement shall be deleted and replaced with the following language: "ARTICLE 4 OPERATION OF STORAGE WORKS 'The works to be constructed upon Verde River shall be operated and maintained by the Association. The Association may at any time store any part or all of flow of Verde River in the reservoir, and may at any time release any quantity of water from the reservoir or it may permit the river to flow through the reservoir without regulation.'"

(c) Except as provided in subsections (a) and (b), all terms of the Bartlett Dam Agreement shall remain unchanged and in full force and effect.

SEC. 6. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) The contract between the Salt River Valley Water Users' Association and the Carrick and Mangham Aqua Fria Lands and Irrigation Company (the predecessor of the Roosevelt Irrigation District) dated August 25, 1921, together with the modifications thereto dated February 3, 1927, and May 31, 1950, is ratified, confirmed, and declared to be valid.

(b) The contract between the Salt River Valley Water Users' Association and the Roosevelt Water Conservation District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement is ratified, confirmed, and declared to be valid.

(c) The Secretary is authorized and directed to revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of exhibit "3.1" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(d) The Secretary is authorized and directed to execute and perform that agreement among the United States, the CAWCD, the RWCD, the Arizona cities of Chandler, Glendale, Scottsdale, Tempe, Mesa, Phoenix, and the Arizona town of Gilbert providing for the assignment of a portion of the RWCD's entitlement to agricultural water service from the CAP and other matters in substantially the form of exhibit "12.3" to the Agreement, and such agreement is hereby ratified, confirmed, and declared to be valid.

(e) The Secretary is authorized and directed, at such time as the authorizations in section 10(b)(1) become effective, to certify that the lands within the RWCD are free from the ownership and full cost pricing limitations of Federal reclamation law.

SEC. 7. COLORADO RIVER WATER EXCHANGE.

(a) On or before December 31, 1990, the Secretary shall acquire, from willing irrigation districts and their landowners (hereinafter "sellers"), rights to twenty-two thousand acre-feet of annual consumptive use of water from the main stream of the Colorado River in the State of Arizona with a contractual priority predating September 30, 1968, and which was not included by the Secretary, the Arizona Water Commission, or the Arizona Department of Water Resources in the determination of the water supplies available to the CAP for the purpose of establishing the initial allocations to non-Indian entities. Nothing in this Act shall alter the responsibilities of the United States under article V of the March 9, 1964, Decree of the United States Supreme Court in Arizona versus California, 376 U.S. 340.

(b) The Secretary is authorized, as part of consideration to willing sellers for the acquisition of water pursuant to subsection (a), to amend existing repayment contracts with the United States to which such sellers are subject to provide for the discharge of any remaining repayment obligation which the irrigation districts owe the United States as of May 30, 1987, and to certify that the lands within the irrigation districts are free from the ownership and full cost pricing limitations of Federal reclamation law.

(c) The Secretary shall contract to deliver such water to the Arizona cities of Chandler, Glendale, Scottsdale, Tempe, Mesa, and Phoenix, and the Arizona town of Gilbert, in exchange for water provided by these cities and the town to the Community, in the amounts set forth in the Agreement. Such water shall increase the supply available for delivery to CAP non-Indian municipal and industrial subcontractors of CAP water service. The terms of each water delivery contract shall be in a form mutually acceptable to the respective parties thereto and substantially similar to exhibits "3.h.1" through "3.h.7" to the Agreement, which exhibits substantially conform to the terms of the CAP municipal and industrial water service subcontracts to which each of such cities and the town are parties on the effective date of this Act, except that:

(1) there shall be no water service capital charges associated with water deliveries made pursuant to the contracts authorized by this section, except as otherwise provided in the Agreement;

(2) for the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245 between the United States of America and the Central Arizona Water Conservation District dated December 15, 1972, and any amendment or revision thereof, the costs associated with the delivery of water to cities and the town pursuant to the contracts authorized by this section shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation;

(3) notwithstanding the provisions of section 9(e) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(e)) and section 304(b)(2) of the Colorado River Basin Project Act (43 U.S.C. 1524(b)(2)), the term of the contracts authorized by this section shall be perpetual.

(d) within one year of the date of enactment of this Act the cities and the town shall deposit $9,000,000 in an escrow account as provided in the Agreement for the purposes of funding the acquisition of the rights to water referred to in subsection (a). On or after the date the waiver referred to in section 10(b)(1) becomes effective, monies shall be paid out of the escrow account to the United States in accordance with the Agreement: *Provided*, That such payment shall not exceed the costs incurred by the Secretary pursuant to subsection (a) or $9,000,000, whichever amount is less. Any monies remaining in the escrow account after payment to the United States shall be returned to the cities and the town. If the waiver referred to in section 10(b)(1) does not become effective by December 31, 1991, all monies in the escrow account shall be returned to the cities and the town in accordance with the Agreement.

(e) Neither the Salt River Valley Water Users' Association nor the Salt River Project Agricultural Improvement and Power District shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) by virtue of either its participation in the settlement or its execution and performance of the Agreement, including but not limited to the exchange provided for in this section.

SEC. 8. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE.

(a) The Secretary is authorized and directed to amend the CAP water delivery contract between the United States and the Community dated December 11, 1980 (herein referred to as the "Community CAP Delivery Contract"), as follows:

(1) to extend the term of such contract to December 31, 2098, and to provide for its subsequent renewal upon terms and conditions to be agreed upon by the parties prior to the expiration of the extended term thereof;

(2) to authorize the Community to lease the CAP water to which the Community is entitled under the Community CAP Delivery Contract to the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe and the Arizona Town of Gilbert under the terms and conditions of the Project Water Lease set forth in exhibits "3.m.1" through "3.m.7" to the Agreement for a term commencing January 1, 2000, and ending December 30, 2098;

(3) to perform the specific terms and conditions set forth in exhibit "3.j." to the Agreement.

(b) Notwithstanding any other provision of law, the amendments to the Community CAP Delivery Contract set forth in exhibit "3.j." to the Agreement and the terms and conditions of the Project Water Leases set forth in exhibits "3.m.1" through "3.m.7" to the Agreement are hereby authorized, approved, and confirmed.

(c) Consistent with subsection (d)(1) of this section, the United States shall not impose upon the Community the operation, maintenance and replacement charges described and set forth in section 7(b) of the Community CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the cities and the town pursuant to the Community CAP Delivery Contract and the Project Water Leases herein authorized.

(d) The Community and the Secretary shall lease to the cities and the town, for a term commencing on January 1, 2000, and ending December 30, 2098, and for the total consideration of $16,000,000 to be paid by the cities and the town to the Community, upon those terms reflected in the Project Water Leases set forth in exhibits "3.m.1" through "3.m.7" to the Agreement, up to thirteen thousand three hundred acre-feet of CAP water to which the Community is entitled under the Community CAP Delivery Contract. The Project Water Leases shall specifically provide that—

(1) The cities and the town, each in accordance with its obligations under the Project Water Leases, shall pay all operation, maintenance and replacement costs of such water to the United States, or, if directed by the Secretary, to the Central Arizona Water Conservation District: Provided, That such payments shall not be commenced earlier than October 1, 1998;

(2) Except as otherwise provided in the Project Water Leases, the cities and the town shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance, and replacement costs and lease payments as set forth in this subsection.

(e) For the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245 between the United States of America and the Central Arizona Water Conservation District dated December 15, 1972, and any amendment or revision thereof, the costs associated with the delivery of CAP water pursuant to the Project Water Leases referred to in subsection (d) shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(f) Except as authorized by this section, no water received by the Community pursuant to the Agreement may be sold, leased, transferred, or in any way used off the Community's reservation.

SEC. 9. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.), to design and construct new facilities for the delivery of water from the Community's turnout on the CAP Granite Reef Aqueduct and from the Arizona Canal to the irrigable Community reservation lands lying north of the Arizona Canal and west of the Parker Dam Power Project power transmission line easement and to irrigable community reservation lands south of the Arizona Canal at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this Act;

(2) pursuant to existing authority and obligation of the Snyder Act (25 U.S.C. 13), to deposit into the Community Trust Fund established under subsection (b)(1) $17,000,000 for the rehabilitation and improvement of the Community's existing facilities for the delivery of water to irrigable Community reservation lands lying south of the Arizona Canal and west of the Parker Dam Power Project power transmission line easement; and

(3) to deposit into the Community Trust Fund the funds authorized to be appropriated by subsection (c) for the Community to use in the design and construction of facilities to put to beneficial use the Community's water entitlement, to defray the cost to the Community of CAP operation, maintenance and replacement charges, and for other economic and community development on the Salt River Indian Reservation.

(b)(1) As soon as practicable, the Community shall establish the Salt River Community Trust Fund into which shall be deposited—

(A) by the Secretary, the funds provided in paragraphs (2) and (3) of subsection (a), and

(B) by the State of Arizona, $3,000,000 required by paragraph 20.2(b) of the Agreement.

(C) There is hereby authorized to be appropriated $30,470,000 to carry out the provisions of paragraph (3) of subsection (a).

(d) Upon the completion of the actions described in section 12(a), the Trust Fund, principal and income, may be used by the Community, in its discretion, to fulfill the purposes of the Agreement and this Act, but no part of such fund may be used to make per capita payments to members of the Community.

(e) Effective with the payments into the Trust Fund by the Secretary of the amounts required under paragraph (a) of subsection (b)—

(A) the Secretary shall have no further duties or responsibilities with respect to the administration of, or expenditures from the Trust Fund, and

(B) the United States shall not be liable for any claim or cause of action arising from the Community's use and expenditure of moneys from the Trust Fund.

SEC. 10. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.

(a)(1) There are extinguished—

(A) all Allottees' claims against the United States for damages for deprivation of water rights through December 31, 1991;

(B) all Allottees' claims against all persons other than the United States for damages for deprivation of water rights through December 31, 1991, for which damages are not recoverable under subparagraph (a)(1)(A) of this section; and

(C) all rights of Allottees to assert claims against the United States and all other persons for declaratory, injunctive or other relief for the determination of enforcement of water rights for allotted lands, including rights to surface water, ground water and effluent.

(2) For purposes of paragraph (a)(1) of this section claims for water rights include all claims under federal and state law (including claims for water rights in ground water, surface water and effluent) which may otherwise have been enforceable by money damages, declaratory relief, injunction or other relief.

(3) The benefits realized by the Allottees under this Act shall constitute full and complete satisfaction of all Allottees' claims for water rights under federal and state laws (including claims for water rights in ground water, surface water and effluent) that may accrue after the authorizations contained in paragraph (b)(1) of this section have become effective and which would otherwise have been enforceable by money damages, declaratory relief, injunction or other relief.

(4) Consent is given to Allottees to maintain actions, individually or as a class, against the United States in the United States Claims Court pursuant to section 1491 of Title 28, United States Code, to recover damages, if any, for the extinguishment of claims effected by subparagraphs (a)(1)(A) and (a)(1)(B) of this section; provided, however, that any claim for damages for rights extinguished by subparagraph (a)(1)(B) of this section shall not be joined in the same action as a claim for damages for rights extinguished by subparagraph (a)(1)(A) of this section.

(5) The United States shall have a claim only against the Community for any judgment entered against it in any action for damages for water rights extinguished by subparagraph (a)(1)(B) of this section, and the Community shall not have sovereign immunity with respect to such claim.

(6)(A) With respect to any claim against the United States which is extinguished by subparagraphs (a)(1)(A) and (a)(1)(B), the United States may assert as a defense in any action brought pursuant to paragraph (a)(4) of this section the limitation of section 2501 of Title 28, United States Code, as to damages incurred more than six years before the commencement of the action, but it shall not assert a timeliness defense as to damages incurred within six years before the commencement of the action.

(B) With respect to any claim for damages for rights extinguished by subparagraph (a)(1)(B) of this section, the United States may assert as a defense any defense which the person whose liability was extinguished might have asserted in an action brought by the Allottees against him prior to the effective date of this Act.

(b)(1) The Community is authorized, as part of the performance of its obligations under the Agreement, to execute a waiver and release of all present and future claims of water rights or injuries to water rights (including water rights in groundwater, surface water, and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water, and effluent), from after the effective date of this Act, which the Community may have, or which it may have standing to assert on behalf of its members and allottees, against the United States; the State of Arizona or any agency or political subdivision thereof; or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(2) In any action asserted within two years after the date of enactment of this Act by the Community against the United States in the United States Claims Court for monetary damages based upon loss or impairment of water rights the United States may assert a limitation as to damages incurred more than eight years before the commencement of the action instead of the six year limitation of section 2501 of Title 28, United States Code, and it shall not assert a timeliness defense as to damages incurred within eight years before the commencement of the action.

(d) The benefits realized by the Community under this Act shall constitute full and complete satisfaction of all monetary claims against the United States for any damages alleged to accrue after completion of the requirements of section 12(a).

(d) Except as provided in paragraph (a)(15) of this section and paragraphs 17.2 and 17.5 of the Agreement, the United States shall not assert any claim against any person in its own right or on behalf on behalf of the Community based upon

(1) water rights or injuries to water rights of the Community, its members of allottees; or

(2) water rights or injuries to water rights held by the United States on behalf of the Community, its members or allottees.

(e) In the event the authorizations contained in paragraph (b)(1) of this section do not become effective pursuant to section 12(a), the Community shall retain the right to assert past and future water rights claims as to all reservation lands.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) In the event any party to the Agreement should file a lawsuit in Federal District Court only relating directly to the interpretation or enforcement of the Agreement, naming the United States of America or the Communities as parties, authorization is hereby granted to join the United States of America and/or the Community in any such litigation, and any claim by the United States of America or the Community to sovereign immunity from such suit is hereby waived.

(b) From and after the effective date of this Act, the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District collectively are authorized to assert, on behalf of the Community, the Community's claims to spill water, as defined in the Agreement, in the General Adjudication of the Gila River System and Source currently pending in the Superior Court of the State of Arizona in and for the County of Maricopa (hereinafter referred to as the "Gila River Adjudication"). From and after such effective date, the United States shall not prosecute a separate claim or claims for spill water on behalf of the Community in the Gila River Adjudication or in any other administrative or judicial proceeding. The United States shall not challenge any claims to spill water on behalf of the Community in the Gila River Adjudication or in any other administrative or judicial proceeding.

(c) Upon the effective date of this Act as set forth in section 12, section 302 of the Colorado River Basin Project Act (43 U.S.C. 1522) shall no longer apply to the Community.

(d) The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any Indian-owned land within the Community's reservation, and no assessment shall be made in regard to such costs against such lands.

(e) Water received by the Cities and Town pursuant to paragraphs 10.3, 11.0, 12.2, and 19.0 of the Agreement shall not affect any future allocation or reallocation of the CAP supply.

(f) To the extent the Agreement does not conflict with the provisions of this Act, such Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to execute and perform such Agreement. The Secretary is further authorized to execute any amendments to the Agreement and perform any actions required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(g) Effective as of the date of enactment of this Act, and, notwithstanding the provisions of section 177 of title 25 United States Code, the Salt River Pima-Maricopa Indian Community may, as to any land outside of the Salt River Pima-Maricopa Indian Reservation to which it holds fee title, leasehold interest or any other interest, sell, encumber, hypothecate, lease or otherwise deal with such land or interest in such land as any other owner, lessor or interest holder might, subject to the laws of the state within which the land is situated.

(h) Within thirty days after the date of enactment of this Act, the Secretary shall request the Arizona Department of Water Resources to recommend a reallocation of non-Indian agricultural CAP water that has been offered to but not contracted for by potential non-Indian agricultural subcontractors. Within one hundred and eighty days of receipt of such recommendations, the Secretary shall reallocate such water for non-Indian agricultural use, and the Secretary and CAWCD shall thereafter offer amendatory or new subcontracts for such water to non-Indian agricultural users.

SEC. 12. EFFECTIVE DATE.

(a) The authorizations contained in section 10(b)(1) of this Act shall not be effective until such time as—

(1) the Secretary has fulfilled the requirements of sections 4 and 7;

(2) the Bartlett Dam Agreement has been amended as provided in section 5;

(3) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as provided in section 6(c) and the assignment described in section 6(d) has been executed;

(4) the funds required for the purpose of section 9(a)(1) have been appropriated;

(5) the funds authorized by sections 9(a)(2) and 9(c) have been appropriated and deposited into the Community Trust Fund;

(6) the State of Arizona has appropriated and deposited into the Community Trust

Fund the $3,000,000 required by paragraph 20.2(b) of the Agreement;

(7) the stipulation which is attached to the Agreement as exhibit "3.e." has been approved; and

(8) the Agreement has been modified to the extent it is in conflict with this Act and has been executed by the Secretary.

(b) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subsection (a) have not all occurred by December 31, 1991, sections 4, 5, 6, 7(b), 7(c), 8, 9(a)(2), 9(a)(3), 9(b), 9(c), 10(a)(1)(C), 10(d), and 11(a), 11(b), 11(c), 11(d), 11(e) and 11 (f), and any contracts entered into pursuant to those provisions, shall not thereafter be effective, any funds appropriated pursuant to sections 9(a)(2) and 9(c) shall revert to the Treasury, and any funds appropriated pursuant to paragraph 20.2(b) of the Agreement shall revert to the State of Arizona.

SEC. 13. OTHER CLAIMS.

Nothing in the Agreement or this Act shall be construed in any way to quantify or otherwise affect the water rights claims or entitlements to water of any Arizona Indian tribe, band, or community, other than the Community.

SEC. 14. AK-CHIN.

(a) The Ak-Chin Indian Community of Arizona may make repayment of the Ak-Chin West supplemental loan by a discounted prepayment in lieu of the repayment terms and provisions contained in section 5(c) of Public Law 89-984, the Small Reclamation Projects Act. The Secretary of the Interior shall determine such amount in a manner that will result in an equitable repayment based on the current applicable interest rate.

(b) The Ak-Chin West supplemental loan is hereby exempt from the 1986 amendments (Public Law 99-546) to the Small Reclamation Projects Act, and the requirement contained in Section 4(e) of the Small Reclamation Projects Act for a sixty-day congressional review of the approved loan application is hereby waived.

(c) Within funds appropriated to the Bureau of Reclamation for the Loan Program in the Energy and Water Development Appropriation Act for fiscal year 1988 (Public Law 100-202), up to $4,900,000 shall be available for transfer to the Ak-Chin Farms West project.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **RHODES**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. **UDALL**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased and proud to urge the House to pass H.R. 4102, the Salt River Pima-Maricopa Indian Water Rights Settlement Act of 1988.

This legislation is a milestone in our Nation's effort to resolve crucial questions over the allocation and use of scarce water supplies in Arizona and other arid Western States.

H.R. 4102 and the agreement it ratifies will settle more than a half-dozen major water lawsuits and avert others, quantify the Salt River Indian Community's rights to water, and provide the means for the community to put its water to beneficial use.

The settlement will reduce uncertainty as to the long-term availability of water supplies for more than a million and a half citizens living in the Phoenix metropolitan area. It will promote efficient use of precious water resources now and in the future.

By implementing this settlement, Congress and the administration will advance two major goals of Federal Indian policy: first, to secure to an Indian community the resources it must have to build a stable and diverse reservation economy; and, second, to settle Indian water claims by negotiation, not litigation.

The Salt River settlement was reached the old-fashioned way—by tough negotiations—by representatives of seven municipalities, a major reclamation project, irrigation and water conservation districts, the State of Arizona, the United States and the Indian community. The settlement is a testament to the art of political compromise, and all those who participated can be rightly proud of their role in its development.

In response to concerns raised by the administration, the parties and the Arizona delegation made numerous technical and substantive changes in the original agreement and in the legislation as reported by the Interior Committee and by the Senate Indian Affairs Committee. As a result, the legislation before the House today, which includes these changes, is tighter, better balanced, and enjoys broad support.

As modified, the settlement provides for the local, non-Indian entities and the State of Arizona to bear more than half of the total cost of the settlement. While this is an unprecedented percentage of local cost sharing for such a settlement, I think it fairly reflects the respective liabilities, costs and benefits of the local interests.

Similarly, I believe the U.S. contribution to the settlement fairly reflects its legal and moral responsibilities as trustee for the people, land and resources of the Salt River Indian Community. While the history of the U.S. performance in protecting the community's resources is not unpraiseworthy, neither is it exemplary.

The Salt River Indian Community, its president, Gerald Antone, its council and their attorneys deserve great credit for the patience, persistence, flexibility and vision they displayed throughout the settlement process. Their efforts clearly reflect an irrevocable commitment to self-determination and self-sufficiency.

Although this is an election year, credit should nevertheless be given where it is due. And so I would like to express my thanks to the Secretary of the Interior, Don Hodel, the Assistant Secretary for Water and Science, Jim Ziglar, the Assistant Secretary for Indian Affairs, Ross Swimmer, and the employees of the Bureau of Reclamation and the Bureau of Indian Affairs who worked to produce a fair and workable Salt River settlement. Without their constructive, cooperative, albeit hardnosed participation and support, this settlement would not have been possible.

I would also like to express my appreciation to the members of the Arizona delegation, who have remained united and flexible in their support for the settlement process. In particular, I would like to recognize and thank my Interior Committee colleague, JAY RHODES, for his astute and articulate contributions.

Mr. Speaker, H.R. 4102 will settle the water rights claims of the Salt River Indian Community in a fair and honorable manner at a cost that is reasonable and equitably shared. It is worthy legislation that deserves the full support of the Members of this House. I urge its adoption.

Mr. **RHODES**. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL]. The reservation affected by this legislation lies entirely in the Fourth District of the State of Arizona, which the gentleman represents.

Mr. **KYL**. Mr. Speaker, I thank the gentleman from Arizona for yielding me this time.

Mr. Speaker, as a cosponsor of this bill, I rise in support of H.R. 4102, the Salt River Pima-Maricopa Indian Commmunity Water Rights Settlement Act.

It is unfortunate how long the water rights dispute has gone on, pitting members of the Salt Rivera Pima-Maricopa Indian Community against their non-Indian neighbors and the Federal Government.

But, we now have an opportunity to come together in support of an agreement which will put this issue to rest, once and for all.

Years of negotiations among members of the Indian community and their non-Indian neighbors have finally produced an agreement to settle outstanding water rights claims. In any negotiations as complex as this, there has to be a tremendous amount of give-and-take, and, in fact, there was.

First, there was significant dispute over the Indian claims and the amount of the claims. As a result, the Indian community reduced its claim from about 202,000 acre-feet of water to the

122,400 acre-feet per year provided under H.R. 4102. Local contributions will make up about 68.4 percent of the entire value of the settlement.

It was also claimed that the Federal Government should bear part of the burden for failing to fulfill its trust obligations to the tribe. As a result, the Federal Government will contribute about $57 million toward the settlement, about $37 million of which has already been authorized.

This settlement will provide the Indian community with the water it needs for development. Non-Indian interest will have the certainty they need about water availablity for their own activities. The Federal Government will have fulfilled its responsibilities to the Indian community.

This measure will settle the claims once and for all. It is a fair settlement that is in the best interests of the tribe and the American taxpayers, and I urge my colleagues to support it.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been a long time getting to this point. The difficulties in meeting the Federal commitment to provide vital water to help develop the Salt River Pima-Maricopa Indian Community began with the establishment of the reservation in 1879.

In the 109 years since then, the United States has consistently failed to meet its basic trust responsibilities on behalf of the community, while other water reclamation projects moved forward around the reservation. Since 1905, the community has been in court to pursue its legitimate water right claims. We are now at the threshold of resolving this agonizing issue through negotiation rather than litigation.

Before the House today is legislation affirming a negotiated settlement to the Salt River Pima-Maricopa water rights claims. It is a settlement that has been developed and scrutinized with agonizing care and constant cooperation. It is basically a complicated water exchange agreement among the cities surrounding the reservation, the Indian community, irrigators, other water interests, the State of Arizona, and the Federal Government.

The bottom line is this is an agreement that fulfills the water needs of the community with the active participation of the cities and irrigators. The fact is, the really difficult work was accomplished by this proud partnership of interests in Arizona. It is through their diligent and dedicated work and spirit of compromise that we are here today. Major legal and monetary concessions and contributions were made by many of the non-Indian and Indian local interests to get us to this point. The non-Federal entities are contributing 54 percent of the total costs of this settlement. Frankly, that is unprecedented.

This is an agreement which, while not totally to the liking of the administration, falls within the financial dictates and very tough bargaining position of the Department of the Interior. More importantly, it is an agreement that further demonstrates the Federal policy commitment to settle these longstanding Indian water rights settlements through negotiation rather than protracted and expensive litigation. In doing so, we further advance the Federal policy goals of Indian self-determination and economic self-sufficiency.

I thank the chairman of the Interior Committee, Mr. UDALL, for his usual devoted leadership in resolving these issues, and I appreciate the efforts of my other colleagues from Arizona who have contributed to the legislation before us today.

I also want to pay special tribute to our staffs, both those of the gentleman from Arizona [Mr. UDALL] and mine, for the hard, hard work they have put in on this.

Mr. Speaker, in Arizona today there are an awful lot of people watching this on C-SPAN who have sworn to us they would never believe it until they saw it; so to my friends, I want to say, you are seeing it right now. It is done.

Mr. Speaker, I urge my colleagues to support passage of this very important legislation.

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to my colleague, the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Speaker, we have a similar problem in the Uintah Basin, the Indian Deferral Agreement there, for commitments made to the Indians back in the time the Central Utah project was first authorized. We will have a bill early next year, hopefully, which will do the same thing.

We applaud the gentleman's initiative and we wish him every success, that any success the gentleman has may translate to easing the path for us later.

Mr. RHODES. Mr. Speaker, I thank the gentleman from Utah, and I will be happy to work with him on that project.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 4102, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4102, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

COLORADO RIVER STORAGE PROJECT AUTHORIZATION INCREASE

Mr. OWENS of Utah. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3408), to increase the amounts authorized for the Colorado River storage project, as amended.

The Clerk read as follows:

H.R. 3408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

In order to provide for the continued construction of the Colorado River storage project, and for the continued construction of the municipal and industrial water features of the Bonneville Unit of the Central Utah Project, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), is hereby further increased by $45,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for continuing construction of the previously authorized units and projects named in such Act of August 10, 1972.

SEC. 2. ENVIRONMENTAL IMPACT STATEMENT FOR IRRIGATION AND DRAINAGE SYSTEM.

Not later than December 31, 1989, the Secretary shall complete an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) for the Irrigation and Drainage System of the Bonneville Unit of the Central Utah Project and submit such statement to the Congress.

SEC. 3. FISH AND WILDLIFE MITIGATION AND RECREATION.

Of the amounts appropriated for fiscal year 1990 for the construction of the Colorado River storage project, including funds previously authorized for fiscal year 1989, such funds in the manner previously scheduled by the Upper Colorado River Basin Office, Bureau of Reclamation, shall be available only for fish and wildlife mitigation and recreation in accordance with the schedule contained in the report of the Committee on Interior and Insular Affairs accompanying this Act (H. Rept. 100-915).

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Utah [Mr. Owens] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. Owens].

□ 1530

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3408, a bill to provide a 1-year increase in the appropriations ceiling for the Colorado River storage project [CRSP].

CRSP was first authorized by Congress in 1956. When completed, these water storage and delivery systems will allow the States of the Upper Colorado River Basin—Utah, Wyoming, Colorado, and New Mexico—to use their fair share of water from the Colorado River.

More than 20 years after the first congressional authorization of CRSP, much work remains to be done before the upper basin States and begin to realize the full benefits of the project. While CRSP dams have been generating inexpensive and efficient hydroelectric power for years, water users in cities and on farms in the upper basin are still waiting for their water delivery systems to be completed.

The biggest unfinished CRSP project is the central Utah project, known as CUP. When it is completed, the CUP will bring water from the Colorado River drainage to cities and towns along Utah's Wasatch Front, and to farms in other areas of the State.

Completion of any western water project is not easy, as many of my colleagues know all too well. The central Utah project is no exception. Changes in project design, bureaucratic redtape and procedures, and other factors have stretched the CUP construction schedule and dramatically increased the cost of the project. As a result, we are close to reaching the point where additional funds must be authorized to complete the project. The purpose of H.R. 3408 is to authorized a 1-year, interim cost ceiling increase of $45.4 million to allow work on the CUP to continue through fiscal year 1990.

When H.R. 3408 was introduced almost a year ago, the bill would have provided a ceiling increase of $754 million. That is the amount we were told was needed if the project was to be completed, as designed. Most of that amount would be needed to complete the irrigation and drainage system for the CUP. We call it the I&D system.

I knew that passing legislation to authorize three-quarters of a billion dollars to finish a western irrigation project would not be easy. I knew, as did the other members of the Utah delegation, that cost-sharing, in some form, would be required if this project is to be finished. I also knew that the support of the national environmental community would be critical to assure passage of a bill.

Since we introduced H.R. 3408 almost a year ago, the entire Utah congressional delegation has worked diligently to craft a financing package which would assure completion of the project. My main goals were to: First, to complete the water delivery system to the Wasatch Front; Second, to do so with environmental, fish and wildlife repairs and improvements to leave eastern Utah better, not worse after CUP is completed; and Third, find a way to finance the most expensive part of the project—the I&D system.

We knew that this was the time to reverse the environmental impacts and damages to fish and wildlife caused by building and operating the CUP, and we made this mitigation effort a major goal. In both areas—financing and environmental mitigation—we knew we had to be creative, flexible, and fair in order to pass a new authorization for the CUP. More than 50 environmental and sportsmen organizations, literally hundreds of individuals, participated in rewriting the environmental repair portion of this bill.

The Colorado River storage project in one way or another affects just about everybody in the intermountain west. Our negotiations on a reauthorization bill have, therefore, included representatives of every imaginable water, power, environmental and sportsmen—fishing and hunting organization in the region. In hearings held by the Subcommittee on Water and Power Resources, both in Salt Lake City and here in Washington, and in meeting after meeting, we have considered the views of appropriate public officials, municipal water agencies, fishermen, private citizens, public power agencies, investor-owned utilities, hunters, irrigators, and environmentalists.

I can safely say that we are "almost there" in our negotiation process. With a limited Utah delegation, there was no controversy on the far reaching rewrite of the use of section 8 fish and wildlife mitigation funds, in fact, the only real controversy was in the funding of the I&D portions of the CUP. But time has run out in the 100th Congress to negotiate those controversies this year. We still need some additional time to work out the details of a comprehensive reauthorization bill before presenting it to the Congress. We want to come up with a bill we know can pass both Houses of Congress next year.

With so little time left this year, the Utah delegation agreed that an interim increase in the ceiling—just enough to carry us through fiscal year 1990—would be pursued this fall. We will reintroduce our bill in the new Congress just as we worked it out this year, except as we renegotiate funding for the I&D, and except as we may deal more adequately with the obligations we owe to the Ute Indian Tribe. The Committee on Interior and Insular Affairs agreed to support us in this effort.

As reported by the committee on August 10, H.R. 3408 would provide an increase of $45,456,000 in the amount authorized to be appropriated for the construction of the Colorado River storage project. The authorization increase may be "indexed" to account for changes in construction costs. However, these funds may only be used for the continued construction of previously authorized CRSP units and projects.

The committee was very careful to identify project features which could and could not be built under this interim authorization. The committee rejected increasing the cost authorization for the I&D features, but acted to provide a limited cost ceiling increase to allow construction of the M&I water system to continue. This will give the regional water, power, and environmental interests further opportunity to resolve their differences on how best to finance construction of the I&D system of the project.

H.R 3408 also requires the Interior Secretary to complete and submit to Congress not later than December 31, 1989, an environmental impact statement for the irrigation and drainage system of the Bonneville Unit of the central Utah project. It is our understanding that the Bureau of Reclamation's draft environmental impact statement is essentially ready for publication. Information in this document will be invaluable to the parties seeking to reach agreement on more comprehensive legislation for CRSP.

H.R. 3408 also requires that $26,653,000 available for fish and wildlife mitigation and recreation and shall be spent in accordance with the schedule set forth in the committee report. This language was included in the committee amendment to ensure that funds for fish and wildlife and recreation are spent on mitigation and are not diverted for other purposes.

I want to assure my colleagues that the Utah delegation intends to come up with a fair and comprehensive bill to address the remaining controversial issues surrounding financing of the I&D's portions of the CUP.

Mr. Speaker, I look forward to the successful resolution of these issues, and I am confident that a comprehensive bill can be passed early next year. I express my deep appreciation to Chairman Udall, Subcommittee Chairman Miller, and other committee members, my colleagues in the congressional delegation, especially Senator JAKE GARN for their labor in bringing us to this point of partial solution of this complex task of completing the CUP.

I also acknowledge with genunie appreciation the united efforts of the Central Utah Water Conservancy District, other water and power organizations, other public officials, and the many environmental, fish and wildlife organization who contributed so much to this interim solution.

I urge my colleagues to join me in support of H.R. 3408, an interim measure to keep the central Utah project on schedule.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. OWENS of Utah. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I want to thank the gentleman for the skillful and tenacious way in which he has gone after this legislation. The people in Utah can be proud of him as well as the rest of the delegation including the gentleman from Utah [Mr. NIELSON], who is here speaking in support. I commend the gentlemen.

Mr. Speaker, I rise in support of H.R. 3408.

This bill would increase the authorization for the Colorado River Storage Project by $45.3 million, primarily for portions of the Central Utah project [CUP] that will provide municipal and industrial water supplies for the Salt Lake City area.

This legislation is a compromise that is intended to ensure that construction on the M&I portions of the CUP will continue without interruption into fiscal year 1990.

At this time I would like to compliment the gentleman from Utah [Mr. OWENS] for his diligence and hard work on behalf of the CUP and this legislation.

Negotiations among water and power interests in the Colorado River Basin are underway in an effort to reach further compromises on financing remaining irrigation and environmental mitigation on the CUP. These negotiations are essential if consensus is to be reached, not only on the remaining features of the CUP, but also on the other uncompleted or unbuilt features of the Colorado River storage project.

I want to reiterate my strong support for the negotiations.

I am committed to working with the Utah delegation and the water, power, and environmental interests in the Colorado River Basin to produce a consensus CUP bill early in the next Congress.

I am confident that if all parties proceed in a spirit of cooperation and compromise, the remaining outstanding issues can be resolved in a timely fashion.

I urge the House to pass H.R. 3408.

Mr. OWENS of Utah. Mr. Speaker, I thank my chairman, the gentleman from Arizona [Mr. UDALL].

His help and his direction, of course, have been totally invaluable in this process.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3408, a bill to grant an interim cost authorization ceiling increase for the Colorado River storage project [CRSP].

H.R. 3408 would increase the cost authorization ceiling by approximately $45 million to allow various CRSP projects to remain on their current schedule, except for those Bonneville unit features designed solely to serve the I&D system.

The committee chose not to recommend increasing the ceiling by the total amount necessary to complete the project, until several regional issues are resolved. Of particular concern is how to finance the construction of the I&D system and various fish and wildlife mitigation and recreation features. This interim ceiling increase will allow time for regional interests to address those concerns.

The administration has no objections to the substance of H.R. 3408. However, they have expressed concern about being bound to a spending schedule specified in non-statutory-report language.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I thank my colleague, the gentleman from Arizona [Mr. RHODES] for yielding.

As was stated by the gentleman from Utah [Mr. OWENS], and the gentleman from Arizona [Mr. RHODES], the purpose of the CRSP project in 1956, particularly the Central Utah project, was to bring water to the farms and the cities of central Utah which otherwise would flow down the Colorado River.

The upper basin State share was to be developed by each of the States, and the CRSP share in Utah for that purpose.

As was stated, the bill was originally $754 million to complete the project, as stated originally, and that bill was modified by a new bill which made private financing possible for the I&D portion of the bill. There were some problems with that bill in my view, and so I did raise some objections to it, although I allowed it to go forward without objection.

Mr. Speaker, I have to object to the statement made today that we are almost there on negotiations. There is a long ways to go, although I think we are working in that direction. The main problem is the funding. We need to be sure that the funding is fair to all those who have to pay it, particularly the public power users and also the sister States. We also have to determine what should be included in the bill.

There are some objections to some parts of the bill. Some members of the committee in other States, in fact, 10 Senators, have put holds on the bill because of objections to either funding or the total package.

I also think we need to find out how we are going to meet the commitments that have been made including the Indian deferral agreement which I mentioned before. If we can solve these three problems and agree on the funding mechanism, and they are working very hard on that and making good progress, if we can concur on what needs to be included and how to meet the commitments that have been made, apart from the bill, then I am sure that we can have a united front and have a bill we can be proud of next year.

We have to include all parties, as mentioned by the Members who spoke before. Not only the Bureau of Reclamation, the CUP itself, but also the environmentalists, as mentioned, and the power and water users who will benefit from the project.

Mr. Speaker, I pledge my support to getting a CUP bill next year that will complete the project in a timely fashion, and I would like to commend those who have worked on it thus far, and also the gentleman from Arizona [Mr. UDALL] and the gentleman from Arizona [Mr. RHODES] for their leadership, and also the gentleman from Utah [Mr. OWENS] and Senator GARN, who have been involved in this.

I do pledge my support. However, I do say that I wish I was optimistic as my colleague from Utah that we are almost there. We still have a good distance to go.

Mr. RHODES. Mr. Speaker, I reserve the balance of my time.

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend my colleague, the gentleman from Utah [Mr. NIELSON], for his statement, his very lucid and very clear statement, if not for his optimism.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 3408, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3408, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

MONTGOMERY GI BILL AMENDMENTS OF 1988

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4213) to amend title 38, United States Code, with respect to the Montgomery GI bill, as amended.

The Clerk read as follows:

H.R. 4213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Montgomery GI Bill Amendments of 1988".

SEC. 2. BENEFIT PAYMENT IN CERTAIN CASES.

(a) IN GENERAL.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following:

"§ 1417. Certain benefit payment

"(a) The Administrator shall make a payment in the amount described in subsection (c) of this section to any individual—

"(1) who is entitled to basic educational assistance under this chapter (or becomes so entitled as a result of the handicap described in clause (2) of this subsection)

"(2) with respect to whom the Administrator has made a determination that the individual has, through no willful misconduct of the individual, become, while on active duty in the Armed Forces or serving in the Selected Reserve as described in clause (A)(ii) of (B)(ii) of section 1412(a)(1), so physically or mentally handicapped that the individual is unable to utilize educational assistance under this chapter.

"(b)(1) In the event of the death of any individual—

"A) who—

"(i) is entitled to basic educational assistance under this chapter; or

"(ii) is on active duty in the Armed Forces, or is serving in the Selected Reserve as described in clause (A)(ii) or (B)(ii) of section 1412(a)(1), and but for section 1411(a)(1)(A)(i) or clause (i) or (ii) of section 1412(a)(1)(A) of this title would be eligible for such basic educational assistance; and

"(B) who, through no willful misconduct of the individual, dies while on active duty in the Armed Forces or serving in the Selected Reserve as described in clause (A)(ii) or (B)(ii) of section 1412(a)(1),

the Administrator shall make a payment in the amount described in subsection (c) of this section to the living person or persons described in paragraph (2) of this subsection.

"(2) The payment referred to in paragraph (1) of this subsection shall be made to the living person or persons first listed below:

"(A) The beneficiary or beneficiaries designated by such individual under such individual's Servicemen's Group Life Insurance policy.

"(B) The surviving spouse of the individual.

"(C) The surviving child or children of the individual, in equal shares.

"(D) The surviving parent or parents of the individual, in equal shares.

If there is no such person living, the Administrator shall pay such amount to the individual's estate.

"(c) The amount of any payment made under this section shall be equal to—

"(1) the amount reduced from the individual's pay under section 1411(b) or 1412(c) of this title, less

"(2) the total of—

"(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

"(B) in the case of an individual described in subsection (b)(1) of this section, the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

"(d) Any individual to whom a payment is made under subsection (a) of this section shall not be entitled to any educational assistance under this chapter on and after the date of the payment under subsection (c) of this section.

"(e) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 1435(b)(1), it shall be considered to be an entitlement earned under this subchapter.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"1417. Certain benefit payment.".

SEC. 3 ENTITLEMENT IN CERTAIN CASE.

(a) IN GENERAL.—Section 1411(a)(1) of title 38, United States Code, is amended by inserting after "disability" in clauses (A)(ii)(I) and (B)(ii)(I) the following: ", for a disability that existed before the individual's becoming or entering on active duty as a member of the Armed Forces,".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1)(A) Section 1412(b)(1) of such title is amended to read as follows:

"(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces for a service-connected disability, for a disability that existed before the individual's becoming or entering on active duty as a member of the Armed Forces, for hardship, or (in the case of an individual discharged or released after 20 months of such service) for the convenience of the Government.

"(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

"(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability, if the person was obligated, at the beginning of such two years of service, to the requirement of such four years of service; or

"(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve for a service-connected disability, for a disability that existed before the individual's becoming a member of the Selected Reserve, for hardship, or (in the case of an individual discharged or released after 30 months of such service) for the convenience of the Government.".

(B) Paragraphs (1)(A)(i) and (1)(B)(i) of section 1412(a) of such title are each amended by inserting ", subject to subsection (b) of this section," after "Forces".

(2) Clause (F) of section 3103A(b)(3) of such title is amended to read as follows:

"(F) to benefits under chapter 30 of this title by reason of a discharge or release from active duty for the convenience of the Government or for a disability that existed before the person's becoming, or entering on active duty as a member of the Armed Forces, as described in section 1411(a)(1)(A)(ii) or 1412(b)(1)(A).".

SEC. 4. PROGRAM OF EDUCATION.

(a) IN GENERAL.—Section 1402(3) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new clause:

"(C) includes refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education described in the other clauses of this paragraph.".

(b) AMOUNT OF ASSISTANCE.—Section 1432 of such title is amended by adding at the end the following new subsections:

"(d)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who is pursuing a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

"(B) For purposes of subparagraph (A) of paragraph (1) of this subsection, the term 'established charge' means the lesser of—

"(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

"(ii) the actual charge to the individual for such course or courses.

"(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

"(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection of this section, the period of entitlement of such individual under this chapter shall be charged with one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive under this chapter with proportional increases and decreases in such charge in cases in which such payment is more or less, respectively, than such amount.".

(c) Conforming Amendments.—(1) Section 1413 of such title is amended by adding at the end the following new subsection:

"(d) The Administrator may not pay educational assistance to an individual for more than nine months (or the equivalent thereof in part-time educational assistance) for the pursuit of refresher courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment.".

(2) Section 1434 of such title is amended—

(A) in subsection (a), by inserting "1786(a)," after "1780(g),"; and

(B) by striking out subsection (c); and

(C) by redesignating subsection (d) as subsection (c).

SEC. 5. TEMPORARY PERIOD OF ENROLLMENT.

(a) In General.—Any individual on active duty in the Armed Forces who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces after June 30, 1985, and before July 1, 1988, and made an election under section 1411(c)(1) or 1412(d)(1) of title 38, United States Code, not to receive educational assistance under chapter 30 of such title may, during the 120-day period beginning on the 31st day after the date of the enactment of this Act, enroll in the program established under such chapter.

(b) Effects of Enrollment.—(1) Any individual who enrolls in such program under subsection (a) of this section and fulfills the requirements of subsection (c) of this section—

(A) shall be entitled to basic educational assistance under such chapter to the same extent (except as provided in paragraph (2) of this subsection), in the same manner, under the same conditions, and in the same amount as the individual would have if the individual had not made an election under section 1411(c)(1) or 1412(d)(1) of such title, as the case may be; and

(B) shall be considered, for purposes of such chapter, not to have made an election under section 1411(c)(1) or 1412(d)(1) of such title.

(2) Any individual described in paragraph (1) of this subsection who becomes an individual described in section 1411(a)(1)(A)(ii) or section 1412(b)(1)(A) of such title, as amended by section 3(b) of this Act, before $1,200 is paid by the individual or is reduced from the individual's basic pay, or both, as a result of an election or payment and election described in subsection (c)(1) of this section, is entitled to basic educational assistance under such chapter for one month for each $100 of the total amount that has been paid by the individual or reduced from the individual's pay, or both, as a result of such election or payment and election, but not to exceed the number of months the individual has served on active duty.

(c) Requirements.—(1) Any individual who enrolls in such program under subsection (a) of this section shall, within the 120-day period described in such subsection—

(A) make a lump-sum payment of $1,200 to the Secretary concerned;

(B) elect to have the individual's basic pay reduced to the same extent, in the same manner, under the same conditions, and in the same amount as provided for individuals who do not make an election under section 1411(c)(1) or 1412(d)(1) of such title; or

(C) make (i) a lump sum payment to the Secretary concerned, and (ii) an election described in clause (B) of this paragraph that will result in a monthly reduction of the basic pay of the individual until the amount so reduced and the amount of such lump sum payment equal $1,200.

(2) Except as provided in subsection (b)(2) of this section, each individual who enrolls in such program under subsection (a) of this section shall not be eligible to receive educational assistance under chapter 30 of such title until the total of such individual's lump sum payment or reduction in pay, or both, is equal to $1,200.

(d) Implementation.—(1) The Secretaries concerned shall take all steps necessary to inform individuals of the opportunity to enroll under this section in the program established by chapter 30 of such title.

(2) Any amount received by a Secretary under this section shall be deposited in the miscellaneous receipts of the Treasury.

SEC. 6. SELECTED RESERVE PROGRAM.

(a) Payment for Less Than Half-Time Pursuit of a Program of Education.—Section 2131(b) of title 10 is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new clause:

"(4) an appropriately reduced rate, as determined under regulations which the Administrator of Veterans' Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.".

(b) Time of Eligibility.—Section 2132(b) of such title is amended to read as follows:

"(b) Educational assistance may not be provided to a member under this chapter until the member has completed the initial period of active duty for training required of the member.".

SEC. 7. TECHNICAL AMENDMENTS.

(a) Title 38 Amendments.—Title 38, United States Code, is amended as follows:

(1) Section 1402(3)(B) is amended by striking out "includes" and inserting in lieu thereof "in the case of an individual who is not on active duty, includes".

(2)(A) Section 1411(a)(1)(A)(i)(I) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

(B) Section 1412(a)(1)(A)(i) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

(3)(A) Section 1411(a)(2) is amended to read as follows:

"(2) who completed the requirements of a secondary school diploma (or equivalency certificate) before—

"(A) the original ending date of the individual's initial obligated period of active duty in the case of individuals described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or

"(B) January 1, 1990, in the case of an individual described in clause (1)(B) of this subsection;

except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree; and".

(B) Section 1412(a)(2) is amended by inserting the following before the semicolon: ", except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree".

(C) Clause (2) of section 1412(a) is amended by striking out "received" and inserting in lieu thereof "completed the requirements of".

(4) Section 1411(a)(3) is amended—

(A) by striking out "after completion of the service" and inserting in lieu thereof "upon completion of the applicable active-duty service requirement";

(B) by striking out subclause (B);

(C) by redesignating subclause (C) as subclause (B) and inserting at the end thereof "or"; and

(D) by inserting after subclause (B) (as so redesignated and amended) the following new subclause:

"(C) is discharged in connection with a reenlistment or, because of enlistment, reenlistment, or extension of enlistment, is not discharged or released from active duty, and—

"(i) who continues to serve on active duty without being discharged or released therefrom; or

"(ii) whose first discharge or release from active duty after completion of the service described in clause (1)(A)(i) or (B)(i) of this subsection is as described in subclause (A) or (B) of this clause;".

(5) Section 1411 is amended by adding the following new subsection at the end:

"(d)(1) For purposes of this chapter, any period of service described in paragraph (2) of this subsection shall not be considered a part of an individual's initial obligated period of active duty.

"(2) The period of service referred to in paragraph (1) is any period terminated because of a defective enlistment and induction based on—

"(A) the individual being a minor for purposes of service in the Armed Forces;

"(B) an erroneous enlistment or induction; or

"(C) a defective enlistment agreement.".

(6) Section 1413 is amended—

(A) in subsection (a)(2)—

(i) by striking out "In" and inserting in lieu thereof "Subject to section 1795 of this title, in"; and

(ii) by striking out "active duty" and all that follows through the period and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985.";

(B) in subsection (b)(1), by striking out "active duty" and all that follows through "title, and" and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985, and"; and

(C) in subsection (b)(2), by striking out "after the applicable date specified in clause (1) of this subsection" and inserting in lieu thereof "after June 30, 1985".

(7)(A) Section 1415(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432. Except".

(B) Section 1422(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432. Except".

(8) Section 1431(a) is amended by striking out "beginning on" and all that follows through the period and inserting in lieu thereof the following: "beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

"(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 1412(a)(1) of this title, on the later of the date of such individual's last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) or (B)(ii), respectively, of such section 1412(a)(1) is met; and

"(2) in the case of an individual who becomes entitled to such assistance under section 1411(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty or January 1, 1990.".

(9) Section 1432(c)(3) is amended—

(A) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B) of this paragraph, for";

(B) by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Any such charge to the entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.".

(10) Section 1673(d) is amended—

(A) by inserting "or under chapter 106 of title 10" before the period at the end of the first sentence; and

(B) by inserting "or under chapter 106 of title 10" after "of this title" in the third sentence.

(b) CHAPTER 106 AMENDMENTS.—Chapter 106 of title 10, United States Code, is amended as follows:

(1) Section 2131(c)(2) is amended by inserting before the period at the end the following: "(or the equivalent thereof in part-time educational assistance)".

(2) Section 2132(a)(2) is amended—

(A) by striking out "received" and inserting in lieu thereof "completed the requirements of"; and

(B) by inserting before the semicolon the following: ", or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistement or extension".

(3) Section 2132(c) is amended by adding the following sentence at the end: "At the request of the Administrator of Veterans' Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to the Administrator.".

(4) Section 2132(d) is amended to read as follows:

"(d) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall elect (in such form and manner as the Administrator of Veterans' Affairs may prescribe) the program to which such service is to be credited."

(5) Section 2133 is amended—

(A) in subsection (a), by striking out "section" and inserting in lieu thereof "chapter";

(B) in subsection (b), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by adding as paragraph (1) the following new paragraph:

"(b)(1) In the case of a person separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection "; and

(C) in paragraph (2) of subsection (b), as redesignated by subparagraph (B) of this paragraph, strike out "1431(e)" and insert in lieu thereof "1431(f)".

(6) Section 2135 is amended—

(A) in subsection (a)(1), by inserting ", and during which the member has received such assistance," after "chapter"; and

(B) by striking out clause (A) of subsection (b)(1) and inserting in lieu thereof the following::

"(A) the number of months of obligated service the person has remaining under the agreement entered into under section 2131(a) of this title divided by the original number of months of such obligation; and".

Amend the title so as to read: "An Act to amend titles 10 and 38, United States Code, with respect to the Montgomery GI Bill, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SOLOMON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the time be divided equally as follows: 20 minutes to the Veterans' Affairs Committee, to be divided equally between myself and the gentleman from New York [Mr. SOLOMON] and 20 minutes to the Committee on Armed Services, to be divided equally between the gentlewoman from Maryland [Mrs. BYRON] and the gentleman from Virginia [Mr. BATEMAN].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on H.R. 4213, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4213, as amended, the Montgomery GI Bill Amendments of 1988. This bill was jointly referred to the Veterans' Affairs Committee and the Armed Services Committee. Although the measure as amended by the Armed Services Committee, which we are considering today, differs somewhat from that reported by the Veterans' Affairs Committee, we believe this bill will accomplish some of the things our two committees feel are necessary to maximize the effectiveness of the Montgomery GI bill.

On July 1, 1985, new active duty recruits and members of the National Guard and Reserves were first offered the opportunity to participate in the Montgomery GI bill, a new educational assistance program for the All Volunteer Force. Since that time, more than 550,000 young men and women have signed up for the GI bill-active duty, and over 90,000 members of the Selected Reserve have gone to school under the program.

The following participation rates for the month of July 1988 demonstrate the popularity of this new program: Army, 94.5 percent; Navy, 73.6 percent; Air Force, 83.5 percent; Marine Corps, 83.4 percent; and DOD-wide, 83.4 percent. Additionally, it is important to point out that the basic pay reductions, which are required under the Montgomery GI bill-active duty, have returned over $510 million to the U.S. Treasury. The program requires a financial commitment for the participants, ensuring that these young people are serious about getting an education. When compared with the cost of unpaid, federally guaranteed college loans, projected to be $1.7 billion in fiscal year 1989, the cost effectiveness of the Montgomery GI bill is clear.

The major provisions of H.R. 4213, as amended, are as follows: First, the bill would provide a death benefit to be paid to certain survivors of service members who participate in the Montgomery GI bill and who die on active duty. The benefit level would equal the amount reduced from the participant's basic pay under the GI bill, minus any amount of chapter 30 educational assistance that was paid to the individual. This benefit would be retroactive to July 1, 1985. A similar benefit would be provided to a GI bill participant who, while on active duty, becomes so physically or mentally disabled that the individual is unable to go to school.

The provisions establishing the death and disability benefits were approved by the committees after careful consideration. The circumstances described above are unusual and compelling and deserve exceptional consideration. It should be stressed, however, that the Montgomery GI bill is not a contributory program. Participants agree to a lower rate of basic pay than that paid to nonparticipating service members and taxes are paid on the reduced pay level.

The bill would also provide that a GI bill participant who is discharged from military service for a preexisting medical condition would be entitled to 1 month of educational assistance for each month of active duty served by the individual. Under current law, a service member who is participating in the Montgomery GI bill and is discharged under these conditions, prior to serving for certain minimum periods of time, is ineligible for education benefits. This situation was overlooked in the original drafting of the Montgomery GI bill, and we believe current law is inequitable and should be corrected.

Also included in H.R. 4213, as amended, is a provision which would authorize payment of benefits for refresher/deficiency courses. Refresher training would enable veteran students to update their knowledge and skills in their planned occupational fields. Technological advances occur rapidly, and we want veterans to be able to keep up with advances that may have occurred in their occupations during and after their military service. This bill would also authorize payment of benefits for deficiency courses which would be necessary in the event a veteran did not take a subject in high school which is a prerequisite for a course the veteran wants to take in college. Additionally, H.R. 4213 would provide benefits for courses necessary to enable veteran students to overcome weaknesses in particular areas of study.

The bill would provide service personnel who disenrolled from the Montgomery GI bill a one-time, 120-day window of opportunity to reconsider their earlier decision and participate in the program. This opportunity would be available to service members who entered on active duty between July 1, 1985, and June 30, 1988. During hearings held by the committees, service representatives, particularly those representing the Navy, acknowledged that their early implementation of the Montgomery GI bill was not effective and that the advantages of participating in the program were not adequately explained to new recruits. This 120-day window would provide a second chance to the young people who were indirectly penalized by the ineffective advertising and implementation plans. I want to stress to the services the importance of quickly informing all affected individuals that this opportunity is available.

Additionally, H.R. 4213 would authorize payment for less-than-half-time training under chapter 106 of title 10, United States Code. Current law requires that an individual going to school under the Montgomery GI bill-Selected Reserve, attend school on at least a half-time basis. It was pointed out during hearings that Guard and Reserve members are busy with work, families, and their Guard-Reserve duties and often do not have time to take two or more courses at the same time. Many individuals training under chapter 106 are employed full time at their civilian jobs and attend classes at night. We believe that those who want to continue their education, but have limited time available for this purpose, should not be excluded from using benefits under the Montgomery GI bill.

Finally, the bill would eliminate the requirement under current law that an individual complete 180 days in the Selected Reserve before receiving educational assistance under the Montgomery GI bill-Selected Reserve program. Current law requires that an individual complete both the initial period of active duty for training and 180 days of service in the Selected Reserve before commencing a course of education under the Montgomery GI bill. It was pointed out during hearings that in most cases the 180-day requirement is satisfied during the individual's initial active duty for training. Consequently, it is redundant and an administrative burden to require individuals to meet both requirements. Witnesses stated that elimination of the 180-day requirement would improve the efficiency and effectiveness of the Montgomery GI bill-Guard and Reserves.

Although H.R. 4213, as amended by the Armed Services Committee, is substantially the same as that approved and reported by the Veterans' Affairs Committee, there is one change which I want to point out. H.R. 4213, as reported by the Veterans' Affairs Committee, would have permitted those individuals training under the Montgomery GI bill-Selected Reserve—chapter 106, title 10, United States Code—to pursue the same types of programs as those approved for active duty GI bill participants—chapter 30, title 38, United States Code.

Under current law, only undergraduate courses at institutions of higher learning are approved for participants in the chapter 106 program. The bill as reported by the Veterans' Affairs Committee would have expanded programs of study to include training at technical schools, on-job-training, graduate school, and any other programs approved for chapter 30 participants. Although there was a great deal of support for this provision in the Armed Services Committee, those Members felt that, since the cost of this provision would be born by the Department of Defense, more time was needed to hear from DOD officials regarding this provision. Accordingly, we agreed to direct the Department of Defense to provide the committees a report on this provision, including an updated, detailed cost estimate, by February 1, 1989. We will then reconsider expanding programs available to chapter 106 participants based on this additional information.

Mr. Speaker, I want to express my deep appreciation to the ranking minority member of the Veterans' Affairs Committee, **Jerry Solomon** of New York, for his assistance and cooperation in developing this legislation. I also want to thank the chairman of the Subcommittee on Education, Training and Employment, my good friend and colleague from Mississippi, **Wayne Dowdy**, as well as the ranking minority member of that subcommittee, **Chris Smith** of New Jersey, for their leadership and hard work on H.R. 4213. **Wayne** held excellent hearings on the Montgomery GI bill and gathered valuable information regarding the program during visits he made to military training bases.

Special thanks should go to the chairman of the Military Personnel and Compensation Subcommittee of the Armed Services Committee, **Beverly Byron** of Maryland, and the ranking minority member of that subcommittee, **Herbert Bateman** of Virginia, for their full support and cooperation in moving this bill. Additionally, I want to thank the chairman of the Armed Services Committee, **Les Aspin** of Wisconsin, and **William Dickinson** of Alabama, ranking minority member of that committee, for their assistance and support.

Mr. Speaker, H.R. 4213, as amended, is a good bill which will make an excellent GI education program even better. I urge my colleagues to support this measure.

□ 1545

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Chairman **Montgomery** has eloquently explained the bill before us today.

The Montgomery GI bill program is one of the most effective readjustment and recruitment tools our country has ever seen.

In our continuing evaluation of the Montgomery GI bill, I can think of no more appropriate action than to allow for the awarding of death benefits to the suvivors of the young service man or woman who dies while in service to their country, and who were never afforded the opportunity to use their education benefits.

Under current law, the education payroll deductions of a GI who dies in the line of duty are forever forfeited.

This is an inequity to our service personnel who have elected to participate in the program and was unforeseen by Congress in the development of the Montgomery GI bill.

I support allowing these hard-earned contributions to be channeled to the loved ones of the deceased GI.

I would also express my sincere appreciation to CHRIS SMITH, the ranking member of the subcommittee, our colleagues BEVERLY BYRON and HERB BATEMAN on the Armed Services Committee and of course our great chairman, SONNY MONTGOMERY.

Mrs. BYRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Subcommittee on Military Personnel and Compensation, I rise in strong support of H.R. 4213, as reported from the Committee on Armed Services.

There is no better investment in the future than the education of our young people. America is what it is today because of the accomplishments of those World War II veterans who returned to college under the first GI bill to become the scientists, engineers, doctors, teachers, and political leaders of their generation. The Montgomery GI bill is a similar investment in the next generation of Americans. In addition, it is a highly effective program to recruit and retain top quality young men and women in the Nation's Armed Forces.

Clearly, the Montgomery GI bill is an unequivocal success from the point of view of both the service member and the Department of Defense. As a result, Congress has taken a "go slow" approach toward any major changes in the current program structure. Nonetheless, some fine tuning is warranted based on 3 years of program operation. H.R. 4213 accomplishes that fine tuning.

H.R. 4213 makes seven changes in the present GI bill program:

First, it provides a death benefit for survivors of GI bill participants who die on active duty equal to the reduction in pay minus any educational benefits paid.

Second, it provides a disability benefit for GI bill participants who are disabled on active duty equal to the reduction in pay minus any educational benefits paid.

Third, it provides that a GI participant discharged for a preexisting medical condition would receive educational benefits equal to the number of months served—as do those discharged for disability, hardship or convenience of the government under current law.

Fourth, it authorizes payment for refresher and remedial courses under the GI bill.

Fifth, it provides a 120-day "window of opportunity" for service personnel who did not originally sign up for the GI bill to do so.

Sixth, in the Selected Reserve program, it eliminates the 180-day service requirement before use of benefits. The service member must still have completed the initial period of active duty for training.

Seventh, it permits use of the Selected Reserve program on a less-than-half-time basis.

There is no question about it: the Montgomery GI bill makes good sense for the individual service member, good sense for the Department of Defense, and good sense for the future of the Nation. It is a fitting tribute to the gentleman from Mississippi [Mr. MONTGOMERY] who has worked tirelessly to make the GI bill the success it is today.

The bill before the House today is a measured and cost-conscious effort to make minor adjustments to that highly successful program. It deserves the full support of my House colleagues, and I urge your favorable vote.

Mr. Speaker, I yield back the balance of my time.

Mr. BATEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking member of the Military Personnel and Compensation Subcommittee of the Committee on Armed Services, I have particular pleasure in rising in support of H.R. 4213, the Montgomery GI bill Amendments of 1988. I also wish to thank the gentleman from Mississippi [Mr. MONTGOMERY], and the subcommittee chairman, the gentlewoman from Maryland, [Mrs. BYRON], for their efforts in making this legislation a reality.

As my colleagues know, the GI bill has been a highly successful program since its implementation in July 1985 and is paying big dividends in terms of high quality military recruits and longer terms of enlistment. Currently, over 473,000 active duty service members have elected to participate in the program, and more than 87,000 members of the Selected Reserve have attended college under the program. The DOD-wide participation rate for those entering active duty is over 77 percent.

It is important for Congress to be sensitive to the changing educational needs of military personnel, the force management needs of the services, and costs to the taxpayers so that the Montgomery GI bill will continue to be the successful recruiting and retention tool it has been up to this point. The modifications contained in H.R. 4213 reflect this sensitivity. For instance, the bill authorizes payment for less-than-half-time study by Reserve and National Guard members. This provision enhances retention and provides and attractive study opportunity for individual service members, all at a modest overall cost. At the same time, concern over budget constraints and cost uncertainty drove the decision to defer action on a provision which would have expanded the Selected Reserve GI bill program to include vocational-technical training and graduate study.

Thus, the 1988 amendments to the Montgomery GI bill are a balanced, well-reasoned response to perceived inequities in current law and are designed to foster the continued operation of the bill as a cost-effective force management and recruiting device which tangibly benefits service personnel.

Mr. Speaker, the Montgomery GI bill is of great value to this country. Education is perhaps the single most important benefit we can provide to our young people. The education available through the GI bill guarantees the continued success of the all volunteer force and is an investment in the future of our country because our young men and women will be better prepared for the challenges of tomorrow. The enhanced educational opportunities provided by the Montgomery GI bill Amendments of 1988 make an important contribution to these goals.

I urge all Members to vote in favor of H.R. 4213.

Mr. SOLOMON. Mr. Speaker, I yield such time as he might consume to the gentleman from New Jersey [Mr. SMITH] a very valuable member of the committee and the ranking member of the subcommittee.

Mr. SMITH of New Jersey. Mr. Speaker, as ranking minority member of the Veterans' Affairs Subcommittee on Education, Training, and Employment, I rise in strong support of H.R. 4213, the Montgomery GI bill Amendments of 1988. The legislation, as reported by the Veterans' Affairs and Armed Services Committees, offers significant improvements to the very successful Montgomery GI Educational Assistance Program, the program the House overwhelmingly voted to make permanent just last year.

I am proud to be one of the principle sponsors of the legislation.

Mr. Speaker, the Montgomery GI Educational Assistance Program has been extremely popular with recruits and has been identified as one of the prime factors in attracting high-quality men and women to our Armed Forces. The GI Educational Program attracts serious-minded individuals to the services and offers them an incentive to remain in our Armed Forces. The evidence clearly indicates that attrition rates are lower than they were in earlier years and taxpayers are saved the expense of recruiting and training replacement manpower.

It is clear that the enhanced retention has had a beneficial impact on our military readiness.

The program, however, is in need of some reform in order to better address unique circumstances and to serve the special needs of today's recruit and his or her family. H.R. 4213 accomplishes this in several ways. Currently, in order to participate in the program, a recruit agrees to reduce his or her pay by $100 per month for 1 year in return for the educational benefit. If the participant does not utilize his or her educational benefit, the amount by which the participant's pay was reduced is retained by the treasury. H.R. 4213 provides for payment of the unused benefit to the beneficiary of a recruit who dies while on active duty and includes an amendment I offered in committee to provide payment to the participant who becomes so disabled that he or she is unable to use the benefit.

Adjustments in the program will also be made to provide benefits for the individual who is discharged from the service due to a preexisting medical condition. Instead of forfeiting the entire benefit, as is now required, the GI bill participant will be eligible to receive 1 month of educational assistance for every $100 reduced from his or her pay.

H.R. 4213 also expands the scope of classes available to the participant and gives the participant more flexibility in arranging his or her educational workload. Furthermore, H.R. 4213 offers administrative improvements to the GI bill. Selected Reservists are currently required to wait 180 days after completing initial active duty training before gaining entitlement for use of their educational benefit. This provision has created unnecessary administrative demands; a new provision in H.R. 4213, which I offered as an amendment during committee markup, will eliminate both the waiting period and needless paperwork.

Mr. Speaker, I would like to take this opportunity to commend the chairman and vice chairman of the Veterans' Affairs Committee, Mr. MONTGOMERY and Mr. SOLOMON, for their work on this legislation, and also thank the chairman of our subcommittee, Mr. DOWDY, for his leadership and cooperation in drafting the legislation. I also commend my colleagues on the Armed Services Committee and thank them for their efforts in developing H.R. 4213.

H.R. 4213 offers needed improvements to a topnotch program. I strongly urge my colleagues to support its passage.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am happy to rise in support of the Montgomery GI bill amendments. I know how much work has gone into this legislation and I just want to say that I commend my distinguished colleague, Mr. MONTGOMERY, and the members on the Veterans and Armed Services Committees for all their efforts in getting this bill to the House floor.

As an original cosponsor of this legislation and an advocate of the death benefit provision, I am especially pleased that an oversight in the original bill will now be corrected.

Last year, my constituent, Mike Grady, from Topeka brought the death benefit issue to the attention of the House Veterans Committee and Chairman MONTGOMERY.

He testified that his 18-year-old son, John, was killed in an automobile accident in West Germany while serving in the U.S. Army. During John's first year of service, John paid $100 out of his monthly paycheck to go toward his college education fund. John was a model soldier who had received the Army's Achievement Medal for Outstanding Service and had hoped to use the $1,200 he had contributed under the GI Education Program to attend the University of Kansas last fall. Instead, the money went to the U.S. Treasury because by oversight, the new GI bill made no provision to return the $1,200 in the event the soldier died before he or she could use the money for his or her education.

The bill we consider today changes all of that. Soldiers killed on active duty will no longer forfeit their cash contributions.

The total cash contribution reduced from the soldier's pay less any amount of educational assistance that has been paid, will now be transferable to a sister, a wife, a child—any designated beneficiary, in the event of a soldier's death while on active duty.

This was a mistake made by Congress and today, as a part of the Montgomery GI bill amendments, Congress can correct it. It is the fair and right thing to do. But most importantly, it is an honorable tribute to soldiers like young John Grady who can no longer serve their country or pursue their personal dreams. I urge my colleagues to support this bill.

And on behalf of John Grady's family, I again, would like to thank Mr. MONTGOMERY for all of his support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 4213, the Montgomery GI Bill Amendments of 1988, as reported by both the Committee on Armed Services and Veterans' Affairs.

I wish to commend the author and chief sponsor of this measure, my good friend and colleague, SONNY MONTGOMERY, for the leadership he has demonstrated in bringing this initiative to the floor.

Recognition should also be given to the Ranking member of the full committee, JERRY SOLOMON, the chairman and ranking member of the Subcommittee on Education, Training and Employment, WAYNE DOWDY and CHRIS SMITH, for their efforts and hard work on these amendments.

With joint referral of this measure to the Armed Services Committee, it is appropriate that Chairman LES ASPIN, and the ranking member, BILL DICKINSON, receive thanks for a job well done. In addition, a special note of appreciation to BEVERLY BYRON, chairman of the Subcommittee on Military Personnel and compensation, and its ranking member, HERB BATEMAN.

As we are all aware, the Montgomery GI bill has been a most effective and popular program.

Participation in the program has been beyond our expectations and with the implementation of these new amendments, that rate will no doubt increase.

In addition, the establishment of a 120-day grace period to provide service personnel with sufficient time to decide on whether they wish to participate is a good provision.

Even though there were several changes in this bill as reported by the Armed Services Committee, the amendments still serve as enhancements to the current program and deserve our support.

I wholeheartedly recommend the passage of H.R. 4213, as amended, to my colleagues.

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Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Kansas [Mr. SLATTERY] for bringing to our attention the problems as to those who are killed in the service, pertaining to the refunding to their families. Mr. Speaker, I would like to thank JERRY SOLOMON, BEVERLY BYRON, HERB BATEMAN, and CHRIS SMITH for their kind words here today.

Mr. Speaker, this bill belongs to all of the House of Representatives. Most Members sponsored this educational benefit. We are proud of it. It is working well.

Mr. JONTZ. Mr. Speaker, I rise today in support of H.R. 4213, the Montgomery GI Bill Amendments of 1988.

As a member of the Subcommittee on Education, Training and Employment of the House Veterans' Affairs Committee, I feel that we need to make the Montgomery GI bill as effective as possible in meeting the needs of our military personnel. H.R. 4213 includes several provisions which will make this successful program even more attractive and beneficial.

On July 1 of this year the Montgomery GI bill was 3 years old. In these 3 years 514,000 active duty recruits have enrolled in this program, with participation rates now ranging as high as 89.5 percent. This is a program that is good for the GI, the Armed Services, and the country. This Congress can be very proud of what it has done to make the GI bill work.

I believe that there are several improvements which can be made in the Montgomery GI bill which will make it a better program yet. Several of these are included in H.R. 4213.

The first provides for a death benefit to be paid to certain survivors of a service member who dies on active duty, or within 6 years of the date of discharge. In addition, a benefit payment would be made to a program participant who becomes physically or mentally disabled, and is unable to use his education benefits for that reason.

Although we are in an extended period of peace, service members continue to die in the line of service, as they have in the Marine barracks in Beirut and on the U.S.S. *Stark*. The immeasurable losses suffered by the families of these service members call for a compassionate response by our Government. It is only fair that this compensation be provided to the families of the deceased members. In addition, I think that we would all agree that a service member who becomes disabled and cannot attend school should also receive this compensation in lieu of benefits. This is simply the right thing to do.

H.R. 4213 also provides for 1 month of educational assistance for every month served by a program participant who is discharged for preexisting medical conditions. While this does not occur often, equity would seem to indicate this response.

A section of this bill that I am very interested in would provide a one-time, 120-day signup period to current members of the armed services on active duty who were eligible to participate but opted out of the program. During a trip which I made to several military installations last year many GI's told me that they wished that they could reverse their optout decision. Military officers testified before our subcommittee that they did not do the job that they now do in selling this program during its formative stages. Every program has startup difficulties that are difficult to avoid. This one-time opportunity would help to correct these shortcomings.

There are other provisions in this program that I highly commend to you, such as the inclusion of refresher and remedial courses in the approved education programs for GI bill participants. Testimony that our subcommittee received indicates that some service members may need refresher or remedial courses in order to enroll in an approved course of study leading to a degree.

I also endorse the portion of H.R. 4213 which provides that participants enrolled in the Selected Reserve Program—Chapter 106—have greater flexibility in their educational choices by allowing them to attend school on less than a half-time basis, and no longer requiring them to complete 180 days in the Selected Reserve before receiving educational assistance.

The Montgomery GI bill has been a very successful program for the military, the service member, and for the taxpayer. I feel that each of the changes contained in H.R. 4213 makes this program more attractive, equitable, and effective in meeting the needs for which the program exists. I urge your support of this bill.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 4213, the Montgomery GI Bill Amendments of 1988. I commend the gentleman from Mississippi [Mr. DOWDY] for introducing this fine bill, and the chairman of the Veterans' Affairs Committee [Mr. MONTGOMERY], the author of the original law, and the ranking minority member, our colleague from New York [Mr. SOLOMON] for their commitment to bettering the lives of our veterans and active members of the Armed Forces.

Mr. Speaker, since its enactment 3 years ago, the Montgomery GI bill has been one of the Armed Forces' most successful and popular incentives in recruiting and reenlisting qualified personnel. Over 473,000 active-duty servicemen and more than 87,000 selected reservists participate in the program today. Because of the GI bill, our future leaders no longer have to decide whether to serve their country or further their education. They can do both, and save money at the same time.

H.R. 4213 allows recovery of reduced basic pay for participants unable to take advantage of the educational benefits because of death or physical or mental disability occurring while on active duty. Payment will also be provided for a GI bill participant discharged early because of preexisting medical condition. Justifiably, the benefit adjustments are retroactive to July 1, 1985.

Furthermore, the Montgomery GI bill Amendments of 1988 expands the types of education programs covered to include refresher courses and deficiency training, and establishes a 120-day "window of opportunity" to sign up for the Montgomery GI bill for those persons who entered the service while the pilot program was in effect but had previously decided not to participate.

Mr. Speaker, the Montgomery GI Bill Amendments of 1988 enhances one of the most successful and cost-efficient programs the Federal Government has known. Accordingly, I ask my colleagues to join in support of H.R. 4312.

Mr. DOWDY of Mississippi. Mr. Speaker, I want to express my strong support for H.R. 4213, as amended, the Montgomery GI Bill Amendments of 1988.

As chairman of the Veterans' Affairs Subcommittee on Education, Training, and Employment, and as a member of the Committee on Veterans' Affairs since first coming to Congress in 1981, I have had the great pleasure of assisting in the development of the Montgomery GI bill and watching its growing success.

Since its implementation on July 1, 1985, more than 551,255 active duty recruits have chosen to participate in the newest GI bill. In addition, nearly 100,000 members of the Reserves and National Guard have gone to school under the progam. With a participation rate of 83.4 percent among recruits entering on active duty in July of this year, the popularity of the program with young people is clear. Additionally, during hearings held by my subcommittee, and in conversations with military leaders at the services' training bases, I have heard nothing but praises for the Montgomery GI bill as a cost-effective force management and recruitment tool. It's a solid gold program. Anytime we can help hundreds of thousands of American's young people attend college, or otherwise further their education, and we can do it while greatly strengthening our defense readiness, then we've done a good day's work.

Because of the GI bill's great success, the Veterans' Affairs Committee has pursued a policy of thinking long and hard before making changes in this program. Nevertheless, testimony received during subcommittee hearings and firsthand observation of the implementation of the program at training bases indicated to me that some fine tuning would be necessary and desirable.

H.R. 4213, as amended, was reported by the Veterans' Affairs Committee on April 26, 1988. Subsequently, the bill, which was jointly referred, was reviewed and amended by the Armed Services Committee, which reported the measure on September 9, 1988. As amended by the Armed Services Committee and approved by the House, H.R. 4213, as amended, would:

First, provide a death benefit to certain survivors of a Montgomery GI bill participant who dies on active duty. The benefit amount would equal the amount reduced from the participant's basic pay, minus any amount of educational assistance paid to the individual;

Second, provide a benefit payment to a GI bill participant who, while on active duty, becomes so physically or mentally handicapped that the individual is unable to go to school. The benefit payment would equal the amount reduced from the participant's basic pay, minus any amount of educational assistance that was paid to the individual;

Third, provide that a Montgomery GI bill participant who is discharged from military service for a preexisting medical condition would be entitled to 1 month of educational assistance for each month of active duty served by the individual;

Fourth, authorize the payment of benefits for refresher training;

Fifth, provide a 120-day period during which service personnel, who entered service between July 1, 1985, through June 30, 1988, and who chose not to participate in the Montgomery GI bill, may enroll in the program;

Sixth, permit those training under the Montgomery GI bill-Selected Reserve program to attend school in a less than half-time basis; and

Seventh, eliminate the requirement under current law that an individual complete 180 days in the Selected Reserve before receiving educational assistance under the Montgomery GI bill-Selected Reserve program.

Although the bill as amended by the Armed Services Committee and passed by the House does not differ greatly from that approved by the Veterans' Affairs Committee, I do regret that the Armed Services Committee eliminated the Veterans' Affairs Committee provision which would have authorized the payment of benefits for flight training under the Montgomery GI bill. I believe that our provision, which would have enabled GI bill participants to train for jobs in the expanding airline industry, was a good one. While the total number of available pilots is decreasing, demand is growing. Veterans should have the opportunity to train for a career in this high-demand profession. I hope we will review this issue again in the future.

In spite of this change, H.R. 4213, as amended, is a good bill that will further enhance the already highly successful Montgomery GI bill.

Special commendation should go to the chairman of the full committee, my colleague from Mississippi and good friend, G.V. (SONNY) MONTGOMERY, for his guidance and support as we developed H.R. 4213. SONNY is the author and chief sponsor of the newest GI bill and the program is appropriately named for him. I also want to thank the ranking minority member of the full committee, JERRY SOLOMON of New York, for his leadership on this issue.

Additionally, I want to express my appreciation to the ranking minority member of the Education, Training, and Employment Subcommittee, CHRIS SMITH of New Jersey, for his good work on H.R. 4213 and all issues which have come before the subcommittee during the 100th Congress. It has been a pleasure working with him and all members of the subcommittee.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4213, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "An act to amend titles 10 and 38, United States Code, with respect to the Montgomery GI Bill, and for other purposes."

A motion to reconsider was laid on the table.

DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL HERITAGE CORRIDOR ACT OF 1988

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3957) to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania, as amended.

The Clerk read as follows:

H.R. 3957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Delaware Canal, which opened for regular commercial navigation in 1834, provided an early and essential link in a 4,000 mile national transportation route and helped to transform Pennsylvania from an agrarian region to the center of an industrialized society.

(2) The Canal served as the primary means for transporting coal and other bulk goods from the "Anthracite Region" of Pennsylvania to New York, New Jersey, Philadelphia, and other industrial centers as far away as Europe.

(3) As part of an elaborate national transportation system, the Delaware Canal and Lehigh Navigation Canal played a critical role in supplying our developing nation with the coal that fueled its factories and heated its homes.

(4) The route of the Delaware Canal parallels stagecoach routes and the trails of the Lenni-Lenape Indians, and passes numerous 18th, 19th, and 20th century sites of national and state historical significance.

(5) In 1978, the Delaware Canal was declared a National Historic Landmark, and portions of the Lehigh Navigation Canal were placed on the National Register of Historic Places and designated a National Recreation Trail.

SEC. 3. ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the Commonwealth of Pennsylvania the Delaware and Lehigh Navigation Canal National Heritage Corridor (hereinafter in this Act referred to as the "Corridor").

(b) PURPOSE.—It is the purpose of this Act to provide a management framework to assist the Commonwealth and its political subdivisions in developing and implementing integrated cultural, historical, and natural resource policies and programs that will preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within and surrounding the Delaware and Lehigh Navigation Canal in the Commonwealth.

SEC. 4. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries of the Corridor shall include those lands generally depicted on the map entitled "Delaware and Lehigh Navigation Canal National Heritage Corridor" numbered DELE-90,000 and dated August, 1988. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and the Pennsylvania Department of Environmental Resources. As soon as practical after the date of enactment of this Act, the Secretary of the Interior shall publish in the Federal Register a detailed description and map of the boundaries established under this subsection.

(b) ADMINISTRATION.—The Corridor shall be administered in accordance with the provisions of this Act.

SEC. 5. DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall assist appropriate Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the Corridor.

(b) MEMBERSHIP.—The Commission shall be composed of 21 members appointed not later than 6 months after the date of enactment of this Act as follows:

(1) The Director of the National Park Service ex officio (or his delegate).

(2) 4 individuals nominated by the Governor of the Commonwealth and appointed by the Secretary, who shall represent the Pennsylvania Department of Environmental Resources, the Pennsylvania Historical and Museum Commission, the Pennsylvania Department of Commerce/Economic Development Partnership, and the Pennsylvania Department of Community Affairs.

(3) 8 representatives of local governments from the Commonwealth nominated by the Governor of the Commonwealth and appointed by the Secretary, of whom 4 shall be representatives from the Lehigh Navigation Canal region and 4 shall be representatives from the Delaware Canal region.

(4) 8 individuals from the general public who are citizens of the Commonwealth nominated by the Governor of the Commonwealth and appointed by the Secretary, who shall have knowledge and experience in appropriate fields of interest, relating to the preservation, use, and interpretation of the Corridor of whom 4 shall be residents of the Lehigh Navigation Canal region and 4 shall be residents of the Delaware Canal region. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) TERMS.—Members of the Commission shall be appointed for terms of 3 years and may be reappointed.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission. The term of the chairperson shall be 2 years.

(f) QUORUM.—(1) 11 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The affirmative vote of not less than 6 members of the Commission shall be required to approve the budget of the Commission.

(g) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date on which its members are appointed, and shall meet at least quarterly at the call of the chairperson or 6 of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

SEC. 6. STAFF OF THE COMMISSION.

(a) IN GENERAL.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursa-

ble basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from the Commonwealth and any political subdivision thereof, and may reimburse the Commonwealth or such political subdivision for those services.

SEC. 7. POWERS OF COMMISSION.

(a) Hearings.—(1) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) Powers of Members and Agents.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) Administrative Support Services.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) Use of Funds To Obtain Money.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) Gifts.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States.

(g) Acquisition of Real Property.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the Corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) Cooperative Agreements.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the Commonwealth, with any political subdivision of the Commonwealth, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the Commonwealth, such political subdivision, or such person which may affect the implementation of the Plan.

(i) Advisory Groups.—The Commission may establish such advisory groups as it deems necessary to ensure open communication with, and assistance from, the Commonwealth, political subdivisions of the Commonwealth, and interested persons.

SEC. 8. DUTIES OF THE COMMISSION.

(a) Preparation of Plan.—Within 2 years after the Commission conducts its first meeting, it shall submit to the Secretary of the Interior a Cultural Heritage and Corridor Management Plan. The Plan shall be based on existing Federal, Commonwealth, and local plans, but shall coordinate those plans and present a unified historic preservation and interpretation plan for the Corridor. The Plan shall—

(1) provide an inventory which includes any property in the Corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

(2) develop an historic interpretation plan to interpret the history of the Canal and its surrounding area;

(3) recommend policies for resource management which consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, that will protect the Corridor's historical, cultural, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(4) detail the ways in which local, Commonwealth, and Federal programs may best be coordinated to promote the purposes of this Act; and

(5) contain a program for implementation of the Plan by the Commonwealth and its political subdivisions.

(b) Implementation of Plan.—After review and approval of the Plan by the Secretary of the Interior as provided in section 10(a), the Commission shall implement the Plan by taking appropriate steps to preserve and interpret the historic resources of the Canal and its surrounding area, and to support public and private efforts in economic revitalization consistent with the goals of the Plan. These steps may include, but need not be limit to—

(1) assisting the Commonwealth in preserving the Canal;

(2) assisting the Commonwealth and local governments in designing, establishing, and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting in increasing public awareness of and appreciation for the historical, architectual, and geological resources and sites in the Corridor;

(4) assisting the Commonwealth, local governments, and nonprofit organizations in the restoration of any historic building in the Corridor;

(5) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the Plan;

(6) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the Plan, and to take actions to implement those policies; and

(7) ensuring that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 9. TERMINATION OF COMMISSION.

(a) Termination.—Except as provided in subsection (b), the Commission shall terminate on the day occurring 5 years after the date of the enactment of this Act.

(b) Extensions.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination referred to in subsection (a) if, not later than 180 days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate; and

(3) the Governor of the Commonwealth and the Secretary each approve such extension.

SEC. 10. DUTIES OF THE SECRETARY.

(a) Approval of Plan.—The Secretary of the Interior shall approve or disapprove a Plan submitted to him under this Act by the Commission not later than 60 days after he receives such Plan. The Secretary shall approve a Plan submitted to him if—

(1) he finds that the Plan, if implemented, would adequately protect the significant historical and cultural resources of the Corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor;

(2) he determines that the Commission held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the Plan; and

(3) he receives adequate assurances from appropriate Commonwealth officials that the recommended implementation program identified in the Plan will be initiated within a reasonable time after the date of approval of the Plan, and that such implementation program will ensure effective implementation of the State and local aspects of the Plan.

(b) Disapproval of Plan.—If the Secretary disapproves a Plan submitted to him by the Commission, he shall advise the Commission in writing of the reasons therefore and shall make recommendations for revisions in the Plan. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted to him.

(c) Interpretive Materials.—Following approval of the Plan as provided under subsection (a), the Secretary shall assist the Commission in designing and producing interpretive materials based on the Plan. Such materials may include—

(1) guide brochures for exploring the Corridor by automobile, train, bicycle, boat, or foot;

(2) indoor and outdoor visitor displays, which may include video presentations, at several locations along the Corridor; and

(3) a mobile display describing the history of the Corridor, to be used in the Corridor, public buildings, libraries, and schools.

(d) Technical Assistance.—The Secretary of the Interior shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan.

SEC. 11. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the flow of *the Canal or the natural resources of the Corridor shall—*

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the Plan and the provisions of this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There is authorized to be appropriated annually to the Commission to carry out its duties under this Act $350,000, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

(b) SECRETARY.—There are authorized to be appropriated annually to the Secretary such sums as may be necessary to carry out his duties under this Act.

SEC. 13. DEFINITIONS.

For purposes of this Act—

(1) the term "Canal" means the Delaware and Lehigh Navigation Canal.

(2) the term "Commission" means the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission established under section 5(a);

(3) the term "Commonwealth" means the Commonwealth of Pennsylvania;

(4) the term "Corridor" means the Delaware and Lehigh Navigation Canal National Heritage Corridor established under section 3(a);

(5) the term "Plan" means the Cultural Heritage and Corridor Management Plan to be prepared by the Commission pursuant to section 8(a); and

(6) the term "Secretary" means the Secretary of the Interior.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **RHODES.** Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. **VENTO.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3957, the bill presently under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. **VENTO.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3957 would designate that Delaware and Lehigh Navigation Canal as a National Heritage Corridor in the Commonwealth of Pennsylvania. The legislation was introduced by our colleague PETER KOSTMAYER, who, along with Representative RITTER, represents the areas through which the canals flow.

Pennsylvania has a long and distinguished history in the founding and advancement of the United States. It stood on the cutting edge of the change of our country from an agrarian nation to an industrialized society. The work of the canals and the labors of its citizens were an important part of that change.

The Delaware Canal, extends from Easton to Bristol, PA, a distance of approximately 60 miles. The 46-mile Lehigh Navigation Canal extends from Jim Thorpe to Easton, PA. Together, the two canals linked the Pennsylvania anthracite coal and mining regions with developing industrial centers and seaports, providing the raw materials that fueled America's industrial revolution. The canals represent a tremendous historical and cultural resource that has been previously recognized. The Delaware Canal was designated a national historic landmark in 1978 and in 1979, 31.5 miles of the Lehigh Canal were designated a National Recreation Trail. Additionally approximately 21 miles of the Lehigh Canal have been placed on the National Register of Historic Places.

H.R. 3957, as reported by the Committee on Interior and Insular Affairs, would authorize the establishment of a 21-member Heritage Corridor Commission made up of Federal, State, and local officials, and interested individuals to prepare a plan and assist the Commonwealth of Pennsylvania and local governments in the Delaware-Lehigh region in preserving and interpreting the historical and cultural heritage of the area.

The committee has received extensive testimony on the commitments and contributions that are and will be made to the Heritage Corridor project by the Commonwealth and local government, as well as the role the National Government can play in assisting in the preservation and interpretation of the corridor's resources.

Special commendation is due my colleague and friend, Representative KOSTMAYER, for his leadership on this legislation. He has been a forceful advocate in encouraging a cooperative partnership for the preservation and interpretation of significant natural and cultural resources in the Pennsylvania region as well as throughout our Nation.

I support H.R. 3957, as amended, and urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. **RHODES.** Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER], one of the sponsors of the legislation.

Mr. **RITTER.** I thank the gentleman for yielding time to me.

Mr. Speaker, in the Lehigh and Delaware River Valleys, we have not only a beautiful but a very impressive national historic treasure.

In my own district, the Lehigh River weaves its way through the valley like a thread joining the fabric, often patchwork, of adjacent communities. In the past, it brought diverse interests and communities together. It can do so again.

This legislation, introduced by my colleague, Representative KOSTMAYER of Bucks County and myself would establish a National Heritage Corridor for the Delaware and Lehigh Navigation Canal. The corridor includes the canal, the river, and historic sites along the way.

What a boon to our area and a contribution to the Nation if we can get our canal, our historic treasures, and our river in better shape for all to enjoy. We seek a present-day version when the river and canal were king.

Second, a National Heritage Corridor gives the citizens of the Lehigh Valley the opportunity to work together so that this beautiful waterway can once again live up to its potential.

In an era of rapid growth and change, the corridor will allow us to build bridges between the various governmental entities—the counties, the municipalities, the boroughs, and the townships along the length and breadth of the river.

Historic preservation is the crucial first step. It is important not only for preservation's sake but for the recreation, conservation, sportsman's activities, economic and residential development, environmental improvement, and tourism that can result. Such corridors have been successfully established in Illinois and Massachusetts and Rhode Island. It can happen in the Lehigh Valley.

An organizational structure with guidance from the Park Service can be so helpful.

In previous years, I brought together a group of public officials and private citizens from county executives to shad fishermen; from history buffs to business people; from bankers to boaters. But in our meetings and through our communciations, we could not find the right place to start. Coordination with Federal guidance is needed to put the pieces of the puzzle together.

This bill would establish a Commission to bring the concerned parties together. It will coordinate different interests, set goals and help plan the future management of the corridor. This working body would have a total of 21 Federal, State, and local officials, including 8 Lehigh Valley residents.

Such a project helps establish our area as a prime historic attraction for tourism. The Delaware and Lehigh Navigation Canals were part of an elaborate national canal and river-based transportation system. They provided our developing Nation with the coal that fueled its factories and heated its homes. They opened for commercial navigation in 1834 and provided an early link in a 4,000-mile national transportation route. They transformed Pennsylvania from an agrarian region to the center of an industrialized society. That's quite a heritage for the Lehigh Valley. Others will want to share it.

The bill authorizes $350,000 annually to the Commission with a 50-percent cost-sharing requirement. I see it as an effective way for the Federal Government, via the National Park Service, to parlay their limited seed funds, their immense technical expertise, and a national historical stimulus into * * *.

I received a letter from Secretary Hodel today which stated, and I quote, "We support the goals of your legislation to set up a planning process to look toward the future of the area, and I am personally persuaded that it is an excellent concept. It could be a forward-looking and innovative example of Federal, State, and local cooperation." I ask unanimous consent to have a copy of Secretary Hodel's letter to be inserted at this point in the RECORD.

We are not breaking new ground with this bill.

This legislation was modeled after laws establishing the Illinois and Michigan Canal National Heritage Corridor which became public law on August 24, 1984, and the Blackstone River Valley National Heritage Corridor which became law on November 10, 1986, both signed by this President. In both cases, they provide good examples of how such Commissions can work and how our national heritage can be enhanced by limited but intelligent Federal guidance.

I urge my colleagues to support this legislation to help our local citizens help themselves rejuvenate a beautiful area for recreation as well as to enlighten all our citizens about the historic roots of our industrial democracy.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOSTMAYER], a member of the subcommittee and a longtime member of this committee.

As I mentioned earlier, Mr. Speaker, he has done yeoman service on our committee, on this and on other resource issues.

Mr. KOSTMAYER. Mr. Speaker, hard against Pennsylvania's easternmost edge, and slowly stretching like a long and slender dark strand, runs the Delaware Canal.

From its southernmost point at Bristol, a mill town on the Delaware River founded a century before the American Revolution, the canal moves through urban communities into suburbia into the open countryside, slicing through lush farmland on its way to Easton, 60 miles north where it meets the Lehigh Canal.

For nearly 100 years from its construction in 1832 until 1931, coal from the mines of northeastern Pennsylvania moved on mule-drawn barges down the canal to Bristol where it was unloaded and hauled overland to cities and factories.

Parts of it have been filled in and covered with a shopping center, other parts lie empty and in disrepair, other stretches, though, are filled with water and look as they must have looked 100 years ago surrounded by the farms and fields of southeastern Pennsylvania.

Parallel to the canal is the Delaware River and across the river lies New Jersey, or what was once called just "West Jersey."

Although much of the corridor bounded on one side by the canal and on the other by the river is developed, much is not.

For miles one can walk along the dirt and grass pathway by the canal, called a towpath, and see only farmland, and an occasional stone farmhouse and then the river, uncrowded and unobscured by development.

This corridor, much of which was wisely set aside by Pennsylvania, as the Theodore Roosevelt State Park, and the canal itself, are the object of H.R. 3957, which is before the House today.

H.R. 3957 which I introduced on February 17, 1988, and which is cosponsored by my colleague, the gentleman from Pennsylvania, Mr. RITTER, would designate the canal a National Heritage Corridor, thus, establishing a new partnership between the Federal Government, State and local governments and the public to preserve, renovate, and rehabilitate the historic Delaware Canal.

H.R. 3957 carries with it an annual authorization of $350,000 a year for the next 5 years for operating expenses of an unsalaried 21-member commission charged with developing a master plan for the permanent protection and preservation of the canal.

The plan, which would have to be completed within 24 months of enactment, would include an inventory of any property in the corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance; provide a plan to interpret the history of the canal and its surrounding area; recommend policies for environmental protection of the area; and detail the ways in which Federal, State, and local efforts may best be coordinated.

The new plan would be based on existing management plans already prepared by "The Friends of the Delaware," a citizen organization committed to the canal's protection and preservation.

The commission's members, Mr. Speaker, 16 of whom would be local residents shall for the first time forge a local consensus for a comprehensive plan to save the threatened Delaware Canal.

Included in H.R. 3957, is the Lehigh Canal in Representative RITTER's congressional district.

Like the Delaware Canal the Lehigh was at one time "an essential link in a 4,000 mile national transportation route."

This crucial designation by the Congress and the National Park Service will help to bring the additional State and local dollars as well as much needed attention to the Delaware Canal.

Under the bill, the National Park Service is required to assist the commission in designing and producing interpretive materials, it is also required to inventory the corridor, to identify other sites eligible for national historic designations, help identify alternative funding sources and upon the request of the commission, to provide technical assistance to the commission during preparation and implementation of the plan.

Mr. Speaker, today begins a new chapter in the history of the Delaware Canal.

I want to thank my colleague from Minnesota, Mr. VENTO, the chairman of the Subcommittee on National Parks and Public Lands, for his tireless efforts on behalf of this legislation.

The people of Bucks County, PA, offer him their thanks.

Mr. Speaker, that whole region through which the Delaware Canal and Delaware River run, constitute in important natural and scenic resource for America.

Today the Congress has taken another important step in preserving it, even though is in the midst of one of the most densely populated areas of the Nation. We have done so to ensure that this important historic, cultural and recreational resource is not lost to the people of Pennsylvania or the Nation.

But, we must do more, Mr. Speaker, to save as much as we can before it is too late.

I urge my colleagues to support H.R. 3957, the Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988.

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Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3957, to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in Pennsylvania.

This designation provides for cooperation between public and private entities to preserve the numerous historic, natural, cultural, and scenic resources within the corridor. Two similar corridors have already been created by Congress—the Illinois and Michigan Canal in 1984 and the Blackstone River Valley in 1986.

Under H.R. 3957, a Commission would be established to assist Federal, State, and local authorities with the development and implementation of a historic preservation and interpretation plan for the corridor, which would encompass the Delaware and Lehigh Canals and the surrounding areas along the two rivers. Members of the Commission would include the Director of the National Park Service, representatives of the Pennsylvania Department of Environmental Resources, the Pennsylvania Historical and Museum Commission, the Pennsylvania Department of Commerce/Economic Development Partnership, the Pennsylvania Department of Community Affairs, and representatives of local governments and local citizens. The plan developed by the Commission would have to be approved by the Secretary prior to implementation.

The bill provides that the Commission may only acquire land by donation or with donated funds on a willing seller basis. Upon acquisition, the land would be transferred to an appropriate land managing agency. The bill also authorizes the Commission to enter into cooperative agreements with public or private entities to assist in carrying out the plan. The Commission would terminate 5 years after enactment of the bill, but could be extended for an additional 5 years with approval by the Secretary and the Governor.

Finally, the bill provides for consultation and cooperation with the Secretary and the Commission by other Federal entities conducting activities which affect the canals or the other resources of the corridor. Appropriations of $350,000 per year for 5 years are authorized for the activities of the Commission. However, the Federal contribution may not exceed 50 percent of the annual costs of the Commission.

Mr. Speaker, the 60-mile long Delaware Canal runs from Easton to Bristol, PA, and was completed in 1832. In 1834, the Lehigh Navigation Canal opened, extending from Jim Thorpe to Easton, PA. The two canals became a major transportation route which transformed southeastern Pennsylvania into an industrial region. Currently a national historic landmark, the Delaware Canal is the only fully watered towpath canal still in existence in the United States. Approximately 31.5 miles of the Lehigh Canal have been designated a national recreation trail and 21 miles have been placed on the national register of historic places.

There are presently 134 historic register sites and districts and 8 historic landmarks within the proposed corridor. Several private and public entities, including State and local governments, have acted to protect resources within the corridor through tax incentives and land and water conservation fund matching grants. H.R. 3957 would provide for Federal coordination and assistance with these activities.

I want to commend my colleagues from Pennsylvania, Mr. RITTER and Mr. KOSTMAYER, who represent the area of the proposed corridor and introduced H.R. 3957. They have invested a great deal of time and effort in developing this legislation and moving it through the legislative process toward House passage.

Mr. Speaker, I believe H.R. 3957 is a good bill. It seeks to preserve the many resources of the Delaware and Lehigh Navigation Canals for the public's education and enjoyment through cooperation between Government entities and public involvement. Therefore, I urge my colleagues to approve H.R. 3957.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a worthy proposal. We have held hearings in Yardley, PA, which were hosted by the gentleman from Pennsylvania [Mr. KOSTMAYER] and attended by the gentleman from Pennsylvania [Mr. RITTER]. We had hearings in Washington. This proposal represents the culmination of a great deal of work in the local communities, and I am very proud to bring it to the floor.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I would be remiss if I did not personally thank the gentleman from Minnesota [Mr. VENTO] for his excellent work in helping to bring this bill to fruition. I would also mention that Secretary Hodel was in the Lehigh Valley of Pennsylvania not long ago taking a look at one leg of this proposal. He was very enthusiastic about it, as I mentioned. He wrote us a letter on that.

Mr. Speaker, again I want to thank my colleague, the gentleman from Minnesota, for his excellent work in helping to bring this bill to fruition.

Mr. VENTO. Mr. Speaker, I was happy to work with the gentleman, and I thank him for his cooperation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3957, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the bill, as amended, was passed.

A motion to reconsider was laid on the table.

POVERTY POINT NATIONAL MONUMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 775) to provide for the establishment of the Poverty Point National Monument and for other purposes, as amended.

The Clerk read as follows:

H.R. 775.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—In order to preserve the archaeological area known as Poverty Point, Louisiana, and to interpret and conduct further research on such area, its people and their culture, there is hereby established the Poverty Point National Monument (hereafter in this Act referred to as the "monument").

(b) AREA INCLUDED.—The monument shall consist of the lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Poverty Point National Monument", numbered PO-PT 80,000, and dated August 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and at the monument. The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may, from time to time, make minor revisions in the boundary of the monument.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the monument in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary is authorized to acquire personal property for the purpose of administering the monument.

(b) MANAGEMENT PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop and implement a management plan for the monument. The Secretary shall promptly submit plan to the appropriate committees of the Congress.

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with institutions of higher education and professional societies to conduct further research on Poverty Point, its people and their culture.

(d) EMPLOYMENT.—The Secretary shall utilize existing authority, to the extent practicable, to employ those persons managing the State commemorative area at Poverty Point, Louisiana.

SEC. 3. ACQUISITION OF LAND.

The Secretary may acquire land or interests in land within the boundaries of the monument by donation, purchase from a willing seller with donated or appropriated funds, or exchange. Lands, and interests in lands, within the boundaries of the monument which are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

SEC. 4. ADVISORY COMMISSION.

(a) Establishment.—(1) There is hereby established the Poverty Point National Monument Advisory Commission (thereafter in this section referred to as the "Advisory Commission"). The Advisory Commission shall be composed of 7 members appointed by the Secretary as follows:

(A) 3 members from those nominated by the Governor of Louisiana, including the State of Louisiana Historic Preservation Officer;

(B) 2 members from professional archaeologists in the archaeology community; and

(C) 2 members from the public with particular interests in Poverty Point.

(2) Members of the Advisory Commission shall be appointed for terms of 3 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed.

(3) The Advisory Commission shall designate one of its members as Chairperson.

(b) Management and Development Issue.—The Secretary, or his designee, shall from time to time, but at least semiannually meet and consult with the Advisory Commission on matters relating to the management and development of the monument.

(c) Meetings.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area afffected by the monument. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(d) Expenses.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(e) Charter.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. DENNY SMITH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Oregon [Mr. Denny Smith] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 775, a bill introduced by our colleague Congressman Jerry Huckaby establishes the Poverty Point National Monument as a unit of the National Park System. Our colleague indeed must be commended for his diligence in pursuing this proposal.

Long known as Poverty Point, this premiere archeological site is anything but impoverished. Dating back beyond 700 B.C., its age, size, and resources all give it national significance. Nearly 3,000 years old, Poverty Point is the largest settlement of comparable age. Today the site consists of six concentric semicircular ridges roughly 75 feet wide and 9 feet high and nearby mounds, the largest two measuring 21 feet high and 63 feet high. The amount of effort to construct such structures is impressive even today. But without 20th century technology was surely a remarkable feat. Yet much of the history of its prehistoric people, their culture and the actual construction of the mounds and ridges that we see today, remain a mystery in spite of various research efforts.

The Committee on Interior and Insular Affairs adopted an amendment in the nature of a substitute that makes several technical changes in the bill as introduced. The amendment specifies the purposes of Poverty Point National Monument as the preservation, interpretation, and research of Poverty Point, its people and their culture. It establishes the monument, references a map, and authorizes acquisitions of lands and interests in lands by donation or purchase. The amendment also specifies that the generic National Park Service legislation be used to administer the new national monument, that a general management plan shall be prepared within 2 years, and that the Secretary is authorized to enter into cooperative agreements with universities and professional societies to conduct further research. Finally, the amendment authorizes appropriations and directs the Secretary to utilize his existing authority to continue to employ those individuals now working at the State commemorative area. It is our intention that the transition between State and Federal ownership and management be as smooth as possible. These changes will provide a sound framework for a new national monument.

Mr. Speaker, Poverty Point certainly is a site worthy of inclusion in the National Park System. I endorse this bill and urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. Huckaby], the prime sponsor of this legislation.

Mr. HUCKABY. Mr. Speaker, as the author of H.R. 775, I join the chairman of the Subcommittee on National Parks and Public Lands in support of designating Poverty Point archeological site as a national monument. As noted in the record, this site is widely recognized by experts as one of the most profound finds of prehistoric civilization in all of North America. In fact, there are no other prehistoric settlements in North America and only one in South America that even come close to Poverty Point in terms of size or organizational complexity. Located in my congressional district, Poverty Point dates back to a period between 2000 B.C. to 700 B.C., about 3,000 years old. It consists of large earthen mounds, concentric ridges, and burial grounds. It has been preliminarily determined that Poverty Point was once a religious, civic, and trading center, rather than an agricultural-based settlement—in other words, the home of hunter-gatherers. Hunter-gatherers are characterized, both prehistoric and present day, as restless bands of people, relocating frequently. The massive earthworks at Poverty Point reflect the highest level of sustained community labor ever attained by a hunter-gatherer group, and represent an impressive monument to an unmatched, if still not completely understood, peak of prehistoric cultural development. Archeologists estimate that the total length of the giant earthmounds would be 7 miles long, and that they required millions of hours of labor to construct. It probably took 30 million basket loads of 50 pounds each to build the mounds and concentric ridges.

Poverty Point also served as the center of an extensive trading network, where the inhabitants used the Arkansas and Mississippi Rivers for such purposes. Over 60,000 artifacts have been found at the site, many not indigenous to the region, indicating trade with people as far away as Illinois, Virginia, and Florida.

Perhaps the significance of Poverty Point can be better understood if we scan the rest of the world at the time of Poverty Point's "Golden Age," around 1200 B.C. to 800 B.C., and compare it to other civilizational movements.

In England at this time, the last phases of Stonehenge were being constructed. In the eastern Mediterranean, Troy was a regionally dominant power, and Jerusalem was just being founded. Further east, the peak of Babylonian civilization had been reached, and to the south, Moses was leading the Jews out of Egyptian bondage.

The peak of the Poverty Point culture occurred a thousand years before most of the classical civilizations had developed in Mexico and Peru.

Against this backdrop, we may view Poverty Point as the first major development step toward a higher technology, a more complex social organization, and a far-reaching mercantile network in North America.

But for all of its tantalizing complexities, little of its grandeur is understood. Even though the archeological community of field researchers have been investigating Poverty Point for over 35 years, we still cannot explain what the massive earthworks were used for, how its population existed, nor even why the site emerged in the locality it occupies. The answers to these questions, and more, need to become public knowledge.

The Advisory Board on National Parks, Historic Sites, Buildings, and Monuments recommended in 1962 that Poverty Point be included in the National Park System, but it was not added. Instead, it was designated a national historic landmark that same year. A bill was introduced in Congress in 1963 to make Poverty Point a unit of the park system, but it did not survive all the way through the legislative process. In 1973, the State of Louisiana, with financial assistance from the U.S. Department of Housing and Urban Development, purchased the 400-acre core of the area and designated it as a State commemorative area.

The State of Louisiana had done a fine job of properly caring for the site. It has built a superb museum, with the artifacts on display, and dormitories to house the visiting researchers, necessary in such an isolated area. It has provided excellent guided tours of Poverty Point and a tourmobile for handicapped visitors. In 1984, 54,500 visitors were recorded on site.

Unfortunately, because of a severe economic downturn in the State, budget cuts had to be made and Poverty Point was closed in September 1986. Because of my long-time interest in Poverty Point and my concern that the State would be financially unable to reopen the site in the future, I introduced this bill to assure its protection and for the benefit of the public. It has been reopened since then, but on a temporary, open/close schedule.

Because of this uncertainty, I conferred with Louisiana's Governor, and he has agreed to donate the State land to the National Park System. As mentioned by my colleague from Minnesota, the legislation authorizes the Secretary of the Interior to acquire the 400-acre State commemorative area, and an additional 495.71 acres owned by the John Hancock Mutual Life Insurance Co., to be purchased, unless donated, on a willing seller basis. No condemnation of lands can occur. The measure also provides for cooperative agreements with universities and professional societies to conduct further research at the Poverty Point Site. It also authorized the Secretary to employ those individuals now working at the State commemorative area to the greatest extent possible. And, finally, the bill establishes a permanent advisory commission to give a State and archeological perspective and to provide public input on the management and maintenance of Poverty Point.

Let me sum up by quoting the words spoken by a noted archeologist and an authority on Poverty Point. Dr. Jon Gibson of the University of Southwestern Louisiana, in describing this remarkable site:

> Poverty Point represents a charge and a commitment. The proud people who were carriers of Poverty Point culture are all dead. But the things they created, their magnificent achievements, their contributions to the saga of human development on this planet to live on. Theirs is a legacy worth understanding.

Poverty Point is certainly worthy of preserving and maintaining as a unit of our great National Park System. I urge my colleagues to support H.R. 775.

Mr. DENNY SMITH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 775 would designate Poverty Point as a national monument and make it a unit of the National Park System. The Poverty Point site is believed to be the largest and most complex geometrical earthwork in North America. It is also one of the oldest sites, of this type, dating back to 600 B.C. This site is one of the major ceremonial sites in North America, and it shows the tremendous efforts that were needed to construct such a site, just from its sheer size. I along with other Members feel it is important to have a site, highlighting that part of our prehistory, such as Poverty Point, in our national inventory of parks. It meets the two requirements that I think all new park units should be required to meet. It is unique and of a quality that should be maintained for the benefit of all Americans.

The National Park Service's involvement began in the early 1950's and I think demonstrates the quality of this complex. The administration agrees the national significance of the site is not in question, their concern is with who manages the site. Designating it as a national monument settles that issue once and for all.

Mr. HUCKABY's bill, which is also cosponsored by the rest of the Louisiana delegation, clearly shows the strong bipartisan support this bill has in their State. I know the gentleman from Louisiana [Mr. HUCKABY] has worked a long time on insuring this site is properly managed and cared for and this bill will accomplish that goal. I urge Members on our side of the aisle to support its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 775, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REMOVING CERTAIN LAND ACQUISITION RESTRICTIONS FOR ANTIETAM BATTLEFIELD

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4554) to remove certain restrictions on land acquisitions for Antietam National Battlefield, as amended.

The Clerk read as follows:

H.R. 4554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF CERTAIN RESTRICTIONS ON LAND ACQUISITIONS FOR ANTIETAM NATIONAL BATTLEFIELD.

(a) ACREAGE LIMITATION.—The first section of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland", approved April 22, 1960 (16 U.S.C. 430oo) is amended by striking out "Not more than 600 acres of land, however, shall be acquired in fee by purchase or condemnation, but neither this limitation nor any other provision of law shall preclude such acquisition of the fee title to other lands and its immediate reconveyance to the former owner with such convenants, restrictions, or conditions as will accomplish the purposes of this section: *Provided*, That the cost to the Government of any such transaction shall not exceed the reasonable value of the covenants, restrictions, or conditions thereby imposed on the property.".

(b) SCENIC EASEMENT LIMITATION.—Section 319(a) of the National Parks and Recreation Act of 1978 (16 U.S.C. 430oo note) is amended by striking out "only scenic easements over".

(c) SITE REDESIGNATION.—Section 319(b) of the National Parks and Recreation Act of 1978 (16 U.S.C. 430nn note) is amended by striking out ", including only scenic easements acquired pursuant to subsection (a) of this section,".

The SPEAKER pro tempore. Is a second demanded?

Mr. DENNY SMITH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Oregon [Mr. DENNY SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4554, a bill introduced by our colleague on the committee, Congresswoman BEVERLY BYRON, authorizes the National Park Service to acquire additional lands within the existing boundary of Antietam National Battlefield. Congresswoman BYRON is carrying on a Byron tradition in offering this proposal. Almost all policy affecting the park has been a product of the various Byrons who have served in the U.S. Congress. The battle of Antietam, fought on September 17, 1862, followed General Lee's Confederate victory of second Manassas and was the culmination of Lee's first attempt to bring the war to the North. Lee hoped to obtain recruits and supplies in addition to showing the South's determination to gain independence. After crossing the Potomac River unopposed, Lee faced Union General George B. McClellan at the Battle of Antietam, located near Sharpsburg, MD. Although neither side could claim a tactical victory at the end of the day—a day marked by 23,110 casualties—the Battle of Antietam thwarted Lee's initial effort to take the war northward. As a result of the Battle of Antietam, which gave President Lincoln a partial military victory, Lincoln issued the Emancipation Proclamation on September 22, 1862. The Emancipation Proclamation granted freedom for all slaves in States still rebelling against the United States as of January 1, 1863. This action surely brought the purpose of the war into sharp focus as an offensive against slavery as well as a staunch defense of the Union.

When Antietam National Battlefield was established on August 30, 1890, people believed that the area would always remain agricultural. As a result, only portions of the battlefield were purchased. In 1962 Congress passed an act to protect Antietam Battlefield by acquiring 1,800 acres of land but stipulated that no more than 600 acres could be purchased in fee. Further legislation in 1978 gave the Secretary of the Interior authority to acquire scenic easements for 1,450 acres of additional land and established an authorized boundary.

Encroaching development from the Greater Washington, DC, Metropolitan area is threatening the park's ability to protect the battlefield as subdivisions are proposed. Currently, key sites of the battle, such as the infamous cornfield where much of the fiercest Union and Confederacy fighting occurred, are in private hands, incredibly unprotected by any public interest. H.R. 4554 removes the restrictions on acquisition to allow for purchase of these lands within the existing boundary. As such it will finally make a major contribution to the protection of these lands and assist landowners who want to sell their lands.

Mr. Speaker, the Committee on Interior and Insular Affairs adopted an amendment in the nature of a substitute which makes several minor technical changes in the bill. We have recently seen how unnecessary complications arise when just such park lands are not properly protected. By passing H.R. 4554, we will take a large step in preventing such problems. I heartly endorse this legislation, and urge its passage.

☐ 1630

Mr. Speaker, I reserve the balance of my time.

Mr. DENNY SMITH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4554 before the House today. This is an important measure which will help us ensure the protection of additional historically significant lands which are an integral element of Antietam National Battlefield.

The present legislative limitation on fee simple land acquisition of 600 acres or 20 percent of the park area appears to be a rather arbitrary ceiling which has prevented the National Park Service from purchasing additional historically significant lands in fee, even from willing sellers, since 1974. The Federal Government should be provided authority to acquire in fee simple the "cornfield" and other important lands within the current park boundary in order to ensure their protection. At the same time, I remain concerned that removal of all limitations on land acquisition without any clear plan regarding which specific tracts are to be acquired or estimates regarding how much the Federal Government can be expected to expend in the purchase of lands within this park is an expeditious rather than a comprehensive solution to the problem.

I would like to commend the gentlewoman from Maryland [Mrs. BYRON] for her work on this bill. The record reflects that she has done an outstanding job of working in partnership with both the Federal and State/local governments to meet land protection interests in the vicinity of Antietam National Battlefield. A very progressive and innovative land use plan for protection of park values from developments on non-Federal lands both within and outside the park boundary is now in the final stages of preparation. This effort is particularly notable since it will provide for needed protection of park lands, while reducing the need for a costly land acquisition program.

I urge my colleagues to join me in support of H.R. 4554.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, the Civil War represents an integral segment of American history. Regardless of perspective, North or South, the Civil War embodied a culture with its values and beliefs that should never be forgotten. The battlefields upon which so many American lives were lost, serve as unparalleled teachers of the war and its impact on our Nation as we know it. Preservation of these battlefields for the appreciation of present and future generations is a matter of national concern.

H.R. 4554 would provide for more complete preservation of Antietam National Battlefield, site of the bloodiest single day of fighting in the course of the Civil War. This bill would lift the limit on the number of acres that the National Park Service is able to acquire within the established boundaries of the battlefield. Antietam encompasses approximately 3,200 acres, yet the Park Service is limited by law to owning not more than 600 acres. The remainder of the battlefield was to be protected through the purchase of scenic easements.

Scenic easements, however, do not always meet the needs of the private property owners or the park. Owners willing to sell their property outright to the Park Service are often unwilling to sell scenic easements, due to the negative effect that easements have on resale value. Furthermore, the park requires outright ownership in order to carry out certain landscape projects, such as the restoration of woodlands.

There are nearly 1,200 acres within Antietam's boundaries that are completely unprotected by either park ownership or scenic easement. Some of these lands are recognized nationwide for their historic significance. For example, the north woods cornfield, a plot of land where some of the heaviest fighting took place lies within the battlefield and yet remains unprotected.

I would like to commend my colleague, Mr. VENTO, for his interest in and attention to H.R. 4554 in the Parks and Public Lands Subcommittee.

H.R. 4554 is supported by the National Park Service, the State and county governments, local citizens groups, and the entire Maryland delegation.

This legislation does not expand Antietam's boundary. Rather, it provides a means through which the Park Service will be better able to protect the lands within the existing boundary, so that future generations will be able to see the battlefield much as it was during Civil War times. I urge my colleagues to support H.R. 4554.

Mr. VENTO. Mr. Speaker, I would like to just point out that the discussion here in terms of purchase becomes important because, as I said, there are some landowners that do not have the option, and, because of the value of the land, it is very likely that, if purchased, it will not remain in the sort of pastoral, agricultural use that has occurred for the last 120 years, since that infamous battle was fought at Antietam.

The point is that many of us have been to that site. We have seen the cornfield and seen Bloody Row, and that very parcel of land, or at least part of that parcel, is in private ownership today. I think that most of us looking at a park site, an historic park site like this, would recognize that as being essential to the story that is being told at Antietam, the type of our cultural history that we, while unpleasant, I think find it necessary to remember and to talk about, the cost and the price of holding the Union together.

So I think that, Mr. Speaker, the preservation of this land, the opportunity to purchase this land, is very important. Obviously there is more that has to be done in this area.

I note that the gentlewoman from Maryland [Mrs. BYRON] has been leading an effort in that community along with other historians and other interested parties in trying to come up with a better land plan for that particular site, and that is very much what we need.

So, while we legislate today based on what agreement there is, it is my expectation that in the next Congress, in the very near future, we will be back here again hopefully with a more definitive plan with regard to the land management in that area.

Mr. Speaker, this is a vast area. It is one which is undergoing a lot of development, and we are going to have to legislate in this area in the near future again. But this is an essential measure; it is a very significant measure.

Mr. Speaker, I want to commend the gentlewoman from Maryland [Mrs. BYRON] for her good work on it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4554, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DESIGNATING SEGMENT OF THE WILDCAT RIVER IN NEW HAMPSHIRE AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1914) to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes, as amended.

The Clerk read as follows:

S. 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WILDCAT RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Wildcat River in the State of New Hampshire, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) as amended, by adding the following new paragraph at the end thereof:

"(65) WILDCAT RIVER, NEW HAMPSHIRE.—(A) A 14.51 mile segment including the following tributaries: Wildcat Brook, Bog Brook, and Great Brook (all as generally depicted on a map entitled 'Wildcat River', dated October 1987) to be administered as follows: those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest (hereinafter in this paragraph referred to as 'the forest') shall be administered by the Secretary of Agriculture (hereinafter in this paragraph referred to as the 'Secretary'); those segments located outside the boundary of the forest shall be administered by the Secretary through a cooperative agreement with the Board of Selectmen of the town of Jackson and the State of New Hampshire pursuant to section 10(e) of this Act. Such agreement shall provide for the long-term protection, preservation, and enhancement of the river segments located outside the boundary of the forest and shall be consistent with the comprehensive management plan to be prepared by the Secretary pursuant to section 3(d) of this Act and with the July 1987 River Conservation Plan prepared by the Wildcat Brook Advisory Committee in conjunction with the National Park Service.

"(B)(i) To assist in the implementation of this paragraph, the Secretary shall establish, within 3 months after the date of enactment of this subparagraph, a Wildcat River Advisory Committee (hereinafter in this paragraph referred to as the 'Commission').

"(ii) The Commission shall be composed of 7 members appointed by the Secretary as follows: one member from recommendations submitted by the Governor of the State of New Hampshire; 4 members from recommendations submitted by the Jackson Board of Selectmen, of which at least 2 members shall be riparian property owners, and at least one member shall be on the Board of Selectmen; one member from recommendations submitted by the Jackson Conservation Commission; and one member selected by the Secretary. Members of the Commission shall be appointed for terms of 3 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Commission shall designate one of its members as Chairman.

"(iii) The Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the designation of the segment described in this paragraph. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

"(iv) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this paragraph on vouchers signed by the Chairman.

"(v) Four members of the Commission shall constitute a quorum but a lesser number may hold hearings.

"(vi) The Commission shall cease to exist on the date 10 years after the enactment of this paragraph.

"(vii) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to the Commission.

"(C) The authority of the Secretary to acquire lands outside the boundary of the White Mountain National Forest for purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof. The Secretary may also acquire scenic easements for purposes of this paragraph as provided in section 6 of this Act.

"(D) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1914, which was considered and passed by the Senate on June 7, 1988, would designate a 14.51-mile segment of the Wildcat River in New Hamsphire as a component of the National Wild and Scenic Rivers System. The legislation is similar to H.R. 3703 which was introduced by Representative Bob Smith of New Hampshire on December 3, 1987.

The Wildcat River, also known as the Wildcat Brook, flows through the southeastern portion of the White Mountain National Forest and the town of Jackson, NH. Section 201 of the New Hampshire Wilderness Act directed that a study be undertaken of Wildcat Brook and its principal tributaries for potential addition to the National Wild and Scenic Rivers System. An interim study report was submitted to Congress on May 10, 1988. The study was done by the National Park Service under a cooperative agreement with the town of Jackson, the U.S. Forest Service and the State of New Hampshire. The study recommended designation of 14.51 miles of river as a component of the National Wild and Scenic Rivers System, and set forth a plan for the river's management.

The Committee on Interior and Insular Affairs has received testimony from the administration that the Wildcat River meets the wild and scenic river criteria. We also heard from local officials and conservation groups about the continued efforts and willingness of the State and the town of Jackson to provide for the long-term preservation and enhancement of the river environment.

S. 1914, as amended, would add a 14.51-mile segment, including tributaries, of the Wildcat River in New Hampshire to the National Wild and Scenic Rivers System. The bill directs that the 7.63 miles of the river within the White Mountain National Forest would be managed by the Secretary of Agriculture. The 6.88 miles of river along non-Federal land would be administered by the Secretary through a cooperative agreement with the town of Jackson and the State of New Hampshire. The cooperative agreement is to provide for long-term protection and administration of the river segment consistent with the comprehensive management plan, required to be prepared by the Secretary, as well as the provisions of the Wildcat River conservation plan. The legislation further directs the establishment of a seven-member Wildcat River Advisory Commission and sets out the membership, terms, and duties of the Commission. Additionally, the bill as amended, reiterates the limitations on the acquisition of land contained in section 6 of the Wild and Scenic Rivers Act and limits the authority of the Secretary to acquire land outside the boundary of the White Mountain National Forest to acquisition by donation or acquisition with the consent of the owner. The Secretary may acquire scenic easements only as provided in section 6 of the act. Finally, the bill authorizes such sums as may be necessary to implement these provisions.

Mr. Speaker, I am pleased with the high level of support and cooperation evidenced by the State of New Hampshire, the town of Jackson and local citizens to the long-term preservation and enhancement of the Wildcat River. Designation by the Congress of the Wildcat River would be the first such national wild and scenic river in the state of New Hampshire. S. 1914, as amended, is a worthy conservation initiative and I support its adoption.

Mr. Speaker, I am also reminded of the work of my colleague, former Congressman John Seiberling, who preceded me in chairing the subcommittee that I chair because, of course, he placed this study provision into the Wilderness Act that was enacted concerning the State of New Hampshire. Of course the outcome is that we have done the study, the groundwork has been done, and we are prepared today, I think, to designate this river.

I commend the author, the gentleman from Oregon [Mr. Denny Smith], for his work on the House side.

Mr. Speaker, I reserve the balance of my time.

□ 1645

Mr. RHODES. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire [Mr. Smith].

Mr. SMITH of New Hampshire. Mr. Speaker, as the Congressman from the First Congressional District and a resident of beautiful Carroll County, NH, where the Wildcat River flows, I am honored to rise in support of the Wildcat River bill and proud to speak on behalf of my neighbors and fellow residents of New Hampshire who applaud this legislation.

Mr. Speaker, the Wildcat River Bill (S. 1914/H.R. 3703) is a noncontroversial measure that would made the Wildcat River New Hampshire's first federally protected wild and scenic river. This legislation, originally introduced by me in the House and by Senators Humphrey and Rudman in the Senate, simply carries out the recommendations of a National Park Service study submitted to Congress earlier this year. The study noted the free flowing nature of the Wildcat, its high water quality, and recommended designation of 14 miles of the river and its tributaries in the National Wild and Scenic Rivers System.

Mr. Speaker, this is a proud and exciting day for the people of New Hampshire.

As a resident of the area myself, I know firsthand that this river would make an invaluable addition to the Wild and Scenic River System. From its headwaters in the White Mountain National Forest, the Wildcat tumbles a remarkable 2,800 feet down a 9-mile stretch. It continues through the town of Jackson, NH, in a cascading series of waterfalls—known as the Jackson Falls—and then levels out to open plains and meadows.

For over a century, the Wildcat has been recognized as an important natural landmark in New Hampshire's north country and as the central feature of the town of Jackson, NH. Guidebooks dating back to the 1840's encouraged travelers by stagecoach to stop and view its rippling waters. Today, this remarkably varied whitewater river continues to attract hikers, swimmers, and scores of other visitors. Finally, unlike many other wild and scenic rivers, the Wildcat is completely accessible to the public—including the elderly and handicapped.

Often, however, the same rushing flows that hikers and other visitors find appealing draw businesses hoping to capture their hydroelectric potential. Similarly, New Hampshire's healthy business climate and lack of a State river protection plan have made the Wildcat an attractive candidate for hydropower development. Because nothing less than Federal wild and scenic designation will fully protect the Wildcat, passage of this measure becomes particularly pressing.

The bill before us today states that the river will be managed by the Secretary of Agriculture through a cooperative arrangement with the Board of Selectmen of the Town of Jackson and the State of New Hampshire. In addition, the legislation establishes an advisory commission, comprised of local, State, and Federal representatives, to assist with the river's long-term protection.

An earlier version of the measure before us today passed the Senate in June. However, unlike most candidates for wild and scenic river designation, one-third of the Wildcat segment intended for designation extends outside the boundaries of federally owned lands. In order to ensure full protection of the land abutting this segment of the river and satisfy National Park Service concerns, I worked with the Subcommittee on National Parks and Public Lands to insert committee report language that will strengthen the local community's role in protecting the river. The bill before us today represents a combination of my bill, H.R. 3703, and the Senate version. This version passed the full Committee on Interior and Insular Affairs by unanimous voice vote last week.

The degree of local support for this legislation is unprecedented. At its annual town meeting in 1987, the town of Jackson gave its unanimous approval to a warrant asking the New Hampshire congressional delegation to obtain Federal protection for the river. The town also prepared its own conservation easement program. The Jackson Board of Selectmen, the Jackson Conservation Commission—particularly its chairman, Roger French—and the Boston regional office of the National Park Service deserve particular credit for organizing local efforts. Local landowners also donated 431 acres of conservation easements to increase the river's chances of designation, while individual members of the community contributed an additional 466 acres for recreational use. For this reason, no Federal land acquisition is currently necessary to protect the river.

This bill also has the support of nearly every major environmental group in the State, as well as the National Audubon Society, the Appalachian Mountain Club, the American Rivers Conservation Council, the entire New Hampshire congressional delegation, and our Governor.

Chairman VENTO and the gentleman from Montana [Mr. MARLENEE] deserve particular credit for bringing the legislation expeditiously through subcommittee. I would also like to express my appreciation to the gentleman from Arizona [Mr. UDALL] and the gentleman from Alaska [Mr. YOUNG], chairman and ranking minority member of the Interior and Insular Affairs Committee, for their considerable efforts on behalf of this legislation. I would like to thank my colleague from Connecticut, NANCY JOHNSON, for her original cosponsorship of the legislation, as well as my colleague from the Second District of New Hampshire, JUDD GREGG, who merits particular thanks for his leadership and support in this effort.

Mr. Speaker, I include the following correspondence:

TOWN OF JACKSON,
Jackson, NH, November 10, 1987.
Ms. JANET COIT,
Legislative Assistant to Senator Gordon J. Humphrey, Hart Senate Office Building, Washington, DC.

DEAR MS. COIT: We wish to acknowledge your work in developing legislative language for the draft Wildcat River bill. We have reviewed the text and feel that the draft retains the spirit of the Congressional River Study legislation and the Cooperative Agreement between the Town of Jackson and the National Park Service. That the Town of Jackson have adminstrative responsibility for private lands in the Wildcat River corridor is in keeping with the Wild and Scenic initiative adopted unanimously by the citizens of Jackson at Town Meeting, March 1987.

The Executive Committee of the Wildcat Brook Advisory Committee assures us that the technical content of the draft bill is consistent with the above-named documents and the Wild and Scenic designation process. Accordingly, the Board of Selectmen of Jackson have agreed to endorse the draft bill, subject to minor correction, as written.

We appreciate your support and look forward to the successful completion of this monumental effort to protect our river resource.

Sincerely,
LORRAINE G. TILNEY,
Selectman.
PETER KELLY,
Selectman.

JUNE 7, 1988.
Hon. BRUCE F. VENTO,
Chairman, Subcommittee of Natural Parks and Public Lands, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you in support of legislation pending before your Subcommittee which would designate the Wildcat River in the State of New Hampshire as an addition to the National Wild and Scenic River Act.

As you recall, when the New Hampshire Wilderness Act was before the Public Lands Subcommittee in 1984, I included a provision which authorized the National Forest Service to study the Wildcat River's eligibility for inclusion in the National Wild and Scenic River System. The Forest System completed its draft report in February 1988 which found that 14.5 miles of the river were eligible and suitable to be an addition to the National Wild and Scenic River System. This included the entire stretch of river from its source to its confluence with the Ellis River, as well as several tributary streams.

I am personally familiar with the area through which the Wildcat River flows, having visited Jackson, New Hampshire in both winter and summer, and having hiked and skied much of the area. Moreover, I know a number of local citizens and am aware of strong support locally for making the river part of the National Wild and Scenic River System. In particular, I have been very impressed by the efforts made by the town of Jackson for conservation easements and zoning protection for the portion of the river outside the boundaries of the National Forest.

I have read the text of H.R. 3703, introduced by Congressman Robert Smith, with bipartisan co-sponsorship. This bill appears to me to satisfactorily handle the designation of the river, including the portion outside the National Forest boundaries. Of course, additional information may be developed at the hearing indicating the desirability of some revisions in the bill. Nevertheless, it appears to be a generally sound approach, and I would like to express my strong support for protecting the river throughout its length.

All good wishes and warmest regards to you and the members of your Subcommittee.

Sincerely,
JOHN F. SEIBERLING.

NATIONAL AUDUBON SOCIETY,
WASHINGTON, DC, APRIL 3, 1988.
Hon. ROBERT C. SMITH,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SMITH: I appreciate your letter advising me of your sponsoring of designation of Wildcat Brook as a national wild and scenic river, and sharing with me your concern about the scheduling of a hearing on this matter by the House Interior Committee. I agree with you that Wildcat Brook is a river well deserving of protection under the Wild and Scenic River Act and that the local support for protection of the river is overwhelming.

We supported inclusion of Wildcat Brook as a "study river" under the federal law. We have joined with American Rivers and other conservation organizations in testimony before the Senate Energy and Natural Resources Committee supporting the river's designation, and plan to do the same on the House side when the House Interior Committee holds hearings on H.R. 3703. We understand that the only thing holding up these hearings is an expected favorable report from the National Park Service. Should matters be delayed too long, we will be pleased to add our voice to those of others in the conservation community urging the Committee leadership to proceed.

Sincerely,
ELIZABETH RAISBECK,
Vice President.

SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS,
Concord, NH, September 14, 1987.
Hon. GORDON J. HUMPHREY,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HUMPHREY: As a participant in land protection throughout New Hampshire, the Forest Society fully supports National Wild and Scenic designation of Wildcat Brook. Such designation is essential to retaining the quality of the town and adding to New Hampshire's legacy of private-public partnerships in protecting natural resources.

The Jackson community fully supports permanent protection of the stream and its banks. Two warrant articles addressing conservation passed at the March town meeting. One stated the town should formally request National Wild and Scenic designation. The other creates a river conservation district that will govern development and use of floodplains and riparian wetlands.

Individuals in the community have taken further steps by donating conservation easements to the town with an executory interest to the Forest Society. Under this arrangement, the town holds the primary responsibility in enforcing the agreement. The easements grant development and mining rights to a governmental body or conservation organization, and the landowner retains fee ownership.

Unable to be changed by town ordinances, the easements are supported by both state and federal law. New Hampshire statute 477:45-47 both defines conservation restrictions and supports their enforcement. The U.S. Internal Revenue Code recognizes the permanence of qualifying conservation easements, by permitting the land value given up to be deducted as a charitable contribution.

These easements are irreversible commitments to keep the land undeveloped. In total, the Forest Society holds conservation easements on 15,000 acres throughout the state. Conservation easements in Jackson, New Hampshire, and throughout the country show individuals' commitments to keeping open space and protecting natural resources for future generations.

We are looking forward to hearing more about the forthcoming legislation, and hope it receives your full support.

Cordially,

PAUL O. BOFINGER,
President/Forester.

STATE OF NEW HAMPSHIRE,
Concord, NH, March 29, 1984.
Hon. GORDON J. HUMPHREY,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR GORDON: I support legislation to designate the Wildcat River in Jackson, New Hampshire a study river under the provisions of the Wild and Scenic Rivers Act.

The Wildcat River is a special asset for the entire state of New Hampshire, the White Mountain Region in general and especially for the Town of Jackson. In addition to its own unique qualities, the River is one of the central and essential features of the unique character of Jackson Village, one of the most scenic and special communities which exists anywhere.

It seems to me that this area is precisely the sort of area that the Wild and Scenic Rivers designation was designed to protect. I look forward to speedy passage of this essential legislation.

Sincerely,

JOHN H. SUNUNU,
Governor.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1914, to designate a 14.5-mile segment of the Wildcat River in New Hampshire as wild and scenic. More than half of the river segment lies within the White Mountain National Forest and would continue to be managed by the Forest Service. The remaining portion of the segment flows through the town of Jackson and would be managed by the Forest Service through a cooperative agreement with the town and the State. The agreement must be consistent with the forest plan for White Mountain National Forest and the river conservation plan developed by Jackson to provide appropriate zoning and other initiatives to protect the river.

S. 1914 also establishes an advisory commission to assist with implementation of the wild and scenic designation. Finally, the bill prohibits the acquisition through condemnation or other means of any private lands along the river segment outside of the national forest.

Mr. Speaker, in 1984 Congress authorized a study of the Wildcat Brook for potential inclusion in the wild and scenic rivers system. The National Park Service recently completed the study and recommended designation of the segment proposed in S. 1914. If designated, Wildcat River would be New Hampshire's first wild and scenic river. Local support for the designation and protection of the river has already been extensive. Approximately 450 acres of land have been donated by individuals to the town for recreational use and conservation easements have been donated on an additional 430 acres.

Following Senate passage of S. 1914 on June 7, 1988, the Subcommittee on National Parks and Public Lands held hearings on the bill and its House companion, H.R. 3703. The subcommittee proceeded to mark up S. 1914 with minor, technical amendments on July 27, 1988, and the full Interior Committee reported the measure on September 7, 1988.

At this time, I would like to commend the sponsor of the House bill, Representative BOB SMITH from New Hampshire, for his efforts on this legislation. He and his staff have worked tirelessly to address earlier concerns with the bill and obtain its passage prior to congressional adjournment. The subcommittee chairman, Representative VENTO, also deserves recognition for working with the sponsors of S. 1914 and H.R. 3703 and the Members on this side of the aisle to fine-tune the legislation and move it forward.

Mr. Speaker, S. 1914 is an excellent bill to designate a river with remarkable qualities and resources, Wildcat Brook in New Hampshire, as wild and scenic. The bill has received broad, bipartisan support and would result in only minimal Federal expenditures since no land acquisition along the river is contemplated. For these reasons, I urge my colleagues to approve S. 1914.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I think it has all been said with regard to this bill. It is the first wild and scenic designation in New Hampshire, hopefully not the last. As the Forest Service completes its studies and plants, we are going to see some statewide bills come in which provide for the protection of these rivers. These rivers throughout our Nation is where we have the greatest pleasure of any resource. When we look to the west we see the impact in terms of agrarian areas and all the types of conflicting activities that go on there.

As the advocates of some of the river bills have mentioned, rivers is where the action is. That is where the people are. That is where the industry is. That is where a good amount of conflict comes between the idea of preserving a resource like this and utilizing it.

We think that a proper balance can be maintained, but some of these areas are very special, like the Wildcat River, brook or stream, whatever is the appropriate nomenclature for this site, certainly deserve our protection.

This is a short segment, but invariably these small segments, this 14½-mile segment is one that represents close-to-home resource for the people of New Hampshire that sees extensive utilization. It is a depiction, I think, of the type of life, the qualify of life, that exists in that good State.

Obviously, this measure is going to be enacted in this Congress with the action by the Senate and our work here, but I hope that in years to come and months to come we will see many more of these classified and fall under the stewardship of either the Park Service or Forest Service or the state Governments as appropriate or local governments to provide a commitment to maintain these resources, which really reflect so much of what is our Nation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1914, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ESTABLISHMENT OF THE COASTAL HERITAGE TRAIL IN NEW JERSEY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2057) to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes as amended.

The Clerk read as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NEW JERSEY COASTAL HERITAGE ROUTE.

In order to provide for public appreciation, education, understanding, and enjoyment, through a coordinated interpretive program of certain nationally significant natural and cultural sites associated with the coastal area of the State of New Jersey that are accessible generally by public road, the Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a map or other description thereof in the Federal Register, a vehicular tour route along existing public roads linking such natural and cultural sites in New Jersey. Such route shall be known as the New Jersey Coastal Heritage Route (hereinafter referred to as the "route").

SEC. 2. LOCATION; ADDITIONAL SEGMENTS.

The route shall follow public roads, which are generally located to the east of the Garden State Parkway, linking the New Jersey portion of Gateway National Recreation Area, known generally as the Sandy Hook Unit, with the national historic landmark in Cape May and that area north and west of Cape May in the vicinity of Deepwater, New Jersey. The Secretary may, in the manner set forth in section 1, designate additional segments of the route from time to time as appropriate to link the foregoing sites with other natural and cultural sites when such sites are designated and protected by Federal, State, or local governments, or other public or private entities.

SEC. 3. INVENTORY AND PLAN.

(a) PREPARATION.—Within one year after the date of availability of funds, the Secretary shall prepare a comprehensive inventory of sites along the route and general plan which shall include but not be limited to the location and description of each of the following:

(1) Significant fish and wildlife habitat and other natural areas.

(2) Unique geographic or geologic features and significant landforms.

(3) Important cultural resources, including historical and archeological resources.

(4) Migration routes for raptors and other migratory birds, marine mammals, and other wildlife.

(b) INTERPRETIVE PROGRAM.—The general plan shall include proposals for a comprehensive interpretive program of the area and it shall identify alternatives for appropriate levels of protection of significant resources.

(c) TRANSMISSION TO CONGRESS.—The Secretary shall transmit the comprehensive inventory and the general plan to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) CONSULTATION; PUBLIC PARTICIPATION.—The inventory and plan shall be prepared in consultation with other Federal agencies, the State of New Jersey, units of local government, and public and private entities. In addition, the Secretary shall ensure that there are ample opportunities for public involvement and participation in the preparation of the inventory and plan.

SEC. 4. PUBLIC APPRECIATION.

With respect to sites linked by segments of the route which are administered by other Federal, State, and local non-profit or private entities, the Secretary is authorized, pursuant to cooperative agreements with such entities, to provide technical assistance in the development of interpretive devices and materials and conservation methods regarding the resources enumerated in section 3 in order to contribute to public appreciation, understanding and conservation of the natural and cultural resources of the sites along the route. The Secretary, in cooperation with State and local governments, and other public and private entities, shall prepare and distribute informational material for the public appreciation of sites along the route.

SEC. 5. MARKERS.

The route is to be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the route, the Secretary may erect thereon signs and other informational devices displaying the New Jersey Coastal Heritage Route marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary not more than $250,000 to carry out the purposes of this Act. No funds made available under this Act shall be used for the operation, maintenance, or repair of any road or related structure.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2057, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2057, which was considered and passed by the Senate on June 8, 1988, would provide for the establishment of a vehicular tour route over public roads in New Jersey linking natural, cultural, and historical sites along the New Jersey coast. An identical measure, H.R. 3949, was introduced by Representative HUGHES, along with the late Representative Howard and Representative SAXTON.

The coastal area of New Jersey contains a broad and diverse spectrum of both natural and cultural resources having local, State, and national significance. Figures compiled by the National Park Service show 191 sites on the national register of historic places, 40 historic districts, and 14 national landmarks within the New Jersey Coastal Region. The area also includes such nationally designated resources as the Sandy Hook Unit of Gateway National Recreation Area, the Pinelands National Reserve, and the Barneget, Brigantine, and Killcohook National Wildlife Refuges.

Mr. Speaker, there has been considerable enthusiasm generated for this proposal in New Jersey. The limited and targeted program provided for in S. 2057 will help focus conservation and interpretive effort within the State on the many significant resources found along the New Jersey coast. During consideration of S. 2057, the Committee on Interior and Insular Affairs made several changes to the bill. These changes, while minor and for the most part technical, were nevertheless necessary to provide a clearer statement of policy. S. 2057, as amended, will enhance coordination and cooperation at the Federal, State, and local level for the benefit of the area's natural and cultural heritage and I urge adoption of the bill.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to comment on the version of S. 2057 before us today. As amended, the bill would establish the Coastal Heritage Route to link natural, cultural, and historic areas of the New Jersey coast. The route would utilize publicly owned roads beginning at the New Jersey portion of the Gateway National Recreation Area continuing south to Cape May, NJ, and west to Deepwater, NJ. Possible sites for inclusion in the route may possess resources of national, State, and local significance, such as historic towns and communities; wildlife refuges; examples of cultural heritage; and national recreation areas.

The legislation requires the National Park Service to prepare an inventory of the resources along the route and develop a general plan to appropriately interpret and protect the resources. The Park Service is also authorized to provide technical and financial assistance for the interpretation and conservation activities. The route is to be marked with appropriate signs which may be donated. Finally, appropriations of $250,000 are authorized.

While I do not oppose this legislation, I would note for the record the administration's concern that this measure is unnecessary and will result in the expenditure of Federal funds at a time when deficit reduction is a priority. In addition, while I believe the area included in the bill is unique I have some concerns regarding the possible establishment of a precedent for the creation of other similar heritage routes across the country which may be unnecessary and utilize scarce Federal resources. I would hope that this will not be the case and that Congress will carefully scrutinize any similar proposals which may be introduced in the future.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am very pleased to rise in support of Senate bill 2057, and I want to commend the Interior Committee for acting so expeditiously in bringing this legislation to the floor.

S. 2057 will designate selected coastal highways in the State of New Jersey as the New Jersey Coastal Heritage Trail-Route, in order to call attention to the many natural, historical, and cultural resources along the coastline of our beautiful State.

Unfortunately, the view of New Jersey that many people have is one of exhaust-spewing tractor-trailers barreling down the turnpike. Enactment of this bill will help draw well-deserved attention to the points of scenic natural beauty that grace our State, encourage tourism, and build greater public support for the preservation of important and irreplaceable resources.

Let me stress that this legislation does not authorize any acquisitions, takings, or purchases of property. Rather, the route will be developed exclusively using existing highways and publicly owned lands, to connect these points of interest along the Atlantic and Delaware Bay coasts of New Jersey. This bill simply directs the National Park Service to prepare an inventory of the important resources along New Jersey's coastal highways, and work with State and local officials to produce literature, road signs, and other informative material for points along the route.

There are many sites—from Sandy Hook, to down around Cape May to the mouth of the Delaware River—that are likely candidates for inclusion on the coastal route, including wildlife refuges, sailing and fishing communities, lighthouses, forts and battlefields, national monuments, abandoned shipwrecks, and scenic routes. Many of these sites are of significance not only to New Jersey, but are part of the heritage of all Americans.

Enactment of this bill will be an opportunity in these closing days of the 100th Congress to do something very worthwhile to focus attention on New Jersey's beautiful diversity. The New Jersey Coastal Heritage Route will be an excellent legacy for our heirs—one that will inspire respect for the environment and an appreciation of the history of this region and our Nation. I urge my colleagues to support this significant effort.

□ 1700

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2057, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to provide for the establishment of a Coastal Heritage Route in the State of New Jersey, and for other purposes.".

A motion to reconsider was laid on the table.

OMNIBUS PUBLIC LANDS AND NATIONAL FORESTS ADJUSTMENTS ACT OF 1988

Mr. VENTO. Mr. Speaker, I move the House suspend the rules and pass the bill (H.R. 3680) to revoke certain public land orders, transfer certain public lands, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Public Lands and National Forests Adjustments Act of 1988".

TITLE I—PHILLIPS COUNTY, MONTANA

SEC. 101. AUTHORIZATION OF EXCHANGE.

Notwithstanding the order of the United States District Court for the District of Columbia dated February 10, 1985, in Civil Action Numbered 85-2238, the Secretary of the Interior (hereafter in this title referred to as "the Secretary") is hereby authorized to revoke applicable public land orders, to revoke withdrawals, to terminate classifications, and to take such other actions as the Secretary determines necessary in order to consummate, in accordance with applicable law, an exchange of lands with Phillips County, Montana, as described in Bureau of Land Management Land Report Serial Number M-66965, dated May 8, 1986, if the Secretary determines such exchange to be in the public interest.

SEC. 102. CONDITIONS OF EXCHANGE.

(a) MANAGEMENT.—Nothing in this title shall be construed as enlarging or diminishing the extent to which the United States or any other party may be responsible, under applicable laws of the United States or the State of Montana, for proper management of lands involved in the exchange described in section 101 (including control of public access to such lands) or for management, control, removal, or other actions related to any hazardous substances or other materials located on such lands.

(b) HAZARDOUS SUBSTANCES.—Prior to consummating the exchange described in section 101, the Secretary shall advise the county and appropriate officials of the United States and the State of Montana concerning any information, from inspection or otherwise, the Secretary has concerning hazardous substances or other materials (including, but not limited to, industrial solvents or wastes) located on such lands.

TITLE II—VETERAN, WYOMING TOWNSITE

SEC. 201. SURVEY AND PLAT.

As soon as possible after the date of enactment of this Act, the Secretary of the Interior (hereafter in this title referred to as "the Secretary") shall resurvey and prepare a new plat for the townsite of Veteran, Wyoming, to take into account the actual and common use of streets and alleys on such lands for designation as public reservations in accordance with the Act of April 16, 1906 (34 Stat. 116).

SEC. 202. PATENT AND SALES.

(a) PATENT.—

(1) After completion of the work required to complete the survey and plat required under section 201, the Secretary shall patent the title of the United States in and to the public reservation lands referred to in subsection (a) to Goshen County, Wyoming.

(2) Title of the United States in and to a 90 feet by 75 feet lot of approximately 0.15 acres which is described in the records of the Goshen County, Wyoming, clerk's office as "a tract in southwest corner of town of Veteran, Block 40 in the original town of Veteran," shall be patented to Goshen County United School District Number One.

(b) DISPOSAL, ETC.—The Secretary, acting through the Commissioner of Reclamation, is authorized to dispose of Federal lands within the townsite area for fair market value, by negotiated or public sale, and to revoke withdrawals, terminate classifications, and take other steps necessary to implement this title, notwithstanding the order of the United States District Court for the District of Columbia dated February 10, 1985, in Civil Action Numbered 85-2238.

TITLE III—MATTERS INVOLVING LANDS IN THE STATE OF UTAH

SEC. 301. FARMINGTON CITY EXCHANGE.

(a) EXCHANGE.—

(1) Subject to valid existing rights, if Farmington City, Utah (hereafter in this section referred to as the "city"), transfers to the United States all right, title, and interest of the city in and to the land described in paragraph (2)(A), the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall transfer to the city all right, title, and interest of the United States in and to the land described in paragraph (2)(B). Any land acquired by the United States under this section shall be added to and managed as part of the Wasatch National Forest.

(2)(A) The land referred to in paragraph (1) to be transferred by the city is that land depicted as parcels Ai, Aii, and Aiii on the map entitled "Farmington Exchange" and dated May 1988, on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(B) The land referred to in paragraph (1) to be transferred by the United States is that land depicted as parcel Bi on the map referred to in subparagraph (A).

(3) Before transferring land to the city pursuant to this subsection, the Secretary shall appraise the values of the lands described in subparagraphs (A) and (B) of paragraph (2). If, based on such appraisal, the fair market value of the lands being transferred to the city is not equal to the fair market value of the lands to be transferred to the United States, the Secretary shall require the city to pay, or shall pay to the city, an amount sufficient to equalize such values.

(b) CITY OR STATE LANDS WHICH MAY BE EXCHANGED.—

(1)(A) Within the 3-year period beginning on the date of enactment of this Act, the Secretary, in conjunction with the city and the State of Utah (hereafter in this section referred to as the "State"), shall identify city or State lands which are suitable for transfer to the United States for national forest purposes in exchange for the Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A).

(B) Subject to valid existing rights, if within such period the city or the State (as the case may be) transfers to the United States the city or State lands identified pursuant to subparagraph (A), the Secretary

shall transfer the appropriate Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A) to the city or the State, as appropriate. The values of lands exchanged under this section shall be of equal value as determined by the Secretary, or, if they are not of equal value, the values shall be equalized by payment to or by the Secretary so long as the payment does not exceed 25 percent of the total value of the lands transferred out of Federal ownership.

(2) In lieu of an exchange under paragraph (1), the Secretary may transfer by sale for fair market value the Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A) to the city or the State of Utah, as appropriate.

SEC. 302. KANAB CITY TRANSFER.

(a) Withdrawal.—Subject to valid existing rights, all public lands located within the city limits of Kanab City, Utah (as such limits stood on April 1, 1988) are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws. The withdrawal under this subsection shall terminate on the date which is five years after the date of enactment of this Act.

(b) Right of Kanab City to Purchase Certain Withdrawn Lands.—As soon as possible after the date of enactment of this Act, the Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall determine which public lands withdrawn by subsection (a) meet the disposal criteria specified in section 203(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713(a)) and shall notify the city of Kanab City concerning such determination. For the four-year period beginning on the date of enactment of this Act, the city of Kanab City, Utah, shall have the exclusive right to purchase any public lands withdrawn by subsection (a) that the Secretary has determined to be suitable for disposal.

(c) Public Sale.—After the expiration of the period of exclusive right specified in subsection (b), the Secretary may offer any lands covered by such exclusive right for sale under appropriate provisions of the Federal Land Policy and Management Act of 1976, but the city of Kanab City, Utah, shall be given the opportunity to meet the high bid offered by any other party and if such city matches such high bid, the city shall be declared the highest bidder and allowed to purchase the property offered for sale.

(d) Terms and Conditions.—All sales of public lands under this section shall be for fair market value and subject to valid existing rights, and the Secretary may attach such conditions to any sale under this section, and any patent issued in consequence of such sale, as the Secretary determines necessary or appropriate.

SEC. 303. RIVERDALE.

(a) Authorization for Sale.—If not later than one year after the date of enactment of this Act the city of Riverdale, Utah, submits to the Secretary of the Interior a request to release and quitclaim to the city all right, title, and interest of the United States in and to the property described in subsection (b), the Secretary is authorized to release and quitclaim such right, title, and interest, in accordance with this section.

(b) Property Description.—The property referred to in subsection (a) is that certain parcel of land, comprising approximately 13.6 acres transferred to the city of Riverdale, Utah, by the United States by a deed dated April 30, 1975, as generally depicted on the map entitled "Riverdale City Parcel" dated May 1988.

(c) Consideration.—A release and quitclaim under this section shall be in consideration for payment by the city of Riverdale, Utah, to the United States of the fair market value of the right, title, and interest of the United States in the property described in subsection (b) and shall have the effect of releasing any restrictions imposed on the use of such property by the deed referenced in such subsection. Such fair market value shall not include the value of improvements on such property.

(d) Disposition of Funds.—All funds received by the United States from the city of Riverdale, Utah, in consideration for a release and quitclaim under this section shall be covered into the land and water conservation fund in the Treasury of the United States and shall be available for expenditure in accordance with the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.).

SEC. 304. BRIGHAM CITY: REMOVAL OF RESTRICTIONS.

(a) 1959 Conveyance.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restrictions on the property described in paragraph (2) that the property be used for public school purposes and that the property be available to Indians and non-Indians on the same terms, unless otherwise approved by the Secretary of the Interior.

(2) The property referred to in paragraph (1) is approximately 9.39 acres of property conveyed by the United States by quitclaim deed on February 12, 1959, to the Board of Education for the Box Elder County School District, Box Elder County, Utah, recorded March 5, 1959, in Box Elder County Deed Book numbered 123 at page 450.

(b) 1977 Conveyance.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restrictions of the property described in paragraph (2) that—

(A) the property not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance; but

(B) nothing in subparagraph (A) shall preclude the grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

(2) The property referred to in paragraph (1) is approximately 16.619 acres of property conveyed by deed without warranty dated May 11, 1977, from the United States of America to the City of Bringham city and recorded on May 23, 1977, in county records of Box Elder County, State of Utah, book numbered 292, pages 503 through 507.

(c) 1983 Conveyance.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restriction on the property described in paragraph (2) that—

(A) the property not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance; but

(B) nothing in subparagraph (A) shall preclude the grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

(2) The property referred to in paragraph (1) is approximately 81.2 acres of property conveyed by the United States by deed without warranty on March 29, 1983, recorded April 11, 1983, in Box Elder County, Utah, Deed Book numbered 369 at page 578.

TITLE IV—OREGON TRAIL

SEC. 401. END OF THE OREGON TRAIL STUDY.

(a) Study.—In furtherance of the interpretation and commemoration of the Oregon National Historic Trail, the Secretary of the Interior (hereafter in this title referred to as the "Secretary") is authorized and directed to conduct a study to determine the feasibility and desirability of protecting and preserving those lands and resources associated with the western terminus of the Oregon Trail in Oregon City, Oregon.

(b) Consultation and Coordination.—As part of such study, the Secretary shall consult with other interested Federal agencies and State and local bodies, and the study shall be coordinated with applicable outdoor recreation plans and related plans for the preservation of historic and natural resources in the area.

(c) Report.—Within one year after the date of enactment of this section, the Secretary shall make a report of the Secretary's findings and recommendations to the Committee of Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report of the Secretary shall include, but not be limited to, findings with respect to the historical and natural values of the lands and resources involved, and recommendations as to the historic preservation and markings of the area.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE V—CLARK COUNTY, NEVADA

SEC. 501. CATHOLIC DIOCESE OF RENO/LAS VEGAS, NEVADA.

(a) Findings.—The Congress finds the following:

(1) In 1949 Marie D. Lawton purchased from Clark County in a tax sale 40 acres of land in Clark County, Nevada.

(2) She paid taxes on this property until her death in 1975, at which time the property was bequeathed to the Roman Catholic Diocese of Reno/Las Vegas to be used to benefit the Home of the Good Shepherd, which works with troubled young women in the western States.

(3) Since 1975 the Diocese has paid taxes on the property.

(4) It has recently been discovered that Clark County erred in selling the property in 1949 since the land at that time was actually in the public domain.

(b) Purpose.—The purpose of this section is to convey this property to the Diocese of Reno/Las Vegas so it may be sold to benefit the Home of the Good Shepherd.

(c) CONVEYANCE.—Subject to valid existing rights and notwithstanding any other provision of law, the Secretary of the Interior shall convey without consideration to the Catholic Diocese of Reno/Las Vegas, Nevada, the lands described as follows: one 40-acre parcel comprising the northwest one-quarter of southwest one-quarter of section 13 township 19 south range 61 east Mount Diablo base line and meridian, subject to the limitations of subsection (d) of this section. The administrative costs of such conveyance shall be borne by the Catholic Diocese of Reno/Las Vegas, Nevada.

(d) RESERVATION OF RIGHT-OF-WAY.—A right-of-way and construction easement shall be reserved to the United States to accommodate flood control facilities of the Clark County Regional Flood Control District. Said right-of-way shall be no more than 75 feet in width and 1,320 feet in length, and shall be located in accordance with the Clark County Flood Control District Master Plan.

TITLE VI—COAL MINING HERITAGE

SEC. 610. COAL MINING HERITAGE STUDY.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized and directed to conduct a study to determine the feasibility of protecting and preserving certain significant cultural, historic, and natural resources associated with the coal mining heritage of southern West Virginia. The study shall include, but not be limited to, the identification of—

(1) Specific sites and points of interest associated with the coal mining heritage of West Virginia, the Appalachian Region and the Nation.

(2) The historic and cultural values of such sites and points of interest.

(3) The relationship between such sites and points of interest with the natural, scenic, recreational, cultural and historic resources in the region managed by State or Federal agencies, including State and national park system units, recreational lakes, State forest system units, and historic landmarks.

(4) A vehicular tour route along existing public roads linking such sites, points of interest and such other resources managed by State or Federal agencies.

(b) CONSULTATION AND COORDINATION.—As part of such study, the Secretary shall consult with other interested Federal agencies, State and local government authorities, and nonprofit organizations.

(c) AREA TO BE STUDIED.—The study shall focus on the eleven county areas consisting of Cabell, Wayne, Mingo, Logan, McDowell, Wyoming, Raleigh, Mercer, Boone, Fayette and Summers Counties, West Virginia.

(d) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall make a report of his findings to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **RHODES**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. **VENTO**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3680, the bill now under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. **VENTO**. Mr. Speaker, I yield myself such time a I may consume.

Mr. Speaker, H.R. 3680 is a bill that addresses a number of specific situations involving public lands or national forest lands in several different States, and also provides for two studies by the National Park Service.

The bill is sponsored by a number of members of the Interior Committee, and consolidates a number of legislative proposals that otherwise might have been put forward as separate bills. After our committee reported it, it was also reported by the Agriculture Committee, which made some revisions in which I concur and that are retained in the version we bring to the floor today.

As reported, the bill provides for an exchange of lands in Phillips County, MT, between that county and the BLM. It directs the correction of problems associated with a townsite in Wyoming. It has four sections dealing with transfers, exchanges, or clearing of title of lands in Utah. It calls for study of the western terminus of the Oregon trail, and of various historic and other resources in West Virginia.

Mr. Speaker, in developing the reported bill the Interior Committee worked with the various delegations and with the administration and I believe that the bill is not controversial. Its provisions deal with real problems and real opportunities, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. **RHODES**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3680 is what we in the Interior Committee, affectionately refer to as a "dogs and cats" bill. By that I mean, small noncontroversial issues that require legislation to accomplish. These issues are not of national importance, however they are very important to individuals, groups or local and State governments, as the case may be. What we have done in H.R. 3680 is to group these issues into one bill, rather than individually taking each one to the floor. Hopefully, we can do more bills of this type in future Congresses.

The bill before us today would: facilitate a land exchange in Phillips County, MT, between the County and the Bureau of Land Management; provide the legal framework to solve various issues surrounding the Veterans townsite in Wyoming; facilitate land exchanges between the Federal Government and the cities of Farmington, Kanab, and Riverdale City, UT; provide for a study by the National Park Service of the terminus of the Oregon Wagon Trail in Oregon City, OR; clear the title of a 40-acre parcel of land in Clark County, NV, which has been in the possession of the local Roman Catholic diocese; and finally authorize the National Park Service to study the feasibility of protecting and preserving significant segments of the coal mining heritage of southern West Virginia.

As you can see this bill covers a host of subjects. The costs of accomplishing the directives of this bill are minor and would come from within the normal program budgets of the Departments. I think most Members at one time or the other have had similar issues in their districts.

I urge all Members to support this legislation.

Mr. RAHALL. Mr. Speaker, title VI of H.R. 3680 would authorize and direct the National Park Service to conduct a study to determine the feasibility of protecting and preserving sites and points of interest with significant cultural and historic values associated with southern West Virginia's coal mining heritage.

The coal mining history of this region is a story of struggle, of human sacrifice and of occurrences which have left their mark on the history of the Nation as a whole.

The coal barons flourished in this region during the turn of the century. Company stores and housing and payment by script became a way of life for many. The native population became integrated with southern blacks and immigrants from Italy and other countries. Mary 'Mother' Jones became a frequent visitor to the State and many mines were unionized by 1902.

However, a great deal more history was to be made as represented by the subsequent labor disturbances on Paint Creek and Cabin Creek in 1912 and 1913, Matewan in 1920 and the battle at Blair Mountain the following year.

There are few vestiges of this era remaining. I believe it is incumbent upon this generation to ensure that what does remain is not lost to further decay. For these old mining camps and other relics of that time are an integral and important part of our heritage and the lessons learned from them should not be forgotten or lost to future generations.

As the author of title VI, I would note that it authorizes and directs the National Park Service to conduct a study to determine the feasibility of protecting and preserving certain significant cultural, historic, and natural resources associated with the coal mining heritage of southern West Virginia. The study is to include an identification of specific sites and points of interest associated with the coal mining heritage of West Virginia, the Appalachian Region, and the Nation and their cultural and historic values. In this regard, the study is to indicate whether each site and point of interest is of State, regional or national cultural or historic significance.

The study is to also examine the relationship between these sites and points of interest with the natural, scenic, recreational, cultural and historic resources in southern West Virginia that are managed by State or Federal agencies. These resources include State parks and forests, national park system units such as the New River Gorge National River, recreational lakes managed by the U.S. Army Corps of Engineers, and historic landmarks. As part of the study, a vehicular tour route is to be identified linking the coal heritage sites and points of interest with these other State and federally managed areas. It is my intention for the National Park Service to illustrate this with a map and a narrative description.

In formulating the study, the National Park Service is to consult with other interested Federal, State and local government agencies and authorities as well as interested nonprofit organizations. One such organization has been formed under the name Coalways. The National Park Service is urged to work closely with Coalways in conducting the study.

The 11 counties that are the subject of the study are Cabell, Wayne, Mingo, Logan, McDowell, Wyoming, Raleigh, Mercer, Boone, Fayette, and Summers. As they are stipulated in the legislation, the National Park Service is not to include any coal heritage sites or points of interest that are not within these counties in the study.

Finally, the legislation requires the submission of a report containing the findings of the study to the Committee on Interior and Insular Affairs and the Committee on Energy and Natural Resources within 1 year after the date of enactment of this act. It is neither mine, or the Interior Committee's intention for the report to include any recommendations.

Mr. Speaker, I urge the enactment of this bill.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3680, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ESTABLISHING THE NATIONAL PARK OF SAMOA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4818) to establish the National Park of Samoa, as amended.

The Clerk read as follows:

H.R. 4818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) Tropical forests are declining worldwide.

(2) Tropical forests contain 50 percent of the world's plant and animal species, contribute significantly to the advancement of science, medicine, and agriculture and produce much of the earth's oxygen. The loss of these forests leads to the extinction of species, lessening the world's biological diversity, reduces the potential for new medicines and crops and increases carbon dioxide levels in the atmosphere contributing to the green house effect that is altering the global climate.

(3) The tropical forest of American Samoa is one of the last remaining undisturbed paleotropical forests.

(4) The tropical forest in American Samoa is the largest such forest under direct control of the United States.

(5) The tropical forest of American Samoa contains the habitat of one of the last remaining populations of Pacific flying foxes.

(6) The flying foxes of American Samoa are responsible for a large part of the pollination which maintains a significant portion of the species which inhabit the Samoan tropical forest.

(7) Information presently available indicates the existence of extensive archaeological evidence related to the development of the Samoan culture which needs to be examined and protected.

(8) The people of American Samoa have expressed a desire to have a portion of the tropical forest protected as a unit of the National Park System.

(b) PURPOSE.—The purpose of this Act is to preserve and protect the tropical forest and archaeological and cultural resources of American Samoa, and of associated reefs, to maintain the habitat of flying foxes, preserve the ecological balance of the Samoan tropical forest, and, consistent with the preservation of these resources, to provide for the enjoyment of the unique resources of the Samoan tropical forest by visitors from around the world.

SEC. 2. ESTABLISHMENT.

(a) IN GENERAL.—In order to carry out the purposes expressed in section 1(b), the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall establish the National Park of American Samoa (hereinafter in this Act referred to as the "park"). The Secretary shall establish the park only when the Governor of American Samoa has entered into a lease with the Secretary under which the Secretary will lease for a period of 50 years the lands and waters generally referred to in subsection (b) for use solely for purposes of the park. Immediately after enactment of the Act, the Secretary shall commence negotiations with the Governor of American Samoa respecting such a lease agreement. On or before the expiration of the lease agreement as set forth in this subsection, the Governor of American Samoa is encouraged to extend the lease to maintain the area as a unit of the national park system. At such time as the lease may terminate the Government of American Samoa is urged to provide assurances to the Secretary that the lands and waters generally referred to in subsection (b) will be protected and preserved to the same standards as are applicable to national parks.

(b) AREA INCLUDED—The park shall consist of three units as generally depicted on the following maps entitled "Boundary Map, National Park of American Samoa,": (1) map number NP—AS 80,000A, dated August 1988, (2) map number NP—AS 80,000B, dated August 1988, and (3) map number NP—AS 80,000C, dated August 1988. Before publication of the maps, the Secretary, after consultation with the Governor of American Samoa and other appropriate leaders, may adjust the boundaries of the park to correspond with the appropriate village boundaries and modify the maps accordingly. The maps shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may at any time make revisions of the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following), pursuant to agreement with the Governor of American Samoa, and contingent upon the lease to the Secretary of lands within the new boundaries.

(c) MANAGEMENT BY AMERICAN SAMOA—Notwithstanding section 3(a), after 50 years the enactment of this Act, the Secretary shall, if requested by the Governor of American Samoa, enter into an extension of the ease referred to in subsection (a). If the Governor does not request such an extension the Secretary shall transfer to the Governor the sole authority to administer the park. Whenever the Secretary makes such a transfer he shall also transfer any improvements constructed by the Secretary in the park to the Governor without compensation.

(d) COMPENSATION UNDER LEASE AGREEMENT—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to negotiate with the Governor of American Samoa the amount of the payments to be made by the United States under the 50-year lease referred to in subsection (a). The Secretary shall make such payments as may be mutually agreed to by the Secretary and the Governor pursuant to such negotiations.

(2) The Secretary shall place all lease payments made by the United States under the lease in an interest bearing escrow account in American Samoa. Funds in such account may be disbursed only by the Governor, in amounts determined by the High Court of American Samoa, to those villages and families located within the boundaries of the park. The High Court of American Samoa shall have exclusive jurisdiction to determine the amount to be disbursed under this section to any person.

(3) If the amount of the lease payments to be made under the lease is not agreed upon within 1 year after the enactment of this Act, the Secretary shall establish the escrow account referred to in paragraph (2) within 30 days after the expiration of such 1-year period and shall make monthly payments of $25,000 per month into the account until such time as the full value of the lease payments is agreed to and deposited. Such deposits, together with the interest thereon, may be used only to cover the amounts of the lease payments due and payable pursuant to an agreement under this subsection. If the amounts deposited in such account, together with interest thereon, exceeds the amount of the lease payments due and pay-

able at the time the agreement is entered into, notwithstanding any other provision of law the excess shall be transferred to the accounts provided to the Secretary for operation and maintenance and for development of the park.

SEC. 3. ADMINISTRATION.

(a) In General.—The Secretary shall administer the park in accordance with the Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4). In the administration of the park, the Secretary may utilize such statutory authority available to him for the conservation of wildlife and natural and cultural resources as he deems necessary to carry out the purposes of this Act, except that he may not acquire any lands or waters or interests therein for purposes of the park other than by lease.

(b) Traditional Subsistence Uses.—(1) Agricultural, cultural, and gathering uses shall be permitted in the park for subsistence purposes if such uses are generally prior existing uses conducted in areas used for such purposes as of the date of enactment of this Act and if such uses are conducted in the traditional manner and by traditional methods. No such uses shall be permitted in the park for other than subsistence purposes.

(2) Subsistence uses of the marine areas of the park shall also be permitted in accordance with paragraph (1), and no fishing or gathering shall be permitted in such marine areas for other than subsistence purposes.

(c) Interpretive Facilities, Etc.—Interpretative activities and interpretative facilities for the park (including maps) shall be in at least the following languages: English and Samoan.

(d) Employees and Contracts.—In addition to the Secretary's authority to employ persons to carry out provisions of this Act in accordance with the civil service laws, and notwithstanding any other provision of law, the Secretary is authorized to—

(1) hire employees for such purposes who shall not be subject to the civil service laws, including quotas, and

(2) enter into contracts with individuals for purposes of exercising any authority of the Secretary within the park.

(e) Native American Samoan Personnel.—The Secretary shall establish a program to train native American Samoan personnel to function as professional park service employees, to provide services to visitors (including the interpretation of park resources), and operate and maintain park facilities. Notwithstanding any other provision of law, and to the extent practicable the Secretary shall extend a preference for the hiring of native American Samoans to carry out the Secretary's authorities under this Act (including both employees and persons operating under contract).

(f) Management Plan.—The Secretary, in cooperation with the Governor of American Samoa, shall prepare a general management plan for the park. The plan shall comply with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7) and shall contain specific measures for the protection and preservation of tropical forest resources and archaeological and cultural resources within the park, including, but not limited to, protection of flying foxes and measures to enhance visitation to the park from throughout the world, to the extent consistent with the protection and preservation of such resources.

(g) Advisory Board.—(1) The Secretary shall establish an Advisory Board to provide advice to the Secretary regarding the management of the park. The Advisory Board shall be comprised of 5 members, 3 of whom shall be nominated by the Governor of American Samoa. The Advisory Board shall designate one of its members as Chairman.

(2) The Advisory Board shall meet on a regular basis. Notice of meetings and agenda shall be announced in advance and meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(3) Members of the Advisory Board shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(4) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Board.

(h) Review.—At least every 10 years, the Secretary and the Governor, or their designees, shall review the operation and management of the park. Such review shall include, but need not be limited to, consideration of how the objectives of the park can better be achieved, the need for additional technical or other assistance, cooperative arrangements between the Government of American Samoa and the National Park Service in the interpretation and management of the park, and the desirability of extension of the lease arrangement.

(i) Technical Assistance.—The Secretary, in providing technical or other assistance to the Government of American Samoa may use any authority otherwise provided to him, including requesting assistance from other Federal agencies.

SEC. 4. DEFINITION.

For purposes of this Act the term "native American Samoan" means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this Act, Swains Island shall be considered part of the Samoan Islands.

SEC. 5. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **RHODES**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. **VENTO**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4818, the bill under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. **VENTO**. Mr. Speaker, I reserve the balance of my time.

Mr. **RHODES**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4818, to establish the National Park of American Samoa. The park would serve to protect significant tropical rain forest areas on the islands of Ta'u, Tutuila, and Ofu.

The subcommittee chairman, Mr. Vento, has adequately explained the bill. I would simply reiterate that not only will the park preserve the rain forest, it will also protect the unique flying foxes which pollinate the many types of plants and trees within the forest. The park will also be unique in that the Secretary of the Interior will lease the lands from the Samoan villages and families. There will be no Federal ownership of the land and the park will protect the traditions and customs of the native Samoans, including subsistence farming, fishing, and gathering.

Mr. Speaker, H.R. 4818 represents an outstanding opportunity to create a new national park on the beautiful American Samoan Islands. This is a good, bipartisan bill which has been fine tuned through the legislative process. For these reasons, I urge my colleagues to approve H.R. 4818.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. **VENTO**. Mr. Speaker, I yield myself such as I may consume.

Mr. Speaker, American Samoa, a territorial area of the United States since 1900, possesses natural, cultural, and historical resources unique to the United States.

Five volcanic islands and two coral atolls comprise the territory of American Samoa, which is the only American soil south of the equator. American Samoa lies about 2,300 miles south-southwest of Honolulu and is located in the midst of many new South Pacific nations. The total area of American Samoa is about 75 square miles. Most archeologists believe that these small islands are the origin of the Polynesian culture that settled much of the Pacific, from Hawaii to New Zealand. Many archeological sites of this ancient culture exist on the islands of American Samoa but few have, as yet, been fully investigated.

The vegetation of American Samoa consists of five types of paleotropical rain forests: coast, ridge, lowland, montane, and cloud. There has been minimal disturbance of the rain forests by man over several thousand years, and almost one-third of the area has never been disturbed. The forest has great diversity, with hundreds of different plant species often being found in a few acres. Many of these plants are now being studied for medicinal value, including 150 species subject to National Institutes of Health investigations into possible cancer cures.

Animal life is as widely diverse except for mammals. Fifty-five species of birds are found in American Samoa along with a large number of amphibians and reptiles. The coral reefs around the islands are populated by swarms of reef fish.

The only mammals native to Samoa are bats. Two of the three species of bats are the famous "flying foxes." With wing spans of up to 4 feet, the striking animals are often seen soaring high above the islands. They feed exclusively on fruit and are the primary pollinators of the tropical forest. The flying foxes have been hunted for export in recent years and their numbers have been seriously reduced, leading to concerns by some forest ecologists that propagation of many plant species in the forest will not occur in the future.

Because of the concern for protection of tropical forests within the jurisdiction of the United States, the Committee on Interior and Insular Affairs held a field inspection and hearings in American Samoa in January 1987 to assess significance of the forest and related coral reef areas and to listen to the Samoan people about their concern for the land and protection for their 4,000-year-old culture.

Mr. Speaker, I was overwhelmed by the beauty of this unique tropical forest and felt then, and now, that this area is not only of the utmost national significance but of international concern since we, who have urged diplomatic protocols on other nations to protect tropical forests, had not taken any steps to protect the only paleotropical forest in our jurisdiction.

I talked to the Samoans regarding their views toward establishing a national park. The Governor, legislature, and other political leaders strongly supported and support the park today. In meeting with village chiefs and other traditional leaders, support for the concept of a national park was nearly unanimous. Whoever, it was learned that almost all land in Samoa—percent plus—is communally owned through the village or family system. In addition, the Samoan Constitution forbids the sale of any land without 100-percent approval of the village—family—and approval of the Governor; although such lands may be leased for up to 55 years. The boundaries of much of the land controlled by various villages and families have never been firmly established and are in question.

We asked the National Park Service to evaluate the potential for a national park in American Samoa and have relied heavily upon its excellent draft report in preparation of this legislation.

Mr. Speaker, H.R. 4818 would establish the National Park of American Samoa. The park would include three units of about 2,800 acres on the island of Tutuila, about 5,500 acres on the island of Ta'u and about 225 acres on the island of Ofu, Totaling about 8,500 acres. The land would be leased from the Samoan people for 50 years with options for renewal. Cost of the lease would be negotiated by the Secretary of the Interior and the Governor of Samoa. The Secretary would manage the park to protect the natural and cultural values. American Samoans are required to be hired and trained for park operations. "American Samoans" are defined in the legislation, and an advisory council is established.

Mr. Speaker, I have taken the unusual step of establishing a national park based upon a lease agreement with American Samoa only because I am persuaded that the conditions of communal land ownership and the Samoan culture were unique and not to be found in any other location under U.S. jurisdiction. I do not intend this action to be considered a precedent. I am very much aware of the need for the Samoan culture to be protected by establishment of this park and believe the unusual language in the bill does that in the most appropriate way possible.

Mr. Speaker, this legislation would not be possible without the outstanding efforts of many interested and dedicated people. Dr. Paul Cox, professor of botany at Brigham Young University, has been a tireless advocate for the national park and his knowledge of the Samoan language and customs has been an invaluable assistance; Dr. Merlin Tuttle, president of Bat Conservation International, first made us aware of the need to protect the magnificent flying foxes of Samoa and the dependence of the tropical forest upon these graceful creatures; Mr. Verne Read, who has always been available to provide support and tell others of his strong convictions about protecting the tropical rain forest in Samoa, has worked tirelessly for the park; the Governor of American Samoa, A.P. Lutali, for his help and the Lieutenant Governor of American Samoa, Eni Hunkin, who's early, continuing interest, knowledge and skill has been key in gaining support in Samoa and on Capitol Hill.

I wish to thank all of these people for their contributions to this legislation and the special effort of the Parks and Public Lands Subcommittee Chief of staff, Dale Crane.

Mr. Speaker, I urge adoption of H.R. 4818.

Mr. Speaker, this is a good measure. It should be a reality. We ought to really try and designate to protect paleotropical rain forests when they are in American areas.

We have done a lot of lecturing recently on the Amazon and Brazil and the amount of damage being done in that tropical rain forest as well as other parts of the world, and here we have a chance where there is a pristine rain forest that should be protected.

It sort of reflects the nature of the area, because the EPA takes their standards for clean air from sites in American Samoa.

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Mr. Speaker, this has been a lot of work, but it is a very important designation, a unique designation for our National Park System, and I certainly commend it to my colleagues for enactment.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 4818. This bill would establish the National Park of American Samoa to protect the American Samoan tropical forest and its numerous archeological, natural, cultural, and fish and wildlife resources, particularly the flying foxes. The park would encompass approximately 8,200 acres, including large areas on the islands of Ta'u and Tutuila and a small coastal area on Ofu.

When this legislation was introduced in June of this year, I was pleased to join as an original cosponsor, as I recognized the importance of preserving tropical forests and their unique wildlife. I have been fortunate to deal with insular issues affecting Samoa since I first came to Congress. My work has taken me to Samoa where I have witnessed the beautiful and diverse flora and fauna of the islands and coastal areas. I was equally impressed by the hospitable and proud people of the Territory of American Samoa. They have good reason to be proud. The tropical islands of Samoa are an often overlooked scenic natural resource of the United States.

American Samoa has one of only three tropical rain forests under U.S. jurisdiction. Puerto Rico has the beautiful El Yunque, Hawaii has the highly vulnerable forest in the Hawaii Volcanoes National Park, and American Samoa has the third. The diminution of tropical forests worldwide is accelerating with numerous adverse impacts on our environment. There exists a considerable amount of interest in the Congress as well as elsewhere in the Government and among private organizations to stem, stop, or even reverse the decline of world tropical forests. It appears to me that we should first do whatever we can to preserve our own tropical forests.

A very important factor in sustaining the tropical forests of Samoa is a small and often misunderstood animal, "pteropus samoenis" or flying fox. A symbiotic relationship exists between these little animals and the tropical forests. They need each other to survive. The flying fox helps to pollinate the trees and the forest provides safe refuge. It is anticipated that a national park would help protect the forests and the flying foxes so that both will continue to thrive and contribute to the environment.

In our exuberance to establish a park and preserve the forest, we have been careful to remember first and foremost the people of Samoa. They know their islands better than anyone.

The culture of Samoa revolves around the land and respect for nature. In agreeing to the cession of the Samoan Islands of Tutuila, Aunu'u, and the Manu'a group, the chiefs requested that the indigenous ownership of lands by Samoans be preserved. Therefore, the legislation provides for the Secretary of the Interior and the Governor of American Samoa to enter into a 50-year lease of the lands and waters in the park with the option to extend the lease on or before its expiration.

If the lease is not extended, the administration of the park would be transferred to the Governor. The Secretary and the Governor would negotiate the amount of the lease payments which would be disbursed by the Governor to the villages and families located within the park. The High Court of Samoa would determine the amount of the payments to individuals. Thus, the park would be established without Federal ownership of the land.

Prior to the establishment of U.S. jurisdiction in Samoa in 1900, the Samoan people had inhabited the islands for thousands of years. The people had long recognized the vulnerability of animal and sea life and had incorporated strict conservation methods as part of their way of life. In addition, it was customary for the chiefs to monitor the population sizes of various species of fish. Once the number of fish neared the threshold of endangering the continuing viability of the species, a temporary ban on taking that type of fish would be instituted. The ban, which is called tapu in Samoan, would not be lifted until the chiefs determined that an adequate population base existed.

Given the Samoans' historical concern for the environment, it is not surprising that there is widespread support in Samoa for a park that would continue to preserve the islands' natural resources. Under H.R. 4818, the park will also seek to protect the traditions and customs of Samoa. Subsistence farming and subsistence reef fishing, as have been traditionally used in the past, will be allowed to continue. In addition, the access to park areas will provide for the traditional subsistence harvesting of breadfruit, coconuts, yams, kava, wild fruits and vegetables, and plants for medicinal purposes. The park will also permit the careful and customarily limited extraction of native trees to be used in traditional Samoan houses and ware.

As land in Samoa is such an important issue, the legislation provides that the boundaries of the proposed park area will be clearly defined and mutually agreed to by the Governor and respective villages before publication of the park maps. H.R. 4818 also requires the Secretary of the Interior to develop a program to train native American Samoans to work in the park and to extend a hiring preference to these individuals to ensure that the park employees are familiar with the Samoan Islands, the people, language, and traditions. I am confident that there are adequate native American Samoans, as clearly defined in the bill, qualified to meet the staffing needs of the park.

The real employment opportunities that the national park offers, however, will be generated from business established in Samoa to support the increase of visitors. The villages, families, and individuals of American Samoa can provide tours, food, and lodging as well as other services to visitors to the National Park of Samoa.

Mr. Speaker, a great deal of time and effort have been invested by many individuals and organizations to help make the dream of a National Park of American Samoa to become a reality. The National Park Service conducted an excellent study and recently transmitted a superb draft report to Congress with recommendations for the park.

The chairman of the subcommittee, Mr. VENTO, certainly deserves recognition for his hard work on this legislation as well. The subcommittee traveled to Samoa last year to inspect the areas of the proposed park, hold a hearing on the issue, and meet with several of the high chiefs and local officials to obtain their views concerning the park. I would clearly be remiss if I did not commend Dr. Paul Cox and Dr. Merlin Tuttle, renowned experts on the flying fox and tropical forests. Dr. Cox and Dr. Tuttle, along with Mr. Verne Read, have worked extremely hard for several years to achieve their goal of creation of a national park in Samoa. I am pleased we have been able to assist them in their dedicated efforts.

I believe we have a unique opportunity to join with the people of Samoa in the preservation of the third major tropical forest of the United States by the establishment of the National Park of American Samoa. The establishment of the park under H.R. 4818 would assist in the conservation of Samoa's wildlife, such as the flying fox, and the variegated marine life of the Islands' reefs, in a manner consistent with the people's traditions and customs for the land and sea. Therefore, I urge my colleagues to join with me in approving H.R. 4818 bringing the dream of a National Park of Samoa one step closer to reality.

Mr. UDALL. Mr. Speaker, I take this opportunity to present to the House a correction in the committee report on the bill (H.R. 4818) to establish the National Park of Samoa.

Due to a clerical error, one page of the committee amendment reprinted in the report was inadvertantly omitted when the report was filed. On page 3 of the report, paragraph (g) of section 3 and section 4 should read as follows:

(g) ADVISORY BOARD.—(1) The Secretary shall establish an Advisory Board to provide advice to the Secretary regarding the management of the park. The Advisory Board shall be comprised of 5 members, 3 of whom shall be nominated by the Governor of American Samoa. The Advisory Board shall designate one of its members as Chairman.

(2) The Advisory Board shall meet on a regular basis. Notice of meetings and agenda shall be announced in advance and meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(3) Members of the Advisory Board shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(4) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Board.

(h) REVIEW.—At least every 10 years, the Secretary and the Governor, or their designees, shall review the operation and management of the park. Such review shall include, but need not be limited to, consideration of how the objectives of the park can better be achieved, the need for additional technical or other assistance, cooperative arrangements between the Government of American Samoa and the National Park Service in the interpretation and management of the park, and the desirability of extension of the lease arrangement.

(i) TECHNICAL ASSISTANCE.—The Secretary, in providing technical or other assistance to the Government of American Samoa may use any authority otherwise provided to him, including requesting assistance from other Federal agencies.

SEC. 4. DEFINITION.

For purposes of this Act the term "native American Samoan" means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4818, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish the National Park of American Samoa."

A motion to reconsider was laid on the table.

UPDATE ON EVENTS IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, in Haiti, the U.S. State Department-assisted regime of General Namphy continues to descend into a bottomless pit of terror and murder against its own people.

Just to review briefly the chronology, last June, Lt. Gen. Henri Namphy ousted civilian President Leslie Manigat after Manigat attempted to demote several top military officers that Namphy had returned to power. General Namphy had already ruled the country for 2 years.

He then declared that the Constitution was no longer operable. He threw away the Constitution. It would have been 1-year old recently if he had not thrown it out. Now under General Namphy's government, murder and terror are escalating.

This Sunday, thugs with guns and machetes attacked parishioners inside St. Jean Bosco Church in Port-au-Prince. The mass was being celebrated by Rev. Jean-Bertrand Aristide, an opponent of Haiti's military rulers. Haitian radio stations said that 60 men, women, and children were wounded in the attack, and that 5 people died as a result. Reverend Aristide was reportedly shielded by his supporters and escaped uninjured to go into hiding.

Reverend Aristide had just begun his 9 o'clock mass when a group of men started stoning the church. According to a foreign journalist interviewed by the Associated Press, the men burst into the church shouting "Communists, Communists," and started slashing, hacking, and beating men, women, and children. The people fled the church in panic, and witnesses said one man ran outside and was stabbed to death. A pregnant woman was shot in the abdomen and another was stabbed.

After the attack on the church, these same assailants moved to other targets. They stoned two radio stations. One of the stations was the Roman Catholic-run radio Soleil, which was forced to go off of the air and remained off the air as of yesterday.

The officers of two opposition political parties were also later stoned.

Haitian Government officials had little or nothing to say about the incident. The mayor of Port-au-Prince, Franck Romain, a backer of the old Duvalier regime, said, "He who sows the wind, reaps the tempest." And "Father Aristide got what he deserved."

This was a special day of nonviolent protest. The crusade for the Constitution Committee, headed by the political opposition, asked all Haitians to dress in white on Sunday to protest Lieutenant General Namphy's voiding of the Constitution. Rev. Antoine Adrien, a supporter of the crusade, told the Associated Press:

> The relationship between the crusade and massacre is obvious. There is a campaign to bring the country back to the Duvalier days, to reestablish a reign of terror to prevent the people from organizing for their welfare.

Reverend Aristide has never called for armed struggle in Haiti. In the great tradition of Dr. Martin Luther King, Jr. and Mahatma Gandhi, Reverend Aristide has called for "active, nonviolent struggle," to overthrow the military regime. Reverend Aristide preaches that Haiti's army rulers are savages and compares them to Satan. One of the most popular opposition leaders in Haiti, Reverend Aristide has already been the target of several assasination attempts.

The Reagan administration must bear a part of the blame for this recent set of developments. The Reagan administration ruined the opportunities of the Haitian people for democracy. At every point, the Reagan administration supported General Namphy's regime, and at points where they should have challenged it.

The U.S. Ambassador, instead of supporting them, should be withdrawn. We should have immediate withdrawal of our U.S. Ambassador to Haiti to protest the recent set of developments. We should also, in addition to keeping the aid cut off that is in effect now, start sanctions and end any trade with Haiti. It is time to call for the regime of General Namphy to step down.

It is also time to demand that the regime's drug kingpin, Col. Jean-Claude Paul, who has already been indicted by a Federal grand jury in Miami earlier this year for cocaine trafficking, that Col. Jean-Claude Paul go on trial and cease the trafficking of drugs, which in addition to killing Haitians is killing Americans.

There is only one bright light in all of this development. That is recently the Organization of American States has stirred itself and there is an international commission now investigating.

In this country, America strives to be synonymous with democracy. To continue to support Haiti's military regime flies in the face of our Nation's democratic principles.

Meanwhile, we must support this new effort by the Organization of American States. We must support the investigators who are from the International Commission on Human Rights of the Organization of American States.

Mr. Speaker, I will include with my statement an Associated Press article concerning this human rights investigation.

In conclusion, it is very important for us to note that our hands are not tied. This Haitian regime is very weak. It is only as good as its submachine guns are. It has no support among the people. If we were to take strong action, if we were to lead the organizations of the Western Hemisphere in condemning the Namphy regime, if we were to make to clear that they will have no more support from their friends in the U.S. State Department, the Namphy regime would fall and the reign of terror and murder would end in Haiti.

The article referred to follows:

HUMAN RIGHTS TEAM BEGINS PROBE OF HUMAN RIGHTS ABUSES

(By Michael Norton)

PORT-AU-PRINCE, HAITI. An independent team on Monday began probing widespread reports of killings, police brutality and other human rights abuse linked to the military regime of Lt. Gen. Henri Namphy.

The four-member panel represents the International Commission on Human Rights of the Organization of American States.

It has announced no agenda for the five-day investigation, but the OAS office in Haiti said it has government authorization to "freely interview in private persons, groups, entities or institutions . . . without fear of any reprisals."

Members of the team arrived Sunday night and are to report to the next session of the OAS General Assembly on Nov. 14, the statement said. The report is expected to influence future Haiti policy of member nations of the OAS, a Western Hemisphere group based in Washington.

The United States, Canada, France, West Germany and some other nations have suspended aid to Haiti because of the aborted election last November. The vote was canceled a few hours after the polls opened because gangs of thugs, often joined by soldiers, killed at least 34 people.

This is the first mission to Haiti by the OAS human rights commission since January 1987, when Namphy led a provisional government set up after President Jean-Claude Duvalier fled to France on Feb. 7, 1986, ending a 29-year family dictatorship.

Namphy reliquished power on the second anniversary of Duvalier's flight, but returned to power in a bloodless coup June 19 that ousted the 4-month-old civilian government of President Leslie Manigat. More than a dozen Manigat followers were held for several weeks without charges in the prison-fortress Fort Dimanche.

A day after seizing power, Namphy declared himself president and abolished the legislature. A month later he suspended the constitution, which 99 percent of Haitian voters approved in a March 1987 referendum, but pledged to respect liberties Haitians won with the end of the Duvalier regime.

Jean-Claude Bajeux, a human rights leader, said in an interview Sunday the rights violations are directly related to suspension of the constitution.

Anything can happen, for there is no law or law enforcement in Haiti," he said. In Haiti, the corruption and incompetence of one government after another have meant that the individual's very right to exist is violated every day."

Namphy, who also is head of the 7,000-man army, has aroused anger here and abroad because of alleged human rights abuses that include killings, police brutality and restrictions on free speech and assembly.

On Aug. 14, for example, gunman attacked the Youth Movement of Labadie, a rights group about 80 miles north of Port au Prince, during an anniversary celebration attended by 350 people. Four young men were killed, two were wounded and five members have been reported missing.

Three men were shot to death in Port au Prince three days later, reports said, after they refused to be led to a police station.

Rights groups and church leaders denounced the killing of human rights activist Lafontant Joseph and the expulsion of a Canadian priest, the Rev. Rene Poirier.

The body of Joseph was found in a vacant lot near the airport July 11.

Police said he was severely beaten, then stabbed to death. The government began an investigation but has not divulged its findings.

Poirier, a Roman Catholic priest and rights activist in the southern town of Grand Goave, was arrested Aug. 5 and expelled when he would not give police the names of certain parishioners.

He was accused of distrubing the social and political order of this proverty-stricken nation, which shares the Caribbean island of Hispaniola with the Dominican Republic.

Brig. Gen. Fritz Antoine, the justice minister, blames violence since the coup on "lawless individuals" who "have gotten in the habit of settling accounts outside the norms."

He said Namphy has ordered that alleged human rights abuses be investigated by independent panels whose findings will be disclosed.

Serving on the OAS team are Patrick Robinson of Jamaica, David Padilla and Christina Cerna of the United States and Berta Santos Coy of Mexico.

USE OF POISON GAS BY THE IRAQIS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, I rise to commend Secretary Shultz, the Reagan administration, and the U.S. Senate for action taken recently to call attention to the use of poison gas by Iraq. I, for some months earlier in this year, looked on with distress and disgust week after week as reliable reports came out that Iraq was using poison gas against Iran in that long-standing war.

It seemed to me that much of the civilized world, most especially the United States Government, was standing by and doing far too little to protest and take action against the outrage of Iraq using poison gas, a practice that has been outlawed and condemned for the last 60 years.

The war in Iran and Iraq has ended, at least for the time being, with a cease-fire. So the reports of Iraq using poison gas against Iranian soldiers in the few days and weeks leading up to the cease-fire have little relevance right now. There are no current hostilities between Iran and Iraq.

But just as soon as that use of poison gas against Iran died down, Iraq began a war against some of its own people, those who are Kurds and who occupy one corner of Iraq. It is probably not too much to say that Iraq is trying to wipe out its own Kurdish population.

That is bad enough. Genocide is always to be condemned. But it is even worse when Iraq is using poison gas to do so. There have been increasingly reliable reports in the last couple of weeks that that is indeed going on, and I have a fistful of clippings from newspapers and magazines in the United States reporting on Iraqi use of poison gas.

Mr. Speaker, a civilized world cannot tolerate the use of poison gas against Iranians or Kurds or anyone else. I was delighted when the Senate last week passed legislation that cuts off $800 million in trade and credits to Iraq to protest that country's use of poison gas. Companion legislation has been introduced in the House by the gentleman from California [Mr. LANTOS] and the gentleman from Illinois [Mr. PORTER]. I want to commend them for that action on their part, and I hope very much that the House Foreign Affairs Committee and the full House will both take up this legislation very soon and that we will pass it and send it to the President.

In the meantime, I commend Secretary Shultz for the statement that he made, a very strong statement last Thursday or Friday. I ask that he and President Reagan follow up that action in the United Nations by seeking to send an investigative team from the United Nations to Iraq to determine for sure that poison gas has been used against the Kurdish guerrillas, and if that is proved, I ask Secretary Shultz and President Reagan to take the strongest possible position within the United Nations to exercise multilateral sanctions of the strongest kind against Iraq.

We simply have to make it clear that poison gas has no place, no place in the civilized world, and that any nation, Iraq or any other which uses it, must expect swift and sure action by the rest of the civilized world.

BAN NUCLEAR POWER IN EARTH ORBIT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, today I am introducing the Ban Nuclear Power in Earth Orbit Act, designed to end the sort of nuclear accident that is expected later this month with the reentry of a crippled Soviet nuclear powered spacecraft. Joining me as original cosponsors are Representatives CLAUDINE SCHNEIDER, MORRIS UDALL, EDWARD MARKEY, DOUG WALGREN, GEORGE HOCHBRUECKNER, JAMES SCHEUER, and LES AUCOIN.

This legislation would help protect the Earth's environment, prevent the strategic dangers of nuclear powered space weapons, and block the expenditure of large sums of money for space power sources of dubious merit. The legislation would not, however, interfere with the use of nuclear power for deep space scientific and exploration missions.

The principal thrust of the bill is to encourage a mutual United States-Soviet Union moratorium on the use of nuclear power sources in Earth orbit. As a first step toward this goal, the legislation calls on the President of the United States to urge the Soviet Union to end all launches of nuclear-powered satellites. If the Soviet Union responds with an announcement that it will abandon the use of nuclear-powered satellites, then the United States would be prohibited from launching satellites using nuclear power sources. This prohibition would cease if the President certified to Congress that the Soviet Union had violated its declared policy to halt the use of nuclear power aboard orbiting spacecraft.

To promote an enduring and permanent prohibition on the use of nuclear-powered spacecraft, the bill calls upon the United States and the Soviet Union to enter into negotiations. The goal of these talks would be an agreement specifying the confidence building measures and verification procedures that would provide assurance over the long term that both nations were refraining from stationing nuclear power sources in Earth orbit.

A ban on the use of nuclear power in Earth orbit can be verified, thanks to the physical nature of nuclear power generation. Nuclear power systems in space have distinctive features such as large exposed radiators, and shielding arrangements to protect on-board electronics systems. Nuclear power sources in space can convert only a small proportion of their energy to electricity; the radiated waste heat is easily observable with infrared detectors. The nuclear material in space nuclear power sources also emits high energy gamma rays that are observable at a considerable distance from the satellite.

Because nuclear power is essential for some scientific missions, the act would not prohibit the use of nuclear power for lunar or deep space research and exploration. The act would, however, minimize the risk of using nuclear power for such purposes. Specifically, it would require that the United States by December 31, 1988, use only uranium-fueled reactors when nuclear power sources are necessary for deep space scientific and exploration missions. At the present time, the United States uses, for such missions, nuclear systems called radioisotope thermoelectric generators [RTG's], which generate electricity from the radioactive decay of plutonium.

Plutonium is an exceptionally dangerous substance that is both toxic and carcinogenic even in very small quantities. Nuclear reactors fueled with uranium would be safer than RTG's at launch because they are launched cold, with a level of radioactivity 30 million times less than plutonium-fueled RTG's with an equivalent electrical output. Once activated, however, nuclear reactors quickly build up radioactive fission products and byproducts, reaching within weeks a level of radioactivity comparable to the RTG's.

My legislation would require that after December 31, 1998, all nuclear reactors used for scientific and exploration missions in space be launched using unmanned launch vehicles. This way, nuclear power sources could be launched directly into deep space without first having to be placed in a temporary orbit around the Earth. The bill further requires that such nuclear power sources be activitated only after the spacecraft has achieved a safe deep space trajectory.

Mr. Speaker, the reasons for introducing this legislation are straightforward. First, nuclear satellites orbiting the planet pose a risk today, and will result in an even greater risk in the future if hundreds of nuclear reactors are circling the globe. Second, the power available from nuclear reactors in near-Earth space is attractive primarily for military missions such as high-powered lasers and the maintenance of a space-based weapons system that is objectionable on its own merits. And third, the money spent on the development of orbiting space nuclear power sources could be better spent elsewhere in the space program.

Historical experience has shown how difficult it is to launch and maintain satellites in Earth orbit. Over the past 30 years, the United States and the Soviet Union have launched more than 60 spacecraft with nuclear power sources on board. Approximately 15 percent of these missions have suffered some form of failures or accident, some of which have resulted in significant releases of radioactivity into the environment.

In April 1964, for example, a U.S. navigation satellite fueled with a plutonium power source failed to reach orbit and blew apart. In January 1978, a Soviet spacecraft with a nuclear reactor on board reentered the Earth's atmosphere, spreading radioactivity debris across nearly 40,000 square miles of tundra in northern Canada. It was after this accident that then-Secretary of Energy James Schlesinger said that "There are serious risks, and I regard it as inappropriate to have nuclear reactors orbiting the Earth." President Carter sought a ban on nuclear power sources following that accident.

And now another Soviet nuclear-powered satellite, Cosmos 1900, is spiralling toward the Earth with its danagerous contents of radioactive material. If we are lucky, Cosmos 1900 will come down intact in the ocean, and the environmental impact will be minimal. If we are not so lucky, it could disperse radioactive debris over a large populated area in thousands of chucks, fragments, and airborne particles.

Mr. Speaker, a nuclear-powered spacecraft has failed, on average, once every 3 to 5 years. A major catastrophe has been avoided, in large part because so few of today's spacecraft have a nuclear power source on board. I am arguing today for us—both the United States and the Soviet Union—to pull the plug on nuclear reactors circling the Earth. A ban on orbiting nuclear power, along with phasing out RTG's and providing that further reactors be launched on unmanned rockets, would help guard against a major environmental accident involving a nuclear-powered spacecraft.

I am also urging this legislation for national security reasons. At the present time, the Soviet Union is the only nation actively using nuclear reactors in Earth orbit. It does so to power radar ocean reconnaissance satellites [RORSAT's], which target naval vessels. Many U.S. military officials have argued that the United States needs an expensive antisatellite [ASAT] weapons program to shoot down these RORSAT's. Let's instead work to reduce the RORSAT threat by pressuring the Soviet Union to abandon its use of nuclear power in space. Soviet scientists, including Dr. Roald Sagdeev, an adviser to General Secretary Mikhail Gorbachev, have endorsed a ban on nuclear power sources in Earth orbit. My legislation is designed to help determine if the Soviet Union is really serious about such a proposal.

It is also designed to help block the deployment of military systems that would be far more threatening than are RORSAT's. The strategic defense initiative [SDI] is considering using nuclear power throughout its space architecture. SDI would use nuclear power for radar surviellance, battle station "housekeeping," orbital maneuvering, and providing the megawatts of power needed for lasers and other futuristic weapons. The American Physical Society, in a report last year on directed energy weapons, predicted that the SDI could require "perhaps a hundred or more" nuclear reactors in space.

It never ceases to amaze me that people support the development of a space-based defense system, without any clear notion of the impact this would have on the character of near-Earth space. Mr. Speaker, if the United States deploys hundreds of weapons in space, including 100 or more nuclear reactors, you can be sure the Soviets would eventually do something similar. The result would be that the envelope of space surrounding our planet would be transformed into a battleground for military conflict. And the potential for a military confrontation in the face of such developments would be great.

In a recent report on SDI, the Office of Technology Assessment concluded that "In the absence of arms control agreements to the contrary, we should expect from the beginning of [missile defense] space deployments an intense competition between the superpowers for control of near-Earth space." Arms control agreements would be very unlikely under such circumstances; indeed, the Anti-Ballistic Missile Treaty would be quickly eviscerated if either of the superpowers proceeded with the deployment of a space-based defense.

It is the intention of my legislation to help prevent either the United States or the Soviet Union from deploying, in orbit around the Earth, military systems of the sort that would pose major new threats to the other's spacecraft. A mutual ban on nuclear-powered spacecraft in Earth orbit would contribute much to reaching this goal.

And finally, Mr. Speaker, my legislation is designed to help us avoid spending money that could be used better elsewhere. Although NASA and the Department of Energy are participating in research on orbiting nuclear power systems, it is the military in general, and the strategic defense initiative in particular, that are setting the agenda. In testimony before Congress in October 1985, James W. Vaughn, Jr., at that time DOE's Acting Assistant Secretary for Nuclear Energy, said, "I think if it were not for [SDI], we would be hard pressed to have a sufficient number of defined missions to sustain [research] at the levels we're talking about today."

The SDI has ambitious plans for orbiting nuclear power, some of which have already run into serious technical problems and cost overruns. The dynamic isotope power system [DIPS], for example, which was to have powered the SDI's boost surveillance and tracking system, has been replaced by a solar photovoltaic generator.

The largest space nuclear power program pushed by the SDI is the SP-100, aimed at developing a nuclear reactor that generates 100 kilowatts of continuous electricity. There are serious questions about the safety of the SP-100, especially in low Earth orbit. The reactor is supposed to operate without maintenance for 7 years, at which time the reactor would be shut down by remote ground control. Accidents with the orbital maneuvering system, a failure of the spacecraft's attitude control system or ground command link, or a failure of the reactor shut-down mechanisms, are all possible. An accidental encounter with space debris could cause the SP-100 to fall from orbit. Any one of these scenarios could force the SP-100 to re-enter the Earth's atmosphere with its radioactive fission products and a hundred pounds of nuclear weapons grade uranium.

The General Accounting Office found that the SP-100 will cost some $700 million just for ground engineering tests; a flight test of the nuclear-powered satellite is expected to cost more than $1 billion.

Mr. Speaker, aside from the cost of the SP-100, it seems technically unnecessary to subject ourselves to the risks of the SP-100 for 100 kilowatts of electrical power in Earth orbit. The space station is projected to have 100 kilowatts of power from solar photovoltaic generators; advanced solar generators will provide additional power. Even Col. George Hess of the Stategic Defense Initiative Organization has admitted that we have no specific need for the SP-100. At a congressional staff briefing in February 1988, he said, "We have embarked on the SP-100 project without a clear application in mind at this time."

SDI is considering concepts for a "Multi-Megawatt" [MMW] nuclear power source for advanced space weapons. Although these concepts are in the very early stages, the MMW is still subject to the basic laws of physics that establish the amount of radioactive material for a given nuclear power capacity. As a result, the quantity of nuclear material aboard a MMW reactor would dwarf the contents of an SP-100.

Mr. Speaker, it is clear to me that there is no convincing need for nuclear power in Earth orbit. Near the Earth, solar power is sufficient to provide for all scientific and nonweapons satellite power requirements for the foreseeable future. I would rather see the money now being spent on, and planned for, SP-100 and the MMW program go instead toward advanced photovoltaic generators, solar dynamic power systems, and lightweight batteries for use in near-Earth space.

There are some space scientific and exploration missions for which nuclear power is a virtual necessity. On the Moon, for example, where the lunar night is 14 days long, and for deep space missions where sunlight is too weak, nuclear power does make technical sense.

I encourage NASA to concentrate on the development of a new class of uranium-fueled nuclear reactors that are specifically designed for lunar and deep space operation. By phasing out the RTG's that NASA currently uses for deep space, the long-term hazards of space nuclear power would be minimized. Furthermore, unmanned rocket boosters are a safer and more efficient way to launch reactors to their distant destinations.

Mr. Speaker, the future of nuclear power in space is a very serious matter. For strategic reasons, there are great risks in placing nuclear-powered weapons systems in space. Such deployments would pose threats to other spacecraft and serve as a further stimulus for a space arms race. For environmental reasons, we should refrain from the operation of nuclear power in Earth orbit.

Although space nuclear reactors are intended to remain in stable orbits, accidents happen. Orbits decay, and the boosters that are supposed to kick nuclear satellites into higher orbits have failed on several occasions. A problem such as this is behind the imminent reentry of Cosmos 1900, a reentry that, according to plans, was never supposed to happen.

A sensible approach to using nuclear power in space would permit scientific and exploratory missions in space, but with minimal threat to Earth's environment. The legislation I am introducing today strives to fashion such a policy.

Mr. Speaker, I invite my colleagues to join me in supporting the Ban Nuclear Power in Earth Orbit Act. If the Soviet Union foregoes further use of nuclear satelites, the United States should do likewise. As a result, we and all other nations would live more securely.

□ 1730

A VIDEO TAPE ENTITLED "JUSTICE ON FURLOUGH"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I appreciate the recognition. It is my intention to talk this evening about a video tape entitled "Justice on Furlough" and the Lawrence Eagle-Tribune's Pulitzer Prize winning coverage of the murderers' furlough program in Massachusetts that Governor Dukakis supported and defended.

I want to make two points in talking about this. I saw last week the video tape "Justice on Furlough" which I earlier today recommended to all of my colleagues. I might mention they can get that by calling area code (618) 465-1166 and asking for a copy, buying a copy of it. It is a very important video tape.

When I watched the video tape it made reference to the Lawrence Eagle-Tribune's Pulitzer Prize winning coverage and the fact that the Pulitzer committee thought that the Eagle-Tribune's coverage of the furlough question was powerful and was deserving of thorough coverage and therefore they awarded the Pulitzer Prize.

I want to make two points at the beginning of this discussion. The first is that the Lawrence Eagle-Tribune referred to Governor Dukakis' murderers furlough program in the following sentence on December 27, 1987: "The revelation that the state was running what amounted to a secret program to qualify killers for commutation by giving them weekend passes from jail." Now that is the Lawrence Eagle-Tribune. Now that is not the Bush campaign, that is not NEWT GINGRICH, that is a paper which won a Pulitzer Prize.

I want to make a second point, because there seems to be some confusion among my Democratic friends who have been taken in by the Dukakis campaign.

The Lawrence Eagle-Tribune wrote an article on December 6, 1987, entitled "Most States Would Not Have Furloughed Horton. Out of the Question," they say, by Barbara Walsh who is an Eagle-Tribune writer.

In that article—and I am going to come back to it a little bit later in its appropriate sequence, but I think it is important to set the stage for the video tape "Justice on Furlough" and for the issue.

In that issue they outlined a chart of all the States in the United States. They said, "Is Alabama like Dukakis? Not inmates sentenced to life without parole, no furlough. Is Alaska like Dukakis? No inmates sentenced to life without parole. Is Arizona? No. Is Arkansas like Dukakis? Not inmates sentenced to life without parole? Is California? No. Is Colorado? No. Is Connecticut like Dukakis? For first degree murderers, yes, but only allowed after serving nearly 25 years."

I would be glad to yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, earlier today Mr. WALKER did a 1-minute and I did a response. The gentleman from Georgia did a 1-minute following that. Mr. WALKER asked if I would yield and I said I would not and the reason I did not want to yield at the moment was because I had the work product back in my office.

I would just like to ask a couple of questions if the gentleman would yield.

Mr. GINGRICH. Yes.

Mr. ANTHONY. If I understand the gentleman's complaint, his complaint is that if other States have a rehabilitation furlough program he does not find fault with that program even if that person commits a violent crime during the course of that furlough. He only finds fault with a furlough program if it is within that very narrow range according to this tape that the gentleman is talking about, is that my understanding? Is that an incorrect interpretation of the gentleman's comments?

Mr. GINGRICH. Let me cite the Lawrence Eagle-Tribune and what they said for a second, because I think this is an important issue.

The Lawrence Eagle-Tribune, let me just read for a moment for my colleague from Arkansas, because this gives you a framework of where we are coming from. This is what they said in sending in their letter to the Pulitzer Prize committee:

On April 8, 1987, the Lawrence Eagle-Tribune was in the midst of covering a major flood when word came of what sounded like a tragic but routine crime story:

In Maryland, a young couple had just been taken hostage, assaulted and terrorized for 12 hours by a convicted killer, William R. Horton, Jr.

Horton had fled 10 months earlier after being given a secret weekend furlough from a Massachusetts prison. He was serving a life sentence, with no chance of parole, for killing a 17-year-old gas station attendant in Lawrence, a small industrial city tucked off in Massachusetts' northeast corner.

The Maryland story was published that day. For days Eagle-Tribune reporters pounded on the doors of the Massachusetts Department of Corrections in an attempt to find out why Horton was ever furloughed, and whether steps were being taken to ensure that incidents like the one in Maryland would not recur.

They were given a clear message: Go away.

A department spokesman would give no information about Horton or how furloughs were granted. Corrections Commissioner Michael Fair said through an aide that he would never be available for questioning about the case. Governor Michael Dukakis would not return phone calls.

But the Eagle-Tribune, a small newspaper in the shadow of huge and powerful metropolitan papers used to having heavy influence on state governmental affairs, did not go away.

Dogged, basic reporting over the next nine months produced revelation after revelation about Massachusetts' out-of-sight furlough program, one operating basically without guidelines or proper records keeping.

The Eagle-Tribune obtained access to Horton's prison records, revealing he had been far from a model prisoner, but doing something no other newspaper had ever managed to do. It successfully pursued an exemption to Massachusetts' infamous Criminal Offender Record Information Act, which hides the records of criminals from the public in the name of protecting their privacy.

It rebutted prison officials' contention that Horton would have been considered for furlough in most other states by doing a 50-state survey and finding out that this simply was not true.

It ran more than 175 stories in all—and got officials, politicians and people of Massachusetts to pay attention to issues of opening public information to the public, coddling of murderers and laxity in state bureaucracy. Here are the results:

A bill to ban furloughs in Massachusetts is progressing through the legislature and is expected to pass.

A successful petition drive, launched by irate women locally and spreading statewide, yielded 57,000 signatures, enough to put an anti-furlough measure on the Massachusetts ballot in 1988.

Embarrassment for Dukakis, who is running for president and who has faced anti-furlough demonstrations in New Hampshire, a key primary state. At year's end he halted furloughs and hinted that he would sign a bill banning them after a study by his anti-crime commission.

A statewide commission set up by the governor to modify the Offender Record Information Act and the vow of Massachusetts' Newspaper Publishers to dump it altogether.

The Eagle-Tribune's proudest accomplishment was to tell the story of the two Maryland victims in a way that was both non-in-

> trusive and healing. After months of working up to it, Angela and Clifford Barnes spoke publicly about their ordeal, discovering in the process that they desperately needed someone to care about what happened.
>
> "I will never be able to understand it," Angela Barnes told Eagle-Tribune reporter Susan Forrest. "But at least I feel a big weight has been taken off my shoulders." They have since become public advocates for change in the Massachusetts criminal system.
>
> For such accomplishments, we respectfully nominate the Lawrence Eagle-Tribune for the Pulitzer Prize for distinguished reporting.

And, of course, they got the Pulitzer Prize. Now this is my point: Governor Dukakis systematically denied public information about William Horton, Governor Dukakis systematically defended a furlough program which was a secret from the people of Massachusetts; Governor Dukakis systematically lied and still lies about the nature of that program. There is no other State in America which has any program of furloughing murderers who are sentenced to life in prison without parole.

I would be glad to yield.

Mr. ANTHONY. Does the gentleman know the date that that law was passed in Massachusetts?

Mr. GINGRICH. Sure. I know it was passed under Governor Sargent.

Mr. ANTHONY. Was he a Democrat or Republican?

Mr. GINGRICH. It was a dumb idea when a liberal Republican passed it and it was a dumb idea when a liberal Democrat Governor Dukakis used it.

Mr. ANTHONY. So Governor Dukakis inherited a piece of legislation that was passed by a Republican Governor, the gentleman would admit that, he would acknowledge that.

Mr. GINGRICH. I would say to my knowledge it is a sign of how much the Democratic party has changed, that an Arkansas Democrat would defend a liberal Republican in Massachusetts.

I would be glad to yield.

Mr. ANTHONY. What I am trying to accomplish at the moment is the fact that I want the public record to be factual. And I do not personally think that the gentleman in the well has been factual in his statements and I think there are a multitude of other statements that need to be made so that the public can judge accordingly.

For instance, in October 1981 a Los Angeles police officer named Phillip Reilly was killed when an inmate on a 72-hour pass was furloughed. It is interesting to note that President Reagan was the Governor of California at that period of time. During his press conference his quote was that he was leading the Nation in rehabilitation. But "obviously, you can't be perfect."

The following year in 1972, a second murder occurred when two inmates on a work furlough killed an Orange County schoolteacher. There was a huge public outcry to try to demand that the legislatures do something about it. There Governor Reagan once again defended his program saying that California has become a model in correctional systems for the whole Nation. That was 1972, just about the same time that this Governor from Massachusetts passed probably what was the model law from the State of California. Then if the gentleman would just tell for the record what the Federal furlough program is and how many people have been furloughed on a 72-hour furlough that have been committed to prison for drug offense and how many of those have been committed not only for purchasing and using but how many have been sentenced to prison for creating, manufacturing, or distributing these illegal narcotics? My point is simply, to the gentleman from Georgia, you cannot have it both ways. When you have 23 States that have similar laws on the books, half of them have Republican Governors and half have Democratic Governors, and the Federal program, you ought to spread that out.

Mr. GINGRICH. If I may reclaim my time.

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Georgia controls the time.

Mr. GINGRICH. I will yield in 1 second. Let me just make clear, because this is one of the points of argument. In the first place, Governor Reagan supported and President Reagan supports the death penalty as GEORGE BUSH supports the death penalty. As Richard Cohen said brilliantly in a Washington Post column about 1 month ago, "A liberal State like Massachusetts," and liberal Governors, and I do not mind saying liberal Governors like Governor Sargent and liberal Governors like Dukakis, I am willing to say in Massachusetts even the Republican Governor in 1972 was far to the left of most of the country. That was, after all, the year that Massachusetts was the only State to vote for McGovern.

In Massachusetts and other liberal States that do not have the death penalty, as Richard Cohen pointed out in the Post, life in prison without parole is what a liberal State promises society in return for not executing the prisoner. Now Ronald Reagan ran for Governor in favor of the death penalty for a certain group of people. I would be willing to say, yes, I think there are some people and certainly Willy Horton seems to fit the group, who should never, ever be allowed on the street. And that is what the argument is about. The argument is not about is it possible if you have a furlough program in a State the size of California that occasionally something bad will happen? And that on balance there may be more good than bad? The argument is two things. First of all—and I want to read one quote from it in a second. The argument, first of all, is that Michael Dukakis is not for openness, Michael Dukakis is consistently for secrecy when it serves him and it is baloney for him to pretend he is open. And I am going to read you a passage that will give you some sense of that from the Lawrence Eagle-Tribune. And second, that Michael Dukakis favored, defended, and fought for what the Lawrence Eagle-Tribune called a secret program to release murderers on the street who the State of Massachusetts had promised would never ever again be on the street. But let me read you a passage and you will see why I am saying this.

I broke in to say there are not 23 other States that have a program of furloughs for people who are convicted for murder to life without parole. I will be glad if you want me to to read in the list from the Lawrence Eagle-Tribune State by State where it says, "Kansas, not inmates sentenced to life without parole; Kentucky, not inmates sentenced to life without parole; Louisiana, not inmates sentenced to life without parole; Maine, for first degree murderers, no. Maryland, not inmates sentenced to life without parole." Now we are talking about a very specific group of people who might be called bad. These are not nice people. But let me read to you just for a second from the April 17 Lawrence Eagle-Tribune the initial reaction of Governor Dukakis' State government.

> MASSACHUSETTS PRISON CHIEF "WILL NEVER BE AVAILABLE"
>
> Since Wednesday, the Eagle-Tribune has repeatedly phoned Massachusetts Correction Commissioner Michael Fair. His secretary and public affairs officers always say that he is at meetings or unavailable.
>
> Last night the fifth and final call of the day was placed:
>
> "He is not available," Correction Department spokesman Mary McGowen said.
>
> "Do you know when he will be available?" reporter Susan Forrest asked.
>
> "No I don't."
>
> "Will he be available tomorrow?"
>
> "Nope."
>
> "The day after tomorrow?"
>
> "No."
>
> "Next week?"
>
> "No."
>
> "Will he ever be available for me?"
>
> "No, he will never be available."
>
> "Can you answer how many other murderers furloughed by your department have gone on to commit violent crimes while out on passes like Horton?"
>
> "I don't know."
>
> "Could you get me that information?"
>
> "No."
>
> "Could I get that information from someone else in the department?"
>
> "No, we have a strict media-access policy. I don't have that information and the media can only deal with this office."

□ 1745

In other words, this is so-called open Michael Dukakis. When it came to the question, "How many murderers are you releasing on our streets, and how many people have they raped, tortured, and killed?" his State government was unwilling to talk to the Lawrence Eagle-Tribune on April 17 and was consistently unwilling to cooperate.

I will be glad to yield to the gentleman from Arkansas [Mr. ANTHONY] if he wants to pursue this.

Mr. ANTHONY. Mr. Speaker, I thank the gentleman for yielding.

I would like to make two comments.

You are comparing the States. I think it is only fair to take it one step back and compare what the State statute requires for the judge and jury to consider if a prosecutor is successful in proving guilt beyond a reasonable doubt in homicide cases, because the State of Massachusetts has one of the strictest laws on the books because it applies across all the spectrum, which is that it is tougher than, for example, my State of Arkansas.

I happen to have been in the courtroom on numerous occasions, asking for the death penalty and applying the facts and having the jury decide it. So, I say to the gentleman in the well, he can blame it as much as he would like on one newspaper, making one interview and failing to get facts, and then using that one press as the scapegoat from now on to try to get to his political purpose.

I think that the public should have more facts than that, and I would ask that the gentleman in the well at some point during his 1 minute, or during his special orders also read from the Los Angeles Herald Examiner, Thursday, August 18, of this year where it says, "The White House Allowed Prison Furloughs, GOP Blasted Dukakis Over Policy But Made No Effort To Halt the Federal Program," and then goes on and talks about the Federal program being very much like the program that the gentleman is criticizing the Governor of Massachusetts, for being the Governor in the State of the policy.

At some point, a final comment, and I would not ask you to yield. I hope that the gentleman would also spread on the record, how many people have gotten furloughs in 1987 under the Republican Reagan administration, out of the Federal Furlough Program, from the U.S. Bureau of Prisons, whether it comes to both social furloughs in 1972, or the short furloughs, and spread them on the record, then, so the public can make up its mind, whether or not you have a political purpose in mind for doing this, or whether you are talking facts, and whether you are talking rehabilitation, and what the problems are in the prisons, because I personally think you are trying to mix apples and oranges for your own partisan political purposes.

This is the reason I came to try to set the record straight, and I thank the gentleman for yielding. I will be back on the floor for a 1 minute speech to talk more in detail about this. If you want me to yield at that point, I will be happy to, but I thank you for yielding.

Mr. GINGRICH. I was not going to jump ahead, but I will be glad to.

The headline of the May 7, 1987, Lawrence Eagle-Tribune was the "Prosecutor Assured Witness That the Killer Was Jailed for Good." It goes on to say:

> The man who prosecuted William Horton Jr. said he believed the cold-blooded killer was behind bars for good when the guilty verdict was read.
>
> "I had given these assurances to reluctant witnesses when they walked out of the courtroom in 1975," said Lawrence attorney Michael Stella Jr., a former Essex County assistant district attorney.
>
> "It turned my stomach when I read about what happened in Maryland, and I'm upset because I was not told as a prosecutor about this furlough program for first-degree murderers," Stella said. "I had no idea Horton was approved for furloughs."

Now, let me just say here, you have a man who was a prosecutor in the Massachusetts State system, who is testifying, goes on to say:

> The First-Degree Lifer Law went into effect in 1972, two year before Joseph Fournier, 17, was stabbed 19 times during an armed robbery at the Marston Street Mobil Station in Lawrence.
>
> "Horton was not the typical murder defendant I came across," said Stella, who prosecuted 18 murder cases as an assistant district attorney. "I knew if he was ever let out, someone else would be a victim. Maybe if the furlough board had contacted me I could have told them these same things."
>
> When asked how he felt on May 22, 1975, when a Superior Court declared Horton, Alvin Wideman, and Roosevelt Pickett guilty of Fournier's murder, Stella replied, "If there was ever a case to argue for the death penalty in Massachusetts, the Horton-Wideman-Pickett situation would have been it."

Now, a step further, December 6, 1986, Lawrence Eagle-Tribune, these are articles that won the Pulitzer Prize. The headline was, Most States Would Not Have Furloughed Horton; "Out of the Question," they say.

> Forty-five states and the federal prison system say William Horton Jr. would not have been released on a weekend pass from one of their jails, a just-completed nationwide survey by the Eagle-Tribune shows.
>
> The survey found that furloughs are not allowed in those states for prisoners serving a life sentence without possibility of parole.
>
> It found that Horton might have been granted a furlough in four other states: Connecticut, Ohio, Wisconsin and Texas. They do not have a life-without-parole sentence.
>
> The Eagle-Tribune surveyed the other 49 states on furloughs for prisoners to see how Massachusetts' furlough program compared nationwide. The Eagle-Tribune wanted to find out how many other states would have furloughed a first-degree murderer like Horton, who was serving a life-without-parole sentence.
>
> Most said releasing Horton "would be out of the question," as he posed too high a risk to the public.
>
> Horton's only hope of release in most states would be an eventual commutation of his sentence by the governor. However, the Massachusetts Department of Correction granted 10 home furloughs or unsupervised temporary releases for Horton despite a prison disciplinary and drug record.
>
> Correction officials said approval of Horton's furlough requests were "routine" and "done by the proper guidelines."
>
> Horton, convicted of the brutal stabbing death of a 17-year-old Lawrence boy, escaped on his 10th weekend pass. He fled to Maryland and held a couple hostage there for 11 hours, raping the woman twice at gunpoint and repeatedly stabbing her fiance.

Mr. GORDON. As I have listened to this discussion on this matter, I find an element of both partisan rhetoric and hypocrisy.

Mr. GINGRICH. My comments or the Lawrence Eagle-Tribune Pulitzer Prize winner comments?

Mr. GORDON. Your comments and the selected use of editorials in your comments. You were taking a single incident and a policy that has been authored, during this legislation period. Yet the gentleman does not seem to want to talk very much that the fact that the policy was instituted under a Republican Governor in Massachusetts, that a similar policy was being instituted in California under Ronald Reagan, then the Governor, and under the Republican candidate for President right now, with a similar policy within the Federal courts.

Mr. GINGRICH. Let me come back. I want a dialog, because I am fascinated by all of my friends on the left who keep saying over and over again, that there is this similar policy.

Is it not true that Governor Reagan, and Vice President BUSH—now President Reagan and Vice President BUSH—favor the death penalty, and that Governor Dukakis opposes the death penalty? I would ask that of my friend.

Mr. GORDON. That is another matter completely.

Mr. GINGRICH. But is it not that the point of the murderers who are being released, were sentenced to life without parole? Life without parole, in liberal States like Massachusetts, is supposed to be the equivalent of the death penalty.

Mr. GORDON. Once again, it appears to me just to be partisan rhetoric, hypocrisy like I listened on the floor the other day, to the gentleman ranting and raving about taxes.

Mr. GINGRICH. Let us stay on the issue today. I will not yield.

Mr. GORDON. The issue is hypocrisy.

Mr. GINGRICH. Well, we will talk about hypocrisy as it relates to Willie Horton.

Mr. GORDON. What about his own PAC raising $217,000?

Mr. GINGRICH. Once we are done talking about this, which will take several days, because there are a lot of articles here, once we are done talking about the video tape "Justice and Furlough," and the Pulitzer Prize winning coverage of the Lawrence Eagle-Tribune, and I realize that even though you are all southerners and have a partisan obligation to defend a Democrat from Massachusetts, it is a great shock to me to hear somebody from Arkansas or somebody from Tennessee, suggest that a liberal from Massachusetts is anything but a liberal from Massachusetts, whether it was Governor Sargent, who is a Republican, or Governor Dukakis, who is a Democrat. I do not defend Governor Sargent, having passed a dumb bill.

Mr. GORDON. I will refer to an article or an editorial from an Arkansas paper.

Mr. GINGRICH. On this topic?

Mr. GORDON. If you want an Arkansas paper on the topic of hypocrisy? The Arkansas Gazette, dated Saturday, October 17, 1987, referenced to a book you have written.

Mr. GRINGRICH. I will be glad to spend an entire evening or entire afternoon, an entire hour talking about various attacks that the Democratic congressional campaign is launching, but for the purpose of this argument let us confine ourselves.

Mr. GORDON. Is this editorial not legitimate?

Mr. GINGRICH. I would like to reclaim my time.

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Georgia has the time.

Mr. GINGRICH. I am perfectly happy to debate whatever the Democrats want to send out to debate on my time if they are willing to talk about the topic that I want to talk about.

Mr. GORDON. This is taxpayers' time, not your time, but taxpayers' time. The taxpayers are paying for this.

Mr. GINGRICH. I would like to reclaim my time.

The SPEAKER pro tempore. The gentleman from Georgia has the time.

Mr. GINGRICH. I would tell my friend, if he wants an hour, I will defend my record, or he wants to arrange a time for both of us, and I do not care who controls it, to talk about the issues of the Democratic Campaign Committee, for the purpose of this, he can, and the purpose of the next few days, until I get all of the Lawrence Eagle-Tribune Pulitzer Prize winning coverage in the RECORD. I think that the video, "Justice on Furlough," is so important, and it is so important that all of our colleagues get a copy of it and see it for themselves, and I think the issue of why Governor Dukakis favors allowing murderers loose, and refuses to tell the truth, we should focus on that.

Mr. GORDON. So I assume that the taxpayers are paying for this to go on C-SPAN?

Mr. GINGRICH. Surely if you go and visit with the Speaker, the Speaker who knows how to ruthlessly control time and control the schedule, he will be glad to share with you the history of the House, and why once time is yielded to a particular colleague, that colleague controls the debate.

For the purpose of this evening, I am willing to talk about why Governor Dukakis favors furloughing murderers, I want to talk about the Lawrence Eagle-Tribune Pulitzer Prize winning record. I am willing to talk about how they gradually forced the State of Massachusetts, under Governor Dukakis, to admit what it was doing, and I would be willing to share with my colleague all the information from these Pulitzer Prize winning articles, and I would be willing to share with my colleague how to get a copy of the videotape, "Justice on Furlough."

But I think the issue of Governor Dukakis' willingness to always find an excuse for the murderer and literally refuse to listen to the victim and the fact that Governor Dukakis was not willing to share with the press information and they had to file a lawsuit to get the information because he would not tell the newspapers in Massachusetts what he was doing with murderers. I think that is a legitimate public policy debate, and that it is a legitimate topic for the House to focus on for an hour.

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. Let me yield first to my friend, the gentleman from Pennsylvania, and then I will yield to the gentleman from Tennessee.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding, and I want to congratulate the gentleman because I do think that is an extremely interesting and important public policy debate.

We have been focusing on the issue of drugs for some days on the House floor. The Democratic leadership has decided that this is an issue that needs to be dealt with. The program to which the gentleman is referring, the furlough program, turns out also to have implications in the whole drug debate, and it seems to me it is something that should be focused on. We just learned in the Washington Times this morning that Governor Dukakis had pardoned 21 convicted drug dealers between 1983 and 1987, and it turns out that the State records reveal that others convicted of drug crimes have been furloughed. That includes the infamous Willie Horton, who is evidently also someone who was convicted of a drug crime. He ended up being furloughed.

So we have not only a question here of first degree murderers who are serving without parole ending up out on the streets, which is a national scandal, not just a Massachusetts problem, but we also have the problem now that the very drug issue we are trying to fight was being undermined by Governor Dukakis as he took people who had been convicted of dealing and gave them pardons, and thereby expunged their whole records so no one, not future employers, not future persons seeking to find out about this person can find out anything about this person's drug-dealing record because it has been expunged from the record by the pardon.

Mr. Speaker, I think those are legitimate issues to be raised, and I appreciate the gentleman's doing so.

□ 1800

Mr. GORDON. Will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. It reminds me—you are talking about the various pardons which came out of the Dukakis administration making him responsible for all acts of his administration. It would seem to be the logical extension of that that Vice President BUSH, being in charge of the administration's drug program, the eradication program, should also be held accountable for the lack of success that that program has had, should be held accountable for those people that were not arrested over the last 7 years.

Mr. WALKER. Will the gentleman yield?

Mr. GINGRICH. Let me just say for a second that I understand the desperation with which Democrats are seeking to throw sand in this particular argument. I understand how terribly embarrassing it must be to be a loyal Democrat and suddenly realize that you have nominated a man who clearly does not believe in openness in terms of sharing information about murderers with the public, and let me just——

Mr. GORDON. Openness in dealing with the President of Panama. I mean is this not a part——

Mr. GINGRICH. The fact is——

Mr. GORDON. We are going back to hypocrisy.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me on that point?

Mr. GINGRICH. Let me just make a quick comment.

In the first place we all realize that Governor Dukakis would have given Noriega weekend furloughs and would have ultimately pardoned him in a way that commuted his sentence.

Let me read you one example of why——

Mr. GORDON. Vice President BUSH just ignored it and became a partner.

Mr. GINGRICH. No, no. Let me——

Mr. GORDON. At least he would not have been a partner in the deal.

Mr. GINGRICH. Let me, if I might, reclaim my time.

Let me point out an example of why most of America and, frankly, I expect most of Tennessee finds Dukakis and the national Democrats a little strange.

Quote: again from the Lawrence Eagle-Tribune:

> In Massachusetts there is a privacy law, the Criminal Offender Records Act (CORI), that keeps prisoners' records secret. When a criminal is released on furlough or parole the public is not told.
>
> When McCloud was given Horton's background and told he was released, McCloud said: "Your're kidding. That's crazy. That man is a prime escape risk. You never let a lifer out like that. What has he got to lose?
>
> "We'd never consider that guy," McCloud said. "I can't believe they let that guy out. Is that common practice out there?" he asked.
>
> "If we did something like that, we'd all be hanging," McCloud said. "When we let a man out we hope the worst thing that will happen on furlough is that he'll get drunk. We're trying to keep guys like him inside. That's our biggest nightmare to have something like that happen."

Let me mention, by the way, according to the Lawrence Eagle-Tribune survey, the State of Tennessee does not allow any furloughs for inmates sentenced to life without parole.

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. Now I just find it strange that the gentleman is defending Governor Dukakis whose position is far to the left of his home State, and I cannot quite understand——

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. First I will yield to the gentleman from Pennsylvania, and then I will yield to the gentleman from Tennessee.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding because I want to make a couple of points.

First of all, this was not somebody in the Dukakis administration that issued these pardons to drug dealers. It was Mr. Dukakis himself. He issued the pardons.

So, it is not just somebody in the administration that he was overseeing. It was Mr. Dukakis himself who issued pardons to 21 drug dealers.

In fact, in his first term in office he pardoned 552 persons and commuted the sentences of 49 more. That compares to, for instance, the Governor of Illinois, who in the 4 years of his administration, beginning in 1984, has granted 90 pardons and commuted 22 sentences in a State about the same size. Mr. Dukakis has a strong record of being pretty soft on criminals.

Second——

Mr. GORDON. If the gentleman will yield, will the gentleman find out who the Governor of Illinois is and what party he belongs to?

Mr. WALKER. Did the gentleman yield to me?

Mr. GINGRICH. Yes.

Mr. WALKER. I think the gentleman did, and the gentleman from Tennessee [Mr. GORDON] needs to understand the rules.

The gentleman will, I think, confirm that the Noriega policy was not a Reagan administration policy. It was begun in the Carter administration, and the reason why the Noriega drug dealing was covered up in the Carter administration was because they were trying to pass the Panama Canal Treaty, and they knew that, if the Noriega information came out, that that could doom the Panama Canal Treaty, and so not only did they know about the Noriega drug dealing, but they covered it up.

Now this administration, in fact, brought to the forefront the knowledge that Mr. Noriega was dealing in drugs and a U.S. attorney under this administration indicted Mr. Noriega for that drug dealing, something which never, of course, happened under the Carter administration, who was covering up in order to pass the Panama Canal Treaty.

Now I would suggest that that is not a record that most Democrats should be bringing up. The reason why Mr. Dukakis brings it up is because of his sorry record in Massachusetts that he is trying to take people's minds off. But it is such a sorry record that I cannot imagine that the American people are not going to focus on the fact that here is a guy who complains about drug dealing in Central America while he is letting the drug dealers off on pardon in his own State.

Mr. GORDON. Will the gentleman let me respond?

Mr. GINGRICH. I will be glad to yield to the gentleman from Tennessee.

Mr. GORDON. As I said earlier, you did mention that the Governor of Illinois, with the stints that you were quoting, is a Republican. Additionaly I wonder——

Mr. WALKER. Mr. Speaker, I would be very glad to specify that. I was being nonpartisan.

Mr. GINGRICH. Go ahead.

Mr. GORDON. The gentleman is being selectively nonpartisan.

I think the question I would also like to ask is that the gentleman said that if this activity was going on with Noriega during the Carter administration, why did it take the Reagan administration 7 years to understand it? If they did bring prosecution, why did it take 7 years? Was it that slow in being able to understand it? That they did not care? Why did they wait 7 years if this knowledge was already available?

Mr. GINGRICH. Let me comment.

I am not going to stand here tonight and say that the Reagan administration is always right or that GEORGE BUSH was always correct, but I think——

Mr. GORDON. I am sorry——

Mr. GINGRICH. But let me just go a step further because I just find this whole dialog fascinating, and I understand how really, really hard it is for Democrats who are rational to try to find a good excuse to explain away Dukakis.

Let me give the gentleman one more just taste of what this Lawrence Eagle-Tribune Pulitzer Prize-winning series was like because it is understandable how, I think, in most of America Dukakis and his verison of Massachusetts has to seem bizarre the minute the average American sees the video tape "Justice on Furlough."

May 13, 1978, "Convicted Killers say Horton is giving them a bad name.

"William Horton, Jr.—" I promise I am not making this up. This is an actual article, and the gentleman can understand why the Lawrence Eagle-Tribune ultimately got a Pulitzer Prize, and this is by Susan Forrest who is the writer.

> William Horton Jr. is giving murderers a bad name.
>
> That is what Lifers Group Inc., an organization made up of some 200 first- and second-degree murderers in a state prison in Norfolk, said yesterday during a telephone interview with the Eagle-Tribune.
>
> "We are a non-profit, tax-exempt organization which works for the betterment of murderers," said first-degree murderer William Doucette—

I defy anyone to take this home and read it with a straight face—

> 35, of Medford, who is on the board of directors of the Lifers Group.
>
> "On the case of Mr. Horton, most lifers are appalled by his actions in Maryland and do believe that his institutional record would speak for itself in regards to his being a good furlough candidate," Doucette said.

Now let me carry it a stage further so the gentleman will understand this. This is again a quote from the Lawrence Eagle-Tribune.

> During the hours between 8 a.m. and 3:30 p.m., the Community Services Department (CSD) at Norfolk is open for prisoners to use as a meeting place. Twice the Eagle-Tribune called the main prison number and asked for the extension of the CSD and twice prisoners answered the phone.

Now I just want to suggest that when people come to understand by seeing the video tape, "Justice on Furlough," or reading the Reader's Digest article, "Getting Away With Murder" or listening to our dialog that, when they come to understand that Governor Dukakis' Massachusetts is a place so liberal that felons can vote while serving in prison so that, if they cannot get the weekend out, they can at least vote on Tuesday, that they have rallies for prisoners to remind them of their obligation to vote; absentee ballot, of course; that one of the reasons that people in New Braintree were opposed to a prison being put there was that there would be more prisoners voting than there were citizens in New Braintree, and, therefore, the prisoners could elect the mayor.

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Was that a policy that Governor Dukakis instituted, or did he inherit that from his Republican predecessor?

Mr. GINGRICH. Come on. Governor Dukakis has been Governor for 10 years. I mean—the gentleman knows this newspaper ran 175 articles trying to suggest to the Duke that maybe things were not going well, that having murderers visit on the weekends was not good, that having people out on the weekend who were showing up at restaurants who literally in the video tape, "Justice on Furlough," there is a scene——

Mr. GORDON. Is it good——

Mr. GINGRICH. Well, let me finish this to give the gentleman an idea of how bizarre it is.

The Dukakis in Massachusetts are just weird. There is a woman in the video tape "Justice on Furlough" who recounts the story of a mother whose older daughter had been killed, who went to dinner one night with her younger daughter and realized that sitting in the very same restaurant was the murderer of her older daughter who was out on a weekend furlough.

Now that is just—I mean there is no place in America except Brookline and Governor Dukakis and his immediate entourage of ACLU associates where that makes sense.

But I will be glad to yield.

Mr. GORDON. I would ask the gentleman from Georgia, Should the furlough program with the Federal Government be altered now or is he satisfied with it?

Mr. GINGRICH. Again I do not know if it is a learning disability or what the problem is among the Democrats this year. Governor Dukakis favored, supported, and fought for a furlough program for lifetime without parole murderers. There is no other State in the United States including the Federal Government which has a program that is as loony as Governor Dukakis' program.

Mr. GORDON. But that was not my question. My question is, Are you satisfied with the Federal Government's furlough program? Does the gentleman think it is a model?

Mr. GINGRICH. I am going to be honest.

Mr. GORDON. Would it be what the gentleman would like to see used in Georgia or in——

Mr. GINGRICH. I am going to be honest and tell the gentleman flatly that I am not an expert on the Federal Government furlough program. I have learned a great deal about Governor Dukakis, and the secrecy he favors in Massachusetts and the program of furloughing lifetime murderers without parole.

Mr. GORDON. Well, then let me ask you then if the Federal program, once one learns more about it, is not satisfied with it, would it be fair to say that Vice President Bush, having served in that Office for the past almost 8 years should be held responsible for not changing it?

Mr. GINGRICH. Again I do not understand exactly why the people in the Democratic Party just do not do their homework this year. This is not a case of guilt by association. Governor Dukakis personally fought again and again and again against changing this program.

Now, and I would suggest, as an initial, introductory primer, if the gentleman is going to get involved in these debates, that he read, "Getting Away With Murder," by Robert James Bidinotto in Reader's Digest in July, but I will give the gentleman an example of why I think what he is saying is not an accurate comparison.

In the first place Governor Dukakis vetoed the death penalty bill. In the second place, when Cliff and Angie Barnes, the couple who had been tortured, and she had been raped by Willie Horton, whose government under Governor Dukakis had let out, when they went to Boston, Governor Dukakis would not talk to him, and let me give the gentleman just a couple of quotes out of the article, "Getting Away With Murder," which served as the basis for the video tape, "Justice on Furlough," when they talk about Governor Dukakis' attitude and their effort. They tried to pass a bill to stop the furlough program.

Page four:

> The bill was stalled in committee by legislative allies of Governor Dukakis.
>
> In the face of growing public opposition, the Dukakis administration made some revisions in the furlough guidelines (eligibility became 12½ years in prison rather than ten), but defended the program relentlessly. At a news conference, bureaucrats trotted out figures showing that relatively few killers on furlough had escaped. Human Service Secretary Philip Johnston told astonished reporters, "Don't forget that Mr. Horton had nine previous successful furloughs."
>
> To Commissioner Fair, furloughs were a prison "management tool." Unless a lifer has hope of parole, he argued, "we would have a very dangerous population in an already dangerous system." But, critics, wondered, if armed guards can't control "very dangerous killers" inside locked cells, how are unarmed citizens supposed to deal with them?
>
> When Dukakis visited the Andover, Mass., police station one day, furlough opponents Maureen Donovan, Joanne Pekarski, and Mary Gravel got to meet with him. Gravel told the governor about her own daugther's unsolved murder. "What if Claire's killer is caught and convicted, then furloughed?" she asked. "What do you think it would do to my family if they were walking down the street and saw this person?"
>
> "I'd probably feel the same way you do," Dukakis responded. "But, unfortunately, it's not going to change my mind."
>
> The governor began recounting a recent discussion with inmates' families about their grievances, but Maureen Donovan angrily interrupted. "You'll meet with prisoners' families, but you keep avoiding us."

Now I would simply say to the gentleman that we have Governor Dukakis' fingerprints all over this program, that Governor Dukakis understood the murderers furlough program, he defended the murderers furlough program, his appointees were willing to keep it secret from the people of Massachusetts, and, when the gentleman sees the video tape, "Justice on Furlough," which I hope the Speaker will agree to allow us to show on the House television system so that everybody can see it is not a partisan document. The only people on it who are politicians are all Democrats, and, when the gentleman sees it, there is a scene there in which one of the Massachusetts legislators says, "I do not understand why Govenor Dukakis always favors the prisoners and never listens to the victims."

Mr. GORDON. Will the gentleman yield?

Mr. GINGRICH. I will be glad to yield.

Mr. GORDON. I assume the reason the gentleman is discussing this subject is not because of trying to educate the individuals in Massachusetts or trying to change the Massachusetts policy, but rather trying to bring it up as some type of statement as to Governor Dukakis' ability or own judgment to be President of the United States.

☐ 1815

If that is the case, then it would seem to be very legitimate and onesided if the gentleman is not going to take the same approach with Vice President Bush. Vice President Bush has been the Vice President for almost 8 years. He has been the second ranking person over the prison system.

I want to ask the gentleman one simple question. Is the gentleman satisfied with the furlough program in the Federal system?

Mr. GINGRICH. I would tell the gentleman that I am delighted that the Federal furlough program does not permit furloughs——

Mr. GORDON. Is the gentleman satisfied with it?

Mr. GINGRICH. Wait just a second—for life prisoners without parole.

I am delighted that Vice President BUSH favors the death penalty for drug kingpins, even though Governor Dukakis opposes the death penalty.

But I want to come back, does not it bother the gentleman a little bit, even when the gentleman is hearing the debate——

Mr. GORDON. The gentleman does not feel like answering my question?

Mr. GINGRICH. In the first place, the Democrats have controlled the House for 34 years. We have had divided Government. I do not feel an obligation to say given the divided Government that the Democrats controlled the House the entire time there was a Reagan-Bush administration, that they are totally responsible.

Let me go a step further. Does the gentleman not feel a little squeamish, does it not make the gentleman feel a little bad to hear all this stuff out of Reader's Digest and out of the Lawrence Eagle-Tribune to realize that your nominee for President is a man who consistently, systematically, defended releasing people on the weekend and then lying to the people of Massachusetts, not giving them the facts. Does it not worry the gentleman a little bit that the Pulitzer Prize was won by the Lawrence Eagle-Tribune investigating and exploring the Dukakis administration's policies? And can the gentleman really go home comfortably and explain the facts back home that you are glad you have a nominee who is against the death penalty and willing to let folks who in any other State would have been executed wander around on weekends?

How would the gentleman feel if it had been in Chattanooga or Knoxville that Cliff and Angie Barnes had been the day that Willie Horton broke into their home, tortured Cliff Barnes, raped Angie Barnes, and you ought to see again this film, "Justice on Furlough."

Mr. GORDON. Mr. Speaker, if the gentleman will yield, certainly I have sympathy for that. Certainly I think every good-minded citizen in this country feels sympathy, just as Governor Dukakis does.

Mr. GINGRICH. But he does not.

Mr. GORDON. We are talking about an isolated circumstance.

Mr. GINGRICH. Let me just make a point. Governor Dukakis would not see Cliff and Angie Barnes when they went to Boston. Part of what made this such an outrage is that when they flew to Boston to tell him what Willie Horton had done after he released Willie Horton, he would not see them.

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Tennessee.

Mr. GORDON. Once again, it appears to me the gentleman's purpose is trying to compare records, yet the gentleman will not discuss the records fully.

All I have asked the gentleman very simply, very simply, is the gentleman satisfied with the Federal furlough program?

Mr. GINGRICH. I will say to the gentleman very simply, the Federal furlough program is a far better program than Governor Dukakis' program of releasing murderers on the weekend.

Mr. GORDON. Does that mean that if you are shot twice, that is better than being shot three times?

Mr. GINGRICH. No. Again, and I do not understand why the gentleman is having to reach so far.

Mr. GORDON. Why is the gentleman trying to avoid so much? I have to ask the question.

Mr. GINGRICH. Is it not possible, and I know the gentleman is under a lot of pressure and I know we are going to get at least one Democrat a night to come over and try to defend what is an increasingly implausible position, but is it not possible for the gentleman to admit just a little bit that the Dukakis position on Willie Horton and on releasing murderers is by the standards of Tennessee and most of the South and most of the Midwest, and I suspect by the standards most of Pennsylvania, is a little nutty. I mean, I can get the gentleman plenty of quotes——

Mr. GORDON. I would like to make an admission.

Mr. GINGRICH. I would be glad to hear it.

Mr. GORDON. Certainly the whole judicial system is a difficult matter.

Mr. GINGRICH. We are not talking about the whole judicial system.

Mr. GORDON. And I certainly agree that this would be better not to have occurred. I certainly know that it is difficult, whether it is Federal, State or local, and it would be a difficult policy now, so I think we need to try to determine, is there complete blame anywhere or is this a difficult problem that we all have trouble with? That is why I think it is important that we look at also the Federal system, I wish Vice President BUSH with a Republican Senate for 6 years could have dealt with.

Is the gentleman satisifed with the furlough program that the Federal Government has now?

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. This is a fascinating discussion, because anybody who has served in this House knows that one of the problems that we had in dealing with criminal codes in this House has been the fact that a lot of Reagan administration proposals to get tough on criminals have ended up buried in a House committee, and it took an extraordinary action a couple of years ago to get a major criminal reform bill out on the House floor. We had to literally bring it up as a part of a motion to recommit an appropriations bill in order to get it out of the hands of the Judiciary Committee in this House that was burying this tough anticriminal bill.

So it seems to me that we have got to also put in the mix here that the Reagan administration has faced 8 solid years of liberals in the House of Representatives who have attempted to frustrate those things that they have done to try to crack down on crime in this country. That is a very, very important part of the whole Reagan record. And then to turn around and suggest that because there was another House that was controlled for part of the time by the Republicans, that they should be responsible for the entire Government, is ludicrous.

I mean, this House has in fact been a thorn in the side of the Reagan administration on issues of criminal conduct and on the issue of getting tough with criminals all the way through the administration.

The reason we do not have some of the reforms that many of us would like to have achieved is because this House stood in the way of getting them.

For example, the death penalty for drug dealers, the death penalty for first degree murderers that fall under the Federal Code, that has been held up in this House. This House is the one that has caused that not to take place. It seems to me that then to turn around and suggest that somehow Vice President BUSH has failed because this House will not pass the legislation that the administration sends up to get tough on criminals is a totally ridiculous position, and I thank the gentleman for yielding.

Mr. GINGRICH. Let me just put in the RECORD a couple quick points, one of which I must say I did not realize, and I pass this on so the gentleman can tell our friend, the gentleman from Arkansas, before he gets trapped up in this again, I read this before and it just did not register:

> The Massachusetts inmate-furlough program was enacted in 1972 under Gov. Francis W. Sargent, and a killer soon escaped. This stirred up a legal controversy, but in 1976 Governor Dukakis pocket-vetoed a bill to ban furloughs for first-degree murderers. It would, he said, "cut the heart out of efforts at inmate rehabilitation."

In other words, when you go back to the record you have Sargent passing a bill he should not have passed, and he was a liberal Republican in a left wing State; but when the first effort to repeal it in 1976 occurred, it was Dukakis who vetoed it.

Now, as to Dukakis' openness, this is all from the Reader's Digest":

> The encounter with Dukakis convinced the women that their best option was to put a referendum about furloughs on the November 1988 ballot. Within weeks, they formed CAUS—Citizens Against Unsafe Society.

It goes on to say, and this gets back into my earlier comments on the Lifer's Group:

> The state's House passed Giordano's bill overwhelmingly. But in the Senate, Royal Bolling, Sr., used parliamentary stalling tactics to kill it as the legislative session ended.
>
> A month later, Bolling received a standing ovation for his efforts from 400 inmates at Norfolk prison. "I'm always glad to see some of my old friends," he said smiling. "I hope I will continue to deserve your good will."
>
> The occasion for this strange episode was "Legislative Awareness Day," an annual event that reminds inmates in Massachusetts they are allowed to vote. An inmate leader urged fellow convicts to register and vote against the referendum banning furloughs. A deputy secretary of state, Richard Shibley, brought in hundreds of absentee-ballot applications.

Let me just say, and then I will yield to you, does it not worry the gentleman as a non-Massachusetts Democrat that as the country comes to understand that Massachusetts under Dukakis was not only a State where murderers were let out on weekends, it was a State where murderers who hung around on Tuesday got to vote, and it was a State where the legislature was so far to the left that the State senator who killed the furlough repeal actually went to the prison and referred to the prisoners as, "My old friends," and said to the prisoners, "I hope I will continue to deserve your good will."

I mean, you are not from the San Francisco Bay Area and you are not from Massachusetts, and you are not obligated to suggest that this is rational behavior. I am just curious, what is the gentleman's reaction?

Mr. GORDON. Certainly given my options, I would not agree with that, and I would not want to see that system in effect.

Mr. GINGRICH. Does it not worry the gentleman that it is his party's Presidential nominee who not only favored it, but fought for it?

Mr. GORDON. It is all a matter of alternatives. It is one of many situations. That is why I would like to know what the alternative from the Republican nominee is.

If the gentleman from Pennsylvania would let me know, does the gentleman approve, is he satisfied with the Federal furlough program now?

Mr. GINGRICH. I just have to come back for a second——

Mr. GORDON. And what legislation has Vice President Bush initiated to change that?

Mr. GINGRICH. I cannot believe the gentleman is trying this. It is a great gimmick, but it will not work. Come on. The alternative is simple. In 1976, Governor Dukakis could have signed a bill to ban furloughs for first degree murderers.

In 1987, Governor Dukakis' allies could have passed a repeal of the furlough program for life-time murderers without parole.

I mean, there were plenty of alternatives. Governor Dukakis might even, and this would be pretty radical, he might even have favored the death penalty for some people, but he did not have to go that far. I am not asking Governor Dukakis to quit being a liberal. I am just asking him to quit being loony.

Now, there are clearly alternatives. I am coming back and saying, and I want to stay on the Massachusetts issue because there is a core principle here.

We are arguing, and course we are being partisan, we are arguing that any reasonable study of Michael Dukakis' policy is on two grounds, systematic secrecy, which I had hoped to get to tonight, but might have to get to tomorrow night, systematic secrecy, the fact that they deliberately refused to tell the people of Massachusetts about the murderers. They deliberately refused to tell the newspapers what was going on. They had to file a lawsuit to get it open, and when Dukakis' promises an administration that is open, that has got to be the most misleading promise ever made in our lifetime by an American politician, because his record in Massachusetts is deliberate secrecy.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me on that point?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I just want to point out to the gentleman that when the Washington Times called for a comment about the 21 drug dealers that were pardoned by Governor Dukakis, I will read you the paragraph out of the Times that says:

> Mr. Dukakis' Boston office did not respond to several calls seeking comment on the list of convicted drug dealers pardoned by the Democratic Presidential nominee of Massachusetts Chief Executive.

So the policy of not commenting to newspapers on these kinds of programs obviously is continuing.

Mr. GINGRICH. And there is a second point, which is that Governor Dukakis' values about murderers and his values about criminals and about prisoners, his willingness to meet with the prisoners' families, as the Reader's Digest reports, but not meet with the victims' families, he is always finding an excuse to protect the right to secrecy of murderers, but not the right to safety of innocent people. That is a core value. It goes to the whole notion of who is Mike Dukakis and what does he believe in?

I would suggest that anybody who reads "Getting Away With Murder" from the Reader's Digest in July, anyone who reads the Pulitzer Prize winning series by the Lawrence Eagle-Tribune, or anyone who were to look at the video tape, "Justice On Furlough," which as I said earlier our colleagues can get simply by calling (618) 465-1166, I think anybody who wants to get involved in that, if they see the video tape, and I do hope the Speaker will let us put it on the House television system so every Member and our staff can see it; if you see that video tape, I think it will sock you to believe that your party could have nominated a man whose values on fundamental questions of safety, of public safety, of criminals, of murderers, whose values are so strange and his unwillingness to listen to the victims' families is so strong.

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Tennessee.

Mr. GORDON. As I grew up, I heard the expression, as I am sure the gentleman did, that people who live in glass houses ought not to throw stones.

Now, I assume that the gentleman is here as a surrogate of Vice President Bush.

Mr. GINGRICH. No. I am here as a U.S. Congressman representing the interests of the Sixth District of Georgia.

Mr. GORDON. But the gentleman's purpose is the coming Presidential election.

Mr. GINGRICH. No. If the gentleman can find me a single example of a murderer in the furlough system who was furloughed on the weekend when he had been sentenced to a lifetime in prison without parole, then I think the gentleman has a legitimate case; but the fact is, and the gentleman knows this in his heart, he is making a gallant effort and I appreciate the skill with which he is doing it; the fact is that the Federal system, and again I will be glad to read from the Lawrence Eagle-Tribune, which makes the point very explicitly in the article on December 6, 1987, that the Federal system would not have released Willie Horton, period. That is just the case, and I know it is very hard for liberal Democrats to buy it.

□ 1830

Mr. GORDON. Will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman.

Mr. GORDON. Certainly the gentleman is taking one very obscure case.

Mr. GINGRICH. And we are trying to make it less obscure.

Mr. GORDON. Yet the gentleman will not discuss the bigger situation, and that is the furlough program with the Federal Government.

Mr. GINGRICH. What is the gentleman's charge?

Mr. GORDON. My question is, and I do not have a charge, but a simple question for the gentleman. Is the gentleman satisfied with the Federal furlough program?

Mr. GINGRICH. I am very satisfied with that, and this is why I think the gentleman has got to go back.

Mr. GORDON. The gentleman may think it is better than something else. Excuse me.

Mr. GINGRICH. I think the gentleman has to go back here and do some more homework before tomorrow night if we are going to keep doing this. To the best of my knowledge, the Federal program does not have a tradition of not telling anybody anything. Massachusetts is the only State that has a law, and it is called the CORI act, and CORI means, and I have been trying to find exactly what the title means, but it is criminal offenders' records information.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GINGRICH) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, on September 14 and 15.

Mrs. MARTIN of Illinois, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today and 60 minutes on September 14 and 15.

Mr. GINGRICH, for 60 minutes, on September 14.

Mr. DORNAN of California, for 60 minutes on September 14, 22, 23, 26, 27, 28, 29, 30, and October 3, 4, 5, and 6.

(The following Members (at the request of Mr. PEASE) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of New York, for 5 minutes, today.

Mr. PEASE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes each day on September 14, 15, and 16.

Mr. PEASE, for 60 minutes on September 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. LOTT.

Mr. VANDER JAGT.

Mr. GALLO.

Mr. HORTON.

Mr. BEREUTER.

Mr. PORTER.

Mr. KYL.

Mr. DORNAN of California.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. HOYER.

Mr. SAWYER.

Mr. GARCIA.

Mr. TRAFICANT in two instances.

Mr. BATES.

Mrs. BOXER.

Mr. LANTOS.

Mr. TRAXLER in two instances.

Mr. FLORIO in two instances.

Mr. BERMAN in two instances.

Mr. LIPINSKI.

Mr. MURTHA.

Mr. ASPIN.

Mr. GORDON.

Mr. MARKEY.

Mr. YATRON.

Mr. BOSCO.

Mr. KILDEE in two instances.

Mr. KOSTMAYER.

Mr. WYDEN.

Mr. FORD of Michigan.

Mr. FLORIO.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1613. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2763. An act entitled the "Prevention of Genocide Act of 1988"; to the Committees on Banking, Finance and Urban Affairs; Foreign Affairs; and Ways and Means.

S. 2764. An act to provide for a Health and Human Resources Center at Vooheers College in Denmark, SC; to the Committee on Education and Labor.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1270. An act to award a congressional medal to Mrs. Jesse Owens, and for other purposes;

H.R. 1939. An act to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and to establish a National center for the United States Constitution within the Independence National Historical Park in Philadelphia, PA;

H.R. 2701. An act to amend the Natural Gas Policy Act of 1978 to remove certain contract duration and right of first refusal requirements;

H.R. 5143. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds; and

H.R. Res. 453. Joint resolution, designating September 16, 1988, as "National POW/MIA Recognition Day."

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 52. An act to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program;

S. 1360. An act to amend the Indian Financing Act of 1974, and for other purposes;

S. 1889. An act to amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes, and

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Co. and the United Transportation Union.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following title:

On September 13, 1988:

H.R. 1158. A bill to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes; and

H.R. 4775. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 31 minutes p.m.) under its previous order, the House adjourned until tomorrow,

Wednesday, September 14, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4293. A letter from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting notification of the decision to convert the commissary shelf stocking/custodial/warehouse function at Patrick Air Force Base, FL, to contractor performance, which was found to be the most efficient and cost effective, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216), Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Appropriations.

4294. A letter from the Acting Chief of Legislative Affairs, Department of the Navy, transmitting notification of the Department's intent to offer for lease certain naval vessels to the Government of Pakistan, pursuant to 10 U.S.C. 7307, chapter 6 AECA; to the Committee on Armed Services.

4295. A letter from the Chairman, National Advisory Board for International Education Programs, Department of Education, transmitting the Board's annual report for fiscal year 1987, pursuant to 20 U.S.C. 1233b(a)(2); to the Committee on Education and Labor.

4296. A letter from the National Advisory and Coordinating Council on Bilingual Education, Department of Education, transmitting the Council's 12th annual report on bilingual education, pursuant to 20 U.S.C. 3262(c); to the Committee on Education and Labor.

4297. A letter from the Chairman, National Advisory Committee on Accreditation and Institutional Eligibility, Department of Education, transmitting the Committee's annual report for fiscal year 1987, pursuant to 20 U.S.C. 1145(e); to the Committee on Education and Labor.

4298. A letter from the Presiding Officer, Advisory Council on Education Statistics, Department of Education, transmitting the Council's 13th annual report, pursuant to 20 U.S.C. 1221e-(d)(1); to the Committee on Education and Labor.

4299. A letter from the National Board, Fund for the Improvement of Postsecondary Education, Department of Education, transmitting the Board's annual report for fiscal year 1987, pursuant to 20 U.S.C. 1233b(a)(2); to the Committee on Education and Labor.

4300. A letter from the Chairman, National Advisory Council on Adult Education, Department of Education, transmitting the Council's annual report for fiscal year 1987, pursuant to 20 U.S.C. 1233b(a)(2); to the Committee on Education and Labor.

4301. A letter from the Chairman, Intergovernmental Advisory Council on Education, transmitting the Council's biennial report for fiscal year 1986 and 1987, pursuant to 20 U.S.C. 3423(b)(1(D); to the Committee on Education and Labor.

4302. A letter from the Executive Director, National Advisory Council on Educational Research and Improvement, transmitting the Council's 12th annual report, pursuant to 20 U.S.C. 1231a(b); to the Committee on Education and Labor.

4303. A letter from the Chairman, National Advisory Council on Indian Education, transmitting the Council's 14th annual report, pursuant to 20 U.S.C. 2642; to the Committee on Education and Labor.

4304. A letter from the Chairman, National Advisory Council on Women's Educational Programs, transmitting the 13th and final annual report of the Council, pursuant to 20 U.S.C. 3346(c) (1) and (4); to the Committee on Education and Labor.

4305. A letter from the Chairman, National Council on Vocational Education, transmitting the Council's 1987 report of Council membership, activities, and preliminary recommendations, pursuant to 20 U.S.C. 2431(g); to the Committee on Education and Labor.

4306. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's 53rd annual report covering the fiscal year ended September 30, 1987, pursuant to 15 U.S.C. 78w(b); to the Committee on Energy and Commerce.

4307. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license to the People's Republic of China for the export of defense articles or defense services sold commercially under a contract (Transmittal No. MC-48-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4308. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50 million or more to the Arab Republic of Egypt (Transmittal No. MC-40-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4309. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting notification of a proposed new system of Federal records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4310. A letter from the Executive Director, National Mediation Board, transmitting a copy of the annual report of the Board's compliance with the Government in the Sunshine Act covering the period of January 1, 1987, through December 31, 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

4311. A letter from the Vice Chairman, Advisory Council on Historic Preservation, transmitting the Council's comments regarding demolition of the American Can Co. in Baltimore, MD, pursuant to 16 U.S.C. 470(b); to the Committee on Interior and Insular Affairs.

4312. A letter from the Attorney General, transmitting notification of the determination, on constitutional grounds, not to appeal the decision of the *Washington Legal Foundation and Public Citizen* v. *United States Department of Justice,* pursuant to section 203(a); to the Committee on the Judiciary.

4313. A letter from the Director, Office of Management and Budget, transmitting a report of the administration's strong opposition to provisions pertaining to the Federal Aviation Administration [FAA] that are contained in H.R. 5210, the "Omnibus Drug Initiative Act of 1988"; to the Committee on Public Works and Transportation.

4314. A letter from the Acting Administrator, General Services Administration, transmitting copies of prospectuses for the Internal Revenue Service, and the Census Bureau, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4315. A letter from the Secretary of Commerce, transmitting the views of the Department on H.R. 5183, to authorize appropriations to the Secretary of Commerce for the programs of the National Institute of Standards and Technology for fiscal year 1989, and for other purposes; to the Committee on Science, Space and Technology.

4316. A communication from the President of the United States, transmitting a report on U.S. policy concerning the relationship between progress in other areas of arms control and more stringent limitations on nuclear testing, as requested by the Senate Armed Services Committee in their report accompanying the Fiscal Year 1988 Defense Authorization Act; jointly, to the Committees on Armed Services and Foreign Affairs.

4317. A letter from the Comptroller General, transmitting the results of the audit of the Inter-American Foundation's financial statements for the year ended September 30, 1987; reports on the Foundation's internal accounting controls and on its compliance with laws and regulations, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Foreign Affairs.

4318. A letter from the Inspector General, Railroad Retirement Board, transmitting the Board's budget request for fiscal year 1990, pursuant to 45 U.S.C. 231f(f); jointly, to the Committees on Appropriations, Energy and Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted Sept. 12, 1988]

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5247. A bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; with an amendment (Rept. 100-913). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Sept. 13, 1988]

Mr. ACKERMAN: Committee on Post Office and Civil Service. H.R. 387. A bill to promote equitable pay practices and to eliminate discrimination within the Federal civil service; with an amendment (Rept. 100-914). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3408. A bill to increase the amounts authorized for the Colorado River Storage Project; with an amendment (Rept. 100-915). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Sept. 13, 1988]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4818. A bill to establish the National Park of Samoa; with amendments (Rept. 100-916). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4807 was referred to the Committee on Appropriations for a period not to exceed 15 legislative days, with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VENTO (for himself, Mr. Udall, Mr. Young of Alaska, Mr. Miller of California, Mr. Marlenee, Mr. Lagomarsino, Mr. Lehman of California, Mr. Kostmayer, Mr. Huckaby, Mr. Clarke, Mr. Lewis of Georgia, Mr. Gejdenson, Mrs. Byron, Mr. Kildee, Mr. de Lugo, Mr. Atkins, Mr. Horton, Ms. Pelosi, Mr. Ravenel, Mr. McCandless, Mr. Bevill, Mr. Bilbray, Mr. Stallings, Mr. Mrazek, Mr. Coleman of Texas, Mr. Dowdy of Mississippi, Mr. Bennett, Mr. Stark, Mr. Spratt, Mr. Mavroules, Mr. Lott, Mr. Harris, Mr. Ray, Mr. Hughes, Mr. Espy, Mr. Chandler, Mr. Andrews, Mrs. Boggs, Mr. Murtha, Mr. Rangel, Mr. Dingell, Mr. Ford of Michigan, Mr. Smith of New Hampshire, Mr. Chappell, Mr. Kolbe, Mr. Rahall, Mr. Richardson, Mr. Ritter, Mr. DeFazio, Mr. Cheney, Mrs. Vucanovich, Mr. Wolpe, Mr. Traxler, Mr. Davis of Michigan, Mr. Pashayan, Mr. Nichols, Mr. Hansen, Mr. Coelho, Mr. Campbell, Mr. Crockett, Mr. Levin of Michigan, Mr. Schuette, Mr. Rhodes, Mr. Morrison of Washington, Mr. Beilenson, Mr. Bosco, Mr. Lantos, Mr. Berman, Mr. Dixon, and Mr. Carr):

H.R. 5277. A bill to provide for the exchange and transfer of certain public lands; to establish certain new components of the National Wild and Scenic Rivers System, the National Trails System, the National Park System, and the National Wilderness Preservation System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BENNETT:

H.R. 5278. A bill to improve the protection of endangered species of wildlife in units of the National Forest System, the National Park System, and the National Wildlife Refuge System by increasing the maximum fine that may be imposed for violating posted speed limits in such units; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. BROWN of California (for himself, Miss Schneider, Mr. Walgren, Mr. Markey, Mr. Scheuer, Mr. Udall, Mr. Hochbrueckner, and Mr. AuCoin):

H.R. 5279. A bill to promote a United States-Soviet Union ban on the use of nuclear power sources in orbit around the Earth, and for other purposes; jointly, to the Committees on Foreign Affairs; Science, Space, and Technology; and Armed Services.

By Mr. FASCELL (for himself and Mr. Annunzio):

H.R. 5280. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress; to the Committee on Banking, Finance and Urban Affairs.

By Mr. IRELAND:

H.R. 5281. A bill to designate the Federal building to be constructed in Lakeland, FL, as the "Lawton M. Chiles, Jr. Federal Building"; to the Committee on Public Works and Transportation.

By Mr. McCLOSKEY:

H.R. 5282: A bill to provide for the reclamation of surface coal mines when the operator and his surety are bankrupt, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. OAKAR (for herself, Mr. Espy, and Mr. Whitten):

H.R. 5283. A bill to establish the Lower Mississippi Delta Development Commission; jointly, to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs.

By Mr. ORTIZ:

H.R. 5284. A bill relating to the inventory control and accounting procedures used in foreign trade zones; to the Committee on Ways and Means.

By Mr. RICHARDSON:

H.R. 5285. A bill to prohibit an increase in the fee for the use of lands under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior for electronic communication purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. SMITH of New Jersey:

H.R. 5286. A bill to amend title 10, United States Code, to allow certain institutions that provide treatment for heart and lung conditions to receive reimbursement under the Civilian Health and Medical Program of the Uniformed Services; to the Committee on Armed Services.

By Mr. TAUZIN (for himself and Mr. Fields):

H.R. 5287. A bill to establish the Panama Canal Commission Compensation Fund to provide for the accumulation of funds to meet the Panama Canal Commission's obligations under chapter 81 of title 5, United States Code, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. COELHO (for himself, Mr. Pepper, Mr. Atkins, Mr. Berman, Mr. Bevill, Mr. Bilbray, Mr. Borski, Mrs. Boxer, Mr. Carr, Mr. Conyers, Mr. de la Garza, Mr. de Lugo, Mr. Dornan of California, Mr. Fuster, Mr. Garcia, Mr. Gordon, Mr. Hatcher, Mr. Markey, Mr. Smith of Florida, and Mr. Scheuer):

H.J. Res. 650. Joint resolution designating April 1989 as "Actors' Fund of America Appreciation Month"; to the Committee on Post Office and Civil Service.

By Mrs. MORELLA:

H.J. Res. 651. Joint resolution to designate the week of December 11, 1988, through December 17, 1988, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON (for himself and Mr. Walker):

H.J. Res. 652. Joint resolution to prohibit the proposed export to the People's Republic of China of commercial communications satellites (Transmittal No. MC-48-88); to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 98: Mr. Smith of New Hampshire.

H.R. 387: Mr. Miller of Washington, Mr. Panetta, and Mr. Alexander.

H.R. 911: Mr. Slattery.

H.R. 1917: Mr. Thomas A. Luken.

H.R. 2667: Mr. Traficant, Mr. Lantos, Mr. Atkins, Mr. Bonior of Michigan, and Mr. Burton of Indiana.

H.R. 3132: Mr. Roe.

H.R. 3726: Mr. Brooks and Mr. Fascell.

H.R. 3845: Mr. Fish.

H.R. 3984: Mr. Bates.

H.R. 4089: Mr. Levine of California and Mr. Saxton.

H.R. 4127: Mr. Borski and Mr. Spratt.

H.R. 4168: Mrs. Morella.

H.R. 4226: Mr. Bryant, Mr. Ford of Tennessee, and Mr. DeFazio.

H.R. 4277: Mr. Fawell, Mr. Wolf, Mr. Rinaldo, and Mrs. Boggs.

H.R. 4279: Mr. Dyson.

H.R. 4357: Mr. Burton of Indiana.

H.R. 4442: Mr. Slattery.

H.R. 4657: Mr. Fish.

H.R. 4721: Mr. Donald E. Lukens.

H.R. 4834: Mr. Edwards of Oklahoma.

H.R. 4940: Mr. Kildee, Mr. Nichols, Mrs. Saiki, Mr. Ford of Tennessee, Mr. Richardson, and Mr. Traficant.

H.R. 4969: Mr. Levine of California, Mr. Richardson, Mr. Scheuer, Mr. Rangel, Mr. Sensenbrenner, Mr. Foglietta, and Mr. Towns.

H.R. 4979: Mr. Torres and Mr. Traficant.

H.R. 5030: Mr. Lagomarsino, Mrs. Lloyd, Mrs. Boxer, Mr. Konnyu, Mr. Fauntroy, Mr. Dyson, Mr. Boucher, Mr. Fazio, Ms. Kaptur, Mr. Frost, and Mr. Gingrich.

H.R. 5050: Mr. Rinaldo, Mr. Miller of Washington, and Mr. Shaw.

H.R. 5113: Mrs. Boxer.

H.R. 5119: Mr. Shays, Mr. Scheuer, Mr. Houghton, and Ms. Pelosi.

H.R. 5154: Mr. Regula, Mr. Lipinski, Mr. Hughes, Mr. Owens of New York, and Mr. Jeffords.

H.R. 5156: Mr. Bryant, Mr. Owens of New York, Mr. Leland, Mr. Frank, Mrs. Boxer, Mr. Atkins, and Mr. Roe.

H.J. Res. 330: Mrs. Vucanovich, Mr. Houghton, Mr. Grant, Mr. Bateman, Mr. DeFazio, and Mr. Coughlin.

H.J. Res. 520: Mr. Mavroules, Mr. Markey, Mr. Porter, Mr. Roberts, Mr. Shaw, Mr. Savage, Mr. McEwen, Mr. Fish, Mr. Frenzel, Mr. Garcia, Mr. Gray of Pennsylvania, Mr. Applegate, Mr. Baker, Mr. Borski, Mr. Jontz, and Mr. Sabo.

H.J. Res. 522: Mr. Watkins, Mr. Boulter, Mr. Lewis of California, Mr. Blaz, Ms. Pelosi, Mr. McMillen of Maryland, Mr. Ford of Tennessee, Mr. Lewis of Florida, Mr. Solomon, and Mr. Buechner.

H.J. Res. 572: Mr. Rowland of Connecticut, Mr. Miller of Washington, Mr. Craig, and Mr. Stallings.

H.J. Res. 576: Mr. AuCoin, Mr. Berman, Mr. Courter, Mr. DeLay, Mr. Dornan of California, Mr. English, Mr. McHugh, Mr. Molinari, Mrs. Morella, Mr. Miller of Ohio, Mr. Petri, Mr. Rowland of Connecticut, Mr. Roybal, Mr. Studds, Mr. Sundquist, and Mr. Torres.

H.J. Res. 582: Mr. Roybal, Mr. Lujan, Mrs. Patterson, Mr. Panetta, Mr. Jenkins, Mr. Dyson, Mr. Holloway, Mr. Sawyer, Mr. McCandless, Mr. Brennan, Mr. Young of Florida, and Mr. DioGuardi.

H.J. Res. 598: Mr. Dowdy of Mississippi, Mr. Grant, Mr. Fish, Mr. Yates, Mr. McCrery, Mrs. Meyers of Kansas, Mr. Mrazek, Mr. Wolpe, and Mr. McGrath.

H.J. Res. 603: Mr. McGrath, Mr. Bonker, Mr. DioGuardi, Mr. Anthony, Mr. Russo, Mrs. Boggs, Mr. Bennett, Mr. Barnard, Mr. Tauzin, Mr. Hastert, Mr. Natcher, Mr. Hammerschmidt, Mr. Rowland of Georgia, Mr. Swindall, Mr. Stratton, Mr. Richardson, Mr. Payne, Mr. DeFazio, Mr. Hayes of Illinois, Mr. Smith of Florida, Mr. Hatcher, Mr. Brennan, Mr. Jontz, Mrs. Roukema, and Mr. Fish.

H.J. Res. 615: Mrs. Bentley, Mr. Nielson of Utah, Mrs. Martin of Illinois, and Mr. Holloway.

H.J. Res. 629: Mr. Pepper, Mr. Skeen, Mr. Rowland of Connecticut, and Mr. Brooks.

H.J. Res. 644: Mr. Ballenger, Mr. Tallon, Mr. Derrick, Mr. Spence, Mr. Lancaster, Mrs. Patterson, Mr. McMillan of North Carolina, Mr. Rose, Mr. Neal, Mr. Jones of North Carolina, Mr. Valentine, Mr. Price of North Carolina, Mr. Hefner, and Mr. Coble.

H.J. Res. 645: Mr. Lipinski, Mr. Leland, Mr. Pickle, Mr. Lagomarsino, Ms. Kaptur, Mr. Mineta, Mr. Martinez, and Mr. Dixon.

H. Con. Res. 6: Mr. Boulter and Mr. Gingrich.

H. Con. Res. 295: Mr. Hatcher, Mr. Lehman of Florida, Mr. Coleman of Texas, Mrs. Boxer, Mr. Thomas of Georgia, Mr. Clarke, and Mr. Coelho.

H. Con. Res. 358: Mr. Flake, Mr. Roe, Mr. Smith of Florida, Mr. Wortley, Mr. Saxton, and Mr. Vento.

H. Res. 532: Mr. Leland and Mrs. Bentley.

EXTENSIONS OF REMARKS

CHEMICAL GENOCIDE OF KURDS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. HOYER. Mr. Speaker, two articles appeared in the Washington Post and the New York Times this week that I would like to submit for the RECORD. The thrust of both is clear. Genocide is being committed by the armed forces of Iraqi President Saddam Hussein against the Kurdish populace of northern Iraq.

Mr. Speaker, we cannot remain indifferent to this wholesale slaughter. Indifference in the past has allowed ruthless dictators to murder millions of people, and indifference today will allow countless more to die. The ceasefire in the gulf war has ended a conflict that claimed hundreds of thousands of lives, and we should not allow this ceasefire to be used as an opportunity for renewed bloodletting. The systematic use of chemical weapons in gas attacks against civilian populations centers is an outrage with little precedent, and should be met with a firm response if similar affronts to humanity are to be avoided in the future.

[From the Washington Post, Sept. 8, 1988]

MAKE NO MISTAKE—THIS IS GENOCIDE

(By Jim Hoagland)

PARIS.—Iraq is committing step-by-step genocide against the Kurdish people in the remote Zagros Mountains. The evidence is now so clear that the world cannot shrink from branding Iraq's actions with that horrible word and demanding an end to this calculated massacre.

The Iraqi version of genocide is being conducted in military operations stretched out over years and launched against the Kurds as opportunities permit. It does not have the maniacal pace or organization of Hitler's Germany or Pol Pot's Cambodia. But this must not lessen the horror, condemnation and forceful opposition the world community and especially the Reagan administration must demonstrate if a similar tragedy is to be avoided.

Washington and the United Nations have responded with surprisingly mild rebukes as Iraq has taken advantage of the U.N.-sponsored cease-fire with Iran to intensify poison-gas attacks against Kurdish civilians, on a scale not known since World War I. More distressingly, the United States and other nations have taken no effective action to stop the slaughter of Kurdish civilians and the mass eviction of these Aryan tribal people from their mountain homes.

Such inactivity from an administration that has supposedly been building up American influence and leverage in the Persian Gulf is inexcusable. The United States spent $200 million to place a naval shield for the past year around the shipping of Iraq's Arab allies in the war against Iran. The White House also accepted with indecent haste an Iraqi apology for the attack on the USS Stark, which killed 37 American servicemen. In its grudge match with Iran, the Reagan administration visibly tilted to Iraq's side—and at a high price.

But now Washington appears either unable or unwilling to use the leverage it said it was obtaining to help the Kurds or push the Iraqis to drop the hard-line positions that have driven the negotiations on ending the Iran-Iraq war into deadlock.

Secretary of State George Shultz has given several recent speeches mixing eloquence with hand-wringing about the horrors of chemical weapons. When confronted with their open use by the brutal Iraqi regime that he has chosen to cultivate rather than confront, Shultz folds his cards. As it stands now, other countries that would be tempted to use the "poor man's atomic bomb" against their enemies can conclude from the Iraqi example that they will have to pay no price internationally for doing so.

An estimated 120,000 Kurds have fled into neighboring Turkey in the past week. One measure of the atrocities being committed against the Kurds in the public outrage voiced by the leaders of Turkey, a Moslem country that places high value on its relations with Iraq and has a reputation for suppressing its own Kurds. Nonetheless, Prime Minister Turgut Ozal was quoted by the BBC as saying that "a massacre of innocent people" is occurring in Iraq.

Where are equivalent U.S. statements that might signal a serious international action to halt the Iraqis? In the midst of the election campaign, the Reagan White House and the State Department appear to have other things on their agendas. State Department officials speak instead of making "an expression of concern" to the Baghdad government.

History shows that such meekness will provide no comfort or protection for the Kurds—Moslems who are racially distinct from the Arab majority of Iraq. While their periodic rebellions against Baghdad in this century have been suppressed with brutality, it was only 13 years ago that "a final solution" seems to have been adopted as the option of choice for the troublesome Kurds.

In 1975, it was the shah of Iran who signed a border agreement with Iraq and gave Iraqi ruler Saddam Hussein a free hand in Kurdistan rather than continue a costly frontier war. The United States went along with the decision of the shah, who had been funneling American-supplied weapons to the rebel Kurdish army led by the legendary warrior Mullah Mustafa Barzani.

I was with Barzani in the Zagros when the end came that March. Anger and sorrow consumed him as he told me that he had risked everything because he had trusted the United States. He had expected betrayal by the shah; that was why he had insisted that the United States be deeply involved in supporting the rebellion from the beginning. In defeat, he asked for American humanitarian help to prevent the destruction of his people.

But over the next year, the Iraqis faced no international opposition as they destroyed thousands of Kurdish villages and resettled as many of the Kurds in Arab-dominated regions as they could. After the Iran-Iraq war erupted in 1980, the surviving Kurdish fighters threw in their lot with Tehran.

This time it is a truce with the ayatollahs that has enabled Iraq to have another go at removing the Kurds from their homelands, with the new wrinkle of poison gas thrown in. This time Hussein's intention of depopulating Kurdistan may be within his grasp.

It is unthinkable that he will benefit once again from official American indifference and/or impotence that will be justified in the name of maintaining influence in the Arab world.

[From the New York Times, Sept. 5, 1988]

STOP THE IRAQI MURDER OF THE KURDS

(By William Safire)

BRIDGEHAMPTON, L.I.—On the day the cease-fire began in the Iran-Iraq war, Saddam Hussein, dictator of Iraq, launched a new military offensive. This was for vengeance—to punish the Kurdish people living in northern Iraq who had dared to pursue their long struggle for autonomy during the dictator's war against Iran.

With his forces freed by the cease-fire, Saddam Hussein smashed the Kurds—possibly with mustard gas, which he has reintroduced in modern warfare. Ninety thousand Kurdish refugees are now huddled in tent cities along the Turkish border, with another 40,000 cut off from escape.

This is a campaign of extermination aimed against an ancient ethnic group that wants only to keep its own language and customs in *sarbasti*—freedom. A classic example of genocide is under way, and the world does not give a damn.

Three men are alive today who can boast of having made a major contribution to world depopulation: Idi Amin of Africa, Pol Pot of Asia and Saddam Hussein of the Middle East. The Iraqi trails the Asian in the number slaughtered only because his nuclear capability was curtailed by the Israelis; otherwise, he would surely have incinerated five million residents of Teheran. However, Saddam is still active, and with several million Kurds at his mercy, he may yet pass Pol Pot in megamurders.

The Iraqi dictator evidently sees a cease-fire as a time for getting even. He will one day turn his aggressive attention to Syria's Assad, the only Arab leader to have helped Iran, but first he is intent on bloodily crushing all self-determination aspirations within his own borders.

For a millenium, Kurdistan has been a place but not a nation. Today the nearly 20 million Kurds live under three flags in Iran, Iraq and Turkey, with some in Syria and the Soviet Union. The Iranians supplied the Iraqi Kurds with arms to harass Saddam, and the Iraqi dictator armed the Iranian Kurds to harass the Ayatollah's army. The Kurds, though split into factions and aware they were being used as pawns, saw the Iran-Iraq war as a chance to establish a kind of autonomy if not independence.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

But Iran-Iraq peace means retribution and death. Let us marvel at the reaction:

United Nations peacemakers in Geneva are concerned only with the interests of member nations, not with the lives of the Kurdish people or with the proliferation of poison gas. Not even a cluck of sympathy comes out of the U.N. Secretary General, who does not want to offend Baghdad or Teheran.

The United States, in its Reagan-era assertiveness, did manage to issue one small cluck. The State Department spokesperson has said that *if* the reports of mass exodus of refugees are true, then what is going on *would be* "a grave violation of international human rights." How's that for taking action to stop slaughter of innocents? (Presumably a double-cluck, or even escalation to a loud harrumph, would cause us to lose influence with Saddam, whom we helped to wear down Iran; why waste an i.o.u.?)

The Turks, who severely repress their own Kurdish minority (they call the Kurds "mountain Turks" and forbid the Kurdish language) are accepting some refugees from Saddam's wrath. That's something; not much, but at least not the turning-away we get from the totalitarian Arab world or the amoral Soviet Union.

The world's film crews are too comfortable in Israel's West Bank, covering a made-for TV uprising of a new "people," to bother with the genocidal campaign against a well-defined ethnic group that has been friendless throughout modern history and does not yet understand the publicity business. For television, inaccessibility is no excuse for ignoring the news; the ability of color cameras to bring home the horror of large-scale atrocities imposes a special responsibility on that medium to stake out murder scenes or get first-hand accounts from refugees.

What about the two candidates for leader of the free world? If ever asked about stopping this killing, Mr. Dukakis, would propose mailing a stern postcard to the U.N. and Mr. Bush might offer a little homily on evenhandedness.

We could stop the killing by (a) demanding a Security Council investigation and linkage of human rights to the Geneva peacemaking, (b) bringing Kurdish refugees to the U.S. for testimony, (c) encouraging wider Turkish aid and (d) leaning on Iraq by threatening an early pullout of Persian Gulf ships. If this gets no results quickly, we can slip Stinger missiles to Massoud Barzani in the hills to bring down the gassing gunships.

The Kurds say *Pesh Merga*—"Forward to Death." That is a slogan of defiance, but it has also been a description of their fate. People who want only peace and freedom deserve America's attention and support.

TRIBUTE TO MS. RITA DI MARTINO UPON HER RECEIPT OF THE HISPANIC WOMAN OF THE YEAR AWARD

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BILBRAY. Mr. Speaker, I rise to pay tribute to Ms. Rita Di Martino who is being honored by the Hispanic Business and Professional Woman's Club of Las Vegas as the Hispanic "Woman of the Year."

Ms. Di Martino is an active member of the Hispanic community in my district, centering around Las Vegas, NV. She is the chairwoman of the board of the National Council of La Raza, a member of the National Association of Latino Elected and Appointed Officials, Congressional Hispanic Caucus Institute, the Cuban American National Council, and the board of trustees of Bronx-Lebanon Hospital and Doctors Hospital.

In 1982, President Reagan appointed Ms. Di Martino as U.S. Ambassador to UNICEF Executive Board. Ms. Di Martino has received numerous honors for her efforts in the Hispanic community, she has been named in "Who's Who in America," "100 Hispanic Influentials in America Today," and "Cattell's Who's Who in American Politics."

In Nevada, Hispanic culture has provided a major influence on the customs of the area. As this years' theme, the Hispanic Business and Professional Women's Club has chosen "500 years of history * * * the women's contribution." It is because of this consideration of the women's contributions to Hispanic culture, can we revere Rita Di Martino with this honor.

The celebration of this honor will take place on September 24, 1988. The night will commemorate Hispanic Heritage Week, a resolution by Congress in recognition of the outstanding contributions by Hispanic Americans. This gala affair will include participants from all over Latin and South America.

Mr. Speaker, I ask you and my colleagues in the House to join with me now to honor this outstanding member of the Hispanic community in my home district.

DOUBLE YOUR MESSAGE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13 1988

Mr. TRAFICANT. Mr. Speaker, I rise today to respectfully request once again that I be able to insert an article written by Mr. Michael J. Lacivita, a distinguished citizen and author from my 17th Congressional District of Ohio.

Mr. Lacivits has authored another brilliant article entitled "Double Your Message," which appeared in the November/December 1981 issue of Navy Lifeline. Again, because of the great significance of the issues addressed by Mr. Lacivita in this article, I encourage all of my colleagues to read it.

DOUBLE YOUR MESSAGE

(By Michael Lacivita)

Supervisors are the kingpins in our safety communications program. Their safety tolerance levels will determine the awareness and attitudes of those with whom they work closest. As one of our employees once said, "If safety isn't in the supervisor, it won't be in his people."

Since "hear and see" communications create the best environment for understanding and retention, we developed a combination safety poster and verbal communications program for Commercial Shearing's supervisor and employee monthly safety meetings. It focuses on details we feel are important to our type of operations, as well as general safety topics.

The program is based on a series of 18- × 28-inch posters. The supervisor reads the poster while it faces his group of employees. The supervisor may want to expand on how the information relates to this operations. The monthly meetings are mandatory and require about 10 minutes.

At the end of the meeting the supervisor displays the poster in his area. It reinforces the safety presentation by acting as a reminder of an entire month.

Finally, the safety director or his counterparts at other manufacturing locations review these safety topics and their graphic summaries with every new hiree in the company's plants, before the employee starts to work.

We try to make the monthly safety meetings interesting so employees anticipate these sessions and retain their content. We have discussed safety attitudes, near-misses, pinch points, and good housekeeping, stressing unsafe acts as well as unsafe conditions. The meetings are dynamic, not static. They inform and train.

For visual impact, we've incorporated photos of animals such as dogs and cats into the program. The photos show the safety instincts of animals as related to the monthly safety topic. We also change the colors of background and lettering each month. Our advertising department prepares the visuals.

We believe that dynamic supervisor-employee monthly safety meetings are a vital part of our safety effort, since the supervisor is an employee's first and often foremost contact with the company. Our Hear and See poster program is the supervisor's ammunition. We use a rifle rather than shotgun approach to safety.

We ask supervisors to present the safety topic in a clear and forceful manner, showing sincerity and enthusiasm. Some supervisors think they can't give good talks to save their lives. With our Hear and See format they can give talks that could save someone else's life.

Supervisor reaction to the program has been favorable because the safety talks are easier to present. Everyone discusses the same topic and the Hear and See concept holds employees' attention.

While we have used similar campaigns which are available from state agencies and private firms, Commercial's Hear and See approach aims directly at its various manufacturing operations.

We hope our program has instilled a more lasting awareness of working safely and safe conditions. We feel the program enlivens what is generally considered to be an uninspiring and dry subject.

Last year the American Metal Stampings Association presented its highest safety award, the Seastrom Safety Award, to Commercial Shearing for its 1979 Hear and See Program.

TRIBUTE TO BUD BROWN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to my good friend, Mr. Bud Brown. I ask my colleagues to join me in honoring this outstanding individual, who will be recognized by the San Fernando Kawanis Club for his dedicated service as president. Although Bud is stepping down as president, he will undoubtedly continue his long record of community service and involvement.

For over 30 years, Bud Brown's pleasant personality and ready willingness to be helpful has endeared him to both his colleagues and in the communications industry and to the public he has served so well. As a result of his hard work and excellent performance, he enjoys respect and support throughout the San Fernando Valley.

Throughout his career in the communications industry, Bud has always shown a willingness and desire to give freely of his valuable time to aid organizations or causes important to his community. At present, he is first vice president of the Mission Hills Chamber; member, board of directors Sylmar Chamber of Commerce; active in Pacoima and San Fernando Chambers; first vice president-Century Club, Holy Cross Hospital; chairman of the board of trustees for Employees and Good Government Club; first vice president Foothill Advisory Boosters, LAPD Foothill Division; director-LA Mission College's Club; board of directors Heaven on Earth Ranch; and member board of directors of Project Heavy, San Fernando Valley. Bud Brown has built a record of commitment and excellence that is an inspiration to us all.

Bud is presently district manager-community relations of GTE, California. He began his telephone career in 1956 as a cable splicer in Santa Monica.

His lovely wife, Althea, and two sons, David and Danny, are justifiably proud of Bud. Few people have given of their time and energy as selflessly as he. It is my distinct pleasure to ask my colleagues to join me in honoring Bud Brown, an invaluable member of my community.

THE BABY BUST

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. FLORIO. Mr. Speaker, the birthday candles are burning low on the prospects for improving the health of our Nation's newborn children. In 1979, the Nation set goals to reduce mortality rates.

But as the years have ticked away and these proposals have aged, the goals of reducing infant mortality have fallen by the wayside.

Of the 13 goals that the Nation set for the delivery of health care to infants, only three are now within reach. The remaining 10 goals will go unmet if the need is not addressed with greater urgency.

The successful goals include establishment of programs to detect metabolic disorders and efforts to ensure that all infants are securely strapped into car safety seats when leaving the hospital for the first time. At the same time, the fundamental, underlying problems have not yet been met.

The statistics present a tragedy in our Nation. Medical care is not reaching mothers or newborns. I am concerned that our goals will go unattained in the 2 years remaining before the deadline passes.

This summer, the National Commission on Infant Mortality released its findings. In its findings, the report underlined the undiminished scope of the problem and the need to act now on those findings.

The facts are disturbing. In 1985, over 40,000 babies died because they were not getting the proper care. Unless some dramatic changes occur in our system of health care delivery to newborn children and to young mothers, then 1990 will not witness any reductions in that tragic statistic.

The tragedy of the infant mortality statistics tells doctors and health professionals that the underlying problems affecting the health of newborn infants has not really changed.

The post mortem on infant mortality hopefully will hold some meaningful promise for the Government, for doctors, and most importantly, for parents. The statistics show that improved prenatal care is part of the puzzle of reducing infant mortality. Now that those statistics have been canvassed for yet another year, it is time to put our technological muscle and willpower fully behind the solutions to high infant mortality.

The stork cannot solve infant mortality. This problem originates within our society, within our cities, and within our homes.

After years of identifying the problem, of identifying the at-risk groups, and of identifying what sorts or medicines to give or what machines to provide in the hospital, it is time to take that knowledge and those solutions directly to the mothers and to offer them something more than a little bit of hope and a large dose of risk.

We are not only behind other nations in terms of relative infant mortality rates. We are way behind in many of the goals that we as a nation set for ourselves years ago. The following article describes some of the deficiencies of health care for infants. Hopefully, as the latest statistics sound the alarm bell, we can move ahead and deal with the problem squarely.

The article follows:

U.S. TO MISS MOST GOALS FOR IMPROVING INFANT HEALTH

(By Robert Byrd)

ATLANTA.—Most of the nation's top goals for babies and pregnant women by 1990—including a reduction in the infant mortality rate—will not be met, federal health officials said yesterday.

"It's certainly sobering and concerning," said Dr. Ann Koontz, a specialist with the Health Resources and Services Administration in Rockville, Md. "This indicates that we have some significant problems relating to maternal and infant health."

In 1979, the government published its 1990 health objectives for the nation, including 13 top-priority goals relating to pregnancy and infant health. Only three of those 13 goals are likely to be met, the national Centers for Disease Control said yesterday in its weekly report.

The CDC, using National Center for Health Statistics data, projects that the nation's infant mortality rate—infants dying before age 1—will be 9.1 per 1,000 live births. That would be a drop from the 10.6 rate in 1985.

Based on data from 1970-81, health officials had projected a 1990 infant mortality rate of 7.8, but "the decline in the infant mortality rate has slowed," the CDC said.

Another objective says that no racial or ethnic group should have an infant mortality rate worse than 12 per 1,000. Among black Americans, the rate stood at 18.2 in 1985 and is projected to decline only to 15.9 by 1990, the CDC said.

The infant mortality rate among whites stood at 9.3 per 1,000 in 1985 and is projected to fall to 7.9 by 1990, the CDC noted.

One of the goals that is likely to be met concerns the nation's neonatal mortality rate—babies dying in the first 28 days of life. That rate is project to be 5.7 per 1,000 in 1990, below the target of 6.5.

The other two objectives likely to be met are having most babies leave the hospital in car safety seats and putting into place programs to screen newborns for metabolic disorders, which all states now have, the CDC said.

Among the other goals not like to be met:

Reducing the perinatal death rate—deaths between 28 weeks' gestation and the first seven days after birth—to less than 5.5 per 1,000. The 1990 projection: 8.5.

No county, racial or ethnic group should have a maternal death rate above five per 100,000 live births. The 1990 national rate is projected at 7.0, with black mothers at 20.5.

No more than 5 percent of babies should be born under 2,500 grams, or 5.5 pounds. The 1990 projection: 6.7 percent.

No county, racial or ethnic group should have a low birthweight rate over 9 percent. For blacks, the 1990 projection is 12.3 percent.

No more than 10 percent of pregnant women in any county, racial or ethnic group should go without prenatal care in the first three months of pregnancy. The 1990 national projection: 23.6 percent, 38.5 percent for blacks.

CRACKING DRUG ADDICTION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. GARCIA. Mr. Speaker, I would like to take this opportunity to introduce into the RECORD an article about an innovative new practice for the treatment of drug addiction.

Although a relatively new practice in the United States, acupuncture has been an ancient tradition in the Far East. The development of this antidrug treatment program at the Lincoln Hospital in my congressional district has incorporated this ancient procedure into a modern day success story.

The work at the Lincoln Hospital is highly commendable. I urge my colleagues to read this most insightful article. Certainly it behooves us to consider every possible avenue for effective drug abuse rehabilitation and treatment.

CRACKING DRUG ADDICTION—ACUPUNCTURE PROVIDES HOPE AT N.Y. CLINIC

(By Howard Kurtz)

NEW YORK.—Amid the Spanish groceries and boarded-up tenements of the South Bronx, Cozet Parker sits in a crowded room with four half-inch, stainless steel needles protruding from each ear.

Two weeks earlier, when Parker's baby son was born with heroin in his bloodstream, city welfare officials threatened to take custody of the infant unless Parker enrolled in a drug program. So the 32-year-old addict came here to Lincoln Hospital to undergo what many researchers regard as the most exciting new treatment for drug abuse, the ancient Chinese art of acupuncture.

"It makes me relaxed," Parker said after the needles were removed. "I don't get any cravings. I don't think about getting high."

About 1,000 addicts, or more than one-third of the clinic's caseload, are referred to this public hospital each year by the city's court system. Some, like Parker, are young mothers struggling to keep custody of their children. Others are convicted criminals, on probation or parole, who may be returned to prison if they cannot demonstrate that they are drug-free. Many are addicted to crack, **the smokable form of cocaine, often in combination with other drugs.**

"Before crack came along, acupuncture was an exotic alternative," said Dr. Michael O. Smith, director of Lincoln Hospital's substance abuse division, which has been using acupuncture since 1974. "Now we're it. There are simply no other programs that work.

"The downside," he said, "is that it's new, different and odd."

In cities such as Chicago, Minneapolis and Portland, Ore., acupuncture has become an inexpensive and increasingly prominent form of drug therapy. But here, its use has been restrained by a state law limiting the practice to a small group of specially trained doctors.

That is about to change. A law to be signed by Gov. Mario M. Cuomo (D) this week allows physician's assistants to administer the treatments, which Smith calls "the equivalent of piercing ears." And the New York City Probation Department recently agreed to refer a growing number of the estimated 5,000 crack addicts under its jurisdiction to the Bronx clinic.

"I'd say it's the most promising treatment I've seen in 15 years," said Dr. Bernard Bihari, a former city drug abuse commissioner who now runs an acupuncture program with a long waiting list at Brooklyn's Kings County Hospital.

Smith says his success rate—defined as drug-free urine results for at least two months—is greater than 50 percent with the court-referred clients. Yet even the 30 percent retention rate for crack addicts who walk in off the street compares favorably with detoxification and other traditional programs.

The federal government, however, seems uninterested in acupuncture as drug therapy. Bihari applied for a grant from the National Institute on Drug Abuse (NIDA) to study the effects of acupuncture on cocaine addicts, but was turned down.

"We just didn't have enough money to fund all the proposals that were made," said NIDA spokeswomen Mona Whittaker, whose agency is spending $131 million on research this year. "It's a question of limited resources."

In one study of severe alcoholics, Dr. Milton Bullock of Hennepin County Medical Center in Minneapolis found that 37 percent stopped drinking after acupuncture treatment, compared to 7 percent in a control group. In a similar study in Brooklyn, Bihari found that 14 of 15 alcoholics were still sober a month after beginning treatment.

Western scientists do not know exactly how acupuncture works, although research suggests that needles placed at certain points can trigger the release of endorphins, a pain-relieving substance produced naturally by the body. Physicians say the acupuncture sessions, which range from daily to twice weekly, invariably relax addicts and reduce their craving for drugs.

Despite its apparent success in short-term therapy, the scientific community remains uncertain how permanent acupuncture's beneficial effects may be. Even its advocates refrain from making sweeping claims about the treatment because of the lack of controlled trials, particularly long-term studies in which addicts are followed for two years or more after treatment.

Smith and others emphasize that acupuncture is only one part of a recovery process that relies heavily on counseling and individual determination. Still, it encourages many to take the next step.

"Addicts aren't interested in sales pitches," Smith said. "If there isn't something that seems reasonable, they're likely to walk out very quickly."

Each morning, the bearded physician makes his way around the clinic's first-floor treatment room, chatting with each patient as he inserts the eight needles in less than half a minute. The addicts, most of them black or Hispanic, many with young children, sit staring into space, dozing or reading wrinkled newspapers. On a table near the door are dozens of plastic urine cups for drug tests, daily results of which are available to city agencies through computerized printouts.

Rafael, a 30-year-old South Bronx resident who asked that his last name not be used, said he came to Lincoln two years ago because "I got sick and tired of being sick and tired. You use crack and you get so hyped up that I needed heroin to come down. Sometimes I would use it for two or three days straight. Once you're there, you don't want to stop."

Rafael, a man with close-cropped hair and a red jogging suit, spoke in slow, measured tones about how crack took over his life. Although he started using marijuana at 13 and cocaine at 18, he worked intermittently as a laborer, messenger and cab driver. But that ended abruptly when he began smoking crack.

Rafael, who became a father soon after high school, said the drug made him so erratic and impatient that he constantly yelled at his two daughters.

"You do anything to get it," he said, "I used my wife. I stole from her. You buy me a pair of sneakers, and I sold them right the next day.

"When the welfare was in my name, I used to get this check and I'd spend the whole check on crack. I had to keep going until the money was gone. We didn't go hungry because of my mother."

Since starting acupuncture two years ago, Rafael said, "I feel more relaxed. I sleep a little better." Nevertheless, he said, "I've been in and out of this place five, six, seven times. I could never stay straight more than two or three weeks."

Still, he is trying again. "I've been clean for 65 days," Rafael said, "It's been the best time of my life."

Cozet Parker, a 10th-grade dropout and longtime heroin user, spoke with a glassy stare as she described how she used the drug during pregnancy. She said she was upset about her mother's death from cirrhosis of the liver and believed that her baby would not be born addicted unless she continued using heroin into the ninth month. Her son, Eric, born three months premature in August, remains hospitalized.

When city welfare officials threatened to place Eric in foster care, Parker came to the clinic because she does not like methadone programs, which she views as substituting one addiction for another.

After several days of acupuncture, Parker is still struggling, "It's hard because your body needs to be fed," she said.

Drugs dominate the economic reality of Parker's world. She talks of teen-age girls on Bronx street corners who sell their bodies for 50 cents to get a $3 hit of crack. Parker has no income and is supported by her live-in boyfriend, a heavy user of heroin who is not the baby's father.

"I have to go home to someone who's still doing drugs," she said. "It's like someone's testing you, and sometimes your weakness comes out. One day last week, I went home and I wound up getting high.

"I'm dealing with the devil and God at the same time. When I'm here everything's cool, but when I go home, I walk right into hell."

Counselors say Parker's situation is typical. "A lot of the girls live with drug dealers," said Nancy Smalls, coordinator of Lincoln's maternal program. "Everyone wants a color TV, a VCR and a carpet on the floor. If you're on welfare, how else are you going to get it?"

Other addicts have multiple problems. Franklin Collins, 35, a soft-spoken man who has been using heroin since he was 13, said he became depressed after testing positive for the AIDS virus and separating from his wife and four children. "I felt I was going to die anyway—what was the sense of trying to fight this addiction?" he asked. "I don't see no future." But acupuncture, Collins said, "gave me a feeling I never felt before. It made me want to come back."

To Probation Commissioner Kevin T. Smyley, acupuncture is the only form of treatment suitable for crack, the cheap cocaine derivative that has transformed his agency's caseload and rendered its methods obsolete.

"Crack abusers tend to be younger, and they're more likely to be newcomers to the criminal justice system," Smyley said. They are also twice as likely to commit crimes while on probation.

While Smyley estimates that one-quarter of the 65,000 people on probation are drug users, he has no way of knowing for sure "unless they admit it or have tracks on their arms." Beginning this winter, however, the Probation Department plans to begin mandatory drug testing for all its clients.

Drug abusers, especially crack addicts, will be referred to Smith's clinic and closely watched by probation officers with caseloads two-thirds smaller than the current 250. Those who refuse to stay in the program could face imprisonment for violating the terms of their probation.

"The thrust is not to find more people and put them back in jail," Smyley said. "It's to use it as a diagnostic tool to direct them into treatment. I look at drugs as a medical problem. . . . What's out there is not working now."

Smith, for his part, is hoping that the South Bronx, the symbol of so many urban problems, can lead the way toward at least one solution.

"Other hospitals have nothing for crack addicts," Smith said. "If this were available, you could treat a large number of this supposedly untreatable bunch."

THE 25TH ANNIVERSARY OF SAGINAW VALLEY STATE UNIVERSITY

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. TRAXLER. Mr. Speaker, I rise today to pay tribute to Saginaw Valley State University, a learning insititution which has given mid-Michigan a quarter century's commitment to higher education.

The early 1960's saw a tremendous growth in new housing development in the Saginaw area resulting from the booming auto industry, Mr. Speaker. But it takes more than bricks and cement to build a community. To become a community, residents of an area of this scope must find common interests, and work together on projects which improve their environment. And that is exactly what has happened. The people of the Saginaw area saw the necessity to build a university which instantly became a valuable resource to the community. Its devotion to higher education has helped people get the best out of their home, and their new community.

Few experiences in life are as fun or as memorable as when we put our minds to work to solve a challenging problem—and solve it. The people of the Saginaw area have proven they can do just that. Their boundless imagination and creativity have taken them to new heights. It's reassuring to know that the graduates of Saginaw Valley State University will be sharing their talents as leaders in their community and in this great country.

On September 25, 1988, Saginaw Valley State University will celebrate its 25th anniversary of serving the people of mid-Michigan. I am very proud of the excellent educational opportunities being provided to my district. I congratulate Saginaw Valley State University on its outstanding service to the community, and I wish them many more quarter centuries of service and success.

DR. R.G. SINGH, PHYSICIST

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BENNETT. Mr. Speaker, Dr. R.G. Singh, who lives in Jacksonville, FL, is a physicist teaching at the Florida Community College in Jacksonville and the Florida-Times Union in a recent article paid him a well-deserved tribute for his discoveries. I include the article at this point in the Congressional Record, this article which I believe will interest all scientifically interested persons:

Physicist Here Brings Heavenly Bodies Into Focus

(By Andree Tremoulet)

For centuries star-gazers have glimpsed only a hazy picture of what heavenly bodies actually look like. Recenty an invention by a physicist here has been incorporated into a telescope system that reduces the distortion of starlight caused by the earth's atmosphere.

In the 1950s, Dr. R. G. Singh of Jacksonville and an associate, Dr. P. Hariharan, of India, developed what they named a triangular-path interferometer while working at the National Physical Laboratory of India in New Delhi. By coupling the interferometer with a computer, scientists at the Itek Corporation in Lexington, Mass., recently have come up with a telescope system that instantly adjusts its lenses to counteract atmospheric interferences, thus producing clearer images of celestial objects.

When light waves from heavenly bodies enter the earth's atmosphere, they are bent and distorted the same way that light waves entering water are disturbed. Just as a person on land receives a fuzzy view of what lies beneath the surface of the water, observers on earth have received a hazy glimpse of the stars.

Dr. Singh's triangular-path interferometer measures the distortion caused by the atmosphere. Light from a star entering the devise is split up into two beams by a half-silvered mirror. One beam travels a triangular path in a clockwise direction while its counterpart travels the same path in the opposite direction.

When the beams emerge from the device, they are parallel but separated laterally by a small distance called a shear. By introducing a plane of glass into the path of the beams inside the interferometer, the shearing can be controlled.

On a screen placed perpendicular to the two beams after they have emerged from the interferometer a sequence of light and dark bands called fringes will appear. From the fringes and the position of the glass plane, scientists can determine how much the light has been distorted by atmospheric disturbances.

In the Itek system, the calculation of distortion is relayed to a computer which determines the amount of correction in the light waves required to cancel the disturbance, researchers report.

A mirror that adjusts its shape when electrical charges are applied to it corrects the starlight so that viewers see a clear image of the heavenly body, according to Itek scientists.

In addition to its application in astronomy, the triangular-path interferometer has also been used to show that unpolarized light consists of random, plane-polarized components, Dr. Singh said.

In his work, Dr. Singh has not confined his research to optics, but has also stepped into the areas of solid state physics and nuclear physics as well. He was the first person in India to develop a photovoltaic solar cell, a device which, according to the dictionary, generates an electromotive force when light falls on the boundary between two dissimilar substances in close contact.

The 11 books which he has authored are for a wide spectrum of readers and range from a textbook for seventh grade students to a book on electricity and magnetism. He has published 20 papers in scholarly journals.

After working in India from 1950 to 1967, Dr. Singh came to the United States to live permanently. He has worked at Massachusetts Institute of Technology, at the University of Florida, and at Florida Junior College, where he currently teaches physics.

HAPPY BIRTHDAY NELLIE GRIFFITH BLATTENBERGER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. MURTHA. Mr. Speaker, I would like to extend my warmest wishes to a resident of Pennsylvania's 12th Congressional District, Nellie Griffith Blattenberger of Windber, who will be celebrating her 100th birthday on September 22.

Mrs. Blattenberger deserves all our congratulations for this remarkable achievement. She has seen many changes take place in the past 100 years. The invention of the automobile, the first space flight, the initial expeditions to the North and South Poles, the dawning of the computer age—these are all events which have occurred in Mrs. Blattenberger's lifetime.

But while these and many many other history-making events were taking place, Mrs. Blattenberger, like so many other Americans in so many other cities and towns across the United States, went about her everyday business, raising a family, earning a living, entertaining friends, and observing the events of the day. In saluting Mrs. Blattenberger we are saluting all of the citizens of the United States who have worked so hard to make our country great. The strength of our country comes from these dedicated, individual lives.

Happy birthday Mrs. Blattenberger, and all the best wishes for a wonderful celebration.

IN CELEBRATION OF NATIONAL HISPANIC HERITAGE WEEK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. KILDEE. Mr. Speaker, as our Nation celebrates National Hispanic Heritage Week, I am proud to pay tribute to the Hispanic community of Flint.

The Hispanic culture has enriched our city and our Nation by making its presence felt in Government, the arts, labor, business, science and virtually every corner of our society. Hispanics make up 7.9 percent of the Nation's population and are expected to rise to 15 percent by the year 2000. This ever growing presence is a vibrant spirit and force in America that is helping to shape the future of our great Nation.

America's Hispanic community brings to us it's rich heritage and tradition, infusing our society and our lives with a diversity and wealth of culture we would otherwise lack. As the Nation of immigrants that we are, our greatness has come from the histories and tradition of every country and every people, and our Hispanic community has indeed helped make us great. Hispanics in our country have both immigrant roots and roots well established in the boundaries of the United States long before we became an independent nation.

Today, the Hispanic community is a strong force on the political landscape. Often an unsung factor in American politics, Hispanics have provided the margin of victory in many races. Recent elections have shown strong voter registration and turnout among Hispanics. And, more and more Hispanics are being elected and appointed to various political offices in the United States.

Hispanics in the Seventh Congressional District of Michigan have made and are making tremendous contributions to the development and enrichment of our community.

The 1980's have provided many firsts for Hispanics in the Seventh Congressional District. In 1981, a Hispanic was first elected to public office in Genesee County, serving on the Burton City Council. A year later, a Hispanic was first elected to public office in the city of Flint as a member of the city council. In 1985, for the first time, a Hispanic represented Flint at the Democratic National Convention. In the Seventh Congressional District Hispanics have been elected to the Flint Board of Education, to the Genesee County Board of Commissioners, and to several Governor's commissions and councils. Personally, I have had the honor and pleasure of working with several Hispanics on my congressional and campaign staffs.

Hispanic professionals have become important role models for the youth in our community and have greatly added to the quality of life in the Flint community.

During National Hispanic Heritage Week, we are more than recognizing the importance of the Hispanic community in America, we are also commemorating the growth of our Nation's culture, vastly broadened and enriched by its Hispanic citizens.

SAFETY SELLS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. MARKEY. Mr. Speaker, I would like to draw my colleagues' attention to a recent Wall Street Journal article which describes the progress being made to improve automotive safety. As this article points out, there is both a need and consumer demand for new and better safety equipment. U.S. auto makers have recognized this and should be encouraged in the steps they are taking to respond to this challenge.

The article follows:

[From the Wall Street Journal, Aug. 24, 1988]

U.S. AUTO MAKERS DECIDE SAFETY SELLS

(By Joseph B. White)

DETROIT.—After years of saying that safety doesn't sell, U.S. auto makers are suddenly beginning to sound like Ralph Nader.

"You won't hear any more beefs about air bags for me," crows a two-page newspaper ad from Chrysler Corp. Chairman Lee Iacocca, a one-time air-bag opponent who is now pledging to put them on all his U.S.-built cars by 1990. General Motors Corp., meanwhile, is running ads playing up the formation of an in-house medical team dedicated to crash-injury research. And both companies are in a race with Ford Motor Co. to offer state-of-the-art braking systems in more of their cars.

Why this sudden turnabout? The primary reason is demand: Auto makers are scrambling to satisfy the growing number of consumers who say they want more safety features in their cars. "We're trying to . . . respond to what our customers are telling us," says Helen O. Petrauskas, Ford's vice president for safety.

THE HIGH COST OF SAFETY

And as they chase the market, manufacturers are perfecting a whole new generation of safety equipment, including air bags, anti-lock brakes, four-wheel steering, self-leveling suspensions, fighter jet-style instrument displays and electronic collision-avoidance systems.

None of these things are cheap, and consumers who want the state-of-the-art in safety will either have to pay a high price for ownership today or hope for costs to come down tomorrow. Indeed, auto makers are still trying to figure out how much they can charge for their new safety features. "Does safety sell? The answer is yes," says Mark Herrmann, president of the New York-based Mark Buick dealership. "The question is, at what price?"

One thing is clear: The interest is there. And the overriding reason for this is that, in the 25 years since Mr. Nader's book "Unsafe at Any Speed" made automobile safety a national issue, car buyers have been bombarded with increasing amounts of information about the relative merits—and demerits—of the various makes of cars. The news comes form consumer groups; government regulators, who publish the results of crash tests; and insurance companies, which charge more to insure cars with poor safety records than those with good.

Foreign auto makers also have played a part in stirring up interest. They were the first to introduce high-tech safety systems into the U.S.—and when they did, they sold them as virtues not to be found in any cars but their own.

Now, consumers are shunning any automobile with a poor safety image. When the Audi 5000 luxury sedan was hit with the charge that it could suddenly accelerate on its own, sales of the car plummeted. And in June, sales of Suzuki Motor Co.'s Samurai sport utility vehicle plunged 70%, following allegations that it rolls over too easily in sharp turns.

The result is that U.S. auto makers are embracing even low-tech safety features, including some they had previously resisted, such as back-seat shoulder harnesses. Though not required by law, these belts will become standard equipment on most American cars by 1990.

But auto makers are focusing most of their attention on high-tech safety systems. Consider Mr. Iacocca's belated endorsement of driver's-side air bags. To fulfill the federal government's requirement that by 1990 all cars be outfitted with some kind of "passive" restraint, he could have opted for seat belts that automatically strap in a car's riders. Instead, he chose air bags—"We want to put air bags in everything," says Chrysler's co-president, Robert A. Lutz.

Still, going that route is a gamble. While auto makers now agree that safety sells, there is no such unanimity on what equipment consumers really want, and at what price they will buy it. Unlike Chrysler, for example, GM doesn't think buyers are interested enough in air bags to buy them at current prices and cites the poor sales of its $850 air-bag option package.

"You finally get to a crossover point where the customer says, 'You can leave that (feature) off,'" says GM President Robert C. Stempel. (And, in fact, a recent poll of 200 vehicle-fleet managers by Runzheimer International Ltd., a Chicago-based consulting firm, found that only 20% of those surveyed would be willing to pay more than $150 for the air-bag option.) As a result, the company is planning to make air bags standard equipment on only about 14% of its 1990 models.

Chrysler says it will absorb the costs of making air bags standard equipment until at least 1990; it won't say how high it will push prices when it eventually does start charging for the feature. For its part, Ford is planning to put air bags on more than half of its cars before the 1990 deadline arrives; the company hasn't revealed how much they will add to the prices of those cars. And neither has GM, for those relatively few 1990 cars on which it plans to make the feature standard.

At the moment, what GM does think will sell are anti-lock brake systems (ABS), a feature that allows a driver to stop on wet or icy roads without skidding. "Right now, we think this coming year we may sell 150,000 or 200,000 ABS units," says Mr. Stempel. "I'll make a projection that by the early 1990s that number is going into the millions because of consumer demand."

And he may be right: Americans are "wildly enthusiastic" about anti-lock brakes, says Robert Kernish, a consultant with the marketing unit of consulting firm Booz, Allen & Hamilton Inc. "There's a lot of feeling it should be standard. And a significant amount of feeling it should be government mandated."

Moreover, ABS is a feature that lends itself to dramatic sales demonstrations: Dealers can show videos of cars stopping safely on glare ice or encourage customers to jam on the brakes during test drives.

Still, for Mr. Stempel's prediction to come true, GM will have to make ABS an option that the masses can afford. Currently, it costs about $900, which may be too high. "Can you sell a $900 brake system in a $10,000 car? I think not," says Mr. Herrman, the Buick dealer. Many customers ask about ABS, he says, but when they hear how much it costs, "we price ourselves right out of the market."

Ford discovered the dangers of ABS's cost when it made the feature standard on its Scorpio models in Europe in 1985. In Germany, the car suddenly became more expensive than its competitors, primarily GM's Opel Omega, and Ford's German market share slipped 1.8 percentage points between 1984 and 1986. Although not the only reason for the decline, "there is a cause and effect there," says Allan Gilmour, Ford's executive vice president for international operations. In the U.S., Ford includes ABS as standard equipment only on its top-of-the line Lincoln Continental and the features-loaded versions of its Thunderbird and Mercury Cougar XR-7.

These kinds of problems may explain why U.S. auto makers are approaching some new safety features with caution. Both GM and Ford, for example, could offer four-wheel steering on their car; the option would make them more maneuverable and stable at high speeds by allowing all four wheels of the cars to turn, not just the front two. Instead, they are watching to see how Honda Motor Co. and Mazda Motor Co. fare with their own recently introduced versions. So far, only about 15% of the 30,000 1988 Honda Preludes sold here through July were ordered with the $1,330 four-wheel steering package.

One way to reduce the risks of introducing such features is to make sure they can be marketed in more ways than one. Ford, for example, is offering computerized, self-leveling suspension systems on its Lincoln Continental and Thunderbird Turbo Coupe models. The system is primarily a comfort option. But it also can hold these cars level and steady in panic-stop situations.

THE SAFETY STUFF OF TOMORROW

In the meantime, auto makers are continuing to work on the safety stuff of tomorrow—and some of it seems straight out of Buck Rogers.

GM, for instance, is developing a headup instrument display using technology borrowed from military fighter planes. The system, which will be built into a limited edition version of the 1989 Oldsmobile Cutlass Supreme, projects a digital readout of the car's speed onto the windshield so the driver can check it without looking away from the road. Researchers at both GM and Ford, meanwhile, are testing electronic collision-avoidance systems that would warn a driver when other vehicles behind the car get too close. The biggest problem: An affordable system generates too many false alarms.

DISABILITY IN AMERICA TODAY: WINDS OF CHANGE?

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. YATRON. Mr. Speaker, I would like to draw attention to an important article entitled, "Disability in America Today: Winds of Change?" It was authored by the president of the National Organization on Disability, Mr. Alan A. Reich, for whom I have the highest admiration and respect for all his outstanding leadership and work regarding disabled persons. The article was recently printed in the organization's news letter, "Report." The article is important and timely, as it notes positive changes in the way the public and media view disability and the progress towards full participation of disabled people in all aspects of life.

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have been actively engaged in efforts to get the international community more involved in this area through the United Nations Decade of Disabled Persons, 1983–92. What the United States does here at home to meet the objectives of the decade will impact significantly the efforts in other nations.

Mr. Speaker, I believe our colleagues will find Mr. Reich's article most interesting and I am submitting a copy of it for inclusion in the RECORD.

A MESSAGE FROM THE PRESIDENT OF N.O.D.: DISABILITY IN AMERICA TODAY: WINDS OF CHANGE?

(By Alan A. Reich)

Several recent developments suggest that the winds of change are blowing. These developments, I believe, point to progress in three areas:

1. A disability constituency with a stronger voice is emerging as disabled people change the way we look at ourselves and identify with common goals.
2. Public and media attitudes are changing in a positive direction and more Americans are being sensitized to disability issues.
3. Political leaders and local officials are demonstrating increasing awareness of disability and more of them are identifying with the goal of full participation of disabled people in all aspects of life; laws are being passed to achieve that goal.

This note of optimism in the fall of 1988 does not ignore the fact that people with disabilities are still the poorest and least educated in the country. Some observers may regard the changes that I see occurring as simply a new tone. I think the changes are more fundamental. In my view, these developments add up to incremental but genuine progress:

BUSH AND DUKAKIS ON DISABILITY ISSUES

The disability policies of George Bush and Michael Dukakis, excerpted on the front page of this newsletter, represent commitment by each of them, and commitment is an essential first step. Even shorn of the rhetoric, both men have pledged to work for the integration of disabled people into the mainstream of American life. Though their methods differ, their commitment illustrates that candidates for political office now recognize the emergence of a disability constituency that examines the positions of candidates on disability issues in making voting decisions. The findings of the Harris Poll commissioned by N.O.D. last year substantiated these two factors. Whether it's Bush or Dukakis in the White House next January, the commitment both have made surely will provide the basis for holding the feet of one of them to the fire.

GALLAUDET UNIVERSITY

The new assertiveness of people with disabilities was clearly evident a few months ago at Gallaudet University. Students and faculty captured national attention with their successful campaign for a deaf President, and in the process they sensitized millions of Americans to the issue of self-determination for people with disabilities.

CIVIL RIGHTS RESTORATION ACT

In March this year, with significant assistance from disability groups, Congress overwhelmingly voted to override President Reagan's veto of the Civil Rights Restoration Act. This sweeping civil rights legislation reinstated federal protections against discrimination on grounds of race, age or disability that were sharply curtailed in a 1984 Supreme Court decision. The lopsided bipartisan majorities overriding the President's veto demonstrated that Members of Congress recognized that of all groups affected, people with disabilities benefitted most from the resultant additional civil rights protection. I am pleased to report that Congressional sponsors of N.O.D. led the fight to override the President's veto.

AMERICANS WITH DISABILITIES ACT OF 1988

An historic piece of legislation is now before both the House and Senate—the Americans with Disabilities Act of 1988. If passed, it would prohibit discrimination against disabled people in employment, education, housing, transportation and communications. The bill aims to rectify the shortcomings of previous piecemeal legislation. Unlike existing laws, which apply only to recipients of federal funds, this law could be broadly enforced. Proponents say it could be as comprehensive as the Civil Rights Act of 1964. Three Congressional sponsors of N.O.D. introduced the new act in April this year: Rep. Tony Coelho (D-CA) and Sens. Tom Harkins (D-IA) and Lowell Weicker (R-CT). As this issue of REPORT went to press, the proposed legislation had 51 cosponsors in the House and 19 in the Senate. The bill written by the National Council on the Handicapped is another reflection of the growing awareness of disability issues on the part of politicians and their recognition of an estimated 25 million Americans with disabilities of voting age.

A THIRD WAVE

The Americans with Disabilities Act suggests that the nation is on a third wave of civil rights. We disabled people are learning from the black civil rights movement and the women's movement. The exciting thing is that for the first time people with disabilities are identifying with common goals and concerns as a more united minority group—the largest minority in the country (37 million people). The Harris poll that N.O.D. commissioned last year found that 75% of disabled people see themselves as members of a minority group with common concerns.

Lack of education, lower employment, lower participation in voting, the inaccessibility of voting places and places of worship are common to disabled people. Like black Americans before them, disabled people are now learning to identify the external impediments in society that prevent or limit them from enjoying equal opportunity.

CHANGES IN PUBLIC ATTITUDES BEGIN TO BE DISCERNIBLE

The year 1988 will also go down in disability history as a good period for another reason: it has been a year of significantly increased public and media attention to disability on a national scale. The national television networks and public television are doing more reporting on disability and portrayals have improved. More newspapers and magazines are devoting space to disability. The Gallaudet story, as mentioned earlier, was national news. The Christian Science Monitor recently completed a series on disability in America.

More attention is being given to the participation of disabled people in the electoral process in 1988 and the results in this particular area have been sigificant, in my opinion.

Since February this year, N.O.D. has been conducting a public service advertising campaign to stimulate registration and voting by disabled and elderly people. We produced a bipartisan ad for television and another ad for magazines and newspapers featuring Barbara Jordan (D) and Jim Brady (R). The ads publicize a toll-free 800 number (1-800-248-ABLE), enabling callers to receive registration information about how, when and where to vote in their state. It is first time, on a national basis, that a toll-free number has been made available for this purpose, thus filling a serious information gap—lack of information about the registration process. The results of our public service advertising campaign have been outstanding in terms of the media's acceptance and use of ads and the public's response to them.

N.O.D. PUBLIC SERVICE

Newsweek has published the Barbara Jordon-Jim Brady ad six times. It has appeared in Time, U.S. News & World Report, People magazine, the National Journal and

Modern Maturity, the magazine of the American Association of Retired Persons which goes to 19 million households. The ad also has been published in newpapers and disability publications from coast to coast. The television spots, which were distributed to only 400 stations in the 50 major markets of the country, have been broadcast by 200 of them so far, including two national networks.

WHAT IT ALL MEANS

A broadcast or print public service ad is run at no cost. The commercial media has to give up profit-making space or time to run such an ad. The fact that they have accepted our public service ads and continue to accept them means, I suggest, that the media itself is becoming more sensitized to disability. The negative connotations of "disability" are being reduced in the media. At the same time, millions of American readers of magazines and newspapers and millions of television viewers have been exposed to the ads.

The public's response to our advertising campaign also underlines that the public is being sensitized. Our tollfree 800 numbers is constantly filled with requests for voter registration information from both non-disabled and disabled people.

INCREASING AWARENESS OF STATE, LOCAL OFFICIALS

My final reason for suggesting that the winds of change are blowing is a substantial body of new evidence, nationwide, indicating that state and local officials in the election system are becoming increasingly aware of and sensitive to the needs of disabled citizens at registration and polling places. One example:

Two years ago, N.O.D. and the National Easter Seal Society produced one million flyers—small cards with tips for poll workers and local election officials for the purposes of increasing the registration and voting of disabled people through courtesies and assistance at the polls. AMWAY Corporation generously provided the printing of the flyers. They were offered at no cost to each state and the response was modest.

This year we asked AMWAY to reprint another million copies of the flyers for the training of poll workers. I am very pleased to report that within four weeks we received orders from 30 Secretaries of State for 994,600 flyers. State and local elections officials this fall are using the N.O.D.-Easter Seal flyers, called Disabled Citizens at the Polls, in the training of hundreds of thousands of poll workers. There is more sensitizing at work.

CONCLUSIONS

The president of Louis Harris & Associates, Humphrey Taylor, has called the more than 25 million voting-age Americans with disabilities a "sleeping giant," which, if stirred, has the potential power to "make even the mighty tremble." And Dr. Philip Calkins of the President's Committee on Employment of People with Disabilities has written: "As more of those voters identify themselves as disabled and begin to see that a disabling environment, rather than their own disabilities, prevents them from living and working as other Americans do, the sleeping giant will awaken."

As we approach 1989, I beleve that fundamental changes are occurring in the way the country looks at disability, in the way that the public and the media are looking at disability, in the way that disabled people are looking at themselves.

"You've come a long way, baby," and earlier commerical once declared. "But there's still a very long way to go," I would add, because Democracy is always unfinished business.

ECONOMIC DEVELOPMENT GUIDE: HANDBOOK FOR GROWTH

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. GALLO. Mr. Speaker, since 1981, we have seen a revolution in the way government, at all levels, has responded to the call for public/private cooperation to promote economic development and job creation.

States like New Jersey have taken the lead in the area of economic development, because local and regional needs require programs tailored to their particular needs, rather than one designed to force national priorities on local economies.

In this atmosphere of diversity, innovative programs have been developed to match the potential for growth with the resources available to make that growth possible.

The Northeast-Midwest Congressional Coalition has documented many of these successful programs in the 1988 edition of "The Guide to State and Federal Resources for Economic Development," by Charles Bartsch, which was released on September 7. This valuable guide contains outlines of remaining Federal programs as well as a useful anthology of 460 brief cast studies—drawn from every State in the Nation—that illustrate the strong initiative taken at the State level.

This scholarly work will help Federal, State, and local policymakers meet the challenge of a rapidly changing economy. I strongly recommend this guide to all my colleagues in the coalition. This guide contains a wealth of information that will be useful in promoting the continued economic revitalization of the northeast-midwest region.

At this time, Mr. Speaker, I would like to enter into the RECORD one of these brief studies from my home State of New Jersey:

NEW JERSEY BUSINESS RETENTION AND EXPANSION PROGRAM

OBJECTIVE

The New Jersey Business Retention and Expansion Program has established a channel for businesses to relay their concerns to municipal governments in their areas, identifying trouble spots so problems can be addressed early and potential relocations or shutdowns avoided.

DESCRIPTION

The New Jersey Business Retention and Expansion Program began in January 1983 as a partnership between New Jersey Bell and the New Jersey Department of Commerce and Economic Development. Bell became involved in the program as the largest employer in the state and the largest taxpayer in many municipalities. The company wanted to help prevent business shutdowns and relocations to avoid increases in its portion of the local tax burden. With one program manager and a budget of approximately $100,000, the Department administers most aspects of the program. Bell supplies financial and promotional assistance, as well as personnel to help train local program leaders.

PROGRAM IN PRACTICE

Since the program began in 1983, 51 townships have participated in the business retention and expansion program. The most recent projects, recently kicked off in New Brunswick, targeted approximately 90 industrial firms.

General findings from an analysis of more than 600 firms surveyed through state-wide program activities have included:

75 percent of the companies stated that they moved to their current location because they outgrew their existing facilities;

Almost 50 percent have no room for further expansion at their current sites;

25 percent of the companies had considered moving at some time in the past;

12 percent had definite plans to relocate, mainly because of the lack of sufficient space at their current location; and

Only a small percentage of those companies surveyed have ever used a federal or state economic assistance program and most did not know of the programs' existence.

Information gathered in the program surveys has yielded concrete economic benefits in several localities. In Elizabeth, a mid-sized apparel manufacturer who wanted to expand met with frustration in his dealings with the local planning board. He told the city's business retention and expansion volunteer of his problem during the interview. The Elizabeth Development Corporation and the city's Community Development Department interceded with the planning board on the firm's behalf, and the board granted the necessary variance. One hundred jobs were saved and the task force projected the expansion would generate 30 more jobs.

Hamilton, a township of 87,000 residents, had a similar experience. Two weeks after its survey, Hamilton's task force discovered that a local flooring products manufacturer needed to purchase additional equipment and machinery that would require an extra 100,000 square feet of operating space. Firm representatives, considering relocation, had already visited a number of other townships and Canada. Upon learning of the firm's needs, the task force immediately notified the mayor. Within 24 hours, the mayor, a representative from the Department of Commerce and Economic Development, and a local development organization representative had spoken with the firm's CEO. Municipal and state government staff worked together to locate financing for the firm and received a tentative commitment from the federal Economic Development Administration before two weeks had passed. The firm secured preliminary approval within 30 days. As a result of these efforts, the 300-employee firm remained in Hamilton and employed an additional 45 people.

VIETNAM VETS WITHOUT HOLLYWOOD, WITHOUT TEARS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BEREUTER. Mr. Speaker, throughout America veterans who served valiantly in Vietnam are conducting exemplary civilian lives. While it is important to give assistance to and to show compassion for those who were injured physically or mentally we also must recognize the accomplishments of most Vietnam veterans.

I commend to my colleagues the following article found in the July 26, 1988, edition of the Wall Street Journal and an editorial from the September 1, 1988, edition of the Omaha World-Herald.

[From the Wall Street Journal, July 26, 1988]

VIETNAM VETS WITHOUT HOLLYWOOD, WITHOUT TEARS

(By William K. Lane, Jr.)

Movies about Vietnam are the latest phase in Hollywood's nonstop assault on the American spirit. The films are often accompanied, in the print media and on TV, by advice from Vietnam veterans groups, "outreach" organizations, and the like, that we who fought in that conflict should see these movies only with a "support group." One organization advised us not to see "Platoon" alone; another cautioned us to spend time "decompressing with friends after it." We've been told about the danger of "nightmares" and warned of the ultimate horror: "flashbacks." Jane Fonda, our dart-board version of World War II's Betty Grable, claims she and a group of veterans "wept" in a theater lobby after seeing the movie.

Excuse me while I barf.

This ludicrous blubbering and psychobabble has puzzled me for 17 years. Every unveiling of a Vietnam memorial on TV news seems to star the same two central-casting vets wearing fatigues—both bearded, one with pony tail—hugging each other and sobbing. It's embarrassing.

The other image is created by the cultural termites in Hollywood: the American soldier in Vietnam as racist, neurotic, drug crazed, feral, a hopeless pawn of a rotten society sent to fight an unjust war. Even the cartoonish Rambo character is a societal misfit, a mumbling killer exorcising his demons in a revenge ritual.

The vast majority of men who fought in that war—people like me—simply do not fit any of those images. Many of us are embarrassed by them, especially in the presence of veterans of Iwo Jima and Midway and Pork Chop Hill—most of whom saw much more horror than Vietnam soldiers ever did and managed to continue their lives without whinning, acting nutty, or looking for a free ride.

This is not to say that Nam was not a searing experience. Indulge me as I present some images I dredged up in an attempt to stimulate a few "flashbacks."

I arrived in Vietnam in early 1968, as green as the beret I wore, and was assigned to the Special Forces "A" team that had the dubious distinction, two weeks later, of being one of the first attacked during the Tet offensive. My memories of that battle are of the incredible roar and chaos that occurs when two rifle companies open up on each other; of a day and a night pinned down behind tombstones in a Buddhist cemetery; of picking up a terrible sweet smell for the first time and knowing instinctively that it was death.

I remember an old French priest who insisted I follow him during a lull in the battle because he wanted me to see a "bullet" in his church. The bullet turned out to be a howitzer shell that had come through an open window and embedded itself in the steps of the altar without exploding. We got "the bullet" out for him when things calmed down a week or so later, but I do remember genuflecting as I left the church in awe, and then going back to the grim work.

I can still see the terror in the eyes of the North Vietnamese prisoners brought before me. I was the first American they had ever seen, tall and blond (then), and undoubtedly going to kill them. They nearly collapsed in relief when I handed each of them a few of my Luckies and told them. "No sweat."

I remember the exhilaration brought about by extreme fatigue and our victory over the North Vietnamese regiment that had invaded our area. And I recall the curses, the hatred we felt when the New York Times clips arrived claiming the Vietnamese and American victory in the Tet offensive was actually a defeat.

There were other vignettes that haven't faded: A boy in a nearby village with a twisted foot caused by a badly-healed break. We begged his mother for months to let us take him into Nha Trang and have it fixed. Finally she relented, tearfully, not quite trusting us. Our medic sneaked the boy into an American hospital under care of a doctor who was part of our conspiracy. We gave him back to his mother, in a cast, with a leg as good as new. The whole village got drunk with us.

We got drunk on Thanksgiving day as well, after the giggling Vietnamese told us the "deer" we had eaten with them for Thanksgiving dinner was actually a dog.

I remember trying to cram a year of good times into a week of R&R in Singapore, and then landing back in Vietnam at the air base, hung over and depressed, only to be mortared in the terminal.

But many of the starkest of memories are the bad ones. A newly married lieutenant dead after less than a week in the country, a sergeant killed in a firefight when another American shot him accidentally, piles of dead North Vietnamese, dead South Vietnamese, dead Montagnards, a dead old man in his bed in a house wrecked by battle, heat, fear, concussion, the frenzy of fighting out of an ambush.

Bad things, but no worse than many other bad things in life: car wrecks, the death of loved ones. Being fired probably can be as traumatic as being fired upon. And besides, Nam was a long time ago.

I still know where a few of my teammates are. I get a few cards at Christmas. Sometimes I see one or two and hear about others. Some did a few more tours in Nam after I left. A couple are still in the Army. Some have done better than others, but I'll bet you this: None of them would need a "support group" to go see a movie. None of them would indulge in prattle about "post-traumatic-stress disorder" and how is caused them to beat up their wives or wet their beds. None of them would be a party to the Agent Orange hustle.

And none of them would go to an Army-Navy surplus store and buy jungle fatigues and put them on and hug each other and cry for the cameras because no one gave them a parade.

The men I knew in Vietman didn't hate each other because of race. We weren't on drugs. We didn't murder civilians. We didn't hate the Army or LBJ or our country. We didn't feel America owed us a free ride because we spent time defending it. We were our own "support group" over there. We don't need one here.

I've met hundreds of Viet vets over the years, and I've yet to encounter one who fits the prevailing stereotypes. There are veterans from all our wars who are sick or depressed or drug addicted, and by all means they deserve our help and comfort. Those who were legitimately disabled deserve a special, revered status in our society. But can't we stop the fictional stereotyping that simply doesn't fit the majority of Vietnam veterans?

Some of the bravest and best men that ever wore an American uniform fought in that war. They deserve better than to be caricatured by Hollywood and represented in the media as a legion of losers.

[From the Omaha World-Herald, Sept. 1, 1988]

MANY SERVED HONORABLY, ASK ONLY UNDERSTANDING

Americans seem about to be dragged through another round of anniversary journalism about the 1960s and the Vietnam War. The attention generated by the movies "Platoon" and "Full Metal Jacket" was finally dying down when disclosure about Sen. Dan Quayle's National Guard enlistment touched off more discussion of the war and its effects on the individuals involved in it.

If the debate is to continue, it would be well this time to remember two things. No one speaks for all veterans. And not all veterans have sought attention for their point of view.

One group that isn't often heard from consists of the men who went to Vietnam, did their best and, when their tour of duty was over, came home, picked up their civilian pursuits and became indistinguishable from the rest of society.

A number of them surfaced recently in the The Wall Street Journal's letters column after the newspapers published an article in which William K. Lune Jr., a Connecticut veteran who works as a speech writer, blasted Hollywood and the news media for their portrayal of Vietnam veterans. More than one of the letter writers said Lane's article expressed things that they had felt for years but couldn't find the words to say.

A Texas man wrote: "I am tired of the whining, sniffing, paranoid image of the Vietnam vet. We're ordinary folks living ordinary lives." A Delaware veteran's letter said: "Vietnam has been co-opted by fringe elements with motives far afield from the truth about Americans in Vietnam." Added a Virginia writer: "In the 20 years since my Vietnam tour, I have watched with amazement at the parade of flakes projected by the media as representing Vietnam veterans."

What did Lane write that struck such a chord? The answer may be in the concluding lines of his article, when he wrote: "Some of the bravest and best men that ever wore an American uniform fought in that war. They deserve better than to be caricatured by Hollywood and represented in the media as a legion of losers."

Lane ridiculed the motion, which some counselors promoted, that veterans shouldn't see "Platoon" unless they had a "support group." He expressed contempt for what he described as Hollywood's image of the veteran—"racist, neurotic, drug-crazed, feral, a hopeless pawn of a rotten society sent to fight an unjust war." He said he was embarrassed by "the same two central casting vets—both bearded, one with pony tail—hugging each other and sobbing" who, he said, seemed to epitomize television news coverage of Vietnam memorials.

Lane acknowledged that the war was a searing experience and that many of his starkest memories of Vietnam were bad ones. He advocated "a special revered status" for disabled veterans and "help and comfort" for veterans who are sick, depressed or drug-addicted. "But," he said, "can't we stop the fictional stereotyping that simply doesn't fit the majority of Vietnam veterans?"

It needed to be said. Nearly every American community of any size has veterans who served honorably in Vietnam and then were able to put the war behind them and go on with their lives. Their perspective is an essential ingredient in any attempt to understand the era.

COMMEMORATING MR. JOHN GIOVENCO AS ITALIAN-AMERICAN MAN OF THE YEAR

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to a preeminent civic and community leader of southern Nevada, Mr. John Giovenco. On Saturday, October 8, the Augustus Society and the Nevada Society of Italian-American Lawyers will honor this exceptional Las Vegan as Italian-American "Man of the Year." He is truly deserving of this recognition.

John Giovenco has graciously served the community of southern Nevada in a variety of ways. As a professional, he has contributed extensively to the growth and prosperity of southern Nevada. He is a member of the board of directors and legislative committee of the Nevada Resort Association, and a member of the American Hotel & Motel Association. In addition, he was formerly a member of the board of directors of the Las Vegas Chamber of Commerce and Los Angeles Area Chamber of Commerce, and the board of trustees of the University of Redlands in southern California.

John Giovenco's high level of professionalism is further evidenced by his distinguished career with Hilton Hotels Corp. After spending 15 years at Pannell Kerr Forster, certified public accountants, he joined Hilton Hotels Corp., in 1972 as treasurer of the Las Vegas Hilton and Flamingo Hilton. In 1974, he was elected senior financial vice president and chief financial officer of Hilton Hotels Corp. In 1979, he was elected executive vice president—finance and to the board of directors of Hilton Hotels Crop. In 1986, he was elected to his present position as president of Hilton Nevada Corp., which encompasses Hilton's three Nevada properties.

Throughout his busy professional career, John Giovenco has also found the time to sit on the executive board of the Boulder Dam Area Council Boy Scouts of America, and the board of trustees of the UNLV Foundation.

Mr. Speaker, by any standard—be it community service, civic leadership, or professional contributions—Mr. John Giovenco represents the finest in southern Nevada's commitment to excellence. I ask my colleagues to join me today in commending Mr. John Giovenco for his well-deserved recognition as Italian-American "Man of the Year."

TRIBUTE TO BISHOP NORMAN L. WAGNER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Bishop Norman L. Wagner, a truly outstanding citizen of my 17th Congressional District of Ohio.

Bishop Wagner was recently elevated to the rank of bishop in the Pentecostal Assemblies of the World, Inc., after having served as pastor of the largest minority ministry in its area, the Mt. Calvary Pentecostal Church in Youngstown, OH. This outstanding gentleman has been appointed to serve as spiritual leader of the denomination's 41st Episcopal District, which includes the continent of Europe. Bishop Wagner's responsibilities will include expansion of the church's ministry in Europe and overseeing its general operations there.

At the time Bishop Wagner was named pastor of Mt. Calvary, church membership was 300. Under this extraordinary man's guidance, membership grew to 1,200. Bishop Wagner also started the Calvary Christian Academy and the Calvary Christian Academy of Higher Learning. He also initiated a television ministry called Tel-a-World Ministries, which broadcasts nationwide via cable and satellite.

Bishop Wagner's most recent achievement was the selection of his weekly television program, "Power of Pentecost," by the Pentagon as the first black worship program televised on the Armed Forces Radio and Television Network, the largest network in the world. "Power of Pentecost" will be telecast in 57 countries and will be seen by approximately 40 million people. Chaplain Harold Banks, liaison officer for the Armed Forces Chaplain Board, has stated that "the Power of Pentecost fills a real need among the minority service personnel."

A native of Youngstown, Bishop Wagner earned both his master's and bachelor's degrees at the Indiana Bible College. He also holds two honorary doctorates in theology.

Mr. Speaker, it is with great pride that I salute Bishop Norman L. Wagner and his numerous achievements. It is an honor to represent such a fine man. I wish him much success in his new role.

TRIBUTE TO MS. CATHY NEEDLEMAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an extraordinary individual and outstanding member of my community, Ms. Cathy Needleman, who will be honored by Bet Tzedek Legal Services for her 3 years of devoted service as president.

Under Cathy's leadership, Bet Tzedek has grown significantly and has achieved some of its most important legal victories. In order to better serve the community, the center has had to move into a larger facility and can now boast that the number of clients served has increased from 7,500 to 9,000 per year. Along with the client community, the scope and organization of the board of directors has flourished as well.

Cathy has positively affected the lives of many throughout her years as an activist for equality and social justice. By recognizing and providing for the special legal service needs of the poor and elderly, Cathy has guided the house of justice on a forward path of growth and dedication to the cause of justice for those who have nowhere else to turn.

Cathy joined the board of directors of Bet Tzedek in 1980. She is a graduate of the University of Southern California and has a passionate interest in the Jewish community. She is married to Steve Needleman and is the proud mother of two children, Jessica and Danielle.

Few people have given of their time and energy as selflessly as Cathy. It is my distinct pleasure to ask my colleagues to join me in honoring Cathy Needleman, an invaluable member of our community.

SHERIFF GEORGE SMALL HONORED ON THE OCCASION OF HIS RETIREMENT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues one of New Jersey's distinguished public servants, Sheriff George Small, who will be honored next month for his long career in law enforcement.

Sheriff George Small will be retiring at the end of this year after serving for over six decades in a career dedicated to public safety. In 1928, George graduated from the New Jersey State Police Academy and was stationed in southern New Jersey. During his 15 years with the State Police and the days of prohibition, Sheriff Small helped solve the Lindbergh kidnapping, tracking down leads in the southern portion of the State. He was later promoted to Station Commander at Gloucester County's Mantua barracks in 1933.

About 10 years later, after outstanding service with the New Jersey State Police, George accepted a position with the Gloucester County Prosecutor's office as chief of county detectives. Although his accomplishments were many, the hallmark of his career with the prosecutor's office came on October 27, 1988, when he solved the murder of a 16-year-old Pitman High School student, Alberta Sharp. Sheriff Small remained as chief detective until his retirement in 1971—or, more appropriately, his intended retirement.

After 43 years of hard work and exemplary service to his community, George had thought it time to retire from law enforcement, or so he thought at the time. The year 1971 marked the beginning of a 2-year hiatus, but not the end to a great career. George grew restless after leaving the prosecutor's office. With the help of a trusted friend and colleague, Ed Erickson, George Small decided to run for sheriff of Gloucester County in November 1973 and was subsequently elected to a 3-year term. He has served in that capacity to this day, for 15 years.

I am particularly delighted today to recount the history of the sheriff's career, one which has been long and exemplary. Without question, Sheriff Small is an accomplished professional. Perhaps just as important, though, he has always been a genuinely altruistic individual. George has been at the forefront of community efforts, from organizing United Way drives to preparing holiday food baskets for the poor. He always has the interest of the community, his neighbors, and friends in mind. In short, George is a people person and a professional, which explains his success over the years as a public servant.

As I applaud Sheriff Small for his accomplishments and dedication, I also applaud the support that his late wife, Doris, and his two sons, Wally and Gordon, have given him over the years.

We all truly owe Sheriff George Small a tremendous debt of gratitude for his tireless service and commitment to the people of Gloucester County. I wish to extend by best wishes to George for a happy and healthy retirement.

EXIMBANK HELPS UNITED STATES ACHIEVE NATIONAL PRIORITIES

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. GARCIA. Mr. Speaker, on August 3, after months of hard work and bipartisan cooperation, this Congress passed an omnibus trade bill which has since been signed into law. The new trade law is a signal to our foreign trading partners that the United States is going to be tough on trade. In fact, implementing an effective trade policy has become a national priority.

As we begin to dismantle unjustifiable trade barriers abroad, we must also focus our attention on ways in which we can help American exporters capture these newly opened foreign markets. The U.S. Export-Import Bank has been helping U.S. exporters finance their overseas sales since 1934. And since 1986, it has actively developed a program designed especially to help small- and medium-sized businesses increase their export sales. This is Eximbank's Working Capital Guarantee Program.

Under this program, Eximbank provides loan guarantees which enable companies to borrow the working capital they need to secure export sales contracts. Since the program began, Eximbank has provided loan guarantees for 135 exporters to help them build a presence in the international marketplace. Moreover, since it is a guarantee program, it does not utilize taxpayers' dollars for costly subsidies. Instead, it encourages commercial bank lending to creditworthy exporters. By supporting these small- and medium-sized businesses, Eximbank's Working Capital Guarantee Program is helping America achieve a key element in its trade policy: export promotion.

Eximbank's Working Capital Guarantee Program has also been instrumental in helping United States companies build and maintain presence in tough-to-crack Asian markets, like the Peoples Republic of China and South Korea. There are many small- and medium-sized American firms which have the potential to increase exports and save jobs in the United States. Through the Working Capital Guarantee Program, Eximbank is providing crucial support to these firms. This program is costeffective and it really works. I urge my colleagues to join me in giving this program full support.

THE 75TH ANNIVERSARY OF THE SAGINAW COUNTY FAIR

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. TRAXLER. Mr. Speaker, I rise today to commemorate the 75th anniversary of one of mid-Michigan's most treasured events, the Saginaw County Fair. Annually, over 300,000 visitors take part in what has become the largest single event in Saginaw County. Many of those who live in America's heartland can appreciate the contributions of a Midwestern county fair. But in Saginaw and the surrounding mid-Michigan area, this week-long extravaganza has become an annual tradition for most of those 300,000 who visit each year. Indeed, many of those who attend have made it a fall ritual, which is why the Saginaw County Fair is recognized as one of the largest of its kind in the United States.

The Saginaw County Agricultural Society—the original Saginaw Fair—was organized on August 15, 1914. The original purpose of the society was to hold fairs and exhibitions in the county of Saginaw. Today, 75 years later, the purpose remains the same. The fair delivers a very significant contribution to the community—agricultural awareness. Blue Ribbon competition in nearly 25,000 exhibits is offered annually as well as $60,000 in awards to 3,000 exhibitors of all ages. Thus, the exhibition and competition of agricultural products, along with the awarding of premiums, undoubtedly provides the community with an education on state-of-the-art agricultural techniques.

Not only has this event attracted agricultural interests, but nearly all those residing nearby find some kind of value in participating in the Saginaw County Fair every year, whether it be in exhibits, competitions, or just a walk down the midway to capture the excitement. Entertainment is certainly another big part of the fair's contribution to our community.

The Saginaw County Fair has been a part of our lives in mid-Michigan for 75 years now. Today, I want to call the attention of my colleagues in the U.S. House of Representatives to recognize the institution of the county fair as an integral part of our society. But most importantly, I am honored to stand and commemorate one of this Nation's finest. On Tuesday, September 13, 1988, the mid-Michigan area will officially recognize the Saginaw Fair's 75th anniversary. I wish them a most joyous celebration: Happy birthday to the Saginaw County Fair.

ENDANGERED SPECIES PROTECTION ACT OF 1988

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BENNETT. Mr. Speaker, today I am introducing the Endangered Species Protection Act of 1988. This bill will improve the protection of endangered species in units of the National Forest System, the National Park System, and the National Wildlife Refuge System, by increasing from $500 to $1,000 the maximum fine that may be imposed for violating posted speed limits in such units that are regularly inhabited by an endangered species.

The National Park Service alone currently administers almost 8,000 miles of roads that are open to the public. These roads are needed to allow visitors to enjoy the parks and generally relate simply and harmoniously with the topography and environment. These roads are often more narrow and winding, requiring lower speed limits than roads outside parks that are designed to facilitate the movement of vehicles in the most direct and expeditious manner.

Many years ago I authored legislation to create the Key Deer Refuge in south Florida. Unfortunately, the deer are still under tremendous stress, and one reason is because of speeding within the refuge. A number of deer have been found dead on the sides of roads where people are known to travel well above the speed limit.

My bill would help the Key Deer and the hundreds of other endangered species that inhabit property maintained by the Department of the Interior all over the United States. Drivers traveling 10 miles per hour above a posted speed limit of 30 miles per hour increase their stopping distance by almost 50 feet, and that's in ideal conditions and with good brakes. This distance increases even more dramatically at higher speeds. By increasing the fine for speeding, I am hopeful we can encourage more people to obey the speed limit and thus reduce the number of animals that are killed in our national parks each year.

I would encourage Members to review this legislation and to express their support by contacting my office to sign on as a cosponsor of the Endangered Species Protection Act of 1988.

BEST WISHES TO THE UPJ RESPIRATORY CARE SOCIETY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. MURTHA. Mr. Speaker, I am honored to again recognize the anniversary of the respiratory care profession. 1988 marks the 41st year that practitioners have aided respiratory patients in combating these debilitating diseases.

Much progress has been made in battling respiratory ailments. Advanced methods of treatment, increased public awareness of the causes of respiratory problems, and research into the effects of these diseases have helped to make the fight against respiratory ailments a winnable one. But much more needs to be done.

The celebration of the anniversary of the respiratory care profession is an opportuntity for those involved in this battle to make their case known to the public. During the week of October 2-8, the students involved in the University of Pittsburgh at Johnstown Respiratory Care Society will be conducting an active week of celebrations and education designed to make more of the public aware of the dangers and cures of respiratory ailments.

I would like to take this opportunity to salute the dedicated individuals involved in the UPJ Respiratory Care Society. By conducting these activities, these students bring the efforts of respiratory care specialists in fighting emphysema, asthma, pleurisy, and other diseases closer to success. I extend all my best wishes to the UPJ Respiratory Care Society for a rewarding week.

IN CELEBRATION OF THE MILLENNIUM OF CHRISTIANITY IN THE UKRAINE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation an event of 1,000 years ago which marked a milestone for Christianity and for the people of the Ukraine. I am pleased and honored that on September 18, the people of Flint, MI., will honor the Millennium of Christianity in the Ukraine with a Ukrainian dinner concert in Flint.

For Ukrainian Christians throughout the world, 1988 marks the Millennium of Christianity in the Ukraine. It was in 988 that the people of Ukraine, following the edict of Prince Volodymyr, participated in a mass baptism in the Dnieper River near Kiev to celebrate the decision of this historic ruler of the Ukraine to make Christianity the official religion of his nation. This event continues to have far-reaching consequences for the people of the Ukraine.

The beginnings of Christianity in the Ukraine can be traced to the missionary activities of St. Andrew who preached circa 50 A.D. in the area located north of the Black Sea. But it was not until Prince Volodymyr's decision to make Christianity the state religion that a real upsurge in Christianity took place. From that time on, Christianity has played a vital role, not only in the religious life of the Ukrainian people, but also in the formation of Ukrainian culture, society, and history.

It is not, however, solely a celebration of this proud legacy that will bring the Flint-area Ukrainian community together this week. It will also be a time to gather in symbolic support for those who remain in the Ukraine and are restricted from freely worshiping or from celebrating this event. For despite the pronouncements of glasnost from Soviet leaders, the fundamental right of religious freedom remains as illusive today as ever for the people of the Ukraine. Today, as has been the case since the 1930's, all religious activities in both eastern and western Ukraine are closely supervised and controlled by a government-sponsored committee. Religious instruction and church attendance are still vigorously discouraged. If General Secretary Mikhail Gorbachev is to make good on his promises of a more open Soviet society, he must begin by allowing the independent people of the Urkaine greater freedom to practice the religion which has shaped their culture over the last 1,000 years.

Mr. Speaker, I would ask my fellow colleagues and the Nation to join me in celebrating the Ukrainian Millenium of Christianity and to strengthen our symbolic bond with the people of the Ukraine in their continued fight for spiritual freedom.

TRIBUTE TO GEORGE STUART NIXON OF HILLSBOROUGH AND OF CALIFORNIA'S REDWOOD EMPIRE

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BOSCO. Mr. Speaker, it is with great pride and admiration that I rise to salute and to recognize a dedicated citizen of our State and our Nation, George Stuart Nixon, who has retired as general manager of the Redwood Empire Association.

Surely there is no more important issue before the American public today than the proper use and development of this country's magnificent natural landscapes and resources. Certain it is that few areas on this globe surpass in beauty and natural wealth the nine counties that constitute the redwood empire, stretching north of San Francisco's Golden Gate for more than 400 miles into Josephine County, OR.

For the last 12 years, Mr. Nixon has acted as steward of this empire and for many more he has turned his talents as a writer and as a manager to the promotion of tourism within it. Mr. Nixon realized long ago that tourism, properly organized, is a force for good in two complementary directions: It stimulates the economy of the region concerned while simultaneously informing, educating, and entertaining the American public and enthusiasts of these United States from around the globe.

Mr. Nixon, a grandson of the former U.S. Senator from Nevada, also George Stuart Nixon, was born in Hillsborough, CA, was graduated from prestigious Menlo School in Menlo Park, CA, attended Stanford University in Palo Alto, and served as assistant manager of San Francisco's classic Palace Hotel before joining the U.S. Marines in 1941. Mr. Nixon saw service with the First Division in the South Pacific and left the Marines in 1945 with the rank of captain.

As a member of the National Guard, Captain Nixon continued to serve his country, retiring as a brigadier general in the late 1960's.

Mr. Nixon's writing and editing talents have served him—and others—well. His newspaper career began following his Marines' service at the Stockton Record in California; he published, edited, wrote—and perhaps even delivered—the Township Register in Niles, CA, for several years before joining the Redwood Empire Association for the first time in 1960. That was succeeded by a hitch in public relations with American President Lines, and a return as general manager of REA in 1976.

Mr. Nixon is the author of the most complete and most readable book on its region, "Redwood Empire," published by E.P. Dutton & Co. in 1966.

Mr. Nixon has been responsible over the years for attics full of magazine and newspaper articles written about the Redwood Empire by journalists from across the United States and from abroad whom he has introduced to the wonders of northern California.

A man of wry and satirical wit, self-appointed president of something called Air Satz, Mr. Nixon is a member and past president of the French Club of San Francisco; the father of Florence, George III, Bert, Clarissa, and John; a student of Russian and British war medals, and of the campaigns of British Gen. Arthur Wellesley, Duke of Wellington. He and his wife, Clara, plan to enjoy the good things of life in retirement: Time with two grandchildren, a certain amount of travel, a lot of reading and writing, and the consumption of good wines—California and otherwise.

I ask my colleagues to join me in honoring and congratulating an American of talent and accomplishment, George Stuart Nixon.

INTERNATIONAL FAMILY PLANNING

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. KOSTMAYER. Mr. Speaker, for 25 years, on a bipartisan basis, the Congress has recognized the economic and social problems caused by rampant population growth in the Third World. The United States has funded important programs in Asia, Africa, and Latin America to bring family planning help to impoverished women.

Unfortunately, millions of women in the world are still without access to family planning assistance, and population growth rates continue to soar in many countries.

But in spite of a tremendous need to slow worldwide population growth, the Reagan administration has cut funding in a misguided attempt to reduce abortions. In fact, providing family planning assistance is the best way to reduce unwanted pregnancies and abortions. Nevertheless, even though U.S. funds are already specifically barred from being used to perform abortions, the President has terminated U.S. support for the United Nations Fund for Population Activities, and has attempted to terminate support for international planned parenthood.

Mr. Speaker, as a member of the House Foreign Affairs Committee, I have been fighting the Reagan administration's policy in this area, and thus I was pleased to read recently that two prominent private foundations have moved swiftly and responsibly to fill the funding gap. I would like at this point in the RECORD, to share an article from the New York Times describing the important contributions of the MacArthur Foundation and the Packard Foundation.

I urge the administration, Mr. Speaker, to reevaluate our current policy on international family planning. The United States, which prompted the creation of the United Nations Fund for Population Activities, should reassert its leadership in bringing this desperately needed aid to women around the world.

The article follows:

[From the New York Times, Sept. 5, 1988]

FOUNDATIONS EXPAND FAMILY PLANNING AID ABROAD

(By Kathleen Teltsch)

Two of the wealthiest foundations in the United States are starting multi-million-dollar programs to curb unwanted population growth in Asia, Africa and Latin America.

The undertakings come at a time of sharply curtailed United States Government expenditures for population programs abroad and as more and more third world nations also seek help in related areas like arresting the spread of sexually transmitted disease and maternal mortality.

The MacArthur Foundation of Chicago said it would spend $23 million in the next two and a half years on family planning and maternal health, up from $1.5 million last year.

The California-based David and Lucile Packard Foundation, enriched by a $2 billion commitment from Mr. Packard, is reshaping its population undertaking, and will expand from less than $1 million a year to $10 million annually.

Before the new commitments, total financing for family planning abroad by American philanthropies was $30 million to $35 million annually. In recent years, population programs abroad have lost United States Government funds totaling about $60 million annually.

"Admirable as foundations' work is, it does not make up for the loss of government funds," said Dr. Joseph Speidel, president of the Population Crisis Committee in Washington. He said that around the world, 20 million new couples a year enter the reproductive ages. "We have less money for more people," he said.

Washington's program for developing countries is conducted through the Agency for International Development, which administers foreign aid abroad; it is a major supplier of contraceptives to third world countries. Agency funds for family planning were cut to $230 million from $290 million in 1985, the last year the agency contributed to the United Nations Population Fund and International Planned Parenthood Federation. The move, which helped limit the Federal budget deficit, was also influenced by attacks from organizations that oppose abortion.

"Having prestigious foundations like MacArthur and Packard take initiatives shows there is still concern among serious thinkers," said Dr. Duff G. Gillespie, the agency's director for population. While Government expenditures are much larger, private philanthropy has greater flexibility, he added.

The United Nations Population Fund assists 134 countries and is grappling with growing requests from governments once reluctant to accept aid in curbing births but now eager for assistance, said Dr. Nafis Sadik, the fund's executive director. The agency has a $176 million budget, up from $156 million the previous year.

At a 1984 conference on international population in Mexico City, the United States delegate, James L. Buckley, said the Reagan Administration would halt contributions to the United Nations fund unless it received assurances that the fund would not engage in abortion or "coercive family planning programs."

The United States later cut off its annual contribution of $26 million to the fund, with the Reagan Administration saying the fund assisted a program in China that coerced abortions and sterilizations. Although the fund replied that it does not support abortion programs and the allegations were not substantiated by two Agency for International Development inquiries, the United States contribution was not restored.

Since then, the United Nations agency has received bigger contributions from Japan and Western European governments while the International Planned Parenthood Federation's resources also increased, without United States Government help, from $61 million last year to $72 million this year.

The MacArthur program will be shaped by an advisory population committee, headed by Dr. Lincoln Chen, an adviser to the MacArthur Foundation and the Takemi Professor of International Health at Havard University. The committee is to be composed mainly of members from third world countries.

The foundation said it would work with local organizations and leaders to develop culturally appropriate services and not to impose American models. For example, it will make annual awards of $15,000 to $30,000 to young potential leaders who can affect population policy in such countries as Mexico, Brazil, India and at least two African nations.

The MacArthur Foundation will also select a group of population organizations for $100,000 to $150,000 awards. Those chosen will be encouraged to exchange research data and experiences. MacArthur used a similar technique for its mental health program in this country and it is now the largest private supporter in that field.

"I do not know of any organization that has invited local self-determination on such a scale," Dr. Gillespie said.

The Packard program, still being formulated, is to emphasize third world assistance and cover adolescent pregnancy, family planning and assured access to abortion, said Anne Firth Murry, a consultant to the foundation. Last May Mr. Packard signaled a commitment, saying, "without population control, conditions in countries of greatest need will be hopeless."

HEALTH CONCERNS ARE FACTORS

The momentum behind these endeavors and others by smaller foundations, was fueled partly by a World Health Organization report, released in February 1987, showing 500,000 women dying yearly because of preventable pregnancy related causes, frequently following an abortion, said sponsors of the new programs. The report, issued at a conference in Nairobi, Kenya, called maternal mortality the single most neglected health problem in the third world.

"Heightened concern about sexually transmitted diseases including AIDS, also has increased demand for contraceptives and for health services that both prevent unwanted pregnancies and protect health," said Dr. Chen.

Dan Pellegrom, executive director of the Pathfinder Fund, a Boston-based nonprofit organization that supports medical facilities in 30 countries and helped establish several family planning services, said increased demand for help from the third world underscored the inadequacy of contraceptive technology. He said pharmaceutical companies' research was deterred by high costs, doubtful profits, fear of lawsuits and opposition from anti-abortion organizations.

Collaboration on contraceptive development among scientists from the third world is being pushed by the Rockefeller Foundation. Under a Rockefeller program, for example, a number of African scientists are testing a male contraceptive pill, gosypol, developed in China. The Rockefeller Foundation expects to continue its major role and spend $60 million to $75 million over the next five years, said Dr. Sheldon J. Segal, director of population sciences.

OTHER FOUNDATION'S PROGRAMS

Several other foundations are continuing sizable contributions to family planning budgets, including these:

The Mellon Foundation is spending about $10 million annually, partly for faculty appointments and research, development and introduction of contraceptives and support of family planning.

The Ford Foundation ended contraceptive research and now folds its family planning overseas into a $6 million yearly outlay for reproductive health and child survival activity.

The Carnegie Corporation has a $3 millon yearly budget for African and Caribbean countries, emphasizing women's health in pregnancy and child-bearing.

The Pew Charitable Trusts have a $1.2 million program in maternal and child health, including family planning.

The William and Flora Hewlett Foundation spends about $5 million yearly on international activities in research, training and services.

"There is a sea change under way led by the big foundations," said Joan B. Dunlop, president of the International Women's Health Coalition, one of the few private American organizations specifically working to increase access to abortion in the poorer developing countries. "The voices and perceptions of women are being heard both in the United States and in the third world," she said.

The MacArthur Foundation goals, said Dr. Chen, include promoting collaboration among the philanthropies and it has invited American organizations supporting family planning, contraceptive research or reproductive health to meet this fall.

"This business is not made for solo players," said Peter C. Goldmark, president of the Rockefeller Foundation. "We won't have trouble finding each other."

THE PREBORN BABY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. DORNAN of California. Mr. Speaker, one of my constituents, Mr. Earl Benham, wrote a short poem on behalf of the innocent preborn children. I would like to share his verses with you and encourage all our colleagues to ponder the American tragedy of abortion.

PREBORN BABY

I'm just a helpless baby
And as sweet as sweet can be,
Arms of a loving mother
Will never encircle me.

Darling, Mother, hear my plea,
Be my friend, not enemy.
If you'll only spare my life
I, some day your joy will be.

Doctors kill preborn babies
So that riches they'll obtain,
But when comes the judgment day
All their cries will be in vain.

DESIGNATING A NEW FEDERAL BUILDING IN LAKELAND, FL, IN HONOR OF LAWTON M. CHILES, JR.

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. IRELAND. Mr. Speaker, I have the pleasure today of introducing legislation to designate a Federal building to be constructed in Lakeland, FL, as the "Lawton M. Chiles, Jr., Federal Building."

Senator LAWTON M. CHILES, Jr., was born in Lakeland, which is located in Imperial Polk County in the heart of the Florida Peninsula. Lakeland is as proud of LAWTON CHILES as it is of Polk County's famous citrus industry. He has served the people of Florida with honor and distinction since his election to the U.S. Senate in 1970. He had previously served in the Florida House of Representatives and Florida Senate before launching his famous walking campaign across the Sunshine State.

Since that time, "Walkin' Lawton" has set the standard for integrity and industriousness here in Washington. He will be sorely missed by his colleagues in both Chambers, and by his many friends in Washington and Florida. We hope to enjoy the benefit of his experience and wisdom in the years to come.

The new Federal building, approved by the Congress last week in the conference report on Treasury-Postal Service-General Government appropriations, will serve the people of Polk County and the surrounding counties with an accessible, central location for the various Federal agencies in the area. Congress exhibited rare foresight in approving funds for a new Federal facility to serve the needs of this dynamic region. With Polk County's current growth rate, the area's population could reach 550,000 by the year 2000.

The designation of this building in his honor is a fitting tribute to the dedication LAWTON CHILES has shown in his 18 years of service to the Nation. As chairman of the Senate Budget Committee, he has been a leader in our efforts to reduce the Federal budget deficit. As chairman of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, he has championed efforts to reduce infant mortality in this country, improve the education of our youth and eradicate the blight of dangerous drugs from our society. He has earned special recognition as a leader on the Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, as well as the Special Committee on Aging.

I commend this resolution to my colleagues for their support in recognizing the dedication and service of LAWTON CHILES.

COMMEMORATING DR. JOSEPH M. QUAGLIANA AS ITALIAN-AMERICAN HUMANITARIAN OF THE YEAR

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to a preeminant civic leader of southern Nevada's medical community, Dr. Joseph M. Quagliana. On Saturday, October 8, the Augustus Society and the Nevada Society of Italian-American Lawyers will honor this exceptional Las Vegas as Italian-American "Humanitarian of the Year." He is truly deserving of this recognition.

Dr. Quagliana graduated from the University of Buffalo School of Medicine in 1959. He was assistant resident in medicine at the Buffalo General Hospital. In 1961 he became the senior resident in medicine at Tuft's University at the Boston City Hospital. In 1962 he served as clinical fellow in hematology and in 1963 chief fellow in hematology at the University of Utah College of Medicine in Salt Lake City, UT. He was drafted into the U.S. Air Force and served for 2 years as deputy hospital commander. In 1968 he studied current clinical and investigational chemotherapy at Roswell Park Memorial Cancer Institute in Buffalo, NY.

Dr. Quagliana joined the faculty at the University of Utah School of Medicine in 1968 as an assistant professor of medicine, chief of oncology, and cancer coordinator of the university. He was in charge of all clinical cancer training. He participated in the Southwest Oncology Cancer Research Group and brought valuable cancer research programs to the university. He also developed and directed a cancer outreach program to train and assist physicians in the entire Southwest including Las Vegas.

In 1974 he left the university to joint the staff of Southern Nevada Memorial Hospital as chief of oncology and director of medical education in charge of the residency teaching program. In 1978 he founded the Cancer and Hematology Center of Nevada in Las Vegas where he continues to conduct cancer research through Tulane University as an associate professor in conjunction with the Southwest Oncology Group.

Mr. Speaker, by any standard—be it civic leadership or professional contribution—Dr. Joseph Quagliana represents the finest in southern Nevada's commitment to excellence. I ask my colleagues to join me today in commendng Dr. Joseph Quagliana for his well-deserved recognition as Italian-American "Humanitarian of the Year."

PESTICIDE POISION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. TORRES. Mr. Speaker, why is it that we always need extraordinary people to wake us up to problems in our society? In the past it has been Ghandi, Martin Luther King, Jr., Mother Teresa or Lech Walesa. Today it is Cesar Chavez, again. Cesar and the United Farmworkers Union have fought for years for the protection of workers against the pesticides used in the fields. But it has taken a 36-day fast by this extraordinary man to galvanize us to action.

Cesar Chavez is right, pesticides are poisoning us. The Environmental Protection Agency has been charged with the responsibility to re-register the pesticides currently in use and to remove those from the market which are found to be harmful. However, in 8 years EPA has managed to re-register only 5 out of 50 pesticides. This process is entirely too slow. We must increase the rate at which these dangerous pesticides are analyzed and removed from the market.

I commend the chairman of the Committee on Agriculture, Mr. DE LA GARZA for his tireless efforts over the past 2 years to reauthorize FIFRA.

Another related issue that is less in the news, but is no less important, is the tremendous confusion in how the laws governing pesticide residues are applied. The National Academy of Science published a report last year entitled Regulating Pesticides in Food. This report pointed out something which some of us in Congress have realized for years. That Federal agencies are often given contradictory mandates by Congress.

The report is called the Delaney Paradox. The point of contention here is the regulatory difference between how pesticide residues on raw food are regulated as compared to processed food.

There is one standard for residue on raw agricultural commodities, such as fresh tomatoes and another for processed food, such as tomato paste (or more exactly for residues of pesticides which concentrate in these foods). When residues of a pesticide remain on a raw commodity, the standards of the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] apply and risks and benefits are considered in making a decision. This allows EPA to allow a pesticide to be used if EPA decides that the risks presented are acceptable, even though it has been found to be carcinogenic in laboratory test animals.

However, in the case of food additives, the standards of the Federal Food, Drug and Cosmetic Act [FFDCA] would apply. These prohibit approval of any food additive found to be carcinogenic in animal tests. This is known as the Delaney Clause. This may have made sense in the 1950's when it was enacted, but with modern detection technology in which we can measure parts per quadrillion of pesticide residue, but it doesn't any more.

How could a pesticide be poison when it is on your tomato paste yet have an "acceptable cancer risk" when it is on fresh tomatoes and when the farmworkers have to enter those fields only moments after the pesticide has been applied? I think that this is crazy. It would be silly if it wasn't so serious.

The paradox here is that new pesticides which have drastically reduced carcinogenic potential are not permitted to come onto the market, while older pesticides which are known carcinogens remain in use. What this means that a pesticide which has a high likelihood of being carcinogenic cannot be replaced by a new pesticide which has a low cancer risk. In addition, new, low risk pesticides are not being developed by the pesticide industry because the old ones are still on the market and they can still be used.

Pesticide residue are pervasive throughout our society. Ground water contamination by those residues is an increasingly frightening phenomenon. In California, contamination by 57 pesticides has been found in almost 3,000 wells throughout 28 counties. In the Central Valley alone, over 1,400 wells were found to be unsuitable for drinking, cooking, or bathing, primarily because of pesticides in the ground water.

We can't eliminate all pesticides, but we can drastically reduce our exposure to carcinogenic substances by adopting a negligible risk approach. According to the National Academy of Sciences report, if the most carcinogenic pesticides are removed from use first, within a very short period of time we would reduce our carcinogenic exposure by 98 percent. This seems very reasonable to me.

For this reason, I support, and urge my colleagues to support H.R. 4739 introduced by Henry Waxman, which would eliminate this paradox.

IN RECOGNITION OF ROSA PARKS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. CLAY. Mr. Speaker, on September 30, 1988, Congressman JOHN CONYERS will hold a retirement reception in Detroit for Mrs. Rosa Parks, "mother of the civil rights movement".

Rosa L. Parks is synonymous with the American civil rights movement of the last generation. Born in Tuskegee, AL on February 4, 1913, Mrs. Parks sparked the civil rights movement by her simple act of courage on a Montgomery, AL bus in 1955.

December 1, 1955, marked the turning point in Mrs. Parks' life. Mrs. Parks' refusal to move to the back of the bus resulted in a 13-month bus boycott by black citizens, and finally a Supreme Court decision which integrated the bus line.

Rosa Parks moved north to Detroit and began working with Congressman JOHN CONYERS, Jr., in 1965. Always she remained dedicated to the principles of Dr. King and the movement she helped to lead, traveling and speaking to audiences throughout the country on peace and justice for all people. An important theme of Mrs. Parks is that although much was accomplished in the early years of the civil rights movement, the struggle is far from over.

In February 1987 Mrs. Parks founded the Rosa and Raymond Parks Institute for Self-Development. It is this worthwhile project for which Mrs. Parks now leaves Congressman CONYERS' staff, so that she will be able to devote her full attention to its success.

I ask the friends of Mrs. Parks and Members of Congress to join me in offering congratulations to Rosa Parks on her outstanding achievements and accomplishments for Civil Rights.

ANNIVERSARY OF THE EXECUTION OF NIKOLA PETROV

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. LIPINSKI. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the upcoming anniversary of the execution of Nikola Petrov, an ardent fighter for the natural rights of speech and press on behalf of his fellow Bulgarians.

Petrov once said, "If men in power destroy the liberty of speech and press, any excess soon becomes permissible." "The citizens of such a state cease to be a society of thinking men and become a flock of sheep, with no opinions or ideas of their own." These statements were among many of Petrov's brave defiances of the Communist principles currently guiding that Bulgarian Government, heard by Premier Dimitrov and other officials on the floor of the Grand National Sobranie. In August 1947 Petrov was arrested by the Communist militia in the Sobranie and was tried before a "People's Court" with three Communist judges. An analysis of the testimony indicated numerous discrepancies. On September 23, 1947, Petrov has hanged regardless of British and American disapproval and protest. Upon conviction Petrov proclaimed that he was on trial for his political views.

Petrov had lived in exile in Paris until 1931, when he soon became an energetic leader of the Agrarian wing of the Fatherland Front resistance and ironically the Vice-Premier and Minister in the Fatherland Front Cabinet. In May 1945 the Communists arranged their own Agrarian collaborator whom they would recognize rather than Petrov. Gradually the Communists packed the Congress of the Agrarian Union with their supporters and succeeded in ousting Petrov from control of the Party. Nevertheless, Petrov sustained his role in the Fatherland Front. In June 1945 the Communists arrested Petrov's private secretary and attempted to have her confess that the Agrarians had been plotting against the OF regime. She committed suicide.

Petrov and his supporters sustained a stronghold on their principles and took advantage of any opportunities to add to their line of followers. In the October 1946 election, Petrov and other opposition parties put up candidates. Meanwhile a number of leading Petrov Agrarians were arrested. By September 1946 the Communists had control over the army and, by plebiscite, had abolished the monarchy. Bulgaria was declared a republic, denoting all power to Premier Dimitrov.

Mr. Speaker, when we remember Petrov, on September 23, we are devoting our respect to a man of admirable persistance and true dedication to the principles underlying the existence of a democracy. The right to speak one's mind for unrestricted purposes belongs to very few people. Those that are privileged with ownership of this faculty seem to forget too soon. Petrov helped Bulgarians in 1946 and I hope will help Bulgarians, as well as Americans, today recognize the significance of the right to speak. I am sure that my colleagues will join me on September 23 in commemoration of the death of Nikola Petrov.

DECISION TIME FOR THE B-1B, PART II

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. ASPIN. Mr. Speaker, in my previous remarks on the B-1B bomber program that were included in the August 11 CONGRESSIONAL RECORD, I indicated that the House Armed Services Committee had established a structure and process for resolving questions about the B-1B's status. I want to take this opportuntity to update my colleagues on the committee's plans.

A series of three briefings/hearings have been scheduled for the month of September.

On September 15, the committee will receive a briefing on the status of the B-2 bomber program. Before any decision is made on the future of the B-1B program, it is important to understand where the B-2 program stands and where it is headed—in terms of cost, schedule, and performance.

On September 22, representatives of the Joint Chiefs of Staff and the Joint Strategic Target Planning Staff will appear to discuss the B-1B's role in the single integrated operation plan [SIOP]. Because questions have been raised about the B-1B's current capabilities it is necessary to understand the bomber's contribution to U.S. war plans.

On September 29, the committee will receive information on the Institute of Defense Analysis' assessment of the B-1B's current and future performance as a penetrating bomber. At the committee's initiative, section 243 of Public Law 100-180 requires an independent assessment of the B-1B's penetrating capabilities. Problems with the B-1B's defensive avionics system, the AIQ-161A, have raised concerns about the B-1B's ability to perform as advertised.

The three hearings are designed to provide a framework for the committee to evaluate the B-1B. Additional hearings will be held in the future.

In the meantime, the committee expects the Department of Defense to respond in a timely and cooperative manner to the questions contained in my August 11 correspondence to the Secretary of Defense.

Briefly, the questions focus on the following issues:

First, the target requirements—strategic/conventional—that the B-1B is designed to fill, is able to meet in its current capability, and is projected to meet in the future.

Second, a candid, independent assessment of the B-1B's current mission effectiveness.

Third, a detailed breakout with accompanying justification of the near and long-term spending plans for the B-1B.

Fourth, a cost-benefit analysis of fixes and enhancements of the B-1B, that is, what do the additional dollars buy in terms of additional capability to improve penetration, weapons delivery and survivability as compared to the use of other assets.

Fifth, an assessment of the impact/implications of potential arms control agreements on the B-1B's role in the overall force structure.

These questions are not prompted by idle curiosity. Deliberations on the 1990 budget are not too many weeks away. We need the information to make the decisions we will be called upon to make. I stress again that without the answers the committee will find it difficult to justify any additional funds for the B-1B program.

It's not clear that the Defense Department understands the seriousness of the situation. Some time ago a Pentagon spokesman glanced at a calendar, put two and two together to get three, and announced that politics was afoot in questions raised about the bomber because there was an election coming.

I hope those who are involved in the real business of the Department have a clearer idea of what's going on. If not, they are in for a rude surprise. There will come a time when this fall's campaign will end, but the questions about the B-1B will remain.

In the meantime, this administration should consider whether it's particularly clever to complain about politics when serious questions are raised about our most expensive weapon systems. That's hardly the way toward the bipartisan national security policy the administration has publicly sought in the past.

As I pointed out before, nearly 57 percent of the estimated dollars that will be spent on strategic programs in the 1981-2004 time period are allocated to the bomber portion of our strategic triad. This share does not include the cost of tanker aircraft that are used to refuel strategic bombers. At least $95 billion can be attributed to the cost of our tanker fleet. Thus, the real cost of our bomber programs is even larger than the estimated $242 billion share that has been identified.

The fact that a very significant portion of our defense dollars are designated for strategic bombers underscores the importance of our need to have full understanding of the B-1B's status. Clearly, we do not want the cost of this leg of the triad to squeeze out other programs that may contribute more to United States strategic deterrence. The concern becomes even more acute in a START environment that entails some fundamental changes in overall force structure.

In closing, I want to assure my colleagues that we intend to obtain the information we seek. The committee has a responsibility to make recommendations to the House on national security issues. The B-1B is no exception. The committee will meet its responsibilities.

COMMEMORATING ARTHUR S. WALTZMAN AS DISTINGUISHED MAN OF THE YEAR

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to Mr. Arthur S. Waltzman. On October 23, 1988, the Nate Mack Las Vegas Lodge No. 2825 will honor this generous Las Vegan as "Distinguished Man of the Year."

Arthur Waltzman, a thoughtful and giving member of our community has tirelessly devoted time and resources toward the benefit of Las Vegas. Among the many worthy causes he has helped are the United Cerebral Palsy campaign, the B'nai B'rith Salute to Seniors, the Jewish Federation of Las Vegas, and the Make a Wish Foundation.

Arthur graduated from the University of Rhode Island. For 19 years, he practiced as a CPA as a partner in a Boston accounting firm. Subsequently, he became president and co-chairman of the board of AITS, Inc., the parent company of Riviera, Inc.

In 1982, he also became vice president of Schenley Industries, Inc. In 1984, Arthur became president of Riviera, Inc. He is a member of the American Institute of CPA's, the Massachusetts Society of CPA's and the Tax Executive Institute.

Arthur Waltzman is joining many distinguished and honored Las Vegans who have received this award. Last year, B'nai B'rith honored the achievements of Dr. Kenny Guinn.

Mr. Speaker, I ask my colleagues to join me today in commending Arthur Waltzman for his recognition as "Distinguished Man of the Year."

A TRIBUTE TO DANIEL J. SULLIVAN

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mrs. BOXER. Mr. Speaker, I rise to call to my colleagues' attention the exemplary life and work of Mr. Daniel J. Sullivan. Mr. Sullivan is retiring after having served close to two decades as the principal officer and secretary-treasurer of Teamsters Local No. 302, Milk Drivers and Dairy Employers. He has served as a trustee on the executive board for Teamsters' Joint Council No. 7, advisor to the California Teamsters Public Affairs Council, and chairman and trustee to the Diary Industry's Health and Welfare Trust Fund.

Mr. Sullivan is a long time supporter of various community and special organizations. He was, in fact, the driving force behind the Teamsters' involvement in the Special Olympics.

His many other credits include serving as principal agent for Teamsters' involvement in Alameda County's Staying Alive Chemical Dependency and Alcoholism Community Prevention Campaigns and as organizing director for the Teamsters' Joint Council No. 7's Labor-Management Golf Tournament. The tournament was a benefit to promote Teamsters' Aftercare, an alcoholism and chemical dependency program, and to foster goodwill between management and labor in the combined effort to combat drug use and alcoholism.

Mr. Sullivan served in the U.S. Army's 7th Division as a combat infantryman during the Korean conflict and received a Purple Heart for serious wounds he received in combat. He was a cofounder of the Irish American Teamsters of the Western Conference, has served in various capacities in church, little league baseball, and other community organizations. Mr. Sullivan has been happily married for the past 35 years and continues to set a splendid example for his children, grandchildren, and our community.

I would like to take this opportunity to extend my congratulations and best wishes to Mr. Sullivan on the occasion of his retirement.

GEORGE GUSTAFSON: A GREAT COACH AND A GREAT TEACHER

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. VANDER JAGT. Mr. Speaker, I rise today to pay tribute to George Gustafson who, on October 8 in San Rafael, CA, is being inducted into the Marin High School Athletic Hall of Fame. This is the latest of many honors earned by George Gustafson during his more than 40 years of coaching.

Coach Gus, as he is affectionately known, spent 37 years coaching five sports at Tamalpais Union High School. At the age of 82 he is still an active hiker and a tennis player who can more than hold this own with players many decades his junior.

Coach Gus has received many earlier honors for his coaching prowess and his contributions to the development of the young men who were his pupils. He is a member of the California Coaches Association Hall of Fame, former chairman of the California section of the Amateur Athletic Association, and the person for whom the gymnasium at Tamalpais High School is named.

Our former colleague from Michigan, Congressman Hal Sawyer, was one of those young men fortunate enough to have been coached by George Gustafson at Tamalpais

High School. He was so enthused and gratified by this latest honor bestowed on his old coach that he asked that I commemorate it in the records of this body, which I am very delighted to do. I know you will all join me in sending our warmest congratulations to George Gustafson.

HIGH SCHOOL ATHLETICS: BUILDING CHARACTER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. GORDON. Mr. Speaker, I want to hold out my hand to welcome back one of Tennessee's biggest and best sporting events, which will return to my district this school year.

The State basketball tournament for boys, sponsored by the Tennessee Secondary School Athletic Association, will be held at my alma mater, Middle Tennessee State University, after a hiatus of several years. The girls basketball tournament has continued to be held at MTSU the past few years.

Interscholastic athletics traditionally have played a key role in bringing communities together in America, uniting young and old, friends and enemies, coworkers and competitors, with pride in their school's team.

Perhaps more important, I believe that sports teams bring a feeling of pride and community to their schools. They encourage students, teachers, and administrators to work together toward their overriding common goal—the preparation of our next generation of young men and women to take their place as productive citizens of our Nation.

To the student athletes, sports are a major builder not only of physical health, but of character—playing by fair rules in an atmosphere of friendly competition and sportsmanship.

In Tennessee, 110,000 girls and boys participate in junior and senior high school athletics on 4,100 teams at 423 schools. These young people are getting the right kind of growing up experience.

Since 1925, the Tennessee Secondary School Athletic Association has provided the framework for fair competition in high school athletics, impartially judged and administered. Over the years, the TSSAA has set an example for the Nation in a number of areas.

It made Tennessee one of the first States to offer interscholastic athletics for girls.

It was one of the first States to recognize and accept black athletes, and it integrated its program relatively early.

And the TSSAA has assured that teams can compete in its tournaments, whether they come from rich schools or poor, by paying participants' expenses to all State sports meets.

The lessons of leadership and citizenship are what the Tennessee Secondary School Athletic Association promises to teach youthful sports participants. It delivers.

GUIDE TO STATE AND FEDERAL PROGRAMS FOR ECONOMIC DEVELOPMENT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. HORTON. Mr. Speaker, as co-chair of the Northeast-Mideast Congressional Coalition, I am pleased to alert my colleagues to "The Guide to State and Federal Programs for Economic Development," released by the Northeast-Midwest Institute as part of its continuing effort to promote economic revitalization and growth in its constituent States, and the Nation as a whole. The valuable book focuses on State and Federal programs that have made important contributions in advancing economic development strategies.

Public officials and business leaders want to create an economic climate that encourages investment and job creation. The "Guide to State and Federal Resources for Economic Development" gives this critical tool. It contains a wealth of up-to-date information on strategies and models that have worked for States across the country. It provides a comprehensive catalog of funding and technical assistance programs available from Federal and State sources. And it offers the most complete list of Federal economic development contacts.

Throughout the Nation, States have surmounted many of their economic woes by using available resources in creative ways, working closely with the private sector, and devising programs with highly specific goals. The Guide surveys the offerings of development agencies in all 50 States, providing in-depth case study analyses of 60 noteworthy programs in eight categories: business development, finance, targeted development efforts, infrastructure, cooperative research and technology centers, trade, training, and tax incentives. Each case study examines three features: the program's goal, how it was set up to operate, and how it works in practice. Particular attention is given to the number of jobs created and the level of private investment generated. A contact agency, address and telephone number are given for each case study, and a separate section briefly describes a dozen or more similar programs in other States.

As my colleagues understand, the economic development process can have numerous components, involve people from all walks of life, and bring together diverse resources. Identifying its most important elements and devising a strategy to keep and attract investment and jobs is the principal challenge facing Governors and mayors across the Nation. Economic development does not occur spontaneously and is increasingly complex. It is a unique puzzle in each place, which a community must put together from a large number of public and private-sector pieces.

The Guide is designed as a handbook of basic information to help promote economic development at the State and local level. It is published as a service to Members of Congress and their constituents, State officials, and others directly involved in generating and attracting jobs and investment. It aims to offer concepts, raise issues, and spark discussion of ideas among States with problems and opportunities in common. I'm pleased to commend the book to my colleagues.

BARBARA MATIA'S TESTIMONY ON ARTHRITIS RESEARCH

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. PORTER. Mr. Speaker, I hope the Members will read Barbara Matia's testimony before the House Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies on the subject of rheumatoid arthritis. Mrs. Matia, a rheumatoid arthritis sufferer herself, makes some important comments about the infectious theory, a theory which is attracting renewed interest in the medical research community.

The article follows:

TESTIMONY OF MRS. BARBARA MATIA

Mr. Chairman, Members of Congress and staff, I appreciate the opportunity of testifying before this committee for the fifth time.

When the article on Lyme Arthritis or Lyme Disease, as it has been more recently called, appeared in Scientific American last July, 1987, I immediately saw a correlation between Lyme Disease and rheumatoid arthritis. The part that caught my attention was the fact that Lyme Disease was the result of a deer tick which carried to humans an infectious organism known as a spirochete, and that the patients with Lyme Disease were treated with oral and intravenous antibiotics.

It was exciting for me to think that with all the knowledge of Lyme Disease, maybe now the infectious theory for rheumatoid arthritis would get the attention it deserved. Hopefully, it would bring credibility to all the work that Dr. Thomas Brown has pursued along for the last 50 years, leading to the conclusion that rheumatoid arthritis is caused by an infectious organism called mycoplasma.

I was fascinated to see that almost all of the symptoms that were mentioned in the Lyme Disease article were the symptoms I experienced with my battle with severe rheumatoid arthritis, with the exception of joint deformity, which I avoided because I received intravenous tetracycline therapy before the crippling began.

In the future, rheumatoid arthritis will be understood to have several stages like Lyme Disease, with the crippling and deformity as the final stage. Up until now, the final stage was the only stage that has been truly understood as serious.

With the understanding that rheumatoid arthritis is infectious, we can have a clear understanding that it can affect every tissue and organ in your body. The disease has affected my liver, spleen, heart muscle, skin, my eyes, causing blurred vision, and lungs, shortness of breath.

I have suffered extreme weakness, fatigue, intense pain and depression which is truly part of the disease. I would describe the depression as having "the edge taken off life." In addition, the infectious theory will lead to much earlier diagnosis, with antibody blood level tests replacing the latex fixation test which only turns up positive in the later stages of the disease.

It was also exciting that the National Institute of Arthritis, Musculoskeletal and Skin Diseases has at last identified the infectious theory as a target for its research grants. And I am sure that as a result of that, the cause and disease mechanism of rheumatoid arthritis will at some future time be confirmed by irrefutable scientific evidence.

But let's not wait for that to happen before we make available to the general public a treatment program which is based specifically on the infectious theory and which has produced consistent results over a period of time. It may be that the only way this will occur is after a clinical trial of this program is conducted.

Today, I am asking all members of this subcommittee to join together to help advance arthritis research and its treatment. With all the knowledge that Dr. Brown has provided us from his 50 years of work, with the confirmation of the effectiveness of a similar approach in the case of Lyme Disease and with Dr. Shulman's program announcement to the research community to encourage research on the role of infectious agents in causing rheumatoid arthritis, this subcommittee has a unique opportunity to change the lives of rheumatoid arthritis sufferers now rather than 15 years from now.

In my first testimony before this subcommittee in 1983, I said I consider it to be a national tragedy that literally millions of arthritics may have to wait years for a treatment program that is presently available. I urge this subcommittee to mandate a clinical trial of the antibiotic treatment program which will provide convincing data for the medical establishment to begin this method of treatment.

Most important of all, I am asking that the amount being requested for the fiscal year 1989 budget of the National Institute of Arthritis, Musculoskeletal and Skin Diseases be increased by $15,000,000 so that research into the infectious theory of rheumatoid arthritis can be conducted without detracting from the other important work of NIAMSD.

At the present time, NIAMSD remains the third lowest Institute in funding at the National Institutes of Health. The research which is currently being done pursuant to grants from the NIAMSD cannot just be terminated in midstream. And yet to wait until the current research projects run their course before directing substantial funding toward the infectious theory is not fair to the Nation's rheumatoid arthritics and is not economically sound. Every day lost costs American business substantial sums in lost productivity.

When you have been as fortunate as I have been to have received the safest and most effective treatment for rheumatoid arthritis, which is antibiotics, you want to give something back. I hope my visit here today will encourage you to give all the rheumatoid arthritics in the country the same opportunity that I was given. The decision is yours.

KURDS BEING GASSED

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. BATES. Mr. Speaker, despite the Iraq-Iran cease-fire agreement of August 20, 1988, U.S. intelligence sources have confirmed that Iraq has used chemical weapons against its Kurdish minority. This is a barbaric act which will have serious ramifications.

The use of poison gas was outlawed by the 1925 Geneva protocol, as a result of World War I casualties caused by poisonous gas, and has not been used extensively by any form of government since. Yet, it has been confirmed that poison gas has been used by the Iraqi Government as a means of quelling any potential uprising by its Kurdish minority. The violations against these 3.5 million people seeking to gain autonomy is reminiscent of the horrors the world witnessed during the Jewish Holocaust. We must "never again" allow a nation to attempt the physical elimination of a faction of its people.

For these reasons, I have introduced a resolution in the House of Representatives, House Resolution 5320, which expresses a sense of outrage at the Iraqi Government for its use of poison gas against the Kurds, and calls upon Iraq to immediately and permanently halt the use of all chemical weapons.

The Kurdish people constitute a distinct ethnic group of 20 million people. The 1922 establishment of a Turkish Republic ended the Kurd's hopes of an independent homeland known as Kurdistan and they currently reside in Turkey, Iran, Iraq, Syria, the Soviet Union, and Lebanon. Due to the use of the chemicals, 100,000 Iraqi Kurds have recently fled to Turkey.

Mr. Speaker, Iraq's use of chemical weapons against the Kurdish people appears to constitute an act of genocide in gross violation of international law, and I urge my colleagues to support the resolution.

A SALUTE TO JAKE WILLIAM LINDSEY

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. LOTT. Mr. Speaker, it is with great pleasure that I pay tribute today to the life of S. Sgt. Jake William Lindsey. Through Mr. Lindsey's leadership, devotion, and sacrifice our country has surely benefited and it is with honor that I share these accomplishments with you.

Jake William Lindsey dedicated a great part of his life to the defense of our Nation. Sergeant Lindsey's involvement in the United States found him serving our country in the Far East, the Caribbean area, European-African-Middle Eastern Theater, as well as his time spent on active duty in the United States. Because of his selfless devotion to his country and his many acts of bravery, Sergeant Lindsey retired a highly decorated member of the Armed Forces, which included the Medal of Honor awarded to him for his act of gallantry during his service in World War II.

On November 16, 1944, Sergeant Lindsey led a platoon, reduced to 6 of its original strength of 40, in the attack on an enemy position near Hamich, Germany. Armed with a rifle and grenades, Sergeant Lindsey fended off repeated enemy attacks by heavy rifle, machine gun, and tank fire. Though painfully wounded, Sergeant Lindsey continued firing and due to his accurate rifle grenade fire, single handedly drove off the enemy. In his fearlessness, inspiring courage, and superb leadership, Sergeant Lindsey carried on a brilliant defense of his platoon's hard-won ground, securing the position although he was faced with a numerically superior army.

Sergeant Lindsey will certainly be remembered as an American hero as a result of his many contributions to the Army and his devotion to the country which he so loved. I congratulate Jake Lindsey's family on the memorable accomplishments achieved during his lifetime and am proud to call this man a fellow Mississippian and American who certainly served the people of his country above and beyond the call of duty.

A TRIBUTE TO ETHEL M. HOWARD

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. FORD of Michigan. Mr. Speaker, I rise today to salute one of the finest citizens in my congressional district, Ethel M. Howard. On Friday, Ethel will receive the Community Service Award from the NAACP, an honor she richly deserves.

I have known Ethel Howard for many years and have always admired her activism on behalf of working people and those who would like to work but, because of a disability or the lack of job, cannot. In fact, because of her concern and hard work on behalf of our common causes, Ethel was my choice for vice chair of the 15th Congressional District's Democratic Party when the district's lines were redrawn to include Washtenaw County. And subsequently, Ethel became the unanimous choice of everyone who expressed himself or herself on that question. Since taking on the vice chair's responsibilities, Ethel has acquitted herself admirably.

Mr. Speaker, I would like to have Ethel Howard's biography reprinted in the CONGRESSIONAL RECORD. The list of her activities is amazing, but is only a partial testament to her energy, concern, and enthusiasm.

Ethel Howard is an outstanding citizen, the kind of usually unrecognized person who makes our democracy work by becoming deeply involved in its processes and the needs of her community. I join the NAACP in saluting Ethel and all of her fine work.

Ethel Howard was born in Gainsville, Alabama, on April 5, 1934, to John and Bobie Lee Scott. She is married to Bernard H. Pritchett; has one daughter, Francine, and one granddaughter, Sherese Antoinette.

Ethel graduated from Wenoneh High School, Birmingham, Alabama, and attended the following Colleges: Stillman College (Tuscoloosa, Alabama), Wayne State University College of Lifelong Learning, Washtenaw Community College and Eastern Michigan University. She was employed by Ford Motor Company for 25 years, and is now medically retired for seven years from the Rawsonville plant. Although medically retired, Ethel is still active with the UAW, serving as Recording Secretary for Local 898, Co-Chair of the Community Action Program and the Women's Committee Chair. She is also a member of Washtenaw County, C.A.P. Council; a member of UAW Local 898 Retiree Chapter; the Executive Board, Michigan UAW/CAP; Executive Board, SEMCAP (Southeastern Michigan Community Action Program); a member of the Michigan AFL-CIO General Board; Officer-at-large of the Michigan Democratic Party; Vice-Chair 15th Congressional District; and member of the Executive Board of the Washtenaw County Democratic Party.

Ethel is a Precinct Delegate; was Delegate to the Democratic National Conventions in 1976, 1980, 1984, and 1988. She was a member of the Washtenaw County Board of Canvassers for 17 years, and chaired the Ypsilanti Township Tax Board of Review.

She serves as Legislative Chair, Church Women United of Michigan; Legislative Chair and Executive Board member Ypsilanti-Willow Run NAACP; Board member of the Citizens Advisory Council to the Juvenile Court; is Secretary/Treasury of the Ypsilanti Resource Center, a member of Metropolitan Baptist Church, and serves as Treasurer, Trustee Board, Coordinator/Sunday School; and is a Member of the Pastor's Chorale. She is Registrar of the Huron Valley District Congress of Christian Education.

Ethel was the winner of the August 2, 1988 Primary, Ypsilanti Township, and is the Democratic Nominee for Clerk of Ypsilanti Township.

TRIBUTE TO A. WILLIAM REYNOLDS

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. SAWYER. Mr. Speaker, I rise today to honor Mr. A. William Reynolds, chairman and chief executive officer of Gencorp, Inc. Mr. Reynolds was recently honored by Stanford University Business School Alumni Association as the 1988 recipient of the Ernest C. Arbuckle Award, the highest honor presented by the association.

Each year the Arbuckle Award is given to that individual who demonstrates extraordinary qualities of dynamic leadership and administrative skills. In honoring Mr. Reynolds, the selection committee chose to recognize a man who has shown himself to be an excellent manager and decisive leader.

Originally from Columbus, OH, Mr. Reynolds has served as a leader of the Ohio business community, as well as playing an important role in community life. In 1957 Mr. Reynolds joined the Cleveland-based company TRW, becoming a director of the company in 1975, and head of its worldwide automotive unit in 1981. His dedication and commitment have strengthened the business community of northeast Ohio in countless ways.

In 1984 Mr. Reynolds left TRW to join GenCorp as president and chief operating officer. Since joining GenCorp, Mr. Reynolds has prevented an unfriendly takeover attempt and helped guide a major strategic restructuring of the firm. Today GenCorp has more than 16,000 employees and recorded net sales of $1.6 billion in 1987.

In addition to his service to the business community, Mr. Reynolds has been active in community affairs. Currently, he is chairman of the board of trustees of University Hospitals of Cleveland and was president of the 1987 fund raising drive for Summit County, OH, United Way.

Today I congratulate Mr. A. William Reynolds for his distinguished honor from the Stanford Business School Alumni Association, and for his continued service to our community.

CONGRESS MUST ENACT LEGISLATION TO STOP "RISK" PAYMENTS TO INSURANCE COMPANIES WHICH ASSUME NO RISKS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. LANTOS. Mr. Speaker, the Federal Government annually pays $850,000 in "reinsurance" or "risk" charges to insurance companies under the Federal Employees Group Life Insurance Act [FEGLIA]. Since 1955, the Federal Government has paid out more than $27 million in risk charges to these insurance companies. The irony, however, is that these insurance companies assume absolutely no risk. This practice of paying insurance companies for doing nothing—for assuming no risks at all—makes the $650 ashtrays and $400 wrenches purchased by the Defense Department in recent years look like bargains.

The FEGLI Program was established in 1954 to provide life insurance coverage for Federal employees, retirees, and their families. The legislation establishing the program requires payments to insurance companies to act as reinsurers. In fact, the Federal Government is a self-insurer of the FEGLI Program and the Federal Government assumes all risk. It is preposterous that each year some 200 insurance companies receive risk payments from the Federal Government when no insurance risk is being assumed by anyone except the Federal Government.

The Employment and Housing Subcommittee, which I chair, held a hearing on this matter last April, and prepared a report which was adopted unanimously by the House Government Operations Committee in June. The report calls this practice of paying risk charges to insurance companies which assume no risk "an embarrassment" and recommends that Congress repeal the statutory reinsurance requirement.

Mr. Speaker, with several of my distinguished colleagues who are members of the Subcommittee on Employment and Housing, I introduced H.R. 5270. Our legislation carries out the recommendations of our report. This bill repeals the reinsurance requirement of the FEGLI Program and puts an end to this annual giveaway to insurance companies. Joining me as cosponsors of this legislation are Congressman JOSEPH J. DIOGUARDI from New York, the ranking minority member of the subcommittee, Congressman BARNEY FRANK of Massachusetts, Congressman BILL GRANT of Florida, and my neighbor in California, Congresswoman NANCY PELOSI.

At our subcommittee hearing, a question was raised about legislation doing away with these payments to insurance companies related to Federal income tax treatment of death benefits. The Office of Personnel Management voiced some concern that if Congress repealed the reinsurance provision of FEGLI, under the self-insurance arrangement the payment of death benefits may not receive the same favorable tax treatment generally given distributions from traditional life insurance policies. To avoid any confusion in this regard, I contacted the Internal Revenue Service to determine whether repeal of the payment to insurance companies would alter the tax treatment of FEGLI death benefits. We have been advised in writing by the IRS that repealing the "risk" charge would not change the current tax treatment of FEGLI death benefits.

The obligation—fixed by legislation—to pay reinsurance or risk charges made little sense in 1954, and it makes absolutely no sense today. It should be rescinded. The Federal Government has paid $27 million for nothing thus far. There is no reason to continue this $850,000 annual giveaway. I urge my colleagues to join me in supporting this bill.

A TRIBUTE TO MARY ROEBLING

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. COURTER. Mr. Speaker, on Thursday, September 8, 1988, Gov. Thomas H. Kean presided over a ceremony to name the new New Jersey State commerce building after Mary G. Roebling of Trenton. This building will house the departments of insurance and higher education as well as commerce and economic development and banking. In his remarks the Governor said:

> It is especially appropriate that we chose the new home of our commerce and banking offices for this event, as Mary's prominence in these areas is legendary.

Mr. Speaker, on the occasion of the dedication of this new building, I rise to pay tribute to Mary Roebling, one of Trenton's most well known residents.

Mrs. Roebling is the widow of the steel magnate Siegfried Roebling but is a strong force in the business world in her own right. Since 1937 Mary has alternately held the position of both president and chairman of the board of the Trenton Trust Co. In 1972 when her company merged with National State Bank she became chairman of the combined board. Since her retirement in 1984 Mary has been their chairman emeritus.

Mary has also been a pioneer in many ways. In 1958 she became the first female governor of the American Stock Exchange. Her experience in finance and banking played a major role in establishing a charter for the National Woman's Bank in Denver, the first bank of this kind in the Nation. Mary was also one of the first women to be granted membership in the Union League Club of Philadelphia in 1986.

Mary Roebling has long been an outstanding citizen of Trenton and is well deserving of this recognition. I congratulate her on her many accomplishments and thank her for all her contributions to the people of Trenton and New Jersey.

CONCERNS OF OIL REFINERIES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. ORTIZ. Mr. Speaker, I rise today to inform my colleagues of legislation I have introduced which addresses a tariff concern of particular interest to oil refineries in my congressional district. At first appearance, this legislation would appear to benefit only specific refineries which operate in foreign trade zones [FTZ]. This legislation does serve a greater purpose, however. Passage of this bill will illustrate that the U.S. Government is dedicated to maintaining a viable, domestic oil refining capability. Given our increasing reliance upon foreign oil imports to fulfill our energy needs, I believe we must preserve an oil refining capacity to prevent further dependency upon unreliable foreign sources.

This concern with sustaining an oil refining capacity has already been recognized by the U.S. Department of Commerce and the U.S. Customs Service. Two oil refining operations in my congressional district have obtained FTZ status from the Commerce Department. For those of you unfamiliar with how the FTZ program works, these oil refineries are allowed to import crude oil without paying Customs duties on this product. After the refining process, duty is paid upon the various products generated from the crude oil. In large refineries however, two or more batches of crude are often blended during the refining process, making it harder to specify the exact origin of refined products.

The Customs Service, which has responsibility to assess duties on products exiting a FTZ, is understandably concerned that the relative value of these products is lost when various batches of crude oil are blended during the refining process. As a consequence, oil refineries are subjected to a constantly shifting array of Customs accounting procedures.

Customs has the right and responsibility to accurately collect all the Customs duties to which they are entitled. Refineries accept this responsibility of FTZ status, and have consistently updated their recordkeeping procedures to correspond with a variety of Customs Service regulations. Customs is understandably wary that refined products may be lost or unaccounted for during the blending process. These fears are ungrounded, however, because a refinery is certainly aware of the final products that will be refined from a specific batch of crude. A refinery is simply not going to purchase a shipment of crude oil and go to the considerable expense of refining that crude, unless they know what specific products will result from this process. This information is essential for a profitable refinery operation, and is readily available to the Customs Service in their oversight responsibility of that refinery.

The unpredictability of assessed duties, not necessarily their amount, is what has troubled refineries operating in FTZ's. Refineries are very willing to abide by FTZ regulations which require a duty be paid on those products which are taken out of an FTZ. Yet long-term planning is crucial to any business, and oil refineries are no different. They need to be assured that a set portion of their revenue from a certain batch of crude will be applicable to Customs duties. Without reliable guidelines, refineries are much more susceptible to income fluctuations which effect their ability to invest in new technologies and equipment. The ultimate result of these uncertainties is a weakened refinery capacity, which places our Nation in the uncomfortable position of an increased reliance upon foreign sources for both crude oil and refined products.

To address these concerns of oil refineries, while pJotecting appropriate Customs revenues, I have introduced legislation which contains an agreement worked out between Customs Service officials and representatives of oil refineries with FTZ status. This legislation will provide stability for the oil refineries, while ensuring that Customs and the American taxpayers are securing accurate revenues from import duties.

I encourage your support of my legislation, which will curtail our dangerous reliance upon volatile regions of the world to provide our energy needs. Oil refineries are an important component of America's energy-producing capability, and we must maintain these operations as insurance in our unreliable world.

TRIBUTE TO JEROME W. GECKLE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. CARDIN. Mr. Speaker, I rise today to give tribute to an outstanding citizen of Baltimore, Jerome W. Geckle. Jerry Geckle will be honored next week as Citizen of the Year by the Maryland Chapter of the National Foundation for Ileitis and Colitis.

Jerry Geckle has been a leader in Baltimore for many years. In 1955 he joined the PHH Corp. to direct the development of the company's first data processing system. He has been a pioneer in this field, and received the Data Processing Management Association's Distinguished Information Sciences Award in 1982. After holding several positions at PHH, Jerry became chairman of the board in 1980.

Jerry's involvement in Baltimore's civic and business community does not end with his own company. He serves on a number of boards including Baltimore Gas & Electric Co., the Maryland Historical Society, Crown Central Petroleum Corp., MEGA, Inc., and First Maryland Bancorp. In addition, he is a member of the Greater Baltimore Committee and the Maryland Port Commission.

Jerry has also been a member of several task forces and committees dealing with all levels of education in Maryland, and is currently the chairman of the board of trustees of Villa Julie College and vice chairman of the board of trustees of Mount St. Mary's College.

In addition to all of these activities, Jerry has been a devoted husband, father, and grandfather. His wife Mary, his children Tim, Teresa, Steve, and Karen, and his grandchildren Molly, Peter, Emily, and Katy are, I am sure, very proud of him.

I urge my colleagues to join me and the Maryland Chapter of NFIC in recognizing the contributions of this outstanding member of the Baltimore community. Jerry we all congratulate and salute you.

PACIFIC NORTHWEST BELL TELEPHONE CO.'S PRESIDENTIAL COMMUNITY SERVICE CITATION

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. WYDEN. Mr. Speaker, I am afraid too many of us take something like home telephone service for granted. We rarely give a second thought to picking up that phone to deal with the everyday realities of life.

But for 7 million American households including 650,000 in my home State of Oregon, residential telephone service is not a fact. It's an unaffordable luxury.

That's why I'm delighted, today, to congratulate Pacific Northwest Bell Telephone Co. of Oregon upon their selection as a recipient of a 1988 Presidential Citation for Private Sector Initiatives. This citation—sponsored by the American Society of Association Executives in cooperation with the White House Office of Private Sector Initiatives—is given annually to a number of U.S. companies in recognition of extraordinary achievement in community service.

Winners receive the "C-Flay," a pennant that bears the program's slogan: "We Can—We Care."

Pacific Northwest Bell—now known as U.S. West of Oregon—is being honored for developing a highly successful community telephone program which provides a network of free local service at central locations.

It's called the community connection, and that just about says it all.

Through this connection, the jobless have found employment, battered women have found a safe haven from abusive homes, and the homeless have found places to live.

This is another Oregon first. As Oregonians, we're proud of it. And as one of the architects of this idea, I'm hoping other States will dial into similar community connections.

Mr. Speaker, let me give you a little history. Beginning early this year, U.S. West of

Oregon setup 12 of these free telephones at community centers around the State, including five telephones in metropolitan Portland. During the first 8 months of the program, almost 22,000 calls were logged in by persons using the phones for everything from checking on an ill relative to following up on job leads in the help-wanted columns.

The average cost of this community service to U.S. West's shareholders is estimated at about $1,700 per year, per telephone. None of the expense is charged to the rate base. But the benefit to the poor and the displaced is beyond price.

I especially commend Marsha Congdon, the company's vice president for Oregon operations, and her community affairs adviser Corky Stewart. They enthusiastically followed up on my recommendation last year for such a network of free community telephones.

I also compliment all of those community action agencies—organizations ranging from the Northwest Pilot project in Portland to Eugene's White Bird Health Clinic—who have accepted these telephones. Most of these agencies have gone the extra mile, providing additional free services such as message taking for the callers.

I also applaud those other telephone companies already following U.S. West's lead. Among them is GTE Northwest. GTE has established free community telephones in five locations servicing its Oregon customers.

Finally, Mr. Speaker, I ask my colleagues to support House Resolution 351, a bill urging the Nation's telephone operating companies to voluntarily establish similar free community telephone services. The resolution—which is cosponsored by a number of my colleagues including the entire Oregon congressional delegation—was passed by the Energy and Commerce Committee last month without objection. I anticipate the resolution will come to the floor later this month.

PRESCRIPTIONS FOR PROCUREMENT REFORM

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1988

Mr. KYL. Mr. Speaker, the defense procurement scandal is an issue that has commanded a lot of press attention and now demands our legislative attention. As we wrestle with how best to address this issue, I would commend to my colleagues two pieces that I would like to make a part of the RECORD: A speech on this subject given recently by Secretary of Defense Carlucci, and a consequent editorial that appeared in the Baltimore Sun. The speech was given while Congress was out on recess, so that it escaped the attention of many Members. It is, however, worth reading, as is the Sun editorial.

Secretary Carlucci wisely cautions us against racing to pass ill-advised legislation in its pursuit of publicity or partisan political gain. He correctly points out that Congress is a partner in the defense procurement process—and a very active partner at that. We have collectively tinkered and retinkered with the procurement process, passing major reforms that have only begun to work. Yet some in this body and in the other Chamber, are now proposing another round of major reforms.

In his speech, Secretary Carlucci points out that making the defense procurement system more centralized and independent is an idea that has already been tried—in Europe. And in Europe, their experience does not compare very favorably with the United States track record in terms of their ability to field new weapons systems on time and on budget. That is simply not a smart solution—especially at a time when scarce dollars demand that we be as efficient as possible with our defense expenditures.

The Secretary also pointed out that removing the inspector general from his purview would only serve to deny him the eyes and ears he needs to monitor the system that is, after all, his responsibility to discharge. Denying him or his successor the ability to monitor the system would be a classic case of legislating before thinking, of writing laws without first considering the unintended but real consequences.

Finally, the Secretary focused on prevention of future procurement fraud—the proper focus for all of us in this body, in my opinion. And in this regard, we have a major role to play. We must work with the Department of Defense to streamline further the system in an effort to reduce the number of intervention points where the defense budget can be influenced.

I would direct the attention of my colleagues to four other suggestions offered by Secretary Carlucci: Cutting back on the maze of committees that have a hand in the ultimate defense procurement decisions of the Government; getting serious about creating program stability by both moving to biennial budgeting for defense, and by funding more defense programs on a multiyear basis; and revising procedures so that influential Members of the legislative branch seeking to micromanage the defense budget and force the President to purchase items not in his budget request must do so through stand alone pieces of legislation.

Mr. Speaker, these are wise and reasonable suggestions. That is why the Baltimore Sun editorialist commended them to us, and why I, likewise, commend them to the House.

REMARKS BY HON. FRANK C. CARLUCCI, TO THE BALTIMORE COUNCIL ON FOREIGN AFFAIRS, SEPTEMBER 1, 1988

PRESCRIPTIONS FOR PROCUREMENT REFORM

Thank you for affording me this opportunity to speak here today. Institutions like the Baltimore Council on Foreign Affairs play a vital role in advance debate on issues of inernational importance, and in generating the kind of understanding that must exist if the policies and positions of the United States are to enjoy broad public support.

Today, I want to speak about a subject with far-reaching implications: the procurement process and the question of reform. Most of you are aware of the massive scope of our defense procurement effort. I assure you, the management challenges involved in coordinating what we buy and build to equip our Armed Forces are unmatched anywhere else. Surely there is no other enterprise whose success is matter of more immediate concern to each and every one of us. At the Pentagon, "the bottom line" is that good management is essential to our national security.

The whole question about how best to manage the procurement process has been thrown open by the current Justice Department investigation into defense contracting. As the investigation continues, pressure is building for what is called procurement reform. Our challenge is to make certain that whatever reforms we make are truly reforms and actually improve the system—instead of saddling it with a new and different set of problems.

Unfortunately some of the reform proposals now circulating on Capitol Hill would do precisely that. Several—particularly those aimed at creating an independent acquisition agency, removing the inspector general from the Defense Department, and sealing shut the so-called revolving door between the Defense Department and Defense contractors—would do far more harm than good.

Each of these reform proposals may sound like a good idea, but each—upon deeper examination—would create its own problems if put into action.

First, consider the creation of an independent acquisition agency. There is no question that removing the military services from the procurement process—or even placing the entire process outside the reach of the Defense Department as some now urge—would produce a certain independence. It would also isolate the acquisition process from input and oversight by the very people who know best what weapons we need, who will be asked to use them in the field, and who therefore have an immediate incentive to make certain those weapons perform as planned. I think you will agree that we would be ill-served by reforms that sever this vital link between those who decide which weapons we build and buy, and those who ultimately use them.

There has not been the slightest suggestion implicating uniformed personnel in the current investigation, so removing them from the process would be like sending the doctor out of the room when the patient takes a turn for the worse. Some advocates of acquisition reform suggest that we imitate certain European models more centralized than our own. But our experience in fielding weapon systems on time and on budget compares favorably with the track records of other more centralized procurement agencies. In fact in DOD we have made the term cost overrun disappear. For the last two years acquisition costs on major systems have been going down—not up. Those in a hurry to overhaul our system need to reflect on the fact that we now have "cost underruns."

In the case of an inspector general independent of the Defense Department, again, independence comes at a real cost—in this instance, depriving the Secretary of Defense of the eyes and ears that help him monitor the system he is charged with supervising. This year alone, I will rely on the inspector general to conduct hundreds of audits, investigations, and inspections—and to coordinate every investigation, inspection, and audit conducted by the armed services. A Secretary cannot be held accountable if he does not have the tools to do the job. Here, too, there are no signs that the current problems have resulted from any defect in the inspector general system. To the contrary, that system has functioned well, and in full cooperation with the FBI. To make the IG independent of all but the White

House would create a mini-FBI for one agency alone, leaving a large gap in DOD's internal capabilities. The administration created the DOD IG. It has proved its merit, and should be kept as it is.

Finally, consider the calls to nail shut the "revolving door" between the Defense Department and defense contractors. We can enact punitive legislation that builds a brick wall between the Pentagon and private contractors, but as we do, we will deprive both the Government and the defense industry of the expertise experienced personnel can provide to the benefit of both—and to the ultimate benefit of our overall national security. We need to police the system for abuses, not penalize procurement professionals for seeking to build on and benefit from their expertise.

My point, of course, is that we need to examine our reforms from every angle—to get behind the good intentions to the unintended consequences of sweeping change made too quickly. This is not by any means a suggestion that reforms are not needed. I am convinced that the system can be made to work better. But the last thing we need is a legislative rush to reform that produces not solutions, but simply new and different problems—and deprives us of some of the strengths of the current system that we will want in any event to preserve. At the very least, DOD's critics owe us a hearing before they try to pass legislation that could impact our procurement process and the defense industrial base for years to come.

My aim today, however, is not to dwell on the shortcomings of the various reform proposals I've just mentioned, but to put forward my own prescription for procurement reform.

The first step is defining the problem—determining what it is we need to fix. The current procurement investigation has focused our attention on the use of illegally-obtained information to gain unfair advantage. Certainly, we want to see those found guilty of wrong-doing punished for their actions, and the Defense Department is doing everthing it can to assist in the ongoing investigation.

But reform is really about prevention, not punishment. Perhaps some of you have had the unfortunate experience of having your home burglarized. Anyone in that situation experiences two quite different reactions. We want to see the burglar caught and brought to justice, or course. But we also want to check the doors and windows, to see how it was he got in in the first place—and how we can prevent it from happening again.

That is the approach we need to take as we consider procurement reform. We need to ask: How does the system as it exists today offer wrong-doers opportunities to act—and how can we close these windows of vulnerability in the procurement process?

For purposes of reform, the most important fact underscored by the current investigation is that illegally-gained information has value only when the opportunity exists to use it. Unfortunately the current system is highly unstable and offers far too many such opportunties. The only thing constant in today's procurement process is change. No program ever stands still for very long; someone is always lobbying to change it. There are far too many of what I call intervention points where a skillful lobbyist can succeed. The message being sent to industry is that there is a higher payoff for investment in lobbying than for investment in R&D and long term productivity enhancement. In addition to encouraging corruption—both the legal and illegal variety—such a signal carries with it serious long-term implications for our industrial base.

Procurement reform should make enhancing program stability and eliminating these intervention points its prime target. That means a simpler, more streamlined system than the exceedingly complex process that now exists.

Now, the first thing for would-be reformers to realize is that this streamlining effort is already underway. Two years ago, the Defense Department established an Undersecretary for Defense Acquisitions at the apex of the acquisitions process, and a defense acquisitions board—whose members include the top acquisitions officials from each service—to serve as the clearing house and final check point for all acquisitions issues that come to my desk. This new chain-of-command replaces a far more cumbersome and complex system, rightly judged inadequate. I see no reason to scrap this more streamlined system and indulge an urge to experiment with new reforms before we see the full benefits of changes already made.

We in the Pentagon have also taken another step to limit an intervention point in our own internal contracting process: the practice of asking for more than one "best and final offer" on the same contract negotiation. Under our new procedure, this practice will be sharply limited, occurring only with the approval of the top service acquisition official. We will continue to review acquisition procedures within the Pentagon, and make additional reforms when necessary.

The Defense Department, however, cannot do the job alone. Congress, too, is a partner in the procurement process, and it too must look for ways to reduce the profusion of intervention points on the hill that invite improper—if not always strictly illegal—behavior.

As a first step towards a partnership in reform, let me suggest five ways Congress can streamline the procurement process, by cutting out many of the intervention points that now exist.

First, Congress should combine the separate authorizations and appropriations processes into a single budgeting exercise. The limited benefits of the current two-track process would be more than offest by the advantages in eliminating so many potential intervention points.

Second, Congress should cut back on the maze of committees and subcommittees that now exercise overlapping authority and oversight roles in the defense budgeting process. Right now, the defense budget bill must complete a seventeen-step process to final passage. Each point along the way is an opportunity for those bent on exerting improper influence.

Third, Congress should revise its procedures to make it impossible for individual members who want to force the President to purchase an item not included in his defense request to do so by burying an amendment within the overall defense budget package. Let narrowly-focused proposals of this sort be put forward as separate bills, to be decided on openly and on their own merits.

Fourth, Congress should follow the Pentagon's lead in shifting to a biennial budget for defense programs. Reviewing defense priorities and programs on a two-year cycle would make for far more deliberate, thorough and rational planning. And in addition, putting the budget on a biennial cycle instantly cuts in half the number of intervention points that are part of the budget process.

Fifth and finally, Congress should adopt an additional reform that will further stabilize the procurement process, funding more defense programs on a multi-year basis. The reality of weapons procurement programs is that most major weapons require years to research, design, develop and build. Once approved by the Congress, there is simply no need to subject these programs to the uncertainties of annual funding approval. More multi-year funding would also offer significant cost savings. Programs now funded on a multi-year basis have saved us 7.5 billion dollars since fiscal 1982.

I am convinced that if adopted by Congress, this five-point reform program would have a decisive impact on the procurement process. A streamlined system of this sort would have only a fraction of the intervention points that now exist. And in contrast to the reform proposals calling for the creation of an independent procurement agency, there would be less bureaucracy instead of more—and more accountability overall. By resisting calls to remove the Defense Department and the armed services from the acquisitions process, the system would continue to benefit from the direct input of the people who use the weapons themselves—ensuring a strong link to the operational and strategic imperatives that are the "bottom line" in the weapons procurement business. Finally, such reforms would have a positive impact on enforcement as well: policing a more streamlined system would prove far more manageable.

The end result would be a system that is at once more responsive and responsible—and meeting those twin standards is the true test of procurement reform.

[From the Baltimore Sun, Sept. 2, 1988]

CARLUCCI'S COUNTERATTACK

Secretary of Defense Frank C. Carlucci is mounting a formidable damage control effort in the Pentagate defense procurement scandal. Where Congress is tempted to step in and rearrange everything, Mr. Carlucci defends by counterattacking. He brought the message forcefully if tactfully to the Baltimore Council on Foreign Affairs yesterday. As one listener remarked, the specter of the absent and unmentioned Rep. Roy Dyson of Maryland was all over the room.

The integrity of defense procurement is vital to American security. The American people depend on the weapons to perform. Defense spending is a huge part of the economy. The faith of the American people (including the military) in their institutions is the first line of defense.

Mr. Carlucci admits the illegality of transferring secret information to favored contractors. While the criminal investigation grinds on, it is hard to know how far it goes. He is understandably more likely to define the problem too narrowly than too broadly. Mr. Carlucci warns against creating a separate acquisitions agency outside the military. He is right to consider the link between users and purchasers of weapons essential. He crusades against establishing an inspector general outside the Pentagon. To his view, this already exists in the FBI, Congress and other agencies.

Mr. Carlucci's weakest defense is against sealing shut the revolving door of people going from the Pentagon to defense industries and back. He is right that they bring invaluable expertise, but no other feature of the procurement landscape weakens public faith in the process so much. Very clear regulation is needed.

It is in Congress that these ideas grow, and it is against Congress that Mr. Carlucci aims his big guns. What a target! First, Mr. Carlucci vents his frustration at the duplication of the appropriations and authorization processes. He would like decisions made once. This may be too much to ask. A more realistic method he suggested for cutting down the "intervention points" would be to reduce the maze of committees and subcommittees.

The defense secretary's best formulated reform would prevent congressmen from championing individual programs with obscure budget amendments: "Let narrowly focused proposals of this sort be put forward as separate bills, to be decided on openly and on their merits." Bull's-eye! The secretary's plea for biennial budgets and more multi-year funding programs is good business management. As much of this as Congress can reconcile with its own constitutional role would be in the national interest.

The Pentagon spends and wastes money on a scale most of us cannot comprehend. It desperately needs reform. Woe that the agent of change must be the very Congress implicated in the same waste and scandal. Reformer, reform thyself.

SENATE—*Wednesday, September 14, 1988*

(*Legislative day of Wednesday, September 7, 1988*)

The Senate met at 9:30 a.m., and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *He that is greatest among you shall be your servant.*—Matthew 23:11.

Father in Heaven, we want to thank You this morning for all of the men and women who labor faithfully at their tasks, day in and day out, generally without any recognition—yet without them, the machinery of life would grind to a halt. Forgive us, Gracious God, for taking for granted these people upon which all of us are so dependent in these buildings and in this city. Thank You for those who clean the streets, who take away the trash, who maintain buildings and grounds, who provide security, who prepare and serve food, who run errands, who keep records. Without them, Lord, we could not continue. Contemplating the absence of all of these faithful servants for a week is unthinkable.

With praise to You and gratitude to them, we ask Your blessing upon each of them and all of them, their families, their peers. Keep us aware of these indispensable ones and sensitize us to their needs and to our dependence upon them. We pray in His name who exalted servanthood as the suffering servant for all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 14, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. I thank the Chair.

FAREWELL TO SENATOR ROBERT T. STAFFORD

Mr. BYRD. Mr. President, in saying farewell to Senator ROBERT STAFFORD, this Chamber is saying goodbye to a man who has long been on the Vermont political scene and has occupied nearly every political office in his State. From 1938 to 1951, he served in the State's attorney's office for Rutland County. From 1953 to 1955, he was in the State's deputy attorney general's office. From 1955 until 1957, he was the State's attorney general. From 1957 until 1959, he was the Lieutenant Governor of his beautiful State. In 1959, he was elected Governor.

Continuing with public service, this durable and successful politician moved from State office to Federal office. For a decade, 1961 to 1971, he held Vermont's single seat in the House of Representatives. In September 1971, Gov. Deane C. Davis named him to the Senate upon the death of Senator Winston L. Prouty.

In taking a seat in the U.S. Senate, ROBERT STAFFORD became the 83d American in history to have served as Governor, Representative, and Senator from the same State. It was at the request of the Nixon administration that he made the quick switch from House of Representatives to the Senate, and the rapidity of this switch enabled him to become one of the few men in history to vote on the same bill in both Houses of Congress.

When he took his seat in the Senate, Senator Hugh Scott introduced him by saying: "His intelligence and his strength of character, as well as his firmness of opinion and his excellent judgment, are all qualities which the Senate can enjoy with added benefit."

With 17 years of hindsight, we can truly appreciate Senator Scott's foresight. Senator STAFFORD has proved to be a fine gentleman as well as an outstanding Senator. His word is his bond. His integrity is beyond reproach. We have enjoyed and profited from his unassuming presence, quiet leadership, and dedicated and effective public service.

His service in the Senate has included positions on the Special Committee on Aging, the Special Committee on Official Conduct, the Labor and Human Resources, Veterans' Affairs, and Environment and Public Works Committees which he chaired from 1981 to 1987. He also chaired the Education Subcommittee of the Labor and Human Resources Committee.

In these positions, in particular, and as a U.S. Senator, in general, Senator STAFFORD has played crucial roles in protecting and promoting this Nation's precious but limited environment, such as his role in establishing the "Superfund" for waste cleanup. And it involved his role in developing and improving the education of American youth. He was often the swing vote on crucial environmental and educational issues, and this meant going against his own political party. But he put national interests above partisan politics, and the people of United States benefited.

His promotion and support of education was monumental, and it will be an enduring legacy to his long, productive senatorial career. It involved support for education in all forms and at all levels. It included his vigorous support for the enactment of the Vocational Education Act and the Higher Education Facilities Act of 1963. It included his work on behalf of disadvantaged children—helping to insure that they have the same educational opportunity as wealthier children. "Economic status does not guarantee brains," he once pointed out.

It has involved his work on behalf of America's mentally retarded citizens as he has provided important support for the Mental Retardation Facilities Act and cosponsored the Rehabilitation Act of 1973. With his interest in the Nation's handicapped citizens, it is not surprising to learn that one of his best friends is my former colleague from West Virginia, Senator Jennings Randolph, who also worked so hard and effectively on behalf of the Nation's handicapped.

He is now ending a congressional career that began nearly three decades ago. He is ending an entire adult life in public service. It has been quite a career and quite a life for a person who decided way back in 1951 "to drop out of politics."

Fortunately for the pecple of Vermont and the United States, as well as the U.S. Senate, he did not drop out.

The good people of Vermont obviously felt the same way, as they kept

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

sending him back to the Senate to represent them.

I know that the men and women of this Chamber have appreciated and loved him. The U.S. Senate needs people with the kind of compassion, dedication, vision, and perseverance that the Senator from Vermont [Mr. STAFFORD] has shown so consistently and so long. He will be difficult to replace.

My wife, Erma, and I wish him much happiness and good health in his retirement.

RESERVATION OF TIME OF THE REPUBLICAN LEADER

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for his use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Vermont.

EXPRESSION OF APPRECIATION

Mr. STAFFORD. Mr. President, I will yield the floor in just a second.

I express my very deep appreciation to the majority leader for the very kind words that he has spoken this morning about the Senator from Vermont.

I do want the majority leader to know how much I have admired him and the way he has run this Senate over all of the years that I have been here, with the exception of the first four when Senator Mike Mansfield was the majority leader and Senator BYRD was the assistant majority leader, and later when he was the minority leader and Senators Baker and DOLE were majority leaders.

I consider the Senator from West Virginia, our majority leader, to be a true outstanding American and typical of the American dream that a man can start from humble beginnings and become a very important leader in this country.

For that reason especially I appreciate the kind words of the Senator from West Virginia, our majority leader.

Mr. BYRD. Mr. President, if the Senator will allow me, I have been in the leadership on this side of the aisle for 22 years in one capacity or another, and I have been actually the floor leader, if I might be so modest as to say it, for 22 years. Mr. Mansfield allowed me to do the floor work when I was secretary to the Democratic conference and when I was the whip.

Not once in all of that time has the Senator from Vermont ever been a problem to this Senator in whatever capacity I was serving as a part of the leadership on this side. He has always been a perfect gentleman, and that is saying a lot.

Mr. STAFFORD. The Senator from Vermont very much appreciates that.

Mr. BYRD. I do not know of any higher title that one can give than that.

I will always remember him with a great deal of affection and fondness and with the highest personal esteem.

Mr. STAFFORD. I thank the leader, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, that was a marvelous tribute our leader, Senator BYRD, paid to Senator STAFFORD, and it was the truth. This is a great U.S. Senator, BOB STAFFORD. As I said yesterday, he is Mr. Environmental Protection in the Senate, covering both parties. He is also a great champion of education and he has been, as the leader said so well, a true gentleman in every sense as well as a vigorous advocate of his viewpoint and the viewpoint of his party.

AMERICA'S HEALTHIER, HAPPIER FUTURE

Mr. PROXMIRE. Mr. President, this is the second in a series of speeches on why the future is going to be far brighter for American citizens than the past. This is true regardless of economic developments. The country will certainly suffer recessions in the future. We may endure another full-fledged depression. Certainly our children and grandchildren will have to bear an immense interest burden because of the huge national debt, the even larger household debt and the biggest of all time business debt. In my last speech on the improving life for Americans I talked about what improved education will do to provide a better life for a more literate, more highly skilled, more adaptable American people.

Today I will discuss the single most important element in a happy and successful life: Health. Americans have already sharply improved their health. This improvement is most clearly evident in the present generation. The improvement is ongoing. We live longer, have fewer days of illness, suffer fewer aches and pains, are better equipped to diminish the aches and pains we do suffer than our parents and far better than our grandparents.

There is every reason to expect that our children and grandchildren will be even healthier. The statistics are emphatic. They're consistent. Americans are living longer with each passing year. Life expectancy is now past 70. It is increasing year by year. Until 1950 much of this progress was because of diminishing infant mortality. Today it is because of better control of chronic diseases among the middle aged and the elderly. And especially because of an onrushing improvement in how Americans live, in the last 15 or 20 years, there has been a remarkable change in life style: diet, exercise, and relaxation that has helped greatly to extend life. Cigarette smoking which had been rising until the middle of the century has begun to diminish. Today only about 30 percent of American adults smoke, the lowest level in years and smoking continues to fall.

The two great killers: Heart disease and cancer have declined in the mortality tables in every decade since 1950. They will continue to diminish in coming years. Heart bypass operations and heart transplants have provided sensational life saving. Earlier detection, prompter treatment including surgery for cancer victims have saved millions of lives. But the avoidance of fatty, cholesterol-laden foods and the recognition that cigarettes are truly coffin nails may have played an even greater role in saving lives and diminishing the incidence of those two great killers, heart disease and cancer. Will this improvement in health continue for our children? Of course it will and no economic setback, no recession, no depression will stop it or even slow it down.

Many experts tell us that the greatest contribution to a healthy life comes through regular, vigorous, extended, daily exercise.

Let's be specific. How much can exercise reduce the incidence of heart disease? What specific documented evidence actually proves that exercise diminishes heart disease? The fact is that a number of observational studies funded by the Federal Government have shown the incidence of coronary heart diseases to be about half as high among men who regularly take part in vigorous physical activity. Get that? An American's chances of avoiding a heart attack are literally twice as good if he engages in regular physical exercise.

But does exercise really make a person happier? Yes indeedy. The antidepressant effects of exercise are widely accepted. Experimental studies have again and again shown a reduction in temporary anxiety states. What does that mean? That means we're less sad. It means we're happier when we exercise. But do we exercise that much more? We sure do. National polls show that the amount of time spent by adults in vigorous physical activity has increased in the past 20 years. And it will increase. Come recession or economic depression. We're going to be happier and healthier.

One of the Nation's great heart experts, when asked how to avoid heart trouble, offered a two-word prescription: "Keep moving." Anyone sitting in his car, driving to work or lolling near an open window watching the world go by must have been struck by the remarkable increase in recent years in the number of people jogging, running or rapidly pacing down the sidewalk. When this Senator started running 5 miles to work every morning about 25 years ago, I was recognized as the freak I am. But no longer. Today people of all shapes, sizes, and ages as well as both sexes are out running, hiking, jogging along the sidewalks of this and every other city and town in America as if their lives depended on it and of course they do. And we're just beginning. America is steadily increasing its running, walking, rowing, calisthenics, golf, tennis, and soccer. America especially has a healthier future ahead of it, as it finds exercise is fun.

That brings us to the most important contribution better health will bring to future Americans. Life will not only be longer. It will be better. Not only will we have more years in our life, we will have more life in our years. We will consume less alcohol, less tobacco, less fat. As we walk and run and play through life we will feel so much better: More energetic, less aches and pains, more easy, healthy laughter, and less sad depression.

Can we live the healthy life through economic depression? We sure can. When we can't afford the quick and easy highs of intoxicating beverages, we can always afford to get up, stretch our legs and take a long, fast-paced hike. Exercise not only increases your resistance to disease. It not only stimulates our energy. It helps us to relax more easily. We sleep better. Our tension lifts. Our troubles blow away. We laugh more easily and more often. No recession, no economic depression can take that away from Americans.

So what's right about America's future? It will be healthier. A lot healthier.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

ATMOSPHERIC CONTAMINATION—III

Mr. STAFFORD. Mr. President, I have in my hand a common styrofoam coffee cup, the kind we used to have available in Senate cafeterias and dining rooms in this building.

The blowing agent that helps to hold this cup rigid and that provides insulation is one of a family of chemicals known as chlorofluorocarbons, [CFC's] for short or freons as the public know them. These are the chemicals that are used as cleaning agents in manufacturing processes and as refrigerants.

The chemical used in this cup has a lifetime of 150 years. And, when it is released into the atmosphere—and it will be released into the atmosphere sooner or later—this CFC will play its part in the destruction of the Earth's stratospheric ozone layer and in the creation of the so-called greenhouse effect.

Production of CFC's was commercially insignificant until 1931. But, by 1984, the production of only two of the chemicals in this family—CFC's 11 and 12—was about 1.4 billion pounds.

Each pound of CFC contains billions molecules of CFC's and each of those molecules has the ability to destroy 100,000 molecules stratospheric ozone.

Each and every molecule of CFC's ever produced by a man is still in existence today and will still be around for another century or so and will continue destroying ozone molecules in the stratosphere day after day.

Those ozone molecules make up the ozone layer in the stratosphere that protects all living things on Earth from the deadly radiation of outer space. That layer is being weakened everywhere by CFC's. In addition, over the Antarctic, a hole in the layer as big as North America occurs each winter.

The message is clear—the release of CFC's into the air is a threat to life on Earth. And, CFC's are not the exception. They are the rule. We are flooding the atmosphere with a variety of polluting chemicals that threaten our health and our lives.

In the United States alone, each year we dump an average of 37,000 pounds of air pollution into the atmosphere for each man, woman, and child in this country.

Our use of fossil fuels to power the development of the world in the 20th century has resulted in sixfold increases in annual sulphur dioxide emissions since 1900. Nitrogen oxide emissions have increased tenfold in the same period. These gases, along with hydrocarbons, are the major sources of both urban air pollution and acid rain.

Fossil fuel combustion also forms carbon dioxide, one of the gases believed to cause global warming and climate change. Annual global emissions of carbon dioxide have increased tenfold in this century.

Depending on its capacity, each tank of gasoline produces about 400 pounds of carbon dioxide. The average electric powerplant sends 2 pounds of coal up its smokestack for every pound it converts into electricity.

Most of the pollutants we pump into our atmosphere do not exist in nature, and of those that do occur naturally, they do so in vastly smaller quantities.

So, it is easy to overlook the enormous aggregate total and, more importantly, the extreme potency of many of the pollutants. For example, concentrations of ground level ozone are regulated by the Environmental Protection Agency under provisions of the Clean Air Act. The EPA has established 120 parts per billion of ozone as a level that is safe.

But, ozone is a potent chemical agent. At 120 parts per billion, ozone begins to change cell walls within seconds of entering the human lung. We have this knowledge at a time when the soup of pollutants we breathe is thicker and more unhealthy than ever before.

Up to now, as our standard of living has advanced through rising levels of industrial production, pollution has increased as well. We must uncouple those two conditions before it is too late.

We have to produce less pollution by using less fossil fuel and by eliminating the releases of other chemicals, like CFC's, that cause us so much trouble. It is pollution that costs us so much money, not pollution control.

I ask unanimous consent that tables and other data summarizing the amounts of pollution released in the United States and in the rest of the world be printed in the Record at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. Mr. President, tomorrow I will discuss briefly the roll of the most common of our air pollutants—carbon dioxide.

Mr. President, I yield the floor.

EXHIBIT 1

ANNUAL EMISSIONS OF ENVIRONMENTALLY IMPORTANT TRACE GASES, 1925–85

Year	Chlorofluorocarbons (thousand metric tons)		Carbon dioxide (million metric tons of carbon)		Year	Chlorofluorocarbons (thousand metric tons)		Carbon dioxide (million metric tons of carbon)	Biotic sources
	CCl_3F (CFC–11)	CCl_2F_2 (CFC–12)	Biotic sources	Fossil fuel combustion and industrial processes		CCl_3F (CFC–11)	CCl_2F_2 (CFC–12)		Fossil fuel combustion and industrial processes
1925	0	0	886	X	1956	28.7	56.1	1,655	2,185
1926	0	0	942	X	1957	32.2	63.8	1,662	2,278
1927	0	0	997	X	1958	30.2	66.9	1,675	2,339
1928	0	0	1,045	X	1959	30.9	74.8	1,682	2,470
1929	0	0	1,059	X	1960	40.5	89.1	1,689	2,586
1930	0	0	1,073	X	1961	52.1	99.7	1,696	2,602
1931	0	.1	1,087	X	1962	65.4	114.5	1,703	2,709
1932	0	.1	1,101	X	1963	80.0	133.9	1,703	2,855
1933	0	.1	1,101	X	1964	95.0	155.5	1,710	3,016
1934	0	.2	1,135	X	1965	108.3	175.4	1,772	3,154
1935	0	.3	1,149	X	1966	121.3	195.0	1,821	3,313
1936	0	.5	1,163	X	1967	137.6	219.9	1,869	3,420
1937	0	.8	1,184	X	1968	156.8	246.5	1,918	3,595
1938	.1	1.2	1,191	X	1969	181.9	274.3	1,925	3,808
1939	.1	1.7	1,205	X	1970	206.6	299.9	1,883	4,116
1940	.1	2.3	1,218	X	1971	226.9	321.8	1,869	4,267
1941	.1	3.0	1,225	X	1972	255.8	349.9	1,855	4,435
1942	.1	3.7	1,239	X	1973	292.4	387.3	1,835	4,678
1943	.2	4.5	1,253	X	1974	321.4	418.6	1,835	4,684
1944	.2	6.1	1,267	X	1975	310.9	404.1	1,835	4,660
1945	.3	8.0	1,288	X	1976	316.7	390.4	1,835	4,924
1946	.6	13.9	1,302	X	1977	303.9	371.2	1,828	5,065
1947	1.3	21.3	1,315	X	1978	283.6	341.3	1,821	5,108
1948	2.3	24.8	1,336	X	1979	263.7	337.5	1,814	5,345
1949	3.8	26.6	1,350	X	1980	250.8	332.5	1,807	5,255
1950	5.5	29.5	1,454	1,639	1981	248.2	240.7	X	5,115
1951	7.6	32.4	1,516	1,776	1982	239.5	337.4	X	5,079
1952	11.0	33.7	1,565	1,803	1983	252.8	343.3	X	5,068
1953	15.0	37.9	1,620	1,848	1984	271.1	359.4	X	5,252
1954	18.6	42.9	1,634	1,872	1985	280.8	368.4	X	[1] 5,400
1955	23.0	48.2	1,641	2,050					

[1] Preliminary, 0 = zero or les than half the unit of measure. X = Not available

Sources: Chemical Manufactures Association; Ecological Monographs; and University of New Orleans.

ATMOSPHERIC CONCENTRATIONS OF ENVIRONMENTALLY IMPORANT TRACE GASES, 1959–86

	Parts per million, CO_2	Parts per trillion				Parts per billion	
		CCl_4	CH_3CCl_3	CCl_3F (CFC–11)	CCl_2F_2 (CFC–12)	N_2O	CH_4
1959	316.1	X	X	X	X	X	X
1960	317.0	X	X	X	X	X	X
1961	317.7	X	X	X	X	X	X
1962	318.6	X	X	X	X	X	X
1963	319.1	X	X	X	X	X	X
1964	319.6	X	X	X	X	X	X
1965	320.4	X	X	X	X	X	X
1966	321.1	X	X	X	X	X	X
1967	321.8	X	X	X	X	X	X
1968	322.8	X	X	X	X	X	X
1969	324.2	X	X	X	X	X	X
1970	325.5	X	X	X	X	X	X
1971	326.5	X	X	X	X	X	X
1972	327.7	X	X	X	X	X	X
1973	329.8	X	X	X	X	X	X
1974	330.4	X	X	X	X	X	X
1975	331.0	104	70	120	200	291.4	1,525
1976	332.1	106	78	133	217	293.3	1,555
1977	333.6	115	86	148	239	294.6	1,573
1978	335.2	123	94	159	266	296.4	1,596
1979	336.6	116	112	167	283	296.3	1,619
1980	338.4	121	126	179	307	297.6	1,639
1981	339.5	122	127	185	315	298.5	1,656
1982	340.7	121	133	193	330	301.0	1,671
1983	342.7	126	144	205	350	300.9	1,663
1984	344.3	130	150	213	366	300.4	1,689
1985	345.6	130	158	223	384	301.5	1,711
1986	[1] 346.7	X	X	X	X	X	X

[1] Estimated from January–October monitoring data. X = Not available.

Sources: Scripps Institution of Oceanography; and Science.

Mr. REID addressed the Chair.

The **ACTING PRESIDENT** pro tempore. The Senator from Nevada.

SENATOR ROBERT T. STAFFORD

Mr. REID. Mr. President, I wish to compliment the senior Senator from Vermont on his statement today.

I, coincidentally, have a statement also today on the greenhouse effect. I would indicate to the Members of the Senate that the leader, of course, in the environmental battle since I have been in the Senate has been the senior Senator from Vermont. I serve on the Environment and Public Works Committee with him. I found that to be one of the real pluses of being in the Senate, to have had the opportunity to serve with BOB STAFFORD.

I also recognize the work that he has done on chlorofluorocarbons. I have looked at the legislation that he will introduce tomorrow—I think it is outstanding—setting a cutoff date at the turn of this century. This is only one of the many things he has done, but I compliment him on the work in this area, especially.

Mr. STAFFORD. Mr. President, if the Senator will yield. Very briefly, I would like to say how much a pleasure it has been to serve with him on the Committee on Environment and Public Works. I very much appreciate his very gracious words this morning.

DEPLETION OF THE OZONE LAYER

Mr. REID. Mr. President, I spoke the other day concerning one of the very important and difficult environmental problems that face us as a world, and that is the so-called greenhouse effect that Senator STAFFORD so well described just a minute ago. This is, of course, where increased carbon dioxide levels are resulting in a general trend toward global warming which can result in flooding, drought, sickness, and pestilence. This is only one of several environmental problems that we must deal with in the near future. A second problem that we must tackle is the depletion of the ozone layer.

Mr. President, there was barely enough time to celebrate: Less than 6 months after nations agreed to cut down on chemicals that kill the Earth's ozone layer, the bad news hit—damage might already be three times greater than assumed by the international agreement on the protection of the ozone layer signed in Montreal in September 1987. The Montreal Treaty orders first a freeze and then, by 1999, a 50-percent cut in chlorofluorocarbon consumption in developed nations.

Ozone in the upper atmosphere protects the planet from the Sun's ultraviolet rays that can cause skin cancer, damage the eyes and the immune system and kills small plants and animals. Each 1 percent drop in ozone results in a 2 to 3 percent rise in the ultraviolet light which reaches the Earth.

Damage now is being caused by chemicals released in the 1970's and earlier. Chlorine based chemicals rising today will take 7 to 10 years to reach the stratosphere, 6 to 15 miles above the Earth surface. Once there, the destructive chlorine molecules remain for as long as a century. A thorough analysis by more than 100 top scientists was released on March 15 of this year by NASA indicates that the ozone layer has already been depleted by up to 3 percent since 1969. Prior to this finding it had only been assumed that there had been about a 1-percent global ozone loss. The hole in the ozone is spreading outward toward populated areas in South America. It now covers an area as big as that of the United States.

Mr. President, there is little that we can do about the chlorine based chemicals that have already been released into the atmosphere and are now working their way upward where they do severe damage. However, we must take action now if we are to put a stop to this process and keep the damage from becoming even greater. Some first steps have been taken. A week after the NASA's announcement, Dupont—the world's largest producer of chlorofluorocarbons—announced plans to end all production of those chemicals but has not yet specified a date.

Earlier this year, the Senate ratified the Montreal Treaty to protect the ozone layer as well. We should not rest on these accomplishments but should continue to do everything that we can to eliminate further use of these chemicals. Although the damage already done is irreversible, we must make every effort to see that it does not get worse.

Mr. President, chlorofluorocarbons are not the only chemicals that we have to worry about in terms of the damage being done to our environment. Between 1,000 and 2,000 chemicals come on the market every year. More than 7 million are now known and thousands of new ones are being discovered each year. They are a double-edged sword. Beneficial but potentially deadly.

Bhopal, Chernobyl, Love Canal, the Rhine—the scale of accidents involving toxic chemicals have dramatically increased over the past few years. There are so many hazardous chemicals and the number is increasing so fast that it is difficult for most countries, particularly underdeveloped ones, to keep ahead of the game. We must do a better job of providing information to developing countries on what chemicals are most dangerous and how they can best be handled.

But information alone is not enough. Tougher national and international controls are also essential. It's likely that international controls can only be accomplished through an international treaty to control the manufacture and handling of hazardous chemicals. We are already seeing cases where stringent regulations in developed countries have resulted in an increase in waste dumping in the seas or in developing countries. We need to get an international agreement that will do a better job of controlling the use of these chemicals globally.

Mr. President, I commend and applaud the chairman of the Environment and Public Works Committee for holding hearings. In fact, today, in just a few minutes, there will be a hearing that will begin on the effects of the greenhouse problem that we have discussed earlier and Senator STAFFORD discussed earlier. I do recognize that this is a problem worldwide in scope and it is something that must receive worldwide attention.

I yield the floor.

EXTENDING MORNING BUSINESS FOR 20 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 20 minutes and that I be permitted to speak therein.

THE ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISNEYLAND STRATEGIC POLICY AND THE WHITE HOUSE

Mr. BYRD. Mr. President, on September 7, a week ago today, the President made a highly rhetorical speech on defense matters, and accused the Democratic Presidential candidate of advocating a "return" to what the President termed a "Disneyland defense policy."

The New York Times carried a story on the President's speech with the headline "Reagan Asserts Democrats Would Hinder U.S. Defense." I quote from a paragraph therefrom:

> Zeroing in on the Democrats, Mr. Reagan said, "We are still fighting the same battle we were fighting when I addressed you eight years ago." He said the Democratic Party "hides behind heroic rhetoric."

The Washington Post carried the story headlined "Reagan Scorns Dukakis on Defense," subheadlined "Democrat's 'Disneyland' Policies Are Called Menace to Security."

The speech was an attempt at an amusing series of mental images from the world of Disney, such as Mickey Mouse, Goofy, and Donald Duck, in order to illustrate the argument of this very political White House that Democrats are weak on national defense, and soft on our national security. This imagery might be amusing if the subject were not so serious and vital to the future of our country, and if this administration's deterrent posture stood on more solid ground.

Politics, unfortunately, has intervened far too much in what should be decisions made solely on national security grounds. The White House team has allowed partisan politics to govern major decisions on vital security questions. There is no area in which this is more clear than on the 8 years of neglect and nonsense surrounding the nondecisions made on America's long-range missiles. If anyone is qualified to discourse on Disneyland, it is this White House, which has vacillated on our land-based missile vulnerability. This administration should have deployed a survivable land-based missile system years ago, as it promised the American people it would do.

Indeed, Mr. President, there can be no starker contrast than the comparison between the rhetorical promises of this administration to solve this problem and its miserable failure to act to do so. Clever rhetoric is not enough when the issue is one of such importance to the security of the American people. This President, as a candidate in 1980, promised to remedy the growing vulnerability of our missiles, even as he criticized the proposal of the previous administration to do so in the so-called racetrack deceptive basing system. In retrospect, if we had that system deployed today, we would have provided for the effective survivability of the MX missile at a far cheaper cost than it will take during the next administration. Furthermore, our leverage over the Soviets on arms control matters would be far greater.

The 1980 Republican platform said, "in order to counteract the problem of ICBM vulnerability, we will propose a number of initiatives to provide the necessary survivability of the ICBM force in as timely and effective a manner as possible. In addition, we will proceed with the earliest possible deployment of the MX missile in a prudent survivable configuration." The racetrack plan was rejected by this administration for three reasons: First, like any comparable system, it was costly; second, it was objectionable to the President's base of support in the Western States where it was to be deployed and; third, frankly, to embrace it would have admitted the viability of a plan which was vilified by candidate Reagan during his Presidential campaign.

Three years later, the administration still had accomplished no progress toward its goal of an alternative survivable basing mode, but reiterated the theme, which we all can agree with, that, without a survivable system on the drawing boards, the Soviets would have no incentive to negotiate an equitable arms control treaty with the United States on strategic systems. The President said this on April 19, 1983: "Make no mistake: unless we modernize our land-based missile systems, the Soviet Union will have no real reason to negotiate meaningful reductions. If we fail to act, we cannot reasonably expect an acceptable outcome in any arms control negotiation and we will also weaken the deterrent posture that has preserved the peace for more than a generation."

Lest there be any doubt about the vulnerability of our silo-based Minuteman and MX force, here is what Secretary of Defense Caspar Weinberger said to the Senate Armed Services Committee on December 2, 1982, nearly 6 years ago: "We believe 95 percent of the existing Minuteman system would be lost to a Soviet first strike * * * so we now have an urgent need to strengthen, to redress the neglect of the past several years that has weakened the balance and the effectiveness of our strategic deterrence."

Frustrated with the inability of the Reagan administration to come up with a viable basing scheme, the Congress ultimately required the administration to select a permanent basing mode for the MX by December 1, 1982. The resulting recommendation by the administration was the so-called densepack basing scheme, to deploy 100 MX missiles very closely together. This idea was supported only by some highly theoretical and unjustifiable arguments about survivability in such a basing mode. The scheme was summarily rejected by both sides of the aisle in the Senate before the ink was dry on it.

In response to the continued problems encountered by the administration in the search for a basing mode for the MX, a Commission on Strategic Forces, headed by former Gen. Brent Scowcroft, was appointed. This Scowcroft Commission reported its recommendations in April 1983. It emphasized the need to pursue strategic stability and to structure our nuclear forces in ways that enhance stability. Primarily, this means that survivable basing modes are essential. The Scowcroft Commission recommended placing 100 of the MX missiles in existing Minuteman silos while processing immediately to begin work on a small ICBM with a single warhead—a missile that could be deployed with a survivable, mobile basing scheme. The Commission also recommended the pursuit of strategic arms control agreements which would enhance stability.

Many Senators will remember the very intense lobbying by the administration to persuade Congress to accept the dual recommendations of the Scowcroft Commission to procure some MX missiles while pursuing Midgetman. It was only the promise of the mobility of the Midgetman that persuaded the Congress to procure any new MX missiles at all, since the administration wanted to put them in existing silos, which simply put more lucrative eggs in the same old vulnerable holes. It is well to keep this in mind in light of the administration's current proposal to junk Midgetman entirely and deploy MX in yet another nonsurvivable mode, the so-called rail garrison deployment.

The Reagan administration embraced the Scowcroft report and used its concepts to gain approval for the initial deployments of MX's in Minuteman silos. It also accelerated development of the small ICBM. Congress supported these actions, although with continued skepticism regarding the MX deployment. After 2 years of debate, Congress ultimately determined that no more than 50 MX missiles would be deployed in the vulnerable silos. The Reagan administration, however, continued to place relatively little emphasis on survivability of the basing mode for the missile—the very issue which, according to this same administration, created the "window of vulnerability" in the first place.

After still more study, the administration determined in late 1986 that additional MX's should be deployed in the so-called rail garrison mode. In this scheme, the missiles are mounted on rail cars and garrisoned on military bases during peacetime. In crises, they could be dispersed over the Nation's rail system. This basing mode is not survivable unless the missiles are out on the tracks, and even then there is the possibility that terrorists or sabotage could destroy the missiles. The concentrations of missiles in their garrisons could give the Soviets a strong incentive for sneak attacks, since they would be able to wipe out the MX easily in its garrison.

The Congress has supported development of both the rail garrison system and the mobile small ICBM, but the Reagan administration's commitments have been less constant. Earlier this year, Secretary of Defense Carlucci recommended canceling the small missile, citing the "cost per warhead." The logic of the Scowcroft Commission concerning strategic stability and the virtues of the single warhead missile was ignored.

The current situation is that Congress has recommended that both programs be kept alive with sufficient funding to enable the next administration to make the final determination. Whatever is decided, it will be clear that the Reagan administration has wasted time and countless billions while unable to solve the problems of vulnerability which they said were urgent more than 8 years ago.

In the meantime, the Soviet Union has modernized both its land-based and sea-based missile forces and has begun deploying two new mobile ICBM's, the SS-25 and the SS-24. Thus, the Soviets have gone on building and deploying both fixed and mobile land-based missiles, while the administration has produced absolutely zero progress to solve the problem of the alarming vulnerability of our missiles to Soviet attack which the administration was so concerned about. During the 1980's, while the Reagan administration was studying, the Soviets were deploying new versions of the heavy SS-18's, the missile which can destroy all United States silo-based missiles, as well as other variants: SS-16's, SS-17's, and SS-19's, and finally, the mobile SS-24's and SS-25's already mentioned. In short, the Soviet Union has modernized its land-based missile force, improving the accuracy, the military capability, and the survivability of their forces. These developments pose a heightened threat to U.S. forces.

U.S. land-based missile vulnerability has grown progressively over the last 8 years, because the administration has been unable to produce an acceptable solution to make our missiles survivable. One ridiculous scheme after another has been floated, all of them rejected out of hand, because they were dominated by political considerations. Indeed, the fantasyland exhibits of this White House's defense Disneyland are loaded with the rejected systems that have been developed and discarded.

If anything deserves the names, "Goofy" and "Daffy", and "Mickey Mouse," it is those Rube Goldberg exercises, from "Big Bird" to "Dense Pack." The truth is that this administration has refused to bite the bullet and insulate our missile systems from attack. The White House has wasted nearly a decade, while the Soviets have successfully modernized their missile inventory. It should be clear as to who is really weak and indecisive about defense policy.

The decade of neglect has resulted in making our country more vulnerable to a surprise attack, which could destory our entire land-based missile force, the most powerful force the United States possesses—the most important leg of the strategic triad. Our land-based missiles are the jewel of our strategic nuclear defense: They combine reliability with high accuracy, great explosive power, and rapid delivery. The major problem is in the steadily eroding survivability of the system to Soviet attacks with their huge missile inventory. The result of that imbalance is that a President must launch U.S. land missiles as soon as an incoming attack is confirmed, a matter of less than one-half hour, or we will lose them. Our Commander in Chief is now in a use-it or lose-it situation, a hair-trigger situation, and the time available for sound decisionmaking is measured in minutes—not hours, not days, but minutes. This is a dangerous position for any President to be in, for the risks of accidental launch increase with computer error and other human failings. The *Vincennes* incident illustrates the problem we face when competent commanders are confronted with situations of high stress, information overload and confusion, and the need to act quickly or risk the loss of men and valuable assets. In such situations, even the best technology we now have provides no ready answer, no certainty that the right decision is being made. Uncertainties and stresses can lead to disastrous results intended by no one, and we are talking about the possible destruction of millions of lives here on Earth, not just one ship. In light of all these considerations, I have to conclude that our country may today be closer to accidental nuclear war with the Soviet Union than it was 8 years ago. As this administration ends its tenure, our country is less safe and more vulnerable than when it took office. No program exists to make our large missiles more secure from attack, and this neglect is a failure of the bedrock responsibility any administration is charged with when it is elected to govern America. And that kind of neglect is unconscionable.

In sum, the Reagan administration's handling of this issue is a tragicomedy of irresponsibility, indecision, false starts, wasted opportunities, and weak and contradictory actions. First, having correctly contended 8 years ago that there was a critical window of vulnerability which needed immediate attention, it has ignored its own arguments. Now it is not just the window which is open; the whole side of the house is open. The only land-based missiles that have been deployed in 8 years have been deployed in vulnerable silos. Moreover, all Titan missiles have been retired. The result is that we have fewer land-based missiles deployed today than we did 8 years ago. So, we are more vulnerable, particularly in light of vigorous Soviet programs and deployments.

Second, incredibly, having opted for a period of time for the mobile Midgetman, the administration is backing off this option, and has even proposed to the Soviet Union that all mobile missiles be banned. Let us hope the Soviets reject this proposal, which would make permanent our inferiority in land-based missiles. Such an outcome in an arms control treaty, I believe, would face grave problems for Senate approval. It is, of course, highly unlikely the Soviets would accept this proposal in any case, since they have already deployed mobile missiles, and we have not. They would, therefore, be giving up a highly sophisticated, valuable system in return for nothing whatsoever. Mr. Gorbachev may appear amiable, but he is no more a philanthropist than is any other Soviet leader. The Reagan administration, which has argued for the MX deployment in any basing mode to enhance its bargaining power in Geneva, has failed to achieve an agreement with the Russians in 8 years. In the meantime, the Soviets have deployed mobile ICBM's and continued their own modernization program without delay. The disparities between the United States and Soviet forces are far greater now than they were 8 years ago. The administration has failed to either deploy a modern and survivable ICBM or to achieve a sound strategic arms control agreement.

The 1989 Defense authorization bill, recently vetoed by this President, continues funding to keep both the Midgetman and rail MX in development so that the next President at least has the option to decide what system to finally deploy. The least this administration can do is to allow that legislation to become law so as to preserve our Nation's options in order to begin recouping the dangerous damage 8 years of vacillation has incurred.

So all in all, this administration is living in a glass house when it throws a stone at Democrats for its so-called Disneyland defense policies.

Mr. President, I ask unanimous consent to print in the RECORD the two news stories from the New York Times and the Washington Post to which I briefly referred.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 7, 1988]

REAGAN SCORNS DUKAKIS ON DEFENSE—DEMOCRAT'S "DISNEYLAND" POLICIES ARE CALLED MENACE TO SOCIETY

(By Lou Cannon)

LOUISVILLE, Sept. 6.—President Reagan charged today that the election of Michael S. Dukakis would undo the U.S. military buildup of the past eight years and replace it with a "Disneyland defense policy" that would destroy America's capability to deter war.

In a speech to the American Legion, Reagan unleashed his harshest attack of the campaign against the Democratic presidential nominee's defense policies.

"It comes down to this," Reagan said. "After eight hard years rebuilding America's strength, do we really want to return to a Disneyland defense policy—with Mickey Mouse treatment of our men and women in uniform; Goofy strategic plans and Donald Duck-like lectures telling us that whatever goes wrong is our own blankety-blank fault? Or do we want to keep advancing on the road of strength and determination and peace and freedom?"

Reagan was often interrupted with applause from a friendly audience. One of the loudest cheers came when he said he wanted to be sure that a Cabinet-level Department of Veterans Affairs was created before he left office.

Without mentioning Dukakis by name, Reagan heaped scorn on Dukakis' pledge to improve U.S. conventional military capability and strengthen the North Atlantic Treaty Organization, saying the policies he advocates "would diminish the role of the very nuclear forces that NATO needs to deter the Soviets." He also said that the conventional defense initiative proposed by Dukakis was "smaller than the one we are already working on."

Quoting from a speech he gave to the Legion while campaigning for the presidency in 1980, Reagan observed that he had promised to rebuild U.S. military strength and then "strive for arms limitation agreements" with the Soviet Union. The president said the Intermediate-Range Nuclear Forces Treaty and Soviet withdrawal from Afghanistan provided tangible evidence of the success of the "peace through strength" policy he had advocated.

"Our reward is that from Afghanistan to the Persian Gulf to southern Africa, we are bringing peace to long-ranging conflicts, even as we frustrate Soviet aims," Reagan said. "In eight years we have not give up one square inch of land to communism. In fact, we have taken some ground back for freedom. And yet today relations between the United States and the Soviet Union are the best they've been in decades."

Aides said the content and timing of Reagan's speech had been coordinated with the campaign of Republican presidential nominee George Bush, who is scheduled to address the Legion Wednesday. Dukakis speaks Thursday.

"The president and vice president share the view that Dukakis is particularly vulnerable on defense issues," said a White House official. The official, who discussed Republican campaign strategy under condition of anonymity, said Reagan will concentrate on "defending the record of the past eight years" and warning that peace could be jeopardized if Dukakis is elected, cuts the defense budget and "returns to the policies of the past."

That was the position taken by Reagan today in a speech that made several implicit comparisons between Dukakis and former President Jimmy Carter. Reagan described the Carter administration's defense policy as "a national calamity" and suggested that Dukakis would repeat the experience.

"We still hear the voices of the liberal ideology of decline and retreat," Reagan said. "Again the hit list for cancellations or delays includes the MX [intercontinental ballistic missile], the B1 [bomber], a new Trident missile, and the surface Navy—this time two carrier battle groups they'd like to see done away with. To that they've added nearly every major new weapons system to become prominent on the scene since the last liberal administration went to its reward, including the Midgetman missile, the Stealth bomber and our Strategic Defense Initiative."

In contrast to his other assertions of foreign policy accomplishment, Reagan acknowledged that he had met with "too little success" in his efforts to persuade Congress "to honor a moral obligation, as well as an obligation to the peace and freedom of our children in this hemisphere, and give strong and consistent aid to the freedom fighters in Nicaragua." He told the Legion, a supporter of contra aid, that "with your help we might still convince Congress to do what's right."

Reagan spoke en route from a vacation in California.

[From the New York Times, Sept. 7, 1988]

REAGAN ASSERTS DEMOCRATS WOULD HINDER U.S. DEFENSE

(By Andrew Rosenthal)

LOUISVILLE, KY., Sept. 6.—President Reagan told the American Legion today that Gov. Michael S. Dukakis and other Democrats would jeopardize national security with a "Disneyland defense policy" that he likened to the programs of President Carter.

"We still hear the voices of the liberal ideology of decline and retreat," Mr. Reagan said, employing an epithet that was used against Mr. Carter.

Mr. Reagan never mentioned Mr. Dukakis by name, nor did he refer directly to Vice President Bush, the Republican Presidental, nominee. But his message was clearly political as he lumped Democrats together as "the liberals" and accused them of opposing every weapon system his Administration had worked to build, including some that Mr. Dukakis actually supported, such as the Stealth bomber and a new missile for the Trident submarine.

He questioned democratic devotion to the Western strategic alliance and accused the Democrats of advocating unilateral bans on nuclear testing and on flight testing of missiles, although Mr. Dukakis does not advocate either ban as a unilateral measure.

"After eight hard years rebuilding America's strength," Mr. Reagan said, "do we really want to return to a Disneyland defense policy—with Mickey Mouse treatment of our men and women in uniform; Goofy strategic plans; and Donald Duck-like lectures telling us that whatever goes wrong is our own blankety-blank fault?"

The speech was laced citations of such American heroes as Gen. George C. Marshall and John K. Kennedy. And it was peppered with negative references to Mr. Carter, seeking to link that favorite Republican target to the current Democratic nominee.

Harking back to the end of the Carter years, Mr. Reagan said, "Again and again around the world, our predecessors had not shown the slightest grasp of the fundamentals of strategy and national interest."

He said his "final plea" to the American Legion, made at its national convention here, was to "make sure that the nation moves forward in strengthening the foundations of peace and freedom in the years ahead."

SAYS HE KEPT PLEDGE

Mr. Reagan gave a strong defense of his Administration's military policy.

"I pledged that our strategic deterrent would be modernized, and it has," Mr. Reagan said, crediting his costly military buildup with leading the Soviet Union to sign the treaty banning medium-range missiles.

He said that eight years ago, he had "pledged not only to rebuild America's power but to be ready to use it, if necessary."

"From Libya to Grenada," Mr. Reagan said, "we have kept that pledge."

At another point, the President said: "In eight years, we have not given up one square inch of land to communism. In fact, we have taken some ground back for freedom. And yet today relations between the United States and the Soviet Union are the best they've been in decades."

TRYING TO IMPRESS

Zeroing in on the Democrats, Mr. Reagan said, "We are still fighting the same battle we were fighting when I addressed you eight years ago." He said the Democratic Party "hides behind heroic rhetoric."

"But this liberal agenda is no Superman; it's no Clark Kent; it's Jimmy Olson trying to impress his date," Mr. Reagan said. "The liberals like to talk about judgment and strategy, but where is the judgment and strategy in what they've endorsed?"

He attacked "the liberals" for proposing cuts in research into space-based defense against missiles and for opposing the MX missiles and construction of two new aircraft carrier battle groups.

"They profess their devotion to NATO, but would diminish the role of the very nuclear forces that NATO needs to deter the Soviets," Mr. Reagan said. "Does that make any sense as military strategy?"

Mr. BYRD. I yield the floor.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Pennsylvania.

(The remarks of Mr. HEINZ pertaining to the introduction of legislation are in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

Mr. BYRD. Mr. President, will the Senator withhold his request and allow me to make a request?

I believe morning business has expired, has it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I ask unanimous consent that morning business may continue for an additional 10 minutes and that the Senator from Pennsylvania may have an additional 5 minutes and the Senator from Delaware—how much time?

Mr. ROTH. Could I have 10 minutes?

Mr. BYRD. And that the Senator from Delaware have 10 minutes, and that the period for morning business be extended accordingly.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the majority leader for his help and kindness.

RADON

Mr. HEINZ. Mr. President, many of my colleagues may have seen the lead article in yesterday's New York Times stating that the Government issued a national public health advisory urging that most homes be tested for radon. The Government now recognizes that radon contamination in homes is not just a regional problem, confined to the Reading Prong of Pennsylvania, New Jersey and New York. The EPA survey that led to the health advisory found strong evidence that the threat from cancer-causing radon is much more widespread than originally estimated.

We now understand that when radon gas enters a home and becomes trapped it can reach hazardous levels. And we know that radon poses a substantial threat of lung cancer, second only to cigarette smoking. This new national health advisory will result in many more American homes taking measures, such as the installation of ventilation systems, to mitigate the threat of radon. Such measures can be extremely expensive, running into thousands of dollars, and imposing significant costs on a family budget.

S. 756, the Radon Mitigation Clarification Act, would clarify that a taxpayer can deduct, as medical expenses, necessary home improvements to remove harmful levels of cancer-causing radon gas. The bill would mitigate some of the cost associated with repairing homes, and help families minimize the risk of radon contamination.

With a national health advisory in effect, many more Americans will measure levels of radon in their homes. When harmful levels are found, they will want to take steps to reduce the levels of cancer-causing radon gas. S. 756, the Radon Mitigation Clarification Act provides that costs associated with reducing radon risks be deductible. This is a sensible and timely provision, and when the Finance Committee tax package comes to the floor I will work to include S. 756, and urge that the full Senate agree to provide Americans the means to respond to what the Government has just recognized as a national health threat.

Mr. President, I ask unanimous consent that a copy of yesterday's New York Times article on radon be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 13, 1988]

MAJOR RADON PERIL IS DECLARED BY U.S. IN CALL FOR TESTS

By Philip Shabecoff

WASHINGTON, Sept. 12.—Citing new evidence that the threat of cancer-causing radon is more widespread than previously recognized, the Government today issued a national public health advisory urging that most homes be tested for the naturally occuring radioactive gas.

"Radon-induced lung cancer is one of today's most serious public health issues," said Dr. Vernon J. Houk, an Assistant Surgeon General with the Pubilc Health Service.

At a news conference today, Dr. Houk and Lee M. Thomas, Administrator of the Environmental Protection Agency, said that all detached and row homes as well as all apartments from the second floor down should be inspected for radon. If levels exceeded recommended guidelines, they said, remedial action should be taken to lower the amount of radon seeping into homes.

ANNOUNCEMENT FOLLOWS SURVEY

Two years ago, officials warned of rising evidence of the hazards of household radon, saying it might be responsible for 5,000 to 20,000 lung cancer deaths per year. But the extent of the problem was highly uncertain. Today's announcement followed a new survey of seven states that found worrisome levels of radon in an unexpected number of houses.

Today, Dr. Houk said the new data support the conclusion that household radon causes as many as 20,000 lung cancer deaths each year. Scientists believe close to 85 percent of the nation's nearly 140,000 annual lung cancer deaths are caused by smoking.

The two officials said they believed that testing for radon levels should be required whenever a house changes hands, a practice already common in some areas where radon is a recognized threat.

MEASURES NEEDED IN MANY HOMES

However, some scientists feel the method used by the E.P.A. in its surveys overestimates the extent of the problem, and they also question the need for testing virtually every home for radon.

Radon is an invisible, colorless gas formed when uranium in the soil and rocks decays. The gas decays into radioactive particles that can lodge in the lung and cause lung cancer. Outdoors, radon dissipates and is harmless. But inside some buildings, depending on ventilation, air pressure and other factors, it can accumulate, over years or decades of exposure, it can reach concentrations that raise the risk of lung cancer.

The risk is particularly great among smokers, Dr. Houk said, but he emphasized that it also extends to nonsmokers.

The advisory was issued as the E.P.A. reported on the results of a new survey involving 11,000 homes in seven states. It found that nearly one in three houses tested had levels of radon above those considered a health risk. In a similar survey last year of 10 different states, the agency found one in five homes contained the gas at levels above the Federal standard, at which homeowners are urged to consider renovations to prevent the gas from building up. Those include improving ventilation and sealing openings in houses.

The new data indicated that the radon problem spans most parts of the country. It also found that the gas reaches more serious levels, warranting rapid corrective measures, in a surprisingly large number of homes. Extrapolating from this year's testing, the E.P.A. estimated that among the 15 million homes in the seven states surveyed, about 200,000 had levels that exceeded the current health-protection standards for uranium miners.

For people who spend 75 percent of their time in the house, that level poses a cancer risk equal to smoking more than a pack of cigarettes a day, the E.P.A. estimates.

The survey also provided strong new evidence that an area of high radon levels stretches across North Dakota and Minnesota. The area is similar, the agency said, to the Reading Prong, a geologic formation extending across Pennsylvania, New Jersey and New York, where a high risk of radon in many homes built atop it was discovered several years ago.

The environmental agency's officials said that the new survey results reinforced previous estimates that at least eight million homes throughout the United States were contaminated with radon. Those estimates had been challenged as too high by some scientists.

The states in this year's survey were Arizona, Indiana, Massachusetts, Minnesota, Missouri, North Dakota and Pennsylvania. Last year the survey covered Alabama, Colorado, Connecticut, Kansas, Kentucky, Michigan, Rhode Island, Tennessee, Wisconsin and Wyoming.

SURVEY REQUESTED BY STATES

Mr. Thomas of the E.P.A. said that the surveys were done in cooperation with and at the request of the states. He said that more states would be surveyed next year.

Several other states, including New Jersey and New York, have conducted their own household surveys and are not included in the Federal study. New Jersey, according to the environmental agency, measured 6,000 houses in areas known to have high risk of radon and found more than half to exceed the agency's standard. New York, in a survey of 2,400 houses, found 5 percent above the standard. The New York survey involved longer-term testing, which yields lower average contamination levels than shorter term studies involving only a single measurement, as the Federal study did.

Dr. Houk said that radon is the second leading cause of lung cancer after smoking but that the risks from radon were about 15 times higher among smokers than nonsmokers. Tobacco smoke, he said, makes the lungs more susceptible to radon and also attracts radon particles, which are inhaled. "Do not allow smoking in any house that has detectable levels of radon," he advised.

Of nearly 140,000 Americans who die each year from lung cancer, Dr. Houk estimated, about 5,000 were nonsmokers whose cancer could be attributed to radon and 15,000 were smokers who were exposed to radon.

The PRESIDING OFFICER. The Senator from Delaware.

(The remarks of Mr. ROTH pertaining to the introduction of legislation are in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SENATOR BIBLE PASSES AWAY

Mr. BYRD. Mr. President, with great sadness I have learned that former Senator Alan Bible passed away at 6 p.m., Monday, September 12.

He was truly a good Senator. There was very little, if any "show" to him. Instead, it was work, and it was accomplishments. He served 20 years in the U.S. Senate, from 1954 to 1974. During that time, he served on the Senate Interior and Insular Affairs Committee. As chairman of its Subcommittee on Parks and Recreation, he provided leadership in authorizing the building of more than 60 parks and monuments.

He also served on the Minerals, Materials, and Fuels Subcommittee of that committee, where he promoted what he considered the proper development of our natural resources of gold and silver.

As a member of the Appropriations Subcommittee on Transportation, he helped to develop important Federal highway construction programs.

He served as chairman of the Senate District of Columbia Committee during a crucial stage in the history of this great city. In that position, he introduced 15 separate anticrime bills. But, most important, he took part in developing much of Washington, DC, as we know it today. This includes helping to plan the beltway, the modernization of Pennsylvania Avenue, RFK Stadium, and Dulles Airport.

Mr. President, Senator Bible was a conservative who believed in the great abilities of the Government to build and to create with proper vision and direction. While he was fiscally frugal, he supported the use of Government to improve education.

He also was active in defense and foreign policy, from fighting domestic subversion to supporting international agreements to stop the spread of nuclear proliferation.

No person—age, color or creed—was not deserving of his attention and legislative assistance. He fully supported legislation to help America's senior citizens. He was an advocate of improving the quality of life of the American Indian long before it became popular to take such stands. And then there was what he considered the "little guy"—the small taxpayer. He fought for tax reform early and sponsored taxpayer assistance legislation as chairman of the Select Committee on Small Business.

He retired from the Senate in 1974 because of ill health. Afterward, he taught political science at the University of Nevada until his declining health forced him to give that up.

One of the first jobs of Alan Bible—a man who did so much for his Government and accomplished so much for his Nation—was as an elevator operator in this very building, a job he took to help pay his way through Georgetown Law School.

Upon his retirement from the U.S. Senate, this Chamber and the people of his beloved State of Nevada lost a good Senator. Now, the United States has lost a good man. We will miss him.

Erma and I express our condolences to his wife, Loucile, and his children.

SENATOR ALAN BIBLE

Mr. STENNIS. Mr. President, I wish to say a special word in tribute to our late friend and colleague in the Senate who passed away and was one of our most valuable Members, Senator Alan Bible of Nevada. I had many years association with him.

Mr. President, Senator Bible was one of the most valuable Members we had here, in my opinion. He was a good lawyer, with fine knowledge and balance about him with reference to opinions. He was a willing worker. He was a man of sound judgment, I thought, so much so that when I heard he was planning to retire I went to him and tried to advise him about staying on. He told me that he had medical advice to the effect that he would have to retire.

I have had the benefit of his advice and counsel. I called him up on the telephone from then until even recently. I salute him and his family. I extend to the family my great regrets and every word of condolence.

Mr. MOYNIHAN. Mr. President, I know that my colleagues would wish to join me in joining our revered President pro tempore in expressing our great respect for our former colleague, Senator Bible. I knew him when I was in the executive branch. He was exactly the man the Senator from Mississippi described.

I express our condolences to his family and say the Senate was enlarged by his life here.

IRAQ'S REPEATED USE OF CHEMICAL WEAPONS

Mr. MITCHELL. Mr. President, I am saddened to once again rise on the Senate floor to condemn Iraq's use of chemical weapons. Iraq has continued to flagrantly violate international law and basic humanitarian principles by using chemical weapons.

It is testimony to the lack of international concern and action that Iraq has dared to repeatedly employ these weapons—weapons that the international community, including Iraq, banned over 50 years.

The 1925 Geneva protocol reflected the world's belief that the effects of chemical agents are so inhumane that they must not be used even in war. Yet, Iraq has insisted on using these weapons both in its war against Iran and more recently in its campaign to eliminate an entire ethnic group of Iraqi citizens.

These actions constitute a callous and cruel assault on the principles of law and respect for human rights that have been painstakingly codified over many years. Iraq's actions cannot be rationalized, cannot be defended, cannot be dismissed. They must not go uncensured.

The international community must protect the principles on which it has been painstakingly trying to build a more gentle and just world. Iraq's actions threatens to gravely harm the progress slowly won during the past century.

On June 24, the Senate unequivocally stated its view of Iraqi violations of international law. In passing Senate Resolution 408, which I offered, this body unanimously condemned Iraq's use of chemical weapons and urged the administration to apply diplomatic pressure to prevent their future use.

The resolution was enacted after the world witnessed the graphic evidence of Iraq's use of mustard and nerve gas against Kurdish civilians in the Iranian-occupied town of Halabja.

Yet, the March attacks, in which thousands were killed, were part of a larger pattern that had long been ignored. The United Nations has concluded in 1984, 1986, and again in 1987 that Iraq had used chemical weapons against Iran.

The international community did nothing.

The aftermath of the attack on Halabja, documented by camera, made it impossible to ignore Iraq's atrocities. The undeniable evidence challenged the community of nations to act.

It is tragic that the Senate's outrage was not more widely shared, tragic that the opportunity to exert effective international pressure was squandered. While responsibility for the slaughter of innocent civilians lies with Iraq and Iraq alone, the international community failed to act forcefully to dissuade Iraq from further chemical attacks.

The world overlooked Iraq's actions and instead focused its hopes on an end to the Iran-Iraq War. In a cruel irony, the gulf cease-fire offered Iraq an opportunity to turn its chemical arsenal against its own citizens. In what appears to be a campaign of genocide against its 3 million Iraqi Kurds, government forces have reportedly killed thousands of Kurdish people and forced some 50,000 to 100,000 to flee the country.

Where is the international outrage? Where is the will to act against such slaughter?

The Senate has again moved quickly to condemn Iraq and propose a United States response to the repeated violations of international law. S. 2763, introduced by the distinguished chairman of the Senate Foreign Relations Committee, Mr. PELL, would implement tough economic sanctions against Iraq.

It would end all credit and credit guarantees to Iraq, require the United States to vote against loans to Iraq by international financial institutions and prohibit imports of Iraqi oil. The sanctions would be lifted only if Iraq halts the use of chemical weapons and ends its campaign against the Kurds.

The legislation also requests the administration to bring the issue of Iraqi chemical weapon use before the U.N. Security Council and demand that appropriate and effective measures be taken against Iraq.

I confess my disappointment in the administration's failure to take stronger action against Iraq before thousands of civilians were deliberately killed. The United States had learned of Iraq's violations of the Geneva protocol during the years in which the United States-Iraqi ties grew stronger. Our tilt toward Iraq in the gulf war, symbolized by the convoying of ships belonging to Iraq's allies, should have bought us some leverage, some authority with which to dissuade the Iraqis from employing chemical arms.

Thankfully, President Reagan condemned the attack on Halabja as a "particularly grave violation of international law." Secretary Shultz called the more recent poison gas attacks "unjustifiable and abhorrent," and told Iraq that continued attacks would affect United States-Iraqi relations.

It is time to translate these words into deeds.

It is time to marshal international support for the censure of Iraq.

It is time for nations to restore the legal and moral prohibition against the use of chemical weapons.

I support the administration's effort to prompt the Government of Iraq to declare a policy of opposition to the use of chemical weapons.

But such a statement will not suffice. First of all, it would not be believed. Iraq had long denied using chemical weapons against Iranian forces. The Iraqi Government continues to deny using chemical weapons against the Kurds, despite the statements and physical testimony provided by fleeing refugees and despite the evidence that convinced our State Department that such use had in fact occurred.

Moreover, such a policy statement would not constitute a penalty for killing thousands of civilians with weapons long banned by international agreement.

The Senate has correctly called for the United States to bring this issue before the U.N. Security Council and demand that effective measures be taken against Iraq. An issue of grave international concern like this one should be boldly addressed in this forum of nations.

At the very least, the crime must be named and Iraq held responsible.

The ominous silence cannot continue.

We must not turn our heads as a government attempts to eliminate an entire segment of its own citizenry.

We must not passively allow the Geneva protocol to also all force and meaning.

We must not squander this opportunity to push for stronger international prohibitions against chemical weapons.

Clearly, the Geneva protocol is flawed. It lacks enforcement mechanisms. It bans only the use of chemical weapons. There is an urgent need to go further—to ban the production, transfer, and stockpiling of these weapons—if we are to effectively prevent their use.

Cheap and easy to manufacture while posing a horrific military threat, chemical arms are the poor man's nuclear bomb. Chemical production technology continues to proliferate, eased across borders by Western commercial chemical exports. As nations rapidly acquire chemical weapons, the risk of their use in the next conflict increases.

The Senate has already expressed its unanimous support for American efforts to achieve an agreement banning the use, production, development, stockpiling, transfer, and acquisition of chemical weapons.

The time to push forward in chemical negotiations is now.

Sadly, the Reagan administration has not demonstrated a seriousness about pursuing a chemical weapons ban, even though chemical weapons pose an increasing threat to the people and environment of this planet.

The need for leadership on this issue is clear.

The next administration must make a strong commitment to pursuing a comprehensive chemical weapons ban. No one pretends that it will be easy. But given political will and good faith negotiating, a chemical weapons treaty is well within reach.

The next administration should set itself a clear goal: attain a chemical weapons agreement within the next few years.

The next administration should make American policy consistent with that goal and discontinue the production of binary chemical weapons on our own soil.

If nothing else, Iraq's egregious use of chemical weapons, including its use against its own citizens, should convince the world of the need to successfully conclude the Geneva negotiations to prohibit the production and stockpiling of chemical weapons.

We must learn from our own human failures. We can act to prevent future deaths by poison gas.

I urge the nations of the world to join together to condemn and punish any country that violates the Geneva protocol banning the use of chemical weapons.

I sincerely hope that this President, the next President, and all national leaders will bring urgency and purpose to the ongoing chemical weapons negotiations. The need for immediate action has never been so clearly and tragically demonstrated as in the graphic deaths of innocent civilians poisoned by their own government.

IN HONOR OF A SENATE LEADER

Mr. COHEN. Mr. President, when our distinguished colleague, the senior Senator from West Virginia, steps down as Democratic leader at the end of this Congress, we will be losing a man who has served in Congress for 36 years and who for 12 years has helped steer the Senate through often turbulent waters. ROBERT BYRD has won the admiration and respect of his colleagues on both sides of the aisle for his abilities as a leader, talent as a parliamentarian and skills as a representative of the people of his home State.

The Senator from West Virginia has risen from a humble background as a coal miner's son to national prominence as a legislator and statesman. Through determination, hard work and perseverance—epitomized in his successful nighttime pursuit of a law degree during his first Senate term—ROBERT BYRD has built one of the most successful careers in West Virginia and American politics. The high regard his constituents hold for him is indicated by the fact that he has served longer in his body than has anyone in the history of his State.

Senator BYRD's reverence for the institution of the Senate is well known. His passion for exploring the history of this body and his commitment to preserving its most important traditions reflect a respect for the Senate that has been an inspiration to all of us. I applaud the tireless dedication to guarding the Senate's vital role in American Government that has marked our colleague's stewardship as Democratic leader.

An undisputed master of Senate rules, ROBERT BYRD has skillfully shepherded a long and impressive list of key legislation through this body. He has served faithfully on the Appropriations, Judiciary and Rules Committees. His career in Congress has been marked by successes in almost every area of policy.

Guiding an assembly of 100 individuals who represent diverse interests and concerns is not an easy task. It demands a unique capacity for conciliation, compromise and coalition-building. The retiring Democratic leader has managed to meet these demands while doing his best to keep the Senate above the political fray.

I have enjoyed working with ROBERT BYRD since coming to the Senate in 1979. The dedication and diligence that he has displayed during that period have been clear and consistent. I would like to take this opportunity to congratulate the Democratic leader on his many accomplishments and to wish him the best of luck in the future.

CONSTRUING THE NEW FAIR HOUSING ACT

Mr. KENNEDY. Mr. President, yesterday was a special occasion in the history of civil rights in America, as President Reagan signed the Fair Housing Amendments Act of 1988 before a bipartisan group of Senators, Representatives and civil rights leaders at the White House. The signing caps a 25-year effort in Congress to strengthen and expand the scope of our fair housing laws.

Unfortunately, President Reagan used that historic occasion to announce an interpretation of the act that this flatly inconsistent with Congress's understanding of the law. The President suggested that the act should be read as requiring proof of discriminatory intent in order to establish a violation of the fair housing law.

The issue is part of the old bone of contention between Congress and the administration over the so-called intent versus effects test. But the President added a new twist—his attempt to tilt the meaning of the law by declaring his view of what he was signing.

As the principal Senate sponsor of the 1988 act, I can state unequivocally that Congress contemplated no such intent requirement. The act did not materially alter the 1968 Fair Housing Act provisions defining what is required to prove a discriminatory housing practice. All of the Federal courts of appeals that have considered the question have concluded that title VIII should be construed, at least in some instances, to prohibit acts that have discriminatory effects, and that there is no need to prove discriminatory intent.

As University of Kentucky law professor, Robert Schwemm, the author of a leading treatise on the 1968 law, testified before the Senate Constitution Subcommittee on April 9, 1987, 9 of the 12 Federal courts of appeals have addressed the issue, and all 9 have ruled that a showing of a discriminatory effect may be used to establish a violation. Professor Schwemm's testimony contains a detailed analysis of the issue and the court decisions. In enacting the Fair Housing Amendments Act, Congress accepted this consistent judicial interpretation.

It is also well-established that under our constitutional system of separation of powers, Congress has the sole responsibility to enact legislation, and the President may not use a signing statement to attempt to rewrite the law in a manner contray to the congressional intent.

Just last week, I had the opportunity to discuss this subject with Douglas Kmiec, the Acting Assistant Attorney General in charge of the Office of Legal Counsel in the Department of Justice. At his confirmation hearing, on September 8, 1988, Mr. Kmiec agreed with my view. As he testified:

> To the extent that a signing statement would be used to thwart the express terms of [a] statute or was not giving due consideration to the legislative history that gave rise to the words of the statute, it would not be a proper use of that statement.

I then indicated my own view, that

> [W]hen the Congress passes a law, it intends it to mean what it says. And the President obviously, if he has a differing view, has the opportunity to veto it and send it back for reconsideration. But if he does not, the congressional interpretation would be the guiding force in terms of interpretation.

Mr. Kmiec responded, "I do not disagree, Senator."

When President Reagan signed the Fair Housing Amendments Act yesterday, he tried to tilt the law toward the "intent" test, contrary to the will of Congress. Courts and others interpreting the act should not give weight to the President's attempt to obtain a signing statement what he could not achieve in the legislation itself.

CONCERNING GOVERNOR DUKAKIS' SPEECH: "A STRONG AND SECURE AMERICA"

Mr. NUNN. Mr. President, this morning Governor Dukakis gave an important speech at Georgetown University on the subject of U.S. national security policy.

This speech, entitled "A Strong and Secure America," was a very solid, tough, and sober statement of Governor Dukakis' views on national defense. The range of issues discussed in the speech is impressive and comprehensive. The speech clearly demonstrates Governor Dukakis' commitment to a strong national defense for America.

Governor Dukakis knows what it will take to keep our Nation secure. In the speech, he stated his clear and unequivocal support for key new strategic modernization programs—the Stealth bomber, the Trident II D-5 missile, and the advanced cruise missile. He also made a welcome commitment to work with Congress to find a sensible, affordable way to maintain the effectiveness of the land-based missile leg of our strategic triad.

On the subject of strategic defense, Governor Dukakis stated his intention to abide by the ABM Treaty, and to insist that the Soviet Union dismantle the Krasnoyarsk radar. He also indicated his support for continued research in the area of strategic defenses to hedge against a Soviet breakout in this area and to allow us to make an informed judgment as to what strategic defense technology can and can't do.

Governor Dukakis underscored the importance of maintaining America's technological superiority in national defense. He cited antisubmarine warfare and the capability to destroy Soviet tanks as two critical areas where we need to direct our best and most innovative technological efforts. He went on to endorse the SSN-21, the Navy's new attack submarine, and the Air Force's new advanced tactical fighter.

One of the things that impressed me most about the speech, Mr. President, was Governor Dukakis' approach to Defense management. We have some serious management problems in the Pentagon today—in the number of programs relative to the size of the Defense budget, for example, and in the way we develop and buy new weapons. Governor Dukakis' speech indicates to me that the Governor understands these problems and is willing to make the long overdue, tough decisions to address them.

Mr. President, I ask unanimous consent that the full text of Governor Dukakis' speech be inserted in the RECORD. I urge my colleagues to review this speech.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MICHAEL S. DUKAKIS: A STRONG AND SECURE AMERICA, GEORGETOWN UNIVERSITY, WASHINGTON, DC

I'm running for President to restore respect for American leadership in a changing world.

The kind of respect that Franklin Roosevelt earned when he championed the Four Freedoms and crushed Hitler's armies during World War II.

The kind of respect that John Kennedy earned when he forced the withdrawal of Soviet missiles from Cuba and signed the world's first nuclear test ban agreement.

The kind of respect that America received when it served first as the arsenal and then as the breadbasket for the free world; when American goods reflected the world's highest quality and finest technology; when America put a man on the moon and a Peace Corps in the developing world; when people from around the globe looked to us for leadership and for hope.

I'm running for President because I want to see our country get that kind of respect from our allies, our trading partners, our friends and our adversaries.

But to build and maintain the respect we need, we must meet not just one, not just some, but every challenge to our national security; the new challenges of tough economic competition and of terrorism and of drugs that I talked about Monday; the challenge posed by the new leaders of the Soviet Union that I discussed yesterday; and the challenge of keeping America militarily strong, which is my subject today.

And military strength begins with the men and women of our armed forces. Our national defense depends on their skills and courage and commitment.

During the 1950's, I spent 16 months as a GI in the small Korean village of Munsan-Ni—not far from the demilitarized zone.

I, and those I served with, didn't ask for much in the way of material comforts. We had an obligation to serve, and we were proud to meet that obligation. All we wanted—and all we expected—was to be well-trained, to have weapons that worked, a mission that we understood, and to know that we were being remembered and supported in the thoughts and prayers of those back home.

That's not a lot to ask for, but for those on the frontline, it makes all the difference in the world.

And that's a lesson I will never forget.

It's a lesson that's especially important in this election year; for the job of defending freedom is not a Republican job. It is not a Democratic job. It's a responsibility we all have as Americans.

George Bush forgot that lesson last month when he persuaded the President to veto the defense bill—over the objections of the Secretary of Defense and the National Security Advisor. Mr. Bush's pollster apparently had more influence than they did.

That bill would have strengthened our military forces, provided needed pay increases to our military personnel, and given our armed forces a real role in the war against drugs.

My friends, we can't play politics with our national security.

We've got to have real leadership. Leadership that will put America's interests first. As President, I'm not going to make decisions that affect the well-being of our servicemen and women on the basis of what some poll tells me; and I'm not going to be looking for guidance on national security issues from J. Danforth Quayle.

Because we need a President who knows how to make tough decisions. A president who will call the shots. Assemble a team. Work with Congress. Replace officials who need to be replaced. And take the heat when things go wrong.

That's what governing is all about. And that's what a Dukakis Administration will be all about.

We're not going to have a laundry list of weapons systems; we're going to have a strategy for keeping America militarily strong.

We'll use force when it's necessary to protect our territory, our citziens or our vital interests; to meet our treaty commitments; and to deter or to respond to terrorist attacks.

We're going to put our defense dollars where our defense needs are greatest; we're going to buy weaons that work; we're going to make certain that the men and women of our armed forces have the equipment, the training and the support they need to defend our country; and we're going to clean up the mess in the Pentagon.

Above all, we're going to keep America strong, because as John Kennedy said 28 years ago, "only when our arms are sufficient beyond doubt can we be certain without doubt that they will never be employed."

Since the development of modern missile technology almost 30 years ago, the defense of our country has depended on strong and survivable nuclear forces. Preventing a nuclear war is—and will remain—the centerpiece of our national security strategy.

We must have—and in a Dukakis Administration we will have—strategic forces that are strong and modern and versatile. Strategic forces that will convince any potential adversary that they have nothing to gain and everything to lose by attacking the United States or our allies and friends. And we must do whatever is necessary through modernization, and, if possible, through arms control, to ensure an effective, credible deterrent.

What does that mean? It means I support, and I intend to go forward as planned with the Trident II sea-based missile to offset the Soviet Union's highly accurate missiles, and with the Stealth bomber and the advanced cruise missile to counter improvements in Soviet air defense.

We've had a lot of nonsense from Mr. Bush on the subject of national defense in recent weeks. The fact is that the Trident II program began during the last Democratic Administration; and so did the Stealth. The fact is that the B-1 bomber cost $27 billion, and there is now a serious question as to whether it can do the most important job it was designed to do. The fact is that the Republicans promised in 1980 to make our land-based missiles invulnerable and today, after another $25 billion and 8 years of Republican mismanagement, our ICBM's are more vulnerable than they were in 1980.

It's time for an end to Republican smoke and mirrors. The MX, with its Pearl Harbor style basing mode, isn't the answer. In those rail barns, it's a sitting duck.

The strategic concept of the Midgetman is sound, but I question the value of spending 40 or 50 billion dollars for 500 additional land-based missile warheads—at three times the cost of the same number of new submarine-based warheads. So I'm going to work with the Congress to find a sensible, affordable way to maintain the effectiveness of the land-based missile leg of the triad.

But just as we must modernize to maintain an effective deterrent, so we must negotiate to improve the effectiveness of the deterrent we have. And we negotiate, not for the sake of negotiating, but because it is in the interest of our national security to do so. We negotiate to limit the ability of the Soviet Union to continue building new and more dangerous weapons, the ability to keep multiplying its arsenal of nuclear warheads, the ability to steadily increase the cost and the danger of the race for nuclear weapons.

The INF agreement was a good beginning, but it was only a beginning. Unlike Ronald Reagan, George Bush doesn't seem to understand that. He wants to put START negotiations on the back burner. I say we should build on the progress that Mr. Reagan and Mr. Gorbachev have made. I say it is in our interest to forge an agreement—a mutual and balanced and verifiable agreement—that will make deep cuts in Soviet Strategic arms.

Even then, we must do more; because during the past eight years, the Soviets have deployed more than 3,000 new strategic warheads. Even if START is signed and ratified, the Soviets will have as many or more nuclear warheads targeted on the United States as they did the day the Republicans took office.

As President, I will challenge the Soviet Union to move beyond the limits of START to *stop* the development of new and more dangerous weapons that threaten world stability and our security; to *stop* developing fast new submarine missiles that can attack our bombers before they get off the ground; to *eliminate all of their* SS-18s, the most dangerous and deadly missile on the earth today. And I will challenge the Soviet Union—as has every American President since Dwight Eisenhower, except one—to stop the testing of nuclear weapons.

And what about Star Wars? My friends, if we're going to keep America strong: if we're going to increase, rather than undermine, the stability of the nuclear balance; if we're going to make our defense dollars count, we've got to stop pouring billions and billions into this program and do some hard thinking about what we're trying to achieve.

There are those who would like to rip up the AMB Treaty; to extend the arms race into space; to undermine the effectiveness of the deterrent we have by pursuing a fantastically complicated scheme whose purpose seems to change every few months, and whose feasibility has been questioned by virtually the entire scientific community.

I have a different view. I will protect American security, not by scrapping the ABM Treaty, but by insisting that the Soviets live up to it, and that they dismantle the Krasnoyarsk radar. And I will request the funds to maintain a program of anti-ballistic missile research. Such a program will allow us to respond if the Soviets violate their obligations under the ABM Treaty, and it will allow us to make an informed judgment as to what the technology can and cannot do.

And what about George Bush on the subject of Star Wars? Well one of the reasons Mr. Bush is so reluctant to debate me is that he's so busy debating himself. One day he wants to speed up SDI. The next day he does not. But even he admits that if we continue to spend billions on it, we will have to cut somewhere else.

He won't tell you where those cuts will come. But the fact is that they're already cutting back on people; they're already cutting back on tanks; they're already cutting back on helicopters; they're already cutting back on ships.

My friends, we pay a price not just in *numbers*, but in *security*, when we do what Mr. Bush wants us to do; to continue buying without planning; to continue writing blank checks to the Pentagon without setting priorities or making tough choices; to continue business as usual, instead of managing the Pentagon to get a dollar's worth of security for every defense dollar spent.

Today, only 55% of our Army Reserves are combat ready. Our backlog of essential maintenance in the Army and Air Force is greater now than it was when this Administration took office. If we went to war tomorrow, we would have a shortage of 7,000 doctors and 31,000 nurses in the military. Maybe the Republicans aren't worried about that; maybe the work that military medics do isn't very glamorous, but to the GI and the sailor and the aviator and the Marine, nothing could be more important.

In Central Europe, the most serious danger we face today is the two to one Warsaw Pact advantage in modern tanks. Yet the Republicans have already cut our tank production and want to slash it almost in half again next year. And after nearly 8 years in office, they have still failed to deploy an infantry anti-tank missile that can take out modern Soviet tanks. A recent government report estimated that *up to 85%* of the infantry soldiers using today's anti-tank weapons to stop a Soviet tank attack in Europe would be dead after firing a single round! And that round would bounce off the Soviet tank.

Lloyd Bentsen and I are going to keep tank production up and we're going to invest in the new technologies we'll need to stop Soviet tanks.

Today, NATO's defense *absolutely depends* on air power—on the technological edge we get from advanced fighters like the F-15 and F-16. But the Soviets aren't standing still. They're copying our technology, even stealing it—and trying to catch up. And what is the Administration doing? They've cut back so much on maintenance that a senior Air Force official said recently that at the end of this year, "We are going to see airplanes without engines." And our very best pilots—the "top guns" of tomorrow—are leaving the military in record numbers. Mr. Bush convinced the President to veto the bill that had new bonuses for our pilots aimed at keeping them in. My friends, what kind of judgment is that?

We can do better than that. In my Administration, we're going to build on our technological lead with the Advanced Tactical Fighter to stay one jump ahead in the air battle. On time. On budget. And we're going to be sure that we have the money so that *that* fighter has engines, too. *And* pilots.

Today, the greatest threat to our naval fleet is from Soviet submarines. We need to invest in the best possible anti-submarine warfare capability in order to diminish that threat. But the Administration has let our lead slip, while Soviet submarines are becoming quieter and more deadly with each passing year.

My friends we can do better than that.

As President, I'll challenge our scientists and engineers to recapture our commanding position in anti-submarine warfare, on which NATO's strategy depends. And we'll build the SSN-21 *Sea Wolf*, our first new attack submarine in 15 years, as quickly as possible. We may not match Soviet numbers, but we *must* have superior technology.

Finally, if we're going to meet our treaty commitments; if we're going to meet our responsibilities around the world; if we're going to maintain America's status as the number one maritime power on the face of the globe; we've got to have a fully capable carrier fleet. And that means having enough planes to operate off those carriers; it means having modern munitions and well-trained sailors and aviators who have the opportunity to fly in time of peace and the aircraft their lives, and our freedom, will depend on in time of war.

Today, as Senator Nunn has pointed out, the "navy lacks the combat aircraft to fill its carrier decks in wartime because we built more carriers than we have aircraft to go with them." One-third of our heavy A-6 bombers are grounded or restricted because we don't have the money to fix the cracks in their wings. And this year, we decommissioned 16 frigates because we couldn't afford to operate them.

We've got to have leadership in the Pentagon that will take charge of our defense policy. And we've got to have a President who will keep faith with the men and women we ask to defend freedom and liberty around the world.

We have to keep faith with them because recruiting and retaining skilled people is the single most important element of any strategy for maintaining a strong defense.

We have to keep faith with our service personnel by giving them fair pay, decent benefits, and good health care for themselves and for their families. And today, military pay is further behind comparable civilian wages than it was when this Administration took office.

Finally, we have to keep faith with the men and women of our armed forces by making sure that every dollar we spend for defense goes for defense; not for weapons that can't do the job they were designed to do and not to line the pockets of some dishonest contractor or wheeler-dealer around the beltway in Washington.

Defense fraud isn't just another crime. When somebody cuts corners on quality, that's not petty theft, that's grand larceny. When somebody skims off profits for himself that should be going to strenghten our national defense, that's intolerable. When we have eight years of mismanagement, eight years of everything from $400 hammers to a $4 billion dollar DIVAD defense system that couldn't hit the broad side of a barn, it's not time for another study or commission, it's time for a new Commander in Chief.

George Bush and his running mate have opposed every single effort aimed at Pentagon reform. They opposed the creation of an independent Inspector General to investigate defense fraud. They opposed establishing an organization in the Pentagon to test weapons before we buy them. They opposed puting restrictions on the revolving door between the Pentagon and defense industry. And they opposed giving our field commanders more authority over what types of weapons we buy.

In fact, their idea of a triad seems to be waste, duplication and fraud.

Now, there are those who say that we can't change the way we buy our military weapons and supplies. The problem's too big they say. It's out of control. We don't know how to do it right.

Well, I don't buy that at all.

We have thousands of dedicated and professional people in the Pentagon, in our armed services, and in the private sector. They are looking for leadership that is competent; leadership that understands the problems our servicemen and women have to face every day and every week; leadership that cares about getting the weapons we need; when we need them; at a price we can afford.

In a Dukakis Administration, we're not going to ignore the recommendations made by the Packard Commission; we're going to implement them. We're going to increase competition. We're going to insist on warranties and independent testing wherever possible.

We're going to select experienced people to manage our military programs. And we're going to give them the authority they need, reward them when things go well, and hold them accountable when they do not.

You know, there was nothing heroic about the job my country asked me to do more than thirty years ago in South Korea. My memories are not of combat missions, but of guard duty, cold nights, army food—and it was pretty good!—and it was pretty good!—friendships made, officers saluted, and thoughts of my family back home.

But I also remember the pride I felt to be an American soldier on duty for America in a land in which the hunger for democracy was beginning to grow, and in which the strength of America had been felt on freedom's behalf.

My friends, that pride has only grown stronger with the passage of time.

And I'm running for President because I want to lead an America that leads the world; an America that does not settle for second-place or second-best.

An America that loves peace, but knows the cost of freedom.

An America that has not wavered from the pledge that another son of Massachusetts made 28 years ago, a pledge to "pay any price, bear any burden, meet any hardship, support any friend, (and) oppose any foes to assure the survival and the success of liberty."

My friends, today, 200 years after the election of our first President; let us dedicate ourselves anew to the dream of those who founded our country; firm in our purpose; true to our principles; confident that the best America is not behind us; the best America is yet to come.

GULFSTREAM AEROSPACE CORP.

Mr. NUNN. Mr. President, I want to take a few moments to bring to the attention of my colleagues two recent accomplishments of an outstanding Georgia manufacturing company—the Gulfstream Aerospace Corp.

Twice in the last 14 months, Gulfstream Aerospace and its energetic and dynamic chief executive officer, Mr. Allen Paulson, have made aviation history by setting world circumnavigation records in the company's Gulfstream IV jet.

Gulfstream Aerospace is a true example of the free enterprise system at work. In 1978 the company was acquired by Mr. Paulson, who is still serving his company as chairman and CEO, and in one brief decade it has become one of the world's premier business jet aircraft manufacturers.

Gulfstream Aerospace has grown from a facility on Savannah's International Airport employing less than 2,000 people to a manufacturing system employing over 5,000 persons in the States of Georgia, Oklahoma, and California. The company draws on suppliers in 26 other States, and its aircraft are powered by Rolls Royce TAY engines manufactured in the United Kingdom.

The company's latest version of its Gulfstream jet, the 16 to 19 passenger Gulfstream IV, has, since its certification by the Federal Aviation Administration in April 1987, made aerospace history.

Surrounded by military, business, and commercial aircraft of some 50 nations, the Gulfstream IV departed on June 12, 1987, from the 37th Salon International de Paris. It was enroute to a world speed record circumnavigating the Earth on a continuous flight westbound against prevailing winds.

The new aircraft, less than 100 hours off the Savannah production lines, was flown by the company's CEO. On this record setting flight, the Gulfstream IV set a speed record of 503.91 mph, which included four refueling stops, during its 22,886.45 mile journey. Facing headwinds occasionally in excess of 130 mph, the flight returned to the Paris Salon—landing on the runway used by Charles Lindbergh 60 years earlier—after 45 hours, 25 minutes and 20 seconds of elapsed time. This flight set two around the world speed records—one in the unlimited weight category, another in the 55,000 to 77,000 pound weight class. It also created 22 enroute city-to-city records.

The other four crew members of the Gulfstream were all from Georgia. There were three cocaptains: Mr. Jefferson Bailey, Mr. John Salamankas, and Mr. K.C. Edgecomb. Mr. C.B. Allen was the aircraft crew chief. The flight records were certified by an onboard observer from the National Aeronautic Association, Mr. Everett Longworthy, the association's executive vice president. The records have since been certified by the Federation Aeronautique Internationale in Paris.

As a result of this historic westbound flight and his lifetime of dedication to aviation, Mr. Paulson was awarded the prestigious Wright Brothers Memorial Trophy on December 11, 1987.

Then in January of this year a four-engine Boeing 747-SP, an aircraft many times the size and weight of a Gulfstream IV, was flown on an impressive two stop flight around the world, eastbound, eclipsing a record set by a Gulfstream III, 4 years earlier. The principals of that 747 flight challenged any other aircraft of this generation to beat their speed around the world, a challenge quickly accepted by the makers of the Georgia-built Gulfstream IV. Launched from Houston, TX, on February 26, 1988, a Gulfstream IV with "Pursuit of Perfection" emblazoned on its sides began its race with the clock and the larger 747.

Exactly 50 years earlier, Howard Hughes' flight around the world required 3 days and 19 hours. The Gulfstream, again captained by Mr. Paulson, set a new speed record of 637.71 mph. This aerospace achievement covered 23,047.476 miles requiring four refueling stops with a total elapsed time of only 36 hours, 08 minutes and 34 seconds.

The 747 record was broken by the smaller business aircraft by 45 minutes, 41 seconds. Nine city-to-city speed records were also set including one from the island of Maui in the State of Hawaii to Houston, TX, at a speed 693.96 mph—3,784 miles in 6 hours 16 minutes, or nearly 700 miles per hour.

The Georgian crew of cocaptains for this flight consisted of Mr. Bob Smyth, Mr. John Salamankas, and Mr. Jefferson Bailey. Again, the sanctioned flight was observed and monitored by Mr. Everett Longworthy of the National Aeronautic Association.

Mr. President, I want to congratulate Mr. Paulson and all of the employees of Gulfstream Aerospace—not just for these two recordbreaking flights but also for the high standard of excellence which Gulfstream has come to represent in the aircraft manufacturing industry.

DEFICITS, DEBT AND DEPENDENCE

Mr. BYRD. Mr. President, today we got better news, but still disturbing news, on the trade front. The $9.5 billion trade deficit for July was $3 billion lower than the $12.5 billion figure for June. Exports were up and imports were down almost across the board. Better than last month, Mr. President. But even if we maintain the July pace for the rest of the year, we will have a trade deficit approaching $130 billion. It is a little like finding that your town is still going to be hit by Hurricane Gilbert but that the winds have dropped to only 150 miles an hour.

Furthermore, Mr. President, yesterday, the Commerce Department released the current account figures for the second 3 months of 1988. The Nation is $33 billion further in debt than it was just 3 months ago; $70 billion further in debt than it was at the beginning of the year. At this rate, by year end we will have an external debt in excess of one-half a trillion dollars. Just 5 years ago, America had a surplus.

The new figures show that we are still going into hock only a little more slowly than we did 3 months ago.

Trade deficits and external debts are bad enough, Mr. President. But this month's statistics contained even more troubling news. For the first time since 1958, we had a deficit in the services account. For the most part, the service deficit reflects the mounting payments to foreign investors. From now on, Mr. President, we will be borrowing to pay for our trade deficit and borrowing to pay the interest on what we borrowed before. Any company that begins to borrow to pay interest on previous borrowing is on a slippery financial slope. It needs a change in direction.

Mr. President, America has not been without her accomplishments over the past 8 years. But when it comes to foreign economic policy, I am saddened by the past and worried about the future. Year after year, our trade policy amounted to little more than nostalgia for the past and a few nostrums for the future. Our country sallied forth like an aging Don Quixote ready to do battle with yesterday's windmills.

Where hard-nosed trade negotiators complained of monopolies and warned about mercantilists, the President talked confidently of the magic of the marketplace.

What we have had, Mr. President, is a policy of trade deficits, foreign debt, and growing industrial dependence.

The need for change is becoming increasingly evident. For example, the Department of Defense recently issued a report that is critical of the administration's own trade policies. Instead of playing the passive patsy, the Pentagon is calling for a hard look at the longer term competitiveness of America's manufacturing base. Instead of making short-term judgments about buying parts and components, the Pentagon report notes that dependence on foreign technologies is inherently risky.

There is not a single Member of the Senate who does not appreciate the virtues of economic competition. It can act as a spur to innovation, lower costs for the consumer, and contribute to overall economic growth. But with the active involvement of foreign governments and foreign cartels, there are times when international markets bear little resemblance to the text book model.

It has become fashionable, Mr. President, to talk about the inevitable decline of the United States. To look only at our weaknesses and not at our potential. There is no necessary decline in our future. There are challenges, not insurmountable problems. But this administration has never understood how the global economy has changed, how great the competitive challenge has become. The Pentagon report, Mr. President, is another urgent warning that the next administration will have a major task ahead of it to repair the neglect in our competitive standing.

Mr. President, I yield the floor.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the September 5, 1988, AIDS Weekly Surveillance Report, 72,645 Americans have been diagnosed with AIDS; 40,989 Americans have died from AIDS; and 31,656 Americans are currently living with AIDS.

Mr. President, 2,437 more Americans have developed AIDS and 1,369 Americans have died from this horrible disease since I last noted these statistics 1 month ago.

Mr. President, I am taking this opportunity to bring a matter of great urgency to the attention of my colleagues. On October 1, funding to help pay for the AIDS drug AZT will run out. As many Senators may recall, $30 million was appropriated in the Fiscal Year 1987 Supplemental Appropriations Act on an emergency basis in order that individuals who were medically eligible for AZT would not be precluded from receiving the drug simply because they could not afford to pay for it.

AZT costs approximately $8,000 a year. That is a lot of money for individuals who—even if they are working—face large medical bills and expenses resulting from AIDS. In some States, impoverished AIDS patients can receive AZT through Medicaid, but that coverage is not nationwide. The $30 million appropriation helped cover the cost of the drug for all people who, without that assistance, would be denied the only life-prolonging drug available.

The company that produces AZT, Burroughs Wellcome, originally charged $10,000 a year for AZT. Late last year, it reduced the price to $8,000. Although it appeared initially that there would be many AIDS drugs on the market and that Burroughs Wellcome would have a limited time to recoup its investment, that has not been the case. In fact, AZT has remained virtually the only treatment available. I would also note that the NIH played a significant role in the development and testing of AZT.

Mr. President, I do not quarrel with Burroughs Wellcome or any other company's efforts to make a profit. And, I do not criticize the company for acting on its shareholders' behalf. That is the free market system. But, I also believe that the private sector, particularly the pharmaceutical industry, has a moral responsibility as well to help improve the health and well-being of people who are disadvantaged, sick, or disabled. Moreover, as an August 30 New York Times editorial titled "Forcing Poverty on AIDS Patients" pointed out, "AZT is a special case".

Mr. President, the AIDS epidemic is testing the very fabric of our society like no other disease before. Conquering AIDS is going to require all of us to extend a helping hand—to show compassion.

I have recently become aware of practices by some pharmaceutical and biotechnology companies to provide high-cost drugs free of charge to low-income individuals not covered by government or private health insurance. This is a truly compassionate practice and I applaud those actions.

Although such a policy may not be completely feasible with AZT, I encourage Burroughs Wellcome to take any appropriate steps to carry on this new and compassionate trend in the pharmaceutical industry. In so doing, the company would truly be living up to its mission to relieve suffering and improving health.

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 30, 1988]

FORCING POVERTY ON AIDS PATIENTS

A year's supply of AZT, the only drug with some efficacy against the AIDS virus, costs a patient $8,000. A Federal grant to the states is available for those who can't afford it. But the grant runs out in September, leaving uninsured patients with a choice. They can stop taking AZT, or spend themselves into poverty, until their assets are worth less than $3,100, so as to qualify for Medicaid.

The Federal grant has little chance of being renewed, and states are not rushing to make good the shortfall. That focuses attention on the immediate cause of the crisis, the price of AZT, said to be the highest ever charged for a drug. The cost is personally devastating to those who must spend down to poverty, but the burden of paying for AZT in the end is borne by everyone through higher taxes and insurance costs.

Burroughs Wellcome, the manufacturer, says AZT is unusually expensive to make and that it has "committed more than $80 million" to developing the drug. But some of the $80 million is contracts for future supplies, not money actually spent. In any case, the cost of bringing the average drug to market is far higher—$125 million.

Burroughs did have a good reason for charging a high initial price, but the reason is no longer valid. When AZT was introduced, in March 1987, other and maybe better AIDS drugs were expected imminently. The company feared it would have limited time to earn back its investment. But the competitors have not materialized even now, and the market for AZT is booming. Last December Burroughs cut the price so as to reduce the annual cost to patients from $10,000 to $8,000.

Does $8,000 still represent an unreasonable profit? Only Burroughs knows, since it refuses to discuss costs. But some general principles apply. One is that drug companies should be allowed every incentive to develop effective drugs, especially for AIDS. Burroughs took a chance on AZT; why shouldn't its reward be to charge whatever the market will bear?

Perhaps because of another principle, that profit should be related to risk. Burroughs did not bear the full risk of developing AZT from scratch. The chemical was first synthesized in 1964 by Jerome Horwitz, a researcher supported by the National Cancer Institute. His hope was that AZT would work against cancer.

Its effectiveness against the AIDS virus was shown in 1985 by the National Cancer Institute's Samuel Broder. He developed a special screening system and tested AZT at Burroughs' request. But by the time the Government thought of applying for a patent on the drug it had invented and tested, it found Burroughs had done so first.

AZT is still the only drug that offers clear benefit to people with AIDS. Burroughs has earned a generous profit for its contribution. It took the risk of paying for manufacture and clinical testing at a time when AZT's privileged position seemed likely to be short-lived. But that's a considerably lesser risk than the patent system is designed to reward, that of developing a drug independently.

A drug company should not usually have to justify its profit, but AZT is a special case. The Government made major contributions to its development. Burroughs Wellcome is a subsidiary of a charitable trust whose founder, Sir Henry Wellcome, directed that earnings be used for research to improve the physical condition of mankind. He would surely be horrified to learn that people were being forced to sell their homes and property in order to meet his company's price for a life-prolonging drug.

REMARKS OF GOVERNOR DUKAKIS CONCERNING FOREIGN POLICY—CHICAGO, IL

Mr. PELL. Mr. President, Michael Dukakis yesterday gave an excellent speech on foreign policy. He is pungent hard hitting, far reaching and hazed on reason, not rhetoric. I know that I found myself in full agreement with its thoughts and main points and believe it would be of interest to my colleagues. For that reason I ask unanimous consent that Governor Dukakis' speech be entered in the RECORD following my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

MICHAEL S. DUKAKIS—SEIZING THE INITIATIVE UNITED STATES-SOVIET RELATIONS IN THE 1990's, CHICAGO COUNCIL ON FOREIGN RELATIONS, CHICAGO, IL

Yesterday, in Philadelphia, I spoke of the need to restore respect for American leadership in a changing world.

I spoke about the need to confront new challenges—the new challenges of tough international economic competition, terrorism and drugs. And that's not all. Western Europe is headed for full economic integration in 1992. Mexico, our neighbor to the south, faces new threats to its economic and political stability that we ignore at our peril. Strong international efforts are proceeding to end the Soviet occupation of Afghanistan, the South African occupation of Namibia, and long, brutal wars in trouble spots around the world.

But nowhere have the prospects for change been more dramatic; and nowhere are the challenges of change more complex than in our relationship with the Soviet Union.

It was more than 150 years ago that de Tocqueville foresaw a world dominated by two great and very different continental powers.

"The conquests of the United States," he said would "be gained by the plowshare; those of the Russians by the sword . . . the principle instrument of the former is freedom; of the latter servitude. Their starting point is different and their courses are not the same; yet each of them seems marked out by the will of Heaven to sway the destinies of half the globe."

History has done well by de Tocqueville, but even he did not foresee the day when two nuclear superpowers would face each other across the globe; the day when the relationship between the U.S. and Russia would determine not just the kind of future we will have on this planet, but whether we will have a future at all.

As de Tocqueville predicted, the Soviet Union has often pursued its goals down through the years, not with plowshares, but with swords; respecting the rights neither of other nations, nor of its own people. The symbols of tragedy and betrayal echo through the decades like the tolling of funeral bells; Berlin. Hungary. Prague. Afghanistan. Poland. The Gulag. And Sakharovs and Sharnskys and Solzhenitsyns by the tens of thousands.

We have fundamental differences with the Soviet Union. Differences of culture. Of history. Of interest. And of values. And these cannot be overlooked even as we think about Ronald Reagan and Mr. Gorbachev walking arm in arm through Red Square.

All Americans understand that.

The difference is that some of us do not, and will not, accept the tragedies of the past as a prophecy for the future.

The difference is that some of us do not, and will not, accept the tactics of our adversaries as an excuse for abandoning our own principles and values.

The difference is that some of us do not fear change. We welcome it. And we want to test it.

The Republican ticket does not have a strategy for testing the limits of what is called "new thinking" in the Soviet Union; Lloyd Bentsen and I do. We want to challenge the Soviet leaders, test their intentions, and explore the opportunities that may exist to build for our children a more stable and less dangerous world.

They are content to leave the initiative on arms control and regional disputes and the spread of advanced weapons systems around the world to Mr. Gorbachev; we are not.

They want to turn back the clock; to suggest that nothing has changed; to pretend that Soviet leadership today is as tired and as paralyzed and as heavy-handed as it was only a half dozen years ago. President Reagan understands the dangers of that course; and so do I.

Just as it would be blind to believe that nothing has changed in the Soviet Union; it is a mistake to suggest that everything has changed. Mr. Gorbachev is a Leninist. He has not abandoned Soviet goals, but rather seeks to advance those goals through different means.

Where his predecessors were ponderous in diplomacy, Mr. Gorbachev is nimble; where they were predictable, he has a facility for surprise; where they were orthodox, he has used the pulpit of our open western press to place before the world an image of a Soviet Union on the verge of far-reaching change at home, and in world affairs.

To deal successfully with Gorbachev, the next President must be tough, he must be realistic, he must have good judgment, and he must be committed to building a strong defense.

As President, I will provide that leadership. George Bush has been around Washington for a long time; but if he couldn't stand up to the Ayatollah or say "no" to Noriega, how will he measure up to Gorbachev?

And if he truly believes that J. Danforth Quayle is qualified to be one heartbeat away from the Presidency, how can we trust his judgment when America's future is on the line?

Three times since 1945, men who served as Vice President have been called to the Presidency, called to the leadership of the Free World. In each case, these men have had to engage in tough bargaining with the Soviet leader.

First Harry Truman at Potsdam, then Lyndon Johnson at Glassboro, then Gerald Ford at Vladivostok.

Dan Quayle is no Gerald Ford. He's no Lyndon Johnson. And he sure ain't Harry Truman. Can we stake our future on the hope that he is a match for Mikhail Gorbachev?

Today, Mr. Gorbachev presides over a nation that has seen its rate of economic growth fall in every five year plan since the

1950's. A nation where alcoholism and poor health care have chopped six years off the life span of the average male; where infant mortality is up and the birth rate is down; and where it takes the average worker four days to earn enough to buy a pair of jeans; and more than a week to buy a pair of shoes.

Mr. Gorbachev wants to make his country part of the international economic community. He wants access to western resources and technology. He wants expanded economic contact with the West and he wants to join international economic institutions. What is he prepared to do in return? Will we allow him to pursue that strategy unchallenged, or will we have a strategy of our own to protect American interests and translate Soviet economic weakness into improved Soviet behavior in world affairs.

The next President must understand the obstacles that exist to an improved relationship with the Soviet Union. But he must not be put off by them. We must act, not react, if we are to regain and maintain the initiative in world affairs. Yes, it would be naive to take Gorbachev at his word; but it would be dangerous to allow his words to go unanswered and untested in the court of public opinion around the globe.

We must maintain our military strength; increase our economic strength; preserve our alliances; and reaffirm our willingness to respond to force with force in defense of our vital interests around the world.

But maintaining the status quo is not enough.

We must challenge Soviet leaders as John Kennedy did twenty-eight years ago; "remembering on both sides that civility is not a sign of weakness, and sincerity is always subject to proof . . . let both sides explore what problems unite us . . . and if a beachhead of cooperation may push back the jungle of suspicion, let both sides join in creating a new endeavor. . . ."

Let us, in that spirit, meet the challenges of a new generation of Soviet leaders.

Let us challenge them to join with us to meet the responsibilities that as world leaders we both share—to work together to preserve our environment; combat world hunger; reduce infant mortality; and conquer AIDS.

Let us challenge them to build on the progress made already by Mr. Reagan and Mr. Gorbachev—to make deep cuts in the number of nuclear arms and reduce the risk of nuclear war. I supported the President on the INF Treaty. I hope he will make further progress on arms control between now and next January.

And let us challenge the Soviet leaders to match their new words of peace with new actions that will advance the cause of peace.

Let us, in the first months of the next Administration, seize the initiative in the relationship with the Soviet Union; and let us measure the prospects for change by observing the progress towards change—progress towards reduced tensions in Europe and in trouble spots around the world; progress in controlling the spread of dangerous military technologies; progress towards the promise of dignity and respect for all people in all societies in every part of this earth.

Mr. Gorbachev must understand that if there is to be a fundamental change in the relationship of his country with the western world; there must first be a fundamental change in the balance of forces in central Europe.

The Soviet leader has called for a "reasonable sufficiency" of forces." "In the European building" he says, "every apartment is entitled to protect itself against burglars, but only in such a way as not to demolish the next door apartment."

And yet today, more than half a million Soviet troops are trained, equipped and regularly exercised to conduct a surprise attack on Western Europe. The West does not threaten the East; and yet the threat posed by the massed military forces of the Warsaw Pact threatens not just to destroy the European building, but the planetary neighborhood, as well.

As President, I and our NATO allies will challenge Mr. Gorbachev to eliminate the Soviet advantage in tanks and artillery, not just by de-mobilizing those weapons, but by destroying them. We will challenge him to draw his troops back into the Ukraine; and, working together exchange observers at key military bases and transportation points so that we can be confident that Soviet commitments are being matched by Soviet deeds.

Second, I will challenge Mr. Gorbachev to work with America and other responsible members of the world community to cool, not fuel, regional conflicts. To heed the plea of President Arias and cease the shipment of arms to the government of Nicaragua. To stop supporting terrorists in the Middle East. And to take steps to resolve the greatest and most prolonged regional conflict in the world today—in Eastern Europe.

When we think of regional conflicts, we usually think of guerrilla warfare, stinger missiles, jungles and deserts. But we must constantly remind the Soviets of the regional conflict they created in Eastern Europe; a conflict that has resulted in totalitarian rule over six proud nations for more than 40 years.

We have heard the propaganda, but we know the facts. The nations of Eastern Europe are police states, not worker states. They are lands, to borrow Orwell's phrase, "where the fields are plowed by hand and books are written by machine."

My friends, the people of Eastern Europe want what we want; what all people want. The right to express their views openly; to choose their leaders freely; to worship their God openly and without fear. They want to breathe the sweet air of freedom and no Berlin Wall, no censor, no prison warden, no dictator can extinguish that desire from the human heart.

We know that the Soviet Union cannot ignore the security concerns that history has embedded in the very fiber of their society. But free trade unions do not endanger security; political parties do not endanger security; free elections do not endanger security; and the right to worship God can be a threat to no civilized power. There is no reason why the spirit of Nagy and Dubcek and Walesa cannot triumph. There is no reason why the Soviets cannot admit the tragedy at Katyn.

Mr. Gorbachev must understand that, in Eastern Europe, it is the status quo that creates instability. Repression has failed. Soviet domination of Eastern Europe is depriving its own society of the economic and diplomatic benefits that full acceptance in the world community would provide.

Third, I will challenge Soviet leaders to work with America and with other world powers to prevent the spread of nuclear and chemical weapons and the missiles that carry them.

The world faces few graver threats than the spread of nuclear arms. Ending the proliferation of those weapons will be a top priority in my Administration. I will urge Mr. Gorbachev to join me in making sure that all nations sign and strictly abide by the Nuclear Non-Proliferation Treaty.

Today, our ally Israel is threatened, and stability throughout the Middle East is endangered by the spread of advanced technology that will allow nations as irresponsible and aggressive as Syria, Iraq and Iran to launch missiles armed with deadly chemical—or even nuclear—weapons. So far we have heard nothing from Mr. Bush on the subject.

As President, I will work with our allies to persuade Mr. Gorbachev that if he wants to join the international economic community, he must first get out of the business of exporting these deadly weapons to volatile regions of the world.

Fourth, I will challenge the Soviet Union to live up to Mr. Gorbachev's stated commitment to "reject terrorism . . . and cooperate with other nations in eradicating this evil."

It's no secret that, despite what Mr. Gorbachev says, the Soviet Union continues to this day to supply arms to Qadhafi, Syria and the PLO.

We can't end the deep divisions that separate nation from nation and people from people overnight, but we can resolve—and all civilized nations should resolve—that terrorist acts, committed not to defend a society, but to sow fear among the innocent and suffering among the defenseless, cannot be rationalized, cannot be excused, and cannot be tolerated on this globe.

The Soviet Union must meet this standard. And in a Dukakis Administration, bearing in mind the tragic mistakes of the last few years, so will the United States.

Fifth, I will challenge the Soviet Union to live up to its obligations under the Helsinki Accords—to let Jews and other minorities emigrate if they wish, and let them worship freely and pass on their heritage to their children if they stay.

It is not enough to say that human rights are an internal matter. It is not enough to pretend that rights exist when they do not exist. It is not enough to dole out a few visas and allow the exercise of limited and long-delayed freedoms by a few; for human rights are not bargaining chips; they are not pawns in some diplomatic game; they are the very foundation of peace, itself. For peace can only come through understanding; and understanding cannot come when basic principles of human dignity and opportunity are denied.

My friends, the challenges we will make to the Soviet Union: to draw back from confrontation in central Europe; to bring down the walls of repression in Eastern Europe; to control the spread of dangerous weapons systems; to fight terrorism; and to respect human rights; are offered not as hurdles to impede progress towards peace; rather, they are the rungs of a ladder which must be scaled if a true and lasting peace is to be maintained.

Taken together, these challenges reflect not a set of standards that the Soviet Union alone must meet; they demand a pattern of behavior by which all nations may fairly be judged.

We, in America, should stand ready to respond to progress with progress; to meet the Soviet Union at the bargaining table instead of the battlefield; to hold out the prospect of better economic ties; to open the door to closer cooperation on the environment; and to end human suffering.

But we must be ready to meet stubbornness with determination; deception with the truth; and aggression with the full power of a strong and united democratic alliance.

My friends, I am running for President because I want to lead an America that leads the world; an America that does not settle for second-place or second-best.

An America that loves peace, but knows the cost of freedom.

An America that has not wavered from the pledge that another son of Massachusetts made 28 years ago, a pledge to "pay any price, bear any burden, meet any hardship, support any friends, (and) oppose any foe to assure the survival and success of liberty."

My friend, this year, 200 years after the election of our first President; let us dedicate ourselves anew to the dream of those who founded our country; firm in our purpose; true to our principles; confident that the best America is not behind us; the best America is yet to come.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business to be conducted? If not, morning business is closed.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The **PRESIDING OFFICER**. The clerk will report the pending business of the Senate.

The assistant legislative clerk read as follows:

A bill (H.R. 1154) to remedy injury to the United States textile and apparel industries caused by increased imports.

The Senate resumed consideration of the bill.

Pending:

Hollings Amendment No. 2945, in the nature of a substitute.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, to further the understanding of our colleagues, I appreciate this opportunity this morning to elaborate on the nature of the competition that we face. We have heard that we lack technical skills, that we lack capital, that we are not productive, that we do not think positively.

I have heard it before, but never more eloquently than by our distinguished colleague from Oregon in his think-positive philosophy of "I think I can." He has made a number of valid points, but valid at a different time and in a different economy. The truth of the matter, Mr. President, is that since World War II the economy of the United States and the economy of the entire world have changed dramatically. And that change has been led by the government-sponsored commercial offensive of our colleagues in Japan, which must be respected and, in certain instances, admired.

It is remarkable to take a country, devastated in World War II, with no economy and no industrial production, and bring it in a 43-year period from number zero to number one. That seemingly should intrigue U.S. Senators and Congressmen. But it is not a phenomenon that can be understood through political bumber stickers and campaign slogans and 20-second sound bites. It requires study in depth.

The Japanese like to explain their ascendancy as the product of their work ethic and unique culture. And assuredly they are a factor, but not the determining factor when it comes to economics and market share and competition and productivity and those kinds of things.

From the ashes of total defeat in 1945, Mr. President, the Japanese have followed a brilliant game plan. While Americans were talking about antitrust and consumerism and free markets, the Japanese cleverly nodded but rejected our course. For one, they rejected heavy borrowing. They insisted on building up their own capital.

My colleague, the Senator from Oregon, pointed out that at one time in our history we borrowed from the British. Today we borrow from Japan, tens of billions of dollars a year. And we pay billions in interest to Japan to finance the extravagance and profligacy of this Government. We will not pay our bills. We just keep borrowing.

In fact, I am rather intrigued by the Senator's consumer arguments, his sticking up for so-called consumer rights. I had never heard of any Government organized for the consumers, except perhaps Rome. And we know what happened when Rome set off on the path of bread and circuses and spending and profligacy and extravagance and waste. It led directly to the decline and fall of Rome.

And now today we are embarked on a similar course. Our national debt has trebled during the Reagan years. They call it an economic miracle. I call it an economic binge. There is no question about it. If you infuse up to $200 billion in deficits each year into the economy, you are bound to create some kind of jobs somewhere, even if only at the banks where they scramble to count the money and loan it out and issue credit cards and so on. So we have had a $200 billion binge—unheard of in previous administrations.

I will never forget that, as chairman of the Budget Committee, I went to President Carter after his defeat in November 1980. I said, "Mr. President, you are going to leave a bigger deficit than what you inherited from President Ford."

He said, "That can't be."

I said, "Oh, yes."

He said, "What was the Ford deficit?"

I said, "$66 billion."

He said, "Well, what is the projected deficit?"

I said, "$75 billion."

"We can't let that happen," he said.

"There it is, $9 billion more than Ford's biggest deficit."

The President of the United States said, "That has got to be stopped. We cannot allow that to happen."

I said, "I agree, Mr. President, but leave it to me to get the votes from our liberal friends. Just let me handle it. Tell that OMB crowd to stay back at the White House."

And I went, thereafter, to our friends McGovern, from South Dakota; Magnuson, from Washington; Frank Church, from Idaho; John Culver, from Iowa; Birch Bayh, of Indiana; and Gaylord Nelson, from Wisconsin, and I said, "You folks have got to help. We can't let stand a record of a deficit of $75 billion."

We must cut the spending levels that have already been appropriated. We called it a fancy word, "reconciliation." It was the first reconciliation bill, on December 5, 1980, that we passed into law.

How far we have come from that innocent time. We were worried, then, about increasing the deficit $9 billion. We flat lie about that kind of money today; we obscure it in smoke and mirrors. One agency, OMB, says the deficit is going to be $150 billion; CBO says no, $170 billion. We know it is going to be nearer the $170 billion. But we just juggle the figures. We say, well, let us use OMB figures for our distinguished Parliamentarian to make a ruling on. We will not let the CBO figures be used. We prefer OMB, because OMB lets us cook the books and continue the binge.

So now we have trebled the debt in 7½ years. It is up past $2.5 trillion. We have a budget deficit and a trade deficit that together will approach $400 billion at the end of the year.

We are just going up, up, up and away on a binge.

If we would try to sober up and ask questions and become curious, we would learn that Japan instituted fiscal discipline and savings and they went right to the heart of the matter. They instituted a postal savings plan to encourage massive personal savings.

In the United States of America, we practiced the same discipline when we grew up during the Depression days. We saved every nickel we could get our hands on. Today we spend every nickel we can get our hands on because it does not pay to save.

The Japanese, in contrast, have fostered their postal savings plan to raise capital from the people. They did not have credit cards.

Can you imagine a society without credit cards? The Japanese call us immoral. Maybe it is immorality, but I think the explanation is elsewhere. The answer is in incentives. If it pays to save, if the incentive is there, human nature responds and people save. In Japan, you are not rewarded for interest on your investments. You do not deduct the interest costs on any kind of loans. Instead of interest free home loans on the home, in Korea you must buy a couple of thousand dollars in bonds when you buy that home, which is money to go back into the kitty as available capital for others to buy a home.

So, in Japan and Korea, the rewards are given to conservation, to saving. They seek to build up capital and avoid becoming indebted.

Then they take that capital and allocate it to foster exporting industries. There is the choke point. I heard a little while ago our distinguished friend from Delaware, Senator ROTH, talking about how the power of the purse is the power to control. Well that is the choke point.

If you have an agency like the Ministry of International Trade and Industry to allocate that capital, then you can say we are going to build this and not build that; we are going to put our money in this and not put our money in that. The Government orchestrates the economy to win in world markets. That is the nature of our competition.

It is not, if you please, Mr. President, "free market, free market, and you have to think positively." That is what they teach freshman in economics 101. They teach freshman that badly run businesses go broke. People take risk. Some go broke. Others succeed. That is the way it is supposed to work in a free market. But, internationally, we are not in a free market. We try to disregard and turn a blind eye to exactly what is going on.

Why? In a 43-year period, Japan has grown richer than we are. Per capita income in Japan is $19,000 per year. The per capita income of America is only $18,600. There, the victor has now been overcome by the vanquished. They are richer than you and I are. Their system has worked. Their governments control that capital, and, in allocating it, favor certain exporting industries. And they provide the tax incentives, and they provide leasing companies, and they control the domestic market. They do not allow a price war. There is no free competition in the domestic Japanese market. Then they pressure all sectors of the economy to buy Japanese. Compare that to the United States, where we just heard an amendment on the floor that declared it was wrong for us to even buy American for our defense.

There was a finding by President John F. Kennedy 28 years ago that the textile industry is second only to steel in importance to our national security. Obviously, we cannot go to war in Japanese uniforms and Gucci shoes. Where are we going to get the woolens? We have very few woolen uniform producers right now. We would be in a crisis condition if we went to war.

We had better be careful where we choose to make wars; pick out Vietnams and other warm places. Do not pick out any cold places because we just do not have the woolen uniforms at this time.

But now over $10 billion, Mr. President, goes for foreign purchases in our defense bill: $10 billion. Can you imagine that? $10 billion to boost foreign economies. And we are sitting around talking about jobs and jobs and jobs, and how to create them in America.

The press supports this folly. Ask them the last time they let the press listen in on Japan's Ministry of International Trade and Industry. Their MITI meetings at the Iron and Steel Building every Monday morning, are a cabal. They meet and decide the national commercial policies, decide the allocations for the development bank, for the various commercial banks, who gets the credit, at what rate, and so on.

Incidentally, capital, I have seen estimates that it is anywhere from three times easier to seven times easier to obtain capital in Japan than in the United States. The Japanese investor has a 7 to 1 advantage over the American investor. They are so rich and omnipresent that they are buying up everything in sight.

In contrast, the United States handles trade through some 28 departments and agencies. Harry Truman, the little haberdasher from Independence, MO, said at the end of World War II, "The State Department crowd says one thing ought to be the policy, and about that time in comes the Defense Department and says, 'No, no, you have to do this.' Our intelligence sources say, 'No, this is the case.'" He said: "I can't make heads or tails, but I am going to put them all down in the cellar into one National Security Council and let them hammer it out downstairs, bring it up to me and give me two or three alternatives and I can make a decision."

The result was the Marshall plan and the Truman doctrine and the North Atlantic Treaty Organization—you really have some farsighted foreign policy thanks to a little man who had common sense.

I see nothing but confusion in our Government on trade. You have the Department of State, then you get the Department of the Treasury with its customs and duties and tariffs, but, no, the Department of Commerce is supposed to set the policy. I am chairman of the Commerce Committee. I have never been able to get hold of our policy. Every time you try to set one, they run it over to the Finance Committee. They want to control it over there.

The Department of Agriculture also gets into the act. There is a Special Trade Representative running around trying to sell tobacco and oranges while we are importing orange juice from Brazil.

All I have ever wanted to do to bring about a little competition; to put America on an equal footing. We could not duplicate Japan, Inc., as they call it, and would not want to duplicate Japan, Inc. But we must wake up and sober up to the nature of the challenge before us.

The Japanese have an antitrust law, but it is not enforced and, on the contrary, they actually encourage cartels. They permit price discrimination and price-setting. They subsidize their exports and use arbitrary inspection practices to block imports.

If you try to sell a Ford automobile, it takes 4 months on the docks of Japan to get it through inspection. They will change the battery cable requirements and get a different specification because they do not want a surge of auto imports. General Motors and Ford used to dominate the Japanese market. But we have been shouldered out of their market.

They strictly control their market and put in arbitrary standards for imports. You have to meet Japanese standards. They put a twist and a turn on it in a sinister fashion. Any time we try to send the same product back, they make a slight change.

If we think it is tough to get a Ford automobile into Tokyo, it takes 1 year to get a Toyota or Japanese car into Paris, France. They still are inspecting the 1988 models. If you want to buy a 1988 Toyota in France, you cannot buy until January 1, 1989.

In contrast, the Toyotas are delivered to the dock in Portland, OR, and of a thousand cars that arrive, we inspect about 10. They put them on flatbeds and railroads and bring them across to New Orleans and Charleston, SC. They get immediate service and quick passage.

The fact of the matter is that there is a version of MITI in one form or another in all of these Pacific Rim countries. They have seen the Japanese. They have adopted the model. They all work together as a society.

Now the European Economic Community is moving in the same direction. Economics is forcing the European Economic Community to move in the same direction. It is nice to hear Americans babble about free markets, but the EEC is moving into a unified market by 1992. The Economist magazine deplores the fact the the EEC is expanding specifications and standards, that they were putting in EEC—content bills, tariffs and nontariff barriers. The Economist writes in dismay, "Oh, where are we headed?" Well, I can give you the answer. The EEC is headed to compete. The EEC is doing what is necessary in order to bring about competition and perhaps, as I have indicated, increase the free market. They realize that, temporarily, you have to raise a barrier to remove a barrier. You have to make barrier—removal in the economic interest of the trading rival.

So, Mr. President, the natural forces of economic competition have not only moved Taiwan, Korea, Hong Kong, Thailand, Indonesia, the Pacific Rim countries into the same competitive mode, but they are moving the European Economic Community, to the dismay of the London Economist and perhaps many others. We will be the lone remaining nation sitting on our laurels, fretting that we may start a trade war. Heavens above, the trade war has been going on now for 30 to 40 years in a cleverly-directed market assault. We are up in the grandstands caterwauling. We are like children on the floor of this Senate, babbling about protectionism.

Now, Mr. President, you and I take the oath to preserve, protect and defend. The President of the United States under the rotunda is sworn to preserve, protect and defend, but once you move 100 yards north to the floor of the Senate and if you say you are going to protect, people go ape, saying "Oh, my heavens. We are glad to see a fellow who is honest and willing to say he is a protectionist, but it is an abominable sin."

The fundamental principle of government is to protect. We have the Army to protect us from our enemies without, the FBI to protect us from our enemies within. We have Social Security to protect us from old age, unemployment compensation to protect us from the ravages of the loss of a job. We have environmental laws to protect us in the air we breathe, the water we drink. We have industrial laws to assure safe machinery and a safe working place. All of these laws are to protect. That is what you and I swear to do. But if you try to protect your industrial backbone, your standard of living, it is taboo. It is heresy. The fellow must be crazy.

Why, Heaven's above, I heard the lecture about Hamilton wanting mercantilism. The point is that Hamilton was against America's remaining a trade colony of Britain. He advocated our independence and, as a result, working with Jefferson and Madison, the very first bill to pass this Congress July 4, 1789, was a tariff bill, up to 50 percent duties on steel and 70 other articles. Hamilton told them back in Great Britain, "We are not going to remain your colony." They listened to that comparative advantage nonsense. Britain said, "You in the United States trade with us what you produce best with your comparative advantage. There will be no tariffs, no barriers. Free trade. Free trade. And we in turn, in merry old England, will trade back with you what we produce best with our comparative advantage. There will be no tariffs, no barriers; free trade, free trade." They are still advocating this nonsense in the London Economist. They must have written for King George.

Well, here we go. Hamilton said in his report on manufacturers, "Bug off"—two words to describe that scholarly treatise. He said, "We are not going to remain a colony. If we did that, we would never produce any finished goods. We could not build up our economy, our defenses," and so they passed that first bill to protect U.S. industry. So I said yes, Hamilton, Jefferson, Madison, the Founding Fathers were protectionist. Put me down behind them. Add Lincoln when he built the transcontinental railroad, built the steel mills. They said, "Buy it from England." Lincoln said, "No. We are going to make the steel in this country. We will have not only the railroads but the mills." Franklin Roosevelt, with a developed economy that went into the Depression, was a protectionist. FDR put in the Agricultural Adjustment Act with price supports to protect our agriculture.

So I join protectionist Roosevelt and protectionist Ike. Eisenhower in 1955 put in import quotas for oil. Old protectionist Eisenhower and old protectionist Roosevelt, Madison, Jefferson, Hamilton and Lincoln. I join the crowd because they knew how to acquit their fundamental responsibility as public servants in Washington.

The newspaper editorialists claim I have been bought by the textile industry's paltry contributions. That is the pot calling the kettle black. I got the Washington Post's annual statement; it shows that they get 89.3 percent of their revenue from the retailers. Have you ever seen an editorial favoring a textile bill? They favor the retailers. I never heard of a textile manufacturer advertising in any of those newspapers. They know where their bread is buttered.

We must protect our economy, because systematically the Japanese have moved in. They have gone down the line with autos, steel, banking, textiles. There is no mystery to it.

We politicians on the floor of the Congress are the ones who ought to get off the golf course. We are the ones who set the policy. We are the ones that set the standard of living.

Yesterday, I listed the protected items—Social Security, unemployment, minimum wage, clean air, clean water, parental leave, day care centers, plant closing—fine, let us have it all and put it all in. That adds to the cost of production.

I was listening this morning to a news item about a gentleman working in an auto plant in Korea. He works 11 hours a day, 6 days a week, and he makes $10,000 a year, less than poverty wages in America. Do we want to work 11 hours? He works that 11 hours, 6 days a week, and he is happy. He said he would like to get more. That is the ethic.

I described the dowry where the Korean women come in at age 18 through 22. They build up their dowry at $1.35 an hour working 6 days a week, 10 hours a day. Then they go back to the village to get married. Do we want to say that that is what we expect the ladies of America to do? There are no health insurance costs there. The average age is around 24, 25 and the plants have thousands of these charming young ladies. But the average age of the competitive plant that is outprocessing them in South Carolina is around 50 years of age.

The U.S. textile industry is mechanized and automated. Our industry has invested $18.6 billion since 1980, over $2 billion a year. We have had a 4.6-percent increase in productivity each year every year for 10 years as compared to that national average of 2.7. We are the most productive textile industry in the world. But why should we continue to invest if we have reached that 55 percent import saturation level?

I saw it happen in the shoe industry. They told the shoe industry at the 50 percent mark—about 52 percent in 1982—"Don't worry, compete, beef up, modernize. You are not competitive; you are not productive." Well, with all of that, even though they proved their case of injury twice before the International Trade Commission, they turned them down at the political level. The White House overruled the findings. The shoe people used the law that you and I have put on the books. So now 84 percent of the shoes around here in this Chamber, and 84 percent of all the shoes in the United States are imported. And so the question is do we want the textile industry to go that route?

My colleague from Rhode Island [Mr. CHAFEE] comes in, and he says there is full employment in the shoe industry, full employment in the shoe industry. Nonsense. They only have 16 percent of the shoes being produced in this country. That is why I said in the next war we will have to go in our Guccis. We cannot produce the shoes here. We will have Japanese uniforms, and Gucci shoes.

So the question before the Congress on the textile bill is not something just for South Carolina because we have garment workers not only in South Carolina but in downtown New York, and in downtown Chicago, IL. This thing affects the cotton farmers, and the wool growers who stand to go out of business. They do not sell any wool overseas, but they sell it for wool production right here in the United States. That is why the farm States now are beginning to see the light, because they have a diminishing international market to sustain them.

The European Economic Community used to import wheat. Last year, they exported 20 percent of the world's wheat thanks to a 25-percent subsidy.

Similarly, the People's Republic of China used to import our corn. But last June, a year ago, in Long Beach, CA, they landed corn at 18 cents a bushel less than Nebraska corn. So the Chinese, a billion of them now, are increasing their productivity. They have incentives.

That was the dramatic impression on this Senator when I was there in 1986, comparing it to 1976, when they were destitute. They had loudspeakers in the field, and they were conducting reeducation. It was deplorable, living in mud huts. Now they have picket fences around, with little plots, and not only produce for the State, but also for themselves. The women in the little communities are making textiles, and they are moving into the market in Hong Kong. We are really competing with the People's Republic of China, not directly but indirectly, through Hong Kong.

So, how do we survive and how do we remain as a world power? We cannot, unless we can produce steel, rubber, glass, aluminum, rolling stock. You cannot deliver your wheat on an optic fiber.

These fuzzies in the East, at Harvard, say, "High tech, high tech, high tech." They do not understand. You can make all the high technology you want in Indonesia. This year, Indonesia's revenue will not come from exports of oil but from industrially produced items.

Peugeot has a factory on the Ivory Coast; automobiles in Africa; semiconductors in Brazil; high technology in Mexico.

We sit here smugly, like we are smart, Caucasians with a lot of brains and research, and we are the only ones who can produce. Baloney. They are producing Boeing airplanes in Japan. The Boeing airplanes made in Washington are made with Communist Chinese parts.

There you are. The People's Republic of China is winning out. We are helping the Russians. We are helping the People's Republic of China. We are helping the Bulgarians. We are helping the Romanians. We are helping the Communist states where, they say, we cannot even determine a subsidy. They are dumping their products right here, and their textiles particularly, into the United States.

So there it is. Are we going to protect our market share? The answer is yes. What part? I say give them all they have. Give them a majority of our market.

Who ever came before a political body and hoped to survive politically by giving away half his industry? That is how desperate I am, because I have been to the top of the mountain and I have seen the other side. If we go to 84 percent import penetration, then we have lost a basic industry that my friend Jack Kennedy found was vital to our national security.

I do not want to go that way. No sane man—as we call them in the law, "no reasonably sane and prudent man"—is going to invest in the textile industry. There are many other opportunities for investment.

So, while they have been investing $2 billion a year since 1980, they have quit, and, yes, they do fall behind. Instead of being the most productive, they would become unproductive, and the foreign producer takes over.

We politicians do not understand the results of the laws we pass. We are the ones who set up all these things that require child care. Of 17 million jobs, 50 percent are part time.

All this is in your back yard—in Illinois, Michigan, Indiana, Detroit. I have seen it because I have campaigned through here. Automobiles are assembled with Japanese parts, by a robot, and they call them American cars. The whole guts and sinews of that industry have gone overseas.

I have to listen to Iacocca, with his American Flag: "Get a better buy, get a better buy." Now he is going to Korea, because I got him the money, as chairman of State-Justice-Commerce—we got him the money in the appropriations bill at Christmastime, and we have not seen him since. Why? Because he has gotten off the golf course. I do not belittle him. I admire him. He has been competitive, and competition requires him to go down now to Mexico, like some of the industries Governor Hollings brought in.

Until 6 or 7 years ago I never had an industry leave South Carolina; never heard of it. I got Elgin Watch Co., in Illinois; brought them down to South Carolina to make watches. I renamed the town of Blainey, and it is now Elgin. We call it Elgin, SC. They had an increase in productivity of 75 percent. They said they are leaving for Korea and they do not make Elgin watches in America today.

Retraining Act. For what? If I am a businessman and you have a 50-year-old or 55-year-old employee and he has lost his job, why should I take him on? I am going to take on a 25-year-old. I do not want to start paying out health costs. If I hire the 50-year-old, I have health costs and retirement to pay. I look at my balance sheet, and the auditor says: "Hollings, you're goofy. Get out of the company."

It is not that 50-year-olds are not productive. They are productive. You can retrain them all you want. We do not need politicians to say they are for national defense and then not protect the industrial backbone of our Nation. They are the ones, by cracky, who are causing my problem.

The State of South Carolina has the best retraining system in the United States, and we pay for it, and we do not need any Federal money. But you have to have the jobs, and the jobs are not there. So they do go to lesser jobs. The Joint Economic Committee has reported how they are resorting to lesser jobs, and now we find out that of the 17 million new jobs since 1980, 50 percent are part time.

Industry has gotten so competitive that they say, "We can make more profits by not taking on any kind of promotional responsibilities, any kind of benefit responsibilities, any kind of retirement and pension responsibilities. So we hire them part time."

Yet the politician on the floor says, "You've got to be more positive"—"Norman Vincent Packwood." "You've got to think positively. That's what you need to do."

We had 584,000 businesses that "thought they could" and went bankrupt last year, and we will have 610,000 more this year. We have 274 new bankruptcy judges and they have an amendment over there to put on another 10—284 bankruptcy judges.

So as a result of our policy or lack of a trade policy, Heaven's above, I am spending $211 million just to go broke.

I have the biggest court system you have ever seen. Every time I meet with my subcommittee on appropriations I have more crime, more policemen, more drugs, more bankruptcy judges and they say "Oh, we have agreed at the summit agreement that we are not going to have problems next year. We are going to have the same problems in 1989 that we had in 1988. So your problems will not increase and you do not have to take care of them."

That is how the politicians think and they all get the good government award. "Now we made a very sane, sensible, fine agreement. We showed constraint. We are going to handle this deficit and so there will not be any provisions for those new problems."

Well, that is why you do not have poor people in the State hospitals.

I went up to New Hampshire, as well as Maine, and what we did on a Saturday afternoon in Rochester was feed the hungry. There are 11 churches in Rochester, NH. So my wife and I went to feed the hungry, and 90 percent of the hungry were mentally ill. They belong in an institution. You know how they got them out on the street? They refused to approve at the governmental level in Concord, NH, beds for hospitals. So they just put out an executive order—no beds and no hospitals, and they have "solved" their health problem.

So I go around and meet them in the bread lines on Saturday afternoon.

It is a tragedy in this country.

And you have no Space Program. You are barely cutting and pasting to keep it alive. You have no Housing Program. They are sleeping on the grates as you and I go home. You have no Education Program. They have cut education. They tried to abolish the Department. Now they all want to be the "education president."

And you can go right on down the list.

(Mr. SHELBY assumed the chair.)

Mr. HOLLINGS. Admiral Yost of the Coast Guard said "You cut me $100 million. I am tying up ships. I will have less enforcement. I will have fewer drug cases. I will have less search and rescue from the Coast Guard this year because you have cut me."

Little Steve Forbes comes in with Radio Free Europe, "I've got to close down Radio Free Europe in Munich in August because I have run out of money. You cut me 40 million bucks."

Oh, were we not sensible?

He said, "I fired the people. It cost me more in Germany, incidentally, to fire them than to keep them on the payroll."

So he kept them and we did not get the supplemental bill like people of common sense. We did not get the emergency supplemental bill. We got the dire emergency supplemental bill and gave ourselves a good government award then for this cost to Government. We are really brave. We took the courage, and it is a dire emergency supplemental bill.

This thing is all Hollywood East, all "applesauce" as Will Rogers said, all politics. It has gone to pot, and Senators will not come and they will not debate.

They wanted the time. We could have voted on textiles right now. But they wanted to debate. But they do not want to hear the great issue.

Of course, the first problem we have, Mr. President, is the problem you and I heard on our trip to the Far East in August.

If I talked to the Foreign Minister, and I did, in Korea, after a short conversation all he said, "Senator, what about the economy back in the United States?"

I said, "I am glad to hear you are worried about it. I have been worried but I cannot get a majority to worry about it."

I went over to the Blue House with President Ro, and I met with him the year before his election and we became friends, and before long I had over a 1 hour and 15 minute talk with President Ro, and he looked at me and said, "Well, Senator, what about that deficit in your economy?"

They are worried. They know this thing cannot go on. I mean reasonable, sane, and prudent people have to wake up.

John F. Kennedy wrote the book "While England Slept." We can write a book now "While America Slept," here almost 50 years later, fast asleep with respect to the trade competition, call it war or whatever else.

Down in Indonesia, in Thailand, in Taiwan, the leaders wondered about our economy. The people in the Pacific rim are realists and they are not getting by with anything. They know that somehow or the other it has to be reconciled because in this country we do not know about industrial competition.

You cannot have any political power or military power unless you have economic power, and this cannot continue. That is the big worry.

I yield the floor.

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF NICHOLAS F. BRADY

Mr. BYRD. Mr. President, with the Republican leader on the floor at this moment, I ask unanimous consent that today at 1 o'clock the Senate go into executive session to consider the nomination of Nicholas F. Brady, of New Jersey, to be Secretary of the Treasury; that there be a 30-minute time limitation on the debate to be equally divided between Mr. MOYNIHAN and Mr. PACKWOOD; that the vote begin at 1:30 p.m. on the nomination and it be a 1-hour vote, to close at 2:30 p.m.; and that upon the disposition of the nomination the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader, and I thank all Senators.

Mr. President, I ask unanimous consent, as in executive session, for the yeas and nays on the nomination.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr President, I again thank all Senators.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I commend the distinguished Senator from South Carolina for the leadership and the foresight, the tenacity, and the persuasiveness with which he has pursued this legislation. It has been a pleasure, indeed an honor to have worked with him on it, and to have observed daily his commitment to the cause of the hundreds of thousands of Americans who earn their living in textile and footwear industries. They all, and I believe we all, owe a great debt of gratitude to the distinguished Senator from South Carolina, and I just want him to know that we are very grateful for all that he has done on the legislation and we look forward to its enactment.

Mr. HOLLINGS. I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the distinguished colleague from Maine. He is a leader on environmental issues, and now he is the voice of our conscience. I also commend Senator MITCHELL on his leadership with respect to the shoe industry in our Nation and the leadership he has given in the adoption of our textile-footwear bill.

Mr. President, I refer my colleagues to the September 3, London Economist lead editorial. In the education of a politician, I find this a very valuable document.

I ask unanimous consent that the editorial in September 3, 1980's Economist entitled "The Shape of Europe's Trade" be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Economist, Sept. 3, 1988]

THE SHAPE OF EUROPE'S TRADE

From within their newly armoured siege-towers, the Americans watch Europe's masterbuilders at work. Surely they are building a fortress? No, say the Europeans, by 1992 we will have created a great market whose wide avenues will be open to fair-minded traders from every land. The watchers are not convinced. They note that Europe's masons hold their plans close to their chests. They watch brick after protectionist brick—an anti-dumping suit and a reciprocity clause here, a local-content rule there—being added to Europe's agricultural earthworks. Soon the taunts fly as never before, with both sides prophesying war.

The medieval image would be quaint if it were not so sad. Much of the world is in the middle of a heartening phase of enthusiasm for unfettered markets. The greatest pretext for trade complaints—Japan's relentless dependence on exports for economic growth—has been suddenly and substantially diminished. Governments have started a round of GATT talks that are supposed to get modern protectionist tricks under control and extend the benefits of undistorted, multilateral trade to services and agriculture. Now a transatlantic shouting-match threatens to ruin them.

The American watchers are not blameless. Whatever the stated beliefs of President Reagan, his administration has put many

> more trade restrictions in place than President Carter's did. Its use of anti-dumping actions and countervailing duties against supposed subsidies has, while declining, been far heavier than that by Europe. The latest American trade bill is not the monster that was once feared, but it still threatens copious "protectionism-by-investigation", akin to a trader having his premises constantly searched by the authorities. It became law because President Reagan let a lot of protectionist nonsense slip through while venting his spleen on a relatively benign clause to do with factory closures.
>
> ### FROM THE FOLKS WHO GAVE YOU THE CAP
>
> But nor can the American watchers be blamed for doubting Europe's intentions as it builds an internal market of American scale. The main existing pan-European construction—the common agricultural policy—relies on massive trade-distortion to support the incomes of Europe's farmers. It has become such a part of Europe's political landscape that it is virtually non-negotiable in the GATT talks on farm trade. The risk is that project 1992 could end up creating a common industrial policy, as ugly as its country cousin. Individual EEC countries now realise that they will have to make traumatic concessions of sovereignty to put the mighty market together.
>
> It is tempting for the European Commission to overcome their reluctance with "transitional" European protectionism. Later, the commission will explain that these measures must, alas, remain permanent because of the weight of political interest vested in them.
>
> Implicit in such buying-off is the preference given to producers over consumers in the new Europe. Big European companies were early champions of the idea of a unified market; they felt they needed wider, less red-taped horizons than their individual home markets could provide. The world market? No: a big sheltered European market was what they had in mind, and that is what they are now demanding. Consumers, who want to buy the best and the cheapest from anywhere in the world, have had too small a say.
>
> Too many Europeans already take it as read that access to their sheltered market by foreign companies will be a privilege that has to be paid for. Mr. Willy de Clercq, the European trade commissioner, has made it clear that in demanding such reciprocity "we will have to pursue a symmetry not so much in the legal equivalence of conditions of access to markets, but rather an equivalence in their economic effects". In other words, the playing field will not be considered level until the same number of goals are being scored at each end.
>
> The reciprocity argument threatens to crop up whenever the EEC negotiates a directive (European law) that is vital to 1992. The draft directive allowing banks to spread unhindered across the EEC will not, as it stands, extend this right to foreign banks unless all EEC countries are happy that they can open banks in the foreign country in question. The directive calling for Europe-wide openness in government purchasing could exclude foreign-owned companies based in Europe, unless their home governments buy from foreigners too.
>
> Officials at the Brussels commission explain, sincerely, that they do not want to create an internal market that is more protectionist than its component parts. Their aim is only to find a happy Euro-compromise between the levels of national protection that already exist, whether it be for imports of Japanese cars or of American television programmes. The danger is that such compromise leads to a levelling up of the ramparts rather than a levelling down. The banking reciprocity clause, for instance, is at first sight no more than a clause borrowed from Britain's Banking Act; but it will be a much nastier weapon when wielded by countries that have no liberal tradition of trade in financial services.
>
> The main problem is that the new Europe's trade policy is being improvised as a footnote to the creation of the 1992 internal market. The commission says that a statement of guiding principles would be a hostage to fortune, and extremely difficult to agree upon: it is hard enough putting the bricks in place one by one. But the improvising leaves America, Japan and others with no option but constant mistrust, vigilance and complaint, lest trade abuses peculiar to this or that country today become part of European law tomorrow. Since these critics are themselves no trading angels, their complaints prompt counter-accusations, and the rocks fly.
>
> The unhappy paradox is that project 1992 is, in European terms, a grand gesture of deregulation and economic liberalism, while to the world outside it appears a fortress blocking the way towards improvements in the rules of world trade. One of the aims of this GATT round is to stop the spread of "voluntary restraint agreements." (VRAs) between countries by encouraging use of a modified GATT safeguard clause. That aim will misfire if the EEC replaces national VRAs, like those limiting imports of Japanese cars, with some sort of pan-European ones.
>
> Before December, when the half-time review of this GATT round takes place, Europe's masterbuilders must clarify their trading intentions. They should say they are willing to look for specific import relief under the GATT, rather than through VRAs, provided that a GATT safeguards system can be devised. And they should not write demands for bilateral reciprocity into European law; if they are unwise enough to want any reciprocity, at least keep it informal. Otherwise Europe's trade with the rest of the world could become an affair of keeps, sappers, petards, bombards and hot oil—with the main misery reserved for those inside the citadel.

Mr. HOLLINGS. I do not want to bore the colleagues by reading it in its entirety. It is there in the RECORD. It states,

> From within their newly armoured siege towers the Americans watch Europe's masterbuilders at work. Surely they are building a fortress? No, say the Europeans, by 1992 we will have created a great market whose wide avenues will be open to fairminded traders from every land. The watchers are not convinced.

I just want to emphasize, "fairminded traders." Who is a fairminded trader?

If I can get a dollar for product X, I will take a dollar. If I can get $500, I will take $500. And if you are stupid enough to give me $5,000, I will take $5,000 for it.

Yet the Economist comes up with this nebulous bafflegab about "fairminded." They want fair trade so they say they are open to "fairminded traders from every land." If you are the custodian of the economic survival of your country, you operate in your country's interests. Period. There is no "fairminded." That is juvenile. We can all agree if we had free trade the world around, it would be in this country's interests to have free trade. And that is what we had in the past, and we set the example. We were big, fat, rich, and happy. We set the example with the Marshall plan.

We said, well, we will lose some of our market, but we have got so much. After all, you cannot be a hog. So we gave up part of the markets voluntarily. We all knew it.

Now it has become politically taboo to try to protect the remainder of our shrinking market share. That is the silly nonsense we have gotten into.

We ought to understand human nature better. They are calling for "fairminded traders." I mean, look at the world economy. Brother, all of them are thieves.

That is why American Express is doing so well: Don't leave home without it. You must get American Express checks. For heaven's sakes. The message is, "You will have your pockets picked the world around if you travel." They made a business out of it. So much for "fairminded traders."

The Economist continues:

> The watchers are not convinced. They note that Europe's masons hold their plans close to their chests. They watch, brick after protectionist brick—an antidumping suit and a reciprocity clause here, a local-content rule there—being added to Europe's agricultural earthworks. Soon the taunts fly as never before, with both sides prophesying war.

Wake up, Economist, the war is on. It has been going on for 30 years.

They are still in that ivory tower, saying we should prevent the war. We tried it for the past 45 years and we are broke. I cannot wake them up around this Congress to realize that their country is broke. Who believes the nonsense about a U.S. economic miracle? Every family knows they have been spending too much. They have not been saving. They are overextended on their credit cards, their home payments. They are not able to save anything and we are all whistling past the graveyard.

Politically, all hope we can get past November 8, Election Day. And economically we hope at least we can get by for another year until we can begin, in the first of 1989, to patch this up with a value-added tax or some other measure of constraint and sacrifice which are necessary.

John F. Kennedy said: "I present you a program not of promises, but of challenges."

He said: "It is not what I am going to give the American people. I am going to ask of the American people."

I can hear him now. That is how he got elected. But we all run 28 years later, on the platform of what we are going to give away, and that is how we get reelected.

It is time for sacrifice and it is time for sobriety. Listen to this: "Implicit in such buying off is the preference given to producers over consumers in the new Europe."

Whoopee.

"Implicit in such buying off is the preference given to producers over consumers." The market will take care of consumers. The Government must take care of producers. No Government was ever organized to get everybody something for a cheap price. The market does that. Do not get confused, Economist.

When I swear to protect and preserve the economy, I mean to do it. I do not mean protect and preserve consumers to give them a cheap price. The free market does that. I am supposed to protect the production base of my Nation.

I believed in that oil import quota back in 1955. We put it in because we had learned from the history of World War I that England had all the ships but they did not have the oil. Similarly, our defense depends on a domestic source of fuel for the Air Force, and the Navy, as well as the Army.

The Economist writes that, "Big European companies were early champions of the idea of a unified market; they felt they needed wider, less red-taped horizons than their individual home markets could provide. The world market? No: A big sheltered European market was what they had in mind, and that is what they are now demanding."

Certainly that is what they are demanding because that is what the competition demands.

Reading on: "Too many Europeans already take it as read that access to their sheltered market by foreign companies will be a privilege that has to be paid for. Mr. Willy de Clercq, the European Trade Commissioner, has made it clear that in demanding such reciprocity 'we will have to pursue a symmetry not so much in the legal equivalence of conditions of access to markets, but rather an equivalence in their economic effects.' "

That is exactly what Ricardo was talking about, not the equivalence in legal measures, necessarily, but comparative advantage. You have a different productivity and a different advantage, a different climate, a different investment. Today, unfortunately or fortunately, you can invest and do what you want regardless of climate, machinery, resources, or whatever. You can make anything anywhere.

Really, de Clercq is only repeating what Ricardo said back in 1927: "The reciprocity argument threatens to crop up whenever the EEC negotiates a directive that is vital to 1992." It should. Reciprocal free trade; you live in the real world. We want peace, but you cannot direct your policies from the vantage point or disadvantage point that you already have it.

"The best way to preserve the peace is to prepare for war," said George Washington, our Founding Father, and that is how we maintained the peace for 45 years because we had nuclear as a deterrent. Reciprocity, when it is to my economic advantage to deal with you, swap whatever it is, dollars for products or products for products, you do so. Lyndon Johnson knew how to do it. As a politician, he went to New Zealand. He said: "I think we can take some of your lamb."

They said: "Fine, we think we can send some troops to Vietnam."

Now we have people running around the world saying we are not going to have any linkage between the economy and our foreign policy. Can you imagine such a thing? The best foreign policy is one of linkage.

If you want to really develop a foreign policy for this hemisphere, take advantage of our trade leverage. President Eisenhower had his Operation Pan America. Under JFK, we had the Alliance for Progress. Now we have the Caribbean Basin Initiative. What have we accomplished. Very little.

I offer an alternative. Consider that they had, say, 28,000 high school graduates in Panama this past June with no place to go, no business. They have the talent, they have the will, but they do not have the economic opportunity. All the aid we send goes to the leaders of these countries, and the leaders stash it away in a Miami bank account, and it does not get to the hungry and poor. They do not want a middle class to develop because it would take over if they got a truly free election.

They have never developed a middle class. The strength of a free nation depends upon its middle class. The point is that if you do not have a piece of the action, an interest in the economy and in the community, then why not join the revolution? If you have been poor, your family has been poor, generation in, generation out, you cannot get out of the system, then at least you can revolt.

We can forestall that with a trade policy. If we globalized our quotas like we are asking for in this bill, I can take 10 percent of the textiles away from the People's Republic of China. I am not trying to develop China. I am trying to develop the free Western Hemisphere. I can take 10 percent from Hong Kong. If we go to war, there is not going to be a Hong Kong Army defending us in the Pacific or here or anywhere. They do not have an army. Take 10 percent of the textiles in Korea. They are doing well now. They are making weaponry. Take quotas from Taiwan. Then reassign all those quotas to Latin America where they are desperate for economic development.

Then get your Peace Corps from the Harvard Business School and the business school at Austin, TX, and around the country and let the Peace Corpsmen go down there and set up businesses. You have the talent in the high school graduates. We can set up the business and give them the market, and there is no impact on employment in the United States of America.

You build up a middle class. After doing that for 15 years or so, you will find a middle class developed, and they will have free elections.

Instead, we go around like the Arias plan, "I'm for peace and let's have a free election," and what do you get? You get the Marxists cleaning your clock, a total takeover in Nicaragua, and we wonder why.

How do you give peace a chance? By gosh, give them some bread in their mouths. That is how you give peace a chance. Build up a middle class, get a trade policy. Have linkage. You do have the richest market in the world. You might as well take advantage of it.

We are not any smarter than the Japanese or the Chinese or the Germans or the British or anybody else. People are smart the world over. So this intellectual arrogance we have around here: "give them textiles and shoes, they are low skill, and we will make the computers and the airplanes," I heard that 30 years ago. Now they are making the computers and they are making the airplanes. I am not even going to be able to hold onto my shoes and my textiles. There has been a debate on trade policy from the start. We have been into this and nobody is listening and. The newspapers will not listen because they are paid off by the retailers. They accused me of being paid off. I do the same to them. They are paid off. They do not have any competition. There is a monopoly of the newspapers really in this town. The Washington Times really is struggling. There is a monopoly in my town and in Columbia, SC, and in Greenville and Birmingham. They are sitting around on their monopolistic duffs with no imports. We do not import newspapers or politicians. It is grand for us to sit around and tell business people how to get competitive when we ourselves are not subject to imports. Newspapers are not subject to imports but they think they know all about the import market.

We can develop really the undeveloped world through a studied trade policy, following the lead of the European Economic Community that put in globalized quotas on textiles. They have globalization down in Australia and down in New Zealand. They have learned how to set themselves up and protect their economies, their industrial backbone. Similarly here, we can do that and have a stated policy and be very generous. I am willing to agree that up until now we have been wealthy and we can concede a majority of the market—not only give them a majority of the market, give them every bit of the growth as we grow in population and consumption in this country, give it all to the offshore producers. What is more generous than that in order to have a stated policy to maintain and retain some market share? And the others coming in will keep it as competitive as can be if the retailers give it a chance and do not price the imported and the domestically-manufactured product at the same price.

So there is a good trade policy that would produce better results in foreign policy than all the bluff and bluster that we are going to "invade Nicaragua" and "blockade Cuba." We should have learned you cannot bluff and bluster in Vietnam.

So having learned that lesson, let us use the tools that we have, linking our economy to our foreign policy, building up a Latin middle class so that we can have free elections and self-determination in Latin America.

Now, Mr. President, a concluding thought about trade policy. We need a trade czar, someone who understands it. I have said, and I will say it again, I would withdraw this textile-footwear bill if they gave me a trade council to coordinate and truly enforce. We do not enforce our antidumping laws. We do not enforce the subsidy provision. I can go down provision after provision that has been adulterated or distorted by administration after administration, Republican and Democrat alike. They have never come to understand. All they think of is defense, all they think of is foreign policy and political votes.

The Japanese lobbyists and lawyers have access. They get right into the White House, the Cabinet. They beat us on the head with all of their slick brochures and editorials if we dare try to fashion a reasoned trade policy and a preservation of the market share that we deserve.

I cannot, on the one hand, require an industry to have unemployment compensation, Social Security, minimum wage, clear air, clean water, safe machinery, a safe working place, and, on the other hand, say go ahead and compete with that fellow I saw on TV early this morning who works 11 hours a day, 6 days a week for less than $10,000 a year. That is not the American standard that I as a politician, Republican and Democrat, have set.

Now, If I am going to set the high standard, I ought to have the decency and the honesty to protect that standard of living and to protect our capacity to continue as a world power our industrial backbone. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will not go into executive session to consider the nomination of Nicholas F. Brady to be Secretary of the Treasury.

Debate on the nomination is limited to 30 minutes, equally divided and controlled by Senator MOYNIHAN and Senator PACKWOOD.

DEPARTMENT OF THE TREASURY

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Nicholas F. Brady, of New Jersey, to be Secretary of the Treasury.

Mr. MOYNIHAN. Mr. President, out of deference for my esteemed and learned colleague and long associate on the Finance Committee, Senator BOB PACKWOOD, chairman emeritus—whose party, of course, is in office in the executive branch—I wish that the opening statement on this nomination be made by the distinguished Senator from Oregon.

Mr. PACKWOOD. I thank my good friend from New York.

Mr. President, there are few nominations that give me greater pleasure than that of Nick Brady, to be Secretary of the Treasury. To all of us who have served with him in the Senate and to many people who have not served with him, this is a man whose reputation for integrity and competence is probably without peer. All of us who knew him when he served here for a short time, when he was appointed because of a vacancy and did not run for reelection, came to appreciate him, without exception.

He chose not to run in 1982 and went back to Dillon, Read, where he has been since 1954, Dillon, Read, being a significant brokerage house. He is the chairman and a managing director of Dillon, Read.

One might think to oneself that that, in and of itself, would be sufficient qualifications to be Secretary, and it probably would be. But Nick Brady has qualifications that go far beyond that.

He served in the Senate for a short period of time in 1982, where he was a member of the Armed Services Committee and the Committee on Banking, Housing, and Urban Affairs. Since he left the Senate in 1982, he has served on the President's Commission on Executive, Legislative and Judicial Salaries, the President's Commission on Strategic Forces, the National Bipartisan Commission on Central America, the Commission on Security and Economic Assistance, and the Blue Ribbon Commission on Defense Management. Most recently, he chaired the President's Task Force on Market Mechanisms, which was appointed shortly after the tremendous fall in the stock market last October.

Nick Brady is also a trustee of Rockefeller University. He serves currently as trustee of Rockefeller University, is a member of the board of the Council on Foreign Relations, and serves on the board of the Economic Club of New York.

He is clearly committed to continuing the policies that have so wisely produced 17 million new jobs in the last 6 years, brought our tax rates to the lowest level in 50 years, and has pledged an extension of those policies which have served this country well. I do not envy him in his task.

Normally, if we were voting on a position in the last 3 or 4 months of an administration, we would say: "What difference does it make? He can be appointed Acting Secretary. If Vice President BUSH is going to win, many of these people will continue."

However, in the case of the Secretary of the Treasury, he has to deal with many of his peers throughout the world, people who have served in longstanding capacities as Foreign Ministers or the equivalent of Foreign Ministers and Treasury Secretaries; and if we did not confirm the nomination of Nick Brady, he would go with a bit of a cloud over his head to some important national meetings that are due to start taking place immediately.

So, nothing could serve the Senate, Congress, or the country more than to give Nick Brady a unanimous vote of approval and send him on his way in the last few months of this administration with our blessings and our good wishes in one of the most difficult jobs that exist in Government.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from New York.

Mr. MOYNIHAN. Madam President, I should like to associate myself with the remarks of my esteemed friend, the former chairman of the Committee on Finance and the ranking member today.

I should like to observe that the precedent for the Managing Director of Dillon, Read being qualified to be Secretary of the Treasury was, I suppose, commenced by Mr. Dillon of Dillon, Read—C. Douglas Dillon—a good friend of both of ours, who served in the Eisenhower administration and the Kennedy administration.

Were he asked, I cannot doubt that he would serve the Reagan administration and the Bush or the Dukakis administration.

It is entirely the case that during the period when Mr. Brady served in the Senate, he impressed all of us with his sense of the elemental importance of integrity and trust and probity in our dealings. It has been said often that trust is the coin of this realm, and we trust Nick Brady, and the world should know that we do.

We are going to go through a somewhat unusual exercise, meaning no disrespect to other appointments that are now going through in the remaining months of an administration. These have been fine persons who have come to us, but it has been our practice simply to approve them by unanimous consent. We are not going to do that today. We are going to vote, and we want a unanimous rollcall vote.

Madam President, I ask for the yeas and nays.

The **PRESIDING OFFICER**. The yeas and nays have been ordered.

Mr. **MOYNIHAN**. I wanted to make certain of that.

I should like to make two points: First, an extension of the remarks about the qualities of our soon-to-be Secretary. When he left the Senate, it is worth recording, because it is important to the life of the Republic and to our institution, that he wanted to leave something behind; and he proceeded forthwith to revive what is probably the most important and significant architectural or sculptural—I do not know how exactly to say it—exercise and enterprise on Capitol Hill in memory.

The great American sculptor, Alexander Calder, designed a stabile and mobile called "Mountains and Clouds," one staying on the ground and the other hanging from the Atrium of our new Senate Office Building. It was the last work he did. As a matter of fact, he was in Washington to work a little on the model, and he went back to New York, and died that evening. So it is more than just one of Calder's great works.

However, we had decided that we could not afford it. Nicholas Brady decided that the new office building could not do without it, nor could the American people do without it. And on his own, he raised the funds for its fabrication and its emplacement.

It is indeed an extraordinary event, which perhaps not enough visitors to Washington know about. There is no equal in size in the world, and there is only one place you can see it, and that is in the new Senate office building, and anybody who might be watching us today is welcome to do so.

Yesterday at our hearing, Mr. Brady, I think intelligently, gave no commitments about his policies, save that he would continue in general the present policies. But he was asked at some length about matters of the deficit, and I particularly asked him about the questions of the surpluses of the Social Security Trust Funds which were put in place by the Social Security Amendments of 1983.

Now this seems an arcane and difficult subject. The current issue of Fortune magazine likens it to the issue of black holes and other exotica of the physicists which no one but physicists can understand. It is not that at all. But it is a new subject.

In the history of public finance the question of how do we deal with Social Security surpluses has never had to be addressed because simply they never existed and it was our policy that they not exist. We were on a pay-as-you-go basis and each year took in enough to pay what we paid out, with a little surplus, for a cushion, in the event of a downturn in the economy.

In 1983, following from the legislation in 1977, which Senator Packwood would well remember, we went to a partially funded system. Canada did that in 1966 and it has changed their public finances, and it has quite transformed them.

The numbers for the moment at least are fairly easy to keep in mind. In the next 30 years, we will have $3 trillion more cash coming into the system than is paid out for benefits.

The central issue of public policy, in those 30 years as far as this Senator is concerned, is what do we do with that $3 trillion.

To get a sense of it, Madam President, we may refer to the New York Stock Exchange, which Mr. Brady so ably investigated for us recently. If you sold the stock of every company listed on the New York Stock Exchange you would raise $2.3 trillion. The Social Security surpluses are $3 trillion. They will be more than the value of most of the major firms in the country.

Mr. Brady listened with care and thoughtfulness to the questions on this matter yesterday, and I hope he will address them further.

Just to make that point, I called his attention to the recent Congressional Budget Office forecast which shows that the deficits keep going up through fiscal year 1994, in terms of the onbudget deficit. It rises to $234 billion, a quarter of a trillion in fiscal year 1994. But the total deficit, the deficit that is most frequently cited, will be kept at half that level because of the surpluses in the trust fund.

But if we use those surpluses just to disguise ongoing expenditures we cannot use them for savings and investment. That seems to be elemental and important.

At this point, Madam President, just because I mentioned them in yesterday's hearing, I will ask that two tables be printed in the Record. First, the CBO projections which show the difference between the onbudget deficit and the total deficit, the latter includes the Social Security surpluses. A second table shows the size of the trust funds surpluses over the next 30 years. The trust funds increase to much higher levels than $3 trillion, but those higher levels represent interest accrued by the $3 trillion. Three trillion dollars is what you get in cash.

I ask unanimous consent that those tables be printed in the Record.

There being no objection, the tables were ordered to be printed in the Record, as follows:

SUMMARY TABLE 1.—BASELINE DEFICIT PROJECTIONS AND TARGETS

[By fiscal year]

	Actual 1987	Estimate 1988	Projections					
			1989	1990	1991	1992	1993	1994
			In billions of dollars					
Baseline projections:								
On-budget deficit	170	194	199	199	206	212	220	234
Off-budget surplus [1]	20	39	52	63	74	86	99	113
Total deficit	150	155	148	136	131	126	121	121
Deficit targets	(2)	144	136	100	64	28	0	(2)
			As a percentage of GNP					
Baseline projections:								
On-budget deficit	3.8	4.1	3.9	3.7	3.6	3.4	3.3	3.3
Off-budget surplus [1]	0.4	0.8	1.0	1.2	1.3	1.4	1.5	1.6
Total deficit	3.4	3.2	2.9	2.5	2.3	2.0	1.8	1.7

SUMMARY TABLE 1.—BASELINE DEFICIT PROJECTIONS AND TARGETS—Continued

[By fiscal year]

	Actual 1987	Estimate 1988	Projections					
			1989	1990	1991	1992	1993	1994
Deficit targets	(2)	3.0	2.7	1.8	1.1	0.5	0	(2)

[1] Social Security (Old-Age and Survivors Insurance and Disability Insurance Trust Funds).
[2] The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 established targets for 1988 through 1993.

Source: Congressional Budget Office, the Economic and Budget Outlook: An Update. August 1988.

PROJECTED INCREASE IN TRUST FUNDS [1]

[In billions of dollars]

	Net increase			Cumulative net increase		
	Total	Interest	Principal	Total	Interest	Principal
1988	40	8	32	40	8	32
1989	45	12	34	86	20	66
1990	57	16	41	143	36	107
1991	65	21	44	208	57	151
1992	75	27	48	283	84	199
1993	86	33	54	369	117	253
1994	98	38	59	467	155	312
1995	110	45	65	577	200	377
1996	123	52	71	700	252	448
1997	137	59	78	836	310	526
1998	152	67	85	988	377	611
1999	168	75	93	1,156	452	704
2000	185	84	101	1,341	536	805
2001	202	92	110	1,543	628	915
2002	220	101	119	1,763	730	1,034
2003	243	115	128	2,006	844	1,162
2004	267	130	137	2,273	974	1,298
2005	291	146	145	2,564	1,121	1,443
2006	317	164	152	2,880	1,285	1,595
2007	342	184	159	3,223	1,469	1,754
2008	367	205	162	3,589	1,673	1,916
2009	390	227	163	3,980	1,900	2,080
2010	412	250	162	4,392	2,151	2,241
2011	432	275	156	4,823	2,426	2,398
2012	449	301	147	5,272	2,727	2,545
2013	464	328	136	5,736	3,055	2,681
2014	475	356	120	6,212	3,411	2,801
2015	483	384	99	6,694	3,794	2,900
2016	485	412	73	7,179	4,207	2,973
2017	483	441	42	7,662	4,647	3,015
2018	477	469	8	8,139	5,116	3,023

[1] Projected net increase in the combined Old-Age and Survivors Insurance [OASI] and Disability Insurance [DI] Trust Funds, based on alternative II–B of the 1988 Trustees Report, calendar years 1988–2032. Alternative II–B of the 1988 Trustees Report refers to one of four sets of economic assumptions. Assumptions I and III refer to "optimistic" and "pessimistic" assumptions, respectively. Assumptions II–A and II–B are intermediate assumptions: II–B is the less optimistic of the two.

Source: Office of the Actuary, Social Security Administration, Baltimore, MD (August 1988).

Mr. MOYNIHAN. With that, Madam President, I yield the floor.

I see our distinguished Senator from North Dakota is present.

The **PRESIDING OFFICER.** The Senator from North Dakota.

Mr. MOYNIHAN. May I just interrupt the distinguished Senator from North Dakota to ask would he be agreeable since we are equally divided that I yield him 3 minutes?

Mr. CONRAD. If I could ask for 5 minutes.

Mr. PACKWOOD. I will yield 5 minutes.

The **PRESIDING OFFICER.** The Chair would like to advise the distinguished Senator from New York he has approximately 4 minutes and 30 seconds. The distinguished Senator from Oregon representing that side of the aisle has 11 minutes and 35 seconds.

Who yields time?

Mr. MOYNIHAN. I will yield the remainder of my time to the Senator from North Dakota.

The distinguished Senator from Mississippi is on the floor and will want to speak as notified and we are very happy to see him here and we welcome him.

The **PRESIDING OFFICER.** The Senator from North Dakota.

Mr. CONRAD. Madam President, I arose this morning to see a story in the Washington Post that involves Nicholas Brady entitled "U.S. Deficits Downplayed by Brady."

The lead paragraph reads "Nicholas F. Brady, President Reagan's nominee for Treasury Secretary, minimized the importance of the Federal budget deficit, the trade deficit, financial market gyrations and a host of other economic problems yesterday. He said the United States is growing out of its twin deficits and can continue to do so."

Madam President, I am moved to ask when the hoax will end? The crowd that has presided over a tripling of the national debt, a sixfold increase in the trade deficit, and a plunge in this Nation's international debt status from being the largest creditor nation in the world to being the largest debtor nation in the world, now says, "Well, it really does not matter."

It really does matter. There are consequences to piling debt on top of debt and deficits on top of deficits and the proof is overwhelming.

Madam President, in the Washington Post last Thursday there was a story entitled "Scientists Warn of U.S. Reliance on Foreigners." That story told an interesting tale.

It told about products that the United States pioneered—phonographs, color televisions, audio tape recorders, video cassettes, ball bearings and telephone sets—and traced what has happened to U.S. companies' market share from 1970 until today.

This tells part of the story of the consequences of not paying attention to debt and deficits.

Phonographs—in 1970, the United States had 90 percent of the domestic market; today, zero. Color televisions—in 1970, U.S. companies had 90 percent of the domestic American market; today, 10 percent. Audio tape recorders—in 1970, we had 40 percent of the domestic market; today, zero. Video cassettes—we had 10 percent; today, zero. Ball bearings—we had 90 percent of the domestic market; today, 70 percent. Telephone sets—in 1970, U.S. companies had 100 percent of the domestic market; today, 25 percent.

The story repeats itself in the steel industry, in the automobile industry, and in the computer industry.

When are we going to wake up? We have a Presidential campaign going on now that talks about national security. Every night on the news we hear about national security.

The root of national security is in economic security and we are seeing the base of our economic strength being eroded by a policy that allows debt on top of debt, deficits on top of deficits and no one says a word.

Now Mr. Brady who is put before us as the nominee of the President to be the Secretary of Treasury says, "Well, don't worry about the deficits. We are going to grow out of them. Everything is fine."

Madam President, the truth is different and the truth will win out.

I have a table that we received yesterday in a meeting of the Senate deficit reduction caucus that shows what happens if you look at the deficit not only in terms of the on-budget deficit but also in terms of what happens in relationship to the Social Security Trust Fund and the other retirement accounts, and the picture that emerges, Madam President, is quite different.

The real operating deficit of this country is growing, not declining. It is time to pay attention to that because, if we do not, there are real world consequences. It is time for this country to pay attention to those real world consequences.

I was disappointed that Mr. Brady was telling the country, "Well, we really do not need to worry; it really does not make any difference," because it does make a difference.

It is time for our country to reexamine where we are headed and to pay attention to the debt and the deficits, because they threaten, in a very real way, the economic and the national security of this country.

Madam President, I ask unanimous consent that two articles from the Washington Post and tables relating to the budget be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 14, 1988]

U.S. DEFICITS DOWNPLAYED BY BRADY—SENATE PANEL APPROVES NOMINEE FOR TREASURY

(By Paul Blustein and Hobart Rowen)

Nicholas F. Brady, President Reagan's nominee for Treasury secretary, minimized the importance of the federal budget deficit, the trade deficit, financial market gyrations and a host of other economic problems yesterday. He said the United States is growing out of its twin deficits and can continue to do so.

Brady also stepped away from the recommendations on stock market reform that were presented this year by a presidential commission he chaired. Asked whether he would try to implement the panel's proposals, which were largely rejected by the White House, Brady said he is "not sure we were 100 percent right."

Brady's comments came at a Senate Finance Committee hearing to consider his nomination. The panel later voted, 15-0, to recommend his nomination to the full Senate, which could act as early as today.

His remarks on the budget deficit reflected a degree of optimism about the government's fiscal situation that seemed to hark back to the early days of the Reagan administration, when some officials promised that budget deficits soon would disappear. Brady's assertions appeared likely to draw criticism from Democrats—indeed, some Democratic Senators took issue with him yesterday—and opened up the possibility of complaints from U.S. economic allies.

Brady said he didn't mean to leave the impression that the $150 billion budget deficit should be "countenanced," but he repeatedly asserted that its significance has diminished as the economy has grown. The United States, he said, "has the ability to withstand" the debt it must carry to finance the deficit, because "the whole world is bigger now. Transactions take place in the billions now that used to be in the millions."

As for the trade deficit, he predicted it would decline much faster than expected in the next few years because U.S. companies are better able to compete internationally with a cheaper dollar.

As expected, Brady vowed to continue Reagan administration policy in such key areas as international efforts to stabilize currencies. But more important, yesterday's hearing suggested that if Brady becomes Treasury secretary in a Bush administration—a position he is expected to assume if the Republican nominee wins the presidency—he may refrain from advancing bold steps to remedy the "twin deficits" that worry many mainstream economists.

Even on the subject on which he is identified as a reformer—the stock market—Brady struck a relaxed attitude, saying that "in the main," the necessary steps have been taken to avert another stock market crash.

Brady's comments marked a retreat from the recommendations of the five-member Brady Commission, which was appointed by Reagan in the wake of the Oct. 19, 1987, market collapse and which urged the adoption of sweeping measures to dampen volatility in securities prices. He applauded steps by the New York Stock Exchange and Chicago Mercantile Exchange to introduce "circuit-breaker" mechanisms aimed at interrupting sharp fluctuations in market prices, and said he would favor the adoption of similar reforms by the over-the-counter stock market.

But he indicated no regret over the fact that many of the panel's suggestions have been shelved, observing that the panel "only had 60 days" to draft its report. "I think we're about on the right course" in managing market swings, he said.

Brady, an investment banker who briefly represented New Jersey in the Senate, was treated at the hearing with the warmth typically accorded a former colleague. But Democratic senators argued yesterday that Brady was taking too rosy a view of the budget problem.

Brady said: "I do believe that we can grow our way out" of the budget deficit. He said "the figure we should be looking at" is the deficit as a percentage of gross national product, the nation's total output of goods and services. The deficit, which reached a record 6.3 percent of GNP in fiscal 1983, absorbed 3.4 percent of GNP in fiscal 1987.

But Sen. Daniel P. Moynihan (D-N.Y.) contended that the deficit is declining largely because of a huge and growing surplus in the Social Security trust fund. That surplus shouldn't be counted as genuine deficit reduction, Moynihan asserted, because the money will be needed in the early years of the next century to finance retirement benefits for the baby-boom generation.

"I can only tell you that I wish the progress [in cutting the deficit were faster," Brady replied. "But I think the efforts are in the right direction. I think if we keep batting away at it we'll get there."

Brady's upbeat view of the deficit may draw some skepticism from U.S. trading partners, who contend that the budget gap is a serious contributor to world trade imbalances. If confirmed, Brady is scheduled to meet next week in West Berlin with officials of the Group of Seven industrial countries, and immediately thereafter he is slated to represent the United States at the annual meeting of the International Monetary Fund and World Bank.

[From the Washington Post, Sept. 8, 1988]

SCIENTIST WARNS OF U.S. RELIANCE ON FOREIGNERS—EX-FOUNDATION CHIEF CALLS DEPENDENCE ON IMPORTED TALENT OMINOUS

(By Malcolm Gladwell)

The United States is suffering from an "ominous" dependence on foreign professors and researchers in its higher education and research efforts, former National Science Foundation chairman Roland W. Schmitt told a meeting of the Washington-based Council on Competitiveness yesterday.

"We have become just as dependent on the import of research and faculty grade talent as on the import of consumer electronics, DRAM memories, or automobiles," Schmitt, now president of Rensselaer Polytechnic Institute in New York, said, pointing to statistics showing that almost 40 percent of all graduate students of engineering in the United States are foreign-born.

Schmitt spoke at the introduction of a new Council on Competitiveness report that calls for the U.S. government to end years of complacency and formulate an aggressive technology policy to "create an environment more conducive to rapid commercialization by the private sector."

The report is the latest of many that have focused on America's declining industrial strength since the "competitiveness" issue became the catch phrase of U.S. economic policy four years ago.

America's Achilles' heel is it poor performance in turning scientific discoveries into commercial products and services, the report said. It cited five major product lines pioneered by U.S. companies—phonographs, color televisions, audio tape recorders, video cassette recorders and telephone sets—in which the U.S. market share has sharply declined. Part of the problem, the Council said, is governmental indifference.

"While other governments have used science and technology policies to promote industrial growth, the U.S. technology policy has viewed commercial applications as incidental or secondary in importance," said Hewlett-Packard Co. Chairman John Young, who chairs the council, a two-year-old research group made up of 151 chief executives from industry, education and labor.

The study's suggestions range from a request for a creation of a Cabinet-level office of science and technology to a redirection of the federally funded research and development efforts that currently account for half of the $125 billion the United States spends on research and development every year toward more commercial applications.

The report also calls for new investment of federal money in graduate-level science and engineering programs to head off the country's "significant human resource problems."

According to Schmitt, a combination of decreasing interest in math and science among high school students, unqualified science teachers and underfunded engineering and science programs at U.S. colleges has created a situation that may result in a shortage of 500,000 scientists and engineers by the year 2010.

"My personal view is that [foreign professors and researchers] have saved us," Schmitt said. "But the dropping interest of our own citizens in these programs ought to be of concern.

Young, who headed President Reagan's commission on industrial competitiveness, said there has been some real progress in addressing competitiveness issues during the past few years.

"You've seen an absolute night and day difference in trade administration over the past two and a half years," he said. But he would not speculate on which of the two presidential candidates might be more receptive to the report's recommendations.

"Looking at the pronouncement of either candidate, I don't find a rich field for research and development in either case," Young said.

GRAMM-RUDMAN-HOLLINGS (GRH) LAW'S DEFICIT TARGETS AND PROJECTED FEDERAL BUDGET DEFICIT WITH AND WITHOUT RETIREMENT TRUST FUNDS, FISCAL YEARS 1980–94.

[In billions of dollars]

	1980	1987	1988	1989	1990	1991	1992	1993	1994
GRH targets	N.A.	−144	−144	−136	−100	−64	−28	0	N.A.
Margin [1]				(10)	(10)	(10)	(10)	(0)	
Total Federal deficit	−74	−150	−155	−148	−136	−131	−126	−121	−121
Less surplus in: Social Security (OASDI) (off-budget)	−1	20	39	52	63	74	86	99	113
On budget deficit	−73	−170	−194	[2] −199	−199	[2] −206	−212	−220	−234
Less surplus in:									
Medicare (HI)	1	12	16	20	19	17	17	15	14
Fed. Employ. Retirement [3]	10	31	34	37	37	41	43	44	48
Nonretirement budget deficit	−84	−213	−244	−256	−255	−264	−272	−279	−306

[1] Sequestration is not required if the project deficit exceeds the target but by less than the margin.

[2] Not equal to total deficit less the Social Security surplus because of rounding.

[3] Includes civilian and military retirement trust funds.

Source: Numbers for 1980 and 1987 are actual. Numbers for 1988 through 1993 are the Congressional Budget Office baseline projections from August 1988.

FEDERAL GOVERNMENT OUTLAYS AND RECEIPTS AS A PERCENT OF GROSS NATIONAL PRODUCT FISCAL YEARS

Item	Actual			CBO Baseline	
	1960	1970	1980	1988	1993
ON-BUDGET					
Outlays:					
Defense	9.5	8.3	5.0	6.1	5.3
Medicare [1]	0.0	0.7	1.3	1.9	2.3
Other Nondefense	5.1	6.4	9.6	6.8	6.3
(Program Outlays) [2]	(14.6)	(15.4)	(15.8)	(14.8)	(13.9)
Interest	1.5	1.6	2.1	3.4	3.7
Total	16.1	17.0	17.8	18.2	17.5
Revenues:					
Individual Income	8.0	9.1	9.1	8.3	8.8
Corporate Income	4.2	3.3	2.4	2.1	2.1
Social Ins. Taxes	0.8	1.1	1.7	1.9	1.7
Other	3.1	2.5	1.9	1.7	1.4
Total [2]	16.2	16.1	15.1	14.0	14.0
Surplus/Deficit [2]	0.1	−0.9	−2.7	−4.3	−3.6
OFF-BUDGET					
Social Security:					
Outlays	2.3	3.1	4.4	4.6	4.6
Receipts [2]	2.3	3.6	4.4	5.4	6.1
Social Ins. Taxes	(2.1)	(3.4)	(4.2)	(5.1)	(5.4)
Interest and Other	(0.2)	(0.3)	(0.2)	(0.2)	(0.6)
Surplus/Deficit [2]	0.0	0.6	0.0	0.8	1.5
Total [3]					
Outlays	18.2	19.8	22.1	22.6	21.5
Revenues	18.2	19.5	19.4	19.2	19.4
Surplus/Deficit [2]	0.0	−0.3	−2.8	−3.4	−2.1

[1] Medicare spending exceeds that of function 570 (Medicare) by roughly the level of intra-governmental receipts.

[2] Detail may not sum to total due to rounding.

[3] Does not equal the sum of On-Budget and Off-Budget because of intragovernmental transfers.

Source: Historical statistics are from the Office of Management and Budget. The baseline estimates are those of the Congressional Budget Office.

Mr. PACKWOOD. Madam President, how much time would the Senator from Mississippi like?

Mr. STENNIS. Three minutes.

Mr. PACKWOOD. I yield 3 minutes to the Senator from Mississippi.

The **PRESIDING OFFICER.** The Senator from Mississippi is recognized.

Mr. STENNIS. Madam President, I thank the floor leaders very much for their courtesy here.

I remember the nominee as a Member of this body. I remember him favorably. According to a strict rule, I do not see any reason why he should not be confirmed. To the contrary, my impression is that he is a capable man, a man of capacity, and a man of experience, where he showed a fine talent and solid, well-grounded balance as he viewed the need for sound finance for our people and for the Government itself, all segments of the Government. I believe and hope that his record will be an outstanding one. I shall certainly vote to approve.

Mr. DOLE. Madam President, as the Republican leader, as a member of the Senate Finance Committee, and as a former Senate colleague, it is an honor to speak in support of the nomination of Nicholas Brady as Secretary of the Treasury.

The unanimous approval of his nomination by the Finance Committee yesterday is clear indication of the high regard in which Nick Brady is held. And it is a reputation that is justly deserved.

Many of us know Nick personally, from his 8 months of service in 1982 as a Senator from New Jersey. During his tenure here, Nick served on the Armed Services and Banking Committees. In addition to his Senate experience, Nick was Chairman of the President's Commission on Legislative and Judicial Salaries, served on the President's Commission on Strategic Forces, the National Bipartisan Commission on Central America, the Committee on Security and Economic Assistance, and the Blue Ribbon Commission on Defense Management. His most recent Government assignment was to head up the Presidential Task Force on Market Mechanisms, which tried to decipher what happened to the stock market last October and make recommendations on how to avoid future disruptions.

Nick Brady's experience as cochairman and managing director of Dillon, Read & Co., the prestigious New York investment banking firm, certainly helped him in this task; and will undoubtedly provide the kind of real world business knowledge that will be a great asset at the Treasury Department.

As he indicated during his confirmation hearings yesterday, Nick Brady will continue to provide the kind of strong, study, economic leadership that has been a hallmark of the Reagan administration. He is familiar with existing and potential problems that confront ours and the world's economy. And I am confident Nick Brady will direct economic policy in a way that best assures the continuation and expansion of the record-setting prosperity this Nation now enjoys.

Mr. President, I urge my colleagues to unanimously confirm the nomination of Nicholas Brady as Treasury Secretary.

Mr. DOMENICI. Mr. President, it is with great pleasure that I rise to support the confirmation of Senator Nicholas F. Brady as our next Secretary of the Treasury.

Filling the shoes of former Secretary James Baker III will be a difficult challenge—one that I feel Senator Brady is qualified to undertake.

Senator Brady comes to us with outstanding credentials. He received a bachelor of arts degree from Yale University in 1952 and masters in business administration from Harvard Business School in 1954. He then joined Dillon, Read & Co., Inc., where he is the former cochairman and managing director.

Senator Brady brings many years of financial experience to the Department of the Treasury. I had the pleasure of serving briefly in the Senate with him where he was appointed in September 1982 through December 1982.

During this time I had the opportunity to work with him on matters concerning the Federal budget. He displayed great concern for deficits, along with a willingness to compromise and work with his colleagues to address the problem. He established the reputation of favoring an even-handed, fair approach to balancing our Nation's budget.

It is unfortunate that Senator Brady will have such a short time to utilize his expertise as the Secretary of the Treasury. There will be little time for new initiatives between now and January, however, there is much work to be done. In this short time period he will be called upon to respond to unfinished budget legislation, the Canadian Free-Trade Agreement, and the technical corrections bill to the Tax Reform Act of 1986—just to name a few of the major issues.

Senator Brady has long been held in high esteem on Wall Street. In addition, from 1984 to 1985, he served as Chairman of the President's Commission on Executive Legislative and Judicial Salaries. He has also served on the President's Commission on Strategic Forces, the National Bipartisan Commission on Central America, the Commission on Central America, the Commission on Security and Economic Assistance and the Blue Ribbon Commission on Defense Management.

Undoubtedly, he gained his reputation outside financial circles earlier this year when President Reagan named him to head the Commission that investigated October's stock market crash.

When the Commission was first formed, some were pessimistic about how effective it would actually be, but there is a consensus that the report produced by the Brady Commission was the most definitive of all the studies that were conducted. He surprised even the experts with his wealth of detailed and cogent explanations of the October 19 debacle. Senator Brady was said to be primarily responsible for producing information about what exactly went wrong.

Jeffrey B. Lane, president of Shearson Lehman Hutton, said of Senator Brady, "In this business, he is one of those people who knows what's going on." I think he will be one of these people in the Department of the Treasury.

In addition to his professional achievements, Senator Brady is also an accomplished athlete and a devoted family man.

And he is a man of great generosity. As my colleagues remember, Nick Brady and two friends joined together to donate, as a gift to the Senate and the Nation, the Calder sculpture—Mountain and the Clouds—located in the atrium of the Hart Senate Office Building.

I congratulate President Reagan for making a fine selection. I have complete confidence in the abilities of Senator Brady and I will look forward to working with him.

● Mr. MATSUNAGA. Mr. President, I rise today in support of the President's nomination of Nicholas F. Brady to be Secretary of the Treasury. That nomination was reported favorably by the Committee on Finance on September 13.

Frankly, Mr. President, this nominee has a tough job ahead of him, as indicated by the breadth of responsibilities the job entails. The Secretary of the Treasury not only supervises the Federal Treasury and the national debt, but he plays a central role in the administration's policy decisions on taxes, finances, and the economy. In recent years he has gained a key role in international trade policy as well.

The events of recent years underscore the inextricable connection of domestic fiscal policy to the health of the economy and the size of the trade deficit. To improve the competitiveness of U.S. business in world markets, the Secretary of the Treasury is increasingly called on to spearhead efforts to stabilize international exchange rates. This is a task the current administration at first undertook reluctantly.

Under Mr. Brady's immediate predecessor, however, the administration worked more actively for international cooperation on currency rates. Moreover, the recently enacted Omnibus Trade Act gives the administration a mandate to seek improved exchange rates and consistency of macroeconomic policies between the United States and the other so-called G-7 nations. I look forward to Mr. Brady's pursuing these negotiations vigorously.

Another task the Trade Act gives the Secretary of the Treasury is to study the feasibility of establishing an international body charged with finding solutions to the Third World debt crisis. He is then to consult with both developed and developing foreign countries with the aim of establishing that organization. Work on this vital goal should begin immediately.

So, the job ahead is not an easy one. Fortunately, Mr. Brady possesses an outstanding set of credentials for this position. He, of course, is a former Member of the Senate, having been appointed to a seat from the State of New Jersey in 1982. He served with distinction as a member of the Banking and Armed Services Committees.

He has had a distinguished career of over 30 years in the field of investment banking with the firm of Dillon, Reed & Co., rising to become that firm's president and chairman.

He has served on various "blue ribbon" commissions, including the National Bipartisan Commission on Central America and the President's Commission on Strategic Forces. He has chaired two such panels, the President's Commission on Executive, Legislative, and Judicial Salaries in 1985 and the Presidential Task Force on Market Mechanisms that looked into the causes of the October 1987 stock market crash and recommended reforms to prevent a recurrence.

I have no question that Mr. Brady is an excellent choice to head the Department of the Treasury, and I urge my colleagues to approve his nomination expeditiously.●

Mr. DURENBERGER. Mr. President, I want to take this opportunity to commend the President for nominating Nicholas Brady to succeed James Baker as Secretary of the Treasury. Nick Brady's nomination was unanimously approved by the Senate Finance Committee yesterday because he is one of the most competent and well-respected individuals in this country.

Nick Brady has had a remarkably distinguished career as a public servant and as a member of the private sector. He served in the Senate in 1982, at a time when this country was enduring a terrible recession; a recession in large part the result of the Federal Reserve's effort to wrench out of the economy the inflation that had ravaged this country during the Carter administration.

In 1983, Nick served on the President's Commission on Strategic Forces. And in 1984, he was appointed to the National Bipartisan Commission on Central America where he played a key part in developing an economic aid plan that would have revitalized Central America. Unfortunately, the administration has never provided adequate funds for this plan.

After last year's stock market crash, the President turned to Nick Brady to head up the Task Force on Market Mechanisms which examined the implications of the crash. I know that my colleagues on both sides of the aisle would agree that the report issued by the task force, which everyone refers to as the Brady report, was an excellent and impartial assessment of the crash which contained many positive recommendations for preventing a similar situation from arising.

I know that Nick will do an excellent job at the Treasury Department and will easily win the confidence of our trading partners when he leads the U.S. delegation to the annual meeting of the World Bank and the International Monetary Fund in West Berlin. It will be difficult for anyone to succeed Jim Baker at Treasury, but if anyone can smoothly fill the void, I am sure it is Nick Brady.

Mr. President, when the Senate Finance Committee yesterday considered Nick Brady's nomination, the chairman of the commitee, Lloyd Bentsen, cited many economic challenges facing this country, most notably the trade deficit and the budget deficit. Although no one would minimize the importance of these issues, I think it is worth noting that under the leadership of Treasury Secretary Baker, our budget deficit has been steadily declining; employment levels are at record highs, the economy has had 70 months of uninterrupted growth, and unemployment is at the lowest level in 14 years. And the trade figures releaed this morning demonstrate that Treasury Secretary Baker's policy of bringing the dollar down to a more competitive level is working.

More needs to be done to deal with these economic challenges, and I am sure that Nick Brady has the capacity to help this country meet the challenge of the global economy. Several years ago, while he was a Member of the Senate, Nick Brady set forth his philosophy for how our Nation should meet its challenges. Citing the 1869 diary entry of John Wesley Powell, who led the first expedition down the Colorado River, Nick Brady stated: "The safest course at the difficult times in our lives is to tackle our problems head on." As Treasury Secretary, Nick Brady will carry that philsophy forward and serve his country with distinction and honor.

Mr. KARNES. Mr. President, I would like to take this opportunity to express my support for the confirmation of Nicholas F. Brady as Secretary of the Treasury.

I would first like to commend Secretary Baker for the leadership he provided the Treasury during his tenure. His implementation of a sound monetary policy and a responsible fiscal policy were critical in continuing the strong economic growth the country has experienced for the last 7 years. Secretary Baker is also largely responsible for developing a more cooperative environment among the G-7 countries which will facilitate the formulation of international economic policies.

Mr. President, I believe no one person is more qualified to assume this Cabinet post and continue along the same path of prosperity, than Nicholas F. Brady. His past accomplishments exemplify his commitment to serving the public interest. As a U.S. Senator he served on the Armed Services Committee and the Banking, Housing, and Urban Affairs Committee. He has served on a number of Presidential Commissions including the President's Commission on Strategic Forces, the National Bipartisan Commission on Central America, the Commission on Security and Economic Assistance, and the Blue Ribbon Commission on Defense Management. Mr. Brady most recently chaired the Presidential Task Force on Market Mechanisms. As a member of the Senate Banking Committee, I had the distinct pleasure of discussing this report with him during committee hearings on the stock market decline. During the course of these hearings, I was very much impressed by his composure, sense of humor, and willingness to provide straight forward answers to some very difficult questions.

Mr. President, I believe the administration has nominated a very capable individual to fill this position and I again wish to reiterate my strong support for the confirmation of Nicholas F. Brady as Secretary of the Treasury.

Mr. PACKWOOD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the hour of 1:30 having arrived, the question is, Will the Senate advise and consent to the nomination of Nicholas F. Brady, to be Secretary of the Treasury? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Indiana [Mr. QUAYLE] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI] would vote "yea."

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 2, as follows:

[Rollcall Vote No. 328 Ex.]

YEAS—92

Adams
Armstrong
Baucus
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—2

Conrad
Reid

NOT VOTING—6

Bentsen
Bond
Danforth
Matsunaga
Murkowski
Quayle

So the nomination was confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to proceed out of order as if in morning business for a period not to exceed 8 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NUCLEAR WASTE

Mr. REID. Mr. President, the New York Times today carried a front-page story stating that the opening of the Nation's first permanent high-level military nuclear waste storage facility, which was to be located in New Mexico, is now being indefinitely postponed because of safety problems.

The delay in opening the so-called WHIPP facility in New Mexico has come about because oversight investigations by the House Environment, Energy, and Natural Resources Subcommittee turned up evidence of possible unsafe conditions in the construction of the facility. For example, the national Academy of Sciences and other scientific groups are expressing concern about water leaks that have appeared in the vast underground cavern, which was designed to be "bone dry" forever.

What is most disturbing is that these safety concerns are not being raised by the Department of Energy, which is responsible for instruction and operation of the storage facility in New Mexico and, of course, is doing the characterization of the one in Nevada.

In fact, according to Subcommittee Chairman MIKE SYNAR, "there are more Energy Department people lobbying for authority to emplace wastes in the respository than there are making sure the facility is safe."

That is an astounding statement—that a Member of Congress and chairman of a major subcommittee states that the Department of Energy is more concerned about figuring out ways to place nuclear waste than they are concerned about how safe it is.

Mr. President, this is disturbing and frightening news for this Senator whose home State of Nevada has been politically singled out by this same Department of Energy as the site of the Nation's only permanent high level storage facility for commercial nuclear waste. Ultimately, Nevada will be asked to store more than 70,000 tons of high level nuclear waste.

What makes this revelation even more frightening is that, according to the September 9 issue of Western Energy Update, the nuclear industry is criticizing the Department of Energy because Yucca Mountain may be unable to accept spent nuclear fuel In 1998 as has been promised by the Department of Energy. The report says that if the Department is not able to begin accepting waste as schedule, the utilities will seek financial damages from the Government, the U.S. Government.

Mr. President, it is clear that the Department of Energy has cut corners at the WHIPP facility in New Mexico in order to try to keep the Agency's politically sensitive program for modernization of its atomic weapon plants on schedule.

Fortunately, they have been caught, thanks to MIKE SYNAR. And it even says more about MIKE SYNAR who is a Member of Congress from a State that does not really have a nuclear waste problem.

The Department is under equally strong pressure by the nuclear industry to meet the artifically imposed deadlines for opening the civilian nuclear storage site at Yucca Mountain in Nevada. There is already evidence that the Department is rejecting evidence relating to the site characterization at Yucca Mountain that they do not like. For example, in the Nevada papers yesterday there was a major statement by a number of scientists from the U.S. Geological Survey saying maybe it would be better if the Department of Energy just hired somebody so that they could get the answers that they wanted rather than depend on independent scientists like those from the U.S. Geological Survey.

We cannot allow this to continue. I don't believe that the leadership in Congress will permit the Department of Energy and the nuclear industry to put their wishes ahead of the safety of the public.

Mr. President, you and others will recall that I stood on this exact spot and spoke for hours about the fact that the burial of nuclear waste is unsafe; that there must be a determination made that it is safe. That has not been done. What has taken place in New Mexico only amplifies the statements that I previously made.

Mr. President, I intend to urge Energy Committee Chairman JOHNSTON and Environment Committee Chairman BURDICK to redouble their oversight efforts to insure that the Federal Government does its job of protecting the safety of the people in this country, rather than spending its time lobbying Congress to go along with its political agenda. Revelations such as those I have mentioned today only make me more adament in my fight to slow down the headlong rush in Congress to force political solutions on the complicated scientific and technical questions of how to safely deal with nuclear waste.

CONGRESSIONAL SALARIES

Mr. STEVENS. Mr. President, over the course of my 20 years in the Senate, the matter of Senators' salaries and the acceptance of honoraria which supplement those salaries has been debated, discussed, and deliberated.

Since 1974, the Senate has voted 46 times on substantive, nonprocedural measures involving outside income restrictions, honoraria limitations, and our salaries.

A constitutional provision mandates that Congress set its own salaries. The process has become an agonizing one for Congress.

The costs of housing, food, education, transportation, and the other necessities of life continue to rise for all Americans. Attempting to keep pace with the cost of living by setting our own salaries has proved to be one of the most controversial issues Congress must consider. But it is presented us, time and again, and it comes up with an almost damned-if-you-do and damned-if-you-don't situation.

Honoraria—compensation for speeches or articles—have also caused consternation for a long time within this body and outside of it. Legislation has been offered, and defeated, in the past to eliminate honoraria. The Senate has now put a cap that is a percentage of current salary on honorariums a Senator may earn.

Newspapers in my home State are raising the issue of the propriety—or, as some say, the impropriety—of accepting honoraria. Our colleagues in the House are discussing alternative salary scales and it is a good bet that it is a matter of discussion by citizens across our Nation.

The public is becoming disturbed. The time has come to once again review honoraria.

In the 98th Congress there was lengthy debate about an amendment offered by the distinguished Senator from Connecticut, Mr. WEICKER, to do away with honoraria altogether. Only six Members of the Senate—I was one of them—voted to support that measure.

Mr. President, in my judgment the Senate should take up the matter of substantially reducing or abolishing honoraria when we review the Quadrennial Commission's pay recommendations, which will be submitted to us in January, and work toward a salary scale that would bring congressional salaries in line with the private sector and either substantially reduce or abolish honoraria.

At this time I ask unanimous consent that editorials titled "Pay Congress for Service, Not Lunch," from the August 1 edition of the New York Times; "What are they worth?," from the June 21 edition of the Anchorage Daily News; and "The silver lining in a $57,000 raise," from the December 22, 1986, edition of the Anchorage Daily News, be entered into the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From The New York Times, Aug. 1, 1988]

PAY CONGRESS FOR SERVICE, NOT LUNCH

Because of the crabbed, resentful public attitude toward paying public servants, voting themselves a raise can be hazardous to the political health of senators and representatives.

As a result, Congressional pay has remained inordinately low. Worse, that has held down salaries for Federal judges and other top officeholders whose pay scales are connected. And the result of that has been to encourage subterfuges like honorariums from businesses or interest groups.

Reform is badly needed: a substantial increase in Congressional salaries and a prohibition on honorariums and other such forms of outside income.

Representatives make $86,283 a year and Senators $87,483. In 1986 a commission recommended that both be paid $135,000, a figure subsequently reduced by President

Reagan. Even so, members felt compelled to act as if they didn't want the raise; they voted to disapprove it, although the House awaited so long that its vote had no effect.

A new salary commission is to be appointed in October, with its report due in December. It can be expected to make recommendations similar to those of two years ago. A salary of $135,000 a year for members of Congress would be perfectly justifiable and defensible—if Congress acts first to end the subterfuges.

Honorariums are the most glaring. Unlike members of the executive and judicial branches, who operate under much tighter restrictions, members of Congress can keep up to $2,000 for an appearance, speech or article. "Earning" an honorarium frequently requires nothing more than having breakfast with industry lobbyists.

One recent study found that members of the Armed Services and Defense Appropriations committees received more than $500,000 in honorariums last year from top defense contractors. It's all legal, but it still amounts to influence-peddling. Paying members of Congress an amount commensurate with their duties is desirable, especially if it eliminates honorariums of dubious honor.

[From the Anchorage Daily News, June 21, 1988]

WHAT ARE THEY WORTH?

Members of Congress think they aren't paid enough but know they will get kicked in the teeth if they attempt to raise their salaries. So how can lawmakers improve their pay without losing their jobs in the next election?

Rep. Dan Rostenkowski has a novel solution. The Chicago Democrat believes members should pick a salary between $89,500, the current rate and $135,000, the figure recommended by a recent federal commission on senior government officials' salaries. New members would accept lower salaries, veterans would seek higher salaries commensurate with their years of service, Rep. Rostenkowski reasons.

This salary structure would make lawyers' pay an individual compact between legislators and constituents. Members of Congress who think they are worth more bucks could take them—and let the voters ratify or reject the pay raise.

Unfortunately, Rep. Rostenkowski's simple solution creates new problems. Power and prerogatives are inequitably distributed in Congress, but pay is the same for everyone. Bitterness and envy will fill the halls if some members are paid almost 50 percent more than others. Members' pay will become an issue in every election in which an incumbent takes more than the minimum pay.

Rep. Rostenkowski is right. The nation's lawmakers should be better paid. But a new pay scale should promote equality, not the inequality inevitable in a pick-your-own-salary plan.

[From the Anchorage Daily News, Dec. 12, 1986]

THE SILVER LINING IN A $57,000 RAISE

It would be tough for anyone to say "no" to a $57,600 raise. But there's only one way members of Congress can justify the $135,000 salary a federal pay commission has recommended for them: by swearing off other sources of income.

Congress now toils under a pay system that's a scandal waiting to happen. Members are allowed to collect more than $20,000 a year in extra pay from the very interest groups that try to influence congressional votes. And few members let the opportunity pass. Nearly two-thirds of Senators and one-fifth of House members managed to collect the legal maximum, giving speeches, making appearances.

The extra-curricular fun doesn't stop there, either. By inviting members to speak in exotic locations, the interest groups can legally provide all-expenses paid vacations, too.

Congress has been reluctant to close off these moonlighting opportunities, even though they often result in missed hearings and floor business. The main argument for keeping these privately-financed fringe benefits has been that members don't get paid enough. That may be true, given the responsibilities and expenses inherent in the job. But if the congressional salary jumps from $77,400 to $135,000 next year, that rationale will disappear for good—and so should the system that lets members sell their services to special interests.

Mr. STEVENS. Mr. President, I thank the Chair. We will be hearing more and more about the subject of honoraria and salaries involved and the Quadrennial Commission's Report before this Congress is over.

TRANSFER OF VIDEO RECORDINGS OF SENATE PROCEEDINGS

Mr. STEVENS. Mr. President, I would now like to inquire whether it is possible if we might go into the subject of Senate Resolution 459, which concerns the transfer, storage, and availability of Senate tapes? And I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader if Calendar 901 has been cleared on his side?

Mr. DOLE. It has been cleared on this side of the aisle.

Mr. BYRD. I thank my friend.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 901.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 459) to provide for the transfer of archival quality video recordings of Senate proceedings to the Librarian of Congress and the Archivist of the United States and to clarify procedures for providing copies to Senators.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, at its meeting August 3, 1988, the Committee on Rules and Administration adopted Senate Resolution 459, and a set of regulations pertaining to the transfer of video recordings of Senate floor proceedings to the Library and Archives. The motion pertaining to the regulations provided that they would become effective upon adoption of the resolution by the Senate. Pending adoption of Senate Resolution 459, which authorizes the transfer of the Video recordings to the depositories, video recordings of floor proceedings have been held in storage in the Recording Studio and/or the National Archives and have been available only to the Vice President, Members, and committees of the Senate.

Senate Resolution 28, which was adopted last Congress to permit television coverage of Senate Chamber proceedings, does not authorize the transfer of copies of video recordings of the proceedings to the Library or to the Archives; it merely permits such transfer if authorized by the Senate at a later date and it suggests that there will be a fee paid by each depositor for such copies. Transfer of the video recordings to a depository is necessary to make them available to the public. The House transfers its video recordings to the Library and Archives without payment of a fee.

The present resolution requires that the video recordings be retained by the Recording Studio for 90 calendar days after the date of the recorded proceeding before transfer to either depository for access by the public. Due to this restriction, copies may not be provided to the public during the retention period. Also, there have been very few requests by Members for copies after 30 days. Therefore, the committee decided that the retention period should be reduced to 30 session days.

Although the entire section 4(c) of Senate Resolution 28, 99th Congress, has been redrafted in Senate Resolution 459 to clear up the language, the only substantive changes effected by the Senate Resolution 459 are those set forth below.

Senate Resolution 459 amends section 4(c) of Senate Resolution 28:

First, to authorize the transfer of video recordings to the Archives and Library of Congress without payment of a fee.

Second, to reduce the period such recording are to be held by the Recording Studio from 90 days to 30 session days.

The regulations adopted by the Committee, that will become effective upon adoption of Senate Resolution 459, elaborate on the provisions of the resolution and include procedures relating to it and to other provisions of Senate Resolution 28, including another amendment adopted this session (S. Res. 341) pertaining to political campaign use of recordings.

The regulations provide that during the 30 session days period, the recordings are to be held by the Recording Studio for use of Members. While Members who obtain copies will be subject to the prohibition against political campaign use of recordings, they will not be required to sign an agreement to that effect.

The regulations provide that the Library and Archives must: First, require any person—including Members—except any news organization, who obtains a copy of a recording to sign an agreement not to use the copy for political campaign purposes; second, save such agreements for 2 years; and third, make the agreements available to the Committee on Rules and Administration or to the Secretary of the Senate upon request.

They also provide that the recordings will remain the property of the Senate and that they will be held by the Library and Archives in accordance with agreements to be entered into with the Senate, which will be subject to approval of the Committee on Rules and Administration. This procedure is similar to that of the House for transfer of its recordings.

I ask unanimous consent that the regulations adopted by the Committee on Rules and Administration be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

UNITED STATES SENATE—COMMITTEE ON RULES AND ADMINISTRATION

REGULATIONS AND PROCEDURES PERTAINING TO VIDEO RECORDINGS OF SENATE FLOOR PROCEEDINGS

1. The Senate Recording Studio shall make at least two archival-quality video recordings of Senate floor proceedings and retain such recordings for a period of 30 session days after the date of such proceedings.

2. During that period, the Senate Recording Studio may, upon request, make additional copies for Members. Members who receive copies shall pay the fee set by the Committee on Rules and Administration and accept the copies on the condition that the copies will not be used for political campaign purposes.

3. After the 30 session days period, the Senate Recording Studio shall transfer the two archival-quality recordings to the Secretary of the Senate, who shall transfer one to the Library of Congress and one to the National Archives.

4. Audio and/or video copies of such recordings may be made by said depositories and distributed to any person or organization upon payment of such fee as the depository may set to recover the cost of copying, subject to the following conditions:

a. Any person or representative of any organization who receives a copy may not use such copy, or permit such copy to be used by any other party, for political campaign purposes.

b. Any person requesting a copy who is not representing a public or commercial news organization must agree in writing, as a condition of receiving a copy, that such copy will not be used for political campaign purposes. Each depository is responsible for securing such a written agreement for all copies distributed by it. Signed agreements shall be retained for a period of at least two years and, upon request, copies thereof shall be delivered to the Secretary of the Senate or to the Committee on Rules and Administration. A suggested form of agreement is attached.

5. The Senate retains all property rights to the video recordings of Senate Floor Proceedings transferred to the Library of Congress and the National Archives and those depositories shall hold such recordings in accordance with the terms of an agreement to be entered into with the Secretary of the Senate, subject to the approval of the Committee on Rules and Administration.

Issued by the Committee on Rules and Administration, on , 1988.

Approved:

WENDELL H. FORD,
Chairman.

TED STEVENS,
Ranking Minority Member.

UNITED STATES SENATE—S. RES. 431 100TH CONGRESS, 2D SESSION

"SEC. 6. (a) The use of any tape duplication of radio or television coverage of the proceedings of the Senate for political campaign purposes is strictly prohibited.

"(b)(1) Except as provided in paragraph (2), any tape duplication of radio or television coverage of the proceedings of the Senate furnished to any person or organization shall be made on the condition, agreed to in writing, that the tape duplication shall not be used for political campaign purposes.

"(2) Any public or commercial news organization furnished a tape duplication described in paragraph (1) shall be subject to the provisions of paragraph (1) but shall not be required to enter into a written agreement.".

I have been advised of the condition set forth in the above resolution and agree that I, and the organization I represent, will not use, nor permit any other person to use, the tape duplicate received by me for political campaign purposes.

Furthermore, in signing below, I do so with the understanding that copies of this agreement are available to the Secretary of the Senate or the Senate Committee on Rules and Administration upon request, pursuant to regulations and procedures issued by the Committee on Rules and Administration.

Date: ....
Signature: ....
Name: ....
Address: ....
Organization: ....

Mr. STEVENS. Mr. President, I commend the Senate leadership and the chairman of the Rules Committee, Senator FORD, for bringing Senate Resolution 459 before the Senate today. This resolution, which the Rules Committee reported to the Senate on August 10, 1988, provides for the transfer of television tapes of Senate proceedings to the Librarian of Congress and the Archivist of the United States. This will enable the Library of Congress and the National Archives to suitably store the tapes and to make copies of Senate television tapes available to the general public.

Three months ago, on June 7, 1988, the Senate agreed to Senate Resolution 431 regulating usage of the television tapes which would now be made available through the Archives and Library of Congress. Senate Resolution 431 provides that tape duplications of Senate television coverage is permitted for all purposes "except political campaign purposes." Under the provisions of the resolution, any individual or organization—with the exception of news organizations—who are furnished a tape of Senate proceedings must agree in writing not to use it for political campaign purposes.

Senator FORD has printed in the CONGRESSIONAL RECORD regulations adopted by the Rules Committee which will implement both Senate Resolution 431 and Senate Resolution 459, pending its approval today. I supported adoption of these regulations in order to implement the resolutions. However, as I stated in my additional views to the committee report on Senate Resolution 431, I do not agree with the restriction that any individual or organization who is furnished a tape of Senate proceedings must agree in writing not to use it for political campaign purposes.

I supported adoption of Senate Resolution 431, and its implementing regulations, because it moved the Senate in the right direction by easing restrictions on use of Senate television tapes. Prior to adoption of Senate Resolution 431, the governing resolution—Senate Resolution 28—had prohibited the use of tape duplications of television coverage "for any purpose outside the Senate."

However, I believe we should eliminate all restrictions on use of the tapes. While I certainly share the concern that these tapes not be used to represent unfairly the positions of a Senator or to undermine the integrity of the Senate, I do not believe that we can constitutionally interfere with any use of these tapes—including political campaign purposes.

Proceedings on the Senate floor enter the public domain the moment they take place. I believe that any prior restraint on the rebroadcast of public proceedings of our national legislature, for whatever purpose, is suspect under the strict scrutiny required by the first amendment to the Constitution.

Political speech or expression, including debates on candidates and public issues in upcoming elections, was found by the Supreme Court in First National Bank of Boston v. Bellotti, to be "at the heart of the First Amendment's protection." The Court in Mills v. Alabama, noted that "there is practically universal agreement that a major purpose of [the First] Amendment was to protect the free discussion of governmental affairs, of course includ[ing] discussions of candidates. . . .” And as the Court observed in Nebraska Press Association v. Stuart, “the thread running through all these cases is that prior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights.”

Therefore, I want to state for the Record that while I have supported adoption of both Senate Resolution 431 and Senate Resolution 459, and their implementing regulations, because they are a move in the right direction, I oppose the remaining restrictions on the use of the tapes of televised proceedings of the Senate. But I believe in the future we should give serious consideration to eliminating all restrictions on use of Senate television tapes and honor the first amendment entirely.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there amendments to be proposed? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 459) was agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. Res. 459

Resolved, That subsection (c) of section 4 of Senate Resolution 28, agreed to February 27, 1986 (99th Congress, 2nd Session), is amended to read as follows:

“(c)(1) The Sergeant at Arms and Doorkeeper of the Senate shall—

“(A) employ such staff as may be necessary, working in conjunction with the Senate Recording and Photographic Studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution;

“(B) make audio and video tape recordings, and copies thereof as requested by the Secretary under paragraph (2) of Senate proceedings; and

“(C) retain for 30 session-days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Secretary of the Senate copies of such recordings.

The Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in subparagraphs (A) and (B), shall comply with appropriate Senate procurement and other regulations.

“(2) The Secretary of the Senate is authorized to obtain from the Sergeant at Arms archival quality video recordings of Senate proceedings and, as soon thereafter as possible, transmit such recordings to the Librarian of Congress and to the Archivist of the United States.”.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME LIMITATION—AGREEMENT—MILITARY CONSTRUCTION APPROPRIATIONS—CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate considers the conference report on the military construction appropriations bill, H.R. 4586, it be considered under the following time limitation:

Twenty minutes equally divided between Senators Sasser and Specter on the conference report and all amendments in disagreement.

Provided further that the Senate be permitted to concur en bloc with the amendments of the House to the amendments of the Senate and that the Senate be permitted to recede from amendment No. 41.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska, the acting leader.

AUTHORIZING THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized to make technical and conforming changes with respect to the engrossment of the bill, S. 2382, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate passed on Friday, September 9, S. 2382, to delay the implementation of a certain rule affecting the provision of health services by the Indian Health Service, and so the request would give the Secretary of the Senate the authorization to make technical and conforming changes with respect to the engrossment of that bill.

PRINTING OF A HISTORY OF THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

Mr. BYRD. Mr. President, on behalf of Mr. Burdick and Mr. Stafford, I send to the desk, and ask for its immediate consideration, a resolution authorizing the printing of a history of the Environment and Public Works Committee.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 471) authorizing the printing of a history of the Environment and Public Works Committee as a Senate document.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 471) was agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. Res. 471

Resolved, That a history of the Environment and Public Works Committee be printed, with illustrations, as a Senate document.

Sec. 2. There shall be printed additional copies of such document, the number of which shall be determined by a one thousand two hundred dollars ($1,200) maximum expenditure, for the use of the Environment and Public Works Committee.

Sec. 3. Printing and binding of said document shall be done in the manner as shall be determined by the Joint Committee on Printing.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIFTIETH ANNIVERSARY OF THE PASSAGE OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of House Joint Resolution 600, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 600) to commemorate the fiftieth anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 600) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREES—H.R. 1315

Mr. BYRD. Mr. President, I move that the Senate insist on its amendment to H.R. 1315, the Nuclear Regulatory Commission reauthorization bill, and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint confereees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. CONRAD) appointed Mr. BURDICK, Mr. BREAUX, Mr. REID, Mr. STAFFORD, and Mr. SIMPSON; and only for the purposes of the provisions of title I, Mr. GLENN and Mr. ROTH; and only for the purposes of the provisions of section 112 of title I, relating to the construction authorization for the nuclear waste repository, Mr. JOHNSTON and Mr. MCCLURE; and only for the purposes of the provisions of title IV concerning "The Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1988," Mr. JOHNSTON, Mr. FORD, Mr. BINGAMAN, Mr. MCCLURE, and Mr. DOMENICI.

BILL PLACED ON CALENDAR—H.R. 5150

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 5150, a bill to revise the authority for the regulation of clinical laboratories, it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank my friend, Senator STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unaninous consent that I might proceed as if in morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ELIZABETH LORNA ANN SIMPSON

Mr. SIMPSON. Mr. President, it is not my usual bent to come before my colleagues with a truly singular and personal item—but we have a few extra moments of time here—and there has been a rather unique and memorable event in the lives of myself and my wife Ann, found amid the clatter and the shot and shell and the grapeshot that we wend our way through as we do our work in the Senate. I thought I might just share with you, as we have those few moments of time—I would not take that time ordinarily—that yesterday as I was visiting with the majority and minority leaders, planning and assisting to see if we could reach an agenda for these next days, I was handed a note which said simply, "It's a baby girl." Not mine, mind you! And it said, "Call son Bill ASAP,"—soon as possible.

Well, there was quite a lump in the throat for me, for he was our first born and he and his dear wife Debbie now present us with our first-born grandchild. And Debbie is the kind of daughter-in-law you would hand pick for yourself as a father-in-law. Now, that is quite a surge, I can tell you. I believe the phrase they use in these times from a different substance is "a rush"—like something, I am sure, which could come from some chemical potion. And so in a quick phone visit with the mother Debbie and father Bill—apparently granddaughter was not speaking; for she was nursing at the time, just hours after her birth—I was told that she is a lusty communicator, which obviously puts her on a par with all of the Simpsons of whom I have ever been aware.

And so appeared alone on the Earth at 11:30 a.m. on September 13, 1988, one Elizabeth Lorna Ann Simpson. Anyone doubt that it will be simply "Beth"? Of that I am quite certain. So beautiful Beth joins the race, the human race, a new name, a new person—"Elizabeth" a selection of the mother and father, "Lorna" my mother and "Ann" my wife, joining a host of Simpsons of the past and present.

Surely that must be the ultimate experience for a woman, a birthing, so, too, for her spouse to be there at her side throughout the experience as son Bill was. To hear them both describing this remarkable child in some detail was quite an experience.

So Ann and I are richly pleased, touched, tingly. She joins, too, her great grandparents, my strong father who served in the Senate, Milward L. Simpson, who is in his 90th year, and my dear mother, Lorna, the great grandparents of this obviously remarkable child. And Debbie's parents I know are thrilled too. The Persins of Ohio, lovely people. I shall continue to cohabit with the lovely grandmother, Ann, and this adds a new dimension to our same but ever different relationship, and it will be great fun.

So welcome to Beth. We love having you join us from your warm and dark cocoon into the bright world of Sun and loving hands to nurture you. So, with that, God bless this child.

THE FIRES IN YELLOWSTONE PARK

Mr. SIMPSON. Mr. President, now a few words, if I may, about an issue which is commanding national attention, and that is the fires in Yellowstone Park—a tough, tough issue. I grew up in Cody, WY, 52 miles from the east entrance of Yellowstone Park. And I know the ecosystem intimately. I have backpacked it, I have horsebacked it, I have hunted it, I have relished in it, I have loved it.

The raging fire that has occurred this summer is one of the most startling, devastating, and dramatic disasters that has occurred in the Western United States since the eruption of Mount St. Helens. The conditions inside the park that helped to contribute to the size and range of the ongoing fires were readily apparent to all of us in Wyoming. It was an extraordinarily dry year. There was no question about that. And the Park Service had let the "fuel load"—that is a euphemism—I do not like to use it. I think the corps of officials use it. That means there are logs all over the ground. They are dry, and they burn to beat the band. It is called "fuel load" however. It was building to a point where it was like having an ancient attic filled with old crumpled newspapers waiting for a spark to ignite the whole pile.

Interestingly enough, in Teton County where we have a very responsible county commissioner crew of businessmen, environmentalists, bright people—in June, right next to the park they were indicating drought conditions of the rarest form, and requesting assistance for hay, the harvesting of hay, and drought assistance. Yet, apparently the Park Service people were not heeding that either.

Even though the forest and the park authorities knew that the area was an absolute tinder box, the Park Service continued with its "let burn" policy which allows lightening-caused fires to burn uncontrolled inside the park. Man-caused fires are to be suppressed. At least that is the general theme of policy.

It is that type of "passive" management which led us to the disastrous situation that we are facing today. Nearly a million acres of the park are burning or have burned. Yes, some are in the mosaic, but nevertheless, they have.

When you are given that figure of 900,000 acres in a 2.2 million-acre park, think of the scope of it. And then take out of the puzzle or the picture a lake within the park, which is 100 miles around the shoreline. Then you will really know how much timber has burned. A tremendous, tremendous amount of resources burned.

Well, the result is what we see, and what you see on the television every night. But in addition to that, there are some other things that we do not see on television. The air pollution produced in the form of carcinogens and particulate matter dwarfs the pollution that all of us talk about day and night in here about our atmosphere. The occupant of the chair has been very vitally interested, and I commend him on what he is doing with the issue of the warming trend, the greenhouse effect. In one great cataclysmic eruption you see a cloud of smoke go to the altitude of 40,000 feet, form its own cloud formation, and then its own lightning bolts flashed back there to the Earth, you know that you are seeing nature in its rarest form.

So the particulate matter and pollution has dwarfed all the pollution that could be caused by the 10 dirtiest cities of the United States over the entire summer. And the smoke is drifting to Pennsylvania and to Los Angeles. The heavy air pollution covers four States. It has affected asthmatics. It is causing healthy individuals to breathe cancer-causing chemicals and particulates in amounts that might actually be very threatening to the public health.

Then, in addition, the economic dislocation caused by the fires has severely stressed businesses in and around Yellowstone Park to the point where some will indeed go bankrupt as a result of a very poor tourist season, or hunting season, or just tourism in general.

Just a brief history of the let-burn policy, if I might. Several years ago the Park Service took what was known as the Leopold report which stated that Yellowstone should be managed in a "natural" manner. It formulated than a parkwide policy based on a hands-off, passive management. It matters not in what administration that happened because if the parks and the forests are being managed properly it should not matter who is President or who is not President. Leave that to the professionals. We did leave them all the tools to do what we thought they would surely do.

So this Leopold report was presented, this "hands-off, passive managment" report. The result has been that Yellowstone may well have been destroyed by the very people who were assigned to protect it. I use the word "destroy." Others say no, it is an untrue statement. It is regeneration. I understand that. I understand what regeneration is. But also understand reality. When you go out in your yard and you spill the gas out of your power mower on the grass, and somebody may come along and light it, or it accidentally does so, you then tell me how long it takes to grow anything in that kind of sterilized ground.

Let me tell you, colleagues, the ground is sterilized. It is blackened to the very depths of any root system within it. It has not only burned the south slopes which ordinarily burn in any kind of fire. It is burning the north slopes with the same degree of intensity, power and inferno-like capacity as it burns the south slopes, which is startling to us all because all through the north slopes and where the trees gather the moisture and the snow, and hold it tight—longer than it is held on the south slope then as the spring comes the runoff is less drastic when the first snows are held there on the north slopes. Those slopes are just as devastated this year as any south slope has ever been devastated which is puzzling and very, very disturbing to professional managers.

Then remember that you have an area in an ecosystem which is some 7,000 to 8,000 feet in altitude. You can surely revegetate and regenerate in a California fire with a growing season of 8 months or 9 or 10. You cannot regenerate in an altitude of 7,000 or 8,000 feet where the growing season is 30, 40, or 50 days; that is what you have in this unique part of the world.

And the Leopold report also suggested that the park should be turned into a reasonable illusion of primitive America, while ignoring the fact—this is the one that seems to slip the cog of most people who deal with this issue—that 2½ million people come to Yellowstone Park each year, and Grand Teton National Park; 2½ million. A half million people go down the main street of Cody, WY, each year. A million and a half people go through the streets of Jackson Hole, WY, and West Yellowstone; to lesser degrees in Gardiner, and all the entrances to the park, Cooke City and Silver Gate, which are now nearly destroyed. At least everything around them is destroyed. They have not been destroyed, and God willing, that will not take place. But if the winds shift and the humidity goes down, and remember that fire season to those of us in the West is usually from Labor Day to October 15, or the first big snow. That is usual fire weather. Well, that is just now here. That has just arrived.

Then, if you can keep it in perspective, remember that the Yellowstone National Park was set up by the Congress after reviewing the magnificent artwork of Thomas Moran, and the people coming back and telling about what was there. So it was set up in 1872 as a pleasuring ground for the enjoyment of the American people. That is what it says in the organic act. It was not set up as a biological study ground. It was set up as a pleasuring ground for the people of the United States.

So the Leopold report basically replaced science with nostalgia and some atavistic desire to return to some other time.

Today, we are seeing the result of this erroneous collection of whimsical and dewy-eyed assumptions.

The Leopold report proposed a fire management policy which became a ticking time bomb. By allowing small areas to burn when lightning struck, the park was setting the forest up for a giant inferno by allowing the overly mature pines, great stands, to accumulate deadwood over a vast area. One hundred thousand or two hundred thousand of those trees can grow on 1 acre, stuffed together. Wind creation will cause them to fall. They are a unique and remarkable tree, but not hardy in the root.

So the management of Yellowstone could have been and should have been different. I am not calling for anyone's head in this process. I have said, though, that if the Secretary of the Interior gives an instruction that all fires will be suppressed—and he gave that order in June, and we know that it was not carried out—I do not believe that failure was done by the Superintendent of Yellowstone National Park, a man named Bob Barbee, for whom I have great admiration.

I have watched him work with the "gate way" communities, watched him come into the chamber of commerce meetings, and put himself on the line. One of the first things he said to me this late summer was: "Tell the people of Cody I am coming in for a meeting as soon as things calm down." They will have quite a reception ready, and he will handle it well.

I think it is his superior, and that is the Director of the parks, the National Park Service, and that is Mr. William Mott. I say, simply, that if the Director does not carry out the directives and instructions of the Secretary of the Interior, he or she should be sacked, whoever it is. If that is part of the mix, then I think that states my case very well.

So the park had a tool which they never used, or seldom used, called prescribed burning, in order to burn out overly-mature stands of pine trees, and to clear out deadwood that contributed to fuel for large, unmanageable forest fires.

By using these techniques, the park could have enhanced the grizzly bear habitat. There is no question that the only clear winner in this entire unfortunate experience is the grizzly. The grizzly will obtain a new habitat, which is right down the pike as to their particular needs—sedges, meadows, clear areas. They are the winners. That is not bad.

I still believe that this ecosystem for bears is tough, when you have 2.5 million people running around in the woods. We have 243 bears, and probably this will double that population, and I still say that is pretty tough on the bears, because the humans will win that one. There are tens of thousands of those animals in Canada and the Yukon, and they are not an endangered or threatened species outside of that Yellowstone habitat. So they will be the winners, and the prescribed burn could have done much for them.

At the same time, the prescribed burn could have reduced the fuel loads in order to prevent the inferno rate we see this summer.

How ironic that one of the things about prescribed burning is that you then burn the park in a mosaic of 250 acres or 3,000 or 2,500 at a time, and then the forest stands grow, instead of what we will now have 200 years from now or 300 years from now—another entire similar growth pattern, with the same continual climax of exit and fuel buildup as we have had here.

The Park Service could have actively fought these lightning-caused fires early in the season with all available effort and resources, and this surely would have reduced the scope of the fire. Since the dry conditions were so well known, no fires should have been allowed to burn this year, except in the spring and the fall, and that could have been done with the prescribed-burn policy, which they have had in their arsenal of activity since 1972.

I do want to commend the President, who I visited with on behalf of the delegation, with my fine Senate colleague, MALCOLM WALLOP; my able congressional colleague, DICK CHENEY; and the Governor of Wyoming, Mike Sullivan, a friend I have known for many years. I visited with him just recently, and always continually with the delegation. Some designations will be made. We will be working with the Governor and the Federal authorities to see that things are done, and done properly.

The President then requested the Secretary of the Interior and the Secretary of Agriculture and William Taft, the Deputy Secretary of Defense, to go there. We met with them on the ground and saw the things that so troubled them, as they reported them to the President yesterday.

We shall wait now and see what the President will further define as to emergency or disaster, and that will await some furnishing of further information by the State and by the Federal authorities.

I expressed to him the need to ensure that no policy restrictions exist anymore on fighting existing fires and that every possible method, including slurry bombers and bulldozers, be used to control existing fires. They are only dampened now and will move on as the weather warms and the southwest prevailing winds come.

There have been some out in the park, some of the midlevel rangers, who have not really been thrilled by the thought of putting everything out. Those names will come up in the hearings.

The Secretary assured us that every effort will be made to "pull out all stops" on the fires in Yellowstone, and that is being done. Marines are coming in from Camp Pendleton, as well as new firefighters, fresh firefighters, and slurry bombers from Canada.

I thank my Senate colleagues for passing legislation several nights ago which took care of the issue of allowing us to use Canadian slurry bombers and fire personnel in the wilderness. That is another irony, because we had authority always to bring heavy equipment into the wilderness to fight fire. Some have said, "You can't bring bulldozers in here." We said, "Yes, we can."

Mr. President, I ask unanimous consent to have printed in the RECORD the statutory citation of the authority to bring any means to bear to fight fire within the wilderness, which includes, at the discretion of the Secretary, heavy equipment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

United States Code, title 16, Section 1133(c): "In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable."

Mr. SIMPSON. Mr. President, I realize that my time has expired; and if there is no objection, I ask unanimous consent to continue for an additional 5 minutes.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. SIMPSON. So let us just say that the Government is making an all out effort to put out the existing fires. People must know that. It is true. We are assured of that.

I am also contacting all appropriate agencies in order to discern that the types of active disaster and emergency relief efforts that are available to citizens of Wyoming, Montana, and Idaho.

The residents of the counties affected by the forest fires must now face the grim realization of the economic tragedy which the fires have wreaked upon their business.

Faced with the gut-wrenching prospect of not being able to make their mortgage payments, my constituents are looking then for assistance from the Government that caused this result. There are many options available. We are purviewing them all. But one which will soon be available to eligible small businesses is the federally subsidized economic injury disaster loan. The Small Business Administration is authorized to guarantee loans to victims of economic injury caused by a physical disaster such as the one I cite.

At this time we will also be considering what types of reclamation efforts that are going to be needed to assist nature in recovering in the Yellowstone ecosystem. Obviously firebreaks plowed by dozers, stumps from the hand line control, truck tire marks through the meadows of the Yellowstone Park will have to be repaired in some way, and I think they should. It may also be required that we have revegetation and reforestation in certain areas along the roadways. If you have a road no one can tell me that then you have "wilderness" that cannot be revegetated at least in some portion.

Special measures will be made to protect sensitive trout streams in the area, and I trust that the Park Service, the Fish and Wildlife Service, and other appropriate agencies are beginning to think along those lines.

Mr. President, I think it is especially important that the Interior Department initiate a policy review of Yellowstone Park policy. We can no longer afford a policy which adheres to the tenets of the Leopold report. It is no longer safe or sane to continue with a policy based on some handsoff, passive management. We now need active stewardship in Yellowstone in order to prevent another disaster in the future. A public policy review of Yellowstone Park policy is long overdue. In years past we have had all of these similar controversies with grizzly bear management, the prospects of wolf reintroduction, restrictions on boating in Yellowstone's south arm then caused by the fact that they said that the wake from the boats would cause erosion on the shores, which is the most bizarre exercise in logic when you consider that one afternoon windstorm in the summer will curl up a wave of 7 feet.

So those are the things that people get troubled about.

And restrictions of public access within the park because of a grizzly bear winter denning while they are down underneath 4 feet of snow—those are troubling things to sensible people.

So I think it is time we quit playing God in Yellowstone and start playing active, reasonable, and sensible land manager, called stewardship. It is time we formulated a policy with an emphasis on active stewardship, live hands-on stewardship, not some flight of biological and scientific fancy.

Reality demands the Yellowstone Park policy change.

Finally, I pay real tribute, and this is the thing that really gets forgotten, real tribute to the men and women out there on the line. No one ever takes a picture of them except showing them briefly. The men and women on the line, and the people running the laundries, the mess, the food service, the entertainment trying to have a video setup in an old tent. They call that the Crandall Theater up in Crandall, WY, a tent with a video set and a small stove. To those men and women who have been on the ground fighting those fires all summer, they have missed funerals and births and one even missed his wedding while he was involved in the fighting of those fires. I have no other information on that as to what has happened since that occurred, but certainly there was some interesting discussion with his spouse to be.

No work is more demanding than being right on the ground next to an extremely hot fire, a burning tree, trying to dig fire lines, saw trees, shovel dirt, cut off limbs in the midst of burning embers and a wind of 50 miles an hour.

So the men and women of all agencies that have contributed to this effort are really the unsung heroes of the summer. Those dedicated firefighters literally worked until they dropped and many did drop, and they battled the blazes in the harshest and most dangerous conditions that the public could imagine. And no one died. Yet they received little attention from the press and the public. Their hardiness and resolve are deeply appreciated by all of us and they fought a hard and tough battle for all of us. It must be just as frustrating to them as it is to all of us. But we are thankful for their efforts.

I thank the leader for his additional time.

I yield the floor.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the role.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Kansas.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, earlier today I reserved my leader's time. I will proceed on that basis.

CHINESE ARMS SALES

Mr. DOLE. Mr. President, last week, Secretary Carlucci completed some important discussions with Deng Ziaoping and other Chinese officials in Beijing. In his meetings, I am pleased that he had the opportunity to raise with the Chinese the critical issue of their arms sales policy in the Middle East.

However, I—and I am sure many other Senators—are concerned by his comments at the conclusion of these meetings, at least as they were reported in the media. According to those accounts, Secretary Carlucci stated that he was "fully satisfied" with Chinese assurances about its arms sales policies, and he believes they represent no impediment to expanded security ties with, and technology transfers to, China.

Frankly, however, many of us in the Senate remain skeptical about Chinese arms sales policies and disturbed by past arms transfers to Iran and Saudi Arabia, among others.

It wasn't too long ago—July 26—that the Senate agreed to a resolution which I authored by a vote of 97 to 0, condemning past Chinese arms sales to the Middle East, and reported discussions with Syria, Libya, Iran, and Iraq regarding the future sales of M-9 short-range ballistic missiles and other armaments.

The resolution concluded that if the Chinese did not stop selling arms to the Middle East, we should reexamine agreements or contemplated agreements providing for arms and technology transfers to the People's Republic of China.

I firmly believe the Senate—and the American people—deserve to know more about the nature of these assurances before the United States commits to further military and technology transfer agreements with China. Accordingly, I have sent a letter to Secretary Carlucci requesting that he provide us with more information about his discussions with the Chinese on this important national security issue.

Finally, I would urge the administration to hold off on signing any new agreements with China until the Senate and the American people have had a chance to see some evidence that China is indeed living up to its assurances.

Mr. President, I ask unanimous consent that a copy of my letter to Secretary Carlucci and an article and editorial on the subject from the September 8 Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 14, 1988.

Hon. FRANK C. CARLUCCI,
Secretary, Department of Defense, the Pentagon, Washington, DC.

DEAR MR. SECRETARY: I have noted press accounts of your comments following discussions with Deng Xiaoping and other Chinese officials regarding Chinese arms sales to the Middle East and new military technology exchange programs. According to these accounts, you are "fully satisfied" with Chinese assurances about its arms sales policies and believe they represent no impediment to expanded security ties with and technology transfers to China.

I am pleased that you raised the arms sales issue in your meetings, and look forward to receiving additional information about the nature of these assurances.

Frankly, however, many of us in the Senate remain skeptical about Chinese arms sales policies and disturbed by past arms transfers to Iran and Saudi Arabia, among others. As you know, on July 26, the Senate passed a resolution (97-0) condemning past Chinese arms sales to the Middle East and reported discussions with Syria, Libya, Iran and Iraq regarding the future sale of M9 short-range ballistic missiles and other armaments. The resolution also called for a reexamination of current and contemplated agreements for arms and technology transfers to the PRC, if Chinese arms sales to the Middle East are not discontinued.

I look forward to hearing from you on this important national security issue.

Sincerely,

BOB DOLE,
U.S. Senate.

[From the Washington Post, Sept. 8, 1988]

CHINA ASSURES CARLUCCI ON MIDEAST ARMS SALES—PEKING SEEN CURBING MISSILE SUPPLY ROLE

(By Daniel Southerland)

BEIJING, Sept. 7—Defense Secretary Frank C. Carlucci said today following talks with Chinese leaders that he feels "fully satisfied" China will behave in a "thoroughly responsible way" in its weapons sales to foreign nations.

"In my opinion, these are the best discussions we have ever had on this subject, and I hope that we can now put this issue behind us," Carlucci said at the end of two days of talks here during which he raised U.S. concerns about Chinese missile sales to the Middle East.

U.S. officials accompanying Carlucci said the willingness of the Chinese to discuss their arms sales policy in depth was a significant development and had helped to assure him that China will not be selling more intermediate-range missiles to Middle East nations beyond those already sold to Saudi Arabia.

The United States considers such missiles to be dangerously "destabilizing." The missiles sold to the Saudis are capable of striking Israel. This and a fear that the spread of such missiles could be accompanied by development of a chemical weapons capability threatening the entire Middle East region have caused great concern in the U.S. government.

Carlucci's remarks were the most positive to be made by a senior U.S. official regarding Chinese weapons sales.

American concern was first aroused more than a year ago when U.S. officials accused China of selling Silkworm missiles to Iran that Washington said threatened U.S. ships patrolling the Persian Gulf.

China denied selling the missiles to Iran but promised to take steps to prevent its missiles from being diverted there.

Carlucci would not go into detail as to how the Chinese had convinced him that they were taking a "responsible" approach to Middle East arms sales. But a U.S. official accompanying him said it was China's top leader, Deng Xiapoing, who gave the most convincing arguments in a meeting with Carlucci today.

According to the official New China News Agency, Deng told Carlucci, "Here you can see with your own eyes that China is a trustworthy and responsible country."

Speaking at a press conference, Carlucci said Chinese leaders emphasized that they would never sell nuclear weapons to foreign nations and want to pursue policies that contribute to peace and stability.

Following the controversy over Silkworm missile sales to Iran, the Reagan administration had frozen further liberalization of high technology sales to China. But once the administration was convinced that China was halting further sales and exercising a restraining influence on Iran, it ended the freeze.

Members of the U.S. Congress continued to show concern, however, particularly once it was learned that China had secretly arranged to sell Saudi Arabia ballistic missiles with a range of up to 1,600 miles.

In mid-July, the Chinese told Secretary of State George P. Shultz that they had not sold ballistic missiles to any country other than Saudi Arabia. But the administration apparently felt this fell short of a pledge to halt any further such sales.

Apparently signaling that the United States now feels more assured, Carlucci said that U.S. defense experts are discussing with Chinese counterparts new programs that would transfer more military technology to China's Army and Air Force.

The United States is already providing military technology in a number of areas, including electronics for Chinese Air Force interceptors, torpedoes for the Chinese Navy, and the know-how for the production of Army artillery fuses.

Carlucci also said he had no objection to China's plans to launch U.S. commercial satellites on Chinese rockets.

Carlucci continues his visit Thursday with a trip to the ancient city of Xian. He ends it Saturday with the inspection of ships and a naval base near Shanghai.

China's Missiles

China's sales of long-range missiles to Middle Eastern governments increase all of the obvious dangers there. Frank Carlucci, the secretary of defense, brought up the missile business in his talks this week with the Chinese. China's defense minister brushed off the subject with the familiar "Who, us?" response. That's not a promising sign.

China claims that it never sold Iran the Silkworm missiles that Iran has now trained on the Persian Gulf shipping lanes. If that's true, it means that China has been selling the Silkworms to third parties with no conditions on resale—an implication that is, if anything, more disturbing than a direct deal with the Iranians. China has also sold Saudi Arabia missiles with a range of more than a thousand miles and the capacity to carry nuclear warheads. Other Middle Eastern countries also appear to have Chinese-built missiles. China doesn't seem to care much to whom it sells, as long as they are not within missile range of China's own borders.

It's getting harder to control the international traffic in high-technology weapons. Until recently, there were only a few sources of missiles—this country, the Soviet Union and Western Europe. But those governments are becoming uneasily aware that as a threat the missiles rank second only to nuclear weapons. Last year the United States and six of its allies announced tight restrictions on missile sales, and the Russians have become increasingly cautious.

As a result, several Third World countries are finding that they can earn very large amounts of hard currencies by providing missiles to other Third World countries. China isn't alone. North Korea is reportedly helping Egypt develop missiles, Brazil, which is emerging as one of the world's leading manufacturers of armaments, has apparently sold Libya missiles, scheduled to be delivered in a couple of years, that by some accounts will be able to reach Cairo and Jerusalem.

But if China isn't the only purveyor, it is the leader. As long as the Chinese remain impervious to American concerns about their missiles, pressure will grow in this country to reconsider the sale of American military technology to them.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, from time to time we discuss, since this is the 100th Congress, a so-called bicentennial minute, things that have happened over the years in the U.S. Senate that may be of interest to those who read the RECORD and our colleagues and others who watch the Senate proceedings.

BICENTENNIAL MINUTE

SEPTEMBER 14, 1951: SENATOR DOUGLAS FIGHTS FREE HAIRCUTS

Mr. DOLE. Mr. President, 37 years ago today, on September 14, 1951, the U.S. Senate debated the weighty issues of whether to eliminate free shaves and haircuts for Members from the Senate barber shop. Senator Paul Douglas of Illinois, a vigilant watchdog over the public treasury, had gone down to the barber shop for a much-needed haircut. After the barber had done his work, Douglas began to think that his income was ample enough to pay for his own haircut—which then cost a dollar and a quarter—and not charge it to the taxpayers. So he introduced an amendment to that year's legislative appropriation to cut off funds for the barber shop unless it began charging its senatorial customers.

Speaking for the Legislative Appropriations Subcommittee, Senator Carl Hayden of Arizona began by complimenting Senator Douglas on his excellent haircut. He then recounted this story:

> I can very well recall that when I first came to the Senate, a very active reporter in the Press Gallery decided that Senators must pay for their haircuts. He wrote article after article on that subject for the newspapers. At that time, being a new Senator, I was somewhat disturbed by the publicity and inquired of some of the other Senators to see what might be done about it. I went to the honorable William Edgar Borah, a late Senator from Idaho, who then had been in the Senate a long time and was very highly respected. I asked him what we should do. Senator Borah said, "You tell that reporter to go to the devil. I want the same service that was received here by Henry Clay and John C. Calhoun."

After a good laugh, the Senate shouted down Senator Douglas' amendment, and the free haircut survived. I want to assure taxpayers, however, that today Senators pay their own way when they have their hair cut, as Senator Douglas tried and failed to accomplish 37 years ago this day.

Mr. President, I reserve the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. SASSER. Mr. President, I submit a report of the committee of conference on H.R. 4586 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4586) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 9, 1988.)

Mr. SASSER. Mr. President, I am pleased to bring before the Senate the conference report on this military construction appropriations bill for fiscal year 1989. I would state to the Senate, Mr. President, that the conference report is within the 302(b) budget allocation for both budget authority and outlays.

Mr. President, the military construction appropriations bill provides $9.011 billion in new authority for fiscal year 1989.

The conference report is the product of many compromises between the House and Senate. This year we had more than 300 project and language differences between the House and Senate which totaled $500 million.

The report we are presenting today, represents a good product. This bill takes care of our most pressing military construction needs, while, at the same time, recognizing the overall need to moderate spending to reduce this Nation's very large budget deficit.

Mr. President, the conferences have made a number of changes in the priorities presented in the President's original budget submission.

Specifically, we have increased funding, I am happy to report to my colleagues, for the National Guard and Reserve by more than $130 million or almost 28 percent.

I hope the Department of Defense will, in the future, pay more attention to the needs of our Nation's very vital National Guard forces and our Reserve forces. As we move in the direction of stabilizing defense spending, we are simply going to have to rely more and more on the National Guard and the Reserve to perform some of the roles and functions that are now performed by the regular military formations.

We have also reduced spending at overseas bases by almost $215 million.

Mr. President, while we have provided funding for important mission-related and important quality-of-life projects overseas, we have taken a substantial reduction in the lower priority military construction projects overseas.

We have made these reductions to indicate our continuing concern to our friends and allies of the need on their part to provide additional contributions to the common defense of the free world and to place less reliance on the American taxpayer.

Specifically, we believe our allies can begin to provide expanded assistance in the cost of constructing and maintaining family housing, dependent schools, and community services.

I hope that officials at the Department of Defense will continue to utilize the task force on burden sharing as an effective tool in securing new contributions toward the common defense of the free world from our allies.

Mr. President, the conferees have also addressed another burden-sharing issue in the conference report, that of our allies providing untied loans to the Soviet bloc.

This practice by our allies, especially Japan and West Germany, is increasing the defense burden of the free world.

Mr. President, the administration, in the judgment of this Senator, fails to recognize the significance of this issue. I am hopeful that the language in the conference report will help to stimulate new acton by the administration to urge our allies to end this unwise practice of loaning very large sums of money to the Soviet bloc with no strings attached.

Mr. President, I ask unanimous consent that a table entitled "Budgetary Impact of Conference Report" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGETARY IMPACT OF CONFERENCE REPORT

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
Comparison of amounts in the bill with the Committee allocation to its subcommittees of amounts in the First Concurrent Resolution for 1989: Subcommittee on Military Construction	9,011	9,011	8,071	[1] 8,065
Projections of outlays associated with budget authority recommended in the bill:				
1989				[2] 2,618
1990				2,965
1991				1,704
1992				805
1993 and future year				706
Financial assistance to State and local governments for 1989 in the bill		108		13

	Direct Loan	loans guarantees
Credit authority estimates, fiscal year 1989		

[1] Includes outlays from prior-year budget authority.

[2] Excludes outlays from prior-year budget authority.

Source: Prepared by the Congressional Budget Office pursuant to sec. 308(a), Public Law 93-344, as amended.

Mr. SASSER. Mr. President, I am delighted now to yield to the ranking minority member for any comments that he might have. I might say to my colleagues that it continues to be a pleasure to work with the ranking minority member, the distinguished Senator from Pennsylvania, Mr. SPECTER. His contributions to the excellent end product here have been significant.

I now yield to my distinguished colleague.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Tennessee, Mr. SASSER, for those very generous remarks. Reciprocally, I compliment the chairman of the MilCon subcommittee on appropriations for the outstanding job which he has done during the course of the past year on the hearings, the markup, the passage of the bill before this body, and the conference.

I am pleased to support the conference agreement on H.R. 4586, the military construction appropriations bill for fiscal year 1989.

As Senator SASSER outlined, this legislation will provide the Department of Defense with slightly in excess of $9 billion for the construction of various facilities to support the missions of the Defense Department; and also provide for the construction of, improvements to and operation and maintenance of the family housing utilized by our military personnel and their dependents.

The conference agreement passed the House earlier today and is within the allocations for budget authority and outlays. It should be noted, Mr. President, that this is the largest military construction appropriations bill ever passed by this body. Again, I want to commend the distinguished chairman of our subcommittee, the Senator from Tennessee [Mr. SASSER], for his outstanding leadership in bringing this bill back to the Senate for final action.

Mr. President, I compliment the majority leader and the Republican leader on the speed of presentation of this conference report to this body.

We sat here awaiting the arrival of the papers, and just as soon as they are in hand after the House action, the matter is submitted to the Senate for its action in our effort to complete action on the 13 appropriation bills to present them to the President one at a time.

Mr. President, I concur with the comments by the chairman, Senator SASSER, about the need for greater burden-sharing. I think that is an undertaking which has to be recognized by our NATO allies. It is something which President Reagan has pressed. It is something we pressed at the Atlantic assembly meetings. It is something which has to be maintained if the United States is to be able to meet its own budget limitations, recognizing our own budget constraints, to have more support of our allies on the common defense.

Mr. President, I commend the staff for their outstanding work and I think that this presentation marks the conclusion of a very important matter of congressional business for fiscal year 1989.

Mr. SASSER. Mr. President, I thank the distinguished ranking member for his remarks and his contributions here this afternoon.

I know of no further debate, Mr. President. This is a fair and equitable conference report. I would urge its approval by the Senate, and I yield back any remaining time, and I would move the adoption of the conference report.

Mr. SPECTER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SPECTER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, in accordance with the agreement previously entered, I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the

amendments of the Senate, and that the Senate recede from its disagreement on amendment No. 41.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments considered and agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $927,292,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$1,576,516,000 of which amount, $38,080,000 for the TACAMO mission shall not be available for obligation or expenditure before October 15, 1988, and, of the amount appropriated, funds allocated for homeporting at Everett, Washington may be obligated and expended for any homeporting military construction activity at that installation, except actual dredging and disposal of contaminated sediment, and that such funds may be expended for actual dredging and disposal of contaminated sediments once requirements of the Federal Water Pollution Control Act have been satisfied".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"COAST GUARD SHORE FACILITIES

"For construction, rebuilding and improvements of shore facilities of the United States Coast Guard, $50,300,000 to remain available until September 30, 1993".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$1,225,926,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$197,278,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$1,527,602,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$244,181,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$799,169,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 126. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $30,000,000 may be obligated for contract cleaning of family housing units.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: "128".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: "129".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 130. None of the funds appropriated in this Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: Provided, That the goal of the National Test Bed should be to simulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost-effective at the margin, and survivable.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 131. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.".

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill.

Mr. REID. Mr. President, I rise to praise the work of the distinguished chairman of the Senate Appropriations Subcommittee on Military Construction, my good friend Senator SASSER. He managed to overcome every political and policy pratfall while negotiating the military construction bill through the Senate and the conference committee. Senator SASSER is one of those rare individuals who can please everyone but appease no one. He has my utmost respect and admiration, feelings I know are shared by my colleagues on the subcommittee and by our counterparts in the House.

Those of us on the subcommittee know that some of the decisions made by the chairman were really quite difficult, and accrued no advantage to him. I refer specifically to the 2-year fight I have waged to prevent the 474th Tactical Fighter Wing based at Nellis Air Force Base, NV, from being deactivated. On the very first day of the 100th Congress I learned the President had decided to deactivate the 474th. I was shocked. The Secretary of the Air Force had told me on several occasions this Nation needs 44 tactical fighter wings to provide a strong conventional deterrent; 40 wings has been an interim goal for several years, while we currently have 38. Deactivating the 474th leaves this Nation with seven fewer tactical fighter wings than it needs to adequately defend itself.

Last year, the Nevada delegation, and Gov. Richard Bryan, managed to win a 1-year reprieve for the 474th. This year, through, the President again chose the 474th for deactivation and stacked the cards against the wing. He made sure the planes were distributed to States with politically powerful members who would fight hard for the planes and the deactivation of the 474th.

Chairman SASSER had absolutely nothing to gain by helping me in my fight to save the 474th. But he stuck his neck out and worked with me to save the wing. The Senate worked its will and included bill language in H.R. 4586, the military construction appropriations bill for fiscal year 1989, preventing the deactivation of the wing. The House, under pressure from the President and Members who would see their Guard and Reserve units upgraded with F-16's, refused to accept this bill language in conference on Friday or today on the floor.

I believe this action by the House is a major mistake. It ignores the need this Nation has for a strong conventional deterrent, particularly since the ratification of the INF Treaty. Once the 474th is deactivated it is gone forever. Its training, expertise, and plan can never be reactivated. Deactivating the 474th is a shortsighted budget expedient taken at a time when our conventional weapons capability must be enhanced.

I have fought, and fought hard, to save the 474th for almost 2 years now. The odds have not gotten any better. I have arguments for a strong conven-

tional deterrent and the tiny Nevada delegation on my side. Arrayed against me is the President and Members from States who will get F-16s, pressure for early adjournment and today's action by the House. Continuing the fight will only postpone the inevitable deactivation of the 474th. H.R. 4586 appropriated $9 billion for building facilities crucial to the defense of our Nation. Our fighting men and women are depending on us to provide them with housing and other amenities that contribute to their morale and readiness. I cannot hold up this important bill, and sacrifice the other legitimate needs of the armed services, for a cause my colleagues will not support.

On January 20, 1989, this Nation will have a new President. On April 1, 1989, the 474th tactical fighter wing is scheduled to be deactivated. I hope during this short period, the new President will reexamine our force structure and decide more, not less, tactical fighter wings are needed to provide a credible conventional deterrent and a strong national defense. This will not be an easy decision for the next President, I have little hope he will reverse the decision to deactivate the 474th.

Finally, I am happy to say that my chairman has agreed to help me find a use for the Indian Springs Air Force Auxiliary Field. Working together, I believe we will be able to upgrade this underutilized field and make it suitable for the Air Guard in southern Nevada. Mr. President, Senator SASSER has shown he is a fair, hard working chairman who will not hesitate to go the extra mile for his fellow Senators. Once again I commend him and his clerk, Mike Walker, for their work on this bill and look forward to my future years of service on the Military Construction Subcommittee.

Mr. SASSER. Mr. President, I want to thank once again all Senators who have participated in the debate and worked on this military construction appropriations bill and, Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The Senate continued with the consideration of the bill.

Mr. THURMOND. Mr. President, as I understand it, we are back on the textile bill now.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Mr. President, I rise as an original cosponsor of this legislation which will significantly strengthen and promote enforcement of our textile and apparel trade laws and agreements. This measure, H.R. 1154, the Amended Textile and Apparel Trade Act of 1988, has attracted strong bipartisan support. Many of my Senate colleagues have signified their dedication to the continuation of a viable American textile and apparel industry with 50 having joined as cosponsors of the original Textile and Apparel Trade Act of 1987.

Mr. President, a viable textile and apparel industry is absolutely essential to the economy and national security of this Nation. Although seriously threatened, and already heavily impacted by massive imports, this vital industry still provides employment nationwide for more than 2 million Americans. One out of every 10 manufacturing jobs is a textile- and apparel-created job. As well, more people depend upon the textile and apparel industry for their livelihoods than the steel and auto industries combined. However, if the current trend in job losses persists due to textile import penetration, massive economic hardship will continue to impact harshly upon those who depend upon this industry for their livelihoods.

In addition to its economic importance, the textile and apparel industry is critical to the defense and security of this Nation. In 1984, U.S. Trade Representative William Brock said: "Every industry insists it is essential for national defense. Textiles is the only one we accept as essential." We must not allow ourselves to become dependent upon foreign nations for the basic defense requirements of our Armed Forces. It is no small task to meet the apparel needs of our military forces. The textile and apparel industry has met the challenge throughout the history of this country both during times of war and times of peace. Textile employees have spent millions of hours manufacturing textile and apparel items which are essential to our military forces who are called on to preserve our freedom. A strong domestic textile industry is critical to a strong military. Unless this legislation becomes law, our domestic textile industry will continue to grow weaker while our adversaries become stronger through exports to our country. This could ultimately threaten the national security of this Nation.

Mr. President, having outlined the importance of the textile and apparel industry, I believe it appropriate now to discuss the magnitude of the crisis confronting this vitally important industry.

Over the last several years, I have quoted many statistics related to the textile and apparel industry. Year after year, the statistics are more and more dismal. The situation has deteriorated to the point that almost one-half of all textile and apparel goods sold in the United States today are made abroad.

Mr. President, I want to repeat that statement. The situation has deteriorated to the point that almost one-half of all textile and apparel goods sold in the United States today are made abroad.

The fact that this Nation faces such a crisis is inconceivable. In certain product categories, imports have captured 80 percent of the domestic market. Although imports have adversely impacted almost all of our domestic industries, the situation is most acute with regard to the textile and apparel industry. Import penetration in the auto and steel industries is only 25 percent, about one-half the rate experienced by the textile and apparel industry.

During the past 5 years, textile and apparel imports have increased at an average rate of 20 percent per year, displacing some 300,000 to 350,000 American textile workers in the process. Over 700,000 textile employment opportunities have been lost as a result of increased imports. A recent example of these massive layoffs was reported in the Washington Post on July 22, 1988. The article entitled "Virginia Mill to Close" states that a textile mill employing 164 people in Fries, VA would close around October—a victim of foreign competition, according to the owners.

The owners who happen to be from South Carolina may donate all or part of the mill to the town which owes its existence to this mill. The operation of the mill built nearly all the homes in the community, helped establish a school, churches, a cemetery, a bank, and recreational facilities. When a textile mill is forced to close down due to overseas competition, many times, an entire town is destroyed.

The 164 employees will become a part of the dismal statistics I have stressed over and over. One hundred and sixty-four may not seem to be a significant layoff, unless you are the one asked not to return to your job on Monday.

Mr. President, textile imports totaled over $28.9 billion during 1987. This record amount of imports reflects an astounding increase of almost 17 percent over 1986.

On the other hand, the United States exported ony $4.1 billion during 1987, which translates into an unprecedented textile and apparel trade deficit of $28.8 billion. This reflects a 16.8-percent increase of the textile and apparel trade deficit. These figures equate to an import-export ratio of 7 to 1. The entire trade deficit reflects an import-export ratio of only 1.67 to 1. This statistic clearly depicts how hard the textile and apparel industry has been hit compared to other industries.

The textile and apparel trade deficit for January and February 1988, rose 6.3 percent over the same period last year to a recordbreaking $4.2 billion.

As discouraging as these statistics are, there is more bad news for the textile industry. Measured in square yards, textile and apparel imports reached a record level in 1987. Over 13 billion square yards were brought in—a 2.35-percent increase over the record amount of imports in 1986. If this current trend does not change, and there is no reason to believe that it will unless this measure passes, more than 13 billion square yards of textile and apparel imports will flood into the United States in 1988.

The most astonishing fact is that these record levels were reached despite administration claims that they have negotiated tighter bilateral agreements with foreign importers. The truth is that the administration has taken no effective action to ensure the job security of the more than 2 million Americans employed in this industry. In fact, according to the American Textile Manufacturing Institute, over 10,000 textile and apparel employees lost their jobs during the month of January 1988. Unless Congress takes prompt action to stop this devastating trend, the flood of textile and apparel imports will drive this domestic industry to extinction. Some 2 million Americans employed in this industry could suffer the tragedy of losing their jobs.

Along with these statistics, a recent study by the Office of Technology Assessment, OTA, warrants serious consideration by the members of this body. As we all know, OTA was created in 1972 as an analytical arm of Congress. Its basic function is to help legislative policymakers anticipate and plan for the consequences of technological change and to examine its impact on our citizens. OTA provides Congress with nonpartisan independent and timely reports in many areas—one being the U.S. Textile and Apparel Industry.

OTA issued a report entitled the "U.S. Textile and Apparel Industry: A Revolution in Progress." Its conclusions are most disturbing. This report concludes that "despite the optimism made possible by technical progress, U.S. textile and apparel firms are in danger * * * in spite of these remarkable advances, the industry is gravely threatened."

The OTA report draws the following conclusion:

> * * * if penetration of U.S. apparel markets were to continue at the pace of the past decade, domestic sales of U.S. apparel firms would approach zero by the Year 2000, while two-thirds of the U.S. textile market would be served by foreign imports.

In essence, the OTA report concludes that the domestic textile and apparel industry will be extinct in a few short years unless the flooding of our domestic market with foreign textile and apparel imports is halted. This bill must become law if this industry is to survive.

Mr. President, the reason imports have been capturing larger and larger percentages of our domestic market is because foreign manufacturers do not compete with our domestic textile and apparel producers on an equal basis. If they did, then the U.S. textile and apparel industry, the most modern in the world, could easily compete with that of any other nation. However, our domestic industry cannot effectively compete with foreign industries that pay their employees slave wages and that are subsidized by their governments. In order to have free trade, we must first have fair trade.

Many foreign governments have bolstered their textile and apparel industries in order to fulfill the threefold purposes of creating jobs for their workers, acquiring U.S. dollars, and achieving a more favorable balance of trade. These governments have been creative, innovative, and remarkably successful in their efforts as the import statistics too well illustrate. For example, many countries have provided low interest, subsidized loans for capital formation and expansion within their textile and apparel sectors. They have created tax advantages and other incentives for exporting textile and apparel products. They have fostered and protected their own industries and markets through currency manipulation and trade restrictions. In many cases, formal partnerships have even been arranged between foreign textile firms and their governments.

Before closing, I would like to mention recent events that make passage of the textile bill absolutely necessary. I am appalled that this administration has agreed to allow the Soviet Union to import cotton sheeting and print cloth into our domestic market. You can be assured the Soviets will attempt to exploit and take advantage of this opportunity to become a major supplier of textiles and apparel into this country. In essence, the Soviet Union is undermining the most essential industry to our national defense. By allowing the Soviets to ship their products here, we are depriving American workers of their jobs and creating jobs for our strongest adversary. We simply cannot continue to permit these practices. American workers must always come first.

In conclusion, the legislation we are considering today is designed to promote the orderly, nondisruptive growth of world trade in fibers, textiles, and apparel products. It is the result of a cooperative, bipartisan effort on the part of textile and apparel management and labor, Members of Congress, and others concerned with the continuation of a viable domestic textile and apparel industry. I believe the Textile and Apparel Trade Act to be a sound measure that will ensure strict enforcement of our existing trade laws and agreements. Above all, it will structure a fairer trading system for textile/apparel products worldwide.

Furthermore, the amended bill is drafted in a manner to ensure that other domestic industries are treated equitably and fairly. For example, H.R. 1154 contains a provision which requires the administration to give preference to foreign countries which increased their purchases of American agricultural products when allocating textile and apparel quotas under the bill.

The bill also provides for a 1-year pilot program to auction textile and apparel import licenses to alleviate the reduction of tariff revenues due to import controls. This provision would ensure that the cost of implementing this measure will remain minimal.

The main purpose of this bill is to set limits on import growth rates at 1 percent per year from a 1987 base level. This is consistent with the multifiber arrangement, and moreover, necessary to the survival of one of the most important industries of our Nation. It is apparent that this legislation is unquestionably necessary. This textile and apparel import problem will not solve itself. I reiterate, we saw the textile and apparel deficit grow to a massive $24.8 billion in 1987. We have lost thousands of textile and apparel related jobs and job opportunities in the last several years. Unless we take prompt action, the continued existence of the industry is in jeopardy.

Finally, some label this legislation as protectionist. I believe this label is inaccurate. When the jobs of more than 2 million Americans are at stake, the issue is not one of being protectionist, it is a question of developing a fair and rational trade policy that will allow a competitive amount of goods to enter our markets without displacing our works. American jobs should never be sacrificed to support foreign economies and employment.

I strongly urge my Senate colleagues to seriously consider this bill and realize the necessity of its passage.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Fowler). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination, which was referred to the Select Committee on Indian Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 155

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

Pursuant to the requirements of Section 10 of the Saint Lawrence Seaway Act of May 13, 1954, I hereby transmit the Saint Lawrence Seaway Development Corporation's Annual Report for 1987.

RONALD REAGAN.

THE WHITE HOUSE, *September 14, 1988.*

MESSAGES FROM THE HOUSE

At 1:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1223) entitled the "Indian Self-Determination Amendments of 1987," with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2057. An act to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 775. An act to provide for the establishment of the Poverty Point National Monument, and for other purposes;

H.R. 3957. An act to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the State of Pennsylvania;

H.R. 4064. An act to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges;

H.R. 4554. An act to remove certain restrictions on land acquisitions for Antietam National Battlefield;

H.R. 4970. An act to amend title 35 of the United States Code relating to animal patents; and

H.R. 5049. An act to amend section 603(a) of the Federal Property and Administrative Services Act of 1949 to authorize the expenditure of monies for official reception and representation expenses.

The message also announced that pursuant to the provisions of section 225(b) of Public Law 90-206, the Speaker appoints Mr. William R. Ratchford of Arlington, VA; and Mr. John Creedon of Larchmont, NY, on the part of the House from private life as members to the Commission on Executive, Legislative and Judicial Salaries.

At 3:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day".

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4586) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; it recedes from its disagreement to the amendment of the Senate numbered 28 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 1, 4, 7, 8, 22, 24, 25, 27, 34, 35, 37, 38, 40, and 45 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that it insists upon its disagreement to the amendment of the Senate numbered 41 to the bill.

At 4:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for Intelligence and Intelligence-related activities of the U.S. Government, for the Intelligence community staff, for the Central Intelligence Agency retirement and disability system, and for other purposes.

The message also announced that the House has passed the bill (S. 945) to require the Secretary of Health and Human Services to make grants to local governments for demonstration projects to provide respite homes and other assistance for infants abandoned in hospitals, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1914) to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 5073. An act to amend the Federal Aviation Act of 1958 to provide protection for aviation whistleblowers.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 5:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 4783. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4867. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes; and

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 775. An act to provide for the establishment of the Poverty Point National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3957. An act to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the State of Pennsylvania; to the Committee on Energy and Natural Resources.

H.R. 4554. An act to remove certain restrictions on land acquisitions for Antietam National Battlefield; to the Committee on Energy and Natural Resources.

H.R. 4970. An act to amend title 35 of the United States Code relating to animal patents; to the Committee on the Judiciary.

H.R. 5049. An act to amend section 603(a) of the Federal Property and Administrative Services Act of 1949 to authorize the expenditure of moneys for official reception and representation expenses; to the Committee on Governmental Affairs.

H.R. 5073. An act to amend the Federal Aviation Act of 1958 to provide protection for aviation whistleblowers; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The Committee on Banking, Housing, and Urban Affairs was discharged from the further consideration of the following bills; which were placed on the calendar:

H.R. 176. An act to provide for the uniform disclosure of the rates of interest which are payable on savings accounts, and for other purposes; and

H.R. 3011. An act to amend the Truth in Lending Act to establish additional disclosure, advertising, and other requirements for home equity loans.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 14, 1988, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1626. A bill to keep secure the rights of intellectual property licensors and licensees which come under the protection of title 11 of the United States Code, the Bankruptcy Code (Rept. No. 100-505).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S. 1863. A bill to amend the bankruptcy law to provide for special revenue bonds, and for other purposes (Rept. No. 100-506).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1919. A bill for the relief, of Michael Wilding (Rept. No. 100-507).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 129. A bill to authorize and amend the Indian Health Care Improvement Act, and for other purposes (Rept. No. 100-508).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

H.R. 2046. A bill to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

H.J. Res. 602. Joint resolution in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.

S. Res. 385. Resolution expressing the opposition of the Senate to the continued control of the cathedral of Vilnius, Lithuania, by the Union of Soviet Socialist Republics.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 129. Concurrent resolution expressing the support of Congress for the Dalai Lama and his proposal to promote peace, protect the environment, and gain democracy for the people of Tibet.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 142. Concurrent resolution congratulating Israel and Egypt on the tenth anniversary of the Camp David Accords.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

W. Allen Wallis, of New York, to be United States Alternative Governor of the International Bank for Reconstruction and Development for a term of five years; and United States Alternative Governor of the Inter-American Development Bank for a term of five years.

The following-named persons to the Representatives of the United States of America to the Forty-third Session of the General Assembly of the United Nations:

Vernon A. Walters, of Florida;

Pearl Bailey, of Arizona;

Rudy Boschwitz, United States Senator from the State of Minnesota; and

Christopher J. Dodd, United States Senator from the State of Connecticut.

The following-named persons to be Alternative Representatives of the United States of America to the Forty-third Session of the General Assembly of the United Nations:

Noel Gross, of New Jersey;

Lester B. Korn, of California;

Hugh Montgomery, of Virginia;

Patricia Mary Byrne, of Ohio; and

Arthur Schneider, of New York.

Joseph F. Saldago, of California, to be the Representative of the United States of America to the Thirty-second Session of the General Conference of the International Atomic Energy Agency;

The following-named persons to the Alternate Representatives of the United States of America to the Thirty-second Session of the General Conference of the International Atomic Energy Agency:

Lando W. Zech, of Virginia;

Bruce K. Chapman, of Washington; and

Richard T. Kennedy, of the District of Columbia.

Nicholas F. Brady, of New Jersey, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; and United States Governor of the African Development Fund.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which appeared in its entirety in the CONGRESSIONAL RECORD of September 7, 1988, and, to save the expense of reprinting them on the Executive Calendar, I as unanimous consent that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ:

S. 2786. A bill to amend title 10, United States Code, to encourage increased utilization of domestic firms in the performance of Department of Defense contracts; to the Committee on Armed Services.

By Mr. HENIZ (for himself, Mr. ROCKEFELLER and Mr. WALLOP):

S. 2787. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the exploration and development of coal resources; to the Committee on Finance.

By Mr. DURENBERGER (for himself and Mr. BAUCUS):

S. 2788. A bill to amend the Solid Waste Disposal Act; to the Committee on Environment and Public Works.

By Mr. DOLE (for himself, Mrs. KASSEBAUM and Mr. HEINZ):

S. 2789. A bill to require the Secretary of the Treasury to mint and issue $1 coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower; considered and passed.

By Mr. DURENBERGER:

S. 2790. A bill entitled "Narcotics Enforcement Simplification Amendment of 1988"; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 2791. A bill to add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes; referred to the Committee on Indian Affairs.

By Mr. ROTH:

S.J. Res. 377. Joint resolution proposing an amendment to the Constitution regarding Federal taxation of State obligations; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. SASSER, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. KERRY, Mr. ADAMS, Mr. HUMPHREY, Mr. GORE, Mr. EXON and Mr. COCHRAN):

S.J. Res. 378. Joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. BURDICK (for himself and Mr. STAFFORD)):

S. Res. 471. Resolution authorizing the printing of a history of the Environment and Public Works Committee as a Senate document; considered and agreed to.

By Mr. JOHNSTON (for himself and Mr. McCLURE):

S. Res. 472. Resolution authorizing the printing of background information relating to the Committee on Energy and Natural Resources; to the Committee on Rules and Administration.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ:

S. 2786. A bill to amend title 10, United States Code, to encourage increased utilization of domestic firms in the performance of Department of Defense contracts; to the Committee on Armed Services.

UTILIZATION OF DOMESTIC FIRMS IN PERFORMANCE OF DEPARTMENT OF DEFENSE CONTRACTS

Mr. HEINZ. Mr. President, some of my friends in this body as well as some members of academia have in recent years launched a bitter attack on domestic procurement policies. They have made it seem unAmerican to buy American.

Well, in the coming months a number of us will be embarking on a counterattack against this effort to stand sound policy and sound economics on its head. Buying American is neither unAmerican nor unpatriotic. It strengthens our industrial base and in most cases over the long term saves money.

The economic arguments of those who oppose buy American policies are based on the same myopic thinking used by those who welcome dumped and subsidized imports because they are cheaper. Let the foreign goods come in, the economists say. We get the benefit of low prices, and foreign governments get poor paying the subsidies or their producers go broke my dumping.

It is precisely that kind of upside-down thinking that has produced our $170 billion trade deficit. The foreign producers and governments obviously are not going broke, and our consumers, far from saving money, are saddled with a foreign debt that our children will repay with a lower standard of living. This is an economic "Back to the Future" where Marty McFly goes backward and stays there; where we find our children having to work as hard as our parents to get by.

This has happened because instead of defending our comparative advantages, we have allowed our competitors to create theirs—through predatory strategies that allow them to capture our entire market by selling at any price. Once dominant, they can price at will. What has happened to domestic television manufacturing? VCR's? Telephones? Increasingly, semiconductors? Machine tools? The answer is, the same thing that will happen to high definition television, if we are not careful.

Those nearsighted politicians and economists who think free trade is a one-way street fail to understand the role their policies have played in eroding our industrial base. And I am not talking about low tech, low capital intensive, easy entry industries, but high tech, capital intensive industries with high entry costs, high research and development expenditures, and rapid development of new generations of technology. To kiss these industries goodbye in the name of one-way free trade is to abandon them forever, and in the process to weaken our national security by eroding our industrial manufacturing base. Yet that is exactly what we are doing.

This is not an abstract concern, as a recent Defense Department report, "Bolstering Defense Industrial Competitiveness," confirms: "Many basic industries of importance to defense production have declined, threatening the responsiveness of our industrial base. Left unchecked, such erosion could rob the United States of industrial capabilities critical to national security." I will shortly discuss some of the details of that report.

There are many ways to address this problem, but all of them begin with putting the American back into buy American and acknowledging it is not a crime to prefer our own products when the consequences of not doing so are so great.

There is also room for legislation—not protectionist legislation—but rather a modest step to encourage those whose task it is to worry about our industrial base to translate that worry into concrete procurement decisions.

Therefore, I am today introducing legislation that will encourage increased participation by our domestic industries in the defense procurement process. This bill sets certain guidelines for the Department of Defense, guidelines which in turn take the amount of promised domestic subcontracting into account when DOD considers awarding bids to prime contractors. This bill will require prime contractors to specify in their bids a percentage of domestic content they will demand in subcontracts and then require the Department of Defense to consider this domestic subcontract percentage as a factor in bid selection. This will be another safeguard against the erosion of our Nation's vital defense industries by unfair foreign competition.

Mr. President, in 1986 the United States awarded $9 billion in military contracts to foreign companies. The Defense Department defends its practice of awarding an unnecessarily large amount of defense contracts to heavily subsidized foreign industry as means of maintaining allied NATO support. Many of us, however, have criticized such contracting policy for the injury that it does to America; injury in terms of lost jobs, an exacerbated trade deficit and weakening of the domestic defense industrial base.

For example, the Senator from New Mexico (Mr. BINGAMAN) has recognized the potential threat to national security that such a foreign contracting policy could inevitably create. He is quoted in the New York Times as saying:

> To the extent that we are contracting out and depending upon foreign companies to accomplish our research, we are losing our cutting edge in technology.

The Senator from Massachusetts (Mr. KERRY) has also disputed the awarding of contracts to less costly foreign bidders. Senator KERRY has said:

> The secondary cost of us going to for the low bidder are more than made up for by the losses to the economy—lost jobs, competitiveness, employment benefits and market share.

It has been my observation, as well as that of others, that over the past 7 years the Department of Defense has reduced its purchases from U.S. sources in those situations where it could have legally made a choice between American and foreign sourced products. Although these actions have probably not been inconsistent with current law, they have had an adverse impact on the continued viability of American defense industries, which in turn could have long term effects on our national security, especially in times of crisis.

Accordingly, I asked the General Accounting Office to analyze DOD procurement practices to ascertain whether they also observed this change occurring. I also asked for a judgment as to the impact of any such change on the health of the domestic industries affected by it.

The GAO report on the Defense Department's assessment of industries critical to the defense industrial base did not show significant increases in the value of DOD prime contracts awarded to foreign sources but made clear that there is not adequate data maintained on subcontracting for parts and components. Obviously, the problem of a weakened industrial base is not related simply to the health of prime contractors; rather it is also closely tied to awards of subcontracts to foreign bidders. It is the small American businessman who is injured by such a policy, a policy which often unfairly favors highly subsidized bids by foreign competitors.

In reviewing the defense industrial base with the help of the Logistics Management Institute [LME], a Federal Funded Research and Development Center, the Defense Department concluded that the following are the top 25 defense critical industries which have been most adversely affected by these trends in the past 6 years:

Steel springs.
Industry trucks and tractors.
Nonmetallic mineral products.
Asbestos products.
Rubber and plastic footwear.
Farm Machinery and equipment.
Finishing plants not elsewhere classified (NEC).
Metal barrels, drums, and pails.
Hoists, cranes, and monorails.
Electrical industrial apparatus (NEC).
Steel foundries (NEC).
Machine tools and metal cutting.
Women's footwear, except athletic.
Machine tools and metal forming types.
Boot and shoe cut stock and findings.
Fur goods.
Construction machinery.
Footwear, except rubber, NEC.
Carbon and graphite products.
Men's and boy's outerwear.
Textile machinery.
Textile bags.
Hats, caps, and millinery.
Sewing machinery.
Motorcycles and bicycles.

I would note in passing, in view of the recent debates in the Senate, the high ranking of footwear and textile categories on this list. Although ranked in order of damage and not in order of importance to DOD, these nonetheless are all items determined to be defense critical.

Mr. President, this is only the top of the list. My office has heard many complaints from critical industries who believe that they may have been adversely affected by DOD procurement practices. Most notable among them are ball and roller bearings, iron and steel forgings, screw machine products and fasteners, and semiconductors and related products. The following data reflects the adverse trends which these industries are experiencing.

Imports' share of our market, a primary indicator of competitiveness, for ball and roller bearings increased from 12.2 to 16.6 percent and screw machine products rose from zero to 10 in the period 1980 to 1986.

Change in capacity is another important indicator of an industry's health. The measure of capacity growth that LMI selected is practical capacity: The maximum level of production possible with the equipment in place and a realistic work schedule. For iron and steel forgings, that figure decreased by 3.5 percent, and screw machine products decreased by 1.4 percent from 1980 to 1985. During this period, U.S. overall manufacturing capacity grew 1.5 percent annually, but of the 160 critical defense industries, 94, or 59 percent, performed below that overall average. The defense industries with the greatest decline in capacity were aluminum rolling and drawing, steel foundries, industrial trucks and tractors, and primary copper.

The GAO report also provided LMI's figures on the annual percentage change in manufacturers' shipments. These shipments are a measure of the activity in each defense critical industry. A negative or low growth demonstrates slow demand growth, which may lead to reduced investment and growth in capacity. The ball and roller bearing industry fell by 2.9 percent. Iron and steel forgings fell by 5 percent, and screw machine products increased only by 0.6 percent in comparison with the 1.4-percent per year growth of shipments for all manufacturing combined. There are other measures of industry health, such as investment ratios and average return on fixed assets, that also reveal similar deterioration.

The Department of Defense has recognized that it must take action if this erosion of our domestic defense industrial base is to be halted. DOD has made efforts to assist selected sectors, particulary semiconductors, gas turbine engines, machine tools, ball bearing and forgings. The recent report prepared at the direction of Under Secretary of Defense (Acquisition) Robert Costello recommends establishing a manufacturing strategy committee to advise the Under Secretary of Defense for acquisition on ways to improve the defense contractor manufacturing technology and industrial processes. The report, "Bolstering Defense Industrial Competitiveness," lists several steps toward improving the planning and manufacturing capabilities of second-tier defense contractors. In particular, the report recognizes that subcontractor performance has had limited visibility in high-level DOD attention notwithstanding its clear importance in the procurement process:

> The Department of Defense procurement processes are focused on prime contractors, even though purchased materials and components supplied by subcontractors represent 50 to 85 percent of the total cost. The Department does not require or encourage vendors' participation in strategic planning decisions or design processes. In fact, requirements of the competition advocates for free and open price competition for subcontractors and suppliers have the effect of keeping the supplier base in constant turmoil and make it virtually impossible for defense contractors to build a stable base of reliable, high quality, cost-effective vendors. This is the opposite of the practice generally credited for the high quality of Japanese products.

Although the Department of Defense plans a number of programs to rectify the problems in the defense industrial base, I believe legislation is also needed to further advance and direct these efforts. My bill will encourage increased utilization of domestic firms in the performance of defense contracts by spurring prime defense contractors to consider domestic industry at the subcontractor level. The bill requires DOD to consider in its bid review process the amount of domestic subcontracting that prime contractors include in their bids.

This bill is modeled in part on Public Law 95-507, enacted in October, 1978, which is intended to ensure that small businesses are given "the maximum practicable opportunity to participate" in Government contracts. This participation is to be evidenced in the subcontracts of prime contractors. The winner of a contract must meet with the procurement officer of the Government agency involved and work out an agreement which gives small business a certain percentage of all subcontracts.

"Unfortunately, Public Law 95-507 has had a number of enforcement problems which my bill hopes to avoid. First, the Secretary of Defense will be required to publish and furnish an explanation of all laws, regulations and Department policies which encourage the use of property manufactured and services provided by domestic firms in performance of DOD contracts. Furthermore, the Secretary must publicize the availability of these materials.

The main thrust of the bill is designed to ensure American companies adequate access to Government contracts. Each bid or proposal submitted by a contractor in connection with a contract solicitation issued by DOD shall specify the minimum percentage of the total dollar amount of the contract that is to be performed by domestic firms. Each bid must also include a plan under which not less than the minimum percentage of the total dollar amount referred to above will be performed by domestic firms. The percentage amount of domestic subcontracting listed in the bid shall be a significant factor in the evaluation of the bid or proposal and the subsequent awarding of the prime contract. Any contract awarded will include a requirement that at least the minimum percentage of domestic subcontracting promised in the bid will be commissioned.

The bill also has a clause to address complaints. If an interested party submits a complaint that a contractor has failed to comply with the contract's requirements, the Department's Inspector General must investigate. If the complaint is valid, the Department must require the contractor to take corrective action reasonably available or impose sanctions as determined by the Inspector General.

Mr. President, it is past time that Congress provide responsible incen-

tives to insure increased participation by American industry in the defense procurement process and by doing so to maintain the integrity and viability of our defense industrial base. Failure to do that only harms our national security, it destroys jobs and contributes to the further decline of our manufacturing sector. This legislation is a modest but constructive effort to remind everyone that buy American is a pro-American policy.

Mr. President, I ask that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UTILIZATION OF DOMESTIC FIRMS TO PERFORM DEPARTMENT OF DEFENSE CONTRACTS

(a) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2330. Performance of Department of Defense contracts by domestic firms

"(a) PUBLICATION OF NOTICE OF BUY AMERICA POLICIES.—(1) The Secretary of Defense shall—

"(A) furnish to any person, upon request, materials containing an explanation of all laws, regulations, and Department of Defense policies and practices which require or encourage the use of property manufactured or produced and services provided by domestic firms in the performance of Department of Defense contracts; and

"(B) publicize, on an ongoing basis, the availability of the materials referred to in clause (A).

"(2) The Secretary shall publicize the availability of the materials referred to in paragraph (1)(A) by means that—

"(A) provide the maximum practicable publicity for the availability of such materials; and

"(B) are likely to provide actual notice of the availability of such materials to the maximum practicable number of small business concerns.

"(b) MINIMUM DOMESTIC CONTENT.—(1) Each bid or proposal submitted by a contractor in connection with a contract solicitation issued by a military department or Defense Agency shall—

"(i) specify the minimum percentage of the total dollar amount of the contract that is to be performed by one or more domestic firms; and

"(ii) except as provided in paragraph (2), include a plan under which not less than the minimum percentage (referred to in clause (A)) of the total dollar amount of the contract will be performed by one or more domestic firms.

"(2) A contractor shall not be required to submit a plan referred to in paragraph (1)(A)(ii) in connection with any bid or proposal if the contractor submitting the bid or proposal includes in the bid or proposal a certification that the contractor will perform the entire contract and that the contractor is a domestic firm.

"(3) For the purposes of section 2305 of this title, the matters included in a bid or proposal pursuant to paragraph (1)—

"(A) shall be significant factors in the evaluation of the bid or proposal; and

"(B) shall have such importance in relation to other significant factors as the Secretary of the military department or head of a Defense Agency soliciting the bid or proposal may assign.

"(4)(A) Any contract awarded on the basis of a bid or proposal referred to in paragraph (1) shall include a requirement that at least the minimum percentage of the total dollar amount of the contract specified in such bid or proposal pursuant to such paragraph be performed by one or more domestic firms.

"(B) A material element in the performance of a contract referred to in subparagraph (A) shall be compliance by the contractor with the requirement included in the contract pursuant to such subparagraph.

"(c) COMPLAINT RELATING TO FAILURE TO ACHIEVE MINIMUM PERCENTAGE OF DOMESTIC PERFORMANCE.—(1) If, in the case of a contract awarded by the Secretary of a military department or the head of a Defense Agency, any interested party submits in writing to the Inspector General of the Department of Defense a complaint that a contractor has failed to comply with any requirement of a contract referred to in subsection (b)(4), the Inspector General shall—

"(A) investigate the complaint;

"(B) determine whether the complaint is valid; and

"(C) if the complaint is valid, determine—

"(i) what, if any, corrective action is reasonably available and appropriate for the contractor to take at the time the Inspector General determines that the complaint is valid; and

"(ii) what, if any, sanctions it is appropriate to impose against the contractor.

"(2) The Secretary of a military department or the head of a Defense Agency that awarded a contract referred to in paragraph (1) shall require the contractor to take all corrective actions determined reasonably available and appropriate by the Inspector General under paragraph (1) and impose against the contractor all sanctions determined appropriate by the Inspector General under such paragraph.

"(d) DEFINITIONS.—In this section:

"(1) The term 'domestic firm' means any business entity which is not a foreign firm.

"(2) The term 'foreign firm' means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the voting stock is owned or controlled by one or more foreign nationals.

"(3) The term 'interested party', with respect to a contract which contains a requirement referred to in subsection (b)(4), means—

"(A) any person who submitted a bid or proposal for such contract but was not awarded the contract;

"(B) any domestic firm which, at the time a subcontract under such contract is awarded by the prime contractor to a foreign firm, is ready, willing, and able to perform such subcontract; and

"(C) any other person aggrieved by a failure of the contractor to comply with such requirement.

"(4) The term 'small business concern' means a small business concern within the meaning of section 3 of the Small Business Act (15 U.S.C. 632).".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2330. Performance of Department of Defense contracts by domestic firms.".

SEC. 2. EFFECTIVE DATE

The amendments made by section 1 shall take effect with respect to contract solicitations issued by the Department of Defense on or after the date of the enactment of this Act.

By Mr. HEINZ (for himself, Mr. ROCKEFELLER, and Mr. WALLOP):

S. 2787. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the exploration and development of coal resources; to the Committee on Finance.

COAL PRODUCTION TAX INCENTIVE ACT

Mr. HEINZ. Mr. President, I note from remarks the majority leader has made on other occasions that it is his expectation we will take up the U.S.-Canada free trade agreement. I point out, Mr. President, that under that agreement, the United States and Canada would move toward opening their borders on much less restricted bases to goods and services produced in our two respective countries and ultimately we could reach an integrated economic unit, a market, if you will, for most of North America, although I must tell you the free trade agreement that will be before us does not go anywhere near that far.

As we start to move down this path, however, we must be mindful that our two countries have very different standards for the conduct and treatment of their industries. Recognizing this, and recognizing that industries important to the economic health of Pennsylvania compete both directly and indirectly with similar industries in Canada that receive a more favorable treatment, I am introducing this measure, along with Senators WALLOP and ROCKEFELLER, to create a more level playing field in the tax treatment of extractive industries like coal. While this legislation may not totally level the playing field, it will permit United States coal producers that compete directly with Canadian coal producers, or that compete in the sale of coal for the production of electricity, to compete on more equal terms.

Mr. President, it is a well-known fact that the coal industry in Pennsylvania is integral to the economic health of several regions of the Commonwealth. However, very few people understand exactly what this means. The production of each one million tons of coal in Pennsylvania is directly responsible for 300 mining jobs with a payroll of approximately $10 million; each million tons is also responsible for 250 jobs in supporting industries with a payroll exceeding $6 million. In 1986, 71.5 million tons of coal were produced in the State of Pennsylvania; generating over 39,000 jobs directly and indi-

rectly and nearly $95 million in payroll in our Commonwealth.

Despite the coal industry's importance, the industry has gone through a major retrenchment in recent years. Since 1970, when there were 407 deep mines and 890 surface mines, the total number of operating mines has been cut nearly in half. Moreover, from a peak employment of 190,000 Pennsylvania coal miners earlier in this century, we have dropped to an all-time low of 17,000 miners in my State during 1987. This is less than 10 percent of peak employment. Pennsylvania coal miners know what retrenchment means in ways that few other industries can understand.

In rural Pennsylvania the loss of jobs in the coal industry has been particularly devastating. In Greene County, about 50 miles south of Pittsburgh, as recently as 1979 there were 4,500 miners on the job. In 1987 there were only 2,400 left with jobs. These massive job losses in the local fields is directly responsible for Greene County's double digit unemployment rate.

Other Pennsylvania counties have been equally hard hit. A decade ago, in nearby Cambria and Somerset Counties there were nearly 10,000 coal miners employed. Today there are only 3,700 miners working. Unemployment in these coal mining areas is well above the national average of 5.5 percent. Indeed, the recorded unemployment rate would be much higher in these areas if Labor Department statistics took into account the literally thousands of unemployed workers in both counties who aren't counted because they have given up looking for work or who have moved elsewhere in search of jobs.

The drastic reduction in coal mining activity in Pennsylvania is a result of many factors. One of the most salient factors is the increasing competition—not all of it "fair"—in both the world and domestic markets to supply coal for electricity production.

Canada's Federal income tax system has deductions and incentives much more liberal than those provided coal mining companies in Pennsylvania and the United States. For example, mining companies in Canada are permitted to deduct all exploration and development expenses, and are provided a depletion allowance of 25 percent. A variable investment tax credit is also provided, and the current Canadian federal corporate income tax rate is phasing down to 33 percent, basically the same as the United States will be in 1989. Although, on the surface, the tax rates seem comparable—this masks the underlying reality—Canada does not have a black lung tax. It does not have an abandoned mined land fee. These taxes collectively total $1.25 per ton for underground coal and $0.90 a ton for surface coal in the United States, which add over $70 million a year to the cost of doing business for Pennsylvania coal mining alone.

While we cannot change the Canadian tax laws, we can modify our tax laws and put our industries on equal footing by eliminating the disadvantages inherent in our own system. The bill that we are introducing would provide tax treatment similar to that available to the Canadian coal industry and would:

First. Restore the percentage depletion rate for coal to the pre-1983 levels (that is, 10 percent of gross mining income instead of the current 8 percent).

Second. Reduce from 100 percent to 50 percent the amount of the percentage depletion allowance which is included as a preference in the alternative minimum tax base (similar to the treatment of book income).

Third. Restore full expensing for exploration and development costs, applicable to both regular taxpayers and alternative minimum tax taxpayers.

Fourth. Provide full credit for payment of abandoned mined lands fees against obligations under the superfund excise tax. Under current law, the coal industry is being assessed under both programs.

Mr. Chairman, a recent report by the Department of Commerce found that our coal industry was at a competitive disadvantage. That is taxes, as a percentage of production costs for Canadian companies, range from 1 to 16 percent, while in the United States, taxes range from 17 to 24 percent of production costs. Mr. President, it's pretty simple—with this disadvantage no matter how hard our miners work and no matter how much our coal companies invest in more efficient machinery and technology, the United States coal industry won't keep up with its chief competitors in Canada. Indeed, one could say under the circumstances that the harder American coal miners work the farther behind they fall—as a direct consequence of Federal tax policies.

Mr. President, when we consider the United States-Canada FTA we want to enhance the movement of goods and services between Canada and the United States. However, we also want to make sure that this agreement will not result in our industries being put at a disadvantage because of our tax system.

Through the tax changes reflected in my proposal, United States coal producers will be able to compete on a more level playing field with their counterparts in Canada.

Mr. President, I urge my colleagues to support this legislation. I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2787

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coal Production Tax Incentive Act of 1988".

SEC. 2. REPEAL OF REDUCTION IN PERCENTAGE DEPLETION FOR COAL.

(a) IN GENERAL.—Paragraph (2) of section 291(a) of the Internal Revenue Code of 1986 (relating to reduction in percentage depletion) is amended by striking out "and coal (including lignite)",

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 3. ONLY 50 PERCENT OF COAL DEPLETION ALLOWANCE TAKEN INTO ACCOUNT FOR ALTERNATIVE MINIMUM TAX

(a) IN GENERAL.—Section 291(a)(2) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new sentence: "In the case any deduction allocable to coal (including lignite), the preceding sentence shall be applied by inserting '50 percent of' before "the excess".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 4 COAL EXPLORATION AND DEVELOPMENT COSTS.

(a) IN GENERAL.—Section 291(b) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(6) SUBSECTION NOT TO APPLY TO COAL EXPLORATION AND DEVELOPMENT COSTS.—This subsection shall not apply to any costs allocable to coal (including lignite) deposits."

(b) MINIMUM TAX.—Subparagraph (A) of section 56(a)(2) of such Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any deduction for cost allocable to coal (including lignite) deposits."

(c) EFFECTIVE DATE.—The amendments made by this section shall appply to costs paid or incurred after December 31, 1988, in taxable years ending after such date.

SEC. 5. ENVIRONMENTAL TAX REDUCED BY AMOUNTS PAID FOR COAL MINING RECLAMATION COSTS.

(a) IN GENERAL.—Section 59A(c) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) REDUCTION FOR QUALIFIED RECLAMATION COSTS.—The amount of the tax imposed by this section shall be reduced by the amount paid during the taxable year for the fee described in section 402(a) of the Surface Mining and Reclamation Act of 1977."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

By Mr. DURENBERGER (for himself and Mr. BAUCUS):

S. 2788. A bill to amend the Solid Waste Disposal Act; referred to the Committee on Environment and Public Works.

CORRECTIVE ACTION AT STEEL FACILITIES

Mr. DURENBERGER. Mr. President, I am today introducing legislation to amend the Resource Conservation and Recovery Act [RCRA] with respect to the cleanup of hazardous wastes at steel and aluminum manufacturing facilities across the country. This legislation has been developed in consultation with representatives of the steel industry. I am pleased that Senator Baucus, who chairs the subcommittee with jurisdiction over RCRA, has agreed to join with me on this bill.

In 1984, the Congress amended RCRA adding two new requirements for the cleanup of facilities releasing hazardous waste into the environment. One provision mandated the cleanup of all existing units at any facility before any new unit could receive a permit for waste treatment or disposal. The other provision gave EPA the authority to order cleanup at units which are known to be releasing wastes. EPA has been working diligently over the past 4 years to develop regulations that will implement these two legislative mandates. It is expected that the so-called corrective action regulations may be promulgated sometime this winter, and when they are, many industrial facilities which have disposed of waste on-site will be facing a big cleanup job.

This task will be especially difficult for the steel industry where many plants have been operating—and disposing of waste—on the same site for decades. Some of the larger steel producing facilities may have dozens of separate units on a single piece of property. The way RCRA works, each of those units must be cleaned up to the boundary of the unit, before any new waste management operation at the site can receive a permit.

Some companies in the industry commissioned a study of the potential cost of this cleanup task. The study, which was based on a thorough analysis of waste disposal practices for a hypothetical integrated steelmaking plant located in a river valley and disposing of waste on-site since the early part of this century, estimates the average costs of cleanup under RCRA as currently written at $40 million per facility, $34 million of that expense is capital costs. Most of those costs are for ground water cleanup, an extraordinarily expensive undertaking. It goes without saying that the American steel industry would find it very difficult to finance that kind of cleanup expense given the economic circumstances which it faces.

Environmental managers for some of the companies looking at these costs asked if there might be a more rational way to approach the problem—to provide adequate environmental safeguards, but take into account the nature of the industry and the way it has developed. And they have recommended an approach which is somewhat different than current law. Their recommendation is that we move the point of compliance for environmental standards from the boundary of each individual solid waste management unit to the property boundary for the whole facility. Let me say again that most large plants will contain many existing units. And RCRA requires that they all be cleaned up right to the edge of the unit, even if that means cleanup in the middle of a large operating steel plant.

The alternative is compliance at the boundary of the entire facility. This alternative would reduce average cleanup costs to approximately $8 million but would continue to afford protection for health and environmental resources anywhere outside the plant's fenceline. To assure that no contaminants crossed the boundary at levels that would be hazardous, each facility would have to conduct ground water monitoring within the plant area and at a distance from the boundary sufficient to assure that cleanup measures could be implemented before any contaminated plume of ground water affected environmental quality outside the plant. The monitoring would continue so long as the plant was in operation. When operations ceased, plant owners would be required to provide financial assurances sufficient to operate the monitoring equipment and any remedies in effect for a period of 30 years. The assurances would also include a contingency for any corrective action that might become necessary after plant closure.

Mr. President, this is a very responsible proposal made by a major industry to assure environmental protection. I am pleased to be the author of this bill in the Senate. There are only a few weeks remaining in this Congress and it is unlikely that we will have time to move the bill now. But we are introducing it so that it might receive the fullest possible discussion and be available for action early next year. The RCRA requirements will begin to be felt as soon as the corrective action rules are promulgated and we will seek passage of this bill as emergency relief in the first few months of the next Congress.

Mr. President, I would ask that the text of the bill be printed in the Record along with my comments this afternoon.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

Section 1. Section 3004(u) of the Solid Waste Disposal Act is amended by inserting "(1) after "(u)" and by adding at the end thereof the following new paragraph:

"(2) For the purposes of this subsection and section 3008(h), corrective action with respect to groundwater at any existing solid waste management unit at any facility that is in Standard Industrial Classification Codes 331 or 3334 shall be construed to mean:

"(A) the selection and implementation of corrective measures that assure that groundwater protection standards are met at the facility property boundary during the period such facility remains in operation and the additonal period provided under subparagraph (C);

"(B) the implementation of groundwater monitoring at the facility property boundary and at appropriate points within the facility taking into account the nature of the solid waste management units, any releases, and the hydrogeological setting, so that, to the extent practicable and necessary to ensure that groundwater protection standards are met at the facility property boundary, corrective measures can be taken in advance of hazardous constituents reaching the facility property boundary; and

"(C) the inclusion in the schedule of compliance contained in a permit or order of a requirement that upon cessation of industrial operations at the facility in which the solid waste management units are located, if all hazardous waste and hazardous constituents in concentrations in excess of medical protection standards are not removed from such facility, the owner or operator of such facility shall establish a fund or provide other assurance of financial responsibility in accordance with subsection (t) in an amount adequate to assure monitoring and the operation and maintenance of corrective measures under this paragraph for a period of 30 years after such cessation of operations, including a reasonable contingency for additional corrective measures that may prove necessary during such period. For the purposes of this subparagraph, the sale or other transfer of the facility of another entity that intends to continue industrial operations at such facility and accepts the obligation to continue corrective measures under this paragraph shall not constitute a cessation of operations.".●

By Mr. DURENBERGER:

S. 2790. A bill entitled the "Narcotics Enforcement Simplification Amendment of 1988"; to the Committee on the Judiciary.

NARCOTICS ENFORCEMENT SIMPLIFICATION AMENDMENT

● Mr. DURENBERGER. Mr. President, today I am introducing the Narcotics Enforcement Simplication Amendment of 1988.

One of the major difficulties for prosecutors since the enactment in 1970 of the Controlled Substances Act is the element of intent set forth in section 841. It is a costly and difficult element to prove. Major, well-known drugstore robbers defend themselves in court on the theory that they intended to consume the drugs with which they were arrested. They present expert testimony as to how much drugs an addict can devour and make large claims as to their personal capacities. Based on this facetious evidence, crooks are getting off with a slap on the wrist and not penalized the way they should. This happens even when law enforcement officials have confidential information to the contrary from the illicit store fronts where they resell the stuff.

In addition, lawyers, for crack dealers hold up the deceptively small quantity of evidence and argue to a jury that this was surely an amount that only an addict was going to use. Finally, the accessories to the crime—drivers, guards, and so forth—claim they were merely there to get some for personal use. The result is that great amounts of trial time are given over to pharmacological evidence on how much is consumed by the average user, packaging, and drug notations to indicate an intent to distribute, if indeed the agent is fortunate enough to find some evidence.

As a consequence of the existing intent requirement, cases in Minnesota involving serious crack dealers, serious offenders arrested with low inventory, and serious drugstore robbers have resulted in jurys acquitting of the felony count and convicting merely upon the misdemeanor offense. Other cases have been declined and not prosecuted.

The old laws, under 26 United States Code, section 4701, et seq. did not have the intent element. The intent element seems to have risen from an unnecessary sensitivity in the late 1960's and early 1970's to distinguish between the person who intended to sell drugs as opposed to the person who intended to only use a drug substance. In reality, Federal prosecuters are busy and preoccupied with distributors. By inclination and prosecutive discretion they use 21 United States Code, section 844, for so-called simple possession cases and section 841 for dealer cases. Increasingly, also, it is recognized that the user is part of the problem and should not be given expensive, special protection. If a particular user has so much drug that he looks like a dealer, should he really have the right to complain if he finds himself prosecuted under section 841? I don't think so, in reality, anyone with a good salable quantity of drugs inevitably distributes it to others either through proselytizing, or encouraging use among his friends and acquaintances, or selling to support his habit.

Experts at all levels of law enforcement support adoption of this measure.

However, I must add a word of caution, Mr. President. When this amendment is accepted, it should not create a vacuum that will suck a structure of penalties prorated to quantities of drug. This would be as inefficient as new drugs come up unseen and, more importantly, it would again complicate the law and would defeat the purpose of this amendment. One may observe that the Sentencing Reform Act of 1984 which became effective on November 1, 1987, has guidelines providing that a certain quantity of drugs requires that the court impose a certain sentence. Thus, the penalty is already structured.

Analogously, there is a similar hierarchy of offenses in the Internal Revenue Code. (See sections 7206 and 7207, each forbidding false statements in connection with tax returns, one being a felony and one a misdemeanor.) Both the Supreme Court and the United States Court of Appeals for the Eighth Circuit—which includes Minnesota—have concluded "When an act violates more than one criminal statute, the Government may prosecute under either, and the decision is generally a matter of prosecutorial discretion. *United States* v. *Batchelder,* 442 U.S. 114, 123-124 (1979)" as cited in *United States* v. *Armijo,* 834 F.2d. 132, 136 (8th Cir. 1987).

Thus, Mr. President, I urge my colleagues to consider and accept this amendment as they consider the Omnibus Anti-Drug Abuse Act of 1988. I do so because I believe that: First, persons who have drugs most often proselytize and induce others to use them; second, the burden upon law enforcement and Federal prosecution to prove intent of the possessor of unlawful drugs is unnecessary, time consuming, and expensive; third, the valuable resources of the judicial system are wasted in the pursuit of intent; fourth, existing statutes, namely 21 United States Court, section 844, adequately provide for the prosecution of persons who possess small quantities of drugs as addicts or mere users; and fifth, the development of drugs which are highly potent in small volumes such as "crack" blurs the distinction between drugs merely possessed and drugs possessed with intent to such that juries are confused and prosecution is made excessively difficult.●

By Mr. DeCONCINI (for himself and Mr. McCain):

S. 2791. A bill to add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes; referred to the Committee on Indian Affairs.

SALT RIVER PIMA-MARICOPA INDIAN RESERVATION

● Mr. DeCONCINI. Mr. President, today I am introducing on behalf of myself and my colleague, Senator John McCain, a bill which authorizes the modification of the southern boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona. The boundary modification is part of an agreement which has been negotiated by the State of Arizona and the Salt River Pima-Maricopa Indian Community to provide tribal lands for the eastern segment of the Outer Loop freeway. This freeway is important to the Phoenix metropolitan area which has been experiencing astronomical growth in the past few years. Once built it will alleviate the traffic congestion in the Phoenix area while improving the transportation system serving the communities in the valley.

Under the negotiated agreement, the tribe will provide some of its reservation lands for the freeway. To compensate the tribe for the land it will give up, the bill adds lands to the tribe's reservation. The lands to be added to the reservation are BLM lands. The BLM will be compensated by the State with lands it owns. The bill we are introducing will authorize the exchange of State lands for BLM lands as well as the modification of the tribe's reservation boundaries to include the BLM lands after the exchange. Finally, the addition of the exchanged lands to the reservation will not occur until the actual right-of-way agreement has been signed by the State and tribe.

I want to commend the State of Arizona, the Salt River Pima-Maricopa Indian Community and the Bureau of Land Management for the cooperative spirit in which they have worked out this agreement. As a result of their fine work, we are much closer to realizing long-needed improvements in the Phoenix metropolitan freeway system. I urge my colleagues to join Senator McCain and me in support of their efforts by giving expeditious consideration to this bill. Thank you.●

● Mr. McCAIN. Mr. President, I thank my colleague, Senator DeConcini. I am pleased to join him today to introduce this important legislation which will help clear the way for vital freeway construction work in the Phoenix area.

As you know, Mr. President, Arizona is one of our Nation's fastest growing States. Our highway and transportation needs have grown commensurately. To accommodate this rapid growth, we have embarked on the construction of new freeways in Phoenix and the surrounding communities. One of the vital components of this program is the Outer Loop, which will circle the Phoenix metropolitan area, relieving traffic congestion and providing easier access to cross town locations.

An 8-mile portion of the Outer Loop, Mr. President, known as the Pima Leg, will be constructed on tribal lands belonging to the Salt River Pima-Maricopa Indian Community. The measure we are introducing today seeks to compensate the tribe for the land it will relinquish due to the road alignment. The bill expands the reservation boundaries to encompass certain lands now held by the Bureau of Land Management. The BLM will in turn receive compensation from the State of Arizona.

Mr. President, great credit is due the Salt River Pima-Maricopa Indian Community, the State department of transportation, the Bureau of Land Management and the affected land owners for their cooperation and hard work in coming to the fair and equitable arrangement embodied in this legislation. I look forward to working with my colleagues on this matter and urge its expeditious consideration and enactment.●

By Mr. ROTH:

S.J. Res. 377. Joint resolution proposing an amendment to the Constitution regarding federal taxation of State obligations; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT REGARDING FEDERAL TAXATION OF STATE OBLIGATIONS

Mr. ROTH. Mr. President, today I am proposing a constitutional amendment to overturn the supreme court's unfortunate decision in South Carolina against Baker, decided on April 20, 1988. In that case the Supreme Court construed the 10th amendment, the guarantee clause, and the doctrine of federalism implicit in the Constitution as conferring no rights on States to issue bonds free from Federal taxation. The ability to issue tax-exempt bonds has been and continues to be an important tool for our State and local governments to build schools, bridges, roads, hospitals, and many other public projects. The effect of the Supreme Court decision is to invite a revenue-hungry Congress to dine at the table of State and local governments.

Unless this decision is overturned, there is no question that Congress will accept the invitation to eat away at the tax-exempt status, now lacking constitution protection, of State and local obligations.

Without wading into the niceties of the doctrine of intergovernmental tax immunity, the Court apparently was satisfied by the fact—perhaps, I should say, by the mere formalism—that Congress taxes State bonds by imposing the tax on the bondholder and not the issuer. What the Court overlooks is the practical impact of Federal taxation of State bonds, even if the tax is paid by the bondholder. To say that the payment of tax by the bondholder does not adversely affect the issuer is to deny reality.

In the early days of our republic, Chief Justice Marshall observed that "the power to tax involves the power to destroy." *McCulloch* v. *Maryland,* 4 wheat, 316, 431 (1819). Later Justice Holmes was to observe that "the power to tax is not the power to destroy while this Court sits." *Panhandle Oil Co.* v. *Mississippi Ex Rel. Knox,* 277 U.S. 218, 223 (1928). In South Carolina against Baker the Court says, in effect, that it no longer cares about the "power to destroy" as long as the means of destruction are not direct and not discriminatory.

Well, I care. The power to tax does involve the power to destroy. We must, therefore, exercise Federal taxing authority with caution. States cannot be States in our federal system, they cannot be sovereign, unless they have their very own source of revenue free from Federal encroachment.

The Supreme Court's admitted lack of concern over the deterioration of federalism stands in marked contrast to its vigilance in policing the separation-of-powers doctrine. While the Court has time and again declared the separation of powers among the three branches to be central to the Constitution and has been willing to upset established institutions to vindicate that central concern, the Court has clearly given notice that it will not police federalism in any similar way.

The irony is that federalism and the separation of powers were conceived by the framers as twin doctrines to safeguard political freedom. The framers believed—and so do I—that if the responsibilities of governing this country were divided between the Federal Government and the States and further dispersed among three branches, freedom would be assured and democracy strengthened. By dividing and separating powers, the opportunity for monarchy and for tyranny is foreclosed. Moreover, the power of the people is maximized since decisions of government are made by different officials, each responsible for a limited area. By holding different officials discreetly accountable for their welfare, the electorate exercises greater control over their destiny.

Once the genius of federalism is understood, it will come as no surprise that the decline in federalism has run concurrently with an increase in electoral apathy. The decline of federalism means that people are losing freedom and losing control of government. As every important issue becomes federalized, there is less and less that the people can do to influence government. More and more the electorate is confronted with all-inclusive Federal solutions by Federal officials. As Federal officials become the only officials that count, State and local offices become less relevant to the people.

This decline in federalism concerns me. While my proposed constitutional amendment does not address this problem in all of its ramifications, it does address the heart of the problem. For State sovereignty and local autonomy are nothing so long as burdens may be imposed on raising revenue.

The amendment that I am today introducing may not be the perfect answer, the last word. But it is the first step of a most important journey. I am well aware of how our Federal income tax laws got to be what they are. I am aware of past abuses by State and local governments, which our tax laws have addressed. But I am also aware that much we have done has been driven simply by the need to raise revenue. This must be stopped.

The simple elegance of the proposed amendment may strike some tax specialists as vague. But the Constitution should not address issues with the strict particularity of the Internal Revenue Code. There must be some flexibility. The courts will have to define the amendment's meaning on a case-by-case basis. And, more important, the courts will once again be commissioned to police this most critical aspect of federalism.

The amendment states simply that "the United States shall not have the power to lay and collect taxes on incomes derived from the obligations of the several States issued for a public purpose."

While the amendment borrows its phrasing from the 16th amendment, it is intended to be more than an exception to that provision. Rather it is, more broadly, an exception to the taxing power of the United States. The phrase "incomes derived from * * * obligations" refers to the interest income of the bondholder which the issuer is obliged to pay and not to any capital gain the bondholder may realize upon sale to another bondholder. The language thereby incorporates a historic distinction made between interest and capital gains with respect to tax-exempt bonds.

The amendment would not exempt all State obligations but only those "issued for a public purpose." This limitation is intended to address the concerns of many that a total exemption might be abused. Very often State and local governments undertake to aid private parties in obtaining financing. In striking a balance between the sovereignty of the several States and the Federal Government's revenue needs, it seems unnecessary to allow the State to lend its prerogatives to others at the expense of Federal revenue interests.

I would expect this limitation to receive careful scrutiny, for it establishes the breadth of the exemption. I recognize that the limitation differs from current tax policy, but current tax policy may have to yield to the paramount purpose of restoring some measure of federalism to our system. While I am not wedded to the specific limitation contained in my proposal and while I would welcome constructive alternative formulations, I must indicate my opposition to any changes that would undercut the purpose of according traditional protection to State bonds issued to pay for the essential functions of a State government.

Finally, while the language of my amendment includes no reference to any political subdivisions of the States, this is only customary constitutional drafting. The protection accorded to a State would flow to any of the State's subdivisions acting under State law.

Were it not for certain fears regarding the amendment process, it would not be necessary to begin the process of restoring a State prerogative in a Federal forum. But fears regarding State initiatives under article V have petrified into dogma, so that the mere specter of a runaway convention chills State proposals for constitutional amendments. The framers intended that States be able both to propose and to ratify amendments. But fears have atrophied State political muscle while at the same time the Supreme Court has abandoned the defense of federalism, so that it is here, in this forum, that repair must begin. Let us begin now.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that my joint resolution be included as part of the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 377

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

ARTICLE

The United States shall not have the power to lay and collect taxes on incomes derived from the obligations of the several States issued for a public purpose.

By Mr. HEINZ (for himself, Mr. SASSER, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. KERRY, Mr. ADAMS, Mr. HUMPHREY, Mr. GORE, Mr. EXON, and Mr. COCHRAN):

S.J. Res. 378. Joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week"; referred to the Committee on the Judiciary.

WILD AND SCENIC RIVERS WEEK

● Mr. HEINZ. Mr. President, I rise to introduce a joint resolution to designate the week of October 2 to October 8, 1988 "Wild and Scenic Rivers Week." This joint resolution will formally recognize and celebrate the achievements of the National Wild and Scenic Rivers Act over the last 20 years.

On October 2, 1968, the National Wild and Scenic Rivers Act was signed into law. This historic legislation signaled the beginning of concerted efforts to protect rivers in the United States. In the 20 years since its enactment, 75 of the Nation's riverine jewels have been permanently preserved through the implementation of the National Wild and Scenic Rivers Act. The Wild and Scenic Rivers System today preserves over 7,700 miles of river in 28 States, and includes rivers ranging in character from bold, western whitewater, to southern blackwater bayous. Thanks to the foresight of congressional lawmakers 20 years ago, the lives of future generations of Americans will be enriched, as ours are today, by these national treasures.

The joint resolution I am introducing today, Mr. President, will also draw attention to the young and, as yet, unfulfilled Wild and Scenic Rivers System. Currently, only two-tenths of 1 percent of the Nation's rivers are protected by the act, while hundreds of deserving candidates await protection. The future of America's rivers depends upon the continued vibrancy of the Wild and Scenic Rivers Act, and the development of innovative river protection strategies. The National Park Service's State and Local River Conservation Assistance Program, as authorized by the Wild and Scenic Rivers Act, is working successfully toward this objective, but, ultimately, the future of our rivers lies with all who use and enjoy them.

I urge my colleagues to join me and the original cosponsors of this joint resolution, Senators SASSER, ROCKEFELLER, PACKWOOD, KERRY, ADAMS, HUMPHREY, GORE, EXON, and COCHRAN, in cosponsoring this resolution to help recognize the achievements of the past and draw attention to the needs of the future by designating the week of October 2, 1988 through October 8, 1988 as "Wild and Scenic Rivers Act Week."

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 378

Whereas river corridors are one of the most precious cultural and recreational values in the United States;

Whereas the Wild and Scenic Rivers Act provided for the establishment of a system of rivers to be protected as free-flowing streams for the public use and enjoyment for generations to come;

Whereas there are 3,500,000 miles of rivers in the United States, many of which are protected because of the establishment of the Wild and Scenic Rivers System;

Whereas the Wild and Scenic Rivers Act has encouraged through the State and Local River Conservation Assistance Program authorized by the act, the cooperative protection of river corridors by Federal, State, and local governments, private groups, and landowners;

Whereas public awareness of the importance of wild and scenic rivers must be raised and public and private cooperation encouraged to promote the continued protection of these precious river values; and

Whereas the Wild and Scenic Rivers Act was signed into law on October 2, 1968: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 2 through 8, 1988, is designated as "National Wild and Scenic Rivers Act Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs and activities.●

ADDITIONAL COSPONSORS

S. 702

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

S. 1340

At the request of Mr. PRYOR, the names of the Senator from Tennessee [Mr. SASSER] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 1340, a bill to provide for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

S. 1777

At the request of Mr. ARMSTRONG, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1777, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 2449

At the request of Mr. PRYOR, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 2484

At the request of Mr. DANFORTH, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2484, a bill to amend the Internal Revenue Code of 1986 to enhance the incentive for increasing research activities.

S. 2531

At the request of Mr. MCCONNELL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2531, a bill to amend title 18 of the United States Code to create a criminal offense for public corruption.

S. 2666

At the request of Mr. STAFFORD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2666, a bill entitled the "Global Environmental Protection Act of 1988."

S. 2682

At the request of Mr. KARNES, his name was added as a cosponsor of S. 2682, a bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress.

SENATE JOINT RESOLUTION 296

At the request of Mr. Shelby, the names of the Senator from Wisconsin [Mr. Kasten], the Senator from Texas [Mr. Bentsen], the Senator from North Carolina [Mr. Helms], the Senator from North Dakota [Mr. Burdick], the Senator from Michigan [Mr. Levin], the Senator from North Carolina [Mr. Sanford], the Senator from Hawaii [Mr. Inouye], the Senator from Hawaii [Mr. Matsunaga], the Senator from Tennessee [Mr. Gore], the Senator from Louisiana [Mr. Breaux], the Senator from Rhode Island [Mr. Pell], the Senator from Michigan [Mr. Riegle], the Senator from Massachusetts [Mr. Kerry], the Senator from Idaho [Mr. McClure], the Senator from Missouri [Mr. Danforth], the Senator from Wyoming [Mr. Wallop], the Senator from Illinois [Mr. Dixon], the Senator from Mississippi [Mr. Cochran], the Senator from South Carolina [Mr. Thurmond], the Senator from Virginia [Mr. Warner], the Senator from Illinois [Mr. Simon], the Senator from Mississippi [Mr. Stennis], and the Senator from Ohio [Mr. Glenn] were added as cosponsors of Senate Joint Resolution 296, a joint resolution designating April 1989 as "National Outdoor Power Equipment Safety Month."

SENATE JOINT RESOLUTION 355

At the request of Mr. Heflin, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 361

At the request of Mr. Pell, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of Senate Joint Resolution 361, a joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

SENATE JOINT RESOLUTION 363

At the request of Mr. Sarbanes, the names of the Senator from Florida [Mr. Graham], the Senator from California [Mr. Cranston], the Senator from Minnesota [Mr. Boschwitz], and the Senator from Rhode Island [Mr. Chafee] were added as cosponsors of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week."

SENATE JOINT RESOLUTION 369

At the request of Mr. Kerry, the names of the Senator from Alabama [Mr. Shelby], the Senator from New Hampshire [Mr. Humphrey], the Senator from North Dakota [Mr. Burdick], the Senator from Virginia [Mr. Warner], the Senator from Pennsylvania [Mr. Heinz], the Senator from Alabama [Mr. Heflin], the Senator from New York [Mr. Moynihan], the Senator from Nevada [Mr. Reid], the Senator from Michigan [Mr. Levin], the Senator from Texas [Mr. Gramm], the Senator from Florida [Mr. Chiles], the Senator from South Carolina [Mr. Thurmond], the Senator from Kansas [Mr. Dole], the Senator from Louisiana [Mr. Breaux], the Senator from Virginia [Mr. Trible], the Senator from Minnesota [Mr. Boschwitz], and the Senator from Michigan [Mr. Riegle] were added as cosponsors of Senate Joint Resolution 369, a joint resolution to designate the period of September 17 through October 10, 1988, as "Coastweeks '88."

SENATE JOINT RESOLUTION 371

At the request of Mr. Specter, the names of the Senator from Utah [Mr. Hatch], the Senator from Nevada [Mr. Reid], the Senator from Louisiana [Mr. Breaux], the Senator from Rhode Island [Mr. Pell], the Senator from Massachusetts [Mr. Kerry], the Senator from Mississippi [Mr. Stennis], the Senator from California [Mr. Cranston], the Senator from Connecticut [Mr. Dodd], the Senator from Vermont [Mr. Stafford], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 371, a joint resolution designating October 1988 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 373

At the request of Mr. Byrd, the names of the Senator from Alaska [Mr. Murkowski] and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE CONCURRENT RESOLUTION 132

At the request of Mr. Simon, the names of the Senator from Arizona [Mr. McCain] and the Senator from Illinois [Mr. Dixon] were added as cosponsors of Senate Concurrent Resolution 132, a concurrent resolution regarding the protection and promotion of human rights in the Republic of Singapore.

SENATE RESOLUTION 471—AUTHORIZING THE PRINTING OF A HISTORY OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURDICK (for himself and Mr. Stafford) submitted the following resolution; which was considered and agreed to:

S. Res. 471

Resolved, That a history of the Environment and Public Works Committee be printed, with illustrations, as a Senate document.

Sec. 2. There shall be printed additional copies of such document, the number of which shall be determined by a one thousand two hundreds dollars ($1,200) maximum expenditure, for the use of the Environment and Public Works Committee.

Sec. 3. Printing and binding of said document shall be done in the manner as shall be determined by the Joint Committee on Printing.

SENATE RESOLUTION 472—AUTHORIZING PRINTING OF BACKGROUND INFORMATION RELATED TO THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON (for himself and Mr. McClure) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 472

Resolved, That there be printed with illustrations a Senate document background information relating to the history of the Senate Committee on Energy and Natural Resources in connection with its 172nd anniversary (1816-1988) and in observance of the Bicentennial of the United States Senate; and that there be printed for the use of the Committee additional copies of such document not to exceed the cost of $1,200.

AMENDMENTS SUBMITTED

RETAIL COMPETITION ENFORCEMENT ACT

RUDMAN AMENDMENT NO. 3037

(Ordered to lie on the table.)

Mr. RUDMAN submitted an amendment intended to be proposed by him to the bill (S. 430) to amend the Sherman Act regarding retail competition; as follows:

Strike all beginning on page 3, line 10 through page 4, line 24, and insert in lieu thereof the following:

"SEC. 2. FINDINGS.

"(a) Consumer welfare is greatly enhanced by an ability to purchase goods and services at lower prices as a result of vigorous price competition;

"(b) vertical price restraints generally have an adverse impact on competition that results in higher consumer prices;

"(c) recent court decisions have so narrowly construed the laws against vertical price restraints that consumer welfare has been put in jeopardy; and

Mr. RUDMAN. Mr. President, the amendment I am introducing today with my colleague from California, Senator Wilson, further clarifies the purposes of the S. 430 compromise reported by the Judiciary Committee this February.

The substitute amendment addresses both parts of the committee bill. First, it clarifies the original purpose of section (a)—to fill the gap left by the Supreme Court's decision in the Monsanto case. As in the committee report, the substitute still specifies what evidence, if presented, would be sufficient to send the case to the trier of fact. It explicitly states that the Court must determine, in accordance with the Federal Rules of Civil Procedure, that there is sufficient evidence, direct or circumstantial, of a contract, combination, or conspiracy. The bill then clarifies that the evidence outlined in subparagraphs (B) (i) and (ii) normally constitutes evidence of collusion sufficient to meet the standards of the bill.

The description of the evidence outlined in subparagraphs (B) (i) and (ii) has been slightly changed. The word "suggestion" has been deleted due to a concern about the meaning of an "implied suggestion." Under the amendment, it is still the case that the plaintiff must show an "express or implied" "request," "demand," or "threat." The plaintiff need not show specific use of the words "request," "demand," or "threat" in the communication between the manufacturer and the claimant's competitor. Such a requirement would create an impossible burden and frustrate the purposes of the bill. Instead, the plaintiff must show, as under the committee compromise, that the communication, in essence, constitutes a "request," "demand," or "threat."

The definition of the causation requirement in subparagraph (B)(ii) has also been changed. The purpose of this modification is to respond to concerns raised by several of our colleagues which, I believe, are primarily due to ambiguous language in the committee's report. The amendment we are offering would change the causation requirement from "a major contributing cause" to "the major contributing cause." The purpose of this change is to make clear that the communication described in subparagraph (B)(i) must not only be a significant reason, but also the major contributing cause for the termination or refusal to supply.

The addition of section 8(a)(2) emphasizes the fact that the Court continues to have the role of applying the standards of the amendment in accordance with the Federal Rules of Civil Procedures and the purposes of this legislation. It clarifies that if a reasonable person could only find the existence of a conspiracy by making implausible inferences, then the case should not go to the trier of fact.

This standard is consistent with current procedural interpretations of the Federal Rules of Civil Procedure. Vertical price-fixing cases frequently rely on circumstantial proof and inferences therefrom. Section 8(a)(2) does not mean that a case relying on such proof or inferences should be dismissed, unless the drawing of implausible inferences is the only way a trier of fact could find a conspiracy.

Second, the substitute amendment addresses section 8(b) of the committee compromise as well. As amended, section 8(b) would incorporate the previously accepted amendment exempting maximum vertical price fixing from the reach of the bill. Furthermore, it would deal with the recent Supreme Court decision in the Sharp case. In that case, the Supreme Court held that a termination of a retailer because of such retailer's pricing policies, that is, discounting, was not a "price related" termination unless the parties to the agreement agreed to set or maintain prices at a specific price or price level.

This decision defies common sense. After the Sharp case, it is doubtful that there will continue to be any vertical price-fixing cases brought because no manufacturer or retailer will be dumb enough to state expressly what is clearly implied by the termination.

Finally, section 4 of the substitute makes clear that a violation of section 1 or 3 of the Sherman Act requires the finding of an illegal contract, combination, or conspiracy. Section 5 of the substitute amendment incorporates a clarifying amendment which makes clear that the bill does not affect application of the rule of reason standard to vertical location clauses or vertical territorial restraints.

This is a commonsense amendment that consumers everywhere deserve. The changes made by this amendment should make the bill acceptable to any Senator who is concerned about balancing the interests of the consumers in his or her State against the very legitimate concern of not opening up the floodgates of litigation.

NOTICE OF HEARING

SUBCOMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., on Tuesday, September 20, 1988, in SR-301, Russell Senate Office Building. The committee will be considering the following two reports for the Senate: Report on Senate Operations and, pursuant to instructions by the Senate, the Report on Impeachment Proceedings.

On its legislation agenda, the committee will be marking up S. 1766, to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia, and a resolution to provide supplemental funding for the Special Committee on Investigations of the Select Committee on Indian Affairs. On its administrative agenda, the committee will be considering proposed regulations on senatorial suite selection following the general elections in November, 1988.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on 224-0278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, September 14, 1988, at 10 a.m., for a hearing on the Regulatory Reform: Federalism and the Regulatory Flexibility Act.

The PRESIDING OFFICER. Without objection, it is ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 14, 1988, at 9:30 a.m. to hold a hearing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on September 14, 1988, at 9:30 a.m. for a business meeting, pending calendar business.

The PRESIDING OFFICER. Without objection, it is ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Wednesday, September 14, 1988, at 9:30 a.m., to hold a markup on the following bills: S. 187, the Native American Cultural Preservation Act; H.R. 3621, Southern California Indian Land Transfer Act; S. 2672, to be followed by a hearing on S. 2723, the Hoopa-Yurok Indian Reservation.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, September 14 at 10:30 a.m. in open session to consider the nomination of Milton L. Lohr to be Deputy Under Secretary of Defense for Acquisition.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, September 14, 1988, at 9:30 a.m. to conduct hearings on the staff concept papers regarding the National Affordable Housing Act.

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances and the Subcomitte on Environmental Protection, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, September 14, beginning at 10 a.m., to conduct a hearing on the greenhouse effect and policies to mitigate adverse climate change.

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on September 14, 1988, at 2 p.m. to receive testimony on H.R. 4068, a bill to amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that act, and for other purposes; S. 1314, a bill to amend the Archaeological Resources Protection Act of 1979 to prohibit attempted excavation, removal, or defacing, and to reduce the felony threshold value of illegally removed artifacts to $500; S. 1985, a bill to improve the protection and management of archaeological resources on Federal land; S. 2545, a bill to redesignate Salinas National Monument in the State of New Mexico, and for other purposes; S. 2617, a bill to revise the boundary of Aztec Ruins National Monument in the State of New Mexico, and for other purposes; S. 2750, a bill to authorize a study on methods to commemorate the nationally significant contributions of Georgia O'Keeffe; and S. 2767, a bill to authorize a study of the history and culture of Warm Springs, NM, in order to preserve its historic and cultural legacy for future generations.

The **PRESIDING OFFICER.** Without objection, it is ordered.

ADDITIONAL STATEMENTS

UNITED STATES AS A HAVEN

● **Ms. MIKULSKI.** Mr. President, news comes from South Africa that two United Democratic Front activists and a member of the National Education Crisis Committee have sought sanctuary at the United States consulate in Johannesburg.

Some people might see this incident as a ticklish diplomatic problem.

I see it as evidence that South Africans, like others around the world, still see the United State as a haven for political outcasts.

The sanctions we have imposed against the Botha government have proved to the blacks in South Africa that we sincerely believe in the principles of our own Constitution—self-determination, individual freedom—and what we will take firm steps to extend those principles to others.

It is noteworthy that these men did not flee to the consulate of another African nation or another Western government. They went to the U.S. consulate.

These men are not guerrillas, terrorists or rabble rousers. They are highly regarded by our diplomats in South Africa but were imprisoned without charge by South African authorities under the emergency laws. Both the UDF and Education Crisis Committee are banned organizations. Given the way the South African Government treats responsible leaders like these, it's not hard to understand why blacks are turning in frustration to more radical activities.

I hope that in the days ahead Ambassador Perkins and our State Department will make it clear that these men are welcome, that they have reason to trust in our willingness to protect their persons and that we honor their cause.●

NOMINATION OF STUART SUMMIT

● **Mr. LEAHY.** Mr. President, on August 10, 1988, the Judiciary Committee ordered the nomination of Stuart Summit to be U.S. circuit judge reported to the full Senate. This nomination was the subject of an extensive investigation by the Judiciary Committee, including two hearings at which the nominee testified. The transcripts of those hearings, as well as voluminous submissions for the hearing record from the nominee and other parties, are available for inspection by all Senators. For the benefit of Senators who may soon vote on whether to confirm this nomination, I offer the following brief summary of the issues considered by the Judiciary Committee.

Stuart Summit of New York has been nominated to be U.S. circuit judge for the Second Circuit. The nominee has spent most of his career in private practice in New York City, where he has conducted a diverse litigation practice, mostly representing mid-sized companies. Mr. Summit has also served from 1966–77 as the part-time executive secretary to the New York City Mayor's Committee on the Judiciary, and since 1977 as part-time counsel to the New York State Commission on Judicial Nominations. The nominee, who is 52 years old, holds undergraduate and law degrees from Ohio State University. He is generally well regarded by most of the legal community in New York, and was rated "qualified" by the ABA, with a minority of the ABA Committee finding him "not qualified."

At his first hearing on April 21, the nominee was introduced by Senator D'AMATO. I then questioned him on the following topics: the process by which he was nominated, including the role of Deputy Attorney General Burns in the nomination process; his experience as an arbitrator; his service to the municipal and State judicial nominating committees; the transition from the advocate's role to the judge's role; his law firm's representation of certain tax shelter ventures; and his role in representing departing partners in the New York law firm of Kreindler & Kreindler.

In the law firm breakup case, Levy, Phillips, et al. versus Kreindler and Kreindler, the nominee represented the departing partners in the Kreindler firm, who were seeking to renounce their partnership agreement and make various claims on partnership assets. The most controversial aspect of the case concerned letters sent by the nominee's clients to various debtors of the Kreindler firm, asking them not to make payments to the Kreindler firm unless the checks were also made payable to the defecting partners. The Kreindler firm sought and obtained an injunction from a New York State trial court against the sending of the letters, which that court found were premised on a claim to accounts receivable which was not even colorable. An interim division of receivables was worked out before a different judge, who also presided over a protracted trial on the renunciation of the partnership agreement. The case was settled just before the jury was charged.

The nominee testified on April 21 that he advised his clients not to write these letters, but that under the circumstances, their refusal to follow his advice did not create an ethical conflict which would have required him to cease representing these clients. Mr. Summit denied sending any such letters over his own signature, but did admit that he signed a similar letter to a law firm that was indebted to the Kreindler firm, explaining the basis for his clients' request. Mr. Summit also testified that this case was "a terrible example of what lawyers can do to each other," and that this experience led him to coauthor a report to the Association of the Bar of the City of New York which proposed a mediation and arbitration system for disputes among lawyers.

The Kreindler case was also the principal subject of the second hearing on Mr. Summit's nomination on June 21, at which Senator SIMON presided. At the second hearing, Lee Kreindler, a defendant in the case, testified that, in his opinion, Mr. Summit's actions in this case demonstrated disrespect for the law. In particular, he asserted that Mr. Summit's acquiescence in his client's actions in sending letters to debtors of the Kreindler law firm, urging them to halt payments to the firm, and his sending of a similar letter over his own signature, was an unethical attempt to coerce a favorable settlement of his clients' claims by cutting off the firm's cash flow. Mr. Kreindler also asserted that the nominee had acted fraudulently in his counseling of his clients prior to their renunciation of the partnership agreement, and the witness was questioned on this topic by Senator SPECTER, and asked to submit additional testimony on this issue. Following Mr. Kreindler's testimony, the nominee resumed his testimony. He denied the allegations of fraudulent conduct, and testified that his conduct throughout the litigation met professional standards.

In addition to the testimony taken at the two hearings, extensive materials were submitted for the record with respect to the Kreindler case, including statements of other counsel in the case and of the trial judge, an ethical opinion from a professor at Fordham Law School, and posthearing submissions from the nominee, his law partners, his principal client in the case, and Mr. Kreindler, among others. In the most recent of Mr. Kreindler's submissions, he withdrew his allegation that the nominee was "guilty of fraud in concealing his role" in advising his clients about leaving the Kreindler firm. However, he reiterated his charge that "Mr. Summit utilized the legal process as an instrument of coercion," and that "this attitude of mind toward the use of the legal process disqualifies him for a judgeship." This material is available in the committee's public files.

Other issues addressed in the committee's investigation of Mr. Summit's nomination, and in the hearings and written questions to the nominee, may be summarized as follows.

I. THE NOMINEE'S CONNECTIONS WITH FORMER DEPUTY ATTORNEY GENERAL ARNOLD BURNS, AND BURNS' ROLE IN THE NOMINATION

Messrs. Summit and Burns were law partners until Burns became Deputy Attorney General in 1985. Mr. Burns first contacted Mr. Summit in mid-June, 1987, about a possible nomination to the Second Circuit. The nominee testified at the first hearing that this was the first contact he had with anyone in the administration about the Second Circuit seat, and the only conversation he had with Mr. Burns concerning matters within Burns' purview at Justice. Within 2 to 3 weeks, the nomination had been approved within Justice and signed off by the White House, a process that frequently takes several months or even longer. Press reports, quoting anonymous senior Justice Department sources, indicate that Burns derailed all other candidates for the position, and pushed Summit, a nominee who, according to these sources, would not otherwise have been seriously considered, let alone selected.

The committee's investigation focused on three issues related to how Mr. Summit became the nominee, and the propriety of Mr. Burns' role in that process.

A. JUDGE KAUFMAN'S RETIREMENT

In September 1987 press reports raised the allegation that Attorney General Meese and others in the Justice Department and White House had sought to induce Judge Irving Kaufman to take senior status thus opening up the agency to which Mr. Summit was nominated by offering Judge Kaufman the Presidential Medal of Freedom if he retired. When questioned about this at the first hearing, the nominee denied any knowledge of the reasons for Judge Kaufman's retirement or the timing of his taking senior status.

B. LEGALITY OF BURNS' EFFORTS TO PROMOTE SUMMIT'S NOMINATION

Press reports appearing in late June and early July indicated that the Criminal Division of the Justice Department had opened a probe to determine whether appointment of an independent counsel should be sought to investigate whether Burns had committed a criminal violation of the Ethics in Government Act through his efforts on behalf of the Summit nomination. It was alleged that, at the time he was advocating Summit's nomination, Burns was still receiving severance payments from the law firm of which Summit still is, and Burns was, a member, and also that Burns and Summit were at the time both investors in two real estate ventures in the United States and a medical research project in Israel.

These allegations, while not necessarily reflecting directly on Mr. Summit's qualifications for the post to which he has been nominated, raised potentially disturbing issues concerning the integrity of the judicial selection process. On July 14, I wrote to the Justice Department, on behalf of the committee, requesting that the status of this investigation be clarified. By response dated July 22, Acting Assistant Attorney General Thomas Boyd reported that there had been a review of the issues raised by these news stories, but that the matter was closed because there was no information warranting further investigation as to whether Mr. Burns had violated the criminal conflict of interest laws. Mr. Boyd's letter stated that the review did not include an examination of Mr. Summit's actions or his contacts with Mr. Burns or other officials of the Justice Department, with respect to his own nomination.

C. BURNS' TAX SHELTER ACTIVITIES

News reports appearing shortly before the first hearing on the Summit nomination indicated that Burns' and Summit's law firm had been involved in the creation of several tax shelter operations promoted by Edward Levine and Stephen Goldman. The IRS had subsequently challenged some of these tax shelters as fraudulent. Mr. Burns had invested personally in one or more of these tax shelters.

At the hearing on April 21, I asked the nominee about these reports, particularly as they related to the Bahamas corporation called Hecogenin Synthesis. Mr. Summit did not dispute the reports that his law firm had drafted a private stock offering for Hecogenin, prepared an investment advisory paper on the tax advantages of investing in Hecogenin, served as the corporation's counsel, and performed other legal work for Hecogenin. He testified that he had no personal involvement in bringing this work into the firm or in performing it. He did not invest in Hecogenin. The matter came to his attention some years later, in 1986, when, in preparation for a tax court trial in Los Angeles in which the IRS was challenging the tax returns of some Hecogenin investors, we learned of things that led us to resign from any further representation of Hecogenin, a decision that the nominee made along with other partners in his firm. The nominee declined to discuss the reasons for the resignation, referring to the attorney-client privilege. Two of the nominee's partners most involved in representing Hecogenin were called to testify at the trial in Los Angeles, and Mr. Summit accompanied them there. He described his role as preparing the partners to testify and to make sure that the judge of the tax court ruled on any privilege issues that might come up. Mr. Burns testified as a Government witness at that trial, but Mr. Summit did not represent him or have any contact with him in the context of that case.

In response to posthearing written questions, the nominee reported that his firm had provided similar legal services to about a dozen of Levine's and Goldman's tax shelter ventures, but had resigned from representation of all of them in July 1986, under the same circumstances in which the firm had withdrawn from representing Hecogenin. The nominee did not invest in any of these ventures.

II. SUMMIT'S REPRESENTATION OF BARRY TRUPIN

A. THE VILLAGE OF SOUTHAMPTON CASE

In recent years, the nominee has devoted considerable time to the representation of Barry Trupin in a continuing dispute with the village of Southampton, NY. Mr. Trupin, a self-made multimillionaire, bought a dilapidated mansion in Southampton and began to restore and enlarge it into a grandiose residence. He failed to seek building permits and zoning variances for many of his construction plans, and the village issued a stop-work order while construction was in progress. There followed a series of lawsuits.

First, Mr. Summit represented Mr. Trupin in State court proceedings to overturn various actions of the village and its boards with respect to Trupin's property. These were mostly unsuccessful. Then, in 1984, Mr. Trupin, again represented by the nominee, filed a civil rights lawsuit in Federal court, charging the village and various officials thereof with violating his constitutional rights through their decisions preventing him from carrying out his construction plans. Mr. Summit withdrew from active participation in the case in late 1987, after he was nominated to the Second Circuit. In March 1988, after a 4-week trial, Trupin received a jury verdict of nearly $2 million for civil rights violations committed by the village. The committee understands that the verdict will be appealed.

Several questions have been raised about the conduct of the nominee and of his client in this case. The case has obviously been a matter of consuming public interest in Southampton for many years, and feelings run high on both sides. In posthearing written questions, Mr. Summit was asked to address several allegations, as follows:

1. GENESIS OF THE FEDERAL LAWSUIT

Press reports obtained by the committee indicated that the Federal lawsuit was filed when the village was 2 days late in responding to a settlement proposal made by the nominee on Mr. Trupin's behalf. The nominee's responses to written questions indicated that settlement discussions began in July 1984 on his initiative. As discussions progressed, Mr. Summit delivered a written settlement proposal to Orson Munn, one of the village trustees, on August 2. The proposal requested a prompt response, and if accepted, the prompt removal of the stop-work order so that construction could proceed pending full consummation of the settlement. Mr. Summit also told Mr. Munn orally that the offer would expire in 10 days, and that he might not be able to persuade his client to abide by the proposal if acceptance took longer than that. Mr. Summit said that he was told that the village had some problems with the proposal; that in any case he was told that the stop work order would not be immediately lifted even if the settlement was accepted in principle, and that I have no recollection of the village ever communicating its agreement to the settlement proposal. Trupin instructed Summit to withdraw the settlement proposal and file the lawsuit. The lawsuit was filed August 14, 12 days after the settlement had been proposed.

At the committee's request, Orson Munn reviewed these answers. His recollection is substantially different from the nominee's. Mr. Munn says that settlement discussions in 1984 were initiated by the village, not Trupin or Summit. He says that acceptance of the proposal would automatically lift the stop-work order, and described as pure fiction the nominee's assertion that, "even if the [settlement] proposal were accepted in principle, it might be months before it would be implemented and the stop work order removed." Mr. Munn states that he communicated the acceptance to Mr. Summit on the 12th day, as soon as all the relevant village boards had approved the proposal. Mr. Summit's response was to say good or great followed immediately by the filing of the lawsuit.

After the lawsuit was filed, settlement discussions continued sporadically, and have continued after the jury verdict as well. The issue of which side is at fault for the failure of settlement negotiations to forestall the filing of what turned out to be a costly, protracted and divisive lawsuit, and of Mr. Summit's, as distinguished from Mr. Trupin's, role in this failure, remains unresolved.

2. TRUPINS ATTEMPT TO AMEND THE COMPLAINT

The complaint in the Federal lawsuit, filed in 1984, named as defendants several village officials—all of them part-time officials—in their official capacities. In December, 1987, just before the Federal lawsuit went to trial, Mr. Trupin sought to amend his complaint to seek compensatory and punitive damages from the village officials personally. The judge denied this motion, criticizing Trupin's lawyers for holding back this piece of strategy, and stating he was appalled at this 11th-hour attempt to expand dramatically the defendants' exposure. The nominee was quoted in contemporaneous press accounts concerning the judge's ruling on this motion, but in response to written questions, he stated that he had largely withdrawn from the case by that point, and that the motion was filed and argued by one of his partners. He also pointed out that Mr. Trupin intended to appeal the denial of the motion to amend the complaint, and that the judge allowed the time spent in preparing it among the hours considered in awarding attorneys' fees after the verdict in the case.

3. PRESS LEAKS AND SUMMIT'S ROLE

Village officials and their counsel brought to the committee's attention that two press reports, one in the State court litigation and one during the Federal case, appeared to have been based on leaks from sidebar conferences, and apparently were embarrassing to their side of the case. They thought that the nominee who is quite prominent in press coverage of the case was responsible. The nominee responded that, as to the State court case, he repeated one-court testimony to a reporter who inquired about it. Subsequently, the judge asked all counsel not to talk to the press, and Mr. Summit said he complied with this request. In the Federal case, the nominee stated that, because of his withdrawal from the case by the time of trial, he did not participate in any sidebar conferences. He did state that on the one day he was in court, he sat in the spectators' section, but that he came up to the bench and stood in the back of a group of many lawyers when the judge announced, during a jury recess, that settlement discussions had not borne fruit. He does not state whether he disclosed to the press what he heard at that time. Mr. Summit's partner also submitted a statement referring to another incident during the Federal trial in which statements in a sidebar conference may have been overheard by a reporter sitting in the public section of the courtroom.

The extent of Mr. Summit's withdrawal from the case has also been put in issue. Some of his adversaries maintain that he was actively involved in the trial, and that he commented frequently in the press about the case. Mr. Summit responded that he sought to withdraw from the case as much as possible without injury to the client, and that the extent of his continuing activity in the case was based on his judgment call about how involved he should be in a case that might be appealed to the court to which he had been nominated.

4. OTHER ISSUES INVOLVING THE SOUTHAMPTON CASE

In this hotly contested and controversial case, which appears to have dominated Southampton local politics for some years, numerous other issues have been raised. For example, Mr. Trupin's motion to hold the village officials individually liable for punitive damages appears to be based on an allegation that some of the officials were involved in an extortion scheme directed at Trupin. The judge's reported comments on the motion suggest that he believed this charge has little if any support in the record, but it understandably has inflamed some of the defendants and defense counsel. However, it does not appear that this reaction led to any motions for sanctions under rule 11 of the Federal Rules of Civil Procedure or disciplinary complaints directed against Summit. The committee also considered evidence of two representations allegedly made on the nominee's behalf to village officials which they considered improper.

B. OTHER MATTERS INVOLVING BARRY TRUPIN

While Mr. Summit's nomination was pending before the committee, a great deal of information was received concerning alleged improper or illegal conduct by Barry Trupin, the nominee's client in the village of Southampton case. For example, a source advised that Trupin's tax shelter activities, involving computer leasing and other ventures, had been under investigation by the IRS, the New York attorney general's office, and other law enforcement agencies. This source alleged that Mr. Summit was involved in these matters under an agreement with Trupin that guaranteed Summit's law firm the legal work if any of these ventures were questioned by tax or other law enforcement authorities. It was alleged that many investors lost money in these ventures when their deductions were disallowed, but that Summit's law firm profited from them, and that Trupin, who has been described in magazine articles as the master of the corporate veil, had no personal exposure for liability for these illegal or improper activities. This source later furnished the committee with a list of some of the corporate entities allegedly established by Trupin as part of this scheme.

In written questions, Mr. Summit was asked about his and his law firm's involvement with these entities, or other legal work performed for Trupin. He responded that, aside from the Southampton case, he personally had represented Trupin or his entities in only one other case, a lawsuit for specific performance of a real estate contract. He also played an advisory role in a dispute which arose over the sale of computers in which one of Trupin's entities had an interest. Mr. Summit never invested in any of Trupin's business ventures, and had no other relationship with him beyond the attorney-client relationship in the Southampton case and the other cases referred to above. Other lawyers in his firm did perform other legal work for Trupin, including: First, organizing and rendering tax opinions with respect to 13 entities during 1977-79; second, negotiating tax settlements on behalf of investors in 16 entities during 1977-81; third, representing one entity in an IRS inquiry into whether it was an abusive tax shelter, in 1984; fourth, representing five entities in an inquiry by the New York State attorney general; fifth, defending numerous Trupin entities in 10 lawsuits brought by investors in connection with the threatened or actual disallowance of Federal income tax deductions; sixth, representing numerous Trupin entities, and, in 2 cases, Trupin himself, in 8 lawsuits arising from commercial disputes.

In light of Mr. Summit's statement that he personally has not represented Trupin in other matters and has no involvement with his other business ventures, except as described above, the committee has not pursued numerous other allegations against Trupin which have been received.

Mr. President, as the foregoing summary indicates, the Judiciary Committee considered a great deal of information while this nomination was pending before it. The committee has endeavored throughout to maintain a focus on the nominee's qualifications for the post to which he has been nominated, as distinguished from allegations that principally concern Mr. Summit's clients, partners or other associates.●

REPORT OF THE COMMITTEE ON THE JUDICIARY PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT

● **Mr. BIDEN.** Mr. President, section 302(a) of the Congressional Budget and Impoundment Act requires the Senate Budget Committee to allocate total budget authority, total budget outlays, and total credit authority among the several committees of the Senate. The act further requires each Senate committee receiving a 302(a) allocation to file a report as to how such allocation has been divided among its own subcommittees.

As chairman of the Committee on the Judiciary, I hereby submit a report detailing the outlays, new budget authority and new credit authority within the jurisdiction of each Judiciary subcommittee for fiscal 1989.

I ask unanimous consent that the subcommittee allocations for the Committee on the Judiciary be printed in the Record at this time.

There being no objection, the allocations were ordered to be printed in the Record, as follows:

COMMITTEE ON THE JUDICIARY CONGRESSIONAL BUDGET ACT 302(b) ALLOCATION OF ACCOUNTS, FISCAL YEAR 1989

[In millions of dollars]

Direct spending	Budget authority	Outlays	Credit
Full committee	423	410	0
Subcommittee:			
Immigration	840	798	0
Antitrust	0	0	0
Constitution	0	0	0
Patents	71	71	0
Technology	0	0	0
Courts	124	112	0
Total [1]	1,459	1,392	0

[1] Totals may not add due to rounding.●

TOM HANDY

● **Mr. McCONNELL.** Mr. President, my commitment to broad public participation in free and fair elections is unwavering as illustrated by my sponsorship of the Election Fraud Prevention Act of 1987 and the Anti-Public Corruption Act of 1988. Even today, Mr. President, I introduced a strengthened version of this legislation known as the anticorruption bill of 1988.

A good friend and constituent of mine, Mr. Tom Handy, shares my desire to restore the integrity of elections. He served on the State attorney general's task force on election fraud and recently presented evidence of election abuses to a grand jury that led to several indictments. Thus, I am sure all of my colleagues can understand now delighted I was to learn that Tom had been named the Commonwealth's Attorney of the Year.

In addition to his work on behalf of election reform, Tom was recognized for his outstanding efforts in the formulation of child abuse legislation and the promotion of economic development in southeastern Kentucky.

Tom's impressive record of community service includes membership in the Laurel Arts and Recreation Commission, the Chamber of Commerce, and the Kiwanis Club. He even worked on Capitol Hill as an aide to former Congressman Tim Lee Carter before becoming assistant commonwealth's attorney in 1975.

Mr. President, I would like to have printed in the Record an article about Tom that appeared in the Times-Tribune that further details his well-deserved recognition as Attorney of the Year.

The article follows:

HANDY IS NAMED COMMONWEALTH'S ATTORNEY OF THE YEAR AT CONFERENCE

(By Susan Davis)

A local attorney has been recognized for his contributions to his profession and community during a recent state conference.

Tom Handy of London is the recipient of the 1988 Commonwealth's Attorney of the Year award given by Kentucky's Attorney General Fred Cowan.

Handy, who is the commonwealth's attorney for Laurel and Knox Counties, was honored during the Kentucky Prosecutors Conference in Louisville on Saturday.

During the ceremony, Cowan noted that Handy had served on the Attorney General's task force on election fraud and had recently presented evidence to a grand jury on election abuses that resulted in a number of indictments. He also praised Handy on how he handled the highly publicized Donald Harvey prosecution and for his involvement in key economic development projects in the London-Corbin areas, said a spokeswoman for the Attorney General's office.

Cowan also presented Handy with a certificate of Merit for his service to citizens of Kentucky and to the unified prosecutorial system. The certificate was awarded to Handy for his help in passing election reform legislation during the 1988 General Assembly, said the spokeswoman.

Handy has also drafted and worked on legislation concerning the problems of child abuse.

Professionally, his credits include membership in the Kentucky Bar Association and past president of the Laurel County Bar Association.

Handy is past president of the Kentucky Commonwealth's Attorney Association.

He has served as vice-chairman of the Laurel Tourist Association, chairman of the Laurel Arts and Recreation Commission, member of the Chamber of Commerce and Kiwanis Club.

Handy has also served as a charter member of an association to promote tourism in southeastern Kentucky and has contributed his time to the Laurel Lake Development Association.

His devotion to this profession and community has not gone unnoticed. He is a two-time recipient of the Redford Award, an honor given by fellow Commonwealth's Attorneys for contributions to the profession. He was also a Laurel County Homecoming Honoree last year.

The native Laurel Countian is the son of Lou Handy, a retired teacher, and the late C.F. Handy, a London businessman.

After graduating from London High School, he earned a bachelor's degree in history and government from Central College. He finished his first year of law school at Wake-Forest and earned his Juris Doctorate from the University of Kentucky's School of Law.

He was an administrative and legislative assistant to the former congressman Tim Lee Carter. In 1971 he began a private practice in London and was assistant commonwealth's attorney in 1975.

Handy and his wife, Bonnie, reside in London with their two children, Dennie Beth and Starr.●

STUDENTS FROM UNIVERSTIY OF ILLINOIS GEAR UP FOR PARALYMPICS IN SEOUL

● Mr. SIMON. Mr. President, since 1947, the University of Illinois has been providing comprehensive educational opportunities for college students with disabilities. Among many quality programs, the University of Illinois on the Urbana-Champaign campus offers an outstanding wheelchair sports program which is being used as a model for other universities and colleges across the country.

Nine students and two faculty members involved in wheelchair athletics at the University of Illinois have been selected to participate in the Paralympics in Seoul this fall. This is a remarkable accomplishment since the entire U.S. team numbers less than 100 wheelchair athletes.

The university can also be proud of the fact that their men's team won the National Intercollegiate Wheelchair Basketball Championship in Kansas City this April.

I would like to take this opportunity to congratulate these athletes on their fine accomplishments and commend everyone at the University of Illinois who has had a part in making this program such a success. I wish the best for those going to Seoul as they train and prepare for the competition. We will be watching with pride and high hopes for them all.●

TRIBUTE TO HAROLD AND IANTHA LeVANDER

● Mr. DURENBERGER. Mr. President, one of Minnesota's "First Families" will celebrate a major milestone this week when friends of Harold and Iantha LeVander gather to celebrate this very special couple's 50th wedding anniversary.

My personal kinship with the LeVanders dates to the mid-1950's when I went to work as a young attorney for Harold's law firm in South St. Paul. It continued through my service as Harold's chief of staff when he was Governor of Minnesota from 1967 to 1971. And, that friendship and respect for both Harold and Iantha continues today.

Although he was elected to Minnesota's highest State office, Harold LeVander never saw himself as a partisan politician. I still remember standing behind him at the press conference when he announced he would not seek a second 4-year term. In his typically brief but eloquent manner, Harold repeated his philosophy of public service when he called public office, "an honorable, but temporary privilege."

Prof. Art Naftalin, a biographer of Minnesota's 20th century Governors, called Harold, the citizen politician.

"Harold LeVander," Naftalin said in his 1980 video biography on the State's 32d Governor, "was not a politician, but he saw his duty as a citizen and he did it."

This strong sense of public service ruled Harold LeVander's life. And, it has also been a commitment shared by his wife, Iantha, who has been active in numerous civic organizations and served as Republican National Committeewoman from Minnesota in the 1970's.

Many Minnesotans recall how the whole LeVander family's commitment to serving became a real asset in Harold's campaign for Governor in 1966. Besides the tireless campaigning done by Iantha, the LeVander's three children—son, Hap, and daughters Jean and Diane—were visible and active on their own. After the election, Hap took over his father's law practice and Jean became a speech writer in the Governor's office. Jean later served as chief of staff to a succeeding Governor, Al Quie.

This strong family support certainly helped make Harold LeVander the outstanding pubic servant he continues to be today. A preachers son and lay Lutheran minister, Harold also used a strong moral base to guide his public service. And, he was able to use his chosen vocation—the practice of law—to aid individuals and organizations all over Minnesota in their pursuit of fairness and opportunity.

That background and experience—in church work and representing clients that included Minnesota livestock producers and rural electric cooperatives—provided what biographer Naftalin called, "a network of supporters rivaling that of a political party."

Harold LeVander's record of accomplishment as Governor is impressive and well-known. During his 4 years in office, he was instrumental in establishing one of the Nation's first State human rights commissions. He was a key player in establishing the pioneering Twin Cities Metropolitan Council. He had a strong a progressive record on the environment, helping to establish one of the first State Pollution Control Agencies and helping launch what is now Voyageurs National Park.

As Governor, Harold LeVander was a strong supporter of education and local government. He promoted expanded support for what he called the lighted schoolhouse, now the State's system of community education, and for creating what are now the State's Regional Development Commissions. And, he helped engineer legislative approval for a new system of State aid to local governments—really a forerunner of Federal Revenue Sharing which he also helped build support for within the National Governor's Conference.

I remember Harold's time as Governor as one in which more citizen participation in decisionmaking was encouraged. He was forever establishing "citizen councils" to gather and direct public input. And, he was a strong supporter of Minnesota's State constitutional amendment lowering the voting age, an act which was approved by the Minnesota Legislature and voters prior to ratification of the Federal voting age amendment in 1971.

The family values and traditions which have guided Harold and Iantha LeVander through a lifetime of public service are the same values they celebrate this week on their 50th wedding anniversary. And, they are strong values and traditions which are evident in an essay which Harold wrote at the time he was inaugurated as Minnesota's 32d Governor.

Mr. President, because of the outstanding contributions made by this very special couple, I ask that this essay—published in 1967 in the Minneapolis Tribune—be printed in the RECORD.

The essay follows:

HAROLD LEVANDER RECALLS "WHAT I REMEMBER MOST"

(By Harold LeVander)

One of my earliest recollections is just before I was 3 years old when my family arrived by train in St. Paul from Swedehome, Neb., after my father had accepted the call to be pastor of North End Immanuel Lutheran Church. We were met at the depot by Ole Hedman, and I had my first ride in an automobile—in fact, it was the first time I had ever seen an automobile. It was a large Reo, the wheels of which had large yellow wooden spokes.

Another incident with which Hedman was connected, and which became an oft-repeated occasion, was when he offered me a cigar. My father smoked cigars but never in public and was constantly vowing to quit. When Hedman offered me a cigar, as a joke I recalled Father's oft-repeated statement and replied in Swedish, "Ja Har Slutat at Roka" (I quit smoking).

In St. Paul we lived at 999 Mathilda Av., which was two blocks from a fire station manned by a staff of Negro firemen who drove a span of four white horses on the fire wagon. Three times a week they would go through rehearsal, and my older brother, Ted, and I were regular spectators for almost every rehearsal. When the gong rang, the men slid down the brass pole from the second-floor dormitory, the harnesses were suspended on clasps above the station, the doors of the stalls opened with the sounding of the gong, and the horses, without assistance, took their stations in front of the fire wagon. The pulling of a lever caused the harnesses to be dropped down and they were clasped on in a matter of seconds. The driver mounted the seat and the horses galloped out of the station, all of which was accomplished in less than two minutes.

I also clearly recall the many trips I had on Father's shoulder from the streetcar which stopped four blocks from our house. Between the streetcar stop on Rice St. and our home there were at least three taverns. If we came home from a visit after dark, Father would throw me over his shoulder and carry me from the streetcar stop to our house.

Our playmates were the Lindstrom boys next door who were the same age as Ted and I. We had a large barn on the back end of the lot where the former pastors had kept horses. There were hundreds of sparrows in or around the barn, and almost every week we found a dead bird for which we would put on an elaborate funeral, using a cigar box as a casket and digging a grave alongside the fence between the Lindstrom house and ours. Father was accustomed to wearing a clerical vestment in the form of a long black cape. Usually my brother, Ted, acted as the minister and used one of Mother's aprons tied over his back to represent Dad's vestment as he conducted the funeral service.

From St. Paul we moved to Atwater, Minn., in Kandiyohi County. Dad served the church both in Atwater and Grove City. Because of the two parishes, my father had to buy an automobile, so we had our first experience with a Dodge. Ted and I had to alternate every other Sunday in riding with Dad to Grove City, so every other Sunday we heard the same sermon twice and, besides going to Sunday School, attended two services and sometimes a fourth church meeting in the evening.

Our first employment was working on the Atwater Nursery Farm picking strawberries for which we were paid three cents a quart. As soon as the strawberries were through we started with raspberries. When that season closed we picked gooseberries, and by that time the plums had ripened and we picked plums and then apples. As we grew older and could handle farm work, Ted and I hired out in the summer for a few months as hired hands, milking cows in the morning and then cultivating corn until the haying season started. We went through the haying season, then shocked and threshed grain, filled the silo and picked corn before returning to school in the fall.

Our home in Atwater was across the street from the school. There being no girls in our family, Ted and I always had to do the dishes. Even after the noon meal, we would have to wash and dry the dishes until the school bell rang. Then we dropped the towels and scooted across the street in time to get to our classrooms.

I started in athletics at Atwater as a freshman in high school, playing my first basketball game at Litchfield. My determination apparently outran my dexterity because I was put out on personal fouls in four minutes.

From Atwater we moved to Watertown, Minn., in Carver County when I was a sophomore in high school. I remember riding in April with a man named Conrad Aundahl in the truck hauling our furniture. Between Montrose and Watertown, we got mired in a pothole up to the axle, and it took two teams of horses to pull us out.

In Watertown I worked in the summertime driving the Watertown Motor Express, hauling livestock to South St. Paul and assembling farm machinery. In the fall I managed three threshing crews for my boss, Rick Johnson.

Although our classes in school were not large, we were fortunate in having several boys all over six feet and developed a basketball team that was the pride of the community. We played in the City Hall where there were no showers. After practices we dried ourselves with towels, put on our long winter underwear, mackinaws and stocking caps and walked a little over a mile home. The same bunch of boys also played football and in our senior year didn't lose a game. We also had a first class baseball team and a track team.

My father was an avid fisherman and we used to make frequent trips to Lake Pulaski north of Buffalo, Minn., or to Clearwater Lake near Waconia, Minn., to fish sunfish. Since it was our practice to clean the fish as soon as we came to shore, we set up a chain operation in which one scaled, another cut the fins and gutted them and the third washed them. As a result of that early fish cleaning experience, just like washing dishes (which I did for my board in college at a boarding club), we soon learned that it takes less time to do a chore than to argue between the brothers as to which one should do it.

My first speaking experience came when I gave a recitation at a children's festival Christmas program. In high school, I started both debate and oratory. My coach was my father, whose strongest asset as a clergyman was his pulpit ability. He used to go with me up to the church hall, and I would practice by the hour on delivery, gestures, voice projection, pauses, transitions and all of the platform techniques with which Father was familiar.

College and law school days were tremendously exciting and interesting. Playing football under the tutorship of George Myrum at Gustavus Adolphus College left lasting impressions. His emphasis on fighting hard, but also reminding us that sportsmanship would be expected from us as representing a church school, is well remembered. The influence of people has a most significant way of shaping our lives. My brother, Ted, and I roomed together for three years at college. If I threw my sweater on the bed or scattered my books on the table, I was subjected to a dressing down that eventually led to my hanging them up and putting them away rather than precipitating an argument.

Dr. Evan Anderson, my speech and debate coach, with his incisive criticism such as "I don't want to hear any third-grade dribble," underscored the necessity of organization and research. There was also the fun side because of his great sense of humor. On one debate trip to Iowa, we hired a driver with whom Prof. Anderson decided we should have a little fun. He got all of the debaters in the car to insist with him that there were two center line stripes on the highway. The driver finally became doubtful of his own eyesight and stopped the car to get out to have us point out where the two stripes were. Actually, of course, there was only one.

I took all of the history courses offered by Dr. Conrad Peterson, an outstanding teacher who also had a sense of humor. I recall his telling us that in the early church they used the word "hell" in the creed, but then they thought that was pretty raw so they changed it to "Hades." "But," he said, "now they have gone back to 'hell' again."

At the University of Minnesota Law School, Dr. Harvey Hoshour and Dr. Henry Rottschaefer exemplified the kind of teachers who were thorough masters of their subjects and also had the ability lucidly to explain a complex problem to the class. Rottschaefer was a master of long sentences but exceedingly accurate delineation and could remember precisely what he wanted to put across. One day in the middle of winter, during a heavy snowstorm, he stopped in the middle of one of his long sentences, pointed out the window and said, "Did you ever see any bigger snow flakes?" Then he picked up his sentence and completed the accurate legal definition he had been expounding.

After law school, I sat behind Harold Stassen at the counsel table for three years and witnessed the skill and technique of an exceedingly able trial lawyer. It is, of course, impossible to pinpoint the effect and influence of all of the clients and people you meet while practicing law but from many you are left with indelible impressions. Harry Edmunds, the first president of the State Association of REAs and who was known as "Mr. REA," taught me many things about co-operation, not the least of which was his insistence that neutrality in religion and politics was essential if a co-operative was to achieve its fundamental purpose.

Of all the people whose influence had been significant in my life, none had been greater than that of my father. Through his table conversations on behavior, religion, service and politics, I gained the basic attitude and philosophy of life. Through his sermons and watching the example of his effort to practice what he preached, one could not help acquiring a basic idea of what life was all about. Added to this was the influence of my mother, whose devotion to her husband and her three boys exemplified the highest characteristics of an ideal mother.

While the practice of law is one of the greatest continual educational processes in which one can engage, when added to it are extracurricular activities of community service through services in Chambers of Commerce, Boards of United Fund, service clubs and a host of other activities, plus church work, one acquires not only a philosophy but a method of dealing with people's problems.

One of my greatest satisfactions has been the service on the National Lutheran Council and participating in the ecumenical movement, both within my own denomination and on an interdenominational level. Such diverse interests as livestock marketing, electric utilities service, representing owners in condemnation, community participation and layman's participation in church activities have contributed enormously to an understanding of people's problems. I have a deep sense of gratitude for what I have learned from these activities.●

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the following calendar orders on the Calendar of Business have been cleared: Calendar Order 756 and Calendar Order 876.

Mr. DOLE. Each has been cleared, yes.

Mr. BYRD. I thank the Republican leader.

I ask unanimous consent that the Senate proceed to the consideration of those two calendar orders seriatim.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVELOPMENT OF BICENTENNIAL COINS

The Senate proceeded to consider the bill (S. 1776) to modernize U.S. circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 2. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the 200th anniversary of the United States Constitution for a period of two years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragrpah (1) of this subsection.".

SEC. 3. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 4. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this Act shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over six years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. 5. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATEHOOD CENTENNIAL COMMEMORATIVE COIN ACT

The PRESIDING OFFICER. The clerk will report the next item.

The assistant legislative clerk read as follows:

A bill (S. 2283) to require the Secretary of the Treasury to mint and issue five-dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Statehood Centennial Commemorative Coin Act of 1989".

SEC. 2. SPECIFICATIONS OF COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue five-dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming.

(b) ISSUANCE.—The Secretary shall mint and issue not more than 350,000 five-dollar coins each of which shall—

(1) weigh 31.103 grams;

(2) have a diameter of 1.500 inches; and

(3) be composed of 90 percent palladium and 10 percent alloy.

(c) DESIGN.—The design of the five-dollar coin, in accordance with this section, shall contain an engraving of the Centennial States' regional logo on one side; and on the other side, busts of Thomas Jefferson, and Lewis and Clark overlooking the Missouri River. Each coin shall bear a designation of the value of the coin, the year 1989, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The reverse may also contain the words "Northwest Centennial" and "Statehood 1889-1890". Modifications to these designs may be made, if necessary, by the Secretary upon consultation with a duly authorized representative of the 6 States' Centennial Commissions.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain palladium for the coins referred to in this Act by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay not more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing law. The Secretary shall issue such regulations as may be necessary to carry out this provision.

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike each quality.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning January 1, 1989.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $20 per coin.

SEC. 6. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. REDUCTION OF NATIONAL DEBT.

An amount equal to $1,500,000 of all surcharges received by the Secretary from the sale of coins minted under this Act shall be provided to the "Documents West" exhibition program and administered by the Idaho Centennial Commission. These funds shall be used for the sole purpose of promoting the exhibition of historical and educational artifacts pertaining to the six Centennial States. The remaining amount of surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 8. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Idaho Centennial Commission as may be related to the expenditure of amounts paid under section 7.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee.

Mr. BAUCUS. Mr. President, I would like to thank the majority leader for agreeing to bring S. 2283 before the Senate for consideration, given the busy schedule. The majority leader has a keen sense of history and shares my feelings of regional pride.

This legislation, calling for a $5 commemorative coin made of palladium, is unique because it marks the centennial of Montana, Idaho, North Dakota, South Dakota, Washington, and Wyoming.

The bill before us, the Statehood Centennial Commemorative Coin Act of 1989, is an amended version of the bill I introduced earlier this year along with my 11 colleagues representing the centennial States—Senators Melcher, Adams, Burdick, Conrad, Daschle, Evans, McClure, Pressler, Simpson, Symms, and Wallop.

Besides commemorating the centennial of statehood for the Northwestern States, the coin would also recognize the opening of the world's only primary palladium mine, the Stillwater Mine, which began production last year in the Beartooth Mountains near Nye, MT.

THE NORTHWEST CENTENNIAL

Providing this unique official congressional recognition of the 100th birthday of Montana, Idaho, North Dakota, South Dakota, Washington, and Wyoming is certainly appropriate given their heritage and importance.

These States represent the culmination of Thomas Jefferson's dream of one land—from sea to shining sea; statehood for territories stretching from the Minnesota border to the Straits of San Juan de Fuca, from the Canadian border to the Laramie Trail—statehood for the great agricultural heartland—to the northern tier of the Rockies—to the Pacific Ocean.

This legislation recognizes that these six States, though sparsely populated, represent a great portion of the resource base of our country—metals and minerals, oil, timber, water and power.

This is a land of immigrants from Europe and the Orient and a land where native Americans are a proud part of our heritage. The six State commemorative recognizes the brilliance of Jefferson's Louisiana Purchase; it recognizes our foresight to claim the Oregon Territory; and it recognizes the wisdom of Daniel Webster, who brilliantly negotiated a lasting boundary with our neighbor to the north in the Webster-Ashburton Treaty.

This is a land of rain forests and the Rockies, seafood and submarines, coal, and cattle, Yellowstone Park and Glacier Park, the Olympic Peninsula and Lake Coeur d'Alene—sturdy people, a part of America's past and a part of her future; unique as the coin we propose to strike from palladium, sister of platinum, rare to this continent.

The centennial States comprise a land of extreme beauty and extreme hardship, a land of hope and a land of tragedy, from the bitter winters of the Northern Plains to the strange, unearthly beauty of Yellowstone National Park; from the cradle of women's suffrage to Custer's blunder at the Little Big Horn.

It is a land of great rivers—the Missouri, Columbia and Snake, the Powder, Sweetwater, Salmon and Yellowstone; and the great mountains—the Wind River Range and Tetons, the Rockies, the Bitterroot Range and the Cascades.

It is also a land of great people—pioneering, enduring people with a sense of optimism and community, people who have helped define the American character, people from Calamity Jane and Wild Bill Hickok to Jeanette Rankin and Mike Mansfield. Lest other Senators are moved to rise in defense of the greatness of their own States, let me cheerfully concede the point. Their States are great, too, in their own way. All have contributed to the miracle of the American spirit. All deserve recognition.

Indeed, many cities and States have already achieved the same kind of recognition we seek for our States today. There is a long and distinguished record of coins commemorating anniversaries of individual States and noting other significant occasions. This coin would honor six States at once.

Commemorative coins have been issued for the centennial of the States of Alabama, Arkansas, Illinois, Iowa, Maine, Missouri, Texas, the centennial of Wisconsin Territory, the 75th anniversary of California, and the 150th anniversary of Vermont.

Commemoratives have also been issued marking special events and anniversaries in California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maine, Maryland, Massachusetts, New York, Ohio, Oregon, Pennsylvania, Rhode Island, North Carolina, South Carolina, Tennessee, Virginia, and Washington.

Not a single commemorative, Mr. President, honors a city or State in the intermountain West. This is in part of an accident of history. In the past 20 years, only one State, a mountain State—Colorado in 1976—celebrated its centennial.

But in part it is yet another symbol of the realities of congressional policy toward the West over much of the first two centuries of our history.

The Northwest centennial coin thus would be an important reminder and recognition of the youth of our Nation, of its western heritage, of its continued vitality, and its continued interest in supporting U.S. resource independence.

DESIGN OF THE COIN

The six States that entered the Union in 1889-90 are the largest block of States to gain admission since the original 13.

The Northwest centennial commemorative coin will be designed to depict the vastness and beauty of the land, Jefferson's foresight in making the Louisiana Purchase, and his vision in promoting its exploration by Lewis and Clark in 1803-05 to strengthen the U.S. claim to the Pacific.

Mr. President, the centennial coin will be as unique and individual as the land and its people it will be commemorating. The coin will also be unique in the history of American coinage, and is already creating a great deal of interest.

This act authorizes the striking of 350,000 $5 palladium centennial coins. On one side would be depictions of Thomas Jefferson and of Lewis and Clark overlooking the Missouri River. On the other side would be the Northwest centennial logo, along with the words "Northwest Centennial' and "Statehood 1889-90."

DOCUMENTS WEST

The Northwest Centennial Commemorative Coin Act will not cost the Treasury a single penny. In fact, the Congressional Budget Office reports that this legislation will raise $7 million over 2 years. S. 2283 would earmark $1.5 million of the receipts to finance a portion of Documents West Program.

The balance of the revenues, some $5.5 million, will return to the General Treasury, Mr. President.

Documents West is a major museum exhibition and educational presentation that will bring together for the first time the significant documents and journals of exploration and other artifacts of Northwest history leading up to statehood for the six centennial States.

This traveling exhibit would give millions of people the opportunity to view first hand the Louisiana Purchase agreement, statehood enabling legislation, treaties with Britain and many Indian tribes, the Oregon Donation Law, original maps and other materials. Many of these documents have never been exhibited in the West.

A curriculum program is planned to bring this aspect of our history into classrooms throughout the region in conjunction with the traveling exhibits. Facsimiles of the major documents will be provided for classroom use, accompanied by lesson plans for teachers. Kits will be produced with participation of teachers, ensuring their usefulness to both teachers and students.

The exhibition is planned to open in Washington State in mid-1989, traveling to the five other States, plus Oregon and possibly British Columbia by the end of 1990.

STILLWATER MINE

The Stillwater Mine is the only primary source of platinum group metals in the United States. Palladium is used chiefly in the electronics industry—half of total consumption—in dentistry—one-third of total consumption—and in pollution control catalysts.

The uniqueness of this mine, and U.S. interest in reducing its dependence on imports for these strategic materials, argue for giving palladium a modest boost through a commemorative coin. Congress has given the U.S. gold industry a similar boost through its gold coin program, and while the United States is still a net importer of gold, reliance on foreign sources had diminished dramatically.

My bill would require that metal for the coin come from primary or secondary sources in the United States, thus creating a substantial new market for U.S. mined and recycled palladium.

This approach encourages the recycling not only of palladium, but of platinum as well, since the two often are used together, as in automobile catalytic converters.

The domestic recylcing industry currently recaptures nearly 700,000 ounces of palladium each year in the United States. For 1986, the U.S. Bureau of Mines reports that approximately 400,000 ounces returned to the owner of the metal, while 275,000 ounces were returned to the open market.

Thus, palladium supply in the United States from Stillwater—an estimated 120,000 ounces a year—and from recycling—more than 275,000 ounces returned to the open market—totals more than 400,000 ounces per year. The proposed mintage of the palladium coin is 350,000, with 90 percent palladium content—315,000 ounces. The authorization for the coin is for 2 years.

The Stillwater mineowners recently announced a major production increase and aggressive exploration is underway.

I know all of us share an interest in maximizing U.S. recycling and mining of platinum group metals. The Northwest centennial bill would do that.

In this context, I might note that currently half the catalytic converters recycled from cars in the United States are purchased by and shipped to Japan.

Anything we can do to enhance recycling within the United States certainly is worthwhile given the current primary source of supply.

Mr. President, I want to offer my thanks to Senator PROXMIRE and the Banking Committee staff, especially Sharon Bauman, for their help in redrafting and improving the original bill, especially as to conforming the bill with the current laws and practices of the U.S. coinage program.

In conclusion, Mr. President, I would like to remind my colleagues that this legislation has previously passed this body as an amendment to H.R. 3251, the bicentennial of the Congress commemorative coin bill, as were a number of other amendments, including the extension of FSLIC, all of which were stripped, with the exception of the FSLIC amendment, by the House.

Mr. President, I urge my colleagues to support this bill and hope that the House would take action as soon as possible so we can pass this legislation before the end of this Congress to ensure availability of the coin and the Documents West Program in time for the celebration of our centennials.

Mr. President, I ask unanimous consent that a brief description of the history of American commemorative coins, a description of the Documents West Program, certain materials from the Northwest Centennial Commission, a short history of each centennial State and the calendar of centennial celebration activities for Montana and the other century States be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMEMORATIVE COINS

(R.S. Yeoman, "A Guidebook of United States Coins," 41st ed., 1988, Racine, WI, 1987. p. 209)

Commemorative coins have been popular since the days of the Greeks and Romans. In the beginning they served to record and honor important events and in the absence of newspapers they proved highly useful in passing along news of the day.

Many modern nations have issued commemorative coins and such pieces are highly esteemed by collectors. Yet no nation has surpassed our own country when it comes to commemorative coins and in this we have reason to be proud.

The unique position occupied by commemoratives in United States coinage is largely due to the fact that with few exceptions they are the only coins that have a real historical significance. The progress and advance of people in the New World are presented in an interesting and instructive manner on the commemorative issues. Such a record of facts artistically presented on our gold and silver memorial issues appeals strongly to the collector who favors the historical side of numismatics. It is the historical features of the commemoratives, in fact, which create interest among many people who would otherwise have little interest in coins.

Commemorative issues are considered for coinage by two committees of Congress—The Committee on Banking, Housing and Urban Affairs, and the Committee on Banking and Currency of the House. Congress is guided to a great extent by the reports of these committees when passing upon bills authorizing commemorative coins.

These special coins are usually issued either to commemorate events or to help pay for monuments or celebrations that commemorate historical persons, places or things. The commemorative coins are offered in most instances by a commission in charge of the event to be commemorated, and sold at a price in advance of the face value of the piece. All are of the standard weight and fineness of traditional gold and silver coins, and all are legal tender.

Commemorative coins are popularly collected either by major types or in sets with mint mark varieties. In many years no special commemorative coins were issued. Some regular coins such as the Lincoln cent of 1909, Washington quarter of 1932, and Bicentennial issues of 1976 are also considered to be commemoratives.

DOCUMENTS WEST—AN EXHIBITION OF DOCUMENTS AND SUPPORTING MATERIALS TRACING THE ROAD TO STATEHOOD FOR THE GREAT NORTHWEST STATES

A CENTENNIAL CELEBRATION

The Washington State Centennial Commission, in concert with the Centennial Commissions of North Dakota, South Dakota, Wyoming, Idaho, and Montana, proposes a major exhibition of the documents instrumental in creating these "89" and "90" Centennial states. Starting with the Louisiana Purchase Agreement, and including treaties between the United States and Great Britain, the Oregon Donation Law, many Indian treaties, and the enabling acts affecting each of the states, such an exhibit would, for the first time, give millions of people the opportunity to view first-hand the documents that created the states in which they live. Using integrated display techniques the exhibiton will combine videos and skillfully used artifacts to create a lively context in which to display the documents. This exciting exhibition, which would also travel to Oregon, would provide a focal point for the upcoming Centennial celebrations.

Combined with curricular packets and other materials, and augmented by holdings in various state archives, such an exhibition would reach in dramatic fashion large portions of the population, especially school children. For those that were reached, history would come alive and the meaning of statehood would be clarified—an appropriate goal for these Centennial celebrations.

BACKGROUND

During 1989 and 1990 the six Great Northwest States (North and South Dakota, Wyoming, Montana, Idaho, and Washington) celebrate the 100th anniversary of their statehood. Each of these states will take the opportunity afforded by the centennial to reflect on the process by which they became part of the United States. They will also consider the ramifications of statehood.

As a joint activity, these six states (along with Oregon) propose a major exhibition revolving around documents which were central in the process of attaining statehood. These documents fall into two categories: the landmark national documents, including the Louisiana Purchase agreement; and documents pertaining to the individual states. Many of these documents have never been exhibited in the West. They would be the centerpiece of a major exhibition that would also include artifacts, paintings, ephemera and other material.

The exhibition would travel through the seven states, beginning in Washington. The state archivists and Centennial commissions from those states support this joint effort; their letters are appended to this proposal. Care will be taken to ensure the widest possible visitorship for the exhibition, coupled with the security required to protect an extremely valuable exhibition.

DOCUMENTS WEST—THE EXHIBITION

What is the significance of being American rather than Canadian, Russian or Spanish citizens? What influence did the presence of the Hudson Bay Company have on the early settlement of the Northwest. How did the Nortwestern states become part of the United States? What were the issues that affected the debate over statehood? What effect did the westward expansion have on the native Americans living in this region?

For many people these questions are abstract. The celebrations of the six Centennial states aim to focus attention on the history of each state, and to make historical issues tangible to the citizenry.

What better way to demonstrate concretely and dramatically the process by which statehood was achieved and to focus attention on the implications of statehood than by exhibiting the landmark documents of the region? Virtually every child in America studies American history, and remembers references to the Hudson Bay Company, the Louisiana Purchase, the Lewis and Clark Expedition, and "54-40 or fight!" An exhibition containing major documents pertaining to these events would pique the interest of hundreds of thousands of people, especially during the Centennial celebrations that will focus on our historical roots.

The exhibition would occupy 4-6,000 square feet, and would be arranged chronologically, to tell a story of statehood unfolding. A high-quality video presentation would serve to orient visitors at the start of the exhibition. In each state, the exhibition would be different, since it would contain both the core documents and those documents and supporting materials unique to that state.

CORE DOCUMENTS

Many of the key documents in the history of the six Centennial states have never been exhibited west of the Mississippi River. Such documents as the Louisiana Purchase Agreement; the 1818 agreement with Spain that relinquished that nation's claims to Washington State; the authorization by Thomas Jefferson of the Lewis and Clark Expedition; and the American-British Treaty of 1842 are a few of the many official documents that would be of particular interest.

But besides official documents, many other fascinating materials could be incorporated into the exhibition. These include the remains of Lewis and Clark's diary, Hudson Bay Company papers, the many original reports extolling the West that fueled settlement; papers from explorers, missionaries, and trappers; and even settlers' diaries.

All of these rare and valuable documents would be displayed in climate-controlled, secure cases and augmented by interpretive materials. A visitor would first watch a brief video providing the historical context for the exhibition. The Louisiana Purchase Agreement would be the next major display, surrounded by other documents, artifacts, maps, and manuscripts that offer a specific context.

VISUAL ENHANCEMENT

As a visitor goes through the 4-6,000 square feet of the exhibition, he or she will follow the road to statehood of the six states. Documents will provide a framework, but this skeleton will be fleshed out with materials that in a more visual, immediate way illustrate the impact of the documents. The Lewis and Clark Expedition can be illustrated with maps, drawings, and other records left by the explorers. Indian treaties offer similar opportunities for additional elucidation, with everything from "speaking staffs" to weaponry utilized by both sides in the wars.

Important also will be documents and materials related to spreading information about the Centennial states in the East. Letters, newspaper dispatches, painting, and other means of communication all served to excite people in the East about the new territories. They heard of a land of unlimited opportunity, astonishing beauty and wealth, and great adventure. Such tales brought new settlers west and also increased the desire of politicians to assure that these territories became part of the United States.

Many types of materials exist to graphically display the nature of life in these states. Remnants of the Hudson Bay Company, tools used by settlers, articles of domestic culture, and other materials all bring immediacy to the documents that trace the development of statehood.

Photographs also provide evidence of life in the period after 1850 and enable visitors to gain a feel for the past.

The exhibition will be designed to travel easily, with modules used to display units of materials. Design specification will be developed that will permit each state to fold in documents and artifacts unique to that area. The overall effect will be an exhibition in which visitors can spend an hour or two or perhaps longer to delve into their history.

EDUCATIONAL PROGRAMMING

Connected with Documents West, a curricular program will be developed to bring graphic history into the classroom. Facsimiles of the major documents will be provided for classroom use, accompanied by lesson plans for teachers. These kits will be produced with the participation of teachers, ensuring their usefulness to both teachers and students.

The importance of such materials, especially during the Centennial year, cannot be overestimated. Students will have the encouragement of a statewide effort bringing history to the forefront. With the presence of an exhibit featuring priceless documents, attention will be placed on the reasons for statehood and on the study of history generally.

The facsimile kits will provide a means for involving hundreds of thousands of students with primary materials. Such materials will give students the chance to come face to face with the actual documents and encourage close reading of the words contained. As they trace the move toward statehood from document to document, students will discover history as an active pursuit, and see its relevance to their own lives. This will perhaps be the single most important legacy of the Centennial celebrations.

HISTORY OF THE SIX STATES

Most of the territory comprising North Dakota, South Dakota, Montana, Washington, Idaho, and Wyoming was purchased in 1803 by President Thomas Jefferson in what has become known as the Louisiana Purchase. In 1804, President Jefferson sent Meriwether Lewis and William Clark to explore the vast Louisiana Territory and to blaze a trail to the Pacific Ocean. It was during their exploration of this territory that the area's potential was first realized.

In August 1804 Lewis and Clark camped in the South Dakota region for the first time, near what is now Elk Point. They followed the Missouri River through the region. They reached central North Dakota in October 1804 and built Fort Mandan on the east bank of the Missouri River, where they stayed until April 1805. That year, they became the first white men to explore the Idaho region. Lewis and Clark led their expedition across Montana, crossed the Rocky Mountains and reached the Columbia River in Washington, following it to the Pacific Ocean. In 1806 Lewis and Clark returned eastward through this same territory.

These States have greatly contributed to the history of the United States. The names of Wild Bill Hickok, Calamity Jane, Chief Crazy Horse, Kit Carson, and Jim Bridger are all associated with the history of these States. Lieutenant Colonel George Armstrong Custer made his last stand in 1876 during the battle at the Little Bighorn River against the Sioux Indian Chief, Sitting Bull, in Montana. Montana also has the distinction of having elected the first woman to Congress, sending Jeannette

Rankin to the U.S. House of Representatives in 1916.

Washington State is the only state named after a U.S. president. Washington grows more apples than any other state and leads the country in production of hops. Mount Rushmore National Memorial—paying tribute to Presidents Washington, Jefferson, (Theodore) Roosevelt and Abraham Lincoln—is located in South Dakota. Wyoming is the site of the country's first national park—Yellowstone—and the first national forest—Shoshone. Wyoming also has the distinction of being the first state to grant women the right to vote, hold public office, and serve on juries (December 10, 1869). In 1870, Esther H. Morris became the nation's first woman justice of the peace. In 1924, Wyoming voters elected the first woman governor, Nellie Tayloe Ross.

The importance of natural resources located in these States cannot be overlooked. Homestake Mine, the largest gold mine in the United States, is located in South Dakota. Sunshine Mine, the largest U.S. silver mine, located in Idaho. Stillwater Mine, the only primary U.S.-producing mine of palladium, is located in Montana. The 6 States' other resources include oil, coal, natural gas, salt, copper, uranium, timber, and agricultural products such as wheat.

The admission of these six States to the Union is the largest block of states to be admitted since the original 13. It also was the culmination of Thomas Jefferson's dream of bringing the territories together as one land, from coast to coast. A brief history of each territory to statehood is presented below.

NORTH DAKOTA

Few settlers came to the North Dakota region before the 1870s. In 1682, Robert Cavelier, Sieur de la Salle, claimed for France all the land drained by the Mississippi River system. This territory included the southwestern half of present-day North Dakota, because the Missouri River flows into the Mississippi. France also claimed the vast area south of Hudson Bay, Canada, which included the northeastern half of North Dakota. In 1713, France gave its land west of the Mississippi to Spain. Spain returned it to France in 1800. In 1803, the United States bought this region as part of the Louisiana Purchase. In 1818 the United States obtained northeastern North Dakota by a treaty with Great Britain. All of present-day North Dakota then became a U.S. territory.

Congress created the Dakota Territory in 1861. During the 1870s, the Northern Pacific Railroad began to push across the Dakota Territory. It was also during this time that people began to ask Congress to divide the Dakota Territory into two parts. In February 1889 Congress established the present boundary between North Dakota and South Dakota. On November 2, 1889 North Dakota became the 39th state. John Miler became North Dakota's first governor.

SOUTH DAKOTA

As noted above, South Dakota was originally part of the Dakota Territory. The French-Canadian explorers Francois and Louis-Joseph La Verendrye were the first white persons known to have visited the South Dakota area. In 1743, the two brothers buried a small lead plate near the site of present-day Fort Pierre to prove they had been there. It was discovered in 1913 and now resides in the South Dakota State Historical Museum. Pierre Dorion, a French fur trader arrived in the lower James River Valley around 1785 and became the first white person to settle permanently in the South Dakota area.

The discovery of gold in the Black Hills in 1874 created a huge land boom. In addition, public land offerings by the government added to the population, increasing it from 12,000 in 1870s to 348,600 by 1890. South Dakota became the 40th state of the Union on November 2, 1889. Arthur C. Mellette became South Dakota's first governor.

IDAHO

Indians lived in the Idaho region more than 10,000 years ago. In 1805, Lewis and Clark crossed the great Bitterroot Range. Then, aided by the Shoshone and Nez Perce Indians, the explorers built canoes and floated down the Clearwater and Snake Rivers to the Columbia River. In 1809 David Thompson, a British explorer, built a fur-trading post on the shores of Pend Oreille Lake. In 1834, two more posts were built. They were Fort Hall, founded by the American Nathaniel Wyeth, and Fort Boise, founded by Thomas McKay of the British Hudson's Bay Company.

The Idaho Territory was established by Congress on March 4, 1863, with Lewiston as the capital. The territory included present-day Idaho, Montana, and almost all of Wyoming. Montana became a separate territory in 1864, and Wyoming was made a territory in 1868. In 1864, Boise became the capital of the constitution and Idaho entered the Union as the 43rd state on July 3, 1890. George L. Shoup became Idaho's first governor.

MONTANA

French trappers may have visited the Montana area as early as the 1740s. The United States obtained most of what is now Montana as part of the Louisiana Purchase in 1803. The northwestern part was gained by treaty with Great Britain in 1846. At various times, part of Montana were in the territories of Louisiana, Missouri, Nebraska, Dakota, Oregon, Washington, and Idaho.

In 1841, Jesuit missionaries established St. Mary's Mission, the first attempt at a permanent settlement, near what is now Stevensville. In 1847, the American Fur Company built Fort Benton on the Missouri River. The town that developed there is Montana's oldest continuously populated town.

The People of Montana first asked for statehood in 1884, but it was not until November 8, 1889 that Montana was admitted as the 41st state. Joseph K. Toole became Montana's first governor.

WASHINGTON

At least 12 different tribes of Indians lived in the Washington region before white people came. The first white people to see the Pacific Northwest were probably Spanish and English explorers who sailed northward along the coast from California during the 1500s. The Europeans did not land in what is now Washington until the late 1700s. Russian fur traders settled in Alaska during that time. To prevent their expansion further south, Spain sent several expeditions to establish Spanish right to the area. In 1775, Bruno Heceta and Juan Francisco de la Bodga y Quadra made the first landing in Washington, near present-day Point Grenville.

The first English explorer to reach the area was Captain James Cook, in 1778. Between 1792 and 1794 George Vancouver, another English explorer, made a survey of Puget Sound and Georgia Gulf. England based its claim to the region on the explorations of Cook and Vancouver. An American, Captain Robert Gray, reached the mouth of the Columbia River in 1792 and this became a basis for American claims to the region. Lewis' and Clark's expedition in 1805 gave the United States a second claim to this territory. During the 1800s both British and American fur traders operated in the region. The Washington and Oregon territories were disputed by Britain and the United States. It was not until 1818 that the two countries signed a treaty permitting their citizens to trade and settle in that region, then called the Oregon Country. The boundary dispute between the United States and Great Britain reached a climax during the presidential campaign of 1844. James K. Polk partially based his campaign on the claim that all the region south of latitude 54 degrees 40 minutes belonged to the United States ("Fifty-four Forty or Fight" was the campaign slogan). In 1846, President Polk signed a treaty with Great Britain setting the boundary line at the 49th parallel, Washington's present northern border. In 1853, President Millard Fillmore signed a bill creating the Washington Territory. On November 11, 1889 Washington became the 42nd state. Elisha P. Ferry became Washington's first governor.

WYOMING

Indians lived in the Wyoming area at least 11,000 years ago. French trappers may have entered the region in the mid-1700s, but it was not until after 1800 that exploration of the area began. The United States bought most of the region from France in 1803, as part of the Louisiana Purchase. In 1807, a trapper named John Colter became the first white man to travel across the Yellowstone area. In 1812, a group of fur traders led by Robert Stuart, discovered a relatively easy way across the mountains from west to east through South Pass. By the mid 1840s, pioneers were traveling west through the Wyoming area on three famous trails: the California Trail, the Mormon Trail to Utah, and the Oregon Trail to the Pacific Northwest. All three took the South Pass though the mountains.

Both the discovery of gold and the incursion of the Union Pacific Railroad in 1867 helped boost the development of Wyoming. In 1868 Congress created the Territory of Wyoming. In 1872, during Wyoming's territorial days Yellowstone Park was created—the country's first national park. Wyoming became the 44th state on July 10, 1890. Francis W. Warren became Wyoming's first Governor.

MONTANA CENTENNIAL CALENDAR—1988-89 EVENTS, PROJECTS, PUBLICATIONS AND ENTERTAINMENT

This calendar is current as of July 12, 1989.

(Note: This calendar lists events, publications, and performing artists sanctioned or authorized by the Montana Statehood Centennial Commission and Office. Although we try to keep as current as possible, the Centennial Office cannot be responsible for changes on this calendar. Please contact the sponsor for the most up-to-date information.)

1988

Montana Nature Preserves—1988-89. Nature preserve and land conservation fundraising project.

The Nature Conservancy, Big Sky Office, PO Box 258, Helena, MT 59624.

Montana Community Foundation—Resources for community development.

Montana Community Foundation, PO Box 1172, Helena, MT 59624.

Where Statehood Began: Montana's Centennial Sites—Inventory of properties built between 1864 and 1889. Nomination deadline: October 1, 1988.

State Historic Preservation Office, 225 N. Roberts, Helena, MT 59620.

August 6, 1988: 100th Birthday Celebration of the Original Governor's Mansion—Helena. Music, tours, refreshments.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

August 19-20, 1988: Montana Cowboy Poetry Gathering—Big Timber. Original western poetry and songs. (Also in August 1989).

Montana Cowboy Poetry Gathering, PO Box 1255, Big Timber, MT 59011.

September 16-18, 1988: Grand Opening of "Montana Homeland," a new Montana history exhibition—Montana Historical Society Helena.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

October 8, 1988 through 1989: Billings Symphony features compositions by Montana composers during its 1988 and 1989 symphony seasons.

Billings Symphony Orchestra. PO Box 602, Billings, MT 59103.

November 1988:

Veterans Art—Exhibition of art work by Montana veterans.

Veterans Administration Medical Center and Miles City Area Chamber of Commerce, 210 S. Winchester Ave., Miles City, MT 59301.

Old Time Style Show—Miles City.

Miles City Roundup '89, 901 Main, Miles City, MT 59301.

November 3-5, 1988: Montana History Conference—Livingston.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

November 8, 1988: Admissions Day.

Governor Schwinden proclaims the beginning of the Centennial Year.

November 11, 1988: Veterans Day Centennial Ball—Miles City.

Veterans Administration Medical Center and Miles City Area Chamber of Commerce, 210 S. Winchester Ave., Miles City, MT 59301.

November 12-13, 1988: Centennial Year Opening Ceremonies—St. Mary's Mission, Stevensville. Program at mission, historic tours, banquet.

St. Mary's Mission Board of Directors, PO Box 211, Stevensville, MT 59870.

November 26, 1988: Martha Graham Dance Theater—Alberta Bair Theater, Billings. Proceeds to establish Town Hall Lecture Series to endow theater.

Alberta Bair Theater, PO Box 1556, Billings, MT 59103.

December 1988:

Capitol Christmas Tree—Decorations by Legislative Spouses.

Pledge Drive, KUSM-TV, public television in Bozeman, Centennial mug and Christmas ornament as gifts.

KUSM-TV, Montana State University, Bozeman, MT 59717.

1989

Photography Exhibition—An exhibition of photographs of old Montana mining towns. Statewide tour in 1989.

Denes G. Istvanffy, PO Box 20343, Billings, MT 59104.

Montana Nature Preserves—Ongoing 1988-89, Nature preserve and land conservation fundraising project.

The Nature Conservancy, Big Sky Office, PO Box 258, Helena, MT 59620.

Montana Bluebird Trail—Bluebird nesting boxes across Montana. Ongoing 1989.

Art Aylesworth, PO Box 794, Ronan, MT 59664.

Montana Community Foundation—Resources for community development.

Montana Community Foundation, PO Box 1172, Helena, MT 59624.

Paul Bunyan Restoration—Restoration of the only remaining Flathead Lake logging tow boat, the Paul Bunyan.

Miracle of America's Story Museum, Route 1, Highway 93S, Polson, MT 59860.

Daly Mansion Historic Site—Listing of Riverside, the Marcus Daly Mansion in the Bitterroot Valley, as an historic site.

Daly Mansion Preservation Trust, Inc., PO Box 1744, Hamilton, MT 59840.

Helena Community Cultural Center—Renovation of the old Lewis and Clark County jail into a center for film, dance, theater, music, and cabaret performances.

Helena Film Society, 9 Placer Street, Helena, MT 59601.

McCone County Museum Project—Circle Monument to Livestock Growers of Eastern Montana, calendar of historic events, publication of newspaper, "First Year of Circle at New Location," and other activities.

McCone County Centennial '89ers, Circle, MT 59215-0334.

Lewistown Historic Preservation Office—Slide-tape presentation documenting tools and techniques of stonemasory practiced in Lewistown area.

Lewistown Historic Preservation Office, Box 626, Lewistown, MT 59457.

Montana Minutes—Series of 60 second radio vignettes of Montana history.

Lynne Turner Fitzgerald, 96B Antelope Trail, Billings, MT 59105.

Opera House Restoration, Chinook, Chinook Centennial '89ers, Box 428, Chinook, MT 59523.

Peace Park and Garden Trail—Design and dedication of hiking trail from Peace Garden, North Dakota, through Glacier National Park to Two Parks, Washington.

Joe Belgum, 1217 3rd Ave. South, Great Falls, MT 59405.

Northwest Centennial Composition Contest—To encourage the writing and performance of a musical work by a Northwest composer. Billings, Butte, Helena, Great Falls, Missoula, Bozeman, and Kalispell symphonies will present the work.

Montana Association of Symphony Orchestras, 2739 S. Gregory Drive, Billings, MT 59104.

Montana Centennial Businesses—Statewide Inventory and honoring of Montana businesses in operation more than 100 years.

Department of Commerce, 1424 9th Ave., Helena, MT 59620.

Where Statehood Began: Montana's Centennial Sites—Inventory of properties built between 1964 and 1989. Ceremonies honoring owners for their stewardship.

State Historic Preservation Office, 225 N. Roberts, Helena, MT 59620.

JANUARY

January and February 1989: Sled Dog Race—Helena.

Montana Mountain Mushers, 517 Waukesha, Helena, MT 59601.

January-October 1989: Montana Centennial Energy Calendar and Contest—1989 calendar with selected work of 13 young artists.

Montana Energy Education Council, 5555 Black Bear Road, Bozeman, MT 59715.

January 28-29, 1989: U.S. Outdoor Speed Skating Championships—Butte.

U.S. High Altitude Speed Skating Foundation, Inc., 1 Olympic Way, Butte, MT 59702-3208.

FEBRUARY

Centennial Musical Folk Opera—State tour in schools and communities.

Opera Workshop of Western Montana, PO Box 5692, Missoula, MT 59806.

February 10-11, 1989: The Fractured Follies Celebration of Montana's Centennial, Glendive.

Glendive Community Hospital Auxiliary, 412 E. Hughes, Glendive, MT 59330.

February 12-19, 1989: Ski for Light International Week, Bozeman—Event to draw visually impaired and paraplegic adults.

Sons of Norway, 1719 Willow Way, Bozeman, MT 59715.

SPRING

Ghost Town Ballet Tour—Statewide tour by the Montana Ballet Company. Modern ballet of actual histories of ghost towns, choreographed to folk music written over a century ago.

Montana Ballet Company, PO Box 6021, Bozeman, MT 59717.

5th Annual Calligraphy Workshop and Exhibit—Lewis and Clark Library, Helena, for one month.

Centennial Youth Ambassador Exchange Program—Exchange of high school students, eastern and western Montana.

Meadow Gold Dairies, Inc., PO Box 929, Billings, MT 59102.

The Shape of Montana—Juried exhibition of contemporary art, Haynes Fine Arts Gallery, Bozeman. Art will incoporate the physical shape of Montana.

Haynes Fine Arts Gallery, Haynes Hall, Montana State University, Bozeman, MT 59717.

Smith Mine Memorial Grove—Red Lodge. Planting and dedication of a grove of trees honoring miners killed in the Smith Mine disaster in 1943.

Memorial Grove Committee, PO Box 507, Red Lodge, MT 59068.

MARCH

Women's History Lecture Series—Helena. Month-long lecture series at the Montana Historical Society.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

A Celebration of Skiing at Red Lodge Grizzly Peak:

March 4—Winter Carnival (Includes National Ski Joring Finals).

March 12-18—Western States J1 Championships (Junior Olympics).

March 23-24—Montana Regional Special Olympics Winter Games.

March 30-April 1—Masters and Citizens Races.

Red Lodge Grizzly Peak, Inc., PO Box 750, Red Lodge, MT 59068.

March 16-18, 1989: 21st Annual C.M. Russell Art Auction—Great Falls Auction of original Western art. Benefit for the C.M. Russell Museum.

Great Falls Adverting Federation, PO Box 619, Great Falls, MT 59401.

APRIL

Chili Cook-Off—Miles City.

Miles City Roundup '89, Miles City Chamber of Commerce, 901 Main, Miles City, MT 59301.

April 1, 1989: Museum of the Rockies Dedication—Bozeman, Dedication of the new addition at the Museum of the Rockies and the Tinsley Homestead, constructed in 1889.

Museum of the Rockies, Montana State University, 400 West Kagy, Bozeman, MT 59717.

April 6–June 25, 1989: Centennial Quilt Exhibition—Quilts related to Montana history, selected in a competition sponsored by the Montana Historical Society and the Helena Quilters Guild, Montana Historical Society, Helena, and traveling statewide in 1989 and 1990.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

April 28, 1989: All-Valley Centennial School Day—Bitterroot Valley students celebrate the Centennial.

Bitterroot Centennial Organization, 102 Geneva, Hamilton, MT 59840.

MAY

The William A. Clark Collection—Billings and Helena. An exhibit of art on loan from the Corcoran Gallery of Art, Washington, D.C., at the Yellowstone Art Center, Billings. At the Montana Historical Society, Helena, in October. Sponsored by Yellowstone Art Center and MHS.

Yellowstone Art Center, 401 N. 27, Billings, MT 59101.

A Salute to Women—Banquet honoring women who have excelled in their fields and have contributed to community life in Helena.

Helena YWCA, 501 N. Park, Helena, MT 59601.

May 1-29, 1989: Montana Wildlife Art Show—One of three shows at the MonDak Heritage Center, Sidney, Painting, drawings, three dimensional art. (Other showings are Montana Places, June; Montana People, July).

MonDak Heritage Center, 120 3rd Ave. SE, Sidney, MT 59270.

May 6, 1989: The Spokane Memorial—Helena. A race for Montana-born and trained thoroughbreds to commemorate the 1889 Kentucky Derby victory by Spokane, a Montana horse.

Mr. and Mrs. Joe Olheiser, 1616 Cannon #23, Helena, MT 59601.

May 14, 1989: Cowboy Poetry and Range Ballads—Custer County Art Center, Miles City. A one-day program complementing the Art Center's Western Art Roundup and the annual Bucking Horse Sale in Miles City.

Custer County Art Center, PO Box 1284, Water Plant Road, Miles City, MT 59301.

May 19-21, 1989: Miles City Bucking Horse Sale—Annual bucking horse sale. Parades, horse races, dance, barbecue, and other activities.

Bucking Horse Board of Governors, PO Box 1058, Miles City, MT 59301.

May 19-21, 1989: Garden City Ballet Performance—Missoula. A ballet with a contemporary western theme, choreographed by Michael Smuin.

Garden City Ballet Company, 229 E. Front St., Missoula, MT 59802.

May 26-29, 1989: State Square and Round Dance Festival, Great Falls.

Roy Bruce, 336 Riverside 4 West, Great Falls, MT 59404.

SUMMER

Summer at the Society—Noonhour, weekly programs for families on the lawn of the Montana Historical Society, Helena. Programs will focus on the Centennial and Montana history and culture.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

Bitterroot Valley History Pageant—Ravalli County. An outdoor pageant dramatizing the history of the Bitterroot Valley.

Bitterroot Valley Historical Society, Ravalli County Museum, 205 Bedford, Hamilton, MT 59840.

Rocky Mountain Outfitters Rendezvous—Near Townsend.

Montana Outfitters and Guides Association, Box 1339, Townsend, MT 59644.

Tri-State Transpanhandle Triathlon—Bike, run, canoe/row/kayak race from Montana across Idaho Panhandle to Washington.

Recreation Dept., City of Sandpoint, 110 Main, City Hall, Sandpoint, ID 83864.

The Voyage of The Centennial Messenger—A 300-mile horseback and 2,500-mile canoe journey from Henry's Fork, Wyoming, following the Wind, Big Horn, Yellowstone, and Missouri rivers to St. Louis. Retraces the historical route of General Ashley from the first rendezvous site in the Rocky Mountains to Missouri. Celebrates the Northwest Centennial.

Riverton Area Chamber of Commerce, First and Main Streets, Riverton, WY 82501.

Capitol Floral Display—North lawn State Capitol, Helena, Dept. of Fish, Wildlife and Parks.

West Yellowstone Flyfishing Expo—In the West's greatest flyfishing country; seminars, contests, demonstrations, youth events. Participation by the Federation of Flyfishers Conclave.

West Yellowstone Chamber of Commerce, PO Box 458, West Yellowstone, MT 59758.

Boy Scout Camporee—All-state Council.

Montana Council Boy Scouts of America, Inc., Box 3226, Great Falls, MT 59403.

The Pride of Montana Sheep and Wool Festival—Bozeman. Celebrating the sheep and wool industry.

Bozeman Area Chamber of Commerce, PO Box B, Bozeman, MT 59715.

JUNE

Lewis and Clark Run Across Montana—Relay run from Wibaux to Lolo Pass, evening festivities in three places along the route.

Montana Centennial Run Across Montana, 1904 4th St. NW, Great Falls, MT 59404.

Red Lodge Music Festival—Month-long schedule of music recitals.

Red Lodge Music Festival, Inc., 2649 S. Bridger Dr., Billings, MT 59702.

Little Bighorn Days—Hardin. An annual event, this year with a Centennial flavor.

Hardin Area '89ers, 204 N. Center Ave., Hardin, MT 59034.

June 2-3, 1989: Governor's Centennial Cup—Helena. Two-part running event in the annual Governor's Cup races, including a 100-mile race.

Blue Cross and Blue Shield of Montana, PO Box 4309, Helena, MT 59604.

June 2-August 5, 1989: The Black Robe Mission Project—An 80-day horseback journey tracing various routes of early Jesuit missionaries in Montana, using authenic ways and means.

Oregon Province of the Society of Jesus, N. 1107 Astor, Spokane, WA 99203.

June 12-July 4, 1989: Bannack to Helena '89: The Centennial Wagon Train—Wagon trains to converge at the Capitol.

Montana Draft Horse and Mule Association, Route 1, Box 1592, Whitehall, MT 59751.

June 15-July 15, 1989: Montana Places Art Show—The second of three shows at the MonDak Heritage Center, Sidney. Painting, drawings, three dimensional art. (Third in series is Montana People, July).

MonDak Heritage Center, 120 3rd Ave. SE, Sidney, MT 59270.

June 22-24, 1989: The Centennial Symposium—Billings. A humanities symposium of the six Northwest Centennial states to discuss regional history, heritage, and culture.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

June 22-25, 1989: Montana Traditional Jazz Festival—Dixieland in the heart of the Queen City.

Montana Traditional Jazz Festival. PO Box 856, Helena, MT 59624.

June 23-25, 1989: Centennial Celebration Days—Fort Benton. Celebration and dedication of the Montana Agriculture Center and Museum of the Northern Great Plains.

Fort Benton Community Improvement Association, PO Box 339, Fort Benton, MT 59442.

June 24, 1989: Montana Statehood Centennial Airshow of Bozeman—Military and civilian aircraft, exhibits, other events.

Bozeman Area Chamber of Commerce, PO Box B, Bozeman, MT 59715.

June 24, 1989: Pony Express Mail Carry-Terry.

Terry Centennial Committee, Box 6, Terry, MT 59349.

June 24-25, 1989: Beartooth Days—Red Lodge. Includes 21st annual Beartooth Run and other facilities.

Red Lodge Area Chamber of Commerce, PO Box 988, Red Lodge, MT 59068.

June 30-July 4, 1989: Montana Centennial Nez Perce Trail Ride—Chinook.

Chinook Centennial '89ers, PO Box 26, Chinook, MT 59523.

June 30-July 5, 1989: Daly Days: A Festival of the Arts—Hamilton. A celebration of the Bitterfoot Valley community and one of its early residents, Marcus Daly.

Daly Days: Festival of the Arts, PO Box 744, Hamilton, MT 59840.

June 30-July 2, 1989: Montana Chamber Centennial Golf Classic—Bigfork,

Montana Chamber Foundation, Box 1162, Helena, MT 59624.

JULY

Big Sky State Games—Statewide, multi-event sports festival for amateur athletes of all ages.

Big Sky State Games, PO Box 2318, Billings, MT 59103.

Hot Air Balloon Exhibition—Miles City.

Miles City Roundup '89, Miles City Chamber of Commerce, 901 Main, Miles City, MT 59301.

July 1, 1989: Recalling Memories—Utica. Parade, original play, supper and community celebration.

Utica Women's Club, PO Box 29, Utica, MT 59452.

July 1, 1989: Hometown Rodeo—Red Lodge.

Red Lodge "Home of Champions" Rodeo, PO Box 710, Red Lodge, MT 59068.

July 1-4, 1989: Joliet All Class Reunion—Joliet High School.

Joliet Reunion, Box 107, Joliet, MT 59041.

July 1-9, 1989: Can-Can Revival—Dance and music in Red Lodge.

Red Lodge Grizzly Peak-A-Boos, PO Box 934, Red Lodge, MT 59068.

July 1-9, 1989: Montana Centennial Rendezvous—Red Lodge, Living history and activities in the western rendezvous tradition.

Red Lodge '89ers, PO Box 1989, Red Lodge, MT 59068.

July 2-4, 1989: Red Lodge Centennial "Home of Champions" Rodeo—Red Lodge.

Red Lodge "Home of Champions" Rodeo, PO Box 710, Red Lodge, MT 59068.

July 2-9, 1989: Chinook Centennial—A week of festivities in Chinook.

Chinook Centennial '89ers, Box 428, Chinook, MT 59523.

July 3-4, 1989: Harlowton Rodeo—Western celebration, Harlowton,

Harlowton Chamber of Commerce Centennial Committee, Box 41, Harlowton, MT 59036.

July 4, 1989: Dedication of "The Explorers at the Portage"—Great Falls. A ceremonial unveiling of a bronze statue of Lewis and Clark, York, and Lewis' dog, Seaman, by sculptor Bob Scriver.

Western Legacy, 1104 Avenue C North West, Great Falls, MT 59404.

July 4, 1989: Old Time Fourth of July—Helena.

Capital City '89ers, 201 E. Lyndale, Helena, MT 59601.

July 4, 1989: Centennial Rodeo—Terry.

Terry Centennial Committee, Box 6, Terry, MT 59349.

July 7-9, 1989: Chief Victor Days—Victor, A community celebration with a Centennial flavor.

Vitor Community Booster Club, PO Box 234, Victor, MT 59875.

July 7-9, 1989: Wild Horse Stampede and Parade—Wolf Point.

Wolf Point Chamber of Commerce and Agriculture, PO Box 237, Wolf Point, MT 59201.

July 15, 1989: Old Times Festival and Reunion—Fairview.

Fairview Annual Old Timers Festival & Reunion, c/o Doris Taylor, Fairview, MT 59221.

July 15-16, 1989: Homesteader Days—Huntley Project, 25th anniversary celebration of Homesteader Days, honoring pioneers.

Huntley Project Lions Club, Box 26, Ballantine, MT 59006.

July 15-16, 1989: Bannack Days—Bannack. Annual celebration of mining and frontier life at the site of Montana's first territorial capital.

Bannack State Park, 4200 Bannack Road, Dillon, MT 59725.

July 15-16, 1989: Hellgate Rendezvous—Missoula. Juried arts and crafts show.

Mary Lou Sennett, 905 Evans, Missoula, MT 59801.

July 15-August 15, 1989: Montana People Art Show—The third in a series of three shows at the MonDak Heritage Center, Sidney, Painting, drawings, three dimensional art.

MonDak Heritage Center, 120 3rd Ave. SE, Sidney, MT 59270.

July 21-23, 1989: Arts and Crafts Festival—Cottonwood Ranch, Roberts.

Beartooth '89ers, PO Box 1989, Red Lodge, MT 59068.

July 22, 1989: The Montana Centennial Parade—Great Falls. The official Centennial Parade—a grand celebration!

Cascade County '89ers, PO Box 2127, Great Falls, MT 59403.

July 22-29, 1989: Centennial Focus Week in Great Falls—A week of exciting community events.

Cascade County '89ers, PO Box 2127, Great Falls, MT 59403.

July 23-August 5, 1989: Centennial Ride Across Montana (CRAM)—Bicycle ride from Yaak to Alzada.

CRAM, 1616 Cannon #23, Helena, MT 59601.

July 24-25, 1989: Good Sam RV Wagon Train—Helena to Great Falls. A modern-day wagon train of recreational vehicles.

Montana Good Sams, 251 Sheafman Creek Road, Victor, MT 59875.

July 25, 1989: Senior Citizens Celebration Day—Great Falls, Sing-along and other festivities.

Cascade County Senior Citizens Celebration Committee, 2405 6th St. NW, Great Falls, MT 59404.

July 24, 1989: Old Time Fiddlers Festival—Great Falls.

Montana State Old Time Fiddlers, PO Box 6786, Great Falls, MT 59406.

July 29—August 6, 1989: Montana Centennial Derby—Great Falls. Thoroughbred race at State Fair.

State Fair Race Meet, PO Box 1524, Great Falls, MT 59404.

July 30, 1989: Bitterroot Art Show—Hamilton. Arts and crafts.

Bitter Root Arts Guild, 2176 Middle Bear Creek Rd., Victor, MT 59875.

AUGUST

Montana State Centennial Airshow of Helena—All styles and types of military and civilian aircraft.

Helena Area Chamber of Commerce 201 E. Lyndale, Helena, MT 59601.

Tree Planting—Hardin. Ceremonial planting of 41 trees to celebrate Montana's entrance to Union as 41st state.

Big Horn County Historical Museum and Visitor Center, Route 1, Box 1206A, Hardin, MT 59034.

Eastern Montana Fair—Miles City. An annual event with a Centennial flair.

Miles City Roundup '89, Miles City Chamber of Commerce, 901 Main, Miles City, MT 59301.

August 1-November 8, 1989: Centennial Memory—Series of 100 two-minute video episodes of select events from each year of Montana's statehood. Local TV stations.

Visual Dynamics, 125 E. Beckworth, Missoula, MT 59801.

August 3-6, 1989: Lewis and Clark Trail Heritage Foundation—National Meeting, Bozeman.

Lewis and Clark Trail Foundation, PO Box 577, Bozeman, MT 59715.

August 3-6, 1989: Sweet Grass County High School Reunion—Big Timber. A school reunion for all graduates; establishment of a permanent scholarship endowment for future graduates.

Sweet Grass High School Centennial Year Reunion, PO Box 89, Big Timber, MT 59011.

August 5, 1989: Ringling Reunion '89—Gathering of former and present residents; gamers, entertainment, banquet.

Ringling Women's Club, PO Box 137, Ringling, MT 59642.

August 5-13, 1989: Red Lodge Festival of Nations—Red Lodge. An annual event celebrating ethnic diversity and traditions.

Red Lodge Festival of Nations, PO Box 311, Red Lodge, MT 59068.

August 18-19: Cowboy Poetry Gathering—Big Timber. Western poetry and song.

Montana Cowboy Poetry Gathering, PO Box 1255, Big Timber, MT 59011.

SEPTEMBER

Miles Community College Anniversary Celebration—Miles City.

Cattle Drive and Rodeo—Miles City.

Miles City Roundup '89 Miles City Chamber of Commerce, 901 Main, Miles City, MT 59301.

September 4-9 1989:—Great Montana Centennial Cattle Drive—An old West cattle drive from Roundup to Billings.

Latigo Corporation, PO Box 1209, Red Lodge, MT 59068, 446-3767.

September 8-10, 1989: Centennial Golf Tournament—Bigfork.

Eagle Bend Golf Club, PO Box 960, Bigfork, MT 59911.

September 9, 1989: Town and Country Days—Circle. An annual event this year with a Centennial theme.

McCone County Centennial '89ers, Circle, MT 59215-321.

September 15-17, 1989: Libby Nordiefest—An annual cultural and educational event celebrating the Northern European roots and heritage of this community.

Libby Nordiefest Box 791, Libby, MT 59923.

September 16-17, 1989: 7th Annual Old Timers Rodeo—Great Falls.

Montana Legends of Rodeo, PO Box 6369, Great Falls, MT 59405.

OCTOBER

Harvest Festival—Miles City.

Miles City Roundup '89, Miles City Chamber of Commerce, 901 Main, Miles City, MT 59301.

The William A. Clark Collection—Montana Historical Society, Helena. An exhibition of art on loan from the Corcoran Gallery of Art, Washington, D.C. The exhibition is in Billings in May 1989.

Montana Historical Society, 225 N. Roberts, Helena, MT 59620.

NOVEMBER 8, 1989

Admissions Day (Montana's 100th Birthday):

Grand Celebration, Helena—A variety of gala events, participation of all Montana communities. Coordinated by Capital City '89ers and State Centennial Office.

Birthday Bell—Statewide ringing of bells.
KRTV, Box 1331, Great Falls, MT 59403.
Centennial Ball—Helena.

Capital City '89ers, 201 E. Lyndale, Helena, MT 59601.

DECEMBER

National Christmas Tree—Washington, D.C. The tree is from Kootenai National Forest near Libby.

Calendar of Events

11/2/88—North Dakota Kick-Off Celebration—Fargo.

11/5/88—South Dakota Centennial Kick-off—Sioux Falls.

11/8/88—Election Day.

11/8/88—Montana Centennial Kickoff.

11/11/88—Montana Veterans Day Centennial Ball—Miles City.

11/11/88—Washington Centennial Kick-off.

11/12-13/88—Montana Centennial Year Opening Ceremonies—Stevensville.

11/2/88—North Dakota Kickoff Celebration—Fargo.

11/24/88—Thanksgiving Day.

11/5/88—South Dakota Centennial Kick-off—Sioux Falls.

12/4/88—Hanukah.

12/25/88—Christmas Day.

1/1-31/89—Washington Pacific Celebration 1989 Begins.

1/1/89—New Year's Day.

1/16/89—Martin Luther King Day.

2/8/89—Ash Wednesday.

2/12/89—Lincoln's Birthday.

2/14/89—St Valentine's Day.

2/20/89—President's Day.

2/22/89—Washington's Birthday.

2/22/89—North Dakota Government Day—Bismarck.

2/22/89—Washington Washington's Birthday Gala.

2/23-26/89—Washington Winter Centennial Games—Wenatchee.

3/16-18/89—Montana 21st Annual C.M. Russell Art Auction—Great Falls.

3/17/89—St. Patrick's Day.

3/24/89—Good Friday.

3/26/89—Easter Sunday.

4/1-10/1/89—Washington A Time of Gathering Exhibit, Burke Museum—Seattle.

4/2-9/89—Wyoming Grand Opening Heritage Center—Gillette.

4/5/89—North Dakota Native American Day—Grand Forks, Devils Lake.

4/6-6/25/89—Montana Centennial Quilt Exhibition—Helena.

4/28/89—Montana All-Valley Centennial School Day—Bitterroot Valley.

5/1/89—Montana Wildlife Art Show Begins—Sidney.

5/3/89—South Dakota 1st Day Commemorative Postage Stamp Issue—Pierre.

5/5-6/89—South Dakota—Historical Society Annual Meeting/History Day—Pierr.

5/6/89—Montana The Spokane Memorial—Helena.

5/10/89—South Dakota East River Wagon Train Departs Elk Point.

5/12-14/89—Montana Miles City Bucking Horse Sale—Miles city.

5/13/89—North Dakota—Youth Day—Bismarck.

5/14/89—Montana Cowboy Poetry and Range Ballads—Miles City.

5/14/89—Mother's Day.

5/14/89—North Dakota Founder's Day—Dickinson, New Rockford.

5/29/89—Memorial day.

5/30/89—Wyoming Voyage of the Centennial Messenger on the Wind River—Riverto.

6/2-3/89—Montana Governor's Centennial Cup—Helena.

6/3/89—South Dakota Badlands 50th Anniversary Celebration—Cedar Pass.

6/5/89—South Dakota West River Wagon Train Departs Philip.

6/10-11/89—South Dakota Centennial Trail Dedication.

6/14-18/89—South Dakota Centennial Games—Sioux Falls.

6/15-7/15/89—Montana Places Art show—Sidney.

6/18/89—Father's Day.

6/23-25/89—Montana Centennial Celebration Days—Fort Benton.

6/23-25/89—South Dakota Dakotas Traditional Folk Arts Festival—Sioux Falls.

6/24-25/89—Montana Beartooth days—Red Lodge.

6/24/89—Montana Statehood Centennial Airshow of Bozeman—Bozeman.

6/30-7/5/89—Montana Daly Days: A Festival of the Arts—Hamilton.

7/1-4/89—South Dakota Happy Birthday Celebration.

7/1-9/89—Montana Centennial Rendezvous—Red Lodge.

7/1-9/89—Can-Can Revival—Red Lodge.

7/4/89—Independence Day.

7/4/89—Montana Dedication of "The Explorer's at the Portage"—Great Falls.

7/4/89—North Dakota Constitution Day—Bismarck.

7/15-8/15/89—Montana People Art Show—Sidney.

7/15-16/89—Montana Bannack Days—Bannack.

7/15-16/89—Montana Homesteader Days—Ballantine.

7/15-22/89—Montana Centennial Focus Week—Great Falls.

7/15/89—North Dakota—International Good Neighbor Day—Peace Garden.

7/22-23/89—South Dakota Celebrity Homecoming—Sioux Falls.

7/22/89—Montana The Montana Centennial Parade—Great Falls.

7/23-8/5/89—Montana Centennial Ride Across Montana (CRAM)—Yaak.

7/29/89—Washington "Wings Over Washington".

8/1-31/89—Washington Summer Centennial Games.

8/2-6/89—Washington Circum Pacific Pre-History Conference—Seattle.

8/3-6/89—Montana Sweet Grass County High School Reunion—Big Timber.

8/3-6/89—Montana Lewis and Clark Trail Heritage Foundation Nat. Meeting—Boz.

8/5-13/89—Montana Red Lodge Festival of Nations—Red Lodge.

8/7-11/89—Washington Pacific Summit.

8/12-13/89—South Dakota Military/Civilian Air Show—Sioux Falls.

8/23-27/89—Wyoming The Rocky Mt Polka Festival, Salute to Centennial—Rock S.

8/29/89—South Dakota Beginning Centennial State Fair—Huron.

9/2-4/89—Wyoming Pre-Centennial and Centennial Rendezvous—Curt Gowdy St. Pa.

9/4/89—Labor Day.

9/4-9/89—Montana Great Montana Centennial Cattle Drive—Roundup/Billings.

9/9/89—Montana Town and County Day—cirle.

9/10/89—Grandparent's Day.

9/15-17/89—Montana Libby Nordicfest—Libby.

9/30/89—Rosh Hashanah.

10/1/89—North Dakota Citizen's Day—Minot.

10/9/89—Yom Kippur.

10/31/89—Halloween.

11/2/89—South Dakota Statehood Day—100 Years.

11/2/89—North Dakota Statehood Day—100 Years.

11/3-4/89—South Dakota Centennial Ball/Arts Showcase—Pierre.

11/8/89—Montana Admissions Day—100 Years.

11/11/89—Veterans Day.

11/11/89—Washington Statehood Day—100 Years.

11/18/89—Washington Inaugural Ball.

11/23/89—Thanksgiving Day.

12/23/89—Hanukah.

12/25/89—Christmas Day.

1/1/90—New Year's Day.

1/15/90—Martin Luther King Day.

1/20-21/90—Idaho—National Snaffle Bit Futurity—Boise.

2/12/90—Lincoln's Birthday.

2/14/90—St. Valentine's Day.

2/19/90—Presidents' Day.

2/22/90—Washington's Birthday.

2/26-31/90—Idaho McCall Winter Carnival—McCall.

2/28/90—Ash Wednesday.

3/1-3/90—Idaho Resource Symposium—Boise.

3/17/90—St. Patrick's Day.

4/10/90—Passover.

4/13/90—Good Friday.

4/15/90—Easter Sunday.

5/13/90—Mother's Day.

5/28/90—Memorial Day.

6/2/90—Wyoming Dedication of New Facilities at Fossil Butte—Kemmerer.

6/15/90—Idaho Jaialdi '90—Boise.

6/17/90—Father's Day.

6/22-7/8/90—Idaho Ore-Ida Women's Challenge Centennial Tour of Idaho—Sand P.

6/29-30/90—Idaho—All County Reunion—Clark County.

6/30/90—Idaho Centennial Camporee—Stanley.

7/3-8/90—Idaho PNW Region Convention-National Model Railroad Assn.—Boise.

7/3/90—Idaho Statehood Day—100 Years.

7/4/90—Independence Day.

7/9-15/90—Idaho Indian Exposition—Boise.

7/9-22/90—Wyoming International Mountain Man Rendezvous—Teton County.

7/10/90—Wyoming Statehood Day—100 Years.

7/16-22/90—Idaho First Security Centennial Summer Games—Pocatello.

7/28-29/90—Idaho Air Show Idaho—Idaho Falls.

8/11-12/90—Idaho World Championship Rock Drilling Contest—Wallace.

8/12/90—Idaho Centennial Triathlon—Coeur d'Alene.

9/3/90—Labor Day.

9/9/90—Grandparent's Day.

9/16/90—Idaho Transpanhandle Triathlon—Sand Point.

9/20/90—Rosh Hashanah.

9/29/90—Yom Kippur.

10/8/90—Columbus Day Observance.

10/31/90—Halloween.

11/6/90—Election Day.

11/11/90—Veterans Day.

11/21/90—Idaho—Centennial Bowl—Pocatello.

11/22/90—Thanksgiving Day.

12/12/90—Hanukah.

12/25/90—Christmas Day.

CENTENNIAL

In 1990 Wyoming is planning the "Celebration of the Century", for its first 100 years of statehood. The States' calendar for 1989 and 1990 is filled with events and activities that will celebrate the heritage of the past, the experience of today and the promise of the future.

In 1869, women received the right to vote, the first state to do so thus earning it the nickname "Equality State." On July 10, 1890, Wyoming added the 44th star to the American Flag and in 1925, Wyoming elected the first woman governor, an historic achievement both in the state and in the nation!

For the past two years the state has been planning for this celebration. All of its citizens have volunteered their time and expertise to plan new activities and enhance the existing ones. You will find exciting plans no matter what time of year you choose to participate.

If you dream of being a pioneer, follow the many trails that crisscross the state established by the westward-bound emigrants that came to Wyoming, re-live the early fur-trade era at the International Mountain Man Rendezvous in Jackson. Visit the site of the battle between the white man and the Indians with a tour of Fetterman Ridge. During the nine day Bozeman Trail Days in Sheridan and Johnson Counties, take a tour that will give both the white man's perspective as well as an Indian's, whose grandfather fought in the battle. You may want to visit the Wind River Indian Reservation and take a Singing Horse Tour.

The Continental Divide Snowmobile Trail will be completed to add to Wyoming's Winter activities. This trail begins in the Lander/Riverton area and will run all the way to Montana. Over 395 miles of winter excitement. Weston County will host a Winter Festival complete with sleigh rides and a barn dance.

In anticipation of the Centennial, many writers and photographers have set out to document the states rich heritage. Everything from a book on the lives of the "First Ladies" to a pictorial publication consisting of oral interviews and photographs of Wyoming people. Even a document of Wyoming's rich and diverse cultural heritage will be produced. It will include poetry, literature and essays illustrated with photographs of paintings, sculptures, folk arts, crafts and architecture.

For a taste of Wyoming's ethnic heritage, attend the Polka Festival in Rock Springs, a square dance festival in Newcastle, and Old Time Fiddler's contest in Shoshoni or the Woodchopper's Jamboree in Encampment.

Six states in the Great Northwest will be celebrating their Centennials' in 1989 and 1990. Montana, North Dakota, South Dakota and Washington in 1989. Idaho and Wyoming in 1990. The six states have joined together to commemorate this historic occasion. The admission of the states was the largest land mass to joint the Union since the 13 original colonies. Each state has established a list of top 20 events for the celebration. A joint brochure listing each states entries will be distributed by the Travel Commissions' of the six states.

Complete schedules may be obtained by contacting the Wyoming Centennial Commission, Herschler Building, First Floor, East, Cheyenne, WY 82202 or by calling (307) 777-5844.

Join in the excitement. Celebrate Wyoming's historic legacies, the many aspects of its diverse cultural heritage and its hopes and aspirations for the future.

Mr. ADAMS. Mr. President, I rise today to express my support for the legislation introduced by my friend from Montana, Senator Baucus which will create a commemorative coin marking the centennials of the Six Great Northwest States. I urge my colleagues to support this legislation and I hope that the House will pass similar legislation before the end of the 100th Congress.

In less than 100 days, my State of Washington will kickoff a yearlong, statewide celebration of the 100th anniversary of our admission to the Union as the 42d State. Washington's centennial celebration will include a stimulating mixture of events and activities. Among the festivities are fun runs, scholarly symposia, cultural exchanges with the Pacific Rim and exhibitions of the arts and native peoples.

Washington joined the Union in 1889. Five other States also joined in 1889 and 1890—Montana, North and South Dakota, Idaho and Wyoming. In our case, there had been a long struggle—since 1854—to gain the status of statehood and build upon the natural advantages of our climate and location for an exciting and prosperous future. And at 3:09 in the afternoon on November 11, 1889, the first elected Governor of Washington, Elisha P. Ferry, received a telegram letting him know that the Proclamation of Statehood had been signed by President Benjamin Harrison. My colleagues who share the feelings of Sagebrush Rebellion can read whatever they want into the fact that this telegram from the White House was sent collect for 61 cents!

To celebrate our centennials, the Six Great Northwest States have proposed a touring exhibit of documents and artifacts that illuminate the formation of these States, how they were explored and mapped, divided from each other and organized and incorporated into the Union. Called Documents West, this exhibit would provide a graphic introduction to America's greatest leap westward.

The centennial coin legislation, proposed by Senator Baucus, will provide financial support for the Documents West exhibit. This centennial coin will be a souvenir of the centennials of our six States and will help this interesting project, Documents West, along the way to completion.

I urge the support for this legislation and swift action in the House.

Mr. BURDICK. Mr. President, it is with a great deal of pride that I rise today to join my colleagues from the great Plains and Pacific Northwest in recognizing the centennial celebrations in our home States—1989 marks the onset of a swell of pride that will spread throughout the Northwest.

The Lewis and Clark trail will again come alive with the spirit of adventure and the sense of community that led thousands of true pioneers to settle there more than a century ago.

The rich farmland, endless grasslands, clean rivers, and breathtaking views can still be found in the great States of North Dakota, South Dakota, Montana, Washington, Idaho, and Wyoming. There is no more beautiful land to be found anywhere in these United States.

Mr. President, I would like also to thank my good friend and colleague, the gentleman from Montana, Mr. [Baucus], for his efforts in passing the Commemorative coin bill. The proposed centennial coins are just one sign of the cooperation that exists among the six States. I know that "Buckshot" Hoffner, energetic director of the North Dakota Centennial Commission, has met many other States. The centennial will truly be a celebration to beat all celebrations, and I am excited to be a part of it.

I congratulate the persistent people behind the Documents West project who, largely due to the efforts of Senator Baucus and Senator Adams, will now be able to realize their goal of being first to bring significant documents to the people west of the Mississippi. Documents West will be one of the most exciting educational programs to ever visit the great State of North Dakota. This important lesson in the history of our region will be of lasting value to our schoolchildren and to the adults who will, in the spirit of the centennial, take a moment to learn again.

Mr. President, I ask unanimous consent that a calendar of celebration activities for North Dakota's Centennial be printed in the Record.

There being no objection, the calendar was ordered to be printed in the Record, as follows:

NORTH DAKOTA CENTENNIAL—SPECIAL DAYS CELEBRATIONS

In 1889 significant events led to North Dakota's statehood. In our centennial year the cities listed below will host celebrations on the 100th anniversary of those key events. In this way all North Dakotans and visitors can be connected to our past and glimpse the potential in our future.

JUNE 24, 25, 26, 1988—PRE-DIVISION DAY—JAMESTOWN

On July 10, 1988, a Pre-Division Convention was held for the Dakota Territory. Jamestown citizens will reenact these and other events.

NOVEMBER 2, 1988—STATEHOOD DAY—FARGO

The 99th anniversary of the day North Dakota was admitted to the union—the official beginning of our year-long centennial celebration—starts with an elegant Grand Ball, a video history production and program titled "North Dakota: The First 100 Years" and a televised "Centennathon" fund-raising auction featuring the state's most talented entertainers.

FEBRUARY 22, 1989—GOVERNMENT DAY—BISMARCK

Carving states out of Dakota Territory was a long time in coming until President Grover Cleveland signed the enabling act on this date in 1889. Emphasizing the role of government in our lives today is an open house for state agencies to show off their centennial projects, an ethnic groups presentation of our constitution to the state legislature and a symposium titled "Into Our Second Century: The Future for North Dakota" with North Dakota scholars.

APRIL 5, 1989—NATIVE AMERICAN DAY—GRAND FORKS

This day's colorful festival starts events honoring the state's original inhabitants and the descendants. A special art market will feature Indian artists. Native American athletes will demonstate and participate in traditional games. A symposium on the oral traditions in storytelling and religion will be an entertaining way to learn more about Native Americans. In the state's elementary and secondary schools a special Native American curriculum will be used on this day.

MAY 14, 1989—FOUNDERS DAY—DICKINSON, NEW ROCKFORD

This marks the date delegates were elected to the first North Dakota Constitutional Convention, a prerequisite for statehood. Historial speeches, skits, a music show about "Motherhood and Apple Pie," an antique quilts display, walking tours of historic sites and the playing of old-fashioned games bring our history to life. Our strong religious foundations are celebrated in ecumenical worship services.

JULY 4, 1989—CONSTITUTION DAY—BISMARCK, MANDAN

In 1889 the first North Dakota Constitutional Convention opened on this date. The year's celebration in 1989 features entertainment from two centuries: the National Folk Life Festival with ethnic arts, crafts, foods and dances; an all-day extravaganza with popular, big-name entertainment on the state capitol grounds; the Art in the

Park exhibit and sale; the Official Centennial Parade with hundreds of entries; rodeos drawing the world's top cowboys and cowgirls; and wagon trains from across the state converging on the capitol city.

OCTOBER 1, 1989—CITIZENS DAY—MINOT

Voters approved the North Dakota Constitution and elected the state's first office holders on this date in 1889. A century later we will honor outstanding citizens with "Perspectives From the Past: A Forum of Notable North Dakotans," a reception for Sons and Daughters of the Pioneers, an historical documents exhibit, and a concert.

NOVEMBER 2, 1989—STATEHOOD DAY—PROPOSED IN FARGO

The dreams of thousands became reality in 1889 when President Benjamin Harrison signed North Dakota's statehood proclamation. Marking our 100th anniversary, Centennial Expo '89, a research and development show, looks to the future and state of the art products from multi national corporations, NASA, IBM and the U.S. Air Force, plus conferences on economic development and social issues.

Mr. McCLURE. Mr. President, I want to give my unqualified and strongest support to S. 2283, a bill to authorize the minting of a coin to commemorate the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming. This bill has the support of all 12 Senators from the centennial States and from the citizens of those States as well.

Mr. President, legend has it that the name "Idaho" comes from an Indian word meaning "light on the mountains" or "gem of the mountains." Although historians have done their jobs and told we Idahoans that our long-held belief about the origin of our State's name is a myth, the reality is that Idaho is the gem of the mountains.

Idaho's terrain is so diverse it would surprise many of my colleagues in the Senate who haven't been to my State. Idahoans laugh about easterners who, once they have located the State in their minds-eye and realize Idaho is neither Ohio or Iowa, will, as if a lightbulb has just gone on, say "Oh! Potatoes and Sun Valley!" Well, Sun Valley is certainly a big asset to Idaho and has some of the best skiing in the world, and Idaho potatoes are unsurpassed, but there's a lot more to the Idaho that I know.

The Selkirks, the Sawtooths, the Bitteroots, the White Clouds, the Lemhis, the Clearwater Range, and the Bighorn Crags. These magical names reflect the glory of mountain ranges of unbelievable beauty.

The "Palouse," the fertile rolling hills of the southern panhandle region, alternates between bright green in the spring and golden yellow during the harvest of winter wheat.

The rugged country, covered with pine trees and dotted with lakes, of northern Idaho contrasts sharply with the craters of Moon National Monument in southern Idaho where volcanic eruptions made the terrain so resemble the surface of the Moon that astronauts have trained there.

Aptly named, Hells Canyon, with the Snake River running through it, is the deepest gorge on the North American continent.

Idaho covers approximately 83,000 square miles—that's roughly the size of Pennsylvania and Ohio combined. The distance between Idaho's northern and southern borders is the equivalent of driving from Washington, DC, to Boston. Lake Pend Oreille is 1 of some 2,000 lakes in Idaho, and measures 180 square miles. Idaho has 35,000 miles of rivers.

Mr. President, this incredibly diverse State is home to some 1 million fiercely independent people. Idahoans are tough willed and free spirited. On July 3, 1990, Idahoans will celebrate a very special occasion—the centennial of the State we love.

The citizens of Idaho are preparing a centennial celebration which will not only reflect upon the State's past, but also celebrate the present and help prepare for the future.

The Idaho Centennial Commission and local centennial committees in each of Idaho's 44 counties are planning events and projects which will involve all of Idaho's 1 million citizens in the celebration. In addition, other activities are designed to attract people from outside of Idaho and give them the opportunity to share in our celebration.

Idaho's centennial celebration is already attracting national attention. Within the next few weeks, Parade magazine will feature participants in the Idaho Century Citizens Program. This is a program for over 200 current Idaho citizens who were born prior to Idaho becoming a State in 1890.

The Idaho centennial license plate, which we believe to be the most attractive license plate in the Nation, has received wide national attention, including features in both the Washington Post and Christian Science Monitor.

In late July, NBC's "Today Show" publicized a regional meeting of the six centennial States which was held in Boise. One of the events held during the meeting attracted in excess of 4,000 participants.

The reason for all of this attention stems from the massive amount of planning which is going into our celebration. This planning is resulting in projects and programs which will ultimately touch hundreds of thousands of people. Just a few of those projects include the following:

A scholarship program for Idaho history students.

A first-ever statewide exposition featuring all five of Idaho's Indian tribes.

Rehabilitation of numerous historic buildings.

The establishment of the Idaho Heritage Trust, a permanent trust fund to provide resources for historic preservation and natural resource conservation.

Development of the old mining town of Bayhorse into Idaho's Centennial State Park.

Production of a comprehensive 13 part public television series on the State and its people.

Numerous athletic competitions, including a 650-mile women's bicycle race which will be the longest such race on the world racing circuit.

A flotilla of boats coming from the Pacific Ocean to the Port of Lewiston, ID.

Publication of numerous books on Idaho and its people.

Development of a centennial trail from the Nevada border to the Canadian border.

Archaeological digs.

"Documents West," a six State project preparing classroom teaching materials which explain the importance of statehood. This project is jointly funded by the six State centennial commissions and the Commission on the Bicentennial of the U.S. Constitution. In addition, we hope to expand the project to include a major touring exhibit of documents and artifacts related to the six centennial States joining the Union. A portion of the revenues from the minting of the coin authorized by S. 2283, honoring the six centennials, would go to fund this element of the project.

This is by no means an exhaustive list. It is only the tip of the iceberg. However, it illustrates the commitment that we have to celebrating the 100 years since Idaho became a part of the Union. Our centennial offers us an opportunity to make a lasting beneficial impact upon future generation of Americans, not only from Idaho, but from all of our States.

Mr. President, the minting of a commemorative coin is an important symbolic tribute to the people of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming. In the spirit of the West, these six States are cooperating with each other and planning joint projects to celebrate our collective birthdays. I urge the Senate to honor these States by approving this bill and I thank the Senator from Montana, Mr. BAUCUS, and all of my colleagues who join me in cosponsoring this measure.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2283) was passed.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **DOLE.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DWIGHT DAVID EISENHOWER COMMEMORATIVE COIN ACT OF 1988

Mr. **DOLE.** Mr. President, on behalf of myself, my colleagues, Senator KASSEBAUM, and Senator HEINZ, I send a bill to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2789) to require the Secretary of the Treasury to mint and issue $1 coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

The **PRESIDING OFFICER.** Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill.

Mr. **DOLE.** Mr. President, this bill would authorize the minting of a coin commemorating the 100th birthday of President Dwight David Eisenhower—one of this Nation's most respected and beloved leaders. Similar legislation has been introduced in the House of Representatives by Mr. GOODLING from Pennsylvania.

There would be no Government cost for minting and issuing this $1 coin and the proceeds raised from the sale of the coin would be used to reduce the Federal deficit.

LEGISLATIVE HISTORY

I would like to remind my colleagues in the Senate that an amendment similar to this bill was adopted in the Senate by voice vote on June 15, 1988. It was attached to the Bicentennial of the United States Congress Commemorative Coin Act, H.R. 3251. Unfortunately, the coin language was later dropped from the bill after it passed the Senate as part of a bipartisan, bicameral compromise.

As I recall, the House objection to the commemorative coin language was that the Banking, Finance and Urban Affairs Committee had not had an opportunity to review the legislation. The House Banking Committee's Subcommittee on Consumer Affairs and Coinage has since held a hearing on this issue.

The only differences between the amendment which passed the Senate on June 15, 1988 and this bill are three technical amendments proposed by the U.S. Mint. These amendments were adopted en block by the Consumer Affairs and Coinage Subcommittee of the House Banking, Finance and Urban Affairs Committee this morning and have been incorporated into this bill.

A FAVORITE SON OF KANSAS

Although our paths never officially crossed in Washington—I was elected to Congress in 1960, the last year of Eisenhower's Presidency—Dwight David Eisenhower has had a tremendous influence on me and on my home State of Kansas. He was my commander in chief during my combat duty in Europe, and both his military accomplishments and his record of public service made him a hero in the Sunflower State, across the country and around the globe. Although Ike was born in Texas, he grew up in Abilene, KS, and proudly claimed Kansas as his home. Kansas claims President Eisenhower as one of her favorite sons.

I can remember standing in the rain with a crowd of admirers waiting to greet the general when he came home in 1952 to announce his bid for the Republican Presidential nomination. As a Kansan and as a World War II veteran, I was proud of Ike and what he had accomplished. I think that everyone in that crowd felt the same way.

A PERSONAL HERO

A few weeks after I was elected to Congress, I was fortunate enough to meet the President at the White House; a picture from that meeting still hangs in my office today. In 1985, when I became majority leader of the Senate, I selected two portraits to hang in my private office. I chose the two Presidents who have had the greatest influence on me—Abraham Lincoln and Gen. Dwight David Eisenhower.

This legislation obviously means a lot to me but I think it also means something to millions of Kansans, veterans, and, indeed, Americans from coast to coast.

A RECORD OF SERVICE

Everyone will agree that Dwight David Eisenhower was a great soldier; his distinguished military record is familiar to us all. As President, Ike was admired around the world for his common sense, pragmatic approach to government.

Eisenhower was a statesman and a visionary leader—history tells us that many of his views on foreign policy and on America's responsibility as the leader of the free world still apply today. But, more than anything, Dwight David Eisenhower was a public servant. For that reason, he should be recognized.

AN APPROPRIATE COMMEMORATIVE

This coin would be an appropriate commemorative. It will remind America of the things President Eisenhower stood for—service to God and country. I think that everyone who knew Ike will agree that this bill is consistent with what he would have wanted. There will be no cost to the Government for minting and issuing these coins and any proceeds from the sale of the coins will be used to reduce the Federal deficit.

CONCLUSION

As president of Columbia University, Eisenhower once said:

> Our path in places is still obstructed by unfinished business, the debris of inequities and prejudices, not yet overcome. But, strong in the fundamental principles of American life, we have in * * * two centuries, accomplished more for the community of men than was won in the previous forty.

In my view, Dwight David Eisenhower helped clear that path and furthered the cause of equality in America.

I urge each of my colleagues in the Senate to support this legislation.

Mr. **HEINZ.** Mr. President, I am honored to sponsor this legislation to commemorate the 100th birthday of President Eisenhower—one of our country's most admired and respected Presidents. This bill would pay tribute to this great civilian and military leader by authorizing the U.S. Treasury to mint a commemorative silver dollar bearing the likeness of the late President and a depiction of his historic home in Gettysburg. Proceeds from the sale of this coin would be used to reduce the Federal deficit.

This great American led our Armed Forces during World War II as Chief of Staff of the 3d Army and Supreme Commander of the Allied Expeditionary Forces. As important, as President he strove to restore and maintain peace throughout the world.

The minting of a coin that will be circulated to Americans across this land is a fitting tribute to the memory of President Eisenhower.

The **PRESIDING OFFICER.** If there are no amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2789

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1988".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the one hundredth anniversary of the birth of Dwight David Eisenhower.

(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than four million of the coins referred to in subsection (a).

(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust" "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3 SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike each such quality of the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPARED ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $7 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) PAYMENT FOR THE COINS. The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 176

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of H.R. 176, and that the bill, to provide for the uniform disclosure of the rates of interest which are payable on savings accounts, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON THE CALENDAR—H.R. 3011

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of H.R. 3011, and that the bill, to amend the Truth-in-Lending Act to establish additional disclosure, advertising, and other requirements for home equity loans, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. If the majority leader will yield, we have nothing further on this side.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now have a period for morning business, that Senators may speak therein for not more than 10 minutes and that, upon the yielding of the floor by Mr. MCCLURE, the Chair recess the Senate automatically under the order.

The PRESIDING OFFICER. Hearing no objection, that is the order.

UNCERTAINTIES AND SAFETY MAKE DUALITY CRITICAL FOR NEW PRODUCTION CAPACITY

Mr. McCLURE. Mr. President, last month, an event occurred in a production reactor at the Savannah River plant that underscored, once again, the urgent need to establish redundancy in our Nation's material production complex.

According to the August 18 issue of the Atlanta Journal and Constitution, the "P" reactor was shut down "abruptly" on August 17, because of concerns that the operators of the reactor had not shut it down quickly enough 10 days before when the start-up of the reactor caused erratic power levels. The Department of Energy which owns the plant began an investigation which concluded the operators should have shut the plant down when they were unable to achieve a controlled nuclear reaction in the plant. The chairman of a safety advisory panel for DOE, John Ahearne, is quoted as saying:

> The serious problem was they attempted to run the reactor and even raise the power level without understanding why it was not going up. When you run a reactor and you do not know what is going on, you shut it down. The preliminary conclusion is this shows a very bad attitude about safety.

The newspaper articles goes on to state that:

> DOE officials confirmed the reactor suffered at least one unexplained "power spike" during a startup that was also plagued with mechanical problems and miscalculations. A power spike is an abrupt and unexpected increase in temperature and pressure.

The article quoted sources who said the spikes were short lived and did not pose a threat of a serious accident "although they could have resulted in severe damage to the reactor."

Mr. President, as I noted, an investigation is being conducted and I sincerely hope this reactor operates soon. My purpose in calling this matter to the attention of my colleagues is not to point a finger at the Savannah River plant or the Department of Energy, but to illustrate once again, how dependent this Nation is for our critical nuclear materials on three aging reactors operating, when they operate, at less than half power. Furthermore, we will continue to be dependent on them for at least 10 years.

If, in fact, "severe" damage had been done to the P reactor as a result of these power spikes, we would then be dependent on only two aging reactors, neither of which are operating at this time. I should note that the P reactor has been shut down since April for seismic issues, the K reactor has been down most of this year for long-term maintenance and the L reactor, which has been producing plutonium, is routinely shut down during the summer months for environmental reasons. DOE plans to put the L reactor to producing tritium when it is restarted this fall.

Mr. President, look at how vulnerable we are. I am deeply concerned that we find a way out of this dilemma. First of all, these reactors—all of them—must be made to run again and be kept running well. And as we do that, we must double our efforts to make sure this Nation never becomes so vulnerable again.

That is the Department of Energy's goal. In August the Secretary of Energy proposed a two-reactor strategy for production capacity. This proposal included a heavy water reactor [HWA] at Savannah River plant and a modular high temperature gas reactor [MHTGR] at the Idaho National Engineering Laboratory in Idaho. I applauded this recommendation at the time, and now seek to urge my colleagues to make this recommendation a reality. With two technologies and two sites, we will have the vitally necessary redundancy.

However, as I noted earlier, there are safety problems with the currently operating heavy water reactors at SRP. I fear these problems could impact the cost and schedule of the new production HWR. These were reported by the National Academy of Sciences last fall after the Academy conducted a safety review of DOE's production reactors at DOE's request. DOE has developed a program to address the problems, but that program will take at least 4 or 5 years. This is a grave concern, not only because of the need for the present reactors but because the safety reviews and analysis that make up the program are key to the design of the new production reactor.

I am most puzzled that this element of uncertainty in the HWR technology was not addressed by the Energy Research and Advisory Board panel that advocated the HWR for the new reactor.

Let me give some examples: The ERAB panel notes that:

> Significant advances have been made in safety analysis, design and operation for all reactor technologies, and some * * * have been incorporated into the existing heavy water reactors * * *. The NPR-HWR will be able to utilize the full range of these advances in its design, construction and operation.

The National Academy of Sciences's conclusions on this matter were just the opposite:

> Adequate resources (at Savannah River) have only recently been devoted to developing a thoroughly documented understanding of the behavior of the reactors in a loss of coolant accident, and * * * the risks associated with the operation of the defense production reactors are currently inadequately understood. The effort to evaluate those risks by probability risk assessment methods are still in their early stages.

There are also conflicting opinions regarding the possibility of using light water reactor [LWR] safety work in the HWR effort. The ERAB panel said:

> The HWR will be able to draw upon the extensive and well demonstrated safety technology base of the light water reactors. The R&D work draws on existing technology from the LWR industry and requisite research programs, including the LWR based loss of coolant accident and severe accident codes.

The panel reiterated this belief a number of times in making its recommendation.

The NAS report does not agree—

> It is important to recognize the production reactors are quite different from commercial reactors. The application of computer codes developed for commercial power reactors to the unique circumstances of the production reactors present major difficulties. The existing level of understanding of severe accident behavior for the production reactors is inadequate to permit a realistic assessment of the effectiveness of these designs in mitigating the consequences of severe accident.

Mr. President, this difference of opinion is important to understand, because at a hearing before the Senate Energy and Water Appropriations subcommittee, Mr. John Ahearne, the chairman of the DOE safety advisory board, testified that there are safety analyses being done at Savannah River, and they have to be completed to give some confidence that those plants could go up in power. Then he noted:

> Separate analyses would probably be required for a new design. The new design would be different. Obviously you can capture some of the work that has already been done, some of the work will be directly applicable, but I do not think that automatically you can assume that the work being done for the older design is going to be applicable for the new design.

This signifies to me that there are uncertainties about the new HWR that could seriously delay the construction of the plant as well as add significantly to its cost. We must be aware of these uncertainties and plan for delays by pursuing the two track strategy laid out by DOE. Duality or redundancy—call it what you will—is the only way we can ensure our national security needs are protected into the next century.

Mr. President, I ask unanimous consent that the referred-to article in the Atlanta Journal and Constitution of Thursday, August 8, 1988, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SRP REACTOR SHUT DOWN AS FEDS INVESTIGATE SAFETY

A nuclear reactor at the government's Savannah River weapons plant was shut down abruptly Wednesday because of concerns that the operators of the reactor did not shut it down quickly enough when confronted 10 days ago with erratic power levels.

Du Pont ordered Savannah River's "P" reactor shut down Wednesday in the wake of a Department of Energy investigation.

The investigation by the safety division of the Energy Department, which owns the plant concluded that Du Pont operators should have immediately shut P reactor down on Aug. 9, when they were unable to achieve a controlled nuclear reaction in the plant.

Roger Rollins, reactor safety manager for the Energy Department at Savannah River, said Wednesday that the reactor power levels consistently stayed below predicted levels during the incident, and that the plant was never operated in an unsafe manner.

But the chairman of a safety advisory panel recently appointed by Energy Department Secretary John Herrington said he was not so sure.

"The serious problem was they attempted to run the reactor and even raise the power level without understanding why it wasn't going up," said John F. Ahearne. "When you run a reactor and you don't know what's going on, you shut it down. . . The preliminary conclusion is this shows a very bad attitude about safety."

Energy Department officials confirmed that the reactor suffered at least one unexplained "power spike" during a start-up that was also plagued with mechanical problems and miscalculations.

A power spike is an abrupt and unexpected increase in temperature and pressure. Savannah River officials confirmed that one spike occurred during the reactor's start-up Aug. 7 and 8. Other sources said there were several.

Sources said the spikes were short-lived and did not pose the threat of a serious accident, although they could have resulted in severe damage to the reactor.

But the incident alarmed Energy Department safety officials, largely because Savannah River operators continued to run the reactor during the spikes and even increased power, although the reactor had behaved unpredictably in earlier stages of the start-up.

One official called the episode a "complete collapse" of safety procedures that, in other circumstances, could have resulted in a disaster the magnitude of the 1986 nuclear accident in Chernobyl.

"They were pulling control rods to get the reaction up and they didn't have any idea what was going on," said the official, who declined to be named. "If the reactor had been running at higher power, it could have been a tragedy."

Control rods are the "brakes" on a nuclear reaction—inserting them slows the reaction, and removing them speeds it up. Unknown to its operators, sources said, natural forces within the reactor were acting to suppress a nuclear reaction. Had circumstances conspired to increase reactivity instead, they said, the manipulations by the operators could have pushed the reactor beyond its limits, with potentially catastrophic results.

The incident also stunned members of a special safety advisory board named by Herrington last year. The group was charged with advising the department on safe operations of its production reactors, in part to head off congressional efforts to establish a more formal oversight panel.

Mr. Ahearne, the former Nuclear Regulatory Commission chairman who heads the board, was unaware of the reactor start-up problem until he was contacted by a reporter Tuesday night.

"At the moment, I'm pretty angry at the Savannah River office," Mr. Ahearne said Wednesday. "We were clearly told that if there were any problems we would be notified."

Mr. Ahearne confirmed that he had sent an "angry" letter to Savannah River Wednesday, hours before plant managers announced their decision to shut down. He declined to detail its contents, but said that he had advised an immediate shutdown.

An Energy Department safety review team dispatched to Savannah River Aug. 11, after the incident was reported to Washington, also initially recommended that the reactor be shut down immediately. Instead, Energy Department officials issued the equivalent of a "show-cause" order Tuesday to Savannah River contractor Du Pont, giving the company 43 hours to explain why the reactor should not be taken out of operation.

Ernest Baynard, assistant energy secretary for environment, safety and health, said Tuesday night that the reactor had been stabilized at about 40 percent power and "there appears to be nothing warranting immediate shutdown."

According to Energy Department officials, the primary issue is why operators ignored obvious signs of trouble and continued boosting reactor power.

"It's not the unexplained incidents that bother me but the reaction the operator has to them," Mr. Baynard said. "They have to know when to bring the reactor down. They shouldn't keep on raising the power in the reactor."

According to Department officials, and other sources, the incident began Aug. 7 when operators began to restart the P reactor, which has been shut down since early April for safety modifications and maintenance. Operators immediately ran into problems, apparently because engineers had failed to calculate accurately the amount of decay products that had built up in the tritium-produced reactor during its shutdown.

The decay products—primarily helium 3, according to plant manager William Kasper—act as a "poison" to a nuclear reaction, absorbing neutrons and slowing the reaction. Initiating and sustaining a nuclear reaction requires a certain level of neutron activity, which a reactor "poison" can thwart.

"The presence of helium 3 in the quantities that we saw made the reactor more difficult to start up than had been predicted," Mr. Kasper said.

However, sources said that operators were unaware of what was blocking the reaction during the start-up. Puzzled by the reactor's behavior, the operators pulled more control rods in an effort to boost the reaction.

Each time more control rods were pulled, however, the reaction briefly surged and then subsided again. Instead of a smooth increase in power, the reactor showed "spikes." The reason was that the decay products were acting as an internal brake, counteracting the effect of pulling out more control rods.

Mr. McCLURE. Mr. President, I yield the floor.

ORDERS FOR THURSDAY

RECESS UNTIL 10:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 tomorrow morning.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for morning business to extend until the hour of 11 o'clock and that Senators be permitted to speak therein for not to exceed 5 minutes each.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

The **PRESIDING OFFICER** (Mr. ADAMS). Under the previous order, the Senate now stands in recess until 10:30 tomorrow morning.

Thereupon, at 5:06 p.m., the Senate recessed until Thursday, September 15, 1988, at 10:30 a.m.

NOMINATION

Executive nomination received by the Senate September 14, 1988:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

HERMAN AGOYO, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM OF YEARS PRESCRIBED BY PUBLIC LAW 99-498 OF OCTOBER 17, 1986 (NEW POSITION).

CONFIRMATION

Executive nomination confirmed by the Senate September 14, 1988:

DEPARTMENT OF THE TREASURY

NICHOLAS F. BRADY, OF NEW JERSEY, TO BE SECRETARY OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, September 14, 1988*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. Foley].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 14, 1988.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore on this day.

Jim Wright,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, You have called us to be prophets for a world where people will respect and honor themselves and all others. May we not cling to ideas, thoughts, and actions that no longer create environments where honor and respect can flourish or are relevant only to a world long gone. May our hearts and minds be sensitive to Your Word, O God, so we see the reality of the present time and meet that reality with actions that express the good works You would have us do. This we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WEBER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEBER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 117, not voting 40, as follows:

[Roll No. 308]

YEAS—274

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (LA)
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Payne
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Whitten
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—117

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Grandy
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Oxley
Parris
Pashayan
Penny
Pursell
Regula
Rhodes
Ridge
Roberts
Rogers
Roukema
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weldon
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—40

Aspin
AuCoin
Badham
Barnard
Boland
Boulter
Chappell
Cheney
Conyers
Courter
Dellums
Derrick
Dickinson
Emerson
English
Ford (TN)
Gray (IL)
Gregg
Hayes (IL)
Hefner
Jeffords
Jones (NC)
Kemp
Konnyu
Kostmayer
Lewis (GA)
Mack
MacKay
McDade
Mica
Nichols
Patterson
Rodino
Roybal
Stark
Sweeney
Towns
Valentine
Vander Jagt
Williams

☐ 1223

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4783) "an act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 8, 10, 20, 30, 37, 43, 44, 46, 48, 49, 51, 55, 58, 66, 72, 73, 75, 79, 80, 82, 85, 88, 100, 104, 106, 118, 130, 134, 137, 152, 153, 155, 157, 162, 165, 176, 177, 201, 203, 204, 209, 220, 222, 233, 245, 246, 250, and 256.

The message also announced that the Senate recedes from its amendment numbered 126, to H.R. 4783.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1630) entitled "an act to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. HEFLIN, Mr. DECONCINI, Mr. THURMOND, and Mr. GRASSLEY to be the conferees on the part of the Senate.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. FOLEY). It was the intention of the Chair at this point in our proceedings to recognize the gentleman from California [Mr. LEWIS] to lead the House in the Pledge of Allegiance. At his request, fully concurred in by the Chair, it is a great pleasure of the Chair to welcome back to this House and to recognize for the purpose of leading the Members in the Pledge of Allegiance the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Dear colleagues, please join me in saying the Pledge of Allegiance to our great flag.

Mr. SPENCE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

WELCOME BACK, FLOYD

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I rise for the purpose of joining the distinguished Speaker in a few remarks relative to the warm reception given our colleague, the gentleman from South Carolina [Mr. SPENCE]. I thank all of the Members of the House for that warm reception given our colleague, and I am sure that FLOYD has got to be as emotionally moved as I am to take the floor.

Members on both sides of the aisle are welcoming back a Member who is a living miracle. Here we are with the gentleman from South Carolina, only the fifth individual to ever undergo a double-lung transplant at the University of Mississippi where in this country that is the only place where the operation is performed, and in North America Toronto is the only other place. For the first such operation ever performed, the outcome is unknown. The second and third patients succumbed. And FLOYD is alive and well after 4 months.

Mr. Speaker, it is usually the first 6 months that is so critical, and then, after a year, why one just has to thank their lucky stars that they are well on the road to recovery. What a joy it is to see what we are doing today in the field of medical science and what this Congress has done along the way to help and nurture the kind of things that are being done today.

Living evidence of that, Mr. Speaker, lies in our colleague, FLOYD SPENCE, who has undergone that double-lung transplant and then is here with us today. We are grateful to the good Lord for the way He smiled so kindly on FLOYD.

Obviously I am sure I speak for all the Members when I wish the gentleman from South Carolina [Mr. SPENCE] all the best for the future recovery for many years to come.

WELCOME BACK TO THE HONORABLE FLOYD SPENCE OF SOUTH CAROLINA

Mr. MONTGOMERY. Mr. Speaker, I know my colleagues on both sides of the aisle join me today in welcoming back a good friend, Congressman FLOYD SPENCE of South Carolina.

Since May of this year, he has been enjoying a large dose of Mississippi hospitality as he recovered from only the fifth double-lung transplant operation ever performed.

The University of Mississippi Medical Center in Jackson, MS, is one of the few hospitals equipped to perform this delicate operation. We are proud of that fact in Mississippi. As a close friend of FLOYD SPENCE, I am especially glad that Dr. Seshadri Raju and his medical team were there to help save FLOYD's life.

FLOYD, it is good to have you back with us.

NATIONAL MEDICAL RESEARCH DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 328) to designate the day of September 14, 1988, as "National Medical Research Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this resolution. As a matter of fact, it seems appropriate that we consider it today, after having paid tribute to the gentleman from South Carolina [Mr. SPENCE] and after what has happened in medical research with his double-lung transplant.

I yield to the gentleman from Maryland [Mr. HOYER], the prime sponsor of this joint resolution.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for yielding.

Obviously, Mr. Speaker, I think the gentlewoman from Maryland has made a very appropriate comment. It is, with the incredible research that has gone into the FLOYD SPENCE success as the minority leader has pointed out, appropriate that we adopt this today on September 14, designating today as "Medical Research Day."

□ 1230

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I just want to comment that as somebody who has a real respect for the National Institutes of Health, I want to commend, not only today but everyday for the kind of research that is going on, the Nobel Laureates that have come from there and other parts of the country, and for what they have been opening up in the possibility for cures of diabetes, AIDS, and all the other problems we have.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California [Mr. DYMALLY]?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 328

Whereas America's medical research enterprise has been, and will continue to be, the acknowledged world leader in promoting health and preventing disease and disability;

Whereas medical research (defined for purposes of this Joint Resolution as biomedical, behavioral, and related research) continuously contributes to the discovery of new knowledge that will lead to the improved health and well-being of Americans and of all humankind;

Whereas America's medical research enterprise continues to pioneer breakthroughs in the detection and treatment of diseases and promote the widespread application of these methods and technologies to medical practice;

Whereas medical research has significantly contributed to bringing America's death rate to an all-time low and its life expectancy rates to all-time highs;

Whereas America's medical research enterprise has contributed enormously to the control and virtual worldwide eradication of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diptheria, polio, tetanus, and pertussis;

Whereas medical research has successfully produced effective vaccines now widely used to combat measles, mumps, rubella, meningitis, pneumonia, influenza, rabies, upper respiratory diseases, and hepatitis B;

Whereas America's financial investment in medical research has consistently been rewarded with positive returns as measured by reduced morbidity, and improved individual productivity and health status;

Whereas the products and by-products of medical research contribute significantly to the health of America's overall economy and its ability to compete successfully in international commerce and trade;

Whereas medical research in this country has fostered a productive and ongoing positive public and private sector partnership among government, academia, industry, and voluntary organizations in the pursuit of research excellence and discovery;

Whereas the Congress of the United States has consistently demonstrated a Federal financial commitment to maintaining America's preeminence in medical research through support of such agencies as the National Institutes of Health, the Alcohol, Drug Abuse and Mental Health Administration, the Centers for Disease Control, and the Veterans' Administration;

Whereas 1987 was formally recognized by the Congress and the President of the United States as the National Institutes of Health centennial year, commemorating 100 years of Federal support for medical research;

Whereas America's medical research enterprise has produced 85 internationally respected Nobel laureates in physiology, medicine, and chemistry and must continue to foster the interest and training of young scientists, medical practitioners, and other health professionals in research careers, as well as ensure the adequacy of the settings within which they will work;

Whereas America's medical researchers are working at the forefront of biomedical technologies which create exciting new medical research opportunities that hold the best hope for unraveling the mysteries of cancer, AIDS, Alzhemier's disease, arthritis, epilepsy, diabetes, multiple sclerosis, heart and lung diseases, mental illness, and the many other diseases and disorders which claim or severely impair the lives of millions of Americans; and

Whereas the Congress of the United States acknowledges with pride the many accomplishments of America's medical research enterprise and confidently looks to it for continued progress in relieving human suffering and conquering the diseases and disorders that afflict the people of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day of September 14, 1988, is designated as "National Medical Research Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 328, the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT DURING 5-MINUTE RULE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, be permitted to sit today during the 5-minute rule for the purpose of marking up two bills, H.R. 4037 and H.R. 5283.

Mr. Speaker, this request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. WALKER. Reserving the right to object, Mr. Speaker, may I ask, this has been cleared with the minority?

Ms. OAKAR. If the gentleman will yield, yes, it has, Mr. Speaker.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. COELHO. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. COELHO] to lay on the table the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 239, nays 164, not voting 28, as follows:

[Roll No. 309]

YEAS—239

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia

Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar

Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—164

Archer
Armey
Baker
Ballenger
Bartlett
Barton

Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert

Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan

Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—28

Aspin
Badham
Barnard
Boulter
Boxer
Bryant
Cheney
Dickinson
Emerson
English
Florio
Gaydos
Gingrich
Jeffords
Jones (NC)
Kemp
Konnyu
Kostmayer
Mack
MacKay
Mica
Miller (CA)
Slaughter (VA)
Smith (FL)
Stark
Sweeney
Towns
Vander Jagt

☐ 1253

Messrs. WHITTEN, OBEY, BEILENSON, VOLKMER, HAYES of Illinois, and GONZALEZ changed their votes from "nay" to "yea."

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INVITATION TO PARTICIPATE IN PHOTOGRAPH WITH THE HONORABLE FLOYD SPENCE

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, the House photographer is going to be on the House steps in just a few moments to take pictures with the gentleman from South Carolina [Mr. SPENCE], and we would like to invite as many of the Members who could to come out and have their picture taken with him.

"NADA" IS THE WORD FOR THE REAGAN ADMINISTRATION RECORD ON HISPANICS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, as is the case in every election year, there are some misconceptions—actually I should say mistruths—being spoken during this Presidential campaign about what the Reagan-Bush administration has done for Hispanic America. While Mr. BUSH likes to tell us how close he is with his little brown ones, the vice president is clearly out of touch with the 20-million other Hispanics in our great country. Mr. BUSH claims Hispanic America has prospered under the Reagan-Bush economic policies. Wake up Mr. BUSH—we have not prospered. While you were running up a heavy deficit—enacting tax cuts to the rich, the Hispanic poverty rate increased 30 percent. In just the last year alone, the median family income for Hispanic families has fallen 2 percent. And maybe, the most disturbing statistic of all is the fact that 40 percent of Hispanic children under 3 years old live in poverty. Mr. BUSH, don't tell us Hispanic America is prospering because of the Reagan-Bush administration. We know better. And we know the only way we are going to better our lives and the lives of our children is through education. It was the Reagan-Bush administration that campaigned to eliminate the Department of Education. We won't forget that; we won't forget that the Reagan-Bush administration sent a budget to Capitol Hill each year cutting enormously the education budget, Mr. Speaker, 28 percent last year alone.

Mr. Speaker, let us set the record straight. The Reagan administration's record on Hispanics is not macho, it is not un poco, it is nada.

Our Nation has a long history of racial and ethnic diversity. Today, within our communities, peoples of all backgrounds live their lives in an atmosphere of ever increasing racial and cultural tolerance. Across America, our citizens pursue their unique vision of the American dream with greater freedom than ever before.

It is important to remember, however, that tolerance of diversity is a dynamic and evolving goal. A goal whose achievement requires vigilance, determination, and, most importantly, awareness. These are the very goals for National Hispanic Heritage Week.

During this week, our entire Nation will join the nearly 20 million Hispanic-Americans to recognize the many contributions this community has made and continues to make to our Nation's advancement. Hispanic influence in our land dates back to the 16th century. Our oldest cities were founded by Spanish colonists. The entire Southwest, including my home State of New Mexico, was settled by Spanish colonists in the 1500's, long before the Europeans began to settle on the east coast.

Hispanic contributions continued through the founding of our Nation, its growth, expansion, and maturity, and are more evident today than ever before. One only needs to visit the Vietnam Veterans Memorial for evidence of the Hispanic community's contribution to our Nation.

Hispanic culture is evident in the media, the arts, in our politics, in the food we eat, and the music we listen to. Part of this influence is derived from the $130 billion in the buying power of Hispanic families, something which is increasingly noted by our Nation's mass merchandisers. Recently, Time Magazine dedicated a special issue to this very topic, the increasing influence of Hispanic America. I am proud to say that the Democratic Party's nominees for the Presidency and Vice Presidency are both fluent speakers of Spanish.

This attention recognizes the growing political, cultural, and economic influence of the Hispanic community. Hispanics make up the fastest growing minority population in the United States. Projections indicate the current Hispanic population will grow to 30 million by the year 2000 and will represent 11 percent of the U.S. population.

This factor is doubly significant in view of the future U.S. labor force. Hispanics represent an important resource of talents and skills in today's labor market, and a potential resource of even greater proportions. In addition, Hispanics bring with them a cultural tradition that can be very useful in understanding and assessing Latin American political and economic issues. This resource, this skill and knowledge, should be of particular interest to the National Security Agency.

National Hispanic Heritage Week's importance lies in that it will further our Nation's understanding and awareness of its own Hispanic heritage and community. But if our goal is awareness let us not, in our celebration of our Hispanic culture and heritage, forget that today this community is encumbered with many problems which we as a nation must address and help resolve. While Hispanic family income has grown 10 percent annually, to an average of $22,900, it is still about a third lower than the general population. The Hispanic community suffers from high illiteracy and the highest high school dropout rate of any group. Health services in the community are often overburdened, under funded, and do not meet the unique needs of the Hispanic community.

A greater awareness of our Nation's diversity, the richness of its cultures, the depth and breadth of its heritage, will lead to our ultimate goal: To transcend tolerance and arrive at a society which celebrates its diversity as warmly as it celebrates its shared values. As we come to understand our history and our diversity, we also come to understand ourselves, what we stand for, and what we believe.

Nowhere are these values reflected more clearly than in our approach to national security and foreign policy. This is why Hispanic involvement in security agencies and foreign policy is so very important—this involvement assures that policy set forth and implemented by these groups benefits from broader input truly reflects the values of the American people, all of the American people.

In joining with the Hispanic community to work for its advancement, America itself moves forward enriched by the contributions of a community which is dedicated, hardworking, honest, and patriotic. A community which is, in a word, American.

IN HONOR OF PAT BOONE AND THOSE WHO FIGHT THE LONELY BATTLE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I had a shattering experience in Jacksonville, FL, night before last. I spent the better part of 4 hours in the wee hours of the morning from about midnight to 4 a.m. riding with police teams sweeping the area for drugs.

Within 10 minutes we arrested one young teenager after another, some of them as young as 12 and 13 years of age riding on their bicycles, approaching the sting police vehicle with a young female police officer and a young male officer who looked like teenagers looking to buy crack, cocaine. These young men, when I talked to them, were lying on the ground with handcuffs on, with their hands behind their back. I said, "What is your name, son?" He said, "Bobby, sir." I said, "Bobby, where did you get the cocaine?" "The other side of town on Jefferson Street." "What did you pay for that crack?" "Five bucks." "What do you sell it for?" "Twenty."

Mr. Speaker, I can remember when some of us sitting on television shows and town hall forums 20 years ago were talking about this monster, this whirlwind, that we are reaping now. I can remember particularly a fine family man in Hollywood, and we do have entertainers who have set a good example for their sons and their daughters, Pat Boone, who was teased that he was more interested in milk instead of marijuana.

There are a lot of people in Hollywood now who would like to rethink the Pat Boone proposition that milk was something we should talk about, not turning on, tuning out, dropping out, and if it felt good, do it.

Mr. Speaker, I honor Pat Boone and those in the Hollywood community who still fight that lonely battle.

AMERICA'S TRADE PROBLEM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is big news in Washington, DC, that last month the trade deficit is down, down to only $9.5 billion. Think about it. America's trade problem is so bad that some Members of Congress are cheering that it may only be $120 to $140 billion next year.

Mr. Speaker, I do not think that is good news. I think it is a crime and an indictment on our Government. Foreign nations keep laughing at us all the way to the bank. They keep American products out, and we in Congress give them free access to all our markets. I think it is time to implement the trade bill, even though it is a token measure. It is time for Ronald Reagan to enforce it and put his foot down.

Mr. Speaker, I think it is time that Congress stops slapping wrists and starts taking names before we have a United States of Japan on our soil.

□ 1300

WATER LEGISLATION

(Mr. HOPKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOPKINS. Mr. Speaker, there is no provision for funding water supply projects in current Federal law and many consecutive years of deficit rainfall, plus the national drought and a disturbing increase in ground water pollution have revealed a serious gap in Federal water policy.

I am introducing a bill to close that gap and would very much appreciate your support.

This legislation amends present law to allow Federal support for municipal and industrial water supply development projects.

This bill doesn't have to increase spending on water projects. But, States and communities with real water supply problems should be given the opportunity to compete for Federal assistance from the present pool of funds.

This bill will allow proper study and preparation for the next Congress.

Because the 1988 drought has underscored the fact that an adequate water supply is fundamental to the health of our people and our economy. I hope you will support this effort to make Federal policy reflect that reality.

MISGUIDED LITMUS TEST OF PATRIOTISM IN RECITING PLEDGE OF ALLEGIANCE

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, I came to the floor today to be with my colleagues in reciting the Pledge of Allegiance. I came here because I love my country. I came because I was honored to recite the Pledge of Allegiance on the floor of the House.

And I came here because for many of my colleagues it is becoming increasingly an important part of this campaign. I did not make that pledge because anyone forced me to do so, and I think I know a little bit about the flag, Mr. Speaker. I carried it in the closing ceremonies of the 1964 Olympic games, and I fought for it, as did many of my colleagues, in the Korean war.

But Mr. Speaker, I am concerned about the misguided litmus test of patriotism in making the Pledge of Allegience mandatory on the floor of the House. I can remember in pre-World War II, as many of my age group can, that the pledge for Nazi Germany was done a little bit similar to the last part of our pledge. We started out with hand over the heart, and in the middle we raised our hand out, palm up in the middle of the pledge, and that was changed in World War II because of the similarity with the Nazi pledge with the palm down. I think we realized in retrospect that it was the enforcement of that pledge in Nazi Germany that was bad.

Mr. Speaker, I want to reaffirm my belief in the American freedom by recognizing when we say the pledge we do so out of love and out of joy, and not out of a fear of being branded unpatriotic.

SEVEN DAYS TO A SAFER AMERICA

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, this week we will be considering amendments to the omnibus drug bill that would eliminate the provision requiring a 7-day waiting period for handgun purchases that is now part of the bill.

Every major police organization in the country supports the 7-day waiting period and we should, too. We talk on and on about law enforcement. Let's put up or shut up and give the police what they say they need to do the job we charge them with doing.

The waiting period is simple, effective and in no way keeps legitimate, lawabiding citizens from purchasing handguns. All the Brady amendment does is afford local police an apportunity to conduct background checks on individuals to assure that they meet a minimum level of responsibility before they take possession of handguns.

The NRA would have you think that all of its members oppose the Brady amendment. Don't you believe it. I have, personally, talked with a number of NRA members from my district who, when the amendment was explained to them, said that they saw nothing wrong with a 7-day waiting period and would have no problem living with it. I strongly encourage defeat of the McCollum and Volkmer amendments and support for a safer America and for our police.

UNITED NATIONS FUNDING

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, President Reagan, in announcing yesterday that the administration would pay $188 million of outstanding debt to the United Nations, proclaimed that "the U.N. is directly serving important long-term objectives of this administration." He has also asked the State Department to work out a multiyear plan to pay back the $520 million that the United States would still owe to the organization.

The President has made a wise, decision. Perhaps, now the important work of the United Nations will no longer be jeopardized by our Government's refusal to meet its international treaty obligations.

Hopefully this is an indication that this administration has finally recognized the need to respect international law. Ironically, Mr. Speaker, Vice President BUSH, himself a former Ambassador to the United Nations has frequently attacked Governor Dukakis for accepting what the Reagan administration now appears to understand: That United Nations has an important role to play in today's conflict-ridden world—whether in southern Africa or the Persian Gulf.

Mr. Speaker, I hope that the Vice President can appreciate the lesson learned by his own administration: That by supporting the work of the United Nations, we serve America's interests as well.

CEDAR BLUFF LEGISLATION

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, today I am privileged to introduce needed legislation that would reauthorize the reformation of the Kansas Cedar Bluff Reservoir unit of the Pick-Sloan Missouri Basin Program and to provide for the amendment of water services and repayment contacts.

In recent years, the Cedar Bluff Reservoir in Kansas has been unable to pay back to the Federal Government payments for construction, operation, and maintenance, and replacement obligations under their present contract with the Bureau of Reclamation.

Even before this year's severe drought conditions, the Smoky Hill River above Cedar Bluff Reservoir showed a significant flow depletion. During the past 23 years, the result has been a consistent decline in the water supply available for irrigation. Water deliveries for irrigation have been stopped since 1978.

On December 17, 1987, the State of Kansas and the Bureau of Reclamation signed a memorandum of understanding that works to resolve these problems and clears the way for this legislation. Kansas senior Senator BOB DOLE has introduced similar legislation in the Senate.

Mr. Speaker, a copy of the memorandum of understanding follows. I look forward to House Interior Committee consideration of this important legislation.

MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, AND FISH AND WILDLIFE SERVICE, THE STATE OF KANSAS AND THE CEDAR BLUFF IRRIGATION DISTRICT NO. 6 CONCERNING REFORMULATION AND OPERATION OF THE CEDAR BLUFF UNIT

1. PURPOSE

The purpose of this Memorandum of Understanding is to establish a cooperative partnership between the U.S. Department of the Interior-Bureau of Reclamation (Bureau) and Fish and Wildlife Service (Service), the State of Kansas (State), and the Cedar Bluff Irrigation District (District) to achieve the greatest possible level of multipurpose benefits from the Cedar Bluff Unit, built and operated by the Bureau on the Smoky Hill River, in Trego and Ellis counties, in west-central Kansas.

2. BACKGROND.

The Cedar Bluff Unit was authorized as a multipurpose unit of the Missouri Basin Project to provide flood control, irrigation, and other associated benefits. The major feature of the project, Cedar Bluff Dam and Reservoir, was completed in 1951. The dam was constructed in advance of the finalization of irrigation plans as a part of the Missouri River Basin Flood Control Program. Formation of the District was filed with the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, on January 3, 1958. After approval by the Chief Engineer, the three member District board of directors as elected September 9, 1958. The District has a total irrigable acreage of 6,800 acres. The delivery of irrigation water to project lands began in 1963.

The Cedar Bluff Unit includes the dam and reservoir, the irrigation distribution system, as fish cultural station built by the U.S. Fish and Wildlife Serivce below the dam, and the fish, wildlife, and recreation investment made by the State in land and water management and in State park facilities. The U.S. Fish and Wildlife Serivce holds a Kansas water right for water supply associated with the fish cultural station. The city of Russell holds a Kansas water right associated with storage space in Cedar Bluff Reservoir for municipal water supply by direct releases to the Smoky Hill River. The District holds the water right associated with the irrigation of its 6,800 acres of irrigable lands.

During flood stages, operation of the reservoir is in accordance with cooperative agreements with the Corps of Engineers for basinwide control. These agreements provide that the Corps of Engineers will direct operations when the water surface is within the flood control pool.

Studies show a significant flow depletion in the Smoky Hill River above Cedar Bluff Reservoir. There has been a consistent decline in water supply available for irrigation from Cedar Bluff Reservoir during the past 23 years. The following problems related to operating the Cedar Bluff Unit under these depleted inflow conditions have been identified:

a. No deliveries of irrigation water have been made to the District since 1978.

b. In recent years, the District has not been able to pay construction repayment installments, or operation, maintenance, and replacement obligations under the present contract with the Bureau.

c. The fish cultural station located below the dam, which was operated by the U.S. Fish and Wildlife Service, has been closed and is now operated by the Kansas Department of Wildlife and Parks as a Canadian goose rearing facility.

d. Without (1) water deliveries to the District, (2) water releases to the river for the city of Russell, and (3) water utilized by the fish cultural station below the dam, the Smoky Hill River and alluvial ground-water system has not been recharged by stream flows, or return flows, that historically have been available. This has in part been responsible for critical depletions at city and rural water district alluvial groundwater supply facilities.

e. The Kansas Department of Wildlife and Parks is concerned about protecting and utilizing the State's investment in the fishery in Cedar Bluff Reservoir and wildlife management associated with the land area around the reservoir. It is also concerned about protecting and utilizing the State's investment in recreation facilities at the Cedar Bluff State park areas down to the reservoir water level.

3. OVERVIEW OF INITIATIVE

The Federal/State-District partnership established in this memorandum of Understanding is designed to reformulate and operate the Cedar Bluff Unit in recognition of the issues in paragraph 2 above. In order to achieve this objective, the Bureau, the Service, the State, and the District intend to reformulate and operate the Cedar Bluff Unit so that:

a. The existing flood control aspects of the project would be unchanged, except for additional flood storage in the "joint-use pool" as described in f. below.

b. The lower 19.1 feet of the existing conservation pool (consisting of 29,739 acre-feet between elevation 2090.0 and elevation 2109.1) would be a "designated operating pool" (2,700 acre-feet) for the City of Russell's municipal water supply; (5,400 acre-feet) for artificial recharge (environmental, domestic, municipal, industrial, and irrigation; and (21,639 acre-feet) for fish, wildlife, and recreation. (See Exhibit No. 1, page 4).

c. The "designated operating pool" would be operated as a single pool with the three users sharing proportionally the inflows and losses, so that a continuous accounting is maintained on the amount of water that is available for Russell's municipal water supply; for artificial recharge; and for fish, wildlife, and recreation. The State intends to operate the fish, wildlife, and recreation part of the "designated operating pool" for the benefit of recreation activities and fisheries management at Cedar Bluff Lake, and for minimal downstream releases for goose rearing activities and stream environment preservation.

d. The City of Russell's existing water storage right and contract with the Bureau would be unchanged, including the continuance of the existing accounting procedure for sharing of inflows and losses at Cedar Bluff Reservoir.

e. Subject to Congressional approval of the reformulated Cedar Bluff Unit, the District would be relieved of its contractual obligations under contract No. 0-07-70-W0064, formerly No. 14-06-700-2118, dated September 3, 1959, as amended. After this approval, the district would request the chief Engineer, Division of Water Resources, State Board of Agriculture, for permission to disband the irrigation district as provided for under Kansas law.

f. The upper 34.9 feet of the existing conservation pool (consisting of 147,000 acre-feet between elevation 2109.1 and elevation 2144.0) would be a "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint-use pool" is empty, the operation, maintenance, and replacement (Om&R) costs would be assigned to flood control, and, if water should accumulate into the "joint-use pool", the OM&R costs would be paid by the state based on the highest level of water in the "joint-use pool" during the proceeding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein contemplated. Any net revenues from the sale of water from the "joint-use pool" should be shared equally between the Bureau and the State. (See Exhibit No. 1, page 4).

EXHIBIT NO. 1.—CEDAR BLUFF RESERVOIR

	Elev.	Capacities	Ac.-Ft.
Top of Flood Control Pool	2166.0	376,950	[1] (368,689)
Flood control pool			[2] 191,860
Top of Existing Conservation Pool	2144.0	185,090	[1] (176.829)
Joint use pool			[2] 147.090
Top of Designated Operating Pool	2109.1	38,000	[1] (29,739)
Current Water Level	2106.0		
Fish, Wildlife and Rec			[2] 21,639
Designated operating pool	2096.8	16,361	[1] (8,100)
Artifical Recharge			[2] 5,400
	2092.5	10,961	[1] (2,700)
Russell Water Supply			2,700
Min. Elevation for Making River Releases	2090.0	8,261	[1] (0)

[1] Corrected for 8.261 ac.-ft. at 2090.0.

[2] Size of each specific pool in ac.-ft.

g. The Kansas Department of Wildlife and Parks would continue to administer the reservoir lands and lake areas for fish and wildlife management purposes according to existing agreements, and to operate the Cedar Bluff State Park areas extended down to the water surface actually in the reservoir.

h. The Service would transfer to the State the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the State's operation for fish, wildlife, and related purposes.

i. The State would pursue its evaluation for the formulation of an Intensive Groundwater Use Control Area in the Smoky Hill River alluvium above Cedar Bluff Reservoir.

j. The Bureau would conduct "Safety-of-Dams" (SOD) studies as it deems necessary concerning SOD issues. The contract for sale of the use of a portion of the conservation storage capacity to the State will acknowledge these SOD studies, and allow both parties to have the option to invalidate the sale contract, should that be determined to be the best solution to the SOD problems.

4. PROCEDURES

a. The Bureau intends to:

(1) Prepare a contract for the sale of storage capacity in the conservation pool of Cedar Bluff Reservoir to the State, based on the agreed upon criteria.

(2) Operate and maintain Cedar Bluff Dam and Reservoir for flood control in cooperation with the Corps of Engineers; for municipal water supply for the City of Russell; and for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and fish, wildlife, and recreation, in cooperation with the State.

(3) Designate a part of the existing conservation storage space in Cedar Bluff Reservoir (between elevation 2090.0 and elevation 2109.1) as a "designated operating pool", and the remaining portion of the existing conservation storage space in Cedar Bluff Reservoir (between elevation 2109.1 and elevation 2144.0) as a "joint-use pool".

(4) Operate the "designated operating pool" as a single pool with all three uses sharing proportionally in the inflows as well as the losses, so that a continuous accounting is maintained on how much water is available for the City of Russell's municipal water supply; for artificial recharge; and for fish, wildlife, and recreation.

(5) Operate the "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint-use pool" is empty, the OM&R costs would be assigned to flood control, and, if water should accumulate into the "joint-use pool", the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the preceding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein contemplated. Any net revenues from sale of water from the "joint-use pool" will be shared equally between the Bureau and the State.

(6) Accept, subject to Congressional approval and in lieu of the District's repayment obligation to the United States, an upfront payment of $365,424 from the State for purchase of the use of a portion of the conservation storage capacity in Cedar Bluff Reservoir. The payment will be made in two successive equal annual installments of $182,712.

(7)(a) Include in the proposed sale contract a provision for a payment by the State for its proportionate share of the OM&R costs for Cedar Bluff Dam and Reservoir. The State's share for the "designated operating pool" OM&R costs will be 7.33 percent of the total, or $15,000, whichever is greater. 27,039 A.F. divided by 368,689 A.F. equals 7.33%.

(b) Should the water level ever rise into the "joint-use pool", the maximum amount of storage in that pool will be divided by the total reservoir storage of 368,689 acre-feet to find a percent of OM&R costs for the next year's payment to be paid by the State. Any OM&R costs associated with this pool will be in addition to the 7.33 percent for the "designated operating pool" as stated above, or a total of $15,000, whichever is greater.

(8) Continue unchanged the existing contract between the City of Russell and the Bureau, including continuance of the existing accounting procedure for sharing inflows and losses at Cedar Bluff Reservoir.

(9) Transfer to the District fee title to all real property and buildings at the District headquarters, along with all equipment and tools, for its agreement to abandon the distribution system at no further cost to the United States.

(10) Effect a declaration of abandonment of all easements for the District's distribution system. Filing of any formal rights of way abandonment documents will be each landowner's responsibility.

(11) Continue with "Safety of Dams" (SOD) studies on Cedar Bluff Dam and Reservoir to determine the most feasible corrective actions to be undertaken to resolve the SOD issues.

b. The Service intends to:

(1) Transfer to the State the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the State's operation for fish, wildlife, and related purposes.

(2) Transfer the water rights associated with the fish hatchery to the State for their use for fish, wildlife, and related purposes.

c. The Service intends to:

(1) Enter into a contract of sale for the use of a portion of the conservation storage in Cedar Bluff Reservoir with the Bureau based on the agreed upon criteria.

(2) Promote the passage of the required legislation for the reformulated operation of the Cedar Bluff Unit through the United States Congress.

(3) Pursue its evaluation for the formulation of an Intensive Ground-water Use Control Area in the alluvium above Cedar Bluff Reservoir.

(4) Utilize the "designated operating pool" as a single pool for the City of Russell's municipal supply; for artificial recharge (environmental, domestic, municipal, industrial, and irrigation); and for fish, wildlife, and recreation purposes, with all three uses sharing proportionally inflows and losses, so

that a continuous accounting is maintained on how much water is available for each of the three use categories.

(5) Utilize the "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint use pool" is empty, the OM&R costs would be assigned to flood control, and, when water accumulates into the "joint-use pool" the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the preceding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein contemplated. Any net revenue from the sale of water from the "joint-use pool" will be shared equally between the Bureau and the State.

(6) Pay, in lieu of the repayment obligation between the Bureau and District, an upfront payment of $365,424 (payable in two successive equal payments of $182,712 per year) for the use of a portion of the conservation capacity in Cedar Bluff Reservoir.

(7)(a) Contract with the Bureau of payment of a share of the OM&R costs for Cedar Bluff Dam. The State's share of the "designated operation pool" OM&R costs will be 7.33 percent of the total, or $15,000, whichever is greater. 27,039 A.F. divided by 368,689 A.F. equals 7.33%.

(b) Should the water level ever rise to the "joint-use pool", the maximum amount of storage in that pool will be divided by the total reservoir storage of 368,689 acre-feet to find a percent of OM&R costs for the next year's payment to be paid by the State. Any OM&R costs associated with this pool will be in addition to the 7.33 percent for the "designated operating pool" as stated above, or a total of $15,000, whichever is greater.

(8) Pursue a change in use application, and transfer the U.S. Fish and Wildlife Service water right and the District's water right associated with the conservation storage Space in Cedar Bluff Reservior to the State for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and for fish, wildlife, and related purposes.

(9) Continue to operate the project lands and lake areas for fish, wildlife, and recreation purposes according to existing agreements.

(10) Extend the Cedar Bluff State Park areas down to the water level actually in the reservoir.

(11) Accept the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the state's operation for fish, wildlife, and related purposes.

d. The District intends to:

(1) Agree, subject to Congressional approval, to the State's payment of $365,424 to the Bureau for the use of a portion of the conservation storage capacity in Cedar Bluff Reservoir in lieu of its repayment obligation to the United States. In consideration of this debt relief, the District agrees to abandon the distribution system at its expense, and to disband as an irrigation district under Kansas law.

(2) Agree to the submission of an application for a change in use, and to the transfer of that portion of its water right associated with the conservation storage space in Cedar Bluff Reservoir to the State for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and for fish, wildlife, and recreation purposes.

(3) Accept transfer of ownership of all real property and buildings at the District headquarters, along with all equipment and tools, and agree to abandon all of the distribution system at no additional cost to the United States.

(4) Utilize all of its existing funds and any revenue from the sale of its real property, tools, and equipment to assist the individual landowners in affecting the abandonment of the distribution system and related facilities, at no additional cost to the United States, by reimbursing landowners with the remaining funds to accomplish satisfactory abandonment in accordance with District recommendations.

(5) Agree on behalf of all individual landowners to the declaration of abandonment of all construction, operation, and maintenance easements for the distribution system. Agree that any formal rights-of-way filings desired by landowners will be their individual responsibility.

(6) Support the passage of the required legislation for the reformulated Cedar Bluff Unit through the United States Congress.

5. INTERIM OPERATIONS

Commencing with the execution of this agreement and continuing until the reformulated Cedar Bluff Unit is authorized by the Congress and all contracts and transfer documents are executed between the Bureau, the Service, the State, and the District, the reservoir will be operated in accordance with the purposes for which it was authorized and constructed pursuant to the authority of the Secretary of the Interior and in general accord with the provisions of this Memorandum of Understanding.

6. CONDITIONS

a. This Memorandum of Understanding shall be effective upon the date that all parties have signed.

b. This Memorandum of Understanding is predicated upon the pursuit of the reformulation and operation of the Cedar Bluff Unit on a comprehensive basis. Should the initiative not move forward in a judicious manner due to failure of the Bureau, the Service, the State, or the District to carry out these actions described in paragraph 4 above, then the understanding contained herein shall become null and void.

c. This Memorandum of Understanding may be modified or terminated upon mutual agreement of the parties hereto by giving thirty (30) days written notice to all the parties signatory to this agreement. The Bureau and the State will jointly pursue legislation to implement the provisions of this agreement. If Congress fails to inact legislation approving the provisions of this agreement, then this agreement shall become null and void.

Signed by:

Bureau of Reclamation; B.E. Martin, Regional Director, Missouri Basin Region. Date: Dec. 17, 1987.

Fish and Wildlife Service; Galen L. Buterbaugh, Regional Director, Region 6. Date: Dec. 17, 1987.

State of Kansas; Robert L. Meinen, Secretary, Department of Wildlife and Parks. Date: Dec. 17, 1987.

Cedar Bluff Irrigation District; Millard Moore, President. Date: Dec. Dec. 17, 1987.

Witnessed by:

Mike Hayden, Governor, State of Kansas. Date: Dec. 17, 1987.

LEGISLATION TO ALLOW INSPECTORS GENERAL TO SUBPOENA TESTIMONY

(Mr. LANCASTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANCASTER. Mr. Speaker, today, along with seven of my colleagues, I am introducing legislation that allows inspectors general to subpoena testimony. The bill will provide a needed authority to facilitate investigations of fraud against the United States.

During a recent Armed Services Committee hearing, the Defense Department inspector general stated that lack of testimonial subpoena power is a major impediment to investigations into fraud in defense contracting. We believe inspectors general need testimonial subpoena power to perform intensive and thorough investigations of fraud against the Government.

Congress established inspectors general to conduct and supervise audits and investigations of internal executive department operations, including alleged malfeasance against the Government. Among the essential investigative tools inspectors general have, codified in the Inspectors General Act of 1978, is the power to subpoena documents.

While the authority to subpoena documents is a necessary requirement for doing productive audits and investigations, it is hardly sufficient. For example, many documents are not self-explanatory. Being able to analyze voluminous arcane accounting documents, such as payment vouchers and internal accounting records, is often necessary in fraud investigations. Fully understanding these documents is difficult, and assistance is hard to obtain when, as it has been reported, companies under investigation threatened to fire employees for voluntarily talking to inspectors general. This difficulty in making sense of documents can seriously hinder investigations.

A second problem with the lack of testimonial subpoena power concerns the need to determine intent in fraud cases. To get people to discuss motives, inspectors general often must go through the time-consuming process of asking a U.S. attorney to issue a subpoena and obtain grant jury time to hear testimony. This stretches our scarce law enforcement resources dedicated to more significant criminal investigations. Even when testimony is taken before a grant jury, discovery rules can prevent the information from being used except in a directly related criminal trial. As a result of these impediments, many smaller cases of fraud are not treated as such. Relatively mild administrative actions are taken, and too few perpetrators receive a convincing message that defrauding the Government is a serious offense.

In the past, Congress has provided authority to subpoena testimony in over 60 different statutes to a myriad of Government agencies. In many cases, the power was granted to investigate violations of laws which, at first glance, seem much less serious than those routinely investigated by an inspector general. A few examples of where testimonial subpoena power has been granted follows:

First. The Secretary of Transportation for investigations related to setting bridge tolls.

Second. The Secretary of Agriculture for investigations of the Floral Research and Consumer Information Act.

Third. The Merit Protection Board to investigate political activities of certain State and local employees.

It is amazing that, in comparison, inspectors general do not have testimonial subpoena power to investigate fraud against the United States.

Our legislation simply amends the Inspectors General Act of 1978 to give inspectors general the same subpoena power to obtain testimony that they now have to obtain documents. It is time we give all inspectors general the full authority they need to get at the root of the problems we expect them to investigate.

AMERICAN FAMILY ACT

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, I will soon be introducing the American Family Act. Originally I intended to introduce this important package of family bills today but have been slightly delayed as we consider some important additional pieces of legislation relating to strengthening America's families.

In my capacity as the ranking member on the Select Committee on Children, Youth, and Families I have witnessed firsthand the problems faced by today's families. The Family Act is a comprehensive attempt to strengthen families, build character and increase individual responsibility. These proposals would encourage local initiatives in an effort to build solutions from the ground up.

The American Family Act offers innovative approaches to the issues of education, "at risk" children, and family stability.

I believe that my colleagues on both sides of the aisle have a firm commitment to the future of the American family. In the near future we will be introducing this act which I believe offers an exciting way to forward our commitment to family, and I invite the support of my colleagues for this package of family legislation.

ANTI-SEMITIC BUSH STAFF

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, over the last few days six Bush campaign aides, including the deputy chairman of the Republican National Committee, have resigned amid revelations of a variety of anti-Semitic activities.

The American people deserve an explanation from GEORGE BUSH as to how these people came to have such responsible positions in his campaign.

Although Mr. BUSH and his spokesmen deny the allegations, the evidence is clear that Frederic V. Malek, who was appointed recently to the RNC by BUSH, combed personnel files at the Bureau of Labor Statistics in 1971 under orders from President Nixon in an effort to identify an alleged Jewish "cabal."

And the evidence is clear that five members of BUSH's ethnic coalition had ties to anti-Semitic Nazi or Fascist organizations.

Why hasn't GEORGE BUSH stood up and criticized anti-Semitic activities that are illegal and immoral, like Nixon's attempt to purge Jews from BLS?

Why hasn't GEORGE BUSH condemned the affiliations of his five ethnic committee aides?

I have known GEORGE BUSH for more than 20 years and he is a decent man.

But the most basic and troubling questions remains—how did these six men with anti-Semitic ties and deeply held views end up as top level aids on his campaign staff?

MICHAEL DUKAKIS AND THE ACLU

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, a curious thing is happening during these Presidential campaigns, and that is when the Vice President of the United States attempts to articulate the record and even utilize the words previously expressed by the Democratic nominee, Governor Dukakis, he is criticized for somehow running a tough campaign or an unfair campaign.

One example of that is his repeating the quote of Michael Dukakis that Michael Dukakis prides himself on being "a card-carrying member of the ACLU," the American Civil Liberties Union. That is his right. Members of Congress may belong, individual citizens may belong, and thus they have the right to set their own agendas.

The question is whether the American people want the ACLU agenda to be their agenda when they are dealing with law enforcement issues. That is a very important question because, we have been forced to deal, over the last number of years, to only during election periods, with tough law enforcement questions. It is only at such times when we are allowed to have an opportunity to vote on the floor that we find that the American people as represented by their Representatives here in the House vote for the death penalty, vote for an exclusionary rule exception, vote for denial of bail to those who have proven to be dangerous to themselves and others. Yet all of those positions are rejected by the ACLU.

The question is, If we had a President of the United States dedicated to the ACLU position on all of those issues, would we ever have legislation of that sort being signed into law? The fact of the matter is with Michael Dukakis as President, we never would have that type of legislation signed into law.

MICHAEL DUKAKIS SUPPORTS SDI—I THINK

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, some of us are confused by Governor Dukakis' record on the strategic defense initiative. Some comments he made recently on the strategic defense initiative in his single press conference may be a reason for that confusion.

He said first: "I have said repeatedly and consistently that I am for continued research." So he was for SDI. But then he said, "I don't believe that we ought to commit ourselves to billions for this system and to the testing and deployment of the system which would be illegal under the ABM Treaty." So then he was against it.

But then again he said, "If I made the judgment and if Congress made the judgment that it was essential to our national security, then obviously we'd proceed with it." So he was for it.

Then he said, "Well, obviously, we're not going to test and deploy if it's a violation of the treaty." So he is against it again.

But then he said, "We always have to be ready for other contingencies. And that's the reason for continuing to do research, which is appropriate and legal under the treaty."

So he ended up for it, I think.

THE SENATE SHOULD MOVE QUICKLY TO APPROVE SOUTH AFRICA SANCTIONS LEGISLATION

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, the Senate Committee on Foreign Relations this morning voted out S. 2756, legislation to stiffen United States sanctions against the racist, repressive regime in South Africa. This action represents a major step that the United States is taking to back up its claim as the defender of freedom and democracy in the global arena. I commend my colleagues in the Senate for their action and call upon the distinguished Senate majority leader to immediately take up this measure.

Mr. Speaker, I want to stress to Members on both sides of the aisle the importance of this issue to America, not just black America, but to all Americans who value life, freedom and justice. As the session draws to a close, determining the legislative calendar becomes far more difficult.

The issue of South Africa is also a priority for the Democratic Party as pledged during its convention. I strongly urge the Senate leadership to bring S. 2756 to the floor for a vote and secure the safe passage of this critical measure.

□ 1315

NO GRAIN EMBARGO PLEDGED FOR AMERICAN FARMERS

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, there was ominous news for America's farmers this weekend. The Governor of Massachusetts delivered a speech to the Council on Foreign Relations in Chicago. In that speech he outlined the strategy for using economic sanctions against the Soviet Union.

Mr. Speaker, the farmers in my part of the country remember that the last Democratic President, also a Governor, with no foreign policy experience, did just that. He imposed the devastating grain embargo. It did not hurt the Russians very much, but it sure hurt the American farmer.

Also over the weekend, Mr. Speaker, Vice President BUSH in a speech in Missouri pledged no grain embargo in a Bush administration. That is a pledge President Reagan made and kept, and it is a pledge Vice President BUSH will keep when he is elected President.

It is time for Governor Dukakis to follow the Vice President's lead and take that pledge, the pledge for no grain embargoes. The American farmers did not like the Carter embargo, and they will not risk a Dukakis embargo.

MEMBERS URGED TO VOTE FOR FEDERAL PRISON INDUSTRIES REFORM ACT OF 1988

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, later this afternoon, the House will be called on to vote on the Federal Prison Industries Reform Act of 1988. This was a bill callled up under suspension yesterday. The reason is that there is a crisis in the Federal prisons.

Six years ago we had 24,000 inmates. Today we have 44,000. In a few years, we will have 64,000, or perhaps even double. The reason for it is obvious. We are passing a drug bill which will increase the number in prisons. We have passed other bills in recent years which have upgraded enforcement, and increased the number of inmates in Federal prisons.

Now, this bill enables UNICOR, the Federal prisons industry, to borrow money to expand its activities, to provide meaningful work for the drastically increased Federal prison population.

We have an alternative. We could appropriate money. We have consulted with private industry, and this is supported by the administration, overwhelmingly by the Judiciary Committee, and I would like to know if anybody has another idea of how to provide meaningful work for our increased prison population, other than prison industries. We have to go forward. I urge the support of the Members.

THE RETURN OF THE HONORABLE FLOYD SPENCE

(Mr. SPENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SPENCE. I appreciate being allowed to address my dear colleagues and those present for 1 minute. This has to be one of the most emotional times of my life. I have never, in my 18 years here, experienced anything like this. I genuinely appreciate my colleagues, on both sides of the aisle, allowing me to return to this body and being greeted in this way. Beyond that, to lead in a Pledge of Allegiance to the flag of our great country, that is something very meaningful, too.

I hope I can say a few words without being too emotional because you must understand what an impact this occasion has had upon me. When I left here a few months ago, I was on oxygen supplied from outside sources, 24 hours a day, and I was in a wheelchair. Many of you saw me out here in the Speaker's lobby, and came by and spoke to me, not realizing I had oxygen being fed to me under my shirt, which was buttoned up. And you did not realize that I had the portable oxygen tank in a wheelchair behind me. And my assistant, Caroline Bryson, took me back and forth in a wheelchair.

It took me hours to get ready in the morning in the apartment. I had a very difficult time, doing simple things. I went through an experience that I never thought possible before, and I hope and pray that none of you have to go through it. I just told my Maker that it was up to Him. I told Him I could not handle it, it was too big for any of us human beings. The one who has control of all our destinies saw fit to leave me here, for some reason, when so many others in my condition have gone before me. If this is not a miracle, I don't know what you would call it. People all over this Nation of yours reacted in an unbelievable way: prayer groups contacted me, schoolchildren and others pulling for me and others telling me they have been encouraged with their physical problems because of my experience. And then being allowed a new life without the aid of anything like I left here with, to be greeted by my friends like Congressman MONTGOMERY, a Democrat, and other colleagues, Democrats and Republicans alike, in a genuine way. It cannot be explained.

All I want to say is, we have a natural, untapped resource in Mississippi. Their medical university has succeeded when no one else has, with the divine hand of God intervening. I am not ashamed to admit that God is responsible, working through a transplant team of experts led by Dr. Seshadri Raju.

People tell me about the courage that it took for me to go through with the operation. That is not it. It is my Maker who made these things possible. I cannot control anything, and neither can you. So, whatever comes from this, I give complete credit to God, and I hope to be able to tell others of these matters in the remaining years of my life.

Thank you, all of you, for your interest, your prayers and your kind reception this morning. I hope and pray you never have to go through this, and I hope God looks favorably on all of you, for the way you have received me. Thank you very much.

WELCOME BACK, MR. SPENCE

(Mr. GRAY of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY of Illinois. Mr. Speaker, I rise as a neighbor and friend of FLOYD SPENCE to say that what we have seen here today is a living miracle. There have been a large number of people that have survived a one-lung transplant, but FLOYD has survived a double-lung transplant, and I just wanted him to know that, as a neighbor, that we love him, and we are tickled to death to have him back in such good health and those of us on this side of the aisle want to salute Floyd Spence and say welcome back, Floyd.

DUKAKIS EMPHASIZES NATIONAL SECURITY POLICY

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, this morning at Georgetown University, Governor Dukakis gave a very important speech on national defense and national security policy.

In that speech, Governor Dukakis emphasized his support for strategic modernization for the D-5 missile, the stealth bomber, the advanced cruise missile, and he also again talked about the Strategic Defense Initiative, and the necessity for continuing to fund that program, but only in terms of the ABM agreement, keeping it consistent with the ABM agreement, and I think that is the right policy for our country.

He also emphasized his support for strengthening our conventional forces, and the need for a vigorous approach to arms control, both on the strategic and on the conventional side. He also attacked the failure of the Reagan administration to properly manage the billions that Congress has provided for our national defense and national security.

As someone who served on the Defense Committee, Defense Subcommittee, of the House Appropriations Committee, I can tell you, I don't believe we are getting a dollar's worth of defense for the money we are investing.

So, I would hope that my colleagues would have an opportunity to review this speech. I think it answers many of the questions that have been raised about the Governor's position on defense issues.

CONFERENCE REPORT ON H.R. 4586, MILITARY CONSTRUCTION APPROPRIATION, 1989

Mr. HEFNER. Mr. Speaker, I call up the conference report on the bill (H.R. 4586) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Volkmer). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 9, 1988.)

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. Hefner] will be recognized for 30 minutes and the gentleman from California [Mr. Lowery] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Hefner].

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and the amendments in disagreement on the bill, H.R. 4586, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report we present to the House today for military construction and family housing contains agreements on 350 line items which are represented by 46 Senate amendments. We have one amendment in true disagreement that relates to the deactivation of a tactical fighter wing at Nellis Air Force Base, NV.

Mr. Speaker, before I continue, I would like to take this time to thank the ranking minority member of the Military Construction Subcommittee, Mr. Lowery, for his cooperation and his diligence all year so we can be here today to present this conference report to the House. I also want to thank other members of the subcommittee and especially our committee chairman, Jamie Whitten who helped us get this bill through the House and through conference.

Mr. Speaker, the conference agreement on H.R. 4586 that we are presenting to the House today provides for $8,797 million for both military construction and family housing. Not included in this bill is a prior year appropriation of $214 million for fiscal year 1989, which, when added to the bill, amounts to $9 billion. The combined total, which is used for scorekeeping purposes, is $900,000 under the President's request and right at our section 302(b) allocation for budget authority. The bill is also under our section 302(b) allocation for outlays by about $5 million.

We have one item in true disagreement that relates to deactivation of the 47th Tactical Fighter Wing at Nellis Air Force Base. The Senate amendment would prohibit the use of military construction funds to implement the deactivation plan. I will offer a motion at the appropriate time to insist on the House position which would strike the prohibition.

Mr. Speaker, this bill represents a bipartisan effort to fund the highest priority projects. There are new initiatives in the bill; however over 60 percent of the bill is for revitalization projects for a defense plant that is valued at about $500 billion and averages about 50 years in age.

As long as the national policy is to maintain an All-Volunteer Force, quality of life projects such as barracks, housing, and child care centers, must be provided to keep the top performers in the service. This bill gives priority to those type programs.

In terms of the reductions in this bill, most of the cuts were made to overseas projects. As an offset to overseas reductions, the conference agreement provides $71 million to pay for shortfalls caused by foreign currency fluctuation.

Mr. Speaker, as Members know, the Defense authorization bill has not become law. So, technically funds for projects in this appropriations bill cannot be obligated until an authorization bill becomes law. We see no reason to await the authorization measure since the committee has basically complied with the military construction authorization conference agreement in the vetoed bill. I would further note that military construction was not at issue in the vetoed measure.

Mr. Speaker, I include in the Record at this point a narrative of the major features of the bill along with a comparative tabulation of the conference agreement.

Other Features of H.R. 4586—Military Construction and Family Housing Bill

CHEMICAL DEMILITARIZATION

Funding of the requested $49.6 million for a demilitarization facility at Tooele Army Depot, Utah, has been provided. In addition the Department was directed to begin design for construction of a full-scale cryofracture plant.

LIGHT INFANTRY DIVISION

Funding in the amount of $63 million has been provided for projects at Fort Wainwright and Fort Richardson, Alaska.

HONDURAS

Funding of $3.05 million has been provided for replacement of "Cat" huts and construction of new dining and latrine facilities at Palmerola Air Base, Honduras. However funds have been "fenced" pending certification by the next administration.

STRATEGIC HOMEPORTING

Funding in the amount of $172.7 million has been provided for 8 of the 9 strategic homeporting sites, which amounts to a net reduction of $18.1 million from the President's request.

NAVAL SUBMARINE BASE—KINGS BAY

Funding in the amount of $56.3 million is provided for the naval submarine base at Kings Bay, GA., consistent with the President's request.

RELOCATION OF THE NAPLES COMPLEX

Funding of $21.6 million has been provided for relocation of a portion of the Navy complex at Agnano, Italy to Capodichino Airport, Italy. The relocation represents a savings of about $150 million from the Navy's original plan to move to Capua, Italy.

BURDENSHARING INITIATIVES

The conferees have agreed that no military construction funds shall be used to effect the relocation of the 401st Tactical

Fighter Wing from Torrejon, Spain to Italy, except for NATO infrastructure funds.

MX RAIL GARRISON

No funds were provided for the MX rail garrison at F.E. Warren ARB pending a decision on system deployment by the Congress and by the next administration.

INSTALLMENT PURCHASE FOR FAMILY HOUSING

The conferees continue to stress the importance of installment purchase as a more viable option over build-to-lease housing. Installment purchase is estimated to be more economical by 10 to 15 percent over leasing because of the residual value of ownership. However the administration has refused to initiate such a program because of a technicality in scorekeeping. Therefore, the conferees have agreed to direct the Department to initiate a pilot program for fiscal year 1990.

COAST GUARD SHORE FACILITIES

The conferees agreed to funding $50.3 for Coast Guard shore facilities on a one time basis. The conferees agreed to this in order to provide budget room in the transitional bill to fund Coast Guard programs more directly related to drug interdiction programs.

COMPARISONS WITH BUDGET RESOLUTION

[In millions of dollars]

	Discretionary	Mandatory	Total
Sec. 302(b):			
Budget authority	8,797	214	9,011
Outlays	7,944	127	8,071
This bill:			
Budget authority	8,797	214	9,011
Outlays	7,938	127	8,065

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference
Military construction, Army	977,590,000	930,300,000	877,630,000	924,551,000	927,292,000
Rescission	-34,800,000				
Subtotal, Army	942,790,000	930,300,000	877,630,000	924,551,000	927,292,000
Prior year advance appropriation	221,000,000	214,000,000	214,000,000	214,000,000	214,000,000
Total, Army	1,163,790,000	1,144,300,000	1,091,630,000	1,138,551,000	1,141,292,000
Military construction, Navy	1,417,311,000	1,611,200,000	1,591,850,000	1,515,018,000	1,576,516,000
Rescission	-26,200,000				
Total, Navy	1,391,111,000	1,611,200,000	1,591,850,000	1,515,018,000	1,576,516,000
Military construction, Air Force	1,241,254,000	1,300,600,000	1,293,406,000	1,240,387,000	1,225,926,000
Rescission	-24,800,000				
Total, Air Force	1,216,454,000	1,300,600,000	1,293,406,000	1,240,387,000	1,225,926,000
Military construction, Defense agencies	558,446,000	712,000,000	777,500,000	537,972,000	679,533,000
Rescission	-7,200,000		-29,548,000		-19,548,000
Total, Defense agencies	551,246,000	712,000,000	747,952,000	537,972,000	659,985,000
North Atlantic Treaty Organization Infrastructure	381,000,000	502,100,000	502,100,000	492,000,000	492,000,000
Rescission	-8,000,000				
Total, NATO Infrastructure	373,000,000	502,100,000	502,100,000	492,000,000	492,000,000
Military construction, Army National Guard	184,405,000	138,300,000	163,500,000	246,914,000	229,158,000
Rescission	-2,500,000				
Total, Army National Guard	181,905,000	138,300,000	163,500,000	246,914,000	229,158,000
Military construction, Air National Guard	151,291,000	147,500,000	152,170,000	179,228,000	158,508,000
Rescission	-3,500,000				
Total, Air National Guard	147,791,000	147,500,000	152,170,000	179,228,000	158,508,000
Military construction, Army Reserve	95,100,000	79,900,000	81,702,000	87,303,000	85,958,000
Rescission	-1,800,000				
Total, Army Reserve	93,300,000	79,900,000	81,702,000	87,303,000	85,958,000
Military construction, Naval Reserve	73,737,000	48,400,000	54,400,000	72,075,000	60,900,000
Rescission	-1,200,000				
Total, Naval Reserve	72,537,000	48,400,000	54,400,000	72,075,000	60,900,000
Military construction, Air Force Reserve	79,300,000	58,800,000	65,800,000	72,675,000	70,600,000
Rescission	-2,000,000				
Total, Air Force Reserve	77,300,000	58,800,000	65,800,000	72,675,000	70,600,000
Total, military construction (net)	5,268,434,000	5,743,100,000	[1]5,744,510,000	5,582,123,000	5,700,843,000
Appropriations	(5,159,434,000)	(5,529,100,000)	(5,560,058,000)	(5,368,123,000)	(5,506,391,000)
Rescission	(-112,000,000)		(-29,548,000)		(-19,548,000)
Prior year advance appropriations	(221,000,000)	(214,000,000)	(214,000,000)	(214,000,000)	(214,000,000)
Family housing, Army:					
Appropriation	1,561,011,000	1,528,271,000	1,510,371,000	1,510,102,000	1,527,602,000
Rescission	-20,300,000				
Net	1,540,711,000	1,528,271,000	1,510,371,000	1,510,102,000	1,527,602,000
Portion applied to debt reduction	-2,746,000	-371,000	-371,000	-371,000	-371,000
Subtotal, family housing, Army	1,537,965,000	1,527,900,000	1,510,000,000	1,509,731,000	1,527,231,000
Family housing, Navy and Marine Corps:					
Appropriation	767,942,000	795,428,000	795,428,000	764,433,000	799,169,000
Rescission	-9,200,000				
Net	758,742,000	795,428,000	795,428,000	764,433,000	799,169,000
Portion applied to debt reduction	-1,801,000	-128,000	-128,000	-128,000	-128,000
Subtotal, family housing, Navy and Marine Corps	756,941,000	795,300,000	795,300,000	764,305,000	799,041,000
Family housing, Air Force:					
Appropriation	844,293,000	922,966,000	937,451,000	867,266,000	910,951,000
Rescission	-14,700,000				
Net	829,593,000	922,966,000	937,451,000	867,266,000	910,951,000
Portion applied to debt reduction	-1,433,000	-66,000	-66,000	-66,000	-66,000
Subtotal, family housing, Air Force	828,160,000	922,900,000	937,385,000	867,200,000	910,885,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	FY 1988 Enacted	FY 1989 Estimate	House	Senate	Conference
Family housing, Defense agencies	20,700,000	20,700,000	20,700,000	20,700,000	20,700,000
Homeowners Assistance Fund, Defense	2,800,000	2,000,000	2,000,000	2,000,000	2,000,000
Total family housing (budget authority)	3,196,746,000	3,269,365,000	3,265,950,000	3,164,501,000	3,260,422,000
Total rescissions	-44,200,000				
Total portion applied to debt reduction	-5,980,000	-565,000	-565,000	-565,000	-565,000
Total, family housing	3,146,566,000	3,268,800,000	3,265,385,000	3,163,936,000	3,259,857,000
Foreign currency fluctuations, Construction, Defense	85,000,000				
Coast Guard shore facilities				50,300,000	50,300,000
RECAPITULATION					
Total, new budget (obligational) authority (net)	8,279,000,000	8,797,900,000	8,795,895,000	8,582,359,000	8,797,000,000
Appropriations	(8,435,200,000)	(8,797,900,000)	(8,825,443,000)	(8,582,359,000)	(8,816,548,000)
Rescissions	(-156,200,000)		(-29,548,000)		(-19,548,000)
Prior year advance appropriation	(221,000,000)	(214,000,000)	(214,000,000)	(214,000,000)	(214,000,000)
Grand total (incl. adv. approp.)	8,500,000,000	9,011,900,000	9,009,895,000	8,796,359,000	9,011,000,000

Mr. LOWERY of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join my friend and subcommittee chairman in bringing to the House floor the conference report on H.R. 5486, making appropriations for military construction for the Department of Defense for fiscal year 1989.

First, I would like to thank the chairman of our subcommittee for his leadership and diligence in bringing this bill to conference. It is because of the gentleman from North Carolina's efforts that we are on the House floor today.

We had over 350 line item differences to iron out, but we are bringing back to the House a conference report which is a good and fair compromise. However, as our chairman pointed out, there is one item in true disagreement on which I join the chairman in asking our colleagues to support the House position.

The total appropriation recommended for this bill is $9 billion. This is an increase of $1.1 million over the amount passed by the House in May. It is $214.6 million over the Senate-passed bill. It is $900,000 under the President's request and within the 302(b) allocation for both budget authority and for outlays.

Mr. Speaker, the conference agreement provides $927.9 million for military construction for the Army. Within this amount funding is provided for:

A chemical demilitarization facility at Tooele Army Depot, UT;

The Light Infantry Division at Fort Wainwright and Fort Richardson. In addition, an advance appropriation of $214 million is available for Fort Drum, NY;

The upgrade of facilities in Palmerola, Honduras, however, this money may not be obligated until the next administration certifies its position on the need of these activities in Honduras; and

Support facilities for Hohenfels training area in Germany.

For the Navy, the conference agreement has allocated $1.6 billion for military construction. Within this amount funding is provided for:

The strategic homeporting concept, however, no funds have been provided for homeporting in San Francisco;

The TACAMO mission at Tinker Air Force Base, OK;

Naval Intelligence Command headquarters in Maryland;

The first phase of the relocation of the Naval Support Activity, Naples, Italy; and

To purchase relocatable generators for a powerplant at Subic Bay in the Philippines. However, no projects can be constructed in the Philippines until the Department certifies that based on the base rights negotiations, it is prudent to proceed with construction.

Mr. Speaker, the conference agreement provides $1.2 billion for military construction for the Air Force. Within this amount, funding is provided for:

The beddown of the advanced technology bomber at Whiteman Air Force Base, MO;

Rebasing of the KC-135;

An independent wind tunnel drive system and a large rocket test facility at the Arnold Engineering Test Facility, TN;

Facilities in support of the over-the-horizon radar (OTH-B) Elmendorf Air Force Base, AK; and

I also would like to note that funding has been deferred for the rail garrison system at F.E. Warren Air Force Base, WY, pending approval on deployment of the system by the next administration and the Congress. In addition, funding for the initial phase of a new Titan IV launch complex at Vandenberg Air Force Base has been deferred due to lack of authorization.

Mr. Speaker, the conferees have designated $679.5 million for the defense agencies. Within this amount, funding is available for a national test facility for the strategic defense initiative at Falcon Air Station, CO, and funding for medical facilities and schools throughout the world.

Mr. Speaker, the conference agreement provides $492 million for the U.S. share to the North Atlantic Treaty Organization infrastructure.

Mr. Speaker, there is a total of $605.1 million in support of the Reserve components, within this agreement. This includes $229 million for the Army National Guard; $158.5 for the Air National Guard; $85.9 million for the Army Reserve; $60.9 million for the Naval Reserve; and $70.6 million for the Air Force Reserve.

Mr. Speaker, the conference agreement provides a total of $3.3 billion or 37 percent of the total bill, for construction and operation and maintenance of family housing. This includes funding for 3,451 new family housing units, of which 3,103 are to be built in the United States.

In conclusion, I would like to remind my colleagues that while many projects included are important to our national defense, all are important to the men and women of our Armed Forces. Improving how they work and live as well as fight. The House conferees have done a good job in maintaining the House position and I ask my colleagues to support us on the conference agreement.

□ 1330

Mr. SPEAKER, I reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. DICKS], a member of the subcommittee.

Mr. DICKS. Mr. Speaker, I rise in very strong support of this military construction conference report.

Mr. Speaker, I want to commend the chairman and our ranking member for the outstanding leadership that they provided the House on this important legislation.

I also want to say that I believe this subcommittee has two very outstanding staff members who work with both sides of the aisle in a highly constructive way.

I also believe that this bill represents a great emphasis on the needs of the soldier, sailors, marines, airmen who serve our country.

Mr. Speaker, this is a bill that gets down to housing and those kinds of basic issues which are essential to retention, and I want to particularly compliment our chairman for his diligence in making certain that these basic requirements and necessities are taken care of, and I again want to compliment him on his cooperation.

In the State of Washington we have a number of these important facilities. The chairman has been very open to working with us on them, and I just want to say that I thank him for that cooperation.

Mr. HEFNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Speaker, I appreciate the opportunity to work with the chairman of the Military Construction Subcommittee, Mr. HEFNER, the ranking minority member, Mr. LOWERY, and all the subcommittee members and concur fully with the fine statement made about this subcommittee and their efforts in this bill to see that we take care of national defense at home. After all the support of the people at home is the strongest thing we have in our defense effort. I particularly thank the chairman of this subcommittee, the ranking minority member, and the staff for a job well done.

Sooner or later we have to realize that we have to depend on the National Guard and Reserve. The history of the world shows that is where the strongest base for national defense starts—where they can work and contribute to the economy during the week and to national defense on the weekends.

Mr. HEFNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY] for a colloquy and for a statement he would like to make.

Mr. BILBRAY. Mr. Speaker, the activation of the 474th Tactical Fighter Wing at Nellis Air Force Base had certain report language that was in the authorization bill of the Department of Defense of the Committee on Armed Services. I would like to read that language in at this time and ask the chairman if he agrees with that and would send a letter to the Secretary of the Air Force as to that language.

> The committee is concerned about the continued drawdown of force structure within the total Air Force and its impact on readiness. The action to deactivation an entire combat wing at Nellis Air Force Base, Nevada is especially alarming. In connection with the deactivation of the 474th Tactical Fighter Wing, the committee directs the Secretary of the Air Force to retain 18 of the 72 F-16 aircraft at Nellis AFB to modernize an aggressor unit. Six additional aircraft would be retained in support of the Thunderbirds, the U.S. Air Force demonstration team stationed at Nellis.
>
> The committee is also concerned about the impact of the deactivation on military and civilian personnel affected by these actions. To the maximum extent possible, affected civilian personnel should receive priority placement in other available positions for which they qualify at Nellis Air Force Base. Within Air Force guidelines, affected military personnel should be used to fill authorized vacancies in the Nellis area prior to being transferred to other installations.
>
> The committee supports the Secretary of the Air Force's decision to base 5 F-15E aircraft at Nellis Air Force Base for testing and evaluation. Nellis offers some of the best training facilities in the world, and the committee believes that the base should be given strong consideration in looking for future sites to test new and advanced aircraft.
>
> At present, no Air National Guard unit is located in southern Nevada. The committee, therefore, directs the Commander in Chief of the National Guard Bureau to study the feasibility of establishing an Air Guard unit in southern Nevada, and report the findings to the Committees on Armed Services of the Senate and House of Representatives by March 1, 1989.

To the chairman: Is this agreeable, and would he direct the letter to the Secretary of the Air Force?

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. BILBRAY. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I fully agree with the concern of the gentleman from Nevada [Mr. BILBRAY] involving deactivation of the 474th Tactical Fighter Wing. This is report language that was included in the authorization report.

I will communicate my approval to the Secretary of the Air Force.

Mr. MATSUI. Mr. Speaker, today we have the opportunity to act on an important piece of legislation. Before us we have the Senate-House conference report on military construction appropriations for the fiscal year 1989. This bill addresses many important projects, including the need for proper housing for members of our armed services. Moreover, this legislation provides necessary funds to construct military facilities which help to ensure that the national security of the United States is maintained.

This bill also contains a provision which is very important to the Sacramento area. The California National Guard has proposed the relocation of the 149th Combat Communications Unit and the 162d Combat Communications Group to Mather Air Force Base in Sacramento. The present facility, at McClellan Air Force Base in North Highland, CA, no longer has adequate space available for the supplies, training facilities, and administrative services needed for the combat groups. The relocation of the 149th and 162d Combat Communications Units to Mather Air Force Base will allow the California Army National Guard to continue their role in support of National Guard missions.

Mr. Speaker, this is indeed an important piece of legislation. Our armed services personnel both home and abroad deserve quality housing. Further, this bill provides for measures designed to increase the efficiency and effectiveness of our army services and for these very important reasons, I urge my colleagues in both Houses to vote for its passage.

Mr. CONTE. Mr. Speaker, I want to take this opportunity to recognize the good work that the gentleman from North Carolina and chairman of the subcommittee, BILL HEFNER, has done in this conference. In cooperation with the gentleman from California and ranking member, Mr. LOWERY, and the other House managers they have worked out a compromise that will provide the bricks and mortar for our national security for fiscal year 1989.

There was a lot of give and take but in the end our managers have come up with a conference report that works within the framework of last year's budget summit numbers.

Mr. Speaker, this is the sixth conference report that we bring to the House floor, for individual approval, within the guidelines of the budget summit agreement of last November.

We are on track for producing the most remarkable record of producing individual appropriations bills in the last quarter of a century. That is only possible because of the dedication and hard work of the members of the committee.

Mr. Speaker, this is the right way to do business. The President has asked us to send down individual bills. The members, including myself, have expressed their disdain for continuing resolutions. My leadership has made it clear they are in favor of individual bills. And we are proceeding down that path.

Furthermore, enactment of this bill will reduce the likelihood of sequestration by an estimated $44 million.

I want to congratulate the subcommittee chairman, Mr. HEFNER, and the ranking minority member, the very distinguished representative of San Diego, Mr. LOWERY, for their accomplishment.

Six down and seven to go.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the military construction appropriations bill for fiscal year 1989. I would first like to commend my chairman, Mr. HEFNER, Senator SASSER, and the ranking minority members, Representative BILL LOWERY and Senator ARLEN SPECTER for crafting a bipartisan and fiscally responsible bill. The conference committee has managed to draft a bill which meets the budget summit agreement of last fall and is less than the President's request. I would also like to thank the professional staff for their invaluable assistance.

As a conferee to the bill, I would like to take this opportunity to reiterate my support on several issues which we addressed this fiscal year.

First, I am pleased that the Senate accepted the House position to defer all funding for the MX rail garrison system until its deployment is approved by the next administration and Congress.

Second, I support the requirement of a report by the Department of Defense on the planned future uses of cruise missiles and Pershing II bases which will be vacated under the INF Treaty.

Third, the conferees are committed to a more equitable distribution of our defense burden among our allies. Defense spending as a percentage of the gross national product in the United States is almost 7 percent while the NATO allies average about 3.3 percent. I understand that this figure does not recognize other nonnumerical contributions by our allies, yet this is an indicator of the need for more fairness in providing mutual defense in these austere times.

Fourth, I want to again express the concern of the conferees about the lack of a strong physical plant revitalization program. The average age of our buildings is 50 years. There is a clear need to replace our existing facilities. However, the budget as proposed would equate to a facility replacement rate of more than 100 years. I believe that without adequate funding our buildings will deteriorate beyond all repair thus impacting productivity and quality of life.

The final issue I would like to bring to the attention of my colleagues is the need to replace the dilapidated World War II vintage barracks. Almost 245,000 service members reside in these insufficient housing units. At a time when recruitment and retention is a priority, it is imperative that our service men and women live in quality housing thus encouraging reenlistment.

The military construction bill appropriates a total of $8.8 billion for military construction—$5.5 billion—and family housing—$3.3 billion—in fiscal year 1989. The recommendations in this bill are consistent with the overall program level of the House authorization bill for military construction.

The committee has developed a bill which enhances both readiness and quality of life programs. I urge support of the bill.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the conference report accompanying H.R. 4586, military construction appropriations for fiscal year 1989. In so doing, I also wish to commend the chairman of the subcommittee, Mr. HEFNER, for his distinguished leadership on this bill.

The bill trims about $900,000 million from the President's budget request for military construction. I believe that the committee has made some tough, but wise, choices in achieving these reductions. The committee has properly insisted on the House positions on NATO burden sharing and relocation costs for the 401st Tactical Fighter Wing. The House directed that European members of NATO accelerate their payments for NATO infrastructure programs and that they alone absorb and share relocation costs for moving a tactical fighter wing from Spain to Italy. Without question, we must insist that our NATO partners shoulder an increasing share of collective defense costs, even as we recognize the need to consult more closely with our allies on issues of common concern.

May I also point out to my colleagues that the conference report includes funding for a National Guard armory in Minot, ND. These funds will help to implement the agreement in last year's Defense authorization bill, which provided for an increased National Guard role in North Dakota. The city of Minot takes great pride in its enthusiastic support of both the National Guard and the U.S. Air Force. With such support, it comes as no surprise that Minot Air Force Base was recognized this year as the outstanding base in the entire Air Force. I expect that a new armory will help to promote even greater performance by local Guard units, too.

This bill further includes funding for aerospace medicine research at the University of North Dakota. The university's Center for Aerospace Science is a national leader in aviation education and aerospace science. The provision in the bill will facilitate research on aerospace medicine in response to requests from the Air Force, the National Institutes of Health, NASA, and other Federal agencies. The school is uniquely positioned to carry out this mission, since it is located only a few miles from a major Strategic Air Command facility, the Grand Forks Air Force Base.

Mr. KOLBE. Mr. Speaker, as a member of the Military Construction Subcommittee I rise in support of the conference report on H.R. 4586.

Mr. Speaker, this conference report concurs with the position of the House on most of the major issues. It's not a perfect piece of legislation, but overall, it's a good bill.

I have one major concern about this bill which touches the very heart of one of the major legislative issues of this year: the war on drugs and who is going to pay for it. I represent a district which borders on Mexico and I know well the problem of drugs flowing unchecked across our borders. I am second to none in this body in my concern for the poisoning of our children's minds by drugs. However, I have deep reservations about the trend that is being set this year—that of expecting the Department of Defense to pay for other department's work in the war on drugs. In this conference report we have accepted a Senate provision forcing the Department of Defense to spend over $50 million to make capital improvements for the U.S. Coast Guard. This doesn't belong in this bill; it should be in the Department of Transportation appropriations bill.

The conference report also includes a Senate provision forcing the Air Force to design a hangar for the exclusive use of the Customs Service at Davis-Monthan Air Force Base in my district. Obviously, I would like to see this hangar built. It is important for the Customs Service and it will help enormously in the war on drugs. However, I cannot support forcing the Air Force to pay for a hangar that will be used exclusively by the Customs Service.

I object to these tactics. I object to the assumption that the Department of Defense milcon budget can become the capital improvements budget for the entire Federal Government. We have precious few resources devoted to military construction as it is. My continuing frustration with this issue is that our subcommittee is not allocated sufficient funds to modernize our facilities at an efficient rate. The total defense budget for this year is $299 billion; only 3 percent or $8.8 billion is allocated for military construction this year. It is impossible to replace and renovate our military facilities at an efficient rate on such a small wedge of the defense pie.

My colleagues on the subcommittee and I have often remarked that if any business spent such a small portion of their budget on their physical plant, their buildings and facilities would soon collapse. It is ridiculous that we routinely expect our military personnel to live and work in outdated, often dangerous, buildings. The outcome of our policy on military construction is obvious when you visit our military facilities and see so-called temporary buildings constructed during World War II still in use.

And yet, despite the terrible working and living conditions on many of our bases here and abroad, we now expect the Department of Defense to underwrite capital improvements for the entire Federal Government. Some people say, "Well, the Department of Defense has billions and billions of dollars in its budget—they can afford this piddling little $4 or $5 million item." In the case of this bill we are talking about $50 million. That's roughly one-seventh of the entire Coast Guard construction budget that we are funding in the Department of Defense bill. It isn't right, Mr. Speaker, and I strenuously object to it in principle.

As we adopt this conference report, I urge all my colleagues to think about this issue: Who is going to pay for the war on drugs? Congress will have to give some real answers to this question. I hope the leadership and the authorizing committee still give this matter the serious consideration it deserves in the 101st Congress.

Mr. LOWERY of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The **SPEAKER** pro tempore (Mr. **Volkmer**). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **LOWERY** of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 26, not voting 19, as follows:

[Roll No. 310]

YEAS—386

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Coughlin
Courter
Coyne

Craig
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)

Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)

Lujan
Luken, Thomas
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris

Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)

Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—26

Ackerman
Armey
Bunning
Conyers
Crane
Crockett
DeFazio
Dellums
Dreier

Fawell
Frenzel
Gekas
Hayes (IL)
Henry
Leland
Lukens, Donald
Owens (NY)
Roberts

Russo
Savage
Sensenbrenner
Smith, Denny (OR)
Tauke
Upton
Walker
Weiss

NOT VOTING—19

Badham
Barnard
Brooks
Buechner
Byron
Cheney
Emerson

Garcia
Jones (NC)
Kleczka
Mack
MacKay
Mica
Richardson

Stark
Thomas (CA)
Towns
Vander Jagt
Waxman

□ 1355

Mr. **HENRY** changed his vote from "yea" to "nay."

Mr. **TAYLOR** and Mr. **LEVIN** of Michigan changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The **SPEAKER** pro tempore (Mr. **Volkmer**). The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 1: Page 2, line 4, strike out "$877,630,000" and insert "$924,551,000".

MOTION OFFERED BY MR. HEFNER

Mr. **HEFNER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. **Hefner** moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$927,292,000".

Mr. **LOWERY** of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the **Record**.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. **Hefner**].

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 2, line 18, strike out "$1,591,850,000" and insert "$1,565,318,000: *Provided, however*, That of such funds the $38,080,000 appropriated for the Tacamo Mission shall not be available for obligation or expenditure before October 15, 1988".

MOTION OFFERED BY MR. HEFNER

Mr. **HEFNER**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. **Hefner** moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$1,576,516,000 of which amount, $38,080,000 for the TACAMO mission shall not be available for obligation or expenditure before October 15, 1988, and, of the amount appropriated, funds allocated for homeporting at Everett, Washington may be obligated and expended for any homeporting military construction activity at that installation, except actual dredging and disposal of contaminated sediment, and that such funds may be expended for actual dredging and disposal of contaminated sediments once requirements of the Federal Water Pollution Control Act have been satisfied,".

Mr. **LOWERY** of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the **Record**.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 3, line 2, after "therefor" insert ": *Provided further,* That of this amount, $50,300,000 shall be available only for construction, rebuilding, and improvement of shore facilities of the United States Coast Guard".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"COAST GUARD SHORE FACILITIES

"For construction, rebuilding and improvement of shore facilities of the United States Coast Guard, $50,300,000 to remain available until September 30, 1993".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 3, line 7, strike out "$1,293,406,000" and insert "$1,227,599,800, $12,800,000 of which shall be available solely for the purpose of the construction of the Unified Transportation Headquarters Building at Scott Air Force Base".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$1,225,926,000".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 6, line 22, strike out "$170,278,000" and insert "$179,778,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$197,278,000".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 6, line 23 strike out "$1,510,371,000" and insert "$1,510,102,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$1,527,602,000".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 7, line 8 strike out "$240,440,000" and insert "$211,445,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$244,181,000".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 7, line 9, strike out "$795,428,000" and insert "$764,433,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from it disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$799,169,000".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore (Mr. VOLKMER). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 7, line 11, after "1993" insert ": *Provided further,* That of this amount, not to exceed $50,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1987".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein.

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 34: Page 15, after line 2, insert:

SEC. 126. None of the funds appropriated in this Act for operations and maintenance of family housing may be used for contract cleaning of family housing units.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 126. Of the funds appropriated in this Act for operations and maintenance of family housing, no more than $30,000,000 may be obligated for contract cleaning of family housing units.

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 15, after line 2, insert:

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea: *Provided*, That funds may be utilized for operations, maintenance, and improvements of only those units already built or under construction by June 6, 1988.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 37: Page 15, after line 2, insert:

SEC. 129. None of the funds appropriated in this Act may be obligated or expended for the purposes of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1989.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "128".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 38: Page 15, after line 2, insert:

SEC. 130. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "129".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 40: Page 15, after line 2, insert:

SEC. 132. None of the funds appropriated in this Act or any other Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: *Provided*, That the goal of the National Test Bed shall be to stimulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost-effective at the margin, and survivable.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 130. None of the funds appropriated in this Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: *Provided*, That the goal of the National Test Bed should be to simulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost-effective at the margin, and survivable.

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there any objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. Hefner].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment follows:

MOTION OFFERED BY MR. HEFNER

Senate amendment No. 41: Page 15, after line 2, insert:

Sec. 133. None of the funds appropriated in this Act for use by the Department of Defense in fiscal year 1989 may be used for the purpose of the design or construction of any facilities relating, directly or indirectly, to the deactivation, relocation or transfer of any part of the 474th Tactical Fighter Wing at Nellis Air Force Base, Nevada.

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Hefner moves that the House insist on its disagreement to the amendment of the Senate numbered 41.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. Hefner] will be recognized for 30 minutes and the gentleman from California [Mr. Lowery] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Hefner].

Mr. HEFNER. Mr. Speaker, I move that the House insist on its disagreement to the amendment of the Senate numbered 41.

The SPEAKER pro tempore. The motion is pending. Does the gentleman wish to debate the motion?

Mr. HEFNER. Mr. Speaker, I yield back the balance of my time.

Mr. LOWERY of California. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. Hefner].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 45: Page 15, after line 2, insert:

Sec. 137. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Hefner moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 131. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. Hefner].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4782, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT 1989

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4782) making appropriations for the Department of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion

The Clerk read as follows:

Mr. Conte moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 4782, be instructed to agree to Senate Amendment numbered 171.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Conte] is recognized for 1 hour.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I normally do not offer or even support motions to instruct conferees, as I do not believe we should tie the hands of our own negotiators before a conference even begins.

But these are not normal times.

As we appoint the conferees for the final three appropriations bills here this afternoon, we face a very real danger of sequestration of at least $10 billion from our national defense and domestic programs.

In a "Dear Sil" letter dated September 8, the director of the Office of Management and Budget warned that we are already within $400 million of the deficit trigger level for sequestration. And that is before counting the appropriations which would be necessary for the pending antidrug and child care authorization bills, which would add another $2.7 billion.

When you figure in some technical reductions now anticipated by OMB, the potential Gramm-Rudman-Hollings deficit for fiscal 1989 is $147.5 billion, or $1.5 billion higher than the sequestration trigger. And when sequestration comes, the cuts must be made all the way back to a deficit level of $136 billion, meaning a reduction equally divided between defense and domestic spending of $11.5 billion.

Quoting from the OMB Director's letter:

> With this in mind, I must stress the necessity of finding offsets for additional spending measures such as the drug bill. I must also stress the importance of conference action to restrain individual domestic appropriations bills, many of which exceed their Gramm-Rudman-Hollings baselines.

I agree with Jim Miller, and I will point out that the Senate version of this Commerce, Justice, State, and Judiciary appropriations bill exceeds the baseline by $274 million. The House bill is slightly below that baseline, but that is only because the House deferred action on all unauthorized programs and assumed funding for these programs at an absolute freeze level. The conferees will be under great pressure to move toward the higher Senate levels.

My motion to instruct may be viewed as merely symbolic, but I believe it is an important symbol to send at this time. The motion instructs the House conferees to agree to a Senate amendment requiring all agencies and Departments funded in the bill to absorb within their appropriated amounts any pay raises which might go into effect in fiscal 1989.

According to the Congressional Budget Office, this Senate amendment will reduce budget authority by $154 million and outlays—meaning the deficit—by $124 million. My motion is intended to lock in these savings.

We need to send this message for all of the conferees we are appointing today. Hold the line wherever possible.

I urge your support for the motion.

□ 1445

Mr. Speaker, I yield 10 minutes, for the purposes of debate only, to my good friend, the gentleman from California [Mr. Dannemeyer].

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts [Mr. Conte], for yielding me this time.

This Member from California had a motion to imstruct conferees which I would have offered for consideration by the House, but I will be prevented from doing so at this time because a Member senior to me, in this instance a member of the committee, has in effect exercised that opportunity through the medium of filing a motion to instruct conferees himself. Accordingly, I will be limited to my remarks at this time, and at the conclusion of the consideration of this issue I will ask my colleagues to defeat the previous question so that I will be allowed to offer an amendment to the motion to instruct conferees that is now pending.

My reason for taking this time is to relate to my colleagues what my motion would entail. In 1934 Congress enacted 18 U.S.C. 1464, which prohibits the broadcast of any obscene or profane language by means of radio. In 1978 the U.S. Supreme Court upheld the constitutionality of this act of 1934 in the decision involving Pacifica, in the case of FCC versus Pacifica Foundation.

In 1987, for reasons that are not entirely clear to this Member, the FCC adopted a regulation whereby indecent broadcasting would be permitted on radio between midnight and 6 a.m. For this purpose, the FCC defined "indecent" as "depicting or describing in terms patently offensive, sexual, or excretory activities and organs."

Now, why in the world the FCC believes that we should be permitting this kind of trash to be on the airwaves of America is beyond my imagination, but that is what they did. Then, in 1988, the radio broadcasters filed a suit against the FCC contending that this definition was unconstitutional, in that it was vague and indefinite as to what was meant by "indecent."

The circuit court of appeals, upheld the regulation of the FCC, but remanded the case to the trial court for determination as to whether or not the hours in which we can have this trash on the airwaves of America were proper. So, at this point I think it is proper that we should set policy in this country. The FCC does not set policy. We have delegated some authority to them, but if it is the policy or the purpose of the FCC to permit indecent language to be disseminated on the airwaves of this country, I think we in Congress, through the medium of this motion to instruct conferees, should say for the American people that we do not want this kind of trash to be disseminated on the airwaves of America.

Bear in mind that 98 percent of American homes have a television. The average American home has five radios. Recent Arbitron ratings from New York, Los Angeles, and Chicago, show that one-third of all children between the ages of 12 and 17 listen to the radio after midnight. Videocassette recorders provide children with delayed access to indecent programming, irrespective of broadcast time. There is no time of the day in which indecent and obscene language can be transmitted without potential exposure to children.

I want to refer back to the decision of the U.S. Supreme Court in 1978 which upheld the constitutionality of the act of Congress in 1934 which bans any obscene, indecent, or profane language by means of radio communication. The U.S. Supreme Court in that decision, based its judgment, affirming the constitutionality of the ban, on the grounds that it is appropriate to safeguard the morality and well-being of youth, and to protect the parental supervision of children. For those two reasons, the constitutionality of the ban of the U.S. Supreme Court was upheld.

I believe that we should, here and now, defeat the previous question so that this Member will be in a position to offer an amendment to this motion to instruct conferees, so that the House will have an opportunity of expressing its will on the issue.

You may recall, Mr. Speaker, that we went through a similar exercise earlier this year in the 100th Congress relating to the point where we got a rollcall vote up or down on the substance of Dial-a-Porn. Ultimately, the House prevailed and we voted overwhelmingly to ban Dial-a-Porn. We now have a similar issue revisited with respect to the airwaves of this country, and again we have the broadcasters working their way through this process in some means, to prevent this motion that this Member from California seeks to offer to the House for consideration. I do not think we should submit to that kind of pressure. I think we should defeat the previos question, on this motion by my colleague from Massachusetts [Mr. CONTE] so that I will have an opportunity of offering my motion so that Members would then be accountable to their constituents as to whether or not they want to permit the FCC continue with their apparent course of authorizing the use of broadcasting in America for the purpose of disseminating for our children and all of us to hear and see, indecent materials as depicting or describing in terms patently offensive, sexual, or excretory activities and organs.

Why we need this trash on the airwaves of America I will never know, but that is the issue, and I ask for your vote on the motion defeating the previous question.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, ordinarily I oppose motions to instruct, but I think we ought to note the merits of this issue here today. The motion instructs us to agree to something that we are going to have to agree to, in my judgment, and I think it serves a purpose because it points out to the Members the problem we have on this bill. It instructs the conferees to agree to Senate language which in effect says they must absorb all of the pay raise that we know is going to come in January and February.

Ordinarily, these agencies would be expected to absorb 22 percent of the pay raise. This means they will absorb the other 78 also. If we don't agree to that, then we are scored in this bill by CBO for $124 million in outlays that we just simply don't have. We are held in this bill at a freeze level for law enforcement. Now, everybody knows we need more now, everybody knows we need more for law enforcement.

We have had a bill here on the floor for several days now to enhance the war against drugs. Members talk about increasing the penalties for drug law violations so that such offenders have to stay in prison longer. We do not have enough prison beds now. We cannot lock those prisoners up for a longer period. There are not enough prison beds to keep such prisoners for the length of time the law now requires.

There are a number of things in the bill that just cannot be done under the appropriation level that we have been allowed in this year's bill.

Now, the gentleman from California says he wants to add to this very important motion to instruct, very meritorious language that we have to adopt, in my judgment. He want to add something that does not deal with money at all, but deals with some language in the Senate bill that attempts to deal with pornography, but as a matter of fact, what it does, is to mean there will not be any regulation of indecent language on TV or radio by the FCC.

The court has ruled that with regard to obscene language, that can be regulated 24 hours a day, but to try to regulate, indecent language 24 hours a day is unconstitutional. What the FCC has done is eliminated it 18 hours a day, and are now in the process of determining how they can determine what additional hours it can be regulated or prohibited.

If the motion of the gentleman from California passes, you will not have anything that prohibits indecent language or obscene language, either one. So there will not be any regulation against obscene or indecent language until the matter is cleaned up by the court, probably a year or two from now.

So, a vote against the previous question on the Conte motion at the end of this debate, is a vote for the Dannemeyer motion. What you are voting for when you say that, is you do not want the FCC to have any regulation on either obscene or indecent language. That is what you are voting on. It is just as plain as it can be. I do not disagree with the gentleman's description of the court case. He was pretty accurate about what he said. But that is the ultimate result of voting for the Dannemeyer motion, is that you do not want anything done about either obscene or indecent language.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I move the previous question on the motion.

The SPEAKER pro tempore (Mr. VOLKMER). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 204, nays 210, not voting 17, as follows:

[Roll No. 312]

YEAS—204

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Bevill
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Campbell
Cardin
Carr
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Crockett
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (OK)
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hatcher
Hawkins
Hayes (IL)
Hertel
Horton
Hoyer
Hughes
Jeffords
Jenkins
Johnson (CT)
Jones (NC)
Jones (TN)
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCurdy
McHugh
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pease
Pelosi
Pepper
Perkins
Pickle
Porter
Quillen
Rahall
Rangel
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schumer
Sikorski
Skeen
Skelton
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stokes
Stratton
Studds
Swift
Synar
Torricelli
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Yates

NAYS—210

Andrews
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Bryant
Bunning
Burton
Byron
Callahan
Carper
Chandler
Chapman
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Dannemeyer
Darden
Daub
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Hall (OH)
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Leath (TX)
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Lewis (FL)
Lightfoot
Livingston
Lloyd
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Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCloskey
McCollum
McCrery
McEwen
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McMillan (NC)
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Slaughter (NY)
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Smith, Denny (OR)
Smith, Robert (NH)
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Solomon
Spence
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Stenholm
Stump
Sundquist
Sweeney
Swindall
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Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
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Upton
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Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Williams
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—17

Badham
Barnard
Buechner
Cheney
Emerson
Garcia
Kemp
Leland
Mack
MacKay
McDade
Mica
Murtha
Pursell
Stark
Towns
Wortley

□ 1522

Messrs. ST GERMAIN, CHAPMAN, BATEMAN, and YATRON, Ms. SNOWE, Mr. TAUKE, Mr. THOMAS A. LUKEN, Mrs. SCHROEDER, Messrs. SHAYS, McCLOSKEY, HUCKABY, RAY, DORGAN of North Dakota, McMILLEN of Maryland, RICHARDSON, SLATTERY, SKAGGS, CARPER, FEIGHAN, GOODLING, and HOCHBRUECKNER, and Mrs. SLAUGHTER of New York changed their vote from "yea" to "nay."

Messrs. UDALL, BEVILL, and STRATTON changed their vote from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER TO MOTION TO INSTRUCT CONFEREES ORDERED BY MR. CONTE

Mr. DANNEMEYER. Mr. Speaker, I offer an amendment to the motion to instruct conferees.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER to motion to instruct conferees offered by Mr. CONTE: At the end of the Conte motion, add the following language: That the conferees be further instructed—to agree to the Senate amendment numbered 174, concerning the enforcement of section 1464 of title 18, United States Code.

Mr. DANNEMEYER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] is recognized for 1 hour.

Mr. DANNEMEYER. Mr. Speaker, I do not intend to take the full hour or anything close to it.

I think most of us in the Chamber understand what the issue is. My amendment will instruct the conferees to concur in the Senate amendment, which has the effect of banning indecent material on radio and television throughout the day and the night. It is that simple.

Earlier in this Congress, we voted overwhelmingly to prohibit Dial-a-Porn on the television communication networks of America. Now this presents us with the opportunity of saying with respect to the radio network and the TV network that we are going to have the same policy directed to the FCC. You are not to permit indecent or obscene language on the airwaves of this country at any hour of the day or night. This is what the Senate amendment says. That is what my amendment to the motion to instruct will achieve.

Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I want to point out exactly what we are doing here and the reason I opposed the previous motion that was made.

The Conte motion to instruct the conferees said that we were to agree with the Senate amendment, which provides that they must absorb in these various agencies the pay raise next January and February. It was necessary to do that. It will be necessary to do that in this bill under our limitations.

The gentleman from California wants to add to this instruction and say that the FCC shall promulgate regulations in accordance with section 1464, title 18, United States Code. That section of the Code says that there must be a prohibition on both indecent and obscene language and radio and TV. The court has already ruled there can be a 24-hour prohibition against obscene language, but a 24-hour prohibition against indecent language is unconstitutional. If the FCC develops regulations that are in accordance with that statute, it will not be enforceable. There will be no rule by the FCC that is enforceable, so a vote in favor of this is really a vote in favor of pornography, if that is primarily your consideration.

I will not ask for a recorded vote. I may end up voting for the motion, because I am really for the Conte motion to instruct the conferees on its merits, and both are incorporated in one.

But the fact of the matter is that on the previous vote, a no vote was not having a rule that could be enforced for a whole year on pornography. That is what it was.

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the amendment.

The **SPEAKER** pro tempore. Without objection, the previous question is ordered on the amendment and on the motion to instruct conferees.

There was no objection.

The **SPEAKER** pro tempore. The question is on the amendment offered by the gentleman from California [Mr. Dannemeyer] to the motion to instruct conferees offered by the gentleman from Massachusetts [Mr. Conte].

The amendment to the motion to instruct conferees was agreed to.

The **SPEAKER** pro tempore. The question is on the motion to instruct conferees offered by the gentleman from Massachusetts [Mr. Conte], as amended.

The motion to instruct conferees, as amended, was agreed to.

The **SPEAKER** pro tempore. The Speaker will appoint conferees when he returns and resumes the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On September 8, 1988:

H.J. Res. 539. Joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week";

H.J. Res. 583. Joint resolution designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Week";

H.R. 2370. An act to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes;

H.R. 3679. An act to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes; and

H.R. 3960. An act to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes.

On September 9, 1988:

H.R. 1841. An act to provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes;

H.R. 4143. An act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.R. 4318. An act to improve the administration of the personnel systems of the General Accounting Office; and

H.R. 5174. An act to make clarifying, corrective, and conforming amendments to laws relating to Indian education, and for other purposes.

On September 13, 1988:

H.R. 1158. An act to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

□ 1530

CONFERENCE REPORT ON H.R. 4387, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. STOKES. Mr. Speaker, I call up the conference report on the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore (Mr. Gray of Illinois). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 11, 1988.)

The **SPEAKER** pro tempore. The gentleman from Ohio [Mr. Stokes] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. Hyde] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Stokes].

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 4387, the Fiscal Year 1989 Intelligence Authorization Act. This was an intelligence conference on which the two committees reached swift agreement. Essentially, in terms of legislative content, it includes the House provisions and several Senate provisions not originally found in the House bill. These include a requirement for regular reports to the Intelligence Committees on the appointment and activities of the CIA's inspector general and 1-year special death gratuity extended for defense attachés killed because of hostile or terrorist acts.

The funding authorized by the bill, which is set forth in the classified schedule of authorization incorporated by reference, is described in detail in the classified annex to the statement of managers accompanying the conference report. Both are available for the review of all Members of the House in the Offices of the Intelligence Committee. I can say that your committee is pleased with the recommendations for funding contained in those documents.

I wish to commend all members of the committee on conference for their participation throughout the year in the budget authorization process and, particularly, the gentleman from Wyoming [Mr. Cheney], the ranking minority member of the Subcommittee on Program and Budget Authorization. As always, the committee has relied greatly on the assistance and helpful cooperation of Mr. Hyde, the ranking minority member of the full committee, in reaching this conference agreement.

Mr. Speaker, I believe that the impression is sometimes given that the Intelligence Committee is deeply divided on partisan basis. It is true that there are such issues from time to time but, in my experience as a member of this committee and particularly as chairman, they have been rare and, where the divisions have occurred, they have been on principle. They have been fairly debated and Members have debated the issues with respect for each other's sincerely held positions.

But this bill, which represents the major, annual recurring work of the committee, reflects, as it has for so many years before, strong bipartisan agreement by all members of the committee on the appropriate level of resources and administrative authorities for our Intelligence Services. These agencies are, as I have said in the past, among the finest, if not the finest, in the world.

The committee believes that the level of funding recommended in the conference report is appropriate and will sustain the kind of intelligence capabilities and the level of intelligence activities necessary to protest this country and provide its policymakers and military commanders with the necessary intelligence information. Obviously, we would all wish that more resources were available for intelligence but they are not available and likely will not be available in the years to come at the same levels of growth as they have been in the past. Therefore, the intelligence challenge we will face in the future will be a tougher one than that which we now face. We will have to do more with less in the years to come. I think, however, that the recommendations of the committee on conference for fiscal year 1989 will stand us in good stead by permitting a level of intelligence activity sufficient to support U.S. foreign, defense, and economic programs.

I should note in closing that the fiscal year 1989 authorization levels recommended in the conference report are consistent with the budget resolution and fully congruent with those recommended in the fiscal year 1989 defense authorization bill vetoed by the President.

Mr. Speaker, this conference report is rather straightforward and fully supported on both sides of the aisle. I endorse it wholeheartedly and urge its adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Fascell], the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in support of the conference report, and I rise also for the purpose of making some legislative history here.

Mr. Speaker, I would like to engage the gentleman from Ohio, the distinguished chairman of the Intelligence Committee, in a colloquy. It is my understanding that the conference report currently before the House authorizes the appropriation of funds and personnel positions for the Office of Security Evaluation [SEO] under the direction of the Director of Central Intelligence.

It is my understanding that the Secretary of State and the Director of Central Intelligence are currently negotiating the parameters of the SEO in order that this unit can best assist the Secretary of State with respect to counterintelligence security standards at U.S. diplomatic facilities abroad.

It is my further understanding that there is at present a disagreement between the Secretary and the Director of Central Intelligence on the specific functions of the SEO. The Director believes that the SEO should independently set security standards for U.S. missions overseas.

The Secretary of State, however, under the law, is required to set such standards and insists that the SEO's function must be advisory to him. It is clear that this should be worked out amicably. The reason I raise this issue is that, while the Secretary of State sets and implements security standards, clear improvements in this area are imperative. Therefore, the technical expertise of the entire intelligence community must be put to work to collaborate in recommending standards that meet the threat. It is the Secretary's responsibility to set these standards and to see to it that they are enforced. It should be the SEO's responsibility to monitor compliance and to independently and objectively evaluate compliance.

Is it your understanding that the intent of this authorization is to authorize a joint operation under the Director of Central Intelligence which will be staffed with personnel from the Department of State and from other intelligence agencies? Furthermore, is it also your understanding that the intent of this authorization is to permit SEO to:

Inspect U.S. diplomatic facilities abroad and make appropriate recommendations with respect to counterintelligence security matters, and

Provide the necessary technical assistance and personnel to formulate and recommend counterintelligence security standards to the Secretary of State.

Finally, Mr. Speaker, is it also the understanding of the gentleman that this authorization does not lessen, change in any way, or otherwise conflict with the statutory authority of the Secretary of State to set security standards for our diplomatic and consular facilities overseas?

Mr. STOKES. Mr. Speaker, if the gentleman will yield, those are my understandings. The reason for this dispute is that there have been a series of failures in the security of U.S. missions overseas. It is my hope that this disagreement will be resolved swiftly and that the Secretary and the Director can agree on procedures that permit full and careful consideration of all counterintelligence and security issues before standards are promulgated. If not, the President should quickly act to make the necessary decisions.

Mr. FASCELL. I thank the distinguished chairman for his statement. Mr. Speaker, I include section 103 of Public Law 99-399, the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, regarding the Secretary of State's authority and responsibility with respect to embassy security in the Record at this point.

SEC. 103. RESPONSIBILITY OF THE SECRETARY OF STATE

(a) Security Functions.—The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(1) protection of all United States Government personnel on official duty abroad (other than those personnel under the command of a United States area military commander) and their accompanying dependents;

(2) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);

(3) establishment and operation of security functions at all Department of State facilities in the United States; and

(4) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(b) Oversight of Posts Abroad.—The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander); and

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander).

(c) Federal Agency.—As used in this title and title III, the term "Federal agency" includes any department or agency of the United States Government.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have listened to the colloquy between the two distinguished gentlemen and would like to add a few words.

I agree that this law does not purport to change any of several previous statutory provisions on authorities in this area. But we should also clarify that our colloquy is not intended to influence the manner in which the ongoing debate between the CIA and the State Department is resolved. That debate concerns whether the SEO should have additional authorities.

In my understanding, some contend that certain of the Secretary of State's traditional powers over embassy security already have been, or in the future should be, delegated to others—as allowed within the law. Some believe, for instance, that a prior memorandum between Mr. Shultz and Mr. Webster and a letter from Colin Powell delegated responsibilities to the Security Evaluation Office. Another issue is whether a formal appeals procedure should exist if the Secretary of State disregards the SEO's advice on standards, enforcement, or other measures.

There are differing opinions within the Congress on where the agencies should compromise and on what decision the President should make if the issue goes to him. But, as Mr. STOKES and Mr. FASCELL point out, that is where the decision should be made.

Being in the unique position of serving on both the Intelligence and Foreign Affairs Committees, I would like to add here a special plea. I certainly do not wish to see these proud bodies become a mere pawn in various turf battles, rather than concentrating on exercising their oversight function to ensure that the job gets done. This would cause lasting bitterness between the committees and impede desperately needed security improvements.

Just as I believe the State Department and the intelligence agencies must work together if these severe, worldwide, and long-term security problems are to be solved, so too I believe the Foreign Affairs and Intelligence Committees must cooperate closely and harmoniously. It will take all our combined wisdom, influence, and budgetary authorities to reverse decades of neglect. This is no time for jurisdiction battles, and there is plenty of work to go around. The Intelligence Committee certainly does not intend to diminish the Foreign Affairs Committee's role. On the contrary, we deeply appreciate the excellent work already done in this area by Mr. FASCELL and my other colleagues. We anticipate their further initiatives. Those of us on the Intelligence Committee wish to coordinate closely with them and complement their actions through our own measures.

Mr. Speaker, I want to join my distinguished colleague and good friend, Mr. STOKES, the esteemed chairman of the House Permanent Select Committee on Intelligence in urging the House to adopt this conference report. The chairman has adroitly summarized the main provisions of the conference report on H.R. 4387, the Intelligence Authorization Act for fiscal year 1989.

As noted already, it authorizes a classified amount for carrying on a range of important U.S. intelligence activities. It retains the House-passed provision which codifies the Defense Intelligence Agency's current policy to disclose to the next of kin all live sighting reports of any U.S. citizens who were POW's, MIA's, or otherwise unaccounted for in the Vietnam conflict. The conference report also includes the House bill's provision to establish a demonstration project to determine the effects of lump sum and periodic payments on the recruitment and retention of personnel and on field investigations in the New York field division of the Federal Bureau of Investigation. That field division has extremely important and taxing counterintelligence responsibilities. It is expected that the demonstration project will help us determine whether the proposed economic incentives will enhance counterintelligence capabilities in that significant locale.

The statement of managers accompanying the conference report notes with approval the efforts thus far of the intelligence community to support law enforcement agencies in their narcotics interdiction responsibilities. The conferees request a report from the Secretary of Defense and the Director of Central Intelligence, in concert with law enforcement officials, on this important subject by March 1, 1989. The statement of managers further makes clear that, while some progress has been made, we remain concerned about the intelligence community's foreign counterintelligence and security programs. The conference report therefore calls upon the Director of Central Intelligence to conduct a comprehensive review of the organization and effectiveness of U.S. counterintelligence and security efforts and report to the House and Senate Intelligence Committees his views on these matters with the fiscal year 1990 budget.

Of course, I cannot feel enthusiasm for every provision of the conference report. In particular, I, as well as the other Republican members of the Intelligence Committee, continue to believe that the usual annual prohibitory provision in this conference report against support to the Nicaraguan democratic resistance for military or paramilitary operations is a tragic mistake and cruel injustice. Nevertheless, as has been the case in recent years, the issue of aid to the Nicaraguan freedom fighters has been addressed in other legislation.

At this point in time, it is appropriate to remind the House that this will probably be the last intelligence authorization bill which Chairman STOKES will manage on the floor of this House. I for one, and I am certain the rest of the committee members and staff, will miss the quiet competence, good-natured fairness, and gracious goodwill of this warm-hearted gentleman during his stewardship at the helm of the Intelligence Committee. He is truly one of the kindest and finest individuals to have served in this institution.

In conclusion, I would urge the adoption of the conference report, and, in doing so, I take this opportunity to salute my good friend, LOU STOKES, for his leadership on this legislation and throughout the last 2 years as chairman of the Intelligence Committee.

□ 1545

It also should be mentioned that our committee is unusually blessed by very dedicated and able, keenly intelligent and energetic staff, Mr. Tom Smeeton of the minority, Steve Nelson of the minority, Diane Dornan of the minority, Marty Faga, Mile O'Neil and Diane Andrews of the majority, and several others. In fact, all of the staff are dedicated public servants and help make our difficult job somewhat easier.

Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I thank the gentleman from Illinois for yielding time to me.

Mr. Speaker, I rise to briefly address section 404 of the conference report. This section requires that all live sighting reports that correlate or could possibly correlate to an American missing in action from the Vietnam war be made available to the next of kin of that citizen.

I originally offered this language as an amendment to the intelligence bill when it was first considered by the House back in May of this year. It was the product of a compromise worked out between myself and Representative SOLARZ. I would like to take this opportunity to thank the chairman of the committee, Mr. STOKES, and the ranking minority member, Mr. HYDE, for keeping this important language in the conference report. I also thank the gentleman from California [Mr. LAGOMARSINO], the gentleman from New York [Mr. SOLARZ], and the gentleman from New York [Mr. SOLOMON] for their support and efforts to work out this compromise language.

Mr. Speaker, the purpose of section 404 is simple. It would place current POW/MIA disclosure policy into law. It is the culmination of nearly 4 years of work on my part and on the part of many of my colleagues on both sides of the aisle.

While I fought for and would have preferred stronger disclosure language, as contained in H.R. 2260, a bill that I had introduced in April of last year, I believe section 404 is an important first step. Family members of our POW's and MIA's have suffered for far too long, waiting for any shred of information regarding the fate of their missing relative. They should have access to all reports regarding their relative, and section 404 will ensure that they do. It is long overdue and welcome.

Section 404 will also ensure that the next administration is bound by current policy. The POW/MIA issue is too important to be subject to partisan whims and political pressure. Our policy must remain consistent—from administration to administration.

Additionally, this section will put the DIA and other Government agencies on notice that we expect their fullest cooperation with the family members.

In closing, Mr. Speaker, it is fitting that this legislation should pass during this week as we celebrate POW/MIA recognition day this coming Friday. Hopefully, we will soon not need any more recognition days and will achieve a full accounting of all those listed as missing in action. I for one pledge to continue my efforts to achieve this goal and am heartened by the victory we have today. While it may be small, any victory is welcome when you are a family member who has waited for 20 years and heard nothing.

Mr. HYDE. Mr. Speaker, I thank the gentleman from New Hampshire for his comments.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from Illinois for yielding time to me.

Mr. Speaker, I rise in support of the Intelligence Act authorization and to point out an important provision relating to our POW/MIA's in Southeast Asia.

During consideration of this legislation in the House on May 26, 1988, I worked with my colleagues Bob Smith of New Hampshire, Jerry Solomon, Steve Solarz, and Ben Gilman in offering an amendment that would require all intelligence agencies to make available to the families of our missing servicemen all records and reports, including live sightings, which correlate or could possibly correlate to their next of kin. This amendment maintains the privacy of the families and protects our sources and methods of intelligence collection. In other words, it codifies into law the current Defense Department "full disclosure" policy, and will bind the next administration. This Smith amendment became part of the bill, without objection, and, as chairman of the House POW/MIA Task Force, I am very encouraged that it was retained by the conference.

The crafting of this provision, and the strong support it has received, clearly shows the solid, unified, bipartisan way Congress is helping to resolve the fate of these brave Americans. This amendment is also endorsed by the National League of Families—the relatives of our POW/MIA's. Of course, the real obstacles to gaining the fullest possible accounting of our POW/MIA's lie in Hanoi, not Washington.

I urge my colleagues to join me in supporting this important measure and ensuring that America's longing POW/MIA families receive the information to which they are entitled about their missing fathers, brothers, husbands, and sons.

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, section 404 of the conference report is identical to section 404 of the House-passed bill. This section was offered as an amendment by the gentleman from New Hampshire [Mr. Smith] and was language that had been worked out between the Intelligence and Foreign Affairs Committees, the POW/MIA Task Force, the Defense Intelligence Agency, and the National League of Families. It is an accurate and straightforward codification of the current DIA disclosure policy with respect to information, including live sightings, about POW/MIA's from the Vietnam era. It is a responsible piece of legislation and I applaud the interest of the gentleman from New Hampshire in working with the committees on it.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Lungren], a very valued member of our committee who will be leaving us, unfortunately, at the end of this year.

Mr. LUNGREN. Mr. Speaker, as a member of the committee I would just like to add my words to those of others in terms of concern expressed over the level of security that presently exists at missions around the world. I hope that the statements that were entered into the Record here today will guide the State Department and others to take seriously the mission that they have in this regard. I want to make it clear that it is a bipartisan concern and it is a bipartisan hope that that concern will be addressed.

Second, as a Member who has had the opportunity to work for 2 years on this committee, I still have a concern as to the emphasis we have on the counterintelligence side of our operations. I believe the authorization that we bring forward gives us an opportunity to have that emphasis expressed.

Finally, Mr. Speaker, as we talk about these various things, it seems sometimes that we are reluctant to express the qualities that we find in the personnel who are involved in our intelligence community representing the United States, both within this country and around the world. I for one would like to say that my 2 years' experience on this committee has given me an insight into the quality of people we have working in this field and the tremendously simulating, in an intellectual sense, activities they are involved in, and the enormous contribution they make to our country as well as the sacrifices they make. Because of the nature of the work, much of what they have done is not commonly talked about or publicly expressed. Nonetheless, it seems to me important that we acknowledge the work that they have done, and that we let our constituents know that they are tremendously well served by the men and women who presently populate our intelligence services. Perhaps many times they are taken for granted, sometimes because they are out of the public eye, but other times just because they happen to be doing a very, very good job. Mr. Speaker, they are doing an indispensable job; in other words, one we could not possibly do without.

I thank the gentleman from Illinois for yielding me this time.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STOKES. Mr. Speaker, I yield myself such time as I many consume.

Mr. SPEAKER, I just want to take an additional moment to add my comments to the notification that the gentleman from California [Mr. Lungren] also will be leaving this committee. He has certainly been one of the valuable members of this committee and one whom we have depended upon a great deal during the time of his service on this committee. His service has certainly been outstanding, and we want to congratulate him not only for the service he has rendered to this committee, but for the service he has rendered in this body.

I also want to acknowledge with appreciation the comments of my distinguished friend and the ranking minority member of this committee, the gentleman from Illinois [Mr. Hyde], a gentleman for whom I have had great respect and admiration in this body. Serving with him on this committee has been a real delight for me. We have never had a disagreement on any issue. We have worked in strictly a bipartisan manner to try and do the business of this committee.

While philosophically there may be issues upon which we have disagreed, in terms of matters related to the national security of this Nation and the operation of this committee, it has been a real pleasure to work with him, and I appreciate very much the contribution he makes to this body.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. McHugh], a member of this committee.

Mr. McHUGH. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in support of the conference report. As the chairman and the gentleman from Illinois [Mr. Hyde] have indicated, this conference report enjoys bipartisan support, which I think is a tribute, among other things, to the quality of work of the intelligence community, the quality of the leadership of the committee on both sides of the aisle, and to the quality of the staff that serves us all so well.

☐ 1600

I think from time to time there is controversy surrounding aspects of the work of the intelligence community and, unfortunately, that tends to mask the broad support that the intelligence community truly enjoys.

The work that it does is critically important to the security of the United States. Ninety-five percent of the work that it does is understood to be critical to our national security and in fact enjoys bipartisan support which is reflected in this bill.

I would also like to take a moment, Mr. Speaker, to add my words of admiration and commendation to our distinguished chairman. I have had the privilege of serving on this committee now for 4 years.

One of the great benefits in doing so, among many, has been in serving under two very distinguished chairmen, the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Ohio [Mr. STOKES].

These gentlemen are among the very best that public service has to offer, not only in this Congress but in the country. It is a real joy and an education to serve with them and to learn from them and in some small way to contribute with them to the work of this committee which is so important to the Congress and to the country.

I also want to commend the ranking member, the gentleman from Illinois [Mr. HYDE], with whom I sometimes disagree on a small fraction of issues, but for whom I have great admiration as well.

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the distinguished gentleman from New York who is chairman of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, not only for his nice remarks but for the type of service he has rendered both to this committee and to this Congress.

It has been a real joy to serve with MATT who is one of the most able Members of this body. I certainly appreciate the service we have had together.

Last, Mr. Speaker, I just want to say that we have been privileged on this committee to have the benefit of one of the finest, most professional staffs that I have ever been privileged to serve with on any committee here in the Congress. No amount of praise can be given them that is unwarranted. They are some of the finest people that I have ever had the privilege of working with and this Congress is indeed fortunate to have the services of this staff.

Mr. TRAFICANT. Mr. Speaker, I rise in strong support of the conference report on H.R. 4387, the Intelligence Authorization Act for Fiscal Year 1989. I want to commend my esteemed colleague from Ohio, LOUIS STOKES, for the leadership he displayed in crafting this legislation. Chairman STOKES was a key member of the joint congressional committee that investigated the Iran-Contra affair and has been a leader in reforming and improving United States intelligence operations.

The conference report we are considering today includes several provisions designed to avoid the serious foreign policy blunders we saw in the Iran-Contra affairs. Mr. Speaker, if we learned anything from the Iran-Contra affair it is that the executive and legislative branches must work together to address vital national security problems. Complex and important covert actions cannot be contracted out and performed by private individuals or government agencies not experienced in covert or intelligence activities.

The conference report on H.R. 4387 addresses some of the concerns that were raised during the Iran-Contra affair by providing that any assistance to the Nicaraguan Contras must be explicitly authorized and approved by Congress. Mr. Speaker, despite almost 8 years of fighting against the Sandinista government, the Contras have yet to display the type of unity, sense of purpose, and widespread support so vital to any democratic movement. Most disturbing is the fact that the Contras have been led by individuals more concerned with personal gain and power than with establishing real democracy in Nicaragua. The inept, greedy, and corrupt leadership of the Contra movement will doom that movement to failure—no matter how much aid we send them.

Mr. Speaker, I join with my Democratic and Republican colleagues in condemning the Sandinista government's refusal to loosen their grip on power and allow true democracy to take root in Nicaragua. As much as I oppose the Sandinistas, I do not believe that further aid to the Contras will result in democracy for Nicaragua. However, because of the vital importance of this issue, it is essential that any future shipments of aid to the Contras be thoroughly debated by Congress.

That is why I strongly support the language included in the conference report that bars the CIA, Department of Defense, or any other agency or entity of the Federal Government from providing funds, material, or other assistance to the Contras unless authorized in this or separate legislation. This provision is broader than the language currently in place which prohibits assistance to the Contras by any entity engaged in intelligence activities. This loophole allowed the Reagan administration to justify the National Security Council staff's activities in the Iran-Contra affair by claiming that the NSC is not an intelligence agency.

Mr. Speaker, we live in a dangerous world. This reality demands that the United States undertake certain essential covert actions to protect our security. Because of the sensitive and vital nature of many of these activities, it is essential that the President inform the Congress of covert actions in a timely manner and work with the Congress to protect and ensure national security.

The Iran-Contra affair is tragic proof that America cannot afford to have major foreign affairs initiatives undertaken by inexperienced cowboys. Hopefully, H.R. 4387 will prevent another embarrassing and damaging foreign policy debacle from ever taking place.

Mr. Speaker, there is one other important provision in this bill that I would like to make note of. The bill requires any department or agency funded under the bill which has live sighting reports of United States citizens unaccounted for in the Vietnam conflict, to make such reports available in a timely manner to the next of kin. The families of the thousands of MIA's from the Vietnam conflict still are haunted by the fact that their loved ones still might be alive in Southeast Asia. If any U.S. Government agencies or departments have information on live sightings of U.S. MIA's in Southeast Asia, this information should be provided to the next of kin as soon as possible.

Mr. Speaker, the conference report on H.R. 4387 is an important piece of legislation and I urge my colleagues to support its approval.

Mr. STOKES. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNUAL REPORT OF ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION FOR 1987—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Public Works and Transportation:

(For message, see proceedings of the Senate of today, Wednesday, September 14, 1988.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on both motions to suspend the rules on which further proceedings were postponed on Tuesday, September 13, 1988, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4994, by the yeas and nays, and H.R. 5133, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

FEDERAL PRISON INDUSTRIES REFORM ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4994.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4994, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 252, nays 163, not voting 16, as follows:

[Roll No. 313]

YEAS—252

Ackerman
Akaka
Anderson
Andrews
Annunzio
Aspin
Atkins
AuCoin
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bryant
Bustamante
Cardin
Carper
Chandler
Clay
Clinger
Coats
Coelho
Coleman (TX)
Collins
Conte
Conyers
Costello
Courter
Coyne
Craig
Crockett
Davis (IL)
de la Garza
DeFazio
Dellums
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hawkins
Herger
Hertel
Hochbrueckner
Holloway
Houghton
Hoyer
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lowry (WA)
Lujan
Lungren
Manton
Markey
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McHugh
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Rangel
Ray
Richardson
Ridge
Rinaldo
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stokes
Stratton
Studds
Swift
Synar
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Udall
Vento
Walgren
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wolf
Wyden
Wylie
Yates

NAYS—163

Alexander
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Bonior
Boulter
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Campbell
Carr
Chapman
Chappell
Clarke
Clement
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Crane
Dannemeyer
Darden
Daub
Davis (MI)
DeLay
Derrick
Dickinson
Dornan (CA)
Dowdy
Dreier
Eckart
Edwards (OK)
Fields
Ford (MI)
Frenzel
Frost
Gallegly
Gaydos
Gekas
Gingrich
Glickman
Grandy
Gregg
Gunderson
Hammerschmidt
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hiler
Hopkins
Huckaby
Hunter
Hutto
Inhofe
Ireland
Kasich
Kolbe
Kyl
Lagomarsino
Lancaster
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Miller (OH)
Miller (WA)
Mollohan
Morrison (WA)
Murphy
Myers
Neal
Nielson
Oxley
Parris
Pashayan
Patterson
Payne
Penny
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Ritter
Roberts
Robinson
Rose
Schaefer
Schuette
Schulze
Sensenbrenner
Shuster
Skelton
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Wise
Wolpe
Yatron
Young (AK)
Young (FL)

NOT VOTING—16

Badham
Barnard
Buechner
Cheney
Emerson
Garcia
Horton
Kemp
Leland
Mack
MacKay
Mica
Stark
Towns
Waxman
Wortley

□ 1629

Messrs. DAVIS of Michigan, PORTER, PURSELL, TRAFICANT, SKELTON, McCRERY, FIELDS, McGRATH, RHODES, SLAUGHTER of Virginia, HUTTO, HOPKINS, FROST, DELAY, CHAPMAN, HAYES of Illinois, BEREUTER, and SPENCE, Mrs. VUCANOVICH, and Messrs. RAVENEL, CLEMENT, CAMPBELL, WISE, GLICKMAN, and MARTINEZ, and Mrs. BENTLEY changed their vote from "yea" to "nay."

Messrs. DAVIS of Illinois, SKEEN, and DIO GUARDI changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1630

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

INSIDER TRADING AND SECURITIES FRAUD ENFORCEMENT ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5133, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 5133, as amended, on which the yeas and nays are ordered.

The Chair repeats that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, not voting 21, as follows:

[Roll No. 314]

YEAS—410

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio

Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—21

Badham
Barnard
Bevill
Buechner
Cheney
Emerson
Garcia
Guarini
Horton
Leland
Mack
MacKay
Mica
Oakar
Oberstar
Stark
Torricelli
Towns
Waxman
Wilson
Wortley

☐ 1639

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

The SPEAKER. The Chair appoints the following conferees for H.R. 4781, the Defense appropriation bill for fiscal year 1989.

For all Senate amendments, except Senate amendment No. 276, and modifications thereto committed to conference: Messrs. Chappell, Murtha, Dicks, Wilson, Hefner, AuCoin, Sabo, Whitten, McDade, Young of Florida, Miller of Ohio, Livingston, and Conte.

As exclusive conferees only for consideration of Senate amendment No. 276 and modifications thereto committed to conference: Messrs. Obey, Wilson, Whitten, Edwards of Oklahoma, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 4782, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

The SPEAKER. The Chair appoints the following conferees to H.R. 4782, the Departments of Commerce, Justice, and State, the Judiciary, and related agencies appropriation bill for fiscal year 1989: Messrs: Smith of Iowa, Alexander, Early, Dwyer of New Jersey, Carr, Mollohan, Whitten, Rogers, Regula, Kolbe, and Conte.

COAST GUARD AUTHORIZATION ACT OF 1988

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 518 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 518

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER. The gentleman from Missouri [Mr. Wheat] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 518 provides for the consideration of H.R. 2342, the conference report on the Coast Guard Authorization Act of 1988. The rule waives all points of order against the conference report and against its consideration.

The rule also provides that the conference report be considered as having been read when called up for consideration.

Mr. Speaker, H.R. 2342 authorizes appropriations for necessary expenses of the Coast Guard for fiscal years 1988 and 1989. Included in the bill are funds for operations and maintenance acquisition and construction, research and development, retirement pay, medical care, bridge removal, and alteration.

Mr. Speaker, this legislation before us is a matter of great concern to all of us. I urge we adopt the rule so that we may proceed to consideration of this important conference report.

For the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen].

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees are to be congratulated for bringing back to the House a conference report deserving our support. It contains $2.7 billion for Coast Guard operations procurement, and research programs.

Mr. Speaker, this is a good conference report, and I know of no controversy. It is supported by the National Wildlife Federation, the Boat Owners Association of the United States, and the Sport Fishing Institute.

Mr. Speaker, I have no further requests for time, and I urge the adoption of the rule and the conference report when it is debated.

Mr. Speaker, I yield back the balance of my time.

☐ 1645

Mr. WHEAT. Mr. Speaker, I am pleased to present a rule that has such bipartisan support on an important conference measure.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. JONES of North Carolina. Mr. Speaker, pursuant to House Resolution 518, I call up the conference report on the bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 518, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 9, 1988.)

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes and the gentleman from Michigan [Mr. DAVIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill and its conference report have a very long and tortured history. Originally introduced in February 1987, the bill was then called the Coast Guard Authorization Act of 1987. The bill was passed by the House on July 8, 1987. The Senate changed it and passed it in October with the House passing it again in December. It then languished in the Senate until their calling for a conference in May of this year.

In light of these delays, the bill has now been expanded to be a 2-year authorization. I would like to briefly note some of the more important areas of the bill:

Section 2 of the bill authorizes appropriations, the amounts of which are in line with what was appropriated in fiscal year 1988 and what the administration requested in fiscal year 1989.

Section 3 authorizes personnel strengths which are very similar to those levels requested by the administration.

Section 6 of the bill contains the text of H.R. 3918, the Wallop-Breaux reauthorization. This bill authorizes appropriations and transfers for this important program for 5 years and will continue a successful program which has benefited both recreational boaters and sport fishermen. For a more detailed legislative history on this provision, please refer to House Report 100-786.

Section 27 establishes a Coast Guard rescue helicopter presence in Charleston, SC, and authorizes appropriations for that purpose.

Section 29 allows the Coast Guard to collect for assistance that it provides to film producers. This was not in either the House or Senate bill, but it was requested by the administration in its fiscal year 1989 authorization proposal.

Section 30 directs the Coast Guard to use all available resources to provide nonemergency assistance to boaters. Coupled with the language in the statement of conferees, this provision is intended to clarify congressional intent with regard to the Coast Guard's nonemergency assistance policy. This provision does not require that the Coast Guard change its current nonemergency towing policy, nor does it preclude a change in the future if the Coast Guard deems such a change to be necessary.

In closing, let me say that this bill was developed in the truest bipartisan fashion and it has the full support of the members on both sides of the aisle of the Committee on Merchant Marine and Fisheries. The delay in enactment of this important legislation is already intolerable.

Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Coast Guard and Navigation, the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it has taken a long time—much too long, in my opinion—to reach agreement with the Senate on the conference report to H.R. 2342, the Coast Guard authorization bill.

Because it has been more than a year since we first passed H.R. 2342, the bill has now been expanded to authorize Coast Guard programs for both fiscal year 1988 and fiscal year 1989, and some new provisions have been added, including provisions requested by the administration.

A great deal of effort has gone into this bill. It has strong support on both sides of the aisle in both Houses of the Congress. I trust this House will approve the conference report on which we have labored so long.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Speaker, I rise today to express my support for H.R. 2342, the Coast Guard Reauthorization Act of 1989, and to commend the excellent work our colleagues have done on this important legislation.

The Coast Guard is a fully fledged member of this Nation's defense forces. But its primary mission is the protection of life at sea along the U.S. coastline, and the policing of our coastal waters against drug smugglers. The bill we are debating today will help ensure that the Coast Guard continues its valiant service in both efforts.

I well remember the night, in March of last year, when a Soviet freighter sent out a desperate SOS from deep in the Atlantic Ocean. Seas were swelling to 20 feet, winds were gusting at 55 knots. The freighter, barely visible in the rain-swept night, was sinking fast. Coast Guard helicopters sped to the scene. In a daring rescue that is as remarkable for the guardmen's skill as for their luck, they succeeded in plucking each of the ship's 37 crewmembers from the deck of that doomed freighter.

As a member of the House Merchant Marine and Fisheries Committee, with oversight responsibility for the Coast Guard, I took a keen interest in the success of that rescue. And I know that it is an everyday occurrence for these men and women who test their courage against the stormy seas.

But as thankful as sailors in distress might be to hear the sound of a Coast Guard cutter or the whiring blades of its helicopters, there are others at sea who do not feel the same relief when the Coast Guard pulls into view. In the past 10 years, the Guard has arrested 8,500 drug smugglers trying to slip ashore with their deadly cargoes. Last year alone the Guard intercepted cocaine shipments weighing 26,000 pounds. That is more than $416 million worth of the white powder that is killing this Nation's youth and strangling its future. This too is what the Guard does on a daily basis.

Last year, the Guard's drug interdiction and sea rescue funding was cut substantially. Some of this was due to budget pressures, some because the administration had other priorities. Drug patrols, for instance, fell by 55 percent. Nine rescue stations, which between them had saved some 614 lives in recent years, were shut down. This cutback is something we cannot afford. I am supporting the bill now before us because it will help to see that the Coast Guard is well funded and can resume its important service to this Nation.

In closing, let me once again commend the fine work of my colleagues on the House Coast Guard Subcommittee and their counterparts in the Senate. The measure before us dedicates more than $5 billion over 2 years for the Coast Guard's operations, from its rescue missions to its drug interdiction activities. It will set aside more than $120 million for the next 2 years to support the Guard's boat safety program, which is especially important for my constitutents. And it will, I trust, help improve the Guard's inspection program.

I will support this measure, and I encourage my colleagues to do likewise.

Mr. DAVIS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I strongly urge the adoption of the conference report on the Coast Guard Authorization Act of 1988, I have a few remarks to add to the chairman's explanation. It has taken a very long, frustrating time to reach an agreement on H.R. 2342, and the Coast Guard has suffered during this waiting period. Many aspects of the Coast Guard's daily operations which rely upon provisions in H.R. 2342 were affected by this untimely delay.

Mr. Speaker, my colleagues Mr. JONES and Mr. HUTTO, have ably described this conference report and the reasons supporting the funding levels we are seeking for the Coast Guard. I would like to add that this bill represents a bipartisan effort on the part of the members of the Merchant Marine and Fisheries Committee and our colleagues on the Senate side. The funding levels authorized for fiscal years 1988-89 are those requested by the administration and are a very carefully calculated assessment of the Coast Guard's needs.

Among the provisions in this conference report are two which I specifically would like to address. The first relates to an exchange of property between the city of Grand Haven, MI, and the Coast Guard which results in mutual benefits for all parties involved. It is a fine example of a community working hard to maintain a close working relationship with a Federal agency. The second provision is the reauthorization of the Wallop-Breaux trust fund. This reauthorization was originally introduced by me last December as H.R. 3827, and I am pleased to say that this fund is one of the most successful user fee programs in Government. I take every opportunity to remind my home State of Michigan has more registered boaters than any other State. Clearly, the fuel taxes boaters have paid into the Wallop-Breaux fund have helped to make boating safer, they have helped to regenerate Great Lakes sport fishing, and they have provided resources to the Coast Guard on behalf of our Nation's recreational boaters.

As hard as we have worked on this conference report, there still remain other things which have been left undone. One of the primary requests by the Coast Guard was for the Secretary of Transportation to have the authority to lease icebreakers. This authority is becoming more and more essential as the need for replacement icebreakers becomes imperative and the budget situation makes procurements of that magnitude prohibitive. There were also several minor adjustments for the Coast Guard's officer personnel laws which we were unable to address. I sincerely hope we will address these, and other issues, in future legislation as quickly as possible.

In closing, I would like to say that the level of funding authorized in this conference report for the Coast Guard is not an extravagance on the part of the Federal Government. The Coast Guard cannot continue to survive in the future on the uncertain funding and dubious process of appropriation to which it has been subjected in recent years. Its ability to survive the unpredictable working of Congress over the past several years has proved how durable the U.S. Coast Guard has become. However there are limits and we should not continue to force the Coast Guard to prove this point. I urge my colleagues to support the Coast Guard Authorization Act of 1988.

Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise today in full support of the conference report on H.R. 2342 the Coast Guard Authorization Act of 1988. This bill authorizes appropriations for the Coast Guard activities in fiscal year 1988 and fiscal year 1989 at the full President's request. While this is by no means a fat budget it will allow the Coast Guard to adequately carry out its vital missions.

Besides simply authorizing Coast Guard appropriations this bill contains several other important provisions. It reasserts and clarifies that construction contracts performed in areas that are economically depressed should hire local workers. This provision also clarifies that a person within daily commuting distance for purposes of this statute must be permanent residents of the State from which they are commuting. This change is designed to alleviate what I feel was a misinterpretation by the Department of Transportation; namely, that a temporary resident could be within daily commuting distance. This has allowed contractors to circumvent past local hire requirements by bringing in out-of-state workers and then placing them in a temporary residence simply for the duration of the contract and then claiming that they are within daily commuting distance. I feel that the conference committee language is clear that such a result is not what Congress intended in a local hire requirement.

The bill also provides housing relocation assistance for Coast Guard personnel who are adversely affected by a large scale transfer or a base closing. This bill would allow Coast Guard personnel to be compensated for losses they incur because a large scale transfer temporarily depresses the housing market. This legislation would simply give Coast Guard personnel the same benefits that Department of Defense personnel have enjoyed for a number of years. The relocation assistance section will apply to any transfer or closing after January 1, 1988, this effective date is extremely important in order to protect those Coast Guardsmen who were adversely affected by last years Coast Guard wide realignment. This is extremely important to communities such as Juneau in my home State of Alaska.

Another section that is worthy of note is the section relating to towing services. The conference report simply clarifies the intent of Congress as to the Coast Guard Auxiliary providing towing services. I had the honor of serving as the ranking minority member of the Coast Guard and Navigation Subcommittee in 1982 when the Congress first initiated the policy that the Coast Guard was not to interfere with the private sector in nonemergency towing operations. I must state for the record that, to the best of my recollection, the Coast Guard Auxiliary was never intended to be included as part of the Coast Guard for purposes of nonemergency towing operations. The language of this legislation simply makes clear that Congress did not intend to prohibit the Coast Guard Auxiliary from providing towing assistance. The language of the conference report makes it clear that this clarifying language is not intended to overturn the recent compromise between the Commandant, the Coast Guard Auxiliary, and the commercial towing industry regarding towing policy.

Mr. Speaker, I will close by saying that this is important legislation and urge its adoption.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of this conference agreement.

It is important that the Congress reauthorize appropriations and make certain technical amendments to the aquatic resources trust fund—the Wallop-Breaux fund. Both the sport fishing restoration account and the boating safety account within that fund are financed from excise taxes on sport fishing equipment and certain boats.

The conference agreement substitutes the text of H.R. 3918 for section 6 of H.R. 2342. H.R. 3918 was jointly referred to the Committee on Ways and Means and Merchant Marine and Fisheries. No action was taken on H.R. 3918 by the Committee on Ways and Means.

The conference agreement on H.R. 2342 would amend the Internal Revenue Code to increase transfers to and expenditures from the boat safety account to better reflect actual revenues raised by the miscellaneous taxes and import fees which support the fund. The legislation also would reauthorize expenditures from the boat safety account through March 31, 1994.

Mr. Speaker, the conferees on this legislation from the Committee on Ways and Means are pleased that we were able to improve the funding of this popular boat safety account which provides financial assistance for a coordinated national recreational boating safety program for the States and the Coast Guard.

I would note, Mr. Speaker, that no action in this conference has in any way changed the jurisdictional responsibilities in this area of the two House committees, as provided under House rules and precedents.

I hope these legislative changes will carry us through the next 5½ years.

Mr. GILMAN. Mr. Speaker, I rise in support of the conference report on H.R. 2342, Coast Guard Authorization Act. I wish to commend the gentleman from Mississippi [Mr. WHITTEN] for helping to bring this measure to the floor.

The funding contained in this bill meets the President's 1989 budget request for the Coast Guard. The bill provides for a 2-year authorization for the Coast Guard, putting it on the same budget cycle as the Department of Defense. The bill's total authorization included $1.9 billion for fiscal year 1988 and $2.1 billion for fiscal year 1989 for Coast Guard operations and maintenance.

The importance of the Coast Guard in our struggle against drugs can not be overstated. It plays a crucial role in helping to interdict the flow of illicit drugs penetrating our borders by air and sea through such programs as Opbat [Operation Bahamas and Turks and Caicos] in the Caribbean Sea, and the Department of Defense's Ledet [Law Enforcement Detatchment] team program. The Coast Guard has the trained personnel and a good deal of the equipment to do a first-class job of interdiction; but it needs a first-class budget. This legislation is a step in that direction.

Accordingly, I urge my colleagues to support this measure. We have given the Coast Guard the very difficult task of interdicting the burgeoning flow of illicit drugs into our country. We cannot stand here in our Nation's Capital and call for a war against drugs if we do not properly provide our frontline troops with the resources they require to complete the dangerous mission we have assigned them. We must strongly support the Coast Guard, otherwise drug interdiction will remain out Nation's "Mission Impossible".

Mr. BOSCO. Mr. Speaker, I rise in support of the conference report on H.R. 2342, the Coast Guard Authorization Act. I wish to extend my appreciation to Chairman WALTER JONES and Subcommittee Chairman EARL HUTTO for their efforts on behalf of a Coast Guard bill which is fiscally responsible yet which enables the service to perform its essential missions vigorously.

This measure provides the Coast Guard with the funding it needs to carry out urgent search-and-rescue and drug interdiction missions as well as other important functions such as aiding navigation, providing fisheries law enforcement expertise, ensuring marine and boating safety, and assisting with environmental protection efforts.

The measure before us today authorizes $2.6 billion for the service in fiscal year 1988. This figure includes $1.9 billion for operations and maintenance, nearly $280 million for acquisition and construction, $20.1 million for research and development, and $386.7 million for retirement pay. The bill also authorizes $2.9 billion for fiscal year 1989.

Mr. Speaker, citizens throughout the Nation benefit from the Coast Guard's efforts, but a very special bond exists between the residents of my northern California district and those who serve in the Coast Guard. Many depend upon the Coast Guard to make their very livelihoods possible and to protect and quite often save lives.

The Coast Guard represents the difference between life and death for many in my district, and my constituents have developed a deep respect for the skill and professionalism of the service. I assure them that I will continue to fight for levels of funding which allow for a capable and modern Coast Guard.

If this Nation is not prepared to pay for an effective Coast Guard now, then far too many innocent boaters, fishermen, and others will be forced to pay later in the form of injuries, lost livelihoods, and lost lives. I urge my colleagues to join me in supporting this important measure.

Mr. PORTER. Mr. Speaker, I rise in support of H.R. 2342, the conference report on the Coast Guard reauthorization for fiscal years 1988 and 1989. In particular I would like to applaud the good work of Chairman JONES and BOB DAVIS, the chairman and ranking member of the full committee, and the chairman of the Subcommittee on Coast Guard and Navigation, EARL HUTTO, who has done such a fine job steering this bill through what were, at times, troubled waters.

The conference report authorizes a total of $2.1 billion for the Coast Guard's operating expenses. This amount is the same as the President's request, and should enable the Coast Guard to maintain the search and rescue stations around the country that continue to provide essential lifesaving services to our citizens. The conference report also includes full funding of $348 million for the acquisition, construction, and improvements account that will provide the Coast Guard the necessary physical resources to carry out its increasing role in drug interdiction and water safety.

We all know that over the last year the Coast Guard has been asked to take on increased responsibilities concerning our ongoing effort to halt the flow of drugs into our country. At the same time, we have worked with the Coast Guard to ensure that these new responsibilities did not come at the expense of the Coast Guard's historic responsibility of protecting and safeguarding our waterways.

The Coast Guard's lifesaving search and rescue stations are essential and deserve priority status. Passage of this conference report will ensure that the Coast Guard is able to carry out both of these vital missions.

Mr. MCMILLEN of Maryland. Mr. Speaker, I am pleased that the House has moved so quickly to bring this bill to the floor for our consideration. I want to reiterate my opposition to future cuts in Coast Guard funding that would necessitate facilities closings. One facility that is on the budget chopping block is the Curtis Bay, MD, repair yard. Scheduled for phase out by 1991, I believe that the Coast Guard has not carefully evaluated the economics behind their decision to close the yard. Of service to the fleet for the past 89 years, the Curtis Bay facility is the only one of its kind in the country. Workers there have shown that they can perform complex repairs to Coast Guard ships, both on-time and on-budget. This is important not just to Marylanders, but to all of us, as all Americans benefit from a Coast Guard that operates at peak efficiency. For this reason, I hope that you will join me in speaking out against the Curtis Bay yard closing. We must implore the Coast Guard to examine other feasible options for budget savings.

As I speak today, I am reminded of a bumper sticker that I saw recently on a trip up to Curtis Bay. It read "the United States Coast Guard: Big Job, Small Service." This slogan serves to remind us that we should not lose sight of the enormity of the Coast Guard's mission, nor the importance of funding it fully in the coming years.

□ **1700**

Mr. DAVIS of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I am wondering if the Chair can tell the Members what the schedule is for the rest of the day and where we stand with regard to potential votes between now and the end of the day.

The SPEAKER pro tempore. The Chair is awaiting the arrival of one Member on the minority side who will offer an amendment in the Committee of the Whole House on the State of the Union during further consideration of the drug bill.

Mr. WALKER. Mr. Speaker, how long could we expect consideration of the drug bill to go on?

The SPEAKER pro tempore. Approximately 1 to 1½ hours.

Mr. WALKER. Mr. Speaker, if we cannot have the minority Member over here, does the Chair intend perhaps having a call of the House?

The SPEAKER pro tempore. The Chair will recognize a Member for a 1-minute speech.

LEGISLATION TO ASSIST INDIAN VOCATIONAL EDUCATION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce legislation assisting the cause of Indian vocational education. Currently, only two tribal institutions exist nationwide which are solely dedicated to providing quality vocational education for American Indians: the Crownpoint Institute of Technology located in my own district in New Mexico, and the United Tribes Technical College in Bismarck, ND.

Over the past decade our Nation's economy has changed dramatically from an industrial-based economy to one that is increasingly service based. This has precipitated a change in our training needs as more and more of the jobs in high demand require specialized, vocational training.

These jobs range from the construction trade—masonry, plumbing, carpentry, electricians, sheet metal workers, and heavy equipment mechanics to food services, medical records technicians, nursing, and the computer fields, among others.

Many of these specialized employment fields can be taught in short-term training programs that yield high annual wages ranging from entry level wages of $8,500 to $20,400.

NEED FOR YOUR LEGISLATION: PROBLEMS OF THE RESERVATIONS

At the same time, problems in the national economy become magnified on many of our Nation's Indian reservations. American Indians currently suffer from one of the Nation's highest unemployment rates.

The unemployment rate of the Navajo Reservation is seven times that of the United States at large, with an average unemployment rate of 37 percent.

In addition, it is estimated only 55 percent of American Indians complete high school. College attendance rates for American Indians remain the lowest for any minority group with only 17 percent of young American Indians going to to college.

The reasons for this are many, including the hardships of leaving one's homeland to attend college in an unfamiliar urban environment, and the prohibitive costs of higher education.

For these and other reasons, it is imperative that we invest in vocational education, particularly as the Indian tribes of our Nation confront the problems of high dropout rates and unemployment through economic diversification and tribal economic development.

NEED FOR YOUR LEGISLATION: PROBLEMS AT CIT AND UTTC

Currently, the Crownpoint Institute of Technology and the United Tribes Technical College are the only two tribal institutions struggling to provide specialized vocational job training for American Indians. These two institutions are the only Indian tribal educational institutions which are not provided for by Federal authorizing statute.

Because they are not State institutions, they cannot look to city, county, or State mil levies for funding. Absent tax generating economies, tribal governments cannot provide adequate support.

As a result, their sources of funding are competitive and soft, and frequently absent. Without dependable funding, long-term planning becomes impossible. In fact, at times only portions of a course can be offered because a one-time funding source is no longer available.

More critically, at the end of one school year, it is not unusual for these institutions to be uncertain about whether they will be able to open for classes for the continuing year. In short, because of their unique status, they have been overlooked by every funding source and have simply fallen through the cracks.

IMPORTANCE AND SUCCESSES OF CIT AND UTTC

Despite the tremendous odds facing these institutions, the Crownpoint Institute of Technology has graduated over 1,150 Indian adults into the Nation's work force, skilled from among 25 fully accredited, intensive training programs. Virtually all of these graduates entered CIT unemployed and without any job skills.

Both the Crownpoint Institute of Technology and the United Tribes Technical College enable their graduates to leave the welfare rolls forever and become gainfully employed. More importantly, these institutions are critical to the transformation of these graduates into proud, productive citizens contributing to tribal and State economies.

WHAT YOUR LEGISLATION DOES

Among other things, the legislation I am offering today will provide a stable, basic funding source for these institutions based upon their current expenditures and costs.

It will also create a national Indian center for research in vocational-technical training designed to provide input into Indian economic development policy.

In closing, I emphasize that this Federal investment can be expected to be returned multifold. In just 6 years of employment, one graduate will have returned in taxes the cost of his or her education.

In New Mexico alone, one graduating class can be expected to earn $1.2 million in 1 year and contribute over $460,000 of the tax base. Contrast this to the cost of maintaining these individuals and their families on public assistance and it is clear this legislation is worthy of Federal investment.

The time has come to provide these valuable institutions serving Indian people the same basic funding opportunities afforded to all other educational institutions.

OMNIBUS DRUG INITIATIVE ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 521 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5210.

□ 1706

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, September 9, 1988, the amendment offered by the gentleman from California [Mr. LUNGREN] has been disposed of. The next amendment in order is the amendment offered by the gentleman from Illinois [Mr. DAVIS].

AMENDMENT OFFERED BY MR. DAVIS OF ILLINOIS

Mr. DAVIS of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DAVIS of Illinois: Page 198, strike out line 1 and all that follows through line 5 on page 199 (and redesignate accordingly).

Mr. ENGLISH. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. DAVIS] will be recognized for 5 minutes, and the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would first like to submit for their record the official Department of Justice position of this amendment. They support my amendment on the grounds that the provision for a national training center for prison drug rehabilitation program personnel is duplicative and contains inappropriate organizational structures.

The Department of Justice already has two Federal law enforcement training centers in Glencoe, GA, and Marianna, AZ, and is building a third in Artesia, NM. The Federal training centers are responsible for basic training of correctional officers and could be a possible already existing vehicle for drug rehabilitation training.

In addition, the Bureau of Prisons has facilities in Denver and Dallas which already have in-house drug rehabilitation training programs for prison officials. They also send people to classes for such training.

Finally, the idea of giving the National Institute of Corrections [NIC] the responsibility for a national program would be detrimental to their purposes. I realize that NIC supports the provision—sure they would like to have a new, permanent facility and I am sure all of us would like to have it in our district.

But the fact of the matter is that NIC is set up to respond to the needs of State and local prison officials. They are small and effective. If the change NIC's mission to a Federal one even in this area, then we are putting them in jeopardy of becoming bureaucratically bogged down.

The bottom line is that although this provision is backed by good intentions. It is an ineffective and inefficient use of taxpayers' money.

There are less costly ways to train prison officials to deal with drug rehabilitation, as I pointed out earlier, using already existing Federal facilities and we should look into those alternatives. In fact, the Department of Justice is probably already doing that and if they aren't we can urge them to do so.

I will offer an amendment later which takes the $22 million plus an additional $8 million and adds it to the offices of the U.S. attorneys, an area where the money is desperately needed.

I will make the arguments for that later on today, but I wanted Members to be aware that there is already a $13 million shortfall in the U.S. attorneys' account for fiscal year 1988.

And we are looking at anywhere from a $10.8 to a $21.7 million shortfall in fiscal year 1989 from the U.S. attorneys' current services request of $402 million—that is just to maintain the number of prosecutors not to add more.

Once the current services level of $402 million is reached, the $30 million from my amendment would provide approximately 137 additional attorneys and 137 additional support staff positions.

Unless we correct the fiscal year 1989 budget proposals, the existing litigative bottleneck will only be exacerbated.

The already alarming declination levels in the U.S. attorneys' offices across the country will increase.

The U.S. attorneys will not be able to accept new drug cases and many major drug offenders will not be prosecuted.

The Congress needs to wake up to the fact that all of the resources we pour into drug-related investigations are wasted unless we can prosecute and punish those drug offenders.

Vote for the Davis amendments to do just that.

Mr. ENGLISH. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise today in opposition to the Davis amendment to H.R 5210, which seeks to delete provisions in the bill included by the House Crime Subcommittee, on which I serve, establishing a national training center for Federal, State, and local prison personnel who conduct drug rehabilitation programs.

Mr. Chairman, during the Crime Subcommittee and full Judiciary Committee debate on the drug bill, no member of the committee spoke in opposition to this provision—either on the majority side or on the minority side. So I discount, to a large degree, the opposition of the administration to the Drug Rehabilitation Training Center.

Clearly, we need to stop the endless cycle of drug abuse and crime and a good place to start is in the correctional facilities themselves.

Effective drug-rehabilitation programs in our Nation's prisons—including a program such as this which would establish a center to train correctional officers in drug rehabilitation programs—could help curb this cycle and in the long run help us rein in our ever-increasing expenditures for prisons and prison construction. It makes good sense for us to maintain this language in the bill.

The National Governors' Association and the National Association of Counties are in support of this training center because they realize how important this type of effort is to State and local corrections.

It is the State and local law enforcement agencies which are on the front lines in the war against illegal drugs. That is why our committee has so strongly supported the State and Local Law Enforcement Assistance Program. It is State and local corrections officials who must deal with the criminals apprehended through stepped up enforcement efforts, and we should help them in rehabilitating and otherwise counseling for these prisoners.

I thank the gentleman from Oklahoma [Mr. ENGLISH], chairman of the Government Operations Subcommittee on Information and Justice, for his hard work and diligence in formulating this proposal and I urge my colleagues to support this important initiative by defeating the Davis amendment.

Mr. ENGLISH. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Subcommittee on Crime, the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, first of all, I want to congratulate the gentleman from Oklahoma for his leadership in this area.

Mr. Chairman, I vigorously oppose the gentleman's amendment. I understand what his purpose is. Glencoe is a law enforcement training center, and the appropriate institute would be the National Institute of Corrections. They would be the appropriate mechanism for training correctional officers.

It seems to me, in trying to spot and deal with substance abuse problems, and one of the reasons why we retained this in committee is because we felt it is important for us to begin developing this kind of training program. I am not sure it is appropriate for us to be developing this kind of training in a law enforcement institute, and that is what Glencoe is.

Mr. Chairman, we ought to be strengthening Glencoe and providing not just training for Federal authorities but State and local. It is the National Institute of Corrections that should have responsibility for assisting our corrections officers in better understanding the problems they are dealing with in our prisons. Our prison population consists of about 60 to 65 percent in many instances of people who have drug-related offenses.

Mr. Chairman, this is a serious problem, and we need to get about trying to provide the kind of training they need to try to deal with the problems on a day-to-day basis. That is why I oppose the gentleman's amendment.

Mr. ENGLISH. Mr. Chairman, I yield myself such time as I may consume.

□ 1715

Mr. Chairman, roughly one-third of all of those who are convicted of crimes today have committed those crimes while they are under the influence of drugs. Roughly half of those who are convicted of nonviolent crimes committed those crimes in relationship to drugs. Roughly 70 percent of all the violent crime in this country is drug related.

In this legislation we are spending hundreds of millions of dollars to offer rehabilitation to those victims, those people who are drug dependent, and certainly I think that it is proper that nowhere in this legislation, except in this provision for $14 million, are we addressing the problem of those people who have been sent to prison who may be drug dependent.

If my colleagues think that those people who have gone to prison are not receiving drugs, are not able to obtain drugs, are not using drugs in those prisons, they are sadly mistaken. At best we may have cut back on the size of the habit they have, but once they leave that prison, the chances are they are still going to be drug dependent, and once again they are entering this vicious circle.

Mr. Chairman, the purpose of a drug training center is to try to break this vicious circle. The objective is to try to provide an opportunity for those people who are drug dependent to have a chance to get off drugs before they leave that prison system.

We have, with a private program, an example of exactly how that can work. In Tucson, AZ, under a program known as Amnity we have cooperation with the city and State law enforcement officials providing people who have been convicted of drug related crimes, people who are drug dependent, sometimes two- and three-time losers who have been committed to this program at roughly half the cost of what it takes to send those people to a maximum security prison, those people are committed to a long-term rehabilitation program, not a detoxification program, a long-term drug rehabilitation program. Exiting that program they are having a better than 50-percent success rate.

If we can institute that type of program in our prison systems, whether it be on the city, State, or Federal level, certainly that will give us great returns not only because of the fact that we are going to have prison space available, and certainly we do not have that today, but also we are going to break that terrible chain of people leaving prison, drug dependent, committing additional crimes and reentering the system once again.

I suggest to Members that that is an investment that this country cannot afford to pass up.

In closing, Mr. Chairman, I would simply urge my colleagues to retain this particular provision in the bill. I would urge my colleagues to defeat the Davis amendment.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself my remaining 1 minute.

Mr. Chairman, let me say I agree, there are millions of dollars already in the bill for drug rehabilitation, and this Congressman knows a lot about prisons. I have two of the toughest prisons in the country in my district, actually three, Stateville, Joliet Correctional, and McDonaugh Youth Center, which are very close to my home, as a matter of fact.

Let me just say I sympathize with drug rehabilitation. I am for the money in the bill. I am trying to be fiscally responsible in pointing out that I think the organizational structure is wrong in this particular instance, and it ought to be struck, and we ought to be looking at money for U.S. attorneys.

If Members do not want to do that, that is fine. Let us go ahead and do some prison drug rehabilitation, but do not lose sight of the fact that we are never going to get anybody into the system other than what is there now if we do not have some more money in the U.S. attorney line in the later Davis amendment. And if it is the will of this House that the rehabilitation center go forward, then it is the will of this House. But the other item is equally as important.

The CHAIRMAN. All time has expired.

Mr. DAVIS of Illinois. Mr. Chairman, I ask unanimous consent that the gentleman from New Jersey [Mr. Hughes] be given 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] is recognized for 1 minute.

Mr. HUGHES. Mr. Chairman, the gentleman is absolutely right about the need for moneys for U.S. attorneys. We need to have resources in every link of the criminal justice process.

The gentleman might be interested in knowing that the gentleman from Florida [Mr. McCollum] and myself are offering an amendment that would provide up to $150 million from the forfeited drug assets to fund, among other things, prison construction, U.S. attorneys, the foreign cooperative investigative program diversion, among other uses, about five different uses. But there will be money in there for the U.S. attorneys.

I quite agree with the gentleman from Illinois, but I think in the final analysis we will save resources by training those that are caring for our prison population by sensitizing them to the problems in the prison system today, and that is precisely what the gentleman from Oklahoma [Mr. English] and the gentleman from Kentucky [Mr. Mazzoli], who worked very hard on this issue, are trying to do by in fact inserting this particular amendment.

So I think this will in fact save us money in the long run.

I thank the gentleman from Illinois.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Davis].

The amendment was rejected.

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Edwards of Oklahoma: Page 205, after the quoted matter following line 4, insert the following new subtitle:

Subtitle M—Civil Penalty

SEC. 6801. CIVIL PENALTY FOR POSSESSION OF SMALL AMOUNTS OF CERTAIN CONTROLLED SUBSTANCES.

(a) In General.—Any individual who possesses a controlled substance that is listed in section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) in an amount that, as specified by regulation of the Attorney General, is a personal use amount shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation. In determining the amount of a penalty under this subsection, the income and net assets of the individual shall be considered.

(b) Assessment.—A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

(c) Compromise.—The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(d) Judicial Review.—If the Attorney General issues an order pursuant to subsection (b) after a hearing described in such paragraph, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, seek judicial review of the order pursuant to section 1331 of title 28, United States Code, and chapter 7 of title 5, United States Code.

(e) Civil Action.—If an individual does not request a hearing pursuant to subsection (b) and the Attorney General issues an order pursuant to such subsection, of if an individual does not under subsection (d) seek judicial review of such an order, the Attorney General may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in subsection (d). In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

(f) Limitation.—The Attorney General may not under this subsection commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a).

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from Oklahoma [Mr. Edwards] will be recognized for 15 minutes and the gentleman from New Jersey [Mr. Hughes] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. Edwards].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Edwards amendment, which establishes a civil penalty for conviction of the possession of "personal use" amounts of a controlled substance, is a response to a sense of frustration in America over our inability to solve the drug problem, a frustration which stems in part from the inability of our criminal courts to effectively stop drug use.

Opinion polls ranking the most serious problems in America show drug abuse at—or very near—the top every time. Why? Because drug abuse, and the crime and destruction it carries, affects all of us. Not just the user, but society in general suffers tremendously because of the importation, sale, and use of these illegal substances.

The American people see the damage drugs cause in their communities and they realize that people who use illegal drugs, whether frequently or only occasionally, are not victims, but are victimizers. They victimize inner-city teenagers who pass up responsible jobs and sacrifice future dreams for the flashy clothes, jewelry, and expensive cars that drug running can buy. They victimize 375,000 babies a year, innocent addicts born at risk of health problems because of their mother's drug abuse. They victimize train passengers and automobile travelers, fellow workers and employers. They victimize law enforcement officers, DEA and FBI agents, Customs officials, Coast Guard personnel—and the list goes on and on and on.

Weekend cocaine snorters and joint smokers might think they have little in common with back alley heroin and LSD addicts, but both create a demand for illegal drugs that organized criminals in the United States and in foreign countries thrive on. In so doing they aid, abet, support, and sustain the enemy in our war against drugs.

Yet, drug users, are rarely called upon to pay for the damage they inflict on all of us because of their selfish indulgances. Too often, the only response Congress seems willing to offer is taxpayer money for free treatment centers and rehabilitation programs.

Treatment and rehabilitation are important, and this bill includes money for those programs which I support, but so is accountability and so is justice. This amendment will help bring more accountability and more justice to this very important legislation.

This amendment establishes a civil penalty for individuals convicted of possessing small amounts of a controlled substance. It is designed to hold the causal drug user accountable in a new way for the murders, smugglers, pushers, and dealers who exist to meet his or her private drug demand.

It does not replace any criminal penalty or decriminalize drug use in any way, in fact it does the exact opposite—it adds a civil penalty to the already existing criminal sanctions in a calculated effort to give law enforcement a new and effective means of dealing with small time users whose actions would otherwise be ignored because of our already overburdened criminal court system.

The amendment is decidedly civil in nature—not criminal. The sanctions imposed are capped at $10,000, similar to a noncontroversial civil penalty established in title 1 of this bill under the money laundering section, and much less than the $50,000 cap of a civil penalty for improper aircraft registration located in title 8 of this bill. And the amount of the penalty can be modified based on income or net assets. For individuals for whom $10,000 constitutes an unreasonable hardship, the amendment provides flexbility to establish a lower penalty.

Due process is fully satisfied by allowing the individual penalized to go through a hearing process, and, if not satisfied, to have the matter brought before a Federal judge in district court. In no case will an individual be denied access to a full and fair hearing before a penalty is assessed.

The amendment calls on the Attorney General to determine what constitutes a personal possession amount for each of the drugs listed such as heroin, LSD, PCP, cocaine, and marijuana. Individuals caught with personal use amounts of drugs would still be liable for any criminal sanction on the books now, but in addition could be assessed this new penalty of up to $10,000.

The additional civil sanction would in no way reduce the number of individuals now criminally prosecuted for possession of small amounts of drugs. What it would reduce is the number of individuals caught in possession of small amounts of controlled substances who are never charged for anything because someone thinks it isn't worth the effort to take them to court.

It should also be noted that the amendment is not meant to limit the options available to the Attorney General but to expand them. Therefore, the amendment gives complete freedom to the Attorney General to compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

It's a simple amendment. And it's designed to send a very simple message. If you use drugs—and you get caught, expect to pay the price in either criminal or civil penalties or both. Society has become increasingly disgusted with the crime, death, and human waste that your dirty habit spawns. If the courts are too crowded to accommodate the millions of you who commit these crimes every day, we will find another way to hold you accountable for what you do to our children, to our competitiveness, and our country. I urge my colleagues to support this very important amendment.

Mr. HUGHES. Mr. Chairman, I rise in strong opposition to this amendment. I have a great deal of respect for the gentleman from Oklahoma, but I disagree with him on this amendment.

This amendment seems to reflect either an intention to abandon the criminal justice system or else it could be construed as the decriminalization of possession of small quantities of drugs. Have your choice.

This amendment says that the criminal possession of a small quantity of drugs can be prosecuted civilly, and that a penalty of $10,000 can be imposed.

This amendment places the Attorney General in four conflicting positions: First, as the prosecutor of the case; second, as the judge of the fairness of the proceedings; third, as the jury for finding facts and rendering a verdict; and fourth, as the judge for imposing sentence. We have never had a system in which the duty to prosecute is merged with the responsibilities to find facts and impose punishment. This does it.

Such a position would make the American system of adversarial justice almost an impossibility in these cases. As parents and as a Nation, we have told our children that possessing drugs is a crime, a serious crime, and that they will be arrested and go to jail if they use drugs. What messages are we sending by the Edwards approach? It is a confusing signal at best.

Are we saying the possession of drugs is simply an administrative matter like having a driver's license revoked or obtaining a newspaper joint operating agreement? Current law is very clear. Drug use is a crime. It is wrong.

This amendment says that possession of and personal use of small amounts of dangerous drugs, like cocaine, crack, heroin, PCP, and LSD is an administrative matter, that there is no moral taint involved. This dilutes the clarity of the law's educational role. This is a message that we should be sending, not the one that we are sending by the Edwards amendment, if it carries.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, first of all I would like to congratulate my chairman on the excellent work he has done in producing the part of this bill which came out of the Judiciary Committee and our Subcommittee on Crime.

The question I would ask the gentleman is this: We do believe we have to move the effort against drugs away from just simple interdiction or dealing with the supply to dealing with the demand. Would the gentleman tell me was there anything that this committee did last week that is dealing with that question of hitting the demand factor?

□ 1730

Mr. HUGHES. I might say to the gentleman, the gentleman well knows because he worked with myself and Bill McCollum in developing the user accountability provisions. What clearer signal could you be sending really to the American public? And that is, as we did with the McCollum-Hughes amendment last week, that if you are convicted of drug trafficking or if you have two user convictions and you refuse to go into a rehab program, you are going to have certain benefits denied to you. I do not know how much clearer we can be.

This sends the opposite signal.

Mr. MAZZOLI. That is right. So my chairman tells me and tells the House and tells the country that in fact we have dealt with user accountability, we did so in the amendments we passed last week.

Mr. HUGHES. Absolutely.

Mr. Chairman, I would like to point out that section 6401 of the bill, dealing with the sense of Congress that proposals to legalize illicit drugs should be rejected, says that we should consider "proposals to strengthen and expand penalties for sale and use." Unfortunately this amendment is most accurately seen as a lessening of penalties, otherwise, why would the amendment only be limited to personal use amounts? If this really strengthened the penalties, then the authors would have written this amendment to apply across the board to all possession cases. If we adopt this Edwards amendment we are saying that we don't take seriously our sense-of-Congress resolution on page 183. We are either against legislation or we are not.

I am also concerned, frankly, about the equal application of this provision. How is the Attorney General going to decide who gets a civil penalty proceeding and who gets prosecuted and risks going to prison?

Will middle- and upper-class drug users, who may be able to pay $10,000 fines get civil penalties, while the poor, who would not be able to pay $10,000 fines get criminal prosecutions, records of conviction and prison?

There is no question that the accusation that someone possesses and uses drugs is a very serious charge, and carries a great stigma with it. We need only recall the case of the Supreme Court nomination of Judge Douglas Ginsburg which was terminated by allegations of marijuana use. In a criminal case, the procedural protections of the accused, who is presumed innocent, are well known. In this civil penalty scheme, what procedural rights does a person have who is charged with such a serious offense?

It is clear that there is no right to a trial by jury of one's peers in these cases. Is there a presumption of innocence? If so, how is it maintained? One reason asserted for this approach is to eliminate the burden of proof of "proof beyond a reasonable doubt." Generally in civil matters the complainant's case is proven by presenting a mere preponderance of the evidence—in mathematical terms simply 51 percent of the evidence wins. Are we comfortable that we will be convicting people of drug offenses on proof well below the reasonable doubt standard we use in all other criminal cases?

What other constitutional rights safeguards are we eliminating by this approach for persons who are accused of drug offenses, who would—if this were a criminal matter—would be presumed innocent at the outset?

I wonder if the sponsor of the amendment can tell me, is there a sixth amendment right to representation by counsel in these cases if the accused cannot afford to hire counsel?

Mr. Chairman, there have been no hearings on this amendment.

This came out of the clear blue. I think it is a bad idea. We considered it in subcommittee, we considered it in full committee and I might say that many of my colleagues backed away from it on both sides of the aisle in our committee because frankly it does open up a Pandora's box. It is a bad amendment and I hope my colleagues will reject it.

Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Fish].

Mr. FISH. Mr. Chairman, I rise in support of the Edwards amendment and urge my colleagues to adopt this valuable new tool for drug law enforcement. A theme in this year's drug legislation is user accountability. This was clearly demonstrated last week when this body adopted the McCollum amendment pertaining to eligibility for Federal benefits. Similarly, the Edwards amendment is intended to encourage Federal law enforcement to expand its efforts against drug users.

According to the language of this amendment, the Attorney General may assess a civil penalty of up to $10,000 against anyone who is found in possession of a personal use amount of a controlled substance. After such an assessment is made, the accused may simply pay the fine or request an administrative hearing. Judicial review of the decision of the hearing is also available. It is important to note that this new penalty does not take the place of any potential criminal sanction which may apply to the same conduct.

Mr. Chairman, the administration supports this amendment. The advantage of having such a penalty available is clear. The Department of Justice rarely has the opportunity to enforce Federal drug laws against users because of limited law enforcement resources. The expenditure of investigative and prosecutorial resources in small possession cases is simply not cost effective. However, by significantly reducing the Government's burden by creating the option of assessing a civil fine in small possession cases only, Congress can encourage greater Federal efforts against users.

This tool will be particularly valuable in Federal, State, and local cooperative efforts. A joint task force of this kind may target a certain geographical area with a zero tolerance operation. Every person found in possession of a controlled substance would be slapped with a Federal civil penalty, in addition to any other criminal sanction which may be pursued. This truly would be user accountability.

I strongly urge my colleagues to enact the proposal, Mr. Chairman. It is a key element of what is becoming a strong and bold statement by Congress to this Nation that drug use will not be tolerated.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. Rangel].

Mr. RANGEL. I would like to ask a few questions of the gentleman from New York [Mr. Fish]. Mr. Chairman, I respect his appreciation of the constitutional rights of all of our citizens so much. I wonder whether or not this Edwards amendment in his opinion was a substitute for the McCollum amendment which dealt with user responsibility, the criminal sanctions?

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, I do not quite understand the question. The McCollum amendment was adopted.

Mr. RANGEL. So this is in addition to the McCollum amendment which takes away the rights of those involved with drug abuse, violations in housing, education, veterans grants, and contracts, this is in addition to that, is that correct?

Mr. FISH. That is correct.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

It is in addition to it, Mr. Chairman, because the McCollum amendment addresses those problems with people who are using drugs who are also receiving Federal benefits. There are a large number of people who are drug users who do not receive Federal benefits and who go completely unscathed.

Mr. RANGEL. OK. Now I have some other questions. I only have 2 minutes.

That means that after a person has these Federal benefits taken away under the Edwards amendment it is also possible to fine them $10,000.

Mr. EDWARDS of Oklahoma. If the gentleman would yield further, yes, it is possible that if somebody is receiving an SBA loan and is using drugs——

Mr. RANGEL. I would like to reclaim my time, because I am trying to get answers. I understood McCollum. I am just trying to get a better understanding of the amendment of the gentleman from Oklahoma [Mr. Edwards].

It is a further understanding that you can get the person on both of these but there is a $10,000 limit and the Attorney General has the discretion in determining the fine.

Mr. EDWARDS of Oklahoma. If the gentleman would yield further, yes, that is true.

Mr. RANGEL. So it would mean that these defendants, I guess you could call them that, petitioners or whatever in the administrative action, it would be means tested? In other words, this would exclude the poor from having to pay the $10,000 fine if they were found guilty under the civil administrative policy?

Mr. EDWARDS of Oklahoma. I would say to the gentleman that the person who is without the assets might find that they would be assessed a civil penalty of $500 or $1,000 or $1,500 which would have as big a deterrent affect on them as would a much higher penalty on somebody who is in better circumstances.

Mr. RANGEL. But if a person was living below the poverty line, you would not ask them to be fined any amount of money? The Attorney General would not fine the poor, would he?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. Shaw].

Mr. SHAW. I thank the gentleman from Oklahoma for yielding to me.

I want to compliment the gentleman for bringing this much needed amendment to the floor of the House of Representatives. The gentleman from New Jersey [Mr. Hughes] made a very strong case with regard to talking about decriminalization. Let me tell you what the case is down in south Florida where we have had actually decriminalization because these cases are not being brought to court at all.

The long and short of it is that the people who are going to be fined civilly under this case have no accountability to any system, because we have a court system that is overheated and they are not being punished at all.

Also, I think it is very important for all of us to understand this does not take the threat of criminal prosecution away. It can even be used in addition.

To be ultimately fair—and I think the gentleman from New York was very right in bringing this to the attention of the House—that it does require the Attorney General to look at the assets of the person being involved. What we are trying to do is to punish them in some way.

Yes, a millionaire is going to be punished a lot more than an individual who is down near the poverty level. It is assessed just as we do now in civil cases as to punitive damages. The trier of fact is required to assess the value of the assets and the income of the individuals involved.

Let us not get broken down here in a bunch of rhetoric. What we are talking about is giving the Attorney General, as the chief law enforcement officer of the United States, an additional tool to use in this war against drugs which are illegally brought into this country and are being consumed.

If you believe in user accountability, vote "yes" on the Edwards amendment. It is imperative that we do get to these cases now that are falling through the cracks because they are not being prosecuted. They must be prosecuted in some way and the court system is overburdened to take care of them.

So vote "yes" on the Edwards amendment.

Mr. HUGHES. Mr. Chairman, I yield 2½ minutes to the gentleman from Kentucky [Mr. Mazzoli], a valued member of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. MAZZOLI. Mr. Chairman, I rise with some reluctance but nonetheless in opposition to my friend from Oklahoma's amendment. I think if we had not last week adopted the Hughes-McCollum user accountability ineligibility amendment, then I think I would probably have voted for the gentleman's amendment. But let me just sort of reiterate that I think we have already acted and I think responsibly, assuming that the House passes this bill, to try to work on the supply side of this equation of supply and demand on drug abuse.

I think it is very clear that we have to continue our efforts on the supply, but we have to make new efforts in this effort to control the demand side. Now if I understand the gentleman's amendment correctly, there is no requirement that the individual who might forfeit $10,000 be fined $10,000 civilly, ever has to be found guilty of anything? I mean, this is an administrative action, it is not a judicial action in which there is the normal protection of counsel and ruling by the court. Am I correct in that?

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, no, that is not correct.

Mr. MAZZOLI. That is not?

Mr. EDWARDS of Oklahoma. After the person is notified that the intention of the Attorney General is to levy a penalty, that person may ask for a hearing, is given the opportunity to ask for a hearing in which case all of the judicial protections are afforded him.

Mr. MAZZOLI. I am not exactly aware, I would ask my chairman: The question I raised with the gentleman from Oklahoma was about his amendment. It would occur to me from a very quick reading of it that there does not seem to be here a need to have a conviction, and absolute assurance that the individual who might forfeit $10,000 be fined $10,000, ever be found guilty of anything.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to my chairman.

Mr. HUGHES. No. The Attorney General in an administrative proceeding basically he becomes the prosecutor, the judge and the jury of the facts and metes out the sentence. It sounds to me like we are going to means test that. If they are very poor we run them through the criminal process.

Mr. MAZZOLI. I would ask my chairman if he could explain: Did the Hughes-McCollum amendment adopted by this House last week require at least that there be a conviction, a pattern and practice on behalf of those who would abuse before they are required to——

Mr. HUGHES. It requires the conviction of a felony offense, a trafficking offense with a prison term of more than 1 year and refusing to go into a rehab program or two convictions for user offenses within the period of 10 years.

Mr. MAZZOLI. So at least we are doing what the people who have shown a pattern and practice their intention to abuse the laws of the land and in those cases thay should be ineligible.

Mr. HUGHES. The gentleman is absolutely right.

□ 1745

The CHAIRMAN. The Chair will announce that the gentleman from Oklahoma [Mr. Edwards] has 6 minutes remaining and the gentleman from New

Jersey [Mr. HUGHES] has 3½ minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this particular Edwards amendment is an important part of the whole user accountability provision. Last week we adopted one amendment. This is part of three that I worked on with our Republican task force that originally came up with these items and, unfortunately, only one of them passed out of the Committee on the Judiciary. That one was clipped by the Rules Committee. We did get the support of the gentleman from New Jersey for it last week, and I am thankful for that.

That particular first amendment passed through this body, but it is only one of a triad. If we are really going to deter use, we are going to have to do some pretty tough things. We cannot just depend on the time-honored things that have gone on. We certainly cannot just depend upon the idea that you lose some Federal benefits. That is all we did last week. I think that was very important.

The fact is we need to come down on all kinds of folks in society who are using drugs. It would be nice to see use of laws on the books that make drug use criminal. In some cases that is the case, but the fact is our jails are flooded which is the reason why we had the provisions last week dealing with the Federal benefits.

Now, what we have is a civil fine which does not remove the criminal sanction possibility, but it gives another option at the Federal level. It has nothing to do with the State laws because we cannot do that. It adds an additional tool that says where you do not have the resources to go out and do this sort of thing on a criminal level, you can at least send this notice out and get a civil fine and you do have judicial protection for the person who is noticed on this particular incident. It is a valuable additional tool to do it. When you do that, the burden of proof is by the preponderance of the evidence instead of beyond a reasonable doubt.

This same criminal fine is used elsewhere in the law as in the false claims provisions of the procurement fraud laws. In the Bank Secrecy Act we passed not long ago there was a very common provision there and is already in this drug bill dealing with the aid provision where we are trying to deter criminals from doing what we do not want them to do, the same kind of civil fine procedure. It is not anything unusual. It is not anything unique. The same procedures are there, and surely ought to be able to take those civil fine procedures and give law enforcement the supplemental tools to deter use.

We cannot win the war on drugs, as we said, unless we fight on the supply side, in the eradication area, in the interdiction area, in the law enforcement area with criminal laws and on the demand side with education and rehabilitation, and stiff ways of deterring use.

Now, there will be another one up on the driver's license in a couple of days, perhaps tomorrow. I think that is important, too. We need to put all of these things in sync together.

I have heard a lot of accusations against this particular use provision. I do not think any are true. If we want to be meaningful in this whole process, we have to understand that the civil sanctions, the civil fine Mr. EDWARDS of Oklahoma is offering, is absolutely essential to getting drug use off the streets.

If we want to have a sweep in New York City, the U.S. attorney's office could take this type of procedure and make an effort to do that. It would be a tremendous help, and we have the Attorney General requesting this, saying that this amendment would not take the place of criminal sanctions but provide the Justice Department with greater leeway than it currently possesses, and he strongly urges us to adopt it, and I urge it.

Mr. HOYER. Mr. Chairman, will the gentleman from Florida yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Maryland.

Mr. HOYER. Just so I understand what you just said. Let us say that the Attorney General decides to have a sweep in New York as you have just hypothesized.

Mr. RANGEL. Or Maryland.

Mr. HOYER. That is a chilling thought.

Mr. McCOLLUM. Against users.

Mr. HOYER. Do you speculate, therefore, that the fourth amendment protections against unreasonable searches would not apply?

Mr. McCOLLUM. Definitely apply to this as it would to any civil situation in our Federal law, the Procurement Fraud Act, Bank Secrecy Act, aids provision, it says notice is involved and all legal protections of the judicial system are built into it.

The burden of proof is a lower level by burden of proof of the evidence instead of beyond a reasonable doubt. Everything else is built into this process.

I would be glad to yield to the gentleman from Maryland.

Mr. HOYER. If the amendment found in such a sweep was such to give rise to the presumption that it was for sale and not for personal use, this would not apply?

Mr. McCOLLUM. That is correct. By regulation, the Attorney General determines what a personal use amount is, and that is a very small amount by our intent and it would not apply to anything large enough to indicate a trafficking offense.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, make no mistake. If you adopt this amendment you are effectively buying a decriminalization amendment of small amounts of narcotics. The reason for that is because you are creating a civil penalty for small amounts, possession of small amounts, and that you are not creating for big amounts.

The whole idea is to go the civil way instead of the criminal way because there is a lower burden of proof.

Now, if you want to go out to your constituents and tell them you have effectively accepted decriminalization of small amounts of drugs or any amounts of drugs, fine. That is not what my people are telling me that they want. They want tougher penalties on drug possession, not to make these possession offense civil offenses. That is what the McCollum amendment did.

Mr. EDWARDS of Oklahoma. Mr. Chairman will the gentleman yield?

The gentleman is misstating the facts.

Mr. GLICKMAN. Second, this is an unconstitutional amendment because utilization of its provisions will be largely based on the abilities to pay the fines. A very rich person who is subject to this particular provision will, in all likelihood, be treated differently than a very poor person. That clearly violates the 14th amendment to the Constitution, the equal protection clause. Therefore, I think the provision will be struck down.

Third of all, the gentleman talked about the False Claims Act. I am the author of the False Claims Act and the courts have ruled that you cannot use civil penalties punitively, in effect criminally, the civil penalties must be related to the harm caused the United States of America if it is a Federal statute. False Claims provides civil penalties because you have defrauded the United States of America. Security laws provide civil penalties because you have defrauded the individuals, but to use civil penalties, in effect, for a punitive purpose clearly violates the Constitution. It would be nice to make all crime civil.

Mr. EDWARDS of Oklahoma. I would say the gentleman is strongly misstating the amendment not to read it; 21 U.S.C. 844 would continue to be in effect. This amendment specifically provides that all criminal penalties would continue to be on the books. This is an additional penalty. The gentleman is misstating the amendment.

Mr. GLICKMAN. As a practical point of view, we are decriminalizing certain possessions of drugs, period, and unconstitutionally creating a civil offense out of a criminal offense.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has 1 minute remaining, and the gentleman from Oklahoma [Mr. EDWARDS] has 1 minute remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield my final minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. I had not planned to take part in this debate. I think, though, what we had is a debate that centers around the ideological issues that are confronting us instead of the reality. The reality is that we already have decriminalization for small amounts. Our Federal law enforcement officials are not arresting people if they have certain amounts below a prescribed level. That is the reality of it. We have decriminalized it.

It is because our court systems are overloaded and our jails are too full and every criminal in this country knows it. If you do not want to have a problem, just make sure that the amount of illegal substance that you are carrying is below a set level. Whether it be for local, State, or Federal, and each one has a different level. But the reality is that that provides decriminalization.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

My colleague, the gentleman from Oklahoma [Mr. EDWARDS] cannot have it both ways. If it is not decriminalization, and I believe it is, what he is saying basically is that if you are a drug pusher, he will face criminal penalties, but if a person happens to be a poor user, they face both criminal penalties and civil penalties.

Now, I say to my colleague, I do not have a problem with what is happening because, frankly, if it looks like duck and it quacks like a duck and walks like a duck, it is a duck. This is decriminalization.

Do not argue that what we should be doing is putting more money, more resources into the criminal justice system because, frankly, you will not get debate on this side. We all know we should be doing that. it is a flimsy excuse to justify the de jure decriminalization because, in fact, we may have de facto decriminalization because we have not done our job by putting more money into U.S. attorneys, the FBI, DEA and prison construction. That is what the bill does.

My taxpapers say they do not want decriminalization. I urge a "no" vote.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Oklahoma [Mr. EDWARDS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 293, noes 115, not voting 23, as follows:

[Roll No. 315]

AYES—293

Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boulter
Brennan
Broomfield
Brown (CO)
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Combest
Conte
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dornan (CA)
Dreier
Dyson
Eckart
Edwards (OK)
English
Erdreich
Espy
Fascell
Fawell
Feighan
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Gordon
Gradison
Grandy
Grant
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kemp
Kleczka
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Payne
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—115

Ackerman
Akaka
Anthony
Atkins
AuCoin
Bates
Beilenson
Berman
Bonior
Boucher
Boxer
Brooks
Brown (CA)
Bruce
Cardin
Carper
Carr
Clay
Coleman (TX)
Conyers
Cooper
Coyne
Crockett
DeFazio
Dellums
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Edwards (CA)
Evans
Fazio
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Gejdenson
Gephardt
Glickman
Gonzalez
Gray (PA)
Green
Hayes (IL)
Hertel
Hoyer
Hughes
Kastenmeier
Kennelly
Kildee
Kostmayer
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
Mazzoli
McCloskey
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Neal
Oakar
Oberstar
Obey
Olin
Panetta
Pease
Pelosi
Rangel
Rodino
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Sikorski
Skaggs
Smith (FL)
Smith (IA)
Solarz
St Germain
Staggers
Stokes
Studds
Swift
Synar
Udall
Vento
Visclosky
Walgren
Weiss
Wheat
Williams
Wolpe
Yates

NOT VOTING—23

Badham
Barnard
Buechner
Cheney
Collins
Dixon
Dowdy
Dymally
Emerson
Garcia
Goodling
Gray (IL)
Hawkins
Horton
Kennedy
Lewis (FL)
Mack
MacKay
Mica
Stark
Towns
Waxman
Wortley

□ 1815

The Clerk announced the following pairs:

On this vote:

Mr. Emerson for, with Mr. Towns against.

Mr. Lewis of Florida for, with Mrs. Collins of Illinois against.

Messrs. SMITH of Florida, FOGLIETTA, SOLARZ, LELAND, and SKAGGS changed their vote from "aye" to "no."

Mr. JEFFORDS and Mr. LANTOS changed their vote from "no" to "aye."

Mr. UDALL changed his vote from "present" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1815

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. McCOLLUM was allowed to speak out of order for 1 minute.)

Mr. McCOLLUM. Mr. Chairman, I would like to inquire of the gentleman from New York what the schedule for the balance of the evening is, and I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, it is the intention of the leadership to entertain the next amendment to be offered by the gentleman from Florida [Mr. SHAW], which is 5 minutes of debate on each side, and to conclude after that and rise.

Mr. McCOLLUM. May I ask, does the gentleman expect we will return to the drug bill tomorrow?

Mr. RANGEL. It is the intention of the leadership that we return at noon tomorrow to the drug bill.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman very much.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida is recognized to offer an amendment.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHAW:

(e) MANDATORY CONDITION OF PROBATION.—In each of the judicial districts in which the demonstration program is in effect, it shall be an additional, mandatory condition of probation for any defendant convicted of a drug-related offense, as determined by the judge, that such defendant refrain from any use of any controlled substance (as defined in section 102 of the Controlled Substances Act) without a prescription by a licensed medical practitioner. Each probation officer shall provide for the random testing of probationers who are under that probation officer's supervision and to whom this condition applies, for the illict use of such substances.

Redesignate succeeding subsections accordingly.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the Shaw amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. SHAW] will be recognized for 5 minutes and the gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Chairman, because of the grave threat of drug abuse in this country, I rise in strong support of passage of the Omnibus Drug Initiative Act, H.R. 5210. The Omnibus Drug Initiative Act will extend, and expand the the Anti-Drug Abuse Act of 1986. The 1986 law marked an important step in the development of a long-term strategy in the war on drugs. However, more is needed.

We have asked our children to "just say no" to drugs, but we need to do more to help prevent this menace of drugs from endangering our schools, workplaces, streets, and families. We in Congress must let the schoolchildren of this country know that we will do all that we can to try to protect them from the ruinous effects of drugs. H.R. 5210 addresses the need for a coordinated national program to improve interdiction of the supply of drugs coming into the United States, enforcement of drug laws against drug traffickers, the treatment of drug users, and education of our young people about the dangers of drugs.

Congress has already indicated its dedication to the war on drugs by approving amendments to the Omnibus Drug Initiative Act that provide the death penalty for drug kingpins and that deny Federal benefits to habitual drug offenders.

A 1986 Gallup survey indicated that when teenagers were asked to name the biggest problems facing young people today, drugs led their list. No other issue approaches this level of concern. Government leaders, parents, educators, and students are joining together to keep our schools drug-free and to work to eliminate this devastating threat to the health and well-being of our children.

Drug education must make clear to students the shattering results of drug use. Schools, along with families and religious institutions, are major influences in transmitting ideals and standards of right and wrong. Because of drugs, children are failing, suffering, and dying. The drug situation in this country is everyone's problem and the time to address the problem is now.

Too many of America's children die in the silent grip of an insidious narcotic killer that most of them do not understand. Too many innocent citizens fall victims to the spreading violence that rages around the drug trade, erupting not just in the heart of the cities, but in the quiet communities as well—wherever dealers can turn a profit.

Experts say Americans spend more than $100 billion on drugs annually. That means drug sales are larger than the total net sales of the General Motors Corp., and that drug dealers make more money than all of America's farmers. Even more disturbing is the $100 billion this Nation loses each year in higher health costs, drug-related crime and violence and lost productivity.

We must realize that only the most thoughtful and comprehensive programs can brake the rampant growth of illegal drug trade in this country. Endless political rhetoric cannot deflect the onslaught of crime and addiction sparked by the greed of unscrupulous drug dealers, nor can it protect our young people from the barrage of dangerous misinformation, peer pressure, and easily available drugs they must face in today's society. To win the battle against drugs, we need not only strong law enforcement, but also a well-planned strategy to fight demand.

The Omnibus Drug Initiative Act will help us to show young people at risk of drug addiction that we care and want to restore their hope for a better life. Provisions in the bill which help move us toward our goal of drug-free schools include drug abuse education and prevention programs targeted to the youth at high risk; a grant program for States with the aim of developing more effective juvenile justice programs for youth who use drugs and to provide young people and their families referral to education, prevention, treatment and rehabilitation; funds to expand innovative, community-based volunteer drug abuse education and prevention services; as well as funds for drug counseling in schools.

The economic and social costs of drug trafficking and addiction are astronomical. The war on drugs will include some long and hard battles, but Congress must move forward and address the difficulties head on. Therefore, I urge my colleagues to join with me in strongly supporting the Omnibus Drug Initiative Act.

Mr. SHAW. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. DIOGUARDI], the coauthor of this amendment.

Mr. DIOGUARDI. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this commonsense amendment provides for mandatory drug testing for prisoners charged with a drug related crime and who wish to be released on probation. Given the indisputable correlation between illegal drugs and serious crime, a comprehensive system of drug testing must be instituted to guarantee that criminal offenders of Federal controlled substance statutes are not at liberty to further threaten our citizens. Careful scrutiny of the current probation system reveals that, with the absence of this policy, the penal system has strayed considerably from its declared intent. This amendment represents a progressive reform in the incarceration process as it injects a semblance of accountability, absent as of now.

The most compelling argument behind mandatory drug testing for probation stems from the current reservoir of irrefutable evidence linking crime and drug use. While recent studies may document a decline in the rate of drug abuse by the general population, the trend is just the reverse among those in the criminal community. A recently released study by the National Institute of Justice reported that an average of 70 percent of the men arrested for serious crime in American cities tested positive for illegal drugs at the time of their arrest; and in some cities, the number approached the 80-percent mark. In addition, little variation could be discovered among racial and ethnic groups. In short, it is fair to conclude that drugs do not discriminate.

This report confirms what law enforcement officials have been saying for years: there is an inherent relationship between drug use and serious crime. Illegal substances either directly promote criminal behavior or are the driving force for criminals trying to finance expensive habits. At a time when a whole host of intangibles are cited as factors for criminal behavior—it is finally possible to isolate a single, undeniable catalyst for crime: drug abuse. In fact, Mr. James K. Stewart, director of the National Institute of Justice, stated, "* * * socioeconomic class, education, previous criminal histories, didn't have much predictive power in terms of helping us decide who the high rate offender was. But the one thing they had in common was multiple drug use."

Unfortunately, despite this knowledge convicted felons who abuse illegal substances are being allowed out on our streets under probation without any safeguards. I liken the release of substance abusers without safeguards to ignoring the ticking of a time bomb.

I am aware that probation is a technique that is being utilized to deal with the terrible overcrowding we are now experiencing in our Nation's prisons. It may be argued that this amendment would further contribute to overcrowding problems. The National Institute of Justice has found just the opposite: by weeding the high rate offenders out of the probation programs, the systems intake would be reduced, a case of simple ebb and flow. Drug testing as a condition of probation is a way to hedge our bet that the criminal in question is indeed an acceptable candidate for probation.

I sincerely hope that cries of civil liberties are absent from this debate. While certain other testing programs associated with the criminal justice system—pretrial and sentencing evaluation for example—may warrant constitutional debates, this one does not.

To summarize Mr. Speaker, the deteriorating effects of substance abuse are a priority domestic concern. It is only appropriate that the Congress translate that concern into concrete legislation. Dr. Wexler, one of the foremost criminal experts in our country, has silenced doubts concerning the link of crime and drugs with his comment, "Its been demonstrated that if you reduce the use of drugs, you reduce the crime rate. That's been demonstrated many, many, many times."

Hopefully, Members of Congress will heed his message rather than underestimating the magnitude of the problem we face. I implore my colleagues to take the lead on this issue and vote for this amendment moving us toward ensuring that the number of substance abusers released from jail to our streets is zero.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in reluctant opposition to the amendment. I can appreciate what the gentleman from Florida is trying to do; however, current law already provides for drug aftercare; that is, drug treatment and extensive urinalysis of every Federal convict on probation or parole who has a history of drug dependency. That is already part of our law. That program has been extensively reviewed by the Crime Subcommittee, on which I am privileged to serve. We have reviewed that program since 1981.

In this bill, on page 196, we increase the authorization for the Drug Aftercare Program by $10 million and $24 million in fiscal year 1989. We have always run out of money. We have not had sufficient resources to do the testing in the past.

This program is now supervising over 10,000 drug-dependent Federal offenders. The number of drug-dependent offenders under supervision has increased by 81 percent in the past 4 years.

The problem with the gentleman's amendment is that it focuses on the offense and not the offender. A drug-dependent offender may commit any type of crime that will bring financial reward to pay for his drugs. Mail fraud, bank robbery, embezzlement, theft, they are not what we call drug-related crimes.

Our prisons are full of people who are addicts who are in there in prison because they have committed property crimes. They do not fit the definition.

The gentleman's amendment is both overinclusive and underinclusive. There are high level drug traffickers who have never used drugs, who are just in it for the money. They do not have a drug dependency. There are thousands of drug-dependent offenders who have never been prosecuted for drug-related offenses.

Indeed, as I have indicated, the vast majority of people in prison are in there for property-related crimes.

The gentleman has tacked on the amendment a provision that we developed in committee. That provision basically sets up five new pilot programs, which in essence is going to try to test individuals coming into the criminal justice system, often for the first time, to see whether they test positive for drugs. That program is going to be in five districts around the country, to try to find out a little more about the Federal system so we can determine as policymakers whether we should be doing a better job of testing as people come into the system.

Much as the National Institute of Justice did with State and local jurisdictions, we ran tests in both New York and Washington. We found that upward of 75 percent of the people coming into the criminal justice system at the State level are testing positive for drugs.

It makes no sense to mandate that people going out on probation for drug-related crimes be tested in every instance, for the reason that not every drug-related offender is a user. The traffickers in many instances are not users.

It is the Administrative Office of the Courts that has the discretion in determining basically who we should be testing.

I think when we start spending $170 for each test in a system that is already short of resources, we are wasting resources. That is my only problem with the amendment.

I think it is basically not reaching the people that we need to be testing and it is overtesting in those areas where we do not need to test.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would like first of all to tell the gentleman that in the District of Columbia it is estimated that the amount of chemicals needed to conduct a test only costs $7.

Also I was somewhat taken by the gentleman in referring to the fact that we talked about only drug-related crimes, because I believe it was the gentleman's amendment and the gentleman's idea, with which I happen to agree, that it was not necessary to extend it to all crimes, but just drug-related crimes for purposes of this study.

Mr. HUGHES. Mr. Chairman, I reserve the balance of my time.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the ranking member of the Select Committee on Narcotics Abuse and Control, the gentleman from New York [Mr. GILMAN].

□ 1830

Mr. GILMAN. Mr. Chairman, I rise in support of the Shaw drug testing amendment to title VI. The legislation, as crafted by the Judiciary Committee, provides for the creation of a Demonstration Program of mandatory pretrial testing of criminal defendants. This Shaw amendment simply requires mandatory testing as a condition of probation for those in the program when eligible, and would subsequently require these indviduals to remain drug-free throughout their term of probation.

H.R. 5210 requires the Judicial Conference of the United States to select five Federal judicial districts in which to carry out the Demonstration Program, so that the group selected represent a mix of districts on the basis of criminal caseload and the types of cases in that caseload. Under this program, mandatory drug testing would take place on a pretrial basis. Congressman SHAW's perfecting amendment would carry this concept through the entire process, by mandating that a convicted individual who participates in this demonstration project, maintain a drug-free status in order to be considered for probation, as well as a continued condition of probation.

Mr. Chairman, this new omnibus drug legislation has brought forth many new proposals. One of these is user accountability. The Shaw amendment to that new Demonstration Program requires criminal defendants to remain drug free. Not only at pretrial detention as the legislation would allow, but also througout the course of that individual's participation in the program. By making drug testing a mandatory condition of probation, both before and after release, the American people are making clear their support for a comprehensive and coordinated approach to the overwhelming drug abuse problem that is plaguing this Nation.

Accordingly, Mr. Chairman, I support this amendment wholeheartedly, and as ranking minority member of the Narcotics Select Committee I urge our colleagues to support this proposal.

Mr. SHAW. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think it is important to understand what this amendment does. It places no more requirement on a convicted criminal who has served only a portion of his time and is getting off for one reason or another. I subject him to the same test that the NFL subjects our football players to, and it subjects only those who are convicted of a drug-related crime.

We know that second offenders, people who go back in the revolving doors in and out of our jails, who are involved in drugs, if they can be kept drug clean we have a good opportunity to: First, catch the drug habit before they go out and commit another crime; and second, we have an opportunity to keep them off of drugs and keep them out of prison.

It costs over $13,000 a year to house a prisoner in this country. This gives us a good opportunity to be sure that those who are let out on probation are, indeed, meeting requirements of their probation and they are staying off of drugs.

This is a very important bill. It simply is an extension of the pretrial provision that is already in the bill, and it affects only those who are convicted and let off early.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, there are two basic problems with the gentleman's amendment. I strongly support the testing of probationers, but this amendment would mandate testing for those defendants with a drug-related offense, whatever that term means, and it is tied just to the five demonstration projects that we have developed in the bill. That makes no sense. We already test people going out on probation and parole. We test those that are addicts.

I urge a vote against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The amendment was agreed to.

Mr. HASTERT. Mr. Speaker, I am very hopeful that the drug legislation we have been working on will be a strong deterrent in the drug wars we are fighting in nearly every community in our Nation.

The legislation before us includes some new and creative approaches and messages to drug dealers and importers. The surveys I've taken in my congressional district, indicate that drugs, and the crime associated with drug use, are just as real concerns in northern Illinois as they are in Texas, Florida, California, and New York. The very first advisory group I created in my district was one to advise me on drug and alcohol abuse.

We are concluding that we need a more innovative approach to take the incentives away from drug dealers. Imposition of the death penalty, significantly harsher sentences and fines and loss of certain Federal benefits, I believe, will help accomplish that.

The new laws we are creating here today will impact our Federal system of justice. But they are just as important in establishing a national policy to be duplicated on State and local levels.

Our law enforcement agencies should be commended for their efforts to date. With this legislation, hopefully we will give them some new tools to use in our escalation of the war on drugs.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 16, 1988, TO FILE REPORTS ON S. 659 AND H.R. 5056

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight, September 16, 1988, to file the reports on S. 659, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 and H.R. 5056, the Agricultural Research Act of 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT OF ATTENDANCE BY MEMBERS AT INTER-PARLIAMENTARY UNION MEETING

Mr. PEPPER. Mr. Speaker, tomorrow afternoon I, as chairman of the United States delegation of the Interparliamentary Union meeting in Sofia, Bulgaria, leave for that conference.

The Speaker has appointed me as chairman of the delegation, and the gentleman from California [Mr. BROWN], the gentleman from New York [Mr. SCHEUER], the gentleman from New York [Mr. WORTLEY], and the gentleman from Guam [Mr. BLAZ] as delegates from the House of Representatives to attend this conference.

This is an organization of 108 nations embracing all the nations that are our closest friends in the world.

Mr. Speaker, I ask that the gentleman appointed by the Speaker to attend this conference be granted a leave of absence during the time they are attending this conference by the House of Representatives.

The SPEAKER pro tempore (Mr. CLARKE). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the motion offered by the gentleman from Pennsylvania [Mr. MCDADE] concerning the military pay raise in H.R. 4781.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CPL. MARK KEVIN MURPHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, the police force in Prince Georges County, and indeed our entire community suffered a terrible loss last week which we cannot understand.

Cpl. Mark Kevin Murphy, a much decorated 14-year veteran of the Prince Georges County Police Force and a 10-year member of the Elite Emergency Services Team of the Special Operations Division was shot and killed while serving as point man on a police raid. The tragedy is magnified by the fact that one of Corporal Murphy's fellow officers mistakenly fired the fatal shot.

As hard as we may try, it is beyond human capability to make sense of this tragedy. One of his fellow officers called Mark Murphy, "the finest example of Prince Georges County's finest."

We ask why a young man of such accomplishment has been taken from his family, his friends, and his brothers in the police force. We ask why a young man of such promise has been taken from all of us in the community which he served and protected. There are no answers for us.

As is so often the case, the purpose of the raid in which Corporal Murphy lost his life was to apprehend drug dealers. While we in Congress are debating a new initiative to wage the war on drugs, we should remember that our police officers are on the front lines everyday. They risk, and all too often lose their lives, so that the citizens of our Nation may live in safety.

Every police officer is a hero, and none more so than Cpl. Mark Murphy who gave his life for us.

Mark Kevin Murphy was born in Tacoma, WA, in 1953. He came to Washington after graduating from high school and worked at the Federal Bureau of Investigation as a fingerprint technician.

In 1973, Mark Murphy joined the Prince Georges County Police Department. He served for 2 years following his graduation from the police academy with the bureau of patrol, Seat Pleasant Station. Due to his outstanding performance, he was transferred to the special operations division. In 1978, he joined the emergency services team.

As a member of the emergency services team, he participated in more than 250 hostage-barricade situations and over 600 vice raids. During his career he received more than 50 letters of merit. In 1986, he was recipient of the police department's Silver Medal of Valor. He also received four awards of merit.

Cpl. Mark Murphy leaves his wife, Rose Decesaris Murphy; his daughter, Danielle Murphy; his stepdaughter, Natalie Crossland; his parents, Maureen Vick and Miles Murphy; and his two brothers, Kelly and Timothy Murphy. Our hearts and our prayers go out to them in our loss.

The loss of Corporal Murphy is keenly felt by his brothers and sisters in the Prince Georges Police Department. During his memorial service, one of them, Matthew "Buzz" Sawyer, the president of the Fraternal Order of Police Lodge 89, delivered a moving eulogy. I would like to share his remarks with my colleagues in the House:

REMARKS OF M.J. "BUZZ" SAWYER, PRESIDENT, FRATERNAL ORDER OF POLICE, PRINCE GEORGES COUNTY LODGE 89 AT THE MEMORIAL SERVICE FOR CORPORAL MARK KEVIN MURPHY ON SEPTEMBER 3, 1988.

Mark Murphy, husband, father, and son; Mark Murphy, police officer and friend. Mark Murphy is a lot of things to a lot of people. Mark is my brother! Not of blood—but of profession. Both Mark and I chose a career in law enforcement and in doing so we joined a very special family. A proud family, an elite family, a family bonded together out of necessity—bonded out of compassion, out of love for our nation and the citizens we serve, and bonded together to see the good in our nation preserved.

Like all families, there are happy times, and there are the sad times. But strong families endure; they endure by coming together to find strength, they endure by remembering; they endure by supporting one another; and as time passes, we will look back, we will reflect, and we will remember the good times and the love and friendships we shared.

Today we are all here to celebrate the brotherhood we all shared with Mark. We are here to show our support to Mark's family. This is certainly not a happy time for our police family. But rest assured, there will be many kind, loving stories told about Mark and his special contribution to his profession. Rest assured, there will be many personal memories of Mark and the contributions he gave to his community and his Nation. Rest assured that our brother Mark will not be forgotten. We will remember.

Gary is also my brother. And my heart goes out to him. None of us can even imagine his pain. For the next 30 days the officers of Prince Georges County will drape their badges in memory of Mark; and we will patrol our streets with headlights beaming in support of our brother Gary. As a family, we can do no less. Gary, please trust that your police family understands and will help you through this tragic time. And to Mark, we say to you, "Well served peace officer, may you rest in peace."

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I want to commend my colleague, the gentleman from Maryland [Mr. HOYER] for paying tribute to Corporal Murphy, and to express the sympathy of himself and the rest of the Maryland delegation to the family for this very tragic loss.

It is, indeed, rather coincidental that this all happened and that we are at this time, as the gentleman said, discussing the drug bill and voting on it now.

Corporal Murphy was certainly in the forefront in trying to stave off what is destroying our country.

□ 1845

LEGISLATION TO SERVE TENNESSEE VETERANS

The SPEAKER pro tempore (Mr. CLARKE). Under a previous order of the House, the gentleman from Tennessee [Mr. GORDON] is recognized for 5 minutes.

Mr. GORDON. Mr. Speaker, today I have introduced a bill that will allow the Veterans' Administration and the State of Tennessee to work as partners and serve a pressing need of veterans of our country's Armed Forces.

This bill, H.R. 5301, will establish the first State veterans home in the State of Tennessee on property next to a veterans hospital which is appropriately named for one of our Nation's most honored war heroes—the Alvin C. York Medical Center, located in the city of Murfreesboro.

The State Veterans' Home Program is a sensible idea, brought to fruition by an act of Congress, that brings State and Federal agencies together for the common good. Both the Veterans' Administration and the States contribute to the cost of constructing veterans homes.

In this case, the State of Tennessee has agreed to construct its first veterans nursing care facility, with financial assistance from the Veterans' Administration, and to operate the facility.

Tennessee's first choice as a place for this facility is what I believe to be an ideal location—on lush, wooded property that already holds a major veterans hospital, along with a VA-owned golf course and other facilities.

However, in order for the State to perform the service of building this veterans home, the property for it, estimated to be 5 to 7 acres, must be transferred from Federal to State ownership. That is what my bill does by authorizing the transfer to the State of Tennessee of up to 7 acres of VA property adjacent to the Alvin C. York Medical Center.

Ladies and gentlemen, we have here an opportunity to bring another State into a fine, commonsense program designed to serve those who served their country with pride and honor. It will not cost the Federal Treasury a dime, and, in fact, may even save money that would otherwise have to be spent to purchase property for the veterans home at another location.

Our veterans have sacrificed so much to protect the freedoms we enjoy in this country. This is a perfect opportunity for us to recognize their efforts and say thank you.

I ask for your support for this worthy project.

HOUSE JOINT RESOLUTION 653—JOINT RESOLUTION TO DESIGNATE NATIONAL CULINARY WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce House Joint Resolution 653, a joint resolution to designate October 14–20, 1988 as "National Culinary Week." This will coincide with the International Culinary Competition held in Frankfort, West Germany. The American Culinary Team has been competing in this competition since 1964. The team is sponsored by the American Culinary Federation and the National Restaurant Association U.S. Culinary Team Foundation. This nonprofit organization finances and promotes the U.S. culinary team.

The National Restaurant Association is the leading trade association for the foodservice industry. The NRA represents all facets of the foodservice industry, including restaurants, cafeterias, clubs, contract foodservice management, drive-ins, caterers, institutions, and others engaged in the preparation of food away from home. While the NRA is well-known for its lobbying efforts in Washington and State legislatures, it also is active in education and research for the foodservice industry. The NRA has 10,000 members across the country.

The American Culinary Federation is a professional, educational, and fraternal organization of chefs and cooks. The federation was founded in 1929 in New York and since that time has grown to over 17,000 members nationwide with nearly 200 chapters. The ACF provides the means for chefs and cooks to receive education, training, and experience in the culinary profession.

Over the years that the United States has been competing in the International Culinary Competition the team has done increasingly well in competition. This is illustrated by the contrast between the 1968 team, which won no medals and the 1984 team, which won gold medals in both the hot and cold food competitions. The 14-member 1988 team has been preparing for over 2 years for the competition in Germany. This year's entries will reflect the trend in the United States toward lighter, more healthy foods and will feature new creations developed by the team members. This year's competition promises to be very exciting.

In addition to the culinary competition team, the ACF also provides many educational opportunities to chefs and cooks across the country. First, there is the American Culinary Federation Educational Institute [ACFEI], which recognizes superior culinary schools through an accreditation program. The ACFEI also sponsors the National Apprenticeship Training Program for Cooks, a program recognized by the U.S. Department of Labor. The program consists of a 3-year earn-as-you-learn program combining classroom instruction and employment with a certified chef. Successful completion of the program allows participants the opportunity to enter the culinary field as a certified cook. Presently 84 apprenticeship programs are in operation across the country. A chef certification program is another one of the activities performed by the ACFEI. Certification ranges from certified cook or certified pastry chef to certified executive chef.

Through the ACFEI a chef can be recognized as a certified master chef.

The ACFEI offers financial assistance to qualified culinary students to pursue their education and educational seminars are a large part of the activities at the annual ACF convention, which over 700 members attended last year. The American Academy of Chefs is the honor society of American chefs which is associated with ACF. In addition to the Olympic team sponsored by the ACF, the federation also sponsors many culinary competitions during the year. These competitions are the first experience many chefs have in culinary competition.

The ACF and the NRA are dedicated to the preservation and expansion of the culinary profession in the United States. These organizations have succeeded in allowing American chefs to successfully compete against European chefs. The accomplishments of the American culinary team are commendable. I find the accomplishments of the culinary profession of particular interest, as my parents operated a restaurant in Monterey after their arrival in the United States. I know first hand the work and dedication needed in the culinary profession. The men and women who make up the American culinary profession deserve to be recognized for their contributions. I urge my colleagues to join me in sponsoring the resolution I am introducing today to designate October 14–20, 1988, as "National Culinary Week."

A copy of the resolution follows:

H.J. Res. 653

Whereas in 1988, the food-service industry will sell Americans food and services amounting to over $213,000,000,000;

Whereas such sales will account for 41 percent of the dollars spent by Americans on food;

Whereas the food-service industry has successfully adjusted to recent changes in the life-style and diet of Americans and will continue to develop culinary and nutritional ideas through its research, development, and educational programs;

Whereas the workforce of the food-service industry consists of over 8,000,000 people;

Whereas the food-service industry hires more women and minorities than any other industry;

Whereas many other businesses benefit economically from the constantly expanding food-service industry;

Whereas American culinarians are now in the forefront of culinary arts achievement and are recognized internationally for their talent, expertise, and creativeness;

Whereas the United States first entered the Culinary Competition in 1964, in Frankfurt, Germany;

Whereas every 4 years, the United States demonstrates its culinary leadership by winning awards at the Culinary Competition;

Whereas many associations have been established within the culinary industry;

Whereas such associations strive to improve the reputation of their members through promotion, establishing professional standards, and testing their members for proficiency; and

Whereas such organizations also provide educational opportunities for their members by bringing highly qualified individuals into their ranks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 14 through 20, 1988, is designated as "National Culinary Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies and activities.

WHAT IS THE TRUE COST OF EDUCATION?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. Bentley] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, recently, I have spoken to you about the massive influx of money from Japanese interests that has been funneled into our Nations' educational system. Evidence has been offered to you on how, where, and why the Japanese have gone to great lengths and sometimes staggering expense to enhance their knowledge of and information from America.

The July 11 Business Week highlighted for all of us the millions of dollars that have been spent by Japanese interests in our country to enhance "The Japanese Line" and to gain access to technology and creativity.

That issue of Business Week told us that Japan spent at least $310 million, in the opinion of one individual quoted in the article, to "come in and stay, to legitimize their presence."

But this is not the full story. There is another concern and that is the ever increasing number of students from foreign nations in our country.

I think that all of us appreciate the generosity and spirit of our country in many areas. I do believe, however, that we need to recognize when our generosity is being taken advantage of.

The fundamental question we must ask, is: What is the price that we pay when we finance the education of students from foreign countries?

If we look closely at this question, the answer is obvious. Simply put, America is paying a very high price for its generosity. We pay that price because we are ultimately bankrolling our own industrial decimation.

The facts are very straightforward. From them you can draw your own conclusions.

Perhaps what I found most shocking, is that 11.6 percent of the education of students from foreign countries is primarily financed by U.S. universities. (Institute of International Education, 1985.) If we utilize the figures given on the total number of foreign students in the United States by the Institute of International Education this means that roughly 39,684 foreign students receive some form of American support for their educations.

It also indicates that of all fields, three majors—mathematics/computer science, engineering, and business—account for 51.4 percent of the subjects taken up by students from foreign countries. All of these fields are very important to our industrial base.

The General Accounting Office notes several figures that I found stunning. For example, 25 percent of all Ph.D.'s in science and engineering were awarded to foreign citizens in 1984. Amazingly, over 50 percent of all engineering Ph.D.'s granted by U.S. institutions went to foreign students; 31 percent of the students who received Ph.D.'s in the area of computer science were from foreign countries. Let me remind all of us that these are all skills vital to our industrial ability.

The most recent calculations I could obtain estimate that there are approximately 342,110 students from foreign countries presently studying at the college level in the United States.

This does not look like a balanced situation to me.

How can we justify the financing of foreign students when so many students in our country are denied access to higher education because they lack the money to attend the schools of their choice.

I have one right now in my district, a young man that we have been assisting, he and his family, to find ways over the last 2 or 3 years so that he can make his way and continue his course in Rensselear. He is an engineering student. Right now for his last leg of his training we are having a tough time getting that last $1,400.

I am finding some other students in my own district that because of the limited number of slots in some of these programs that my students have B's, a B average, cannot get into the school because there are so many students from foreign countries there. We need to look at this again.

We spend on average for a public school education in the United States, $6,175. At our private schools the figure is $12,511—U.S. News & World Report via Department of Education, April 18, 1988. This figure accounts for tuition and room expenses.

But there is another figure that I would like to point out. The Department of Education's most recent statistic for the total expenditures for education in the United States places our investment at $100,100,789,000. This is an awesome sum as well it should be.

Let me emphasize again, however, that some 300,000-plus students from foreign countries, 11.6 percent of whom are being supplied funds by groups reap the benefits of this cost while Americans are denied educational access.

There can be no doubt that in the world today, the burden of education is a great one to bear. Yet we in this country seem willing to forward a fistful of dollars to students from foreign countries rather than assist Americans whose talents may well be just as deserving of these financial gifts.

We must give our young people the opportunity to fulfill their dreams. By financing the education of students from foreign countries, we deny them this opportunity. It is not fair, it is not just, and it must end.

As if the incalculable loss of wasted talent was not enough, there is, I believe, another, even more threatening cost that we pay for our actions.

This second cost comes in the form of purchased access to the U.S. academic community and its ideas.

The logic is relatively simple. In a world where money often speaks louder than words, countries that donate vast amounts to American universities buy themselves into the decisionmaking processes of these institutions. And naturally, when an investment is made, something is expected in return. What I am saying today is that the financing of students from foreign countries is part of the return for that country.

To find examples of where this "dollars for doctorates" pipeline may be operating, we can all look across the Pacific, to Japan.

The Institute of International Education estimates that 3.8 percent of all foreign students in the United States are from Japan whose students make up one of the largest groups of students from any country. Overall, 42 percent of all foreign students in the United States come from Asiatic nations.

Once again, this story is a question of facts. Business Week has told us previously of the Japanese attempts to fill the coffers of our major universities. Access is being purchased. We in the United States need to wake up and realize what is happening. We are causing great harm to ourselves and great harm to our Nation's future by financing our strongest competitors.

The editorial "The Proper Response to Japan's Influence" in the July 11 Business Week which I have quoted in a previous speech, deserves another look. I feel its message is also appropriate to what I am talking about today. It says, "How far Japan's influence extends rests on the integrity of American leaders and this society's willingness to fund its own institutions." Every Japanese student who receives financial assistance from the United States means that somewhere money is lost that might have otherwise contributed to an American education.

There is one final point I would like to make today. It is that over 90 percent of all students from foreign countries who enter this country under visas stating that they have no intention of abandoning their home country and are here for a temporary time period only. However, many end up staying here in the medical field.

The issue is not percentages, however. It is that, too often, Americans pay the bills for individuals whose nations neither respect nor abide by ethical and responsible trade and business practices. When these students return home, they carry U.S. diplomas in their hand and U.S. made know-how in their minds. We in America accept the loss. This Nation must look at the balance sheet before the losses become too severe to overcome and the land that we call home will be recognized by all other countries as the home of yet another trademark: signs reading "out of business."

But it is not too late. This country has the strength to overcome all obstacles and if we move now to solve the problems which I have addressed today, we can ensure a hopeful future for all of America.

□ 1900

THE PROLIFERATION OF LANDMINES REMAINING IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. McCOLLUM] is recognized for 60 minutes.

Mr. McCOLLUM. Mr. Speaker, I am going to talk for a few minutes tonight about something that I think Members should be particularly attentive to.

We have had tremendous problems in the last few years in the way that warfare, where it has been conducted, has been carried out. War is tragic wherever it goes on, wherever it takes place. I hope we never see another world war.

But we do see regional conflicts, we do see devastation to human beings. We do see situations where gas and other noxious chemicals have been used and we have seen violations of human rights in a lot of these wars, in a lot of these locations.

I think one of the things, though, that is little known is what has gone on in the way of violations of those rights of human beings inside Afghanistan during the Soviet occupation.

Tonight I want to talk about just one facet, but a very significant facet of that human rights violation situation in Afghanistan.

From the very beginning of the Soviet invasion of Afghanistan in December 1979 the Soviet military has devastated Afghanistan with millions of explosive landmines, some 10 to 20 million according to the Department of Defense estimates. These landmines have been dispersed throughout the Afghan countryside indiscriminately, in fields, farmlands and around villages as well as carefully laid as defensive perimeters around Soviet garrisons.

These mines were dispersed randomly to break up the lines of communication between the Mujahidin resistance in order to demoralize the freedom fighters and instill terror in civilian villagers who aid in the struggle against the Soviet invaders. Furthermore, the Soviet invaders intended to deny the Mujahidin much needed agricultural commodities by lacing hundreds of acres of farmland with mines, a problem which is now a nightmare for those in the international community who must try to remove the deadly mines before repatriation can begin.

I might add at this particular point that we are now at a stage where there are supposedly some Geneva accords which have been signed by the principal parties involved, the Soviets have agreed to withdraw from Afghanistan. Supposedly they are going to be out of there very shortly. Their timetable calls for a complete withdrawal within the next few months.

There is a sense in the international community and among the United States advisers over in the area where the refugees are in Pakistan that there will be a massive movement by the refugees who are in the thousands and thousands inside of Pakistan and in Iran, a movement of these back into Afghanistan early in the spring of next year, assuming, of course, the Soviets withdraw.

So the issue is very real. The United Nations is very concerned, the U.S. Government is very concerned and the Afghan people, the refugees and the people who are still inside that country are rightfully concerned about these mines.

The level with which the Soviets have used mine warfare is unmatched in sophistication. In 1985, they introduced a mine dispersal system which could launch a round loaded with 20 mines nearly 8 miles in distance so that they could land and be dispersed. The Mujahidin, on the other hand, have sorely lacked the proper equipment to even detect the mines, resorting to volunteers, young Mujahidin brave enough to risk their lives to seek out the mines and detonate them by whatever means at their disposal, by hand, by stick or by stone. We have heard about mines in Afghanistan and the horrors they have wreaked on children for years.

One of the most heinous of these mines is called the Butterfly. It is a PFM-1 mine specifically, which is often likened to a toy. This particular mine is just one of many. There are all kinds of varieties of mines. I have been over to Pakistan recently. I had the occasion to travel as a part of our official delegation to the funeral of President Zia. I was there only a brief period on this particular visit. I was there long enough to look at a whole tableful of mines that have been retrieved from inside Afghanistan where various and sundry devices have been laid by the Soviets.

Most of these are mechanical devices, they are not terribly sophisticated mines. They are small devices. They are devices where somebody can come along easily and step on them and trigger the explosion. It is quite common for animals to have this happen to them.

As an aside, I might add that animals inside Afghanistan have been destroyed by the thousands, as well, and today along with the farmland being devastated, there are no oxen and other animals necessary for the production of farm crops over there for returning refugees. But that is another story for another day.

The fact of the matter is that many children have been injured by these mines. And I have a few photographs. They are particularly grisly and I do not show them with great relish, but I do think they need to be shown because these are the simply little Butterfly mines that have caused this. This is in the early summer of this year. Actually, this is the end product of a child, an extremity of a child who was damaged by this mine. This particular photograph occurred from an incident that took place after the Geneva accords were signed. This same little girl who was injured in this in early summer of this year is depicted in this photograph. I think you can see that it is a bloody mess to say the least.

The problem is these mines maim, they do not kill. They injure children, they injure adults, they injure anybody in an extraordinarily gross manner. We can be thankful for Freedom Medicine because they have done an awful lot to try to help the victims of these mines, which is what this last or third picture depicts. It is a gross picture too, but it is a picture of a child who is being cared for by Freedom Medicine's trained people over there.

Many of them have been saved because of dedication of people like Bob and Gay Leclerc Brenner of Freedom Medicine who work and train Afghan medics.

These Afghans trained by freedom fighters are working with children who have been injured by mines in the Paktia Province of Afghanistan.

The area has recently been recaptured from the Soviets by the Mujahidin.

Now at one time this area yielded only two or three mine victims a week. Now medics say that they treat two to three mine victims, men, women, and children, every day in this one province inside Afghanistan.

The PFM-1, which is the Butterfly mine which caused this particular injury and is the most common one over there, is designed as I said, to maim and not kill. Its wing contains an insidious explosive which causes an extreme casualty. We have all heard of its effect. Well documented reports come to us constantly from international medics, journalists, and officials who speak with conviction of the mine's horrifying devastation on the civilian population, particularly the children and the women.

The bad part about this, the particularly bad part about this besides the devastation is that if it is illegal under international law to use a mine like this. Yet the Soviets have laid mines that cause this kind of damage inside Afghanistan in alarming numbers.

Mr. Speaker, I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding and for taking out this special order. I do not mean to interrupt the gentleman, as he is making a very good point. I, of course, want to provide some information, or to supplement that. But when I saw that very moving picture there I could not help but think of one of the items which causes that kind of thing. The gentleman was describing, as I walked down to the floor of the House here, what had happened and he was describing a particular item.

On many different occasions down here I have held up this little Butterfly bomb. This is one of those items which creates the exact situation that we witness in that photograph there.

Mr. McCOLLUM. If the gentleman will let me reclaim, that is precisely the device that caused this particular accident and this particular injury in this photograph.

Mr. DREIER of California. I believe that. What we have seen, and according to the "Dear Colleague" letter which the gentleman and I distributed, we said there were between 10 and 13 million mines placed throughout. This Butterfly bomb is actually a part of a cluster which, as the gentleman knows very well, comes off of the MI-24 or 25 Hind/D attack helicopter. They come off in a cluster with about 200 of these laid end to end. They float to the ground.

As I was coming down here I heard the gentleman say they are designed not to kill children but to maim them. The goal, of course, is to maim children because they are a greater burden; if they kill the children they are buried and if they are maimed they are a greater burden on the people of Afghanistan.

There are probably 3 million of these particular landmines presently on the ground in Afghanistan based on reports which we have seen. As the gentleman I am sure has pointed out or was about to point out, the Soviets, following the signing on April 14 of the Geneva accords have refused to take any steps whatsoever to either detonate or remove these kinds of butterfly bombs.

Now there are reports that have also come that have said that toy trucks and other little toys designed to attract the "grab" of the little child have been placed throughout the country and this is just one example that we were able to provide. I did not mean to interrupt the gentleman on that point.

Mr. McCOLLUM. No; I appreciate very much the gentleman showing the actual physical evidence of what caused this injury at this moment, because I think it is atrocious.

As the gentleman points out, there are millions of these little butterfly mines over there for kids to pick up.

Mr. DREIER of California. What actually happened, they place just enough explosive inside of this little green item—they are green and brown, and these are declassified now because there are so many of them around—again, there is not enough to kill a child but just enough to blow the hand off or create this tragic horrid situation which the gentleman so graphically shows with that photograph.

We hope very much that the Soviets will get the message. They are aware of the fact that we know that this kind of thing continues to take place.

Mr. McCOLLUM. I am going to recall my time, but only to point out some violations of international law and then I would hope the gentleman would take some time and discuss this on his own in a moment within this order.

I want to point out the fact that this particular butterfly mine that only maims not only is devastating in a human rights sense, but it is actually prohibited under the protocol that has been signed. We had an article recently in the Christian Science Monitor which quoted a Mr. Norchi, an international lawyer specializing in human rights and a fellow of international law at Yale University. He teaches there, of course.

Mr. Norchi has testified before Congress, he has given information to various publications. He says the international law on the matter is clear, and I quote:

> The customary international law is codified in the protocol on prohibitions or restrictions on the use of mines, boobytraps and other devices known as protocol number 2, referred to as the Land Mines Protocol annexed to the 1981 U.N. Convention on prohibition or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious and to have indiscriminate effects under the U.N. Convention. Remotely delivered mines such as Butterflies are prohibited by Article V(1) of the Land Mines Protocol except "within an area which is itself a military objective or which contains military objectives" and then "not unless their location can be accurately recorded," in accordance with the protocol or unless each mine has a self-actuating or a remotely controlled mechanism which will render the mine harmless or cause its destruction when the mine no longer serves its intended military purpose. Article III (3) prohibits all indiscriminate use of mines. This is the placement of a weapon (a) which is not on or directed at a military objective or (b) which employs a method or means of delivery which cannot be directed at a specific military objective or (c) which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination thereof which would be excessive in relation to the concrete and direct military advantage anticipated.

Now I cannot imagine anything more in violation of this protocol than the kind of a mine that is laid, this butterfly mine that the gentleman from California described a few moments ago which caused this injury. That kind of a mine is what is all over Afghanistan, randomly placed by the Soviets; cannot have a good military purpose; certainly is in violation of international law. And they will not even give the United Nations the maps, if they have the maps, to show where any of these mines are laid so that they can be cleared when they move out and the refugees are going to move back in. That is the real crux of the problem here.

I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding and I want to commend the gentleman from Florida whose tireless work has been one of the major factors in defeating the Soviet Union in Afghanistan. I want to give him that commendation, along with CHARLIE WILSON from the other side of the aisle who has done a lot and DAVID DREIER who is with us today. I think I have got an answer. I know the gentleman has answered the question concerning the Soviet use of those butterfly mines.

□ 1915

But I think the answer can be given really in one word—"families." The Soviets know that if they kill a member of an Afghan's family, his child, his daughter, his son, his wife, or even a more distant relative will fight them forever. The Afghans are a very tough people. When they pass one another on a mountain trail they greet each other, and they have an expression, "Stock-naja," which means "walk strong." And they walk strong. They have walked strong through the centuries.

There is one way to get an Afghan to leave Afghanistan, and that is to injure a member of his family so he has to take that member of his family to another country to get medical aid, and in this case it is generally Pakistan, with the rejuvenated facilities and the humanitarian aid and the medical facilities the gentleman from Florida has been so instrumental in setting up.

So this Afghan fighter will pack his little boy up who has had a hand blown off by a Soviet toy bomber or butterfly bomber, as Mr. DREIER, the gentleman from California said, and he will walk them hundreds of miles to try to get their little hand reconstructed. That is why the Soviets are putting down these bombs that really do not kill freedom fighters and do not really kill the children. They maim them, and by maiming them they make them move, and that is the story of Afghanistan. You have a population of 15 million people. One million people have been killed by the Russians and executed by the Russians, but 5 million people have been forced out of the country into Pakistan to form the biggest refugee population in the world, and the primary motivation for the moves are the butterfly bombs, the baby hurters and baby maimers that the Soviet Union uses in that country.

Mr. DREIER of California. Will the gentleman from Florida [Mr. McCOLLUM] yield?

Mr. McCOLLUM. Mr. Speaker, I will yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I would like to add that both the gentleman from Florida and the gentleman from California have had the opportunity to meet one of those individuals who I have as an intern working in my office, a young man, Hazrat Khan, who many times because he is 12 years of age has been down here on the House floor, has actually turned 13, but do not tell the Clerks, because if they knew he had turned 13 they would not let him on the floor, because you have to be 12 to be on the floor, but that young man is a walking testimonial, and I am very pleased and proud that he is a walking testimonial because he was told he would never walk again after he nearly died on the airlift which came over, the McCollum flights, which came over from Pakistan, and he came and had about 14 different operations. He has survived this exact same kind of attack. He was in his family's home and he was walking out the door to a friend's house and the home exploded and he saw his mother killed and four of the Mig-24 Hind attack helicopters came down as he was walking all by himself. Now, this is a boy under 10 years of age at that time, and he was machine-gunned by these helicopters.

So the point that my friend from California [Mr. HUNTER] makes certainly is very apropos, and we have many testimonials of this kind of thing, and I am happy to say in this case that young man, Hazrat Khan, is recovering and he is here on a medical visa, but it is a very tragic commentary that their goal is to target young children.

As I have said many times, tragically throughout history, children have been the victims of war. In the case of the Soviet invasion of Afghanistan, they are the targets and not the victims. That is a sad commentary.

Mr. McCOLLUM. I would like to ask Mr. HUNTER, the other gentleman from California who is on the Armed Services Committee, what his thoughts are about why now, if the Soviets really are withdrawing from Afghanistan, they have refused to allow the United Nations to have access, after they have withdrawn, to have access to the maps of the mines so that they can be cleared for the benefit of the Afghan population? Do you have any ideas? You have expressed a feeling about why they laid these mines and their desire to ascend and cause the Afghans resistance to leave the country.

Do they really want to keep them? Why do they not turn the maps over to the United Nations?

Mr. HUNTER. The answer to that question is clear. The Soviets have agreed to leave the country. They have not agreed to wage peace in Afghanistan or to abide by the conventions of peace. They want their surrogates, the Communists in Afghanistan to win, to prevail.

I think that is one reason why Mr. Zia's plane was sabotaged. I think that was done, in my opinion, by Spetsnaz operatives because they wanted to cripple the anti-Soviet freedom fighters in Afghanistan. I think they want to keep those freedom fighters being crippled. I think they want to keep the Afghan families moving out of Afghanistan into Pakistan because every freedom fighter who packs up his family and moves to the refugee camps now is one less freedom fighter whom the Afghan Communists who have been trained by the Soviets and left by the Soviets to maintain a Communist system do not have to deal with.

So I think the gentleman has really hit a critical point for Americans and for all people in the Western World to consider. That war is very much alive and the Soviets are going to pour enormous resources into the wages of this war against children, as Mr. DREIER of California has said, an unusual war where the children are targeted.

Mr. McCOLLUM. The gentleman's answer is according to my thinking, and the same as his. I think you are absolutely right about their intent to set up a puppet regime and make it stay in power, but they also do not want, as you said, the refugees to return because they are the backbone of the resistance, the real people, the ones that populated the farms in the countryside, and we already have very disturbing reports that in those locations that the Soviets have withdrawn, and they have done some of that in some of the countryside. When the people go back in, then those little villages and towns out there are bombed and leveled and totally wiped out, not in a war sense like you would think of, because there is a military objective involved, but because the people who come back and otherwise have a place to live and they have wreaked havoc with farms, destroyed the crops, the animals, and maimed the kids and are now destroying the shelters there in an attempt to keep the country from ever becoming economically on a sound footing.

It seems a totally inhumane thing to do unrelated to any objective they may have.

Mr. DREIER of California. Mr. Speaker, will the gentleman from California [Mr. HUNTER] yield?

Mr. HUNTER. Mr. Speaker, I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I would say, reaffirming the points that the gentleman alluded to, the backbone of the resistance is, of course, the 3.2 million refugees who sought refuge in Pakistan and the 1.8 who are in Iran, they do not want those people back into Afghanistan because they know that they pose a threat, a very serious threat, to the government of Dr. Najibullah, the puppet of Moscow, of the Soviet regime.

So, what has actually happened here is, as you look at the fighting forces in Afghanistan, and there were up to 120,000 Soviet troops there, most reports indicated that there were never more than 20,000 to 30,000 troops who were actively fighting at any one time. So what does this say? We have, yes, the August 15 deadline was met by the Soviets according to reports that half of their troops were leaving, but with only 20,000 to 30,000 troops fighting, the Soviets strengthened the government of Dr. Najibullah and have dispositioned the puppet government, in a position to fight and to obliterate the resistance, and then leaving these land mines on the ground helps to play a role in ensuring that as the refugees return to the country, that their ability to develop as any kind of a strong operation within Afghanistan, is certainly seriously threatened by the literally millions of land mines which are placed on the ground.

Mr. McCOLLUM. I would like to follow up that statement. The gentleman makes an excellent point.

In that brief time I was on the ground in Pakistan for President Zia's funeral a couple weeks ago, the AID officials who are our mission of mercy were providing assistance to the refugees.

Mr. DREIER of California. Larry Crandall, a superb individual, has done a great job.

Mr. McCOLLUM. Both Larry Crandall and Jack Miller, they are both working hard, and they approached me and said they knew I had an interest, had a humanitarian program going on for several years, they were very proud of it, of the great assistance it has been, but as the Soviet withdrawal occurs there is no way that the people can go back in. No way they can allow them to go back in unless there is a way to clear the mines out.

This is not the military talking. These are the AID people, humanitarian people, who have talked to the United Nations, who cannot get the Soviets to help. There is no interest on the Soviets' part in cooperating with humanitarian efforts in terms of Afghanistan.

That is the real tragedy here. Also, the violation of international law which we have seen is technically there, in the laying of the butterfly mines, in the first place.

Mr. HUNTER. Mr. Speaker, would the gentleman from Florida yield?

Mr. McCOLLUM. Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I think a key point to remember here is that several years ago when the Soviet Union began to see the resistance that was welling up in Afghanistan, in response to its occupation, the Soviet high command made a determination and the determination they made was that they could only have Afghanistan without the Afghans, or at the least, without as many Afghans, and they determined that 15 million Afghans, a population of 15 million Afghans was insurmountable for them to overcome, considering the assistance that the United States and other countries were giving them, and they entered for that reason in a deliberate attempt to kill as many Afghans as possible, which was done in killing a million Afghans, but to depopulate the country by moving refugees out, by maiming small children, and thereby motivating their parents to move out for the purpose of seeking medical help.

If you realize that Afghanistan is about the size of Texas and Oklahoma combined, and they only had a few doctors before that Soviet invasion, and the Soviets either killed or expelled all the doctors, the situation that they had, as the gentleman knows because he is really the father of the American airlift that helped these people being injured in Afghanistan, was similar to being struck by a car in Washington, DC, and being told if you could walk to Florida, you could see a doctor, or if you could be carried on the back of a mule to Florida before you died, you could see a doctor.

So, the Soviets entered into a deliberate policy to depopulate the country. Now, what is happening now is they still think they have a chance of maintaining the puppet regime in Afghanistan, but the precise and exact formula of having to depopulate the country to maintain that puppet regime applies. In fact, now they probably need to depopulate it more, because the puppet regime is much weaker, of course, than the Soviet presence that is now being removed.

So, you would anticipate that the Soviets, unless we stop them, are going to put more mines down and are going to deliver more of the butterfly mines to the hands of the puppet regime in Afghanistan so that they can further hamper the efforts of the refugees to come back into the country and further hamper the efforts of the freedom fighters.

Mr. McCOLLUM. Just reclaiming my time for a moment, I would like to add to that the fact of what you said is so true in the sense if we do not stop it, the Soviets will do this, and the bottom line of all of this discussion seems to me that the United States, the United Nations, the world community, ought to be up in arms about this. We ought to be in an uproar about this. There ought to be a major charge made in international forums to the Soviets on this issue. It is a violation of human rights as egregious as anything else gone on in modern times and modern warfare, regardless of anyone's view and all Americans share on this, even the countries that are perhaps allied with the Soviet bloc, there ought to be a sense of how devastating this is, how terrible it is, and they ought to be condemned for it and made by the public community to provide at least the maps to these mines, if not actually agree as they withdraw to help in the removal of those mines they have laid in the countryside. If we do not have the fortitude in this country to do that, I am missing the boat. We need to get in there and lambaste the United Nations some and get the President and Secretary Shultz to pound the table and get some of our allies to be aware of the land mine problem and pound the table. It might not be enough, but at the very least we owe those people in Afghanistan and the world community for humanitarian concerns for future conflicts, to let the Soviets not get away with this.

Mr. DREIER of California. I hesitate to bring up this point, but earlier this year there were a number of us who raised concerns about the Geneva accords and said well, Gorbachev, regardless of whether or not an agreement was signed, the Soviets would leave Afghanistan, because they were literally having the hell beaten out of them by the Mujahidin, and it was also made clear that while we saw that part of the agreement was we could continue supplying the Mujahidin, the Soviets could continue to supply the puppet government, but Pakistan could no longer be the pipeline through which this aid was going to be going, and when we saw the fact that over the last 8½ years the puppet government was not a legitimate government in Afghanistan and yet had signed on April 14 these accords that were ligitimatized by the government, the fourth point being that the Mujahidin, those who spilled their blood over the 8½ years were not a part of the negotiations, there were a number of us who raised concerns about that, and we opposed the accord.

The gentleman asked the question about the United Nations, and, frankly, my concern is that Diego Cordez, who is responsible for having brought about the agreement, certainly ought to see the process completed. I am not saying that that is the case, but that may just be one of the reasons we are not seeing this uproar from the United Nations, because they are responsible for the fact that on April 14 this agreement was signed.

So that does raise even further concerns for a number of us, and I would say for the Members that I have and I would like to include for the record here a list of two pages of violations of the Geneva accords which have taken place in this 4-month-old accord, ranging from the fact that the Soviet plane was shot down and had crossed the border, and a number of us, including my friend, the gentleman from California [Mr. DORNAN], who is here, spoke about the Geneva accords, and we were told there had been 66 cross-violations by the Soviets. We got reports that these planes entering Pakistan are coming not from Afghanistan but from Soviet bases.

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Anyway there was a litany of items here, and then, getting back to one of the other items that I know the gentleman wants to discuss in this special order, and that is the terrible and tragic loss of General Zia and our great Ambassador, Arnie Raphel, our friend, Arnaud de Borchgrave, publisher of the Washington Times, had an editorial and told me personally that the HOD, which is basically the Afghan KGB, made it clear just 2 weeks before this accident that, to President Zia, that, if he did not quit providing the funnel through which aid to the Mujahidin was going, that he would in fact feel it. And there is no doubt about the fact that just 2 weeks later he did feel it, and it certainly was a great tragedy, not only to Pakistan and the freedom fighters of Afghanistan, but to every freedom loving human being in the entire world.

I do not know if the gentleman wants to get into and talk about——

Mr. McCOLLUM. I am very happy to talk about that. If the gentleman wants to elaborate, I certainly do not mind.

I know—reclaiming just for the moment—the whole question over Zia's death is still up in the air. We do not know yet any kind of result of the investigation into it. We are told one day that it is being conducted and then another day that it is not going to be released to the public.

I, frankly, for one have called upon our Department of State and our Defense Department to do whatever they can to get this result released as soon as they can. I have been deeply disturbed by what I have heard in recent days that our own Federal Bureau of Investigation was denied the opportunity to participate in the investigation of this incident. They are the leading experts in this sort of thing in the country, and certainly they should have been allowed to be a party of the team from the United States that would offer at the request of the Pakistan Government to look at this. I certainly think the Pakistanis would have liked to have had the best we have. I am sure our military has got some experts, but it would have been much more assuring to this Member if the FBI would have been allowed to go over there in the instance where we had lost our Ambassador, and that would be their interest in it, and that is why they are authorized to engage in this kind of investigation.

I know the gentleman feels the same way. I have asked recently for an explanation of that. We still do not have it, but apparently the FBI was denied by the State Department the opportunity to go over and to participate. They say it was some kind of a mixup. I do not know what that means. We are yet to find it out, but the whole thing is disturbing.

The Soviets probably, probably, had something to do with this. If they did not, it does not make any difference internationally, I suppose, in one sense because the results are the same. The results are that the strongest ally the Afghans had over there is now gone in President Zia, and they have disrupted by this process, whoever did it, the whole system, and we are going to have an election supposedly in November in Pakistan. Who knows the results of that?

I think we as a people, this Congress and the Government of the United States, owes it to the Afghans and the Pakistani people to do everything in our power to stand up to the Soviets with the Pakistan Government at this time.

The Acting President, President Ishaq Khan, and the Foreign Minister, Yakub, and all the others who are still standing tall over there in Zia's absence, and General Baig and others; we owe it to them to stand tall with them against the Soviets.

Mr. Speaker, I think we are doing that. I know I have expressed that concern when I was in Pakistan. I have expressed it since then. I admire greatly what the Pakistan Government has done, and I pray and hope that those who succeed President Zia and succeed this acting government that is doing so well continue to aid these refugees, continue to fight for freedom, continue to fight for self-determination of the people of Afghanistan all the way through the Soviet withdrawal and then some.

Mr. DREIER of California. Will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I would simply like to say there is no doubt about the fact that all of us were devastated by what took place there, and I would like to convey to my colleagues here that I just today received a very moving letter.

We know one of the other ironies which took place, a tragic irony just 3 days before the signing of the Geneva accord. This was the fact that in Islamabad one of the munitions facilities, which was the storage site for many of the weapons which have been provided for the Mujahidin, exploded, killing more than 1,100 Pakistanis in the country and wounded seriously many, many more.

And I just today, having written a letter to General Zia several weeks after that, received from Acting President Ishaq, a copy of the letter that was sitting on General Zia's desk back to me in which he appreciated the sympathy that I had extended to the people of Pakistan, and he in that letter underscored how important it is for us to continue to do everything that we possibly can to support the freedom fighters of Afghanistan.

As the gentleman said, there is no doubt about the fact that General Zia was the greatest ally that the people of Afghanistan who are fighting for freedom had. This letter came from the Acting President, Ishaq, who said to me that it was very unfortunate that, while General Zia dictated this letter, he was not able to sign it in his lifetime, and of course there continues to be many questions surrounding the explosion of that facility, which the gentleman from California [Mr. DORNAN] and I visited on that same trip late last year during November and December when we were in Pakistan. Many people were lost in that explosion, people who took us around, and then of course the tragic list of those who were killed on that C-130 which crashed in Pakistan.

I would like to include the following in the RECORD, Mr. Speaker, which is a list of the names of those people who were killed in that tragic plane crash. We just have received that, and I think it would be important for all of my colleagues and for the families of these victims to see this in the CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. CLARKE). Without objection.

CASUALTY LIST C-130 CRASHED ON 17 AUG. 88 AT BAHAWALPUR PAKISTAN

1. General Mohammad Zia Ul Haq, President of Islamic Republic of Pakistan and Chief of the Army Staff.
2. General Akhtar Abdur Rehman, Chairman Joint Chiefs of Staff Committee.
3. Lt Gen Mian Muhammad Afzaal, Chief of General Staff.
4. Maj Gen M Abdus Sami, Vice Chief of General Staff.
5. Maj Gen Mohammad Sharif Nasir, Director General Combat Development—Dte.
6. Maj Gen Mohammad Hussain Awan, GOC 23 Division.
7. Brig Sadik Solik, Director Public Relations.
8. Brig Abdul Latif, Director Inspection & Technical Development.
9. Brig Abdul Majid, Director Electrical & Mechanical Engineers.
10. Brig Najeeb Ahmed, Military Secretary to the President.
11. Brig Moien Ud Din Chughtai, PSO to Chairman Joint Chiefs of Staff Committee.
12. Lt Col Safdar Mahmud, Officer on Special Duty to President.
13. Sqn Ldr Rahat Majiod Siddiqi, Aide to President.
14. Capt Zahid Rana, Staff Officer, Chief of General Staff Sectt.
15. Mr Arnold Raphel, U.S. Ambassador in Pakistan.
16. Brig Gen Herbert M. Wassom, US Defence Representative Islamabad.

AIR CREW

17. Wing Cdre Mashhood Hassan.
18. Sqn Ldr Zulfiqar.
19. Flt Lt Sadiq.
20. Flt Lt Asmat.
21. N/Sub Shafiq.
22. C/Tech Rafiq.
23. S/Tech Firdous.
24. S/Tech Habib.
25. S/Tech Rashid.
26. S/Tech Aziz.
27. S/Tech Manzar.
28. S/Tech Azhar.
29. J/Tech Shafqat.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I just wanted to add an optimistic note here to share with my colleague from California, a spirit that we picked up in Pakistan that was not just embodied in President Zia himself, but in everybody in the foreign ministry, all of the high-ranking command staff of his military people. They felt that the cause that was being fought out in Afghanistan was truly their brothers. It was a religious thing. It was a neighborly thing. It was something that there was a feeling of solid commitment from top to bottom so that the loss, as tragic as it is, of President Zia, I am optimistic that all of the fine staff people that we met and government people we met would continue with this cause if the Soviets were to renege on what they were doing.

I would like just to add a footnote so that the gentleman who took out this order, the gentleman from Florida [Mr. MCCOLLUM], and the gentleman from California [Mr. DREIER] and myself and everybody else who participates in one of these special orders should know the importance of it. We are in these special orders supposed to direct all our remarks through the Chair, referring to the Chair as, "Mr. Speaker," and that is proper and traditional, but every now and then, because the order went out at the end of the last Speaker's tenure that the camera should occasionally pan an empty Chamber to make it look as though we are just talking to ourselves here. We should remind one another and, thereby, other people that the figure is now upward of 425,000 to 450,000 people who will watch special orders of substance. And I certainly think the gentleman has conducted a special order of substance.

And a further footnote on how much Soviet interest there is in what takes place in this Chamber: Heretofore, until a trip to the Soviet Union in late August, just a few days ago, I thought that the Soviet Union used their Embassy the way we use our Embassy, that they would watch the proceedings of the House and occasionally visit us in the gallery here, certainly monitor C-SPAN, the proceedings in which they can see our discussion here, or watch CNN, Congressmen appearing on "Cross-fire," and the "Larry King Show" and things like that, and they would rely on diplomatic cables and communiques. Well, on one of the last days of August I had an appointment with the North American desk at their State Department, the Ministry of North American Affairs, in a gothic building that Stalin built called the Seven Sisters, the huge landmarks around Moscow, and I went in and was met at the door by a very pleasant young man who spoke fluent English. He escorted me and one of the Foreign Service officers in the political section to the sixth floor, and, as we walked out down the hall through one of the doors on the sixth floor, we entered a Soviet conference room, and here were the four people we were to meet with, one of them, the No. 2 man, would be like not an Assistant or Deputy Assistant Secretary, but an Assistant Secretary of State. They were sitting around watching a television, and on the television set was CNN and the show "Money Line" to be followed by "Cross-fire."

Mr. Speaker, I was stunned, and they laughed and said, "Oh, didn't you know that your Embassy can't get American television, nor can your Ambassador's home, Spasso House, but we have been given a special arrangement with Ted Turner, the founder of Cable Network News, and he's made it possible for those of us to watch American television here, and, when there's a fast-breaking story, your people at the Embassy have to call us."

I am sure they are calling now to find out the news as hurricane Gilbert approaches the coast, and they said, "Soon we hope to get C-SPAN."

Now imagine C-SPAN, the Chamber proceedings here during the day, key votes or special orders where we are discussing something of importance to the Soviet Union being watched in the offices of their foreign ministry. Our world is certainly shrinking with communications. One feels lost in the Soviet Union sometimes because it takes 4 hours to get a call home, but in

Pakistan I called home from Peshawar or Islamabad in about 20 minutes.

We feel, those of us who were on the trip, quite a closeness to President Zia. He had a beautiful state dinner for us. It happened to be the 33d anniversary of my meeting my wife, not an anniversary, just when I first laid eyes on her, and I asked him if he would present a bracelet to her that I had purchased. Well, he did a 30-minute talk on romance, on the importance of family, our wives. His wife sat there and glowed, and he really spoke eloquently—for how long would you say, Dave—without notes about family values. This showed how close those values will bring two countries. He spoke with a warmth about the United States of America and our special friendship, and in spite of the fact he spoke of a special friendship with China because they had been there in their hour of need in the Battle of India. But this man understood the United States, liked our country and felt we were backing him up in doing what was morally right, giving their brothers, their Islamic brothers across the border in Afghanistan, the wherewithal to hold off an atheistic invasion of their country.

As the Soviets listen to our words here and take them down, let them know that some of us believe Pakistan will never give up that bond of faith with the Mujahidin, or the Muj, as we got to call them in a warm and friendly way at the end of that visit, and I do not think the United States will either.

We have some trouble just a few miles south of your State across this hurricane-ridden gulf now trying to figure out how to help our Christian brothers down in Nicaragua, but it seems like we are all one family of man when it comes to Angola, the Persian Gulf and certainly the courageous fighters in Afghanistan.

I will never look at these House proceedings again the same way now that I know they watch them in the Foreign Ministry in Moscow.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

I think one of the points that should be made was that General Zia was going through that night that he spoke about the importance of romance and marriage; I think the term that he used is that occasionally there are rough times in a marriage, and he was underscoring that at a time when there were some in this Congress who were proceeding to not be quite as supportive of our great friend and ally, Pakistan, as they might otherwise be. And that was one of the major points that he was making, and I doubt that there was any correlation whatsoever to the marriage between——

Mr. DORNAN of California. No, the rocky times we have had would not be compared to Pakistan and the United States. They were much rougher. But that night of November 26, 1987, my wife, Sally, and I will never forget, and Zia is truly a loss to the forces of freedom throughout the world.

Mr. McCOLLUM. Reclaiming my time, I want to compliment both gentlemen from California for bringing out another dimension of the human nature and the quality of the late President Zia of Pakistan and the importance of our relationship and continued relationship to them. I hope that the gentleman is right, Mr. DORNAN, and that indeed the Soviets are watching tonight. And, if they are, perhaps tomorrow or the next day we will be able to read in the newspaper where they have taken their own initiative to provide to the United Nations the land mines or offered, even better, to assist in the clearing of them as they depart. That would be the humanitarian thing to do.

Mr. DREIER of California. Can the gentleman imagine the prospect of somebody sitting in the Soviet Union who actually played a role in manufacturing this thing and seeing us hold it on the floor of the Congress, one of the bombs which has maimed children in this country?

Mr. McCOLLUM. Reclaiming my time here, if glasnost and perestroika and all have any real meaning, if they really do mean that, and they are withdrawing from Afghanistan, regardless of their political interest it seems to me that Mr. Gorbachev and the others over there and their leadership ought to do the right thing by this. They ought to recognize what it is right now. They ought to put aside all of the past, and they should join in the world community's effort to do the proper thing and clear these land mines out.

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Coming back to what I was saying and everybody else was at the beginning of this talk about the presence of these 10 to 20 million mines, nobody knows how many, it might be 12 or 15 million, but there certainly are plenty of them all over the countryside inside Afghanistan, everywhere, so that little children like those in the pictures that I showed earlier, and there is a whole raft of pictures over there that I did not pull out that could easily have been shown that Free Medicine have taken, so that these little children do not continue to be injured like this, and even more be injured when the refugees really return. These are examples of just a few injuries that occur now two or three times a day. Can you imagine how many more children are going to get injured when the refugees begin to pour back in by the thousands next spring if these land mines have not been cleared and if we do not know where they are in all their toll, which is the best we can do probably without the Soviets helping is to demonstrate to them what one looks like and hope that the adult sees it, I think that would be the most tragic thing that we could ever have befall them.

Before I yield again, which I will be glad to do and my time may expire before I remember to do this, the gentleman from New York [Mr. SOLOMON] could not be with us this evening and he asked that I enter into the RECORD his statement that he would have made had he been here.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I am happy to yield to the gentleman from California.

Mr. DREIER of California. I would simply like to say that if we can have something really positive come from this special order, I think it would be to accomplish what was proposed by the gentleman from Florida, and that is that we enhance the hue and cry from the United Nations to the Soviet Union to respond and provide at least maps of the location of these land mines which are placed throughout the country, so I believe that we should possible consider a resolution which could be passed by this House which would go through the Foreign Affairs Committee, on which my friend, the gentleman from California serves, or a letter or something like that to the United Nations encouraging that kind of action, so that the United Nations actually does call on the Soviet Union to provide this desperately needed information, so that we can see that the 5 million refugees have an opportunity safely to return to their homeland.

Mr. McCOLLUM. Well, I would be very glad to join the gentleman, and I am sure the gentleman from California [Mr. DORNAN] would, too, in such a resolution.

I wish I could believe that the Soviets really in the spirit of all this would come forward and do this voluntarily, but I am afraid that history shows that is unlikely. Their actions to date show they have not been sensitive to these issues on human rights problems. Perhaps initially and hopefully this is so because they have been preoccupied with something, but I believe it is going to be absolutely essential for our leadership, both in this Congress and down at the White House and in every facet of our Government to get with the international community and to make a big issue out of this and do it now before it is too late, do it now when there is still time to clear those mines, do it now before the refugees begin to go back in the spring, do it now before the winter season comes in some of those mountainous regions so that you cannot do it. It is really important that we not mess around with this stuff and wait 3 or 4 months and then say, "Oh, OK, we'll go ahead and do it now." It is going to be too late then.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield further?

Mr. McCOLLUM. I am happy to yield to the gentleman from California.

Mr. DREIER of California. The gentleman is absolutely right, but just like we supported a year ago August 7 the Esquipulas II agreement, just like we supported the Sopoa agreement in Nicaragua, just like we hoped and prayed that the Geneva accords would actually be able to run their course, we only have one choice, and that is to hold out hope that the Soviet response to what we could play a role in initiating from the United Nations will in fact see a turning of the corner on this.

Mr. McCOLLUM. Well, I want to reclaim my time to this degree, that I personally believe and I think many Members if they think about it will, too, that if we do not get the kind of response to this that we should, that the United States should do everything in its power unilaterally to see that these mines are cleared and that the necessary equipment be provided and the training be provided.

I know it is the intention of the United Nations to do it, but I am afraid it is going to be late. That is the whole bottom line. Once the refugees begin to go back in the spring, if the Soviets have not provided the maps, if they have not assisted in the clearing, if the U.N. program is not there already in place, it is going to be too late and you are going to see thousands more of little kids injured with these mines.

I think that in the interim, whatever else is done, we ought to insist that our own Government take whatever steps are necessary to involve the people of Pakistan and the leadership there, as well as the Mujahidin leadership and our own experts in doing what we can independently to help them learn how to clear these mines, but none of that will take the place of Soviet cooperation. That is why the condemnation of the Soviets on this issue by the international community is so important and so timely and so needed at this moment.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from California.

Mr. DORNAN of California. I am sorry I missed the early part of the gentleman's special order.

The window of opportunity at the United Nations from September through maybe the first or second week in December is a very narrow window in any given year.

Is there any move going on now to try to get Soviet permission or to organize a group, because if they develop these skills of sweeping these areas for mines, they can then take those skills right down to the battle zone area between Iraq and Iran. The Communist forces are still laying mines in Kampuchea and Cambodia, all along the Thai border, and even some parts of the Laotian border. This is such a vicious thing, because it can kill people years in the future.

Mr. McCOLLUM. The United Nations has a program in place to try to assist in the mine-clearing operation. They have not activated it yet. It is several weeks or maybe possibly several months away, and they do not have the cooperation of the Soviet Union. They do not have the maps to show where these mines are laid. It is not just a question of one or two bureaucrats in the organization offering to assist. It is a question of practicality. It is a question of the fact the Soviets have laid all these things out there that are so deadly and there is not going to be enough time to get them cleared unless they cooperate before we see not only thousands killed inside the country, but many, many more thousands killed who go back in the spring.

It is the time-sensitive nature of this, not the objective willingness of the U.N. forces to participate.

The fact that the Soviets have not cooperated and are not cooperating is exceedingly critical to this whole process.

Mr. DORNAN of California. Mr. Speaker, if the gentleman will yield further, one problem is that they do not have maps, that they just threw these mines out pell-mell into certain areas as they devastated whole villages and series of villages, and they are embarrassed to admit that they actually cannot give much assistance, except in general areas.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield further, they certainly do know that we are aware of the mines, and there is no lack of knowledge about that. What they should be doing is playing a role in helping to detonate some of these mines, even if they do not have maps, because they certainly do have general knowledge and understanding of the whereabouts of them.

Mr. DORNAN of California. I think it is a lesson to the whole world what happens when one nation tries to subjugate a highly spirited people, and the methods they turn to, to try to completely crush or destroy the will to resist.

I remember in the 1970's I picked up one of the major newspapers of our country. There was a little Associated Press story down in the corner that a Belgian father and his son were plowing their field near the Sonne River, one of the intense battlefields of World War I, and they struck an artillery shell from the 1914-15 timeframe and it blew both of them to death and destroyed their tractor, and this was in the seventies, so there was more than half a century later two people added to the death toll of World War I, a quarter century after World War II almost.

It is just tragic when somebody lays these insidious mines and then walks away from them and says, "Well, we are out of here. It's all over now."

Mr. McCOLLUM. Well, reclaiming my time and getting ready to close, because I think the time is about up, I yield briefly to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank my friend for yielding.

Mr. Speaker, at this point I include some biographical information on our great Ambassador Raphel and Brigadier General Wassom, both of whom were killed on this tragic flight, so that we can include this in the RECORD:

BIOGRAPHICAL INFORMATION ON AMBASSADOR RAPHEL AND BRIGADIER GENERAL WASSOM

Mr. Raphel was born in Troy, New York on March 16, 1943. He received a B.A. from Hamilton College in 1964 and his M.A. from the Maxwell School at Syracuse University. He began his career in the Foreign Service with posts in Iran and Pakistan, and he quickly demonstrated his abilities in some of the harshest of diplomatic environments.

His resume is most impressive. From 1972 to 1973, Mr. Raphel served as Assistant to the Under Secretary of State for Near Eastern and South Asian Affairs, and as Assistant to the Under Secretary of State for Political Affairs from 1974 to 1975. From 1975 to 1978, Mr. Raphel was assigned to Islamabad, Pakistan as Political Officer.

As special assistant to Secretaries of State Cyrus Vance and Edmund Muskie, he was instrumental in U.S. efforts to gain the release of the 52 American hostages held by Iran from 1979 to 1981. In 1982, while in the Bureau of Politico-Military Affairs, he helped forge U.S. policy toward Iran in its war with Iraq. He was also the prime sponsor of Operation Staunch, in which the U.S. sought to achieve an international arms embargo of the Iranian government.

On January 21, 1987, Mr. Raphel was named Ambassador to Pakistan, the post he held until his death on August 17. He was a man of incredible ability and perception, and was one of the State Department's major assets. His death is a serious loss to the American Diplomatic Corps, and he will be sorely missed.

Brigadier General Wassom was born on December 20, 1938 in Rockwood, Tennessee, receiving his B.S. from Western Kentucky University and his M.S. from George Washington University. He also attended the United States Army Command and General Staff College and the National War College.

Wassom led a brilliant career in the Army beginning in 1961 as a student in the Ordnance Officer Basic Course at Aberdeen Proving Ground in Maryland. Numerous ordnance and artillery assignments followed, culminating in his assignment in 1987 as Chief United States Defense Representative to Pakistan.

These two men understood and accepted the dangers inherent in the effective execution of their assignments, and in the end they paid the ultimate price for freedom. We owe them much.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield further, I was pleased to join with him in this special order. We are going to continue to pursue this and possibly in the very near future we can launch a letter and possibly a resolution encouraging the United Nations to pursue the Soviets in our quest of actually eradicating this great danger.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for his participation.

I thank the gentleman from California [Mr. DORNAN] for his participation.

The gentleman from California [Mr. HUNTER] has now left, and I thank him for his participation.

I would like to follow up and point out that I did see and have a chance to visit with the widows of those two warriors of ours, Ambassador Raphel and General Wassom, and the daughter of General Wassom on the terribly long plane ride home with the bodies of our two men.

They are courageous women and they are a courageous family. We owe them a great deal for allowing their husbands and their fathers to serve this country the way they have abroad and to give of their lives, the greatest thing they can give.

The last comment I would like to make in closing tonight is that for anyone who may not have been listening earlier to this special order, any of the Members, it is important to know the purpose of it. We have 10 to 12 million to 15 million, nobody knows for sure, maybe 20 million landmines, very dangerous mines, all over Afghanistan that the Soviets have laid. These mines are butterfly in nature in large measure. They are of the type that main. They were not designed to kill. They are in violation of international accords by all reputable experts on the subject. They need to be cleared. We have thousands and thousands of refugees now to return upon the leaving and the departure of the Soviets, if they really are departing as we think they are. If we do not have their cooperation, we cannot succeed in clearing these mines and they will kill, as they have in the pictures I have shown tonight, hundreds of thousands of people, or at least main them as they have. It is truly tragic.

Mr. Speaker, I thank these gentlemen for their participation.

Mr. SOLOMON. Mr. Speaker, may I begin by congratulating the gentleman from Florida [Mr. McCOLLUM] for his initiative in calling this special order to bring the issue of Afghanistan to the attention of the House.

As a member of the Committee on Foreign Affairs, I have followed the ongoing developments in Afghanistan very closely. When the peace agreement was signed in Geneva last April I shared the hopes of many people, indeed millions of people throughout the world, that Afghanistan's long nightmare might finally be coming to an end.

However, a closer study of that agreement left me at first concerned, and finally alarmed, not so much by what it says as by what it does not say. Subsequent explanations by State Department officials who testified before the committee left me even more apprehensive.

In particular, I am concerned about three issues that evidently are not covered by this agreement:

The need to locate and disarm the millions of landmines that have been left behind in Afghanistan by Soviet forces;

The need to remove Soviet-trained personnel who have been placed in positions throughout the Afghan Government and civil service; and

The need to repatriate Afghan children who have been forcibly taken to the Soviet Union for political indoctrination and training.

There are any number of other deficiencies with the agreement. I am convinced that it does not contain adequate commitments by the Soviet Union to provide reparations for all of the damage its forces have caused in Afghanistan. I have been informed by the U.N. Development Program that its initial survey of what needs to be done in Afghanistan points to a 3-year program costing $1.3 billion that will be necessary to rebuild essential infrastructure, stabilize the agricultural sector, and provide seed money for the private sector.

And all of this is just the beginning. This figure of $1.3 billion does not include costs associated with resettling 5 million refugees. Millions more have been displaced within the country.

And if I could make a personal observation it would be this: My skepticism about this agreement has been aroused even further by the newsreels coming out of Afghanistan. When I saw Dictator Najibullah sitting there all smiles as he signed this agreement, when conventional wisdom would say he was signing his own death warrant, I wondered what it was the Soviets had told him privately. What assurances had they given him about his own survival?

All of these reservations aside, however, one single event has cast an even greater cloud over the future of Afghanistan: The death of President Mohammed Zia Ul-Haq in Pakistan. President Zia made a resolute stand against Soviet aggression. Indeed, the world has rarely witnessed such courageous and principled leadership by the leader of a devloping country.

The only factor that could mitigate my misgivings over the peace agreement was the fact that President Zia could be relied on to protect the interests of all people and governments who desire to see a free and independent Afghanistan.

I sadly fear that we may never see the likes of President Zia again. And now that he is out of the way, I am all the more concerned that the final chapter on the Soviet occupation of Afghanistan may yet be a long way from being written.

Mr. PORTER. Mr. Speaker, I would like to commend my colleagues BILL McCOLLUM and DAVID DREIER for arranging this special order to discuss what has to be considered one of the most heinous crimes perpetrated this century—the laying by the Soviet Union of 10 to 30 million mines throughout Afghanistan.

From the moment Soviet tanks rolled into Afghanistan in 1979, they have conducted a planned, well-orchestrated attempt to completely demoralize the brave and resilient Afghan people. From burning and bombing thousands of acres of farm lands, to forcibly sending Afghan children to the Soviet Union for indoctrination, Soviet actions in Afghanistan have never shirked from total disregard from human rights and human dignity.

While many of us were aware of, and shocked by, the Soviet practice of spreading mines throughout Afghanistan, including, of course, those disguised as toys for children to pick up, I think it is safe to say that no one knew the proportions of this outrageous tactic. It is now apparent that the withdrawal of Soviet troops will not even begin to end the suffering of the Afghan people. Experts believe that mines will be exploding in the fields of Afghanistan for perhaps as long as 10 years. Recent estimates conclude that 25,000 people have already been killed or maimed by the mines, and that 30 to 50 people are killed or wounded each week by these insidious devices.

It is instructive to note that many organizations around the world are planning to work to lessen the harm done by the mines. Prince Sadruddin Aga Khan is attempting to organize a multinational group of experts to educate returning Afghan citizens how to recognize and defuse mines. Turkey, France, Britain, Italy, Norway, and New Zealand, have all volunteered their support to this critical effort. Absent from this list of helpers, or course, is the Soviet Union, the country responsible for the destruction.

Moscow has repeatedly refused to provide any assistance to relief organizations regarding the whereabouts of these mines. They have claimed that the mines they laid would self-destruct within days. To the contrary, we now know that many of these mines will remain in Afghan villages and fields for years to come.

The world strongly condemned the Soviet Union when it invaded Afghanistan. We must not allow the Soviet Union to disclaim responsibility for the past and future destruction its actions in Afghanistan have caused. I want to thank the organizers of this special order for raising once again the terrible injustices that continue in Afghanistan. Hopefully, through these efforts we can lessen the pain and suffering of the courageous Afghan people.

Mr. CRANE. Mr. Speaker, I would like to thank my colleagues, BILL McCOLLUM and DAVID DREIER for organizing this special order to draw attention to the many ways in which the Soviets have blatantly violated the Geneva peace accords. The Soviets have violated all norms of common decency in this war and these treaty violations are merely further examples of the type of Satanic behavior of which this nation is capable.

The agreements, signed by the United Nations, Afghanistan, Pakistan, and Moscow, provided withdrawal of half of the Soviet occupation force by August 15 and a total pullout of all troops by February 15. Only a few weeks ago the Soviet withdrew from the city of Kunduz, as part of their efforts to comply with the peace accords. However, the Soviets quickly reversed their expression of good will and redeployed their forces in the city, engaging in heavy bombing and artillery shelling of guerrilla positions. While the redeployment of these forces did not constitute a direct violation of the accords because the troops had been redeployed from within the country, it nevertheless shows that the Soviets are in no hurry to withdraw their forces in a timely manner.

Suspicion of the intentions of the Soviet Union have recently been validated by a whole slew of Soviet military actions against the freedom fighters. I will insert into the RECORD a horrifying number of Soviet examples of aggression that include such heartless activities as bombing raids on civilians. These acts of aggression clearly violate the Geneva accords which prohibit any intervention by outside forces in the internal affairs of Afghanistan. The United States must redouble its efforts to force the Soviets to comply with the Geneva acords.

The Government of Pakistan has confirmed that the late Prime Minister Zia's plane was downed by an act of sabotage. Given the sophisticated nature of the attack, the United States has every reason to question whether the Soviet Union had a hand in this tragedy. Zia's death is certainly convenient from the Soviet point of view since his leadership has been instrumental in guaranteeing the survival of the freedom fighters. His death certainly decreases the liklihood that the freedom fighters will be able to succeed in their goal of ruling Afghanistan once again. The United States must continue to work with the Government of Pakistan to determine who was responsible for this attack.

The Soviet Union deserves additional scorn for its use of landmines in Afghanistan. Under international humanitarian law, landmines are lawful if restricted to emplacement around government military installations. However, they become illegal if a state fails to distinguish between combatants and noncombatants by deliberately placing mines in civilian areas. Throughout the duration of the war in Afghanistan, the Soviet Union has pursued a violent policy of placing landmines in such civilian areas as wheat fields and towns. Human rights representatives from the United Nations have verified that many of these landmines have been designed to look like dolls, pens, and watches to cause children to mistake them for toys. The freedom fighters estimate that the Soviets have deployed between 3 and 5 milion landmines in Afghanistan.

The Soviets have made no efforts to remove these landmines and thus they have clearly violated the United Nations brokered April Geneva accords that call for the safe passage of returning refugees. In addition, the Soviets have been planting even more landmines as they have proceeded to return to the Soviet Union. U.N. officials and relief workers doubt that large scale repatriation of the more than 3 million Afghan refugees who have sought safety in Pakistan can start until Soviet landmines have been cleared from the countryside. The removal of these landmines can only commence once relief workers know where the landmines have been planted. However, the Soviets continue to violate international law that requires them to provide accurate maps of legal landmines. Even if the Soviets surprise us all by complying with international law in this regard, the vast majority of these landmines cannot be detected because they are not legal, having been randomly strewn about the country.

Because of the immoral behavior of the Soviet Union, hundreds and possibly thousands of additional Afghan citizens will die. The United States must tell the Soviet Union in no uncertain terms, that we expect the Soviets to remove all the landmines that have been planted in this war-torn country. The Soviets should also be obligated to pay war reparations to the victims of this war. At the very least, the Soviet Union should provide relief workers with maps of legal landmines.

The United States must urge the United Nations to take up this matter and pressure the Soviet Union to do the moral thing and remove these landmines. The United States has an obligation to the freedom fighters to stand by them to the end. In fact, our leaders have an obligation to the American people to stand by our allies and show the world that they have learned from their past mistakes—abandoning the South Vietnamese for instance—and that they will never again leave a friend to fend for himself in a time of need. Hence, America must continue to press the Soviet Union to act on this matter. Should the Soviets fail to remove these landmines, the United States should consider additional methods such as economic sanctions to pressure the Soviet Union. In this day and age of improved relations between the Soviet Union and the United States, Members of Congress and administration officials should not be lulled into a state of complacency. All of America's leaders must remain committed to the cause of liberty and justice for the people of the world, even for our friends in far away Afghanistan.

Mr. LAGOMARSINO. Mr. Speaker, before the invasion of Afghanistan in 1979, the Soviets murdered one puppet ruler to exchange him for another and have since that time carried out a vicious attack on the Afghan people. The Soviet savagery continues today as the Red Army retreats and it will continue into the future even if the Soviet Army completes its withdrawal from Afghanistan.

Afghans will have to endure the barbarity of the Soviet Union because of millions of mines planted in Afghanistan by the "glasnost government." Of course, Mr. Speaker, Soviet Foreign Minister Eduard Shevardnadze informed the Afghan people and Secretary of State George Shultz that most of the mines destroyed themselves within several days of being planted. Yet, in a recent visit here by Afghan journalists, we are informed the mines are so numerous and dispersed in the villages and other civilian regions in their country that the people who live there warn others of a mine field by driving a stick into the ground and hanging the remaining clothing of the obliterated victims of Soviet mines on the stick.

Soviet Foreign Ministry spokesman Gennadi Gerasimov has assured the State Department and the Afghans "* * * that we are not involved in any mine war against the people of Afghanistan." However, the United States has received intelligence reports that the Soviet's have, in recent weeks, actually laid new mines as they back out of Afghanistan. This is why the United States should approach the rhetoric of glasnost with extreme caution, for glasnost can kill. While the Soviets talk peace, they kill their enemies. It is a graphic display of the ruthless war the Soviet Army waged on Afghanistan and the legacy of horror the Soviets have left behind to welcome home those who fled for their lives from the invading Soviet war machine.

As the Soviet Army slowly withdraws from Afghanistan, leaving behind their mines and the tragedy they bring, the Afghan refugees around the world await the day when they can go home. They are very reluctant to do so however because the Soviet Union is leaving behind millions of mines—which they deny even existing—they refuse to even provide mine field maps which they had promised to do—for the United Nations so that the work may begin to bring a measure of safety to this war-torn country. Even if the Soviets did provide maps, it is nearly certain that hundreds, perhaps thousands of people will die or be maimed by Soviet mines. This is due to the method which the Soviets chose when they decided to wage mine warfare on civilians.

The Soviet Army scattered millions of mines across the countryside where they lay hidden in wheat fields, mountainous regions, and agricultural areas to dismember a farmer or maybe a child going for a walk in the country.

The Soviets scattered these mines in places which have no tactical significance. Why did the Soviets choose to plant these mines in such militarily insignificant places? The children of Afghanistan know why.

As they innocently reach down to pick up a new found toy, compliments of the U.S.S.R., they have tragically lost their arms, legs, eyes, and even their lives when these disguised mines explode. Afghan children have learned that Soviet-made toys are intended to be lethal.

Soviet genocide does not end with mines. There are reports the Soviets have engaged in chemical warfare in Afghanistan while continuing their indiscriminate aerial and artillery bombardments on civilians. During attacks by the Soviet Army on villages, Afghans speak of watching Soviet troops wearing protective suits, pour unknown chemicals into water wells which lead to tunnels where villagers hide. After the attacks, the villagers go to these tunnels to find their families asphyxiated or burned to death. There are reports of Soviet planes flying overhead, spraying poison on already depleted food supplies. If the Afghan people eat this food they die or become deathly ill. If they do not eat, they starve. The Soviet tactics clearly are scorched earth tactics.

The Soviet Union that knowingly increases the suffering of Afghan men, women, and children and refuse to even provide mine field maps to help end this terror is the same nation that some wish to blindly trust in other regional conflicts around the world. The Soviet Union that creates mines that look like dolls, pens, and radios to dismember unsuspecting children and their parents is the same genocidal nation that is pumping millions of dollars of military assistance into Nicaragua—today. Are we taking their word in Nicaragua and getting set up for more Soviet-style terror on the American mainland?

If things get out of hand in Central America will the civilians who live there continue to meet the same fate that so many innocent Afghans have and will have at the hands of the Soviet funded Sandinistas? The freedom loving Afghans know better and so should we. The Afghan freedom fighters did not successfully challenge the Red army and its surrogates by taking the Soviets at their word. The experience of the Afghan rebels taught them to know better and so should ours.

Mr. BURTON of Indiana. Mr. Speaker, I merely wish to add a few words to what my colleagues are saying so eloquently about Afghanistan. I commend my colleagues for their sincere compassion for a people in the throes of tragedy, and I share that compassion. Not many are aware of a simple, yet brutal fact: The people of Afghanistan are the victims of a genocide campaign conducted in this decade by the Soviet Union.

What a difference, gentleman! When we left Japan—and we were only there because we won a war against aggression—we left behind a legacy of democracy, freedom, and economic initiative. Japan is what it is today because of our friendship and generosity. That is exactly the legacy we were trying to build in South Vietnam. What a difference! What is the Soviet Union leaving behind in Afghanistan—and that's if they really do leave? The Communist legacy in Afghanistan is millions of unexploded mines. Mines waiting to cripple, main, and kill innocent children and others. The Soviets may or may not leave Afghanistan, but their brutal, murderous footprints will remain for years.

This is not plagiarism. It is direct attribution. I was honored to have Oliver North do a fundraiser for me a few weeks back. He said something that stuck in my mind. "Communism only works in two places: in heaven where they don't need it, and in hell where they've already got it." My friends, if you want a glimpse of hell, just go to Soviet occupied Afghanistan.

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. CLARKE). Is there objection to the request of the gentleman from Florida?

There was no objection.

THE IMPORTANCE OF THE AIDS FEDERAL POLICY ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, the House is scheduled to take up H.R. 5142, the AIDS Federal Policy Act, this Friday, September 16.

I would like at this time to bring some information to the attention of the Members relative to the tremendous importance of this legislation and what we will be doing in the 100th Congress on this issue.

It is not an overstatement to say that this bill may very well turn out to be one of the half dozen most important acts that will be considered and passed upon and perhaps adopted by the 100th Congress.

The reason I make this statement for this legislation is quite simple. We Americans are witnessing a tragic epidemic in this country. We are going to lose more of our young men to this tragic disease by 1991 than this Nation lost in all of World War II in the category of killed in action, a little less than 300,000 people. That is a tragic loss of life.

Even more tragic is the failure of certain public health officials to pursue steps that historically our society has pursued to control communicable disease that has come into our culture. Failure is the only work to give to this lack of action on the part of such people as Surgeon General Koop, Dr. Windom, the Assistant Secretary of Health under Dr. Bowen, Head of HHS, and Dr. James Mason, Head of the CDC in Atlanta, GA, and along with certain public health officials in some of the major cities of America. I am talking now about New York, San Francisco, and Los Angeles. The reason that I mention San Francisco, New York, and Los Angeles, is quite simple. Those three cities come close to representing about half the AIDS cases in America.

□ 2000

Indeed, those two States, New York and California, present about half the cases in the country, and the citizens of those States, my State of California, for instance, and the citizens of the State of New York and all of us in America have watched with puzzlement, bewilderment, and sadness at the public health officials that I have described who have backed away from pursuing the routine step that historically has been pursued in our society to control any communicable disease, that is, the concept, the cornerstone, the foundation stone of reportability for those who have the sickness or the disease to public health authorities, and in confidence contact tracing takes place.

Our society has had a procedure in place for controlling venereal disease, communicable, for as long as public health authorities have been in existence.

I think I can contrast how the system has worked very simply with this brief metaphor. Today in the United States if a physician finds a patient with a curable venereal disease like syphilis or gonorrhea, that doctor is required by law to report the name, address, and telephone number of that patient to public health authorities, and contact tracing takes place. On the other hand, if that same doctor finds a patient with a noncurable venereal disease like the virus for AIDS, in most States of the Union there is no requirement that such a person be reported to public health authorities, and in my State of California there is such an absurdity on the books called A.B. 403, adopted in March 1985, that if a doctor would report a patient with a noncurable venereal disease like the virus for AIDS, in California the doctor would commit a crime. In California the law is that if the doctor finds a patient with a curable venereal disease like syphilis or gonorrhea, the doctor is required to report that patient to public health, and contact tracing takes place, but if the same doctor finds a patient with a noncurable disease like the virus for AIDS, not only in it not reportable but, as I indicated, if the doctor would report it, the doctor would commit a crime. People cannot believe that the law would be in such an absurd posture when I describe it to them as I have just done. In fact, they have talked with me after speeches around the State and in the country saying, "Congressman, that cannot be. How could it possibly develop that we would mandate the reportability of a curable venereal disease and make it a crime to mandate the reportability of a noncurable venereal disease? What is going on?"

Very simply we Americans are looking at the first politically protected disease in the history of the country.

The three high officials whom I have described, Dr. Koop, Dr. Windom, and Dr. Mason, have temporized on this issue. On occasions they have said they support reportability for those who are HIV positive to public health authorities. On other occasions they have talked out of the other side of their mouth. They have not spoken with the clearness, vigor, dedication and commitment that our Nation should be pursuing this policy at every State in the Union without equivocation, and as I have indicated, the health officer of the State of New York is not pursuing this policy nor is the health officer in the State of California pursuing this policy, that is, reportability for those who are HIV positive to public health authorities in confidence and then contact tracing would take place.

To the credit of a significant number of the subdivisions of the Medical Association of the State of New York, those good physicians in those subdivisions have filed a suit against the health officer of the State of New York to compel him to exercise his discretion, Dr. Axelrod, to add persons who are HIV positive to public health officials in confidence so that contact tracing can take place, and we would have a step taken to diminish the transferability of this fatal disease to other persons. I commend those physicians in New York State for having filed that lawsuit and wish them success in the court system against Dr. Axelrod.

Similarly in California, we Californians have placed an issue on the ballot called proposition 102 that would permit the voters of California to decide whether or not we want to reverse this absurd law, A.B. 403, that was adopted in March of 1985, and establish a public health response to the AIDS epidemic rather than a civil rights response.

We in the House, in consideration of H.R. 5142, will have an opportunity for voting on an amendment that will mandate reportability of those who are HIV positive to public health authorities in confidence. Some of my colleagues have, from time to time, objected and said, "Congressman DANNEMEYER, we should not be treading on States rights. We should let the States decide whether or not they want to have as a policy the issue of reportability for people who are HIV positive," and I have to admit that there is a certain credibility to the argument of States rights. I have supported it on many occasions in this body, but given the magnitude of the problem we Americans are facing, the numbers of hundreds of thousands of people who are going to die in this country, and the tremendous expenditure of health care dollars in the bills to care for these people of this tragic disease, we are looking, we are staring, in the face a major health crisis in America, and I do not believe it makes sound policy for us to say to the legislatures of the States of this Union that we will let them determine on this major epidemic facing the American people whether or not they want to have reportability for those who are HIV positive.

The reason I say that is because for us to pursue that policy of letting the States have the option is not unlike having pursued the policy in World War II, which fortunately we did not, but the comparison is appropriate, that if we had said to the Governors of the States of the Union that they had the authority to decide whether they wanted to send their sons to defend the Federal Government in World War II, I do not think that would have been a credible policy with which to pursue World War II. Similarly, for the Nation today, given the magnitude of this problem, to permit the States to determine whether or not they want to have persons who are HIV positive in their States reportable to public health when they present cases of the virus is not what I would believe to be a good public health response.

Let me recite to my colleagues some of the authorities who have advocated that this person pursue a national policy of reportability for those who are HIV positive. The President's Commission, in its final report, recommended that identity link test results be reported to public health authorities in confidence so that public health officials may pursue partner notification. In June of this year, the American Medical Association called on States to trace the sexual partners of people infected with the AIDS virus. "I think that contact tracing has the potential to substantially reduce the proliferation and spread of AIDS," said Dr. Gene Salmons, executive vice president of the 295,000-member AMA. The Medical Society of the State of New York recommended in February that New York State policy on reporting be modified so that reporting would be confidential but not anonymous. "Individuals who are found to be seropositive for the AIDS virus would be reported to public health authorities on a confidential basis with enough information to be epidemiologically significant." In order to be epidemiologically significant, New York State considers changing from a system of anonymity to a system of confidentiality for persons with HIV infection. The Medical Society concluded that, "The current policy of providing total anonymity to individuals testing positive is inappropriate from a scientific standpoint and has the potential to frustrate efforts to deal with AIDS."

The significance of this position for New York State, and I will mention again that that State represents roughly one-third of the AIDS cases in America, and if some good physicians in that State have finally awakened as to what course that State should be pursuing, I think it is something that we in the Congress should consider as well.

The need for the amendment that this Member from California will be offering on the issue of reportability was best stated by the Colorado State Health Department when it adopted the requirement for mandatory reporting of HIV-infected individuals just 8 months after the FDA approval of the ELISA test, and that was about in March 1985.

The purpose of mandatory reporting is fourfold: First, to alert responsible health agencies to the presence of persons likely to be infected with a highly dangerous virus; second, to allow responsible health agencies to ensure that such persons are properly counseled as to the significance of their laboratory test and to advise them as to what they need to do to prevent further transmission of the virus; third, to allow responsible health agencies to monitor the occurrence and spread of infection of the virus in the population of Colorado; and fourth, to allow responsible health agencies to recall persons with likely or proven cases of HIV infection when specific antiviral treatment becomes available.

Roughly 12 States in the Union now mandate reportability in some form. Those 12 States, unfortunately, compose around 10 percent of the total cases nationally. Colorado, Idaho, Virginia, and South Carolina all require reporting of HIV infections in confidence and encourage partner notification. The results of their efforts are testimony to the benefits of and need for reporting.

Colorado, new positives, 45, total tested, 296, the percent of positive, 15 percent. Idaho, new positives, 23, total tested, 59, percent of positive, 39 percent; South Carolina, new positives, 12, total tested, 68, percentage positive, 18 percent; Virginia, 44 new positives, total tested, 318, percentage positive, 14.

Some States claim reporting will drive those most likely to be infected underground because such information in the possession of public health threatens confidentiality of test results and could result in discrimination against infected individuals.

Dr. Tom Vernon, director of the Colorado Department of Health, reports that his State has vigorously pursued reporting and contact tracing policies since 1986, and that there have been no breaches of confidentiality and no problem with discrimination.

According to Nancy Spencer, Colorado State AIDS program manager, "The thing we think we are doing is preventing a person who has tested positive from transferring it to one new partner."

A 1987 South Carolina study also suggested that tracing those who had intimate contact with people infected with AIDS is effective in controlling the spread of AIDS.

The South Carolina study involved a rural county health department tracing the contacts of one man found to be infected with HIV. Investigators tested and counseled all 19 of the man's reported contacts, and found additional contacts from those found to be HIV positive. The investigator reported that after counseling, many changed their sexual habits, and the HIV positive men reduced their sexual contacts by 82 percent, and uninfected men reduced their contacts by 54 percent. South Carolina health officials contend that behavior changes resulting from the tracing made the effort worthwhile.

This Member from California has read a great deal of material over the last 3 years. I have written some, shared some of this with my colleagues, and I will at this time read for the attention of my colleagues what I consider to be the most succinct analysis of the fundamental error in public health officials in America today that deals with the issue of reportability, in responding to the AIDS epidemic. This speech was given by Dr. David Pence, on November 4, 1987, to 1,100 physicians and community leaders in Grand Rapids, MI.

□ 2015

The reason I think this man, Pence, has something to say for all of us is because not only is he a doctor, an M.D. practicing in Minnesota, and I have never met him but I have talked with him on the telephone, but he also has an interesting background. This is what he says describing himself.

> Finally, let me speak as a man of the Vietnam generation. The AIDS epidemic is our war. We know how to lose a war. Fight without a definable strategy or objective. Talk about winning hearts and minds, and education, rather than establishing territorial dominance. Discourage individuals from exercising leadership by assigning every problem to a committee representing every viewpoint and then charged with developing a consensus. Succumb to those who protest the goals of your policy by compromising the tactics needed to attain them. Ask of your young men for their lives, but demand nothing from the general population. Personally, I have seen enough young men die because authorities could not decide if they should try to win a war or pack up and leave. We cannot leave this war—so let us fight it to win.

Dr. Pence, I might add, marched as a civil rights activist in the South in the 1960's. He exercised his conscience in the Vietnam war and actually served time in the Federal penitentiary for the exercise of that act of civil disobedience, and yet today he is an eloquent spokesman for correcting an error in the course of where public officials in America have dealt with developing a public health response to this epidemic.

I would just like to read his comments at this time:

> Someone once asked G.K. Chesterton if he believed in "progress," He answered that if a man begins a journey by turning down the wrong road, then "progress" would only lead him further from his true destination. Chesterton much preferred the idea of reform. "Reform" implies a reliance on certain forms and standards by which to judge the merit of a particular course of action.
>
> The argument which I wish to propose this evening is that in the formulation of public policy to interrupt the transmission of the Human Immunodeficiency Virus (HIV), we have been turned down the wrong road for a good while now. Future steps in the same direction will in fact lead us further from our true destination—the control of the AIDS epidemic.
>
> A true reform of these policies will indeed necessitate a return to certain traditional standards and forms by which we can judge our efforts. The standards which will form the basis of our strategy are to be found in the basic tenets of our political philosophy. A reform of present policies must be based on the application of traditional public health measures formulated over the past century to prevent the transmission of incurable infectious diseases. We should note that while HIV is a new phenomenon, the applicable principles of public health policy were formulated long before anyone had ever heard of the AIDS epidemic.
>
> While AIDS is certainly a medical problem, the pivotal institutions which must contain the epidemic are local and state governments. It will be local communities acting through our political institutions which will coordinate both the educational and enforcement measures needed to prevent transmission of the HIV. While AIDS is a national and global epidemic, the measures needed to prevent its spread will depend on the prevalence of the virus in a particular community. While the problem of AIDS knows no boundaries, its solution lies in the exercise of public health enforcement and policing functions which by their nature are limited to local territorial jurisdictions.
>
> It is this fact which presents us with the firt great paradox of the AIDS debate. The communities which have the highest incidence of the disease have been the most reluctant to apply stringent public health measures to prevent the transmission of the disease. This is largely a consequences of the lobbying efforts of gay special interest groups who have used the AIDS epidemic to further their own ideological agenda. It is certainly no coincidence that the communities which have the highest incidence of the HIV are also the most susceptible to the alteration of public policy by the pressure of the gay lobby. An early error in the establishment of AIDS task forces was the mistaken belief that public policy could be formulated by achieving consensus between gay activists, public health officials and clinical physicians. Surveying present policies in most states, we must conclude that to achieve consensus with gay activists, public policymakers have stripped themselves of the traditional armamentarium of public health agencies. In fact, the second great paradox of the AIDS debate has been the labeling of legitimate concerns of health care workers, parents, physicians and political leaders as AIDS hysteria. Individuals who have advocated traditional public health measures have been derided as fascistic, "right wing" and homophobic. These personal slurs have silenced many medical professionals from entering the AIDS debate because they are unaccustomed to such vitriolic personal attacks corrupting civil discourse. Meanwhile, the wildest fantasies of governmental conspiracy and persecution have been accepted as a rationale for limiting public health officials in exercising their legitimate surveillance and enforcement roles in facing this epidemic.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I do not wish to interrupt the gentleman's rhythm, but I would say this is a perfect point for me to clarify a few points about these lobbying efforts in some of the major areas of country.

First of all, a thought that the gentleman might implement. It is a discipline I have applied to myself, and I not too infrequently make the mistake of violating my own rule, because the word has become so commonly interchangeable with homosexual, and that word is gay. I was on television on a daily basis, a live public affairs program handling all of the issues of the day when America generally settled on a perfectly dignified word for Americans of Afro heritage, African heritage. There was still in the early 1960's and mid-1960's the National Association for the Advancement of Colored People, and there were people wearing African or Afro style clothes. Many groups were referring to themselves as Afro-Americans. The word black was coming into usage, and I had a particularly eloquent Los Angeles Rams football player who was on my program with a display of his absolutely beautiful art. His name was Bernie Casey. My colleague may remember him, a great wide receiver for the Rams.

On that particular show my host was a black lady of some distinction at that time, the widow of the incomparable singer, Nat King Cole, who was quite a person, and she was a political expert in her own right. She was kind of torn between the term colored people and the term Afro-American. And I ask Bernie Casey, this L.A. Rams football star, what he thought was the proper word. And he said it is a fair question, and he said, I think the black community is settling on this word black. And he said I think the other words will fall into disuse, and he said I think it is just one of those things that evolves innocently enough, but I think black is pretty well the term to use.

From that moment forward, with just a few lapses in the beginning, I applied the word black to all my friends of African heritage.

Shortly after that, maybe a year or two, there began a public relations effort, and I underline public relations effort, to transpose for the word homosexual, the word gay. Gay was an adjective used in Christmas songs. Bing Crosby used it in the opening of the song, "I Surrender, Dear," I can be happy, I can be gay. We have gala balls, we referred to gay young blades, gay bachelors, gay divorcees. It was a word that meant joyous, happy, cheery, good-natured.

I deduced at that time in the late 1960's that this was a public relations proselytizing effort to take an adjective, the word "gay" and turn it into a noun, and to make a statement to the world that this alternative lifestyle, to use a tortured euphemism, was somehow or other better than being straight, a straight heterosexual male or female, that this was a happy, cheery, vibrant, bon vivant, joie de vivre type of lifestyle to be gay. And I refused to cave in on the show, as I had graciously done, no reason not to, to accept the word black for a racial group that was a large and vibrant group in the United States. But here was a sexual choice lifestyle, taking an adjective, applying it to themselves and saying we are gays, happy, cheerful, and I knew then from guests on my own and from growing up in the Los Angeles, Beverly Hills, Hollywood area where many acquaintances and family friends, people that I knew and liked were practicing this lifestyle, that it was anything but gay. And it was not because of any heterosexual pressure or societal condemnation. It ranged the whole gamut, and I remember when President Johnson lost one of his key aides, and mercifully for his family I will not mention the name, a top policy advisor of a very activist President who could have had the privacy of any hotel in this town, but he chose to prowl around the men's rooms at the Washington Monument where he was busted. And as we know, some Congressmen, colleagues on both sides of the aisle, one of them from our side, was busted on the sixth floor of the Longworth Building because one of the men's rooms there had become a hangout place for the thrill of being possibly caught, the adventure, the danger, all of that, not gay, but sad part of trolling, as they call it.

One of the Members in this Chamber is reported in a newspaper in his State to have said about the political choice of the current Presidential candidates, and this is a Member of Congress who is supposed to have said this, it is right in print, and who knows if it is true, that it is like being in a singles bar, for him that would translate into a homosexual bar, a gay bar, at about 10 minutes to 2 at night when you know your choices are limited. There is that contact with strangers, making contact in this sad, gloomy, depressing style that they try to call gay style of life.

And then came the AIDS epidemic. And if ever that word gay, a former and still occasionally used adjective should not be turned into a noun to describe a sexual proclivity, perversion lifestyle that is kiling by the thousands, then when are we ever going to straighten out the language? There is absolutely nothing wrong with the medical word heterosexual or homosexual, and that is what I choose to use, and I would recommend it to my good colleague as he does some good work in this area. And it seems one of my roles vis-a-vis his excellent special orders on this tremendous plague of death that has hit the modern world and has now cut into the Communist world, is to bring over to the floor the latest statistics so that he can stay up on this. Unfortunately, I do not have the last 2 months' newsletters from the Health and Human Services Department, but I have them up through August 29.

We have finally gotten into the death tolls, and this is probably 10 to 20 percent low, of almost 41,000 dead people. This is as of the end of August, so it is way beyond that now, pushing 42,000 dead. We are now into the 40's. That puts us way beyond Korea combat deaths toll of 33,629, and that puts us much closer to the 47,000 combat deaths in Vietnam. And the overall cases reported, remember, we have both agreed that there are many doctors for some very heartfeld reasons who have reported deaths as heart failure, pneumonia, forms of cancer that come with AIDS rather than break the heart of a family that they know closely, there are tens of thousands of cases that have gone unreported and result in deaths. But the cases reported as of the end of last month are over 72,000.

At our convention, the Republican Convention in New Orleans, I walked past one evening a doctor who has I think one of the most difficult, responsible jobs in this country. Under the title of Health and Human Services, take out the word health. The Under Secretary for Health is Dr. Ian MacDonald, and he is excellent, and he takes his guff, and ugly epithets about being a homophobe and right-winger, and all of this stuff, when all he is trying to do is be a good medical doctor. Dr. Ian MacDonald said to me, and with my wife and a couple of friends standing there, because my group brought up the good fight he is waging on trying to alert the country on the enormity of this plague, which is exactly what my friend, the gentleman from California [Mr. DANNEMEYER] is trying to do tonight. He said that when our convention next comes together, the Republican Party, which would be 3 years and 11 months from now, in that Presidential year of 1992, which will either be the end, God willing they live, the end of the first term of Mr. Dukakis or Mr. BUSH, at the end of those 4 years, in 1992 when we convene he said 96,000 people will die of AIDS in that year alone.

□ 2030

And that is if the statistics stay pretty much consistent with the predictions of Health and Human Services and this superb doctor up there at the NIH, Tony Fauci and that group that I admire so much, that that figure, in that year alone, will be double the Vietnam war combat. That is in just the year of the convention. With the years leading up to it of 1989, 1990, of course, it will still be going off the charts. So this whole idea that for small States that are not pressured by so-called gay rights groups, homosexual groups that are not pressured, they have good health policies in those States which need it—we all need it, but they need it less than the major States of New York, Texas, Florida, and California, it is absolutely a frightening battle that you and I and a handful of other people in this country have to keep pleading for good health policy and suffer some of the criticism I heard out in the hall today against the gentleman in the well about "Can't we on our side of the aisle shut the gentleman up in one of his amendments that he won today?" It is just amazing that we close down this 100th Congress, and my first move in the 100th Congress on the day we were sworn in—I think it was January 6—was to have a press conference downstairs in H-139 and record week by week the deaths from the year of 1986. And in that year we had 2 weeks only where we were over 500 people dead in 1 week. We have already had plenty of 600 killed-by-AIDS weeks in this year of 1988 and a couple of dozen weeks that were over 400. In the Vietnam war we had only one bad month period from the Tet offensive in January, February, and March of 1968 where we had weeks of young men and a few nurses killed in combat that were over 400. It was a horrible few weeks. Then it settled down to ghastly weeks of 200 killed every week. Well, you do not ever have a week now with a death toll of not more than 200. And we are going past 400 on a regular basis. So again, it is getting to be a broken record around here.

I commend the gentleman, a voice crying in the wilderness, sometimes, for taking the well. And to tell the gentleman the truth, he takes a lot of heat from me because our districts adjoin one another. We are in the same beautiful county of Orange, the second most populous county in Los Angeles. So I am just thrown in as an afterthought when these groups attack. I even saw the gentleman on the headline of Saturday's newspaper in the great Orange County Register newspaper that somehow or other he was not the proper choice to go down and represent Vice President BUSH or his campaign at some convocation in San Diego on AIDS. So now I ask the gentleman two questions for my edification: When is that conference? Was it this weekend? Is it coming up? And what does the gentleman intend to do there to alert the medical community to their sworn obligation to protect the population of this country from disease, and in this case certain death?

Mr. DANNEMEYER. The conference is scheduled for Friday. It is composed of, I think, 500 physicians from around the country that happen to meet in San Diego. This Member was asked by the Bush surrogate team for me to go there and speak to them. I told them I would be happy to perform that honor on one condition, that if the AIDS bill came up on that day in the House when I was scheduled to be in San Diego, which was Friday, I could not accept the privilege of going there to speak for the Vice President.

Mr. DORNAN of California. And that may be the case.

Mr. DANNEMEYER. That may be the case. So if the AIDS bill comes up on Friday, that is the discussion of the bill relating to the amendment stage, I will have to be here. But the last word I had today by the powers that be around here was that we probably will take up the AIDS bill on Friday, but only on the rule. If that happens then perhaps I will be able to be in San Diego speaking for the Vice President on the issue.

Mr. DORNAN of California. And what is the convention there?

Mr. DANNEMEYER. I do not know the name of it. It is a group of physicians from around the country.

Mr. DORNAN of California. Of various viewpoints so that there will be some papers issued?

Mr. DANNEMEYER. There will be a spokesman there for Dukakis and then there will be a spokesman there for Mr. Bush.

Mr. DORNAN of California. A final thought to add to your special order and to tell you how this thing is being discussed around the world. The gentleman knows that I told him I rode the trans-Siberian Railroad last month, spent some time in Moscow and Poland. And whenever I am in an embassy I like to save time and ask people where their last posting was or if they have just come from some other country. Then I get two or three country briefings for the price of one.

There were several people assigned at some of the posts that I visited in Mongolia and Moscow and Poland and London that had come from African countries. One person told me that they visited an AIDS clinic in I believe one of the equatorial countries, near the old Belgian Congo area, either Zaire or one of the Z countries in there.

He said it was so frightening to see how relatives would come and dump off a person dying of AIDS. The stench was so foul in one of the wards that he had an automatic gag reflex and thought he was going to embarrass himself by throwing up in the middle of the ward. So he just prayed to make it to the end of the ward holding his hand over his face. He said he had never conceived in all of medical history such a tragic sight in any period. It must be similar to what gathering places looked like for the dead and dying during the Bubonic Plague in the 1300's when people were swollen with Buboses in their thigh area and armpits and were just left to die and were put on carts and all the bodies were burned. He said Africa is so tragic that he cannot understand why it is not an ongoing story, as my wife says, "Where are the rock bands for the starving now in the Sudan? Where are the rock bands for all the people dying in Africa?" Bob Geldorf, a young Irishman who is trying hard to do something about the starving in Ethiopia is competing with our great President Ronald Reagan and General Secretary of the Soviet Union Gorbachev for the Nobel Peace Prize, but it seems like we need thousands of Bob Geldorfs to not only take care of the monsoon horrible floods in Bangladesh and Hurricane Gilbert hurting people in our own front yard in the Caribbean and the unbelievable pictures of starvation, worse than Ethiopia if that is humanly possible to have more harmful images, coming out of the Sudan. We do not have anybody photographing the AIDS—the word clinic does not apply anymore—the AIDS holding areas for the dying in Africa.

There is nothing to do for them. One of the horrors unknown in Africa that I was informed about by my good doctor friends up at the National Institutes of Health, particularly the Institute of Communicable and Infectious Diseases, is that the middle class in some of these African countries was hit first. So they lost their lawyers, their doctors, their public servants, their civil service corps and the very people that would have been called upon to transmit a message of good health policy; they are dead.

In this country very few doctors have died of AIDS. We have got the world's greatest health system ever in place and it is crippling itself, and it is done in the name of gaiety. It is absolutely pathetic.

Mr. DANNEMEYER. I thank my colleague for his contribution.

Mr. Speaker, let me continue:

The real hysteria in the AIDS debate has been engendered by a self-serving lobby who are trying to appropriate government functions and funds to themselves by proclaiming governmental agencies incapable of the effective and equitable performance of their legitimate duties. This paranoid mistrust of government coupled with an unwarranted reliance on the willingness of infected individuals to change their behavior and notify their contacts has been a major obstacle in formulating an effective AIDS policy.

The final paradox which emerges from this paralysis of public health agencies in the performance of their duties is that the individuals who are most harmed by governmental inaction are individuals engaged in homosexual activity and IV drug use. We must never forget that in proposing sound public health policy we will be opposed by the self-appointed spokesmen for the gay lobby, but we will be protecting the lives of individuals who are engaged in homosexual activity.

BASIC PRINCIPLES OF PUBLIC HEALTH

Let me counsel first a sense of confidence and deliberation before urgency in reforming our course. We must have confidence that our religious heritage, our democratic institutions and our medical and legal professions can equip us to deal with this crisis. We must be deliberate in assessing not only the bankrupt policies of our present strategy but the fallacious assumptions which led to their adoption. Then and only then we must be urgent in reforming our course of action.

Let us first outline the basic principles which should underly public health policy. An infectious disease which cannot be cured can only be controlled by interrupting its transmission. This necessarily entails: 1) case finding—the location of carriers of the infectious disease, 2) contact tracing—the location of all individuals who have been exposed to an infected person in the manner by which the agent is known to be spread, 3) the determination if carriers will continue the activity which spreads the disease and the isolation of those who will not comply with desist orders, and 4) the closing of public establishments which foster the activity by which the disease is spread.

To the credit of laboratory science, we have a test which can reasonably determine who carries the AIDS virus even if the person does not appear infected or ill. These people can spread the virus even though they never develop the complete syndrome of AIDS. It is important to understand that for purposes of public health policy, rules and regulations must apply to all carriers of the virus and not simply those who have the end stage disease. Unfortunately, the scientific genius which has developed diagnostic tests has not been matched by a corresponding wisdom in the political community to effectively use them. Traditional public health measures are applied to a particular disease when state public health authorities declare the disease to be reportable, communicable, or some other similar designation. In almost every state in the Union there are provisions for casefinding, contact tracing, isolation of recalcitrant carriers and the closure of places of transmission if the infection is classified in the appropriate designation. Unfortunately, the great majority of states have not so designated the HIV carrier state and thus "the epidemic of the century" has been granted a peculiar immunity from the protective measures of standard public health practice.

DEVIATION FROM TRADITION

Let me illustrate the manner in which we have deviated from traditional public health policy.

The first component of public health strategy is built on identifying individuals who are infectious—thus for public health purposes, the distinction between early HIV infection (the carrier state) or endstage infection (AIDS) is unimportant. In fact, it is the asymptomatic carrier who is probably the greatest danger as a potential source of transmission. For the first time in the history of public health, anonymous testing has been allowed and even encouraged by public health officials. The early rationale for this was that anonymous testing would prevent people from going to plasma centers to find out if they had the AIDS virus. This is a tortured argument since plasma centers demand identification before testing. It was a good idea to set up testing centers, but it was a fundamental conceptual error to allow that testing to be anonymous. Remember the crucial distinction. Confidential testing means results are known only to the patient, his doctor and public health officials. This is the standard practice throughout medicine. Anonymous testing means a person is tested without giving his name. This practice is unique to the HIV infection. "Con fidem" means "with faith or trust." "A nomos" means without a name. In this juxtaposition of two Latin phrases we find the failure of our present policy. Gay lobbyists have convinced officials that the government and medical profession cannot be trusted. The nameless carrier of the virus, however, is to be granted total discretion in warning his sexual contacts and desisting from the behavior which spreads the disease. This policy displays an unfortunate naivete when we consider the addictive and compulsive behavior by which most HIV carriers contracted the disease.

The second component of public health strategy, contact tracing, has also been largely abandoned in dealing with the AIDS crisis. It is of course impossible to trace contacts if names of positive carriers remain anonymous. Every state, however, knows the names of individuals who have the end stage AIDS infecton. With the possible exception of one or two states, there has been no systematic attempt to secure contacts from AIDS patients in order to warn them that they may have the disease and may be spreading it.

Again, one can count on a single hand the states which have attempted to establish a mechanism to deal with recalcitrant carriers—people who have the virus and knowingly engage in sexual activity.

No state has taken the minimal step of closing gay bathhouses where anonymous serial sexual encounters are commonplace. In my own state, bathhouses are defended as places of education because before one enters the upstairs bedrooms, he is exposed to wall posters advertising condom use. Understand the paradox clearly. Those of us who advocate closing the bathhouses are derided as homophobic. Yet, closing them would save the lives of men most prone to practicing serial anonymous homosexual activity. Think clearly about this question and ask if this is compassion to leave such establishments open. Ask who really speaks for the men who seek this depressing environment for random sexual contact. Is it the average citizen who shows disdainful neglect? Is it the gay spokesmen who defend an ideology at the expense of individual lives? Or is it the doctor, the minister, the policeman or the public health official who says, "Enough, enough—not one more life lost to preserve this commerce in misery and death."

THE SOURCE OF CONFUSION

Earlier in this presentation I cautioned that before we are driven by a sense of urgency we should allow ourselves a time of deliberation. Let us deliberate. This truly is the epidemic of the century and yet, we have not only failed to act, but we have just barely begun to discover the vocabulary needed to deal with the disease. We are facing an epidemic which will be contained by acts of statesmanship which must combine the grand strategy of a field marshall with the simple wisdom of a country doctor. Unfortunately, our political language and ideas have been corrupted by two decades of adolescent posturing and sloganeering. Think back 20 years. Imagine streets filled with college students proclaiming the government to be corrupt, police power to be a manifestation of facism and sexual constraint to be a middle class death trip. Imagine women demanding abortion rights to escape motherhood and young men demanding an end to the draft to escape military duty. Remember the celebration of individual autonomy and the denigration of the authority of government, of educators, of the professions, indeed of "anyone over thirty." Remember a burgeoning population of baby boomer adolescents who created a "youth culture" and quite simply refused to grow up. It should be no surprise that a movement which struck at the adult protective duties of men and women as soldiers and mothers has produced a mass culture of extended adolescence. The AIDS epidemic is an alarm clock. It is a wake up call for my generation—the party is over and someone has to clean up the mess.

Let me remind you that the civil rights and antiwar movement of the 60's and 70's is not a newspaper story to me. I graduated from medical school when I was 38-years-old because I spent my twenties as a full-time activist in what we called "the movement." Like Augustine, I have many confessions to make; but like Paul, my former activities have taught me tactical lessons which I hope to employ in the defense of institutions and cultural norms which in my youth I sought to overthrow.

THE TWIN ERRORS

There are two fundamental cultural and political errors which we must understand if we are to find those turns in the road which have led us astray.

First, the skewing of public discussion in a manner which has overemphasized the autonomy of individuals as the overriding goal of political community. It is true that each of the state and federal constitutions include a bill of rights. It is also true that the fundamental purpose of a constitution is to "constitute" a government. Free men delegate certain powers to the institutions of government in order to preserve our safety and promote the public good. Our liberty is not simply measured by what we can do as individuals. Our liberty is also defined by our ability to act as communities accomplishing the functions which free men delegate to democratic governments. A particular genius of our American system is that one of the fundamental faculties of government—police power—is exercised at a local and state level. As we understand the AIDS crisis more clearly, we will see that at the heart of the debate will be a discussion of the legitimate policing functions of local communities and their public health agencies. This is a difficult concept for the younger public health officials who have been raised in a cultural milieu hostile to police work. Most of the new gneration officials are considerably more comfortable with their role as educators then their function as enforcers. It is bad enough that the sexual revolution has left us with rampant promiscuity. It may be an even more fatal legacy that we have been left without certain essential character models. The traditional masculine community protectors, the lawman and the soldier, have been so denigrated that we have been left with government a la Phil Donahue when we need the personality of an Eliot Ness. It is little wonder that many public health officials have responded to AIDS by establishing paragovernmental groups to educate and counsel rather than strengthening their own departments to educate and enforce. There are of course more than cultural reasons for the public health community's discomfort with its policing duty.

□ 2045

Mr. DORNAN of California. Mr. Speaker, will the gentleman pause for just 1 second? Will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my colleague, the gentleman from California.

Mr. DORNAN of California. This is so good and this is so valuable that the gentleman is putting this into the RECORD, and I am such a child of television, as most of us are in this world today, that I would ask this: Would the gentleman give the doctor's name again at this point? If he were saying this himself on television, reading his own paper, or giving it extemporaneously, they would videograph his name underneath so they could get it in people's minds.

Mr. Speaker, I hate to interrupt, but I would just like to hear his name again.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague.

The name is Dr. David Pence—P-e-n-c-e. This is an address which he gave in Grand Rapids, MI, on November 4, 1987, to 1,100 physicians and community leaders. The event was organized by 12 women of the local medical society's auxiliary.

Mr. DORNAN of California. Press on.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for those comments.

The address continues as follows:

The public health literature of the last decade touted the change role of the discipline in dealing with chronic diseases rather than infections. Isoniazid for TB, penicillin for syphilis and nonjudgemental VD clinics for everything else had supposedly altered the landscape of public health for the 20th century. Well, the landscape has changed again. Hopefully local public health officials will rediscover the basic principles of their discipline and be willing to learn from their colleagues in the criminal justice system so they might carry out their duties with both dispatch and justice.

If the first conceptual error confusing the AIDS debate is a failure to understand the nature of legitimate governmental authority, then the second error has been the unreflective acceptance of the language and ideology of the gay liberation movement. A general observation should first be made that much of the AIDS debate has been cast in a psychological mode rather than a physical or empiric one. This is nowhere more obvious than the labelling of individuals who engage in male homosexual activity as "gay." For people unfamiliar with the subculture, females engaged in homosexual activity have consistently rejected the term "gay" as a description of themselves. In the discussion of AIDS, physicians and public health officials should follow these ladies and also resist this terminology. We should reserve the "gay" label for the ideology not the individual. The physical act of male-male rectal penetration should be described as such or labelled as sodomy. The medical profession should stop cowering in the face of ideologues and explain in simply physiological terms that the rectum is a muscle which has a clear biological function. This act is a misuse of both organ systems and doctors should be grounded enough in the physical integrity of the human body to assert this simple biological truth. Medicine should be one of the professions that guards against the modern tendency to treat sexuality as a transparency which has no intrinsic meaning or nature. We certainly should resist the notion that once an activity has gained a certain popularity among a certain percentage of the population that this renders the activity normal or healthy. Norms are not simply a statistical notion they also have a meaning which relates structure, functions, and nature.

Physicians do not have to label male homosexual activity as a psychiatric diagnosis to understand it is a fundamental disorder. In the starkest of biological terms it is the phenotype betraying its own genome—a cardinal sin if there ever was one in the evolutionary schema.

If there is a tendency to obfuscate the physical reality which lies behind the gay nomenclature, there is an even greater danger of losing sight of the human person who adopts such an identity. Physicians and government officials must not treat individuals who participate in homosexual acts as foreigners who need to be represented by self appointed ambassadors from gay activist groups. These individuals are our patients, our relatives and our fellow citizens. The great majority of male homosexuals already have an overly compulsive approach to sexual acts; further fortification of the "gay group identity" will only make matters worse.

The naive acceptance of the gay ideology by the medical profession and public health officials is probably best explained by a well meaning attempt not to discriminate. Most individuals who were not involved in the civil rights movement against racism tend to lump the traditional civil rights movement with the later feminist and gay liberation campaigns. This hijacking of the freedom train by middle class careerists and sexual adolescents has virtually destroyed the real civil rights movement. As Karl Marx said, "History the first time is tragedy, the second time it is farce." Once again, we have lost our historical memory of the real meaning and work of the early civil rights workers. We have forgotten that the call of Martin Luther King was not for a world in which morality was separated from politics—quite the contrary. He said, "I dream of a day when men will be judged not by the color of their skin, but the content of their character."

The SPEAKER pro tempore (Mr. Clarke). The time of the gentleman from California [Mr. Dannemeyer] has expired.

JUSTICE ON FURLOUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. Gingrich] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to talk this evening, as I did last night, about the murderers' furlough program and in particular about the film, "Justice on Furlough," which is available on videotape, and also about the series of articles done by the Lawrence Eagle-Tribune which won the Pulitzer Prize for reporting. And I want to again urge my colleagues to get a copy of "Justice on Furlough," the videotape which is available and which they can get by calling area code 618, phone 465-1166.

Mr. Speaker, I want to talk to the Members about the issue of the murderers' furlough program because I think it is a very legitimate area to look at in terms of Gov. Michael Dukakis and the values he represents. Possibly the best single article explaining the murderers' furlough program and why it is a legitimate issue is the article written by Richard Cohen in the Washington Post on July 8 entitled "William Horton's Furlough."

I start by putting this article in the Record and reading it because I think it explains why "Justice on Furlough" is a very powerful videotape. Richard Cohen wrote, and I quote as follows:

By April 3rd, 1987, William Horton, Jr., was in Maryland. There he broke into the home of Angela and Clifford Barnes, stabbing Clifford Barnes and raping his wife. Horton had been furloughed for the weekend from a Massachusetts prison where he had been serving a murder sentence. Michael Dukakis was his Governor.

George Bush has seized upon Horton's furlough as a campaign issue. He uses it to characterize Dukakis as a dreamy liberal, one who is more concerned with the rights of criminals than their victims. If Bush has his way, no longer will the polls show some people thinking Dukakis more conservative than Bush. The name of Horton will make that of Dukakis mud.

Horton is perfect for the task. In 1974 he was convicted of the murder of Joseph Fournier, a 17-year-old high school student who was working at a gas station in Lawrence, Massachusetts.

Fournier was robbed, stabbed 19 times, and his body was left in a trash can.

The furlough program was not Dukakis' idea. It had been initiated by a previous Governor, a Republican, and extended by the courts to cover first degree murder. The remedy was for the Legislature to amend the law to exclude murderers, but Dukakis opposed that. In fact, until March, when the Legislature tightened the program with Dukakis' acquiescence, he defended it, calling the Horton episode an aberration.

□ 2100

"Furlough programs in general are not and should not be the issue," and I close quote to say last night one of the Dukakis Democrats came out to debate and made the argument about the Federal furlough program, and I wish he were here tonight so that I could point out to him what Richard Cohen of the Washington Post said, and I want to pick it up and repeat.

Furlough programs in general are not—and should not be—the issue. Some 38 states have them, and 33 of them offer weekends to prisoners serving life. Criminologists are in general agreement that such programs are useful. They are said to cut down on recidivism, and most prisoners abide by the rules. In Massachusetts, a small number of furloughed inmates—428 of 10,835—have escaped.

But, alone among the states, Massachusetts furloughed prisoners serving life-without-parole sentences. Since the state has no death penalty, life without parole is the substitute sentence.

Issues of retribution and deterrence aside, life without parole is intended to ensure that short of an execution the killer can never kill again. That's the contract Massachusetts made with its citizens. When it furloughed Horton, it broke the deal.

Bush has been criticized for lambasting Dukakis over the Horton furlough, but he is right to do so. Typically, though, Bush couples his criticism with a passel of Wyatt Earpisms, including tub-thumping endorsements of the death penalty. For good reasons, liberals are sickened by such rhetoric and tend to line up on Dukakis' side. But, in this instance, Dukakis has let his side down.

If it is incumbent on liberals not to concede the national defense issue to conservatives, it is equally incumbent on them to be more realistic when it comes to crime. The Horton case is a clear embarrassment. For those of us who oppose the death penalty, the sentence of life without parole is a handy substitute. We can make all the usual arguments against the death penalty—its inhumanity, its failure as a deterrent, its horrifying irrevocability in the event of a mistake—and yet assure justifiably nervous citizens that a killer will remain where he can no longer kill. Those who oppose the death penalty have that obligation.

There is really nothing Dukakis can say to the Barnes family. Their lives have been cruelly scarred. They sold their house to escape its memories. Some prison officials in Massachusetts took a chance—with Horton, certainly, but also with the lives of others. There is no excuse for that. William Horton should not have been on the loose.

Let me go on to say, Dukakis did the same thing for progressive prison programs by defending the Massachusetts furlough plan. His posture raises questions about his judgment. If Bush is accountable for his position, should Dukakis be for his. The Horton episode is a blemish that cannot be dismissed by citing how well Dukakis has handled crime in Massachusetts, which has the lowest homicide rate in the nation.

Let me repeat that because it is fascinating that there is a Dukakis campaign ad which does exactly what Cohen said could not be done.

He said, "The Horton episode is a blemish that cannot be dismissed by citing how well Dukakis has handled crime in Massachusetts."

He goes on to close by saying "The question Bush poses is a fair one and Dukakis had better answer it. The Barneses, among others, are waiting."

Now Richard Cohen is a liberal, yet his column says clearly it is fair to talk about the Willie Horton case. It is fair to talk about the whole issue of furloughs. It is fair to look at the question of exactly what happened in Massachusetts, and that is the reason I want to refer now to the Lawrence Eagle-Tribune series.

As I said last night in first talking about the importance of the videotape "Justice on Furlough," and the reason I hoped every Member of the House would insist on seeing it, and why I hope the Speaker will agree to show it on the House television system, the Lawrence Eagle-Tribune won the Pulitzer Prize for a long series, 175 articles all told, on the issue of furloughing murderers. They chose the best of those articles to create the framework of understanding for the Pulitzer Prize committee, and I wanted to read excerpts from the best of these articles because I think it gives people a flavor of Michael Dukakis' murderers furlough program. I think it gives them a sense as told by a newspaper in Massachusetts of exactly what it was like, and I think it is worthwhile for every American citizen to understand that they could get a copy of the videotape, "Justice on Furlough." They could get involved in looking at this information, and, as I said earlier, my colleagues, if they will simply call 618-465-1166, they will be able to get a copy of that videotape.

Now let me start with the Lawrence Eagle-Tribune article by Susan Forrest, April 17, 1987, entitled, "Maryland Wants to Jail Killer, Not Send Him Back to Massachusetts."

A top prison official in Maryland says Massachusetts may have to wait years to get convicted murdered William Horton back because that state wants to punish him first.

Maryland does not "pussy-foot around" with first-degree murderers, Samuel Saxton, director of the Department of Corrections in Prince George County, Md., said yesterday.

"He is facing some pretty serious charges down here and I imagine he's going to get a bundle of time, if not something more deadly than that," said Saxton. "If he's found guilty of the crimes committed in Maryland, and my guess is that he will be found guilty, then it could be many years before you see him back in Massachusetts," Saxton said.

Horton, 35, formerly of Acton Street, Lawrence, is a convicted first-degree murderer sentenced to life in prison because he stabbed a Lawrence youth 19 times in 1974. He was approved for furloughs last year and skipped out on a weekend pass June 12.

Police in Prince George County, Md., say that two weeks ago today—while still a fugitive from justice—Horton held a Maryland couple hostage in their home for 12 hours. He allegedly raped the woman several times and tied the man up in the basement and slashed him with a knife.

Horton was caught after a high-speed chase that ended with police bullets in his arm and abdomen.

Saxton said Horton is still in Southern Maryland Hospital under 24-hour armed guard.

"As soon as he is reasonably stable he will be taken from the hospital to the jail and I will lock him up in the medical ward, the high-security medical ward," Saxton said. "He will be escorted by two officers everywhere he goes. He will not ever get away from us.

That article was accompanied by a box, a separate article printed by the Lawrence Eagle-Tribune that day because the Lawrence Eagle-Tribune was trying to understand exactly what was going on in the Massachusetts' prisons, and everyone who has heard Michael Dukakis claim that there would be no secrets in a Dukakis administration might look at this report from the Lawrence Eagle-Tribune of what was happening with the Dukakis administration. It is entitled "Massachusetts Prison Chief 'Will Never Be Available.' "

Since Wednesday, the Eagle-Tribune has repeatedly phoned Massachusetts Correction Commissioner Michael Fair. His secretary and public affairs officers always say that he is at meetings or unavailable.

Last night the fifth and final call of the day was placed:

"He is not available," Correction Department spokesman Mary McGowen said.

"Do you know when he will be available?" reporter Susan Forrest asked.

"No I don't."

"Will he be available tomorrow?"

"Nope."

"The day after tomorrow?"

"No."

"Next week."

"No."

"Will he ever be available for me?"

"No, he will never be available."

"Can you answer how many other murderers furloughed by your department have gone on to commit violent crimes while out on passes like Horton?"

"I don't know."

"Could you get me that information?"

"No."

"Could I get that information from someone else in the department?"

"No, we have a strict media-access policy. I don't have that information and the media can only deal with this office."

Now notice what that story says, that Michael Dukakis' administration, faced with the murder of citizens by murderers, the rape of citizens, the torture of citizens, was willing not only to let murderers out on the street on weekends, it was willing to systematically avoid telling the public exactly what was going on. It was willing to stonewall, to use a term out of the Nixon years, it was willing to refuse to talk to the reporter, and, in fact, as you will see as I go through the Lawrence Eagle-Tribune's report, in the long run it was actually the position that only by filing a lawsuit were they in a position to get the information they wanted, that literally they had to go through all this work, they had to engage in all of this effort, just in order to find the right information.

On May 7, the Lawrence Eagle-Tribune wrote an article which again showed what a secret procriminal position Michael Dukakis had and how little the people of Massachusetts, including the responsible officials, were informed by Michael Dukakis about what he was doing on behalf of convicted murderers. The article is entitled, "Prosecutor Assured Witnesses, Killer Jailed for Good," by Susan Forrest, and I quote:

The man who prosecuted William Horton Jr. said he believed the cold-blooded killer was behind bars for good when the guilty verdict was read.

"I had given these assurances to reluctant witnesses when they walked out of the courtroom in 1975," said Lawrence attorney Michael Stella Jr., a former Essex County assistant district attorney.

"It turned my stomach when I read about what happened in Maryland, and I'm upset because I was not told as a prosecutor about this furlough program for first-degree murderers," Stella said. "I had no idea Horton was approved for furloughs."

The First-Degree Lifer Law went into effect in 1972, two years before Joseph Fournier, 17, was stabbed 19 times during an armed robbery at the Marston Street Mobil Station in Lawrence.

"Horton was not the typical murder defendant I came across," said Stella, who prosecuted 18 murder cases as an assistant district attorney. "I knew if he was ever let out, someone else would be a victim. Maybe if the furlough board had contacted me I could have told them these same things."

When asked how he felt on May 22, 1975, when a Superior Court declared Horton, Alvin Wideman, and Roosevelt Pickett guilty of Fournier's murder, Stella replied, "If there was ever a case to argue for the death penalty in Massachusetts, the Horton-Wideman-Pickett situation would have been it."

All three men were sentenced to life without parole.

Mary McGowen, a spokesman for the Massachusetts Department of Correction, cited a privacy law when asked whether Wideman and Pickett have been authorized for furloughs. She would only confirm that neither man is at the state prison in Concord where Horton was held before he skipped out on a weekend pass last June.

Stella said it was never officially determined at the trial which of the three men actually stabbed the Fournier youth. There were no eyewitnesses, he said, and Horton and Wideman blamed one another during the initial questioning by former Lawrence Police Chief Patrick Schiavone, then a sergeant, and the late Capt. Stephen Sciuto.

"Who of the three actually did the stabbing was not an issue the jurors were concerned with because the case was based on the joint venture theory," Stella said. "But from the beginning of the investigation, Capt. Sciuto, myself, Pat Schiavone and Assistant D.A. Robert O'Sullivan were of the opinion that Pickett was the driver of the car, Horton and Wideman went in to rob the gas station, Horton had the knife, and it was Horton who stabbed Fournier 19 times."

Schiavone, who owns Executive Detective Agency in Lawrence, echoed Stella's theory about Horton's role in the murder.

"Horton would have you believe that the other two stabbed the Fournier boy and he stayed in the car, but we all know he did it," Schiavone said. "Horton was the one who was the coldest throughout the trial. Pickett and Wideman showed remorse almost immediately. Horton showed no remorse at all, no sorrow.

"I don't know who in holy hell allowed this guy out of prison," he added. "That was a crime in itself."

Stella said he believes in the prison furlough program, but not for first-degree murderers. He said officials in the Correction

Department who make the final decisions should be held accountable.

"A statement saying, 'We made a mistake,' 'We blew it,' or 'We're sorry,' is simply not good enough," Stella said. "I don't mean to sound like a radical, but if a murderer doesn't come back from a weekend pass, the people on the furlough board should finish out his sentence for the crimes he committed on the outside.

"I think that the woman Horton allegedly raped in Maryland has a good lawsuit against the Massachusetts Correction Department," he said.

Maryland police said that on April 3-4, Horton broke into the home of a young couple, terrorized them for 12 hours, raped the woman at gunpoint, slashed her boyfriend after tying him up, rammed a police cruiser and threatened to shoot at the four officers chasing him.

He was finally brought down by two police bullets in his arm and abdomen.

Horton is now in the medical ward of Prince George County, Md., state prison, charged with a 44-count indictment including assault with intent to murder, first-degree rape, and assault and battery. He is scheduled to be arraigned May 15.

That article in the May 7, 1987, Lawrence Eagle-Tribune gives the sense of the gap between Michael Dukakis, and the liberal values he represents and the officials in the State of Massachusetts. I find it fascinating that in the case of the prosecutor he literally did not know that under Dukakis his State government was in fact releasing murderers on a regular basis, letting them out on the weekends to see whether or not they would turn out to be worthy of having their sentence commuted.

□ 2115

That is the kind of setting in which the Dukakis administration had a secret furlough program. If you think I am making that up, I would just point out that it is the Lawrence Eagle-Tribune itself which said, and I quote from their December 27, 1987, articles, entitled "Soon Killers Will Stay Jailed," where they said:

The revelation that the state was running what amounted to a secret program to qualify killers for commutation by giving them weekend passes from jail. The idea was to let them show they could be trusted in society, then to commute their sentences.

That is the Lawrence-Eagle Tribune in one of its Pulitzer Prize winning reports.

As I mentioned earlier as I go through reading these key articles from the Lawrence Eagle-Tribune, those Members who want to get a copy of the videotape, "Justice on Furlough" in order to be able to see visually the various murder victims families talk about this case, to see the Maryland Judge talk about this case, to hear people who in their own words explain what it was like and what was involved, folks who want to see that video, any Member of the Congress who wants to see that video, could simply call area code (618) 465-1166 and get a copy.

Let me go on now to the Lawrence Eagle-Tribune's Pulitzer Prize winning article from May 27, entitled "No One Recalls Freeing Killer," by Susan Forrest:

State prison officials who recommended that William Horton Jr. be furloughed in 1986 cannot recall specific details about the case.

A preliminary investigation just completed by the Executive Office of Human Services, which oversees the Massachusetts Department of Correction, found that:

The Deputy Commissioner of the Department of Correction, whose signature is on Horton's furlough release, does not remember approving it.

There are no minutes to show what took place during Horton's many furlough hearings.

A prison caseworker, unidentified in the probe report, was "very supportive" of his furlough application.

Now, notice, compared to the Iran/Contra hearings, compared to Michael Dukakis promise that there will be no secrets, according to the Lawrence Eagle-Tribune, the deputy commissioner cannot remember ever signing the release for William Horton. There are no minutes that show what happened, and the prison caseworker is not identified who filled out a very supportive report on his furlough; so Dukakis managed to cover up totally who in fact had released William Horton and who had in effect terrorized or allowed the terrorization of the lives of the couple from Maryland. Let me go on quoting from the Lawrence Eagle-Tribune:

Still, the report finds that Horton's furloughs were conducted properly under the law. It says "established procedures" were followed.

The report did criticize the Correction Department for a lack of detail in documents filed by prison caseworkers on Horton's evaluation for furloughs and it found fault with the absence of other documentation, such as minutes of his furlough hearing.

Among the lack of details:

A three-member panel, consisting of Horton's assigned caseworker, a corrrectional officer and a correctional counselor at Concord, voted to approve Horton for furloughs. When interviewed for the state report, none could recall any specific details about the hearing.

Four of the five officials at the central office of the Correction Department, designated by the commissioner to serve as panel members for all furlough candidates, could not "specifically recall sitting on the panel that considered the request for the furlough from which this inmate escaped."

"Only one individual could recall sitting on a panel which considered a furlough request by the inmate," the report continued. "Others indicated a strong likelihood that they served on a panel which considered the inmate's application, but none could specifically recall when."

The Deputy Commissioner, who frequently serves as acting commissioner and who approved the furlough from which Horton escaped, "did not specifically recall approving the furlough under investigation," according to the report that was compiled by a special investigative unit at the Department of Human Services. Although several officials were involved in Horton's furlough process, according to the report, no names were released.

A caseworker made an oral presentation to the three-member prison panel about Horton but "there were no minutes or record of the panel's discussions, other than the vote," the report said. "At the central office level, there was documentation to verify that the panel met and voted on the inmate's request . . . but there was no document reflecting the central office caseworker's assessment or the basis of the panel's recommendation.

"Such an absence of central office documentation has the potential to reduce the scrutiny which each individual (furlough) request receives," the report further stated.

The investigation into Horton's furloughs was ordered last month by Secretary of Human Services Philip Johnston after the convicted killer failed to return from a weekend pass in June and then, according to Maryland police, went on a violent spree there that included the rape of a young woman.

The report says that the official police version of the brutal murder that Horton committed in 1974 was submitted as part of his furlough process.

Lawrence police spokesmen said yesterday they were never asked by prison officials to give an official version of the murder.

The report also said that a background check of whether Horton had a drug and/or alcohol problem was used as part of the furlough process. Two weeks ago, first-degree murderers from state prison in Norfolk told the Eagle-Tribune that Horton was a heroin and cocaine addict in prison.

"The panel did not find anything unusual not to give Horton a furlough," Human Services spokesman Madeline Hardart said. "That implies there was not a problem with substance abuse."

The prison superintendent at Concord, where Horton was before he fled to Maryland, told state investigators that Horton was "a good furlough risk," according to the report. The superintendent also said that Horton's unidentified caseworker "did not recall any unusual problem's about the inmate or the application that would have caused him to look more closely at the inmate's institutional file or to deny the request."

The state investigation was headed by Carmen Russo, chief investigator for the Human Services Department. He wrote that Horton's furloughs were granted properly and that "elaborate" and established procedures were followed.

At the same time, he noted, the investigation uncovered several weaknesses that need to be addressed—absence of sufficient detail in Horton's prison evaluation sheets, absence of separate documentation at the Correction Department's central office of review and assessment, and insufficient accountability of employees who reviewed Horton's furlough application.

Now, notice, here is the Dukakis administration, Mike Dukakis with a report which is a total coverup, in which nobody is accountable and, in fact, as you will see later as I put it to the RECORD the Lawrence Eagle-Tribune article, it turns out that they were misleading. It turns out that Horton was a terrible risk. It turns out that he had severe problems while in prison. It turns out that he was a cocaine and heroin abuser and it turns out that any reasonable person, anybody who was not committed to such a leftwing view of the world as Michael Dukakis would never have allowed Willie Horton on the street and in fact, Cliff and Angela Barnes would never have had a day of being terrorized.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from California.

Mr. DORNAN of California. We have been discussing on the floor for several weeks now, and maybe now is the opportunity because the people that read the RECORD of our proceedings here or sometimes even magically within the sound of our voice might respond and tell us something that should be a very simple fact to ascertain; but the Library of Congress seems confused on how to go about it at this moment.

Mr. Horton and all the others that were furloughed, they certainly were not turned loose for the weekend or their 72-hour pass or whatever it is, their week's pass, with no money in their pockets. No prison in this Nation takes a man who has served 5, 10, 20, or 30 years and turns him loose on the street with no money. You have to have money for some clothing that is supplied and they give you money for an apartment. They give you a parole officer and they give you certainly car fare to get from the prison gates to the downtown area, wherever you are allowed to take up residence under your particular patrol.

What do they give these furloughed people for money? Do they have enough money to rent a car? Do they have enough money to eat three square meals a day for the number of days they are out? Do they have taxi fare, bus fare? Do they dare call it "mad money"?

This is going to be interesting when someone responds to the gentleman's special order and tells us, somebody that works in the prison system that may have participated in this furlough program that thought it was inherently stupid, if not evil, from day one, somebody is going to tell us how much money these people are given. Then it is a simple statement of fact that that money is taxpayer money from the State of Massachusetts.

So whatever Horton did, whether he had a stolen car, a rental car, took a cab or took the Metro when he left the area of the beating and rape scene of the couple that he abused, maybe he still had a few dollars of "mad money" left. Maybe he was eventually going to turn himself in like an absent without leave, an AWOL military person.

The more you look at this, the more phenomenal it is and the defense by some Members of the other body, U.S. Senators, and by some people in Massachusetts trying to say that other States have this exact same type furlough type program, is such a phony and transparent thing to say that the decompression type of furloughs used in the 20th or 19th year of a man's 20-year sentence to get readjusted to civilian life, which we know decompresses him back into society and it tends to work, that is absolutely akin to furloughing somebody in the first, third, fourth, or fifth year of a sentence, when they are as unstable as this Willie Horton was, as the gentleman just read, and the people in the prison knew this man was a drug user and a bad risk. It is incredible. Let us hope the details are still forthcoming.

Mr. GINGRICH. If I might build on that for just a second, the gentleman has raised a point that we talked about on the floor once before that I think is intriguing and one which frankly I do not have the answer to right now and which I would hope possibly one of the Members of the Massachusetts delegation might get for us in the next few days, because after all it is their State that Governor Dukakis has been Governor of and maybe one of the Massachusetts Representatives could tell us.

I noticed, for example, and I am trying to find the exact citation in Bidinotto's article, "Getting Away With Murder," from the July Reader's Digest. There is a point in here where he talks about a killer. Let me read you this for a second, because it goes right back to the gentleman's point. He says:

> Families of other victims told their stories, including Vivianne Ruggiero, whose 27-year-old husband, John, a police officer, had been shot in the head five times without provocation. John left his widow with two small children. Meanwhile, Vivianne testified, John's convicted killer, Daniel Ferreira, sentenced to life without parole, had married while on one of 33 furloughs. "Isn't he lucky that he can go on with his life?" Vivianne said bitterly. "I wish I could have a furlough—one weekend, or one hour, when my husband's death is not on my mind."

I mention that because in the context of what the gentleman has said, it is fascinating to ask the question, here is a killer sentenced to life without parole who Michael Dukakis furloughed for 33 furloughs, who met somebody and married them while out on furlough.

You have to raise the question, who was paying for the dates? Does it actually turn out that under Michael Dukakis the taxpayers of Massachusetts were paying for a cop killer's convicted murderer to go on dates to get married, that in effect this poor woman, the widow of the policeman, did her tax dollars go in order to pay for the marriage license of this convicted killer while he was out on his weekend furlough?

In this particular case, according to Bidinotto's article, "Getting Away With Murder," from the July Reader's Digest, in this particular case this killer had been out 33 times on furlough.

Now, I mentioned earlier the videotape, "Justice on Furlough", which I am encouraging all my colleagues to get. I mentioned that you could get it by calling area code (618) 465-1166.

To give you an idea why I think all our colleagues should see this videotape, I want to put a few quotes in the RECORD. Governor Dukakis in 1976 at the time of his veto of a bill restricting furloughs said:

> This bill would have cut the heart out of efforts at inmate rehabilitation.

That is included in "Justice on Furlough."

The film makes the point that William Horton is only 1 of 428 inmates who have escaped while on Massachusetts furlough.

The film quotes Lt. St. Germain of the Lawrence, MA, Police Department as saying:

> The furlough program? I think it is a terrible thing, because the families of crime victims are now reliving the hell they went through when their brother or sister or son or daughter had been murdered.

The film itself, "Justice on Furlough," says:

> Before raping Angie Barnes twice, a laughing Horton pistol-whipped and slashed Cliff Barnes 22 times with a knife.

One of the most vivid scenes in the videotape, "Justice on Furlough," is when Judge Vincent Femia, the judge in Maryland who tried the case involving Willie Horton and Angie and Cliff Barnes, Judge Femia said:

> As the facts of Horton's kidnapping and rape of the Barnes began to unfold, I found myself totally revolted by what was going on in this case. I was quite frankly convinced that I was listening to some of the worst facts that I have ever heard involving sadistic torture, sexual violation of the worst order, not for sexual gratification, but to impose his will. Worse than that, worse than that in my opinion, is that one would visit sexual violation on a woman because of its effect on others who are forced to sit and witness or listen to it, and that is what was going on in this case.

That is from Judge Vincent Femia, who was the judge in the Horton case.

□ 2130

Angie Barnes herself appears in the film, "Justice on Furlough" in some very moving scenes. She said:

> I have been attacked by someone who they think, "Oh, let's see if he can fit into society." It's like Russian roulette with him exactly. Russian roulette with him; we happen to be the ones who are shot with the bullet.

I think one of the reasons I feel so strongly that every American and certainly every Member of the Congress should see the videotape "Justice on

Furlough" is that when one sees the victims, when one sees them, it is not just reading them in the articles. It is not just a sense of the newspapers. It is not just the Reader's Digest. When one sees them on this videotape one realizes how real it was, how passionate it is, how intensely they were hurt, for example, and Angie Barnes went on to say:

> We had no idea, first of all, that they were letting out first-degree convicted murderers, but that is the way the law is. I think we just need to take an active part in it to make sure these criminals pay for what they do and so we can have some really safe streets. Part of our country's problem is that you get away with murder.

Judge Vincent Femia, in talking about Horton in the sentencing report, said,

> This man should never draw a breath of free air again. He is devoid of conscience and should die in prison.

Notice that Judge Femia in Maryland is talking about the man that Michael Dukakis released.

Let me show you the difference in the values of everybody except the Dukakis Democrats. Dukakis had released Willie Horton 10 times on furloughs. The 10th time he ran away. Judge Femia said:

> This man should never draw a breath of free air again. He is devoid of conscience and should die in prison.

One of the virtues of the videotape "Justice on Furlough" is it allows one to measure for onself what they think of Judge Femia. One gets a sense of the kind of solid, upstanding, thoughtful man that he is.

William Horton, after he was sentenced by Judge Femia, had the gall to say the following, and I think that anybody who wants to know about Michael Dukakis, the fact that Willie Horton would say the following should tell everyone everything they need to know about Michael Dukakis. He said, "Yes, but would you consider letting the sentences run after I go back to Massachusetts and finish my sentence?" Judge Femia drove the point home when he said:

> I am not letting you go back to Massachusetts for fear that you could end up on furlough again. If you have anybody back there in Massachusetts, tell them don't wait up for you. In fact, don't leave the light on. You're coming back.

One has to see Judge Femia saying that in "Justice on Furlough" to get the full intensity of his passion, his commitment on this issue, because what he is saying is that Michael Dukakis and the people who share his left-wing values might well have let Willie Horton back out on the street again given the way their furlough program worked.

Maureen Donovan, a Massachusetts citizen, who said:

> I thought, holy cow, that could have been my family, that could have been anyone in this area. I mean, there is no reason to attack the Barneses outside of he was like a vicious animal, and the State let someone like that out into my community, into my neighborhood.

Dennis Humphrey, deputy corrections commissioner for Massachusetts, and listen to this, this is again a Dukakis appointee representing Dukakis' values; he said:

> We are operating in Massachusetts under the assumption that everyone will get out of custody and will eventually make parole. People who are originally sentenced to first-degree life do not complete that. They do not die in prison.

Notice the deputy corrections commissioner under Michael Dukakis was explicitly, explicitly contradicting what Richard Cohen wrote in the Washington Post in his argument that those, and I quote, who oppose the death penalty have that obligation. What is the obligation Richard Cohen is talking about? They are arguing for those of us who oppose the death penalty the sentence of life without parole is a handy substitute. Why? "We can assure justifiably nervous citizens that a killer will remain where he can no longer kill." That is Richard Cohen's version of a rational, calm, reasonable liberalism. But listen to Dukakis' appointee. He says, "People who are originally sentenced to first-degree life do not complete that. They do not die in prison." Again, to give the Members a difference in values between leftwingers like Dukakis, let me carry Members back to what Judge Femia said, all of this being on the videotape, "Justice on Furlough," where Judge Femia said, "This man should never draw a breath of free air again. He is devoid of conscience and should die in prison."

So the Members can see clearly the contrast between all of the everyday Americans who have common sense who understand that Willie Horton is dangerous and the Dukakis appointees and the Dukakis system that specifically was committed to finding a way to get first-degree murderers back out on the street.

State Representative Robert Cerasoli, a Democrat from Massachusetts, at a hearing on the furlough system, said, "I would like to apologize for being part of a system that allows this kind of thing to happen." However, Governor Dukakis has expressed his values. Mary Gravel, one of the women who had organized the petition effort protesting the furlough program, says that when she handed Governor Dukakis the petitions asking him to keep the prisoners in prison all weekend, he said, "Oh yes, I have signatures from prisoners, too."

Anyone who thinks about moral equivalence, here is Governor Dukakis saying that signatures from murderers are just as valuable and just as valid and just as legitimate as signatures from the families of the victims, and if one needs any better example of how far to the left Dukakis is and how weird his attitude toward crime is, just let me repeat what Mary Gravel claims Governor Dukakis said to her when she handed him the petitions protesting the furlough program; Governor Dukakis said, "Oh, yes, I have signatures from prisoners, too."

But we can go further. Governor Dukakis, in response to a suggestion that he meet with the Barnes couple, said, "I don't see any particular value in meeting with people. I am satisfied we have the kind of furlough policy we should have." In other words, here is a couple, the husband had been tortured, slashed 22 times by Willie Horton, the wife had been raped twice, terrified, blindfolded, threatened with their life, and they only lived, I think, because they escaped. He did not walk off and leave them. They escaped. In that setting, they come to Boston to say to Governor Dukakis, "Look what your furlough program for murders is doing to innocent people." What does he say? This is Governor Dukakis who promises an open administration, he promises no secrets, he promises he will be candid with the American people, and here is what he says, Governor Dukakis, "I don't see any particular value in meeting with people. I am satisfied we have the kind of furlough policy we should have." We are talking about in the last year. We are not talking about 20 years ago. This is within the last year, knowing people like Willie Horton were raping and torturing people, and Governor Dukakis refused to meet with the rape victim, and Governor Dukakis insisted the program was working.

State Representative Joseph Hermann, a Democrat from Massachusetts, said, "The Governor doesn't understand that we do have survivors of a murder, mothers, fathers, sisters, brothers, whatever. If it happens once, as in the Horton case, it is too much." That is a Democrat from Massachusetts talking about Dukakis.

What did Dukakis say in summary? According to "Justice on Furlough" he said, "Look, we are running a very tough, strong, well-defined furlough program in this State which by and large has been very successful."

There are two groups who disagree with Governor Dukakis, the families of victims who do not think it is a successful program when they see the murderer of a member of their family out on a weekend furlough, and Cliff and Angie Barnes, who had been terrified, tortured, and raped by one of Governor Dukakis' murderers, did not think they had been part of a successful program.

I think the most poignant, the most moving moment in "Justice on Furlough" is a scene where the mother of one of the murder victims talks about the fact that her older daughter had been killed, that she went to a restaurant one night with her younger daughter. They were sitting there having dinner, and she looked across the restaurant and there was the man who had murdered her older daughter. He was out on a weekend furlough under Governor Dukakis' system. Can you imagine the horror of that mother looking across the room at the man who had brutally killed her daughter realizing that he was out on a Friday night having a good time while her daughter was dead? Can you imagine the fear she felt for her younger daughter wondering if this man might then kill the younger daughter? Can you imagine the sense, particularly in light of the Willie Horton case where he clearly went berserk, was violent, ruthless and savage, the sense of problems, the sense of fear, the sense of powerlessness that Governor Dukakis' program created? That is why when we see it on videotape and see the human emotions involved, we see the fear and the pain on the part of the families. That is why I think that "Justice on Furlough" is so useful, and that is why I hope that my collegaues will call area code 618-465-1166 and order a copy of that videotape so they can see what this has done to real people.

Let me go back to the Lawrence Eagle-Tribune Pulitzer Prize winning series on June 7, 1987 which reported "How One Family Stopped Furloughs for Killers," by Susan Forrest, and I quote:

> UPPER MARLBORO, MD.—Stephanie Roper was a soon-to-be college graduate when she was kidnapped by two men, raped, mutilated and then burned alive.
>
> It was April 1982.
>
> Stephanie's brutal murder in Prince Georges County—the same county where police say furloughed killer William Horton, Jr. of Lawrence terrorized a young couple two months ago—sent shock waves through the state of Maryland.
>
> The men responsible said in court that they tortured and killed Stephanie because they were drunk and stoned.
>
> Both killers were sentenced to death, but the death penalty in Maryland has not been used since 1961. Eighteen inmates are on death row now.
>
> An appeals court—citing the drug and alcohol defense—reduced the sentences of Jack Ronald Jones, 26, and Gary Beatty, 17, to two consecutive life terms without the possibility of parole.
>
> But in Maryland in 1982, life without parole really meant 11 years before parole eligibility.
>
> From that moment on it was war for Vincent and Roberta Roper, who said they became outraged and disgusted with the lies and leniency of the criminal justice system in their state.
>
> "Basically we had a death penalty which didn't mean death and a life sentence which didn't mean life," Mrs. Roper said Friday. "People from all over the state called us after the trial was all over to say that when the system failed Stephanie, it failed them as well."
>
> Refusing to allow Stephanie's death to be in vain, the Ropers formed a grassroots organization in 1963 to fight for the rights of victims of violent crimes.
>
> And they named the organization after their 22-year-old daughter, who was the oldest of five children.
>
> "We started it certainly because of what happened to our daughter, but now it has come to symbolize every victim of a violent crime in Maryland," Mrs. Roper said.
>
> Today the Stephanie Roper Committee—with 11,000 members—is one of the most successful of the 5,000 or so grassroots organizations in the United States that deal with victims' rights.
>
> "What we have done can never bring Stephanie back to us, but it does in some way make us feel that our loss was not in vain," Mrs. Roper said. "Our goal is to spare future victims and their families from the criminal justice system.
>
> "You see, what happens is that the criminal victimizes you, and then all too often the criminal justice system inflicts the second injury," she said. "Our organization strives to balance the system so it is truly just for victims."
>
> Since 1983, the Stephanie Roper Committee has been instrumental in changing 12 Maryland laws that deal with criminals and victims.
>
> Here are just a few:
>
> Life without parole: Parole eligibility for murderers increased from 11 to 25 years, which means Stephanie's killers will be eligible for parole in the year 2032.
>
> Drugs and alcohol defenses: The defenses used by Stephanie's murderers are no longer admissible in murder trials.
>
> Truth in sentencing: In the past, judges instructed juries that a life sentence meant a person will spend the rest of his natural life in prison "which was fiction," Mrs. Roper said. Now judges are required to instruct juries that a life sentence does not necessarily mean life and could mean parole in 25 years.
>
> Victim impact statement: Written and oral statements from victims of violent crimes and families of murder victims are now part of the court sentencing and parole processes.
>
> Victims' addresses: Victims are no longer required to state their addresses and phone numbers before testifying in court.
>
> Tougher eligibility requirements: Requirements for admission to an innovative prison in Jessup, Md., called the Patuxent Institution, have been made tougher. The program focuses on rehabilitation, weekend furloughs and the early parole of all inmates who successfully go through the program, including murderers. But on July 1, a law goes into effect that says murders are no longer eligible for the program.
>
> Unlike Massachusetts, which currently has a statewide furlough program for first-degree murderers, Maryland's cold-blooded killers had only the Patuxent Institution—and now that is gone, due to the perseverance of the Stephanie Roper Committee.
>
> A bill now pending in the Massachusetts Legislature, co-sponsored by Reps. Larry Giordano, D-Methuen, and Joseph Hermann, D-North Andover, would abolish the state's furlough program for first-degree murderers, which is designed to help inmates prepare for parole.
>
> It was filed after William Horton, a first-degree murderer sentenced to life without parole because he stabbed a Lawrence youth 19 times, was furloughed in 1986, failed to return from a weekend pass and then ended up in Maryland where police say he raped a woman at gunpoint and stabbed her boyfriend.

□ 2145

Two things to notice. In Maryland, where the parents of Stephanie Roper went all out, they changed the law. In Massachusetts, when legislators tried to change the law to stop first degree murderers like Willie Horton from getting out, Gov. Michael Dukakis opposed the changes. He did not want the law changed. He did not think it was necessary to change the law. He did not think there was a real problem.

That is one of the major differences between Governor Dukakis, who is clearly the most left wing man ever to be nominated for President, and normal, everyday politicians who listen to the people, who understand when it is time to change.

One of the reasons, frankly, that it was hard for us to understand just how bad Dukakis is is that the Dukakis administration systematically practiced secrecy. The Dukakis administration basically was consistent in not saying what was happening, in not talking to the people of the State, in not releasing information.

There is a law in Massachusetts, to show how strange Dukakis is and how strange Massachusetts was under his leadership, there was a law called the Criminal Offenders Records Information Act which prevents criminals' records from being made available. As a result, it was very, very difficult, virtually impossible to find out what was happening.

But on July 21, 1987, the Lawrence Eagle-Tribune was able to report on a landmark victory which opened up the criminal records. Let me read what the Lawrence Eagle-Tribune said in an article by Judy Wakefield entitled: "Killer's Records To Be Opened; Landmark Ruling Lifts Horton Secrecy." They said:

> A landmark ruling has cleared the way for the Eagle-Tribune to win access to the prison records of furloughed killer William Horton, Jr.
>
> For the first time in its history, the state's Security and Privacy Council approved a newspaper's request for access to someone's prison records.
>
> How much access the Eagle-Tribune will get will be decided Thursday when the council meets jointly with the state's Criminal History Systems Board.
>
> Eagle-Tribune attorney Peter Caruso is confident that the board will go along with the council's recommendations. He said Horton's prison records may be available as early as Friday.
>
> "This is a landmark case. Never before has certification been given to a newspaper," Caruso said. "However, we have to remember we're only halfway home, but it looks good. In past meetings the board looked to the council for guidance on certification.
>
> "Once you have certification from the council it is virtually unheard of that access

will not be granted. Unless something extraordinary happens between now and Thursday, the Eagle-Tribune will get access," he said.

The 5-0 vote came after a 2½-hour debate by the council over how much privacy Horton is entitled to and what effect opening the records might have on the state's furlough system.

Council attorney Ruth Moore opposed releasing the records, arguing it "could cripple the furlough system" and charging that the council was bowing to public pressure.

In the end, the public's right to know outweighed Horton's privacy, the council determined.

Let me repeat that paragraph because it tells us so much about Dukakis and the whole willingness to avoid paying attention to the public.

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In the end, the public's right to know outweighed Horton's privacy, the council determined.

Even the Department of Correction, which had refused to release any information on Horton's furlough because of CORI—the Criminal Offenders Record Information Act—supported releasing information about Horton.

CORI protects the privacy of people with criminal records, and the Department of Correction has repeatedly cited CORI as the reason for not discussing the Horton case.

"In my personal opinion, Willy Horton breached any trust we had in him when he escaped," said Department of Correction Associate Commissioner of Programs and Treatment Dennis Humphrey, who had Horton's file with him.

"I have no interest in protecting Willy Horton. The only thing that I'm concerned about is that his co-defendants and his family are named in the files. What I need is direction and clarification on what I can release."

Humphrey said Horton's prison records are "six file folders thick."

Let me close the quote for a second and make a comment. Notice under Dukakis they were releasing a convicted murderer whose prison record is 6 file folders thick. If anyone needs any evidence of how strange Dukakis' attitudes on criminal justice are, imagine a Governor who would defend, fight for, protect, and support a program which had released a murderer for 10 furloughs, who had a prison record 6 file folders thick.

The Lawrence Eagle-Tribune goes on to say:

. . . and include, among other things, medical information, family references and correspondence with the Department of Correction.

Horton 36, was convicted of first-degree murder in 1975 and sentenced to life without parole. He was furloughed from Concord state prison 10 times. On his 10th weekend pass in June 1966, he failed to return. He ended up in Maryland, where police say he raped a woman and stabbed her boyfriend. He goes on trial Aug. 10.

Attorney Caruso said he was shocked at the Department of Correction's sudden offering of Horton's records.

The Department of Correction was not the only group to change an earlier position on the Horton case.

Last month, the Security and Privacy Council rejected the Eagle-Tribune's request to see Horton's prison records by a 4-1 vote.

Since then, interest in the case has picked up on many fronts.

The Boston Globe and the Joint Committee on Human Services and Elder Affairs applied for access to Horton's prison records. Both were granted access yesterday along with The Eagle-Tribune.

"When William Horton violates his furlough he thrust himself into the limelight and became a subject matter of legal public concern. Just because he's an inmate, it doesn't insulate him from public pressure," said Globe attorney Joanne D'Alcomo of Bingham, Dana and Gould, Boston.

Let me stop again for a second to make this point about Dukakis' Massachusetts. Notice the quote: "Just because he is an inmate, it doesn't insulate him from public pressure."

I would suggest that is about as strange as you can get. Maybe it is because I am a Georgian, but that is pretty weird.

Let me finish for one second:

Human services spokeswoman Emily Sherwood said the joint committee is considering making changes in the furlough program as a result of the Horton case.

The committee needs to examine Horton's files in order to do so, she said.

Also, the Legislature is working on two bills to tighten up the state's furlough system. The House Post Audit Committee has launched its own investigation into the furlough program and thousands have signed petitions demanding a ban on furloughs for killers.

"In a case like this, under these circumstances, the public has a right to have information to make a judgment on whether the system has to be changed," said council member Peter Agnes, Jr.

Agnes, assistant secretary in the Executive Office of Public Safety, was one of two council members who did not attend the earlier meeting with the Eagle-Tribune.

Andrew Klein, chief probation officer for Quincy District Court and one of the strongest supporters of the Eagle-Tribune's request for access to Horton's files at yesterday's meeting, did not attend the earlier meeting.

"CORI is a right for those outside of the system, those whose probation is over. Those who are released avoid being branded with a scarlet letter. Those inside don't have the same rights as those outside. I have guys walking around with electronic montors attached to their legs. Their right to privacy is absurd. There is no right to privacy for a guy on furlough or in an institution," Klein said.

William Plante, executive director of the Massachusetts Newpaper Publisher Association, said the council's vote was "exemplary and hopeful."

Notice it is clear that Andrew Klein, the chief probation officer for Quincy District, is not a typical Dukakis supporter because he thought "those inside don't have the same rights as those outside." I am sure Michael Dukakis would have disagreed strongly with that attitude.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding because I just wanted to make a point, that while he is concentrating on the Willie Horton case, because I think it dramatizes more than any others what the nature of the program there is, the statistical reports on the furlough programs give us some hint as to how widespread this program is. It is important, I think, for Americans to focus on just what was happening in Massachusetts.

Between 1983 and 1986 in Governor Dukakis' Massachusetts, first degree murderers in that State received 1,905 furloughs, while second degree murderers received 4,459 free passes from jail in a 3-year period. That means that if we add it up, over 6,000 free passes from jail were given to first and second degree murderers in the 3-year period between 1983 and 1986 by the Dukakis administration.

In 1986 alone, just in one year, Governor Dukakis gave 1,229 furloughs to those convicted of sex crimes, and 220 furloughs to those with a history of being charged with 6 or more sex offenses.

Mr. GINGRICH. What was that last number again?

Mr. WALKER. In 1986, just in 1986, 220 furloughs were given to people who had a history of 6 or more sex offenses.

Mr. GINGRICH. I know the gentleman is going to give more statistics, but let me give an example of how different Georgia is. There is an article by Jeff Dickerson entitled, "Prison Furloughs Force a Closer Look at Dukakis." The Dukakis Democrats have been coming to the floor saying, "Oh, there are programs like this all over the country." Here is the Georgia program, according to Jeff Dickerson:

Reacting to claims Monday that he was soft on crime, Dukakis said, "I know of no responsible corrections program in the country, with very few exceptions, that does not include furloughs."

Georgia's program includes furloughs, but not for murderers. Not even voluntary-manslaughter convicts can get a holiday pass in this state. Neither can a sex offender. The only Georgia prisoners eligible for furlough are "trusties" who are neither murderers nor sex offenders, have served a third of their time, have been trusties for two months, and haven't been in trouble in six months. The requirements leave only about 100 Georgia's 15,300 prisoners eligible for furloughs.

Asked in March if he still was in favor of furloughs for murderers, Dukakis snapped, "That's irrelevant. The fact of the matter is that the people of this Commonwealth and the Legislature aren't."

Will the furlough issue hurt Michael Dukakis? It ought to.

The SPEAKER pro tempore (Mr. CLARKE). The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

THOUGHTS DURING THE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, the hour draws very late, so I am going to modify what I had hoped would be a special order on my visit to six Nazi extermination camps in Poland within the last few weeks, Treblinka, Sobibor, Majdanek, Belzec, Auschwitz, the satellite camp 3 kilometers from Auschwitz called Birkenau, or Brizinka in Polish, which alone accounted for maybe 2½ to 3 million dead people, murdered people by the Nazis, and then Chelmno. But there is not time to do the subject justice. So what I thought I would do is just take advantage of this very precious time that we are given at the end of each day to illuminate in a more protracted and relaxed manner some of our throughts during the day.

Let me follow the theme of the gentleman from Georgia [Mr. GINGRICH] and his special order on some of the things that the electric boys in New York that either produce, edit or host the major media sources from which most Americans glean their appreciation of the news of the day, and tell my colleagues, Mr. Speaker, about a trip that I took to Massachusetts just a few days ago, 4 days ago on Saturday.

My first stop right out of Logan Field was to visit an Irish pub, and they certainly are Irish pubs in Boston. Two or three of the fellows at the main bar were actually full-blooded Irishmen from the old sod in Ireland, and even they had opinions about the Governor of the Commonwealth of Massachusetts.

But I visited the Erie pub, which proudly calls itself Ronald Reagan's favorite pub. He visited there on January 26, 1983, on a surprise visit, and they have a big bronze plaque of him that hits you right as you come in the main door. There were about eight fine looking young Americans in combat fatigues, cammies they are called now, jungle camouflage, sitting there and they were having lunch, eating sandwiches, having potato chips on their drill weekend, and they all gave me an ungarbled opinion about the Governor of the State of Massachusetts, and also what they thought their own party, every one of them was a Democrat, had done to the image of the Guard in trying to malign the reputation of the junior Senator from Indiana, Mr. DAN QUAYLE.

□ 2200

I went to the American Legion Post immediately next door and began therein a day of activity around the State that ended up at a picnic in the city of birth of our good Vice President, GEORGE BUSH, the town of Milton, MA. There were more than 1,000 maybe as many as 1,200 people at that picnic. It was a fine Americana event, beautiful, humid day more like a July 4th than a day in mid-September. Everywhere I went people were telling me they would bet the shirt off their back that Governor Dukakis is going to lose his own State 55 days from now in the Presidential election. How could this come to pass? Well, the people in Massachusetts did not have to be educated on this furlough program, what Mr. GINGRICH was trying to do for 2 nights in a row here in this distinguished legislative Chamber. But let me say a few things that I learned about Mr. Dukakis' hometown just a stone's throw from Milton, MA.

Mr. Dukakis began his political career as a very young man running for what we would call in California the city councilman. It is a little tougher in California. A person in his twenties, who is a member of the city council is a rare item indeed, it is a news story. But in Massachusetts what they call a councilman is a member of the Town Hall Meeting. They spell that in capital letters, Town Hall Meeting. That is their word for city council. In some cases it is over 100 members. By assiduously walking precincts you can gain this honor. It has a good Americana ring to it.

I am going to be having a Town Hall Meeting this week in California myself in my own district. And those are the very words I use in the notification that goes out to all of my constituents, my voters, Town Hall Meeting.

Well, the Town Hall members, this very week in Brookline, MA, Mr. Dukakis' hometown where he began his elective career, they will be debating hotly again whether or not the minority in that Town Hall Meeting of Brookline should be allowed to lead off that historic type of public forum in one of our thirteen Original States, one of our four commonwealths, whether they should start off with the Pledge of Allegiance.

You see, what Sam Donaldson at ABC will not tell us or Ted Koppel in the highly watched and I like it very much, Nightline show, what very few people in the electronic media will tell you, which you are not going to learn from the front page of the Washington Post or the New York Times or the Los Angeles Times, America's three great largest papers of record, is that there is more than just the symbolism of pledging allegiance to the flag that talks about a perfect America, with justice for all. The problem is there are some people in this country who resent that pledge for one of three reasons, maybe all three.

One is they resent this word that we see above your head, Mr. Speaker, God. It says here "In God We Trust." That is on our coins, it is on our paper currency and in the Chamber at the north end of this beautiful Capitol Building, it is in the Chamber although it is on the opposite wall. It would be there on the south wall of the Senate Chamber so that the President of the Senate, who is the Vice President of the United States, when he sits in his chair if he lets his eyes go up as high as you would, Mr. Speaker, to just see the clock here in our Chamber, he would see those words also in the U.S. Senate Chamber, "In God We Trust."

Well, those words, "one nation under God," even this morning very few of us said it correctly. You should not break it up. There should be four pauses in the pledge and there should not be a pause between "one nation," that is not a statement, we are "one nation," what would be symbolized by the word "unity" carved into our desk here along with the words "liberty" and "tolerance and justice." I is just like saying "e pluribus unum," out of many states under a federated policy, one. It is one nation under God. That is the term that was added in 1953 when I was a teenage member of the U.S. Air Force waiting to go to pilot training. I was so thrilled we added those words under President Eisenhower and I said truly under this five-star general, the man who led the crusade in Europe, we were having a little rebirth of patriotism in America, and we were.

Cynicism was being set aside, the post-World War II cynicism that had started to bring to the floor the words "conservative" and "liberal" which I believe still have more meaning in this country than the words "Republican" and "Democrat".

So that is the phrase they have resented for over 35 years, "one nation under God."

Now there is another thing they do not like. I have already alluded to it. At the end of the pledge we say, "One nation under God, indivisible, with liberty and justice for all." They do not like those words, because that talks about a perfect America, something we aspire to. They cannot be a little romantic or poetic. They say since not everybody in this society—and there has never been a utopian society where everybody was perfectly free and got perfect justice—they say because that does not exist they do not want to use the pledge.

Then there is this overriding objection that the pledge, and this comes out of that strange left-wing dislike for the United States that grew out of the post-World War II period, generally by those that certainly did not fight to crush Tojo or Mussolini or Hitler and put an end to fascism, there is this aspect they see in the pledge that it is somehow loyalty oath, which was such a disgusting subject to some people on college campuses in academia in the early—late forties or early fifties. I do not see it as a loyalty oath, because as the Speaker pointed out in this Chamber floor just last Thursday, this Pledge of Allegiance is designed to bring us together, not to divide us. JIM WRIGHT of Texas, our fine Speaker, said, "Look, if it were something that were offensive, we all take the pledge every time we come together the first Monday of January after a general election in this country, a federal election that covers the whole country." That is that next January on the first Monday there will be in this Chamber—and I hope I am still among the Members here—435 and God willing nobody get hurt between the election period and the swearing-in period. We have had a great astronaut in Colcrado die shortly after the election and he never was sworn-in. But if everybody is healthy and in God's wisdom healthy, there will be 435 people with all little children—you can bring in anybody here who is under 10 years old. I know I snuck in a teenage daughter and she held my hand standing right there when I took the oath back on January 4, 1977.

It is a big thrill when we take that oath to uphold the Constitution of the United States against all enemies foreign and domestic. I guess there are some people who never would want to serve in this Chamber because they consider that as they consider the Pledge of Allegiance to Old Glory as somehow a loyalty oath.

But let me tell you something else about Dukakis' little Town Hall Meetings in Brookline. Brookline is only one of two townships out of hundreds in the Commonwealth of Massachusetts, only two that voted against proposition 2½, as he voted against proposition 2½ as a new Governor in his first term, abbreviated by his defeat by Governor King.

He supported that thinking in Brookline, that property taxes should be kept at a high level and there would be no proposition 2½, what we called in California the year before in 1978, proposition 13.

There is another thing I find out about Brookline, driving through the city looking at this beautiful, very wealthy community. We have communities like that in Los Angeles. We call them limousine liberal communities.

They have a sister city relationship, which is fine—all of the communities in Orange, and Los Angeles Counties and most California cities have sister city relationships with small cities in Mexico. Some of them are improverished cities so they try to help them economically through that relationship. Well, Brookline has adopted a city in Nicaragua. That is fine. But guess how they worked out the sister city in Nicaragua? Through the Communist oppressive Stalinist rotten junta of the nine comandantes led by the two Ortega brothers. That is how they whipped up their sister city status with the city in Nicaragua. Kind of fascinating to think about the last 2 years every single meeting they have, I understand, there is a fight over the Pledge of Allegiance in Brookline, MA.

Now listen to some of the things that Mr. Dukakis has talked about when he said in his acceptance speech in mid-July at the Democratic Convention in Atlanta, he said this is not a race about ideology for the Presidential election, it is about competence. Well, that line stunk to high heaven because you knew he was trying to tell us something right there, that he did not want to talk about his ideology.

He had said in Iowa earlier this year that he was a card-carrying member of the ACLU. You know where that old expression comes from. He was using it with emphasis because that used to be the way you would identify Communists. It was always sort of stupid even to me as a schoolboy, 17, 18, 19 years old. I knew that you were not going to hold up a Communist upside down, shake him hard and out would pour one of the early—they did not have plastic cards in those days—it would be a laminated wallet card that said, "Communist party USA." But that became the expression to separate fellow travelers or sympathizers or just fools and idiots from an actual member of the Communist Party.

Was he a member of a cell? Was he on the books, on the rolls?

So Dukakis uses that term in a forceful, not arrogant way, when he said, "I am a card-carrying member of the ACLU," meaning "I am a formal member and I pay dues."

Let me tell you as a Member of this Chamber whose immediate livelihood for 4 years before I was sworn in to the great 95th Congress, I traveled this country as the national spokesman of Citizens for Decency Through Law. At one time it had been called "Citizens for Decent Literature."

CDL is the Nation's largest and most effective antipornography organization. I did 49 States. The only State I missed was Alaska.

Someday, to complete it, I am going to go to Alaska and talk about the evils of child pornography, if nothing else, so that I can say I have discussed this evil subject in all of the 50 States.

I got over to Hawaii, and did the 48 continental States. I can tell you I never met a man or a woman in this country who could argue pornography effectively for the side that was permissive, what I choose to call the evil side, never met anybody to argue that case for tolerating pornography in this country who was worth a hoot, who could put two sentences together with any powers of articulation except for members of the American Civil Liberties Union.

They were tough adversaries. I am not a lawyer. Most of them were. Fortunately for me none of them ever deduced that I was not a lawyer because I very effectively studied and learned the Supreme Court decisions that came down on June 21, 1973. The key decision was called the Miller decision. There were eight of them.

So the umbrella title of the Miller decisions was applied to all of them.

I learned them well like a barrack's lawyer. I was able to hold my own against lawyers all around this country. But they were the adversaries that were the toughest. People that graduated, yes, from Harvard Law, Stanford Law, the best law schools in the country. Wait a minute. Now why should I have said Stanford Law. I never went up against a pornography lawyer from Stanford. So let me clear Stanford.

But I went up against some from Harvard and other Ivy league schools, I can assure you, some of them from the great mother of Western education in California, the California university system. These people I used to tell them to their face, "You are like a hired mouthpiece lawyer for the mafia. You are sitting here hiding behind the flag and the great first amendment to our Constitution that Thomas Jefferson asked for to defend pornography." Now we have the situation where you put the word "child" in front of "pornography" and even some of these permissive-oriented liberals will sit up and say, "Well, I won't tolerate that."

Well, I can stand before my colleagues in this Chamber, before you, Mr. Speaker, and all 400,000 to 500,000 people who follow the proceedings of this House and flat out make this statement: That there are parts of this country where the public marketplace is polluted as a cesspool with pornography. And the group, more than any other institution or group in this country that has saturated parts of this Nation with this rotten female-degrading phenomenon called pornography which in Greek means the writing of horrors, that group is the ACLU, the American Civil Liberties Union. The ACLU almost single-handedly is responsible for our Nation being saturated in pornography. And when they give you this phony plea that they are against child pornography, let me tell you what most card-carrying ACLU members will say: "You can bust the child pornographers while they are making the pornography, corrupting the child," they say, "Go for it, we are against them, bust them." But once the child pornography is produced, once the writing is there, once the photographs are there in black and white or color, sleazy Polaroids passed around by child molesters and pederasts, all this slick stuff that is produced in the San Fernando Valley, shipped to Denmark and then brought back into this country from Denmark, what a perverse type of weird tracking that is; they say, most of the ACLU members that I have debated on this subject, they say, "Once it is in existence, the written or photographic material, then it is protected by Old Glory up here and the first amendment to the Constitution," passed by the progenitors of this very 100th Congress. This is a disgrace in my lifetime.

Now that my Sally and I have seven grandkids to add to our five, and we look at what pornography has done to the quality of soap operas on commercial television, to dialog and lyrics in some very clever music in our country, what it has done to motion pictures, what it has done to the blasphemy on the screen, what it has done to the image of women in this country from a grandmother down to the littlest tiny daughter or niece, it is a disgrace.

□ 2215

And I make the charge again, as I have on shows for most of my adult life. The ACLU has been the principal cause of polluting the environment of this country, and Michael Dukakis is about as typical an ACLU member as I have ever seen in my life. His beliefs on the furlough program, his beliefs on crime in general, his beliefs on pornography, his beliefs on bestiality, his beliefs on abortion, everything he believes is the credo of the ACLU up and down the line.

Coming from Jacksonville where I said earlier in a 1-word minute speech I was on a drug sweep narcotics arrest on Monday night until almost 4 o'clock in the morning, flying back from Jacksonville to L.A. yesterday to go to a Bush dinner in downtown Los Angeles, I sat next to two Greek Americans who were speaking Greek, and ask if they were visiting the country and they said no, no, that they were second and third generation and they were facile in both languages, and we chatted, and they said, "These two Greek Americans are not for Mike Dukakis because we believe in the Christian values of our Greek Orthodox faith and do not like what he has stood for all of his life."

The chickens are coming home to roost not just on the defense and foreign policy but on the social issues.

Mary McGrory does not get the point, Sam Donaldson does not get the point, even conservative writers like Charles Krauthammer, who I greatly admire, and George Will, who I admire, doesn't get the point. The reason we are saying the Pledge is because a majority of Democrats, particularly conservative Democratic Members from the South, do not want to be associated with the ACLU disdain for the Pledge in general which is a loyalty oath, for the romance of it says that this is the land of justice and freedom and all, and they do not want to be associated with those words, "under God," as the ACLU has on its long agenda to remove the words "in God we trust," from this Chamber, the other Chamber, our currency, chapel service, from West Point, Annapolis and the Air Force Academy, every vestige of religious life. They will take every mazzuzah off every public door, remove every menorrah, every Christmas scene with the Christ child, ever creche from every pubilc building.

I could rattle off right now seven city halls, one in my own district, one in Minnesota, one in Nevada. I used to go around traveling for Citizens for Decency Through Law, and when I saw the Ten Commandments sponsored by the Benevolent Protective Order of Elks, the Elks were sponsoring the Ten Commandments of Moses. There is Moses' face looking down at me right now of the 23 medallions of greater lawgivers, his is the only one not in a profile. It is a full face in bas relief and the eyes are looking right at you, Mr. Speaker, or right at me, or anybody in the whole Chamber. Whenever you go in the Chamber, Moses is looking at you.

The ACLU would like to take Moses out of here and take the row of saints out of here, starting with Edward I the Confessor, a saint; Alfonzo of Spain; Gregory IX; St. Louis, a saint whose mother, Marguerite said she would rather have him dead at her feet than for him to commit a serious mortal sin. There is so much symbol the ACLU would like to get a hammer and chisel and take it out.

Patrick J. Buchanan is right. They are determined to remove the Judeo-Christian heritage of this Nation and they want the de-Christianizing of American public life. You can put up a lot of stars and Santa Claus pictures, but do not let the star represent the Star of Bethlehem a few months from now after the Presidential election is out of the way.

The reason the Pledge of Allegiance, Mr. Speaker, is symbolically important in this Chamber, tomorrow after the rest of our 15 and 19 days as we serve out the 101st Congress is because it is to remind us that that Pledge is a part of Americana that the majority of American citizens love and respect.

I do not necessarily go along with the tremendous numbers in favor of the Pledge that is in a current Gallup poll published on the front page of a national newspaper, USA Today, I read flying in here this morning on the redeye from Los Angeles, saying that 70 percent of Americans believe our young students should be taught the Pledge or should recite the Pledge at the opening of the school day. I do not believe that 70 percent number. I would like to see how they asked questions. You can always skew polling by asking the question. I bet it is 90 percent if you explain what it instills into young children—a love of their government and civics, and says that 50 percent of those same citizens, 50 percent of those polled, said even if it is unconstitutional, they want it recited by our school children. They are ready to challenge whatever vestiges are left from the liberal prior Supreme Courts that would have fulfilled part of the ACLU agenda.

For example, in the abortion on demand Roe vs. Wade decision.

Let me close with a story about one of my seven grandchildren, my first granddaughter, Tara, named after that beautiful holy place in Ireland, the mountain where St. Patrick gave his greatest speech for Jesus that converted that whole beautiful island to the people of my heritage. My little granddaughter who lives in Springfield is the second of three grandchildren, that the three that live in the east branch that are in Virginia, because this is where their mom and dad have chosen to live. This is my middle daughter, Theresa's daughter, her child Tara. She has one son Ricky, and the two daughters, Tara and Anna.

Tara has just joined a group called Young Citizens for America. She is a first grader.

This is an extracurricular little group, on activity. I think they are at this very moment in the process of changing their name to Young Educated Children of America, because someone owned that prior title, Young Citizens for America. They are going to memorize in the next few months, and I cannot wait to have my 5-year-old grandaughter recite the Pledge of Allegiance, the Preamble to the Constitution. I would be willing to bet a good old Thomas Jefferson $2 bill, that 10 percent of this Chamber's membership of 435 cannot recite fully and perfectly, "We, the people of the United States, in order to form a more perfect Union." I just wonder how many know the full beautiful words or the Preamble to the Constitution. Then they will learn the Battle Hymn of the Republic, the Star Spangled Banner, and they will eventually sing these songs and recite the Pledge at the White House later in the year.

Now, my little granddaughter is not in a Catholic parochial school or a Jewish traditional religious school, or a Lutheran or Methodist school. She is in the public school system of Virginia, and this group that they are forming has the blessing and sanction of the school and they will learn with dignity, something about the history of the United States.

You know, there was a period after I got out of the Air Force when I said the Pledge regularly in the Air Force, and there was a period of struggling and feeding my family and my family was growing, where I did not go to any civic meetings, I did not belong to the Rotary or Kiwanis. I was too tired at night, and too busy trying to feed the young families when I was just getting out of the Air Force from being a supersonic fighter pilot, and was driving a cab and working as a gym instructor, handling two or three jobs at one time, and I went through a period of 2 or 3 years there was no association of the groups, of civic action that begin their day with a Pledge, and when I finally found a little window of spare time in my young family life, my late 20's to start going back to meetings, and these were similar to the gatherings in the Air Force, and started saying the Pledge again, it was a big thrill. I missed it for the 2 or 3 years.

All I had was at the end of the day maybe when the television signal went out you saw an F-80 jet replaced by a Star Fighter or replaced by an F-16 Falcon or F-15 Eagle, the beautiful poem that President Reagan recited parts of when we lost our heroic seven *Challenger* astronauts that begins, "Oh, I have slipped these surly bonds of earth," and ends with the words "Reach out and touch the face of God."

I would hear that at the end of the day. I would hear it from the Naval Academy, see cruisers or a destroyer in heavy seas coming to the waters and the prayer was at the end of the television day, about protecting the men who go to sea.

That was the only patriotism in my life during the period until I was able to get back into a Reserve unit and start to get around observable patriotism again.

I am looking at this picture in front of me here of Michael Dukakis, putting on a hat, looking so silly, sitting in the commander's turret of a tank. Not doing anything. Just sitting there bopping around. I went up and looked at an M-1 tank at Fort Campbell, but they put me in the driver's seat. Only one person is in the driver's seat, and nobody sits next to you, and they let me drive this when I was a freshman Congressman, around the Reserve at Fort Campbell. Michael Dukakis should have been in the front seat which would be far more exciting than the clerk-typist job he had.

A lot of things he would like to eat in his life that he has said, where he said he was hunkered in a rice paddy in Korea, wondering if he would ever come home.

He is guilty to the nth degree of what the majority whip tried to accuse me of in the last election go-around, saying I avoided service in Korea. What a riot. I joined when I was 19 years of age in October 1952, the war had plenty of years to go at that time, so many were joining. I had to wait 3 months to get sworn in on January 30, 1953. President Eisenhower took the oath of office 10 days before I took my oath as an airman basic, and I wanted to go to pilot training and do the most dangerous thing I could do in the military, and he was taking student deferments at Swarthmore College. Dukakis and I were both born in 1933. I was born April 3, 1933. He was born November 3, 1933.

I was watching a lot of my friends give lives in peacetime, doing the most dangerous of all jobs in peacetime which was flying highly complex jet aircraft at very high speeds, sometimes in very difficult circumstances, difficult weather, and he went over to Korea as a clerk-typist. He took a short Army tour because when you went to Korea it knocked off 3 years off the end of your tour, and he served 21 months. He told a friend he wanted to do that so he could run for political office. Too bad that Michael Dukakis did not do the more honorable thing that most people did that wanted a political career in those days, to give a few extra months out of your year to serve as a sergeant, chief petty officer, or officer. He could have done that. If he had not hated the military so much then, because of the college degree from Swarthmore, if he had given the military 3 years instead of 21 months, he could have been an Army lieutenant and commanded men in the military and prepared himself for the job he aspires to as Commander in Chief.

He did not sit in a rice paddy. He pounded on a typewriter.

It said on the evening news he hated his military service. Tough. Too bad. I loved military service. I actually felt like I should go back in and take my paycheck backward. I felt guilty receiving it because I would have done for free what I was paid $400 a month to do, fly supersonic F-100 super sabre jet aircraft.

I look at this guy and I think about the long string of Presidents from Franklin Roosevelt, Assistant Secretary of the Navy, although he was a man crippled in a wheelchair, and I think about Harry Truman, like my dad, exactly like my father, a captain in artillery, in combat, in World War I. My father, like Harry Truman, my dad was Harry, both Harrys, combat, captains in artillery, and he was replaced by Dwight Eisenhower, five stars on his shoulders.

As I said earlier, the man who led the crusade across Europe, to crush Adolf Hitler, and after Eisenhower, young PT boat commander, started a string of naval officers, John F. Kennedy, naval officer, replaced by Lyndon Baines Johnson, naval officer, Navy commander. Then replaced by Richard Nixon, naval officer, would love to have had a combat position. Somebody has to be in place. Nixon hated it, aspired to a combat position like Kennedy. You do not get to call exactly what you do in the military but call, strive, ask for and sometimes come up with a job that is not the most desirable or the most dangerous. That naval officer, the third in a row, was followed by yet another naval officer, a senior grade, Gerald Ford. That was Jerry Ford, and Jerry Ford was followed by yet another naval officer, Jimmy Carter. So there were five naval officers in a row—Kennedy, LBJ, Nixon, Ford, and Carter.

Then came an Army Air Corps officer, the Army Air Force lieutenant, another lieutenant, Ronald Reagan, again somebody who would have liked to have gone off to combat like his dear friend, James Stewart, who is a movie star, also of Reagan's caliber and more acclaimed. He led an entire bomb wing of B-17 fortresses over Europe. He was a guy who could have easily gotten out of serving in the military.

But at least Reagan was doing the best he could. He was in his middle or late 30's, with three children, and he served as an officer in the Air Force.

Now comes Dukakis sitting there riding around in this tank with a helmet on. What a silly looking sight that was. I honestly feel sorry for him, because I talked to maybe 200 Democrats in Massachusetts, and not one of them is for him. I will take a bet from anybody that this man is starting into a free-fall period now. This race may completely drop out from under him. I honestly believe, after a day and a half in Massachusetts, that this man is not even going to carry his own State.

What we are going to see is yet another Navy lieutenant, the seventh in a row of lieutenants, one commander and one five-star general, people who understand what it is to lead men in the military, who took that extra year or two to become a noncommissioned officer or warrant officer, people who did not loath the military and get in or out in 21 months and then try to declare their State a draft-free zone during the Vietnam war.

Mr. Speaker, I will close on this. Let me cover at this moment another one of these things that he would like to forget about.

□ 2230

The man, Gov. Michael Dukakis, ACLU member, as NEWT GINGRICH said before me, is the most liberal man to ever run for the Office, even more liberal than McGovern. Yes, McGovern said weird things like he would crawl on his hands and knees to Hanoi to end the war, but then, when Cambodia turned into the killing fields where this Communist purge of death started, remember what former Senator McGovern said? That we should invade Cambodia.

Mr. Speaker, never would the words "invade Cambodia" ever come out of the mouth of this leftwing, self-described intellectual, so I feel sorry for Dukakis. The free fall is starting.

The Pledge of Allegiance is important because of what it says symbolically about Brookline, the Brookline mindset, and that Michael Dukakis, who is not qualified to be the Commander in Chief, and that includes over the Coast Guard under the Department of Transportation, is somebody who sends men off to die in combat. This Member believes he should have been willing to do the same at some point in his life and to spend those extra years in the military that are required of someone if they want to do something dangerous in the military or perform some role of leadership as a noncommissioned officer, petty officer, or, in fact, an officer.

Mr. Speaker, I yield back the balance of my time.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1988

(Mr. DERRICK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DERRICK. Mr. Speaker, on behalf of Chairman WILLIAM H. GRAY III, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1988. Since the last comprehensive report, Congress has cleared and the President has signed the dire emergency supplemental appropriations (Public Law 100-393). This action has changed estimates of budget authority and outlays.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution, and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority, and credit authority made to a committee pursuant to subsection 302(a) of the Budget Act. This report compares the spending, credit, and revenue levels in current level with those assumed in the budget resolution for fiscal year 1988 (House Concurrent Resolution 93), adopted on June 24, 1987.

Current level reports provide information that is necessary for enforcing section 311 of the Budget Act. Subsection 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set in the budget resolution.

Subsection 311(b) provides an exception to the 311(a) point of order for measures that would breach the ceilings on total spending set in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of discretionary spending authority made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the budget resolution for fiscal year 1985 (House Concurrent Resolution 280, 98th Congress). The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, Gramm-Rudman-Hollings). This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. For fiscal year 1988, the 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 93 were printed in House Report 100-201, July 1, 1987.

Section 311(c) of the Budget Act provides that, for purposes of enforcing section 311, the levels of new budget authority, entitlement authority, outlays, and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues, and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction and the allocation of spending authority made to that committee.

The estimates in this report are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, House Concurrent Resolution 93, on June 24, 1987. This is intented to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution for a fiscal year that alters the assumptions about legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do otherwise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative process, penalize committees that are unable to complete work on legislation within a short period after adoption of a budget resolution, and undermine respect for budget enforcement procedures.

In addition to section 311, the Budget Act contains another point of order that requires Budget Committee estimates for enforcement. Section 302(f)(1) of the Budget Act prohibits the consideration of a measure providing new budget authority, new entitlement authority, or new credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, new entitlement, and new credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This point of order was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee fulfills this responsibility by providing, as necessary, a separate section 302 status report to the Speaker.

For information purposes only, current level reports will continue to include a comparision of the budget and credit authority divided among the Appropriations subcommittees by that committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, September 14, 1988.
Hon. JAMES C. WRIGHT, Jr.,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under H. Con. Res. 93, the Concurrent Resolution on the Budget for Fiscal Year 1988.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total budget authority and total outlays) is affected by Section 311(b) of the Congressional Budget Act of 1974, as amended by P.L. 99-177. Enforcement against possible breaches of the spending ceiling under 311(a) of the Budget Act would not apply when a measure would not cause a committee to exceed its "appropriate allocation" of "new discretionary budget authority" or "new entitlement authority" made pursuant to Section 302(a) of the Budget Act. It should be noted that under this procedure the committee's outlay allocation is not considered.

The intent of Section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on H. Con. Res. 93 were printed in H. Rept. 100-201 (July 1, 1987).

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority, new entitlement authority, new directed loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the fiscal year 1988 budget resolution, H. Con. Res. 93.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1988 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 93

REFLECTING COMPLETED ACTION AS OF SEPT. 13, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,146,000	1,034,700	932,800
Current level	1,146,329	1,031,916	922,250
Amount under ceilings		2,784	
Amount over ceilings	329		
Amount under floor			10,550
Amount over floor			

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate of budget authority for fiscal year 1988, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 93 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $2,784 million in outlays for fiscal 1988, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 93 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 93.

FISCAL YEAR 1988 BUDGET AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE PURSUANT TO SEC. 302

[In millions of dollars]

	Current level budget authority
House committee:	
Agriculture	(+167)
Appropriations [1]	(−5,795)
Armed Services	(......)
Banking, Finance, and Urban Affairs	(+199)
District of Columbia	(......)
Education and Labor	(......)
Energy and Commerce	(+566)
Foreign Affairs	(......)
Government Operations	(......)
House Administration	(......)
Interior and Insular Affairs	(−6)
Judiciary	(......)
Merchant Marine and Fisheries	(+94)
Post Office and Civil Service	(−460)
Public Works and Transportation	(−20)
Science and Technology	(......)
Small Business	(−41)
Veterans' Affairs	(−2)
Ways and Means	(+546)

[1] See next table for detail.

Note.—Committees are over (+) or under (−) their 302(a) allocation for discretionary action.

FISCAL YEAR 1988 HOUSE APPROPRIATIONS COMMITTEE DISCRETIONARY ACTION—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SEC. 302

[In millions of dollars]

House appropriations subcommittee subdivisions	Current level budget authority	Direct loans	Primary loan guarantees
Commerce, State, Justice	(−197)	(−56)	(+23)
Defense	(+4,281)	(......)	(......)
District of Columbia	(−32)	(......)	(......)
Energy and Water	(−701)	(......)	(......)
Foreign Operations	(−152)	(+158)	(+5,944)
HUD/Independent Agencies	(−1,195)	(−33)	(−6)
Interior	(−151)	(......)	(......)
Labor, HHS, Education	(−2,589)	(−29)	(......)
Legislative Branch	(−38)	(......)	(......)
Military Construction	(......)	(......)	(......)
Rural Development and Agriculture	(−2,597)	(−192)	(−227)
Transportation	(−494)	(−95)	(+45)
Treasury, Postal Service	(−311)	(......)	(......)
Contingencies/Unassigned	(−1,619)	(−64)	(−72)
Total	(−5,795)	(−311)	(+5,707)

Note.—Subcommittees are over (+) or under (−) their 302(b) subdivisions of discretionary action.

FISCAL YEAR 1988—ALLOCATION OF NEW ENTITLEMENT AUTHORITY [NEA] PURSUANT TO SEC. 302

[In millions of dollars]

Committee	Allocation	Reported	Enacted	Enacted over (+) under (−) allocation
Agriculture	−1,200	−1,474	−1,167	+33
Armed Services	+1,682	+1,482	+1,648	−34
Education and Labor	+5	+5	−229	−234
Energy and Commerce	+550	+487	+54	−496
Interior and Insular Affairs			+9	+9
Post Office and Civil Service	+1,459	+1,458	−299	−1,758
Veterans' Affairs	+367	+385	+344	−23
Ways and Means	−1,389	−173	−2,221	−832

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 14, 1988.

Hon. WILLIAM H. GRAY III,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1988 budget (H. Con. Res. 93). This report for fiscal year 1988 is tabulated as of close of business September 13, 1988. A summary of this tabulation is as follows:

[In millions of dollars]

	Current level	Budget Resolution H. Con. Res. 93	Current level +/− resolution
Budget authority	1,146,329	1,146,000	329
Outlays	1,031,916	1,034,700	−2,784
Revenues	922,250	932,800	−10,550
Direct loan obligations	34,442	34,600	−158
Guaranteed loan commitments	155,145	156,700	−1,555

Since my last report, Congress has taken no action that affects the current level of spending or revenues.

Sincerely,

JAMES L. BLUM,
Acting Director.

PARLIAMENTARIAN STATUS REPORT, 100TH CONG. 2D SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS SEPT. 13, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			922,250
Permanent appropriations and trust funds	777,385	695,641	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total, enacted in previous sessions	1,144,464	1,031,457	922,250
II. Enacted this session:			
Rescission of Jewish Education Centers Public Law 100–251)	−8	−5	
Veterans Home Loan Program emergency		1	
Assistance and Support for Central America (Public Law 100–276)		43	
Veterans Emergency Supplemental (Public Law 100–304)	709		
Veterans Benefits and Services Act of 1988 (Public Law 100–322)	1	1	
College-aid Annual Appropriation for Territories (Public Law 100–339)	([1])	([1])	
Catastrophic Health Care (Public Law 100–360)		5	
Atomic Veterans Compensation Act (Public Law 100–321) [2]			
Dire Emergency Supplemental Appropriations (Public Law 100–393)	657	195	
Total, enacted this section	1,359	240	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Special milk	5	1	
Special benefits	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social Services block grants	50	48	
Veterans compensation:			
Previous law	282		
H.R. 1811	15	12	
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
Total, entitlement authority	506	202	
Total, current level as of Sept. 13, 1988	1,146,329	1,031,916	922,250
1988 budget resolution H. Con. Res. 93	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution	329		
Under budget resolution		2,784	10,550

[1] Less than $500,000.

[2] This act increases the current law estimate for veterans compensation, which requires an appropriation. The amount is shown in section V.

Note.—Numbers may not add due to rounding.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Brown of California (at the request of Mr. Pepper), for September 15-24, 1988, on account of official business.

Mr. Scheuer (at the request of Mr. Pepper), for September 15-24, 1988, on account of official business.

Mr. Blaz (at the request of Mr. Pepper), for September 15-24, 1988, on account of official business.

Mr. Wortley (at the request of Mr. Michel), for today through September 28, 1988, on account of official business.

Mr. Barnard (at the request of Mr. Foley), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. Bentley) to revise and extend their remarks and include extraneous material:)

Mr. Fish, for 5 minutes, today.

Mr. Coats, for 60 minutes, each day on September 16, 22, and 23.

Mr. Armey, for 60 minutes, on September 22.

Mr. Walker, for 60 minutes, today.

Mr. Daub, for 5 minutes, today.

(The following Members (at the request of Mr. Harris) to revise and extend their remarks and include extraneous material:)

Mr. Dorgan of North Dakota, for 5 minutes, today.

Mr. Hoyer, for 5 minutes today.

Mr. Gordon, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Bonior, for 60 minutes, today.

Mr. Coyne, for 5 minutes, on September 15.

Mr. Boland, for 5 minutes, on September 15.

Mr. Bonior, for 60 minutes, each day on September 15 and 20.

Mr. Frank, for 60 minutes, each day on September 22 and 23.

Mr. Weiss, for 60 minutes, on September 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Bentley) and to include extraneous matter:)

Mr. Clinger.

Mr. Petri.

Mr. Conte in two instances.

Mr. Dornan of California in two instances.

Mr. Sweeney.

Mr. Grandy.

Mr. Ritter in two instances.

Mr. Buechner.

Mr. Fields.

Mr. Hastert.

Mr. Lightfoot.

Mr. Gallo.

Mr. Parris.

Mr. Marlenee.

Mr. Lent.

Mr. Horton.

Mr. Schulze.

Mr. Lagomarsino.

(The following Members (at the request of Mr. Harris) and to include extraneous matter:)

Mr. Hamilton.

Mr. Traficant in two instances.

Mr. Morrison of Connecticut.

Mr. Hawkins.

Mr. Dowdy of Mississippi.

Mrs. Schroeder.

Mr. Roe.

Mr. Rangel.

Mr. Studds.

Mr. Matsui.

Mr. Nowak.

Mr. Atkins.

Mr. Kleczka.

Mr. Williams.

Mr. Aspin.

Mr. Lehman of Florida.

Mr. Kostmayer.

Mr. Torres.

Mr. de la Garza.

Mr. Vento.

Mr. Roybal in two instances

Mr. Synar.

Mr. Kildee.

Mr. Darden.

Mr. Clay.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4783. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4867. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following titles:

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day".

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 1939. An act to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and to establish a National center for the United States Constitution within the Independence National Historical Park in Philadelphia, PA;

H.R. 5143. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds;

H.R. 1270. An act to award a congressional medal to Mrs. Jesse Owens, and for other purposes;

H.R. 2701. An act to amend the Natural Gas Policy Act of 1978 to remove certain contract duration and right of first refusal requirements; and

H.J. Res. 453. Joint resolution designating September 16, 1988, as "National POW/MIA Recognition Day."

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 32 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, September 15, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4319. A letter from the director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of September 1, 1988, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 100-230); to the Committee on Appropriations and ordered to be printed.

4320. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4321. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4322. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4323. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4324. A letter from the Comptroller General, transmitting the agency's report and recommendation concerning the claim of Ms. Eunice E. Choate to be relieved of liability for repayment of travel expenses that were erroneously paid to her by the Department of the Air Force, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

4325. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1986 to authorize the payment of taxes by credit cards or other means; to the Committee on Ways and Means.

4326. A letter from the Secretary of Health and Human Services, transmitting a report on the Nuclear Regulatory Commission Drug-Free Workplace Program, the first in a series of such planned reports, pursuant to Public Law 100-71, title V, section 503(a)(1)(B) (101 Stat. 469); jointly, to the Committees on Appropriations and Post Office and Civil Service.

4327. A letter from the Acting Chairman, National Transportation Safety Board, transmitting a copy of the Board's budget request for fiscal year 1989, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ACKERMAN: Committee on Post Office and Civil Service. H.R. 5102. a bill to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals; with amendments (Rept. 100-917). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY (for himself, Mr. Solomon, Mr. Dowdy of Mississippi, Mr. Hammerschmidt, Ms. Kaptur, Mr. Penny, Mr. Stump, Mr. Rowland of Georgia, Mr. McEwen, Mr. Gray of Illinois, Mr. Smith of New Jersey, Mr. Stenholm, Mr. Burton of Indiana, Mrs. Patterson, Mr. Ridge, Mr. Johnson of South Dakota, Mr. Rowland of Connecticut, Mr. Dornan of California, Mr. Smith of New Hampshire, and Mr. Davis of Illinois):

H.R. 5288. A bill to amend title 38, United States Code, to provide an improved system of review of decisions of the Veterans' Administration with respect to claims for veterans' benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FIELDS (by request):

H.R. 5289. A bill entitled, the "Oil Pipeline Regulatory Reform Act of 1988;" to the Committee on Energy and Commerce.

By Mr. FORD of Michigan:

H.R. 5290. A bill to establish a program of grants to consortia of local educational agencies and community colleges for purposes of providing tech-prep education; to the Committee on Education and Labor.

By Mr. HUTTO:

H.R. 5291. A bill to provide the Secretary of the Air Force with authority to convey certain land; to the Committee on Armed Services.

By Mr. LANCASTER (for himself, Mr. Jones of North Carolina, Mr. LaFalce, Mr. Kleczka, Mr. Bates, Mr. Harris, Mr. DeFazio, and Mr. Neal):

H.R. 5292. A bill to amend the Inspector General Act of 1978 to authorize inspectors general to subpoena witnesses; to the Committee on Government Operations.

By Mr. LIGHTFOOT (for himself and Mr. Horton):

H.R. 5293. A bill to amend the Public Health Service Act to prohibit the Secretary of Health and Human Services from disclosing to the Congress, without the consent of the patient involved, patient identifying information in medical records acquired or created by the Public Health Service; to the Committee on Energy and Commerce.

By Mr. NEAL:

H.R. 5294. A bill to require that the President negotiate with Japan an agreement whereby Japan reimburses the United States for a portion of the costs the United States incurs in providing a military defense of Japan; to the Committee on Foreign Affairs.

By Mr PARRIS:

H.R. 5295. A bill to retrocede to the Commonwealth of Virginia concurrent power and jurisdiction of the United States to the lands known as the Lorton Reformatory Complex; jointly, to the Committees on the Judiciary and the District of Columbia.

By Mr. RICHARDSON (for himself, Mr. Dorgan of South Dakota, Mr. Lujan, Mr. Skeen, Mr. Kildee, and Mr. Johnson of South Dakota):

H.R. 5296. A bill to amend the Carl D. Perkins Vocational Education Act to establish a program of grants for vocational-technical training and to encourage tribal economic development, to provide for the designation of the National Indian Center for Research in Vocational-Technical Training, and for other purposes; to the Committee on Education and Labor.

By Mr. ROBERTS:

H.R. 5297. A bill to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, KS, to provide for the amendment of water service and repayment contracts; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. SWEENEY:

H.R. 5298. A bill to amend title XVIII of the Social Security Act with respect to making more equitable the application of the area wage index for prospective payment of hospitals under the Medicare Program; to the Committee on Ways and Means.

By Mr. BERMAN:

H.R. 5299. A bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States; to the Committee on the Judiciary.

By Mr. de la GARZA:

H.R. 5300. A bill to require the Secretary of Transportation to extend the coverage of certain motor carrier safety regulations to motor carriers operating wholly within a commercial zone, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. GORDON:

H.R. 5301. A bill to provide for the transfer of certain real property at the Alvin C. York Veterans' Administration Medical Center in Rutherford County, TN, to the State of Tennessee, for use as a State veterans nursing care facility; to the Committee on Veterans' Affairs.

By Mr. HERTEL:

H.R. 5302. A bill to establish a pilot program for the tracking of medical wastes in the States bordering the Great Lakes; jointly, to the Committees on Energy and Commerce, Merchant Marine and Fisheries, and Public Works and Transportation.

By Mr. HOPKINS (for himself, Mr. Whittaker, Mr. Rogers, and Mr. Hubbard):

H.R. 5303. A bill to amend the Water Resources Development Act of 1986 to provide Federal cost sharing for water supply projects, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. KILDEE:

H.R. 5304. A bill to provide financial assistance to States and localities for high quality early childhood development programs for prekindergarten children, and for other purposes; to the Committee on Education and Labor.

By Mr. LEWIS of Georgia:

H.R. 5305. A bill to authorize the establishment of the National African-American Heritage Museum within the Smithsonian Institution and to establish a memorial to the African American, and for other purposes; jointly, to the Committees on House Administration and Public Works and Transportation.

By Mr. McEWEN:

H.R. 5306. A bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OWENS of Utah:

H.R. 5307. A bill to settle issues relating to Ute Indian water rights, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TRAFICANT:

H.R. 5308. A bill to prohibit law enforcement Federal financial assistance to States that do not have in effect a law that permits imposition of the death penalty, and requires imposition of the death penalty or life imprisonment without parole, for any conviction of premeditated murder and for any conviction of murdering a law enforcement officer under certain circumstances; to the Committee on the Judiciary.

By Mr. PANETTA:

H.J. Res. 653. Joint resolution designating October 14 through 20, 1988, as "National Culinary Week"; to the Committee on Post Office and Civil Service.

By Mr. SCHUMER:

H.J. Res. 654. Joint resolution designating November 4 through 10, 1988, as the "Week of Remembrance of Kristallnacht"; to the Committee on Post Office and Civil Service.

By Mr. KOSTMAYER (for himself, Mr. Feighan, Mr. Weber, Mr. DeWine, Mr. Weiss, Mr. Atkins, Mr. Smith of Florida, Mr. Wolpe, Mr. Lagomarsino, Mr. Ackerman, Mr. Berman, Mr. Clarke, Mr. Fuster, Mr. Lantos, Mr. Levine of California, Mr. Torricelli, Mr. Leach of Iowa, Mr. Udall, Mr. Molinari, Mr. Miller of Washington, Mr. Markey, Mr. Konnyu, Mr. Lehman of Florida, Mr. Owens of Utah, Mr. Traficant, Mr. Bliley, Mr. Borski, Mr. Moody, Mr. Mrazek, Mr. Gray of Illinois, Mr. Dingell, Mr. Wyden, Mr. Gejdenson, Mr. Ritter, Mr. Rinaldo, Mrs. Martin of Illinois, Mr. Broomfield, Mr. Gilman, Mr. Appelgate, and Mr. McCurdy):

H. Con. Res. 364. Concurrent resolution congratulating Israel and Egypt on the 10th anniversary of the Camp David accords; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1028: Mr. Frenzel, Mr. Chapman, Mr. Nowak, Mr. Craig, Mr. Guarini, Mr. Lungren, Mr. Hefley, and Mr. Bereuter.

H.R. 1990: Mr. Smith of New Hampshire and Mr. Gray of Illinois.

H.R. 2532: Mr. Flake.

H.R. 2624: Mr. Bonior of Michigan.

H.R. 2828: Mr. Williams, Mr. Davis of Illinois, Mr. Lewis of Georgia, Mr. Dyson, Mr. Kostmayer, and Mr. Olin.

H.R. 2854: Mr. Jeffords.

H.R. 2925: Ms. Kaptur and Mr. Torres.

H.R. 3101: Mr. Ritter.

H.R. 3129: Mr. DeFazio.

H.R. 3132: Mr. Fish.

H.R. 3454: Mr. Fish.

H.R. 3660: Mr. Gibbons.

H.R. 3696: Mr. Dowdy of Mississippi.

H.R. 3845: Mr. Moorhead and Mr. Cardin.

H.R. 3865: Mr. Frenzel, Mr. Packard, and Mr. Jeffords.

H.R. 4027: Mr. Neal.

H.R. 4093: Mr. AuCoin.

H.R. 4141: Mr. Chapman and Mr. Gingrich.

H.R. 4189: Mr. Bryant, Mr. Traficant, Mr. Levin of Michigan, Mr. Foglietta, and Mr. Thomas A. Luken.

H.R. 4250: Mr. Mineta.

H.R. 4258: Mr. Hefley.

H.R. 4302: Mr. Grandy, Mr. McCandless, Mr. Rowland of Connecticut, Mr. Lewis of California, Mr. Gilman, Mr. Lujan, Mr. Hopkins, Mr. Stump, Mr. Robert F. Smith, and Mr. Pursell.

H.R. 4494: Mr. Owens of New York, Mr. Fauntroy, Mr. Lowry of Washington, Mr. Ackerman, Mr. Atkins, Mr. Mrazek, Mr. Morrison of Connecticut, Mr. Stokes, Mr. Feighan, and Mr. Moody.

H.R. 4562: Mr. Stokes.

H.R. 4570: Mr. Lewis of California.

H.R. 4606: Mr. Borski.

H.R. 4657: Mr. Cardin.

H.R. 4899: Mr. Bevill, Mr. Pickett, Mr. Frank, Mr. Mfume, Mr. Cardin, Mr. Traxler, Mr. Atkins, Mrs. Collins, Mr. Vento, Mr. Matsui, Mr. Edwards of California, Mrs. Boxer, Mr. Clay, Mr. Rangel, Mr. Kennedy, Ms. Oakar, Mr. Fauntroy, Mr. Ackerman, Mr. McHugh, Mr. Berman, and Mr. Florio.

H.R. 4902: Mrs. Collins, Mr. Davis of Illinois, and Mr. Fish.

H.R. 4923: Mr. Hammerschmidt, Mr. Synar, Mr. Wilson, Mr. Cheney, Mr. Davis of Illinois, Mr. Coleman of Texas, Mr. Smith of New Jersey, Mr. Pepper, Mr. Craig, and Mr. Courter.

H.R. 4967: Mr. Lewis of Georgia.

H.R. 4979: Mr. Crockett.

H.R. 5017: Mr. Stenholm.

H.R. 5020: Mr. Fish, Mr. Burton of Indiana, Mr. de la Garza, Mr. Rogers, Mr. Bevill, Mr. Barnard, and Mr. Gallegly.

H.R. 5039: Mr. McEwen.

H.R. 5056: Mrs. Martin of Illinois.

H.R. 5069: Mr. Akaka and Mr. Miller of Washington.

H.R. 5081: Mr. DeFazio.

H.R. 5113: Mr. Hansen and Mr. Fauntroy.

H.R. 5117: Mr. Saxton.

H.R. 5146: Mr. Frank, Mr. Lipinski, Mr. Holloway, Mr. Fauntroy, Mr. Evans, Mr. Atkins, Mr. Harris, Mr. Neal, Mr. Lancaster, Ms. Kaptur, Mr. Smith of Florida, Mr. Jontz, Mrs. Boxer, and Mr. Roe.

H.R. 5186: Mr. Chapman, Mr. Neal, and Mr. Lagomarsino.

H.R. 5214: Mr. Rangel and Mr. Matsui.

H.R. 5231: Mr. Saxton.

H.R. 5271: Mr. Clarke, Mr. DeFazio, Mr. Frost, Mr. Gray of Illinois, Mr. McCurdy, Mrs. Morella, Mr. Mrazek, Mr. Pease, Mr. Rinaldo, Mr. Sikorski, and Mr. Wolf.

H.J. Res. 518: Mr. Wyden, Mr. Cheney, Mr. Donnelly, Mr. Morrison of Washington, Mr. DeWine, Mr. Hastert, Mr. Dellums, Mr. Matsui, Mr. Latta, Mr. Lehman of California, Mr. Levine of California, Mr. Tauzin, Mr. Kostmayer, Mr. Fawell, Mr. Martinez, Mr. Jontz, Mr. Whittaker, Mr. Dyson, Mr. Coble, Mr. Davis of Illinois, Mr. Mack, Mr. Perkins, Mr. Morrison of Connecticut, Mr. McCollum, Mr. Cooper, Mrs. Patterson, Mr. Ravenel, Mr. Shuster, Mr. Nelson of Florida, Mr. Dorgan of North Dakota, Mr. Visclosky, Ms. Oakar, Mr. Porter, Mr. Gunderson, Mr. Lowry of Washington, Mr. Stangeland, Mr. Gekas, Mr. Mfume, Mr. Russo, Mr. Hunter, Mr. Lujan, Mr. Schaefer, Mr. Studds, Mr. DeFazio, Mr. Sweeney, Mr. Harris, Mr. Daub, Mrs. Byron, Mr. Emerson, Mr. Gallo, Mr. Hoyer, Mr. Hubbard, Mr. Lehman of Florida, Mr. Livingston, Mr. Markey, Mr. Martin of New York, Mr. Murphy, Mr. Payne, Mrs. Saiki, Mr. Spence, Mr. Stratton, Mr. Tauke, Mr. Upton, Mr. Lott, Mr. Nowak, Mr. Clarke, Mrs. Meyers of Kansas, Mr. Grant, Mr. Fields, and Mr. Smith of Texas.

H.J. Res. 556: Mr. Bilbray, Mr. Bosco, Mr. Bryant, Mr. Carper, Mr. Conyers, Mr. Darden, Mr. Dellums, Mr. Evans, Mr. Florio, Mr. Foley, Mr. Hammerschmidt, Mr. Kanjorski, Mr. Levine of California, Mr. Lujan, Mrs. Meyers of Kansas, Mr. Neal, Ms. Oakar, Mr. Ortiz, Mr. Ritter, Mr. Slattery, Mr. Myers of Indiana, and Ms. Snowe.

H.J. Res. 573: Mrs. Johnson of Connecticut, Mr. Evans, Mr. Schulze, Mr. Lagomarsino, Mr. Traficant, Mr. Tauzin, Mr. Owens of New York, Mr. Applegate, Mr. Ravenel, Mr. Young of Alaska, Mr. Bevill, Mr. Moakley, Mr. Shaw, Ms. Snowe, Mr. Harris, Mrs. Patterson, Mr. Murphy, Mr. Jones of North Carolina, Mr. Packard, Mr. Mfume, Mr. Henry, Mr. Berman, Mr. Mack, Mr. Early, Mr. Sawyer, Mr. Ackerman, Mr. Weldon, Mr. Wise, Mr. Nielson of Utah, Mr. Craig, Mr. Stallings, Mr. Robert F. Smith, Mr. Johnson of South Dakota, Mr. Sisisky, Mr. Kastenmeier, Mr. Wolpe, Mr. Moody, Mr. Spratt, Mr. Rowland of Georgia, Mr. Darden, Mr. Bates, Mr. Morrison of Connecticut, Mr. Vento, Mr. Markey, Mr. Cardin, Mr. Rinaldo, Mr. LaFalce, Mr. Bruce, Mr. Gonzalez, Mr. Waxman, Mr. Gaydos, Mr. Martin of New York, Mr. DeFazio, Mr. Brennan, Mr. McCollum, Mr. Dwyer of New Jersey, Mr. Jeffords, Ms. Oakar, Mr. Skelton, Mr. Frank, Mr. Hall of Texas, Mr. Robinson, Mr. Sabo, Mr. Traxler, Mr. McEwen, Mr. Gray of Illinois, Mr. Rhodes, Mr. Smith of New Hampshire, Mr. Thomas A. Luken, Mr. Pickett, Mr. Florio, Mr. Bonker, Mr. Richardson, Mr. Inhofe, Mr. Clay, Mrs. Martin of Illinois, Mr. Pepper, Ms. Slaughter of New York, Mr. Hammerschmidt, Mr. Kennedy, Mr. Scheuer, Mr. Brown of Colorado, Mr. Kleczka, Mr. Spence, Mr. MacKay, Mr. Anthony, Mr. Flippo, Mr. Carper, Mr. McCurdy, Mr. Smith of Texas, Mr. Campbell, Mr. AuCoin, Mr. de Lugo, Mr. Akaka, Mr. Thomas of Georgia, Mr. Feighan, Mr. Hall of Ohio, Mr. Bilbray, Mr. Gilman, Mr. Stratton, Mr. Miller of California, Mr. McGrath, Mr. Kanjorski, Mr. Stokes, and Mr. Burton of Indiana.

H.J. Res. 578: Mr. Brown of Colorado and Mr. Fish.

H.J. Res. 595: Mr. Young of Florida, Mr. Clement, Mrs. Patterson, Mr. Hoyer, Mr. Wolf, Mr. Callahan, Ms. Slaughter of New York, Mr. Volkmer, Mr. Young of Alaska, Mr. DeWine, Mr. Coble, Mr. Robinson, Mr. Davis of Illinois, Mr. McCloskey, and Mr. Campbell.

H.J. Res. 598: Mr. Espy, Mr. Savage, Mr. Gingrich, Mr. Frost, Mr. Brown of California, Mr. Bliley, Mr. AuCoin, and Mr. Barnard.

H.J. Res. 603: Mr. Mavroules, Mr. Mineta, Mr. Rhodes, and Mr. Chapman.

H.J. Res. 607: Mrs. Bentley, Mr. Bliley, Mr. Boucher, Mrs. Boxer, Mr. Brown of California, Mr. Brown of Colorado, Mr. Bustamante, Mrs. Byron, Mr. Carr, Mr. Coelho, Mr. Coleman of Missouri, Mr. Conte, Mr. Daub, Mr. DeFazio, Mr. de Lugo, Mr. DioGuardi, Mr. Dorgan of North Dakota, Mr. Dornan of California, Mr. Dymally, Mr. Dyson, Mr. Emerson, Mr. English, Mr. Erdreich, Mr. Espy, Mr. Evans, Mr. Fauntroy, Mr. Fazio, Mr. Foglietta, Mr. Foley, Mr. Frank, Mr. Fuster, Mr. Gonzalez, Mr. Grant, Mr. Gunderson, Mr. Harris, Mr. Hatcher, Mr. Henry, Mr. Holloway, Mr. Hopkins, Mr. Horton, Mr. Huckaby, Mr. Jeffords, Mr. Jenkins, Mrs. Johnson of Connecticut, Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Jontz, Ms. Kaptur, Mr. Kasich, Mr. Kildee, Mr. Kolter, Mr. Lancaster, Mr. Lehman of California, Mr. Lehman of Florida, Mr. Levin of Michigan, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Marlenee, Mr. Matsui, Mr. McCloskey, Mr. McDade, Mr. McEwen, Mr. Moakley, Mr. Montgomery, Mr. Morrison of Connecticut, Mr. Morrison of Washington, Mr. Mrazek, Mr. Murphy, Mr. Murtha, Mr. Neal, Mr. Nichols, Ms. Oakar, Mr. Olin, Mr. Ortiz, Mr. Owens of New York, Mr. Panetta, Mr. Pashayan, Mr. Perkins, Mr. Richardson, Mr. Roberts, Mr. Roe, Mr. Rowland of Georgia, Mr. Sabo, Mr. Skeen, Mr. Skelton, Mr. Robert F. Smith, Mr. Spratt, Mr. Staggers, Mr. Stallings, Mr. Stangeland, Mr. Stenholm, Mr. Sweeney, Mr. Tallon, Mr. Valentine, Mr. Volkmer, Mr. Walgren, Mr. Weber, Mr. Weiss, Mr. Whitten, Mr. Wilson, Mr. Wortley, and Mr. Young of Alaska.

H.J. Res. 626: Mr. Anderson, Mr. Applegate, Mr. Buechner, Mr. Chandler, Mr. Chapman, Mr. Clement, Mr. Coelho, Mr. Conyers, Mr. Daub, Mr. DeFazio, Mr. Donnelly, Mr. Emerson, Mr. Foglietta, Mr. Frost, Mr. Hammerschmidt, Mr. Hayes of Louisiana, Mr. Holloway, Mr. Hoyer, Mr. Hubbard, Mr. Hunter, Mr. Kostmayer, Mr. Lehman of Florida, Mr. Lewis of Georgia, Mr. Lipinski, Mr. McCloskey, Mr. Mavroules, Mr. Miller of California, Mr. Murphy, Mr. Neal, Mr. Nichols, Mr. Panetta, Mr. Quillen, Mr. Sabo, Mr. Skeen, Mr. Tauke, Mr. Torricelli, Mr. Valentine, Mr. Wolf, Mr. Yatron, and Mr. Young of Florida.

H.J. Res. 631: Mr. AKAKA, Mr. ANDERSON, Mr. ATKINS, Mr. BERMAN, Mr. BORSKI, Mr. BOSCO, Mrs. BOXER, Mrs. COLLINS, Mr. MCCLOSKEY, Mr. MCGRATH, Mr. LIPINSKI, Mr. MARTIN of New York, Mr. SCHUETTE, Mr. SAVAGE, Mr. ROWLAND of Georgia, Mr. SKELTON, Mr. SMITH of Iowa, Mr. SPRATT, Mr. FAZIO, Mr. TALLON, Mr. TOWNS, Mr. TRAXLER, Mr. UPTON, Mr. WILSON, Mr. GRAY of Illinois, Mr. EVANS, Mr. FAUNTROY, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. FUSTER, Mr. GARCIA, Mr. HEFNER, Mr. YATRON, Mr. GUNDERSON, Mr. CARPER, Mr. BENNETT, Mr. BATES, Mr. LEHMAN of Florida, Mr. DYMALLY, and Mr. KOSTMAYER.

H. Con. Res. 28: Mr. MINETA.

H. Con. Res. 194: Mr. LAFALCE, Mr. BONIOR of Michigan, Mr. MACK, and Mr. MCGRATH.

H. Con. Res. 329: Mrs. Boxer, Mr. FOGLIETTA, and Mr. LAFALCE.

H. Con. Res. 339: Mr. DORGAN of North Dakota, Mr. DELLUMS, Mr. SMITH of Florida, Mr. OWENS of Utah, Mr. STALLINGS, Mr. KILDEE, Mr. WOLPE, Mr. FORD of Michigan, Mr. BATES, Mr. HOUGHTON, Mr. HANSEN, Mr. BUSTAMANTE, Mr. LEHMAN of California, Mr. SHAW, Mr. PEPPER, Mrs. BENTLEY, Mr. OLIN, Mr. STANGELAND, Mr. PURSELL, Mr. SMITH of New Jersey, Mr. SOLARZ, Mrs. SCHROEDER, Mr. MAZZOLI, Mr. PETRI, Mr. MARLENEE, Mr. SKEEN, Mr. TALLON, Mr. WHITTAKER, and Mr. CAMPBELL.

H. Con. Res. 348: Mr. GARCIA and Mrs. MEYERS of Kansas.

H. Con. Res. 362: Mr. PENNY, Mrs. LLOYD, Mr. BLAZ, Mr. CHAPMAN, Mr. RHODES, Mr. LEWIS of California, and Mr. MARLENEE.

H. Res. 487: Mr. HEFLEY, Mr. SLATTERY, Mr. DONALD E. LUKENS, Mr. ROBERTS, Mr. JONES of Tennessee, Mr. ECKART, Mr. NICHOLS, Mr. GORDON, Mr. PORTER, Mr. CLEMENT, and Mr. SHAYS.

H. Res. 516: Mr. SAXTON.

EXTENSIONS OF REMARKS

THE GREAT HURRICANE OF 1938

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. STUDDS. Mr. Speaker, next Wednesday, September 21, 1988, marks the 50th anniversary of the Great Hurricane of 1938. This storm was the most destructive in the recorded history of New England; southeastern Massachusetts alone suffered $5 million in property damage and 69 lost lives.

In an effort to increase public awareness of the destructive powers of hurricanes, several coastal communities in southeastern Massachusetts have set aside September 21 as "Hurricane Preparedness Day." Through speeches and demonstrations, public officials will outline measures that citizens can employ to prevent threats to their lives and property in the event of a hurricane.

On Hurricane Preparedness Day, these southeastern Massachusetts communities will pay tribute to two heroes of the hurricane of 1938: Capt. Arthur A. Small, lighthouse keeper at Palmers Island in New Bedford Harbor, and his wife Mabel. I am pleased to join this tribute by sharing with my colleagues the following section of New Bedford author Everett S. Allen's "A Wind To Shake the World—The Story of the 1938 Hurricane," which describes the heroic actions of Arthur and Mabel Small.

"A WIND TO SHAKE THE WORLD"

In midharbor at New Bedford is Palmer's Island. It is about 1,000 feet long and 460 feet wide and its highest point is between 30 and 40 feet above sea level. In 1938, Captain Arthur A. Small had been keeper of the lighthouse on the north end of Palmer's island for nineteen years; he and his wife, Mabel, lived in a white story-and-a-half house on the island.

Small was an exceptional man. He began his sea career at fourteen, fished with both the Maine and Gloucester fleets, had served aboard merchant ships, coasting vessels, sealers, freighters, and packets, had rounded the Horn and been through the Straits of Magellan several times.

A likable and attractive man, a smoker of corncob pipes, he said once, "A trip around Cape Horn seems to have a sort of romantic appeal for landsmen. I'll tell you, there's very little romance about Cape Horn, or anywhere below fifty-two south latitude, for that matter. It's cold and ugly down there * * *."

He joined the Navy in 1906 and sailed around the world in the Great White Fleet, commanded by Admiral Robley D. Evans. He served in Coast Guard vessels and in the Coast and Geodetic Survey, as well as in the Lighthouse Service, including assignments at the Narrows in Boston Harbor and at Boston Light. He was also a painter, principally of ships and the sea, and authenticity was his hallmark.

While painting an eighty-by-five-foot canvas of the clipper *A. C. Raper,* he commented, "When the picture is finished, the ship will be shown in the harbor of Hongkong. I have two charts of the harbor there on the wall, so I'll be sure to get the coastline right and I've looked at those high blue mountains enough times to remember how they should appear as a background." He did a number of murals, including a depiction of Columbus' discovery of America for the Spanish Historical Society of St. Augustine, Florida, and once, commissioned to paint a panel for a yacht—the owner wanted Sir Walter Raleigh's fleet engaging the Spanish Armada—Small read volumes in preparation, especially so that he would get the ships rigging exactly.

Late one afternoon in the 1930's when Captain Small made his way up the spiral staircase in the Palmer's Island light tower and reached behind the barrel-shaped lens to light the oil vaporizer, which had to be warmed up before the lamp could be lighted, he remarked with amusement, "Whenever they say anything about a lighthouse keeper, they always act as if he were some kind of hero. We're not heroes. Here I am on this island, perfectly safe, working and painting pictures, while you wander around in New Bedford, crossing streets with automobiles and trolley cars whizzing by, just missing you by a few feet. Why, you people take more chances in a week than I do in ten years."

Small and his wife were alone on the island on September 21. Having been through a number of hurricanes, being weatherwise in the manner of all deep-water sailors, he knew what the heavy atmosphere and the color of the sky meant. Shortly before dark, he prevailed upon Mrs. Small to go to the oil house, the highest point on the little island, where the water was already 3 feet deep. Palmer's Island was beginning to flood; the wind was stiff, and the sea was rolling across it, burdened with all manner of lumber and driftwood.

Leaving her in the upper part of the oil house, he forced his way through the water toward the lighthouse; it was time to light the lamp. The seas knocked him off his feet; he was hurt, and was being swept overboard. He swam, but with difficulty, because of his injury.

Mrs. Small, seeing that he was in trouble, left her place of safety and ran to the boathouse. She was an excellent oarsman and was going to row to him; he was already in deeper water than she could wade in. Small, by swimming underwater to dodge the wreckage, got his footing again, and was struggling to regain the station. He could see his wife going to launch a boat and then watched in horror as a heavy sea slammed into the boathouse. It collapsed upon her. The next wave swept the building away.

"I was hurt and she knew it," Small said later. "Seeing the wave hit the boathouse was about the last thing I remember. I must have been hit by a piece of timber and knocked unconscious. I came to some hours later, but all I remember was that I was in the middle of some wreckage. Then I must have lost my senses again, for I remember nothing more."

Nevertheless, even though suffering from both shock and injury, he somehow retained strength and consciousness to haul himself back to the lighthouse, and he kept the light and the fog signal operating throughout the hurricane and Wednesday night.

At 7:45 in the morning on September 22, observing that the keeper's house and other buildings on Palmer's Island had been swept away, Captain William D. Raymond and Captain Fred W. Phillips—both close friends of Small—rowed out to the island with food. Raymond contacted the Lighthouse Service for permission to have Small relieved from duty, for the rule of the service stated: "No keeper may leave his post until relieved, if he is able to walk." Raymond and Phillips arranged for a police escort over the New Bedford-Fairhaven Bridge—closed to regular traffic because of grounded boats and debris—and they took Small to St. Luke's Hospital.

On September 23, the following letter was sent from the hospital to the Superintendent of Lighthouses in Washington:

"In reporting the destruction of and loss of building and equipment at Palmer Island Light Station, New Bedford, Mass. on September 21st, 1938, the keeper made preparations all during that day, securing everything so far as possible, carrying extra oil and lamp equipment to the tower. This station felt the full force of the gale, the seas reaching clear across the island * * *.

"Keeper swept overboard, but by swimming underwater, made the station again. Mrs. Small, the keeper's wife, was seen by the keeper while he was overboard. She left the oil house where he had told her to stay and evidently she tried to launch a boat to save the keeper, but she was swept away and drowned. . . . There is no shelter to be had at the station, except in the top of the tower.

"Keeper remained on duty until properly relieved. The light and fog signal were in good order. Keeper removed to St. Luke's Hospital suffering from exhaustion and exposure.

"(Signed) Arthur A. Small, keeper. Dictated by Arthur Small, keeper, recorded by Wesley V. Small, keeper's son."

Three days later, in Washington, Commissioner Harold D. King of the Bureau of Lighthouses described Captain Small's performance during the hurricane as "one of the most outstanding cases of loyalty and devotion that has come to the attention of this office.

E.H. Tripp of Fairhaven wrote a tribute to Mrs. Small and, implicitly, to her husband, which unquestionably reflected the feelings of many:

"A happy and courageous companion through thirty years of married life in the Lighthouse Service, in Wednesday's storm, she abandoned her refuge in an attempt to help her valiant husband, struggling for his life, to reach his post of duty and thereby lost her own.

"The manner of Mrs. Small's death shocked the community and her loss is deeply felt and mourned by her family and very wide circle of friends. A great number of people in all walks of life have visited

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Captain and Mrs. Small, the noted, as well as the obscure, and have met with a sincerely cordial and generous hospitality. Mrs. Small and her husband shared their enjoyment of people and books and art with their freinds. And those who have been welcomed to the home circle and who enjoyed their company will grieve that, with the gracious mistress gone, the home is no more.

"All express their deepest sympathy for Captain Small and his two stalwart sons, Wesley and Allan. Wesley is skipper of the two-masted schooner *Adventure*, lying at Gloucester, and Allan spent the summer as one of the crew of the three-masted schooner *Sachem* of Essex, Connecticut.

"Mrs. Small's forty-eighth birthday came two days after the catastrophe. Mrs. Small was a member of the Fairhaven Mother's Club, for which she and Captain Small had given talks. Living by and on the sea and knowing full well the might of God's awful elements as well as sunshine on a sandy, rock-strewn isle, the brave wife of a brave man, casting aside all thought of self, nor by wind or tide dismayed, she tried to bring succor to her mate, who struggled in the raging flood.

"We, her friends who weep, may pause and say, 'There is no greater love than this—her dear memory to us a treasure will be always.'"

On September 30, there was a classified advertisement in the Standard-Times of New Bedford, which read: "Lost—in hurricane from Palmer Island, large sum of currency in canvas pouch about 6 x 8 inches. Substantial reward for return in whole or part. Wesley V. Small." In the files of the newspaper, attached to that clipping, there is a handwritten notation that reads: "Reported $7,000-$8,000 on Mrs. Arthur Small at time of hurricane drowning."

Captain Small visited Palmer's Island on either October 15 or 16, 1938, the first time he went there after the hurricane and perhaps the last time. He informed the Fairhaven police that he had been granted a long furlough by his superiors in order to regain his health and that he would be living in Dorchester.

About two weeks later, he wrote the following letter from Dorchester to the Superintendent of Lighthouses, Second District:

"Referring to the superintendent's letter of October 4, 1938, requesting that this office be furnished with a report listing personal effects lost as a result of the hurricane:

"The list enclosed herewith is a report covering only the outstanding items lost at this time.

"All buildings except light tower and oil house [where he had placed Mrs. Small for safety] were destroyed and carried away in the heavy sea that swept the entire reservation and all personal property was lost. None of the personal effects belonging to Mrs. Small, my wife, who lost her life as a result of this hurricane, are included in the list herewith.

Respectfully,

ARTHUR SMALL."

Essentially, what Captain Small listed was "Personal library of several hundred volumes, many out of print, and the result of about thirty years of careful selection, $75;

"The value of the following cannot be estimated, as my personal records and data of sailing ships were sketches and notes, the result of thirty years' work and used for reference in painting the history of sailing ships, a spare-time hobby, $100."

Two things are noteworthy. In characteristically modest fashion, Captain Small asked for no compensation for a number of his paintings that were lost in the Palmer's Island house, although, as a matter of record, his work had marketable value. Further, records in the National Archives reveal that someone, not identified, recommended he be given $100, rather than the $175 he had asked for.

By March 20, 1939, the Standard-Times reported, "That Captain Arthur A. Small, for many years keeper of the light at Palmer's Island, never will return to New Bedford in his official capacity, is the information just received by Frank Ponte, temporary keeper of Palmer's Island light, in a letter written to him by Captain Small from the Canal Zone.

"Reading between the lines of Captain Small's letter, Mr. Ponte is of the opinion that the U.S. Treasury Department has granted Captain Small a leave of absence with pay for the next two years, at the end of which Captain Small will be retired from the Lighthouse Service on pension.

"Captain Small, following the death of his wife by drowning, the loss of $7,500, which she had with her when she attempted to save his life in the tidal flood and hurricane last September, and the injuries he sustained, was sent to the Marine Hospital at Chelsea for treatment.

"When convalescent, Captain Small was granted an indefinite leave of absence on full pay and upon his discharge from the hospital, went to Panama, where his son is employed on a millionaire's yacht."

In August of 1939, a visitor to Palmer's Island observed, "The present light keeper has a small rocky terrain, with only hurricane wreckage for company; crumbled bricks which were once the foundation of a house . . . are mute evidence of New Bedford's lighthouse tragedy."

TIME TO DUMP RATE-OF-RETURN

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. RITTER. Mr. Speaker, the Federal Communications Commission's proposed rulemaking on price caps has become an important issue before the Commission, the Congress, and the industry. I would commend to my colleagues the following article from the New York Times, dated July 27, 1988, entitled "A Phone Reform in Need of Support." It gives a good argument why Congress should support this idea which is currently working, in various degrees, in 28 States.

[From the New York Times, July 17, 1988]

A PHONE REFORM IN NEED OF SUPPORT

(By Peter Passell)

Every utility regulator who stayed awake through Econ 101 knows that standard cost-plus-a-guaranteed-profit regulation is a sure ticket to mediocre performance. But few are as determined as Dennis Patrick, chairman of the Federal Communications Commission, to find a way to keep a lid on telephone profits without deadening incentives to innovate and cut waste.

Mr. Patrick's alternative, regulation focusing on prices rather than profits, has been used in Britain, where it has reduced phone bills by 14 percent over four years, and it could generate equivalent savings here. There is no significant interest-group opposition to the switch—most of the regulated phone companies, in fact, are supporters. Nor is it viewed as risky or impractical by the regulatory establishment: variations are being tried in 28 states, including New York. But Congressional hostility to the F.C.C. chairman and his political allies in the White House could derail his initiative.

Under "cost plus" regulation, phone companies providing interstate service are allowed to set prices that cover reasonable costs, including dividends sufficient to keep investors happy. Most customers have reason to be satisfied: service is reliable and long-distance rates are down by one-third since the breakup of A.T.&T.'s monopoly in 1984. But Mr. Patrick and many other economists are not. Rapid improvements in technology and a major shift in costs from long distance to local service, they argue, have masked the inherent weaknesses in current regulation. They say savings would have been much greater if telephone companies had incentives to minimize costs.

The F.C.C. tries to put pressure on phone companies to hold down costs and to use the best technology. As a practical matter, though, the commission is in no position to second-guess the companies' operating policies. All it can really do under the current policy is penalize the utility when the quality of service falls or profits exceed the target.

As a result the phone companies have every incentive to "gold plate" their systems with extremely reliable but excessively costly equipment. And they have little incentive to root out waste, or introduce more efficient technology; any savings will end up in customers' pockets.

Thanks to improvements in technology, costs in the federally regulated portion of the phone business have been falling at about 2.5 percent annually. With the right incentives, Mr. Patrick says, the companies should be able to do much better over the next four years. Under the "price cap" approach, phone companies would have considerable flexibility in setting the prices for individual services as long as average prices, adjusted for inflation, fell by at least 3 percent annually. In return, the companies could keep the fruits of any additional cost reductions.

The extra half percent gain in productivity would save consumers about $1.6 billion in four years. The commission would still keep track of phone company profits, and if it appeared the phone companies could do even better than 3 percent, the required rate reduction would be increased.

The potential political bombs in the proposal have been defused by limiting the companies' ability to adjust some prices. They would not be allowed, for instance, to reduce long-distance rates between cities while raising charges for rural customers. In fact, no rate could go up or down by more than 5 percent annually without specific justification.

Why, then, has the proposal been greeted so coolly on Capitol Hill? Partly because Congress was burned by the political fallout from the breakup of Ma Bell and is eager to duck further controversy over telephone regulation. Partly because legislators are suspicious of any regulatory change that has the support of the regulated. Mostly though, because Mr. Patrick and the Reagan Administration angered key Democrats by engineering the repeal of the F.C.C.

Fairness Doctrine, the requirement that broadcasters air contrasting viewpoints on political issues.

The F.C.C. chairman does not need explicit Congressional approval for rate-cap regulation. But he does need support from a majority on the commission, and Congress is not about to help him. Two of the commission's five seats, set aside by statute for Republicans, are vacant. The Reagan Administration nominated replacements last fall, but Senate Democrats have yet to examine their credentials. Thus, Mr. Patrick must win the approval of one of the two Democrats who serve with him.

Commissioners Patricia Diaz Dennis and James Quello are Reagan appointees and both supported repeal of the Fairness Doctrine last year. But they have strong ties to Congressional Democrats, and may be reluctant to vote for any major change in regulation proposed by Mr. Patrick in the twilight months of the Reagan Administration. Price-cap regulation, which has no real enemies, may languish for lack of friends in the right places.

COMMON SENSE ON MAN'S BEST FRIEND

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. DORNAN of California. Mr. Speaker, one of my constituents, Ms. Sunnie White, wrote me a disturbing letter concerning the number of dogs that are left unclaimed at local shelters. Many of the animals were abandoned or simply lost; but in any case, the animals were in search of a loving home. If a home isn't found, then, for lack of space, they are put to sleep.

Ms. White suggests that when a family decides to buy a pet dog for the family that they should look first to the local animal shelters. It is the best place to find that special, all-American dog. I encourage all my colleagues to read Ms. White's letter and share her thought with their own constituents.

DEAR MR. DORNAN. By the time you receive this I will have made a life-death decision.

I am feeling driven to get the word out about a terrible injustice. I had recently started thinking about getting a puppy. We finally bought our own house and my children are five and six. The time is right for us to finally get a dog. So I started looking around and thinking about what kind of dog I wanted to get. I had decided I wanted a nice purebred dog (why not, it was going to be in the family a long time and there were two breeds I really love.) So to see several dogs and decide on "a breed", I went to the local animal shelter. Not to get a dog right then, but just to look. I have been back every day for a week and cannot sleep.

I am shocked at the number of unclaimed animals at the pound. These are loving, beautiful family pets that have been betrayed. They are not just sick or untrained or mixed breed animals. Many-many maybe ¾ or of the dogs there were purebred beautiful dogs. I had my children with me and many loved children and relished every moment of attention. So I cannot justify—not getting a dog from there. Even if I do still want a certain breed—its there. I can't justify having to have a puppy (although there are many puppies at the shelter) because there are dogs there only 1 or 2 years old that adore my kids and I have no doubts about them being great, loving family dogs. There are so many I can't believe someone is not grieving desperately over.

I have scanned all the papers looking for "lost" ads for several, without any luck. These beautiful sweet animals are now homeless and on death row. As I looked through the paper I found that on any given day there are 3 columns of ads for dogs (cats) for sale and most are people that have bred their AKC dogs. Sure it is cute to have puppies (and kittens) and many people are making a lot of money selling these puppies (kittens) to people like me who wanted a certain breed. But please consider that for every puppy they sell one of these (true friends) could have had that home and is this same animal shelter the fate of the puppies they are bringing into the world. They think not because they are purebred, or the people they are selling them to are paying a lot of money for the dogs. But one trip to the animal shelter will prove them wrong.

We need to limit the number of puppies and kittens being bred each year—somehow—someway. People should not be breeding these animals for profit at the animal's expense. Please I urge anyone who is thinking of getting a dog or cat; to give it loving home; please check your animal shelters. Even if you do really want a certain breed it will be there, keep checking. You will feel so much better saving one's life; than putting another dollar in someone's pocket. The cost of getting any animal from the shelter is only for shots, license and registration (which you need with any bought pet.) Plus you get a free vet check and a refund for having the pet neutered (if it isn't already).

I can't save them all and by Monday I will be deciding which dog I will adopt and which dogs I cannot save. It breaks my heart that after being treated as prisoners they are still devoted and giving un-conditional love to humans and yet maybe ⅓ will be claimed. I realize many of the people breeding these dogs do love their dogs but please go the pound and see what I mean before you do. You won't believe it! Please urge people who are seriously looking for love to check their animal shelter. It's overflowing.

Sincerely, a distraught animal lover.

SUNNIE WHITE.

MARKING THE 100TH ANNIVERSARY OF THE HUNTINGTON FIRE DEPARTMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. CONTE. Mr. Speaker, voluntarism and valor are two qualities that Americans have admired. When these virtues work together for the common good of our Nation and our communities, they have met with tremendous success. Our volunteer fire departments exemplify this success. It is with great respect, Mr. Speaker, that I honor the Huntington Fire Department as it celebrates its 100th anniversary. This event was commemorated Sunday, June 19 with a parade through the town, in which I was fortunate enough to participate, and a few other special activities including an appreciation night to honor the town's longtime fire fighters.

The 38 volunteers who serve Huntington as fire fighters have dedicated themselves to ensuring the security of the lives and property of their own neighborhoods, selflessly placing their own safety at risk in doing so. These individuals respond to about 32 fires a year. Their commitment of time and effort away from family and work typifies the true meaning of community service.

The Huntington Fire Department has been in existence informally since 1872, but 1888 marked the beginning of a new era: a transition from "bucket brigades" to mechanical equipment. In 1888 the department consisted of 12 men who pulled a single hose cart to fires around town. Now the department boasts 5 engines and another is on the way.

I would like to personally acknowledge Fire Chief Peter Webb, a 21-year veteran, and Pam Donovan-Hall, a local historian, who are responsible for researching the history of the department. They are currently compiling the whole history in a small book or pamphlet. The townspeople of Huntington will then have their interesting history preserved for future generations.

I would also like to acknowledge the dedication of retired Fire Chief Gordon Fish who acted as parade marshal on June 19. Mr. Fish was a member of the Huntington Fire Department since 1952 and chief from 1970 to 1979. The Huntington Fire Department is composed of some of the finest citizens I've ever known. I was proud to witness the enthusiasm of the Huntington citizens as well as the surrounding communities.

Mr. Speaker, I wish again to congratulate the Huntington Fire Department as it celebrates its 100 years of dedicated service. May they have many more safe and successful years ahead.

COMMEMORATE THE 100TH ANNIVERSARY OF THE FOUNDING OF THE HIGHLAND PARK COMMUNITY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. ROYBAL. Mr. Speaker, I rise today to commemorate the 100th anniversary of the founding of the Highland Park community. As a community within the city of Los Angeles, Highland Park has distinguished itself with a unique and proud heritage.

The Highlands as they were called in the 19th century, stretched from the mouth of the Arroyo Seco in the north, to the banks of the Los Angeles River in the south. In the 1870's the land on which the community now rests was primarily grazing land for sheep operated by Don and Dona Miguel Goldaracena. The Highlands were self-contained, growing their own agricultural products and raising their own stock.

The boom of Highland Park came with the arrival of the railroad. In 1885, a bridge was constructed across the Arroyo Seco bringing many easterners to California. The fare from Missouri to Los Angeles was said to be $1. Then in 1890, Mrs. Tempe Sarah Rodgers and 100 families from Texas traveled by wagon train to California, settling in the Highlands. The community quickly began to take shape with the residents voting to create a library and establishing a school for their children in Miller's Hall.

In 1898, the Highland Park community was annexed into the city of Los Angeles. Many cultural landmarks have developed from this era, including the home of former city editor of the Los Angeles Times and city librarian, Mr. Charles Fletcher Lummis. Occidental College was created in the latter part of this century with its classic architecture. The Casa Adobe and the Southwest Museum now stand as remnants of this early era.

In 1906, Los Angeles' Big Red Car rolled through the community on its way to Pasadena and a few years later a cable car was built to the top of Mount Washington, transporting passengers to the elegant Mount Washington Hotel. The community was damaged in the floods of 1914, but worked together to build itself up, each resident helping one another during that difficult period of time.

In 1925, the Northeast Police Station was built, providing the community with a valued resource to protect life and property. The transportation link which sealed the future prosperity of the Highland Park community was completed in 1940: the Arroyo Seco Parkway. Today, we know it as the Pasadena Freeway, the oldest freeway in the Los Angeles area.

The community began to grow at a tremendous rate, mixing people from all walks of life. It was this foundation which has produced the current progressive community that we see today. Many clubs and civic organizations flourished then and are thriving today, largely due to the spirit and pride that residents have for their community.

If time permitted, I could continue into the night with the many achievements and landmarks that abound in this community, however, I will refrain for now.

In summary, I must conclude that I have always been proud to represent a community so rich in cultural heritage. I am confident that the Highland Park community is ready to lead the way into the 21st century.

NO MORE MONEY FOR HOSTAGES

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. ASPIN. Mr. Speaker, the Subcommittee on Legislation of the House Permanent Select Committee on Intelligence is nearing a critical phase in its work investigating the Iran-Contra Affair. They have crafted a bill to rein in the President's power to conceal covert actions from congressional leaders that may soon be up for consideration.

H.R. 3822 will close loopholes in current legislation that allowed the administration to conceal details of the arms-for-hostages deal indefinitely. The other body has passed a similar measure and the House should do the same.

I would like to commend the Honorable MATTHEW F. MCHUGH, chairman of the Subcommittee on Legislation, for his work developing and promoting the bill. His persistent efforts are helping us to apply the lessons of the Iran-Contra Affair to the statutes in order to reduce the chance it will happen again.

I ask that an article he wrote recently to explain the gist of the bill be inserted in the RECORD.

[From the Christian Science Monitor, Aug. 31, 1988]

PREVENTING IRANGATE RERUNS

(By Matthew F. McHugh)

The United States House of Representatives will soon consider the Intelligence Oversight Act of 1988, a bill to implement the major legislative recommendations of the special Iran-Contra committees. It is similar to a measure recently passed in the Senate with strong bipartisan support.

The bill reaffirms current law, which requires the president in most cases to notify the House and Senate Intelligence Committees before undertaking a covert action, such as the secret arms sales to Iran. It then provides for an exception permitting the president to dispense with prior notice "when time is of the essence"; in such cases, however, the president must inform the committees "as soon as possible", but in no event later than 48 hours after the covert action has been authorized.

When President Reagan embarked upon his weapons sales to Iran, he told no one in Congress before or after the fact. The policy became known more than 10 months later only because a magazine in the Middle East published the details.

In our democracy, where policy-making is the shared responsibility of the president and Congress, no president has the right to make and conduct policy in total secrecy. It violates the right of Congress to know and undermines the trust and confidence that are essential to the effective conduct of American foreign policy. As the Iran case amply demonstrates, if the secret policy directly contradicts the nation's public policy, loss of trust and confidence can be particularly serious.

The Iran case also illustrates why prior notice to relevant members of Congress can be of practical importance to a president: If Mr. Reagan had told the Intelligence Committees that he planned to sell arms to Iran, they surely would have urged him not to proceed; he might have been dissuaded from a policy that damaged the nation and his credibility.

Current law permits a president to dispense with prior notice, but then notice of the covert action must be given "in a timely fashion." When this exception was debated by Congress in 1980, its authors clearly indicated that it should apply only where time was of the essence and the president believed immediate action was necessary. There was no intent to allow a president to keep Congress in the dark indefinitely.

Yet, the administration claims that the current law gives a president discretion to withhold notice for as long as he deems appropriate, even for more than 10 months; timely notice is whatever the president says it is. If Congress allows this interpretation to stand, a future president may keep an important policy decision from Congress for any length of time and for any reason, including political expediency.

The pending bill would correct this unreasonable permissive interpretation of current law by spelling out Congress' original intent: Prior notice can be dispensed with only where time is of the essence, and then notice must be given as soon as possible but no more than 48 hours after the covert action is authorized.

Some critics argue that this would deprive the president of his ability to conduct covert actions. On the contrary, the president could still initiate covert operations without prior approval. He would simply have to give prompt notice to certain key members of Congress.

The administration and other critics contend that this runs the risk of a leak that could jeopardize lives. To address this, current law and the pending bill permit the president in particularly sensitive cases to restrict notice of a covert action to just eight members of the congressional leadership. But this is still not restrictive enough for the critics; they believe the president should be able to exclude all members of Congress.

This is unreasonable and dangerous. There are many executive-branch officials who know about covert actions. Are they inherently more trustworthy than the congressional leadership? In the Iran arms case, the administration kept the Speaker of the House and the Senate majority leader in the dark, while trusting Ayatollah Ruhollah Khomeini and privateers like Manucher Ghorbanifar, Richard Secord, and Albert Hakim. The only ones misled were the American people and their elected representatives.

Congress cannot legislate good judgment. But by clarifying what is meant by timely notification in these cases, it might help to promote meaningful consultation and cooperation between the branches. There is no guarantee that future policy decisions will be sound, but such cooperation improves the odds and keeps faith with our constitutional form of government.

HOW TO HANDLE NEW YORK'S SLUDGE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. KOSTMAYER. Mr. Speaker, within the next few weeks Members of the House will be considering important legislation that would forever ban the dumping of sewage sludge into our oceans.

As we take this important step toward ending the degradation of our marine environment, it is vital that we also work to ensure that we don't simply transfer our disposal problem from one ecosystem to another. In other words, we must ensure that we are not guilty of that which we are so often accused—making the cure worse than the disease.

In this vein, I would like to commend to my colleagues an op-ed article from the August 27 New York Times, which was written by my distinguished constituent, Ms. Lettie Gay Carson. As Ms. Carson points out, sludge is currently used, albeit on a limited basis, as a fertilizer on nonfood crops, ornamental gardens, shrubs, grass, and forest lands. Other land applications are constantly being developed. In my own State of Pennsylvania, sludge is composted with other materials and used to help reclaim abandoned strip mines.

Mr. Speaker, it seems to me that land application of sewage sludge provides an opportunity for our Nation to finally begin putting our wastes to useful purposes. I hope my colleagues will take the time to read Ms. Carson's most thoughtful piece.

HOW TO HANDLE NEW YORK'S SLUDGE

(By Lettie Gay Carson)

Like many politicians who are in office, Mayor Koch likes things the way they are. More than a decade ago, he was offered an alternative to ocean dumping for New York City's sewage sludge. But then, as now, he dodged his responsibility for safe, nontoxic sewage disposal.

The alternative, proposed in 1977 by the Harlem Valley Transportation Association, was approved by the United States Environmental Protection Administration, the Department of Agriculture's Research Center, the New York State Department of Environmental Conservation and Cornell University.

It involved moving the city's sludge by rail to a point in southeastern Columbia County where it would be converted by a simple process into odorless, friable compost, a valuable soil conditioner. The project offered spectacular benefits to the economy and the soil in a vast farming area and an advanced solution to the waste disposal problems of New York City.

Upstate townships put up $500 each to match state and Federal funds then available to compost sewage sludge to apply on the land. Pawling, Dover, Amenia and North East in Dutchess County, Ancram in Columbia County and the village of Millerton all cooperated in an effort to provide freight revenue for the Harlem rail line and a valuable organic fertilizer for the renewal of farmland.

There has been some concern about using sludge on the land because of the fear of the "take-up" of poisons into the food chain and the contamination of water supplies. These are valid fears if sludge is not managed properly. But successful programs in states like Illinois and Ohio have demonstrated that through proper soil management and public education sludge applications do not harm the environment: They improve it.

Take-up of harmful metals can be controlled through managing the pH of the soil. Take-up occurs much more readily in acid soil than in alkaline or neutral soil. Sludges tend to be alkaline, because lime is added in the filtration process at the treatment plant. This means an additional advantage to the usually acid soils of New York State.

Still another benefit from land applications of sludge stems from chelation—the binding effect of organic molecules on heavy metals. Tests at the University of Illinois showed that the amount of the heavy metal cadmium is actually reduced in a field by spreading it with sludge. Because local farmers use chemical fertilizers that are high in cadmium, New York soils undoubtedly would benefit from sludge applications.

Environmental scientists have frequently pointed out that there are just three ways to go with any waste product: Dump it in the ocean or some other water, burn it (and the worst of the heavy metals vaporize and polute the air), or spread it out on the land where it can be exposed to sun and air under careful management.

So what happened to the Harlem Valley composting project? With the research in place, the backing of all levels of government and an offer by New York State to buy the rail hopper cars, legislation was introduced to fund Cornell University's sludge-composting demonstration project on the Harlem rail line.

It seemed that all signs said "go" especially as New York City was facing a Environmental Protection Agency deadline for getting out of the ocean by 1981.

But the Koch administration said it was just easier to go on dumping in the ocean—and got away with it.

What next? The Harlem Valley composting project is still viable. The Harlem rail right of way is still intact. All that is needed is the vision and the will.

Those who know Mayor Koch have reasonable doubts that he will act responsibly and stop ocean dumping. But even if he does, will incineration be the next choice? Perhaps what is needed is Federal legislation that will apply to all cities, requiring composting and land applications where feasible.

ALL 50 STATES SHOULD HAVE CAPITAL PUNISHMENT FOR MURDER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. TRAFICANT. Mr. Speaker, today I am introducing legislation that would deny Federal law enforcement funds to States that do not have in effect a law requiring the death penalty or life imprisonment without parole for those convicted of first degree murder or murdering a law enforcement officer.

Mr. Speaker, I am repulsed by the fact that cold-blooded, vicious murderers are housed, fed, clothed, and protected for the rest of their lives at the expense of honest taxpayers. According to the U.S. Bureau of Justice Statistics, only about 24 percent of convicted cop killers—from 1974 to 1983—received the death penalty. Almost half—48.5 percent—were sentenced to life in prison—which carries with it an average of less than 6 years of actual time served in prison. This is an outrage and a disgrace. The lives of our brave law enforcement officers are certainly worth more than that. Cold-blooded murderers should be put to death—period.

We spend more money on those convicted of first degree murder in this country than we do on the homeless. Something is wrong here. All too often we bend over backward to protect the rights and lives of these murderers while casting aside or giving lipservice to the rights of their victims and their families. The time has come to be just as tough on the criminals as they are on us. The bill I am introducing today would provide those States that do not have capital punishment with a reason to rethink their position.

The Federal Government should do everything it can to get all 50 States to adopt a capital punishment statute. My bill would do just that.

At this time, I would like to insert a copy of the bill into the RECORD:

H.R. 5308

A bill to prohibit law enforcement Federal financial assistance to States that do not have in effect a law that permits imposition of the death penalty, and requires imposition of the death penalty or life imprisonment without parole, for any conviction of premeditated murder and for any conviction of murdering a law enforcement officer under certain circumstances

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON FEDERAL FINANCIAL ASSISTANCE TO STATES FOR LAW ENFORCEMENT.

Notwithstanding any provision of law (including any law enacted after the date of the enactment of this Act), Federal financial assistance for the prevention or reduction of crime, or the enforcement of criminal laws, may not be provided to any State that does not have in effect a law that permits imposition of the death penalty, and requires imposition of the death penalty or life imprisonment without parole, for—

(1) any conviction of premeditated murder, and

(2) any conviction of the murder of a law enforcement officer—

(A) while such officer was engaged in carrying out official duties,

(B) because of the nature of the official duties of such officer, or

(C) because such officer was a law enforcement officer.

SEC. 2. DEFINITIONS.

For purposes of section 1—

(1) the term "law enforcement officer" has the meaning given it in section 1203(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), and

(2) the term "murder" means the unlawful killing of a human being with malice aforethought.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect 2 years after the date of the enactment of this Act.

UKRAINIAN MILLENNIUM CELEBRATED IN THE LEHIGH VALLEY OF PENNSYLVANIA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. RITTER. Mr. Speaker, it is with a deep sense of reverence that I direct the attention of the House of Representatives to the major celebration which the Lehigh Valley Ukrainian Millennium Committee has prepared for this September 18, 1988. The composition of this committee, comprised of clergy from seven churches, combining Ukrainian Orthodox and Ukrainian Catholic churches throughout the Lehigh Valley, demonstrates the ecumenical spirit of our area and the significance of this event.

Volodymyr the Great, Prince of Kiev, introduced Orthodox Christianity to Ukraine in 988 a.d. and today, in 1988, it is a cause of great joy to mark the millennium with liturgy, music, dance, dramatic reading and this beautiful banquet. The dance troupe Kazka will perform a most fitting dance which symbolizes welcoming and includes bread and salt—essential elements of hospitality. It is also appropriate that Fr. William Czekaluk will preside over introductions and that Bishop Vsevolod will be present for the joint Moleben service celebrated by all three Ukrainian Orthodox and Catholic jurisdictions.

Yet, as we rejoice, it is sad to note that the Soviet authorities have outlawed Ukrainian churches in Ukraine. For over 700 years all Ukrainian churches, Orthodox and Catholic, maintained their independence. In fact, it was the Ukrainian Orthodox Church which founded the orthodox churches in Russia, which is now referred to as the Russian Orthodox Church. Today, after the liquidation of much of the leadership of Ukrainian churches by Soviet authorities in the 1930's and the forced incorporation of Ukrainian churches into the Russian Orthodox Church after World War II, there are no legal Ukrainian churches in Ukraine. The services we have all heard about in the Soviet Union, marking the millennium of Christianity in Ukraine, are taking place in the Russian Orthodox Church. It is my hope that the Ukrainian churches that flourish in the free world may one day be replanted in their native Ukraine and that all Ukrainians will once again have the freedom to worship and serve God freely.

Mr. Speaker, the millennium sheds a magnificent light on the union which all nations strive for in peace and strength. Ukrainians are a devout and God-fearing people that we can all be proud to have as part of our great nation. May we all share with them in their joy during this millennium celebration.

SOUND ANALYSIS FROM CONSUMER ALERT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. DORNAN of California. Mr. Speaker, I know that many of my colleagues are anxiously awaiting the recommendations of the National Economic Commission. As you know, the NEC was formed to explore ways to combat the budget deficit without undermining economic growth.

The NEC has asked all interested parties to submit written remarks outlining the best way for the Commission to comply with its mandate. Barbara Keating-Edh of Consumer Alert, a nationwide organization which provides consumers with information enabling them to make informed judgments in the marketplace, has submitted some excellent remarks that I would like to share with my colleagues. Barbara is a good friend who has been a leader in the crusade for lower taxes for many years. She has been in the forefront of consumer advocacy, not as some proregulation liberal, but as an advocate for free-market policies that enhance our standard of living. She is truly a friend of the consumer.

Consumer Alert has written that taxes—especially excise taxes—must not be raised, but that spending should be curtailed. I concur with this conclusion and ask all my colleagues to take a moment and read Consumer Alert's sound analysis, which I am submitting for the RECORD.

WASHINGTON, DC,
July 21, 1988.

Re. Fed. Reg., June 14, 1988, Request for comments.

Subject: Recommendations to reduce federal deficit.

Hon. DREW LEWIS,
Hon. ROBERT S. STRAUSS,
Cochairman, National Economic Commission, Washington, DC.

GENTLEMEN: Consumer Alert is a nationwide membership organization founded in 1977 to provide consumers with information that will enable them to make informed judgments in the competitive marketplace.

We are convinced that competition by various industries for the consumer's dollar is wholly beneficial, providing the buyer with the power to regulate the marketplace to his own advantage.

Inasmuch as government manipulates or interrupts this voluntary exchange, it is responsible for increased costs and limited consumer choice.

Taxation imposed upon certain selected consumer goods has the negative impact of distorting the market, harming some consumers more than others by making some commodities, such as gasoline, more expensive than they would be ordinarily. In addition, raising taxes to solve a deficit created by excessive government spending contributes to the gluttony, and increases the appetite for even greater spending.

Therefore, we urge the Commission to refrain from consideration and recommendation of the imposition of a motor fuel tax or any other tax which is considered unlikely to be noticed by the American public.

A tax increase, even one not protested loudly by the citizenry, is every bit as deleterious to the overall economy. Taxes are regressive negatively impacting on everything from consumer spending to employment, business expansion, individual saving and capital investment. Ultimately, increased taxation lowers production and limits the expansion of industry and the birth of new businesses which would in turn, increase government revenues. Ultimately tax increases of any kind signal Congress to increase overall spending.

We in particular oppose an increase in fuel taxes from the consumer perspective and point out that, if imposed, the burden would rest most heavily on those motorists who are least likely to be able to afford it, the middle to low income consumer who needs an automobile to drive to work.

Though mass transportation may suffice for such workers in many of our larger cities, the great majority of Americans live in communities where comprehensive transit systems are not available and so, rely on their automobiles to get to and from work each day. At this time, these motorists are strained to the limit with increasing automobile insurance premiums, rising registration and environmental and safety inspection fees as well as higher bridge and other road toll fees. In fact reasonable gasoline prices is about the only good thing American motorists enjoy right now. It would be a serious mistake for government to snatch that away through the imposition of higher fuel taxation. We are already paying nearly 24 cents a gallon in gasoline taxes now!

In addition to the harm that would befall individual motorists if such a tax should be imposed, small business consumers, would be adversely affected. We hasten to point out to the members of the Commission that it has been the tenacity of America's small business that has provided our nation with continued economic growth in the face of a rising national trade deficit.

American farmers too, who are just beginning to recover from various economic woes and for whom gasoline and other motor fuels are essential would be seriously harmed by a tax increase. Likewise, increasing the operating costs of the trucking industry will be borne by consumers in higher prices on all commodities transported on our nation's highways.

We strongly urge that the commission reach the only honest, fair and reasonable conclusion possible, and that it submit a recommendation to reduce government spending across the board rather than singling out specific consumer products or services for increased taxation, as a means of tackling government incurred debt.

The remarks contained herein are provided on behalf of the members of Consumer Alert, individual consumers residing in all fifty states, and have been prepared by the signer below who presides over the organization's affairs and who is solely responsible for its content.

Consumer Alert is a non-profit research/education foundation and represents no business or profit seeking interests. The organization is primarily funded by voluntary dues paid by its members and from the sale of its publications as well as by foundation grants.

Sincerely,

BARBARA KEATING-EDH,
Consumer Alert.

HONORING JAMES J. CONWAY ON HIS RETIREMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. CONTE. Mr. Speaker, I rise today to commend one of my constituents, Mr. James J. Conway. Jim Conway retired recently, following 38 years of dedicated work at O'Connell Engineering & Financial, Inc., in Holyoke, MA. Jim Conway's engineering expertise and leadership as vice president of O'Connell Engineering & Financial, Inc., have been evident in various projects throughout Massachusetts' first district.

Among Jim Conway's many works are the Holyoke Power Plant, Holyoke Community College, McKinley House, and Prospect Heights; to name just a few. He was also instrumental in construction of housing for the elderly. His peers have commended Jim on his ability to produce outstanding and efficient work.

Jim Conway's dedication to his family can be attested to by his wife, Sally Anne, and thirteen children. Whether it was raising his family or planning new buildings, Jim has always lead a full and busy life. The Conway family finally had the opportunity to watch Jim pause for a moment and accept the special recognition that was bestowed upon him in Holyoke.

There is no doubt that this outstanding individual has lead a full life. Jim showed incredible stamina in World War II when he was first lieutenant in the 8th Air Force. The bomber he was flying was shot down over Berlin, forcing him to spend a year in a German prison camp.

With that tragic event behind him, Jim returned to the United States where he began teaching engineering extension courses. Over the years, Jim started many young engineers in the right direction. Whatever the situation, Jim Conway always met the challenge.

Mr. Speaker, in recognition of Jim Conway's significant contribution to Holyoke; Holyoke, MA, has honored Jim by proclaiming July 7, as "Jim Conway Day." He is truly deserving of this honor, for it is citizens like Mr. Conway who make Massachusetts' first district proud. I would like to commend him on a job well done.

ROBERT McINTYRE, LOS ANGELES BUSINESS AND COMMUNITY LEADER, RETIRES

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. ROYBAL. Mr. Speaker, today I rise to say a few words in tribute to an extraordinary man upon his retirement. First, I should point out that even though he will be leaving the company he has served for the last 36 years, he will be continuing a career in community service that would keep a dozen people busy.

In Los Angeles, we best know Robert M. McIntyre as the chairman of the board and chief executive officer of Southern California Gas Co. Under his leadership, the Nation's largest gas company provided services to more than 4 million customers while remaining sensitive to the concerns of California's ethnic and racial minorities. He has been recognized with the Outstanding Businessman Award from the National Association for the Advancement of Colored People; the Corporate Responsibility Award from the Mexican American Legal Defense Education Fund; and the Pacific Pioneer Award from the Japanese American Cultural and Community Center.

As an individual and citizen of southern California, Mr. McIntyre's record has been no less impressive. He is an appointee to the Commission on the Californias, a director for the National Conference of Christians and Jews, and serves on both the United States Chamber of Commerce and the United States-Mexico Chamber of Commerce. He and his wife are also active in community affairs in Newport Beach, where they reside.

Mr. McIntyre's personal interests have involved him in community leadership in a broad range of activities. In the arts, Mr. McIntyre is a member of the President's Circle of the Los Angeles County Museum of Art, a director of Orange County Performing Arts Center, co-chairman of Plaza de la Raza Advisory Committee, and a member of Los Angeles Music Center Founders. Mr. McIntyre is also actively involved with several area medical and educational facilities.

Bob McIntyre has been honored by several national and Los Angeles area groups for his service as a businessman and supporter of many worthy causes. He richly deserves such recognition, as his efforts help make southern California a better place to live for everyone. Even though I know he will remain active in community projects after retirement, I hope that he will now take some time to enjoy the things he has worked to bring to others.

TRIBUTE TO NEW JERSEY ASSEMBLYMAN WILLIAM J. PASCRELL, JR.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to pay tribute to a New Jersey State assemblyman who I am proud to say, lives in my Eighth Congressional District of New Jersey, and who has been an outstanding community leader for nearly three decades. I am speaking of the Honorable William J. Pascrell, who represents the 35th State Legislative District of New Jersey.

For his multitude of accomplishments and contributions to his community, church, profession, and to the field of education, Assemblyman Pascrell will be honored at an event being held by St. Gerard's Church of Paterson on Saturday, October 8, 1988.

Mr. Speaker, I believe this tribute is indeed fitting for someone like Bill Pascrell who has made such a difference to his community. Bill was born in Paterson and attended St. George Elementary School and St. John Cathedral High School before going on to Fordham University where he received his bachelor of science degree in communication arts and his masters degree in philosophy.

Bill Pascrell began his career as an outstanding teacher, and taught on many levels. He taught history, psychology, English, and civics at Paramus High School and Paramus Adult School, as well as philosophy at Fairleigh Dickinson University. In 1974 he left teaching for public service, serving for 3 years as director of the Paterson Department of Public Works.

His leadership in the department of public works led to his becoming director of the department of policy planning and management in the Paterson mayor's office. During his decade long tenure in this critical position, Bill Pascrell oversaw the completion of a number of important projects including economic development of Paterson's famed historic district, the Great Falls hydro-electric project, the establishment of cable television in Paterson and a number of job development programs. Bolstered by this record of achievement, and by this strong community activism, he was elected to the New Jersey Assembly in late 1987 where he serves today.

But Assemblyman Pascrell's professional background tells only a small part of the story, for the list of organizations with which he has been involved and to which he has contributed is, indeed, long. He has served as a member and president of the Paterson Board of School Estimate, the Paterson Planning Board, the Commission on Secondary Schools for the Middle Atlantic States Association, the Passaic County Citizens Drug Abuse Council, the Pat Mone Association, the Italian-American Federation, the Paterson Oldtimers Association, the Paterson Taxpayers Association, the Alfano Association, Lodge No. 60 B.P.O.E. of Paterson, Knights of Columbus of Paterson, the Riverside Veterans, Inc., and the New Jersey School Boards Association.

Bill, who is the long time chairman of the Passaic County Democratic Organization, also served as chairman of the Ad Hoc Committee for Passaic County Community College, as Paterson's representative to the 1976 Bicentennial, as chairman of the Paramus High School Curriculum Committee, as president of the Italian American Association of Fordham University, and as adviser to numerous student groups at Paramus High School. He was also chairman of the educational committee for the Paterson Coalition, the Fund for Earthquake Relief of Italy, the March of Dimes Walkathon—1980 Historical Walk, and as the 1985 fund campaign for the Passaic County Chapter of the American Cancer Society.

Mr. Speaker, as you can well imagine, the Honorable William J. Pascrell, Jr., for his multitude of contributions, has received numerous honors from the community and civic groups he has served. On five separate occasions he was named man of the year by organizations that included the Federation of Italian Societies, the Mother Cabrini Society, the Paterson Area Chapter of UNICO, the John Raad Post of American Legion, and St. Gerard's Parish of Paterson.

I know that Bill's lovely wife, Elsie, and his three sons, William III, a law student at Seton Hall University, and Glenn and Joseph, twins who are juniors at Fordham University, are most certainly proud of his many honors, accomplishments, and contributions, as am I.

Mr. Speaker, I invite you and my distinguished colleagues to join me in paying tribute to an outstanding individual whose many contributions have made his community, the State of New Jersey, and our Nation a better place to live—the Honorable William J. Pascrell, Jr., of Paterson, NJ.

TRIBUTE TO RUTH MARCH

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. HAWKINS. Mr. Speaker, I would like to take this opportunity to recognize the inspirational efforts of Ruth March of Los Angeles, CA. Particularly in light of the recent passage of House Concurrent Resolution 61, entitled "Volunteers and the Importance of Volunteerism." Ms. March has long been an advocate of the contribution of volunteers in the United States. Since the early seventies she has spearheaded an effort to focus local and national attention on the value of the work of American volunteers.

Since 1971, she has been responsible for encouraging more than 2,000 public and private sector employers to recognize relevant volunteer experience by providing a space for a listing on application forms as well as considering it in their final hiring decisions.

Ms. March's efforts on behalf of volunteers began in the early 1970's, when wives of unemployed space engineers were seeking part-time and shared jobs. When these women attempted to include their unpaid volunteer experience on application, forms, potential employers often asked "but do you have any real experience?" This common occurence launched Ruth March on a compaign on behalf of volunteers which has spanned almost two decades. She was aware that a major attitudinal change would have to take place on the part of employers in order to change their image of volunteers and the valuable work they do.

Ruth March began a drive to persuade organizations and businesses to consider and recognize volunteer experience when selecting professional employees. She received the endorsements of the U.S. Chamber of Commerce, the U.S. Conference of Mayors, the International Personnel Management Association, and the National Association of Manufacturers. In 1985, she enlisted the aid of Senator GRASSLEY, Senator DECONCINI and myself to introduce legislation encouraging the recognition of volunteer skills on job applications and in hiring practices in the public and private sectors.

Ms. March is the vice president of the International Association for Volunteer Effort and is its representative to the United Nations, serves on the board of directors of Involvement Corps, Inc., and a national adviser to the Association of Junior Leagues. Past activities include extensive involvement with the Los Angeles Olympic Organization Committee, member of the board of the Los Angles Ballet, and the L.A. County/USC Medical Center Auxiliary.

Among many other volunteer projects, her accomplishments include the development of the East Los Angeles Parent/Volunteer Program, the Nation's first school volunteer program. She helped make available para-medical tours and the educational career lab for high school seniors, as well as the drop-in child care center for patients and visitors at the LAC/USC Medical Center.

The work of Ms. March has been cited by the Los Angeles Unified School District, Caltrans, the LAC/USC Medical Center, the city and County of Los Angeles, Stanford University and the YWCA among other organizations. Her recent awards include reception of one of the President's volunteer awards, the Los Angeles Outstanding Community Achievement Award, and the Carnation Community Achievement Award.

Ms. March's selfless record of service not only to the city and county of Los Angeles, but also to the millions of Americans who have benefited from her efforts is a testimony to the valuable contribution a single volunteer can make to the well-being of our country.

THE 100TH ANNIVERSARY OF ST. MICHAEL'S PARISH

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, on Sunday, September 4, I had the opportunity to visit with the members of St. Michael's Parish in New Haven as they began the celebration of the church's 100th anniversary year. As the oldest Italian-American Catholic Church in New Haven, St. Michael's has had a long, important, and interesting history. I would like to share some of that history with my colleagues here today.

The driving force behind the establishment of an Italian parish in New Haven was Paul Russo, an immigrant who became a successful lawyer and banker. On behalf of the 1,500 Italian immigrants in the community, he met with the bishop of Hartford in 1884 to discuss the need for a priest who spoke Italian. The bishop agreed to this request and gave permission for the collection of funds to build a church. The first masses were said in 1885 in the basement of another Catholic Church in New Haven.

However, the congregation was forced to move several times over the next few years, and its members continued to hope for a permanent church of their own. This dream was finally realized when the first mass was said at St. Michael's in September 1889. By 1894, the parish had grown to include 4,000 members and was forced to move to a larger building, formerly a Protestant Church, on Wooster Square in New Haven.

Within 20 years, the area around Wooster Square became the preeminent Italian neighborhood in the city. Despite a fire that destroyed the church almost totally in 1904, the membership continued to grow. The number of baptisms averaged over 900 annually between 1911 and 1920. In 1914 alone, 1,020 children were baptized.

Father Leonardo Quaglia was appointed pastor of St. Michael's in 1916 and stayed at the church for the next 33 years. Although he arranged for the 1923 construction of St. Michael's hall, his greatest accomplishment was leading the drive for the construction of St. Michael's school. Classes began at the school in 1936 and the building itself was completed in time for the beginning of classes in September 1940. The school has been a great source of pride for the parish over the years. By the time Father Quaglia left the parish to become provincial superior of the Scalabrini Fathers in 1949, all debt from these projects had been retired.

St. Michael's observed its golden jubilee on January 29, 1950. Soon after, the parish embarked on a major renovation program and replaced the sanctuary, the rectory, and the sacristy. Soon after the program was completed in the mid-1960's, St. Michael's was forced to deal with the effects of urban renewal, particularly a large highway built through the middle of the parish. Despite this, St. Michael's thrived and celebrated its diamond jubilee in 1965.

St. Michael's Parish continues to this day to be a source of pride, comfort, and joy for those who worship there. On the occasion of its 100th anniversary year, I congratulate all those who have done so much to deep the parish alive and wish them many more years of good health and God's richest blessings.

POLICE ATHLETIC LEAGUE YOUTH CENTER

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. GALLO. Mr. Speaker, we often speak in this House about values, and about the virtues of voluntarism. We talk about family and community as the cornerstones of our society. We express concern about alcohol and drug abuse among our young people and we recognize the difficult job being done on the front lines by the law enforcement community in the fight against these negative forces within our communities.

Today, I call upon my colleagues to recognize an organization in my hometown dedicated to the preservation of our strong sense of positive values, both now and for the future.

In 1965, the Parsippany Police Athletic League launched an ambitious project to create a program of youth activities as part of their overall efforts to prevent juvenile delinquency and preserve the sense of community in a rapidly growing area.

The success of this worthwhile program depended upon the voluntary cooperation of hundreds of individuals. Because there were no tax dollars involved, contributions were sought from individual donors and from the business community.

Coaches and administrators donated their time and talents willingly, and the program grew year by year.

As a result, this totally voluntary, nonprofit organization has provided year-round programs for young men and women for more than 23 years, but until now it has not had a permanent home.

In the spring of 1985, the dedicated men and women of the Parsippany Police Athletic League undertook an ambitious construction project to build a youth center to house the many events sponsored by the PAL.

And the people of Parsippany responded. Corporate sponsors stepped forward. Residential efforts brought not only dollars, but material and manpower donations as well. Construction contractors, the Building Trades Council, the Morris County sheriff's office, and talented individuals from all parts of Morris and Sussex Counties provided free labor and expertise. Elected officials and other community leaders lent their support.

It is truly a tribute to all of these voluntary contributors that this force for good within the community was built without the use of any taxpayer funds.

The result of these efforts is the newest, and the largest, youth center complex in north Jersey, valued in monetary terms at $2 million.

The true value of this beautiful complex—in terms of voluntary time and effort, in terms of its value to the community, and in terms of the positive influence that its presence will have on the individual lives of our young people—is immeasurable.

This complex is a priceless asset and a timeless reminder that the people of Parsippany are dedicated to the virtues and the values that have made America the greatest Nation on Earth.

I ask my colleagues to join with me in recognition of the Police Athletic League and the people of Parsippany, NJ, on the occasion of the dedication of the youth center, in this year of 1988.

A TRIBUTE TO FRED PAROLA

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. LENT. Mr. Speaker, Long Island, NY, is one of the most beautiful places to live in America with miles of white, sandy beaches, coastal waterways, and lovely, tree-lined neighborhoods. Those of us who live there work very hard to preserve the special way of life we enjoy on Long Island.

Few people have done more for our neighbors and communities than my good friend, Assemblyman Fred Parola. Since he was first elected in 1978, Fred has represented the 14th assembly district in the New York State Legislature in Albany. During those years, he has generoulsy given countless hours of his time working for programs to enhance and improve our communities. At the same time, he's been a dedicated leader against unwanted, ill-conceived, or intrusive projects that would destroy the suburban beauty we on the island's South Shore have worked so hard to maintain.

In recognition of Fred's hard work and commitment, the South Shore Planning Council is sponsoring a dinner in his honor on Saturday, September 24. And, in his usual selfless way, Fred has agreed to donate the proceeds from the dinner to the community's legal defense fund. There was a time when the town activists could join efforts and win against an unwanted project. But times have changed. And, today, these type cases are increasingly decided in the courts. The legal defense fund offers our community and its citizens a fighting chance, and I commend Fred for his generous contribution to the fund.

On behalf of my constituents in the Fourth Congressional District, I'd like to extend my personal thanks to Assemblyman Fred Parola for his outstanding service to the betterment of our local communities and for his commitment to preserving our much loved way of life on Long Island.

WE SHOULD NOT TIE HIGHWAY FUNDING TO SPEED COMPLIANCE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. McEWEN. Mr. Speaker, I stand today to introduce a bill to eliminate the highway funding sanctions and speed limit compliance requirements of the 55-mile-per-hour national speed limit.

As the law stands now, States must file a report with the Secretary of Transportation that provides data on speed compliance for highways with the 55-mile-per-hour speed limit. If the report proves that at least half of the vehicles traveling on these roads are within the speed limit, a State is considered to be "in compliance."

If the State is found not to be in compliance, a certain percentage of their highway funds, funds designated for primary, secondary and urban highways, may be withheld. The money withheld may be up to 10 percent of the highway funding provided to that State.

The goals of this strategy are excellent: encourage States to enforce the 55-mile-per-hour speed limit, and thereby save lives. However, this strategy has an unexpected and unfortunate consequence.

Most high speed traffic occurs along interstate highways. If a State suspects they may be about to lose highway funding, they will increase the number of law enforcement officers along these routes. Unfortunately, these same officers are diverted from enforcing safety measures such as speed compliance and drunk driving prevention, along what has proven to be the far more dangerous noninterstate routes. The result of this law—intended to promote safety—is to instead put more lives in jeopardy in order to protect highway funds.

We should not tie highway funding to speed compliance. Our highways are deteriorating today—this Nation's infrastructure is in serious trouble and can be considered a hazard to lives in and of itself. So, not only does this law encourage misdirected assignments for law enforcement officers, but in many cases it may also withhold vital highway funding which could also save lives.

For fiscal year 1987 three States were found to be in noncompliance: California, New York, and North Dakota. And 14 more States are very close to being found in noncompliance. What will your constituents say—those people who pay a gas tax every time they fill up the gas tank, tax money dedicated to improving and building roads—when they find out their funding is being taken away.

Certainly I do not want to imply that speed compliance is not very important, indeed it is. However, it should not be tied to highway funding. A number of experts, people in the field who actually have to deal with speed compliance as well as infrastructure improvement, as well as national safety experts, agree with this assessment. The Senate received testimony on this topic from Maurice Hannigan, deputy commissioner of the California Highway Patrol, Dick Morgan, Executive Director of the Federal Highway Administration, and Jeffrey Miller, Deputy Administrator of the National Highway Traffic Safety Administration, as well as many others.

These people all agree that speed compliance mechanisms must be left to the discretion of the State. That is the purpose of the federalist system, and we must allow individual States to determine the best way to promote safety and keep highway speeds down. It is detrimental to instruct them to such a degree that law enforcement officers are forced to monitor areas with a lower priority than others, solely to maintain their highway funding.

Mr. Speaker, I ask that this bill be printed in the RECORD.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENFORCEMENT OF SPEED LIMIT REQUIREMENTS.

Section 141 of title 23, United States Code, is amended—

(1) by striking out subsection (a),

(2) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively, and

(3) by striking out "subsection (b)" each place it appears in subsection (b), as redesignated by paragraph (2), and inserting in lieu thereof "subsection (a)".

SEC. 2. NATIONAL MAXIMUM SPEED LIMIT.

(a) ENFORCEMENT.—Subsection (c) of section 154 of title 23, United States Code, is amended to read as follows:

"(c) ENFORCEMENT.—The Secretary shall not approve any project under section 106 in any State that fails to certify to the Secretary by January 1 of each calendar year (1) that any public highway within the State posted at a maximum speed limit of 55 miles per hour or higher and constructed with Federal-aid highway funds has been designed and constructed to standards applicable at the time of construction which are appropriate for the speed permitted on such highway, and (2) that the State has been enforcing, during the 1-year period ending on September 30 of each calendar year, the speed limits on public roads within the State posted at 55 miles per hour or higher. Such certification shall include a statement certifying that the posted maximum speed limits on public highways in the State do not exceed the speed limits allowed under subsection (a).".

(b) CONFORMING AMENDMENTS.—Section 154 of title 23, United States Code, is amended by striking out subsections (e), (f), (g), and (h).

SEC. 3. MONITORING REPORTS.

Each State shall report to the Secretary speed monitoring data on any public highway with speed limits posted at 55 miles per hour or higher in the same manner and in the same form as such data on public highways with speed limits posted at 55 miles per hour was submitted to the Secretary for the fiscal year immediately preceding the date of the enactment of this Act.

SEC. 4. CONSTRUCTION STANDARDS.

Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(p) STANDARDS FOR NATIONAL MAXIMUM SPEED LIMIT HIGHWAYS.—The Secretary shall not approve plans and specifications for any proposed highway project on a Federal-aid system which is to be posted at a maximum speed limit of 55 miles per hour or higher if such plans and specifications fail to provide for a facility designed and constructed for a speed limit equal to or greater than that to be posted upon completion. Nothing in this subsection is intended to prohibit or restrict the use of advisory speed signs in accordance with accepted practices.".

PERSONAL EXPLANATION

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. WILLIAMS. Mr. Speaker, I will not be present for votes during Thursday and Friday of this week. I will be in Montana and in Yellowstone National Park for discussions about the tragic fires with Western Governors, Governor Dukakis, and throughout the weekend with Parks Service Administrators.

During my absence the House may vote on the gun control matter concerning the 7-day waiting period. I have consistently without exception voted against gun control. I would vote against the waiting period.

THE CHESTER COUNTY MUSHROOM FESTIVAL

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. SCHULZE. Mr. Speaker, within the Fifth District of Pennsylvania, which I represent, is the largest mushroom producing area in the United States. Last year alone, mushroom production in southern Chester County, PA, generated $189 million in revenue.

This valuable commodity is important not only to the economy of Pennsylvania which, in 1987, was responsible for over 46 percent of the mushrooms harvested in the United States, but to the Nation as a whole. Because of its importance, more people should be made aware of the many virtues which the mushroom holds; including its versatility in cooking for any meal of the day, and its nutritional value to our eating regimen, of which we are ever-conscious.

As I did last year, I have again proposed a joint resolution in honor of the Chester County Mushroom Festival, which takes place this year during the week of September 17-24, and proclaiming that week "American Mushroom Week." This week will include visits to mushroom houses, a mushroom banquet and pageant involving the crowning of the second national mushroom queen, the sixth annual mushroom cook-off contest, and a mushroom symposium dinner. However, not to be lost in the numerous fun-filled activities associated with the festival is this occasion's true intent: To recognize the importance of, and educate those unfamiliar with, what has become a most critical segment of our agricultural sector.

As always, the Chester County Mushroom Festival is certain to provide a clearer understanding as to the value of the mushroom not only in our daily diet, but in our Nation's economy as well.

THE GENEROSITY OF THE ISHIHARAS

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. ATKINS. Mr. Speaker, last month Congress took one of its more noteworthy actions when we decided to right one of the terrible wrongs this country undertook, the internment of 120,000 patriotic Americans of Japanese descent during World War II.

Two of those proud internees, Jiro and Tama Ishihara, have lived in my hometown of Concord, MA, for 30 years, and recently did something truly American in spirit. They took the $20,000 awarded each of them in compensation for their wartime nightmare and donated it to the Concord-Carlisle High School to set up a permanent college scholarship fund for deserving students in financial need.

The Ishiharas moved to Massachusetts after the war because of the State's economic opportunities and raised three children, an attorney, a systems analyst, and a chemical engineer.

The generosity of the Ishiharas speaks highly of them and their pride in America and also bears a message of hope for the future.

Although Mr. Ishihara asks, "don't make heroes of us," I would like to share with my colleagues the full story—a heroic story—of the Ishihara family of Concord, MA, as published in the September 11 issue of the Boston Globe:

(By Gloria Negri)

CONCORD.—When Jiro and Tama Ishihara learned recently that they each would receive $20,000 in tax-free payments for the pain the United States government inflicted upon them and 120,000 other Japanese-Americans 46 years ago, they knew exactly what they would do with the money.

Like most Americans, they could put it to good use. But the Ishiharas will not buy a new car, take a trip around the world, give it to their three children or redecorate their kitchen.

They will instead give the $40,000 to set up scholarship funds at Concord-Carlisle High School for deserving students in financial need, in memory of their parents, Seitaro and Shina Ishihara and Tameji and Chiyo Yoshimura.

"The $20,000, that's not the story," Jiro Ishihara said during an interview at his Concord home.

"Our whole motivation is to keep the event alive so that people will know that it happened and that they will think about it and that they will never let something like that happen again."

His wife, like her husband shy and soft-spoken, agreed.

The event the Ishiharas spoke of was the internment of Japanese-born immigrants and their American-born children at so-called "relocation camps" on the West Coast during World War II.

The immigrants were called issei; their American-born children, such as the Ishiharas, were called nisei.

In May 1942, five months after the Japanese attacked Pearl Harbor on Dec. 7, 1941, Japanese-Americans living on the West Coast were given 10 days to settle their affairs and pack one suitcase of belongings for their stay in the internment camps—barrack complexes in desolate locations.

Many of the homes from which they were uprooted and the possessions they left behind were sold for a song, burned or looted. Some of the internees were kept in the camps for the duration of the war. The Ishiharas were held for two years.

"There was a war hysteria. There were reports of submarines sighted off the California coast. We were under curfew," recalled Jiro, better known to friends and acquaintances as "Ish."

At the time, Ish was living with his family in Los Angeles and Tama with hers in Richmond, across the bay from San Francisco. They were 16 years old.

While the pain of the experience has long since dulled—"We must forgive and forget," Ish said—the memory will always remain locked in the corners of so many hearts.

"Of course," Tama said gently, "a certain amount of resentment is there, but it doesn't rule our lives."

For years afterward, the Ishiharas said, they never talked about their internment, not even to their children when they were growing up.

And they said they still would not discuss it today had it not been for the federal legislation seeking to redress the wrongs done to so many Japanese-Americans.

CHILDREN FULLY APPROVE

The Ishiharas, now 62, said their three children fully approve of their use of the $40,000 for scholarships. They have two daughters, Margaret Ishihara of Marion, an attorney, and Nancy Ishihara Zinky of Cambridge, a systems analyst; and a son, Mark Ishihara, a chemical engineer, of Milwaukee. They are expecting their first grandchild in four weeks.

They have also added a codicil to their will to assure the money will be used for the scholarships in the event of their deaths.

"We have lived in Concord for 30 years with great happiness. This is our way of giving something back to the community." Tama said.

Mary Ann Lee, a trustee of the Concord-Carlisle Scholarship Fund, said the school was "delighted" with the Ishihara gift, which will provide at least two scholarships a year. The interest will be put back into the fund to make it a continuing one, she said.

Their wartime experience as internees has never been a dinner-table topic for the Ishiharas. Ish said the first time he spoke about it openly was 15 years ago, "when some high school kids working on an immigration project came to the house to ask us about it.

"I tried to tell these kids, you've got to look at this thing not from what I'm going to tell you about my experience—the story line should not be us—but from a constitutional aspect, whether we were deprived our due process, and of the prejudice involved.

"Just don't get into it on whether we proved our citizenship. It was wrong because it violated the Constitution."

CHILDREN PRESSED FOR REDRESS

The internees' children, the third—so-called sansei—generation of Japanese-Americans, obviously thought their parents and grandparents had been deprived of their consitutional rights.

"I was against this thing being pursued. I always felt it was just something to forget about. But the kids were the ones who pushed this redress bill because those kids felt people didn't know that it happened in the United States to US citizens," Ish said.

Congress, agreeing with the sansei, approved the bill last month, and President Reagan signed it. However, official sources say funds probably will not be available until 1990.

Like many Japanese-Americans, the Ishiharas feel the sum is more than adequate, but that the apology had to be monetary "to make an impact. It's too easy for people to say they're sorry," Tama said.

The shock of the internment probably made the deepest impression on him, Ish said.

"The worst thing was not-knowing what was going to happen once Executive Order 9066," authorizing the internment and giving the western defense military command control over civilians, went into effect.

HEADS OF ORGANIZATIONS FIRST

First, he recalled, there was a roundup of men who headed various Japanese organizations. Then ordinary civilians were taken away, first to assembly centers at race tracks to wait for about six months while the inland desert sites were being readied.

Tama, her parents and one sister first were sent to the Tanforan race track outside San Francisco; Ish, his parents and two sisters to the Santa Anita race track. At the race track, horse stalls were used for sleeping areas.

The inland sites were not much better, though there were barracks to sleep in. Tama's family was sent to a camp in the desert at Topaz, Utah; Ish's to the Gila River Indian Reservation in southern Arizona. Barbed wire ringed the camps.

"It was somewhat of a shock coming from a strict family environment for five of us to be crowded in a small tarpaper-covered barracks and to go to mess halls with 2,000 people and to use bathrooms without partitions," Ish recalled.

EXCITEMENT FOR TEENAGERS

"You could make a big thing out of this," he said. "But it wasn't planned cruelty, but the movement of so many people hastily."

As a teenager, he conceded, the internment added "some excitement" by allowing children to slip out from under parental authority, very strict in most Japanese families. "Some days, I'd go to all six mess halls to eat," he grinned.

Tama and Ish, who did not know each other at the time, got their high school diplomas while in the camps. During a so-called grace period, any Japanese-Americans who had the chance to move to other parts of the country were allowed to do so, and Ish's older sister, who was married, moved to Chicago.

Eventually the camps were put under civilian control and relocation projects were started. Internees were furloughed for agricultural work.

Under a relocation program sponsored by the American Field Service, Tama was sponsored by Carroll College in Waukesha, Wis., where she majored in bacteriology.

Ish and his family joined his married sister in Chicago. He majored in engineering and got his bachelor's degree from Roosevelt University and his master's degree from Northwestern University.

Ish would have been drafted into the Army, as so many young nisei were, but a damaged ear kept him out.

After college, Tama became a laboratory technician and joined a sister in Chicago, where she met Ish.

In a way, both Tama and Ish are philosophical about the internment.

"At the time," Tama said, "there was a heavy, Japanese concentration in California and it enabled us to spread out to the Midwest."

Ish felt that if the family had remained in California he might have become "a gardener or gone into the produce business."

"Education was important to both our families," Ish said. "Before the war, the standard thing for a Japanese-American guy to do was to go off to college and get a degree. But because of the prejudice they would end up pushing a lawnmower or in a food market."

Their move to New England in 1951 was also inspired by the job market. "Opportunities were limited for everyone then," he said.

He joined the digital computer laboratory at Massachusetts Institute of Technology, where he remained for five years. He retired in June after 22 years with Mitre Corp. in Bedford, but still does consulting.

Ish chuckled as he recalled the television reporter who came to their home for an interview after the signing of the redress bill.

"I was painting the kitchen and he said, '20 grand will pay for all this.' I told him he had the wrong story."

"But please," Ish urged the other day, "don't make heroes of us."

LEGISLATION TO ASSIST INDIAN VOCATIONAL EDUCATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce legislation assisting the cause of Indian vocational education. Currently, only two tribal institutions exist nationwide which are solely dedicated to providing quality vocational education for American Indians: The Crownpoint Institute of Technology located in my own district in New Mexico, and the United Tribes Technical College in Bismarck, ND.

Over the past decade, our Nation's economy has changed dramatically from an industrial-based economy to one that is increasingly service-based. This has precipitated a change in our training needs as more and more of the jobs in high demand require specialized vocational training. These jobs range from the construction trades—masonry, plumbing, carpentry, electricians, sheet metal workers, and heavy equipment mechanics to food services, medical records technicians, nursing, and the computer fields, among others. Many of these specialized employment fields can be taught in short-term training programs that yield high annual wages ranging from entry level wages of $8,500 to $20,400.

At the same time, problems in the national economy become magnified on many of our Nation's Indian reservations. American Indians currently suffer from one of the Nation's highest unemployment rates. The unemployment rate on the Navajo Reservation is averaging seven times that of the United States at large, with an average unemployment rate of 37 percent. In addition, it is estimated only 55 percent of American Indians complete high school. College attendance rates for American Indians remain the lowest for any minority group with only 17 percent of young American Indians going on to college. The reasons for this are many, including the hardships of leaving one's homeland to attend college in an unfamiliar urban environment, and the prohibitive costs of higher education.

For these and other reasons, it is imperative that we invest in vocational education, particularly as the Indian tribes of our Nation confront the problems of high dropout rates and unemployment through economic diversification, and tribal economic development.

Currently, the Crownpoint Institute of Technology and the United Tribes Technical College are the only two tribal institutions struggling to provide specialized vocational job training for American Indians. These two institutions are the only Indian tribal educational institutions which are not provided for by Federal authorizing statute. Because they are not State institutions, they cannot look to city, county, or State mil levies for funding. Absent tax generating economies tribal governments cannot provide adequate support.

As a result, their sources of funding are competitive and soft, and frequently absent. Without dependable funding, long-term planning becomes impossible. In fact, at times, only portions of a course can be offered because a one-time funding source is no longer available. More critically, at the end of 1 school year, it is not unusual for these institutions to be uncertain about whether they will be able to open for classes for the continuing year. In short, because of their unique status, they have been overlooked by every funding source and have simply fallen through the cracks.

Despite the tremendous odds facing these institutions, the Crownpoint Institute of Technology has graduated over 1,150 Indian adults into the Nation's work force, skilled from among 25 fully-accredited, intensive training programs. Virtually all of these graduates entered CIT unemployed and without any job skills. Both the Crownpoint Institute of Technology and the United Tribes Technical College enable their graduates to leave the welfare rolls forever and become gainfully employed. More importantly, these institutions are critical to the transformation of these graduates into proud, productive citizens contributing to tribal and State economies.

Among other things, the legislation I am offering today will provide a stable, basic funding source for these institutions based upon their current expenditures and costs. It will also create a National Indian Center for Research in Vocational-Technical Training designed to provide input into Indian economic development policy.

In closing, I emphasize that this Federal investment can be expected to be returned multifold. In just 6 years of employment, one graduate will have returned in taxes the cost of his or her education. In New Mexico alone, one graduating class can be expected to earn $1.2 million in 1 year and contribute over $460,000 to the tax base. Contrast this to the cost of maintaining these individuals and their families on public assistance and it is clear this legislation is worthy of Federal investment. The time has come to provide these valuable institutions serving Indian people the same basic funding opportunities afforded to all other educational institutions.

THE HYDE AMENDMENT

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. MARLENEE. Mr. Speaker, I want to take this opportunity to commend the other body for supporting the position of the House of Representatives and the President on Federal Medicaid funding for abortions. Yesterday, the Senate defeated an attempt to weaken the Hyde amendment, which prohibits Federal funds to be used to perform abortions except where the life of the mother would be endangered if the fetus was carried to term.

I am opposed to abortion as a method of birth control and I do not condone abortion as a practice of convenience or simply by choice. I have consistently voted against the use of Federal funds to finance abortions and I will not abandon that stand.

Last June, House Democrats and Republicans adopted the Hyde amendment to the 1989 Labor, Health and Human Services, and Education appropriations bill. However, the other body passed an amendment to their version of the appropriations bill, sponsored by Senator LOWELL WEICKER, that would add rape and incest to the "health of the mother" exception.

When both bills went to a House and Senate conference committee to iron out the differences between each version, Senator JAMES EXON offered a compromise that would let each State interpret the rape and incest clause, and defined rape as forcible, not statutory. As we all know, statutory rape is sexual intercourse with a minor. If the Weicker language was adopted, millions of taxpayers' dollars would have been spent on abortions for teenagers. This is clearly unacceptable.

The Exon amendment was a modest improvement over the Weicker proposal, but I believe that Congress should not begin to open the floodgates to allow more and more exceptions regarding Federal funding for abortions. As my good friend and colleague from Illinois [Mr. HYDE], eloquently stated last week, "While rape is a terrible thing, abortion is worse."

I was pleased that when the House had an opportunity to vote up or down on the Hyde substitute to the Exon amendment, it passed with strong bipartisan support by 216 to 166 on September 9. It was an emotional debate, but I strongly endorsed the position of the majority of the House that the Federal Government should not encourage abortion in any way. Yesterday, I was pleased that the Senate agreed with the House action by a close vote of 47 to 43. For all the unborn children, I thank God that the Hyde amendment will stand for another year.

An additional bright spot for the prolife movement was an item in today's Washington Post. Supreme Court Justice Harry Blackmun, who authored the 1973 abortion ruling, responded to a question from law students at the University of Arkansas at Little Rock about a possible overturn of Roe versus Wade. He answered, "I think there's a very distinct possibility that it will [be overturned] this term."

That's the best news I've heard in a long time for the prolife cause. We can all be grateful to President Reagan who had the courage to appoint three new Justices to the Supreme Court who reflect his thinking on the abortion issue.

I encourage my colleagues to cosponsor H.R. 5020, which will end the annual agonizing exercise over this contentious aspect of the abortion debate. This bill would simply make the Hyde amendment permanent and declares an unborn child as a living human being.

Mr. Speaker, I also urge the appropriate committee chairmen to allow a straight up or down vote on H.R. 5020 so that we can finally put this issue to rest. The majority of Americans and Members of both bodies do not want Federal funds paying for abortions, except to save the life of the mother.

HAITI

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. RANGEL. Mr. Speaker, at the request of the Council on Hemispheric Affairs, I would like to submit for the RECORD an article written by Paul Kantz, titled "United States Shares Blame for Haiti's Coup." I am hopeful that this article will be viewed as a contribution to the debate as a whole on the social, economic, and political problems that the country of Haiti is currently facing.

UNITED STATES SHARES BLAME FOR HAITI'S COUP

(By Paul Kantz)

Haiti's minute prospects for constitutional rule were crushed under the boot of Lt. Gen. Henri Namphy on June 19, when the powerful military leader ousted President Leslie Manigat.

Though internal power struggles and a violent and authoritarian national history helped set the stage for the coup, the U.S. State Department also bears a heavy responsibility. The Reagan administration's acceptance of a fraud-ridden election that brought Manigat to power in January and unconditional support for the increasingly repressive Namphy-led junta that governed for the two years prior to Manigat's inauguration guaranteed that no authentic democratic development would take place in the impoverished Caribbean island nation.

The White House's immediate reaction to the coup was a perfunctory expression of surprise and disapproval. This was followed quickly and inevitably by assurances that diplomatic relations with Port-au-Prince would not be broken nor economic sanctions be used to isolate the illegitimate regime.

Instead, the administration says it will continue its push for democracy in Haiti through "quiet diplomacy." This policy has failed miserably in the past because achieving democracy is not the principal goal for Foggy Bottom. Seen from Washington, the primary mission of any Haitian government is to prevent anything resembling a political left from emerging as a potent political force, whatever the cost, which is a cause in which Gen. Namphy has been a durable soldier.

Notwithstanding the fact that departed dictator Jean Claude Duvalier had appointed the Namphy-led National Governing Council before fleeing the country, the State Department extended its immediate recognition. At the time, the administration, which aggressively exaggerated its role in ending the Duvalier era, viewed Namphy's junta as its best hope to prevent an opening to Cuba, Haiti's Caribbean neighbor 60 miles to the northwest. That this policy would be prejudicial to the fate of moderate and left-leaning Haitian politicians who would emerge to contest the presidency apparently was not of great concern.

Just hours before the recent coup, it looked as if Manigat had won a power struggle that began June 15 when the president countermanded Namphy's order transferring Col. Jean-Claude Paul from his command of Haiti's largest army battalion. Two days later, Manigat fired Namphy as army chief of staff and placed him under house arrest.

But Namphy broke out of house arrest June 19, and supported by presidential guardsmen, he stormed the national palace and ousted Manigat.

Namphy's apparently bold action was nothing new for the general.

In June 1987 he attempted to disband the Provisional Electoral Council (CEP), a broad-based democratic body charged with carrying out elections scheduled for last November. Rather than strong words from Washington, it was popular protests that forced the general to restore nominal control of the elections to the CEP, but terrorist attacks on election headquarters and ballot-printing facilities went uninvestigated. Even when presidential candidate Yves Volel was shot to death by plainclothed officers in front of the Port-au-Prince police station, Namphy did nothing and Washington remained silent.

The two years of unconditional Reagan administration support for Namphy were broken only by a verbal slap on the wrist and Congressionally-forced cutoff of aid following the army-sanctioned massacre of at least 34 voters in the aborted November election.

Namphy then dismantled the ill-equipped and powerless CEP, which he impudently blamed for the disaster, and announced a military-administered election to be held January 17.

This election was boycotted by four leading opposition candidates who had run in the November election and were widely regarded as commanding the support of some 80 percent of the Haitian electorate at the time.

With as deft a hand as that exhibited by Panama's Gen. Manuel Noriega in manipulating that nation's 1984 presidential election to assure the victory of the Washington-backed candidate, Namphy provided Manigat 50.3 percent of the vote, a suspicious figure since he needed 50 percent to avoid a run-off. The voting itself was marred by army inspection of voters' ballots, multiple voting, vote-buying, and voting by minors.

The election was condemned by Canada, the Vatican, and many other nations, but Washington's desire for a quick fix to the

Haiti crisis prompted it to recognize Manigat's election as legitimate. The State Department articulated its policy of "recognizing countries, not governments," which it recently reiterated as justification for continued relations following the coup. State Department officials seem untroubled that this recognition approach stands in marked contrast to Washington's continued backing of deposed Panamanian president Eric Arturo Delvalle.

The lack of a strong U.S. response to his previous anti-democratic actions correctly confirmed Namphy's assumption that he could move against the new civilian government with impunity and draw at worse a slap on the wrist. Even now, Assistant Secretary Elliot Abrams and his colleagues are taking a wait and see attitude toward Namphy, hoping to do no more than contain the negative publicity surrounding another of their diplomatic failures in the Caribbean-Central American region.

In the weeks ahead, unless a new round of violence occurs, Haiti will fade from the headlines, and life will go on as usual in that desperately poor nation. The streets of Port-au-Prince were quiet following the coup, and to the surprise of no one, there was an absence of protests against the overthrow of a president who had been imposed upon the Haitian people.

The Reagan administration's past and present complicity with the Haitian military has squandered what may prove to have been a unique opportunity for real democratic change. It has left the nation as far from democratic rule and an end to violence as it has ever been.

WISCONSIN DAIRY FARMERS EARN PRAISE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. KLECZKA. Mr. Speaker, I recently received a letter from a constituent of mine, Ms. Kathryn Muehl, who drew my attention to an article in the August 30 edition of the Milwaukee Sentinel newspaper highlighting the opening of the education center, a new addition to the Milwaukee County Zoo's children's zoo complex.

What makes this addition and its opening so noteworthy is that it was financed with $450,000 from the Wisconsin's dairy farmers. While it is obviously intended in part to promote the dairy industry—the backbone of Wisconsin's economy—this center also stands as a tribute to private initiative for public good. As the article states, 9,000 to 10,000 Milwaukee public school first graders will receive a daylong dairy education seminar at the center, which will also teach nutrition and farming to the youngsters.

Ms. Muehl quite rightly noted in her letter to me that "this positive attitude on furthering a great segment of our State's economy needs commendation from elected officials and support as well." I am proud to follow her suggestion and by sharing the article highlighting this accomplishment with my colleagues.

The article follows:

[From the Milwaukee Sentinel, Aug. 30, 1988]

DAIRY GROUP'S ZOO GIFT EMPHASIZES EDUCATION

(By James B. Nelson)

The "official" name of the Milwaukee County Zoo's newest building: "The Dairy Council of Wisconsin presents The Education Center."

A more precise statement might be that Wisconsin's dairy farmers paid for these classrooms, and want you to remember that milk comes from cows, not cartons.

The zoo plans to address meatier agriculture topics than that in the three new classrooms. Touchy subjects include non-point pollution and water quality in general, and no doubt at some point, the use of bovine growth hormone for increased milk production.

The center was built primarily with $450,000 from the Dairy Council, a nutrition education group associated with the Wisconsin Milk Marketing Board. The council receives funding from a 5 cents per hundred pounds (7.5 gallons) assessment paid by state dairy farmers.

Formally unveiled last week, the education center will be the first stop for the thousands of school children and other groups that take zoo field trips.

This school year, for instance, 9,000 to 10,000 Milwaukee Public Schools first graders will receive a day-long dairy education seminar, said Mary Thiry, zoo education director. They'll see cows, learn how and why they produce milk, hear about nutrition and farming, and learn about other mammals.

Overall, the zoo's education goal is to serve 200,000 children this year.

"A major focus of our efforts deals with school children," said Dairy Council President Daniel Borschke. The hope is that they learn about good nutrition (and choose milk over soda) early, and take it with them for the rest of their lives.

The council also is putting together a broader program, "Food . . . You're Choice," targeted for use in all state school districts during a three-year period.

Although the zoo's education programs started 12 years ago, "we've never before had classrooms or a focal point." Thiry said. "This is part of our commitment to education."

Agricultural education, and dairy education in particular, will be a crucial part of that program.

"It's one of the leading industries in the state and one of the most misunderstood industries among urban people," Thiry said.

The education center is the second part of a three stage, $3 million renovation of the former Children's Zoo into the Stackner Heritage Farm. "This is the beginning of where we are going," Thiry said. "It's going to be exciting."

The project began a couple of years ago with construction of the Dairy Complex, a fully operational dairy barn, milking parlor, with the obligatory ice cream fountain next door. The Dairy Council was one of numerous industry groups that contributed to it.

The complex has nine cows, including one from each of the major state breeds. A high-tech computerized milking machine with digital display—far more elaborate than that found on the average Wisconsin family farm—makes it possible for groups to "see" milk flow and other data.

By the time the zoo's project is completed, Heritage Farm will consist of a group of buildings and adjacent areas addressing a range of issues. In addition to the dairy farm, visitors will see beef, poultry and grain farming, and see how farming exists with other competing environmental interests.

An example is "a lot of city people think farmers kill birds of prey," Thiry said. "They don't understand the relationship between farming and wildlife."

Thiry also promised discussion of non-point pollution, particularly as it affects the Milwaukee River watershed. She called it a touchy subject, with discussion based on the findings of a new council studying the river.

"We'll present facts," she said, adding that on subjects lacking precise answers "the zoo will not take a stand." Technical advice for the various projects comes from the University of Wisconsin Extension. Officially, Thiry is a UW Extension associate professor, a UW "gift" to the zoo.

This fall, she said, look for displays aimed at explaining the drought to city slickers who will want to know why they're paying more for groceries.

THE NORTHEAST-MIDWEST ECONOMIC DEVELOPMENT GUIDE

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. BOEHLERT. Mr. Speaker, the number of Federal programs to stimulate economic development has fallen sharply since 1981. Fortunately, many States have implemented innovative programs of their own in order to spur economic vitality and development.

The Northeast-Midwest Congressional Coalition has documented many of these successful programs in the 1988 edition of "The Guide to State and Federal Resources for Economic Development," which was released on September 7. This valuable guide contains outlines of remaining Federal programs as well as a useful anthology of 460 brief case studies—drawn from every State in the Nation—that illustrate the strong initiative taken at the State level.

This scholarly work will help Federal, State, and local policymakers meet the challenge of a rapidly changing economy. I strongly recommend "The Guide to State and Federal Resources for Economic Development" to all of my colleagues in the coalition. This guide contains a wealth of information that will be useful in promoting the continued economic revitalization of the Northeast-Midwest region.

At this time, Mr. Speaker, I would like to enter one of these brief studies from my home State of New York into the RECORD:

NEW YORK REGIONAL ECONOMIC DEVELOPMENT PARTNERSHIP PROGRAM

OBJECTIVE

The Regional Economic Development Partnership Program (REDPP) was set up to provide financial assistance to New York business projects that generate substantial employment or that are run by minorities or women.

DESCRIPTION

In 1985 the New York legislature approved REDPP to promote economic growth and vitality at the regional level within the state. Administered by the state's Urban Development Corporation (UDC) and working through the ten regional offices of the state Department of Commerce, the program finances three types of projects: business development, business infrastructure, and economic development support services. To receive funding, officials in each region first must develop a regional strategy for economic development, which must be approved by the state's budget director. Projects submitted for funding must show a contribution to the overall goals and direction of its region's strategic plan. According to program officials, this system increases accurate response to regional problems and builds regional leadership. The legislature appropriated $10 million for REDPP in 1986-87.

REDPP business development and business infrastructure projects support manufacturing, commercial, industrial, agricultural, tourism, research and development, high technology, and service companies. Qualified projects are eligible for both loans and grants. REDPP provides business-development project aid directly to private companies and channels business infrastructure aid to development corporations and local governments.

Business development loans are available for up to $500,000 or one-third of the total cost of a project, whichever is less. These loans must be used for working capital, construction of facilities, or purchase of equipment and machinery. Interest rates on all REDPP loans are set by UDC from analysis of the projects' cash-flow projections.

Grants also are available for business development projects; however, program regulations limit grant use to interest subsidies or feasibility studies. The highest feasibility study grant is $40,000. REDPP may provide an interest subsidy only when a project could not continue without its financial support. Grants for this purpose are limited to $250,000 or one-third of project cost, whichever is less. No more than 20 percent of program monies allocated to business development projects may be issued as grants.

Business infrastructure help is available for projects essential to the development of a specific business endeavor. Eligible activities include sewer systems, access roads, wharves, and water supply systems. The highest allowable infrastructure amount per project is $750,000. REDPP will fund up to 49 percent of total project costs. It provides both loans and grants, but limits grant support of any project to 20 percent of requested funding.

To qualify for business development or business infrastructure assistance, a project must:

Help create or retain substantial, permanent, private-sector jobs;

Exhaust all other sources of financing on reasonable terms through other public and private sources;

Have sufficient private or public commitments to finance the portion not supported by REDPP; and

Fit into the regional economic development plan.

In addition, a project must be located in a distressed county or municipality, or address certain targeted needs of the region. To be designated distressed, a county or municipality must meet specified criteria of poverty, unemployment, population decline, job lag, or per-capita income lag. According to program regulations, targeted needs are:

Business development by women, minorities, or unemployed persons;

Modernization and productivity improvements to industrial firms;

Diversification of the economic bases of communities dependent on single industries;

Creation of substantial, permanent, private-sector jobs for dislocated workers, public assistance recipients, disadvantaged youth, or long-tem unemployed persons; and

Prevention of loss of primary employers, thus avoiding major adverse impacts on the economic conditions of communities.

Economic development support assistance is available as grants in three categories: strategic planning, targeted development, and employment training. Strategic planning aid goes to regional development offices for marketing, training, and other needs related to preparation of the regional strategic plan. These grants may not exceed 5 percent of the total annual REDPP appropriation. Targeted development monies may be used for analysis of industrial sectors, productivity assistance to mature industries, export assistance, management training for minority and woman-owned businesses, and regional marketing. Employment training help may go directly to companies and must be matched by other public or private funding for the development of new jobs. These grants may be used for retraining, upgrading the skills of employees, and productivity enhancement.

PROGRAM IN PRACTICE

The program operated for three years. A lack of clarity in program requirements and selection criteria the first year caused difficulties in expediting applications and allocating funds. By the following year, however, the program had defined specific guidelines, published an information bulletin, and established standard application, review, and approval procedures. These adjustments in the operations eliminated many of the problems, according to state officials.

With the $10 million allocated in 1985-86, REDPP funded 45 projects. In 1986-87, REDPP used $8.7 million of the $10-million appropriation to help 56 projects. The remaining $1.3 million was carried over to the next year's budget. REDPP funds helped leverage over $200 million from other funding sources. REDPP officials estimate some 17,000 jobs were created or retained as a result of the program's operations. As much as $8 million of each year's $10-million appropriation may be devoted either to business development or business infrastructure projects, and as much as $2 million may go to economic development projects. However, no minimum allocation has been set for any of the three categories.

PATIENT IDENTIFYING INFORMATION CONFIDENTIALITY ACT OF 1988

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. HORTON. Mr. Speaker, I am pleased to join with Congressman JIM LIGHTFOOT in introducing legislation which would protect the confidentiality of individuals whose identities are revealed in documents acquired or created by the Public Health Service. This legislation, the Patient Identifying Information Confidentiality Act of 1988, would require the Secretary of the Department of Health and Human Services to remove patient identifying information from medical records, including adverse drug reaction reports, before releasing those records to Congress.

This legislation is not intended to impede Congress' legitimate oversight responsibilities over the Public Health Service. It is instead designed to protect the privacy of the individuals listed or named in these medical records. The Secretary would still be required to provide Congress with the requested medical records; however, he or she would first have to remove any sensitive information, such as a person's name, Social Security number, telephone number or address, from the records before allowing Congress access to them. In order to assist Congress in cross-referencing the records, the Secretary would establish a system whereby the records could be identified without using patient identifying information.

Restricting access to patient identifying information contained in the records would guarantee that an individual's privacy would be protected. There are few matters as personal or as private as an individual's medical history or condition. Records which discuss an experimental treatment received at the National Institutes of Health or which describe a drug reaction experience are items which most people would like to keep confidential. This legislation would provide these individuals with assurances that their medical records would not contain identifying information that could be traced back to them.

This legislation sends a signal to individuals participating in Federal programs, such as clinical trials on AIDS drugs, that their privacy is of utmost importance to Congress and that it will be protected. At the same time, it permits Congress to continue its rightful role in conducting oversight over the Public Health Service. I urge my colleagues to cosponsor this legislation.

HOUSE JOINT RESOLUTION 607: DAY OF OUTREACH FOR THE RURAL DISABLED

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. DE LA GARZA. Mr. Speaker, approximately 8.5 million disabled people live in rural America. For many of them, life in the country presents its own set of obstacles. Things that most of us take for granted—access to health care, transportation, educational and employment opportunities, even social and recreational activities—are much more limited for a handicapped person living in rural America than in our cities.

We have made substantial progress in recent years to make our schools, Government facilities, and other institutions accessible to the urban handicapped. But, frankly, these efforts have not really addressed the problems of the rural disabled.

A disabled person living in a rural America faces a unique set of problems.

Often there is isolation, literal isolation. The nearest neighbor may be a mile down the gravel road. The nearest town with a doctor or a hospital may be 25, 50, or 100 miles away.

There is psychological stress, particularly for farm families. Farming is a way of life that is dependent on a family working together. When a family member becomes disabled, this way of life is challenged.

And obviously, there is economic stress. Disabled persons who are able to work and contribute to society often face severely limited job opportunities in our nonmetropolitan areas. For farm families the problem is compounded by the fact that farming is an occupation that requires a certain degree of physical mobility.

Consequently, many rural people with permanent disabilities face the prospect of a limited and lonely life.

Fortunately, through the concern, ingenuity, and perseverance of people all across the country—many of whom are disabled themselves—there is progress being made to make the life of the rural disabled easier and more fulfilling. Some of these programs are partially funded by Federal and State Governments. Others exist through the concern and interest of various volunteer organizations and individuals.

In particular, I would like to cite a few of the programs that are making successful contributions in this area:

Breaking New Ground, a program sponsored by Purdue University's Department of Agricultural Engineering in West Lafayette, IN, is recognized as the Nation's leading source of information on rehabilitation technology adaptable to agricultural worksites. The Farm Family Rehabilitation Management [FaRM] Program, based in Des Moines, IA, and operated by the Easter Seal Society of Iowa, Inc., provides counseling for farm families, as well as on-site consultation in adapting farm worksites to the needs of the disabled farmer. The 20-year-old Vermont Rural and Farm Family Vocational Rehabilitation Program at the University of Vermont in Burlington, VT, provides counseling and advice to the rural disabled.

Another valuable program is the Future Farmers of America's [FFA] educational scholarship and award program: Building rural initiative for the disabled through group effort [BRIDGE]. The BRIDGE Program makes available scholarships to outstanding FFA members overcoming a physical handicap. BRIDGE also presents a national award to the local FFA chapter showing the most effective outreach to the rural handicapped.

Through these programs and others, and particularly through the perseverance and ingenuity of disabled individuals themselves, living with a disability in rural America need not be limiting or unfulfilling.

I have introduced House Joint Resolution 607 to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled" to make Americans everywhere more sensitive to the difficulties and triumphs of disabled Americans in rural areas. By raising our national awareness of the unmet needs of the rural disabled, we can begin to focus our attention on enhancing the life of this important segment of the American population.

CRACK COMES TO THE NURSERY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. VENTO Mr. Speaker, as we continue to consider H.R. 5210, the Omnibus Drug Initiative Act of 1988, I would like to share with my colleagues an article from the September 19 Time magazine. This article, along with a number of others published in the last few weeks, clearly illustrates the importance of a provision in the drug bill that will establish a program for demonstration projects to provide prevention, education, and treatment to substance-abusing pregnant women. As this article states, the use of drugs by expectant mothers and their babies is a nightmare that must be stopped.

CRACK COMES TO THE NURSERY—MORE AND MORE COCAINE-USING MOTHERS ARE BEARING AFFLICTED INFANTS

When reports surfaced in the early 1980s that cocaine use by pregnant women could cause serious physical and mental impairment to their newborns, it was another warning that the snowy white drug was not as harmless as some believed. Doctors found that cocaine, like heroin and alcohol, could be passed from the user-mother to the fetus with disastrous results. Since then the epidemic of cocaine-afflicted babies has only become worse. The main reason: growing numbers of women are using crack, the cheap and readily available purified form of cocaine that plagues America's inner cities and has spread into middle-class suburbs. Says Dr. Richard Fulroth, a Stanford University neonatologist: "The women have tears streaming down their cheeks when they tell me, 'In the back of my mind I knew I was hurting my baby, but in the front of it, I needed more rocks.' "

Even dramatic new evidence of widespread cocaine use by pregnant women probably underestimates the extent of the problem. Addressing a meeting of the New York Academy of Sciences held in Bethesda, Md., last week, Dr. Ira Chasnoff of Chicago's Northwestern Memorial Hospital reported that a study he directed of 36 U.S. hospitals found that at least 11% of 155,000 pregnant women surveyed had exposed their unborn babies to illegal drugs, with cocaine by far the most common. "There are women who wouldn't smoke and wouldn't drink," he says, "but they can't stay away from cocaine." Chasnoff concedes that his numbers are probably low since many of the hospitals did not take full prenatal histories.

Doctors have little doubt that crack is driving the new epidemic of drug-affected infants. "When crack cocaine hit Oakland, the number of small, sick babies just went through the roof," says Fulroth. The statistics bear him out. In 1984 some 5% of the newborns at Highland General Hospital, which serves Oakland's rough inner city, were contaminated with the drug. So far this year, about 20% of all babies born at Highland have been afflicted by crack. The problem, however, is not confined to low-income, minority patients. Says Chasnoff: "Our findings cut across all socioeconomic backgrounds."

As doctors see more and more crack-damaged infants—many of them premature—a clearer picture of the effects of the drug on the fetus is emerging. It is not a pretty one. Because a mother's crack binge triggers spasms in the baby's blood vessels, the vital flow of oxygen and nutrients can be severely restricted for long periods. Fetal growth, including head and brain size, may be impaired, strokes and seizures may occur, and malformations of the kidneys, genitals, intestines and spinal cord may develop. If the cocaine dose is large enough, the blood supply can be cut so sharply that the placenta may tear loose from the uterus, putting the mother in danger and killing the fetus. The horrid litany is not just the result of binges. Even one "hit" of crack can irreparably damage a fetus or breast-fed baby.

At birth the babies display obvious signs of crack exposure—tremors, irritability and lethargy—that may belie the seriousness of the harm done. These symptoms may disappear in a week or more, but the underlying damage remains. While the long-term effects of crack are unknown, Stanford's Fulroth points out that children born with small heads often have lower than normal I.Q. levels by ages three to six.

Because there is no specific treatment for cocaine babies, therapists must work with the mothers. Parenting programs are teaching women how to handle the babies' long bouts of inconsolable crying and unresponsiveness. But such programs are usually designed for motivated women with some financial resources. Says Dr. Robert Cefalo, of the University of North Carolina School of Medicine: "We should be reaching these women before they conceive."

Too often, that is difficult to do. Crack mothers who show up at hospitals have often smoked up to the last stages of labor. Many are so high they do not notice when labor begins. Says Fulroth: "The crack cocaine mothers are the sickest you're going to see. They come in right when they're ready to deliver, and you just hold your breath waiting to see what you're gonna get." The message is clear: for expectant mothers—and their babies—crack is a nightmare.—By John Langone.

MAJOR DOMESTIC ISSUES FACING THE NEXT ADMINISTRATION AND CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 14, 1988, into the CONGRESSIONAL RECORD:

MAJOR DOMESTIC ISSUES FACING THE NEXT ADMINISTRATION AND CONGRESS

Over the past eight years, the President and the Congress can point to several major accomplishments on domestic policy issues. They include lower inflation and interest rates, reforms of the Social Security and Medicare systems, a reduction in federal regulation, a decline in the unemployment rate, an overhaul of the tax code that lowered rates and closed loopholes, a bailout of the Farm Credit System, a new trade reform law, and the Gramm-Rudman deficit reduction act. Yet despite the progress in some areas, much remains to be done. We have put off several domestic problems until

1989. The next administration and the 101st Congress will have a formidable agenda.

Deficit reduction must be the centerpiece of the agenda of the next Congress and President. Since 1981, the federal government has annually spent around 20% more than it has raised in revenues. That has increased our national debt from $1 trillion to $2.6 trillion in less than 8 years. Although passage of Gramm-Rudman has helped trim the deficits, they are still unacceptably high. With most of the "easy" cuts already made, tough decisions lie ahead. Reducing the deficits will be especially difficult if the current period of economic growth falters.

Several other economic issues will have high priority. Over the past 15 years, the rich have gotten richer while the poor have gotten poorer. There is growing concern that if the trend continues, it could stratify American society and lead to class polarization. Considerable emphasis will be placed on promoting good jobs, since wages and salaries constitute nearly ¾ of all personal income. Policymakers may also face the difficult challenge of trying to stabilize the economy if it takes a downturn. The typical tools for fighting recession—stimulative fiscal and monetary policies—will be limited, as the already huge budget deficits would seem to rule out the use of major new deficit spending to stimulate the economy. Also on the horizon is the savings and loan industry crisis. Due to economic hardship and unwise loan practices, up to ⅓ of the nation's thrift institutions find themselves insolvent. It could cost more than $50 billion just to deal with the currently insolvent institutions.

Several health issues will have to be addressed. The cost and availability of health care will continue to be a major concern. Some 37 million Americans, many of them employed workers or their dependents, are without health insurance, and many more are underinsured. The next administration may also be faced with ensuring the long-term solvency of Medicare. With the ranks of the very old and health costs both rising, the program could face a far greater deficit than Social Security did before it was rescued in 1983. In addition, increasing calls will be heard to expand Medicare to include long-term care coverage, both at home and in nursing homes. While the main emphasis of federal health programs is on hospital and physician care, the cost of long-term custodial care is much more likely to wipe out a family's resources. Programs for AIDS treatment and research will also be high on the national agenda. All experts predict that the AIDS crisis will get worse before it gets better.

Other social issues will be getting attention. Legislation will be considered to increase the availability and affordability of child care, since more than half of all mothers work outside the home. Housing is likely to become a higher priority, as increasingly the needs of the nation's poor, as well as middle class, are not being met. The problems of the homeless have received national attention as they become more visible on our streets. Safe, decent, and affordable rental housing is becoming ever more scarce, and owning a home is beyond the reach of millions of Americans. The next administration may also have to decide how best to preserve the surplus Social Security trust funds that will be building up for when the "baby-boomers" retire. The reserves will be enormous, reaching some $13 trillion by the year 2030 before they are drawn down and exhausted.

Policymakers will also have to decide how best to invest in America's future to improve our competitiveness. The poor state of much of the nation's infrastructure—roads, bridges, airports, water systems, and electrical power—has not improved much since it emerged as a national problem in the early 1980s. More attention will be paid to improving education in America. Because the United States is no longer the undisputed economic power in the world, improving math and science education is being called the "Sputnik" issue of the eighties. The next administration will also have to decide how to allocate federal science dollars. The challenge will be determining how to pay for several expensive "big science" projects in the works—such as the superconducting super collider, the space station, and the project to map human genes—without gutting federal support for traditional research efforts.

Several major environmental challenges have been put off until the next administration. Urgent problems include the widespread failure of cities to meet federal air quality standards, acid rain damage to eastern lakes and forests, and the depletion of the ozone layer from chemical emissions. More attention will also be given to nonhazardous waste. Recent news reports of the New York garbage barge, medical waste washing up along eastern beaches, and scores of communities with no more landfill space have highlighted the growing waste disposal crisis.

Policymakers will also have to address the problem of rising U.S. oil consumption. Despite plentiful supplies now, we are headed once again toward oil shortages and gas lines if we remain complacent about our future energy needs. A reassessment of the Reagan energy policy of sharply cutting federal funding for alternative energy resources and energy conservation is getting underway. Environmental concerns—global warming from the burning of fossil fuels and acid rain damage from power plant emissons—will also effect future U.S. energy policy.

SMART START LEGISLATION INTRODUCED

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. KILDEE. Mr. Speaker, I am pleased to be introducing legislation today to assist States and localities in establishing prekindergarten education programs. This measure is the House companion bill to S. 2270, introduced by Senator KENNEDY, which is commonly referred to as Smart Start.

I agreed to introduce this bill because it raises issues which deserve our attention. The additional preschool experience which Smart Start contemplates is a worthwhile addition to the vital framework that is represented by the Act for Better Child Care [ABC], which I introduced in November 1987, and Head Start. Along with these two crucial building blocks, Smart Start can be a valuable component in an overall strategy of support for children and families.

My first priority remains the immediate passage of the Act for Better Child Care. The Act for Better Child Care [ABC] is a comprehensive bill which addresses the child care needs of families with children of all ages, from infancy through school-age. It would bring the Federal Government into a partnership with States and the private sector to help build a sensible child care delivery system. It would also help low- and moderate-income families pay for child care.

ABC addresses the variety of child care needs of working parents. Smart Start takes a narrower approach concentrating on a single, but important age group and is not a substitute for the ABC. Only the Act for Better Child Care contains all of the ingredients essential for a comprehensive child care system. These are: First, making child care more affordable for families who need it; second, increasing the supply and quality of child care; and third, establishing the minimum national standards that any prudent parent would want to protect the health and safety of their children.

An equally important priority is Head Start. Head Start has provided comprehensive childhood development services to poor children for over 20 years yet is able to reach only a fraction of these eligible for its outstanding services. This important program is up for reauthorization in the next Congress. Steps must be taken to ensure services for all Head Start eligible children by continuing to build this proven program which Congress has invested in so wisely since 1965.

As is the case with legislative proposals, Smart Start was written on Capitol Hill, not Mount Sinai. Questions regarding issues such as which entities shall be eligible to provide services, have already been brought to my attention. I welcome suggestions and recommendations for additional issues that should be looked at when this legislation comes up for consideration.

THE OIL PIPELINE REGULATORY REFORM ACT OF 1988

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. FIELDS. Mr. Speaker, today I am pleased to introduce the Oil Pipeline Regulatory Reform Act of 1988. This legislation is the product of long, intense discussions between the administration, the oil pipeline industry, shippers, and other interested parties.

Credit for achieving this compromise bill goes to the Department of Energy, the Department of Justice, and the Office of Management and Budget. Many individuals, too numerous to name, worked tirelessly to craft the Oil Pipeline Regulatory Reform Act. Additionally, I should commend the Vice President's Task Force on Regulatory Reform for their important assistance and for their strong support of oil pipeline regulatory reform.

The introduction of this package is an important step forward in resolving the regulatory quagmire now confronting oil pipelines. In 1906, the Hepburn amendment to the Interstate Commerce Act subjected oil pipelines to Federal regulation. At that time, 10,000 miles of oil pipelines existed, concentrated in the Northeast. Today, over 200,000 miles of oil pipelines crisscross the lower 48 States with many lines competing head to head.

In a 1986 report analyzing the need for continued regulation of crude oil and refined petroleum product pipelines, the Department of Justice concluded that all crude oil pipelines and most product pipelines face effective competition. The Department recommended deregulation of all pipelines except those pipelines which possess significant market power.

The Oil Pipeline Regulatory Reform Act of 1988 follows the basic approach recommended in the May 1986 Justice Department report. That is, crude oil and product pipelines which are found to face effective competition would be deregulated; those which are found to have significant market power would remain regulated. However, the rates of pipelines with significant market power would be regulated through the establishment of price caps rather than the traditional rate-of-return regulation originally envisioned in the report.

Instituting price caps on rates instead of cumbersome rate-of-return regulation will protect shippers and consumers while saving millions of dollars in regulatory costs. The price cap regulatory approach was suggested by Commissioner Charles Stalon of the Federal Energy Regulatory Commission. I would be remiss if I did not thank Commissioner Stalon for the benefit of his well-reasoned views.

The Oil Pipeline Regulatory Reform Act deregulates the rates of competitive pipelines. However, deregulation is not total. All crude oil and product pipelines would retain common carrier obligations. Pipelines could not discriminate on the terms and conditions of service provided to its customers.

Why is this bill necessary now? From 1906 until the late 1970's regulation of oil pipelines by the Interstate Commerce Commission [ICC] worked reasonably well. However, the Department of Energy Reorganization Act transferred authority over oil pipelines from the ICC to the Federal Energy Regulatory Commission [FERC]. Recent judicial decisions have forced the FERC to move toward pervasive, utility-style rate regulation which is particularly ill-suited to a generally competitive industry.

Although it is late in the year, I urge my colleagues to give the Oil Pipeline Regulatory Reform Act serious consideration. I welcome comments from my colleagues and from others affected by oil pipeline regulatory reform. This bill is a good product, and I hope it will be the basis for moving forward on oil pipeline regulatory reform. I commend the bill to my colleagues' attention.

THE NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. CLINGER. Mr. Speaker, townships and small towns are key threads in the fabric that make up modern America; our small communities define the dreams of our generations and serve as a link with all of American history.

Preserving the values of rural America and its sense of community should be a top priority for us all, because in doing so, we preserve a valuable part of our Nation.

Those who serve as townships supervisors and officials do all of us a great service and should be commended. Being the government officials closest to the people, they are the ones who must deal with immediate concerns and problems. Their importance is evident because they offer a greater voice in government and a solid opportunity to influence the decisions that affect us all.

These townships officials and supervisors are bound together by a national organization that effectively represents the concerns of each community. The National Association of Towns and Townships [NATT] works as a crucial link between local government and the State and Federal levels. Their task is important, but they must have the support of the Federal and State governments to succeed.

The NATT's policy seeks to insure that local governments are given flexibility and discretion in implementing State and Federal programs. The NATT believes that the most productive nation is one which relies on a strong partnership of the Federal, State and local governments, with each party doing what it does best.

The National Association of Towns and Townships must be commended for its work and should have our support, for in supporting their work we are supporting the sense of community and responsibility that makes a nation strong.

TRIBUTE TO KASELAAN AND D'ANGELO ASSOCIATES ON ITS EIGHTH ANNIVERSARY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. TORRICELLI. Mr. Speaker, I rise today to pay tribute to Kaselaan and D'Angelo Associates, Inc. on the eighth anniversary of its founding. On September 19, 1980, William "Chip" D'Angelo and Valdur Kaselaan created a company dedicated to enhancing the science of environmental engineering. Little did they or the Nation know the vital role their company would soon play in protecting the lives of all Americans.

Located in Haddon Heights, NJ, Kaselaan and D'Angelo has led the fight to properly rid school, government, and commercial buildings of the hazards of asbestos. They have fought to professionalize this new industry, ensuring strict training standards for abatement. And they have substantially advanced the cleanup of asbestos with the introduction of specialized computer management systems and safety techniques.

In addition to asbestos, Kaselaan and D'Angelo is providing innovative solutions in many fields. Their marine and aquatic science division posseses one of a handful of "underwater rovers and side-scan sonars"; in the United States. Using these tools they have created a variety of underwater solutions to protect the environment.

Kaselaan and D'Angelo is now in the forefront of the most potentially important issue of all, indoor air pollution. As this issue begins to take center stage, the private sector must step forward to offer those solutions crucial to the protection of our citizens.

Joining with key staff like Bettyjane Watkins, Chip D'Angelo and Val Kaselaan have performed a vital role in the cleanup of our environment. They are the heart and soul of a company that deserves our applause. I commend them.

"PATIENT IDENTIFYING INFORMATION CONFIDENTIALITY ACT OF 1988"

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. LIGHTFOOT. Mr. Speaker, today Congressman FRANK HORTON and I are introducing legislation which seeks to protect the confidentiality of individuals whose identities are revealed in documents acquired or created by the Public Health Service (PHS). This legislation would require the Secretary of the Department of Health and Human Services to delete patient identifying information, such as a patient's name, Social Security number, address and telephone number from PHS medical records, including adverse drug reaction reports, before releasing those records to Congress. Currently, the Secretary of HHS does not have the authority to restrict congressional access to patient identifying information, even if the patient requests that his identity be kept confidential.

This legislation is essential in ensuring that a patient's privacy is protected and that the physician/patient relationship is not jeopardized. Few matters are as private or as personal as an individual's medical condition. Typically, only an individual's physician has access to or is familiar with the medical records of that individual. However, in some cases, the Public Health Service, which includes the Food and Drug Administration, the National Institutes of Health, and the Centers for Disease Control, collects medical information about an individual, such as an adverse drug reaction report or documents pertaining to medical treatment at a Federal clinic. Once that information is in the possession of the Public Health Service, Congress has a right to review those records, including any patient identifying information.

While I acknowledge that Congress has important oversight responsibilities and has a legitimate right to review agency records and documents, Congress should not have access to patient identifying information contained in those documents. This legislation is not designed to deny Congress' right to review these documents, instead it seeks to permit the Secretary to remove patient identifying information from the records before releasing them to Congress. This would allow Congress to perform its oversight responsibilities while also ensuring that a person's identity is protected.

Protecting the confidentiality of a person's medical records has become even more important in light of the AIDS epidemic. The House will soon consider legislation designed to protect the identities of individuals who have tested positive for the HIV virus. This AIDS legislation includes strong provisions ensuring that a person's identity is not disclosed. We need to extend this protection of confidentiality to all individuals, including those whose identities are revealed in Public Health Service documents. Individuals deserve and expect to have their medical records kept confidential, and we should make sure that this occurs by considering the legislation that Congressman HORTON and I offer today.

I encourage my colleagues to cosponsor this bill and to push for its passage.

PERSONAL EXPLANATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mrs. SCHROEDER. Mr. Speaker, I was absent Friday, September 9. Had I been present, I would have voted as follows:

Roll No. 303: "Yea."
Roll No. 304: "Yea."
Roll No. 305: "Nay."
Roll No. 306: "Yea."
Roll No. 307: "Nay."

THE WATER RIGHTS OF UTE INDIAN TRIBE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. OWENS of Utah. Mr. Speaker, I am introducing today, a bill to settle issues relating to the water rights of the Ute Indian Tribe of the Uintah and Ouray Reservation, UT, and for other purposes.

I am committed to resolving the claims of the Ute Indian Tribe against the Federal Government which stem from a long history of agreements between the United States and these native Americans and breaches of those agreements.

This bill must not mistakenly be construed to be a charitable act toward the Ute Indians. The claims are based on a binding contract, in essence, a treaty with the United States, which the United States has knowingly chosen to breach for its own purposes.

If the Federal Government is not required to fullfil its obligations, a gross unfairness will be imposed upon the State of Utah. Utah's citizens would then be called upon to fulfill what is in reality, a national responsibility.

While I am not committed to every provision of this bill, I am committed to a speedy resolution of the claims, now asserted by the Ute Indian Tribe, most of which I believe to be valid.

INTRODUCTION OF LEGISLATION RETROCEDING CONCURRENT JURISDICTION OVER LORTON TO VIRGINIA

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. PARRIS. Mr. Speaker, I have today introduced legislation retroceding to the Commonwealth of Virginia, concurrent jurisdiction over the lands which make up the Lorton Reformatory complex operated by the District of Columbia.

This complex is comprised of approximately 3,000 acres which were transferred to the control of the Federal Government in nine separate parcels between 1910 and 1959. The Federal Government subsequently leased the lands to the District of Columbia which is itself a Federal entity.

As we all know, the situation at the Lorton Reformatory reached crisis proportions as long as a decade ago and it has continued to rapidly deteriorate. The response of the so-called leaders and correctional system managers in the District of Columbia has consistently been lipservice and buckpassing.

There have been several escapes from Lorton this year alone—one of whom, a murderer, simply got into a correctional officers car and drove away.

The Lorton facilities have been severely overcrowded for the last 8 years, consistently exceeding court-ordered population caps more recently. This overcrowding has precipitated large scale riots, the burning of the Occoquan facility, health threats to those living both inside and outside the facility. In general, the facility has become unmanageable.

All the while, Virginia and Fairfax and Prince William Counties have had to sit idly by and watch the situation at Lorton deteriorate. The counties, lacking the jurisdictional authority to compel the District to do anything, have instead has to rely on the good faith of the District to manage the threat to Virginia residents and to promptly notify the counties of any uprisings or escapes. The District has failed with flying colors to fulfill its good faith commitment.

The legislation I have introduced today would give to Virginia joint governmental, judicial executive, and legislative power and jurisdiction over these lands. In other words, the prison and its occupants would remain under the control of the District of Columbia. However:

If the District wants to build there, any structure must be constructed consistent with the Fairfax County building code and zoning restrictions.

If there are so many prisoners incarcerated at Lorton that the sewage treatment facilities cannot handle the load, as is currently the case, the Fairfax and Virginia can seek to prohibit any more prisoners.

If there are so many prisoners housed at one of the facilities that they pose a direct threat to the residents of Prince William and Fairfax Counties, then Virginia can again seek to limit the facility's population.

If there is an escape or an uprising at Lorton, the counties can institute mandatory notification procedures rather than relying on good faith of the District.

This legislation is not only essential to protecting the health and safety interests of the area's residents, but it is a fair and realistic way of addressing the injustice of the current jurisdictional arrangement. Nowhere else in the Nation does a sovereign State have to suffer as host to a prison from another jurisdiction without any say in the operation of that facility.

My legislation will most likely be jointly referred to the House Public Works Committee and the District of Columbia Committee, of which I am vice chairman. I am hopeful it will see some action during this session of Congress.

CITE AS: CHAPTER 482 OF THE VIRGINIA ACTS OF ASSEMBLY OF 1902

Chapter 482.—An Act ceding to the United States exclusive jurisdiction over certain lands acquired for public purposes within this State, and authorizing the acquisition thereof.

APPROVED APRIL 2, 1902

1. Be it enacted by the general assembly of Virginia, That the consent of the State of Virginia is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the constitution of the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, or any land in this State required for sites for custom houses, courthouses, postoffices, arsenals, or other public buildings whatever, or for any other purposes of the government.

2. That exclusive jurisdiction in and over any land so acquired by the United States shall be, and the same is hereby, ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the courts of this State; but the jurisdiction so ceded shall continue no longer than the said United States shall own such lands.

3. The jurisdiction ceded shall not vest until the United States shall have acquired the title to said lands by purchase, condemnation, or otherwise; and so long as the said lands shall remain the property of the United States when acquired as aforesaid, and no longer, the same shall be and continue exempt and exonerated from all State, county, and municipal taxation, assessment, or other charges which may be levied or imposed under the authority of this State.

4. This act shall take effect and be in force from and after its passage.

§ 7.1-18.1. Conditional consent given to acquisition of lands by United States; concurrent jurisdiction ceded.—A. On and after July 1, 1981, the conditional consent of the Commonwealth of Virginia is hereby given in accordance with clause 17, § 8, Article 1 of the United States Constitution to the acquisition by the United States, or under its authority, by purchase, lease, condemnation, or otherwise, of any lands in Virginia, whether under water or not, required for customhouses, post offices, arsenals, forts, magazines, dockyards, military reserves, or for needful public buildings.

B. The acquisition by condemnation of any property within the Commonwealth, not expressly consented to in subsection A of this section, shall require the prior approval of the General Assembly.

C. Over all lands hereafter acquired by the United States, the Commonwealth, hereby cedes to the United States concurrent governmental, judicial, executive and legislative power and jurisdiction.

There is hereby expressly reserved in the Commonwealth, over all lands so acquired by the United States, the jurisdiction and power to levy a tax on oil, gasoline and all other motor fuels and lubricants thereon owned by others than the United States and a tax on the sale thereof, on such lands, except sales to the United States for use in the exercise of essentially governmental functions. There is further expressly reserved in the Commonwealth the jurisdiction and power to serve criminal and civil process on such lands and to license and regulate, or to prohibit, the sale of intoxicating liquors on any such lands and to tax all property, including buildings erected thereon, not belonging to the United States, and to require licenses and impose license taxes upon any business or businesses conducted thereon. For all purposes of taxation and of the jurisdiction of the courts of Virginia over persons, transactions, matters and property on such lands, the lands shall be deemed to be a part of the country or city in which they are situated. Any such acquisition by or conveyance or lease to the United States, as is herein provided for, shall be deemed to have been secured or made upon the express condition that the reservations of power and limitations hereinabove provided for are recognized as valid by the United States and, in the event the United States shall deny the validity of the same, as to all or any part of such lands, then and in that event, the title and possession of all or any such part of such lands, conveyed to the United States by the Commonwealth, shall immediately revert to the Commonwealth.

Nothing herein contained shall affect any special act heretofore or hereafter adopted ceding jurisdiction to the United States, nor any deeds executed pursuant to § 7.1-21. (1976, c. 211; 1981, c. 533.)

TRIBUTE TO BETTY TURNER

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. MATSUI. Mr. Speaker, I am truly honored to rise today to pay tribute to a most distinguished member of the Sacramento community, Betty Turner. It is a great pleasure to be able to salute a woman who has done so much for the seniors in our city.

Betty ends her tenure as the director of the Sacramento County Commission on Aging. She has been chief executive officer during a period in which senior programs have become a leading issue, and her commitment to senior issues has helped to make the commission a vital service to the county. Her own desire to see a greater public awareness of the necessity of caring for our seniors has led to her forging links with State legislators and administrators for the good of the commission.

Betty's responsibilities with the commission have been only a part of her contribution to caring for our elders. She has previously served the community as office manager of the Galt Helping Network Project, and as a registered nurse in hospital and community settings, and these practical skills were reinforced when she graduated from U.C. Davis in 1980 in applied behavioral science. This office approach is backed by lifelong experiences with elderly friends and relatives, not to mention her family. Indeed, Betty is herself a senior.

Mr. Speaker, on Friday September 16, 1988, many of her friends and colleagues will join with Betty in Sacramento for a reception in honor of her years of distinguished service. I am only sorry that I am unable to be on hand to present this tribute. Betty is unquestionably a fine example to all those seeking to serve the community, and it is an honor to thank her for her contributions to Sacramento County, and to pass on my warmest wishes for her continued success.

PERSONAL STATEMENT

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. NOWAK. Mr. Speaker, on September 9, 1988, commitments in my district prevented my remaining to vote on the last rollcall of the day. I would like the record to show that had I been present, I would have joined the majority in voting "yea" on roll No. 307, to insist on the House language of the Hyde amendment to the Labor-HHS appropriations.

A TRIBUTE TO THE REPUBLIC OF CHINA

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. PERKINS. Mr. Speaker, in paying tribute to the Republic of China, whose National Day is to be celebrated Monday, October 10, certain images of the country might come to mind:

A picturesque, mountainous island surviving precariously under the looming shadow of Communist mainland China;

A producer of cheap, low-quality goods and purveyor of shoddy clones of reputable Western products;

An alien culture with only self-serving trade policies;

A minor-league player in the world markets, an economic upstart.

Although in size no larger than the State of Delaware, Taiwan is in 1988 already an economic powerhouse as well as a laudable example of democracy, a vital trading partner—the United States fifth largest—and a needed ally in the Far Eastern sphere.

With a trade surplus vis-a-vis the United States of some $1 billion a month with a per-capita GNP of $6,000 and present cash reserves of United States $75 billion, the Republic of China is now the world's 11th largest trader. It is now more important than ever for relations between our two countries to be fine tuned to insure continued economic success and mutual understanding.

Whatever people in the past have liked to believe, or failed to understand about this island republic, we can to longer fail to concede Taiwan's right to be ranked among the major world trade powers.

Her standing as a leading model of democracy, her importance as a trade and financial center, and her standard of living are a tribute to her people and to her leaders. We in the United States note her accomplishments and wish her President, Mr. Lee Teng-hui, and her representative to the United States Mr. Ding Mou-shih, another eight decades of prosperity and good fortune.

IN REMEMBRANCE OF HELEN FARABEE

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. PICKLE. Mr. Speaker, the State of Texas suffered the loss of one of its finest and most dedicated public servants in July with the death of Helen Farabee.

In working closely with her husband, former State Senator Ray Farabee, Helen made a meaningful difference in the lives of millions of Texans whom our society too often overlooks: The mentally ill and retarded, those too poor to pay for basic health care, and countless other less privileged citizens.

The quality of life for these Texans is significantly improved because of the tireless efforts of Helen Farabee. She leaves a lasting mark on the history of the State of Texas, and it is a better place because of her good works.

I know my colleagues will want to join me in extending our profound and heartfelt sympathy to Ray Farabee, who has left the State Senate to work as the general counsel of the great University of Texas system, and to the other members of the Farabee family and all of Helen's close friends and associates. Her loss will be keenly felt.

Mr. Speaker, I want to submit for the RECORD these published comments about the life and accomplishments of Helen Farabee, authored by longtime political observer Sam Kinch and Texas State Representative Lena Guerrero of Austin.

[From the Dallas (TX) Morning News, Aug. 5, 1988]

HELEN FARABEE: A DO-GOODER WHO KNEW BACKSTAGE POLITICS

(By Sam Kinch)

Too often in life, we don't recognize—seriously—what others have done before their deaths.

That's part of the story of Helen Farabee, who died last week. She was truly one of God's chosen people.

But there's an untold public story about Helen Farabee: She was, in addition to being a do-gooder, a hell of a character.

Here was a tall, somewhat gangly, gregarious Yankee who came to Texas because she fell in love with a guy who happens to be, also, a sterling person. And while after nearly 30 years here she still talked a little bit funny for native Texan ears, Helen Farabee got to be one of the better backstage Texas political operators.

The reason: Perhaps as well as anyone did in the last three decades, Helen Farabee learned how to "work" the good-ole-boy system of Texas politics.

She did it, in part, because of her husband's career in public life. Ray Farabee, one of the most decent folks to serve in public office in the last half of this century, was a state senator for 14 years until he resigned this winter to become a vice chancellor and general counsel for the University of Texas system.

During his Texas Senate tenure, he was, if it's not an oxymoron, a businessman's liberal. He fought the business fights for reform of the civil judicial system, for example. But he also fought for the rights of criminal defendants and prison inmates. He was on the side of business in head-on tax battles, but he also wanted a reasonable share of taxes devoted to human services.

An it's in that area, basically, where Helen Farabee the senator's wife became a public person herself.

Perhaps as much as anybody in the 1970s and 1980s, she was, as a 1950s college graduate, an activist of the 1960s model. That is to say, she believed in direct confrontation of problems and, when necessary, direct action against the established, comfortable forces of inaction or reaction.

Helen Farabee served on a series of task forces that studied problems of service delivery in Texas government. But while keeping her eye on the prize, she never lost sight of those who were part of the system by which the problem would be solved.

She did not pander. That wasn't her style. She would "present" information or an agenda. And if that wasn't persuasive, she would cajole like a county commissioner from late 19th-century rural Texas.

Helen Farabee worked a task force like a cotton gin does its raw material: You break it down into components, move what's useful or practical to one side, spend time dealing with that fruitful portion and toss out the rest—with the hope that all or part of it still might be used later.

Helen Farabee could work the system both ways: She could be a mechanic dealing in policy and program and personnel details, but she also was a big-picture person who never forgot why the study was under way in the first place.

From a place of relative privilege and affluence, she was an advocate for those who have neither status nor money—the poor, the sick, the socially afflicted, the mentally ill.

Indeed, one of the funnier stories following her Austin memorial service has to do with a not untypical Farabee exercise.

Five or six years ago, Helen Farabee began a series of fund-raisers for the Texas Mental Health Association. Her husband was not only a senator, but one of the senators most closely tied to the Senate leadership.

He didn't need campaign money for himself (they were relatively rich, remember, and he had no opposition of consequence). So she proceeded to use his name and hers to raise money for mental health spending supplements for the state-financed department.

The affairs began modestly, at about $1,000 per table. But when Helen Farabee learned that the business lobby was sensitive to Sen. Ray Farabee's fund-raising activities for whatever cause, the cost quickly escalated to as much as $10,000 per table for corporate sponsors.

It would have been illegal, of course, for corporations to give to a political campaign. But it was and is legal to use a prominent person's name to raise money for a public, charitable cause like mental health.

But in order to avoid an embarrassment of corporate riches, the business lobby sponsors of the annual affair would be kept separate from the rest of the crowd as guests honored various fund-raising figures—including political heavyweight Jess Hay and his wife, Betty Jo, and Lt. Gov. Bill Hobby and his wife, Diana.

That's why Helen Farabee was so good. She learned the political system, took control of it in the public interest and helped make it work. She made us all better for it. And, in the process, she established a paradigm for everybody—not just political wives with do-gooder instincts.

A SPECIAL TRIBUTE TO A SPECIAL LADY: MRS. HELEN FARABEE

(By Lena Guerrero)

A very special lady who did a great deal for a great many is not with us anyone.

Helen Farabee, the wife of former State Senator Ray Farabee (D-Wichita Falls), died July 28 in Austin of complications resulting from phlebitis and lung cancer.

Mrs. Farabee leaves an astounding list of accomplishments and contributions. Her service to the citizens of Texas serve as a vivid reminder of the impact that one committed individual can have at so many levels, in so many ways, and in so many lives.

Mrs. Farabee began her work in health care reform in her home community of Wichita Falls. She once described her direction into health care reform as coming from a phone call requesting that she volunteer at the Wichita Falls State Hospital. Several years later she was chosen president of the Wichita County Mental Health Association. Within a decade, she became state president.

Helen Farabee held many statewide leadership roles over the years. From 1978 to 1981, she chaired the Special Senate Committee on Delivery of Human Services, which led to the creation of the Texas Health and Human Services Coordinating Council.

The Mental Health Code Task Force she chaired from 1981 to 1983 resulted in the first major revision of the state mental health code since 1957. Many of the advances in the rights of the mentally ill in Texas were a result of those revisions. Mrs. Farabee was also instrumental in the creation of the Texas Department of Mental Health and Mental Retardation in the mid-1960s.

In 1983, Governor Mark White appointed Mrs. Farabee to a 30-member Governor's Commission for Women and named here chair of the Problems and Issues Committee. Pursuant to the work of that committee, the Legislature passed a bill allowing citizens to vote on a Constitutional amendment that would authorize wage garnishment for delinquent child support payments. In 1985, she was inducted into the Texas Women's Hall of Fame.

She chaired the Governor's Task Force on Indigent Health Care from 1983 to 1985. Mike Hudson, Texas director of the Children's Defense Fund, worked with Mrs. Farabee to pass the Indigent Health Care Act in 1985 and said, "Texas would not have an indigent health care program if not for Helen Farabee."

Noting here ability to work with all segments of the Community and bring them together, Hudson described Mrs. Farabee as a "statewide troubleshooter" and said, "She was willing, if we ran into a problem in the Valley or in El Paso, to fly there and meet with the providers and the local officials and work out their problems."

Last session, the Legislature created the Child Day Care Advisory Committee of the Texas Employment Commission. Helen Farabee was appointed to serve on that committee, which was given the responsibility for providing information and technical assistance to public and private employers for offering child day care as an employment benefit.

Mrs. Farabee also served as chair of the United Way of Texas Child Care Working Group. She worked at the Benedictine Resource Center in public policy and served on the Commission on the Mental Health of Adolescents and Young Adults.

When Ray Farabee resigned from his seat in February of this year to become vice chancellor and legal counsel for the University of Texas System, Helen Farabee sought to replace him. She withdrew her candidacy after a committee of county Democratic chairs chose someone else to replace Ray Farabee on the general election ballot.

A tireless advocate, Mrs. Farabee never gave up in the quest to provide services to the needy, despite resistance from many who said such programs were unworthy or unnecessary. She once said it always seemed that "people didn't want to be bothered by the facts." Her life can be characterized as one devoted to the improvement of our public services that help the children, the poor, the disabled, the elderly, the abused, and those otherwise unable to help themselves.

State Treasurer Ann Richards said, "She counseled the powerful about the needs of the powerless, and because she always spoke with reason and decency, she was heard." Ms. Richards served with Helen Farabee on a statewide panel on human services.

We can say that Helen Farabee was willing to work for change and for a better world. We can say she listened to and spoke on behalf of those whose voices are not often heard. We can say that she made a difference in our state. We can say thank you. And we can know she will be sorely missed.

THE SECOND INTERNATIONAL VAGINAL SURGERY CONFERENCE

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. BUECHNER. Mr. Speaker, I rise today to mark the occasion of the Second International Vaginal Surgery Conference and the revolution in women's health care it represents. Traditional hysterectomy surgery is the Nation's second most common surgical procedure, with an estimated 680,000 surgeries each year at a cost of $1.7 billion. In a dramatic discovery, physicians have pioneered a new technique which performs hysterectomy surgery vaginally without the need for incision.

It is this discovery which brings a most distinguished assembly of specialist physicians from around the world to St. Louis, MO, to build on the growing body of knowledge developing daily on this exciting new frontier.

Under the direction of conference director S. Robert Kovac, M.D., one of the world's foremost practitioners of this new technique, the nearly 300 attendees will bring some of the greatest minds in medicine to bear on the challenges alternative practices represent.

Mr. Speaker, in a year in which we have paid close attention to the future of health care and the pursuit of women's issues, we must not neglect the discovery of viable and cost-effective new options in the field of women's health care. The pioneering effort of Dr. Kovac and his colleagues reminds us all that meeting health needs is not simply a matter of repeated medical and surgical routine, but is in addition the invention of new and better techniques and practices to insure the health and well-being of our citizens. It would serve this Nation and the rest of the world well to recognize and salute the efforts of Dr. Kovac and the many physicians and surgeons who will carry the practice of health care into the next century.

SALUTE TO THE GOLD COAST REGIONAL SENIOR OLYMPICS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. LAGOMARSINO. Mr. Speaker, I wish to bring to the attention of my collegues, the fourth annual Gold Coast Regional Senior Olympics, previously known as the Ventura County Senior Olympics. The Olympics will begin with a ceremony at the Ventura County Board of Supervisors chambers at 9:30 a.m. on September 20, 1988. The honorary chairman, California Senior Legislature Assemblyman Leigh Strohbehn, will turn on the perpetual light which will remain lighted throughout the 2½ weeks of the games.

Minimum age for participation is 55 years and winners of some events may have the opportunity to qualify for participation in the National Senior Olympics.

The events will be scheduled in various cities in Ventura County and will consist of badminton, ballroom dancing, billiards, bicycling, bowling, golf, horseshoes, lawn bowling, shuffleboard, slow pitch softball, swimming, table tennis, tennis, and walk-run.

Last year more than 400 senior athletes participated in the Olympics, over 500 are expected to participate this year, including six softball teams.

Please join me in wishing all the participants the best of luck in their events.

TRIBUTE TO COLONEL GEORGE K. HOERTER

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. GRANDY. Mr. Speaker, I would like to take this opportunity to pay tribute and say a special thank you to Lt. Col. George J. Hoerter, U.S. Air Force, for his unmatched professionalism and leadership displayed as Deputy Chief, and Division Chief of the Weapons System Liaison Division, Air Force Office of Legislative Liaison.

Joe Hoerter's keen insight into the many complex issues that arise from our review of the defense budget has aided immeasurably in our understanding of Air Force programs. He has built strong, personal relationships with key Senators, Congressmen, and staff through his honesty and professionalism. He knows the congressional system, and on every occasion, has provided us the answers we needed quickly and with the benefit of his broad experience.

Colonel Hoerter is a command pilot with over 3,500 hours of flying time, including service as a strategic airlift pilot and chief test pilot of the NKC–135, Airborne Laser Laboratory. In addition, he has held staff positions of increasing responsibility, including program management, acquisition, and finally Division Chief of the Air Force Legislative Liaison, Weapons Systems Division.

The distinctive accomplishments of Colonel Hoerter culminate a distinguished career of over 20 years in the service of his country. I am both pleased and privileged to have worked with this outstanding officer, and I wish him every success as he leaves the Air Force.

THE 75TH ANNIVERSARY OF SHEARITH-ISRAEL

HON. MAC SWEENEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. SWEENEY. Mr. Speaker, I rise today to pay tribute to the congregation of Temple Shearith-Israel in Wharton, TX, as they celebrate the 75th anniversary of their founding.

In addition, as this congregation prepares to celebrate Rosh Hashana, I would like to offer each and every member of this synagogue my most sincere wishes for a happy and prosperous New Year.

The high holidays have always occupied a place of special importance in the Jewish calendar. This celebration of the Jewish New Year serves as a symbolic reminder of the strength of Judaism to withstand 5,749 years of oftentimes tumultuous history, as well as the eternity through time of G-d's chosen people.

But this year, in particular, carries an even greater measure of weight for this synagogue because it marks a milestone in the history of this congregation. The event to which I refer, of course, is the 75th anniversary of Congregation Shearith-Israel, commemorating no less than three-quarters of a century of service to G-d and humankind.

Under the leadership of Rabbi Aaron Weinberg, members of this congregation have been at the forefront of progress in their community. Their unselfish service to the city of Wharton and beyond has been greatly appreciated both by members of their faith and by those of other religious denominations as well. The dedication these members have shown in strengthening and preserving Judaism may serve as a model to us all.

My commitment to Israel has always been a strong one, and I promise that it will continue to be so in the future. I share with the members of this most esteemed congregation a deep loyalty to the State of Israel, and a firm belief in the preservation of its sanctity. Because of their efforts as members of the Jewish community, Israel was born, and because of their continued support, Israel remains strong.

I am honored to ask my colleagues in the House of Representatives to join me in congratulating the members of Congregation Shearith-Israel as they celebrate 75 years of strong support and leadership that this synagogue has provided to the Jewish community. May this Rosh Hashana usher in for all of them a year of health, happinesss, and prosperity. And may the Heavenly Father bless our country and Israel, bestowing upon us all that most precious gift, the gift of peace.

A+ TO MARYETTA ELEMENTARY SCHOOL

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. SYNAR. Mr. Speaker, this week 29 people from Stilwell, OK, are in our Nation's capital to join other school officials being honored by President Reagan. Maryetta Elementary School, a predominantly Indian school in the northeastern Oklahoma foothills, is one example of where elementary education shines, according to the final report of Education Secretary William J. Bennett.

Maryetta is one of only seven schools in the United States singled out for special recognition in Secretary Bennett's report entitled "James Madison Elementary School: A Curriculum for American Students."

The report noted that in 20 years Maryetta has grown from a two-room building with a few dozen students to a sprawling modern structure with nearly 400 students in kindergarten through eighth grade.

The student body is almost 80 percent Native American, and virtually all of the students participate in school lunch and breakfast programs. Maryetta teaches a traditional English program as well as a Cherokee language class where Indian and other students work side by side.

Principal Carthel Means is a community leader who knows the secret of public education: "Everyone gets involved." He points out that the school's program stresses language skills, a hands-on science curriculum that encourages understanding through observation, a rigorous math program, and social studies lessons that include field trips to local historical sites. Daily student attendance is a remarkable 97 percent, and the school voluntarily lengthened its school day by 30 minutes. Standard achievement tests show 80 percent of Maryetta students performing above the national average in reading and mathematics.

Mr. Speaker, I am proud to represent the people of Stilwell and Maryetta School. I join with others today who celebrate a school and community which provides a shining example of education excellence for the whole Nation.

THE 48TH FIGHTER SQUADRON ASSOCIATION (14TH FIGHTER GROUP) HONORS WALTER A. WHITE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. TORRES. Mr. Speaker, I ask my colleagues to join with me today in saluting Walter A. White, lieutenant colonel, USAF, retired. Lieutenant Colonel White will be honored at a national reunion of the 48th Fighter Squadron Association and 14th Fighter Group, 15th Air Force on September 20, 1988, in Sacramento, CA.

Lieutenant Colonel White distinguished himself as a squadron leader and combat fighter pilot in Africa and Italy, from 1943 through 1945, flying 85 missions against the enemy scoring 4 victories as well as leading his men to recognition as the top locomotive busting squadron in that theater of operations. He was decorated with the Air Medal with 14 clusters, the Distinguished Flying Cross with 1 cluster, the French Croix de Guerre unit citation and 8 battle stars.

When hostilities broke out in Korea, Colonel White was immediately recalled because of his excellent record. He again distinguished himself by flying 325 support sorties over enemy territory from Japan and Indo-China bases from 1951 to 1954 and was recognized with the Bronze Star citation.

Walter A. White was raised in Portland, OR. His interest in flying began in high school. He joined the U.S. Army in March 1942 and was accepted by the U.S. Army Air Corps in September 1942. He graduated as a pilot at Williams Field, AZ, in July 1943 and began his combat experiences 2 months later in Africa.

Colonel White is one of the most respected commanders in the history of the 48th Fighter Squadron.

In September 1965, Lt. Col. Walter A. White was given a medical discharge just 1 month prior to his scheduled appointment to a full colonel in the U.S. Air Force. He has been on kidney dialysis since 1977. He and his wife, Gerri now live in Sacramento; they have no children.

Mr. Speaker, I ask my colleagues in the House to join with me in saluting Lt. Col. Walter A. White, a brave individual, a man who has given of himself to his country above and beyond the call of duty.

FRANCES DUNCAN TO RETIRE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. DARDEN. Mr. Speaker, our right to vote freely for the people we believe will best represent us in public office is among our most cherished freedoms as Americans. Of course, the effective exercise of that right to vote demands that the elections process itself be operated in a way which assures fairness and accuracy.

During the 21 years that she has served as director of the elections division in the Georgia secretary of state's office, Mrs. Frances Duncan has helped assure the integrity of elections in our State. Now, she is making plans to retire in December. I would like to commend her for many years of devotion to this most important duty, and call my colleagues' attention to her accomplishments.

Mrs. Duncan's career with the State of Georgia began in 1964, when she became a tour guide at our State capitol in Atlanta. She moved on to become a clerk in the secretary of state's office, then assumed leadership of the elections division when it was formed in 1967.

Over the years, her department has grown from 1 person to 14. Its responsibilities now include administration of State and Federal campaign and financial disclosure requirements, the commissions division, business transactions reporting guidelines, registration of lobbyists and, of course, all State elections.

While serving in the Georgia House of Representatives a few years ago, I worked with Mrs. Duncan to develop legislation for the nonpartisan election of judges. I have always found her to be a most responsible and capable public servant, one who understands her sacred trust as the manager of our elections process. I am pleased to say that, during her 21 years as head of the elections division, there has never been a serious complaint about the elections process.

Frances Duncan has served her State and its people well over the years. I would ask my colleagues to join me in extending to her our wishes for a healthy and happy retirement.

CONGRESSIONAL VIGIL FOR SOVIET JEWRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. LEHMAN of Florida. Mr. Speaker, I am honored to add my voice to the 1988 Congressional Call to Conscience Vigil for Soviet Jewry. This program brings to light the situation of thousands of Soviet Jews whose wish to emigrate from the Soviet Union has not yet been fulfilled.

This week marks the beginning of the Jewish New Year, and hopefully a renewed dedication to the plight of refuseniks in the Soviet Union who are denied the right to emigrate or observe the traditions of Judaism. It is in this spirit that I would like to highlight the case of Evgeny Lein and his family.

I still remember the sobering meeting I had with Evgeny Lein during my trip to Leningrad in 1984. He has suffered from beatings and the physical and mental deterioration that comes from years of mistreatment and frustration. Evgeny Lein, his wife Irina, and son Alexey have been requesting permission to immigrate to Israel since 1978. Their sole wish is to be reunited with their daughter Sasha who emigrated in 1987 with her husband. When Evgeny first applied to emigrate, he was denied permission because he served in the army between 1969 and 1970. Due to this, the Government stated that it would not be in the best interest of the Soviet Union to grant permission. Evgeny's security clearance was lifted in March of this year. Now, his wife Irina is being unfairly branded as a security risk due to a job she held 10 years ago, in which the Government claims she had access to secret information. Though Irina's former employer agrees that she did not work with secrets, he refuses to put this in writing. Even Gorbachev, in his October 1985 meeting with French President Mitterand, stated that security restrictions have a statute of limitations of 5 years. Since the Lein's son, Alexander, who is still 17 years old, has not yet been drafted into the army, he is not barred from emigrating.

We must join Evgeny Lein in questioning whether glasnost also benefits the Soviets living today or is relegated to rewriting history books. We must continue to press for the release of Evgeny Lein and other refuseniks who have yet to experience any improvement in their lives.

CAPITAL PUNISHMENT AND DRUG ABUSE—RELIGIOUS LEADERS CONDEMN CAPITAL PUNISHMENT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1988

Mr. CLAY. Mr. Speaker, why is it necessary to kill people who kill people to prove to people that killing people is wrong? That is precisely what those who support attaching a death penalty amendment to drug abuse legislation recommend. Mr. Speaker, every major religion in this country has gone on record in opposition to the use of capital punishment.

The U.S. Catholic Conference—the corporate title is the Catholic Bishops of America—in 1974 and again in 1980 declared their abhorrence to the death penalty. Meeting in November 1980, the Bishops issued a 3,500 word position paper stating their position on capital punishment was a "Manifestation of our belief in the unique worth and dignity of each person, a creature made in the image and likeness of God." They admit that society not only has a right but also a need to punish those who violate the law. Citing necessity to protect the public from dangerous persons, they insist such needs, "neither require nor justify taking the life of the criminal, even in cases of murder." There seems to be no middle ground for Catholics on this basic question of morality according to American Catholic Bishops.

The Bishops stated:

> We believe that in the conditions of contemporary American Society, the legitimate purposes of punishment do not justify the imposition of the death penalty. In the first place we note that infliction of the death penalty extinguishes possibilities for reform and rehabilitation. Second, the imposition of capital punishment involves the possibili-

> ty of mistake. Third, the legal imposition of capital punishment in our society involves long unavoidable delays. Delay also diminishes the effectiveness of capital punishment as a deterrent. Fourth, we believe that the actual carrying out of the death penalty brings with it great and avoidable anguish for the criminal, for his family and loved ones, and for those who are called on to witness or to perform the execution. Fifth, in the present situation of dispute over the justifiability of the death penalty and at a time when executions have been rare, executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion. Sixth, there is a widespread belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner.

Bishop Edward D. Head of Buffalo, who assisted in drafting the position paper for the conference said, "Our statement was grounded in the belief that the taking of life should not be answered by more violence in the taking of (more) life."

The leadership of the American Catholic Church is unalterably opposed to capital punishment. The same as members of other denominations, there is no possible equivocation for Catholics on this basic question of morality. Their November 1980 resolution condemning the death penalty passed by a vote of 145 to 31 with 14 not voting

JUST SAY NO TO DEATH PENALTY

Mr. Speaker, a coalition of distinguished American church leaders opposed reinstatement of the death penalty for certain Federal crimes in 1981. In so doing, they demonstrated their opposition to capital punishment in a broad-based attack on Senate bill 114, introduced by Senator Strom Thurmond of South Carolina. The bill would have allowed capital punishment for a number of Federal crimes. In a strongly worded letter written to every Member of the U.S. Senate, 14 of the most prestigious religious leaders in America opposed the reinstatement of the death penalty. The letter stated in part:

> The religious traditions which we represent share a common belief that all human life is sacred. We believe that every individual has a unique worth and dignity which is given by God * * * We believe that the penalty fails to achieve the goal of protecting society and in fact perpetuates this tragic cycle of vengeance and violence.

The list of signatories of the letter read like "Who's Who" in American Judeo-Christian society: The Rt. Reverend John M. Allin, Presiding Bishop, the Episcopal Church (I.S.A.); Ross T. Bender, moderator, Mennonite Church General Assembly; Bishop James R. Crumley, Jr., Lutheran Church in America; Arie R. Brouwer, general secretary, Reformed Church in America; Rabbi Alexander M. Schindler, president of the Union of American Hebrew Congregations; Bishop H. Ellis Finger, Jr., president, Council of Bishops, the United Methodist Church; Avery D. Post, president, United Church Christ; William P. Thompson, State clerk of the general assembly, United Presbyterian Church in the United States; Kenneth L. Teegarden, general minister and president, Christian Church—(Disciples of Christ); Stanley Bohn, executive secretary for home ministries, General Conference Mennonite Church; James E. Andrews, State clerk, the General Assembly of the Presbyterian General Board, Church of the Bretheren; Rev. Msgr. Francis J. Lally, secretary, Department of Social Development and World Peace, U.S. Catholic Conference; and Rev. Dr. Eugene Pickett, president, Unitarian Universalist Association of Churches in North America.

The introduction of the bill, which calls for the death penalty in cases of espionage, sabotage, treason, and murder on Federal property—and passage in the Senate, are signs of the times. Despite the lack of evidence that these crimes are increasing, the Senate in its collective wisdom passed the bill. Mr. Speaker, now we are confronted with another attempt to impose the death penalty in cases involving narcotic trafficking. There is absolutely no empirical study showing that the death penalty deters crimes or criminals and certainly no reason to believe that its threat will stop incorrigibles from dealing drugs.

Even when the Federal Government was empowered to use the death penalty in cases against civilians, only rarely was it imposed. The only two civilians ever convicted in a Federal court and executed for espionage were in the nuclear spying case of Julius and Ethel Rosenberg in 1953.

The 14 signers of the plea to the U.S. Senate opposed to the Thurmond bill representing an awesome array of religious and moral power. They are highly esteemed members of the clergy recognized worldwide in their respective denominations. Not one has been labeled as liberal extremist or religious zealot agitating to do grave damage to any well-founded theological tenets.

Mr. Speaker, I recommend my colleagues give undue weight to these religious leaders heavy moral pronouncements.

PRO-LIFE AND CAPITAL PUNISHMENT

Mr. Speaker, I am appalled that so many Members of this body who consistently use the well of this House as a forum for championing the "right-to-life" of the unborn are now demeaning the sacred lives of those already born by supporting a capital punishment amendment to the Omnibus Drug Initiative Act. This contradictory behavior, however, is by no means exclusively limited to Members of Congress.

Recently, when the Roman Catholic Bishops of America suggested that the right-to-life movement expand its agenda to include poverty, hunger, nuclear war, and capital punishment, an intense disagreement between leadership and laity erupted and became a matter of public debate. The recommendation to align these issues soared among ultraconservative, Catholic, anti-abortion groups like a lead-filled balloon. If the Catholic Bishops are not more judicious in their moral interpretations, they may soon find themselves the objects of petition drives demanding their impeachments.

Despite the direction given by religious leadership, most Christian followers refuse to recognize the logical link between right-to-life and the abolition of capital punishment. Speaking to this point, the Catholic Bishops of the United States said:

> We do not wish to equate the situation of the criminals convicted of capital offenses with the condition of the innocent unborn or of the defenseless aged or infirm, but we do believe that the defense of life is strengthened by eliminating exercise of a judicial authorization to take human life.

The American Bishops have been backed on this issue by Pope John Paul II. A spokesman for the Vatican said:

> If we are going to be for life, we have to be for all life, not just in the womb * * * and this Pope is definitely for life.

In spite of this endorsement, Cardinal Joseph L. Bernardin of Chicago, who advanced the idea of aligning other moral considerations with the right-to-life movement, has found himself under attack from the Catholic right.

Robert M. Patrick of the ad hoc committee in defense of Life Inc., explained that:

> A broad range of pro-life leaders * * * are rejecting the Chicago Archbishop's demand that abortion be made just another issue among many others—ranging from poverty to a concern for human rights in El Salvador—because it would deny abortion's unique status as the nation's premier social issue * * *

In the organization's newsletter, "Lifeletter," it was reported, "The great majority of antiabors (sic) reject linkage of abortion with anything else." That judgment was the result of a nationwide poll. In a similar reaction to Cardinal Bernardin's proposal, an antiabortion group in Massachusetts adopted a resolution decrying "Any and every attempt to classify as pro-life any candidate * * * locally or nationally, who supports abortion, promotes abortion or votes to fund abortion." The "Catholic Eye," a conservative news organ of the church opines, "Pro-abortion Catholic politicians like Senators Teddy Kennedy and Vermont's Pat Leahy can now claim to be as pro-life as, say, Henry Hyde or Jesse Helms—you know, they just take different sides."

Mr. Speaker, the bishop's statement makes it clear that it is inconsistent to cherish the life of the unborn and at the same time demean the life of those already born. In the vernacular of the ghetto, the bishops are saying, "That bird won't fly."

Speaking of birds, one member of the pro-life movement, James Hitchcock, a professor of history at Saint Louis University, rejected Bishop Bernardin's wedding of abortion to capital punishment. He wrote, "The bishops want to shed the abortion albatross by changing the subject from abortion to the immorality of nuclear war * * * "

Others in the right-to-life movement are not so poetic in their depictions. A board member of Missouri Citizens for Life, said, "Abortions and nuclear war are not analogous moral questions."

It seems as if ardent supporters of the pro-life movement who also advocate the death penalty adhere to a definition of life which is limited in scope and relegated to a time certain. As our colleague Representative Barney Frank of Massachusetts said recently "* * * according to them, life begins at conception and ends at birth." What occurs after that miraculous occasion is of far less consequence to them. Perhaps that explains why most pro-lifers oppose Government funding of programs to clothe the naked, feed the hungry, and house the homeless. It also may explain how they rationalize hawkish stances on war and nuclear proliferation while displaying little concern for toxic contamination of the air and water. If life begins at conception and ends at birth, why should anyone give serious thought to what transpires thereafter?

Executing a 13-year-old boy in the electric chair at a State prison in Florida is acceptable to those same people who believe that aborting a 13-day-old fetus is sufficient cause for a massive protest demonstration. In fact, recent marchers sponsored by the National Right-to-Life Movement have attracted thousands of people to Washington, DC. These marches are scheduled to coincide with the anniversary of the 1973 Supreme Court decision—Roe versus Wade—which held that the Constitution protects a woman's decision to terminate her pregnancy. Although the same Supreme Court is responsible for opening the floodgates and allowing States to take the lives of over 1,400 prisoners, few, if any of the protesters have decried this particular assault on human life.

Mr. Speaker, since Cardinal Bernardin observed the relationship between abortion and other life support issues, most leaders of the pro-life movement have scrambled to capture the moral high ground. While emphasizing abortion as the only question of ethics on the political horizon they carefully articulate the evils of nuclear war, decry the abandonment of the sick, the hungry and the elderly, and silently disregard capital punishment. The leaders of this movement have demonstrated a single-minded crusade to defeat all elected officials who disagree with them on the question of abortion, while simultaneously embracing those who oppose the other life support issues inherent in the right-to-life struggle—including capital punishment.

NARCOTICS, HANDGUNS AND THE DEATH PENALTY

Mr. Speaker, once again Members of Congress are engaging in a charade. This time it involves a purported concern about the growing menace of illegal narcotics and a real determination to curb its pervasiveness. Many of us claim to be genuinely sincere about ridding society of this danger. If so, why are we equivocating and procrastinating on the single, most critical issue making drug trafficking possible—the absolute availability of guns.

Mr. Speaker, those of us interested in eradicating drug related crime should be talking about making the manufacture, sale, and possession of guns illegal. Advocating a 7-day waiting period is only a cosmetic approach to this desperate problem.

With each act of killing, each act of mayhem, each act of violence—official and unofficial—our society becomes a little less civilized. The masses refuse to take issue with policy that is psychologically in synch with their own distorted opinions about capital punishment. Elected officials conversely find moral strength in popular opinion. So the cycle is completed and continues in self-propelled motion. Rather than deterrence we have an escalation of violence.

In the year 1980, only 77 people were killed in Japan by handguns; 18 in Sweden; 8 in Great Britain; 23 in Israel; 24 in Switzerland; 4 in Australia and 8 in Canada. Those murdered by handguns in 7 industrial countries comprising a population of over 250 million people totaled 278. During the same year in the United States, a nation of 232 million or 18 million fewer people, there were 11,522 persons killed by handguns. This exhorbitant number does not indicate that citizens of other countries are more civilized than we. It simply means that other nations more scrupulously control the weapons of violence frequently used for slaughtering people.

Other advanced societies consider it a serious offense to possess handguns. In our culture it is considered a badge of honor. No patriotic, red-blooded American would be caught without a magnum 45 or a 38 special on his premises. The question is not so much the "right to bear arms"; it's one of an imagined need to do so. The availability of millions of handguns and easy accessibility to them reduces the United States to an armed camp of citizen combatants where the murder rate is uncontrollable. Arguments by at worst, "Guns don't kill people—people kill people" is a trite euphemism. It does not begin to answer the basic question of why less than 300 people killed 300 other people in 7 other civilized nations approximating the population of the United States while over 11,000 people were killed with handguns in the United States. The "right to bear arms" is the most slanderously misinterpreted section of the Constitution. That guarantee was ratified when a citizen army was the only viable protection for this country and a gun was the only means of repelling wild animals. Our national militia now has the responsibility of protecting this Nation and its freedoms. The U.S. Government and its 50 States spend billions of dollars a year to perform this task.

The right to bear arms is vague and misleading. If the Government can enact laws which make it illegal to possess machineguns, bazookas, and howitzers without infringing on the constitutional right of citizens, why can't it impose the same conditions on handguns? The right to bear arms in the Constitution does not specify handguns. It could very well mean bows and arrows, poisoned darts, M1 tanks and atomic bombs. In a recent speech before the American Bar Association, retired Supreme Court Justice Lewis F. Powell, Jr. said: "With respect to handguns * * * it is not easy to understand why the Second Amendment, or the notion of liberty, should be viewed as creating a right to own and carry a weapon that contributes so directly to the shocking number of murders in the United States."

If murder, while engaged in narcotics trafficking, is the reason for supporting the death penalty in our drug abuse legislation, and if handguns are usually used in those murders, logic dictates that the question of handguns be addressed.

Organizations such as the National Rifle Association raise millions of dollars annually by propagandizing the public into believing that the foundation of our democracy rests on the inalienable right of citizens to own pistols. Meaningless slogans employed to panic the population into lobbying their elected officials and donating millions of dollars to the coffers of the NRA are logical extensions of the pro-gun committee.

Legitimate arguments and real issues are brushed aside in a storm of emotional protest which precludes any real discussion about the control of handguns. Despite the fact that public opinion surveys show overwhelming support among the voters for control of handguns, this Congress refuses to enact legislation to achieve that end. A 1981 national survey conducted by Peter Hart indicates 76 percent of the American voters support handgun registration; 89 percent favor a waiting period between purchase and pickup of a handgun in order to permit a police background check; 77 percent favor banning small, cheap, low-quality handguns; 93 percent support a mandatory sentence for using a handgun in a crime; and 95 percent of voters surveyed support requirements for the prompt reporting of the theft or loss of a handgun.

All national polls consistently reveal results similar to those reported by Peter Hart. Yet legislators at the State and national levels refuse to legislate in this area. Those opposed to handgun control look only at one aspect of the surveys dealing with mandatory sentencing and advocate that this feature alone become law. But until we eliminate or at least sharply reduce, the ready availability of handguns in our communities, law enforcement officials are ill equipped to fight the drug trade menace.

Pistols and revolvers, more than any other weapon, were used to commit violent, drug related crimes in the year 1982. In our Nation we experienced 9,055 handgun murders while handguns were used in 145,610 aggravated assaults and 214,755 robberies, many of which involved illegal narcotics trafficking. Mr. Speaker, if the millions of handguns now available for drug related criminal enterprises were unavailable, no other weapon capable of causing such misery and suffering would be available as a replacement. Banning the manufacture, sale and transfer of handguns is critical to any effort to reduce drug crime in this country. Handgun control is the first step toward eradicating the illegal drug market.

CAPITAL PUNISHMENT IS NO DETERRENT

Mr. Speaker, I am bewildered by those who, espousing an abhorrence to drugs and drug pushers, insist that a death penalty amendment be included in the omnibus drug initiative. This controversial provision will do nothing to help enable law enforcement authorities abolish the illegal narcotics trade.

At the very least, those who argue that capital punishment deters capital crime should produce facts to substantiate this outrageous claim. Decisionmaking based on speculation instead of the facts in evidence is hardly prudent.

What is necessary to establish that the death penalty is a deterrent? First and foremost, it is necessary to demonstrate that those States which impose capital punishment have a significantly lower rate of murder than those States which have abolished it. However, the facts show that this simply is not the case. Second, there should be evidence of an appreciable murder decrease in those communities where a highly publicized execution occurs in connection with a notorious crime. Proponents of capital punishment cannot point to one such occurrence. Third, States which have imposed the death penalty ought to experience a sharp decline in crimes which carry this penalty, while those which have abolished it ought to show a sharp increase in the same crimes. This is not the case in a single instance where States have imposed or abolished the death penalty. Fourth, the residents of States which authorize the death penalty should feel safer on their streets than do the citizens of those States which have repealed the death penalty. But again, this simply is not the case. Florida, Texas, and California have 25 percent of the total number of persons awaiting execution in the United States. Their residents do not feel any safer than those in Michigan, Massachusetts, and South Dakota. Placing the mass murderers of California, the drug-dealer murderers of Florida, and the cowboy killers of Texas on death row has not made Los Angeles' Sunset Boulevard or Miami's Flager Street or Houston's Main Street any safer than King Street in Honolulu, HI.

Clearly, if the death penalty were any kind of effective deterrent, those States which apply it would have fewer incidents of major crime. At a minimum there ought to be an established relationship between the threat of capital punishment and the fear of criminals to practice those crimes which carry a capital punishment. There is no known correlation.

In contrast to this and many other studies, those who claim the deterrence effect of capital punishment have failed to advance this argument beyond conjecture. They have not substantiated the requirements necessary to establish that capital punishment deters criminal activity. First, they should demonstrate that criminals pause, think and make judgments about the consequences of being caught before they commit capital crimes. Second, within this decisionmaking process, do individuals weigh the possibility of death or some lesser sentence before committing criminal acts? Third, if the aforementioned process occurs, how often does the threat of capital punishment prevent an act of murder? To the contrary, the evidence indicates that most murderers give little, if any, thought to being apprehended, and no thought to being executed. These individuals usually find themselves in a state of total disbelief when confronted with the reality of a prosecution demanding the death penalty.

In addition to the empirical evidence produced in this country, European studies also show the failure of capital punishment as a deterrent. Mr. Robert Badinter, Minister of Justice of the French Republic, in a 1983 speech before Amnesty International, USA, cited such evidence. He said:

> Specifically, from 1888 to 1987, the various presidents of France made only sparing use of their powers of commutation and the guillotine was in steady operation. The number of murders during that 10 year period was 3,066. On the other hand, from 1898 to 1907, the presidents of France, who happened to be abolitionists, systematically commuted all death sentences. If the proponents of the death penalty as a means of deterrence are to be believed, this period of announced clemency should have brought about a striking increase in violent crime. What in fact happened? Exactly the opposite, while the guillotine was idle, the number of murders fell by 50 percent.

Here is further concrete evidence. In Massachusetts, New Hampshire, and Washington, the average murder rate for the years when the death penalty was in effect are higher than when it was not in effect. Capital crimes in States such as Alaska, Iowa, Maine, Michigan, and Minnesota, which do not have capital punishment, are no more frequent than in States which impose capital punishment. In fact, the five States which lead in the number of murders per 100,000 population—Georgia, South Carolina, Florida, Alabama, and Texas—all use the death penalty. On the other hand, the five States with the lowest murder rates per 100,000 population—Minnesota, Wisconsin, Iowa, New Hampshire, and North Dakota—have abolished the death penalty. Factors other than the death penalty are important in affecting the changes in murder rates in these States.

Mr. Speaker, if we have any genuine intention of enacting responsible legislation to help law enforcement officials fight drug related criminal activity we will reject all irrelevant amendments to the omnibus drug initiative and enact an effective law. A capital punishment amendment may be emotionally appealing to some but it is irrelevant to our cause. We cannot pretend that this amendment will protect the innocent citizens of our Nation from the drug related crimes running rampant in our streets. The empirical evidence is all to the contrary. A capital punishment law will not stop a single mugging, a single burglary or a single murder and we must not fool ourselves into thinking that it might help stop illegal drug use.

WHO ARE THE VICTIMS OF CAPITAL PUNISHMENT

Mr. Speaker, as we consider the death penalty amendment to the omnibus drug bill, I must urge my colleagues to reflect on the history of the use of capital punishment in our society.

In 1623, when some of our earliest ancestors were migrating to the new world, John Donne wrote:

> * * * Any man's death diminishes me, because I am involved in mankind; and therefore never said to know for whom the bell tolls; it tolls for thee.

Many in our society, indeed many in this Congress do not agree with the sentiments expressed by this distinguished writer. Indepth studies demonstrate that the death penalty is applied in a wholly capricious and arbitrary manner. Between the years 1930 and 1982, 3,800 persons were officially executed in the United States. The only consistent factor in each case is that every victim was economically disadvantaged and/or the member of a minority group. Poverty and race are the two constant factors in the capital punishment equation. Ethics, principles and morality have nothing to do with the State's decision to kill people. The rich, the famous, and the influential do not suffer such harsh punishment. Retribution for these individuals ranges from exoneration to life imprisonment—and most often it is tied to an individual's wealth, fame, and influence.

In order to comprehend the real extent and the magnitude of capital punishment in the United States, we should add the number of black Americans who were lynched to the list of 3,800 people who were officially executed by the State. Although lynching was not carried out in accordance with due process of the law, the State sanctioned these executions by its failure to prosecute the whites who carried out these barbarous deeds.

Since 1934, lynchings have not posed a problem of national concern. Between 1935 and 1962, a mere 85 Americans were reported as victims of lynchings. But, from 1882 to 1934, 4,736 people were lynched in the United States. Of this number, 3,362 were blacks accused of homicide, felonious assault, rape, attempted rape, robbery, theft, and insulting a white person. The official number of lynchings is probably underestimated by at least 75 percent. Most lynchings never came to public attention and those which did usually were quickly dismissed as necessary to preserve law and order.

One case, typical of many others, made its way to the Supreme Court of the United States. In this suit, *Moore* v. *Dempsey*, 261 U.S. 86 (February 19, 1923), Justice Holmes delivered the opinion. This action was a highly unusual; most similar cases were disposed of by local grand juries and never reached the Supreme Court. But in this instance, according the Negro Almanac:

> This case was an outgrowth of an Arkansas race riot, during which one white man was killed, and several people of both races were injuried. Twelve blacks were sentenced to death, and 67 to lengthy prison terms.
>
> Black witnesses appearing at the trial were whipped until they consented to testify against the accused. The all-white jury heard the case in the presence of a mob threatening violence if there were no convictions. The court appointed counsel did not ask for a change of venue, and called no witnesses—not even the defendants themselves. The trial lasted 45 minutes, and the jury brought in a verdict of guilty after five minutes.
>
> NAACP attorneys later applied for a writ of habeas corpus in the federal courts, a petition which was at first dismissed on demurrer. The U.S. Supreme Court ultimately ruled that the petition would be heard, and reversed the decision of the Arkansas District Court, with Justice Holmes stating in his opinion that "* * * counsel, jury and judge were swept to the fatal end by an irresistible wave of public passion * * *"

Conditions and circumstances have not fundamentally changed since the days of illegal, State-sanctioned lynchings. Today, the same inhumane mentality exists toward blacks and poor whites.

In October 1983, 1,268 convicted criminals were on death row; 654 poor whites, 531 poor blacks, 67 poor Hispanics, 9 poor native Americans, 5 poor Asian-Americans and 2 others quietly awaited extermination. Only 30 percent of the American population is classified as poor, only 12 percent as black, and 65 percent of blacks fall into the category of poor. If 100 percent of those on death row are poor and 42 percent of them are black, collective wisdom tells us that the "bell tolls" only for those who are black and poor.

Justice William O. Douglas wrote in the Furman case, "One searches our chronicles in vain for the execution of any member of the affluent strata of this society." Common sense reveals something grossly unfair about a legal system which subjects only blacks and poor whites to barbaric punishment. Common decency demands we address this abomination and common cause mandates that we end this injustice.

If blacks were guilty of committing premeditated murder in disproportionate numbers, their more frequent execution numbers would have a different meaning. But, the simple truth is that blacks do not commit premeditated murder more frequently than the general population. The capricious and arbitrary punishment of black defendants underlies this higher rate of conviction. Black defendants are most often the victims of incompetent legal representation and discrimination in jury selection. In addition, there is often a dual standard for assessing the value of life in the majority community and the value of life in the minority community. The combination of these factors is the real reason for the higher number of blacks on death row.

For example, in the State of South Carolina, 75 percent of those sentenced to die in recent years were black. Yet, not a single black served on any of the juries which convicted these individuals. This reality reflects what is common practice throughout our entire Nation. The only white to receive the death penalty was shamefully represented by an incompetent prima donna masquerading as an attorney. As reported by David Bruck in the New Republic:

> In South Carolina, where I practice law, murders committed during robberies may be punished by death. According to police reports, there were 286 defendants arrested for such murders from the time South Carolina's death penalty law went into effect in 1977 until the end of 1981. (About a third of those arrests were of blacks charged with killing whites.) Out of all of those 286 defendants, the prosecution had sought the death penalty and obtained final convictions by the end of 1981 against 37. And of those 37 defendants, death sentences were imposed and affirmed on only 4; the rest received prison sentences. What distinguished those 4 defendants' cases was this: 3 were black, had killed white storeowners, and were tried by all-white juries; the fourth, a white, was represented at his trial by a lawyer who had never read the State's murder statute, had no case file and no office, and had refused to talk to his client for the last 2 months prior to the trial because he'd been insulted by the client's unsuccessful attempt to fire him.

Mr. Speaker, the effort to enact a Federal death penalty amendment to the omnibus drug initiative is really just an attempt to involve the Federal Government in the legal lynchings that too many States still practice. If a Federal death penalty law is enacted, we already know who is liable to be executed. We cannot pretend that this death penalty amendment will send a single drug kingpin to the electric chair. A death penalty means absolutely nothing to the heads of the international drug cartels. Those who earn millions of dollars a year in the illegal narcotics trade already have their own armies, their own assassins, and their own methods of justice. The only individuals who might ever be affected by this amendment are a handful of poor blacks whose ancestors were already lynched by our Government and who have perhaps developed some misguided and distorted dreams about how to improve themselves in a capitalist society. The death penalty amendment is a travesty to justice and it is a crime to attach it to the omnibus drug initiative. I encourage my colleagues to defeat this misguided, distorted, and abominable amendment.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 15, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 16

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on state taxation of interstate transportation.
SD-628

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

10:00 a.m.
Foreign Relations
War Powers Subcommittee
To continue hearings to review the War Powers Resolution of 1973 (P.L. 93-148).
SD-419

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
Hazardous Wastes and Toxic Substances Subcommittee
To resume joint hearings on the greenhouse effect and policies to mitigate adverse climate change.
SD-406

1:45 p.m.
Foreign Relations
To hold hearings on the nomination of Robert B. Oakley, of Louisiana, to be Ambassador to the Islamic Republic of Pakistan.
SD-419

2:00 p.m.
Governmental Affairs
To hold hearings on the nominations of James H. Atkins, of Arkansas, Stephen E. Bell, of Virginia, and John D. Davenport, of Oklahoma, each to be a Member of the Federal Retirement Thrift Investment Board, and Bert H. Mackie, of Oklahoma, to be a Governor of the U.S. Postal Service.
SD-342

SEPTEMBER 19

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nominations of Jerry J. Langdon, of Texas, Charles G. Stalon, of Illinois, and Charles A. Trabandt, of Virginia, each to be a member of the Federal Energy Regulatory Commission.
SD-366

2:00 p.m.
Energy and Natural Resources
To hold hearings on the effect of global atmospheric change on domestic forest resources.
SD-366

SEPTEMBER 20

9:00 a.m.
Energy and Natural Resources
To resume hearings on S. 2667, to establish a national energy policy to reduce the generation of carbon monoxide and trace gases in order to slow the pace and degree of atmospheric warming and global climate change, focusing on titles XIV, XV, and XVI, and the relationship of international deforestation and development policies to global atmospheric change.
SD-366

Veterans' Affairs
To resume oversight hearings to review the adequacy of available funds and personnel for the Veterans' Administration health-care system.
SR-418

9:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold oversight hearings on implementation of programs for the protection of the Chesapeake Bay.
SD-406

Governmental Affairs
To hold hearings on S. 2298, to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the GSA inventory for supply to Federal agencies.
SD-342

Rules and Administration
Business meeting, to consider a report on the operation of the Senate, a report on impeachment proceedings pursuant to instructions of the Senate, S. 1766, to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia, an original resolution to provide supplemental funding for the Special Committee on Investigations of the Select Committee on Indian Affairs, and other pending calendar business.
SR-301

10:00 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SD-562

1:30 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings to review the U.S. and foreign commercial service.
SD-562

SEPTEMBER 21

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on a staff report on the proposed National Affordable Housing Act.
SD-538

2:00 p.m.
Select on Indian Affairs
Business meeting, to consider pending calendar business.
SR-485

SEPTEMBER 22

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on a staff report on the proposed National Affordable Housing Act.
SD-538

Commerce, Science, and Transportation
To hold hearings to examine airline concentration at hub airports.
SD-562

2:30 p.m.
Finance
To hold hearings to examine the role of the Federal Government on child care services, and to review proposed changes to current law relating to child care issues.
SD-215

SEPTEMBER 27

9:30 a.m.
Governmental Affairs
To resume hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.
SD-342

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative priorities of the American Legion.
SD-106

SEPTEMBER 28

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
S-146, Capitol

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review current food prices.
SR-332

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on a staff report on the proposed National Affordable Housing Act.
SD-538

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on S. 2728, to permit coal to be transported in foreign flag vessels between the States of Alaska and Hawaii without regard to section 27 of the Merchant Marine Act of 1920, and S. 2729, to allow certain foreign-flag vessels to carry passengers among ports in Alaska and between points in Alaska and Seattle, Washington.
SD-562

Governmental Affairs
To continue hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.
SD-342

SEPTEMBER 29

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee
To hold joint hearings with the House Committee on Agriculture's Subcommittee on Department Operations, Research, and Foreign Agriculture on critical challenges facing agricultural research.
SR-332

OCTOBER 3

2:00 p.m.
Governmental Affairs
To resume hearings on regulatory reform.
SD-342

OCTOBER 5

10:00 a.m.
Governmenal Affairs
To hold hearings on S. 2721, Federal Advisory Committee Act Amendments of 1988.
SD-342